

THE DELIMITATION COMMISSION BILL, 1962

THE DEPUTY MINISTER IN THE MINISTRY OF LAW (SHRI BIBUDHENDRA MISRA): Mr. Chairman, Sir, I beg to move:

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

Sir, I would like first of all to point out that this Bill has been brought forward in pursuance of the provisions of article 82, and sub-clause (3) of article 170 of the Constitution which provides that 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 for elections to the House of the People and the Legislative Assemblies of the States shall be readjusted by such authority and in such manner as Parliament may by law determine. Therefore, Sir, under article 82 of the Constitution after the completion of the census it has become the constitutional obligation on the part of the Government to come forward with this Bill.

Now, if you look at the definitions you will find that it has been said that "State" does not include the State of Jammu and Kashmir and the State of Nagaland. So, obviously, the Delimitation Commission will have nothing to do with the State of Jammu and Kashmir and the State of Nagaland.

SHRI A. B. VAJPAYEE (Uttar Pradesh): Why is it so? When the jurisdiction of the Election Commission

has been extended to the State of Jammu and Kashmir why should not the Delimitation Commission go there?

SHRI BIBUDHENDRA MISRA: I shall explain it and I crave your indulgence. If you have a little patience I will come to that point. You will find that article 81 provides:

"Subject to the provisions of article 331, the House of the People shall consist of not more than five hundred members chosen by direct election from territorial constituencies in the States . . ."

Now, article 370 is there. And this provision in article 81 of the Constitution has been modified by the Constitution (Application to Jammu and Kashmir) Order, 1954, wherein it has been stated that article 81 shall apply to the State of Jammu and Kashmir subject to the modification that the representatives of the States in the House of the People shall be appointed by the President on the recommendation of the Legislature of that State. In view of the modification that has been accepted so far as article 81 is concerned, it has not been possible to include the State of Jammu and Kashmir, howsoever we may like it, within the purview of the Delimitation Commission Bill.

So far as the State of Nagaland is concerned, you will find in the State of Nagaland Act itself so far as section 3 is concerned, that the State of Nagaland will come into existence on the appointed date. The appointed date also has been defined. The constitutional position is that the State of Nagaland has not come into existence so far, it being dependent on the ratification of the Constitution (Thirteenth) Amendment Bill. It has, according to my information, been ratified by six States and it has yet to be ratified by two more States. Once the Nagaland State comes into existence, no delimitation will be necessary. So far as the House of the People is concerned, the State of

Nagaland will have only one seat in the House of the People. Parliament has so provided in the Nagaland Bill itself. So far as the State Assembly seats are concerned, the Act itself provides the machinery and entrusts the work to the Election Commission to proceed with the delimitation of the sixty Assembly constituencies that have been provided for in the very Act itself.

Then, Sir, coming to the Union Territories, let me make it clear that the Union Territories also do not come within the purview of the Delimitation Commission for the simple reason that article 82 does not apply to Union Territories. I will read it again. It says:

"Upon the completion of each census, the allocation of seats in the House of the People to the States and the division of each State into territorial constituencies shall be readjusted...."

The Union Territories not being States are not covered by the Delimitation Commission. If you will kindly look into article 81 of the Constitution, sub-clause (b) of clause (1), you will find that a special provision has been made for the representation of the Union Territories in the Constitution itself. It says:

"(b) not more than twenty members to represent the Union territories, chosen in such manner as Parliament by law provide."

So far as the 1952 Act was concerned, the present Union Territories were included within the purview of the Delimitation Commission because they were not Union Territories then. They were Part C States. Now, we have twenty members from the Union Territories under the present provision in the House of the People. If you will remember, the number of Union Territories have also increased. Pondicherry, which has now become a Union Territory has to get one seat

in the Lok Sabha, whereas all the twenty seats that have been allotted already to the Union Territories have been filled up. Therefore, I will refer again to the Constitution (Fourteenth) Amendment Bill, which provides for increasing the number from 20 to 25, which again has been ratified by six States. After it becomes law, the number of seats out of the 25 seats will be distributed amongst the different Union Territories in such manner—I am referring to article 81 again—as Parliament may by law determine.

SHRI LOKANATH MISRA (Orissa): Has Parliament determined it?

SHRI BIBUDHENDRA MISRA: You will have your say and I shall reply to it. Broadly I will point out that the Delimitation Commission Bill follows the pattern of the 1952 Act except for the modifications that have become necessary in view of the amendments made to the Constitution. You will find that the double-member constituencies are not there now. So far as associate members are concerned, if you refer to section 5 of the old Act, you will find that the number of associate members to be associated with the Delimitation Commission was fixed on the basis of population. It varied from State to State, from two to seven. Now, it is proposed to make it a uniform number, that is, nine members to be associated with the Delimitation Commission, four being representatives of the House of the People to be nominated by the Speaker and five being representatives of the Legislative Assembly of the State concerned being nominated by the Speaker of the State Assembly.

Then, another important change which has been made is about the manner of making readjustments in delimitation. If you will kindly refer to the old Act you will find that in the whole process there are two stages involved. The first is to allocate the number of seats to the House of the

[Shri Bibudhendra Misra.]

People and the Assemblies of the different States and to determine the number that should be reserved for the Scheduled Castes and Scheduled Tribes. Once the allocation is made, the Delimitation Commission has to proceed with the task of readjustment of the constituencies. In both the stages the 1952 Act envisaged that there should be publication of the proposals and that objections and suggestions should be invited and that there should be a public sitting of the Delimitation Commission before they come to any conclusions. Here we propose in order to save time as well as money that there will be no public sitting so far as the first stage is concerned, because the allocation of seats to the different State Legislatures and to the House of the People will depend on the 1961 census and there cannot be much dispute about arithmetical facts.

SHRI K. SANTHANAM (Madras): May I ask a question in this connection? Will the Delimitation Commission be free to increase the number of seats in every Assembly Legislature subject to the limit of 500 according to the Constitution?

SHRI BIBUDHENDRA MISRA: I will explain that since the question has been raised. Then, two questions will arise in the first stage. One is, whether the seats have to be increased or not, and secondly whether the multiple that has now been adopted in determining the number of seats to be allocated to the different State Legislatures in relation to the number of seats allocated to the Lok Sabha will remain the same or will be changed. These are the only two questions that can arise in the first stage. The Delimitation Commission can very well with the help of the associate members come to some conclusion about it and there need not be wastage of public time and money by having public sittings in order to decide whether the seats should be increased or not. The question whether the Delimitation Commission is free to

increase the seats or not has been raised.

[THE DEPUTY CHAIRMAN in the Chair.]

The Delimitation Commission is free to do that and free to the extent the Constitution imposes restrictions on it.

SHRI AKBAR ALI KHAN (Andhra Pradesh): Subject to the provisions of the Constitution.

SHRI BIBUDHENDRA MISRA: You will see that the maximum number that the Lok Sabha can have under the Constitution is 500.

SHRI K. SANTHANAM: There is no difficulty in the case of Lok Sabha.

SHRI BIBUDHENDRA MISRA: I am coming to that. The Lok Sabha cannot have more than 500 Members. We have at present 481 elected Members, six Members nominated by the President from Jammu and Kashmir, which brings it to 487. One seat has been given to the Nagaland State by the Nagaland Act. Therefore, one seat will go to Nagaland ultimately. It brings the figure to 488. Therefore, the Delimitation Commission, taking the census, the population figure in the country as a whole, has the freedom—they may or may not do it—to increase the seats.

SHRI BHUPESH GUPTA (West Bengal): There are seats for Goa.

SHRI BIBUDHENDRA MISRA: He is not clear in his own mind. I am not talking of Union Territories. I am talking of the States. The States will have 500 seats. The Union Territories will have 25 seats, after the Constitution (Fourteenth) Amendment Bill is ratified. Under article 331 the President is free to nominate two Members from the Anglo-Indian community. This is besides 500. I am talking of the figure 500. Therefore, Madam, the number at present is 488, and the Delimitation Commission is free, if it considers it proper, to raise the number maximum by 12. It is a constitutional obligation itself provided for in clause (2) of article 81:

"each State shall be divided into territorial constituencies in such manner that the ratio between the population of each constituency and the number of seats allotted to it is, so far as practicable, the same throughout the State".

This is (b). I am concerned with (a):

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

Therefore, we go back to the question of multiple. Therefore, there may be an increase for a State if there is an increase in the population on the basis of this theory of multiple because the number of seats allotted to a State Legislature has to be an integral multiple of the number of seats for that State in the Lok Sabha. Therefore assuming that there will be 12 or 3 more seats, the number of seats for the State Assemblies also cannot go very far, and therefore there is no scope of the existing constituencies—and it is a good thing also—being disturbed to a great extent.

SHRI N. M. LINGAM (Madras): The size of the constituency in the State Assemblies could be reduced, because the number of seats for Parliament is the same. It is open to the Commission to do that.

SHRI K. SANTHANAM: That is not the point I raised. Now, there is an Assembly with 200 seats. Would it be right for the Delimitation Commission to increase it to 400 seats? It may multiply the number of seats for Parliament. Up to 500 the Constitution allows. Is there no limitation put on the possibility of extension by the Delimitation Commission? That is what I am asking.

SHRI N. M. LINGAM: Arising out of this question, I am asking another question. If it is open to the Com-

mission to increase the number of seats in each State Assembly, then according to the theory of the number of parliamentary seats being exact quotients of the number of Assembly seats it is conceivable that the number of parliamentary seats will go up. But since there is a ceiling under the Constitution to the total number of seats for the Lok Sabha, we could without infringing this provisions of the Constitution increase the number of seats in the State Assemblies having regard to the increase in population. Is that within the powers of this Commission?

SHRI B. K. P. SINHA (Bihar): I feel that we are on the wrong track because the number of seats for State Assemblies is fixed by a special law. The Delimitation Commission cannot alter the number of seats.

SHRI BIBUDHENDRA MISRA: That is wrong, Madam. It is fixed by the Delimitation Commission itself, of course subject to the restrictions imposed by the Constitution itself that no State Legislature should have more than 500 members. That may be the theory. But as I said, since the number of seats in a State Legislature has to be an integral multiple of the number of seats allocated to the Lok Sabha and since we find that the maximum that the Delimitation Commission can do is to raise the number by 12 and since the multiple has to be maintained, there is no scope, even if in theory there is power, for the Delimitation Commission to increase the seats of a State Legislature, where the number of seats is 200, to 400.

SHRI K. SANTHANAM: Instead of 4 multiple it could be 8. Instead of 4 Assembly seats for each parliamentary seat it can say 8 seats.

SHRI BHUPESH GUPTA: This anomaly arises because only in regard to the parliamentary seats we have restrictions. With regard to the States, practically we have nothing. Now, this increase will also result in increase here subject to the ceiling

[Shri Bhupesh Gupta.]
which we have in Parliament. This is the position.

SHRI MULKA GOVINDA REDDY: (Mysore): The number of seats allotted to each State Assembly is also fixed by the Constitution.

THE DEPUTY CHAIRMAN: The number of seats of State Assemblies has been fixed by law.

SHRI B. K. P. SINHA: I feel that the impression of the hon. Minister that it is for the Delimitation Commission to fix the number of seats in the State Assemblies is not correct. Will he consult his Secretariat? At least I was a party to the law which was passed which fixed the number of seats in each State.

SHRI BIBUDHENDRA MISRA: I would refer to sub-clause (4) of clause 10 of the Bill:

"Subject to the provisions of sub-section (5), the readjustment of representation of the several territorial constituencies in the House of the People or in the Legislative Assembly of a State and the delimitation of those constituencies provided for in any such order shall apply in relation to every election to the House or to the Assembly, as the case may be, held after the publication in the Gazette of India of that order and shall so apply in supersession of the provisions relating to such representation and delimitation contained in the Representation of the People Act, 1950, and the Delimitation of Parliamentary and Assembly Constituencies Order, 1961."

So whatever is the number determined, it shall supersede the number already fixed. The position is clear, because the word "allocation" was not used originally in the Constitution itself. The word used was "readjustment". Therefore, under the old law a difficulty arose whether the word "readjustment" would empower the Delimitation Commission to in-

crease the number of seats. Therefore, the Constitution was amended and the word "allocation" has been used in that sense and it authorises the Delimitation Commission to increase the seats or decrease the seats if they feel it necessary, subject of course to the restrictions imposed by clause 2 of article 81 or clause (3) of article 170.

These are in essence the main provisions of the Bill. As I said, it differs from the original Bill of 1952 in three respects. Otherwise it provides a machinery, a high power Commission consisting of retired Judges and the Chief Election Commissioner, who will discharge their duties, with the help of associate members as provided in clause 5, imposed upon them by the Constitution.

SHRI B. K. GAIKWAD (Maharashtra): I would like the hon. Deputy Minister to enlighten us as to the population of the Scheduled Castes and Scheduled Tribes, State-wise, because as far as my information goes, the population of Scheduled Caste people in Maharashtra and in some other States has been reduced. The seats which were allotted to them in the District Parishads have been curtailed from 6 to 1, and that was based on population basis. So, it would be better if we know this information as to what is the population according to the Census Report of 1961 of Scheduled Castes and Scheduled Tribes, State-wise, and whether the seats will be reduced or increased. What will be the position?

SHRI BIBUDHENDRA MISRA: It is a public matter. This is in the Census Report itself. I have not got the Report with me; I cannot give the figure. But the provision in the law is that while determining the number of seats to be reserved for the Scheduled Castes and the Scheduled Tribes, the total population of Scheduled Castes and the Scheduled Tribes has to be taken into consideration in relation to the total population. So, if there

is an increase, it has to be worked out; if there has been a decrease, that decrease has to be worked out. It is a question of theory and it is published in the Census Report itself. It is not possible to give State-wise figures of the increase or decrease of the Scheduled Castes and Scheduled Tribes for me now without referring to the Census Report.

SHRI B. K. GAIKWAD: I want to bring to the notice of the hon. Deputy Minister that the population of the Scheduled Caste people has decreased because many of them have accepted the Buddhist faith, therefore they do not call themselves as Scheduled Castes. So, I want to know what is the number of Scheduled Caste people, and if this is known, then it will be better for us to vote.

THE DEPUTY CHAIRMAN: The Census Report will give those population figures.

The question was proposed.

THE DEPUTY CHAIRMAN: Mr. Chordia will speak when we meet again. The House stands adjourned till 2 P.M.

The House then adjourned for lunch at one of the clock.

The House reassembled after lunch at two of the clock, **THE VICE-CHAIRMAN (SHRI M. GOVINDA REDDY)** in the Chair.

