



ELECTION COMMISSION OF INDIA
FIRST ANNUAL REPORT
1983

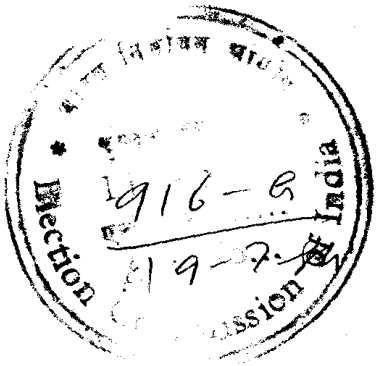
NEW DELHI
APRIL, 1984

PREFACE

In my Report presented on 13.12.83 and 19.12.83 to the Lok Sabha/Rajya Sabha respectively, on the General Elections to certain State Assemblies, I had indicated that the Commission would be presenting Annual Reports in place of mere special reports on the General Elections, if and when held. This Report is presented in fulfilment of that assurance. During 1983, the Commission presented Reports on General Elections to the Legislative Assembly of Assam, elections to the Office of the President of India, 1982 and General Elections to some Legislative Assemblies like Andhra Pradesh, Karnataka, Tripura, Jammu & Kashmir etc., and Delhi Metropolitan Council. This Report does not cover the ground already covered by the above reports. Instead, certain other important aspects of elections like delimitation of Council constituencies, preparation and revision of rolls, and electoral reforms which attracted public interest have been highlighted. It is hoped that the Annual Reports of the Election Commission, beginning with this, would be able not only to inform the Parliament of its activities but would also be able to highlight matters of public interest as far as elections are concerned.

New Delhi
March 30, 1984

R. K. TRIVEDI
Chief Election Commissioner of India



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CHAPTER I

ELECTION COMMISSION AND ELECTORAL MACHINERY

(A) **The Commission**

Constitution and Functions

(i) *Constitution*

The Election Commission is a constitutional Authority set up in pursuance of Article 324(1) of the Constitution. It is vested with the superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of elections to, Parliament and to the Legislature of every State and the Union Territories and of elections to the offices of President and Vice-President. Clause (2) of Article 324 provides that the Election Commission shall consist of the Chief Election Commissioner and such number of other Election Commissioners, if any, as the President may from time to time appoint. However, the Commission has, since its inception, consisted only of the Chief Election Commissioner. Appendix I gives the list of incumbent along with the period during which they held office.

Clause (4) of Article 324 of the constitution provides that before each General Election to the House of the People and to the Legislative Assembly of each State and before biennial election to the Legislative Council of a State having such Councils, the President may also appoint, after consultation with the Election Commission, such Regional Commissioners as he may consider necessary to assist the Election Commission in the performance of its functions. Two Regional Commissioners were appointed at the time of first General Election held in 1951-52 for a period of six months. Thereafter no Regional Commissioners were appointed at any of the subsequent General Elections. The Commission has since recommended in its report on the "Election to the office of President of India, 1982 and Legislative Assemblies and Delhi Metropolitan Council 1982-83", that this constitutional provision should be invoked and Regional Commissioners should be appointed at the time of General Elections.

The Commission has a small Secretariat to assist it in the performance of its duties. The sanctioned and actual staff strength as on 31.12.1983 and the Organizational set-up of the Commission's Secretariat are shown in Appendix II & III.

The details of the Commission's sanctioned budget for the year 1983-84 are shown in Appendix IV.

(ii) *Functions*

The plenary powers of the Commission are specified under Article 324 of the Constitution. Parliament is empowered, under Article 327 of the Constitution, to make laws relating to elections to Parliament and State Legislatures. The State

Legislatures are also competent under article 328 to make laws relating to elections to their State Legislatures, subject to the provisions of the Constitution and in so far as provision in that behalf is not made by the Parliament.

✓The plenary powers vested in the Election Commission by the Constitution for the conduct of elections are supplemented further by Acts of Parliament, namely Representation of the People Act, 1950 and 1951, the Presidential and Vice-Presidential Elections Act, 1952, the Government of Union Territories Act, 1963, the Delhi Administration Act, 1966 and the Rules and Orders made thereunder. These laws enacted by Parliament effectuate the powers of the Commission and cannot whittle down its inherent powers vested by Article 324. In the words of the *Supreme Court, Article 324 is “a reservoir of power” for the Election Commission and whenever any enacted law is silent on any electoral aspect or makes insufficient provision to deal with a particular situation, Election Commission has the inherent and plenary power to act in such vacuous area within its allotted domain i.e., elections, without looking to any outside authority for conferment of powers or for some divine inspiration to tackle a given situation. Thus, the powers of the Commission are not merely executive, but also in a way, marginally legislative as implied above. ✓

If a question arises whether a Member of Parliament has incurred disqualification mentioned in Article 102, the President of India refers the matter to the Election Commission for its opinion. Similarly, the Governor of a State also refers to the Election Commission matters involving alleged disqualifications of a Member of the State Legislature under Article 191 of the Constitution for its opinion. The Commission gives its opinion after such enquiry as it deems fit.

In exercise of its powers under Article 324 read with Rules 5 and 10 of the Conduct of Election Rules, 1961, the Commission has issued the Election Symbols (Reservation and Allotment) Order, 1968. This order provides for the registration and recognition of political parties and matters connected therewith. Further, when the Commission is satisfied on information in its possession that there are rival sections or groups of a recognised political party each of whom claims to be that party, the Commission under paragraph 15 of the aforesaid order may, after taking into account all the available facts and circumstances of the case and after hearing such representatives of the sections or groups and other persons as desire to be heard, decide that one such rival section or group or none of such rival sections or groups is that recognised political party.

The Chief Election Commissioner is usually appointed as an ex-officio member of the Delimitation Commission as and when such a Commission is set up by any Central Act or by an Act passed by the Jammu and Kashmir Legislature.

(B) Electoral Machinery

(i) Administrative Machinery at the State level

The electoral machinery in a State is headed by a Chief Electoral Officer. He is

*Mahinder Singh Gill Vs. Chief Election Commissioner and others (AIR 1978 SC851).

an officer of the State Government who is designated or nominated in this behalf by the Election Commission in consultation with that Government. Subject to the superintendence, direction and control of the Commission, the Chief Electoral Officer is required to supervise the preparation, revision and correction of all electoral rolls for, and the conduct of all elections to, the Parliament and State Legislature held from that State. One or more officers and a complement of staff assist him in the performance of these duties.

Below the Chief Electoral Officer are District Election Officers. These District Election Officers supervise all work in the district in connection with the preparation or revision of the electoral rolls and conduct of election in that district.

Usually, the District Collector/Deputy Commissioner of the district is designated as the District Election Officer of the district. In Union Territories, the work of District Election Officers is preformed by the Returning Officers of Parliamentary constituencies.

(ii) *Machinery for revision of Electoral Rolls*

The preparation or revision of electoral rolls for every constituency is the responsibility of the Electoral Registration Officer who is assisted by one or more Assistant Electoral Registration Officers. As a matter of administrative convenience, sub-divisional officers are appointed as Electoral Registration Officers and the Tahsildars working under them are appointed as Assistant Electoral Registration Officers.

At the time of intensive revision of electoral rolls, a large number of enumerators, supervisors etc., are employed by Electoral Registration Officers for the work. These enumerators and supervisors are usually drawn from the ranks of State Government servants.

(iii) *Machinery for the Conduct of Elections*

The conduct of elections is primarily the responsibility of the Returning Officers and Assistant Returning Officers. The District Magistrate/Collector is usually appointed as Returning Officer for a Parliamentary constituency. One or more officers subordinate to him are appointed as Assistant Returning Officers to assist him in the performance of his duties. The Returning Officers of Assembly constituencies are generally drawn from the cadre of sub-divisional officers. A large number of personnel are drafted from among the staff of Central and State Governments, local bodies, public sector undertakings etc., for the conduct of poll and counting of votes.

(C) Action taken against officials for Derelection of Election Duties

As explained in the previous pages, barring the staff of the Commission's Secretariat, practically the entire electoral machinery is under the administrative control of the respective State Governments. The Commission, therefore, has no power to initiate disciplinary proceedings on its own against officials responsible for duties connected with electoral matters for their omissions and commissions.

During the year under review, it was found necessary to take such action against several Government servants for irregularities such as:

- (a) Non-maintenance of ballot paper account by the Presiding Officer;
- (b) Failure on the part of the Presiding Officers to sign on the back of ballot papers;
- (c) Canvassing for particular candidate;
- (d) Wrongful rejection of votes and failure to inform the Commission of abnormal poll for a particular candidate on the part of Returning Officer;
- (e) Refusal by a teacher to perform election duty; and
- (f) Revocation of verbal orders regarding recounting by an Assistant Returning Officer.

It would be of interest to enumerate below a few such specific cases by way of illustration:

(i) An enquiry made into a complaint relating to the general election to Bihar Legislative Assembly, 1980 from 76-Khajauli (SC) constituency revealed that one of the Presiding Officers did not maintain the ballot paper account properly and that the Presiding Officer of another polling station failed to put his signature on the back of 140 ballot papers as was required under the rules. The Returning Officer of the constituency also failed to examine the Presiding Officer's diaries and report the cases of abnormal poll to the Commission. The Chief Electoral Officer, Bihar was directed to issue written warning to the concerned officers.

(ii) In its judgement dated 5th March, 1980 the High Court of Judicature at Patna observed that a Block Development Officer, canvassed votes in favour of the elected candidate and also moved in his company on several occasions.

The Commission directed the Chief Secretary to the Government of Bihar to relieve the officer immediately of his election duties and to initiate disciplinary action against him. The Commission also directed that an entry should be made in the Confidential Character Roll of the officer concerned to this effect.

The Chief Electoral Officer reported that papers relating to the disciplinary proceedings were called for from Personnel Department and were carefully perused. Examination revealed that action was taken very seriously and carefully by the Departmental Enquiry Commissioner and Law Department was also consulted in the matter. All the points were thoroughly examined but none of the allegations against the said officer was proved. Therefore, the Departmental proceedings were withdrawn giving the benefit of doubt to the defaulting officer. However, the Chief Electoral Officer, Bihar intimated that the Department of Personnel had again been requested to make necessary entries in Character Roll of the officer to the

effect that he had earned the displeasure of the Election Commission of India and that he was unfit for any kind of election duties in future.

The Election Commission, however, intimated the Chief Electoral Officer that in such serious cases where the High Court passed strictures—the Commission failed to appreciate the principle of benefit of doubt given by the State Government in favour of the charged officer.

(iii) While allowing the election petition No. 15 of 1980 filed by Shri Md. Furkan Ansari challenging the election of Shri Arun Kumar Bose to the Bihar Legislative Assembly from 155-Jamtara constituency in the general election held in 1980, the High Court observed that the Presiding Officer of polling station No. 10 had failed to put his signatures on the back of a number of ballot papers.

Being aggrieved by the High Court's Order, the respondent Shri Bose filed an appeal in the Supreme Court. This appeal was dismissed. In its judgment the Supreme Court however held that the rejection of ballot papers was due to the failure on the part of Presiding Officer to put his signatures.

The Supreme Court's observation was brought to the notice of the Chief Electoral Officer, Bihar for obtaining the explanation of the concerned Presiding Officer and if the same was not found satisfactory, a written warning was to be issued to the Presiding Officer.

There was also a complaint regarding wrongful rejection of votes in 155-Jamtara constituency. This was enquired into separately. During examination of the case it was noticed that since the rejected ballot papers were found in consecutive number, some foul play was doubted at the time of counting but this was not reported to the Commission. It was also observed that abnormal votes were secured by the individual candidates in respect of some polling stations but these cases were not reported to the Commission. The Returning Officer did not also examine the Presiding Officers' diaries. The Chief Electoral Officer, Bihar was, therefore, asked to call for the explanation of the officers concerned and to take suitable action against them under intimation to the Commission.

(iv) During the examination of the complaint regarding booth capturing etc., at the general election to Bihar Legislative Assembly from 252-Gurua constituency in the General Election held in 1980, it was found that certain Presiding Officers did not maintain their diaries properly. The Chief Electoral Officer was, therefore, asked to call for their explanation and to furnish the same to the Commission along with his comments. The matter is still pending for want of a reply.

(v) The Chief Electoral Officer, Bihar reported that on account of refusal to receive appointment letter of enumeration for doing enumeration work in 113-Tribeniganj Assembly constituency, an Assistant Teacher of Pratapur Primary School, was suspended w.e.f. 20.4.1983 and action was proposed to be taken against him under section 32 of the Representation of the People Act, 1950. He sought the advice of the Commission about the authority by whom the action was to be taken.

The Chief Electoral Officer, Bihar was advised to consider taking departmental action against the teacher concerned.

(vi) In its order in election petition No. 3 of 1982 relating to the General Election to the Haryana Legislative Assembly held in 1982 from 5-Yamuna Nagar constituency, the High Court of Punjab and Haryana passed strictures against a Commissioner and Secretary to the Government of Haryana who was appointed as Commission's observer and the Assistant Returning Officer of the constituency.

It was observed by the High Court that the Assistant Returning Officer had initially made an announcement of recount but in his deposition had given two different versions of this announcement. It also castigated the observer for not coming out with the whole truth.

The Commission has asked the Chief Secretary to the Government of Haryana to call for the explanations of the abovementioned two officers and to take suitable action against them.

(vii) Shri Satya Prakash Malviya, a contesting candidate at the bye-election held from 57-Pilibhit Assembly constituency (Uttar Pradesh) in December 1983, lodged a complaint with the Commission in which he, inter-alia, alleged that the tour programme of the Minister of the State for Cane Development and Sugar in Uttar Pradesh had been circulated on behalf of the District Magistrate. The tour programme circularised on behalf of the District Magistrate mentioned that the Minister would participate in election meetings. Its copies were also sent to the President of District Congress Committee for arranging meetings in an orderly way.

On enquiry, the Commission was informed that tour programmes of not only Ministers but also of leaders of the opposition parties were circulated to all concerned. It was further informed that the tour programme of Shri Shiv Nath Singh Kushwaha, Minister of State for Cane Development and Sugar Mills, was also issued accordingly. The tour programme of Shri Kushwaha was subsequently cancelled. The Deputy Collector and other official involved in the issue of the tour programme were not given any election duty.

The Commission, on the basis of the facts before it, held that issue of an election tour programme by an official on behalf of the District Magistrate was improper. It, therefore, requested the Uttar Pradesh Government to instruct all concerned that in future the election tour programmes of Ministers should not be circularised by the officials or official agencies.

CHAPTER II

DELIMITATION OF COUNCIL CONSTITUENCIES

Section 12 of the Representation of the People Act, 1950 provides that the President may from time to time, after consulting the Election Commission, by order, alter or amend any order made by him under section 11 of the Act.

Under section 10 of the Representation of the People Act, 1950 the allocation of seats in the Legislative Councils having such Councils among the Council constituencies, i.e. graduates, teachers and local authorities those to be filled by Members of the Legislative Assembly and to be nominated by the Governor of the State has been made. The Constitution provides for Legislative Councils in the following States:

1. Andhra Pradesh
2. Bihar
3. Karnataka
4. Madhya Pradesh
5. Maharashtra
6. Tamil Nadu
7. Uttar Pradesh

However, the Legislative Council in the State of Madhya Pradesh has not been constituted.

Periodically, the Election Commission undertakes review of the extent of Council constituencies.

It was brought to the notice of the Commission by the sitting Members of Legislative Councils, political parties and other organisations that most of the two/three Member constituencies existing in various States were very inconvenient from the point of view of electors and contesting candidates.

It was also observed that the cycle of retirement from the Council constituencies has been broken and the system of proportional representation by means of the single transferable vote did not effectively work in many of biennial elections. The main reasons for the disturbance of the cycle have been non-existence of the Legislative Assembly on account of dissolution and the non-existence or supersession of component local bodies, the members of which form electorate of local authorities constituencies. The Commission, with a view to bringing out changes on more rational basis from the point of view of administrative and public convenience, called for proposals of the Chief Electoral Officers concerned for reorganisation of Council constituencies. The suggestions received from the Chief Electoral Officers were examined and the Commission formulated its draft proposals for the reorganisation

of the Council constituencies. Copies of the draft proposals were circulated to all Members of the Parliament and State Legislative Assemblies of the concerned States, to all the political parties etc., and they were requested to send their suggestions or objections, if any, to the proposals to the Commission for its consideration before a specified date. The proposals were also given wide publicity through the News Papers and other mass media.

In respect of the State of Andhra Pradesh, on the basis of the reasons given by the Chief Electoral Officer, Andhra Pradesh, the Commission did not consider it necessary to make any amendment to the existing Council constituencies.

The suggestions and objections received from the public were duly considered by the Commission in public sittings either at Delhi or at the concerned State headquarters. After duly considering all the suggestions and objections the Commission finalised its proposals for reorganisation of constituencies. The Commission's recommendation containing its proposals were forwarded to the Ministry of Law in the Government of India for taking necessary steps under section 12 of the Representation of the People Act, 1950. The President's Orders notifying the changes in the extent and allotment of the number of seats to Council constituencies were issued on the dates indicated below:

1. Bihar	7.6.1983
2. Maharashtra	22.7.1983
3. Karnataka	28.7.1983
4. Tamil Nadu	21.5.1983
5. Uttar Pradesh	25.7.1983

CHAPTER III

ELECTORAL ROLLS

(A) Revision of electoral rolls of Assembly/Parliamentary constituencies

The term of the existing House of the People in the ordinary course will expire on 20th of January, 1985. A general election to constitute a new House of the People will have, therefore, to be held and completed before that date. Keeping this fact in view and also to cater to any unforeseen contingency, the Commission decided to revise the electoral rolls all over the country. In order to reduce the pressure on electoral machinery connected with the revision of electoral rolls, the Commission decided to stagger the revision in such a way that the electoral rolls of all rural constituencies could be revised intensively in 1983 with reference to 1.1.83 as the qualifying date and those of all urban constituencies in 1984 with reference to 1.1.84 as the qualifying date. It was also decided not to revise the electoral rolls in 1983 of the constituencies which were to be taken up for intensive revision in 1984.

The electoral rolls were to be revised polling stationwise. According to a model programme suggested by the Commission, the revision of rolls in 1983 was required to commence from 1.4.83 and was to be completed by 1.8.83. The States/Union Territories were, however, left free to draw up a programme for the revision keeping in view these outer limits and to get the programme approved by the Commission.

In the case of a few States, a slightly different programme was also approved keeping in view their special circumstances.

The Commission informed the Chief Electoral Officers concerned that it had not fixed any criteria for determining rural or urban constituencies and it was left to them to decide this issue keeping in view the local factors obtaining in their States. The Chief Electoral Officers were also informed that while selecting constituencies for revision, it would be ensured that for the revision of electoral rolls ordered with reference to 1.1.83, half of the total number of constituencies in the State/Union Territory concerned were covered. The detailed programme adopted by each State can be seen at Appendix V.

The following were the minor deviations in the broad pattern adopted for revision of rolls in 1983 and 1984:

- (i) Having regard to the impending general elections to the Sikkim and Mizoram Legislative Assemblies in 1984, the Electoral Rolls of all Assembly constituencies of Sikkim and Mizoram were revised intensively in 1983 itself.
- (ii) The electoral rolls of all the Assembly constituencies in Jammu and Kashmir State had been revised summarily in 1983 prior to the holding of

General Election to the State Legislative Assembly in June, 1983. The revision commenced from 25.1.1983 and the rolls were finally published on 18.3.1983.

- (iii) No revision of rolls was undertaken in 1983 in Tripura and Union Territories of Andaman and Nicobar Islands, Dadra and Nagar Haveli, Lakshadweep and Pondicherry. The electoral rolls in Tripura and these Union Territories were left to be revised intensively in 1984.
- (iv) The revision of electoral roll of Chandigarh Parliamentary Constituency was done intensively. The revision commenced from 1.1.1983 and the rolls were finally published on 4.7.1983.
- (v) In view of the disturbed conditions in Assam, no revision of electoral rolls was undertaken in that State.

The programme for revision, particularly the stages of house to house enumeration, date and place of draft publication, period during which claims and objections might be filed and the particulars of places where the claims and objections could be filed etc. were given widest possible publicity, through the available media and by intimation to all local units of political parties, Members of Legislative Assembly, Members of Parliament of the State, Members of the civic bodies like Municipalities and Village Panchayats etc., in addition to voluntary organisations like voters council, citizens forum or committee wherever they existed.

Supervision of enumeration work

To achieve optimum accuracy of electoral rolls, the Commission directed that the Chief Electoral Officer, Joint Chief Electoral Officer, Deputy Chief Electoral Officer, Assistant Chief Electoral Officer and other senior officials of the Election Department and District Election Officers should undertake frequent tours particularly at the time of house to house enumeration in various districts of the State/ Union Territory or within their districts, as the case might be, to ensure that enumeration work progressed in an orderly and systematic manner. Complaints of deliberate omission of certain sensitive areas from enumeration were required to be promptly looked into by spot verification. The Electoral Registration Officer, Assistant Electoral Registration Officer etc., were instructed to make spot checks at random in respect of areas where there were complaints of large scale omission of names in the past. This would also ensure that the supervisors appointed for the purpose were doing their sample checking regularly and properly.

It was prescribed that each enumerator were to be supplied with details of the area to be covered by him. Wherever system of house numbers exist, the details thereof with street/ward/village/hamlet, were required to be furnished to them. These details were to be furnished to enumerators before they set out for house to house verification. It was felt that preliminary survey of the area assigned to enumerators to collect full details of houses to be covered would facilitate enumeration work without leaving out any locality or houses.

It was also emphasised that the enumerator should *not* be supplied with a copy of the existing electoral rolls.

Safeguards against inclusion of foreign nationals

The Commission held a meeting on 20.6.1983 with the Chief Electoral Officers of North Eastern States excepting Assam to deal with the problem of the so-called foreign nationals who were alleged to have infiltrated into those States. On the basis of sample survey undertaken in selected areas of the constituencies having abnormal increase of electors with reference to 1.1.1983 as qualifying date, it was apprehended by the concerned Chief Electoral Officers that the abnormal increase of electors might be due to large scale influx of people from a neighbouring country. It was also found that the names included in the enumeration cards were new names not found in the electoral rolls currently in force. Those related to persons of doubtful citizenship, the Commission was concerned that the problem similar to that of Assam should not develop in other States specially those having borders or proximity with neighbouring countries. It was, at the same time, anxious that Commission's directions and instructions that the names of electors included in successive electoral rolls up to the rolls last revised intensively should not be deleted unless the citizenship of the affected persons were determined under due process of law by the prescribed authority entrusted with the duty of determining the question of citizenship. Also utmost care had to be exercised against inclusion of names of persons with doubtful citizenship qualification.

The Commission, therefore, directed that the names already included in the electoral rolls during the process of last intensive revision should not be deleted just on the ground that those persons are now alleged to be non-Indian citizens. The sanctity of the existing electoral rolls was to be observed. The deletion of names of such electors should only be on the basis of the production of positive documentary proof obtained by the objector from the proper authority dealing with the question under law and even then in such individual cases reasonable opportunity should be afforded to the elector affected. The onus was clearly on the objector and not on the elector whose continuance in the roll was objected to.

As regards inclusion of names in the electoral rolls for the first time, the Commission laid down the following guidelines for strict observance:

- (1) If, in any particular area or locality affected by abnormal increase of electors since last intensive revision, the following courses were open to the Chief Electoral Officer and the Electoral Registration Officers under him:
 - (i) Areas/Constituencies so affected should be first identified by the Electoral Registration Officer under special survey and full details of the areas/constituencies which were prone to the problem of foreign nationals, should be collected;
 - (ii) The enumerators should be furnished with full details of those areas

or households so that they may not cover during their enumeration those households, locality or areas;

- (iii) If, however, any such household still demanded inclusion of names of persons in that household, the enumerators should only handover or drop Form 4-letter of request—to each of such households under proper receipt and due endorsement made in the enumeration card relating to the household;
 - (iv) Copies of the existing electoral roll should not be supplied to enumerators;
 - (v) In respect of cases covered by item No. (iii), on receipt of all Forms 4 duly filled either with or without supporting documents by the household, the same should be verified by the Electoral Registration Officers concerned with reference to all available documents either readily available or maintained by agencies like Police, District Magistrate relating to the citizenship status of the persons concerned;
 - (vi) If the Electoral Registration Officer was satisfied that the person whose name was included in Form 4 did not fulfil the qualification of Indian citizenship, he should give notice to the person for providing reasonable opportunity to him to prove his case of bona fide citizenship and take a final decision;
 - (vii) The above procedure would apply *only* to the cases of constituencies where abnormal increase was noticed in the electoral rolls after the last revision and after the constituencies affected were identified.
- (2) If there was a complaint or apprehension that the enumerators had wrongly omitted certain areas or households from enumeration on the basis of wrong details furnished to them or otherwise regarding the problem of foreign nationals, the Electoral Registration Officer or Assistant Registration Officer should examine those cases and direct the agency concerned to drop Form 4-letter of request—to each of those households to enable the household to furnish the details of names of adult citizens and take further action in accordance with the procedure laid down under the law.
- (3) After the above process was completed, the draft rolls might be prepared and finalised.
- (4) If, in the above cases, for want of details regarding the areas where recent influx of foreigners had taken place the names of persons with doubtful citizenship had already been included in the enumeration cards and on the basis of those cards the manuscripts of electoral rolls had been prepared and draft electoral rolls had been published, the Electoral Registration Officer might give notice to the persons whose citizenship qualification was doubtful and take necessary action for deletion of those names on being

satisfied that those names were being sought to be included for the *first time* in the electoral roll and that they were not entitled to be registered as electors for want of qualification of citizenship.

The above instructions were forwarded to the Chief Electoral Officers of States affected by this problem.

Instructions for Electoral Registration Officers regarding disposal of applications of claims and objections

The detailed procedure for filing claims and objections and disposal thereof is provided in the Registration of Electors Rules, 1960. The Commission, however, issued the following further instructions to the Electoral Registration Officers in this behalf:

I. Claims & objections filed during the period allowed, at the time of revision of Electoral Rolls

1. A receipt should be given for each application of claim or objection filed.

2. Each claim and objection should be subjected to spot verification by proper authority after due enquiry and the report of the officer clearly recorded thereon, under his full signature and designation.

3. Individual applications should only be accepted. However if individual applications relating to the members of the same household i.e. same family are presented together, they may be accepted and a common receipt be issued. Claims and objections presented in bulk by any individual/organisation or political party should be refused to be accepted.

The same principle will be applicable to a claim or objection sent by post.

4. Claims and objections with incomplete particulars in essential respects, for example, particulars of the last address, if any, where the applicant was residing before and not presented in prescribed forms should be rejected and reasons for such rejection recorded in brief on the claim or objection application form itself. A copy of the list of applications so rejected should be exhibited on the Notice Board of the Electoral Registration Officer/Assistant Electoral Registration Officer.

5. In the case of such incomplete information in respect of essential particulars, the receiving authority should, as far as practicable, draw the attention of the person presenting the application to the defects and if the person expresses his desire to take back the form, he may be allowed to do so.

6. In the case of claim forms relating to a claimant whose age, as given in the form, is well over 21 years and he could and ought to have availed of the earlier opportunity of inclusion of the name during the intensive/summary revision, the claimant should be called upon to file a declaration before the Electoral Registration

Officer/Assistant Electoral Registration Officer/designated Officer or any authorised Officer stating the full reasons for his failure to seek inclusion earlier.

In case of such persons who seek inclusion in the electoral roll of a constituency for the first time on the ground that he has shifted his place of residence to that constituency after the last revision of rolls, they should be asked to file a declaration to the effect that his/her name is not already included in any other constituency giving reasons for non-inclusion of his/her name in the electoral roll. For proper verification, the claimant should be asked to fill up the particulars in the appropriate column in the claim form giving full details of his former address, if not already indicated in the form. In the case of those whose names had been registered as electors in the electoral roll pertaining to the area relating to his earlier residence, a certificate from the Electoral Registration Officer/Assistant Electoral Registration Officer should be obtained that the name of the claimant had been deleted from that electoral part.

7. In the case of claimant who seeks inclusion for the first time in an electoral roll on the ground of his/her being of 21 years of age on the qualifying date for the last revision of electoral rolls, the claim form should be countersigned by an elector in the same part of the roll and a certificate obtained from such elector.

II. Procedure for disposal of claims and objections

8. To enable the Assistant Electoral Registration Officers and designated Officers to serve notices promptly on the claimants and objectors, the Electoral Registration Officer should, well in advance, draw up a programme of dates for the disposal of claims and objections in the following form. He should send copies of the programme to Assistant Registration Officers and designated Officers:

- (i) Date of hearing
- (ii) Time of hearing
- (iii) Place of hearing
- (iv) The local units, the claims of objection which will be disposed of at the hearing.

9. Normally the disposal of claims and objections should begin from the eighth day of last date for filing claims and objections. Where a large number of claims and objections are received, during the first few days or before last week, in the period allowed for the claims and objections, the Electoral Registration Officer should arrange for their disposal even before the last date fixed for the receipt of claims and objections, after allowing a period of 7 clear days from the date on which these claims and objections were exhibited in his office under the rules. It is, therefore, advisable to have two sets of hearing, one, if necessary, during the first fort-night and another (compulsory one) for the disposal of all claims and objections or those received during the second fort-night alone. In the case of large number of claims and objections in a constituency, Electoral Registration Officer concerned may informally associate a representative each from a recognised political party of the State who

personally knows the inhabitants of the locality as far as practicable. A Field Officer of the Government under whose jurisdiction the area in a village or town or city falls may also be associated. The representative should himself be a man of the area in respect of which objections are heard. It should be understood very clearly that the responsibility of final decision will be of the Electoral Registration Officer in respect of each claim or objection. The representative of the party will have no voice in the decision. He will only help in discouraging false claims and objections.

10. In case where the Electoral Registration Officer holds a summary enquiry and the claimant insists on his inclusion in spite of adverse report as a result of spot verification, the Electoral Registration Officer should insist on the presence of the claimant, especially when the claim is objected to at the hearing on any ground like under-age, non-residence, non-existence etc., as such an enquiry cannot be conducted satisfactorily in his absence.

11. In the case of spot verification or summary enquiry by the Electoral Registration Officer, the claimant should as far as possible be asked to be physically present or if that is not possible, a statement of any other adult member of the same household recorded verifying the ordinary residence of the claimant.

12. In the case of too many claimants from the same household, proper verification of the age and other qualifications for registration as electors should be made and probability or otherwise of the age as mentioned in the form with reference and comparison to those given in the electoral roll in respect of other members of the same household should also be looked into.

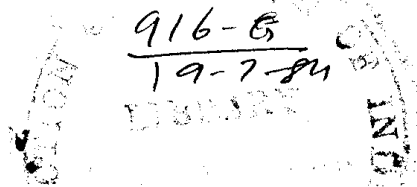
III. Applications under sections 22 and 23 of the Representation of the People Act, 1950 read with rule 26 of Registration of Electors Rules, 1960 (inclusion/deletion/correction in the rolls as finally published)

13. Each application under section 22 or 23 filed after a summary or intensive revision in a constituency in a particular year should be accompanied by a declaration giving therein the reasons as to why the applicant failed to utilise the opportunity given to him during the period of house to house enumeration and/or period allowed for lodging claims and objections.

