

during the past three years have been due to change in designs and specifications."

The specific recommendation in the next paragraph is:

"We suggest that the above considerations should be borne in mind whenever there are opportunities for revising the existing agreements."

And now comes the very important portion, because we have been asked to give protection to the industry without certain details which the Tariff Commission had.

"We have refrained from giving specific examples, because the manufacturers desire that the terms of their agreements should be kept confidential."

Therefore, we drew the presumption when the manufacturers wanted it to be kept confidential, and when the Minister did not choose to take us into confidence in respect of those agreements, that those agreements did have, as the Tariff Commission have said, very restrictive influences on the growth and development of this industry.

I would also like the Minister to tell me why when the Tariff Commission's previous report had said that if jeeps were to be assembled, that work ought to be with the Standard Motors along with the Standard Vanguard, Mahindra and Mahindra have been given the permission.

Shri Manubhai Shah: I do not want to take up too much of the time of the House. As far as jeeps are concerned, the matter, when it came before Government, was very thoroughly considered, and we found that to load up the existing manufacturers, the existing Standard Motors, or the Premier Automobiles of the Hindustans would not be proper; with the heavy programme that was already before them, that is from 1953 and 1954, and with the limited capacity that they had in the technical sphere and in machinery, it would not be

right for Government again to permit them to get into a line where they will not be able to give the performance that is desired. It is to the credit of Mahindra & Mahindra, and I am glad to see in retrospect that the choice of Government was correct, that perhaps if anybody today has done in the automobile industry as an individual unit the best in the automobile manufacturing line, the Mahindra & Mahindra have done a good performance.

Shri V. P. Nayar: We are still paying Rs. 16,000.

Shri Manubhai Shah: The percentage of components has gone up by 47 per cent. and in a year or two, it will reach the maximum that is possible in any jeep, and it would give us a great saving in foreign exchange.

Regarding the restrictive practices, I may make it clear that Government at no time want to encourage any agreement, not only in this industry but in any other industry, which really retards the growth of industry. But historical facts could not be immediately ignored, when these agreements were evolved. But where we could delete, we are deleting not only the export restrictions, which, as the hon. member knows, has been done in several industries, but we are also seeing to it that in future the agreements are so designed and approved that as few restrictions are imposed by the foreign collaborators as possible.

Mr. Deputy-Speaker: The question is:

"That the Bill be passed".

The motion was adopted.

PUBLIC EMPLOYMENT (REQUIREMENT AS TO RESIDENCE) BILL.

The Minister of State in the Ministry of Home Affairs (Shri Datar): I beg to move:

"That the Bill to make in pursuance of clause (3) of article

[Shri Datar]

16 of the Constitution special provisions for requirement as to residence in regard to certain classes of public employment in certain areas, be taken into consideration.”;

This Bill has been brought forward with the object of removing what are popularly called residence qualifications or requirements, so far as appointments under Government are concerned.

You are aware that we have in article 16 (1) and 16 (2) a provision that there ought to be equality of opportunity for all citizens of India in matters relating to employment in offices under the State, and that there ought to be no discrimination on any of the grounds mentioned therein. The relevant ground with which we are now concerned is the ground in regard to residence.

We shall find that before the commencement of the Constitution, in a large number of States, there were rules according to which it was necessary for an applicant for a post under Government to satisfy a test or a requirement that he had stayed or resided in that particular State or Province, as it was formerly called, for a required or a prescribed number of years. Now, this period was in some cases nearly three years, and in other cases, very significantly enough, it had been raised even to 15 years, so that it might be difficult, and it was difficult in a number of cases for persons who came and stayed in that particular State or province to have satisfied this condition.

This particular requirement as to residence was considered highly improper. And therefore it was that the Constitution made a provision that in India there shall be only one class of citizenship, irrespective of the various States into which India was divided, and that in all these States, there ought to be equality of oppor-

tunity, and that no discrimination should be exercised on any grounds whatsoever. A number of grounds has been stated, and residence is one of the grounds on which discrimination could not or should not be made. So, you will find that these are the main and very important provisions laid down in clauses (1) and (2) of article 16.

Further on, the conditions as they existed at the time when the Constitution was framed, had also to be taken into account. Therefore, two further provisions were made, one in clause 3 of article 16 and the other in article 35. It was stated that it was open to Parliament and not to a State Legislature to make a law in this respect. And it was also open to Parliament to make a law laying down that in certain cases, some discrimination in the interest of certain classes might be allowed.

The second point that was made out was that all those Acts or all those rules or regulations that were in force in the different States in India would continue to be operative, until Parliament had either annulled them or had modified them. So, these conditions were laid down in the Constitution.

Then, the question arose as to why Parliament should not undertake any legislation in this respect. Thereafter, as you are aware, there was the States Reorganisation Commission, and that Commission went into the question of the reorganisation of States, and they had made recommendations on a number of points, which were relevant to the question of reorganisation of States. They laid down in their report that this particular condition about residence ought to be done away with as early as possible. The relevant paragraphs are paragraphs 786, 787 and 788. Therein, they have laid down that all those conditions about requirement as to residence in a particular State for eligibility for appointment to posts under Government should be done

away with as early as possible. This is what they have stated:

"Recruitment to the services is a prolific source of discontent amongst linguistic minorities. The main complaint is that a number of States confine entry to their services to permanent residents of the State, 'permanent residents' being defined in various ways. These domicile tests, it is contended, have been so devised as to exclude the minority groups from the services."

Then, they have stated that as early as possible Government should take steps to repeal all such discriminatory laws and to make it possible for an Indian citizen resident anywhere in India to be eligible for service in any of the Indian States. This principle was considered by Government, as you are aware, in consultation with the various State Governments.

When the States Reorganisation Act was passed, certain linguistic safeguards were considered and devised, and a copy of all those safeguards was sent to the various States for their consideration. In this respect, I would like to bring to your notice the circular that was placed on the Table of the House. Therein, we had stated that it was the desire of the Government of India that all the State Governments should fall in line, so far as the various safeguards that we had suggested in this circular letter were concerned.

This circular was placed on the Table of this House on 4-9-56. Therein it will be found that a special reference has been made in paragraph 14 regarding review of residence rules and requirements. Then, after making a reference to article 18(3), it has been stated that the Government have reached the conclusion that it is, on the whole, neither necessary nor desirable to impose at the present time any restrictions with reference to residence in any branch of the cadre of State services. In paragraph 15, it has been further stated that in view of certain conditions and commitments, it might be necessary to

except certain classes of services, especially subordinate services, in certain parts of the country.

So far as the question of commitments was concerned, when the States Reorganisation Bill was considered, there was an agreement between the leaders of the public of the Telengana portion and the Andhra portion of the now formed Andhra Pradesh. That agreement was also placed on the Table of the House. There it is specially mentioned that for a period of five years arrangements should be made for the residents of the Telengana area to be considered for services in preference to others. In other words, they desired that the requirements about residence should be confined to Telengana in respect of certain subordinate services. A special clause was put in the agreement reached regarding the safeguards proposed for the Telengana area. This was accepted by Government and a copy of these safeguards was also placed on the Table of Lok Sabha on 10-8-56. Therein, special reference has been made in paragraph (B) to what they call the domicile rule; provision will be made to ensure that for a period of five years, Telengana is regarded as a unit as far as recruitment to subordinate services in the area is concerned. Posts borne on the cadre of these services may be reserved for being filled by persons who satisfy the domicile conditions as prescribed under the existing Hyderabad rules, popularly known as Mulki rules, that is, rules which relate to certain regions.

Now in the light of this, the Central Government consulted State Governments also. They were consulted twice, once when the Central Government sent out last year their circular dealing with the various safeguards including this particular safeguard that there ought to be no discrimination on the ground of residence so far as the applicants to various posts under the State services were concerned; this year also when Government finally prepared the present Bill, they sent copies to all the State Gov-

[Shri Datar]

ernments desiring that if they had any particular comments to make, they might send in same as early as possible. We have not received any objections or comments from any of the States and, therefore, it may be taken that what was laid down in the Home Ministry circular sent out to the States last year, as also in the present Bill, has the tacit approval of all States.

I would point out to this house that so far as this is concerned, this is an attempt, a very important attempt, to bring the position in line what has been laid down in article 16(1) and 16(3). After considering all these circumstances, this particular Bill has been brought forward.

So far as the purpose of this Bill is concerned, it is two-fold. One is that it is only Parliament that can make the law and not the States. That is what has been specifically stated in article 35 of the Constitution. Therefore, this Bill has been brought forward, first, for the purpose of repealing all those laws or rules which have the force of law in the various States under which such requirements as to residence were considered as absolutely valid so far as eligibility to State services were concerned, and the other is that Government also have to take into account certain local requirements. So far as these local requirements are concerned, they can be divided into two subjects. One is in respect of the Telengana portion of Andhra Pradesh. As you are aware, the Telengana people were very anxious that something should be done so as to make it possible for them to have what they formerly had when they were part of Hyderabad State.

On this question, I may invite attention to paragraph 378 of the SRC Report. There this question was specifically raised. It is stated:

"One of the principal causes of opposition to Vishal Andhra"—which, as you are aware, is the unified Andhra which is now

Andhra Pradesh State—"also seems to be the apprehension felt by the educationally backward people of Telengana that they may be swamped and exploited by the more advanced people of the coastal areas. In the Telengana districts outside the city of Hyderabad, education is woefully backward. The result is that a lower qualification than in Andhra is accepted for public services. The real fear of the people of Telengana is that if they join Andhra, they will be unequally placed in relation to the people of Andhra, and in the partnership, the major partner would derive all the advantages immediately while Telengana itself may be converted into a colony by the enterprising coastal Andhras".

It was for this reason that an agreement was come to between the leaders of the two portions of the present Andhra Pradesh, namely, Telengana and the former Andhra State. Now, that also had to be accepted.

Secondly, so far as the territories are concerned, we have certain territories directly under the superintendence of the Government of India which are fairly backward in character, and some encouragement ought to be given to local talent to the extent that it is necessary. They are, for example, Himachal Pradesh, Tripura and Manipur. In regard to these areas, it was considered advisable that for a period of five years the rule already in vogue there should be maintained only so far as the subordinate services were concerned. So far as the higher, or what are popularly called, the gazetted services, are concerned, they stand on par. In respect of these services, there would be equality of opportunity as laid down in article 16 of the Constitution. Only in respect of the subordinate services, an exception has been made in these three backward areas. Subject to this, in all other cases, there is equality.

There is, under the provisions of this Bill, repeal of all laws passed by the State legislatures on this subject. I do not know whether any law has been passed, but in all cases, in all the territories, in all the States, subject to what has been stated above, subject to the exception that has been made, this repeal is made. Therefore, you will find that the position has been brought in line with clauses (1) and (2) of article 16 of the Constitution.

These are the main provisions of the Bill. Let me make a very short reference to the provisions. Clause 2 deals with this repeal portion of the objectives. It says:

"Upon the commencement of this Act, any law then in force in any State or Union territory by virtue of clause (b) of article 35 of the Constitution prescribing, in regard to a class or classes of employment or appointment to an office under the Government of, or any local or other authority within, that State or Union territory, any requirement as to residence therein prior to such employment or appointment shall cease to have effect and is hereby repealed".

This is the first and most important provision that has been made in this Bill. The second is in respect of exceptions about which I just now spoke. The Central Government may, by notification in the Official Gazette, make rules prescribing in regard to appointments to any subordinate service or post under the State Government of Andhra Pradesh or any subordinate service or post under the control of the Administrator of Himachal Pradesh, Manipur or Tripura, any requirement as to residence. These are subordinate services under the Government and there might be similarly services under the local authority. They have also been provided for. In regard to any service or post under a local authority, other than a cantonment board, within the Telengana Area of Andhra Pradesh or within the Union Territory of Himachal Pradesh, Manipur or

Tripura, these rules may prescribe any requirement as to residence within the Telengana area or the Union territory, as the case may be, prior to such appointment.

'Subordinate service' has been defined with a view to remove any doubt and it has been specifically provided for that the tehsildar's post would, for the purpose of this Bill be considered as a subordinate service so that it may be open to local talent.

When the rules are made, they will be placed before the House and it would be open for the House to make necessary modifications within the period laid down.

Lastly, in clause 5, it has been specifically stated that this particular exception that has been provided for would be in operation only for five years. Thereafter, the real position that has been laid down in article 16 would come into operation according to which any citizen living in any part of India would be eligible for services either under the Central Government or under the Government of any State. In other words, there would be absolute equality of opportunity and no discrimination at all. I feel that this Bill would be acceptable to the House.

Mr. Deputy-Speaker: Motion moved:

"That the Bill to make in pursuance of clause (3) of article 16 of the Constitution special provisions for requirement as to residence in regard to certain classes of public employment in certain areas, be taken into consideration."

Three hours have been allotted for this Bill. What time is to be allotted for the general discussion and what time should be given to the clause-by-clause discussion? Would two hours and one hour respectively be all right?

Shri Shree Narayan Das (Darbhanga): Two and a half hours and half an hour.

Shri A. C. Guha (Barasat): There is nothing much in the clauses. The general discussion would be more important.

Mr. Deputy-Speaker: I have no objection if half an hour is considered enough for clause-by-clause discussion. There are certain amendments and perhaps they may also take some time.

Pandit Thakur Das Bhargava (Hissar): I should think that the first proposal is much better because specific cases may have to be brought to the notice of the House.

Mr. Deputy-Speaker: We may start like that. If there is something left, then we can have it done in the third reading stage.

Shri Mohamed Imam (Chitaldrug): May I have a clarification? Apart from this condition of residential qualification, can a State Government impose other conditions such as that an applicant must have good knowledge of the local language, etc.?

The Minister of Home Affairs (Pandit G. B. Pant): Any way, this Bill does not control the authority that the State Government may possess in this regard. It deals only with the residence. That is to say, no one should be disqualified on the ground that he has not his residence within that State. It has been brought in accordance with article 16 of the Constitution. With regard to other matters, the State Governments are free to deal with them, subject to such limitations as might have been imposed by the Constitution.

Mr. Deputy-Speaker: Is Shri Imam moving his amendment?

Shri Mohamed Imam: I think the Minister has already stated that he has consulted the State Governments.

Mr. Deputy-Speaker: So, that is all right. He is not moving.

Shri A. C. Guha: Mr. Deputy-Speaker, I welcome this Bill because this is in implementation of one of the important recommendations of the States Reorganisation Commission. According to that recommendation, the Constitution also was amended and we are happy that this measure has the sanction of the recommendation of the S.R.C. But this Bill implements only one of the recommendations. There have been many recommendations for the benefit of the linguistic minorities of the different States. India is a composite nation and there should be complete social and cultural integration for the security and well-being of the nation. But, in different States, there have been different rules and practices, not so much in the form of legislative measures but in the form of rules, circulars, etc. discriminating against what may be called linguistic minorities.

