

12.34½ hrs.

DELIMITATION COMMISSION BILL

Mr. Speaker: The House will now take up further consideration of the following motion moved by Shri Bibudhendra Misra on the 30th November, 1962, namely:—

“That the Bill to provide for the readjustment of the allocation of seats in the House of the People to the States, the total number of seats in the Legislative Assembly of each State, the division of each State into territorial constituencies for elections to the House of the People and Legislative Assemblies of the States and for matters connected therewith be taken into consideration.”

The time allotted for this Bill is 3 hours. 35 minutes have already been taken, and 2 hours and 25 minutes now remain.

Shri Prabhat Kar (Hooghly): Mr. Speaker, Sir, this Bill is a formal one in that articles 82 and 173 of the Constitution contemplate this. After every census a delimitation commission is formed with a view to delimit the various assembly constituencies in terms of the population. So far as that part is concerned, we welcome this Bill.

Clause 5 of this Bill says that the Commission shall associate with itself for the purpose of assisting it in its duties in respect of each State, seven persons three of whom shall be members of the House of the People representing that State and four shall be members of the Legislative Assembly of that State. That is how this Commission is formed. It has already been pointed out that in order to have a representative of every party in Parliament and in the State assemblies, the number of these members should be increased so that every party may be represented there to give its views about delimitation

of the various assembly constituencies. There is not much difficulty in increasing the number of representatives in accordance with the number of parties in the State as also in Parliament.

While delimiting the assembly constituencies, it must be taken into consideration not to unnecessarily change the present parliamentary constituencies. This can easily be done. Today each comprises of six or seven assembly constituencies. If need be, the number for a constituency may be increased to seven or eight according to the population but the same parliamentary seat may be allowed to remain.

The last delimitation commission changed the parliamentary constituencies very much and they were constituted in such a manner that it became almost impossible if not difficult for a parliamentary candidate to reach every section of the electorate. The elections are becoming so costly affairs that the limit on the expenditure laid down by the Election Commission is almost a farce. If the constituencies are not contiguous, the net result will be that the election will be very much costlier and it will be very difficult for the ordinary people to stand for election.

I would, therefore, suggest that if at all any change is made in the constituencies it must be seen that the area is a contiguous area so that it will be easy for any candidate to approach the electorate, and to that extent at least the expenditure will be lessened.

The next thing that I want to point out is this. Although this Bill is almost a “must” according to the Constitution and a Delimitation Commission will have to be formed, but in view of the emergency I suggest that the implementation and the activities of the Commission may be deferred for the time being. Because, very recently, with the consent of all the parties concerned, the Election Commission has deferred all the by-

[Shri Prabhat Kar]

elections because at this moment all the energies of the people and the energies of all the parties should be diverted to the cause of the national defence. So under no circumstance should election work be conducted by the Election Commission. Because, you are quite aware that so far as the duties of this Delimitation Commission are concerned it may be pure and simple to delimit the constituencies, but with the movement of this Delimitation Commission from place to place, quite naturally there will be some political activities and the political parties will try their level best to organise the people with a view to presenting before this Delimitation Commission their viewpoints.

Under these circumstances, I feel that no harm will be done if at this moment, after the passing of the Bill, the implementation, the work of this Commission is deferred until the emergency is lifted, until the country is free from the aggressors and until the people come back to their normal functioning.

And I feel that it will not be very difficult in the sense that the next Election comes only in the year 1967; so it is not necessary that the work of this Commission should start immediately. And I would rather suggest that the Government gives a direction after the passage of this Bill to the Election Commission that although this Bill has been passed and the Delimitation Commission may be appointed, their activities must not start and they should not start during the pendency of the emergency period. This, I think, is most important and should be done.

Apart from this, as I have said, clause 5 should be so amended as to enable all parties to have their representation in the Commission so that they may be in a position to place their viewpoints before it.

With these words, I support the Bill.

Shri P. K. Deo (Kalahandi): Sir, instead of dilating on all the aspects of this Bill I would like to pin-point my observations on some of the glaring shortcomings that have been noticed in this Bill.

We all think of Kashmir as an integral part of this country. We cannot therefore appreciate the position envisaged in this Bill that this Bill will not extend to the Kashmir State.

An Hon. Member: The State of Jammu and Kashmir.

Shri P. K. Deo: Yes. As you know, the elections last time were conducted under the auspices of the Election Commission of India. We know that the election to this House from the Jammu and Kashmir State is not by direct election. But at the same time the election to the Jammu and Kashmir State Assembly is being made from the various constituencies, and it is, therefore, all the more necessary that the delimitation of the constituencies should be properly and scientifically done so far as the Jammu and Kashmir State is concerned. So I beg to submit that this Bill be extended to the State of Jammu and Kashmir, and at the same time, to the State of Nagaland. I do not think any persuasion would be needed for the Government to accept this simple amendment that I have tabled in this regard.

Regarding the delimitation of constituencies, I beg to submit that it is more or less a question of statistics because our main basis is the census figures, and it will be by the calculation of statistics that we have to find out how best the constituencies could be delimited, taking into consideration the physical features, the existing boundaries of administrative units, the communication facilities and public convenience.

From my experience of the working of the last Delimitation Commission, I beg to submit that it is not

always these considerations that weigh upon the decision of the Delimitation Commission. Sometimes they are influenced by party considerations. In this regard, I would like to cite two instances. So far as my constituency was concerned, in 1957 it was a double-member constituency. Fortunately, it has now become a single-member constituency. But at that time, I know how difficult it was for me to nurse the constituency and approach the people in different areas of that constituency. It was nearly 200 miles long. It spread right from the Raipur district of Madhya Pradesh to the Puri district, one of the coastal districts in the State of Orissa. For me, to go to the Phulbani district which was the other district which I had the privilege to represent, I had to pass through Koraput parliamentary constituency, then the Parvatipuram constituency in Andhra Pradesh, then the Visakhapatnam parliamentary constituency, then the Srikakulam parliamentary constituency, then the Berhampur parliamentary constituency and finally arrive in the Phulbani constituency. Fortunately, it has been split into two and it has become much simpler now. I beg to submit that while delimiting the various parliamentary constituencies then, even though we made protests that it would not be practicable for any man to represent his constituency properly if the constituency was delimited in this way, all our arguments fell on deaf ears; they never took notice of the lack of road communications there. Actually, there is no road communication between Phulbani and Kalahandi; it was difficult to represent such an unwieldy constituency.

I would now like to cite another example. This is an Assembly constituency which belongs to the district which is represented by the hon. Deputy Minister, and that is Puri district. Even though there was no suggestion that there could be a double-member constituency comprising Banpur and Daspalla, though, through the entire proceedings of

taking evidence and asking for suggestions, there was no proposal that there could be a double-member constituency comprising Banpur and Daspalla, at the last minute, we felt that some invisible hand pulled the strings, and it was published all of a sudden, to the surprise of everybody, in the gazette notification that Daspalla and Berhampur should be tied together to form a double-member Assembly constituency right from Chilka lake to Mahanadi. At that time, the stage of protest had already passed. We could not make any representation and we had to swallow the bitter pill. We feel that it was done only to defeat Pandit Godavaris Mishra, the former Finance Minister of Orissa and the President of our party. So, to put all obstacles in our way, that delimitation was done. To our misfortune, he did not live till the election time and we had to contest that double-member constituency. We lost one and the Congress Party lost one. So, considerations like this always come in the way of an impartial decision, which would have been more equitable and just.

In this connection, my remark will be incomplete if I do not mention regarding reservation so far as scheduled tribes are concerned. In clause 9(d), it is said:

“(d) constituencies in which seats are reserved for the Scheduled Tribes shall, as far as practicable, be located in areas where the proportion of their population to the total is the largest.”

In this regard, I beg to submit that the list of scheduled tribes differs from State to State. A particular tribe, Vattras, which is a scheduled tribe in Andhra Pradesh and Madhya Pradesh, is not a scheduled tribe in Orissa, even though they live in the contiguous Dandakaranya areas and have the same social status and economic background. They have not been included in the list of scheduled tribes of Orissa, because it will affect the interest of a particular Minister. If Vattras could be declared as sche-

[Shri P. K. Deo]

cluded tribe, the entire Koraput district would be a reserved seat and a particular Minister may not be able to be in this House and another in the Orissa Assembly. I submit that such considerations should not be there and there should be a more scientific approach to the subject.

I entirely agree with the suggestion made by the previous speaker, Shri Prabhat Kar, that associate membership should be more broad-based. At the moment, it is envisaged that only 3 M.P.s will be nominated by the Speaker and 4 M.L.A.s will be nominated by the respective Speaker of the Assembly, and they are to assist the Delimitation Commission. As you know, in every State, there are more than 3 political parties working. So, it is all the more proper that this figure should be enlarged, so that all political views could be represented in assisting the work of the Delimitation Commission.

Further, I beg to submit that the associate members should have the same voting rights as those of the members of the Commission. I cannot appreciate the argument why they will not have any right to vote or to arrive at any decision. If they are to be associated with the Commission, they should have full powers as any member of the Commission.

With these words, I support this Bill.

Shri C. K. Bhattacharyya (Raiganj): Sir, when it was decided that the House will be prorogued on the 23rd of last month, some of the Bills were put in cold storage and I believe this was one of such Bills. It has been revived with cease-fire and it has come before us now. The two coincided—the cease-fire was there and the House also was extended. So, it was practically accepted that this was not such a Bill which need be pushed through in the present Session. But since the session has been extended, it has come before us, though the

emergency is there. What I feel is, though there is a period of lull going on during these days, we are not yet out of the woods. Rather, from what is happening round about us at times I feel we are getting more and more entangled in meshes of diplomacy and I do not know how we will come out of it at the end and when this Bill, if it is passed into law, will come into operation.

The background of the Bill lies in the two articles 81 and 82, more in article 82 than in article 81. Article 82 provides that:

“Upon the completion of each census, the allocation of seats in the House of the People to the States and the division of each State into territorial constituencies shall be readjusted by such Authority and in such manner as Parliament may by law determine.”

So, since the census has been completed, it is now the time for Parliament to go into this matter, but it is not such a necessity that it must be gone into at once, because the general elections are still far off—1967—if things go on smoothly. But if things do not go on smoothly, perhaps the elections may be deferred beyond 1967. I do not know what is in store for us. Article 82 also provides:

“Provided that such readjustment shall not affect representation in the House of the People until the dissolution of the then existing House.”

So, whatever the recommendations of the Commission, the present House will continue as it is until the next general election comes. In that way, the Bill, even though passed, will not become effective till a general election is declared again by the Election Commission. That might be done in 1966 or later. So, as the hon. Member, Shri Prabhat Kar suggested, even if the Bill is passed into

Act, the Commission should not be constituted unless we find that we are in normal times. The Commission may be constituted, but it will remain ineffective. How will it work, say, in the case of a State like Assam? Situated as it is and conditions there being as they are, how can the Election Commission continue its work in Assam. It cannot. In other places, it can go, but it will divert public attention from more urgent things, to which we should devote our attention now. But in a State like Assam, the Commission cannot work at all.

Under these conditions, when is the Commission expected to submit its report? I apprehend it will be delayed and prolonged. If that is so and if the Commission is constituted, we will begin incurring expenses now, while the Commission will not be able to work. Expenses will be incurred at a time when we are making a drive for economy in all directions. That is a very important matter, which should be considered by the Government.

Coming to the Bill itself, there is great force in the suggestion that Jammu and Kashmir should be brought under the Bill and put on the same lines as the other States in India in the matter of elections. This may be easily done. Usually, the Acts that are passed in this House have always a distinguishing feature that Jammu and Kashmir is always excepted. But when the Defence of India Bill was passed, I was glad to find that the exception clause was not there. The Defence of India Bill was passed including Jammu and Kashmir. So, there is a procedure which you might enforce or which the Government may adopt, by which Jammu and Kashmir may be brought under the jurisdiction of this Bill. That can be done without any particular arrangement being made between this government and that government. That ought to be done.

There was one suggestion about the overlapping of constituencies in different districts. There is great force in that argument, that all the

constituencies should be composed of compact area. When I was hearing that argument put forward by some of my hon. friends, I was thinking of the constituency of our hon. lady Member, Shrimati Renuka Ray. Her constituency extends over the river Ganges—half of it is on the north of river Ganges and half on the south of river Ganges (*Interruption*). There are no bridges and Farakha is still to come.

Shri Prabhat Kar: The same thing with me.

Shri C. K. Bhattacharyya: How can you expect a candidate standing for the Parliament to run from this side of the river to that the other side to carry on the campaign? It is because of her personality that she has been able to carry the constituency with her all this time. This sort of constituencies should be avoided as far as possible and as far as practicable.

I had experience of this sort of constituencies in my own case. When these constituencies were made, in a particular area a constituency was situated in such conditions that the polling booths could not be arranged. Polling booths were arranged at a place where even jeeps could not go. I could not contact those places even in a jeep. There was no possibility of even a cart going there. I do not know what happened in the polling booths of those areas, and what safety and security arrangements could be made for the ballot boxes. This point should be particularly taken note of and when constituencies are made particular care should be devoted to the geographical conditions so that there is the possibility of contracting the different parts of the constituency by the candidate.

In the previous elections, when there were double-member constituencies, I had the experience of reaching part of the constituency in a jeep and part of it in a cart. There were areas where even a cart would not go. So I had to leave the cart

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and walk. These can be remedied if care is taken from the very beginning.

Mr. Speaker: These things can be pressed when the Delimitation Commission is set up.

Shri C. K. Bhattacharyya: The Delimitation Commission will certainly go through all that we are stating now.

Mr. Speaker: Hon. Members will have their say there also.

Shri C. K. Bhattacharyya: Another thing is, while working out the ratio between the members of West Bengal Legislative Assembly and the members representing West Bengal in this House and also the members of the U.P. Legislative Assembly and the members representing Uttar Pradesh in this House, I find that the ratio between the members of West Bengal Legislative Assembly and the Members of West Bengal in this House is higher than that in the case of Uttar Pradesh. U.P. has got for one Member a lower ratio than in the case of West Bengal. This has also to be worked out.

There was one suggestion put forward by Shri P. K. Deo. He said that the same caste which is a Scheduled Caste in one area is a non-scheduled caste in a different area. In my constituency, in the same constituency in one part a caste is scheduled and in another part the same caste is non-scheduled. That creates difficulties when nomination papers have to be filed.

Last of all—this is a major consideration and I do not know how Government will tackle it. With the increase in the adult population, the election is going to be a very big job. In the last election it was a bigger job than in the previous election and the number of polling booths had to be increased, about doubled at certain places. This time, with the increase

of population to 44 crores I do not know what the strength of adult votes in each constituency will be and how that will be tackled by dividing the constituencies. Unless the constituencies are divided in such a way that the number of voters in the case of each candidate becomes limited to an extent to which it is possible for him to contact the voters, each candidate will find himself in a difficult position and the Government themselves will find that they are in a difficult position in bringing about the electoral roll and managing polling booths for taking votes.

Mr. Spaker: I find that there are a very large number of hon. Members desiring to speak. Of course, I appreciate that desire. But the time that is allotted for this Bill leaves us 2 hours and 25 minutes for today. We began at 12.35. So, we have to finish by 3 O'Clock.

Shri Hari Vishnu Kamath: There are a number of amendments.

Mr. Speaker: About 60. We have to devote time for that also. So, I would like to be guided by the pleasure of the House.

Shri Hari Vishnu Kamath: The time may be extended by two hours.

Shri C. K. Bhattacharyya: When the time limit was fixed by the Deputy Speaker at three hours, it was only provisional. So, it may be extended by at least one hour.

Mr. Speaker: If we extend the time by one hour, we should finish by 4 o'clock. Then the general discussion should conclude by 2 o'clock because we require at least 2 hours for the 60 amendments which have been tabled.

Shri Prabhat Kar: Considering the number of speakers who want to participate I request that the time may be extended by 2 hours so that we may conclude the discussion by 5 o'clock.

Mr. Speaker: All right, I will extend the time by 2 hours. We will devote the whole day for this Bill. We must pass through all the stages and conclude the discussion by 5 o'clock. We will take up the clause by clause consideration at 3 o'clock. I find that 7, 8 or 9 minutes have been taken by each speaker. Since there are a large number of hon. Members wanting to participate in the discussion I would limit the time to 7 minutes for each hon. Member. Hon. Members ought to try to observe that time-limit and condense their remarks.

श्री श्रीनारायण दास (दरभंगा) : अध्यक्ष महोदय, जो विधेयक हमारे सामने विचार के लिये उपस्थित है, वह हमारे संविधान के अनुच्छेद ८२ और १७० से सम्बन्ध रखता है। जहां तक मेरा ख्याल है, इस विधेयक को सब प्राविज्ञ इस विषय के पुराने १९४२ के कानून के अधीन और उसके मुताबिक बनाये गये हैं। कई माननीय सदस्यों ने यह राय प्रकट की है कि अभी इस बिल पर अमल करने की आवश्यकता नहीं है, क्योंकि इस समय देश की राजनीतिक और सुरक्षा सम्बन्धी स्थिति ऐसी है, जिसमें इस काम को हाथ में लेने से लोगों का ध्यान एक महत्वपूर्ण वि. से हट कर एक ऐसे साधारण विषय की ओर खिंच जायगा, जो कि अभी आवश्यक नहीं है। हमारे संविधान में यह व्यवस्था की गई है— और उसी के अनुसार इस विधेयक में भी कहा गया है—कि हर एक मर्दमशुमारी के बाद लोक सभा में हर एक प्रदेश की सीट्स, हर एक प्रदेश में विधान सभा की सीट्स और लोक सभा तथा विधान सभाओं की कांस्टीट्यूएन्सीज को री-एडजस्ट करने के लिए संसद् द्वारा बनाये गये कानून के अनुसार एक अथारिटी की नियुक्ति की जायगी। मैं समझता हूँ जहां तक रि-एडजस्टमेंट का सवाल होता है, इसका अर्थ यह नहीं होता है कि नए सिरे से निर्वाचन क्षेत्रों का निर्माण किया जाए। इसका अर्थ

केवल इतना होता है कि जो निर्वाचन क्षेत्र अभी बने हुए हैं, उनमें थोड़ा बहुत इधर उधर परिवर्तन कर दिया जाए। लेकिन इस विधेयक के जो प्राविज्ञ हैं, उनको जब मैंने पढ़ा तो मुझे आश्चर्य हुआ। यह विधेयक संविधान की धारा के मुताबिक पेश किया गया है जिसमें कहा गया है कि रि-एडजस्टमेंट होना चाहिए। लेकिन वास्तव में उस धारा को न मान कर ऐसा मालूम पड़ता है कि नए सिरे से निर्वाचन क्षेत्रों का निर्माण करने के लिए इसे यहां उपस्थित किया गया है। इसको पढ़ने से ऐसा ही प्रकट होता है। मैं इस सम्बन्ध में आपका ध्यान विशेषकर धारा ८ की तरफ दिलाना चाहता हूँ, जिसमें कहा गया है :—

“The Commission shall, on the basis of the latest census figures and having regard to the provisions of articles 81, 170, 330 and 332, by order determine”

वगल में जो हेड लाइन दी गई है, उसमें तो कहा गया है, रि-एडजस्टमेंट आफ नम्बर आफ सीट्स। लेकिन धारा ८ का जो प्राविज्ञ है, उससे ऐसा मालूम होता है कि नए सिरे से तमाम निर्वाचन क्षेत्रों का डीलिटेशन किया जायगा। यह ठीक नहीं है। मैं समझता हूँ कि इसमें इस तरह के शब्द रहने चाहियें :—

“by order make readjustment in the number of seats”

अगर ऐसा किया गया होता तो मैं समझता हूँ कि यह संविधान की धारा के मुताबिक होता। डिटरमिन करने का अर्थ होता है, नए सिरे से तमाम निर्वाचन क्षेत्रों का निर्माण करना। लेकिन रि-एडजस्टमेंट का अर्थ जैसा मैं समझता हूँ, यह नहीं है। उसका अर्थ है, मामूली परिवर्तन करना। इस सम्बन्ध में मैंने कोई संशोधन नहीं दिया है, लेकिन मैं माननीय मंत्री जी से अनुरोध करूंगा कि वह इस पर विचार करें।

[श्री श्रीनारायण दास]

संविधान में दिया गया है कि जो अधिकारी नियुक्त किये जायेंगे इस कानून के त्रुताबिक, उनका यह काम होगा कि लोक-सभा और विधान सभा का जो नम्बर अभी तय है, उसमें अगर जरूरत पड़े तो इधर से उधर या उधर से इधर कुछ परिवर्तन कर दिया जाए और निर्वाचन क्षेत्रों का रिएडजस्टमेंट कर दिया जाए। किन्तु उनका यह काम नहीं है कि वे निर्वाचन क्षेत्रों का नए सिरे से निर्माण करें। इसलिए धारा ८ में जिन जिन संविधान की धाराओं का जिक्र किया गया है, उन पर ध्यान देने से मालूम पड़ता है कि हमारे जो अधिकारी होंगे या जो डिलिमिटेशन कमिशन होगा वह नए सिरे से निर्वाचन क्षेत्रों का निर्माण करेगा, जो कि मैं नहीं समझता इस बिल का मंशा है। जैसा मैंने अभी कहा जो डिलिमिटेशन कमिशन बनेगा उसका काम होगा सिर्फ रिएडजस्टमेंट करना इसलिये जो चुनाव चार वर्ष बाद होने वाला है, उसके लिये अभी से तैयारी करना ठीक नहीं है। अगर नये सिरे से निर्वाचन क्षेत्रों का निर्माण नहीं करना है और छोटे मोटे परिवर्तन ही करने हैं, वर्तमान क्षेत्रों का रिएडजस्टमेंट ही करना है, तो इसके लिये चार वर्ष पहले से काम शुरू कर देना मैं नहीं समझता उपयुक्त होगा। इसके लिये तो दो वर्ष का समय काफी था। हम दो वर्ष के बाद डिलिमिटेशन बना सकते थे और निर्वाचन क्षेत्रों में रिएडजस्टमेंट करने के लिये उसको कह सकते थे। लेकिन यह जो धारा है, यह ठीक नहीं है। इसके अनुसार जो डिलिमिटेशन कमिशन बनने वाला है, उसका स्कोप बहुत बड़ा है, इसके अनुसार जो वह नए सिरे से निर्वाचन क्षेत्रों का निर्माण करेगा।

इसी तरह से मैं आपका ध्यान क्लाज ६ की तरफ दिलाना चाहता हूँ। क्लाज ६ इस प्रकार है :—

"The Commission shall, in the manner herein provided, then

distribute the seats in the House of the People allocated to each State and the seats assigned to the Legislative Assembly of each State to single-member territorial constituencies and delimit them on the basis of the latest census figures."

यहां भी मैं समझता हूँ डिलिमिट बोर्ड को हटा करके

"They will make readjustment in the limitation of the same".

रख दिया जाना चाहिये। डिटरमिन का अर्थ होता है, पूरे तरीके से, नए सिरे से निर्धारित करना। जो शब्द दिय गये हैं, उससे इलैक्शन कमिशन को भी कुछ गलत-फहमी हो सकती है। संविधान के अनुसार जितने अधिकार इसके होने चाहिये, उससे कुछ ज्यादा अधिकार इसको मिल जायेंगे। अगर डिलिमिटेशन कमिशन नये सिरे से निर्वाचन क्षेत्रों का निर्माण करेगा, तो उस में विरोध करने की कोई गुंजाइश नहीं रह सकेगी।

अभी यहां कहा गया है कि जो एसोसिएट मैम्बर होंगे, जोकि कमिशन के साथ रखे जायेंगे, उनको पूरा पूरा अधिकार होना चाहिये। मैं समझता हूँ कि यह एक बहुत भारी सिद्धान्त की बात है। पहले ऐसा हुआ करता था कि विधान सभा हो या संसद, चुनाव सम्बन्धी या डिलिमिटेशन सम्बन्धी सारा काम संसद के द्वारा हुआ करता था। लेकिन चूंकि संसद में कई तरह की पार्टियां रहती हैं और एक बहुमत पार्टी होती है और दूसरी अल्पमत पार्टियां होती हैं, इसलिये इस काम को करने के लिये एक अलग कमिशन की नियुक्ति हो रही है। जब अलग कमिशन की नियुक्ति हो रही है तो कुछ मैम्बरों को जो एसोसिएट मैम्बरज के तौर पर लिया जा रहा है, उचित ही किया जा रहा है। लेकिन जहां तक इन एसोसिएट

मैम्बरों के अधिकारों का प्रश्न है, मैं समझता हूँ कि उनको केवल सुझाव देने का ही अधिकार होना चाहिये और जहाँ तक अधिकारों का प्रश्न है, पूरे के पूरे अधिकार कमिशन के पास रहने चाहियें। जब कभी कोई इंडिपेंडेंट कमिशन का निर्माण किया जाता है, तो वह इसलिये किया जाता है कि न केवल बहुमत पार्टी को बल्कि सभी दूसरी पार्टियों को भी संतोष हो। इस वास्ते मैं समझता हूँ कि जो एसोसिएट मैम्बर हैं, उनके वही अधिकार रहने चाहियें, जो पहले थे और उनको किसी भी प्रकार से बोट देने का अधिकार नहीं होना चाहिये। जो साधारण मैम्बर होंगे, डिलिमिटेशन कमिशन के उनको ही ये अधिकार होने चाहियें।

इन शब्दों के साथ मैं इस विधेयक का समर्थन करता हूँ।

अध्यक्ष महोदय : छ: मिनट के बाद में पहली घंटी बजा दूंगा और उसके एक मिनट के बाद दूसरी। तब माननीय सदस्यों को बन्द कर देना चाहिये।

Shri Hem Raj (Kangra): Mr. Speaker, Sir, I support this Bill. I also support the suggestions of some of the Members that the number of Associate members from the Lok Sabha and the Assembly should be increased.