THE VICE-CHAIRMAN (SHRI M. GOVINDA REDDY): Before I call upon Mr. Chordia to speak, I have to inform Members that there are eight speakers. We have already taken more than twenty minutes over this Bill. So, Members will please be brief

श्री विमलकुमार मन्नालालजी चौरडिया
(मध्य प्रदेश) : उपसभाध्यक्ष महोदय,

जो बिल प्रस्तुत हुआ है उसके बारे में पहला प्रश्न मैं यह रखता हूँ कि यह कुछ समझ में नहीं आता कि जब जम्मू और काश्मीर के निवासी भी चाहते हैं कि हम भारत के अविभाज्य अंग बनें रहे और हम भी चाहते हैं कि वे देश के अन्य हिस्सों के समान हमारे एक हिस्से के रूप में बनें रहे तो विधायकों में जम्मू और काश्मीर के बारे में बार-बार यह अपवाद क्यों किया जाता है कि जम्मू और काश्मीर को छोड़ कर सारे भारत पर यह लागू होगा वहाँ के लिये एक अलग व्यवस्था क्यों होती है? यह बात हमें बिल्कुल पसन्द नहीं आती है कि हमारी सरकार बार-बार जम्मू और काश्मीर के लिये एक अलग व्यवस्था करे और सारे देश के लिये, भारतवर्ष के लिये एक अलग व्यवस्था करे। यह कोई समझ में आने वाली बात नहीं है। इसको हमें धीरे-धीरे कम करना होगा।

हमारे माननीय मंत्री जी यह कह सकते हैं कि हमारे यहाँ के कांस्टीट्यूशन में, उसके अनुच्छेदों में, यह व्यवस्था है इसलिये ऐसा करना पड़ना है। मेरा निवेदन है कि वहाँ के प्रधान मंत्री के भाषणों से और हमारे यहाँ के नेताओं के भाषणों से यह चीज स्पष्ट हो चुकी है और वहाँ की जनता भी इस बात को व्यक्त कर चुकी है कि हम भारत के अविभाज्य अंग हैं, हम भारत के ही अंग हैं, तो फिर हम इस मामले में खुद ही पहल क्यों नहीं करें और संविधान संशोधित करें। एक तो यह स्थिति है कि वे कहें कि हमको अपने चुनाव के अधिकारक्षेत्र में लीजिये और उसके अन्तर्गत कार्यवाही कीजिये और दूसरी बात यह है कि हम उनको प्रेरित करें, प्रोत्साहित करें कि आज जो स्थिति पैदा हो गई है उसको देखते हुए यह अत्यंत आवश्यक हो गया है कि वे और हम बिल्कुल एक हो जाय और ऐसा घोषित कर दें कि अब कोई फर्क नहीं रहा है।

[श्री विमलकुमार मन्नालालजी चौरडिया]
तो ऐसी स्थिति में हमारी सरकार को खुद यह कदम उठाना चाहिये कि जम्मू और काश्मीर भी हमारे अधिकारक्षेत्र में पूरी तरह से आ सके और जिस तरह में हम बाकी हिस्से में डिलिमिटेशन कमिशन बना कर सारी व्यवस्था करते हैं उसी तरह से जम्मू और काश्मीर में भी करे।

एक बात और विचित्र है। लोक सभा में माननीय मंत्री जी ने जो भाषण दिया था उसको जब मैंने पढ़ा तो मुझे यह अंदाज लगा कि उनका यह कहना है कि अभी हमारे यहाँ पर काश्मीर के लगभग छ प्रतिनिधि हैं और अगर चुनाव की सारी व्यवस्था की जायगी और सारा डिलिमिटेशन आफ कास्टीटुएसीज का काम जनसंख्या के आधार पर किया जायगा तो वह चार रह जायेंगे। यह कोई दलील नहीं है कि वहाँ चार रह जायेंगे इसलिये यह हमको नहीं करना है।

SHRI BIBUDHENDRA MISRA:
May I correct him? I never said that In the Lok Sabha, I made that statement and I wanted to give the information Jammu and Kashmir is allotted six seats and when it comes under delimitation on a population basis, it will be entitled to only four seats I never took it as a justification that that was the reason why it should not be extended to Jammu and Kashmir.

श्री विमलकुमार मन्नालालजी चौरडिया
खैर जो भी हो, माननीय मंत्री जी इसको दलील नहीं मानते और घटना की एक जानकारी देना समझते हैं, तो भी मैं उनसे प्रार्थना करूँगा कि जब जनसंख्या के आधार पर भारतवर्ष के अन्य हिस्सों के साथ व्यवहार करते हैं तो क्या कारण है कि वहाँ उस आधार पर व्यवहार न करे और वहाँ के लिये छ सीट्स रहे। छ सीट्स वहाँ की रख कर उन लोगों को

अप्रत्यक्ष रूप से इस बात के लिये प्रोत्साहित करते हैं कि वे यह जो छ सीट्स का अधिकार मिला हुआ है उसको चार सीट्स में सीमित नहीं करे, वह अगर मिलाना भी चाहते हों तो कुछ स्वार्थी तत्व ऐसा भ्रामक प्रचार करके उनको इस बात के लिये प्रोत्साहित करे कि ऐसा प्रस्ताव असेम्बली में पास न होने दे कि जम्मू और काश्मीर को भी डिलिमिटेशन कमिशन के अधिकारक्षेत्र में लाया जाय और उसके अन्तर्गत सारा वहाँ की कास्टीटुएसीज का निर्माण हो। वहाँ जो गत चुनाव हुआ था वह हमारे एलेक्शन कमिशन के अन्तर्गत ही हुआ था और हमारे यहाँ की सारी की सारी व्यवस्था वहाँ चली थी। ऐसी स्थिति में मैं प्रार्थना करूँगा कि हमारी सरकार को इस बारे में पहल करनी चाहिये और इस बात का प्रयत्न करना चाहिये कि जम्मू और काश्मीर की स्टेट भी प्रस्ताव पास कर इस बात को स्वीकार करे कि वहाँ भी डिलिमिटेशन कमिशन का अधिकारक्षेत्र लागू हो और जिस तरह से हमारे यह अन्य क्षेत्रों में जनसंख्या के आधार पर प्रतिनिधित्व होता है उसी तरह से वहाँ भी जनसंख्या के आधार पर प्रतिनिधित्व हो और जो वहाँ अभी छ का प्रतिनिधित्व है वह चार का हो, जिससे कि उनको अप्रत्यक्ष रूप से अलग रहने के लिये जो प्रोत्साहन मिल रहा है उस पर नियंत्रण हो सके।

अब परिसीमन आयोग के बारे में जो व्यवस्था की है वह यह है कि दो सदस्य मुप्रीम कोर्ट के जज की वाग्यता वाले होंगे और एक सदस्य अपने चीफ एलेक्शन कमिशनर होंगे। यह बहुत अच्छी व्यवस्था है और इसका मैं समर्थन करता हूँ मगर जहाँ तक सहयोगी सदस्यों का सवाल है, एसो शिपेटे मेम्बर, का उसके बारे में दो तीन प्रश्न माननीय मंत्री जी के सामने रखना चाहता हूँ। एक तो यह है

कि आपने केवल लोक सभा और लेजिस्लेटिव असेम्बली के सदस्यों को ही इसमें रखा है और अगर हम इस क्षेत्र को व्यापक नहीं बनाते हैं तो मुझे शका होती है कि इस तरह इसमें पूरा प्रतिनिधित्व हो सकेगा। यह जो बंधन लगाया है कि केवल लोक सभा के व विधान सभाओं के सदस्य ही आ सकेंगे और राज्य सभा तथा विधान परिषदों के नहीं आ सकेंगे यह कुछ ठीक लगता नहीं है। दलोल यह दी जा सकती है कि वे लोग वहाँ चुन कर आये हैं—चुनाव लड़ कर आये हैं—तो मेरा नम्र निवेदन है कि राज्य सभा का जो सदस्य है वह भी कई विधान सभा के सदस्यों के माध्यम से चुन कर आता है और इसी तरह विधान परिषद् का सदस्य भी विधान सभा के कई सदस्यों के माध्यम से चुन कर आता है और इसलिये उसको उन सारे सदस्यों के निर्वाचन क्षेत्र के बारे में, जिनके माध्यम से वह चुन कर आता है, अधिक दिलचस्पी होगी और वह उन सब प्रतिनिधियों की जो समस्याएँ हैं और उनके निर्वाचन क्षेत्र में जो कठिनाइयाँ हैं उनको और ज्यादा अच्छी तरह रिप्रेजेंट कर सकेगा बजाय उसके जो कि एक निश्चित क्षेत्र से आने वाले सदस्य हैं। मैं यह नहीं कहता कि लोक सभा के सदस्य जहाँ से वे चुन कर आये हैं उसी सीमित दायरे में दिलचस्पी लेंगे और और उसके आगे के क्षेत्र के बारे में तबज्जह नहीं देंगे लेकिन मेरी प्रार्थना है कि राज्य सभा के तथा विधान परिषदों के सदस्य भी जो सारी समस्या है उस पर विशेष रूप से प्रकाश डाल सकते हैं और ऐसे सदस्यों को भी इसमें लेने की व्यवस्था की जाय। इसलिये केवल यह सीमा लगाता कि लोक सभा के या विधान सभा के ही सदस्य रहेंगे कुछ ठीक नहीं लगता है। इस क्षेत्र को व्यापक बनाना चाहिये यह मेरा निवेदन है।

दूसरा निवेदन यह है कि इसमें जो सदस्यों की संख्या रखी है वह कम प्रतीत होती है। वर्किंग जर्नलिस्ट्स के बारे में जो बिल प्रस्तुत

हुआ था उसमें सदस्यों की संख्या बढ़ा दी थी जब कि उसकी आवश्यकता नहीं थी। उसमें पहले ही वर्किंग जर्नलिस्ट्स के रिप्रेजेंटेटिव थे, एम्प्लायर्स के रिप्रेजेंटेटिव थे और एक गवर्नमेंट का इंडिपेंडेंट जज सरीखा आदमी भी वहाँ था मगर वहाँ दो और मेम्बर्स बढ़ा दिये। तो समझ में नहीं आता है कि यहाँ जब कि यह मामला साधारण लोगों से सम्बन्धित है, चुनाव से सम्बन्धित है, लोक सभा, राज्य सभा और विधान परिषद् तथा विधान सभा के सदस्यों से सम्बन्धित है तो फिर सदस्यों की संख्या कम क्यों रखते हैं। यह कुछ न्यायसंगत प्रतीत नहीं होता। पहले जो व्यवस्था थी वह जनसंख्या के आधार पर थी कि इतनी जनसंख्या के आधार पर इतने एंसाशियेट मेम्बर्स होंगे लेकिन अब ऐसा नहीं है।

THE VICE-CHAIRMAN (SHRI M. GOVINDA REDDY) You will have to be brief. I am sorry, I have to cut you short.

श्री बिमलकुमार मनालालजी चौरडिया
श्रीमान्, ऐसा पहले कहते।

THE VICE-CHAIRMAN (SHRI M. GOVINDA REDDY) There are nine speakers more.

SHRI V. M. CHORDIA I shall take only a few minutes more.

तो इस सम्बन्ध में मेरा निवेदन यह है कि हमको और अधिक सदस्यों को रखना चाहिये।

अब रहा सवाल निर्वाचन क्षेत्रों के निर्माण का तो जैसी पुरानी शब्दावली थी उसी के अनुरूप इसमें भी है।

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

[श्री विमलकुमार मन्नालालजी चौरडिया]

नौ चार पांच बातों की तरफ विशेष जोर दिया है मगर कई कांस्टीट्यूंसीज ऐसी देखी गई हैं जिनमें कि फिजिकल फीचर्स का खयाल नहीं किया है, एडमिनिस्ट्रेटिव युनिट्स का खयाल नहीं किया गया, कम्युनिकेशन की फैसिलिटी का खयाल नहीं किया गया और पब्लिक कनवीनियेंस का खयाल नहीं किया गया, सब से ज्यादा खयाल किया गया कांग्रेस की कनवीनियेंस का और उसके आधार पर ही कई कांस्टीट्यूंसीज बना दी गई हैं। मैं जिस निर्वाचन क्षेत्र का हूँ वहाँ भी कुछ इसी तरह की शिकायत हुई और लोक सभा में बात कई सदस्यों द्वारा नोटिस में लाई गई। चूंकि वहाँ एक पार्टी का आदमी जीता था इसलिये ऐसा किया गया कि वह फिर न जीत सके और चार तहसीलों के हिस्से उस क्षेत्र में मिला दिये गये, भानपुरी तहसील, गरोठ तहसील, मल्हारगढ़ तहसील और सीतामऊ तहसील के हिस्से उसमें मिलाये गये। वहाँ यातायात की कोई व्यवस्था नहीं है और विधान सभा के निर्वाचन क्षेत्र के लिये उम्मीदवार जब तक एक छोर से दूसरे छोर तक सौ या डेढ़ सौ मील तक न चले तब तक पूरा दौरा उस क्षेत्र का नहीं हो सकता है। तो पब्लिक कनवीनियेंस की जगह कांग्रेस कनवीनियेंस हो जाय इसलिये ऐसा किया गया ताकि जो विरोधी दल का सदस्य आ गया है वह आगे न आ सके। इसके अतिरिक्त और भी कई उदाहरण हैं। तो मैं प्रार्थना करूँगा कि जो शब्दावली यहाँ पर है उसको मुख्यतः ध्यान में रख कर व्यवस्था करेंगे तो ज्यादा अच्छा होगा।

इसी तरह से यह जो धारा १० है उसमें यह है कि जो भी आर्डर्स होंगे उसकी रिपोर्ट आफिशियल गजेट में, या गजेट आफ इंडिया में प्रकाशित होगी और प्रकाशित होने के बाद यह विधान का रूप ले लेगी

“and shall not be called in question in any court.”

किसी भी न्यायालय में उस पर प्रश्न नहीं किया जा सकेगा, इसके बारे में मेरा यह निवेदन है कि यह न्यायसंगत नहीं है। यदि आपका काम ठीक है तो न्यायालय से डरने की जरूरत नहीं है।

इसके बाद यह व्यवस्था रखी आपने कि उसको पार्लियामेंट की तथा विधान सभा की टेबिल पर रखा जायेगा। मेरा यह निवेदन है कि हमें पहले विधान सभा की और पार्लियामेंट की टेबल पर रखना चाहिये जिससे कि उन पर चर्चा हो सके, जिन सदस्यों को जैसा सुझाव देना हो वह दे सकें और उसके बाद माडिफिकेशन की आवश्यकता हो तो किया जाय। उस चर्चा के प्रकाश में माडिफिकेशन होने के बाद वह कानून का रूप धारण करे तो अधिक उपयुक्त होगा।

समय कम है इसलिये इन शब्दों के साथ मैं प्रार्थना करता हूँ कि जब अग्नेन्डमेंट पर चर्चा होगी तब श्रीमान् उन पर अवश्य ध्यान देंगे।

SHRI N. M. LINGAM: Mr. Vice-Chairman, Sir, I give my general support to the Bill because, as the hon. the Deputy Minister has stated, it is a constitutional obligation that after every census the constituencies of the House of the People as well as of the State Assemblies have to be readjusted and seats for the States have to be reallocated on the basis of the latest census figures. While doing so I would like to make some suggestions for the consideration of the Government.

The hon. the Deputy Minister has admitted—and it is the constitutional position also—that it is within the powers of the Commission to increase the number of seats in each State Assembly subject to the conditions laid down in the Constitution itself, namely, that the minimum is sixty and the maximum is five hundred. But I find from this Bill that no directions have been given, not even broad guidance for the Commission

in the matter of determining the number of seats for the State Assemblies. Here I must point out, Sir, that although it would be argued that the room for the Commission to change the number of seats is not large since they will be influenced only by the change in the population during the last census and that in any event the increase will only be marginal, still it can be said and it would be salutary if no room is given for what is called gerrymandering. Now that can be obviated, Mr. Vice-Chairman, only by laying down broad principles in the Bill itself as it is sought to do with regard to the delimitation of constituencies.

Now, the broad indications given to the Commission with regard to how they should proceed in this matter are that the constituencies should be compact, that regard should be had to natural boundaries and regard should be had also to facilities of communication and public convenience. These are the broad guidance-lines for the Commission in determining the constituencies. But it would be better. Mr. Vice-Chairman, in my opinion, if we had defined more clearly the lines on which the Commission should proceed. I have in mind particularly the need for constituencies remaining, as far as possible, as they are at present, so that difficulty may not arise for Members in future to nurse the constituencies. It is conceded, Mr. Vice-Chairman, that constituencies will be changed, at any rate some of them will be changed beyond recognition. While the Commission will be entirely justified in changing the boundaries of the constituencies, they must also have regard to the constituencies as viewed from the point of view of the representatives who are going to be elected from these constituencies. Normally, although in theory the same Member may not represent the same constituency every time, the practice is that life in Legislatures or Parliament is a continuous process for a majority of Members,

and if a Member has to nurse a constituency successfully, the constituency should remain inviolate with regard to its boundaries, as far as possible. So, it should have been laid down more clearly, Mr. Vice-Chairman, that the existing boundaries should not be changed except under the most compelling necessity.

Thirdly, Mr. Vice-Chairman, under the Constitution we have a ceiling for the total number of Members for the House of the People. But our population goes on increasing at 2½ per cent per annum and with the constituencies growing in strength with regard to voters, we may visualise a time when the voting strength in parliamentary constituencies will be double of that at present. Even now it is represented that the parliamentary constituencies are so large that it is difficult for Members to keep in touch with the electorate. I tremble to think, Mr. Vice-Chairman, what the position would be, how the Members, apart from the difficulty in getting elected from such huge electorates, would face the problem of nursing the constituencies when they grow to a size which will be twice or thrice their present boundaries. In the U.K., where we have the Mother of Parliaments, the parliamentary constituencies are not even as large as the Assembly constituencies in our country. That is how they are able to have a close watch over their constituencies. So, Mr. Vice-Chairman this larger aspect, though it does not come within the ambit of the present measure, should engage the attention of the Government. Either they have to think of increasing the number of seats in the House of the People or, if this is not possible, they have to think of some other method by which both the election process and the process by which a candidate can keep in touch with his constituents could be simplified.

It would also have been desirable, Mr. Vice-Chairman, if provision had been made for Members of the Rajya

[Shri N. M. Lingam.]
Sabha also to become associate members of the Commission. After all, Members of the Rajya Sabha do have an interest in the constituencies of the States.

