

LOK SABHA

**THE REPRESENTATION OF THE
PEOPLE (AMENDMENT)
BILL, 1958**

(Report of the Select Committee)

Presented on the 15th December, 1958



**LOK SABHA SECRETARIAT
NEW DELHI
*December, 1958***

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THE REPRESENTATION OF THE PEOPLE (AMENDMENT)
BILL, 1958

Composition of the Select Committee

1. Shri Upendranath Barman—*Chairman*.
2. Shri N. G. Ranga
3. Shri Dwarika Nath Tewari
4. Shri P. C. Bose
5. Shri Ghanshyamlal Oza
6. Shri V. Eacharan
7. Shri Radha Charan Sharma
8. Shri Jaganatha Rao
9. Shri S. A. Agadi
10. Shri Hem Raj
11. Shri Panna Lal Barupal
12. Shri C. D. Pande
13. Shri Jamal Khwaja
14. Dr. Ram Goti Banerji
15. Shrimati Sucheta Kripalani
16. Shri A. M. Tariq
17. Shri Padam Dev
18. Shri Shree Narayan Das
19. Shri Venketrao Srinivasrao Naldurgker
20. Shri Sunder Lal
21. Shri V. P. Nayar
22. Shri S. Easwara Iyer
23. Shri Yadav Narayan Jadhav
24. Shri Bibhuti Bhushan Das Gupta
25. Shri M. R. Masani
26. Shri B. C. Kamble
27. Shri Atal Bihari Vajpayee
28. Shri Surendra Mahanty
29. Shri Braj Raj Singh

(ii)

20. Shri R. M. Hajarnavis

21. Shri Asoke K. Sen.

DRAFTSMAN

Shri S. P. Sen Verma, *Additional Draftsman, Ministry of Law.*

SECRETARIAT

Shri A. L. Rai—*Under Secretary.*

REPORT OF THE SELECT COMMITTEE

I, the Chairman of the Select Committee to which the *Bill further to amend the Representation of the People Act, 1950, and the Representation of the People Act, 1951 was referred, having been authorised to submit the report on their behalf, present this their Report, with the Bill as amended by the Committee annexed thereto.

2. The Bill was introduced in Lok Sabha on the 27th November, 1958. The motion for consideration of the Bill was moved by Shri R. M. Hajarnavis on the 10th December, 1958. An amendment to the said motion was moved by Shri Asoke K. Sen on the 11th December, 1958 for reference of the Bill to a Select Committee and was discussed in the House and adopted on the same day (Appendix).

3. The Committee held 3 sittings in all.

4. The Committee considered the Bill clause by clause at their sittings held on the 12th and 13th December, 1958.

5. The Committee considered and adopted the Report on the 15th December, 1958.

6. The observations of the Committee with regard to the changes proposed in the Bill are detailed in the succeeding paragraphs.

7. *Clause 8.*—The Committee feel that it should be made clear in this clause that a person shall not be deemed to be an ordinary resident in a constituency only on the ground that he owns or is in possession of a house in that constituency. The Committee further feel that a person absenting himself temporarily from his place of ordinary residence shall not by reason thereof cease to be ordinarily resident in that place.

The Committee are also of the opinion that as members of Parliament and State Legislatures have to remain away for long periods from the places where they are registered in the electoral rolls in connection with their duties, some provisions ought to be made by law so that they are treated as ordinarily resident in those constituencies. The clause has been amended accordingly.

*Published in Part II, Section 2 of the Gazette of India Extraordinary, dated the 27 November, 1958.

8. *Clause 9.*—The Committee feel that before an action is taken under clauses (a), (b) or (c) of section 22 of the 1950 Act, the person concerned should be given an opportunity of being heard. The clause has been amended accordingly.

9. *Clause 15.*—The Committee have carefully considered the proposed substituted clause (d) of section 7 of the Representation of the People Act, 1951. The Committee feel that in view of the expanding activities of the Central and State Governments as the biggest purchasers and suppliers of goods including foodgrains and other essential commodities, a large number of persons in the country will have some contractual relationship with the Governments in these matters. Under the circumstances it will not be proper to disqualify all such persons who are having contractual dealings with the Governments from standing for election or being elected as members of Parliament or State Legislatures. The Committee, therefore, feel that better course would be to altogether omit the existing clause (d) of section 7 of the Act.

10. The other amendment made in clause (e) of section 7 of the act is clarificatory in nature.

11. *Clause 34.*—The Committee feel that bribery or any other objectionable action mentioned in the various clauses of section 123 of the 1951 Act when committed by a person other than a candidate or his agent shall be deemed to be a corrupt practice only if it is done by that other person with the consent of the candidate or his election agent.

The Committee also feel that sub-clause (7) of section 128 of the 1951 Act ought to be suitably amended so as to make it to conform to the relevant provisions relating to the village revenue officers in the Parliament (Prevention of Disqualification) Bill, 1957. The clause has been amended accordingly.

12. The Select Committee recommend that the Bill as amended be passed.

NEW DELHI;
The 15th December, 1958.

UPENDRANATH BARMAN
Chairman,
Select Committee.

MINUTES OF DISSENT

I

We regret, we do not concur with the decisions of the Select Committee with regard to clause 15 as it has now emerged from the Committee.

- The effect of the provision to omit clause (d) in section 7 of the Representation of the People Act, 1951 is to eliminate altogether the disqualifications for membership of Parliament or of a State Legislature arising out of having any share or interest in any contract for the supply of goods to or for the execution of any works or the performance of any services undertaken by the appropriate government.

The scope of this general disqualification was to a very large extent circumscribed by savings provided in clause (e) of sub-section (1) and sub-section (2) of Section 8 of the existing Act. Only those who had substantial contractual relationship with the government were brought under the purview of the provisions.

