

30 MAY 1990

5799

Bill No. XXV of 1990

THE REPRESENTATION OF THE PEOPLE (AMENDMENT)
BILL, 1990

A
BILL

further to amend the Representation of the People Act, 1950 and the
Representation of the People Act, 1951.

Be it enacted by Parliament in the Forty-first Year of the Republic
of India as follows:—

CHAPTER I

PRELIMINARY

5 1. (1) This Act may be called the Representation of the People
(Amendment) Act, 1990.

Short title
and com-
mence-
ment.

(2) It shall come into force on such date as the Central Government
may, by notification in the Official Gazette, appoint and different dates
may be appointed for different provisions of this Act.

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CHAPTER II

AMENDMENT OF THE REPRESENTATION OF THE PEOPLE ACT, 1950

43 of 1950.

2. In section 32 of the Representation of the People Act, 1950, in sub-
section (1), for the words "with fine which may extend to five hundred
rupees", the words "with imprisonment for a term which shall not be less
15 than three months but which may extend to two years and with fine" shall
be substituted.

Amend-
ment of
section
32.

CHAPTER III

AMENDMENT OF THE REPRESENTATION OF THE PEOPLE ACT, 1951

Amend-
ment of
section 1.

3. In section 1 of the Representation of the People Act, 1951 (hereinafter referred to as the principal Act), for the words "Representation of the People", the words "Elections to Parliament and State Legislatures" shall be substituted.

43 of 1951.

Amend-
ment of
section 2.

4. In section 2 of the principal Act,—

(a) clause (f) shall be omitted;

(b) clause (i) shall be renumbered as clause (j) and before clause (j) as so renumbered, the following clause shall be inserted, 10
namely:—

'(i) "recognised political party" means a political party recognised by the Election Commission under the Election Symbols (Reservation and Allotment) Order, 1968;'

Amend-
ment of
section 8.

5. In section 8 of the principal Act, in sub-section (1),—

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(a) in clause (i), the word "or" shall be added at the end;

(b) after clause (i), the following clause shall be inserted,
namely:—

"(j) section 2 (offence of insulting the Indian National Flag or the Constitution of India) or section 3 (offence of preventing singing of National Anthem) of the Prevention of Insults to National Honour Act, 1971,".

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Insertion
of new
section
20B.

6. After section 20A of the principal Act, the following section shall be inserted, namely:—

69 of 1971.

Observers.

'20B. (1) The Election Commission may nominate an Observer who shall be an officer of Government to watch the conduct of election or elections in a constituency or a group of constituencies and to perform such other functions as may be entrusted to him by the Election Commission.

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(2) The Observer nominated under sub-section (1) shall have the power to direct the returning officer for the constituency or for any of the constituencies for which he has been nominated, to stop the counting of votes at any time before the declaration of the result or not to declare the result if in the opinion of the Observer booth capturing has taken place at a large number of polling stations or at places fixed for the poll or counting of votes or any ballot papers used at a polling station or at a place fixed for the poll are unlawfully taken out of the custody of the returning officer or are accidentally or intentionally destroyed or lost or are damaged or tampered with to such an extent that the result of the poll at that polling station or place cannot be ascertained.

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(3) Where an Observer has directed the returning officer under this section to stop counting of votes or not to declare the result, the Observer shall forthwith report the matter to the Election Commission and thereupon the Election Commission shall, after taking all material circumstances into account, issue appropriate directions under section 58A or section 64A or section 66.

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Explanation.—For the purposes of sub-section (2) and sub-section (3), "Observer" shall include a Regional Commissioner or any such officer of the Election Commission as has been assigned under this section the duty of watching the conduct of election or elections in a constituency or a group of constituencies by the Commission.

7. Part IVA of the principal Act shall be omitted.

Omission
of Part
IVA.
Amend-
ment of
section 33.

8. In section 33 of the principal Act,—

(a) in sub-section (6), in the proviso, for the words "the same constituency", the words "a constituency" shall be substituted;

(b) after sub-section (6), the following sub-section shall be inserted, namely:—

"(7) Notwithstanding anything contained in sub-section (6) or in any other provision of this Act, a person shall not be nominated as a candidate for election,—

(a) in the case of a general election to the House of the People (whether or not held simultaneously from all parliamentary constituencies), from more than one parliamentary constituency;

(b) in the case of a general election to the Legislative Assembly of a State (whether or not held simultaneously from all assembly constituencies), from more than one assembly constituency in the State;

(c) in the case of a biennial election to the Legislative Council of a State having such Council, from more than one council constituency in the State;

(d) in the case of bye-elections to the House of the People from two or more parliamentary constituencies which are held simultaneously, from more than one such parliamentary constituency;

(e) in the case of bye-elections to the Legislative Assembly of a State from two or more assembly constituencies which are held simultaneously, from more than one such assembly constituency;

(f) in the case of bye-elections to the Council of States for filling two or more seats allotted to a State, which are held simultaneously, for filling more than one such seat;

(g) in the case of bye-elections to the Legislative Council of a State having such Council from two or more council constituencies which are held simultaneously, from more than one such council constituency.