14. The Electoral Registration Officer should hold summary enquiries into the application in the locality concerned from where the application has been received, if such number of applications are in considerable number from the same locality.

15. Towards proof of residence, the Electoral Registration Officer may also direct the applicant desiring inclusion to produce his ration card or other such civic document to substantiate his claim.

16. It is not obligatory under the law for the Electoral Registration Officer to dispose of all applications under sections 22 and 23 filed just before a general election/by-election is called. If such applications are received in considerable bulk, then



he may allow them to lie over for disposal after the general election/bye-election is over. However, if the number of applications is not unmanageable, they may be disposed of.

17. The Electoral Registration Officer should always bear in mind that he is functioning in a quasi-judicial capacity while dealing with each and every application in view of the provisions of section 30 of the Representation of the People Act, 1950 which debar any civil Court to question the legality of any action taken by the Electoral Registration Officer during the revision of electoral rolls.

18. The Electoral Registration Officers shall make all endeavour to bring to the notice of the public of the legal consequences of making false declarations under section 31 of the Act. He may give publicity to these provisions by handing out pamphlets or by exhibiting posters to this effect at every place of draft/final publication of the rolls and at every polling station of the constituency.

19. In its recent Order in a matter relating to the question of inclusion of a person's name in the electoral roll, the Commission made the following observations which may equally be applied to similar cases in all other States:

“The objection to the inclusion of the names could have been taken during the annual previous revisions of electoral rolls. The objection to the inclusion of the name of a person and not to the inclusion of his wife was filed on the eve of an election when it was certain that he would be contesting the election. It would be rather incongruous and extraordinary on the part of the Electoral Registration Officer where he to decide ultimately on the basis of objection only to the deletion of the husband's name on the ground that he ceased to be ordinarily resident while the name of the wife was allowed to be included in the same electoral roll. In such cases the Electoral Registration Officer should exercise due caution and care before proceeding to deal with objections under section 22 of the Representation of the People Act, 1950 so as to prevent miscarriage of justice affecting irrevocably the electoral right to contest an election without any effective and adequate remedy for the person even if he wanted to go in for an appeal if the decision of the Electoral Registration Officer were to be against his interests.”

The Commission referred to the application forms for inclusion of names. The forms which the Commission had occasion to examine during the proceedings of the case were found to be incomplete and lacked full particulars for the affirmation of the prescribed certificate. It observed:

“It would have been proper if full particulars had been furnished by the applicants in respect of various columns provided in the form. The Electoral Registration Officer should have also closely scrutinised the forms and applied his mind fully before he ordered inclusions.”

Electoral Registration Officers were asked to bear in mind above observations of the Commission in a particular case and exercise utmost caution while dealing

with applications objecting to the inclusion of names and while considering forms for inclusion.

20. Besides the foregoing, all other procedures normally followed in dealing with the disposal of claims and objections were to be followed. Under the above instructions, Electoral Registration Officers were directed that applications from individuals only should be accepted and that applications presented in bulk should not be accepted. However, in the case of Delhi these instructions were slightly relaxed for the benefit of office and factory workers to the extent that the applications of claims and objections could be presented through a duly authorised person.

Form of Electoral Roll

Under rule 4 of the Registration of Electors Rules, 1960, the form of electoral roll is to be determined by the Election Commission. A form has been prescribed but with the introduction of the scheme of issuing photo-identity cards to electors in Meghalaya one more column viz. "Serial number and year of issue of the photo-identity cards issued to electors" was added to the form for the electoral roll in that State.

Language of Electoral Rolls

Under rule 4 of the Registration of Electors Rules, 1960, the Commission decides the language(s) in which the electoral rolls should be printed. According to the Commission's earlier directions, the electoral rolls of 96 Assembly constituencies of Uttar Pradesh were being printed both in Hindi and Urdu. On 24th February, 1983, the Commission decided, on the basis of the facts received from the State Government as well as from a Member of Parliament, that electoral rolls of 38 more Assembly constituencies be printed both in Hindi and Urdu. Thus in Uttar Pradesh, electoral rolls of 134 Assembly constituencies are to be printed both in Hindi and Urdu.

The Commission instructed that in order to avoid wastage of time and expenditure on printing, separate printing of supplements prepared in 1983 and 1984 was not necessary. It was directed that supplements of 1983 be prepared in manuscript and cyclostyled and after the revision of electoral rolls with reference to 1.1.1984 as the qualifying date, supplements of 1983 and 1984 be integrated before printing.

Representations were received from the Jammu region of Jammu & Kashmir that the rolls there should be printed in Hindi also under the existing guidelines of the Commission. The reactions of the State Government are still awaited.

(B) Revision of Electoral Rolls, 1984

In August, 1983, the Commission issued instructions for intensive revision of electoral rolls with 1.1.1984 as the qualifying date in respect of constituencies not

covered under the intensive revision undertaken with reference to 1.1.1983 as the qualifying date. The urgency for ordering this revision arose because Government of India had contemplated introducing a bill for redelimitation of constituencies on the basis of 1981 Census. However, the contemplated bill was not introduced.

The Commission prescribed the following programme for the revision of electoral rolls:

1. House to house enumeration	20.10.1983 to 14.11.1983
2. Printing of draft rolls	15.11.1983 to 15.12.1983
3. Draft publication of electoral rolls	16.12.1983
4. Last date for filing claims and objections	7.1.1984
5. Disposal of claims and objections	7.1.1984 to 21.1.1984
6. Final publication	25.1.1984

For the summary revision of rolls which were revised intensively with reference to 1.1.1983 as the qualifying date, the following programme was prescribed:

1. Draft publication of the rolls revised in 1983	16.12.1983
2. Last date for filing claims and objections	7.1.1984
3. Disposal of claims and objections	7.1.1984 to 21.1.1984
4. Final publication	25.1.1984

(C) Last part of the Electoral Rolls relating to Service Voters

Section 19 of the Representation of the People Act, 1950 lays down that subject to the provisions of sections 14 to 18 of the Act, every person who is not less than 21 years of age on the qualifying date and who is ordinarily resident in a constituency shall be entitled to be registered in the electoral roll for that constituency.

Section 20 of the said Act defines the meaning of 'ordinarily resident'. Sub-section (3) of this section provides that any person having a service qualification shall be deemed to be ordinarily resident on any date in the constituency in which, but for his having such service qualification, he would have been ordinarily resident on that date.

According to sub-section (3) of this section, 'service qualification' means—

- (a) being a member of the Armed Forces of the Union; or
- (b) being a member of a force to which the provisions of the Army Act, 1950 (46 of 1950) have been made applicable whether with or without modifications; or
- (c) being a member of an armed force of a State, who is serving outside that State; or
- (d) being a person who is employed under the Government of India, in a post outside India.

The Central Industrial Security Force had also been declared an Armed Force

of the Union during the year 1983. Its personnel were also therefore entitled to be registered in the last part of the electoral rolls.

The last part of the electoral rolls was intensively revised in 1979 followed by summary revision in 1981 and 1982. The Commission directed *de novo* revision of last part of the electoral rolls (relating to service voters) of all the constituencies with reference to 1.1.1984 as the qualifying date. It was decided that it was not necessary to publish these last parts of the electoral rolls along with other parts at the time of draft publication of electoral rolls.

The Government of India in the Ministry of Home Affairs, (2) External Affairs, (3) Defence and (4) Shipping and Transport, Border Roads Development Board, were addressed in the matter for obtaining statement from all the service voters in Form 2 or 2A (in duplicate), as the case may be, and to forward the same to the Chief Electoral Officers concerned for inclusion of their names in the last part of the electoral rolls.

The Central Industrial Security Force was also requested to forward the statements from their service personnel to the Chief Electoral Officers concerned. The Chief Electoral Officers were directed to include, as far as practicable, all such statements till the final printing of the last part of the roll and all those statements which could not be included may be kept pending and taken up at the time of next revision of the last part of the rolls.

(D) Revision of electoral rolls of Council Constituencies

(a) Graduates' and Teachers' Constituencies*

Ten seats of the members elected from Graduates' and Teachers' constituencies were lying unfilled in Legislative Councils of Bihar and Uttar Pradesh as a result of retirement of members. The details of these vacancies were as under:

Bihar Legislative Council

<i>Constituency</i>	<i>Date of Vacancy</i>
1. Tirhat Teachers'	} 6.5.1982
2. Monghyar Teachers'	
3. Darbhanga Graduates'	
4. Bhagalpur Graduates'	

Uttar Pradesh Legislative Council

<i>Constituency</i>	<i>Date of Vacancy</i>
1. Allahabad Graduates'	} 5.5.1982
2. Meerut Graduates'	
3. Lucknow Teachers'	
4. Gorakhpur-cum-Faizabad Teachers'	
5. Agra Teachers'	
6. Meerut Teachers'	

*For details please see Chapter V-'Elections to Council of States/Legislative Councils.'

In addition, more seats would be falling vacant in the Legislative Councils of different States due to the retirement of members on expiration of their term of office in 1984. The details of the seats that would be falling vacant in the various Houses are as under:

<i>State</i>	<i>Graduates'</i>	<i>Teachers'</i>
Andhra Pradesh	2	2
Bihar	2	3
Karnataka	2	2
Maharashtra	3	2
Tamil Nadu	3	4
Uttar Pradesh	4	2

It was therefore necessary to prepare the electoral rolls of the above-mentioned Council constituencies. Unlike the revision of the electoral rolls of Parliamentary/Assembly constituencies the existing rolls which may be used as draft rolls for purpose of summary revision of the rolls, the electoral rolls of Graduates' and Teachers' constituencies are prepared *de novo* as and when elections are held from Graduates' and Teachers' constituencies, unless otherwise directed by the Election Commission for reasons to be recorded in writing.

Under section 27(6) of the Representation of the People Act, 1950, the qualifying date for registration of names in electoral rolls of Graduates' and Teachers' constituencies has been fixed as 1st November of the year in which the preparation of the electoral rolls is commenced.

Every person who is ordinarily resident in a Graduates' constituency and has, for at least three years before the qualifying date, been either a graduate of a university in the territory of India or in possession of any of the qualifications specified under clause (a) of sub-section (3) of section 27 of the Representation of the People Act, 1950 by the State Government concerned is entitled to be registered in the electoral roll for that constituency.

Every person who is ordinarily resident in a Teachers' constituency, and has, within the six years immediately before the qualifying date for a total period of at least three years, been engaged in teaching in any of the educational institutions specified under clause (b) of sub-section (3) of section 27 of the Representation of the People Act, 1950 by the State Government concerned is entitled to be registered in the electoral roll for that constituency.

Each intending applicant in a Graduates'/Teachers' constituency is required to apply for registration of his name in the prescribed form 18/19 appended to the Registration of Electors Rules, 1960.

In order to ensure that as far as practicable no eligible elector is left out of the electoral rolls, the Commission has directed that the widest possible publicity should be given to their preparation. For this, the copies of the public notice in respect of

a Graduates' constituency are circularised to all offices, educational and other institutions, banks, firms etc. in the constituency. Similarly, in the case of a Teachers' constituency the notices are sent to all educational institutions not lower, in standard than that of a secondary school in the constituency, to the District Education Officers, Principals of Colleges, Polytechnics, etc. for enlisting their assistance and co-operation in this regard.

The Commission ordered the preparation of rolls of above-mentioned Graduates' and Teachers' constituencies. A statement showing the programme for the preparation of these electoral rolls is given in Appendix VI.

(b) Local Authorities' Constituencies

The electoral roll for every local authorities' constituency is maintained by the Electoral Registration Officer in his office in the form and manner prescribed by the Election Commission. It is corrected as and when necessary in order that it is up to date at all times. As such no formal revision as on a particular date is required to be ordered. Under the Commission's directions, the roll is prepared local authoritywise. In order to enable the Electoral Registration Officer to maintain the roll corrected up-to-date, section 27(2)(d) enjoins upon the Chief Executive Officer of every local authority (by whatever designation such officer may be known) to immediately inform the Electoral Registration Officer about every change in the membership of a local authority. On receipt of the information, the Electoral Registration Officer strikes off from the roll the names of persons who have ceased to be, and includes therein the names of persons who have become, members of the local authority. Every such member may also make, on his own, an application for inclusion of his name in the roll, in Form 17 appended to the Registration of Electors Rules, 1960.

Under section 23(3) of the Representation of the People Act, 1950, no order for the inclusion of a name in, or the deletion of a name from, the electoral roll can be made by the Electoral Registration Officer after the last date for the making of nominations in a constituency and before the completion of the election. The Supreme Court has taken the view in *Vaidyanath Panjiar vs. Sita Ram Mahto* (AIR 1970 SC 314) that the prohibition contained in section 23(3) applies also in relation to electoral roll of a local authorities' constituency, in spite of the mandate in section 27(2)(d) to maintain the roll corrected up-to-date.

In some local authorities, like notified area committees, Government officials are nominated as members. On the advice of the Commission, the Government of Tamil Nadu, Karnataka and Andhra Pradesh have issued orders that such Government officials should not take part in elections from the local authorities' constituencies. This is intended to keep Government officials clear of politics and political affiliations.

(E) Complaints received regarding revision of rolls and action taken thereon

During 1983, 366 complaints relating to revision of electoral rolls were received in the Commission. Most of the complaints were from individuals and were sent to the concerned Chief Electoral Officers for enquiry and report or for necessary action.

Some of the important complaints are however, highlighted below:

ISSUE OF FOREIGN NATIONALS

Gujarat

A complaint was received from President, B.J.P., Gujarat in which the complainant expressed fears that large number of persons who had infiltrated into the Kutch District from across the international border who were not Indian citizens, were likely to get themselves enrolled in the electoral rolls during the revision. The matter was referred to the Chief Secretary to the State Government and the Secretary to the Government of India in the Ministry of Home Affairs and the Chief Electoral Officer, Gujarat. The Chief Electoral Officer, Gujarat, in his report, has stated that strict care was taken that only Indian citizens were enrolled. He also furnished the detailed information about the electoral figures of the constituencies in Kutch District and stated that there was no abnormal enrolment in the electoral rolls in comparison to other districts where also the revision of electoral rolls was undertaken. The number of electors on roll in Kutch District in 1979 was 506871 and after the final publication of rolls on 15.11.1983 this was 557561. Thus there was an increase of 10% in electoral figures of Kutch District in comparison to 1979 figures which was not considered abnormal by him.

Sikkim

In his letter dated 27.6.1983 to the Chief Election Commissioner, the Chief Minister of Sikkim raised the question of citizenship of persons domiciled in the State and inclusion of names of certain category of persons. He was informed that the question of citizenship is a complex question of law and fact and under the election law neither the Electoral Registration Officer nor the machinery under him could deal with, and determine the same. He was also informed that on receipt of a reference from the Chief Secretary, the Commission took up the matter with the Government of India in the Law and Home Ministries and that the question of inclusion of names of persons who migrated to Sikkim before 1970 from the neighbouring country and who own property and are permanently residing in Sikkim would not arise till the issue of citizenship is finally settled and clear guidelines are issued based on the provisions of requisite laws.

Bihar

Shri Syed Shahabuddin, M.P. and General Secretary, Janta Party in his letter of 21.10.1983 and subsequent letters complained that thousands of electors in the District of Purnea & Katihar had been served with notices by the Electoral Registration Officers to provide evidence of their citizenship on pain of deletion of their names from the electoral rolls.

The Commission instructed the Chief Electoral Officer, Bihar to ensure that the names already included in the existing electoral roll in force should not be deleted during the process of current revision of electoral rolls unless the elector on existing

roll was dead or had changed his residence or objector had produced positive documentary evidence as stated in the guidelines already circulated. The Commission also called for a comprehensive report on the issue.

Shrimati Beaulah Doja, Member of Legislative Assembly, Bihar made similar representations to the Commission personally on 16.11.1983. In her representation she alleged that large number of Indian muslims of Katihar and Purnea districts of Bihar had been suspected of their bonafide citizenship and notices from the District Administration were being issued to them on the basis of their allegedly being Bangladesh infiltrators. These complaints were also forwarded to the Chief Electoral Officer, Bihar for report.

The Chief Electoral Officer, Bihar, in his reports, stated that the allegation that thousands of people were served with show-cause notices was baseless. The notices were served only on those persons whose names were not included in the electoral rolls of 1980 but were figuring in draft roll of 1983 for the first time. The names of doubtful citizens had not yet been deleted because the investigation in their cases was still going on. The deletion was to be effected, if necessary, only on the completion of the investigation. The Chief Electoral Officer also furnished the following details showing the position with regard to the cases of doubtful nationality:

Katihar District

No. of cases where notices issued on their being suspected as foreign nationals	511
No. of cases pending disposal	139
No. of cases disposed of where it had not been definitely established that persons were not Indians	227
No. of cases in which persons were above suspicion	145

Purnea District

No. of cases where notices were issued on their being suspected as foreign nationals	5466
No. of cases disposed of	3243
	(Out of which 2624 names were proposed to be deleted but names of 865 electors had actually been deleted. Cases of other persons were still under investigation)
No. of cases still under inquiry	2223

These figures clearly showed that the names were not being struck off from the electoral rolls indiscriminately with a communal bias as alleged. The Electoral Registration Officers were providing full opportunity to persons with doubtful nationality to prove their bonafide.

West Bengal

Reports, mainly press reports, were received by the Commission alleging enrolment of foreigners in the electoral roll in West Bengal.

The Chief Electoral Officer, in his report, informed that the broad guidelines given by the Commission in dealing with the problem of foreign nationals in relation to preparation of electoral roll had been circulated to the Electoral Registration Officers for strict compliance. He also informed that no specific and valid complaint of registration of foreign nationals had been received from the political parties or organisations. The reported influx of foreign nationals from Bangladesh & Nepal, in some places, was being dealt with suitably by law and order machinery and it did not have any significant bearing on the revision of electoral rolls.

Andaman & Nicobar Islands

Complaints were received from Sardar Nehchal Singh Chawla, Councillor, Andaman & Nicobar Islands and Shri Kandaswamy, President, Andaman Peoples Party and others alleging registration of foreigners in the electoral roll in the Andaman & Nicobar Islands. These complaints were general in nature. However, the Andaman & Nicobar Islands Administration to whom the complaints were referred, reported that the particulars of foreigners against whom cases had been registered under the Foreigners Act had been furnished by them to the Electoral Registration Officers/Assistant Electoral Registration Officers for necessary action.

Mizoram

A reference was received from the Chief Electoral Officer, Mizoram that the number of electorate in the electoral rolls under preparation as compared to that of 1982 electoral rolls showed a phenomenal increase in some constituencies. According to him this could be due to the influx of "Chakmas" or the influx of foreigners across the border of Bangladesh along the western border of the territory. The Chief Electoral Officer wanted to postpone the intensive revision of electoral rolls in affected areas for indefinite period. He was called for along with Chief Electoral Officers of other States/Union Territories for discussing the problem.

The Chief Electoral Officer was advised to follow the procedure considered best under the conditions obtaining in the State and keep in mind the following aspects:

- (1) Areas where there was an abnormal increase in the electorate in the State should be identified.

- (2) In those identified areas after a preliminary survey of such area and households suspected to be of foreign nationals. Form 4 may be supplied and all the electors in that area should be asked to use Form 4-Letter of Request—compulsorily.
- (3) These forms be examined by the Electoral Registration Officer by giving opportunity to the person to be affected by the decision of the Electoral Registration Officer.
- (4) The Electoral Registration Officer might cause further verification made in regard to cases covered by Form 4 by reference to police or other official agency maintaining registers like (a) Army register, (b) Ration Cards, (c) Bhoo register, (d) Border Check-post register etc.
- (5) In case the Electoral Registration Officer was *prima facie* satisfied about the person being not an Indian citizen, he should give further opportunity to the person affected to refute the objection.
- (6) After the above process was completed, the draft rolls might be prepared and finalised.
- (7) The sanctity of the roll last revised intensively should not be ignored.

Another reference on the issue was received in November, 1983 from Brig. T. Sailo, Chief Minister of Mizoram suggesting that all the illegal entrants/immigrants after 25.3.1971 should be disenfranchised. While intimating the action being taken on the issue, the Commission clarified to him that the question of illegal migrants was not the concern of the Commission or any authorities working under its superintendence, control and direction. It would be inappropriate and without jurisdiction to issue any instructions to local election officers to delete the names of illegal immigrants whose names had been included earlier in the successive electoral rolls. The Commission requested him to take up this particular issue with the Ministry of Home Affairs for effectively dealing with this aspect of the problem.

Meghalaya

In the meeting held on 20.6.1983, the Chief Electoral Officer, Meghalaya also complained about the large number of electors with doubtful citizenship. The increase in electorate registered between 1980 and 1983 was reported to be substantial. He suggested that the process of detection of foreign nationals and deletion of their names should be continuous and the Electoral Registration Officer should *suo moto* initiate action.

In this case, the same clarification was given by the Commission as was given in the case of Mizoram.

It would be seen that the salient feature of the Commission's directions with a view of guarding against inclusion of foreigners was the same as had been given

in the case of Assam i.e. that the names already included in the electoral roll during the process of last revision should not be deleted just on the ground that those persons were now alleged to be foreign nationals. It was stressed by the Commission that sanctity of the existing electoral rolls had to be observed at all costs. The deletion of names of such electors was only be on the basis of the production of positive documentary proof obtained by the objector from the proper authority dealing with the question under law and even then in such individual cases reasonable opportunities should be given to the electors affected. The onus was clearly on the objector and not on the elector whose names in the electoral rolls was objected to. Of course, where name of an elector was being entered for the first time on the rolls of 1983/1984 and there was reason to suspect that he was a foreign national, broad guidelines were provided for dealing with such cases with extra-caution and within the legal framework.

CHAPTER IV

ELECTION SYMBOLS (RESERVATION AND ALLOTMENT) ORDER, 1968—REVIEW OF POLL PERFORMANCE OF POLITICAL PARTIES IN GENERAL ELECTIONS

Paragraph 7 read with paragraph 6 of the Election Symbols (Reservation and Allotment) Order, 1968, requires a review of the poll performance of recognised political parties at each General Election for determining the continued recognition of such parties. Poll performance of registered parties is reviewed by the Commission after every General Election to Lok Sabha or Legislative Assembly of a State. The eligibility of political organisations which have applied for registration as political parties under para. 3 of the Order is also considered simultaneously.

The poll performance of the political parties at the General Elections to the Legislative Assemblies of Haryana, Himachal Pradesh, Kerala and West Bengal (held in May, 1982), Nagaland (in November, 1982), Andhra Pradesh, Karnataka and Tripura (in January, 1983), Meghalaya and Metropolitan Council of Delhi (in February, 1983) was reviewed in September, 1983. Poll performance of political parties in General Elections held to the Assam Legislative Assembly in February, 1983 could however, not be reviewed on account of non-completion of elections.

There were 33 recognised parties—7 National parties and 26 State parties and 12 registered parties in the country in September, 1983.

As per the result of the review, there was no change in the status of the 7 National parties and their recognition as National parties continued. Of the State parties, only Revolutionary Socialist Party, a State party in Kerala and West Bengal, lost its status in Kerala. It was, however, recognised as a State party in Tripura. There was no change in the status of other State parties.

Addressing the twelfth convocation of Bahrapur University, Shri Mohammad Hidayatullah, Vice-President of India, suggested a change in criteria for recognition of political parties at elections for reducing their multiplicity. He suggested that those political parties who failed to receive one-sixth of total votes cast in the preceding election, should be derecognised. The Commission felt that this suggestion merited serious consideration.

Consequently, it formulated certain proposals and circulated the same to all recognised political parties for comments. The suggestion made by the Commission to political parties for consideration was that the percentage of valid votes polled for recognition be raised from present 4% valid votes polled as a General Election to 5% or 8% or 10% of the valid votes polled. The other suggestion was that the present norm of recognition of a party in four or more States for granting status of a National party be raised to a greater number of States and Union Territories.

Of the 7 recognised National parties, only 2 parties namely, Communist Party of India and Communist Party of India (Marxist) responded to the suggestion by opposing it. No other National party sent any reply. Among the recognised State parties, 9 parties responded to the suggestion. Of these, 3 parties namely All Party Hill Leaders' Conference, Manipur People's Party and Naga National Democratic Party favoured the increase in the percentage in the present criteria and all others opposed it. Of the 12 registered political parties, such of these as responded to the suggestion opposed it. Thus, in all only 17 parties conveyed their reaction to the proposal. Considering the overall unfavourable reaction of majority of parties as expressed publicly, and at the meeting which the Chief Election Commissioner had with the political parties on 3 December, 1983, the Commission did not consider it worthwhile to pursue the matter further. ✓

Para. 3 of the Symbols Order lays down conditions for registration of political associations and organisations as political party. One of the conditions relates to the relationship of the applicant party with the electors and the popular support it enjoys with tangible proof thereof, if any. The Commission thought that the barometer for assessing support enjoyed by an organisation, is the percentage of votes secured by its sponsored candidates in the elections. Therefore, the Commission has laid down that one percent of the valid votes secured at the General Election by an organisation seeking registration is indicative of popular support. The applicant organisation seeking registration is required to contest a General Election with prior intimation to the Commission and the Chief Electoral Officer of a State concerned to enable it to collect authentic information of the votes secured by the candidates sponsored by the organisation. The candidates set up by these organisations are given preference over independent candidates in the allotment of symbols from the list of free symbols. The following organisations applied for registration and sought the aforesaid concession at the General election held during 1982-83.

General Election of 1982

- | | |
|-------------|--------------------|
| (1) Haryana | (1) Congress (J) |
| | (2) Janavadi Party |
| (2) Kerala | Congress (A) |

General Election of 1983

- | | |
|--------------------|------------------------|
| (3) Andhra Pradesh | Telugu Desam |
| (4) Karnataka | Karnataka Kranti Ranga |

Out of these parties the following parties could secure registration:

- (1) Congress (J) in Haryana
- (2) Telugu Desam in Andhra Pradesh

The following organisations failed to fulfil the condition of securing 1% of valid votes:

- (1) Janvadi Party
- (2) Congress (A)
- (3) Karnataka Kranti Ranga

Telugu Desam and Congress (J) also fulfilled one or both of the alternative conditions laid down in para 6. of the Symbols Order for recognition as a State party. Telugu Desam was recognised as a State party in Andhra Pradesh and Congress (J) in Haryana. The list of National, State and Registered parties as on 31 December, 1983 is appended at Appendix VII.

CHAPTER V

BYE-ELECTIONS

(i) Bye-elections to Lok Sabha

On 1st January, 1983, there were 19 vacancies in the House of the People—one each from the States of Andhra Pradesh, Gujarat, Haryana, Jammu & Kashmir, Meghalaya, Punjab and Uttar Pradesh and the remaining 12 from Assam. During the course of the year 8 more vacancies occurred. Out of these 3 vacancies were from Bihar and the remaining 5 were from the States of Andhra Pradesh, Himachal Pradesh, Jammu & Kashmir, Madhya Pradesh and Maharashtra.

Of the 27 vacancies in the Lok Sabha mentioned above, notifications were issued for purposes of holding bye-elections in respect of 22 vacancies but the process of bye-elections to fill 7 vacancies from Assam could not be completed.

Bye-elections to fill one vacancy which arose in Punjab in July, 1982 could not be held in view of the law and order problem in that State. One vacancy each from Himachal Pradesh and Madhya Pradesh which arose in October, 1983 and 2 vacancies from Bihar which arose in December, 1983 also remained unfilled at the end of the year. Thus during the year 1983, bye-elections were held to fill 15 vacancies and at the end of the year 12 seats in the House of the People remained vacant. Details of these vacancies are furnished in Appendix VIII.

Five bye-elections from Assam were completed along with the General Election to the Assam Legislative Assembly in January-February, 1983. A report in this regard has already been included in the Commission's Report on the General Election to the Legislative Assembly of Assam, 1983 (Narrative)*. Similarly, bye-elections from 2 Parliamentary constituencies in Jammu & Kashmir were held along with the General Election to the State Legislative Assembly held in June, 1983. These bye-elections have been covered in the Commission's Report on Election to the Office of President of India, 1982, Legislative Assemblies and Delhi Metropolitan Council, 1982-83.†

Brief notes on the remaining eight bye-elections held during 1983 to the House of the People are given below:

(1) 19-Nellore (SC) Constituency—Andhra Pradesh

The vacancy occurred on 4.8.1982 due to the death of Shri D. Kamakshaiah.

*Placed on the Table of the Lok Sabha on 2nd August, 1983 and Rajya Sabha on 1st August, 1983.

†Placed on the Table of the Lok Sabha on 13th December, 1983 and Rajya Sabha on 19th December, 1983.

For the sake of administrative convenience and economy, the Commission decided to synchronise the holding of this bye-election with the General Election to the Andhra Pradesh Legislative Assembly. Accordingly the notification calling the bye-election was issued on 4.12.1982 and the poll was taken on 5.1.1983.

There were six validly nominated candidates at the bye-election out of whom three withdrew, leaving three contesting candidates in the field. Shri Puchalapati Penchaliah of Telugu Desam party was declared elected.

(2) 1-Shillong Constituency—Meghalaya

The seat from 1-Shillong Parliamentary constituency could not be filled in the General Election to the House of the People held in January, 1980 as all the contesting candidates had withdrawn from the contest.

Bye-election to fill this vacancy was held along with the General Election to the Meghalaya Legislative Assembly in January-February, 1983. The notification calling for the bye-election was published on 14.1.1983 and the poll was taken on 17.2.1983.

There were six candidates in the field. Shri Bujubon R. Kharlukki of All Party Hills Conference was declared elected.

(3) 5-Porbandar Constituency—Gujarat

The vacancy arose due to the death of Shri Oderra Maldevji Mandlikji on 9th May, 1982. The Commission's notification calling the bye-election was issued on 12.4.1983 and the poll was taken on 15.5.1983.

There were fourteen candidates in the field and Shri Odedara Bharat Kumar Maldevji of Indian National Congress was declared elected.

(4) 36-Peddapalli (SC) Constituency—Andhra Pradesh

The vacancy occurred on 23.3.1983 due to the death of Shri K. Rajamulu. The Commission's notification calling the bye-election was issued on 20.5.83 and the poll was taken on 19.6.1983.

There were five candidates in the field. Shri Gotte Bhoopathy of Telugu Desam was declared elected.

(5) 46-Sangli Constituency—Maharashtra

The vacancy occurred on 9th July, 1983 by reason of the resignation of Shri Vasant Rao Patil. The Commission's notification calling the bye-election was issued on 13.10.1983 and the poll was taken on 13.11.1983.

Two candidates contested the election. Smt. Shalinitai Vasant Rao Patil of the Indian National Congress was declared elected.