By the provision contained in clause 15 of the amending Bill referred to the Select Committee, it was desired to limit still more the scope of such disqualification to any contract subsisting between a person in the course of his trade or business for the supply of goods to or for the execution of works only. That position if enacted would have led to the exemption from the purview of disqualification as even of those who had held office of profit in a public company or were managing agents of such a company. Members of private limited company would have altogether gone out of the scope of such disqualification.

Under the provision only individual business men or traders might have been disqualified. While other persons having huge contract in the name of others or having contracts as members of private companies might have remained free from such disqualification. This provision in the very nature of things was discriminatory. But the complete removal of the provision under Section 7(d) of the existing Act will prove worse and all kinds of people having contractual relationship with governments and deriving huge profit thereby, would now be free to become member of the Legislatures.

The principles on which the provisions contained in article 102 and 191 regarding disqualification from membership of Parliament and State Legislatures with regard to holding of office of profit are based, equally applies to the provisions contained in section 7(d) of the Representation of the People Act, 1951.

That principle is that those who enjoy the office of profit or enjoy the benefits of contracts for the supply of goods to or for the execution of works undertaken by government should not be allowed to become members of legislatures because they cannot remain independent in discharge of their responsibility. Legislators in the capacity of representatives of the people should not be allowed to be under the patronage of the Governments in as much as that will prevent them from functioning as free representatives of the people.

The provision in the Constitution with regard to disqualification arising out of holding office of profit and the provisions in the Representation of the People Act, 1951 with regard to disqualification arising out of holding of contracts with necessary savings provided in section 8 are salutary provisions. These should have been allowed to continue. But the Select Committee have thought it fit to remove altogether the provision contained in the Act.

The arguments put forward in the report are not sound and convincing. They have in my opinion, taken a very superficial view of the matter.

In the report it has been said that with the expansion of State trading and state enterprises a large number of persons supplying goods would come under the purview of the provision, which they think would not be proper.

So far as the policy of the government with regard to supply of goods to the state is concerned is that the co-operative societies be encouraged by giving government contract to them for the supply of goods. The members of co-operative societies having such contractual relationship were exempted from disqualification under sub-section 2 of section 8 of the Act. The individual shareholders of public company were also exempted under the existing provision of clause (d) of sub-section 1 of section 8.

Only persons holding office of profit under the company and a managing agent of such company were disqualified to be member of legislatures.

Therefore, the grounds given by the Select Committee that the provision, if allowed to continue will involve a very large number of persons and that will not be proper are not based on facts.

(vii)

Under the circumstances set forth above, we hope the House would give due consideration to the provision contained in clause 15 of the Bill as it has emerged from the Select Committee and would be pleased to continue the existing provision in the original Act.

NEW DELHI;
The 15th December, 1958.

SHREE NARAYAN DAS
PANNA LAL BARUPAL

II

We feel we have to record our disagreement with our colleagues of the Select Committee although we earnestly attempted to reconcile our points of view with the opinion expressed by the majority of members of the Select Committee. The amendments to certain sections of the Representation of People Acts of 1950 and 1951 are found to be necessary and expedient in the light of the experience gathered by the Government and Election Commission, in the working of these two enactments since their last amendment in 1956. It is perhaps indisputable that the "life of law is not logic but experience" and therefore amendments to existing statutory laws may be found necessary and desirable when difficulties or anomalies result in the actual implementation of the provisions of these enactments. But the report as it has emerged from the Select Committee we feel will not be of much assistance in remedying the defects that are discovered nor will the Representation of People Act amended in pursuance of the Select Committee's report improve the purity of elections.

While we are happy that some of our suggestions to clarify the meaning of 'ordinary residence' for the purpose of registration of an elector in the electoral rolls and restricting the blanket powers given by the amending act to the Election Registration Officer to delete or transpose the names of any person from the electoral rolls, are accepted, we must express a sense of disappointment in the deletion of Sub-section (d) of the Section 7 of the Representation of People Act of 1951, although the present amending bill proposed only to substitute another sub-section in the place of the original sub-section (d). Section 7 of the Representation of the People Act of 1951 deals with disqualifications for membership of Parliament or of a State Legislature. The relevant clause (d) of Section 7 reads as follows:—

“ A person shall be disqualified 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.....

- (a).....
- (b).....
- (c).....

(d) If whether by himself or by any person or body of persons in trust for him or for his benefit or on his account, he has any share or interest in a contract for the supply of goods to, for the execution of any works, or the performance of any services undertaken by the appropriate Government.”

This Sub-section (d) is sought to be replaced by the present Amendment Bill by the following Sub-section (d) “If there subsists a contract entered into in the course of his trade or business by him with the appropriate Government for the supply of goods to or for the execution of any works undertaken by that Government.”

It is felt that by this re-drafting of section 7(d) in a simpler and more rational way many election disputes can be prevented. Whatever may be the merits or demerits of this proposed substitution, it is rather unfortunate that the Select Committee decided to repeal the entire Sub-section (d) from the Representation of People Act of 1951. It is obvious that the disqualification prescribed under section 7 operates for the purpose of “being chosen” as well as “for being” a member of Parliament or a member of State Legislature. In other words by the operation of section 7(d) of the Representation of the People Act of 1951 a person who enters into a contract with the appropriate Government will be subject to the disqualification, whether the contract is entered into before or after the election. It cannot be disputed that members of Parliament or members of State Legislature, should be prohibited from having personal dealings with the appropriate Government in the course of their trade or business in order to preserve the healthy relationship between the members and the respective Governments. We need not elaborate the desirability of prohibiting members of Parliament from seeking the assistance of Government in furtherance of their trade or business, especially when they are entrusted by the people whom they represent, with the responsibility of pointing out or criticising and correcting without fear or favour the actions of the Government. The independence of the members of an Assembly or Parliament should not be warped by enabling them to have contracts with the Government for pecuniary profits, and even assuming that the mere fact of having a contract for the supply of goods with any Government may not affect the integrity or ability of any member and will

