

SHRI SHAH NAWAZ KHAN: It was because of this that we did not think that any detailed discussion was necessary. The last Convention Committee made 18 recommendations and all these recommendations have been implemented. Anyhow, I am very glad that so many hon. Members took such a keen interest in the subject and made very valuable suggestions. I am very grateful to Dr. Kunzru for pleading the case of Railways so well. All his proposals will be forwarded to the Convention Committee for their consideration.

Also, Sir, I would request hon. Members, who have any constructive suggestions to make on the subject, to submit a memorandum to the Committee. I am sure they will be very glad to receive and give it their due consideration.

SHRI H. P. SAKSENA (Uttar Pradesh): Does it meet with your approval, Sir?

DR. H. N. KUNZRU: May I ask the Deputy Minister whether any memorandum that may be supplied to the Convention Committee by the Railway Board will be supplied to the other Members of Parliament also?

SHRI SHAH NAWAZ KHAN: That has not been the procedure, but if the hon. Member is keenly interested in it, I shall be glad to send a copy to him.

DR. R. B. GOUR (Andhra Pradesh): That does not mean that only Dr. Kunzru should be supplied a copy of that.

SHRI SHAH NAWAZ KHAN: As I submitted, that has not been the procedure.

DR. R. B. GOUR: When the Railway Convention Committee's report is published, will the hon. Deputy Minister be kind enough to publish along with it the various memoranda that are submitted to the Committee?

SHRI SHAH NAWAZ KHAN: There is already a convention in this respect and we shall do what we have been doing in the past.

DR. H. N. KUNZRU: May I suggest as a compromise that the hon. Minister may send copies of the Railway Board's memorandum to such Members of the House as wish to have it or as generally take an interest in Railway affairs?

SHRI SHAH NAWAZ KHAN: I do not find any difficulty in accepting that and all hon. Members who are interested may kindly write to me and I shall arrange for that.

MR. DEPUTY CHAIRMAN: The question is:

"That this House concurs in the recommendation of the Lok Sabha that the Rajya Sabha do agree to the nomination by the Chairman of six members from the Rajya Sabha to the Parliamentary Committee to review the rate of dividend which is at present payable by the Railway undertaking to the General Revenues as well as other ancillary matters in connection with the Railway Finance *vis-a-vis* the General Finance and make recommendations thereon by the 30th November, 1960."

The motion was adopted.

THE REPRESENTATION OF THE PEOPLE (AMENDMENT) BILL, 1960

MR. DEPUTY CHAIRMAN: We shall now take up the Representation of the People (Amendment) Bill, 1960. Half-an-hour is the time allotted. Mr. Hajarnavis.

THE DEPUTY MINISTER OF LAW
(**SHRI R. M. HAJARNAVIS**): Sir, I move:

"That the Bill further to amend the Representation of the People Act, 1950, as passed by the Lok Sabha, be taken into consideration."

[Shri R. M. Hajarnavis.]

I shall briefly deal with the formal amendments but within the short time allotted I propose to deal somewhat in detail with clause 5 of the Bill and explain the reasons on the basis of which the Election Commission included the official members of the Antarim Zilla Parishads in the electoral rolls.

Clause 2 contains a consequential amendment. Under Section 11 of the Representation of the People Act, the President has been given power on the recommendation of the Election Commission to alter the constituencies but if constituencies are altered, as the Legislative Council does not dissolve, it would be necessary to allocate the sitting members to the altered constituencies. By clause 2 such a power is being taken.

Then by clause 3, clause (d) of sub-section (2) of section 28 of the Act is to be omitted. As the House is aware, Section 28 deals with the rule-making powers and in clause (d) power is given to appoint a revising authority. The Election Commission, after their experience, have thought that appointment of parallel authorities, one for the preparation and registration of the electors and another for revising the claims, involves them in a cumbrous procedure. There is a duplication of authority. It is well known that in the U.S.A. the initiative of registration for a vote lies on the elector himself. In the U.K. there are no separate revising authorities. The Election Commission thought that the responsibility of making a correct electoral roll should squarely be placed upon the electoral registration officer and that there should be no duplication of authorities. Therefore this clause is being omitted. Each time the Electoral registration officer make a change, he will realise that he is not discharging what may be regarded as a ministerial duty but he is exercising a judicial function and with that awareness he will probably function better with a greater awareness of his position than he has been doing till now.

DIWAN CHAMAN LALL (Punjab): What happens when a name is rejected by the registering authority and is there any remedy thereafter?

SHRI R. M. HAJARNAVIS: The hon. Member has anticipated me. What the Election Commission proposes to do within the rule-making power that they already have is to provide for a good appeal against any entry, either for inclusion or exclusion. That is what they intend to do but what they do not intend to do is to have two parallel authorities, one for registration and the other for revising. I am told that the revising authority also changes from State to State. In some there are Civil Judges as the authority and in some there are Executive authorities. In some there is enough time devoted and sometimes the civil courts have not found enough time for this purpose. Therefore, in order to bring uniformity, the responsibility is placed initially on the electoral registration officer and this is in line with the procedure which is followed in the U.K.

Then by clause 4 we intend to increase the responsibility for a false statement made by any person in connection with the preparation of the electoral roll. As the section stands at present, it is only when a false claim in writing is made by a person in respect of his own name, that he can be prosecuted. It is within the experience of all of us and also it is the observation of the Election Commission that the claims are made by persons not only for himself but for his friends, relatives and other persons also. If he makes a false claim for himself, he is liable to be proceeded against but if he makes such a claim on behalf of any other person, be he his relative or friend or any other person, then he can escape his responsibility altogether. So, this is sought to be amended and if any claim is made in writing which is false and which he either knows or believes to be false or does not believe to be true, then he shall be liable. It may happen that a person

who knows that he has no right to vote, may induce a friend of his to make a claim on his behalf and take the chance that the false claim may pass muster and he may be included and if it is detected, of course, according to the present law, no one is liable for penalty. So, that law requires to be amended.

I now come to clause 5 and I propose to take, in view of the concern and apprehension which has been expressed in this House and elsewhere also, to set down in detail every step which has led us to our conclusion. To begin with, article 168 of the Constitution refers to this. I hope I shall gain the ear of Dr. Kunzru and other Members of this House because we started with the same reaction as Dr. Kunzru probably has, about the inclusion of the official members in the electoral rolls, because, I think, there can be no difference between him and us that officials, as a class, ought to be kept out of electoral or party controversies, and unless we were inexorably driven to this conclusion by what we regard as the dictate of the Constitution, we would not have taken the step which we have; but since we are sworn to abide by the Constitution and to give effect to it as we understand it, we have to take this step. Now, first of all, article 168 says:

"(1) For every State there shall be a Legislature which shall consist of the Governor, and

(a) in the States of Bihar, Bombay, Madhya Pradesh, Madras, Mysore, Punjab, Uttar Pradesh and West Bengal, two Houses;

(b) in other States, one House.

(2) Where there are two Houses of the Legislature of a State, one shall be known as the Legislative Council and the other as the Legislative Assembly, . . .

