

Vartak, Shri
Venkataswami, Shri
Vidyalankar, Shri

Vijaya Lakshmi, Shrimati
Vishwanath Prasad, Shri
Vyaa, Shri Radhola

Wilson, Shri J. H.
Wodeyar, Shri
Waidi, Col.

NOES

Achalu, Shri
Ajit Singh, Shri
Amin, Dr.
Amjad Ali, Jonab
Bahadur Singh, Shri
Banerjee, Shri
Basu, Shri K. K.
Biren Dutt, Shri
Buchhikotalah, Shri
Chatterjee, Shri N. C.
Chatterjee, Shri Tushar
Chattopadhyaya, Shri
Chowdhary, Shri C. R.
Chowdhury, Shri N. R.
Damodaran, Shri N. P.
Das, Shri B. C.
Das, Shri Saranadhar
Dasaratha Deb, Shri
Deo, Shri R. N. S.
Deogam, Shri
Deshpande, Shri V. G.
Gam Malhotra, Shri
Girdhari Bhal, Shri
Gopalan, Shri A. K.
Gurupadaswamy, Shri
Hukam Singh, Shri
Jaipal Singh, Shri
Jaiscoorya, Dr.

Jaswant Raj, Shri
Jena, Shri Lakshmid
Jwala Prasad, Shri
Kachroyar, Shri
Kamal Singh, Shri
Kelappan, Shri
Khare, Dr. N. B.
Krishnaswami, Dr.
Lal Singh, Sardar
Mahata, Shri B.
Majhi, Shri Chaitan
Menon, Shri Damodara
Mishra, Pandit S. C.
Misir, Shri V.
Mookerjee, Dr. S. P.
Mukerjee, Shri H. N.
More, Shri S. S.
Munswamy, Shri
Murthy, Shri R. S.
Mushar, Shri
Naidu, Shri N. B.
Nambiar, Shri
Nanadas, Shri
Nathan, Shri H. E.
Nesamony, Shri
Punnoose, Shri
Raghabechari, Shri
Raghavalah, Shri

Ramnaraya Singh, Babu
Randaman Singh, Shri
Rao, Dr. Rama
Rao, Shri Gopala
Rao, Shri K. S.
Rao, Shri P. E.
Rao, Shri Vittal
Reddi, Shri Ramachandra
Reddy, Shri Bewara
Rishang Keshing, Shri
Saha, Shri Meghnad
Shah, Shrimati Kamelendu Mati
Shakuntala, Shrimati
Sharma, Shri Nand Lal
Shastri, Shri R. D.
Singh, Shri G. S.
Singh, Shri B. N.
Soren, Shri
Subrahmanyam, Shri K.
Sundaram, Dr. Lanka
Swami, Shri Sivamurthi
Swamy, Shri N. E. M.
Trivedi, Shri U. M.
Vallatharas, Shri
Veeraswami, Shri
Velayuthan, Shri
Verma, Shri Ramji
Waghmare, Shri

The motion was adopted.

Dr. Katju: I introduce the Bill.

CONSTITUTION (SECOND AMENDMENT) BILL

Shri H. N. Mukerjee (Calcutta North-East): Sir, yesterday I was making prefatory observations while commending my amendment which seeks to circulate the Bill in order to elicit opinion thereon by the 1st day of November 1952. I feel that a constitutional amendment is a matter about which we should try to secure the maximum possible public opinion and then decide in which way the Constitution ought to be amended. I feel that the heavens will not fall if there is some delay in finding out how exactly we are going to delimit our constituencies for whatever elections

might ensue in the future. I know that there are certain provisions in the Constitution which require to be changed, because we do have census enumerations from time to time. The population of our country changes and therefore if there are provisions in the Constitution which cannot possibly be observed in view of the change in the population structure of our country, then surely certain alterations are called for. I do not therefore object to the amendment as such but I do object and very strongly object to the manner in which the amendment has been sought to be made and the kind of thing which is now intended to be done by means of this amendment.

[Shri H. N. Mukerjee]

The hon. Law Minister intends to amend article 81, of which clause (1) (a), says:

"subject to the provisions of clause (2) and of articles 82 and 331, the House of the People shall consist of not more than five hundred members directly elected by the voters in the States."

There is a further sub-clause (b), which says:

"For the purpose of sub-clause (a), the States shall be divided, grouped or formed into territorial constituencies and the number of members to be allotted to each such constituency shall be so determined as to ensure that there shall be not less than one member for every 7,50,000 of the population and not more than one member for every 5,00,000 of the population."

The question here which requires to be determined is what exactly was the intention of the makers of the Constitution. Did they want to put a ceiling figure, namely 500, but in that case did they intend seriously to apply sub-clause (b) which says "the number of members.....shall be so determined.....that there shall be not less than one member for every 7,50,000 of the population and not more than one member for every 5,00,000 of the population"?

