

Mr. Deputy-Speaker: The question is:

"That clause 1, as amended, stand part of the Bill".

The motion was adopted.

Clause 1, as amended, was added to the Bill.

The Enacting Formula and the Title were added to the Bill.

Shri Manubhai Shah: I beg to move:

"That the Bill, as amended, be passed".

Mr. Deputy-Speaker: The question is:

"That the Bill, as amended, be passed".

The motion was adopted.

13.10 hrs.

REPRESENTATION OF THE PEOPLE (AMENDMENT) BILL, 1962.

The Minister of Law (Shri A. K. Sen): Sir, I beg to move:

"That the Bill further to amend the Representation of the People Act, 1950, be taken into consideration".

Sir, it is a very formal Bill necessiated by the reorganisation of local authorities and with the passing of Panchayat Acts in the various States. The functions of all the districts boards, the local boards and others have been taken over by new authorities which have been created under the various Panchayat Acts. Under the Constitution, it would be noticed that one-third of the electorate for the Upper House seats has to come from the local authorities and we have uptill now inserted such local authorities as are recommended by the State Government's concerned. Since the reorganisation of local authorities,

after the passing of the last Act, we have received a recommendation from Madras, from Maharashtra, from Uttar Pradesh and now—it is a subject matter of amendments—we have received also requests from Andhra Pradesh and Bihar that there should be reorganisation of the schedules concerning those two States also and that is why the Deputy Minister had given notice of one amendment No. 1 and consequential amendments which would be nos. 2, 3 and 6.

Sir, I do not think it is necessary to explain the objects of the Bill as to why it is necessary to have this amendment Bill before by-elections are held to the Upper Houses in the various States. So far as Maharashtra is concerned, we are proposing that instead of the old schedule, we should have only Municipalities, Cantonment Boards, Town Committees and Zilla Parishads.

With regard to Madras, instead of having the old schedule—item (4) Class I Panchayats—we are only mentioning; Town Panchayats notified under the Madras Panchayats Act, 1958, that is to say, Panchayats having a population estimated a not less than five thousand and an annual income estimated at not less than ten thousand rupees. There is a similar provision for Andhra Pradesh for which we have tabled an amendment.

For Uttar Pradesh, after the Notified Area Committee, we are having Kshettra Samities which are the new authorities under the Panchayat Act. They are taking over the functions of the old Notified Area Committees.

With regard to Bihar, there is an amendment for which notice has been given. We are doing the same thing. After the Notified Area Committees, we are putting Zilla Parishads and Panchayat Samitis which have taken over the functions of the various local authorities there.

There are two amendments tabled by the Hon. Member from Maha-

rashtra, Shri D. S. Patil. He told me that the Maharashtra Government had agreed with him that after Zila Parishad, the words "including Panchayat Samitis" should be added. That is his amendment No. 4. With regard to Notified Area Committees, he suggests that we should also put Notified Area Committees at page 2, line 2, after Zila Parishad as item No.5. I told him that I had referred it to the Defence Minister, Mr. Chavan who knows very well about Maharashtra and various authorities which were set up during his regime there. He has said that it is not necessary at all to put in the words "Panchayat Samitis" as suggested by Mr. Patil—that is his note—and that it will serve the purpose as the Government of Maharashtra has intimated to us if we only insert the words as we have shown in clause 2 of the Bill itself, namely, Municipalities, Cantonment Boards, Town Committees, Zila Parishads. Zila Parishads, I understand, represent all the local authorities. If that is so, I think, it is not necessary to put words "including Panchayat Samitis" because they do include these. It is a higher body. So, I think, the Hon. Members, after this clarification, would not press. That is all I have to say. I move.

Mr. Deputy-Speaker: Motion moved:

"That the Bill further to amend the Representation of the People Act, 1950, be taken into consideration".

श्री सिंहासन सिंह (गोरखपुर): उपाध्यक्ष महोदय, यह जो अमेंडिंग बिल रखा गया है, जैसा अभी माननीय मंत्री जी ने कहा है, बड़ा ही फार्मल सा है। लेकिन मैं समझता हूँ कि इनसे आप चुनाव पर काफी बोझा डालने जा रहे हैं। इनका कारण यह है कि अपर हाउस के लिए जो इन्वेंटोरल कालजिज हैं, लोकल बाडीज हैं, उन लोकल बाडीज में आप नई लोकल बाडीज को जोड़ने जा

रहे हैं। जो टाउन कमेटीज या क्षेत्र समितीज बनी हैं, उनको भी जोड़ने जा रहे हैं। उत्तर प्रदेश में जिला परिषदें हैं अंतरिम जिला परिषदें हैं और अब हर एक ब्लॉक में क्षेत्रीय समितियाँ भी बन गई हैं। उन ब्लॉक्स में चालीस से ले कर पचास तक मੈम्बर हो गए हैं। उत्तर प्रदेश में गोरखपुर में ३१ ब्लॉक हैं और हर एक में तीस से ले कर चालीस तक मੈम्बर हैं। उनको भी आप इसके अन्दर ला रहे हैं। मेरा कहना यह है कि जो क्षेत्रीय समिति होता है उसका प्रतिनिधित्व जिला परिषद में होता है। हर एक क्षेत्रीय समिति का सभापति, उप-सभापति तथा एक चुनावी व्यक्ति जिला परिषद में आता है और इस तरह से जिला परिषद हरल एरियाज का काफी प्रतिनिधित्व करती है। अभी तक तो जिला परिषद को ही रखा गया था लेकिन अब आप क्षेत्रीय समिति को भी जोड़ रहे हैं। इसका नतीजा यह होगा कि भार बहुत ज्यादा बढ़ जाएगा और जो मੈम्बर लोकल बाडीज से खड़ा होगा उसके लिए एक आफत हो जायेगी। लेकिन फायदा कोई विशेष नहीं होगा। उत्तर प्रदेश में पहले से ही जिला परिषदें हैं, अंतरिम जिला परिषदें हैं, टाउन एरिया कमेटीज हैं, नोटिफाइड एरिया कमेटीज हैं तथा दूसरी संस्थाएँ हैं जोकि अपर हाउस के लिए मੈम्बरों का चुनाव करती हैं और उनके होते हुए भी क्षेत्रीय समिति को इसमें शामिल कर देना, इसमें क्या फायदा सोचा गया है, मेरी समझ में नहीं आया है।

अभी माननीय मंत्री जी ने श्री डी० एस० पाटिल की एमेंडमेंट के बारे में कहा है कि पंचायत समिति और नोटिफाइड एरिया कमेटी को इसमें अलग से शामिल करना ठीक नहीं है क्योंकि वे वहाँ की जो जिला समितीज हैं, उनमें आ जाती है और इस वास्ते अलग से उनको रखने की

[श्री सिंहासन सिंह]

जरूरत नहीं है। इसी आधार पर मैं कहना चाहता हूँ कि क्षेत्रीय समिति का भी प्रतिनिधित्व जिला परिषद् में हो जाता है और अगर उनको इसमें अलग से न रखा जाए तो कोई नुकसान वाली बात नहीं होती।

मैं समझता हूँ कि इस एमेंडिंग बिल से कुछ लाभ नहीं होने वाला है, उल्टे लोगों पर बोझा ही पड़ने वाला है। इस से तो उन लोगों में जो लोकल बाडीज की कांस्टीट्यूएन्सी से खड़े होना चाहते हैं, डर ही पैदा होगा, बनिस्बत उस व्यक्ति के जो कि किसी दूसरे क्षेत्र से एम० एल० ए० बनने के लिए खड़ा होगा। मैं चाहता हूँ कि आप इस पर विचार कर लें। अभी क्षेत्रीय समिति के चुनाव के बाद बहुत से मुकदमे भी दायर हुए हैं। उन में कोर्ट फीस वगैरह के मसले पड़े तो जिला परिषद् में लोकल बाडीज के वड्स हैं। इस वड्स को जब रकबा गया है तो उन की कितनी कोर्ट फीस लगेंगी एलेक्शन पिटिशन के सिलसिले में। कहीं कहीं पर तो वह लोकल बाडीज में आते हैं या नहीं इस के लिए डिफरेंट डिफरेंट इंटरप्रेटेशन मिले। यदि आप लोकल बाडीज में उन को भी डाल दें तो आइन्दा के लिये और भी आपत्तियां होने वाली हैं। मैं समझता हूँ कि अगर आप उन को अधिक विस्तृत न करें तो बहुत ज्यादा नुकसान होने वाला नहीं है। जो चुनाव चल रहे थे उन में जो समितियां थीं वह थीं। जिला परिषद् के चुनावों में जहां पर ५० मेम्बर हुआ करते थे वहां पर अब १०० और १५० मेम्बर हो गये हैं हर जगह पर। काफी प्रतिनिधि बढ़ गये हैं देहातों में। वहां पर प्रतिनिधि बढ़ सकते हैं और उन के जरिये से काम हो सकता है। जो चीज रकबा जा रही है उस की कोई विशेष आवश्यकता नहीं है।

Shri Priya Gupta (Katihar): On a point of information. The hon. Minister referred to Zila Parishads and Municipalities. Do they have any portfolios identical? Is any of the two dependent on the other or subservient to the other or are there separate functions discharged by the different organisations?