(6) 2-Bettiah (Bihar), 4-Sonepat (Haryana) and 78-Bulandshahr (Uttar Pradesh)

Three bye-elections—one each from the State of Bihar, Haryana and Uttar Pradesh were held on 23rd December, 1983. The reasons and dates of occurrence of vacancies were as under:

Name of the Parliamentary Constituency	Date of vacancy	Cause of vacancy
Bihar		
2-Bettiah	25.3.1983	Death of Shri Kedar Pandey
Haryana		
4-Sonepat	31.5.1982	Resignation of Shri Devilal
Uttar Pradesh		
78-Bulandshahr	5.12.1982	Death of Shri Mahmood Hasan Khan

The Commission's notifications calling the bye-elections were issued on 23.11.1983 and the poll was taken on 23.12.1983.

There were eleven contestants each in 2-Bettiah and 78-Bulandshahr Parliamentary constituency whereas in 4-Sonepat Parliamentary constituency, there were 14 contestants.

The following candidates were declared elected to fill the vacancies:

Name of the Constituency	Name of the candidate	Party affiliation
Bihar		
2-Bettiah	Shri Pitamber Singh	CPI
Haryana		
2-Sonepat	Shri Rizaq Ram	INC
Uttar Pradesh		
78-Bulandshahr	Shri Banarsi Das	JNP

Detailed results of the above-mentioned eight bye-elections are given in Appendix IX.

(ii) Bye-elections to State Legislative Assemblies

There were 36 vacancies in the various State Legislative Assemblies on 1st January, 1983. During 1983, 56 more vacancies occurred. Names of the Constituencies, dates of occurrence of vacancies and filling thereof during 1983, were as under:

Name of State & Constituency	Date of Vacancy	Date of Bye-election if held	Vacancies not filled till 31.12.1983
1	2	3	4
Andhra Pradesh			
1. 219-Medchal	20.4.82	These 11 vacancies were not filled as the General Election to constitute a new Legislative Assembly was to be held in the next few months	—
2. 78-Vijayawada East	20.4.82		—
3. 26-Pendurthi	11.8.82		—
4. 22-Bhogapuram	11.8.82		—
5. 42-Jaggampeta	11.8.82		—
6. 86-Mudinepalli	11.8.82		—
7. 215-Keswan	5.9.82		—
8. 134-Venkatagiri	21.10.82		—
9. 204-Chevella	2.11.82		—
10. 20-Vizianagaram	11.11.82		—
11. 275-Burgampahad (ST)	13.12.82		—
12. 207-Himayatnagar	7.1.83	27.2.83	—
13. 144-Madanapalli	25.12.82	27.2.83	—
14. 149-Tirupati	18.1.83	27.2.83	—
15. 177-Yemiganur	17.1.83	27.2.83	—
16. 67-Tadepalliguden	28.3.83	19.6.83	—
17. 113-Martur	6.5.83	13.11.83	—
18. 249-Peddapally	27.7.83	13.11.83	—
19. 213-Asafnagar	25.11.83	—	Vacant
20. 89-Bandur	19.12.83	—	Vacant
Assam			
1. 32-Bongaigaon	17/20.2.83	—	Still Vacant
2. 33-Bijni	17/20.2.83	—	
3. 34-Abhayapuri North	17/20.2.83	—	
4. 35-Abhayapuri South	17/20.2.83	—	
5. 65-Kalaigaon	17/20.2.83	—	
6. 66-Sipajhar	17/20.2.83	—	
7. 71-Dekiajuli	17/20.2.83	—	
8. 72-Barehalla	17/20.2.83	—	
9. 75-Sootea	17/20.2.83	—	
10. 76-Biswanath	15.2.83	—	
11. 77-Behali	17/20.2.83	—	
12. 78-Gohpur	17/20.2.83	—	
13. 81-Laharighat	17/20.2.83	—	
14. 99-Majuli (ST)	17/20.2.83	—	
15. 118-Duliajan	17/20.2.83	—	
16. 119-Tingkhong	17/20.2.83	—	
17. 120-Naharikatia	17/20.2.83	—	

1	2	3	4
Bihar			
1. 199-Chandi	4.12.82	5.6.83	—
2. 252-Gurua	26.9.83	23.12.83	—
3. 174-Banka	21.11.83	23.12.83	—
Haryana			
78-Fatehabad	18.8.82	23.12.83	—
Himachal Pradesh			
1. 51-Banikhet	8.12.82	5.10.83	—
2. 4-Jubbal Kotkhai	14.8.83	5.10.83	1-22—
3. 39-Paragpur (SC)	30.11.83	—	Vacant
Jammu & Kashmir			
1. 42-Doru	2.1.82	These vacancies were not filled as the General election to constitute the new Assembly was due to be held in June '83	—
2. 21-Zadibal	1.3.82		—
3. 39-Anantnag	11.6.82		—
4. 15-Ganderbal	8.9.82		—
5. 48-Doda	16.6.83	—	Matter is pending in the High Court
Karnataka			
1. 123-Hunsur	6.6.82	These vacancies were not filled as the Gen. Election to constitute the new Legislative Assembly was to be held in the next few months	—
2. 120-Chamarajanagar	5.8.82		—
3. 116-Narasimharaj	9.10.82		—
4. 133-Holenarasipur	22.10.82		—
5. 157-Tarikere	24.12.82	27.2.83	2-4 —
6. 27-Yelburga	5.2.82	15.5.83	1-3-8 —
7. 91-Kanakpura	—	15.5.83	—
Kerala			
1. 137-Nemom	1.6.82	1.3.83	—
2. 33-Nanjeri	28.9.83	—	Vacant
3. 115-Punaloor	24.10.83	—	Vacant
Madhya Pradesh			
1. 213-Seoni	12.12.82	—	Vacant
2. 46-Tikamgarh	16.12.82	15.5.83	0-7
3. 258-Shahjapur	10.2.83	15.5.83	0-7
4. 53-Damoh	3.11.83	—	Vacant

1	2	3	4
Maharashtra			
1. 93-Chopda	5.12.82	28.2.83	0, 2, 23
2. 265-Patan	23.4.83	13.11.83	0-6-22
3. 271-Sangli	30.4.83	3.7.83	-2-3
Meghalaya			
1. 60-Mahendraganj	13.12.79	These vacancies were not filled as the General Election to constitute the new Legislative Assembly was held on 17.2.1983	—
2. 50-Selsella	16.12.79		—
3. 6-Nongbah Wahiajar	27.5.82		—
Punjab			
110-Pacca Kalan (SC)	20.5.83	—	Vacant
Rajasthan			
1. 168-Pindwara Abu (ST)	29.9.82	5.6.83	8-6-
2. 52-Dausa (SC)	9.11.82	5.6.83	6-26-
3. 29-Mandwa	1.9.83	23.12.83	3-22-
Sikkim			
26-Rokdang Tintek (BL)	23.9.82	27.3.83	6-4-
Tamil Nadu			
1. 225-Tiruchandur	26.11.82	1.3.83	3-5-
2. 6-Purasawalkam	18.8.83	}	Vacant
3. 8-Annanagar	18.8.83		
4. 171-Mayuram	11.11.83		
5. 157-Uppiliapuram (ST)	7.12.83		
Tripura			
1. 18-Charilam	12.1.82	The vacancy was not filled as the General Election to constitute the new Legislative Assembly was held on 5.1.1983	—
2. 18-Charilam	7.4.83	13.11.83	7-6-
Uttar Pradesh			
1. 57-Pilibhit	17.12.82	23.12.83	1-0-7-
2. 191-Siswa	14.12.82	23.12.83	1-0-10-
3. 335-Madhogarh	10.5.83	23.12.83	7-14-
4. 318-Tindwari	19.7.83	23.12.83	6-5-
5. 119-Fazil Nagar	28.3.83	23.12.83	8-26-
6. 234-Jakhmia (SC)	29.11.83	—	Vacant

1	2	3	4
West Bengal			
1. 108-Jadavpur	22.1.83	5.6.83	4-14 —
2. 114-Garden Reach	20.2.83	5.6.83	3-13 —
3. 49-Kaliachak	16.8.83	23.12.83	4-8 —
4. 74-Krishnaganj (SC)	27.9.83	23.12.83	2-26 —
5. 165-Shibpur	17.12.83	—	Vacant

Of the 92 vacancies in various Legislative Assemblies, bye-elections were held for filling 37 vacancies. Bye-elections to fill 23 vacancies were not considered necessary as the General Elections to constitute the new Legislative Assemblies of Andhra Pradesh, Karnataka, Tripura, Assam, Meghalaya and Jammu & Kashmir were held in different months of 1983. The remaining 32 vacancies were still existing as on 31.12.1983. The details of these vacancies are given in Appendix X.

The details of the bye-elections held during 1983 are given below in chronological order.

(A) Bye-elections/Countermanded Polls to Legislative Assemblies, February, 1983

Countermanded poll from 144-Madanapalle Assembly constituency in Andhra Pradesh and 157-Tarikere Assembly constituency in Karnataka and bye-elections from 149-Tirupathi, 177-Yemmiganur and 207-Himayatnagar Assembly constituencies in Andhra Pradesh and 93-Chopda constituency in Maharashtra were held in February, 1983. Dates of occurrence of these vacancies and reasons thereof were as under :

Name of Constituency	Date of Vacancy	Cause of Vacancy
Andhra Pradesh		
1. 144-Madanapalle	.. 25.12.82	Death of Shri Sangaraju Nagaseshagiri Rao
2. 149-Tirupathi ..	.. 18.1.83	Resignation of Shri N. T. Rama Rao who was elected from Gudivada constituency also
3. 177-Yemmiganur	.. 17.1.83	Resignation of Shri Vijay Bhaskar Reddy
4. 207-Himayat Nagar	.. 7.1.83	Death of Shri G. Narayan Rao (Goud)
Karnataka		
1. 157-Tarikere ..	.. 24.12.82	Death of Shri H. R. Basavaraju
Maharashtra		
1. 93-Chopda ..	.. 5.12.82	Death of Smt. Patil Sharadchandrika Suresh

The Commission's notifications calling the bye-elections were issued on 28.1.83 and poll was taken on 27.2.83 in Andhra Pradesh and Karnataka, and on 28.2.83 in Maharashtra.

The details regarding number of validly nominated candidates, withdrawals and contesting candidates in respect of these bye-elections were as follows:

Name of Constituency	Number of Candidates		
	Validly nominated	Withdrawal	Contesting
Andhra Pradesh			
144-Madanapalle	11	4	7
149-Tirupathi	23	15	8
177-Yemmiganur	25	17	8
207-Himayat Nagar	35	19	16
Karnataka			
157-Tarikere	50	41	9
Maharashtra			
93-Chopda	11	7	4

The following candidates were declared elected:

Name of Constituency	Name of Candidate	Party
Andhra Pradesh		
144-Madanapalle	Shri Ratagonda Narayana Reddy	Telugu Desam
149-Tirupathi	Dr. Kathula Syamala	Telugu Desam
177-Yemmiganur	Shri B. V. Mohana Reddy	Telugu Desam
207-Himayat Nagar	Shri Ale Narendra	BJP
Karnataka		
157-Tarikere	Dr. H. R. Raju	INC
Maharashtra		
93-Chopda	Dr. Suresh C. Patil	INC

(B) Bye-elections to Legislative Assemblies, March, 1983

In March, 1983, three bye-elections to the Legislative Assemblies were held, from 137-Nemom constituency in Kerala, 26-Rakdong Tintek (BL) constituency in Sikkim and 225-Tiruchendur constituency in Tamil Nadu.

Dates of vacancies and causes thereof were as follows:

Name of Constituency	Date of Vacancy	Cause of Vacancy
Kerala		
137-Nemom	1.6.82	Resignation of Shri K. Karunakaran
Sikkim		
26-Rakdong Tintek (BL) ..	23.9.82	Resignation of Shri Dugo Bhutia
Tamil Nadu		
225-Tiruchendur ..	26.11.82	Death of Shri S. Kesava Athithan

The Commission's notifications calling the bye-elections in Kerala and Tamil Nadu were issued on 28.1.1983 and poll was taken on 1.3.1983 whereas in the case of Sikkim, it was issued on 24.2.1983 and poll was taken on 27.3.1983.

The number of validly nominated candidates, withdrawals and contesting candidates in respect of these bye-elections were as follows:

Name of Constituency	Number of Candidates		
	Validly nominated	Withdrawal	Contesting
Kerala			
137-Nemom	19	4	15
Sikkim			
26-Rakdong Tintek (BL) ..	10	4	6
Tamil Nadu			
225-Tiruchendur ..	41	17	24

The following candidates were declared elected:

Name of Constituency	Name of Candidate	Party
Kerala		
137-Nemom	Shri. V. J. Thankappan	CPM
Sikkim		
26-Rakdong Tintek (BL)	Shri Sonam Ishering Bhutia	INC
Tamil Nadu		
225-Tiruchendur	Shri R. Amirtharaj	ADMK

(C) **Bye-elections to Legislative Assemblies, April, 1983**

During April, 1983, two bye-elections to the Karnataka Legislative Assembly from 27-Yelburga and 91-Kanakapura constituencies and two bye-elections to the Madhya Pradesh Legislative Assembly from 46-Tikamgarh and 258-Shajapur constituencies were held.

Dates of vacancies and causes thereof were as under:

Name of Constituency	Date of Vacancy	Cause of Vacancy
Karnataka		
27-Yelburga	5.2.83	Death of Shri Lingraj Shivashankara Rao Desai
91-Kanakapura	—	Resignation of Shri P. G. R. Sindhia
Madhya Pradesh		
46-Tikamgarh	17.12.82	Death of Shri Sardar Singh
258-Shajapur	10.2.83	Death of Smt. Tarajyoti Sharma

The Commission's notifications calling the bye-elections were issued on 12.4.83 and the poll was taken on 15.5.83.

The number of validly nominated candidates, withdrawals and contesting candidates in respect of these bye-elections were as mentioned below:

Name of Constituency	Number of Candidates		
	Validly nominated	Withdrawal	Contesting
Karnataka			
27-Yelburga	23	15	8
91-Kanakapura	33	20	13
Madhya Pradesh			
46-Tikamgarh	27	19	8
258-Shajapur	26	21	5

The following candidates were declared elected:

Name of Constituency	Name of Candidate	Party
Karnataka		
27-Yelburga	Shri Subhash Chandra Basalingangouda Patil	INC
91-Kanakapura	Shri Ramakrishna Hegde	JNP
Madhya Pradesh		
46-Tikamgarh	Shri Yadevendra Singh alias Jaggu	INC
258-Shajapur	Shri Deep Singh Yadav	INC

(D) **Bye-elections to Legislative Assemblies, June, 1983**

During June 1983, one bye-election each to the Andhra Pradesh Legislative Assembly from 67-Tadepalligudem constituency and to the Bihar Legislative Assembly from 199-Chandi constituency and two bye-elections each to the Rajasthan Legislative Assembly from 52-Dausa (SC) and 168-Pindwara Abu (ST) constituencies and to the West Bengal Legislative Assembly from 108-Jadavpur and 114-Garden Reach constituencies, were held.

Dates of occurrence of vacancies and causes thereof were as under:

Name of Constituency	Date of Vacancy	Cause of Vacancy
Andhra Pradesh		
67-Tadepalligudem	.. 28.3.83	Death of Shri Eli Anjaneyulu
Bihar		
199-Chandi	.. 4.12.82	Death of Shri Ram Raj Prasad Singh
Rajasthan		
52-Dausa (SC)	.. 9.11.82	Death of Shri Sohan Lal Bansawal
168-Pindwara Abu (ST)	.. 29.9.82	Death of Shri Bhura Ram
West Bengal		
108-Jadavpur	.. 22.1.83	Death of Shri Shankar Gupta
114-Garden Reach	.. 20.2.83	Death of Shri Mohd. Shamsuzzoha

The notifications calling the bye-elections were issued on 20.5.83, 6.5.83, 3.5.83 and 3.5.83 in Andhra Pradesh, Bihar, Rajasthan and West Bengal respectively and poll was taken on 5.6.83 in Bihar, Rajasthan and West Bengal and on 19.6.83 in Andhra Pradesh.

The number of validly nominated candidates, withdrawals and contesting candidates in respect of these bye-elections were as mentioned below:

Name of Constituency	Number of Candidates		
	Validly nominated	Withdrawal	Contesting
Andhra Pradesh			
67-Tadepalligudem	.. 10	3	7
Bihar			
199-Chandi	.. 23	11	12
Rajasthan			
52-Dausa (SC)	.. 12	5	7
168-Pindwara Abu (ST)	.. 9	3	6
West Bengal			
108-Jadavpur	.. 2	—	2
114-Garden Reach	.. 10	—	10

The following candidates were declared elected to fill these vacancies:

Name of Constituency	Name of Candidate	Party
Andhra Pradesh		
67-Tadepalligudem	Smt. Eli Varalakshmi	Telugu Desam
Bihar		
199-Chandi	Shri Hari Narain Singh	JNP
Rajasthan		
52-Dausa (SC)	Shri Radhey Shyam Bansawal	BJP
168-Pindwara Abu (ST)	Shri Surma Ram	INC
West Bengal		
108-Jadavpur	Shri Ashok Mitra	CPM
114-Gardan Reach	Shri Fazle Azim Molla	INC

The electronic voting machines were used at the bye-election to the Bihar Legislative Assembly from 199-Chandi constituency.

(E) Bye-election to the Maharashtra Legislative Assembly from 271-Sangli Assembly constituency, July, 1983

Bye-election from 271-Sangli Assembly constituency was caused by the resignation of Smt. Shalinitai Vasantrao Patil on 30th April, 1983.

The Commission's notification calling the bye-election was published on 1.6.83 and the poll was taken on 3.7.1983.

There were fourteen validly nominated candidates in the field. Of these, eight candidates withdraw from the contest leaving six candidates in the field.

Shri Vasantrao Bandoji Patil of Indian National Congress was declared elected.

(F) Bye-elections to Legislative Assembly, October, 1983

Two vacancies had occurred in the Himachal Pradesh Legislative Assembly—one due to the death of Shri Des Raj Mahajan, a member elected from 51-Banikhet constituency on 8.12.1982, and the other because of resignation of Shri Ram Lal of his seat from 4-Jubbal Kotkhai constituency on 14.8.1983.

The Commission's notifications calling the bye-elections were published on 5.9.1983 and the poll was taken on 5.10.1983.

The number of validly nominated candidates, withdrawals and contesting candidates in respect of these two bye-elections were as follows:

Name of Constituency	Number of Candidates		
	Validly nominated	Withdrawal	Contesting
4-Jubbal Kotkhai	5	2	3
51-Banikhet	11	5	6

The following candidates were declared elected:

Name of Constituency	Name of Candidate	Party
4-Jubbal Kotkhai	Shri Virbhadra Singh	INC
51-Banikhet	Shri Kishori Lal	BJP

(G) Bye-elections to Legislative Assemblies, November, 1983

During November, 1983, four bye-elections—two from the State of Andhra Pradesh and one each from the States of Maharashtra and Tripura were held. Name of the constituency, date of vacancy and cause thereof in each case was as under:

Name of Constituency	Date of Vacancy	Cause of Vacancy
Andhra Pradesh		
113-Martur	7.5.1983	Resignation of Shri Gothipati Hanumanth Rao
249-Peddapalli	27.7.1983	Resignation of Shri Gone Prakash Rao
Maharashtra		
265-Patan	23.4.1983	Death of Shri Daulatrao Shripatrao Desai
Tripura		
18-Charilam	7.4.1983	Death of Shri Parimal Saha

The Commission's notifications calling the bye-elections in Andhra Pradesh and Maharashtra were issued on 13.10.1983 and in respect of bye-election from Tripura on 5.10.1983. Poll was taken on 13.11.1983.

The number of validly nominated candidates, withdrawals and contesting candidates at these bye-elections were as mentioned below:

Name of the Constituency	Number of Candidates		
	Validly nominated	Withdrawal	Contesting
Andhra Pradesh			
113-Martur	23	11	12
249-Peddapalli	22	12	10
Maharashtra			
265-Patan	9	7	2
Tripura			
18-Charilam	4	2	2

The following candidates were declared elected to fill these vacancies:

Name of the Constituency	Name of Candidate	Party
Andhra Pradesh		
113-Martur	Shri Venkateswara Rao Daggubati	Telugu Desam
249-Peddapalli	Shri Geeta Mukunda Reddy	INC
Maharashtra		
265-Patan	Shri Patankar Vikramsinh Ranjitsinh	IND
Tripura		
18-Charilam	Shri Mati Lal Saha	INC

USE OF ELECTRONIC VOTING MACHINES

In a meeting convened by the Chief Electoral Officer, Tripura, the representatives of Indian National Congress urged that the voting in the bye-election from 18-Charilam Assembly constituency be held by the Electronic Voting Machines and not by conventional method of voting by ballot papers. The other political parties like Communist Party of India (Marxist) and Revolutionary Socialist Party

assured that they would abide by any system of voting ordered by the Commission. It was heartening for the Commission to note that the Electronic Voting Machines had been so well received by the political parties. In keeping with the request of the political parties, the Commission used Electronic Voting Machines at the bye-election.

The number of polling stations in the Charilam Assembly constituency was 23. By combining some polling stations the requirement of Electronic Voting Machines was brought down to 18. However, the Commission allotted 30 Electronic Voting Machines for the bye-election some of which were kept in reserve.

(H) Bye-elections to Legislative Assemblies, December, 1983

During December, 1983, eleven bye-elections—2 from the State of Bihar, one each from the States of Haryana and Rajasthan, 5 from the State of Uttar Pradesh and two from the State of West Bengal—were held on 23rd December, 1983. Names of constituencies, dates of vacancy and causes thereof were as under:

Name of the Assembly Constituency	Date of Vacancy	Cause of Vacancy
Bihar		
252-Gurua	26.9.1983	Death of Shri Mohd. Shahjahan
174-Banka	21.11.1983	Resignation of Shri Thakur Kamakhya Prasad Singh
Haryana		
78-Fatehabad	18.8.1982	Death of Shri Gobind Rai Batra
Rajasthan		
29-Mandawa	1.9.1983	Death of Shri Lachhram
Uttar Pradesh		
57-Bilibhit	17.2.1982	Death of Shri Charanjeet Singh
191-Siswa	14.12.1982	Death of Shri Yadvendra Singh
199-Fazilnagar	28.3.1983	Death of Shri Khudadin Ansari
335-Madhogarh	10.5.1983	Death of Shri Dalganjan Singh
318-Tindwari	19.7.1983	Resignation of Shri Vishwanath Pratap Singh
West Bengal		
49-Kaliachak	16.8.1983	Death of Shri Promode Ranjan Bose
74-Krishnagan (SC)	27.9.1983	Death of Shri Nanendra Nath Biswas

The Commission's notifications calling the bye-elections were published on 23.11.1983 and poll was held on 23.12.1983.

The number of validly nominated candidates, withdrawals and contesting candidates at these bye-elections were as mentioned below:

Name of the Constituency	Number of Candidates		
	Validly nominated	Withdrawal	Contesting
1	2	3	4
Bihar			
252-Gurua	14	7	7
174-Banka	12	3	9
Haryana			
78-Fatehabad	21	16	5
Rajasthan			
29-Mandwa	13	6	7
Uttar Pradesh			
57-Pilibhit	31	18	13
191-Siswa	16	9	7
199-Fazilnagar	26	14	12
335-Madhogarh	21	9	12
318-Tindwari	14	7	7
West Bengal			
49-Kaliachak	5	2	3
74-Krishnagar (SC)	4	—	4

The following candidates were declared elected to fill the vacancies.

Name of the Constituency	Name of Candidate	Party
Bihar		
252-Gurua	Shri Mohd. Khan Ali	INC
174-Banka	Shri Chandrashekhar Singh	INC
Haryana		
78-Fatehabad	Ch. Lila Krishan	INC
Rajasthan		
29-Mandawa	Shri Ram Narain Chaudhary	INC
Uttar Pradesh		
57-Pilibhit	Shri Riaz Ahmed	IND
191-Siswa	Shri Shivendra Singh alias Shiv Babu	INC
199-Fazilnagar	Shri Vishwanath	LKD
335-Madhogarh	Shri Jitendra Shah	LKD
318-Tindwari	Shri Chandra Ban Singh	INC
West Bengal		
49-Kaliachak	Shri Ahmed Samsuddin	INC
74-Krishnagang (SC)	Shri Ananda Mohan Biswas	INC

(iii) Bye-elections to the Legislative Assemblies of Union Territories, April, 1983

On 1st January, 1983 there was one vacancy in the Legislative Assembly of Mizoram. During the course of the year, a vacancy occurred in the Legislative Assembly of Arunachal Pradesh. Names of constituencies, dates of vacancies and causes thereof were as under:

Name of the Union Territory & Constituency	Date of Vacancy	Cause of Vacancy
Mizoram		
22-Phuldungsei	16.6.1982	Death of Shri R. Zadinga
Arunachal Pradesh		
22-Roing	12.1.1983	Death of Shri Akenlyo

The Commission's notification calling the bye-election in Mizoram was issued on 8.3.1983 and in Arunachal Pradesh on 28.3.1983 and the poll was taken on 8.4.1983 and 29.4.1983 respectively.

The details regarding number of validly nominated candidates, withdrawals and contesting candidates, in respect of these bye-elections were as follows:

Name of the Constituency	Number of Candidate		
	Validly nominated	Withdrawal	Contesting
Arunachal Pradesh			
22-Roing Assembly constituency	5	1	4
Mizoram			
22-Phuldungsei Assembly constituency	5	1	4

The following candidates were declared elected:

Name of the Constituency	Name of Candidate	Party
Arunachal Pradesh		
22-Roing Assembly constituency	Shri Mukut Mithi	IND
Mizoram		
22-Phuldungsei Assembly constituency	Shri Liansuama	INC

Detailed results of the 37 bye-elections and two counter-manded elections held during the year are furnished in Appendix XI (Serial Nos. 1 to 16).

There was no vacancy existing as on 31.12.1983 in the Legislative Assemblies of Union Territories and the Delhi Metropolitan Council.

(iv) Complaints Received regarding Conduct of Bye-elections and Action thereon

During the year 1983, in all 173 complaints were received in the Commission regarding conduct of bye-elections. Most of these complaints related to the alleged misuse of official machinery, booth capturing and intimidation, harassment of party workers and voters, maintenance of law and order etc. The complaints excepting those pertaining to law and order were forwarded to the Chief Electoral Officers of the concerned States/Union Territories. Complaints in regard to law and order were forwarded to the Chief Secretaries of the concerned States/Union Territories for making enquiries and sending their reports to the Commission. The number of such complaints was as follows: Andhra Pradesh 3, Bihar 21, Gujarat 4, Haryana 11, Himachal Pradesh 6, Karnataka 24, Kerala 8, Madhya Pradesh 2, Maharashtra 2, Tamil Nadu 40, Uttar Pradesh 45, West Bengal 7.

CHAPTER VI

ELECTIONS TO THE COUNCIL OF STATES AND STATE LEGISLATIVE COUNCILS

(I) **Biennial Elections to Council of States** (Rajya Sabha)

In 1983, biennial elections to the Council of States to fill the seats due to the retirement of members from the following States and Union Territories were required to be held:

- | | | |
|-----------------|----|--|
| (1) Assam | .. | Two members retired on 2.4.1982 |
| (2) Tamil Nadu | .. | Six members retired on 24.7.1983 |
| (3) Delhi | .. | One member retired on 15.4.1980
and another on 2.4.1982 |
| (4) Pondicherry | .. | One member retired on 27.7.1983 |

It was not possible to hold the biennial election to fill the vacancy from Pondicherry as the Legislative Assembly of Pondicherry was dissolved on 23.6.83.

(i) **Assam**

On the recommendation of the Commission, the President issued a notification on 10.3.1982 under section 12 of the Representation of the People Act, 1951 calling upon the elected members of the Assam Legislative Assembly to elect 2 members to fill seats in the Council of States of the retiring members. On the same day, the Commission's notifications under sections 39 and 56 of the said Act, fixing programme for the biennial election were issued. The programme was as under:

- | | | | |
|-------------------------------------|----|----|-------------------------------|
| 1. Last date for making nominations | .. | .. | 17.3.1982 |
| 2. Scrutiny of nominations | .. | .. | 18.3.1982 |
| 3. Withdrawal of candidatures | .. | .. | 20.3.1982 |
| 4. Date of poll, if necessary | .. | .. | 27.3.1982 |
| 5. Date of completion | .. | .. | 30.3.1982 |
| 6. Hours of poll | .. | .. | 10.00 a.m.
to
2.00 p.m. |

On 19.3.1982, under article 356 of the Constitution, the President dissolved the Assam Legislative Assembly and brought the State under President's rule. This affected the process of the biennial election which had by then proceeded up to the stage of withdrawal of candidatures.

As the poll could not be taken on 27.3.1982, due to the non-existence of the electoral college, the Commission issued a notification on 26.3.1982 under article 324 of the Constitution, section 153 read with section 39 of the Representation of

the People Act, 1951 and section 21 of the General Clauses Act, 1897 (10 of 1897) and all other powers enabling it in that behalf, postponing the date of poll and extending the date of completion of this election, to the dates to be notified later after the due constitution of the Legislative Assembly of Assam.

After the Legislative Assembly had again been constituted on the basis of the General Election held in February, 1983, the Commission sought certain clarifications and legal opinion from the Attorney-General of India, namely:

- (i) Whether the notification issued earlier under section 39 of the Representation of the People Act, 1951 as amended under section 153 of the Act, still held good when the entire House (which was the electoral college) had been reconstituted and its composition changed or it became infructuous?
- (ii) What would be the legal effect on the interrupted process of the election of the proposer to the candidature of a person whose nomination paper had been accepted by the Returning Officer as valid on the date fixed for scrutiny of nominations ceased to be a member in the newly constituted Legislative Assembly?
- (iii) Whether the elected members of the newly constituted Assembly who constituted the new electoral college had only the limited right to exercise their vote to elect members to the Council of States out of the contesting candidates in the field without the right of proposing candidates afresh having regard to the changed political composition of the Legislative Assembly?
- (iv) For the reason that there would not have been any contested election if in the field only two contesting candidates remained, whether the position would change the subsequent stage on account of non-existence of the Legislative Assembly which became relevant only in relation to the poll at a contested election?
- (v) Whether it was open to the Election Commission to cancel the entire process of election on the 19th March, 1982 when the President's proclamation under article 356 was issued without the cancellation under section 12 of the Representation of the People Act, 1951 calling upon the elected members of the Legislative Assembly of Assam to elect members?
- (vi) Whether in any event it would not be premature to hold the election to the Council of States when the General Election held for the purpose of constituting a new Legislative Assembly had not been completed yet in all respects for the reason that the poll in 17 Assembly constituencies had to be adjourned; and
- (vii) Generally.

