

[Mr. Deputy-Speaker]

be given copies of the Bills so that they will be able to decide one way or the other. I shall certainly do so.

PAPER LAID ON THE TABLE

STATEMENT OF REASONS FOR ISSUE OF LIFE INSURANCE (EMERGENCY PROVISIONS) ORDINANCE, 1956.

The Minister of Revenue and Civil Expenditure (Shri M. C. Shah): Sir, on behalf of Shri C. D. Deshmukh, I beg to lay on the Table a copy of the statement of reasons for the issue of the Life Insurance (Emergency Provisions) Ordinance No. 1 of 1956, under Rule 89 (1) of the Rules of Procedure.

[See Appendix 1, annexure No. 26]

QUESTION OF PRIVILEGE

Shri Kamath (Hoshangabad): Sir, may I know what has happened to the Motion of Privilege of which notice was given yesterday?

Shri N. C. Chatterjee (Hooghly): I was told, Sir, that the Home Minister was considering the matter and I expected some date to be fixed. If it is convenient you can bring it up tomorrow.

Shri U. M. Trivedi: Tomorrow we are not sitting.

Mr. Deputy-Speaker: We are. I have sent up the papers to the hon. Home Minister. I will try to expedite. As soon as I receive the papers I will give intimation to hon. Members and, if necessary, fix up a particular date as early as possible.

REPRESENTATION OF THE PEOPLE (AMENDMENT) BILL

The Minister of Legal Affairs (Shri Pataskar): Sir, I beg to move:

"That the Bill further to amend the Representation of the People Act, 1950, and to make certain consequential amendments in the Government of Part C States Act, 1951, as reported by the Select Committee, be taken into consideration."

As you are aware there are on the statute-book two Representation of the People Acts—one of 1950 and the other

of 1951. They really form the basis of our Election law. The first Act, that is the one of 1950, deals with what may be called matters relating to preliminary or preparatory stage of election. It deals with such subjects as allocation of seats in the different legislatures of States and the two Houses of Parliament, and the qualification of voters at such elections. The preparation of electoral rolls and matters connected with these subjects are also covered by that Bill. Delimitation of constituencies was also dealt with in the Act of 1950 but it is now done by a separate Act, viz., Delimitation Commission Act, 1952. The present Bill deals with amendments proposed to this Act of 1950 only.

The last general elections were of an unprecedented character when for the first time adult suffrage led to the franchise being extended to about 18 crores of persons both men and women, for which there is no parallel anywhere else, there were many, both here in our country and outside, who were sceptical of the success of such an experiment but it proved a great success. A part of the credit of the success must be given to the Law of Election passed by Parliament in 1950 and 1951 and the rules made thereunder. Experience gained, however, in the last general election and subsequent elections revealed to us some defects and showed us the way in which this law should be amended in order to make it more suitable for achieving the purpose for which it is intended.

The present Bill was, therefore, introduced in this House on 3rd August, 1955 suggesting some amendments to the Representation of the People Act, 1950. Most of these amendments though necessary were non-controversial in character and I explained them fully to the House while moving for referring this Bill to the Select Committee on 20th September, 1955. They were also discussed with great care and in greater details in this House on that occasion.

The Select Committee to which this Bill was referred was authorised by the House to examine and deal with not only the amendments proposed in the Bill but also such other amendments to the Act as may be found necessary. The Select Committee which has gone thoroughly and exhaustively into this matter has agreed to almost all the amendments suggested in the original Bill and have in addition suggested certain further modifications in the original Act.

It will be recalled by the House that on the last occasion I made two speeches on the motion to refer the Representation of the People (Amendment) Bill and the Representation of the People (Second Amendment) Bill to a Select Committee.

In those two speeches I tried to explain in detail the various changes sought to be introduced in our election law by the two Bills in question and I need not recount them here over again.

As the Bill under consideration, namely, the Bill to amend the 1950 Act, is a short and non-contentious one I need only confine myself to the changes made by the Select Committee. I am glad to observe, that the Select Committee has generally accepted the Bill only with a very few changes. The hon. Members, I am sure, must have gone through the report of the Select Committee and noticed these few changes made by it in the Bill. But as election is a wide and absorbing subject, it may not be quite out of place to recapitulate some of the salient points in the report of the Select Committee.

The Select Committee felt that there would be hardly any occasion before the next general elections for altering or amending any order delimiting the existing parliamentary or assembly constituencies formed under sections 6 and 9 of the 1950 Act. The Committee further felt that the provisions of sub-section (1) and sub-section (2) of section 13 of that Act were unnecessary because there will be no occasion for forming any fresh parliamentary or assembly constituency under section 6 or section 9 or of any fresh council constituency under section 11. Occasions might, however, arise for altering or mending the orders delimiting existing council constituencies. By clauses 7 and 8 of the Bill, therefore, reference to section 6 and section 9 have been omitted from section 12 and sub-section (3) of section 13 of the principal Act and sub-sections (1) and (2) of section 13 have been omitted. This is dealt with in paragraph 9 of the Report. Hon. Members will notice that for the purpose of the next general election and elections thereafter, the constituencies have been delimited under the new Delimitation Act.

Clause 9: As the electoral roll of a parliamentary constituency will consist of the electoral rolls of the assembly

constituencies or electoral college constituencies comprised within that parliamentary constituency and as there will be no separate preparation or revision of the electoral roll of a parliamentary constituency, reference to "parliamentary constituency" in sub-section (1) of the proposed section 13B has been omitted as being unnecessary.

Clause 15: In view of the general language of the first proviso to sub-section (2) of proposed section 21 dealing with preparation and revision of Electoral Rolls the Committee has omitted the second proviso to that sub-section as being unnecessary.

In proposed section 23, dealing with inclusion of names in electoral rolls in sub-section (4), it was provided in the Bill, as introduced that where an application whether made to the electoral registration officer or to the chief electoral officer was rejected, an appeal should lie to the Election Commission. The Select Committee thought that in the case of rejection of an application by the electoral registration officer the appeal should lie not to the Election Commission but to the chief electoral officer. The Committee has, accordingly, amended sub-section (4) of proposed section 23.

Clause 24: The Committee felt that the proposed clause (h) of sub-section (2) of section 28 dealing with power to make rules should specifically authorise making rules not only regarding the revision of electoral rolls but also for the correction of such rolls and inclusion of names therein. The proposed clause (h) has been re-directed accordingly.

The Committee also felt that all rules made under the Act should be laid before both Houses of Parliament. A new sub-section has, therefore, been added to section 28 of the principal Act.

These are the few changes which have been suggested by the Select Committee. The Lok Sabha will thus see that the Committee has given its seal of approval to the Bill almost in the same form in which it was introduced here on the 3rd August, 1955.

I shall now refer to some of the suggestions made by the Select Committee and the Members thereon. The Select Committee itself in paragraph 15 of the report has made a suggestion that I should give an assurance on the floor of the Lok Sabha that the Election Commission shall make every effort to secure

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the co-operation of political parties and other organisations for the enrolment of all eligible voters. The same suggestion has also been made in their Minutes of Dissent by the hon. Members Shri S. S. More and Shri H. N. Mukerjee. Shri H. N. Mukerjee, while making his suggestion, stated that:

“experience so far suggests that bureaucratic tradition die hard, and political parties, particularly those in the Opposition, are sedulously denied opportunities of such co-operation.”

As regards the motive behind this suggestion made by the Select Committee, I am in entire agreement with the same.

I, however, do not agree with the observation made by Shri Mukerjee in this connection.

Shri K. K. Basu (Diamond Harbour): They are facts.

Shri Pataskar: Just hear a little more patiently.

The Election Commission itself in its report has stated at page 75 as follows:

“Part played by parties : The physical work of preparing the electoral rolls was stupendous by itself. Added to it were difficulties caused by the in-experience and apathy of eligible voters. The whole work was done by governmental machinery and there was little support or help from any other quarter. The political parties played very little active part in the preparation of the rolls, although they could have rendered substantial help in this task. Only some displaced persons' associations pointed out defects in the enumeration of such persons as voters, and took advantage of the special facilities provided for their enrolment, with the result that a large number of them were enrolled. If similar interest had been taken by the political parties, the electoral rolls would have been far more satisfactory. The Commission expects, however, that the political parties will have built up the necessary organisation well before the next general elections and that the registration authorities will be receiving more and more help and co-operation from them in the revision of electoral rolls.”

These observations were made by the Election Commission in their report. These observations show how anxious the Commission was and is to secure the co-operation of political parties and other organisations in the matter of preparation and revision of electoral rolls. This report clearly indicates that the observations made by Shri Mukerjee in his Minute of Dissent are hardly justified in view of this attitude to the Election Commission. The last election was the first to be held on such a large scale and I agree with the Commission's view that the whole work of preparation of rolls in connection with election was done by governmental machinery. Under the then prevailing circumstances, there was very little support or help from any political party or organisation.

Shri S. S. More (Sholapur): Not even the Congress ?

Shri U. M. Trivedi (Chittor): It is not a political party; it is Government.

Shri Pataskar: I have made enquiries and I am convinced that the governmental machinery on that occasion was anxious to get such co-operation as they could from whichever party it could come. I must state that neither the report of the Election Commission nor the facts as could be ascertained in any way justify the charge made by Shri Mukerjee that political parties and particularly those in the Opposition were sedulously denied opportunities for co-operation which was offered by them. I have tried to make enquiries to the extent to which I could make them and I am really sorry that such a remark should have fallen from one of the Members of the Opposition. In such matters, there is no question of Opposition or Congress or any other party. It is the task of everyone to see that all those who are eligible to be entered in the rolls are there. The trouble has been due to the fact that this was, as I said in the beginning, one of the most stupendous tasks where nearly 18 crores of people had to be enrolled for exercising their franchise, and this was the first occasion on which it was tried, on such a large scale. Not only in India but nowhere in the world, was there such a large body of voters. It will thus be seen that the Election Commission has been and is always anxious to get all possible co-operation in the matter of preparing rolls from all political parties, irrespective of any distinction and all other organisations which might come forward to co-operate in this task.

There is another aspect of this matter which must be borne in mind. The Election Commission is an independent constitutional body, functioning in accordance with the provisions of article 324 of the Constitution. Under that article, the superintendence, direction and control of the preparation of electoral rolls for all elections to Parliament and to the Legislatures of every State is vested in the Election Commission. It is subject to this provision in the Constitution that Parliament has been authorised under article 327 to make provision by law in regard to these matters. For very good reasons, the Election Commission has been given independence of action by the Constitution itself regarding superintendence, direction and control of election in the country. The Election Commission was created by the Constitution in order to ensure purity of election and to see that they are held in a free and fair manner. On the independence of the Election Commission depends the purity and the holding of free and fair elections. Preparation of electoral rolls is the basis of all free and fair elections. Though the Election Commission is an independent body and is not a department of the executive Government, I am so convinced and I have no hesitation in assuring the Lok Sabha that the Election Commission will certainly take every possible step including the securing of co-operation of political parties and other organisations, to see that all adult members of our population duly qualified are registered in the electoral rolls.