Shri A. K. Sen: They are separate authorities.

Shri Priya Gupta: Are they dealing with separate items or the same items?

Shri A. K. Sen: Municipality, Cantonment Board, Zila Parishad they are all creatures of statutes. Municipality is created by a statute, the Cantonment Board is a creature of the Cantonment Act. So far as the Zila Parishads are concerned, they inherit many of the functions of the old district boards and other local authorities under the Panchayat Act.

Shri Priya Gupta: Is it subservient to the Zila Parishad?

Shri A. K. Sen: The hon. Member is a lawyer himself. He knows.

Shri Priya Gupta: I am not lawyer. I am seeking a clarification.

Shri A. K. Sen: So far as local authorities are concerned, within their own sphere, they are competent. They are not subservient to anyone. But generally there are various powers given to the Government for directions and various other things.

श्री सरजू पाण्डेय (रसड़ा) : उपाध्यक्ष महोदय, यह जो बिल आया है वह अपर हाउसेज के चुनावों के लिये आया है। उत्तर प्रदेश में क्षेत्रीय परिषद् और जिला परिषद् पहले भी शामिल थीं। अभी माननीय विधि

मंत्री महोदय ने बतलाया है कि इस में नोटिफाइड एरिया की जगह पर क्षेत्रीय समिति होनी चाहिये और जिला परिषद् में समझता हूँ कि अगर क्षेत्रीय समिति को इस में न शरीक किया जाये तो एलेक्शन का खर्च भी कम होगा और प्रतिनिधियों को उस के लड़ने में भी आसानी होगी क्योंकि अब तक जो उत्तर प्रदेश के डिस्ट्रिक्ट बोर्ड्स में यह समाप्त कर दिये गये और उन की जगह जिला परिषद् का गठन हुआ। जिला परिषदों में तकरीबन हर जगह १०० या १५० मेम्बर हो गये। टाउन एरिया कमिटीज और उस के बाद नोटिफाइड एरियाज तो पहले भी थीं। लेकिन मैं समझता हूँ कि आज कल देश में एलेक्शन का खर्च बहुत बुरी तरह से बढ़ रहा है। पहली बात तो यह है कि मैं यह नहीं चाहता कि इनडाइरेक्ट एलेक्शन कराये जायें। जिला परिषद् के भी एलेक्शन इनडाइरेक्ट होते हैं, नोटिफाइड एरिया या जो क्षेत्रीय समिति होने जा रही है उस के भी इसी तरह से हो रहे हैं। एक एक आदमी को पकड़ पकड़ कर वोट के लिये लाना पड़ता है। बहुत जगहों पर तो वोट लेने ही बन्द हो जाते हैं और कहीं कहीं वोट खरीदे भी जाते हैं। इस से हमारे देश में बहुत बड़ी दुर्भावना फैल गई है। इस लिये मैं समझता हूँ कि एलेक्शन के खर्च को कम करने के लिये अगर परिषद् को ही शरीक रखते हैं तो यह बहुत है। उस के बाद क्षेत्रीय समिति को भी उस में से निकाल दीजिये तो मेरी समझ में कोई बुरी बात नहीं है।

मेरा तो खयाल है कि एलेक्शन के खर्च को कम करने के लिये कोशिश यह होनी चाहिये कि जिला बांडों के चुनाव डाइरेक्ट हुआ करें। पहले तो इसी तरह से होते थे लेकिन अब इनडाइरेक्ट हो रहे हैं। क्षेत्रीय समितियों को जो टाउन एरिया की जगह दी जा रही है, उस में भी एलेक्शन का खर्च बहुत बढ़ जायेगा और ग्राम तौर से माधारण आदमी के लिये एलेक्शन लड़ना

कठिन हो जायेगा। साथ ही साथ भ्रष्टाचार भी बढ़ता है। इसलिये मैं चाहता हूँ कि क्षेत्रीय समिति को इस में से निकाल दे। चाहें तो जिला परिषदों को रद्द सकते हैं। इस तरह से किया जाय तो जगदा अच्छा होगा और एलेक्शन के लिये भी इस में आसानी होगी।

Shri Bade (Khargone): I seek a clarification. In the statement of objects and reasons, it is stated that the governments of UP, Madras and Maharashtra have moved this Government to amend the Representation of the People Act. I am a resident of Madhya Pradesh where there is no Upper House. I am against the formation of Upper Houses. But when I asked a question to the State Ministers concerned, they said that there is no mention of Mandal Parishads, and there is some amendment involved to the Panchayat Act. Therefore, there is some difficulty in forming the Upper House. Is the Government to make the amendment when they have received a request from the Ministers of States concerned or is the Government taking the initiative in asking all the State Governments whether they have amended their Panchayat Acts? Recently, the Madhya Pradesh Government has also amended the Panchayat Act and made certain changes in the constitution of the panchayats. So I want to know from the hon. Minister whether Government have referred it to the Madhya Pradesh Government or not.

Shri A. K. Sen: The question of referring it to the Madhya Pradesh Government does not arise at all because that State has no Upper Chamber. If it does have one, then the questions of including such of the local authorities as the State Government may desire should be represented in the Upper House will be taken into consideration.

Shri Bade: The reason they have given as to why they have no Upper Chamber is that there is no mention of Mandal Parishads in the Representation of the People Act. That is the difficulty.

Shri A. K. Sen: No, that is not the reason.

Shri A. N. Vidyalankar (Hoshiarpur): I feel there ought to have been a thorough and comprehensive review of the whole position, because recently changes have taken place in other States also, just as Madhya Pradesh was mentioned. It is true there is no Upper House in that State, but in Punjab there is one. There also Zila Parishads have been formed and other changes had taken place. Therefore, I think a comprehensive Bill ought to have been brought before the House. The whole position as to how representation is to be given in these Upper Houses needs to be reviewed.

Therefore, although I have no objection to the changes contemplated in the Bill before the House, I desire that the whole position should be reviewed and a comprehensive Bill introducing some kind of uniformity should be brought forward in this House.

