

13.26 hrs.

REPRESENTATION OF THE PEOPLE (AMENDMENT) BILL

The Deputy Minister of Law (Shri Hajarnavis): Sir, I beg to move:

"That the Bill further to amend the Representation of the People Act, 1950, and the Representation of the People Act, 1951, be taken into consideration."

There have been several assurances on our behalf that as we gather experience from the holding of the elections and also as the law gets clarified by authoritative decisions of the High Courts and the Supreme Courts, we will be making the necessary amendments in this Act. This is a measure in which no Party is interested. It is essentially a non-partisan measure. But, I must make it clear at the outset that this does not exhaust all the amendments that we have in mind so far as the Representation of the People Act is concerned, before the next elections are held. This is in no sense a comprehensive Bill. There are certain amendments which appear to the Election Commission to be very urgent and if possible they should be put into effect before 1st January, 1959 and it is for that reason that I have brought this motion for consideration. But as I have said, if it is the will of this House of which we are the servants, that the matter should be examined in greater detail, then we shall have no objection to its being submitted to greater scrutiny.

I will briefly indicate the proposals that we have made. The proposals contained in clauses 2, 12, 3 and 13 are merely verbal changes bringing into line the Representation of the People's Act with the present law. After the States Reorganisation Act was passed, the seats had to be re-allocated and the amendments that were moved in the earlier Act gave

the position in the First Schedule and the Second Schedule. In section 3 and in section 7, all the seats as it obtained before the re-organisation of the States and as it was proposed to be allocated after the reorganisation were given respectively. Now that the reorganisation has come into effect, it is no longer necessary to set out in the Schedule the seats which were allocated before the reorganisation. Therefore, by clauses 2 and 12, we are taking out from the Representation of the People Act that portion of the previous Act which described how the seats were allocated before the re-organisation.

Similar is the effect of clause 13 and clause 4 which amends section 7 of the Act. Clause 3 deletes section 3A of the 1950 Act on the re-organisation of Part C States which have ceased to exist now. The seats which are now allocated to the Scheduled Castes and Tribes are contained in the Delimitation order.

Then I come to clause 5. Clause 5 makes a change which, I believe, will meet with the unanimous approval of the House. The change that is proposed to be made is in the qualifying date. The qualifying date on the basis of which we have worked so far is the 1st of March. Now, it is common knowledge that most of the electoral registration officers are also revenue officers. Their busiest time begins from 1st March. Therefore, it is not possible for them to devote as much time as they would like to devote for the registration work and the work of registration gets postponed. But they can find time in the earlier three months. It is therefore proposed that the qualifying date shall be advanced from 1st March to 1st January.

The effect of clauses 6, 8 and 9 is this. Under the present Act a man may be registered at a place where he is ordinarily resident or where he has a dwelling house. That

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results in his being entered in more than one electoral roll. Now, it is the experience that if you have an ineffective name, the name of a person who is not going to vote in that constituency, then it give cover for impersonation. Therefore, the attempt now is to remove as many ineffective names as possible. With this end in view we have suggested that a voter should not be entered in an electoral roll more than once and that he should be entered only at a place where he is ordinarily resident. That being so, section 17 is being amended to say that he is not entitled to be entered in an electoral roll more than once in the same State.

Clause 7 carries the idea further. It is this. As section 19 previously stood the qualifying date was said to relate both to the age and to his ordinary residence in the constituency. As we concede the idea of ordinary residence, it is a continuous process extending over a fairly long period before we say that a person is ordinarily resident at a particular place. Now, to pin point that he is resident on a particular date is, in our submission, a contradiction in terms. Secondly, it is something which is not consonant with the Constitution, because the Constitution speaks of a qualifying date only with respect to age and not with respect to his residence. Therefore, what we would consider now, when a name is being entered or a claim is being investigated, is whether a person at that time is ordinarily resident in the constituency or not.

Clause 8, therefore, carries out this into effect.

By clause 9 the electoral registration officers are being given powers *suo moto* to correct the electoral rolls. It is a necessary power. If he finds that a name is ineffective, that is to say, a dead man's name is

there, the name of a man who is not ordinarily resident is there or that the name of a man who is disqualified in any other manner is there, then *suo moto* he can exercise that power. But I would like to make it clear that such power will be exercised in accordance with the well known principles of natural justice, that a person against whom such an order is proposed to be made will receive due notice.

Shri Easwara Iyer (Trivandrum): It is not stated so in the Bill.

Shri Hajarnavis: If an order is made against a person . . .

Shri Easwara Iyer: An assurance from you is of no use.

Shri Hajarnavis: It is always presumed that if an order adverse to a person is intended to be made he must have an opportunity of defending or showing cause against that order. If the House thinks it necessary, a provision to that effect may be put in there; but this is what we intend to do. I have nothing to say against that being made explicit.

Clause 11 is intended to make the law clear. Probably the present provisions in the Penal Code are sufficient, but in case there is any doubt we want to make a specific provision creating an offence saying that if any declaration or statement is made during the course of claim proceedings by any person which he knows to be false, believes to be false or does not believe it to be true, then he will be committing an offence. Further, since the right to vote is such a valuable right, any officer who does not do his duty is guilty of dereliction of his duty and is of course subject to disciplinary action. We go on further to say that in such a case the man and the officer will also be responsible for criminal action.

As I have already said, clauses 12 and 13 are consequential amendments on the reorganisation.

Clause 14 seeks to omit the words "or in the electoral college of a Union territory", because there are no longer any electoral colleges.

Section 7 of the Act is one which it has been found difficult to construe. It reads like this:

"A person shall be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State—

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

While dealing with this, I might mention that this was introduced as a part of the English Constitutional Law or the English Law of Elections during the American revolution where it was noticed that a large number of Members of Parliament were interested in contracts by which money was transmitted for war purposes to America, and the Members also had interested themselves in contracts for supplies to the various departments who were engaged in war, and in order to prevent that abuse due provision was enacted. That provision was couched in similar terms, though it was less drastic than law. In 1931 Sir Stafford Cripps moved an amendment which made it clear that the provision did not apply to contracts of immovable property. Further revision of that law came together with the revision of law relating to disqualification. It was found that it was impossible in the existing

circumstances to have a provision of this type; that is to say, where people with private income are so rare and where Government are themselves occupying every field of activity, it is impossible for any person, who is earning his own livelihood, at some stage or other not to touch the government departments. So, with that end in view, what they have done is that they have deleted this contract clause altogether from their disqualification, and I am glad to find that my hon. friend, Pandit Thakur Das Bhargava, has given an amendment which would attempt to bring the law here in line with the Britishers.

We have not gone as far as this, but we have tried to delete the words which are vague, ambiguous, which may render the law uncertain. No one knows how far the words "whether by himself or by any person or body of persons in trust for him or for his benefit or on his account" go. Then, speaking for myself, I have always found it difficult to see what exactly is meant by "performance of any services undertaken by the appropriate Government". Supposing a Member of Parliament gives an occasional talk on the All India Radio.

Shri Easwara Iyer: Or he is a lawyer and he is engaged . . .

Shri Hajarnavis: The view that was expressed before the House of Commons Committee was that the relationship of a lawyer to his client is not that of an employer-servant. That was what was said. So, lawyers appearing for Government are exempt. But, in any case, the law should be certain and with that end in view, what we have done is, we have proposed this amendment. We have not gone as far as the British Act goes nor have we gone as far as Pandit Thakur Das Bhargava wants to take us, but we have tried to take out these clauses which would render him liable, on the slightest suspicion, to be disqualified, if "by himself or any person or body of persons in trust for him or for his benefit or on his

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account, . . . " etc., he enters into a contract. We say that if he is a person who has a contract for the supply of goods or for the execution of works, he ought to be disqualified and we are omitting the words "services undertaken by the appropriate Government".

Clause 18 is consequential. I will come to those clauses later on—those clauses which deal with the necessity of a deposit by a candidate for the Council or Council of States. There are no provisions for the election of Council or Council of States, as regards deposits. Therefore, a man who has absolutely no electoral merit enjoys the pleasure of standing for election and even if he loses, even if he does not get a single vote, he does not forfeit anything.

As regards clauses 20 and 21, my hon. friends Shri Tangamani and Braj Raj Singh will be glad to note that we have been able to act upon their suggestions and we are deleting section 55A and the other sections which deal with this matter.

As regards clause 23, it deals with section 56. As it is, the polling station should remain open for eight hours. In the Council election, the number of electors is very small, and it is not necessary that the polling station should remain open for eight hours or that the polling officers and other officers carrying on the election work should be there waiting for eight hours, where no voters are expected to come in. Therefore, we are removing the statutory limit, and this will be at the discretion of the Election Commission.

Clause 24 is a permissive clause. There are certain classes of people including Ministers and Deputy Ministers who are given the alternative right for casting their vote by post, because certain urgent work may detain them at the place where they are working, and they may not be able to go to the place where

their vote is to be recorded. Actually, when a candidate who was a Minister or a Deputy Minister went to the constituency and intended to record his vote or expressed his desire to record his vote, he found that he could not vote. By the proposed amendment, he can exercise his right in either ways.

Shri Naushir Bharucha (East Khandesh): Under the existing law, can he not do it? I do not know why he was permitted.

Shri Hajarnavis: As I read it, I do not think it is permitted.

Shri Naushir Bharucha: Without prejudice to the generality of the case.

Shri Hajarnavis: As we read the section, we feel that it prevents him from doing it. This is the only method by which he can vote.

Clause 25 is somewhat important. With a view to preventing preselection of electors, provision should be made by rules. The existing law lays

" for the marking with indelible ink of the thumb or any other finger of every elector, who applies for a ballot paper or ballot papers for the purpose of voting in a polling station before delivery of such paper or papers to him."

To this we intend to add the following:

"(b) for the production before the presiding officer or a polling officer of a polling station by every such elector as aforesaid or his identity cards before the delivery of a ballot paper or ballot papers to him if under rules made in that behalf under the Representation of the People Act, 1950, electors of the constituency in which the polling station is situated have been supplied with

identity cards with or without their respective photographs attached thereto; and"

House will notice that this is merely a permissive clause, clothing the Election Commission with powers which they may exercise in certain constituencies. Of course, it involves some expense, but where there is a floating population and where the identity becomes difficult, then, every candidate will realize that it ensures the purity of election, if some sort of identity card is issued to him. It may be with photograph or without the photograph. Powers are being entrusted to the Election Commission to devise means by which the identity is ensured. There are constituencies in which large-scale impersonation is resorted to at the elections and so, in order to prevent that, the Election Commission, as it has been doing so far, may carry on experiments with all sorts of identity cards, sometimes using photographs and sometimes without them, and see whether such a procedure prevents impersonation and whether it is successful. So, as it is, as I said, this is merely an enabling clause. It does not by itself change the electoral system at all.

Clauses 26 and 27 are consequential, and they seek to amend sections 64 and 67A, arising out of the deletion of section 55A.

Clause 28 is important in this way. Where the election tribunal had dismissed a petition on a preliminary ground, the question was whether it was subject to an appeal under section 98 or not. In all such cases the party was aggrieved by the order that he was advised to file and filed an application for a writ under article 226, and such applications were entertained. There is no reason why such a matter should not enter the High Court by way of an appeal. Therefore, it has to be made clear that even such an order is an appealable order and therefore it may be taken to the High Court.

Clause 29 is for the purpose of keeping the Election Commission informed of the progress of an election dispute. Oftentimes it happens that an appeal is taken against a decision of the Election Commission, and stay orders are entertained. But the Election Commission is not informed with the result that dates are fixed for election and certain other arrangements are made. We have made rules by which such orders are to be sent to the Election Commission, but now we want to place those provisions on a statutory basis.

Then, under section 117, some difficulty was caused as to whether the deposit has to be made in the name of the Secretary to the Election Commission or the Election Commission. Some tribunals held that unless the deposit was made in the name of the Secretary to the Election Commission that deposit was not a proper deposit. In order to remove any ambiguity, the word "Secretary" is being removed.

In clause 32 we intend to extend the period for withdrawing the money deposited with the returning officer from six months to one year.

Clause 33 seeks to make a consequential amendment.

Clause 34 seeks to remove a defect which has been pointed out by the Supreme Court. The Supreme Court pointed out that whereas the giver of bribe incurred electoral disqualification the acceptor did not; unlike charity, bribery was only singly blessed. We want to make it clear that not only the candidate who gives the bribe will be guilty of the corrupt practice, but also the candidate who accepts it.

Clause 35, as a matter of fact, ought to have come in the 1950 Act itself, because the Electoral Registration Officers and the Assistant Electoral Registration Officers have no functions to perform under the 1951 Act. They have certain duties and powers under the 1950 Act.

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Clause 87: Section 158 of the 1951 Act was provided on the assumption that elections would be on the basis of one ballot paper being issued to each voter. Now the Election Commission has carried on certain experiments, giving one ballot paper on which the voter has got to mark his vote. That experiment has been fairly successful. At present, section 158(3) reads:

"For the purpose of sub-section (2), the number of votes polled shall be deemed to be the number of ballot papers, other than rejected ballot papers, counted."

But if you are going to have one ballot paper on which marks are to be made, section 158(3) is not appropriate. So, that has now been omitted. We have further said if a candidate who is being elected by proportional representation does not get a certain minimum number of marks, which is the minimum quota fixed, then he loses his deposit.

These are the various amendments, the suggestions regarding a number of which have been received from Members of the Opposition and I do not think anyone will take objection to them. As I have already said, if the House desires that the matter is one which requires closer scrutiny by a Select Committee, I have no very serious objection, but the only consideration is that unless this Act is passed, the qualifying date in the next year shall not be advanced from 1st March to 1st January

Mr. Deputy-Speaker: Motion moved

"That the Bill further to amend the Representation of the People Act, 1950 and the Representation of the People Act, 1951, be taken into consideration."

Shri Naugbir Bhargava: I am moving my amendment that the Bill be circulated for eliciting public opinion

Pandit Thakur Das Bhargava (Hissar): I am moving my amendment No. 23.

Shri Ram Krishna (Mahendragarh): I am moving my amendment No. 24.

Mr. Deputy-Speaker: He wants that the Select Committee should be confined to six Members.

Shri Hajarnavis: Excluding the Law Minister and the Deputy Law Minister.

Shri L. Achaw Singh (Inner Manipal): I am moving my amendment No. 31.

Mr. Deputy-Speaker: He has increased the number to 9.

Shri Anwar (Ratnagiri): I am moving my amendment No. 27.

Mr. Deputy-Speaker: It is a Select Committee consisting of 7 persons.

Shri Kaswara Iyer: I am moving my amendment No. 22. I have proposed a Select Committee consisting of 8 persons. I would have put down more, but the difficulty is to get the consent of the persons concerned.

Mr. Deputy-Speaker: The mover is there and the hon. Law Minister is also there. Pandit Thakur Das Bhargava has not put down his own name in the committee he has proposed. Perhaps he will be made a member in the committee proposed by some other Member.

Shri Braj Raj Singh (Ferozabad): How many has he suggested?

Mr. Deputy-Speaker: 20. These amendments and the original motion for consideration can be taken together. But in view of the observations made by the Deputy Law Minister just now, I was just expecting that perhaps he might accept some amendment out of this. If this Bill is going to be referred to a Select Committee, we might not spend six hours on that.

Pandit Thakur Das Bhargava: If it is going to be accepted, there is no point in spending so much time.

Mr. Deputy-Speaker: Yes. We will have another opportunity. So, we need not spend so much time. We have already spent half an hour. Three more hours may be taken and we might finish this by 5 o'clock.

Shri Hajarnavis: If it is referred to a Select Committee, we will finish it by 5 o'clock. I have made my statement that we should pass it before the 1st January. But I am prepared to listen to the arguments advanced from the other side.

Shri V. F. Nayar (Quilon): From the lists of names contained in the various amendments, can we evolve a single list and submit it to the House?

Mr. Deputy-Speaker: That is for him now.

Shri Hajarnavis: I said I am not opposed to that idea.

Shri Naushir Bharucha: If the Bill is going to be referred to a Select Committee, I will withdraw my amendment for circulating the Bill to elicit public opinion.