Explanation.—For the purposes of this sub-section, two or more bye-elections shall be deemed to be held simultaneously where the notifications calling such bye-elections are issued by the Election Commission under sections 147, 149, 150 or, as the case may be, 151 on the same date."

Amend
ment of
section 34.

9. In section 34 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) A candidate shall not be deemed to be duly nominated for election from a constituency unless he deposits or causes to be deposited,—

(a) in the case of an election from a Parliamentary constituency,—

(i) where the candidate is set up by a recognised political party, a sum of one thousand rupees or where such candidate is a member of a Scheduled Caste or Scheduled Tribe, a sum of five hundred rupees;

(ii) where the candidate is set up by any party other than a recognised political party or is an independent, a sum of five thousand rupees or where such candidate is a member of a Scheduled Caste or Scheduled Tribe, a sum of two thousand and five hundred rupees; and

(b) in the case of an election from an Assembly or Council constituency,—

(i) where the candidate is set up by a recognised political party, a sum of five hundred rupees or where such candidate is a member of a Scheduled Caste or Scheduled Tribe, a sum of two hundred and fifty rupees;

(ii) where the candidate is set up by any party other than a recognised political party or is an independent, a sum of two thousand and five hundred rupees or where such candidate is a member of a Scheduled Caste or Scheduled Tribe, a sum of one thousand two hundred and fifty rupees;

Provided that where a candidate has been nominated by more than one nomination paper for election in a constituency, not more than one deposit shall be required of him under this sub-section."

Substi-
tution of
new
section for
section
52.

Death of
candidate
before
the poll.

10. For section 52 of the principal Act, the following section shall be substituted, namely:—

"52. If a candidate, set up by a recognised political party,—

(a) dies at any time after 11 A.M. on the last date for making nominations and his nomination is found valid on scrutiny under section 36; or

(b) whose nomination has been found valid on scrutiny under section 36 and who has not withdrawn his candidature under section 37 dies,

and in either case, a report of his death is received at any time before the publication of the list of contesting candidates under section 38; or

(c) dies as a contesting candidate and a report of his death is received before the commencement of the poll,

the returning officer shall, upon being satisfied about the fact of the death of the candidate, by order, countermand the poll and report the fact to the Election Commission and also to the appropriate authority and all proceedings with reference to the election shall be commenced anew in all respects as if for a new election:

Provided that no order for countermanding a poll should be made in case referred to in clause (a) except after the scrutiny of all the nominations including the nomination of the deceased candidate:

Provided further that no further nomination shall be necessary in the case of a person who was a contesting candidate at the time of the countermanding of the poll:

Provided also that no person who has given a notice of withdrawal of his candidature under sub-section (1) of section 37 before the countermanding of the poll shall be ineligible for being nominated as a candidate for the election after such countermanding."

11. In section 58A of the principal Act, in sub-section (2).—

Amendment of section 58A.

(i) for the words, brackets and figure "The Election Commission shall, on the receipt of a report from the returning officer under sub-section (1)", occurring in the opening portion, the words, brackets, letters and figures "In every case referred to in clause (a) or clause (b) of sub-section (1), the Election Commission shall, on the receipt of a report from the returning officer under sub-section (1) or otherwise" shall be substituted;

(ii) in clause (b), after the words "affect the result of the election," the words "declare that the poll in that constituency be void, appoint a day, and fix the hours, for taking fresh poll in that constituency and notify the date so appointed and hours so fixed in such manner as it may deem fit or" shall be inserted.

12. In section 77 of the principal Act.—

Amendment of section 77.

(a) in sub-section (1).—

(i) for the words "in connection with the election incurred or authorised by him or by his election agent between the date on which he has been nominated", the words "in connection with the conduct and management of the election, incurred or authorised by him or by his election agent between the date of the publication of the notification calling the election" shall be substituted;

(ii) Explanation 1 and Explanation 3 shall be omitted;

(b) for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) The total of the said expenditure shall not exceed such amount as may be specified by the Election Commission

before each general election for the purpose of constituting a new House of the People or before each general election for the purpose of constituting a new Legislative Assembly of a State."

