

Mr. CHAIRMAN: Motion moved:

"That the Bill further to amend the Prevention of Disqualification Act, 1953, as passed by the Lok Sabha, be taken into consideration."

(After a pause)

The question is:

"That the Bill further to amend the Prevention of Disqualification Act, 1953, as passed by the Lok Sabha, be taken into consideration."

The motion was adopted.

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

Clause 2 was added to the Bill.

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

SHRI A. K. SEN: Sir, I beg to move:

"That the Bill be passed."

Mr. CHAIRMAN: The question is:

"That the Bill be passed."

The motion was adopted.

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

THE MINISTER OF LAW (SHRI A. K. SEN): Mr. Chairman, 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, as passed by the Lok Sabha, be taken into consideration."

Sir, this is really an amending Bill which has been introduced for the purpose of giving effect to certain recommendations made by the Election Commission. Apart from two clauses, the other provisions of this Bill are more or less non-controversial. For instance, there is one recommendation made by the Election Commission that

the preparation of electoral rolls be started from 1st of January instead of from 1st of March, in view of the difficulties experienced during the last few years, for the purpose of enrolling the services of various revenue officers who remain engaged, almost throughout the whole country during the period starting from March, in their financial work. So, this is only an enabling clause for the purpose of allowing these officers to be enrolled for service. Sir, a good deal of misunderstanding was created in the other House because of the antedating of this period. That does not necessarily mean that in all areas we shall start the election work in January. Some hon. Members coming from certain hilly areas brought it to our notice in the other House that in places high up in the hills, it would be impossible to work in January. That is quite true. This is only an enabling clause. It will enable the Election Commission to carry out its work from January in places wherever that is possible and desirable.

Now, Sir, as I said, there were certain other difficulties which were experienced in the course of the working of the previous Acts. For instance, if the hon. Members will look at clauses 7 and 8 of the present Bill, we have sought to define what is actually meant by 'ordinary residence' of an elector in a particular constituency. The original definition was more or less a paraphrase—any person who is an ordinary resident or who owns or possesses a dwelling-house. That created a lot of difficulty because a man might not be actually residing in a particular area and yet may be possessing or owning a dwelling-house, as a result of which, Sir, he gets enrolled in that particular constituency. That is why it is really an amendment which was introduced by a Member of the Opposition, Shri Eswara Iyer, and we accepted it for the purpose of explaining as to what is meant by 'ordinary residence' and what is not meant by it. So, both the positive and the negative aspects have been made clear for the purpose of removing all kinds of difficulties

experienced in the way of finding out whether the person concerned was an ordinary resident or not. And we have provided that a man would not be considered to be an ordinary resident in a constituency only because he owns or possesses a dwelling-house there. We have also provided that temporary absence of a person would not debar him from being enrolled in that particular constituency. We have also provided for Members of Parliament and Members of the State Legislatures not to be disqualified for being enrolled in the constituency which they represent, because of their absence from work, either in Parliament or in the State Legislatures. These are very healthy provisions.

**DR. P. C. MITRA (Bihar):** What is the real definition of 'ordinary resident'?

**SHRI A. K. SEN:** Sir, 'ordinary resident' is an ordinary resident. We can only say who is not an ordinary resident. Sir, 'ordinary residence' has received some judicial definition because that word occurs in the Civil Procedure Code, as also in the Letters Patents of the Bombay, Calcutta and Madras High Courts.

**SHRI P. N. SAPRU (Uttar Pradesh):** In the Civil Procedure Code, as far as I remember, the wording which occurs is 'actually resides'. But I think in the Criminal Procedure Code, in connection with witnesses . . .

**SHRI A. K. SEN:** Sir, 'ordinary residence' has received some judicial recognition for quite a long time. The word is so well-understood that it is not proper to try to define it more than what has been done by a series of judicial decisions. More than that, Sir, we have emphasised the positive and the negative aspects, which makes the position foolproof for the purpose of registration of persons within a particular constituency.

Now, Sir, we have also provided for errors which occur in the preparation of electoral rolls. Persons are

either omitted without a reasonable cause or they are included without a reasonable cause. We have tried to improve the machinery in respect of such corrections, and all that is contained in clause 9. Then in clause 11, Sir, we have provided for certain penalties to be imposed on those persons who deliberately or knowingly cause either wrongful inclusions or wrongful exclusions, as far as the electoral rolls are concerned.

Now, Sir, the most controversial clause is clause 15 of the Bill. Of course, controversy was occasioned by reason of the Select Committee omitting section 7(d) of the Representation of the People Act, 1951, altogether. Section 7(d) really disqualified those persons who had entered into contracts of service or execution of various works and other contracts for the supply of goods, etc. with the appropriate Government. Now the original Bill, one of the provisions of which has been incorporated once again by the Lok Sabha—hon. Members will find it exactly in the form in which we introduced it originally—sought to preserve that disqualification. We tried to improve it for the purpose of preventing persons, engaged in what may technically be regarded as contracts, but which are not really meant to be disqualifying, from coming within the ambit of disqualification. These are odd contracts in the technical sense in which many of us enter into with the Government of India, for instance, with regard to broadcasts, etc. That is why we said that only contracts entered into in the course of trade or business have a definite meaning in law . . .

**SHRI P. N. SAPRU:** Professions are excluded.

**SHRI A. K. SEN:** Yes, professions are excluded. That is why we introduced this thing, and the Lok Sabha has accepted it. But the Select Committee was very much impressed by the prospect of many ordinary citizens being debarred if the State starts, for instance, purchasing foodgrains on a

[SHRI A K SEN.] large scale from hundreds and thousands of cultivators. It was contended that they would stand disqualified, because they would be entering into a contract with the Government, and all over the country, hundreds and thousands of these cultivators would be affected by it. That was the main argument advanced by the Select Committee. But I think that in the form in which we have put it and in the form in which the Lok Sabha has accepted it, it will not disqualify these cultivators selling a few maunds of foodgrains to the Government, because that is not a trade or business.

SHRI H P SAKSENA (Uttar Pradesh) How do they become contractors when they sell some foodgrains?

SHRI A K SEN It is not a question of contractor. It is a question of contract for supplying goods, and it is certainly a contract for selling goods. But the words used by us are "in the course of his trade or business".

SHRI SHEEL BHADRA YAJEE (Bihar) What about the panchayat *mukheeya*? If he is entrusted with some national work and enters into a contract with the Government, then what would be his position?

SHRI A K SEN If he personally undertakes certain contracts and if it is his trade or business to execute such contracts, he will be disqualified. But if he does not do so in the course of his own trade or business but does so for the purpose of helping some national effort, it does not become a contract in the course of his business. This is

SHRI H N KUNZRU (Uttar Pradesh) May I ask the hon Minister to make this point a little clearer? Suppose a substantial farmer is asked by a Tehsildar to sell him a certain quantity of foodgrains by a certain date, would that mean a contract entered into by the farmer with the Government in the course of his ordinary business?

SHRI A K SEN I don't conceive that a farmer's ordinary course of business would be selling foodgrains to Government but his ordinary trade or business would be farming.

SHRI H N KUNZRU It is not the question that the ordinary trade or business may not be carried on between a person concerned and the Government.

SHRI A K SEN I am not thinking of the person concerned. I am thinking of the quality of the business concerned, not the person. So long as it is the business of the farmer to farm and not to enter into business in foodgrains either by way of trade or otherwise...

SHRI H N KUNZRU But he must sell the foodgrains that he produces if he is a substantial farmer. He cannot keep the foodgrains.

SHRI A K SEN Nevertheless he is a farmer because every farmer sells his foodgrains. Trade is where he buys and sells foodgrains. The definition by the Privy Council in a famous Australian case was 'buying and selling'. Unless both elements are involved, there is no trade. That has been the definition. So I think that saves the ordinary farmers who enter into such deals but in the future, if we find it difficult, we will be prepared to bring any amendment if any court holds that he is disqualified.

The next controversial clause was the provision contained in clause 25 of the Bill, sub-clause (b), providing that in addition to the precautions already contained in our Act and the rules made thereunder, to obviate the possibility of impersonation of voters, namely the requirement of an elector that he should be subjected to the impression of indelible ink on his finger or he should be subjected to enquiries before his ballot paper is handed over to him, it is provided that in such constituencies which, as under the rules, are provided with identity cards for each voter in that constituency, the elector would also be

required to produce his identity card before a ballot paper is given to him. It is not the intention, as the language of sub-clause (b) itself will show, to impose this necessity of distributing identity cards in all the constituencies. It is only proposed to do it in those constituencies in which, according to the Election Commission and under the rules to be framed under this Act, there is a possibility of substantial impersonation being practised. It has been the experience of the Election Commission that in big urban areas having a large floating population, impersonation not only exists but has become almost a vice of such magnitude that it prevents proper election or prevents a fair election in those areas and if we want to make election in those urban areas fair and proper, it is absolutely necessary that some sort of identity card must be introduced in those areas and it should be left to the Election Commission to choose which areas, according to their own information, offers the largest scope for impersonation and therefore which are the areas on which this system of identity cards should be imposed. It is only in those areas that the elector will be asked to produce identity cards. A good deal of misapprehension was caused, as was evident from the speech of some hon. Members in the other House and questions were asked as to if the identity card was lost, what would happen. The position is that every elector will be given an identity card and a duplicate will be with the Polling Officer.

PANDIT S S N TANKHA (Uttar Pradesh). Is it not the intention of the Election Commission that if this experiment proves successful, then it will be adopted in other parts also?

SHRI A. K. SEN: There is no question of adopting it in areas where there is no impersonation or the impersonation is so slight that it is not worth tackling in any serious manner. For instance in rural areas, I can say from my own experience in the eastern part of India, West Bengal and Bihar, impersonation hardly exists. There also the Patwaris and other

officers who are there to assist the Polling Officers know fairly everyone of the village where the polling station is situated. Therefore it is our experience that in the rural areas this problem of impersonation hardly exists.

SHRI H N KUNZRU: That is not quite correct.

SHRI A K SEN: It might be. If it is found by the Election Commission that there are certain select rural areas where this vice has crept in, I have no doubt that the Election Commission will introduce it but in areas where there is no impersonation, there is no question of identity cards.

PANDIT S S N TANKHA: Has the Election Commission collected any data to find out as to where the impersonation is greatest and where it is least?

SHRI A K SEN: It is very difficult for any organisation to collect data. They can only collect information. The magnitude of impersonation can be checked only if there is some identity card. Normally we know as to which are the areas where it is practised, but which is greater than another, it is very difficult to say. Possibly many are on the same footing or in many areas the magnitude is of such a character that it is impossible to forecast what the result would be if identity cards were introduced, and the Election Commissioner had already done a survey in two constituencies in Calcutta where the results have been very encouraging, namely by photographing for the purpose of identity cards and it is after the survey in these two constituencies that the Election Commission came with the proposal for an identity card. They wanted to find out first of all how the system worked.

I don't think there is any other provision of importance, excepting the provision whereby you are making bribery also a corrupt practice. A particular judgment of the Supreme Court held that bribery would not amount to corrupt practice by reason

[Shri A. K. Sen.]

of the definition of 'corrupt practice' in the Representation of the People Act which is rather an outstanding revelation to us and, therefore in clause 36 we now introduce a definition of bribery and also make it a corrupt practice in the Representation of the People Act. It is of course not controversial at all because everyone here would want that bribery, as defined in clause 36, should become a corrupt practice.

With these words, I recommend that the motion be accepted.

MR. CHAIRMAN: Motion moved.

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

There is one amendment given notice of by Shri V. K. Dhage and Shri Anand Chand.

SHRI ANAND CHAND (Himachal Pradesh): Sir, in the absence of Shri V. K. Dhage, I move the motion.

Sir, I move:

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

1. Shri P. N. Saprú
2. Shri B. K. P. Sinha
3. Dr. W. S. Barlingay
4. Shri Jaspat Roy Kapoor
5. Shri P. S. Rajagopal Naidu
6. Shri J. S. Bisht
7. Shri Deokinandan Narayan
8. Shri B. B. Sharma
9. Pandit S. S. N. Tankha
10. Shrimati Yashoda Reddy
11. Shri H. N. Kunzru
12. Shri Perath Narayanan Nair
13. Shri Rohit M. Dave

14. Shri V. K. Dhage

15. Shri Anand Chand (the mover) with instructions to report by the 1st day of the next session."

MR. CHAIRMAN: Motion moved:

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10. Shrimati Yashoda Reddy
11. Shri H. N. Kunzru
12. Shri Perath Narayanan Nair
13. Shri Rohit M. Dave
14. Shri V. K. Dhage
15. Shri Anand Chand (the mover)

with instructions to report by the 1st day of the next session."

The motion and the amendment are now before the House.

