a tendency to change their course suddenly and just hit somewhere. this we will be able to know all about the track of the storm. I have got an interesting diagram which can tell about these developments from hour to hour. On account of this, the loss of life has reduced. There has been completely been very little loss of life. Whatever loss of life has been caused has been due to the people rushing out of panic here and there. Otherwise, the loss of life has not been much. That is our information.

157

So. Sir. we are trying to do as much as we can. In fact, there is also a special kind of aircraft which can go into cyclones. And there is also a thinking going on whether we can purchase one of such aircrafts, and so on.

All these measures are being undertaken to reduce the damages. We cannot prevent the cyclones. The science has not advanced to that stage. But, definitely we should be able to reduce the loss of life and to some extent the loss and damages to the property. That is what the Government of India is trying to do and is continuously engaged in that process.

712 (R. 1

## THE DELIMITATION BILL, 1972

THE MINISTER OF STATE IN THE MINISTRY OF LAW AND JUS-TICE (SHRI NITI RAJ SINGH · CHAUDHURY): Sir, with your permission, I beg to move:

"That the Bill to provide for the readjustment of the allocation seats in the House of the People to the States, the total number of seats in the Legislative Assembly of each State, the division of each State and each Union territory having a Legislative Assembly and the Union territory of Delhi into territorial constituencies for elections to the House of the People and Legislative Assemblies of the States and Union territories and Metropolitan Council of Delhi and for matters connected therewith. as passed by the Lok Sabha, be taken into consideration."

Sir, as the hon. Members are aware, Article 82 of our Constitution provides that:

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

Provided that such readjustment shall not affect representation in the House of the people until the dissolution of the tnen existing House."

Then, Sir, there is another Article 170, sub-Article (3), which provides:

"Upon the completion of each census, the total number of seats in the Legislative Assembly of each State and the division of each State into territorial constituencies shall be readjusted by such authority and such manner as Parliament may by law determine."

So. Article 82 deals with the determination of seats for Parliament and Article 170(3) with those of the Legislative Assemblies. The census takes place every 10 years. We have received reports of the last census just a few months back and in compliance of the provisions of Article 82 and 170(3), this Bill is brought forward.

Sir, Clause 3 deals with the constitution of the Delimitation Commission. This clause provides that two Members would be Judges, serving Judges or retired Judges, of the Supreme Court or the High Court and the third Member would be the Chief Election Commissioner. Then there is also a provision for having 10 Associate Members, 5 from

[Shri Niti Rai Singh Chaudhury.] the Lok Sabha and 5 from the legislative Assemblies. In States where there are 5 or less than 5 Members in the Lok Sabha, all of them would be Members.

Delimitation

The duties and the procedure of the Commission are also laid down therein, i.e. how they will proceed, how they will do the readjustments, delineation, etc. and how their proposals would be published so that people come to know about them and raise objections. this Bill is in line with the Act of 1962. However, there are some changes to which I would like to draw pointed attention of the hon. Members. The old Bill was known as Delimitation Commission Act. In this Bill, the name is changed as Delimitation Act, because it is the Commission which does the work and the work that has to be done is the delimitation of the constituencies. Therefore, this name has been changed.

Then, Sir, the expression "State" has been redefined so as to exclude the State of Jammu and Kashmir. The reason is that the matters in relation to the State of Jammu and Kashmir are regulated by the Constitution (Application to Jammu and Kashmir) Order, 1954, which would be suitably modified subsequent to the passing of this Bill.

Another reason for the definition is that the present Bill applies to the Union territories having Legislative Assemblies and to the Union territory of Delhi unlike the previous enactment on the subject at which time the Government of Union territories Act, 1963, was not on the Statute Book. So. Sir. by this change of definition the State of Jammu and Kashmir is not excluded but the definition is in keeping with the constitutional provisions, and by change in the Constitution (Application to Jammu and Kashmir) Order of 1954 this Act would become applicable to the States of Jammu and Kashmir.

Then, Sir, in clause 4 which is the reproduction of the old section 4 of the 1962 Bill, two provisos have been added. These two provisos seek to lay down that :---

- (a) where one seat is allocated to the State in the House of the People. the whole of the State is to form one territorial constituency; and
- (b) it shall not be necessary for the Commission to readjust the allocation of seats in the House of the People to any Union territory or the total number of seats in the Legislative Assemblies of Union territories of Goa. Daman and Diu, Pondicherry and Mizoram or the total number of seats in the Metropolitan Council of the Union territory of Delhi;

as they have been provided for in the Government of Union territories Act. 1963 and the Delhi Administration Act of 1966.

Similarly, Sir, in clause 5 a proviso has been added. It seeks to provide that where the number of members of the House of the People representing any State is five or less, then all such members shall be associate members of the State, and in the latter case the total number of associate members shall be less than ten.

Clause 8, Sir, deals with the readjustment of number of seats. It differs from the corresponding provisions in the 1962 Act. It has become necessary in the present Bill to make a reference to the provisions of certain other enactments in this clause so that the task of delimitation could be carried out by the Delimitation Commission only and not by the Election Commission in certain cases as was the position earlier under the provisions of the relevant Acts.

Sir, I think this Bill is an absolutely non-controversial one. With these words I commend the Bill for the acceptance of the House.

The question was proposed.

162

श्री नवल किशोर : मैं बताता हूं। मेरे स्टेट में फैमिली प्लानिग जितना होना चाहिए था उतना नहीं हुआ। इसीलिए पिछली बार हमारी विधान सभा की 5 सीटें कम हो गई, लेकिन जम्मू और काश्मीर में तो हुआ ही नहीं।

गयल गई, लेकिन जम्मू और काश्मीर में तो हुआ ही बादी नहीं।

उस अभे ओम् मेहता : हम आपसे आगे निकल गये।

और श्री नवल किशोर : आप चाहे वैसे सको आगे निकल जायं, लेकिन व्यक्तिगत रूप

आगे निकल जायं, लेकिन व्यक्तिगत रूप से आब भी आप मुझ से आगे नही हैं। खैर, यह तो आपसी बातें हैं। तो इसमें दिक्कत यह है कि जो स्टेट फैमिली प्लानिंग को संजीदगी के साथ इंप्लीमेंट करता है, उस की आबादी कम बढ़ती है और इसमें उनका थोडा नुकसान होता है; क्योंकि पिछले दिनों जो डिलिमिटेशन हुआ तो उनमें उत्तर प्रदेश विधान सभा की पांच सीटें कम हो गयी।

तीसरी बात यह है कि अभी तक आप का कोई रैशनल बेसिस डिलिमिटेशन का नहीं है । मिनाल के तौर पर दिल्ली में लोक सभा की सात सीटें है और हरियाणा जिसकी आबादी दिल्ली से कहीं ज्यादा है, वहां शायद 9 सीटें हैं, मगर हरियाण की सीटें आबादी के हिसाब से कही ज्यादा होनी चाहिए । इसी तरह से और भी यूनियन टेरिट्रेरिज हैं । अभी मंत्री जी ने कहा कि जहां लोक सभा की पांच सीटें होंगी उनको टच नहीं किया जायगा, चाहे वह आबादी बढ़ी हो या घटी हो, तो मुझे शिकायन यह है कि आपका कोई रैशनल बेसिस नहीं हैं . . .

SHRI NITI RAJ SINGH CHAUDHURY: Sir, I owe an explanation.

मैंने नवल किशोर जी यह नहीं कहा कि जहां 5 सीटें होगी उनको घटाया बढ़ाया नहीं जायगा, मैंने कहा कि जहां 5 सीटें होंगी वहां सारे के सारे एसोशिएटेंड मेम्बर्स हो जायेंगे।

श्री नवल किशोर (उत्तर प्रदेश) : उपसभापति महोदय, माननीय न्याय मंत्री जी ने यह विधेयक संविधान के आर्टिकल 82 के अन्तर्गत पेश किया है । देखने में यह बात सही है कि यह कोई खास कन्टोवर्शियल विधेयक मालुम नही पड़ता, क्योंकि जब आबादी बढ़ी और 71 में सेन्सस खत्म हुआ, तो उस आबादी के बढ़ने की वजह से यह आवश्यक हो गया कि फिर से डिलिमिटेशन कमीशन बनाया जाय और प्रदेशों में लोक सभा के लिए और विधान सभाओं के लिये जो क्षेत्रफल है, उसको फिर से निर्धारित किया जाय । श्रीमन्, मे एक बात जानना चाहता हं, माननीय मंत्री जी ने यह तो नही बनाया कि कितनी सीटें बढेंगी, अखबारों से यह पता चला कि शायद लोक सभा की मीटें अब 570 हो जायेंगी.

संसदीय कार्य विभाग तथा नौबहन और परिवहन मंत्रालय में राज्य मंत्री (श्री भोम मेहता): वह अखबार की खबर है।

श्री नवल किशोर : हालांकि मंत्री जी ने कुछ नही बाताया । मैं खुद कह रहा हूं कि अखबार की खबर है, आप चुप रहते हैं, बताते नही हैं । यह बात सही है कि डिलिमिटेशन होना चाहिए । जैसा मंत्री जी ने कहा, हर दस साल के बाद सेन्सस होगा, आबादी बढ़ेगी, लेकिन आप कहां तक सीटों को बढ़ाते चले जायेंगे ?

डा० भाई महावीर (दिल्ली) : जहां तक फैंमिली प्लानिंग पूरा कामयाब नहीं होता ।

श्री नवल किशोर : श्रीमन्, तो मैं जानना चाहता हू कि यह कितनी सीटें बढ़ेंगी । अब यह 570 होगी, फिर 600 होंगी या 650 होंगी, कही तो इसकी सीमा निर्धारित होगी या नही । दूसरी दिक्कत यह है कि कुछ स्टेट्स मे तो फैंमिली प्लानिंग हुआ और कुछ में नही हुआ, तो यूनिफार्म पापुलेशन तो बढ़ी नही...

भी ओम् मेहता : आप के स्टेट की क्या पोजीशन है ?

6-18 RSS/72

श्रो तथल किशोर : मैं समझ गया। İ stand corrected.

ं तो मैं यह कह रहा था कि इसका कोई रैंशनल बेसिस होना चाहिए । मेरी शिकायत यह नही है कि आपने दिल्ली को सात सीटें क्यों दी, लेकिन शिकायत यह है कि आपको उसके मुकाबले में दूसरों को भी सीटें देनी चाहिएं । यह मेरी दूसरों आपत्ति है इस के संबंध में । (Interruption) आडवाणी साहब जवाब दे दें, मुझे उस में कोई आपत्ति नहीं, क्योंकि शू इज पिचिंग देयर, लेकिन और भी यूनियन टेरिटेरिज हैं।

श्रीमन्, एक बात और कहना चाहता हूं और मेरा अपना भी एक्सपीरियेस है कि जो डिलिमिटेशन होता है उसमें आबादी तो देखी जाती है, लेकिन जैसे शेड्युल्ड कास्ट सीटस है उनको जब आप बदलते है तो वहां पोलिटिक्स भी अपना पार्ट अदा करती है और यह किसी एक व्यक्ति के लिए बड़ी कठिनाई की बात हो जाती है। एक मेम्बर जो 15, 20 या 25 साल से अपनी कांस्टी-ट्यूएंसी को नरिश कर रहा है, उसको आप ओवर नाइट शेंड्यूल्ड कास्ट में चेंज कर देते है और उसका कोई मापदंड नही है। कही तो आप कहते है कि जहां उनकी आबादी ज्यादा होगी, वहां शेड्यल्ड कास्ट सीट बनायेगे, मुझे भी इस बात में कोई आपत्ति नही है कि स्टेट मे जहां शेड्यूल्ड कास्ट की आबादी ज्यादा हो, वहां आप सीट शेड्यूल्ड कास्ट की बनादें, लेकिन ऐसा हमेशा होता नही है । मैं अपनं उत्तर प्रदेश की बात जानता हूं, ऐसी अगहे है जहां कि शेडयुल्ड कास्ट 9 या 11 परसेंट थे, वहां की सीट शेड्यूल्ड कास्टकी बना दी गयी और यहां 16 और 17 परसेंट थे वहां सीट जेड्यूल्ड कास्ट की नही बनायी गयी; क्योंकि कुछ आदिमयो का और अपनी पार्टी का वही सीट बने इसी में हित था। इसलिए मै चाहता हूं कि जो यह पार्टिजन स्पिरिट है उसके साथ डिलिमिटेशन न हो और मै

यह भी बता दूं कि मैं भी इस का एक भुक्तभोगी हूं। 15 साल के बाद मेरी सीट फेड्यूल्ड कास्ट की की गयी, हालांकि मैं इत्तफाक से दूसरी सीट में कामयाब हो गया। तो मैं कहना चाहता था कि पोलिटिक्स को इसके अंदर नहीं आना चाहिए।

इसमे आपने एक बात यह कही है कि कमीशन जो एक दफा तय कर देगा वह बिलकुल फाइनल होगो । कोर्टस को इसके अंदर कोई अधिकार नहीं होगा । मैं नहीं जानता कि क्यों इधर कुछ दिनों से, कुछ समय से कोर्ट्स पर, न्यायालयों पर एक अविश्वास की भावना बढ़ती चली जाती आप अनलिमिटेड पावर्स दे रहे हैं कमीशन को हालाकि आप यह आर्गमेंट्स दे सकते है कि कमीशन के जो दो मैम्बर होगे वह जजेज होगे, वह जज होंगे हाई कोर्ट के या सुप्रिम कोर्ट के. सिटिंग जज होगे या एक्स जज होगे । आप यह आर्गुमेंट दे सकते है कि जुडिशल पाइंट आफ व्यु मे वे जज इस चीज को देखेंगे । फिर भी यह अच्छा नही लगता कि कोर्ट को हर जगह आप डिबार कर देते है।

जजों के बारे में मंत्री जी यह कह सकते हैं कि जो दफा है उससे साबित नहीं होता कि सिटिंग जजेज को हमने एक्सक्लूड किया है, लेकिन मैं चाहता हू कि जो एक्स जज हैं उनकी अप नियुक्ति न करें तो ज्यादा अच्छा होगा । शायद आपने यह अमेंडमेंट मान भी लिया है कि लोक सभा में से 5 एसोमियंट मेम्बर होगे और 5 होगे स्टेट विधान सभा से । मैं चाहता हू कि इस मामले मे जब नामिनेशस हो...

श्री लाल अ.डद.र्णाः 5 मम्बर लोक सभा से होंगे, 5 स्टेट से ।

श्री नवल किशोर : ठीक है, मैं समझ गया कि 5 लोक सभा के होगे और 5 उन स्टेट की विधान सभा के होगे जहां-जहां कमीशन जाएगा । मैं यह जानना चाहता ह्रं कि यह आर्गुमेंट दिया गया दूसरे हाउस मैं कि राज्य सभा के मेम्बर इसलिए नही होंगे कि वे जनता के चुने हुए प्रतिनिधि महीं है। आप यहां से न जें यह दूसरी बात है, मगर जाप यदि यह कहें कि चुकि वह जनता के चुने ए नहीं हैं, इसलिये न ही लिये जायेंगे तो मैं इस बात को नहीं मानता । यह तो ठीक है कि हमारा चुनाव डाइरेक्ट न होकर इंडाइरेक्ट होता है, मगर यदि आप यह कहें तो उस आर्ग-मेंट से हिन्दुस्तान का राष्ट्रपति भी जनता का चुना हुआ प्रतिनिधि नही है । यही नही, उप-राष्ट्रपति भी उसी कैंटेगरी में आते हैं और श्रीमन्, हमारे डिप्टी चेयरमैन साहब भी उसी कैंटेगरी मे आते हैं। तो श्रीमन्, आप इस बात को नापसन्द करेगे यदि यह कहा जाय कि आप जनता के चुने हुए नहीं हैं। इसलिए यदि आप यह कहे कि हमको राज्य सभा के लोगो को नही रखना है तो वह दूसरी बात है, परन्तू यह कहना कि वे जनता के चुने हुए प्रतिनिधि नहीं है, ठीक नहीं है वास्तव में यदि सबसे ज्यादा डिटेच्ड और नान-पार्टीजन मेम्बर हों सकते हैं तो राज्य सभा के ही हो सकते हैं; क्योंकि उनका पर्सनल इंटरेस्ट इवाल्व नही है। इसलिए मैं चाहता था कि राज्य सभा के मैम्बरो को भी आपने इसके अन्दर को-आप्ट किया होता । मै यह भी चाहता हुं कि जब स्पीकर महोदय नामजद करें तो मैं उम्मीद करता हूं कि अपोजिशन का भी ख्याल रखा जाएगा । यः नही कि चौधरी साहब की तरह एक ही पार्टी के जिसको चाहें मर्जी से रखलें।

श्री रणबीर सिंह (हरियाणा) : आप क्यो डरते हैं ?

श्री नवल किशोर : श्रीमन्, डरने की कोई बान नहीं है । पिछला जो डिलिमि-टेशन हुआ है तो जो एसोिन्येंट मेम्बर हमारी ऐसेम्बली के थे, मैं समझता हूं कि लोक सभा की स्थिति भी वहीं थीं कि उनके मुकाबले में जो कमीशन के परमानेंट मेम्बर थे उनकी ही बात चलती थी, मैं चाहता हूं कि उनके

अधिकार की बात भी स्पष्ट होनी चाहिए जब आप लोक सभा और विधान सभा के सदस्यों को उसका मैम्बर बनाते हैं, चाहे एसी-सियेट मैम्बर ही बनाते हों, तो उनकी आवाज में उतना ही वजन होना चाहिए, जितना कि परमानेंट मैम्बरों की आवाज में वजन हो । इसमें एक यह भी बात बहुत ध्यान में रखने की है कि जो आपके जन-प्रतिनिधि हैं, जितनी मालूमात इनको अपने स्टेट्स के बारे में होती है, उतनी मालूमात दूसरे मैम्बरों ! नहीं होती । इमलिए मैं संकेत के तौर पर कहना चाहता हू कि उनकी अपनी आवाज होनी चाहिए, चाहे उनकी बोट का अधिकार दें यान दें, लेकिन उनकी बात माननी चाहिए!

एक सवाल इसमें नोटिफि केशन का है यह सही है कि वह नोटिफि केशन गजट में होगा, स्टेट के गजेट में भी होगा । इसमें यह भी लिख दिया गया है कि कमीशन जिस प्रकार चाहें उनको प्रकाशित कर सकता है । मैं चाहता हूं कि वैमें तो यह एक जीक्यूटिव आर्डर से भी हो सकता है, लेकिन जिला परिपदों और तहसील हैं डक्वार्टर्स के अन्दर भी डिलिम्टिशन के नोटिस का प्रकाशन हो ताकि लोगों को पूरी तरह से मालू मात हो सके कि उनके क्षेत्र में क्या-क्या तब्दीलिया होने वाली हैं।

श्रीमन्, आखिर में मै अपनी बात इतनी कह कर खत्म करूंगा कि यह बात सही हैं, कि इसमें ज्यादा बहस की गुंजायश नहीं हैं, लेकिन मैं केवल यही उम्मीद कर सकता हूं कि जिस भावना से बिल को लाया गया है, उस भावना का ध्यान रखते हुए क्या मंत्री महोदय इस बात की कोशिश करेंगे कि मभी सेक्शन्स और सभी स्टेट्स के जो डिफरेन्ट केत्र हैं, उनके नुमायंदे इसके अंदर बैठ सकें, ताकि एक संतुलित तसवीर स्टेट के सामने आ सके और सही तौर से बिना किसी पोलिटिक्स के, विना किसी पार्टीजन स्पिरिट के डिलिमिटेशन हो सके।

इन शब्दों के साथ मैं इस विधेयक की भावना तथा उद्देश्य का समर्थन करता हू।

168

MR. DEPUTY CHAIRMAN House stands adjourned till 2 P.M.

Delimitation

The House then adjourned for lunch at one of the clock

The House reassembled after lunch at two of the clock, MR DEPUTY CHAIR-MAN in the Chair.