not deter him from effectively criticising or correcting the actions of the Government, the more or less fiduciary relationship which a member has with the members of his Constituency or State, must debar him from tainting his hands with pecuniary obligations with the Government. It is a well-known principle of law that in courts of justice, "justice must not only be done but also appear to be done" so as to instil confidence in the independence of judiciary. If we may take this analogy as rightly applicable to members of Parliament it is not enough for them to be independent but they must in all their actions appear to their constituents as independent, capable, and honest in order to instil confidence in the public that the working of democracy will not be endangered by sordid considerations of monetary gain from contracts with the Government. We therefore feel that the restraint put on members of Parliament and Legislature from entering into contracts for supply of goods or for execution of work with their respective Governments, is not only desirable but is necessary in the interest of keeping the springs of democracy active and unsullied.

Another point on which we should express our disagreement is with respect to clause 25 of the amending Bill. By sub-clause (b) of clause 25, it is proposed to make rules under the Representation of the People Act 1950, to supply identity cards, with or without photographs, to the electors in a constituency. The introduction of the identity cards system with or without photographs, theoretically speaking may be very desirable procedure to reduce the chances of impersonation in an election. Even assuming that we are able to perform the very difficult task of supplying all the electors in a Constituency with identity cards with photographs attached thereto, we believe that the chances of effectively preventing a person from exercising his vote by purchasing, destroying, or removing his identity card by any influential person in that locality cannot be ruled out as impossible in the state of affairs as existing to-day. So long as the wide disparity between the rich and poor, landholder and landless, management and labour, exist as it is to-day, the introduction of the rule prohibiting a person from exercising his right to vote if he is unable to produce his identity card will, we feel, open the door for mal-practices; e.g. effectively preventing many persons from voting, by depriving him of his identity card through unfair means. It is also well-known that in India, as it is to-day, there are persons who due to religious, superstitious or sentimental reasons, (such as women living under purdah) will have every objection to their photographs being taken, although they may have no objection to walk up to polling booth to cast their votes. That the services of women photographers can be requisitioned is no answer to the problem, particularly when the objection relates to the photograph

being taken and not to the sex of the photographer. The vast majority of agricultural labourers in villages may not find time and convenience to go to the place where the photograph is taken and get their identity cards. If an election in a constituency takes place after an imperfect or irregular supply of identity cards to some members of the constituency, then it cannot be disputed that the said election is inconsistent with the principle of adult franchise as laid down in our Constitution, and the door will be wide open for many election petitions to be filed on the ground that persons entitled to vote are prevented from exercising their right to vote for the non-production of their identity cards which according to them are not supplied in spite of requests. While we are fully in agreement with the view that impersonations in elections must sternly be put down, we cannot ignore the practical difficulties and hardships that may be caused by the proposed introduction of identity cards with photographs. We are therefore of the view that time is not ripe so far as our society is concerned to experiment with identity cards with photographs.

In conclusion we desire to point out that some of the amendments as detailed above by us intended to make the election machinery fool-proof, may not have the desired effect but will only tend to increase the difficulties and hardships that have to be faced by the electorate. We are confident that the House when considering the Bill as reported by the Select Committee will seriously consider these suggestions.

NEW DELHI;
The 15th December, 1958.

S. EASWARA IYER
V. P. NAYAR
BRAJ RAJ SINGH

III

I differ from the views of the majority in the Select Committee, hence I append this note of dissent.

1. The object of the present Bill as stated in the 'Statement of Objects and Reasons' is—"to carry out certain amendments in Representation of the People Act, 1950 and 1951, which are considered necessary in the light of the further experience gained by the Election Commission and the Government in the working of

these two Acts since their last amendments in 1956". Accordingly Section 7(d) of the 1951 Act which provides disqualification in case of contracts with the Government has also been proposed to be amended with a view to make it 'Simpler and more rational'. The Select Committee have omitted clause (d) of Section 7 of the 1951 Act altogether. I hold a different view.

2. The text of the existing clause (d) of section 7 of the 1951 Act is as follows:—

"7. A person shall be disqualified 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—

* * * * *

(d) if whether by himself or any person or body of persons in trust for him or for his benefit or on his account, he has any share or interest in a contract for the supply of goods to, or for the execution of any works or the performance of any service undertaken by the appropriate Government".

This clause (d) has been proposed to be substituted in the present Bill (Clause 15) by the following, viz.:--

"(d) if there subsists a contract entered into in the course of his trade or business by him with the appropriate Government for the supply of goods to or for the execution of any works undertaken by that Government."

The Committee have altogether omitted the very clause (d) of section 7 of the 1951-Act. They did not accept even the proposed amendment which had already narrowed and restricted the scope of the existing clause.

3. The main ground for the amendment of clause (d) as stated in the 'Notes on Clauses' in the present Bill is that the language of section 7(d) of the 1951 Act "is wide and vague enough to bring any kind or category of contract within its scope and it has been a fruitful source of election disputes in the past." So accordingly section 7(d) was redrafted "in a simpler and more rational ways so as to bring within its purview" only "two categories of contract entered into by a person with the Government." And these two categories are—"Contracts for supply of goods and Contracts for the execution of any works."

