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Thursday, September 2, 1976

Bhadra 11, 1898 (Saka)

# **LOK SABHA DEBATES**

**(Seventeenth Session)**



*(Vol. LXIV contains Nos. 11—17)*

**LOK SABHA SECRETARIAT  
NEW DELHI**

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# LOK SABHA DEBATES

I

2

## LOK SABHA

Thursday, September 2, 1976/Bhadra  
11, 1898 (Saka)

*The Lok Sabha met at Eleven of the  
Clock.*

[MR. SPEAKER in the Chair]

MR. SPEAKER: Now, Papers to be  
laid on the Table.

### PAPERS LAID ON THE TABLE 'ADDENDUM' TO ANNUAL REPORT OF ICAR FOR 1972-73

THE MINISTER OF WORKS AND  
HOUSING AND PARLIAMENTARY  
AFFAIRS (SHRI K. RAGHU RAM-  
AIAH): On behalf of Shri Shahnawaz  
Khan, I beg to lay on the Table a  
copy of the 'Addendum' (Hindi and  
English versions) to the Annual Re-  
port\* of the Indian Council of Agricul-  
tural Research, New Delhi, for the  
year 1972-73. [Placed in Library. See  
No. LT-11353/76].

ANNUAL REPORT OF NATIONAL INSTITUTE  
OF DESIGN, AHMEDABAD FOR 1974-75,  
STATEMENTS AND ANNUAL REPORTS OF  
DEVELOPMENT COUNCIL FOR PAPER,  
PULP AND ALLIED INDUSTRIES FOR  
1973-74 AND 1974-75

THE MINISTER OF STATE IN  
THE MINISTRY OF INDUSTRY  
(SHRI A. P. SHARMA): On behalf

of Shri B. P. Maurya, I beg to lay on  
the Table—

(1) (i) A copy of the Annual Re-  
port (Hindi and English versions)  
of the National Institute of Design,  
Ahmedabad, for the year 1974-75  
together with Audited Accounts.

(ii) A statement (Hindi and  
English versions) showing reasons  
for delay in laying the above Re-  
port. [Placed in Library. See  
No. LT-11353/76].

(2) (a) A copy each of the follow-  
ing Reports (Hindi and English  
versions) under sub-section (4)  
of section 7 of the Industries  
(Development and Regulation) Act,  
1951:—

(i) Annual Report of the Deve-  
lopment Council for Paper, Pulp  
and Allied Industries for the year  
1973-74.

(ii) Annual Report of the Deve-  
lopment Council for Paper, Pulp  
and Allied Industries for the year  
1974-75.

(b) A statement (Hindi and Eng-  
lish versions) showing reasons for  
delay in laying the above Reports.  
[Placed in Library. See No. LT-  
11354/76].

MR. SPEAKER: Item No. 3,  
Shri A. K. M. Ishaque. Anybody for  
him? No. Absent. Next item—item  
No. 4. Secretary-General.

\*The Report was laid on the Table on the 5th April, 1976.

11.01 hrs.

## MESSAGES FROM RAJYA SABHA

SECRETARY-GENERAL: Sir, I have to report the following messages received from the Secretary-General of Rajya Sabha:—

(i) "In accordance with the provisions of rule 127 of the Rules of Procedure and Conduct of Business in the Rajya Sabha, I am directed to inform the Lok Sabha that the Rajya Sabha, at its sitting held on the 1st September, 1976, passed, in accordance with the provisions of article 368 of the Constitution of India, without any amendment, the Constitution (Forty-third Amendment) Bill, 1976, which was passed by the Lok Sabha at its sitting held on the 30th August, 1976."

(ii) "In accordance with the provisions of rule 127 of the Rules of procedure and Conduct of Business in the Rajya Sabha, I am directed to inform the Lok Sabha that the Rajya Sabha, at its sitting held on the 1st September, 1976, agreed without any amendment to the Fifth Schedule to the Constitution (Amendment) Bill, 1976, which was passed by the Lok Sabha at its sitting held on the 30th August, 1976."

(iii) "In accordance with the provisions of rule 127 of the Rules of Procedure and Conduct of Business in the Rajya Sabha, I am directed to inform the Lok Sabha that the Rajya Sabha, at its sitting held on the 1st September, 1976, agreed without any amendment to the Kerala Legislative Assembly (Extension of Duration) Second Amendment Bill, 1976, which was passed by the Lok Sabha at its sitting held on the 31st August, 1976."

MR. SPEAKER: Now, Shri Dinan Bhattacharyya...

## RE. STATEMENT OF BONUS

SHRI S. M. BANERJEE (Kanpur): Sir, about Bonus Bill let me make a submission. This is the last day of the session.

THE MINISTER OF WORKS AND HOUSING AND PARLIAMENTARY AFFAIRS (SHRI K. RAGHU RAMAIAH): I was under the impression that Finance Minister is concerned with it. But now I am told that it is the Labour Minister who is concerned with it. He is now in the Rajya Sabha. I am now going there and I will come back and tell you about it.

SHRI S. M. BANERJEE: Let me make a submission in one minute. Let the Minister know what we want.

SHRI K. RAGHU RAMAIAH: I have got papers from the Secretary-General. I know what you want.

SHRI S. M. BANERJEE: Allow me to make a submission in one minute.

MR. SPEAKER: Let me know what news he brings. Let us wait.

Now, Shri Dinan Bhattacharyya.

11.04 hrs.

## MOTIONS RE. SEVENTEENTH REPORT OF COMMITTEE OF PRIVILEGES

SHRI DINAN BHATTACHARYYA (Serampore): Mr. Speaker, I beg to move the following with your permission:—

"That this House do consider the Seventeenth Report of the Committee of Privileges presented to the House on the 27th January, 1976."

There is no controversy on this. So, let this motion be passed without any discussion.

MR. SPEAKER: Is there any comment on this? Let me first put this motion. The question is:

"That this House do consider the Seventeenth Report of the Committee of Privileges presented to the House on the 27th January, 1976."

*The motion was adopted.*

MR. SPEAKER: I shall now take up the Contingent Notices of Motions. Mr. Bhattacharyya.

SHRI DINEN BHATTACHARYYA: I beg to move:

"That this House agrees with the findings and recommendations contained in the Seventeenth Report of the Committee of Privileges presented to the House on the 27th January, 1976, and resolves that Shri Krishna Kant Dutta be sentenced to imprisonment till the prorogation of the Lok Sabha for the breach of privilege and contempt of the House committed by him."

MR. SPEAKER: Let Shri Raghu Ramaiah also move his motion.

THE MINISTER OF WORKS AND HOUSING AND PARLIAMENTARY AFFAIRS (SHRI K. RAGHU RAMAIAH): I beg to move:

"That having considered the Seventeenth Report of the Committee of Privileges, this House resolves that with reference to para 50 of the Report, the matter be dropped."

MR. SPEAKER: Motions moved:

"That this House agrees with the findings and recommendations contained in the Seventeenth Report of the Committee of Privileges presented to the House on the 27th January, 1976, and resolves that Shri Krishna Kant Dutta be sentenced to imprisonment till the prorogation of the Lok Sabha for the breach of privilege and contempt of the House committed by him."

"That having considered the Seventeenth Report of the Committee of Privileges, this House resolves that with reference to para 50 of the Report, the matter be dropped".

SHRI DINEN BHATTACHARYYA: Sir, I am amazed that although I had tabled this motion a long time back in the last session, it has taken so long to come up before the House. I find that one of our veteran and lawyer colleagues, Shri Daga, had originally tabled a motion countering my contention. But, then, suddenly, Shri Raghu Ramaiah comes in the scene. I do not know why should he move this motion negating the recommendations of the Committee of Privileges appointed by the Speaker and nobody else? This is a Parliamentary Committee. I do not know how Shri Raghu Ramaiah who has got a long record as a Parliamentary Affairs Minister can himself move the motion negating the Committee's decision? What is the recommendation of the Committee? Why have I moved my main motion?

So far as the other persons are concerned, the Committee is satisfied with the departmental action taken. It is regarding the police and the railway officials. Regarding another person:

"The Committee are of the view that checking of the identity card of Shri Ajit Kumar Saha in the waiting room of the Asansol Railway Station was understandable for the first time but the concerned Railway Officers and the Government Railway Police Officers by making repeated checks of his identity card and taking him to the Police Station for interrogation had deliberately caused harassment to Shri Ajit Kumar Saha, M.P. This conduct on the part of the concerned Officers is reprehensible and a breach of privilege and contempt of the House.

"Para 48: The Committee are of the opinion that Shri Krishna Kant Dutta has also committed a breach of privilege and contempt of the House as it was his false complaint to the officials of the Railway and G.R.P.S., Asansol, which led to the harassment and illtreatment of Shri

[Shri Dinen Bhattacharyya]

Ajit Kumar Saha, M.P., while he was on his way to Delhi to attend a sitting of a Parliamentary Committee. Shri Krishna Kanta Dutta has further committed a breach of privilege and contempt of the House by giving false evidence before the Committee when he denied before the Committee having made the impugned written complaint against Shri Ajit Kumar Saha, M.P., as entered in the General Diary of the Government Railway Police, Asansol, on 29 June 1972".

The recommendation of the Committee is:

"The Committee express their displeasure on the conduct of the concerned railway and police officers and recommend that suitable departmental action be taken by the Government against them and reported to the House as early as possible".

I have nothing to add to this. But in paragraph 50, the Committee have stated:

"In regard to Shri Krishna Kanta Dutta, the Committee are of the view that they need not recommend any specific punishment for him, but leave it to the House to award suitable punishment to him".

Here is a case of a person who deliberately makes a false statement in writing there in the Asansol Railway station before the police as well as railway officers and coming here before the privileges Committee and denying that he had made a written complaint. Subsequently, from the facts of the case and the statements and documents, it is evident that he did make a written complaint, though he denied it here. So coming over here as a witness before the Privileges Committee, he has made a false statement. The Committee have taken serious exception to this.

Imagine the situation. You, the Speaker, are travelling to Delhi. You are waiting in the waiting room for

first class passengers. Some gentleman comes there. Then the police and railway officers come. They check your identity not once, not twice, but thrice. They repeatedly check. The MP repeatedly stated, 'I am an MP coming from Bankura, changing train here for Delhi to attend a meeting'. He showed his identity card in the first instance. Then that man went to the police and on his insistence and also with some motive, he brought the police again to the waiting room and harassed the MP in this way. When he was summoned here to give evidence before the Privileges Committee, he poses as an innocent person and says that he did not make any written complaint, which is a deliberate falsehood, which was nothing but misleading the Committee and, therefore, is a contempt of the Committee as well as of the Parliament. The most funny thing, you will notice Mr. Speaker with astonishment, is that this man is of such a character that the written complaint which he made to the police was missing from the file dealing with this case in the court.

So, Sir, as far as his conduct—I am not concerned with his conduct outside—so far as Parliament is concerned, so far as the honour of an MP is concerned, so far as the harassment to an MP is concerned, this is a question of a serious matter and a question of privilege and that is why, Mr. Speaker, the previous Speaker referred the matter after getting the report from the Railway officials as well as the Government of West Bengal and the House also was of the unanimous opinion that the matter should be referred to the Privileges Committee. That is why the long proceeding is there and in the sittings of the Privileges Committee, so many witnesses were summoned not once but twice and documents were produced and after that, the Committee came to the finding that so far as the railway officials and the police officers are concerned, they have committed a breach of privilege and that depart-

mental action should be taken. Regarding this, Shri K. K. Dutta, who is the root for such an ignominious and motivated harassment to an hon. Member of Parliament who was proceeding to Delhi to perform his duty as a Member of a particular Committee, he was detained there, he was harassed there and the Committee still gave opportunity and scope to this person, K. K. Dutta, to come over here and tell the truth and an honest statement. The other persons apologised but this man intentionally, deliberately and with a motive concealed the facts from the committee and gave false evidence. So, I will say there are hon. Members who have got enough experience and they will further elaborate on this matter. I will appeal through you, Mr. Speaker, to Mr. Raghu Ramaiah to kindly not to try to save in this way a criminal, I will say, criminal because he has deliberately committed a contempt of the House as well as the Privileges Committee and also the hon. Members of the House. So, why are you saving him? Now if you do this in the case of Shri Ajit Saha, I remind the House and other hon. Members that the same thing may happen to any other hon. Member....

**SHRI SAMAR MUKHERJEE** (Howrah): And also to Shri Raghu Ramaiah.

**SHRI DINEN BHATTACHARYYA**: We do not move in the country with the tag that so and so is travelling. That is given to the Government officials. We go as ordinary people and to that extent, he may challenge my identity. But what is this? Even after producing the identity card, under the provocation of this K. K. Dutta, the railway officials harassed the MP and this man—I would not say that he is a gentleman—came here and deliberately distorted and concealed the facts. It is a breach of privilege and I will humbly request Mr. Raghu Ramaiah not to give him protection in this way. This is nothing but giving protection to a criminal and I will

humbly say that he may not pursue and ask the House to take up his motion and he may withdraw it.

**THE MINISTER OF WORKS AND HOUSING AND PARLIAMENTARY AFFAIRS (SHRI K. RAGHU RAMAIAH)**: As my motion is being discussed, I would like to say a few words.

**SHRI S. M. BANERJEE (Kanpur)**: One is a positive one and another is a negative one. Let us speak on both and then he may reply..

**SHRI K. HANUMANTHAIYA (Bangalore)**: So far as this motion is concerned, you have appointed the Chairman of the Privileges Committee. We have every respect for the decision that they have arrived at. We mean no disrespect to any Member or any dissenting note. The fact is that the Committee itself has recommended that the House may impose any punishment that it deems fit. Therefore, they have not taken any decision in the matter of punishment. Looking into the facts of the case, I should feel that an august body like Parliament should use its discretion in the matter of punishment and when the individual concerned is almost an insignificant person, I do not think it is in keeping with the dignity of the House to punish such a man; it is like an elephant treading upon an ant. Therefore, what I propose is that since the committee itself has not deemed it fit to determine the punishment and left it to the discretion of the House, let us exercise that discretion in a judicious and magnanimous manner and drop the proceedings. The police officers, as you know, have been proceeded against departmentally and this Dutta has been declared not guilty in the criminal court on this particular charge on a police complaint. Those two circumstances also weigh with this House to treat this case as closed and no punishment need be imposed. .

**SHRI S. M. BANERJEE (Kanpur):** I was surprised to hear my hon. friend Shri Hanumanthaiya who is supposed to be one of the pillars of parliamentary democracy in this country. I have read the motion of Shri Dinan Bhattacharyya and also of Shri Raghuramaiah. I do not want the House to demand a pound of flesh from everyone taking advantage of its privileges. In this case what are the recommendations of the committee on page 30: they say, the committee have carefully considered the question whether they may find him guilty of breach of privilege when he has been acquitted by a court on a criminal charge. Based on the facts involved in this case the committee are of the view that this decision by a court in respect of a criminal offence is no bar to the jurisdiction of the House to punish the offender if those facts constitute breach of privilege or contempt of the House. The mere fact that some papers were said to be missing did not enable the magistrate to punish him properly; that is how he got acquitted. The committee have given their clear finding. This gentleman K. K. Dutta has misled people and it constitutes a breach of privilege of the House. Shri Raghu Ramaiiah may say that the Committee has not recommended specifically what should be the punishment; let us rely on the wisdom of the committee of which Shri Salve was the chairman. If you say or specify no specific punishment, if you leave it open, that does not mean that you recommend no punishment; it does not mean that the committee did not want to punish this person. They left it to the House to decide what should be the proper punishment, keeping in view the gravity of the offence committed by him.

There is only one instance in this country when a motion was moved for punishment, saying what has been done already is not sufficient. You remember the case of the Steel Controller, Shri S. P. Mukherjee, who was reprimanded by the Speaker. It

is not that he was left scot-free. Shri S. P. Mukherjee, a Class I Officer, a Government servant, he was reprimanded by the Speaker, though the case was not fully proved. Then, a subsequent motion was moved by Shri Madhu Limaye that he should be imprisoned. Then the late Shri Mohan Kumaramangalam came to his rescue, who said that a man should not be punished twice for the same offence. That was the argument which was advanced in support of Shri Mukherjee against the imposition of a particular punishment. But the fact remains that Shri Mukherjee was reprimanded.

In this case, I would like to know from those hon. Members who would like to support Shri Raghu Ramaiah, whether a man who has committed a breach of privilege, a contempt of this House, should be allowed to go scot-free, merely because Shri Raghu Ramaiah in his wisdom thinks that he should not be punished? What punishment has been given to him? Has he been reprimanded or censured by the Speaker? Or, has he been given imprisonment till the rising of the court? I am not after the blood of Shri Krishna Kanta Dutta. He may or may not be punished, but let Shri Raghu Ramaiah, the Minister of Parliamentary Affairs, the custodian of parliamentary democracy in this country, not become a Portia in this case. It is not that we want our pound of flesh. But, let him realise that he is also a Member of this House. While I wish him to continue in his Ministership to the last day of his life, suppose he leaves the Ministry one day, he will meet with the same fate. Therefore, I would appeal to your sense of impartiality and sense of justice.

Sir, we must remember that when any privilege motion is discussed, this House is converted into a House of Judges, and you are the Chief Justice. You must realise that you have to protect the prestige and privilege of this House. If you are unable to accept our suggestion, let this

gentleman be brought to the dock of this House and reprimanded by you. That would be a sufficient punishment. Why should we show any leniency? I hope Shri Raghu Ramaiiah remembers how Shri Karanjia was dealt with. When Shri Hanumanthaiya was speaking, he said that we should not become touchy.

**SHRI K. HANUMANTHAIYA:** I did not use the word 'touchy'.

**SHRI S. M. BANERJEE:** He gave the comparison of an elephant and an ant. He said: let us forgive the ant. But if the ant does not live in its proper place, it should be shown its proper place.

Sir, you must uphold the dignity of this House. I would request the hon. Members to suggest some suitable punishment to Shri Dutta. Let him realise that he cannot go scot-free.

**MR. SPEAKER:** There are a large number of members wanting to speak on this. It is not possible to accommodate them within one hour. Then, we will have to extend the time. The other alternative is that members should be brief.

**SHRI B. K. DASCHOWDHURY** (Cooch-Behar): Sir, this motion is very peculiar. It is true that the Committee has made certain observations, but in the last para the Committee did not make any recommendation on the course of action to be taken in the matter. It has left it open to the House. If one takes the trouble of going through the entire records and proceedings of the Committee in this regard, it will be observed that: the very basis, the first report, which is the nexus to the charge that Shri Dutta had submitted a false allegation against an hon. Member of this House, that was missing. Who should be believed and who should not be believed, that is the first question. Are only police officials to be believed? Is there adequate evidence for that according to

the law of evidence that we are following in this country? The person says that he did not find all these papers, and whatever he signed, he signed after the occurrence, and nothing more. An allegation is made against one Mr. K. K. Dutta on the basis that he did file a complaint against an hon. Member of the House. What is the whole story? The allegation is that harassment was made, that there was occasion for breach of privilege, it was done by the railway authorities and the police officials, and not by this person. The question arose why they acted in such a rash and atrocious manner in order to humiliate a Member of Parliament which is really reprehensible. In order to save their own skin, they took the plea that one Mr. K. K. Dutta, whose identity was not even known to the police officials or the railway authorities, had made a statement. They also stated in their evidence they never knew of this man, neither was he readily available to ask further questions. What is more interesting is that within two or three minutes of the starting of the investigation, the police officials from downstairs went upstairs and humiliated and harassed the hon. Member of Parliament and so the Committee recommended that it was an act of breach of privilege and that they should be suitably punished, and the respective authorities punished them as mentioned in the Action Taken Report, the 19th Report.

The original report is missing, or it could not be found anywhere, on the basis of which this particular person, Shri K. K. Dutta could be found guilty of breach of privilege. What is more, in the absence of proper norms, the matter has already been sent up to the High Court to decide as to what further steps should be taken. It is now under the consideration of the High Court at Calcutta. Further, while action was taken under section 182 against K. K. Dutta, after going through all these processes, he was completely discharged under section 245 of the



[Shri B. K. Daschowdhury]

Criminal Procedure Code. What does it mean? It means that nowhere in this entire episode has he been found guilty.

In the light of these facts I fully believe that the falsity of the statement of K. K. Dutta is yet to be proved. Unless it is proved satisfactorily, I do not think it will be proper on the part of this august House simply to summon someone and reprimand him. Therefore, I oppose the motion of Shri Dinen Bhattacharyya.

MR. SPEAKER: I propose to call the Minister at 10 minutes to 12. If hon. Members confine themselves to 5 minutes each, I can accommodate four, two from this side and from the other side.

SHRI H. N. MUKERJEE (Calcutta—North-East): Having been a Member of the Committee of Privileges at certain relevant periods and re-collecting vividly something of the demeanour of this particular person, K. K. Dutta, who appeared before the Committee and gave evidence when he was called upon to do so, I feel I must support the motion made by my hon. friend Shri Dinen Bhattacharyya.

This is a case in which, as my hon. friend Shri Banerjee has pointed out, there are certain principles involved, and not that we want to punish a person for punishment's sake. The finding of the Committee of Privileges is very clear. Obviously they were dissatisfied with the way in which the facts were presented before them by the officials who were involved in this business.