Insertion
of new
Part VA.

13. After Part V of the principal Act, the following Part shall be inserted, namely:—

"PART VA

FREE SUPPLY OF CERTAIN MATERIAL TO CANDIDATES OF RECOGNISED POLITICAL PARTIES

Free
supply
of copies
of elec-
toral
rolls,
diesel,
petrol,
etc.

78A. (1) The Government shall, at any general election held for the purposes of constituting the House of the People or the Legislative Assembly of a State, supply, free of cost, to the candidates of recognised political parties such number of copies of the electoral roll, as finally published under the Representation of the People Act, 1950, such quantity of diesel or petrol for such number of vehicles and such other material as may be prescribed. 15 43 of 1950.

(2) The Government shall also pay to the candidates of recognised political parties such amount on account of hire charges for such number of microphones (including loudspeakers), as may be prescribed. 20

(3) The material referred to in sub-section (1) shall be supplied and the payment referred to in sub-section (2) shall be made,—

(i) subject to such conditions as may be imposed by the Central Government in consultation with the Election Commission with respect to the reduction of the maximum expenditure which may be incurred by the candidate under section 77; and 25

(ii) through such officers as may be specified by the Election Commission who shall act in accordance with such general or special directions as may be given by the Election Commission. 30

Supply
of identi-
ty slips
of electors
to
candi-
dates.

78B. (1) The Election Commission shall, at any time between the date of publication of the notification calling the election and the date on which the poll is to be taken, supply or cause to be supplied identity slips of electors in the constituency concerned to the candidates set up by the recognised political parties. 30

(2) Where the Election Commission supplies the identity slips to the candidates under sub-section (1), the Central Government may, in consultation with the Election Commission, impose conditions with respect to the reduction of the maximum expenditure which may be incurred by the candidate under section 77. 35

14. In section 123 of the principal Act, in clause (7), the proviso shall be omitted.

Amendment of section 123.

15. After section 123 of the principal Act, the following Chapter shall be inserted, namely:—

Insertion of new Chapter II.

“CHAPTER II

ILLEGAL PRACTICES

124. No person shall, at any time between the date of publication of the notification calling the election and the date of the declaration of the result thereof (both dates inclusive), indulge, either directly or indirectly, for the furtherance of the prospects of a political party or candidate at that election, in the following practices, namely:—

Illegal practices.

(a) combining of official visit with work relating to the election or making use of official machinery or personnel in connection with any such work;

(b) using Government transport, including official aircrafts, vehicles, machinery and personnel in connection with any work relating to the election;

(c) restricting or monopolising the use of public places for holding election meetings or use of helipads for air flights in connection with any work relating to the election;

(d) restricting or monopolising the use of rest houses, dak bungalows or other Government accommodation or the use of such accommodation (including premises appurtenant thereto) as a campaign office or for holding any public meeting for the purposes of the election propaganda;

(e) issuing of advertisements at the cost of the public exchequer in the newspapers and other media;

(f) using official mass media for partisan coverage of political news and publicity of achievements;

(g) announcing or sanctioning of any financial grants in any form or making payments out of discretionary funds;

(h) laying of foundation stones of projects or the inauguration of schemes of any kind or the making of any promises of construction of roads or the provision of any facilities;

(i) making of any *ad hoc* appointments in Government or public undertakings;

(j) entering any polling station or place of counting except in the capacity of a candidate, a voter or an agent of a candidate or as a person duly authorised in this behalf under this Act or the rules made thereunder;

(k) ordering transfer of any officers and staff referred to in section 28A in violation of the instructions of the Election Commission in that behalf."

Substitution of new sections for section 126.

16. For section 126 of the principal Act, the following sections shall be substituted, namely:—

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Prohibition of public meetings during period of forty-eight hours ending with hour fixed for conclusion of poll.

'126. (1) No person shall—

(a) convene, hold, attend, join or address any public meeting or procession in connection with an election; or

(b) display to the public any election matter by means of cinematograph, television or other similar apparatus; or 10

(c) propagate any election matter to the public by holding, or by arranging the holding of, any musical concert or any theatrical performance or any other entertainment or amusement with a view to attracting the members of the public thereto, in any polling area during the period of forty-eight hours ending 15 with the hour fixed for the conclusion of the poll for any election in that polling area.

(2) Any person who contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to two years or with fine or with both. 20

(3) In this section, the expression "election matter" means any matter intended or calculated to influence or affect the result of an election.