SHRI LAL K ADVANI (Delhi) Mr Deputy Chairman, Sir, there is no doubt that this Bill does not evoke much controversy Of course, it does need certain clarifications and certain assu-I recall that it was towards the end of the last Session that we were told that the Government was contemplating bringing forward this Bill or, in fact, contemplating augmenting the strength of the Lower House, as also the strength of the various Assemblies, on the basis of the new census. In fact, we were given to understand that the Government was keen to have the Bill passed even in the last Session auently. however. the Government thought it proper to hold consultations with the representatives of various political parties and take a decision on the matter only after that A meeting of party representatives—or rather two were held after that. I am surprised, however, that there is no clarification on the particular point which was raised at that meeting, namely, whether the strength of the Lok Sabha and the various Assemblies should be increased on the basis of the census This Bill I notice that does not deal with that in the other House several Members, who spoke on the Bill, proceeded on the assumption that this Bill indicated the Government's commitment to an augmentation of the strength of the Lower House and the various Assem-There is no such commitment In so far as that article of the Constitution is concerned which provides for a ceiling on the total strength of the other House, namely, 500 from the various States and not more than 25 from the Union territories and perhaps two nominated Members, that ceiling

Unless that particular remains article of the Constitution is amended-Article 81 which pertains to the total strength of Parliament—the presumption that this Bill of delimitation is based upon the Government's agreement to augment the strength of the House of the People is absolutely wrong I would like to have a categorical statement from the Government as to what decision it has taken after listening to the viewpoints expressed by the various parties

Personally, I do not regard it as any matter of principle whether the strength of the Lok Sabha should be enhanced or not or whether the strength of the Assemblies should be augmented or not in accordance with the new Census It can be decided either way, and there can be a justification for both the courses of action I do feel that the Constituent Assembly, when it considered the fact, did not think that there should be no ceiling whatsoever and that with every Census and with every increase in the population, the strength of the House should go on increasing At least, that was not the sense of the Constituent Assembly.

I think that the Law Minister should make it clear on this occasion that this Bill will not be subsequently followed by a new constitutional amendment amending article 81 providing for more seats in the Lok Sabha and in the Assemblies. That would be putting the cast before the horse If at all the Government does intend to increase the strength of the lower House, a Constitution (Amendment) Bill amending article \$1 ought to be brought forward first and delimitation resorted to thereafter.

In the Statement of Objects and Reasons it is said that it is a 'Bill to provide for the readjustment of the allocation of seats in the House of the People to the States, the total number of seats in the Legislative Assembly of each State, the division of each State and each Union territory having a Legislative Assembly and the Union territory

169

of Delhi into territorial constituencies.." etc. In this readjustment, think there should be no unfair deal for the Union territories as is being contemplated now by Government. I proceed on press reports. There are press reports suggesting that the present strength of the Union territories might be curtailed or that the Union Territories' representation in the Lok Sabha might be slightly curtailed to give an enhanced number of seats in the Lok Sabha to the States. I feel that this would not be proper. Basically, we should agree to this principle that the present representation of both the States and the Union territories in the Lok Sabha will not be changed their disadvantage; that strength should continue, wherever there is a case for enhancement, that should be enhanced. The previous speaker, Shri Nawal Kishore referred to the fact that Union territories have a relatively larger representation in Parliament than the States. He said, "Why is it so? It is not rational". I would like to explain to him the rationale behind this arrangement. The rationale is-and this rationale was elaborated earlier at the time of discussion on the Union Territories Act, and I think on other occasions also by the Government-that areas or populations or sections of people who do not have a full-fledged State should be given some weightage in the Lok Sabha. In those days, there was no question of any Assembly with even limited powers for Union Territories. So, the argument was, because the Union territories did not have Assemblies or full-fledged Statehood, they should be given weightage in the matter of their composition in the Lok Sabha, in Parliament. I think that this is a very sound principle, which sound principle should be adhered to. And particularly as a representative of Delhi, I would say that while in the case of some other Union Territories they have been able to get Legislative Assemblies, though with lesser powers, Delhi has been denied even his legitimate demand. There are

seven seats for Delhi and these seven are based on a population of 30 lakhs or 32 lakhs. Now, its population is over 45 lakhs.

And by the time we go in for the next Lok Sabha elections it would be well over 50 lakhs. Therefore, there is a justification for increasing the strength of Delhi's representation in the Lok Sabha.

I come now to the question of the composition of the Delimitation Commission. I do not agree with those who feel that the Associate Members should be given an equal right in the Delimitation Commission. The nature of the Delimitation Commission's work, I think, is judicial, and in that respect it is only proper to confine the decision-making authority to the Delimitation Commission—the three members of the Delimitation Commission. But I do think that the Associate Members can contribute a lot towards making this decision well informed and well-balanced. Therefore, the strength of the Associate Members should be either increased or in all cases members of the Assembly constituencies should be somehow associated with the delimitation of their respective constituency; their opinion should be sought. They must be positively consulted. There should be some provision in the Act itself providing for this kind of consultation. But even if this is not possible, I think the Minister might commit the Government on this question that in all cases the views of the local representatives in the Lok Sabha as well as in the Legislative Assemblies would be taken into consideration. Then, the Commission is to comprise of either a Judge of the Supreme Court or the High Court, or "who has been a judge". This concept of 'has been' somehow does not appeal to me. I would think that the membership of the Delimitation Commission should be confined exclusively to present members of the Supreme Court or the High Court Benches and not to ex-Judges. This is a

### [Shri Lal K. Advani]

principle which, I think the Government should accept in respect of all Commissions, because this has become a source of corruption and at least a ground for suspicion. Reflections are cast on the judiciary which often may be unjusticated.

I have been reading debates about the Delimitation Bill in the other House. I find that several members who were Associate Members in the former Delimitation Commission of 1962 have made allegations that even though the Commission seemed to be convinced of their arguments, at the last minute certain changes were made because of political pressure etc.

Sir, the Delimitation Commission's role is a very important role, as important in the limited province allotted to them as that of the Election Commission. I think its functioning should be absolutely above doubt and there should be no element of political pressure whatsoever or undue influence exerted on them or their decisions tainted by political bias. Therefore, I feel that it would be in the fitness of things that the membership of this Delimitation Commission is confined to the present High Court or the Supreme Judges and not to any past High Court or Supreme Court Judges.

Sir, it is but proper that in clause 3(b) we have included the Chief Election Commissioner ex-officio in this Delimitation Commission. I would like in this context to refer to the fact that the present incumbent of the office, has been elected to the Hague Court. It seems to be part of Government's way of functioning that very often important posts and important offices, as important as that of the Chief Election Commissioner are subject to ad hoc decisions. I happen to be a member of the Public Undertakings Committee. Reference has been made in this House to several important posts of the Chairmen in

Public Undertakings which have been lying vacant for months and years. This is one more example where the Government is inclined to let things drift. Even when the present incumbent took office, it was known that he was likely to be elected to the Hague Court. It would have been better if a decision, taking into account this fact, had been taken even then. But now that he has been elected as a Judge of the Hague Courtall our good wishes to him-the Government should take an early decision in this matter. Since the last nearly two months, we have been reading various kinds of press reports, and one of the press reports is such that all Members of this House particularly would be very glad if it comes true, because a very close friend of all of us in this House or who have been Members of this House, has been named as the possible successor to that post. I am not going to dilate on this matter except to stress that Government should take early and prompt decisions in regard to offices involving as high a charge as that of the Chief Election Commissioner.

Of course, it would have been better if the Election Commission had not been a single-member body but a multi-member body as has been contemplated in the Constitution. The Constitution never envisaged that the Election Commission would only be a one-man Commission. The Election Commission, according to the Constitution, ought to have been a multi-member body. The relevant provision of the Constitution that the Commission shall comprise of the Chief Election Commissioner and such other Election Commissioners as the President may from time to time nominate. This basic concept of the Constitution has been ignored. If it had not been ignored, it would not have been difficult to have one of the other Election Commissioners also as a member of the Delimitation Commission. This is so far as the composition of the Delimitation Commission is

concerned. All charges of gerrymandering and parcelling of constituencies to favour the ruling party, etc. depend very much on the decisions of this Commission.

There is one more point, and that point should be taken in the broad context of the role of the Rajya Sabha as such. I have seen the reply given by the Law Minister in the other House in regard to amendments moved by my party colleagues in that House that instead of "Lok Sabha", we should write "Parliament", into the Bill, so that not only Members of the Lok Sabha, but Members of the Rajya Sabha also are made associate members. The reply given was that because Members of the Rajya Sabha are not elected, they should not be associate members, whereas Members of the Lok Sabha are elect-My colleague, Mr. Nawal Kishore has already referred to this point. I am not going to repeat what he has said obviously, this is a wrong statement to which every Member of this House must take exception-i.e., to say that we are not elected. One can say that Rajya Sabha Members are not directly elected, that they are indirectly elected. But the mere fact that the Rajya Sabha is indirectly elected cannot be a rationale for excluding Members of this House from associate membership of the Delimitation Commission.

The point that I would like to make is that the Government still has no clear idea of what particular purpose it wants to assign to the Rajya Sabha. I am clear in my mind that to-day, as the Rajya Sabha functions, it is a mere replica of the other House. Because of its composition, essentially political, essentially party-wise, functioning on the basis of whips, its debates often become echos of debates in the other House. Once the Government takes a decision in the other House that they are not going to have Rajya Sabha Members in this body, it becomes impossible for them to have our amendment accepted even if they are convinced that it is proper. They feel that the Bill would have to go back to the other House again for that amendment, and the matter may be delayed. My feeling is that either the Rajya Sabha should be radically changed in complexion, say, it might be constituted on the basis of functional representation. The debates then would be different from those in the other House, and the contributions would be really worthwhile. As it is, and taking regard of the treatment Government gives to it on these occasions, the Rajya Sabha has no purpose and it should be abolished.

Truly speaking, our Constitution envisaged that the Second Chamber should be the custodian of State interests. all issues where States are involved-after all, this is supposed to be the Council of States-in all issues where States are involved, where the interests of States are involved, there the Government itself should keep in mind this key function of the Rajya Sabha and in the original drafting itself, make provision for it. Here in this Bill not only are the boundaries of what should be constituencies within the State are going to be delimited, the Delimitation Commission has also to decide how many seats it is going to allot to U.P., how many it is going to allot to Tamil Nadu, how many seats it is going to allot to Bihar, how many seats it is going to allot to Rajasthan etc. Thus, State, interests become involved. Because State interests are involved, therefore, as a matter of principle, the Rajva Sabha ought to have a primary role in the matter. My understanding of the Constitution is that in a case of this kind, in a case of delimitation of constituencies and readjustment of seats to the States, the Rajva Sabha should have a primary role. But here we have no role whatsoever. We are eliminated altogether. Therefore, I think that the very purpose for which the Council of States came into being has been absolutely ignored and it has been absolutely overlooked in this particular

[Shri Lal K Advani]

Bill. Even at this late stage I would request the Government not to stand on prestige and I would appeal to the Minister to consider this point and even though it may mean a delay of one or two days—after all, the Lok Sabha also can sit on Saturday, we are anyway, sitting on Saturday—even if it means that, they should consider this point coolly and see whether there is justification in my demand

Now I come to my last point, and that was referred by Mr Chaudhury in his opening remarks, namely, our demand that Jammu and Kashmir should also be included within the purview of this Act Mr. Chaudhury said that, truly speaking, this Act does not exclude Kashmir I suppose I have understood him correctly

### SHRI NITI RAJ SINGH CHAU-DHURY It would include

SHRI LAL K ADVANL And the Minister referred to the Presidential Order No 54 and said that we will have to implement it through the Presidential Order No 54 Am I right? That is as far as the mechanics of the implementation of delimitation go with that, that is, that so far as the mechanics of implementing the delimitation decision go, that is, of course, to be done by the Presidential Order But unless we include Kashmir in this Bill itself, unless we amend clause (g) of clause (2) which says "A 'State' includes a Union Territory having a Legislative Assembly but does not include the State of Jammu and Kashmir,", unless we omit the words "Jammu and Kashmir" from there. I think neither the Members from Jammu and Kashmir in the Lok Sabha nor the Members of the Jammu and Kashmir Assembly can have any say in the matter. It will be for the Government to decide how many seats are to be allotted to Jammu and Kashmir, how many Assembly seats should be allotted to Jammu and Kashmir and issue a Presidential Order in that regard My submission is that if we want the association of Members of Jammu and Kashmir in the Lok Sabha and Members of the Assembly of Jammu and Kashmir with this delimitation, with the process of delimitation, we must amend clause (g) of clause (2), an amendment in relation to which I have already given notice of

There is one more thing which I would like to point out in this regard This particular question of exclusion of Jammu and Kashmir had come up at the time of the 1962 Bill also and at that time Shri Chaudhury's counterpart. predecessor. Shri Bhibudendra Mishra, had stated that he was all for He had stated that But he had expressed his difficulty saying that Jammu and Kashmir did not have direct representation in the Lok Sabha He had argued that Jammu and Kashmir Members in the Lok Sabha are nominated by the President This was his difficuity He had specifically said so And, therefore, he said it could not come within the purview of the Bill Several other members pointed out that there were press reports saying that Jammu and Kashmir is likely to have direct representation very shortly And he had replied that if that comes about, well and good, I may then amend the Act itself He said, I quote 'unless the communication is received from the Jammu and Kashmir Government, whatever may be the correspondence and hope expressed (Members referred to even the correspondence that Prime Minister Nehru had with the State Government about direct election) we also hope that Jammu and Kashmir should come under the operation of this law-if at all it comes. I can assure the House that we can always amend this Act and include them" I am not talking about amending the 1962 Act I am talking of this Act of 1972 which the Government has now brought Now there is no justification whatsoever because all that was said by Shri Mishra is thing of the past.

Now Members from Jammu and Kashmir are directly elected to Lok Sabha on the basis of adult franchise as Members from other States are elected Therefore, I would appeal to the Government to consider this point and accept my amendment

श्री भइया राम मुण्डा (बिहार) उपसभा-पति महोदय, माननीय विधि मद्गी ने परिसीमन विधेयक इस सदन मे प्रस्तुत किया है और इस सिलमिले मे उन्होने बतलाया है कि यह विधेयक जब ऐक्ट के रूप मे आएगा तो इस ऐक्ट के अनुसार आगे जो देश मे चुनाव होगे, ससद के या विधान सभाओं के, यह 1971 में जो जन-गणना हुई है और उसके अनुसार जो आकडे इस देश मे, हर एक राज्य मे जो आबादी पायी गई है, उस आबादी के आधार पर समद के सदस्यो की सख्या का निर्धारण होगा और उनके चुनाव क्षेत्रो का फिर से गठन होगा। फिर इसी तरह राज्यों के विधान सभाओं के सदस्यों की सख्या भी निर्धारित होगी और उनके चुनाव क्षेत्रो का भी फिर से निर्माण होगा। यह विधेयव इसलिए लाया गया है, क्योंकि देश की जो आबादी है वह बढ गई है। अब तक जो चनाव होने रहे है, 1961 में जो जनसंख्या थी उसके आधार पर ससद के सदस्यों की संख्या निर्धारित की गई थी ओर क्षेत्रों का निर्माण किया गया था और उसी तरह से विधान सभा के सदस्यो का भी निर्धारण हुआ था और क्षेत्रो का निर्माण हुआ था। तो ठीक है, हर 10 वर्ष मे सेन्सस होता है और आबादी भी बढती जा रही है। अभी हमारे एक माननीय सदस्य ने कहा कि हर 10 वर्ष मे आबादी तो बढती जाएगी और उस तरह से हम ससद् के सदस्यों की संख्या बढाते चले जाए, साथ्ही राज्यो मे जो विधान सभाए है, उनके जो सदस्य होते है, उनकी सख्या भी हम बढाते चले जाए, तो कहा तक बढाते चले जाएगे ? यह बहुत कठिन बात है। आबादी तो बढती ही जाएगी, यद्यपि हम फैमिली प्लानिग देश मे कर रहे हैं लेकिन कहा तक फैमिली प्लानिंग के जारिए हम देश की आबादी को स्थिर कर सकते है, यह भी कहना कठिन है। जो भी हो, माननीय

मत्नी जी जो बिल लाए है मैं उसका समर्थन करता हू, लेकिन साथ ही उस सबध में कहना चाहता हू कि मैं आदिवासी हू, राची से आया हू, और बीस-पच्चीस वर्षों से हरिजनों के बीच में काम करता रहा हू, मैंने बहुत से स्कूल्स, हास्पिटलस् खुलवाए हैं और उसी काम में हमने बीस—पच्चीस वर्षों तक अपनी जिंदगी लगाई है। और इस न ते आदिवासी और हरिजनों के बारे में हम को वाफी जानकारी है और देश में जहा, जना आदिवासी जगलों और पहाड़ों में रहते हैं, प्राय. सब जगह हम गये हैं। तो इस विधेयक की धारा 9(1) मी और डी में हरिजनों और आदिवासियों के सम्बन्ध में जो बात है, क्षेतीय आरक्षण की बात है, उसके सम्बन्ध में कुछ कहना जाहता हू।

"सी" मे कहा गया है कि कास्टीट्यूएन्सी के अन्दर जो सीटे :

"(c) constituencies in which seats are reserved for the Scheduled Castes shall be distributed in different parks of the State and located, as far as practicable, in those areas where the proportion of their population to the total is comparatively large, and

"(d) constituencies in which seats are reserved for the Scheduled Tribes shall, as far as practicable, be located in areas where the proportion of their population to the total is the largest" यह शोड्यूल ट्राइब्स के लिए है।

शेड्यूल्ड कास्ट और शेड्यूल्ड कास्ट के जो लोग है वे पिछडे हुए लोग है, गरिब है और हर तरह मे उनकी हालत खराब है। सरकार उनकी तरक्की चाहती है और उनको उठाना चाहती है तथा इसके लिए काम भी हो रहा है। तो मैं यह कहना चाहता हू कि जब में लोग गरीब है, पिछडे हैं, हर तरह से उनकी हालत खराब है, आप उनको उठाना चाहते हैं, तो फिर उनके लिए दो तरह की व्यवस्था क्यो करना चाहते हैं। मैं यह कहना चाहता हू कि जो हरिजनो के लिए आप व्यवस्था करने जा रहे हैं, बही व्यवस्था आप शेड्यूल्ड ट्राइब्स के लिए क्यो नहीं करते [श्री भइया राम मुण्डा]

है ? मैं यह बात इसलिए कहना चाहता हूं, स्योंकि 1967 में मैं एक जगह से विधान सभा के चुनाव क्षेत्र से चुनाव लडा था और उसमे हमको बहुत काम करना पडा था । यह रांची में हमारा क्षेत्र था, जहां में हमको चुनाव लडने का अवसर प्राप्त हुआ था।

मैं ट्राइब्स के लिए यह बात कहना चाहता हूं कि अब तक जो चुनाव रहे, 1961 मे जो आबादी थी, उसके आधार पर चुनाव क्षेत्र बने थे और सदस्यो की सख्या भी निर्धारित हुई थी और मेरे बिहार राज्य मे बहुत से ऐसे जिले हैं, जिसमे आदिवासियो की सख्या, जैसे हजारी-बाग जिला है, वहा उनकी संख्या 2 लाख 70 इजार है और शेड्यूल्ड कास्ट की जो आबादी है वह 3 लाख है । आबादी करीब-करीब बराबर है। मै यह बात जानता हूं कि 1952 और 1957 में भी चुनाव हुए थे, उस जिले के दो क्षेत्र आदिवासियों के लिए सुरक्षित थे, लेकिन इस जिले मे शेड्यूल्ड कास्ट के लिए कोई सीट सुरक्षित नही थी। अभी जो इस तरह की व्यवस्था है, उस व्यवस्था के कारण हजारीबाग जिले में जितने ट्राइब्स है, उनको कम से कम एक सीट मिलनी चाहिये, जबिक पहिले उनको दो-दो सीटें मिल रही थी, लेकिन वह खत्म कर दी गई है। अब हरिजनों के लिए दो सीट हो गई हैं। ठीक है, हरिजनो को मिलनी चाहिये, लेकिन आदिवासियो को जिनकी संख्या करीब 2 लाख 70 हजार है, उनको कम से कम एक क्षेत्र मिलना चाहिये, लेकिन वह मिला नही।

इसी तरह से हमारा एक जिला है धनबाद, वहां पर एक लाख 20 हजार ट्राइब्स रहते हैं और दो लाख हरिजन रहते हैं । हरिजनो को तो सीट मिल गई है, लेकिन ट्राइब्स को नही मिली है और उनके लिए कोई मीट रिजर्व नही हुई है ।