In so far as the Punjab is concerned, as you know, there are two reasons. One is, there are so many political parties both in the Legislative Assembly as well as in the Lok Sabha which are to be represented. At the same time, there are, as you know, two regions in the Punjab. When certain members are represented on these bodies as associate members, if representatives are taken from the Punjabi region, the Hindi region will remain un-represented and if representatives are taken from the Hindi region, the Punjabi region will remain

unrepresented. As there is division in the Punjab, I say that the number of members, both from the political point of view and from the point of view of regions, should be increased.

There is another point which I want to submit. So far as the border districts which we have created recently are concerned, I make a bold suggestion that they should be treated on a par with the N.E.F.A. area. They are inaccessible areas. So far as Lahoul and Spiti and Kinnaur in Himachal Pradesh are concerned, the population is very small. In the Himachal Pradesh area, the density of population in the Kinnaur district is 16. In Lahoul and Spiti, the density of population is only 4. If the area is taken Lahoul and Spiti is 5000 square miles and the Kinnaur district is 3500 square miles. I say that area should be treated on a par with the N.E.F.A. Members should be nominated from these areas. My election takes place four months later than the rest of the country. This time, it took place two months later. It will obviate the necessity of postponing the election in the Kangra parliamentary constituency and at the same time, it will give representation to the people of the border areas who will be, due to the emergency, always under fear of some kind or other. Moreover, these members will be in a position to represent the views of the people of these areas.

Thirdly, in clause 8 it has been stated that the Assembly seats shall be a multiple of the number of the parliamentary constituency. So far as my Kangra parliamentary constituency is concerned, I will cite an example. On the map, you will see it is a contiguous whole. There is a corridor. What kind of a corridor is that? It is a corridor which connects the mountains of Kulu proper and Lahoul and Spiti. The corridor runs parallel to a mountain range, ranging from 12,000 to 16,000 feet high, always snow bound. There is no road. A person like myself has to travel three parliamentary constituencies, one of Shri Chattar Singh, Chamba, another of Shri Lalot Sen, Mandi and another

[Shri Hem Raj]

of Virbhandra Singh, Rampur-Bushire. If I have to cover my constituency, I have to go through three parliamentary constituencies. I would submit that the geography has never been taken into consideration. So, when delimiting the constituency, at least for the Assembly constituency, so far as the Kulu area is concerned, the minimum population must be fixed beforehand, so that no portion of the Kangra area proper be mixed with that area for assembly constituencies.

In the present constituency, what happens is that one zail is tacked on with the Kulu people. The Kulu MLA never visited that Kangra area with the consequent result that those people have remained unrepresented. Consequently, this time, they were boycotting the elections. It was after a hard struggle that we were able to persuade them to participate in the elections.

So, I would suggest to the Commission that while delimiting the constituencies, they should not go beyond the administrative unit of the block; they should certainly fix it at the block level. After fixing the minimum population so far as the Kulu constituency is concerned, the rest of the population has to be divided in the rest of the assembly constituencies Kangra Parliamentary Constituency. It is only in that way that that area can be well served.

There is one thing more that I would like to place before Government for the purpose of giving representation to the people in the border area. It may be argued that it is not possible to do so because it is not provided for in the Constitution, but then I would submit that there is sufficient time with Government to push on with the necessary amendment to the Constitution to give representation to those areas. At the same time, due to our present emergency even if the necessary Bill is passed, it may actually take a long time: As I have seen in the proceedings of

the last Delimitation Commission, it takes a very long time, because so many witnesses are produced and so on.

Mr. Speaker: Now, the hon. Member should not take a very long time.

Shri Hem Raj: I am finishing.

So, the Delimitation Commission may postpone its proceedings till the emergency lasts.

श्री बड़े (खारगोन) : अध्यक्ष महोदय, यहां पर यह कहा गया है कि यह जो डिलिमि-
टेशन बिल लाया गया है वह संविधान की
धारा ८२ के वास्ते लाना जरूरी था ।
लेकिन अगर इस बिल की प्राविजन्स को देखा
जाय तो यह प्रतीत नहीं होता कि जम्मू
और काश्मीर को इस में से छोड़ देने से शासन
का क्या उद्देश्य है । मैं चाहता हूँ कि इस में
जम्मू और काश्मीर को सम्मिलित कर लिया
जाय, और इस वास्ते जो कुछ पहले वक्ताओं
ने कहा है, मैं उस से सहमत हूँ ।

मैं ने देखा है कि सन् १९५२ में डिलि-
मिटेशन एक्ट पास हुआ और उस के बाद
हमारे मध्य प्रदेश में वैंस्ट नेमाड़ की कांस्टि-
टुएन्सी राजपूर को २१ दिसम्बर ६२ को
बदला गया । उस वक्त मध्य भारत के
विरोधी सदस्य उस के एसोशिएट मेम्बर
थे उन की मार्फत तार दिया गया कि वैंस्ट
भेवाड़ की कांस्टिटुएन्सी को राजपुर और
सैंधवा में बदल देने से असुविधा होती है ।
लेकिन उस का उत्तर नहीं दिया गया । तार
भेजा गया, पत्र भेजा गया तब भी कोई
जवाब नहीं दिया गया । लेकिन जब
वह मेम्बर स्वयम् जा कर मिले तब उन्होंने
कहा :

"This delimitation is made for administrative convenience and not for the convenience of the members or public".

उन्होंने बतलाया कि उन्होंने कहा कि पंचवा एक डबलमेम्बर कांस्टिट्यूएन्सी है उस को तो आप आदिवासी कांस्टिट्यूएन्सी करते हैं और राजपुर जो एक जनरल कांस्टिट्यूएन्सी है उस को आप आदिवासी कांस्टिट्यूएन्सी करते हैं इस का क्या मतलब है ? उस की जो बाउंड्री है उस में दो तहसीलें छोड़ कर दो गांव दूसरी तहसील के और छोड़ कर उस को आप ने आदिवासी कांस्टिट्यूएन्सी कर दिया । इस तरह से देखा जाय तो पता चलेगा कि जिस क्षेत्र से विरोधी दल का सदस्य जीत कर आता है, डिलिमिटेशन बिल ला कर उस पर असर डाला जाता है । आज जनता में यह साधारण भावना है कि जहां से भी विरोधी दल का सदस्य जीत कर आता है उस क्षेत्र पर डिलिमिटेशन बिल ला कर कुठाराघात किया जाता है । डिलिमिटेशन बिल का इस के अलावा और कोई अर्थ नहीं है । इस में जो सेक्शन ६(ए) है उस में दिया हुआ है :

"all constituencies shall, as far as practicable, be geographically compact areas, and in delimiting them regard shall be had to physical features, existing boundaries of administrative units, facilities of communication and public convenience".

वास्तव में देखा यह जाता है कि इस में जो रूलिंग पार्टी होती है उस का सारा झगड़ा होता है । रूलिंग पार्टी के लोग अपने आदमियों को इस के सम्बन्ध में जो टेलिफोन करते हैं अगर उन को टेपरेकार्ड किया जाय तो मालूम होगा कि रूलिंग पार्टी की ओर से कितना प्रभाव डाला जाता है । विरोधी दलों को वहां से हटाने के लिये जो दूर दूर के स्थान होते हैं उन को मिला दिया जाता है । ७०, ७० मील दूर के गांवों को एक कांस्टिट्यूएन्सी से निकाल कर दूसरी कांस्टिट्यूएन्सी में मिला दिया जाता है । इस तरह से जो डिलिमिटेशन होता है वह नहीं होना चाहिये ।

इस के साथ ही मैं यह भी कहना चाहता हूँ कि जो एसोशिएट मेम्बर होते हैं उन की तादाद ज्यादा होनी चाहिये । इस से कम से कम यह होगा कि वहां पर कुछ इन्फ्लुएन्स उन का रहेगा । अगर वे वहां नहीं रहेंगे तो रूलिंग पार्टी के जिस इन्फ्लुएन्स का जिक्र में न किया है वह वहां ज्यादा रहेगा । इस तरह की बात नहीं होनी चाहिये । इस तरह की चीज वहां प्रिवेल न करे, इस के लिये आप ने क्या प्राविजन किया है ? एसोशिएट मेम्बरों को वोट देने का अधिकार भी नहीं है, यह भी गलत है । एसोशिएट मेम्बरों को वोट देने का अधिकार न होने से जो कुछ वह कहते हैं वह केवल एक राय भर होती है । उन के राय देने पर भी कमिशन को जो करना है वह तो वह कर सकता ही है और एसोशिएट मेम्बर की बात नहीं सुनी जाती है ।

इस के साथ ही यह भी कहा गया है कि एसोशिएट मेम्बर अपनी ओपीनियन दे सकता है लेकिन उस ओपीनियन को मानना कमिशन के लिय ज़रूरी नहीं है । यह जो प्राविजन है वह ठीक नहीं है । इस के होते हुए डिलिमिटेशन बिल लाने का कोई अर्थ नहीं होता है । अगर एसोशिएट मेम्बरों को वोट देने का अधिकार दिया जाता है तब तो इस डिलिमिटेशन बिल को लाने का कोई लाभ हो सकता है अन्यथा कोई लाभ नहीं है । अगर यह नहीं किया जाता तो जितने भी मध्य प्रदेश के विरोधी दल के लोग हैं उन में यह भावना उत्पन्न हो जायगी कि यह जो बिल रक्खा गया है वह केवल मध्य प्रदेश के विरोधी दलों के लोगों को मजबूर करने के लिये और दबाने के लिये रक्खा गया है, इस के जरिये से वहां पर एडमिनिस्ट्रेटिव यूनिट्स नहीं बनाये जायेंगे । इस के अलावा रूलिंग पार्टी का और क्या उद्देश्य इस के लाने में हो सकता है ?

इसी तरह से एक जगह रक्खा गया है "लार्जस्ट नम्बर आफ आदिवासीस" । इस से उनका क्या अभिप्राय है ? इस में लिखना

[श्री बडे]

चाहिये कि जहां पर ३० परसेन्ट या ४० परसेन्ट कंसेंट्रेशन होगा। इस वास्ते में विनती करता हूँ कि जैसा आप आदिवासियों के लिये अक्सर कहते हैं उन के लिये आप के अन्दर ह्यूमन काइन्डेनेस है, उस को देखते हुए "लाजस्ट नम्बर" कह देना काफी नहीं है।

इन शब्दों के साथ में कहना चाहूंगा कि जो अमेंडमेंट दिया गया है उस को मंत्री महोदय मंजूर कर लें।

Shri Karuthiruman (Gobichettipalayam): Mr. Speaker, Sir, I rise to speak in support of the Delimitation Commission Bill. I want to bring forward certain suggestions. In Madras there are 41 parliamentary constituencies, each of which has five local assembly constituencies. The previous Commission did not do things fairly as far as Madras State is concerned.

They say here that all constituencies shall be geographically compact areas with facilities of communication and public convenience. But how? How is my constituency delimited? I shall show why I say this. There are certain areas in my constituency. Talawadi firkha is in Gobichettipalayam. But it has been added to Bhavani taluk. I do not know for what propangda purpose it is done like that. A person from Bhavani has to pass 110 miles through Gobichettipalayam to reach that Talawadi firkha. But Talawadi firkha is adjacent to Satyamangalam, which is part and parcel of that area. I do not know how it has been added to Bhavani taluk. Previously, in 1952 elections, it had been a part of Nambiyur constituency. When the double-member constituency was shifted into and named as Bhavani double-member constituency, then, unfortunately, the entire Bhavani taluk plus Talawadi firkha were combined; Talawadi firkha was added on to Bhavani taluk.

I want to bring to your notice one thing; in spite of what the Madras Chief Minister, Shri Kamaraj, wrote to the Delimitation Commission, in 1956, those points have not yet been given adequate consideration at all. I do not know under what pressure or under what circumstances these people are going to take into consideration all these things.

I want to bring to your notice one small thing that is prevalent in the rural areas, and that is about the geographical position of Talawadi firkha. When the Delimitation Commission Member came to my district,—Coimbatore district—we had been arguing that Talawadi firkha should not be added to it. Then he said that only the population basis and the census basis would be relied upon. Standing inside the river, just to a depth of two feet, if one wanted to cross the river, the average depth at three places is taken; they walk on the river at one place. In one place, the depth may be ten feet. A depth of 14 feet is arrived at and it is divided into three! The Delimitation Commission says that there is only a population of five lakhs; "add this and subtract that". So, the constituency has been delimited like that. It is unjustified. Even the language in Talawadi firkha is Kannada and in the area of Bhavani taluk, it is non-Kanarese. The Commission said that when single-member constituencies are formed, this question would be considered. But when the question of delimitation of double-member constituencies was taken up, when the question of splitting them into single-member constituencies came up, they said, "It is only the existing double-member constituencies that will be split; no more additions or no more subtractions". Even from the practical point of view, considering the nature of the Bhavani river and hilly the terrain of Talawadi firkha that firkha could not be in another constituency. I request that this point should be taken into consideration,

namely, Talawadi firka should be in the Gobichettipalayam taulk and should be in the Satyamangalam firka. It should not be treated in any other way. Fortunately, when I was a member of the Madras Legislative Assembly, twice, they said: "You go to Parliament and then argue the case there." (*Interruption*). I am sorry to say that the then Member of Parliament from that area could not have represented this part.

Mr. Speaker: After completing his mission, here, would he like to go back?

Shri Karuthiruman: I would like to go to the front and render service in fighting against the Chinese. Without being a Member, I can do more service and do more work, so that I can accommodate some other people who are very anxious to come to politics.

In respect of the suggestion made by Shri S. M. Banerjee, I would also like to say that in some areas there are seven Assembly constituencies and in some areas there are eight. But in Madras, we are having only five Assembly constituencies for every parliament constituency. If possible, a proportionate area should be given for all parliamentary constituencies in all States, so that there will be equal chances for all the parliamentary constituencies and also one State cannot have any undue advantage over other States.

श्री भक्त दर्शन (गढ़वाल) : अध्यक्ष महोदय, मैं इस विधेयक का हृदय से समर्थन करता हूँ। अभी हमारे कुछ माननीय मित्रों ने यह मुझसे दिया कि क्योंकि हम बड़ी असुधारण परिस्थिति से गुजर रहे हैं इसलिए इस विधेयक पर विचार नहीं किया जाना चाहिए। मैं समझता हूँ कि सरकार का मंशा यह है कि वह इस विधेयक को स्वीकार करके यह दिखाना चाहती है कि चाहे हमारे देश पर कितनी ही आपत्ति आए, हम लोकतंत्री प्रणाली में विश्वास करते हैं और उस पर अमल करना चाहते हैं।

इस विधेयक की धारा ३ में लिखा है :
"As soon as may be after the commencement of this Act,"

इसकी वजह से सरकार के लिए अनिवाय हो जाएगा कि इस अधिनियम के बनते ही जल्दी से जल्दी कमीशन को नियुक्त कर दी जाए। मैं समझता हूँ कि इस पर सरकार को विचार करना चाहिए, और अभी जो चार वर्ष का समय रहा हुआ है उसके होते हुए भी इसको तो पास कर दिया जाए, लेकिन जब देश में अनुकूल वातावरण हो, और लोगों के दिमाग ठीक हों तब इस पर अमल किया जाए तो ज्यादा उचित होगा।

जो कुछ मेरे मित्रों ने जम्मू काश्मीर राज्य के सम्बन्ध में कहा है उसका भी मैं समर्थन करना चाहता हूँ। मेरी समझ में नहीं आता कि जब चुनाव आयोग के कार्य क्षेत्र के अन्तर्गत जम्मू काश्मीर राज्य को ला दिया गया है और वहाँ संविधान की धारा भी धाराएं लागू कर दी गयी है तो इस डिलिमिटेशन कमीशन के कार्य क्षेत्र से उस राज्य को क्यों वंचित किया जा रहा है। यह न्यायपूर्ण नहीं मालूम होता। माननीय उपमंत्री महोदय ने इस विधेयक को प्रस्तुत करते हुए इस सम्बन्ध में कुछ बातें कही थीं। दुर्भाग्य से उस समय मैं उपस्थित नहीं था। लेकिन मैं आशा करता हूँ कि वह इस पर गम्भीरतापूर्वक विचार करेंगे।

इस विधेयक की धारा ५ में यह उल्लेख किया गया है कि प्रत्येक राज्य में तीन लोक सभा के और चार विधान सभा के सहयोगी सदस्य नियुक्त किए जायेंगे, लेकिन राज्य की जो परिभाषा की गयी है उसमें कहीं भी यूनिटरी टैरिटरी (संघीय क्षेत्रों) का जिक्र नहीं किया गया है। यह समझ में नहीं आता कि संघीय क्षेत्रों में, जैसे हिमाचल प्रदेश, दिल्ली या मणिपुर त्रिपुरा में या दूसरे क्षेत्रों में यह कमीशन किस तरीके से काम करेगा। यह स्पष्ट नहीं किया गया है। वहाँ के लिए भी लोक सभा के सदस्य हैं और वहाँ टैरिटोरियल

[श्री भक्त दर्शन]

काउंसिलें हैं और दिल्ली में तो नगर निगम है जो टैरीटोरियल काउंसिल की जगह काम करता है। इन क्षेत्रों के लिए भी अन्य राज्यों की तरह से सदस्य नियुक्त क्यों न किए जाएं। मैं समझता हूँ कि मंत्री महोदय इस सम्बन्ध में निर्णय करने की कृपा करेंगे।

धारा ६ में लिखा है कि किस तरह से यह कमीशन निर्वाचन क्षेत्रों का सीमा निर्धारण करेगा। इसमें जो सन्दावली दी गयी है वह इस प्रकार है :

“regard shall be had to physical features, existing boundaries of administrative units, facilities of communication and public convenience;”

लेकिन इस सम्बन्ध में मैं माननीय मंत्री महोदय का ध्यान विशेष रूप से पर्वतीय इलाकों की ओर दिलाना चाहता हूँ जहाँ कि यातायात की बड़ी कठिनाई है। इस का अभी मुझे से पहले मैरे मित्र श्री हेमराज जीने भी जिक्र किया था। अगर हम साढ़े सात लाख जनसंख्या का जो मानदंड है उसको पर्वतीय क्षेत्रों पर भी लागू करे तो यह न्यायपूर्ण न होगा बल्कि वहाँ के लोगों के साथ अन्याय होगा।

इसके अतिरिक्त मैं यह भी निवेदन करना चाहता हूँ कि कोई कोई निर्वाचन क्षेत्र तीन तीन जिलों में फैले हुए हैं। मैं यहाँ पर किसी माननीय सदस्य का नाम नहीं लेना चाहता लेकिन वह सदस्य मुझे क्षमा करेंगे कि उनके बहुत से निर्वाचक यह शिकायत करते हैं कि वे अपने निर्वाचन क्षेत्र की तरफ ध्यान नहीं देते। लेकिन जब तीन तीन जिलों में एक निर्वाचन क्षेत्र फैला हो तो सदस्य के लिए उस पर ध्यान देना कठिन हो जाता है। कुछ निर्वाचन क्षेत्र इस प्रकार बनाए गए हैं कि

कहीं की ईंट कहीं का रोड़ा,

भानमती ने कुनबा जोड़ा।

इसलिए मेरा निवेदन है कि निर्वाचन क्षेत्र बनाने के बारे में ऐसी हिदायत होनी चाहिए

कि जहाँ तक सम्भव हो एक जिले का ही एक निर्वाचन क्षेत्र होना चाहिए, और यदि ऐसा सम्भव न हो तो दो जिलों से ज्यादा का तो कभी नहीं होना चाहिए। क्योंकि तीन या चार जिलों में एक निर्वाचन क्षेत्र के फैले होने से बड़ी असुविधा होती है।

दूसरी बात मैं यह कहना चाहता हूँ कि इसमें जहाँ परिगणित जातियों के लिए सुरक्षित स्थान रखने की व्यवस्था की गयी है वहाँ लिखा है कि—

“as far as practicable, in those areas where the proportion of their population to the total is comparatively large;”

मुझे उन इलाकों में जाना पड़ा जहाँ इस प्रकार की सुरक्षित सीटें रखी गयी हैं। वहाँ के लोगों का कहना है क्या आखिर हमारा ही ठेका है और ये सीटें हमारे सिर पर ही क्यों थोपी गयी हैं। बहुत लोगों का यह सवाल है कि इस सवाल पर इस सदन में विचार होना चाहिए क्योंकि यह मौलिक अधिकारों का प्रश्न है। उन लोगों की जो इन इलाकों में परिगणित जातियों के नहीं हैं यह शिकायत है कि इस प्रकार आप उनको निर्वाचित होने के अधिकार से वंचित कर रहे हैं। मैं समझता हूँ कि इसमें कुछ ऐसी हिदायत होनी चाहिए कि ये सुरक्षित स्थान रोटेशन से अलग अलग क्षेत्रों में रखे जाएं ताकि सभी के हिस्से में आ जाएं। अगर इस चीज पर, कि जहाँ इन की जन संख्या ज्यादा है वहाँ ये सुरक्षित स्थान रखे जाएं, और इस पर दृढ़ता से अमल किया गया तो मुझे शंका है कि वहाँ के सर्वण लोगों को बहुत बड़ी शिकायत होगी और उनको यह कहने का मौका हो जाएगा कि हमको हमारे अधिकारों से वंचित किया जा रहा है। अतः मैं समझता हूँ कि मंत्री महोदय इस पर विचार करेंगे ;

श्रीमान्, मुझे इतना ही कहना बा
घन्यवाद।

18.39 hrs.

[MR. DEPUTY-SPEAKER in the Chair]

श्री राम प्र० सिंह (छपरा) : माननीय उपाध्यक्ष महोदय, परिसीमन आयोग विधेयक १९६२ का जो सदन के समक्ष न्याय मंत्री द्वारा उपस्थित किया गया है, मैं स्वागत करता हूँ ।

इस विधेयक द्वारा संविधान के आदेशानुसार एक यंत्र का संगठन करने की व्यवस्था की गयी है जिसके ज़िम्मे विभिन्न राज्यों में संसद की सीटों का बटवारा करना, विधान सभाओं के लिए सीटों की तादाद को निश्चित करना एवं विधान सभा तथा लोक सभा के लिए चुनाव क्षेत्रों का संगठन करना है । यह विधेयक सन् १९५२ के परिसीमन आयोग कानून से थोड़ा बहुत भिन्न है । यह जो मशीनरी बनेगी इसके सदस्य दो प्रकार के होंगे, एक एसोसिएटेड सदस्य और दूसरे साधारण सदस्य । साधारण सदस्यों में दो हाईकोर्ट के जज होंगे, जो या रिटायर्ड हों या हाई कोर्ट में काम करने वाले हों और तीसरे चीफ इलेक्शन कमिश्नर एक्स आफिशियो चैयरमैन होंगे ।

सम्बन्धित सदस्यों के अधिकार सीमित कर दिये गये हैं और उन्हें केवल सलाह देने का ही हक होगा और अंतिम फैसला पूरे सदस्य ही करेंगे । एलेक्शन कमिशन के जो तीन सदस्य हैं अंतिम फैसला उन्हीं सदस्यों को करना है । यह जो असोसियेटेड मेम्बर्स या सम्बन्धित सदस्य हैं इन लोगों की सीमा केवल सलाहकार तक ही रही है । इस बारे में मेरा कहना है कि सम्बन्धित सदस्यों के अधिकारों को जो इस तरह से सीमित किया गया है कि उन को अंतिम फैसले में कोई अधिकार नहीं होना चाहिए, यह उचित नहीं जंचता । मैं मानता हूँ कि हाईकोर्ट के जजेज कानून की दृष्टि में बहुत पंडित हो सकते हैं लेकिन व्यावहारिक दृष्टि से जैसा क्षेत्रों का संगठन होना चाहिए

और क्षेत्रों की बनावट, भौगोलिक दृष्टि और स्थानीय महत्व आदि के सम्बन्ध में उनके ज्ञान और अनुभव में कमी होना सम्भव है । वे कानून के विला दक बड़े पंडित हैं लेकिन क्षेत्रों की सुगमता तथा कठिनाइयों का अनुभव उन्हें नहीं होगा और उसमें वे अनभिज्ञ होंगे । इन बातों का ज्ञान सम्बन्धित सदस्य जो कि लोक-सभा और विधान सभा के सदस्यों में से ही बनाये जायेंगे उनका ज्ञान अपेक्षाकृत अधिक होगा । ऐसी स्थिति में मैं समझता हूँ कि एसोसियेटेड मेम्बर्स को जिनको कि स्थानीय मामलों का विशेष अनुभव है, उन को अधिकार न देकर केवल कानून के पंडितों और कानून के अनुभवी लोगों को ही दिया जाये यह उचित नहीं जंचता है ।

उपाध्यक्ष महोदय, इस विधेयक में यह भी बताया गया है कि इन्हीं तीन में जो मेजस्ट्रीटि या बहुमत होगा उसी का फैसला सब के लिए मान्य होगा । मुझे भय है कि कभी ऐसी परिस्थिति आ सकती है कि जो उस समिति के फुल मेम्बर्स हैं, पूरे मेम्बर्स हैं, उन तीन में से दो गैरहाज़िर हों और सातसम्बन्धित उपस्थित सदस्यों की एक राय हो तो भी एक फुल फ्लेज्ड मेम्बर जो कि उपस्थित है उस एक ही सदस्य का विचार इन सातों सदस्यों के विचारों से सर्वोपरि हो जायेगा । ऐसी परिस्थिति में मेरा यह दृढ़ मत है कि सम्बन्धित सदस्यों का जिनका कि ज्ञान स्थानीय मामले में जज लोगों से कहीं अधिक है, उन को पूरा पूरा अधिकार रहना चाहिए क्योंकि मतदाताओं की दिक्कत और उम्मीदवारों की कठिनाइयों का ज्ञान सम्बन्धित सदस्यों को उन फुल फ्लेज्ड मेम्बर्स से ज्यादा होगा ।

उपाध्यक्ष महोदय, सम्बन्धित सदस्यों के गठन के बारे में एक सुझाव मुझे यह देना है कि कभी कभी अनुभवों के आधार पर देखा गया है कि विधान सभाओं की मंत्रि-परिषदों को सदस्यों को ही विशेष कर सम्बन्धित सदस्य बनाया जाता है । नतीजा यह होता है

[श्री रा० प्र० सिंह]

कि चूँकि उन के पास समय की कमी रहती है इसलिए इस काम में जितने समय की आवश्यकता है, जितना समय उन्हें देना चाहिए, उतना व लोग नहीं दे सकते हैं। जहाँ तक अनुभव का सवाल है अनुभव तो उन्हें भी काफी होता है लेकिन समय की तंगी के कारण वे आवश्यक समय इस काम में नहीं भी दे सकते। ऐसी परिस्थिति में इस विधेयक के सम्बन्ध में उन से जो सहायता मिलनी चाहिए और जो साधारण सदस्य विधान-सभाओं के दे सकते हैं, वह मंत्री लोग नहीं दे सकते हैं। ऐसी स्थिति में मेरा यह दृढ़ मत है कि सम्बन्धित सदस्यों को लेते समय यह ख्याल रखा जाये कि यदि आवश्यक हो तो प्रदेश का एक मिनिस्टर से अधिक सम्बन्धित सदस्य न बनाया जाये। भरसक प्रयत्न तो इस बात के लिए हो कि मिनिस्टर्स को बनाना ही नहीं चाहिए लेकिन अगर बनाना आवश्यक हो तो एक से अधिक मिनिस्टर्स को सम्बन्धित सदस्य न बनाया जाये।

रिज़रवेशन के बारे में कहा गया है कि रिज़रवेशन आफ़ सीट्स, जहाँ राइयून्ड कास्ट्स के लोगों का बहुमत हो, दिया जाये लेकिन कुछ रोटेशन का भी ख्याल रखना चाहिए। जैसा कि श्री भक्त दर्शन ने बतलाया कि बार-बार एक क्षेत्र में रिज़रवेशन होने से लोगों का ऐसा ख्याल हो जाता है कि ये सीटें एक ही कांस्टीट्यूएन्सी में रख कर उन के सिर के ऊपर लादी जाती हैं। इसलिए मैं समझता हूँ कि इस में कुछ ऐसी व्यवस्था होनी चाहिए कि सुरक्षित स्थान रोटेशन से अलग अलग क्षेत्रों में रखे जाये ताकि सभी के हिस्से में आ जायें।

इस विधेयक की धारा ९(१) में परिसेमन की प्रणाली निश्चित की गई है जिसमें बतलाया गया है कि क्षेत्रों के सीमा निर्धारण के समय क्षेत्र के सटैपन, भौगोलिक

निकटता, आवागमन की सुविधा एवं प्रशासन सम्बन्धी वर्तमान श्रक्षुण्णता पर ध्यान दिया जायेगा। इस सम्बन्ध में मुझे कहना है कि आखिर यह एडमिनिस्ट्रेटिव यूनित का सब से छोटा रूप किस को माना गया है? अभी तक तो थानों को एडमिनिस्ट्रेटिव यूनित बना कर यह चुनाव क्षेत्र बनाये जाते रहे हैं और ऐसा देखा जा रहा है कि एक थाना या उसके कुछ भाग को दूसरे थाने में काट कर मिला दिया जाता है। अगर पंचायतों को, डेवलपमेंट कमेटी या थाना को विधान सभा का चुनाव क्षेत्र मान कर या इसी आधार पर जिन की कि सीमा बहुत ज्यादा है, एडमिनिस्ट्रेटिव यूनित का भी पुनः संगठन हो जाये तो मैं समझता हूँ कि यह काम ठीक से हो सकेगा। इन शब्दों के साथ मैं इस विधेयक का समर्थन करता हूँ।

श्री विभूति मिश्र (मोतिहारी) : उपाध्यक्ष महोदय, मैं जानना चाहता हूँ कि बोलने के लिए इच्छुक लोगों को अपना नाम लिख कर देना पड़ता है अथवा आप की आंख कंच करने का सिस्टम है?