श्री दे० शि० पाटिल (यवतमाल) :

उपाध्यक्ष महोदय, इस बिल पर मैं ने एक दो सुझाव दिये थे और इस पर कुछ कहने का मेरा इरादा भी था, लेकिन मंत्री महोदय ने जो सुझाव रखे और उन का जो स्पष्टीकरण दिया, उस के बाद मैं अपने अमेंडमेंट्स को प्रेम नहीं करना चाहूंगा लेकिन दम्तुस्थिति क्या है यह बतलाने की कोशिश करूंगा।

लेजिस्लेटिव कौंसिल के एलेक्शन के लिये लोकल बाडीज की जो कांस्टिट्यून्सी बननी है उन में कौन कौन सी लोकल बाडीज हो सकती हैं अगर इन को देखा जाये तो मेरा खयाल यह है कि इंडिया भर के लिए एक साधारण प्रारूपण होना चाहिये। अगर इन स्टेट्स में देखा जाये, जैसे कि आन्ध्र है, तो वहां पर क्लाम १ पंचायत लोकल बाडीज में रखी गई है, क्लाम २ पंचायत लोकल बाडीज में रखी गई है, मध्य प्रदेश में जनपद सभा, मद्रास में टाउन

पंचायत, मैसूर में नोटिफाइड एरिया और पंजाब में पंचायत समिति, उत्तर प्रदेश में अन्तरिम जिला परिषद् और क्षेत्रीय समिति का अमेंडमेंट इसी बिल में है। वैसे ही महाराष्ट्र स्टेट में डिस्ट्रिक्ट बोर्ड और डिस्ट्रिक्ट लोकल बाडीज और जनपद सभा इन रूरल एरियाज के बदले यहां सिर्फ जिला परिषद् को ही लोकल बाडी माना गया है। मेरा सुझाव यह था कि जिला परिषद् और पंचायत समिति को जिस तरह से हर एक स्टेट में लोकल बाडी माना गया है वैसे ही महाराष्ट्र स्टेट में भी पंचायत समिति को लोकल बाडी माना जाना चाहिये। पंचायत समिति और जिला परिषद् यह दो नई बाडीज बनी हैं। इस के लिये महाराष्ट्र स्टेट में जो जिला परिषद् और पंचायत समिति एक्ट, १९६२ है उस के प्रिपेम्बल को मैं पढ़ना चाहता हूं।

"An Act to provide for the establishment in rural areas of zila parishads and panchayat samitis".

इस से स्पष्ट है कि रूरल एरियाज में जिला परिषद् और पंचायत समिति बनाने के लिए यह एक्ट बना है। बिल के स्टेटमेंट आफ आबजेक्ट्स एंड रीजन्स में कहा गया है।

"With the inauguration of Panchayat Raj in Maharashtra, District Boards, District Local Boards and Janapada Sabhas (Rural Circle) have been replaced by Zila Parishads".

यह जो कहा गया है वह गलत है। जिला परिषद् और पंचायत समिति दो नई बाडीज बनी हैं और उन के फंक्शन्स अलग अलग हैं। जिला परिषद् के वाजे में क्लाम ६ में दिया गया है।

"For every District, there shall be established a Zila Parishad consisting of a President and Councillors; and the Zila Parishad shall have all such powers and discharge all such functions as are

vested in it by or under this Act, or otherwise".

बैंम ही पंचायत समितियों के कांस्टीट्यूशन के बारे में दिया गया है

"For every Block, there shall a Panchayat Samiti; and the Panchayat Samiti shall have all such functions as are vested in it by this Act, or otherwise."

पंचायत समिति के लिए ब्लॉक डेवेलपमेंट आफिसर सेक्रेटरी बनाया गया है और जिला परिषद् के लिए सेपरेट सी० ई० ओ० दिया गया है ।

बैंम ही जिला परिषद् और पंचायत समिति के पावर्स और इयूटीज अलग अलग दी गयी हैं । सेक्शन १०० में जिला परिषद् को एडमिनिस्ट्रेटिव पावर्स दी गई हैं और डिस्ट्रिक्ट लिस्ट अलग दी गई है और डिस्ट्रिक्ट मजिस्ट्रेट का एक अलग डिप्यूल दिया गया है । बैंम ही पंचायत समिति के लिए उन की पावर्स और इयूटीज सेक्शन १०१ में अलग दी गयी हैं और उन के लिए एक अलग लिस्ट बनायी गयी है और एक डिप्यूल भी उन के लिए अलग बनाया गया है । पहला डिप्यूल जिला परिषद् के लिए है और उस के बाद मैजिस्ट्रेट डिप्यूल पेज १०६ पर है जिम में पंचायत समिति के मजिस्ट्रेट आदि दिये गये हैं । मेरे कहने का मतलब यह है कि ये दो बाडीज नई बनी हैं और उन के फंक्शंस और एडमिनिस्ट्रेटिव पावर्स अलग अलग हैं ।

और दूसरी महत्व की बात यह है कि जो पहले जनपद सभा थी वह तहसील में थी और उन के मेम्बरान का मतदान का अधिकार था । आज जनपद की जगह पंचायत समिति बनी है । आज उस की जगह जिला परिषद् के काउंसिलर्स का मतदान का अधिकार देना और पंचायत समिति के मेम्बरों का मतदान का अधिकार न देना, इस से बहुत बड़ा अन्याय हो जायेगा ।

जिला परिषद् के जो काउंसिलर्स हैं उन के बारे में सेक्शन ६ में प्रावीजन है । उस में कहा गया है :

"... Councillors chosen being not more than sixty in number as may be determined by the State Government so however that there is one Councillor as far as is reasonably practicable for not more than every thirty-five thousand of the population;"

यानी ३५००० पापुलेशन के लिए एक काउंसिलर चुना जाता है और जिला परिषद् के कम से कम ४० और ज्यादा से ज्यादा ६० काउंसिलर रहते हैं । म्युनिसिपैलिटी को जोकि १०,००० की पापुलेशन पर होती है रिप्रेजेंटेशन दिया गया है । उत्तर प्रदेश के बारे में क्षेत्र समिति को अधिकार दिया जा रहा है और मद्रास स्टेट के लिये मुझाब है कि :

"... A town panchayat notified under the Madras Panchayat Act, ... having a population estimated at not less than 5,000 and an annual income estimated at not less than Rs. 10,000".

यानी ५००० जन संख्या के लोकल बाडी को रिप्रेजेंटेशन देने का मुझाब है । लेकिन महाराष्ट्र में जो पंचायत समिति है वह ६०,००० पापुलेशन के लिए बनी है और उस का बजट पांच या ६ लाख का होता है उस को रिप्रेजेंटेशन नहीं मिलेगा । यह पंचायत नई बाडी बनी है । तो मेरा मुझाब है कि जनपद सभा, डिस्ट्रिक्ट लोकल बोर्ड और डिस्ट्रिक्ट बोर्ड के स्थान पर "जिला परिषद् इनक्लूडिंग पंचायत समितियों" ऐसा होना चाहिए । ऐसा नहीं किया गया तो बहुत से देहाती लोगों का अधिकार माग जायेगा और जिला परिषद् का मेम्बर चुनाव में खड़ा नहीं रह सकेगा क्योंकि जिले में म्युनिसिपल कमिटी के मेम्बर ज्यादा होंगे । इसलिए मेरा मुझाब है कि जैसा आप अन्य राज्यों के

[श्री दे० शि० पाटिल]

लिए कर रहे हैं वैसे ही महाराष्ट्र के लिए भी करना चाहिये। मैं यह तो नहीं कहता कि यहां पर जो इनफार्मेशन सरकार के पास आई है वह गलत है, लेकिन मैं समझता हूँ कि वह करेक्ट नहीं है। मेरा खयाल है कि महाराष्ट्र की सरकार ने जिला परिषद् इनक्लूजिव पंचायत समिति का प्रोजेक्ट दिया है। मैं दो चार दिन पहले बम्बई गया था और महाराष्ट्र के ला मिनिस्टर और मेक्रेटरी से मिला था। उन्होंने मुझे बताया कि महाराष्ट्र के लिए जिला परिषद् और पंचायत समिति ये दो नई बाडीज हैं और उन को प्रतिनिधित्व मिलने के बारे में हम ने सेंट्रल गवर्नमेंट को लिखा है। मैं आप के द्वारा मिनिस्टर इन चार्ज को रिक्वेस्ट करूंगा कि वह इस बात पर गौर करें और जो सही बात है उसे करें और सारे अन्य राज्यों में जैसा किया जा रहा है उसी तरह महाराष्ट्र में भी पंचायत समितियों को प्रतिनिधित्व दिया जाय।

Shri Heda (Nizamabad): This Bill is very healthy lines, and it has served to remove an anomaly. So far, such of the members of the legislative councils who were elected by local bodies were elected by representatives of the towns, and the representatives of the village areas did not have a say in these elections. Now the representatives of the rural areas have been brought on a par and equal status with the representatives of the town areas.

One or two questions have arisen in this short debate. One is that the names of more than one body which overlap each other have been mentioned here. For example, just now Shri Sinhasan Singh was referring to an anomaly in U.P. Already, the district boards and zila parishads there form the electorate for the election of the members of the Legislative Council, and to it the Kshettra Samitis, that is members of Block Panchayat Sami-

ties are also added. The members of the Zila Parishads and the Kshettra Samitis represent the same area and the same persons. Therefore, it would be proper to include the Kshettra Samities and exclude the Zila Parishads. When the body at the base has emerged, the body constituting the superstructure can be removed, there is no harm in it.