SHRI ANAND CHAND: Mr. Chairman, Sir, before I proceed to say something about the clauses of this Bill, I would like to point out to you that whenever an important measure comes before Parliament, this House, this Rajya Sabha, is ignored in the matter of Select Committee. The recent example of the Banaras Hindu University Bill is very fresh in our memory when for some reason or other the Minister in charge of the Bill could not find the time or opportunity to take any Members from the Rajya Sabha into that Joint Select Committee. Perhaps there was the reason of urgency or perhaps because the Rajya Sabha was not in session at that time but I fail to see why in this

particular Bill also the same procedure has been followed. When both the Houses were in session, why was it found necessary that when a Select Committee was to be appointed in the other House, it could not be a Joint Select Committee because this is a law which deals with millions of our countrymen, this is a law which affects each of the 190 million voters that are in this country, it affects each Member of this House as he has come through some form of election to the Parliament? I would have supposed that when the motion for the Select Committee was moved somewhere on the 10th or 11th in the House of the People, there was ample time, because we were to sit here on the 24th, to devise some method by which Members from this House could also have been associated with the Select Committee. Anyway, that was not done and the proposal that I am putting forward, or the motion that I have moved has only one objective in view and that is that the hon. Members of this House should also have a free and full opportunity of giving their views, suggestions and amendments, if any, to this most important measure. There is no doubt, as the Law Minister has said, that this measure has come out according to the recommendations of the Election Commission. But if that was so and if all the recommendations are supposed to be imbibed or embodied in this new piece of legislation, then why is it that some of the most important recommendations made by the Election Commission in its second report on the general elections find no mention in this Bill?

**SHRI A. K. SEN:** I never said that all the recommendations are here. I said these are the recommendations on the basis of which this proposal has been drawn up. There are other recommendations contained in the report itself. I never said all the recommendations are included here.

**SHRI ANAND CHAND:** I stand corrected to that extent. In view of the fact that the report on the second elections is before the Government, I

do not see why there should be any hurry in introducing this Bill now, especially as the Minister had withdrawn a previous Bill which I think was introduced in this House, on the supposition or plea that a much larger and more amplified Bill would be produced by the Government during the course of the next few weeks or months.

Sir, in this particular Bill there are certain points into which the Select Committee of the other House went very carefully and there are certain points which the hon. Minister of Law has explained here in his opening remarks. I will draw your attention only to four clauses of the Bill.

Clause 5 provides for the change in the qualifying date in relation to the operation of the revision of rolls from March to January. Now, there may be some force in the argument that March is a very busy time so far as the revenue officers and others are concerned and therefore, January as such would be a better time to start the revision of these rolls. But what I wanted to submit in this connection was that revenue collection or the periods revenue officers use for their tours are not uniform in this country. As I am told by some friends here, in some States like Orissa, for example, the revenue officers or other persons concerned may be touring actually in January or February, instead of in March. Then there is the question of these snow-bound areas, very difficult areas from which I come, in which it would practically be impossible to give effect to the January date for the simple reason that there will be a large migratory population in the hills which comes down in the winter and which only returns to their abodes during the spring months. So, in their case also, I presume so far as this qualifying date is concerned it will be difficult. If all that is necessary is to begin the work there in January and to continue it afterwards,—that is my understanding of it—then it is quite all right. But if we are pinned down to January and if anybody who is not in residence in that actual place on

[Shri Anand Chand.]

the 1st of January or whatever date is put in, is to be disqualified, then I think some amendment should be effected to this particular provision.

I come next to clause 8 which deals with the question of the place where the person is ordinarily resident in. The hon. Law Minister was pleased to say that the expression "ordinarily resident in" has been defined in law and therefore, it was not necessary to put in any definition here. But not being a legal man myself, I do not know in which way "ordinarily resident in" has been defined and whether the definition would mean that the man should be at that place for two days or two months or six months. I would like to have some enlightenment on that point, if I may. Could the hon. Minister tell me that now?

[MR. DEPUTY CHAIRMAN in the Chair]

SHRI A. K. SEN: The hon. Member is asking for an explanation. Is it necessary to give it now?

MR. DEPUTY CHAIRMAN: You will do so when you reply at the end.

SHRI ANAND CHAND: Thank you. What I say is that this term "ordinarily resident in" might have been defined in some other law. But here to my mind there appears to be a lacuna, because we are keeping "ordinarily resident in" and we are taking away the portions so far as ownership of the house or being in possession of one is concerned. It is true that it is worded here in a way in which it leaves out the person who is in occupation only in the sense that he is in possession of that house, and you say that it does not mean he is ordinarily resident there. But this is a kind of negative approach. What was in the previous law was that a person will be deemed to be ordinarily resident if he resides or owns or is in possession of a house there. Having changed this now we leave it only to the mercy, if I may

say so, of the Election Officer to determine whether the person is ordinarily resident there or not. Clause 9 does provide for the contingency and in case a person is aggrieved that he has been left out of the rolls, he can go to the electoral registration officer and if he is satisfied that the man is ordinarily resident there, then he is empowered to call for an explanation and put his name there. But I would say that in clause 9, the electoral registration officer is being vested with much larger powers than he had enjoyed heretofore. Heretofore, he could only take away from the electoral roll either on the submission of the person concerned or on the application made by some person that, that person's entry in the roll was not justified. But now—as I have mentioned—we are investing him with very large powers to take away people from the electoral rolls on the ground that they are not ordinarily resident. So if you do not in some way define the term in the law itself, my fear is that the electoral registration officer might exercise his discretion to the detriment of the persons concerned. So I find that the law as it is put in this Bill gives a very large power to the electoral registration officer, a power which, to my mind, can be misused. Therefore, Sir, some curb must be put on the powers which he is asked to exercise in this clause.

The other clause. I want to deal with, though summarily, is the one which deals with the electoral colleges for the Union territory. It is perfectly true that the elections by the Union territories to the electoral colleges are not held now under the 1951 Act and the electoral colleges that return people to the Rajya Sabha are the Territorial Councils of the Union territories, whether it be Himachal Pradesh, Manipur or Tripura. Even under the rules for the conduct of elections and disposal of election petitions framed for the Territorial Councils in 1956, overriding powers are given to the Election Commission, so far as the elections to the Territorial Council are

concerned and they are held under the superintendence, guidance and control of the Election Commission which is a very wholesome rule. What I would like to submit is that the rule might be repeated, if it is possible, in some form or the other in the Representation of the People Act itself so that those people who are elected to the Territorial Council are not taken away entirely outside the ambit of the Representation of the People Act and left entirely to the provisions in the Territorial Councils Act. How that is to be done, I leave it to the Law Minister to decide.

Then, Sir, I would come to the controversial clause 25 which wants to change section 61 of the Representation of the People Act, in so far as the production before the presiding officer or the polling officer of the identity cards by persons is concerned. The hon. Minister remarked just now in regard to the fear expressed about the loss of the cards and as to what would happen in that contingency. He said that the Election Commission would issue instructions and that there would be a duplicate set of cards. If one were lost, then the other card would be available but we are going back to the same electoral rolls in another manner. Suppose these cards are given much in advance of the election which they will have to—because we cannot go on giving cards just in the nick of the time or within twenty-four hours of the election—and if large number of cards are misplaced, then the only other thing you will have to fall back upon would be the duplicate cards—as he was just mentioning—which are with the polling officer or the presiding officer concerned. In the same way the polling officer or the presiding officer has, at the present moment, the electoral list. He has got the list of voters. Now, these identity cards, without photographs on them, are not useful because, without photographs, one can easily impersonate. Then again, you will have to fall back upon the duplicate cards which are in the possession of the presiding

officer or the polling officer. In fact, you would come back to the same thing. So, why introduce a provision which will be more cumbersome in nature because, in case of a loss of these cards, we have to go back to the electoral roll itself. Of course, it may be that in the case of certain fluctuating populations in big cities and towns, there is impersonation on a large scale and, for that purpose, cards may be necessary. But then this provision, to my mind, is one which is not going to be very much helpful in stopping this impersonation and I feel that within a very short time of promulgating this, it would be found that it is not taking away the difficulties which it was thought it would take away.

These are only my cursory remarks on the Bill as such. I would again submit that there are many points which could be considered if this Bill was sent to a Select Committee. Hon. Members of this House will have to make a contribution and they can make it in a Select Committee. The only reason that the Select Committee idea perhaps would not be acceptable is that the qualifying date is the 1st of January, and as the 1st of January is very near, it is not feasible to delay the Bill. For so many years, we have had the qualifying date as the 31st of March and I do not see why for another year or so we should make any difference. Therefore, I would suggest that a Select Committee be appointed, that the hon. Minister agree to its appointment so that all the hon. Members who are to serve in it may go into the merits of the thing, make their suggestions and then the Bill may be sent back to the House for consideration.

श्री ब्रज बिहारी शर्मा (उत्तर प्रदेश):  
श्रीमान् उपसभापति महोदय, मैं इस बिल का समर्थन करता हूँ। किन्तु, उसमें दो, तीन चीजों के बारे में मुझे कुछ भ्रम है। मैं अपने मित्र श्री आनन्द चंद के इस कमेंटेशन से सहमत हूँ कि “आर्डिनरिली रेजिडेंट” की जो परिभाषा



[श्री ब्रज बिहारी शर्मा]

दी गई है वह परिभाषा नहीं है; बल्कि उसकी न-परिभाषा है, उसका नैगेटिव आस्पेक्ट है। “आइडनरिली रेजिडेंट” की जो परिभाषा रखी जा रही है, उसका परिणाम क्या होगा यह सोच लेना चाहिये। किसी प्रकार के घर का न होना या किसी प्रकार के रहने का स्थान न होना, यह निकाल दिया जा रहा है तो उसका परिणाम क्या होगा? परिणाम यह होगा कि वह आदमी, जो कि इस बात का निर्णय करेगा कि अमुक व्यक्ति उस स्थान में वोट हो सकता है या नहीं, केवल उसकी इच्छा पर यह निर्भर हो जायगा। सिर्फ एलेक्टोरल रोल को तैयार करने वाले अफसरान के अख्तियार में यह होगा कि वे निर्णय करे कि आया यह व्यक्ति जो कि एलेक्टोरल रोल में आज अपना नाम दर्ज कराना चाहता है, यहाँ का निवासी है या नहीं है। इसके सबूत में कि वह यहाँ का निवासी है, यह चीज भी नहीं दी जा सकती कि उसका यहाँ मकान है या वह यहाँ रह रहा है, इस तरह के सबूत की कोई आवश्यकता नहीं है; क्योंकि यह चीज इस अमेडमेंट बिल के द्वारा निकाल दी जा रही है। तो अब उसके यह कहने के, कि वह यहाँ का रहने वाला है, आइडनरिली यहाँ रिजाइड करता है, प्रमाण केवल दो, एक आदमी हो सकते हैं जिसको मानने या न मानने का अधिकार उस अफसर के हाथ में होगा जो कि इस बात का निर्णय करेगा कि आया यह प्रार्थी उस स्थान का निवासी है या नहीं है। मेरी समझ में अगर वहाँ पर यह होता, उसके स्थान पर अगर यह रखा जाता :  
Any person will be deemed to be ordinarily resident if he owns a house or is in possession of a house in a particular area और इस तरह से वह वहाँ का निवासी मान लिया जाता तो उस सूत्र में एक सच्चे प्रमाण की बात होती। अभी जैसा रखा गया है उसका परिणाम क्या होगा? बम्बई वगैरह बड़े बड़े शहरों में बहुत

से लेबरर्स हैं जिनके पास न कोई मकान है, न रहने का कोई स्थान है और न उनकी कोई हैसियत है। वे कुछ दिन वहाँ नौकरी करते हैं, वे यू० पी० के रहने वाले हैं, खास कर पूर्वी एरिया के गरीब भैया लोग हैं, उन लोगों के लिये बम्बई में एलेक्टोरल रोल में अपना नाम दर्ज कर लेना मुश्किल हो जायगा; क्योंकि वे वहाँ के रहने वाले नहीं हैं, वहाँ उनकी पहचान वाला कोई नहीं है और उनके लिये यह साबित करने वाला कोई नहीं है। परिणाम क्या होगा? उन बेचारों का नाम एलेक्टोरल रोल में नहीं आयेगा। अगर गवर्नमेंट की यह मंशा होवे कि ऐसे लोगों का नाम, जिनका कि कहीं स्थान नहीं है, जो कि वहाँ के रहने वाले नहीं हैं, वहाँ के एलेक्टोरल रोल में दर्ज ही न हों तब तो यह अमेडमेंट जैसा कि आया है सही हो सकता है, अगर यही मंशा हो कि जो लोग कहीं के निवासी अपने को अच्छी तरह से साबित न कर सकें, उनका नाम एलेक्टोरल रोल में न आये, तब तो इस दफ्ता में जैसा अमेडमेंट किया जा रहा है वह उचित होगा, किन्तु यदि यह मंशा नहीं है बल्कि मंशा यह है कि जो लोग वोट देने के अधिकारी हैं, उनके अधिक से अधिक नाम एलेक्टोरल रोल में दर्ज होवे, जहाँ कहीं भी वे रहते हों, वहाँ दर्ज होवे, तो उसके लिये यह प्रमाण आवश्यक है कि वे इस बात को सिद्ध करें कि वे वहाँ रहते हैं और इसको सिद्ध करने के लिये इससे ज्यादा अच्छा सबूत कोई हो ही नहीं सकता कि वह वहाँ एक मकान रखता है, वह वहाँ का निवासी है, वहाँ उसके बाप-दादा का घर है, लेकिन अगर यह चीज उसमें से निकाल देते हैं तो उसका उल्टा असर होगा। इसलिये मैं समझता हूँ कि इस दफ्ता में सुधार होना चाहिये।

दूसरी चीज मैं यह कहना चाहता हूँ कि मैं अपने मित्रों से जो कि इस बात को कह रहे हैं कि आइडेंटिटी कार्ड नहीं होना चाहिये, सहमत नहीं हूँ। जहाँ फ्लोटिंग पापुलेशन हो और जहाँ यह निश्चय करना है कि अमुक

व्यक्ति वही व्यक्ति है या नहीं, जिसका कि एलेक्टोरल रोल में नाम दर्ज है, तो उसका आईडेंटिटी कार्ड होना जरूरी है और इस में जा यह है कि “विद फोटो” या “विदआउट फोटो”, तो मैं समझता हूँ कि यह “विद फोटो” ही होना चाहिये। “विदआउट फोटो” होने के माने यह हाते हैं कि कोई भी आदमी आ कर कह सकता है कि वह वही शख्स है जिसका कि नाम दर्ज है और तब यह निश्चय करना मुश्किल हो जायगा। अगर उसका चित्र भी उसके साथ रहेगा तो उसको डिनार्ड करने का या इम्परसोनेट करने का मौका नहीं मिलेगा।

इस बिल में जो यह कहा गया है कि जो लोग किसी प्रकार से सरकारी कार्यों से सम्बन्धित व्यवसाय या किसी प्रकार की ठेकेदारी या किसी किस्म की गवर्नमेंट से लाभ प्राप्त करने वाली संस्था से सम्बन्ध रखने वाले हैं, वे कंडिडेट न हो सके, इसका मैं समर्थन करता हूँ। मेरा तो यह कहना है कि वह अपरिग्रही हो। यहाँ अपरिग्रही के माने ये होते हैं कि उसका गवर्नमेंट में किसी प्रकार का इंटरेस्ट न होवे, उसका शासक-वर्ग से किसी प्रकार का सम्पर्क या वास्ता न होवे। ऐसा निश्चय ही होना चाहिये। उसको त्याग भावना से . . .