So the other House is called the Legislative Council. Now article 171 deals with the composition of the Legislative Council, and it says:

"That total number of members in the Legislative Council of a State having such a Council shall not exceed one-third of the total number of members in the Legislative Assembly of that State."

Clause 3(a) is important for our purpose.

"Of the total number of members of the Legislative Council of a State—

(a) as nearly as may be, one-third shall be elected by electorates consisting of members of municipalities, district boards and such other local authorities in the State as Parliament may by law specify;"

Sir, I emphasise the words "members of municipalities, district boards and such other local authorities in the State as Parliament may by law specify." Therefore, as we read it, the logic and the grammar of the thing will compel us to say that where we have members of municipalities and district boards, they must be included in the electorate. So far as the other local authorities are concerned, "such other local authorities in the State as Parliament may by law specify" will come in. As regards this part of the clause, Parliament by law has to specify "such other local authorities." As we read it, the Constitution requires us to include all members of the municipalities and district boards within the electoral rolls. As for other local authorities, Parliament may either include them or may exclude them.

Section 27 (2) deals with this matter. The form of that section, Sir, or rather the drafting of that section probably gives rise to a little misunderstanding. I will read that section. It says:

In this section, "local authorities' constituency", "graduates' constituency" and "teachers' constituency" means a constituency for the purpose of elections to a Legislative

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Council under sub-clause (a), sub-clause (b) and sub-clause (c), respectively, of clause (3) of article 171.

As far as I know, this has been drafted by one of the most outstanding draftsmen that ever entered the Law Ministry. He combined clarity with precision. I may mention that he is no longer with us now. Article 171 . . .

DR. R. B. GOUR (Andhra Pradesh): Does it mean that you have less efficient draftsmen now?

SHRI R. M. HAJARNAVIS: I am merely saying that, in adopting this form, it has not been chosen for the first time for the purpose of the U.P. election.

SHRI K. SANTHANAM (Madras): Do I understand the hon. Deputy Minister as saying that every member of a district board is by the Constitution entitled to become a voter?

SHRI R. M. HAJARNAVIS: That is how I read it.

SHRI K. SANTHANAM: And by changing it here you are changing the Constitution?

SHRI R. M. HAJARNAVIS: The hon. Member may wait a little till I finish.

SHRI K. SANTHANAM: I am just wanting to know whether he has considered the effect of his argument on his own Bill.

SHRI R. M. HAJARNAVIS: Will my hon. friend be less agitated if I tell him that we did?

To continue, Sir, sub-section 27(2) says:

"For the purpose of elections to the Legislative Council of a State in any local authorities' constituency—

(a) the electorate shall consist of members of such local authorities exercising jurisdiction in any place or area within the limits of that constituency as are specified in relation to that State in the Fourth Schedule;"

But the Fourth Schedule does not give the list of the local authorities that are being added in the third part of article 171. It creates a constituency. Now, going to the Fourth Schedule, Sir, we find that everywhere the list in respect of each State starts with municipalities and district boards, because so far as municipalities and district boards are concerned, they cannot be eliminated. There is addition. There is another thing which I may mention at this stage, that in each State the cantonment boards are included. In every electorate the cantonment boards are local authorities the members of which are qualified for vote. I will not take up the time of the House by reading its provisions, but I may mention that these cantonment boards contain a large number of military officers. Cantonment boards in Uttar Pradesh alone number about 22. They are classified as class I, class II and class III cantonment boards and in each of them the majority consists of official members and there are army officers and one or two of them are also magistrates. In U.P. for instance, we have municipalities, district boards, cantonment boards, town area committees, notified area committees.

Now, I proceed to answer the doubt, the genuine doubt, which assailed us also, which confronted us also, and caused no small amount of difficulty, that has assailed the hon. Member, Shri Santhanam, and I will proceed to answer that.

Here, we are concerned with two States. One is Uttar Pradesh and the other is Andhra Pradesh. Now, the word "district board" which occurs in article 171 is not defined, just as the word "municipality" is not defined.

Where is it set out? When we are dealing with municipalities and district boards, the fact that they are described by some other name will not affect the essential incidents, the essential characteristics or the essential rights of either the institution or its members. For instance, in article 79 of the Constitution, it is stated:

"There shall be a Parliament for the Union which shall consist of the President and two Houses to be known respectively as the Council of States and the House of the People."

The Constitution clearly gives the names for both the Houses—the Council of States and the House of the People. But we have been using the Hindi terms, Lok Sabha and Rajya Sabha, without any amendment of the Constitution.

SHRI K. SANTHANAM: No, Sir. The Hindi version also is authorised and in the Hindi version, the term "Rajya Sabha" is used. I do not think we are doing it unauthorisedly.

MR. DEPUTY CHAIRMAN: The word is "Rajya Parishad" and not "Rajya Sabha."

DR. R. B. GOUR: Rajya Sabha and Lok Sabha are subsequent names.

SHRI K. SANTHANAM: But have you used the word "Rajya Sabha" in any Bill or Act? Only then will the question of the Constitution come in. If it is only the popular terminology, it does not matter. Have you used the term "Rajya Sabha" in any Bill?

SHRI R. M. HAJARNAVIS: Since the time is limited, I will not go into that matter now.

MR. DEPUTY CHAIRMAN: Let us confine ourselves to the Bill, and not go to the names, Rajya Sabha and so on.

SHRI R. M. HAJARNAVIS: The argument proceeds on the same basis and I can satisfy the hon. Member on

that basis also. Take the municipalities. Municipalities are sometimes known as corporations, city corporations, municipal corporations. There are other names also. In Uttar Pradesh, I am told the present name for municipality is something different. The English term "municipality" has been dropped even in the English drafts and they are now known as *Nagara Palikas*. But they continue to be municipalities.

SHRI H. P. SAKSENA (Uttar Pradesh): Does the hon. Deputy Minister know the sense and effect of that terminology? That is because the Uttar Pradesh Government has adopted Hindi for all its Departments. Therefore, they call it *Nagara Palikas* and corporations are called *Maha Nagara Palikas*.

SHRI R. M. HAJARNAVIS: And in Bombay, as far as I know, the district boards are known as district local boards. Therefore, if the functions of a particular local authority are the same as those of district boards, then they are within the meaning of the term "district boards", mentioned in article 171. The mere fact that the name has changed, that it is called or is addressed or styled in some other form will not in any way detract from the rights to which its members are entitled. That is our view. We examined both the Acts, the Act of Andhra Pradesh and the Act of Uttar Pradesh. We thought that although the functions of the Uttar Pradesh Zilla Parishad . . .

1 P.M.

DR. R. B. GOUR: Antanim Zilla Parishad.

DR. H. N. KUNZRU (Uttar Pradesh): It is not called a Zilla Parishad.

SHRI R. M. HAJARNAVIS: Whenever I say "Zilla Parishad" I have the "Antanim Zilla Parishad" in mind. The Zilla Parishads have not come into existence yet, and I hope for the sake of shortness I may be allowed to call them as Zilla Parishads. But I

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have in mind only the Antarim Zilla Parishads.

