

CHAPTER XX

DEPOSITS AND FORFEITURES

Deposits by candidates.

A candidate for election from a Parliamentary constituency is required by law to deposit or cause to be deposited a sum of five hundred rupees. If, however, he is a member of a scheduled caste or tribe, a reduced deposit of two hundred and fifty rupees is sufficient.

A candidate for election from an Assembly or Council constituency is required to deposit a sum of two hundred and fifty rupees. If, however, he is a member of a scheduled caste or tribe, a reduced deposit of one hundred and twentyfive rupees is sufficient.

It is usual for a candidate to be nominated in the same constituency by more than one nomination paper. He is not required, however, to make a separate deposit in respect of every such nomination paper. The law provides that once he has made the requisite deposit, no further deposit need be made by him whatever the number of nomination papers filed by him.

During the general elections of 1957, a total of 18,765 candidates were nominated. Out of them 18,392 made the necessary deposit. The nomination papers of 39 candidates were rejected for failure to make the necessary deposit. The total sum deposited by candidates for election to the House of the People amounted to Rs. 10,24,500 while in respect of candidates for election to the State Legislative Assemblies, the total amount of deposit was Rs. 37,25,538.

Refund and forfeiture of deposits.

Every candidate who is elected is entitled to a refund of the deposit made by him whatever the number of votes polled by him. A candidate whose nomination paper has been rejected or who has duly withdrawn his candidature is also entitled to a refund of his deposit. If a defeated candidate has polled more than a certain minimum of the total valid votes polled, he is entitled to have his deposit refunded. In a single-member constituency (or in a two-member constituency in which only one member is to be elected), the candidate must poll more than one-sixth of the total valid votes polled in order to be entitled to the refund. On the other hand, in a two-member constituency where two members are to be elected, the candidate is required to poll more than one-twelfth of the total number of valid votes polled in order to be entitled to the refund. If a candidate has polled exactly one-sixth or one-twelfth of the valid votes, as the case may be, his deposit is forfeited, unless he has been elected.

If a candidate contests elections to the same House of Legislature from more than one constituency, he cannot in any case get refund of more than one of the deposits made by him. The other deposits made by him or on his behalf are forfeited under the law. If a candidate has been duly nominated in an Assembly constituency as also in a Parliamentary constituency when general elections are being held simultaneously for the Assembly and the House of the People, he is entitled to a refund of the deposits in both the constituencies if he is otherwise entitled to such refund.

A candidate who has retired from contest under the provision of section 55A of the Representation of the People Act, 1951, in any case forfeits the deposit made by him.

A deposit which is not refundable under the law is forfeited to the appropriate Government. A sum of Rs. 2,22,000 was thus forfeited to the Central Government and a sum of Rs. 9,69,125 to the State Governments.

Statements showing partywise and statewise the number of candidates who forfeited their deposits in the general elections of 1957 are given at pages 172 and 173. Details of forfeitures.

Out of 496 candidates who forfeited their deposits in respect of elections to the House of the People, as many as 326 or 65.73 per cent, were independent candidates. In respect of elections to State Legislative Assemblies, out of a total of 4,359 candidates who forfeited their deposits, as many as 3,037 or 69.84 per cent, were independent candidates. During the general elections of 1951-52 also, independent candidates constituted a large proportion of those who forfeited their deposits. Out of 748 candidates who forfeited their deposits on that occasion in respect of elections to the House of the People, as many as 349 or 46.6 per cent, were independent candidates. For elections to the State Legislative Assemblies and Electoral Colleges out of a total of 8,450 candidates who then forfeited their deposits as many as 4,618 or 54 per cent, were independent candidates.

It would be clear from the above figures that during the second general elections as in the first, too many independent candidates rushed into the arena of electoral contest either without any intention of going through the contest seriously or without any reasonable prospect of securing even the minimum of one-sixth of the votes. It is obvious, therefore, that the multiplicity of candidates who are not serious in regard to their candidature still persists. Such multiplicity confuses the voters, materially inconveniences the more serious candidates and unnecessarily increases the administrative difficulties in conducting the elections. Multiplicity candidates.

HOUSE OF THE PEOPLE

Name of the State/Union Territory	I Total number of candidates set up by the party					II Total number of candidates who have forfeited their deposits					III Total number of candidates who retired					Total		
	Congress	P.S.P.	Communist	Jan Sangh	Other Parties & Independents	Total	Congress	P.S.P.	Communist	Jan Sangh	Other Parties & Independents	Total	Congress	P.S.P.	Communist		Jan Sangh	Other Parties & Independents
1. Andhra Pradesh	57	7	17	1	101	183	—	—	—	1	28	29	—	—	—	—	4	4
2. Assam	13	7	3	—	12	35	—	—	—	—	4	4	—	—	—	—	—	6
3. Bihar	57	43	14	3	115	232	—	—	4	1	59	76	—	1	—	—	5	7
4. Bombay	112	26	10	13	108	269	1	4	—	2	24	31	—	1	—	1	5	7
5. Kerala	19	11	17	—	23	70	1	6	—	—	10	17	—	1	—	—	1	2
6. Madhya Pradesh	70	42	1	30	77	220	—	6	1	—	30	43	—	1	—	—	4	4
7. Madras	43	8	13	—	142	206	—	2	3	—	55	60	—	—	—	—	12	12
8. Mysore	32	13	2	7	31	85	—	—	—	4	9	13	—	—	—	—	2	2
9. Orissa	21	7	5	—	31	64	—	1	2	—	7	10	—	—	—	—	—	7
10. Punjab	35	5	16	23	56	135	—	3	1	6	24	34	—	1	—	—	6	7
11. Rajasthan	38	2	4	11	84	139	—	2	1	1	28	32	—	—	—	1	18	19
12. Uttar Pradesh	86	52	8	61	85	292	—	16	1	31	41	89	—	—	—	—	3	3
13. West Bengal	42	6	16	5	59	128	—	—	1	3	17	21	—	1	—	—	2	3
14. Delhi	5	1	1	5	41	53	—	—	—	2	17	20	—	—	—	—	3	3
15. Himachal Pradesh	8	1	3	1	15	28	—	—	1	1	7	9	—	—	—	1	1	3
16. Manipur	2	2	1	—	—	5	—	2	—	—	3	5	—	—	—	—	—	—
17. Tripura	2	—	2	—	—	4	—	—	—	—	3	3	—	—	—	—	—	—
TOTAL	642	233	133	160	980	2,148	2	55	15	58	366	496	—	5	1	3	66	75