**SHRI SONUSING DHANSING PATIL.** Why this limited meaning of अपरिग्रह ?

**श्री ब्रज बिहारी शर्मा** यहाँ ‘अपरिग्रह’ को मैं लिमिटेड माने में ही कह रहा हूँ; क्योंकि अपरिग्रही होने के माने यदि प्राचीन सिद्धांत के अनुसार लगाया जाय तो वह आज सम्भव नहीं है। हमारे पहले के जो लेजिस्लेटर्स होते थे, जो ऋषि-मुनि होते थे, वे जो पाच यम-नियम हैं, उनका पालन करने वाले होते थे। “अहिंसा, सत्य, अस्तेय, ब्रह्मचर्य, अपरिग्रह”। वे नियम यदि लागू किये जायें तो बहुत सही हैं, बहुत अच्छा विधान होगा इसमें कोई शक नहीं

है, किन्तु वह विधान आज की परिस्थितियों में पूर्णरूपेण लागू नहीं हो सकता। यदि विनोबा जी सदृश आदमी या डॉ. कुजूरू ऐसे आजन्म त्यागी लोग विधान के निर्णायक होंगे तो कोई दुख की बात नहीं होगी; क्योंकि उनका कोई स्वार्थ नहीं हाता है। किन्तु, मेरा कहना है कि स्वार्थी पुरुषों का, जिनका प्रतिक्षण हर एक काम में स्वार्थ रहता है, सदैव प्राफिट मोटिव रहता है, उनका विधान-सभाओं से सम्बन्धित होना उचित नहीं है, अच्छा नहीं है, इसलिये मैं समझता हूँ कि जिनका आफिसेज से, शासक-वर्ग से जितना ही स्वाथ कम हो, जितना ही इंटरेस्ट कम हो, उतना ही यह उचित होगा कि उनको विधान-सभाओं की सदस्यता में अधिकार दिया जाय।

1 P.M.

**श्री उपसभापति :** क्या आप और टाइम लेना चाहते हैं ?

**श्री ब्रज बिहारी शर्मा :** जो कुछ मुझे कहना था वह मैं कह चुका हूँ। अब मैं समाप्त कर रहा हूँ।

**MR. DEPUTY CHAIRMAN** How much more time you want?

**SHRI B. B. SHARMA.** Nothing more. I am closing now. Thank you.

**MR. DEPUTY CHAIRMAN:** I have got twelve more names before me and we have taken 45 minutes. Three hours is the time allotted. We can rise for lunch till 2 o'clock and meet again after two and that will give 45 minutes more. The House stands adjourned till 2 o'clock.

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

The House reassembled after lunch at two of the clock, **MR. DEPUTY CHAIRMAN** in the Chair.

**SHRI P. S. RAJAGOPAL NAIDU** (Madras). **Mr. Deputy Chairman,** in the first instance, I do not appreciate

the way in which such an important amending Bill of this sort is being pushed through on the last day of the session, without giving due and proper attention to it. In the other House it had been urged that this Bill should be referred to a Select Committee and owing to the pressure that was brought upon by the various Members of the Lok Sabha this Bill was referred to a Select Committee consisting of Members only of that House. In my opinion, this Bill seeks to amend very important provisions of the Representation of the People Act. By far the most important provision in the Representation of the People Act is section 7, which prescribes certain qualifications for being a Member of Parliament, and at the same time it also prescribes certain disqualifications for being a Member of Parliament. And that very section is being sought to be amended. And even in section 7, clause (d) is the most important thing and section 7, clause (d) is being amended now under this Bill. While dealing with the provisions of section 7, which is dealt with in clause 15 of this Bill, it restricts the scope of the disqualification of a member. In my opinion, there ought not to be such restriction placed on the disqualification from being a Member of Parliament or being chosen as a Member of Parliament. The section as it remains now in the present Act is a very happy one and I do not find any reason why that section is sought to be amended now. The Select Committee in its wisdom had gone to the extent of completely eliminating or dropping section 7 (d). That means anybody having any contractual relationship with the Government can become a member of a Legislature or Member of Parliament or even the sitting members of a Legislature or Members of Parliament can have any contractual relations with the appropriate Governments. That was the thing that the Select Committee had decided and I am glad that at least the Lok Sabha, at the time the Bill came up for consideration before it, adopted that amendment as it was originally introduced in Lok Sabha. I personally

feel that the old provision of law should remain without any sort of amendment. The reason is under the old provision of law if a candidate whether by himself or by any person or body of persons in trust for him or for his benefit or on his account 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 services undertaken by, the appropriate Government, he is disqualified. Now, the amending Bill seeks to remove this particular provision of law, namely, that any candidate can have contractual relationship with the Government, if not directly by himself, at least through any body of persons in trust for him or for his benefit or on his account. That means the position is reduced to this that unless one has direct dealings with the Government by way of any contract, one is not disqualified at all to become a Member of Parliament. That is the provision. Now, take for instance, persons having huge contracts with the Government, though not in their own name but in partnership with somebody else. For instance, A and B are partners. It may be a registered partnership firm or it may be an unregistered partnership firm. If in that partnership firm, B is having a contract with the Government, A can, now under the present amending Bill, continue to remain as a Member of Parliament, or he can stand for election to become a Member of Parliament or member of a Legislative Assembly. It is not a very happy amendment at all I wish to stress that where a person holds a contract either directly by himself or indirectly through any partnership firm or by any body of persons in trust for him, he should be disqualified. Sir, this amending Bill seeks to exclude persons having contracts as members of private companies or even partnership firms. In my opinion, those who hold an office of profit in a public company or the managing agent of such companies, they are all excluded now. Even members of private limited companies completely go out of the pic-

ture now. They can have any sort of contract, the managing agent of a company can have any sort of contract, with the appropriate Government. But the managing director or the managing agent of the company can stand for any election under the present Bill. Again, these words "the performance of any services" are deleted. Now, that means that a public prosecutor now can certainly seek election either as a member of the Legislative Assembly or as Member of Parliament. That is the position to which we are now reduced. And I do not know why this disqualification should be restricted only to persons who have contractual relationship with the Government and why the provision of having any indirect contractual relationship should be deleted from the Bill. I do not understand. The reason that is given by the hon. mover of the Bill is: with the State taking over everything, with the State controlling everything, there will be very many persons who will be left behind; without their knowledge, they will be disqualified. And with this socialistic pattern of society, with the State taking over everything, more or less directly or indirectly everybody will have some sort of contractual relationship with the Government and it is very dangerous to have such provisions and it is for that reason that we seek to delete this provision. I would say that this argument does not sound valid. If anybody wants to have any contractual relationship with the appropriate Government, by all means let him have, but let him not remain as a member of the Legislative Assembly or a Member of Parliament. We know that sort of influence a Member of Parliament or a member of the Legislative Assembly has, what sort of influence he will have if he holds a contract with the Government. And if that matter comes up or criticism before the Legislative Assembly or before Parliament, then, of course, it will be very embarrassing or the person who has any contractual relationship with the Government. There are so many instances. Even

without any of these provisions, I know in my own State of Madras what amount of influence the fleet owners who in large numbers had been returned to the Legislative Assembly wield with a view to getting route permits. One route permit means several lakhs of rupees for them. One permit can be sold for one or two lakhs of rupees. And they try to exert their influence and get as many routes as possible, thereby depriving the small fleet owners. Even without any such provision, there is much influence that is brought upon by persons who are the licensees. I am not saying that they have any contractual relationship with the Government. They are merely licensees. Even these licensees have so much influence with the Government. And when that is the case, if even those persons who have any contractual relationship are excluded, we do not know what amount of influence they will try to bring upon the Government. And I very strongly feel that this amendment ought not to be accepted by this House and the old provision should remain. (*Time bell rings.*) Is there any time-limit for this Bill, Sir? I should like to have five more minutes.

MR. DEPUTY CHAIRMAN: Not five minutes. Please take two or three minutes.

SHRI P. S. RAJAGOPAL NAIDU: There is another point which I would like to mention. Section 8 (1) (c) of the 1951 Act is being sought to be deleted. That only says:

"A disqualification under clause (d) of that section shall not, where the share or interest in the contract devolves on a person by inheritance or succession or as a legatee, executor or administrator, take effect until the expiration of six months after it has so devolved on him or of such longer period as the Election Commission may in any particular case allow;"

Now, that is being sought to be deleted. That means, if a person has any contract and if he dies and if somebody inherits that contract by way of inheritance or succession or as a

[Shri P. S. Rajagopal Naidu.]  
 legatee, executor or administrator, the period of six months goes away and he is never disqualified at all and I feel that this section should not be deleted from the provisions of this Act.

Then, Sir, I would like to say something about the issue of identity cards—that is, clause 25 of the present Bill. In view of the shortness of time, I will mention only about that. Personally, I do not feel that it will be convenient to issue identity cards to the voters. It is said also that they should have their photographs printed if need be. This is not insisted upon in every constituency, but it will be insisted upon only in such constituencies where it might become necessary, where the experience of the Election Commission had shown previously that there were a large number of impersonations and all that. But that is not a correct device nor is the device that is suggested by the Election Commission in its latest report that everybody should be vaccinated, correct. There are certainly people like our Finance Minister, Shri Morarji Desai, who has had no vaccination at all and if vaccination is insisted upon people before the election by way of identity . . .

SHRI BHUPESH GUPTA (West Bengal): But he likes to have his photographs taken.

SHRI P. S. RAJAGOPAL NAIDU: I am sure, Sir, that this procedure will not lead us anywhere. I do not know why this device was invented to avoid impersonation in the election. But whatever it might be, it will become, in my opinion, a very costly affair to make people have their photographs and exhibit them before the officers concerned. It will be absolutely impossible for everybody to do so. There may be a sentimental objection to ladies to exhibit their photographs before the officers at the polling booths. Whatever it might be, this provision requires a little more scrutiny, and I feel that this should be deleted from the provisions of this Bill.

SHRI D. P. SINGH (Bihar): Mr. Deputy Chairman, Sir, the Representation of the People (Amendment) Bill, 1958 which has emerged from the Lok Sabha and has come to us is, by and large, in a correct shape. But there are just a few points—not necessarily points of disagreement—which I would like to emphasise while discussing this Bill.

Sir, I would like to take up first section 20 of the 1950 Act. Now the amendment which has been sought to be made is that a person can be put on the list of voters only when he is ordinarily resident in a particular constituency. I quite see the validity of this amendment. It is true that by merely having a house or owning property, it is not proper to have anyone on the list of voters because it sometimes happens that a certain person has two or three houses and the property is distributed in different constituencies. In that case, he becomes a voter in the different constituencies and necessarily impersonation becomes possible to some extent. For that reason, this amendment seems to be a sound one. There should, however, be some clarification as to how he should be considered as being ordinarily resident in a particular constituency. But my objection comes in only in regard to the election to the Rajya Sabha which is an indirect election. For instance, I belong to the State of Bihar, but supposing I practise in the Supreme Court or in the Calcutta High Court. Now I can be a voter according to this only from Calcutta or from Delhi. Now can I be a candidate in this indirect election to the Rajya Sabha from my State? I can't be. This seems to me to be somewhat unjust, because I can't be a candidate in Calcutta not having any association in Calcutta, not having any base in Calcutta. I can't be a candidate from Delhi not having any base or association in Delhi. Therefore some provision, in my opinion, should be there to make it possible for such persons to be candidates in this indirect election to the Rajya Sabha from the State to which they belong.

DR. R. B. GOUR (Andhra Pradesh): The Law Minister being Member of the Lok Sabha did not consider this question.

SHRI D. P. SINGH: Now, Sir, so far as section 7 (d) in the Representation of the People Act, 1951, is concerned, I am fully in agreement with the clause which has been adopted by the Lok Sabha retaining it with suitable changes. I was really surprised, Sir, how in the Select Committee it was decided to delete this. It was said in support of the view of the Select Committee that in the United Kingdom this kind of restriction is not there, but I believe, Sir, that the situation in our country is entirely different. If Members of Parliament and Members of Legislatures have contractual relations with the Government, I do not think, Sir, in the prevailing situation in our country it would be possible for these Members to maintain their independence and to discharge their duties as Members of Parliament and as Members of the Legislatures. I therefore think, Sir, that the Lok Sabha has rightly put in the clause which is there, with slight changes, and I approve of this clause wholly.