Mr. Deputy-Speaker: The committee proposed by Pandit Thakur Das Bhargava contains the largest number of Members and that might be acceptable to the Minister

Pandit Thakur Das Bhargava: I beg to move

That the Bill be referred to a Select Committee consisting of—

Shri Ram Krishan, Shri S. Easwara Iyer; Shri Diwan Chand Sharma, Shri Mahavir Tyagi, Shri Braj Raj Singh, Shri R. M. Hajarnavis, Shri Naushir Bharucha, Shri M. R. Masani, Shri N. G. Ranga, Shri Upendranath Berman, Shri Atal Bihari Vajpayee, Shri Harish Chandra Mathur, Shrimati Sucheta Kripalani, Shri Bhakt Dar-

shan, Shri Ajit Singh Sarhad, Shri H. C. Dasappa, Shri Shree Narayan Das, Shri P. T. Thang Pillai, Shrimati Uma Nehru, and Shri Banarsi Prasad Jhunjhunwala with instructions to consider all suggestions and amendments relevant to the subject matter of the Representation of the People Act, 1950 and the Representation of the People Act, 1951 and to recommend the adoption of such of them as appear suitable and conducive for securing fair and free elections in the country and to report by the first day of the next Session."

Shri Ram Krishan: I beg to move:

That the Representation of the People (Amendment) Bill, 1958, be referred to a Select Committee consisting of—

Dr Ram Subhag Singh, Shri K. T. K. Tangamani, Pandit Thakur Das Bhargava, Pandit Dwarka Nath Tiwary, Shri Hem Barua, and the Mover with instructions to consider all suggestions and amendments with a view for securing fair and free elections in the country and to report by the first day of the next session.

Shri L. Achaw Singh: I beg to move:

That the Bill be referred to a Select Committee consisting of—
Shri Narayan Ganesh Goray, Shri Braj Raj Singh, Shri S. Easwara Iyer, Shri Surendra Mahanty, Shri Liladhar Kotaki, Pandit Thakur Das Bhargava, Shri R. M. Hajarnavis, Shri Atal Bihari Vajpayee, and the Mover, with instructions to report on the first day of the next Session

Shri Naushir Bharucha: I beg to move:

That the Bill be circulated for the purpose of eliciting opinion thereon by the 1st February, 1959:

Shri Assar: I beg to move:

That the Bill be referred to a Select Committee consisting of—

Shri Shraddhakar Supakar, Shri Purushottamdas R. Patel, Shri B. C. Kamble, Shri Yadav Narayan Jadhav, Shri R. M. Hajarnavis, Shri Atal Bihari Vajpayee, and Shri Premji R. Assar with instructions to report by the first day of the next Session.

Shri Easwara Iyer: I beg to move:

That the Representation of the People (Amendment) Bill, 1958, be referred to a Select Committee consisting of—

Shri Surendra Mahanty, Shri Jaipal Singh, Shri Diwan Chand Sharma, Shri Mahavir Tyagi, Shri Jaganatha Rao, Shri Braj Raj Singh, Shri Asoke K. Sen and the Mover with instructions to report by the first day of the next session

Mr. Deputy-Speaker: Pandit Thakur Das Bhargava. Panditji would bear in mind the time that we have already devoted to this.

14 hrs.

Shri Easwara Iyer: Is the Law Minister accepting our motion for reference to the Select Committee?

Shri Hajarnavis: I am yet to hear the hon. Members.

Mr. Deputy-Speaker: Does it require my interpretation?

Shri V. P. Nayar: He keeps his mind wide open.

पंडित डाकुर दास भार्गव 'जनाब डिप्टी स्पीकर साहब जहाँ तक कि इस .

Shri V. P. Nayar: Let it be in English, so that we can also hear it.

Pandit Thakur Das Bhargava: I have moved the motion which stands in my name. The House must have observed that I have suggested in it:

"with instructions to consider all suggestions and amendment

relevant to the subject matter of the Representation of the People Act, 1950 and the Representation of the People Act, 1951".

Mr. Deputy-Speaker: The names of the Members may also be read.

Pandit Thakur Das Bhargava: The Members are: Shri Ram Krishan, Shri S. Easwara Iyer, Shri Diwan Chand Sharma, Shri Mahavir Tyagi, Shri Braj Raj Singh, Shri R. M. Hajarnavis, our hon. Deputy Law Minister, Shri Naushir Bharucha, Shri M. R. Masani, Shri N. G. Ranga, Shri Upendranath Barman, Shri Atal Bihari Vajpayee, Shri Harush Chandra Mathur, Shrimati Sucheta Kripalani, Shri Bhakt Darsan, Shri Ajit Singh Sarhadi, Shri H. C. Dasappa, Shri Shree Narayan Das, Shri P. T. Thanu Pillai, Shrimati Uma Nehru and Shri Banarsi Prasad Jhunjunwala.

Shri V. P. Nayar: None from Madras

Mr. Deputy-Speaker: Shri Thanu Pillai is there.

Pandit Thakur Das Bhargava: I have no objection to add other names. It is customary to add new names. I am anxious that all persons who can contribute, so far as this is concerned, and who represent the parties, should be there. Because, according to me, this is not a Bill which can be said to be sponsored by any party. This is a non-party measure. I am, therefore, anxious that those who have experience should contribute their experience, as the Election Commission has done. For instance, the experience of those who took part in the election has not been taken advantage of. It is customary after the entire election is over to pool all their experience and find out what were the obstacles and difficulties which were experienced during the elections and to bring them here. Anyhow, apart from those difficulties, there are certain matters where the Opposition members as well as all of us have contributed our experience on:

many occasions whenever such Bills come before the House. Further, many good and salutary practices are found to exist in other countries also like Great Britain. Therefore, when a Bill of this nature comes, all these matters become relevant, and they go a long way in advancing towards free and elections in our country.

Every person who stands for election takes pride in the fact that ours is the greatest possible electorate 18 crores to 19 crores—and our democracy is the greatest one in the whole of the world. We are proud that we are having free and fair elections. We have gone through two elections when Pakistan could not go through even one. So, we have to take particular care to see that our elections are free and fair. We have to adopt all those good practices which obtain in other free countries, so far as free and fair elections are concerned. After adopting all those practices we will be able to say with a full heart that as a matter of fact ours is the best country and the best democracy where there are free and fair elections. With a view to ensure that I have put in my amendment. At the time when the Criminal Procedure Code Amendment Bill was passed, all those amendments to the various sections which are not included in that amending Bill, were allowed (I may support by way of precedent) and this House allowed all those amendments to be considered by the Select Committee. I am, therefore, anxious that my amendment, if accepted, should be accepted in the present form in which I have given. I hope that the hon. Law Minister will be pleased to accept this part of the motion also.

To start with, I want to congratulate our Deputy Law Minister for the clarity of the notes on clauses which he has given. They clearly bring out the amendments which he has proposed in this Bill. I am very happy that this has been done this time, though it is quite true that some of them are not quite full. At the same time, they are much fuller than they

were previously in other such Acts.

Generally speaking, taking all the provisions as a whole, I do think this Bill is an improvement upon the previous one and will make our elections fairer and more free. But, all the same, I am anxious that in regard to certain matters—and those matters are not few—this House should be enabled to discuss them rather in detail, and that will not be secured by putting the motion as it is and passing the Bill. As a matter of fact, all such legislation, according to me, all legislation of a controversial nature should be gone into by a Select Committee. That is the real place where Members after mutual discussion come to solutions which are acceptable to the generality of the members. Now I have gone through the long list of amendments, and more will be coming, perhaps I should think that the matters involved are such and so many that they cannot be discussed in this House. That is a sufficient vindication of my motion and I hope the hon. Deputy Law Minister will accept that. He has agreed to accept this motion for reference to Select Committee.

The Minister of Law (Shri A. K. Sen): Who has agreed?

Shri V. P. Nayar: He does not agree.

Shri Braj Raj Singh: What is the reaction of the Minister? Let us know the position.

Mr. Deputy-Speaker: The mover said that he would not be opposed to this Bill being scrutinised further by a committee.

Shri A. K. Sen: If it is a question of scrutiny, we shall be only too willing to have it scrutinised as much as possible. But the scope of the Bill is so little and the question involved is of such a minor character, we do not consider it to be necessary to send it to the Select Committee. But, as I said to many hon. Members privately, we shall be willing to sit with the representatives of groups and find out

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their views on any of the provisions on which they might have anything to say. That is the position. If we accept the suggestion of a Select Committee, we are at once confronted with the question of a Joint Committee composing of Members of both the Houses. It will take some time

Shri V. P. Nayar: We can leave the elders to themselves.

Shri A. K. Sen: Once you have a Select Committee here, it is difficult to resist the Members from the Upper House being represented on the Select Committee. As I said to many of the Members—I think Shri Easwara Iyer was there; various other Members too—I am ready to sit, if necessary, four, five or ten times. Let us discuss this. The Select Committee cannot do better. It is necessary that we pass this Bill during this session

Shri Braj Raj Singh: What harm is done if this is not passed before the 1st January?

Pandit Thakur Das Bhargava: As regards my motion, the hon. mover of the Bill said that this Bill has to be passed before the 1st January, and that is being repeated by the hon. Law Minister. They are desirous of passing this before the 1st of January the reason being that they are changing the qualifying date. That is all. Suppose the qualifying date is not changed and it is kept as 1st March, what will happen?

Shri Naushir Bharucha: Heavens will fall!

Pandit Thakur Das Bhargava: Only a greater number of people will have the right to vote. Even those persons who have attained majority during the two months will become entitled to vote.

Mr. Deputy-Speaker: His objection is that the regular officers will have no time during these three months. That is what he said.

Shri Braj Raj Singh: We are not going to have the election in 1952.

Shri A. K. Sen: Regarding urgency, we are certainly entitled to put forward the plea of urgency, so far as this matter is concerned and on the reasons we have given it is for the House to decide whether it accepts the plea or not.

Shri V. P. Nayar: We are entitled to be convinced also.

Shri A. K. Sen: Certainly. I have said so.

Pandit Thakur Das Bhargava: It is not that we do not appreciate the reasons which have been given by the hon. Law Minister. But, after all, the reason given is that these persons who are in charge of making these lists etc. are busy during these three months.

Shri A. K. Sen: These are the reasons given by the Election Commission. They are not ours. It is they who run the elections.

Pandit Thakur Das Bhargava: Even if they are your reasons, they are valid. If they are the reasons given by the Election Commission, we have great regard for the Election Commission also. The reasons will be examined on merits to see that they are good and are so dominating that other considerations do not outweigh them. The hon. Minister can have his way even in spite of the general trend in the House and the general desire of the House that it should be referred to the Select Committee. The hon. Law Minister is a law unto himself and he can decide what he likes. We have seen that the hon. Mover of the Bill was sensitive to the opinion of the House and was to an extent, I should say, amenable to the wishes of the House. He wanted to send it to the Select Committee. But if the hon. Law Minister thinks otherwise, we cannot do anything but to request him to kindly agree to our suggestion because the suggestion is based on considerations which are perhaps

much more valuable and much more weighty than the simple objection that these officers are busy during these three months. These officers have been busy in the last two elections and yet they produced lists which were satisfactory. I suppose they are busy in this one year only and that next year they will be quite free because we are going to change it to 1st January if the House agrees. I do not think this is any great objection.

So far as this question is concerned, you must give satisfaction to every Party in the country. You must give satisfaction to any hon. Member who has his experience and during the last two elections all of us have passed through the elections, we know the difficulties and we know how it can be improved. If you want to go through the proposals of the Election Commission and do not want to hear anybody else, we cannot have any choice. We cannot certainly compel you. But I would like you to understand—I would make an appeal to the hon. Law Minister through you, Sir—that the House is anxious about sending the bill to the Select Committee.

When I gave notice of these amendments, many hon. Members came to me and told me that I have done the right thing in suggesting that the experience of other hon. Members also must be put together and gone through by that Committee. On the last occasion also we were able to see that. As a matter of fact whenever Representation Bill has come before the House it has always been referred to a Select Committee. I happened to be the Chairman of the Select Committee on the last occasion and I know that we devoted many days and produced many good provisions also though experience has shown that some of them were bad. Our experience may show many other things also. I submit for the consideration of the hon. Law Minister that many other points are there which will require to be thrashed out in the Select Committee.

Take for instance, the question about clause 15. If the hon. Law Minister kindly goes through the history of this matter, amendment of this section alone entitles this House to go into this in a Select Committee and consider the matter. It is a very important matter. It is one of the most important matters that will come up for consideration. This is not the only thing. There are many other matters in this Bill and outside it which must be thrashed out by this House if the House wants that it may have a very good Act to be followed.

In regard to clause 15, we have heard from the hon. Deputy Minister that the law in Great Britain has been changed now and we heard the hon. Law Minister himself on the Prevention of Disqualification Bill. He was of the view that all these kinds of disqualifications should be taken away and every person should be allowed to come into this House. I remember the force and the vehemence with which he pressed this point and the Opposition is also convinced about it. The Opposition and the hon. Law Minister seem to meet sometimes.

Shri Braj Raj Singh: In Calcutta they often meet.

Pandit Thakur Das Bhargava: So, what I submit is that according to the views of the hon. Law Minister, which we respect very much, and according to the views of our hon. friends of the Communist Party, who gave expression to these views at the time of consideration of the Prevention of Disqualification Bill, there is ample proof of the fact that everybody as a matter of fact is anxious that the disqualifications may be as few as possible.

When we enacted the original Act of 1950 and 1951, the hon. Law Minister was not present. Dr. Ambedkar was there. Previously, the proposed provisions were very wide and would not admit any commercial man or any man of business to come to this House

[Fandit Thakur Das Bhargava]

because we had a sort of apprehension that when these persons come they may influence the Ministers to do this or to do that. Even that was watered down and ultimately we accepted the provisions of the Act of 1951. After that now we know that so far as Great Britain is concerned, some provisions existed in the Great Britain Act also. They have cast those provisions away. They have taken away those provisions. I fail to understand really whether it will be wise to keep these provisions at all.

If you look at the proposed amendment, it reads like this:

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

Now he wants to substitute this. What would happen when the new proposal of our Government to have this trading in grains—wholesale dealing and then retail dealing by these licensees etc. throughout the country—materialises? It means that every person, every trader and every shopkeeper of grains will be a person who will be participating in some kind of a contract. He will be performing some duty which has been undertaken by the Government. My humble submission is that almost all traders will directly or indirectly be connected with the Government.

Apart from that when I think of the socialisation of all the industries, as is proposed by our Communist friends as well as by some hon. Ministers of the Government, I should think that in regard to all industries it is likely to happen that private trade will not have the role which it has got at present. So, you will be disenfranchising a large number of people so far as membership of this House is concerned.

If you examine the argument which is at the basis of this provision, you will simply find that this is not tenable at all. Suppose there subsists a contract entered into in the course of his trade or business. That means that that an individual contract even on merits will not disqualify a person. It must be a contract entered into in the course of his trade or business. So, he must be a person in business. Any person who takes one or two contracts may not come within the purview of this section.

Then again it must be subsisting. For instance, if on the 3rd March the election is to take place or nomination is to take place and if, suppose, the contract was so timed that it will finish in April, then the elections will be over, the contract will be over but the man will be disenfranchised for all time.

Then, suppose a person enters into a contract with another person. What happens? One person does his part of the duty. What is the influence of the one over the other man? Why should that man not be allowed to come to this House if it is a contract with another person? It is quite true that he stands to gain by it. I can understand that according to our rules that person will not have the right to vote if he is personally interested in any matter. No person can vote if he is interested in any matter which is a subject matter of the Act or isolate. So far as contractual capacity is concerned, contract by itself is quite apart from holding an office of profit. If by holding an office of profit any person is going to be disqualified, generally speaking, so far as contracts are concerned, I do not see any justification why a person should be ineligible.

Then, there has been so much law on this subject. So many election petitions have gone to the Supreme Court, and the High Courts and various rulings have been given which are not reconcilable with each other. For instance, at the time of contracts, any

person having a licence or any person with a depot etc. was disqualified according to some courts whereas other courts said that he was not disqualified.

Then, take the case of execution of any works undertaken by that Government. The hon. Deputy Minister thought that the words 'performance of service' were very vague and he did not understand the full implication of those words. Similarly, I may complain that I have not been able to understand the words 'execution of works undertaken by the Government'. Works may be of different nature. A person who is doing some part of the work may not have anything at all to do with the executive duties of the Government and may not be under the influence of the Government. It may be a small *theka* for executing the building work of, say, Rs. 500, in a District Board or in the Canal Department or anywhere. Why should that person, as a matter of fact, be disqualified? I think we would be acting wisely if we accept the lead given by the British House of Commons when they quashed all these provisions which existed for a long time in that country.

