

Thorat, Shri S.B.

Yadav, Shri Ram Krishan

Tiraky, Shri Piyus

Yadav, Shri Ram Sharan

Tiwari, Shri Brij Bhushan

Yadav, Shri Sharad

Topdar, Shri Tarit Baran

Yadava, Shri Ramjilal

Tyagi, Shri K.C.

Yadvendra Datt, Shri

Uma Bharati, Kumari

Yuvraj, Shri

Umbrey, Shri Laeta

Zainal Abedin, Shri

Unnikrishnan Shri K.P.

MR. SPEAKER: Subject to correction, the
result of the division is:

Vaghela, Shri Shankarsinh

Ayes 342

Varma, Shri Ratilal Kalidas

Noes Nil

Vekaria, Shri S.N.

The motion is carried by a majority of the total
membership of the House and by a majority
of not less than two-third of the members
present and voting.

Venkatswamy, Shri G.

Verma, Shri Dharmesh Prasad

The Bill is passed by the requisite ma-
jority, in accordance with the provisions of
Article 368 of the Constitution.

Verma, Shri Phoolchand

Verma, Shri Sheo Sharan

Verma, Shri Upendra Nath

Vijayaraghavan, Shri A.

Viswanathan, Dr.

Wadiyar, Shri Srikanta Datta Narasimharaja

Yadav, Shri Baleshwar

Yadav, Shri Chun Chun Prasad

Yadav, Shri Devendra Prasad

Yadav, Shri Hukumdeo Narayan

Yadav, Shri Janardan

Yadav, Shri Kailash Nath Singh

Yadav, Shri Mitrasen

The motion was adopted.

16.10 hrs

[DR. THAMBI DURAI *in the Chair*]STATUTORY RESOLUTION *RE*: DISAP-
PROVAL OF REPRESENTATION OF
THE PEOPLE (AMENDMENT) ORDI-
NANCE 1989
AND
REPRESENTATION OF THE PEOPLE
(AMENDMENT) BILL.

MR. CHAIRMAN: Mr. Soz.

PROF. SAIFUDDIN SOZ: (Baramulla):
Sir, I beg to move:"This House disapproves of the
Representation of the People
(Amendment) Ordinance, 1989

(Ordinance No. 2 of 1989) promulgated by the President on the 21st October, 1989."

Sir, I consider this Statutory Resolution very important and I rise to move this Motion disapproving the Representation of the People (Amendment) Ordinance, 1989 issued by the President on the 21st October, 1989. I feel, this House is taken for granted. On a number of occasions, I rose more to say that it would be proper for the Government if it had come forward with a Bill rather than have the Ordinance passed by the President. But in this Ordinance particularly I found that certain things which, I feel, were in my opinion, disrespectful to this august House. Even now, I see that the Statement of Objects and Reasons has been drafted in a casual manner. That shows how the Lok Sabha is being taken for granted. This should not be done in future.

Sir, the basic question is that we have the Bill before us now and the Bill will get passed because elections will have to be held in Assam. But the primary question is: why were the electoral rolls not prepared, revised on time by the Election Commission and the State Government of Assam? It is very easy for the Election Commission of India to get an Ordinance issued. I have no objection to the Chief Election Commissioner holding Press Conference, attending Seminars, giving advice to the people of this country as to how the electoral reforms should be organised. But I want to raise a few questions. Why didn't the Election Commission do its home work? Why didn't the State Government do its own home work on time? When they did not do their home-work on time and properly, they found it very easy to get an Ordinance issued by the President. Now, they are coming before the House and wanting the House to pass this Bill. They have not done their home-work properly. Why should the Commission feel that it has so much authority? It could have got in touch with the State Government and ensured the preparation of those lists well in time. It is now only a matter of two or three months. They could not get more time even by pass-

ing thing Ordinance. But it is not proper that the House of the People has been constituted without the Members from the State of Assam. And it shows that the Commission also feels it is very easy to get ordinances passed, and get Bills passed from the Lok Sabha.

Even now, Sir, I am not sure—there is no guarantee that the lists have been properly revised. I am not sure whether all the people who are eligible to vote have been included in the list. Somebody should guarantee before this House that all eligible voters have been included in the revised list.

There was a complaint, particularly from the Muslim community in the past, and my information has been that many people from that community have not been included. So, when the Minister rises to reply, he must assure this House, particularly on the question of Muslims from Assam who had lodged their complaints with the State Government, who took recourse to legal action, and my information is that many of them have not been included. So, the hon. Minister cannot leave it to somebody outside the House, to the Election Commission. The responsibility is his, because he is now coming up. Earlier, the Commission was at fault. But now the responsibility will be that of the Law Minister. He is before us. He will have to assure us that all the eligible voters, and I refer particularly to the complaints from the Muslim community of Assam—all those people have been included in the list.

My purpose is not to cause any embarrassment to the Government; but it is a question of getting ordinances issued; it is a question of doing things in a casual manner that prompted me to move this Statutory Resolution, which I will be pressing.

Now I will bring in the casualness. Mr. Dinesh Goswami has been a very good friend; he is intelligent enough to pilot Bills properly. I hope he will exercise his right to be the Law Minister alone, and not to be the Minister of Steel and Mines—I do not know what his other designation is. It is said that he

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is holding this as an additional charge. I will advise him to hold this charge as the first charge, and give up that portfolio if he has to give up one. But I want to tell him that this statement shows that he did not get time, because he is intelligent enough. He will not present this statement in a casual manner. So, the impression should not go that he sees things casually.

I point out one lacuna in this statement. I invite his attention to the statement; and the statement says:

"In respect of general election for constituting the Ninth Lok Sabha, the Election Commission had recommended that the Presidential notification under section 14 (2) of the Representation of the People Act, 1951 might be issued on the 23rd October, 1989 calling upon all Parliamentary constituencies other than those within the State of Assam to elect members in accordance with the provisions of the Act and of the rules and orders made thereunder."

It shows that the statement remained the same. Only the date and the Law Minister's name was changed. How can he say on 15th December 1989, much less on 26th December 1989, that the notification might be issued on 23rd October 1989? Even the statement was not revised and brought—it was not updated, when he is piloting the Bill i.e. on 26th December, 1989. This is the casual manner in which Parliament is being treated. This is sufficient. I do not want to take much of the time of the House, and I press this Motion disapproving the ordinance that was issued by the President on 21st October 1989.

THE MINISTER OF STEEL AND MINES AND MINISTER OF LAW AND JUSTICE (SHRI DINESH GOSWAMI): Sir, I beg to move:

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

The Bill seeks to replace the Representation of the People (Amendment) Ordinance, 1989 (Ordinance No. 2 of 1989) which was promulgated by the President on 21.10.1989. As the hon. members may kindly recall, in accordance with the provisions of sub-section (2) of section 14 of the Representation of the People Act, 1951, the Election Commission of India recommended the issue of a notification by the President under sub-section (2) on 23.10.1989 calling upon all parliamentary constituencies to elect members for constituting the Ninth Lok Sabha. At that time, the Election Commission had also recommended the issue of a notification separately, in due course, in respect of the parliamentary constituencies in Assam. The Election Commission had made this recommendation because the process of revision of electoral rolls had not been completed by then in Assam.

Sub-section (2) of section 14 does provide for issue of one or more notifications by the President for General Elections to the Lok Sabha. However, in Section 73, under which the Election Commission is required to notify the names of the members elected for the different constituencies, there is provision only to exclude the results in respect of those constituencies for which poll could not be taken on the date originally fixed or where the time for completion of the poll had been extended by the Election Commission. Section 73 also provided that upon the issue of a notification containing the names of the members elected for different constituencies, the House concerned shall be deemed to be duly constituted.

Therefore, in order that the President could issue a notification under section 14 (2) calling upon all the constituencies, except those in the State of Assam, to elect new members on 23.10.1989 and in order that this process could get completed with the issue of 'due constitution' notification by the Election Commission under section 73, it

was necessary to override section 73 of the Representation of the People Act, 1951 suitably, to enable the Election Commission to issue a 'due constitution' notification under that section without taking into account the parliamentary constituencies in the State of Assam. As the matter was urgent and as the Parliament was not in Session, the Representation of the People (Amendment) Ordinance, 1989 was promulgated by the President on 21.10.1989. Therefore, the Presidential Notification, calling upon all the constituencies, other than those in the State of Assam, was issued on 23.10.1989.

The Election Commission has subsequently reported that the process of revision of electoral rolls have been completed on 23.12.1989 with the final publication of the rolls on that date. The Election Commission has also mentioned that thereafter it would be possible to hold elections for the parliamentary constituencies in Assam in February 1990. The Election Commission has advised that the Ordinance may be replaced by an Act of Parliament. Such a step will ensure the continued availability of the legal basis for the action taken and to be taken. Hence, the Bill is before the House.

So, far as the points raised by Prof. Soz. are concerned, I will reply to those points after the participation of the hon. members in the debate.

SHRI SONTOSH MOHAN DEV: (Tripura West): It is said that except in Kokrajhar voters' list in all other constituencies has been announced...

SHRI DINESH GOSWAMI: The Election Commission has informed us that 23rd October is the date on which the final publication has taken place.

SHRI SONTOSH MOHAN DEV: Since we are discussing the matter, can you get all the relevant information?

SHRI DINESH GOSWAMI: Yes, I will get the information. I have got the informa-

tion. For the purpose of final publication, 23rd October is the date.

As regards the other points raised, I will reply to those points when I am called upon to reply.

I am sure that this House will pass the Bill unanimously.

Sir, I commend the Bill for the consideration of the House.

MR. CHAIRMAN: Motion moved:

"That this House disapproves of the Representation of the People (Amendment) Ordinance, 1989 (Ordinance No. 2 of 1989) promulgated by the President on the 21st October 1989."

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

Shri Sontosh Mohan Dev:

SHRI SONTOSH MOHAN DEV (Tripura West): Mr. Chairman, Sir, there is nothing to oppose because, incidentally, I was a party to it. So, I cannot oppose it. But my good friend Mr. Dinesh Goswami who is dealing with it is well aware of the situation prevailing there. So, before coming to the provisions of the Bill, I would like to go into the background of the Assam elections since 1980. In 1980, when the elections in Assam took place, out of 14 constituencies, only 2 constituencies, went to the polls and they are Karimganj and Cachar.

SHRI DINESH GOSWAMI: My information is that the electoral rolls in all the constituencies have been completed.

SHRI SONTOSH MOHAN DEV: That is all right. So, in other places—because there were names of the foreigners in the voters' list—the poll was boycotted by political parties including BJP, CPI(M) and also the then AASU. Subsequently, there was an election in 1983, when the voters' list was updated.

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The elections were held for the State Assembly as well as for the 14 Parliamentary constituencies. After that, the Assam Accord was signed. It was signed on the 14th August, 1985. In that Accord, there was a provision and, that is, the whole voters' list should be updated by excluding the names of the foreigners. One month's special time was given. Ten Central observers were appointed. The voter's list was prepared. The elections were held. The Party which was agitating there in the name of AASU then became a political party in the name of AGP. They came to power. Some Members from AGP were elected and some Members from Congress (I) were also elected. There one Member of PTC was elected as also one Member from United Minority Front and their representatives. After that the Government which came into power—when the question of having Lok Sabha election of 1989 came—again started creating problems by saying that this voters' list has full of foreigners and the AASU which is the student wing of the AGP took an initiative that unless this voters' list was again updated by excluding the names of the foreigners, they will not allow any elections to be held. For the first time in the history of India and the world the employees who were entrusted to do the work of updating the voters' list going from house to house as has been done all over the country, the employees' Union of Assam passed a resolution saying that unless the base year of the electoral roll was made as 1966, they were not going to co-operate with the Election Officers of Assam and that they were not going to abide by the direction of the Chief Election Commissioner of India. Under the circumstances, the Chief Election Commission of India adopted a *via media*. They were in difficulties because they did not have their own machinery. So, whatever they wanted to do, they had to do through the machinery of the State Government. They started a process of neither going to 1966 nor 1985 voters' list. They said: 'for the purpose of identifying the foreigners, you may refer to 1966, you may refer to 1985 because some persons' names are not in the list of 1966,

they cannot be treated as foreigners and also because some persons' names are there in the 1985 list, they cannot be treated as citizens of India. It is because, if they are identified by the Tribunal, then their names should be deleted." Here in this case, there are two types of things which are going to affect the voters' list. Firstly, those persons who have come from East Pakistan or Bangladesh in between 1966 and 24th March, 1971, their names have to be identified by the Tribunal as per the IMDT Act. And from the date their names are identified and are entered in the register, their names should be deleted from the voters' list which is in force for a period of ten years. This is accepted in the Assam Accord and the people of Assam also accepted it in the right spirit. This is a *fait accompli*. For those people who have come after 1971, for them there is another Act, called Foreigners' Act. By that Act, they will be identified and tried by the Tribunal. Once they are identified as foreigners, their names will be totally deleted from the voters' list and they will be deported to Bangladesh and they will not be able to vote. But what happened in Assam? What made the then Government of India as well as the Chief Election Commissioner of India to accept this agitational stand of the AASU? What I have already stated is that both the Assam Government as well as the AASU took a stand that unless the base year is made as 1966, they will not allow the Voters' list to be updated.