इसी तरह में पूर्णिया जिला है, वहा पर 2 लाख 70 हजार हरिजनो की आबादी है और भेड्यूल्ड ट्राइब्स की आबादी करीब 1 लाख 20 हजार है। शोड्यूल्ड कास्ट के लिए तो दो सीटें रिजर्व हो गईं, लेकिन शोड्यूल्ड ट्राइब्स के लिए कोई सीट रिजर्व नही हुई। इस तरह अलग-अलग जो व्यवस्थाएं है, उचित नही मालूम पडती है।

हजारी बाग मे 2 लाख 70 हजार आदि-वासी है, अब मैं समझता हू कि 3 लाख मे भी ज्यादा हो गए हैं। अभी जो व्यवस्था है वह यह है कि किसी चुनाव क्षेत्र की आबादी मे आधे से अधिक आबादी ट्राइब्स की होगी, तभी वह क्षेत्र सुरक्षित होगा । हरिजन के साथ वैसा नही है । उनके लिए ऐसा है कि किसी जिले में जितने क्षेत्र होगे उनमे से जिस क्षेत्र मे मबसे अधिक हरिजनो की आबादी होगी वह रिजर्व होगा। यह प्रावीजन उनके लिए है, नेकिन हमको अफ-सोस है कि आदिवासियों के लिए ऐसा नहीं किया गया है। मैं माननीय मन्नी से निवेदन करूगा कि जिस तरह से हरिजनो के लिए व्यवस्था है, उसी तरह से ट्राइब्स के लिए भी व्यवस्था की जाए, द्राइब्स बहुत से जिलो मे बिखरे हुए सहते है। अगर आप एक जगह चाहेगे तो यह सम्भव नही है। लेकिन एक ट्यूएन्सी बनाने लायक उनकी सख्या नहीं है, इस कारण आप सीट रिजर्व नही करते है, तो उस जिले में जो ट्राइब्स है उनके लिए विधान सभा या ससद् में प्रतिनिधित्व पाना सम्भव नही होता है। इसलिए मैं माननीय मंत्री जी से निवेदन करूंगा कि दोनों के लिए व्यवस्था एक ही तरह से होनी चाहिए।

दूसरी चीज मैं यह कहना चाहूंगा कि ट्राइब जंगलों में, पहाड़ों में बहुत बड़े क्षेत्र में बिखरे रहते हैं। चूिक चुनाव क्षेत्र आबादी के आधार पर बनते हैं, इसिलए हमारे जो ट्राइब्स के लिए क्षेत्र रिजर्व किए गए हैं उनका क्षेत्रफल कही-कही 500—600 वर्ग मील का होता है। हमने जहां से चुनाव लड़ा था वह 500 वर्ग मील का इलाका है, डेढ लाख आबादी है और 350 गाव हैं। वहा जो उम्मीदवार चुनाव लड़ते हैं वे कितनी आफत में फंस जाते हैं उसका

अनुभव मैं कर चुका हूं, बहुत मुश्किल हो जाती है। और भी बड़े चनाव क्षेत्र है जिनका क्षेत्रफल 600-700 वर्ग मील का है। तो मैं समझता हूं कि जो चुनाव क्षेत्र बनें उनमे थोड़ी आबादी कम करके भी चुनाव क्षेत्र जाय, ताकि 500--600 भील का जो क्षेत्र है वह कम हो। शहर में जो लोग रहते है या जहां घनी आबादी है, वहां थोड़े क्षेत्र में आबादी पूरी हो जाती है और छोटे एरिया में चुनाव क्षेत्र बन जाते हैं। वहां जो उम्मीदवार चनाव लडते हैं, उनके लिए सहलियत होती है। ट्राइब्स की बात नहीं कह रहा हूं, देहात में जो चुनाव क्षेत्र होंगे, वे बनाते समय आप क्षेत्र को भी ध्यान में रखें, जिससे चनाव आसानी से हो। इसमें चनाव लडने वाले उम्मीदवार की ही बात नही है, जो चनाव की व्यवस्था करने वाले सरकारी अफसर लोग है, एक अफसर सारी जगह देखता है. उसके लिए बड़ी दिक्कत हो जाती है। इसलिए मैं माननीय मंत्री जी से निवेदन करूंगा कि एक तो हरिजन और आदिवासियो के लिए जो अलग-अलग व्यवस्था है वह न रख कर, हरिजनों के लिए जो व्यवस्था है वही आदि-वासियों के लिए भी कर दीजिए। दूसरे जो चुनाव क्षेत्र बने वह बनाते समय एरिया कम करके बनाया जाय, अगर उसमें आबादी कम होतो भी कोई हर्ज नही। इन्ही शब्दों के साथ मैं इस बिल का समर्थन करता हं।

SHRI K. CHANDRASEKHARAN (Kerala): Mr. Deputy Chairman, Sir, we had an enactment of this nature, as the hon. Minister stated, enacted in 1962. That Act has spent itself with the working of the Commission appointed in pursuance of that Act. Therefore, even though the Act may be on the Statute Book, it is a spent Act and of no further purpose. After the recent census operations and the announcement of the census figures, we are today enacting yet another legislation for the purpose of delimiting the constituencies

for the Lok Sabha and various Legislative Assemblies. At this stage, I would bring to the attention of the hon. Minister and through him that of the Government the severe criticism that has been made of our election laws and the functioning of our election laws, particularly after the 1971 Lok Sabha elections and the various General Elections to the Legislative Assemblies in 1972. I would submit that it is time that we think in terms of a comprehensive election law ensuring free, fair and independent elections. I should think, Sir, that of the nations of the world, one of the countries that has codified the election laws in a very democratic manner is Canada. Recently, I have been going through the Canada Elections Act passed into law in 1970 by the House of Commons of Canada and I was surprised to see the detailed provisions in the enactment and built-in rules with the set purpose of ensuring free, fair and independent elections. An independent election machinery is contemplated from the very top to the very bottom. It is surprising, Sir, that even a police constable who is asked to supervise at the polling stations, is actually appointed by the Presiding Officer of the booth and that constable works under the control of that Presiding Officer. A provision is also made for application to a Judge within 3 or 4 days of the count for any person who is dissatisfied with the count, asking for a recount of votes.

This Delimitation Bill is a part of the election law. Sir, in judicial courts, it is still a controversy as to how far an election becomes justiciable on the basis There are no direct of delimitation. rulings of the High Courts or the Supreme Court in this country on that aspect, although it has been settled by our judicial courts that the electoral roll is justiciable. The absence of a proper electoral roll goes to the very root of elections and elections can be set aside on the basis that there has not been a proper and correct electoral roll. it is not certain as to whether any elec[Shri K. Chandrasekharan]

tion can be set aside on the basis that there has not been a proper delimitation, particularly because of the fact that delimitation has not so far been held to be justiciable as far as the elections are concerned. Therefore, the responsibility of Parliament in the matter of delimitation is all the more and it is our task to see that the processes of delimitation and the procedure that ultimately leads to delimitation are absolutely independent and above doubt

Sir, one hon. Member has put in the suggestion that it may not be possible for us to delimit to the extent of more than 525 Lok Sabha seats propose to go into that constitutional controversy but I would certainly state at this stage that this process of delimitation in terms of article 82 for the Lok Sabha and article 170(3) for the various Legislative Assemblies cannot be carried on in this manner every ten years on the ground that there has been topulation increase, because there is bound to be population increase in this country in the decades to come in spite of what all we may do in the matter of family planning And if that is so, considerations of accommodation of the Lok Sabha and various other practical considerations of functioning of the Lok Sabha would have to be taken into account so as to finally determine what exactly has to be the number that should be elected from the various States and Union territories in the country to the Lok Sabha. It may not be possible for us to function in the same way as the traditional British House of Commons can function

When the very old building in which the British House of Commons was housed was destroyed by bombing during the period of the second World War, they had built a new building for the British House of Commons The building was exactly of the same size as the old building. In spite of the fact that the old building was meant for just 300

or 400 members and the House of Commons had more than 600 members, they did not provide for the increase in numbers even though they had the opportunity to do so by virtue of the fact that they were constructing a new building There are seats hardly for half the number in the British House of Commons and if at a certain stage all the menabers chose to attend the House, many are standing and many are uncomfortably seated Their traditions are such that they put up with the same and I do not think that we have gone to that extent of tradition or have that manner of tradition and, therefore we have to think in terms of accommodation

The larger the House-I mean no disrespect—the more boisterous would it become, the more uncontrollable and unmanageable would it become for a single individual, and these practical considerations have got to be taken into account when constituencies are delimited and the number that is ultimately given to the Lok Sabha is finally decid-Therefore, I would very seriously put forward the suggestion of amendment of the Constitution itself in this regard, well before 1982 when we would have completed another census and the figures of the census would have been It is time that Government and Parliament propose to think in terms of this

I would like to go into certain prowsions of this Bill before I conclude The one provision that has already been attacked by more than one hon Member of this House is the provision contained in clause 3 enabling the Central Government to appoint an ex-Judge—that means a retired Judge—of the Supreme Court or of a High Court.

Sir, I have no doubt to joint the cho rus of Opposition voiced against that part of the clause enabling the Government to appoint a retired judge Feelings have been expressed by all sections of this House, whenever there have been occasions to voice such feelings, that appointment of retired judges to non-statutory and statutory commissions should not be made in the interest of the independence of the judiciary itself. A difficulty might be put forward on account of the fact that the number of sitting judges of the Supreme Court or the number of sitting judges of the various High Courts are not adequate for judges being drawn out and appointed. so far as this legislation is concerned, I do not think such a view would be possible at all because after all, you are thinking in terms of only two judgestwo ad hoc judges—out of the 14 Supreme Court Judges or out of more than 350 High Court Judges existing at present. I need not inform the hon. Law Minister that even now the sitting Judges have been appoined to statutory commissions. For example, one at least of the judges that man the Narmada Commission, whose work is now at a standstill because the Prime Minister has taken over the responsibility of deciding the issue, is a sitting Judge of a particular High Court and he has been able to function. Such Judges in this manner have been able to function part-time or full-time in other Committees also for a period. After all, the work of this Commission would be only for a period and even during the period of that time the Commission may not So, the judge be sitting whole-time. can be employed part-time. I submit that even if there is any difficulty on account of the fact that the Government are thinking in terms of a Supreme Court Judge or a retired Supreme Court Judge, they can always appoint ad hoc Judges to the Supreme Court or the High Courts and instead of appointing a retired ad hoc Judge to the Commission, I would suggest that a sitting member of the High Court or the Sup-Court judiciary should reme be The ad hoc Judge should appointed\_ be allowed to remain in the place so that the work of the Supreme Court or

the High Court would not ordinarily suffer.

I would also submit that no Judge, even a retired Judge should be thought of for appointment to any Commissions of this nature unless he has passed two or three years' period after retirement. That again is a safeguard for the independence of the judiciary. A person who is just on the verge of retirement will not be told that he is being thought of for appointment to a particular Commission—may be even unofficially, indirectly or just a murmur in his ears. This would avoid visualisation of prospects, particularly in the matter of the highest judiciary in this country. I would suggest that even if a retired judge is to be appointed, no judge who has not passed two or three years after retirement should ever be thought of for being appointed to a Commission of this nature.

Sir, I would also add that no member of an existing commission or committee should be thought of for appointment to a commission of this nature. I have heard rumours outside, Sir, that a particular retired Judge who is now functioning as Chairman of a particular committee or commission has already been told that if he would finish the work of the committee early he would be thought of for appointment to this commission. A worse thing cannot be Such sort of murmurings thought of. into an ex-Judge's ears, such sort of murmurings into the ears of a person who is already functioning as Chairman of a commission should not be there and if that is to be avoided the principle has got to be accepted by Government that no ex-Judge who is already functioning as chairman of a commission or a committee would be appointed against a statutory commission of this nature.

Sir, two or three points more and I am finishing. In clause 5 nominations of members of the House of the People and of the Legislative Assembly and their being associated with the Com-

[Shri K. Chandrasekharan]

Delimitation

mission is being thought of and I would submit that some representation should be afforded to members of the parties in opposition to the Government at the Centre and in the State concerned. I am not saying anything about the way in which the Speaker would function or would not function I have absolutely no doubt that so far as the Centre is concerned the Speaker of the Lok Sabha would be able to function in a thoroughly independent and impartial manner, but I have got doubts, in what manner some of the Speakers are functioning today in constitutional and political crisis, as to whether they will be able to function thoroughly independently and impartially in the matter of making nominations as contemplated in clause 5 Therefore, Sir, there should be this safeguard so far as the opposition parties are concerned

Then in clause 9 it is stated that the constituencies shall, as far as practicable, be geographically compact areas But this expression 'as far as practicable' is going to create complications I submit that the constituencies should be geographically compact areas If you say they shall be geographically compact areas it means geographically compact areas to the extent possible in the delimitation of constituencies that politics has crept in the past; it is in the delimitation of constituencies that local politics has come in and constituencies have been delimited I can take the hon Minister to some of the constituencies where there is absolutely no geographical contiguity, where you have got to take a helicopter to go from one place to another place unless you want to do 25 or 30 miles extra is done on account of political considerations, on account of partisan considerations This sort of delimitation of constituencies should not be there and they should be geographically compact areas

Again in clause 9 it is stated that the Commission shall publish the proposals

and invite objections. The publication of these proposals is to be made in the Gazette of India and the Gazette of the various States concerned I submit, Sir, that although this publication is good so far as formality is concerned, the fact that such publication has been made should be advertised or notified properly in almost all the prominent newspapers in the country I am not saying that the entire publication should be there in the newspapers but the fact that it has been done in the Gazette should be there in the newspapers Then only it will be possible for persons to object within the time limit that has been fixed

Thank you.

3 P. M.

श्री भोला पासवान शास्त्री (बिहार) : उपसभापति जी, यह परिसीमन विधेयक, 1972 जो आया है, इसका मै स्वागत करता हूं और स्वागत करते हुए अपनी कुछ बातो को भी रखना चाहता हु। पहली बात तो यह है कि जो सेन्सस हुआ है, उसके आधार पर लोक सभा या विधान सभा या ऐसी सस्थाओ मे सदस्यों की सख्या बढाई जाय ऐसा विचार किया जा रहा है ..

श्री लाल आडवाणी: इसमे नही है।

भी भोला पासवान शास्त्री: बढाया जाय, घटाया जाय, दोनो हो सकता है।

श्री नागेश्वर प्रसाद शाही (उत्तर प्रदेश): उसके लिए दूसरा विधेयक आएगा।

श्री भोला पासवान शास्त्री: जहा तक बढाने की बात है, मेरी राय है कि बढना चाहिए। क्यो बढना चाहिए? उसके कारण है। मेरी जो राय है, वह मैं रखता ह। आज तक इन सभाओं में, लोक सभा हो या विधान सभा हो, नई हो या पुरानी हो, उनमे अभी तक वैसे लोगो का प्रतिनिधित्व रहा है जो बड़े क्लास के रहे हैं, उन्ही के नेता बड़े क्लास के लोग अग्रेजी राज के जमाने मे आते थे, स्वराज होने के बाद भी इन सभाओ में बड़े ही क्लास के लोग आते रहे।

Delimitation

सुच्चे अर्थ मे कामन मैन जिसे कहा जाता है, उसका असली रिप्रेजेंटेशन अभी तक नही हुआ है। कामन मैन जिसको हम कहते हैं वह बडा जनरल टर्म है हमारे देश मे। जो राजसत्ता मे है, राजनीति का, आर्थिक नीति का फंसला करते है वह भी कामन मैन है, गरीव आदमी जो है वह तो है ही। ऐसा मै क्यो कह रहा ह<sup>7</sup> ऐसा मै इसलिए कह रहा हू, क्यों कि आप लैंड सीलिंग की लीजिए, लैंड रिफारम्मं की बात लीजिए, कितने दिन से बाते चल रही है, लेकिन यह मामला आगे बढता नही है, असली अर्थ में कामन मैन का रिप्रंजेटेशन है ही नहीं। उनकी बात सच्चे अर्थ मे कौन करे, कौन उस पर आमादा हो, कोन उसको ठीक से देख और अमल करे। विचार तो हम ठीक करते है, लेकिन उस पर अमल नही होता है। अमल इसलिए नही होता है, क्योंकि जो जमीन वाले है, जो जायदाद वाले है वे पैसे के बल पर पालियामेट मे, असेम्बली मे आते है और वहां उनकी नीति चलती है। मैं किसी क्लास को दोष नही देता, किसी व्यक्ति को दोष नही देता, क्योकि जब वे आएगे और जब अपने स्वार्थ को हनन करने वाली बात उठेगी, तो वे घबडा जाते है। जो भी काम हम गरीबो के लिए करते है तो सारी बाधाए वही पर उपस्थित हो जाती है। हम सब माग करते है गरीबी हटाओ, अच्छे समाज की स्थापना करो, सब सुख से रहे। यह होता क्यो नही है। कोई भगवान आकर कर दे तो हो जाय। अगर भगवान कर सकता है और नहीं करता है तो भगवान भी पक्षपाती है, वह भी एक वर्ग को देखते हैं, गरीबो को नहीं देखते है। ये बाते ऐसी हैं जो हम लोगो को करनी है, लोक सभा को करनी है, विधान सभाओ को करनी है। इसलिए जो बिल आया है कि ऐसा बढाया जा रहा है तो मैं इसका स्वागत करूगा, जब कभी आवेगा स्वागत करना चाहूगा और करता रहूगा। बडे-बडे जो रियासती लोग थे, कूलक थे, जमीदार

थे वही लोक सभा मे, विधान सभा मे मेम्बर होते है क्योकि उनके पास पैसा है। गरीब आदमी चुनाव लड कर आ नही सकता। असली रिप्रेजेटेटिव गरीब आदमी का अभी तक नही आया है, लेकिन जिस दिशा में हमारी सरकार जा रही है, वह तो वाकई में स्वागत के लायक है।

श्री नागेश्वर प्रसाद शाही: बढाने पर भी बडे लोग आएगे।

श्री भोला पासवान शास्त्री: बडे लोग कैसे आएगे ? आप हर दम पोलिटिक**ल** बात कहते हैं।

श्री लाल आडवाणी: पासवान जी, वह बढा नही रहे है।

भी भोला पासदान शास्त्री: हमारी सरकार करे, न वरे, हमारी निजी राय है। आखिर जमीनदारी, सामन्तशाही क्यो खत्म की गई, राजा-महाराजा क्यो खत्म किए गए ? बड़े-बड़े जो कूलक है, उनके खत्म होने की बात हो रही है, गरीबी मिटाने की बात हो रही है, लैंड रिफार्म्स की बात हो रही है। तो ये बाने जब हो रही है तो हमने यही कहा कि क्या हो रही है ? हमारे हाथ मे पावर है, लेकिन यह एक दम नही हो सकता, कही न कही तो है, कही तो रुकावट है। क्योकि जनताने चन कर भेज दिया है। हम महसूस करते है कि कितनी रुकावटें है, कहा है? तो ज्यादा से ज्यादा अगर कामन मैन लोक सभा मे चन कर आभी गया तो वह अपनी सरकार नही बना सकता है और अगर मरकार उसकी नही बनती है तो उसकी नीति नही चलेगी। सरकार मे नीति बनाने वालो के पास जमीन है, जायदाद है। तो यह बात स्वाभाविक है। लेकिन अगर वानून से ओर पालियामेटरी सिस्टम आफ गवर्नमेट से गरीबी दूर नही हुई और गरीबी को दूर करने मे यह डेमोकेसी कामयाब नही हुई तो डेमोक्रेमी फेल हो गयी । अगर इस समस्या को लॉ के जरिये, श्री भोला पासवान शास्त्री]

191

विधान सभा के जरिये और लोक सभा के जरिये, इस सिस्टम में हम हल नहीं कर सके और देश को आगे नहीं ले जा सके, तो वह इस सिस्टम को फेल्यौर माना जायगा और मैं उसे किसी प्रकार का सफलता का सिटिफिकेट देने के लिए तैयार नहीं हूं।

