STATUTORY RESOLUTION

Seeking Disapproval of the Representation of the People (Amendment) Ordinance, 2002

and

The Representation of the People (Third Amendment) Bill, 2002

SHRI HANSRAJ BHARDWAJ (Madhya Pradesh): Sir, I beg to move;

> "That this House disapproves the Representation of the Peopie (Amendment) Ordinance, 2002 (N0.4 of 2002) promulgated by the President on the 24'^ August, 2002"

THE MINISTER OF STATE IN THE MINISTRY OF COAL AND MINES AND MINISTER OF STATE IN THE MINISTRY OF *LAW* AND JUSTICE (SHRI RAVI SHANKAR PRASAD): Sir. this Ordinance had been enacted because there was a judgement of the hon. Supreme Court, requiring candidates to furnish information..... *(Interruptions)*

SHRI PRANAB MUKHERJEE (West Bengal): There is a technical hitch. You read the Order Paper, seek the permission of the Chairman to move the BUI for the consideration of the House. Don't take the House so casually.

SHRI RAVI SHANKAR PRASAD: Sir, I seek your kind permission to move the Bill.

MR. CHAIRMAN: Would you like to speak on the Resolution Mr. Bhardwaj?

SHRI PRANAB MUKHERJEE: Sir. the practice is that the Statutory Resolution and the Bill can be taken up together, as the subject is the same. But, first the Statutory Resolution is moved, then, the motion is moved. Moving of the Resolution has I^een completed. Novi/, the speech v^'ill be made, and he w/ill initiate the discussion.

SHRI HANSRAJ BHARDWAJ: I will touch upon both the things. We oppose the Ordinance and the Bill which is sought to be passed by the Governnnent on its merits. This House, and the public, at large, are concerned about the falling standards in public life. The Parliament, as a matter of fact, on the completion of fifty years of Independence, took note of it and passed a resolution to put a cap on the increasing criminalisation

of politics and politicisation of parliamentary institution. The criminalisation has also revealed that there is a nexus between the political parties and the anti-social elements. It *has* entered into the vitals of our democracy. The Parliament reflected it in August, 1997, and that resolution was considered very seriously by both the Houses of Parliament. It was resolved that something should be done to see that the growing nexus between criminals and political parties was arrested and stopped.

[THE DEPUTY CHAIRMAN, in the Chair]

But, nothing was done after that. Thereafter, on is'" July, 1998, the Election Commission wrote a letter to the Government in this regard. The letter was addressed to the Law Minister, and it was reiterated on 22 November, 1998, followed by a booklet, circulated, for review of election laws. The Election Commission also informed the Prime Minister of the urgency of the need of it. This was the background. The Government did not move in the matter of electoral reforms. One public-spirited individual approached the High Court of Delhi and filed a Public Interest Litigation. You all know, nowadays, the power of judicial review is so strong that any public-spirited individual can move the court on matters of urgent public importance. The High Court of Delhi allowed that writ and issued certain directions to the Election Commission. The Election Commission was directed that they should obtain the following information, and it should be made available to the voters at the time of election. So, these vital points were made:

> Whether the candidate is accused of any offence punishable with imprisonment. If so, the details thereof.
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> The assets possessed by the candidate, his or her spouse, or. dependent relations;
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> Facts giving insight into the candidate's competence, integrity, capacity and suitability, for being a Pariiamentarian or a Legislator, including, his or her educational qualifications; and

(4) To ensure transparency in public life, the Election Commission could issue certain other instructions also, if necessary.

The matter was taken up by the Union Government to the Supreme Court, and our party also intervened in that matter. And the Supreme Court reiterated that all candidates should give these four points, listed in the directives of the High Court, in th3 form of an affidavit, to the Returning

Officer. So, this is what was directed by high courts and the Supreme Court.

At this stage, I must clarify my position. I am not a votary of the viewpoint that court should give directions to the Government to enact laws. We have great respect for division of power between the Legislature, Executive and the Judiciary. And the Judiciary, in normal circumstances, ought not to dictate terms, for enacting laws, to the Legislature. But, sometime back, a misunderstanding had erupted in the correspondence between me and the Law Minister. He quoted the observation what I said about Dhum Singh's case and P.C. Sethi's case. There is a tendency to say do this and do that legislation by the Judiciary. But the Law was that wherever there is a legal lacuna, it should be filled by legislation. Even in the JMM bribery case. The Pariiament should ensure that such laws are made. But what will happen if the Parliament abdicates its functions or the Government does not care about the public outcry? This area is occupied by other wings of the State. And this is where, in the absence of a legislature, the judiciary creeps into the area and occupies that area. This has happened even after the mandate in the Vineet Narain case. So, at that time, I cautioned the Minisl-^r, and the Deputy Prime Minister was also there in that meeting, that let us not give this opportunity to the courts to direct the legislature to make laws. We ourselves are concerned, and our resolution to fight corruption in public life is very strong. So, why should we give this impression to the outside world, or to the media or to the NGOs that we are not sincere about the cause. That is why I first said that legislation is necessary in order to bring purity in public life, and in the electoral process. Not only in this. Sir, but there are many other areas which this House must carefully consider. We have already gone through 50 good years of independence. But there are various dangers which are now creeping into the system of electoral process, which this House, and the whole Parliament will have to look into. Not only the muscle power and the money power, but communal and caste powers will have to be fought. The recent incidents In Gujarat are demonstrative of the fact that communalism will be the greatest danger, at one stage of life, in the electroral process. And there are newspaper reports saying, 'Will Gujarat be repeated in other parts of the country?' I will caution this House and the Government also, let us not give an opportunity to those who suspect about our plurality of life and our secularism, and indicate that there is something amiss with the Indian plurality. We should start working on this so that such forces don't raise their head again in any electoral process. We have to strengthen the

rule of law and democracy. But if we fall into this tendency --it is necessary to reform the electoral process or bring purity in the electoral process- no party will gain. And the system for which we are so proud - we have completed 50 years of our Republic, and more than 50 years of our independence, and, outside the world, we are praised for independent and fair elections-- will fail. Therefore, I must request the hon. Minister that there should be a continuous process, not only within the Government but also among all, big or small, political parties. Every party has some suggestions to make. Every individual has some suggestions to make. I am happy that some Committee meetings, right from the Dinesh Goswami Committee to Dr. Manmohan Singh Committee and Indrajit Gupta Committee, have taken place, but very little has come out of these meetings. Therefore, the courts felt it necessary to do something in this regard. It Is not good to criticise this. When a citizen went to the court and said that what type of criminals were finding place in Parliament, the courts were bound to be concerned, like all other citizens. Then, the court gave four directions. First direction was. whoever becomes a candidate, either for both the Houses of Parliament or for the State Legislature, wnll be required to furnish four information. One is, the list of cases in which he or she has been prosecuted, discharged or acquitted. The entire data regarding his prosecution, acquittal or conviction will be required to be furnished, so that one could judge how many prosecutions, during his or her career, have been faced by him or her The second infomiation which is required to bp furnished is, how much assets one possesses. There are people who possess a lot of assets, but there are very poor people also. Both category of people come to Parliament. It does not reflect either way. as far as the candidate is concerned, but the people are entitled to know the financial position of a candidate. The third information which is required to be furnished is about liabilities. People borrow crores of rupees from banks, but do not repay it. They are defaulters. And, such people also contest elections and get elected to either Parliament or State Legislatures. These people expect that they should not be criticised for their defaults. It is a malady. Therefore, concerned over such things, the Supreme Court was perfectly justified in drawing the attention of the Election Commission to these aspects. It did not issue a *mandamus* to the Government. But it gave a direction to the Election Commission that it is your duty to obtain these information from the candidates. And, possibly, no Party could have any objection. Is it our case that we should keep secret our prosecutions, convictions and

acquittals? It is no party's case. It is no party's case that we should keep secret about our assets and liabilities. We would like to be as transparent as possible. I am cautioning that if we go on neglecting the probity in public life, it is going to harm the parliamentary Institution and nobody else. It won't enhance the prestige of any Government. With that spirit, I and my senior colleague, Pranabda, attended that meeting, In that meeting, I read out what our Party stands for. We said that the Government, and not the directive of the Election Commission, should bring a law on these four points stating what is required to be furnished by the candidates.

Madam, I will hasten to add here that, yesterday, we passed the Right to information Bill. We were so happy about it. Now, right to information, in all civilized societies, is an international commitment. As the Bill was passed, we thought that the Government will be straight forward in accepting whatever has been told, but, suddenly, in spite of my giving a written note to the Ministry that we should incorporate all the four points which the Election Commission and the courts have desired, and which the citizens have desired. I must tell you, we have received enormous correspondence from various NGOs, from North to South, East to West, but I do not know how this Government had omitted to take note of this, and issued a Press statement that there is a consensus on the Draft Bill. We had never agreed that yoo should omit any part of the four proposals in the legislation; and, when we contradicted it, nothing happened because we do not have that kind of access to the Press as the Government has. The wrong information was fed to the Press that the Congress Party had agreed to this, and there is a consensus. We had agreed to in giving full information. I prepared the note based on the judgment and gave it to the people who were present in the meeting. And, then, later on, my good friend, the Law Minister, wrote us a letter contradicting what we spoke and what we did by saying, "No; no, this is the general consensus, and Mr. Bhardwaj spoke like this, and Mr. Pranab Mukherjee spoke like this." Are we so novice? This is a simple point, Mr. Law Minister. You either go to the public and say, "yes; we take a stand in which out of the four, we do not want to give two information." But do not attribute consensus to us. The consensus is that you should do vi^atever is possible to convince the people outside, and, say that 'yes we stand for probity in pub'ic life; this is our commitment; Congress Party stands for it.' It is you who decided to divert the issue and said that we will agree to only one, and who has been convicted in two offences should be debarred. As a first measure, we wanted that we should clear this

aspect and turn to several aspects which are coming with the passage of time and evolution of democratic institutions. And, now, many must know what was argued in the President's reference on Gujarat for several days. The Election Commission's holding of free and far elections have been recognised as the basic features of our democracy, and, if you weaken the democracy, this is the way that allow criminals to come to Parliament, allow the big money people to enter Parliament and destroy the very character of this Parliament. We are a poor country, and I am proud to say that the poor people are better than the rich people; they are clean; they are honest and men of integrity. If you go to any tribal area, you would find that they are very honest. So, let us give full information at the very beginning itself. I am not one of those who would say that the Returning Officer should dismiss the nomination on this ground, but It is consistent with the right to information and transparency in public life. Why are we getting accused every day, right and left, In the public, that every Member of Parliament is not good or bad? We should have that faith in ourselves, and, more particularly, the political parties. Recently, I received, in my house, a note from an NGO that candidates who were put up in Gujarat were 90 per cent criminals. You must have also received that note from an NGO. What Is it? Where are we leading this country, this great country? We didn't suffer from this type of malady in the past. We had 50 successful years of Independence, and our Republic is one of the finest in the world. We ^e the finest democracy. The rule of law, judicial review thrives in India. A short while ago, when I was the Minister, I received a note from the Vohra Committee. This issue was also discussed there. We had seen at that time what a connection has developed t)etween criminals and politicians. Is it not the time, Mr. Minister, that we take note of it. and see that this is curbed at the outset? OthenAflse, it will be difficult to have a clean public life and relevance of democracy will be totally lost, if we have criminals within the House. You may go on investigating scams after scams, constituting JPCs after JPG; nothing would happen because, the very fabric of democracy has been weakened by this criminalisation. When our Party took the stand, I am very sad, I am very sorry, the Government did not act properly. They should have called us again for discussion rather than contradicting us In writing and saying that whatever we are saying was not said at the meeting. Who will attend the meeting if we are contradicted like this? We are prepared as a national political party of historic importance. Whenever there Is any issue, which concerns the integrity and democracy of this country, ours will be the first party to come forward to help the

Government. But it seems that the Government is not sincere. They say 'No'. Now their stand is 'No'. Except the Congress Party every other political party had agreed, you should have said so in the Press. At least, you should have been fair to us. I was very pained when I got that letter written by Shri Jana Krishnamurthy, the hon. Law Minister -- I have very high regard for him; he is a very senior person. Perhaps his Secretary and others did not properly inform him that Congress Party gave a written note. My leader had also written again to highlight that very thing. We are for electoral reforms. If you want to have purity, we can sit again, we can sit even with the Election Commission. If we go into the history of reforms in election laws, every year the Election Commission used to invite all political parties. As a Member of my party, right up to Shri R.K. Trivedi's tenure, I have attended such meetings. There was no difference of opinion, whatever party it was. Nowadays, the Election Commission is going In a different direction, the Government is going in a different direction and political parties are going in different directions, Who is responsible for this? Is it not the responsibility of this Government that these are measures that it wants to implement and consult them with different political parties as well as the Election Commission? The Election Commission is also an institution whose responsibility is to prepare fair rolls and conduct fair elections. There is no other purpose of the Election Commission. It is not an issue that an institution is isolated from the election process. Why is it that he had to file an affidavit separately from the Union of India? We could discuss it. Today, when this Bill is here, it is my unfortunate duty to move a Resolution against a reform of election law because you did not give that cooperation in that spirit which we wanted. As a first tranche, we should clear these four proposals and sit on again in a meeting and see what is next to be done. I am again reminding the Government that we are prepared for several reforms. Money power is still playing its role; muscle power is strengthening everyday. You have not touched that area. Today, you may like this communalisation of politics, but, tomorrow you will have to make a law so that the country can survive. Pandit Nehru said, who dies if India lives, and who lives if India dies. We are taking that process to that direction. Nobody will survive in communal violence that we want to do for electoral gains. Let us have a note on this from the Government what the Government wants to do. So, with this view, I want to request you, in all sincerity, that on this electoral reform, there should be no division of party views; the Government should respect all parties, big and small; take their views into consideration, and then come

forward with a unanimous law. If there is any difference of opinion, that should be resolved at the very threshold, rather than holding a debate. We have been passing many Bills like Companies Law Bill, or other laws relating to economy in no time because we feel that it is in national Interest. But we had never thought that you would bring politics into electoral reforms. Therefore, I am only reminding you to put the record straight so that a proper message can come that the Indian National Congress stands solidly on all reforms in electoral laws. You are preparing several small measures. Why don't you sit together; why don't you invite political parties and made substantial improvements in electoral laws? Your leader, particularly Shri Advaniji, for whom I have a very high regard, *wes* ^'ery keen on public funding of elections. Recently we have sent a measure, with a very token, that money power will still thrive. Therefore, through this august House. I would like to say, my intention is, even there is time now, the Government should be gracious enough and should rise and say, 'yes; we will incorporate whatever the people of India want.' After all, public Interest means the interest of the people of India. Whatever will be needed again, we will say, incorporate whatever was suggested. Let us not make it a matter of prestige that we will stick to this. I personally feel that it will give credit to the Government for doing this. We are only saying that you should get this credit for ushering in reforms, which have been highlighted by many NGOs. You must have received representations from all over the country. You incorporate the amendments given by the Congress Party, particularly, by my senior colleague, Shri Pranab Mukherjee, and we will be passing this Bill with one voice. Thank you.

THE DEPUTY CHAIRMAN; I think, when you bring a comprehensive electoral reforms Bill, it will include the 33 per cent reservation for women. In any case, I am going to make a statement about it. *{Interruptions)* It has to be comprehensive.

SHRI SURESH PACHOURI (Madhya Pradesh): Madam, as far as Ihe Congress Party is concerned, we are for It,

SHRI S. VIDUTHALAI VIRUMBI fTamil Nadu): Madam, the D.M.K. party stand by the observations made by the Chair. We will support the Bill when it comes up.

THE DEPUTY CHAIRMAN: I hope everybody will get up and say: "We stand by women."

SHRI RAVI SHANKAR PRASAD: Madam. I beg to move -

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

Madam, I am grateful to you for giving me an opportunity. The hon. Member, Shri Hansraj Bhardwaj, has just talked about the need for a comprehensive electoral reforms. I think, all of us, who are worried about a sound democratic polity, understand this, and our Government is quite committed to that. We are taking steps, and we shall continue to take steps. When we realise that funding of political activities has to be transparent, we have already come up with a Bill, proposing an amendment to the Company Law, whereby, parties can be given funding by companies, which can be exempt from income tax. That Bill is before the Standing Committee.

SHRI PRANAB MUKHERJEE; The report has already been submitted.

SHRI RAVI SHANKAR PRASAD: When we noticed that for electing Members to this august House, some influences were there in terms of voting, and there were complaints and allegations, we have come up with a Bill, whereunder, we have requested for an open voting to this august House so that the sanctity of this House remains in tact. I think, that is also pending before the Standing Committee,

SHRI PRANAB MUKHERJEE: No, no. Your information is absolutely wrong. The report has been sent long back. The report has been placed on the Table of the House. The Government is to take a view on that.