So, the S.R.C. must have heard a number of complaints in that regard. Of course, it was very careful in assessing the real value of these complaints. It has rather given the benefit of doubt to the State Governments concerned or to the majority linguistic group in the particular State. Still it felt that it should safeguard the interest of the linguistic minorities. At the same time, it has admitted that legal measures would not always meet the purpose. It has in fact admitted that "no guarantees can secure a minority against every kind of discriminatory policy of a State Government. Therefore, if the dominant group is hostile to the minorities, the lot of the minorities is bound to become unenviable". That is the conclusion and I hope the House will agree that is more or less the correct

assessment of the position. It is on the major linguistic group that the linguistic minorities will have to depend—on their good sense. That is more or less admitted, and the House has also agreed to that. Anyhow that does not absolve the Central Government of its responsibility in this matter.

So this Bill has been placed before this House, but as I have stated this Bill is only an implementation of one particular recommendation, that is any disabilities in employment in government services on account of residence. Just now an hon. Member raised a point whether the State Government could impose any disability on account of language. If the State Government likes to put such disabilities, that a particular candidate for a particular job must have the requisite proficiency in the majority language of that State, they can circumvent the purpose of this Bill and the recommendations made by the States Reorganisation Commission. On that point the Commission has made a number of recommendations specifically mentioning the language of the minority linguistic group—

“Media for examinations to any public service should include also the language of the minority groups.”

Then there are other discriminations, not for government services, but for other matters, e.g., education, business and commerce. It is not so much the question of finding a job in a government office, as it is a question of finding appropriate means of livelihood for members of the linguistic minority group. So while the Government is making this legislation only for government services, I think Government will see that the spirit of the recommendation may be implemented by the different State Governments as regards the avenues of livelihood of the members of the minority groups in business and commercial life, as also for educational and cultural facilities of the minority groups.

Sir, we have known many cases of outrageous discrimination. Boys or girls have been refused educational scholarships which on merit they would have got from the Government, but they were deprived of such scholarships, simply because they belonged to some minority linguistic group. All such cases were brought to the notice of the States Reorganisation Commission and I hope the hon. Minister will take cognizance of those things; while giving shape to one of the recommendations, the Government will also see that the other suggestions made by the Commission may also be implemented.

Sir, in this connection, I would like to draw the attention of the House to a memorandum placed before this House by the Home Minister on the 4th September, 1956. There you will find a number of such discriminatory procedures followed in different States:

“Restriction of private rights in respect of contracts for fisheries, etc: The attention of the State Government is being drawn to the relevant provisions in the Constitution regarding freedom of trade, commerce, intercourse and the right to equality of opportunity, and it is being suggested that the existing restrictions should be reviewed from this point of view.”

Government while placing this memorandum before this House admitted that there were such restrictions still existing. I do not know how far during this one year these restrictions have been removed. I hope the hon. Minister will try to enlighten this House on this particular matter as mentioned in paragraph 17 of the memorandum.

I would next like to draw the attention of Government to paragraph 13—

“Recognition of minority languages for examinations conducted for recruitment to State Services; I hope the State Governments will fully implement the spirit of paragraph 13. The Government

[Shri A. C. Guha]

of India propose to advise the State Governments that these suggestions, should, as far as possible, be adopted."

This is very careful and cautious language. The Government of India simply propose to advise that these suggestions should as far as possible be adopted. I wish the Government of India should have given definite and specific instructions that these suggestions should be implemented.

In another paragraph we find—

"The Government of India propose to suggest that the State Governments should adopt the procedure suggested as a matter of administrative convenience."

In one paragraph the Government of India only "propose to advise"; in another paragraph the Government of India "propose to suggest". I hope the Government of India is not so impotent before the might of the State Governments as to use such timid language in these matters. It is not only the question of the interest of the minority linguistic groups; it is a question of the integrity of the Indian nation. It is from that standpoint that I am speaking here. I think they will use more specific and definite language in giving instructions to the State Governments that the suggestions and advices contained in this memorandum may be implemented and a progress report in this matter may also be asked from the State Governments. Such reports should also be placed before this House.

Sir, this Commission was appointed according to the Constitution and the report was placed before this House; the legislative enactment on this recommendation was also done by this House. So, I think this House is entitled to have a report from the different State Governments as to how far they have implemented the suggestions and advices contained in this memorandum.

There was a suggestion made to the Commission that the Governor may be given the authority to protect the linguistic minorities in different States. The Commission has not accepted that suggestion in full and the Government have also thought that it should not be accepted as such. I have nothing to object to that decision. I do not like that the minorities should always look to some extraneous authority apart from the Cabinet or the Government which is running the administration from a democratic point of view. To look to the Governor would be to bypass the democratic set up under the Constitution. So, I do not object to that decision. But at the same time Government should see that there may be a proper authority to ensure that the suggestions of the Commission and those contained in this memorandum may be fulfilled and implemented by the State Governments.

Then, Sir, the question of residence and domicile was creating a lot of difficulties. In some of the States such rules have been prevalent for a long time. I learn there were some rules also in West Bengal, but those rules in West Bengal were not in force. These rules might have been made some years ago before Independence. They were not in force, but in some neighbouring States those rules were enforced and also vigorously put into force to the discrimination and disadvantage of the minority groups. I think the Minister may be able to assure this House that since the report of this Commission, things have improved in that regard.

I know of certain cases where even the East Bengal refugees have not been allowed the refugee stipends simply because their language or mother-tongue is Bengali. It is strange that this Government have tolerated such things for years and I do not know what is the exact position now. I hope that position has

been definitely changed and changed for the better. Simply because the mother-tongue of an East Bengal refugee is Bengali, it should not be said that he should not get the refugee stipend which is sanctioned by the Central Government and not by any State Government.

Pandit Thakur Das Bhargava: Is not Bengali common to both East Bengal and West Bengal?

Shri A. C. Guha: I am referring to those who have settled in other States,—the East Bengal refugees settling in other States.

Shri Braj Raj Singh (Firozabad): How is this relevant?

Mr. Deputy-Speaker: He is describing all the handicaps which the minorities are suffering and this is one of the remedies or reliefs.

Shri A. C. Guha: Then I may refer to the Minorities Commissioner.

Mr. Deputy-Speaker: Though reference may be made to other sufferings and handicaps of those people, this is not the Bill where everything is discussed about those remedies and those difficulties.

Shri A. C. Guha: This Bill can be discussed only against the background of the recommendations made by the Commission and also against the background of the memorandum.

Mr. Deputy-Speaker: That does not mean that it opens out the whole field of the State Re-organisation Commission and the rest of it.

Shri A. C. Guha: I am not going into that.

Mr. Deputy-Speaker: We must confine ourselves to the provisions of this Bill, though reference may be made to relevant matters. I have not prevented the hon. Member from referring to them.

Shri A. C. Guha: Reference has been made to the appointment of the Minorities Commissioner in this

memorandum, but nothing has been said as regards the power and the authority of the Minorities Commissioner. It is also said that he will submit a periodical report to the Government. But is this the only function that this officer is to perform or enjoy? Will he have some other functions also to deal with the State Governments to see that the minorities may get proper protection and their due share in the social and civic life of the State? I would like to be informed as to what would be the functions and authority of the Minorities Commissioner.

Mr. Deputy-Speaker: It is not the Minorities Commissioner's functions that has to be discussed. That cannot be brought in here. We are not to criticise the reports that have been made.

Shri A. C. Guha: About the pattern on which the Minorities Commissioner is to be appointed—

Mr. Deputy-Speaker: This is not in the Bill. This does not form part of the Bill which has been circulated.

Shri A. C. Guha: I do not think there is much in this Bill by itself. These things can be discussed.

Mr. Deputy-Speaker: It is a strange argument that the hon. Member advances. Because there is not much to be said under this Bill, something else should be brought in!

Shri A. C. Guha: My point is that this Bill can be discussed and there is much to say on this subject provided it is discussed against the background of the Commission's report and against the background of the memorandum. Otherwise, if we have to limit ourselves strictly to the clauses of this Bill without reference to the memorandum and to the report of the States Re-organisation Commission—

Mr. Deputy-Speaker: It does not mean that because this Bill is based on one provision of the recommendations of the States Reorganisation Com-

[Mr. Deputy-Speaker]

mission, the whole report of that Commission which forms the background of this Bill should be discussed here. It does not mean that because a memorandum has been circulated in respect of the Minorities Commissioner, all points about what the Minorities Commissioner should do could be discussed and that all such points are open for discussion now. The hon. Member should confine himself to the provisions of this Bill, if he has anything more to say.

Shri A. C. Guha: The Statement of Objects and Reasons makes reference to the Commission's report and the amendments have been made in pursuance of the Commission's report and also to other points.

Mr. Deputy-Speaker: I would now request the hon. Member to finish. I have given my decision. He will kindly confine himself to the provisions of the Bill.

Shri A. C. Guha: I practically finished. There is nothing more to say. I still reiterate that this Bill and all the clauses in this Bill can be discussed only against the background of the report of the States Re-organisation Commission and the memorandum. Otherwise there is not much to discuss.

Mr. Deputy-Speaker: He has said what he wanted to say even on that score.

Shri A. C. Guha: I only expect that the other recommendations of the Commission and all the suggestions made in the memorandum will also be implemented and that the Government will see that the State Governments do implement those suggestions.

Shri Dasaratha Deb (Tripura): Generally, I agree with the spirit of this Bill, namely, The Public Employment (Requirement as to Residence) Bill, 1957. This Bill seems to remove certain difficulties of a candidate being appointed simply because he is not a resident of the particular State. At the same time, this Bill does not

overlook the giving of some safeguards to the people of the Union territories like Himachal Pradesh, Tripura and Manipur, and also the areas transferred from Hyderabad to Andhra Pradesh.

You know well that the people of these areas, particularly the people of Tripura and Manipur and perhaps Himachal Pradesh also, are very backward and the literacy in those States is very low. If any such special privileges are not given to the people in those areas in respect of their employment, either in the form of priority or in any other form, and if they are thrown into the open competition to find their employment, these people may not be able to pull with others. On that consideration, I support the Bill.

At the same time, I want to point out another fact here. Now, what happens in my State? Certain restrictions are there. A rule is being followed in Tripura with regard to the recruitment of Class IV employees. Class IV employees are invited to take their chance in open competitions and generally the backward people, the tribal people and also the Scheduled Castes people do not possess the requisite qualification so as to make them eligible to compete with other candidates, in the open examinations. They are denied the opportunities to get into posts. Even for a post like the assistant teacher of a primary school, particularly in the tribal area, I do not think there is any difficulty to employ a non-matriculate candidate, for, he is fit enough to teach the alphabet—A,B,C,—up to the primary standard. But then, such non-matriculate candidates are denied the opportunity of getting such posts for the simple reason that they are not matriculates.

Generally, now, the Government of Tripura has taken to very queer ideas. Of course, they are qualified teachers. They are recruiting teachers with intermediate or matriculation quali-

fication to serve in the tribal area. But the difficulty is that the boys and girls of that particular area could not understand their Bengali language. They could not follow what their teachers were teaching. So, in such schools only such teachers should be appointed whose language can be understood by the boys and girls.

Now they have adopted a queer idea. They have started one school to teach those teachers the tribal languages. It is a poor idea, because one cannot acquire a knowledge of the tribal languages within a month. But in that case, if a non-matric tribal teacher is appointed as assistant—I am not saying he should be appointed as Headmaster, but only as assistant—then it will be more helpful. So, when the Government make rules regarding this matter, I think such a clause should also be included, so that such people may get a chance to serve the country and also to serve their own people.

There is another difficulty. Not only with regard to the non-gazetted officers, but with regard to the gazetted officers also, some sort of provision should be there in the rules themselves. Otherwise what is happening now is that almost all the high gazetted officers, particularly like District Magistrates, who are generally recruited in Tripura State do not understand any regional language of that State. You will appreciate that because our people are so illiterate, they cannot understand either English or Hindi and so they do not have any approach to the high officials and there is much difficulty there. In order to remove such difficulties in future, when the Government recruits some high officers, at least they should see to it that only people who understand the regional languages should be recruited. I do not think such officers are not available in our State. I think they are available. Only certain exemptions may be made in certain cases such as highly technical personnel. It may happen that efficient candidates may

not be available for such posts from that particular State. Of course in the case of such high officials, this provision that non-residents may be eligible for such posts may be there. But apart from that, the State Government should see that the local candidates should be recruited as far as possible.

In regard to Tripura State, considering the backwardness of that area, when the Government of India make rules, they should consider all these points. The spirit of the Bill itself is good, but still the question remains as to how this idea could be implemented in practice. Many things I have seen. Even in the case of recruiting candidates for the State services, there are clauses in our State also that if candidates from the Scheduled Castes or Scheduled Tribes are available, they should be given first priority. But in actual practice, those things are not being followed in our State. I have mentioned it in the first Parliament also. Now also I am mentioning it here. Now there is a tribal welfare department for the State of Tripura. Quite a number of tribal candidates are available for serving in that particular department, but tribals are not appointed, in practice. Only one officer was recruited, but his services also were terminated. Even now no ground has been shown to him and no explanation has been given as to why he was asked to go.

In many cases—I can give you examples—I do not know why this sort of thing is being followed in our State.

Though this Bill has certain good ideas and though the intention may be good—I hope it is good—at the same time, I am afraid how far this idea could be implemented in actual practice. I request the hon. Home Minister to see that when they prepare these rules, they should see that all these ideas and intentions find a proper place in the rules. When the rules are made, they should also see to

[Shri Dasaratha Deb]

it that the rules are implemented in toto.

पंडित ठाकुर दास भार्गव : 'जनाब डिप्टी स्पॉन्सर महोदय, जो बिल हमारे सामने आया है

Shri Easwara Iyer (Trivandrum): May I request the hon. Member to speak in English?

Pandit Thakur Das Bhargava: I welcome this Bill which is before us. When the Constitution was on the anvil, at that time every effort was made to broadbase it and make it very just and at the same time make it such that the unity in the State was maintained fully. Also, the fundamental rights which were guaranteed here were, as a matter of fact, implemented in the whole of the country. That was the basis of article 16 of the Constitution. It is the first part of article 16 that furnishes the real background to the rest of the article. The first part says:

"There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State."

The real purpose is that there should be no discrimination whatsoever so far as employment or appointment to an office under the State is concerned.