So far as clause 11 is concerned, to my mind, this is incomplete. Suppose there is an application against myself for exclusion of my name and I make a false statement, I am free from the inhibitions contained in section 31. It ought to be as mentioned in the amendment 'exclusion or inclusion'. This is a small point.

We have been for some time agitating previously about certain other kinds of amendments. For instance, we have been submitting to this House that there are a good number of election petitions—last time it was 300; I do not know how many were there this time—coming up to 1 per cent of the total number of persons elected. It is not in every election

that the question of accounts arises; it arises only in a very few cases. When the previous Bill was there, I submitted a note to the House. I submitted that so far as these accounts are concerned, most of the accounts, I am bold to say even now, are not such as the law countenances. Does the hon. Minister know how to keep regular accounts—*khata*, cash book, day book and all the five books. Then, again, in the stress of elections, nobody writes his own accounts every day. It may happen that many persons, and also in the case of our leaders, may be receiving help from many quarters from other places, from other States. Persons may come and their expenses may not be shown. I have yet to know of any very great leader of eminence who has given, as a matter of fact, an account which, I will not say was not false, but at the same time, which really not only countenanced, but also fulfilled all the obligations given in our rules. Regular accounts means, every day, the accounts must be gone into, must be written, full and true accounts. Even if mention of a four annas is not there by mistake or inadvertence, it will be not correct. I know of one hon. Member of this House in whose case, because the expenditure of a telegram was not given, his election was set aside. I am glad that at our instance that part was taken away, in which every person had to forswear that the accounts are true. So far so good. At the same time, I do not want that this dishonesty must be perpetrated at all costs. I can understand, you may place the responsibility on every person to keep accounts. That may be so. After all, you have to go before a magistrate and say that the accounts are right or not going to a magistrate, you say that all the accounts are right. When we know that these accounts are not to be produced before any person, there may be no election petition at all. Yet you say that accounts must be kept in the way it is enjoined by these rules. To my mind, this does not appear to be right. In my humble opinion, it may enjoin that a person, may not spend more

(Pandi Thakur Eki Khatgavi)

than a certain amount. I can understand that. Otherwise, it will become a rich man's job and he will be able to do anything. I am in favour of prescribing a ceiling so far as expenses are concerned. I am not in favour of taking off the entire obligation to keep accounts. At the same time, I am against this provision that every person must file his accounts as soon as possible, go before a magistrate and swear to that account or at least write with his own hand, I solemnly affirm that these accounts are true, etc. As soon as an election petition is there, within 15 days, the person can be called upon to put in his accounts and the other party may see these accounts and say that these accounts are not right. If the House is not agreeable to revising the provision about accounts or if the House is agreeable, it should have its say. If it is not agreeable, I can understand that. In one per cent of the elections, there may be election petitions and out of that, in half a per cent, the questions of accounts may possibly arise and the accounts may be gone into if necessary. For that, every person has to go and forswear and put a strain on his conscience that whatever he has written is perfectly true and that the accounts have been kept according to the rules enjoined upon him. This is too much. I would, therefore, like that a provision of this nature which I have already explained in the note may be accepted by the House if the Bill goes to the Select Committee. Otherwise, it cannot be done.

I have seen in the amendments given notice of by hon. Members an amendment to make the voting compulsory. I understand on the previous occasion also, some members had such suggestions to make. I do not know whether it will be justified in the present circumstances. At the same time, every hon. Member should be allowed to have his say and he should be given an opportunity to convince this House that whatever he says is perfectly correct and is feasible. He may

have, perhaps, examples to give from other countries where the trend in democracy is that every person must give vote or account for why he has not given a vote. It may be so. Therefore, not to give an opportunity for all these Members, I should think, is not just. Whatever the Law Minister might say, I would request the Members to show by their speeches and not to agree to what the Law Minister says, if they are of the view that the entire matter should be gone into in the Select Committee. After all, the Select Committee is not the business of the Law Minister alone. It is the business of the whole House. We must pass this motion for reference to a Select Committee if we think that the interests of the country will be furthered by having a Select Committee, when the hon. Minister in charge of the Bill has viewed our motion rather with sympathy.

In regard to elections, on the last occasion when we considered the question of the forum by which election petitions should be decided, we suggested that the District Judge is the proper authority to go into the matter. I do not know what is the experience of other Members. I know, for instance, that it is not right to give this power to the District Judges in the District Courts. These are big powers. This has not worked well. I am anxious that this matter also may be gone into by the Select Committee, and some other way suggested out of the difficulty.

I find that so far as bribery is concerned, opportunity has been taken to amplify the provision in regard to some other matters of controversy also and amendments are being made. Apart from that, I want other Members should be allowed to put in their amendments. I think even the provisions which are contained in this Bill are such that they require discussion by many Members rather informally at a Select Committee. If we are not going to have a Select Committee, my humble submission is this. You pass ordinary Bills. This Bill is not a

Bill of that nature. It is absolutely necessary, to my mind, to see that all the suggestions which are made by various Members and various bodies in the country are taken into consideration. Shri Naushir Bharucha has placed before us his motion about this Bill being sent to the country. If the Select Committee is not appointed, I would be rather agreeable to recommend to the House to accept his motion. After all, it is the country which should decide what is to be done. It is quite true that so many Members of this House have full experience of the elections. They are the proper persons to judge. If the Bill goes to the Select Committee, that would be good. If the Select Committee motion is not accepted, I think Shri Naushir Bharucha's motion must be accepted. When a Bill of this nature comes, we must know how the country thinks it affects each one of them. There are new proposals about identity cards, indelible inks, how to vote, on the same ballot paper or different ballot papers. These are matters in which every person is interested. The country should be allowed an opportunity to express its views before the Bill is passed. In the absence of the motion for reference to the Select Committee, I would appeal to the House to accept the motion of Shri Naushir Bharucha.

Shri Kastura Iyer: Of course, I have no objection in accepting all the names which my hon. friend Pandit Thakur Das Bhargava has mentioned. While moving my amendment that this Bill be referred to a Select Committee so that it may report to this House, let me not be understood as opposing this Bill.

After reading the Statement of Objects and Reasons appended to the Bill, I have been led to believe that there is a good intention and spirit behind the Bill, particularly, with respect to certain amendments that have been proposed, which, according to the framers of these amendments, as a result of the experiences that

have been gathered in the light of the recent elections. But only the spirit in which the amendments are proposed is beyond reproach or is welcome or laudable.

So far as this Bill is concerned, we are not concerned with the good spirit or the laudable motive behind it. I am confessing a sort of disappointment on seeing how the good spirit and the good intentions are sought to be implemented by these amendments in their present form.

Broadly speaking, this Bill seeks to introduce certain amendments for the purpose of doing away with certain inaccuracies that have been felt during the course of the working of this enactment during the recent elections. According to the Mover of the Bill, these inaccuracies take the following forms. Firstly, there are impersonations; and secondly, the names of dead persons or persons who have ceased to have their ordinary residence at a particular place have been continued in the electoral rolls.

Clause 9 seeks to empower the electoral registration officer with the power of deletion or correction. I may submit the entire clause itself for the consideration of the House:

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

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

- (a) is erroneous or defective in any particular,
- (b) should be transposed to another place in the roll on the ground that the person concerned has changed his place of ordinary residence within the constituency, or

[Shri Saswara Iyer]

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

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

This is the new section that is sought to be introduced in place of the original section 22. On a reading of this section, it would appear that the electoral registration officer has been given unguided power to make deletions or transpositions even on the application of anybody other than the person who wants the deletion or the transposition. Leave alone the question of the dead. When it comes to the question of a living person, if somebody puts in an application, that the names of a hundred or two hundred persons may be deleted, then the electoral registration officer may either, *suo motu*, or on the application of any person, delete their names or make the transpositions, at any time he so chooses. There is no time limit within which he could act. The result will be, assuming that there is a case of a perverse electoral registration officer, he can exercise his power under this Bill to delete or transpose the name of any person, in fact, not only of a particular person, but even of the candidate for the election even after his nomination paper has been filed. This section does not even allow the elementary principle of reasonable opportunity that should be given to the person whose name is to be deleted for being heard before any action is taken. Of course, my hon. friend might say that we may take consolation in the fact that the section prescribes that this power is always subject to the general or special directions of the Election Commission, and,

therefore, the matter is in the capable hands of the Election Commission. Without in any way belittling the integrity or capability of the Election Commission, I would respectfully submit that to leave matters in the capable hands of the Election Commission is not only not desirable but is not safe.

I have absolutely no quarrel with the Election Commissioner exercising the powers. But to say that it is subject to the general or special directions which he may choose to give, and then leave it in the mid air is a thing to which I am very much opposed. If my hon. friend says that the Election Commissioner is very capable, and we can entrust him with all these powers, certainly, I shall have no quarrel with that. But then, why should we have this Representation of the People Act, 1960 with all these procedures? We could have one section wherein we can say that 'For ensuring a fair and good election that may be conducted, we invest the Election Commission with all powers, and with powers to make rules for the purpose'. Why should we have all these statutory safeguards? The necessity of statutorily safeguarding the rights of millions of voters who have to exercise their right of franchise is, I need not point out, always accepted by all the modern notions of election law. I am not saying that this section should not go into the Act at all. Certainly, the electoral registration officer might have some power of deletion or transposition. But the question is how he is to exercise it.

My hon. friend the Minister would say that it is always subject to the well-known principles of natural justice. There is no use of my hon. friend's saying that it is subject to the well-known principles of natural justice that no person shall be condemned without being heard. But where is the statutory safeguard for

this? Why can't we introduce a statutory provision in this behalf? I have given notice of an amendment for this purpose.

Shri A. K. Sen: We shall accept that amendment, because it is implicit. We have no objection in accepting that amendment.

Shri Easwara Iyer: It is not a case of my moving my amendment only. I am raising the question whether this Bill should be referred to a Select Committee or not.

I am pointing out certain defects which are inherent in this amending Bill, which must form the subject-matter of discussion by all political parties and by all persons. This is not a case where any particular party is interested in the Bill, as my hon. friend might say. I am only pointing out one defect which came to my mind at the moment, on a *prima facie* scrutiny of this Bill. More may occur to me, when there is a cool deliberation without any excitement. There is no use getting excited or being indignant over this. I am only pointing out one defect which occurred to me.

The next clause that I would deal with is clause 7 which reads:

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

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

- (a) is not less than twenty-one years of age on the qualifying date, and
- (b) is ordinarily resident in a constituency,

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

A new definition is being given. The original section is to be substituted by a new section which enables

any person of twenty-one years of age and who is ordinarily resident to be enrolled. Certainly, it is a welcome amendment. But the dangers inherent in it are there.

The original section 20(1) defined 'ordinarily resident' as any person having possession of a particular dwelling house or owning a dwelling house. That is now given the go-by. On reading the notes on clauses, I find that there is a complacent belief that there are sufficient safeguards existing in the common law or any other law to define who is ordinarily resident. But I am not so confident as the framers of this Bill in finding out what is 'ordinary residence'. Does it mean residence in a particular place? Does it contemplate living inside a house, hut or a shop, or a shop verandah, or a roof over the head? There are persons who might be passing their days in a hotel room continuously for a number of years in a particular locality. Are they not ordinarily resident there? There are persons who have been pursuing their avocations in life, working, begging or doing nothing in a particular locality. I am only suggesting the possibilities. Are they ordinarily resident, or are they not ordinarily resident therein just because they have not got a roof over their head?

Of course, the common law definition of 'ordinary residence' is there. The hon. Law Minister might say that anybody having a temporary or fleeting *sojourn* in a particular locality is not ordinarily resident. But there is no use of depending upon these legal jargons. Let us have a definite position as to who is ordinarily resident in a particular locality. These are very ticklish problems. It is not that I am capable of giving an immediate answer to these things. These are matters which every representative of the people must discuss, deliberate upon, and then a conclusion must be arrived at. That is why I have moved a

{Shri Easwara Iyer}

motion for reference of this Bill to a Select Committee.

There is another point. Take, for example, the issue of identity cards. Clause 25 postulates the necessity of issue of identity cards with or without photographs. I am not questioning the need for issuing identity cards. It is a very ideal position. It is a thing which may be desirable, but the question is whether it is feasible or practicable. Can we supply 200 million voters with identity cards with photographs, leave alone the question of expenditure that may be involved, to the tune of about Rs. 15—20 crores? 'Identity cards with or without photographs'—that is the expression used. Suppose we issue identity cards without photographs. Does that in any way minimise the chances of impersonation?

An Hon. Member: It does.

Shri Easwara Iyer: I am not quite sure about it, though my hon friend says that it does. Even for Members of Parliament, identity cards without photographs were given at one time but I do not know why a change came in none. I do not want to comment upon that. If identity cards are to be issued with photographs, what about those persons who may be coaxed or cajoled or even implored to come over on election day to exercise their right of franchise but who are superstitious or have religious or sentimental objection to their photographs being taken and they do not want a permanent record of their faces, handsome or ugly? There may be cases of women in purdah—Muslim and Hindu—who may have every objection to their photographs being taken. They may have no objection to exercise their franchise by going to the polling station and voting. These are all matters that have to be considered. For my part, I would say that if it is feasible to give all the electors in this country identity cards with photographs, it certainly reduces the

chances of impersonation. But the question is whether it is practicable. Therefore, I have tabled an amendment saying that identity cards with photographs may be issued, but the procedure will not be adopted until the Election Commission is satisfied that all electors are issued such identity cards. This is a suggestion I am making for the consideration of the Law Minister.

These are all matters we must consider seriously before we come to the conclusion that after all this amending Bill is very simple and it requires no consideration, and therefore, it must be passed. I respectfully submit that in matters like this where the right of millions of voters to exercise their franchise—it is a very valuable right—is involved, where we are seeking to invest the authorities with more powers, where we are wanting to drive the thin end of the wedge by introducing identity cards, we must let the people express their opinion. I am not saying this as a criticism, but suppose it is said in criticism that by saying that identity cards with photographs will be issued to all electors, you are driving the thin end of the wedge so far as adult franchise is concerned; because only those persons who are literate or educated may come and claim their identity cards. Certainly, this may be a criticism that may be levelled against us. I am not saying that it is a good criticism. But certainly these are all matters which have to be deliberated upon. So the provisions introduced in this Bill are matters which should be considered more seriously.

Then I come to section 7(d) of the Representation of the People Act, 1951. I must confess to a certain amount of bewilderment whether the proposed amendment constitutes an improvement upon the original provision. That is a matter that is not beyond doubt. The proposed amendment says:

• "If there subsists a contract entered into in the course of his

trade or business by him with the appropriate Government for the supply of goods to, or for the execution of any works undertaken by, that Government".

Of course, they say that this is intended to do away with any harm that may come to any person who may enter into a fleeting contract with Government, say, for radio talk—in fact, the Notes of clauses refer to radio talk. But I do not know what is the position of a lawyer who is engaged by Government, because what does the provisions say?

"If there subsists a contract . . . for the execution of any works undertaken.."

The Minister might say that the employer-employee relationship may not subsist between a lawyer and his client. Certainly I agree. But is it not a contractual relationship? If the work undertaken by a lawyer for Government is hit by this provision, does this in any way improve the position? I am only citing the example of a lawyer. So that it is not an improvement on the original provision and the results which are expected to follow by this amendment will not follow.

We are really glad that some of the suggestions given by Shri Tangamani in his private Bill providing for contingencies where the candidate retires are accepted. This is welcome improvement upon the Act.

As I said, the spirit and the intention by which this Bill is brought forward admits of no quarrel, but when it comes to the question of implementation of these provisions, dangerous and explosive results might follow, and in order to avoid all these things, I would respectfully submit that the Law Minister might agree to reference of this Bill to a Select Committee for discussion and deliberation lest we should be faced with the charge that we have passed a Bill affecting the rights of millions

of voters in a hurry. As we know, the election machinery must be free and fair and we must keep the springs of democracy active and unsullied so that it may be a credit to the nation.