SHRI NILOTPAL BASU {West Bengal): You are not doing your homework properly.

SHRI RAVI SHANKAR PRASAD: That point Is, it is an ongoing process, and we are also involved. But, as far as the present Bill is concerned, which was an Ordinance, some background is needed, because Shri Hansraj Bhardwaj explained those facts in some detail. There was a Judgment of the Supreme Court,, whereunder, certain directions were sought by way of right to information. Now. in sum and substance, the judgment of the Supreme Court says that the candidate must give his educational qualifications; the candidate must mention as to whether any criminal case is pending against him; the candidate must inform as to whether he has been convict^ipli-even fined in a proceeding, and also the dues to the

bank and the Government. This was the sum and substance of the Supreme Court judgement. There was a particular timeframe within which this was to be implemented. Now, Madam, the Election Commission sought our advice, stating, *inter alia* that Form 2 to 2E should be amended, and these directions should be incorporated. On behalf of the Government, my very accomplished predecessor, Shri Arun Jaitley, informed the Election Commission that this is a matter on which the consensus of political parties is important. Therefore, we took some time from the Supreme Court. The sum and substances of the judgment of the Supreme Court was that since there is no law, therefore, we are issuing a direction to the Election Commission. That was the sum and substance of the judgment of the Supreme Court. Now, Madam, it so happened that without considering our request for further extension of time, the Election Commission came up with as order. Now, that created some problem. What was that problem? The Election Commission, in addition to incorporating the right to information, mandated by the judgement of the Supreme Court, also stated that the contesting candidate can also file an affidavit in rejoinder -^*m* STFT^ TT^ ?^ ^ ^racT flteTT and a power was given to the returning officer to consider both, and if there was a material suppression, the returning officer was given the right to reject the nomination papers. That creates a very sensitive controversy, inasmuch as, neither the Delhi High Court nor the Supreme Court had given the power to the returning officer or the Election Commission to reject the nomination papers, in the event of failure to furnish the requisite information, by way of right to information. That created a serious problem, which required immediate intervention. And we also felt that the Returning Officer, having one day of scrutiny, does not have the necessary wherewithal to adjudicate upon the serious, complicated questions of fact. For instance. Madam, if a particular candidate has taken a loan of Rs. 20 lakhs from the bank and it is Rs. 60 lakh with interest, and the contest goes on, then some kind of an unguided missile was sought to be given in the hands of the Returning Officer. The first All-Party Meeting was held on the a'" of July, follovi^d by the second All Party meeting on the 2™^ of August. Madam, in the' All-Party Meeting, consensus emerged on three specific issues. The first consensus was that the Government must come up with a legislative instrument, because the right to prescribe qualification or disqualification is the right of the Legislature, the Parliament. Therefore, the Parliament must assert Its supremacy, and we mus* come up with a Bill. Now, Madam, certain other issues were also taken into account. As far as the question of educational qualification was concerned, there was

serious opposition to that -- I must share that with this august House. It was stated that even the founding fathers may not have thought that educational qualification should be made a basis for that. Madam. I seek your very kind indulgence in this matter, because this is very important. A very eminent leader stated that two of the best Prime Ministers and Presidents of USA and England, Ramsay McDonald and Truman, were not even graduates. Yet, they went on to become the best Prime Ministers and Presidents, which their country had. It has also been stated that if a particular qualification Is orescribed, then, it seeks to -create a prejudice between a common man who is not a graduate or literate, and a Ph.D., which our founding fathers never permitted, because every Indian has got equal franchise and equal right to contest. Madam, as far as the criminal part is concerned, a very serious concern was expressed by most of the Members in the All Party Meeting. What was that concern? We are political activists, we keep on going on *c^amas,* on *satyagrahas,* violations of Section 144, or face proceedings of Section 107; on some days, there is fine, on some days there could be jail. Therefore, there has to be some kind of a safeguard, whereunder, legitimate political activity ought not to be curbed under the garb of right of information. That point was very well taken, because the right to resort to strikes, *dhamas* or *satyagrahas,* is well-recognized in the democratic polity of the country, This was the mandate given to us by the consensus of the All-Party Meeting. Shri Bharadwaj is right. There was a serious concern expressed that this *mafia* criminalization. which is eating into the polity of the country, must be checked. Madam, with this mandate of the All Party Meeting of a'" July, we, in the Government, set out to come with a draft Bill which was to be circulated and discussed. Madam, we incorporated those things. Also, realizing the *mafia* culture, which is eating into the polity of our country, we came out with a clause - clause 8 (b) in the draft, which is presently invalid. I need to share that with this House. We had come out with a proposal that if in two separate criminal proceedings against a candidate, charge has iDeen framed for a heinous offence, then he should be disqualified. What are these heinous offences? These include murder, dacoity, rape, kidnapping for ransom, killing by ten-orism, and serious narcotic intra-State and inter-State traffic. These were ttiefew provisions we had kept. And by two separate proceedings, Madam, v^ wanted to emphasize the habitual nature of the offender, not only in one case. We have aJso given a safeguard that if the hon. High Court has a State proceeding in any criminal case, it shaH not be a disqualification. Other issues of consensus have also been taken into

account. When the draft was circulated, it was discussed. We had a second meeting, Madam, on the 2"" of August. In that meeting also, all recognized political parties were properly represented. The Deputy Prime Minister was present, my senior colleague, Shri Jana Krishnamurthy. was present. Mow, there was serious opposition by most of the political parties that only conviction should be the basis for disqualification. There was no consensus at all on 8(b). We thought that today, against the *mafia,* witnesses do not come up in trial. If witnesses go to depose against a great criminal who is trying to become an MP or MLA, they get killed. That is the reality of today. It is in that context that we have said, "When charges are framed, whether a Member belongs to the Congress Party or the Leftist Party or to other parties, only conviction should t>e the basis for disqualification." That was the consensus which emerged on that day.

As far as the issue of assets and liabilities was concerned, let me say. Madam, with full sense of responsibility, as much responsibility as I can command with me, even though I am a young Member of the House, that there was an overpowering consensus that asset declaration should be post-elect ion. not pre-election, and the reason given was that the whole monitoring, scrutiny of the character and the candidature of a person must commence post-election.

What was the second objection stated. Madam? I wish to share that with the House. "Those who pay income tax have to declare everything. Those who are having *benami* property do not disclose anything. Therefore, by insisting upon a particular obligation to disclose assets pre-election for the right of information, you are invading upon my right of privacy, even though 1 am an honest tax-payer and keep all my money accounted." That objection was well taken. Madam, I wish to share with you one of the obsen/atlons. rightly made there. "Suppose I have got crores of rupees In my bank account, honestly earned. If that is disclosed on the notice board for the knowledge of the people. I start getting ransom notes fifr *sn^ ^w ^^ '^^^ t*

So, you are a person. These are the issues expressed In the all-party meeting, for a very legitimate ground, which we appreciate. Madam. Therefore, in the light of the consensus which came about, the mandate given to us was the following:-

> Don't keep educational qualification as the reason, even for information.

And the argument was that when you go in a democracy, people know everything आप किसके लडके हैं, आपकी पढाई कितनी और क्या है।

Madam, if I speak for myself, I strongly believe that a common illiterate person who is a man of rectitude and integrity is, anyway, better than a Ph.D, who only believes in career and keeps on running here and there with no sense of integrity and commitment. This is my personal feeling. Madam. But the point is the larger issue was well taken. Therefore, we did not insist upon educational qualification. Now, what have we provided. Madam? It is very important to appreciate what we have provided. As of now, the existing section 8 only says, "If he has been convicted for two years, he has to disclose that." That is the disqualification. If he has been convicted in terms of section 6(i) even for six months or more, which also tells disqualification, we have mentioned that. We have only stated: "In addition to section 8. if he has been convicted even for one year, he must disclose that for right of information." That is the first provision we have mentioned.

What is the second provision we have stated? We have stated, "If a proceeding is pending against you, in which charges have been framed, involving an offence which can be sentenced for two years or more, even that should be there." Madam, I see in the amendment brought about, they have talked of cognizance. Madam, why has cognizance not been given? Bhardwajji is a very eminent lawyer himself; he has been Law Minister, and other *lawyers* are here. Cognizance is taken without reference to the accused. A charge is framed when the accused is present in the court. Therefore, when you say 'a charge is framed", a person cannot plead कि मुझे जानकारी नहीं थी कि मेरे खिलाफ यह केस था।

Because charges are framed only in the presence of the accused. Therefore, lack of knowledge cannot be used as an alibi to deny access to that information. Therefore, we have said, "If charges have been framed, you have to disclose that." Madam, what have we stated further? We have stated, "After election, within three months you have to disclose to the Presiding Officer of the concerned House your assets and liabilities, including that of your spouse, including that of your dependent children, which includes *inter alia* dues to a bank, dues to a cooperative society, dues to the Government." What is the meaning of a bank or a cooperative society? That is also explained in the law itself, in the Banking Regulation Act, and other relevant statutory amendments are there. Madam, in the light of the consensus emerged,--and. Madam, I repeat, I have highest

regards for Bhardwajji-the Government says, with full sense of responsibility, that in the presence of the Deputy Prime Minister, the leaders of most of the political parties, a consensus emerged, and the consensus was on three issues; (a); we do not press for 8(b), the only conviction, (b) not about educational qualifications; (c) a declaration, post-election. That was the consensus which the all-party meeting gave to us. It is only in the light of that, we have come forward with the Bill. Therefore, I really feel there ought not to be any debate. Shri Bhardwaj mentioned about the letter of Shri Jana Krishnamurthy. Shri Jana Krishnamurthy is my eminent senior colleague. Shri Bhardwaj only stated the obvious in reply to that letter. Let me repeat, with full sense of responsibility, that what transpired at the all-party meeting appeared in the media, on the television, on the same day, where the BJP, the leaders of the Congress Party and the leaders of other parties, all of us, made our observations. That was the abiding consensus. Many of the representatives, who were present at that meeting, are present here. The Samajawadi Party, the RJD, the CPI, the CPM, the Congress, the DMK, the AIADMK, all were present.

Madam, let me conclude by saying that our commitment to cleansing the polity of the country is overpowering and complete. It is with that in mind, knowing the potential of a little abuse, we had come forward with clause 8(b), We realised, at the highest level, that today rank criminals and mafia elements, against whom people are reluctant to depose before a court of law, are coming into the electoral arena. Therefore, we said, "two parallel proceedings or heinous offences'. But there was no consensus. We deleted that. Left to ourselves, perhaps, we would have applied our mind to the assets part also. But, again, the overpowering consensus was 'let us have post-election", for the reasons which I enumerated earlier.

Madam, democracy, by itself, is a very big leveller. We have seen the results. Whatever be the grievance of Shri Bhardwaj about the Gujarat elections, the people of Gujarat had given a resounding reply to all prophets of doom. That Is a fact. Let us acknowledge that. If democracy is a big leveller and democracy makes us humble, Shri Bhardwaj, let us come with all qualifications and all disqualifications. The people of India know their mind, whom to give their votes. Having said that, we should always be keen and committed to undertake the process electoral reforms which are needed. On behalf of the Government, Shri Bhardwaj, I assure you and your party as also all other parties that we are open to any suggestions which are needed to stem the rot which is eating into our electoral system.

I agree with you that we have to do more. I wish there was more consensus because we have to pass a law. The Government is open to any suggestions for further improving the electoral system. With these words, I request the Congress Members to withdraw their amendments.

The questions were proposed.

SHRI HANSRAJ BHARDWAJ: Madam, he has said something.

THE DEPUTY CHAIRMAN: First of all. I have a serious objection. In the Bill, you have only used "he". Assuming that women are going to be there, it is a very serious objection. Even in the amendments it is mentioned "he". This is the basic objection, I raise, *interruptions)...*

SHRI RAVI SHANKAR PRASAD: Madam, I apologise. *ijnterruptions)...*

THE DEPUTY CHAIRMAN: Just one minute. Not only In the Bill but also in the amendments that are moved by Shri Pranab Mukherjee and others, the word used is "he". You either assume that there is not going to be any woman or, if there is one, she will not be corrupt, *{fnterruptbns)...*

SHRI PRANAB MUKHERJEE: Madam, "he" includes "she". It does not make any distinction, *i/nterruptbns)...*

THE DEPUTY CHAIRMAN: Shri Pranab Mukherjee, if you look at the English language spelling, "she" includes "he" and not "he" includes "she". *(Interruptions)....*

SHRI PRANAB MUKHERJEE: Madam, I have no problem, If it Is described as "she", *tjnterruptbns)...*

SHRI B.P. SINGHAL (Uttar Pradesh): Madam, as a rule, in all laws, "he" includes "she", *l/ntenuptbns)....*

THE DEPUTY CHAIRMAN: I know that. But I don't respect it. *(Interruptions)...*

SHRI M. VENKAIAH NAIDU (Karnataka): Madam, we can very well amend that.

SHRI FALI S. NARIMAN (Nominated); It Is so stated In the enactment of the last century, the General Clauses Act, that whenever the male gender is mentioned, it includes the female gender also. The hon. Minister should get that section repealed, *dnterrvptbns)...*

THE DEPUTY CHAIRMAN: It is very unfortunate that we have not done that. You please bring that. Now, it is five minutes to one of the clock. Do you want to say something, Shri Bhardwaj?

SHRI HANSRAJ BHARDWAJ : I would like to make one request to the Minister because he has been very kind and the subject is such that we can possibly have no difference of view. You agree to one or two amendments we have moved. It will add to the comprehensiveness of this Bill. It won't divert any of the provisions that we should give all antecedents of a candidate in which whatever prosecution is there. That is what the court wanted and you omitted it. And if you agree, we will withdraw.

SHRI B.P. SINGHAL: Let the parallel prosecutions be also mentioned. Why go half way? We should go the whole way, That would be proper.

SHRI HANSRAJ BHARDWAJ : You suggest it to the Minister. We will agree.

SHRI RAVI SHANKAR PRASAD : Bhardwajji. I have great regards for you. I would like to say only one thing. Let me again recall what happened. Madam, let me give my illustration. I have been an activist in the JP movement. There were twenty cases against me, except murder and they were all withdrawn. But if we come to antecedents part, we will have to give the entire thing. Venkaiahji was, himself, a big leader in his student life, or, other political leaders were there in their own right. Antecedent' is really a vague expression.

SHRI PRANAB MUKHERJEE: Anyway we will have the debate. Let us not skip lunch. Madam, the Minister will get ample opportunity to reply to the debate and others will get the opportunity to make their views but now. let us adjourn for lunch.

THE DEPUTY CHAIRMAN: Before I adjourn for lunch, I will ask the Minister to keep in mind 'don't neglect women' while I am sitting in the Chair. The House is adjourned till 2'o clock for lunch.

The House then adjourned for lunch at fifty six minutes

past twelve of the clock.

The House reassembled after lunch at three minutes past two of the clock,
THE DEPUTY CHAIRMAN in the Chair.

SHRI DINESH TRIVEDI (West Bengal): Was the lunch only for women Members?

THE DEPUTY CHAIRMAN: We had a strategy. You will see what we do tomorrow. It is a closely guarded secret.

SHRI ARUN JAITLEY (Gujarat): Madam, this Bill, which we have been discussing, has been introduced under very peculiar circumstances. There are two facets of the entire debate on which I wish to emphasise. The first, of course, is a matter of concern for this House, for the entire polity and other institutions of the country, i.e., how to really exonerate Indian politics from the influence of any form of criminalisation. It is a legitimate concern. To some extent, the Bill seeks to address this problem. I wish to deal with it a little later.