There is another suggestion made by the hon. Member, Shri S. S. More and that is regarding the fixation of the qualifying date for the purpose of preparation of the electoral roll. His suggestion has also been supported by the hon. Member Shri H. N. Mukerjee in his Minute of Dissent. The Select Committee has agreed to the amendment of section 14 of the Act. This amendment fixes the qualifying date as the 1st of March of the year in which the roll will be prepared or revised. The hon. Member Shri S. S. More suggests that two dates may be fixed as qualifying dates, one for the purpose of preparation of the electoral roll and another as near the date of polling as possible for the purpose of exercising the right of voting. Article 326 of the Constitution which provides for the adult suffrage makes it clear that a person, for being entitled to be registered as a voter, must be a citizen of India and must not be less

than 21 years of age on such date as may be fixed in that behalf by or under any law made by the appropriate Legislature. This clearly is not capable of being interpreted as to provide that there should be one qualifying date to enable a person to be registered as a voter and another qualifying date for enabling him to cast his vote. This is also inconsistent with the principle underlying article 326 that, before a citizen can vote at an election, he has got to be registered as a voter. In my opinion, on a correct interpretation of article 326, two qualifying dates as suggested cannot be fixed for two different purposes. There would also be considerable administrative and other difficulties in following such a procedure. This matter was considered in great detail by the Select Committee and they ultimately decided to fix only one qualifying date, as has been done in the Bill.

This Bill was introduced in the Lok Sabha on the 3rd August, 1955, to carry out certain essential amendments of an urgent nature in the Representation of the People Act, 1950. It was accordingly provided in clause 1 of the Bill that when enacted it would come into force on the 1st day of January, 1956. It was mainly from this point of view that the Select Committee to which the two Bills were referred, presented its report on this Bill on the 6th December, 1955 ahead of its report on the other Bill, so that this Bill might become law on the 1st day of January, 1956. But, the Bill could not be passed during the 11th session of Parliament, as there was another business of a more urgent nature.

The definitions of Parliamentary and Assembly constituencies in section 2 of the Representation of the People Act, 1950, do not include the new constituencies formed by the Delimitation Commission. Until these definitions were amended so as to cover the new constituencies, the Election Commission could not appoint the Electoral Registration Officers for the new constituencies and could not start the work of preparing the electoral rolls for these constituencies. The life of the existing House of the People and of the several State Legislative Assemblies would expire early in 1957. It was therefore essential to start the work of preparing electoral rolls right from the beginning of 1956. While preparing these electoral rolls, it would also be necessary to avoid the duplication of work and

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expenditure involved in compiling the rolls separately for Parliamentary and Assembly constituencies, as each Parliamentary constituency consists of a certain number of Assembly constituencies.

The biennial elections to the Legislative Councils of seven States are due to be held in February|March, 1956. Unless certain amendments to section 27 of the Act were immediately made, there would have been the anomaly of persons who had ceased to be members of local authorities voting at these biennial elections to the exclusion of newly elected members. In 1954, the same unsatisfactory situation arose and there were vehement protests from State Governments and the local authorities concerned on this score. As regards the graduates' and teachers' constituencies also, it was considered desirable to change the qualifying date from 1st April to 1st January in order that the rolls might be more up-to-date when the constituencies would be called upon to elect in February|March next. Similarly, members of Class I Panchayats in Madras State had to be enabled to take part in the next biennial elections from the local authorities constituencies in that State.

The Election Commission also had all along been proceeding on the assumption that this Bill would become law on the 1st of January 1956, and had been issuing instructions accordingly to the Chief Electoral Officers and the Electoral Registration Officers in the States.

In the circumstances, the Representation of the People (Amendment) Ordinance, 1955, containing some provisions of the Bill as unanimously approved by the Select Committee was promulgated, so that there might be no difficulty in holding the biennial elections to the legislative councils and the next general elections in time. The Ordinance came into force with effect from the 1st January, 1956.

A statement explaining the circumstances which necessitated the promulgation of the Ordinance has already been laid on the Table of the Lok Sabha. Immediately after the promulgation of the Ordinance, fresh rules under the title "The Representation of the People (Preparation of Electoral Rolls) Rules, 1956" were framed for the purpose of starting immediately the work of preparing electoral rolls for the next biennial elections as well as the general

elections. These Rules have superseded the Representation of the People (Preparation of Electoral Rolls) Rules, 1950.

I have tried to explain the various important stages through which the Bill has passed since its introduction and I think there is no need for me to deliate any further upon the details.

This is a simple and almost non-controversial measure. It has been thoroughly scrutinised by the Select Committee under the Chairmanship of Pandit Thakur Das Bhargava. The conclusions reached have been arrived at almost with near unanimity. I have already dealt with the few suggestions by the Hon. Members Shri S.S. More and Shri H. N. Mukerjee in their short minutes of dissent. I am confident they will also now be inclined to agree with the other Members of the Select Committee regarding these suggestions and this Bill will receive unanimous support of the Lok Sabha without any further delay.

I commend my motion to the acceptance of the Lok Sabha.

Mr. Deputy-Speaker: Motion moved:

"That the Bill further to amend the Representation of the People Act, 1950, and to make certain consequential amendments in the Government of Part C States Act, 1951, as reported by the Select Committee, be taken into consideration."

Five hours have been allotted by the Business Advisory Committee for all the stages of this Bill.

Some Hon. Members: No, no.

Shri A. M. Thomas (Ernakulam): The Committee has not yet met.

Shri Pataskar: This will not require 5 hours.

Shri Kamath: (Hoshangabad): Let the Bill progress. We will see.

Mr. Deputy-Speaker: I have a marginal note here, saying 5 hours for consideration. I thought it was fixed by the Business Advisory Committee. It is a Government recommendation. Let us go on. The motion has been moved. In view of the fact that there are some amendments also, we will try to be brief. We may state the points.

Shri S. S. More: With your permission, I want to point out these two Bills amending the Acts of 1950 and 1951

were referred to the Select Committee and both the reports have now been submitted. Will it not be much better from the point of view of the Lok Sabha to take the two Bills together? I will make one suggestion. The Election Commission has recommended that the Election Code should be developed under one cover so that the people will be knowing their rights and responsibilities.

If both the Bills are taken together, then it may be possible for the House to put them together by a proper amendment.

Shri Kamath: But the Ordinance that has been promulgated has to be validated in time. If they are taken together, it may drag on for some time.

Shri S. S. More: I think my friend Shri Kamath is speaking for the Treasury.

Shri Kamath: Not I, it is you who do.

Shri S. S. More: In view of the Election Commission's recommendation that one code ought to be developed for all the elections, and in view of the fact that even in the United Kingdom the Representation of the People Act covers all the topics right from the preparation of the rolls to the election petition, will it not be more convenient for us to take up both of these together?

Mr. Deputy-Speaker: When does the ordinance lapse?

Shri S. S. More: But the Bill may be given some priority not to overstep the limit of the ordinance.

Mr. Deputy-Speaker: What does the Hon. Minister say?

Shri Pataskar: I agree with the principle underlying the point made by my friend. At the time this Bill was last brought before the House, I myself made the suggestion, but a difficulty has arisen on account of the fact that some provisions as passed by the Select Committee had to be put in the form of an ordinance, and naturally the Select Committee hurried with the matter and tried its best to give the report as early as possible, but unfortunately we had no time.

Shri S. S. More: May I know what will be the last date by which the ordinance will expire?

Mr. Deputy-Speaker: Six weeks. In this month two weeks, next month four weeks. By the end of March.

Shri S. S. More: There is ample time for my suggestion to be implemented.

Shri Pataskar: The difficulty is that now with the Budget Session on, I do not think they will find time for this Bill as well as the other Bill which is more important as you will agree. The other Bill—the 1951 Bill—is more complicated and important and is likely to take a long time, and I do not think the Business Advisory Committee will be able to find time for that Bill also by the end of March.

Shri Sadhan Gupta (Calcutta South-East): May I make a suggestion? The other Bill, as I understand, is a bigger Bill and more important, and it will take us some time to study that Bill and formulate our viewpoints. Because Shri More has been on the Select Committee, it is easier for him to go through both the Bills, it is not so for us. Therefore, I think the other Bill should not be taken up in such a hurry. I would rather prefer that this Bill should be proceeded with and finished by the time the ordinance lapses. Then the other Bill may be taken up.

Mr. Deputy-Speaker: We shall go on with this Bill then. There is no unanimity even on this side.

Shri Kamath: Permit me, Sir, to open on a personal note. While we are still labouring under the grievous sense of a great loss caused by the passing away of our colleague, Dr. Meghnad Saha, we are however glad that you emerged hale and safe from a brief spell of quarantine, and more so because even in this secular quarantine you were able to perform a religious ceremony with due form and ritual.

Coming to the remarks made by the Minister for Legal Affairs, I will take up the question of the Ordinance promulgated by the President on or about the 30th December, I believe—some time after the House adjourned last session.

Paragraph 4 of the explanatory statement says that the Election Commission has all along been proceeding on the assumption that this Bill would become law on the 1st January, 1956 and has been issuing instructions accordingly to the Chief Electoral Officers and the Electoral Registration Officers in the various

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States. It is not clear whether the Election Commission has proceeded on this assumption only with regard to these biennial elections to the various State Councils or also with regard to the provisions of the Bill which were referred to the Select Committee. It is unfortunate that the Election Committee should anticipate that all the provisions of this Bill would become law, because that is a very bad precedent for a constitutional body like the Commission or the Government to set. In that case, this House would be reduced to mere or less a shame show which I do not . . .

Mr. Deputy-Speaker: To expedite, they may appoint executive officers, but whenever any amendments are made, they will modify it.

Shri Kamath: If that is so, it is all right. Because they have a big majority, it may be assumed by them that the Bill will become law.

Mr. Deputy-Speaker: Generally these things will be accepted except for certain modifications.

Shri Kamath: Coming to the point made by the Minister that there will be hardly any occasion for altering or amending the existing Parliamentary and Assembly constituencies in the various States, I do not know what exactly that statement implies, because it is universally accepted that once the States have been reorganised in pursuance of the States Reorganisation Bill which will come before Parliament this session as the President has promised, the existing Parliamentary constituencies are bound to undergo a change. Even the Assembly constituencies are bound to undergo a change where taluks have been broken up—for example Shencottah, over which, the House will remember, the decision of the Government was announced, which is very wrong because it is only Parliament which has to decide this matter. But the Prime Minister broadcast not proposals but the decisions of the Government. And it was improper, unconstitutional, *ultra vires* of the Constitution for the Prime Minister to make such an announcement that they are the decisions of the Government. Only Parliament can decide and Government has to implement the decision. Apart from that whether in the case of the break-up of a taluk or a tehsil, the Assembly constituency will also be affected. . . .