Then, Sir, with regard to another clause, which is there in this amending Bill on the issue of identity cards, I beg to submit that it is a good step; it is a very proper step that has been taken. It is true that in certain areas, as the Election Commission has pointed out, large scale impersonations have taken place, and they are taking place. In order to prevent that, this clause has been put in, the clause about identity cards. Now, as to whether the identity cards should be with photographs or without photographs, it is a matter for the Election Commission to decide in the circumstances of a particular case. I therefore, wholeheartedly support this and I think that, as long as the situation does not improve in our country, as long as it is found that a large number of impersonations take place, it is

necessary, Sir, I believe, to have a clause like this to prevent it. After all we are interested in fighting our elections in a proper manner, in seeing to it that impersonations do not take place and that the verdict of the people is justly recorded. So if we take steps to promote that point of view, there is nothing that we can really find fault with. Sir, our difficulty is that the report of the Election Commissioner, which was possibly taken into consideration by the Ministry while framing this amending Bill, was not placed before us. As far as I know, it was not laid on the Table; at least I did not get a copy of it. I do know but I think, when this Bill was debated in the Lok Sabha, that the report of the Election Commissioner was possibly not there before the Members. Had that report been there and had that report been fully discussed and taken into account by the Lok Sabha and by us, then possibly we might have applied our minds better than we are able to do. I know, Sir, that the report was there before the Government, and in order that we might better apply our minds I submit, Sir, that it was necessary that the report was in our possession also, so that we might study it and then decide as to what amendments are required to the Acts which are there already.

I have only one more observation to make. I quite appreciate the amendment which has been made by clause 36 in section 123 of the 1951 Act where it is said about bribery as being 'any gift, offer or promise by a candidate or his agent or by any other person with the consent of a candidate or his election agent' . . . Now the addition of this expression, 'with the consent of a candidate or his election agent' seems to me to be a proper provision, and if this addition were not there, then anybody might make any gift, offer or promise, and a candidate would be unnecessarily in trouble—that happens in our country. So this is a very welcome change that has been made. My only objection is to the amendment of sub-clause (f) in clause 7 by which "village revenue

[Shri D. P. Singh.]

officers such as *lambardars*, *malguzars*, *patels*, *deshmukhs* have been enabled to work in an election for a particular candidate. These people working in an election for a particular candidate seems to me to be very objectionable because I think these revenue officers are servants of the Government in a sense. They come to have a lot of influence, because they are servants of the Government or because they are in a particular kind of relationship with the Government. Now their influence will be exercised in favour of a candidate and this, I do not think, is very proper. This will undermine democracy and this will undermine free and impartial elections.

With these observations, Sir, I support the Bill.

**श्री राम सहाय (मध्य प्रदेश) :** उप-सभापति महोदय, मैं भी इस बिल का समर्थन कर रहा हूँ, लेकिन मेरा निवेदन एक दूसरे प्रकार का है। संविधान की धारा ३२६ के तहत अडल्ट सफरेज के आधार पर हमारे यहां चुनाव होता है। इस सम्बन्ध में पहले भी जितने बिल यहां लाये गये, वे तभी लाये गये जब कुछ दिक्कतें सामने आई या किसी जास्ता या प्राविजन में ऐसा मालूम हुआ कि उसके अनुसार चुनाव कराने में कुछ गड़बड़ है या और कहीं कोई मुश्किल सामने आई। उसी प्रकार यह बिल हमारे सामने आया है। इसमें से जो एक रेजीडेंस या वाशिदा या निवासी की तारीफ की जाती है, उसके सम्बन्ध में कुछ तरमीम की गई है और उस तरमीम में यह बात रखी गई है कि केवल मकान होने से कोई शख्स उस क्षेत्र में मताधिकार नहीं प्राप्त कर सकता। इसी तरह से इसमें यह बात भी कही गई है कि कोई शख्स अगर आरज़ी तौर पर अपनी सकूनत तर्क करता है, कहीं दूसरी जगह चला जाता है, तो भी वह अपने मताधिकार से वंचित नहीं रह सकेगा। पार्लियामेंट के मेम्बर्स के लिये भी

यह है कि वे जब कभी ड्यूटी पर जायें तो इस तरह से गैर-हाजिर होने पर उनके मताधिकार में कोई अन्तर नहीं आयेगा। इस सम्बन्ध में भी कुछ तरमीम रखी गई है। कुछ तरमीमों से प्रकार की भी रखी गई है कि अभी तक जो यह मुश्किल सामने आती थी कि अगर कोई आदमी मर जाता था या एलेक्टोरल रोल में कोई गलत नाम आ जाता था तो किसी को कोई हक नहीं होता था कि जब चाहे उस नाम को अलग कर दें, लेकिन इसमें अब खास तौर पर यह अधिकार दिया गया है कि जब भी ऐसे नाम नोटिस में लाये जायें तब ही नाम अलग किये जा सकते हैं। तो मेरा यह निवेदन है कि जो जो मुश्किलें सामने आती हैं उन सब को दूर करने के लिये, हल करने के लिये, इसमें कुछ तरमीमों लाई जा रही है। साथ ही साथ मेरा निवेदन यह भी है कि यह चुनाव की जो पद्धति है वह हमारे यहां प्राचीन काल से, पुरातन काल से, वैदिक काल से, चली आती है। वेदों में भी राज्य-सभा, प्रजा-सभा और मन्त्रणा करने वाली सभा—यानी जिसे हम कैबिनेट कहते हैं—का उल्लेख मिलता है। यह पद्धति प्राचीन काल से चली आने के बाद किस प्रकार लुप्त हो गई, क्यों वे सारी चीजें हमारे सामने नहीं रहीं, इस पर मेरे ख्याल से कोई अनुसंधान नहीं किया गया है और मुझे ऐसा मालूम होता है कि इस वक्त यह मौका है कि हम इस प्रकार का अनुसंधान करें, जिससे कि हमें यह मालूम हो कि जो चीजें प्राचीन काल से चली आ रही थी, उनका किस प्रकार से लोप हो गया।

अगर हम इस बिल को देखें तो हमें पता चलता है कि इसमें हमने करप्शन के बारे में भी, ब्राइबरी के बारे में भी अमेडमेंट किया है और पहले माइनर करप्ट प्रैक्टिसेज में ग्रेटिफिकेशन की तारीफ में जो आता था उसको हम अब ब्राइबरी की तारीफ में ले आये हैं। इस प्रकार से भ्रष्टाचार में, करप्शन में, कोई कमी नहीं हो सकती है। मेरा निवेदन यह है

कि हमें असल में देखना यह है कि चुनाव में जो बुराई आ रही है और जो दिन ब दिन बढ़ती जा रही है उसको किस प्रकार से कम करें। हमने देखा कि पहले खर्च में कुछ कमी होती थी और लोग ज्यादा खर्च करते थे, तो हमने खर्च की राशि को ज्यादा बढ़ा दिया, लेकिन इस तरह से हम बुराई को दूर नहीं कर सकते। आजकल जो चुनाव-पद्धति है, जिस प्रकार से आजकल चुनाव किये जाते हैं, जिस प्रकार से खर्च किया जाता है और जिस प्रकार से वोट्स मांगे जाते हैं, वह सारी पद्धति इस प्रकार की है कि बहुत ऊँचे क्रिसम के आदमी—जो कि इन सभाओं में आ कर बहुत ही योग्य साबित हो सकते हैं, जिनसे हमें बहुत अच्छा मत मिल सकता है, जिनकी हमें भली सम्मति मिल सकती है—इस प्रकार की उलझन में पड़ने से, इस प्रकार की परेशानी में पड़ने से, इस प्रकार के चुनाव में पड़ने से, अपने आप को अलग रखते हैं। तो हमें अवश्य ही कुछ ऐसे साधन जुटाने होंगे, जिससे कि ऐसे व्यक्ति, जो कि हर प्रकार से इस कार्य के लिए सुयोग्य हैं, आसानी से इसके अन्दर आ सकें और उनके आने में कोई कावट न हो। इस वक्त जो पद्धति है, उसमें हम दिन ब दिन देखते हैं कि पेटिशन पर पेटिशन दायर होती हैं, एलिगेंस और काउण्टर एलिगेंस होते हैं और उनमें शहादतें वरह पेश की जाती हैं, जहाँ से चुनाव प्रारम्भ होता है वहाँ से लेकर चुनाव के अन्त तक और चुनाव के बाद भी पेटिशन दायर करने के वक्त तक उसमें लोग कुछ इस प्रकार से उलझ जाते हैं कि उनको इसका ज्ञान ही नहीं रहता कि वह दरअसल में कोई गलती कर रहे हैं या नहीं कर रहे हैं और उनकी प्रवृत्ति कोई भ्रष्टाचार की तरफ हो रही है या नहीं हो रही। तो मेरा नम्र निवेदन यह है कि जब हमने इस देश में इस प्रथा को मान्यता दी है, जब हम चाहते हैं कि इस प्रथा के द्वारा ही असेम्बलीज के और संसद् के चुनाव हों तो हमको निश्चय ही कुछ ऐसे उपाय ढूँढ़ निकालने होंगे जिससे कि जिन भ्रष्टाचारों के सम्बन्ध में हमने अपने

कानूनों में नियम बनाये हैं उन सब भ्रष्टाचारों से हमारा पीछा छूट सके और हमारे कानून भ्रष्टाचारों से पाक और साफ हो सकें। यह ज्यादा अच्छा है। "से हम यह तो नहीं कह सकते कि बुराइयां रहेंगी ही नहीं; क्योंकि भलाइयों के साथ सदैव ही बुराइयां भी रही हैं, कोई भी युग ऐसा नहीं होता जिसमें अच्छाई ही अच्छाई हो और बुराई न हो, लेकिन एक युग ऐसा रहा है जिसमें अच्छाई का महत्व ज्यादा रहा है और एक युग में बुराई का महत्व ज्यादा रहा है और इस वक्त जिस काल में हम चल रहे हैं उस काल में हम ऐसा देखते हैं और ऐसा समझते हैं कि बुराई का महत्व अधिक प्रबलता पर है और जब इस प्रकार का बुराई का काल हमारे सामने है—जैसा कि हमारे पुराण और शास्त्र कहते हैं—तो उसको हम किस तरह से फेंक करें, उसका किस तरह से मुकाबिला करें, यह बहुत ही आवश्यक चीज है। इसलिये, मैं ला मिनिस्टर महोदय से यह निवेदन करूँगा कि वह इस बात को अवश्य देखें कि हमारी जो पुरानी प्रथाएँ थीं उनका लोप क्यों कर हुआ। मेरा तो अपना यह मत है, मैं ऐसा समझता हूँ कि चुनाव में जो बुराइयां हैं, उन्हीं के आधार पर हमारे प्राचीन पुरुषों ने या हमारे पूर्वजों ने जब यह देखा कि इस प्रकार की बुराइयां चुनाव में होती हैं, तब उनमें से जो अच्छे व्यक्ति थे उन्होंने अपने आप को चुनाव से अलग रखा और चुनाव में भाग लेना छोड़ दिया। इस प्रकार से जो लोग रह गये उनके हाथ में मत्ता आई और जैसे ही उनके हाथ में मत्ता आई वैसे ही उन्होंने सत्ता को अपने हाथ में लेकर के फिर चुनाव प्रथा को ही खत्म कर दिया, जैसा कि हमने देखा कि पाकिस्तान में हुआ। उन्होंने अपना राज्य उसी तरह से शुरू किया, जिस तरह से कि हमने शुरू किया, जिस विधान के तहत हमने अपना शासन शुरू किया था, उसी विधान के तहत उन्होंने भी शुरू किया था, परन्तु हमने अपना निज का विधान बनाया और वह नहीं बना सके और चुनाव पद्धति पर कार्य करते हुए भी किस प्रकार से



[श्री राम सहाय]

उन्होंने चुनाव पद्धति को समाप्त कर दिया, उसका नक्शा हमारे सामने मौजूद है। क व्यक्ति ने सारे देश की हकूमत अपने हाथ में ले ली और वह कब तक जा रही सकती है? इस नस्ल के बाद दूसरी नस्ल में भी जारी रह सकती है या नहीं, यह तो भविष्य ही बतायेगा, लेकिन जब ऐसी चीज सामने आती है तो जब हम किसी कायदे कानून के बारे में विचार करें, तब जो मामूली जरूरियात की चीजें हैं उन पर तो ध्यान अवश्य रखें, लेकिन साथ ही, मेरा निवेदन यह है कि, हमें इस बात पर भी ध्यान रखने की आवश्यकता है कि जो बेसिक सिद्धान्त हमने माने हैं उन बेसिक सिद्धान्तों के आधार पर उसमें किसी सुधार की आवश्यकता है या नहीं। मैं यह तो अभी नहीं कह सकता कि चुनाव पद्धति में किस किस तरह के सुधार की गुंजाइश है लेकिन जो इसके माहिर हैं, जो पंडित लोग हैं, जो विधान-शास्त्री हैं, वे इस बात को देखें और वही इसको ठीक से बता सकते हैं कि क्या करना है। हमारी जो संविधान की धारा ३२६ है उसमें कहा गया है कि एडल्ट सफरेज—बालिग मताधिकार—के आधार पर सब लोग चुनाव में भाग ले सकेंगे या चुनाव में अपना नाम रजिस्टर करा सकेंगे . . .