I feel pity for the Chief Election Commissioner of India. His office had to accept and they have given 13 circulars, time and again, in between, whereby they have tried to appease sometimes the minority people, sometimes the Assam Government and sometimes the AASU. The *fait accompli* is the victim of the linguistic and religious minorities of Assam. Thirty lakh people of Assam were given notice as foreigners! Not only that; as per the latest circular of the Election Commission of India, two voters' lists were supposed to be published, one of those who are doubtful, and another of those who are not doubtful. The Chief Election Commissioner of India gave power under Section 21

of the Election law to the Election Officer in each district that he could issue notice and identify the voters.

During the course of this process—I do not know whether I am breaking the oath of the Ministry—I went to the Chief Election Commissioner and met him five times. I met the Chief Election Commissioner of India, I dare, say so, because I have seen that the present incumbent of the office of Prime Minister has broken his oath of secrecy many times and he has now become the Prime Minister. So, I do not think that I will be involved in this matter of oath of secrecy. But I went; I went for a cause. I am not making it a prestige issue that I went as a Minister of State for Home, or that I should not go to the Chief Election Commissioner of India. I must say to the credit of the Chief Election Commissioner of India that he was courteous, he was very sympathetic and he listened to the views and also agreed about the gravity of the situation. Now after 30 lakh people have been given notice, a voters' list has come. Mr. Goswami will know better because he is now at the helm of the affairs. The names of roughly six to seven lakh people have been deleted from the voters' list on the alleged plea of their being foreigners!

Now I would like to get a categorical answer from Mr. Goswami, because he is representing the Government and he is the Law Minister. My point of contention, therefore, is that after the Assam Accord and as per the Identity and Foreigners Act as passed by this Parliament it has authorised the tribunals or given them the machinery to identify the foreigners, under what law can the Election Commission of India or the Government of Assam authorised the Assam Police to send a list for each constituency numbering sixty to seventy thousands after the draft voter's list has been published, and thereby giving notice to the Head-master of a school who had taught to the present Chief Minister? In my constituency a retired Deputy Superintendent of Police has been given a notice that he is a foreigner, though he has retired from the Police Department only recently. Not only that; many Assamese

people who were having the titles of Bhat-tacharjee, Butto and Choudhury, were also given notices as foreigners!

Now, it is very easy to say, "What is there? We are trying to make a list which must be foolproof". But in the process you have hurt the sentiments of the real citizens of this country.

Sir, I would like to go on record about the latest circular of the Chief Election Commissioner of India. By an instruction issued on the 7th November 1989 he has directed the Electoral Officers to scrutinise the draft electoral list of 1989 as published, again to see if there is any deformity and to identify such deformity, if any, by communicating their stand *suo motu* as provided by the law and the electoral legislation officer has been asked to look into the list of doubtful citizens by the Police, on the basis of a comparison of the 1966 and the 1971 electoral lists and also to give the names of persons whose cases are pending before the tribunals.

My question is, who gave this right to the Chief Election Commissioner of India. The tribunals are there; they are formed by an Act of Parliament and the tribunals had been given powers to go ahead on the basis of the police reports. Out of 3,81,000 people—I am subject to correction—as per the records in the Home Ministry only 9,000 people have been identified as foreigners by the tribunals. Again, these 3,81,000 names have been sent by the Police in each district to the Chief Election Commissioner and everybody has been again subjected to harassment by the Election officers. Who is there to argue these cases before the tribunals? It takes three to six months to decide. Now in five days, 60,000 cases are being scrutinised. Not only that, there is a provision that on a plain piece of paper one can write a complaint to the Election Officer. But the Chief Electoral Officer of Assam or the Chief Electoral Officer of India had said that once you file an objection about a particular set of people, you have to come and prove whether they are Indian citizens or not. Not only that, some AASU activists sitting on Guwahati

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have filed objections about thirty to forty thousand persons in each district. Each one of them has been given notice. Giving notice is all right. But if you have filed an objection, you must appear before the court to prove that he is a foreigner. This has not been done. AASU is threatening each and every Electoral Officer that they have to take cognisance of their complaint. But the Electoral Officers are helpless. I do not blame them because there is no rule of AGP in Assam. It is the ULFA and AASU which are running the Government there and unfortunately lakhs of linguistic and religious minorities, including some Assamese people, have become subject of this harassment. As Home Minister, I myself had told the Law Ministry and others that we do not mind if the elections are held after six-seven months, but we want that some procedure should be evolved whereby no unnecessary harassment is done and a body, duly elected by the people of Assam is there, but, at the same time, the names of the real citizens are not taken out from the voters list.

Now, as has already been told by the hon. Law Minister, on 23rd of this month, the draft voters list has been converted into the final voters list. I would specifically like to know from the hon. Law Minister whether it is a fact that those who were once trialled before the Tribunal set up under the IMDT and Foreigners Act, have again been served notice and whether it is a fact that on the basis of the list given by the police, notices were served on the people and after taking cognisance of these notices, some more names have been deleted from the voters list and, if so, how many. I would also like to know whether it is a fact that this Government which is there in Assam, was elected on the basis of the 1985 voters list and, if so, after being elected on a voters list, how the Assam Government and the AASU, which is an organisation of the AGP, is objecting to the voters list which has already been published as the draft voters list. Now, from the draft voters list, you have the right under section 21 to file objections and claims. I do

not dispute that. But the objections must not have come from the police. The objections must not have come from those people against whom there is a Tribunal case. Objections should not have come and must not have come from those people who have been exonerated by the Tribunal that they are not foreigners. I can challenge the Electoral Officer of Assam and the Chief Electoral Officer of India that hundreds and thousands of names of those who are the citizens of India, have been deleted from the voters list. You will be surprised to know, Sir, that people went with land documents but these were not accepted, people went with their pay registers but these were not accepted. As per a circular—I do not remember the exact circular—the Election Commissioner of India has said that any document as per the Evidence Act, should be taken into consideration. Now, a man who has retired from public service, from the Government service after serving for 20-30 years, a man who has got a municipal licence and is running a stall, a man who is a rickshaw puller, just because he speaks Bengali, has been treated as a foreigner. I am very sorry to say that this sort of thing should not be tolerated by the Government. I will appeal to the Election Commissioner of India as well as to the Law Minister and to the Home Minister that before coming to a final decision about holding the elections, there should be a thorough inquiry again to see that any Indian citizen who has not been included, is not deprived of his voting right. Yesterday I saw a news item in the *Telegraph* on the front page saying that AASU has also objected. They still feel that this voters list is full of foreigners. If the Government thinks that AASU's objection is correct, then they must take cognisance of this. You go into these objections. I am one with you there. I do not want any foreigner to be in the voters list. But I also want from this Government that let there be an assurance that thus far, no further. Those who have settled in Assam, yes, they have come after 1947. They have accepted the Assam Accord for those who have come before 24th March 1971. But I would like to know from the Government of India, I would like to know from the Chief Election Commissioner of

India, whether this is the last time or every time in the name of identifying the foreigners the linguistic and religious minorities in Assam will be harassed. I think it is too much. In West Bengal, in Bihar, in Orissa there is a process laid down where the foreigners are not allowed to go in the voters' list. That process should continue; normally it is good. But in the name of the Assam Accord every time you come forward with lakhs and lakhs of notices, it is not possible. Why is this being done? Because the persons who became the Ministers and Chief Minister, they know, they came into power saying that there are 14 lakhs of foreigners in Assam. By signing the agreement with the Government of India, with Rajiv Gandhi, they have accepted that those who have come before 24th March 1971 are no more foreigners, they are accepted as citizens of India. It is a real fact that about 20 to 25 lakhs of people have come from Bangladesh after 15th August 1947 and naturally by signing the accord, they have accepted them. Now, they have to tell the other people that 'by signing this accord with Rajiv Gandhi we have accepted them as Indian citizens.' Now, in the name of so-called foreigners, if every time they are being harassed, I think from the point of view of unity and Constitution it is not fair. Just because we speak Bengali, just because we once belonged to East Pakistan or Bangladesh, we must not be subjected to this sort of harassment. We are not being harassed in Tripura, we are not being harassed in West Bengal, we are not being harassed in any part of the country. Why this undue harassment to the Bengalis? That should not be done. (*Interruptions*). Let me finish with whatever I say, you are most welcome to have your say.

Mr. Dinesh Goswami is there. I will not be very unhappy to see that he acts as a Minister, not as a representative of the AGP. He is now our Minister, he represents the whole country, not Assam Gana Parishad. Your quota as Minister may be from Assam Gana Parishad, but your duty as Minister is as a Minister of the country. Hence I would request, Mr. Goswami, if I remember aright you also came to Assam from Kanauj, Prafulla

Mohanta came from Orissa. Now you have become very much involved in Assam, as we have come, Bengalis and Hindus and Muslims from East Pakistan or from Bangladesh. Let us not, in the name of so-called foreigners, try to humiliate people in Assam.

Sir, last but not the least, since it is connected with election and election will be held very soon, I hope the Government of Assam and the Government of India will take care of the activities of ULFA organisation in Assam. There is a parallel Government now being run in Assam by ULFA. They are punishing people, they are extracting money, they are threatening Bengalis, Hindus, Muslims, Assamese Hill tribes people, businessmen and various other people, not because they are only against the Congress, but they are against even AGP. So, I would request Mr. Dinesh Goswami to make sure, when elections are held in Assam, that the law and order situation in Assam is congenial for all political parties to campaign properly and to see that the voters who will be in the voter's list can vote properly.

With these words, I will again repeat, Mr. Goswami, to answer me two specific questions apart from the others whether as Government of India you accept the stand that after a man is tried by a tribunal under IMDT and Foreigners Act the Election Commissioner has got the right to re-examine him. As Minister of State for Home I wrote a letter to Mr. Peri Shastri saying that it is not as per the spirit of the Assam Accord. Yes, if the Government of India have changed their stand, if the Ministry has changed its stand, I have no objection, they are at liberty to change it. But we as the involved party in Assam are entitled to know whether the stand by Muftiji, the present Home Minister of the country, has been changed. I would like to know how many cases have come before the tribunal under the IMDT Act and under the Foreigners Act and what is the number of people involved. He should not take protection under the umbrella that this is a matter which is to be replied by the Home Minister and not by the Law Minister. There is enough time and the officials are sitting.