Something egregious had happened. A Member of Parliament carrying his Identity Card, being challenged by a railway officer, showing his Card and providing his *bona fides* and yet being dragged to a police outpost in the railway station, humiliated in the presence of hundreds of people who

were assembled at a very busy centre, like, Asansol. This egregious treatment was meted out to a Member of Parliament who did not succeed, like, some of us who apparently do succeed in throwing their weight about and intimidating people. Sometimes, we do it in a manner which I personally reprobate. But because he was a decent Member who did not want to throw his weight about, he was challenged in this fashion and humiliated.

Then, the story came out that there must have been a motivated effort, a *mala fide* effort, to malign this particular person. And God knows what complications of political intrigue are behind this episode. But I remember very distinctly not only the behaviour of this particular person, Shri Krishna Kanta Dutta whom the Committee of Privileges themselves want the House to punish, I remember also how in regard to the matter relative to the disappearance or to the non-production—I do not exactly remember—of certain documents, a Deputy Secretary or a Joint Secretary to the Government of West Bengal giving evidence had to admit that there was a *hocus-pocus* in the whole matter and things were being attempted to be hidden from the view of the court. Therefore, after a long cogitation extending over a couple of years or so or, perhaps, more even, the Committee have come to their finding which is very positive.

I cannot imagine how Parliament can treat the Report of the Committee with disrespect. To adopt a motion moved by my hon. friend, Shri Raghuramaiah, the Minister of Parliamentary Affairs would be showing disrespect to the views of the Committee. The Committee have made the recommendation in these words:

"That Committee express their displeasure on the conduct of the concerned railway and police officers and recommend that suitable departmental action be taken by the

Government against them and reported to the House as early as possible."

The Committee is very clear that something very bad has been done and those officers of railway and police have to be done something to.

In regard to Shri Krishna Kanta Dutta who was the villain of the piece, who started the whole chain of incidents, the Committee are of the view that they "need not recommend any specific punishment for him but leave it to the House to award suitable punishment to him." The Committee do not say that on the basis of the facts before them, they find that the case is not proved against him and, therefore, the case might be dropped. The Committee might very well have recommended that the case against Shri Krishna Kanta Dutta be dropped. But the Committee did not choose to do so.

The Committee, as all of us know, tries to act with great dignity. It never wishes to give an impression of vindictiveness to the citizens of the country, whether in Government or outside who might come to some kind of brush with Members of Parliament. The Committee always try to formulate its recommendations after a long cogitation and careful consideration and, therefore, when the Committee tells the House to meet out some punishment, it is for us to do so. Mr. Dinen Bhattacharyya has spelt out the kind of punishment which could be given to him. At least, he could be brought to the Bar of the House and reprimanded. It could be done.

My hon. friend, Mr. S. M. Banerjee, has reminded us how in regard to a Government officer who was the Deputy Controller of Iron and Steel had been treated in a fashion which does not redound very well in so far as our work is concerned. We have shown such scrupulous regard for even a literal pursuit of whatever is said by the Committee of Privileges. Therefore, in regard to this matter, when the

Committee of Privileges is positive in its recommendation to the House, that some punishment whatever it is should be meted out to Shri Krishna Kanta Dutta, we should take up the job and meet out that punishment to him. Mr. Bhattacharyya has spelt out the punishment or, at least, he might be brought to the Bar of the House at an appropriate time and reprimanded.

The Minister of Parliamentary Affairs' motion just cannot pass muster because that goes against the grain of parliamentary activity. It repudiates the recommendation of the Committee of Privileges. I have heard nothing at least from Mr. Daschowdhury at any rate to justify that proposition.

**SHRI DINESH CHANDRA GO-SWAMI (Gauhati):** Mr. Bhattacharyya, while putting the case before the House, accused Mr. Raghu Ramaiah of trying to save Mr. K. K. Dutta. If I have understood Mr. Raghu Ramaiah's motion correctly, he is not trying to save Mr. K. K. Dutta. The whole question is whether it will enhance the dignity and prestige of this House and of the hon. Members by inflicting some punishment on this person or by taking the other view of dropping the matter.

We, on this side of the House also, take a very serious view of the question of privilege of Members because privilege of a Member is privilege of a Member irrespective of the Party to which he may belong. But the question is whether we will really enhance the prestige of the House by inflicting some punishment on him, taking into consideration the entire facts and circumstances of this case. It cannot also be forgotten that, whenever a decision of this nature is taken by the House, it gets a lot of publicity and thereby it gives a certain amount of importance to the individual concerned. After all, the Committee has expressed its view regarding the officers concerned, and we are one with it. But the question is whether, taking

[Shri Dinesh Chandra Goswami]  
into consideration the entire circumstances, we should inflict a punishment on an insignificant person like Mr. K. K. Dutta, because, there are certain aspects one must consider before inflicting a punishment. The Committee's report is, undoubtedly, to be given the highest respect and we do give it the highest respect. But if we want to give punishment to an individual, the House, in spite of the report of the Committee, shall have to go into the entire case afresh and come to its conclusion. As Mr. Daschowdhury has pointed out, there are certain facts in this case which we cannot ignore. Here is a case where Mr. Dutta did, in very categorical terms, deny that he made certain statements, on the basis of which punishment is sought to be inflicted on him. One piece of evidence by which his statement can be corroborated is the original document or the original entry. Unfortunately, the original entry is missing. If this document is missing, we can hold only that person guilty in whose custody it was, and we cannot draw an adverse inference against Dutta because at no point of time, the document was in his custody. He has come before this Committee and said that he has not made this statement. Here is a statement on his part.

The only piece of evidence by which the statement could have been contradicted or corroborated is the original entry the original document, which we do not have before this House. Added to it is the fact that he has also been acquitted by a criminal court. I do not deny for a moment that, spite of an acquittal by a criminal court, this House or the Privileges Committee has the authority to punish him. But the question is whether it will be proper, in such a case where the most important evidence is missing, where a criminal court has come to the conclusion that there was no *mens rea* on his part, to inflict a punishment on a person, insignificant as the

is, and to give undue importance to him-and may be, undue importance and publicity. I have tried to go through the records on privileges; it is only in exceptional cases that this House has taken the extraordinary step of punishing a person on a question of privilege because, we want to reserve it for exceptional cases and for persons who really count. If this House starts giving punishment to insignificant persons, in all cases of slightly doubtful nature, this potent weapon which we have before us in this House will lose much of its importance.

Therefore, instead of going into the merits of the whole case again, instead of examining afresh the entire report of the Privileges Committee—because we cannot punish a person without going through the report and without examining the case afresh—and also considering the fact that there is a dissenting note by an hon. Member, taking into consideration all these aspects, my submission will be this. When a recommendation is made by a Committee that they leave it to the House to punish, the inherent power is there to punish or not to punish. When somebody is asked to do something, the inherent power is automatically given to him to do something or not to do something. Therefore, the best course, in my opinion, will be that we do accept the report, we do not challenge the report we do not say that he is not guilty, but at the present moment taking into account the entire case, we say that, in this matter, no further punishment is necessary because, after all, he has suffered the pangs of prosecution. That also one has to admit. So we may recommend that no further punishment is necessary and that the matter may be dropped. While doing so, I do not think that we will save K. K. Dutta or we will show any disrespect to the House. We will only enhance the prestige and dignity of this House.

प्रो० एस० एल० सक्सेना (गोरखपुर) : यह कहा जा रहा है कि क्रिमिनल कोर्ट ने उस को रिहा कर दिया। इसका मतलब यह है कि प्रिविलेज कमेटी की जो फाइंडिंग है वे गलत हैं और क्रिमिनल कोर्ट की फाइंडिंग नहीं है। प्रिविलेज कमेटी कुछ भी नहीं है, जो कुछ है क्रिमिनल कोर्ट है। इसको अगर मान लिया जाय तो इसका अर्थ यह होगा कि हमारी कमेटी का दर्जा नीचा है और क्रिमिनल कोर्ट का दर्जा उस से ऊपर है। इस केस में जानबूझ कर मੈम्बर को बेइज्जत किया गया। इस वास्ते जिसन ऐसा किया है उसको छोड़ देना गलत होगा। इससे जो अधिकारी लॉग हैं उनकी हिम्मत बढ जायेगी और मੈम्बरों का खतरा पैदा हो जायगा और उनको जैसे भी हो बेइज्जत किया जा सकेगा। मैं चाहता हूँ कि भले ही उस को हम केवल रेप्रिमांड करें लेकिन उस को सजा जरूर मिलनी चाहिये।

SHRI C. M. STEPHEN (Muvattu-puzha): Now, Sir, I am afraid that the spirit behind the motion of Shri Raghu Ramaiah has not been properly appreciated as was emphasized by my friend, Mr. Goswami. The stand taken by Mr. Raghu Ramaiah in his motion is one of rejection of the committee's report. Sir, the report has two parts, one, a finding to the effect that a breach of privilege has been committed and another, a recommendation to the effect that a suitable punishment be awarded by this House.

The law of privilege knows two types of punishment, a specific punishment inflicted on the person concerned and the other is to treat the alleged contempt with contempt. That is to say, the punishment to be meted out in the circumstances is to ignore it. That is the position taken in different cases. Precedents can be quoted. Therefore, accepting the finding of the Privileges Committee that there is a breach of privilege, we, the House,

have been asked by Mr. Raghu Ramaiah to consider whether this is a case in which the House must invoke its extra-ordinary jurisdiction and magnify the whole thing, call the man to the Bar of the House, arrest him and magnify the matter in such a manner. Therefore, the suggestion is punishing without punishing. If I may say so, it may sound contradictory. But that is also a sort of punishment known to the law of privilege, punishing him by treating him with contempt or you may say, ignoring him. This is the best thing to be done for the Lok Sabha, for the Parliament of India, to do with respect to this. That is one aspect of the matter. That is the spirit in which the motion has been moved.

I do not want to comment on the Privileges Committee's report. It is a highly respected committee. When they make a report, we accept it, rather than go behind the finding. But there is one difficulty, if I may say so. There are two types of people who have committed the breach of privilege, treated the MP with contempt, arrested the MP and did all sorts of things. The comment by the Committee about those things is very bitter and very harsh and I do not want to read the whole thing. Each officer is mentioned, each officer has been commented on and the Committee says that they have committed gross contempt, and gross breach of privilege they have committed. With respect to them the Committee has recommended, "The Committee express their displeasure on the conduct of the railway officials and recommend that suitable departmental action be taken by the government against them and reported to the House as early as possible." Another finding is: "The Committee finds that there is a breach of privilege, no punishment is recommended and we leave it to the House to punish." Well, Sir, this is not fair. After all, this person's letter initiated certain action on the part of the officers. I do not want to go into the question as to whether lodging a complaint against an MP would

[Shri C. M. Stephen]

amount to a breach of privilege. I do not want to go into that question. Now they have found it so.

There are two type of people. *Prima facie* they commit breach of privilege, they harass and M.P., inflict all sorts of things, brandish their revolver at an M.P. Such sorts of people are there. They are left to the Department and the House is not to deal with them. It is not recommended to the House saying you impose the punishment. Well, Sir, the important thing is not the quantum but do inflicts the punishment. Is a contempt of a Member of Parliament, is a breach of privilege, something to be punished by the department, or is it something to be punished by this House. We must get an opportunity to punish the real culprit who must be punished by this House. If it is left to the department we do not know what will happen. They may give a reprimand. But the reprimand by the House and reprimand by the Department are not the same thing. A warning by the House and a warning by the Department are not the same thing. A punishment by the House and a punishment by the department are not the same thing. Therefore, if those officers are not to be punished by this House, then, Mr. Raghu Ramaiah has recommended that no specific punishment be imposed on them. That is to say, punish them without punishing them, punish them by treating them with contempt. This is the procedure which is known to the Parliament. That will be sufficient punishment. We find him guilty but we don't find him important enough to deserve punishment at our hands. That spirit behind the motion may be appreciated and let the motion be accepted. Let the Privilege Committee be treated with respect and fairness be done and the scales be held even. I support the motion moved by Mr. Raghu Ramaiah.

THE MINISTER OF WORKS AND  
HOUSING AND PARLIAMENTARY  
AFFAIRS (SHRI K. RAGHU-

RAMAIAH): Sir, I am grateful to my colleagues on this side, to senior colleagues like Shri Hanumanthaiya and others who have supported by motion. I am sorry Mr. Banerjee who reminded me of Portia is not here; I wanted to return the compliment to him, the same Shakesperian expression. His speech reminds me of the action of Shylock. Let me at the outset make it clear that neither I nor any member on this side of the House has any less respect for the Privilege Committee headed at the moment by our esteemed colleague Mr. Salve. We have great respect for every committee of the House.

Having said that, I would like to add that notwithstanding that, the House is supreme. The supremacy of the House is as vital and important as the importance of the Committee's functioning. Therefore, there is nothing wrong if we happen to take a different view technically. But we are not taking that view in this case, as far as the substance of the matter is concerned, as has been explained by Mr. Stephen. But we are not disputing the fact that the committee has found Mr. K. K. Dutta guilty of breach of privilege of the House. We are not disputing that, although, I am bound to point out certain circumstances which have made me bring this motion before the House. Legal Members of the House are aware of what is called contributory negligence. There is privilege and there is contributory privilege. I call it so because, between the complaint of that man and the actual breach of privilege committed by the official, there is this fact that they need not have acted on the complaint, but I am not going into it.

Another extra-ordinary thing in this case is the complaint which he is supposed to have made originally that a Member, posing himself as a Member, sitting in the First-class Compartment, is missing. God knows what has happened to it? That complaint is not there and Shri Krishna Kanta Dutta comes before the privi-

leges Committee and denies having made that and says that, after the incident, he only said that the identity card was asked for and that was not produced. Anyhow whether he is telling the truth here or there, it is not for us to judge because the Committee has gone into it thoroughly and I do not want to comment on that.

There is also the fact pointed out by one of my colleagues that the criminal court went into—substantially the same allegation that he made a false complaint against a Member of Parliament. And, according to the report of the Committee the learned Magistrate, while acquitting Shri K. K. Dutta of the charge against him, has stated in his judgment:—

“Learned A.P.P. has very frankly and fairly conceded that the accused Krishna Kanta Dutta had no motive and there is no evidence against him in this respect—Prosecution has also failed to prove that the allegations made by the accused in G. D. entry were false to his knowledge or at any rate, he did not believe them to be true at the time when he made these allegation.”

This is one of the factors which we have to take into consideration. Then, there is also this point that the Privilege in this House is a great right which this House has. Now, as pointed out by Shri Hanumanthaiah, I do not mind borrowing this expression which, I think, is an apt expression, that this is like using an elephant to curb the ant. Here is an individual who, I believe, is sufficiently punished already because we are not disputing the findings of this Committee that he is guilty of breach of privilege and that itself is a slur on him for the rest of his life. We are accepting that finding. In the circumstances, I beg of the House to bear this in mind and agree with me that this finding is sufficient and that we need not give

him greater importance by bringing him to the Bar of this august House. After all, as pointed out by Shri Stephen, this is left to us to punish or not to punish. In the circumstances of the case, I submit that my motion be adopted.

MR. SPEAKER: Mr. Dinan Babu, do you want to press your motion?

SHRI DINEN BHATTACHARYYA: I would not only like to press my motion but I want to say a few things. It is not understandable why this precedent is being created here. It is stated here that the Committee is not giving any specific punishment but it leaves that to the House to give a suitable punishment. The word punishment is there. Shri Stephen, a veteran lawyer and Shri Raghu Ramaiah who is also a lawyer...

MR. SPEAKER: I think he was a barrister.

SHRI DINEN BHATTACHARYYA: Why should he say ‘punish or not to punish or guilty or not guilty’? Why is he pleading like that? Is it a court of law or Parliament? Here is a Member’s privilege involved and the privilege Committee has come to a definite conclusion. I am not going into it. The only thing is that he made a false statement to the Committee. Is it correct or not? If it is so, then it is a question of privilege. I am unable to understand why we should go by vote on this?

MR. SPEAKER: You should have done that much earlier.

SHRI DINEN BHATTACHARYYA: Mr. Speaker, Sir, I told him that it would be better that, he, as the Minister of Parliamentary Affairs, should have brought forward this Motion and not by me. It was the duty of the Minister and it is not such a thing that he should ignore it.

12.00 hrs.

SHRI H. N. MUKHERJEE: Is it not proper at least to send it back to the Committee of Privileges to decide

[Shri H. N. Mukherjee]

on the quantum of punishment that they want to decide upon? The trouble is that here in this House, you cannot perhaps always determine the quantum of punishment. The idea of punishment being due is made in the Committee's Report and unless we are ready to throw it into the wastepaper basket, we cannot pass the Motion of Shri Raghu Ramaiah. Either you send it back to the Committee or you accept Shri Bhattacharya's Motion.

MR. SPEAKER: It is for the House to decide now.

SHRI VASANT SATHE (Akola): I request that this matter be not decided by vote. I have also been a member of the Privileges Committee. Up till now we have had a salutary convention. In the entire history of the Privileges Committee, you will not find an occasion when this House has voted against it. Therefore, let us not have a precedent. I would plead with Shri Bhattacharyya not to press his motion. You have got the essence of it conceded. The guilt is maintained. There is this feeling, as Shri Raghu Ramaiah has pointed out, that he is censured enough. Censure itself is a punishment.

SHRI DINEN BHATTACHARYYA: No.

SHRI VASANT SATHE: We say that we have found him guilty. But I am requesting him: do not press the motion to a vote. You know the consensus, the feeling of the House. As I said, justice also must be tempered with mercy. Therefore, do not let us press it. Our dignity is much higher. Let us not equate it with punishing a small man, by getting on with this vote. I think that will be in consonance with our dignity. I beg of him to consider it.

SHRI S. M. BANERJEE *rose*—

MR. SPEAKER: No second round. I allowed Shri Sathe because he was appealing for unanimity.

SHRI S. M. BANERJEE: Let me make this suggestion. I have heard Shri Sathe. He feels sore about this. We also want that the dignity of the House should be maintained. Is it necessary that we pass either this motion or that? Let it be held in abeyance. Let us think it over. Or instead of Shri Raghu Ramaiah saying in his Motion 'the matter be dropped', let us say that 'we pardon this man'. Let the word 'pardon' be there. We will vote for that.

SHRI K. RAGHU RAMAIAH: Keeping it pending will be like Portia.

MR. SPEAKER: Since there is no unanimity, I have no option but to put it to vote. The question is that the motion moved by Shri Dinan Bhattacharyya....

SHRI DINEN BHATTACHARYYA: I have full confidence in you. There is a clear finding. But I want to say in the spirit that Shri Banerjee made his suggestion, let Shri Raghu Ramaiah come forward with an amendment to his motion and let it be put this way: 'that the man was found guilty of breach of privilege, but still the House pardons him'. Let it be amended that way. Why not? Everybody is agreed that he was guilty.

SHRI VASANT SATHE: We decide to show mercy.

SHRI DINEN BHATTACHARYYA: All right. At least make a mention of it, that the House agrees with the view of the Committee that it was a breach of privilege, but still we do not want to punish him in any other way; we pardon him. Let it be there.

MR. SPEAKER: Para 50 of the report is the same thing; that is what you are saying.

**SHRI DINEN BHATTACHARYYA:** No, Sir. They have left it to the House to decide. At least I agree that he committed a breach of privilege.... (Interruptions).

**SHRI K. RAGHU RAMAIAH:** I am quite prepared to amend my resolution this way: That this House agrees with the Privileges Committee that Shri K. K. Dutta is guilty of breach of privilege of the House but resolves not to pursue the matter further. Sir, I move:

"That this House agrees with the Seventeenth Report of the Committee of Privileges presented to the House on the 27th January, 1976 that Shri Krishna Kanta Dutta has committed a breach of privilege and contempt of the House but resolves not to pursue the matter further."

**MR. SPEAKER:** I think Shri Dinen Bhattacharyya does not press his motion for a vote. The question is:

"That this House agrees with the Seventeenth Report of the Committee of Privileges presented to the House on the 27th January, 1976 that Shri Krishna Kanta Dutta has committed a breach of privilege and contempt of the House but resolves not to pursue the matter further."

*The motion was adopted.*

12.06 hrs.

#### RE. STATEMENT ON BONUS—contd.

**THE MINISTER OF WORKS AND HOUSING AND PARLIAMENTARY AFFAIRS (SHRI K. RAGHU RAMAIAH):** Sir, I think the point raised by Shri S. M. Banerjee relates to the alleged discontent among the workers in various industries in the country because of non declaration of

bonus by the employers to be paid before Id, Diwali, Onam and steps taken by the government. He wanted a statement. I consulted the Labour Minister who is busy in Rajya Sabha. He has told me to submit to the House through you, Sir, that the matter is being taken up with the state governments and at this stage it would not be in public interest to make any statement.

**SHRI INDRAJIT GUPTA (Alipore):** What about the public sector undertakings? They have nothing to do with the State Governments? The Indian Oil Corporation declared 20 per cent bonus. What about the other public sector undertakings? (Interruption)

**SHRI S. M. BANERJEE (Kanpur):** Sir, I am not talking only of the private sector, where the textile, jute and engineering industries have not declared anything. In the case of public sector undertakings, the IOC has declared a bonus of 20 per cent. But, in the case of the Shipping Corporation, which has earned the maximum profit, it is unable to pay any bonus in the absence of a definite Government order. So, I would request you to ask the Labour Minister to make some statement, to allay the fear in the minds of the workers that they are being deprived of their legitimate bonus.