The Attorney-General gave his opinion on 23 March, 1983 "that on principle the process of election has got to start *denovo*". In support of this conclusion, the Attorney-General stated that the process of election to ensure fundamental principles of democracy was intended to reflect the choice of citizens through the medium of their representatives in the Legislative Assemblies, that the present composition of the elected members of the Assembly vitally differed from the opinion and choice as reflected in the earlier election, that if the choice of the present members of the Assembly was, limited to the old candidates, the most likely consequence would be that the selection would not in all probability reflect either the choice of the electors or the choice of the people and that the power of the Election Commission to postpone the process of election did not include the power to postpone it indefinitely and to complete it in completely changed complexion of the electors.

After obtaining the opinion of the Attorney-General, the Commission held the biennial election afresh according to the following programme:

(a)	Issue of notification under section 39(1) of the R.P. Act, 1951	21.5.1983
(b)	Last date for making nominations	28.5.1983
(c)	Date for the scrutiny of nominations	30.5.1983
(d)	Date for the withdrawal of candidatures	1.6.1983
(e)	Date on which a poll, shall, if necessary, be taken	8.6.1983
(f)	Date of completion	10.6.1983

As only two candidates were in the field namely S/Shri Dharanidhar Basumatari and Baharul Islam, the election was uncontested. The Returning Officer declared both the candidates as elected to fill the two seats in the Council of States from the State of Assam.

As required by section 71 of the Representation of the People Act, 1951, after the biennial election was held, a notification was issued by the Ministry of Law, Justice and Company Affairs, New Delhi on the 15th June, 1983 published in the Gazette of India, S.O. No. 432(E), dated 15.6.1983. In terms of sections 154 & 155 of the Representation of the People Act, 1951, the six-year term of the two members elected in the biennial election commenced on 15 June, 1983.

The anomalous position flowing from the legal provisions of sections 154 and 155 as applied to cases of vacancies which could not be filled on due dates i.e. before 2 April, 1982 and which disturbed the cycle of retirement of 1/3 of members on every second year will be apparent from the above case. In order to overcome such situations, the Commission has recommended to the Government that the law should be suitably amended to provide that if for any reason vacancies arising due to the retirement of members could not be filled on due dates, the member or members to be elected at the biennial election subsequently held should serve only for the remainder of the period of six years.

(ii) Tamil Nadu

On the recommendation of the Commission, the President issued a notification under section 12 of the Representation of the People Act, 1951, on 4.7.1983 calling

upon the elected members of the Legislative Assembly of Tamil Nadu, to elect six members for filling the seats of such of the members of the Council of States as were due to retire on the 24th July, 1983, on the expiration of their term of office. On the same day the Commission also issued the following programme for holding the biennial elections:

(a)	Issue of notification under section 39(1) of the R.P. Act, 1951	..	..	..	4.7.1983
(b)	Last date for making nominations	..	..	..	11.7.1983
(c)	Scrutiny of nominations	..	..	..	12.7.1983
(d)	Withdrawal of candidatures	..	..	..	14.7.1983
(e)	Date of poll, if necessary	..	..	..	22.7.1983
(f)	Completion	..	..	..	25.8.1983
(g)	Hours of poll	..	..	..	10.00 a.m. to 2.00 p.m.

Later on, in view of the declaration of public holiday due to Ramzan on 12.7.1983 by the State Government, the date of scrutiny of nominations and the last date for withdrawal of candidatures were fixed as 13th July, 1983 and 15th July, 1983 respectively. There were 7 contesting candidates at this election, namely:

1. Shri Aladi Aruna alias V. Arunachalam
2. Shri G. Karuppiaya Mooppanar
3. Shri M. Kadnarsha
4. Shri Era Sambasivam
5. Shri Murasoli Maran
6. Shri G. Varadarasu
7. Shri P. Ramamurthy

The poll was held on 22nd July, 1983 as scheduled. The following candidates were declared elected:

1. Shri Aladi Aruna alias V. Arunachalam
 2. Shri G. Karuppiaya Mooppanar
 3. Shri M. Kadnarsha
 4. Shri Era Sambasivam
 5. Shri Murasoli Maran
 6. Shri G. Varadarasu
- Shri P. Ramamurthy lost the election

Under section 71 of the Representation of the People Act, 1951 a notification was published in the Gazette of India dated the 25th July, 1983 bearing S.O. No. 522(E), containing the names of the above six elected candidates.

(iii) Delhi

There were two vacancies in the Council of States from Delhi—one arose on 15.4.1980 and another on 2.4.1982.

On 26.2.1980 the Commission recommended to the Central Government that the President's notification under section 12 of the Representation of the People Act, 1951 to fill the vacancy that was to arise on 15.4.1980 might be issued on 18.3.1980. Before the notification could be issued, the Commission withdrew it on 17.3.1980 as it was reconsidering the programme of the election. Meanwhile, the Delhi Metropolitan Council was dissolved on 21.3.80 and the notification could not be issued.

Shri Inder Mohan Bhardwaj, a member of Delhi Metropolitan Council, which was dissolved on 21st March, 1980, filed a Civil Writ Petition before the Delhi High Court challenging the Commission's actions in so far as the same related to fixing a programme initially for holding the biennial election to the Council of States from Delhi and subsequently withholding the said elections. He alleged that the Commission acting hand-in-glove with some political party, was keen to deprive its opponents of their democratic rights to elect one of them to the Council of States from Delhi. The petitioner also challenged the dissolution of the Delhi Metropolitan Council by the President as malafide. The High Court by its judgement dated 25.4.1980 dismissed the writ petition *in limine*. The Court held that the question raised in the petition was not justiciable as the dissolution of the Council was a political question which was beyond the reach of the Court.

Shri Inder Mohan Bhardwaj went in appeal to the Supreme Court against the judgement of Delhi High Court dismissing the aforesaid writ petition. The Supreme Court dismissed the appeal as infuctuous vide its judgement dated 22.4.83.

One more vacancy arose on 2.4.1982 due to the retirement of another member. This vacancy (as well as the one which arose on 15.4.1980) could not be filled as the Delhi Metropolitan Council whose members constitute the electoral college for this election continued to be dissolved till 7.2.1983.

After the Delhi Metropolitan Council was reconstituted on 8.2.83 after a General election, the Commission decided to hold the biennial elections to fill these two seats. The Commission wrote to the Chief Electoral Officer on 15.2.83 to suggest a suitable programme after consulting the Delhi Administration for holding biennial elections keeping in view the session of Delhi Metropolitan Council. When no programme was forthcoming in spite of repeated reminders, the Commission had to fix the programme unilaterally.

On the recommendations of the Election Commission, the President issued two separate notification under section 12 of the Representation of the People Act, 1951, to fill the two seats treating them as two separate elections. However, a common programme was fixed by the Commission for both the elections for all the stages of the election. The common programme was as under:

(a) Issue of notification under section 39(1) of the R. P. Act, 1951	1.11.1983
(b) Last date for making nominations	8.11.1983
(c) Date for scrutiny of nominations	9.11.1983
(d) Last date for withdrawal of candidatures	11.11.1983
(e) Date of poll, if necessary	18.11.1983
(f) Date of completion	21.11.1983

The decision of the Commission to fill the two vacancies through two separate biennial elections was questioned before the Commission by Shri Shanti Bhushan, Senior Advocate of the Supreme Court and a member of the Bharatiya Janta Party. He contended that both the vacancies were regular vacancies which arose on the completion of the full term of Rajya Sabha members and neither of them was a casual vacancy to be filled under section 147 of the Representation of the People Act, 1951. He further urged that the two vacancies could only be filled in accordance with the system of proportional representation by means of the single transferable vote in which case one of the two vacancies could go to the Bharatiya Janata Party. The Commission heard the parties concerned on 14th and 15th November, 1983. Bharatiya Janata Party and Indian National Congress were represented by their Counsels at these hearings. The Commission after the hearing gave a speaking order on 16.11.1983. According to this order, the two vacancies were to be treated as separate vacancies. Relevant portions of the formal order of the Commission are excerpted as under:

“The Rajya Sabha was first constituted on 3rd April, 1952 on the basis of the seats assigned to various States as shown in the Fourth Schedule of the Constitution. Under section 154(2) of the Representation of the People Act, 1951, as it stood then, the President, after consultation with the Election Commission made the Order known as ‘Council of States (Term of Office of Members) Order, 1952,’ curtailing the term of office of some of the members then chosen in order that as nearly as 1/3 of the members holding seats of each class shall retire in every second year. This was done by drawing of lots. That order provided that the term of office of a member would expire on 2.4.1958; 2.4.1956; 2.4.1954, according as a member would be placed in the first, second or third category. The names of the members to be placed in each category were determined by the Election Commission by drawing of lots in public after public notice on 29th November, 1952. Thus, by the above process, it was ensured that as nearly as possible, 1/3 of the members of the Council of States would retire on 2nd day of April, every second year and would be replaced by new members elected in their place. The election held every second year to elect new members to replace the outgoing members is called ‘Biennial Election’. Specific provisions existed in the law for the determination of the term of the members and placing them in 3 different categories.

More or less, the same procedure has been followed, subsequently whenever necessity arose on account of reorganisation of States and Union Territories like Re-organisation of States in 1956; Bombay State Re-organisation in 1960 and Punjab State Re-organisation in 1966 etc.—vide sections 24 to 26 of the States Re-Organisation Act, 1956 (37 of 1956); sections 7 to 9 of the Bombay Re-organisation Act, 1960 (No. 11 of 1960); sections 9 to 11 of the Punjab Re-organisation Act, 1966 (31 of 1966) etc. In this connection, reference can also be made to section 12(2) of the Representation of the People Act, 1951, as it stood originally. The references to these provisions are being made for the purpose of pointing out that whenever addition of seats or transfer of seats had taken place due to re-organisations, specific provisions were inserted in the law for not only prescribing the method of election, but also for the fixing

of the term of the members elected at the election. In fact, section 12(2) referred to above laid down that "for the purpose of filling the seats of the members retiring *on the expiration of their respective term of office* in every second year in the Council of States, the President by a notification in the Gazette of India calls upon the elected members to elect members in accordance with the provisions of the Act and of the rules and orders made thereunder". No discretion is allowed to any authority in the matter on any account in this regard.

There are 3 seats assigned to the Union Territory of Delhi in the Rajya Sabha. The elected members of the Metropolitan Council of Delhi constitute the electoral college for the election to the Rajya Sabha. The members elected to the three seats were made to retire on the previous occasions in 1980, 1982 and 1984 thereby assuring the retirement of a member at the end of every second year. The Metropolitan Council was dissolved in March, 1980 and was reconstituted in February, 1983. For this reason, two seats were lying vacant from the two different dates—one from 15.4.80 and the other from 2.4.82.

The seats now vacant were originally filled through two separate biennial elections. The notifications were issued by the President in 1974 and 1976 under section 12 of the Representation of the People Act, 1951 calling upon the electoral college in the Union Territory of Delhi to elect *a member* to fill the seat in the Council of States retiring on the expiration of his term of office. After the completion of each of these elections held in those years, under section 71 of the Act, their names were notified by the Central Government which becomes relevant for the purpose of reckoning the period of 6 years' term of a member as contemplated in section 155 of the Representation of the People Act, 1951. It is true that the two seats which are now being filled are not casual vacancies and the term of members elected would be 6 years. But the two elections are to be treated as falling in different categories for the reason that one vacancy arose in 1980 and another in 1982 and the members were earlier elected in 1974 and 1976 separately. The subsequent events creating the disability to hold the elections before the retirement of those members has no effect whatsoever of changing the original character of the seats being in two different categories in which these two seats fell. If each of the two vacancies had been filled on the due date the contention of Shri Shanti Bhushan would have no basis as they have been held separately for one seat on each occasion. Therefore, the supervening events which had the effect of deferment of the conduct of the election and for which no separate specific provision exists in the law, cannot change the different character of category of the seats acquired by them earlier. The position that existed at the time of occurrence of the vacancy should be the guiding factor for holding the election and not the date on which the election is ordered. It is another matter altogether that the term of 6 years is to be assigned to the members to be elected now by reason of the specific provision in section 154(1) of the Representation of the People Act, 1951 because they are not casual vacancies but vacancies to be filled in terms of sections 12 and 71 of the Representation of the People Act, 1951.

From the above discussions, the following basic concepts emerge which should be the guiding factor in dealing with cases of the present nature:

- (a) If, at the time of initial constitution of the House through an election, the members elected are placed in different categories by virtue of the operation of the specific provision in the law, each category assumes a different character and as such should be dealt with separately unless specific provision to the contrary is available in the law.
- (b) If the earlier biennial elections are held separately on two different biennial election years, the vacancies arising as a result of the retirement of the members elected on those biennial elections should be treated separately.
- (c) If the retirement of the members elected at a biennial election takes place on the same day by virtue of the operation of section 155 read with section 71 of the Representation of the People Act, 1951, then these seats should be filled together.
- (d) Whenever the vacancies are filled differently departing from the above concepts, specific provisions existed in the statutes themselves.
- (e) If the vacancies are to be combined together and a single election is to be held to fill those vacancies, there has been and should always be the application of principle of rotation of seats assigning different terms of office by existence of specific provisions in the law.

By the application of these concepts, in my view, these elections should be held separately. The contention that the basic constitutional scheme of proportional representation is violated in the case is not correct.

The proportional representation really points to the method of election. What is really intended by the system is to give the choice, to each elector, of as many preferences as there are candidates in the field so that members of the electoral college can have free and full choice as against simple majority system restricting their choice to one of the contesting candidates. In fact, neither the Constitution nor the relevant provisions of the Election Law makes any mention of political party for purposes of elections to the Rajya Sabha.

The system of proportional representation is not violated if only one seat has to be filled. In fact, the system will work equally effectively even if one seat is to be filled either through biennial election or bye-election to fill a casual vacancy. In fact, the same system is followed, as pointed out above, for the election to the office of the President and Vice-President to elect only one incumbent.

There is also no judicial decision to support the contention of Shri Shanti Bhushan. On the other hand the decision of the Bombay High Court in *S. M. Joshi Vs. R. P. Nathoji* (1957-13 ELR 430) seems to support the above view, even though the case related to the question of holding elections to casual vacancies.

If the vacancies in the Rajya Sabha are of different categories, those vacancies

should be filled separately like a casual vacancy and there is no compulsion, legal or otherwise, to hold them together to avoid certain assumption of disadvantages to minority elements in the electoral college.

One interesting legal issue urged by Shri Shanti Bhushan requires serious consideration. He posed the question as to what the effect would be, of filling up of the two vacancies now by election of two members who would retire together on the same time in 1989. It, no doubt, admits of different views. Incidentally, it would bring about the disturbance in the cycle of retirement as contemplated in article 83(1) of the Constitution which says that as nearly as possible, 1/3rd of the members of the Council of States shall retire on the expiration of every second year. Section 154 of the Representation of the People Act, 1951 which lays down a term of 6 years in cases of present nature would be in direct conflict with the Constitutional provision as contained under article 83(1) of the Constitution.

In fact, the cycle of retirement at the end of every second year is already broken not only in relation to the seats in the Council of States assigned to the various States and Union Territories but also seats in the Legislative Councils in the six States which have such a Legislative Council. The Commission is already alive to this situation and has in fact, urged, on different occasions on the Central Government, that the law should be amended in such a manner that if the elections are not held on the due date by virtue of non-existence of the electoral college or otherwise, the member to be elected later should serve only for the remainder of the 6 years period and not for the full period of six years as now allowed under the law. The Commission would, therefore, take this opportunity to reiterate that to avoid the anomalous situation pointed out by Shri Shanti Bhushan of more than 1/3rd members retiring on the same day, legislative measures should be forthwith taken to set it right by minor amendments of sections 154 and 155 of the Act. In any case, such a legislation is called for, in the case of two seats now being filled in the case of the Union Territory of Delhi as otherwise, the anomalous situation might be perpetuated even beyond 1989 in contravention of the provisions of the Constitution. In the view taken on the merits of the present case, there is no need for interference by the Commission at this stage in the conduct of elections to Rajya Sabha from the Union Territory of Delhi which is already in progress and it shall proceed as stipulated under the notification."

The Commission, therefore, held that there was no need for interference by the Commission at that stage in the conduct of elections to Rajya Sabha from the Union Territory of Delhi which was already in progress and it should proceed as stipulated under the notification.

The poll was taken according to the programme notified by the Commission, and the following persons were elected to fill the two seats in the Rajya Sabha from the Union Territory of Delhi:

1. Shri Shamim Ahmed
2. Shri Laxmi Narain

Two separate gazette notifications under section 71 of the Representation of the People Act, 1951 issued by the Ministry of Law were published in the gazettes of India dated 21.11.83 as S.O. Nos. 847(E) and 848(E).

(ii) Bye-elections to Rajya Sabha

Following vacancies occurred in the Rajya Sabha on various dates due to the death/resignation of the members in 1982-83:

Name of the State	Name of the Member	Cause of Vacancy	Date of Vacancy
1. Tamil Nadu	Sh. R. Mohanarangam	Disqualified under Art. 103 of the Constitution by the President on 8.9.82 on the ground that he was holding an office of profit by virtue of his position as special representative of the Tamil Nadu Govt. at Delhi	8.9.82
2. Haryana	Sh. Sujan Singh	Resignation	31.12.82
3. Gujarat	Sh. Piloo Modi	Death	29.1.83
4. Bihar	Sh. A. P. Sharma	Resignation	19.2.83
5. Karnataka	Sh. Ramakrishna Hegde	Resignation	23.5.83
6. Uttar Pradesh	Sh. Bishambhar Nath Pandey	Resignation	29.6.83
7. Maharashtra	Sh. Sadashiv Bagaitkar	Death	5.12.83

Bye-elections to fill the casual vacancies mentioned above were held except for the seat rendered vacant by the death of Shri Sadashiv Bagaitkar. In this case, it was observed that the term of the member would have expired on 2.4.1984 but for his death and as the vacancy was available for a short period, the Commission did not consider necessary to fill the same.

Tamil Nadu

The Commission fixed a programme for holding the bye-election as under:

- (a) Issue of notification under section 147(1) of the R. P. Act, 1951 .. 21.1.1983
- (b) Last date for making nominations 28.1.1983
- (c) Scrutiny of nominations 29.1.1983
- (d) Last date for the withdrawal of candidatures 31.1.1983
- (e) Date on which a poll was, if necessary, to be taken; and .. 7.2.1983
- (f) Date before which the election was to be completed .. 11.2.1983

In the above bye-election only one nomination paper from Shri R. Mohanarangam was filed for contesting the election. On scrutiny his nomination paper was found valid. He was elected to fill the casual vacancy which incidentally was caused by his own disqualification.

Haryana

The following programme was fixed for holding bye-elections:

(a) Issue of notification under section 147(1) of the R. P. Act, 1951	.. .. .	19.2.83
(b) Last date for making nominations	.. .. .	26.2.83
(c) Date for scrutiny of nominations	.. .. .	28.2.83
		(27.2.83 being Sunday)
(d) Last date for the withdrawal of candidatures	.. .. .	2.3.83
(e) Date on which a poll was, if necessary, to be taken	.. .. .	9.3.83
(f) Date before which the election was to be completed	.. .. .	11.3.83

The following candidates contested the election:

1. Charan Lal Luthra
2. Chand Ram
3. Narsi
4. Phul Chand

Shri Chand Ram was duly elected to fill the casual vacancy.

Gujarat

The programme fixed for this bye-election was as under:

(a) Issue of notification under section 147(1) of the R. P. Act, 1951	.. .. .	7.3.83
(b) Last date for making nominations	.. .. .	14.3.83
(c) Date for the scrutiny of nominations	.. .. .	15.3.83
(d) Last date for withdrawal of candidatures	.. .. .	17.3.83
(e) Date on which a poll was, if necessary, to be taken	.. .. .	25.3.83
(f) Date before which the election was to be completed	.. .. .	31.3.83

There was only one candidate namely Shri Mirza Irshadbaig Aiyubbaig in the field and he was declared elected uncontested.

Bihar

The Commission decided to hold the bye-election to fill the vacancy according to the following programme:

(a) Issue of notification under section 147(1) of the R. P. Act, 1951	17.3.83
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(b) Last date for making nominations	24.3.83
(c) Date for the scrutiny of nominations	25.3.83
(d) Last date for withdrawal of candidatures	..	..	..	*31.3.83
(e) Date on which a poll was, if necessary, to be taken	..	..	..	8.4.83
(f) Date before which the election was to be completed	..	..	..	11.4.83

Only Shri Chandan K. Bagchi filed his nomination paper for the above election which was found valid. He was declared elected uncontested under sub-section (2) of section 53 of the Representation of the People Act, 1951 on 31.3.1983.

Karnataka

The following programme was fixed for holding bye-election:

(a) Issue of notification under section 147(1) of the R. P. Act, 1951	..	..	..	16.8.1983
(b) Last date for making nominations	..	..	..	23.8.1983
(c) Scrutiny of nominations	..	..	..	24.8.1983
(d) Withdrawal of candidatures	..	..	..	26.8.1983
(e) Date on which a poll was, if necessary, to be taken	..	..	..	2.9.1983
(f) Date before which the election was to be completed	..	..	..	5.9.1983

The following candidates contested the election:

1. Smt. Mahishi Sarojini Bindurao
2. H. Veerabhadraiah
3. T. D. R. Harishchandra

Smt. Mahishi Sarojini Bindurao was declared elected to fill the seat.

Uttar Pradesh

The following programme was approved for this bye-election:

(a) Issue of notification under section 147(1) of the R. P. Act, 1951	..	..	..	6.7.1983
(b) Last date for making nominations	..	..	..	13.7.1983
(c) Date for scrutiny of nominations	..	..	..	14.7.1983
(d) Last date for withdrawal of candidatures	..	..	..	16.7.1983
(e) Date on which a poll was, if necessary, to be taken	..	..	..	23.7.1983
(f) Date before which the election was to be completed	..	..	..	25.7.1983

Only one candidate filed his nomination viz. Shri Vishwanath Pratap Singh. He was accordingly declared elected unopposed.

*Gap between date of scrutiny of nominations and last date for withdrawal of candidatures was due to Holi Festival between 27.3.83 and 30.3.83.

(iii) Biennial Elections to Legislative Councils

(a) Biennial Election to the Tamil Nadu Legislative Council by the members of the Tamil Nadu Legislative Assembly

In 1983, seven members of the Tamil Nadu Legislative Council elected by the members of the State Legislative Assembly were due to retire on 2.8.1983 on the expiry of their term of office. The Governor of Tamil Nadu, therefore, by a notification dated 4.7.1983 called upon the members of the State Legislative Assembly to elect seven members to the Legislative Council.

The Election Commission fixed the following programme to hold the election.

(1) Last date for making nominations	..	..	11.7.1983 (Monday)
(2) Date for the scrutiny of nominations	..	..	12.7.1983 (Tuesday)
(3) Last date for the withdrawal of candidatures	..	..	14.7.1983 (Thursday)
(4) Date of poll, if necessary	..	..	21.7.1983 (Thursday)
(5) Date before which the election was to be completed	..	..	25.7.1983 (Monday)
Hours of poll	..	..	10.00 a.m. to 2.00 p.m.

Only seven candidates filed their nominations and these were found valid on scrutiny. No one withdrew from the contest. Since there were seven candidates for seven seats, all were declared elected unopposed. The names of the candidates who were declared elected were:

1. Shri S. Raghavanandam
2. Shri K. Kalaimani
3. Shri S. J. Sadiq Basha
4. Shri M. P. Subramanyam
5. Shri P. Manickam
6. Shri Y. S. M. Yusuff
7. Shri R. M. Veerappan

The notification under section 74 of the Representation of the People Act, 1951 was published in the official gazette of the State on 2.8.83. Therefore, the terms of these members will expire on 1.8.89.

(b) Pending Biennial Elections to the Legislative Councils

At the end of 1983, one hundred and thirtyfour (134) seats (excluding casual vacancies) in the Legislative Councils of various States were lying vacant consequent on the retirement of the members on expiration of their term of office. Barring ten vacancies from Graduates' and Teachers' constituencies the other vacancies were from Local Authorities' constituencies.

The details of these vacancies are furnished in Annexure XII.

The reasons for which the biennial elections to fill these vacancies could not be held are explained below, but the Commission has been quite concerned about the non-filling of a large number of seats to represent the local bodies just because the electoral college itself was non-existent in many States for long periods. The Commission considers reactivation of democratic local bodies essential for the system itself and therefore has written to the State Govts. to expedite elections to all the electoral colleges which has been given the constitutional right to be represented in the Upper Houses concerned.

Andhra Pradesh

Reconstitution of the Hyderabad Municipal Corporation (the members of which constitute the electorate) is awaited.

Bihar

The elections to Bihar Legislative Council from the Local Authorities' constituencies to fill the vacancies which arose in 1978, 1980 and 1982 could not be held because the local bodies comprising the Local Authorities' constituencies were not in existence. Meanwhile the work of delimiting the constituencies of Local Authorities was undertaken and completed by June, 1983. Thereafter, the work of collating the electoral rolls of redelimited Local Authorities' constituencies has been undertaken.

The vacancies arising in Legislative Council in 1982 from the Graduates' and Teachers' constituencies could not be filled as the work of delimiting the constituencies was undertaken and that work was completed by June, 1983. Thereafter the revision of electoral rolls with 1.11.83 as the qualifying date was undertaken.

Karnataka

From 1978, the Commission could not conduct the elections to Legislative Council from Local Authorities because of the filing of 42 writ petitions in the High Court challenging the holding of elections to local bodies by the State Govt. Thereafter, the Commission fixed the 15th November, 1980 as the last target date by which the elections to the component units of local authorities were to be completed. But even then the State Government could not conduct the elections to local bodies before the stipulated date. The local bodies could not be constituted in full even now. The Chief Electoral Officer has been asked to furnish the total number of seats in each Local Authorities' constituency, those in position and the number of vacant seats to enable the Commission to take a decision for holding elections to these constituencies at the earliest.

Maharashtra

The Chief Electoral Officer had informed the Commission that the period for holding the General elections of 186 Municipal Councils, which constitute the electoral college for biennial elections to Legislative Council, has been extended up to

31st March, 1984. The process of holding elections to the Legislative Council can be initiated only thereafter.

Tamil Nadu

The elections could not be held as the local bodies were not in existence for quite some time. Meanwhile a writ petition was filed by various individuals against reservation of the offices of the Presidents of the Panchayats and the Chairmen of the Panchayat Union Councils for Scheduled Castes and Scheduled Tribes and women as well. These notifications were quashed by the High Court of Tamil Nadu. A civil appeal was filed before the Supreme Court against the judgement of High Court. After the Supreme Court had disposed of the appeal, the State Govt. decided to hold elections to all Panchayats, Panchayat Union Councils and Municipalities only in February, 1984. Consequently elections to fill the vacant seats in the Legislative Council could not be held.

Uttar Pradesh

The elections could not be held as all the components of local bodies had not been constituted and even now the Constitution of Urban Local Bodies has not been completed.

As regards Teachers' and Graduates' constituencies, the electoral rolls with 1.11.83 as the qualifying date have been published and the Chief Electoral Officer has been requested to send the programme for holding these elections.

(iv) Bye-election to Legislative Councils

(a) Tamil Nadu

A vacancy arose in the Tamil Nadu Legislative Council on 25.1.1983 due to the resignation of Shri P. U. Shanmugham who had been elected to that Council by members of the Legislative Assembly at a bye-election held in January, 1981. But for the resignation, the term of this member would have in the ordinary course expired on 20.4.84.

The Commission fixed the following programme for holding the bye-election:

Date of notification	16.2.83 (Wednesday)
Last date for nominations	23.2.83 (Wednesday)
Date for scrutiny	24.2.83 (Thursday)
Last date for withdrawals	26.2.83 (Saturday)
Date of poll, if necessary	7.3.83 (Monday)
Date before which election was to be completed	10.3.83 (Thursday)

After the last date for withdrawals, there was only one candidate in the field viz. Sh. Valampuri John and he was declared elected.

(b) *Uttar Pradesh*

Two vacancies arose in the Uttar Pradesh Legislative Council due to the death of two members viz. Sh. Ravindra Kishore Shahi and Dr. Ram Chandra Shukla on 18.10.82 and 5.11.82 respectively. Both these members had been elected to that House by members of the Legislative Assembly. The terms of these members but for their death would have normally expired on 5.5.84 and 5.5.88 respectively.

The Commission fixed the following programme for holding these two bye-elections:

Date of notification	24.1.83 (Monday)
Last date for nominations	31.1.83 (Monday)
Date for scrutiny	1.2.83 (Tuesday)
Last date for withdrawals	3.2.83 (Thursday)
Date of poll, if necessary	14.2.83 (Monday)
Date before which election was to be completed	18.2.83 (Friday)

After the date for scrutiny, there were two validly nominated candidates in respect of each of these seats. There were no withdrawals.

The poll was held as scheduled. Shri Arun Kumar was declared elected to fill the vacancy caused due to the death of Shri Ravindra Kishore Shahi, and Smt. Santosh Kumari Kapoor was declared elected to fill the vacancy caused due to the death of Dr. Ram Chandra Shukla.

(c) *Karnataka*

Two vacancies arose in the Karnataka Legislative Council due to the resignations of S/Shri R. L. Jalappa and D. B. Chandra Gowda who were elected as members of the Karnataka Legislative Assembly from 97-Doddaballapur and 163-Thirthahalli constituencies respectively in the General election held in January, '83. The term of Shri D. B. Chandra Gowda but for his resignation would have expired on 30.6.84 and that of Shri R. L. Jalappa on 13.5.86. They were elected to the Council by the members of the Assembly.

The Commission fixed the following common programme for holding bye-elections to fill both these vacancies:

Date of notification	14.3.1983 (Monday)
Last date for nominations	21.3.1983 (Monday)
Date for scrutiny	22.3.1983 (Tuesday)
Last date for withdrawals	24.3.1983 (Thursday)
Date of poll, if necessary	31.3.1983 (Thursday)
Date before which election was to be completed	4.4.1983 (Monday)

The hours of poll were from 10.00 a.m. to 1.00 p.m.

Though there was a common programme for both the bye-elections, these were separate elections and therefore, separate ballot papers were used for each bye-election.

In the bye-election caused by the resignation of Shri D. B. Chandra Gowda, six candidates had filed their nomination papers and nominations of all of them were found valid on scrutiny. However, four candidates withdrew from the contest and there were only two contesting candidates in the field. Shri Abdul Nazir was duly elected to fill the said vacancy.

In the bye-election caused by the resignation of Shri R. L. Jalappa, seven candidates had filed their nominations and nominations of all of them were found valid. Out of these seven candidates, five withdrew from the contest and there were only two contesting candidates.

Shri P. G. R. Sindhia was declared elected to fill the said vacancy in the Council.

(d) Jammu & Kashmir

A vacancy had occurred in the Legislative Council of the State of Jammu & Kashmir under the provisions of sub-section (2) of section 80 of the J & K Representation of the People Act, 1957 by reason of the election to the State Legislative Assembly before the expiration of term of office of Shaikh Abdul Jahar, a member elected to that Council on 7.6.1983. The term of office of the member would have expired on 11.9.1984. This necessitated a bye-election to the Legislative Council to fill the vacancy.