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He should tell one of the officials to collect that information and tell us how many names have been deleted by the Election Officer of Assam from the list submitted by the Police. I shall again appeal that we are all for a correct voters' list, but in the process of making correct voters' list names of genuine Indian citizens must not be deleted. Those who are allowed to get protection as per the Assam Accord should be given protection. I do not say there is any intentional harassment from the Chief Election Commissioner of India or from the Assam Election Officer. I know their difficulties and I appreciate their difficulties because I have worked with them. But keeping in view the fact that the election was once deferred in order to see that the correct voters list is drawn, we should not have the old voters' list because AASU is objecting, Congress-I is objecting, Congress-S is objecting, CPM is objecting, CPI in Assam is objecting, BJP in Assam is objecting and everybody is saying that this voters list has been made in such a manner that many Indian citizens have been elected. Of course, ABSU and the AGP are the only two organisations which say that many of the foreigners are still there. If that is the position and even if we have the election, then we want a categorical statement from the Minister of Law that no further harassment in the name of Assam Accord will be done in future for the cause of identifying the foreigners. You do it as per the IMDT Act and do it as per the Foreigners Act. This is a continuous process and let it continue. Mr. Goswami, you are diffinity continuously going to win in Guahati,

try to prepare a voter's list in such a manner that Bengalis in Guahati also vote for you, but do not try to harass. This is my request. I will not oppose the Bill because I was also instrumental to this Ordinance. So, I support it. I do parliamentarian with more experience. Both of us are cricket players and I request him to try to solve this problem in a sportsman's spirit.

SHRI BASUDEB ACHARIA (Bankura):
Mr. Chairman, Sir, this is an ordinance promulgated by the President of India to postpone the election in Assam because the electoral

roll in Assam could not be revised along with electoral rolls of other States and once again the people of Assam could not exercise their franchise along with the millions and millions of other people of the country who participated in this democratic process. So, this House also has no representative from Assam. What was the reasons? Why was the voter's list not thoroughly revised as it was done in other States? The reasons stated by the Law Minister in the Statement of Objects and Reasons is not quite explicit. I would like to know why the electoral roll of Assam was not revised and why so much time was taken to have a thorough revision of the electoral roll in Assam.

The question of foreigners was raised long back. There was a movement and agitation and there was the Assam Accord. This House is aware that when this accord was signed, our Party—the Communist Party of India (Marxist)—did not support this accord. We did not accept the accord also. We explained our stand and we are very much—our party and other Left parties also—consistent on this point. We insisted at that time also that the cut-off year, the base year, should be 1971. Our stand was that 1971 should be the cut-off year as per the Indira-Mujib agreement. So there was an accord and we expressed our apprehension and misgiving that a large number of genuine citizens would be disenfranchised and their citizenship rights would be taken away. Then there was election and the AGP came to power.

The revision of electoral roll was started along with other States, so far as I understand. But it has taken time and just now the Law Minister has informed us that the final Voters' list—including Kokrajhar District—has been published. So, we will have to see whether in the final voters' list the apprehension expressed by various political parties that names of the genuine voters have been deleted has been considered or not. Because this was expressed by various political parties irrespective of their ideology. The Congress (I), the then ruling party, also changed their stand. They also came with

other political parties and jointly protested and expressed their reservation. I would like to know whether this apprehension and criticism regarding the deletion of some genuine voters has been taken into consideration or not. Genuine voters may be one or two; but none of the genuine voters' names should be deleted in the name of foreigners. That is our contention and that is our view which we strongly feel. None of the genuine voters who exercises his right of franchise should find that his name is deleted. I would like to know whether the apprehension and the criticisms expressed by the various political parties were taken into consideration or not, at the time of finalising the voters' list, because when draft voters' list was published, a number of complaints were received that three lakh, four lakh, five lakh even seven lakh genuine voters' names have been deleted. There was time for lodging complaint. I want to know whether this was also taken into consideration or not. We all know as to what happened in Tripura. Myself and Shri Somnath Chatterjee met the Chief Election Commissioner five times and we submitted thousands of names of genuine voters, whose names have been deleted, deliberately. They were not being allowed to file their complaints.

SHRI AJIT PANJA (Calcutta North East): The same type of thing, that is deletion of genuine voters and inclusion of false voters continued in West Bengal State also. A complaint has been sent by me to the Election Commission and also Election Office in West Bengal. But no justice has been done.

SHRI SOMNATH CHATTERJEE: The court went into your complaint and found that it was baseless.

SHRI BASUDEB ACHARIA: The Law Minister will kindly tell this House whether the points which were raised by political parties including my party, the Communist Party of India (Marxist) have been considered, at the time of publishing the final voters' list or not. We have categorically raised the points. Our representative met the Chief Election Commissioner and several times

we submitted memoranda and raised some points. I would like to know whether those points have been taken into consideration or not. That should be made clear by the Law Minister, while replying to our debate, because this was the apprehension of the minority community and even a single genuine voter's name should not be deleted from the voters' list. There was also a report that the last date for filing or lodging complaints was postponed, several times. When the last date was postponed, not a single objection was raised against any genuine voter that the name of the foreigner has been included. Then, the last date was postponed again and again to invite objections and complaints. After the last date was postponed, thousands of complaints were received. I would like to know how these complaints were entertained, how enquiry was made, how it was scrutinised and how many of these objections against the genuine voters, whose names have been deleted from the voters' list were scrutinised. I would also like to know whether the process of deletion—going through the complaint, holding a proper enquiry and hearing—was done or not before finalising the voter's list, that is, electoral roll of Assam.

17.00 hrs.

Then, Sir, there are two aspects. Yesterday in *Telegraph* on the front page AASU has complained that still there are large number of foreigners on the electoral rolls and on the basis of these electoral rolls no elections can take place. They have also said that they will boycott elections if the elections are held on the basis of the present electoral roll which had been finalised on 23.12.1989 as has been stated by the hon. Minister.

Another aspect is that there are complaints also that a large number of voters whose names were there in 1985 voters list and also in the previous voters list of 1966 and also later on when that voters list was revised their names were there in those electoral rolls, I would like to know, whether their names had been deleted. Their com-

[Sh. Basudeb Acharia]

plaint is that 4-5 lakh genuine voters' names have been deleted even in the final voters list. If it is so and if they are genuine citizens then something should be done so that they get an opportunity to exercise their franchise and get their names enlisted in the voters list. After the publication of the voters list how it can be done the hon. Law Minister can clarify in this House but there should not be any apprehension in the minds of the minority community that any such thing had happened.

Now, Sir, elections should not be delayed in Assam. Elections should be held there as soon as possible. Assam State should have its representatives in this House. Elections should be held as soon as possible but the genuine voters—if their names have been deleted—should get opportunity to get their names enrolled. They should not be debarred from exercising their franchise.

[Translation]

SHRI RAMASHRAY PRASAD SINGH (Jahanabad): Mr. Chairman, Sir, it is a fact that there is no representation of Assam in this House at present because of doubts raised with regard to revised electoral rolls. First of all, this work is being carried out in a hurry. Out of 381,000 electorates to be scrutinised, only nine thousand voters have so far been identified. I would like to submit, through you, that the Government should not delete the names of voters from electoral rolls without any valid proof. In the absence of any valid proof, voters should not be unnecessarily harassed. Secondly, the corruption is so widely rampant in our society that an honest citizen is the worst sufferer because a dishonest person manages to get the things done in such situation, whereas the former finds it difficult to get through from the morass of corruption. Therefore, names of genuine citizens should not be deleted from the voter list because it will be an improper act. It is being said that the AASU refused to take part in the elections. After all it is their Government in the State, so it is

their responsibility to identify the foreigners. Persons who have been living there for the last 50 years and have been brought up and grown up there and whose children are also living there for the last 20 to 25 years should not be asked to furnish proof for inclusion of their names in the voter lists. More the delay, more it is becoming complicated. I, would, therefore like to request that the voters list be revised and updated without any further delay so that early elections could be held in Assam and it could also have its representation in the House. With these words, I conclude.

SHRI MAHENDRA SINGH PAL (Nainital): Mr. Speaker, Sir, while supporting this Bill, I would like to submit that the hon. Minister will pay attention to all the objections raised. It is hoped that the electoral rolls will be revised and updated keeping in view the objections raised.

As regards present revision of voter lists, I would like to submit that a number of refugees from Bangladesh have migrated to my district of Nainital. The Ministry should take appropriate action in order to obviate the situation likely to be created as obtaining in Assam. So some sort of rules and regulations are required to be made in this regard. I would like to draw the attention of the hon. Minister in this regard.

I would also like to bring it to the notice of hon. Minister that the supplementary voter lists prepared for the use in the recent general elections were not given to the presiding officers. In Nainital district, it was not even supplied. I am bringing it to the notice of the hon. Minister so that such things could not happen in future. When I complained to the presiding officer about this, he expressed his helplessness and said nothing could be done at that stage as the voter lists sent by the returning officer had not reached them. What does it mean? All the new voters in the age group of 18-21 years whose names were included in the supplementary lists were deprived of their voting rights. Such thing should not happen in future. It should be ensured that no voter is deprived of his voting right.

With these words, I conclude and I express my gratitude to the hon. Chairman, the hon. Minister and the this august House.

17.08 hrs.

[SHRIMATI GEETA MUKHERJEE *in the Chair*]

[*English*]

SHRICHITTABASU (Barasat): Madam, I am one of those who strongly feel that the Ninth Lok Sabha should be completely constituted at the earliest possible opportunity. The Ordinance, which was promulgated by the President of the country, was under a very peculiar and piquant situation. Now there is no question of not holding the Lok Sabha election in Assam. The Lok Sabha election or, as a matter of fact, all other elections should be based on proper electoral rolls. The question of deferment of the Lok Sabha election in Assam was necessitated because of the failure of the Government of Assam to prepare fully revised electoral rolls of Assam. The Government had decided to have 1966 as the cut-off year. This decision was protested against by all sections of the minority community in Assam, be they religious or linguistic or otherwise. And they have been demanding for revising the electoral roll on the basis of 1985 electoral roll, the reason being quite valid, that it is on the basis of 1985 roll that the latest election was held in Assam and the present Government is there in power on the basis of the mandate given by the Assam people on the basis of 1985 electoral roll. Therefore, there are enough valid grounds to oppose the Government's decision for relying on 1966 electoral roll as its base. What has happened out of this decision of the Government for relying on 1966 voters list? It is reported, I am not sure, that about more than five lakh electors whose names were there in 1985 electoral roll have been struck off from the final list which has been published on the 23rd of this month. This is as reported by the hon. Minister. Now, this means, in other words, disenfranchising about five lakhs of eligible voters in Assam.

There were directions given by the Chief Election Commission which had not been properly respected. A large number of complaints have been made. The complaints have been made from the minority communities on the ground that they are being deprived of the right to franchise. The complaints are generally of this nature. Before that, I also want to bring to the attention of the hon. Minister that the Election Commission has specified that besides the poll list of 1966, documents like the national register of citizens, refugee camp registration cards and judgments by tribunals concerned with detection of foreign nationals should be taken into account while entertaining claims. My grievance or my complaint is that no document which was placed or submitted by the eligible voters has been accepted by the State Electoral Officers. I am told that a large number of people have produced certificates from the Panchayats proving their permanent residences. They produced certificate issued by Bastuhara Samities, from Gaon Budos and they produced refugee registration cards issued by Assam Government, affidavits in the judicial courts, appointment letters issued by the Government of Assam, references from the Deputy Commissioner's Office, Lakhimpur, court summons, tax receipts, bank accounts and ration cards, etc. I think, all this constitutes substantial evidence as to prove whether a particular person was there in a particular place in Assam, otherwise there cannot be a court summon issued against a person, there cannot be an appointment letter given by the State Government of Assam. The Assam Government has also issued refuse certificates. I am told when they produced all these certificates and documents, which I characterise as substantial evidence, the electoral officers did not take cognizance of that. And, there, they have been deprived of the right to vote or right to be there in the electoral rolls.

I am also told that there was a provision for linkage of 1966 electoral rolls. Even the proofs for linkages were established, but those were not accepted by the electoral officers. Then, you will agree that the Indian citizenship certificates should be accepted.

[Sh. Chitta Basu]

But there are reports that the Indian citizenship certificates have also not been accepted as proof. NRC extracts issued by the police have also not been accepted. All this has resulted in disenfranchisement of a large number of people in Assam, particularly belonging to the minority communities and linguistic communities.