उपाध्यक्ष महोदय : आप का नाम मेरे पास है।

श्री ह० च० सोय (सिंहभूम) : उपाध्यक्ष महोदय, इस बिल के प्राविजंस को देखने से लगता है कि यह जो डिलिमिटेशन होगा इस में इस कमिशन को सारे चुनाव क्षेत्रों में परिवर्तन करने का अधिकार है। होना तो यह चाहिए कि कम से कम परिवर्तन कर के यह डिलिमिटेशन हो तो बेहतर है। इसलिए मैं मंत्री जी से दरखवास्त करता हूँ कि इस बिल में वह कुछ ऐसा इंतज़ाम कर दें जिससे कि कम से कम हेर फेर हो।

एसोशिएट मेम्बर्स के बारे में विचार किया गया। मेरा ध्येय ख्याल है कि बिलकुल एसोशिएट मेम्बर्स न रखे जायें।

सिर्फ लोगों को कमिशन के सामने अपनी बातें रखने का अधिकार दिया जाये। जैसा कि अभी इस बिल में दिया गया है कि एसोशिएट मम्बरस को हम रखते ही हैं तो यह जरूरी है कि यह काफी ब्रौडवेस्ट हो। ऐसा कांस्टीट्यूशन हो कि एक स्टेट में सभी पोलिटिकल पार्टीज और ग्रुप्स को मौका मिल सके। एसोशिएट मम्बरस को क्या अधिकार हों इस सम्बन्ध में माननीय सदस्यों ने अपने सुझाव दिये हैं। कुछ लोगों ने यह कहा कि एसोशिएट मेम्बर को भी वोट देने का अधिकार दिया जाये। मैं इस सुझाव का सर्वथा विरोध करता हूँ। यहां तक तो ठीक है कि एसोशिएट मेम्बरस कमिशन के लोगों को सहायता दे सकें और अपनी राय दे सकें मगर फैसला लेने का अधिकार सिर्फ कमिशन के तीन मेम्बरों को ही हो।

इस में जो यह व्यवस्था की गई है कि किस तरीके पर चुनाव क्षेत्र का निर्माण हो, सिद्धांत के तौर पर बहुत सी अच्छे बातें कही गई हैं। माननीय सदस्यों ने इस बारे में फिजिकल फीचर्स, फेसेलिटीज ग्राफ कम्प्युनिकेशन और पब्लिक कनवीनियंस आदि का जिक्र किया। दुर्भाग्य की बात यह है कि इन सारी बातों का हिसाब नहीं रखा गया। यह बहुत जरूरी है कि इन पर सही अमल भी हो। सही तौर पर फिजिकल फीचर्स और कम्प्युनिकेशंस का ख्याल रखा जाना चाहिए। जो गड़बड़ियां अभी चुनाव क्षेत्र के निर्माण में मेरे अपने जिले में हुई हैं वह न होनी चाहिए।

एक राय माननीय सदस्यों ने यह दी और रिजर्वेशन के बारे में यह बात सही है कि यदि कोई चुनाव क्षेत्र पार्लियामेंट का हो, रिजर्व रखा जाये तो इससे सचमूच मत देने वालों के एक हिस्से को पूरा अधिकार नहीं मिलता और उनका अधिकार कम हो जाता है। मगर मैं उस राय से सहमत नहीं हूँ कि कभी एक चुनाव में एक क्षेत्र को रिजर्व रखा जाये और दूसर समय उसे बदल कर

दूसरी जगह रखा जाये। यह शेयूल्ड कास्ट्स के लोग जिस ऐरिया में अधिक हैं वहीं होना चाहिए दूसरे इलाकों में जहां कि यह बहुत कम है अगर यह रखा जायेगा तो इससे अन्याय होगा। जहां तक शिड्यूलड कास्ट्स और शिड्यूलड ट्राइब्स के लिए रिजर्वेशन का सम्बन्ध है, उस की व्यवस्था हमारे कांस्टीट्यूशन में की गई है। हम सब चाहते हैं कि यह रिजर्वेशन जितनी जल्दी खत्म हो जाये, उतना ही अच्छा है। लेकिन मेरी राय यह है और हम लोग जानते हैं कि सब कोशिशों के बावजूद हम को अभी रिजर्वेशन को रखना पड़ेगा। हाल ही में हम डेबर कमीशन की रिपोर्ट पर विचार कर रहे थे। उस कमीशन ने साफ शब्दों में कहा है कि हम लोगों की कोशिशों के बावजूद पिछले चौदह बरसों में हम इस दिशा में बहुत अधिक नहीं बढ़ सके हैं। इसलिए हम को कुछ दिन तक रिजर्वेशन को बर्दाश्त करना पड़ेगा।

जहां तक नये सेन्सस के मुताबिक शिड्यूलड कास्ट्स और शिड्यूलड ट्राइब्स की पापुलेशन की नई रेशो का सम्बन्ध है, हो सकता है कि उस से रिजर्वेशन की संख्या घट जाये या बढ़ जाये। इस सम्बन्ध में मेरी राय यह है कि नये सेन्सस के मुताबिक पापुलेशन की जो नई रेशो कायम होगी, उस में पुरानी संख्या में कोई परिवर्तन न किया जाना चाहिए।

आखिर में मैं सरकार से एक बार और कहूंगा—जैसा कि कई और माननीय सदस्यों ने भी कहा है—कि इस बिल के मुताबिक तो यह कानून पास होने के साथ ही लागू हो जायेगा, लेकिन हमारे देश की आज की परिस्थिति को देखते हुए इस कानून के पास हो जाने पर भी इस को तुरन्त लागू नहीं किया जाना चाहिए। मेरा सुझाव है कि आज देश की तमाम जनता, सब अफसरों और हम सब लोगों को देश की सुरक्षा के काम में ही लगना चाहिए, किसी दूसरे काम में नहीं।

Shri Balakrishnan (Koilpatti): Mr. Deputy-Speaker, Sir, some hon. Members spoke expressing the doubt whether it is convenient to conduct the delimitation during the present state of national emergency. I think, Sir, delimitation cannot be a hindrance to our nation's defence. After all delimitation is a routine administrative work. All of a sudden delimitation cannot be done during the elections. Therefore, delimitation has got to be done.

The existing constituencies are based on the 1951 census. The population has grown very much after that. The 1961 census figure shows that our population is 430 millions and something more. That figure according to the 1951 census was 356 millions. Therefore, 75 million people have to get representation in the Parliament as well as in the State Assemblies. Delimitation is, therefore, necessary.

Apart from this, almost all the States have been reorganised and boundaries of States have been changed. When the boundaries are changed some talukas and villages are taken from one State and put in another State. The villages taken from one State are merged with a constituency in the other State. The population of that constituency or the number of voters in that constituency becomes more than the limit for one constituency de-limitation and re-allocation of seats are therefore very necessary.

When delimitation is being made—this is mentioned in clause 9 of the Bill—every constituency, whether it is an Assembly constituency or a Parliamentary constituency, must be brought into a compact area. I found in the last elections there were some Assembly constituencies spread over two different talukas, some parliamentary constituencies spread over two or three districts making it difficult for the candidates to reach their

voters. As far as possible, compact area should be provided for every constituency.

Regarding reserved seats, the main criterion must be the population of Scheduled Castes. Wherever the Scheduled Castes are living in a majority, in such places the seats should be reserved. Unfortunately, in the last elections I found that for the majority of the reserved seats the polling was very very thin. That was because the other people, people other than the Scheduled Castes, did not take interest to cast their votes.

Unfortunately, double-member constituencies were bifurcated. That bifurcation was an evil to our country. That bifurcation has brought not only the growth of casteism but so many other things. Especially in this state of emergency when our country is facing aggression from a foreign country, every one of us, every Indian must realise the evil of bifurcation. I think even single-member constituencies should be abolished. I would request the Government, if it is legally possible, to abolish all single-member constituencies and bring an amendment in this Bill inserting a provision that every constituency must be a multiple-member constituency. So that the unity and integrity of the country is preserved.

श्री विभूति मिश्र (मोतिहारी) : उपाध्यक्ष महोदय, मैंने १९५२ का चुनाव लड़ा है, १९५७ का चुनाव लड़ा है और अब १९६२ का चुनाव लड़ा है। ये तीन चुनाव लड़ने के बाद मेरा अनुभव है कि इस सम्बन्ध में एसोशियेटेड मेम्बरज को नियुक्त करना बेकार है और उन की नियुक्ति को रोकने के लिये मैंने उमंडमेंट्स भी दिये हैं। मेरा जाती अनुभव है कि एसोशियेटेड मेम्बरज ने कुछ भी काम नहीं किया है और इस लिये उन को रखना बेकार है। मैं चाहता हूँ कि यह काम इलेक्शन कमिशन के जिम्मे रहना चाहिये, क्यों कि

उस ने यह काम बड़ी खूबी के साथ किया है ।

इस के अलावा उस में जजों को रखना भी बेकार है । जो जज सर्विस में हैं, उन को चाहे रख लिया जाये, लेकिन रिटायर्ड जजिज को रखने से कोई फायदा नहीं है, क्योंकि उन का काम ठीक नहीं होता है। मेरा सुझाव है कि अग्नवल तो जज को न रखा जाये, लेकिन अगर रखना ही है, तो सिर्फ उस जज को रखा जाये, जो कि सर्विस में हों, क्यों कि रिटायर्ड जज को रखने से काम ठीक नहीं होता है । इलेक्शन कमीशन और एक जज ही यह काम करें और तीन आदमियों को न रखा जाये ।

इस बिल में लिखा हुआ है कि जहां पर हरिजनों की तादाद ज्यादा हों—इस में “लार्ज” शब्द का प्रयोग किया गया है — वहां रिजर्व कांस्टीट्यूएन्सी बनाई जाये । कई ऐसे क्षेत्र हैं, जो कि १९५२, १९५७ और १९६२, इन तीनों चुनावों में रिजर्व कांस्टीट्यूएन्सी रहे । बाहर के हरिजन वहां जा कर सेवा नहीं कर सकते हैं और चुनाव नहीं लड़ सकते हैं । जिस क्षेत्र को रिजर्व कांस्टीट्यूएन्सी बनाया गया है, वहां के जेनरल अर्थात् नान-हरिजन लोग ग्रज करते हैं कि हमारे ऊपर हरिजन लादे जाते हैं। मेरा ख्याल है कि रिजर्व कांस्टीट्यूएन्सी को मोबाइल बनाना चाहिये । एक चुनाव में वह एक क्षेत्र में हो और दूसरे चुनाव में किसी दूसरे क्षेत्र में, ताकि हरिजनों को अपनी सेवा दिखा कर चुनाव लड़ने का मौका मिल सके ।

इस सम्बन्ध में जो प्रणाली इस समय अपनाई गई है, उस में रिजर्व कांस्टीट्यूएन्सी के बाहर के हरिजन वंचित हो जाते हैं । मेरा जाती अनुभव है कि जहां पर रिजर्व कांस्टीट्यूएन्सी नहीं रखी जाती है, वहां के हरिजन ग्रज करते हैं और कहते हैं

कि रिजर्व कांस्टीट्यूएन्सी हमारे यहां क्यों नहीं रखी गई है और वह दूसरी जगह क्यों रखी गई है । मैं निवेदन करना चाहता हूँ कि कहीं पर हरिजनों की जन-संख्या दस प्रतिशत है, तो कहीं बारह प्रतिशत । केवल दो प्रतिशत कम होने के कारण हरिजनों को भारा जाता है । अगर कोई आदमी किसी क्षेत्र में रहता है, तो वह उस क्षेत्र में अच्छी तरह और आसानी से चुनाव जीत सकता है । अगर बाहर का आदमी रखा जाता है, तो वहां के लोग कहते हैं कि हम पर बाहर का आदमी लाद दिया गया है । यह ऐसा जमाना नहीं है कि किसी कांस्टीट्यूएन्सी में बाहर के आदमी रखे जायें । बाहर का आदमी किसी कांस्टीट्यूएन्सी में चुनाव नहीं लड़ सकता है । चुनाव में तो वही आदमी जीतेगा, जो कि उस कांस्टीट्यूएन्सी में रहता हो और उस की सेवा करता हो ।

माननीय सदस्य, श्री श्रीनारायण दास, ने कहा कि हर साल कांस्टीट्यूएन्सी नहीं बदलनी चाहिये । मैं समझता हूँ कि कांस्टीट्यूएन्सी को बदलने की जरूरत है । जैसा कि माननीय सदस्य, श्री सी० के० भट्टाचार्य ने कहा है, कई ऐसे क्षेत्र हैं, जिन के बीच में से नदी बहती है और उसी क्षेत्र में आने-जाने के लिये नदी को पार करना पड़ता है । हमारी कांस्टीट्यूएन्सी में तीन एम० एल० एज० की कांस्टीट्यूएन्सी पड़ती हैं । एक नदी पार करके जाना पड़ता है और तीन इंचर पड़ती हैं । मेरा अपना ख्याल है कि जो कांस्टीट्यूएन्सी होनी चाहिये, वह कम्पेक्ट होनी चाहिये । मैं समझता हूँ कि उपयुक्त समय पर बिल को यहां पेश किया गया है । इलेक्शन कमीशन को चाहिये कि वह कांस्टीट्यूएन्सी की ठीक तरह से जांच पड़ताल करें और कांस्टीट्यूएन्सी को बनायें । प्रायः देखा जाता है कि जब चुनाव आ जाता है तो निर्वाचन क्षेत्रों की बनावट जल्दी जल्दी की जाती है । यह काम पहले से ही कर

[श्री विभूति मिश्र]

लिया जाना चाहिये। इस वास्ते मैं समझता हूँ कि उपयुक्त समय पर इस बिल को पेश किया गया है।

कुछ माननीय सदस्यों ने कहा है कि इस समय हमारे दिमागों में लड़ाई की बात है और इसको अब नहीं घाना चाहिये। लेकिन हम लड़ाई भी लड़ेंगे और दूसरे काम भी करेंगे। अगर किसी से झगड़ा हो जाता है, तो हम खाना भी खाते हैं और लड़ाई भी बढ़ते हैं, उसी तरह से हम लड़ेंगे भी और ये काम भी करते चले जायेंगे। इस में घबरार-हट की बात नहीं है और न ही घबराने की जरूरत है।

मैं समझता हूँ कि कंस्टिट्यूएंसिज बनाने का काम इलैक्शन कमिशन के जिम्मे किया जाना चाहिये। उस को हम ने विधान के अनुसार एक इंडिपेंडेंट बाडी बनाया है। जब वह इंडिपेंडेंट बाडी है तो मैं समझता हूँ यह काम भी उसी के जिम्मे कर दिया जाना चाहिये। न आप को जजों को रखने की जरूरत थी और न ही एसोसिएट मैम्बरज को रखने की जरूरत थी। उन को हटा देना चाहिये। अगर ऐसा कर दिया जाता है तो भी मैं समझता हूँ कि काम ठीक से चल सकता है।

श्री वे० शि० पाटिल (यवतमाल) : उपाध्यक्ष महोदय, यह जो परिसीमन आयोग विधेयक यहां आया है, यह संविधान के अनुच्छेद ८२ और १७०(३) को ध्यान में रखते हुए लाया गया है। चूंकि यह संविधान की मांगों के अनुसार पेश किया गया है, इस वास्ते इस के उद्देश्यों का कोई भी माननीय सदस्य विरोध नहीं कर सकता है। मोटे तौर से यह विधेयक १९५२ का नम्बर ८२ जो अधिनियम था, जो एक्ट था, उसी की प्रणाली पर है। इस में कुछ सुधार और कुछ सुझाव भी दिये गये हैं। एक सुझाव यह है कि एसोसिएट मैम्बरज की संख्या को नियत कर दिया जाये, उस को निर्धारित कर दिया

जाये। उस को निर्धारित कर दिया गया है। इसीलिये क्लाज ८ और क्लाज ९ अलग किये गये हैं।

सम्माननीय सदस्यों ने यह कहा है कि जम्मू काश्मीर पर भी इस विधेयक को लागू किया जाना चाहिये। जिन माननीय सदस्यों ने यह मांग की है, उन को मैं बतलाना चाहता हूँ कि यह विधेयक उस पर लागू नहीं होगा क्योंकि वहां पर १९५४ का आदेश लागू है।

यहां पर माननीय सदस्यों की तरफ से यह मांग भी की गई है कि एसोसियेट मैम्बर जो हैं, उन को भी मतदान का अधिकार दिया जाना चाहिये। एसोसियेट मैम्बर कौन होते हैं, उन को एप्वाउंटमेंट किस बेसिस पर होती है, अगर इन बातों पर ख्याल किया जाय तो इसी नतीजे पर हम पहुंचते हैं, कि उन को मतदान का अधिकार देने की कोई जरूरत नहीं है। एसोसियेट मैम्बर का क्या काम है, इस को समझ लिया जाना चाहिये। वे, जिन को एसोसियेट मैम्बर एप्वायंट किया जाता है, लोकल नालेज रखते हैं, कंस्टिट्यूएंसिज का भी उन को नालेज रहता है और उन को कमिशन की मदद करने के लिये, कमिशन को हेल्प प्रदान करने के लिये नियुक्त किया जाता है। चूंकि उन को हेल्प करने के लिये रखा जाता है, इस वास्ते एसोसिएट शब्द का प्रयोग किया गया है। जिन संशोधनों की सूचना दी गई है, मैं ने उन को पढ़ा है और उन को देखा है। किसी भी सम्माननीय सदस्य ने क्लाज २ जोकि डेफोनीशन क्लाज है या क्लाज ३ जोकि कांस्टीट्यूशन आफ दी कमिशन के बारे में है, पर कोई भी संशोधन पेश नहीं किया है। इस वास्ते यह अनावश्यक है कि एसोसिएट मैम्बर को मतदान का अधिकार देने के लिये वे कहें। कमिशन का जो डिजिशन होगा, उस पर दस्तखत करने का उन को अधिकार देना, मेरे ख्याल में

अनावश्यक है। कमिशन के जो काम यहां दिये हुए हैं, उन को करने का पूरा अधिकार कमिशन को ही दिया गया है। एसोसिएट मैम्बरों के बारे में क्लॉज ५ की सब-क्लॉज ४ में कहा गया है कि उन को दस्तखत करने का अधिकार नहीं होगा और न ही वोट देने का अधिकार होगा। वे प्रोपोजल दे सकते हैं। इतना ही नहीं, उन की प्रोपोजल की सार्वजनिक सुनवाई भी हो जायगी। इतना ही अधिकार उन को दिया गया है।

कमिशन को यह भी अधिकार क्लॉज ८ में दिया गया है कि लेटेस्ट सेंसस फिगरों को ध्यान में रखते हुए लोक सभा की और राज्य विधान सभाओं की सीटों का वह बटवारा कर सकती है। वह हर राज्य से जो सुरक्षित सीटें हैं, उन को भी मुकर्रर करेगी। इस के लिए एसोसिएट मैम्बर को कोई अधिकार नहीं है।

Shrimati LakshmiKanthamma (Khammam): Sir, on a point of order. There is no quorum.

Mr. Deputy-Speaker: Do you want to challenge the quorum?

Shrimati LakshmiKanthamma: I want more members to be present.

Mr. Deputy-Speaker: In the lunch hour we do not mind the quorum.

श्री दे० शि० पाटिल : उपाध्यक्ष महोदय, अगर कोई एसोसिएट मैम्बर डाइसेंटिंग प्रोपोजल देगा, तो उन को भी कमिशन अपनी प्रोपोजल के साथ पब्लिश करेगा। इस में क्लॉज ६ की जो सब-क्लॉज (२) है, उसमें कहा गया है :—

“publish its proposals for the delimitation of constituencies together with the dissenting proposals, if any, of an associate member who desires publication thereof, in the Gazette of India and Official Gazettes of all the States concerned and also in such other manner as it thinks fit.”

मैं नहीं समझता हूँ कि जिस को वोट देने का अधिकार नहीं है, उस को डाइसेंटिंग प्रोपोजल पेश करने का अधिकार कैसे हो सकता है। डाइसेंटिंग प्रोपोजल वही दे सकता है, जिस को वोट देने का अधिकार हो। इस की तरफ माननीय मंत्री जी का ध्यान जाना चाहिये।

प्राखिरी मुझाव मैं सुरक्षित सीटों के बारे में देना चाहता हूँ। मैं आप को बतलाना चाहता हूँ कि भारत में शड्यूल्ड ट्राइब्स की पापुलेशन बहुत ज्यादा है। शड्यूल्ड ट्राइब्स का लाजेंट कंसंट्रेशन कहां है, इस के बारे में जो शड्यूल्ड एरिया एन्ड शड्यूल्ड ट्राइब्स डेबेर कमिशन की रिपोर्ट के चेप्टर २ में जो शड्यूल्ड ट्राइब्स पापुलेशन का पैरा दिया हुआ है, वह मैं आप को सुनाना चाहता हूँ। उस में पापुलेशन की फिगर दी हुई है। इस में लिखा हुआ है :—

“The largest concentration of tribal people anywhere in the world except perhaps Africa is in India. According to the Scheduled Tribes (List) Order, 1956 the total population of Scheduled Tribes was 2,25,11,854. The largest concentration of Scheduled Tribes are in the States of Madhya Pradesh, Bihar, Orissa, Gujerat, Rajasthan, Assam, Maharashtra and West Bengal.”

शड्यूल्ड ट्राइब्स के लिये लोक सभा और विधान सभा की सीटों का जो विभाजन होता है, और शड्यूल्ड ट्राइब्स के लिये जो सीटें मुकर्रर की जाती हैं और शड्यूल्ड एरियाज जो डिक्लेयर किये गये हैं, उस वक्त कमिशन को चाहिये कि नान शड्यूल्ड एरिया के रहने वाले शड्यूल्ड ट्राइब्स की संख्या ध्यान में रखें। जैसेकि शड्यूल्ड कास्ट के बारे में रखते हैं।

श्री रामेश्वरानन्द (करनाल) : अगर शड्यूल्ड कास्ट का शब्द ही न रहे तो इस से क्या हानि होगी ?

श्री दे० शि० पाटिल : उन को भी ठीक प्रतिनिधित्व मिलना चाहिये।

Mr. Deputy Speaker: The hon. Member must conclude now.

Shri Kashi Ram Gupta (Alwar): Mr. Deputy-Speaker, Sir, today I rise to speak in English because elections is a subject which concerns the whole of the country and I may be excused by our Swamiji for this.