Shri Pataskar: For the information of the hon. Members of the House and the hon. Member Shri Kamath, I might state that at the time the Select Committee took up consideration of this Bill, naturally some of the Members raised this point as to whether it would not be necessary to make some changes also as a result of whatever ultimately happens with respect to the question of States reorganisation.

We have all along proceeded so far as this Bill is concerned on the basis that the existing state of things stand because we do not know when and how and in what form it would take place. It was thought better to proceed with the work so far as this Bill is concerned, and ultimately in the light of whatever form the States reorganisation takes if some changes are necessary, they will be looked into.

Shri Kamath: That shows Government has not got even ordinary foresight. The President has said the Bill will come in this session.

Shri K. K. Basu: They have nothing.

Shri Kamath: It is now too late in the day for us to suppose there will be no reorganisation of the States at all. The Bill is coming up in this session, some decision will be taken by the end of this year or earlier. The Home Minister told the House last session that the Bill would be put through by the end of May, and now the Minister for Legal Affairs says people proceed on the assumption that the *status quo* will continue.

Shri Pataskar: How can we consider that while considering this Bill? We have proceeded on the assumption in the Select Committee that the existing state of things stands.

Shri Kamath: What I have said has a bearing on the proposals of the Select Committee with regard to the provisions of the Principal Act. It is in relation to the clause in which you are proposing deletion of reference to sections 9, 6 etc. of the principal Act.

The Select Committee which has done a good job has, however, made certain observations which I am afraid are not acceptable.

From page 18 of the Report of the Select Committee we find that at the third sitting of the Committee:

"A question was raised that section 6 of the principal Act was *ultra vires* of the Constitution and should therefore be suitably amended."

The Committee further considered the matter at its fourth sitting. This is what we find from the minutes:

"Section 6 of the principal Act—After some discussion the consideration of this section was held over."

There is nothing afterwards in the minutes of the meeting to show what decision the Select Committee took on this matter at all; and the Bill also, as it has come before the House, does not tell us and does not disclose what decision the Committee took on this matter: whether they dropped it ultimately, or what they did with it is still concealed; it has not been divulged in this report.

Mr. Deputy-Speaker: Have they touched that provision here? Have they made any reference to section 6 of the principal Act?

Shri Kamath: They have only said at page 2 of the Bill, under clause 7, that the words and figures 'section 6, section 9 or' shall be omitted in section 12 of the principal Act. But the point raised in the Select Committee namely, whether section 6 is *ultra vires* or not, does not seem to have been decided at all, they have apparently dropped it; perhaps it was rather a difficult point and therefore they thought it unnecessary to decide it with regard to this Bill. Anyway, that is an inconclusive portion of the proceedings or deliberations of the Select Committee. After the point having been raised, they should have given some sort of finding or conclusion on that matter, or at least said that they have dropped the matter.

But the minutes of the third and fourth sittings refer to that. Subsequent to that, in the fourteenth sitting we find that there is no reference to that. I hope the Minister will throw some light on this matter.

Mr. Deputy-Speaker: Does not the Bill show that they have taken a decision and therefore included it in clause 7?

Shri Kamath: That should have been embodied in the report.

Shri K. K. Basu: What about the interval between the fourth sitting and the fourteenth sitting?

Shri Kamath: We find from the report the minutes of the first sitting, the second sitting, the third sitting, the fourth sitting, and then come the minutes of the fourteenth sitting. What happened to the sittings between the fourth and fourteenth?

Shri S. S. More: They were devoted to the consideration of the other Bill.

Shri K. K. Basu: So, there was no decision on this.

Shri Kamath: Now, I come to the preparation, the revision and the correction of the electoral rolls, with which this Bill primarily deals. I am afraid, the method or the *modus operandi* that has been adopted by the officers in the States with regard to the annual revision of the electoral rolls is not very satisfactory, because so far as I know, the officer concerned goes to the particular house or residence and notes down the names of all the persons present, that is, of all the voters or the electors in that house, but he does not take with him—that is what I understand—a copy of the existing electoral roll which contains the names of the electors in that particular house or area. That is what I was told in the State as well as when I saw the Chief Election Commissioner after the recent bye-election which I won last April. What happened then was that though I had contested the general elections in 1951-52, my name was missing from the electoral roll in 1955 when I wanted to contest the bye-election.

Mr. Deputy-Speaker: Probably they thought that once the hon. Member having been defeated, he was not entitled to contest again.

Shri Kamath: Probably they wanted to take punitive action, just as they have taken punitive and vindictive action in regard to the Puri station.

An Hon. Member: Those days are gone.

Shri Kamath: If it is their policy, they can do it; I have no objection.

Mr. Deputy-Speaker: It is not the Government, but it is the people who have given a verdict against hon. Member.

Shri Kamath: But that decision was set aside; that election was set aside by the Supreme Court. So far as the people are concerned, of course, naturally they will take the cue from Government and unless government say that the Opposition is unnecessary and that Opposition Members are not needed here, I am sure the people will return us here. Unfortunately, if Government think so, well, let us take it up when the time comes; we shall take up that issue later on.

But today, with regard to this Bill, I must say that when an officer goes to a particular area or a particular house, he must take with him a copy of the existing electoral roll, which he does not do now.

Shri Velayudhan (Quilon *cum* Mavelikkara—Reserved—Sch. Castes): Yes.

Shri Kamath: Does the hon. Member mean 'Yes' or 'No'?

Shri Velayudhan: What you have said is quite correct.

Shri Kamath: For the fault of the officer concerned, whoever he was, I had to make an application for entry of my name in the electoral roll after paying the prescribed fee.

Shri S. S. More: One rupee.

Shri Kamath: I need not mention that here. But I was penalised for the fault of the officer concerned. And it might well happen again in regard to absentee electors, that is to say, if the electors happen to be absent for the time being, *pro tem* or temporarily from the house, their names may not be recorded in the electoral roll, when it is being revised.

What happened then was that when the officer went to the particular house, I was perhaps in Delhi at that time attending not a session of Parliament, but perhaps a session of the Supreme Court; and because I was not there, my name was left out of the electoral rolls. I hope therefore that the Minister and the Election Commission will issue fool-proof instructions, I would not say, knave-proof, but at least fool-proof instructions to the officers in the States with regard to revision of electoral rolls.

Next, the Select Committee have taken a very exorbitant view—if I may use that word—about the fee to be prescribed, or to be levied.

Shri S. S. More: The Select Committee have said nothing about it.

Shri Kamath: Here it is. I shall read it out. Probably my hon. friend Shri S. S. More was not a party to that, I believe.

Shri S. S. More: I am a party to so many things, knowingly.

Shri Kamath: At page 17 of the report, in sub-para (ii) of para. 6, this is what we find:

“Regarding sub-section (5) of the proposed new section 23, the Committee felt that the existing fees for registration of names in the electoral rolls prescribed under rule 20 of the Representation of the People (Preparation of Electoral Rolls) Rules might continue.”

I shall read out the relevant rule presently from the *Manual of Election Law* it prescribes a fee of Rs. 50.

Shri. S. S. More: It has subsequently been amended.

Shri. Kamath: I do not know.

Shri S. S. More: You are referring to a *Manual* which is out of date.

Shri. Kamath: This is what I have got from the Election Commission.

Shri Velayudhan: This is the latest.

Shri. Kamath: They have said also that this is the latest.

Shri. S. S. More: We have been informed that that rule has been changed.

Shri Velayudhan: What does the hon. Minister say?

Shri Kamath: This is what we find at page 162 of the *Manual of Election Law* which has been supplied to us—and which is also sold at the sales counter for parliamentary publications. It has been amended, the amendment should have been pasted here. But that has not been done.

The proviso under rule 20 (2) reads as follows:

“Provided that an application under this sub-rule shall not be entertained if it is not accompanied by a fee of Rs. 50, which shall in no case be refunded.”

I do not know whether the fee has since been reduced.

My hon. friend Shri S. S. More says that it has been reduced.

Shri S. S. More: It has been substantially reduced.

Shri Kamath: I take it that Shri S. S. More's statement is as authentic as the Minister's.

Shri S. S. More: No, that was the information.

Shri Velayudhan: Would the Minister give us some clarification as to the exact amount to be paid.

Shri Pataskar: I shall give it at the proper time.

Shri V. G. Deshpande (Guna): But for the purpose of discussion we should know that.

Dr. Lanka Sundaram (Visakhapatnam): Probably, the Minister does not know.

Shri Kamath: There is a proposal that there need not be separate preparation of the electoral rolls for a parliamentary constituency. I agree that because the parliamentary constituency comprises so many Assembly constituencies, it will not be necessary to prepare a separate electoral roll. But it has to be maintained separately. I am citing my own experience in this matter, because in the election petition which I had to fight from the tribunal to the Supreme Court, I had to meet this particular point. One of the grounds raised by my opponent, a Congress member, was that because the copy of the electoral roll which I had filed before the returning officer did not say that my name was entered in the electoral roll of the parliamentary constituency, I could not contest; for, under the main Act, unless a person is an elector in a parliamentary constituency, he cannot contest the election to the Lok Sabha.

1 P.M.

There are other provisions also which refer to parliamentary constituencies. There could be a separate label; for instance, Madhya Pradesh—Assembly constituency, forming part of such and such Parliamentary constituency.

Mr. Deputy-Speaker: Assembly constituencies must be grouped together and a label put in—constituencies Nos. so and so.

Shri Kamath: Yes.

Then the Minister stated that no political party offered assistance to the Election Commission in the preparation of electoral rolls. I would like to know from the Minister whether the Commission invited the co-operation of any political party. So far as I know, there was no notification in the Gazette or Press-note stating that the Election Commission did need the co-operation and assistance of all organised political parties. But since then, the situation has changed; the position is different now. The Election Commission itself has recognised four political parties on an all-India basis. Therefore, since the position is different now from what it was at the time of the last general election, as the Election Commission itself has recognised political parties, it is incumbent on the Election Commission to invite the co-operation of these four political parties at least, and certainly other political parties in the States on a regional basis. I hope that the amendment which I have tabled on this subject will be accepted by all sections of the House—not merely in the interest of preserving and promoting the rights of political parties in this country—which are fast dwindling, thanks to governmental action in various spheres—but in the larger interest of democracy and of the nation.

Then clause 24 refers to rules to be made under the Act. It says:

“All rules made under this Act shall, as soon as may be after they are made, be laid before both Houses of Parliament.”

This has become a stereotype formula. I am sorry to see that the Minister has not accepted the wider formula which the Home Minister accepted with regard to the Citizenship Bill, and the Minister of Information and Broadcasting, Dr. Keskar, promised the Lok Sabha that he would accept—I do not know what action he has taken on the promise—during the last session, in regard to a particular Bill—I forget which it was; probably the Press and Registration of Books (Amendment) Bill—that the rules will be subject to modification by Parliament when they are framed. That ought to be the formula for all legislation brought before us.