I would now like to point out certain absurdities in some of the notices issued. Shri Sontosh Mohan Dev has mentioned some. I have also got with me certain names Ms Praveen Sultana, who is a classical music exponent has been issued a notice to prove whether she is an Indian citizen or not. Then the most astonishing and revealing is the fact that the former Chairman of Assam Police Commission, Shri Imdad Ali has been issued or served a notice to prove that he is an Indian citizen. If he is not an Indian citizen, how was he made the Chairman of the Assam Police Commission. Therefore, there are certain absurdities in issuing notices for the minority people. Is it because Shri Imdad Ali happens to be a Muslim or Ms Praveen Sultana has been issued a notice because she belongs to a minority community. I have got a large list and the whole bunch of papers.

SHRI G.M. BANATWALLA: That list may be placed on the Table of the House.

MR. CHAIRMAN: That is what I was thinking also. I can allow that.**

SHRI DINESH GOSWAMI: I have no objection, but there are certain rules regarding laying of the papers on the Table of the House.

SHRI G.M. BANATWALLA: But she has already allowed.

SHRI DINESH GOSWAMI: But there is a procedure for laying a document on the

Table of the House. Please see that those rules of procedure are followed.

THE MINISTER OF FINANCE (PROF. MADHU DANDAVATE): The Member has to authenticate the papers.

MR. CHAIRMAN: The documents before placing them in the House have to be examined. Authentication and proper examination, of course, must be done.

(Interruptions)

SHRI CHITTA BASU: Madam, there are reports in the press that certain organisation in Assam has already declared its intention even to boycott the elections, if the elections are hold on the basis of the electoral rolls that have been finally published. This will further intensify the social tension in Assam. Nobody would be happy over it.

While concluding, I would say that of course it is a *fait accompli* and we are all for an early election. Though the electoral rolls have been finally published, there should be adequate scope to redress the grievances mentioned by me.

Even at this late stage, I would urge upon the Law Minister and the Home Minister to find a way out to provide some mechanism by which genuine Indian citizens are not debarred from exercising their electoral right. I cannot suggest a mechanism by which this relief can be offered. But I would only rely upon the hon. Minister who piloted this Bill to work out such a mechanism with the approval of the House. There should not be any occasion whereby a genuine Indian citizen is debarred from exercising his right to vote and his right to constitute the highest representative body like this Lok Sabha.

[Translation]

SHRI HARISH RAWAT (Almora): Madam Chairman, I would like to support this Bill on two grounds. Firstly, this Bill has

**The speaker not having subsequently accorded the necessary permission, the papers/documents were not treated as laid on the Table.

been brought by a learned and well-intended person like Shri Dinesh Goswami. Secondly, I am completing a mere formality as it has been proved by the speeches made by almost all the members who spoke preceding me that had the State Government cooperated and their political wings not created hinderance in finalisation of the electoral rolls, the elected representatives of Assam would have also been present in the House today and Shri Dinesh Goswami would also have been included in the Government as an elected representative of Assam. Madam it is regretful that the present Government in Assam and the ruling parties and the organisations which are putting obstacles in preparation of the voter lists are the same which have been elected on the basis of electoral rolls of 1985. In my opinion, there are some ulterior motives behind a large number of objections raised by them. The party in power in Assam wanted to divert the attention of the people as they did not fulfil the promises made to the people at the time of their election. In order to divert the attention of the people, they are again harping upon the same thing as they used to do before the Assam Accord concluded in 1985 and they created an atmosphere of hatred and turmoil under which the linguistic and religious minorities began to feel insecure. At the time of Assam Accord concluded in 1985, no other parties, except one or two took a clear stand. It is a different matter that even those parties are now not ready to take a clear stand on the issue. I heard Shri Basu, but he didn't make any mention of the fact as to whether the ruling party in the State has lent its sincere support in finalising the electoral rolls or not. I understand his problem.

Madam, it was hoped in 1985 that the Government voted to power in the state after the Assam accord would do their duties with greater degree of responsibilities and provide protection to the linguistic and religious minorities. But it is unfortunate, as it has become clear that instead of providing protection to the linguistic and religious minorities, the State Government is harassing them. Objections are being filed against thousands and thousands people. Even genuine citi-

zens of Assam are being treated as foreigners and are being subjected to verification on the basis of wrong information. Objections have been raised in respect of such persons who had been the Members of this august House. This is being done out of personal enmity. In 1985 also, this was made an election issue objections were filed even against a former Member of Lok Sabha who was attached to the ruling party in Assam. Nothing can be more unfortunate than this.

[English]

THE MINISTER OF STEEL AND MINES AND MINISTER OF LAW AND JUSTICE (SHRI DINESH GOSWAMI): That is not correct.

SHRI HARISH RAWAT: If this is not correct, then I will certainly amend it.

[Translation]

Madam Chairman, the present ruling party i.e. Assam Gana Sangram Parishad is using its political wings who are filing objections against persons opposed to their party and might not vote for them in the coming elections. It is with this political motive; they are raising same slogans, as they have been raising in 1985 so that they could again come to power by terrifying the people.

Madam Chairman, there is yet another party known as United Liberation Front which is active in Assam. They are saying that they will oppose elections in Assam and sometimes they express their resentment against the Chief Minister of Assam also, but not in as harsh tone as they express against the Central Government. This was their earlier stand. I don't know their present stand, because I have not yet come across any joint statement issued by them. But they have not been dealt as an extremist organisation deserves to be dealt with. The harassment of people has not been stopped. They are still harassing the people. So, I would request Shri Dinesh Goswami whose ability and wisdom are beyond any doubt. Shri Goswami, on his own and through the Central Govern-

[Sh. Harish Rawat]

ment should convince the Government of Assam which is his own party's Government, to stop unnecessary harassment of the religious minorities. And on the basis of the information, he has given to this House that the electoral rolls are ready, we expect that elections in Assam will be held at the earliest and we will have the representatives from Assam also in this House and they will also participate in the proceedings of the House.

[English]

SHRI G.M. BANATWALLA (Ponnani): Madam Chairperson: It is extremely sad that the 9th Lok Sabha had to be constituted without the elected representatives from a part of our country—from one State, viz. Assam. We would all have been happy if Assam also would have gone to the polls along with the rest of the country. The responsibility for this sad situation is, of course, with the agitationists over there in Assam, who have been trying to deprive the linguistic and religious minorities, of their right to franchise.

I, of course, sympathise with the position of the Election Commission. The Election Commission was in a very difficult situation; and in that difficult situation, the Election Commission also unfortunately wavered, thinking that perhaps some solution might come out of it. However, I am sure that I am echoing the opinion, the sentiments and the thought of each and every Member of this House when I say that we would like to have the representatives from Assam also to this House, as early as possible.

I was listening very carefully to our hon. Law Minister. He has been good enough to tell us that the final rolls have been published. But, then, we also know that despite the publication of the final rolls, there are still threats from certain quarters in Assam, threats from AASU and others who say, who contend that the present electoral rolls are still defective, and that they will not allow the

elections to take place on the basis of these finally-published rolls.

The hon. Minister of Law has not told us anything as to how he views their threats, and what is the Government's stand which the Government would like to communicate, *vis-a-vis* those threats. I am sure that these threats will not lead to any further deferment of the elections. The entire country cannot be held to ransom in this manner. The Government also must come forward with a strong statement on the floor of the House. That, unfortunately, has been missing from the statement of hon. Law Minister. I appeal to him that while replying to this discussion and asking this House to adopt this particular Bill, he should state clearly and categorically on the floor of the House that no one would be allowed to intimidate the Election Commission, and that such types of people who try to hold the entire country to ransom will not be tolerated and will be dealt with according to law. That is the only manner in which we can help the democratic norms. Of course, it is absolutely necessary that every person, every genuine citizen of our country now in Assam must have his name on the voters' list. And it is unfortunate that the manner in which the revision of the electoral roll has been done, or the procedure adopted with respect to the revision was very defective. I must though sympathising with the plight of the Election Commission, express my protest also at the manner in which the Election Commission went about in the matter of revision of the electoral rolls.

Madam, the points that I would like to bring to your notice are mainly three, as far as the manner in which the entire revision of the electoral rolls has been taken up. In the first place there was an attempt to link the names of the persons with the 1966 roll. This linkage was totally arbitrary, unconstitutional and not sanctioned by any provisions of the law.

Secondly, Madam, there was even a guideline to say that those who have encroached upon Government land should not be included—their names also—in the elec-

toral roll even if they are genuine citizens unless and until they get the clearance certificate from the State Government.

How can the encroachment on government land become a ground to disqualify a person, to deprive him of his voting right? It is something incomprehensible!

The third point that comes up with this respect is as I have pointed out, that only a limited number of documents could be accepted in support of any proof of citizenship.

Now, Madam Chairperson, we have the 1985 roll. This 1985 roll was prepared and then thoroughly revised after the Assam Accord which had the 1966 cut off date. At that time we protested and even now we protest against the Assam Accord but then the situation is that the 1985 roll was revised and published after the Assam Accord and even after the existence of the 1966 date as a cut off date published for the purposes of voting rights.

The Election Commission specifically, as I understand, extended and re-extended the date in view of the Assam Accord asking for objections. And as a result of this there was a thorough revision. And, therefore, there was no reason why the 1985 roll ought not to have been accepted as the basic roll at the time of revision of the electoral roll in 1989. Therefore, I say that going back to the 1966 roll was totally arbitrary, and not according to the provisions of the law. This 1966 roll, Madam, did not even exist in its entirety and I am sure several portions of the 1966 roll were missing. They were missing because you and I know very well that according to the provisions of law, an electoral roll is supposed to be kept for a period of six years. After that, it can be destroyed, according to the provisions of the law. Naturally, therefore, several parts of this 1966 roll did not exist. The Election Commission went about with a very surprising exercise of reconstructing the 1966 rolls. Reconstructing from where—those parts did not exist. There was no need also for the reconstruction. There were the 1985 rolls duly revised and

dates for objections extended against and again in view of 1966 cut-off date, in view of the Assam Accord. Therefore the present revision ought to have taken place without any attempt at linkages of names found in 1985 rolls with the old 1966 rolls, which had ceased to exist in its entirety. The reconstruction of the rolls is nothing but a fraud played upon the people of Assam. Madam Chairperson, I must say that with respect to the 1985 roll again, 10 lakh voters were omitted from the draft rolls and 12 lakh voters were omitted from the draft rolls and 12 lakh petitions were received against the entries. Ten lakh voters were omitted, twelve lakh petitions were sustained—I must say, 22 lakhs of people were kept out of the 1985 rolls... (*Interruptions*)

PROF. N.G. RANGA (Guntur): By whom?

SHRI G.M. BANATWALLA: By the election Commission. Now the matter even went up to the court. The figures that I am giving are the figures from the petition that was placed before the court. They are not my figments of imagination. I must therefore say with great sorrow at my heart that there was nothing but an electoral genocide of the linguistic and the religious minorities there in Assam. Even after all this, we are having threats.

MR. CHAIRMAN: Mr. Banatwallaji, if you do not mind, can you be a little brief because of the time limit?

SHRI G.M. BANATWALLA: It is a question of franchise, the basic question on which the entire democracy stands. Please bear with me. There are so many things that one must understand in order to be able to see that our democracy is strengthened and in order to see that this House also is fully constituted as soon as possible.

Madam Chairperson, I must say that it was rather unfortunate that the Commission adopted a wavering attitude.