5. In the light of the experience of two general elections the Election Commission and even the Government did not think it wise to omit the clause altogether, but the Committee did it on the only ground that—"in view of the expanding activities of the Central and State Governments as the biggest purchasers and suppliers of goods including foodgrains and other essential commodities, a large number of persons in the country will have some contractual relationship with Governments in these matters." So "under the circumstances it will not proper to disqualify all such persons who are having contractual dealings with the Governments from standing for election or being elected as members of Parliament or State Legislatures."

6. In my opinion the blank cheque sought to be given to all the persons having contractual dealings with the Government whether for supply of goods or for the execution of any works—is dangerous more for introducing corruption in the Legislatures by the front door. It is not expedient to ignore the facts firstly that there will be a race amongst the greedy profiteers to capture the Legislatures with the design to be in a better position for securing Government contracts directly; secondly there will be competition amongst the legislators to earn money through Government contracts by wooing the executive and thirdly the executive will find it easy enough to keep the legislators under their thumb.

7. It is not a sound argument that U.K. has not such a law. It is a mistake, a false step if we go on imitating U.K. or such other countries in matters like this. Our condition is quite different. It is not many years that we have emerged from the womb of the slavery. The nation is still in a convalescent stage. 85 per cent of the electors are illiterate, ignorant and poverty is their only asset. Money plays a vital part in commanding their votes. In these circumstances there should have been more cautious, more calculated and more sober approach for maintaining the purity, integrity, and independence of our legislatures. This should count above all. After all a tradition regarding legislatures is already in the process of creation. The omission of the clause in question is sure to undo whatever little we have achieved uptil now.

8. It is not a very good argument that large number of persons would be disqualified in view of the expanding activities of the Government in the field of internal trade. If it comes to that—let it be so. A person who wants to earn money through Government contracts should remain outside the Legislatures. Even if he is allowed to come in, it would be hardly possible for him to discharge his duties faithfully to the electorate in the present state of affairs in our

country. A contract entered into by a person with the Government for supply of goods etc., is a matter of pure and simple pecuniary gain from the Government. A legislator doing business with the Government for his personal profit in terms of money is always prone to be under the obligation of the executive, and as such he cannot carry out this without being unfaithful to his electorates. Should we allow our Legislatures to run the risk of being swamped by Government Contractors? Would it help to keep our Legislatures pure and unsullied for functioning of a true democracy?

9. Holders of "Office of Profit" is subject to disqualification. What is the principle underlying it? Freedom of members of legislatures should be maintained from being corrupted by executive. The independence of the members should be preserved at any cost. A legislator wields power to some extent by virtue of his position. He must not have any scope to utilise his position for his personal benefit. I hold that the contractual dealings with the Government are also governed by the same principle. Here the profit is more definite, more concrete in terms of rupees, annas and pies. It should be dealt with more strictly, more severely. By the omission of the clause concerned the legislatures have every reason to be fearful that a large number of members who would like to have contract, would feel themselves bound to support the executive.

10. My opinion is that the original clause (d) of section 7 of the 1951—Act should be retained as it is, omitting the words "or the performance of any service" from the text of the clause. It will not then, affect the two categories as intended in the proposed amendment. The only difference is that it widens the range regarding affected persons which I think should be adhered to.

11. In clause 34 of the present Bill section 123 (1) of the 1951 Act has been proposed to be substituted by the following namely:—

"(1) 'Bribery' that is to say—

(a) Any gift, offer or promise by a candidate or his agent or by any other person with the consent of a candidate or his election agent, of any gratification to person, whomsoever with the object directly or indirectly of inducing—

(a) a person to stand or not etc.

(b) an elector to vote or refrain from voting etc."

The portion *italicised* has been inserted by the committee. It should be deleted from the text. This is meaningless and entirely frustrates the intention and rigour of the clause making the whole section useless. It would be hardly possible to prove in a court of law the consent of the offender in a case of "Bribery". This has simply widened the scope of a candidate for extensive corrupt practice. The insertion of this provision of 'consent' is a deliberate design to circumvent the law.

12. In conclusion—I regret that the shape in which the Bill has emerged from the Select Committee has completely frustrated the objective. The report of the Election Commission on the last general election has not been received by us yet. But our experience is that there have been increased corrupt practices in the last general election than the previous one. In view of this fact the attempt in the present Bill to have a stricter measure has been baffled by the Select Committee. The technicalities of law are not of much importance—but the demand of the present situation for the shaping of the future should not be lost sight of.

NEW DELHI;

BIBHUTI BHUSHAN DAS GUPTA.

The 15th December, 1958.

**THE REPRESENTATION OF THE PEOPLE
(AMENDMENT) BILL, 1958**

(AS AMENDED BY THE SELECT COMMITTEE)

(Words side-lined or underlined indicate the amendments suggested
by the Committee)

**A
BILL**

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

BE it enacted by Parliament in the Ninth Year of the Republic
of India as follows:—

PART I

PRELIMINARY

- 5 1. This Act may be called the Representation of the People short title.
(Amendment) Act, 1958.

PART II

AMENDMENTS OF THE REPRESENTATION OF THE PEOPLE ACT, 1950

2. In section 3 of the Representation of the People Act, 1950 Amendment
of section 3.
10 (hereinafter referred to as the 1950-Act), for sub-section (1), the
following sub-section shall be substituted, namely:—

“(1) The allocation of seats in the House of the People
shall be as shown in the First Schedule.”.

3. Section 3A of the 1950-Act shall be omitted.

Omission of
section 3A.

4. For section 7 of the 1950-Act, the following section shall be
15 substituted, namely:—

Substitution
of new sec-
tion for sec-
tion 7.

- “7. The total number of seats in the Legislative Assembly
of each State specified in the first column of the Second Sche-
dule, to be filled by persons chosen by direct election, shall be
20 the number specified in the second column thereof opposite to
that State.”.