SHRI K. SANTHANAM: We have no personal interests. The other people have personal interests and they should not be there.

SHRI N. M. LINGAM: Yes, Sir, from that point of view our approach would be more objective. In any case a more broad-based committee in matters like this would have been better. I do not know whether it is too late for Government to accept it.

SHRI AKBAR ALI KHAN: Let us not compliment ourselves.

SHRI N. M. LINGAM: At any rate it is a suggestion for Government to consider at least for the future.

Thank you, Mr. Vice-Chairman.

SHRI BHUPESH GUPTA: Mr. Vice-Chairman, Sir, we do not know exactly when it will come to function even if this Commission is constituted now. I do not think that so long as the emergency continues in the present form, the Commission would be in a position to function very much. In the first place, it would mean that the officers will be themselves busy. Secondly, also the Members of Parliament and Assemblies will be involved in the processes of the work of the Commission.

Now, Mr. Vice-Chairman, the other day when the leaders and representatives of the various parties met the Law Minister and the Election Commissioner, we took the informal decision that for the present the by-elections should be postponed—by-elections to the Lok Sabha and the Assemblies—and that after three months or so we should be reviewing this matter. Naturally, the whole thing depends on the developments that are before

us today. If the developments take a better direction, probably work of this kind will be easily undertaken. If, however, something bad happens and developments take wrong directions, then of course things may not happen in a way we would like them to happen as far as this Commission is concerned.

Sir, I find that one of the members of the Commission will be the Chief Election Commissioner. It is good that he is there. We would like him to be there, because this is an independent authority and body and it is connected with elections. He has his own status in our Constitution. And it is good that there will be others too appointed by the Government from among the Judges. The Judges may not always have proper experience of matters relating to elections. I am not opposed to Judges being there. I am only posing a problem for you to consider. That is not a legal matter so to say. Judges should be there perhaps in the situation. But then Judges have to function with a different outlook and also outside the range of their normal experience in such matters. Elections, as I said, are not a legal matter at all. It is a question of common-sense, question of facts, question of assessment, and these are to be worked upon on the basis of the guiding provisions of our Constitution and of all the existing laws.

Now, Sir, if the elections have to be all postponed for the present apart from indirect elections, I take it that there will be some lessening of the burden of work of the Election Commission. I think this body of men, the Chief Election Commissioner and others, in the Election Commission establishments should be utilised, their services should be utilised, for certain very positive and better purposes simultaneously. I do not know how to do that. It is for the Government to consider that. I say this thing because here we have got a set of experienced, good, people who should not be made to sit idle just because

we have postponed the elections for the time being, but whose services otherwise should be utilised in the context of the present situation. Now, I say this thing because I am interested in seeing that because of the national emergency and certain developments arising out of it, the services of these officers of ours should not be frozen when they do not have enough work in the Election Commission office. I am sure they have some work, but it may be less in view of the present situation when the elections and the related files are not there. But this period could be utilised by them in assessing the country's electoral systems and so on, a little better reflecting over them, studying them, studying the various aspects of the processes of elections so that they, with their experience, can make certain suggestions and recommendations for changes in the law. Because it will be agreed on all hands that whatever we may say in praise of our system, there is much that has to be improved upon. And I think the Election Commission is the most competent body of persons which can help us in this matter. If they have a little lean time today because of this suspension of by-elections, this time may be utilised in a deeper and searching study of the systems and methods of elections in order to make the necessary changes when the situation brightens up and we are in a position to do so.

Coming to the delimitation problem, you see, we are discussing these things within the iron-frame of our Constitution. The number is certain. Nobody, unless you change the Constitution, can alter that number as far as the Lok Sabha is concerned. Therefore, whatever delimitations or adjustments are made, are to be made within the framework of that provision of the Constitution which restricts the number to 500 and so on. Well, I am not one of those who think that this number or the ceiling, so to say, should be sacrosanct in our Constitution. When this was fixed it was not

fixed from the point of view of what the population would be in 1961 or 1971. The number was fixed on the basis of the population according to the census figures available at that time. Now, are we to stick to that number when the population is growing? Every ten years we get the figures in the Census Reports and so on. Our population today is growing at the rate of 2 per cent. a year.

SHRI AKBAR ALI KHAN: Two and a half per cent.

SHRI K. SANTHANAM: It was fixed for a population increase up to 500 million, at the rate of one Member for each million.

SHRI BHUPESH GUPTA: The Constitution does not say that. That 500 million population will not increase according to the wishes of those who framed it the fathers of the Constitution. They may found many things but the population goes on increasing in its own way. That you know. It may be 500 million, it may be 600 million and it will go on increasing.

Therefore, Sir, it has been seen that the normal rate of population increase, which was taken for granted, has been exceeded. You do not have a corresponding increase in the number of Members. There has not been corresponding increase in the number of seats over these ten years in the Lok Sabha or, if you like that way, in the State Assemblies. Now, I would not like to apply it rigidly. But the logic should not be rejected. Now, certainly you did not give over-representation when you fixed the number at 500 in 1950. Even if that is so, if that were more or less an approximate representation on the basis of the population; today one cannot but say that the Lok Sabha from that angle is under represented, because the number does not make a proper representation there applying the criteria of 1950 when the Constitution was passed. Therefore, I think we should think in terms of increasing

[Shri Bhupesh Gupta.]
the number of seats in the Lok Sabha. That should be the perspective and approach in this matter. Otherwise the Delimitation Commission of the kind that will come into existence will be only rearranging the old furniture in the same house, maybe to the advantage of the ruling party.

SHRI SHEEL BHADRA YAJEE:
(Bihar): Question?

THE VICE-CHAIRMAN (SHRI M. GOVINDA REDDY): Mr. Bhupesh Gupta you may now make other points. You will have to be brief.

SHRI BHUPESH GUPTA: Let me make that point first. That is the position. Therefore, it does not take us very far. Therefore, we should be prepared to increase the number, Mr. Vice-Chairman. That is a very important point and a new point, I should have thought, and I should have thought that even though we are in the Rajya Sabha, it will be welcomed by you.

THE VICE-CHAIRMAN (SHRI M. GOVINDA REDDY): Not at least the matter of furniture.

SHRI BHUPESH GUPTA: Furniture business you will not like, I know, even though the furniture, Mr. Vice-Chairman, comprising of the political parties, is arranged according to the convenience of the Congress Party. This is neither here nor there. As you know, sometimes unsavoury things have to be said and somebody has to say them. This unpalatable task sometimes is assigned to me; maybe I take it on myself. The delimitation of certain constituencies that has taken place in the country has been—I do not know whether I can use the word but if you like an American expression I may say—gerrymandered. We like so many American things, why not this expression also? I say it is gerrymandering. Consultations take place, I tell you, between the authorities there who come on

the spot but they are misled by people who should not mislead them. Then you can ask how it is that adult people permit themselves to be misled but then again, adult people also mislead them. They are on the spot, in the know of things and are in a position to impress on the authorities that this way it should be done or that way it should be done. Certain constituencies in the recent past also have been adjusted according to the dictation of some people. We knew that these constituencies would be adjusted in this manner even before the authority appeared on the scene and things went on according to the plan, as they say. This should not be done. Mr. Lingam was right though he would not like to be associated with such untouchable persons like me—the Communists—but he said that gerrymandering should be avoided in this kind of thing and I like the statement because it should not be done by anybody and the Rajya Sabha Members' being there will do perhaps a little good in the sense that they are not directly interested. We are indirectly interested as we are indirectly elected. That is the position. This should be guarded against.

That brings me to clauses 4 and 5. I say that the seats should be increased. Why cannot we have a larger Lok Sabha? In other countries they have bigger House of the People or the Lower House as they call it. Why must we be stuck up at 500 all the time for 16, 20 or 30 years? We can certainly have a larger Lok Sabha which means . . .

SHRI AKBAR ALI KHAN: That is quite irrelevant to the Bill. We may agree or disagree with him.

THE VICE-CHAIRMAN (SHRI M. GOVINDA REDDY): You show some indulgence to Mr. Gupta.

SHRI BHUPESH GUPTA: You agree with me? I am glad to find that Mr. Akbar Ali Khan agrees with me. Therefore, I need not touch on

that. If I have convinced Mr. Akbar Ali Khan, then I suppose by implication I have convinced many others. With regard to the Assemblies also, seats can be increased. In regard to clause 5, the Speakers of the Legislative Assemblies and the House of the People will nominate the associate members. I think that special care should be taken as to who are nominated by them to be associated with the Delimitation Commission. It is there that we must exercise—or the authorities concerned who are responsible for nomination should exercise—the utmost discretion so that people absolutely fair-minded, not carried away by any narrow partisan interests but guided by the larger interests of the country and the parliamentary institutions, no matter which party they belong to, should be nominated. This is point number one. Secondly, the number is seven, three of whom shall be Members of the House of the People and four shall be of Legislative Assemblies. Let us deal with the three. They will not be nominated by this House.

SHRI MULKA GOVINDA REDDY:
It is four and five.

SHRI BHUPESH GUPTA: Sorry, it is four and five. Regarding the opposition, I might sound a little narrow in this matter and selfish. Please do not misunderstand. The Opposition should be adequately represented. Why do I say this? It is because, whether you like it or not, these Members occupying these benches, between them, they account for the majority of the votes polled in the country. This is a stark reality. The Congress benches represent the minority of the votes polled in the country. It has been so in all the three elections.

(Interruptions)

THE VICE-CHAIRMAN (SHRI M. GOVINDA REDDY): Order, order.

SHRI BHUPESH GUPTA: Therefore, in deference to the alignment of

the people, the Opposition should be adequately and duly represented and naturally it is for you to decide as to which parties should be represented in which manner depending on the correlation of forces, strength and so on. I am not laying down anything but it should be equitably and properly distributed, the number of seats between the Government benches and the Opposition benches and here a great responsibility devolves on those who shall be in charge of nomination. That is all I have to say. I hope this Commission which is going to come will function, when the time comes, in a proper way in co-operation with all political sections of the country and all sections of this House, in order to avoid malpractices and gerrymandering in the elections and to reorganise the constituencies in a right, democratic way, ensuring as far as possible through its work, free and fair elections.

श्री दयाल दास कुरे (मध्य प्रदेश) :

उपसभाध्यक्ष महोदय, आज जब कि गणतंत्र राज्य की सारी नींव निर्वाचन के आधार पर स्तम्भित है, तो यह महसूस होता है कि निर्वाचन बहुत ही आवश्यक है। हमने स्वतंत्रता प्राप्ति के बाद तीन आम चुनाव किये और इतने बड़े देश में हमने इन तीनों आम चुनावों में बड़ी सफलता प्राप्त की है हमारे देश के इतिहास में ही नहीं बल्कि संसार के इतिहास में इतने बड़े देश में आम चुनावों का इतना अधिक सफल होना एक अपना स्थान रखता है। इसलिये हमारे ये चुनाव यथार्थ में बहुत महत्वपूर्ण रहे और ऐसी आशा है कि हमारी जो गतिविधियां डिलिमिटेशन कमिशन के रूप में आगे आ रही हैं और उनकी गतिविधियां जो देश के सामने आयेंगी, उनसे मैं समझता हूँ कि और भी जो हममें खामियां हैं उन खामियों को दूर करने में हम अधिक सफल हो सकेंगे। हमने इन तीनों चुनावों में जो सफलता प्राप्त की है, उसके लिये मैं यह कहे बिना नहीं रहूंगा कि हमारे इलेक्शन कमिशन ने जितनी ही निपुणता से कार्य किया है उसके लिये वे बधाई

[श्री दयाल दास कुरें]

के पास हैं। मैं यह और कहूंगा कि यह जो डिलिमिटेशन कमिशन बनने जा रहा है, वह हमारे देश के लिये और हमारे हित में अधिक उपयुक्त रहेगा।

इस बिल की धारा ३ में डिलिमिटेशन कमिशन के बारे में कहा गया है कि तीन सदस्य रहेंगे, यह उपयुक्त है। ज्यादा सख्या होने पर संभव है कि हमारे काम में अधिक गड़बड़ियाँ आयें। इसमें मैं इस चीज को अधिक महत्व दूंगा कि इसमें एक इलेक्शन कमिशन का सदस्य रखा गया है। मुझे पिछले चुनावों में इलेक्शन कमिशन के मेम्बरो से बातचीत करने का और मिलने का अवसर प्राप्त हुआ। उन्होंने देश के एक कोने से दूसरे कोने तक चुनाव क्षेत्रों के बारे में जानकारी प्राप्त की है। उन लोगों से जो मुझे मालूम हुआ उससे मेरा यह विचार दृढ़ हो गया कि यथार्थ में इन अफसरों ने देश की स्थिति पर विशेष ध्यान दिया है, लोगों के विषय में जानकारी प्राप्त की है और सचमुच में उन्होंने बहुत ही मेहनत करके ज्ञान अर्जित किया है। तो इन तीन सदस्यों में से इलेक्शन कमिशन का एक सदस्य होना यथार्थ में आवश्यक है।

दो सदस्य इनमें से जजों में से लिये जा रहे हैं और काफ़ी अनुभवी जजों में से लिये जा रहे हैं। आज हम देखते हैं कि चुनावों के बाद चुनावों पर अपीलें होती हैं और वे अपीलें निम्न स्तर के कोर्ट से लेकर आगे हाई कोर्ट और सुप्रीम कोर्ट तक जाती हैं। तो मैं कहूंगा कि यदि हम नीव को ही मज़बूत रखें और जो हमारी टेक्निकल कठिनाईयाँ हैं उनको निकाल कर के हम सारी चीजों को स्पष्ट रख दें, तो जो चुनाव सम्बन्धी बड़ी अपीलें हुआ करती हैं उनमें आगे कमी अवश्य आयेगी। इसलिये धारा न० ३ में जो कमिशन के सदस्यों के बारे में इसमें दिया हुआ है उसका से हृदय से स्वागत करता हूँ।

दूसरी बात मैं धारा न० ४ के बारे में कहूंगा। यह कमिशन जो काम करेगा उसकी कार्यविधियाँ बहुत होंगी और इस विषय में मैं नम्र शब्दों में आपके सामने अपने सुझाव रखूंगा। उसमें जो पहली बात दी है वह यह है:

"It shall be the duty of the Commission to readjust . . ."