The Election Commission on 8th December, 1983 issued a notification calling upon the members of the State Legislative Assembly to elect a member to the said Council from amongst persons residing in the province of Kashmir. It fixed the following programme to hold the bye-election:

(a) Last date for making nominations	14.12.1983 (Wednesday)
(b) Date for the scrutiny of nominations	15.12.1983 (Thursday)
(c) Last date for the withdrawal of candidatures	17.12.1983 (Saturday)
(d) Date on which election was to be taken	26.12.1983 (Monday)
(e) Date before which the election was to be completed	27.12.1983 (Tuesday)
(f) Hours during which the poll was to be taken	11.00 a.m. to 3.00 p.m.

Only two candidates filed their nominations for the single seat and none withdrew. The election was held as scheduled and one of them Shri Mohammed Dilawar Lone was elected in the first count to fill the vacancy caused in that House.

(e) Casual Vacancies in Legislative Councils remaining unfilled

Ten vacancies in the Legislative Councils of Andhra Pradesh (6), Bihar (1), Jammu & Kashmir (2) and Maharashtra (1) were lying vacant at the end of the year 1983. Details of these vacancies along with the reasons for not holding the bye-elections have been furnished in Annexure XIII.

CHAPTER VII

MODEL CODE OF CONDUCT

The Model Code of Conduct evolved by the Commission for the guidance of political parties and contesting candidates lays down broad guidelines for observance by them during the election campaign. The Code aims at maintaining the election campaign on healthy lines, avoiding clashes and conflicts between political parties or their supporters and ensuring peace and order during the campaign period and thereafter till the declaration of election results.

The Model Code of Conduct was evolved by the Commission on the eve of General elections held in 1972. An endeavour to provide a Model Code of Conduct for political parties was, for the first time, made in 1960 in Kerala prior to the General elections to the Legislative Assembly of that State. The Code was discussed and approved by the representatives of leading parties of the State in a meeting convened for the purpose. This Code proved useful in Kerala during the General election. The Commission, therefore, circulated this Code to all the recognised political parties in India and to State Governments on the eve of General election held in 1962, requesting them to secure its acceptance by all parties contesting the General elections in their States. By and large this Code of Conduct was followed by the political parties and the candidates and consequently the campaign during the third General elections was, by and large, conducted in a peaceful and orderly manner almost everywhere.

In 1966, the Commissioner of Police for the City of Madras convened a Conference of representatives of political parties at which a Code of Conduct for observance during the ensuing General elections 1967 was agreed. This was followed by a Conference of party representatives convened by the Chief Minister of the State towards the end of December, 1966. A Standing Committee of seven persons, representing different political parties to whom complaints regarding any breach of the 'Code', could be made was also set up at the Conference. This endeavour contributed a great deal to the peaceful and orderly conduct of the elections in that State.

A Code of Conduct drawn on the lines of the Madras Code was accepted by the political parties in Andhra Pradesh early in 1967. The basic Code evolved in Kerala in 1960 was adopted in that State for the General elections in 1967 also.

In West Bengal, a code, similar to the Kerala Code, was placed before a meeting of party representatives convened by the Chief Minister in January, 1967. Though all parties did not fully accept the draft code, they unanimously resolved to ensure peaceful election campaign and to assist the authorities in the smooth conduct of the poll.

On the eve of General elections to certain Legislative Assemblies held in 1968-69, the then Chief Election Commissioner convened meetings of the leaders and re-

representatives of various political parties functioning in the State in each State/Union Territory that went to poll and placed before them a code for observance during the election period. He issued an appeal to the political parties to follow certain principles during the course of elections.

The principles enunciated by the Commission led to the formulation of a Model Code of Conduct for the General elections held in 1972. The Model Code evolved by the Commission was amplified suitably from time to time.

At the time of the General elections to certain State Legislative Assemblies held in January, 1983, the Commission received complaints regarding use of helipads etc., for election work by various political parties, particularly the ruling one. The complaints were looked into and the Department of Civil Aviation was requested to inform the Commission of the terms and conditions prescribed for the use of helipads by private parties on the eve of election. The Department of Civil Aviation forwarded a copy of their circular prescribing conditions for permission for the use of helicopters for election work. The circular was forwarded to all the National, State and registered political parties for their information. At the same time, clause (ii) of Item VII—*Party in Power*—of the “Model Code of Conduct” was amended as follows:

“(ii) Public places such as maidans etc. for holding election meetings, and use of helipads for airflights in connection with elections, shall not be monopolised by itself. Other parties and candidates shall be allowed the use of such places and facilities on the same terms and conditions on which they are used by the party in power.”

In the light of the discussions the Commission had with the representatives of the political parties, some further amendments were made in Item VII—*Party in Power*—of the Code. For the existing entries against sub-items (i)(b) and (vi), the following entries were substituted:

“(i) (b) Government transport including official aircrafts, vehicles, machinery and personnel shall not be used for furtherance of the interest of the party in power”;

“(vi) From the time the elections are announced by the Commission, Ministers and other authorities shall not—

- (a) announce any financial grants in any form or promises thereof; or
- (b) lay foundation stones, etc. of projects or schemes of any kind; or
- (c) make any promises of construction of roads, provision of drinking water facilities etc.

which may have the effect of influencing the voters in favour of the party in power.”

The following was inserted as sub-item (vii):

“(vii) Ministers of Central or State Government shall not enter any polling station or place of counting except in their capacity as a candidate or voter or authorised agent.”

The Model Code of Conduct as amended from time to time is appended at Appendix XIV.

CHAPTER VIII

DISQUALIFICATION CASES

(i) **Disqualifications arising out of corrupt practices**

Under section 8A of the Representation of the People Act, 1951, the case of every person found guilty of a corrupt practice by an order under section 99 of the Representation of the People Act, 1951 is required to be submitted, as soon as may be after such order takes effect, by such authority as the Central Government, may specify in this behalf, to the President for determination of the question as to whether such person shall be disqualified and, if so, for what period. The maximum period for which such person can be disqualified is six years.

Sub-section (3) of the same section provides that the President shall obtain the opinion of the Election Commission on the question of disqualification and shall act according to such opinion.

During the year 1983, no such case was referred to the Commission by the President.

(ii) **References made to the Commission by the President under Article 103(2) and section 14(4) of the Government of Union Territories Act, 1963 and Governors under Article 192(2) of the Constitution and opinions rendered by it**

During the year 1983, the Commission tendered its opinion in 11 cases either to the President of India or to the Governors of the States in regard to the alleged disqualification of Members of Parliament or Members of Legislative Assemblies/Legislative Councils under article 103(2) and article 192(2) of the Constitution of India as also under section 14(4) of the Government of Union Territories Act, 1963. Of these 11 cases, four had been referred to the Commission by the President of India and the remaining 7 by the Governors of different States.

Gists of the references received and opinions tendered along with the dates of opinion are given in Appendix XV.

The Commission noticed that in some States there had been serious avoidable delays in communicating references received by the Governor to the Commission for its opinion under article 192(2) of the Constitution as a result of the Governor or the State Government having instituted elaborate enquiries into the references at the initial stages or seeking expert legal opinion on questions of law raised in the references before these were forwarded to the Commission for its opinion.

The Commission addressed to the Secretaries of Governors of all States in June, 1983 impressing upon the need of avoiding delay between the receipt of any such reference by the Governor and the communication to the Commission asking for its opinion.

It was also pointed out that any preliminary enquiry with regard to the subject matter or the merits of the reference by any authority in the State or the obtaining of any expert legal opinion at the instance of the State Government before the reference was forwarded to the Commission was wholly unnecessary nor was it required by law.

It was clarified that while interpreting article 192 of the Constitution, the Supreme Court had observed in 'Brundaban Naik *vs.* Election Commission (AIR 1965 SC 1892)' and 'Election Commission *vs.* N. G. Ranga (AIR 1978 SC 1609)' that whenever any question arose before the Governor, he was enjoined upon by clause (2) of that article to refer that question to the Election Commission for its opinion even if the complaint made before him was frivolous. The Governor was not required to make any enquiry or collect material, as that is the function of the Election Commission.

The Commission has, in accordance with the provisions prescribed under section 146 of the Representation of the People Act, 1951, evolved a procedure of its own in these matters and, wherever necessary and practicable, holds, before tendering its opinion on the reference, an open enquiry in the presence of both parties to the reference with regard to questions of fact as well as law that may arise in connection with the reference. In fact, the Commission has in some cases to record a large volume of oral and documentary evidence tendered or called for by the parties. In the circumstances, the Commission is of the opinion that it is futile for the Governor or the State Government either to hold any preliminary enquiry before referring the question to the Commission for its opinion or to obtain any expert legal opinion on the issues involved. Nor is it warranted that the Governor should express any opinion on the merits of the reference while the same is forwarded to the Commission. The parties should, in other words, be left to tender before the Commission whatever evidence they desire to adduce and also to make their submissions to the Commission in regard to the legal issues involved in any such reference.

The only point on which the Governor has to satisfy himself before a reference is forwarded to the Commission for its opinion whether any question in terms of article 192(1) of the Constitution can be said to have arisen. So long as such a question has in fact been raised before the Governor, it has necessarily to be referred to the Commission for its opinion.

It was, therefore, requested that in future the Commission's opinion on such references might be sought as soon as practicable after these were received by the Governor and that no such reference might be withheld pending any enquiry or the obtaining of any legal opinion before its communication to the Commission.

(iii) Account of election expenses—Number of candidates who did not lodge their accounts of election expenses at all or within the time and in the manner required by law and number of persons disqualified

In order to reduce the role of money power in elections, the election law stipulates optimum limit up to which a contesting candidate can incur expenditure.

Section 77(1) of the Representation of the People Act, 1951 provides that 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 authorised by him or by his election agent between the date of his nomination and the date of declaration of result (both dates inclusive). Any expenditure incurred or authorised in connection with the election of a candidate by a political party or by any other association or body of persons or by an individual (other than the candidate or his election agent) is not to be deemed to be expenditure in connection with the election incurred or authorised by the candidate or by his election agent. 'Political Party' for this purpose has the same meaning as in the Election Symbol's (Reservation and Allotment) Order, 1968.

Rule 86 of the Conduct of Elections Rules, 1961 specifies the particulars which should be incorporated in the account of election expenses to be lodged by a candidate. Rule 90 prescribes the limits up to which a candidate may spend at elections to the House of the People and Legislative Assemblies of different States/Union Territories. Candidates at elections to the Council of States and Legislative Councils of States are not required to file such accounts of their election expenses.

The accounts of election expenses are required to be lodged by the candidates with the District Election Officer concerned. Each District Election Officer is required to send under rule 89(1) of the Conduct of Elections Rules, 1961 his report on the lodging of the accounts of election expenses by candidates.

On receipt of the report from a District Election Officer, the Election Commission issues notices to the candidates who have not lodged their accounts of election expenses at all or within the time and/or in the manner required by law. Through the notice, each defaulting candidate is given an opportunity to make good the deficiency in his accounts and also to explain as to why he should not be disqualified under section 10A of the Representation of the People Act, 1951 for the default. He is required to submit his account and representation to the District Election Officer concerned, with a copy to the Election Commission, within the time allowed to him for the purpose in that notice.

The District Election Officer sends his supplementary report within five days of the receipt of the representation and account, if any, from a candidate.

If, after considering the representation submitted by the candidate and the comments made by the District Election Officer and after such inquiry as it thinks fit, the Election Commission is satisfied that the candidate has no good reason or justification for the failure to lodge his account at all or within the time and/or in the

manner required by law it shall declare him to be disqualified under section 10A of the Act for a period of three years from the date of the order, and cause the order to be published in the official gazette.

Disqualification under section 10A of the Representation of the People Act, 1951 means disqualification for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State.

During 1983, 852 candidates were disqualified under section 10A of the Representation of the People Act, 1951. A statement showing the number of candidates disqualified in different States/Union Territories is appended (Appendix XVI).

CHAPTER IX

ELECTION PETITIONS/WRIT PETITIONS

(a) Election Petitions

Section 81(1) of the Representation of the People Act, 1951 provides that an election petition calling in question any election may be presented on one or more of the grounds specified in sub-section (1) of section 100 and section 101 to the High Court by any candidate at such election or any elector within forty-five days from, but not earlier than, the date of election of the returned candidate, or if there are more than one returned candidate at the election and the dates of their election are different, the later of those two dates.

'An elector' means a person who was entitled to vote at the election to which the election petition relates, whether he has voted at such election or not. An election petition which does not comply with these provisions shall be dismissed by the High Court under section 86(1) of the Act.

Sub-section (7) of section 86 of the Representation of the People Act, 1951 lays down that every election petition shall be tried as expeditiously as possible and an endeavour shall be made to conclude the trial within six months from the date on which the election petition is presented to the High Court for trial.

At the end of December, 1982, 175 election petitions arising out of General Elections held between 1977 and 1982 were pending disposal in various High Courts. This number did not include the election petitions relating to General Election to the Lok Sabha, 1977, all of which had been disposed of by then.

Sixty-six appeals against the decision of the High Courts in election petitions filed in respect of General Elections referred to above were also pending in the Supreme Court. In addition one appeal from Punjab relating to the General Election, 1972 was also pending.

During the period January-May, 1983, 36 petitions out of 175 which were pending as on 31st December, 1982 were disposed of by the High Courts. During the same period, the Supreme Court disposed of 5 more appeals but the number of appeals pending in the Supreme Court rose to 68 from 66 as during this period 7 more appeals were filed.

The period of pendency of a good number of election petitions was much longer than the period of six months provided in section 86(7) of the Representation of the People Act, 1951. The Commission, therefore, addressed the Registrars of the Supreme Court and the concerned High Courts on 20.6.1983 requesting them to bring to the notice of the Hon'ble Chief Justices the position of the pendency of the

election petitions for such orders as they might consider necessary for the speedy disposal of the pending petitions.

At the end of December, 1983, the number of election petitions pending in the High Courts relating to the above-mentioned elections came down to 91 and appeals in the Supreme Court to 36.

Consequent on the General Elections to Legislative Assemblies of certain States and the Delhi Metropolitan Council held in 1983, 166 election petitions were filed out of which 12 had been disposed of by the 31st December, 1983. Two appeals were filed in the Supreme Court, one each against the decision of the Andhra Pradesh High Court and Delhi High Court. Both these appeals are pending for disposal.

Thus a total of 245 election petitions were pending for disposal in various High Courts and 39 appeals were pending in the Supreme Court as on 31st December, 1983. Five statements, showing disposal and pendency of election petitions/appeals are appended (Appendix XVII to XXI). A statement showing period for which election petitions in different High Courts and appeals in the Supreme Court were pending on 31st December, 1983 is also appended (Appendix XXII).

(b) **Writ Petitions**

(In which Election Commission was a party)

The Commission in the discharge of its functions and duties under article 324 of the Constitution takes a variety of actions and decisions. These actions and decisions some times relate to particular individuals but also effect political parties, contesting candidates, voters at large, etc. It would be asking for the impossible to expect that everyone would invariably be satisfied with the decisions and actions of the Commission as dissent in a democratic set-up is only natural. The aggrieved parties agitate the matters before the judicial forums like the Supreme Court and the various High Courts. Some of the important decisions/actions of the Commission which became the subject matter of judicial dispute during the year under review are briefly stated hereunder.

When the year 1983 dawned, some of the States, namely, Andhra Pradesh, Karnataka and Tripura were going through the process of General Elections to their State Legislative Assemblies scheduled on 5th January, 1983. During the period, certain allegations came to the notice of the Commission about the alleged partisan attitude of some senior police officers in the State of Karnataka in the conduct of elections in that State. Some representations were made to the Commission for stopping the election process in the State midway and to order a *de novo* process. The Commission assured the representationists that it was looking into the allegations for appropriate action but it did not agree with the contention of the representationists to stall the election process which was already on. Against this decision of the Commission given on 28 December, 1982, some persons, describing themselves as People's Patriotic Front, approached the Supreme Court by way of petition for special leave to appeal under article 136 of the Constitution. The

Supreme Court, however, refused to intervene in the matter by their order dated 3 January, 1983. A similar attempt to halt the election process in that State was made by some persons in the Karnataka High Court also by way of a writ petition. That attempt also failed as the High Court refused to interfere in the election process.

The early part of the year 1983 saw the turbulent elections in the State of Assam. Vigorous attempts were made by some elements to see that the elections were not held in the State as scheduled without a solution of the so called "foreign nationals" issue. All aspects of that problem *vis-a-vis* the Commission's obligations and compulsions under the Constitution to hold elections to meet certain constitutional dead-lines have already been elaborately explained and discussed in the Commission's comprehensive report to the Parliament on the General Election in the said State. Several legal hurdles were however, sought to be created against the holding of General Election there. Shri Jagan Nath Hazarika, an ex-Chief Minister of the State, and another moved the Supreme Court through two writ petitions seeking stay of the elections on the ground that the electoral rolls were defective and were not revised before the elections. The Supreme Court, however, dismissed those petitions on 21 January, 1983 on the preliminary ground that the said writ petitions were not maintainable in view of article 329(b) of the Constitution which barred the jurisdiction of the Courts to interdict or interfere with the election process once started. Another person from Kerala P. Nalla Thampy Terah, also filed a similar writ petition before the Supreme Court but the same was withdrawn by him on 9 March, 1983.

An attempt was also made before the Gauhati High Court to see that the election process did not start as scheduled. A writ petition was filed before the Gauhati High Court by one Shri Inderjit Barua on 6 January, 1983. It was urgently heard by the High Court on 11 January, 1983 as the election process was scheduled to commence on the following date i.e. 12 January, 1983. The hearing of the case was adjourned to 12 January, 1983, as the Court wanted to be *prima facie* satisfied that the electoral rolls on the basis of which the General Election was to be conducted were validly published in 1979—one of the allegations of the petitioner being that such rolls had not been published as required under the rules in 1979. The State election authorities duly produced all relevant records for the Court's perusal and the Court, on being satisfied as to the publication of those electoral rolls in 1979, refused to interfere in the matter and the election process was allowed to commence as scheduled.

After the completion of the General Election in Assam, there started a spate of writ petitions before the Gauhati High Court questioning the validity of those elections. Pursuant to the notices received by the Commission in some of those petitions, the Commission filed counter affidavits, stating that the Constitution and the law provided for only one remedy i.e. an election petition, for challenging an election to either House of Parliament or a State Legislature and that the writ petitions could not lie to challenge any election. The filling spree of such writ petitions, however, continued unabated and in view of the substantive and fundamental nature of its objection, the Commission approached the Supreme Court for their intervention in the matter under article 139A of the Constitution. On a transfer petition

filed by the Commission, the Supreme Court was pleased, by its order dated 5 August, 1983, to stay further proceedings in all those writ petitions before the High Court and to issue notice to all concerned to show-cause against the transfer of all those petitions to the Supreme Court for their disposal by that Court. The matter is currently pending before the Supreme Court.

Apart from the writ petitions mentioned above, 5 election petitions were also filed before the Gauhati High Court challenging elections from 5 specified Assembly constituencies. The petitioners had impleaded the Commission also as a party in those petitions. The High Court has, however, deleted the name of the Commission from the array of respondents in two of those 5 petitions, as the Commission is not a necessary party in an election petition according to the decision of the Supreme Court in 'Jyoti Basu vs. Debi Ghosal [1982(2)SCC 218]'. The High Court has been moved by the Commission for similarly striking off its name from the array of respondents in the other election petitions also. The High Court's orders in those cases have not yet been pronounced.

Another important matter which was agitated before the Courts related to the election from Doda Assembly constituency in the State of Jammu and Kashmir. At the General election to the Jammu and Kashmir Legislative Assembly held in June, 1983, the Returning Officer of Doda Assembly constituency was directed by the Commission not to declare the result of election till the Commission completed its enquiry into certain allegations of booth capturing, etc. Despite such direction, the Returning Officer declared the result of election on 7 June, 1983 on the ground that he received the Commission's wireless message containing this direction after he had declared the result. As the Commission was satisfied after due enquiry by one of its observers that the Returning Officer was made fully aware of the Commission's direction by the District Election Officer, Doda before the former had declared the result, the Commission by its order dated 22 June, 1983 set aside the declaration of the result made by the Returning Officer and further directed a repoll to be held in 16 polling stations of the constituency. Shri Attaullah Surhrawardy (sponsored by Jammu and Kashmir National Conference) who had been purportedly declared elected by the Returning Officer questioned the validity of the Commission's order dated 22 June, 1983 by a writ petition before the Jammu and Kashmir High Court at Srinagar. After an *ex-parte* hearing on 29 June, 1983, the High Court directed the issue of notice to the Commission. Meanwhile it also granted ad-interim *ex-parte* stay of the Commission's impugned order. The Commission aggrieved by this interim order of the High Court filed an appeal before the Supreme Court under article 136 of the Constitution. The appeal was urgently heard by the vacation judge of the Supreme Court on 4 July, 1983. The Court was pleased to stay the operation of the High Court's order pending notice to the parties. After due notice, the matter was further heard by a division bench of the Supreme Court on 19 July, 1983. After hearing the counsels for the opposing parties, the Supreme Court was pleased to set aside the impugned interim order of the High Court and to direct the High Court to hear the matter expeditiously and to dispose it of within 2 weeks from 24 July, 1983. The matter is, however, still pending before High Court. Subsequently, one of the rival candidates (Shri Ghulam Quadir Wani sponsored by Indian National Congress) also filed another writ petition praying that the repoll as ordered by the Commission on 22 June, 1983 should

not be confined only to the 16 specified polling stations but be extended to the entire constituency as the poll was vitiated. This writ petition is also pending before the High Court.

The Commission was involved in another serious litigation before the Karnataka High Court. In February, 1980, the Commission had disqualified one of the contesting candidates from 90-Varthur Assembly constituency in Karnataka at the General election held in February, 1978 for his failure to lodge the account of election expenses without sufficient reason or justification under section 10A of the Representation of the People Act, 1951. The said disqualified candidate again contested the General election to the State Assembly held in December, 1982-January, 1983 from the same constituency when the period of his disqualification was still subsisting. It is not clear how the fact of his disqualification escaped the notice of the Returning Officer at the time of the scrutiny of nominations. The said candidate got eventually elected at the election. An election petition was filed in the Karnataka High Court against his election. The candidate filed two applications before the Commission on 10 May, 1983. In one, he sought the withdrawal of the order imposing the disqualification on the ground that it was passed without giving him an opportunity to submit his representation. He, however, withdrew his petition when he was confronted with the acknowledgment given by him for the receipt of the Commission's show-cause notice. In the other, he sought the removal of his disqualification or the reduction of the period of his disqualification retrospectively to save his election. The Commission rejected this application. When these two applications were still pending before the Commission, he also moved the Karnataka High Court by filing a writ petition for the impugned disqualification order to be struck down. In that writ petition he also challenged the validity of section 10A of the Representation of the People Act, 1951 as being violative of article 14 of the Constitution. This writ petition was contested by the Commission before the High Court and was still pending at the end of the year under review.

The Commission introduced an innovation in the electoral system by using Electronic Voting Machines on an experimental basis in a part of 70-Parur Assembly constituency in Kerala at the General election held in May, 1982. For such an experiment, the Commission invoked its inherent and plenary powers of superintendence, direction and control of elections under article 324 of the Constitution, in the absence of the necessary legislation by the Central Government despite the Commission's repeated suggestions. One of the defeated candidates questioned the use of electronic voting machines on the ground that the Representation of the People Act, 1951 and the Conduct of Election Rules, 1961 made thereunder, did not provide for the use of such machines and provided for taking poll only by the conventional method of ballot papers. The Kerala High Court dismissed the election petition. An appeal was filed before the Supreme Court against this order of the High Court. As the question raised in the appeal vitally affected the powers of the Commission under article 324 of the Constitution, the Commission decided to intervene in the matter as it had not been formally impleaded as respondent in the appeal.

The Supreme Court, by its judgment delivered on 5 March, 1984, has set aside

the election of the returned candidate from this constituency on the ground that there was no legal sanction for the use of the electronic voting machines.

After successful trial of the electronic voting machine system on experimental basis in the Parur Assembly constituency in Kerala, the Commission decided further trials in ten other constituencies at General elections held in Andhra Pradesh, Bihar, Karnataka, Nagaland, Tripura, Arunachal Pradesh and Delhi. All these were acclaimed a great success by all concerned. No petition was filed in respect of any of these elections except the one in Andhra Pradesh (from Shadnagar Assembly constituency). This election petition is still pending.

The Commission was also involved in another matter of far-reaching importance. The Allahabad High Court in an election petition relating to a bye-election to the Council of States by members of the Uttar Pradesh Legislative Assembly held in 1980 decided that the Secretary to the Legislative Assembly could not be appointed as a Returning Officer for an election as he was not an officer of the Government within the meaning of section 21 of the Representation of the People Act, 1951. The High Court also held that the members of a Legislative Assembly could not participate in an election to the Council of States unless they had taken the oath under article 188 of the Constitution. The High Court declared the election of Shri P. N. Sukul elected at that impugned bye-election as void. Being aggrieved by that decision of the Allahabad High Court, the Commission filed an independent appeal before the Supreme Court, apart from two other appeals filed by Shri Sukul and the Government of Uttar Pradesh. The Supreme Court by their judgement dated 16 November, 1983 reversed the decision of the Allahabad High Court. The Supreme Court held that the Secretary to the Legislative Assembly was also an officer of Govt. and he could be validly appointed as Returning Officer. The Supreme Court also held that once a House of a Legislative Assembly was duly constituted by the Election Commission under section 73 of the Representation of the People Act, 1951, members could participate in the election to the Council of States even before they had made and subscribed the oath under article 188 of the Constitution for the purpose of taking a seat in the House.

A writ petition was also filed before the Allahabad High Court (Lucknow Bench) in which the petitioner sought a direction to the Election Commission to hold all pending biennial elections to the Uttar Pradesh Legislative Council to fill the vacancies in that House. The petitioner also sought a direction to the State Government to hold elections to the local bodies in the State. A stay application was also moved for direction to the Chairman of the Council that the House should not function till its composition was completed in all respects and the vacancies therein were filled. The Commission through its Counsel brought to the notice of the High Court that the vacancies in the said House were remaining unfilled mainly on the ground that the elections from the local authorities' constituencies could not be held because most of the local authorities which constitute the electorate for the said constituencies were not functioning, having been superseded by the State Government. Another reason for not holding the pending elections was that the Commission was undertaking a redelimitation of all Council constituencies in the State. This writ petition has not so far been formally admitted and is still pending at the admission stage.

A similar matter about the composition of Andhra Pradesh Legislative Council had also been raised before the Supreme Court and the Andhra Pradesh High Court in several writ petitions. In all these writ petitions the main question raised is that the biennial elections to the said Council have not been held at regular intervals of two years with the result that the periodic cycle of biennial retirement as envisaged in the Constitution has broken. The Commission has explained to the Courts that the biennial elections to this Council, as also to the Legislative Council of other States having such Council, could not be held by the Commission as and when they became due, because most of the local authorities which are component units of the electorate in the local authorities' council constituencies were non-existent having been superseded by the State Governments at the relevant time. All these petitions are still pending before the Courts. According to the Commission, the only solution to restore the disturbed cycle of biennial retirement of members in the State Legislative Councils (as well as in the Council of States) to its pre-disturbed stage, which was in accordance with what the Constitution contemplated, is to amend the Law (sections 154 to 157 of the Representation of the People Act, 1951) suitably so as to fix the dates of retirement permanently and to provide that if for any reason some vacancies cannot be filled on due dates the members elected subsequently to fill those vacancies should hold seats only for the remainder of the six-year term. The Commission has also impressed upon the State Government the need to hold election to local bodies without delay, so as to strengthen the democratic process at the grass-roots, while at the same time fulfilling the constitutional requirement of appropriate representation to the local bodies in the Upper Houses of the six concerned States.

CHAPTER X

SUGGESTIONS MADE, INSTRUCTIONS ISSUED BY THE ELECTION COMMISSION AND ACTION THEREON

(i) Electoral Reforms

Electoral reforms, as envisaged by the Commission have a long and chequered history. Initially, the Commission used to make its recommendations for amendments to Election Law and procedure and electoral reforms through its Reports on General elections brought out after the completion of each General election.

Most of these earlier suggestions for reforms mainly related to the changes to the electoral procedure found necessary on the basis of experience of the relevant General elections. No major or vital changes were proposed to the basic provisions of Election Law till 1970. Proposals for substantive changes thereafter could be ascribed to growing maturity of the electorate, growth of viable political parties, greater consciousness of the candidates about their rights, important judicial pronouncements on Election Laws and above all fast changing economic, political and law and order situation in the country.

In 1970, the Commission sent to the Ministry of Law comprehensive proposals on electoral reforms along with a draft Bill to give effect to these proposals. These proposals were considered by the Joint Committee of Parliament on amendments to Election Law constituted for that purpose in June, 1971. The Committee prepared a comprehensive Report in two Parts—Part I and Part II—together with a draft Bill to give effect to its recommendations.

The Central Government, thereafter, prepared a Bill to amend the Representation of the People Acts, 1950 and 1951 and introduced the same in the Lok Sabha in December, 1973. The Bill lapsed on account of the dissolution of the House in January, 1977. It is also worthwhile to note that the said Bill did not incorporate many of the important amendments suggested by the Commission that were also accepted by the Joint Committee.

In the meantime, the question of electoral reforms was being discussed in various forums and the news media. Late Shri Jayaprakash Narain, on behalf of Citizens for Democracy, set up a Committee under the Chairmanship of the noted jurist and leader of the P.U.C.L. (People's Union for Civil Liberties) movement Shri V. M. Tarkunde to suggest suitable electoral reforms. From time to time, seminars and symposia were also arranged under the auspices of Gandhi Peace Foundation, United Lawyers' Association etc. where the then Chief Election Commissioner who was invited, delivered lectures on electoral reforms.

For the first time in 1977, a review of all recommendations made by the

Commission earlier was undertaken and consolidated recommendations of the Commission on electoral reforms, including both the unimplemented recommendations and fresh recommendations were sent to the Government of India on October 22, 1977.

These recommendations were in 4 parts—Part I dealing with the Representation of the People Act, 1950; Part II dealing with the Representation of the People Act, 1951; Part III dealing with Part II of the Report of the Joint Committee of both Houses of Parliament on amendments to Election Law; and Part IV dealing with the Report of the Tarkunde Committee on electoral reforms etc.

In the Report of the Commission submitted in November, 1980 after the General election to Lok Sabha, the Commission made a number of recommendations. These, *inter alia*, related to the restoration of fresh delimitation after every decennial Census without changing the total number of seats allotted to various States in the Lok Sabha and the State Legislative Assemblies, rotation of reserved seats, compulsory registration of political parties, steps to check multiplicity of candidates, empowering the Commission to deal with the election petitions and creation of election fund etc.