Shri Naushir Bharucha: The two hon. Members preceding me have in a large measure justified my motion for circulation of the Bill for the purpose of eliciting public opinion by the 1st February, 1959. The hon. Minister in charge of the Bill has given the reason that because the qualifying date has to be advanced, there is urgency of the Bill. If that were so, I would appeal to him to bring that particular clause only now for adoption, and then bring in a more comprehensive measure.

I for one am not satisfied with it. If for ten years revision of electoral rolls could be carried on somehow or the other without revision, adding a year more to that is not going to make any material difference. The two previous speakers have shown to what large extent the implications involved in the amendments will affect the various people, apart from the candidate themselves. I shall only deal with three or four major points to bring out what is intended by my motion for circulation.

The first is about clause 15 which relates to the mischief of section 7(d). In so far as it goes, I fully approve of it. But if you are removing a disqualification, as intended in the Statement of Objects and Reasons, such as that consequent on a Member having gone and given a radio talk on payment, it is very necessary that you should insert another clause side by side to the effect that this particular clause shall be deemed to have been there in the original Act, so that retrospective effect is given to it; otherwise, I do not know—I cannot say—how many Ministers have already incurred a disqualification if it be held that a radio talk on payment is a disqualification. It is therefore necessary that retrospective effect should be given.

[Shri Naushir Bharucha]

The second point is: Are you sure that having amended sub-clause (d), in this particular form, we have overcome all the difficulties? I am not quite sure. Nor am I prepared, on the spur of the moment, to give out a draft which would satisfy all reasonable eventualities.

My hon. friend Shri Iyer speaking on this said that probably a lawyer appearing on behalf of Government, accepting a brief on behalf of Government would come within the purview of that clause. I do not think so because performance of a contract for execution of works is not the same as appearing on behalf of Government. There may be other cases which might specifically be brought within the ken of this amendment. But I for one have always been of the opinion that whenever a question relating to disqualification of hon. Members comes, the ultimate authority for decision must be given to the court; let it come to a conclusion as to whether in its opinion the contract or the influence or honour attaching to any office or any remuneration received is of such a trifling character that an ordinarily prudent man would not be influenced in his judgment or in his duty as a legislator. Then, I think, notwithstanding that being a disqualification the court can say that it is not a disqualification.

If we see the Bill as it stands, on page 6, 'bribery' is defined. It is said—

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

a person to stand or not to stand as, or to withdraw from being a candidate at an election;"

Even if I talked to a 'rival candidate over a cup of tea and refreshments, it

might be held that this is bribery and I am inducing him to withdraw from the contest. These things require to be considered carefully. Therefore, you should, as I said, have an omnibus clause which entitles the court or the tribunal to pronounce an opinion. If it comes to the conclusion that the bribery or illegal gratification or any other consideration which entails this disqualification is of such a paltry and trivial nature that in the ordinary course any prudent man would not be influenced in his conduct by that, then, in that case, the court should have the power to say that it is not a disqualification. Unless you have that safety valve, I am afraid there might be cases in which, on petty things, one may get tripped and may have to forfeit his seat. So far as (d) is concerned, I lay stress on this.

Then, it is proposed that section 8 should be repealed. Clause 16 says that clauses (c) and (d) of subsection (1) shall be deleted and subsection (2) shall be omitted. Section 8 of the 1951 Act relates to savings from disqualification. If you omit these two sub-clauses (c) and (d), I do not know how exactly it will help Government. I am of opinion that this question requires very thorough consideration.

Then, I come to the next important point, about clause 21, which amends section 52 regarding the death of the contesting candidate. I have always felt that there should be a limit so far as the death of the contesting candidate during the course of the election is concerned. The limit should be that if he dies prior to the date of withdrawal, then only fresh elections should be ordered. What happens actually is this. Unfortunately, a rival candidate dies and all the remaining contesting candidates have to go through all the expenses and the entire election has to be started afresh with nominations. Why can we not avoid that? It might be argued: what is that section of voters to do if a candidate put up by them dies? It

might be a misfortune and the constituency might have to put up with it. But I am of the view that just because on the eve of the polling day the candidate dies the election should not be stopped. That entails inconvenience not only to the entire constituency but also to the candidate who has got to start his election expenses afresh. This point also requires to be looked into. That is why I have offered the suggestion to send this Bill for eliciting opinion or to send it to the Select Committee. These are very useful suggestions and should be accepted.

Then with regard to the question of voting by post, as regards Ministers and government servants on duty elsewhere than their constituencies, I do not know how far the amendment is going to help matters because unless a Minister specifies his intention at least a week before, how is the ballot paper to be prepared and sent to his place? Take, for instance, my hon friend who comes from Calcutta and his name is included in a particular constituency there. He happens to be at Bangalore and he does not know whether on the polling he will be there or not. He wants to vote at a particular place. How is that going to happen because the polling officer of that place may say, 'I do not know you; your name is not here' How is that difficulty going to be overcome? That has to be looked into.

The reason why this clause was incorporated was that the election machinery has got to be sure whether the particular man will vote so that his ballot paper may be sent to that particular place. All these things require to be considered; and that is another argument for sending the Bill to a Select Committee.

Then, I come to the most fundamental provision about identity cards. This suggestion can be implemented only in the case of cities. My hon. friend, Shri Iyer, was right when he said you cannot issue these identity cards in the villages. The scheme

may be implemented in cities where the total number of cards required would be 60 or 70 million. It reduces impersonation in many ways provided the identity card contains certain specific information.

I am suggesting to the hon. Minister to consider the desirability of killing two birds at one stone. If the State is going to incur the expenditure of issuing identity cards, let them be issued in the same form in which the candidate issues voting slips to their voters. Therefore, I was suggesting that the identity card may be a card containing the elector's name and address together with his number in the relevant electoral roll, the number and the page in which his name appears, description of the constituency and address of the polling station where the elector has to vote. Probably, the last thing may not be feasible; I can understand that. If this is done, what happens? All the candidates are saved the trouble of sending out voters' slips. And, the advantage of it is this, that if they are distributed through a government agency, then, even assuming for a moment that somebody wants to impersonate, he will have to approach the man and obtain his card or he may have to pilfer it or get it by some unfair means or other. Normally, the presumption is that a man is responsible for his card until he shows that it was pilfered or taken away in circumstances beyond his control. Therefore, it will require two men to effect one impersonation. Today what happens is that even where a person does not want to co-operate with the impersonator, a man can go to the polling station and give his name as the voter's name and cast his vote, so that when the genuine voter goes, he finds that his vote has already been cast and he has no effective remedy. It is no use saying that he can make a complaint so that his vote is recorded separately and afterwards it may be taken into consideration.

I am, therefore, suggesting that if the State issues identity cards in this

[Shri Naushir Bharucha]

form, the candidates will be saved the bother of issuing them. After all, whatever expenditure a candidate incurs is also a part of the national expenditure. If this is done, impersonation will be minimised in several ways. In the first place, it is very difficult for a man to part with his own card. Secondly, he will understand that if he parts with his card, he incurs the liability of being held as a co-accused with the man trying to impersonate or of abetting impersonation. If such a card is given, then every voter knows exactly that he has got a right to vote. He has been reached and he will naturally be induced to go personally and vote. I am deliberately saying that age should not be mentioned in this card. Often it may happen that a man who comes to acquire a card by unfair means does not know who the rightful owner of that card is and age might be one way in which he could be detected. That brings me also to another question. In our electrical rolls, along with the names, the ages are also mentioned. It is a wrong thing. The age should not be mentioned. It should be kept separately in the original application and it may be used as a test check.

16 hrs.

Today our experience, at least in Bombay city is this. When an impersonator goes there, suppose he wants to impersonate for A. He finds the age of A to be—let us suppose—30. So, the gang which organises impersonation will find out an impersonator round about that age. If the age is not mentioned in the electoral roll, the man would not know whether that particular voter is 30 or 60. If that information is supplied to the ballot issuing clerk, he will immediately be able to check it up.

These are the various ways in which fraud can be minimised. Nothing can be fool-proof and knave-proof. But the issue of these identity cards would certainly minimise impersonation to a large extent and also save the candi-

dates large expenditure to which they are put. But there is one difficulty about the issue of these identity cards. Even if you confine it to cities, the difficulty would be there. You will have to issue round about 60 million cards and they will have to be issued in a comparatively short space of time of about 15 or 20 days prior to the polling day because until then it will be extremely difficult to mention the polling station and other things, their location, etc.

These are various matters which require to be considered by a Select Committee. Nobody is prepared to offer off hand advice one way or the other. There are numerous other reforms which require to be incorporated in this Bill. For instance, take the matter of voting, and the issue of one ballot paper and asking the voters to put a cross. By far a large number of people does not know how to hold a pencil; they have never held a pencil in their life-time and so they can not put a cross. Can we not find out some fool-proof remedy? Instead of putting a cross against the name of the candidate, he can be asked to punch a hole say, with a thorn or sharp point. It is a very simple thing and there is no question of using a pencil. Things like that could be thought of and incorporated.

It is very necessary that the experience not only of the hon. Members but the public outside, political organisations which have fought and lost the elections who have learnt lessons from the bitterness of loss—all their experiences can be got and a comprehensive Bill can be brought forward in this House. I would, therefore, appeal to the hon. Minister to consider the amendment for circulation for eliciting public opinion. Or, I would support even the amendment for referring it to a Joint Committee.

Shri D. C. Sharma (Gurdaspur):
Sir, I should be pardoned if I say that this Bill is one of the Bills of the highest magnitude which this House

has been called upon to consider. Of course, other Bills are important but I believe no Bill affects numerically, politically and ideologically such a large number of persons as this Bill does. It affects not only the fortunes of those who have the good fortune of being elected to various assemblies and the Lok Sabha but also the fortune of those who do not get themselves elected to these bodies. I, therefore, think that this Bill should not be dealt with in a half-hearted fashion. This Bill should be given the utmost consideration and we should be asked to pool our experience, of the happy kind and also of the unhappy kind, so that we can make this Bill as good and as effective as possible.

All the persons who are present in this House now and even those who are not present have gone through the elections and I believe that all of them have suffered from the mischief of some of the clauses given in the original Bill. As I look at this Bill which has been brought forward today, I feel that the amendments which are proposed in this Bill are done without taking due note of the realities of the situation, without paying any heed to the experience that we have gained all these years by means of elections. I feel, therefore, that we should subject the whole Bill to a thorough examination and not only a few of the clauses of the original Bill.

Now, I would not mind if Shri Bharucha's amendment is accepted because I know in this matter, the elected persons, the defeated persons and the voters are all co-partners and I believe sometimes the voter may have much more to say on this subject than even the person who has been elected. After all the voters are more in the thick of the fight in some respects than even the candidate at the time of the elections. I would not mind that because I think that by doing so we would be able to bring forward a Bill which capitalises the experience not only of the Members of the Lok Sabha but also of the voters.

But, perhaps it may be objected is on the ground that it will take more time than the Ministry can give. But I do not see any objection in referring this Bill to a Joint Committee. We have now had the happy experience of having consultative committees attached to every Ministry. My feeling is— I submit it very respectfully—that before any Bill is brought forward and particularly whenever a Bill is of a very important kind, that Bill may be discussed with the consultative committee. I think the Members of the consultative committee are also Members of the House and they may be able to give some suggestions. But the discussions in the consultative committee will not obviate the necessity of placing it before the Joint Committee. I do not say that the consultative committee should be a substitute for Joint Committee. But, I think that most of the Bills which are not of such importance as this Bill can be referred to consultative committees before they are brought forward in this House. Therefore, I would submit that there should be a unanimous vote in favour of the amendment put forward by Pandit Thakur Das Bhargava or my hon. friend, Shri Easwara Iyer.

I would also submit that the whole problem of election petitions requires re-thinking. We know how the election petitions are filed. We also know how they are decided. We know how sometimes people run the mischief of these election petitions due to something for which they have been partly responsible but are not fully responsible. Therefore, if other sections of society require protection at the hands of Government, I believe, Sir, that Members who have been elected to Lok Sabha and State Assemblies also need the protection of Government. One way of giving them protection is that the law relating to election petitions should be made as precise, as definite and as devoid of mischief as possible. Therefore, that aspect of the matter should be reconsidered. I will, for instance, put a problem to the

[Shri D. C. Sharma]

hon. Law Minister. A Member of Parliament has to work in harmony or in collaboration with some members of the Assembly. Now, what is going to happen? Is he going to share the expenses with the members of the Assembly. If he is going to do that, in what way is he going to do that, what is going to be the procedure? That is one problem. Then, so far as the election agents are concerned, what is going to be done? I think we should give definite categories of those persons who can be appointed as election agents, because I know that some persons have suffered only because of ignorance of these things. Therefore, if there is one Bill where there is need for precise definition, for precise enunciation of policies and of measures, I think it is this Bill.

Again, we know that mostly these election petitions are given over to District Judges. They are all admirable persons and I have nothing to say against them. They do their duties very well. But I feel that when an election petition is filed, it is very often a *bona fide* election petition and very often it is not. So many things come into play when election petitions are filed. Therefore, the election petition should be decided by a person who is as far removed from any kind of political pressure as possible. Therefore, it has got to be thought out whether election petitions should be handed over to District Judges or to functionaries of a higher kind.

Then I come to the question of accounts. I thank the hon. Law Minister for having simplified the accounts to some extent. The Bill which we are seeking to amend today was a great improvement upon the Bill which was there. But even now, I should say, you have to protect us against the cumbrous, elaborate and exacting duty of keeping these accounts in the fashion which is prescribed. It is because we cannot campaign for our election, fight for our election, tour our constituencies and, at the same

time, become accountants of ourselves. These two things, accountancy and campaigning, cannot go together. If you think that these two things can go together, I think we are asking for something which is not possible. Therefore, whereas the element of campaigning may be maximised so far as elections are concerned, the element of accountancy should be minimised and should be made as simple as possible. I know some of our friends get into trouble only because of some little accountancy defect here and there. All these things have, therefore, to be taken into account.

But the most difficult thing is this. Of course, I should say that we have no hand in it. But, Mr. Deputy-Speaker, I would plead with you, I would request you, Sir, that we should be saved from the vagaries of the Delimitation Commission. You go to sleep one day thinking that you belong to a particular constituency, but you wake up the next morning to find that that constituency has vanished. This is the sort of thing that has been happening. I should suggest to the hon. Law Minister that he should do something so that the delimitation of constituencies does not remain such a sacrosanct thing. I can speak from personal experience that the constituencies which we nursed for five years, the constituencies which we toured for five years, the constituencies for which we worked for five years, disappeared in thin air on account of the whims and vagaries of some persons. I do not know who those persons are: they may be admirable persons; but I submit that we Members of Lok Sabha and State Assemblies should be protected against this kind of thing. For instance, Sir, one day I went to sleep thinking that I was going to represent Hoshiarpur, but the next morning I found that the Hoshiarpur constituency had changed in such a way that for a man like me there was no place in Hoshiarpur constituency. How did that happen? Why did that happen? Of course, I do not attribute any motives to anybody; but it did happen.

I had nursed that constituency for five years, and one fine morning I found that that constituency had changed its character. Therefore, Sir, you should protect us against these geographical contingencies which the Delimitation Commission brings on us.

We are giving, I believe, too much power to the electoral registration officers. Of course, we are also trying to say that if they go wrong we can also punish them. To some extent that is true. But why do you place an officer in a contingency where you think he may err, where you think he may be liable to punishment, where you think he may not act according to the best interests of the public? I would therefore say that the electoral registration officers and the assistant electoral registration officers should be given very simple things to do, and they should not be invested with judicial and magisterial powers to remove persons, to do this and to do that. I believe, thereby you are making those persons something which will not be conducive to the smooth running of democracy.

Sir, much has been said about clause 15 which replaces Section 7^e of the 1950 Act. Here it is said:

"If there subsists a contract entered into in the course of his trade or business by him with the appropriate Government for the supply of goods to, or for the execution of any works undertaken by that Government;"

I know, Sir, this is much better than what we had before. We have to define "works". The clause says, "...or for the execution of any works undertaken by that Government;". What kind of work is this? For instance, if I am asked by the Sahitya Akademi to translate a book into say Hindi or Punjabi or English, I think that is the execution of a work. If I am asked by some other body to write a report or to do something else and get some little honorarium for that, that will also come under the mischief of this clause.