Total
number of
seats in the
Legislative
Assemblies.

Amendment
of section 14.

5. As from the 1st day of January, 1959, in section 14 of the 1950-Act, in clause (b), for the words, figure and letters "the 1st day of March" the words, figure and letters "the 1st day of January" shall be substituted.

Amendment
of section
17.

6. In section 17 of the 1950-Act, the words "in the same State" shall be omitted.

Substitution
of new section
for section 19.

7. For section 19 of the 1950-Act, the following section shall be substituted, namely:—

Conditions
of registra-
tion.

"19. Subject to the foregoing provisions of this Part, every person who—

(a) is not less than twenty-one years of age on the qualifying date, and

(b) is ordinarily resident in a constituency,

shall be entitled to be registered in the electoral roll for that constituency."

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Amendment
of section 20.

8. In section 20 of the 1950-Act, for sub-section (1), the following sub-sections shall be substituted, namely:—

"(1) A person shall not be deemed to be ordinarily resident in a constituency on the ground only that he owns, or is in possession of, a dwelling house therein.

(1A) A person absenting himself temporarily from his place of ordinary residence shall not by reason thereof cease to be ordinarily resident therein.

(1B) A member of Parliament or of the Legislature of a State shall not during the term of his office cease to be ordinarily resident in the constituency in the electoral roll of which he is registered as an elector at the time of his election as such member, by reason of his absence from that constituency in connection with his duties as such member."

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25

Substitution
of new section
for section 22.

9. For section 22 of the 1950-Act, the following section shall be substituted, namely:—

Correction
of entries in
electoral rolls

"22. If the electoral registration officer for a constituency, on application made to him or on his own motion, is satisfied after such inquiry as he thinks fit, that any entry in the electoral roll of the constituency—

(a) is erroneous or defective in any particular,

(b) should be transposed to another place in the roll on the ground that the person concerned has changed his place of ordinary residence within the constituency, or

35

(c) should be deleted on the ground that the person concerned is dead or has ceased to be ordinarily resident in the constituency or is otherwise not entitled to be registered in that roll,

5 the electoral registration officer shall, subject to such general or special directions, if any, as may be given by the Election Commission in this behalf, amend, transpose or delete the entry:

10 Provided that before taking any action on any ground under clause (a) or clause (b) or any action under clause (c) on the ground that the person concerned has ceased to be ordinarily resident in the constituency or that he is otherwise not entitled to be registered in the electoral roll of that constituency, the
15 electoral registration officer shall give the person concerned a reasonable opportunity of being heard in respect of the action proposed to be taken in relation to him."

10. Section 24 of the 1950-Act shall be omitted.

Omission of section 24.

11. After section 30 of the 1950-Act, the following sections shall be inserted, namely:—

Insertion of new sections 31 and 32 after section 30.

20 "31. If any person makes in or in connection with—

(a) a claim or an application for the inclusion in an electoral roll of his name, or

(b) an objection to the inclusion therein, or an application for the exclusion or deletion therefrom, of the name
25 of any other person,

Making of false declarations.

a statement or declaration in writing which is false and which he either knows or believes to be false or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

30 32. (1) If any electoral registration officer, assistant electoral registration officer or other person required by or under this Act to perform any official duty in connection with the preparation, revision or correction of an electoral roll or the inclusion or exclusion of any entry in or from that roll, is without reasonable
35 cause guilty of any act or omission in breach of such official duty, he shall be punishable with fine which may extend to five hundred rupees.

Breach of official duty in connection with the preparation, etc., of electoral rolls.

40 (2) No suit or other legal proceeding shall lie against any such officer or other person for damages in respect of any such act or omission as aforesaid.

(3) No court shall take cognizance of any offence punishable under sub-section (1) unless there is a complaint made by order of, or under authority from, the Election Commission or the Chief Electoral Officer of the State concerned."

Amendment
of the First
Schedule.

12. In the First Schedule to the 1950-Act, the whole of Part I, the word and figures "Part II" and the words "as subsequently constituted" shall be omitted. 5

Amendment
of the Second
Schedule.

13. In the Second Schedule to the 1950-Act, the words, letters and figures "as constituted on the 1st November, 1956", the whole of column 2, and the words "As subsequently constituted or partially re-constituted" shall be omitted and column 3 shall be re-numbered as column 2. 10

PART III

AMENDMENTS OF THE REPRESENTATION OF THE PEOPLE ACT, 1951

Amendment
of section 20.

14. In section 2 of the Representation of the People Act, 1951 (hereinafter referred to as the 1951-Act), in clause (d) of sub-section (1), the words "or in the electoral college of a Union territory" shall be omitted. 15

Amendment
of section 7.

15. In section 7 of the 1951-Act,—

(a) clause (d) shall be omitted; 20

(b) in clause (e), for the words "or managing agent of, or holds any office of profit under", the words "managing agent, manager or secretary of" shall be substituted.

Amendment
of section 8.

16. In section 8 of the 1951-Act,—

(a) in sub-section (1), clauses (c) and (d) shall be omitted; 25

(b) sub-section (2) shall be omitted.

Amendment
of section 9.

17. In section 9 of the 1951-Act, sub-section (2) shall be omitted.

Amendment
of section 34.

18. In section 34 of the 1951-Act, in sub-section (1), —

(a) the word "and" shall be added at the end of clause (a); 30

(b) the word "and" at the end of clause (b), and the whole of clause (c) shall be omitted.

Amendment
of section 39.