मैं इस "रिएडजस्ट" शब्द के ऊपर अधिक जाऊंगा। गत चुनाव जो हुआ, जो तीसरा आम चुनाव हुआ, उसमें मुझे कई चुनाव-क्षेत्रों में जाना पड़ा। मैंने लोगों से जानपहचान की और वहाँ पर चुनाव कमिशन ने यथार्थ रूप में कितना काम किया है और किन बातों पर विशेष ध्यान दिया है उसकी जानकारी करने का मुझे मौका मिला। मैं कई गावों में कई लोगों से मिला और मुझ ऐसे-ऐसे उदाहरण मिले कि वहाँ जो मतगणना करने वाले हमारे कर्मचारी थे उन्होंने बहुत सी बातों पर ध्यान नहीं दिया। मुझे कई स्थान ऐसे देखने में आये जहाँ कि मान लीजिये दो सौ मतदाता हैं, तो वहाँ सौ मतदाताओं का नाम बिल्कुल ही नहीं है। ऐसे उदाहरण देखने में आये कि पहले नाम था लेकिन कुछ दिनों के बाद अलग कर दिया गया। अब वह समझ में नहीं आता कि निम्न स्तर के मतगणना करने वाले जो अधिकारी हैं उन्होंने जानबूझ कर यह गलती की है या, जैसा कि हमारे चोरडिया जी कहते हैं, किसी विशेष दल के दलदल में आ कर के नीचे स्तर के सरकारी कर्मचारियों ने यह गफलत की। लेकिन यह देखने में अवश्य आया कि गलतियाँ हुई हैं और ऐसी गलतियाँ उन लोगों के साथ हुई हैं जिनको इन बातों की विशेष जानकारी नहीं होती है जैसे कि शेड्यूल्ड कास्ट के लोगों के साथ हुई है। जहाँ उन लोगों की आबादी भरी पड़ी है वहाँ पर मतदाता सूची में उनके नाम अधिकांशतः छोड़ दिये गये हैं और इसका कारण यह है कि उनको कोई जानकारी नहीं है। तो, वे मताधिकार से वंचित रहे हैं। अगर सी भूल आगे भी होती रहे तो मैं समझता हूँ कि

یہاں میں نے ہمارے ناگرنک کو اپنے متاڈی-کار کا پریوگ کرنے کا اڈبٹ ابرسر پراپٹ نہی ہوگا ۔ اسیلیے میں نام نیویدن کرہگا کی ابراے جو کامیشن بننے جا رہا ہی اُسکے ہارا اسی بھلے نہ ہوں ۔

اےک ابراے بات دیکھنے میں اراہی کی ابراہی اےک ویکاس خبڈ میں جنپد کا چناو ہونے جا رہا تا ابراے اُسمیں ۵ ریزروڈ سیٹ ہونے والی ہی لیکن جہاں ۳۲ ہزار کی پاپولیشن ہی وہاں کارپالای کے دراا ۲۳ ہزار پاپولیشن ہی باتای ہی ابراے اسی ترہ سے سوراٹیت سٹان کےول ۶ ہی نیات کیے گے ۔ ابراے اسی پراکار کی بھل ہوتی رہی تو فیر ناگرنکوں کو اڈبٹ متاڈیکار پراپٹ نہی ہوگا ۔ یہ جو ارادمی سٹےٹ لےویل پر نیوکٹ کیے جا رہے ہی اُس سلسلے میں میں کرہگا کی ان باتوں کو ڈیان میں رکھتے ڈو اُنہیں اسی بات کی ویشے ہیداوت دی جاے کی جو شےڈیولڈ کاسٹس، شےڈیولڈ ڈراڈیج یا بیکورڈ کلاس کے لوگ ہی، جنکے پراٹ اڈےکا کی جاتی ہی چناو کے وکٹ، انکا اےک ارادمی اسیمیں لیاے جاے ابراے اسی ویاڈان کے ابراٹارگٹ اُسکے لیے اےک سٹان رکھا جاے جیسے کی وے اڈےکٹیت نہ کیے جائے ابراے انکو اڈبٹ سوبیا پراپٹ ہو سکے ۔

شری عبدالغنی (پنجاب) : وائس

چیرمین صاحب - مجھے اس بل پر کچھ تھوڑا سا رنج ہے جو آپ کے دوارا گورنمنٹ سے اور خاص طور سے اپنے ڈپٹی منسٹر صاحب سے کہلا چاہتا ہوں - ايسوسي ايمٹ ميمبرس کے طور پر راجہ سبھا کے ممبر نہيں آسکتے هيں، یہ کہوں ہے - میں ماننا ہوں کہ ان کی تعداد کہیں کی وولنگ سے بڑھنے یا کھٹنے والی نہيں ہے لیکن وہ مشورہ بھی نہ دیں یہ میرے نزدیک اس شاندار ہاؤس کے ساتھ ایک طرح کی بے انصافی ہے، اس کا ایمان ہے جو انہوں نے کیا ہے -

دوسری بات جو میں عرض کرنا چاہتا ہوں وہ یہ ہے کہ جہاں تک کونسلوں کا تعلق ہے اس میں کچھ حصہ ایسا بھی ہے جو وولنگ سے آتا ہے جیسے کہ گریجویٹ کلسٹی ٹونسہیز میں اور لوکل باڈیز کلسٹی ٹونسہیز میں تو ان کے لئے کمیشن اور سرکار کیا کرے اس وجہ سے بھی ان کو مشورہ میں شامل نہ کیا جانا ٹھیک نہیں ہے - میں سمجھتا ہوں کہ ان کے لئے بھی سرکار نے یہ دھیان نہیں دیا کہ ايسوسي ايمٹ ميمبرس کے طور پر ان کا ہونا کوئی نقصان دہ نہیں ہوگا بلکہ وہ فائدہ ہی پہنچائے گا -

تیسری بات جو میں مختصراً اپنے ڈپٹی منسٹر کے نوٹس میں آپ کے دوارا لانا چاہتا ہوں وہ یہ ہے کہ جب کبھی کشمیر کو بھارت سے الگ کرتے ہیں تو میرے دماغ میں چوٹ پڑتی ہے - وائس چیرمین صاحب - چوٹ کہوں پڑتی ہے - وہ اس لئے کہ یہ چانس کی بات ہے کہ میں مسلمانوں کے گھر پیدا ہوا - میں نے خود اس کے لئے کوشش نہیں کی تو یہاں جو قریب چار یا پانچ کروڑ مسلمان ہیں ان کے بارے میں فوراً دماغ میں بات آتی ہے - پلڈت جی جو کہ پرائم منسٹر آف انڈیا ہیں ان سے جب لاگوس میں کسی نے رفونڈم کے بارے میں سوال کیا تو انہوں نے کہا کہ وہ یہ نہیں کرائیگے کیونکہ اگر اس کا نتیجہ پاکستان کے

[شری عبدالغلی]

حق میں ہوا تو یہاں جو پانچ کروڑ مسلمان ہیں ان کا جو حق ہے وہ ثانوی ہو جاتا ہے۔ - مجھے قہر لگانا ہے یہاں کشمیر کے معاملہ میں کوئی بھی سوال اٹھاتے ہوئے۔ کہوں اسے الگ رکھتے ہو کہا وہ ہمارے دیس کا انگ نہیں ہے اور اگر انگ ہے اور وہ ہماری انڈین یونین میں شامل ہے تو پھر یہاں کہوں نہیں شامل کرتے ہو۔ - میں سمجھتا ہوں کہ اس سے یہاں کے بسنے والے مسلمانوں پر ایک طرح کا بوجھ پوتا ہے۔ - پرائم منسٹر سے اور کوئی بڑی طاقت ہندوستان میں نہیں ہے۔ - وہ ہمارے مقبول لیڈر ہیں اور اس سے کوئی زبردست اتھارٹی یہاں نہیں ہے۔ - اس لئے میں سمجھتا ہوں کہ کشمیر کو الگ نہ کیا کرو | اگر وہاں کے ممبر بڑھانے ہیں تو راشٹریتی کو حق ہوتا ہے نامزد کرنے کا اور جیسا وہ چاہیں کر سکتے ہیں۔ - وہاں ہر طرح کے لوگ ملتے ہیں، کشمیر میں قابل ترین آدمی موجود ہیں اس لئے ممبری عرض ہے کہ اس پر سرکار دھیان دے۔ - اور کمیشن کا دائرہ کشمیر جموں تک وسیع ہو۔ -

جب میں کہتا ہوں۔۔۔ وناش کالے وپریت بودھی۔ - تو ہمارے بھائی ارورا صاحب یا اور لوگ خفا ہو جاتے ہیں۔ - چوتھی بات جو میں عرض کرنا چاہتا ہوں وہ یہ ہے کہ تھیموکریسی کا

جو سارا قہانچہ ہے اسکی حفاظت کا سارا بوجھ مٹھی بھر لوگوں کے اوپر ہے جو کہ اورنگزیب روز میں بیٹھے ہوئے ہیں اور جلسوں الیکشن کمیشن کہتے ہیں۔ - یہ بوجھ سندرہ صاحب یا سبرامنیہ صاحب کے اوپر ہے اور وہ اپنے ساتھیوں کے ساتھ اس کی حفاظت کرتے ہیں۔ - سارا اس کا جو بار ہے وہ ان کے کندھوں پر ہے۔ - تو جب سارا بار ان کے کندھوں پر ہے اور تمام مخالف پارٹیز جو ہیں وہ بھروسہ کرتی ہیں کہ ان سے نہٹائے مل سکتا ہے، اس چھوٹے سے کھر سے، اس چار دیواری سے جہاں کہ یہ بیٹھے ہیں، تو میں درخواست کرتا ہوں کہ قیامتگیشن کا جو سارا کام ہے اس کی ساری ذمہ داری بھی چھف الیکشن کمیشن اور ان کے ساتھیوں پر ڈالو اور چھف الیکشن کمیشن کو اس کمیشن کا چھرمین بناؤ۔ - یہ میں اس لئے کہتا ہوں کہ جیسا کہ اور آنریبل ممبران کچھ دقتیں بتاتے ہیں اسی طرح میرے ذہن میں بھی کچھ دقتیں آتی ہیں۔ - یہ دقتیں ایسی ہیں کہ جس میں اگر یہ ہاؤس سرکار سے کچھ عرض کرے تو نا مناسب نہیں ہوگا۔ - یہ اس لئے میں کہتا ہوں کہ صرف یہ اپوزیشن کا سوال نہیں۔ -

چورزیا صاحب نے جو یہ کہا کہ انہوں نے اس طرح سے کلسٹی ٹیونسسی کو کہا نہیں تو یہ بات نہیں ہے۔ -

میں کانگریسی تھا اور اب بھی دل سے کانگریسی ہوں اگرچہ کانگریس میں نہیں ہوں - لیکن میرے جیسے کانگریسی کی کانسٹی ٹیوٹنسی کو اس قہقہے سے دی گئی ہے کہ پہلے قہقہے سے بالکل مستغلف ہو گیا - اس لئے یہ شکیت میں کوئی زیادہ مناسب تو نہیں سمجھتا کہ کنگرہنسی کا کوئی ذکر کروں، کانگریسی یا شہر کانگریسی کا ذکر کروں - لیکن میں یہ ضرور چھتا ہوں کہ سب کے ساتھ نہایت ہو - جو چھز آپ مقرر کرنے والے ہیں ان میں سے آپ کہتے ہیں کہ سرکار ایک کو چھرمہن بلائے - آپ تو مانہیں گے وائس چھرمہن صاحب - کہ جھو پر یہ پابندی نہیں ہے کہ ان کی وچارہارا کسی پاری کے ساتھ نہ جائے یا کسی پارٹی کو وہ مدد کرنا چاہیں تو نہ کریں گے، انصاف کے معاملہ میں، لیکن ویسے ان کے دماغ کی جو ساخت ہے یہ آتما پر کوئی پابندی نہیں لگا سکتی اس لئے میری دلی خواہش ہے کہ یہ سارا بوجھ الیکشن آفس پر ڈالا جاتا تو زیادہ اچھا تھا - اگر آپ رول بلانے جا رہے ہیں تو آپ ضرور کہجئے کہ چھرمہن ایک ہو، اس کا پورا ذمہ دار چیف الیکشن کمشنر آف انڈیا ہو -

پانچویں بات جو وائس چھرمہن صاحب میں عرض کرنا چاہتا ہوں -- آج میں بڑے اختصار سے کام لے رہا ہوں

تاکہ میں اپنی بات کہہ سکوں -- وہ یہ ہے کہ واقعی الیکشن کے سلسلہ میں اس میں بڑی ترہیاں ہیں جن کو سرکار کو درست کرنا ہے - آخر کوئی نہ کوئی سرکار کو سمجھا دے گا - یہ جو ہرورہ آپ بدلائیں، کیونکہ یہ بڑا ہی اہم ہرورہ ہوگا، تو اس کے سامنے وہ دقتیں آجائیں چاہیں - وائس چھرمہن صاحب - آپ کی اجازت سے میں یہ عرض کروں کہ میں نے اسی اپریل ۱۹۶۲ع میں پرائم مینسٹر آف انڈیا کو ایک خط لکھا اس میں میں نے کہا کہ ۲۳ فروری کے بروز پھیرس میں پنجاب کونست پارٹی کے جنرل سیکریٹری کا ایک خط.....

THE VICE-CHAIRMAN (SHRI M. GOVINDA REDDY): There is no time for all that. If you have some important point to make, please make that point. Your time is up.

شری عبدالغنی: میں ایک منٹ

میں وائلڈ آپ کر رہا ہوں - وہ اسٹیٹ منٹ یہ آیا کہ آٹھ حلقوں کے ڈیلیمیٹکٹ بھلت پھیر چھہ ہیں پنجاب سرکار کے پریس میں - اس وقت میں نہیں بولا کیونکہ ہمارے پاس کوئی ثبوت نہیں تھا - پھر میرے پاس بارہ کنگرہنسی ٹیونسز سے ڈیلیمیٹکٹ بھلت پیپرس آئے - میں نے پرائم مینسٹر کو لکھا میں اس کا اور کوئی فائدہ نہیں اٹھانا چاہتا ہوں - صرف فائدہ یہ اٹھانا چاہتا ہوں کہ اور بھلت پیپرس نہ چھاپ سکیں - اس کا اچھا انتظام

[شری عبدالغنی]

ہو جائے تو اس لئے یہ جو ہورت بہتھا
ہے وہ اس پر بھی وچار کرے کہ اس
طرح سے الیکشن میں جو بہت بڑی
تروٹی سامنے آئی ہے آگے نہ آئے - میں
نے وقت لیا میں کشا مانگتا ہوں لیکن وہ
بات امور تیلٹ ہے اور میں نے ذمہ داری کے
سانہ پرائم منسٹر کو لکھا تھا - میں
اسے پرائم منسٹر کے سامنے کسی وقت
بھی پیش کر سکتا ہوں - وہ پنجاب
سرکار سے یہ دریافت کر لیں کہ آیا
کسی کے بھلت پیپر کم ہونے کی
پنجاب سرکار کو اطلاع ملی ہے یا کسی
پولیس آفیسر یا پولیس کے پاس کوئی
شکایت آئی ہے تاکہ جو نمبر میں
پیش کروں اس کے بارے میں وہ یہ
کہیں کہ یہی نمبر کم ہو گئے تھے
مسئلہ تھے -

†[شیو عبدالغنی (پنجاب) : واہس
چیرمین ساہب، مجھے اس بیل پر کچھ ٹوڈا
سا رنج ہے جو آپ کے دوا را گورنمنٹ سے آئیر
آاس تیر سے اپنے ڈیٹی مینسٹر ساہب سے
کھنا چاہتا ہوں۔ اسوساٹ ممبرس کے تیر
پر راجی سبھا کے ممبر نہیں آا سکتے ہیں،
یہ کیوں ہے؟ میں ماننا ہوں کہ انکی تا دا د
کھیں کی وٹنگ سے بڑنے یا غٹنے والی نہیں
ہے لیکن وہ مشا ویرا بھی ن دے یہ میرے
نجدیکہ اس شاندار ہاؤس کے سا یھ ایک
ترہ کی بے انسا فی ہے، اسکا اپمان ہے، جو
انہوں نے کیا ہے۔

دوسری بات جو میں ارج کرنا چاہتا ہوں
وہ یہ ہے کہ جہاں تک کونسلوں کا تعلق
ہے اس میں کچھ ہسسا آسا بھی ہے جو وٹنگ سے
آتا ہے جسا کہ گریجیٹ کانسٹیٹوئنسیز ہیں
آیر لاکل باڈیز کانسٹیٹوئنسیز ہیں؛ تو

ان کے لیے کمیशन آیر سرکار کیا کرے،
اس وجہ سے بھی انکو مشا ویرا میں شامل
نا کیا جانا ٹیک نہیں ہیں۔ میں سمجھتا ہوں
کہ ان کے لیے بھی سرکار نے یہ دھیان نہیں
دیا کہ اسوساٹ ممبرس کے تیر پر
انکا ہونا کوئی ناکساندہ نہیں ہوگا بلکہ
وہ فایدا ہی پہنچاے گا۔

تیسری بات جو میں مسخرن اپنے
ڈیٹی مینسٹر کے نوٹس میں آپ کے دوا را
لانا چاہتا ہوں وہ یہ ہے کہ جب کبھی
کاشمیر کو آارت سے آلا گ کرتے ہیں تو میرے
دما گ میں چوٹ پڑتی ہے۔ واہس چیرمین
ساہب، چوٹ کیوں پڑتی ہے؟ وہ
اس لیے کہ یہ چانس کی بات ہے کہ
میں مسلمانوں کے غر پیدا ہوا، میں نے
خود اس کے لیے کوشش نہیں کی، تو یہاں
جو کریب چار یا پاچ کروڑ مسلمان
ہیں ان کے بارے میں فوارن دما گ میں بات آاتی
ہے۔ پڈٹ جی جو کہ پراڈم مینسٹر آاف
انڈیا ہیں ان سے جب لا گوس میں کسی نے رے-
فرنڈم کے بارے میں سوا ل کیا تو انہوں نے
کہا کہ وہ یہ نہیں کراے گے کیونکہ آرا
اسکا نتیجا پاکستان کے ہک میں ہوا
تو یہاں جو پاچ کروڑ مسلمان ہیں انکا
جو ہک ہے وہ سانبی ہو جاتا ہے۔ مجھے ڈر
لگتا ہے یہاں کاشمیر کے ماملے میں کوئی بھی
سوا ل اٹا تے ہوں—کیوں اسے آلا گ رختے ہو؟
کیا وہ ہمارے دس کا آرا نہیں ہیں آیر آرا آرا
ہیں آیر وہ ہماری انڈین یونین میں شامل
ہے تو فیر یہاں کیوں نہیں شامل کرتے ہو؟
میں سمجھتا ہوں کہ اس سے یہاں کے بسنے والے
مسلمانوں پر ایک ترہ کا بوسا پڑتا
ہے۔ پراڈم مینسٹر سے آیر کوئی بڑی تاکا
ہندوستان میں نہیں ہے، وہ ہمارے مکبول
لیڈر ہیں آیر اس سے کوئی زبردست آرا رٹی
یہاں نہیں ہے۔ اس لیے میں سمجھتا ہوں کہ
کاشمیر کو آلا گ نا کیا کرو۔ آرا یہاں
کے ممبر بڑا نے ہیں تو راسط پتی کو ہک ہوتا
ہے نامزد کرنے کا آیر جسا وہ چاہے کر
سکتے ہیں۔ یہاں ہر ترہ کے لو گ ملتے ہیں،