Special guidelines for revision of rolls

[Sh. G.M. Banatwalla]

were announced on May 18, 1989. It was unfortunate that these guidelines were the result of the Election Commission I must say succumbing and surrendering to the pressures from AASU and others. We objected, we went to the Election Commission, we wrote to the Election Commission, we told the Election Commission that the guidelines are arbitrary; they are not according to the law and a very discriminatory attitude is being taken up. As a result of that, another set of guidelines were issued by the Election Commission on July 18, 1989. We thought now that things will be all right. But then again pressure came from AASU and such others from Assam and there was again a somersault by the Election Commission. The Election Commission fumbled again and it went back to its May 18, 1989 guidelines. All this shows the unfortunate attitude, the unfortunate situation. Now what we want and expect from the Government is a categorical statement on the floor of the House that all such wavering attitudes will be given up and follow the procedure according to the law, which had been adopted. Now the final electoral rolls are there, but then the pressure has just started. Nobody will surrender to those pressures which are now being started and that every attempt will be made to see that the genuine voters do have their names on the electoral rolls because even now people can apply for their names to be included in the electoral rolls. Of course, they may have to pay a little fees, that is a different thing. I must say how the Election Commission unfortunately arrogated to itself the powers of the Foreigners Tribunal and the Tribunal under the Illegal Migrants Act, of detecting and deleting the foreigners. I must here refer to the Supreme Court judgement quoted in AIR 1984 SC 1911 and AIR 1986 SC 19861. I would like to quote extensively from all these in order to make the position very clear, but Madam Chairperson, you are also impatient... (*Interruptions*).

MR. CHAIRMAN: I hope, Sir, you do not want me to discriminate since others are also there.

SHRI G.M. BANATWALLA: I do not allege that. You are very fair in every respect, Madam.

MR. CHAIRMAN: Thank you.

SHRI G.M. BANATWALLA: Madam Chairperson, there was a contention that was made before the Supreme Court and the Supreme Court was told to give a direction to the Election Commission—a direction to detect all foreigners; after detecting, to delete their names from the rolls, and in the process of detection and deletion of the names, to take the help of even police officers and other governmental agencies. Such contention was made before the Supreme Court in the cases which I have just referred to. The Supreme Court refused. They said, nothing doing. They rejected all the contentions. They said that the Election Commission prepares the rolls and then if anybody has an objection against any entry, he can object, and it is the objector who will have to produce evidence. That is very important—the Election Commission itself sitting to decide who is doubtful and then trying to remove those doubtful names, or trying to issue notices asking them to produce documentary evidence. And documents only of four types—the Citizenship Certificate; or the extract from the 1966 roll which, as I said, had ceased to exist; or a birth certificate; or an NRC extract, which again does not exist. Only such four documents and no other documents would be accepted. So, a great hardship has resulted, leading to even, as I said, electoral genocide of the minorities over there. We are still being told about the question of encroachment on government land. How can that be a ground for disqualifying and depriving a person of his right to franchise? Now, I must say who, according to the law, is supposed to detect and get the names deleted. It was not for the Election Commission. The Election Commission had the 1985 roll prepared after the Assam Accord and on the basis of the 1985 roll, State Assembly elections have taken place and the State Government there is ruling. On the basis of that roll they want to rule but on the basis of that roll they do not want revision for

the purposes of parliamentary election. When an absurd stand that they take! It is according to the Assam Accord. I would refer to clause 5.3 of the Assam Accord and I quote:

"Foreigners who came to Assam after 1st January 1966 (inclusive) and up to 24th March, 1971, shall be detected in accordance with the provisions of the Foreigners Act, 1946 and the Foreigners Tribunals Order, 1964."

Then I will again quote clause 5.4 of the Assam Accord:

"The names of foreigners so detected will be deleted from the electoral roll in force."

It is, therefore, clear that it was for the tribunals under the Foreigners Act and the Foreigners Tribunal Order to sit down and detect and only when they have detected in accordance with the provisions of law, then their names so detected have to be deleted from the electoral roll. But it is unfortunate that the Election Commission itself sits down arrogating to itself the powers of these tribunals and the powers which, according to the electoral laws, do not belong to the Election Commission. I must, therefore, take strong exception to all these methods that have been adopted. And I must say that it is rather unfortunate that a propaganda has started that there is an abnormal increase in the number of voters in the 40 Assembly constituencies. This is more a propaganda without any basis. It goes on, *ad nauseam* the matter is being repeated that there is an abnormal increase in the number of voters and that this increase suggests and shows that there are foreigners over there. Madam Chairperson, I very respectfully submit that when the average annual population growth is 3.5 per cent, then the compounded annual increase of voters between 1966 and 1989 comes to 127.22 per cent. It comes to that on proper statistics. The increase of voters according to 1989 rolls is only 89.47 per cent. It is, therefore, important to note that the actual increase in the number of voters in the 1989 roll is 89.47 per cent while the compounded increase of voters could have

been 127.22 per cent. The figures, therefore, bring out the falsehood of the daily propaganda that is going on of there being an abnormal increase not linked with even the population increase, growth and the compounded rate, and therefore, it represents still the large number of foreigners over there. And I am happy that even the present State Government over there agrees with these figures which I have just placed before the House. Therefore, let sanity prevail upon the AASU and others. Let our rules be such as to include names of all genuine voters. We do not want foreigners to vote, we do not want that, but that does not mean that under the pretext of foreigners there could be electoral genocide that may be carried out. Now, of course, let the Government take the House into confidence, let us know that this Government, this Election Commission will not succumb to any pressures of AASU and others, that elections will be held as early as possible and genuine voters will be given the opportunity to exercise their franchise. I wish the Government well, I wish the Government well in its attempts to see that this House gets fully constituted as early as possible.

With these words, Madam Chairperson, I thank you very much.

SHRI MANDHATA SINGH (Lucknow): Madam Chairman, I would not take much of the precious time of this House although I have got provoked by the repeated utterances of our senior colleague Mr. Banatwallas then he was talking about the phrase 'electoral genocide'. I am one of the worst victims of that electoral genocide although in spite of all the genocide attempts I have been able to scrape my way through and come to this House. I support the Bill put forth before this House by the Minister of Law and Justice regarding making arrangements for holding early parliamentary elections in Assam. Why should we only talk about electoral genocide or AASU pressure in Assam. There are other pressures also working throughout the country and as I represent the State capital of Uttar Pradesh which is the biggest State in the Indian Union, I have

[Sh. Mandhata Singh]

had my own experience in this regard where about three lakh voters' names were deliberately removed. That is the real genocide. The names were there three months before when the Corporation elections were held and if you make a calculation, the total number of voters during the Corporation elections held three months earlier to the parliamentary election and the total number of voters who were called upon the exercise their right of franchise in the 1989 parliamentary election which has sent me to this House, there is a difference of more than three lakhs. Even a candidate like me, who was supposed to be a joint Opposition candidate in Lucknow, was not supplied with the list of voters and even the list of polling stations in the constituency for 12 long days after the electoral process started. Then, I had to send a very long telegram to Mr. Peri Shastri, the Chief Election Commissioner and then somehow I was given a truncated and tampered voters list. The story goes round in the State capital of Uttar Pradesh that the then Ruling Party candidate had a separate voters' list and the main Opposition candidate was supplied with another voters' list where more than three lakh names were missing. So, I have taken this opportunity of drawing the attention of this august House to this kind of electoral genocide being practised not only in Assam but in other parts of the country also. Assam has its own problems of foreign nationals issue, the AASU agitation and the stresses and strains through which the Assam people have passed. There has been a fear psychosis from which the AASU people are also suffering. It is not the result of a political conspiracy and certainly not a conspiracy engineering by our esteemed friend Mr. Goswami and his colleagues sitting on the Treasury Benches. So, the Government has to take note of the so-called electoral genocide that is explained by our senior colleague Mr. Banatwalla as well as the fear psychosis generated through years and years of different kind of rule. I do not want to exten the dimensions of the debate, but that fear psychosis was also deliberately created for which the then existing Govern-

ment at the Centre can be solely held responsible.

18.00 hrs.

Madam I have assured you in the slip sent to you, I want only a couple of minutes. But I am exceeding that limit out of vehemence and out of electoral genocide. Therefore, while taking the liberty of registering my protest and registering it on the records of the House, I want to draw the attention of our hon. Minister for Law and Justice to refer the matter to the Election Commission for a serious inquiry into the electoral genocide practised against me in my parliamentary constituency. All responsible Members sitting here will be shocked to know this. The benefit of last amendment to the People's Representation Act which was considered to be a revolutionary measure adopted by Shri Rajiv Gandhi in according the right of franchise to youngmen who have attained the age of 18 years in the State Capital, Lucknow was denied to these youngmen in this parliamentary election.

Therefore, I request that you will take serious note of the matter and all senior Members sitting here will take serious note of the matter that this kind of happening is not only confined to the city of Lucknow but I charge that such malpractices have been adopted at various places throughout the country. The Election Commission be asked to investigate the matter very seriously and if possible a report of their version be placed on the Table of the House by our hon. Minister for Law and Justice.

MR. CHAIRMAN: Now before we adjourn the House, I will call upon...

THE MINISTER OF INFORMATION AND BROADCASTING AND MINISTER OF PARLIAMENTARY AFFAIRS (SHRI P. UPENDRA): Madam, there is a commitment among the Parties in the Business Advisory Committee to sit longer.

SHRI MANDHATA SINGH: There is also a precedent. As long as the chair is there, the House is supposed to be in session.

MR. CHAIRMAN; Shri Muttiah to present first report of the Business Advisory Committee. In that actually we will bring the extension of the time.

SHRI DINESH GOSWAMI: Is it that this Bill will be taken up tomorrow?

MR. CHAIRMAN: Let him present the report.

18.03 hrs

BUSINESS ADVISORY COMMITTEE

First Report

SHRI R. MUTHIAH (Periyakulam): I beg to present the First Report of the Business Advisory Committee before the House.

THE MINISTER OF INFORMATION AND BROADCASTING AND MINISTER OF PARLIAMENTARY AFFAIRS (SHRI P. UPENDRA): Madam, in the Business Advisory Committee, it has been decided to take up the Motion of Thanks on the President's Address tomorrow after Question Hour. It has also been agreed that we will sit longer today and finish the Supplementary Demands for Grants as well as the Representation of the People (Amendment) Bill.

I request the House through you to complete this business today so that we can start the Motion of Thanks on the President's Address tomorrow.

SHRI G.M. BANATWALLA: (Ponnani): The report of the Business Advisory Committee has only been presented. It has not yet been accepted. It is already very late. In this winter sitting so late and continuing with the business is punishing the serious Members here.

THE MINISTER OF FINANCE (PROF. MADHU DANDAVATE): We share your sufferings.

SHRI P. UPENDRA: I seek the indulgence of the hon. Members. We have two choices—either to sit longer or extend the Session. The members of the Business Advisory Committee unanimously felt let the business be finished by 29th by sitting longer every day up to 7.30 p.m.

SHRI G.M. BANATWALLA: We will discuss that report tomorrow. We will study the report, come tomorrow and discuss it. Till the report of the Business Advisory Committee is adopted, it does not apply.

SHRI P. UPENDRA: That is for tomorrow onwards. But today I am proposing this.

MR. CHAIRMAN: Now the Minister of Parliamentary Affairs is appealing to the House to extend the time of the House today....

SHRI G.M. BANATWALLA: I am appealing to the Parliamentary Affairs Minister not to make such an appeal.

MR. CHAIRMAN: We have to extend the House in order to continue with the present business.

SHRI G.M. BANATWALLA: How long?

SHRI P. UPENDRA : It was agreed to have only one hour for this Representation of People (Amendment) Bill and one hour for Supplementary Demands. That was the agreement. Accordingly, we extend the time.

SHRI G.M. BANATWALLA: Who made that agreement?

MR. CHAIRMAN: Among the parties.

SHRI G.M. BANATWALLA: The House is not bound by all these things. My party was not there.

MR. CHAIRMAN: It seems to me that there is some objection to the appeal. But, in any case, I think through compromise, you will agree. I extend this House till this Bill is finished and Supplementary Demands would be taken up tomorrow. Do you agree?

PROF. MADHU DANDAVATE : Supplementary Demands would not take much time. Only a few members will speak.

SHRI P. UPENDRA : Shri Banatwalla is a very senior member and I know he is conscientious member. This has to be reported to the other House also and they have to take up in the other House also. Kindly cooperative with us. They are continuing from the previous regime. This should have been finished long time ago but they have come to us.