Penalty for indulging in illegal practices.

126A. Any person who indulges in any practice specified in section 124, shall be punishable with imprisonment for a term which may extend to two years or with fine or with both. 25

Amendment of section 127.

17. In section 127 of the principal Act, in sub-section (1), for the words "three months or with fine which may extend to one thousand rupees", the words "six months or with fine which may extend to two thousand rupees" shall be substituted. 30

Substitution of new section for section 133.

18. For section 133 of the principal Act, the following section shall be substituted, namely:—

"133. (1) If any person is guilty of any such corrupt practice as is specified in clause (5) of section 123 at or in connection with an election, he shall be punishable with imprisonment which may extend to three months and with fine.

Penalty for illegal hiring or procuring of conveyance at elections.

- 5 (2) An offence punishable under sub-section (1) shall be cognizable."

19. After section 134A of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 134B.

- 10 "134B. (1) Except the returning officer, the presiding officer and any police officer on duty and any other person appointed to maintain peace and order at a polling station on duty, at the polling station, no person shall on a polling day go armed with arms, as defined in the Arms Act, 1959, of any kind within the neighbourhood of a polling station.

54 of 1959.

Prohibition of going armed to or near a polling station.

- 15 (2) If any person contravenes the provisions of sub-section (1), he shall be punishable with imprisonment for a term which may extend to two years or with fine or with both.

54 of 1959.

- 20 (3) Notwithstanding anything contained in the Arms Act, 1959, where a person is convicted of an offence under this section, the arms as defined in the said Act, found in his possession shall be liable to confiscation and the licence granted in relation to such arms shall be deemed to have been revoked under section 17 of that Act.

- 25 (4) An offence punishable under sub-section (2) shall be cognizable."

20. In section 135 of the principal Act, in sub-section (1), the word "fraudulently" shall be omitted.

Amendment of section 135.

21. Section 135A of the principal Act shall be renumbered as sub-section (1) thereof and,—

Amendment of section 135A.

- 30 (i) in sub-section (1) as so renumbered,—

(a) for the words "one year but which may extend to three years", the words "three years but which may extend to five years" shall be substituted;

(b) in the Explanation,—

- 35 (i) for the words "this section", occurring in the opening portion, the words "this sub-section and section 20B" shall be substituted;

(ii) in clause (b), for the words "prevent others from voting", the words "prevent others from free exercise of their right to vote" shall be substituted;

(iii) in clause (c), for the word "threatening", the words "coercing or intimidating or threatening, directly or indirectly," shall be substituted;

(ii) after sub-section (1) as so renumbered and the Explanation thereto, the following sub-section shall be inserted, namely:—

"(2) An offence punishable under sub-section (1) shall be cognizable."

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Insertion
of new
sections
135B and
135C.

22. After section 135A of the principal Act, the following sections shall be inserted, namely:—

Grant of
paid
holiday
to
employees
on the
day of
poll.

"135B. (1) Every person employed in any business, trade, industrial undertaking or any other establishment and entitled to vote at an election to the House of the People or the Legislative Assembly of a State shall, on the day of poll, be granted a holiday.

(2) No deduction or abatement of the wages of any such person shall be made on account of a holiday having been granted in accordance with sub-section (1) and if such person is employed on the basis that he would not ordinarily receive wages for such a day he shall nonetheless be paid for such day the wages he would have drawn had not a holiday been granted to him on that day.

(3) If an employer contravenes the provisions of sub-section (1), or sub-section (2), then such employer shall be punishable with fine which may extend to five hundred rupees.

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(4) This section shall not apply to any elector whose absence may cause danger or substantial loss in respect of the employment in which he is engaged.

Liquor
not to be
sold,
given or
distributed
on
polling
day.

135C. (1) No spirituous, fermented or intoxicating liquors or other substances of a like nature shall be sold, given or distributed at a hotel, eating house, tavern, shop or any other place, public or private, within a polling area on a polling day.

(2) Any person who contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to two thousand rupees or with both.

(3) Where a person is convicted of an offence under this section, the spirituous, fermented or intoxicating liquors or other substances of a like nature found in his possession shall be liable to confiscation and the same shall be disposed of in such manner as may be prescribed."

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23. After section 151 of the principal Act, the following section shall be inserted, namely:—

Insertion
of new
section
151A.

5 "151A Notwithstanding anything contained in section 147, section 149, section 150 and section 151, a bye-election for filling any vacancy referred to in any of the said sections shall be held within a period of six months from the date of the occurrence of the vacancy:

Time-
limit for
filling
vacancies
referred
to in
sections
147, 149,
150 and
151.