To my mind this is one of the things which go to make a good State. But at the same time, it is an ideal which should be attained. It is an ideal which is very difficult of attainment in point of fact. By virtue of the fact that the ideal could not be attained very early, we made exceptions to the rule. Very good exceptions were made. For instance, all the rules in force existing at that time were maintained. If the House will look at article 13(2) of the Constitution, it will find that it abrogated every provision of law which was contrary to the fundamental conception of the

Constitution. It says:

"The State shall not make any law which takes away or abridges the rights conferred by this Part and any law made in contravention of this clause shall, to the extent of the contravention, be void."

But for the reservations made in this Constitution, all such rules in force at that time would have been regarded as abrogated. Therefore, we enacted article 35(b). In article 35(b) we have defined the expression "any law in force". According to the laws in force at that time, many of the States had rules which really debarred certain persons from getting offices. Under rule 2, we took away from the province of the States in which these rules were there, the power to repeal them. That right was taken away from them and the right was conferred on the Parliament to repeal them.

15.00 hrs.

Now the Ministry has come after ten years to repeal them. For ten years the Ministry did not think it right to repeal them. I am not condemning the Ministry on that score. On the contrary, I think the Ministry did the right thing. As a matter of fact, it is very easy to be idealistic. But it is very difficult to attain those high ideals. Every State would have consulted even before. I do not think that this is taken up only because the States Reorganisation Commission has recommended this. The States would have been consulted. The States must also have raised objections against this. The States do not want certain linguistic minorities to come forward and claim posts under those rules. It is human nature.

So far as these disabilities are concerned, they are given in article 16. All the disabilities are given there. We have just heard from many of our friends about language. The difficulty is that in article 15 there is no mention of language, though it is a very difficult question in this coun-

try today. We know how things are moving in different States. So far as the question of language is concerned, a question has been put and answered by the hon. Home Minister that language does not form part of one of the composites of article 16. It does not mean, according to Government to see that section 16 applies to the whole of India. There must be equal opportunity. That is the real idea. All these things which are given in clause (2) that is, religion, race, caste, sex, descent, place of birth, residence or any of them, they are all, I should say, ancillary. If there is any difficulty of language, I should think that so far as article 16(1) is concerned, this is a fundamental right and every person can claim that right—viz. that language shall not be utilized as an obstacle to the enjoyment of equal opportunity for every citizen.

Complaints have often been made about language. One of the complaints which is now gaining strength is that in the IAS examination the residents of Southern India do not get full opportunity if Hindi is made one of the subjects. I do not want to enter into that argument now. But I will just submit that so far as northerners are concerned, they have also got a complaint. Their complaint is like this: as we do not know much English, in the *viva voce* examination if questions are put in English, we are not able to give reply in the same manner as our friends from the South do. This is the complaint from the north. There is a complaint from the south also. So far as I am concerned, I am ready to concede that there should be no impediment whatever, so far as equal opportunities are concerned, in the matter of appointment to any office. This is the real meaning of article 16 and this fundamental right must be observed not only in theory but in practice by the State if we want to keep up the unity of the State.

So far as this Bill is concerned, I must submit that this Bill goes to a certain extent to remove a difficulty

from the path of those who were under a disability for a long time. At the same time, may I humbly ask the hon. Home Minister: is it not true that there are Provincial Public Service Commissions? Is it not true that there is a report which is bed-rock of recommendations which states that in the case of High Court judges some must be locally recruited and some must be imported from other States? Is it not true that the entire recruitment is based upon residence in a particular State? So far as recruitment to the State Civil Service is concerned, is it not the rule that a person must belong to a particular State? If you want to be consistent, first of all remove that rule in which you say that those persons who are living in that particular State, they alone have got the qualifications and other haven't got them. As long as that qualification or rule is there, I think you are really not following the true meaning and import of what is contained in article 15. Moreover, is it not true that you have got different standards of study, different standards of examinations and different rules in the various universities? May I, in this connection, bring to the notice of the House one fact which I noticed, namely, that the son of the most distinguished man in this House, our Speaker, was not admitted in some university, not because of any personal disqualification, but because of some rules. He was not admitted in an engineering college because of that. Is it not true that in many of the States in the medical colleges, engineering colleges and other educational institutions there are restrictions on admission on grounds of residence? It is true that in many cases, since Swaraj has come into being, we have obliterated many of the distinctions; for example, between military and non-military classes, between agricultural and non-agricultural classes and so on. We have done that. At the same time, it is idle to contend that there is equal opportunity for everybody now. Is it not true that in some of the States capitation charge is levied from students belonging to

[Pandit Thakur Das Bhargava]

other States? I had to pay capita- tion charge in U.P. for admission of my son because I belong to Punjab. This is being done not in U.P. alone. This is done in many places. I, there- fore, humbly submit that if you want to implement this fundamental right in the whole of India, you must not only remove this residence clause, but you must go into the entire gamut of all the disabilities from which people are suffering. Let them take full advantage of article 16, as it was enacted.

So far as residence is concerned, it is quite true that the States Reor- ganisation Commission has made a re- commendation. It is also true that a circular was issued. In so far as that is concerned, I have nothing but con- gratulation for the Government for implementing that circular and that report. But, may I humbly submit for the consideration of the hon. Minister that one advantage which is given to a particular person may not be good for another person, who is circumstanced otherwise.

This very Bill, which seeks to take away the qualification of residence from the whole of India, still per- sists in saying that in certain places the residence rule shall remain though only for five years. The medicine chloroform is used for the purpose of bringing to consciousness an uncon- scious man. The same chloroform is also used for bringing unconsciousness in a conscious man. Similarly, the hon. Minister, after saying that residence as a qualification must be taken away from the whole of India, is out to see that the residence clause is per- petuated in respect of four States, at least for five years though I do not agree that five years would be quite sufficient.

After all, the principle which we have kept in view must be the ideal. If this rule is abrogated, then resi- dence is recognized as a qualification. If the real principle of article 16(1) is brought into full implementation,

it is better to keep the rule of resi- dence as a good qualification, provided the first rule remains intact, because it is the first rule that is material, not the second rule. I know of many other disabilities which are yet there, and which will take good time to be obliterated. But, the first rule is the best rule. You must see that in taking away residence, you do not injure the first rule when you have given equal opportunity. In the case of Hyderabad, Telengana, etc. you have come to agreement. If you do not have this kind of a rule, you will be abrogating the real purpose of article 16-1. I am glad that Govern- ment have recognised that in regard to the backward States, this rule must obtain. So far as this Bill is concerned, I am supporting both the parts, the rule taking residence as a qualification and imposing residence as a qualification, which looks like an antithesis to start with.

Again, this question of five years, I do not understand. As a matter of fact, the real dissatisfaction among the people is that in the higher cadres of service, intellectual people are depriv- ed of their rights and they do not get their full share. For instance, a complaint has now come from Tripura. This is bound to come from other places also: not only in these three places, but others also. The com- plaint is there. Not because neces- sarily there is the question of linguis- tic minorities: not necessarily on account of that. For instance, I may mention my own Hindi region of the Punjab State. There, it is not a question of any reli- gious bias depriving us; there is no question even of any linguistic as such minority being discriminated against, so far as the Punjab is concerned. At the same time, the first rule 16-1 is fully violated. I say, there is no equal opportunity for the Hindi region of the Punjab State. I have given some figures in this House, not once, but twice. With your permission, I will read out only a small portion

where I spoke about this. On page 3766.....

Mr. Deputy-Speaker: He can speak it again without quoting himself.

Pandit Thakur Das Bhargava: It will take time; I do not want to take time. At the same time, there is another reason with me. If I am quoting myself, it is very unusual. I am a very humble individual. I represent only 7 lakhs of people. After I spoke, there was a very distinguished man, who does not represent only 7 lakhs of people, but who is the very essence of representation. We elected a gentleman in the place where the Sardar Sahab is occupying the Chair. He is the gentleman to whom I am referring. He supported me on that occasion. I am bound to quote it because I am reinforced in my argument. It is for this reason that I am quoting, not to quote myself.

Shri D. C. Sharma: (Gurdaspur): He said before he was translated to this high office or before?

Pandit Thakur Das Bhargava: That is entirely different. That makes no difference. We elected him because he represents what is best in us all. That made no difference to me. When I read it, even my Professor friend will bear me out and support me.

This is what I said:

“अब मैं एक दूसरे नमूने का नया नकशा पेश करना चाहता हूँ और मैं दरखास्त करता हूँ कि यह हाउस उसका बड़े ध्यान से मूलाहिजा क्रमार्थ और जो मैं कहने जा रहा हूँ उसको जरा अपने दिल पर हाथ रख कर सुने। जालंधर डिविजन के लोग जिस के अन्दर हिन्दू और सिख दोनों शामिल हैं उन को कितनी जगहें मिली हुई हैं इसका हाल मैं आपको सुनाना चाहता हूँ। पंजाब के सेंट्रल मिनिस्टर्ज दो हैं और दोनों ही जालंधर डिविजन के हैं। पंजाब कैबिनेट में आठ मिनिस्टर्ज हैं उन में से सात जालंधर डिविजन के हैं और एक हरियाना प्रान्त का स्पीकर और चैयरमैन पंजाब असेम्बली के दोनों के दोनों जालंधर डिविजन के हैं। हाई कोर्ट के

जजेज सब जालंधर डिविजन के हैं। पब्लिक सर्विस कमिशन के तीन मेम्बर हैं, तीनों जालंधर डिविजन के हैं। स्वाडिनट सर्विस कमिशन के तीन मेम्बर हैं तीनों जालंधर डिविजन के हैं।

पंजाब से कौंसिल आफ स्टेट के लिये चुने गये आठों के आठों मेम्बर जालंधर के हैं।

उपाध्यक्ष सहोदय: अब तो यह हालत नहीं रही है।

पंडित ठाकुर दास भार्गव: अभी मैं पूरा कोट कर लू।

“वहाँ पर लेजिस्लेटिव कौंसिल के १८ नामिनेटेड मेम्बरों में से सिर्फ दो हरियाना प्रान्त के हैं। पंजाब से चुने गये लोक सभा के मेम्बरों में से सिर्फ चौधरी रनबीर सिंह और मैं, दो मेम्बर, हरियाना प्रान्त के हैं, बाकी दूसरी जगहों के हैं।

एक अनितीय सदस्य: अब तीन हैं।

पंडित ठाकुर दास भार्गव: उस समय श्री टेक चन्द ने बाच में टोकते हुए यह कहा था :

“मैं अम्बाला से चुना गया हूँ।” मैंने उस समय उनको कहा था : “आप अम्बाला के हैं, लेकिन आप भी उसी क्लास के हैं। हरियाना प्रान्त में नहीं मिले जूले इलाके के हैं। विधान सभा की कमेटी के मेम्बरों में १६ जालंधर के हैं और चार हरियाना प्रान्त के। गवर्नमेंट नामिनेटेड कमेटी मेम्बरों में दो जालंधर के हैं और हरियाना प्रान्त का कोई नहीं है। आई० सी० एस० और आई० ए० एस० में २४ आदमी हैं और सब के सब जालंधर के हैं। सेक्रेटरी, डिप्टी सेक्रेटरी, ग्रंडर सेक्रेटरी और अस्सिस्टेंट सेक्रेटरी १५ हैं और सब के सब जालंधर के हैं।

An Hon. Member: What is this Jullundur division?

Pandit Thakur Das Bhargava: It is the present Punjabi-speaking part of Punjab.

वंदित ठाकुर दास भार्गव : "हैडज ग्राफ की डिपार्टमेंट २० हैं और वा को छोड़ कर सब के सब जालंधर के हैं। वहां पर डिप्टी कमिश्नर १३ हैं और सब के सब जालंधर डिविजन के हैं। सुपरिस्टेंडेंट ग्राफ पुलिस ३० हैं और सब के सब जालंधर डिविजन के हैं। गवर्नटिड आफिसर्स ३४८ हैं और उनमें सिर्फ ४० हरियाणा प्रान्त के हैं।

में यह सारी फेहरिस्त आपके सामने पेश नहीं करना चाहता हूँ क्योंकि मेरे पास बक्त थोड़ा है। ये फिगरें तो मैंने ऐडमिनिस्ट्रेशन के बताये हैं। अब मैं कालेजिज और स्कूलज की पोजीशन बताता हूँ।"

श्री अछुल लताक (बिजनौर) : चपरासी रह गये, वह कितने कितने हैं?

वंदित ठाकुर दास भार्गव : आप सब रबिये में अभी उस पर आऊंगा।

उस सारी शिकायत को मुन कर में और आगे डिप्टेल्स में नहीं जाना चाहता, हमारे ग्राज के डिप्टी स्पीकर साहब ने उस मोके पर यह रिमार्क किया था : "सरदार हुकम सिंह . जो शिकायत इन्हीं ने की है मैं उससे मुतफिक हूँ।"

"I agree with the complaint that has been voiced forth."

That was the remark made by Sardar Hukam Singh.

An Hon. Member: From the Chair or from here?

Pandit Thakur Das Bhargava: Not from the Chair. At the same time, that makes no difference.

Mr. Deputy-Speaker: Even today, I agree. There should not be any doubts about that.

Pandit Thakur Das Bhargava: My hon. friend has asked how many of them are chaprasis.

Mr. Deputy-Speaker: I should hope that it should not be taken to further details.

वंदित ठाकुर दास भार्गव : जहाँ तक सुबाडिनेट सर्विसेज का सवाल है मेरे पास इस समय उनके मूतल्सिक प्रोग्रेस नहीं हैं लेकिन मैं प्रदब से अर्ज करना चाहता हूँ कि उस इलाने की शिकायत यह है कि....

उपाध्यक्ष महोदय : आप भंगेजी में तक्ररीर कर रहे थे।

Pandit Thakur Das Bhargava: Figures about subordinate services were not given in this statement. Because, I maintain that as a matter of fact, even if in the subordinate services, there is some representation to any *ilaga*, it is not sufficient. The dissatisfaction is there. If the Deputy Commissioner of a district belongs to an area which is different, even if there are a few jobs, it will make no difference whatsoever. As long as the Ministers are there belonging to different provinces, can those provinces complain? I am coming to that. I am very sorry to say that we find a general impression in the country that if a Minister belongs to a particular area or particular part of the country, excessive recruitment there is from the area from which he comes. This may be entirely wrong. At the same time, this is the general impression. I know of Government of India offices. If there is a big officer, people generally think that all those persons belong to his community or to his part of the country and they will get promotions. This is most unfortunate. This is exactly what we do not want. This is exactly what we are fighting against and this is exactly against this that this Bill has been brought. This disease is very deep-rooted. We must see that this is eradicated. This is by the way.