**SHRI PRIYA RANJAN DAS MUNSI (Calcutta-South):** I come from a State which is going to celebrate the *pūja* in the beginning of next month. You know very well that at the time of the *pūja* the working class need money for the celebrations. The Labour Minister says that no statement can be made on this subject in the public interest. Such a statement is likely to create some doubts in the mind of the working class, particularly in the public sector. Because of this I am facing a difficult situation. The working class have accepted the emergency and defended



[Shri Priya Ranjan Das Munshi]

the 20-Point Programme. The workers in the factories in both the public sector and private sector have ensured full production. Yet, it has not been categorically stated that they will get justice by the Labour Minister making statement here. If such a statement is made, it will create an atmosphere which will help the Members of Parliament to convince the working class that they will get their dues.

SHRI DINEN BHATTACHARYYA: Yesterday, when the hon. Prime Minister was present, I raised this issue. Every year the workers were getting some amount as annual bonus. This is the first year after so many years when the workers will not get any bonus in most of the undertakings. Government cannot take the stand that everything depends on the State Government, or in the public interest they cannot make a statement. This is no argument. Most of the public sector undertakings have earned sufficient profits. Within a few days *pūja* will come and also *deepawali* and *onam* in the South. Further, this is the last day of the session. So, you should ensure that justice is done to the employees.

SHRI INDRAJIT GUPTA: Many of us are connected with the unions. So long we were being told that, as far as the public sector is concerned, the Bureau of Public Enterprises and the Ministry of Finance were considering at the policy level so that some uniform policy could be decided for all the public sector undertakings. Now, after that we read in the press that the Indian Oil Corporation has declared a bonus of 20 per cent. Therefore, we take it that some decision has been reached by the Government. Otherwise, IOC could not unilaterally give a decision like that. It is neither proper nor fair to expect the Minister of Parliamentary Affairs to explain this matter here. I would insist that on the last day of this House the

Labour Minister should come here at some time suitable to him and make a statement. Somebody must take the responsibility. You cannot expect Mr. Raghu Ramaiah to deal with this matter. What has it to do with the State Government?

MR. SPEAKER: He will kindly convey the feelings of the hon. Members on this important issue to the hon. Minister of Labour.

12.16 hrs.

# SCHEDULED CASTES AND SCHEDULED TRIBES ORDERS (AMENDMENT) BILL—contd.

MR. SPEAKER: The House will now take up further consideration of the Scheduled Castes and Scheduled Tribes Orders (Amendment) Bill.

श्री सत्यनारायण राय (घोसी) : मान्यवर, कल मैं इस विधेयक की कुछ गलतियों की ओर आप का ध्यान आकृष्ट कर रहा था कि एक जनजाति या अनुसूचित जनजाति एक प्रदेश में तो जनजाति या अनुसूचित जनजाति मानी जाती है लेकिन दूसरे प्रदेश में वह सूची में नहीं है। यहां तक कि एक ही प्रदेश के किसी अंचल में एक अनुसूचित जाति या जनजाति उस सूची में है लेकिन उसी प्रदेश के दूसरे अंचल में वह सूची से बाहर है। इस असंगत या असमंजस की ओर मैं आपका ध्यान आकृष्ट कर रहा था। मैं उस पर फिर ज़ोर देना चाहता हूँ कि उन असंगतियों को समाप्त किया जाना चाहिये। यद्यपि इस विधेयक में आंशिक रूप से उन्हें समाप्त किया गया है लेकिन पूरी तरह उनकी समाप्ति इस विधेयक से नहीं होती।

कल मैं उदाहरण के रूप में बता रहा था कि पश्चिम बंगाल के दीनाजपुर जिले में एक इस्लामपुर अंचल है जो 1956

के पहले बिहार का भाग था लेकिन 1956 में वह बिहार से हस्तांतरित कर दिया गया। उस अवसर पर बसी हुई कुछ जनजातियाँ उन अधिकारों से वंचित हैं जबकि वही जन जातियाँ बंगाल के ही दूसरे भागों में उन अधिकारों को प्राप्त कर रही हैं। मैंने इन नामों का भी जिक्र किया था—हरी, राजवंशी; सुनरी और नामशुद्ध आदि इस तरह की विमुक्त जातियाँ भी हैं हमारे प्रदेश के भागों में जिन्हें किसी जमाने में, विदेशी दास्ता के युग में क्रिमिनल ट्राइब्स कहा जाता था, अब उन्हें विमुक्त कर दिया गया है लेकिन विमुक्त करने के बाद उनको अनुसूचित जाति से निकाल दिया गया है। उन्हें अनुसूचित जाति में शामिल किया जाना चाहिये। असम के आदिवासियों की एक मुख्य मांग है कि उन्हें देश के सभी भागों में अनुसूचित जाति और अनुसूचित जनजाति में शामिल किया जाये। केरल हमारे देश का सब से दक्षिणी ध्रुव है उस में चम्पन या चेम्पार की भी मांग है कि उन्हें भी इस सूची में शामिल किया जाये। इसी प्रकार आन्ध्र की एक उपजाति है अग्निकुल क्षत्री, उस की भी मांग है कि उन्हें इस में शामिल किया जाये और उन को भी वही अधिकार दिये जायें जो दूसरों को उपलब्ध हैं। हमारे प्रदेश में भी एक बड़ी संख्या में भर या राजभर एक उपजाति है जिन की सामाजिक स्थिति देहाती क्षेत्र में हरिजनों से थोड़ी सी ऊँची मानी जाती है, उन की भी मांग है कि उन्हें इस में शामिल किया जाये। हमारे यहां अनुसूचित जातियों की सूची में एक जाति गोड है, उसी तरह की एक जाति हमारे यहां “कहार” है, उन की मांग है कि हमें भी गोड के साथ शामिल किया जाये।

इस तरह की बहुत सी असंगतियाँ आज देश के विभिन्न भागों में फैली हुई हैं, उन्हें खत्म किया जाना चाहिये और पूरे देश के अन्दर उन में एक रपता लाई जानी चाहिये।

मान्यवर, इन अनुसूचित जातियों और अनुसूचित जनजातियों की स्थिति के संबंध में क्या कहूँ—इन की स्थिति इतनी दयनीय है जिस का वर्णन नहीं किया जा सकता। स्वतन्त्रता के 28 सालों के बाद भी उन में परिवर्तन नहीं आ सका है। लेकिन एक बात की ओर मैं खास तौर से मंत्री महोदय का ध्यान आकृषित करना चाहता हूँ— आज भी हजारों हजार ऐसी आबादियाँ हैं जहाँ इन अनुसूचित जातियों और जन जातियों के लिये शुद्ध पय जल की व्यवस्था भी हम नहीं कर सके हैं। आज भी हमारा समाज ऐसे रुढ़िवादी लोगों से भरा पड़ा है जो इन तबाकथित अनुसूचित जनजातियों को अपने कुँबों से पानी नहीं भरने देते अपने जलाशयों से उन को पानी नहीं देने देते, बल्कि उन को उस के पास जाने भी नहीं देते। यह पूरे राष्ट्र के लिये कितनी सज्जा की बात है।

एक और चिन्ता का विषय यह है कि हमारी आजादी के 30 साल बीत जाने के बाद प्रजातन्त्र घोषित होने के 24 साल बीत जाने के बाद भी जातिवाद की प्रथा की भावना कम होने के बजाय बढ़ती जा रही है। माननीय रेडडी जी इस बात को मानेंगे कि ज्यों ज्यों हमारे प्रजातन्त्र की उम्र बढ़ती जा रही है, त्यों त्यों जाति और उपजाति की भावना बजाये कम होने के बढ़ती जा रही है; इसका असर हमारे देश की राजनीति पर पड़ रहा है, यह राष्ट्रीय एकता के लिये शोक है। आज

[श्री शारखंडे राय]

अनुसूचित जातियों के लिये जो सीटें सुरक्षित हैं, चाहे संसदीय क्षेत्र में हों या विधान सभाई क्षेत्रों में हों—उन पर भी इसका असर पड़ेगा। मैं जानना चाहता हूँ कि वर्तमान सरकार ने इस के बारे में क्या तय किया है, ये सीटें कब तक सुरक्षित रहेंगी, क्या महाप्रलय तक सुरक्षित रहेंगी, उच्चस्तरीय सत्ता सम्पन्न लोगों के दिमागों में इस के बारे में क्या भावना है, कब तक यह सुरक्षित सीटों का क्रम चलता रहेगा।

पिछड़ापन इन अनुसूचित जनजातियों या अनुसूचित जातियों में एक रोग है, बहुत बड़ा कोढ़ है। यह प्रश्न पहले भी देश में बहुत बड़े पैमाने पर उठा है, आज भी उठ रहा है—इस का जबाब हम सब को देना होगा। मैं भी उत्तर प्रदेश की विधान सभा में 16 वर्ष तक सदस्य रहा हूँ—वहाँ भी इस बात की चर्चा अक्सर आती रहती थी कि पिछड़ापन किसी जाति या जनजाति या उपजाति में जन्म लेने से है या आर्थिक आधार पर है। सिद्धान्ततः देश के अधिकांश मनोविषयों ने इस बात को स्वीकार किया है कि यह आर्थिक आधार पर होना चाहिये, लेकिन दुख यह है कि यह बात अमल में नहीं है बहुत सी जातियाँ आज हमारे देश में ऐसी हैं जो जनजातियाँ मानी जाती हैं या पिछड़ी जातियाँ मानी जाती हैं, लेकिन उन में बहुत से लोग ऐसे हैं जिनकी स्थिति आर्थिक दृष्टि कोण से बहुत अच्छी है। बल्कि जो उच्च जाति के माने जाने वाले लोग हैं, जिनके मन में उच्च जाति का होने का भ्रम है, उनकी स्थिति इतनी दयनीय और खराब है, जिस को देख कर दया आती है—इन के मुकाबले में वे पिछड़ी जाति या जन जाति के लोग कहीं अच्छी आर्थिक स्थिति में हैं। इसलिये पिछड़ा-

पन जन्म के आधार पर नहीं, गरीबी के आधार पर, आर्थिक आधार पर होना चाहिए। किसी जाति विशेष या उपजाति या अनुसूचित जाति या जनजाति में जन्म लेने से नहीं होना चाहिये।

हमारे देश के सभी प्रगतिशील विचारों के लोग, जनवादी विचारों के लोग, इस बात को स्वीकार करते हैं और उन्होंने अपने अपने कार्यक्रमों में, घोषणा पत्रों में इस बात की घोषणा की है कि हम वर्गविहीन, जातिविहीन समाज स्थापित करना चाहते हैं। इस मामले में रेड्डी साहब से भी हमारा कोई मतभेद नहीं है—लेकिन आवश्यकता इस बात की है कि इस उद्देश्य की प्राप्ति के लिये कुछ ठोस कदम उठाये जाने चाहिये। माननीय मीर्य जी यहां बैठे हुये हैं—वह इस बात को स्वीकार करेंगे कि हरिजनों या अनुसूचित जातियों में पिछले 25 सालों में एक स्थिर स्वार्थ वर्गीय स्ट्रेटा पैदा हो गया है जो पिछले 25 सालों से तमाम सुविधाओं का हड़पता जा रहा है, 90 फीसदी फायदा इसी वर्ग ने उठाया है, अपनी ही जाति के, उपजाति के, हजारों और लाखों लोगों की उन सुविधाओं से महलूम किया है। इन स्थिर स्वार्थ वर्गीय लोगों को उन सुविधाओं से वंचित किया जाना चाहिये।

मैं समझता हूँ—श्री मीर्य जी—इससे सहमत होंगे। यदि मैं गलत नहीं हूँ तो मैंने एक अखबार में उनके एक भाषण की रिपोर्ट पढ़ी थी जिस में उन्होंने इसी बात का कहा था और फिर उन्होंने की तथाकथित बिरादरी में इस बात का लेकर काफी कुलबुलाहट पैदा हो गई थी।

हमें राजकीय स्तर पर जातियों से विमुक्त या उपजातियों से विमुक्त समाज

की स्थापना पर जोर देना चाहिये । अर्न्तजातीय विवाह, अर्न्तजातीय विवाहों पर जोर देना चाहिये, सरकार की तरफ से उन को प्रोत्साहन मिलना चाहिये । आज हम फैमिली प्लानिंग के मामले को एक अभियान के रूप में चला रहे हैं— मैं उस के विरुद्ध नहीं हूँ, लेकिन इस के लिये जो मंषड एडाप्ट किया जा रहा है, उस को ठीक नहीं समझता हूँ, मैं चाहता हूँ कि उसी तरह का अभियान हमें इस के लिये चलाना चाहिये । ऐसे लोगों को सरकारी नोकरी देने में, अन्य सुविधायें देने में सरकार को धाने धाना चाहिये, तरह का प्रोत्साहन उन को देना चाहिये— इस तरह के प्रोत्साहन से एक बर्ग बिहीन, जाति बिहीन समाज बनाने में बहुत सहायता मिलेगी ।

एक बात मैं नहीं समझ पाया हूँ—आज कोई हरिजन या अनुसूचित जाति या अनुसूचित जनजाति का कोई व्यक्ति सिद्ध, बौद्ध या जैन बन जाता है या किसी दूसरे धर्म में चला जाता है तो वह उन सभी सुविधाओं से वंचित हो जाता है जो उसे पहले मिल रही थीं । मेरे ब्याल में यह उचित नहीं है, धर्म परिवर्तन से उसे उन सुविधाओं से वंचित नहीं किया जाना चाहिये ।

इन्हीं शब्दों के साथ मैं इस विधेयक का समर्थन करते हुए मंत्री महोदय से एक बात जानना चाहता हूँ कि उन्होंने जब जातियों, उपजातियों, अनुसूचित-जातियों या अनुसूचित जनजातियों की सूची में से निकाला है, वह किस आधार पर निकाला है, किन आधारों पर उनको शामिल किया गया था । मैंने इस बात को शुरू में भी कहा था — मैं इस बात का स्पष्टीकरण चाहता हूँ ।

MR. SPEAKER: Before I call the next hon. Member, I would like to seek the cooperation of the House in conducting this debate, because, we have, unusually, a very large num-

ber of Members who want to speak. More than forty names are there, and if I want to accommodate as many of them as possible, if not all of them, the remarks by each hon. Member should be brief. I would suggest that each hon. Member may confine his remarks to seven or eight minutes....

AN HON. MEMBER: That is not possible. This is a serious subject.... (Interruptions)

MR. SPEAKER: There are a large number of hon. Members who want to speak. You must remember that today is an additional day on which we are sitting, and if you are not able to do it, the only result would be that not even a half of the Members will be able to speak. I hope, the Members will cooperate.

Mrs. Maya Ray.

SHRIMATI MAYA RAY (Raiganj): In due deference to your request, I will try to confine my remarks about this Bill in as short a possible time as I can.

The biggest revolution that we have to usher in this vast sub-continent of ours is integration. Integration of what? Intergration of castes, integration of religions and integration of communities and this is the biggest revolution that is facing us to-day.

I feel that the Bill that has come before us is one which really cuts across Partylines. There may not be very much difference between me and what my hon. friend opposite has said because he mentioned actually the very sub-division which I have the privilege to represent. I have the privilege to represent a constituency which comprises of 40 per cent Muslims, 20 per cent Scheduled Castes, 20 per cent Scheduled Tribes and 20 per cent other communities and that is why I feel about this subject very very strongly. Because they have chosen me to represent them here, I must, in all deference, not merely speak—and I never speak unless I

[Smt. Maya Ray]

feel—and I feel what my friend opposite said is practically 100 per cent correct, that how these people are treated has to be seen to be believed and I have seen it because I had been to my constituency. They have no communications worth the name and I had to use spade to dig a road in order to reach some villages that have not been touched for the past 25 years. That is what we have seen. But the only point where I differ with him is when he says that nothing at all has been done. There had been attempts to do something, but I am afraid the impact is not such as it should have been and here is where I would like to suggest that when we have this Bill, this should have acted as a catalyst towards the achievement of that revolution which we are preaching to bring about. There was a time in Bengal when it was sought to be brought about by violence and bloodshed. But they have now realised that that is not the proper method. To-day we want to bring in that revolution in a peaceful way and the path has been shown by no less a person than Shrimati Indira Gandhi through her 25-point programme which is certainly, shall we say, the torch which is showing the path and we could be the torch-bearers.

I want to stress two things in this. Of course, the other speakers will fill in all the other details and they are more competent to do so. But I would like to say that I never preach what I do not practise. I do not believe in casteism. I have not practised it. Incidentally this is a digression as far as the population control is concerned, I can claim that I have fully contributed to that and I am competent to talk about population control. To come back to the point that I do not preach what I do not practise, I do not believe in casteism. This very word 'Scheduled' in the vocabulary of our Indian languages should be wiped out and eradicated because it brings invidious division, casteism and sub-

divisions and what I would say, a dividing line between one human being from the other. Everybody is a human being and an Indian in this country. I do not call myself a Bengali first. I am an Indian first. My heritage comes second, but I am an Indian first.

Now, coming to the Bill before us, what I find here in this Bill is a sort of piece-meal legislation. It could have been comprehensive and it should have been comprehensive. You take away the advantages that you give to a person in order to bring him up or par as soon as possible with the rest of the more fortunate of ours. You give him certain advantages. Sir, the freedom of movement is enshrined in our Constitution. It says that an Indian can go to any part of the country and settle there. But, as far as this Bill is concerned, what you give by one hand, you take away by the other hand. Inside the State you are all right but the moment you choose, perhaps to get a better opportunity or job, to go to another part of the country, that advantage you have been given will be taken away.

I cannot understand why what you give with your right hand, you take away with your left hand. Why could we not have done the whole thing together? Within the State I am faced with this problem. It used to be a part of Bihar. It was transferred to Bengal. It was neglected by Bihar because at that time the decision was not taken whether it was going to remain with Bihar or come to Bengal. And therefore Bihar felt, 'we are not going to bother about it'. Likewise, the erstwhile Bengal Government also thought, 'Well, if it is going to Bihar, why should we bother about it?' So, it remains a No-man's land. What happens to the people? They are exactly in the same position as my hon. friend opposite has said. Then who the Hell are going to recognise them? Forgive me for using this language because I

feel strongly about it. I go to my constituency. I find that they are the most abysmally backward class of people you can think of. That is why I feel strongly about it. This Bill could have acted as a catalyst towards this revolution which we are going to bring about but it is bringing about impediments. The very values that are enshrined in our constitution are being made nugatory by bringing in this Bill because, as I said, it merely nibbles at the fringe of the problem. Through you, Mr. Speaker, I want to apprise this House of the feelings I had on the broad principles. I don't want to go into the clauses; there may be other persons who will go into them. I don't believe in casteism. The sooner the words 'scheduled' maistries' etc. are removed from our vocabulary, the better that would be. These are disparaging, according to me.

With these words, Mr. Speaker, Sir, I hope I have been able to give out my feelings which I feel within my heart; I sometimes do not speak always with my head as Mr. Raghu Ramaiah has pointed out. Therefore, I hope, I have conveyed my feelings about it.

THE MINISTER OF WORKS AND HOUSING AND PARLIAMENTARY AFFAIRS (SHRI K. RAGHU RAMAIAH): Sir, this is a very important Bill and many hon. Members are anxious to participate. I do not want to stand in their way. I would like to mention that this item will be over by 6 O'clock. That means, the Minister may be called at 5 O'clock. He will take about 45 minutes or so. Then there are two other Bills and so the House will have to sit a little late. This is my submission.

MR. SPEAKER: So, accordingly, the Minister will be called at 5 O'clock.

Now, Shri Dasaratha Deb.

SHRI DASARATHA DEB (Tripura East): It is very unfortunate that after 29 years of independence

we have to treat a considerable section of our population as scheduled caste and scheduled tribe. If the Government was sincere enough this could have been done much earlier, but the Government had all along been negligent towards their problems. Even though they are being treated as scheduled castes and scheduled tribes and certain concessions and safeguards are given to them, we find that the net result has been very negligible. I do not say 'minus', there is some result. But it is not up to the mark.

It is unfortunate to note when it is the duty of the Government and Parliament too that, after ten years, they have to review how far these people have come up after availing of these facilities given to them that review was not properly done. After a long time, our Home Minister has brought forward the Scheduled Castes and Scheduled Tribes Orders Amending Bill in this piecemeal manner. Is it just? It should have been brought in a comprehensive way. Sir, there are as many as 144 amendments the notices for which were given by a good number of hon. Members for the inclusion in the list of Scheduled Castes and Scheduled Tribes. That itself is an indication that this Bill is not a comprehensive one. There are a large number of scheduled castes and scheduled tribes who should be treated as such because of their economic and social backwardness. But they are not included in the list and thereby they are being deprived of the facilities that are being provided to the specified scheduled castes and scheduled tribes.