Provided that nothing contained in this section shall apply if the remainder of the term of a member in relation to a vacancy is less than one year."

10 24. After section 162 of the principal Act, the following sections shall be inserted, namely:—

Insertion
of new
sections
162A
and
162AB.

"162A. The Election Commission shall have the power to issue instructions (by whatever name called) to any officer or authority in connection with the conduct of elections under this Act.

Power
of Elec-
tion
Commis-
sion
to issue
instruc-
tions.

15 162AB. The Election Commission shall have the power to make recommendations to the appropriate authority to—

Power of
Elec-
tion
Commis-
sion to
make
certain
recom-
menda-
tions.

(a) refer any matter for investigation to an agency specified by the Commission;

20 (b) prosecute any person who has committed an electoral offence under this Act; or

(c) appoint any special court for the trial of any offence or offences under this Act."

STATEMENT OF OBJECTS AND REASONS

In order to meet the persistent demand for electoral reforms from various quarters and to fulfil the election promise made by the National Front to undertake urgently the electoral reforms, a meeting mainly of the representatives of the political parties in Parliament was convened by the Prime Minister on the 9th January, 1990 to discuss the said reforms. On the basis of the broad consensus arrived at the said meeting, the Government constituted a Committee on Electoral Reforms on the 19th January, 1990 consisting of representatives of the political parties and some eminent persons having deep knowledge on the subject. The said Committee submitted a detailed Report on the 4th May, 1990. The Government has considered the Report and has generally agreed with the recommendations made by the said Committee. The present Bill gives effect to such recommendations. The salient features of the Bill are as under:—

(1) Section 8 of the Representation of the People Act, 1951 is proposed to be amended to provide that a person convicted of an offence punishable under section 2 or section 3 of the Prevention of Insults to National Honour Act, 1971 will be disqualified for a period of six years from the date of such conviction;

(2) It is proposed to insert a new section 20B to enable the Election Commission to nominate Observers to watch the conduct of elections. The Observers will have the power to direct the returning officers to stop the counting of votes or not to declare the result in certain contingencies like booth capturing. It is also proposed to confer the like powers on the Regional Commissioners or supervisory officers of the Election Commission;

(3) It is proposed to omit Part IVA relating to registration of political parties. Upon such omission, the provisions of the Election Symbols (Reservation and Allotment) Order, 1968 shall apply for registration of any association or body of individual citizen of India as a political party under that order;

(4) Section 33 is proposed to be amended to provide that a person shall not be nominated as a candidate for election in more than one constituency of the same class;

(5) Section 34 is proposed to be amended to increase the security deposits in the case of candidates set up by recognised political parties as well as other candidates;

(6) Section 52 is proposed to be substituted to provide, *inter alia*, that an election should be countermanded on the death of a candidate set up by a recognised political party only;

(7) Section 58A is being amplified to empower the Election Commission to order repoll also in the entire constituency depending on the nature and seriousness of the cases of booth capturing;

(8) Section 77 is proposed to be so amended as to restore the position obtaining prior to 1974 amendment with reference to keeping a separate and correct account by a candidate or his election agent. It is a common complaint that the limits of election expenses are unrealistic. Accordingly, it is proposed to empower the Election Commission to fix such limits from time to time;

(9) It is proposed to make a beginning with regard to State funding towards elections. For that purpose, new sections 78A and 78B are being inserted to provide that the Government shall supply, free of cost to the candidates of recognised political parties such number of copies of the electoral roll, such quantity of diesel or petrol for such number of vehicles as may be laid down in the rules to be made by the Central Government. The Government will also pay to the candidates of recognised political parties such amount on account of hire charges for certain number of microphones as may be specified in the rules. The State funding can be gradually extended by the Government in consultation with the Election Commission. Under the proposed section 78B, the Election Commission shall supply or cause to be supplied identity slips of electors to all candidates set up by recognised political parties. In cases of State funding and the supply of identity slips to the candidates by the Election Commission, it is proposed that the Central Government may, in consultation with the Election Commission, impose conditions with respect to the reduction of maximum expenditure which may be incurred by any candidate under section 77;

(10) On the suggestions from various quarters including the Election Commission, the code of conduct laid down by the Election Commission is being provided with statutory backing by incorporating new section 124;

(11) It is proposed that the bye-elections be held within a period of six months from the date of the occurrence of the vacancy;

(12) Certain amendments are proposed to ensure peaceful conduct of elections by reducing the influence of money and muscle power by prohibiting the carrying of arms, etc., on the polling day and also by enhancing the punishment in certain cases.