I was speaking of Hariana and gave figures. It is not my complaint. As I have submitted, it is not that any particular section of the people in the Punjab is responsible for this disability about Hariana province.

Mr. Deputy-Speaker: This is what I wanted to bring to the notice of the hon. Member though I allowed him to

discuss this and to read also all that. But, he does not contend that Hariana people were discriminated against because there was some residence qualification or disqualification in Punjab. He has other reasons, and even at that time he advanced those reasons as he has come to just now, that perhaps the men at the top were such that they favoured their own men.

Pandit Thakur Das Bhargava: I am giving the reasons also, because otherwise my complaint would mean that some people are tyrannising over us. That is not so. As a matter of fact as I said, this is a matter of history. In the old regime before independence, there were the British who believed in the policy of divide and rule. Fifty-six per cent. were Muslims then, and the Hariyana *utaka* was annexed to the Punjab by way of punishment to us people who had mutined. The hon Minister gave it in the papers that those people who suffered in the mutiny will get something now by way of reward for having suffered then, but it has never occurred to this Ministry that they should take away this disparity. They should see that this disparity goes away from this part. It has never occurred to this Ministry and that is my complaint.

The present Government is certainly not responsible for those historic circumstances, even the present Punjab Government is not responsible till 1947, and I am not accusing them or any person in this House on these matters because it was beyond their control, it is a matter of history. But after 1947 what happened? There was an on-rush of refugees and we and our representatives agreed, and we passed a law in the Assembly that preference shall be given so far as appointments were concerned to refugees. We were quite agreeable. I am still agreeable that so far as refugees are concerned, they ought to have the first chance because, after all, they have sacrificed everything.

Having said all that, it must be remembered how the Hariana people

feel. I beg of the House and the hon. Minister and the Deputy-Speaker to consider how the Hariana people feel now. It is quite true that this partition into two regions has taken place as a result of the agreement of Hariana also. We also agreed, and we stand by this division of Hindi-speaking and Punjabi-speaking areas. But what has happened now? It is idle to state that all this is due to this language question. Much of it is due to frustration in the Hariana part, the feeling there that justice is not being done by the Government so far as services are concerned. That is the under-current. Go to any place and they will say that justice is not being done so far as appointments are concerned. Every person is after a job in the Punjab.

This question of language can be settled in two minutes. Make it a rule that no person shall be employed in public office unless he knows both the languages, and everybody in Hariana will learn the language not because of their choice but because of this implied compulsion. This is very good.

May I just refer to the House to an amendment which we made perhaps in the Constitution (First Amendment) Bill so far as the question of professions was concerned, in article 19. Article 19 as it originally stood was subsequently amended by Parliament and we added the provision:

"nothing in the said sub-clause shall affect ... or prevent the State from making any law relating to,—

"(i) the professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business, or

(ii) the carrying on by the State or by a corporation owned or controlled by the State, of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise."

[Pandit Thakur Das Bhargava]

If a person does not know the language of the region in which he is employed as a public servant, I fail to see how he will be able to discharge his obligations. Therefore, I submit in certain services you may make residence in the State one of the qualifications, not a qualification of this sort that they must be able to speak fluently the English, Punjabi or Hindi language as the case may be. That would be a wrong rule, that would be a sort of disability, but you must make it a rule that he must be able to understand and be able to speak to the ordinary person in the language of the region in which he is employed. Unless this is done I do not know how the public functions will be discharged by the persons occupying those offices. There is no harm in it, but if a person coming from Bengal enjoys proficiency in Punjabi, I would not debar him, I would say all right, because the Constitution says that equal opportunities must be given to all the citizens of this country, and there is only one citizenship in this country. A person is a citizen of India, not of any particular State.

Therefore, we must make a rule with which all persons must be satisfied, but my case, as I have submitted, is that you have not said in this Bill that it is only in reference to linguistic minorities that you are making this rule. You are making this rule, as you yourself explained in your speech, according to the exigencies of local requirements, and that you are making this rule of residential qualification in four States.

So far as Hyderabad is concerned, my friend said that there was agreement. At the time when the States Reorganisation Bill was there, I submitted to the hon. Home Minister and I put in many amendments before the House in which I stated my case, and not once but twice I gave the figures in this House. With what result? The Government would not hear. The Government is deaf, the Governmen-

is not going to listen to and voice, unless there is an agitation, unless the people go to jail. This is entirely wrong. The Government should not behave like this. Even most reasonable amendments were rejected. I was a member at the time when this Constitution was enacted and we saw to it that we did not allow any community to get advantage over the rest, and we made rules here which are of universal application.

I do not want anything particular for Hariana. I only wanted you should give reasonable representation to every area, every region in the State, in the public services. It is not a matter of loaves and fishes only. If a particular area is excluded altogether from the services, or the higher services in particular, those people are bound to think, as the Hariana people are thinking in their frustration, that they belong to an inferior race, that they are conquered people and the others are the conquerors. This is the very thing I stated then, and I beg of the hon. Minister to look into this question rather gravely.

When some Members took these figures to Pandit Nehru, I am informed he wrote to the Chief Ministers that they should see that some justice is done, and some of the Chief Ministers and high dignitaries made very good promises to us and said—they would make an effort to bring it about, but implementation is a very difficult thing. After all, every Minister has to look to his constituency, to the opinion of those who are his supporters, influential supporters. So far as Hariana is concerned, I admit we are much poorer in education, in influence, in wealth, in all these things.

Mr. Deputy-Speaker: He is talking about the State representation. In Parliament we have got very intelligent people.

Pandit Thakur Das Bhargava: In Parliament also, if the hon. Deputy-Speaker wants to know my humble

opinion, in spite of the fact that we have Sardar Sahab amongst us, a towering personality....

Mr. Deputy-Speaker: We are talking of Haryana.

Pandit Thakur Das Bhargava: ... yet our influence in this House is very small. I know Punjab does not count anywhere. I said so when the States Reorganisation was there, and I repeat that in spite of you, so far as Punjab is concerned, it does not carry much influence with the Government of India. I said so and I repeat it. On the contrary, Punjab is treated very lightly.

Since you have been pleased to bring up this question yourself, will you allow me to say one or two words on this question why Punjab is treated very badly. The road from Chandigarh and Simla is broken down because every Minister has to come here to consult on every subject. The Ministers come, they have their talks with the high-ups, they tell them whatever they like. There is no real settlement of disputes in the Punjab among the various communities that live there. I feel ashamed that our matters come here for being decided by the High Command or the high-ups. I do not want that. I want that in Punjab the people living there should be able to decide their own disputes. Let us fight there. It is said we are fighting people. All right, let us break our heads there and come to a settlement. I would rather like that than coming here every moment and have a ukase from some high official to do this or that. I do not want that. This is the real reason why all this injustice is being perpetrated in the Punjab. I did not want to say that. I am sorry I made a side remark.

Mr. Deputy-Speaker: I may also say at this moment that the hon. Member has taken 35 minutes out of these two hours.

Shri N. R. Munisamy (Vellore): May I know whether this is germane to the main Bill?

Mr. Deputy-Speaker: Unknowingly or unconsciously I might have a bias in favour of it.

An Hon. Member: You have no bias at all.

Pandit Thakur Das Bhargava: It is the last thing any Member in this House would suggest. It is for you yourself to condemn yourself so lightly. Since the remark fell from you, I just expatiated on that remark. The House may kindly excuse me if I have diverted my remarks from this subject, even in deference to a remark from the Chair.

Shri V. P. Nayar: And you may plead for more time for this Bill.

Pandit Thakur Das Bhargava: I was just speaking on the Bill. Only for those two or three minutes, I may have wasted the time of the House, because the question was put to me. I shall not take up much of your time when we come to amendments; I shall take up the time only now, and I shall not trouble you when we take up the amendments.

I was submitting that reservations have been made in respect of three States. In respect of Hyderabad, they have made reservation, because, according to the Minister, there was an agreement. So far as Haryana was concerned, why was a similar agreement not allowed to be brought about by them, when the States Reorganisation Bill was there? I complained then, that you bring about a settlement, and you have a settlement. They only gave us that skeleton scheme, calling it a mere outline. I wanted that something concrete must be given to Haryana, and the Haryana people must be given some rights. But they never cared. First of all, they did not care then, and now they come and say, there is an agreement in Hyderabad, but there is no agreement in Punjab. How can there be an agreement, when

[Pandit Thakur Das Bhargava]

you do not allow it? The difficulty is that the whole power is centred in the Home Minister, and he chooses to make us or to unmake us. Unfortunately, he does not choose to make us.

Now, I come to the five-year rule. So far as this is concerned, I would like to know what will happen after five years in Tripura and Manipur.

So far as the reservation is concerned, they do not give reservation to all the higher posts or the gazetted posts. They are concerned only with the non-gazetted posts. But in my amendment, I have taken care to include all the posts. But here, they only speak of non-gazetted posts; simply by making reservations for patwaris' posts they think that they can give hope of full justice in all these four places.

So far as Hyderabad is concerned, they have divided every post; they have divided every ounce of water and butter and they have divided everything else. But I am not of that view at all. So far as Punjab is concerned, we do not want to divide in that way. We want that the best intellect should guide us. I do not want that we should divide in that way. But at the same time, there should be reasonable representation in the services, but they are denying that. I do not want that everything should be divided, for that would create not one State but two States. I want one integrated State. I do not want at the same time that there should be a total absence of representation in the higher services.

So far as the five-year rule is concerned, in my humble opinion, the period should be at least ten years. So far as the other States are concerned, what is the time that has been taken by them? You yourself have given them ten years, from 1947 to 1957, and you have brought forward this Bill only now. For all those areas, you have already given ten years, and I do not know for how long a time it was there previously. But,

even taking it as ten years, which is the time that you have taken to come before this House with a Bill of this nature, you must give at least ten years to these four places, in order that proper justice may be done in the higher services also, as in the lower services, and they may be mainly manned by people of that State.

I would not like to repeat what I have said before, but I most humbly and respectfully submit for your consideration that this policy which has been adopted for so long in the Punjab will only bring disaster. It has brought disaster to us, and will continue the disaster to that part of the country which I am representing. It is a disaster not only to the individual, but also to the unity and prosperity of the whole country. If there is trouble in the Punjab, the whole of India is affected. If there is any trouble anywhere, in any part of India, we all feel that.

Therefore, I would beg of the Minister to include the Hindi region of the Punjab State also in this Bill, in the very words in which I have given my amendment, so as to readjust the balance and to give us living time. After all, we want only a period of ten years. Therefore, I would beg of the Minister and also the House to accept my amendment, when the amendments are taken up.

Shri D. V. Rao (Nalgonda): While supporting this Bill, I want to bring to the notice of the House certain important things which have to be included in this Bill. The question of residential qualifications in Telangana is not the only thing. There are other things also, which the Minister has dealt with at length, and that is the reason why the Telangana part of Andhra Pradesh has been included in this Bill.

For instance, there is also the question of pay-scales, seniority and so many other problems arising out of integration of services. The services there are undergoing so many diffi-

culties after integration. Of course, there was no considerable reduction of pay-scales; at the same time, the officers, gazetted as well as non-gazetted, are passing through a state of uncertainty that at any time, the emoluments etc. which they were enjoying before integration may be reduced. It so happens that in the Andhra part of Andhra Pradesh, the emoluments were not so much to the advantage of the officials, as it was in the Telangana part or in the former Hyderabad part of that State. Further, especially in the case of the non-gazetted staff, they had the advantage that they could not be moved from place to place on transfer or otherwise. These are some of the factors which the Home Minister should take into consideration.

The Central Government have the responsibility to see that the integration problems arising out of the reorganisation of States, especially as they affect the services, should be settled amicably, and while settling those matters, these factors also should be borne in mind. Further, the pay-scales and emoluments etc. which the services in the Telangana area were enjoying should be protected, and the facilities which they were enjoying should also be continued.

From what the Minister has stated, it was not clear whether there was anything written in the agreement or not on this point. But there is an agreement that these should be continued, and nothing should be done which will reduce those facilities. I think even the States Reorganisation Commission have recommended that these should be continued. I would only refer to para 810 of their report at page 218, which reads thus:

"The integration of services which will follow the determination of the cadres and the allotment of personnel should be based

on definite principles which should, as far as possible, be of uniform application throughout India. Some of the principles which seem *prima facie* to be suitable are that seniority among the officers in the State of origin *inter se* should not be disturbed, and that the existing scales of pay and conditions of service should not be varied to the disadvantage of those who are now in employment, and should be continued until such time as uniform pay scales, not less advantageous than those enjoyed by them in the parent State, are evolved."

I think this particular recommendation should be incorporated in the Bill, and when the future rules are made, this should be taken into consideration. This is the first thing that I would like to urge.

In this part of my State, there was a separatist movement. Whenever the services are discontented about their pay-scales and other matters, certain elements try to take advantage of it to encourage separatist tendencies. So, unless these problems are solved satisfactorily, there is every danger that the situation which led to the agreement mentioned by the Hon. Minister will continue, and that will not be conducive to the further unification of Andhra Pradesh.

From this point of view also, I request that this aspect be incorporated in this Bill, so that full justice is done to the services in regard to pay-scales and other matters concerning them.