In 1967 there was a Bill coming from the Joint Committee with many recommendations. But, I regret to say that Government did not take note of it and they have brought forward this Bill in a very piecemeal manner just to remove certain restrictions within the State—not within the Union of India—which is a welcome feature and I welcome and support that. But, at the same time, I must

[Shri Dasaratha Deb]

say that if a particular tribe is treated as a scheduled tribe in a particular State, why should the same tribe be not treated as such in the other State? When the Scheduled Tribes people migrate from one State to another, should they lose their ethnological entity or racial character or the tribe itself? No, certainly not.

Sir, all these matters, therefore, require a very careful consideration and they have to be examined carefully by Government and by the House itself. As many as 144 amendments are brought forward here. It is not possible to say which amendment is to be supported or not to be supported. Therefore, it is better that Government does not take up this Bill at this stage and the Bill be referred to the Joint Committee.

Let the Joint Committee go for an on the spot study and then bring before us a comprehensive Bill so that the House will have the benefit of this being discussed thoroughly. What is the hurry involved in this Bill?

Another interesting thing is this. The very same Bill was about to be discussed in the last session. When it came up, for some reason or other the Government had dropped that Bill at that time for consideration. And that was postponed. At that time we thought that Government might be bringing forward before the House a comprehensive Bill. We find now that the same Bill is now being brought here for the discussion. What is this?

This is funny. It itself indicates that still Government are reluctant to consider the problems of the Scheduled Tribes seriously and they are dealing with them in a lighthearted manner. This is very unfortunate.

In Assam there is a 40-lakh tribal population known as tea garden workers or ex-tea garden workers. During the British period, they migrated from Madhya Pradesh, Bihar, Bengal and Orissa as tea garden wor-

kers. They have been residing in Assam for generations. Their kith and kin in their original States are treated as Scheduled Tribes, e.g. Santals, Mundas, Oraons, Gonds etc. But in Assam they are not treated as Scheduled Tribes. What is the logic behind this? I do not understand it. Simply because certain vested interests in Assam have objected to their inclusion in the Scheduled Tribes list, why should the Government of India concede this objection? Why are you sitting idly here? I think it is the duty of the Government of India to see that all the Scheduled Tribes are treated equally and properly. It is not their duty to ditto whatever the State Government says—that these castes should not be included in the SC list, that these tribes should not be included in the ST list. Is this the way in which you are looking after the welfare and interest of the Scheduled Tribes living in the Indian Union? What is the logic behind it.

A tribe is a tribe. Once a tribe is recognised as a Scheduled tribe in any State of the Indian Union, wherever it lives or migrates, it must be treated or specified as a Scheduled Tribe in that area also. Government must pursue this policy. There should be no discrimination. In the neighbouring State of Tripura, the Chakmas and Halams are treated as tribes.

SHRI D. BASUMATARI (Kokrajhar): Santal tribes also.

SHRI DASARATHA DEB: But these tribes living in Assam are not treated as such. There are so many of them: Santals, Mundas, Oraons, Gonds, Kharaias, Hos, Kishans, Paharis, Lohars, Kamars, Pans, Saoras, Khondas, Bhumijis, Goraits and many others—forty of them. They are treated as Scheduled Tribes in their respective original States, Bihar, MP, Orissa and so on. They are staying in Assam for generations, hundreds of years. But they are not being treated as Scheduled Tribes. What

is the logic behind this treatment? That is why my demand is that this Bill should not be passed now. It must be referred to a Joint Committee to go into detail on the basis of an on the spot study.

As regards Tripura, I have got my amendment. There is a particular tribe, they are not a tribe; they are called Laskar community. They are being treated as Scheduled Tribe, but so far as the Scheduled Castes and Scheduled Tribes Order is concerned, I do not find this Laskar community specified as a Scheduled Tribe. But the Government of Tripura has treated them as a Scheduled Tribe.

MR. SPEAKER: Laskar is here.

SHRI DASARATHA DEB: My argument is that they are scheduled castes not scheduled tribe. Long ago, 60 years ago, a very small group of the Laskar community came to the Maharaja and submitted to him that 'we may be treated as a scheduled tribe; we will be loyal to the throne for generations'.

The Maharaja treated them as scheduled tribes, by a certain order but in the presidential list it is not there. I want to point out that a tribe has got its distinct culture, distinct language and everything. You may not call it language; you may call it dialect; they speak in a different dialect. The Laskar community is different; it is of Bengali origin and in Tripura their mother tongue is Bengali; their culture is Bengali; they have nothing in common with the tribes of Tripura. They are being treated as a scheduled tribes. Our demand is that they should be treated as scheduled castes and not as scheduled tribes. That is my amendment.

I shall explain the problem that we face. The Laskars are more advanced compared to the scheduled tribes. In the Tripura Land Reform Act there are certain provisions. Transfer of land from one scheduled

tribe person to another scheduled tribe person is permitted.... (Interruptions) In this Bill Laskar is not included; in the earlier Bill also it is not there but by the order of the Maharaja passed some sixty years ago, they are treated as Scheduled Tribes.

MR. SPEAKER: Is it a large community?

SHRI DASARATHA DEB: Not very large; but it is a community of considerable size. Now without the prior sanction of the government tribal land can be transferred to Laskar community because they are treated as tribal and they file an affidavit saying that they are tribals. Thus tribal land is transferred to them without prior sanction of the government. Once they get the land transferred to them, what happens is this. They use their Bengali surname such as Mazoomdar, Dutta, Chaudhuri, Das or Sen and then transfer their lands to non-tribals and it never strikes the authority registering the land transfer that the person who transfers land is a tribal and again here also since it is assumed that the land transfer is between one non-tribal and another non-tribal, prior sanction of the government is not insisted upon or obtained. If you allow them to continue to be treated as scheduled tribe, then they play the dirty game of transferring land in this manner. That is why our demand is that they should be given the facilities that are provided in our Constitution for the scheduled castes and they should not be treated as scheduled tribes. Therefore, you should accept my amendment. Laskar community should be treated as scheduled caste and not as scheduled tribe.

I also suggest that this Bill should be referred to a Joint Committee which should be given full opportunity to make on the spot studies and then bring a comprehensive Bill.



**SHRI KARTIK ORAON (Lohardaga):** Sir, I have already moved an amendment to the motion of the hon. Minister. I have asked that this Bill may be referred to a Joint Committee and that it may be required to present the Report on the first day of the next session. I have many reasons for proposing this amendment. While I do not oppose this Bill, the manner in which this Bill is introduced in this House will not help the Scheduled Castes and Scheduled Tribes to a great extent.

I would invite the attention of the hon. Members to the fact that on the 19th May the hon. Minister came with a memorandum saying that this Bill is merely for the purpose of removal of area restriction, and the rules were suspended for this and the members were given an opportunity to study the Bill and apply their mind to it. They wanted the Bill to be passed the very next day. If you look at the preamble to the Scheduled Castes and Scheduled Tribes (Amendment) Bill 1967 and the preamble to the 1976 Bill, there is no difference whatsoever; line by line, word by word, it is the same. But if we look at the Statement of Objects and Reasons attached to the two Bills, they are miles apart. Just to refresh the memory of hon. Members, I would better read them out. The Statement of Objects and Reasons of Bill No. 119 of 1967 says:

"The lists of Scheduled Castes and Scheduled Tribes were last revised over ten years ago, on the recommendations of the Backward Classes Commission. These lists have been criticised in recent years, in Parliament and outside, on the ground that they contain many anomalies. For instance, some castes and tribes have been treated as Scheduled Castes and Scheduled Tribes, as the case may be, only in certain specified areas of a State. Again, some castes and tribes which deserve to be treated as Scheduled

Castes and Scheduled Tribes are not so recognized; while others which do not deserve such treatment have been included in the lists.

It has, therefore, been considered necessary to revise the lists further. The proposals for revision were examined in consultation with the State Governments and Union Territory Administrations, the Commissioner for Scheduled Castes and Scheduled Tribes, and the Registrar General of India. They were also scrutinised by a high level Advisory Committee appointed for the purpose. The opinion of the Scheduled Caste and Scheduled Tribe Members of Parliament and State Ministers were also ascertained. This Bill has been prepared after a careful consideration of all views and aspects brought to the notice of Government during these consultations."

The Statement of Objects and Reasons attached to Bill No. 59 of 1976 says:

"Under the Scheduled Castes and Scheduled Tribes Orders, some communities have been specified as Scheduled Castes or as Scheduled Tribes only in certain areas of the State concerned and not in respect of the whole State. This has been causing difficulties to members of these communities in the areas where they have not been so specified. The present Bill generally seeks to remove these area restrictions. However, in cases where continuance of such restrictions were specifically recommended by the Joint Committee on the Scheduled Castes and Scheduled Tribes Orders (Amendment) Bill, 1967, no change is being effected."

—mark the words "no change is being effected—

"The Committee had also recommended exclusion of certain communities from the lists of Scheduled Castes and Scheduled Tribes."

MR. SPEAKER: He may continue his speech after lunch. We will now adjourn for lunch to meet again at 2 p.m.

13.00 hrs

*The Lok Sabha adjourned for Lunch till Fourteen of the Clock.*

*The Lok Sabha re-assembled after Lunch at Fourteen of the Clock.*

[MR. DEPUTY-SPEAKER in the Chair].

**SCHEDULED CASTES AND SCHEDULED TRIBES ORDERS (AMENDMENT) BILL—Contd.**

SHRI KARTIK ORAON (Lohardaga): I was continuing with the Statement of Objects and Reasons of the 1976 Bill. Here it says:

"The Committee had also recommended the exclusion of certain communities from the list of Scheduled Castes. The exclusions are not being made at present, and such communities are being retained in the List with the present area restrictions. Such communities in respect of which the Joint Committee had recommended exclusion on the ground that they were not found in the State are, however, being excluded if they were not returned in respect of these communities in the census of 1961-71."

It is not a fact that the recommendations of the Joint Committee wherever possible have been retained and that they are not affected. This Bill was brought by the Government in 1967. What is there which makes them to go back on their own Bill? It was not a Private Bill, it was a Government Bill. Therefore, this is something which is not convincing to us.

Again, some of the communities which were left out then have been brought in again. The only way in which you can include or exclude any community in the List of Scheduled Castes and Scheduled Tribes is under article 341 (2) which reads:

"Parliament may by law include in or exclude from the list of Scheduled Castes specified in a notification issued under clause (1) any caste, race or tribe or part of or group within any caste, race or tribe..."

This is about the Scheduled Castes. Again, about the Scheduled Tribes, similarly, it says, "for any tribe or tribal community or part or group within such tribe or tribal community". This is the only way by which you can include in and exclude from the Schedule. There is nothing whatsoever about the area restriction. Therefore, it is rather misleading to say that you are merely removing the area restriction.

The fact remains that when the Scheduled Castes and Scheduled Tribes Orders (Amendment) Bill, 1976 is passed, the objects and the reasons of the Bill will be no where in the picture. Also, the Home Minister's Memo will be nowhere in the picture. What is there to suggest that the Bill is merely with the object of removing the existing area restrictions, whether of Scheduled Castes and Scheduled Tribes Orders Bill of 1967 or of 1956. Therefore, I have no doubt left in my mind that the present Bill is a bundle of confusion and suffers from various anomalies and disabilities.

According to the Preamble of the Bill, there are three parts of the Bill, inclusion in, exclusion from and removal of area restrictions. There is no mention of area restrictions for Scheduled Tribes. Where do we get that from?

[Shri Kartik Oraon]

There are certain criteria about the inclusion of Scheduled Tribes and, I hope, in the previous Bill of 1967 these criteria were fully met because they were very carefully considered. It has been said that the Scheduled Castes and Scheduled Tribes Orders Bill, 1967, could not be passed because of the history of the past and there were a number of controversies. What were the controversies? Let us try to see what was the exact position about that Bill and whether the Government had seriously followed it up. The Bill was introduced on 12th August, 1967. It was referred to the Joint Committee in March, 1968. The Report of the Joint Committee was submitted on 17th November, 1969 and the Report was taken up for discussion on 17th November, 1970. This is the position.

Let us see what were the three points which were to be considered then. There were three points to be considered. The first one was an amendment with regard to the exclusion of converted tribes from the list of Scheduled Tribes. So far as this was concerned, I think, this was more with a view to bringing about a parity with the Scheduled Castes. In the case of Scheduled Castes, under article 341, it says:

"Notwithstanding anything contained in para 2 of article 341, no person who professes a religion different from the Hindu or the Sikh shall be deemed to be a member of the Scheduled Caste."

Similarly, on this basis, an amendment was made in the case of Scheduled Tribes under article 342 which says:

"Notwithstanding anything contained in para 2 of article 342, no person who professes religion different from the Hindu or the Sikh shall be deemed to be a Scheduled Tribe."

My point is, how to remove this disparity. In our country, even today, we boast of having a secular State and say that we should not think in terms of caste or creed or religion. I want the Members of this august House to search their hearts and ask whether even today, in India, we are conscious of our own religious sentiments or not. Everybody thinks in terms of his own religion or caste or community. In every field, if there is a Scheduled Caste man, we say, we must put him there; if there is a Muslim, we say, we must put him there; if there is a Sikh, we say, we must put him there. Everybody goes on the basis of religion, caste or creed. Nobody has ever thought about the Scheduled Tribes. This is a reality and a fact of history that the Scheduled Tribes have suffered.

These are based on facts. "What the eye does not see, the heart does not grieve about." People who do not know the circumstances under which tribes have been suffering will not be able to appreciate why this amendment was brought. I would say this in all humility to my friends that they have given up the tribal faith. I have no grudge about that. But definitely one thing is certain: five per cent of the converts are taking the maximum advantage of the facilities meant for Scheduled Tribes; they are taking advantage of 90 or 95 per cent of the facilities whereas the 95 per cent of the real tribes get only five or ten per cent. This was one point. In the eastern part, the tribals who are converted into any other religion are still maintaining their traditional customs and manners. Our Deputy-Speaker is a testimony to this. You can see the difference between the eastern part and the other parts of India. The converts are leaving behind the tribals and are going ahead....

MR. DEPUTY-SPEAKER: I have not left you.

SHRI KARTIK ORAON: Even the Christian leaders look after the interests of only Christians. But these blooming tribals are left behind.

I do not think I am in any way less Indian than the others. I stand for uniformity in every respect. We are Indians first. Why do you still have the Hindu Marriage Act, the Muslim Marriage Act or Wakf Act and so on? Why are you having all these? If a person thinks in terms of his own community or religion, he is considered to be a hero or leader by the people of that religion or community. If persons come forward to advance the cause of tribals, they are considered as *persona non grata*, they are sometimes even treated as condemned criminals.

श्री कर्तक भाल बनो तिवारी (बलराम पुर): उपाध्यक्ष महोदय, मैं एक निवेदन करना चाहता हूँ। हमारे संविधान में समावेश किया गया है कि भारत में जितने भी लोग रहते हैं, चाहे जिस धर्म के प्रबलम्बी हों, उनको समान अधिकार से रहने दिया जाय। मेरा निवेदन है कि पहले इस व्यवस्था के बारे में चर्चा कर लें, उस के बाद इस बिल को पार करें।

SHRI KARTIK ORAON: Government is of the view that, in our country, there has been no discrimination on grounds of caste, creed, religion, sex, place of birth and so on. This is under article 15 of the Constitution. We are a great admirer of the great leader who had framed this provision. But can we put the hand on the heart and say that we are following this? When it came to the question of Scheduled Tribes, it was said, 'No; you cannot do it; it will be *ultra vires* of the Constitution'. I cannot see any justification for this: in the case of Scheduled Tribes, it will be *ultra vires* of the Constitution, but in the case of Scheduled Castes, it will not be. What is this? This is a seeming discrimination. It was with a view to removing

this disparity or discrimination, that I had proposed the amendment.

In Karnataka, Halakhor, a Muslim section, is treated as Scheduled Caste. The Backward Classes Commission has said:

"The list of Scheduled Castes should contain, in principle, the Hindu untouchable castes. However, the Commission notice that a Muslim section, called Halakhor, is also treated as a Scheduled Caste in so far as Bombay-Karnataka area is concerned."

So, we were following this path. This Removal of Area Restriction and all that—what are we doing? Prime Minister at that time advised that it would be a great danger to the tribal society. I see a great sense in what she said and I am rather proud to be able to say that to-day there is a change, there is a wind of change between the tribals and those who were converted. They are coming back to us. They are mixing with us. They also celebrate and participate in our religious and social festivals. Their married women also now-a-days put vermilion marks on their foreheads. So, there is a change and it is a welcome change. These changes are coming in our tribal community....

MR. DEPUTY-SPEAKER: Please conclude now.

SHRI KARTIK ORAON: Please have some sympathy for me.

MR. DEPUTY-SPEAKER: You also please have some sympathy for me and other members who want to speak. There is a long list.

SHRI KARTIK ORAON: Under the leadership of our Prime Minister, who has come forward with a Rs. 200 crore plan for the welfare of the Scheduled Castes and Scheduled Tribes, we will go forward on this path....

MR. DEPUTY-SPEAKER: Will you kindly listen? I was trying to draw

[Mr. Deputy-Speaker]

your attention that it was announced that the Minister will reply at 5 p.m. and I have a very very long list of members here who want to speak. Even from the Congress Party there are 42 members, not to speak of the opposition. So, I will request you to conclude now. You have taken more than 15 minutes.

SHRI KARTIK ORAON: I will be very brief in my speech. Sir, if I do not conclude, there will be no point in my speech. I crave your indulgence in permitting me to speak for some time....

MR. DEPUTY-SPEAKER: I have indulged you at the cost of others.

SHRI KARTIK ORAON: They are very sympathetic to me.

So far as the second controversy was concerned, it was about the increase in their population, that there are a large number of Scheduled Castes and Scheduled Tribes. My point is that Government themselves had come forward with 105 amendments mostly for inclusion during the process of Joint Committee meetings and in the House the Government has come forward with another 233 amendments. Who is then responsible for the increase in population? Government alone. They are a party to it.

My third point is in regard to the tea garden labourers. Tea garden labourers are treated as Scheduled Tribes in West Bengal. But similar labourers who have lived for ages in Assam are not being recognised as Scheduled Tribes. They are tribals. There is the Lokur Committee report to reflect the opinion of the State Government. It has been stated in the report that the Government of Assam has been consistently opposing any change in their status on the ground that it will seriously disturb the local population....

MR. DEPUTY-SPEAKER: Please conclude now. You are encroaching upon the time of others. You are not the only speaker. There are many others who also want to speak.

SHRI KARTIK ORAON: Now, what I am saying is that there is nothing to suggest that the present Bill is an all-embracing one. There are some castes and tribes who have not been included in the 1967 list but have found a place in the present Bill and there are some other castes and tribes who were not excluded in the 1967 Bill but have been excluded here. Some of the removals of area restriction are causing hardships to the tribes. Halba and Halbi were confined only to a few tehsils and districts. Now the restriction has been removed so that anybody from any part of Maharashtra can take the advantage as Halba and Halbi.

श्री राम हेड्डाऊ (रामटेक): क्या आपको मालूम है। बिल्कुल गलत बात आप बोल रहे हैं। महाराष्ट्र में आ करके क्या आपने देखा है ?

SHRI KARTIK ORAON: Mr. Brahmananda Reddy has brought certain amendments about Kuruba, Maratha and Marathi. This was not in the Bill, but an amendment has been brought to restrict them only to particular districts. Sir, I am no less Indian than anybody else. I came to Parliament with a mission, not with any ambition; I wanted only to serve the cause of scheduled tribes. When I met Pandit Jawaharlal Nehru in London in 1959, he took a fancy for me because I was a member of the scheduled tribes; he asked me to come back to India and serve in our public undertakings. Babu ji and Pandit ji arranged for my interview in London. I got a ticket in 1962 and I came to this\*\*\* Parliament.

MR. DEPUTY-SPEAKER: Mr. Oraon, this word will not go on record. Please be restrained in your language. Please conclude.

SHRI KARTIK ORAON: I would like to plead with the Home Minister that he may be pleased to refer this Bill to a Joint Committee who, after a closer study of the Scheduled Castes and Scheduled Tribes Order (Amendment) Bill of 1967 and 1976 will come up with comprehensive recommendations. This is my submission. Anybody has every right to have his own opinion but nobody has a right to be wrong in relation to facts. Government should come with a comprehensive Bill.

SHRI N. E. HORO (Khunti): It is very unfortunate that I have to speak after Mr. Kartik Oraon. I agree with him that this Bill should have come long ago. But looking at the manner and shape in which this Bill has come we feel that this is not going to solve the entire problems of the scheduled castes and the scheduled tribes in terms of Article 341 and 342. It merely speaks of removing certain area restrictions which are mostly within the States. To some extent, the scheduled castes and scheduled tribes who are suffering under certain restrictions could be benefited. But a large number of them, millions of scheduled castes and scheduled tribes, have not yet been identified and they have not been scheduled either in Schedule I or in Schedule II. This is coming for the last 25 or 26 years. Sir, what do we want through these amendments? We want to give social and economic justice to the people. But, Sir, in this case, social and economic justice has been a casualty. Government has not gone deep into the matter. They have only tried to solve the problem in a piecemeal way. If the Government had included all these scheduled castes and scheduled tribes in the original list

itself long ago, then, these people would have benefited economically through several plans and projects which are meant specially for the scheduled castes and the scheduled tribes. Now, here, even today, this Bill, as it has come, has left the problem, where it was. And government will be simply satisfied with removing certain area restrictions. Why is it so? I feel that Government is not strong enough; they have shown that they are pliable and they are amenable to political pressures.