श्री हर प्रसाद सक्सेना : अपना मत दे सकेंगे।

श्री राम सहाय : जी हां, वही मैं अर्ज कर रहा था। उसमें ऐसा भी बताया गया है कि वे अपना नाम रजिस्टर करा सकेंगे। तो मेरा निवेदन यह है कि जब उसमें इस प्रकार की चीज मौजूद है, तब जो चुनाव-पद्धति है उसमें किसी कार के तरमिम का गुंजाइश है या नहीं, इस पर तो विधान-शास्त्री ही रोशनी डाल सकते हैं, लेकिन कम से कम इस ओर हमारी दृष्टि अवश्य जानी चाहिये और हमें इस बारे में अवश्य ही देखना चाहिये।

SHRI BISWANATH DAS (Orissa):  
Sir, Representation of the People

(Amendment) Bill, 1958 calls for some comments in respect of some clauses. The first thing that I notice is clause 11 which is very necessary and it is so because as it is worded, it gives enough protection to truth and justice. I welcome this provision and I thank the hon. Minister for the insertion of such a clause. Having accepted that position, I fail to see the necessity and much less the usefulness of clause 8 which is an amendment of Section 20 of the Act of 1950. It says:

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

I fail to realise the purpose underlying this unless it is to give more power to the enrolling officers. The enrolling officers in our country are officials of a very low cadre. Are you going to leave the discretion to these people? Time and again people have sought the protection of courts and that a fairly good number of persons have been omitted from the rolls and that these omissions are deliberate. If these allegations are true, as I know in certain cases they are, would it be fair to have such a clause as this? After having accepted and inserted clause 11 namely provision against false assertions or false claims to be enrolled as voters, and having the view and purpose that every adult, male or female, person in India shall be enrolled as a voter unless he or she is disqualified, I see there is very little reason underlying and less justification in proposing clause 8 of the Bill. We have to realize also another thing, namely, the consciousness of the voters. Consciousness of the voters, it has to be admitted, is not as keen as it is in other democratic countries for this very reason that though India is basically a democratic State and the people are given to democracy from ages, from their age-long traditions and culture, the system of vote by ballot is a new introduction to our country. Under these circumstances and in view of the apathy shown by a fairly good section of the people, I

think clause 8 is not only unnecessary but is pregnant with unfortunate implications of loading the small official elements with large powers and driving people to civil courts. My hon. friend will be only adding to the files of the civil courts by having inserted such a clause.

A person owns a dwelling house. Does he own it for the pleasure of it or for the fun of it? The very fact that a person owns a dwelling house by itself explains that he stays there a certain number of days in a year or in a month, if not the whole period. We, workers have to move from place to place. We have dwelling places. For myself, I have got three dwelling places—my farm-house, village house and my town dwelling. I stay as long as possible in each of these. I don't want to be a voter in all these places but I don't want to be put to the test of whether I stayed so many days or not. How am I to prove that I stayed for so many days and then for so many hours—as staying for so many hours in a day will constitute a day? All these are perplexing, difficult and unnecessary limitations on the right of the voter to be enrolled.

Again I come to the question of penalty. So far as elections to the Council of States are concerned, I mean indirect election as they are called, there is voting by the system of proportional representation by the single transferable vote and there was no question of forfeiture of deposit. I know of a candidate in my State who secured only one vote and retained his deposit of Rs. 500. I don't see why here it is penalised. The constituency is very small and there is no justification. The election is indirect and there is proportional representation system of voting. Under these circumstances, where is the need for this penal clause? I feel that this penal clause is unnecessary, uncalled for and has very little justification.

The third point that I wanted to represent to this House is that if at a general election the contesting candi-

date stands in more than one parliamentary constituency he will be allowed only to get back his deposit of one constituency. Why? I have a right to contest in any constituency I please. Suppose one person wants to try his luck in two constituencies and he succeeds, that proves his popularity in both the constituencies. There is no reason why he should lose his deposit in one. Suppose he fails and fails badly or say he retains by getting the prescribed number of votes, where is the reason for calling upon him to lose his deposit? There is a rule that prescribed minimum of votes has to be secured. That being secured, there is the least justification to expect that he should lose the security money in other cases where he obtains votes far higher than the required minimum. The same thing is being applied to the Council constituencies. Speaking for Orissa, God bless, we have a Council but this is a general law for India. Why should you penalise people who contest for Councils? There is no difficulty, there is no justification when the constituency is very small. Under such circumstances, fail to understand the justification for these clauses. I would, therefore, implore the hon. Minister to reconsider the case and do justice to not only the candidates but also to democracy.

SHRI H. N. KUNZRU: Mr. Deputy Chairman, I confess that while the Bill before us has one or two good points I am not at all happy about the form in which it has been placed before us. It does not seek to remove any of the major defects in our existing electoral law. We all know the serious imperfections of the Representation of the People Act 1951 that is in existence now with such amendments as were made in 1956. But this Bill which seeks to remove defects does not touch any of the major defects that are found in the measure. Of what use is this Bill which deals with only minor points? It deals with one or two major points also and I shall refer to them. But by and large, the Bill is of a minor character and I do not think

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any harm would have been done if the Government had waited one or two years more, studied the report of the Election Commission and given us time also to study it and then come with a final decision with regard to the amendments that should be made to the existing Act.

I shall refer only to one point in this connection. In the Act of 1951 as it was before it was amended in 1956, election expenses meant all expenses incurred in connection with the election of the candidate, whether authorised by him or his election agent or not. In 1956, however, this restriction is removed, I mean this connotation of the term "election expenses" was altered and the return of election expenses was to relate only to the expenses incurred or authorised by the candidate or his election agent. That meant that unauthorised persons could spend money in the interest of a candidate, but the expenditure incurred by them was not to be shown in the return of election expenses. If the limit prescribed in the rules is to have any meaning or if it is to be of such a character as not to limit the maximum expenditure that can be incurred in connection with an election, it is obvious that the wealthy will always find a better chance in a contest than a meritorious candidate who is poor. But that feature of the Act has not been touched at all.

I shall point out one other important feature of the Bill which ought to be decided at an early date, but that feature instead of being modified, has, I may say so, been intensified as a result of the amendment made in the other House. I shall come to that at a little later.

I should like to deal with two or three new provisions that are sought to be introduced in the Act by this Bill. The Law Minister, while explaining the provisions of this Bill referred to clause 8 of the Bill which deals with the question of 'ordinary residence' of a person. I am surprised

that he did not refer along with this to clause 6 of the Bill which says that the words "in the same State" shall be omitted from section 17 of the 1950 Act. What is the significance of this omission? The candidates to the Lok Sabha of Parliament are not affected by this deletion of the words in the least. Under the law as it stands at present, a man who is qualified to be a candidate in a particular State by virtue of his registration as a voter in a particular State, can seek election to the Lok Sabha from any other State and from any constituency in the country. But the effect of it will be felt only by a candidate for election to the Council of States. I can very well understand the Lok Sabha readily making the change, because its Members are not at all affected by it. But I should like to understand the reasons that led the Government to acquiesce in this change. Indeed, perhaps the Government proposed it in the Bill themselves. What are the reasons that led the Government to suggest this change? What harm would be done if the name of a man is entered in two constituencies in two different States? It is obvious that he cannot vote in two different States at the same time.

SHRI V. K. DHAGE (Bombay): That is the Constitution.

SHRI H. N. KUNZRU: Yes, that is the position in the Constitution. A man can cast his vote only in one constituency and even in the Representation of the People Act of 1950 a man can vote only in one constituency and his name can be entered only in one constituency. But as a result of this change, the definition of 'ordinary residence' has to be altered. A man living in one State could get his name entered in the electoral roll of some constituency in another State only if he owned a house there or was in possession of a house and 3 P.M. lived there from time to time.

The two, therefore, go together. It is all very well for the Law Minister to say that this definition, to have people registered only in a con-

stituency where they ordinarily live, has been made clear by the various judgments of High Courts and so on but if he was really dealing fairly and honestly by us, he ought to have explained the significance of this provision by taking into consideration at the same time, the amendment sought to be made in section 17 of the Representation of the People Act of 1950. I do not think, Sir, it was very fair of the Law Minister to omit all reference to the amendment of section 17 of the Act of 1950 and confine his attention only to the change in the definition of what constitutes ordinary residence. I do not see any harm in allowing a man to have his name entered in the electoral roll of a constituency on the ground that he owns or is in possession of a house there. What inconvenience has this led to? The Law Minister said that this amendment had been made at the instance of a Member of the Opposition but it has been accepted by the Government. It should, therefore, be explained by the spokesman of the Government as to what difficulties the existing provision has led to in practice and, if the present law has given rise to no difficulties, no cases have gone before the election tribunals on account of this, there was absolutely no reason for any change.

I now come to clause 25 of the Bill which amends section 61 of the 1951 Act. I am, in theory, in favour of sub-clause (b) of this clause which says that every voter must present at the polling station the identity card which may have been supplied to him whether with or without his photograph. Now, if this could be carried out, it would be a good thing indeed but I am doubtful of the extent to which it will be carried out. The Law Minister said that the operation of this sub-clause would be restricted in the first place to urban areas. I thought he said that it might be practicable there.

PANDIT S. S. N. TANKHA: Certain urban areas.

SHRI H. N. KUNZRU: It will be practicable in that case but the question of women voters will still have to be dealt with. What are you going to do with women voters who refuse to let themselves be photographed? Take, for instance, *purdah nashi* ladies. Will they allow themselves to be photographed?

SHRI V. K. DHAGE: They say that they will employ women photographers.

SHRI H. N. KUNZRU: Well, the photographs will be placed before the men. The polling officers will not always be women. You can always have an identity card but to attach to it the photograph of a woman, will create difficulties.

SHRI P. N. SAPRU: Identity card by themselves will not be of much use unless accompanied by photographs.

SHRI H. N. KUNZRU: That is why I have said that while I am in theory in favour of the provision of sub-clause (b), I am not sure that it will be possible for Government to act on it in practice except in the case of male voters in a few urban areas.

(Interruption.)

I did not hear the hon. Member.

SHRI SHEEL BHADRA YAJEE: By this system of introducing identity cards, the *purdah* system will go for good.

SHRI H. N. KUNZRU: I think the *purdah* system will prove stronger than this law. If we want to remove *purdah* system, we shall have to use some other system for diminishing its force.

The last point that I come to is regarding the amendment of section 123 of the Representation of the People Act, 1951, that is, clause 36 of the Bill, as passed by the Lok Sabha. The Law

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Minister told us that under the definition of bribery as it exists in the 1951 Act, the Supreme Court had decided that in a particular kind of cases, the offence of bribery does not exist. It might be interesting for Government to note that the present state of the law is due to the amendment that was made in 1956. Till that time, Sir, corrupt practices were divided into two categories, major corrupt practices and minor corrupt practices and the receipt of a gratification, that is, a bribe, was a minor corrupt practice which could make the election tribunal declare the election of a returned candidate to be void under certain circumstances. Government themselves dealt away with that section which dealt with minor corrupt practices and thus created the difficulty with which they are faced now. There is another feature. That very section, instead of being modified by the Government, has been intensified. Under the Act as it stood till it was first amended in 1956, bribery was regarded as a corrupt practice whether committed by a candidate or his agent or any person with the connivance of the candidate or his agent but in 1956, the words "with the connivance of" were deleted and the words "with the consent of" were substituted. It became, therefore, almost impossible to prove that the offence of bribery had taken place in any case. Now, that thing has not been touched at all. On the other hand, under certain clauses of the Bill the connivance, that is, the exercise of undue influence with the connivance of the candidate or an agent could be regarded as a corrupt practice but that has been modified so as to make undue influence an offence only when it is exercised by the candidate or his election agent or anybody else with the consent of the candidate or his election agent. Such changes have been made in every sub-section of section 123 except sub-section (6), I think. Now, why has this been done? What public purpose does this serve? If Government want that the elections should be free and fair, they should make it easier to catch those people who are guilty of corrupt practices,

instead of inserting certain provisions that will make the commission of corrupt practices easier.

Sir, I do not want to deal with this question any further. I shall only say that the law, as it stands, is seriously defective. The Bill as it is does not remove any of them. If Government want really to have a proper election law and want to impress the country that they desire to have fair and honest elections, they should withdraw this Bill or send it to a Select Committee. There is a great deal of justification for reconsideration of this measure by a Select Committee of this House. I, therefore, support the motion for the reference of this Bill to a Select Committee.

SHRI P. N. SAPRU: Mr. Deputy Chairman, I would like to pay a tribute to the work of the Election Commission in India. The Election Commission has done during the last eleven years its work with commendable in independence. We are the greatest democracy in the Asian world. We have an electorate of 18 or 19 million people . . .

SHRI J. S. BISHT (Uttar Pradesh): Crores.

SHRI P. N. SAPRU: Yes, crores, and it is about three months' work for the elections to be completed. I hope that we shall in course of time devise a machinery whereby it would be possible for us to have elections on a single day. That, of course, is a somewhat distant ideal.

Now, whatever the defects of the measure passed in 1956 might be, there is no doubt that the number of election petitions has decreased and that there is more speed now than there was before in the disposal of those applications.