19. In section 39 of the 1951-Act, in sub-section (2), for the word and figures "section 34", the words, brackets, letter and figures "clause (a) of sub-section (1) of section 34" shall be substituted. 35

20. In section 50 of the 1951-Act, for the word "candidate" Amendment of section 50. wherever it occurs, the words "contesting candidate" shall be substituted.

21. In section 52 of the 1951-Act, in the second proviso, the Amendment of section 52. words, brackets, figures and letter "or a notice of retirement from the contest under sub-section (2) of section 55A" shall be omitted.

22. Section 55A of the 1951-Act shall be omitted.

Omission of section 55A.

23. In section 56 of the 1951-Act, in the proviso, for the words Amendment of section 56. "a constituency", the words "a parliamentary or assembly constituency" shall be substituted.

24. In section 60 of the 1951-Act, in clause (a),—

Amendment of section 60.

(a) sub-clause (ii) shall be omitted;

(b) in sub-clause (iv), the brackets and figures "(ii)" shall be omitted.

25. For section 61 of the 1951-Act, the following section shall Substitution of new section for section 61. be substituted, namely:—

"61. With a view to preventing personation of electors Special procedure for preventing personation of electors. provision may be made by rules made under this Act,—

(a) for the marking with indelible ink of the thumb or any other finger of every elector who applies for a ballot paper or ballot papers for the purpose of voting at a polling station before delivery of such paper or papers to him;

(b) for the production before the presiding officer or a polling officer of a polling station by every such elector as aforesaid of his identity card before the delivery of a ballot paper or ballot papers to him if under rules made in that behalf under the Representation of the People Act, 1950, electors of the constituency in which the polling station is situated have been supplied with identity cards with or without their respective photographs attached thereto; and

(c) for prohibiting the delivery of any ballot paper to any person for voting at a polling station if at the time such person applies for such paper he has already such a mark on his thumb or any other finger or does not produce on demand his identity card before the presiding officer or a polling officer of the polling station."

- Amendment of section 64** 26. In section 64 of the 1951-Act, for the word "candidate", the words "contesting candidate" shall be substituted.
- Amendment of section 67A.** 27. In section 67A of the 1951-Act, the word, figures and letter "section 55A" shall be omitted.
- Amendment of section 90.** 28. In section 90 of the 1951-Act, in sub-section (3), the following *Explanation* shall be inserted, namely:— 5
Explanation.—An order of the Tribunal dismissing an election petition under this sub-section shall be deemed to be an order made under clause (a) of section 98."
- Amendment of section 116A.** 29. In section 116A of the 1951-Act,— 10
 (a) in sub-section (4), after the word and figures "section 107", the words "and a copy of the stay order shall immediately be sent by the High Court to the Election Commission" shall be inserted;
 (b) after sub-section (5), the following sub-section shall be 15 inserted, namely:—
 "(6) As soon as an appeal is decided, the High Court shall intimate the substance of the decision to the Election Commission, and as soon as may be thereafter, shall send to the Election Commission an authenticated copy of the 20 decision; and upon its receipt, the Election Commission shall—
 (a) forward copies thereof to the authorities to which copies of the order of the Tribunal were forwarded under section 106, and 25
 (b) cause the decision to be published in the gazette or gazettes in which that order was published under the said section."
- Amendment of section 117.** 30. In section 117 of the 1951-Act, the words "the Secretary to" shall be omitted. 30
- Amendment of section 119A.** 31. In section 119A of the 1951-Act, the words "the Secretary to" shall be omitted.
- Amendment of section 121.** 32. In section 121 of the 1951-Act,—
 (a) in sub-section (1), for the words and figures "within a period of six months from the publication of such order under section 108", the words "within a period of one year from the 35 date of such order" shall be substituted;

(b) in sub-section (2), for the words "six months", the words "one year" shall be substituted.

33. In section 122 of the 1951-Act, in the proviso, for the words and figures "within a period of six months from the date of publication of such order under section 106", the words "within a period of one year from the date of such order" shall be substituted. Amendment
of section
122.

34. In section 123 of the 1951-Act,— Amendment
of section
123.

(a) for clause (1), the following clause shall be substituted, namely:—

10 (1) "Bribery", that is to say,—

(A) any gift, offer or promise by a candidate or his agent or by any other person with the consent of a candidate or his election agent of any gratification, to any person whomsoever, with the object, directly or indirectly of inducing—

15 (a) a person to stand or not to stand as, or to withdraw from being a candidate at an election, or

(b) an elector to vote or refrain from voting at an election,

20 or as a reward to—

(i) a person for having so stood or not stood, or for having withdrawn his candidature; or

(ii) an elector for having voted or refrained from voting;

25 (B) the receipt of, or agreement to receive, any gratification, whether as a motive or a reward—

(a) by a person for standing or not standing as, or for withdrawing from being, a candidate; or

30 (b) by any person whomsoever for himself or any other person for voting or refraining from voting, or inducing or attempting to induce any elector to vote or refrain from voting, or any candidate to withdraw his candidature.

35 *Explanation.*—For the purposes of this clause the term "gratification" is not restricted to pecuniary gratifications or gratifications estimable in money and it includes all forms of entertainment and all forms of employment for reward but it does not include the payment of any expenses bona fide incurred at, or for the purpose of, any election and duly

entered in the account of election expenses referred to in section 78'.