We came to the conclusion that the Zilla Parishads in Andhra Pradesh are not district boards. Their functions are different, their structures are different, and therefore, as far as Andhra Pradesh is concerned, it would be necessary to specify these Zilla Parishads in clause (3) of article 171. A Zilla Parishad is not a district board at all; it is an apex organisation of the various panchayats through which the funds flow and which is charged with supervision. That is the conclusion to which we came after examining both the Acts.

DR. H. N. KUNZRU: Sir, is the House going to rise for lunch or not?

SHRI P. N. SAPRU (Uttar Pradesh): May I ask whether the . . .

MR. DEPUTY CHAIRMAN: Order, order. Mr. Sapru, Dr. Kunzru is standing.

SHRI P. N. SAPRU: I am sorry.

DR. H. N. KUNZRU: Are we going to rise for lunch or not? It is already five minutes past one.

MR. DEPUTY CHAIRMAN: I am sorry I did not see the time. We will take this up after lunch.

DR. R. B. GOUR: Sir, half-an-hour must be half-an-hour over and above what the Minister has taken.

DR. H. N. KUNZRU: Obviously.

MR. DEPUTY CHAIRMAN: We have just 2½ hours for all the remaining four Bills. I would request the hon. Members to cut short their remarks. We may have to sit for a little more time if necessary.

The House stands adjourned till 2-30 P.M.

The House then adjourned for lunch at three minutes past one of the clock.

The House reassembled after lunch at half-past two of the clock, Mr. DEPUTY CHAIRMAN in the Chair.

MR. DEPUTY CHAIRMAN: Mr. Hajarnavis. You have taken 18 minutes out of 30.

SHRI R. M. HAJARNAVIS: I am sorry but I thought I would explain the provisions.

Now, I would like to bring to the notice of the House certain provisions of the Antarim Zilla Parishad Act of 1958 which replaces an Ordinance of the same name. The Ordinance came into effect on 1st May 1958 and I will draw the attention of the House to section 3 which says that all district boards in Uttar Pradesh will cease to function on the date the Ordinance came into force. The most important provision is section 6(1); it says:

"All powers, functions and duties of the District Board, or any committee thereof in respect of all matters including funds and property, whether under the enactment aforesaid or any other law, shall be vested in the Antarim Zilla Parishad, and shall, for the purposes of the administration of the U.P. District Boards Act, 1922 and any other law be exercised, performed and discharged by or under the authority of the Antarim Zilla Parishad, which shall be deemed in law to be the District Board or committee, as the occasion may require."

Therefore, firstly, having said that all the powers, functions and duties of the district board shall be vested in this, it goes on further to say that this will be deemed to be district board. Therefore a legal fiction has been created and as we know from the interpretation of the Supreme Court, of the House of Lords and of the Privy Council, when a thing is deemed to be something you will go to the logical end of the legal fiction. You cannot say it is not that because

the law says that even though it is not this, it must be regarded as this. So this provision is potent to invest it with all the characteristics of a district board. Further on it goes on to say—

“In any enactment other than the U.P. District Boards Act, 1922 in force on the date....references to the District Board of a district constituted under the U.P. District Boards Act, 1922 shall be considered as references to the Antanim Zilla Parishad.”

So whenever you find ‘District Board’ in any law, it shall be taken as Antanim Zilla Parishad. This Act says, ‘in place of District Board, read Antanim Zilla Parishad’.

DR. R. B. GOUR: Then why this Bill?

SHRI R. M. HAJARNAVIS: It is merely declaratory. I agree that there is no necessity but section 27 requires an amendment, namely, so far as the constitutional position was concerned, every member of a district board is entitled to vote. The words are ‘member of a District Board’ and once we come to the conclusion that a certain institution is a district board—by whatever name it is called—then everyone of its members is entitled to be enrolled as a voter to the Council. We could not have excluded these people without infringing the Constitution. It is not that something has been done in a hole-and-corner fashion. It is not as if something was done inadvertently or with a sinister purpose and then suddenly we are confronted with a difficult position to meet which we are bringing the Bill. The electoral rolls were published; the names of these officials were there and not even in a single case any objection was at any time raised except two or three days before the polling was to take place. If anyone had any doubt about it, if anyone had any contention to raise about this, surely there was enough time; there was the procedure; there was the tribunal created and the question could have been

decided. And if we did we give effect to the compelling provisions of the Constitution, we would have laid ourselves open to the charge that what we are doing is not in accordance with the law. Suppose we had excluded them then any voter would have had the right to go to court and say that persons who ought to have been included have been excluded. So what we have done is in accordance with the provisions of the law and at any time it was declared that what we are doing is not the correct interpretation of the Constitution, it would have given us the greatest amount of pleasure to carry out the wishes of the courts.

So far as Andhra Zilla Parishads are concerned, there is no law which says that they shall be deemed to be district boards; also, when their functions are examined item by item we find they are not district boards as we normally understand them and therefore they have been brought in here by law.

Sir, it is necessary that this law must be passed this session and I submit that the Bill be taken into consideration.

The question was proposed.

MR. DEPUTY CHAIRMAN: Dr. Gour. Five minutes each.

DR. R. B. GOUR: Excuse me, Sir. This is an important measure.

MR. DEPUTY CHAIRMAN: We have to finish it today.

SHRI P. RAMAMURTI (Madras): Sir, he has raised such an important point of law.

PROF. M. B. LAL (Uttar Pradesh): We cannot finish amendments in five minutes. I have given notice of an amendment also.

DR. R. B. GOUR: After all the hon. Minister has taken 25 minutes.

MR. DEPUTY CHAIRMAN: No. he has taken 20 minutes.

SHRI FARIDUL HAQ ANSARI: (Uttar Pradesh): It is not possible to develop even one argument in five minutes.

MR. DEPUTY CHAIRMAN: What am I to do? The Chairman has fixed the time.

DR. R. B. GOUR: There should be some time fixed for the hon. Minister also.

SHRI K. SANTHANAM: Is the Bill so urgent that it cannot be postponed, that it cannot be taken up at the next session? After all it will be deemed to take effect from the given date. Whether we pass it now or in September it will take effect from the original date.

MR. DEPUTY CHAIRMAN: Andhra elections are there.

DR. R. B. GOUR: No, in Andhra there is no election from the local authorities' constituencies. It is only the graduates' and teachers' constituency that is going to the polls. Local bodies are not going to the polls.

SHRI P. RAMAMURTI: Uttar Pradesh elections are over. Sir, in view of the very important points that have been raised by the hon. Minister it is necessary that we should have a thorough discussion on this.

PROF. M. B. LAL: If on the Representation of the People Act we hurry on like this, that means that we are not discharging our duties properly. This is a basic law, organic law, next in importance to the Constitution of the country. If we have discussion on this so hurriedly that means that we are not discharging our duties properly.

MR. DEPUTY CHAIRMAN: Let us proceed.

DR. R. B. GOUR: What is his view? Cannot this Bill be held over?

SHRI K. SANTHANAM: I suggest that the hon. Minister might agree to take it up at the next session.

SHRI R. M. HAJARNAVIS: I have already stated in the other House and elsewhere also that we deem it absolutely necessary that the Bill should be passed this session in order to enable the Election Commission to hold the elections.

DR. R. B. GOUR: But where are the elections?