Therefore. I think that whereas the first part of this clause is drafted very well, the second part, namely, the "execution of any works" is very vague. It is very difficult and very hard to define.

And then, "take the words "by that Government". You know this word 'Government' has become a mammoth thing. I do not think there is any aspect of our life, big or small, which is not covered by Government. For instance, what are the Corporations? what are other similar bodies? They are all Governments for this purpose, I believe. Everything under a welfare State, a socialist State, comes under the definition of "Government". Therefore, we should try to define what type of Government is meant here—whether it is the executive Government or some other Government. Hence, I think that even here there is need for clarification.

Much has been said about the identity cards and photographs and all that. I have a little experience of university life, and I will submit very respectfully that in every university we have large numbers of private candidates taking the examinations. I would also say that among those private candidates there are cases of impersonation. I would also say that among those private candidates there are some cases of unfair means. Both the things are there. But I would say that these cases of unfair means and impersonation occur even when every private candidate is asked to send his photograph along with the application for sitting in an examination. Now, if there can be an impersonation in an examination which covers a few thousand persons, in spite of the fact that the university office has had that gentleman's photograph and everything, I do not see any reason why there should not be an impersonation when you are dealing with crores of people, human nature being what it is. Therefore, I say that this kind of identity card business, this kind of photograph business, should be done away with.

[Shri D. C. Sharma]

In the first place, we are short of raw film these days. I find accounts in the newspapers where the photograph sellers are saying that films should be exempt from any duty, and they are saying that their goods are also in short supply. All that complaint is there. We are not giving them that amount of film which they require. Members must have seen accounts of that in the papers. On top of it, we want that every voter should have a photograph and every voter should have an identity card. I think an identity card without a photograph is futile and is useless. But an identity card with a photograph is no guarantee against impersonation. I therefore think that this provision should be done away with.

Mr. Deputy-Speaker: The hon Member's time is up. He has already taken about 25 minutes.

Shri D. C. Sharma: Two minutes more, because I am coming to a very important point. I refer to clause 34 where corrupt practices are referred to, such as "any gift, offer or promise by a candidate or his agent or by any other person . . ." etc.

Suppose I go about campaigning and I offer something to somebody without knowing whether he is such and such a person or not; or I ask somebody to come in, or somebody jumps into my jeep when I am going away. All these things will come under the mischief of this clause "Any gift, offer or promise . . ." Not only that. It is "by a candidate or his agent". Do you mean to say that the agents, say, of the Lok Sabha Members should be put in here? Are they our relations or are they are our kith and kin? We do not know them. Therefore, that has to be clarified. Further, it is said, "...by any other person". My God! This is a clause which is fraught with the greatest mischief. These things have been put in as if we are not ourselves there to incur the disqualification! Agents have been

mentioned. How many agents do we have? I think I had about 400 or 500 agents. Anyhow I say that these agents are all of my creation. Take again, "any other person". So, any person can create trouble for us. Hence, I say that this "any other person" should be taken away from the clause altogether.

I submit respectfully that this problem requires rethinking, a rethinking in a very detailed and comprehensive manner, a rethinking in a manner which will protect the elected members and which will also give due assurance to the electors who elect them.

Shri L. Achaw Singh: Mr. Deputy-Speaker, Sir, my motion is for reference of the Bill to a Select Committee. First of all, I would like to submit that the Bill is a very controversial one. It refers to several sections of different enactments. The major enactments are of course those of 1950, 1951 and the second amendment of 1956. There are also some minor amendments introduced and enacted in 1956. The enactment here as well as the amendments already made seem very confusing and complex. It was expected that the Minister in charge would introduce a very comprehensive Act and that all the other enactments would stand repealed by that comprehensive Act. That is why I have moved a motion for reference to the Select Committee. In that case, it will be possible for the Members of the Select Committee to study thoroughly all the various aspects of the Bill and also suggest improvements so that all those suggestions and improvements may be incorporated in the comprehensive Act.

For example, I want to refer to section 5 of the second amendment Act of 1956. Perhaps that has not come to the notice of the hon. Minister. It refers to the Council of Advisers associated with the Chief Commissioners of Tripura and Manipur. That is no longer necessary now, because there is no question of advisers and

under a wide section of the Act, the provision disqualifies the holders of those offices from contesting any election for Parliament. That is not necessary now. All these things should have been studied thoroughly. The hon. Members who have spoken before me have already laid emphasis on the necessity for reference to the Select Committee. I would, therefore, refer to some clauses of the Bill which are more controversial. They are clauses 11, 15, 16, 17, 19, 23, 25, 32, 35 and also 34. I will take up these clauses and say a little on some of them. Clause 11 provides for punishment for making false declarations, at the time of entering in the electoral roll by persons who want to have their names entered in it and also for breach of official duties by the electoral registration officers. Those who make false declarations are penalized with imprisonment of one year and with fine. The amount of fine or the maximum amount of fine has not been prescribed here. Moreover, the term of one year's imprisonment would be too much. I think six months should have been sufficient. The lacuna is that no amount of fine has been fixed. In the case of officers guilty of breach of duty, there is only provision for fine, but not imprisonment, which also should be there.

Clauses 16, 17 and 18 refer to contract. The ruling party is given powers of conferring patronage in the form of contracts, subsidies and grants. It interferes with free and fair elections. I do not know how some contracts have been included here for disqualifications and some others are excluded. Only two kinds of contracts are included. Contracts are contracts after all and they confer benefit upon the receiver. I feel that anyone who enters into any sort of contract with the Government at the time of election, whether for a number of days or months, whatever the period be, he should be disqualified for that period.

Clause 23 refers to section 56 of the 1951 Act. This section is proposed to

be amended and an eight-hour poll has been fixed for parliamentary and Assembly constituencies. But there is no provision for the Council constituencies. I find there is a vacuum created and it has to be filled. The time-limit has to be prescribed for election to Council constituencies also.

Clause 25 introduces a new system of issuing identity cards. Several speakers have referred to the feasibility of otherwise of this measure. I also feel that it will not be practicable in the case of a vast number of rural voters. Even in the case of city voters, it will be very difficult for the present. So, exhaustive measures should be taken to implement that scheme. This is, of course, a good scheme and we give our support to it.

Clauses 32, 33 and 34 refer to the refund of costs at the time of contesting an election in the Election Tribunal. It extends the period of making applications from six months to one year. I do not find any reason why the time should be extended. They should be allowed to make an application for having their cost out of this security deposit within a period of one year, it should not be extended beyond one year.

15.35 hrs.

[SHRI BARMAN in the Chair]

Clause 34 seeks to amend section 133(1) of the 1951 Act. It includes acceptance of gratification as a corrupt practice. In the 1951 Act there is a list of major and minor corrupt practices and it is good that acceptance of gratification has been included in that. But I feel that it should be thoroughly studied. I find in many cases, people receive some sort of gift or bribe from the candidates. That cannot be detected at the time of the election, but after the election, you will find that in many places some clubs and schools are constructed and some feasts are given. I submit that some stringent measures should be taken to deal with this practice.

[Shri L. Achaw Singh]

I feel that the election procedure should be thoroughly overhauled. Our system of election gives us the opportunity of having a minority Government. The Congress Party has secured only 45 per cent. of the votes polled last time, but they are in power. The system of elections should be changed. The different legislatures and the Parliament should reflect the number of votes polled by the different parties. I find that the rules framed by the Election Commission and by different executive orders are very much discriminatory in nature.

In our case, the delimitation order prescribing a reserved seat for the Outer Manipur constituency has been very much discriminatory to some voters there. About 3,000 voters have been compulsorily included in the list of voters for the reserved seat. They have been deprived the right of choosing their own candidates from among themselves, because they have to vote for the candidate for the reserved seat, who happens to belong to a different community.^a

Under the existing rules, only three parties have been recognised by the Election Commission and given permanent symbols. It has created difficulties for other parties and it has sometimes led to absurdity. For example, in a double-member constituency, one candidate and his running mate cannot get identical symbols and they are at a disadvantage, because they are compelled to frustrate an illiterate electorate with different symbols.

Again, these parties are gifted with a sum of Rs. 8 lakhs in the form of free voters' lists. This is a corrupt practice undertaken by the Government and this fouls the entire election. I will just point out how. The procedure laid down for the recognition of the parties is nothing but discriminatory. Under the existing rules, all that a party has to do for

recognition is to set up a sufficient number of candidates. It need have no organisation, no membership, no committees and no criterion for the choice of its candidates. It can just hold up the next person in the street and give him a label. That is the system prevailing here.

Article 14 of the Constitution guarantees equality before law and equal protection of the laws. Then again, article 326 guarantees adult franchise as the basis of election except in the case of crime or lunacy. If you read these articles of the Constitution, separately or jointly, our procedure and rules are nothing but *ultra vires*. So, I would suggest that the Bill should be referred to a Select Committee, and all the suggestions made by the various hon. Members should be taken into consideration and all the aspects of the Bill should be thoroughly studied.

श्री राम कृष्ण : महापति जी, जो मेरा मोशन है उस का मतलब यह है कि इस बिल को मिलिट कमेटी को रेफर किया जाये, जैसाकि मेरे से पहले बहुत से आनरेबल मेम्बरान ने भी इस तरह ध्यान दिलाया है। इस बिल में बहुत से ऐसे अमेंडमेंट्स हैं जोकि बहुत अहम हैं और उन को एडाप्ट करने से जो मीजूदा ऐक्ट है उस के ऊपर बहुत ज्यादा असर पड़ेगा। मैं खास तौर पर चन्द अमेंडमेंट्स की तरफ ध्यान दिलाना चाहता हूँ।

सब से पहले क्लॉज नम्बर १५ है। यह अमेंडमेंट भी बहुत जरूरी है। इसी तरह क्लॉज नम्बर ३४ है जिस के बारे में मेरे से पहले एक आनरेबल मेम्बर ने भी ध्यान दिलाया था। इस क्लॉज को एडाप्ट करने से यह असर होगा कि इलेक्शन पिटीशन फायल करने के लिये बहुत आसान तरीका बन जायगा और आसानी से पिटीशन फाइल हो सकेगी। इसलिये यह जरूरी है कि इस

बिल को सिलेक्ट कमेटी को रेफर किया जाये ।

इस के अलावा दूसरी बात यह भी है कि बहुत से जो ओरिजनल ऐक्ट के अन्दर सेक्शन हैं उन को अमेड किया जाना भी बहुत जरूरी समझता था। लेकिन इस तरफ कोई ध्यान नहीं दिया गया। मानरेबल डिप्टी मिनिस्टर ने भी इस बात का जिक्र किया है कि यह बिल कमप्रीहेन्सिव नहीं है। इसलिये मैं अपील करूंगा कि इस बिल को सिलेक्ट कमेटी को रेफर किया जाये ताकि श्री दूसरे अमेडमेंट्स भी लाये जा सकें।

मैं से पहले मैं आरिजनल ऐक्ट के सेक्शन ८५ की तरफ हाउस का ध्यान दिलाना चाहता हूँ। इस सेक्शन में दर्ज है •

"If the provisions of section 81, section 83 or section 117 are not complied with, the Election Commission shall dismiss the petition

मैं सीधा मराल आनरेबल मिनिस्टर से करता हूँ कि आज तक कितने पिटीशन डिस्मिस किये गये। मेरी जहा तक इनफार्मेशन है, इस सेक्शन के तहत कोई भी इलेक्शन पिटीशन डिस्मिस नहा की गयी, जिसका नतीजा यह हुआ कि नमाम पिटीशन इलेक्शन ट्राइबुनल को रेफर कर दी गया। जब कि वर्ड "मे" के बजाये "शैल" यज्ञ किया गया है तो क्या कारण था कि उन पिटीशन्स को डिस्मिस नहा किया गया। इससे क्या हुआ? गवर्नमेंट का काफी नुकसान हुआ। बहुत से ट्राइबुनल मुकर्रर करने पडे। जो पिटीशन फाइल होने के एक महीने या दो महीने के अन्दर अन्दर डिस्मिस होने चाहिए थे, हो सकता है कि उनमें से बहुत से पिटीशन्स के मुताल्लिक अब भी हाईकोर्ट या सुप्रीम कोर्ट में कार्रवाई हो रही हो। इसलिए मैं समझता हूँ कि इस सेक्शन को भी अमेड करने की जरूरत है ताकि जो भी पिटीशन इन क्लोजेज के तहत पूरा न हो उसको डिस्मिस किया जा सके। •

इसके अलावा, जहाँ तक इलेक्शन ट्राइबुनल को एपाइंट करने का काल्लुक है, इसके बारे में मैं निफं इतना ही कहना चाहता हूँ कि मैं इस राय से मुताफिक नहीं हूँ कि डिस्ट्रिक्ट जज को इलेक्शन ट्राइबुनल मुकर्रर किया जाये। इसके दो कारण हैं। आपने यह तो कहा है कि जो भी पिटीशन फाइल किया जाये उसका ६ माह के अन्दर अन्दर फंमला हो जाये। मैं मानूँ करना चाहता हूँ कि अब तक कितने ऐसे पिटीशन हैं जिनका फंमला ६ माह के अन्दर हुआ है। डिस्ट्रिक्ट जज को एपाइंट करने से टाइम काफी लगता है क्योंकि उसके पास पहले से काफी से ज्यादा काम रहता है। इसलिए वह पिटीशन्स की तरफ ज्यादा ध्यान नहा देता। दूसरे वह जानता है कि जो कैसेज वर्गेरह करने का उसको क्रेडिट मिलता है उगमे इलेक्शन पिटीशन का काम शामिल नहा होता। इसलिए भी वह उस तरफ ज्यादा ध्यान नहा देता। मेरा यह मतलब नहीं है कि मैं किसी खाम जज या किसी इलेक्शन ट्राइबुनल के बारे में कुछ कहना चाहता हूँ। दूसरी बात यह है कि जो डिस्ट्रिक्ट जज होते हैं वे स्टेट गवर्नमेंट के इनफन्यूएस में होते हैं जिससे कि इलेक्शन पिटीशन्स का फंमला कई हालात में ठीक तौर पर नहीं होता। इसलिए इस सेक्शन को भी अमेड करने की जरूरत है। एक मकसद के लिये मैं ने एक बिल भी पेश किया हुआ है। उसमें श्री भी बहुत से सेक्शन का अमेड करने का जिक्र किया गया है।

इस बिल में सेक्शन ५५ ए० को एक क्लोज के जरिये डिलीट कर दिया गया है। यह बहुत अच्छी बात है, क्योंकि जब से सेक्शन ५५ ए० रखा गया था तब से उसकी वजह से इलेक्शन के अन्दर भी बहुत सी पेचीदगिया पंदा हो गयी थी और जो इन्तिजाम करने वाले थे उनको भी दिक्कत का सामना करना पड़ता था। यह तजवीज बहुत अच्छी है। मैं इसकी तारीफ करता हूँ।

[श्री राम कृष्ण]

लेकिन इसके साथ-साथ धीर भी बहुत से
सेक्सन्स हैं जिनका मैं ने अभी जिक्र किया।
उनको अमेन्ड किया जाना जरूरी है और वह
तभी हो सकता है जब कि इस बिल को मिलिट
कमेटी को रेफर कर दिया जाये। मैं इस बात
को मानता हूँ और मेरा यह खयाल है कि
यह बिल बहुत अहम है। इसका अमर तमाम
देश के लोगों पर पड़ेगा। हम जितने भी यहा
चुनकर आये हैं उनको काफी तजर्बा है कि
इलेक्शन्स के अन्दर क्या-क्या खाम दिक्कतों
आती हैं। इस अपने पिछले नजर्बों की बिना पर
आज हमें यह कोशिश करना चाहिये कि इस
बिल को अमेन्ड करके उन दिक्कतों को दूर
करें। इसलिए मैं इस बात को मानने के लिए
नैयार नहीं हूँ कि इस बिल को अहमियत बहुत
कम है या इसको मिलिट कमेटी को रेफर
करने की जरूरत नहीं है। ये तमाम चीजें तभी
हो सकती हैं जब इस बिल को मिलिट कमेटी
को रेफर कर दिया जाये ताकि वह जब नया
बिल पेश करे तो वह ज्यादा कम्प्रीहेन्सिव और
इग्जहस्टिव हो।

मैं ने इसके बारे में इतना ही कहना था।

Shri Liladhar Kotoki (Nowgong): I
feel that although the amending Bill
is a small one the amendments that
have been proposed in the Bill have
got far-reaching effects, because they
are bringing very many new sections.
Therefore, I feel that it should be
very thoroughly examined and so it
should be referred to a Select Com-
mittee.