काश्मीर में काबिल तरीन आदमी मौजूद हैं। इस लिये मेरी अर्ज है कि इस पर सरकार ध्यान दे और कमीशन का दायरा काश्मीर जम्मू तक बसी हो।

जब मैं कहता हूँ, “विनाश काले विपरीत बुद्धि” तो हमारे भाई अरोड़ा साहब या और लोग खफा हो जाते हैं।

चौथी बात जो मैं अर्ज करना चाहता हूँ वह यह है कि डेमोक्रेसी का जो सारा ढांचा है उसकी हिफाजत का सारा बोझ मुट्ठी भर लोगों के ऊपर है जो कि औरंगाजेब रोड में बैठे हुये हैं और जिन्हें इलेक्शन कमिशन कहते हैं। यह बोझा मुन्दरम् साहब या सुब्रामनियम साहब के ऊपर है और वह अपने साथियों के साथ उसकी हिफाजत करते हैं, सारा उसका जो भार है वह उनके अंधों पर है। तो जब सारा भार उनके कंधों पर है और तमाम मुखालिफ पार्टी जो हैं वह भरोसा करती हैं कि उनसे न्याय मिल सकता है — इस छोटे से घर से इस चारदीवारी से जहां कि यह बैठे हैं— तो मैं दरखास्त करता हूँ कि डिलिमिटेशन का जो सारा काम है उसकी सारी जिम्मेदारी भी चीफ इलेक्शन कमिशनर और उनके साथियों पर डालो और चीफ इलेक्शन कमिशनर को इस कमिशन का चेयरमैन बनाओ। मैं यह इसलिये कहता हूँ कि जैसा कि और आनरेबल मेम्बरान कुछ दिक्कतें बताते हैं इसी तरह मेरे जहन में कुछ दिक्कतें आती हैं, ये दिक्कतें ऐसी हैं कि जिसमें अगर यह हाउस सरकार से कुछ अर्ज करे तो नामुनामिब नहीं होगा यह इस लिये मैं कहता हूँ कि सिर्फ यह अपोजीशन का सवाल नहीं।

चौरडिया साहब ने जो यह कहा कि उन्होंने इस तरह से कान्स्टिट्युएन्सी को किया नहीं, तो यह बात नहीं है। मैं कांग्रेसी था और अब भी दिल से कांग्रेसी हूँ अगरचे कांग्रेस में नहीं

हूँ, लेकिन मेरे जैसे कांग्रेसी की कान्स्टिट्युएन्सी को इस ढंग से डिलिमिटेशन कमिशन ने बिल्कुल बदल दिया कि पहले ढांचे से बिल्कुल मुखलिफ हो गया। इस लिये यह शिकायत मैं कोई ज्यादा मुनासिब तो नहीं समझता कि कान्स्टिट्युएन्सी का कोई जिक्र करूं, कांग्रेसी या गैर कांग्रेसी का जिक्र करूं लेकिन मैं यह चाहता हूँ कि सब के साथ न्याय हो। जो जजेज आप मुकर्रर करने वाले हैं उनमें से आप कहते हैं कि सरकार एक को चेयरमैन बनाये। आप तो मानेंगे वाइसचेयरमैन साहब, कि जजेज पर यह पाबन्दी नहीं है कि उनकी विचारधारा किसी पार्टी के साथ न जाये, या किसी पार्टी को वह मदद करना चाहें तो ना करेंगे इम्फा के मामले में लेकिन वैसे उनके दिमाग की जो साख्त है, यह आत्मा पर कोई पाबन्दी नहीं लगा सकती। इस लिये मेरी दिली ख्वाहिश है कि यह सारा बोझा इलेक्शन आफिस पर डाला जाता तो ज्यादा अच्छा होता। अगर आप रुल बनाने जा रहे हैं तो आप जरूर कीजिये कि चेयरमैन एक हो, उसका पूरा जिम्मेदार चीफ इलेक्शन कमिशनर आफ इंडिया हो।

पांचवीं बात जो वाइस चेयरमैन साहब मैं अर्ज करना चाहता हूँ— आज मैं बड़े इच्छा सार से काम ले रहा हूँ ताकि मैं अपनी बात कह सकूँ — वह यह है कि वाकई इलेक्शन के सिलमिले में इसमें बड़ी त्रुटियां हैं जिसको सरकार को दुरुस्त करना है। आखिर कोई न कोई सरकार को सुझाव देगा। यह जो बोर्ड आप बनाये, क्योंकि यह बड़ा ही अहम बोर्ड होगा, तो इसके सामने वह दिक्कतें आ जानी चाहियें। वाइस चेयरमैन साहब, आपकी इजाजत से मैं यह अर्ज करूं कि मैंने इसी अप्रैल, १९६२ में प्राइम मिनिस्टर आफ इंडिया को एक खत लिखा उसमें मैंने कहा कि २४ फरवरी के न्यूज पेपर्स में पंजाब कम्युनिस्ट पार्टी के जनरल सेक्रेटरी का एक ...

THE VICE-CHAIRMAN (SHRI M. GOVINDA REDDY): There is no time for

all that. If you have some important point to make, please make that point. Your time is up.

श्री अब्दुल गनी : मैं एक मिनट में वाइण्ड अप कर रहा हूँ। वह स्टेटमेंट यह आया कि आठहलकों के डुप्लिकेट बैलेट पेपर छपे हैं पंजाब सरकार के प्रस में। उस वक्त मैं नहीं बोला क्योंकि मेरे पास कोई सबूत नहीं था। फिर मेरे पास १२ कांस्टिट्यूंसीज से डुप्लिकेट बैलेट पेपर्स आये। मैंने प्राइम मिनिस्टर को लिखा मैं उसका और कोई फायदा नहीं उठाना चाहता हूँ। सिर्फ फायदा यह उठाना चाहता हूँ कि और बैलेट पेपर्स न छाप सकें, इसका अच्छा इन्तजाम हो जाये। तो इसलिये यह जो बोर्ड बैठा है वह इस पर भी विचार करे कि इस तरह से इलेक्शन में जो बहुत बड़ी त्रुटि सामने आई है आगे न आये। मैंने वक्त लिया। मैं क्षमा मांगता हूँ। लेकिन वह बात प्रंपारेटेंट है और मैंने जिम्मेदारी के साथ प्राइम मिनिस्टर को लिखा था। मैं उसे प्राइम मिनिस्टर के सामने किसी वक्त भी पेश कर सकता हूँ। वह पंजाब सरकार से यह दरयाफ्त कर लें कि आया किसी के बैलेट पेपर गुम होने की पंजाब सरकार को इत्तला मिली है या किसी पुलिस आफिसर या पुलिस के पास कोई शिकायत आई है ताकि जो नम्बर मैं पेश करूँ उसके बारे में वह यह कहें कि यही नम्बर गुम हो गये थे, मिसिंग थे।]

SHRI GOPIKRISHNA VIJAIVAR-GIYA (Madhya Pradesh): I think that although there is an emergency in the country and all attention of the official machinery as well as that of the legislators is directed towards meeting that emergency, still the normal functions of the country must go on. Therefore, it is but proper that this Bill which has come and which is according to the provisions of the Constitution must be passed and we must give our approval to it. The delimitation which is continuing now is on the basis of the census of 1951.

Now, as the new census has taken place, I think, in the ordinary course of events, there should be a new delimitation and the constituencies should be freshly delimited. I think the provision made here for the constitution of the Commission, the number of associate members, etc., is quite proper and, therefore, there is nothing objectionable which we can say should be changed. However, Sir, some amendments have come and the House will consider them.

Now, some of the points that emerged during the course of the debate were irrelevant, I would say. Mr. Lingam said that the Members of the Rajya Sabha should be included. Well, I would be glad if that is done.

SHRI LOKANATH MISRA: How do you say that it is irrelevant?

SHRI GOPIKRISHNA VIJAIVAR-GIYA: The constituencies are for the Lok Sabha and the Assemblies mostly. Therefore, I think, the provision as is made in the Bill is proper.

SHRI N. M. LINGAM: What prevents you from offering yourself as a candidate for the Lok Sabha next time?

SHRI GOPIKRISHNA VIJAIVAR-GIYA: Now, Mr. Bhupesh also made some points which were not very relevant to this Bill and he said, particularly, that the Constitution should provide for more than five hundred Members. I think our Parliament, though he mentioned the British Parliament, functions differently. Ours is a very big country and if we go on increasing the number of Members here, it would become unwieldy. Therefore, the provision as is in the Constitution is quite good and I think if suggestions are made, it is possible that the Commission might make some reference to this question and make some recommendations. For the present, however, I think the Delimitation Commission as provided here, its constitution, members, associate members, etc., is quite proper.

and I fully support it. I do not want to take much time of the House.

SRI MULKA GOVINDA REDDY: Mr. Vice-Chairman, I rise to support the Delimitation Commission Bill, 1962. At the outset, I would observe that it would have been better if the definition of "State" had included the State of Jammu and Kashmir as the jurisdiction of the Election Commission has already been extended to that State, and I remember the Home Minister making a statement, either in this House or in the Lok Sabha, to the effect that the Prime Minister of Jammu and Kashmir had already agreed to hold direct elections to the Lok Sabha. When that is the position, Government, by negotiation or by persuasion, should have asked the Prime Minister of Jammu and Kashmir to see that a resolution was passed in the Jammu and Kashmir Assembly extending the jurisdiction of the Delimitation Commission to that State.

Secondly, Sir, the latest census figures, as ascertained at the 1961 census, are not available to us as yet. I do not know whether the census figures have been made available with regard to the Scheduled Caste and Scheduled Tribe population village-wise. It is quite possible that the census figures may be available State-wise or district-wise. If the village-wise figures relating to the Scheduled Caste and Scheduled Tribes population are not available, it will be very difficult to delimit the constituencies and also to make a particular constituency a reserved constituency for the Scheduled Castes and the Scheduled Tribes.

3 P.M.

This is the second Delimitation Commission that we are going to have. Most of the provisions that are found here appear to have been taken from the Delimitation Act of 1952. As far as clause 3 goes, I entirely agree with the constitution of the Commis-

sion. Two Judges of the High Court or the Supreme Court are going to be members of this Commission and the third person will be the Chief Election Commissioner. There was a suggestion in the other House—I do not think any Member made such a suggestion in this House—that the associate members should also have the right to vote.

[THE DEPUTY CHAIRMAN in the Chair.]

This is a very important Commission. It is a quasi-judicial body and if the associate members are allowed to have the right to vote they will not be in a position to bring to bear on the decisions of this Commission that judicial mind which is very necessary. It is quite possible that the associate members will be guided, in making their recommendations with regard to the delimitation of constituencies, by political considerations. It is a welcome thing that that right has not been conceded to the associate members.

The Delimitation Commission has been given broad directions under which it should function while delimiting the constituencies of the Assemblies and of the Lok Sabha. I am sure the Commission will bear in mind some of the salient factors that have been included in clause 9 of the Bill. All constituencies shall, as far as practicable, be geographically compact areas and in delimiting them regard shall be had to physical features, existing boundaries of administrative units, facilities of communication and public convenience. As far as these provisions go, they are very good and I trust that the Commission will scrupulously follow these directions that have been adumbrated in clause 9 and they will not be guided by other considerations. An impression has been created that while constituencies were delimited in 1952, or when they were delimited after the double-member constituencies were abolished or when the constituencies were delimited after the States were reorganised, these constituencies were delimited to suit

[Shri Mulka Govinda Reddy.]
the convenience of the ruling party. I may be quite wrong in coming to this conclusion but that was the impression created and the same impression should not be created. I hope and trust that this Commission would delimit the constituencies according to the provisions of this Bill and they will not be guided by the influences that may be brought to be borne on them by the associate members or the members of the ruling party.

Thirdly, the Speaker of the Lok Sabha and the Speakers of the State Assemblies have been given power to nominate associate members from the Lok Sabha or from the Assemblies concerned. I would agree with Mr. Lingam and others that this House should also be associated in sending its representative or representatives as associate members of the Delimitation Commission. While making such nominations I am sure the Speaker of the Lok Sabha as well as the Speakers of the State Assemblies will bear in mind that the Opposition is to be represented adequately. Of course, a direction has been given that the Speaker or the Speakers will nominate members to be associate members having due regard to the composition of the House and I am sure they will have due regard to the composition of the House. While having that in mind they should also have due regard to the representations made by members of the Opposition that adequate number of members should be associated with this Commission.

Coming to clause 8, I am not quite certain whether this Delimitation Commission is quite competent to increase or decrease the number of seats either in the Assembly or in the House of the People allotted to each State. Madam, allocation of seats to the Assembly of a State or allocation of seats to each State in the House of the People can only be done by an Act of Parliament as it

was done under the Representation of the People Act, 1950 as modified up to 1962. This Delimitation Commission is not competent in my view either to increase the number of seats or to decrease the number of seats. We cannot delegate that authority. We can only pass a law increasing or decreasing the number of seats either in the Assembly or in the House of the People. This clause appears to have been bodily lifted from the 1952 Act and I do not know whether sufficient thought has been given to this by the hon. Minister when he moved the Bill for consideration.

SHRI K. SANTHANAM: Clause 10(4) provides for that.

SHRI MULKA GOVINDA REDDY: Clause 10(4) does not provide for that. It provides for holding elections, even if it is a by-election, after this order has been passed by the Delimitation Commission delimiting the parliamentary or Assembly constituencies. That is what clause 10(4) says.

Madam, there is another thing that I would like to bring to the notice of the House. The proposals of the Commission as well as the orders of the Commission should be published in the leading English and language papers of the State concerned. Here it is stated that the publication will be made in the Gazette of India and official Gazettes of the States concerned, and also in such other manner as it thinks fit. I would urge that "such other manner" should be that the publication should be made in the leading English and language newspapers of the States concerned.

Finally, I would like to point out that after 1956 when the States were reorganised some of the Scheduled Castes and Scheduled Tribes in particular States ceased to be Scheduled Castes and Scheduled Tribes when those areas merged in other States. In Bellary District in Mysore State the Lambadi community was consi-

dered Scheduled Caste but when the double-member constituency was bifurcated they were not taken as belonging to Scheduled Castes, in Madras State. Similar discrepancies might be there in other States also and I would, therefore, urge that such discrepancies should not be there. If a particular community is treated as Scheduled Caste or Scheduled Tribe in a particular area it should apply to the entire State. You cannot treat them as Scheduled Castes in some States and as not belonging to Scheduled Castes or Scheduled Tribes in other States.

With these words I support this Bill.