Shri Vidyalankar referred to another anomaly, and another Member asked why only three States have been taken, what about the other States?

Shri Vidyalankar was of the opinion that a comprehensive view may be taken and that a comprehensive bill may be presented. But, Sir, it is really a matter for the State Governments. When a particular State Government thinks that in that particular State, certain type of reform and certain procedure should be adopted, it is for that State Government to come forward with such a proposal and this House and this Government would indicate to them how to carry out those reforms, and say, for instance, what they have to do in Punjab and in Andhra Pradesh. So far as Andhra Pradesh is concerned, we have taken a further step so far as democratic decentralisation is concerned. The Panchayat samithis, village panchayats, and zilla parishads are all 100 per cent elected on adult franchise basis. Therefore, such a step could have been taken in Andhra Pradesh earlier than in some other States. It is no fault of this Government or this House if it is not in a position to do so.

Therefore, I would like to urge upon the Law Minister that he might circulate the debate of this House, the wishes of the House, to all the State Governments, so that this may give enough inducement to these State Governments to think over these problems and to remove the lacuna that exists in their election procedures. We need not wait till all the State Governments come forward. We will pro-

ceeds with whatever suggestions are brought forward from the State Governments. When the other State Governments make similar proposals, we will come with another Bill and that might be passed. We have got so many different States and there will be some disparity in their development and in their progress and even in the democratic procedures adopted in different States. Those are bound to be there. Therefore, while this variety may remain there, efforts may be taken to bring in harmony and unity in the procedure. With these words I support the Bill.

Shri Malaichami (Periyakulam): Mr. Deputy-Speaker, Sir, Under the Madras Panchayats Act (1958), villages with a population of 500 and more have been constituted into panchayats and these village panchayats have been blocked together to constitute Panchayat Union Councils. In addition to the town panchayats, municipalities and these Panchayat Union Councils, village panchayats also form the electorate for the upper chamber. In the fourth schedule, as item two, only Panchayat Union Councils are mentioned. It is not definite whether this will be a unit for the election of the Upper Chamber or whether this will also include the village panchayats, and whether this will also enable the village panchayats to become the electorate. I would request the Minister to adopt the amendment to include the words "Village Panchayats constituting the Panchayat Union Councils". We should give opportunity to village panchayats also to elect the Upper Chamber as it was contemplated before. Since the local bodies were the electorates for the Upper Chamber under the Madras Panchayats Act, 1958, village panchayats also have come under the term local bodies and they must also be given an opportunity to elect the Upper Chamber. In view of the need to give them such opportunities, I think, it will be better if my amendment is adopted, and I request the hon Minister to accept it. With these words, I conclude.

Mr. Deputy-Speaker: Shri Yashpal Singh.

श्री यशपाल सिंह (कैराना): उपाध्यक्ष महोदय, मैं इन विन की तो तारीफ़ करता हूँ लेकिन इस के साथ ही दो, चार सुझाव रखना चाहता हूँ। हमारा काम यह नहीं है कि जो कुछ किसी स्टेट असेम्बली ने पास कर के भेज दिया उस को ज्यों का त्यों मान लें क्योंकि हम अपना डिस्ट्रिक्शन भी रखते हैं और हमारे लरनेड ला मिनिस्टर साहब भी इस मामले में देख ल सकते हैं। उन से मेरी दरखास्त है कि वे अपने डिस्ट्रिक्शन से काम लें। यू० पी० असेम्बली ने जो यह पास किया है कि कोई भी उस का लेजिस्लेटर जिला परिषद के लिए खड़ा नहीं हो सकता यह अनकास्टीट्यूशनल है। ऐसा होने से इक्वल अपॉरचुनिटी देते का जो हम ने सब को वायदा किया है उसे हम फूलफिल नहीं कर सकते। जब मैं ने यू० पी० असेम्बली ने जो पास किया है उस को देखा और पढ़ा तो उन के मुनाबिक तो कोई भी असेम्बली का मेम्बर, कौंसिल का मेम्बर या पार्लियामेंट का मेम्बर चेअरमनशिप के लिए खड़ा नहीं हो सकेगा। मेरे खयाल से यह चीज अनकास्टीट्यूशनल है। मैं आपके द्वारा अपने ला मिनिस्टर साहब से दरखास्त करूंगा कि वे अपने डिस्ट्रिक्शन को इन्तेमाल करें और इस बात की मिफागिश करें कि उसे इस से डिवाय न किया जाये। आखिर एम० ऐल० ए० या एम० पी० ने क्या जुर्म कर दिया है कि वह किसी पद के लिए खड़ा न हो सके ?

दूसरे जो पंचायत ऐक्ट है उस में न्यायाधीश जिसे कहते हैं, अदालत का सरपंच जिसे कहते हैं, वह वोट से बनाया जाये। आप के द्वारा मेरा आग्रह यह है कि मुंसिफ को कभी वोट से नहीं बनाना चाहिए। जिस के हाथ में हथकड़ी है उसे हक दिया हो, अदालत जिसे हम ने मुस्तहक बनाया हो उस शकम का वोट से नहीं बनाना चाहिये। दुनिया में जजों का एपायन्टमेंट होता है, इलेक्शन नहीं होता है। यह नेचुरल है कि जिस के वोट से वह न्यायाधीश बनेगा, जिस के वोट से वह

[श्री यशपाल सिंह]

मंसिफ और जज करार दिया जायेगा उस की वह हमेशा कुछ न कुछ थोड़ी बहुत तरफ-दारी करेगा। यह हिजुमन नेचर है। इसलिए किसी भी न्याय पंचायत का सर्पंच और किसी भी जुडिशल कोर्ट का इंचार्ज वोट से नहीं बनना चाहिए बल्कि वह एपायन्टमेंट से और कानवलयत से बनना चाहिए।

डा० मा० श्री अणे (नागपुर) : स्पीकर का क्या होगा ?

श्री यशपाल सिंह : स्पीकर तो इलेक्ट हो जाने के बाद नान पार्टीमेन हो जाता है। और वह कोई अदालत नहीं होती।

इसी तरह अपर चैम्बर और लोअर चैम्बर के लिए अलग २ इलेक्शन रख कर उस को महंगा कर रहे हैं हमें इसे बंद करना पड़ेगा। गरीब आदमी इस इलेक्शन को नहीं लड़ सकेगा। जिस हिन्दुस्तान में एक आदमी की औसत आमदनी ८५ रुपये हो उस देश में इस अपर चैम्बर और लोअर चैम्बर को बनाना तथा इलेक्शन को और ज्यादा महंगा करने जाना यह हमारी डेमोक्रेसी को सूट नहीं करता है। जब मैं ने देखा और पढ़ा कि २५,००० रुपये तक एक एम० पी० खर्च करता है तो ताज्जुब हुआ। मेरे जैसा गरीब आदमी २५,००० रुपया भी खर्च नहीं कर सकता। जिस देश के प्रति व्यक्ति की औसत आय ८५ रुपया मालाना हो उस देश के लोग एम० पी० के इलेक्शन में २५,००० रुपया खर्च करें यह अच्छा नहीं लगता है। इसलिए आज अपर चैम्बर और लोअर चैम्बर अलग अलग कायम न किये जायें। खान्सी एक ही चैम्बर रहना चाहिये।

जिला परिषद् के चेयरमैन के लिए यह बहुत जरूरी है कि वह कानवलाइड हों। यू० पी० में मैं ऐसे चेयरमैन जिला परिषदों को जानता हूँ जोकि दर्जा ४ पास है, अपर प्राइमरी पास हैं या लोअर प्राइमरी

पास है और वह ऐसे प्रिंसिपल्स और हैड-मास्टर्स के लिए इंसपेक्शन नोट लिखते हैं जोकि एम० ए० एल० टी० हैं। ऐसे कानवलाइड लोगों के लिए दर्जा ४ और ५ पास वाला इंसपेक्शन नोट लिखे यह बड़ा अनर्थकारी है।