I should say that in determining questions of this sort the tenor and purpose of the Constitution have got to be considered. I take it that the makers of the Constitution wanted to make it as democratic a document as possible. The Preamble of the Constitution has been very highly spoken of in different parts of the world. Lately one of the political scientists of Great Britain in a book makes specific mention of the Preamble to our Constitution as incorporating a democratic principle in a manner which he commends very highly.

If we take the tenor and purpose of our Constitution, I submit that in spite of there being very many limitations in the Constitution, as it has been framed, its purpose definitely is democratic. We have got the Chapter on Fundamental Rights, which we know leaves a great deal to be desired. Even the Prime Minister said the other day that he wants at least one particular Fundamental Right to be phrased very differently from what it is. We know that there are many defects in the

Chapter on Fundamental Rights. However, there is after all a chapter on Fundamental Rights. Again, there are certain Directive Principles of State Policy which are not binding but which are at the same time of very special significance. Therefore, I take it and I think the House will agree with me in this regard, at any rate, that the purpose of our Constitution is certainly democratic and therefore if so soon after the inauguration of our Constitution we are going to amend it, it should be our duty to amend it in a manner which would be in conformity with the democratic purpose of our Constitution.

But what the Law Minister seeks to do is to keep the number of seats in the House of People at the present level, not to change the Constitution as far as that goes, but virtually to take away the right of franchise from a certain section of our population and to raise the figure in regard to the population which would be represented in the House of the People. I would say that this is a most illogical procedure and is absolutely out of consonance with the spirit of the Constitution. If it is suggested that 500 is a ceiling figure which we should never exceed, I would say that it is an extremely frivolous proposition. If it is suggested that for all time to come the House of the People shall consist of not more than 500 Members, just because in the Constitution there is a provision to that effect, I would say there is an extremely irresponsible attitude of mind behind it. I say this because in different countries there are provisions from which we ought to take some lesson.

Yesterday I pointed out how in the House of Representatives of the U.S.A. the number has risen from time to time. On account of the change in census figures from time to time, on account of the increase of population in the U.S.A. and the redistribution of constituencies, the membership of the House of Representatives in the U.S.A. has come up to 435 from 65. In the Constitution of Canada also we find that there are provisions regarding the fluctuations in the size of the federal body in conformity with the census figures. Similarly we find in the Constitution of South Africa, a country which we need not follow in many respects, but which may have, from a technical point of view, certain lessons for us. There readjustment of representation is made according to the census figures, as they are collected from time to time. It stands

to reason that as and when our population increases their representation in the House of the People also should increase. I do not say that the number in the House of People should be deliberately made very unwieldy and cumbersome but I say that that question does not arise at the present moment. 500 is not such a very fantastic number, I submit. In the House of Commons in the U.K. there are now about 640 members. If a little island like the U.K. can have a House of Commons consisting of 640 members and if there are found a provision that there should be one member of Parliament for every 25,000 of the population, there is no reason why in this country we should have such a provision as has been commended to this House by the Hon. the Law Minister. In certain other countries, for example, Ireland, there is not less than one member for each 30,000 of the population and not more than one member for each 20,000 of the population. In Burma it is laid down that there is to be not less than one member for each 1,00,000 of the population and not more than one member for each 30,000 of the population. These are figures which are extremely eloquent. If that is so, there is no reason why we should fight shy of increasing the number of Members of the House of the People.

I have heard sometimes even such extremely frivolous statements as that the present building, where the House of the People meets, is not big enough, there is no accommodation even for 500 people and, therefore, we should not have a larger number. I should say that that kind of argument is utterly frivolous, not worthy of consideration. In the House of Commons even now there is no provision for the seating of all the members there but that does not mean that the number of members should be reduced. We certainly have resources enough to provide accommodation, if we think it necessary, for as many Members of the House of the People as there may be. I can easily envisage the number of Members of the House of the People going up to as much as 750. There is nothing to prevent it and nothing should be there to prevent it.

If that is so, then for quite a length of time we need not bother and in order to get over certain difficulties in the Constitution, I would suggest that now that we are amending article 81, let us do something about it, namely, let us try to amend article 81 (1) (a) and not article 81 (1) (b).

That would serve our purpose if we increase the number of Members of the House of the People up to whatever figure the House thinks fit, or if we leave it indefinitely as I have suggested in another amendment and say that the number of Members of the House of the People shall be determined by law from time to time. That would take note of whatever census figures are available from time to time. That is a course which I suggest is absolutely in conformity with reason, with commonsense, with democratic principles, and there is no reason why we should proceed to amend our Constitution in an obviously undemocratic direction.