Sir, you know and the entire House knows and the whole nation knows that there are forty lakhs of scheduled tribes in Assam who migrated from Bihar, Bengal and Madhya Pradesh. They have been working as tea garden labourers and they have helped you in earning the precious foreign exchange. Now, Government of Assam are opposing and are refusing to recognise them as such and the Central Government have agreed to that. They have not seen to it to recognise them as tribes. This is a gravest injustice. The entire responsibility for this lies on the Central Government.

These forty lakhs tribes in Assam have been working in the tea gardens and they are spread over the entire area and they should have been recognised as tribes. This point has come up again and again from year to year and various members are referring to this. Even Shri A. K. Chanda Commission's report had recommended that the Lokur Commission has also referred to this. The Central Government would not listen to it. Do you mean to say that you want to debar these 40 lakhs tribes to get their constitutional and economic benefits? Do you want to shut the doors of progress by this? This is not fair. Sir, the Central Government has not only deliberately and criminally neglected them but they have also debarred them to get their

[Shri N. E. Horo]

constitutional and other economic benefits which are meant for the scheduled tribes.

In other States and in other areas too, there are tribes which have not been enumerated as such or scheduled as such. There are also discrepancies in the Bill itself where, in a particular State, a tribe is called as a tribe but that has been enumerated as a caste. It should have been enumerated as tribe. These discrepancies are there and Government have not seen to it to remove them during the last 25 years or so. I shall give you one example. There is a tribe called Gond. They are in Madhya Pradesh; they are in Maharashtra and in Orissa as also in Bihar.

In U. P. they are recognised as a scheduled tribe. (*Interruptions*) Why have they been enumerated as castes instead of tribes in this Bill? Same is the case with regard to Kol, a tribe, in Bihar, Madhya Pradesh but in U. P. they are enumerated as a caste. I do not remember whether the U. P. Government has gone into it. But, Gonds are in large numbers in the districts of Banaras, Mirzapur and the contiguous districts. They have made it clear years ago that they should be treated as a tribe. But, they are not treated as a tribe. There is a lot of discrepancy. The Home Minister should have seen to it and Government also should have seen to it why, after spending so much time and money, they have come before the House with this Bill in this form? I would, therefore, request that Government should go into it earnestly and seriously and remove the discrepancies once and for all. As I said earlier and I would say it again that Government have done this inclusion and exclusion of certain areas and tribes as a political weapon for political manoeuvring. And it is very clear that in the case of Assam, these forty lakhs of tribes could not be included. That is be-

cause the Assam Government have very clearly said that if these forty lakhs are enumerated as tribes, the political balance will be disturbed. The Home Minister knows it. Much time has been lost already. In the last session itself this was brought forward and it was postponed. Why do you again bring it at the lag end of the session where there is no time. You want to rush through the Bill. The entire nation is looking at this; they will judge you according to your action and according to your performance.

I would plead with government even at this late stage that instead of rushing through this Bill, and by trying to satisfy the people and the entire nation that you are doing something by removing the area restrictions, you bring forward a comprehensive Bill.

Let them come forward in a month or two, let them come in the next session with this so that this problem which has been dragging on for the last 25 years is once for all settled. Otherwise, the social and economic justice which the Constitution has given them, for which the twenty-point programme also is so much here in our country, the social and economic justice which is due to millions of scheduled castes and scheduled tribes, will continue to be denied to them. Let us ensure that they get the social and economic justice which they deserve and which is their due.

SHRI D. BASUMATARI (Kokrajhar): Mr. Deputy-Speaker, Sir. I have heard with rapt attention the speeches made by our hon. friends who preceded me. It has been repeatedly said that injustice has been done to the scheduled tribes. On our demand, the Government was kind enough to remove certain area restriction. We thought that by removing the area restriction, the tribes

and castes belonging to those communities would be taken into consideration as scheduled tribes and scheduled castes throughout India. But it was not done. Therefore, anger is expressed and emotion has been exhibited.

Coming to the history of this question of the special provision in the Constitution for Scheduled Castes and Scheduled Tribes—as I was one of the members of the Constituent Assembly—I like to submit that in British times, these tribes and castes had been badly neglected for ages together with the result that, for no fault of theirs, they could not come up to the level of the other communities. So, Father of the Nation, Mahatma Gandhi, wanted these tribes and castes to be recognised as Scheduled Tribes and Scheduled Castes with special provisions made for them in the Constitution of India. That was done. But Mahatma Gandhi's desire, and pious wish have not been carried out by the leaders. When I say 'leaders', I do not include therein Mahatma Gandhi, I do not include Nehru, I do not include Thakar Bapa and I do not include Sardar Patel. They had a pious wish. In spite of all that what Shri Kartik Oraon had referred to, it was felt by a godly man like Thakar Bapa also to remove from the tribal fold those who have not been worshipping their Gods and Goddesses in their primitive ways and moved an amendment in the Constituent Assembly but it was not accepted.

Now, what is the injustice done to us? We have the Fifth Schedule and the Sixth Schedule. You should be lucky as you are put in the Sixth Schedule.

MR. DEPUTY-SPEAKER: I am one grade lower.

SHRI D. BASUMATARI: The Sixth Schedule comprised the exclud-

ed areas. There the Scheduled Tribes have been given some administrative power. They have District Councils. They are very happy. They have been trying to develop themselves in their own way with their own genius.

Then all tribals in the plains are not recognised as such. They are recognised as backward communities in the plains. Also once a tribe in the Fifth Schedule goes out of the area, they become a non-tribal people. That is why we have been pleading with Government to remove this artificial area restriction, this administrative area restriction. This has been done. I am glad that something has been done. But it has not been done in the way we wanted. Therefore, anger has been shown here.

When this has not been done as we wanted, it should have been a comprehensive Bill to be introduced. I do not know why this demand is not accepted. Anyway, what is done is done for the best and we shall take it as such. That is to say something is better than nothing. We take it like that. I wish that there will be time to bring in that Bill which we had been promised privately by many authorities. We will be happy when it will be brought some time as early as possible.

This present Bill is not at all uniform. Somewhere it says, throughout the State; somewhere it says, in the district, and somewhere it says within the sub division. I have no time to go into all those details now. I am pained to hear what hon. Members spoke about Assam; there is reason to be angry and pained about Assam. In the time of the Constituent Assembly mentioned by our friends they were not taken into Account on the ground of being 'floating population'. That means that those tribes in the tea gardens used



[Shri D. Basumatari]

to be transferred by British people from one State to another State so that they might not take part in political movements or political activities. Therefore, the British owners of tea gardens used to say as floating population and could not be enumerated correctly at the time of census. Therefore, they were then treated as floating population. There was resistance from some interested people now because if they were given the political rights, it will change the political picture of Assam. I am from Assam, I submit that there may be vested interests. How can you deny the right of the people who for centuries were living in Assam. I do not mind who will think what; I must say that in free India now, no section of people should be refused or denied their political right. Why do we come here? We come here for work of a political nature. How can you refuse some people their political right simply because somebody's interests will be affected. You may reserve; you may not reserve seats. In the name of INTUC, I have told the Leader on some occasions that we are getting seats elected in the Congress. They are voting for Congress seats only in the name of INTUC from tea garden. If they are denied political rights, they may not cast the votes for us. Anyway I feel that their political right should not be curbed or denied in the interest of some people.

Some friends said about religion. We are going to change the preamble of the constitution to socialist secular democracy. Why should religion stand in the way? It should not, if a scheduled caste man converts into Christianity or Buddhist. We have no religious stigma among the tribals. We have no religious antagonism. So, I would request my colleagues among the Scheduled Tribes not to be too touchy about it, if they are converted to some other religion. In fact, today we are going to pass the

Untouchability (Offences) Act. If untouchability is practised by the officers or other people, we want to take action against them. Then, why should we allow that question among ourselves? Why should we say that the people belonging to the Scheduled Tribes should be deprived of their privileges, once they embrace another religion? When we talk of the spirit of secularism, such thoughts should not have a place in our minds.

I whole-heartedly support the Bill, keeping in mind the assurance given by the Home Minister that, in case this is not found sufficient, a comprehensive measure would be brought in, after consultation with the members belonging to Scheduled Castes here. Shri Kartik Oraon suggested reference of the Bill to a Joint Committee. I said the other day that we are available here for discussion, you can discuss with us and chalk out a programme. But, if you want to please some people, then do something for them. If you keep them in the dark, if you keep them out, how can they feel that you are doing something for them. I would request the Minister to make us understand that you are very very fair in dealing with us, so far as our development is concerned.

श्री राम हेबाऊ (रामटेक): सभापति महोदय, मैं आज आदिवासियों की ओर से ब्रह्मानंद जी रेड्डी, भोम मेहता जी और देश की हृदय सम्राट इंदिरा गांधी जी को धन्यवाद देता हूँ कि उन्होंने स्वार्थी तत्वों के विरोध को न मानते हुए इस बिल को सदन में पेश किया और मुझे पूरा विश्वास है कि वे इस बिल को पास करके ही रहेंगे और आदिवासियों को जो 1950 से क्षेत्र बंधन के शिकारों में बन्द पड़े थे उस से मुक्त करने का प्रयास करेंगे तथा उस में वे कामयाब होंगे। कुछ स्वार्थी तत्व ऐसा सोच रहे हैं कि हम को कुछ फायदा नहीं होता तो दूसरे को भी नहीं होना चाहिए।

ग्राम का एक युवक मेरे यहाँ पन्द्रह दिन से रहता है। आदिवासियों के दिल में इस बिल के प्रति कितनी हमदर्दी है, वे इस के बारे में क्या सोचते हैं, इस का एक नमूना मैं पेश करना चाहता हूँ। रात में यह लड़का बड़बड़ाता है कि भगवान यह क्षेत्र बन्धन का बिल पास करा दे। नींद में वह यह बड़बड़ाता है और आदिवासियों की आत्मा की उस में आवाज है, उन की चाह है। वह आवाज यह बताती है कि इस बिल को पास कर के रहेंगे।

मैं सरकार को यह भी बताना चाहता हूँ कि एक्सप्लायटेशन की थ्योरी हर एक क्षेत्र में जारी हो गई है। आज आदिवासियों के क्षेत्र में भी ऐसे कई लोग पैदा हो गए हैं जो आदिवासियों के नाम पर झूठी संस्थाएँ स्थापित करते हैं, करोड़ों रुपए की ग्रांट उन्होंने ली है और उस को वे हजम कर के बैठे हैं। महाराष्ट्र के एक एम एल ए हैं, उन की कई ऐसी बोगस संस्थाएँ हैं, वे झूठे रिकार्ड मेन्टेन करते हैं और आदिवासियों का एक्सप्लायटेशन करते हैं। लाखों रुपए की जायदाद उन्होंने जमा कर ली है। यदि जरूरत पड़ी तो उचित समय पर मैं वह सब ब्रह्मानंद रेड्डी जी को बताऊंगा।

मध्य प्रदेश और महाराष्ट्र में हलबा जनजाति के आदिवासी हथकरघे पर कपड़ा बुनाई का काम करते हैं और कुछ लोग खेती भी करते हैं। हलबा उन की जाति है। मराठी में उन को कोण्टी कहते हैं। हिन्दी में जुलाहा और बुनकर कहते हैं और अंग्रेजी में वीवर कहते हैं। इसलिए मध्य प्रदेश और महाराष्ट्र के हलबा जाति के बुनकर खुद को हलबा कोण्टी भी कहते हैं। इंडो आर्यन भाषा में बुनकरी करने वाले को कोण्टी कहते हैं। मध्य प्रदेश और महाराष्ट्र शासन ने हलबा कोण्टी को आदिवासी मान लिया और महाराष्ट्र शासन ने इन को अपने आदिवासियों की सूची में आर्डर नं० सी० बी० बी-1466/

91837 दिनांक 23 सितम्बर, 1967 द्वारा दर्ज कर लिया। 12 साल से हलबा कोण्टी को हलबा आदिवासियों की सुविधाएँ वहाँ वे दे रहे हैं।

इस के पश्चात् 14 जून 1968 को तथा 25-5-70 को महाराष्ट्र के उस वक्त के मुख्य मंत्री श्री नाइक ने जो पार्लियामेंटी कमेटी गई थी उन के सामने भी यह जिक्र किया है कि इस विभाग में जो हथकरघे पर काम करने वाले बुनकर हैं उन को हलबा की सब सुविधाएँ देनी चाहिए और उन्होंने महाराष्ट्र में देना शुरू कर दिया है। इस के पश्चात् 30-4-70 को महाराष्ट्र के मुख्य मंत्री ने प्रधान मंत्री को चिट्ठी लिखी कि हलबा कोण्टी को आदिवासियों की सूची में समाविष्ट कर दीजिए। फिर 30-8-76 को महाराष्ट्र के वर्तमान मुख्य मंत्री श्री शंकर राव चव्हाण मुझे यहीं मिले और उन्होंने कहा कि हलबा कोण्टी को आदिवासियों की सूची में समाविष्ट करने के लिए मैंने केन्द्र को सिफारिश भेजी है। 12-8-76 को राष्ट्रीय हलबा बुनकर संगठन एवं अखिल भारतीय आदिवासी महासंघ का डेपुटेशन इंदिरा जी से मिला और उन को अपनी कहानी सुनाई तो इंदिरा जी ने साफ शब्दों में कहा कि 12 वर्षों से जिन को आदिवासी माना है और जिन को आदिवासी की सब सुविधाएँ हम दे रहे हैं उन की सुविधाएँ बन्द करने का कोई सवाल नहीं उठता, हलबा कोण्टी को सुविधाएँ जारी रहेंगी बन्द नहीं होंगी। यह स्पष्ट शब्दों में इंदिरा जी ने कहा था। इस के पश्चात् महाराष्ट्र एवं मध्य प्रदेश के 30 संसद सदस्यों ने जिन में आदिवासी जमातों के भी सदस्य हैं, उन्होंने हस्ताक्षर कर के एक मेमोरैंडम प्रधान मंत्री और गृह मंत्री को दिया है जिस में उन्होंने स्पष्ट बताया है कि हलबा कोण्टी को आदिवासियों की सूची में समाविष्ट करने की कृपा करें और उस के लिए कई उपाहरण उन्होंने दिए हैं। पश्चात् इसी लोक सभा के 8

## [श्री राम हेब्बाऊ]

सम्मानित सदस्य श्री वसंत साठे, श्री जाबुवंत घोते, श्री के० जी० देशमुख, श्री जे० जी० कदम, डा० कैलास, शिवाजी राव देशमुख, श्री बी० बी० तारोडकर और मैं स्वयं, इन आठ सदस्यों ने इस सूची में हलबा कोष्टी को समाविष्ट करने के लिए यहां एक संशोधन दिया है।

24 फरवरी को नागपुर में हलबा बुनकरों के एक विशाल अधिवेशन को श्री इंदिरा जी ने सम्बोधित किया। उस समय उन्होंने उन की आर्थिक और सामाजिक दुर्दशा को देखा और यह विश्वास दिलाया कि मैं इस वर्ग का उत्थान कर के रहूंगी।

हलबा हलबी के बारे में मैं सिर्फ इसलिए यह नहीं कहता हूं कि मैं हलबा हूं इसलिए मुझे यह सहूलियत दीजिए, यह समाज भीख नहीं मांगना चाहता लेकिन यह अपना हक चाहता है और उसके हक पर आक्रमण करने की बड़ी कोशिश और साजिश चल रही है। महाराष्ट्र में कई बार उन्होंने झूठे षड-यंत्र किए हैं और महाराष्ट्र सरकार को और केन्द्रीय शासन को गुमराह किया है, झूठे पत्र लिखे हैं और यह बताने की कोशिश की है कि ये हलबा कोष्टी हलबा नहीं हैं। लेकिन मैं इसके लिए कुछ सबूत पेश करना चाहता हूं।

यह ट्राइब्स एंड कास्ट्स आफ सेंट्रल प्राविसेज आफ इंडिया, आर बी रसेल की लिखी हुई किताब है। इसके पृष्ठ 582 पर लिखा हुआ है।

"Halbas appear to be an offshoot of the primitive Halba tribe who have taken to weaving."

इसके पश्चात् पृष्ठ 188 पर यह लिखा हुआ है :

"Halbas took to weaving and have become amalgamated with the Koshti caste in Bhandara and Berar."

यह एक दूसरी किताब है लिग्विस्टिक सर्वे आफ इंडिया। यह गवर्नमेंट आफ इंडिया की किताब है। इसके पृष्ठ 330 पर लिखा है :

"The Halbas are one of the principal tribes of Bastar and Kanker States.... Halbas have also settled in Bhandara, the eastern portion of Chanda and Raipur. In Berar they are weavers and most of them are found in Ellichpur (in Vidarbha)."

इसके पश्चात् लिग्विस्टिक सर्वे आफ इंडिया के पेज 365 में लिखा है:—

"Halbas are also found in Berar. At the Census of 1891, 2841 Halbas were enumerated in the district and in 1901, their number had increased to 3124. They are weavers and most of them are found in Ellichpur."

इसके बाद -

"Dr. Edward J. Jay has clearly stated under the head "social system" that two weaver castes are considered below by Halbas and Gond alike. All of the weavers who sell cloth at the Dhauri market in Narayan tehsil in Bastar are Halba weavers."

इसके पश्चात् दी हार्डि कोर्ट जजमेन्ट्स है। एक नागपुर हार्डि कोर्ट का जजमेन्ट है और दूसरा जबलपुर हार्डि कोर्ट का जजमेन्ट है, जिस में उन्होंने क्लिअर कहा है कि जो विदर्भ में हण्डलूम का काम करने वाले हैं, उनमें हलबा जाति

के लोग भी हैं जोकि हैण्डलूम का काम करते हैं। वे आदिवासी हैं। इसी मुद्दे पर उन्होंने केस का डिसीजन किया है। दोनों केसेज के डिसिजन में आप के सामने रखूंगा।

इसके बाद जो सरकार ने किया है वह मैं बताना चाहता हूँ -

महाराष्ट्र सरकार ने जो आर्डर निकाला है, उसका बड़ा भयंकर परिणाम हो गया है। आदिवासियों को जो सुविधाएं मिल रही थीं। वे एक दम बन्द कर दी गई हैं। महाराष्ट्र में उनकी फीस और स्कालरशिप बन्द हो गई है वे अपनी पढ़ाई नहीं कर सकते हैं। स्कूल कालेज बन्द हो रहे हैं। मैं जानना चाहता हूँ कि उन विद्यार्थियों के लिए आप क्या कर रहे हैं। मैं चाहूंगा कि महाराष्ट्र सरकार से कहा जाए कि वह अपने आर्डर को वापस ले और हलबा कोष्टी जाति को इस सूचि में शामिल किया जाए। यही मेरी प्रार्थना है। ये सारे पेपर्स मैं सदन के सामने पेश करता हूँ। और प्रार्थना करता हूँ कि होम मिनिस्टर साहब इसको पूरी स्टडी करें और इस पर ध्यान दें।

श्री चन्ना शलानी (हाथरस) : उपपक्ष महोदय, इस विधेयक में मैंने जो संशोधन पेश किया है, मैं आशा करता हूँ सरकार उसको सहर्ष स्वीकार करेगी। मैं कांस्टीबुशन शैड्यूल्ड कास्ट आर्डर, 1950 की धारा 3 को आप के सामने पढ़ कर सुनाता हूँ।

"Notwithstanding anything contained in para 2, no person who professes a religion different from Hinduism shall be deemed to be a member of the Scheduled Caste."

1956 में इसमें संशोधन हुआ। इसमें क्या संशोधन हुआ वह भी मैं पढ़ कर सुनाता हूँ - पैरा 3 में जो संशोधन हुआ वह इस प्रकार है -

"Notwithstanding anything contained in para 2, no person who professes a religion different from the Hindu or the Sikh religion shall be deemed to be a member of a Scheduled Caste."

श्रीमन् मैं यह कहना चाहता हूँ कि इस धारा को डिलीट कर दिया जाए बिल्कुल निकाल दिया जाए और जो मेरा संशोधन है, उस को इसकी जगह पर रख दिया जाये। मेरा संशोधन इस प्रकार है -

"Para 3 of Scheduled Castes Order, 1956 be replaced by the following para:—

"Notwithstanding anything contained in para 2, no person who professes a religion different from the Hindu religion shall be deemed to be a member of the Scheduled Caste."

Explanation: A person professing the Sikh, Jain or Buddhist religion shall be construed as professing the Hindu religion for the purpose of this Order."