2. The Bill seeks to achieve the aforesaid objects.

NEW DELHI;

The 28th May, 1990.

DINESH GOSWAMI.

FINANCIAL MEMORANDUM

Clause 6 of the Bill provides for the appointment of Observers by the Election Commission during elections. Clause 13 of the Bill seeks to insert new sections 78A and 78B with respect to State funding during elections on certain items. The expenditure on such State funding shall depend upon the candidates of the recognised parties and on the recommendations of the Election Commission. In the case of elections to the State Assemblies, such expenditure may have to be shared by various State Governments. In view of the above factors, it may not be possible to readily estimate the exact amount which may be required for this purpose. The expenditure with regard to the appointment of Observers would be very nominal and would be met out of the normal budget of the Election Commission.

2. The Bill when enacted will not involve any other recurring or non-recurring expenditure from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 13 of the Bill seeks to insert new section 78A in the Representation of the People Act, 1951. Under new section 78A, the Government will supply, free of cost, to the candidates of recognised political parties such number of copies of the electoral rolls and such quantity of diesel or petrol for such number of vehicles as may be laid down in the rules to be made by the Central Government. Similarly, the Government will also pay to the candidates of recognised political parties such amount on account of hire charges for such number of microphones as may be laid down in the rules.

2. Clause 22 of the Bill seeks to insert new section 135C in the Act. Under sub-section (3) of that section, the spirituous, fermented or intoxicating liquors or other substances of a like nature found in the possession of any person are liable to confiscation and the same will be disposed of in such manner as may be laid down in the rules.

3. Clause 24 of the Bill seeks to insert new section 162A in the Act. Under the new section, the Election Commission is being empowered to issue instructions to any officer or authority in connection with the conduct of elections to Parliament and State Legislatures.

4. The matters in respect of which power is proposed to be given to the Central Government to make rules or to the Election Commission to issue instructions are matters of administrative detail and it is not possible to incorporate them in the Act itself. The delegation of legislative power is, therefore, of a normal character.

ANNEXURE

EXTRACT FROM THE REPRESENTATION OF THE PEOPLE ACT, 1950

(43 OF 1950)

32. Breach of official duty in connection with the preparation, etc., of electoral rolls.—(1) If any electoral registration officer, assistant electoral registration officer or other person required by or under this Act to perform any official duty in connection with the preparation, revision or correction of an electoral roll or the inclusion or exclusion of any entry in or from that roll, is without reasonable cause, guilty of any act or omission in breach of such official duty, he shall be punishable with fine which may extend to five hundred rupees.

EXTRACTS FROM THE REPRESENTATION OF THE PEOPLE ACT, 1951

(43 OF 1951)

PART I

PRELIMINARY

1. Short title.—This Act may be called the Representation of the People Act, 1951.

2. Interpretation.—(1) In this Act, unless the context otherwise requires,—

(f) "political party" means an association or a body of individual citizens of India registered with the Election Commission as a political party under section 29A;

(i) "sign" in relation to a person who is unable to write his name means authenticate in such manner as may be prescribed.

8. Disqualification on conviction for certain offences.—(1) A person convicted of an offence punishable under—

(i) section 125 (offence of promoting enmity between classes in connection with the election) or section 135 (offence of removal of ballot papers from polling stations) or section 135A (offence of booth capturing) or clause (a) of sub-section (2) of section 136 (offence of fraudulently defacing or fraudulently destroying any nomination paper) of this Act,

shall be disqualified for a period of six years from the date of such conviction.

PART IVA

REGISTRATION OF POLITICAL PARTIES

29A. Registration with the Election Commission of associations and bodies as political parties.—(1) Any association or body of individual citizens of India calling itself a political party and intending to avail itself of the provisions of this Part shall make an application to the Election Commission for its registration as a political party for the purposes of this Act.

(2) Every such application shall be made,—

(a) if the association or body is in existence at the commencement of the Representation of the People (Amendment) Act, 1988 (1 of 1989), within sixty days next following such commencement;

(b) if the association or body is formed after such commencement, within thirty days next following the date of its formation.

(3) Every application under sub-section (1) shall be signed by the chief executive officer of the association or body (whether such chief executive officer is known as Secretary or by any other designation) and presented to the Secretary to the Commission or sent to such Secretary by registered post.