श्री श्रीनारायण दास (दरभंगा) : उपाध्यक्ष महोदय, मंत्रिभवन की जिस धारा के आधारे पर यह बिना अभी हमारे माननीय मंत्री ने उपस्थित किया है उस के अनुसार यह स्पष्ट होता है कि जहाँ सिद्धांत में यह बात बहुत ही आवश्यक है वहाँ व्यवहार में जरूरी है कि किसी प्रकार का एक निबन्ध रक्खा जाये जिस से पिछड़े हुए इलाकों के लोगों की नियुक्ति में कुछ न्याय हो सके ।

[श्री श्रीनारायण दास]

अगर सिर्फ सिद्धान्त की बात होती, और ऐसा सिद्धान्त होता जिस की अवहेलना नहीं होनी चाहिये, तो फिर संविधान की धारा १६ में जो सिद्धान्त दिया गया है, उस के साथ ही साथ धारा ३५ में इस संसद् को यह अधिकार न दिया गया होता कि जहां इस प्रकार के प्रतिबन्ध हों वहां संसद् उन को भी हटाये और जहां पर आवश्यक समझे वहां उचित प्रतिबन्ध को लगावे भी। इस से बिल्कुल स्पष्ट है कि हिन्दुस्तान की उस समय की दशा को देखते हुये संविधान बनाने वालों ने यह जरूरी समझा था कि जहां एक देश में एक नागरिकता हो और नियुक्ति आदि के मामले में, नौकरियों के मामले में सब को समान अवसर मिले, वहां उन्होंने वह भी मत रखा था कि देश के जितने हिस्से हैं सब बराबर के मौके के अधिकारी तो हैं, लेकिन हर प्रदेश के सभी नागरिक बराबरी के मौके का उपभोग करने के योग्य नहीं है। जैसा संविधान की प्रस्तावना में दिया हुआ है, हम अपने देश के अन्दर सब लोगों के लिये उन्नति करने का बराबर का मौका देंगे। लेकिन हम यह भी देखते हैं कि अभी तक हम लोग शिक्षा जैसी साधारण बात में भी बराबर का मौका नहीं दे सके हैं। इस लिये उस समय यह जरूरी समझा गया और संसद् को यह अधिकार दिया गया कि विभिन्न प्रान्तों की हालत को देखते हुये अगर संसद् जरूरी समझे, और लोगों के लिये आवश्यक हो कि राज्य के अन्तर्गत नौकरियों के लिये, रोजगार के लिये किसी प्रकार का प्रतिबन्ध वहां के निवास स्थान के सम्बन्ध में लगाया जाये तो वह उसे लगावे की अधिकारी है। इस लिये सिद्धान्त रूप में तो मैं इस बात को मानता हूँ कि बहुत ही अच्छा होता कि ऐसा समय आये जब इस देश के किसी भी प्रान्त में, किसी भी हिस्से में, नौकरियों के सम्बन्ध में, इस तरह का प्रतिबन्ध न लगाया जाये।

अभी जैसा हमारे माननीय सदस्य पंडित अमर दास भार्गव ने कहा कि संविधान को

पास हुये इस वर्ष हो गये, उस वर्ष तो नहीं हुये पर सात वर्ष अवश्य हो गये, सात वर्षों बाद सरकार को इस तरह का विधेयक उपस्थित करने का मौका मिला है। मैं समझता हूँ कि सरकार इस बात को समझती है कि जहां तक सिद्धान्त का ताल्लुक है, हिन्दुस्तान के हर नागरिक को नियुक्तियों के सम्बन्ध में समान मौका मिलना चाहिये। फिर भी बहुत ऐसे प्रदेश हैं जहां पर यदि इस सिद्धान्त को लागू कर दिया गया, जिसे न्यायोचित आधार का सिद्धान्त कहा जाता है, तो सब की स्थिति ऐसी नहीं है कि वे इस समान मौके का लाभ उठा सकें। कुछ ऐसे इलाक़े हैं जहां पर इस तरह का प्रतिबन्ध आवश्यक है। अगर इस तरह का प्रतिबन्ध राज्य की तरफ से नहीं लगाया गया तो वहां के पिछड़े हुये लोग पिछड़े ही रह जायेंगे। इस लिये जहां में इस बिल का समर्थन करता हूँ, वहां, जैसा कि अभी कुछ भाइयों ने कहा, मैं भी इस सम्बन्ध में कहना चाहता हूँ कि यह सिद्धान्त ऐसा नहीं है जिसे हम हर प्रदेश में मील-मिलाने लागू कर सकें।

उपाध्यक्ष महोदय, आप मुझे माफ़ करेंगे, चूंकि यह सवाल यह उठाया गया है इस लिये मैं कहना चाहता हूँ। जहां तक मैं समझता हूँ इस विधेयक का उन लोगों से कोई सम्बन्ध नहीं है जो कि भाषा के अल्प-मत वाले हैं। यह तो, पिछले समय से सरकारी नौकरियों और नियुक्तियों के सम्बन्ध में या किसी भी स्थानीय संस्थाओं के अन्दर नौकरियों के सम्बन्ध में अगर कोई निवास-स्थान का प्रतिबन्ध लगा हुआ है, तो उस को हटाने के लिये है और आंध्र प्रदेश के तेलंगाना क्षेत्र में, हिमाचल प्रदेश में, मणिपुर में और त्रिपुरा में कुछ इस तरह का प्रतिबन्ध लगाने के लिये है, ताकि वहां के लोगों को, जो कि शिक्षा में पिछड़े हुये हैं, नौकरियों और नियुक्तियों के सम्बन्ध में कुछ ज्यादा अवसर मिल जाये। और भाषा की गई है कि इस बिल

के जरिये से पांच वर्षों के अन्दर वहाँ के निवासी ऐसे स्तर पर पहुंच जायेंगे जिस पर कि इस तरह के प्रतिबन्ध की उन्हें आवश्यकता नहीं रहेगी। इस मामले में जैसा पंडित ठाकुर दास भागवत ने कहा, और इन प्रदेशों के बारे में मैं जो कुछ जानता हूँ, उससे स्पष्ट है कि अगर सिर्फ पांच वर्ष के लिये इस प्रकार का प्रतिबन्ध रखा गया तो इन इलाक़ों के लोगों को सब के बराबर में आ सकने का मौका नहीं मिलेगा, और इस समय को बढ़ाना पड़ेगा। इससे अच्छा होगा कि अभी इस विधेयक में इस अवधि को ५ वर्ष से बढ़ा कर दस वर्ष कर दिया जाय।

अभी इस सम्बन्ध में हमारे माननीय सदस्य श्री अरुण चन्द्र गुह ने एक प्रश्न उठाया। उन का भाषण, जैसा आप ने कहा, हम बिल से बिल्कुल बाहर की बात थी : यह बात सही है कि राज्य पुनर्गठन आयोग ने सिफारिश की है कि जो भाषायी अल्पमत वाले लोग हैं, उन के अधिकारों की रक्षा की जाये। मैं समझता हूँ कि किसी भी प्रदेश के अन्दर अगर भाषायी अल्पमत वाले लोग हैं तो उन की भाषा की रक्षा करनी चाहिये। उन को मौका देना चाहिये कि वे अपनी भाषा का अध्ययन कर सकें, अपनी भाषा की तरक्की कर सकें, अपनी संस्कृति की रक्षा कर सकें, यह जरूरी है। मैं भी यह बात कहना चाहता हूँ कि भाषायी अल्पमत वाले का हम को खयाल करना पड़ेगा।

Shri A. C. Guha: On a point of personal explanation. What I said was only from the point of view of the Statement of Objects and Reasons. We have to consider whether the provisions of the Bill will really and properly fulfil the Statement of Objects and Reasons. In this Bill, there is reference to the SRC Report and also to the memorandum submitted by the Home Ministry, particularly paragraphs 14, 15 and 16 of the memorandum. So I do not think I went out of order if I referred to

this memorandum—particular paragraphs of it—and also to the SRC Report. How can reference to the question of linguistic minorities be completely out of order?

Mr. Deputy-Speaker: The hon. Member is giving his own opinion. If in my opinion, he was out of order, he would have been ruled out then and there. All that he said in his speech is on record. He need not worry about it.

श्री श्रीनारायण दास : उपाध्यक्ष महोदय, मैं इस बात का जिक्र न करता। लेकिन जबकि उन्होंने कहा इस लिये आप की भाषा से यहाँ पर यह कहने के लिये उद्यत हुआ हूँ कि यह ठीक है कि जो भाषायी अल्पमत वाले लोग हैं उन के हक की हिफाजत की जाये, उन को तरक्की करने का मौका दिया जाये, लेकिन जिस प्रदेश में वह नौकरी करना चाहते हैं, वहाँ पर आने के बाद वर्षों तक अगर वहाँ की भाषा का अध्ययन नहीं करते हैं, तो इस तरह की बात मेरी समझ में नहीं आती है। हम आंध्र में नौकरी करने के अपने अधिकार की रक्षा करना चाहते हैं इस कानून के जरिये से, लेकिन वहाँ नौकर हो कर उन की अच्छी से अच्छी सेवा करने का खयाल हम न रखें तो यह कहाँ तक मुनासिब है। आंध्र वालों की सेवा करना हम अपना कर्तव्य समझते हैं, और हमें उस का अधिकार भी होना चाहिये, लेकिन आंध्र वासी जो जनता है, उस की जो भाषा है, वर्षों तक आंध्र में रहने के बाद भी अगर हम वह न सीखें, जो कि उन की सेवा करने के लिये आवश्यक है, तो यह अनुचित है। इस लिये संविधान बनाने वालों ने जहाँ पर मौलिक अधिकारों का समावेश किया है, जहाँ पर नौकरियों और नियुक्तियों के बारे में कहा है कि वहाँ का निवास आवश्यक नहीं है, वहाँ भाषा के लिये ऐसा कहीं नहीं कहा है। लेकिन जिसकी सेवा करने के लिये हम चाहते हैं कि हमारी नियुक्ति हो, अगर उन की भाषा का जानना जरूरी समझा जाये, कोई

[श्री श्रीनारायण दास]

राज्य सरकार उस भाषा का जानना लाजिमी समझे, तो मैं नहीं समझता हूँ कि किसी भी सिद्धान्त से उस राज्य का ऐसा करना नाजायज होगा। इस लिये जहाँ तक भाषायी अन्याय का सवाल है, मैं समझता हूँ कि उस का समावेश नहीं किया जाना चाहिये। माननीय सदस्य को इस का जिक्र करने का अधिकार है कि उस की रक्षा हो, और वह ऐसा कर सकते हैं, लेकिन मैं समझता हूँ कि जहाँ तक भाषायी अन्याय के अधिकारों की रक्षा का प्रश्न है, वह इस विधेयक से बाहर की बात है और उन का जिक्र करना भी उपयुक्त नहीं है।

स्टेट्स रिफ़ॉर्मेशन इजेंशन के सम्बन्ध में भी कुछ कहा है। स्टेट्स रिफ़ॉर्मेशन इजेंशन कमीशन ने जहाँ इस बात का जिक्र किया है कि नौकरियों के सम्बन्ध में विभिन्न राज्यों में निवास स्थान की आवश्यकता है उसे हटा देना उचित होगा, लेकिन मैं समझता हूँ कि बहुत से राज्यों में इस तरह का प्रतिबन्ध न भी होगा और बहुत से ऐसे राज्य होंगे जिन के बारे में मैं समझता हूँ कि प्रतिबन्ध होगा।

राज्य पुनर्गठन आयोग के विचार से यह जरूरी है देश की एकता के लिए। यह इसलिए जरूरी है कि देश के तमाम नागरिक यह समझें कि यह हमारा देश है और अगर वह देश के एक हिस्से से दूसरे हिस्से में जायें तो उनको यह भान न हो कि उनको कहीं हिन्दुस्तान का नागरिक नहीं समझा जा रहा है। मैं समझता हूँ कि जिस सिद्धान्त को लेकर यह बिल उपस्थित किया गया है वह सर्वथा समर्थन करने के योग्य है लेकिन अच्छा होता यदि पिछड़े हुए हिस्सों की संरक्षण की अवधि और बढ़ा दी जाती। अभी अभी मंत्री जी ने बताया कि भ्रान्ध का कुछ हिस्सा है जहाँ के लोगों को आवासन दिया गया है कि कुछ दिनों तक उनको संरक्षण मिलेगा। उनको यह संरक्षण दिया गया है कि उनके प्रदेश की पान गजेटेड जगहों को उसी प्रदेश के लोग भरें

और ऐसा न हो कि उन जगहों को दूसरे प्रदेशों के लोग भर दें। इसी तरह से जो मणिपुर और त्रिपुरा के लिए संरक्षण रखा गया है उसका मैं पूरा पूरा समर्थन करता हूँ। लेकिन मैं समझता हूँ कि यह पांच वर्ष की अवधि कम है। अच्छा होता यदि अभी ही यह अवधि कुछ और बढ़ा दी जाती। ऐसा न हो कि इस कानून में यह सुधार करने के लिए गृह मंत्री महोदय को फिर इसे उपस्थित करना पड़े। अगर पांच वर्ष की जगह दस वर्ष की अवधि रख दी जाये तो मेरी समझ में मुनासिब होगा। इन शब्दों के साथ मैं इस विधेयक का समर्थन करता हूँ।

श्री जाधव (मालेगांव) : माननीय उपाध्यक्ष महोदय, यह जो बिल सदन के सामने है मैं उसके बुनियादी मकसद से सहमत हूँ। अभी अभी मान्यवर सदस्य पंडित ठाकुर दास जी ने जिस बात पर जोर दिया है उस पर मैं थोड़ी रोशनी डालना चाहता हूँ।

सर्विसेज के बारे में रेजीडेंस की वजह से कोई रुकावट न हो यह बात हिन्दुस्तान की तरकीब के लिए बहुत ठीक है। लेकिन जो माल इंडिया सर्विसेज है उनमें जबान के कारण रुकावट पैदा होती है और बहुत लोगों को इस के कारण नुकसान उठाना पड़ता है। जो कमिपटीटिव एग्जांमिनेशन होते हैं उनमें पास होने के लिए आदमी को अंग्रेजी और हिन्दी में माहिर होना चाहिए। हिन्दुस्तान के विभिन्न राज्यों में १४ जबानें बोलनी पड़ती हैं। अभी मान्यवर सदस्य ने जो फिगर सदन के सामने रखे हैं उनसे मालूम होता है कि जबान के कारण लोगों को इन सर्विसेज में सही मौका नहीं मिलता।

उपाध्यक्ष महोदय : मान्यवर सदस्य का यह खयाल गलत है। पंडित ठाकुर दास जी का यह कहना नहीं था कि जबान की तकलीफ की वजह से उनको सर्विसेज नहीं मिलती। वह और तकलीफें बतला रहे थे।

श्री जाधव : उनके कहने का मकसद मैं तो ऐसा ही समझता हूँ ।

जो झाल इंडिया सर्विसेज हैं उनके बारे में होम मिनिस्ट्री की रिपोर्ट को पढ़ा लेकिन उससे मुझे यह पता नहीं चला कि झाल इंडिया सर्विसेज में कितने कितने राज्यों के कितने कितने लोगों को मौका मिला । मैं कहना चाहता हूँ कि इन सर्विसेज में ज्यादातर मौका साउथ के लोगों को, बंगाल के लोगों को और यूपी के लोगों को मिलता है । और जो दूसरे लोग हैं और जो पिछड़े हुए हैं उनको इन सर्विसेज में मौका मिलना मुश्किल हो जाता है । दिन ब दिन हमारा जबान का स्टैंडर्ड कमती होता जा रहा है । जो हमारे देहातों में रहने वाले लोग हैं उनको ये जबानें पढ़ने का मौका नहीं मिलता । जो एग्जीक्यूटिव पोस्टे हैं उन पर काम चलाने के लिए जबान में भी अच्छी काबिलियत हो यह में जरूरी नहीं समझता । इन सर्विसेज के लोगों का काम मे कम एक जबान की अच्छी महारत होनी चाहिए और जो दूसरी जबानें हैं उनका काम चलाऊ ज्ञान होना चाहिए । अगर सर्विसेज देने में यह धृष्टि हो रही जायेगा तो जो यह बुनियादी मर्यादा है उसको बहुत मदद पहुंचाने वाली है । तो मैं यह भी जो मैं विनती करूंगा कि हमारे में जरूर खयाल रखा जाये क्योंकि जो महाराष्ट्र के लोग हैं या जो गुजरात जबान वाले हैं, या जो पंजाब के लोग हैं या जो दूसरे राज्यों के लोग हैं उनका रिज्यूमेंट इन सर्विसेज में बहुत कम होता है । इसके साथ साथ जो पिछड़ी हुई जमायने हैं उनको भी इन सर्विसेज में काफी मौका नहीं मिलता । क्योंकि वे जबान में माहिर नहीं होते हैं । अंधेरी . . .