I am not of the opinion that this is the opportune time for this Bill to be brought forward. Shri Bhakt Darshan had given the argument that our Government has shown to the world that they can go on with this thing in an orderly way. Actually, it is not so. The Government has postponed so many controversial Bills. Even his own Party has postponed its own annual session and the elections. But as the Bill has been brought forward it has to be passed. Up till now all hon. Members have expressed the opinion that it should not be put into practice at an early date. That too is my opinion.

There is one clause to which so many amendments have been given notice of, that is, about the number of associate members, four from the Assembly and three from the House of the People. I have also sent a notice of an amendment to this. In my opinion, the purpose is that those people must have an on-the-spot knowledge and the Commission should benefit by their knowledge. So, the question is about the size of the State. The number of these associate members will be the same for all the States. Now, Uttar Pradesh has got about 86 parliamentary constituencies while Assam has got only about 16 or 18. So, the people of Assam can very well benefit by those seven members but for Uttar Pradesh it will be quite impossible. Therefore, if at all there has to be any use of these things, whether for Uttar Pradesh or for Bihar, the number should be enhanced according to the size of the State.

Shri Bibhuti Mishra just now said that there was no use at all of these people. That may be his point of

view. But, I think, the use is there. Of course, the men should have been maintaining their own standards so far as their activities are concerned.

Now, the difficulty that arises is this. Some people say that there should be consideration for all parties. Unfortunately, our country has not got a healthy democracy as yet. When we look at our own House here, we find that there are 12 parties on the Opposition side consisting of about 104 Members and there are about 30 independent Members. On that side too, although the party is one, there are so many groups within the party based on individuals and so on and so forth.

Some Hon. Members: No, no. *

Shri Kashi Ram Gupta: It is a hard fact. So, when there is a multi-party House here and there are multi-party Houses in the States, actually the problem is how to minimise these parties. Although the Delimitation Bill may not be directly concerned with that, anyhow that has to be taken into consideration. The time has come when simultaneous elections to the Vidhan Sabhas and the Lok Sabha should be done away with. My arguments for this are that the subjects are quite different, the manifestoes should be quite different for the Lok Sabha and the Vidhan Sabhas and, at the same time, election corruption methods will have to be avoided.

What is going on at present is that when we have the Vidhan Sabha elections simultaneously with the Lok Sabha elections, people generally understand or are made to understand that there is not much difference between the Vidhan Sabha and the Lok Sabha people, that he (the Lok Sabha Member), is only a *burra sahib* sitting on the head of the six or eight *chhota sahibs*. Actually speaking, in India people are not voting on the ground of the manifestoes or the programmes but they vote either for the symbols or for individuals. That is going on. The ruling party gets the benefit of the symbols. That is why in this

House there are more Members from the ruling party than in the Vidhan Sabhas at so many places. The natural corollary is that if we want to do away with these symbols and unhealthy practices, we must have separate elections. Even the question of election expenses is correlated with this problem.

As regards election expenses, nowadays everybody knows it that nobody remains within the limit of expenses and it is very difficult to find out how to do justice in these things. So, if we have got separate elections, we can have control over the number of jeeps and so many things. We can also have control over the other activities of the persons. At the same time the constituencies are getting enlarged day by day. It is impossible for a candidate for the Lok Sabha to go to every polling station at the time of elections. So, some medium shall have to be found out by which the people may be made to understand.

What happens at present is that when a candidate for the Vidhan Sabha goes to a constituency and the candidate for the Lok Sabha cannot follow him, the people say, "The candidate for the Lok Sabha has not come; so, why should we vote for him?". This is so specially when the parties are different. Sometimes in the elections to the Vidhan Sabha, there are no parties fighting Lok Sabha elections in that area along with the candidates for Vidhan Sabha. Here too the picture is this. From Rajasthan there is no Socialist or Praja Socialist. If the Socialists or the Praja Socialists, or even the Communists, say that they want representation on this basis in the associate membership, it will be quite on the wrong side. So, my submission is that though the Bill may be passed, it should be put into effect only at the appropriate time. Secondly, associate members are there only to help and not to give concrete decisions. So, their help can be sought properly only when the number is adequate according to the size of the State. The

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larger the size of the State the larger should be their number. So, my humble submission is that all these points should be taken into consideration while passing this Bill.

Shri Balkrishna Wasnik (Gondia): Mr. Deputy-Speaker, Sir, I rise to support this Bill. As we know, this Bill is for the purpose of delimiting the constituencies on the basis of the latest census figures having regard to the provisions in the Constitution. I am glad that while delimiting the constituencies afresh the Commission will take note of the physical features, existing boundaries of administrative units, facilities of communication and public convenience etc. Unfortunately, in previous delimitations these factors were hardly taken into consideration. As we know, an hon. Member from this side of the House has also quoted certain instances. In my part certain such things have also happened when no regard was shown to administrative convenience or facilities of communications etc. I would like the hon. Law Minister to look into the matter and see that in future such things do not repeat.

Some hon. Members have talked about the reserved constituencies. Shri Bibhuti Mishra, to use his words, said that these constituencies should be mobile. By that he means that the reserved constituencies should not be kept at one place but that they should go by rotation. I do not know why certain hon. Members are rather interested in shuttlecocking the members of the Scheduled Castes or Scheduled Tribes. If there is no permanent constituency, that is, if there is no constituency at one place, as we know, the Member cannot represent his constituency. He cannot nurse his constituency before-hand. Suppose, there is a Member today who comes from a reserved constituency and tomorrow there is delimitation and his constituency changes. The Member today does not know which part of the State or the country he has to nurse. He does not know that. If he does not know where to go and to which people to talk, I do not think, the

[Shri Balkrishna Wasnik]

Member can serve any useful purpose. Nursing the constituency necessarily implies that there should be a permanent constituency and the members should not be shuttle-cocked from one place to another. This will be a most injurious thing to be followed, I must say. As you know, some of the Members and some of the people in this country will be rather happy if there is a total extinction of reserved seats. Some voters not belonging to the Scheduled Castes and Scheduled Tribes ask, why in a particular constituency there should be a reserved seat. But, I must say that in this country, we have rather to create an atmosphere or mentality in which persons not belonging to the Scheduled Castes or Scheduled Tribes go and vote for the Scheduled Caste and Scheduled Tribe candidates and accept them as one of their own. In this House atleast, no effort to separate should be made. In this country, there are sections and divisions of the people. Unless this mentality is created in this House or elsewhere, the mentality of division and separatism will be there. Reservation is not there to perpetuate castes, to perpetuate the distinctions between the various sections of the community. Reservation is there in order to bring up these people to the level of the other communities. Once that is achieved, this will go. As you know and as I know, reservation is only until 1972. My friends here need not be afraid that the reserved constituencies will be there for ever and they will have no chance.

Then, I want to refer to clause 8 of this Bill. Sub-clause (a) says:

“(a) the number of seats in the House of the People to be allocated to each State and the number of seats, if any, to be reserved for the Scheduled Castes and for the Scheduled Tribes of the State;”

Sub-clause (b) is about the Legislative Assembly. This Bill provides for the allocation of seats in the Lok Sabha and in the Vidhan Sabhas to the members of the Scheduled Castes

and Scheduled Tribes. This will be done on the basis of the 1961 Census. I must warn this House that no effort should be made to reduce the representation of the Scheduled Castes in this House. I have been seeing, at least, I will refer to my own State, Maharashtra. In the District Council elections, an effort has been made—I do not know who has made that effort—but an effort has been made to reduce the representation of the Scheduled Castes in that State. In the District councils, what has happened is.....

Mr. Deputy-Speaker: We are not concerned with District Boards now.

Shri Balkrishna Wasnik: In my district, representation of Scheduled Castes in the Lok Sabha or in the Vidhan Sabha was round about 20 or 21 per cent. In the District Council the representation has come down to 5 per cent or something like that.

Mr. Deputy-Speaker: He should fight it out in the Maharashtra Assembly, not here.

Shri Balkrishna Wasnik: That is all right. What I want to say is, in the Census report, the population of the Scheduled Castes has been shown far less than what it was in the 1951 Census. That has to be looked into. I do not know how this has happened. Some people attribute this to the problem of conversion. Of course, some have become Buddhists. But, there are large numbers of people who have not converted themselves. This conversion has not brought any material change. Therefore, I would like the Minister to keep this in mind and see that, as in these local bodies representation is being reduced, the representation either in the Lok Sabha or in the Vidhan Sabha should not be reduced. No effort should be made to reduce their present representation.

Mr. Deputy-Speaker: Shri Man Singh P. Patel. I will call the Minister at 2:30.

Shri Man Sinh P. Patel: (Mehsana): **Mr. Deputy-Speaker,** I have heard the hon. Members speaking about the functions of the Associate Members. I have personnel experience of appearing twice before the Election Commission. The First Commission was appointed after the Census of 1951 and the re-organisation of the constituencies of the then tri-lingual State. Again, there was re-organisation because the States were bifurcated. My own experience gained by me in appearing before the Commission is that the Election Commission has mainly to rely on the official record available from the lower stage. They are not in a position to look into each aspect, or go into greater details regarding the delimitation of Assembly constituencies; I would go to the length of saying, that they have even no time to look into the main fundamentals. It is said here that the physical features and compatibilities should be the main considerations while delimiting the constituencies. In Gujerat, I have got the parliamentary constituency of Kutch, a revenue district which has got 5 Assembly seats and one seat of Ahmedabad district at a distance of 140 miles. This is found to be compatible leaving 42 seats of the Saurashtra region and 7 seats of Banaskantha area. It is a misfortune that at times, the Election Commission does not attend to the fundamentals of physical features, comptibility, etc. Associate Members alone, either of the Lok Sabha or of the Assembly can guide them in these difficulties in which the lower officials at the State level do not guide them properly. My hon. friend Shri C. K. Bhattacharyya quoted by hon. friend Shrimati Renuka constituency and the same difficulty in the constituency of some other friend also. At the same time, some times, a parliamentary constituency was to be delimited by seven, it was allowed to have 6 Assembly members in order to retain compatibility. When they decide this, no political considerations of any nature should come in. Particularly, all the Associate members should take a conventional vow to dissociate themselves

when the question of their parliamentary constituency comes under consideration. Therefore, I urge through you as the Speaker has to nominate the Associate members. While the Speaker nominates or after nomination, the Speaker should that the members take a moral vow or a conventional oath that they will never allow while delimiting any political considerations, call it party or group consideration or call it caste as some Members say.

Dr. M. S. Aney: You want the Speaker to take a vow?

Shri Man Sinh P. Patel: A moral vow before the Speaker should be taken. The misfortune is this. The delimitation of constituencies of the Scheduled and Scheduled Tribes is made on the basis of majority. Minus one village from this side and the margin of the Scheduled Caste voters is changed and the whole of the Scheduled Caste constituency is changed. I come from Mehstana district where the Scheduled Caste constituency for the Assembly in 1952 was one, in 1957 another and in 1962 another. This is pure manipulation of misusing certain villages having a little more percentage of Scheduled Castes and framing the constituency in a way in which the Scheduled Caste seat can be immediately changed. The same thing happens regarding parliamentary Schedule Caste constituency. In the Gujerat part of and the then Bombay State Scheduled Caste that parliamentary constituency was announced in my district. I had an opportunity to appear before the Commission. Mr. Chandra Sekhara Aiyar, retired Supreme Court Judge was the Chairman. I showed him the figures. You take away or minus 10 villages which were there in 1952 in this parliamentary constituency and the majority will be in the Ahmedabad district. I won my case and the parliamentary Scheduled Caste reserved constituency in my district was again shifted back to the then Ahmedabad district which was then reserved for Scheduled Caste. I urge the members of the commission, through you and through the law Minister that

[Shri Man Sinh P. Patel]

they should take the association of the Members of Parliament but these Members should function above political considerations. As regards delimitation by having regard to revenue districts, facilities of communication and public convenience etc., you, Sir, have also got much more experience of this kind of delimitation. Even when it is a question of changing only two villages, too much stress is being given to the revenue circles, and, thereby small villages are also affected.

Sir, India is an infant democracy. It should not be the person who should win the election but the party, whatever it may be. If we want to create such an atmosphere, then the personal factor should be forgotten while delimiting the constituencies.

After all, the number is not likely to be increased; but there is only going to be a readjustment. When the allocation is made by the commission, if the same number comes, if it is possible there should be no change in the allocation and delimitation of the existing constituencies. It has been a misfortune that each time an Assembly or Parliamentary constituency is delimited, some allowance is made in regard to the number. I would urge the hon. Minister and the commission and if the same number of parliamentary and Assembly seats comes to be worked out in a certain districts in certain States, those constituencies should remain intact, and there should be no change in them. There should only be a simple formal official declaration by the commission in those cases. Otherwise, we shall not be able to nourish this infant democracy of ours.

The Deputy Minister in the Ministry of Law (Shri Bibudhendra Mishra): I have heard with rapt attention the speeches made by hon. Members. Most of the suggestions that have been made do not relate to the provisions of this Bill but are mainly meant for the Delimitation

Commission when it comes into existence for its guidance while delimiting the constituencies.

It has been suggested by many Members including some older Members that in view of the emergency prevailing in the country, this Bill should not have come up before the House at this moment. My hon. friend Shri C. K. Bhattacharyya said in support of this with his own logic that when Parliament was scheduled to sit till the 23rd of November, this Bill was not found necessary; that it should now come up before the House after the sitting of the House has been extended shows that the Bill is not important. That is a faulty logic which I shall try to answer. When it was decided that the House should sit till the 23rd of November, it was then thought that all those Bills which related strictly to the emergency alone should be brought up before the House. It was then intended also that the House would meet some time in the month of December. When the sitting of the House was extended beyond the 23rd of November, naturally, all other important matters, not as important as those relating to the emergency but, all the same, important from the point of view of the parliamentary life itself, were considered necessary to be brought up before the House, and hence this Bill has been brought forward.

In fact, it is a constitutional obligation on our part—I would refer to article 82 of the Constitution again—to bring forward a Bill of this nature upon the completion of each census. That is highly necessary and desirable so long as we accept the parliamentary form of government, and so long as we abide by and cherish the principles enshrined in the Constitution. Of course, the emergency may be there, and the emergency certainly gets the priority, but we have not given a go-by to the articles of the Constitution, we have not departed from the

parliamentary form of government. When we have accepted it, and so long as it is there, we prepare for all contingencies. We do not know what contingencies will be there, but we but we should get ready for the next elections. It may be that we do not know when the elections would come, and whether they will come at all or not. But it is necessary that the elected representatives of the people must know their constituencies sufficiently well in advance, and must come in touch with them and every constituency, at this particular period of time, should be worked out as a living organism. In order to work out the different constituencies as living organisms, with an individuality of their own, I believe it is necessary, apart from this national emergency, that Members should have touch with them and they should know their constituencies.

Dr. M. S. Aney: May I point out that article 82 does not lay down any specific time-limit within which this Bill should be brought forward? This has to be done after the census. That is all. Government may choose their own proper time to bring forward a Bill of this nature.

Shri Bibudhendra Mishra: The language is 'Upon the completion of each census'. Here, the words are not the same as we use in other enactments such as 'As soon as may be' and so on. It is, therefore, our duty to come forward with a delimitation Commission Bill.

There is also another thing that has to be remembered. People have talked as if the general elections are far off, and they will come only in 1967. In this connection, I may point out that the election to the Kerala Legislative Assembly will be due early in 1965, and, therefore, it is necessary that the constituencies there should be demarcated, and seats allocated according to the provisions of the Constitution much in advance of 1965.

Shri Hari Vishnu Kamath: And in Orissa, the general elections will be due in 1966.

Shri Bibudhendra Mishra: My hon. friend Shri P. K. Deo and some others have suggested that Jammu and Kashmir should have been included within the scope of this Bill. Government also share the same anxiety as is shared by hon. Members, and Government also do not like that in all the Bills which come up before the House the State of Jammu and Kashmir should be excluded from their operation. But then we have to remember the bare facts, which have necessitated article 370 of the Constitution. Therefore, before applying any law of Parliament to the State of Jammu and Kashmir, it is necessary that the concurrence of the State Legislature should be there.

Shri Sham Lal Saraf (Jammu and Kashmir): Is that so with regard to every law?

Shri Bibudhendra Mishra: Except with regard to those that have been specified under article 370. It must be in accordance with article 370.

My hon. friend Shri Surendranath Dwivedy has said that the Jammu and Kashmir State has decided that its representatives should come to Parliament through the process of election. There was a press report to that effect. Beyond that, I may tell the House that the Government of India do not know anything about the proposal of the Jammu and Kashmir Legislature or the Jammu and Kashmir Government to send their representatives to Lok Sabha through the process of election. Then, let me tell the House that if article 370 is to be modified, of course, it is for the State of Jammu and Kashmir to do it. If it is modified and is brought in line with article 81 of the Constitution....

Shri D. N. Tiwary (Gopalganj) rose—

Mr. Deputy-Speaker: The hon. Minister is not yielding.

Shri D. N. Tiwary: The Home Minister had announced here.....

Mr. Deputy-Speaker: The hon. Minister is not yielding.

Shri Bibudhendra Mishra: . . . and if the Jammu and Kashmir Legislature decides to send its representatives to the Lok Sabha by way of election, according to the census report the number that Jammu and Kashmir will have in the Lok Sabha will be only 4 and not 6 as at present. That position also has to be remembered.

An hon. Member had asked me about the applicability of this enactment to the State of Nagaland. I explained that position on the first day when we took up this Bill for consideration. I would not repeat it now except to say that the State of Nagaland has not come into existence, it being dependent upon the ratification of the Constitution (Thirteenth Amendment) Bill. And when the State of Nagaland comes into existence, no demarcation of the parliamentary constituency will be necessary since the parliamentary constituency for the entire State will be one. There is a special provision in the State of Nagaland Act itself by which the Election Commission has been empowered to delimit the 60 Assembly constituencies.

So far as the Union Territories are concerned also, I explained the position last time. The case of the Union Territories does not come within the purview of article 81 (1) (a) but that of article 81 (1) (b). The 20 seats that have been allotted to the Union Territories have already been filled up. Pondicherry is to get its representation also. The Constitution (Four-

teenth Amendment) Bill envisages that the number should be increased from 20 to 25, and when that Bill is ratified by the necessary number of States, namely eight—it has been ratified by six States, so far as I gather—then the necessary allocation of these 25 seats between the different Union Territories will also be taken up as directed by law by Parliament.

श्री भक्त दर्शन (गढ़वाल) : जिस प्रकार राज्यों के विषय में किया गया है, उसी प्रकार यूनिऑन टेरिटरीज में टेरिटोरियल कॉमिन्स से एक एक, दो दो प्रतिनिधि लेने में मातृतीय मंत्री जी को क्या अड़चना है ?

Mr. Deputy-Speaker: The hon. Minister is not yielding.

Shri Bibudhendra Mishra: Shri Tyagi has suggested that constituencies and seats should not be lightly distributed. That is an accepted principle that any constituency should not be lightly distributed. It will be seen from the report of the Election Commission on the second general elections that this should be done under compelling circumstances only. There is also no scope of any radical alteration in the constituencies throughout the country. Article 81 envisages that there should be 500 elected Members in this House. We have 481 elected members from the different States and six from Jammu and Kashmir. Under the Nagaland Act one more Member will be there, making a total of 488. Whether the maximum of 500 should be reached or not is a different matter but at best 12 seats in the Lok Sabha can be increased on the basis of population increase. The multiples are prescribed in the law itself. Therefore, there is no scope for much of a deviation or a large breakup of constituencies in the different States even if the constituencies are increased. A suggestion was made that the number of voters in a particular constituency should be limited. It cannot be done unless the House

decides to do away with the principle of adult suffrage enshrined in the Constitution. At one time the Constitution itself envisaged that no parliament constituency should have more than 750,000 voters but with the increase of population this maximum could not be maintained and therefore the Constitution was amended Year after year there is increase in the population.....

Shri Hari Vishnu Kamath: (Hoshangabad): Increase the number of seats in Parliament.

Shri Bibudhendra Mishra: Provided the House amends article 81.

* **An Hon. Member:** What about the space in this House (*Interruptions.*)

Shri Bibudhendra Mishra: Shri Surendranath Dwivedy of the PSP says that the number should not go up as this House has already become unwieldy. It is for the House to decide.

Dr. M. S. Aney: What is the policy of the Government?

Shri Bibudhendra Mishra: The policy of the Government will come at the appropriate time.

Now, there are people who do not want associate members. There are others who want the number to be increased from 7 to 11, 13 or even 20; there are so many amendments. The idea is to associate them with the working of the Commission as they have expert local knowledge. It will be seen from the report on the second general elections that at every stage, right from the formulation of proposals till their finalisation, the opinion of the associate members was taken into account in all the stages.

They want that the right of voting should be given to the associate members. I am opposed to this because it would take away the inde-

pendent and quasi-judicial character of the Commission. The Bill says that while deciding the question of the choice of the members, the Speaker shall have due regard to the composition of the House. Under the old Act, the number varied according to the population from State to State. There were then part A, B and C States. In some States it was 2, in some it was 7 and the maximum number was 7.

Shri Hari Vishnu Kamath: In Madhya Pradesh it was 8.

Shri Bibudhendra Mishra: I am sorry. Now, we have tried to have the same number uniformly for all the States.

Shri Kashi Ram Gupta: You are comparing Assam with U.P. 80 Members as compared to 16 Members.

Shri Bibudhendra Mishra: But the principle is the same.... (*Interruptions.*) There is no question of giving a representative to the Scheduled Caste there or a Scheduled Tribe here or to each political party. There are parties which consist of one Member in the House; it is an impossible proposition. Therefore, the names of the associate members that were associated with the last Commission had been given and they are fairly representative in character.

Shri Hari Vishnu Kamath: Only fairly; not quite.

Shri Bibudhendra Mishra: I am not in favour of a body with three permanent members with 12 or 20 associate members which would make it unwieldy. But if it is the sense of the House that in order to do justice it is necessary to increase the number to 9, I am prepared to accept it.

Shri Hari Vishnu Kamath: That is my amendment. Let us see.

Shri Bibudhendra Mishra: It has been urged that the multiple should be uniform for all the States. It will not be possible....

Shri Kashi Ram Gupta: What are the reasons for that.

Shri Bibudhendra Mishra: You will know the reasons I will refer to articles 81 (2) and 170 of the Constitution. Article 81 (2) (a) says:

"There shall be allotted to each State a number of seats in the House of the People in such manner that the ratio between that number and the population of the State is, so far as practicable, the same for all States."

I will take up the amendment of Shri Kamath and illustrate my point. He wants the number should be between 6 and 8. The U. P. Assembly has 43 members and article 170 of our Constitution says that no State assembly should have more than 500 members. The present multiple comes to five. If the minimum is fixed at six, as per the amendment, and if the membership there goes beyond 500, then there will be difficulties. Let us take another State with the lowest representation. Assam is represented in Lok Sabha by 12 Members: the multiple comes to 9 as there are about 108 members in the State assembly. If the multiple is reduced, then the number of seats will have to be reduced from 108 and fixed at 96. The general principle is laid down in the Constitution itself; as far as practicable the Commission will work out that ratio. We cannot fix any multiple. We must leave it to the Commission.

Therefore, to lay down in the very Bill itself that the multiple should be six, seven or eight, would work out hardship. As I have pointed out, like the one in the case of Uttar Pradesh it may violate the Constitution, because we have to go beyond the maximum that is permissible under article 170 of the Constitution, that is, the maximum should be not more than 500 in a State legislature. These are the general questions that I have raised and to which I have given the answer.

Now, the question of the rotation of Scheduled Castes and Scheduled Tribes has been supported and also opposed. This question has also been thoroughly discussed in the report of the Election Commission, and I would like to invite the attention of hon. Members to page 75 of that report. It is not a very good principle to rotate the seats and to deprive those areas where the Scheduled Castes and Scheduled Tribes are greater in number. It is not good to deprive them of their representation and to thrust a person belonging to the Scheduled Castes or Scheduled Tribes in a constituency where the maximum number of the electorate is not Scheduled Castes or Scheduled Tribes. Therefore, two different principles have been accepted taking into view the historical and geographical facts. That is, you fix the Scheduled Tribes seats at a place where their number is largest. In so far as the Scheduled Castes are concerned, they can be dispersed throughout the State and then the seats could be located in a place where their number is proportionately larger. That number has been worked out.

Then, Shri Tyagi raised a point—he is not here at present—and wanted to know whether the word "largest" in clause 9 (1) (d) in respect of the representation of the Scheduled Tribes would relate to the district or the State. I would only say that the census report, the population, is taken into account. Supposing, in a State, on the calculation of the Scheduled Castes and Scheduled Tribes, and on the calculation of the population of the State as a whole, if it is decided that the State should have four Scheduled Tribes seats, then, that number is first of all decided, and then four seats are distributed in the local areas where the Scheduled Tribes population is the largest. That is the principle that has been accepted.

A suggestion has been made that in some regions of the Punjab there should be nomination to the House of the People. That would be a violation of article 170 (1). That cannot be

accepted. With these words, I would request the House to accept this Bill.

श्री भक्त दर्शन : जो संघीय क्षेत्र हैं, यूनियन टैरिटरीज हैं, वहां टैरिटोरियल काउंसिलज से एक एक या दो दो प्रतिनिधि एसोसिएट मेंबरज के तौर पर, सहयोगी सदस्यों के तौर पर लेने में क्या कठिनाई है ? कम से कम इसकी व्यवस्था तो कुछ होनी ही चाहिये ।

Shri Bibudhendra Mishra: Since the Union territories do not come under the purview of this Bill, where is the question of associate members? I can understand that, if the Union territories come under this Bill and the Delimitation Commission is entrusted with the work of delimiting those constituencies.

श्री हेमराज : एक पार्लियमेंटरी कांस्टिट्यूएन्सी में अगर एक हिस्सा दूसरे हिस्से से बिल्कुल जुदा हो तो उम में कम से कम पापुलेशन का फिक्सेशन कोई हो जायेगा या नहीं, कम से कम एक ग्रामम्बली सीट के लिये ?