Having said this, I would like to say that, generally speaking, I am in

agreement with the motion of Mr. Dhage for a reference of the Bill to a Select Committee. My view is that all important measures should go to Select Committees. This is a measure which vitally affects all Members of Parliament. It is not a party matter and it is a matter which affects the Members of the Council of States, particularly because I notice that the residence clauses are likely to affect Members of the Council of States. I have not been able to find why, for example under clause 39, where at an election held in accordance with the system of proportional representation by means of the single transferable vote, a candidate is not elected, the deposit made by him should be forfeited if he does not get more than one-sixth of the number of votes prescribed. This will place independent members and members belonging not small parties at a special disadvantage. I do not think that we should penalise any class of members from seeking election to Parliament.

Then, I do not see any reason why members should not be allowed to choose their constituencies and why if the choice is wrong in their case or the choice results in their election from more than one constituency, they should be penalised by having their deposits forfeited. I am referring to sub-clause (5) of clause 39:

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

I do not see why there should be this clause at all.

Then, I will come to the question of "ordinarily resident", about which much has been said by some other Members. I do not find much difficulty in these words 'ordinarily resi-

dent'. I think the words are capable of exact legal definition. The words used in the Civil Procedure Code are 'actually resident', but I take it that the words 'ordinarily resident' convey the same meaning as 'actually resident'. Anyway, there is, however, this to be said that the electoral officer has been made the final judge as to whether a person is ordinarily resident in a constituency or not. I think it is wholly wrong in principle to make anyone absolute judge in a matter of this vast importance, in a matter which may affect a candidate's voting rights or candidature. I think, therefore, that an appeal against the electoral officer's decision in regard to this matter should be provided. There is no provision for an appeal in this Bill, but I think it is possible for Government to provide under its rule-making power for an appeal to the State Election Commissioner or some other similar body. There, of course, is the right of the individual to apply for a writ under the Constitution, but I personally think that this question of appeal deserves to be considered very seriously. Then, it is true that the electoral officer has been enjoined to give a reasonable opportunity to the person concerned of being heard, but we know that some of these men do not bring to bear upon their work a judicial mind.

Then, I personally think that the penalty under section 32 of the 1950 Act of a maximum fine of Rs. 500 for the officer who is derelict in his duty of revising or correcting the roll is rather small. I think it is a very serious thing, the preparation of the roll, and the officers who are careless or negligent or in any way remiss in doing their task in this matter properly should be punished more severely. It is vital for democracy that there should be a feeling that we have free and fair elections.

(Time bell rings.)

Mr. Deputy Chairman, I would like also to say one or two words about the identity cards. Now, I am not against the principle of identity cards. I think this identity card is going to

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be used only in urban constituencies. While I think that we need to encourage in our country women's participation in public life, it is the experience of many people who have worked in elections that it is difficult to induce women to go to the polling booth and many women will be scared away if they have got to be photographed before they can actually vote. Their male members might raise objections. We are living in India. We are not living in Switzerland or West Germany or Paris or New York. Therefore, we should have some regard for the social customs and conventions of the people. It may be all right for my friend to say, "Oh! break through the *purdah* system." We are trying to do that. But we cannot just impose our will upon the people. I would, therefore, say that while the idea of an identity card is good, I am apprehensive that conditions are not such as will make it workable in the immediate present.

Finally, I would say that I do not like this distinction between rural and urban areas. If you work it that way, I do not know whether it will be regarded as a reasonable classification. It may work to the disadvantage of one group in an urban area; it may work to the advantage of the other groups in rural areas.

Therefore, Mr. Deputy Chairman, I think that the whole Bill requires proper consideration. That consideration only the Select Committee can give. There are other reasons which have been given by other Members why this Bill should be referred to a Select Committee. I would, therefore, indicate my preference for reference of this Bill to a Select Committee. It is said that this Bill must be passed before the 1st of January, 1959 because of seasonal difficulties and so on. But I do not think it will matter much if this Bill is delayed for another three months.

Lastly, I would like to say that I am in favour of clause 15 as it stands.

In fact, I would have gone further. I do not like this emphasis on contract business. I do not think there is much in this talk about contract business. The British House of Commons has done away with all notions regarding this matter. I think we should have taken the lead in this matter of the British House of Commons.

Thank you.

SHRI BHUPESH GUPTA: Mr. Deputy Chairman, Sir, we have heard different points of view over this measure. I am not opposed to amending even piecemeal our electoral laws and regulations because I believe that we have to proceed in this matter by experience and learn by trial and error. Sir, I think the main justification for having a measure of this kind is to ensure conditions which not only guarantee free and fair elections, but also strengthen democracy. Now our democracy is being given certain types of blessing. It is being taught how to slip out of one's fingers and we have seen how this morning democracy slipped out of our fingers and many have reconciled themselves to that position. That is democracy.

DIWAN CHAMAN LALL (Punjab): How?

SHRI BHUPESH GUPTA: I do not say anything more than that. Well, democracy does not seem to have the courage even to withstand supplementaries, let alone other things.

Now, this is the position. Nobody will say that our electoral affairs are very solid and sound. There are drawbacks and shortcomings which will have to be overcome. But in the very beginning, I wish to make it clear that when I make this criticism against the electoral laws or make certain suggestions, I do not at all reflect on our Election Commission or any Election Commissioner in particular. I think by and large, they have given a good account of themselves. They deserve to be supported and sustained by the people. But then, Sir, the Election Commission is only

at the apex of the affairs. There are many other electoral officers and certain matters connected with elections are left in the hands of the officers very often drawn from the Provincial Service who are under the influence of the local administration and there comes the snag. Much as the Election Commission would like to set matters right, to carry on things properly, they come up against certain extraneous influences which are always brought to bear upon what is called free and fair elections.

Now, Sir, I agree with Dr. Kunzru in this matter that very many changes would be required in order to make this measure fool-proof. But I do not know, if both of us begin to elaborate on this subject, whether we will be agreeing on all the points. It has been my misfortune not to agree on certain matters with our esteemed elder statesman, but that I leave for some future occasion.

Sir, we are a party and as you know, we are the second largest party in the country if we judge by the election results. We have had some experience in the matter of election. We have been to this field somewhat new compared to Diwan Chaman Lall. We do not have that old experience of half a century or so. We are late-comers. But we are trying to make a good job of it and that is why, you will see in the first election we got six million votes and we succeeded in getting 12 million votes in the second election. Not a bad record for any party. We have also acquired a considerable amount of experience in this matter and on the basis of that, I should like to offer certain criticisms and also make certain suggestions before the House.

Sir, I do not go into the electoral expenses and all that here. Well, that is a matter for the rich men to make up their minds . . .

**SHRI SHEEL BHADRA YAJEE:** Which Party?

**SHRI BHUPESH GUPTA:** . . . because it is for them to decide—and it is for their friends in the Congress Party to decide—whether election should be made a business of money. This is the question that I pose to the Members opposite. Well, it seems today that despite the limitations on the electoral expenses, there are moneyed people who know how to by-pass them and they have developed the art of expending, not expending, when it comes to submitting election returns. These crafty, cunning, intelligent gentlemen have to be properly groomed and I think that as long as the electoral funds of the ruling party are so much open to their influence, it will not be easy to control these gentlemen who carry on this election business on the strength of their money. Theirs is not a question of merely what is laid down in the law. The issue is, what is the practice in life? What does it matter today if the electoral laws say that one cannot spend for a Parliamentary election above twenty-five thousand rupees or so or for an assembly election above ten or twelve thousand rupees or so. But everyone also knows—and it is an open secret; it is almost an admitted public scandal—that there are candidates in the country who spend lakhs and lakhs of rupees to get through an election in order to find a place either in the Lok Sabha . . .

**SHRI SHEEL BHADRA YAJEE:** Do they include C. P. I. candidates also?

**SHRIMATI YASHODA REDDY:** Including Deviculam where they spent nearly two lakhs the previous day.

**SHRI BHUPESH GUPTA:** It is for the hon. lady Member to include whatever she likes. For the present, I should like to exclude her interruption.

Now, the position is that lakhs and lakhs of rupees are spent. I am not saying about the Congress Party or the Communist Party. Whoever spent, they should not have done so. It would not be on my part to preach



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virtue by practising vice. But the trouble is the ruling party is preaching virtue profusely, but practising vice, and contamination sometimes gets here also. I do not know about it. We are all within the reach of this contamination. Sir, vaccination is talked of. I would like to have some kind of vaccination that at least makes me immune from the influences of some Members opposite.

Therefore, this money matter, whatever you may lay down, is not going to offer much solution until and unless we make it a point that elections are not to be fought with so much money whether legally or illegally introduced. That is to say, codes have to be laid down by the different political parties—the Congress Party, the Communist Party, the Praja Socialist Party and others and also hon. independents like Dr. Kunzru—and we should come to some kind of gentlemen's agreement that we shall never take recourse to such practices. It is possible to do so; we do not do so; we do not discuss such things even. Well, we allow things and things go their own way. The result is, as you know, that lots of money flow into certain election funds. The hon. lady Member was very much inquisitive about the Deviculam election but then, Mr. Deputy Chairman, in order to find out where the money goes, she will have to look up the balance sheet of Tatas and there she will find the organisation named, and all that. But she is a very shy person and that will add to her shyness.

SHRI V. K. DHAGE: Why is she shy?

SHRI BHUPESH GUPTA: I found her shyness only the other day. All women, I believe, are shy. I have not much knowledge that way, but it looks as though it is so.

Now that is the position. Therefore let us leave it alone. I think, Sir, that we can discuss it on some other occasion. Therefore, even if it is not there,

I am not blaming the hon. Minister, because I know his difficulties in this matter; it is a question of major policy.

Now, Sir, I was reading some American literature where I saw that Jefferson got elected by spending nothing, and today American elections cost billions of rupees; the Presidential elections cost millions and millions of rupees. Well, this is the world in which we are living today, the world of capitalism which has produced this great democracy of ours. Now I leave it at that and I ask Diwan Chaman Lall to look after this greatest democracy in India and save it from the clutches of the money.

Sir, let me come to the other points. Here, Sir, much has been said about impersonation; I entirely agree that we must combat impersonation in the matter of elections but then, when false voting goes on even in the ruling party—well, we saw it in West Bengal in the elections to the executive; it came in the press—how can you believe that we can eliminate it, because the ruling party has to clear itself of this thing before it avoids impersonation in elections, General Elections, and so on? Here again discussions are necessary among the various parties. Let us try our strength on the basis of genuine votes without encouraging or giving any quarter to impersonation of any kind. For instance, if there is an obligation entered into between the parties that such a thing should not be allowed and all should be obligated mutually, severally and individually to detect such impersonation, I think we can produce good results. But the trouble is that as democracy on the other side shies away, there is the tendency to impersonation. This is the trouble. Now this democracy opposite is receding.

SHRI SHEEL BHADRA YAJEE: Not in the Congress Party; casting of bogus votes is done by the Communist Party.

SHRI BHUPESH GUPTA Well, the hon Member opposite is always a very interesting interruptor in that the points he makes in the interruption only strengthen my case. He talks of the Communist Party. Well, the Communist Party is in the flood tide of democracy and your party is in the receding waters of democracy, and if you do not understand it I do not know when you will understand it. Perhaps you will require the third General Elections.

(Interruptions.)

Now that is the position. As democracy recedes on that side, naturally there is a tendency to bolster it up by faked votes and bogus votes. Sir, I have seen it in Calcutta—I am not naming anyone—of false voters, bogus voters brought in big limousine cars. The trouble is that the people look uncomfortable in good limousine cars, like the one Diwan Chaman Lall drives. They look uncomfortable sitting in these cars and being brought to the polling booths, and naturally they get upset, sometimes they get caught, I saw some people caught in that way. One was brought from Keshoram Cotton Mills who came sitting in such a car and later he was caught. The point is that he was actually a Hindu who ordinarily had pig-tail on his head and a turban on his head. Well, he put the turban off and made himself appear a Muslim with a cap on and other things. When he was really not a Muslim people caught him and the difficulty arose that way. And everybody knows who brought him and all that—I am not going into that question. Therefore this is again a problem, a problem which we are facing, all of us, and I think all good men should fight against it. Therefore, any measure that you devise in order to combat impersonation will have our full support, because we do not believe in impersonation any more than we believe in false and bogus voting. All should co-operate in this and not think that this is a matter for somebody else. We want absolutely solid votes on the strength of which

things should be decided. The trouble is we have not been able to find it out, and generally having acknowledged this fact we have come out with this Bill. Now the question is to what extent it will be eliminated, I cannot say.

Now take for instance clauses 7 and 8. In clause 7 it is now changed to "is ordinarily resident in a constituency". First of all, this is a very broad expression, it is liable to be interpreted in different ways. Now I had heard a kind of interpretation being given from the Member opposite, and I think, Sir, this will admit of all kinds of interpretation, and maybe, this will be taken recourse to to enrol false voters or for other malpractices. This is my fear in this connection.

SHRI V K DHAGE How?

SHRI BHUPESH GUPTA Now I cannot readily give a definition. I am only posing a problem because I know it is very difficult to define this particular clause properly in order to make this clause and clause 8 absolutely fool-proof and solid and sane. It is rather difficult, but I am posing this problem.

Then, Sir, in clause 8 provision is made for "a person absenting himself temporarily" and all that. Complications will arise. I can understand about the MPs, but what about others? MPs will of course not be affected by it because the provision is there in sub-clause (1B), but what about the others? Problems will arise that way. Therefore it has to be considered.