उपाध्यक्ष महोदय : मैं माननीय सदस्य से एक विनय करना चाहता हूँ । यह बिल तो है रेजीडेंस के मुताल्लिक पर इस पर बहुत शुरू हो गयी जबान के मुताल्लिक । कुछ मेम्बरों ने जबान का जिक्र किया है, आप भी थोड़ा जिक्र कर दें, अगर सारी बहुत जबान पर ही हो और रेजीडेंस पर बोला ही न जाये,

बिल किसी दूसरी चीज के मुताल्लिक हो और बहुत किसी दूसरी चीज पर हो, यह तो उचित नहीं है ।

श्री जाधव : फंडामेंटल राइट्स का जिक्र किया गया और उसमें इसका उल्लेख है इसलिए मैं इस पर रोशनी डालना चाहता था ।

उपाध्यक्ष महोदय : अगर बहुत ज्यादा रोशनी न डालें ।

श्री जाधव : खैर इतना ही काफी है ।

श्री हेमराज (कागडा) : आज जो यह विधेयक इस माननीय सदन के सामने उपस्थित है मैं उसका अनुमोदन करने के लिए उपस्थित हुआ हूँ ।

अभी अभी गृह मंत्रालय के मंत्री महोदय ने, जिस समय वे अपना भाषण कर रहे थे, कहा था कि इस माननीय सदन को ही इस्तिफार है कि रिहायश के मुताल्लिक कोई कानून बना सके । राज्य सरकार को यह अधिकार नहीं है । यानी अगर सर्विसेज में रिहायश के मुताल्लिक कोई पाबन्दी लगानी हो या कोई कानून बनाना हो तो ऐसा यह सदन ही कर सकता है और राज्य की अग्नेयबली नहीं कर सकती ।

दूसरा स्टैंडर्ड उन्होंने हमारे सामने यह रखा कि लोकल रिजवागारमेंट्स को देखा जाये और उसके मुताल्लिक अगर हिन्दुस्तान का कोई हिस्सा पिछड़ा हुआ है तो उसके लिए कोई न कोई संरक्षण रखा जाये । इसी बजह से उन्होंने सर्विसेज में चार जगहों के लिए यह रिहायश का संरक्षण रखा है । यानी तेलंगाना के लिए, हिमाचल प्रदेश के लिए, त्रिपुरा के लिए और मणिपुर के लिए । मेरी शिकायत यह नहीं है कि यह संरक्षण क्यों रखा गया । मैं तो उनको बधाई देता हूँ कि उन्होंने कुछ पिछड़े हुए इलाकों के लिए यह संरक्षण रखा । वहां के जो रहने वाले हैं वे तानीमी लिहाज से, माबी लिहाज से और सियासी लिहाज से भी पिछड़े हुए हैं । उनके लिए यह संरक्षण जरूरी था । लेकिन मेरा सिद्धा

[श्री हेमराज]

यह था कि यह बीमारी और जगहों पर भी है और उन जगहों के लिए उन्होंने यह दवा नहीं रखी जो कि इन चार जगहों के लिए रखी है।

उपाध्यक्ष महोदय, आप जानते हैं कि हमारे पंजाब के तीन हिस्से हैं, एक नार्थ का हिस्सा, एक माउथ का हिस्सा और एक दरमियानी हिस्सा। पंजाब का जो दरमियानी हिस्सा है वह जामवर का मैदानी हिस्सा है, दूसरा हरियाना प्रान्त का हिस्सा है और तीसरा मेरा पहाड़ी हिस्सा है।

मैं यह कहना चाहता हूँ कि मेरे मित्र भागंब जी के बोलने के बाद शायद मुझे कुछ कहने की जरूरत न थी, लेकिन मुश्किल यह है कि वह नाम तो हिन्दी रिजन का लेते हैं, लेकिन जब वह अपना केस प्रार्थ्य करते हैं, तो हिन्दी रिजन को छोड़ कर हरियाना प्रान्त पर चले जाते हैं और हिन्दी रिजन को भूल जाते हैं। जिस किस्म की बीमारी की वह शिकायत करते हैं, उनके हाँ तो वह बहुत कम हो गई है। वह बीमारी पंजाब के पहाड़ी क्षेत्र में सब से ज्यादा है। हमारे कांगड़ा डिस्ट्रिक्ट और कंडाघाट के हिस्से में वही बीमारी है, जोकि हिमाचल प्रदेश में है, लेकिन जो दवाई हिमाचल प्रदेश को दी जा रही है, वह हम को देने के लिये भारत सरकार तैयार नहीं है।

उपाध्यक्ष महोदय : अभी पंडित जी ने कहा है कि क्लोरोफार्म एक हालत में कानशास को अनकांशास करती है और दूसरी हालत में वह अनकांशास को कानशास बना देती है।

श्री हेमराज : वह खुद भी अनकांशास हो जाते हैं। वह हिन्दी रिजन का नाम लेते हैं, लेकिन हरियाना प्रान्त में चले जाते हैं।

स्टेट्स री-आर्गनाइजेशन कमीशन की रिपोर्ट में यह कहा गया था कि पंजाब के

मैदानी हिस्से को किसी किस्म की शिकायतें नहीं हैं, न उनके साथ ना-इन्साफ़ी होती है। अगर कोई शिकायत है, तो वह हरियाना प्रान्त वालों को या पहाड़ बासों को है। उस रिपोर्ट के पेज १४६, पैराग्राफ ३३६ में कहा गया है—

“We now come to the important question whether the proposed State will secure an improvement from the point of view of peace and contentment of the people of the area. There are no complaints from those sponsoring the movement for a Punjabi-speaking State about economic or political exploitation of the Punjabi-speaking areas by the representatives of the so-called Hindi-speaking region. If anything the complaint is from the hilly areas and the Hariana tract.”

इस के साथ ही उस से पहले ही पंजाब असेम्बली ने एक रेजोल्यूशन पास किया था, जिस में इस बात को तस्लीम किया गया था कि पंजाब के पहाड़ी हिस्से, जो कि उत्तरी हिस्सा है, के लोग एजूकेषनली, पोलिटिकली और हर तरीके से बैकवर्ड हैं और उन को सर्विसेज में किसी किस्म की रिप्रेजेंटेशन नहीं मिली हुई है। उस रेजोल्यूशन को मैं पहले भी यहाँ पर पढ़ कर सुना चुका हूँ। कुछ हिस्सा पढ़ना चाहता हूँ—

In view of the extreme backwardness of the people of Kangra District, Tehsil Una of Hoshiarpur District, Bhiwani Tehsil of Hissar District...

(यहाँ बहुत से इलाकों के नाम दिये गये हैं) in matters of education, of the lack of adequate drinking water facilities and of suitable means of transport and communications, of proper means of irrigation, of lack of any kind of industry and of their inadequate representation in Government services,

this Assembly, recommends to the Government that it should itself make funds available, and if necessary approach the Union Government for the purpose, for a proper and planned development of the said areas and it further recommends that special concessions be granted to the people of these areas in the matters of admissions to all Government or Government-aided institutions and of appointments to services.

मेरी शिकायत यह है कि जो दवाई आप हिमाचल प्रदेश वालों को दे रहे हैं, उस को हमें देने में अपना हाथ क्यों खींच लेते हैं। हिमाचल प्रदेश के अपने भाइयों को मैं बर्बाद देता हूँ कि उन को जो दवाई मिल रही है, उस से कुछ दिन और वे जिन्दा रह सकते हैं।

मैं यह अर्ज करना चाहता हूँ कि हमारे यहां पहाड़ में जितने भी आफिसर जाते हैं, वे पहाड़ियों को न जाने क्या समझते हैं। वे समझते हैं कि पहाड़ी बूढ़े हैं और इन को जिस तरह मरजी एक्सप्लायट किया जाय। पंजाब गवर्नमेंट के जो सब से निकम्मे आफिसर होते हैं, जिन को कोई सजा देनी होती है, काले पानी भोजना होता है, उन को कांगड़ा, कडाघाट में भेजा जाता है। उन लोगों को हमें एक्सप्लायट करने के लिये भेजा जाता है, न कि डेवेलप करने के लिये। अगर सर्विसेज में हमारे आदमी हों, जिन को हम से हमदर्दी हो, जिन्हें हमारे इलाके को डेवेलप करने का ख्याल हो, जो लोगों से अच्छी तरह पेश आयें, तभी हमारे लोग भागे बढ़ सकते हैं। माननीय सदस्य, पंडित ठाकुर दास भागंब, ने जो शिकायत की है, वह शिकायत दुस्त है, लेकिन मैं अर्ज करना चाहता हूँ कि पहाड़ में तो इसके मुताल्लिक उस से भी ज्यादा शिकायत है। इसलिये वही दवाई इस पहाड़ी रिजन के लिये भी प्रेस्क्राइब करनी चाहिये।

हिन्दी रिजन के लिये मैंने एक अमेंडमेंट रखी है, जिस के जरिये मैं चाहता हूँ कि हिमाचल प्रदेश और दूसरी यूनिन

टैरिटरीज में सर्बाईनिट पोस्ट्स के लिये रैजिस्ट्रेंट का जो उसूल रखा गया है, वह गवर्नेट पोस्ट्स पर भी हावी होना चाहिये और सर्बाईनिट सर्विसेज के साथ उन का भी गुमार होना चाहिये।

हिमाचल प्रदेश के लिये पांच साल का जो धरसा रखा गया है, वह बहुत कम है। उन के पास रिप्रेजेन्टेटिव गवर्नमेंट थी, वह आप ने ले ली है। इस पांच साल के धरसे में सर्बाईनिट सर्विसेज में शायद थोड़े से आदमी आ जायें, वहां के स्कूलों में जो लड़के तालीम हासिल कर रहे हैं, वे इन पांच सात सालों में पढ़ कर और सरकारी पोस्ट्स के लिये तैयारी कर के उन पोस्ट्स को नहीं पा सकेंगे। आप को यह पता होना चाहिये कि इस वक्त हिमाचल प्रदेश में तमाम डेवेलपमेंट रुकी पड़ी है, क्योंकि लोकल आदमी इतने नहीं पढ़ पाये कि वे सर्विसेज में दाखिल हो कर उन को मैन कर सकें। इसलिये मेरा ख्याल है कि इस धरसे को बढ़ा कर दस साल कर दिया जाय। यह मुनासिब नहीं है कि पहाड़ के एक हिस्से को—जिस्म के एक हिस्से को—तो अच्छा बना दिया जाय और बाकी को ज़राब ही रहने दिया जाय।

इन शब्दों के साथ इस विधेयक का समर्थन करते हुए मैं यह प्रार्थना करना चाहता हूँ कि मेरी अमेंडमेंट को मन्जूर कर के इस विधेयक को पंजाब के हिन्दी रिजन पर भी लागू कर दिया जाय, ओकि बहुत दिनों से पिछड़ा हुआ है।

Mr. Deputy-Speaker: There are two or three Members who have expressed their desire to speak. I would first call upon the Minister to reply. I shall give them an opportunity during the Third Reading.

Ch. P. S. Daulta (Jhajjar): I want a clarification from the hon. Minister. What will be the effect of this measure on the Regional Formula in the Punjab? Will it take away the

[Ch. P. S. Daulta]

concessions given to people of Hariana through Regional Committees?

Shri Datar: This applies only to the services.

Mr. Deputy-Speaker: He will reply to this question also.

Shri Datar: Mr. Deputy-Speaker, Sir, I was very happy to find that there has been almost unanimous support to the provisions of this Bill, though....

Ch. P. S. Daulta: No, no.

Shri Datar:on two or three minor points certain suggestions have been made.

Secondly, Sir, I may point out with your indulgence that most of the hon. Members who spoke regarding the provisions of this Bill went rather beyond its purview and brought in the question of language, the question of backward classes and the question of backward territories as well.

So far as these observations are concerned, they are fairly interesting, but may I point out to you, Sir, that they are beside the mark; to a large extent they are irrelevant as well. All the same I have no desire to take shelter behind this technical objection, but I shall try also to reply to all those questions.

So far as the provisions of the Bill are concerned, as it has been rightly pointed out by a number of hon. Members, the question was as to whether there should be any discrimination on the ground of residence. That is the principal question with which we are concerned in this case. As has been already pointed out, in article 16(2) of the Constitution, a number of circumstances on the basis of which discrimination ought not to be used have been specifically mentioned and residence is one of them. That is the reason why we considered it necessary to make the law entirely in line with the main principles or the provisions laid down in article 16 of the Constitution.

I may point out in this connection that the question of language arises only in an indirect manner. That is the reason why a reference was made to the removal of this particular qualification as a necessary requirement in the memorandum to which my hon. friend Shri Guha made reference. I would point out to this House that the question arises only indirectly—the principle of certain linguistic minorities where they could not acquire a certain qualification, so to say, in respect of the services. Therefore, it was laid down that there ought to be no such requirement at all, and that requirement ought to go immediately.

So far as other linguistic safeguards are concerned, we are not concerned with them here, but I may point out to Shri Guha that Government have already sent to all the State Governments the memorandum to which he made reference and a copy of which was laid on the Table of the House, and we have recently appointed a retired Chief Justice of the Allahabad High Court, Shri Mullick, as the Commissioner for Linguistic Minorities. Under the Constitution, as you may have seen, reference has been made to the officer to be appointed in this respect. Article 350B has been newly introduced when the question of States reorganisation was taken up and the duty of this officer, the Commissioner for Linguistic Minorities, has been specified there. Clause (2) of article 350B says:

"It shall be the duty of the Special Officer to investigate all matters relating to the safeguards provided for linguistic minorities under this Constitution and report to the President upon those matters at such intervals as the President may direct, and the President shall cause all such reports to be laid before each House of Parliament, and sent to the Governments of the States concerned".