“अपूज्या यत्र पूज्यन्ते पूज्यानां च व्यतिक्रमः”। जिस जगह ऐसा होता है कि एक अनपढ़ आदमी एम० ए० एल० टी० का इंसपेक्शन लिखता है उन जगह अनर्थ हो जाता है। इसलिए जो चेयरमैन डिस्ट्रिक्ट बोर्ड है वह कानूनन कानवलाइड होना चाहिये या फिर उस से यह हक छीन लिया जाय कि वह प्रिंसिपल या हैडमास्टर का जा कर मुआयना लिखे। ऐसा होना इस डेमोक्रेसी का अनियाप है और इस से ज्यादा मैं समझता हूँ अनर्थ नहीं हो सकता है। ऐसी जगह पर नेचुरली पढ़े लिखे आदमी को रखना चाहिए।

“हजारों मान नगिम अपनी बेनूरी में रोती है,

बड़ी मुश्किल में होता है चमन में शिवावर पैदा।”

जहाँ अनपढ़ आदमी पढ़े लिखों का मुआयना लिखता है वह समाज बैठ जाता करता है और वह समाज पनप नहीं पाता है। जरूरत इस बात की है कि करेक्टर और कानवलयत को ऊंचा उठाया जाये। इस से बढ़ कर और कोई चीज न समझी जाये। इन्हीं चंद शब्दों के साथ आप के द्वारा मंत्री महोदय से आग्रह है कि वह इन सुझावों के उपर बोशनी डालें।

✓ **Shrimati Sarojini Mahishi (Dharmwar North):** Mr. Deputy-Speaker, Sir, the Representation of the People (Amendment) Bill, 1962 is before the House for amendment. Even though

the object is to formally accept the changes that have already been introduced in the Panchayat Acts of different States, the reference has been made only to three States. As one of our hon. Members remarked, the Bill would have been more comprehensive if all the States were brought within the scope of this Bill and then some of the confusion would have been avoided in this matter. We find that different States use different names at different levels for these democratic bodies. One State uses the name 'taluk development board'; another uses the name 'tehsil development board'. Another State calls it 'tehsil abivrudhi mandal'. It is called panchayat samiti, which is a council of panchayats. So also at the district level there are different names such as zila parishad, zila abivrudhi mandal and district development board.

It may be a matter for the States alone to find out the names to be used but it would have been much better if uniform names could have been used. Now that three committees are working under the Community Development Ministry for studying the powers and finances and statutory recognition etc. which are being sought by the democratic bodies, I think it would be good if uniform names are also given to these. It would avoid much confusion. Otherwise these local authorities which form the basis of the electorate for election to the upper houses in the different States would be creating confusion. Only three States are being referred to here. I feel that the other States should also be taken into consideration. In clause 4(b) what is meant by the town panchayats has been defined under the Madras Panchayats Act. Then the eligible local bodies for being included in panchayats are also given. The hon. Minister made a statement in the beginning that zila parishads included in clause 4(b), also included all the other democratic organisations. I think the taluk development boards

and panchayat samities are included in that. It would be better if all these things are mentioned so that it would be clear that the zila parishads include all these bodies. That will clarify the point and give them the right to elect their representatives.

Dr. L. M. Singhvi (Jodhpur): Sir I welcome the amendment to the Representation of the People Act moved by the Law Minister. The Bill as it stands is quite unexceptionable and certainly deserves our support because it follows as a consequence of the changes in the institutional structure that we have brought about in this country. It is meant to make representation more in consonance with the institutional realities in the country today. However, I would like to make a plea to the Law Minister to consider a more extensive and more comprehensive amendment of the main Act because the working of this Act has shown several loopholes and has created hardships and inconsistencies. I express the hope that the hon. Law Minister would undertake a thorough investigation into the working of this law and would strive to bring forth a more comprehensive amending Bill which would really recast the electoral machinery and the provisions of the Act wherever desirable and particularly in respect of petitions.

I should particularly like at this time—because it is an eminently topical matter to refer—to ask the Law Minister as to why the Government has not come forward with some amending Bill providing for staying by-elections and election petitions pending in different courts. When we are not going ahead with any by-elections there is no point in going ahead with election petitions. They cause much harassment to many people; they are also a vindication of the rights of many people against corrupt practices. If, however, a by-election is not to follow, there is no point in allowing the election petitions to continue. At least for the duration of the stay operative in respect of by-elections, you should provide for

[Dr. L. M. Singhvi]

the stay of the proceedings of election petitions also. The Act itself, as I said before, requires a very thorough revision and therefore, I once again make the plea to the Government to undertake a thorough revision of the various provisions of the Act which are found to be unworkable and unrealistic or which are a source of considerable and avoidable hardship.

Dr. M. S. Aney: I want to make only one or two observations. I do not find any fault in this Bill but while giving my support to it I want to make one or two observations. This Bill is the result of certain developments in certain States. India is now a federation of States. Before the federal union came into existence, India was under the British rule. There was a Central Government and one particular thing about the Central Government was that all the institutions which had got a bearing upon the Constitution were more or less modelled according to the type set up by the Central Government. For instance the district and taluk boards and all those bodies were constituted in the same manner throughout the territory of British India at that time. It was the Central Government that was setting a model for the provinces in those days.

Now, with our advanced ideas and a better, liberal and progressive Constitution, we have allowed that idea to fail. Now, the States make things as they like; things go on like that year after year in the States. At one time there were the janapadha sabhas. Then, it goes away and the district board comes. Now, that goes away and something else comes. The Central Government also does not think it fit to ask: for so many years this body was there; why are you changing it today? No query of this kind is being put by the Central Government though, at the same time, all of us want that India should be governed by common judicial ideas. We want to develop territorial nationalism based upon obedience to common

laws. That is our ideal. That is what the Central Government or what is now called the Union Government ought to do. But now, what is happening? In the name of economy, the States are using their powers every other day to bring in some change. When the old Government goes away, a new Government with some energetic, brilliant Chief Minister comes in and brings in some more new ideals, and thus the whole thing is changed.

14 hrs.

Take, for instance, Madhya Pradesh, from where I come and from which State Shri D. S. Patil also comes. We were in one part of Madhya Pradesh. That has now become part of some other State. Eight districts of Berar or Vidarbha have now been thrown into Bombay. They have their own ideas; they feel that they are now new institutions and feel that they are a more progressive province. They naturally feel it now. The institutions in the old C.P. must now be modelled after the Bombay institutions. But now changes are made and the laws are being changed. The old district boards have gone. My good old friend, Shri Dwarka Pradesh Misra is not unfortunately here now. With all good wishes of the people he introduced with the best of his intentions, the Janapada institutions. He did not like the people of the districts to be the centres of public opinion. He wanted the taluk to be the centres of public opinion. After that, a new regime has come, the Bombay regime. They are thinking in a different way. They say that the districts should be the centres of public opinion, and they find that the Janapada institutions have gone. The new things are being introduced there. Of course, the people require that for the purpose of certain kinds of elections there must be the local bodies which ought to be given the power of representation. Whether this is good or not is not a matter which we are discussing. Instead of allowing the institutions to be formed by persons as such, they should be created

and properly incorporated in a Central Act or a Government of India Act. We do not say that an amendment to the Constitution should not be made or an amendment to an Act like the Representation of the People Act should not be made. But when we amend an Act, it becomes our duty to see that the changes which require to be made are based on some rationale. Is there any rationale behind a change? We do not want to question that. But, if we fail in that, we are probably entrenching upon the powers of autonomy. That difficulty is there.

For the present at least let us hope that our hon. friend Shri A. K. Sen will continue here and see that with greater powers which he might get later on he introduces a regular kind of common law—let him make a bigger attempt like that—particularly with regard to the constitutional matters. Let him see that that is somehow or other introduced into the whole of India so that all these amendments can be avoided.

I have no particular objection to any thing in this Bill except that I sympathise with my hon. friend Shri D. S. Patil. In Maharashtra the Zilla Parishads and the new taluk committees are two different things. I do not mind if you keep it or not. With these words, I give my support to this Bill.