श्री राम सहाय (मध्य प्रदेश) : उप सभापति महोदया, मैं इस बिल पर कुछ विषय नहीं कहना चाहता हूँ, सिर्फ इतनी तबज्जह दिलाना चाहता हूँ कि पिछले चुनावों में ऐसी मिसालें देखी गई कि जहाँ शिड्यूल्ड कास्ट के लिए रिजर्व सीट होनी चाहिये थी वहाँ जनरल सीट हो गई और जहाँ जनरल सीट होनी चाहिये थी वहाँ शिड्यूल्ड कास्ट की सीट हो गई। इसके बारे में कुछ अपील वगैरह की गई, बहुत कुछ कार्यवाही की गई लेकिन कोई नतीजा नहीं निकला। इसका कारण यह रहा कि शिड्यूल्ड कास्ट के कुछ फिगर्स गजट में शायब कर दिये गये थे और उसी के आधार पर यह माना गया था तथा उनके बारे में कोई एतराज भी नहीं सुने जा सकते थे। वैसे तो ग्राम प्रैक्टिस यह रही है कि जब किसी क्षेत्र के बारे में, पोलिंग स्टेशन के बारे में या किसी और जानकारी के बारे में कभी कोई विज्ञप्ति निकाली गई तो चाहे वे पालियामेंट के मेम्बर्स हों या असेम्बली के मेम्बर्स हों इत्तिहा दी गई और उसके बाद कोई तरमीम की गई। लेकिन वह नोटिफिकेशन कब हुआ, किस प्रकार हुआ, इसकी कोई जानकारी नहीं हो सकी और न उसके कारण ही मालूम हो सके। मेरा तजुर्बा यह है कि मैंने अपने क्षेत्र में स्वयं देखा है कि वहाँ विदिशा और बसौदा नाम

के दो परगने हैं। बसौदा परगने के जो हरिजनों के आंकड़े थे वे विदिशा परगने में रख दिये गये और विदिशा परगने के आंकड़े बसौदा परगने में रख दिये गये। नतीजा उसका यह हुआ कि जहाँ रिजर्व सीट होनी चाहिये थी वहाँ जनरल सीट हो गई और जहाँ जनरल सीट होनी चाहिये थी वहाँ रिजर्व सीट हो गई और उसकी वजह से लोगों में काफी असन्तोष रहा।

डा० श्रीमती सीता परमानन्द (मध्य प्रदेश) : वह तो अच्छी बात है।

श्री राम सहाय : हाँ, अच्छा है। जैसी जिसकी विचारधारा हो, उसी प्रकार से समझा जा सकता है। सवाल अच्छाई और बुराई का नहीं है। सवाल गलती का है और गलती नहीं होनी चाहिये। यह हो सकता है कि जितनी सीट्स हरिजन भाइयों को दी गई हैं उनसे ज्यादा दे दी जायं, तो कोई बुराई नहीं है। लेकिन इसका प्रश्न नहीं है। प्रश्न यह है कि जो गलती हुई है वह दुरुस्त हो सके और वह रिपीट न हो, इस लिये मैं इस ओर तबज्जह दिला रहा हूँ। तो मैंने देखा कि इस प्रकार से कुछ गलतियाँ हो जाती हैं और फिर उनका दुरुस्त होना असम्भव सा हो जाता है जिसकी वजह से बिना वजह लोगों में असन्तोष फैलता है।

मुझे इस बिल की धाराओं के बारे में विषय नहीं कहना है। वे मुनासिब हैं। एक बात और इसमें देखने में आई कि लोक सभा का रिप्रेजेंटेशन रखा गया है और राज्य सभा का नहीं रखा गया है। डाइरेक्ट सम्बन्ध वैसे लोक सभा का आता है, लेकिन इन्डाइरेक्ट वे में राज्य सभा जरूर पिक्चर में आती है। असल में कौंसिल आफ स्टेट्स के नाते स्टेट्स को रिप्रेजेंट करने वाली यह राज्य सभा बाड़ी है और जैसे अच्छी सलाह लोक सभा के बाद राज्य सभा से मिल सकती है, वैसे ही मैं समझता हूँ कि इस मसले पर भी राज्य सभा

[श्री राम सहाय]

के इसमें सम्मिलित होने से सही और अच्छा मशविरा मिल सकता है। ख़ैर, यह बान गवर्नमेंट ने जिस प्रकार से विचार की है उसमें मझे कोई ज्यादा आपत्ति की बात नहीं मालूम होती है। लेकिन मेरा जो सुझाव है उस पर यदि विचार हो जायेगा तो ज्यादा अच्छा होगा। मैं इन दो ही बातों पर तबज्जह दिलाना चाहता हूँ।

SHRI LOKANATH MISRA: Madam Deputy Chairman, I thank the Deputy Minister for the promptness with which he has come forward with this Bill immediately after the announcement of the census figures. I would have been happier if he had included the Union territories in the Bill. Of course, in his opening speech he has said that article 82 of the Constitution envisages the Delimitation Commission only to go into the States. But I would point out to him article 81(1) (b) which says:—

“not more than twenty members to represent the Union territories, chosen in such manner as Parliament may by law provide.”

This is purely a constitutional point. The Delimitation Commission cannot be extended to the Union territories. It has come out like this only because prior to 1956 there were no Union territories at all. Only Parts A, B and C States existed. That is why article 82 contains only the word ‘States’ and not ‘Union territories.’ Subsequently in 1956 Union territories were created. It is a lacuna I should say, viz., there has been no provision, along with the States, for the Union territories. The Constitution clearly provides for the members to be chosen in such manner as Parliament may determine. I suppose the present elections in the Union territories stand on an *ad hoc* basis—probably some administrative order

issued by the Election Commission or by some other body.

SHRI BIBUDHENDRA MISRA: It comes under the Representation of the People Act.

SHRI BIBUDHENDRA MISRA: It does not come under the Representation of the People Act because when the Act was passed the Union territories did not exist. It has undergone a change after 1956. It comes under a different name altogether. So, unless Parliament gives sanction, the procedure by which they have been chosen is not constitutional. I do not think anybody else can give that sanction except Parliament. If anybody else has done it, then it is unconstitutional.

SHRI K. SANTHANAM: There was a general election in Delhi.

SHRI LOKANATH MISRA: It also applies to Delhi because Delhi is also a Union territory. It is also unconstitutional. Now, it has undergone a change and we have to take the words of the Constitution strictly, in the letter and spirit. That is why I want some measure to be taken to eliminate this lacuna. We had an amendment to the Constitution, the seventh amendment, and this change of name to Union territories from Part C States came about under that amendment in 1956.

The second point I would like to mention is this. In the case of Assemblies which have a small number—which do not exceed the ceiling if some addition is made—their strength should be raised. States which have a big number in their Assemblies should maintain some restraint. Assemblies which have a small number would definitely look forward to adding to their number.

Associate members are now being taken. In the previous Delimitation Commission also associate members were taken. One thing I would like

to point out is that even after the final consultations with the associate members were held, there were changes made in some constituencies. I do not know what was the unseen hand behind that. Even after detailed consideration some changes came about. Particularly in my constituency where my father used to contest, it was tagged on to another constituency and the length of the Assembly constituency came to 140 miles.

SHRI JOSEPH MATHEN (Kerala): After his defeat that constituency is taken by his son.

SHRI LOKANATH MISRA: They wanted to defeat my father somehow. It became 140 miles long and it became difficult for my father to contest while the Congress had plenty of resources to fight out the elections.

SHRI FARIDUL HAQ ANSARI (Uttar Pradesh): May I know whether your father was a Congressman?

SHRI LOKANATH MISRA: No, no. He was against the Congress. That is what I said.

SHRI FARIDUL HAQ ANSARI: That is the reason. Was the constituency according to your own choice?

SHRI LOKANATH MISRA: The Deputy Minister comes from that area.

SHRI BHUPESH GUPTA: To which party you belong?

THE MINISTER OF LAW (SHRI A. K. SEN): Swatantra.

SHRI LOKANATH MISRA: It was Ganatantra Party and now Swatantra, of course. (*Interruptions.*)

(*Time bell rings.*)

THE DEPUTY CHAIRMAN: We have very limited time.

SHRI LOKANATH MISRA: I would urge that the constituencies should be as compact as possible because that would also mean a saving in the election expenses. Of course, parties

which can afford to spend as much as they like are free to spend. But parties other than the ruling party will have definite difficulties in going about moving about in a very unwieldy constituency. So, it is in the fitness of things that it should be as compact an area as possible.

Lastly, I would urge upon the Minister again, because he is here, and the Deputy Minister as well that the scope of this Delimitation Commission should be extended to the Union Territories. The Minister pointed out that since some seats have not been accepted by some of the Union Territories as yet, they have not been put in in this Bill. But that probably does not justify the stand because immediately after the passing of this Bill we are not going to implement it within fifteen days or one month. It will take some time. So, by that time we shall be receiving their consent, and once we have amended our Constitution they have to accept it, and there is no other go. So that cannot be a plea for not bringing the Union Territories within the purview or scope of this Bill.

I would also like to say that I would expect the proposed Delimitation Commission to be as fair and impartial as possible. I would also wish that fair treatment should be accorded to the Union Territories as well along with the rest of India.

SHRI B. D. KHOBARAGADE (Maharashtra): Madam, I approve of this Bill. Even though an emergency is prevailing in the country, we are going ahead with making necessary preparations for the next elections. It indicates our determination to work in a democratic way even though we may be facing a challenge from a totalitarian regime. Therefore, I approve of this Bill. I would only refer to one or two important features of this Bill, particularly the provisions which deal with the Scheduled Castes and Scheduled Tribes.

Under the provision, of this Bill certain constituencies are to be reserved for the Scheduled Castes and Tribes.

[Shri B. D. Khobragade.]

So far as those two communities are concerned certain changes which have taken place during the last few years must be taken into consideration. Madam, I may draw the attention of the House to the historic event that had taken place about six years back. Under the able leadership and guidance of Dr. B. R. Ambedkar millions of Scheduled Caste people in India, not only in Maharashtra but in other States also, have embraced Buddhism, and therefore they have now ceased to be Scheduled Caste people. This fact must be taken into consideration. Not only in Maharashtra but in Punjab, Mysore, Madras, Andhra Pradesh, Madhya Pradesh, and so on, a large number of Scheduled Caste people embraced Buddhism. Therefore, the number of Scheduled Caste constituencies must be reduced to that extent in all those States where the number of Scheduled Caste people or their population has decreased.

The second point I would like to make is regarding the representation of Scheduled Tribe people. According to the old rule all the Scheduled Tribe people who were not living in Scheduled Areas were excluded from the definition of "Scheduled Tribes". They were not considered as Scheduled Tribe people. Therefore, even though they were larger in number, their representation was considerably lower because the number of Scheduled Tribe people was shown in the census figures as smaller than their actual strength. But now there should be a change in this policy. All the Scheduled Tribe people, whether they live in Scheduled Areas or out of the Scheduled Areas, should be considered as Scheduled Tribe people, and according to that rule the population of Scheduled Tribes will increase and, therefore, increased representation should be given to the Scheduled Tribe people.

Then it has been mentioned in the Bill that while delimiting a constituency which would be reserved for the Scheduled Caste and the Schedul-

ed Tribe people, the fact would be taken into consideration that wherever there is a large number of Scheduled Caste and Scheduled Tribe population, that area alone should be included in the reserved constituency. But one difficulty has been pointed out by my friend, Shri Mulka Govinda Reddy. I would also refer to the census figures. There are no census figures village-wise or circle-wise or tahsil-wise. Figures have been given in regard to Scheduled Castes and Scheduled Tribe only district-wise and State-wise. Then how are we going to delimit the constituencies? How are we going to check the areas where the Scheduled Caste and Scheduled Tribe population is concentrated? For that purpose, I would urge the Commission that they should call for the figures from district officials about the strength of the Scheduled Caste and Scheduled Tribe population in particular villages, in particular areas, and then only they should delimit the constituencies for the Scheduled Castes and Scheduled Tribes.

Many Members have voiced their concern about the way in which the Commission functions. The experience of the past so many years is that, even though this is a high power Commission, it does not function or does not appear to function impartially. No doubt they are persons who represent the judiciary of this country, and therefore they should be persons of integrity upon whom we can depend for an independent and impartial judgment. But unfortunately, as we have experienced many times it happened that some constituencies were delimited according to the convenience of the ruling party. So many instances have been quoted in this House, and I would not like to take the time of the House by quoting further instances. But as has been mentioned in the Bill itself, the Commission should consider that the areas are compact, and not only administrative convenience should be considered but

the convenience of the voters, of the people at large and even the convenience of the candidates should really be taken into consideration. We know that the ruling party, the Congress, has got large resources. Government machinery is used by them for that purpose. But so far as the Opposition candidates are concerned, they are poor, they belong to poor classes, and their parties have not got sufficient resources and have no power. Therefore, it becomes very difficult for them if the constituencies are made unwieldy. As has been pointed out by one Member already, one constituency was made in such a way that the distance between two points was over one hundred miles. If the distance is over one hundred miles, how is it possible for a poor man in this country to contest the election. If we want democracy to succeed fully, then we must see that the poorest man in this country can participate in the election and try to be elected to the Assembly or Parliament.

Lastly, I would only say that the Rajya Sabha has been denied its legitimate right. I do not know why there should be such a step-motherly treatment given to the Rajya Sabha. As far as I understand this is not a Money Bill over which the Rajya Sabha should be excluded. When we are considering such matters of great importance, it is very essential that the Rajya Sabha should also have representation on such a Commission so that the valuable suggestions from experienced and learned Members of this august House can be availed of. Madam, I would suggest that there are many political parties which have polled a larger percentage of votes, but in proportion to their votes they are not represented in the Assemblies or in the Parliament. Therefore, if we restrict the representation on this Commission only to the Members of the Lok Sabha or the Members of the Assemblies, then in my opinion we will be doing injustice to those political parties who have polled a greater number of votes but have failed to

return the proportionate number of candidates. Therefore, it would have been better if some representatives of the other important parties who are not adequately represented in the Lok Sabha or in the Assemblies are also taken on this Commission. I suggest to the hon. Minister that this suggestion also should be considered, and if possible, due representation should be given to such political parties who are not adequately represented in the Lok Sabha or State Assemblies.

SHRI BIBUDHENDRA MISRA:

Madam, all the points that have been raised were more or less covered by me in my opening speech. I am of the same feeling, as most of the Members have expressed, that the Indian laws should be applicable to Jammu and Kashmir without any exception. As I have said, I am of the same feeling. But we have a constitutional difficulty. I have pointed out how under the Constitution (Application to Jammu and Kashmir) Order, 1954, article 81 of the Constitution has been adapted so far as Jammu and Kashmir is concerned. Of course, I did not say it here. My statement in the Lok Sabha was referred to. What I said in the Lok Sabha was that at present Jammu and Kashmir had six seats in the Lok Sabha and on strict population basis, it would come down to four. I only stated a fact. It was never put by way of argument that this was the reason why the Delimitation Commission in its operation was not being extended to Jammu and Kashmir.

So far as the Union Territories are concerned, Mr. Misra has drawn my attention to article 81(1)(6). I myself pointed out article 81(1)(6) also. I said that these constituencies were delimited because they were Part C States and that the delimitation was already there. And after the coming into force of the States' reorganisation and all that you will find a change in section 3 of the Represen-

[Shri B budhendra Misra.]

tation of the People Act of 1950, and I would draw his attention to section 3 as well as the First Schedule and the Second Schedule where the manner of representation to the Assemblies or to the Lok Sabha has been stated.

It has been suggested by Mr. Bhupesh Gupta that we should postpone the functioning of this Commission for some time in view of the emergency. No doubt, the emergency is there and so long as it is there, it should get priority. But that does not mean that we should abrogate the parliamentary system of government which we have chosen, which we have . . .

SHRI BHUPESH GUPTA: I did not make it. I never said it. I said in an entirely different context how the officers there should be utilised. I said, all elections had been postponed.

SHRI BIBUDHENDRA MISRA: You said, it is not coming up probably for some time.

SHRI BHUPESH GUPTA: This is what I said. I did not suggest it.

SHRI BIBUDHENDRA MISRA: So long as we have not given the parliamentary system the go-by, I think we have to be prepared for it and it will be remembered that on the last occasion, three years were taken by the Delimitation Commission to delimit the constituencies. As I have already said in the first stages, we proposed not to have public sittings, it might reduce the time. But it has to be remembered that elections in Kerala will be held early in 1965 and in Orissa in 1966, and it is necessary that the constituencies should be demarcated much in advance.

Then, Madam, Mr. Lingam has made one or two suggestions. Of course, he has posed a problem against the background of our accept-

ance of the principal of adult franchise and the fixation of the total number of seats. The maximum number of seats in the Lok Sabha is 500. He has raised the problem of the rise in population. That will be considered by everybody concerned in its due aspect. And so far as the Government is concerned, it is in the hands of the House. In the other House, I heard the leader of some Opposition group saying that in no case should the number go up beyond 500 because it would make the House unwieldy. Here, Mr. Bhupesh Gupta said that the number should go up. Well, it is not a matter for debate at the present moment. As I said, Government is in the hands of the House. Whether you decide to keep the same number or increase the number, the Government is completely in the hands of the House.