दूसरी बात जो मैं कहना चाहंगा वह यह है कि खास तौर से शेड्यूल्ड कास्ट और शोडयल्ड ट्राइब्स के बारे मे आपने कास्टी-ट्यूशन मे उनकी सीट्स के लिए रिजर्वेशन रखा हुआ है और आप जानते हैं कि शेंड्यूल्ड कास्ट और शेड्यूल्ड ट्राइब्स की पापुलेशन बहत बढती है और उनकी पापुलेशन बढने के कारण भी है। वह गरीब आदमी होते है और गरीबो को बच्चे बेशी होते हैं। यह देखा गया है कि गरीबों के बच्चे ज्यादा होतें हैं; क्योंकि उन के पास रिक्रीएशन के लिए भौर कोई दूसरा जरिया नही है। वह ख्ब काम करते है और शरीर के हेल्दी होते हैं तो उसके कारण उनको बच्चा हो जाता है। तो इसलिए मैं सरकार को राय दूगा कि उनका रिप्रेजेटेशन ज्यादा से ज्यादा होना चाहिए, क्योंकि मैं समझता हूं कि उनका नम्बर ज्यादा है। (Interruption) मै तो साफ बात कहता हूं। वैसा ही हाल टाइबल पीपल का और हरिजनों का है। बच्चे उनको भी ज्यादा होते हैं और उस के भी कारण है। वे एक तो हैल्दी होते है और खाने पीने को उनको नही मिलता, लेकिन उनके पास भी रिक्रिएशन का एक ही जरिया है। वह कोई कवि और कलाकार तो होते नहीं कि अपने को सब्जुगेट कर लें, इसलिए भी उनके बच्चे ज्यादा हो जाते हैं। कहा जाता है कि फैमिली प्लानिग में काफी काम हुआ है, लेकिन उसके कारण बच्चे कितने कम हुए हैं। अभी तो वह काम शुरू हुआ है। जिस किसी स्टेट मे ज्यादा से ज्यादा फैमिली प्लानिग ना काम हआ है तो उसमे भी आवादी कितनी कम हुई है। यह काम तो अभी आपने शुरू किया

है। यह फैमिली प्लानिंग की बात इस बीस वर्ष के बाद लागू की जा सकती है, लेकिन अभी यह बात कहना ठीक नही है, कि जहां फैमिली प्लानिग हो रही है, वहा आबादी घटी है। अभी तो वह थोडी-थोडी कर के शुरू हो रही है। जितना रुपया उनके लिए रखा जाता है, वह खर्च भी नही हो पाता है। तो ऐसे लोगो के लिए मैं मिनिस्टर साहब को सलाह दुगा कि उनका ख्याल रखा जाय और उनके स्पेशल इंटरेस्ट भी रख जाय, जैसा कि मुण्डा साहब ने कहा 'ट्राइबल एरियाज को गवर्नमेट को अलग रखना चाहिए,' जैसे सिहभूमि है, हजारीबाग है, धनबाद का और पलामू का कुछ हिम्मा है और दूसरे एरियाज मे भी छुटे पुट कुछ आदिवासी भाई रहते हैं और उनका नम्बर काफी होता है। अगर वह शेड्यूल्ड एरियाज मे नहीं होते हैं तो शेड्युल्ड एरियाज को जो कंसेशन मिलता है, वह आदिवासी उस से विचित रह जाते हैं। तो सरकार को इस को भी मद्देनजर रखना चाहिए कि जहा एक लाख या दो लाख की आबादी को आप रिप्रेजेटेशन देते हैं, तो उस के साथ ऐसे एरियाज को भी रिप्रेजेंटेशन देना चाहिए, क्यों कि वे गरीब आदमी है और उनमे हम लोगो को काम करने मे बडी कठिनाई है । उनके बच्चे को कायदे से स्कालरशिप नही मिल पाती, उनके पीने के पानी का ठीक प्रबंध नहीं हो पाता। मुर्गी पालन की या और दूसरी जो स्कीम है वह शेड्यूल्ड एरिया न होने से उनको नही मिल पाती । और दूसरी बात यह है कि अभी तक हम शेड्यूल्ड कास्ट और शेड्यूल्ड ट्राइब्स का रिजर्वेशन रख कर उसके मुताबिक उनको प्रतिनिधित्व देते हैं। मैं तो यह भी राय दूगा कि उनकी सीट तो रिजर्व होनी ही चाहिए, लेकिन उसके साथ जनरल सीट में भी उनको जगह मिलनी चाहिए । आप ऐसे कानुन बनाइये कि जनरल सीट में भी जितनी उनकी पापुलेशन है, उसके मताबिक उनको रिप्रेजेटेश**ा** दीजिए। और इसके

अलावा जनरल सीट में प्राविजन किया जाय कि वह भी खड़े हो सकें। आज भी खड़े हो सकते हैं और मुझे खुशी ऐसी है कि राजस्थान से एक दो आदमी आये हैं लोक सभा में, लेकिन मैं समझता हूं कि यह थोडा है, यह कमी ही होता है। तो इसका भी ध्यान रखना चाहिए और यह बात आदिवासी और शेड्यूल्ड कास्टस पर भी लागू होती है।

एक बात में और केंह दूं। आज यह टेंडेंसी है कि जहा शेड्युल्ड कास्ट के लिए रिजर्वेशन हो गया है, वहां के हाई कास्ट बंध चाहते हैं कि वह सीट जल्दी से जनरल हो जाय ताकि हम चुनाव लड सकें। इसमें जो राम्ता हमारा रुका हुआ है इस शेड्यूल्ड कास्ट का रिझवं सीट को हटाइये और दूसरी तरफ फैंक दीजिए। किसी भी पोलि-टिकल पार्टी के वर्कर हो, यह टेंडेंसी हमने देखा है कि वह पूछते हैं कि यह सीट कितने दिन तक रिजर्व रहेगी। यह टेंडेंसी हो रही है तो इसको चैक करना चाहिए। ऐसा नही होना चाहिए कि जो लडते हैं, वहा से जीत कर आते हैं, अगर उनकी कांस्टीट्युएंसी बदल जाए तो बड़ा मुश्किल हो जाता है। इसलिए ऐसी स्टेज तक पोलि-टिक्स को नही आना चाहिए । स्टेटिस्टिक्स के आधार पर रिजर्वेशन होना चाहिए। वहां से काग्रेस का उठता है या जनसंघ का उठता है चाहे किसी पार्टी का उठता है, जिसको जनता चूनेगी। वही चुनकर आयेगा। लेकिन जहा तक कांस्टीटयुएंसी का सवाल है वह स्टेटिस्टिक और साइंटिफिक ढ़ग से बनाना चाहिए।

यह बात कही गई कि जो डिलिमिटेशन होगा, इसमें कोर्ट की पावर नही रखी गई है। यह बहुत ठीक किया गया है। आजकल देखिये कोई चुनाव होता है तो कोई कोर्ट में जाकर पिटीशन करा दिया जाता है। कोर्ड ही सब फंसले करेगा तो एक्जी-क्यटिव की क्या जहरत है ? चीफ मिनिस्टर

और प्राइम मिनिस्टर आर्डर देंमें, लेकिन सुप्रीम कोर्ट में लोग चले जायेंगे ...

श्री नदल किशोर: पासवान जी, मैंने यं कहा था कि कुछ महीनो से न्यायालयों के खिलाफ एक अविश्वास का वातावरण पैदा किया जा रहा है, यह अच्छा नहीं है।

श्री भोला पासवान शास्त्री : अविश्वास नही किया जा रहा है। वातावरण यह बन रहा है कि हमारे देश में समुचे विकास को, बहां गरीबी हटाना चाहते हैं, समाच का उत्थान करना चाहते है, वहां न्याय विभाग कितना साथ देता है। पाइंट यह है कि जो आपने समझा है, मैं धुष्ठता नहीं करता हूं, मै कहता हूं कि वह स्पिरिट गलत है। कोर्ट से समाज का कोई परिवर्तन नही हुआ है। दुनिया के इतिहास में बता दीजिए कि न्याय विभाग ने समाज का परिवर्तन किया है। वह परिवर्तन गवनंमेंट ने किया **है** और **सब**से बढ़ कर जनता ने किया है। इसिंखए जो कानून हमारे समाज को बढाने में बाधक हो, हमने कहा कि उस कानुम को हम माथे पर नही रखेंने, उस कानुन पर हम अंकुश रखेंगे, समाज को आगे बढ़ाने में, विकास करने में, अगर वह बाधक है तो सौ दफे उसको बदल देगें। इसके बारे में मेरा दिमाग बिलकुल साफ है। इसलिए कोर्ट में क्या होगा? कोर्ट को एक्जी-क्यटिव पावर दे दीजिए। मिनिस्टर आईर देता है तो आजकल ऐसा वातावरण **बन** गया है कि इंजेक्शन कराया जाता है। मै न्याय का विरोधी नहीं हूं, न्याय विभाग का विरोधी नहीं हूं, लेकिन न्याय विभाग भी गवर्नमेंट का एक पिलर है, स्तम्भ है । अगर उसकी टेडेसी यह हो कि हम इस चीज को रोकों, आगे नहीं बढ़ने दें तो मैं इस चीज का विरोधी हूं। क्या आप समझते है कि न्याय विभाग मे जो काम करते हैं उसमें पोलिटिक्स नहीं है, उसमें पोलिटिक्स की जरूरत नहीं है ? अगर आप समझते है कि नही है, तो मैं हैरानी में पड़ जाऊंगा।

श्रि भोला पानवान शास्त्री ] में समझता ह कि है। लेकिन चुकि हमे न्याय विभाग को रखना है, इसलिए हम जबान बन्द किये हुए हैं। तो इस सिस्टम को गवर्ममेट ने चलाना है और इसको अच्छा भी बनाते जाना है और इसको रखना भी है और इसमें सुधार भी करना है। यह कोई न्याय विभाग ऐसा मान कर चलेगा। आखिर वह किएशन किसके हाथ का है? मनुष्य का है। वह विभाग सबसे ऊपर है, मैं ऐसा नहीं मानता है। मैं मानता है, चाहे न्याय विभाग हो चाहे एकजीक्युटिव्ह हो--आज आखिर यह गवर्नमेट का परिवर्तन क्यो होता है ? मिनिस्टर बदले जाते है. प्राइम मिनिस्टर बदला जाता है, एम० पीज॰ बदले जाते है, गवर्नमेट बदली जाती है। यह राइट है जनता को, उसके बल पर है। उसी तरह से न्याय विभाग कोई ऊपर आसमान से नही गिरा है। उसमे कोई स्टेटिक चीज नहीं है। इसलिए मैं साफ कह देना चाहता ह, इसमे जो न्याय विभाग को पावर नही दिया गया है, तो सही किया गया है और नही देना चाहिए। इस से काम नही होगा। ( Time bell rings ) इस कानुन के बारे मे मेरा विचार है और मैं देखता ह, मिला जुला कर बिल तो उत्तम बिल है, इसमें बहस ही नहीं होनी चाहिए. झट से पास कर देना चाहिए। सिद्धात रूप मे ऐसी कोई बात नही है, जिसका विरोध किया जा सके । कास्टीट्यशनली ठीक है, लीगली ठीक है, इसलिए मेरी राय मे ऐसी कोई बात नहीं है, बिल में इतना विलम्ब किया जाए और खास तौर से मैं फिर मिनिस्टर साहब की तवज्जह दिलाउना कि शेष्ठयुल्ड कास्ट और शेष्ठयुल्ड ट्राइब्स को कास्टीट्युशन मे जो प्रोटेकशन्स दिए हए है, इसके बावजुद उनको राइट ठीक से मिला ही नहीं तो उनके बारे में इसमें प्रोविजन किया जाए, वे आगे बढे इस बात का ख्याल रखा जाए।

SHRI K LAKSHMANA GOWDA (Mysore). Mr Deputy Chairman, Sir. this Delimitation Bill, 1972, has been brought here as a Constitutional obligation After the previous census, a Delimitation Commission was appoint-It went round and delimited the constituencies After the 1971 census at has become obligatory to have another Delimitation Commission, because there has been an increase in population and there have been so many changes in principle everybody should support this Since this is a Constitutional obligation, there is no point in further discussing that particular aspect.

So far as the actual functioning of this Commission is concerned, when the first Commission delimited the constituencies, they came across a lot hurdles One of the things mentioned by the Election Commission is that the last Delimitation Commission had a lot of difficulty in doing its work because of lack of facilities from the State Governments They have gone to the extent of saying in their report that even the required maps were not made available, so, that put them into a great difficulty. Then certain doubts arose, whether the delimitation was done properly because, as is well known, politics, communal considerations and the personalities of particular constituencies interfere a great deal in delimitation work. That is why the Constitution has provided that the work of delimitation should be given to persons who are apparently above political considerations. With that idea, the Commission here has got as its members judges, the Chief Election Commissioner and other representatives from the Assemblies and the Lok Sabha Sir, here I would like to say that delimitation should conform more or less to equality in population in each constituency, that it should cover geographically compact areas, and the administrative should not generally be disturbed Delimitation Commission should take these factors into consideration.

197

Sir, it was found that the last Com mission took nearly 3½ years to complete its stupendous work. Even though this Bill has been brought immediately after the recent census, I hope the Minister will give special consideration to get all facilities from the State Governments and other bodies, to see that this work is done properly, so that the Delimitation Commission provides proper constituencies for representation of the people in the State Assemblies and in the Lok Sabha.

So far as the constitution of the Commission is concerned, I certainly agree with my friends, Mr. Chandrasekharan Advani, that it is definitely and Mr. better to have sitting judges. A lot of complaints have been made and in the other House while speaking on this Bill one honourable Member even went to the extent of saying that he functioned as one of the assessing members and after the decisions were taken, just before the announcement of the decisions, last minute changes were made. This is a serious objection and I would support the view that they should be sitting judges either of the High Court or of the Supreme Court. And, as my honourable friend, Mr. Chandrasekharan said, there is no technical difficulty about it, about bringing in sitting judges into the commission. With regard to the Associate members Members of the Lok Sabha and Members of the Assembly, I think it is quite in order and we cannot say that they can also sit as the final deciding factor, because we cannot say they will be above political considerations. And whatever suggestions they make in order to make delimitation proper should be made. And any additional information that is required can be got under provisions of section 7 which provides that the Commission can summon witnesses, acquire information, etc. So they should function only as assessors give their opinion and it is only just that the final decision of this should rest with

the Commission as sucn. I also agree here that so far as publication of the decisions is concerned, what had happened in the past is whatever was published in the Gazette lost notice of the general public. So it is only desirable that wide publicity should be given, about publication of this so that people who are concerned and who are aggrieved can appear before the Commission or bring their points to the notice of the Commission. I also support the view that so far as the appointment of Members of the Lok Sabha and of Legislative Assemblies is concerned, adequate representation should be given to the Opposition parties. It was mentioned here that in view of what has been happening on the part of Speakers and others in the State Assemblies, it would be certainly a matter for consideration which I hope the Minister will give adequate thought to so that again considerations will political brought in while delimiting constituencies. There are certain things which do not come under the strict scope of this Bill but which are also relevant in the discussion of the Bill and which have been referred to by some honourable friends in the other House. First is the increase of strength of the Lok Sabha. A circular was sent some time back that the Election Commissioner suggested that the strength of the Lok Sabha be increased with an ad hoc membership of 570. This was done with a view to providing representation to the newly formed States or Union Territories. And that was done on the basis of calculating one million voters for each constituency and there are 560 million population. Probably they took into consideration that it may be 570 millions in the near future. I would like to point out here that membership of the Lok Sabha cannot increase in proportion to the increase in population. Even if we take the predelimitation, we find that a State Haryana with about 9 million population has only seven Members and a State like Himachal Pradesh with a population of 3 millions has four Mem-

200

[Shri U. K. Lakshmana Gowda] bers. So it will have to take into consideration the delimitation of the actual constituency, and as such, I do not think that we can increase the strength directproportion to the increase population. So far as giving adequate representation to the Scheduled Castes and Scheduled Tribes is concerned, has been provided for and it can done, not by increasing the number of membership, as my friend, Bhola Paswanji, was saying. What should be done is it is for the political parties to decide how many of the Scheduled Caste and Scheduled Tribes candidates they should put up either in the Reserved Constituency or in the general constituency. Every political party talks about it, but when it comes to actual implementation, actually providing tickets for Scheduled Castes and Tribes among their party members, so many other considerations come in...

SHRI KOTA PUNNAIAH (Andhra Pradesh): I want a clarification from Shri Gowda. Just now you have » said that there is no need for increasing the number of seats as the population increases. Recently Government thought of bringing a legislation to increase the seats in the entire country taking into account the increase in the population. If the population of the Scheduled Castes and Scheduled Tribes increases, you have to increase their seats.

SHRI U. K. LAKSHMANA GOWDA: It is a question of adjusting the existing seats. I do not accept that we should go on increasing the number of seats in the Lok Sabha. Actually it is a question of adjusting the number of Scheduled Castes and Scheduled Tribes seats within the present constituencies. I do not say that their representation should be cut down. I would like the present number of seats to be retained for each State and within the State representation should be on the basis of the population of Scheduled Castes and Scheduled Tribes. My friend Shri Kumbhare has brought forward certain amendments which give a different picture altogether. Instead of having them clustered in one constituency, you give them a wider representation within the State itself. I would say that it is a matter of adjustment within the State itself.

So far as election as such is concerned, it has been mentioned in this House as well as in the other House that it is difficult to handle a constituency of more than a particular number of people. This is because of the type of election we have. It is high time that we revise our old election system. was discussed in the Constituent Assembly itself. The expenditure is increasing under the present system of election. If you have an election system based on proportional representation and preferential votes as we have in some of the Central European countries, to a great extent, in my humble opinion, it will reduce the election corruption. That is a matter which has to be given serious consideration, even though it is slightly beyond the scope of this Bill. With these words, I support the Delimitation Bill.

SHRI N. H. KUMBHARE (Maharashtra): Mr. Deputy Chairman, our Republican Party has been agitating for a change in the election law. We have made a specific demand that the present election system is defective as it does not give representation to all political parties in an equitable and just manner. Now we have got single number constituencies both for election to State legislatures and also to Lok Sabha. Single number constituencies will be very just and proper if there are only two major parties in the contest. But unfortunately in our country we have got so many political parties. Even in this House, Mr. Deputy Chairman, you are required to handle as many as 20 parties of which ten have got only one representative. The general election results of all the respective parties will show that even

a candidate who polled only 20 per cent of the total votes is elected. It means that 80 per cent of the voters who have voted against the elected candidate, remain unrepresented. Therefore, Party has been demanding multi-number constituencies because that system will ensure representation to a larger number of electors. The system should be based on multi-number constituencies with cumulative system of voting. For instance, if there are three assembly constituencies they are to be put together, then every elector will have three votes and he has the choice to put all the three votes in favour of one candidate of his choice. The three candidates representing different parties and larger number of electors are likely to be returned. This will also give representation to different political parties. That has been our demand for which we have been agitating, for giving representation to larger number of electors all that we demand that there should be a change in the election law and it is for that purpose that I raise this demand.

Therefore, Sir, I reiterate my demand that there should be a change in the election law and the present system of elections being defective should be changed. Thank you, Sir

श्री न(गेश्वर प्रसाद शाही: उपासभापित महोदय, इस विधेयक के संबंध में मुण्डा साहब ने जो विचार व्यक्त किया है उस का समर्थन करते हुए मैं निबेदन करना मिलता हूं कि पासवान जी तो चले गये, बह चाइते हैं पिछडे वर्ग के लिए सब कुछ करना, मगर बरते हैं कि शासक पार्टी में हैं तो कैसे कहें और उस को कैसे करें। उन्होंने सुझाव दिया कि हरिजनों के लिए, अनुसूचित जातियों के लिए अधिक प्रतिनिधित्व होना चाहिए। इस विधेयक में जहां पर इस बात की व्यवस्था है कि उन को आबादी के अनुपात में प्रतिनिधित्व होना चाहिए। सं सकतें विद्या जाय बहां पर वह संशोधन ला सकतें

थे कि अनुपात का दूना प्रतिनिधित्व उन को दिया जाय, या डेढ गुना प्रतिनिधित्व उन को दिया जाय, परन्तु उन की हिम्मत नहीं हुई श्री ओम मेहता जी के डर के मारे कि वे विधयक में सशोधन ले आयें। विचार सब उन्होंने व्यक्त किये...