शैड्यूल्ड कास्ट आर्डर; 1950 की धारा 3 में केवल हिन्दू धर्म का समावेश है। हिन्दू धर्म क्या है—इसकी परिभाषा भारतीय संविधान की धारा 25 के अन्तर्गत बहुत स्पष्ट और विस्तार में दी गई है। भारतीय संविधान की धारा 25 मैं पढ़ कर सुनाता हूँ।

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

## [श्री चन्द्र शैलानी]

शैड्यूल्ड कास्ट आर्डर, 1956 में जो संशोधन हुआ उसके द्वारा हिन्दू के साथ साथ सिख धर्म भी जोड़ दिया गया सबसे पहले मैं चाहूंगा कि जो मेरा संशोधन है वह स्वीकार कर लिया जाय। अगर सरकार इस को मनाशिव नहीं समझती है तो मैं चाहूंगा कि सिख की जगह पर बौद्ध और जैन धर्म को भी जोड़ दिया जाय। मैं कतई इस बात का विरोधी नहीं हूँ कि सिख धर्म के अनुयायी को जो सहूलियतें दी जाती हैं वे न दी जाए। बल्कि जो सहूलियतें उन्हें दी जा रही है, व उन्हें अवश्य मिलें। मैं हटय से इस बात को चाहता हूँ लेकिन साथ ही यह भी चाहता हूँ कि उनके साथ साथ बौद्ध और जैन धर्मावलम्बियों को भी वही सुविधाएं मिलनी चाहिए। क्योंकि सिख जैन और बौद्ध धर्म सभी हिन्दू पर्सनल ला से गवर्न भी होते हैं और यह माना जाता है कि यह उसी के अंग हैं।

एक बात मैं अवश्य कहना चाहता हूँ कि जो कि मेरे इस दावे की पुष्टि करेगी। कहा जाता है कि महावीर और बुद्ध दोनों हिन्दू धर्म में जहां बहुत से अवतार हुए हैं इनको भी हिन्दू धर्म का अवतार माना गया है। फिर यह कहाँ का इन्साफ है कि बुद्ध और महावीर जो इसी देश की धरती पर पैदा हुए, जिन्होंने सारे संसार को एक नया संदेश दिया, एक नई रोशनी दी और एक ऐसा रास्ता बताया जो मानवता के सिद्धान्त पर आधारित था।

अनुसूचित जाति का कोई व्यक्ति अगर उस महामानव के धर्म को स्वीकार कर लेता है तो सरकार से जो भी सुविधाएं पा रहा था उनसे वह वंचित हो जाता है।

हालाकि उसकी शक्ल में, सूरत में, सूरत में, विचार में और रहन सहन में कोई फर्क नहीं पड़ता है। परन्तु जब कोई व्यक्ति सिख धर्म ग्रहण कर लेता है तो उसकी सूरत भी बदल जाती है; सूरत भी बदल जाती है और सिख होने के बाद वह बुजदिल भी नहीं रहता। कोई शैड्यूल्ड कास्ट होता है तो उसपर जुल्म किए जाते हैं लेकिन जब वह व्यक्ति सिख बन जाता है, केस रख लेता है तो बहादुर हो जाता है। फिर उसके उपर कोई जुल्म और अत्याचार नहीं करता क्योंकि कानून में उसको कृपाण रखने का अधिकार मिल जाता है। इसलिए मेरा निवेदन है कि 1956 में इस आर्डर में जो संशोधन हुआ है वह भारतीय संविधान की आत्मा के विरुद्ध है, इस देश की व्यवस्था और वातावरण के प्रतिकूल है। मैं नहीं जानता उस समय ऐसा संशोधन करने वालों की क्या भावना थी लेकिन इतना जानता हूँ कि आज की परिस्थितियाँ बिल्कुल उसके उपयुक्त नहीं हैं।

मैं एक और महत्वपूर्ण बात कहना चाहता हूँ कि शोध ही हमारे संविधान में आमूलचूल परिवर्तन होने जा रहा है, बड़े संशोधन विचार-धर्म हैं, यहां तक कि संविधान की प्रस्तावना (प्रिम्बुल) में भी संशोधन होने जा रहा है तथा उस में सोशलिस्ट और सेक्युलर शब्द जोड़े जा रहे हैं तब किसी धर्म विशेष के साथ पक्षपात करना न्याय संगत नहीं होगा। मेरा निवेदन है कि आप इस सम्बन्ध में सरकार को बाध्य करें और जो मेरा संशोधन है उस को स्वीकृति प्रदान करायें ताकि इस देश में समाज का एक बहुत बड़ा जो अंग है, जो करोड़ों की तादाद में है उसको राहत मिल सके। मैं अधिक समय न ले कर इतना ही निवेदन करता हूँ कि आप मेरे संशोधन को माननीय गृह मंत्री जी से मनावायें। अन्त में

घन्ट में एक बार पुनः जोर देकर कहना चाहता हूँ कि मेरे संशोधन को सरकार स्वीकार करने की कृपा करे।

15.00 hrs.

SHRI K. HANUMANTHAIYA (Bangalore): I am happy that this Bill has been brought before the House. In fact it was overdue. A Bill more or less of the same nature was brought four years ago and it could not be passed because of the great controversy that arose.

Now, this is a Bill restricted in its scope and I would be very happy if it is passed so that the concerned Scheduled Caste and Scheduled Tribe people could benefit.

But the real point is that the names are so many in the Schedules that I wonder if anybody in the House can know the nature of each tribe and each caste.

This impossible nature of comprehending hundreds and hundreds of names is the factor that is creating a little confusion and is creating dissatisfaction among the Members.

Hon. Members who have spoken so far have spoken with personal knowledge. They actually know in their place who is a Scheduled Caste and who is not and who is a Scheduled Tribe and who is not. But when these names are sent in dozens and dozens by the respective governments or departments, that close scrutiny has not been possible. I do not know whether the hon. Minister would be able to scrutinise all the names and do justice to the points raised.

I wholeheartedly agree with the members of the Scheduled Castes for raising objections to the very many features of this Bill. So far as I know—I have been in this field of legislation or administration for a very long time—the original idea was to protect the Scheduled Castes. Now, Scheduled

Castes mean people who are untouchables and people who are suffering disabilities which other castes do not suffer. Now, this scheme has been widened. I feel, therefore, that we have to keep in mind the original motive force with which this concession was extended by various governments. Even before the present Constitution came into operation the States, then called the Provinces and even the Indian native States, more or less had their own lists because the administration then was influenced this way or that way. They actually included the communities or castes which did suffer from the disabilities and which needed protection. After Independence political influences have begun to count. Voting affects the future set up of the Assembly or the Ministry. Therefore, there has been an amount of anxiety in the minds of the people of losing that influence of population or to gain the influence of that population.

This Bill, we made representations, several of us, to the hon. Minister, needs a rethinking. But I understand the hon. Minister wants to see that this Bill is passed as soon as possible so that the concerned tribes and castes drive the benefit from it as early as possible. That anxiety I can understand. But I am certain that there are some castes and some tribes which do need inclusion but in the process of adding, several castes and communities have been added and it creates really an amazement so far as I am concerned as to how these could be considered as tribes or scheduled castes. For example, I have given an amendment, the most glaring amendment. In the Karnataka list, it is added—serial No. 38 of the Second Schedule:

“Naikda, Nayaka, Cholivala, Nayaka, Pakadia, Nayaka, Mota Nayaka, Nana Nayaka.”

In our State, Nayaka is neither a Scheduled Caste man nor is he a Scheduled Tribe man, living as they do in the forests and other areas as a nomadic people.

[Shri K. Hanumanthaiya]

There are certain people in Karnataka like sargurukas etc., and none of them belong to scheduled castes. I do not know why their names have been added as castes. As a result, quite a number of castes, though they are not scheduled castes or tribes, will take advantage of the provision in this Bill. This is a glaring instance and I tried to bring to the notice of the hon. Minister privately also. I do not know what he has got to say in the matter. All that I can say is that we the Members of Parliament many a time are helpless though we are reasonable; the machinery of government works that way. It is not the fault of any individual and it is also not the fault of any particular group. Once the Bill is brought into the House, we are not given an opportunity to discuss in the party meetings. Though we sometimes request that the party meetings be convened for this purpose, they are never called and the Bills are straightway brought forward before the House.

I only know a few things in so far as Karnataka List is concerned. I do not know anything much about other places. It has not affected me and so I rise my hands and I support the Government in my ignorance. If the hon. Minister had called a state by state meeting and had discussed the problems with them, much of these minor maladies could have been solved. As I said, he has not chosen to do so. It may be because of emergency; it may be that Government is strong. I support both emergency and Government. Should there not be some responsiveness on the part of the Government or the minister concerned? It is not that I am a nayaka or anybody else. I know the situation. And even if I put forward this suggestion, I do so with a certain amount of an impartial approach. The point here is that a certain thing is not understood. That is because a certain embarrassment is involved either in deleting or adding. But, I am thankful to the hon. Minister that some of the amendments of Karnataka Members which have come to

his notice have all been accepted in a way. Therefore, to that extent, I feel that the hon. Minister has understood the purpose of these amendments. (Interruptions) I am able to speak for Karnataka only; I cannot pretend that I know all the scheduled castes and scheduled tribes in other States.

SHRI N. E. HORO: It is your proposal which he has accepted. He has not done so far as the other States are concerned. That is what I want to say.

SHRI K. HANUMATHAIYA: I assure you that he is not partial for the Karnataka! I want the hon. Minister to particularly examine item 22—Tokre Koli, Kolcha, Kolgha. These communities are found in some number. I am told, in Shimoga District. The hon. Member, Shri Chandrasekhar represents this district. He was very vehement. These are not the Scheduled Castes or tribes. As I said in item No. 28 there is a mention of nayaka etc. All these names may be re-examined with reference to the request made by the Members of the Karnataka State.

I am now making one important point. Though it is not strictly relevant; I would like to place this point of view before you and the hon. Minister and the House. The whole set up of the population of scheduled castes and tribes are guaranteed certain privileges and rights under the Constitution as well as in various legislations. I am happy about it. We have to implement this assurance and guarantee with all sincerity and see that the quota allotted to them is fulfilled particularly in Government service. So far as the highest strata of society is concerned, they are overwhelmingly represented, even to-day, in all Government Service and in all professions.

It is the middle or the backward classes that have been completely ignored and they are the people who are suffering the most in this set-up. I can furnish the statistics for the purpose. Sir, the Government of India appointed Kalelkar Commission which

submitted its report. That report has never been placed before the House although several Members requested for the same to be placed on the Table of the House. Sir, it is the middle classes which suffer the most during the time of inflation. These most neglected middle classes or the backward classes have to be seen and examined with reference to their position. The Hon. Minister may get examined that report and see how far these backward classes can be helped in the spirit that the Kalelkar Commission has made the recommendation.

**SHRI A. K. KISKU (Jhargram):**  
Sir, I rise to speak on this Bill with a very heavy heart and as I would speak, I will not speak on any other subject excepting Assam because hon. Members have highlighted the problems from different angles of different castes.

Sir, I myself have studied very deeply the problems of the tea garden tribes of Assam. During the last ten years I have tried in my own way to see that they get all the facilities that have been guaranteed in the Constitution. Before I touch this point, I want to ask one question. Do we consider these tribal people as Indians? Do they not work for us in the fields, railways, army etc.? Everywhere we find these people are working hard to produce for us but as we examine the different aspects we find that we are in a big bewilderment.

When the Minister had brought this Bill I rushed to him and said that we had asked for bread but you have given us stones. We had asked for fish and you have given us serpents. The Minister wanted to raise certain constitutional issues and he mentioned Articles 341 and 342. The claim that a tribe may be regarded as a tribe wherever it goes is fair enough and the Constitution has to be amended for that. We have made very significant changes in the Constitution and as compared to them it is so simple. However, as I said, I have to speak

with a very heavy heart. These 40 lakh tribes had been settled in Assam. We have been trying to get redress through memoranda, through representations. We came to meet him. But we have had to go back crying.

The Joint Committee on the Scheduled Castes and Scheduled Tribes Order (Amendment) Bill had unanimously recommended that they should be scheduled. Unfortunately, my good friend, Shri Govind Menon, who is no more with us—he was a personal friend of mine—did not agree. We were disappointed to see that he wanted to move a Resolution in the House opposing the unanimous recommendation of the Joint Committee.

Personally, in my own way, while I was Deputy Minister of Health, I was writing to leader after leader in Assam; I talked personally to the Congress people on the 17th November 1973. We had occasion to meet there where the Chief Minister was present, where representatives from different districts were present, where the Cabinet colleagues of Shri Sinha were present. All were present there. We raised this issue. There was a discussion the same evening and the Chief Minister had given a categorical public assurance that he would make a recommendation to the Government of India. I had conveyed this in my letter to the then Minister of Home Affairs and I was expecting that the Home Ministry would take it up in their own way and find a way out so that these tribes could get themselves scheduled in a very natural, nice way. Unfortunately, it turned out to be a very big disappointment for us that this did not happen, here in this House as well as there. Is there any constitutionality involved? Is there any legality involved? What is the reason why they cannot be scheduled?

The point that emerges out of all these attempts and discussions and deliberations is that there is definitely a vested interest there. It is their



[Shri A. K. Kisku]

desire that these people should not be given the opportunity guaranteed to them under the constitution.

I once again make an appeal to Shri Brahmananda Reddy. I have great regard for him. He is one of our most outstanding leaders. He has been in politics for a long time. I consider him as one who has worked for the upliftment of the poor. His name is Brahmananda, Brahma. India is a great country. It is the country of Lord Buddha, the land of Tagore, of Mahatma Gandhi. India is a great country and you are a great Home Minister. May I appeal to you once more....

SHRI B. K. DASCHOWDHURY:  
Appeal to Brahma.

SHRI A. K. KISKU: I appeal to you once more to listen to the cry of these people. I am not embarrassing the Minister; I know his hands are tied because the problem is there. I urge upon him, for the name's sake, to take this up with Shri Basumatari. He spoke with emotion. He comes from that area. He has spoken to the Prime Minister also and I know the Prime Minister has a great heart. Something is wrong over there. Therefore, I make this appeal to him. He made an assurance that he would bring a comprehensive Bill soon. We depend upon his assurance and I should like him to repeat that assurance once more on the floor of the House and also bring a comprehensive Bill in consultation with the adivasis of Assam, with Shri Basumatari, with people from different districts, with other M.P.s and the Assam Government and other adivasis from other areas also so that a way out could be found for this problem.

SHRI B. K. DASCHOWDHURY:  
(Cooch-Behar): This is a most awaited and delayed Bill waiting for approval of Parliament since 1966. I would open the discussion or rather take part with the opening remarks, what is the real purpose of bringing this Bill. As I have understood it, its purpose really is to do something for the so-called

ostracised people in our country, ostracised in society and it is the purpose to march forward with the programmes on this principle of democratic socialism, secularism, national integrity and all such things

Having said so, we find that it has got its own root and relation with the constitution of India. The constitution provides for certain other safeguards to certain castes communities and tribes in articles 341 and 342 for the uplifting of the communities who are listed either through notification issued by the President in consultation with the governor or other authorities or the state governments or the governments of Union territories or Parliament may by law say that such communities should be given special facilities to come to the mainstream of the life of this country. It has got its own powers. The order was issued in 1950 and it was amended in 1956 and that raised certain controversies as to what should be done, whether the things that were there were enough to satisfy the constitutional provisions. With this aim when this Bill was introduced in 1967 I had the proud privilege to say—I was a member at that time; there was a general discussion and it was agreed that it must go to a select committee to be given due consideration in the light of the constitutional provisions what other things are to be done. It was referred to the Joint Committee which had long deliberations. It went throughout the length and breadth of the country including Andaman and Nicobar Islands and other areas which were not easily accessible. That joint committee unanimously made certain recommendations which were also accepted by the government. Some of them were not accepted. There were four main recommendations which were accepted by the government and incorporated in the Joint Committee's report presented to this august House in 1969. These were as follows.

Firstly, there were certain area restrictions even within the States and that should be removed. Secondly,

having considered the circumstances prevailing in the country at that time, some of the displaced persons from erstwhile East Pakistan, now Bangladesh, who were according to the government's policies rehabilitated in different parts of the country, amongst whom were Scheduled Castes as enumerated and listed in West Bengal and Assam, should be given the right to retain their character of Scheduled Castes to get more facilities. Thirdly, it was also said that there seemed to be an unseemly restriction although persons are free to move throughout the country and settle anywhere else according to the constitutional provision, if a person who is a Scheduled Caste or a Scheduled Tribes migrates from one State to another, he loses his facilities there. Therefore, it was agreed that if a person coming from a particular State is regarded as a Scheduled Caste or Scheduled Tribe in that State, wherever he might reside, he should get the facilities of a Scheduled Caste or a Scheduled Tribe. Fourthly, when a woman who is a non-Scheduled Caste marries a Scheduled Caste or a Scheduled Tribes migrates that woman is regarded as belonging to one of those communities. But that woman was not given any such facilities in the matter of services or other facilities. Therefore, it was also recommended that in such cases of intermarriages, the person should be regarded as a Scheduled Caste or Scheduled Tribe for all purposes. None of those four recommendations find a place in this Bill, except the recommendation regarding the removal of the small area restriction within a State. The major question is whether this Bill serves the purposes of the persons for whom it was intended, having regard to the basic ideals enumerated in the Constitution itself. You find these are not done. For example, we are going to pass this Bill today...

**MR. DEPUTY-SPEAKER:** Your approach is too professorial. You cannot complete it within the time-limit. Please conclude in two minutes.

**SHRI B K. DASCHOWDHURY:** We are having a scope to discuss it further in order to provide more facilities. But we find no such more facilities have been provided, except the small area restriction within the State which has been removed. But there are certain specific problems.

As my hon. friend Shri Shailani pointed out, in the 1950 Order, according to the broad spectrum of article 25 under which persons professing Sikh, Jaina or Buddhist religion were all defined as Hindus, they were all included. But we find that in the 1956 Order, the same Scheduled Castes, when they embrace Buddhism have been completely excluded. Under which provision this is done, it is not known. If you have piecemeal legislation like this from State to State, how are you going to benefit the poor people?

Then, in the case of some communities the names are mostly synonyms. In Orissa one community is known as Dewars. For all intents and purposes they are also Scheduled Castes and the Orissa Government referred this matter to the Central Government here. A clarification was required whether it includes Thear, or only Dewar, or it is including the fishing community of Keuta. These are some of the communities that are listed as Scheduled Castes on a regional basis. They move to and fro, from one place to another, because they have relations here and there. For example, in Assam, Meghalaya and Tripura there is one community called Sutradhar, which is included as a Scheduled Tribe. But in West Bengal they are not Scheduled Tribes, though they have the same origin. These are some of the lacunae which my hon. friend, Shri Kisku has already referred to. I do not know what is their fault. Why is it that four million tribal people of Assam are not regarded as Scheduled Tribes and they have been deprived of all facilities? Are they not human beings? Why not

[Shri B. K. Daschowdhury]

grant them the right to be at least human beings? Could they not be human beings in their own culture? That right has been denied to them, only because in Assam, for what considerations I do not know, the Government have not felt it necessary to include them in the list. I would appeal to the Government to consider this matter seriously. Why have this piece-meal legislation from one State to the other? When the basic approach of the 20-Point Programme is the development of the weaker sections of the society, why not have a composite list? With these words, I would again request the hon. Minister to reconsider this matter.

SHRI S. M. SIDDAYYA (Chamara-janagar): Mr. Deputy-Speaker, the Government has come forward with this Bill, mainly for the purpose of the removal of the area restrictions, on the basis of the 1956 Act. Even though an Act on this subject was passed more than 15 years ago, it contained three anomalies, viz. (1) area restriction; (2) some of the castes which do not deserve to be included were included; and (3) some castes which deserve to be included were not included. These three types of anomalies were realised by the Government long back, and that is the reason why a high-level committee of officers was appointed to go into this question. That Committee examined each caste and tribe and gave a report. That report was discussed by the Members of Parliament and the State Minister and a Bill was prepared in the year 1967. When that Bill was referred to a Joint Committee, because of some controversy in the Joint Committee, that Bill, could not be proceeded with.

15.33 hrs.

[SHRI C. M. STEPHEN in the Chair]

As a matter of fact, there were three controversies because of which that Bill could not be proceeded with. I know them because I happened to be a member of that Joint Committee. The

first controversy was with regard to the Scheduled Tribes in Assam. Even though the Joint Committee unanimously recommended that the Scheduled Tribes should be included in the list, the Government did not agree, only because the Government of Assam felt that if these people were included in the list of Scheduled Tribes, then the political picture would be changed.

Secondly, Shri Kartik Oraon moved an amendment, which was accepted by the Joint Committee, that the tribes who became converts to Christianity should not be included in the list of Scheduled Tribes. That was the second point which the Government could not accept.

My hon. friend has already mentioned that at the time of the Joint Committee, on the last day of the meeting, Government moved 105 amendments. They had opportunities to move amendments earlier, but they waited for an opportunity to topple the entire thing. Afterwards, when the Bill was presented to the House, Government took complete one year to move the Bill for consideration. Then also Government moved, Shri Hanumanthaiah happened to be the Minister at that time, 233 amendments. Just imagine. Who created the confusion? It is the Government or the Committee? I tell you Government was not interested in getting the Bill passed, and, therefore, they created this bogey of controversy and got the Bill lapsed.

Now I am not going to the Report of the Joint Committee at present. The Bill was prepared in 1967 by the Government. Have they stuck to that Bill at least, their own proposals? Now, they have gone back to 1956 for removal of restrictions, with the result that many of the castes which were recommended by the Government itself to be left out, have been brought into the Bill today.