Madam, Mr. Lingam said that the constituencies should not be delimited arbitrarily and should, as far as possible, remain the same so that the elected representatives might have a continuous touch with their constituencies. I would only tell him that the same principle has been accepted by the Delimitation Commission in the delimitation of the constituencies last time as well, as you will find from the Report of the Election Commission on the Second General Election. I am referring to page 71, where they say—

"Now that the boundaries of the States have taken a more or less final shape and the list of the Scheduled Castes and the Scheduled Tribes stabilised, it is eminently desirable to avoid, as far as practicable, any further disturbances to the existing picture so that the present constituencies which were carefully delimited on the basis of the actual population figure by an independent and impartial high-level body may not require to have their boundaries revised afresh for a considerable time."

So, that principle has been accepted even by the last Delimitation Commission, and I am certain that that principle will be borne in mind by the Delimitation Commission while they do that job.

Then, a question has been raised as to why the Rajya Sabha has not been taken into confidence so far as associate members are concerned. I would say with great respect that it was not a question of by-passing the Rajya Sabha. If you read articles 81 and 82 of the Constitution, you will find the expression "territorial constituencies". Article 81 says that the Members of the Lok Sabha shall be representatives of the territorial constituencies. Article 82 enjoins upon the Delimitation Commission or anybody appointed by Parliament to divide the State into territorial constituencies. It is the Lok Sabha or the State Assembly which is directly connected with the territorial constituencies. The Rajya Sabha is not there because of the principle of their being the representatives of the States, not of the territorial constituencies.

SHRI N. M. LINGAM: Not for all time.

SHRI BIBUDHENDRA MISRA: It does not matter. The Rajya Sabha is a body. I am not talking of individual members. Mr. Lingam may choose to be in the Lok Sabha for some time and in the Rajya Sabha for some time. But the Rajya Sabha has got the constitutional position that its Members are the representatives of the States.

SHRI K. SANTHANAM: Is it the argument of the Deputy Minister that only those who are personally interested in the territorial constituencies should be there?

SHRI BIBUDHENDRA MISRA: I did not say 'personally interested'.

SHRI K. SANTHANAM: Yes.

SHRI BIBUDHENDRA MISRA: I say, interested in the carving out of the territorial constituencies.

SHRI AKBAR ALI KHAN: What he says is, one fully acquainted with the territorial constituencies.

SHRI BIBUDHENDRA MISRA: This principle has been accepted by the Rajya Sabha . . .

SHRI LOKANATH MISRA: We are interested in our constituencies.

SHRI BIBUDHENDRA MISRA: Yes, I am talking of that. This principle has been accepted in the Delimitation Act of 1952 that associate members were to be only the representatives of the Lok Sabha and of the State Assemblies. This principle was accepted.

SHRI BHUPESH GUPTA: How do you know?

SHRI BIBUDHENDRA MISRA: See the Act and you can know.

SHRI BHUPESH GUPTA: That is, you have a majority . . .

SHRI BIBUDHENDRA MISRA: See the Act.

SHRI BHUPESH GUPTA: I know that.

SHRI BIBUDHENDRA MISRA: I am not yielding. This principle was also . . .

SHRI B. D. KHOBARAGADE: Can this hon. House be estopped from raising this question?

SHRI BIBUDHENDRA MISRA: I have answered it in my opening speech. About one hundred questions were put by the other side. I never grudged it. (Interruptions.) I heard him patiently. Let him have patience and hear me. I do not want to be . . .

SHRI BHUPESH GUPTA: He is not caring for and yielding to the Opposition.

THE DEPUTY CHAIRMAN: Any-way, he is stating the position.

SHRI BIBUDHENDRA MISRA: You will find that this principle was accepted, as I have said, in the Delimitation Act, 1952. Not only that, in the States Reorganisation Act of 1956 also. You accepted the same principle. I would refer to section 45 of the States Reorganisation Act, Section 43 of the States Reorganisation Act of 1956 deals with the constitution of the Delimitation Commission. Section 45 deals with associate membership. So, it is not a question of leaving or bypassing the Members of the Rajya Sabha. But this principle has all through been accepted. That is my point. That is why it has not been done.

About the composition of the House, a suggestion has been made that one of the associate members should be from the Scheduled Castes or the Scheduled Tribes. A suggestion has also been made by Mr. Bhupesh Gupta and others that the Members of the Opposition should be adequately represented as associate members. If you look to clause 5, you will find that the Speaker while making the nomination will look to the composition of the House. That is the wording of it, and I am sure that the composition of the House will be looked into by the appropriate appointing authority at the time of making the appointment.

SHRI BHUPESH GUPTA. What I said . . .

SHRI BIBUDHENDRA MISRA: Even under the 1952 Act, Opposition Members were taken as associate members. I was looking into the figures. Opposition Members were taken as associate members. So, there could not be any fear on that score because we have made a provision that the composition of the House must be looked into while making selection of associate members to the Delimitation Commission.

Then, Madam, Mr Bhupesh Gupta has accused the Delimitation Commission, not only the Delimitation Commission but also the Government of gerrymandering in favour of the Election Commission . . .

SHRI BHUPESH GUPTA: I did not deal with the Election Commission at all. I dealt with the influential men who try to influence the Government, and the delimitation authorities.

SHRI BIBUDHENDRA MISRA: I am sorry then. He accused the Government of gerrymandering.

(Interruptions.)

THE DEPUTY CHAIRMAN: You have had your say, Mr Bhupesh Gupta. Please listen to the Deputy Minister now.

SHRI BIBUDHENDRA MISRA: I am replying to it. He accused them of gerrymandering in the interests of the ruling party. He said, "I am happy to use an American expression", and I am happy that he is happy to use an American expression, the expression "gerrymandering". Now, I will not do anything more than to point out to him page 72 of the Report of the Election Commission on the Second General Elections where they say that the Constitution itself has provided many safeguards against gerrymandering of the constituencies and they go on to say how to deal with it—it is page 72 of the report. But anything may be said against the ruling party. Let him be a liberator, let him take upon himself the role of a liberator and accuse the Government in place and out of place. I do not mind it. It is his job. But my point is, when he accuses the Government of gerrymandering, it is this Government that has provided in the Constitution many safeguards against gerrymandering. I would not say anything beyond that. At least we have accepted the principle of adult suffrage and direct election. We have

given you a constituency; may be there is something wrong here or something wrong there. I would only remind the Members to visualise that, if Mr. Bhupesh Gupta's party were in the Government, there would be no direct elections and there would be no Delimitation Commission and no constituencies.

AN HON. MEMBER: Do not take him seriously.

SHRI BIBUDHENDRA MISRA: With these words I close my speech.

THE DEPUTY CHAIRMAN: The question is:

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

The motion was adopted.

THE DEPUTY CHAIRMAN: We shall now take up the clause by clause consideration of the Bill.

Clause 2—Definitions

THE DEPUTY CHAIRMAN: There is an amendment No. 8. It is disallowed, since the power to delimit constituencies does not apply to the State of Jammu and Kashmir and the State of Nagaland. The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3—Constitution of Delimitation Commission

SHRI ABDUL GHANI: I move:

9. "That at page 2, lines 9-10, for the words 'one of the members appointed under clause (a) of subsection (1)' the words 'the Chief Election Commissioner' be substituted."

مہدم . میں نے جو ایملڈمنٹ
دیا ہے اس میں صرف دون آف دی
ممبرس کی جگہ چیف الیکشن
کمیشر کو رکھنے کے لئے کہا ہے -
نہ مانیں ان کا بہلا -

†[مہدم, मैंने जो अमेंडमेंट दिया
है, इसमें सिर्फ "वन आफ दो मैम्बर्स की
जगह "चोफ इलेक्शन कमिशनर को रखने
के लिये कहा है। माने न माने, इनका
भला।]

The question was proposed.

THE DEPUTY CHAIRMAN: Do you want to say anything?

SHRI BIBUDHENDRA MISRA: I have already said it. I oppose the amendment.

THE DEPUTY CHAIRMAN: The question is:

9. "That at page 2, lines 9-10, for the words 'one of the members appointed under clause (a) of subsection (1)' the words 'the Chief Election Commissioner' be substituted."

The motion was negatived.

THE 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 was added to the Bill.

†[] Hindi transliteration.

Clause 5—Associate members.

SHRI V. M. CHORDIA: I move:

1. "That at page 2, line 19, for the word 'nine' the word : 'eleven' be substituted."

2. "That at page 2, line 20, for the word 'four' the word 'five' be substituted."

3. "That at page 2, line 20, for the words 'members of the House of the People' the words 'members of Parliament' be substituted."

[The amendment also stood in the name of Shri Abdul Ghani.]

4. "That at page 2, line 21, for the word 'five' the word 'six' be substituted."

5. "That at page 2, lines 21-22, for the words 'Legislative Assembly' the word 'Legislature' be substituted."

6. "That at page 2, for lines 38-39, the following be substituted, namely:—

'(4) The associate members shall have a right to vote and to sign any decision of the Commission or append a note of dissent.'"

SHRI ABDUL GHANI: I move:

11. "That at page 2, line 25, after the words 'Speaker of that House' the words 'in the case of Council of States' by the Chairman of that House' be inserted."

12. "That at page 2, line 32, after the words 'House of the People' the words 'and the Chairman of the Council of States' be inserted."

The questions were proposed.

श्री बिमलकुमार मन्नालाजी चौरङ्गिया :
उपसभापति महोदया, जो एसोसिएट मेम्बर रखने की संख्या ६ रखी गई है उस के बदले में ११ रखने का सुझाव मैं ने दिया है। इसका

कारण है और वह इतना व्यापक है कि उस के लिये जितने एसोसिएट मेम्बर्स हो सकते हैं उतने रखे जाने चाहियें। इस के बारे में मैंने पूर्व भी कहा है और इसी आशय से मैंने यह संशोधन दिया है कि आप इस को ११ करके देखिये। इस में किसी तरह की कोई आपत्ति नहीं होगी और न किसी किस्म की कोई परेशानी ही होगी। जो ११ का हिसाब बतलाया गया है उस में पार्लियामेंट के मेम्बरों की संख्या चार की जगह पांच हो और लेजिस्लेचर में पांच की जगह छः हो।

इसके बाद जो संशोधन दिये हैं उनका मतलब यह है कि 'लेजिस्लेटिव असेम्बली' की जगह "लेजिस्लेचर" शब्द रखा जाना चाहिये, "मेम्बर्स आफ हाउस आफ पीपुल" की जगह "मेम्बर्स आफ पार्लियामेंट" रखना चाहिये। परन्तु माननीय मंत्री जी ने अपने भाषण में बतलाया कि इस में अड़चन आती है। संविधान की तो उन्होंने कोई अड़चन नहीं बतलाई सिर्फ इतना ही कहा कि कानून में अड़चन आती है। जब हम एक कानून द्वारा दस कानून परिवर्तन करना मान लेते हैं तो यह चीज भी आसानी के साथ कर सकते हैं। दूसरे कानून के अन्तर्गत चाहे कुछ लिखा हो लेकिन जब हम इस तरह की व्यवस्था कर रहे हैं तो इस कानून के अन्तर्गत भी कर सकते हैं। इसी आशय से मैं ने यह संशोधन रखा है। इस के बारे में कई माननीय सदस्यों ने व्यापक रूप से चर्चा की है कि विधान सभाओं और विधान परिषदों से एसोसिएट मेम्बर्स लिये जायें और मुझे आशा है माननीय मंत्री जी मेरे संशोधन को अवश्य स्वीकार करेंगे।

आखिरी संशोधन एसोसिएट मेम्बर्स द्वारा मत दिये जाने के सम्बन्ध में है। वर्तमान में यह दिया गया है कि—

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

इस संशोधन से मैं यह चाहता हूँ कि जो एसोसिएट मेम्बर्स हों वे केवल राय बहादुर न हों बल्कि कुछ काम बहादुर भी हों। ऐसे मेम्बरों को मत देने का अधिकार हो, असहमति पत्र देने का अधिकार हो। असहमति पत्र दे सकते हैं जो कि आगे धारा में उल्लेख आता है फिर भी इस में अच्छी तरह से नहीं बतलाया गया है। वह अपना मत दे सकता है और असहमति पत्र दे सकता है या नहीं, ये दोनों बातें इस में स्पष्ट रूप से रहनी चाहिये, जो कि इस में नहीं हैं। इस में केवल राय देने का हक दिया हुआ है। राय देने वाले तो पुराने जमाने में "रायबहादुर" हुआ करते थे; आज तो हमें यह देखना है कि ऐसे मेम्बर हों, जो काम कर सकें, अपना मत दे सकें और असहमति पत्र देने का भी उन्हें अधिकार हो। इसी आशय से मैंने यह संशोधन दिया है और मुझे आशा है कि माननीय मंत्री जी इसकी भावना को समझेंगे और इस को स्वीकार करेंगे।

श्री عبد الغنى : میں نے جو

سنشور دین دیا ہے اس کا مقصد صرف سرکار کی توجہ اس طرف دلانا ہے کہ اس ہاؤس کا ایمان نہ ہو، اس ہاؤس کے ممبران کا ایمان نہ ہو - جب وہ یہ مان جائیں کہ اس ہاؤس کے ممبران ایڈوائز کرنے کے قابل ہیں تو جب وہ نامزد ہوں تو انہیں چیمبر میں کو نامزد کرنے کا حق ہو اور جو اسٹیٹ میں لیجسلیٹو کونسل کے چیمبر میں ہیں انہیں بھی ممبر کو نامزد کرنے کا حق ہو - اس خیال سے میں نے یہ سنشور دین دیا ہے کہ سرکار کو یہ احساس ہو کہ اس ہاؤس کے جو ممبران ہوں انکو ایڈوائز دینے کا نہ صرف حق ہی ہے بلکہ وہ ایڈوائز دینے

کے قابل بھی ہیں کیونکہ وہ بڑے ہو کر یہاں آتے ہیں اور چھوٹی عمر کے بہت کم لوگ یہاں آتے ہیں -

تو ممبرا مطلب یہ ہے کہ سرکار ذرا اس پر دھیان دے - ہماری کڑی ضد نہیں ہے کیونکہ ووٹنگ سے ہم یہاں جیت نہیں سکتے - لیکن عقل کی بات ہے اگر ہم ان کو کونسل درسکے تو محض بڑی خوشی ہوگی اور وہ اس کو اپنے دماغ میں رکھنے کی کوشش کریں گے - اگر مجارٹی کے بل پر وہ یہ سمجھیں کہ ان کی بات کو نہیں سنا ہے تو یہ ان کی اچھا ہے - ہمیں اس سے کوئی جھگڑا نہیں - وہ جیسے خواہش ہوں ہم اسی میں خوش ہیں -

†[श्री अब्दु न गनी : मैंने जो संशोधन रखा है उसका मकसद सिर्फ सरकार की तवज्जो इस तरफ दिलाना है कि इस हाउस का अपमान न हो, इस हाउस के मेम्बरान का अपमान न हो। जब वह यह मान जायें कि इस हाउस के मेम्बरान एडवाइज करने के काबिल हैं, तो जब वह नामजद हों तो उन्हें चेयरमेन को नामजद करने का हक हो और जो स्टेट्स में लेजिस्लेटिव काउन्सिल के चेयरमैन हैं उन्हें भी मेम्बर को नामजद करने का हक हो। इसी खयाल से मैंने यह संशोधन दिया है कि सरकार को यह एहसास हो कि इस हाउस के जो मेम्बरान हैं उन को एडवाइज देने का ना सिर्फ हक ही है बल्कि वह एडवाइज देने के काबिल भी हैं, क्योंकि वह बूढ़े हो कर यहां आते हैं और छोटी उम्र के बहुत कम लोग यहां आते हैं।

[श्री अब्दुल गनी]

तो मेरा मतलब यह है कि सरकार जरा इस पर ध्यान दे। हमारी कोई जिद नहीं है क्योंकि वोटिंग से हम यहां जीत नहीं सकते, लेकिन अकल की बात है अगर हम उन को कनविन्स कर सकें तो मुझे बड़ी खुशी होगी और वे इस को अपने दिमाग में रखने की कोशिश करेंगे। अगर मैजोरिटी के बल पर वे ये समझें कि इन की बात को नहीं सुनना है तो यह उनकी इच्छा है। हमें इस से कोई झगड़ा नहीं। वे जैसे खुश हों हम उसी में खुश हैं।]

SHRI B. D. KHOBARAGADE: Madam, I would like to urge that the Government should accept this amendment which has been moved because on a number of occasions we have seen that this House is being ignored. This trend is not desirable. As far as possible, due representation should be given to this House also so that we can get the benefit of valuable advice which the learned Members of this House can give. Therefore, I support the amendment that has been moved by Mr. Chordia.