18.07 hrs

STATUTORY RESOLUTION *RE* : DISAPPROVAL OF THE REPRESENTATION OF THE PEOPLE (AMENDMENT) ORDINANCE, 1989 AND REPRESENTATION OF THE PEOPLE (AMENDMENT) BILL-*CONTD.*

MR. CHAIRMAN: Let us proceed with the business. One more Member is still to speak. I would give five minutes to Shri Ajit..Kumar Panja.

SHRI AJIT PANJA : (Calcutta North East) : Kindly consider. We are discussing the rights of the people of Assam without any one representing in this House. Even the Minister himself is no representative of Assam except he is a citizen. He is not a Member in this House nor he is a member of Rajya Sabha. Therefore, the responsibility of the entire people of Assam is mine. Kindly give me some time. I am very much here.

MR. CHAIRMAN: Already Shri Santosh Mohan Dev and Shri Harish Rawat have

spoken. I request you to be as brief as possible.

SHRI AJIT PANJA : That I will do. I usually do not take much time. Thank you. In fact, we are here discussing not only the rights of the people of Assam who are duly qualified to be voters and voting for the ensuing election but also—I am pointing out a very important factor to be taken into consideration a person when he becomes a Voter, he is duly qualified under the provisions of the Representation of People Act, 1950 read with Representation of people Act, 1951 and the Part 'C' of the constitution of India. But I am on another point. The very existence of this House is being questioned by this provision. Unless a person becomes an elector or a voter, he cannot be chosen to fill in a seat of Lok Sabha or Rajya Sabha. Therefore, the very right to become a member of this august House, the whole basis of democracy, wherein we debate, that very right is being taken out from that very person who is entitled to get it. Therefore, first it is to be conceded that this House is constituted under Article 79 of the Constitution and so far as Lok Sabha and Rajya Sabha together are concerned, it has to be read with Article 81 of the Constitution. While doing so, we must look into who are the persons who can become a Member of this very House.

Madam Chairperson, so far as the Representation of the People Act, 1950 is concerned, I do not know why so much confusion is being created with such a very essential right of democracy of an Indian citizen over the age of 18 years to become an elector not only to choose his representative but by himself representing either as an Independent candidate or a candidate of any other party. Therefore, you are the custodian to protect the right of such an elector who would have become a Member but for this illegal action.

Madam, Section 4 of the Representation of the People Act, 1951 is absolutely clear—right from the Constitution up to the rules. The point is the Election Commission submitted to the illegal demand. I do not

blame any one except the Election Commission because they are created under the Statute and they are created with full power under Article 324 of the Constitution. There is none to fetter their rights which are given under the Constitution. It is they who will appoint the Chief Electoral Officer in the State, it is they who have got the power of Delegation of Power, not only from the Election Commission in Delhi to the Chief Electoral Officer in the State but from the Chief Electoral Officer to the Assistant Electoral Officer and from the Assistant Electoral Officer to the Returning Officer at the grass-root level. How can they say that they are not responsible and they have not got machinery? Why was this machinery not created? Who should make the demand for creating the machinery? A clear picture is provided in this regard under Article 324 of the Constitution.

Madam, you have to protect the right of the people to vote, to become a Member of this House. I place before you Section 4 which gives that right. Section 4 of the Representation of the People Act, 1951 deals with the qualification for getting the membership of the House of the People. A person shall not be qualified to be chosen to fill a seat in the House of the People unless he fulfils the various qualification. Section 4, Sub-Section (d) says: "In the case of any other seat than the Scheduled Caste/Scheduled Tribe, he is an elector of any Parliamentary constituency..." "In Assam there are, for example, five lakhs or 10 lakhs of people who were deleted. Even if one person is illegally deleted, not only his right to vote is taken away but his right to become a Member of this House is taken away. This is the right specifically given and the Parliament made this law. Can this House says that we are helpless in giving protection just because the Election Commission has done something? This is the right which is without any ambiguity whatsoever. This is the right which is unfettered by any other Court or whatsoever. This is the right given by this very House by passing the legislation. What is the function of this House? Why are we elected? Why are we arguing? If our writ is not carried

to all persons everywhere, then what is the use of our spending so much of people's money? For the maintenance of this House or the Rajya Sabha or even the State Assemblies?

Now, I would like to come to other points. If he is an elector, he has the right to become a Member of a Parliamentary constituency. Then a question came as to who can be entitled to be an elector. There are two consecutive Acts. Kindly consider that these Acts were passed after getting Independence in 1947 and after 1950 when India became the Republic. In the same year, this Act was passed. Kindly consider this Act with the contemporaneous position. You have to consider those people who passed the Act, This very right was envisaged by the framers of the Constitution, by the leaders who gave leadership to our country. In the year 1950 not only this Act came into force but in the next year, the 1951 Act came into force. Kindly see the definition in the 1950 Act. The constituency itself has been defined. Section 16 is about disqualification for registration in an electoral roll. It says:

"A person shall be disqualified for registration in an electoral roll in he is not a citizen of India or he is of unsound mind, stands so declared by a competent court, if he is for the time being disqualified by a High Court or Supreme Court Order and the name of the person so disqualified is entered into."

Therefore, taking Section 16 and read it with Section 15 is very right which is given under Section 4 of the 1951 Act as envisaged under Section 15 of 1950 Act. About the electoral roll for every constituency it says:

"There shall be an electoral which shall be prepared in accordance with the provisions of this Act under the superintendence, direction and control of Election Commission."

Who is there in the State Government?

[Sh. Ajit Panja]

Just because they create some so called popular sentiment, trying to take away the right a minorities whether linguistic or religious, can they throw them out branding them as foreigners?

Madam, in Indian a person becomes a citizen if he is born here. Even persons born in India were served with notices. Who has got this right? It is the Election Commission and this is a mandatory right of Election Commissioner who himself is a creature of this Constitution made and adopted by the people of India. Without amending the Constitution how can this Election Commissioner say that he has become powerless, when this mandatory right is still being kept today, not amended? When this mandatory right is given, the person who is chosen fills in the list names of five lakhs or ten lakhs or even fifty lakhs. How can they get deleted and under what circumstances? Did the Election Commission in Delhi apply its mind? Did it apply Section 15 read with Section 16 of the 1950 Act? Did it empower its officers there to decide the right of citizenship? If that is so, it is violative of Section 9 of the Citizenship Act.

Only a Tribunal take away my birth-right to become an Indian citizen. Madam, you know under Section 9 of the Citizenship Act a person who is born in Indian, by birth-right, becomes a citizen of India. But thousands who were born in India were given notices that they are foreigners ! Just because they speak Bengali, they should be thrown out; Just because they speak Marathi, they should be thrown out; just because they speak Kannada, they should be thrown out. Under what circumstances? This will be a farce. The Law Minister is present here. He should apply his mind to this question. It is not a question of saying that the final voters' list has been published and the door of the Supreme Court is closed because the Supreme Court has already opined that if the final voters' list is published nobody can question it. It is the Government which should do justice. They should issue directives to

the Election Commission to act in accordance with the law where everything is written down from the 1950 Constitution, then Representation of the People's Act 1950, Representation of the People's Act 1951 as amended by this very august House upto data.

With this, if you kindly go into a little detail, to the delegation of power, it has been stated that powers have been delegated to them. The Supreme Court very rightly observed that this is a machinery under the hands of the Election Commission which is a creature of the Statute and therefore you can go back and file your claims and objections.

Madam, in West Bengal thousands of claims and objections were filed. It is stated that five lakh genuine voters have been deleted in Assam. I would say that 50 lakhs genuine voters are deleted in West Bengal. If you want to check, kindly select one sample constituency.....

SHRISATYAGOPAL MISRA: (Tamluk): This is not sure,

SHRI AJIT PAJNA: There is a saying in Bengali which says that a guilty conscience shouts much. I did not refer to them. Just as they shouted, there are many such people present here. This is the guilty conscience. Madam, in your known impartiality—now adorning this Chair—taking an example of one constituency. Out of 42 Assembly Constituencies in West Bengal, kindly select one and select the Members of this House; kindly examine the electoral rolls of any one particular constituency. I can challenge—in my Constituency, 30 thousand genuine voters....

SHRISOMNATH CHATTERJEE: It was challenged in 1982. They submitted a list before the Supreme Court. The Supreme Court went into it and said that without any basis baseless complaints were made by Mr. Panja. (*Interruptions*) This is the judgement of the Supreme Court of India. When they lose, they are taking this stand.

SHRI AJIT PANJA: This is the wrong statement made.

SHRI SOMNATH CHATTERJEE: I will produce the Supreme Court judgement, tomorrow.

SHRI AJIT PANJA: The Supreme Court said that the process of election has started. Like the 1984 judgement, cited by Mr. Banatwalla, the Supreme Court stated that the Election Commission is a sort of body whatever you have got to say, you have to go there and file it. The Supreme Court cannot decide because the process of election—these are the exact words—has started. I know where the shoe has pinched Shri Somnath Chatterjee..(Interruptions)

SHRI SOMNATH CHATTERJEE (Bolpur): He was busy with his politics. He did not know, at that time. Let him educate himself first.

MR. CHAIRMAN : Mr. Panja kindly cooperate with me. You have taken 25 minutes. will you kindly conclude?

(Interruptions)

SHRI AJIT PANJA : Unless you control one section of the House, how can I do?(Interruptions)

There is no opposition from the Minister. Throughout the debate, the very senior Minister is present here.(Interruptions)

MR. CHAIRMAN: Please try to present your case. I request you to cooperate and conclude.

(Interruptions)

SHRI AJIT PANJA: I thought the opposition would come from the Minister and he would say, 'No' He is the custodian. I appeal to his conscience. Let him go personally, select and ask for one electoral roll of one Constituency from Assam and one from West Bengal. I appeal to his conscience. It is their

right to become Members of this House, which is remaining unrepresented so far as Assam is concerned. He is the citizen of Assam, sitting here. Knowing his legal background, knowing the manner and the details, the hon. Law Minister goes through—we were colleagues together, and we are colleagues—I appeal to his conscience; this has nothing to do with his law; not like Shri Somnath chatterjee, taking a technical a point in Supreme Court. (Interruptions)

SHRI SOMNATH CHATTERJEE: I will stand, every time, he tries to mislead this House. I will oppose, every time, he tries to mislead the House.(Interruptions).

SHRI AJIT PANJA: I am not misleading the House. Madam Chairman, why one section is so much touchy about it ? I am talking about Assam. They themselves argue. (Interruptions)

MR. CHAIRMAN: Mr. Panja, can you kindly go back to the debate Assam on and conclude?

(Interruptions)

SHRI SOMNATH CHATTERJEE: They tried to stop the elections in 1982 in West Bengal. That was a nefarious game. They did not succeed. The Supreme Court pulled down. He had to apologise before the Supreme Court. (Interruptions) He himself had apologised to the Supreme Court.

SHRI AJIT PANJA: When they have said so, the judgement delivered by Shri Sabyasachi Mukerjee was in our favour, who is now the Chief Justice of India. (Interruptions)

MR. CHAIRMAN: I request you to go back to the point on Assam and conclude.

(Interruptions)

SHRI AJIT PANJA: Madam, I want to . But unless you control them, what can I do? I want to argue. But they want to stand up and interrupt. What can I do? Let them

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answer my points, after my debate... (*Interruptions*)

MR. CHAIRMAN: Please go back to your subject and conclude.

(*Interruptions*)

SHRI AJIT PANJA: They wanted to throttle the voice of the people of Bengal ; now they want to throttle my voice, in this House. That is their attitude. Now, let me go back to my point. If you kindly consider...

MR. CHAIRMAN: Kindly do not get into another reading , please.

(*Interruptions*)

MR. CHAIRMAN: It is my request to you to kindly conclude now. I have already given you enough time.

SHRI AJIT PANJA: Madam, if you ask me to conclude and do not ask them to stop intervening then I will sit down.

MR. CHAIRMAN: Please conclude now.