The other aspect is in relation to the circumstances under which this Bill really has been introduced and that aspect relates to the authority and jurisdiction of the Indian Parliament to legislate. I say this with a sense of deep concern that over the last few years, wrtiat we had envisaged as one of the basic facets of our Constitution, i.e., separation of powers where the legislative jurisdiction vests exclusively in Parliament, has been increasingly getting obliterated and getting substituted by, what is known as, judicial legislation, Through a process of judicial legislation, an encroachment has been increasingly made in the Parliament's jurisdiction to legislate. And, perhaps, one glaring example where such a situation has arisen Is in relation to the circumstances under which this Bill really has been enacted. Madam. the Constitution of India under Article 327 very clearly provides, "In relation to elections and conduct of elections, it shall be the Parliament of India, that is, both Houses of Parliament, of this Parliament, which shall legislate in relation to all laws in relation to the conduct of elections." Pursuant to that, we have enacted Representation of Peoples Act, 1950 and 1951. In the 1951 Act, in Section 36, we have clearly provided what are going to be the conditions of a valid nomination paper. Those conditions for a valid nomination, which deals with scrutiny of nominations and when the nominations can be rejected, are mentioned in the legislation which this august House, along with other House, has framed, which has stood the test of time. If there is a need to add upon further conditions of a valid nomination paper, it Is this Parliament; it is this House and the other House alone and no other institution, however Constitutional or august those institutions would be, who really have a jurisdiction to interfere in that process of enactment. Unfortunately, we faced a judgement of the Delhi

High Court, which amongst other factors, mentioned, "There would be a requirement that every candidate to an election would be required to file an affidavit and along with that affidavit, the candidate would be expected to give details of several facts in relation to the candidate." I must submit that the Election Commission of India, at this stage, had opposed this direction, which was made by the Delhi High Court. They contested this direction. They did not agree with this direction. The details, which were asked for, were in relation to offences which a candidate is accused of, assets possessed by candidate or his spouse. The third is most important - the facts giving insight into the candidate's competence, capacity and suitability for acting as a Parliamentarian, Now, this matter, which is to be decided by the ultimate sovereign, which is the people of India, somehow got substituted and, therefore, to the Returning Officer, you have to explain why you consider yourself competent to become a Parliamentarian or a Legislator. And, the fourth information, which the Election Commission considers necessary, is for judging the capacity and the capability of a political party fielding the candidate to an election to Parliament or a State Legislature. Now, it is the Election Commission, whose only jurisdiction is to make sure that there Is a conduct of free and fair election, will now become some kind of ombudsman or a monitor and start determining what kind of capacity and capability a political party has. It is a matter, which is to be judged in a democracy by the people of India, not by the Election Commission or its Members and this direction was issued. The Election Commission, at that stage, was still opposed to these directions. In fact, when the Government of India questioned this direction before the Supreme Court, the Election Commission even, at that stage, was opposed to some of these directions, which have been issued. I was just now perusing **the** affidavit which the Election Commission had filed. The Election Commission, in fact, had gone to the extent of saying that some of these directions would result in a situation which would be destructive of the very democratic institution itself. We then had a change of personnel, as far as the Election Commission was concerned. The stand was changed and finally, the Supreme Court, in its Judgement, has given a direction in which it says, "There are five details which a candidate now has to present." Now, what is extremely interesting, when I speak in terms of encroachment of jurisdiction of the Parliament. The Supreme Court laid down guidelines that now it is necessary in addition to what is stated in Section 36, that is, conditions of valid nomination paper, there are judicial directions, in addition to what the Parliament decides, as to what a candidate must disclose. I

can understand some of those directions may be very well meaning. But, then, it is for this Parliament to decide that those welt-meaning suggestions have to be incorporated in the law. The jurisdiction which is vested in Parliament, through this process cannot be taken away by the Supreme Court, under any jurisdiction, because the legislative jurisdiction vests alone with the Parliament. And, the directions were and I deal with each of the five directions. "Whether the candidate is convicted, acquitted, discharged of any criminal offence in the past. If any, whether he is punished with imprisonment or fine." So, whether you have been convicted, whether you have been discharged, whether you are a trade-union activist, whether you are a political activist or whether you courted arrest under section 144, you must have all those details, and if you forget to mention any of those details, the consequences will then arise, convicted or acquitted or discharged. During the process, before this ordinance came into effect, two or three by-elections were held after this judgement, And for those two or three by-elections this judgment was in force. Out of my own curiosity and education I tried to bring about and see what candidates to those by-elections really had to say ahout these details. Mr. Narayan Dutt Tiwari contested the by-election in Uttaranchal. in his nomination paper, which I had an occasion to see in some other institution, said,"I remember that I was jailed in 1942 but the section, the court, the dates, the acquittal, the discharge, the judgement all are not with me." Now, this would be true in relation to people in different political activities, to give details of every case where they have been discharged. And there is no distinction, as to which case you have been convicted in and in which case you have been discharged, whether it is a casd of political agitation or any other. Madam, I do recollect, if I speak from personal experience, I had seven prosecutions against me during the Emergency. If I am asked to fill up a nomination, in consonance with this judgment, I am sure, the nomination would be liable to be rejected. I do not remember the details of a single one of them. The second was, prior to six months; if there is any case pending that is related to the first one, assets of a candidate and his or her spouse and that of dependents. Now, as the candidate having to give details of his assets, I can understand that if you want probity in public life, people who get elected must disclose their assets; Ministers disclose their assets to the Prime Minister, there are several legislatures which have made a rule that there must be declaration of assets after you have been elected. So, after getting elected, if there is any increment in the assets itself, the people are entitled to know. But, in this case, before you get elected, merely because

you file a nomination, you must make your assets public and even though the present law has a provision for a subsequent declaration of assets. We must always bear in mind that when assets are declared, the experience has t^een that those with declared assets declare their assets, those with undeclared assets do not declare their assets. So, the honest man's assets always become public and the person who falls in the other category, his assets always remain a secret because they are the non-declared assets. But this has t>een one of the demands which has been raised for the last few decades, therefore, this issue has continued. Liability, if any, particularly whether there are dues of any public financial institutions or Government dues. Now, there could be a dispute. There could be a telephone bill pending, there could be an electricity bill pending, there could be some appeals of the income tax which are pending. How is each one of them, relevant to his right to contest election and the voter's right to elect him? What are the consequences of this? And I will show subsequently what the Election Commission did, When they realised that the Parliament's jurisdiction was taken over by the Supreme Court, the Election Commission decided,"Let me chip a little more of it and take some of it myself." The Election Commission also indulged in a parallel legislation. And the effect of this was that if I were to file my nomination and say that the bank has a claim of Rs,50 lakhs against me, my opponent could well file an objection and say,"well, with an interest, it is not Rs.50 lakhs, it is Rs.80 lakhs"; and the Returning Officer, with that one day available to him, would become the adjudicating authority of my educational qualifications, my assets, bank claims against me, my dues and bills which are f^ending and once the nomination is rejected, even if it is wrongfully rejected, then the remedy under article 329 would only be to file an election petition. Let us recollect that in a recent election held in one of our neighbouring countries, a provision of this kind was introduced, which newspapers have said and responsible international magazines have said, was used to subvert democracy in that country. A qualification requirement was put in. And under that qualification requirement, one leading politician, also a former cricketer, found his nomination on the same qualification rejected by one Returning Officer and accepted by another. People who are expected to be candidates, people who are expected to be graduates brought certificates from Madarsas. So, the Returning Officer rejected some certificates and accepted some certificates and there had been a great debate in that country that the law of having graduates only can contest was actually one of the principal weapons used to subvert democracy or subvert the process

of elections in that country. And lastly, of course, was in relation to educational qualifications. What is very curious is that, not being satisfied with this direction, the Election Commission, after the change of personnel, asked the Supreme Court to issue these five directions and give the power to its Returning Officers to decide whether or not the ails given *were* correct. If incorrect details were given, the Election Commission wanted its Returning Officers to have the power to reject the nomination papers. The Commission filed an affidavit seeking that power. The Supreme Court did not give the Commission this power. Now, why I said this related to Parliament's jurisdiction was, because even when the Supreme Court did not give this power to the Election Commission, the Election Comrhission. but for this Ordinance, decided to give that power to itself. And pursuant to article 324, the Election Commission passed a directive on 28'" June, 2002. and, in that direction, it said, "Every candidate must file his nomination paper. Non-furnishing of the affidavit shall be considered to t>e a violation of this order. And, lastly, furnishing of any wrong or incomplete Information. or suppression of any material information by a candidate, or from the said affidavit, may also result in rejection of the nomination paper". So, if this Ordinance had not been brought, and if this Ordinance did not now become an Act, which has the effect of nullifying some parts of the judgment and this order of the Election Commission, the situation would be that the judgment would revive and the order of the Election Commission would revive, as a result of which the ADMs, SDMs and Collectors -- who are Returning Officers in that 14-day period when the nominations are to be filed, and in that one or two day period of scrutiny of nominations -- will first become ombudsmen of assets of candidates, and *vA\/* decide whether or not somebody has correctly declared his wife's jewellery, or, will become ombudsmen to decide whether or not bank loans and electricity dues have been correctly mentioned. In fact, the other by-election which was held was the one in which Dr. P. C. Alexander got elected to the Rajya Sabha. I had a chance to see his nomination also. The other, as I mentioned earlier, was of Shri N. D. Tiwari, when the judgment was in force. Mr. N, D. Tiwari did not remember, on what date the judge had convicted him in 1942, the number of days he had spent in jail, the sections under which he had been convicted and so on. So, a convenient and pliable Returning Officer could legitimately be made to have rejected his nomination papers. Dr. Alexander knew all his qualifications and he had mentioned them. But in that thick affidavit, which he was required to file, where his school and college passing out details and the details about his post-graduation and Ph.D. wrere

mentioned, Dr. P.C. Alexander -- as eminent a person as him -- had not filled in some of the details. Any Returning Officer could have got up and said that it was not correctly filled in, and therefore, the nomination paper could have got rejected on that ground.

Now, I raise this question for the reason that the Issue of probity in public life has to be independently considered. The first Issue, which this House must be concerned with, is that the effect of this law is to substantially set aside the effect of the judgment of the Supreme Court and the effect of the order of the Election Commission. Besides being impracticable in many manners, both the judgment of the Supreme Court and the order of the Election Commission, have taken away the legislative jurisdiction of the Parliament, and decided that now a part of the legislative jurisdiction goes to the Supreme Court by this judicial pov^rer and a part of the legislative jurisdiction gets further added on to the authority of the Election Commission, and it may be saying that, "Well, now I will have the power to decide on this". What is the effect of this? Section 36 of the Representation of the People Act may give 4-5 reasons on the basis of which a nomination can be rejected. Read jointly, the effect of the Supreme Court judgment and the Election Commission; they have added five more reasons why a nomination can be rejected, and some of those reasons give absolutely arbitrary power which -- as I said on the basis of the experiences of one of our neighbouring countries -- could be effectively used in a given situation to subvert the very institution of elections. We have seen that happening in our neightxjuring country, and this is something which we must be very careful about; and one of the reasons. I believe, why this legislation must be passed is that this encroachment on parliamentary jurisdiction by any other authority, however high it may be, has to come to an end. This cannot *be* permitted to continue. If it does continue, it brings about an imbalance in the entire functioning of our democracy where separation of powers between the Legislature and the Judiciary is a part of the basic structure and is an inherent component of our democracy.

Secondly. Madam, as far as the main issue is concerned, the concern really has been on issues of criminals entering public life, how do we stop that. That is an issue which the Parliament has to now consider how to address. We have had several all-party meetings. There have been suggestions of the Law Commission; there have been suggestions of the Election Commission that the framing of the charge should be considered as sufficient to prevent a person from contesting elections. Whenever all-party meetings have been held, except for one party from the State of Sikkim,

almost every national party was opposed to this suggestion, not because they wanted to encourage criminals to enter politics, but because of one reality every political party was aware of, law and order Is a State subject. The power to prosecute is vested with the local police; it is a power with every Sub-Inspector of this country. Once you record two statements ahd file a prosecution, the moment a charge is framed -- a charge could be framed for *gheraoing* the management in a trade union movement; a charge could be framed for being in agitational politics; a charge could be framed for being in illegitimate criminal activity also. Under all these circumstances, who will make this distinction? So, the political parties felt that the final arbiter of this really has to be the people of India. Therefore, if it has to be the people of India, they must know who they are electing, who they are not electing; you need to educate people, you don't need to create bars and give jurisdictions because if you give the power to stop a person from contesting an election, then the situation becomes difficult. Let me give a realistic example. Let us take a situation when our first elections were held, almost every leader of our freedom movement had criminal cases against them. Let us look back at the 1977 elections. There was hardly a member in Mr. Morarji Desai's Cabinet who did not have some form of prosecution against him or the other filed during the Emergency. All you have to do was to file prosecution of this kind, get the charges framed, then say, 'the bar on you comes.' Therefore, the present legislation which has been brought about by the Department of Law is well-considered, It balances the situation; it gives the people the right to know what are the serious criminal cases against a person on the basis of his affidavit. Thereafter, after he gets elected, it gives the people the right to know what his assets are. There is some nexus between his assets, increase in assets with any possible misuse of authority. The nexus should not be for what he had possessed before he ever became a candidate. The nexus has to be that once in office, you have not misused your office to collect further or to increase your assets. Therefore, the legislation in this regard is a balanced piece of legislation which has been brought fonward. I would urge this hon. House to consider this fact, and therefore, also the fact that this House has to assert its jurisdiction and authority to legislate, which is being gradually taken away. It is with these words. Madam, that I support this Bill which has been brought about by the Minister of Law.

SHRI NILOTPAL BASU: Madam Deputy Chairperson, I have heard very carefully to my very dear Minister of State for Law, who was a little bit, in my opinion, exuberant in his defence of the Bill, and to other Members

Shri Bhardwajji and Shri Arun Jaitleyji. The point that I would like to make, at the very outset, is. people have gone into the detailed background of how this Bill evolved, but the prssumption on which we support this Bill is completely different. We also don't agree with the presumptions with which some of us are supporting this Bill. As has been stated by a number of speakers, the High Court order; subsequently, the Election Commission order created this problem, whereby all of us agreed that this is a clear-cut encroachment on the powers of the Legislature. Therefore, it can't be accepted. But the underlying presumption that the right to information is a fundamental right--though it is not as yet--and that information on the criminality or the suitability or the money power that a particular candidate may be having, that mere information to the citizenry and the electorate, is in itself, an overriding safeguard for cleansing the political and electoral process of the influence of cash and muscle power, is very wrong.

Madam, in the all-party meeting, which we attended along with many other colleagues in the House, our leader in the other House was pointing out that he has been Member of Parliament for the past, almost, 30 years; that he has been an active Parliamentarian, and tried to visit his Constituency, but he has not been able to visit all the villages in his Constituency.

So, even if the affidavit is filed by the candidate, the chances are very few that that information will eventually go to the electorate. I don't think, the fact of the matter is that the electorate or the people are electing legislators who are history-sheeters, who are having a criminal background because they don't know of them. In spite of the full knowledge about the background of a candidate, such candidates are getting elected. So, I think, something more fundamental is involved in the process of cleansing our polity, cleansing our electoral process of the criminality and the influence of the money power. In fact. Madam, if you see, today, the same kind of law operates in the whole of the country. But in certain Stales, you find less and less allegations about the kind of legislators they are electing, and in Some States, there are more and more allegations about the legislators having criminal background.