SHRI P. RAMAMURTI: There are no elections in any State. In both the States the elections are over. In Uttar Pradesh the elections were over on the 24th and in Andhra there is no election nowadays. What is the meaning in trying to rush this through?

DR. R. B. GOUR: Mr. Deputy Chairman, I think the . . .

SHRI N. M. LINGAM (Madras): On a point of information, may I ask whether elections from local bodies' constituencies are due to be held in Andhra in June? I want a categorical answer.

DR. R. B. GOUR: There are no elections.

SHRI N. M. LINGAM: If there are no elections then there is no necessity to proceed with this Bill now.

DR. R. B. GOUR: You can give your ruling on this, Mr. Deputy Chairman, as to whether we should proceed with this.

MR. DEPUTY CHAIRMAN: It is for the Government.

DR. R. B. GOUR: Where is the urgency about this?

SHRI K. SANTHANAM: You are the guardian of the privileges of the House. This is a Bill which has to be properly debated and if it cannot be properly debated . . .

MR. DEPUTY CHAIRMAN: All right; I will give some more time, say, half-an-hour. We will sit beyond five and finish the business of the day. Yes, Dr. Gour.

DR. R. B. GOUR: Mr. Deputy Chairman, Sir, firstly I do not see any reason for hurrying up with this Bill. I would, through you, Mr. Deputy Chairman, request the hon. Minister to modify the Statement of Objects and Reasons because the Statement of Objects and Reasons is quoted in High Courts to explain the purpose of the amendment or the Bill. Here he says that elections in Andhra Pradesh are due in June from the local bodies to the Council. A section of the Legislative Council is going out and elections are being held for those particular seats, but not from the local bodies' constituencies. In the ballot it is the graduates and teachers' constituency which got two years. The local bodies' constituency got four years and the Assembly constituencies got six years in the case of Andhra Pradesh.

MR. DEPUTY CHAIRMAN: How can that be? A set of Members have to retire every two years.

DR. R. B. GOUR: No, Sir. In the case of Andhra Pradesh it is not that way. Otherwise, proportional representation will be meaningless.

MR. DEPUTY CHAIRMAN: There cannot be a separate provision.

SHRI R. M. HAJARNAVIS: If the hon. friend will allow me, I have definitely understood the Chief Minister of Andhra Pradesh to convey to me that it is absolutely necessary that this Bill should be passed in order that the elections may proceed. That is my impression. I am not used to making a categorical statement without further authority. I have asked the Election Commission to find out the position.

DR. R. B. GOUR: A private conversation between the hon. Deputy Law Minister and the Chief Minister is

not supposed to be authentic for the purpose of this Bill. Anyway, it is a fact that only graduates and teachers' constituency is going to the polls in Andhra Pradesh.

MR. DEPUTY CHAIRMAN: How can that be?

DR. R. B. GOUR: One-third does not mean every constituency. It is not so. Otherwise, proportional representation will be meaningless.

MR. DEPUTY CHAIRMAN: Come to the merits of the Bill, Dr. Gour. It is a very simple Bill.

DR. R. B. GOUR: I am saying that if there are no elections in June from the local bodies' constituencies to the Legislative Council in Andhra Pradesh, then what will happen to the hon. Deputy Law Minister, under whose signature the Statement of Objects and Reasons has been provided here? That is exactly my point. There is no urgency. In Uttar Pradesh the elections are over. The Antarim Zilla Parishads have already gone to the polls. There was no legal point raised. When that is the position, why are you hustling through this Bill, whether in the other House or in this House, in the manner you are doing? Coming to the point, about the Uttar Pradesh affairs, they are safe in the hands of my friend, Shri Mukut Behari Lal, and I think Dr. Kunzru will also do something to see that this farce is not played and this fraud is not committed. After all, if these nominated persons who are in the Antarim Zilla Parishads are to elect the Legislative Council Members, the Constitution is to allow it, if the law is to allow it, if the Law Minister is to allow it, then there is something very fundamentally wrong in what is going on and we shall have to put a stop to it. I think the hon. Members who are there will speak about it. Mr. Mukut Behari Lal's amendment is also there. I am going to confine myself to Andhra Pradesh.

It is quite true that Zilla Parishads have replaced district boards. There

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is going to be a peculiar circumstance so far as these Zilla Parishads are concerned. Firstly, district boards were all directly elected bodies, but the Zilla Parishads are not elected. They are not exactly directly elected bodies. In fact, the directly elected body is only the panchayat. After the panchayats, the samithis come. Again there is indirect election. From the samithis you come to Zilla Parishads, a third stage of indirect election here that is not the case with the Zilla Parishads elect the Members of the Legislative Council. You will see that the Legislative Council has been given a constituency called the local bodies constituency. It is expected that the spirit of the Constitution is that the local bodies which are directly elected are to elect a representative of their own in the Legislative Council. But here that is not the case with the Zilla Parishads. You have formed the Zilla Parishads. A certain law is there in the name of Zilla Parishads and you say that they have replaced the district boards. But the Constitution envisaged local bodies' constituency for the Legislative Council as directly elected local bodies—municipal committees or district boards. But here is the Zilla Parishad, which is an absolutely indirectly elected body. Let us see whether you are sticking to the merits of the Constitution. Coming to panchayats, there are hardly 300 panchayats, which from the olden days go in for election of panchayat committees on the basis of secret franchise. Now, under the new Act—I think there are quite a number of them, about 17,000 panchayats—only 300, which came from the old Madras State, get directly elected on a franchise which is based on secret vote. Nearly about 17,000 panchayats are elected on the basis of open vote. Now, Sir, I would like to ask the hon. Minister through you, another question. May I know whether the M.L.As, M.Ps., Members of the Legislative Council and Members of the Rajya Sabha, who are to be members of the Zilla Parishads according to

the Zilla Parishads Act itself, will also be voters, because they are members? The Collector will also be a voter, because he is a member. Will that be the case? That means, you are perpetuating double voting. I am a graduate and I am a voter to the Legislative Council by virtue of the fact that I am a graduate. I believe I may also vote for the Legislative Council by virtue of my being a member of a particular Zilla Parishad in Andhra Pradesh, because I am a Member of the Rajya Sabha.

SHRI R. M. HAJARNAVIS: And if you are a teacher, you will get a third vote.

DR. R. B. GOUR: Exactly. I entirely agree with you. That is the position. Even for that matter, a graduate member of a corporation can vote for two, for the local bodies' constituency as well as the graduates' constituency. Would you say that Members of the Legislative Assembly, Members of the Legislative Council, Members of the Lok Sabha and the Rajya Sabha, who have been co-opted to the Zilla Parishads, should be given vote because they have become members? Should the Collector, who has been co-opted to the Zilla Parishad, be given a vote?

SHRI P. N. SAPRU: He has been made the Chairman of the Zilla Parishad. That is worse.

SHRI N. M. LINGAM: Not in all States.

DR. R. B. GOUR: Therefore, when you are giving these powers, you will have to be very clear about these things. A person is getting three votes or two votes. That position I want to be clarified. Secondly, do the co-opted members, who are nominated members, also get a vote? Could you not provide that every co-opted member and nominated member.