These are the functions so far as the linguistic safeguards Commissioner or Officer is concerned. He will be going round and finding out to what extent the various linguistic safeguards mentioned in the memorandum are fully brought into effect or complied with by the people as also by the various State Governments.

My friend objected to what he called a timid language. It is not a timid language but it is a technical language and we have also to understand that these subjects are ordinarily within the purview of the various State Governments, but on account of the reorganisation of the States, Parliament considered it necessary that there ought to be certain safeguards. Therefore, in accordance with this view, they have been sent to the various State Governments and our officer will look after the safeguards so far as those rights are concerned, and I am quite confident that when the report comes before this House, it will have an opportunity of finding out to what extent all these safeguards have been duly respected. I am confident, personally, that so far as the States are concerned, they are trying their best even now to comply with all the requirements. It is not necessary for me to point out how they are being done because it is entirely beside the provisions of this Bill which is of a limited character and which deals only with the question of residence.

Then it was also contended that this particular Bill should be enforced for a longer period than five years. That point was made by my friend, Pandit Thakur Das Bhargava. But I would point out that this particular provision is of an exceptional nature. The ordinary rule is the one that has been laid down in sub-clauses (1) and (2) of article 16 of the Constitution. Therefore, they ought to be respected. The general rule should be that there ought to be equality of opportunity; exceptions should be very few, and they ought to come to an end as early as possible. That is the reason why this period of five years has been laid down.

May I point out to my hon. friend, Pandit Thakur Das Bhargava, that this particular figure of five years was specifically mentioned in the agreement that was reached so far as the Telengana requirements were concerned. Therefore, we thought that the period of five years is a fairly reasonable period. As some hon. friends have already pointed out, a seven-year period after the coming into force of the Constitution has already lapsed and five years would be more than sufficient. We are anxious that equality of opportunity, irrespective of such questions, is restored, is maintained and is given to all the people as early as possible.

So far as backward areas of the three States are concerned, I may point out that in view of the peculiar conditions there, where backwardness is fairly large, it was considered necessary that some such recognition to the lower or the subordinate services should be given and some encouragement be given to the local people. But I would not accept the position suggested by Shri Hemraj that it ought to extend even to gazetted services. That would be entirely an untenable position; not only that, but it would also be a highly undesirable position.

So far as our services are concerned, we have to make it very clear that the highest degree of efficiency has to be maintained and if it is not there, in certain cases, it has to be reached. So far as this particular question is concerned, after giving full importance to the need for maintaining due efficiency or due standards of efficiency, the Constitution has made a departure only in regard to the backward classes and in article 335, when making a reference to the Scheduled Castes and Scheduled Tribes, they have stated that they ought to have an opportunity of entry into government services subject to the maintenance of proper standards or efficiency.

If, for example, such a residential qualification is laid down in any particular area, as it exists in respect of certain subordinate services, it would

[Shri Datar]

put an end to efficiency. That is the point which we have to understand. Let us not make light of efficiency, because greater efficiency is required since we are not now merely an administration in the former sense of the word. We are becoming, if we have already not become, a welfare State, and greater efficiency is required. Therefore, so far as backwardness is concerned, backwardness has to be removed by a diffusion of education and not by giving encouragement to the continuation of illiteracy.

So far as the Scheduled Castes and Scheduled Tribes are concerned, we have already given them full encouragement and a certain fairly good percentage has to be kept up in respect of all the services so far as recruitment is concerned. This is the degree to which we can go. Beyond this, it might not be safe, if, for example, efficiency has to be maintained,—and most of the hon. Members have often spoken in respect of the need for maintaining high efficiency.

Therefore, I would request my hon. friends not even to conceive of such a proposal as having residence qualification so far as the other gazetted services are concerned. They have to be open to all members of the Indian Republic solely on the ground of merit. That is what we have to understand except so far as the Scheduled Castes and Scheduled Tribes are concerned, with reference to whom the Constitution has laid down the provisions. Beyond that, it would be dangerous to go. Therefore, we have to remove backwardness entirely otherwise than by going on merely reserving a certain percentage for them or keeping the gazetted services or other services entirely confined to the talent in particular areas. So far as the whole of India is concerned, it is a unit and therefore we desire to have the highest and most intelligent people for our services. For example in a small area like Himachal Pradesh or Manipur or Tripura, if we confine all these posts only to local

talent, I would like my friends to consider the consequences flowing therefrom. Therefore, this question has to be considered in the interest of the efficiency of the services from a higher point of view. Therefore, I would submit that what we have done is only a concession to the minimum, so far as the realities are concerned. That is the reason why it has been confined only to subordinate services and there was never any demand except from quarters which have not fully realised the implications of this demand.

Therefore, in respect of those three backward areas, in respect of the backward part of Andhra Pradesh, namely, Telangana, this has been allowed. Let not this remain for long. It has to disappear after five years.

So far as the general services are concerned, I would point out that the question need not have been raised here at all, because here we are confining ourselves solely to the removal of what can be called the residence requirement. Beyond that, there are other agencies carrying on this work. The integration of services is going on and the Government of India and the State Governments are doing all that is necessary for the purpose of building what can be called a satisfactory integration of services. Therefore, it is not necessary for me to make a reference to this particular question.

So far as High Court Judges are concerned, they are not exactly services in the sense in which we talk of subordinate services or other services. I would point out to my hon. friend Pandit Bhargava that in the Constitution the qualifications for eligibility to be a High Court Judge have been laid down and territorial or regional considerations or residence qualifications have not been laid down there at all. In fact, as the States Reorganisation Commission has suggested, there ought to be a proportion of High Court Judges from other States as

well. We have already stated that it is our desire to give effect to this particular recommendation of the States Reorganisation Commission to the extent possible. We have already started that process. As you are aware, the Chief Justice of the Mysore High Court is from Calcutta and there are also one or two other High Courts where the Chief Justice is from another State. One hon. Judge of the Allahabad High Court is now recently transferred to Assam. This process has already started and we are anxious to have the best Judges for our High Courts. We have accepted the principle of the recommendation made by the States Reorganisation Commission. That has nothing to do with this question.

So far as Haryana and other areas are concerned, that is a matter on which I have not been able to understand my hon. friend Pandit Bhargava.

An Hon. Member: He spoke for 35 minutes.

Shri Datar: He spoke for 35 minutes, but it has been my misfortune that I could not follow exactly what I wanted, because once he stated that there ought not to be any such conditions at all and then he said there were parts like Haryana where there was no proper local representation. So far as this is concerned, I would not deal with this question. But if at all he presses his amendment, I would make a reference to it again. I would like to correct him. In respect of Punjab also, we had a formula agreed upon between the parties. In that Punjab formula, a number of subjects had been mentioned, but not the subject of the services. You will kindly see that this is not there in the agreement that was arrived at between the parties. So far as the agreement between the leaders in the present Andhra Pradesh regarding Telangana is concerned, there they have specifically mentioned that in the subordinate services, the Telangana portion should continue to have representation from the Telangana area, and there-

fore it should not be covered by general rule.

So far as the Punjab formula is concerned, it dealt with a number of subjects, but it did not deal with the subject of services at all, and it would not be proper on the part of my friend to say that we here, the Government of India or what he called the higher-ups in Delhi, have prevented such an agreement. This is rather an unfortunate statement. I would point out to the hon. Member that here advice is given only when it is sought. So far as this agreement is concerned, it had the largest amount of consent of all the parties concerned. Under the circumstances, it would not be proper to say that in the case of Punjab, the interests of Haryana are being surrendered.

I submit I have touched all the points.

Mr. Deputy-Speaker: I will put the consideration motion to the House.

The question is:

"That the Bill to make, in pursuance of clause (3) of Article 16 of the Constitution, special provisions for requirement as to residence in regard to certain classes of public employment in certain areas, be taken into consideration."

The motion was adopted.

Clause 2.—(Repeal of existing laws prescribing requirements as to residence)

Mr. Deputy-Speaker: The House will now take up clause-by-clause consideration.

The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3.—(Power to make rules in respect of certain classes of public employment in certain areas).

Pandit Thakur Das Bhargava: I beg to move:

Page 2,—

after line 7, add—

“(d) any service or post in the Hindi region of the Punjab State as constituted by the Punjab Regional Committee Order, 1957, dated the 4th November, 1957.”

Since I have given all the grounds I can think of when I made my speech during the general discussion, I will not take any more time of the House.

Shri Easwara Iyer: There is no quorum in the House.

Mr. Deputy-Speaker: It has been brought to my notice that there is no quorum.

Shri Narayanankutty Menon (Mukandapuram): It has not been there since long ago.

Mr. Deputy-Speaker: I can take notice of it only when it is raised. The bell is being rung. Now there is quorum.

Pandit Thakur Das Bhargava: Two or three matters have arisen afresh and with your indulgence, I would deal with them.

Mr. Deputy-Speaker: The hon. Member promised he would not take any more time.

Pandit Thakur Das Bhargava: I will not take much time. But so many questions have arisen and I am bound to reply. Otherwise, I will be misunderstood. For instance, Shri Hem Raj complained that I have not done full justice to Kangra.

Mr. Deputy-Speaker: He need not answer that because he has said “Hindi region” and it includes both.

Pandit Thakur Das Bhargava: It includes Kangra; so, he is not right. If I have to choose between the two, I would rather prefer that Kangra should have it, even if we do not have it. It is quite true that Kangra has been more sinned against.

As regards the other portion of the speech, I am afraid our hon. Minister treaded on very dangerous ground. If I understand the hon. Minister logically, it would mean what I feared when I made my first speech. The implication is that so far as three backward areas are concerned, for all purposes, they consist of persons who will not be able to give that efficiency to the administration which he wants. Does he contend that if the Naga unit is allowed to be reconstituted because they want independence, they will not have efficiency of administration? Is it the case of the hon. Minister that these three States of Manipur, Tripura and Himachal Pradesh there are no persons who can maintain the efficiency of the administration? So far as Himachal Pradesh is concerned, when it was a unit under the Union, it was just like other States. Does they mean that they cannot produce men who will be able to stand like other people in other States? It is entirely wrong to suggest that. It means that behind the back of the mind of the Minister there is the fear that these people will never be able to administer the country. Does he mean to say in the cadre of gazetted and non-gazetted staff, there is more efficiency in the gazetted staff and less efficiency in the non-gazetted staff. The stand that efficiency is only to be seen in the gazetted posts is absolutely unmaintainable. On the very basis on which the subordinate staff is taken from the local people, the other services must also be manned by these people.

So far as efficiency is concerned, is there any member in this House who does not want efficiency? In fact, even in the case of Scheduled Castes we made a rule that efficiency must be there. I can understand that. I say that you put there: subject to efficiency of administration, we will make this rule. If you put it like that, I can understand the logic behind it. But I do not understand the logic in this case. If, in regard to Scheduled Castes and other backward classes you open both gazetted and non

gazetted posts to them, I do not understand why you take away the right in this case. I am one with you when you make a provision about efficiency. But I fail to see why you make the distinction in regard to gazetted and non-gazetted posts.

If this principle of distinction is not maintainable in regard to backward classes, it is not maintainable in regard to backward areas also. So far as efficiency of administration is concerned, I do not think there is any people in the whole of India who cannot maintain their own administration. They can very well maintain their administration and they have maintained it so far. It is entirely wrong to suggest that these people must be regarded as inferior people and only in regard to non-gazetted posts, they will be granted this concession and not in regard to others.

Then, about the period of five years, I cannot understand this period. If you make it at least ten years and make it uniform to all the States, it would be a good thing. You should not make a distinction and make it five years for this people.

My other submission is in regard to Hariana. I do not want to repeat the arguments.

Shri Easwara Iyer: Any sanctity for ten years?

Pandit Thakur Das Bhargava: No sanctity. For instance, in the case of the Scheduled Castes people, we have provided that there will be reservation for them for a period of ten years. It has been specifically laid down because they are backward people. It need not be longer. But, why should this concession be denied to them? That is why I have suggested ten years.

Mr. Deputy-Speaker: The hon. Member, by making the interruption, is depriving him of the few minutes that he will otherwise need.

Pandit Thakur Das Bhargava: I have only to reply to one question. The hon. Minister, while replying to

me, said that he did not understand me. I deplore my inability to make myself understood. But, at the same time, I for one fail to see how he did not understand me. After all, I spoke in the language which is the language recognized by this Constitution. Further, the matter is very simple. He did not say a word about the figures which I gave. He did not say a word about whether the area was backward or not.

It is very wrong to deprive the entire area, a very large area and the people living there of this right, which they have been enjoying from the British times. I cannot understand the principle behind that. What is the difference between Hariana and Himachal Pradesh. It passes my comprehension. Both are situated in one and the same area. This is something which this Constitution itself does not recognize.

In article 14 we speak about equality of rights and opportunities. It means equality of rights for areas also. I have said that many times in this House. If we want to stick to the principle and conception of this Constitution, we have to obliterate all distinction of this Constitution, we have to obliterate all distinctions that are made between areas and areas.

So far as services are concerned, you have not said that region-wise services would be given. I do not want that. To be frank, I want only reasonable representation to be given. If the hon. Minister said that he is agreeable to write to the Punjab Government that reasonable consideration should be given to the Hariana people also, I would have been satisfied. I do not want a division of Punjab on the basis of Andhra. If my friend is not agreeable, he should say: all right, we do not want that every service should be divided. At least he should have said that. He should have the courtesy to say: all right, I will communicate this to the Punjab Government. We will write to the Punjab Government that so far as Hariana is concerned, so far as

[Pandit Thakur Das Bhargava]

the other backward areas are concerned, they should be treated with more consideration. That is what I wanted at the time of the States Re-organisation Bill. I also moved an amendment at that time. But that was not accepted. In spite of all that, not a word of sympathy has come from the hon. Minister.

Mr. Deputy-Speaker: That may come now.

Pandit Thakur Das Bhargava: That would be a very kind thing. That would have some effect. That is what I have to say about both of these amendments. I am sorry, I have referred to No. 5 also. I do not want to make any further speech on clause 5. I humbly submit that on merits my amendment should be accepted.

Mr. Deputy-Speaker: Amendment moved:

Page 2,

after line 7, add—

“(d) any service or post in the Hindi region of the Punjab State as constituted by the Punjab Regional Committee Order, 1957, dated the 4th November, 1957.”

Does Mr. Hem Raj want to move his amendments?