Bhardwajji correctly referred to an NGO document which is sent to all of us. I am sure, if an election in West Bengal were held today, any NGO would find it difficult to list the names of so many candidates who are fighting elections. I think, the presumptions are also very wrong, because the focus has to be on the present. The past background, as has been

rightly pointed out by many speal<Grs and I agree with them, is not the main issue. As responsible elected representatives of the people, what are we doing? As legislators, those of us who are not in the Executive, are we misusing our power because we are not supposed to have the powers of the Executive? What about the incremental changes in our assets? Would probity be there? Unfortunately, when the Government was quite prompt in addressing itself to the situation arising out of the order of the court and the Election Commission, its alacrity or pro-activity was not equally displayed in terms of addressing those fundamental questions. Madam, I would *WkQ* to refer to the CVC Bill, on the basis of which a report had been submitted by the Standing Committee. Wiy has it not come up? As far as the Loi< Pal Bill is concerned, long ago a report had been submitted, but why nothing has been done? The Vora Committee report is there. I would like to i<now whether the present Government has done something to follow it up. I find Dineshbhai Trivedi smiling quietly, He was one of the Members amongst many of us, earlier he was on thiS' side. Some follow up action has to be done. Some follow-up has to be done. Why are the recommendations of the Indrajit Gupta Committee Report still at large? On this whole question, I find this very unfortunate situation, Ravi Shal<ar Prasadji, while piloting the Bill, mentioned many things, including the corporate funding also. Now, as such we see in today's, process so much of corporate influence. Why should we have corporate funding? It is this Government, which says that business is business and the Government should have nothing to do with that. So, where the funding of institutions is the responsibility of the State, then why should it be left to the business? How is that all candidates, irrespective of their political affiliations, will get the same l<ind of support? Why Is that tax break Government advocating for corporate funding of elections? These are serious questions. Now, we do not t^elieve that without State funding you can really have a clean process of elections. Questions are being raised about why Rajya Sabha voting should not be open. I know we may be very, very isolated in this. But you see the problems of internal functioning of a political party. It is our failure. The parties, which cannot keep their flock together in the Assembly and their Members get bought up, this is their problem. We have to reflect on that. If this political process has come to such a *pass....(Interruptions)..*

SHRI SANGH PRIYA GAUTAM (Uttranchal): Aso include those parties, which sponsor criminals. *..(Interruptbns)..*

SHRI NILOTPAL BASU: Now. the difficulty with Gautamji and others on that side is that they take holier than thou attitude. Now, the problem is that if my ideology, my programme Is not strong enough as to inspire loyalty not only from my ordinary members but from elected members wtTom I have given tickets, the responsibility of that you put on the House that, okay, one of the basic features of the parliamentary democracy, that is, the secret ballot would have to go. What about parties lock, stock and barrel svi/itching over their position? Certain parties say, "If you elect us, we would not go with any other party." But after the elections, they suitably change. Gautamji's party has done this in Uttar Pradesh. Mayawatiji's party has done this in Uttar Pradesh. So, what about that? Can you v^fith such laws really bring an end to opportunism in politics today? So, the issue is much more fundamental. Certain fundamental issues will have to be addressed by the coiteciive poiiiy, 1 agree. Today our credibility is at stake. Unless each of us, each of the political party in its own way does not go for this kind of an Introspection, we cannot stop the process of becoming irrelevant in this country, vIs-a-vis, our people. We do not command that kind of respect that our earlier generations, which were thrown up by the Freedom Struggle, did. It Is something to ponder over. So, Madam, we maintain this position that this 'background', etc. are wholly unnecessary. But still since there is a consensus, we go with that consensus. And about assets, I would like to mention that actually we ^e also ineffective in placing our position. This 'asset' the provision which we are having In this Bill, what I have seen in the Report of the Ethics Committee of our own House is already there. It is another matter that we have not been able to collectively implement the recommendations of our own House Committee. But the provision that we are today adding 'after having been elected within 90 days' that provision. that recommendation is already contained in the Report of the Ethics Committee. And, if you look at the point of educational qualifications, it is an elitist concept. Till today, opportunities for and access to education are basically, a privilege. Therefore, the under-privileged sections, will be denied certain rights. This comes out of some institution. It is very unfortunate, though I was a little amused by Mr. Jaitley's emphasis on the change of personnel in the Election Commission. Institutions and their orders or their decisions have to be seen in the context. I understand his agitation or initation over some other decision of the Election Commission. On this, I think, a better method would be to go by the merit of each and every decision and not try to dwell too much on the question of personnel.

The other issue I would like to point out very humbly is this. I agree with Bhardwajji. There was a difference of opinion. The Congress Party wanted to go a little further. As I have already stated, I feel, even this cannot stop the kind of criminalisation or money power. We have made that position clear. But, the point is, a reference to clause 8{b) of the so-called draft, which was removed on the basis of consensus, should not have been made on the floor of this House because, I think, it is more than myself, Mr. Arun Jaitley, himself who has pointed out that it had no basis. We know how the security agencies work, not only on the question of framing of charges, but also on staging encounters and having people killed. There is a lot of suspicion about that. So, that could have easily become a handle. We are also seeing the efforts of the agencies depending on which side you are on as a politician.

Today, in the morning, the Report and Evidence of the JPC on the Securities Scam was presented to the House. One particular stockbroker had financed a particular webs'te which brought out certain investigation report which indicted the Government. And look at the way he was being hounded by the security agencies! Today, this kind of standards prevail in this country. Therefore, we also cannot give any arbitrary powers to the Government, to the authorities and to the agencies that are there. Therefore, having said this, the right to law-making is the supreme right which should be retained by the Parliament and, I think, we have no problem with this Bill as such.

These are some of the points which I would like to submit because, we believe, the struggle for cleansing our polity from the influence of money power and the process of criminalisation requires a much, much larger effort and on those questions, the alacrity and the pro-activity of the Government, in terms of legislative action, is very much wanting. Thank you.

SHRI RAVULA CHANDRA SEKAR REDDY (Andhra Pradesh): Madam Deputy Chairperson, I rise to support the Bill. For sustaining a healthy democracy, we need people who can occupy positions with dedication, commitment and service-oriented.

While supporting the Bill, I would like to highlight a few points which were discussed here earlier and also debated outside the House. Is electoral reforms process has got a long history. A proposal for electoral reforms was first sent by the Chief Election Commissioner in 1972, but could

not be taken up for consideration due to dissolution of the Fifth Lok Sabha. Then, the Election Commission had sent some more proposals, again, in 1979. But they also had to meet the same fate due to dissolution of the Lok Sabha. Then, again, revised proposals were submitted to the Government in i982, 1986 and 1989, which all gathered dust, Only in 1992, a few proposals made by the Chief Election Commissioner were accepted. Now, these proposals, which are before us, are important ones, and are in the right direction. Through this amendment, I am sure, if not totally, at least, the major areas of politics are going to be cleansed. I congratulate the Government, which against all the odds, has brought this piece of legislation before the House for its consideration. By bringing this amendment, three sections are proposed to be inserted. Under section 33(a), details with regard to criminal records of a candidate are being sought. We support this Bill. The voters have every right to know about the candidates who are in the fray. The people should have information and knowledge about the probable representative of their area. It is a must. As per section 33(b). candidates will have to furnish all the information. A new chapter. 8(a), is also proposed to be inserted. This is regarding declaration of assets -- both movable and immovable -- which belong to him, his spouse and his dependent children. Apart from assets, he will have to disclose his liabilities also -- whether he has raised any loans from the Government or banks. This is a post-election disclosure. Proposed section 125 (a) deals with the penalty for furnishing a false affidavit. This may attract six months' imprisonment or a f'ne or both. Here, I would like to mention one thing that one should exercise caution with all these things, otherwise some people may try to mislead the authorities also. There may be certain things, like bona fide mistakes, technicalities, and declapations with good faith and not a wilful omission. All these things are to be taken into consideration while furnishing an affidavit. Or, when a complaint is put to test, these precautions must *be* taken into account, othenwise people may suffer, irreparable loss. Then, as far as criminalisation and declaration of assets are concerned, I am proud to say that in 1997-98 itself, the Andhra Pradesh Legislative Assembly had accepted the report of the Ethics Committee. It is mandatory on the part of every Legislator to furnish all the assets and fiabilities to the Speaker. Our parly, the Telugu Desham Party, is committed to cleaning the politics, more particularly, avoiding the induction of criminals in the party. We screen at the time of enrolment of membership itself. We try to avoid induction of such persons who are involved in criminal activities. We keep them away from the party. Every

political party, instead of relying on laws and amendments, should have some introspection, and should be cautious while selecting their candidates. The people should have better representatives, for that reason political parties should take utmost care and caution while selecting their candidates.

Coming to the Rajya Sabha election, we support the suggestion of the hon. Minister. We welcome the open election system. I am proud to say that from our party -- we are thirteen Members in Rajya Sabha -- we had not to spend even one rupee for coming to the Rajya Sabha. No money is required for this purpose in our State, more particularly, in our party. Our party is committed to this. We are grateful to our leader, Mr. Chandrababu Naidu. At the time of prosecution or cross-checking the affidavits, bona fide mistakes or technicalities should be taken into consideration. With these words, 1 support the Bill.

श्री रमा शंकर कौशिक : उपसभापति महोदया, यह एक छोटा सा विधेयक है और यह माननीय उच्चतम न्यायालय तथा चुनाव आयोग के निर्देशों तथा उससे उत्पन्न परिस्थितियों के परिप्रेक्ष्य में लाया गया है। यह सही है कि इस विधेयक के संबंध में सभी राजनीतिक दलों के नेताओं की बैठक हुई थी और इस विधेयक में जो प्रावधान हैं,उन पर आम सहमति भी थी। यह बात सही है कि इस विधेयक में वे सारी बातें नहीं हैं जो भ्रष्टाचार उन्मूलन के लिए, बाहुबलियों के लिए या और किस्म के अपराध करने वालों को कम से कम राजनीतिक क्षेत्र में न आने देने के लिए काफी हो। यह भी सही है कि कानून में और चाहे जितनी चीजों को बढ़ा लीजिए लेकिन हम जिन चीजों को बढ़ाना चाहते हैं, हम जिन और बातों को इसमें शामिल करना चाहतें हैं, उसके लिए हमें अपने अंतःकरण में भी झांककर देखना चाहिए। हम जो कानून बनाने वाले हैं और जो लोग कानून की वकालत कर रहे हैं, उसमें और चीजें शामिल करने के लिए कह रहे हैं, अगर हमारे नेता लोग और हम लोग ही इस बात का निर्णय ले लें कि हम आपराधिक प्रवृत्ति के लोगों को चुनाव में हिस्सा नहीं लेने देंगे तो बहुत बड़ी समस्या हल हो जाएगी लेकिन हम वह काम नहीं कर रहे हैं।

श्री संघ प्रिय गौतम:इसकी शुरूआत आपको करनी पड़ेगी।

श्री रमा शंकर कौशिक: आपको भी करनी पड़ेगी, इसमें आपकी संख्या ज्यादा है, चाहे आप गिनती गिन लीजिए, चाहे आप लिस्ट लेकर बैठ जाइए। ऐसा मत कहिए गौतम जी, आप लिस्ट ले लीजिए, मैं तो अपने को भी दोषी बता रहा हूं, मैं तो सभी को दोषी बता रहा हूं, इसमें कोई संदेह नहीं है।

श्री जीवन राय (पश्चिमी बंगाल): मैं उसमें नहीं हूं।

श्री रमा शंकर कौशिक: आप न हों, यह आप अपने मन से सोचते हों लेकिन कहीं न कहीं कोई बात तो हमारे ऊपर भी आती है। इसमें कोई संदेह नहीं है कि इस मामले में हम लोग आगे बढ़े हैं, पीछे नहीं हटे हैं, एक-एक कदम हम आगे बढ़ रहे हैं लेकिन और भी चीज़ों को इसमें शामिल करना पड़ेगा। आज हमारे देश में जो सबसे बड़ा खतरा पैदा हो रहा है, वह

उन लोगों से पैदा हो रहा है जो धार्मिक उन्माद के आधार पर, सांप्रदायिकता के आधार पर चुनाव की प्रक्रिया में हिस्सा लेते हैं। ये कौन हैं ? क्या ये अपराधी नहीं है जो देश को तोड़ने के लिए बात करते हैं, जो हमारे संविधान की मूल धारा के खिलाफ बातें करते हैं ? उनको आप क्या कहेंगे ? हमारे सविंधान की धाराओं के विपरीत, हमारे संविधान की मूल भावनाओं के विपरीत, हमने जो कसम खाई है, उसके विपरीत जो आचरण करते हैं, उनको क्या आप अपराधी नहीं कहेंगे ? तमाम आयोगों की सिफारिशें और उनके जो निर्णय थे, चाहे वह मानवाधिकार आयोग हो, चाहे वह महिला आयोग हो, चाहे वह अन्य स्वंयसेवी संस्थाओं की सिफारिशें हो, सबको धता बताकर, "जनता में मुहर लगा दी", यह कहकर हम उनको महामंडित कर रहें हैं, यह क्या है ? क्या यह अपराध नहीं है? जो अपराधी लोग जीतकर आते हैं, वे भी इस बात को कहते हैं कि हमें तो जनता ने चुन लिया है, जनता की मुहर हमारे ऊपर लग गई हैं। इन सारी बातों पर आपको सोचना पड़ेगा।

महोदया, यदि हमें राजनीति को स्वच्छ बनाना है तो निश्चित रूप से हमें अपने संविधान की जो मूल धाराएं है, उनका आदर करना पड़ेगा और देश को तोड़ने के लिए जो इस ढंग के उन्मादों को फैलाते हैं, उनके खिलाफ कोई कार्यवाही करनी पड़ेगी, उस पर कोई पाबंदी लगानी पड़ेगी। लेकिन उसमें भी सबसे ज्यादा ज़िम्मेदारी केवल कानून की ही नहीं होगी, बल्कि सभी राजनीतिक दलों को इस बात पर विचार करना होगा। इन शब्दों के साथ मैं इस विधेयक का समर्थन करता हूं।

THE DEPUTY CHAIRMAN; Shri Ashwani Kumar. You have ten minutes.

SHRI ASHWANI KUMAR (Punjab): Madam, Deputy Chairperson, I will try my very best to conclude within ten minutes assigned to me. May-I, at the threshold, state that I rise with certain amendments to the Bill which 1 have introduced on the premise that the Bill, in its present form, does not measure up to the spirit of the Supreme Court judgement, of which this Bill Is a sequel.

Madam, Deputy Chairperson, it has been my belief, the belief of my Party and of my Leader, Shrimati Sonia Gandhi, that the judgement of the Supreme Court articulates the felt sensitivities of the people, at large, on a very vital issue that impinges on the health of our democracy. In that sense, we are debating, today, not only the rudimentaries of a piece of legislation, we are, in fact, debating today the core of our democracy. VWien the Supreme Court adverted to a transparent electoral process, to reaffirming the contours of a political morality, since declined steeply, we were only affirming the commitment which the founding fathers of the Constitution gave to the people of India. In that sense. Mr. Minister, this is not an adversarial debate. It is a debate in which we all join to celebrate

democracy, of course, bringing our individual perspectives to bear on the issues and the focusses that v^'e feel must be asserted. I would like very much to respond to w/hat my dear friend, Shrl Arun Jaitley, stated. In fact, the gravamen of his presentation w/as that the Bill must be supported, because it affirms Parliamentary supremacy. It repels an attempt of judicial encroachment on the legislative domain, and, for that reason, we should support the Bill as an act of the sovereign, the people df India.

Madam, Deputy Chairperson, I could not disagree more. The Supreme Court judgement does nothing of that sort. In fact, the Supreme Court judgement, in turn, states article 324, which has been interpreted by Mr. Arun Jaitley as giving a licence to the Election Commission to encroach on the Parliamentary domain, according to the Supreme Court judgement, can do nothing of that sort, and does nothing of that sort, because the Supreme Court, in turn, says expressly, "article 324 operates in areas left unoccupied by legislation. Therefore, there is no question of a conflict between the legislative and the judicial functions. The Court further said, the Commission shall not act in violation of law made by Parliament, where one exists. It further says that holding of any asset or educational qualification is not the enlargement of the eligibility criteria to contest an election. Mr. Minister, this is a pointed clue to what the judgement says. All that the judgement does is to trace the right of a voter to know from article I9(i)(a), a right that this august House celebrated yesterday by passing the Right to Information Bill. This is the ultimate tribute to India's democracy that a little man, who goes with a little pencil to vindicate democracy at the polling booth ought to know who he is voting for. Therefore, I ask myself the question. Is the Supreme Court so wrong when it says, 'these four necessary pieces of information that must necessarily influence the choice of an intelligent voter as to his choice for the candidate? Is it so grievously wrong that we have lo bring a legislation to negate the premises of the judgement? I can understand; I can understand certain safeguards, and, I think, the Minister is right. I think, Mr Arun Jaitely is absolutely right that there can be no question of giving the right to reject a nomination paper to the Returning Officer. But, Mr. Jaitely is wrong when he interprets the judgement to give that right. The judgement says nothing of that kind. The Supreme Court only stated. "Please give to the voter the necessary or the requisite information that would compel an informed choice, to vindicate democracy which is a basic structure of the Constitution." There is not a whisper, not a line, not a word in the Supreme Court judgement that says by an inference, the Election Commission shall have a right of rejection, If

you had only said that *...IJntemjptlons)...* If you do not mind ... *...i/ntenvptions)...*

SHRI B.P. SINGHAL: I just want to correct one thing. You are communicating a wrong information. Mr. Jaitley has never said that. He had said that the Election Commission wanted that right. So, the two of them went together..... *(Interruptions)...*

SHRI ASHWANI KUMAR: The premises of the submission of the Treasury Benches proceeds on the basis that the judgement, as

[THE VICE-CHAIRMAN (SHRI RAMA SHANKER KAUSHIK) In the Chair.]

interpreted by the Election Commission, has given a wide handle to the Returning Officer, to reject the nomination paper. I can understand that apprehension. That is a valid apprehension. But that cannot t>e a justification, in my respectful submission, to question the premises and the essentials and the fundamentals of the judgement. The judgement reflects the moral vision, a coherent moral vision of a society in transition. It represents a vision of India's democracy, of how that democracy should be. and not how it is come to be. That is why, Mr. Minister, we are at pains to move those amendments, so that you could bring the Bill and the legislation in line with the spirit, the substance and the letter of the judgement; and, let there not be a red herring. Please, for Heaven's sake, let there not be a red herring. There is no question of any conflict between the legislative and the judicial domains. There is no question of trenching. After all, as an eminent lawyer, you would know the celebrated judgement of Justice Black. In fact, in the U.S.. when the whole doctrines of judicial view was being challenged as being non-democratic, as being a negation of the parliamentary supremacy, he said, "It is not we sitting as Judges, who do a thing or invalidate a statute; we do it by the command of the Constitution." And the command of the Constitution is the people's command, and the people's command is against the command of this august House. Therefore, when the Constitution itself confers the power to determine the contours of the separation functions and the separation of powers, you cannot fault the Supreme court from doing its Constitutional function. And, it is the Supreme .Court that has reiterated, time and again, that we are not infallible or that the Supreme Court says is, 'we are final, but not infallible; final, because the Constitution makes us final.' Therefore, Mr. Minister, I

3.00 p.m.

would, with all humility at my command, completely disagree with what has been stated on behalf of the Treasury Benches. There is no trenching here; there is no conflict between the legislative and the judiciary powers. If you want this nation to know that the political establishment in this country has not bogged, when it came to electoral reforms, that it has not become a Judge in Its own cause, that It has not found an escape route to dilute the spirit of the judgement of the Supreme Court, please I beg of you to accept our amendments because, posterity wlH then not be able to fault us for not rising up to the occasion. This is a grave matter, Mr. Minister. It is not an ordinary Bill. It goes to the heart of the sacredness and the sanctity of our parliamentary democracy, and. I beseech you, with all humility at my command and with all the conviction at my command, let us not bog, let it not be said that the present pronounce itself against the future. The democracy of this country, which you and I and the whole House celebrates together, Is something in trust in our hands for the future. We ought to take difficult decisions. I agree, there could be misapplication of certain provisions, but they can be easily be addressed by bringing in suitable remedial protective legislative devices. 1 would, therefore, in conclusion, only submit that there are three fundamental things that we should disclose and disclose in advance, not after the election. The wrtiole argument that the misuse of authority is correlated to the office that you occupy, is not the central basis of the judgement. The central basis of judgment is for the benefit of the voter, who ought to know who he must elect. Therefore, the information must be disclosed prior to the election for the electorate at large, for the people at large and for the citizens at large, so that that little man, to quote the words of Winston Churchill, walking into the booth with a little pencil, puts his choice, on a piece of paper and. therefore,-vindicates the democracy. I would like to press my amendments. With these vrords, Sir, I conclude.