Shri Bibudhendra Mishra: No number can be fixed, either the maximum or the minimum. It is very difficult to have any number. So much has been said about communication and so on.

Shri S. M. Banerjee (Kanpur): I want to know when this Commission will be appointed and whether the work will start immediately or we will have to wait till October, 1963.

Shri Bibudhendra Mishra: I am sorry I have already answered it and the hon. Member was not present.

Shri Maheswar Naik (Mayurbhanj): Clause 10, sub-clause (3) lays down that "as soon as may be after such publication, every such order shall be laid before the House of the People and the Legislative Assemblies

of the States concerned". May I know whether the Legislative Assemblies and the House of the People have got any right to amend those orders?

Shri Bibudhendra Mishra: No, Sir.

Mr. Deputy-Speaker: The question is:

"That the Bill to provide for the readjustment of the allocation of seats in the House of the People to the States, the total number of seats in the Legislative Assembly of each State, the division of each State into territorial constituencies for elections to the House of the People and Legislative Assemblies of the States and for matters connected therewith, be taken into consideration."

The motion was adopted.

Mr. Deputy-Speaker: We will now take up clause-by-clause consideration. For clause 2, there are four amendments. Shri Bibhuti Mishra—he is not there. So amendment No. 27 is not moved.

Shri Hari Vishnu Kamath: I beg to move:

Page 1, *omit* lines 14 and 15. (2).

Page 1, lines 14 and 15, *omit*

"State of Jammu and Kashmir and" (3).

Mr. Deputy-Speaker: Amendment No. 28 is the same as amendment No. 2.

Shri Hari Vishnu Kamath (Hoshangabad): By your leave, I have moved the amendments standing in my name, namely, Nos. 2 and 3. The first seeks to omit the reference to the State of Jammu and Kashmir and the State of Nagaland, and the second is merely to exclude the words, "State of Jammu and Kashmir" and retain Nagaland. After having studied the position afresh, the State of Nagaland Act afresh, I beg leave of the House to withdraw amendment No. 2.

[Shri Hari Vishnu Kamath]

I will now speak on amendment No. 3. May I submit, very briefly, why I would commend this amendment to the acceptance of the Government and the House. We have heard the Minister and to a certain extent he was right in so far as the State of Jammu and Kashmir is concerned; more especially, since last Friday, this question has assumed a delicate aspect. So, I realise the responsibility that devolves upon us when we refer to this particular question. The House will no doubt wish all success to the Prime Minister in his new endeavours.

Mr. Deputy-Speaker: Why complicate matters?

Shri Hari Vishnu Kamath: The House will wish all success. That is all I mean to say. I hope that the Government will try to convince Pakistan that China is the common enemy of India and Pakistan and that a joint defence against China is the need of the hour.

Having said that, I would refer the Minister to the statements made by the Home Minister to which I believe a casual reference was sought to be made by one of the hon. Members here. The Minister apparently has not taken notice of the very critical categorical statement made by the Home Minister in this House apart from the press note or the press report which he said he had seen sometime ago. May I invite the attention of the House and the attention of the Minister to the questions raised in the House on the 6th September and 8th June of this year—that is to say, the first session and the second session of the third Lok Sabha. The question was raised by me with regard to the State of Jammu and Kashmir, particularly with reference to its representation in the Lok Sabha, and on the subsequent date, that is to say, on the 6th September, 1962, the Home Minister referred to his statement made earlier in the first session and went on to say as follows.

15 hrs.

The Home Minister said there was no constitutional difficulty. He referred to the communication he had had from the Prime Minister of Jammu and Kashmir that the Prime Minister of Jammu and Kashmir had agreed to fill the seats in the Lok Sabha through direct election and not through indirect election, as is the practice in vogue today.

Shri S. M. Banerjee: That was the recommendation of the National Conference also.

Shri Hari Vishnu Kamath: The Home Minister went on to say that though three months had elapsed since June, since the correspondence had started between the Central Government and the Jammu and Kashmir Government, there was no communication subsequently from the Kashmir Government in this respect. He also told the House on 6th September, 1962 that he hoped to hear from the Prime Minister of Jammu and Kashmir very soon on this matter and that he had agreed in principle to the direct election of the representatives of Jammu and Kashmir to the Lok Sabha and not through indirect election as it is today.

Moreover, I am somewhat in doubt as to the constitutional position also as adumbrated by my hon. friend, the Deputy Minister. Article 370 is there, as we are well aware. Clause (1) (a) of this article related to the provisions of article 238; it said:

“(a) the provisions of article 238 shall not apply in relation to the State of Jammu and Kashmir.”

That article 238 has since been repealed and so that goes out of the picture. What is before the House and the country is only clause (1) (b) of article 370:

“(b) the power of Parliament to make laws for the said State shall be limited to—

(i) those matters in the Union List and the Con-

current List which, in consultation with the Government of the State, are declared by the President to correspond to matters specified in the Instrument of Accession governing the accession of the State to the Dominion of India....” etc.

Unfortunately, we do not have a list before us of what matters have been so defined or specified by the President as applicable to the power of Parliament to make laws in regard to that State of Jammu and Kashmir. So far we have been told that the jurisdiction of the Election Commission has been extended to that State. That means to say, we have taken the first step and perhaps a major step, towards the integration of Jammu and Kashmir with the rest of India, so far as elections are concerned. So far as the provisions of the Constitution governing elections are concerned, the jurisdiction of the Election Commission which is laid down in article number—I do not remember the number of that article now—has been extended to Jammu and Kashmir. What is the difficulty in pursuing this matter to this limited extent at this stage? We all know that the elections are at least five years away, if not more distant; that is to say, till 1967, as the hon. Minister told us, except for Orissa and Kerala, where the elections shall be held in 1966 and 1965 respectively, to the Legislative Assembly.

If a step is taken in regard to this matter and if Jammu and Kashmir is brought within the purview of this Bill, we are sure that the day and the time envisaged by the Home Minister in the course of his reply to my question and the questions of so many colleagues of mine in this House in June and September last will come very soon. My friend, Shri Banerjee and some others also have said that the Delimitation Commis-

sion may be appointed but it may start its work in 1964. The constitutional requirement that after the census, the Government must come before the House with this Bill has been fulfilled. Having appointed the Commission, the Commission need not necessarily start working immediately. It is not obligatory on the Commission to start working immediately. It may go into temporary cold storage—I do not mean to cast any sort of aspersion on the Commission; it may start its work years hence and by that time, we hope the expectation of the Home Minister will be fulfilled and the Jammu and Kashmir State Government will have communicated its final assent to the proposal made by this Government with regard to direct election of the representatives of that State in the Lok Sabha. Therefore, it is very desirable, if not incumbent upon us, to see to it that Jammu and Kashmir State also is included in this. We seek the integration of the whole country and Jammu and Kashmir has been an integral part of the country, since article 1 was incorporated in the Constitution, which categorically affirms Jammu and Kashmir as one of the States of the Indian Union.

After having extended the jurisdiction of the Election Commission, my amendment seeks to take one more step to associate the representatives of that State in the work of the Delimitation Commission, so that by the time the Delimitation Commission starts its work, the approval of the Constituent Assembly and the Government of Jammu and Kashmir will also have been obtained for direct election and by the time the Commission starts its work, we will have the pleasure and the privilege of having the representatives of Jammu and Kashmir also associated with the Commission's work, along with the representatives of other States of the Indian Union. I, therefore, move my amendment and commend it to the acceptance of the Minister and of the House.

Shri Bibudhendra Mishra: I have expressed the same hope that has been expressed by Shri Kamath. But I am sorry to say that under the law as it stands at present, so long as the concurrence of the Government of Jammu and Kashmir State is not received, it cannot be included.

Shri Hari Vishnu Kamath: For this you do not need the consent of the Government of Jammu and Kashmir.

Shri Bibudhendra Mishra: For this, we need. Mr. Kamath will kindly look at the Constitution (Application to Jammu and Kashmir) Order, 1954 which says:

"Article 81 shall apply to the State of Jammu and Kashmir subject to the modification that the representatives of that State in the House of the People shall be appointed by the President on the recommendation of the Legislature of that State."

So, article 370 should be suitably amended. Therefore, unless that communication is received from the Jammu and Kashmir Government, whatever may be the correspondence and the hope expressed—we also hope that Jammu and Kashmir should come under the operation of this law. If at all it comes, I can assure the House that we can always amend this Act and include them. Simply because Jammu and Kashmir has not been included, there is no reason why the demarcation of constituencies in the other States should wait. Therefore, I oppose the amendment.

Shri Hari Vishnu Kamath: On a point of clarification. I have read that article. But that refers to the election of representatives of Jammu and Kashmir State in the Lok Sabha. At present, we are not concerned with that. At present we only want to associate those representatives of Jammu and Kashmir with the work of the Delimitation Commission, so that by the time the Commission starts its work, we will have obtained the assent

of the Jammu and Kashmir Government.

Mr. Deputy-Speaker: Unless the article is amended, how can it be done? Does the hon. Member have the leave of the House to withdraw his amendment No. 2?

Some Hon. Members: Yes.

The amendment was, by leave, withdrawn.

Mr. Deputy-Speaker: I shall now put his amendment No. 3 to the House. The question is:

Page 1, lines 14 and 15, omit "the State of Jammu and Kashmir and" (3).

The motion was negatived.

Mr. Deputy-Speaker: The question is:

"That clause 2 stand part of the Bill".

The motion was adopted.

Clause 2 was added to the Bill.

Mr. Deputy-Speaker: The question is:

"That clauses 3 and 4 stand part of the Bill."

The motion was adopted.

Clauses 3 and 4 were added to the Bill.

Clause 5— (Associate members)

Mr. Deputy-Speaker: What are the amendments that hon. Members want to move?

Shri Kashi Ram Gupta: Sir, I beg to move:

Page 2, lines 19 to 22,—

For "seven persons three of whom shall be members of the House of the People representing that State and four shall be members of the Legislative Assembly of that State",

substitute—

“as mention below:—

(i) From States, having the present number of Parliamentary Constituencies below thirty, seven persons, three of whom shall be members of the House of the People representing the State, and four shall be members of the Legislative Assembly of that State;

(ii) From States, having the present number of Parliamentary Constituencies above thirty (except the State of Uttar Pradesh), thirteen persons, five of whom shall be members of the House of the People, representing the State, and eight shall be members of the Legislative Assembly of that State; and

(iii) For the State of Uttar Pradesh, twenty-one members, seven of whom shall be members of the House of the People, representing that State and fourteen shall be members of the State Legislative Assembly.” (40).

Shri Narasimha Reddy (Rajampet): Sir, I beg to move:

Page 2.—

(i) line 19, for “seven” substitute “thirteen”;

(ii) line 20, for “three” substitute “seven”;

(iii) line 21, for “four” substitute “six” (1).

Shri Hari Vishnu Kamath: Sir, I beg to move:

Page 2, line 19,—for “seven” substitute “eleven” (4).

Page 2, line 19,—for “seven” substitute “nine” (5).

Page 2, line 20,—for “three” substitute “five” (6).

Page 2, line 20,—for “three” substitute “four” (7).

Page 2, line 21,—for “four” substitute “six” (8).

Page 2, line 21,—for “four” substitute “five” (9).

Page 2, line 38,—omit “to vote or” (10).

Shri H. C. Roy: Sir, I beg to move:

Page 2, line 19,—

for “seven” substitute “fourteen” (41).

Page 2, line 20,—

for “three” substitute “six” (42).

Page 2, line 21,—

for “four” substitute “eight” (43).

Page 2, line 27,—

after “to the” insert “political” (44).

Page 2, line 28,—

Add at the end—

“provided in the nominations to be so made that at least two members shall be each from the Scheduled Castes and the Scheduled Tribes in case where the total population of the Scheduled Castes and the Scheduled Tribes to the total population of the State is five per cent. or more.” (45).

Shri D. S. Patil (Yeotmal): Sir, I beg to move:

Page 2, line 20,—

after “House of the People” insert—

“amongst whom one shall be a member of Scheduled Tribes”. (13).

Page 2, line 39,—

add at the end—

“but they shall be entitled to attend sittings of the Commission and to participate in the proceedings”. (31).

Mr. Deputy-Speaker: The amendments and the clause are now before the House.

Shri Narasimha Reddy: Mr. Deputy-Speaker, Sir, my amendment No. 1 is to clause 5(1) which reads as follows:

"The Commission shall associate with itself for the purpose of assisting it in its duties in respect of each State, seven persons three of whom shall be members of the House of the People representing that State and four shall be members of the Legislative Assembly of that State."

My amendment seeks to increase the number 7 to 13 and, correspondingly, the three members from the House of the People increased to seven, and the four members of the legislative assembly of each State to six.

While proposing number 13, I thought the Government may be allergic to that number. So, if the Government has any objection, I accept reducing that number to 12.

The idea behind increasing the number of persons to be nominated as associate members is that representation should be given to all parties and to all members in delimiting the constituencies. I suggest that the nomination of persons should not be on the strength of the various parties in either the Assembly or the Parliament, because in such matters it is the opinion of each party that is to be taken into consideration. There may be such a thing as the Congress point of view, the Communist point of view or the Swatantra point of view. But the main thing is that every point of view of every party should be given a representation. I suggest that no party should have more than one member to be nominated as an associate member, because a suggestion is either good or bad on the inherent merits of that suggestion and not on the question whether it is pushed forth by a number of people from behind. Therefore, it is the inherent merits of each case that have to be taken into

consideration and not the numbers by which each case is backed up. On that consideration, I suggest that not more than one member should be given representation from each party.

Mr. Deputy-Speaker: There are 14 parties here.

An Hon. Member: And Independents too.

Shri Narasimha Reddy: The Members of Parliament and members of the legislative assemblies who would be associate members are familiar with the geographical conditions. They have gone through many elections, and they are in a position to say clearly and distinctly about the topographical conditions more than any official, because in the course of these elections they would have gone in and out of the villages more than a hundred times.

I, therefore, suggest that the number of persons be increased from 7 to 12, and in line 20 the number 3 should be increased to 7, and number 4 in line 31 be increased to 5. The hon. Deputy Minister has already agreed to increase it to 9. Probably, it may be too much for me to ask him to take a sudden jump from 9 to 13. My hon. friend Shri Kamath's amendment suggests that the number may be 11. The hon. Deputy Minister, probably, might find it easier to jump to 11 rather than to take a double jump to 13.

Shri Prabhat Kar: 13 is an unlucky number.

Shri Narasimha Reddy: Under these circumstances, I do not press my amendment, but I commend the amendment which Shri Kamath has moved for the acceptance of the hon. Minister.

श्री काशीराम गुप्त (अलवर) : उपाध्यक्ष महोदय, मैं ने जो संशोधन पेश किया है उसमें खास तौर से इस बात का ध्यान रखा है कि कितनी बड़ी स्टेट है और उसका कितना बड़ा क्षेत्र है। उसी के मुताबिक

वहाँ के लिये आदमी बढ़ाने चाहियें। ऐसा प्रतीत होता है कि मंत्री महोदय ने उत्तर प्रदेश का विशेष ध्यान नहीं रखा है जो कि इतनी बड़ी स्टेट है। वह शायद समझते हैं कि वहाँ के लोगों का अलौकिक ज्ञान है। वह आन दी स्पार्ट ज्ञान के बारे में कहते हैं। तो एक आदमी को कितने क्षेत्र का ज्ञान हो सकता है। किमी के लिये भी इतने बड़े क्षेत्र का ज्ञान सम्भव नहीं है। इसी दृष्टि से उत्तर प्रदेश के लिये आदमी बढ़ाने चाहियें। इसी लिये जान बूझ कर मैंने उत्तर प्रदेश के लिये ज्यादा नम्बर के लिये कहा है। अगर मंत्री महोदय समझते हैं कि उत्तर प्रदेश के महानुभाव विशेष शक्ति रखते हैं और थोड़े ही आदमी वहाँ काम कर लेंगे तो मुझे कोई ऐतराज नहीं होगा।

मेरा तो यह निवेदन है कि उत्तर प्रदेश की विशेष परिस्थितियों को देखते हुए वहाँ के लिये ज्यादा आदमी होने चाहिये। पर मैं समझता हूँ, जसा कि अभी रेड्डी साहब ने कहा है, मंत्री महोदय के लिये ६ से ११ सदस्य करना ज्यादा आसान होगा। मैंने जो नम्बर २१ का बताया है वह शायद उत्तर प्रदेश वाले भी ज्यादा बड़ा समझें। लेकिन मेरा निवेदन है कि उत्तर प्रदेश के क्षेत्र को देखते हुए उसके लिये ज्यादा आदमी होने चाहियें।

श्री गौरी शंकर कक्कड़ (फतेहपुर) : उत्तर प्रदेश वालों की शक्ति बहुत ज्यादा है।

श्री काशीराम गुप्त : ऐसा है तो बहुत अच्छा है। यदि उनकी शक्ति ज्यादा है तो सब के लिये ११ कर दीजिये।

Shri Hari Vishnu Kamath: I have moved amendment Nos. 4 to 10 standing in my name. Amendment Nos. 4 to 9 deal with the number of associate members of the Delimitation Commission pertaining to each State. The hon. Minister has indicated earlier his readiness, his willingness, to

accept one of the amendments and the two consequential amendments, that is to say, raising the number of associate members from 7 to 9 if I heard him aright. Is that not so? I would have been happier if he had accepted the higher number of 11, because we are all familiar with the cricket eleven. So, it would be displaying greater sportsmanship to accept an amendment to the effect that the associate members in each State should be 11 and not 9, if he can change his mind. I know he has an open mind and he can change it, if he wants to. So, I would be happy and the House would be happy if he accepts amendment No. 4 and the consequential amendment Nos. 5 and 6.

Shri Prabhat Kar: Further, there is no principle behind it.

Shri Hari Vishnu Kamath: There is no fundamental principle. So, it is open to him to accept the amendment raising the number to 11 instead of the amendment raising it to 9. Let us wait and see what he does at the end of the discussion of this particular clause.

The last amendment is with regard to the right to vote. That is to say, it has been provided in this Bill that the associate members will have normally no right to sign the report of the Commission. I can understand the Minister when he says that the associate members will not be empowered to sign because naturally the Delimitation Commission is a constitutional statutory body and the signature will be of the members of the Commission, not of the associate members because they have got a separate status in the statute itself. But I see no harm if the associate members are allowed, are given the right to vote after discussion. On a particular proposal and the result after the voting is regarded as a decision of the Election Commission. I am sure the judicial members of the Election Commission and the Chief Election Commis-

[Shri Hari Vishnu Kamath]

amendment will have no objection to this proposal because they would be happy to have the advantage, the benefit of consultation with the associate members, together with their vote on a particular proposal, so that they would be fortified in what they sign, and in recommending certain measures to the House of the People and the Vidhan Sabhas in States they would feel more fortified because they have got the support of the associate members as well. So, I would certainly press this amendment, and I hope that the Minister will see his way to accepting it and the House too will follow suit.

श्री बे० शि० पाटिल (यवतमाल) :

उपाध्यक्ष महोदय, कलाज नम्बर ५ पर मेरा अमैन्डमेंट नम्बर १३ है जिसमें मैंने चाहा है कि लोक सभा के जो तीन एसोशिएट मੈम्बर्स होंगे उनमें एक शङ्खुलड ट्राइब्स का मੈम्बर हो। इसका कारण यह है कि कलाज ६ जो है उसमें एसोशिएट मੈम्बर्स का काम दिया गया है और वह फंक्शन शङ्खुलड कास्टम्स और शङ्खुलड ट्राइब्स का मੈम्बर ही कर सकता है दूसरा नहीं कर सकता है, ऐसा मेरा कहना नहीं है लेकिन लोकल ऐरिया की कांस्टीटुएन्सी की इनफारमेशन उनको ज्यादा रह सकती है।

कलाज ६ (१) (डी) में यह दिया हुआ है :—

"constituencies in which seats are reserved for the Scheduled Tribes shall, as far as practicable, be located in areas where the proportion of their population to the total is the largest."

यह काम शङ्खुलड ट्राइब्स का मੈम्बर अच्छी तरह कर सकता है। इसलिये मैं चाहता हूँ कि यह जो एसोशिएट मੈम्बर्स बन हैं उनमें शङ्खुलड ट्राइब्स का एक मੈम्बर रहना चाहिये।

कान्स्टीटूशन में शङ्खुलड ट्राइब्स का ऐरिया इस तरह डिफाइन किया गया है :—

"'Scheduled Area' means such area as the President may order to be Scheduled Area."

शङ्खुलड ट्राइब्स ऐरिया प्रेसिडेंट अपने आर्डर से डिक्लेयर करेंगे। लेकिन जहाँ तक शङ्खुलड ट्राइब्स का सवाल है इसको कहीं पर डिफाइन नहीं किया गया है। शङ्खुलड ऐरिया और शङ्खुलड ट्राइब्स कमिशन की रिपोर्ट, चैप्टर १ में लिखा है :—

"The term 'Scheduled Tribes' is nowhere defined in the Constitution and in fact, there is no satisfactory definition given anywhere."

शङ्खुलड ऐरिया में जो शङ्खुलड ट्राइब्स रहते हैं उनको संख्या शङ्खुलड ट्राइब्स कांस्टीटुएन्सी बनाने के वक्त ध्यान में रखी जाती है लेकिन शङ्खुलड ऐरिया के बाहर जो ट्राइब्स लोग रहते हैं उनको ध्यान में नहीं रखा जाता है The position of the Scheduled Tribes in a non-scheduled Area ऐसी हो जाती है कि वह शङ्खुलड ट्राइब्स भी नहीं माने जाते हैं और नौन शङ्खुलड ट्राइब्स भी नहीं माने जाते हैं और उनको प्रोटेक्शन देने के लिये मैंने यह सुझाव यहाँ पर रखा है। यह मैं नहीं कहता लेकिन शङ्खुलड ऐरिया अन्ड शङ्खुलड ट्राइब्स कमिशन के अध्यक्ष श्री डेबर ने प्रेसिडेंट आफ इंडिया को ४ अक्टूबर १९६२ को जो पत्र लिखा है उसमें एक जगह यह लिखा है :—

"There is another class of tribes who, though belonging to the same category, has been excluded because of the territorial test, that they remain outside particular area. We can say with some personal knowledge that this distinction while valid in law is without such justification in point of fact. But, more than that, we have in

our mind the case of left out tribes in the Madhya Pradesh areas and in the Nagpur Division of Maharashtra. We have compared the conditions of these tribals and we would like to recommend that their case should be specially examined."

इतना ही नहीं वल्कि संविधान परिषद् की सबकमेटी ने जो सिफारिशों की हैं उस ने भी पेज ४०१ पर यह कहा है :—

"The Constituent Assembly Sub-Committee had also felt that some sort of protection was required by the Tribals residing in other parts, not declared as Scheduled Areas, which had a concentration of Scheduled Tribes population.

इसको पढ़ने का मेरा मतलब यही था कि नान शेड्यूलड ऐरिया में रहने वाले शेड्यूलड ट्राइब्स को प्रतिनिधित्व देने के लिये कांस्टीटुएणसीज उन सब लोगों की होनी चाहिये और सब को बराबर रिप्रेजेंटेशन मिलना चाहिये । लोकसभा के लिये और राज्य विधान सभाओं के लिए जो असुरक्षित निर्वाचन-क्षेत्र बनेंगे उस के लिये उनको क्वॉटेंट रहने का हक मिलना चाहिये । इसी हेतु मैं ने अपना अमेंडमेंट रक्खा है ।

मेरा जो दूसरा अमेंडमेंट है वह क्लोज ५ (४) पर ३१ नम्बर का है । उस में मैं ने यह चाहा है कि हालांकि उनको वोटिंग राइट नहीं होगा और वह कमिशन के किसी फैसले पर दस्तखत नहीं कर सकेंगे लेकिन वे कमिशन की बैठकों को एटेंड करने और प्रोसीडिंग्स में पार्ट लेने के इन्टाइटल्ड होंगे ।

"None of the associate members shall have a right to vote or to sign any decision of the Commission."

इस में मैं ने यह अमेंडमेंट दिया है :—

"but they shall be entitled to attend the sittings of the Com-

mission and participate in the proceedings."

मैं इस के बारे में सदन का वक्त नहीं लेना चाहता कि एसोसिएट मैम्बर्स के क्या क्या फंक्शन हों । जैसा कि विधेयक का संकेत है एसोसिएट मैम्बर्स को जो निर्वाचन-क्षेत्र के बारे में ज्ञान और मालमात हों वह कमिशन को दें । वह अपनी राय कमिशन को लिख कर दे सकते हैं । लेकिन यह विधेयक स्पष्ट नहीं कि वह अपनी राय कमिशन की बैठक में शामिल होकर दे सकते हैं । संकेत यह है कि वह बैठक में हाजिर रहें और वहां जो उनकी राय और व्यू हो उसे वे दें । इसीलिये उन को यह भी अधिकार दिया गया है कि वह अपना डिस्सेंटिंग प्रपोजल भेज सकते हैं । यदि यह संकेत कानून का है तो एसोसिएट मैम्बर्स को कम से कम सिटिंग में शामिल होने का अधिकार तो देना चाहिये । मतदान वे भले ही न कर सकें लेकिन वह सिटिंग को अटेंड करने और प्रोसीडिंग्स में पार्ट लेने के लिये अवश्य इन्टाइटल्ड हों । मैं ने अपने अमेंडमेंट में यही चीज चाही है । अगर हमारी यह राय हो और हमारा यह मत हो तो कानून में ऐसी तबदीली कर दी जाय जिससे कि वह इन्टाइटल्ड हो जायें । कई जगह कमिशन के सिटिंग्स में सहयोजित मैम्बर को नहीं बुलाया गया । इन काननों का मुझे अनुभव है और हम देखते हैं कि कहीं उनको नोटिस नहीं मिलता । है इसलिये मैं चाहता हूं कि कानून में एक प्राविजन हो जाय कि they shall be entitled to attend the sittings of the Commission and participate in the proceedings, यह मेरा सुझाव है ।

Shri H. C. Soy (Singhbhum): Sir, I have moved my amendments and I would not like to add much to what I have said during the general discussion. I am glad that the hon. Minister has agreed to increase the number of associate members. I shall add only one thing more. I will certainly request for more, that is, even

[Shri H. C. Soy]

eleven or thirteen. My amendment is for raising the number to fourteen. I will only impress upon the hon. Minister to see that the number of associate members to be taken is broadbased. I want that one member each from the Scheduled Castes and Scheduled Tribes should be there among the associate members. I say this because a number of hon. Members have expressed the view whether a particular area in one General Election should continue as a reserved area or not and whether it should be changed to some other constituency. Then, there is also the point as to what the percentage of population should be for a particular area for the Scheduled Castes and Scheduled Tribes. All these things will be better explained if there is one associate member each from the Scheduled Castes and Scheduled Tribes. So, I hope the hon. Minister will see to it.