All rules made under this Act should be subject to modification by Parliament within a period to be fixed in the Act itself. If they think that that formula is not acceptable, if Government

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still go on humming and hawing about such a comparatively minor matter as this, I do not see how the rights of Parliament, and certainly the right of parliamentary control over the executive, can grow in our democracy. I hope this formula will be accepted by the Minister with regard to this Bill, and by Government with regard to other Bills other Ministers may henceforth bring forward. It is high time that we accepted this formula. It is nearly nine years since the advent of democracy, and this comparatively minor formula has yet to be repeated *ad nauseam* by the Opposition for Government's acceptance. I hope that there will not be any further occasion for us to repeat this remark, and Government will embody that as a customary formula for all Bills in future.

Coming to section 12 of the principal Act, I do not know why the reference to sections 6 and 9 should be deleted therefrom. In view of the fact that after States reorganisation, the constituencies are likely to be altered, it is perhaps safer to retain the reference to sections 6 and 9 in section 12.

Then, with regard to qualifying date, I agree with the general observation made by two colleagues on this side, Shri S. S. Móre and Shri H. N. Mukerjee, that those persons who come of age before the election should have the right to vote. But, in view of administrative difficulties referred to by the Minister, and also the constitutional provision—I believe, in article 326—this Parliament perhaps is not competent to fix two dates.

But the date can be shifted from March to a month late in the year. A date could be fixed in July, August or September. But in view of administrative difficulties and other considerations, I have suggested that the date might be the 1st of July so that it will give six clear months at least for the Election Commission to get the rolls finalised before January or February. I understand that the Election Commission has suggested that the general election—whether it will be held this year or any year—should be held preferably in February or March all over the country simultaneously. If the Government are going to accept that, then the date might be fixed as 1st of July instead of 1st of March. That will easily give six months which ought to be ample for an efficient administration. If the administration is not efficient I do not know what to say; but that is their own lookout. It

ought be possible to get the rolls ready in about six months. I think in Britain and the United States, they take even less time for revising the rolls and getting them ready in time for the elections.

I would take up other matters when the clause by clause consideration is taken up and I get an opportunity to move my amendments to the various clauses.

Shri Sadhan Gupta: I support the Bill generally because it deals with certain aspects regarding elections which are very essential for the purpose of making adult suffrage a reality. It deals with registration of electors and with other ancillary matters. Therefore, there can be no quarrel with the Bill. Then there is a very salutary provision and innovation which appeals to me, the innovation of abolishing the necessity of preparation of separate electoral rolls for the parliamentary constituencies. We all know that electoral rolls for parliamentary constituencies are nothing but duplicates of electoral rolls for Assembly constituencies under a separate label, and to do all that, naturally a machinery had to be set up with all the expense and labour involved in it. It is a good thing that that part of the procedure has been rationalised.

But in spite of my support to the Bill, I cannot but give vent to my disappointment regarding certain matters, particularly regarding the way in which the right of franchise has been treated in this Bill. The Bill, no doubt, deals with procedure for registration of electors; but this procedure is a very important thing because it is intimately connected with the right of franchise.

Unless an elector is registered his right of franchise is nothing at all. He cannot exercise his franchise. Therefore, to make the right of franchise a reality, there should be provision for accurate and up-to-date registration; there should be provision for an unimpeachable machinery for the purpose of effective registration and also provision for a qualifying date which will enable the maximum number of electors qualified to vote in an election. In this respect, I am afraid, the Bill has not gone as far as should have gone.

Look at the provision regarding the appointment of Chief Electoral Officers or of Electoral Registration Officers. The Election Commission has been authorised to appoint Assistant Electoral Registration Officers but not to appoint the Chief Electoral Officers or the Electoral

Registration Officers. Those officers—it has been provided in this Bill—must be servants of the State Governments and have to be designated by the Election Commission or nominated by the Election Commission in consultation with the State Governments.

We know what the State Governments are. The State Governments are party governments and we know how they might be interested in manipulating the electoral rolls. Therefore, if it was left to the State Governments to have a hand in the designation or nomination of the Electoral Officers and if the Election Commission had to depend for officers on the State Governments, situations may arise when the State Governments may suggest officers who may act according to their wishes in particular constituencies. It is quite conceivable that in some particular constituency the government party may be weak; it may not have any hopes and it may be interested in reducing the bulk of the registration as much as possible. It may be that in a constituency the forces which oppose the Government are strong and it may conceivably happen that the State Government may be interested in manipulating the registration in those localities and therefore might take the assistance of its officers who are nominated to make the registration. Therefore, I say that all Chief Electoral Officers and the Electoral Registration Officers should be appointed by the Election Commission. There is no doubt that the Constitution has provided for an Election Commission because it wanted to keep elections independent of the government machinery. Therefore, why should the Chief Electoral Officers who are concerned with the supervision of registration or the Electoral Registration Officers who have the direct responsibility for registration, why should they be officers who are bound by many ties to the State Governments? What should be provided is that all these officers, the Chief Electoral Officer, the Electoral Registration Officers as well as the Assistant Electoral Registration Officers should be appointed by the Election Commission.

There should be no difficulty in doing that. When the Election Commission can appoint the Assistant Electoral Registration Officer, as is provided in the Bill, why cannot it appoint the Chief Electoral Officer or the Electoral Registration Officer and why should it depend on the government for recruitment of such officers?

Shri B. D. Pande (Almora Dist.—North East): Who will appoint the Election Commissioner?

Shri K. K. Basu: The President; it is there in the Constitution.

Shri Sadhan Gupta: What will happen? They want to keep elections independent of the State Government. Why then depend upon the State Government? The Bill goes on to provide that the Electoral Registration Officer might even be an employee of a local authority. I would not have had any objection if the local authorities were all democratically constituted. But, what are our local authorities? There are some local authorities which are elected on the basis of adult franchise. But, in very many important places the local authorities are elected on a restricted franchise. There are many local authorities which are practically in the pocket of a group of councillors or commissioners—municipal commissioners or others—who are elected year in and year out in those local authorities, simply by reason of the fact that the franchise is very restricted and the voters list can very easily be manipulated by those vested interests so as to make their election possible. This is the kind of local authorities we have got.

Take the Corporation of Calcutta. It is a very unfortunate thing. The democratic forces in West Bengal have been repeatedly trying to make the Corporation representative of all the citizens, to provide that the Corporation should be elected on adult franchise. But the West Bengal Government has been repeatedly resisting it and I say they are resisting it because, if they agree to it, the position of the councillors there who are all thick and thin with the Government would crumble down at once. If an officer of this kind of an organisation were to be permitted to have charge of the registration of electors, then, Heaven help us.

There should be provision for revision so as to bring the electoral rolls up-to-date and keep them always up-to-date. Instead, we find that the provision is that even if the electoral rolls is not revised its validity will not be affected. That is an encouragement for not revising the electoral roll. I had an experience in my own election. My experience was that the main electoral roll was prepared in 1948 and some very perfunctory revisions were made after 1948. All that was supposed to bring the electoral roll up-to-date. But when we went into the

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actual field what we found was that about 50 to 60 per cent of the voters were nowhere to be found in those places. Obviously, in places like Calcutta, there is a very constant shift of population from one place to another and if there is not a thorough revision of the electoral roll, the electoral roll becomes absolutely useless. It practically deprives the electors of the franchise which is due to them.

Therefore, I would suggest that the proviso in the Bill which enables the registration machinery to do without revision should be eliminated and I have given a notice for eliminating that proviso.

Lastly, regarding the procedure of registration, I have to emphasise the necessity of obtaining the co-operation of political parties and other non-official organisations. The hon. Minister has taken objection to my Deputy Leader Shri Mukerjee's observations that bureaucracy dies hard and, therefore, the co-operation of political parties should be obtained for making the registration accurate. It is no use pretending that. Bureaucratic habits die hard. It is a fact not only in our country, it is a fact in every country. A bureaucratic machinery cannot function with that amount of flexibility and with that amount of efficiency which is required for the purpose of effecting registration. They are bound by forms and rigid formalities. They shrink from departing from those formalities and there is no doubt about that. Therefore, it is quite a justifiable observation and I see no objection to the remarks made. The hon. Minister has quoted the Election Commission for refuting Shri Mukerjee's observations. The Election Commission is supposed to have remarked that co-operation from political parties have not been forthcoming. I have not gone through the report of the Election Commission and I cannot speak for all political parties, but speaking for my own party, of course, I can say that at that time the Government saw to it that we could not render our co-operation in the matter because we were all, practically all the workers of our party, were clapped in jail at that time—clapped in jail without trial. That is what we could say for our party, but we can say from our experience that it is very difficult to give co-operation as things stand at present, as rules stand at present. Take for instance the case of authorised agents. Apparently, under the law, authorisation of an agent has to be done

by separate letters of authority by the claimants for registration. If you have to arrange the registration of a large bulk of voters, what you have to provide for is that the letters of authority may be signed by all the claimants and handed over to the agents. If you insist on separate letters being given to agents, it becomes an impossible task because, as things happened in such matters, it is really the agents who move first. Agents who are workers of political parties approach the probable claimants, ask them to put in their claims, ask them to give them their letters of authority, and if you do not allow authorisation in a bulk or a joint authorisation, then it becomes impossible for them to act. This kind of thing does happen and that may be a very important reason why sufficient co-operation was not forthcoming.

Secondly, I think there is no provision for allowing non-official organisations or political parties to obtain copies of the draft electoral rolls. Unless that is allowed, unless that is given without payment, co-operation becomes absolutely impossible. How can you ascertain which people have been included and which people have not been included unless you have a copy of the draft electoral rolls? That is not made available. With all these obstacles, I should say that it is very unfair to make these remarks on political parties.

The last thing which would make the franchise a reality is the qualifying date. What the Bill provides is that a person would be qualified to vote not if he was 21 on the polling day or on any day immediately preceding, but if he would be 21 on the 1st March of the year in which the electoral roll is prepared. Now, the general elections, I understand, are to be held in January or February. The electoral roll would be prepared a year before that, and if the qualifying date is fixed as the 1st March, it would follow that people who attain 21 years in the course of the next one year would be excluded from voting. Already our franchise is very grievously restricted because 21 is too high an age limit for our country. Many civilised countries have 18 as their age limit; the Soviet Union has 18, other countries have 18 years and even in our country for all important transactions, for contracts, for disposition of property, our age limit is 18. We have fixed 21 because we have learnt it from the English; there is no other reason. We have fixed a higher age limit and

if after that by simply providing a wrong kind of registration we make 21 into 22, then it is very unfortunate state of affairs indeed. In our country, a year's lapse would mean that several lakhs of voters would be disenfranchised. There is no difficulty in advancing the age. The qualifying date need not be a date prior to the registration; the qualifying date may be a date even after the registration is made. Though the registration is made, for instance, in March or April, we can provide that people who would be 21, say, next October, November, December or January, will be entitled to registration. The Constitution does not prevent it. Therefore, by incorporating such provisions we can make our franchise real, and really democratic. Therefore, I would strongly urge on the Minister to accept amendments of that kind.