SHRI AJIT PANJA: Now Madam kindly come to Section 4 sub-section (d) of. The Representation of the People Act, 1951. Here qualification is given to fill in a seat in this House and unless that is done he cannot be a member of the House. Kindly read it. (*Interruptions*) Now Parliament at that time did not think only of the House of People. They thought of the Assemblies all over India and that is enshrined under Section 5 of The Representation of the People Act. Under part 4 of the Act of 1951 delegation of power is given.

MR. CHAIRMAN: Please conclude now. There is constraint of time.

SHRI AJIT PANJA: These are very important points that I am trying to make. If you stop me like this then I will sit down. I need at least five minutes more to conclude.

MR. CHAIRMAN: All right but confine yourself to only five minutes.

SHRI AJIT PANJA: Madam, now I am drawing your attention to Section 19 (a)—delegation by Election Commission of their power. To make it short and put it on record this delegation is given from Section 19 (a) read with section 21 and 22. The main important thing is in section 24 of this Act, that is, the duty cast. In that duty there is no duty cast on the electoral registration officer while deleting. Unless somebody complaints to ask for any certificate of citizenship anybody has got right to complain and if anybody complains in my name that I am not a citizen and I produce birth certificate as a *prime facie* evidence that I am citizen of India then the only jurisdiction is Tribunal. The burden of poor is on the objector to get hold of the certificate from the Tribunal or strike down my right of citizenship and claim of citizenship by an order of the Tribunal constituted under the Citizenship Act and none else. Therefore, all these deletions which have taken place are just because they are speaking different languages than Assamese. We have been born and brought up together but just because handful of young boys make some claim the entire country will be submitted to them. This will not be a fair proposition.

Therefore, time has come to have a closer look as to the capacity of the Election Commission to conduct an election from the very process of starting the election, that is, inclusion and deletion of names in the voters' list. There are lists were there are names of voters who never existed. There are lists where genuine voters are there lawfully but just because out of fear that they will insult the family members when they go outside.... and that's why no complaints are lodged even after several extensions given in Assam. Madam about several extensions. People are writing letters and those letters being published in various other places in India. From every side, Assam is surrounded. The whole of India, including this House, will become speechless and say that we cannot do anything. That is the voice which was

given so eloquently by Mr. Chitta Basu when I was listening to him. The point to think of is whether the Election Commissioner has got the infrastructure to give justice. If not what is the Government going to do to give him the infrastructure? If yes, then why is it not utilising its power under what circumstances? Is there interference whatsoever? If the political pressure is so much that the independence of Election Commission, created with mandatory words under article 328 of the Constitution, is to be given a go-by, then the entire House falls, the entire democratic root is gone and the people who manipulate election, would start manipulating as they are doing in some places from the very start of making the voters' list. Is that the exercise which you are going to do? One party is doing, therefore, we should also do! I went to the Election Commission. They said, "If they are doing so, why don't you do the same thing? Why don't you go and become alert? 'Is that the answer? Then, we are the parties who have to do this. There is no alternative process of law. There is no prime facie thing. Government has not done things which are supposed to be done correctly unless contrary is provide. unless there is universality of procedure. Law made by thing House is there. Unless I have faith that I am born in India, I will attain the age of 81, I have not been disqualified, due to this very fact, I will become a voter. The officers come to residence. They sign that so-and-so is a voter. They give the receipt. Now, you find your name is not there. You go to the officer and ask, "Why have you not allowed?" In this country, we have to watch. I can give instances. You give an English letter or a Bengali letter to a lady who cannot do anything but waste a full day; For that letter, She will have to go four kilometres away to a house, called Election Commission house—of the electoral officer and sit there for four hours for hearing an objection filed by someone. Therefore, I appeal to you and through you to the whole House and all Members to think of that. Is this enough to carry on this election process? If not, what are the defects? I will appeal to the Law Minister to give a very patient thought and a close look about it, if necessary. There is no problem which is

impossible to solve. All parties may get together and find out a solution so that the impartial election takes place. Strong-arm people or whatever may be, or mischievous or malicious people trying to make the entire machinery absolutely corrupt from the very initiation of making voters' list have to be stopped.

With these words, I make this appeal to the hon. Law Minister to take into consideration these points and there is no use in saying finally voters lists have been published. He know the law. He will find out the process by which it could be done. Again, some impartial machinery—if necessary, outside the State—be formed so that people without any fear or favour come forward, become a voter or those whose names are bit deleted and have been voting since independence from the first election and who have become qualified but names have not been included. These are the things which may be considered by the hon. Minister.

THE MINISTER OF STEEL AND MINES AND MINISTER OF LAW AND JUSTICE (SHRI DINESH GOSWAMI): Madam Chair person, I am thankful to all the Members who have participated in the debate though I may not agree with the view points of some of the Members. I am also thankful to those Members who have expressed that it is unfortunate that the Members of Assam stand unrepresented in this House because nobody would have been more happy then myself if the Members of Assam would have been here today when the new Lok Sabha has been constituted. In fact, I had risen to complain when I resigned that it was rather injustice to the Members of Assam that we came one year late and had to go back six months early.

Madam, I begin with the points expressed by Mr. Ajit Panja and I will try to deal with some of his points. Fortunately, he has shifted the focus of this debate from Assam to Bengal. He has complained that 10 lakhs names have been deleted in Bengal which means that in a revision of electoral rolls, even though there is no linguistic or religious

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animosity as has been tried to be brought out, 50 lakh names can be deleted and it is so, to conclude merely because a few lakhs of names have been deleted from the voters' list of Assam and that it has been done because of linguistic and religious prejudice is very very wrong conclusion... (*Interruptions*).. Mr. Panja, I hope you will listen to me. He appealed to my conscience and said that I should give certain directions now to the Election Commission. He also said that it is time for us to look into as to whether the Election Commission has sufficient inherent strength in itself to give to this country and whether it is a fair and independent election machinery. I would like to ask Mr. Panja as to why he did not give this direction when 50 lakhs voters were deleted from the names of voters list in Bengal as he was occupying the seat of a Minister on the Treasury Benches. You are asking me to give a direction which no Minister can give and so long as I am Law Minister, I want to make it apply clear, that this Government will not give any direction to the judiciary and to the Election Commission because it will curb the independence and the impartiality of the judiciary and the Election Commission...(*Interruptions*).. Now Mr. Panja has told that it is time for us to think on whether the Election Commission has sufficient strength or whether we have really given all the infrastructure that is needed so that it can function independently. Did you apply your mind to this at all, Mr. Panja? In 1988, you brought an amendment to the Representation of the People Act. If you remember, a number of Members from the Opposition gave amendments on this particular point which you rejected and your Government rejected and today you want such a thing suddenly. Now, the difficulty is when they were on this side, their conscience did not prick and when we are on this side, they want that we should act according to our conscience. We will act according to our conscience and since that conscience pricks us, I cannot give any direction to the Election Commission and if I give that direction, I will commit the violation of Article 324 of the Constitution. I will not give that direc-

tion. I will leave it to the good sense of the Election Commission but at the same time, we are bringing an amendment, we are considering amendments to the Representation of the People Act, 1988. We are thinking in terms of electoral reforms and if any Members has any positive suggestions to make for strengthening the Election Commission, that will get the highest consideration from this Government.

A young Member has spoken about electoral genocide. An impression has been sought to be created in this House that minorities, linguistic and religious in nature, are facing tremendous harassment in the State of Assam. My difficulty today is AGP is unrepresented. I am not speaking as an AGP Member. I am speaking as the Union Law Minister and that would put restrictions on what I am going to say. But I am proud of the fact that when the entire country including northern India is burning under communal holocaust, there is one State where there is no communal disturbance and it is the State of Assam. I believe...(*Interruptions*) ... Not in West Bengal. I am not referring to West Bengal. I believe, at least this House should congratulate and give credit to the people of Assam for this. They younger generation including the minorities remained undisturbed. Even when communal feelings were running high in the rest of the country, in a highly emotive State of Assam where the intensive revision of voters list was going on, there was no untoward incident. I congratulate the people of Assam. I think the minorities particularly in whose minds there are lot of apprehensions. I thank the Younger generation and in fact, the Election Commission is on record, he has thanked the entire people of Assam that the revision of the voters' list, though it does not satisfy all, has been carried out in an atmosphere of peace without any untoward incident whatsoever.

Today, there are two kinds of complaints in Assam; one from the minorities that a large number of names have been deleted from the voters' list and the other is from the All Assam Students Union that a large number of foreigners' names have been included in

the voters' list. It is wrong that the AASU is a political wing of AGP. Shri Banatwala was, to some extent, correct that if any political party has come under severe criticism in Assam, it is our Government because the complaint is that we were unable to present a voters' list which did not contain the names of the foreigners. Therefore, there are two kinds of attack both on the Government and on the Election Commission. Whatever assistance the Election Commission wanted from the State Government, we have given and I am sure, whatever assistance the Election Commission wanted from the previous Union Government, at least my record shows, that assistance was given. I have no reasons to complain.

I have been interacting with the Election Commission after I have come to power, as to what they are doing in order to see that these apprehensions are allayed, and the Election Commission has told me that even in a very difficult atmosphere, where emotions run high, where there are claims and counter-claims; one party claims that a large number of voters have been deleted from the voters' list and the there are claiming that lakhs of foreigners have been included in the voters' list, it is a very difficult exercise. He is on record that he has got the cooperation from all sections and it is because of the cooperation of the State Government that the Election Commission has been able to reach the stage of final publication of the rolls and the rolls have been published on the 23rd. It is Election Commission's stand also that the Chief Electoral and other officers of the State Government, particularly the Chief Secretary and the Chief Electoral Officer and the two Secretaries of the Commission have function in a team, in a full spirit of cooperation and understanding, making this process of revision of voters' list as smooth and free from harassment and as perfect as possible in the same spirit and with the same approach.

Now, the Election Commission also took certain safeguards. Every name that has been deleted has been deleted for reasons or speaking order. There is a speaking order

if any name has been deleted; there the facts and circumstances and reasons have been given, why the name has been deleted and those records have been maintained. The Election Commission directed that those records must be maintained and those records are maintained.

Shri Banatwalla asked me that I must assure this House that the elections would take place in Assam immediately. A contrary view was expressed by Shri Santosh Mohan Dev, who said that elections may take place after six or nine months, let there be a correct voters' list. What stand do I take? I do not intend to take any stand. I would like that in Assam, there should be a correct voters' list in which no names of any Indian citizen who is eligible to be a voter is deleted and equally no name of any foreigner who is ineligible should be included. Now, the final list of voters has been published. I am happy that this has been published, because the consequent of non-publication also would have been very serious. If the voters' list would not have been published by this year end, under the Election Law, if I have understood it correctly, there ought to have been another revision after 1.1.1990. After every new year, there is going to be a new revision. After the entire process has been carried out for more than a year in an emotive atmosphere, when the final rolls is almost at the stage of publication, if the Election Commission would not have published it during the month of December, the whole exercise would have been started again and in this exercise, I personally believe, apprehension of the minorities would have grown manifold. Therefore, the Election Commission has published a final voters' list. Now, the Election Commission has met a member of delegations and representatives making claims and counter-claims. I am aware that the minorities are saying that a large number of genuine Indian voters have been deleted. Even the representatives of the All Assam Students Union met the Election Commissioner and told him that the voters' list contained a larger number of foreigners. Therefore, the Election Commissioner has said that there are still provisions under the Representation of People Act for

[Sh. Dinesh Goswami]

the correction of voters' list. He appealed to both the sides to exercise their power under those provisions and if there has been any anomaly, he would try to rectify it. The view of the Election Commissioner seems to be that this voters list, as far as possible and practicable, is correct. After all no voters' list can be perfect. Speaking from my own experience, when I went to give my application form, I found that my brothers names were not there in the voters' list. Not that it is intentional, but when the number of people enumerated is as large as one crore and twenty two lakhs, it is quite possible that some names may be left out. That is why though the Commission feels that it has done the best job possible, it had also made it clear that it is prepared to look into complaints, claims and objections according to the provisions of law.