SHRI SANTOSH KUMAR BASU (West Bengal): May I interrupt, Sir? This is functional representation, not adult suffrage. According to the functions they get their franchise.

DR. R. B. GOUR: Function is all right. The Constitution says that members of the local bodies will have their representative in the Legislative Council. What is it that the Constitution has said? Local bodies should mean municipalities or district boards. Now, the municipalities and district boards are all directly elected local bodies. But here is a local body, as you have defined it, which is a third stage of indirect election. Therefore, by hustling through this Bill, by making this ugly haste, you are only trying to commit a fraud on the Constitution and the electorate.

SHRI N. M. ANWAR (Madras): Where is the fraud?

DR. R. B. GOUR: You are converting an indirectly elected body into a directly elected local board and giving it representation. I can understand a municipal corporation, I can understand directly elected municipality or a town committee, because they are elected. Here you say that the Zilla Parishad is the district board. The Constitution talks of a district board and you say Zilla Parishad which will be deemed to be a district board.

SHRI R. M. HAJARNAVIS: I have not said that. The U.P. Legislature has said.

DR. R. B. GOUR: The U.P. Legislature says so. Therefore, the whole thing has to be gone into very carefully and I do not think there is any urgency about it, because in the case of U.P., the Antanim Zilla Parishads have already participated in the elections in February, 1960. In the case of Andhra Pradesh, the elections are going to take place two years

hence. So, there is no urgency about it.

MR. DEPUTY CHAIRMAN: You oppose the Bill.

DR. R. B. GOUR: Of course, I am opposing it. The hon. Minister is dogmatic that we have to pass this Bill. In view of the lack of urgency, we have every right to oppose this Bill and I hope that the House will bear with us in that.

SHRI K. SANTHANAM: Mr. Deputy Chairman, I just want to make two points. One is constitutional and the other is on the merits. First, I was very surprised to hear from the hon. Deputy Minister that the term "District Board" in the Constitution may be interpreted to mean anything.

SHRI R. M. HAJARNAVIS: I hope I have not been guilty of such a fantastic proposition.

SHRI K. SANTHANAM: It amounts to that because according to this Bill, it is interpreted not only to include Zilla Parishads but also Antanim Zilla Parishads which I do not believe he will himself say are bodies analogous to a district board.

MR. DEPUTY CHAIRMAN: The relevant clause reads "such other local authorities."

SHRI R. M. HAJARNAVIS: According to the U.P. Legislature it shall be deemed to be district board.

SHRI K. SANTHANAM: That means in point of law it will be; that is the meaning of "deemed". The Constitution contemplated that the term "district board" should be construed as district board existing at that time, and in order that it should not be restrictive, it has said "and such other local authorities in the State as Parliament may by law specify". Therefore, it was open to the local Legislatures to say that though the old district boards had been abolished, these new bodies

[Shri K. Santhanam.]
were included as the electorate for the Legislative Council.

MR. DEPUTY CHAIRMAN: That inclusion has to be made only by Parliament.

SHRI K. SANTHANAM: First, they must make the law saying that these new bodies should be created and we must amend the law. It may be done either way, that does not matter. The point is that the district board cannot be equated with the Zilla Parishad or Antanim Zilla Parishad. Though these Parishads may be brought under the residuary clause of the Constitution . . .

MR. DEPUTY CHAIRMAN: Local bodies are the creation of State Legislatures. Is it not open to the State Legislature to abolish them and create new ones?

SHRI K. SANTHANAM: But when they create new bodies, Parliament cannot interpret them as district boards. It may include them under the residuary clause. That is the only point I am making.

MR. DEPUTY CHAIRMAN: He has come in only under that clause.

SHRI K. SANTHANAM: District boards cannot be substituted. You cannot substitute an Antanim Zilla Parishad for a district board. You may say that this may be added. The word "substitute" here is wrong. You may add Zilla Parishads or Antanim Zilla Parishads. That is a constitutional point. Therefore, Sir, I say that the Bill is very badly drafted and it must come back in a properly drafted form.

My second point is this. In many of these Antanim Zilla Parishads there is a large number of officials who are not entitled to vote in the Parishads but who are given the franchise to vote for the Legislative Council. First, it is very bad to bring the officials into the picture at

all. We know what intense canvassing is conducted for these local bodies. When once they are brought into the picture, you will find that the cry of corruption will come from one party or other. The party for whom the officials do not vote will immediately put all the officials in the soup, and in course of time we will know how the nominated officials . . .

SHRI R. M. HAJARNAVIS: The hon. Member has not taken into consideration the fact that under an Act of Parliament the Cantonment Boards have a majority of army officers who are already electors. Therefore, it cannot rest on a matter of principle.

DR. H. N. KUNZRU: Sir, if I may interrupt, a cantonment board by its very name shows the purpose for which it has been established. It is a special kind of board. It relates to areas where the army lives. There is bound to be a majority of army officers there.

SHRI R. M. HAJARNAVIS: They vote for the Legislative Council. They are brought in the arena of elections.

DR. H. N. KUNZRU: If you have a board within an army area, what else will happen?

SHRI K. SANTHANAM: In the other Zilla Parishads I understand that there are a considerable number of officials who were originally in planning bodies which have been incorporated in the Zilla Parishads. Sir, we know how these officials function. We had a nominated bloc in the old Legislative Councils in the British days, and we know how they functioned. Therefore, if you have got a nominated bloc in every Zilla Parishad, then the fiat will go that all these nominated persons will vote for such and such parties. That will be

a great evil. I think the hon. Minister should not make himself responsible for giving votes to these members. I do not think there is anything illegal in saying—because they are adding new bodies, they are not old bodies—that in those new bodies only the elected members can vote. There is no constitutional or legal difficulty in placing that limitation. Therefore, I suggest these points. The Bill should be suitably amended and brought up again. Unless there is some urgency about it, he should not insist on it now and push it through Parliament.

SHRI P. N. SAPRU: Mr. Deputy Chairman, there is a legal as well as a political point involved in this Bill. I think from a political point of view this Bill is a wrong Bill, is a bad Bill, is an evil Bill. It will be a sad day for this country when officials begin to take sides in elections, when officials begin to take part in politics. You want in a democracy an impartial civil service, and it is wrong in principle to make that civil service act as agents of any political party or as allied to any political party.

Sir, so far as these Antarim Zilla Parishads in U.P. are concerned, officials have a very large position in them. Nearly 40 per cent of the members are officials, and the chairman of these boards is the District Magistrate. Allahabad has the distinction of having distinguished members as representatives in Parliament. They are all *ex-officio* members of the Zilla Parishad presided over by the District Magistrate of Allahabad. When that is the constitution of these bodies, what you have done is to give all these officials the right to vote for legislative council elections.

Now, reference was made to certain legal difficulties by Mr. Hajarnavis, but I would like to ask him to consider this question. Can it be said that the official members have been given equal status with the non-official members when admittedly the official

members have no right to vote in the Zilla Parishads? Between a member who has no right to vote and a member who has a right to vote there is a distinction, and therefore the suggestion that if you want to give voting rights, confine that only to non-official members, is not so ridiculous as it looks.