(4) Every such application shall contain the following particulars, namely:—

(a) the name of the association or body;

(b) the State in which its head office is situate;

(c) the address to which letters and other communications meant for it should be sent;

(d) the names of its president, secretary, treasurer and other office-bearers;

(e) the numerical strength of its members, and if there are categories of its members, the numerical strength in each category;

(f) whether it has any local units; if so, at what levels;

(g) whether it is represented by any member or members in either House of Parliament or of any State Legislature; if so, the number of such member or members.

(5) The application under sub-section (1) shall be accompanied by a copy of the memorandum or rules and regulations of the association or body, by whatever name called, and such memorandum or rules and regulations shall contain a specific provision that the association or body shall bear true faith and allegiance to the Constitution of India as by law established, and to the principles of socialism, secularism and democracy, and would uphold the sovereignty, unity and integrity of India.

(6) The Commission may call for such other particulars as it may deem fit from the association or body.

(7) After considering all the particulars as aforesaid in its possession and any other necessary and relevant factors and after giving the representatives of the association or body reasonable opportunity of being heard, the Commission shall decide either to register the association or body as a political party for the purposes of this Part, or not so to register it; and the Commission shall communicate its decision to the association or body:

Provided that no association or body shall be registered as a political party under this sub-section unless the memorandum or rules and regulations of such association or body conform to the provisions of sub-section (5).

(8) The decision of the Commission shall be final.

(9) After an association or body has been registered as a political party as aforesaid, any change in its name, head office, office-bearers, address or in any other material matters shall be communicated to the Commission without delay.

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33. Presentation of nomination paper and requirements for a valid nomination.—(1)

(6) Nothing in this section shall prevent any candidate from being nominated by more than one nomination paper:

Provided that not more than four nomination papers shall be presented by or on behalf of any candidate or accepted by the returning officer for election in the same constituency.

34. Deposits.—(1) A candidate shall not be deemed to be duly nominated for election from a constituency unless he deposits or causes to be deposited—

(a) in the case of an election from a Parliamentary constituency, a sum of five hundred rupees or where the candidate is a member of a Scheduled Caste or Scheduled Tribe, a sum of two hundred and fifty rupees; and

(b) in the case of an election from an Assembly or Council constituency, a sum of two hundred and fifty rupees or where the candidate is a member of a Scheduled Caste or Scheduled Tribe, a sum of one hundred and twenty-five rupees:

Provided that where a candidate has been nominated by more than one nomination paper for election in the same constituency, not more than one deposit shall be required of him under this sub-section.

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CHAPTER III.—General Procedure at Elections

52. Death of candidate before poll.—If a candidate whose nomination has been found valid on scrutiny under section 36 and who has not withdrawn his candidature under section 37 dies and a report of his death is

received before the publication of the list of contesting candidates under section 38, or if a contesting candidate dies and a report of his death is received before the commencement of the poll, the returning officer shall, upon being satisfied of the fact of the death of the candidate, countermand the poll and report the fact to the Election Commission and also to the appropriate authority and all proceedings with reference to the election shall be commenced anew in all respects as if for a new election:

Provided that no further nomination shall be necessary in the case of a person who was a contesting candidate at the time of the countermanding of the poll:

Provided further that no person who has given a notice of withdrawal of his candidature under sub-section (1) of section 37 before the countermanding of the poll shall be ineligible for being nominated as a candidate for the election after such countermanding.

58A. Adjournment of poll or countermanding of election on the ground of booth capturing—(1) if at any election,—

(a) booth capturing has taken place at a polling station or at a place fixed for the poll (hereafter in this section referred to as a place) in such a manner that the result of the poll at that polling station or place cannot be ascertained; or

(b) booth capturing takes place in any place for counting of votes in such a manner that the result of the counting at that place cannot be ascertained

the returning officer shall forthwith report the matter to the Election Commission.

(2) The Election Commission shall, on the receipt of a report from the returning officer under sub-section (1) and after taking all material circumstances into account, either—

(b) if satisfied that in view of the large number of polling stations or places involved in booth capturing the result of the election is likely to be affected, or that booth capturing had affected counting of votes in such a manner as to affect the result of the election, countermand the election in that constituency.

Explanation.—In this section, "booth capturing" shall have the same meaning as in section 135A.

77. Account of election expenses and maximum thereof.—(1) Every candidate at an election shall, either by himself or by his election agent, keep a separate and correct account of all expenditure in connection with the election incurred or authorized by him or by his election agent between the date on which he has been nominated and the date of declaration of the result thereof, both dates inclusive.