श्री कु० कृ० वर्मा (सुल्तानपुर)
माननीय उपाध्यक्ष महोदय, इस समय जो विधेयक माननीय सदन के सामने प्रस्तुत है और उसका जो थोड़ा सा विरोध किया गया है, वह क्यों किया गया है, मेरी समझ में तो आया नहीं है। जहाँ तक उत्तर प्रदेश का सम्बन्ध है, वहाँ पर सब से छोटा यूनिट गांव मन्ना है, विल्लेज के स्तर पर। उसमें एक सभापति चुना जाता है और वह अपने पद के निहाज से क्षेत्रीय समिति का सदस्य हो जाता है। क्षेत्रीय समिति के दो सदस्य जिला परिषद् के लिए चुने जाते हैं। जो इस का वहाँ वर्तमान विधान है, उसको

देखा जाये तो मानलम हांगा कि केवल मात्र क्षेत्रीय समिति के सदस्य ही डायरेक्टली चुन कर आते हैं। जहाँ तक जिला परिषद् का सम्बन्ध है, उसके जो सदस्य होते हैं, वे इन्डायरेक्टली चुन कर आधिकारगत आते हैं। जो सभापति क्षेत्रीय समिति में आया वह उनके बाद जिला परिषद् के लिए चुना गया और यह एक इंडायरेक्ट इलैक्शन हुआ। जिला परिषद् के जो सदस्य होते हैं, उन में से अधिकतर लोग इंडायरेक्ट के बाद फिर एक इंडायरेक्ट चुनाव के जरिये से आते हैं। पहले पहल जब लोकल आथोरिटी की कांस्टीट्यूंसी की हमारे देश में स्थापना की गई, उस वक़्त जो लोग डायरेक्टली चुन कर उन लोकल बाडीज में आते थे, वे ही काउंसिल के त्रिये खड़े होने वाले को वोट देते थे। यहाँ तक तो जनतंत्र था। लेकिन हम लोगों का जो मंशा है, जो एक प्रगतिशील देश का या जो देश डेमोक्रेसी का विस्तार करना चाहता है, वह यही हो सकता है कि जो लोग सीधे चुन कर आते हैं, वे ही जो इलैक्शन होते हैं, उन में भाग लें लेकिन जब एक बार ही नहीं बल्कि दो तीन बार इंडायरेक्ट इलैक्शन होते हैं, तो वह चीज उस डेमोक्रेसी के लिए जो बड़ी तेजी से डिवेलप करती रही है, गैर मुनासिब होती है, उसके लिए एक रेट्रोग्रेड स्टेप होना है। जो इंडायरेक्टली इलैक्ट हो कर आवें, उनका वोट पड़े अपर हाउस के मेम्बर के लिए, यह मुनासिब नहीं है। अगर यह सजेशन किया गया होता कि जिला परिषदें जो हैं, वे अपर हाउस के मेम्बर के लिए कांस्टीट्यूंसी न हों और उनके सदस्य वोट न दें बल्कि केवल क्षेत्रीय समिति के सदस्य वोट दें, तब तो बात समझ में आ सकती थी और अगर उस तरह का एमेंडमेंट लाया गया होता तो मैं समझ सकता था कि एक डिवेलपिंग डेमोक्रेसी के लिहाज से वह एक अच्छा स्टेप है लेकिन इसके विपरीत यह कहना कि क्षेत्रीय समिति को जो इस में इनक्यूड किया जा रहा है, वह न किया जाये जो हमारा प्राथमिक उद्देश्य उसके ही खिलाफ जाता है। क्षेत्रीय

[श्री कुं. कृ. वर्मा]

समितियां जनरल पब्लिक से डायरेक्टली इन टच होती हैं और उनका जो फंडामेंटल राइट वोट देने का है, उसको इस तरह से षटा देना मुनासिब नहीं है। वे पब्लिक के और देश के डायरेक्ट टच में आते हैं। इस वास्ते कम से कम इस मुझाव का तो मैं विरोध करता हूँ कि क्षेत्रीय समितियों को शामिल न किया जाये और ला मिनिस्टर साहब से प्रार्थना करता हूँ कि वह अगर मुनासिब समझें तो जिला परिषदों के मेम्बरों का जो वोट इसके लिए पड़ेगा, उसको अलबत्ता निकाल सकते हैं, तो निकाल दें।

श्री राम सेवक यादव (वाराणसी) : उपाध्यक्ष महोदय, जहां तक मौजूदा व्यवस्था का प्रश्न है, उसके अन्तर्गत जो यह संशोधन विधेयक लाया गया है उसका मैं स्वागत करता हूँ। इसका कारण यह है कि मतदाताओं की संख्या जितनी ज्यादा बढ़े, जितनी ज्यादा बड़ी पंचायत हो जाये, उसका स्वागत ही होना चाहिये।

जहां तक इसके उद्देश्यों का सम्बन्ध है, और इसकी अन्तिम व्यवस्था का प्रश्न है, मैं इस विधेयक से सहमत नहीं हूँ। मैं निवेदन करूंगा विधि मंत्री महोदय से कि वे इस पर विचार करें और सोचें कि हम एक ही व्यवस्था सारे देश में कैसे रख सकते हैं। सदन जानता है कि समस्त देश में सभी राज्यों में विधान परिषदें नहीं हैं और मैं चाहूंगा कि न हों तो यह तो नहीं कह सकता कि उस की व्यवस्था की जाये, बल्कि मैं कहूंगा कि जिन राज्यों में नहीं हैं वहां अच्छा है और जहां हैं वहां से भी यह व्यवस्था हटा दी जाये क्योंकि हम संकट कालीन अवस्था में से गुजर रहे हैं। जब हम संकटकालीन स्थिति में से गुजर रहे हों तो आवश्यक है कि यहां पर इस प्रकार के विधेयक लाये जायें जिन से जिन राज्यों में दो सदनों की व्यवस्था है वहां से उसे समाप्त किया जावे, न कि उस में प्रार वृद्धि करें।

विधान परिषद् में जो मतदाता हैं,

जहां तक स्थानीय इकाइयों के प्रतिनिधियों का सवाल है, उस में आप जो क्षेत्रीय परिषद् जोड़ रहे हैं उत्तर प्रदेश में, वह अच्छा है, लेकिन इस समय तेजी या उतावलेपन में हम इस विधेयक को पास करें यह ठीक नहीं है। समझ में नहीं आता कि जब हम संकटकालीन स्थिति में से गुजर रहे हों तब ऐसी व्यवस्था लाई जाये जिससे सीधे चुनाव समाप्त कर दिये जायें जनता में और अप्रत्यक्ष चुनाव नहीं। यहां जिस दल के मातहत हम ने सीधे चुनाव बन्द किये हैं उस में राजनीतिज्ञों का विरोध चलेगा। वही राजनीति और विरोध की बात अप्रत्यक्ष चुनावों में भी आती है और वह आ कर रहेगी, और जब ऐसा होता है तो हम क्यों यह तेजी और उतावलापन कर रहे हैं? अच्छा होता कि जन प्रतिनिधित्व कानून में कुछ बुनियादी परिवर्तन किया जाता, जैसे कि इस में खर्च की व्यवस्था है, और भी व्यवस्थायें हैं, जो कि अग्रफल हो चुकी हैं, उन के लिये विधेयक आना तो उचित होता।

मैं चाहता हूँ कि जब तक यह मौजूदा व्यवस्था बनी रहती है, विधान परिषदें रहती हैं, तब तक उन के मतदाताओं की सूची को जितना ही विस्तृत करने पर जोर दिया जा सके उतना दिया जाये। लेकिन मेरा अपना निवेदन यह है कि इस व्यवस्था को समाप्त किया जाये और एक ही सदन वाली व्यवस्था सब जगह हो। इन से हमारे खर्च में भारी कमी होगी। और इस संकटकालीन स्थिति में तो हम को इस की और भी ज्यादा जरूरत है। वास्तव में जो अप्रत्यक्ष चुनाव होते हैं वह जनतंत्र को मजबूत नहीं करते हैं। आज इस देश में हर जगह पर प्रत्यक्ष चुनाव कराये जायें और अप्रत्यक्ष चुनाव हटाया जाये क्योंकि उस से भ्रष्टाचार बढ़ता है और अन्ततोगत्वा सत्तारूढ़ दल के लिये वह होता है। मैं निवेदन करूंगा कि सत्तारूढ़ दल ने अपने मन में कितना ही अच्छा नक्शा बना रखा हो कि वह हमेशा गद्दी पर बना रहेगा, लेकिन वह शायद सम्भव नहीं होगा। किसी न किसी

दिन तो उन्हें वहाँ से हटना ही पड़ेगा। श्री. जब उम का हटना पड़ेगा तो उम की जनतंत्र के लिये ऐसे नियम और कायदे कानून नहीं बनाने चाहियें जिन से जनतंत्र को कुटाराघात लगे और अप्रत्यक्ष चुनाव की परम्परा मजबूत हो, अप्रत्यक्ष चुनाव की तरफ से उम का ध्यान हटना चाहिये क्योंकि उस से जनतंत्र में कमजोरी आयेगी। मैं उस से निर्वेदन करता हूँ कि वह इस प्रकार का विधेयक यहाँ न लायें।

Shri Jashwant Mehta (Bhavnagar): Will the hon. Law Minister kindly explain what is the composition of the cantonment boards? Are these bodies half-elected and half-nominated or what is the proportion?