But I do not want to give a commitment that the elections will take place as per schedule in Assam. Of course, I would like the elections in Assam to take place as early as possible because I like my State to be represented here. Not only my State, even if it were any other State, I would like to be represented here because all States should be represented in this House. But if the Election Commission feels that it may take some more time in case a large number of people intend to exercise their power which is available under Sections 22 and 23 of the Representation of People Act, it may find it difficult to hold the elections in time. It is for the Election Commission to decide the timing and I can only assure you that when the Election Commission decides the time for elections, whatever cooperation is necessary from the Union of India, that cooperation will not be lacking. We will provide all cooperation. But must leave it to the Election Commission to decide the timing on the basis of the number of persons that the Commission may have to deal with under Section 22 or 23 of the Act.

SHRI AJIT PANJA: Are you taking a

stand that the Election Commission is not even answerable to the Parliament?

SHRI DINESH GOSWAMI: When the Parliament has framed the Constitution and given full rights to the Election Commission, it cannot say that though it has given them the rights, yet the Commission must be under its control. Of course, Parliament has the control. What I am saying here is that the Executive has no control. If you want to amend the Constitution, you are welcome to do so, So long as Article 324 of the Constitution is there, the Executive is bound under those constitutional provisions and it will act in accordance with those provisions only. It is upto the wisdom of the Parliament and Lok Sabha to amend the Constitution as it likes, because the overall power is there with the Parliament and it is for us to exercise that Power. But so long as our Constitution says that the Election Commission will have full rights under Article 324, the Executive has no control over it. May be, there were tendencies on the part of the earlier Government to infringe upon the judiciary of the Election Commission. We will not make any effort in that direction !

SHRI AJIT PANJA.: Election Commission is saying that the necessary infrastructure is not available. I want to know as to what you are going to do about it. The Commission is not saying that the previous Government has failed to do it. One wrong does not justify another.

SHRI DINESH GOSWAMI: When did you come to know about it?

SHRI AJIT PANJA: I knew it for a long time. Anyway, you are no more a mere party member. Now you are a Minister and for me also you are a minister. You should not make sarcastic comments. Please let us know what you are going to do.

SHRI DINESH GOSWAMI: For years and years, you did not do anything. Do you want me to do it just four days? This is one point.

SHRI AJIT PANJA: Today is 26th. You are very bad in arithmetic. How can it be four days? (Interruptions).

On the 5th you were sworn in. It is already 21 days. What has been done ? I want a prospectus under which everything will be done quickly. So, you have to perform

SHRI DINESH GOSWAMI: So, I take your point of view. Is it the view of the Opposition that we bring in an Amendment to the Representation of People Act, without consulting you and without consulting other sections of the House? Give me that power. We will do it. But later on don't complain. We want to talk, we want to interact with everybody.

SHRI AJIT PANJA: What are the Amendments?

SHRI DINESH GOSWAMI: I am in touch the Election Commission's office. We have promised to this House that we will be interacting with everybody.

Madam Chairperson, Mr. Chitta Basu raised certain questions. There have been some cases where spurious notices were issued to person of the minority communities, as if the notices had been issued by the administration. The officers who were deputed by the Election Commission had detected this and corrected the pages. There were some notices which were also issued and which were later on withdrawn. In Assam, can they ever think of a reputed artiste like Parveen Sultana to be a foreigner? Therefore, I will submit that let us not try to create an atmosphere through an emotional exercise which may harm peace and amity in the State of Assam. We know that Assam has to progress. It can progress through a very active cooperation of the minority communities. We want to prosper. For that, the cooperation and the assistance of the minority communities is essential. In this delicate exercise which the Election Commission has carried on admirably and which they have also to carry now in view of the representations and delegations which have

met the Election Commission, I believe, we must cooperate with the Election Commission and I can only assure that in all matters, I will cooperate. We will cooperate.

Another point was made by Mr. Banatwalla and that is, the power to see whether a person is eligible or not on the ground of being an Indian citizen. Well, it is not available to the Election Commission. The Election Commission can only make claims with the Tribunals that they are not the Indian citizens in terms of Assam Accord. But the Election Commission has also a duty which is thrust upon them under Section 16 of the Representation of People's Act. It says Over and above, what has been written in the Assam Accord, that a person before his name is included in the electoral roll should satisfy the Election Commission that he possesses the qualification which one must possess in order to be an Indian citizen."

Prof. Soz, brought this Motion of disapproval. You will appreciate that there was no alternative to the Election Commission. The Election Commission gave sufficient time to the intentions of this Clause because all the time, there were apprehensions, there were claims and counter claims. The Election Commission thought it proper that if they hurry up the matter in an atmosphere where there are a lot of apprehension and emotions, it may not help. Therefore, we have given the maximum time and if this Ordinance has not been brought before the terms of the last Lok Sabha expired, in that case, the elections would not have been possible and you all would not have been here.

Therefore, this Ordinance, was an absolute necessity and we have no other alternative but to come to this House also with a Bill to replace this Ordinance.

I hope in these circumstances, I get the unanimous approval of this House for the Bill to be passed.

MR. CHAIRMAN: Now Prof. Soz.

PROF. SAIFUDDIN SOZ (Baramulla): He has not even assured that all eligible voters will be included in the list. At least he should feel sure of himself. Why should he feel helpless and shift the burden to the Election Commission ? He is answerable.

SHRIDINESH GOSWAMI: I want every eligible Indian voters to be enrolled in the voters' list.

PROF. SAIFUDDIN SOZ: Will you ensure that?

SHRI DINESH GOSWAMI: If that is the task, sofar as I can ensure that I will, but primarily, the task is upon the Election Commission. In whatever manner my assistance can be taken, it can..(*Interruption*) You know the law better.

PROF. SAIFUDDIN SOZ: Who is the watchdog? The Election Commission is also answerable to this august House. The Government is answerable to us. You should assure us that all eligible voters will be in the list. You should ensure that. You must assure that; sofar as voters list is concerned, let me forget the delay that was caused by the Election Commission and the State Government, because they have not done their home-work. But at least Mr. Goswami should assure the House that he will ensure that all eligible voters will find a place in the electoral list.

MR. CHAIRMAN: He has heard you. You are arguing.

SHRIDINESH GOSWAMI: I assure that whatever is possible from my end, under the law and the Constitution, to see that every Indian citizen is included in the voters' list, I will do.

MR. CHAIRMAN: Are you withdrawing your resolution, Prof. Soz?

PROF. SAIFUDDIN SOZ: Yes.

MR. CHAIRMAN: Has Prof. Soz the leave the House to withdraw his resolution ?

SOME HON. MEMBERS : Yes.

The Statutory Resolution was, by leave, withdrawn

MR. CHAIRMAN: Now, the question is:

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

The Motion was adopted

Clause 2 Insertion of new Section 73 AA

MR. CHAIRMAN: The House will now take up clause-by clause consideration of the Bill. In Clause 2, there are three amendments by Mr. Charles, Mr. Thomas and Mr. Mahadev Rao Shri Sankar.

Mr Charles, are you moving.

SHRIA. CHARLES (Trivandrum): Yes, I beg to move;

Page 2, —

after line 4 insert—

" Provided that before the date of the election from the Parliamentary Constituencies in the State of Assam is fixed it shall be ensured that all citizens of the State of Assam who are eligible to vote under the law are to be included in the revised electoral rolls."

The amendment I have just moved to Clause 2 (b) is very simple. The very purpose of postponing the elections has been stated in the Statement of Objects and Reasons, viz..."... as the revised electoral rolls had not been published in the final form..." Now that the list has been published, after hearing the reply of the hon Law Minister I feel there is no harm in accepting this amendment, because we are passing a Bill authorizing the Election Commission to proceed with the election, giving it all the powers for preparing the electoral rolls, in-

cluding all the eligible persons; and the Law Minister has already given an assurance that care will be taken to include all eligible citizens of Assam in the electoral rolls. So, what is the harm in accepting this?

MR. CHAIRMAN: You have made your point and have also repeated.

SHRI A. CHARLES: I am not repeating because the Law Minister has stated that he had no control over the Election Commission we pass this legislation how are we going to ensure that?

Another point is that the 1985 rolls have been questioned. So, what is the legality of the present Government? That point has not been answered by the hon. Law Minister. We have to inform why the voters included in the 1985 list who still continue to live in Assam are not included. What is the justification for denying the voting rights to them? If that position is accepted, I am afraid, that for the last four years it has been an illegal government elected on the basis of an illegal voters' list that is functioning in Assam. This point has to be cleared, and I fully appeal to the conscience of the Law Minister to accept this amendment.

MR. CHAIRMAN: Shri P. C. Thomas

SHRI P.C. THOMAS: (Muvattupuzha): I beg to move;

Page, 2 line 4.—

add at the end—

"Which will not at any rate exceed the first day of June, 1990". (2)

The amendment which I seek is with regard to the time limit that may be fixed with regard to the electoral process to be completed by the Election Commission. In fact, sentiments were expressed by several members in this House to the effect that the elections will be conducted at the earliest and if so, unless a time limit can be fixed, I would think that the wording as such that is

there in this clause (b) of Section 73AA is insufficient in the sense that now as it stands Section 73 AA (b) is to the effect that the elections from the Parliamentary constituencies of Assam can be conducted separately and in such a manner and on such date or dates as it may deem appropriate.

MR. CHAIRMAN: It has been circulated. If you have any further points, you may mention.

SHRI P. C. THOMAS: So, my proposed amendment is in relation to this. The sentence is like this:

"Which shall not at any rate exceed the first day of June, 1990". Or, if it is found that it is impossible, then the matter will again be taken up in this House where the representatives will get a chance to submit their views.

SHRI DINESH GOSWAMI: I do not accept it because the existing law takes care of it that every citizen must be included. No time limit can be fixed at the present moment. I have already explained as to why. I would like the election to be held as early as possible.

THE MINISTER OF FINANCE (PROF. MADHU DANDAVATE): The law takes care of it.

SHRI P.C. THOMAS: What about my amendment?

SHRI A. CHARLES: In view of the categorical statement of the hon. Law Minister I may be permitted to withdraw my amendment.

MR. CHAIRMAN (SHRIMATI GEETA MUKHERJEE): Is it the pleasure of the House that the amendment moved by Shri A. Charles be withdrawn?

SOME HON. MEMBERS : Yes

The Amendment No.1 was, by leave, withdrawn

MR. CHAIRMAN: I shall now put amendment No. 2 to Clause 2, moved by Shri P.C. Thomas to the vote of the House.

Amendment No. 2 was put and negatived

AN HON. MEMBER: Mr. Charles can withdraw himself now.

SHRI G.M. BANATWALLA (Ponnani): Mr. Charles cannot withdraw himself.

MR. CHAIRMAN: That is up to him. I would like him to be here.

SHRI G. M. BANATWALLA: We wish him a Merry Christmas !

MR. CHAIRMAN: Now we are on clause-by-clause consideration.

The question is:

"That Clause 2 stand part of the Bill"

The Motion was adopted.

Clause 2 was added to the Bill.

MR. CHAIRMAN: The question is:

"That Clause 3 stand part of the Bill".

The Motion was adopted.

Clause 3 was added to the Bill

MR. CHAIRMAN: The question is : -

"That Clause 1, the Enacting Formula and the Title stand part of the Bill."

The Motion was adopted.

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

SHRI DINESH GOSWAMI: I beg to move:

"That the Bill be passed."

MR. CHAIRMAN: The question is :

"That the Bill be passed."

The Motion was adopted.

19.07 hrs.

SUPPLEMENTARY DEMANDS FOR GRANTS (GENERAL), 1989-90.

[English]

MR. CHAIRMAN: The House will not take up discussion and voting on the Supplementary Demands for Grants in respect of the Budget (General) for 1989-90.

Motion moved*.

"That the respective supplementary sums not exceeding the amounts on Revenue Account and Capital Account shown in the third column of Order Paper be granted to the President out of the Consolidated Fund of India to defray the charges that will come in course of payment during the year ending 31st day of May, 1990 in respect of the following demands entered in the second column therefor-

Demands Nos. 5,8,12,15,16,17, 18 and

78"