Shri Hem Raj: I beg to move:

Page 2,—

(1) after line 7, insert—

“(d) any State or subordinate service or post under the State Government of Punjab in the Hindi Region of the State, or

(e) any service or post under local authority (other than a cantonment board) within the Hindi Region of Punjab State,”

Page 2,—

(2) after line 16, add—

“(c) ‘Hindi Region’ comprises all areas specified in Central

Government Notification for the formation of Regional Committees in the Punjab.”

में जाने संशोधन के मुताबिक जो शब्द कहना चाहता हूँ। हमारे गृह मंत्रालय के मंत्री महोदय ने कहा था कि सर्विलेज में रिहायश के मुताबिक कोई कानून बनाना हो या कोई प्रतिबन्ध लगाना हो जो यह काम सिर्फ यह पार्लियामेंट ही कर सकती है। यह जो पंजाब का हिंदी रीजन है यह बैकवर्ड एरिया है इसको सभी मानते हैं। इसको असेम्बली भी मानती है। लेकिन इसके मुताबिक रिहायश का कोई कानून राज्य की असेम्बली नहीं बना सकती और न कोई शर्त लगा सकती है। ऐसा सिर्फ यह पार्लियामेंट ही कर सकती है। इस बात का विचार करते मैं चाहता हूँ कि मंत्री जी मेरे अमेंडमेंट को मंजूर कर लें ताकि हमारे साथ जो नाइन्सफो हो रही है वह कुछ हद तक दूर हो सके।

Mr. Deputy-Speaker: All these amendments are before the House.

श्री प्र० सि० बीलता : यह जो हरियाना के बारे में तरजीम है मैं उद्बेह से अर्ज करूँ कि इस बारे में कोई ठीक जवाब नहीं दिया है। मैं जानना चाहता हूँ कि :

Should I go and tell the people of Hariyana that whatever the Prime Minister and the Home Minister have been telling us, this thing will be undone through the regional formula. Today I have been told and the House has been told by the Home Minister that this has nothing to do with the services. What about the reservation of posts in the areas which fall under the jurisdiction of the Hariyana regional committee? Won't they be able to make any reservation? When the actual functioning comes, they won't be able to make any reservation for Hariyana in the departments

that fall under the Regional Committee of the Hariyana. I want to make it clear.

Shri Datar: I have very little to add. Pandit Thakur Das Bhargava wanted me to use some sympathetic words so far as his claim was concerned.

An Hon. Member: Yes.

Shri Datar: It is not possible for me to say yes for reasons which I have pointed out. So far as representation for Hariyana is concerned, it is a matter with which the Government of India has no concern at all. Let us all be clear about it.

Mr. Deputy-Speaker: What he has stated is that this should be communicated to the State Ministry, saying: this has been brought out here in Parliament; this is your concern; please look into it. That is all.

Shri Datar: I have no objection to forward a copy of the speech to the Punjab Chief Minister. But, courtesy has limitations. Therefore, if I were to say anything, it would be like interference with a State Government. Therefore, we ought to be extremely careful. Somehow, I find Members asking me questions about matters which are not relevant to this particular Bill, or which lie outside the scope of the Central Government's authority. In these circumstances, it would not be proper to ask me to give any particular assurance though I would point out that all the States are trying their best to do what is absolutely essential in such cases.

Secondly, let my hon. friend also understand this. He says about Hariyana. He wants us to add the Kangra portion and others. Let us understand this. So far as the State Governments are concerned, they would take into account the question of the adequacy of representation of the people in the State. Can we go further and say that A district, for example, out of 52, ought to have representation corresponding to their population or to that particular area? This would raise very impracticable

considerations. With all the sympathy that we can have, this is a question which has to be approached informally and not in the way in which it has been suggested before us. I am afraid, I cannot accept any of these amendments.

Mr. Deputy-Speaker: The question is:

Page 2,—

after line 7, add—

“(d) any service or post in the Hindi region of the Punjab State as constituted by the Punjab Regional Committee Order, 1957 dated the 4th November, 1957.”

The motion was negatived.

Mr. Deputy-Speaker: The question is:

Page 2,—

after line 7, insert—

“(d) any State or subordinate service or post under the State Government of Punjab in the Hindi Region of the State, or

(e) any service or post under local authority (other than a cantonment board) within the Hindi Region of Punjab State.”

The motion was negatived.

Mr. Deputy-Speaker: The question is:

Page 2,—

after line 16, add—

“(c) ‘Hindi Region’ comprises all areas specified in Central Government Notification for the formation of Regional Committees in the Punjab.”

The motion was negatived.

Mr. Deputy-Speaker: The question is:

“That clause 3 stand part of the Bill.”

The motion was adopted.
Clause 3 was added to the Bill.
Clause 4 was added to the Bill.

Clause 5.—(Duration of section 3 and rules)

Pandit Thakur Das Bhargava: I beg to move:

Page 2,—

line 23, for "five years" substitute "ten years".

Mr. Deputy-Speaker: I shall now put the amendment to the House.

The amendment was put and negatived.

Mr. Deputy-Speaker: The question is:

"That clause 5 stand part of the Bill."

The motion was adopted.

Clause 5 was added to the Bill.

Mr. Deputy-Speaker: The question is:

"That clause 1 stand part of the Bill."

The motion was adopted.

Clause 1 was added to the Bill.

Mr. Deputy-Speaker: The question is:

"That the Enacting Formula stand part of the Bill."

The motion was adopted.

The Enacting Formula was added to the Bill.

Mr. Deputy-Speaker: The question is:

"That the preamble....."

Shri Datar: I was told that it is the long title, not the preamble.

Shri Shree Narayan Das: I beg to move:

Page 1,—

in the Long Title add at the end—

"and to repeal existing laws prescribing any such requirements".

Shri Datar: I accept that amendment.

Mr. Deputy-Speaker: The question is:

Page 1,—

in the Long Title, add at the end—

"and to repeal existing laws prescribing any such requirements."

The motion was adopted.

Mr. Deputy-Speaker: The question is:

"That the Long Title, as amended, stand part of the Bill."

The motion was adopted.

The Long Title, as amended, was added to the Bill.

Shri Datar: I beg to move:

"That the Bill, as amended, be passed."

Mr. Deputy-Speaker: Motion moved:

"That the Bill, as amended, be passed."

Shri Easwara Iyer: In welcoming this Bill in the spirit in which it is introduced, I must say that, in fact, if I had been given an opportunity at the inception to speak a few words on this, I would have certainly stressed on one or two aspects of the matter. Now, I should confine myself to only one point.

This Bill in fact specifies only discrimination shown in respect of residence. Article 16 of the Constitution has protected discrimination on account of residence, sex, religion, etc. So far as the first part of this Bill is concerned, it deals with disabilities or discriminatory legislation existing prior to the date of the Constitution. Regarding the second part of the Bill, it takes into consideration certain exceptions regarding certain States

which have been elaborately dealt with here. The question naturally arises whether this equality before law, equal protection of law or equal opportunities in respect of employment can necessarily be implemented in all its implications when there is always the case of disparities arising out of political ideologies. I have been at pains to see—possibly it may not be very relevant, but I would like to invite the attention of the hon. Minister—that there are rules, quite apart from laws in force in the States, service rules, or un-written rules even, whereby political ideologies have been taken to be the basis for discrimination in respect of public employment. This is not a case of party bias or party problem. It is no party's problem. It has to be viewed in the light of qualifications, educational and other qualifications. In fact, what happens is, whenever a person—I have seen several instances in my career as a lawyer also—whenver a person applies for a job, some sort of an investigation is made as to whether he belongs to the party in power or the party which is not in power.

An Hon. Member: Communist party.

Shri Easwara Iyer: Communist party, I dare say that. If he belongs to the Communist party, there is the question whether he is supposed to be an untouchable so far as public employment is concerned. This position may be reversed. Supposing in the State from which I come, it is the Communist Government,.....

Mr. Deputy-Speaker: I tried to accommodate Shri Easwara Iyer in the first feeling. Now he should try to accommodate me.

Shri Easwara Iyer: I would only take two minutes.

Mr. Deputy-Speaker: This is the Third reading. I am not taking all his time.

Shri Easwara Iyer: I am certainly aware of that. I am not travelling much beyond the subject.

Mr. Deputy-Speaker: This is the Third reading.

Shri Easwara Iyer: In the State from which I come, the position is reversed, and the Communist party is in power. Supposing there were to be an enquiry, or special police enquiry as to whether he belongs to a particular party, certainly, it is rather awkward. I would invite the hon. Minister to bring a wider legislation, a legislation containing wider provisions where political ideologies—I am not saying political activities—should be no bar to the question of employment.

Even in the case of this Bill, there is another aspect which I would like to stress. This Bill is supposed to confine itself to subordinate posts. Why not take up the higher posts? There has been a complaint from our State even, My Lord, with respect to our State. (Laughter). In fact, I was going to speak about the judiciary and therefore this mistake.

An Hon. Member: He was once My Lord.

Shri Easwara Iyer: There is a complaint that even in regard to the appointments in the Supreme Court it seems to be a case of residence governing the rules. There may not be much in it, but where persons who are educationally qualified, brilliant jurists and brilliant lawyers are coming from our State, I should think that no discrimination should be made on the ground that they are coming 2,000 miles away from Delhi.

So, this aspect may be borne in mind by the hon. Minister and I am particular that he should take this into consideration when he brings forward the next legislation, that political ideology or any other bias shall not govern public employment.

Shri Achar (Mangalore): I wanted to emphasize only one aspect, but I did not get an opportunity.

We welcome the Bill, and more than that, we welcome the general principles underlying it such as equal opportunity for all etc. But there is

[Shri Achar]

one defect, I may not call it a defect, which the Act as passed will not be able to remove. The difference in the South is not so much about residence as it happens to be on account of religion, caste and community. This communal question is working great havoc in the matter of public employment. So, I wish very much the Government had not confined itself to this one aspect of residence, but taken up the other points mentioned in the very same section, sub-clause (2) where it refers to religion, sex, community and caste.

No doubt it is a very difficult problem, but let it not be understood that I am in the least coming in the way of giving opportunities to the backward classes. I am not coming in the way. They must be given all opportunities, but at the same time we in the South find that this equality of opportunity is very much obstructed by communal considerations. I request the Government to consider this aspect of the question and introduce another Bill which would ensure equal opportunities for all people irrespective of religion, caste or creed.

Pandit Thakur Das Bhargava: At this stage I only want to reply to one argument of the hon. Minister and it is this. He propounded a new theory that so far as Hariyana is concerned, or the Hindi-speaking portion is concerned, it is outside the purview of the Government of India, and that the Punjab Government has to decide this question.

Shri Datar: So far as the State services are concerned.

Pandit Thakur Das Bhargava: I did not say this district or that. The hon. Minister must look at my amendment. It only refers to the Hindi-speaking region. The regions have been divided not by me, not by the Punjab State, but by the Government of India. If the Government of India can bring in a Bill and include Hyderabad and Telengana, which are also parts of

another State, I fail to see why he refuses to consider the question of the Hariyana region which is part of the Punjab.

Mr. Deputy-Speaker: What I understood was that at the time of the States' reorganisation when these regional committees were formed, there was a condition made so far as the other committees were concerned that the services would be in certain proportions, but in the case of the Punjab Regional Committees there was no such provision. This was the argument he put forward.

Pandit Thakur Das Bhargava: I know the argument, but the question is not this. The question is one of jurisdiction, whether they have got the jurisdiction. Suppose they came to this agreement among themselves, it is a part of the agreement under the States Reorganisation Bill, but he has brought this Bill under article 35. It is only Parliament that can repeal previous legislation on the subject or enact new legislation on the subject under that article. The Punjab Government cannot do that, cannot say to Hariyana that the question of residence will be taken up by themselves and that they will decide it in my favour. It is only this Parliament that can do it, and to tell us here at the last stage that we are out of court because as a matter of fact, Hariyana is part of the Punjab is not logically right. He may agree or disagree with me, that is a different matter, but to say that our claim cannot be considered because we are in Punjab State, I think, is making me an outlaw so far as article 35 is concerned. It is not fair. This is all I have to submit.

Mr. Deputy-Speaker: The hon. Minister.

Shri Datar: I have nothing to add. I have already answered all the points raised.

Mr. Deputy-Speaker: The question is:

"The Bill, as amended, be passed."

The motion was adopted.

PROBATION OF OFFENDERS BILL

The Minister of State in the Ministry of Home Affairs (Shri Datar): I beg to move:^a

"That the Bill to provide for the release of offenders on probation or after due admonition and for matters connected therewith, be taken into consideration."

Shri Tangamani (Madurai): May I know how much time has been allotted for this Bill?

Mr. Deputy-Speaker: No decision has yet been taken. It is to be decided tomorrow.

Shri Datar: So, what is the suggestion?

Shri Easwara Iyer (Trivandrum): This being a very important Bill and of a novel character, at least four hours may be allotted.

Mr. Deputy-Speaker: It is for the Business Advisory Committee to decide, and then it would be put before the House also.

Shri Tangamani: One full day may be necessary.

Mr. Deputy-Speaker: Perhaps before the Business Advisory Committee meets this might be discussed also. So, the House is empowered to decide it. According to the sense of the House we will fix the time. The proposal made was that four hours be allocated.

Shri Narayanankutty Menon (Mukandapuram): Four hours for the first reading. It is a very important Bill.

Pandit Thakur Das Bhargava: I would suggest that unless the Bill is sent to the Select Committee or for eliciting public opinion, at least two days should be given. It is a very important Bill.

Mr. Deputy-Speaker: I recollect that there will be tomorrow non-official business also. Therefore, we have to continue up to 2-30. Then the Committee will have time to consider and make a recommendation, and it will be placed before the House and then hon. Members can urge their proposals. Even in the Business Advisory Committee the representatives of all parties would be there and they can press their viewpoints.

Shri Datar: This Bill is based on certain principles relating to the reform of reformation of guilty persons. The ordinary law is that when a man commits an offence and is convicted, either he is sent to jail or he is fined. This was as a result of one approach which was that whenever a man commits an offence he ought to be placed behind the prison bars for a certain period so that society might not have the disadvantage of further criminal acts by him. This can be called the deterrent aspect of imprisonment, but there are other aspects also to which our attention has been drawn, and this question has been considered not only in India but by the United Nations Organisation also.

On a number of occasions the Inspectors-General of Prisons in the various States have met. From 1925 onwards there were a number of meetings and the Inspectors-General who are in close touch with the life of the convict behind the prison bars found that oftentimes the particular rigour to which the convict has been subjected or the life that he leads there produces certain results other than those expected. The expected result would be that the man must reform himself, and that after he comes out of jail, he ought to lead a reformed life, he ought to return to

^aMoved with the recommendation of the President.