Shri A. K. Sen: They are governed by separate Acts which are Central Acts. The pattern seems to be, they consist of elected as well as nominated representatives. I cannot say off hand in how many boards what is the percentage of nomination as opposed to election.

Shri Hari Vishnu Kamath: May I request the hon. Law Minister to throw some light on this subject, because in the August session, I put a question to the Defence Minister and he said in reply that two committees were appointed by Government or by this House and a report was submitted to Government, in accordance with which the cantonment boards all over India would be uniformly constituted on a basis of parity as between elected members and nominated members. The point raised by my colleague, Shri Jashwant Mehta, is very important. Why should we include a half-nominated body—the percentage of nomination is not small—in this Bill, so as to put it on a par with municipalities, town committees and Zila Parishads, which are elected bodies? Government have not fully democratised the cantonment boards and they have no proposal to democratise it in the near future. I would suggest that the cantonment boards should not find a place in this Bill.

Shri A. K. Sen: The cantonment

boards have been there. The amending Bill does not bring them in.

Sir, I do not think really that I am called upon to reply to any of the points, because they have been raised by way of clarifications and most of them relate to matters which are, if I may say so, with great respect, a little remote from the immediate objective of the amending Bill. Matters as to whether we should have second chambers or not at all in some of the States, whether they should be abolished, etc. are matters with which we are not directly concerned in the present Bill. Nor are we concerned with the merits or demerits of having constituencies like local authorities, universities, graduates and so on for the purpose of electing representatives to the Council. They are already there. Whether they are extensive or not are matters which in my humble submission are not strictly relevant now. But if I may say so, elections to the Upper Houses have proved much less expensive than elections to the Assemblies. It is a matter of common experience that if we have to stand from the local authorities' constituencies, we have to contact very much less number of voters.

श्री राम सेवक यादव : व्यवस्था दोषी है।

श्रमण व्यवस्था दोषी न हो तो वोट न खरीदे जायें।

Shri A. K. Sen: The purchaser as well as the other person are equally guilty.

Shri Priya Gupta: Are you referring to the administrative expenditure or the candidate's expenditure?

Shri A. K. Sen: Government's expenditure is quite separate. Both are less expensive for elections to the Upper Houses than for elections to the Assemblies.

श्री उ० म० त्रिवेदी (मंदसौर)

राज्य सभा के चुनावों में जितना खर्च आता है ?

श्री राम सेवक यादव : ५०,००० या १ लाख रु०।

Shri A. K. Sen: The hon. Member's experience is rather shoddy and we have not been fortunate enough to share in that experience, because there are members elected from graduates' constituencies and local authorities, who are by no means capable of paying even thousands, not to speak of lakhs, to which the hon. Member was referring.

One or two Members have referred to the abuse of the provision. I do not know if that is any argument for abolishing these councils. If there are malpractices, we should try to remove them rather than thinking of abolishing these institutions.

With regard to the inclusion of various authorities here, all that is done today is to substitute those authorities which have come into being since the last Act, who have appropriated the functions of some of the old authorities which were in the Schedule. That is the only purpose. Whether more should be included or less should be included are matters certainly for consideration. In these matters we have always been guided by the recommendations of the respective State Governments as scrutinised and ultimately accepted by the Chief Election Commissioner; because it is not the State Government's recommendations which are accepted *ipso facto*, they are first of all scrutinised and considered by the Chief Election Commissioner and when he thinks that those are the authorities which should be properly considered for the purpose of creating our respective constituencies for elections to the Upper House we accept those recommendations, because we are hardly, sitting here, capable of judging which authority should be represented and which not. We may have our own respective ideas.

Shri Jashvant Mehta: May I know whether in all the States, where the democratic decentralisation laws came into force and there are various local authorities, there will be a uniform pattern for elections to the Council of States or it will be different in proportion to the population

Shri A. K. Sen: The pattern is uniform in the sense that local authorities are to be represented to the extent of one-third under the Constitution in the respective councils. Which are the local authorities which should come are matters to be decided by law by Parliament as we have done in the past. In deciding this—that is what I am trying to stress on the hon. Members—we do not give our own judgment. Some of us may be more devoted to the primary societies as opposed to the bigger ones, or the less wide organisations or authorities than the ones at the lower levels. We have our own ideas about them. Therefore, I said, we leave these matters for the consideration of the State Governments and the Chief Election Commission and then we try to guide ourselves, because otherwise there is hardly any meeting point anywhere and each rival interest will try to project itself against the other on the floor of the House. All we are concerned with is that the important authorities discharging functions of importance in the sphere of local organisations should be represented to the extent of one-third. That is why municipalities are there, cantonment boards are there, zilla parishads are there and town committees are there as originally provided. Some of these organisations have been substituted by others. Therefore, we have to bring in those new ones with the whole purpose that I have mentioned. Whether the original allocation of taking in municipalities, cantonment boards and various other local authorities at various levels is proper or not are matters to be considered later on. Possibly, if there are any shortcomings disclosed in the course of the working of the Act so far as elections to upper houses are concerned, when those shortcomings come to our notice we shall no doubt try to rectify them. But before we shall try to do so we shall ask the Election Commission to report on them.

But I am sure the working has been fairly reasonable. The two re-

ports submitted by the Chief Election Commissioner do not disclose any major shortcomings in the working of this Act so far as it is concerned with the elections to upper houses. Most of the shortcomings, that were disclosed by the Chief Election Commissioner in his two successive reports are shortcomings which have come to our notice in the course of elections to the assemblies and the Lok Sabha. We have tried to rectify those shortcomings from time to time by various amendments which have come into effect—for example, by introducing the ballot system of voting to prevent ballots being taken away and purchased and various other matters. It is difficult to address oneself to the merits or demerits of a system as some hon. Members have tried to do unless we try to confine our attention to specific evils or shortcomings which may have been discovered. And, I would have been very obliged if any hon. Member had pointed out any particular shortcomings or defects which have come to the surface and attracted attention in the course of the working of the provisions of this Act related to the elections to the upper houses. I am still ready to accept any suggestions from hon. Members on this matter. I shall be obliged if they forward to me any specific instances of defects which have been discovered by them or by others and verified by them so far as the machinery for elections to the upper houses is concerned.

I am very sorry that some hon. Members—I think the hon. Member from Saurashtra said it—said that the machinery was by itself rather bad. If any machinery has commended itself during the working of democratic institutions during the last twelve years.....

Dr. L. M. Singhvi: Not the machinery, but the provisions of the Act.

Shri A. K. Sen: The provisions of the Act create the machinery. The provi-

sions of the Act do not stand in a vacuum.

Dr. L. M. Singhvi: Not the whole of it.