(b) in clause (2), after the words "any other person", the words "with the consent of the candidate or his election agent" shall be inserted;

(c) in clause (3), after the words "any other person", the words "with the consent of a candidate or his election agent" shall be inserted;

(d) in clause (4),—

(i) after the words "any other person", the words "with the consent of a candidate or his election agent" shall be inserted;

(ii) the words "or retirement from contest," shall be omitted;

(e) in clause (5), after the words "any other person", the words "with the consent of a candidate or his election agent" shall be inserted;

(f) in clause (7),—

(i) after the words "any other person", the words "with the consent of a candidate or his election agent" shall be inserted;

(ii) for sub-clause (f), the following sub-clause shall be substituted, namely:—

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

35. In section 134 of the 1951-Act, in sub-section (3),—

(a) the words "Electoral Registration Officers, Assistant Electoral Registration Officers,"

(b) the words "the preparation of an electoral roll," and

(c) the words and figures "or by or under the Representation of the People Act, 1950",

shall be omitted.

43 of 1950. 36. In section 136 of the 1951-Act, in sub-section (3), the words **Amendment of section 136** and figures "or by or under the Representation of the People Act, 1950" shall be omitted.

5 37. For section 158 of the 1951-Act, the following section shall be substituted, namely:— **Substitution of new section for section 158**

10 "158. (1) The deposit made under section 34 or under that section read with sub-section (2) of section 39 shall either be returned to the person making it or his legal representative or be forfeited to the appropriate authority in accordance with the provisions of this section. **Return or forfeiture of candidate's deposit.**

(2) Except in cases hereafter mentioned in this section, the deposit shall be returned as soon as practicable after the result of the election is declared.

15 (3) If the candidate is not shown in the list of contesting candidates, or if he dies before the commencement of the poll, the deposit shall be returned as soon as practicable after the publication of the list or after his death, as the case may be.

20 (4) Subject to the provisions of sub-section (3), the deposit shall be forfeited if at an election where a poll has been taken, the candidate is not elected and the number of valid votes polled by him does not exceed one-sixth of the total number of valid votes polled by all the candidates or in the case of election of more than one member at the election, one-sixth of the total number of valid votes so polled divided by the number of members to be elected:

25 Provided that where at an election held in accordance with the system of proportional representation by means of the single transferable vote, a candidate is not elected, the deposit made by him shall be forfeited if he does not get more than one-sixth of the number of votes prescribed in this behalf as sufficient to secure the return of a candidate.

30 (5) Notwithstanding anything in sub-sections (2), (3) and (4),—

35 (a) if at a general election, the candidate is a contesting candidate in more than one parliamentary constituency or in more than one assembly constituency, not more than one of the deposits shall be returned, and the others shall be forfeited;

40 (b) if the candidate is a contesting candidate at an election in more than one council constituency or at an election in a council constituency and at an election by the members of the State Legislative Assembly to fill seats in the Legislative Council, not more than one of the deposits shall be returned, and the others shall be forfeited."

APPENDIX I

(Vide Para 2 of the Report)

Motion in the Lok Sabha

“That the Bill further to amend the Representation of the People Act, 1950, and the Representation of the People Act, 1951 be referred to a Select Committee consisting of:—

1. Shri Upendranath Barman
2. Shri N. G. Ranga
3. Shri Dwarika Nath Tewari
4. Shri P. C. Bose
5. Shri Ghanshyamlal Oza
6. Shri V. Eacharan
7. Shri Radha Charan Sharma.
8. Shri Jaganatha Rao
9. Shri S. A. Agadi
10. Shri Hem Raj
11. Shri Panna Lal Barupal
12. Shri C. D. Pande
13. Shri Jamal Khwaja
14. Dr. Ram Goti Banerji
15. Shrimati Sucheta Kripalani
16. Shri A. M. Tariq
17. Shri Padam Dev
18. Shri Shree Narayan Das
19. Shri Venketrao Srinivasrao Naldurgker
20. Shri Sunder Lal
21. Shri V. P. Nayar
22. Shri S. Easwara Iyer
23. Shri Yadav Narayan Jadhav
24. Shri Bibhuti Bhushan Das Gupta
25. Shri M. R. Masani

26. Shri B. C. Kamble
27. Shri Atal Bihari Vajpayee.
28. Shri Surendra Mahanty
29. Shri Braj Raj Singh
30. Shri R. M. Hajarnavis; and
31. Shri Asoke K. Sen.

with instructions to report by the 15th December, 1958.

APPENDIX II

MINUTES OF THE SITTINGS OF THE SELECT COMMITTEE ON THE REPRESENTATION OF THE PEOPLE (AMENDMENT) BILL, 1958

I

First Sitting

The Committee met from 12·10 hours to 13·15 hours on Friday, the 12th December, 1958.

PRESENT

Shri Upendranath Barman—*Chairman*

MEMBERS

2. Shri Dwarika Nath Tewari
3. Shri Ghanshyamlal Oza
4. Shri V. Eacharan
5. Shri Radha Charan Sharma
6. Shri Jaganatha Rao
7. Shri Hem Raj
8. Shri C. D. Pande
9. Shri Jamal Khwaja
10. Shri A. M. Tariq
11. Shri Shree Narayan Das
12. Shri S. Easwara Iyer
13. Shri Yadav Narayan Jadhav
14. Shri Bibhuti Bhushan Das Gupta
15. Shri M. R. Masani
16. Shri Atal Bihari Vajpayee
17. Shri Surendra Mahanty
18. Shri R. M. Hajarnavis
19. Shri Asoke K. Sen

DRAFTSMAN

Shri S. P. Sen Verma. *Additional Draftsman, Ministry of Law.*

SECRETARIAT

Shri A. L. Rai—*Under Secretary.*

2. The Committee took up clause by clause consideration of the Bill.

3. *Clauses 2—6.*—These clauses were adopted without any amendment.

4. *Clause 7.*—The following amendment was accepted subject to the drafting changes that might be made by the Draftsman:—

Page 2,

after line 17, add—

“Explanation I.—A person shall not be deemed to be ordinarily resident in a constituency on the only ground that he owns or is in possession of a dwelling house therein.