**डा० भाई महाबीर** : श्री ओम मेहता डराते नहीं ।

श्री ओम् मेहला : आप डरते नही ?

श्री नागेश्वर प्रसाद शाही: मै तो बहुत डरता हं, आप निकलवा कर बाहर कर देगें। तो उन्होंने विचार सब व्यक्त किये कि अनुपात मे अधिक मिलना चाहिए, अधिक लोगो को यहां अवसर मिलना चाहिए लोक सभा में, विधान सभा में, राज्य सभा में, परन्तु विधेयक में कोई संशोधन लाना नहीं चाहते। उस के लिए पासवान जी तैयार नही है। इस तरह के प्रतिनिधि परिगणित जातियों के और पिछड़े वर्गों के जब तक लोक सभा में और विधान सभाओं में आते रहेंगें जो अपनी मुरक्षा का ध्यान पहले रखेंगें, अपने हितों का ध्यान पहले करेंगे और जिन का प्रतिनिधित्व करते हैं उन का ध्यान बाद में करेंगे तब तक उन का कल्याण नही हो सकता...

श्री एन० एच० कुम्भारे : ऐसा हो रहा है क्या ?

श्री नागेश्वर प्रसाद शाही: हो रहा है। तो विचार तो व्यक्त किये उन्होंने, लेकिन हर के मारे उन को जामा पहनाने का या कार्यंरूप देने का प्रयास उन्होंने नहीं किया। मैं श्रीमान, आडवाणी जी द्वारा व्यक्त विचार का समर्थन करता हूं कि जहां जहां इस में लोक सभा सदस्य का जिक है वहां वहां संसद सदस्य होना चाहिए क्योंकि लोक सभा में राज्यों के प्रतिनिधित्व का सवाल है। किस राज्य को लोकसभा में कितना प्रतिनिधित्व मिले यह फैसला करना है और यह फैसला जो

हा : [श्री नागेश्वर प्रनाट शाही]
सिमिति करेगी उस को सुझाव देने के लिए भी
राज्य सभा के सदस्य को शामिल न किया जाय
इस से ज्यादा अनुचित व्यवस्था और क्या हो
सकती है।

दूसरी बात श्रीमन, जो माननीय चन्द्र-शेखरन जी ने कही, अवकाश प्राप्त सुप्रीम कोर्ट और हाई कोर्ट के जजो को इस आयोग में शामिल करने के बारे में, उस संबंध में मैं कहना चाहता हूं कि पता नहीं क्यों सत्ताधारी दल यह जानते हुए भी कि इस तरह की व्यवस्था न्यायाधीशों को भ्रष्ट बनाने का एक सीधा प्रयास है, तब भी वह इस तरह की व्यवस्था करता है और इस बात पर भी ज्यादा जोर देने को तैयार नही है। जब से इस तरह की व्यवस्था हुई तब से जैसे ही रिटायरमेंट की उम्र नजदीक आने लगती है और रिटायर होने के दो, तीन साल बाकी रह जाते हैं तब से जज़ज के फैसलों का रूप बदलने लगता है और कम से कम उन के मुकदमों में जिन में सरकार एक पार्टी होती या सरकार जिन में इंटरेस्टेड होती है उन के फैसलो का स्वरूप ही वदलने लगता है। एक दूसरा कारण और है श्रीमन, कि जिस की वजह से अवकाश प्राप्त जजों की नियुक्ति नहीं करनी चाहिए और वह कारण यह है कि आप एक तरफ तो सरकारी अधिकारियो और कर्मचारियों की रिटायरमेट की आयु 58 से घटा कर 55 करना चाहते हैं, और आप ने कुछ राज्यों में ऐसा किया भी है और आप इस तरह की नीति बनाये है कि जिस का सीधा लक्ष्य है कि वह नौजवान जो युनिवर्सिटी और कालेजों से निकल रहे है, जो बेकार है उन को काम मिले, तो एक ओर तो यह है और दूसरी ओर आप यह व्यवस्था कर रहे हैं कि जो जज 60, 62 वर्ष की आयु में अवकाश प्राप्त करते हैं उन को अवकाश प्राप्ति के बाद भी तीन, चार और पाच साल तक काम दिया जाय । सुप्रीम कोर्ट और हाई कोर्ट के जज 3000, 3500 और 4000 और 5000 रुपया तनस्वाह पाते हैं । दस साल, पन्द्रह साल तक इतना वेतन प्राप्त करने के बाद

और अवकाश प्राप्त करने के बाद जहां दो हजार रूपये पेंशन के रूप में पाते हैं आप उनके लिए और व्यवस्था करने की बात सोचते हैं और वह लाखों ल ख लोग जो युनिवर्सिटीयों से निकल कर इंजीनियरिंग कालेज से निकल कर बेकार पड़ें हुए हैं, आप उनकी बात नहीं सोचते । आप उनकी लिप सर्विम करते हैं, जवाना बात करते हैं बेकारी का समाधान ढूंढने का । उस समाधान के विपरित व्यवस्था करते हैं । इस तरह की व्यवस्था करके रिटायर्ड लोगों को, अवकाश-प्राप्त लोगों को काम देने की व्यवस्था करते हैं।

एक तीसरी बात श्रीमन यह कहना चाहता हूं कि रिटायर्ड लोगों को, रिटायर्ड जजेज को, इस तरह से आप आयोगों में रख कर —चाहे वेतन आयोग में रखें, चाहे मूल्य आयोग में रखें, चाहे परिसीमन आयोग में रखें - आप उन्हें रखकर उनकी मनोवृत्ति पर इस तरह का प्रभाव डालते हैं कि वह रिटायर होते से पहले से ही ऐसे प्रयास करे ताकि सरकार रिटायर होने के बाद उन्हें किसी न किसी आयोग मे अवश्य शामिल कर दें। इस मनोवृत्ति का आम तौर पर क्या असर होता है, आप इसका आभास कर सकते हैं। हाईकोर्ट और सुप्रीम कोर्ट के जज की ऐसी मनोवृत्ति बन जाए कि रिटायर होने के बाद सरकार उसे किसी न किसी आयोग में रख 🥣 देगी तो उसका अंजाम क्या होगा, आप समझ सकते हैं। पर श्रीमन, यह अच्छा है कि यदि कार्यरत सुप्रीम कोर्ट के और हाईकोर्ट के जज इन आयोगों में रखे जाए तो उनके स्थान पर और लोगो को आप जज नियुक्त करें तो ज्यादा लोगों को काम दे सकते हैं। इस ध्येय से भी आपको रिटायर्ड जजो को, आवकाश-प्राप्त जजों को, हरगिज आयोग में नही रखना चाहिए ।

अब मैं दूसरी बात कहना चाहता हूं, श्रीमन वह परिगणित और अनुसूचित जनजातियो के हित के बारे में है।

अनुसूचित जन-जाति के हित के बारे में आप जहां यह व्यवस्था िन्ये हुए है, विधेयक

की धारा 9(1) के (ग) और (घ) में कि जहां उनकी आबादी ज्यादा हो वहां उन्हें प्रति-निधित्व दिया जाए । तो आप कह सकते है, वे कुछ क्षेत्रों में ही लोकलाइज्ड हैं परन्तु परि-गणित जातियां तो हर क्षेत्र में फैली हुई हैं, उनकी संख्या कही अधिक है कही कम है और श्रीमन्, आप सेन्सस उठा कर देखें क्षेत्र-वाइज तो आप पाएंगे कि जहां पर उनके लिए रिज-वेंशन होता है, आरक्षण होता है, वहां उसके बगल वाले क्षेत्र में जहां आरक्षण नही होता है उनकी आबादी में पचास, सौ, डेंढ सौ का फर्क है, आज की व्यवस्था में यह है ( Time bell rings) मै समाप्त कर रहा हूं, एक क्षेत्र के परिगणित जाति के लोगों को ही हमेशा प्रतिनिधित्व मिलता है और उसके बग़ल वाले परिगणित जाति के लोगों को कभी भी प्रति-निधित्व नही मिलता है। हमारे अपने क्षेत्र की बात श्रीमन, देख लें, उत्तर प्रदेश में गोरख-पूर जिले में बोसगांव संसदीय क्षेत्र 1952 से लगातार आज तक आरक्षित है और उसके बग़ल वाला क्षेत्र जो है उस क्षेत्र के हरिजनों की आबादी में तीन सी, चार सौ का फर्क है लेकिन केवल एक ही क्षेत्र के हरिजनों को प्रति-निधित्व मिल रहा है आज बीस साल से और दूसरे क्षेत्र के हरिजनों को नही मिल रहा है, उनको अवसर नहीं मिल रहा है कि वे भी अपना प्रतिनिधि भेजें। जिस समय प्रथम बार विधे-यक संसद में प्रस्तृत किया गया था 1951 में उस समय यह बात उठाई गई थी, यह सवाल उठाया गया था कि एक ही क्षेत्र के आरक्षण से दूसरे क्षेत्र के परिगणित जाति के लोगों को प्रतिनिधित्व नही मिल पाएगा । अगर 5 संस-दीय क्षेत्र है, 5 में आपने 1 को आरक्षित कर दिया तो एक ही परिगणित जाति के क्षेत्र के लोगों को लाभ मिलेगा, उनको ही हमेशा प्रति-निधित्व मिलता रहेगा और बगल वाले को नहीं मिलेगा । उस समय यह सवाल उठाया गया था और उस समय माननीय मंत्री जी ने यह आश्वामन दिया था कि यह बहुत ही उचित सवाल है और यह आरक्षण चक्रानुक्रम के हिसाब से. यानी रोटेशन के हिसाब से, घुमते रहना

चाहिए। 10 साल यह क्षेत्र रहे, उसके बाद 10 साल दूसरा क्षेत्र रहे, ताकि हर क्षेत्र के परिगणित जाति के लोगों को बारी बारी से अपना प्रतिनिधित्व मिलता रहे संसद में और विधान सभाओं मे और मैं माननीय विधि मंत्री से कहना चाहता ह इसमें कोई संविधान संबंधी कठिनाई या अडचन भी नही है। उनके विधि परामर्श-दाता जिनके विधि के ज्ञान पर मुझे बहुत शंका रहती है, कुछ ऊटपटांग राय दिया करते हैं, वे शायद यह कह दिए है कि यह तो संविधान मे जो व्यवस्था है उसके विप-रीत होगा । मैं कहना चाहता हं, यह संविधान की व्यवस्था के विपरीत नहीं होगा। संविधान में जो व्यवस्था है उसी के अनुरूप होगा बल्कि और भी उचित होगा और सभी क्षेत्र के परि-गणित जाति के लोगों को संसद में और विधान सभाओं में प्रतिनिधित्व मिलेगा । मैं श्रीमन्, आपकी आज्ञा से मंत्री महोदय से चाहता हं कि इस विधेयक में ऐसी व्यवस्था करें कि धारा 9(1) के (घ) के बाद (इ) क्लाज जुड़े जिसके अनुसार यह आरक्षण चका-नकम से, यानी रोटेशन के हिसाब से, ही हआ करेगा। धन्यबाद। i<del>s ...</del>

श्री सवाई शिह लिसोदिया (मध्य प्रदेश) : उपसभापति जी, जो परिगमन विधेयक इस सदन में विचारार्थ प्रस्तुत किया गया है, उसका मैं अनुमोदन करता हूं। मैं माननीय मंत्री जी का ध्यान कुछ महत्वपूर्व मुद्दों की ओर आक-र्षित करना चाहता हुं। यह बात सही है कि यह संवधानिक अनिवार्यता है कि प्रत्येक जन-गणना के बाद परिसीमन के लिए कमिशन का गठन होता है। लेकिन मैं इस सम्बन्ध में यह कहना चाहता हं कि केवल संविधान की अनिवार्यता की पूर्ति का लक्ष सामने नही होना चाहिये बल्कि उम पूर्ति में इस बात का भी जरूर ध्यान रखा जाना चाहिए कि अच्छे ढंग से कार्य हो और जो पिछला अनभव है उससे सबक लेना चाहिये क्योंकि 1962 में इस प्रकार का विधेयक लाया गया था. उस समय विधान बना, लेकिन कमिशन ने जो निर्णय दिये उससे

(श्रो सवाई सिंह सिसोदिया) काफी हमारे देश में, प्रदेश में बहुत से हिस्सों में असंतोष रहा । मैं इस सम्बन्ध में एक उदा-हरण सदन के सामने रखना चाहंगा। प्रदेश के तीन जिलों मे तीन अलग अलग लोक-सभा सीटों के लिए विभाजन किया गया था और जो 1962 में कानून बना था उसमें यह बात साफ थी कि जहां तक हो सके भौगोलिक दुष्टि से, एडमिनिस्ट्रेशन की दष्टि से युनिट्स को ध्यान में रखकर इस प्रकार की सीटें बनाई जानी चाहिये जिसमे लोगों को सहलियत रहे और चुनाव सही ढंग से सम्पन्न हो सके। लेकिन ऐसे उदाहरण है कि जहां पर असम्बन्धित हिस्सों को मिलाकर सीटों का निर्णय दिया गया जिससे लोगों को बहुत तकलीफ हुई और बीच में जो नदियां और पहाड़ पड़ते हैं उनका भी ख्याल नही रखा गया और इस प्रकार की सीटों को बनाने के बारे में निर्णय दिया गया। इसलिए मैं मंत्री जी से यह निवेदन करना चाहता हं। इस समय जो आपने विधेयक प्रस्तुत किया है उसके क्लाज तीन में जहां परिसीमन आयोग का गठन का उल्लेख है। उसमें तीन सदस्यों के लिए जो शर्त्त रखी है, उसमें से दो सदस्य केन्द्रीय सरकार द्वारा नियुक्त किये जायेंगे जिनमें से प्रत्येक ऐसा त्यक्ति होगा जो उच्च-तम न्यायालय या किसी उच्च न्यायालय का न्यायाधीश हो, या रहा हो । इस सम्बन्ध में मेरा यह सुक्षाव है कि जो न्यायाधीश हो वही होना चाहिये। जो रहा है उसको अगर रखा जाता है तो वह उचित नहीं होगा । हमारा जो पिछला अनुभव है वह इस सम्बन्ध में काफी कटु है। जो आदमी न्यायाधीश रहा हो, वह किसी के प्रति जिम्मेदार नही रहता है, उसका भविष्य किसी प्रकार का नही है और इसलिए हम अक्सर देखते है कि उनका जो निर्णय होता है वह जनहित में नही होता, जन-स्वार्थ की दुष्टि से नहीं होता और जनता को नुकसान पहुंचाने वाला होता है। मैं मंत्री जी का ध्यान इस बात की ओर दिलाना चाहंगा कि वे जरूर इस बात का प्रयत्न करेंगे कि जो न्यायाधीश आज है, सन्हीं को इसमें समावेश करें।

दूसरी बात जो मैं मंत्री जी से निवेदन करना चाहता ह वह यह है कि अभी सदन के माननीय सदस्यों ने लोकसभा और विधान सभा की संख्या की विद्ध के बारे में जिक्र किया और कुछ का तो यह भी सुझाव आया कि अगर इस प्रकार की वृद्धि होगी तो लोकसभा का सदन जो छोटा है वह काफी बडा हो जायेगा। लेकिन मेरा आप से यह अनुग्रह है कि आप इस बात पर विचार करें कि संख्या बढाई जावे, संख्या बढ़ाना जरूरी है और वह इसलिए जरूरी है क्यों कि आज साढे सात लाख के ऊपर एक लोकसभा की सीट है। अगर यही स्थिति बनी रही तो करीब करीब जो आज नवीन जन-गणना के आधार पर जो मतदाताओं की संख्या होगी, उसमें दस लाख मतदाताओं से सम्पर्क स्थापित करना साधारण व्यक्ति की ताकत के बाहर है। यह कार्य वही लोग कर सकते हैं जो सब तरह से सम्पन्न हों, जिनके पास अधिक भैली हो, लोगों को रुपया बांटने की गुजायश हो और जो इस तरह के कार्यों के लिए काफी खर्च कर सकते हो । साधारण आदमी और कामन आदमी के लिए तो यह बहुत कठिन है। मेरा आप से यह निवेदन है कि इस तरह की कठिनाई को ध्यान में रखकर आप इस तरह की व्यवस्था करेंगे कि जो आम लोग हैं, जो कामन पीपुल्स हैं, उनको इसमें रिप्रजे-न्टेशन मिल सके और वे लोकसभा की सीट लडने की हिम्मत कर सके। तो संख्या के प्रश्न पर भी इस बात को ध्यान में रख कर विचार किया जाये। अगर बढ़ती है तो उसे जरूर बढ़ाया जाना चाहिए ।

दूसरा निवेदन मुझे यह करना है कि पिछले एलेक्शन कमीशन ने पिछले डिलिमिटेशन के बाद रिपोर्ट प्रकाशित की थी। उसमें उल्लेख है कि, ऐसे भी कई उदाहरण हैं कि आवश्यक नक्शे, रिकार्ड और जानकारी उपलब्ध नहीं हुई और उसका नतीजा यह हुआ कि उन्होंने कमरे में बैठ कर निणंय लिया जबकि उनके पास आवश्यक आंकड़े भी उपलब्ध नहीं थे। मेरा यह सुझाव है कि कमीशन को मौके पर

पहुंच कर निर्णय लेना चाहिए। जैसा मने उदा-हरण दिया कि नदी और पहाड़ का विचार किए बिना एक जिले के तीन हिस्से कर दिए गए और एक हिस्सा एक कांस्टीटुएन्सी मे मिला दिया और दूसरे को दूसरे मे मिला दिया। इस प्रकार के उदाहरण सामने आते हैं जब आवश्यक रिकार्ड उपलब्ध नहीं होता है। इसलिए मेरा सुझाव है कि कमीशन मौके पर पहुचे और इन सारी चीजों का अध्ययन करने के बाद निर्णय ले तभी ज्यादा उत्तम होगा।

अभी जो व्यवस्था है उसमे यह है कि जो एसोसिएटेट मेम्बर हैं उनमें 5 लोकसभा के और 5 विधान सभा के होगे। उनमें हरिजन और आदिवासियों को भी रिप्रेजेंटेशन दिया जाना चाहिए। अगर रिजर्वेशन नहीं रखा है तो न्याय मंत्री जी से मैं निवेदन करूंगा कि नियुक्ति के समय वे जरूर इस बात का ध्यान रखें कि हरिजन और आदिवासी भी एसोशिएटेड मेम्बर्स में शरीक किया जावे।

तीसरा मेरा यह कहना है कि क्लाज 5 मे एसोशिएट मेम्बर जहां का उल्लेख है that the Commission shall associate ten persons five of whom shall be members · of the House of the People उसमे मेम्बर्स हाउस आफ दी पीपूल के बजाय मेम्बर्स आफ पालियामेंट रखा जाय तो सर्वथा उपयक्त होगा । जब इस सदन की बिल की स्वीकृति के लिए भी आवश्यक है, जब राज्य सभा के सदस्यों का गठन होता है ा। वह विधान सभा के सदस्यों द्वारा होता है तब अगर विधान सभाओं के सदस्यों की संख्या बढ़ाई जाय या उनकी कांस्टीट्एन्सी में फेर-बदल हो तो उस दृष्टि से मेरा यह सुझाव है कि जो इसमें केवल लोकसभा का उल्लेख है उसकी जगह मेम्बसं आफ पार्लियामेट का समा-वेश करें तो उपयुक्त होगा। इन सुझाबो के साथ मैं माननीय मंत्री जी से निवेदन करूंगा कि जो इन दो-तीन बातो की ओर मैंने ध्यान आकृष्ट किया है अगर उचित समझें तो जरूर उन पर गौर करे और उनको स्वीकार करने का कष्ट करें।

SANAT KUMAR RAHA SHRI (West Bengal): Mr. Deputy Chairman, we are discussing the Delimitation Bill and in this Bill it is necessary that we consider the delimitation very seriously because the elections are considered to be a festival rather and a political struggle by our common people. This delimitation should be such that it is free from complaints before or after the elections are held. In our country, the people of lower strata, the common people are called upon to participate in these elections in huge numbers. Theirs is the largest participation in this struggle of election. So, this should be considered seriously and the delimitation should be methodical and systematic. In a democracy, the people should not say that creation of this sort of booth or that sort of booth is not in the people's interest. I would suggest some of the following principles only:

- (1) 1 hat the task of the delimitation and functions of the delimitation should be on the basis of a compact body of population.
- (2) That it should be on the basis of a joint consultation with all political parties interested in elections.
- (3) It should be on the basis of principle of easier travel to the booth, avoiding adjoining rivers etc.
- (4) It should be on the basis of not depriving the Scheduled Caste and Tribe people from having their own constituency.
- (5) On the basis of the principle of giving proper representation to the Scheduled Castes and the tribal population in all legislatures.