With these few remarks I again give my support to the Bill and hope that the amendments which I will move and which doubtless other hon. Members will move, designed to establish an effective machinery for accurate and up-to-date registration of electors and to make the franchise a reality by reducing the age limit in effect by advancing the qualifying date will be accepted by the hon. Minister.

Mr. Deputy-Speaker: I will first call hon. Members who are not members of the Committee and then the members of the Committee to reply to whatever points they bring out. I will now call upon Shri Basu.

Shri K. K. Basu: As the earlier speaker has said, it is true that there has been certain improvement in the provisions regarding the law for the conduct of the elections in our country. But still there are some points where we do not agree in spite of the recommendations of the Select Committee for the reasons mentioned by my friends earlier and I also emphasise them.

The most important point is about the chief electoral officers: how are they going to be appointed? When the Constitution was adopted, the makers of the Constitution from their experience, deliberately made the Election Commissioner an independent authority to be appointed by the President; he should not be under the control of the Government or even the Parliament. Why? Experience in the past had shown that if the officers of the Government were appointed, they were likely to act according to the wishes of

the appointing authority—the Government, in this case. For the first time we are having adult franchise and we are making an experiment in Parliamentary democracy. Therefore, it was in the fitness of things that the Constitution-makers in their wisdom, made the Election Commissioners an independent authority. I personally feel that during the last elections, so far as the Election Commission—the Central authority—is concerned, it largely conducted itself to the satisfaction of the contending parties.

What is being provided now? For each State there is going to be a Chief Electoral Officer. They will be officers more or less recommended by the State Governments and the Election Commissioner will more or less nominate and say that such and such person has been appointed as Chief Electoral Officer for a particular State. We know that most of electoral officers are from State Governments. They are also doing some other work either as Joint Secretaries or in some other ranks. They have to put forward and champion the claims of the Government so far as the election matters are concerned. I have been an associate member of the Delimitation Committee in respect of my State and the Chief Electoral officer of that State used to come forward as the chief Government spokesman. We expect that he should be an independent authority directly under the control and influence of the Election Commissioner. Therefore, I urge upon the Government that if an officer of the State has to be appointed, the appointing authority should be the Election Commissioner. He will decide whom he is going to appoint. But according to the provision as put forward here he will be an officer of the Government and the Election Commissioner has just to nominate or designate. The State Government will say: 'Here are some officers and you just nominate.' The Election Commissioner has no right to exercise his discretion to appoint whomsoever he likes whether from that State or from outside. As my friend, Shri Sadhan Gupta, was saying we have seen that selection of polling officers and presiding officers in respect of certain constituencies, where a big Minister is contesting the election or a State Minister is a candidate and is likely to lose, is made to suit their convenience. By and large, the polling officers in our country are independent and they are all Government servants.

Mr. Deputy-Speaker: The hon. Member is speaking on clause 13A. May I ask the hon. Law Minister to kindly see? It reads: ". . . . officers of Government"; not necessarily an officer of that Government. An officer of any Government can be there. Is that not so?

Shri K. K. Basu: There is no question of appointment.

Mr. Deputy-Speaker: It is to be done in consultation with the Government. I mean that designation. The designation or nomination in this behalf is to be done by the Commission and not by the Government. Further, the officer need not be an officer of that Government; he may be an officer of the Central Government. The Central Government or the provincial Government concerned has to lend that officer for that particular purpose. It is open to him to select any officer from the Central or provincial Government to discharge that particular duty; the respective Governments have got only the right to be consulted for the purpose of lending the officer, etc.

Shri K. K. Basu: You are interpreting that way.

Shri Pataskar: That is the correct interpretation and I agree with it.

Shri K. K. Basu: Is it the intention of the Law Minister that the Election Commissioner may appoint any Government authority as Chief Electoral Officer of a State and when he so appoints he should consult that Government which is the appointing authority and not the State Government?

Shri Pataskar: That Government under whom the officer is serving.

Mr. Deputy-Speaker: He has to be released.

Shri K. K. Basu: In that case, the words here are different.

Mr. Deputy-Speaker: He is already a Government servant. So appoint him. He is designated or nominated as such to discharge that duty. Unnecessarily the hon. Member is restricting the choice. Much against what he intends he is saying this. If a Chief Electoral Officer is to be appointed for a State that State need not be consulted. But the Chief Electoral Officer must be a Government servant and that Government of which he is a servant—that Government alone has to be consulted. For Madras, the Commis-

sioner may appoint a Bengali gentleman. That person is a servant of the Bengal Government. He has to consult the Bengal Government if it is willing to place that man at the disposal of the Commission for being the Chief Electoral Officer in Madras. The Madras Government need not be consulted at all.

Shri Pataskar: That is really the object of consultation. If you have to appoint a Government servant, naturally you must consult the Government under whom he is serving.

Mr. Deputy-Speaker: Hon. Members on this side of the House are perhaps afraid of one thing that this clause may mean an obligation on the Election Commissioner to appoint an officer of a State in that State.

Shri Pataskar: There is no justification for the interpretation.

Shri Sadhan Gupta: The scheme seems to be that by the use of the words 'nominate and designate'; they are different from 'appoint'.

Mr. Deputy-Speaker: What is the object of the word 'nominate or designate'? Should it not be 'appoint an officer in consultation with the Government'? Why should they be designated or nominated?

Shri Pataskar: I shall consider it; I do not think there is any distinction.

Mr. Deputy-Speaker: Perhaps it is on account of the juxtaposition—certain words following the word 'Government'. Therefore, it leads to that impression.

Shri Vallatharas (Pudukkottai): So far as I know, there are the sub-divisional officers and other officers who are called upon to do these duties. They have other duties, and they are usually put in charge of supervising the preparation of the electoral rolls. They are already there. For instance, the tehsildar is given some designation when he is doing this additional work. No officer is independently placed to do any work in respect of the preparation or supervision relating to the electoral rolls. That is why there comes the more respectful term 'designation' or 'nomination'. There is no pay for it.

There is not much connection between the Election Commissioner and the Officer who is so nominated. So, the Government of the State has got a definite hand over him. Also, he attends

to the work during his spare hours. That is the poor nature of the work that is done.

Shri S. S. More: May I bring to your notice section 22 of the original Act? The words "designation" and "nomination" are not new in this particular clause.

Shri K. K. Basu: That is what we want to oppose.

Shri S. S. More: But the wording is materially different. It is said: "in consultation with the Government of the State in which the constituency is situated". Here the emphasis is shifted. Formerly "consultation with the State" meant the State in which the constituency, for which he was appointed officer, was. Now.....

Mr. Deputy-Speaker: There is an improvement now.

Shri S. S. More: Now there is a material difference. Anybody who can read the two things can see the change.

Shri K. K. Basu: It is precisely on that ground that I am opposing it. I have understood the point. There it is the question of the Electoral Officer of a particular constituency and here it is the Chief Electoral Officer who will do the entire supervision. But, here we are giving certain powers to the Electoral Officer. Therefore, a supervisory officer of a State must be an officer more or less of the same rank as an Election Commissioner.

Mr. Deputy-Speaker: That is what is done.

Shri K. K. Basu: It is not done. Today it is a part-time officer of the Government—say, a joint Secretary—who is called the Chief Electoral Officer. Before the Delimitation Commission he appears as a champion of the Government's case. Unless the Law Minister gives an undertaking that, that officer is going to be an independent officer.....

Mr. Deputy-Speaker: If he is to be fully lent for that purpose he can be appointed.

Shri Pataskar: The words are "designate or nominate". It has created no difficulty.

Shri K. K. Basu: It has.

Mr. Deputy-Speaker: As was referred to by Shri Vallatharas if some Revenue Divisional Officer does part-time work and if he is there in the same constituency that is not all right. If he does only part-time work naturally he must be in the constituency. Hon. Members think that a person who works in the constituency may be under the control of the local Government. Therefore, if in any particular case a man who does not belong to the constituency has to be appointed full-time, or even if an Electoral Officer for the whole State has to be a full-time man then "designate or nominate" will only mean that, that man who is already doing some other work may do this work in addition. Possibly, there may be cases when he will be a part-time man. What is the harm in putting the words "or appoint" also. It can be "designate", "nominate" or "appoint" according to convenience.

Shri K. K. Basu: Why I wanted to emphasise this point is this. Today, at least in my State, he is not a whole-time officer.

Shri Pataskar: There may not be enough work for the Chief Electoral Officer to do throughout the year.

Shri K. K. Basu: I fully agree that right down from the Taluk level it may not be possible to have whole-time officers because their only function is registration. But, under the amended section the Chief Electoral Officer is being given certain rights. Today at the last moment no voter can be entered in the list by the State Electoral Officer. It can only be done by the Election Commissioner. That is according to the original provision. Now that is going to be amended. The Chief Electoral Officer will also have the right to do so. There is also provision regarding appeal. So, I only emphasise that so far as the State Electoral Officer is concerned he should be an officer completely outside the influence of the Government. I fully agree that if we are to have it right from the bottom that would mean the entire administrative machinery from the Taluk up to the Government of India will have to be created and it may not be possible under the existing state of affairs. We on our part would wish that. I only emphasise that so far as the Chief Electoral Officer is concerned he must be independent. He should only perform duties connected with the conduct of election, supervision of the preparation of electoral roll and similar other things.

[Shri K. K. Basu]

My friend the Minister for Legal Affairs says that there may not be enough work for him. It should be so. If you compare him with an officer of his rank in some other department there may not be enough work. But, we must look to its importance. It is very important in our country where we are having parliamentary democracy and adult franchise only for the past few years. Our political life has not developed to any great extent. Generally these officers are influenced by the Government to which they belong. If the Officer is a Joint Secretary of a particular department and he is also the Chief Electoral Officer he must be in touch with the Home Minister himself. Psychologically speaking no officer of the Government who has interest in his future would like to displease his boss. Therefore, as we are providing in this amended section more power to the Chief Electoral Officer of the State I only urge that he should be an independent officer. He should have nothing to do with the State Government to which he is appointed. As you said, if it is the intention that at the time of appointment he has to keep the lien with the Government and that some consideration has to be made in that respect, well and good. I have no objection. But, I only urge that the Chief Electoral Officer should be appointed by the Election Commissioner and he should be a whole-time officer under the Election Commissioner. He should not serve in any capacity under the Government of the State in which he is appointed as Chief Electoral Officer. I wish the Law Minister considers this aspect of the problem and then accepts the amendment which some of our friends have suggested.