SHRI R. SHUNMUGASUNDARAM (Tamil Nadu); Sir, the Supreme Court inten/ened to recognise the right of the elector on the right to information regarding the qualification, character and assets of candidates contesting elections. The Election Commission of India Issued an order. All the political parties met and an ordinance was issued. Now, a Bill has been accordingly introduced. I support the Bill.

Sir, there is no difference of opinion. But, why was the Supreme Court of India constrained to inten/ene in such a matter? Who is responsible for that? It is the political parties which are responsible for that. When an election is announced, we search for candidates irrespective of their criminal background. We go on vying with each other for alliances viflth political parties irrespective of their leaders or important persons in those parties with criminal records. The people were really nauseated of by this approach of unholy alliances of the political parties just for the purpose of garnering a few seats for power. Therefore, the people approached the Supreme Court. There were a lot of writings in newspapers and magazines criticising this criminalisation of politics. This approach was hated by the people of India. The Supreme Court, the Election Commission and everyone hated it.

Sir, because of our conduct we faulted and here, by this piece of tegislation, we should rectify this. At least, by this way we should ensure that there would not be criminalisation of politics in future.

Sir, the voters must know about a candidate -- his criminal background. In all probability, a candidate with criminal background would be disqualified or his election will be set aside by a court of law. In such cases the voter will be affected. He will tte forced to face another by-election. *wher&* the voter has to vote again. Sir. we know what amount of expenditure do we incur in each election. These election expenses are very huge. Last time, it cost the nation about Rs.9O0 crore. This should not t^e a play field.. That is why the Supreme Court has rightly intervened and recognised the right. Sir, when the Supreme Court declared that a voter has right and all information of a candidate must be placed tiefore him, what the Bill is provided for is, only about few cases like whether he is chargesheeted of a crime punishable with two years. That is why. I have also given a notice of an amendment. But, this is not sufficient. Suppose, there is a case *vjt\\cU* does not attract a punishment of more than one year " *(Time-bell)* just one minute. Sir - mere conviction of such a case makes the candidate liable for disqualification. That information has to be placed. Imagine another situation where a person is convicted for an offence for more than two years; the trial court acquits him and an appeal is filed in a higher forum and the court is seized of the matter. Should that detail be not placed before the authorities because the voter has a right to know about his candidate? Therefore, I have given this notice of amendment, and, according to me, that is very important. This piece of

information is necessary for a voter to decide about his candidate. Sir, the Bill has provided for disclosure of assets of a candidate, or his spouse, or dependent children, whether they are jointly or severally in possession of certain movable or immovable properties. Sir, in my view, this provision is going to be set aside definitely by a court of law, because we cannot ask for the disclosure of assets of the spouse of a candidate. In the case of a candidate, yes, we can. Why should we be forced to disclose a spouse' assets or a minor dependant's assets? If that is the case, why not a partner, a partner in a business, a friend with whom we are partner, those assets must also be disclosed. Therefore, there is no parity. Therefore, this has to be looked into by the hon. Minister while replying *(Time-bell),* There is one more submission, Sir. Sir, all the political parties have to register under Section 29(A) of the Parent Act, and every time there is a change of office-bearers, the political parties have to intimate about the change to the Election Commission. Should not the parties disclose about the criminal backgrounds of leaders, or office-bearers of parties to the Election Commission? What is the purpose of this registration? The purpose of this registration is, the Election Commission of India must know whether these people, who are holding office in a political party, are genuine and honest persons, or persons with criminal background.

उपसभाध्यक्ष (श्री रमा शंकर कौशिक) **:** कृपया समाप्त करिए ।

SHRI R. SHUNMUGASUNDARAM: Just a minute, Sir. I am concluding. There, this should also be considered. I would like the hon. Minister to pay attention to that and request all parties to disclose criminal backgrounds of their office-bearers. Sir, with these words, I support the Bill.

प्रो. राम देव भंडारी (बिहार) **:** माननीय उपसभाध्यक्ष जी, यह विधेयक राजनीति में अपराधीकरण पर रोक लगाने के लिए लोक प्रतिनिधित्व संशोधन अध्यादेश का स्थान लेने के लिए सदन में लाया गया है । इसमें उम्मीदवार को अपने बारे में शपथपूर्वक क्रिमिनल केसेज और एसेट्स की जानकारी देनी है । महोदय, मतदाता को अपने उम्मीदवार के बारे में सूचना प्राप्त करने का पूरा अधिकार है और वोट डालने से पूर्व उम्मीदवार के सामाजिक, राजनीतिक जीवन के बारे में उन्हें पूरी जानकारी मिलनी चाहिए। मगर मुझे नहीं लगता कि इस विधेयक से उन्हें यह जानकारी मिल पायेगी । उनको यह जानकारी कौन देगा ? इलैक्शन कमीशन, सरकार या कोई अन्य मशीनरी, क्योंकि इस देश के अधिकांश मतदाता गांवों में रहते हैं । गांवों में जानकारी प्राप्त करने का उनके पास कोई साधन नही हैं । अगर इस एफीडेविट के बाद उन्हे जानकारी देना चाहतें हैं तो सरकार को ऐसी मशीनरी बनानी पड़ेगी जिसके माध्यम से मतदाताओं को अपने उम्मीदवार के बारे में जानकारी मिल सके । महोदय, अच्छा तो यह होता कि जो पोलिटीकल

पार्टीज़ हैं, वे अपने उम्मीदवार की घोषणा के साथ-साथ उस उम्मीदवार के बार में, उसकी सामाजिक, राजनीतिक स्थिति के बारे में जनता को जानकारी देतीं। मगर ऐसा नहीं हो रहा है। इसलिए सरकार को एक ऐसी मशीनरी डिवैलप करनी पड़ेगी जिससे जनता को उम्मीदवार के बारे में जानकारी प्राप्त हो सके। सुप्रीम कोर्ट का डाइरेक्टिव था, सभी पार्टियों की बैठक भी हुई थी और सुप्रीम कोर्ट के डाइरेक्टिव के अनुरूप यह एक खानापूरी जैसे की गई है। महोदय, सरकार को चाहिए था कि राजनीति में अपराधीकरण को रोकने के लिए वह एक व्यापाक चुनाव सुधार विधेयक लाती, जिसमें चुनाव में आजकल जो मनी पॉवर, मसल,पॉवर, धर्म संप्रदाय के नाम पर नफरत फैला कर, सांप्रदायिक सौहार्द एंव सहिष्णुता तोड़ कर, दंगा फसाद और खून-खराबा करा कर चुनाव लड़ने वाले उम्मीदवार और उनकी पार्टी के लिए कठोर कार्यवाही का प्रावधान होता, लेकिन ऐसा नहीं करके सरकार ने यह सिर्फ खानापूर्ति की है।

महोदय, मैं पिछले 30-35 वर्षो से सामाजिक, राजनीतिक कार्यो से जुड़ा हुआ हूं और इस देश के एक बड़े ईमानदार नेता स्व. श्री कर्पूरी ठाकुर के साथ काम करता रहा हूं। 1960 के दशक तक चुनाव में मनी पॉवर,मसल पॉवर और अपराधियों का कोई प्रवेश तक नहीं था। मैं समाजवादी पार्टी से जुड़ा हुआ रहा हूं। समाजवादी पार्टी गरीबों के लिए, शोषितों के लिए, पिछड़े वर्गो के लिए काम करती रही है। उनके उम्मीदवार भी उन्हीं के बीच से होते थे। महोदय, आप भी समाजवादी पार्टी से जुड़े रहे हैं। उनके पास सिक्योरिटी मनी जमा करने के लिए पैसे नहीं होते थे, चुनाव प्रचार के लिए उनके पास कोई गाड़ी नहीं होती थी। वे गुड़, चूरा,सत्तू खाकर पैदल ही या साईकिल पर चुनाव प्रचार करते थे। फिर भी जनता उन्हें चुनाव में जिताती थी। अधिकाशं उम्मीदवार इसी तरह से होते थे। महोदय, इसके विपरीत आज क्या स्थिति है। आज चुनाव में मनी पॉवर और मसल पॉवर का बहुत महत्व हो गया है। अपराधियों का बोल-बाला हो गया है। आज बात बदल गई है। कुछ वर्ष पहले तक उम्मीदवार अपराधियों का उपयोग करते थे। उनको पैसा दे कर बूथ लुटवाते थे और अपने प्रतिद्वंद्वी की हत्या तक भी करवाते थे। मगर जब उन लोगों ने देखा कि हमारी मदद से नेता ही चुनाव लड़ कर जीत जाते हैं, तो उन्होंने सोचा कि हम स्वयं क्यों नहीं चुनाव जीत सकते हैं। उसके बाद उन्होंने भी चुनाव लड़ना शुरू किया। चुनाव लड़ने के साथ-साथ वे अब चुनाव जीतते भी हैं तथा संसद् और विधान मंडलों में पहुंच जाते हैं। जो पुलिस अधिकारी, जो प्रशासन के अधिकारी उनको पकड़ने के लिए उनका पीछा करते थे, आज उनको सलाम ठोकते हैं। महोदय, यह स्थिति हो गयी हैं। सांमतवादी प्रवृत्ति के लोग काफी पहले से बूथ लूटते रहे हैं। जो कमजोर वर्ग के लोग हैं, उन्हें पहले भी मतदान में हिस्सा नहीं लेने दिया जाता था, वे गावं घेर लेते थे और उन्हें गांव से निकलने नहीं दिया जाता था। मगर आज स्थिति बदल गयी है। आज जब ये अपराधी चुनाव में खड़े होते हैं तो इन लोगों की हिम्मत उन के खिलाफ बोलने की नहीं होती है और अपराधी चुनाव जीतकर आ जाते हैं। महोदय, यह बात भी सही है कि आज भी अच्छे लोग संसद या विधान सभाओं में है, मगर बहुत अच्छे लोग चुनाव से दूर भागते हैं। उन्हें आप आज चुनाव में खड़े होने के लिए टिकिट भी देंगे तो वह कहेंगे कि मुझे टिकिट नहीं चाहिए, मैं ऐसी स्थिति में चुनाव नहीं लड़ सकता हूं। महोदय, राजनीति में अपराधीकरण के कारण आज इस तरह के विधायक और सांसद हैं, मैं उन का नाम नहीं लेना चाहता। मैं उत्तर प्रदेश की बात कर रहा हूं। वहां के एक विधायक जब भारतीय जनता पार्टी के समर्थन में थे तो बहुत अच्छे आदमी थे, लेकिन आज जब वह सरकार का विरोध कर रहे हैं तो पहले वहां जो उन के खिलाफ केसेज दर्ज थे, उन केसेज को फिर से निकाला जा रहा है। मैं यह नहीं कहता कि क्यों निकाले जा रहे हैं, मैं

सिर्फ यह कहना चाहता हूं कि ये पॉलिटिकल पार्टीज अगर चाहे तो राजनीति में अपराधीकरण को रोक सकती हैं। उन्हें टिकिट देना बंद कर दें, टिकिट न दें, मगर आजकल राजनीतिक दलों का टिकिट देने का सब से पहला क्राइटेरिया यह है कि जो चुनाव जीतकर आए, चाहे उस का कुछ भी चरित्र हो, उस को टिकिट देना चाहिए और उसी को टिकिट दिया जाता है।

महोदय, यह बहुत ही खतरनाक स्थिति हैं। किसी भी देश के लोकतंत्र के लिए और खासकर भारतीय लोकतंत्र के लिए यह बहुत खतरनाक स्थिति है। चुनाव में टिकिट देने से पहले उम्मीदवारों के चरित्र व उन की सामाजिक, राजनीतिक स्थिति के बारे में जानकारी देनी चाहिए । सभी पॉलिटिकल पार्टीज को आगे आकर यह काम करना चाहिए वरना यह मनी पावर मसल पावर खत्म नहीं होगी। महोदय, मैं राज्य सभा चुनाव की बात कर रहा हूं। राज्य सभा चुनाव में करोड़ों रूपया खर्च किया जाता है। जिस पार्टी की स्ट्रेंग्थ होती है, वह चुनाव हार जाती है और पैसा खर्च करने वाले चुनाव जीतकर आ जाते हैं। इस बारे में कई बार मांग की गयी है कि राज्य सभा और विधान परिषद के चुनाव को ओपन कर दिया, जाए मगर अभी तक सरकार ने इस दिशा में कोई कार्यवाही नही की है। कम-से-कम इस चुनाव को ओपन कर देना चाहिए जिस से करोड़ों रूपयों का जो लेन-देन होता है, वह बंद हो जाए।

महोदय, मैं अपनी बात समाप्त करने से पहले पुनः सरकार से कहना चाहूंगा कि इस विषय में गहन विचार-विमर्श की जरूरत है। राजनीति में अपराधीकरण खतरनाक स्थिति की ओर बढ़ रहा है और जो सांप्रदायिक तत्व हैं, जो राजनीतिक में, पावर में आने के लिए, सरकार बनाने के लिए धर्म के नाम पर, सम्प्रदाय के नाम पर एक-दूसरे का खून बहाते हैं, खून बहवातें हैं, ऐसे लोगों पर रोक लगनी चाहिए।

महोदय, यह बिल कोइ खास उद्देश्य की पूर्ति नहीं कर रहा है,इसलिए चुनाव सुधार का एक बड़ा, व्यापक विधेयक लाया जाना चाहिए। उस स्थिति में जिन बिंदुओ की ओर सरकार ने इस विधेयक के माध्यम से ध्यान दिलाया है, उसे पूरा किया जा सकता है या इस दिशा में कुछ आगे बढ़ा जा सकता है। धन्यवाद।

DR. P.C. ALEXENDAR (Maharashtra): Mr. Vice-Chairman, Sir, I rise to support the Bill, it is, in my judgement, a necessary step because of the situation in which the Bill had to be brought before the House. If we do not pass the Bill now, or, if we accept the amendments one of which are very necessary, and desirable, it will delay the passing of the Bill because, then, it will go back to the Lok Sabha and the people of India will draw only one conclusion from this. That conclusion is, whenever the Parliamentarians handle a problem, which affects them even remotely, they try to avoid a decision. Right or wrong, this is the public perception about the Members of Parliament and the Members of Legislative Assemblies, in general. I don't consider this Bill good enough, but in the circumstances in which it has been brought before the House, I think it is our duty to pass this Bill.