Then, I would also like to point out that according to a decision of the Allahabad High Court—I have not been able to lay my hand on it—these Antarim Zilla Parishads are not district boards. The expression “shall be deemed to be district board” has been used no doubt, but you have got to see whether in fact they perform the functions of a district board. The district board was to be a directly elected body, and there is indirect election so far as these bodies are concerned. M.L.As. and M.Ps. have been made part of the new body. I think it is wrong in principle to give to M.L.As. or M.Ps. two or three votes.

MR. DEPUTY CHAIRMAN: That will do. Your time is up.

SHRI P. N. SAPRU: All right, Mr. Deputy Chairman. It is a very very important matter. It seems to me that there is no urgency about this Bill. Nothing will happen if this Bill is allowed to stand over till the next session. We should be given more time to reflect over this Bill because it raises fundamental issues of 3 P.M. a vast nature which cannot be discussed in a discussion of the duration of half an hour or forty-five minutes or one hour. It requires a more deep study than we are able to give to this Bill. I am personally completely dissatisfied with this.

PROF. M. B. LAL: Sir, as I said before, the Representation of the People Act in our democracy is second in importance only to the Indian Constitution and any change in this

[Prof. M. B. Lal.]
 Act should be properly considered from all points of view before the change is endorsed by Parliament. Therefore, along with other Members of this House, I also strongly protest against the way in which this Bill is going to be hurried through. Certainly, Sir, I strongly object to sub-clause (b) of clause 5 of this amending Bill which says—

“under the heading ‘Uttar Pradesh’, for the entry ‘2. District Boards’, the following entry shall be deemed to have been substituted with effect from the 1st day of February, 1960, namely:—

‘2. Zilla Parishads including Antarim Zilla Parishads.’”

I am opposed to it on three grounds—firstly because I am convinced that to amend the Representation of the People Act with retrospective effect is to strike democracy at its root; secondly, because I strongly hold that it is anti-democratic to enrol in an electoral college such district officers as are vested with certain powers, functions and positions in local bodies by virtue of the office they hold; and, thirdly, because I feel that it will be improper—may I say, highly objectionable—to grant voting rights to members of such bodies which may not come into existence or may be so constituted that it may not be deemed proper to include them in the electoral college for the Legislative Council. Sir, we know by this time very well that the Antarim Zilla Parishad is an interim arrangement, and my contention is that the interim arrangement in the form of Antarim Zilla Parishad does not deserve to be recognised as a proper local authority for the purposes of the electoral college for the Legislative Council, just as an administrator appointed to administer the municipal affairs on its supersession is not so recognised. Sir, what I mean is that when an administrator is appointed to exercise the

powers and functions of a superseded municipal board, he is to all intents and purposes a local authority with respect to the municipal functions and powers, but he is not enrolled in the electoral college for the Legislative Council. So, the members of the Antarim Zilla Parishad, who constitute to all intents and purposes a local authority with respect to municipal functions and powers of the district board, should not have been enrolled as voters in the electoral college for their Legislative Council.

Sir, my second point is this that under the constitution of the Antarim Zilla Parishad, the official members are not allowed the right of vote in the Zilla Parishad. Under the Ordinance that was issued by the Uttar Pradesh Government, they had such a power. But when the Uttar Pradesh Legislature enacted the Ordinance, it laid down that the official members would have no right to vote in the proceedings of the Zilla Parishad except the presiding officer, who might exercise his casting vote. It is really strange that persons who have not a right to vote in the Antarim Zilla Parishad are deemed fit to be enrolled as voters for the purposes of election to the Legislative Council. Sir, may I point out that under the Indian Councils Act, 1882, only non-official members of the municipal and district boards were allowed to form electoral colleges for the election of the Provincial Legislative Council. It seems to me that our democratic Government is less considerable to the democratic character of elections than the British Conservative Government of 1892 who were pledged to hold their imperialist domination over India. It is pointed out by the Deputy Law Minister that as the law stands today, there is a cantonment board with a number of official members who are enrolled as voters in the electoral college for electing members to the Legislative Council. I say, instead of following that bad precedent, let us change that provision and let us not

introduce this virus of bureaucratisation of the electoral college in other spheres also. I hold strongly that democracy cannot stand this bureaucratisation of the electoral colleges. Democracy will be reduced to a farce if a large number of officials are included in the electoral college by virtue of the position they hold in certain bodies.

Sir, in the end I also wish to point out that recently the Uttar Pradesh Government has withdrawn the Zilla Parishad Bill. In 1952 they announced that they were going to reconstitute the district local authority. Since then, they had not been able to make up their minds. The Bill that they had moved they have withdrawn. We do not know what the shape of things is going to be. It is not, therefore, possible for us to forecast its mind—whether it will necessarily be actualised in the form of the Zilla Parishad worthy enough to be recognised as a district board or a suitable local authority for the purposes of being included in the electoral college for the Legislative Council. Sir, this House is not in a position to pass its judgement on the attitude and activity of a State Government with regard to local self-government but we owe a duty to the Constitution and democracy to see whether a local authority is fit to be included in the electoral college or not before it is included in the electoral college concerned. Sir, the Minister has pointed out that under the law, the Antarim Zilla Parishads will be deemed to be district boards. Another important Member has questioned it. All I wish to say is that I cannot cross swords with the Deputy Law Minister as far as the legal question is concerned. I would only say that if under the law the Antarim Zilla Parishad can be equated with the district board, no legislation is necessary, and my suggestion that these words be dropped can easily be accepted by the Law Minister. Sir, I only object to any law to be given retrospective effect with regard to a change in the law of representation.

MR. DEPUTY CHAIRMAN: Mr. Hajarnavis.

DR. H. N. KUNZRU: Before he gets up, may I say one thing? I entirely agree with what Prof. M. B. Lal has said. The House is not aware of the constitution of these bodies which are called Antarim Zilla Parishads. The Antarim Zilla Parishad consists of the members of the district planning committee and a few other members. Now, how can this be regarded as a successor to the district board? It is naturally a different kind of body. If you take for instance the district agricultural committee, the district planning committee and the district health committee and say that all these members together will form the Antarim Zilla Parishad, can the Government legitimately claim that such a body is entitled to be called or regarded as a district board? Secondly, as Prof. Lal has said, there are members the status of all of whom is not the same. The status of the official members is one and that of the other members another. That is again another argument against regarding the Antarim Zilla Parishad as a district board. Lastly I agree with Mr. Mukut Behari Lal that if this body is the same thing as the district board, then there is no need for this legislation at all, and why have they brought this? Government still wants to proceed with the Bill. I think they should withdraw it and come forward with another Bill. When they had allowed so much time to elapse in the case of U.P., they may well allow some time in the case of Andhra Pradesh, and the heavens will not fall if the Andhra Pradesh Government postpones the elections by another three months. They have been postponed for ten years in the case of U.P. and they can be postponed for three or four months in the case of Andhra Pradesh.

SHRI AKBAR ALI KHAN (Andhra Pradesh): Why should we follow the example of U.P. and unnecessarily postpone the elections in Andhra Pradesh?