For example, in Karnataka there is a community called Bhanjara which has now been included in the list of

Scheduled Castes. The Government of Karnataka and even the Central Government agree that they should be put in the list of Scheduled Tribes. In the 1967 Bill they were included in the List of Scheduled Tribes, but today they have been included in the list of Scheduled Castes, even though Government knows fully well that they have got tribal characteristics.

There is another community called Bhovis which is included at present in the list of Scheduled Castes. This point has been insisted upon so many times, and even the Joint Committee found them not to be eligible to be included in the list, and they were taken out of the list. The Government of Karnataka, I want to bring it to the notice of the House, repeatedly recommended that they do not deserve to be included in the list of Scheduled Castes, that they should be included in the list of Scheduled Tribes. But, what happened? Both the Bhanjars and Bhovis have been included in the list of Scheduled Castes, and Government is going to the removal of area restriction when the basis itself is wrong. You have included in the list of Scheduled Castes those who do not deserve to be included and now you want removal of area restriction. Is it correct, is it fair? Why don't you take your own 1967 Bill? I want to know from the hon. Minister on what basis he has gone back 20 years to the 1956 Act. This is not quite fair.

Our friends have already mentioned that in the case of the Scheduled Castes, the question of Hindu religion comes in, but the Scheduled Tribes can belong to any religion in this country. Why this distinction? When the 1950 Act was passed, there was nothing in it. It was only in 1956 that it was brought in without anybody's notice perhaps, and now they want to stick to it. As a matter of fact, Shri Kartik Oraon has rightly asked how, if they are really strict about it, they can include Halalkhors in the list of Scheduled Tribes. They are a community of Muslims. They are in Karnataka and also other places. This is an arti-

ficial thing, they ought not to have done it. We call ourselves a secular State. Where is this need, then, to make this distinction on the basis of religion? For example, most of the Scheduled Castes belonging to Maharashtra and other places have embraced Buddhism. Does the Government think that because they have become Buddhists, they do not suffer from untouchability?

**DR KAILAS (Bombay South):** Those who have embraced Buddhism are getting special facilities as Scheduled Castes from the Maharashtra Government.

**SHRI S. M. SIDDAYYA:** I agree with Dr. Kailas. They are actually getting the benefits, like, educational facilities and other things. But what prevents them to include them in the List of Scheduled Castes? They should be included.

The basic point which I want this Government to realise is, before they remove the area restriction, before they bring in people from other areas to be included in the List of Scheduled Castes and Scheduled Tribes, merely because name is common, they must go by the criteria accepted by the Government and the Committee also. With regard to Scheduled Castes, the criteria are: extreme social, educational and economic backwardness arising out of the traditional practice of untouchability. With regard to Scheduled Tribes, the criteria are: indication of primitive traits, distinctive culture, geographical isolation, shyness of contact with community at large and backwardness.

In my State of Karnataka, the list of Scheduled Tribes was particularly so prepared that it included only those persons who lived in jungles. At present, you will find in the list only such people. The Scheduled Tribes people are, rightly, called Girijans, those people who are actually living in the hilly areas. But today, they have opened the flood gates and included all others merely because there is a common name. In my State of Kar-

[Shri S. M. Siddayya]

nataka, for example, Kuruba was a community only limited to Coorg district. It is completely, a forest area. Now, they are doing it mechanically. The LDC must have done it, not the officer concerned. By removing the area restriction, the entire Kuruba community, about 40 lakhs of them, in Karnataka State will, automatically, be included in the list of Scheduled Tribes. When we pointed out the mistake, they have now realised it and moved an amendment. What were the officers doing for all these months? What was the Minister doing? This is a glaring mistake.

Similarly, only in Coorg district, there is a small community called the Maratha community. They are very backward and a real tribe. By removing the area restriction, all Maharashtra in Karnataka State have become Scheduled Tribes. This is the way the Government is functioning. Therefore, I want that this should be very carefully considered by the Government.

Another thing is that there is so much of rush for inclusion in the lists of Scheduled Castes and Scheduled Tribes in the list. We considered this aspect very carefully in the Joint Committee also. There are ex-criminal tribes i.e., de-notified tribes and so many nomadic tribes semi-nomadic tribes, so many lakhs of people. Why should there be so much rush for inclusion of these castes and tribes in the Schedule? Just as you have made a list of Scheduled Castes and Scheduled Tribes, you make a third list of these de-notified tribes and communities and give them all facilities. We have no objection to that. But do not allow others to be included in the list of Scheduled Castes and Scheduled Tribes because, even if one caste or one tribe which does not deserve to be included in the list is included in the list, the real Scheduled Castes and Scheduled Tribes will not get the benefit. The Government should realise this particularly while removing the area restrictions.

Now, the Government says that they are going to bring another Bill dealing with inclusion in and exclusion from the Schedules. It cannot happen. This Bill has come after nearly 20 years. How can you expect that the Government will bring forward the Bill immediately? Therefore, I suggest, this Bill should be referred to the Joint Committee which can give the report within a month and the Bill can be taken up in the next session. You say, it is a special session. Does it mean that this Bill cannot be taken up during the special session? You say that this special session is only for considering the Constitutional amendments. I say, this Bill is more important than the Constitution amendments. I suggest that this Bill should be referred to the Joint Committee and taken up in the next session.

श्री राम भगत पासवान, (रोसरा) :  
सभापति महोदय, मैं गृह मंत्री श्री ब्रह्मानन्द जी रेड्डी को बहुत धन्यवाद देता हूँ, जिन्होंने शेड्यूल्ड कास्ट्स और शेड्यूल्ड ट्राइब्स के लिये यह बिल ला कर उनकी आर्थिक, राजनीतिक और सांस्कृतिक प्रगति का प्रयास किया है। श्रीमन् आजादी के 30 साल के बाद भी जब हम देखते हैं तो हमें दिखाई देता है कि हिन्दुस्तान की भूमि पर आज भी ऐसी अनेकों जातियाँ हैं जिनके साथ कूरता का व्यवहार हुआ है। महात्मा गांधी जी और पं० जवाहरलाल नेहरू ने कहा था कि हिन्दुस्तान में जात पात की भावना देश के लिए घोर कलंक की बात है। फिर भी हमारी सरकार ने संविधान में उन को सुरक्षा प्रदान कर के उन को उठाने का प्रयास किया है। आज उन्हें अनेकों प्रकार की सुविधायें प्राप्त होती हैं, लेकिन फिर भी हम देखते हैं कि उनकी जितनी उन्नति होनी चाहिए थी, उतनी नहीं बढ़ी हुई। इस बिन्दु के द्वारा उन जातियों के लिए कुछ क्षेत्रीय प्रतिबन्ध हटाये गये हैं

लेकिन अभी भी ऐसी बहुत सी जातियाँ हैं जिन्हें एक राज्य में मान्यता प्राप्त है, परन्तु दूसरे राज्य में नहीं है। जैसे एक दुसाध जाति है जिसे उत्तर प्रदेश, बंगाल, बिहार में मान्यता प्राप्त है परन्तु दिल्ली प्रशासन दिल्ली की सूची में उनका नाम नहीं है। इसी तरह से खतवे और तांती जाति है जो हर दृष्टिकोण से पिछड़ी हुई है, लेकिन इनको सूची में शामिल नहीं किया गया है। मेरा सरकार से अनुरोध है कि इन दोनों जातियों को यूनिफन लिस्ट में शामिल किया जाय।

संविधान में जो सुरक्षा शेड्यूलड कास्ट्स और शेड्यूलड ट्राइब्स को प्राप्त है, उस के अनुसार जो रिजर्वेशन उन के लिए किया गया था वह आजादी प्राप्त होने के बाद किया गया था, अब से लगभग 20 साल पहले किया गया था। उस समय हरिजनों और शेड्यूलड कास्ट्स में पढ़े-लिखे लोग बहुत कम थे, लेकिन आजादी के बाद भिन्न-भिन्न प्रकार के प्रिविलेज देकर उन को आगे बढ़ाया गया है। उस समय यह रिजर्वेशन 15 प्रतिशत रखा गया था, लेकिन आज जब कि इन लोगों में पढ़े लिखे लोगों की संख्या काफी बढ़ गई है, उस को दृष्टि में रखते हुए इन के प्रतिशत को बढ़ाया जाना चाहिये। कम से कम 30-40 प्रतिशत का संरक्षण हर विभाग में होना चाहिये।

जहाँ तक स्टाइपेंड का प्रश्न है उस समय स्कूल में पढ़ने वाले के लिए 10 और कालिज वाले के लिये 30 रुपए का भी प्रावधान था, लेकिन आज भी वही चला आ

रहा है। मैं मंत्री जी से आग्रह करूंगा कि इस पर पुनर्विचार किया जाय और इस रकम को ज्यादा बढ़ाया जाय।

जात-पात के मामले को लेकर बहुत से अत्याचार हो रहे हैं। आप चाहे जितने सविधानिक संरक्षण दे दीजिये, लेकिन यदि उनका उपयोग नहीं होगा, तो चाहे आप कितने बिल यहां ले आयें, उन की तरक्की नहीं हो सकती। आज उच्च जाति के कहलाने वाले लोग उन लोगों के साथ बहुत अत्याचार कर रहे हैं। जो बच्चे गांवों या शहरों में पढ़ने-लिखने जाते हैं या काम धन्धा करने जाते हैं उन को किसी न किसी मुकदमे में फँसा दिया जाता है, इस तरह से उनकी जीविका का अपहरण कर लिया जाता है। आज बीस सूत्री कार्यक्रम के अन्तर्गत क्रांती प्रगति हो रही है—उन्हें जमीनें दी जा रही हैं, ऊँचे स्थानों पर हाउस-साइट्स दी जा रही हैं, इसका उच्च जाति के लोगों पर बुरा प्रभाव पड़ रहा है।

मैं आग्रह करता हूँ कि जो संवैधानिक सुरक्षा इन को प्रदान की गई है वह इनको मिलनी चाहिए, इसकी आपकी व्यवस्था करनी चाहिए कि उन पर जो अत्याचार होते हैं वे न हों। अगर उन पर अत्याचार होते हैं तो उसकी जवाबदेही जिलाधिकारियों पर आपको डालनी चाहिए।

शेड्यूलड कास्ट्स और ट्राइबज के लोगों के लिए कानूनी सहायता की बात भी की जाती है। यह कानूनी सहायता किस रूप में उनको दी जाएगी, इसकी परिभाषा क्या है, यह चीज साफ होनी चाहिए। अभी जो व्यवस्था है वह बिल्कुल साफ नहीं है, उसकी परिभाषा बिल्कुल स्पष्ट है। आर्थिक रूप से, कौल के रूप में, जिस रूप में आपको यह सहायता प्रदान करेंगे कि वह पता चलना चाहिए। उन पर जब अत्याचार होते हैं और वे न्यायालय की तरफ जाते हैं तो उन्हें वहाँ

### [श्री राम भगत पासवान]

पर पैसे के अभाव में न्याय नहीं मिलता है, चूंकि वे गरीब हैं उसको न्याय नहीं मिलता है, जातपात के नाम पर वे न्याय से वंचित रह जाते हैं। इस वास्ते उनके वास्ते आपको न्याय की समुचित व्यवस्था करनी चाहिए।

बीस सूत्री कार्यक्रम के अन्तर्गत गरीबों को भूमि दी जा रही है। बहुत दिनों से ये लोग बटाई के रूप में भूमि को जोतते आ रहे थे। बड़े बड़े लैंड ओनर्स यह चाहते थे कि इन गरीब लोगों के पास जो थोड़ी बहुत जमीन है इसको छीन लिया जाए और इसको दूसरों के हाथ में बेच दिया जाए। इस वास्ते वे लोग इन को तरह तरह के कैंसिस में फसा देते थे। कैंसिस में फंसा करके उनकी सारी जमीन हड़प ली जाती थी। अब भी ऐसी बातें हो रही हैं। मैं आप्रह्व करता हूं कि उनको सुरक्षा प्रदान की जाए। उनकी जमीन को हड़पने से बचाया जाए। आजादी के तीस साल के बाद भी उनका जीवन असुरक्षित है। उनको हर प्रकार से सुरक्षा प्रदान की जानी चाहिए।

अन्त में मैं गृह मंत्री महोदय को बहुत धन्यवाद देता हूं कि उन्होंने क्षेत्रीय प्रतिबन्ध हटा करके शैड्यूल्ड कास्ट्स को एक स्टेट में एक जगह से दूसरी जगह जाने पर भी सुविधा प्रदान की।

श्री कमला मिश्र मधुकर (केसरिया) : मैं आपको धन्यवाद देता हूं कि आपने मुझे असुर दिया है। संविधान की पंचम अनुसूची में जब संशोधन करने की चर्चा हो रही थी उस समय मैंने बहुत जोरदार ढंग से इसकी चर्चा की थी और तब श्री श्रीम मेहता ने कहा था कि इस बात की चर्चा में तब उठाऊँ जब यह बिल आए। संयोग से गृह मंत्री जी यहाँ पर हैं। मैं उन से प्रार्थना करता हूं कि वह मेरी बात को जरा ध्यान से सुनें। मैं जो बात पहले कहने जा रहा हूँ उसकी और माननीय सदस्यों ने भी चर्चा की है। इस बिल

में कुछ को आप निकाल रहे हैं और कुछ को डाल रहे हैं। इसका आधार क्या है? कोई वैज्ञानिक आधार पर आप ऐसा करने जा रहे हैं और कोई ऐसा आधार आपने खोज निकाला है? बिना गम्भीरता से इस पर विचार किए हुए, बिना सोचे समझे हुए मैं समझता हूँ कि इस बिल को जहाँ पर पेश कर दिया गया है। मैं समझता हूँ कि जिस उद्देश्य की पूर्ति के लिए इसको लाया गया है यह इससे पूरा नहीं होगा। मैं उदाहरण देना चाहता हूँ। एक ट्राइब है जिस की आबादी बिहार में 1 लाख 70 हजार है। वह उड़ीसा में भी है, उत्तर प्रदेश में भी है। वह ट्राइब थारु है। इस ट्राइब की कहानी यह है कि अंग्रेजी राज के जमाने में अंग्रेजों ने सस्ती लेबर के रूप में इनको छोटा नागपुर, चम्पारन आदि इलाकों में लाया और बसाया। सैकड़ों बरस से अंग्रेजों के जमाने से यह ट्राइब वहाँ पर है। उन की आजादी एक खास इलाके में है। पश्चिमी चम्पारन जिन्हे के गैनाटांड, गोनाहा, रामनगर और बगहा में यह लोग बसे हुए हैं। उन की आबादी एक लाख 75 हजार है। जहाँ उत्तर प्रदेश और उड़ीसा सरकार ने उनको ट्राइब घोषित किया है वहाँ बिहार सरकार ने उन को ट्राइब घोषित नहीं किया है। थारु लोगों ने राष्ट्रपति जी के नाम एक मैमो-रेन्डम दिया है उस का बारहवां पॉइंट में आप को पढ़ कर सुना रहा हूँ :

"Tharu tribe with reference to Bihar State has not yet been specified as scheduled tribe under Clause 1 of Article 32 of the Constitution of India. As a result, the Tharu tribes in Bihar are unable to take advantage of the facilities and privileges granted to the members of the Scheduled Tribes and on account of that, the progress of the Tharu people in Bihar is greatly hampered."

"The Backward Classes Commission of the Government of India, New Delhi's report volume 2, published in 1954-55 has made recommendations for the inclusion of the Tharu tribes in Bihar in the list of scheduled tribes".

यह उन की 1955 की रिपोर्ट है। और आगे उन्होंने कहा है कि :

"The Backward Classes Commission, Government of Bihar Patna, in its Second Report (scheduled tribes) dated 15th August, 1975, Chapter 13, Recommendation No. 45, page No. 13-1, and 79, has strongly recommended for the inclusion of the Tharu tribe in Bihar also in the list of scheduled tribes."

This is a most recent report of the Government of Bihar.

"It may be noted that under Bihar Tenancy Act, 1885 Tharu tribe has been enumerated as an aboriginal tribe."

इतने प्रमाणों के बाद, 1855 से इस ट्राइब को एबोरिजिनल ट्राइब कहा जा रहा है, लेकिन आज तक उन को बिहार में ट्राइब घोषित नहीं किया गया है। बिहार सरकार की रिपोर्ट, अंग्रेज सरकार की रिपोर्ट और भारत सरकार की रिपोर्ट और उस के बाद लगानार उन लोगों ने बिहार के राज्यपाल महोदय, गृह मंत्री और राष्ट्रपति जी के यहाँ मेमोरेन्डम भेजने के बाद भी इन थारुओं के साथ साथ नहीं हो रहा है। इसलिए मैं मंत्री जी से कहूँगा कि इन थारुओं को आप शेड्यूल्ड ट्राइब में ले। और अगर नहीं लेते हैं तो जी मैं ने बाहरवां प्वाइंट आप के सामने रखा उस का स्पष्ट जवाब दें कि क्यों नहीं लेते हैं। मैं आप के बिल को टोल रहा हूँ ताकि आप समझे कि उन थारुओं की क्या दिक्कतें हैं, और उन को दूर करने में आप कितना

हमारा साथ देते हैं। आप स्पष्ट जवाब दें कि थारुओं को आप शेड्यूल्ड ट्राइब में लेंगे कि नहीं, उन की समस्याओं का हल होगा कि नहीं, और जो उन की दिक्कतें हैं उन का समाधान होगा कि नहीं जिस के लिए वह लगानार कह रहे हैं।

\*SHRI R. N. BARMAN (Balurghat):  
Mr. Chairman, Sir, I whole heartedly support the present Bill. Under the Scheduled Castes and Scheduled Tribes Order, some castes were declared as scheduled caste and scheduled tribe and there were instances where they were restricted to certain areas even within the same State. Naturally persons of the same caste who were not within this notified area did not enjoy the benefit and they had to face many difficulties. Through this Bill the Government has sought to remove this "area restriction" and from this point of view it should be supported by all and in fact such support is being extended to this Bill from different corners of this House. In regard to some of the castes the Joint Committee have stated that even though they were mentioned in the earlier order but since their number had dwindled in those States and in some cases they have reached a zero point, their names may be deleted from the list. The Government however have not agreed with this recommendation of the Joint Committee and a status quo will prevail in the matter.

Sir, even though the present Bill is undoubtedly a progressive step in the right direction. I have no hesitation to submit that we have to improve upon it substantially because it does not fully eradicate the problems of the scheduled caste and scheduled tribe people. I would therefore request the hon. Minister that even after this Bill is passed by this House, he should take expeditious measures to bring forward a more comprehensive Bill in this



[Shri R. N. Barman]

House in the light of the suggestions that are being made or will be made during the course of this discussion. Sir, even after the Bill is passed the one single problem that will remain unsolved is that even though a particular caste or community is declared scheduled caste of scheduled tribe in a particular State, the members of the same caste and tribe may not get the benefits in other States because they may not be declared members of scheduled caste and scheduled tribe in that State because you well know Sir, these matters are decided by the respective State Governments. It hardly needs to be mentioned that in pursuance of the provisions of the Constitution the Government have given facilities in matters of education and Government service to the members of the scheduled caste and scheduled tribe and they are entitled to stipends and reservation in service etc. But all these facilities are not being uniformly enjoyed by the same caste in different States because the rules are different in different States in this regard. As long as we are not able to introduce uniformity in this matter a sizeable section of the population who otherwise would have been classified as scheduled caste and scheduled tribe would remain deprived of the benefits which the Government is making available to such people, and the only reasons for such deprivation would be their fault of residing in the State where their number is either low or the State Government have not declared them as scheduled caste and scheduled tribe even though other States might have done the same in this regard. The present Bill does not solve this problem and I would venture to submit that unless we are able to draw up an All India list we would never be able to claim any measure of success in this matter. The main advantage of this procedure would be that the members of the same caste irrespective of the State in which they may reside would be entitled to the same benefits and the present prevailing discrimination will be remedied.

I very strongly feel about this discrimination because I represent a large number of such people who have suffered this discrimination for no less than 20 years and as the time is short I would like to confine my statement about them only Sir, Islampur is a sub-Division in the West Dinajpur District of West Bengal. It has five police stations viz. 1. Chopra 2. Islampur 3. Goalpukur 4. Chakulia and 5. Karandighi. Out of a population of 5 lakhs persons more than one lakh persons belong to the castes called Rajbansi, Namasudra, Jele, Kaibarta, Polia, Hanri, Dhoba, Enamer, Kamar etc. Adjoining to the Islampur Sub-Division is the Raiganj Sub-division. You will be surprised to know Sir, that the people belonging to the castes I have mentioned just now have been declared as scheduled caste in Raiganj but they were not treated as such in Islampur. The reason for this discrimination was that Islampur was a part of Bihar and after 1956 in the wake of the reorganisation of the States it was transferred to the State of West Bengal. Even though the sub-division was transferred the people belonging to the castes I have mentioned just

now were not included in the list of scheduled caste because the Government of Bihar had not declared them as such when Islampur was a part of that State. For the last 20 years the people of this area have suffered this discrimination and the persons who were worst hit were the young students who are the future of our nation. It was a ridiculous situation when students of a particular caste in Raiganj enjoyed benefits like stipends for education, reservation in services etc. While the students of the same community were denied the same in Islampur. A little while ago the hon. Member from Bihar, Shri Madhukar was referring to the plight of the tharu community who have been declared as scheduled caste in U.P. but their brethren in Bihar are being denied the same facility. This discrimination must

end and the only way as I can visualise is to draw up a single all India list for this purpose. When I suggest this, I am conscious of the fact that it would not be very easy task to draw up the list as it may be argued by same caste in the different States dure some people would be included in the list and get benefits who may not need them but merely on this ground can we perpetually maintain a discrimination between the persons of same caste in the different States merely because the different State Government do not agree with each other on this issue. I am however glad that through this Bill the 20-year long discrimination in Islampur has been mitigated to a great extent and I would hope that some of the communities like, Kamar etc. Who have not been mentioned in the list would soon be given the same benefits as others. I hope the hon. Minister would kindly look into the matter and do the needful.