Then I would like to say one point regarding co-operation with other bodies. My friend the Minister for Legal Affairs quoted from the Report of the Election Commissioner saying that he tried to seek advice of the political parties but unfortunately that is not forthcoming. My friend Shri Sadhan Gupta stated the position in 1950-51. Since then I know that after the Government has recognised four parties the Election Commissioner has suggested certain consultations. I must say on this occasion that the Election Commissioner himself once invited the representatives of the political parties and discussed many things. One of the

things he said was that he will issue instructions at the State level and District level to hold consultations with the representatives of the parties for the preparation of electoral roll. I ask the Law Minister to enquire into this. In spite of repeated letters our Chief Electoral Officer of West Bengal has never called a meeting of the State representatives. He has never tried to consult them regarding preparation of the electoral roll. You want co-operation. Whenever we go there he has his own form. Often there is a form in which some petition has to be put or some application has to be made. We know it takes four to five days or a week to get them printed. The Government are often short of such forms. The Minister wants co-operation from political parties. The Election Commissioner says that he is willing to do it. But in this particular case—I have personally attended the meeting of the Election Commissioner—I must say the Chief Electoral Officer has not carried out the instructions of the Election Commissioner. When this is the position in the State what to speak of the District and the Sub-Divisional levels. On many occasions we had sent intimations and also wrote to the Election Commissioner. Sir, you must also know that writing a letter to the State of West Bengal and the time it takes in going through the normal channel is such that by the time action is taken the last date is over. Therefore, I only ask that you must provide—if you can provide in the Bill itself, well and good—that at all levels the recognised parties should be consulted.

Mr. Deputy-Speaker: I may inform the hon. Member that I am receiving notices and I see copies of the same notices having been sent to all Members of Legislatures and Members of Parliament belonging to the various political parties to attend the meetings to fix up polling stations, fix up constituencies and so on.

Shri K. K. Basu: Sir, Andhra State is fortunate in that respect. It is not done in our State. I personally attended the meeting held by the Election Commissioner and I communicated the decision to the Officer in West Bengal to call a meeting of the representatives of the political parties. I must say that nearly a year has passed and nothing has been done. He is too much afraid of the Chief Minister of West Bengal and he does not want to do it. Therefore, I suggest that at each level—district level

and State level—there should be a non-official machinery at the time of the preparation of rolls. Some non-official machinery has to be organised at the State level and its co-operation should be invited at the time of preparation of electoral rolls.

Another aspect which I would like the hon. Minister to consider is this. We know fully well that the draft electoral rolls are too bulky and cost a good deal also. As soon as the notification is issued, it is hung in post offices, police stations and other places. But, unfortunately, our experience has been that even five days after the notification has been issued, the electoral roll is not hung in some of the places. It is not always possible for the individual voter, unless he is so conscious of it, to go every day to the Chief Electoral Officer's office to find out exactly whether his name appears in the draft roll or not. As my friend Mr. Kamath has said, even the names of the Members of Parliament are left out from the draft electoral rolls sometimes. I know in West Bengal two cases where the names of the M.L.As. were omitted. The name of one M.L.A. from Burdwan district—he is fighting with the Government every day and news appear—has been omitted and he has to rush to get his name included. I do not know, but I am told that in some of the western countries they have what they call a National Register, which is more or less a permanent thing and in which only the amendments are made from time to time. Of course, our country may be too big and today it may not be possible to have such a thing here. But, I urge that the draft electoral rolls should be supplied to some of the recognised political parties or other big organisations like big co-operatives.

Mr. Deputy-Speaker: Why should not the electoral rolls be prepared once in ten years? It should be revised once in ten years and all the additions during that period can be implemented.

Shri K. K. Basu: In some of the western countries, there is some sort of a National Register. I do not know, but I am told that our administrative set-up is such that we cannot have a permanent register. Of course, what you suggest is the best thing. We should have a permanent register and it should be revised every ten years. If that is done, if a name is included once, it will remain there. As I said, two M.L.As. of the same constituency were

left out and the Chief Electoral Officer said, "probably he was not there when our man came to inspect".

The Minister of Defence Organisation (Shri Tyagi): It was a clerical error.

Shri Kamath: Policy error!

Shri K. K. Basu: Of course, there may be some mistakes and all of us want to improve the electoral rolls, so that parliamentary democracy may function properly within the set-up provided by the Constitution. I would urge upon the hon. Minister to take into consideration all these points and also the formulation embodied in the Minute of Dissent of Mr. Mukherjee. He should also consider the suggestion that some sort of consultative machinery be set up along with the recognised political parties and the other local institutions of the area should also be allowed to co-operate. He should also see whether copies of the electoral rolls can be supplied free to them and whether the cost of the electoral rolls can be reduced.

Another suggestion has been made by Shri Sadhan Gupta regarding the authorisation letter. In this connection, I want to make one suggestion. The place where any objection to the draft rolls can be made is the sub-divisional headquarters. For instance, my constituency is 30 miles away from the sub-divisional headquarters and one has to cross two or three rivers and walk a considerable distance. I may also say that the consciousness to vote has not yet developed to a great extent in our country. Therefore, it is very difficult at present to make any objection to the draft rolls because the sub-divisional headquarters is 30 miles away. I suggest that on a particular day an officer can come to a particular circle to attend to the objections against the draft electoral rolls. We will have to see that as far as possible, within the human limitations our electoral rolls are correct and fool-proof. I would like the hon. Minister to consider this point. For instance, because of the *purda* system it is very difficult for a lady to travel 30 miles to make an objection to the draft rolls. I hope, therefore, the hon. Minister will take this into consideration when he tries to improve the electoral rolls.

Lastly, I come to the question of qualifying date. I am told there are administrative difficulties in reducing

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 the period. Of course, I understand that some time will be necessary for the preparation of the electoral roll. But unless we make the interval between the qualifying date and the actual date of attainment of voting age as short as possible, a large number of persons will be prevented from exercising their franchise. I am not going into the merits of the question as to whether it should be 21 years or 18 years. Unfortunately, 21 years has been fixed by the Constitution and we have to work within that framework. Accepting 21 as the limit, we should see that the interval between the qualifying date and the actual date should be reduced to 30 days or 45 days. There is a suggestion by Mr. More that it should be two days. But, whatever it may be, the point is that it should be done speedily. You may declare that the electoral roll is going to be prepared on such and such a date and that those who want to register will do so before the final date. As soon as the notification is issued for the holding of the election, within a week or so, those who are qualified to be entered on the electoral rolls shall register themselves. Otherwise, an adult who is eligible to exercise his vote may be deprived of his opportunity. I hope that the hon. Minister will consider all these points when he tries to improve the electoral rolls. He should also give an undertaking to this House that instructions would be issued to the concerned officers that political parties and other non-official organisations will be consulted. Also, the Chief Electoral Officers of the States should have more powers than they have been enjoying so far. They should be made independent officers of the States.

With these words, I generally support the Bill.

2 P.M.

Shri Vallatharas: This is a simple Bill with some mechanical changes. The two advantages that are obvious are the possible reduction in the expenditure of time, money, and energy over the preparation of the two rolls for the Assembly as well as for the Parliament. Of course, it results in the economy of expenditure and time and energy. We would like to have one common electoral roll for both the elections.

One particular point has to be emphasised. With our experience of four years, I should like the Government to have

provided us with some statistics in regard to the two aspects of the Act of 1950. One is in respect of the electoral list and another is in respect of delimitation of constituencies. Here, there is no attempt at thinking or discussing, with our experience of four years, the defects in the delimitation. We are confined to the mechanical process of preparation of the electoral rolls. In the electoral lists, we have found many defects. It is not necessary to go into this into great detail. In my constituency, in every village, I see not less than 25 per cent of the eligible voters left out of the list in 1951. I would like to know, whether the Divisional Officers who have been deputed to do that work and who now and then appear in the villages to take note of the persons who are eligible, whether they have made any progress during the last four years. What was the numerical strength of voters in a particular area in a constituency in the year 1952? After 4 years, after due revision, how many have been added to that? If these statistics are available, we can understand whether a revision of the electoral list has been made then and there by the officers deputed by the Election Commission or the State Governments, and whether any progress has been made. I say, the first difficulty is this. Nearly more than 25 per cent of the people who are eligible to vote have not been included in the electoral roll of 1951. Now, there is an attempt on the part of the Government to see that the expenditure of money and time and energy is minimised by preparing only one set of electoral rolls for both the elections. What about the other process, which is more important and the more responsible part, to see that all the voters are brought on to the list? I listened to the hon. Minister saying that the Commission had made certain observations about non co-operative attitude of certain political parties. Of the political parties, the Congress has a long standing....

Shri Pataskar: May I correct one impression? I had not complained of non co-operation; I said, in the circumstances, much of co-operation was not forthcoming or available.

Shri Vallatharas: I can put in a layman's language—a sort of indifference. The other political parties, with their experience of 4 years are now settling to some definite established principles of working. Even now, as our Deputy-Speaker has observed, I have

received some papers about some polling stations and other things, about some consultation with several Members, etc. This is not what we want. An ordinary resident in a village is a person who owns a house there, who owns some land, who has some definite appointment there, who has got a definite business, a luxurious man or an idler. All these persons can be known to the village munsiff, village karnam, Revenue Inspector, Deputy Tahsildar or Tahsildar at the most. How is it that 25 per cent of the people have been left out? I have seen the process by which the voters were brought on the list. All the teachers and all the clerks were employed on this work. In spite of that, this lacuna had come into existence. What is the result of this lacuna? I am not worried about 100 voters being left out in a constituency. Twenty five per cent is not an ordinary thing. What action has the Government taken to see that there is a mechanical perfection? No brain is needed in this. No imagination or no sort of clever dealing is required. Every person in the places has to be brought on the list. To be an ordinary resident, so far as I can see, it is not necessary that the man must be present in the House when the person goes to make the enquiry. The enquiry must note the dead and all the other persons living must be taken on the list. I am here. My family is there. I have got a house. Why should not the Registering Officer record my name in the list? Because of my absence, my name is left out. What is the remedy? How am I to know this? According to the law, they publish the list somewhere in a taluk office, in some room. It does not catch the public eye. It is quite easy to comment on the responsibility of the public to go and see whether their names are included in the list. That can be said ideally; it cannot be done in practice. It must be the responsibility of the officers themselves to see that every ordinary resident is recorded.

As regards the amendment in the Bill about 180 days, etc., I am happy about that. But this will not suffice. By reason of the fact that in the last election, nearly 25 per cent of the eligible voters have not been brought on record, there had not been a proper election. I can tell you without any reservation, though it may offend some sentiments, that as a result of the elections, some good people have been elected, some freaks have been elected, some people who

have no predominance in the locality have been elected. Some who are good poets and scholars who have no popularity among the people have been elected. All these men could not make a good Government. Now, an Indian citizen is well settled in life. We have seen in this changing and disturbed world our own position. Every Indian is a voter. He is a citizen. By casting his vote, he brings his Government into existence. The general will of the people must be responsible for the formation of a good government. For a free and effective Government, there must be free elections. Many hon. Members have been strong in their observations that the system of registration and other aspects of the electoral lists have not been satisfactory. I must say that the parliamentary system, under the existing practice, is lopsided and it must be rectified. This Bill is dead, lifeless, with a mechanical body of certain changes which do not go to the root of the grievances.