In 1982, the earlier recommendations were again reviewed thoroughly by the present Chief Election Commissioner on the basis of new developments and challenges thrown up at the General elections held during the period 1980-82. Consequently, the earlier recommendations sent in 1977 and contained in the Report of 1980 were split up into two parts, one containing fresh proposals and those earlier proposals which were reiterated (with or without modifications) and the other containing earlier proposals which were not pressed for the time being.

The main recommendations which were reiterated with or without modifications are briefly as under:

- (i) *Ban of defection*: No amendment to the Constitution was felt necessary. A suitable amendment to the Representation of the People Act, 1951 relating to disqualification and a declaration made by the candidate in his nomination paper could be considered sufficient.
- (ii) *Fresh delimitation of constituencies by suitable amendment to the relevant provisions of Constitution.*
- (iii) *Creation of election fund*: A fund should be created and allowed to be operated upon under the full control of the Election Commission with the assistance of financial advisors chosen for the purpose and laying down of norms for the administrative and election expenditure in the various States.
- (iv) A new proposal to ensure same privileges and safeguards in the matter of Secretariat and staff of the Election Commission as are available to other Constitutional Bodies like Parliament, Supreme Court, Comptroller and Auditor-General of India and UPSC and make the expenditure of the Election Commission a charge on the Consolidated Fund of India.

- (v) The powers to be vested in the Election Commission to direct the State Governments to file a complaint in respect of any breach of official duty by an officer in connection with the preparation or revision of electoral rolls and conduct of elections and initiation of criminal action which should be binding on the Government.
- (vi) A law should be made (1) to define political parties, (2) to empower Election Commission to make regulations to deal with the matters like compulsory registration of political parties, compulsory maintenance of accounts and compulsory audit of accounts (in so far as they relate to elections) by an agency to be named by the Commission, submission of the periodical report to the Commission etc.
- (vii) Donation to the political parties to be regulated.
- (viii) Security deposit should be doubled.
- (ix) Commission should be empowered to order fresh poll in case of destruction of ballot papers, ballot boxes, prevalence of coercion, intimidation and impersonation at the polling stations.
- (x) Law should be amended to empower the Commission to order repoll in the entire constituency or an Assembly segment of a Parliamentary constituency.
- (xi) High Court should be empowered to declare an election void if it is satisfied that there has been prevalence of bribery, undue influence, coercion and intimidation of voters on a large scale and Government machinery has been abused or misused for the furtherance of the prospects of a candidate.
- (xii) Restoration of the legal provisions as existed before 1974 in connection with the incurring of election expenses by political parties etc. for the furtherance of the prospects of a candidate.

Some of the important items which were not pressed in this review were (a) Mixed system of election; (b) Lowering of voting age to 18 years; (c) Entrusting the Commission itself with the disposal of election petitions; (d) Direct subsidy to candidates; (e) Cash subvention to political parties.

In September, 1982 the Commission recommended holding simultaneous elections to the House of the People and the Legislative Assemblies of States for the following weighty reasons:

- (1) Considerable saving on the colossal avoidable administrative and other expenditure incurred on account of holding of separate General elections.

- (2) Substantial economy through revision of electoral rolls for the House of the People and the State Legislative Assemblies simultaneously instead of undertaking them on a countrywide basis twice over in two different operations.
- (3) For the conduct of elections, civilian personnel running into about twenty-five lakhs of officers and staff and a few lakhs of police personnel are deployed everytime for about two to three months thereby seriously affecting their normal duties.
- (4) During elections whether for the Lok Sabha or the Assemblies, the entire administrative set up throughout the country slows down considerably and all other normal functions and activities of the Government, including developmental work, are pushed to the background. These create a lot of hardships and sufferings to the common man. The situation continues for about 2 months during the conduct of every General election.
- (5) Whereas changes in the administrative set up including transfers that become necessary in the normal course are halted under the broad guidelines issued by the Commission, there are considerable pressures prior to the issue of the notification calling for a General election, to make wholesale changes, particularly at the district level.
- (6) On account of the de-linking of the General elections to the House of the People from that of the State Legislative Assemblies, there is a duplication of the expenditure incurred by the candidates and political parties which results in the pumping in of considerable resources, thereby indirectly affecting money supply in the economy. Further by such de-linking, the candidates at Parliamentary election need more money and resources to fight the election singlehanded over a wide area without the backing and co-operation of companion candidates of the assembly segments. This also, it is suspected, tends to lead to difficulties for the candidates in keeping within the ceiling for election expenses.
- (7) The dismantling of the temporary but complicated superstructure raised for the purpose of election by accretion of huge personnel is required to be done as speedily and smoothly as of putting up the super-structure, and normal conditions should be restored quickly. In this respect also, simultaneous elections would be highly desirable.

Having regard to the above considerations, the Commission is strongly of the view that a stage has come for evolving a system by convention, if it is not possible or feasible to bring about a legislation, under which the General elections to the House of the People and Legislative Assemblies of the States are held simultaneously. After all, such an arrangement worked immensely satisfactorily, generally speaking, prior to 1967.

The Government of India has now intimated that it has been decided that the

proposal for holding elections to the House of the People and the State Legislative Assemblies, simultaneously need not be proceeded with for the present.

On 27th March, 1983, the Chief Election Commissioner delivered the key-note address at a seminar organised by the Institute of Constitutional and Parliamentary Studies in New Delhi. Some of the important aspects on which Chief Election Commissioner laid stress were:

- (1) The regulation of the role of political parties.
- (2) Safeguards against multiplicity of parties.
- (3) Curbing the role of money power at elections.
- (4) Ban on defections.
- (5) Safeguards against misuse of official machinery.
- (6) Ensuring the independence of the Election Commission.
- (7) Holding elections to Panchayats, Zilla Parishads etc. expeditiously so as to enable the Commission to fill the vacancies in the Councils expeditiously, but more importantly to strengthen the democratic process at the grass-roots.

On the basis of the experience gained at the General elections to the various Legislative Assemblies in 1982-83, the Commission again proposed certain further electoral reforms in September, 1983. Some of the more important recommendations are as follows:

- (i) President's rule should be imposed in States simultaneously with the announcement of Assembly elections for avoiding the alleged misuse of official machinery by the ruling parties.
- (ii) The Constitutional provisions contained in article 324(4) should be availed of to appoint Regional Commissioners.
- (iii) Observers appointed by the Election Commission, be provided with statutory powers as in the case of Deputy Election Commissioner and Secretaries to the Commission.
- (iv) The Election Commission be empowered to sanction penal action against the breach of official duty and to entrust the enquiry and prosecution in such cases to an independent organisation.
- (v) The Commission should have power to cancel poll in the entire constituency in certain contingencies.
- (vi) The service voters should be allowed to vote by proxy at the polling station in which they have been ordinarily resident, but for their service.
- (vii) Use of electronic voting machines.
- (viii) Amendment to certain provisions to Jammu and Kashmir law to bring it in line with that applicable to the rest of the country.

- (ix) Setting up of mobile polling stations for weaker sections.
- (x) Amendment to the Representation of the People Act, 1951 on the lines of the provisions of the Jammu and Kashmir Representation of the People Act, 1957 empowering the Commission:
 - (a) to order the cancellation of the declaration of the result, if made, in defiance of the orders of the Commission to the contrary;
 - (b) to order repoll in the entire constituency—
 - (i) if the Commission is satisfied that there has not been a free exercise of the right to vote in that constituency by reason of the prevalence of large scale coercion and intimidation, or
 - (ii) if the repoll necessitated in specified polling stations is itself likely to affect the fair verdict of the electorate;
 - (c) to order repoll if the orders of the Commission to take specified steps to ensure free and fair poll is grossly violated;
 - (d) to act also on the information received from any other source to the above effect.

It is heartening to note that the national press as also the political parties, academicians and others have joined the debate on electoral reforms. Many constructive suggestions have been made and they are being considered further by the Commission. Some reactions, however, have been based on incomplete information or inadequate appreciation of the reasons for proposed changes. Thus for instance, the suggestion regarding the imposition of President's Rule in States as soon as the holding of a General election in that State has been notified has been viewed in the narrow context of the Centre-States relationship and the recent Assembly Elections in Jammu and Kashmir. The Commission honestly felt that the best solution to the serious allegations made about the misuse of the official machinery and interference by Government is to have the administration placed in the hands of the permanent officials of the State for a brief period, so that it could act strictly on non-partisan basis during elections. It is revealing to note that the then opposition in a State won in sixty per cent cases when elections were held under President's Rule between 1954 and 1983. Considering the confusion and heat generated by the suggestion, the Commission has decided not to pursue the proposal for the present. It would, however, welcome any suggestion from political parties in regard to any other effective alternative arrangement to serve the object underlying the Commission's original proposal.

In this connection, it is interesting to note that the suggestion put forward for the first time by Shri C. Rajagopalachari over a decade ago. This is what he observed in Chapter VII of his book 'Rescue Democracy from Money Power' with foreword by late Jaya Prakash Narayan and introduction by late M. C. Chagla.

“The permanent officials of the State must be presumed to be, and should be gradually trained to be strictly non-party in all their administrative acts including election work. Otherwise there is no chance for democracy. Administrative duties should be done with strict judicial impartiality. Those who run the administration as permanent officials should be disabused of the prevailing notion that part of their loyalty is to help the ruling party to win.”

* * * * *

“At present elections are practically a private enterprise with large capital investments. This is unadulterated evil and should go, being replaced by the State taking over the greater part of the work and of the expense on a strict non-party basis. Over and above this and indeed topping it all, the ruling ministers should hand over their reins of office at least six months before polling day to the President of the Union and the Governors of the States (as the case may be) who should run the administration with the assistance of the permanent officials. The census operations should be the model for the electoral arrangements. This will cleanse the whole atmosphere of the many foul infections that now prevail during election time.”

The Report of the Committee on Electoral Reforms (popularly known as Tarkunde Committee Report) appointed by Shri Jayaprakash Narayan on behalf of the Citizens for Democracy in February, 1975 had also dealt with this issue. The following extract from the Report would be of interest:

- “(i) A convention, backed by legal sanction as mentioned below, should be developed to the effect that the Government of the day should function as caretaker Government from the time of the announcement of the dissolution of Parliament or Legislative Assembly, as the case may be, until the polling day. During this period, the caretaker Government should not (a) initiate and announce new policies, (b) start new projects, (c) grant allowances or loans or salary increases and (d) hold official functions attended by Ministers, Deputy Ministers and Parliamentary Secretaries.
- (ii) During the aforesaid period, Ministers, Deputy Ministers and Parliamentary Secretaries should not travel except at their own expense and should not use Government aircraft or vehicles. They should also not use government postage for election purposes nor use the Public Works Department for erecting rostrums for their public meetings. Generally, the use of Government machinery for election purposes should be stopped.
- (iii) During the aforesaid period, no member of the Government should be given time either on radio or television except such time as may be allotted to his party for election propaganda.
- (iv) During the aforesaid period, no advertisement of Government achievements should be published at Government cost and no news-reels should be exhibited at government expense for the propaganda of the Government or the ruling party.

- (v) During the aforesaid period, no police officers above the level of head constable and no revenue officer of class I or class II should be transferred from his post.
- (vi) By way of providing legal sanctions for the above proposals, as many of them as possible should be included in the definition of corrupt practices by amending clause 7 of section 123 of the Representation of the People Act, 1951."

Some critics suggested that caretaker Governments both at the Centre and in the States should be installed in terms of the recommendations of the Tarkunde Committee. This stems from a misconception that the Government which continues in office after dissolution is a "Caretaker Government"; but this popular view is not correct. As Ivor Jennings has observed in his book 'Cabinet Government' in foot note (i) on page 86 of Third Edition:

"It is not British practice to appoint a 'Caretaker Government' for the duration of a General election. It was done in 1945 because the wartime coalition had broken up. The electors had to decide whether they wanted a Conservative Government or a Labour Government and meanwhile the King's service had to be carried on. This was quite exceptional. The Government which advises the dissolution remains in office throughout the election and continues to do so after the election, unless it is defeated."

- (i) As regards the criticism as to why the Commission did not recommend the President's Rule at the Centre, it is sufficient to say that the critics have overlooked that there is no provision in the Constitution for the President's Rule at the Centre. In any case, in the context of Commission's original suggestion for simultaneous elections to the Lok Sabha and the State Assemblies, the criticism loses its trust when it is realized that the State machinery under President's Rule would also be simultaneously handling the Lok Sabha elections.
- (ii) In the Electoral Law as applicable to the Jammu and Kashmir Legislative Assembly (Jammu and Kashmir Representation of the People Act, 1957), there is a specific provision enabling the Commission to act on reports received from other sources also. Under this, the Commission acted on complaints received from various quarters which have been duly verified by its own observers and ordered repoll in 17 polling stations in the Doda constituency of Jammu and Kashmir during the Assembly election in that State held in 1983. The Commission has already recommended to the Central Government as seen earlier in this Chapter that sections 57 and 58 of the Representation of the People Act, 1951 relating to the adjourned poll and repoll should be so amended as to enable the Commission to act also on reports from sources other than official agency as now provided under the Election Law. In other words, the Commission's recommendation is that provisions similar to Jammu and Kashmir Law should be made in the Election Law applicable to rest of India.

(iii) As regards the problem of defection for which some critics commend incorporation of provisions as found in the Jammu and Kashmir Election Law, the Commission has already made a recommendation in its package proposals for insertion of a simple provision in the Election Law for the disqualification of a person who has defected after his election on the basis of the declaration given in his nomination paper and the consequent vacation of his seat.

(ii) Meeting with the Representatives of the Political Parties to consider various Electoral Matters

In the month of November, 1983 the Election Commission decided to hold a meeting with the representatives of the political parties. It was also decided to take this opportunity to discuss certain other matters arising out of the experience of the Election Commission at the recent General elections to the various Legislative Assemblies of States and suggestions made to the Commission by the different political parties.

Accordingly, by a circular letter dated 14th November, 1983 all the recognised National parties, State parties and registered parties were invited to attend the meeting on 3rd December, 1983. Brief notes for discussion on the following 6 items were also enclosed with the said letter:

Item No. 1: Proposal for revision of maximum limit of election expenses.

Item No. 2: Question of undertaking revision of electoral rolls in Assam with reference to the Illegal Migrants (Determination by Tribunals) Ordinance, 1983.

Item No. 3: Review of the Model Code of Conduct in the light of the recent experience and the suggestion made to it by the different political parties.

Item No. 4: Use of Electronic Voting Machine and coverage of the entire country with the scheme by 1985 as indicated by the Commission.

Item No. 5: Issue of Photo-Identity Cards to all voters, at least in urban areas for the time being to prevent impersonation.

Item No. 6: Supply of at least four copies of electoral rolls of each constituency to the recognised political parties against two as at present.

The meeting of the representatives of the political parties was held on 3.12.1983 in the Secretariat of the Commission as scheduled, under the Chairmanship of Shri R. K. Trivedi, Chief Election Commissioner of India. Forty-nine representatives representing 7 National, 20 State and 6 registered parties attended the meeting.

The consensus arrived at the meeting on the items circulated and also on some other matters are explained below in brief.

Item No. 1: Revision of maximum ceiling of election expenses

The consensus was that ceiling by themselves would not serve any purpose unless that distortion brought about in the law in 1974-75 are removed. Subject to this, there was agreement that the ceiling should be revised as suggested by Commission (annexure).

Item No. 2: Revision of electoral rolls in Assam with reference to Illegal Migrants (Determination by Tribunals) Ordinance, 1983

As regards the revision of the electoral rolls in Assam, the consensus was that the report of the Government of Assam should be awaited whether or not it would be possible to carry out intensive revision of the rolls in the prevailing circumstances. It was felt, however, that the rolls ought to have been updated including the names of those who have come of age after 1.1.79 with reference to which the rolls were revised last.

The Election Commission would again consult the political parties after getting the reply from the Assam Government.

As regards foreign nationals, a large section appreciated the Commission's stand that it was not within the sphere of Electoral Registration Officers to decide as to whether a person is an Indian Citizen or not. This will have to be done only by appropriate authorities appointed by law. The objector to an entry in the electoral roll will have to satisfy the Electoral Registration Officer that the person objected to is not an Indian Citizen by producing positive documentary evidence.

Item No. 3: Model Code of Conduct

It was agreed that the Model Code of Conduct for the parties should include:

- (a) prohibition of financial grants in any form or promises including laying the foundation stones etc. of projects or scheme of any kind which may have the effect to influence the voters in favour of the party in power. The details may be worked out by the Commission.
- (b) prohibition of the use of official aircrafts in addition to the already existing provision of official vehicles, machinery etc.
- (c) prohibition against entry of Ministers in the polling stations or counting halls except in their capacity as candidates, voters or authorised agents.

It was the consensus that the Commission should examine the legal and other implications of the suggestion that the Government should so amend the law that a breach of the Model Code of Conduct is treated as an electoral offence. The law should also authorise the Election Commission to issue suitable directions. Failure to apply with which should attract penal clauses.

There was a proposal that the Election Commission should set up a monitoring cell to cover the news bulletin of the All India Radio and Doordarshan with a view to ensuring fair and objective presentation of election news. It was agreed that specific concrete proposals in this regard may be indicated to the Commission for further consideration and discussion with the parties at the next conference.

Item No. 4: Use of Electronic Voting Machines in the entire country—scheme

It was unanimously agreed that the electronic voting machine may be introduced in the entire country by the next General elections in 1985 as far as practicable. The Commission would convey the unanimous views to the Government.

Item No. 5: Photo-identity cards to all voters

It was agreed to await the result of the re-appraisal ordered by the Commission in Sikkim, Meghalaya and Nagaland regarding the working of the scheme of photo-identity cards. The scheme would also be tried in the urban area.

Item No. 6: Supply of at least four copies of electoral rolls of each constituency to the recognised political parties against two as at present

It was decided to supply four copies of electoral rolls to the recognised parties free of costs—two copies at the time of publication of electoral rolls and two copies after final publication of the rolls. The request of the registered parties for free supply of copies would be considered by the Commission.

Authenticated copy should be given to political parties and no change should be made after the last date for filing nominations.

Miscellaneous Items

(i) *Shri Madhu Danaavate on behalf of the opposition national parties stated that they would like to give priority to the following items*

- (1) Election Commission must implement suggestions within his jurisdiction.
- (2) Ban on defections.
- (3) State funding of elections.
- (4) Independence of Election Commission to be ensured.
- (5) Misuse of Government machinery including mass media must be prevented.
- (6) Chief Electoral Officers and Returning Officers from State should be from judiciary.
- (7) Age limit for voting should be 18.

The Commission has already made its specific recommendations on these points to the Government and therefore, the parties were informed they should wait for the reaction of the Government on these matters.

(ii) Package electoral reforms

On the question of electoral reforms the Chief Election Commissioner of India indicated that the package of proposals have already been sent to the Government in September, 1982 and that a Cabinet sub-Committee is considering these proposals. The Parliament was also informed that the Government would consult the opposition parties for a consensus. Chief Election Commissioner of India, therefore, left it to the participants to indicate whether they would like to wait for the next step to be taken by the Government or they would like any specific proposals to be debated at the meeting.

ANNEXURE

LOK SABHA

Electorate	Maximum election expenditure proposed per constituency	
	Present	Proposed (appx. 30% increase)
Above 7,00,000	1,00,000	1,50,000
Between 5,50,000 & 7,00,000	1,00,000	1,30,000
Between 4,00,000 & 5,50,000	75,000	1,00,000
Between 3,00,000 & 4,00,000	50,000	65,000
Between 1,00,000 & 3,00,000	35,000	46,000
Between 50,000 & 1,00,000	25,000	33,000
Below 50,000	15,000	20,000

LEGISLATIVE ASSEMBLY

Above 1,00,000	35,000	46,000
Between 75,000 & 1,00,000	25,000	33,000
Between 50,000 & 75,000	20,000	26,000
Between 25,000 & 50,000	12,500	16,500
Between 15,000 & 25,000	8,000	10,500
Between 7,000 & 15,000	5,000	6,500
Between 5,000 & 7,000	3,000	4,000
Below 5,000	2,000	3,000

(iii) *Directions and/or instructions issued by the Commission in exercise of its Residuary power under article 324 of the Constitution*

ELECTRONIC VOTING MACHINES

Electronic Voting Machines were first introduced on experimental basis in 50 out of 84 polling stations of Parur Assembly constituency in the General Election to the Kerala Legislative Assembly held in May, 1982. Later that year, these machines were used for taking the poll in 10-Northern Angami constituency at the General Election to the Nagaland Legislative Assembly held in November, 1982. Thereafter these machines were used at the following General/Bye-elections held in 1983 from the constituencies specified against them:

Name of the State	Nature of Election	No. and name of Assembly constituency where Voting Machines were used	Month and year of election
1. Andhra Pradesh	General	191-Shadnagar (SC)	January, 1983
2. Karnataka	-do-	84-Shantinagar (SC)	January, 1983
3. Tripura	-do-	9-Banamalipur	January, 1983
4. Delhi	-do-	1-Sarojini Nagar*	February, 1983
5. Delhi	-do-	3-Gole Market* (SC)*	February, 1983
6. Delhi	-do-	5-Delhi Cantt.*	February, 1983
7. Arunachal Pradesh	Bye-election	22-Roing	April, 1983
8. Bihar	-do-	199-Chandi	June, 1983
9. Tripura	-do-	18-Charilam	November, 1983

*Constituencies of Delhi Metropolitan Council.

Note—More details regarding the Electronic Voting Machines have been given in Chapter IX—Election Petitions/Writ Petitions.

CHAPTER XI

MISCELLANEOUS

(i) Deputation Abroad

Towards the end of 1982 the Govt. of India received a Project Report prepared by the National Constitution Commission of Liberia for the establishment of a system of free and fair elections in that country with a request for technical assistance and training of personnel to implement the project report. The Commission to whom the matter was referred by the Ministry of External Affairs agreed to spare the services of two of its senior officers for a period of 6 months for deputation to Liberia for the purpose. The Ministry of External Affairs accepted the offer and issued necessary sanction for this deputation under the ITEC programme on the 22nd April, 1983. However, the Commission has not yet been informed of the firm date by which the officers may be required to proceed to Liberia for the purpose.

(ii) Publications brought out by the Commission

During 1983, the Commission brought out the following publications:

1. Report on the General Elections to the Legislative Assembly of Assam—1983 (both in English and Hindi).
2. Report on the Election to the office of President of India, 1982 and Legislative Assemblies and the Delhi Metropolitan Council, 1982-83 (both in English and Hindi).
3. Report on the General Elections to the Legislative Assemblies, 1979-80 Vol. II(A) (Statistical)—in diglot.
4. Report on the General Elections to the Legislative Assemblies, 1979-80 Vol. II(B) (Statistical)—in diglot.

The Reports mentioned at 1 and 2 above were placed on the table of the Lok Sabha on 2nd August, 1983 and 13th December, 1983 and on the table of the Rajya Sabha on 1st August, 1983 and 19th December, 1983. The Reports mentioned at 3 and 4 above have not yet been placed on the Table of either House of Parliament.

The Commission also brings out a Documentation Monthly which records facts and events of interest to all those interested in electoral matters. This publication is intended mainly for the official use of the officers and staff of the Commission and that of Chief Electoral Officers of different States/Union Territories. Copies are also being made available to interested bodies like the Parliament Library on specific request.

(iii) Documentary Film on Poll Process

The Commission has from time to time been issuing instructions to the Chief Electoral Officers to take steps to educate the electorate on the electoral process. As a part of its efforts to educate the electorate, the Commission decided to produce a documentary film 'Elections in India'. This film will be of 45 minutes duration and will cover the entire election process including the use of electronic voting machine.

The film is being produced by the Ministry of Information and Broadcasting for the Commission. It is proposed to exhibit this film throughout India.

APPENDICES

APPENDIX I

Name of the Chief Election Commissioners	Period during which they held office
1. Shri Sukumar Sen ..	.. 21.3.50 to 19.12.58
2. „ K. V. K. Sundram ..	.. 19.12.58 to 30.9.67
3. „ S. P. Sen Varma ..	.. 30.9.67 to 30.9.72
4. „ Nagendra Singh ..	.. 30.9.72 to 6.2.73
5. „ T. Swaminathan ..	.. 6.2.73 to 18.6.77
6. „ S. L. Shaktihar ..	.. 18.6.77 to 18.6.82
7. „ R. K. Trivedi ..	.. 18.6.82 to

APPENDIX II

STAFF STRENGTH OF ELECTION COMMISSION

(As on 31.12.83)

			Sanctioned Strength	In Position
<i>Administrative Officers</i>				
Deputy Election Commissioner	..		2	1
Secretary	..	..	3	2
Under-Secretary	..	..	6	5
Under-Secretary (Legal)	..	..	1	—
Research Officer	..	..	1	—
 <i>Non-Ministerial Establishments (Gazetted)</i>				
Superintendent (Legal)	..	..	1	1
Librarian	..	..	1	1
 <i>Ministerial Establishments (Gazetted)</i>				
Section Officer	..	..	17	17
Hindi Officer	..	..	1	1
Senior Personal Assistant	..	..	2	1
 <i>Non-Ministerial Establishments (Non-Gazetted)</i>				
Research Assistant	..	..	3	2
Draftsman	..	..	1	1
Assistant Librarian	..	..	1	1
Library Assistant	..	..	2	1
Library Attendant (Sr.)	..	..	1	*
Library Attendant (Jr.)	..	..	1	2
Staff Car Driver	..	..	2	2
 <i>Ministerial Establishments (Non-Gazetted)</i>				
Assistant	..	..	45	41
Stenographer Gr. II	..	..	5	5
Hindi Translator (Sr.)	..	..	3	2
Hindi Translator (Jr.)	..	..	4	3
Upper Division Clerk	..	..	29	33*
Lower Division Clerk	..	..	43	31
Stenographer Gr. III	..	..	6	3

* Kept in abeyance and one library attendant (Junior) appointed against the said post.

			Sanctioned Strength	In Position
<i>Other Officers</i>				
Private Secretary to Chief Election				
Commissioner of India	..	..	1	1
<i>Group-D Staff (Non-Gazetted)</i>				
Gestetner Operator	..	..	3	3
Record Sorter	..	..	1	1
Daftry	..	..	14	14
Jamadar	..	..	3	2
Peon	..	..	22	18
Farash	..	..	5	5
Safaiwala	..	..	5	4
Confidential Dak Attendant	..	..	1	1
Special Dak Attendant	..	..	1	1
Attendant	..	..	2	2

* 4 U.D.Cs officiating against 4 vacant posts of Assistants which have been kept in abeyance.

APPENDIX III

ORGANISATIONAL SET UP OF THE ELECTION COMMISSION OF INDIA

Chief Election Commissioner							
Deputy Election Commissioner				Deputy Election Commissioner			
Under Secretary	Secretary		Secretary		Secretary		Research Officer
	Under-Secretary	Under-Secretary	Under-Secretary	Under-Secretary	Under-Secretary	Under-Secretary (Legal)	
1. Administration	1. Election Section-II	1. Election Section-VI	1. Election Section-IA	1. Hindi Section	1. Election Section-V	1. Legal Section-I	1. Research Reference & Record Section
2. Election Section-IV	2. Election Section-III	2. Budget, Accounts & Cash Section	2. Election Section-IB	2. Printing & Publication Section	2. General Section-II	2. Legal Section-II	2. Library
	3. Receipt & Issue Section	3. General Section-I	3. Election Section-VII		3. Statistical Section		

N.B.: (1) As on 31.12.83, one post of Deputy Election Commissioner, one post of Secretary, one post of Under-Secretary, the posts of Under-Secretary (Legal) and Research Officer are vacant and the work allotted to them has been assigned to other Officers.

(2) The Commission has no attached or subordinate office under its control.