DR. H. N. KUNZRU: But why should the hon. Member from Hyderabad want to have the elections in Andhra Pradesh immediately? Why can he not, in order to satisfy the spirit of the law, agree to hold elections three or four months later, when Government can bring a more considered Bill before us?

SHRI P. RAMAMURTI: I would like to ask only one question. He tried to take shelter under section 6(1) of the Uttar Pradesh Antarim Zilla Parishad Act, and I would like to point out, Sir, what it says. It says:

"all powers, functions and duties of the District Board, or any committee thereof in respect of all matters including funds and property, whether under the enactment aforesaid or any other law, shall be vested in the Antarim Zilla Parishad, and shall, for the purposes of the administration of the U.P. District Boards Act, 1922 and any other law, be exercised, performed and discharged by or under the authority of the Antarim Zilla Parishad, which shall be deemed in law to be the District Board or Committee, as the occasion may require;"

Now, I would like to ask him whether it is one of the duties or functions of the Antarim Zilla Parishad under the U.P. District Boards Act to elect members to the Legislative Council. I think that obviously is not the function of the Antarim Zilla Parishad. Therefore, for him to take shelter under this particular thing that because the Zilla Parishads are not properly constituted and because the Antarim Zilla Parishads will have all the powers, functions and duties of the district board under the U.P. District Boards Act, they will also have the power to exercise their franchise, is certainly a travesty of the law. That is not in reality the position. Some people have questioned the position maintained by the hon.

the Deputy Minister. Therefore, people are going to question the inclusion of the names of members comprising the Zilla Parishads in the electoral rolls. Why does not the Government allow the courts to have their own say in the matter? You want to circumvent the courts; you want to prevent the courts from saying that the Election Commission has done a serious mistake, that they have not abided by the Constitution and that they have acted illegally. These are things which you want to cover. Otherwise, I do not see why there should be this urgency. As far as the U.P. elections are concerned, the elections from the local bodies are over. There should be no urgency now. Let us await the decision of the courts. If the court upholds the interpretation of the hon. Minister, well and good. Otherwise, it will create complications. So, I would like a straight reply to my question how this interpretation is to be taken as final.

SHRI J. S. BISHT (Uttar Pradesh): Just a minute, Sir; I shall explain it. Constitution of local authority is the sole prerogative of the local Legislature. There is no God-given law on the subject as to who will constitute the local bodies, the district board or the municipal board. In this particular instance under a particular law the Antarim Zilla Parishads had been constituted pending elections to the Zilla Parishads, and in the Antarim Zilla Parishads there were every M.P., every M.L.A., M.L.C., and three members elected by the defunct district board. They and certain other officials constitute the Antarim Zilla Parishads. Even in the municipalities there are officials and they are entitled to vote. So, what is the wrong about it? I cannot really understand why some people contested it. Therefore, Government had to bring in a law in order to put it beyond all dispute. With regard to the elections to the Council, it is for the Election Commission to decide in accordance with the Constitution and the elections to the Councils have to be held

every two years and they cannot be postponed. Therefore, these people had to be brought in. Otherwise the whole rural area would have gone without any voice in the election to Councils and the whole of the rural area in U.P. would have gone unrepresented.

SHRI R. M. HAJARNAVIS: Sir, as regards the pending elections in Andhra Pradesh I am now in a position to make a definite statement, that there are four local authorities constituencies from the Circars and then there are six local authorities constituencies from Rayalaseema. That is to say, ten members are to be elected on the 19th June, 1960. As my hon. friend Shri Bisht has already pointed out, it is for the Election Commission to fill in the vacancies.

DR. H. N. KUNZRU: The Bill could have been brought earlier and discussed in detail.

SHRI R. M. HAJARNAVIS: We introduced the Bill some time back. But it depends upon the nature of other business, other priorities, as to what time shall be allotted to this

...

PROF. M. B. LAL: No importance is given to changes in the basic law of representation.

SHRI R. M. HAJARNAVIS: Now I agree with Prof. M. B. Lal that so far as the basic law of representation is concerned, there should be no retrospective effect given to it at all, and it is my contention that in U.P. we are not giving any retrospective effect at all. If that were the spirit of the Bill, if that is what this Bill intended to do, then I for one would not have piloted this Bill at all. As I have stated, steps had been taken long ago, before this Bill was introduced.

SHRI P. RAMAMURTI: That was a wrong step.

MR. DEPUTY CHAIRMAN: Order, order; You have had your say.

SHRI R. M. HAJARNAVIS: I believe there are certain habits or manners to be observed in this House to which I hope the hon. Member would like to conform.

DR. R. B. GOUR: You need not teach those manners.

SHRI R. M. HAJARNAVIS: Well, Sir, I did not think the matter was beyond repair.

DR. R. B. GOUR: My point is you are not a member of this House.

MR. DEPUTY CHAIRMAN: Order, order; let him go on.

SHRI AKBAR ALI KHAN: That is not fair, Sir.

SHRI R. M. HAJARNAVIS: Now my difficulty is this. As I said, Sir, our difficulty, when we examined this question, was this; we were no less anxious than the hon. Members who have spoken, to exclude the official element from the electoral rolls; if we could have done that without impinging on the Constitution nothing would have given us greater pleasure. I posed the question and I went into it as length in my opening remarks; I took the hon. Members at length through all the steps. We reached the conclusion—as Mr. Bisht also pointed out—that it was within the legislative competence of the State Legislature to constitute the district board, to say what that district board shall be. The Constitution says “members of the district board”. Have I heard a single argument from any hon. Member to the effect that you cannot constitute a district board like this, and also that if you include an official in the district board, then it ceases to be a district board within the meaning of the wording in the Constitution? Has anyone said this? And can anyone say this?

SHRI N. M. LINGAM: “District board” is not defined anywhere.

SHRI R. M. HAJARNAVIS: "District board" has not been defined anywhere. Now here I refer to the oft-quoted remarks of Lord Asquith that when the words "deemed to be" are used these consequences follow.

"If you are bidden to treat an imaginary state of affairs as real you must surely, unless prohibited from doing so, also imagine as real the consequences and incidents which, if the putative state of affairs had in fact existed, must inevitably have flowed from or accompanied it."

Therefore, it is no use our saying that, because we do not legislate for the creation of district boards or we would not have constituted district boards in this manner. We cannot impose our own ideas upon another Legislature; it is for the State Legislature to decide, and the Legislature having created a certain local authority and having said that this shall be the district board, all the consequences follow inevitably, and as I read the Constitution, every member on that district board is entitled to vote, because under article 171(3) a member of the district board is entitled to vote. We examined this matter with very great care. We were anxious to exclude but, as I said, the provisions of the Constitution are compelling. I might briefly advert to the objection raised by Mr. Ramamurti though it has apparently been answered by my hon. friend, Mr. Bisht. The right of vote has not been given by the Uttar Pradesh Act at all. What it creates is a member. Once he is a member, the incidents of that membership which are given in other provisions of law follow. The purpose of the State Legislature is merely to create a district board and members.

I come to another objection which has been raised. We considered it for a long time and debated it in our own minds as to what the consequences of this are, viz. the Legislature having said that these persons are members, but denied them the

right of vote. The question was one of interpretation because they have not been given the right of vote. Let me explain how we proceeded to reason it out. We came to the conclusion that the mere fact that a person is not given the right of vote does not make him the less a member.