Why don't I consider this Bill good enough? During the last several years, we have been trying to introduce reforms in the electoral system in a piecemeal manner. We don't realise the simple fact that the electoral system, which is the core of the parliamentary democracy, is an integrated system. If we handle a problem without handling the related problems, it is as good as not handling that problem effectively. The piecemeal approach, which had been followed during the last 30 years of electoral reforms in our country, has landed us in a situation where the whole system has become discredited in the eyes of the people and we ourselves realise it.

A mention has been made by Shri Bhardwaj about the need for a comprehensive approach to electoral reforms. It should not mean a committee again. So many committees have gone into the electoral reforms issue, starting from the Jagannath Rao Committee, the Tarkunde Committee, the V.R. Krishna Iyer Committee, the Indrajit Gupta Committee, the Venkatachaliah Commission, the Law Commission and the Election Commission. We have any number, of good recommendations and suggestions emanating from various Committees and Commissions. All that is needed is. the will to implement them. If somebody sits down and tries to tackle the problem in an integrated, comprehensive manner, a draft Bill can be brought before the Parliament any time.

One argument that has *been* raised against a comprehensive legislation for electoral reforms--I read about this point in certain articles and speeches-is that no other advanced democracy has a comprehensive legislation covering all aspects of the electoral system or parliamentary system. One or two western countries have attempted a few reforms partly, but no comprehensive electoral reforms have been attempted. But my point is that India, unfortunately, is not in a situation as that of the advanced democracies, Our system has failed. Our electoral system has brought us more discredit than credit during the last several years. It has been brought out by the Chief Election Commission that the Eleventh Lok Sabha had 40 MPs with a criminal background. Some people may justify it by saying that they are technical offences or they are not serious enough to be called criminal offences. But the fact is that 700 MLAs -- I am referring to that period -- and 40 MPs -- I am referring to the Eleventh Lok Sabha --had criminal background. If you say that the western countries are not having it. therefore, we cannot go in for it in the east, maybe, it is only evading the issue.

May I make some suggestions for the consideration of the hon. Minister, through you, Sir? You may take note of the following seven points which I am going to make and try to bring a Bill. In my view, if you adopt all these seven points, it may satisfy all sections of the people.

First, defection should instantly result in disqualification, This subject has been discussed threadbare in our country and the inevitable last step that we have to take is, as I said just now, instant disqualification. Second, there has to be a statutory limit of 10 per cent of the strength of the Lower House for the size of the Ministry. We try to fight corruption but we forget that defection and corruption arise largely because of the anxiety, greed or ambition, undisclosed in many cases, of MLAs and legislators. Once they are elected to a legislature, they have also the right to sit on the Treasury Benches or to become Ministers. Third, no legislator should be appointed - though In the States, it has become a common practice - as Chairman of any corporation or public sector undertaking, A lot of corruption takes place and a lot of malpractice takes place because we accommodate certain people, who cannot be accommodated in the Ministry, through chairmanship of corporations or public sector undertakings.

Fourth, if you have a coalition government, there has to be a prescribed minimum strength for a coalition partner to have a seat in that Government. You can be a member of the coalition or the group, but to become a Minister there has to be a minimum number of members in the party. There are States in India where a one-member party or a two-member party has representation in the Council of Mincters. This has created a vested interest in party splitting because to be small in number has become advantageous as they get ministership or other positions. Fifth, no political party, which does not publish its audited accounts for the knowledge of the people, for the information of the f:30ple, should be allowed as a registered party. The allocation of symbol is only for registered parties. Every one has to submit himself, every party has to submit itself to this bare necessity of having to publish audited accounts; the statement of income and expenditure. These are the main holes where corruption takes place. I am not talking of the small loopholes. We have to plug the big holes. Sixth, affidavit should be filed about the assets and liabilities, not merely by the person who has been elected but every candidate should be asked to do that.

Mr. Vice-Chairman, Sir, I would like to claim a very special privilege here. Probably, I am the only Member of Parliament today who had filed

affidavit about my educational qualification, my assets and liabilities, my wife's assets and liabilities and the criminal background that I had not, but I had to say, in black and white. At that time, when I filed the affidavit that was the rule. I had no difficulty. The same way if you want to get into hallowed things of the legislature in the Parliament or Legislature, you should have the courage to tell the whole world 'these are my assets and liabilities'. I can find hundred arguments against this. But, if we want parity in the parliamentary system, we have to be harsh and severe and insist on this affidavit. This is not enough that once you become a Member, you have to file an affidavit within 90 days. If you want to be a candidate, you should start by filing the affidavit. The same thing about affidavit on convictions about which I have already mentioned.

While concluding, I compliment the Government for deleting the clause of educational qualification. I am one with a chain of degrees from the universities. I have earned them by research; they are not honorary degrees. These are irrelevant for your functioning as a useful Member of the Parliament. I have the instance of two great chief ministers in the country. Mr, Kamaraj in Tamil Nadu who was the most successful Chief Minister for ten years and Mr. Vasant Dada PatJI in Maharashtra. Mr. Kamaraj never entered the middle school and Mr. Patil never saw the high school. But they could be parliamentarians and good chief ministers. I am speaking only of people whom I know. And, therefore, I would congratulate the Minister for having dropped the qualification clause. With these words, I support the Bill.

(THE DEPUTY CHAIRMAN in the Chair)

SHRI DINESH TRIVEDI ; Madam, I rise to speak on a much larger issue -- neither an amendment here nor there -- and that issue is the very sustenance of our great democracy. I am very sad today. My colleague, Shri Nilotpal Basu, just now said, "Dinesh Trivedi was sitting on this side". I was very much sitting on this side of the House. In one decade, the tide has taken me form here to there and again back here. People have been experimenting with different parties. That is a fact of life. Madam, you are sitting right vi^here you were sitting at that time. I vividly remember, it all started -- I want to take you back; I know I do not have much time; I will keep myself within the time limit -- with the tragic death of Naina Sahani. Today I very fondly remember my good friend, Shri Rajesh Pilot. We had spent a lot of moments together, Unfortunately, we have lost that great leader. It was Shri Rajesh Pilot the then the Minister of Internal Security, who got the Vohra Committee report out in the open. The did have the

courage to place it on the Table of the House. There was a lot of hue and cry and there was a lot of upsurge In the House itself. The Business Advisory Committee gave us two hours to discuss the Vohra Committee Report. I was vety upset at that time. Madam, you know it.

THE DEPUTY CHAIRMAN: You even staged a walk-out.

SHRI DINESH TRIVEDI: The House also got adjourned. I said the same thing that whether the democracy would survive or not. I insisted and requested that instead of two hours, we should discuss this issue for two days. Unfortunately, nothing much came out of it, excepting that a Committee on Ethics was constituted about which, I am sure, the citizens of this country are not aware as to what this Ethics Committee does because I, as a Member of Parliament, do not know much about it. Madam, ten years back it was a small little cut which I have on my little finger here. We neglected that small little cut which went into the body politic and poisoned it. This is my apprehension. It is a destiny that I am again standing here and speaking on that very subject. I had warned then that this was the beginning of gangrene and if you did not address this issue, your entire body politic would be poisoned. I am afraid, I dare to say that yes, the entire body politic today has been poisoned. I may not be far from reality. I am talking about what the perception of the people today is, which we have established in today's debate where we have collectively agreed that yes, there are criminals amongst us, whether in the House or outside, but, they are very much there. So the entire body politic has been poisoned. Today the situation is much worse. In the years 1993 and 1995, when we were discussing this issue of criminalisation, terrorism was not this much widespread. Today, Madam, terrorism is literally at our doorstep. I heard the speeches of hon. Jaitleyji and Bhardwajji with rapt attention. I agree vwth both of them. When, Jaitleyji mentioned that we cannot give our right of this hon. Parliament to any other institution, however independent they may be, I totally agree. But I would just like to know, why has this come about? I, as a Member of Parliament, then had to knock the doors of Supreme Court, when nothing much came out of the Vohra Committee. I, as a citizen of India, had the right to know who those criminals were that the Vohra Committee talked about, who became Members of Parliament, Members of Legislative Assemblies and who bureaucrats, who became so powerful that they had access to criminals or they themselves were criminals. But, there were no answers. Today, Madam, I am very sad that in spite of that hon. Supreme Court's judgement on my petition, I would be

not far from reality to say that it has not been implemented, and I am very sad on that. Madam, I would just like to take..

THE DEPUTY CHAIRMAN: I think now....

SHRI DINESH TRIVEDI: One minute, Madam, and I will read just one paragraph to remind people of what the Vohra Committee had said. It says and this was stated by the Director of Intelligence Bureau that network of mafia is virtually running a parallel Government. Madam, this was ten years back. And, today, we are only discussing and discussing and I may not be again incorrect to say that we are not being sincere about it. We are talking about the all-party meeting. I do not know; our party was not there. But, what came out through the media and the press reports that it was unanimous; everybody agreed on which the hon. Minister also mentioned. So. I think, somewhere down the line, when we have passed this Freedom of Information Bill, I do not see much of a problem in having the background of a candidate declared, while he is contesting, while I fully agree with the disqualification clause. We cannot leave it to one Returning Officer. But, Madam, when we look for a boy for my sister or my daughter, we look at all the background. We ask for all the information, but when It comes to electing somebody who is going to be custodian cf this country, we say no, there are mafias who are going to kidnap him, if he is going to declare his assets. Madam, there is something called 'income-tax return". Why can't we just use that? This is my Income-tax return and that is about it. Then, we say, "No. after you get elected then, you can declare your assets." It is like शादी हो जाने के बाद लड़के की बैकग्राउंड क्या है यह सब हम बाद में पता लगाएंगे । Madam, this is not acceptable. And, look at that duality. We have this clause in the Bill, which says that if a candidate gives misrepresentation, he goes to prison, he is fined and other things like that, but it is silent on what happens when Members of Parliament like me give the declaration. It is just a privilege of Member of Parliament and we all know, with all respect to the Parliament Privilege, what happens there. So, Madam, I personally would have felt very happy if instead of, or in addition to, the discussion of all-party meeting on this very important subject, which we have neglected for years together, it is again thanks to the hon. Supreme Court and I dare say, if Supreme Court Judgement would not have come, we might not have been discussing this Issue today also. So, I am grateful to the Supreme Court. Madam, as I was mentioning, if only we had a proper discussion and brought in a comprehensive Bill, then, it would have been more meaningful. Having said that, it is not late; we can

still do it. We should not forget it, even after this Bill is passed here. Let us take at least one step forward.

Madam, I would mention one last thing and I will conclude then. Hon. Alexanderji mentioned about defection. It all starts with this. I have a right to change the party. It Is my democratic right, But I have no right to cheat the people. Outside, in election meetings, I oppose a particular party, but, once I am elected, I join that party which I had opposed. It virtually means, I am cheating the public at large. And I have no right to do so. So, the moment you change the party, the minimum you have to do is, resign from your seat as a Parliament Member or as a Legislative Assembly Member.

Madam, since this is a step forward, I would support the Bill with the expectation that the Government would bring in a comprehensive Bill very soon, maybe, in the Budget Session of Parilament.

SHRI FALI S. NARtMAN : Madam. I support the Bill because it is better this Bill than no Bill m all.

I was very sorry to hear both hon. Shri Bhardwaj, speaking in support of the Statutory Resolution, and the hon. Minister, speaking in support of the Bill. I was also disappointed to hear Mr. Jaitley. although I was pleased to hear him yesterday on another matter. But, today, I feel, he really missed the bus wtien he blamed the Court and the Election Commission.

Hon. Members, I suggest, let us be honest and true to ourselves. We, as a class, are distrusted and disliked by the people outside. Facile speeches do not mislead the people outside this House. Shri Bhardwaj said how wrong it was for the Supreme Court to dictate to us. But he does know the reality. It was his party, along with the party which supports the Government now, that successfully frustrated the orders of the High court on the PIL that culminated in the judgement and order of the Supreme Court on 28"^ June, and this has been mentioned in the Statement of Objects and Reasons In the Bill when introduced in the other House. We all say we oppose the Supreme Court dictating to us. But as my hon. friend just now said, the reality is that it was only when the Supreme Court dictated to the Government on the subject of electoral reforms in June, 2002, that this Bill saw the light of the day in the Lok Sabha in November, 2002. Both the BJP and the Congress (I) party, along with others, successfully frustrated first the Delhi High Court Judgement, the Division

Bench Judgement, because the Division Bench Judgement, amongst other things, did provide for vyhat this present Bill provides. The Judgement of the Supreme Court issuing a mandamus to the Union of India was handed down two years ago, in November, 2000. And, what did the Government of the day do? It challenged the entire judgement, including these provisions, in the Supreme Court. They briefed the Attorney General to ask for a stay of the entire judgement. And what did the Congress (I) party do? When a notice was issued to it by the Chief Justice of India, on my request, -- I appeared on behalf of the PIL petitioner, thinking that the other parties at least would support the judgement or a part of it -- the Congress (I) Party, particularly, and others, totally opposed the judgement in all its aspects, and supported the complete stay of the judgement, with the result that the judgement remained stale for almost two years, until the final judgement came in June, 2002. Therefore, I think, it is just playing politics on all sides to say that this Government did this, or, this political party did that. Let us all acknowledge the fact the political parties did not meet at ail until the judgement of the High Court came in the year 2000. Nobody here ever said anything about criminalisation of politics. Nobody ever even bothered to move a Private Members' Bill. The Congress (1) has a majority here; but they did not do anything, nor even move a Private Members' Bill seeking decriminalisation of politics, which it now professess. Frankly, I could not understand what my good friend, Mr. Bhardwaj wanted to say. He commenced by saying he opposed the Bill and ended by saying he will support it. If the Congress Party was so keen on electoral reforms, nothing prevented it from introducing a Private Members' Bill and pressing it in this House. Mr. Bhardwaj also spoke about the elections in Gujarat, not once but thrice. I wished he had not. I am as much concerned, even more concerned, as to what happened in Gujarat. But I venture to submit that if the hon. Members of the Congress Party had been keen on cleaning up political life and had done something about it, they might not have lost the Gujarat elections. When public are not given a chance to decide on policies, they tend to vote on the basis of caste and communalism which the hon. Member so deplored, Mr. Jaitely and other Members spoke about encroachment on the exclusive jurisdiction of Parliament. Who says it was not? And when did he realise that it was the exclusive jurisdiction of Parliament? Only after the High Court and the Supreme Court had encroached on it. And why did he not introduce a Bill for decriminalising politics when he was a Minister? You always had the jurisdiction before the High Court and the Supreme Court took over and decided the PIL. Political

parties only woke up then and that is why the public are now going against us. The truth is, the Government, t)ecause they are 'the Government', have scored over all the political parties today, who have to say 'yes' to the Bill--'yes', not initially, but ultimately like the proverbial lady of Kent in the limerick, who said she would not go, but she went. I am sorry but the judges and the Election Commission have come out far better in this debate than any of the hon. Members of political parties either in this House or the other on the question of electoral reforms. We in this House. I believe have a lot to atone for and answer for. Having said this, Madam, one last word, I heard Dr.. P.C. Alexander make an excellent speech and endorse all his suggestions and I am glad that he was able, without much difficulty to disclose all his assets including his moveable property. I am troubled with these words 'moveable property'. If the hon. Minister disclose his moveable property and t disclose mine, I am sure an hon. Member like Mr. Ram Jethmalani would convince any independent tribunal that both of us had concealed something, it is impossible, virtually, to disclose all moveable assets that you have, bank accounts, I understand, but not your apparel, your clothing. Now-a-days people have very fancy clothes and I do not know, how much of it you can or cannot disclose. I would have thought that some sort of a measure should have been made for it. But, I am very pleased to know that Dr. Alexander found no difficulty and I will take a leaf out of his book when I disclose my moveable property here. Thank you. Madam, for permitting me to say these words.

THE DEPUTY CHAIRMAN: I would only like to say instead of using the words 'criminalisation of polities', we should say 'politicisation of the criminals,' Because it is the other way round. The criminals get credibility by becoming politicians.

SHRI FALI S. NARIMAN: I accept that.

THE DEPUTY CHAIRMAN: Now, we hav& two more speakers. आनन्द जी, अगर आप जल्दी खत्म कर दें तो then I can get the reply and so on to other business.