As regards the 1950 Act, by clause
9 of the Bill, it has been sought to
give very wide powers to the electoral
registration officer. It should also be
examined more thoroughly as to what
may be the repercussions of this
power that has been given to the
electoral registration officer.

By clause 11, new sections 31 and
32 have been proposed. I find that
the punishment that is sought to be

inflicted upon the voters provides for
imprisonment of one year or fine or
both. That seems to be very string-
ent. Here we have to take into con-
sideration the condition of the bulk
of our electorate.

They are illiterate and therefore it
is likely that at times people may
make certain applications which
technically may be considered to be
an offence under section 31. On the
other hand the officer, who is sup-
posed to be in the know of the law,
has been provided with much lesser
punishment, i.e., a fine which may
extend to Rs. 500 only. If we read
these two sections—the new section 31
and new section 32—together, I feel
the punishment for the defaulting
electors should be much less than that
proposed to be inflicted on the officer
who commits almost the same offence
or a similar offence. In section 32,
this sub-section, viz., that no suit for
damages can be brought in any court
if any officer commits such offences
willingly which may deprive any elec-
tor from exercising his franchise, I
think, should be omitted.

Coming to the 1951 Act, clause 15,
i.e., in sub-section (d) of section 7 of
the original Act, the provision was
that if any individual, whether by
himself or through some other body
of persons, has got any contract with
the appropriate Government, he would
be disqualified. Here in the substitute
sub-section (d), only the individual
who has got any contract with the
appropriate Government is sought to
be debarred. I could not quite under-
stand as to whether the companies,
firms or the corporations who have
got contract with the appropriate
Government and whether the manag-
ing directors or the directors of such
companies or corporations would be
disqualified. Section 8, sub-sections
(c) and (d) of the 1951 Act provided
that those persons who are either
managing directors or directors of such
companies who have got contracts with

the appropriate Government were disqualified. If we accept these amendments and delete sub-sections (c) and (d) of section 8 and also the original sub-section (d) of section 7, then, I am afraid, we exclude the managing directors and directors of companies, corporations etc. from the purview of this disqualification.

Very recently the Parliament (Prevention of Disqualification) Bill was passed. There we have gone even beyond the meaning of article 102 and we have sought to exclude very many companies, corporations and committees of which a Member of Parliament cannot be director, member, chairman, secretary and so on. As I submitted before the House in connection with that Bill, the same thing may apply the other way round and we should see as to whether we are going to exclude the officers, managing directors, directors etc. of companies, corporations and firms who undertake contracts to supply goods or services with the appropriate Government. Therefore, I feel that this clause also should be more thoroughly examined.

Then under clause 16(b), it has been sought to delete the original sub-section (2) of section 8. It provided that the co-operative societies should be excluded from the purview of section 7. Now, here by omitting that sub-section, it will mean that we include the co-operative societies. Therefore, I fail to understand as to what actually we propose to do about the officers of companies, corporations, firms and co-operative societies. By one we take away the exemption given to the co-operative societies and by the new clause we exempt the firms, companies etc. Therefore I feel that this clause also needs to be more thoroughly scrutinised.

Lastly, under clause 25, in the new section 81 provision for introducing identity cards with or without photograph is sought to be made. Here, however much it may be good—I do not know—I apprehend one practical difficulty, particularly regarding the

women voters. It is our common knowledge that amongst women voters we have got quite a large number who observe *purdah*. Therefore, I do not know how this photograph is going to help the presiding officer at the polling station to identify the lady, who observes *purdah*. Whether she has got the photo in the identity card or not, in the practical field that will not be quite useful. I also do not know how people will react to this provision. We know even the marking by indelible ink was resented to in the 1952 election and also in the last election. Therefore I would request the hon. Law Minister to consider whether we should go so rapidly with all these innovations. We have to regard the sentiments and prejudices of the electorate who are mostly illiterate and who are yet to become more enlightened and get used to the innovations.

With these words I again support the proposal made by hon. Members that this Bill should be referred to a Joint Select Committee and that we should examine it more thoroughly.

Shri B. Das Gupta (Purulia): Mr. Chairman, Sir, I hope that the hon. Minister will very seriously think about the acceptance of the proposal for referring it to a Select Committee. The Bill proposes to amend the Representation of the People Act, 1950 and 1951. The 1950 Act deals with the electorates and the registration of the electors, and the 1951 Act deals mainly with the conduct of elections. Both these Acts are very important, I think, in our national life and so the amendments which have been proposed in these Acts should be given more earnest and proper consideration by the House. At least the members of the House should have the proper opportunity to give their consideration to these two Acts and these amendments.

The present amendments have been proposed in the light of experience gained by the Government as well as

[Shri B. Das Gupta]

the Election Commission. But, when I go through the amending clauses, I may submit that in the light of my experience and the experience of others like me, the amendments are inadequate and not suited to the prevalent conditions of our country. Apart from the experience of the Election Commission and the Government, the experience of the Members of the House should also be taken into account. That is why reference of the Bill to a Select Committee is so urgent and so very necessary. As far as possible, I will mainly deal with the 1950 Act which concerns registration of electors and the electorates. I may here cite one or two experiences of mine which may enlighten the House and in the light of which the Government may consider this Bill.

16 hrs.

I do not know whether the Government is aware of the fact that in 1955, out of the 24 Commissioners of Income-tax under the Central Government, the names of 21 Commissioners were absent in the voters' list and only the names of 3 Commissioners were found, in the list. These 21 Commissioners applied again and again to the proper authorities, but the door was not opened unto them. They could not vote during the last general election. I am just trying to show where we stand regarding the registration of electors. Another instance. It is well known that during the last bye-election in South Calcutta, about 1,200 voters found their names absent from the voters' list at the last hour. There was a hue and cry and the Election Commission was good enough to make a special provision and enrol them. This saved a very ugly situation. In the light of these experiences, if we go to the vast rural areas, where 85 per cent. of the people are illiterate and ignorant of what the franchise means to them, we can just imagine how they fare regarding this enrolment in the voters' list.

My contention is that my experience and the experience of others also, and the experience of the people in general is that the machinery evolved and the procedure or methods prescribed and adopted are quite unsuitable for the prevalent conditions of our country regarding elections. We have not evolved a machinery which is suitable to our country where at least 85 per cent. of the people are illiterate. We who have experience of this during the enrolment of voters and during elections, always come across many difficulties, and we feel that this machinery should be changed. It is not at all suitable to the needs of our people and to the condition of our people. This Bill has not given any thought to that. It has ignored this basic fact. If the Bill is the outcome of the experience of the Government and the Election Commission, combined, I must submit that these experiences are superficial.

Our experience is that the enrolment of voters depends only on the mercy and goodwill of the man in charge. If he is of partisan spirit, large numbers of voters are left out of the voters list. Of course, it is true that our people in the villages are not as vigilant and conscious as they should have been. Within eleven years of freedom, we could not make them conscious or vigilant enough of their right of franchise. Anyway, keeping these facts in front of us, we must evolve a machinery. That is my main point. Election comes afterwards. Registration of electors and the electoral rolls are the very first things. We must evolve a sound, proper machinery which is suitable for the 85 per cent. of illiterate people who are in the villages. Apart from this, when it comes to the question of experience, I have some experience how a particular section of the people in a particular area has been left out of the voters' list deliberately for political reasons, by the machinations of the local authority or the local administrative machinery. This is our experience.

I will cite another case where, for political reasons, the Electoral Registration Officer or the Chief Electoral Officer had deliberately rejected the application and appeal of a person who is an ex-Member of this House.

Mr. Chairman: Does the hon. Member propose any amendment in the suggested Bill by which the defects or difficulties that he has mentioned will be removed? Has it got any relation to that? If he can suggest that the defects that he has already mentioned can be removed by certain amendments in this Bill, that would be more relevant. Of course, he can cite general grievances. I have no objection to that. It must be relevant to some suggestion regarding the provisions of this Bill. That would be more relevant, because the time is short. The machinery itself cannot be remedied by this Bill. If he has any suggestions, he can certainly make them.

Shri B. Das Gupta: I am making my suggestions. If the hon. Minister thinks that my suggestions are proper and he is willing to accept my suggestions, then, amendments will be coming forth. What is usually done is, we submit our amendments, and there are so many amendments, right or wrong, but it all depends on the hon. Minister, accepting or not accepting them.

Shri Hajarnavis: I thought it depended on the amendments rather than on the Law Minister.

Shri B. Das Gupta: I am making these suggestions so that he may see if he could improve this Bill.

It would be interesting to know that we took this matter to the Election Commission. The Election Commissioner quite realised the justness of the case. But, he was helpless and he could not do anything. The decision of the Chief Electoral Officer was final according to the law. I am just drawing the attention of the hon. Minister to these things that we have experienced. Under this Bill, no

blanket power should be given to these Chief Electoral Officers or the Electoral Registration Officers regarding the registration of electors at all. It should finally depend on the Election Commission whether to accept or reject any application or not. In the light of these experiences, I must urge that not only the 1950-Act but the 1951-Act also should be thoroughly amended. We have now got the experience of the last two general elections. Every Member of this House, who has passed through these elections, has experience of these things. For my part, I can say that I have experience of elections since 1922. I have passed through many elections as a Congressman, since 1922, provincial, Central and other types of elections too. I feel that it would be better if this Bill is referred to a Select Committee, and it is amended in the light of the experience of all the Members of this House. I think that will be a better way of amending the electoral law.

16 11. hrs.

[SHRI MOHAMMED IMAM in the Chair]

I think a general provision should be there as regards the registration of electors. A general provision should be there to inflict heavy punishment on persons or officers in charge of registration, if a certain percentage of the eligible voters is left out of the electoral rolls. I think this will have a deterrent effect where the person or officer in charge of this work neglects his duty for any reason and neglects to enrol the eligible voters in the voters' list.

There is a provision for making rules for the issue of identity cards to the electors. As regards these identity cards, I think they are very necessary. It is not only desirable but it is essential that every voter should have an identity card long before the polling. The identity card should be issued and supplied at the time he registers himself as a voter. It should be an integral part of the registration

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of voters in the voters' list. As soon as a person is registered in the voters' list as a voter, he should be supplied with an identity card with or without any photograph. I think it will be difficult to attach photographs in every identity card; it may not even be possible to do so. But every identity card must contain the thumb-impression or the signature, as the case may be, of the voter concerned. I think this will have an all round effect which will be very good. For one thing, this will induce every voter in the villages or in the rural areas—I am speaking mainly of the rural areas—just to know whether his name has been included in the rolls or not. That will induce him also to be vigilant about enrolling his name in the register. Of course, nothing can be fool-proof, but as far as my experience goes, I would say that this will create a very good atmosphere in the villages. The officer in charge or the person in charge of enrolling the voters will also be always alert so that not a single man in the village is left out of the voters' list.

However, the procedure for enrolment should be easier, should be more prompt and should suit our rural population, nearly 85 per cent of whom are illiterate.

We must always keep in view, whenever we are going to enact anything or prescribe any procedure or method, that 85 per cent of our rural population are illiterate. So left to himself, it becomes difficult now for the villager to take advantage of the procedure and to enrol himself as a voter. We have experience of rural life. So I must insist that the procedure and methods should be more fool-proof and should be suitable for 85 per cent of the population which lives in rural areas.

Regarding the 1951 Act, I do not want to take much time. But I must mention one important point regarding election returns. The difficulty is this. In the election return columns,

the expenses are mentioned on the basis of individual. Most of the candidates put up during elections are set up on a party basis. There is no provision in the return to account for expenses which a party has incurred for the candidates combined. I myself took up this matter in 1951 with the Election Commission saying that expenditure by a party for the candidates as a whole should also be accounted for in the election expenses. But as it is, there is no provision for doing that now. The Government must look into it and see that there should be such a provision made so that a party candidate is not put to any difficulty in furnishing his election return. I must say that on this basis most of the election returns of candidates on party basis are incomplete.

Lastly, I will say a word or two by way of a general observation on corrupt practices in elections. If I may say so, we have experience of elections since 1922 as Congressmen. Then we did not think of any corrupt practice in elections. We have set up candidates, we have run many elections, but we could not think of any corrupt practice. But in our post-independent India, after we achieved independence, I am sorry to find that the very organisation has in practice given incentive to corruption in elections. That is a most unfortunate thing.

An Hon. Member: Question.

Shri Bhakt Darshan (Garhwal): A big question mark.

Shri B. Das Gupta: He may say 'a big question mark'. But let him go to the practical field and see.

Mr. Chairman: References to the organisation as a whole need not be made.

Shri B. Das Gupta: But that will bring us nowhere. I was just mentioning it not to censure the conduct of any organisation but I wanted to state facts. You can

repudiate it but my feeling is that we must now begin from somewhere. That is why I am appealing that we must begin from now, so that the elections may be fairly and freely held.

It is a vital question; it is a national question because corruption in election has vitiated and has corrupted the very backbone of our national life. It has corrupted the body politic of our country and we do not know where we are going to stand if this corruption goes on. That is why this Bill should be referred to the Select Committee. The hon. Minister may please accept this proposal so that all our experiences may be placed before the Committee and on that basis we may shape the future legislation which is going to be the basis of our democracy.

Shri Maniyangadan (Kottayam): Mr. Chairman, Sir, I welcome this measure brought before the House. Laws regarding elections have undergone several changes during the last few years. And, as was suggested by several hon. Members here, we cannot claim that it has become cent per cent foolproof. There are certain lacunae here and there even now; and an attempt is being made to make it as foolproof as possible.

The Election Commission, from the experience that was gained after the general elections and a few by-elections, have suggested certain improvements in the law and they have been embodied in this Bill.

The important thing is that elections must be free from corruption and must be fair. As a matter of fact, the very existence of democracy depends on fair elections. So, I welcome the proposals regarding the powers of the Electoral Registration Officer and also the proposals for fighting impersonation.

I know instances where as a result of revision the number of voters has gone up in certain constituencies to

such an extent that it is impossible to believe that it could have really gone up like that. Several complaints were received from certain parts of the country by the Government as also the Election Commission and the Election Commission had an opportunity to go to those places and see whether the complaints were correct. I do not know what the finding of the Election Commission is. But, if the Press reports could be believed, the Commissioner was convinced that there was inflation of the electoral rolls as a result of the revision.

Clause 9, by adding section 22, gives certain powers to the Electoral Registration Officer.

Some hon. Members have suggested that the electoral registration officers should not be vested with such wide powers. But it could be seen that they were subject to such general or special directions, if any, as might be given by the Election Commission in this behalf. So, there is this safeguard. I may go to the extent of saying that the electoral registration officers may be completely under the control of the Election Commission, quite independent of the State Government, or the Central Government. The Election Commission is an independent body and if these officers could be appointed by and are directly within the control of the Election Commission, then things could be improved to a greater extent. But it may not be possible or practicable. Anyhow, the present provision in clause 9 is a welcome measure and that should be implemented immediately.

Clause 9 also provides for penalty for making false representations. That is also a new provision. Because of the absence of such provisions, there were instances where people who were not bona fide residents offered themselves for being included in the lists, presenting themselves as qualified and so on. I believe that to a very great extent that defect could be remedied and people will hereafter be reluctant to come forward with applications for being included in the

[Shri Maniyangadan]

list or with petitions that some persons should be removed and so on. Such unnecessary applications and objections, to some extent at least, will be avoided by this provision.