I had said in my speech that actually there were certain parties which were not represented in the State Legislatures but they had secured more votes, and therefore, they have been recognised by the Election Commission. And, therefore, such parties also should have been given representation on this Commission. But unfortunately, if we adopt this clause as it is, such parties will not be able to be represented on that Commission at least. It does not matter if the other parties are not given any representation, but at least the Rajya Sabha and the Upper Houses of State Legislatures should be allowed to send their representatives so that they can assist the Commission in delimiting the constituencies.

SHRI BHUPESH GUPTA: May I have one word?

THE DEPUTY CHAIRMAN: Just one minute.

SHRI BHUPESH GUPTA: I cannot measure one minute.

THE DEPUTY CHAIRMAN: I shall.

SHRI BHUPESH GUPTA: I will see. I associate myself with the sentiment, which has been expressed here, namely, that the Rajya Sabha should be associated with this Delimitation Commission. That is to say, the Members from the Rajya Sabha should also be included. I think it is a good suggestion. The hon. Minister there was trying to remind me of what happened in 1952 forgetting that ten years have passed since then. He has gone to the Lok Sabha. Many new people have come in. Things have changed. Now, Madam, what we say is, why should there be this approach against the Rajya Sabha? There is some kind of fetish, it seems, in this matter as far as the Lok Sabha is concerned. And here, when you come to the Rajya Sabha, when there is no bar in the Constitution in this matter, even then they would not include Members of the Rajya Sabha in such committees. I think it will be good if they are included. For one thing, because we are happily placed, indirectly elected in the first place, and in the second place, once we enter, somehow or other we continue for six years no matter what happens. One word more. Then, the Members of the Lok Sabha . . .

THE DEPUTY CHAIRMAN: One minute is over.

SHRI BHUPESH GUPTA: One minute is over but my idea is not complete yet. Therefore, I think that we should be associated.

And what is more, we are supposed to represent States. That is a fiction, I say. We say that we represent parties and the parties here represent the States. Here the Congress people represent the Congress Party and, therefore, they represent the States.

The same position is here. Therefore, all the forces that come in the States will have been represented on such committees. But the point is that here the Rajya Sabha Member will be in a better position because he does not have one constituency in which he may be interested. When I come to the Lok Sabha from Bengal, at least I am interested in one constituency if I want to be elected. But a Member of the Rajya Sabha may be interested in all. But there is not a specific, single constituency in which, in a personal sense, or as a candidate, he is interested. Therefore, I think, in this matter if you seek the proper guidance and representation, I think the Rajya Sabha should be in a better position to give an impartial, detached, representation from Parliament. And I do not see, when such is the position, why Mr. Bibudhendra Misra, our Deputy Minister, is trotting out a very old, moth-eaten, argument before the House to accept it. And, Madam Deputy Chairman, in addition—my last word—if we have representation from this House, that will also give you an opportunity to assert yourself.

SHRI BIBUDHENDRA MISRA: Madam, I have already given my arguments for opposing it. I have said it and let me once again make it clear that no disrespect to Rajya Sabha has been made by this.

Madam, so far as this amendment No. 6 is concerned, that the associate members should have a right of voting and of signing any decision. I am opposed to it. The associate members are there because of their expert legal knowledge to assist the Delimitation Commission, and once you give them the same right as the members of the Delimitation Commission have, the whole purpose of having an independent and impartial body, the whole idea is defeated. Therefore, I am opposed to it.

THE DEPUTY CHAIRMAN: The question is:

1. "That at page 2, line 19, for the word 'nine' the word 'eleven' be substituted."

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

2. "That at page 2, line 20, for the word 'four' the word 'five' be substituted."

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

3. "That at page 2, line 20, for the words 'members of the House of the People' the words 'members of Parliament' be substituted."

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

4. "That at page 2, line 21, for the word 'five' the word 'six' be substituted."

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

5. "That at page 2, lines 21-22, for the words 'Legislative Assembly' the word 'Legislature' be substituted."

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

6. "That at page 2, for lines 38-39, the following be substituted, namely:—

'(4) The associate members shall have a right to vote and to sign any decision of the Commission or append a note of dissent'."

The motion was negatived.

THE DEPUTY CHAIRMAN: *Amendment Nos. 11 and 12 are barred. I shall now put the clause to the vote. The question is:—

"That clause 5 stand part of the Bill."

The motion was adopted.

Clause 5 were added to the Bill.

Clause 6 was added to the Bill.

Clause 7 was added to the Bill.

Clause 8—Readjustment of number of seats

THE DEPUTY CHAIRMAN: There are two amendments, Nos. 14 and 15. They are disallowed for the reason that there is no delimitation for the Council of States and delimitation for Legislative Councils is outside the scope of this Bill.

The question is:

"That clause 8 stand part of the Bill."

The motion was adopted.

Clause 8 was added to the Bill.

Clause 9 was added to the Bill.

Clause 10—Publication of orders and their date of operation

THE DEPUTY CHAIRMAN: There are two amendments, No. 7 in list No. 1 and 16 in list No. 2.

SHRI V. M. CHORDIA: Madam, I move:

7. "That at page 5, for lines 17 to 22, the following be substituted, namely:—

'(2) As soon as may be after such publication, every such order shall be laid before both Houses of Parliament and the Legislature of the State concerned.

*For texts of amendments, see col. 3983 supra.

(3) After considering the suggestions, if any, made by both the Houses of Parliament and the Legislature of the State concerned, the Commission shall modify the order published under sub-section (1) in the Gazette of India and every order so modified shall have the force of law and shall not be called in question in any court?"

SHRI ABDUL GHANI: Madam, I move:

16. "That at page 5, lines 21-22, for the words 'House of the People and the Legislative Assemblies' the words 'both the Houses of Parliament and the Legislature' be substituted."

The questions were proposed.

श्री बिमलकुमार सुन्तालाल जी चौरडिया :

उपसभापति महोदय, यहां पर वर्तमान जो व्यवस्था है उस के अन्तर्गत जो प्रकाशन होगा वह कानून का रूप प्रकाशित होते ही पा जायेगा कमीशन के द्वारा १० (१) के अन्तर्गत और १० (२) के अन्तर्गत जो पब्लिश कर दें :

"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."

वे चाहते हैं कि पब्लिकेशन करने के बाद वह बिल्कुल कानून का रूप धारण कर ले और उस के बारे में किसी भी न्यायालय में प्रश्न न किया जा सके। मेरी तो यह भी इच्छा थी कि यह जो "shall not be called in the question in any court" है, यह भी हटाया जाना चाहिये। इसका कारण यह है कि अगर सचमुच में हमारे जो सिद्धान्त हैं इस में धारा ८ और ६ के अन्तर्गत, उसके अनुरूप हम काम करेंगे तो हम को नयायालयों से

कोई डरने की जरूरत नहीं है। अगर कोई कोर्ट में जाता है और इस के बारे में क्वेश्चन करता है, तो हम उस से तभी डरेंगे जब हम कोई गलत काम करते हों। अगर हम सही काम करते हैं तो कोर्ट से डरने की हमें कोई आवश्यकता नहीं है। खैर जैसी भी शासन की इच्छा हो वह करे।

4 P.M. मगर यह जो इसमें दूसरा रखा है कि प्रकाशित होते ही ला का रूप धारण करने के बाद यह केवल लोक सभा में और विधान सभा में दोनों जगह रखा जायगा तो यहां राज्य सभा का प्रश्न ही नहीं है। तो मेरा यह निवेदन था कि राज्य सभा और विधान परिषद् में भी रखना चाहिये। दोनों हाउसेज की टेबिल पर रखा जाना चाहिये। विधान परिषद् में भी और विधान सभा में भी दोनों जगह रखना चाहिये। जैसी कि पहले मैंने दलील दी थी कि राज्य सभा के सदस्यों को ज्यादा अधिक कांस्टीट्यूंसीज से सम्पर्क रखना पड़ता है बनिस्वत लोक सभा के, विधान सभा के सदस्यों के, तो ऐसी स्थिति में दोनों हाउसेज की टेबिल पर यह रखना चाहिये।

दूसरी बात यह है कि कानून बनने से पहले ही उसको दोनों हाउसों की टेबिल पर और विधान सभा और विधान परिषद् की टेबिल पर रखा जाना चाहिये जिससे कि कानून की शकल लेने से पहले ही लोगों के जो विचार हैं वे सारे के सारे कमिशन के सामने आ जायें और वह उनके अनुसार माडीफाई करके कानून की शकल उसे दे। कानून की शकल बनने के बाद अगर वह हमारे पास आया तो फिर कुछ नहीं हो सकता है क्योंकि जो बहुत प्रशर वाले लोग हैं वही सरकार पर दबाव डाल सकते हैं और वही उसमें परिवर्तन करवा सकते हैं और एक स्पेशल नोटिफिकेशन बगरह निकलवा सकते हैं जो साधारण लोग हैं वह नहीं करवा सकते हैं। तो चूंकि यह जन साधारण से सम्बन्धित काम है इसलिये पहले जब यहां उसके प्रिंसिपलस पर डिस्मिशन

हो जाय तभी उसको कानून का रूप देना चाहिये। आशा है कि मंत्री महोदय मेरा संशोधन स्वीकार करेंगे।

شری عہد الغلی : میں زیادہ سے

اس پر نہیں دونکا - اکثریت کے بل پر یہ بات تو یہاں رجسٹر ہوگئی کہ راجہ سبھا کے ممبرس بھی ایسوسیٹ ممبرس کے طور پر لیج جائیں لہکن اس میں کیا دقت ہے کہ راجہ سبھا اس پر وچار کرے - جو معاملہ لوک سبھا میں آسکتا ہے اسمبلی میں آسکتا ہے وہ راجہ سبھا میں کہوں نہ آئے؟ - میں نہیں جانتا کہ سرکار نے راجہ سبھا کو اس سے کہوں معصوم رکھا ہے -

ایمرجنسی کے تحت مسٹر ملی کی بات مان تو لی گئی تھی پھر بھی اسے ہوا دیا گیا تھا لہکن اس وقت تو کوئی ایمرجنسی کا سوال نہیں ہے - اب یہی اس بل میں آپ ایلمنٹ میٹ کر سکتے ہیں اور ضرور کرنا چاہئے - تو میں آپ کے دواوا اپیل کرتا ہوں کہ راجہ سبھا اور کونسلوں کے ممبروں کو اس طرح معصوم کرنے کی کوشش نہ کریں - اس سے کیا فائدہ ہوگا؟ - مسٹر ملی کا جو ایلمنٹ میٹ تھا اس کو آپ نے مانا اور یہ مانا کہ فطی ہوئی ہے اور یہ کہا کہ اپنے آپ سرکار یہ تھیک کرلیگی تو اگر اسی طرح سے اپنے آپ تھیک کر سکتے ہوں تو اچھا ہے لیکن اس چوڑ کو تھیک کروالو تاکہ دنہا میں ہلسی نہ آئے

[شری عبدالغنی]

کہ راجیہ سبھا کے ساتھ انہوں نے اس طرح کا برتاؤ کیا ہے -

†[श्री अबुधन मिश्रा : मैं ज्यादा समय इस पर नहीं दूंगा । अवसरियत के बल पर यह बात तो यहां रिजेक्ट हो गई कि राज्य सभा के मेम्बर भी एसोसिएट मेम्बरों के तौर पर लिये जायें लेकिन इसमें क्या दिक्कत है कि राज्य सभा इस पर विचार करे । जो मामला लोक सभा में आ सकता है, एसेम्बली में आ सकता है, वह राज्य सभा में क्यों न आवे ? मैं नहीं जानता कि सरकार ने राज्य सभा को इससे क्यों महत्त्व रखा है ।

एमरजेंसी के तहत मिस्टर मणि की बात मान तो ली गई थी फिर भी उसे हरा दिया गया था लेकिन इस वक्त तो कोई एमरजेंसी का सवाल नहीं है । अब भी इस बिल में आप अमेंडमेंट कर सकते हैं, और जरूर करना चाहिये । तो मैं आपके द्वारा अपील करता हूँ कि राज्य सभा और कौंसिलों के मेम्बरों को इस तरह महत्त्व करने की कोशिश न करे । इससे क्या फायदा होगा ? मिस्टर मणि का अमेंडमेंट था उसको आपने माना और यह माना कि गलती हुई है और यह कहा कि अपने आप सरकार यह ठीक कर लेगी । तो अगर इसी तरह से अपने आप ठीक कर सकते हों तो अच्छा है । लेकिन इस चीज को ठीक करवा लो ताकि दुनिया में हंसी न उड़े कि राज्य सभा के साथ उन्होंने इस तरह का बर्ताव किया है ।]

SHRI BIBUDHENDRA MISRA: As I said earlier, it was provided that the orders would be laid before the Lok Sabha and the Legislative assemblies because they are concerned with them. That is why it was not provided that it should be placed before the Legislative Councils of the States wherever they are or before

the Rajya Sabha. Therefore, I oppose this amendment. So, there is no question of incorporating it here and I am opposed to the amendment but if Members feel that all these orders should be also placed before the Rajya Sabha, I give the assurance that it will be done.

SHRI B. D. KHOBARAGADE: How can they be placed?

SHRI A. K. SEN: We can place anything.

SHRI B. D. KHOBARAGADE: There should be a provision.

THE DEPUTY CHAIRMAN: The Minister has answered.

The question is:

7. "That at page 5, for lines 17 to 22, the following be substituted, namely:—

'(2) As soon as may be after such publication, every such order shall be laid before both Houses of Parliament and the Legislature of the State concerned.

(3) After considering the suggestions, if any, made by both the Houses of Parliament and the Legislature of the State concerned, the Commission shall modify the order published under subsection (1) in the Gazette of India and every order so modified shall have the force of law and shall not be called in question in any court.'

The motion was negatived.

THE DEPUTY CHAIRMAN: This negatives *amendment No. 16 also.

The question is:

"That clause 10 stand part of the Bill."

The motion was adopted.

Clause 10 was added to the Bill.

Clause 11 was added to the Bill.

† [] Hindi transliteration.

*For text of amendment, see col. 3992 supra.

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

SHRI BIBUDHENDRA MISRA: I move:

"That the Bill be passed."

The question was proposed.

SHRI B. D. KHOBARAGADE: I had referred in my earlier speech that due care should be taken so that the constituencies which are reserved for the Scheduled Castes and the Scheduled Tribes are carved out of such localities or areas where there is more concentration of those people. As I pointed out, there is no reference in the Census Report about the number of Scheduled Caste and Scheduled Tribe people in particular areas because the figures are given on a district basis and not on taluk, tehsil or village basis. So, I had requested the Deputy Minister to give an assurance that the Commission would demand the figures of population of Scheduled Castes and Scheduled Tribes from the district authorities and on the basis of that report only they would carve out the constituencies which are specially reserved for the Scheduled Castes and Scheduled Tribes. No reply has been given to that point and I would like a clarification from him as to in what way those constituencies are going to be delimited.

SHRI BIBUDHENDRA MISRA: If the Census Report is referred to, the district-wise distribution of the Scheduled Castes and Scheduled Tribes population is already there and the Census Commissioner is already preparing a handbook and by the time the Delimitation Commission goes into action, he will find in the handbook a village-wise break-up of the Scheduled Castes and Scheduled Tribes population also. So, there will be no difficulty.

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THE DEPUTY CHAIRMAN: The question is:

"That the Bill be passed."

The motion was adopted.

THE CONSTITUTION (FIFTEENTH AMENDMENT) BILL, 1962

THE MINISTER OF LAW (SHRI A. K. SEN): I beg to move:

"That this House concurs in the recommendation of the Lok Sabha that the Rajya Sabha do join in the Joint Committee of the Houses on the Bill further to amend the Constitution of India and resolves that the following members of the Rajya Sabha be nominated to serve on the said Joint Committee, namely:—

1. Syed Nausher Ali
2. Shri S. K. Basu
3. Shri K. S. Chavda
4. Shri D. B. Desai
5. Shri J. N. Kaushal
6. Shri Akbar Ali Khan
7. Shri R. S. Khandekar
8. Shri Lokanath Misra
9. Shri M. A. Manickavelu
10. Shri P. N. Sapru
11. Kumari Shanta Vasishth
12. Shri Vijay Singh
13. Shri Hira Vallabha Tripathi
14. Shri Bipin Behary Varma, and
15. Shri Gopikrishna Vijaivargiya."

Madam, I am sorry that we have not much time left for a discussion on this Bill though I am sure that both this House and the other House would have adequate opportunity of discussing the matter further after the Joint Select Committee and made its report. We are now concerned