I hope that the attention of the Ministry has been directed to public opinion which has already been pronounced in a certain fashion on this measure. As soon as the Bill was introduced, there were statements made in many journals all over the country which suggested that there was an effort to disenfranchise a section of the population. It is not that we lose our vote altogether, but if we are not to send as many representatives to the House of the People as we ought to, then surely that is a variety of disenfranchisement. I submit that already there has been a certain expression of opinion on this point which shows very clearly which way the people feel in regard to the proposed amendment, and I suggest that this Bill should not be rushed through the Legislature in the manner it is being sought to be done. I submit that a constitutional amendment is a very serious matter, something which affects us very deeply, and we should give our very careful thought to it. We should try to elicit opinion from as many sources as we possibly can do, and unless we do that we shall be failing in our responsibility, we shall be failing in our duty not only to the people but also to the Constitution by which we swear. I therefore propose that my amendment which is extremely modest in nature, which is extremely reasonable, which should be acceptable to anybody as far as I can understand it, should be accepted by this House. I do not ask for the moon. I do not ask for any very radical change in the Constitution. I only say: "Do not proceed in this haphazard fashion. Do not proceed in this frivolous fashion and do not try even indirectly and remotely to take away whatever constitutional rights our people have got". Therefore at least for the time being, let us not proceed with this sort of legislation. Let us try to find out how the country feels in regard to this matter and then

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surely we will be in a position to understand what we should do in regard to the constitutional amendment.

I reserve my right to express myself in regard to the other amendment which I have given notice of, later on. But I do hope that the hon. the Law Minister will respond to the amendment I have given notice of, because I feel that this ought to be accepted by the Government straightway.

Shri Syamandan Sahaya (Muzaffarpur Central) rose—

The Minister of Law and Minority Affairs (Shri Biswas): May I interrupt my hon. friend at this stage and state, with your permission, Sir, that having regard to the views which have been expressed here and the views which have been expressed to me outside the House I would accept an amendment for circulating the Bill for eliciting public opinion. I propose to do this also in connection with the next Bill relating to the Delimitation Commission.

10 A.M.

Mr. Speaker: So, I would put it straightway. There is not much scope for argument now. I would put the amendment of Mr. Mukerjee that the Bill be circulated for the purpose of eliciting public opinion by the hon. the hon. Minister agree to the date also?

The Prime Minister (Shri Jawaharlal Nehru): If I may suggest, the date could be shortened. You may say, three months from now or the end of September.

Mr. Speaker: Is he agreeable?

Shri H. N. Mukerjee: Three months?

An Hon. Member: End of October.

Shri Jawaharlal Nehru: I think three months from now would be quite sufficient.

Shri H. N. Mukerjee: I am agreeable.

Shri Nand Lal Sharma (Sikar): I do not think three months will do. It should be sufficiently circulated.

Mr. Speaker: Let me see. Today is the 9th. Three months from now will mean up to the 9th October.

Shri A. K. Govalan (Cannanore): You may make it 15th October.

Mr. Speaker: I shall accept a compromise, although it is not for the Chair to do so. I hope, however, the hon. Members will accept it. I will say 15th October.

The question is:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 15th October, 1952."

The motion was adopted.

REPEALING AND AMENDING BILL.

The Minister of Law and Minority Affairs (Shri Biswas): I beg to move:

"That the Bill to repeal certain enactments and to amend certain other enactments, be taken into consideration."

There is one amendment of which I have given notice for the purpose of filling an omission which should have been filled long ago. This is due to the change in the age of marriage under the Child Marriage Restraint Act. The limits there now are 18 years for the bridegroom and 15 years for the bride. In the Indian Christian Marriage Act of 1872 the limits had been laid down otherwise. The amendment is that in the Second Schedule under the Indian Christian Marriage Act (Act XV of 1872) I propose to insert this new provision: In Section 60, in condition No. (1), for the words 'shall exceed sixteen years' and 'shall exceed thirteen years' the words 'shall not be under eighteen years' and 'shall not be under fifteen years' shall respectively be substituted. This is to bring it in conformity with the Child Marriage Restraint Act. It is a purely formal amendment, which is long overdue. A Christian missionary drew our attention to this. That is why I have tabled this amendment.

Mr. Speaker: The question is:

"That the Bill to repeal certain enactments and to amend certain other enactments, be taken into consideration."

The motion was adopted.

Clauses 1 to 4 were added to the Bill. The First Schedule was added to the Bill.

Amendment made: In page 6, Line 15.

In column 4, before "In section 81" insert:

"In section 60, in condition No. (1), for the words 'shall exceed sixteen years' and 'shall exceed thirteen years' the words 'shall not be under eighteen years' and 'shall not be under fifteen years' shall respectively be substituted."

[Shri Biswas]