So all these things should be done in a methodical manner. Therefore I suggest that notices of function should be given to all the parties at the block level. Our Development Blocks are doing all these things regarding delimitation and vested people, interested

## [Shri Sanat Kumar Raha]

people who can get easy hold of the population have contact with the BDOs and they are creating troubles and hurdles against people's interests. So I suggest that all parties at the grass root level, that is, the village level and block level, should be consulted before delimitation so that they can give any suggestion they have for a democratic delimitation system.

With these words I conclude.

MR. DEPUTY CHAIRMAN: Mr. Sakhlecha. You won't speak again on your amendments. You can speak on your amendments also now.

श्री वीरेन्द्र कुमार सखलेचा (मध्य प्रदेश): माननीय उपसभापति महोदय, यह जो परिसीमन आयोग के बारे में बिल लाया गया है, मेरा यह निवेदन है कि यह अत्यन्त महत्वपूर्ण है प्रजा-तंत्र में । केवल हम यह कह दें कि वोट देने का अधिकार हमने दे दिया है तो केवल यह कह देने से या केवल इसके कारण ही देश में प्रजातंत्र स्थापित नही हो जाता । वास्तव मे प्रजातंत्र मे जनता को पूरा पूरा प्रतिनिधित्व मिले इस की व्यवस्था होनी चाहिए और इस दुष्टि से जहां वोटिंग सिस्टम का अपनी जगह बहुत महत्व है वहां पर किस प्रकार से कांस्टी-ट्यूयेंसीज का परिसीमन होता है यह बात भी अत्यन्त महत्वपूर्ण है । हम प्रजातंत्र की बात करते हैं। आज रुस के अंदर भी वह कहते है कि हम ने वोटिग राइट दे रखा है लेकिन वास्तव मे वहां पर क्या प्रजातंत्र है ? यह सब लोग जानते हैं कि वहां कोई प्रजातंत्र है या नहीं है, लेकिन कहा यही जाता है कि जनता को उन्होने बोटिंग राइट दे रखा है। इस दिष्ट से मेरा निवेदन है कि जहां हम पारेसीमन करते हैं तो उस परिसीमन के अंदर भी वास्तविक जनता के प्रतिनिधि उन क्षेत्रों से चन कर आ सके लोक सभा मे और राज्यों की विधान सभाओं मे और जनता के वास्तविक प्रतिनिधि वहां पहुंचे और वे सदन जनता का वास्तविक प्रतिनिधित्व कर सकें इस दिष्ट से यह परिसीमन अत्यन्त महत्वपूर्ण है। अब िन िद्धांतों पर यह किया जाय यह एक दूसरा प्रश्न है जो मैं उठाना चाहता हं। हमारे मित्र मण्डा साहब ने इस बात पर भी प्रकाश डाला था और भोला पास-वान शास्त्री जी ने भी कहा था कि अनपात की व्यवस्था रखी जाय ताकि जनता का, कामन मैन का प्रतिनिधित्व हो सके जो अभी नहीं हो सकता और उस के कारण है। आप देखें कि किस तरह से एलेक्शन होता है, कैसी कांस्टी-टयमेंसी होती है। आज हमारा आधार जो है वह संविधान का आर्टिकल 81 और 170 है और उस के आधार पर हम डिलिमिटेशन कमीशन द्वारा कांस्टीट्यूयेंसीज का डिलिमि-टेशन करते हैं । संविधान की धारा 81 और 170 जो है उस में जो आधार दिया गया है वह है पापुलेशन का, कि पापुलेशन के आधार पर कांस्टीट्य्येंसीज बनायी जायेंगी । उसमें केवल एक ही फैक्टर के ऊपर सारा जोर है--

#### 4 P. M.

[RAJYA SABHA]

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

यहां केवल पापूलेशन का कंसिडरेशन हैं। हाउस आफ पीपूल की जो सीट्स बनाई जाएंगी उनका जो टोटल पापुलेशन है उनका वही रेशियो रहेगा । अब इसके अन्दर एरिया से कोई सम्बन्ध नहीं है। एक कंस्टीट्य्अंसी ऐसी हो सकती है जो केवल 3 स्कवायर मील के एरिया के अन्दर है और एक दूसरी कंस्टीट्युयेंसी ऐसी है जो 300 वर्गमील के अन्दर फैली हुई है। अब इनके अन्दर कोई अन्तर पडता है कि नहीं ? तीन मील के एरिया की कंस्टीट्य्येंसी के अन्दर वहां का प्रतिनिधि जनता की कठिनाइयों को जानेगा, उनकी प्राबलम्स को लेकर इस सदन के अन्दर मखरित करेगा, उनका सही रूप मे प्रतिनिधित्व करेगा । अगर सम्पर्क ही नहीं रख सकता तो प्रतिनिधित्व क्या करेगा? आज हमारे देश मे यह हालत है कि पत्नों के जरिये से साधारण आदमी अपनी कठिनाई जनता तक पहुंचा सकता है। ऐसी हालत में चुनाव लडने मे कितना अन्तर होता है। जैसे मेरे भाई शैड्यल्ड ट्राइब के लोग कह रहे थे खास करके शैंडूल्ड ट्राइब की इदौर पार्लियामेट्री कस्टीट्युयेसी और बस्तर की पार्लियामेट्री कस्टीट्युयेसी के बारे मे कि बस्तर की पार्लिया-मेट्री कस्टीट्ययेसी का एरिया केरल के पूरे स्टेंट के बराबर है और केवल दो कस्टीट्य्येसी जोड करके बस्तर के अन्दर 300 वर्ग मील का लम्बा-चौडा एरिया है। वहा से चुनाव लडेगा आदिवासी ? क्या आप समझते हैं कि आदिवासियो के पास इतने साधन है, इतना पैसा है कि वह अपने लोगो के पास भी पहुच सके ? अगर ये साधन नहीं है तो जो पोलि-टिकल पार्टी उसको पैसा दे सके, वह उसके ऊपर डिपेडेट होगा । इसलिए पैसे के आधार पर इस तथ्य को स्वीकार करना पड़ेगा कि लोकसभा का चुनाव लड़ने में पैसे का बड़ा प्रश्न है और इसमे 7-8 क्षेत्र ऐसे है जो कि मीलो फैले हुए हैं। मुझे स्वय मालूम है, उप-सभापति महोदय, कि मेरे विधान सभा की कस्टीट्यू-येसी सौ मील लम्बी है। वह केवल विधान सभा की कम्टीट्यूयेसी है और पजाब की आप देखेगे कि 15-20 मील के अन्दर एक ऐसेम्बली कस्टीट्य्येसी आ जाता है । इसलिए केवल पापुलेशन के अधिक होने के कारण यह जो अन्तर है कि कोई 3 मील लम्बी हो और कोई 300 मील लम्बी हो, यह ठीक नही है। इस बिल मे इसका कोई प्रावधान नही है। मेरा कहना यह है कि पापुलेशन के साथ एरिया का कसीडरेशन रखा जाना चाहिए । आधार पर कस्टीट्युयेसी का निर्माण होन चाहिए। हम कह सकते हैं कि कपैक्ट कस्टी-ट्ययंसी मे ज्यादा पापुलेशन रख ले और जो स्कैटर्ड कस्टीट्युयेसी है उनके अन्दर का पापु-लेशन होने के बाद भी इस प्रकार की सवि-धान की धारा 81 और 170 के होने के बाद भी, परिवर्तन करने के बारे मे जरूर विचार करे यदि आप चाहते है कि यह लोक सभा का सदन और राज्य विधान सभाओ के सदन जनता के सही रूप मे प्रतिनिधित्व करे और यहा केवल जनता के प्रतिनिधि आये, केवल साधनो और

पैसे के बल पर ये सदन मे चुनकर न आये, सामान्य आदिवासी के लिए यह संभव न हो कि जब तक उसके पास पैसा नही वह नही आ सके। आज भी इस प्रकार के मैकड़ो उदाहरण है कि जनता एक व्यक्ति को चाहती है, लेकिन उसके पास पूरे साधन नहीं है, उसके पास पैसा नहीं है खर्च करने को ओर उसकी लम्बी चौडी कस्टी-ट्यूयेमी है, इसलिए वह साधनों के अभाव मे जनता द्वारा चुने जाने मे असमर्थ होता है। हम अगर चाहते है कि जनता के वास्तविक प्रतिनिधि चुनाव लड सके, सदन के अन्दर आ सके, उनकी मागो को मुखरित कर सकें और उनसे सपर्क रख सके तो इस आधार के उपर विचार करना आवश्यक है।

माननीय उप-सभापति महोदय, इस बिल के तीन महत्वपूर्ण अग है। पहला कस्टीट्यूशन आफ दि कमीशन । दूसरा, प्रोसीजर जो फौलो किया जाएगा । तीसरा, किन आधारो के ऊपर कस्टीट्ययेसीज का डिलिमिटेशन किया जाएगा। कस्टीटययेसी के बारे मे अनेक सदस्यों ने आपत्ति की है कि रिटायर्ड जजेज को नही रखा जाना चाहिए। मैं एक दूसरी बात उस बात को रिपीट न करके कहना चाहता हू जो मेरे मित्र श्री सिसोदिया कह रहे थे। लेकिन इस बिल के अन्दर सबसे बड़ी कमी है जिसकी ओर मैं सदन का ध्यान आकर्षित करना चाहता हू । धारा 3 के अन्दर आपन कहा कि सुप्रीम कोर्ट के जज या हाई कोर्ट के जज हो । आपने इसमे यह आवश्यक नहीं किया है कि एक तो सुप्रीम कोर्ट का जज होना चाहिए। 1962 की सेसस के बाद जो डिलिमिटेशन कमीशन बना था उसमे जस्टिस कपूर सुप्रीम कोर्ट के जज थे, जस्टिस सिन्हा हाई कोर्ट के जज थे और श्री सुन्दरम चीफ इलेक्शन कमिश्नर थे । इसलिए जब तक हम यह नही करेगे कि कमीशन के तीन मैम्बरो मे से कम से कम एक सुप्रीम कोर्टका जज होना चाहिए, उसमे दोनो हाई कोर्ट के जज कमीशन मे अपाइट किये जा सकते हैं। अगर यह किया गया तो यह इतना महत्वपूर्ण काम है जो विधान सभाओ की संख्या निर्धा-

वीरेन्द्र कुमार सखलेचा ] रित करेगा, वहा की विद्यान सभाओं के अन्दर रिजर्वेशन तय करेगा, सारे देश के लिए, अब हम छोटी छोटी बातो के लिए सुप्रीम कोर्ट के जजो को अपाइंट करते हैं तो इस प्रश्न पर विचार करे कि ऐसे महत्वपूर्ण काम के लिए आवश्यक रूप से डिलिमिटेशन कमीशन का चेयरमैन सुप्रीम कोर्ट का जज होगा, यह प्राव-धान इसमें होना चाहिये। इस बारे में हमने सशोधन भी दिया है। लेकिन आज की जो ष्यवस्था है इस सेक्शन के अंदर, उससे आप शांका कर देंगे। हमें सुप्रीम कोर्ट के जज को जरूर इसमे अपौइन्ट करना होगा । क्यो नही इस कानून के अंदर व्यवस्था की जाए कि दो जजेज मे से एक सुप्रीम कोर्ट का होगा, एक हाई कोर्ट का होगा, एक चीफ इलेक्शन किम-शनर होगा । ऐसा न करने से शकाए पैदा होती है। आप शंका पैदा करके शासन नही चला सकते हैं। तो यदि आपको शंका है तो सुप्रीम कोर्ट का जज अपौइन्ट करने की बात को एक्सेप्ट कीजिए जैसा कि मैने अपने अमेन्ड-मेन्ट मे कहा है ताकि प्रजातत्न के माध्यम से सही रूप से कंस्टीट्युएन्सीज का, पार्लियामेन्ट हो चाहे विधान सभा हो, डिलिमिटेशन हो सके ।

दूसरी बात प्रोसीजर के बारे मे हैं। अभी कुछ आपित्तयां यहां पर की गई। मेरा निवेदन है कि स्टेटिस्टिक्स प्रोवाइड करनी चाहिए सेसम के सारे फिगर्स की क्योंकि एक छोटे से परिवर्तन के कारण, एक पटवारी के इस कास्टीट्युएन्सी से दूसरी कास्टीट्युएन्सी में डालने के वारण रिजर्वेशन होते हैं। हरिजन कास्टीटयएन्मी के बारे मे हमारे मिल्न शाही साहब कह रहे थे कि पापुलेशन मे 300 का डिफरेन्स होने पर लोक सभा की कांस्टीट्यूएन्सी चेन्ज होती है क्योंकि जहा स्टेटिस्टिक्स के आधार पर निर्णय करना चाहिए वहां यह हम सब की इच्छा है और स्टेटिस्टिक्स के अदर .01 के डिफरेन्स के ऊपर कई बार शेडयूल्ड कास्ट की और शेड्यूल्ड ट्राइब्स की कास्टी

टयुएन्सीज तय होती है और उस नाते से चूिक मैंने भी डिलिमिटेशन कमीशन मे काम किया है और मुझे मालूम है, एक पटवारी सिकल या एक गांव को मिलाने मे कास्टिट्यूएन्सी इधर की उधर चेन्ज होती है और इस नाते से इसका स्टेटिस्टिक्स जनता को उपलब्ध हो, प्रपोजल्स पब्लिश हो।

आगे मेरा यह कहना है कि इसमें जो सेकान है कि जो आब्जेक्शन्स किए जाते हैं उन आब्-जेक्शन को भी पर्बालश किए जाने को व्यवस्था को जानी चाहिए नहीं तो एक बार डिलिमि-टेशन कमोशन ने जो प्रपोजल प्रकाशित कर दिए बाद मे उनमे कई प्रकार के आवजेक्शन आते हैं और उन आबजेक्शन्स को स्वोक्तार किए जाने पर बड़ो गम्भोर प्रतिक्रियाए निक-लतो है। लोगों को मालूम नहीं होता है आब-जेक्शन्स क्या है ? उस नाते से जहां पर प्रपो-जल्स पब्लिश होने चाहिए वहा पर आव्जे-विश्वास्य को भो पब्लिश होना चाहिए ताकि आबजेक्शन के बारे में भा कोई अपना मन व्यक्त करना चाहे तो कमोशन की बैठक में उपस्थित हो कर अपना मत बता सके और उन प्रयोजल्स का सही रूप मे निर्धारण हो सके।

तासरो महत्वपूर्ण बात है असोशिएट मेम्बर्स के बारे में। जैंसा कि श्रीमान् ने देखा होगा, सभी सेनशन्स ने इस बात को सपोर्ट किया । आखिर राज्य सभा को क्या हम ससद नहीं मानते जहा पर जा कहा ज्याता है कि देश को जनता की प्रतिनिधि संसद है, पालियामेट है, तो पार्लियामेट केवल लोक सभा से कास्टो-ट्युट नहीं होती। राज्य सभा काउसिल आफ स्टेट्स है । चुंकि मैंने डिलिमिटेशन वमीशन में काम किया है, उसके आधार पर निवेदन करना चाहता हू और सभी लोगों का अनुभव होगा जो एक लोक सभा का मेम्बर या विधान सभा का मेम्बर एक कास्टिट्यूएन्सी से चुन कर आता है उसमा वाइटल इन्टरेस्ट है उस कांस्टि-ट्युएन्सी के डिलिमिटेशन के अदर ! ( Time bell rings) लेकिन पूरे स्टेट का डिलिमि-टेशन किसके आधार पर हो, उसकी दृष्टि से

यह आवश्यक है कि हम पूरो संसद को प्रतिनिधित्व दे । केवल यह कहा गया कि लोक
सभा के मेम्बर डाइरेक्ट्लो लोगो द्वारा चुने
जाते हैं, परन्तु लोक सभा का मेम्बर अपनी एक
कास्टिट्युए सी का प्रतिनिधि है और अगर पूरे
स्टेट को प्रतिनिधित्व देना है तो उस नाते से
राज्य सभा के विषय मे जो संशोधन है—जैसा
कि सिसौदिया जो ने भी उसका समर्थन किया
—जहां पर आप चाहते हैं असोसिटेट मेम्बर्स
पूरे स्टेट के अंदर इन्टेरेस्टेड हों, तो उसके
बारे में प्रपोजल्स रखे और कमोशन के सामने
तथ्यों को रखा जाए । संसद दोनों सदनों से
बनना है, फिर उपसभापित महोदय, एक

श्री उपसमापति : अब समाप्त की जि.ए ।

बार...

श्री वीरेन्द्र कुमार सखलेखा: एक बात मुझे निवेदन करनी है बिल के सेक्शन 9 के बारे में। इस सेक्शन में वह आबार दिया है कि किस प्रकार से डिलिमिटेशन होगा। उसमें लिखा है —

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

अब इन चारों तथ्यों में किस तथ्य को प्राथ-मिकता दी जाएगी ? उसका कुछ उल्लेख नहों। ज्योग्रैफिकल फीचर्स को या फिजिकल फीचर्स को ध्यान में रखा जाए, कम्य निकेशन का घ्यान रखा जाए और पबलिक कन्विनि-येन्स का घ्यान रखा जाए। जहां दोनों फंक्टस आते हैं वहां प्राथमिकता किसको दो जाए, इसका कुछ निर्घारण नहीं। ज्योग्रेफिक फैक्टर किसो भी कंस्टिट्यूएन्सी में इस आधार पर अस्टिफाई किया जा सकता है कि बीच में नदी कम्यनिकेशन का साधन है, नदी के ऊपर पूल है जो कि बाउन्ड्रो है, और अगर पुल नहीं है तो आब्स्ट्रक्शन है। इसलिए इसमें केटेगराइज करना चाहिए कि एड्मिनिस्टेटिव्ह युनिट कौन क्षा मानेंगे। एड्मिनिस्टटिव्ह यूनिट पटवारी सर्किल है, एड्मिनिस्ट्रेटिव्ह यूनिट रेवेन्य सर्किल

है। एड्मिनिस्ट्रेटिव्ह यूनिट ब्लाक का है और एड्मिनिस्ट्रेटिव्ह यूनिट तहसील भी है। अब आपने जैसा कहा है एड्मिनिस्ट्रैटिव्ह युनिट्स का ध्यान रखा जाएगा, तो किस स्टेज पर यह तय करेंगे ? रेवेन्यू सर्विल को ब्रोक अप नहीं किया जाएगा या ब्लाक को ब्रेवः अप नहीं किया जाएगा या पटवार। सर्किल को ब्रेक अप नही किया जाएगा—–यह बमीशन की डच्छा पर है। यह चीज कर्माशन को इच्छापर है। जो-ऐक्ट है उसमें यह चोज रेवैन्य सर्विल तक रखी गई है। एक कांस्टोट्यू एन्सी को दूसरी कांस्टी-ट्यूएन्सो से नहीं मिलाया बायेगा, कम से कम रेवैन्यू सर्किल को जो बाउन्डरी है, उस एड-मिनिस्ट्रेशन युनिट को इन्टक्ट रखा जायना इस प्रकार का विधेयक के अन्दर है और इस चोज को दूर किया जाना चाहिये। (Time bell rings)

एक बात में और कहना चाहना हूं कि आदि-वासियों के रिप्रेजेन्टेशन के बारे मे मेरा ऐसा ख्याल है कि कांस्टोट्यूशन मे इस बारे में जो प्राविजन है, शिड्युल्ड कास्ट और शिड्युल्ड ट्राइब्स के बारे में जो अलग अलग व्यवस्था को गई है, वह उचित ही है और इसके अन्दर परिवर्तन नहीं किया जाना चाहिये अन्यथा जिन आदिवासियों और हरिजनों के बारे में इस तरह की व्यवस्था कर रखीं है, वे एक जगह से दूसरी जगह जा सकते हैं और इस तरह से गडबड हो जायगी। प्रेजीडेन्ट का जो आईर आहि वासियों के सम्बन्ध में है वह ठीक नहीं है और उस को रिवाइक किया जाना चाहिये। इसलिए भो जरूरो है क्योंकि भील जाति जो है वह नेमाड़ जिले में तो शिल्ड्यूल्ड ट्राइब्स मानी जाती है, लेकिन मनसौर जिले में नही मानो जातो है । इस तरह को दिक्कतें है जिसकी वजह से जो प्रेजोडेन्ट आर्डर है उसमें रिविजन होना चाहिये जिससे शिड्युल्ड ट्राइब्स और शिड्युल्ड कास्ट के लोगों को प्रितिनिधित्व मिल सके। अगर इस तरह की ध्यवस्था नहीं की ाती है तो फिर सही रूप में डिलिमिटेशन नहीं हो सकता है अब तक इस चीज में परि-वर्तन नहीं किया जाता।

MR. DEPUTY CHAIRMAN: Mr. Joseph, just five minutes.