With regard to impersonation in a recent election, I know an instance where the office of a particular candidate sent a communication to a place in a neighbouring State on the eve of the election requesting some few hundreds of people of different ages. That was reported in the papers and I do not know whether that report is correct or not. Whatever it may be, there were wide allegations that impersonation took place to an extraordinary extent. If that sort of thing is to be avoided, some such provision as is given in clause 25 is absolutely necessary. I know voters enrolled in electoral rolls in certain constituencies are neither residents in that locality nor have they anything to do with that particular constituency. Several hundreds of such persons have got themselves enrolled in several constituencies. Those things ought to be avoided. If such things are allowed to continue, my submission is this. Democracy in our country would not then be safe. In the circumstances, the suggestion by the Election Commission is to have identity cards. Of course, there may be practical difficulties but we cannot avoid them when there are violent and gross violations of the principles of democracy. Even here, it is only an enabling clause, as was suggested by the hon. Mover of the Bill. If and when it is found by the Election Commission that such a thing could be implemented, it is provided that the Election Commission has powers for that. I do not know whether there is any provision in the Representation of the People Act of 1950 which enables the Election Commission or Government to provide that identity cards should be issued to the electors. The provision here is: "before delivery of a ballot paper or ballot papers to him if under rules made in that behalf under the Representation of the People Act, 1950, electors of the constituency in

which the polling station is situated have been supplied with identity cards, with or without their respective photographs attached thereto;". So, in the 1950 Act there must be a provision which enables the Government to make rules providing for this. I think there is no such provision.

Shri Hajarnavis: Section 28. The matter has been carefully considered. We could have done it by rules but we thought it should have the approval of the House.

Shri Maniyangadan: If there is a provision, it is all right. Anyhow, this provision which enables the Election Commission to supply identity cards to the voters so that impersonation may be avoided is an absolute necessity from the experience which some of us had in the recent elections. Of course, it was suggested that this is not going to remedy the evil. It may not cent per cent remedy the evil, I concede; but to a large extent the evil could be remedied. Because the evil could not be remedied cent per cent there is no remedy needed seems to be the opinion of some hon. friends who objected to this provision. I submit, let us try, as far as possible, to make the provisions of the election law such that impersonation may be avoided to the maximum extent possible. If this provision is there, I am sure some of the voters who now dare to come forward representing themselves to be certain persons will not dare to do so if the identity cards are supplied. At least to that extent that will be a check. I wholeheartedly welcome that provision, and I submit that in no case should that provision be given up.

These are the main changes. Of course, with regard to qualification and other things I do not want to take the time of the House. In 1956 there was an amendment which was sent to a Select Committee with powers to go into the whole Act. Now in 1958 there is another amendment brought from the experience that was gained by the Election Commission and also the Government. The Election Commission is the best authority

to suggest remedies for improving the law. I do not say that this House has no power to go into the suggestions and to modify them. But, in the present circumstances, as far as these amendments are concerned my submission is that there is no necessity for sending this Bill to a Select Committee. The hon. Law Minister has also stated that this Bill ought to be, if possible, passed before January so that the revision of the rolls next year may be conducted from January onwards. In my State, because the revision could not be started earlier, the final lists have not been published in certain constituencies. In a few constituencies lists were published only very recently, during the last two weeks. In certain constituencies lists are yet to be published. If the revision of rolls were started earlier, in January, as is now proposed in this Bill, I think such a long delay would not have taken place.

So, as far as these provisions are concerned, we found from our experience and also from the experience of the Election Commission that they require improvement and the suggestions and improvements should be brought to the notice of the Law Minister as early as possible.

As far as the provisions of the Bill are concerned I do not think there is any necessity for referring the Bill to a Select Committee. I wholeheartedly support the provisions and submit that the Bill may be passed as early as possible.

श्री जगत वर्मान : माननीय सभापति महोदय, मैं सब से पहले आप को इसलिए बधाई देना चाहता हूँ कि संशोधनों की सूची में मेरा सब से पहले नाम होते हुए भी, गनीमत है कि, अन्त में आपने मुझे बोलने का बोझ सा समय प्रदान करने की कृपा की है।

श्री राजराज सिंह : धर्मी तो हम मन्त्र में ही ह।

श्री जगत वर्मान : जीर; मैं सदन का अधिक समय न के करके कुछ बात-बात बातों

की ओर ही आपका ध्यान आकर्षित करना चाहूँगा।

हमारे माननीय विधि मंत्री महोदय ने प्रायः सदन की सभी विधाओं से एक ही आवाज उठने पर भी कि इसको एक प्रवर समिति के सुपुर्व किया जाय, अभी तक इसको स्वीकार नहीं किया है और अभी तक भी वह एक कठोर चट्टान की तरह से बटे हुए हैं। सदन की यह सम्मिलित आवाज होते हुए भी वह अपने निश्चय पर दृढ़ हैं। अब तक जितने भी सदस्यों ने यहाँ पर अपने विचार व्यक्त किये हैं उन में से केवल एक सज्जन को छोड़ कर, जोकि मुझ से पहले भाषण दे रहे हैं, सभी ने अपनी यह सम्मति दी है कि इस विधेयक को प्रवर समिति के सुपुर्व किया जाये।

मैं माननीय विधि मंत्री महोदय से बड़े नम्र शब्दों में निवेदन करना चाहता हूँ कि उन्हें जो इस सम्बन्ध में जल्दी मालूम पड़ती है वह यह है कि वह यह चाहते हैं कि मार्च के बदले जनवरी में रजिस्ट्रेशन की तारीख निश्चित कर दी जाय। और कोई कारण इसके सिवाय मेरी समझ में नहीं आता है। और जो कारण हैं या और जे विषय हैं जिन के बारे में उन्होंने संशोधन सुझाये हैं वे ऐसे हैं कि उन पर धैर्य के साथ और क्षान्ति के साथ विचार किया जा सकता है। केवल यही एक ऐसा विषय है जिस के सम्बन्ध में वह जल्दी चाहते हैं और शायद हमारे चुनाव आयोग ने भी इस सम्बन्ध में सकारिता की थी। अतः मैं भी इसी के सम्बन्ध में कुछ निवेदन करना चाहता हूँ।

जैसा कि मैंने अपने संशोधन संख्या २ के द्वारा भी सूचना दी है कि जब इसका संशोधन करना ही है तो जनवरी के बदले एक नवम्बर की इस में तारीख रखी जाये। अब मैं एक नवम्बर की तारीख इसलिये सुझाना चाहता हूँ कि सभापति महोदय को और माननीय विधि मंत्री महोदय को भी ज्ञात होगा कि जाइनों के मई नों में ऊंचे-पहाड़ों से बहुत से लोग मैदानों में या तो रोडगार के लिए या कुछ दूसरे आवश्यक कार्यों के लिये उतर जाते हैं।

[श्री भक्त वर्धन]

में अपने ही जिले का उदाहरण आपके सामने रखना चाहता हूँ। मेरे जिले में जो तिब्बत का सीमावर्ती इलाका है वहाँ के लोग छः महीने नीचे निवास करते हैं और पिछले जो दो चुनाव हुए थे उनमें यह बड़ी जटिल समस्या उत्पन्न हो गई थी कि उनको मतदान में हिस्सा लेने की कैसे सुविधा प्रदान की जाय। इस समस्या को हल करने के लिये भ्रमण से पोलिंग स्टेशंस बनाये गये थे और तब जा करके उनसे मतदान कराया जा सका था। इसलिए मेरा तो यह सुझाव है कि बनिस्बत जनवरी की जो तारीख रखी गई है, मैं महसूस करता हूँ कि उसको न रख कर के एक नवम्बर की तारीख रखी जाये। मैं यह क्यों चाहता हूँ इसका एक और भी कारण है। मैं महसूस करता हूँ कि मार्च के महीने में हमारे जो सरकारी कर्मचारी होते हैं उनके ऊपर कार्य का बड़ा बोझ रहता है। उन समय विसीय वर्ष को समाप्ति के दिन नखदीक रहते हैं और उनको काम बड़ी तत्परता से करना पड़ता है। साथ ही साथ काम का जो बोझ है वह उन के कंधों पर जनवरी से ही पड़ना प्रारम्भ हो जाता है और तभी से बढ़ने लगता है। अगर एक नवम्बर की तारीख स्वीकार की जाता है तब तो इस संशोधक विधेयक को जल्दी स्वीकार करने की आवश्यकता ही नहीं रह जाती।

दूसरी बात जो मैं कहना चाहता हूँ वह यह है कि अभी तक चुनाव आयोग ने, इलेक्शन कमीशन ने, जो फरवरी १९५६ में आम चुनाव हुए थे उनकी रिपोर्टें पेश नहीं की है। जहाँ तक मेरी जानकारी है, सदन के सामने वह रिपोर्ट अभी तक नहीं आई। दो वर्ष पूरे होने को भावे हैं और कई बार इस सदन में प्रश्न पूछे गये हैं जिन के उत्तर में सरकार की ओर से यह कहा गया है कि रिपोर्टें तैयार हो रही हैं। माननीय मंत्री महोदय की ओर से यह भी कहा गया है कि चुनाव आयोग की ओर से बहुत से सुझाव मिले हैं जिन के आधार पर यह संशोधक

विधेयक यहाँ पर रखा जा रहा है। पता नहीं है कौन से ऐसे गोपनीय सुझाव हैं, कॉन्फिडेंशल सुझाव हैं, जिन को कि इस सदन के सामने नहीं लाया जा सकता है। इसलिए मैं निवेदन करना चाहता हूँ कि जब तक चुनाव आयोग की रिपोर्ट इस सदन के सामने और देश के सामने नहीं आ जाती, तब तक इस समस्या पर विचार स्वगत किया जाना चाहिये।

इसने कतिरिक्त मैं यह भी कहना चाहता हूँ कि एक अधिनियम १९५० का है और ए. सन् १९५१ का है और इस विधेयक के द्वारा हम उनमें संशोधन करने जा रहे हैं। इतना होने पर भी दोनों विधेयक भ्रमण-भ्रमण रह जाते हैं। मेरी समझ में नहीं आता कि इन दोनों अधिनियमों को मिला कर एक ही क्यों नहीं बना दिया जाता। अगर इन दोनों को मिलाकर एक ही अधिनियम बना दिया जाये तो ये समझता हूँ कि प्रासानी हो सकती है, मरलता हो सकती है।

हमारे माननीय मंत्री महोदय ने प्रारम्भ में यह कहा है कि इस विधेयक में कोई भी ऐसा सुझाव नहीं है जोकि विवादास्पद हो, कंट्रोवर्शल हो। लेकिन धारा २१, २२ और २७ के द्वारा जो मूल १९५१ का अधिनियम है उसकी धारा ५५(ए) का हम संशोधन करने जा रहे हैं। ये धारायें नाम वापिस लेने की तिथि से सम्बन्ध रखती हैं। अभी तक यह सुविधा दी गई थी कि नाम वापिस लेने की अंतिम तिथि के दस दिन तक भी नाम वापिस लिये जा सकेंगे हालांकि उमानत जस्त हो जायेंगी। पर अब यह व्यवस्था समाप्त की जा रही है। मेरा निवेदन यह है कि इसमें जो सुधार किया जा रहा है, वह मेरी समझ में नहीं आता है। यह कहा जा सकता है और कहा भी जायेगा कि इसमें बहुत से लोग अपना दे कर उम्मीदवारों को बिठा देते हैं। कुछ मामलों में ऐसा हुआ होगा, इसे मैं स्वीकार करता हूँ, लेकिन इस बात की क्या गारन्टी है कि जो लोग निश्चित समय के अन्दर नाम वापिस लेते हैं वे अपने के द्वारा या और किसी व्यक्तिगत प्रभाव के द्वारा समझाने-बुझाने के द्वारा

बापिस नहीं कले हैं। जहाँ तक प्रभाव का प्रश्न है या अप्ठार का प्रश्न है या धन दे करके या किसी और तरह से कुसला करके बिठा देने का प्रश्न है वह हमेशा रहेगा।

सभी मेरे एक मित्र जोकि भावण दे रहे हैं उन्होंने हमारे सम्बन्ध में बोलते हुए हम पर कुछ आक्षेप किये। मैं समापति महोदय का अनुग्रहीत हूँ कि उन्होंने उन सदस्य महोदय को टोक दिया। इस तरह से किसी पर भी आक्षेप करना ठीक नहीं है और मैं चाहता हूँ कि सास तीर पर उस पार्टी के सम्बन्ध में जिस के हाथ में शासन की बागडोर है, उसके ऊपर इस तरह का गम्भीर लाञ्छन न लगाया जाये। लेकिन मैं चाहता हूँ कि गम्भीरतापूर्वक इस प्रश्न पर विचार करने की आवश्यकता ही गई है या नहीं कि क्या हमें अपने चुनाव के तरीके में आमूलचूल परिवर्तन करने चाहिये या नहीं? मैं चाहता हूँ कि सभी पार्टियों के कर्णधार इस पर गम्भीरता से विचार करें। पिछली दो प्रग्नि परीक्षाओं से हम निकल चुके हैं। जो लोग सही सलामत यहाँ पर धाकर इस सदन की सदस्यता कर रहे हैं वे अपने नक्षत्रों को धन्यवाद दे रहे होंगे, लेकिन जो बेचारे उस प्रग्नि परीक्षा में असफल हुए हैं उनका भी कुछ अनुभव है और उनका अनुभव में समझता हूँ कि हम से भी ज्यादा कटु है। इस बात की साक्षी में समझता हूँ कि सभी दल देंगे।

इस बास्ते गम्भीरता से सोचने की जरूरत है कि हमारी जो चुनाव की प्रणाली है इस में कुछ बुनियादी अन्तर करने की क्या आवश्यकता नहीं है? सभी दलों की ओर से—शासक दल की ओर से भी—दुर्भाग्यवश ऐसे उम्मीदवार बड़े किये जाते हैं जिन की योग्यता की उतनी कमी नहीं होती या उनके सार्वजनिक जीवन का रिकार्ड उतना नहीं देखा जाता, जितना कि यह देखा जाता है कि आधा वे जीत सकें या नहीं। उनका

जीत सकना ही उनकी योग्यता है। इसी की सब से बड़ी कमी माना जाता है। इसका परिणाम यह हो रहा है कि केवल कांग्रेस दल के ही नहीं बल्कि जितने भी और दल हैं, जो हमारे कांग्रेस दल की चूकि उसके हाथ में शासन की बागडोर है, समय-असमय आलोचना भी करते रहते हैं, रे-रे-रे उम्मीदवार बड़े किये जाते हैं जो जातीयता के नाम पर, भाई-बिरादरी के नाम पर या पत्ते के बस पर चुनाव जीतने में सक्षम हों। इस बास्ते बड़ी गम्भीरता से इस विषय पर सोचा जाना चाहिये और इस चीज को दूर किया जाना चाहिये। अब जब हम इस पर पूरे तीर से विचार कर रहे हैं तो हमें देखना चाहिये कि हम कोई ऐसा परिवर्तन भी कर सकते हैं जिस के द्वारा इस तरह की अप्ठार की घटनाएँ जा भाये दिन हाजी रहती हैं, न्यूनतम हो जायें। मुझे तो ऐसा प्रतीत होता है कि अगर ऐसा करने के लिये संवेदान में भी सहायन करने की आवश्यकता है तो वह भी किया जाना चाहिये और सभी दलों का निम कर के उस सहायन को यहाँ लाना चाहिये। इस सम्बन्ध में मेरा खयाल है कि केवल पार्टियों के आचार पर कारे देना ही चुनाव हों और पार्टियों का अलग-अलग से जितने भी मत भायें, पार्लामेंट के हिसाब से उनमें उनकी अधिकार दिया जाये कि वे दल ही अपने प्रतिनिधियों का असेम्बली की सीटों के लिये या संसद् के लिये अपने आदमी नामबंद कर दें। यदि ऐसा किया गया तो चुनाव का जा सर्वा है वह भी बहुत कम हो जायेगा और नाममात्र का रह जायेगा। दूसरे जो इस समय व्यक्तिगत प्रतिस्पर्द्धा चलता है, एक दूसरे पर कीचड़ उछालने का बाजार गर्म रहता है, चुनाव के दौरान में जा रुपये व्यय होते हैं, जा गम्भीर फेनाई जाती है वे सब चीजें भायः समाप्त हो जायेगी। चूकि यह बड़ा लम्बा विषय है, इसलिये मैं अधिक नहीं जाना चाहता। इसका मैं ने इस बास्ते उल्लेख किया है कि यह भी एक विचार-धारा हमारे देश के

[श्री भक्त दर्शन]

अन्दर आ सकती है और इस पर गवर्नमेंट को भी सही दलों को बड़ी गम्भीरता से सोचने की आवश्यकता है।