SHRI R.K. ANAND (Jharkand): I will confine my debate to only one clause in the Bill which is 33 - (a) (1) (i). I have an apprehension in my mind that the wording of this clause appears to have been motivated and my friend can remove these apprehensions. With due respect to my friend, the hon. Law Minister, I want to say that this Government pretends to be very transparent. But when it comes to actus^ practice, it acts othenwise. This

Government had wanted to become the champion of right to know and that is the reason they wanted to and, in fact, got passed, the Freedom of Information Bill. I need not go into the history as to why this amendment is being brought in this House. It is obvious that it is because of the judgement of the High Court and the Supreme Court. But before I express my apprehension, I would like to point out one of the quotations, "True democracy cannot exist unless all citizens have a right to participate in the affairs of the polity of the country. The right to participate in the affairs of the country is meaningless, unless the citizens are well-informed on all sides of the issues in respect of which they are called upon to express their views. One-sided information, disinformation, misinformation and non-information, all equally create an uninformed citizen, which makes democracy a farce. When medium of information is monopolised either by a person, or a Central authority or a private individual. This is particularly so in a country like ours where atxiut 65 per cent of the population is illiterate and only about half a per cent of the population has access to the print media which is not subject to pre-censorship". Why I am saying that is this particular clause has been worded in a motivated manner, is the judgment of the Supreme Court, and the amendment moved by the Congress, are in one line and in one direction. It clearly says, "...prior to the six months of the filing of the nomination, whether the candidate is accused in any pending case of any offence punishable with imprisonment of two years or more, and in which charge Is framed or cognisance is taken by the court of law; if so, the details thereof." Whereas, in the amendment which is being proposed to *be* moved is, "that he is accused of any offence pynishable with imprisonment for two years or more in a pending case in which a charge has been framed by the court of a competent jurisdiction." I have an apprehension. Why I am saying this is that at least six or seven Ministers of the BJP were involved in criminal cases pending in the court of law. They have to file an affidavit -- even the Deputy Prime Minister *w*\\\ be required to file an affidavit in the court of law -that he is involved in a criminal case, which is pending in the Allahabad High Court. In order to avoid that av^rttward position, this amendment is being sought to be moved. I may point out that in reference to the philosophy of democratic elections. Sir. Winston Churchill had said, "At the bottom of all tributes paid to the democracy is a little man walking into a little booth with a little pencil, making a little cross on the bit of a paper". No amount of rhetoric or voluminous discussion can possibly diminish the overwhelming importance on the point. And the Supreme Court had added four or five lines more to

that and it stated, "If we add, the little large Indian shall be hijacked from the course of free and fair elections by mob, muscle, methods or subtle perversion or discretion by men dressed in little brief authority, for be you ever so high, the law Is above you". If you want the public to know, please have the amendment on the lines of what the hon. Supreme Court has said. Otheavise, what is your objection to the amendment that is being proposed by the Congress Party? This is nothing but something motivated. Why? Because, you don't want your Ministers to disctose to the public at large that they are involved in a number of criminal cases. I request my friend to remove the apprehension which is in my mind about the filing of the affidavit by your Deputy Prime Minister and other Ministers who are involved in various cases,

SHRI J. CHITHARANJAN (Kerala): Madam, the question of comprehensive electoral reforms was being raised by various political parties, legislators, jurists and several other sections of our people for a long period of time, much before the recent decision of the Supreme Court or the order issued by the Election Commission. The people began to make these demands because of certain developments that were taking piace. On the one side, in the election process, money power and nnuscle power are being manifested on an increasing scale, on the other side, hardened criminals, who are history-sheeters". have l^egun to contest elections, and, that too, sometimes, as candidates of certain political parties. Some of them have succeeded in winning elections. Then, they come to Parliament and to the State Legislatures. Along with that, the conduct of some of the Members of Pariiament and some of the Members of Legislatures has created a fear in the minds of the people. One is the question of defection, and another is the question of corruption. All these things have given room for serious apprehensions in the minds of the people, as to where all these things are leading us to. and what will happen to our democracy in future? That is why these demands were raised. In the past, various Governments had noted these developments. That could be recognised by the fact that various Governments had appointed certain Committees to look into certain aspects of this problem. Those Committees had submitted their reports. The last such Committee was headed by late shri Indrajit Gupta. But the Government was sitting over those reports and did not act on the basis of those recommendations. And now, the Government has come fonward with this Bill. Whatever may be the argument given by Shri Jaitley, the fact remains that the judgment of the Supreme Court and then the order of the Election Commission had woken up the Government to bring fonward a

4.00 p.m.

legislation. I would say that this is a piecemeal legislation. There are very important Items which have to be dealt with. But, those items have not been dealt with in this Bill. Anyhow; to the extent it covers some items, we support it.

Madam, while introducing the Bill, the hon. Minister of State for Law talked about the consensus that was reached at the all-party meeting. I would like to point out that there was consensus on certain items in that meeting. But, as far as one particular item was concerned, there was a strong resentment against the fact that the Government is against, or the Bill Is against furnishing details or information about a candidate's assets and other details, whether they were involved in any cases or they had been convicted at some point of time. These were the facts which the people wanted to know. Why do people want to know alt these facts? It is the responsibility of the Government to see to it that those things are made available for the information of the public.

Madam, while supporting this Bill. I would like to inform the hon. Minister that we have given certain amendments. In the same way. some other parties have also given some amendments. More or less, they are similar in nature. So, I would request the hon. Minister to accept those amendments while passing this Bill.

Madam, another thing which I have to say is, there are several other aspects which have not been covered by this Bill. If the Government is serious enough in bnnging forward a comprehensive electoral reforms legislation, then, it should immediately take initiative to have discussions with the leaders of various political parties and come to some common understanding as to what should be the contents of the new legislation and as to how it should be brought forward. It should be done as early as possible. With these words, I conclude,

THE DEPUTY CHAIRMAN: Now, Shri H.K. Javare Gowda. You have just three minutes.

SHRI H.K. JAVARE GOWDA (Karnataka): Madam, thank you for allowing me to speak. I heard the luminaries speak. I also was a Member who attended the all-party meeting. Except for the Sikkim Member there was consensus. Every Member and every party, which participated in the proceedings, had agreed upon the purport of this Bill. But I have a point to make.

Madam, it is a small step in that direction. But by bringing in this Bill, we should not thinl< that we would bring down the criminalisation of politics or the electoral process. Any party in this country is not true to Its facts. To cite an example, we all know the extent of expenditure prescribed for a candidate for Lok Sabha or Rajya Sabha or Assembly election or any election. But we spend ten times, fifteen times more than what is prescribed. But none is dare enough to speak up. Also, none is coming out with the mental attitude of the people. Very few honest people, who don't belong to any party, don't expect anything from anybody. But those of us, who are in the limelight, or who have had the taste of politics, are after this. This is the position. The attitude of the people also is responsible for it.

The other thing is. we take objections on judgments of the High Court or the Supreme Court on the framing of charges that were prescribed for the disqualification. That was one of the reasons why all the parties agreed upon. Madam, I would like to take two more minutes, because, according to me, this is an important point. There are vociferous advocates here, luminaries and a retired Supreme Court judge here. You all know how simple it is to frame a charge. Unless the veracity of the witness is tested by way of cross-examination, ii is not proved. But if a statement is made before the police, then, *prima facie,* the police can frame charges. Under these circumstances, we didn't agree to the stipulation of "charges framed in two cases." Because, that would definitely spoil the prospects of a candidate. That is why, all parties agreed to drop that one. That Is one point where we are not agreeing, even the Supreme Court is not right in that respect. Had they realised the fact, they would not have brought in this provision or condition.

I would like to touch the other aspect of the matter with regard to the criminalisation of politics. What is criminalisation? Is it only a law in violation of the IPC? You see the white-collar crimes. People do not pay crores of rupees to the Government, but they have become Members of Parliament. Members of Assemblies, etc! They are free and they can spend any amount of money Indirectly. That is why we are not containing anything. In order to save one per cent of innocent people, we are not in a position to make a comprehensive law, But to save one per cent of the population, we are not able to make a comprehensive law. that will prevent illegal activities or the use of muscle and money power. Under these circumstances, the course left to us Is only introspection no speeches or no interpretations. The thing is, all the leaders of various parties should sit

together: especially the leaders of the ruling party, the opposition parties and the important parties, must come out with policies based on the philosophy of Gandhian principles. Then only can we make some solid foundation in conducting elections. Otherwise, I feel, definitely, this Bill also would not prevent criminalisation of politics. 1 have no option but to support this Bill. Thank you.

SHRI RAVI SHANKAR PRASAD: Madam, I am extremely grateful to all the hon. Members who have participated. I cannot take the names of all. But the contribution of all the participants has indeed been outstanding, and true to the tradition of this House, they have reflected not only the nature of this Bill, but also the need to cleanse the polity itself. The point by Mr. Basu, Shri Ram Deo Bhandary and other was well taken that this ailment would have to be addressed by the polity itself. Law is there. But we as political parties will have to rise to the occasion, set our house in order. I do not want to score any debating point, Madam. But all the political parties would have to address this serious malaise of criminality. Law would be there, but the change will have to come about from within as well. I am grateful to Mr. Gowda - I hope he is here -- who set the record straight that this Bill embodies the essence of the consensus which emerged. And, Madam, with great respect, let me say again with a full sense of responsibility that this Bill is fully in consonance with what emerged as a consensus there. It is all a matter of record, I do not want to revert to that. But. Madam, there are two or three issues here which have been raised. My very distinguished friend, Ashwani Kumar, a very eminent lawyer, in his powerful presentation, explained some of his own understandings of the judgement, I know he had occasion to appear before the court as well. Those are matters of record I do not need to revert to. He was mentioning about some of the observations of my very esteemed friend, Arun Jaitley. He is certainly entitled to his views. What the hon. Member Arun Jaitley said, if it is-to be understood in the context, his views can be appreciated, if I may quote only paragraph 56 of the judgement: "Finally, in our view this court would have ample power to direct the Commission to fill the word in the absence of a suitable legislation." Agreed. Now, what the Commission does? Taking cue from it, usurps further power, the power to reject, going beyond the limits of section 36. And all of us are right that when the power of rejection was usurped with great potential for abuse, that became a cause of concern. Hon. Member Shri /^exander gave a very good speech. We have good regards for him. His nomination paper was accepted. But the ground reality because of the competitive politics in the

country -- Mr. Alexander, I would like to say with great sense of responsibility -- is quite different and this cannon in the hands of a Returning Officer without any guidelines was enough to create havoc to prevent political opponents from contesting *per se.* That was indeed a genuine fear which we have experienced over the years by the many in public life. Therefore, there was a consensus that such a power ought not to be given. Shri Nariman and other friends talked about -- about hon. Nariman I have the highest of regards personally -- questioning our record in the Government as to what we have done in the quest for electoral reforms. Yes, I am prepared to concede that the maximum would not have been done. But how can this accusation be heard at our doorstep that we have not done anything? We talked about corporate funding. Fund is needed for the politics of the country. Either you allow fund to come from backdoor or have a system for it. We made other arrangement taking note of the problem of the Rajya Sabha elections. We have provided for voting facilities for our Armed Forces, which was their demand for a long time. Now, as far as the Indrajit Committee Report is concerned, what is the thrust of that report? Funding by the State! We have given our view. Madam. The matter was considered by a Cabinet Committee. But the large money involved would have to be shared also by the State Governments which are not willing to have any share at all of this load. But that is a serious problem. We have to understand the economic situation of the country. Therefore, to say that we have not taken any steps is not right. Mr. Nariman mentioned about Mr. Jaitley and asked what he did as the Law Minister. When a recommendation came of the Election Commission that those candidates against whom charged have been framed should be prevented from contesting election, immediately - when he was the Law Minister -- an all-party meeting was called. So, was there a consensus? No. The persons against whom charges have been framed should not be prevented from contesting elections. An effort was made. Take the present instance of Mr. Nariman. As I said in the very beginning, when we came out with the Bill, we proposed 8(B) -- a serious concern to address the mafia culture eating into the polity of the country. There are two separate cases - heinous offences and charges framed -- which disqualifies a person. Heinous offences, such as murder, rape, kidnapping for ransom, killing by terrorists and intra-State narcotics. These are really heinous offences. We made our effort. But there was no consensus. Now, we cannot be accused of like this that if we go for consensus and consensus is not there, then, we are not doing anything. I am saying this

only for the purpose of setting the record straight that we, indeed, made our earnest efforts. And, let me assure this House, we shall continue to make our efforts in the coming years, because electoral reforms are a continuous process. Let me assure this House on behalf of the Government, if there is a consensus, my Government is committed to the most far-reaching electoral reforms needed for the country. But, Parliamentary approval would be needed, because we strongly believe that this is the power available only to this august House and the House of People. Only we have got the power to legislate and prescribe rules for disqualification.

Madam, Shri R.K. Anand, talked about the hon. Deputy Prime Minister, Someone talked about the Gujarat elections. We thought Gujarat occupied the political space for nine-and-a-haif-months. And, after the conclusive victory, which we have registered, this issue should have been given a quietus. But. i was surprised that even in the debate on the Representation of the People Bill, the issue of Gujarat came about. Let us be humble in victory and let the people's wish be accepted.

Shri Kaushikji talked about communalisation. It is a bigger crime. I failed to understand that the so-called communalisation is a big sin. Right. But naked, rabid castiesm is not a sin! What kind of polity that we are having in our country? Where the secular communal debate is *going?...(Interruptions)...Ibat* is an issue which we would also like to address. Therefore, this kind of double standards required to be avoided.

Mr. Anand, 1 do not think that there was any need to bring the hon. Deputy Prime Minister here, because the law clearly says that if charges are framed in a oroceeding. punishable with two years or more, then. It IS required to be disclosed. 1 do not want to go into the motivated manner in which the proceeding was turned against the hon. Deputy Prime Minister. That is a different chapter altogether. But, no charges have been framed. That is also a fact, Let us know it.

Mada-Tt, I come to the specifics of some of the amendments proposed by the Congress Party. Let me make a few obsen/ations. In addition to the consensus that we had, what did the Supreme Court, in the final analysis, say? I am reading paragraph 59 of it. What was the first direction? It says, "Whether the candidate is convicted, acquitted, discharged of any criminal offence in the past: if any, whether he is punished, imprisoned or fined..." Against this, there was an objection.

Shri Bhardwaji has also said that many political activists are also fined in their quest for political activity -- under section 144 and 107 of the IPC. And we agreed to that, because, in a democratic polity, right to protest also entail penal consequences. Let us recognise that. Now^, virtiat our law says? If you are convicted for one year, this one year goes beyond the smaller convictions which you get for political activity like two/three months under section 144, io7 and I5i - Rioting -- of the IPC and all other sorts of activities. To address that, we have made those modifications? Now, what is clause (2)? It says that prior to six months of filing of nomination whether the candidate is accused in a pending case of any offence punishable with imprisonment for two years or more in which charges are framed and cognisance is taken. What change have we made? We have only said that in place of cognisance, we have taken only 'charge.' What is the reason? The charge is framed in the presence of the accused. Therefore, he will have the knowledge of the proceedings.

Now, I come to educational qualifications. I don't have to say anything for or against to it since Shri Alexanderji has said it in very eloquent words. So far as the asset part is concerned, I have to make a few observations. I again repeat, with full sense of responsibility, that there was an overpowering consensus that assets have to be post-election. But having said, what precautions we have taken?. Within three months of the election, assets have to be filed before the Presiding Officer. Wilful default thereof would lead to breach of privilege. Madam, with a very wide experience, you are aware what are the consequences of breach of privilege. But, we have provided this, Therefore, we have also given a proper kind of additional weightage there that those who are going to be Wilful defaulters in complying with the mandate of law, would have to suffer the consequences. I don't wish to go into as to *vA^y* 'post-election'. I see the rational for it. Let those who live honestly, be not penalised. And, those who live dishonesty should get freedom and free access everywhere. Why? Because there is a reason for it. Much was said about the Freedom of Information Bill. Our elections are of quite a noise and poise, and have a great sanctity about it. In the course of that noise and poise, people come to know each and every detail about the candidates. In my State of Bihar, I was passing through a particular area. My workers were with rtie in a car. They showed me five palacial houses in and around that district which belonged to a gentleman who happened to be a Member of Legislature, with great criminal record. 1 know, he never disclosed his assets. But the people knew everything. Yet the hard fact remains that he was elected.

Therefore, today, I take this opportunity to again address that you will have to have consensus to address the serious question of criminality. Maybe, if section 8(b) is not agreed upon today, it would have to be agreed in future. That is what we will have to consider one particular day. But let us not take It beyond, in a sense that those who really want to contest properly, should be left to the vagaries of the Returning Officer, and let the process become so complicated. One of my friends from the DfylK asked as to why 'spouse' has been included. Madam, there was a good debate. I wish to share that. It was an Interesting debate. Some of the friends were of the view that 'spouse' should be deleted because there can be a case where a husband and a wife may not be on the best of the terms. And, one of the reasons for discord could be the political activity of husband itself. Yet, the spouse would be forced to declare her assets along with her husband. But we thought, even though there might be a merit in this argument, the Supreme Court's mandate be included; therefore, 'spouse' has been included. Narimanji mentioned about the movable property; in deference to the hon. Supreme Court's directions this has also been included. I think, the human ingenuity will not split the movable and immovable too far. There will be a consensus thre also, *i/nterruptions)*

THE DEPUTY CHAIRMAN: Spouse would be movable or immovable?