Dr. M. S. Aney (Nagpur). Sir, I wish to make a few observations on some of the aspects of the amendments which have been moved. In the first place, I want to congratulate the hon. Deputy Minister of Law because he has shown a tendency of an open mind in accepting some of the suggestions from this side of the House. It may be that he may not come upto the expectations of the members as a whole, but there is a tendency in him to give a reasonable consideration to suggestions which have been made.

Shri Hari Vishnu Kamath: A welcome tendency.

Dr. M. S. Aney: He was prepared to accept to raise the number from seven to nine. But my hon. friend is there who is always a great fighter and he will certainly fight to the end. But I shall be satisfied at least if that is made. I think, he must stick to it and it should at least be raised from seven to nine.

Then, one of my hon. friends sitting behind me, has made a suggestion

that this number should not be one for all the States. He wants the number to be big or small . . .

Shri Hari Vishnu Kamath: Elastic.

Dr. M. S. Aney: He wants the number to be big or small in accordance with the size of the State or the so-called importance of the State and so on. Ours is a federal Constitution and it is a general convention among the federal Constitutions that once you have created these units, for inter-provincial and national considerations those units are generally considered units of the same status. For bodies created for the sake of consideration of national questions the representative of each State counts as one unit having the same representation. That is the general convention. Therefore, whatever the number the hon. Minister should be prepared to fix it should be the same for all the States. That should be accepted as a wholesome convention. The size of the population of the State is not going to give it or enlarge its importance. Once you have created a unit, every unit should have the same status so far as national matters are concerned. That is another reason.

There is one more point and I shall finish. Some hon. Members insist that the associate members should have a right to vote. I shall only give you my experience in this matter. I had been not an actual member of the commission but I appeared as a witness before the old Franchise Committees, the function committees and so on of Mountford Reforms. Later on, other bodies were also formed. As regards the Simon Commission, we boycotted it. But I know what took place. Whenever associate members were taken, they were taken for the sake of information which the original members wanted to have as regards the exact position, the condition and the special requirements for that province. Having got that information it was for the members to act upon that information in the best way they

thought proper. That is the reason why they were called associate members. The distinction was made between members who were there to give or elicit by cross examination of witnesses before the Commission proper information to enlighten them and who were to take a proper view of it. They were not there as actual members sanctioned by the Constitution itself with all the powers which the members are expected to have. That information was given by them. From that point of view I do not think they should get a right to vote. They may be said to have done their duty if they have put their views properly before them.

Besides, in another clause the right of writing a dissenting minute is given to them. That thing will be of use when this whole matter, that is, the report of the Commission, will come before the House. Then, if the dissenting minutes are of important nature, the House can certainly take proper consideration of the minutes and the necessary changes can be made by the House itself. So, even if the hon. Minister does not agree to the right of vote, I myself do not want to go to the length of differing from him on that particular point.

Shri Prabhat Kar (Hooghly): Mr. Deputy-Speaker, Sir, I support Shri Kamath's amendment so far as the increase in the number is concerned. I am not speaking on that because the hon. Minister has already . . .

Mr. Deputy-Speaker: It needs no support now. It has been accepted.

Shri Hari Vishnu Kamath: The lower number has been accepted, not the higher.

Shri Prabhat Kar: He has accepted on principle that the number may be increased. Now that at least clearly manifests that so far as he is concerned he has an open mind and that it does not at all involve any fundamental principle in it. Therefore I would request him to consider a further increase as suggested by my hon. friend, Shri Kamath.

On the question of Shri Kamath's amendment No. 10, that is, regarding the right of members to vote, I would just want to draw the attention of the hon. Minister to the fact that so far as the associate members are concerned, their function is not simply to lay the information. That can be done by the witnesses. The Commission has got the right to call witnesses and enforce their attendance. They will get the full information from the witnesses. The associate members of the Commission will be a part and parcel of the Commission itself. Therefore, after the witnesses have gone and their evidence has been recorded, the Commission will discuss and deliberate.

Now, I want to draw the attention of the House to sub-clause (5) of clause 7 which says that even if some member of the Commission is absent, the associate members along with a member of the Commission can continue the deliberations. So, the importance of the deliberations of the associate members is also accepted in sub-clause (5), clause 7.

It has been stated that they can give a dissenting note. I would say that having agreed to that, that is, that the dissenting note can also be affixed to the Report by the associate member, it goes more to support that they must have the voting power. I agree that they need not put their signature on the Report. So, I do not know, having given the right to them for giving even a dissenting note, what stands in the way of giving them the voting right. All these things go to prove that they should have the voting right and I would request the hon. Minister to reconsider this matter.

Shri Hari Vishnu Kamath: Do not disenfranchise them.

Shri Bibudhendra Mishra: All these questions were dealt with by me at the time of giving the reply. It is not a question of opposing a suggestion because it comes from the Member of the Opposition.

Shri Hari Vishnu Kamath: We did not say that.

Shri Bibudhendra Mishra: A suggestion is always considered on its merits. When dealing with the question of increasing the number of associate members, I had given my reasons. Now, I am fortified by Dr. Aney. As I have said already, increasing the number from nine to any other number would make it unwieldy. It is not necessary at all. We have three members and 9 associate members. It is open to everybody, whether a Member of Parliament or a Member of the Assembly or anybody to appear before the Commission and give his views. Therefore, I am not in favour of accepting these amendments except amendments 5, 7 and 9 moved by Shri Kamath.

Mr. Deputy-Speaker: You accept amendment No. 5.

Shri Bibudhendra Mishra: Amendment No. 5 is the main amendment; Nos. 7 and 9 are consequential.

About the right to vote, I have already said it would take away from the Commission the quasi judicial seal with which it is endowed. The importance of the associate members has been stressed throughout the Bill. At all stages, their opinion is taken into consideration. It would not be desirable in the interests of the functioning of the Commission itself to give the associate members the right to vote. I oppose it as I have already said.

There cannot be any specific provision in the Bill itself giving representation to the different political parties or the Scheduled Castes and the Scheduled Tribes. What the law says is that while making the nomination, the composition of the House should be taken into consideration by the Speaker. I think that would be sufficient. It is not possible to lay down in the law that representation will either be given to every political party that is there in the House or to the Scheduled Castes or Scheduled

Tribes. That is not possible. In view of this, except amendments 5, 7 and 9, I oppose all the other amendments.

Mr. Deputy-Speaker: Amendment No. 40.

Shri Kashi Ram Gupta: I withdraw that.

Amendment No. 40 was, by leave, withdrawn.

Mr. Deputy-Speaker: Amendment No. 1.

Shri Narasimha Reddy: I withdraw that.

Amendment No. 1 was, by leave, withdrawn.

Mr. Deputy-Speaker: Amendments 4, 6 and 8.

Shri Hari Vishnu Kamath: I withdraw them.

Amendments Nos. 4, 6 and 8 were, by leave, withdrawn.

Mr. Deputy-Speaker: Amendment No. 41.

Shri H. C. Soy: I withdraw that.

Amendment No 41 was, by leave, withdrawn.

Mr. Deputy-Speaker: The question is:

Page 2, line 19, for "seven" substitute "nine" (5).

Page 2, line 20, for "three" substitute "four" (7).

Page 2, line 21, for "four" substitute "five" (9).

The motion was adopted.

Mr. Deputy-Speaker: Amendment No. 42.

Shri H. C. Soy: I withdraw that.
Amendment No. 42 was, by leave, withdrawn.

Mr. Deputy-Speaker: Amendment No. 13.

Shri D. S. Patil: I withdraw that.
Amendment No. 13 was, by leave, withdrawn.

Mr. Deputy-Speaker: Amendments Nos. 43 and 44.

Shri H. C. Soy: I withdraw them. Amendments Nos. 43 and 44 were, by leave, withdrawn.

Mr. Deputy-Speaker: Amendment No. 45.

Shri H. C. Soy: I withdraw that. Amendment No. 45 was, by leave, withdrawn.

Mr. Deputy-Speaker: Amendment No. 10.

Shri Hari Vishnu Kamath: Amendment No. 10 may be put to vote.

15.45 hrs.

[MR. SPEAKER in the Chair]

Mr. Speaker: The question is: Amendment No. 10.

Shri Hari Vishnu Kamath: You may please read the amendment.

Mr. Speaker: I am going to read it. The question is:

Page 2, line 38, omit "to vote or" (10).

Shri Hari Vishnu Kamath: The substance is, we want the right to vote. Congress Members should not oppose the right to vote; franchise for which we have fought.

Mr. Speaker: He must have made his purpose clear when he moved it. I have read the amendment.

Shri Ranga: Some of the people came now.

Shri Hari Vishnu Kamath: Voting against the right to vote.

Mr. Speaker: Order, order.

The Lok Sabha divided.

AYES

[Division List No. 6]

[15.51 hours]

Bade, Shri
Banerjee, Shri S. M.
Bhattacharya, Shri Dinen
Biren Dutta, Shri
Chaudhary, Shri Y. S.
Dasaratha Deb, Shri
Dwivedy, Shri Surendranath
Gokaran Prasad, Shri
Gupta, Shri Indrajit

Kamath, Shri Hari Vishnu
Kappur, Shri Gauri Shanker
Kapur Singh, Shri
Kar, Shri Prabhat
Karjee, Shri
Mahato, Shri Bhajahari
Mehta, Shri Jashawant
Mohan Swarup, Shri
Mukerjee, Shri H. N.

Murmu, Shri Sarkar
Ranga, Shri
Reddy, Shri Narasimha
Roy, Dr. Saradish
Sen, Dr. Ranen
Singh, Shri Y. D.
Warior, Shri
Yadav, Shri Ram Sewak
Yashpal Singh, Shri

NOES

Achal Singh, Shri
Alva, Shri A. S.
Aney, Dr. M. S.
Arunachalam, Shri
Balakrishnan, Shri
Barupal, Shri P. L.
Bhagat, Shri B. R.
Bhagavati, Shri
Bhattacharyya, Shri C. K.
Brajeshwar Prasad, Shri
Chakraverti, Shri P. R.
Chandak, Shri
Chuni Lal, Shri
Das, Shri B. K.
Das, Shri N. T.
Dasappa, Shri
Desai, Shri Morarji
Dube, Shri Mulchand
Dubey, Shri R. G.
Dwivedi, Shri M. L.
Gaitonde, Shri
Gajraj Singh, Rao
Ganga Devi, Shrima
Guha, Shri A. C.
Gupta, Shri K. R.
Hem Raj, Shri

Jamunadevi, Shrimati
Jena, Shri
Kripa Shanker, Shri
Kureel, Shri B. N.
Lakshmi kanthamma, Shrimati
Mahtab, Shri
Mahishi, Shrimati Sarojini
Mandal, Shri Yamuna Prasad
Maniyangadan, Shri
Mehrotra, Shri Braj Bihari
Mohanty, Shri G.
More, Shri K. L.
Munzni, Shri
Naik, Shri Maheswar
Nallakoya, Shri
Nigam, Shrimati Savitri
Pandey, Shri R. S.
Patil, Shri D. S.
Prabhakar, Shri Naval
Pratap Singh, Shri
Raghunath Singh, Shri
Rai, Shrimati Sahodrabai
Ram Swarup, Shri
Rane, Shri
Rao, Shri Krishnamoorthy
Reddy, Shrimati Yashoda

oy, Shri Bishwanath
Sadhu Ram, Shri
Saha, Dr. S. K.
Sarma, Shri A. T.
Satyabhama Devi, Shrimati
Sen, Shri P. G.
Shah, Shri Manabendra
Shastri, Shri Ramanand
Shinde, Shri
Shree Narayan Das, Shri
Singh, Dr. B. N.
Sinha, Shri Satya Narayan
Sinha, Shrimati Tarkeshwari;
Soy, Shri H. C.
Sunder Lal, Shri
Swamy, Shri M. P.
Tantia, Shri Rameahwar
Tulmohan Ram, Shri
Upadhyaya, Shri Shiva Dut
Vaishya, Shri M. B.
Varma, Shri Ravindra
Veerasappa Shri
Vidyalankar, Shri A. N.
Wadiwa, Shri
Wasnik, Shri Balkrishna
Yadav, Shri Ram Sewak

Mr. Speaker: The result of the Division is: Ayes 27; Noes 78.

The "Noes" have it. The amendment is lost.

The motion was negatived.

Mr. Speaker: I shall now put amendment No. 31 to vote.

Amendment No. 31 was put and negatived.

Shri Warrior (Trichur): I do not know whether it is too late. The hon. lady Member Shrimati Shasank Manjari is complaining that the push button on her table has not worked.

Mr. Speaker: That is all over now. The result has been declared already. Nobody stood up at that time.

The question is:

"That clause 5, as amended, stand part of the Bill.

The motion was adopted.

Clause 5, as amended, was added to the Bill.

Mr. Speaker: Now, I come to clause 6. There is an amendment to this clause, namely amendment No. 32. The hon. Member concerned is absent. So, I shall put the clause to vote.

The question is:

"That clause 6 stand part of the Bill".

The motion was adopted.

Clause 6 was added to the Bill.

Clause 7—(Procedure and Powers of the Commission)

Shri Hari Vishnu Kamath: I beg to move:

Page 3, line 28, after 'of' insert 'the Chairman or'.(11)

Page 3, after line 33, insert: "(5A) In the absence of the Chairman at a sitting of the Commission, the members and associate members present

shall have the power to elect a Chairman for that particular sitting."(12)

Page 3, line 14, after 'person' insert 'or association or organization'.
(15)

That for the amendment proposed by me, printed as No. 12 in List No. 2 of amendments, substitute the following amendment,—

Page 3, after line 33, insert—

"(5A) In the absence of the Chairman at a sitting of the Commission, the other member appointed under clause (a) of subsection (1) of section 3 shall officiate as Chairman at that sitting."
(16)

Mr. Speaker: These amendments are now before the House.

Shri Hari Vishnu Kamath: The gist or purport of the amendments is with regard to vacancies, that is, with regard to the procedure that should be adopted in the case of the absence of the chairman or the members.

Amendment No. 11 seeks to include the chairman also among the possible or probable absentees. The clause seeks to provide only with regard to the absence of the members of the commission. But suppose the chairman also happens to be absent at a sitting of the commission. What would be the procedure to elect a chairman for that meeting or for that sitting of the commission?

I have suggested the procedure to be adopted in that case in another amendment, and I would move in this connection amendment No. 16. I would beg leave of the House to withdraw amendment No. 12.

Shri C. K. Bhattacharyya (Raiganj): Why not the others also?

Shri Hari Vishnu Kamath: You are so unthinking with regard to that.

Mr. Speaker: Order, order. Every hon. Member thinks before he speaks.

श्री वे० शि० पाटिल : अध्यक्ष महोदय
प्रमोदमेंट नं० १२ जो है उसमें लिखा
हुआ है :

"... the members and associate members present shall have the power to elect a Chairman for that particular sitting."

यह शब्द हैं। इसके पहले वोट के सम्बन्ध में हाउस में यह निर्णय किया गया है कि

They have no right to vote.

इस तरह का निर्णय हाउस ने किया है। ऐसी स्थिति में क्या यह संशोधन रखा जा सकता है ?

Shri Hari Vishnu Kamath: I am seeking leave of the House to withdraw amendment No. 12, but press amendment No. 16 in this connection. Instead of amendment No. 12, I would press amendment No. 16 which seeks to provide that in the absence of the chairman at a sitting of the commission, the other member appointed under clause (a) of sub-section (1) of section 3 shall officiate as Chairman at that sitting. It stands, I believe, to commonsense that when the chairman appointed under the Act is absent, the other member of the commission must usually preside. This is a self-evident proposition, and it does not need any elaboration or expatiation on my part. I have no doubt that the Minister will see his way to accept this amendment which seeks only to strengthen his hands in the probable or possible eventuality of the absence of the chairman, because the work of the commission must go on and should not get stumped because of the absence of the chairman; and when the chairman is absent, the other member must automatically and *ipso facto* preside, according to my humble judgment.

Therefore, I move amendments Nos. 11, 15 and 16, and beg leave of the House to withdraw amendment No. 12.

Shri Prabhat Kar: Sub-clause (5) of clause 7 reads thus:

"The Commission as well as any group of associate members shall have power to act notwithstanding the temporary absence of a member or associate member or the existence of a vacancy in the Commission."

It is not mentioned here what would happen when the chairman is absent. But it has been provided that:

"and no act or proceeding of the Commission or of any group of associate members shall be invalid or called in question on the ground merely of such temporary absence or of the existence of such vacancy."

That means that in the absence of the members of the commission or of the associate members and group of associate members, the proceedings will continue. There is no mention, however, whether in the absence of the chairman, the proceedings will continue or will stop. That is why I think that the amendment moved by Shri Kamath is necessary, or at least an explanation is necessary whether in the absence of the chairman also the proceedings will continue or not.

Mr. Speaker: The chairman also is a member of the commission.

Shri C. K. Bhattacharyya: The amendment proposed by Shri Kamath is not a result of mature thinking.

Mr. Speaker: Order, order.

Shri Hari Vishnu Kamath: I shall leave you to maturity.

Mr. Speaker: I asked Shri Kamath not to use those words for any Member.

Shri C. K. Bhattacharyya: I am sorry; I did not follow.

Shri Surendranath Dwivedy: The hon. Member himself did not give mature thought to it when he said about Kamath's mature thinking.

Shri C. K. Bhattacharyya: I have only said that it is not the result of mature thinking.

Mr. Speaker: Why indulge in such things? If hon. Members do not give mutual respect to each other, they would not deserve it from outsiders.

An Hon. Member: It may be said that he is not a mature parliamentarian then.

Shri C. K. Bhattacharyya: We want to give it to ourselves as well as to outsiders. I do not want to take away the honour from anyone whether in the House or outside the House.

In clause 3 it has been provided that there will only be three members of the Commission, two persons of the status and experience of judges and the third member will be the Chief Election Commissioner, and one from the first group will be the chairman. In case the chairman is absent or he resigns or anything else happens to him, there are only two members left, one of the judges and the Chief Election Commissioner.

It is to provide for such circumstances that clause 6 has been put in here, which says that:

"If owing to death or resignation the office of the Chairman or of a member or of an associate member falls vacant, it shall be filled as soon as may be practicable by the Central Government or the Speaker concerned under and in accordance with the provisions of section 3, or, as the case may be, of section 5."

So, the presumption is that in such a contingency, the commission will not meet, and the Government will quickly fill up the vacancy, and then only the commission will meet and work again.

Taking clause 3 and clause 6 together, that is the only natural conclusion that follows, as far as I can see.

Shri Bibudhendra Mishra: As the commission is to consist of three members to be appointed, and the chairman is a member, amendment No. 11 becomes unnecessary. It is not necessary to put in the word 'chairman'.

Mr. Speaker: If there are only three members, and the chairman is absent, then there are only two left. If those two do not agree, what will be the result? It may be said that the decision would be taken by the majority. If there are three members, then that would be all right. But if there are only two, and they disagree, what will happen?

Shri Bibudhendra Mishra: That is why it has been provided that this provision will apply only in the case of temporary absence. What Shri Kamath wants to provide is that in the temporary absence of the chairman, one shall be elected as the chairman. That will not meet the case that we contemplate here at all, namely the contingency of a vacancy; and clause 6 is there to provide in case of vacancy.

16 hrs.

Mr. Speaker: Probably the intention is that there are to be three members always.

Shri Bibudhendra Mishra: Whenever any decision is taken, it will be necessary. When arguments are heard or evidence is recorded, no Chairman is needed.

Shri Hari Vishnu Kamath: That means the decision will be held over.

Shri Prabhat Kar: 'Commission' will always mean three members. Can it split itself up? Can each member sit separately and take evidence?

Shri Bibudhendra Mishra: The Commission can split and one person may be assigned some work; so it can be done for some purpose. Clause 7(3) gives these powers. Powers can be distributed among themselves. When decisions are to be taken and in case there is difference of opinion,

then the question of majority will arise. Otherwise, the majority opinion does not arise.

Mr. Speaker: If two members are there during the discussions and they agree, can they take decisions?

Shri Bibudhendra Mishra: Certainly. Sub-clause (4) provides for that; the opinion of the majority shall prevail. In a membership of three, two is a majority.

Mr. Speaker: When there are two members and if they disagree, then there shall have to be three members.

Shri Prabhat Kar: The proceedings, deliberations, taking evidence, etc. will continue. The hon. Deputy Minister said this. But it is nowhere provided that at the time of the decision three should be present.

Mr. Speaker: The majority must be there. Two constitute a majority. If they could not agree among themselves, then no decision can be taken. The purpose is served in a different manner though it is not expressly provided.

Shri Hari Vishnu Kamath: May we request in all humility that further light may be thrown on this matter. There is no bar to say this. When a decision is taken three members shall be present. If only two are present, any one can be Chairman. Is it that the other two will arrange between themselves as to who will preside over whom? Is it not the Election Commission?

Shri C. K. Bhattacharyya: The clause makes it clear. One of the two judges will have to be the chairman. I refer to clause 3(2). If one judge is absent, the other judge will be the Chairman.

Mr. Speaker: Government thinks there is no need of any amendment?

Shri Bibudhendra Mishra: No, Sir; there is no need.

Shri Hari Vishnu Kamath: He has not answered my amendment No. 15.

Shri Bibudhendra Mishra: That is covered under the General Clauses Act as the definition there includes association or organisation.

Mr. Speaker: Has the hon. Member leave of the House to withdraw amendments Nos. 12 and 15?

Amendments Nos. 12 and 15 were, by leave, withdrawn.

Mr. Speaker: I shall put amendments Nos. 11 and 16 to the vote of the House.

Amendments Nos. 11 and 16 were put and negatived.

Mr. Speaker: I shall now put clause 7 to the vote of the House.

The question is:

"That clause 7 stand part of the Bill."

The motion was adopted.

Clause 7 was added to the Bill.

Mr. Speaker: We shall now take up clause 8 of the Bill. There are some amendments.

Shri Hari Vishnu Kamath: I beg to move:

Page 4, line 13,—

after "multiple" insert—

"not higher than 8, and not lower than 6." (17)

Page 4, line 3,—

for "order" substitute—

"one or more final orders." (47)

Page 4, line 3,—

for "order" substitute—

"one or more orders." (48)

Page 4, lines 4 and 5,—

for "in the House of the People to be allocated to each State"

[Shri Hari Vishnu Kamath]

substitute—

“to be allotted to each State in the House of the People.” (49)

Page 4, line 5,—

after “and” insert “the” (50).

Shri Hem Raj: I beg to move:

Page 4, line 15,—

add at the end—

“but in assigning the seats for Legislative Assembly it shall fix a minimum population for inaccessible hilly areas.” 51)

Shri Hari Charan Soy:—

Page 4,—

after line 15, add—

“Provided further that the total number of seats reserved for the Scheduled Castes and the Scheduled Tribes for the Legislative Assembly and the House of the People in any State or Union territory shall not be reduced.” (52)

Shri Hari Vishnu Kamath: Clause 8 is one of the important clauses of the Bill. Some of the amendments in my name are comparatively minor. I am sure the Government will accept them. For instance amendment number 50 only prefixes the article ‘the’. That has been perhaps omitted by oversight. The draftsmanship should show some improvement in future. There is, again, another amendment. The clause as it reads “...in the House of the People to be allocated to each State...” and I want it to be re-worded: “...to be allotted to each State in the House of the People”. That was the wording in the Delimitation Act of 1962. The constructional arrangement was slightly different. I believe it is better English and more accurate English. It is not good English in my humble judgment to say “...in the House of

the People to be allocated to each State”. I am sure Government will accept this amendment. On page 4, as it is, it reads: “...allocated to each State and number of seats...”. It should be: “...allocated to each State and the number of seats...”. Otherwise it is not English at all. It should read: “...the number of seats in the House of the People to be allocated to each State and the number of seats, if any, to be reserved...”. If the hon. Minister sticks to his draft, I am constrained to say that we will be committing an atrocious mistake and blunder with regard to English language, with regard to the construction of the English language.