Explanation II.—A person absenting himself from his place of residence temporarily for pursuing his trade, business, profession or other avocation shall not be deemed to be not ordinarily resident on ground only of such temporary absence.”

Subject to the above the clause was adopted.

5. *Clause 8.*—The clause was adopted without any amendment.

6. *Clause 9.*—The following amendment was accepted:—

Page 2,

after line 36, add—

“Provided that before taking any action on any ground under clause (a) or clause (b) or any action under clause (c) on the ground that the person concerned has ceased to be ordinarily resident in the constituency or that he is otherwise not entitled to be registered in the electoral roll of that constituency, the electoral registration officer shall give to the person concerned reasonable opportunity of being heard in respect of the action proposed to be taken in relation to him.”

The clause as amended was adopted.

7. *Clauses 10—14.*—These clauses were adopted without any amendment.

8. *Clause 15.*—The following amendment was accepted:—

Page 4,

after line 6, insert—

“(e) if he is a director or managing agent or manager or secretary of any Company or Corporation (other than a Cooperative Society in the capital of which the appropriate Government has not less than 25 per cent share;”

(2) Discussion on clause 15 was not concluded.

9. *Clause 16.*—The clause was held over.

10. *Clauses 17—24.*—These clauses were adopted without any amendment.

11. *Clause 25.*—The clause was held over.

12. *Clauses 26—33.*—These clauses were adopted without any amendment.

13. *Clause 34.*—The following amendment was accepted:—

Page 6,

line 29,

after “person” add “on their behalf”. Discussion on clause 24 was not concluded.

14. *Clauses 35—37.*—These clauses were adopted without any amendment.

Committee then adjourned to meet again at 14.00 hours on Saturday, the 13th December, 1958.

II

Second Sitting

The Committee met from 14.00 hours to 16.00 hours on Saturday, the 13th December, 1958.

PRESENT

Shri Upendranath Barman—*Chairman*

MEMBERS

2. Shri Dwarika Nath Tewari
3. Shri V. Eacharan
4. Shri Radha Charan Sharma
5. Shri Jaganatha Rao
6. Shri Hem Raj
7. Shri Panna Lal Barupal
8. Shri C. D. Pande
9. Shri Jamal Khwaja
10. Shri A. M. Tariq
11. Shri Shree Narayan Das
12. Shri V. P. Nayar
13. Shri S. Easwara Iyer
14. Shri Yadav Narayan Jadhav
15. Shri Bibhuti Bhushan Das Gupta
16. Shri M. R. Masani
17. Shri Atal Bihari Vajpayee
18. Shri Surendra Mahanty
19. Shri Braj Raj Singh
20. Shri R. M. Hajarnavis
21. Shri Asoke K. Sen

DRAFTSMAN

Shri S. P. Sen Verma, *Additional Draftsman, Ministry of Law.*

SECRETARIAT

Shri A. L. Rai—*Under Secretary*

2. The Committee resumed clause by clause consideration of the Bill.

3. *Clause 15.*—(vide para 8 of the minutes, dated the 12th December, 1958). The following amendment was adopted:—

Page 4,

for lines 1—6, substitute—

“In Section 7 of the 1951-Act, clause (d) shall be omitted.”

The clause was amended was adopted.

4. *Clauses 16 and 25.*—(vide paras 9 and 11 of the minutes, dated the 12th December, 1958). The clauses were adopted without any amendment.

5. *Clause 34.*—(vide para 13 of the minutes, dated the 12th December, 1958). The following amendment was accepted:—

Page 7.

after line 22, insert—

“(c) for sub-clause (f) of clause (7) the following sub-clause shall be substituted, namely:—

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

6. *Clause 8.*—Discussion on the clause was reopened.

The Committee feel that as Members of Parliament and State Legislatures have to remain away for long periods from the place where they are registered in the electoral roll in connection with their duties some provisions might be made by law so that they continue to be treated as ordinarily resident in that constituency.

The Draftsman was directed to make a suitable provision accordingly.

7. *Clause 1 and the Long Title.*—Clause 1 and the Long Title were adopted without any amendment.

8. The Committee decided to consider the draft Report on the 15th December, 1958 and present it on the same day at 17.00 hours.

9. The Committee decided that minutes of dissent if any, should be sent to the Lok Sabha Secretariat, so as to reach them by 14.00 hours on Monday, the 15th December, 1958.

10. The Committee then adjourned to meet again at 10.30 hours on Monday, the 15th December, 1958.

III

Third Sitting

The Committee met from 10.32 hours to 10.40 hours on Monday, the 15th December, 1958.

PRESENT

Shri Upendranath Barman—*Chairman*

MEMBERS

2. Shri P. C. Bose
3. Shri V. Eacharan
4. Shri Radha Charan Sharma
5. Shri Hem Raj
6. Shri Panna Lal Barupal
7. Shri Jamal Khwaja
8. Shri A. M. Tariq
9. Shri Padam Dev
10. Shri Shree Narayan Das
11. Shri V. P. Nayar
12. Shri S. Easwara Iyer
13. Shri Yadav Narayan Jadhav
14. Shri Bibhuti Bhushan Das Gupta
15. Shri M. R. Masani
16. Shri Braj Raj Singh
17. Shri R. M. Hajarnavis.

DRAFTSMAN

Shri S. P. Sen Verma, *Additional Draftsman, Ministry of Law.*

SECRETARIAT

Shri A. L. Rai—*Under Secretary*

2. The Committee adopted the Bill as amended.
3. The Committee considered the draft Report and adopted the same.
4. The Committee authorised the Chairman to present the report on their behalf.
5. The Committee then adjourned at 10.40 hours.