Delimitation

SHRI N. JOSEPH (Andhra Pradesh): Mr. Deputy Chairman, while supporting the Bill I would like to give some suggestions for the consideration of the Sir, delimitation became Government. a necessity because of change of population in the recent census. The population of the country has increased. Simultaneously the population of Scheduled Castes and the Scheduled Tribes has also automatically increased and I hope, according to the strength of their population, the strength of the seats also will be increased. While doing so the Commission has a right to allot a specific number of constituencies for the Scheduled Castes and the Scheduled Tribes. I would submit to the Commission that the constituencies for the Scheduled Castes and the Scheduled Tribes should be allotted in such places where they are in majority, and I think they will certainly do so.

Sir, while framing our Constitution the leaders of our community took social, economical and cultural backwardness of these communities into consideration. And, therefore, they allotted reserved seats for these communities. That is a fact. But there has become lot of difference since those times. Now we are committed to a socialistic pattern of society, as we all know. What is the meaning of the socialistic pattern It means those who are of society? backward regionally, communally or economically should be given some special privileges to enable them to come up and occupy a place along with the other forward communities. That was the basis for allotting this reservation. While doing so they did not mind at that time to allot seats for a certain section of the society since they were not Hindus. But such people happened to be not only from Hindus but also they were from other religions. For example, I come from Andhra Pradesh which has 3 crores of population. Out 1

of this number, about one crore are Scheduled Castes and Scheduled Tribes. Out of this one crore, about 35 lakhs are people who have embraced christianity as their religion.

DR. K. MATHEW KURIAN (Kerala): For the hon'ble Member's information the position in the Kerala State also is analogous.

SHRI N. JOSEPH: These 35 lakhs have no reservation. Out of these 35 lakhs there was not even one member either in the State Assembly or in the Lok Sabha to represent these Scheduled Caste Christians for 15 years after independence. It is most unjust to deny 8 reservations for 35 lakhs of people, while their vote is taken in the elections. In the recent elections, these 35 lakhs of people got only four seats while they are entitled on the basis of population, to 35 seats. While there should be 80 members of the Scheduled Caste community in the whole of the Andhra Assembly, there are only 46 members now, Scheduled Castes and Scheduled Tribes Why are these 35 lakhs put together. of people denied the benefit of reserva-Without reservation, he cannot contest against a rich, caste Hindu man That is why and get himself elected. reservations are made. We cannot say the whole body is all right if there is a small sore in the body. The whole body suffers very much because of that sore. And if we keep a certain section of people suffering socially, economically and culturally, because they have accepted a different religion, that is a sore in the body of the country of India. Why should we not take care of them? is impossible that they could be converted, directly or indirectly, by force. It is not possible because it pertains to their faith, to their heart. Nobody can change a man's faith by force, direct or indirect. It is a fact from centuries of history that in our country we could not force anybody to change his faith by sword or on economic or any other

221

force. I appeal to the Government that before giving the terms of reference to the Delimitation Commission, this point should be noted and they should see that these people in Andhra and other places be given reservation—there are a large number of Scheduled Caste Christians in Bihar. Maharashtra and other places—are also not properly represented in the legislatures and justice is done to them. It is the duty of the Government in a socialistic pattern of society and in a secular State to see that these people's rights are preserved by asking the Commission to specifically allot a certain number of seats for the Scheduled Caste Christian sections, as per the strength of the community in each State. These are my suggestions. Thank you.

SHRI NITI RAJ SINGH CHAU-DHURY: Mr. Deputy Chairman, Sir, before I begin to reply to the points made in connection with the Bill, certain hon. Members have mentioned that the last Delimitation Commission. to information. the necessary maps, etc., were not made available; therefore, the work of that Delimitation Commission was not done properly. am aware of the observations made by the Election Commission in its report after the Fourth General Elections. Therein they have stated the reasons why the maps, etc., as desired by the Commission, were not made available. The Commission desired maps showing contours, natural features, etc. in a particular scale. Because of security reasons, they could not be made available. This time, however, steps have been taken to see that all the information that was necessary and that would be necessary to the Commission is made available to them in time, if not earlier. I am happy to state that all the information that is needed is almost ready. Certain maps are under print and they would be ready before the Commission comes into existence and begins its work. The Election Commission has issued instructions as early as in June. Thereafter, on the 25th August, 1972, they

issued detailed instructions. In those instructions they have directed the States to get maps State-wise, districtwise, taluka-wise and of corporations and municipalities. The State maps have to be in a scale of 1": 16 miles: the district maps have to be in a scale of 1": 4 miles, showing the names and extent of sub-divisions, taluks, tehsils, firkas, circles, thanas, etc.; communicafacilities. geographical should also be shown. Important landmarks, national parks, industries, cantonments, other important institutions should also be shown to the extent possible. In case villages are shown, their names should be prefixed with the census code number to help spotting them. Taluka, tehsil and thana maps should be in a scale of 1": 2 miles showing names and extent of lower units, that is, circles, patwaras, in a village. Corporation and municipal maps having a total population of 50,000 and above should show numbers, names and extent of words, divisions, mohallas, census charges, etc. In case any new district, taluk or tehsil has been created after the Census of 1971, maps and figures should be prepared according to the latest administrative and development units as the case may be. If it is proposed to abolish certain administrative units, circles, etc., statistical data and maps should be prepared according to the existing circles, etc. And about the statistics also similar instructions were issued that a booklet for each district should be published which should give the population of the district, of each tehsil, of each revenue circle, of each patwara circle, and others giving the total population, the Scheduled Caste population and the Scheduled Tribes population, the percentage of the Scheduled Caste population to the total population and the percentage of the Scheduled Tribes population to the total population. These booklets are ready and, as I have said, the maps are under print. Most of them are ready. Others would be ready. So on this score there would be no difficulty. [Shri Niti Raj Singh Chaudhury]

Then, Shri Nawal Kishore and certain other honourable Members referred to the increase of seats of the Lok Sabha. Shri Advani referred to certain talks that the Prime Minister and the Government had with the Members of the Opposition, etc. and a specific question was put to me as to what was happening to it. In the same way, as the question was specific, my reply is equally specific: to the moment of my replying, the matter is under the consideration of the Government and as soon as any decision is taken, necessary action would be taken. Till this moment no decision has been taken.

SHRI LAL K. ADVANI: If the ceiling is to be raised, then is it not necessary that a Constitution Amendment Bill amending Article 81 should come first rather than this Delimitation Bill, because, otherwise, the whole thing cannot proceed?

SHRI NITI RAJ SINGH CHAU-DHURY: I think it is not necessary because for the Delimitation Commission to come into existence, it will take two to three months from now and if there is any change, that can come up and by the time the Delimitation Commission begins its work, it will know how many seats of the Lok Sabha it has to carve out.

Then, it was asked as to what is to be done about the increase in population and the family planning programme. What is to be done about this? The Constitution is specific on the point. Articles 81 and 82 specifically state that the number of seats and the areas shall be fixed in accordance with the population...

SHRI PITAMBER DAS (Uttar Pradesh): It would mean discouraging family planning.

SHRI NITI RAJ SINGH CHAU-DHURY: So far as the question of family planning is concerned, the matter is under the consideration of the Health Ministry. The Health Ministry is already considering it. And I think it has been stated in this House as it was stated in the other House that the matter is under consideration as to how to give protection to the States in which family planning programme has been implemented really seriously...

SHRI T. V. ANANDAN (Tamil Nadu): Will it have a retrospective effect because the State of Tamil Nadu has already been implementing the family planning programme very successfully?

SHRI NITI RAJ SINGH CHAU-DHURY: When the matter is under consideration, all aspects would be considered.

Then Shri Nawal Kishore referred to the reservation. While dealing with the seats reserved for the Scheduled Castes and the Scheduled Tribes he said that during the last delimitation, one constituency where the population of the Scheduled Castes was 9 per cent was while another constituency where the population was 17 per cent was not reserved. I think this is what he stated. I will be obliged if he gives me the names of these areas so that we can take steps to see that such mistakes Suppose in U.P. there do not recur. have to be 50 seats for the Scheduled Castes and their population in the districts is 18 per cent. In such districts where population is more, seats will be reserved. If such a thing is not done, I will be obliged if the hon. Member gives me more information about those areas so that Government can take up the matter with the Election Commission and Delimitation Commission.

SHRI MAHAVIR TYAGI (Uttar Pradesh): If you do not mind, may I interrupt you? Last time a question arose that when Scheduled Castes constituencies are separately allotted and exclusively reserved, then all non-scheduled Castes people living within that constituency are debarred from contest-

[ 19 DEC. 1972 ]

ing the election from their home constituency. That question was raised in the Parliament in Pandit Jawaharlal Nehru's time when the separation was considered. Then it was decided that the reserved constituencies of the Scheduled Castes will be rotated by changing one constituency into another. The percentage might change a little. Now what is the position? Will it be reserved?

SHRI NITI RAJ SINGH CHAU-DHURY: If Tyagiji had allowed me to proceed, he would have got the answer in the normal course because the point of rotation has been raised by Shri Shahi also.

SHRI PITAMBER DAS: He is very impatient

श्री नीतिराज सिंह चौधरी: इंतजार म जो मजा है वह विसाल में नहीं है। कुछ समय इंतजार करिये, उत्तर के लिए।

श्री महावीर त्यागीः विसाल तो जवानों के लिए है। A . 19.

श्री नोतिराज सिंह चौधरी: न मैं जवान हूं न आप जवान है, दोनों एक उमर के हैं, त्यागी जी । न परेशानी आपको होनी चाहिए, न मुझे।

15. Then, Sir, Shri Nawal Kishore also referred to the decision of the Delimitation Commission and said that it should not be final and should be justiciable. May I refer him to article 329 of the Constitution which reads:

Notwithstanding anything in this Constitution, the validity of any law relating to delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under article 327 or article 328, shall not be called in question in any court.

This provision in the Bill is therefore, in keeping with the Constitutional provisions and I think we can have no 8—18 RSS/72

objection to that. If anybody has, he has to move for the amendment of article 329.

Much has been said about associate members, their rights, their privileges and their duties. It has been said that associate members should be also from the Rajya Sabha and also from the Legislative Councils. While speaking on this either Shri Nawal Kishore or Shri Advani-I am forgetting who it wassaid that I said in the Lok Sabha that Raiva Sabha members are not elected or some such thing. To set the records straight, what I said was that election to the Lok Sabha is by the people directly. What I said was that Rajya Sabha Members are not elected by the people whereas Lok Sabha Members are elected by the people directly. There was some misapprehension or wrong impression of what I said. I am now correcting that. . .

SHRI NAWAL KISHORE: There is no wrong impression. It was created because the word "directly" was not there. filea of COCLS

SHRI NITI RAJ SINGH CHAU-DHURY: The word 'directly' is in print.

About representation, in the Centre we have Rajya Sabha. But only in certain States we have Legislative Councils. If representation is given to Rajya Sabha, representation shall have to be given to Legislative Councils also. What about States which do not have Legislative Councils?

SHRI PITAMBER DAS: Sir. the analogy would not be very fitting because even in the Legislative Councils, if there are matters pertaining to the local authorities and no representation is given to those who are elected by the local authorities to the Legislative Councils difficulties do arise. The Council of States, by its very name, indicates that it represents the States and therefore, it has greater justification for being recognised that way.

SHRI NITI RAJ SINGH CHAU-DHURY: Sir, with regard to the Council of States, the conception is that it is the House of elders who have to guide those elected to the Lok Sabha, to control their movement and so on.. (Interruptions) ... Sir, let the elders not involve themselves or think of involving themselves in this botheration and running with the Delimitation Commission. Let it be left to those whose actions they have to control.

Delmitation

DR. BHAI MAHAVIR: It is presumptuous to say that we are guiding the Lok Sabha.

SHRI NITI RAJ SINGH CHAU-DHURY: Then, Sir, about the constitution of the Commission: Much criticism has been levelled at clause 3. It is asked why a provision has been made to have a serving or a retired Judge of the Supreme Court and a serving or a retired Judge of the High Court and why not have a provision for having a serving Judge of the Supreme Court and a serving Judge of the High Court?

Sometimes, Sir, it so happens that we have to ask for the serving Judges and they have to be relieved. Suppose there is the difficulty that they are not relieved, that they are not made available. In that case, will the Commission not be constituted at all? Therefore, Sir, this is just an enabling provision that has been made and our effort would be to have a Judge of the Supreme Court, serving or retired if serving Judges are not available. Some hon, Members had asked as to who would be the Chairman. Naturally, when one Judge from the Supreme Court is there, he would be the Chairman and this much of intelligence should be expected from the Govern-

श्री नागेश्वर प्रसाद शाहो : यह क्या आश्चर्य को बात नहीं है कि गवर्नमेंट बिल बना रही है और उसको सर्विग जलक्या नहीं मिल पायेगा?

SHRI NITI RAJ SINGH CHAU-DHURY: Then, Sir, about the question of publication of the proposals and objections: It was suggested by, I think, Sakhlechaji that all these should be published including the objections. Sir, I want to draw his attention....

श्री बीरेन्द्र कुमार सखलेचा: मेरा आप से यह निवेदन है कि सुप्रोम कोर्ट जज के बारे में आप का क्या कहना है। आपने रिटायर्ड जज के बारे में तो बनला दिया है।

श्री नीतिराज सिंह चौघरीः मैंने इस सम्बन्ध मे जयाब दे दिया और आप उस समय बात कर रहे थे।

### Clause 9(2)(a) says:

"publish its proposals for the delimitation of constituencies, together with the dissenting proposals, if any . . ."

When dissenting proposals are to be published, the objections in that sense will naturally be published.

Then, Sir, it was asked why publication only in the Gazette. It is not so, Sir

SHRI V. K. SAKHLECHA: Objections raised by the people to the proposals also should be published.

SHRI NITI RAJ SINGH CHAU-DHURY: Sir, 9(2) (a) says:

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

So, Sir, "in such other manner" will enable the Delimitation Commission to publish these proposals and objections, etc. for all levels.

Then, Sir, about final publication: Clause 10 says:

"(1) The Commission shall cause each of the orders made under section 8 or section 9 to be published in the Gazette of India and in the Official Gazettes of the States concerned.

"(2) Upon publication in the Gazette of India, every such order shall have the force of law and shall not be called in question in any court

"(3) As soon as may be after such publication, every such order shall be lame before the House of the People and the Legislative Assemblies of the States concerned."

Then, Sir, besides these points, Adva niji had pointedly referred to the State of Jammu & Kashmir In my opening speech I had made it clear that this Act would apply to Jammu & Kashmir and that necessary amendments would be made in the Constitution (Application to Jammu & Kashmir Area) of 1954. Sir, so far as the applicability of Article 81 is concerned, in clause 2(b) the words "Delimitation Commission Act, 1962" occur. There the word "Commission" would be deleted, and for "1962", "1972" would be substituted The amendment would be made. Thus this Act will apply to the State of Jammu & Kashmir and their representatives, who will be associate members, shall have an opportunity to take part in the deliberations of the Commission.

Then, Sir, something was said by Advaniji about the present Chief Election Commissioner as to when it was known that he would be elected to the International Court of Justice why he was chosen. He would remember that he was a candidate earlier also but had lost. So it could not be stated with certainty that he would be elected . .

SHRI LAL K. ADVANI: My objection was that a decision should have been taken promptly after his election...

SHRI NITI RAJ SINGH CHAU-DHURY: He had not left. He still continues as the Chief Election Commissioner. He says in the country. He is doing his work. He his not become a judge of the International Court of Justice. He will become a judge after his seat is vacated That may be sometime towards the end of January or in early February, and by the time he leaves, even much earlier his successor will be appointed.

Then, Sir, Shri Bhaiya Ramji Monda, while speaking said that while fixing the constituencies, besides the population, the area should also be considered think Sakhlechaji also tried to say something like that, but not so specifically as Bhaiya Ramji Monda said. Unfortunately, the constitutional provisions come in our way. There the population is the criteria. The number of constituencies have to be fixed in accordance with the number of seats that are to be filled in, whether the population is 12 lakhs, 10 lakhs, 8 lakhs, 7 lakhs or 5 lakhs or whatever it is . . .

SHRI MAHAVIR TYAGI: Is it to be calculated on the basis of area?

SHRI NITI RAJ SINGH CHAU-DHURY. If Bhaiya Ramji's suggestions and Sakhlechaji's suggestions could be acceptable, at least I for one would be very happy, because my own constituency is over 4,000 sq. miles.

भो वीरेप्य कुमार संखलेखा : सदन में अमेन्डमेंट लाइये ।

श्री नीतिराज सिंह चौधरी: यह चीज आप के ऊपर छोड़ दी गई है और मैं इस बारे में बहुत परेशान नहीं हू क्योंकि इस बहाने से तो सब जगह, सब गांवों में, दो हजार 28 गांवों में जाने का तो अवसर प्राप्त हो जाता है। (Interruption).

श्री पीताम्बर दास : आपने अपने हितों का ध्यान इसलिये नहीं रखा क्योंकि कालिदास जी के बारे में भी कहा गया है कि वे एक समय उसो डाल को काटते थे जिस डाल के ऊपर बैठते थे।

श्री नी तराज सिंह चौधरी : अगर पीता-म्बर दास जी की बात सही मान ली जाय कि मैं उसी डाल को काट रहा हू जिसमे बैठा हूं, लेकिन मैं इसकी काटने से कालिदास नहीं हो सकूगा, मैं रहूगा नीतिराज ही। कालिदास [श्री नीतिराज सिंह चौधरी]
होने के लिए मुझे बहुत प्रयास करना पड़ेगा
और अगर कालिदास के घूल के बराबर भी
मैं हो जाऊं तो मैं अपने को बहुत भाग्यशालो
समझ्गा।

श्री रणबीर सिंह: पीताम्बर दास जी से डिग्री ले लिजिये।

श्री नीतिराज सिंह चौधरी: वह काम नहीं देगी रणबीर सिंह जी। अगर उन्होंने डिग्री दे भी दो तो भी वह काम नहीं देगी क्योंकि कालिदास जो में जो गुण थे उन्हें सारा ससार आनता है और डिग्री यहा पर काम नहीं देगी।

Then, Sir, other hon. Members, Shri Chandrasekharan and others, besides the point that I have replied to, nave referred to election laws, constitution of Election Commission, whether it should consist of a single member or it should be multi-member, how the election should take place and all that That question is not connected with this Bill So I will not be referring to it

Then, Sir, I come to the point about which I had asked Tyagiji to have patience and I will reply to it, i.e. about the rotation of seats. I am not aware of what he said and what commitments were made. If a decision was taken as he says, I am sure that decision would have been implemented. Since nothing has been done and no Bill to amend the Constitution has yet been brought forward. Therefore, I take it...

SHRI MAHAVIR TYAGI. It was not a case of changing the Constitution Previously, the constituencies of the Scheduled Castes were for plural seats There were two seats in one constituency for Scheduled Castes and non-Scheduled Castes The election was fought on that basis. When the Scheduled Castes people wanted to get single constituencies reserved for them, a policy decision was taken that they may be separated In order that the non-Scheduled Castes of that area may not be disqualified for ever to contest from their home consti-

tuencies, the seats were proposed to be rotated and the strength of Scheduled Castes would not be the only basis for reservation of seats.