SHRI RAVI SHANKAR PRASAD: Madam, 1 am extremely grateful to the House for listening me with great patience. With these words, I plead that the Bill may be passed.

THE DEPUTY CHAIRMAN: Shri Hansraj Bhardwaj.

SHRI HANSRAJ BHARDWAJ: Madam, I would not take much time. But 1 need to put the record straight with regard to one or two observations made by Narimanji and the hon. Minister. Narimanji has that ability. When I was the Law Minister, a public Interest litigation the Constitution was re-written in the case of appointment of judges. Now, it is not the President of India who will appoint the judges, it is the Chief Justice and his colleagues who will appoint the judges. So, I don't dispute his ability to argue a case -- this way or that way, But the fact remains that any counsel of eminent would appreciate the rational behind the separation of powers. As the senior most counsel of the Bar, and the President of the Bar Association of India, he would be the first one to share this. Now, he is a Member of Parliament. After the Keshavnand Bharti Case, the supremacy

of Parliament has been truncated, But, we, who believe that Parliament represents the will of the people -- whether it is Mr. Arun Jaitely or I -- we would continue to plead that Parliament should have the first say in Legislation, and not the Judiciary. The Judiciary is unelected, They can interpret the laws made by us. They caii declate them *ultra vires.* They can quash them. But certainly they do not have any law-making power like that of the United States. They have, in a sense, their due process of law and they have some powers. But India has not, so far, allowed the judges to legislate. It is the socio-economic condition of the country that compelled the Government to make certain proposals for legislation. These proposals are placed before the Cabinet; the Cabinet decides upon that issue, then, brings the law. This is the philosophy of governance of this country. But this tendency of judicial activism, and public interest litigation is a reality of life now. because we have failed to perform our duties. In Vineet Narain case, Justice Verma said, 'that unoccupied area'. It was clearly a departure from the earlier law. In B.L. Shankar's case -- 1 argued Mrs. Indira Gandhi's case -- the judges rightly rejected and said, 'this is not an area for judges to go, it is for the legislature." Even in the JMM bribery case, when they found **that** Members of Parliament are public servants, they did not say that we have the right to decide. They said, 'the Parliament will make a law'. That is the basic difference of opinion, a genuine one at that. Mr. Fali S. Nariman also, a champion of the public interest litigation, in many areas, I don't want to mention them because he will feel hurt. Some of the senior lawyers of the Supreme Court have decided not to defend cases against corrupt Ministers. But some of them, later on, defended the most corrupt Ministers. They had formed a union with a senior counsellor, and decided that they will not defend a corrupt person. But I can quote instances, after instances where they changed their policy for certain comfortable people. I don't have any dispute with the Government on this that the elected Government of the day alone can decide the destiny of this country, and judges can only interpret the schemes of the Executive, and the laws passed by the Legislature. If no legislative freedom is given to the Parliament, it will have no functions to perform. Therefore, I said at the very outset, that we have been negligent. The Election Commission cannot be accused because he has been writing to us. And there has been a delay on our part. He was under a *mandamus* from the court, so, he had to implement it. If we do our homework properly, nobody can blame us. There is a perceptible difference of opinion among the Members of the House. Our difference is on a very

limited point. We attended a meeting, at the inwtation of a Minister alongwith my senior colleague. He had been the Leader of this House, and was also the Finance Minister, and he held portfolios of many Ministries. He was there; I was deputizing for him. We raised this very issue at this meeting. As a matter of fact, what was observed by me, was mentioned by Shri Arun Jaitley in the House. The point was that it is the responsibility of the Parliament to legislate on whatever important issue, whether electoral reforms or any other reforms. The judges are not reformers. Their job is to adjudicate. Therefore, when we frame a legislation, its adequacy or inadequacy has to be judged by this House. And if anybody has a difference of opinion, he will be strictly in a minority. Therefore, we all want that legislative supremacy of the Parliament should be maintained at all costSr but, at the same time, we should not be negligent or complacent In this matter, because people are watching us. And they do go to the eminent counsels and plead their case. When I was a Minister, there was no difference of opinion between the Chief Justice of India and me. But they did succeed in creating an impression that every appointment was a political appointment, therefore, judges should have the power to appoint, and they were able to convince the concerned people. So, this argument of convincing is a unique quality. But the principle remains that the President of India is the appointing authority, and no *mandamus* can be issued against the President as he is the Head of the State. Similarly, this august House was concerned. There were so many instances before the Keshavanand Bharati's case, *vMen* the courts upheld the supremacy of the Parliament. But there are circumstances under which the court brought it down, and we are living with it comfortably, because composition of this Parliament is not that kind which can annul that decision of the Keshavanand Bharati case. People brought the Minerva Mills case. There is a difference of philosophy among various Members of Parliament, but that does not mean that we don't know what the duty of the Parliament or the Executive is. We are not *sanyasis;* we are politicians. We come here to put fonward the viewpoint of the people. Do you know *vMaX* Pandit Jawahar Lai Nehru had said when the first amendment was brought forward, after the Land Reforms Act was quashed by the Court? He said, it is our duty to implement it. We have made a pledge to the people of India, so we should Implement it. It is the duty of the Government to bring fon^fard electoral laws. The Representation of the People Act is a self-contained code, It Is, indeed, the duty of the Government to make changes in the law, if required. On this issue, we don't have any difference of opinion.

Our difference of opinion is in regard to inclusion of these four points. You can say that the Congress Party wanted all the four points to be included, after the Supreme Court gave its judgement. Mr, Fall S, Nariman has a grouse, why we argued to the contrary. Do you think we will go and ask him what arguments we should make in the court? It is a court's verdict. We thought that we shall implement the judgement of the court, and a better sense will prevail at any point of time. I. my party and the Leader of my party have examined the judgement of the Supreme Court, and advised in writing that, yes, we have to go along with the court and because NGOs are pressing for it. It is a public outcry. Therefore, we have gone by our principles and not by the perception of a nominated Member. We took that stand in an all-Party meeting. And you also know, very well, that I gave a note mentioning that these four points may be accommodated in this Bill. But this was diverted to clause 8(b). We said, the Supreme Court never wanted that these four points should be made a part of the qualification and this was given just for the sake of information. Even today, it says that it is just for the sake of information. We agreed to this. I said that no power should be given to the Returning Officer to disqualify a person within a short period. There was a consensus on this. We agreed to this. We had given in writing that, from these four points, as much as possible, should be incorporated. The Government can disagree on this. You accommodated the general agreement made with other parties. But you can justify it by saying that there was a broader consensus, but it was not unanimous. We had attended the meeting of the political parties in good faith. Our viewpoint should be reflected correctly. We are talking, confidently and openly, about this thing. You can say that the Congress Party had made this suggestion, but the overwhelming majority was for this. On the other hand, a letter was sent to me saying, "you are not right'. When I read that letter, t was hurt greatly. We are supporting a good cause. We have no dispute either with the Election Commission or with the Supreme Court or with the Government. A good t>eginning has been made, and several laws are coming, one after the other. The process has started. It is a good thing. Even now, we say that our amendments are in good spirit. I am grateful to the former Governor, Dr. Alexander, who has supported our viewpoint, even though he is an Independent Member. The Communist Party of India Members are also supporting us now. So, there is some consensus, not as broad a consensus as you feel. But you are the Minister; you have to take a decision. We don't want to earn a bad name. Tomorrow, the media people may publish that we pulled down your law.

We will see to it that it is passed, but, at the same time, we would like our viewpoint to be reflected in the debate. These amendments are meant to help the Government. But if the Government wants to take the credit- it is still within your competence, stand up and say, "thank you for the amendments". As you know, some people in the party make it a prestige issue. I am only submitting my views. Now, again, I will quote. Shri Fali S. Nariman said, "I oppose the Bill". You can check the record. But I never said that I am opposing the Bill. I said, I am moving this Resolution disapproving the Representation of the People (Amendment) Ordinance. It has been the tradition of this House and the other House. When an Ordinance is brought forward, a Statutory Resolution is moved by the Members of the Opposition pointing out why an Ordinance has been brought. Why couldn't you bring it in the form of a Bill? It is customary. We have done it for many years. I have also been a Minister. We always said, भई हो गया, अब इसको विदड्रॉ करो I Therefore, we are doing this in the spirit of cooperation. I would also like to reflect my viewpoint.

Madam, you have been so kind and gracious to me. I speak only when you are in the Chair. You know *It...ijnterruptbns)...Thank* you.

THE DEPUTY CHAIRMAN: So, are you withdrawing your Resolution?

SHRI HANSRAJ BHARDWAJ; Madam, we don't want to make it a prestige issue. Let it be put to vote. Thereafter, the Bill be passed.

THE DEPUTY CHAIRMAN: Shall I put it to vole?

SHRI HANSRAJ BHARDWAJ: Madam, I am not withdrawing it.

SHRI RAVI SHANKAR PRASAD: Madam, since my friend has put his points so eloquently, may I very respectfully request him to withdraw it?

SHRI HANSRAJ BHARDWAJ: Madam, I am not withdrawing it.

THE DEPUTY CHAIRMAN: So, I shall first put the Statutory Resolution moved by Shri Hansraj Bhardwaj to vote. The question is :

> "That this House disapproves the Representation of the People (Amendment) Ordinance, 2002 {No. 4 of 2002} promulgated by the President on the 24'" August, 2002."

The motbn was negatived.

THE DEPUTY CHAIRMAN: Now, 1 shall put the motion moved by Shri Ravi Shankar Prasad to vote. The question is :

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

The motion was adopted.

THE DEPUTY CHAIRMAN: Now, we shall take up clause-by-clause consideration of the Bill. In clause 2, there are six amendments. The amendment Nos. 1 and 2 are by Shri Ashwani Kumar, Shri Pranab Mukherjee, and by Shri Suresh Pachouii. The amendment No. 3 is by Shri R. Shunmugasundaram. And, amendment Nos. 4 and 5 are moved by Shri J. Chitharanjan, Shri V.V. Raghavan, and by Shri Gaya Singh. And, amendment No. 6 is by Suresh Pachouri and Shri Pranab Mukherjee. Shri Pranab Mukherjee, are you moving your amendments?

Clause 2 - Insertion of new Section 33A. Ri^it to Information.

SHRI PRANAB MUKHERJEE: Yes; Madam, I move :

(5) That at page 1, *for* lines 11 to 13, the following be *substituted,* namely:-

"(i)h6 is convicted, acquitted or discharged of any criminal offences in the past, If any, and whether upon conviction he is punished with imprisonment or fine;"

(6) That at page 2, fo/- lines 1 to 3, the following be *sut>stituted,* namely,

"(ii) prior to six months of filing of nomination, the candidate is accused in any pending case, of any offence punishable with Imprisonment for two years or more, and in which charge is framed or cognizance is taken by the Court of law with details thereof."

(7) That at page 2, *after* line 3, the following be *hserted,* namely:-

"(2) Every candidate shall, at the time of filing his/her nomination papers also furnish information In an affidavit relating to:-

(i) the movable and Immovable property of which he, his spouse and dependents are the owners or beneficiaries;

(ii)his, his spouse or his dependents' liabilities to any

public financigil institution; and

{iii)his, his spouse or his dependents' iiabilities to the Central Government or the State Government.

to the Returning Officer who shall cause such information to be displayed at a conspicuous place in his office for information of the electors."

The questions were put and the amendments were negatived.

THE DEPUTY CHAIRMAN: Now, there is amendment No. 3 by Shri R. Shunmugasundaram.

SHRI R. SHUNMUNGASUNDARAM: Madam, I move :

(3) That at page 2, *after* line 3, the following be *inserted,* namely:-

"(iii) he has been acquitted of an offence, and an appeal against the said acquittal has been entertained by a Court."

The question was put and the amendment was negatived.

THE DEPUTY CHAIRMAN: Now, there are amendment Nos. 4 and 5 by Shri J. Chitharanjan, Shri V.V. Raghavan and Shri Gaya Singh.

SHRI J. CHITHARANJAN: Madam, I move :

(4) That at page 2, *after* line 3, the following be *inserted,* namely:-

"(Iii) a prosecution was launched against him, a short account of such prosecution in the years preceding his nomination, the conviction if any, and the circumstances under which such prosecution was launched."

(5) That at page 2 *after* line 7, the following be *inserted,* namely:-

"(3) Every candidate shall, while filing his nomination, furnish information supported by affidavit relating to;-

(I)the movable and immovable property of \Artiich he Is the

owner or a beneficiary;

(ii)his liabilities to any public financial institution; and

(iii}his liabilities to the Central Government or the State Government.

to the Returning Officer and he shall also display such information at a ccnspicuous place in his office for information of the electors."

The questbns wens put and the amendments were negatived.

Clause 2 was added to the Bill.

Clause 3 was added to the Bill.

THE DEPUTY CHAIRMAN: Now, we shall take up clause 4. There is one amendment, amendment No. 7, by Shri Pranab Mukherjee.

Clause 4 - Insertion of new Chapter VIIA.

SHRI PRANAB MUKHERJEE: Madam, I move :

That at pages 2 and 3, *for* lines 25 to 45, and lines 1 to 8, respectively the following be *substituted,* namely:-

"75A.(i) Every candidate seeking election to either House of Parliament or the State Legislature shall disclose information relating to-

(i) movable and immovable property owned by him/her, his/her spouse and dependants; (ii) liabilities, if any, due to any public financfal institutions or Government; and

(ili) his/her educational qualifications.

(2) The Information under sub-section (1) along with information envisaged in sub-section (1) (i) and (ii) of section 33A shall be furnished in the form of an affidavit which shall be a part' of the nomination paper of the candidate."

The question was put and the amendment was negatived. Clause 4 was added to the Bill. Clauses 5 to 7 were added to the Bill. Clause 1. the Enacting Formula and the Title were added to the Bill. SHRI RAVI SHANKAR PRASAD: Madam, I move :

ThatThe Bill be passed.

The question was put and the motion was adopted.

THE DEPUTY CHAIRMAN: Now, we have three more things to do. One is, the Scheduled Castes and Scheduled Tribes Orders (Amendment) Bill, 2002. And, then there is reply to the discussion on the Mid-Year Review on the country's economy and its implications raised by Dr. Manmohan Singh that we started yesterday. And, then, there is the Competition Bill, 2002. Now, if the House agrees, I would request the hon. Minister to explain the House whether there is any controversial issue in that Bill. And, if there is not anything, and if everybody agrees to it, then we can pass It without discussion by a voice vote.

SHRI PRANAB MUKHERJEE: Madam, *we* have no problem.

GOVERNMENT BILL

The Scheduled Castes and Scheduled Tribes Orders (Amendment) Bill, 2002.

THE MINISTER OF TRIBAL AFFAIRS [SHRI JUAL ORAM): Madam, I **beg** to move :

> That the Bill to provide for the inclusion in the lists of Scheduled Tribes, of certain tribes or tribal communities or parts of or groups within tribes or trital communities, equivalent names or synonyms of such tribes or communities, removal of area restrictions and bifurcation and clubbing of entries; imposition of area restriction in respect of certain castes in the lists of Scheduled Castes, and the exclusion of certain castes and tribes from the lists of Scheduled Castes and Scheduled Tribes, in relation to the States of Andhra Pradesh, Arunachal Pradesh. Assam, Bihar, Goa, Gujarat, Himachal Pradesh, Jharkhand, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Manlpur, Mizoram, Orissa, Sikkim, Tamil Nadu, Tripura, Uttar Pradesh and West Bengal, as passed by Lok Sabha, be taken into consideration.

महोदया, आपको विदित होगा कि शैड्यूल्ड कॉस्ट और शैड्यूल्ड ट्राइब्स का जो अमेंडमेंट होता है इसमें राज्य सरकारों की सहमति, रजिस्ट्रार जनरल आफ इंडिया की सहमति एंव एस.सी.,एस.टी. कमीशन की सहमति के बाद केबिनेट की सहमति होती है और उसके बाद ही यह बिल के फार्म में आता है । यह बिल लोक सभा में कल पास हो चुका है और इसमें यह कंटीन्युअस प्रोसेस भी है कि यह बहुत सालों से पुराना पेंडिंग था और सरकार भी इसे पास