In framing the electoral rolls or in making changes in the law in respect of bringing the voters on record, one point must be borne in mind by the Government. Even if the people do not co-operate, even if the political parties do not come forward as expected by the Election Commission, the village officers or the taluk officers who are deputed by the Government to do this work and who are paid for the same must see that every ordinary resident cannot be filled up. I would request every person who is alive there, in the Government to furnish us at their leisure hours as to how many voters have been brought on the roll after 1952 so that we could have a fair appreciation of the work done.

Secondly, I lay emphasis on this point. No Deputy Tahsildar, no Tahsildar or no Revenue Inspector in a district should ever be deputed to do the work of registering these electors. Political factions nowadays are very high. Government officers, whatever be the respect for their position and influence, I should say, many of them are corrupt. The whole atmosphere is corrupt. Corruption in other departments does not affect the formation of the government. But, this is a corruption which affects the formation of the government itself. This corruption is very bad and it should be rooted out even in its embryo. Here is a list which is common for

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both the Parliament and the State Assemblies. It is important that the Parliament should be better constituted. I think it is also important that the State Legislatures should also be sane and chaste.

Dr. Lanka Sundaram: Why not also immaculate like you?

Shri Vallatharas: I shall stop with chastity alone. The Parliament, when it takes the responsibility of preparing the rolls, should see that the rolls are properly prepared. So far as the Parliament is concerned, my hon. friend observed some time before—and it is a fact—that at least the Chief Electoral Officer must be an officer independent of the Government. I would like to submit that, in view of the fact that it would be very difficult to appoint independent officers for every firka or taluk, at least of the Chief Electoral Officer must be independent of the State Government. He must be a person directly appointed by the Election Commission. The question of pay is most important. When the pay is to be paid by the Madras Government and the work extracted by the Central Government, whereto will the attachment and obedience be? I do not want to narrate instances. There are plenty of cases where 20 or 25 families have been left out in the electoral rolls simply to prevent these people from appearing as candidates in the elections or exercising their votes. As far as possible, there must be a Chief Electoral Officer for every taluk, apart from the registration officers who must be put on this work exclusively. He should be a full-time officer responsible for his taluk. At the initial stage, there may be enormous work, to go from village to village and record all the voters. Subsequently, revision work is only a small percentage. A person may be very well conversant with his taluk and he can prepare a satisfactory list.

In this connection the Government will please consider the suggestion that in any case the local registering officers or servants should not be subordinate in any manner to the State Government. At least the registration officer must be an independent man. If even that is not possible, the Chief Electoral Officer should, as a matter of fact, be an independent officer nominated by the Election Commission and responsible to the Commission and dependant on the

Commission for pay, service and everything. That must be the position.

One other point. In clause 23 there is a distinction made between an application for enrolment as an elector before the notification and after the notification. The registration officer, of course, is the person who is on the spot, who is very near the voter. The qualifications for a voter are very simple under our law. The only convenience that we must provide is to see that the man who wants to be enlisted as a voter is not put to much difficulties. After all, it is not a matter that requires legal sense or great study or great discussion or great advice. If the officer is satisfied that he is a person resident there and somehow his name has been left out and it is necessary that he must be included, the registration officer is a competent authority to do it. Why should there be a distinction between a person who comes before the notification and one who comes after the notification? What is the special feature there requiring the invoking of the advice of a superior officer, the Chief Electoral Officer? I submit that in any case, either before or after the notification, the registration officer may be the person who may be entrusted with the entire matter, and on that basis an appeal may be had to the Chief Electoral Officer, and there need be no complication at all. In this there will be no injustice. We have got entire confidence in the Chief Electoral Officer who, I expect, would be an independent person. The registration officer may be made competent to deal with the applications at the two stages, before and after the notification.

There is another factor which is in a manner connected with this. I draw the Government's attention to section 30 of the Act of 1950, because there the Courts are debarred from questioning the validity of certain Acts or laws. I do not propose any amendment for this, but I bring this to the notice of the Government. Section 30 says:

“No civil court shall have jurisdiction—

(a) to entertain or adjudicate upon any question whether any person is or is not entitled to be registered in an electoral roll for a constituency; or

(b) to question the legality of any action taken by or under the authority of an Electoral Registration Officer, or of any decision given by any authority appointed

under this Act for the revision of any such roll."

We proceed on the basis of a Central Act. Parliament has to proceed to pass Acts only under the Constitution. Article 329 of the Constitution specifies the limitation :

"Notwithstanding anything in this Constitution—

(a) the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under article 327 or article 328, shall not be called in question in any court;

(b) no election to either House of Parliament or to the House or either House of the Legislature of a State shall be called in question except by an election petition...."

These are the cases wherein the courts of law cannot interfere. I also solicit reference to article 324 where powers have been^o vested in the Election Commission for superintendence, direction and control of elections etc., including the appointment of electoral tribunals for the decision of doubts and disputes arising out of or in connection with the elections to Parliament. On this basis, excepting those two limitations stated in article 329, I do observe that a person who applies to the registration officer to have his name entered and is for whatever reason refused admission, appeals to the Chief Electoral Officer or to the Election Commission, and they dismiss it. Has he not then got any remedy? Is he barred under section 30 from resorting to court to seek a remedy for the inclusion of his name? The Constitution does not at all provide for keeping the courts out of this jurisdiction.

A citizen has got a civil right to become a voter. Whether he exercises his vote or not is a different thing altogether. The election dispute starts only on the basis of an election to be held. It cannot go to the initial and preparatory stage of the preparation of an electoral roll. The Election Commission is vested with the power to supervise and control everything. Parliament can pass to regulate such sort of procedure, but in the case of a civil right which is not given effect to or recognised, can section 30 operate as a preventive measure so that a man who has been refused to be enlisted as a voter in his right as a citizen, subject to these

limitations, cannot have any remedy through the court. I only place this because I also sought the help of the Research Section of the Lok Sabha Secretariat, and they are not able to help me in this matter. I would like the Government takes note of this and make a regular investigation into it and if there is any controversy, submit the matter for the opinion of the Supreme Court.

श्री नन्ध लाल शर्मा (सीकर) :

नमोऽस्तु रामाय सलक्ष्मणाय देव्यै चतस्र्यै
जनकात्मजायै ।
नमोऽस्तु रुदेन्द्र यमानिलेभ्यो नमोऽस्तु चन्द्राकं
मरुद्गणेश्यै : ॥

जन प्रतिनिधान संशोधन बिल जो इस समय हमारे सामने उपस्थित है, उस के सम्बन्ध में इस संसद् के हर एक सदस्य को कुछ न कुछ अनुभव है, ज्ञान भी कुछ होना स्वाभाविक है और अनुभव भी और विरोधी दल के सदस्यों का कटु अनुभव भी बहुत है। इसलिये जहाँ विरोधी दल के सदस्य आगामी निर्वाचन के लिए अपनी चिन्ताओं और संशयों के निवारण के लिये अधिक से अधिक प्रयत्न कर रहे हैं कि कैसे सरकारी हस्तक्षेप को रोका जाये अथवा स्वार्थबद्ध होकर अपने दल की शक्ति बढ़ाने वाला सत्ताधारी दल अपनी शक्ति का दुरुपयोग न कर सके। मैं समझता हूँ कि माननीय मंत्री ने और इस समिति के और सदस्यों ने प्रयत्न किया है कि और यह दिखाने का प्रयत्न किया है कि हम सर्वथा निष्पक्ष रहे। मुझे यह कहते हुए खेद होता है कि यह जो विधेयक बनाया गया है अथवा इस में जो संशोधन किया गया है, उस के सम्बन्ध में मैं श्री वल्लाभरास के उन शब्दों से सहमत हूँ कि उस से पूर्ण चिकित्सा रोग की नहीं होने वाली है। कारण यह है कि केवल मतदाता सूचियाँ बनाने से अथवा उन्हीं के अन्दर संशोधन भर कर देने से चुनाव ठीक हो जायेंगे, ऐसा सम्भव नहीं है। पहले तो यह भी निश्चित नहीं है कि मतदाता सूचियाँ ठीक तरह से संशोधित हो भी सकेंगी या नहीं। कारण यह है कि इस संशोधन विधेयक के पृष्ठ ४ पर

(श्री नन्द लाल शर्मा)

धारा १५ के नीचे नं० २१ के संशोधन में यह उपधारा २ और उपधारा ३ दोनों के साथ जो प्राविजो दिये गये हैं, वे प्राविजो ऐसे हैं कि जो इस धारा को बिल्कुल निष्क्रिय और निष्फल बना देते हैं और उस के बाद यह कहने की कोई आवश्यकता नहीं रह जाती कि "एलेक्टोरल रोल्स विल बी रिवाइज्ड" । नई मतदाता सूचियां ऐसी बनाना जैसी उपाध्यक्ष महोदय ने स्वयं संकेत भी किया, दस वर्ष में भी बनाई जा सकती हैं किन्तु बीच बीच में उन का संशोधन करना आवश्यक होगा और यह देखना होगा कि कितने व्यक्ति मर गये और कितने लोग वयस्कता को प्राप्त हो चुके हैं, और उस के अनुसार अगर आप अपनी मतदाता सूचियों में आवश्यक फेरबदल नहीं करते और मृतकों के नाम काटते नहीं और वयस्क लोगों के नाम जोड़ते नहीं, तब तक वह मतदाता सूचियां आप की किसी काम की साबित नहीं होंगी । आप ने यह भी कहा हुआ है कि यदि किसी कारण वशा उन में संशोधन न हो सका, तो भी वह मतदाता सूचियां वैध मानी जायेंगी और उस के अनुसार चुनाव लड़ा जायेगा । मैं समझता हूँ कि यह एक निष्फल तत्व है । इस दिशा में सब से पहले कांग्रेस दल के लिये पहल करने और प्रयत्न करने की आवश्यकता है क्योंकि वह आज सत्ताधारी दल बन चुका है, तो ऐसे समय चाहे वह ईमानदारी से काम न भी करे, तब भी कम से कम संसार को यह दिखाने की चेष्टा तो अवश्य करे कि ईमानदारी से काम हो रहा है ।

उस के लिये परिश्रम इस प्रकार से करने की आवश्यकता है जिस से कि विरोधी दल के व्यक्तियों के अन्दर अधिक से अधिक विश्वास लाया जा सके । खाली पत्रों के ऊपर पत्रों में कहने का किसी प्रकार से भी कोई लाभ नहीं होगा । निर्वाचनाधिकारी, मुख्याधिकारी तथा पदाधिकारियों के सम्बन्ध में आप ने लिखा है । "कंसल्टेशन विद दि गवर्नमेंट" । उस