LEGISLATIVE ASSEMBLY

Name of the State	Total number of candidates set up by the party					Total number of candidates who forfeited their deposits					Number of candidates in column III who retired							
	I		II			III					IV							
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)
	Congress	P.S.P.	Communist	Jan Sangh	Other Parties & Independents	Total	Congress	P.S.P.	Communist	Jan Sangh	Other Parties & Independents	Total	Congress	P.S.P.	Communist	Jan Sangh	Other Parties & Independents	Total
1. Andhra Pradesh ..	159	34	—	4	296	493	4	13	—	4	60	81	4	2	—	2	14	22
2. Assam ..	110	38	25	1	216	390	1	8	3	—	80	92	—	—	—	—	5	5
3. Bihar ..	382	266	84	36	1,179	1,947	7	91	24	25	508	655	1	2	—	1	52	56
4. Bombay ..	652	161	54	59	1,088	2,014	8	21	3	9	287	328	1	2	2	1	68	74
5. Kerala ..	154	81	133	—	182	550	5	31	5	—	66	107	—	3	1	—	13	17
6. Madhya Pradesh ..	535	228	35	217	804	1,819	6	65	12	70	325	478	—	9	—	6	64	79
7. Madras ..	236	24	63	—	953	1,276	—	9	21	—	302	432	—	1	3	—	93	97
8. Mysore ..	250	96	23	25	572	966	1	19	9	15	116	160	1	1	—	1	25	28
9. Orissa ..	154	52	47	—	393	646	11	14	18	—	166	209	—	—	—	—	9	9
10. Punjab ..	235	28	95	97	832	1,287	—	15	21	39	243	318	—	4	3	8	60	75
11. Rajasthan ..	268	35	35	68	1,010	1,416	2	12	14	29	289	346	—	2	1	3	78	84
12. Uttar Pradesh ..	430	261	90	235	695	1,711	6	101	50	143	443	743	—	1	—	7	40	48
13. West Bengal ..	277	68	107	38	663	1,153	—	6	3	31	370	410	—	—	—	1	22	23
TOTAL ..	3,842	1,372	791	780	8,883	15,668	51	405	183	365	3,255	4,359	7	27	10	30	543	617

Remedy.

It is a matter for serious consideration whether the stage has not been reached now when more effective checks should be devised to curb such light-hearted participation in electoral contests. The remedial measures that may be considered with a view to achieve this objective are :—(a) Repeal of section 55A of the Representation of the People Act, 1951, which enables contesting candidates to retire from the contest after the last date for withdrawal of their candidature upto 10 days before the commencement of the poll, (b) amending section 158 of the Representation of the People Act, 1951, so as to require a candidate to poll one-fifth of the valid votes instead of one-sixth (or one-tenth instead of one-twelfth in a constituency in which two members are to be elected) in order that he may be entitled to a refund of the deposit made by him, and (c) increasing the amount of the deposit so that a candidate who is not sure of a fairly substantial support from the electorate may be more effectively discouraged from entering the electoral contest in a spirit of gambling.

Recommendation. The Commission is of the view that the first two measures may be adopted immediately. The last suggestion, namely, increasing the amount of the deposit is likely to cause genuine hardship to candidates with moderate means who may all the same be serious. This last suggestion may not therefore be adopted in the immediate future. It may be adopted only as a last resort if the other two measures have failed to check the present undesirable multiplicity of candidates.

Return and forfeiture of deposits in Council constituencies.

The Commission also takes this opportunity of pointing out a lacuna in section 158 of the Representation of the People Act, 1951.

There is no room for doubt that the provisions of section 158 of the Act apply to elections in Council constituencies in the same way as they apply to elections in Parliamentary and Assembly constituencies. Indeed there is specific provision in the second proviso to sub-section (4) of that section to the effect that if a candidate is duly nominated at an election (biennial elections) in more than one Council constituency not more than one of the deposits made by him or on his behalf shall be returned, and the remainder shall be forfeited to the State Government. The only other difficulty is the interpretation to be placed on the expression "one-sixth of the total number of votes polled" in sub-section (2) of that section. The Commission considers that "the total number of votes polled" should be interpreted to mean the number of first preferences polled. In fact such a provision existed in the rules made under the Government of India Act. It was there provided that where elections are held according to the system of proportional

representation by means of the single transferable vote the number of votes polled by a candidate shall be the number of votes polled by him as first preferences.

The lacuna in sub-section (3) of section 158 of the Representation of the People Act, 1951, should, therefore, be removed.