Then I come to the other amendments which are more substantial,—the provision with regard to the Scheduled Castes and Scheduled Tribes. I step upon this provision of law with considerable trepidation because I have got a considerable regard and affection for our colleagues belonging to the Scheduled Castes and Scheduled Tribes in this House. I do not want—I will be the last person to assert or state—that their representation should be adversely affected in any manner because the Parliament has accepted that the provision with regard to reservation of seats in Parliament and the legislatures of States shall be extended by another ten years, till 1970, I believe—anyway, till the next general election. Afterwards, if it is not extended, the reservation clause in the Constitution will cease for the general election of 1972. But I would submit in all humility, with all earnestness, that there should be some modicum of fairness and justness with regard to the enforcement and the implementation of this provision. I can narrate my experience in my own constituency. I am sure it has been the experience of my colleagues here in other constituencies as well in our country during the last general election. There were two Assembly constituencies, one reserved for the Scheduled Castes and another for the

Scheduled Tribes. Most of the population belonging to the non-Scheduled Castes and non-Scheduled Tribes in those constituencies, the Assembly constituencies, complained—I would not say complained—but said to me that now this has become a Harijan constituency, an adivasi constituency, though the percentage of the Scheduled Castes and Scheduled Tribes respectively in that constituency was perhaps less than 20. Unfortunately, I was very concerned and distressed to find—I was not happy over the development at all—that many of the voters in those two Assembly constituencies—one was a Scheduled Tribes constituency and the other was a Scheduled Caste constituency—lost interest in the election and they did not go to the polling booth even, and so the polling in those constituencies was very poor; they said “We have no candidate”. Of course, I do not agree with that outlook; we should all be integrated and there should be no question of Scheduled Caste or Scheduled Tribe but only one nation, one united nation. And I look forward to the day, as you too do and as all my colleagues here do, when these reservations will be abolished and our Scheduled Castes and Scheduled Tribes in this country will be part of one and united, integrated nation, so that the Scheduled Castes and Scheduled Tribes will have as much right to stand as the others and will feel no distinction from the rest of the population, and there will be no reservation for them in their own interest. Unfortunately, today, reservation tends to become a vested interest. When I say this, I do not mean to cast any reflection upon my Scheduled Caste and Scheduled Tribe Member colleagues here, whom we all love and respect, but in their own interests, I am sure they will be the first to vote against the reservation when the next opportunity comes before Parliament, but, in the meanwhile, I would humbly suggest that they should agree to this proposition, in their own interest again, because I want that more and more people in our country should take an active

interest in democracy and more and more people should go to the polls in the elections. I do not want that, where there are only 20 per cent or 15 per cent of the Scheduled Castes and Scheduled Tribes, the people should lose all interest in the election and not go to the polling booth to vote. I do not suppose that will happen. So, I tabled an amendment to the effect that the percentage should be preferably—I have not said that it should be—more than 30. I have no objection to retain it as it is, but I have added the words “preferably 30 per cent”, because, if you compare with the earlier enactment of 1952, that was very much stricter. The words used there were: “where the concentration....”.

Mr. Speaker: By keeping the minimum of 30 per cent, we cannot make up all the number of seats that are to be allotted in the whole of India to the Scheduled Castes and Scheduled Tribes.

Shri Hari Vishnu Kamath: That is why I used the word “preferably”. I do not want it to be applicable in every case. Where it is possible you may apply “preferably”. I do not say it should be necessarily applied, so that the country will have an idea that Parliament is legislating with a view to abolishing reservation.

Mr. Speaker: What would be the effect of “preferably” in a legal provision?

Shri Hari Vishnu Kamath: I am not a lawyer; I am in your hands.

Mr. Speaker: That would have no effect at all, I am afraid.

Shri Hari Vishnu Kamath: As the Bill stands, in one place it says “largest” and in another place it says “comparatively large”.

Mr. Speaker: That is to be compared with other contiguous areas.

Shri Hari Vishnu Kamath: We could appreciate that when there are double-member constituencies. But now when there are only single-

[Shri Hari Vishnu Kamath]

member constituencies both for Parliament and State Assemblies, I do not know what significance the words will convey exactly. Perhaps there will be a few verbal and legal bouts before the Delimitation Commission before they arrive at a decision with regard to this rather tricky matter. Of course, our colleagues from here will be there to assist the Commission in this matter and they will give sound advice. So, the work will be carried on smoothly. But as far as possible, I want to make it clear in the enactment itself.

I would draw your attention to the earlier enactment where the words used are "most concentrated". It was even vaguer; I do not know what it means. It was passed by the House; I was not here in the Parliament at that time and I did not have an opportunity to speak on this.

Dr. M. S. Aney (Nagpur): Even if you were there, it would have been passed.

Shri Hari Vishnu Kamath: I could not speak on it because I was not a Member here. The words were "most concentrated". Rhetorically, as a part of English language, it is all right. But in legal terminology, I do not know what it means. Perhaps my friend, Prof. Mukerjee, may throw some light on it, so far as the English language is concerned. I would also like my hon. friends on the other side to discuss the significance and the connotation of these words "most concentrated", "comparatively large" and "largest"—what exactly they mean, what they import and what exactly they should convey. Otherwise, the Commission will be floundering in the dark. If you yourself can throw some light on it, the Commission will be grateful to you and its work will proceed smoothly.

Mr. Speaker: My light is switched off. Shri Soy.

श्री ह० च० सोय : अध्यक्ष महोदय, कलाज नम्बर ८ पर मेरा अमेंडमेंट नम्बर ५२ है। मैं नहीं चाहता था कि यह अमेंडमेंट दूँ लेकिन जो पिछला संशोधन हुआ और जैसा कि कई माननीय सदस्यों ने कहा कि उसमें गड़बड़ रही और पटिकुलर इलाका ट्राइब्स की गिनती में आता है तो दूसरा इलाका ट्राइब्स की गिनती में नहीं आता है। मैं यह चीज संशोधन कमिश्नर के डिस्चि-स्पैक्ट के लिए नहीं कह रहा हूँ मगर ऐसी चीज हो गयी है और कहीं नये संशोधन के मुताबिक यह रिजर्व सीट्स कम न हो जाय इसीलिए मैंने अपना यह अमेंडमेंट दिया है। मैं नहीं चाहता कि रिजर्वड सीट्स कम हों। अभी जो भी प्रतिनिधित्व शेड्यूलड ट्राइब्स और शेड्यूलड कास्टस् को दूसरे लेजिस्लेचर्स में मिलता है वह काफी कम देते हैं। यह ठीक है कि इसी सदन में श्रीमती राय जी, देबर भाई शेड्यूलड कास्ट्स और शेड्यूलड ट्राइब्स में काफी दिलचस्पी लेते हैं और जब भी उनका मसला हाउस में आता है तो आता है तो उसमें काफी भाग लेते हैं और दिलचस्पी दिखाते हैं, मैं यह तो नहीं कह सकता कि दूसरे मੈम्बरों की उनमें दिलचस्पी नहीं है लेकिन इतना जरूर कहूंगा कि इन लोगों की सारी बातों पर जिस जोर और जोश से जाना चाहिए उसके लिए जरूरी है कि शेड्यूलड कास्ट्स और शेड्यूलड ट्राइब्स के मੈम्बर रहें। जब हमने कांस्टीट्यूशन में रिजर्वेशन देने के लिए १० साल का ऐक्सटेंशन दे दिया है तो मैं यह अवश्य चाहता हूँ कि जो विशेष प्रतिनिधित्व मिल सकता है वह बराबर मिलना जारी रहे। इसी चीज को ध्यान में रखते हुए मैंने यह अमेंडमेंट दिया है। एक दूसरे माननीय सदस्य ने अमेंडमेंट नम्बर ५१ पेश की है उन्होंने कहा है

कि ऐसे क्षेत्र भी हैं पहाड़ी इलाकों में, जो कि कम्पानिकेशनज वर्गरह की दृष्टि से बिल्कुल इनएक्सेसिबल है। मेरा भी जिला ऐसा है, जो कि बड़े बड़े पहाड़ों से भरा पड़ा है और ऐसा लगता है कि वहाँ की एक एक एसेम्बली कांस्टीट्यूएन्सी दूसरे इलाकों की लॉक सभा के कांस्टीट्यूएन्सी के बराबर है। ग्रामेंडमेंट नम्बर ५१ के पीछे जो यह खयाल है कि इनएक्सेसिबल पहाड़ी इलाकों में एक मिनिमम पापुलेशन फिक्स को जाये, मैं उसका समर्थन करता हूँ। मैं चाहता हूँ कि पहाड़ी इलाकों में जरूर इस बात का खयाल रखा जाये और वहाँ पर एक मिनिमम पापुलेशन फिक्स की जाये, जो कि दूसरी जनरल कांस्टीट्यूएन्सीज के नम्बर से थोड़ी कम हो।

श्री हेमराज (कांगड़ा): अध्यक्ष महोदय मैंने ग्रामेंडमेंट नम्बर ५१ का नोटिस दिया है, जिसके जरिये मैं क्लाज ८ के प्रोवाइजों के साथ ये शब्द जोड़ना चाहता हूँ:—

"but in assigning the seats for Legislative Assembly it shall fix a minimum population for inaccessible hilly areas".

जैसा कि मैं पहले भी इस माननीय मदन के सामने अर्ज किया है, जितने भी इन-एक्सेसिबल हिल्ली एरियाज हैं, उनकी पापुलेशन की डेन्सिटी बहुत थोड़ी है और उनका एरिया बहुत ज्यादा है: अगर उन इलाकों में एसेम्बली सीट्स बनाने वक्त कोई मिनिमम पापुलेशन न रखी जाये, तो आदमी के लिए इतने बड़े एरिया को कवर करना बहुत कठिन हो जाता है। जहाँ तक रास्तों का सम्बन्ध है, अगर नजदोक के रास्ते हैं भी, तो वह सोलह हजार, अठारह हजार और बीस हजार फीट की बुलन्दी पर हैं और परपेटुअल स्नोलाइन पर बाके हैं।

चाहे ५० पी० का पहाड़ी इलाका हो और चाहे पंजाब और हिमाचल प्रदेश का,

और अगर कल को जम्मू—काश्मीर पर भी यह कानून लागू होता है, तो चाहे वहाँ का लद्दाख का क्षेत्र हो, ये सारे क्षेत्र साथ लगते हैं। मैं समझता हूँ कि इलैक्शन कमीशन को इन पहाड़ी इलाकों के लिए कोई न कोई उमूल बना लेना चाहिए। जहाँ वह बाकी कांस्टीट्यूएन्सीज के लिए इन्ट्रगल मल्टीप्लज फिक्स करता है, वहाँ उसको बिल्कुल इनएक्सेसिबल पहाड़ी एरियाज के लिए एक कम से कम पापुलेशन रखनी चाहिए। पार्लियामेंटरी कांस्टीट्यूएन्सी की जो बाकी की पापुलेशन रह जाये, उसको बाकी की एसेम्बली कांस्टीट्यूएन्सीज में बांट दिया जाये।

मैं आपके सामने एक मिसाल पेश करना चाहता हूँ। १९५२ के डीलिटिमेशन कमीशन में यह वाक्या आया था। कुल्लू की कांस्टीट्यूएन्सी कांगड़ा की एसेम्बली कांस्टीट्यूएन्सी से बिल्कुल जुदा है। अगर हमको जाना पड़ता है, तो सी मील तक कोई कनेक्शन नहीं है, क्योंकि बीच में हिमाचल प्रदेश का मंडी डिस्ट्रिक्ट पड़ता है। वहाँ पर देखा गया कि आबादी कितनी है। कांगड़ा की पार्लियामेंटी कांस्टीट्यूएन्सी साढ़े सात लाख की पड़ती थी। अगर सात कांस्टीट्यूएन्सीज को तक्सीम किया जाता, तो एक एक लाख की कांस्टीट्यूएन्सी बनती थी। उस डीलिटिमेशन कमीशन ने उस उमूल को मन्जूर किया और उन्होंने ७५,००० की एक एक कांस्टीट्यूएन्सी कुल्लू में बनाना मन्जूर कर लिया।

उस में फिर यह सवाल पदा हो गया कि उस वक्त कुल्लू, लाहौल और स्पिति की आबादी १,४४,००० थी। इलक्शन कमीशन ने कहा कि इस को कैसे पूरा किया जाये, हम ७५,००० से कम नहीं बनायेंगे। तो उन्होंने ने कांगड़ा डिस्ट्रिक्ट का छ: हजार की पापुलेशन वाला कोठी कोड़ और कोठी सवाड़ का इलाका, जोकि बड़ा बंगाल और छोटा बंगाल के नाम से मशहूर है, वहाँ से

[श्री हेम राज]

ले लिया और कुल्लू एसेम्बली कांस्टीट्यूएन्सीज़ में जोड़ दिया और फिर कांस्टीट्यूएन्सी बनाई ।

इस का नतीजा यह हुआ कि हालांकि तीन इलक्शन हो चुके हैं, लेकिन कुल्लू के मेम्बर ने वहां आ कर कभी वहां की हालत नहीं पूछी । अब हालात ऐसे पैदा हो रहे हैं कि वे लोग बायकाट करने की सोच रहे हैं । मैं अर्ज करना चाहता हूँ कि पहले इलेक्शन के वक्त यह हालत पैदा हो गई थी कि उन लोगों ने कहा कि हम मंगोलियन ट्राइब्स से ताल्लुक रतखते हैं, हमारा आप के साथ कोई ताल्लुक नहीं है और हम तो तेब्बत में जाते हैं । ऐसे हलाना में महज उसूलों पर ही नहीं चलना चाहिये, बल्कि लोगों के जज़्बात का खयाल कर के काम करना चाहिये । हिन्दुस्तान से अलग हो कर तिब्बत में शामिल होने के खयालात उन लोगों में पैदा हो गये । अगर सरकार हिन्दुस्तान की अखंडता को कायम रखना चाहती है, तो उस को ऐसे हालात नहीं पैदा होने देने चाहिये और उन लोगों की भावना का आदर करना चाहिये ।

मैं ने १९६१ की सैन्सम की रिपोर्ट देखी है । कुल्लू, लाहौल और स्पिती की आबादी बजाते-बुद डेढ़ लाख से ऊपर हो जाती है । मैं चाहता हूँ कि कुल्लू, लाहौल और स्पिती के लोगों के लिये दो कांस्टीट्यूएन्सीज़ जुदा बनाई जायें और कांगड़े का हिस्सा उस में शामिल न किया जाये । पार्लियामेंटरी कांस्टीट्यूएन्सी की जो बाकी आबादी बच जाती है, उसको असेम्बली की पांच कांस्टीट्यूएन्सीज़ में बांट देना चाहिये । सरकार को ऐसी नीति अख्तियार करनी चाहिये कि इस किस्म के खयालात वहां के लोगों में पैदा न हों कि हमारे साथ अच्छा बर्ताव नहीं हो रहा है ।

इन शब्दों के साथ मैं इस अमेंडमेंट को इस माननीय सदन के सामने पेश करता हूँ ।

Shri Balkrishna Wastrik (Gondia): Mr. Speaker, I welcome the suggestion made by my hon. friend, Shri Kamath, that the reservation for the Scheduled Castes and the Scheduled Tribes should go at a very early date. He said that he will be happy to see the day when this reservation goes. But, before that, I would like to inform Shri Kamath that the reservation in the minds of those who do not consider Members of the Scheduled Castes or Scheduled Tribes as one of their own should go first.

Shri Hari Vishnu Kamath: It does not apply here.

Shri Balkrishna Wastrik: They do not even visit some constituencies because they are reserved for Scheduled Castes or Scheduled Tribes. If the reservation in their minds does not go, I think the day when the reservation for Scheduled Castes and Scheduled Tribes will go, will go farther instead of coming nearer. So, this kind of atmosphere and mentality has to be created in this country.

While speaking on the Bill, I have referred to the figures in the last census report. In my own State, in some districts where the percentage of population belonging to Scheduled Castes and Scheduled Tribes was something like 20 to 22 per cent, it has come down to 2 per cent according to the latest census report. I do not know if it is the result of change of religion, but I do not think that alone can make such a material difference in the percentage. I know that people belonging to a particular caste in Maharashtra have changed their religion, but that alone could not have made such a big difference, especially when we have people belonging to so many castes. This is also evident from the reservation that has been given in the zilla parishad.

So, I would like to request the Minister to see that this delimitation should not, as a matter of fact, prove a boon to those who have been trying to eliminate this reservation. I want an assurance from the Minister that no effort will be made whatsoever to reduce the representation of Scheduled Castes and Scheduled Tribes either in this House or in the State Legislatures.

Regarding the change of religion, I would like to invite your attention to article 25 of the Constitution of India, where it is stated in Explanation II:

"In sub-clause (b) of clause (2), the reference to Hindus shall be construed as including a reference to persons professing the Sikh, Jaina or Buddhist religion, and the reference to Hindu religious institutions shall be construed accordingly"

Clause (2) of article 25 reads as follows:

"Nothing in this article shall affect the operation of any existing law or prevent the State from making any law—

(a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice;....."

So, I want to say that these are the political guarantees that have been given to the Scheduled Castes and Scheduled Tribes under the Constitution and therefore even if some members of the Scheduled Castes have changed their religion and have gone over to Buddhism, it should not be felt that they have gone out of our fold; they are one of us.

I would also like to draw your attention to the problem of the Scheduled Tribes. They are concentrated in some areas, in my area and in various other areas. While forming the constituencies it has been seen that

portions of those areas in which the Scheduled Tribes are concentrated are given to three or four constituencies. They are divided into three or four constituencies. They are concentrated in one particular area and that area is divided and given to three or four constituencies. If this effort is not made, one more seat can be given to the Scheduled Tribes. So, this should also be looked into. I hope the hon. Law Minister will kindly take note of these things. While delimiting these constituencies a note of all these things, I hope, will be taken.

अध्यक्ष महोदय : आनरेबल मिनिस्टर ।

श्री शिवमूर्ति स्वामी (कोपल) :
अध्यक्ष महोदय ,

अध्यक्ष महोदय : इस का इतना खुला दायरा तो नहीं है । एक दूसरे को मून कर कई मेम्बर साहब खड़े होने लगे हैं । कहिये, आप को क्या कहना है ?

श्री शिवमूर्ति स्वामी : इस में जो उसूल बताये गये हैं, उन में से कुछ उसूलों को वेग रखा गया है । मैं चाहता हूँ कि इन को वेग न रखा जाये । ज्योप्रेफिकल कंटी-गुम्टी और कम्पक्ट एरिया का जहाँ तक ताल्लुक है, मैं समझता हूँ कि इस को मंडेटरी कर देना बहुत जरूरी है, इस को कम्पलसरी कर देना बहुत जरूरी है ।

जहाँ तक शड्यूलड कास्ट और शड्यूलड ट्राइब्स की सीट्स का ताल्लुक है, जिस एरिया में जिस पार्लिमेंटरी कंस्टिट्युएन्सी में वे आती हैं, उस को भी मंडेटरी बना दिया जाना चाहिये । एज फार एज प्रक्टिकल जब आप रख देते हैं तो उस से बहुत गडबड होती है । इस चुनाव में जब बाइफरकेशन हुआ डबल मम्बर कंस्टिट्युएन्सीज को दो में बांटा गया, उस वक्त आम तीर पर देखने में आया है कि वह ठीक

[श्री शिवमूर्ति स्वामी:]

तरह से नहीं होता है। मंसूर में कर्नाटक में कूडलिपी और हरपनहल्ली कंस्टिट्यू-एन्सी को अलग करते वक्त जहां पर हरिजन भाइयों की बहुत ज्यादा आबादी थी, उस ताल्लुके को छोड़ कर दूसरे ताल्लुके की सीट का रिजर्वेशन किया गया। इस तरह की बात नहीं होनी चाहिये।

एसोसिएट मेम्बर का जहाँ तक ताल्लुक है, वे जब नामिनेट होते हैं तब पार्टी की दृष्टि से न हों और जो लोग एबव-पार्टी पार्लिटिक्स होते हैं, उन को नामिनेट किया जाये। अगर ऐसा नहीं हो सकता है तो मसावी तौर पर कांग्रेस दल और विरोधी दलों के लोगों को नामिनेट करना बहुत जरूरी है। जहाँ पर ज्यादा हरिजन भाई रहते हैं, उस सीट को रिजर्व न कर के जब दूसरी सीट को उन के लिए रिजर्व कर दिया जाता है तो बहुत ज्यादा बेचैनी फैलती है।

अध्यक्ष महोदय : एसोसिएट मेम्बर तो स्पीकर नामिनेट करता है। क्या आप स्पीकर की नुक्ताचीनी कर रहे हैं कि पार्टी बाजी से वह ऐसा करता है या सरकार के खिलाफ आप बोल रहे हैं ?

श्री शिवमूर्ति स्वामी : स्पीकर से मैं प्रार्थना कर सकता हूँ—

अध्यक्ष महोदय : मेरे पास आएँ और जो मुझे आप हुक्म करेंगे, उसकी मैं तामील कर दूंगा।

श्री शिवमूर्ति स्वामी : ज्योफ्रेफिकल कम्पैक्टनेस का जहाँ तक ताल्लुक है, मैं आपको बतलाना चाहता हूँ कि मेरी कांस्टिट्यूएन्सी में ४०-५० मील दूर का एक ताल्लुका बेल्लारी में जोड़ दिया गया और इसकी इत्तिला तीन दिन पहले ही मिली और कहा गया कि एक १ म० एल० ए० यहाँ से और

चुना जाएगा। इसको लेकर बहुत झगड़ा हुआ। मामला ट्रिब्यूनल, हाई कोर्ट और सुप्रीम कोर्ट तक गया। मेरा कहना यह है कि तहसील और जिला को यूनिट माना जाए और जहाँ पर ज्यादा हरिजन आबादी है, उस इलाके को प्रेफेंस देकर, उसको हरिजन सीट घोषित किया जाए न कि इस तरह से शब्द रखे जायें कि 'एज फार एज प्रेक्टिकल'। एज फार एज पासिबल के नाम पर दूसरी कांस्टिट्यूएन्सीज को रिजर्व सीट जब बनाया जाता है, तो इसका मैं विरोध करता हूँ। जो उमूल बतासे गये हैं, ये मैट्टेरी होने चाहिये।

श्री २० शि० पाण्डेय (गुना)
अध्यक्ष महोदय, रिजर्वेशन के सम्बन्ध में जो यहाँ पर प्राविजन रखा गया है, यह बहुत ठीक है। श्री कामत ने जो कुछ कहा है, उससे मैं सहमत नहीं हूँ। क्यों ठीक है, इसको मैं आपको बतलाना चाहता हूँ। डेमोक्रेसी की बात हम करते हैं। लेकिन डेमोक्रेसी के नीचे जो एक सोशल फ़ैनेटेसिज्म है जो हमारे दिलों और दिमागों में रहता है, उसे हमें दूर करने की कोशिश करनी है और ऐसी कोशिश इसमें की गई है। हरिजन और आदिवासी लोग कैसे हैं? वे लोग हैं जो पिछड़ गए हैं। इस पोलिटिकल मीडियम से हम आदिवासी और हरिजन लोगों को यह मौका देंगे कि वे अपने आपको कैंडीडेट के तौर पर पेश करें और अपने आपको इलैक्ट करवायें। यह ठीक हो सकता है कि इनको वोट कम मिलते हैं। लेकिन यह बात बिल्कुल ठीक नहीं है। हमारी कांस्टिट्यूएन्सी में जो हरिजन सीट है, वहाँ पर जो वोटिंग का परसेंटज है, वह मैं आपको बतलाना चाहता हूँ। वह सवर्ण सीटों से किसी भी तरह से कम नहीं है। यह चीज बहुत कुछ इस बात पर निर्भर करती है कि जो डिस्ट्रिक्ट होता है, हरिजन या आदिवासी जब वहाँ चुना जाता है तो चुने जाने के बाद वहाँ सा

काम करता है। जब वह एम० पी० या एम० एल० ए० बन जाता है तो उसके काम का एक बैरोमीटर होता है। जब उसका काम अच्छा होता है तो लोग भूल जाते हैं कि वह हरिजन या आदिवासी है। हमारी कांस्टिट्यूएन्सी में जो हरिजन कैडीडेट या वह तीन बार इलेक्ट हुआ और आठ जो सीटें थीं, उनमें सब से ज्यादा वोट वहां पड़े। जो काइटीरियन है वह काम है।

जहां तक डेमोक्रेसी का सम्बन्ध है, ठीक ही कहा गया है कि इसके जो फंडेमेंटल्स हैं वे बड़े वेल्यूएबल हैं, उसके ग्राबजैक्ट्स बड़े सेलियेंट हैं। वे सब पूरे होने चाहिये। लेकिन शैड्यूल्ड कास्ट्स और शैड्यूल्ड ट्राइब्ज को जो मौका कांस्टिट्यूशन में दिया गया है वह इसलिए दिया गया है कि वे लोग एक बार दूसरों के बराबर आ जाएं और जब ऐसा हो गया तो कोई मतभेद नहीं रह जाएगा, कोई मेन्टल रिजर्वेशन नहीं रह जाएगा। तब इस तरह की किसी चीज को जारी रखने की जरूरत नहीं रह जाएगी। दस बरस के बाद पार्लियामेंट सोचेगी कि ये उन लेबल पर आए हैं या नहीं हैं और तब फैसला करेगा कि इनके लिए जो रिप्रेजेंटेशन रखा गया है, उसको स्थगित किया जाए या इमफो जार रख जाय।

जहां तक लार्ज नम्बर का मत है, लार्ज नम्बर का मतलब होता है ज्यादा नम्बर। जिस कांस्टिट्यूएन्सी को नेबरिंग कांस्टिट्यूएन्स में दिया जाएगा जहां पर शैड्यूल्ड कास्ट और शैड्यूल्ड ट्राइब्ज का परसेंटेज ज्यादा होगा, और उसको उनके लिए रिजर्व कर दिया जाएगा तो एक प्रकार का इम्पीटस, एक प्रकार का उत्साह पैदा होगा। यह बिल्कुल ठीक है। मैं समझता हूँ कि रिजर्वेशन की बात भी बिल्कुल ठीक है। साथ ही साथ कांस्टिट्यूएन्सी बनाने के सम्बन्ध में लार्ज नम्बर की जो बात है, वह भी ठीक है। जहां पर इनकी आवादी ज्यादा हो, वह कांस्टिट्यूएन्सी इनको दे दी जाए, यह भी बिल्कुल ठीक है।

2320 (Ai) LS—5.

Shri Bibudhendra Misra: So far as amendment No. 19 is concerned, it seeks to provide that the Scheduled Caste constituencies should be located where the percentage of the Scheduled Castes is more than 30 per cent. That is not possible because there may be places where a Scheduled Caste constituency can be carved even though the population of the Scheduled Castes is less than 30 per cent. Therefore, that cannot be laid down as part of the Bill itself.