APPENDIX IV

BUDGET ESTIMATES, 1983-84

(In thousands of Rupees)

	Plan	Non-Plan	Total
Major Head "215"			
B-Elections:			
B-1 Election Commission:			
B-1 (1) Salaries	—	35,62	35,62
B-1 (2) Wages	—	26	26
B-1 (3) Travel Expenses	—	90	90
B-1 (4) Office Expenses	—	6,68	6,68
B-1 (5) Payments for Professional and Special Services	—	50	50
B-1 (6) Publications	—	1,80	1,80
B-1 (7) Subsidies	—	44	44
B-1 (8) Hospitality Expenses	—	15	15
B-1 (9) Other Charges	—	25	25
Total—		<u>46,60</u>	<u>46,60</u>

APPENDIX V

STATEMENT SHOWING THE PROGRAMME FOR INTENSIVE/SUMMARY/REVISION OF ELECTORAL ROLLS, 1983

Name of State/ Union Territory	Enumeration	Manuscripts Preparation	Printing of the Draft Rolls	Draft Publication	Last date for filing claims & objections	Disposal of claims & objections	Compilation & Printing of supplements	Final Publication
1	2	3	4	5	6	7	8	9
1. Andhra Pradesh	1.5.83 to 11.6.83	—	12.6.83 to 11.8.83	12.8.83	12.9.83	13.9.83 to 21.9.83	22.9.83 to 30.9.83	1.10.83
2. Bihar	1.4.83 to 7.5.83	9.5.83 to 4.6.83	23.7.83	25.7.83	10.8.83	20.8.83	—	1.9.83
3. Gujarat	15.6.83 to 15.7.83	—	—	19.9.83	19.9.83 to 18.10.83	27.10.83 to 14.11.83	—	15.11.83
4. Haryana	15.4.83 to 14.5.83	15.5.83 to 29.5.83	1.7.83 to 19.8.83	22.8.83	20.9.83	30.9.83	15.10.83	17.10.83
5. Himachal Pradesh	2.4.83 to 2.5.83	3.5.83 to 30.6.83	—	4.7.83	3.8.83	16.8.83	17.8.83 to 27.8.83	1.9.83
6. Jammu & Kashmir	—	—	—	25.1.83	10.3.83	17.3.83	—	24.3.83
7. Karnataka	10.8.83 to 31.8.83	—	1.9.83 to 30.10.83	2.11.83 14.11.83 (For Bangalore District)	1.12.83	10.12.83	13.12.83	15.12.83
8. Kerala	16.4.83 to 15.5.83	16.5.83 to 4.7.83	—	5.7.83	6.7.83 to 20.8.83	21.8.83 to 10.9.83	—	22.9.83
9. Madhya Pradesh	1.4.83 to 14.5.83	—	18.5.83 to 16.7.83	25.8.83	24.9.83	20.10.83	—	31.10.83
10. Maharashtra								
(a) 80-Rural	15.4.83 to 14.5.83	—	—	1.7.83	31.7.83	15.8.83	—	1.9.83
(b) 16-Rural	15.4.83 to 14.5.83	—	—	9.7.83	16.8.83	30.8.83	—	15.9.83
(c) 34-Urban	15.4.83 to 30.6.83	—	—	7.10.83	24.10.83	7.11.83	—	21.11.83
11. Manipur	1.4.83 to 30.4.83	—	—	15.7.83	15.7.83 to 16.8.83	16.8.83 to 30.8.83	—	15.9.83 (Excepting the rolls of Chandel & Sane- pati Distt. 15.12.83 (For the above dis- tricts)
12. Meghalaya	1.5.83 to 31.5.83	—	—	26.9.83	18.10.83	31.10.83	—	11.11.83
13. Nagaland	1.5.83 to 31.5.83	—	—	1.8.83	31.8.83	15.9.83	—	15.9.83

1.8.83 to 14.9.83 15.9.83 to 30.9.83 1.10.83 to 16.10.83 17.10.83 18.10.83 to 18.11.83 19.11.83 to 14.12.83 —

gsei Assembly constituencies)
15.12.83
(For the above-mentioned constituencies)

APPENDIX VI

STATEMENT SHOWING THE PROGRAMME OF REVISION OF ELECTORAL ROLLS OF GRADUATES' AND TEACHERS' CONSTITUENCIES OF LEGISLATIVE COUNCILS WITH QUALIFYING DATE AS 1.11.1983

Name of State	Issue of Public Notice	First Publication of Notice	Second Publication of Notice	Last date for receipt of Applications	Draft Publication	Last date for lodging claim & objections	Disposal of claims/objections	Final Publication
1	2	3	4	5	6	7	8	9
1. Andhra Pradesh	1.10.83	15.10.83	25.10.83	6.11.83	8.12.83	24.12.83	14.1.84	21.1.84
2. Bihar	20.9.83	15.10.83	25.10.83	6.11.83	16.12.83	31.12.83	16.1.83	25.1.84 (Excepting Patna & Bhagalpur Graduates)
	—	—	—	—	7.1.84	22.1.84	10.2.84	17.2.84 (For above two constituencies)
3. Karnataka	20.9.83	15.10.83	25.10.83	6.11.83	16.12.83	31.12.83	16.1.84	25.1.84 (Excepting Karnataka West Graduates and Karnataka Central Graduates)
	—	15.10.83	25.10.83	6.11.83	31.12.83	16.1.84	10.2.84	10.2.84 (For above two constituencies)
4. Maharashtra	20.9.83	15.10.83	25.10.83	6.11.83	16.12.83	31.12.83	16.1.84	25.1.84
5. Tamil Nadu	1.10.83	15.10.83	25.10.83	6.11.83	8.12.83	24.12.83	14.1.84	31.1.84
6. Uttar Pradesh	20.9.83	15.10.83	25.10.83	6.11.83	16.12.83	31.12.83	16.1.84	25.1.84

APPENDIX VII

NAMES OF NATIONAL, STATE AND REGISTERED PARTIES

(a) National Parties

National Party	Symbol Reserved
1. Bharatiya Janata Party	Lotus
2. Communist Party of India	Ears of Corn and Sickle
3. Communist Party of India (Marxist)	Hammer, Sickle and Star
4. Indian Congress (Socialist)	Charkha
5. Indian National Congress	Hand
6. Janata Party	Haldhar within Wheel (Chakra Haldhar)
7. Lok Dal	Farmer ploughing the Field (Khet Jotata Hua Kisan)

(b) State Parties

Name of State/ Union Territory	Name of the State Party	Symbol Reserved
1	2	3
Andhra Pradesh	Telugu Desam	Bicycle
Assam	Plains Tribal Council of Assam	Cultivator cutting Crop
Haryana	Congress (J)	Scale
Jammu & Kashmir	1. Jammu and Kashmir People Conference	Lion
	2. Jammu and Kashmir National Conference	Plough
Kerala	1. All India Muslim League	Boat
	2. Kerala Congress	Horse
	3. Kerala Congress (J)	Elephant
	4. Muslim League	Ladder
Maharashtra	Peasants and Workers Party	Cart
Manipur	1. Kuki National Assembly	Two Leaves
	2. Manipur People's Party	Bicycle
Meghalaya	1. All Party Hill Leader's Conference	Flower
	2. Hill State People's Democratic Party	Lion
	3. Public Demands Implemen- tation Convention	Spade
Nagaland	Naga National Democratic Party	Cock

Name of State	Name of the State Party	Symbol Reserved
Punjab	Shiromani Akali Dal	Scales
Sikkim	1. Sikkim Congress (R)	Rising Sun
	2. Sikkim Janata Parishad	Horse
	3. Sikkim Prajatantra Congress	Ladder
Tamil Nadu	1. All India Anna Dravida Munnetra Kazhagam	Two Leaves
	2. Dravida Munnetra Kazhagam	Rising Sun
Tripura	1. Tripura Upajati Juba Samiti	Two Leaves
	2. Revolutionary Socialist Party	Spade and Stoker
West Bengal	1. All India Forward Bloc	Lion
	2. Revolutionary Socialist Party	Spade and Stoker
Arunachal Pradesh	People's Party of Arunachal	Mithun
Goa, Daman & Diu	Maharashtrawadi Gomantak	Lion
Mizoram	People's Conference	Scales
Pondicherry	1. All India Anna Dravida Munnetra Kazhagam	Two Leaves
	2. Dravida Munnetra Kazhagam	Rising Sun

(c) Registered Parties

Name of the unrecognised registered political party	State/States in which it is treated as functioning as registered unrecognised political party
1. Backward & Depressed People's Protection Front	Tamil Nadu
2. Doordarshi Party	1. Gujarat & 2. Uttar Pradesh
3. Gandhi Kamraj National Congress	Tamil Nadu
4. Jharkhand Mukti Morcha	Bihar
5. Jharkhand Party	Orissa
6. Naga National Party	Nagaland
7. National Democratic Party	Kerala
8. Republican Party of India	Maharashtra
9. Republican Party of India (Khobragade)	Maharashtra
10. Socialist Unity Centre of India	West Bengal
11. Tamil Nadu Congress (K)	Tamil Nadu
12. Tripura State Congress for Democracy	Tripura

APPENDIX VIII

VACANCIES IN HOUSE OF THE PEOPLE AS ON 31.12.1983

Name of State/Union Territory	No. of Seat Vacant	Name of Constituency	Cause of Vacancy	Date of Vacancy	Date of Poll	Remarks
1	2	3	4	5	6	7
1. Assam	7	5-Kokrajhar (ST) 6-Barpeta 8-Mangaldoi 9-Tezpur 10-Nowgong 13-Dibrugarh 14-Lakhimpur	No Nominations were filed in these constituencies at the General election to Lok Sabha held in December, 1979 and January, 1980	10.1.80	—	The poll fixed for 17/20.2.83 adjourned. In case of Mangalodoi Parliamentary constituency the poll was countermanded due to the death of a contesting candidate.
2. Bihar	2	5-Siwan 29-Banka	Death Regn.	4.12.83 29.12.83	— —	— —
3. Himachal Pradesh	1	2-Mandi	Regn.	17.10.83	—	—
4. Madhya Pradesh	1	40-Mandsaur	Death	7.10.83	—	—
5. Punjab	1	6-Hoshiarpur	Regn.	22.7.82	—	Uncongenial law and order situation for free and fair poll.

**ABBREVIATIONS USED FOR THE NAMES OF VARIOUS POLITICAL
PARTIES IN APPENDICES IX & XI**

National Parties

1. Bhartiya Janata Party	..	..	..	..	BJP
2. Communist Party of India	..	..	..	..	CPI
3. Communist Party of India (Marxist)	..	..	..	..	CPM
4. Indian Congress (Socialist)	..	..	..	..	ICS
5. Indian National Congress	..	..	..	..	INC
6. Janata Party	..	..	..	..	JNP
7. Lok Dal	..	..	..	..	LKD

State Parties

1. All India Anna Dravida Munnetra Kazhagam	..	..	..	..	ADK
2. All Party Hill Leaders Conference	..	..	..	..	AHL
3. Dravida Munnetra Kazhagam	..	..	..	..	DMK
4. Hill State People's Democratic Party	..	..	..	..	HPD
5. Public Demands Implementation Convention	..	..	..	..	PDC
6. People's Party of Arunachal	..	..	..	..	PPA
7. Telugu Desam	..	..	..	..	TDP

Note—(1) IND stands for "Independent".
(2) 'E' stands for "Elected".

DETAILED RESULTS OF PARLIAMENTARY BYE-ELECTIONS

Sl. No.	Name of State	No. & Name of Constituency	Electors & votes polled	Valid votes polled and Rejected votes	Name of Candidate	Party	Votes polled
1	2	3	4	5	6	7	8
6.	Bihar	.. 2-Bettiah	7,40,182 3,27,100	3,19,296 7,804	1. Pitamber Singh	CPI	1,12,314 (E)
					2. Manoj Kumar Pandey	INC	1,00,667
					3. Md. Fazlur Rahman	LKD	59,811
					4. Mangal Prasad Yadav	JNP	35,557
					5. Deo Narain Prasad	IND	2,687
					6. Vinay Kumar Mishra	IND	1,810
					7. Smt. Mayadevi Gupta	IND	1,808
					8. Sudama Prasad	IND	1,709
					9. Satendra Nath Verma	IND	1,600
					10. Chedi Khan	IND	698
					11. Mohammad Sarfuddin Bismil	IND	635
7.	Haryana	.. 4-Sonepat	7,29,790 4,00,559	3,94,673 5,886	1. Rizaq Ram	INC	1,60,244 (E)
					2. Devi Lal	JNP	1,47,877
					3. Kitab Singh	LKD	70,133
					4. Om Parkash	IND	3,989
					5. Kanwal Singh Badharak	IND	3,587
					6. Ram Kumar	IND	2,152
					7. Sita Ram	IND	1,906
					8. Rajinder	IND	1,525
					9. Raj Kumar	IND	1,009
					10. Sube Singh Dhillon	IND	612
					11. Inderjeet Tung	IND	570
					12. Nathu Lal	IND	527
					13. Banwari Lal	IND	335
14. Bhala Ram Chhiller	IND	207					
8.	Uttar Pradesh	.. 78-Bulandshahr	6,95,022 3,49,600	3,44,273 5,327	1. Banarsi Das	JNP	1,30,686 (E)
					2. Intaz Mohd. Khan	INC	1,16,299
					3. Sarwar Hussain	LKD	72,299
					4. Ram Singh	IND	7,961
					5. Hansraj	IND	5,541
					6. Brijesh Dutta Pandey	IND	3,747
					7. Ject	IND	3,349
					8. Kiran Pal Singh	IND	1,601
					9. Harkesh Singh	IND	1,083
					10. Kailash Chand	IND	872
					11. Chandra Prakash Balmiki	IND	839

VACANCIES IN LEGISLATIVE ASSEMBLIES AS ON 31.12.1983

Name of State/Union Territory	No. of Seat Vacant	Name of Constituency	Cause of Vacancy	Date of Vacancy	Date of Poll	Remarks
1	2	3	4	5	6	7
						on 29.6.83 in writ petition No. 291/83. On appeal by the Commission, the Supreme Court vacated the High Court's stay order on 19.7.83, and directed the High Court to dispose of the writ petition expeditiously. The High Court's decision on the writ petition is still awaited.
5. Kerala	2	33-Nanjeri 115-Punaloor	Death Death	28.9.83 24.10.83	— —	— —
6. Madhya Pradesh	2	213-Seoni	Death	12.12.80	—	Election petition is pending wherein prayed that he be declared elected. Hence, the bye-election cannot be held.
		53-Damoh	Death	3.11.83	—	—
7. Punjab	1	110-Pacca Kalan (SC)	Death	20.5.83	—	Assembly has been suspended. State is under President's Rule.
8. Tamil Nadu	4	6-Purasawalkam 8-Annanagar 171-Mayuram 157-Uppiliapuram (ST)	Regn. Regn. Death Election declared void	18.8.83 18.8.83 11.11.83 7.12.83	— — — —	— — — —
9. Uttar Pradesh	1	234-Jakhania (SC)	Election declared void by Supreme Court	29.11.83	—	—
10. West Bengal	1	165-Shibpur	Death	17.12.83	—	—

4.	Shri N. Narasimha Reddy	JNP	2,794
5.	„ P. Anjiah	IND	213
6.	„ G. Rajeshwar Reddy	IND	183
7.	„ Afsar Sultana Qureshi	IND	114

(Contd.)

APPENDIX XI—(Contd.)

DETAILED RESULTS OF ASSEMBLY BYE-ELECTIONS

State: Andhra Pradesh (Sl. No. 1)

Sl. No.	No. and Name of Constituency	Electors and Votes polled	Valid Votes and Rejected Votes	Name of Candidate	Party	Votes polled
1	2	3	4	5	6	7
				8. Shri Chand Patel	IND	86
				9. " K. Anjamma	IND	78
				10. " K. Seshachari	IND	50
				11. " Hanumanth Gupta	IND	19
				12. " M. M. Jahangir Ali	IND	17
				13. " T. Bala Raju	IND	16
				14. " K. Ragvender Rao	IND	15
				15. " Thakur Mukteshwar Singh	IND	13
				16. Dr. Swamy T. S. Devanand	IND	9
114	5. 67-Tadepalligudem	1,17,120 64,777	63,863 914	1. Smt. Eli Varalakshmi	TDP	45,587 (E)
				2. Shri Mylavarapu Raj Bhaskara Rao	INC	15,459
				3. " Gullapudi Kondala Rao	IND	1,697
				4. Smt. Kamalabayamma Lanka	IND	419
				5. Shri Paleti Venkataswamy	IND	295
				6. " Kilari Apparao	IND	209
				7. Smt. Padmavathi Posemsetti	IND	197
	6. 113-Martur	1,14,954 1,00,350	98,686 1,664	1. Shri Venkateswararao Daggubati	TDP	49,399 (E)
				2. " Chowdaraiah Sadineni	INC	44,847
				3. " Kamma Subharao	IND	2,373
				4. " Kondrugunta Rangaiah	IND	426
				5. " M. M. Jahangir Ali	IND	292
				6. " Nallapaneni Vinod Babu	IND	279
				7. " Popuri Rangarao	IND	257
				8. " Shaik Baba Vali	IND	256
				9. " Dodda Ravindra Babu	IND	172
				10. " Uppalapati Venkateswararao	IND	165
				11. " Didugu Venkata Damodara Nageswararao	IND	114
				12. " Popuri Adinarayana Rao	IND	106

(Contd.)

APPENDIX XI—(Contd.)

DETAILED RESULTS OF ASSEMBLY BYE-ELECTIONS

State: Bihar (Sl. No. 2)

Sl. No.	No. and Name of Constituency	Electors and Votes Polled	Valid and Rejected Votes	Name of Candidates	Party	Votes Polled
1	2	3	4	5	6	7
1.	199-Chandi	1,18,050 57,233	57,233 —	1. Shri Hari Narain Singh	JNP	28,968 (E)
				2. „ Anil Kumar	INC	21,250
				3. „ Shoudagar Ram	IND	3,244
				4. „ Ram Peyarelal	BJP	1,072
				5. „ Trilok Singh	IND	704
				6. „ Subhash Chandra Bhatt	IND	496
				7. „ Dinesh Prasad	IND	314
				8. „ Shib Nandan Prasad	IND	295
				9. „ Budhan Ram	IND	288
				10. „ Raj Kumar Sharma	IND	259
				11. „ Ram Prakash Singh	IND	174
				12. „ Mahendra Prasad	IND	169
2.	252-Gurua	1,34,254 71,191	69,163 2,028	1. Md. Khan Ali	INC	24,931 (E)
				2. Shri Ram Chandra Singh	LKD	16,021
				3. „ Sankar Dayal Singh	JNP	15,532
				4. „ Bhagwan Bhaskar	IND	9,652
				5. „ Yogeshwar Yadav	IND	2,001
				6. „ Mahendra Singh	IND	773
				7. „ Janardan Prasad Singh	IND	253
3.	174-Banka	1,09,464 74,958	73,669 1,289	1. Shri Chandrashekhar Singh	INC	53,485 (E)
				2. „ Babu Lal Mandal	BJP	10,139
				3. „ Tripurari Prasad Singh	JNP	6,317
				4. „ Jawahar Jha	IND	1,781
				5. „ Raghunandan Jha	IND	703
				6. „ Vishwanath Das	IND	552
				7. „ Upendra Singh	IND	290
				8. „ Kailash Rai	IND	249
				9. „ Harindra Kumar Singh	IND	153

(Contd.)

DETAILED RESULTS OF ASSEMBLY BYE-ELECTIONS

State: Kerala (Sl. No. 5)

Sl. No.	No. and Name of Constituency	Electors and Votes Polled	Valid and Rejected Votes	Name of Candidates	Party	Votes Polled
1	2	3	4	5	6	7
1.	137-Nemom	98,156 73,609	73,160 449	1. Shri V. J. Thankappan 2. " E. Ramesan Nair 3. " K. N. Sundaresan Thampi 4. " Adv. Sambasivan 5. " James Antony 6. " T. J. Kunju Kunju 7. " N. Sakariah 8. " Nandavanan Suscelan 9. " Ponnurangalam K. Achuthan 10. " S. Appukkuttan Nair (Nisily) 11. " A. R. Sathyavathi 12. " N. R. Sukumaran Nair 13. " P. Balachandran Nair 14. " B. P. Sasibhooshanan Nair 15. " Venpakal K. Parameswaran Nair	CPM INC BJP IND IND IND IND IND IND IND IND IND IND IND IND	39,597 (E) 31,308 1,016 210 182 169 125 118 112 74 70 64 43 38 34

State: Maharashtra (Sl. No. 6)

1.	271-Sangli	1,10,294 70,431	69,123 1,308	1. Shri Patil Vasanttrao Bandoji 2. " Patil Shantaram Sakharam 3. " Galgale Laxman Vinayak 4. " Janvekar Prabhakar Dattatraya 5. " Inamdar Fayjoddin 6. " Pulekar Govind Manohar	INC IND IND IND IND IND	53,276 (E) 14,187 1,074 329 187 70
2.	93-Chopda	1,01,088 53,212	51,609 1,603	1. Dr. Suresh G. Patil 2. Shri Sonkar Ramakant Rambhau 3. " Dinkarrao Madhavrao Patil 4. " Gaji Mubinkhan Mardan Khan	INC IND IND IND	46,312 (E) 4,192 709 396
3.	265-Patan	1,13,547 78,320	75,972 2,348	1. Shri Patankar Vikramsinh Ranjitsinh 2. " Shivaji Daulatrao	IND INC	43,608 (E) 32,364

(Contd.)

DETAILED RESULTS OF ASSEMBLY BYE-ELECTIONS

State: Karnataka (Sl. No. 7)

Sl. No.	No. and Name of Constituency	Electors and Votes Polled	Valid and Rejected Votes	Name of Candidates	Party	Votes Polled
1	2	3	4	5	6	7
611	1. 27-Yelburga 86,806 51,129	49,547 1,682	1. Shri Subhaschandra Basalingangouda Patil	INC	20,206 (E)
				2. ,, Shankar Rao Krishna Rao Deshpande	BJP	13,711
				3. ,, Virupakshgouda Karegouda Patil Chandoor	IND	10,543
				4. ,, Prabhuraj Lingangouda Patil	IND	2,459
				5. ,, Shripadappa Neelappa Adhikari	IND	1,197
				6. ,, Shekharayya Basayya	IND	1,020
				7. ,, Hottepaksha Rangaswamy	IND	361
				8. ,, K. R. Tippanna	IND	50
	2. 91-Kanakapura 85,357 69,158	68,656 502	1. Shri Ramakrishan Hegde	JNP	45,365 (E)
				2. ,, D. Lingogowda	INC	22,199
				3. ,, V. R. Rajashekara Kasave	LKD	383
				4. ,, K. T. Channabasavegouda	IND	316
				5. ,, Hottepaksha Rangaswamy	IND	92
6. ,, Panduranga Devagiri				IND	67	
7. ,, Veceranna Galangalappa Hosakere				IND	65	
8. ,, D. C. Chowdaiah				IND	51	
9. ,, A. Chandrashekara Reddy				IND	46	
10. ,, L. Gangadhar				IND	27	
11. ,, C. Mahadevaswamy				IND	24	
12. ,, R. Muniswamy				IND	17	
13. ,, H. Kalecmulla				IND	4	
3. 157-Tarikere	.. .. 86,359 63,126	62,156 970	1. Dr. H. R. Raju	INC	38,516 (E)
			2. Shri T. V. Shivashankarappa	JNP	21,809	
			3. ,, Hottapaksha Rangaswamy	IND	531	
			4. ,, Rehman Shariff	IND	370	
			5. ,, Shivalingappa	IND	324	
			6. ,, C. Mahadevaswamy	IND	234	
			7. ,, T. R. Shivanna	IND	154	
			8. ,, G. K. Siddaiah	IND	153	
			9. ,, H. Umer Khan	IND	65	

(Contd.)

APPENDIX XI—(Contd.)

DETAILED RESULTS OF ASSEMBLY BYE-ELECTIONS

State: Madhya Pradesh (Sl. No. 8)

Sl. No.	No. and Name of Constituency	Electors and Votes Polled	Valid and Rejected Votes	Name of Candidates	Party	Votes Polled
1	2	3	4	5	6	7
1.	46-Tikamgarh	94,186 53,316	51,263 2,053	1. Shri Yadevendra Singh alias Jaggu	INC	24,189 (E)
				2. „ Magan Lal Goel	BJP	11,703
				3. „ Pratap Tiwari	CPI	8,380
				4. „ Akhand Pratap Singh	IND	2,685
				5. Dr. Abdul Karim Khan	IND	1,591
				6. Shri Laxmi Narayan Nayak	JNP	1,208
				7. „ Arvind Kumar Jain	IND	799
				8. „ Mahesh Pratap Pandey	IND	708
2.	258-Shajapur	93,214 57,638	55,965 1,673	1. Shri Deep Singh Yadav	INC	30,510 (E)
				2. „ Laxmi Narayan Patel	BJP	23,290
				3. „ Ramchandra Lodhi	LKD	898
				4. „ Om Prakash Arya	JNP	854
				5. „ Jafar Bhai	IND	413

(Contd.)

2.	„	Rinzing Tsongduar Lepcha	Sikkim Cong (N)	55
3.	„	Dorjee Dadul Lasopa	IND	66
4.	„	Sonam Pintso Bhutia	IND	64
5.	„	Phur Ishering Lepcha	IND	41
6.	„	Dugo Bhutia	IND	21

(Contd.)

APPENDIX XI—(Contd.)
DETAILED RESULTS OF ASSEMBLY BYE-ELECTIONS
State: Uttar Pradesh (Sl. No. 13)

Sl. No.	No. and Name of Constituency	Electors and Votes Polled	Valid and Rejected Votes	Name of Candidates	Party	Votes Polled
1	2	3	4	5	6	7
1.	57-Pilibhit	1,25,352 73,957	72,505 1,452	1. Shri Riaz Ahmed	IND	27,918 (E)
				2. " Gursevak Singh	INC	21,365
				3. " Dharendra Sahai	LKD	15,504
				4. " Mohd. Ashraf Ullah	IND	4,143
				5. " Sarva Dutt Singh	IND	1,017
				6. " Lal Bahadur	IND	521
				7. " Munni Lal Patel	IND	491
				8. " Shayam Vinod	IND	419
				9. " Pawan Kumar Sharma	IND	369
				10. " Jai Lal	IND	290
				11. " Mohd. Taiyab Khan	IND	281
				12. " Hari Shankar	IND	128
				13. " Abdul Mabood	IND	59
2.	191-Siswa	1,30,997 86,694	84,813 1,881	1. Shri Shivendra Singh alias Shiv Babu	INC	46,996 (E)
				2. " Sharda Prasad Jaiswal	BJP	29,506
				3. " Jagdish Lal	JNP	4,085
				4. " Narbadashawar Tiwari alias Jhunjhuwala Babu	IND	1,523
				5. " Maulana Luqman	IND	1,422
				6. " Phool Chand Alias Behlwan Baba	IND	796
				7. " Satish	IND	485
3.	199-Fazilnagar	1,63,262 88,554	86,763 1,791	1. Shri Vishwanath	LKD	28,665 (E)
				2. " Rajbahadur	INC	17,191
				3. " Abutalaha	IND	16,884
				4. " Lallan Rai	CPI	9,315
				5. " Chhedi Lal Sharma	IND	6,424
				6. " Sheonath Singh	CPM	3,376
				7. " Sheo Autar Mani Tripathi	IND	2,050
				8. " Allaudin	JNP	1,376
				9. " Abdul Ghafur	IND	689
				10. " Ramanand Giri	IND	334
				11. " Shankar Lal	IND	274
				12. " Ramanand	IND	185

(Contd.)

APPENDIX XI—(Contd.)
DETAILED RESULTS OF ASSEMBLY BYE-ELECTIONS
State: Uttar Pradesh (Sl. No. 13)

Sl. No.	No. and Name of Constituency	Electors and Votes Polled	Valid and Rejected Votes	Name of Candidates	Party	Votes Polled
1	2	3	4	5	6	7
4.	335-Madhogarh	1,56,240 96,448	95,025 1,423	1. Shri Jitendra Shah	LKD	21,869 (E)
				2. " Kirat Singh	INC	20,021
				3. " Mansav Khan	IND	19,494
				4. " Shiv Ram	IND	15,207
				5. " Balik Ram	IND	13,143
				6. " Satya Dev Tripathi	JNP	1,652
				7. " Ram Avatar	IND	972
				8. " Vishnu Datt	IND	827
				9. " Ram Manohar	IND	630
				10. " Chinta Mani	IND	512
				11. " Krishna Pal Singh	IND	441
				12. " Rama Nandi	IND	257
5.	318-Tindwari	1,42,209 69,661	67,861 1,800	1. Shri Chandra Bhan Singh	INC	28,813 (E)
				2. " Jagroop Singh	IND	13,531
				3. " Babu Lal Singh	BJP	10,517
				4. " Ranvir Singh	CPI	7,055
				5. " Rajendra Singh	JNP	6,164
				6. " Badri Prasad alias Lalley Guru	IND	938
				7. " Balbir	IND	843

State: West Bengal (Sl. No. 14)

1.	114-Garden Reach	1,23,286 72,782	71,080 1,702	1. Shri Fazle Azim Molla	INC	34,267 (E)
				2. " Md. Amin	CPM	32,653
				3. " Sultan Hossain	IND	2,688
				4. " Ram Sharan	BJP	639
				5. " Rameshwar Pasman	IND	322
				6. " Md. Ashiruddin	LKD	230
				7. " Syed Ansar Ali	IND	112
				8. " Rafique Mastana	IND	69
				9. " Kamalendu Sen Gupta	IND	60
				10. " Hossain Dildar	IND	40

(Contd.)

APPENDIX XI—(Contd.)
DETAILED RESULTS OF ASSEMBLY BYE-ELECTIONS
State: West Bengal (Sl. No. 14)

Sl. No.	No. and Name of Constituency	Electors and Votes Polled	Valid and Rejected Votes	Name of Candidates	Party	Votes Polled
1	2	3	4	5	6	7
2.	108-Jadavpur	1,38,835 93,496	91,474 2,022	1. Shri Ashok Mitra 2. „ Sukumar Dutta	CPM INC	58,251 (E) 33,223
3.	49-Kaliachak	1,13,501 94,647	93,260 1,387	1. Shri Ahmad Samsuddin 2. „ Ranu Bose 3. „ Abdul Kasem	INC CPM IND	48,901 (E) 43,985 374
4.	74-Kishanganj (SC)	97,467 84,403	83,164 1,239	1. Shri Ananda Mohan Biswas 2. „ Nayan Sarkar 3. „ Supravat Biswas 4. „ Susil Kumar Samajdar	INC CPM BJP IND	41,859 (E) 41,261 1,426 618

State: Arunachal Pradesh (Sl. No. 15)

1.	22-Roing	8,806 6,859	6,859 —	1. Shri Mukut Mithi 2. „ Abom Borang 3. „ Gora Pertin 4. „ Obang Perme	IND PPA INC IND	3,049 (E) 2,111 1,475 224
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State: Mizoram (Sl. No. 16)

1.	22-Phuldungsei	7,479 4,192	4,128 64	1. Shri Liansuama 2. „ R. Sakhawliana 3. „ R. Denghtuama 4. „ D. Hmunliana	INC People's Conference IND IND	1,928 (E) 1,608 544 48
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APPENDIX XII

**STATEMENT SHOWING THE DETAILS OF VACANCIES DUE TO
RETIREMENT IN THE LEGISLATIVE COUNCILS**

State	No. of Seats	Constituencies	Date of Vacancy
1	2	3	4
1. Andhra Pradesh	1	Hyderabad L.A.	1.7.76
2. Bihar	39	Patna L.A. Bhojpur L.A. Saran L.A. Champan L.A. Muzaffarpur L.A. Dharbhanga L.A. Monghyr L.A. Purnea L.A. Santhal Parganas L.A. Hazaribagh L.A. Dhanbad L.A.	6.5.78
		Patna L.A. (3 seats) Bhojpur L.A. Saran L.A. Dharbanga L.A. Santhal Parganas L.A. Hazaribagh L.A. Ranchi L.A. Singhbhum L.A. Purnea L.A.	31.5.80
		Patna L.A. Saran L.A. Champan L.A. Muzaffarpur L.A. (2 seats) Darbhanga L.A. Monghyr L.A. Saharsa L.A. Bhagalpur L.A. Ranchi L.A. Palamau L.A. Singhbhum L.A.	6.5.82

(Contd.)

APPENDIX XII—(Contd.)

State	No. of Seats	Constituencies	Date of Vacancy
1	2	3	4
Bihar (Contd.)		Tirhat Teachers (2)	6.5.82
		Monghyr Teachers	6.5.82
		Darbhanga Graduates	6.5.82
		Bhagalpur Graduates	6.5.82
3. Karnataka	21	Mysore-cum-Kadagu L.A. Bijapur L.A. Dharwad L.A. Mandya L.A. Hassan L.A. Belgaum L.A. Dakshina Kannada L.A.	1.7.78
		Belgaum L.A. Bangalore L.A. Chitradurga L.A. Bidar L.A. Uttar Kannada L.A. Kolar L.A. Dharwad L.A.	14.5.80
		Gulbarga L.A. Bangalore L.A. Shimoga-cum-Chikmagalur L.A. Tumkur L.A. Raichur L.A. Ballary L.A. Mysore-cum-Coorg L.A.	11.6.82
4. Maharashtra	7	Dhulia L.A.	24.4.82
		Nasik L.A. Poona L.A. Kolhapur L.A. Osmanabad and Bhir L.A. Aurangabad L.A. Parthani and Nanded L.A.	7.7.82
5. Tamil Nadu	21	Madras L.A.	21.4.74 (Contd.)

APPENDIX XII—(Contd.)