Then in the next clause electoral registration officers are being given considerable powers of registration including the power for the transposition of names from one electoral roll to another—all these powers are being given. I am not opposed to powers being given, as I told you, and as far as the Election Commission is concerned, I am prepared to give them as many powers as they like, because we have that much confidence in them. But then we are laying down here

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some legislation prescribing the rules and we should be very careful and we have to guard against certain wrong eventualities or certain wrong people taking possession of the machinery.

MR. DEPUTY CHAIRMAN: Your time is up, Mr. Gupta

SHRI BHUPESH GUPTA: Let me finish; I am the only speaker from our side.

MR. DEPUTY CHAIRMAN. There are still seven speakers.

SHRI BHUPESH GUPTA: Now this is the position. I hope the hon. Minister will do well to please hear me and he will be good enough to allow me a little latitude in this matter, Sir. There is the power given to delete. Now what happens? Here power is given and supervisory jurisdiction is retained in the Election Commission. By all means retain it. Now what happened in Bhowanipur? Draw from the experience in the Bhowanipur constituency. Now in that Calcutta Assembly constituency two gentlemen appeared before three or four officers who were asked to look into the electoral rolls and they said that these 1200 names have to be deleted, because they do not exist. Well, immediately, it seems by a curious combination of circumstances all the 1200 names were deleted; they became all dead or untraceable. At least they ceased to be voters and democracy was killed so far as those 1200 people were concerned. Now we thought of reviving this democracy a little I say democracy has not been actually killed here, but has been kept under some kind of detention, and we thought that it should be rescued. We made public appeals, drew the attention of the Election Commission to this matter and raised this thing in the Assembly there and on the floor of this House too, and the Election Commission was good enough to issue instructions to investigate this matter, and as a result all the 1200 names were res-

tored to the electoral rolls. It happened I give all credit to the Election Commission for having done it. But then, there was a good attempt to kill democracy in respect of 1200 people—I do not know, Sir, how many had lost their democracy and franchise by this kind of method. But what happened after? Nothing as far as the officers were concerned. We made out a *prima facie* case against them on the floor of the House there and asked Dr. B C Roy, Chief Minister of West Bengal, to take action, and also appealed to the Election Commission. The Election Commission pleaded helplessness. Dr B C. Roy said something, which nobody understood and no action whatever was taken. Now, Sir, although all the assassins of democracy were not apprehended, as far as these two fellows were concerned, who succeeded in getting 1200 names deleted from the electoral rolls, nobody did anything about it. I think they are now very good voters—maybe some day we shall see them in some bench opposite. Anyway, Sir, this is the position—I do not know how to tackle such a situation. I beg of you, Sir, to throw some light in this darkness, as to how to find our way to democracy. We are surrounded by such people right and left, and whenever we apprehend some persons, they are allowed to slip out of our fingers, as I said before. Such is the position. Therefore, Sir, I think here it is important that the officers who will be responsible for the registration, for amending and deleting the entries and for transposing the names from one electoral roll to another should be absolutely placed beyond all influences of the local authorities—local Government I mean. Well, in Kerala it will be our Government; in Bengal it will be your Government, but all of us together should create such a kind of practice so that nothing happens that way. I hope the hon. lady Member opposite has appreciated my point because she brought in the question of Deviculum

MR. DEPUTY CHAIRMAN: That will do, Mr. Bhupesh Gupta. There are seven more speakers.

SHRI BHUPESH GUPTA: Yes, I know that But the Communist Party is putting up only one speaker.

MR. DEPUTY CHAIRMAN: There are other parties also. You have taken nearly 20 minutes. Please wind up your speech.

SHRI BHUPESH GUPTA: I will do it in my own way. This Bill should have been discussed in the Select Committee.

MR. DEPUTY CHAIRMAN: Other speakers have taken only ten minutes each Please wind up.

SHRI BHUPESH GUPTA: Sir, it is very difficult to get on with my speech at that rate.

MR. DEPUTY CHAIRMAN: There are other parties also You are not the only Opposition Party.

SHRI BHUPESH GUPTA: Please allow me to continue.

MR. DEPUTY CHAIRMAN: You may take two or three minutes more and wind it up.

SHRI BHUPESH GUPTA: Sir, then we have to decide as to whether we should go and sit in the Election Commission meetings.

MR. DEPUTY CHAIRMAN: It is all right Please wind it up.

SHRI BHUPESH GUPTA: Let me continue, Sir. Of course, I have told you that we are not going to put up any other speaker.

MR. DEPUTY CHAIRMAN: You have already taken 20 minutes, whereas every other Member has taken only 10 minutes.

SHRI BHUPESH GUPTA: Have I taken 20 minutes? Is it much?

SHRI H. P. SAKSENA: I give a reply. The Chair must be obeyed.

MR. DEPUTY CHAIRMAN: You began at 3-22 and now it is 3-43. I am treating all Members equally.

SHRI BHUPESH GUPTA: Nobody else's time will be taken.

MR. DEPUTY CHAIRMAN: Please wind it up without wasting further the time of the House.

SHRI BHUPESH GUPTA: Sir, I always feel very unhappy. I do not know why this thing should be like that Here is a party which is an important party in the country. I am not making my personal point of view. It is our party's point of view. Therefore, Sir, I should be given a little opportunity.

MR. DEPUTY CHAIRMAN: You must give equal importance to other parties also.

SHRI BHUPESH GUPTA: Anyway, Sir, I do not want to disturb you. I do not wish to have any altercation with you every time. All that I can say is that I am very sorry, and the Communist Party will express its regret over this matter.

MR. DEPUTY CHAIRMAN: Very good.

SHRI BHUPESH GUPTA: Let me continue, Sir. In the Select Committee at least we have some chance of pursuing this matter.

Now, Sir, something has been said about this identity card and photograph. This point has been made by many hon. Members. I think our point of view also should be known. The Law Minister may be interested in anything. We are not as such opposed to giving identity cards and photographs. Our opposition is not to the principle of it. But we consider it to be somewhat impracticable and not feasible in the present

[Shri Bhupesh Gupta.]

situation for very many reasons. After all, Sir, some people may not be agreeable to get themselves photographed because of certain religious prejudices and on sentimental grounds. In that case, Sir, they will be outside the pale of this thing I do not want that they should suffer. Unless you can give everyone such a photograph and such an identity card, it is very difficult to ensure that the election will take place on that basis. In any case, we would not like the election to be based on such identity cards and photographs until and unless everyone has been provided with such things I submit, therefore, Sir, that only identity cards without photographs will throw open the door for further malpractices.

There is another point also. There is a tendency to prevent voters from going to the polls on the election day. And if we give these identity cards and photographs, there will be another malpractice in some quarters, to spend money, take away some of the identity cards and ask people to be indoors. After all, Sir, our experience has been that certain parties are interested in seeing that people do not go to the polls. But even so, they go and vote, because they expect that nobody will be able to know how they have voted. Certain interested parties may adopt the method of saying: "All right, take money and give your cards; after the polling is over, your card will be returned to you." They may operate in that way. This is nothing but malpractice. In any case, Sir, I would like the hon. Minister to ensure that everyone has the opportunity to vote. Only then we can consider this matter. This is a matter which should be discussed with the Election Commission and all that.

MR. DEPUTY CHAIRMAN: Mr. Yajee.

SHRI BHUPESH GUPTA: Sir, there is one thing only which I would like

to say. I think the question of time should better be settled in the Chamber itself rather than anywhere else. You are very right and within your right. But I feel myself humiliated by such things.

MR. DEPUTY CHAIRMAN: Mr. Yajee. Only ten minutes.

श्री शीलभद्र याजी : माननीय डिप्टी चेयरमैन महोदय, यह जो रिप्रेजेंटेशन आफ दि पीपुल (अमेन्डमेंट) बिल हाउस के समक्ष है, उसमें मैं समझता हूँ कि बहुत से डिफेक्ट्स हैं, दोष हैं और उसमें सुधार लाने की जरूरत है। अभी सेलेक्ट कमेटी में जब यह मामला दरपेश था तब उसमें जो 17 सात (डो) की हटाने की बात हुई थी, वह मैं समझता हूँ कि बहुत उचित और वाजिब बात थी। अब जितने सरकार के कार्र होते हैं, देश-निर्माण के कार्य होते हैं। सारे हिन्दुस्तान में जो निर्माण के कार्य हो रहे हैं, वे कार्य गांव के जो मुखिया होते हैं, पंचायत के मुखिया होते हैं, उनके हाथ में सुपुर्द किये जाते हैं। गत ग्राम चुनाव में यह देखा गया कि एक एम० एल० ए० थे जो कि एक गांव की पंचायत के मुखिया थे, उन्होंने कुछ योजना का काम किया था और जब उन्होंने नामिनेशन पेपर दिया तो वह रिजैक्ट कर दिया गया और कहा गया कि वे ठेकेदारी करते हैं। जो बड़े बड़े ठेकेदार हैं, जो ठेकेदारी से बहुत मुनाफा लेते हैं और देश का काम अच्छा नहीं करते हैं उनके बारे में तो यह चोख ठीक हो सकती है, लेकिन तमाम लोगों के लिये ठीक नहीं है। कम से कम जो पंचायत का मुखिया है, सर च है, उसके लिये ऐसा नहीं होना चाहिये। जहां तक कोऑपरेटिव का सवाल है उसके लिये तो व्यवस्था की गई है, लेकिन ज्यादा काम पंचायतों से लेना है और सारे हिन्दुस्तान में करीब 6 लाख गांव हैं और 6 लाख उसके मुखिया होंगे, तो जैसा कि गत चुनाव में देखा गया कि अगर मुखिया लोगों से स्कूल के निर्माण का काम हुआ

या और फायदे का काम आ तो उनका नामि-  
नेशन पेपर रिजैक्ट हुआ, हालांकि वे पहले  
असेम्बली के मेम्बर थे, लेकिन इसमें नहीं आ  
सके, ऐसा नहीं होना चाहिये। इसलिये मैं  
समझता हूँ कि सेलेक्ट कमेटी ने जो (डी)  
क्लाज हटाया था वह ठीक किया था। हमारे  
कुछ सदस्यों ने इस पर आपत्ति की है कि जो  
गवर्नमेण्ट की ठेकेदारी करते हैं, उनको कैंडि-  
डेट होने की ओर पालियामेंट या असेम्बली  
में आने की अगर इजाजत दी जाती है तो  
ठीक नहीं है। मैं पूछता हूँ कि क्या असेम्बली  
और कौंसिल में भूखंडों की जमात आयेगी,  
या पालियामेंट और असेम्बली में जो लोग  
आएँगे वे कोई पेशा नहीं करेंगे? तो इस तरह  
की व्यवस्था, जबकि हम समाजवाद की ओर  
जा रहे हैं, ठीक नहीं है। जब सरकार निर्माण  
का काम करती है और उसको पंचायतों के  
सुपुर् करती है, तब यह कहना कि इस तरह  
से जो ठेकेदारी करें उनको पालियामेंट में नहीं  
आना चाहिये, असेम्बली में नहीं आना चाहिये,  
ठीक नहीं है। मैं समझता हूँ कि इसमें सुधार  
होने की जरूरत है और सेलेक्ट कमेटी ने  
पहले जो फैसला दिया था, उस चोज को  
लाने की जरूरत है।

दूसरी चोज अभी हमारे बहुत से सदस्यों  
ने ठीक ही कही कि औरतें जो कई करोड़  
हमारी वोटर होती हैं। हिन्दुस्तान  
में, खास कर हमारे बिहार में और य० पी०  
में, करीब तीन, चार करोड़ मुसलमान हैं  
और उनमें ज्यादा औरतें पर्दा करती हैं।  
यदि हम इसमें व्यवस्था रख देते हैं कि  
आइडेंटिफिकेशन कार्ड हो और उसके साथ  
फोटो हो तो हमारी उन औरतों को अपना  
चेहरा दिखाना पड़ेगा और उनको यह बात  
कभी पसंद नहीं होगी। इस तरह से  
आइडेंटिफिकेशन की बात करना फिजूल  
है। यह ठीक है कि फोटो की शर्त रख देने  
से अगर फायदा होगा तो देश के तमाम  
फोटोग्राफों का होगा, उनका पेशा उनकी  
बिजनेस अच्छी हो जायगी और रोजगार उनका

बढ़ जायगा। औरतों के बारे में मैं समझता  
हूँ कि अगर इस तरह की कैद रखी जायगी  
तो आधी औरतें वोट देने के लिये जायेंगी  
और इस तरह से हमारे संविधान की जो मशा  
है कि औरतें भी वो डालने में उतना ही  
हिस्सा लेंगी, वह अधूरी रह जायेंगी; क्योंकि  
उनकी आबादी आधी है और उनमें से भी  
आधे वोट डालने नहीं जायेंगे और उनको  
इस तरह से आइडेंटिफिकेशन देने की बात  
रखी जायगी तो हम उनको उनके मतदान  
के अधिकार से वंचित करेंगे। बहुत से  
गरीब लोगों के ऊपर भी इसका बुरा असर  
होगा।