So far as amendment No. 20 is concerned, it seeks to provide that there shall be the principle of rotation for the Scheduled Tribes constituencies, that the constituencies be distributed in different parts of the State and that the same principle which is applicable to the Scheduled Caste people should be also made applicable in the case of the Scheduled Tribes. This was dealt with by me at length when I moved the Bill and when I gave the reply. Because, it is a matter of common knowledge that unlike in the case of Scheduled Caste people who are dispersed all over the place, the Scheduled Tribes are located in concentrated areas. Therefore, it has been thought proper that once the number of seats to be allocated to the Scheduled Tribes people is determined, these seats will be located only in those areas where their population is the largest. Therefore, the same principle both in the case of the Scheduled Castes and the Scheduled Tribes seats cannot be accepted.

So far as amendment No. 48 is concerned,—I think he has moved 48.

Shri Hari Vishnu Kamath: I have moved amendments 47, 48, 49 and 50.

Mr. Speaker: Amendments 49 and 50 are only for correction.

Shri Bibudhendra Misra: Amendment No. 47 is, page 4, line 3, for "order" substitute "one or more final orders".

Shri Hari Vishnu Kamath: They are alternative amendments. For 'order', it should be either "one or more final orders" or "one or more orders".

Shri Bibudhendra Misra: The singular includes the plural. That is the definition given in the General Clauses Act. Therefore, it is not necessary to clarify the word 'order' to include two or three orders or subsequent orders and so on. That is not how a statute is drafted, because according to the General Clauses Act, under the interpretation clause, the singular includes also the plural. Therefore, it is meaningless to specify one or more orders.

Shri Hari Vishnu Kamath: The hon. Minister should accept amendments Nos. 49 and 50, if he has any regard for the English language.

Mr. Speaker: The hon. Member wants the term 'in the House of the People' to be lifted from one place and transplanted in another.

Shri Hari Vishnu Kamath: It is so in the earlier Act of 1952. I have taken this only from that Act.

Shri Bibudhendra Misra: My hon. friend Shri Kamath pointed out some defect in the 1952 Act and said that there was some defect in English in the 1952 Act.

Mr. Speaker: We need not go into those times when Shri Kamath was not here.

Shri Bibudhendra Misra: I would say that I do not have much knowledge of English to say whether it is good English or bad English. But I would point out that the language has been taken from the Constitution itself, and Shri Kamath was a member of the Constituent Assembly. I would refer to article 82 setting out the functions of the Delimitation Commission. It says that:

"Upon the completion of each census, the allocation of seats in the House of the People to the States...."

The same language is there in the Long Title of the Bill also.

Shri Hari Vishnu Kamath: In the 1952 Act, the language was different.

Mr. Speaker: The hon. Minister is saying that what was decided in his presence when the hon. Member was a Member of the Constituent Assembly should be given more credit.

Shri Hari Vishnu Kamath: But the hon. Deputy Minister was not present here then.

Mr. Speaker: At the time of the framing of the Constitution, the hon. Member was a member of the Constituent Assembly.

Shri Bibudhendra Misra: The language in the 1952 Act is different because article 82 was originally in clause 3 of article 81 which has been amended later. So, that Act was according to the language of the original clause.

Shri Hari Vishnu Kamath: I should accept amendment No. 50.

Shri Bibudhendra Misra: I accept amendment No. 50.

Shri Hari Vishnu Kamath: Because he has to.

Shri Bibudhendra Misra: I now come to amendment No. 51.

As I have said already in my reply, since no maximum or minimum can be fixed for a constituency, it is not possible for me to accept amendment No. 51 standing in the name of Shri Hem Raj.

As regards amendment No. 52 moved by Shri Hem Raj, there is no question of any attempt to reduce the number of Scheduled Caste and Scheduled Tribe people. But to make a provision in the Bill that in no case shall it be reduced would be violating articles 330 and 332 of the Constitution, because the number of seats for the Scheduled Castes and Scheduled Tribes has to be fixed on the basis of their population which again

has to be considered in relation to the total population in the State itself. Therefore, it has to bear a certain ratio; and since it has to bear a ratio, no such thing can be laid down in the Bill itself that there will be no reduction. Therefore, I am opposing these amendments.

Mr. Speaker: Amendment No. 50 is being accepted by Government. So, I shall put it to vote now.

The question is:

Page 4, line 5, after 'and' insert 'the' (50)

The motion was adopted.

Mr. Speaker: I shall now put amendments Nos. 47, 48, 49, and 17 to vote.

Amendments Nos. 47, 48 49 and 17 were put and negatived

Mr. Speaker: I shall now put amendments Nos. 51 and 52 to vote.

Amendments Nos. 51 and 52 were put and negatived.

Mr. Speaker: The question is:

"That clause 8, as amended, stand part of the Bill."

The motion was adopted.

Clause 8, as amended, was added to the Bill.

Clause 9—*Delimitation of Constituencies).*

Mr. Speaker: We shall take up clause 9.

Shri Hari Vishnu Kamath: Sir, I beg to move.

Page 4, line 31,—

after "total" insert "thereof" (18)

Page 4, line 32,—

after "large", insert—

"preferably more than thirty per cent". (19)

Page 4, lines 34 to 36,—

for "as far as practicable, be located in areas where the proportion of their population to the total is the largest",

substitute—

"be distributed in different parts of the State and located as far as practicable, in those areas where the proportion of their population to the total thereof is comparatively large, preferably more than thirty per cent." (20)

Page 5, line 9,—

after "places" insert "in each State". (23)

Page 5,

line 9, add at the end—

"at such sitting or sittings the associate members representing that State shall have a right to attend and participate in the proceedings thereof; and" (24)

Page 5, line 9,—

omit "and" (25)

Page 4,—

for lines 31 and 32, substitute—

"population of the Scheduled Castes is most concentrated; and" (54)

Page 4, lines 35 and 36,—

for

"proportion of their population to the total is the largest",

substitute—

"population of the Scheduled Tribes is most concentrated" (57)

Page 5, line 1,—

after

"member" insert "or members" (58)

[Shri Hari Vishnu Kamath]

Page 5, line 1,—

omit

"who desires publication thereof". (59)

Page 5, line 10.—

after

"more" insert "final" (60)

Page 5,—

for lines 12 and 13, substitute—

"(ii) the delimitation of assembly constituencies,

of each State." (61)

Shri Hari Charan Soy: I have two amendments Nos. 55 and 62.

Mr. Speaker: His No. 55 is the same as 19 moved by Shri Kamath and hence it is barred. He may move amendment No. 62.

Shri Hari Charan Soy: I beg to move:

Page 5,—

after line 13, add—

"Provided that the period of time between the publication of the proposals for the delimitation and the date of hearing of the objections and suggestions shall be one month." (62)

Shri Hem Raj: I beg to move:

Page 4, line 25,—

after "units" "insert" upto the block level" (37)

Page 4, line 32,—

after "large" insert—

"provided that they are evenly distributed in the different regions of the State." (38)

Page 4, line 25,—

after "communication" insert,—

"inaccessibility" (53)

Shri Hari Vishnu Kamath: As regards the earlier amendments in their numerical order, I have spoken on clause 8 and so I do not want to repeat those arguments.

Mr. Speaker: He should be brief.

Shri Hari Vishnu Kamath: I will speak on amendments Nos. 58, 59 and 61. 58 is a very simple amendment. It should be acceptable to the Minister and to the House without much discussion. I want to make the clause more comprehensive by adding the words 'or members'. It will read if my amendment is accepted: "... together with the dissenting proposals, if any, of an associate member or members...." Supposing there is only one member who dissents, that eventuality or possibility will also be covered if my amendment is accepted.

The second amendment, No. 55 is with regard to the phrase "who desires publication thereof". I seek to omit it as I feel it should not be there. If it is passed by the House in this form, I do not know if the Member will be consulted by the Commission and asked: do you want your dissenting proposals to be published? Naturally, when a member dissents, his dissenting notes, as in the case of the dissenting minutes on Select Committee reports, have got to be automatically published. I do not know why a different procedure is adopted here.

Mr. Speaker: In the case of the Select Committee that report has to come here and the House has to consider it while the decisions of the Delimitation Commission could not be subjected to any such procedure.

Shri Hari Vishnu Kamath: But it goes before the entire nation and it is published in the Gazettes of the Central as well as the State Governments.

Mr. Speaker: But what has the nation to do with that note?

Shri Hari Vishnu Kamath: A larger audience will read it; it will reach a wider public: just as we are supposed to read the minutes of dissent, people will read them. People are interested in the elections and India's political consciousness is growing and I am happy over this development. People are interested in knowing what their representatives on the Commission had written about these matters.

Mr. Speaker: Sometimes, the Member himself might not desire its publication.

Shri Hari Vishnu Kamath: I do not know why any Member should object to its publication.

Mr. Speaker: Sometimes, some Members may think like that. I am not referring to anyone. I am giving my experience. I have been an associate member twice. Sometimes the associate member himself is so selfish that he is looking towards his own interest only and not towards the larger interests; and then probably he might fight it out there but would not like it to be published.

Shri Hari Vishnu Kamath: In that case, as the saying goes:

"To thine own self be true, and it will follow, as the night doth the day, Thou shalt not be false to any man."

he should not append any minute of dissent. If he appends, he must have the courage of conviction—it means he has the courage of conviction—and should not object to its publication.

Then, amendment No. 60 is a simple one. It is in line with the provision in the earlier Act of 1952. Instead of "one or more orders," it should be "one or more final orders". It should be "thereafter by one or more final orders determine." I say this because the word "final" recurs in sub-clause (5) of clause 10. There, I come across these words "final order". To be in

conformity with that, here also the words should be "final orders" because they are not open to revision by the House, and it should be accepted by the Minister and the House.

My last amendment is purely a linguistic and constructional amendment. If it stands as at present, it will mean that they will, by one or more orders, determine the delimitation of assembly constituencies of each State only and not of parliamentary constituencies of each State. As it is, the words "each State" apply only to the Assembly constituencies. Therefore, there should be a comma there, and these words should apply to the Assembly constituencies as well as to the parliamentary constituencies. Therefore, this amendment also stands to reason and must be accepted by the Minister and by the House.

Shri H. C. Soy: My amendment No. 62 is self-explanatory. What I want is that time may be given between the publication of the proposals of the Delimitation Commission and the date of hearing of the objections and suggestions. This period may be one month. I do not know whether this should be provided in this Bill, but certainly time should be given. If under the rules to be framed under this Act, this time is given—it should be given—and if the hon. Minister will excuse me, I may withdraw my amendment.

Shri Hem Raj: Mr. Speaker, Sir, in clause 9(1)(a), I want to add the words "up to the block level" after the word "units", and the word "inaccessibility" after the word "communication." I think that the word "units" by itself does not give a clear idea as to what will be the administrative unit which the Election Commission is going to adopt for the purpose of delimiting the constituencies. Under the Panchayat Act, we have got the Zila Parishads and the panchayat samitis. So, I know that as far as Punjab is concerned, there are block samitis in the different tehsils, and

[Shri Hem Raj]

they are confined to the boundaries of the tehsils themselves. Therefore, I want that a line should be drawn for the purpose of making the intention of the word "units" clear, and for that purpose I want that the words "administrative units" should be clear by specifically putting in that those words should apply to the block levels or the panchayat samiti level.

I will give one instance. As I told the House earlier, Kulu is separated from Kangra by hundred miles. But it is connected by mountain by a direct route; there is no route as such. Therefore, "communications" by itself will not serve the purpose of expressing the geography of the area, unless and until the word "inaccessible" is added to it, because that portion is connected by high mountainous range, from 12,000 to 20,000 feet, always covered by snow. None can go by that mountain. Therefore, for making the intention of this clause clear, I want that the word "inaccessible" should be added, because if "communications" is there without "inaccessible" the geography of the area will not be clear.

So far as clause (c) is concerned, I want that after the word "large" the words "provided they are evenly distributed in the different regions of the State" to be added. Formerly Punjab was treated as one. In 1952, the Delimitation Commission entered upon its work and delimited the constituencies in a particular way. Thereafter, when Punjab was divided into Punjabi region and Hindi region, those very constituencies were again delimited and it so happened that one region was given more scheduled caste seats than the other. I want that both these regions should have the scheduled caste seats according to the population of the scheduled castes and they should not be concentrated only in one region to the detriment of the other region. For that purpose, I have moved amendment No. 38. With these words, I commend my amendments to the acceptance of the House.

Shrimati Sarojini Mahishi (Dharwar North): Sir, the Election Commission—the machinery set up to formulate rules and regulations and also to conduct the elections on a very large scale in India—has done commendable work during the last three elections. But once the constituencies are delimited, it will practically continue for a period of 15 years, because the 1962 elections which ought to have been conducted on the basis of the 1961 census, were actually conducted not on that basis, because it was impossible, as the time at the disposal of the House was too short. So, also, once the constituencies are delimited now, after a period of 5 years, that will practically continue for a period of 15 years.

I think the words in the sub-clause (a)—

"due regard shall be had to physical features, existing boundaries of administrative units, facilities of communication and public convenience"—

have not been taken into consideration sufficiently by the Election Commission, as far as the last general elections were concerned, because no amendments or alterations could be made since the elections were conducted on the basis of the 1951 census. More than the convenience of the candidates, it is the convenience of the electorate that we have to take into consideration. Sometimes we have found that it is quite impossible to go over to a particular polling booth, going over a radius of something like 5 or 6 miles. It is practically impossible for them. Therefore, I think the Election Commission will take into consideration the convenience of the candidates and more so the convenience of the electorate.

So far as sub-clause (c) is concerned, no doubt due respect shall be given for the reservation of seats for the scheduled castes.

17 hrs.

But, at the same time, reservation of seats for the Scheduled Castes and Scheduled Tribes should not be taken as an initiative for them to remain always backward. As many hon. Members have already expressed, the day would soon arrive when there would be no reservations at all. We do hope that that day would soon arrive.

But when seats are reserved now for Scheduled Castes and Scheduled Tribes it may be better to shift a particular seat from one place in the district to another, if the district is taken as a unit for reservation of seats for Scheduled Castes and Scheduled Tribes instead of State which, I think, is considered now as the unit, because, as the hon. Member on this side remarked, it may so happen that a particular district or taluka which was heavily populated by Scheduled Castes people during the last general elections may not be so thickly populated now, in the next general elections. It may be due to conversion into another religion or it may be that the population of that area shifted to another area.

At the same time, just as an hon. Member remarked, the reservation in the minds of the people must be removed. So we must give another opportunity to the people in every area or district to remove the reservations in their minds. For that the seat must be shifted from one place to another.

It is not always necessary also, even where a seat is reserved in a particular taluka or district, that the candidate contesting for the seat reserved for the Scheduled Castes should necessarily be a person living in that area. He may come from another place and he can contest the seat reserved for the Scheduled Castes in that particular district. Therefore, how far he would be able to serve and nurse that constituency, is a thing which also will have to be taken into consideration.

Therefore, it is better, in the interest of the Scheduled Caste people themselves,—we need not also presume that a non-Scheduled Caste member will not be nursing the constituency or helping the Scheduled Caste people—to remove that reservation in the minds of the people, if the reserved seats of Scheduled Castes and Scheduled Tribes are shifted from one place to another during the different elections, so that other people also will become accustomed and in course of time we may find a rise in their standards and the Scheduled Castes people coming to the same level as other advanced classes of people in the district.

Shri Bibudhendra Mishra: Mr. Speaker, Sir, so far as amendment No. 37 is concerned, it is not necessary to lay down that the administrative unit would be defined and it should come up to the block level, because the district is the largest administrative unit, and while demarcating the constituencies it must be left to the Election Commission to determine as to what administrative units in a particular constituency should be taken into consideration. Therefore, it should not be put in here.

About amendment No. 38, I have already opposed it. It is the same as amendments 19 and 20. I need not say anything more, as it revolves on the principle of rotation.

About amendment No. 53, we have said here "communications". So the word "inaccessibility" is not necessary. If they take the question of communications into consideration, they will naturally take into consideration whether the area is accessible or inaccessible. So I am opposed to it.

About amendment No. 58, as I have already said, this is not necessary, because singular includes plural.

I am opposed to amendment No. 59. If a member does not desire that his dissenting note should be published, there is no reason why he should be compelled or he should be asked to publish it.

Mr. Speaker: Shri Kamath says, why he should append a note of dissent if he does not want it to be published?

Shri Bibudhendra Mishra: May be for a political purpose; nobody knows.

Shri Hari Vishnu Kamath: Politicians are politicians.

Shri Bibudhendra Mishra: That is why I said so.

About amendment No. 60, the word "final" is not necessary because, as you will find, clause 10 deals as to how orders made in clauses 8 and 9 are final orders. Therefore, the insertion of the word "final" in clause 9 is not necessary.

So far as amendment No. 61 is concerned, since Shri Kamath has tabled a number of amendments and has taken a great deal of pain, I am prepared to accept it.

Shri Hari Vishnu Kamath: I do not want any concession. On its own merits it should be accepted.

Shri Bibudhendra Mishra: Of course on merits also besides this.

Shri C. K. Bhattacharyya: From what the hon. Minister has just now stated we shall be tempted to table a number of amendments so that at least some may be accepted.

Shri Hari Vishnu Kamath: He has not mentioned anything about amendment No. 24 which says that at such sitting or sittings the associate members representing that State shall have a right to attend and participate in the proceedings thereof.

Shri Bibudhendra Mishra: I am opposed to it because it is unnecessary. Because, the whole scheme is that the associate members must participate. Otherwise, how do they give their dissenting note. The only difference is, as mentioned in the Bill, they cannot sign and vote.

Then, the Commission may sit at some place and it is just possible that

they may not require the presence of any people belonging to that State. Anyhow, I have no objection to accepting it. Let it be "in each State". I will accept it.

Mr. Speaker: Government are prepared to accept amendment Nos. 23 and 61.

Shri Hari Vishnu Kamath: What about amendment No. 24?

Mr. Speaker: According to the Government it is not necessary.

The question is:

Page 5, line 9,—

after "places" insert "in each State". (23).

Page 5,—for lines 12 and 13, substitute—

"(ii) the delimitation of assembly constituencies, of each State." (61).

The motion was adopted.

Mr. Speaker: I will now put all other amendments moved by Shri Kamath to the vote of the House.

Amendments Nos. 18, 19, 20, 24, 25, 54, 57, 58, 59 and 60 were put and negatived.

Mr. Speaker: I will now put to the vote amendment Nos. 37, 38 and 53 moved by Shri Hem Raj.

Amendments Nos. 37, 38 and 53 were put and negatived.

Mr. Speaker: Does Shri Soy want his amendment to be put?

श्री ह० सोय : मुझे आशा है कि मंत्री महोदय रुस में इस का अवश्य ख्याल रखेंगे और इस लिए मैं अपना अमेन्डमेंट वापिस लेने का इज्जाम चाहता हूँ।

Mr. Speaker: Has the hon. Member the permission of the House to withdraw his amendment?

Some Hon. Members: Yes.

The amendment No. 62 was, by leave, withdrawn.

Mr. Speaker: The question is:

"That clause 9, as amended, stand part of the Bill".

The motion was adopted.

Clause 9, as amended, was added to the Bill.

Clause 10—(Publication of orders and their date of operation)

Shri Hari Vishnu Kamath: I beg to move:

Page 5, line 18,—omit "full" (63).

Page 5, line 27,—after "election" insert—

,"but not to a by-election" (64).

Page 5, line 37,—after "order" insert "or orders" (65).

Amendment No. 63 is a simple amendment, because when something has the force of law it is not necessary to say the "full" force of law. It is redundant. It is wholly unnecessary to say "it has the full force of law". It may be a rhetorical expression, but it is not necessary in a Bill, in an enactment. I am told that it has no value in any enactment.

Amendment No. 64 relates to elections. I am not quite clear in my mind as to what exactly this provision signifies as it has been brought before this House. It says that the proposals or orders of the Delimitation Commission

"shall apply in relation to every election to the House or to the Assembly as the case may be, held after the publication in the Gazette of India".

of the results.

Take a by-election—of course, during the emergency we now have no by-election, but we are legislating on the supposition, that the emergency might come to an end and we may have by-elections soon after the emergency is over. Imagine that the order is published in 1964 and the

emergency is also over by then; the Proclamation of Emergency is revoked by the President and we revert to the normal times. Then, suppose, there is a by-election to the House of the People or to a Legislative Assembly of a State in 1965 to a seat caused by a vacancy, either due to death or resignation or due to the unseating of a Member in one of the Houses. Then, for that by-election what will be the constituency to fill that particular seat? It will be the old one and not the constituency as determined by the Commission according to this Act. But, as it stands, it will mean that once the orders are published for every election, whether ordinary general elections or by-election, the orders will apply. So, I want to make it clearer by saying "but not to a by-election". Therefore, if my amendment is accepted, it will mean that the orders will apply to general elections and not to by-elections. It stands to reason that the constituencies of the by-elections should not be altered before the next general elections. That should be accepted by the House.

The last one is also just a verbal amendment. If you read the sub-clause, as it stands, you will find that in the earlier part of the sub-clause orders are referred to and in the latter part of the same sub-clause the word 'order', that is, singular, has been used. In the earlier part the word 'orders' is used. Therefore, it is bad drafting and bad English, perhaps worse English. Therefore to bring this in conformity with the earlier word, it should be "final order or orders of the Commission".

All these three amendments are very simple and stand to reason. Therefore they should be accepted by the hon. Minister and the House, I submit.

Shri Bihudendra Mishra: About amendment No. 63, the word "full" has been used in most of the Acts since 1952.

Shri Hari Vishnu Kamath: I do not know.

Shri Bibudhendra Mishra: I have ascertained it. It is used in most of the drafts. It is just a question of drafting.

Mr. Speaker: Full force of law!

Shri Bibudhendra Mishra: That has been used in most of the Acts.

Mr. Speaker: I do not follow it. Will there be anything having less than the full force?

Shri Bibudhendra Mishra: It does not matter if the word 'full' is taken out.

Mr. Speaker: There is no significance in that. There cannot be anything having anything other than that. The force of law is just the same.

Shri Hari Vishnu Kamath: It is redundant.

Shri Bibudhendra Mishra: It does not matter if it is taken out. It may be accepted. Because it has been used in most of the Acts, it is there.

Regarding insertion of the words "but not to a by-election", it is not necessary because the Constitutional provision is clear. What in essence this sub-clause (5) of clause 10 seeks to enforce is article 81 of the Constitution. It is only a reproduction of articles 81 and 170. Therefore, there is no question of this order being applicable to any election held prior to the dissolution of the House for the next General Elections.

Mr. Speaker: Then, what about the words 'final order' being at one place and 'orders' being at other places? Final order can only be one order.

Shri Bibudhendra Mishra: It does not matter. Let it be included. It does not make any difference.

Shri Hari Vishnu Kamath: That means, you accept it.

Shri Bibudhendra Mishra: Yes.

Mr. Speaker: Which ones are accepted?

Shri Bibudhendra Mishra: Nos. 63 and 65 but not No. 64.

Mr. Speaker: The question is:

Page 5, line 18,—

omit "full" (63).

Page 5, line 37,—

after "order" insert "or orders" (65).

The motion was adopted.

Mr. Speaker: The question is:

Page 5, line 27,—

after "election" insert—

“, but not to a by-election” (64).

The motion was negatived.

Mr. Speaker: The question is:

“That clause 10, as amended, stand part of the Bill.”

The motion was adopted.

Clause 10, as amended, was added to the Bill.

Clause 11—(Power to maintain delimitation orders up-to-date)

Shri Hari Vishnu Kamath: To this last clause, I move amendment No. 26.

Page 6, after line 10, insert—

“(c) Every such notification shall be laid before the House of the People and the Legislative Assemblies of the States concerned.” (26).

I suppose, in line with other similar provisions that have been accepted by the House with regard to other Bills with regard to orders and rules made under the enactment, this also should be accepted by the House without any discussion. The Minister should see his way to declare his agreement straightaway and the House should have no difficulty in accepting this amendment. It is a very simple one and upholds the supremacy of Parliament in our Parliamentary democratic system.

Shri Bibudhendra Mishra: I accept this amendment. I would like to make a verbal drafting change. With the permission of the House, I move:

Page 6, after line 10, insert—

“(c) Every notification under this section shall be laid as soon as may be after it is issued, before the House of the People and the Legislative Assembly of the State concerned.”

Mr. Speaker: I shall now put Amendment No. 26 as modified by the Government amendment to the vote of the House.

The question is:

Page 6, after line 10, insert—

“(c) Every notification under this section shall be laid as soon as may be after it is issued, before the House of the People and the Legislative Assembly of the State concerned.”

The motion was adopted.

Mr. Speaker: The question is:

“That clause 11, as amended, stand part of the Bill.”

The motion was adopted.

Clause 11, as amended, was added to the Bill.

Mr. Speaker: 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 Ranga: The Third reading may be taken tomorrow.

Mr. Speaker: I put it to the House. We have agreed.

Shri Bibudhendra Mishra: I move:

“That the Bill, as amended, be passed.”

Mr. Speaker: The question is:

“That the Bill, as amended, be passed.”

The motion was adopted.

DETENTION OF MEMBER

Mr. Speaker: I have to inform the House that I have received the following letter, dated the 30th November, 1962, from the Government of Madras:—

“I have to inform you that the Government of Madras have found it their duty, in exercise of their powers under Rule 30 of the Defence of India Rules, 1962, to direct that Shri R. Umanath, Member, Lok Sabha, be detained with a view to preventing him from acting in any manner prejudicial to the defence of India and the public safety.

Shri R. Umanath, M.P., who had been taken into custody at 3.50 hours on the 21st November, 1962, at Tiruchirapalli, under section 151, Criminal Procedure Code, was accordingly detained, and is at present lodged in the Central Jail, Cuddalore.”

The House stands.....

Shri Ranga: Before you adjourn the House, may I make one observation? I have had the general impression that while the House is in session, the Members of the House are not liable to be arrested and especially taken into detention.

Some Hon. Members: No, no.

Shri Ranga: How is it that you have not raised your voice in protest?

Mr. Speaker: There is no such thing. The hon. Member is not correct in saying that. So far as the criminal law is concerned, we cannot interfere.

The House stands adjourned to meet again at 12 o'clock tomorrow.

17.18 hrs.

The Lok Sabha then adjourned till Twelve of the Clock on Tuesday, the 4th December, 1962|Agrahayana 12, 1884 (Saka).