Shri A. K. Sen: Therefore, as I said, we should be more obliged if those provisions which have been found defective had been pointed out instead of a generalisation that the provisions of the Act have been found defective. If anything has been proved useful and has attracted admiration of the rest of the world, it is the working of our Representation of the People Act and the functioning of our Chief Election Commission in an independent capacity, in a fair manner and in a strictly impartial way, and it would not at all do justice either to our institutions or to the working of our election machinery or even to ourselves if we condemn generally the provisions of the Representation of the People Act. If there are any particular provisions or rules which have been found, as I said, not satisfactory, I should be obliged if they are pointed out to me, and I would request hon. Members, either here or outside, to refrain from condemning one of our best institutions, one of our best organisations which we have succeeded in building up since we have given to ourselves a Constitution, namely, the election machinery. The method by which that machinery is worked is by consultations among major parties and it is run by an absolutely impartial and independent authority. We should not try to run down the prestige or authority of such an institution. At the same time, we should be mindful of those defects which come to our notice from time to time. But I want to make this request to hon. Members and others that these are some of the institutions which we should try to keep above party affiliations and party conflict. The Election Commission is primarily one of those institutions which are not to be affected by party considerations. Otherwise, we shall be undermining the very institution

[Shri A. K. Sen]

which makes the functioning of our democracy possible.

This is all, Sir, that I have to say, and I would again commend the motion to the House for acceptance.

Mr. Deputy-Speaker: The question is:

"That the Bill further to amend the Representation of the People Act, 1950 be taken into consideration."

The motion was adopted.

Clause 2—(Amendment of fourth schedule, Act 43 of 1950).

Mr. Deputy-Speaker: We shall now take the Bill clause by clause. There are some amendments to clause 2.

Shri A. K. Sen: Sir, I beg to move:

(i) Page 1,—

'after line 6 insert—

(a) under the heading "Andhra Pradesh", for the entries—

"5. Class I Panchayats, that is to say, Panchayats notified by the State Government in the Official Gazette as Panchayats which exercise jurisdiction over an area containing a population of not less than five thousand and whose income for the financial year immediately preceding the date of the notification was not less than ten thousand rupees.

6. Class II Panchayats which have been notified for the appointment of whole-time executive officers."

the following entry shall be substituted, namely:—

"5. Panchayat Samithis.;"

(b) under the heading "Bihar", after the entry "4. Notified Area Committees", the following entries shall be inserted, namely:—

"5. Zila Parishads.

6. Panchayat Samithis.;" (1)

(i) Page 1, line 7,—

for "(a)", substitute "(c)". (2)

(iii) Page 1, line 20,—

for "(b)", substitute "(d)". (3)

(iv) Page 2, line 3,—

for "(c)", substitute "(e)". (6)

Shri D. S. Patil: I beg to move:

(i) Page 2, line 2,—

after "Parishads" insert:—

"including Panchayat Samithis". (4).

(ii) Page 2,—

after line 2, insert "5. Notified Area Committees." (5)

Shri Malachami: I beg to move:

Page 1, line 7,—

before "for the entry" insert—

'(i) for the entry "2. Panchayat Union Councils.", the following entry shall be substituted, namely:—

"2. Village Panchayats constituting the Panchayat Union Councils.;" (7)

Shri D. S. Patil: I beg to move:

Page 2,—

after line 2, insert—

"5. Panchayat Samithis.

6. Notified Area Committees." (9)

Mr. Deputy-Speaker: They have already spoken on these amendments. I shall put them to vote. Is the hon. Minister accepting any one of them?

Shri A. K. Sen: No, Sir.

endment) Bill

Mr. Deputy-Speaker: Do they want to press any amendment to vote?

Shri Malaichami: Sir, after the enactment of the Panchayat Act in Madras.....

Mr. Deputy-Speaker: You want to withdraw?

Shri Malaichami: I want to submit.....

Mr. Deputy-Speaker: I asked him whether I could put them to vote. The hon. Minister said that he was not accepting any. I will put them to vote.

An Hon. Member: He wants to repeat his arguments.

Shri A. K. Sen: It is better that he addresses it to the Madras Government and see whether it is acceptable to them.

Mr. Deputy-Speaker: I am sorry he is too late. If he wants I shall put his amendment to vote.

Shri Malaichami: No, Sir, I withdraw it.

Mr. Deputy-Speaker: I hope the hon. Member has leave of the House to withdraw his amendment.

Amendment No. 7 was, by leave, withdrawn.

Mr. Deputy-Speaker: What about the amendments of Shri Patil?

Shri D. S. Patil: I want to withdraw them.

Amendments Nos. 4, 5 and 9, were, by leave, withdrawn.

Mr. Deputy-Speaker: I shall now put the Government Amendments to the vote of the House.

The question is:

(i) Page 1, after line 6, insert—

“(a) under the heading “Andhra Pradesh”, for the entries—

“5. Class I Panchayats, that is to say, Panchayats notified by the

State Government in the Official Gazette as Panchayats which exercise jurisdiction over an area containing a population of not less than five thousand and whose income for the financial year immediately preceding the date of the notification was not less than ten thousand rupees.

6. Class II Panchayats which have been notified for the appointment of wholetime executive officers.”

the following entry shall be substituted, namely:—

“5. Panchayat Samithis.”;

(b) under the heading “Bihar”, after the entry “4. Notified Area Committees”, the following entries shall be inserted, namely:—

“5. Zila Parishads.

6. Panchayat Samithis.” (1)

(ii) Page 1, line 7, for “(a)”, substitute “(c)”. (2)

(iii) Page 1, line 20, for “(b)”, substitute “(d)”. (3)

(iv) Page 2, line 3,—for “(c)”, substitute “(e)”. (6)

The motion was adopted.

Mr. Deputy-Speaker: The question is:

“That clause 2, as amended, stand part of the Bill.”

The motion was adopted.

Clause 2, as amended, was added to the Bill.

Mr. Deputy-Speaker: The question is that clause 1.....Are you not amending 1962 into 1963?

Clause 1.

(Amendment made)

Page 1, line 4, for “1962” substitute “1963” (8)

(Shri A. K. Sen)

Mr. Deputy-Speaker: The question is:

"That clause 1, as amended, stand part of the Bill."

The motion was adopted.

Clause 1, as amended, was added to the Bill.

Mr. Deputy-Speaker: The question is:

"That the Enacting Formula and the Title stand part of the Bill."

The motion was adopted.

The Enacting Formula and the Title were added to the Bill.

Shri D. S. Patil: I want to speak.

Mr. Deputy-Speaker: Speaking is over it is too late.

Shri A. K. Sen: I beg to move:

"That the Bill, as amended, be passed."

Mr. Deputy-Speaker: The question is:

"That the Bill, as amended, be passed."

The motion was adopted.

14.32 hrs.

HINDI SAHITYA SAMMELAN (AMENDMENT) BILL

The Minister of Education (Dr. A. L. Shrivastava): I beg to move:

"That the Bill to amend the Hindi Sahitya Sammelan Act, 1962, as passed by Rajya Sabha, be taken into consideration."

The House would recall that in March last, this Bill was passed. But, as soon as the Act came into force, some persons filed a writ petition in the Allahabad High Court and challenged the validity of this Act on the ground that the Act excluded the ordinary members of the Society from

being the first members of the Sammelan and therefore they said that this Act infringed their fundamental right to form association.

14.33 hrs.

[MR. SPEAKER in the Chair]

The reason why we did not include the ordinary members at that time was that there was no complete list and we had envisaged that fresh members could be enrolled after that Act came into force. I am bringing this amendment just as a precautionary measure and I hope that when this provision is made with regard to ordinary members, there would be no further difficulty in enforcing this Act. All that we are doing in this amendment is to make provision for ordinary members and substitute the following sub-section for the existing sub-section 4 of section 4.

I am also taking this opportunity to make some minor amendments. One is with regard to quorum of the meeting of the governing body. The Act makes provision for three members. It is felt that the quorum of 3 is too small. I am, therefore, making it five. Section 9 also provides for the payment to the members on the governing body, out of the funds, a small allowance, etc. There is no provision for the payment of salary. The governing body is to last only for a short time. I am anxious that they should finish the work as quickly as possible. It may be that we may have to ask one or two members to work whole time. I am, therefore, requesting the House to permit this enabling provision to pay salary in case we have to appoint one or two members to discharge the duties and finish the work as quickly as possible.

There is another minor amendment. It has also been felt that the provision for the vesting of property in the Sammelan and the transfer of assets and liabilities of the Society to the Sammelan under sections 5 (b) and 5(c) of the Act may imply that the two institutions are separate. It is,