To take an example, Sir. As we know, in a joint Hindu family which follows the custom of impartibility, certain incidents of the joint Hindu family are excluded as impartibility. But basically the position is that it remains a joint Hindu family. Similarly, here the Legislature says that he is a member. From that membership certain rights flow. Out of these rights the right of vote has been taken away but the basic position remains.

SHRI AKBAR ALI KHAN: It is a fundamental question. The executive or the officials should not be given the right of vote. That is a very serious matter.

SHRI R. M. HAJARNAVIS: I have already brought to the notice of the House the position of the cantonment boards. And if that is the contention of the hon. Member, it is there that the most serious sin has been committed by the Representation of the People Act. Nobody has suggested that they should be changed.

SHRI J. S. BISHT: In some municipalities 25 per cent. of the members are officials.

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill further to amend the Representation of the People Act, 1950, as passed by the Lok Sabha, be taken into consideration."

The House divided.

MR. DEPUTY CHAIRMAN: Ayes—70; Noes—14.

AYES—70

Agrawal, Shri J. P.

Ahmad, Shri Ansaruddin.

Ali, Shri Mohammad.
 Annapurna Devi Thimmareddy,
 Shrimati.
 Anwar, Shri N. M.
 Banerjee, Shri Tara Shankar.
 Barlingay, Dr. W. S.
 Barooah, Shri Lila Dhar.
 Basu, Shri Santosh Kumar.
 Bedavati Buragohain, Shrimati.
 Bharathi, Shrimati K.
 Bhargava, Shri M. P.
 Bishit, Shri J. S.
 Chakradhar, Shri A.
 Chauhan, Shri Nawab Singh.
 Desai, Shri Janardhan Rao.
 Doogar, Shri R. S.
 Hagjer, Shri J. B.
 Himatsingka, Shri P. D.
 Jugal Kishore, Shri.
 Kapoor, Shri Jaspat Roy.
 Kaushal, Shri J. N.
 Khan, Shri Akbar Ali.
 Krishna Kumari, Shrimati.
 Kulkarni, Shri G. R.
 Kumbha Ram, Shri.
 Kurre, Shri Dayaldas.
 Lakshmi Menon, Shrimati.
 Lingam, Shri N. M.
 Mahesh Saran, Shri.
 Maya Devi Chettry, Shrimati.
 Mazhar Imam, Syed.
 Mitra, Shri P. C.
 Naftul Hasan, Shri.
 Naik, Shri Maheswar.
 Nallamuthu Ramamurti, Shrimati T.
 Narasimha Rao, Shri K. L.
 Neki Ram, Shri.
 Panj hazari, Sardar Raghbir Singh.
 Pawar, Shri D. Y.
 Punnaiah, Shri Kota.
 Pushpalata Das, Shrimati.
 Pustake, Shri T. D.
 Raghubir Sinh, Dr.
 Rajabhoj, Shri P. N.

Rajagopalan, Shri G.
 Rao, Shri V. C. Kesava.
 Ray, Dr. Nihar Ranjan.
 Reddi, Shri J. C. Nagi.
 Reddy, Shri S. Channa.
 Reddy, Shri M. Govinda.
 Sahai, Shri Ram.
 Saksena, Shri Mohan Lal.
 Satya Charan, Shri.
 Savitry Devi Nigam, Shrimati.
 Seeta Yudhvir, Shrimati.
 Shanta Vasisht, Kumari.
 Sharma, Shri L. Lalit Madhob.
 Shetty, Shri B. P. Basappa.
 Singh, Thakur Bhanu Pratap.
 Singh, Sardar Budh.
 Singh, Shri Mohan.
 Singh, Shri Vijay.
 Singh, Giani Zail.
 Sinha, Shri B. K. P.
 Tankha, Pandit S. S. N.
 Verma, Shri K. P.
 Vyas, Shri Jai Narain.
 Yajee, Shri Sheel Bhadra.
 Yashoda Reddy, Shrimati.

NOES—14

Ansari, Shri Faridul Haq.
 Dave, Shri Rohit M.
 Desai, Shri Suresh J.
 Dwibedy, Shri Bairagi.
 Ghosh, Shri Sudhir.
 Gour, Dr. R. B.
 Kunzru, Dr. H. N.
 Lal, Prof. M. B.
 Nair, Shri Govindan.
 Patel, Shri Dahyabhai V.
 Singh, Shri D. P.
 Singh, Shri Niranjana.
 Subba Rao, Dr. A.
 Venkataramana, Shri, V.

The motion was adopted.

MR. DEPUTY CHAIRMAN: We shall now take up the clause by clause consideration of the Bill.

Clauses 2 to 4 were added to the Bill.

Clause 5—Amendment of Fourth Schedule

PROF. M. B. LAL: Sir, I move:

"That at page 2, lines 11 to 15 be deleted."

Sir, the hon. Deputy Minister of Law has made certain observations. He agreed with me that such a basic law should not be amended with retrospective effect. He also said that after amendment the Antarim Zilla Parishad, will be deemed as district board. Therefore, I would request him not to introduce the precedent by introducing this particular subclause in this Bill. He should accept my amendment so that we may not be a party to passing a provision in the Bill with retrospective effect.

My second point is that he agrees with me that officials should not form part of such an electoral college. He finds only certain legal difficulties. It is just possible that hurriedly, at this time, those difficulties may not be removed. I would request the hon. Deputy Law Minister to bring forward the necessary amendment to the Representation of the People Act and if necessary to the Constitution also, so that official members are never included by any State Legislature in this electoral college.

With these words I would request the hon. Minister to accept my amendment so that, against his wishes, the Parliament may not be committed to passing a change in the basic law with retrospective effect.

The question was proposed.

SHRI R. M. HAJARNAVIS: Sir, I oppose the amendment. There is only one sentence which I would say in support of my opposition, namely, this is only an amendment to sec-

tion 27 which gives the constituency so that what we retrospectively give effect to is not the list of electoral authorities but only the constituencies which formed the basis from 1st February 1960. Therefore, this retrospectiveness is merely declaratory.

MR. DEPUTY CHAIRMAN: I shall now put the amendment to vote.

PROF. M. B. LAL: It is a very important measure concerning the Uttar Pradesh and I would rather like a division be sought on this so that the citizens of U.P. may know who were for the amendment and who were against it.

MR. DEPUTY CHAIRMAN: The question is:

"That at page 2, lines 11 to 15 be deleted."

(After taking a count)

Ayes : 16

Noes : 65

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 5 stand part of the Bill".

The motion was adopted.

Clause 5 was added to the Bill.

Clause 1, the Enacting Formula and the Title were added to the Bill.

SHRI R. M. HAJARNAVIS: Sir, I move:

"That the Bill be passed."

The question was put and the motion was adopted.

THE APPROPRIATION (RAILWAYS) NO. 3 BILL, 1960.

MR. DEPUTY CHAIRMAN: We shall now take up the Appropriation (Railways) No. 3 Bill, 1960. We will have to sit till we finish the remaining three Bills. The House may have to sit a little late, if necessary.