पर बहुत सी विचार धारा खली, हम ने जहां तक इस का मतलब समझा है उस से हमें यह प्रतीत हो रहा है कि जिस कान्स्टिट्यूंसी में जो व्यक्ति काम करेगा, वहां की स्टेट गवर्नमेंट के साथ आप को जो परामर्श करना होगा और यदि वहां के काम करने वालों को उसी स्थान की स्टेट गवर्नमेंट के परामर्श से आप ने वहां पर नियुक्त कर दिया, चुनना भी नहीं है, यदि आप ने नियुक्त कर दिया तो मैं समझता हूँ कि प्रजा का भाग्य सदा के लिये मर गया । कोई आशा नहीं है कि प्रजा अपनी विरोधी भावनाओं को कभी भी प्रकट कर सकेगी । इसलिये आवश्यक होगा कि आप यह नियम रखें कि कम से कम चीफ एलेक्टोरल आफिसर, जिस कन्स्टिट्यूंसी में वह काम करे, जिस राज्य में वह काम करे, उस राज्य का नहीं होना चाहिये । कम से कम उस गवर्नमेंट के अधीन उसे काम नहीं करना चाहिये । तभी आप कुछ स्वतन्त्रता की भावना ला सकते हैं ।

इस के साथ साथ मैं यह बतलाऊं कि वहां पर पार्ट सी स्टेट्स के लिये भी पृष्ठ २ पर लिखा है : "इन रलेशन टु ए पार्ट सी स्टेट, इत्यादि" । जहां तक मैं समझता हूँ यदि राज्य पुनर्गठन आयोग के दिए हुए सुझावों पर आप को ध्यान देना है और आगे आने वाले समय में पार्ट सी स्टेट्स को नहीं रखना है तो फिर इस सम्बन्ध में उसी धारा को अभी तक सर्प की लकीर की भांति पीटते जाना कोई अर्थ नहीं रखता है ।

इसी प्रकार से राज्य पुनर्गठन आयोग के दिये हुए जितने भी सुझाव हैं उन में से यदि अधिकतर को आपने स्वीकार किया तो आप को निश्चित रूप से जितनी भी कान्स्टिट्यूंसी बनी हुई है उन की सीमाओं में परिवर्तन करना होगा । इन सारी की सारी बातों, और इस के साथ साथ जो आने वाले चुनाव के बैलट बाक्सेज होंगे और दूसरी बातों, के सम्बन्ध में भी इस विधेयक में कुछ नहीं कहा गया है । इसलिये इस सम्बन्ध में मैं यह तो नहीं कह सकता, जैसा कि कामत साहब संकेत कर रहे

हैं, कि दूसरे विधेयक में आयेगा, पर इतना तो मैं भी जानता हूँ कि यह ला इतना मिर्कैनिकल अर्थात् बनावटी जान पड़ता है कि इस में हम जितना भी वास्तविक स्वरूप है उस को पूर्ण रूप से नहीं ले रहे हैं। हम उस के सारे स्वरूप को आद्योपान्त नहीं लेना चाहते हैं, एक टुकड़े को अभी ले लिया, उस के सिर को काट कर आगे लगा दिया, पूछ पीछे से लगायेंगे, टाँगें आगे-पीछे ले लेंगे। इस तरह से पीछे बनेगा क्या ? जैसा कहते हैं :

“विनायक प्रकुर्वाणः रचयामास वानरम्” ।

गणपति बनाने लगे, बन गया बन्दर। तो इस तरह से अलग अलग टुकड़े बनाने से कोई लाभ नहीं है। सरकार को चाहिये कि वह जो भी विधेयक लाना चाहती है उस को सर्वांगपूर्ण रखे ताकि उस सर्वांगपूर्ण विधेयक के द्वारा जनता को भी पता लगे तथा विरोधी दल को भी पता चले कि आप की उस थैली के अन्दर कौन सी चीज छिपी पड़ी है। इसलिये मैं समझता हूँ कि इस विधेयक से कोई लाभ होने वाला नहीं है। दूसरे विधेयक के ऊपर जब बातचीत होगी उस समय हम पूर्णतया कह सकेंगे कि कौन सा अंश हमें स्वीकार्य है और कौन सा अस्वीकार्य।

दूसरे कहा जाता है कि हमें विरोधी दलों के सहयोग की आवश्यकता है। जिस की आवश्यकता न हो, जिस की अपेक्षा न हो, उस के बारे में कहते जाना कि वह चाहिये, इस की आवश्यकता नहीं। आज तक किस दल से सहयोग मांगा गया ? क्या कोई भी ऐसा विरोधी दल बेचारा है जिस से कहा गया हो कि तुम राष्ट्र के निर्माण में अपना सहयोग दो और वह कह दे कि मैं सहयोग देने के लिये तैयार नहीं। अगर आप इधर की बेंचेंज में से किसी को निमंत्रण दें तो मैं आप को चुनौती देता हूँ कि इधर से कोई भी इंकार करने को तैयार नहीं है, जिस समय आप निमंत्रण देंगे वह आ जायेंगे।

श्री० लंका सुंदरम् : पंडितजी, यह राम-राज्य है।

श्री नन्द लाल शर्मा : रामराज्य नहीं है, रामराज्य तो गांधी जी के साथ चला गया। रामराज्य था गांधी जी के जीवन के साथ, उन के प्राण छूटने के बाद वह वेलफेयर स्टेट में ट्रांसलेट हो गया और वेलफेयर स्टेट से चलते चलते अब वह समाजवादी ढांचे में बदल गया है।

उपाध्यक्ष महोदय : रामराज्य परिषद् भी आ गया।

श्री नन्द लाल शर्मा : रामराज्य परिषद् तो रामराज्य बनाने के लिये आया। आज जितने भी अधिकारी हैं वे यह कहने की हिम्मत नहीं रखते हैं कि वह रावण राज्य बनायेंगे और इसीलिये मैं उन से प्रार्थना भी कर रहा हूँ, किसी अपनी स्वार्थपरता से नहीं। हमें इस बात की भूख नहीं है कि आप हम से क्या सहयोग लें, हम से परामर्श करें, भूख इस बात की है कि आप को उन लोगों का पता चल सके जो आप से भिन्न विचारों के हैं तथा आप से भिन्न विचार रखने वालों के साथ कोई अन्याय न हो सके और आप यह कह सकें कि यह वयस्क मताधिकार के ऊपर निर्मित किया गया राज्य है, वास्तविक प्रजातंत्र है। इस भावना से विरोधी दल के इन दोनों संशोधनों से मैं अपनी पूर्ण सहमति प्रकट करता हूँ जिस में यह वर्णन किया गया है कि आप विरोधी दल को ऐसी सुविधायें प्रदान करें जिस में कि वह आप को सहयोग दे सके।

इस के बाद मैं एक शब्द कह कर समाप्त करूंगा, और वह है वयस्कता के सम्बन्ध में। आप ने वयस्कता के लिये पहली मार्च की तिथि निर्धारित की है। न जाने आप को यह पहली मार्च कहां से मिल गई। यह आप का फाइन-शियल इयर भी नहीं है क्योंकि ३१ मार्च को समाप्त होता है और उस के अनुसार पहली अप्रैल होना चाहिये था। पहली अप्रैल तो शायद सरकार को सब से अधिक सूट करता है इसलिये

(श्री नन्द लाल शर्मा)

कि पहली अप्रैल उन्होंने सब जगह खुना है। इतवार या सोमवार से कोई सम्बन्ध नहीं रखा गया है।

दूसरी बात यह है कि जो व्यक्ति २ अप्रैल या तीन अप्रैल को २१ वर्ष का होने वाला हो उस को निर्वाचन में अपने मताधिकार से वंचित रखा जाये। तो यह उस के साथ अन्याय होगा। इसलिये आवश्यक है कि आप कोई ऐसा मार्ग निकालें कि उस के साथ यह अन्याय न हो अथवा जैसा कि संशोधन है कि सरकार को चाहिये कि जो तिथि उचित समझे उसे निश्चित करें, इसी प्रकार की भावना को रखें तो मैं समझता हूँ कि इस प्रकार के व्यक्तियों का मत लिया जा सकेगा।

इस के साथ साथ मैं यह कहना चाहता हूँ कि दूसरे विधेयक में जो भावनायें आयेंगी और जब उन से उस को पूर्णरूप प्राप्त होगा तब मैं अपने विचार प्रकट करूँगा।

इन शब्दों के साथ मैं इस विधेयक की भावना का तो समादर करता हूँ परन्तु इस की शब्दावली के साथ अपनी सहमति नहीं दे सकता।

Mr. Deputy-Speaker: One more hon. Member has sent me a chit; I shall call him during the clause by clause consideration. Now, the Minister.

Shri Pataskar: But private Members' business is to start now.

Mr. Deputy-Speaker: The hon. Minister may start his reply.

Shri Pataskar: I shall first try to deal with the objections which have been raised by my hon. friend Shri Kamath. I think I shall continue on the next occasion.

Mr. Deputy-Speaker: The Lok Sabha will take up further consideration of this Bill on the next occasion.

RESOLUTION RE : INDUSTRIAL SERVICE COMMISSION

Mr. Deputy-Speaker: The Lok Sabha will now proceed with further discussion of the following Resolution

moved by Shri M. L. Dwivedi on the 25th November 1955 :

"This House is of opinion that an Industrial Service Commission on the lines of the Union Public Service Commission be established for the purpose of recruiting qualified and suitable persons for Government works, industries and other institutions".

as also of the amendments moved by Sarvashri Shree Narayan Das, B. K. Das and K. K. Basu.

The time allotted for this Resolution is 2 hours 30 minutes and the time taken, 51 minutes, leaving a balance of 1 hour and 39 minutes. The other day a point was raised as to how far this Resolution was in order, and the hon. Minister was to make a statement.

Shri Kamath (Hoshangabad): Motion on the Report of the Committee has to be moved.

The Minister of Legal Affairs (Shri Pataskar): A point of order was raised by Shri Shree Narayan Das in regard to the Resolution which Shri M. L. Dwivedi has put before the House. The Resolution reads thus:

"This House is of opinion that an Industrial Service Commission on the lines of the Union Public Service Commission be established for the purpose of recruiting qualified and suitable persons for Government works, industries and other institutions."

In the first place, as has been evidenced by the speeches made on the last occasion, this refers to government works, may be by the Centre or by the States, and similarly industries and other institutions, may be those industries or other institutions which are in the form of, say, companies registered or corporations which have been established; the latter may not exactly be worked on the basis of government departments, but they may have their own rules. But apart from that, the main objection which probably Shri Shree Narayan Das has raised is as to whether the establishment of an Industrial Service Commission would be consistent with the provision for the establishment of a Public Service Commission under article 315 of the Constitution. Article 315 reads:

"Subject to the provisions of this article, there shall be a Public