अन्त में, सदन का भी अधिक समय न लेते हुए, मैं माननीय विधि मंत्री महोदय से अनुरोध करना चाहता हूँ कि जो चारों कोनों से आवाज उठ रही है कि इस बिल को प्रवर समिति के सुपुर्द कर दिया जाये, उस पर वह विचार करें और थोड़ा सा भी समय सदन को और देश के निवासियों को दें ताकि वे इस पर और विचार कर सकें—इसे स्वीकार कर लेना चाहिये। मैं आशा करता हूँ कि जब तक और माननीय सदस्यों के भावग समाप्त होंगे तब तक हमारे विधि मंत्री महोदय का दृष्टिकोण भी बदल चुका होगा।

श्री० रणश्रीरसिंह (रोहतक) : सभापति महोदय, जहाँ तक इस बिल को प्रवर समिति के सुपुर्द करने का ताल्लुक है, मैं कोई अजबूत विचार नहीं रखता। इसको उसके सुपुर्द किया जाये या न किया जाए, इसमें मुझे कोई बहुत बड़ी आपत्ति नहीं है। इसका कारण यह है कि मैंने देखा है कि इस बिल के अन्दर ३७ धारारों हैं, ३७ क्लॉजिज हैं जिनमें से मुझिल से पांच छः धारारों ही ऐसी हैं जिनके ऊपर कुछ दोस्तों को आपत्ति है।

अभी श्री भक्त दर्शन ने एक नई आपत्ति बताई लेकिन मेरे ब्याल में इस सदन के अन्दर बहुत सारे माननीय मित्र इस बात में सहमत हैं कि चुनाव से दस दिन पहिले तक जो नाम बापिस लने का सिलसिला है, यह कोई बहुत अच्छा तरीका नहीं है क्योंकि उम्मीदवार आम तौर के चाहे उसमें करप्शन हो, झारबी हो य न हो, बजाय इसके कि मतदाताओं के पास जाय, आपस में चक्कर लगाते रहते हैं और उस उम्मीदवार और चुनाव लड़ने वाले को यह भी पता नहीं होता कि किस के खिलाफ मझे लड़ना है और किस

ने बैठना है और न ही मतदाताओं को पता होता है। मुझे ताज्जुब है कि श्री भक्त दर्शन जो कि एक पहाड़ी इलाके से आते हैं जहाँ पर कि मतदाताओं के पास दस दिन में यह खबर भी नहीं पहुंच सकती कि कौन कौन उम्मीदवार हैं, वे इस बात के क्यों हक्क में हैं ? इसलिए मैं समझता हूँ कि इसमें तो कोई बहुत ज्यादा दो, तीन रायें नहीं हो सकतीं अलबत्ता बाकी दो, तीन बातें हैं जिन पर कि एक राय नहीं है। अगर मन्त्री महोदय यह चाहते हों कि यह बिल प्रवर समिति के पास न जाय तो मैं कहूंगा कि उन चार, पांच को छोड़ कर बाकी को पास कर दीजिये। ३७ बिल्स की कलोजों में से ५, ७ को छोड़ दीजिये बाकी ३० के करीब तो आप के भासानी से पास ही हो जायेंगे। या जो विवादास्पद हैं उन पर पुनर्विचार करने के लिए जैसा कि सुझाव दिया गया है, सदन के माननीय सदस्यों की एक एनफॉर्मल कमेटी बैठ जाय और वह दो, तीन या चार दिन के भीतर रोजाना अच्छी तरह से सोच विचार करके उन पर फ़ैसला कर लें। मैं तमाम बिल को प्रवर समिति के सुपुर्द करने के लिए बहुत मजबूत विचार नहीं रखता क्योंकि हमने अनुभव किया—दूसरे बिल के सिलसिले में—कि प्रवर समिति पिछने कई महीनों में जो १३०० कमेटियां देखी गईं, उन कमेटियों में कुछ को जोड़ा गया, कुछ को छोड़ा गया लेकिन जो कमेटी कि इस सदन के अन्दर रिपोर्टें आईं, उनकी बिना पर मैं कह सकता हूँ कि चन्द एक दोस्तों को छोड़ कर कोई बहुत सारे माननीय मित्र एक मत के कमेटी में हो सके हों, मैंने नहीं देखा। किसी न किसी कमेटी को किसी न किसी कमेटी पर आपत्ति थी। मेरी समझ में नहीं आया कि माननीय मन्त्री उस रास्ते पर क्यों चलना चाहते हैं ? वे एक अजीब रास्ते पर चलना चाहते हैं। एक तरह तो जो सरकारी कारखाने हैं, उनमें माननीय सदस्यों के मेम्बरस होने के ऊपर एक जगह पाबन्दी लगाई है और उनको और कानून

अद्वार बिना ही और यह शीघ्र ही किया है कि मैं मेम्बर रह नहीं सकते अगर वह उन कार-खानों की प्रबन्ध कमेटियों के मेम्बर हों और दूसरी तरफ़ यहाँ पर इस क्लॉब में इसकी डीला किया जा रहा है। इसके अलावा हम जो इस देश में एक समाजवादी ढंग का सामा-जिक ढांचा बनाना चाहते हैं तो उस हलत में कोन्सोपरेटिव सोसाइटीज के ऊपर जो पहले पाबन्दी नहीं थी, उसको जो हम अब जोड़ते जा रहे हैं, वह कहां तक उसके साथ मेल खाती है। इन दो तीन चीजों को अगर इकट्ठा मिला कर देखा जाय तो प्राइवेट सेंटर का कुछ बचाव मालूम देता है। मेरी समझ में यह सही नह है।

जब हम इस देश के अन्दर समाजवादी ढंग का सामाजिक ढांचा स्थापित करने के लिए प्रयत्नशील हैं, तो हमें कोन्सोपरेटिव सोसाइटीज का और पब्लिक सेंटर के अन्दर जितने कारखाने हैं, उनका कामकाज सुचारू रूप से चलाने के लिए मैम्बरों का सहयोग हमें लेना है। उसके साथ ही साथ जो प्राइवेट सेंटर है उसे हमें कोई बन्द तो नहीं करना है लेकिन साथ ही उसे कोई बढ़ावा नह देना है। अब अगर इस बिल की धाराओं को हम ज्यों का त्यों स्वीकार कर लें तो मैं समझता हूँ कि यह एक तरह का उनको बढ़ावा ही देना होगा। मेरा तो इस सम्बन्ध में कहना है कि एक्सपोर्ट और एम्पोर्ट के लाइसेंस होल्डर्स पर ही नहीं बल्कि जो भी किसी किस्म का लाइसेंस रखते हैं अथवा जो कारखाने चलाने का लाइसेंस रखते हैं, उन पर सरकार को पाबन्दी लगानी चाहिए क्योंकि आज जो कंट्रोल एकोनामी है उसका उनको किसी न किसी ढंग से सरकार से फ़ायदा होता है। इसलिए मैं चाहता हूँ कि जिस के पास इम्पोर्ट लाइसेंस हो, एक्सपोर्ट लाइसेंस हो अथवा कारखाना चलाने का लाइसेंस हो, उनके ऊपर भी पाबन्दी लगे और उनसे सम्बन्धित व्यक्ति सदन के मेम्बर न बन सकें ताकि इस देश के अन्दर, प्राइवेट सेंटर, जो काफ़ी मजबूत है,

उसका अन्दर इस सदन के ऊपर न रहे और सदन के सदस्य बिलकुल एक इमपासिबल बे में से तोष बिचार करके देश के लिये नीति निर्धारित कर सकें।

इसके अलावा जहाँ तक रेजिडेंस की जो क्वालिफ़िकेशन की गई है, अगर हमने बैसा ही मंजूर किया तो हम अफ़सरों के के हावों में खोलेंगे। इस सिलसिले में मुझे पंजाब का एक बाक्या याद आता है। सर सिकन्दर हुयात खां जो अर्बाइट पंजाब के चीफ़ मिनिस्टर बने थे, उनका नाम एलेक्टोरल लिस्ट में दर्ज नहीं था क्योंकि पटवारी उनसे नाराज था। इसी तरह से डा० काटजू का नाम भी लिस्ट में दर्ज नहीं था। बात साफ़ है। आपके सदन की यहाँ बंठकें होती हैं। हम लोगों के नाम यहाँ मकान एलीट है। सात, आठ महीने हमको यहाँ रहना है तो मुझे मालूम नहीं कि प्राया यह ७००,७५० मेम्बर्स को कोई मतदाता उनके हलकों में बनायेगा या नहीं बनायेगा। मैं मानता हूँ कि शायद दिल्ली का एक मतदाता होने के नाते भी मुझे रोहतास में खड़ा होने का मौक़ा मिले लेकिन सवाल साफ़ है कि जब हमने हलकाबंदी की है तो हर हलके वाले के दिल में यह क्वाल होता है कि मुझे उसी प्राइवी को अपना नुमायन्दा बना कर भेजना है जो उस हलके का रहने वाला हो। अब आसाम का भाई अगर पंजाब प्राये और पंजाब का भाई अगर आसाम जाय तो यह कुदरती बात है कि हम लोगों के जो दुःख है, उनको इस सदन के सामने नहीं रख सकेंगे.....

पंडित डा० ना० तिवारी: बिहार में तो बाहर से आसाम और बम्बई के आकर लोग मेम्बर होते हैं।

श्री० रणबीर सिंह: बिहार के लिए तो ठीक हो सकता है क्योंकि बिहार के ही हमारे राष्ट्रपति हैं और वहाँ का कोई सदन का मेम्बर रहे अथवा नहीं, उससे कोई फ़ाव

[श्री० राजवीर सिंह]

ऊर्क नहीं पड़ता है लेकिन पंजाब का हरियाणा का गरीब हिन्दी रीबन, जिसकी कि प्राय कोई चुनवाई नहीं है, अगर बदकिस्मती से वहाँ कोई बिहार का या गया तो उस हालत में हम क्या करेंगे। मुझे तो अपने पंजाब से सम्बन्ध है, बिहार से मुझे कोई झगड़ा नहीं है। हाँ, तो मैं कह रहा था कि यह जो प्राय पाबन्दी लगाना चाहते हैं, यह कोई सही पाबन्दी नहीं है।

आपने इसमें यह प्राविजन ठीक ही रखा है कि वह प्रक्रसर अगर कोई गलती करेगा तो उसको सजा हो सकती है और जुर्माना हो सकता है। आखिर वह भीज जायगी उस के प्रक्रसर के पास और वह कह देगा कि गलती रह गई और उस गलती को क्लेरिफिकल मिस्टेक मान कर उस प्रक्रसर को छोड़ दिया जायगा। मुकद्दमा एलेक्शन कमिशन की मर्जी के बगैर नहीं चल सकता और उस बेचारे गरीब आदमी का जो कि चुनाव में सजा होना चाहता है उसका हक मारा जायगा और जो हक सजे होने का उसे सविधान ने प्रदान किया है उसके उस हक को एक पटवारी छीन सकेगा या अन्य छोटे प्रक्रसर भले ही वह मजिस्ट्रेट भी क्यों न हों, नायब सहायिलदार ही क्यों न हों, वे उसको सज हक से मुहकूम कर सकेंगे और इस वास्ते वह कोई अच्छी कानूनी व्यवस्था नहीं की जा रही है। सरकार के कुछ आदमियों का जो कि पावर मैं हूँ, उनकी नीयत अगर बदल जाय तो वे यह कर सकते हैं कि बोटर ब बनने दिया जाय और उस हालत में फिर कौन एलेक्शन कमिशन के पास जायेगा। तो यह उनके दिल में एक खदशा हो सकता है और हमारे कुछ विरोधी पक्ष के लोग इस बात के नाब पर एलेक्शन सड़ सकते हैं कि हम कांग्रेस वाले लोग एलेक्शन के कानून को इतना सक्त करते जा रहे हैं कि दूसरी पार्टियों के लोग चुनाव में भा ही न सकें और उनको चुनाव लड़ने का मौका ही न मिल सके, यह एक

हमारी सरकार के खिलाफ हमारे विरोधी लोग इसकाय मना सकते हैं।

भाइरेंटिटी कार्ड की बात तो मैं समझ सकता हूँ हालांकि फोटो लगाने वाली बात मेरी समझ में नहीं आयी। अगर हम चाहते हैं कि इलेक्शन एक या दो दिन में खत्म हो जायें तो उसके लिये यह जरूरी है कि सरकारी तौर पर भाइरेंटिटी कार्ड देने का इन्तिजाम किया जाय। मैं यह नहीं मानता कि इससे कोई ऐसा ऊर्क पड़ेगा कि बोटर एक से ज्यादा जगह जाकर बोट दे सकेगा या नहीं जब एक दो दिन में ही इलेक्शन खत्म होने वाले हैं तो इस बात का ज्यादा इमकान नहीं है। मैं आपको एक मिसाल दूँ। अभी हमारे यहाँ गुड़गांव में चुनाव हुआ। वह चुनाव दो दिन में खत्म होने को था। एक एक दिन के लिए वो दो सौ तीन तीन सौ पोलिंग बूथ्स का इन्तिजाम करना पड़ा। कांग्रेस पार्टी जाती बड़ी पार्टी है जिसकी कि पंजाब में हुकूमत है लेकिन कांग्रेस पार्टी भी इतने ज्यादा पोलिंग बूथों पर परबी काटने का इन्तिजाम नहीं कर सकी। और मेरे सामने यह बायबा आया कि कुछ हरिजन बोटर आये। पर वहाँ कांग्रेस की तरफ से परबी काटने का इन्तिजाम नहीं था। वहाँ पर दूसरी पार्टी वालों का इन्तिजाम था। उन्होंने उन बोटरों से कहा कि अगर तुम ईमान धरम से यह कहो कि हम कांग्रेस के खिलाफ बोट देंगे तो हम तुम को परबी दे सकते हैं। जब मैं उस गांव में गया तो उन्होंने मुझे यह बात बतलायी कि सज इलेक्शन का यह गया तरीका निकला है कि हमको परबी देने से पहले बोट का बायबा लिया जाता है। पहले तो मेरी समझ में यह बात नहीं आयी और मैंने कहा कि यह नहीं हो सकता लेकिन बाद में मेरी समझ में यह बात आ गयी। मुझे बाद को पता लगा कि वहाँ पर कांग्रेस का कैम्प ही नहीं था और दूसरी पार्टी का कैम्प था। और मुझे उसके लिये कोई विधा नहीं है।

अब जो हम कानून बना रहे हैं उसके अन्तर् पार्टी का नुमायन्दा होना जरूरी नहीं है। बिना आक्षेपों की कोई भी पार्टी नहीं है उसको भी हम इनेक्शन करने का मौका देना चाहते हैं। तो हमें ऐसे हालात पैदा करने चाहिए कि वह भी मुकाबिला कर सके और कोई डिस्क्रिमिनेशन या डिस्क्वालीफिकेशन की बजाए से उसको मुकसान न हो। तो मैं प्राइवेटिटी कार्ड को तो जरूरी समझता हूँ क्योंकि हमारा बड़ा देश है। लेकिन अगर वह भी सिर्फ साइडों के ही लिए है तो गलत है। साइडों में तो लोग कुछ जानते भी हैं। दिक्कत तो.गार्डों में होती है जहाँ पटवारी परची नहीं देता। तो अगर आप चाहते हैं कि इनेक्शन जल्द खत्म हो जायें तो

Mr. Chairman: The hon. Member will conclude, I think, before Five

Ch. Ranbir Singh: Yes, Sir I will not take more than two minutes

तो समापति महोदय मैं यह कह रहा था कि जहाँ तक प्राइवेटिटी कार्ड का तात्सुक

है वह बहुत जरूरी है। लेकिन वह सारे देश के लिए जरूरी है। वह सिर्फ साइडों का खयाल नहीं है।

दूसरी बात जो मैं ने पहले कही वह यह है कि कोओपरेटिव सोसाइटी के साथ जो कंट्रैक्ट होता है वह डिस्क्वालीफिकेशन नहीं होना चाहिए। और खास खान पर रहने की भी पाबन्दी नहीं होनी चाहिये और डेकेदार या साइसेंस-होल्डर पर पाबन्दी लगनी चाहिये।

श्री हेमराज (कागडा) समापति महोदय

Mr Chairman: The hon. Member will resume his speech tomorrow.

17 hrs.

The Lok Sabha then adjourned till Eleven of the Clock on Thursday, the 11th December, 1958