इसके अलावा हमारे भूपेश गुप्त जी ने  
डिमोक्रेसी की बड़ी दुहाई दी। मैं ने उनको इट्रप्ट  
करने हुए कहा था : Devil quoting the  
Scriptures, जिस डिमोक्रेसी की बात वे करते  
हैं उसका नमूना हमारे कामरेड भूपेश गुप्ता जिस  
पार्टी की नुमायदगी यहां करते हैं, उस पार्टी  
का जहां केराला में शासन है वहां हमें देवने  
को मिलता है। उनकी पार्टी के लोग रूस में  
और चीन में जिस तरह का शासन चलाते  
हैं, उसमें वोट डालने का कोई सिस्टम नहीं है,  
सिर्फ एक लिस्ट बना देते हैं कि इस को  
हमें लेना है। कामरेड भूपेश गुप्ता की  
डिमोक्रेसी के सिद्धान्तों को फायदा करने का  
मतलब मुल्क में आडोक्रेसी लाना है। यहां  
जो उन्होंने कहा कि बोगस वोट डाले जाते हैं  
और वे रूलिंग पार्टी के जरिये से ही डाले  
जाते हैं, लोगों पर दबाव डाला जाता है, तो  
मैं यह कहूंगा कि सही मानी में देखा जाय  
तो उन्हीं की पार्टी के लोग इस मामले में  
होशियार हैं। मैं ने तो कलकत्ते में देखा,  
बंगाल में देखा, सारे देश में देखा कि बोगस  
वोट डालने में कम्यूनिस्ट पार्टी के लोग ज्यादा  
एक्सपर्ट हैं, ज्यादा लोग बोटम उन्हीं के  
तरफ डाले जाते हैं। वे इस मामले में बड़े  
होशियार हैं। इसी लिये सरकार ने, हमारे  
ला मिनिस्टर साहब ने, बहुत सोच विचार कर  
सिर्फ कम्यूनिस्ट पार्टी को चैक करने के लिये

[श्री शीलभद्र याजी]

अमेंडमेंट पेश किया है। कांग्रेस पार्टी के लोग सत्य व अहिंसा में विश्वास करते हैं, वे बोगस वोट नहीं डालते, लेकिन जब वे ईमानदारी की बात करने हैं तो हमारे साथी भूपेश गुप्ता 'उल्टा चोर कोतवाल को डांटे' की उक्ति को चरितार्थ करते हैं। उन्होंने रूनिंग पार्टी पर बोगस वोट डालने का जो आक्षेप किया है, वह गलत है।

हमारे एक साथी कामरेड डी० पी० सिंह ने कहा कि राज्य सभा के उम्मीदवारों को भी लोक सभा के उम्मीदवारों की तरह देश के किसी हिस्से से, कांग्रेसी इलाके से खड़ा होने की अनुमति होनी चाहिये, यह नहीं कि जिस प्रांविंस का, जिस स्टेट का वह रहने वाला हो, जहां से वह पोटर हो वहां से खड़ा हो। मैं नहीं समझता कि यह ठीक होगा। मैं समझता हूँ, हमारे जो कामरेड बिलासपुर के राजा हैं, उनकी तरफ़ीम को मान लेना चाहिए तथा यह बिल सेलेक्ट कमेटी में जाना चाहिए।

स बिल को सेलेक्ट कमेटी में भेजे जाने की और वहां इसमें बहुत कुछ सुधार करने की ज़रूरत है। वहीं हम सब लोग बैठ कर स्वयं श्री भूपेश गुप्ता भी, जो डिमांडेमी पर उपदेश देते हैं और कहते हैं कि किस तरह की डिमांडेमी हमारे देश में चलती है—इन अमेंडमेंट्स पर सोच विचार करें।

मैं समझता हूँ, इस सदन में बैठे हुए माननीय साथी यह ज़रूर चाहेंगे कि जिस तरह के समाजवाद को हमने मान लिया है, उसमें हम पंचायत के मुखिया को, पंच की और निमार्ण के कार्यों में ठेकेदार बनाने जा रहे हैं। उन सबको योग्य ठहराना चाहिए; क्योंकि उनसे हमारे देश का बहुत सारा कार्य होगा। यह तो सही है कि पार्लियामेंट के मेम्बर को कोई पेशा नहीं अपनाना चाहिए, लेकिन जहाँ हम अपने निमार्ण कार्यों में लक्ष-पति पार करोड़पति ठेकेदारों को बड़े बड़े

के देते हैं और वे दुगुना चौगुना पैसा बनाते हैं, वहाँ यदि हम लेजिस्लेचर के या पार्लियामेंट के मेम्बरों को वह काम करने देते हैं और वे मेहनताना लेकर उस काम को सस्ते में कर देते हैं, तो उसमें कोई आपत्ति नहीं होनी चाहिये, क्योंकि उससे भ्रष्टाचार और कर्प्शन में भी रोक होगी।

इन बातों के साथ मैं स बिल को सेलेक्ट कमेटी में ले जाने की जो तरफ़ीम है उसकी तारीफ़ करता हूँ। मैं आशा करता हूँ कि हमारे ला मिनिस्टर साहब जो सामने बैठे हुए हैं वे एक बार कांफ़िडेंसियल तरफ़ीम लाकर इस तरह के सुधार करेंगे कि जिनसे अगले जनरल लेक्शन में कोई दिक्कत पेश नहीं होगी। सेलेक्ट कमेटी में बत सोच समझ कर इस बिल को तैयार करना चाहिये।

SHRI V. K. DHAGE: Mr. Deputy Chairman, Sir, I find that an important measure like this has not been referred to a Joint Select Committee of both the Houses and Dr. Kunzru very ably and very aptly pointed out that this measure greatly affects the Members of the Council of States particularly with the amendment of Section 17 of the Act of 1950 as done here and I feel that—I am voicing the feelings of the Members here—somehow this House is not given the attention which it deserves and while constituting a Select Committee, it was not considered proper—I don't know why—to constitute a Joint Select Committee. It may be that there was no time for them because they intend to bring this measure into force from the 1st January 1959. That is what I understood from the Minister opposite but is that the reason why the chance for discussion should not be given to this House? Is that the reason why we should not have the opportunity to discuss and consider this matter very carefully? This is a very important measure with regard to the election of Members to the House of the People and also to the Council of States. Why

this procedure has been departed from, I am not able to understand. Why should the Government not consider that this matter be referred to a Select Committee when various defects have been pointed out?

Now it is pointed out in the Bill that was circulated to the Members, as it was introduced in the Lok Sabha, as to why clauses 6, 8 and 9 of the Bill have been introduced. It is stated:

"Inaccuracies in electoral rolls occur principally in two ways. In the first place, sometimes the names of dead and non-resident electors continue in electoral rolls long after they have died or ceased to reside in the constituency."

We have no objection with regard to the scoring off of the names of those persons who are dead and those who are not residing.

The second thing they have said is:

"In the second place, another reason for inaccuracies in the electoral rolls is that the name of the same person may appear in more than one place in the electoral roll for the same constituency or in the electoral rolls of more constituencies than in the same State."

The objective here seems to be that the name of a person should not occur more than once in a constituency in the same State and this has been remedied by the amendment of Section 17. Not only is this being done but they have also amended Section 20(1) of the old Act and they have inserted 3 sub-clauses in that in which they have defined as to what is 'ordinary residence' in a very negative way. The definition is merely saying what is not ordinary residence. It does not say what is ordinary residence and this is likely to cause a great battle in the matter of registration of the name in the electoral roll and will lead to a lot of harassment of the people particularly from those who may not be really contestants but might intend to

harass the person who wants to be a contestant in an election. Now this objective of the Ministry, as has been pointed out on page 11 of the Bill as introduced in the Lok Sabha, it seems to my mind, is fulfilled and can be fulfilled without amendment of section 20(1) of the Act because they have said that in the amendment to section 17 the words 'in the same State' should be eliminated. Then how will the clause read? It will read like this:

"No person shall be entitled to be registered in the electoral roll for more than one constituency."

This refers to more than one constituency, not merely in the same State but also in the whole of India. It is not necessary that this may confine itself to the same State but by the omission of those words 'in the same State' the entitlement of a person to be entered in the electoral roll will only be in one constituency throughout the country. If that be the case, I don't understand why Section 20(1) should have been amended as it has been stated here.

Another thing is that in order to prevent any kind of impersonation or false voting or whatever the reason may be as given in the introduction of this amendment, they are introducing a new method and that is by the amendment of Section 61 of 1951 Act in clause 25. By this amendment they say that a person 4 P.M. will have an identity card. Not only will he have an identity card, but he will also have a photograph. If this is provided and if this is put into effect, and you put into effect also section 17 as amended, where is the need to be afraid of any impersonation or any false voting taking place? Therefore, where is the need for an amendment of section 20 as is proposed here? I think the objective is gained by amending these two sections and by the introduction of the new section whereby an identity card is introduced. See what is said in clause 8:



[Shri V. K. Dhage.]

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

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

And then they enumerate certain exceptions with regard to a person absents himself temporarily and also with regard to a Member of Parliament. But I would like to know what is the positive manner by which this ordinary residence is to be gathered? I was told that this is very well defined in the Civil Procedure Code and I referred to the Civil Procedure Code, but I find that the term "ordinarily resident" is not defined there. What is stated in the Civil Procedure Code is "Actual residence" not an ordinary residence. I did not come across the definition of the term "ordinary residence". So what will happen here is that any person may put in an objection under clause 11, i.e. section 31, saying that a particular person is not ordinarily resident at a place. What is that person to do to prove that he is ordinarily resident in that place? Various things can be possible and it was also felt that a person may not even be held to have any ordinary residence in any place. The electoral officer has been given the power to decide. This, Sir, is likely to do great injustice and I am afraid the remedy proposed seems to be worse than the disease itself. Therefore, I feel that section 20, sub-clause (1) should be retained as in the original Act and this amendment should not be got through.

I also support Dr. Sapru in what he said about sub-clause (5) of clause 39 dealing with section 158 of the Act of 1951. I do not think if a person happens to file his nomination in more than one constituency and if he is elected in one constituency and not in the other, then his deposit should be forfeited. That seems to me, to be

rather a harsh provision and I think there was no need or necessity for the introduction of this amendment in the Act.

I support the motion moved by Shri Anand Chand that the matter be referred to a Select Committee, because this is a very important measure and a measure which really affects Members of the Council of States and one cannot understand why if for the Lok Sabha candidates are able to stand for election from any constituency from the whole of India, a candidate aspiring to be a member of the Council of States should be prevented from contesting the election from a State different from the one which he represents in this House and at the same time have his name entered in more than one State.

SHRI J. H. JOSHI (Bombay): Mr. Deputy Chairman, I rise to welcome this Bill as it has emerged from the Lok Sabha. I specially welcome the insertion of the new section 32(1) in clause 11 of the Bill. This proposed section reads as follows:

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

Sir, I feel this provision was overdue and I congratulate the hon. Minister for having incorporated this clause in this new Bill. Sir, it is a matter of common knowledge that the electoral rolls which are prepared are incomplete, incorrect and somewhat faulty. The responsibility could not be fixed on any one of the persons who were in charge of the work of preparation of those electoral rolls. I know of an incident in which an

important Member of this Parliament found to his surprise that his name was struck off, though he had merely applied for the correction of a small error that had crept in his name in the previous roll. I cannot understand what would happen if such a man at the time of filing his nomination were to find that his name was not there on the register. Sir, such a state of affairs would ruin the career of many persons. Therefore, I am of the opinion that it is a good thing that the Government had included this provision in this Bill.

As regards impersonation, the elector is required to produce his identity card with or without his photograph. I appreciate the anxiety of the Government to prevent this type of impersonation. But the production of the identity card presupposes the supply of it to all the voters. I fear this task would be too cumbersome and I feel that the machinery of the Government as we find it today, will not be capable of that work. Moreover, Sir, it will be a sort of a handle in the hands of the opposite parties to create some kind of a dissatisfaction among the people. Apart from that, I feel that the people are illiterate and they are poor and most of them are indifferent to the voting. Therefore, they may not cast their votes even, with the result that to that extent it would curtail the implementation of the adult franchise. It will also land the Government in very heavy and unnecessary expenditure and with all that, what will be the result? The result would be very negligible. It will be like digging a very big mountain to find a small mouse.

I have, Sir, to make a few observations regarding the ballot papers. Secret voting by ballot is the crux of the election in a democratic society. Now, this voting is done by putting a mark against the name of the candidate secretly but what happens is this: It so happens that some of the voters do not put their marks but carry the blank voting paper with them outside and pass them over to those who are prepared to pay them some price. This

is a very great irregularity and I suggest that after the marking of the ballot paper, the Government should so arrange that the presiding officer may be in a position to make sure that the ballot paper is put in the box and not carried away.

As regards expenditure, it is the common experience, Sir, that the cost of living is rising very high and one has to pay about ten to twenty per cent. more than what he has had to pay. I, therefore, suggest that the limit of the election expenditure should also be raised to 15 per cent.

As regards ordinary residence, I feel that some limit could be placed on the date or the month or the period during which a man or a person resides in a particular area.

Thank you.

#### REFERENCE TO NOTICE RE: MOTION FOR PAPERS

SHRI BHUPESH GUPTA (West Bengal): I want to go as I have other work. So, I am not walking out. Before that, I would like to know what happened to the notice I gave, a Motion for Papers, arising out of the Home Minister's Statement. Are we dealing with it this Session?

MR. DEPUTY CHAIRMAN: The Chairman has to consider it.

SHRI BHUPESH GUPTA: I know but I want to know whether you have got any directions.

MR. DEPUTY CHAIRMAN: I have not got any directions.

SHRI BHUPESH GUPTA: Then it goes to the next Session? It is our wish that you heard our case.

MR. DEPUTY CHAIRMAN: You know the Rules.

SHRI BHUPESH GUPTA: I know that. You are quite right. I would not say anything unless you gave the