State	No. of Seats	Constituencies	Date of Vacancy	
1	2	3	4	
Tamil Nadu (Contd.)		Chengalpattu L.A.	} 21.4.76	
		Coimbatore-Nilgiris L.A. (2 seats)		
		Madurai L.A. (2 seats)		
		Tirunelveli L.A. (2 seats)		
			North Arcot L.A. (2 seats)	} 21.4.78
			South Arcot L.A. (2 seats)	
			Tiruchirapally-Pudukkottai L.A. (2 seats)	
			Kanyakumari L.A.	
			Thanjavur L.A. (2 seats)	} 21.4.80
			Salem-Dharmapuri L.A. (2 seats)	
			Ramanathapuram L.A. (2 seats)	
	6. Uttar Pradesh	45	Garhwal-cum-Bijnor L.A.	} 5.5.80
	Moradabad L.A.			
	Rampur-cum-Budaun L.A.			
	Pilibhit-cum-Shahjahanpur L.A.			
	Kheri-cum-Sitapur-cum-Hardoi L.A. (2 seats)			
	Partapgarh-cum-Sultanpur-cum-Barabanki L.A. (2 seats)			
	Deorai-cum-Ballia L.A.			
	Bulandshahar L.A.			
	Meerut-cum-Ghaziabad-cum- Muzaffarnagar L.A. (2 seats)			
	Saharanpur-cum-Dehradun L.A.			
	Garhwal-cum-Kumaon L.A.			
	Lucknow-cum-Unnao-cum-Rae Bareli L.A. (2 seats)			
	Gonda L.A.			
	Bahraich L.A.			
	Faizabad L.A.			
	Basti-cum-Gorakhpur L.A.			
	Jaunpur L.A.			
	Allahabad L.A.			
	Mainpuri-cum-Etah-cum-Mathura L.A.			
	Agra L.A.			
	Aligarh L.A.			
	Nainital-cum-Bereilly L.A.			

(Contd.)

APPENDIX XII—(Contd.)

State	No. of Seats	Constituencies	Date of Vacancy
1	2	3	4
Uttar Pradesh (Contd.)		Basti-cum-Gorakhpur L.A. (2 seats) Deoria-cum-Ballia L.A. Azamgarh-cum-Ghazipur L.A. (2 seats) Varanasi-cum-Mirzapur L.A. (2 seats) Fatehpur-cum-Banda L.A. Hamirpur-cum-Jhansi L.A. Jalaun-cum-Etawah L.A. Kanpur-cum-Farrukhabad L.A. (2 seats) Mainpuri-cum-Etah-cum-Mathura L.A. Allahabad Graduates Meerut Graduates Lucknow-Teachers Gorakhpur-cum-Faizabad Teachers Agra Teachers Meerut Teachers	5.5.82

APPENDIX XIII

PENDING BYE-ELECTIONS TO LEGISLATIVE COUNCILS

State	No. of Vacancies	Name of Constituency	Cause of Vacancy	Date of Vacancy	Remarks
1	2	3	4	5	6
LEGISLATIVE COUNCILS					
Casual Vacancies					
1. Andhra Pradesh	6	By members *Krishna L.A. *Krishna L.A. By members By members By members	Regn. Death Regn. Regn. Regn. Death	11.8.82 15.10.82 17.4.83 7.1.83 14.2.83 8.8.83	*Reconstitution of Local bodies awaited. Further the State Govt. have also informed the Commission that action is being initiated to abolish the Andhra Pradesh Legislative Council
2. Bihar	1	By members	Death	12.10.83	—
3. Jammu & Kashmir	2	By members	Regn.	6.6.83	Since the term of member is to expire on 13.2.84, it was decided not to fill the vacancy
		By Kashmir Panchayat Constituency	Regn.	11.6.83	Panchayats in Kashmir province have not yet been constituted
4. Maharashtra	1	Amaravati L.A.	Death	11.10.83	Position regarding the Constitution of Local bodies is being ascertained

MODEL CODE OF CONDUCT FOR THE GUIDANCE OF POLITICAL PARTIES AND CANDIDATES

I. General Conduct

(1) No party or candidate shall indulge in any activity which may aggravate existing differences or create mutual hatred or cause tension between different castes and communities, religious or linguistic.

(2) Criticism of other political parties, when made, shall be confined to their policies and programme, past record and work. Parties and candidates shall refrain from criticism of all aspects of private life, not connected with the public activities of the leaders or workers of other parties. Criticism of other parties or their workers based on unverified allegations or on distortion shall be avoided.

(3) There shall be no appeal to caste or communal feelings for securing votes. Mosques, Churches, Temples or other places of worship shall not be used as forum for election propaganda.

(4) All parties and candidates shall avoid scrupulously all activities which are "corrupt practices" and offences under the election law, such as the bribing of voters, intimidation of voters, personation of voters, canvassing within 100 metres of a polling station, holding public meetings during the period of 48 hours ending with the hour fixed for the close of the poll, and the transport and conveyance of voters to and from polling station.

(5) The right of every individual for peaceful and undisturbed home life shall be respected, however much the political parties or candidates may resent his political opinions or activities. Organising demonstrations or picketing before the houses of individuals by way of protesting against their opinions or activities shall not be resorted to under any circumstances.

(6) No political party or candidate shall permit its or his followers to make use of any individual's land, building, compound wall etc. without his permission for erecting flag-staffs, suspending banners, pasting notices, writing slogans etc.

(7) Political parties and candidates shall ensure that their supporters do not create obstructions in or break up meetings and processions, organised by the other parties. Workers or sympathisers of one political party shall not create disturbances at public meetings organised by another political party by putting questions orally or in writing or by distributing leaflets of their own party. Processions shall not be taken out by one party along places at which meetings are being held by another party. Posters issued by one party shall not be removed by workers of another party.

II. Meetings

(1) The party or candidate shall inform the local police authorities of the venue and time of any proposed meeting well in time so as to enable the police to make necessary arrangements for controlling traffic and maintaining peace and order.

(2) A party or candidate shall ascertain in advance if there are any restrictive or prohibitory orders in force in the place proposed for the meeting. If such orders exist, they shall be followed strictly. If any exemption is required from such orders it shall be applied for and obtained well in time.

(3) If permission of licence is to be obtained for the use of loudspeakers or any other facility in connection with any proposed meeting, the party or candidate shall apply to the authority concerned well in advance and obtain such permission or licence.

(4) Organisers of a meeting shall invariably seek the assistance of the police on duty for dealing with persons disturbing a meeting or otherwise attempting to create disorder. Organisers themselves shall not take action against such persons.

III. Processions

(1) A party or candidate organising a procession shall decide before-hand the time and place of the starting of the procession, the route to be followed and the time and place at which the procession will terminate. There shall ordinarily be no deviation from the programme.

(2) The organisers shall give advance intimation to the local police authorities of the programme so as to enable the latter to make necessary arrangements.

(3) The organisers shall ascertain if any restrictive orders are in force in the localities through which the procession has to pass, and shall comply with the restrictions unless exempted specially by competent authority. Any traffic regulations or restrictions shall also be carefully adhered to.

(4) The organisers shall take steps in advance to arrange for passage of the procession so that there is no block or hindrance to traffic. If the procession is very long, it shall be organised in segments of suitable lengths, so that at convenient intervals, especially at points where the procession has to pass road junctions, the passage of held-up traffic could be allowed by stages thus avoiding heavy traffic congestion.

(5) Processions shall be so regulated as to keep as much to the right of the road as possible and the direction and advice of the police on duty shall be strictly complied with.

(6) If two or more political parties or candidates propose to take processions over the same route or parts thereof at about the same time, the organisers shall

establish contact well in advance and decide upon the measures to be taken to see that the processions do not clash or cause hindrance to traffic. The assistance of the local police shall be availed of for arriving at a satisfactory arrangement. For this purpose, the parties shall contact the police at the earliest opportunity.

(7) The political parties or candidates shall exercise control to the maximum extent possible in the matter of processionists carrying articles which may be put to misuse by undesirable elements, especially in moments of excitement.

(8) The carrying of effigies purporting to represent members of other political parties or their leaders, burning such effigies in public and such other forms of demonstration shall not be countenanced by any political party or candidate.

IV. Polling Day

All political parties and candidates shall—

- (i) co-operate with the officers on election duty to ensure peaceful and orderly polling and complete freedom to the voters to exercise their franchise without being subjected to any annoyance or obstruction;
- (ii) supply to their authorised workers suitable badges or identity cards;
- (iii) agree that the identity slips supplied by them to voters shall be on plain (white) papers and shall not contain any symbol, name of the candidate or the name of the party;
- (iv) refrain from serving or distributing liquor on polling day and during the twenty-four hours preceding it;
- (v) not allow unnecessary crowds to be collected near the camps set up by the political parties and candidates near the polling booths so as to avoid confrontation and tension among workers and sympathisers of the parties and candidates;
- (vi) ensure that the candidate's camps shall be simple—They shall not display any posters, flags, symbols or any other propaganda material. No eatables shall be served or crowds allowed at the camps; and
- (vii) co-operate with the authorities in complying with the restrictions to be imposed on the plying of vehicles on the polling day and obtain permits for them which should be displayed prominently on those vehicles.

V. Polling Booth

Excepting the voters, no one without a valid pass from the Election Commission shall enter the polling booths.

VI. Observers

The Election Commission is appointing observers for each Parliamentary constituency. If the candidates or their agents have any specific complaint or problem regarding the conduct of the elections they may bring the same to the notice of the observer.

VII. Party in Power

The party in power whether at the Centre or in the State or States concerned, shall ensure that no cause is given for any complaint that it has used its official position for the purposes of its election campaign, and in particular:

- (i) (a) The Ministers shall not combine their official visit with electioneering work and shall not also make use of official machinery or personnel during electioneering work;
- (b) Government transport including official aircrafts, vehicles, machinery and personnel shall not be used for furtherance of the interest of the party in power;
- (ii) Public places such as maidans etc. for holding election meetings, and use of helipads for airflights in connection with elections, shall not be monopolised by itself. Other parties and candidates shall be allowed the use of such places and facilities on the same terms and conditions on which they are used by the party in power.
- (iii) Rest houses, dak bungalows or other Government accommodation shall be allowed to be used by other parties or candidates in a fair manner;
- (iv) Issue of advertisements at the cost of the public exchequer in newspapers and other media during the election period regarding their achievements with a view to furthering the prospects of the party in power shall be scrupulously avoided;
- (v) Ministers and other authorities shall not sanction grants/payments out of discretionary funds from the time the elections are announced by the Commission; and
- (vi) From the time the elections are announced by the Commission, Ministers and other authorities shall not—
 - (a) announce any financial grants in any form or promises thereof; or
 - (b) lay foundation stones etc. of projects or schemes of any kind; or
 - (c) make any promise of construction of roads, provision of drinking water facilities etc.,

which may have the effect of influencing the voters in favour of the party in power ;

- (vii) Ministers of Central or State Government shall not enter any polling station or place of counting except in their capacity as a candidate or voter or authorised agent.

New Delhi
April 17, 1982

S. L. SHAKDHER
Chief Election Commissioner of India

APPENDIX XV

REFERENCES RECEIVED FROM PRESIDENT UNDER ARTICLE 103(2) OF THE
CONSTITUTION OF INDIA AND SECTION 14(4) OF THE GOVERNMENT OF UNION
TERRITORIES ACT, 1963

Name of House	Complainant and Allegation	Date of Commission's Opinion	Commission's Opinion
1	2	3	4
House of the People	Shri Ram Chander Shrimal, Chief Editor, Brigadier alleged that Shri Ram Gopal Tiwari, a member of Lok Sabha from Madhya Pradesh had become subject to the disqualification by virtue of his appointment as Director of the Madhya Pradesh State Co-operative Marketing Federation Ltd., Bhopal in Dec. '80	19.4.83	Shri Ram Gopal Tiwari, M.P. could not be said to be a public servant and was thus not subject to disqualification as alleged
Legislative Assembly of Goa, Daman & Diu	The matter was first raised on the floor of the House by Shri Dilsukh F. Desai, M.L.A. in the form of a question. Since the reply of the Chief Minister was found to be evasive, the Speaker of Legislative Assembly of Goa, Daman and Diu referred the matter to the <i>President</i> . It was alleged that Shri Gurudas Tari, M.L.A. had become subject to disqualification by reason of his having entered into a contract with the Govt. of Goa, Daman and Diu	15.3.83	The contract entered into by Shri Gurudas Tari, M.L.A., was not a contract falling within the scope of section 9A of the Representation of the People Act, 1951 and as such he had not become subject to disqualification
House of the People	Shri Om Prakash of Ujjain alleged that Shri Subhash Yadav, a member of House of the People from Madhya Pradesh had become subject to the disqualification by reason of his appointment as Chairman of the Madhya Pradesh Rajya Sahakari Bank, Bhopal	20.4.83	Shri Subhash Yadav, M.P. had not become subject to disqualification as alleged
House of the People	Shri Pulsing V. Vasave of Bombay alleged that Shri Manikrao Hodliya Gavit, a member of the House of the People from Maharashtra had become subject to disqualification by reason of holding the office of the Chairman of the Maharashtra State Co-operative Tribal Development Corporation Ltd., Nasik	26.4.83	Shri Manikrao Hodliya Gavit had not incurred any disqualification

(Contd.)

APPENDIX XV—(Contd.)

REFERENCES RECEIVED FROM GOVERNORS UNDER ARTICLE 192(2) OF THE CONSTITUTION

1	2	3	4
Madhya Pradesh Legislative Assembly	The matter was raised by Shri Sunder Lal Patwa, Leader of the Opposition. Shri Patwa contended that as Shri Satyavrat alias Vinod Chaturvedi, M.L.A. had been convicted by the High Court of Madhya Pradesh in Criminal Appeals under sections 148 and 367 of Indian Penal Code and had been sentenced to 3 years rigorous imprisonment for each offence—both sentences to run concurrently, he was disqualified under section 8(2) of the Representation of the People Act, 1951	12.3.83	It was noted that Sri Satyavrat Chaturvedi was convicted by the High Court on 31.1.83 and under section 8(3) of the R.P. Act, 1951, his disqualification would not take effect until 3 months elapsed from that date or if an appeal/application is filed, until that appeal or application is disposed of. The question raised was thus premature
Madhya Pradesh Legislative Assembly	The question was raised by Shri Om Prakash Sahu of Ujjain. It was alleged that S/Shri Premnarain Mishra, Gangacharan Mishra, Madhusudan Chandrakar, and 5 others were holding an office of profit under the Govt. of Madhya Pradesh by reason of their appointment as Vice Chairman/Directors of the Madhya Pradesh Rajya Sahkari Bank (Maryadit), Bhopal and as such they had become subject to disqualification	19.4.83	In view of the Act called The Madhya Pradesh Vidhan Mandal Sadasya Niharta Nivaran (Sanshodhan) Adhinyam, 1982 (M.P. Act No. 42 of 1982), passed by the State Legislative Assembly, none of the members was subject to disqualifications
Rajasthan Legislative Assembly	Shri Nand Lal Sharma of Bassi Distt./ Rajasthan, alleged that certain members of Rajasthan Legislative Assembly by virtue of their appointment as Chairman/Vice-Chairman of various bodies like banks, societies and Corporations etc. held offices of profit under the Rajasthan Govt. and as such they were disqualified for being members of the said Legislative Assembly under Clause (1)(a) of article 191 of the Constitution	20.4.83	The Commission, in view of the provisions of section 3(c) of Rajasthan Act No. 7 of 1957, held that none of the members was holding an 'office of profit' under the State Govt. and as such none of them was disqualified
Madhya Pradesh Legislative Assembly	The issue was raised by Shri Sujanmal Mehta of Ujjain. It was alleged that Shri Suresh Choudhary, M.L.A. and 21 other M.L.As. had become subject to disqualification by reason of their holding offices of Director / Chairman / Vice-Chairman of certain Bodies	9.5.83	In view of the Act called the Madhya Pradesh Vidhan Mandal Sadasya Niharta Nivaran (Sanshodan) Adhinyam, 1982 (M.P. Act No. 42 of 1982), passed by the State Legislative Assembly, none of the members was subject to disqualification
Madhya Pradesh Legislative Assembly	The issue was raised by Shri Om Prakash Sabu of Ujjain. It was alleged that Shri Ram Ratan Chaturvedi and 5 others had become subject to disqualifications by reason of their holding the office of Director of the Madhya Pradesh Rajya Sahakari Bhoomi Vikas Bank (Maryadit)	9.5.83	The office mentioned by the petitioner was not an office under the Govt. of Madhya Pradesh within the meaning of article 191(1)(a) of the Constitution and, therefore, the members had not incurred any disqualification

(Contd.)

APPENDIX XV—(Contd.)

1	2	3	4
Karnataka Legislative Council	The issue was raised by Shri Goral Parshuram Ramchandra of Belgaum. It was alleged that Shri Shreekant Sidappa Pujari, a member of Karnataka Legislative Council was disqualified to become a member of the Legislative Council as he was an Asstt. Master in the Beyonon Smith High School, a Govt. aided institution for the last 15 years and continued to hold the post even after his election to Legislative Council	10.8.83	The question of alleged disqualification of Shri Pujari being a case of pre-election disqualification, (if at all) could not be raised before the Governor of Karnataka in terms of Clause (1) of article 192 of the Constitution and consequently the Election Commission had also no jurisdiction to express any opinion on that case of alleged disqualification
Karnataka Legislative Council	The issue was raised by Sh. Lingoji Ramchandra Parlekar of Belgaum. It was alleged that Shri Shreekant Sidappa Pujari, a member of Karnataka Legislative Council was disqualified to become a member of the Legislative Council as he was an Assistant Master in the Beyonon Smith High School, a Govt. aided institution for the last 15 years and continued to hold the post even after his election to Legislative Council	5.12.83	The question of alleged disqualification of Shri Pujari being a case of pre-election disqualification, (if at all) could not be raised before the Governor of Karnataka in terms of Clause (1) of article 192 of the Constitution and consequently the Election Commission had also no jurisdiction to express any opinion on that case of alleged disqualification

17. Rajasthan	—	—	—	—	—	—	—	—	—	—	—	—	—	—
18. Sikkim	—	—	—	—	—	—	—	—	—	—	—	—	—	—
19. Tamil Nadu	1	—	—	—	—	—	—	—	—	—	—	1	3	5

(Contd.)

STATEMENT SHOWING THE NUMBER OF PERSONS DISQUALIFIED UNDER SECTION 10(A) OF R.P. ACT, 1951 DURING 1983

Name of State/Union Territory	Jan.	Feb.	March	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	Total
1	2	3	4	5	6	7	8	9	10	11	12	13	14
20. Tripura	—	—	—	—	—	4	3	2	—	—	—	—	9
21. Uttar Pradesh	—	5	2	1	—	—	2	—	—	—	—	—	10
22. West Bengal	20	23	58	42	8	—	—	1	—	2	—	—	154
23. Andaman & Nicobar Islands	—	—	—	—	—	—	—	—	—	—	—	—	—
24. Arunachal Pradesh	—	—	—	—	—	—	—	—	—	—	—	—	—
25. Chandigarh	—	—	—	—	—	—	—	—	—	—	—	—	—
26. Dadra & Nagar Haveli	—	—	—	—	—	—	—	—	—	—	—	—	—
27. Delhi	—	—	—	—	—	—	—	—	—	—	—	—	—
28. Lakshadweep	—	—	—	—	—	—	—	—	—	—	—	—	—
29. Goa, Daman & Diu	—	—	—	—	—	—	—	—	—	—	—	—	—
30. Mizoram	—	—	—	—	—	—	—	—	—	—	—	—	—
31. Pondicherry	—	—	—	—	—	—	—	—	—	—	—	—	—
Total	163	115	111	60	27	5	33	50	47	110	39	92	852

APPENDIX XVII

STATEMENT I

GENERAL ELECTION TO THE LEGISLATIVE ASSEMBLIES, 1977-79

Number of election petitions filed, disposed of and pending in the High Courts and appeals in the Supreme Court

(As on 31.12.1983)

Sl. No.	Name of State/ Union Territory	Election petitions in the High Court					Appeals in the Supreme Court				
		Filed	Disposed of			Pending	Filed	Disposed of			Pending
			Up to the end of last month	During the month	Total			Up to the end of last month	During the month	Total	
1	2	3	4	5	6	7	8	9	10	11	12
1.	Andhra Pradesh (1978)	21	21	—	21	—	6	6	—	6	—
2.	Assam (1978)	9	9	—	9	—	3	1	—	1	2
3.	Bihar (1977)	31	31	—	31	—	6	4	—	4	2
4.	Haryana (1977)	7	7	—	7	—	2	1	—	1	1
5.	Himachal Pradesh (1977)	5	5	—	5	—	—	—	—	—	—
6.	Jammu & Kashmir (1977)	19	19	—	19	—	4	2	2	4	—
7.	Karnataka (1978)	74	74	—	74	—	4	4	—	4	—
8.	Kerala (1977)	19	19	—	19	—	6	6	—	6	—
9.	Madhya Pradesh (1977)	28	28	—	28	—	6	6	—	6	—
10.	Maharashtra (1978)	13	13	—	13	—	2	2	—	2	—
11.	Meghalaya (1978)	1	1	—	1	—	—	—	—	—	—
12.	Nagaland (1978)	9	9	—	9	—	1	1	—	1	—
13.	Orissa (1977)	6	6	—	6	—	1	1	—	1	—
14.	Punjab (1977)	16	16	—	16	—	10	9	—	9	1

(Contd.)

STATEMENT I

GENERAL ELECTION TO THE LEGISLATIVE ASSEMBLIES, 1977-79

Number of election petitions filed, disposed of and pending in the High Courts and appeals in the Supreme Court

(As on 31.12.1983)

Sl. No.	Name of State/ Union Territory	Election petitions in the High Court					Appeals in the Supreme Court				
		Filed	Disposed of			Pending	Filed	Disposed of			Pending
			Up to the end of last month	During the month	Total			Up to the end of last month	During the month	Total	
1	2	3	4	5	6	7	8	9	10	11	12
15.	Rajasthan (1977)	18	18	—	18	—	4	4	—	4	—
16.	Sikkim (1979)	2	2	—	2	—	—	—	—	—	—
17.	Tamil Nadu (1977)	8	8	—	8	—	5	5	—	5	—
18.	Uttar Pradesh (1977)	37	36	—	36	1	9	7	—	7	2
19.	West Bengal (1977)	1	1	—	1	—	—	—	—	—	—
Union Territories											
1.	Delhi (1977)	4	4	—	4	—	—	—	—	—	—
2.	Goa, Daman & Diu (1977)	1	1	—	1	—	1	1	—	1	—
3.	Mizoram (1979)	2	2	—	2	—	2	—	—	—	2
4.	Pondicherry (1977)	2	2	—	2	—	—	—	—	—	—
Total		333	332	—	332	1	72	60	2	62	10

APPENDIX XVIII

STATEMENT II

GENERAL ELECTION TO LOK SABHA, 1980

Number of election petitions filed, disposed of and pending in the High Courts and appeals in the Supreme Court

(As on 31.12.1983)

Sl. No.	Name of State/ Union Territory	Election petitions in the High Court					Appeals in the Supreme Court				
		Filed	Disposed of			Pending	Filed	Disposed of			Pending
			Up to the end of last month	During the month	Total			Up to the end of last month	During the month	Total	
1	2	3	4	5	6	7	8	9	10	11	12
1.	Andhra Pradesh	1	1	—	1	—	—	—	—	—	—
2.	Bihar	14	6	—	6	8	1	1	—	1	—
3.	Gujarat	2	2	—	2	—	1	—	1	1	—
4.	Haryana	1	1	—	1	—	—	—	—	—	—
5.	Himachal Pradesh	1	1	—	1	—	—	—	—	—	—
6.	Jammu & Kashmir	2	1	—	1	1	—	—	—	—	—
7.	Karnataka	1	1	—	1	—	1	—	1	1	—
8.	Kerala	1	1	—	1	—	—	—	—	—	—
9.	Madhya Pradesh	4	4	—	4	—	2	2	—	2	—
10.	Maharashtra	6	5	—	5	1*	—	—	—	—	—
11.	Orissa	1	1	—	1	—	—	—	—	—	—
12.	Rajasthan	2	1	—	1	1	1	—	—	—	1
13.	Tamil Nadu	1	1	—	1	—	1	1	—	1	—
14.	Tripura	2	2	—	2	—	1	—	—	—	1

(Contd.)

STATEMENT II

GENERAL ELECTION TO LOK SABHA, 1980

Number of election petitions filed, disposed of and pending in the High Courts and appeals in the Supreme Court

(As on 31.12.1983)

Sl. No.	Name of State/ Union Territory	Election petitions in the High Court					Appeals in the Supreme Court				
		Filed	Disposed of			Pending	Filed	Disposed of			Pending
			Up to the end of last month	During the month	Total			Up to the end of last month	During the month	Total	
1	2	3	4	5	6	7	8	9	10	11	12
15.	Uttar Pradesh	14	11	—	11	3	3	2	—	2	1
16.	West Bengal	2	1	—	1	1	—	—	—	—	—
17.	Arunachal Pradesh	1	1	—	1	—	1	1	—	1	—
18.	Delhi	2	2	—	2	—	—	—	—	—	—
19.	Dadra & Nagar Haveli	1	1	—	1	—	—	—	—	—	—
	Total	59	44	—	44	15	12	7	2	9	3

*The High Court has intimated that the withdrawal proceedings are not yet completed and has as such cancelled its earlier intimation about the withdrawal of the petition.

APPENDIX XIX

STATEMENT III

GENERAL ELECTION TO LEGISLATIVE ASSEMBLIES, 1980

Number of election petitions filed, disposed of and pending in the High Courts and appeals in the Supreme Court

(As on 31.12.1983)

Sl. No.	Name of State/ Union Territory	Election petitions in the High Court					Appeals in the Supreme Court				
		Filed	Disposed of			Pending	Filed	Disposed of			Pending
			Up to the end of last month	During the month	Total			Up to the end of last month	During the month	Total	
1	2	3	4	5	6	7	8	9	10	11	12
1.	Bihar	39	13	—	13	26	1	1	—	1	—
2.	Gujarat	5	4	—	4	1	1	1	—	1	—
3.	Kerala	8	8	—	8	—	2	2	—	2	—
4.	Madhya Pradesh	23	20	—	20	3	5	3	1	4	1
5.	Maharashtra	16	15	—	15	1	2	—	1	1	1
6.	Manipur	4	4	—	4	—	1	1	—	1	—
7.	Orissa	4	4	—	4	—	—	—	—	—	—
8.	Punjab	42	39	1	40	2	11	1	4	5	6
9.	Rajasthan	20	8	1	9	11	—	—	—	—	—
10.	Tamil Nadu	17	12	—	12	5	10	7	2	9	1
11.	Uttar Pradesh	29	18	1	19	10	5	—	1	1	4
12.	Arunachal Pradesh	1	1	—	1	—	1	1	—	1	—
13.	Goa, Daman & Diu	2	2	—	2	—	—	—	—	—	—
14.	Pondicherry	1	1	—	1	—	—	—	—	—	—
Total		211	149	3	152	59	39	17	9	26	13

APPENDIX XX

STATEMENT IV

GENERAL ELECTIONS TO LEGISLATIVE ASSEMBLIES, 1982

Number of election petitions filed, disposed of and pending in the High Courts and appeals in the Supreme Court

(As on 31.12.1983)

Sl. No.	Name of State/ Union Territory	Election petitions in the High Court					Appeals in the Supreme Court				
		Filed	Disposed of			Pending	Filed	Disposed of			Pending
			Up to the end of last month	During the month	Total			Up to the end of last month	During the month	Total	
1	2	3	4	5	6	7	8	9	10	11	12
1.	Himachal Pradesh	12	7	1	8	4	4	—	2	2	2
2.	Haryana	27	24	—	24	3	11	4	1	5	6
3.	Kerala	15	14	—	14	1	4	—	2	2	2
4.	West Bengal	8	3	—	3	5	—	—	—	—	—
5.	Nagaland	4	1	—	1	3	—	—	—	—	—
	Total	66	49	1	50	16	19	4	5	9	10

APPENDIX XXI

STATEMENT V

GENERAL ELECTIONS TO THE LEGISLATIVE ASSEMBLIES, 1983

Number of election petitions filed, disposed of pending in the High Courts and appeals in the Supreme Court

(As on 31.12.1983)

Sl. No.	Name of State/ Union Territory	Election petitions in the High Court					Appeals in the Supreme Court				
		Filed	Disposed of			Pending	Filed	Disposed of			Pending
			Up to the end of last month	During the month	Total			Up to the end of last month	During the month	Total	
1	2	3	4	5	6	7	8	9	10	11	12
1.	Andhra Pradesh	39	8	1	9	30	1	—	—	—	1
2.	Assam	6*	—	—	—	6	—	—	—	—	—
3.	Jammu & Kashmir	76	—	—	—	76	—	—	—	—	—
4.	Karnataka	22	—	—	—	22	—	—	—	—	—
5.	Meghalaya	5	—	—	—	5	—	—	—	—	—
6.	Tripura	4	—	2	2	2	—	—	—	—	—
7.	Delhi	14	—	1	1	13	1	—	—	—	1
Total		166	8	4	12	154	2	—	—	—	2

*One Election Petition has not yet been given any number by the High Court Registry.

IDIA
APPENDIX XXII
STATEMENT VI

Statement showing periods for which Election Petitions in the High Courts and Appeals in the Supreme Court are pending.

(As on 31.12.1983)

Name of State/Union Territory	Less than a year		Between 1 & 2 years		Between 2 & 3 years		Between 3 & 4 years		Over 4 years	
	HG	SC	HG	SC	HG	SC	HG	SC	HG	SC
1	2	3	4	5	6	7	8	9	10	11
1. Andhra Pradesh	30	1	—	—	—	—	—	—	—	—
2. Assam	6	—	—	—	—	—	—	—	—	2
3. Bihar	—	—	—	—	26	—	8	—	—	2
4. Gujarat	—	—	—	—	1	—	—	—	—	—
5. Haryana	—	6	3	—	—	—	—	—	—	1
6. Himachal Pradesh	—	2	4	—	—	—	—	—	—	—
7. Jammu & Kashmir	76	—	—	—	—	—	1	—	—	—
8. Karnataka	22	—	—	—	—	—	—	—	—	—
9. Kerala	—	2	1	—	—	—	—	—	—	—
10. Madhya Pradesh	—	—	—	1	3	—	—	—	—	—
11. Maharashtra	—	1	—	—	2	—	—	—	—	—
12. Manipur	—	—	—	—	—	—	—	—	—	—
13. Meghalaya	5	—	—	—	—	—	—	—	—	—
14. Nagaland	—	—	3	—	—	—	—	—	—	—
15. Punjab	—	2	—	4	2	—	—	—	—	2*
16. Rajasthan	—	—	—	1	11	—	1	—	—	—
17. Tamil Nadu	—	—	—	—	5	1	—	—	—	—
18. Tripura	2	—	—	1	—	—	—	—	—	—
19. Uttar Pradesh	—	—	—	4	13	1	—	—	1	2
20. West Bengal	—	—	5	—	—	—	1	—	—	—
Union Territories										
1. Arunachal Pradesh	—	—	—	—	—	—	—	—	—	—
2. Delhi	13	1	—	—	—	—	—	—	—	—
3. Mizoram	—	2	—	—	—	—	—	—	—	—
4. Goa, Daman & Diu	—	—	—	—	—	—	—	—	—	—
Total	154	17	16	11	63	2	11	—	1	9

*Includes an appeal pending for more than 8 years.

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