Explanation 1.—Notwithstanding any judgment, order or decision of any court to the contrary, any expenditure incurred or authorized in connection with the election of a candidate by a political party or by any other association or body of persons or by any individual (other than

the candidate or his election agent) shall not be deemed to be, and shall not ever be deemed to have been, expenditure in connection with the election incurred or authorized by the candidate or by his election agent for the purposes of this sub-section:

Provided that nothing contained in this Explanation shall affect—

(a) any judgment, order or decision of the Supreme Court whereby the election of a candidate to the House of the People or to the Legislative Assembly of a State has been declared void or set aside before the commencement of the Representation of the People (Amendment) Ordinance, 1974 (Ord. 13 of 1974);

(b) any judgment, order or decision of a High Court whereby the election of any such candidate has been declared void or set aside before the commencement of the said Ordinance if no appeal has been preferred to the Supreme Court against such judgment, order or decision of the High Court before such commencement and the period of limitation for filing such appeal has expired before such commencement.

Explanation 3.—For the removal of doubt, it is hereby declared that any expenditure incurred in respect of any arrangements made, facilities provided or any other act or thing done by any person in the service of the Government and belonging to any of the classes mentioned in clause (7) of section 123 in the discharge or purported discharge of his official duty as mentioned in the proviso to that clause shall not be deemed to be expenditure in connection with the election incurred or authorized by a candidate or by his election agent for the purposes of this sub-section.

(3) The total of the said expenditure shall not exceed such amount as may be prescribed.

PART VII

CORRUPT PRACTICES AND ELECTORAL OFFENCES

CHAPTER I.—Corrupt practices

123. Corrupt practices.—The following shall be deemed to be corrupt practices for the purposes of this Act:—

(7) The obtaining or procuring or abetting or attempting to obtain or procure by a candidate or his agent or, by any other person with the consent of a candidate or his election agent, any assistance (other than the giving of vote) for the furtherance of the prospects of that candidate's election, from any person in the service of the Government and belonging to any of the following classes, namely:—

- (a) gazetted officers;
- (b) stipendiary judges and magistrates;
- (c) members of the armed forces of the Union;
- (d) members of the police forces;
- (e) excise officers;

(f) revenue officers other than village revenue officers known as lambardars, malguzars, patels, deshmukhs or by any other name, whose duty is to collect land revenue and who are remunerated by a share of, or commission on, the amount of land revenue collected by them but who do not discharge any police functions; and

(g) such other class of persons in the service of the Government as may be prescribed:

Provided that where any person, in the service of the Government and belonging to any of the classes aforesaid, in the discharge or purported discharge of his official duty, makes any arrangements or provides any facilities or does any other act or thing, for, to, or in relation to, any candidate or his agent or any other person acting with the consent of the candidate or his election agent (whether by reason of the office held by the candidate or for any other reason), such arrangements, facilities or act or thing shall not be deemed to be assistance for the furtherance of the prospects of that candidate's election.

126. Prohibition of public meetings on the day preceding the election day and on the election day.—(1) No person shall convene, hold or attend any public meeting in any polling area during the period of forty-eight hours ending with the hour fixed for the conclusion of the poll for any election in that polling area.

(2) Any person who contravenes the provisions of sub-section (1) shall be punishable with fine which may extend to two hundred and fifty rupees.

127. Disturbances at election meetings.—(1) Any person who at a public meeting to which this section applies acts, or incites others to act, in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called together, shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to one thousand rupees, or with both.

133. Penalty for illegal hiring or procuring of conveyances at elections.—If any person is guilty of any such corrupt practice as is specified in clause (5) of section 123 at or in connection with an election, he shall be punishable with fine which may extend to one thousand rupees.

135. Removal of ballot papers from polling station to be an offence.—(1) Any person who at any election fraudulently takes, or attempts to take, a ballot paper out of a polling station, or wilfully aids or abets the doing of any such act, shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to five hundred rupees or with both.

135A. Offence of booth capturing.—Whoever commits an offence of booth capturing shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years and with fine, and where such offence is committed by a person in the service of the Government, he shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to three years and with fine.

Explanation.—For the purposes of this section, "booth capturing" includes, among other things, all or any of the following activities, namely:—

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- (b) taking possession of a polling station or a place fixed for the poll by any person or persons and allowing only his or their own supporters to exercise their right to vote and prevent others from voting;
- (c) threatening any elector and preventing him from going to the polling station or a place fixed for the poll to cast his vote;
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further to amend the Representation of the People Act, 1950 and the
Representation of the People Act, 1951.

(Shri Dinesh Goswami, Minister of Law and Justice.)