SHRI NITI RAJ SINGH CHAU-DHURY. Mr Deputy Chairman, I will only refer to Articles 329 and 330 of the Constitution under which reservation of the Scheduled Castes and Scheduled Tribes seats has been made It would be absolutely unfair to give a reserve seat for the Scheduled Castes where the Scheduled Castes population is 4% and not to reserve a seat where the Scheduled Castes population is 18%. Sir, with these words, I commend the Bill for acceptance of the House Thank you

MR DEPUTY CHAIRMAN: The question is:

"That the Bill to provide for readjustment of the allocation of seats in the House of the People to States, the total number of seats in the Legislative Assembly of each State, the division of each State and each Union territory having a Legislative Assembly and the Union territory of Delhi into territorial constituencies for elections to the House of the People Legislative Assemblies States and Union territories and Metropoutan Council of Delhi and for matters connected therewith, as passed by the Lok Sabha, be taken into consideration"

The motion was adopted.

MR DEPUTY CHAIRMAN We shall now take up clause by clause consideration of the Bill

Clause 2 was added to the Bill.

Clause 3 (Constitution of Delimitation Commission)

SHRI V. K. SAKHLECHA: Sir, I move:

2 "That at page 2, line 11-12 for the words 'each of whom shall be a person who is or has been a Judge of 233

the Supreme Court or of a High Court'
the words 'one of whom shall be a
person who is or has been a Judge of
the Supreme Court and the other shall
be a person who is or has been a
Judge of the Supreme Court or of a
High Court be substituted.'"

SHRI K. CHANDRASEKHARAN:
Sir. I move:

12. "That at page 2, lines 11-12, the words 'or has been' be deleted."

The questions were proposed.

श्री वीरेद्र कुमार सखलेचा: मेरा यह एमेंड-मेंट सेक्शन 3में एक सुप्रीम कोर्ट का जज होना चाहिए इसके बारे में है। यदि आप चाहते हैं कि मुप्रीम कोर्ट का जज डिलिमिटेशन कमी-शन को प्रिसाइड करे तो आप इस एमेंडमेंट को स्वीकार करने की कृपा करें।

SHRI K. CHANDRASEKHARAN: The words "or has been" are being deleted. The idea is that only sitting Judges should be appointed.

MR. DEPUTY CHAIRMAN: The question is:

2. "That at page 2, line 11-12 for the words 'each of whom shall be a person who is or has been a Judge of the Supreme Court or of a High Court' the words 'one of whom shall be a person who is or has been a Judge of the Supreme Court and the other shall be a person who is or has been a Judge of the Supreme Court or of a High Court' be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

12. "That at page 2, lines 11-12, the words 'or has been' be deleted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That Clause 3 stand part of the Bill."

The motion was adopted.

Clause 3 was added to the Bill.

Clause 4 (Duties of the Commission)

Bill, 1972

SHRI LAL K. ADVANI: Sir, I move:

3. "That at page 2, lines 28 to 33 be deleted."

The question was proposed.

SHRI LAL K ADVANI: I think this amendment needs a reply. In my my speech earlier, I had referred to the fact that the Union Territories should not be unfairly dealt with by the Delimitation Commission and particularly Delhi whose population has increased considerably during the last ten years. It should be given a fair deal and its strength in the Lok Sabha should be increased from 7 to 9 or 10.

SHRI NITI RAJ SINGH CHAU-DHURY: Shri Advani's amendment is to delete to lines 28 to 33. These lines read, "Provided further that it shall not be necessary for the Commission to readjust the allocation of seats in the House of the People to any Union territory or the total number of seats in the Legislative Assembly of any of the Union territories of Goa, Daman and Diu, Pondicherry and Mizoram or the total number of seats in the Metropolitan Council of the Union territory of Delhi." From the proviso, it would be seen that its object is to make it necessary for the Commission to allocate seats in the House of the People to any Union territory or the total number of seats in the Legislative Assembly of any of the Union territories of Goa, Daman and Diu. Pondicherry and Mizoram or the total number of seats in the Metropolitan Council of the Union territory of Delhi. These things are already regulated under the provisions of the relevant law, namely, the Representation of Peoples Act, 1950, the Government of Union Territories Act, 1963 and the Delhi Administration Act, 1966. It may

[Shri Niti Raj Singh Chaudhury.] be mentioned that article 82 of the Constitution does not apply to the Union territories and allocation of seats in the House of the People need not therefore be readjusted after each census. Similarly, so far as Legislative Assemblies and Union territories are concerned, relevant provisions are made by law under

SHRI LAL K. ADVANI: He has only read out a brief and it is not relevant to what I said. Even in 1962. . .

article 239(a). eco 1 and

MR. DEPUTY CHAIRMAN: He has replied to your point though it may be a brief.

SHRI LAL K. ADVANI: He has not replied to my point at all. My point was that in 1962 it was because of increase in population, the seats of Union Territories also were increased. His contention is that it is not obligatory under the Constitution to increase the seats.

MR. DEPUTY CHAIRMAN: Well, he does not accept your amendment.

SHRI NITI RAJ SINGH CHAU-DHURY: When the 1962 Delimitation Commission Act came into force, the 1963 Act and the 1966 Act were not there. They have since come in and, therefore, the question does not arise.

MR. DEPUTY CHAIRMAN: The question is:

3. "That at page 2, lines 28 to 33 be deleted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is: which is lo feether by

"That clause 4 stand part of the Bill."

The motion was adopted.

Clause 4 was added to the Bill.

Clause 5-Associate Members.

SHRI V. K. SAKHLECHA: Sir, 1 beg to move:

- 4. "That at page 2, line 36, for the words 'the House of the People' the word 'Parliament' be substituted."
- 6. "That at page 2, line 37, after the words 'Legislative Assembly' the words 'or Legislative Council' be inserted."
- 7. "That at page 2, line 43, for the words 'House of the People', the word 'Parliament' be substituted."
- 9. "That at page 2, line 49, after the word 'Assembly' the words 'and number of the members of political parties represented in the House' be inserted."

SHRI LAL K. ADVANI: Sir, I beg to move:

- 5. "That at page 2, line 37, for the words 'the Legislative Assembly' the word 'Legislature' be substituted."
- 8. "That at page 2, after line 44, the following further proviso be inserted, namely:

'Provided further that one out of the five members of Parliament and one out of the five members of the State Legislature so nominated shall be members of either the Scheduled Castes or Scheduled Tribes'."

# SHRI K CHANDRASEKHARAN: Sir, I beg to move:

13. "That at page 2, after line 49 the following proviso be inserted, namely:—

'Provided that at least two of the Members of the House of the People and two of the Members of the Legislative Assembly shall be persons who belong to the parties or groups in opposition to the Government in the Centre or in the State concerned'."

The questions were proposed. "in

242 /

SHRI LAL K. ADVANI: Sir, he need not reply to all that. On my point about the Raiva Sabha I expected a clarification from the Minister. He corrected his own statement that I did not say that it is not directly elected. I merely said it is indirectly elected. To that extent it is all right. But the point that I have raised is about the rationale of the Raiva Sabha. What is the Raiva Sabha for? My point is that the Rajya Sabha is very much involved.

MR. DEPUTY CHAIRMAN: Yes, Mr. Advani, you have said it. After all, we are not discussing point by point.

SHRI PITAMBER DAS: Sir, on this amendment I would like to make a very small submission-hardly two sentences. The analogy of the Assemblies would not apply in this case because in the Legislative Councils it is not only the Assembly that is represented but also the local authorities, the teachers and the graduates. They are all there. the Raiva Sabha it is only the States that are represented. Therefore, the Rajya Sabha cannot be compared with the Legislative Councils and the analogy does not stand.

SHRI NITI RAJ SINGH CHAU-DHURY: I have already given the reasons. As I have said, this delimitation is for constituencies where people will directly elect their representatives. It is, therefore, just and proper that represenatives of the people who represent those directly elected areas should be associate members. Secondly, as I said, if Rajva Sabha is associated and also the Legislative Councils of the States, what about those States which do not have any Legislative Councils? Therefore, would not be possible for me to accept this amendment.

SHRI V. K. SAKHLECHA: In this amendment we have already said . . .

MR. DEPUTY CHAIRMAN: Your amendment is there and you have already said it there. Mr. Advani also spoke. - 41 - 41 - 4 وجراويضوا الموجوات

SHRI V. K. SAKHLECHA: That point has not been discussed. The question is: what for is the Rajya Sabha? Where there is a Legislative Council it will have representation.

SHRI NITI RAJ SINGH CHAU-DHURY: I have already said: What about those States which do not have any Legislative Councils?

MR. DEPUTY CHAIRMAN: The question is:

4. "That at page 2, line 36, for the words 'the House of the People' word 'Parliament' be substituted."

The House divided

MR. DEPUTY CHAIRMAN: Noes 43; Aves 14.

#### NOES-43

Abid, Shri Qasim Ali Bhardwaj, Shri Jagan Nath Chakrabarti, Dr. R. K. Chandra Shekhar, Shri Chattopadhyaya, Prof. Debiprasad Choudhury, Shri M. M. Choudhury, Shri N. R. **1. 元投工** + Das, Shri Bipinpal 200 Dass, Shri Mahabir Dutt, Dr. Vidya Prakash Gujral, Shri I. K. Himmat Sinh, Shri -.L } \* 135 Kalyan Chand, Shri Kapur, Shri Yashpal the file. Kesri, Shri Sitaram Kulkarni, Shri A. G. Kulkarni, Shri B. T. " Kumbhare, Shri N. H. Mahanti, Shri B. K. Mehta, Shri Om Mukherjee, Shri Pranab Kumar Mulla, Shri A. N. Munda, Shri B. R. A 15 .. Panda, Shri Brahmananda Punnaiah, Shri Kota 1,3 Raha, Shri Sanat Kumar Roshan Lal, Shri Satyavati Dang, Shrimati of 中区 42 Savita Behen, Shrimati dulki Shashtri, Shri Bhola Paswan Shukla, Shri Chakrapani ... 38 A

## [Mr. Deputy Chairman.]

Shukla, Shri M. P. 15 Shyamkumari Devi, Shrimati 231 Singh, Shri D. P. a h Singh, Shri M. B. Singh, Shri Ranbir Singh, Shri Sultan Sinha, Shri Ganga Sharan Sisodia, Shri Sawaisingh Sukhdev Prasad, Shri MIR. Thakur, Shri Gunanand 617 SD Tiwary, Shri Bhawaniprasad Vidyawati Chaturvedi, Shrimati & AYES-14 بروالا

Delimitation

上づか Advani, Shri Lal K. Chandrasekharan, Shri K. Gowda, Shri U. K. Lakshmana , , Kamalanathan, Shri M. - .F. Mahavir, Dr. Bhai Mariswamy, Shri S. S. Abid. Mathur, Shri Jagdish Prasad Mohammad, Chaudhary A. Nawal Kishore, Shri Puttappa, Shri Patil Sahai, Shri Ram Sakhlecha, Shri V. K. Shahi, Shri Nageshwar Prasad Tyagi, Shri Mahavir Bull 1 The motion was negatived.

MR. DEPUTY CHAIRMAN: Amendment No. (7) is barred. The question is:

5 ."That at page 2, line 37, for the words 'the Legislative Assembly' the word 'Legislative' be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

8. "That at page 2, after line 44, the following further proviso be inserted. namely: -

'Provided further that one out of the five members of Parliament and one out of the five members of the State Legislature so nominated shall be members of either the Scheduled Castes or Scheduled Tribes'."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

6. "At page 2, line 37, after the words 'Legislative Assembly' the words 'or Legislative Council' be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

9. "That at page 2, line 49, after the word 'Assembly' the words 'and number of the members of Political parties represented in the House' be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

13. "That at page 2, after line 45 the following proviso be inserted, namely:-

'Provided that at least two of the members of the House of the People and two of the Members of the Legislative Assembly shall be persons who belong to the parties or groups in opposition to the Government in the Centre or in the State concerned'."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 5 stand part of the Bill."

The motion was adopted.

Clause 5 was added to the Bill.

Clauses 6 to 8 were added to the Bill. Clause 9—(Delimitation of constituencies)

SHRI N. H. KUMBHARE: Sir. I move:-

10. "That at page 4, after line 36, the following provisos be inserted, namely:--

'Provided, as far as practicable, the allocation of reserve seats for Scheduled Caste in each district will

be made in proportion to the population of the Scheduled Caste to the total population in that district;

Delimitation

Provided further that every district will have at least one reserve seat where number of seats are equal to or exceed the number of reserve seats for the Scheduled Caste in that State;

Provided also if the number of reserve seats for Scheduled Caste are less than the number of districts, no district will have more than one seat reserved for scheduled caste'."

The question was proposed.

SHRI N. H. KUMBHARE: Sir. under the existing provisions there are no guidelines as to how the seats which are reserved seats for the Scheduled Castes are to be distributed in the State. There are no guidelines as such. Now it has been said that in an area where the Scheduled Caste people are in larger number seats will be reserved in that particular region. Of course there can be no dispute about this principle but my submission is in a particular area suppose there are 10 districts where the proportion of the population is 20 per cent as against 5 per cent in other re-All that I want to say is that due representation is to be given to those regions. Don't forget the other regions where the Scheduled Caste population is only 5 per cent; give it also due weightage. Let there be equitable distribution of the reserved scats Nothing more than that is required. As I have said at present there is no guideline. Therefore with a view to giving equitable representation so that there will be a wider representation to the Scheduled Castes this system should be adopted.

SHRI NITI RAJ SINGH CHAU-DHURY: Articles 330 and 332 do lay down guidelines and the principles according to which seats for the Scheduled Castes and Scheduled Tribes are to be reserved and the Delimitation Commission has to work in accordance with the constitutional provision. We cannot go beyond that and therefore no other guidelines could be given. We have only reproduced what is said there.

MR. DEPUTY CHAIRMAN: The question is:

10. "That at page., after line 36 the following provisos be inserted, namely:—

'Provided, as far as practicable, the allocation of reserve seats for Scheduled Caste in each district will be made in proportion to the population of the Scheduled Caste to the total population in that district;

Provided further that every district will have at least one reserve seat where number of seats are equal to or exceed the number of reserve seats for the Scheduled Caste in that State;

Provided also if the number of reserve seats for Scheduled Caste are less than the number of districts, no district will have more, than one seat reserved for scheduled caste."

The motion was negatived.

## SHRI NAGESHWAR PRASAD SHAHI; Sir, I move:—

- 11. "That at page 4, after line 39. the following be inserted, namely:—
  - '(e) the reservation for Scheduled Castes and Scheduled Tribes in the constituencies shall be made in proportion of their population within the existing limits of administrative units on rotational basis'."

# SHRI K. CHANDRASEKHARAN: Sir, I move:—

- 14. "That at page 4, line 27, the words 'as far as practicable' be deleted".
- 15. "That at page 4, line 45, after the words 'as it thinks fit' the words 'and the fact of such publication shall be given due publicity by either advertisement and/or press notes issued.

[Shri K. Chandrasekharan.]
and published in selected prominent
newspaper throughout the country'
be inserted."

The questions were put and the motions were negatived.

MR. DEPUTY CHAIRMAN: The question is:—

"That Clause 9 stand part of the Bill."

The motion was adopted.

Clause 9 was added to the Bill.

Clauses 10 and 11 were added to the Bill.

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

SHRI NITI RAJ SINGH CHAU-DHURY: Sir, I move:—

"That the Bill be passed."

The question was proposed.

DR. K. NAGAPPA ALVA (Mysore): Mr. Deputy Chairman, Sir, there have been certain dangerous trends in the matter of elections in this country particularly during the last two years. In 1971 we had Lok Sabha elections and in 1972 we had the Assembly elections. So we will be having in the normal course Lok Sabha elections in 1976 and the Assembly elections in 1977. Sir, ours is the largest democracy and the democracy itself, its growth, its future, depends on free and fair elections.

## [THE VICE-CHAIRMAN (SHRI RAM SAHAI) in the Chair]

Therefore I would like to make a few suggestions, which should be taken with all the seriousness. Within the next two years the Government, this Parliament and the Election Commission will have to take into consideration certain things and certain enanges will have to be effected.

5 P. M.

¿. One particular suggestion I will give about the Scheduled Castes and Scheduled Tribes. The lists are being changed.

There are omissions. Some are being deleted and some are being added. It is necessary that the list should be at the earliest possible completed moment. Then, about the recasting of the constituencies it is necessary that the realities of the situation have to be taken into account. In the hill areas and at high altitudes, we cannot think of the people going round and doing these things. So, the main thing that has to be considered in the coming two years by the Election Commission and the Government is that the expenses are reduced to a minimum, the influence of the governmental machinery is reduced to a minimum and corrupt practices are removed. For that all that is necessary you should do. Now, the most dangerous trend we are having during the last two years is the change in the Lok Sabha elections, i.e., the delinking of the Lok Sabha elections from the Assembly elections. Ours is a rich country with poor people. Poor people are becoming poorer and poorer every day. The framers of the Constitution with the noblest ideas had decided it. Ours is a democracy with a federal structure and it is necessary that these elections go together. For certain political reasons, with certain designs and plans it was done. I am appealing to the Government to see that the elections go together in the next elections.

Just one more point I would like to It is worth considering that the notices are published in the newspapers also. The Government may consider this question. Once again I must say that even now the recasting of the constituencies should be done. You should give the top-most priority to the geographical situation, the contiguity of the areas and added to that the natural boundaries like rivers. I know particularly that certain mischief has been done and some harm has been done to certain people. Unfortunately always what has happened in this country is that the politics of opportunity and the politics of survival have done so much harm to

democracy and particularly in the elections. With these words, I appeal to the Government to take up my suggestions with all the seriousness necessary.

SHRI LAL K. ADVANI: Regarding the only point on which this House divided, I would give a quotation about the role assigned to the Council of States. I would like to remind the hon. Minister, who has just now stated that ours is the House of Elders and we should only give our views to the Lower House. I quote Pandit Nehru, who said:—

"We should not take guidance from the British Parliament. We should go by our own Constitution which has clearly specified the functions of the Council of States and the House of the People. To call either of these Houses an Upper House or a lower House is not correct. Each House has full authority to regulate its own procedure within the limits of the Constitution Neither House by itself constitutes Parliament. It is the Houses together that are the Parliament of India. The Constitution treats the two Houses equally the only exception being in certain financial matters which are to be the sole purview of the House of the People."

The delimitation issue, I am sure, Members even on that side will agree, is not a financial matter and, therefore, this House ought to have been associated with the delimitation. The Government has committed a wrong and in not agreeing to the suggestion I made during this debate, it has only proved my point. The second point is in respect of what I have stated earlier—I wish the Government would assure us that the Constitution amendment pertaining to article 81 would be brought forward at the earliest, at the fiext session

SHRI NITI RAJ SINGH CHAU-DHURY: About the first speaker, he has made suggestions about the election laws. There was a Joint Committee which has made its recommendation about them, they are under the consideration of the Government. The Joint Committee has made recommendations as to how to reduce the expenditure and all those things which he has referred to. When that comes up, that will be the proper time when it can be considered.

About what Shri Advani has said, I would only say a sentence. He has quoted Panditji's speech. It is true. And also the Constitution in article 79 provides that—

"There shall be a Parliament for the Union which shall consist of the President and two Houses to be known respectively as the Council of States and the House of the People."

There is no dispute as to the fact that this House is part of Parliament. It is there, and the Constitution says that.

THE VICE-CHAIRMAN (SHRI RAM SAHAI): The question is:

"That the Bill be passed."

10 14 7

1 . 522

The question was put and the motion was adopted.

THE CAPITAL OF PUNJAB (DEVE-LOPMENT AND REGULATION) (CHANDIGARH AMENDMENT) BILL, 1972

THE MINISTER OF STATE IN THE MINISTRY OF WORKS AND HOUSING AND HEALTH AND FAMILY PLANNING (PROF. DEBIPRASAD CHATTOPADHYAYA): Mr. Vice-Chairman, Sir, I move:

"That the Bill further to amend the Capital of Punjab (Development and Regulation) Act, 1952, as in Force in the Union territory of Chandigarn, be taken into consideration."

Sir, the Supreme Court in Messrs. Jagdish Chand Radhey Sham Vs. the State of Punjab and Others (Civil Appeal No. 1099 of 1967) declared section 9 of the Capital of Punjab (Development and