16.00 hrs.

I would like to mention about another point before I conclude. In proviso to Section 5 of the Act it has been mentioned that if the name of a particular caste has not been mentioned as scheduled caste in the census of 1971 or prior to that or if the census authorities feel that the number of such people in a particular State in comparison to the total population is meagre then they would not be included in the list. I feel that this particular proviso of the Bill needs careful consideration because people belonging to scheduled caste and scheduled tribes; are often the labourers, the agricultural workers or people who earn their livelihood through the manufacture of handicrafts etc. It is often found that with the change in the economic situation of a particular State people of these communities have to shift from one State to another to earn their livelihood. It is but obvious that when they are cut off from the main community and migrate, they become a minority in the new State and mere-

ly because they are in the minority they should not be denied the benefit of being enlisted by the census authorities and eventually being denied the benefits of the scheduled caste or scheduled tribe people. In this proviso the words "numerically small" have been used. I personally feel Sir, that this is a very vague expression and it would be better if Parliament decides the number that would make the members of the castes "numerically small". It is not desirable to leave it to the executive authorities to decide the same under their rule making power.

With these words and extending my support to the Bill once again. I conclude.

**श्री चन्द्रिका प्रसाद (बलिया) :** सभापति महोदय, मैं इस प्रस्तुत विधेयक का समर्थन करता हूँ और इस का बहुत ही स्वागत करता हूँ। उत्तर प्रदेश और बिहार में गौड़ जाति को प्रायः ने अनुसूचित जाति की सूची में शामिल कर लिया है इस के लिए मैं सरकार को बधाई देता हूँ। इस के साथ साथ जो क्षेत्रीय प्रतिबन्ध हटाया गया है उन का भी स्वागत है। इस विधेयक की जनता और जन-जाति बड़ी बेसहरी से प्रतीक्षा कर रही थी। प्रायः उन के घंटे बहुत उल्लास है? यह विधेयक उन के दिल को ऊँचा उठाने वाला है।

लेकिन इस के साथ-साथ मैं यह निवेदन करूँगा कि बहुत सी जातियाँ जो जनजातियाँ की सूची में प्रायः चाहिए थीं उन के नाम छूट गए हैं जैसे खैरवाल, बड़ई, रंगबा सनाज, गन्धर्व, भर और निराद हैं, इन को भी इस सूची में जोड़ना चाहिए। इस सूची में और भी नाम जोड़ने के लिए प्रायः एक हीज लगी हुई है। मेरा निवेदन है कि बहुत सी ऐसी जातियों के लोग हैं जिन को प्रायः और सामाजिक स्थिति प्रायः 27 वर्षों का आजादी के बाद भी बहुत ही नीचनीय है, उन की बरीबी प्रायः भी दूर नहीं हुई है और हमारी राष्ट्रीय धारा में वे नहीं आ पाए हैं। उन के

## [श्री चन्द्रिका प्रसाद]

संबंध में मैं निवेदन करना कि मैं कबई कनासेज कमीशन का जारिपॉइंट है उस के अनुसार जो ऐसा जातियां रह जाती हैं जो आर्थिक दृष्टि से पिछड़ी हुई हैं उन को भी उतरी तरह की सुविधाएं और सहुलियतें देने का व्यवस्था कर दी जाये वैसे इन लोगों को भी तो हुई है तो यह इस तरह की डाइ नहीं खीरे। उन के लिए भी उता तरह से सांठें सुरक्षित करने की और दूसरी सहुलियतें देने का व्यवस्था कर दी जाये तो यह कठिन नहीं सामने नहीं आयेगी।

इन्हीं शब्दों के साथ मैं आप से पुनः प्रार्थना करता हूँ कि खरवार, बड़ई, रंगवा, गन्धर्व, भर और निबद जातियों को इन सूची में शामिल कर लिया जाये और कुछ इस तरीके का व्यवस्था के बारे में आप सावें जिससे सब का आर्थिक स्थिति सुधरे जाये और यह जाति-जाति का प्रयास हमें हो।

श्री रामजी राम (अकबरपुर) : सभापति महोदय, मैं अनुसूचित जाति और अनुसूचित जनजाति संसोधन विधेयक का समर्थन करता हूँ। अगर साथ ही मैं अपने दावेत सम्मानित जेताना सहज के उन संसोधन का भी समर्थन करता हूँ जिस में नौबुद्धों को भी अनुसूचित जाति में शामिल करने का बात कह दी गई है।

यह एक आम शिकायत है कि यह विधेयक बहुत देर से लाया गया है। इन के संबंध में मैं एक बात कहना चाहता हूँ जो एक शेर के दाम में है :

पीरी में की गुनाह तो सुन्नत अवाकिया टूटे हुए पत्थरों में बादे तहूर है ॥

देर आयव रुकत आयव। लेकिन फिर भी मैं यह कहना चाहूँगा कि लगातार यह मांग की गई थी कि हमारे पूर्वी उत्तर प्रदेश में भरपूर काम है जिसके लिस्ट में शामिल किया जाना चाहिए। उनकी इलाक़ ग्रेड्यूल्ड कास्ट के अन्तर्गत है लेकिन इन का उनका लिस्ट में

शामिल नहीं किया गया है। मेरे अपने जिले में लाखों की संख्या में भर रहते हैं और पूर्वी उत्तर प्रदेश के जिलों में और भी ज्यादा इनकी संख्या है। लेकिन इन को ग्रेड्यूल्ड कास्ट की लिस्ट में शामिल नहीं किया गया है। यह इन के साथ बहुत बड़ा अन्याय है। मैं चाहूँगा कि आइत्या जा काम्र है सिविल मंत्री जी पेश करें उसमें इन का नाम भी इन्कलूड करें।

गौड का इनमें शामिल किया गया है, मुझे उस पर आपत्ति नहीं है। लेकिन इन्होंने लगातार यह मांग की थी कि इन्हें ग्रेड्यूल्ड ट्राइब्स में रखा जाये। बुन्देलखंड डिवीजन में और उसके दक्षिण मिर्जापुर जिले में इन का संख्या ज्यादा है लेकिन आप ने पूरे उत्तर प्रदेश में इन्हें ग्रेड्यूल्ड कास्ट में शामिल कर दिया है, मुझे इस में कोई आपत्ति नहीं है। इन का मांग ग्रेड्यूल्ड ट्राइब्स के लिए था, लेकिन आप ने ग्रेड्यूल्ड कास्ट की लिस्ट में इन को रखा उनकी हालत बहुत खराब है। उनकी आंखें नजर अन्दाज किया है। इसलिए मैं आपके माध्यम से माननीय मंत्री जी से कहना चाहता हूँ कि वे इस पर गम्भीरता पूर्वक विचार करें और आइत्या जब भी इस किस्म का विधेयक लायें तो उनमें इनका अनुचित समावेश किया जाये।

अन्त में मैं यह कहना चाहता हूँ कि लिस्ट में जो जोड़-घटाव है उसका मैं समर्थन करता हूँ लेकिन साथ ही आज एक असे के बाद भी हम महसूस करने हैं कि अफसरों के द्वारा जो उसका कार्यान्वयन होना चाहिए वह नहीं हुआ है जिससे कि उन लोगों को, जिनका संविधान की तहत यह सुविधाएं दी गई हैं, और असंतोष है। मैं आपकी याद की बात बताना चाहता हूँ कि आमदनी की सीमा का बांध कर बच्चों के दाखले, बच्चों की फीस माफी और स्कालरशिप रोक दी जाती है। कमी-कमी और भी बहुत सी पार्षदियां लगाकर बाधा उत्पन्न की जाती है। वहीं तक की कसरियां का प्रयोग है, मंत्रों-मंत्रों से बचने का करने, आर्टिकल

333 उसमें ज़रूरत बाधा है। उसको जब तक आप ठाक नहीं करेंगे तब तक आप कितना हो जोड़-घटाव करें इसका उत्तर है। उपयोग होगा जितना कि अभी तक हो रहा है। इसलिए यदि आप चाहते हैं उनका उसा हिसाब से लाभ मिले जितना लाभ आप उनको पहुंचाना चाहते हैं, जितने वे अधिकारी हैं ता यह जरूरी है कि आप इस बात को देखें कि उसका ठाक से कार्यान्वयन हो रहा है या नहीं। यह कोई कहने की बात नहीं है, बस तौर पर सभा लागू समझते हैं और इन बात को जानते हैं कि जा हमारे अफसर हैं जिनका कि इसका लागू करना है वे ठाक से लागू नहीं कर पा रहे हैं। उनका दिक्कत क्या है, कानूना दिक्कत है या जालिगत दिक्कत है, इस बात को मन्त्रा महीदय अच्छा तरह से जानते होंगे जिसको वे बाद में एकप्लेन करेंगे। अन्त में मैं यहाँ कहना कि नये बीडों को इस लिस्ट में शामिल किया जाये। इतना ही कहकर मैं इन विषयों का संनर्पण करता हूँ।

SHRI G. Y. KRISHNAN (Kolar):  
Sir, I welcome this Bill though I am one with the others for a comprehensive Bill. Earlier speakers Mr. Kartik Oraon and Mr. S. M. Siddavaya who have moved amendments have misled the House by saying that Halalkhor community is a Muslim community and that it had been included in the scheduled caste list and it should not be so. It is not true. In the 1950 order, on page 38, column 2, item 4, it is mentioned; Bhangi, Methar, Olgana, Rukhi, Malkna, Halalkhor, Lalbegi, Balmiki.... They are all communities who are doing the profession of sweeping and scavenging and therefore they have been included in the scheduled castes in the 1950 order and the same thing has been repeated in this Bill. I am sure they do not come under the Muslim community and if they do, under the Constitu-

tion itself they do not deserve to be included among the scheduled castes.

I was also in the Joint Select Committee last time. It is very pitiable to say that certain decisions they took were political decisions. In respect of those communities which they intended to delete from the scheduled castes, we have given the maximum possible evidence to show that they are still suffering from the stigma of untouchability. Even now they are working as sweepers, and scavengers in all the municipalities in Karnataka State. In spite of that, a political decision was taken to have an onslaught on those communities. Everybody knows it and even the hon. members who have moved amendments to that effect also know it. Even the pig-rearers have not been considered as untouchables by them, let alone sweepers and scavengers.

Shri Siddaiah said that if one enters afresh into the list of scheduled castes and scheduled tribes, that community will monopolise all the benefits. Can you imagine it? For the past 35 years several minor communities are there in the scheduled castes who have not seen the lime light. Even the untouchables living in the villages have not been given these benefits and facilities. Only a few communities have monopolised all the benefits, not the new entrants, let alone the minority sections.

It is not true that the State Government has recommended every time the removal of these communities from scheduled castes and include them under scheduled tribes. Due to political reasons and pressure from the majority communities, only once the State Government made such a recommendation. That was also political. I beg of this House to consider this: If the fate of minorities are to be decided on the basis of political motivation, how can we reach the goal of progressive and socialistic pattern of society we are aiming

[Shri G. Y. Krishnan]

at? Hitherto these communities were hanging in the Trisanku Swarga created by the vested interests. At least by this they will see the lime light and under our benevolent leader, these communities will come up to expectations. Henceforth there will be ample opportunities for these neglected communities to make progress. When the government has realised the importance of providing opportunities and assistance for developing the neglected sections, some selfish, self-motivated vested interests have tried to evade this Bill for the past three or four days. Earlier also they evaded this Bill. They charged that the government brought 103 amendments and so no. That is why the Bill was dropped. It is the people with vested interests who roared on the floor of this House and who are responsible for the dropping and postponement of the Bill. While going through the lists of amendments, 33 in number, only two amendments have been given by these people. In spite of the fact that they know that this Bill is only aiming at removal of area restriction, they have tried to delete the minor communities which have been included for several years. They want exclusive monopoly by deleting these utterly backward, oppressed and neglected communities. These communities are Banjara, Bhovi, Koracha, Korama, Handi Jogi, Shellykya, Sudugadu Sidda etc. They have been there under 'depressed classes' prior to independence and since then under 'scheduled castes'. Even though they were scheduled castes for the past 25-30 years, they have not seen the limelight nor shared the benefits and facilities extended by the benevolent government. They were suppressed and as a result, they are still backward as they were three decades ago. The argument put forth is that these communities do not suffer from the stigma of untouchability in all the municipalities. In the whole of Karnataka State we can see that these communities are working as sweepers and

scavengers in all the municipalities, and that itself shows that they are suffering from the stigma of untouchability even now.

I have moved an amendment to add the synonyms in respect of these communities. The beneficiaries are in the integrated part of Karnataka State. I am saying that banjaras are the same as Lamanis, Bhovis, are the same as Waddars and Koravars are the same as Kunchi Koravars. Without the inclusion of these, the purpose of the Bill is not served.

If, for any reason, the Government is not accepting my amendment, then I request that this may be referred to the State Government, or the Central Government may be entrusted with a provision, empowering themselves to add up the synonyms later on.

श्री नायराम अहिरवार (टीकमगढ़):  
मैं इस बिल का समर्थन करते हुए अपने कुछ विचार आपके सामने रखना चाहता हूँ। इस बिल का क्षेत्र बहुत ही सीमित है। इसका उद्देश्य केवल इतना है कि देश के विभिन्न प्रान्तों में, एक प्रान्त के विभिन्न क्षेत्रों में हरिजनों और आदिवासियों को एक जिले में या एक तहसील में इन जातियों में गिना गया है तो वे अगर दूसरी तहसील में या दूसरे जिले में उसी स्टेट के चले जाते हैं तो तब भी वे उसी जाति के माने जायेंगे। पहले ऐसा नहीं था। अब उनको शिक्षा के सम्बन्ध में, तथा और जो सुविधाएँ हैं वे मिलती रहेंगी। मैं समझता हूँ कि इस बिल को लाकर सरकार ने बहुत ही अच्छा काम किया है। जब एरिया रेस्ट्रिक्शंस टूट जाएंगी तो पूरे प्रान्त में उनको सुविधाएँ मिल सकेंगी। उनकी गिनती की दुबारा व्यवस्था भी इसमें की गई है। यह भी कहा गया है कि निर्वाचन क्षेत्रों का पुनर्वर्गण भी इसके फलस्वरूप होगा। जहाँ तक मेरी जानकारी और अनुभव है मैं सँस करने वाले लोग शेड्यूल्ड कास्ट्स और ट्राइब्स की संख्या को बहुत बढ़ा देते हैं,

ईमानदारी से उनकी गिनती नहीं करते थे जिससे उनके साथ बहुत अन्याय होता है। अगर ऐसा न होता तो क्या कारण है कि जो निर्वाचन क्षेत्र पांच साल पहले सुरक्षित था पांच साल के बाद जब आबादी सबकी बढ़ी है तो वह जनरल हो गया? यह कहा जाता है कि सब से ज्यादा आबादी गरीब लोगों की होती है, हरिजन और आदिवासियों की होती है। जब उनकी जनसंख्या इतनी बढ़ी है तो किसी निर्वाचन क्षेत्र में कैसे घट गई और सुरक्षित निर्वाचन क्षेत्र को कैसे जनरल कर दिया गया। इसमें मैं समझता हूँ कि कुछ राजनीति चलती रहती है। इस तरह से इन लोगों के राजनीतिक अधिकारों पर कुठाराघात किया जाता रहा है, यह इंडायरेक्ट वे में किया जाता रहा है। आगे जब भी निर्वाचन क्षेत्रों का पुनर्गठन हो तो मैं चाहूँगा सही ढंग से सेंसस फ़िगरों के आधार पर हो यह होना चाहिए।

इसमें ऐसी कुछ जातियाँ जोड़ी गई हैं जो वास्तव में अपने को ठाकुर कहती हैं। जैसे हमारे यहां खंगार जाति है। बृन्दावन जो वर्मा ने अपने नाटकों में गड़ कुठार कहा है और यह भी कहा है कि कुठार का किला खंगारों का था और बुन्देलों से लड़ाई हुई और उन्होंने इसको छीन लिया। ये अपने आपको क्षत्रिय कहते हैं। आप ने इसको इसमें जोड़ लिया है हमें कोई एतराज नहीं है। आपको ही इनके वास्ते प्रबन्ध करना होगा। लड़कों को कितने देनी होंगी, सामाजिक और आर्थिक अधिकार देने पड़ेंगे। कुछ जातियाँ आपने इसमें ऐसी भी जोड़ी हैं जैसे हमारे यहां डीमर एक जाति है जो कि सब को पानी पिलाती है। इस जाति का सारा शरीर अपवित्र माना जाता है केवल पानी पिलाने वाले हाथ ही पवित्र माने जाते हैं। रामायण में विनाद की बात है। रामचन्द्र जब को गंगा पार इन्होंने करवाया था और हाथ ही इनके पवित्र हैं बाकी शरीर गंदा है। इसलिए वे

पानी पिला सकते हैं। वे लोग तालाबों के किनारे रहते थे और इनका काम मछलियाँ पकड़ना होता था, सिंचाई लगाना होता था और इस तरह से जो उपज होती थी उसी से ये अपनी जिन्दगी का सिलसिला चलाते थे। अब तालाब सरकारी हो गये, मछलियाँ और सिंचाई का ठेका होने लगा। शहरों में बेचारे चौका बर्तन करते थे, लोगों का पानी भरते थे, वह भी नल लगने से बन्द हो गया। मेरे यहां इन लोगों की आबादी 1 लाख के करीब है। यह बेचारे न शेड्यूल्ड कास्ट्स में हैं और न शेड्यूल्ड ट्राइब्स में हैं। न इनको जमीन देने में प्राथमिकता दे पाते हैं और न ही शिक्षा में कोई प्राथमिकता दे पाते हैं, तो कम से कम सामाजिक और आर्थिक अधिकार ही ऐसे लोगों को मिलने चाहियें। यह लोग दूसरों को पानी पिलाते हैं लेकिन उनकी आर्थिक अवस्था आजकल खराब है। ऐसी बहुत सी जातियाँ हैं जो आर्थिक दृष्टि से बहुत ही पिछड़ी हुई हैं। मेरा निवेदन है कि ऐसे लोगों की गणना करनी चाहिए और उनके साथ न्याय करना चाहिए।

इन शब्दों के साथ मैं इसका समर्थन करता हूँ।

SHRI SUBODH HANSDA (Midnapore): Whenever a question of the Scheduled Castes and Scheduled Tribes comes up, we find it is always dealt with in a piecemeal way. Here also we were expecting a comprehensive Bill, but again it is dealt with in a piecemeal way.

The only object of this Bill is to see that the area restrictions are removed. Shri Kartik Oraon has read out the Statements of Objects and Reasons of the 1967 and 1976 Bills. Though they appear to be the same, actually the two Bills are different. So, it is very difficult to understand whether the Government is clear in

[Shri Subodh Hansda]

its mind to bring a Bill which will actually benefit the Scheduled Castes and Scheduled Tribes people.

As Mrs. Maya Ray pointed out, Government is giving by one hand and is taking away by the other. Many things have been said about the tribals of Assam. There are some tribal people who have been living there for long, but even today they have not been recognised, though these tribes are recognised in other States as Scheduled Tribes, for instance, in West Bengal, Bihar and Orissa. Because they have migrated from these States to Assam, should they be deprived of these benefits? Article 19 of the Constitution gives them the freedom of movement, the right of living in any place in India, but articles 341 and 342 recognise them as tribes only in certain areas, giving them some privileges, and once they go out of that area, you are depriving them of those privileges. This is contradictory. Therefore, I would suggest that when a tribe or a caste is recognised as a Scheduled Tribe or a Scheduled Caste in any State, it should be recognised as such in other States also, wherever they may migrate.

Secondly, what are the criteria for determining who belongs to a Scheduled Caste or a Scheduled Tribe? The criteria in respect of Scheduled Tribes are birth, distinctive culture, custom or language. In the case of the Scheduled Tribes who have migrated to Assam as tea garden labourers, have they lost their identity? Have they actually lost their distinctive culture, language and everything? They have not lost anything. What is the difficulty of the Government in recognising these people as Scheduled Castes and Scheduled Tribes?

I know, there are political difficulties perhaps and the political balance will be changed. That is one of the reasons why the Government is not taking a bold action to recognise

them as Scheduled Castes and Scheduled Tribes. You talk so much about Scheduled Castes and Scheduled Tribes, for their upliftment, for their social development, etc. etc. Now, if they migrate to some other places, if they settle down somewhere else, why are you so much afraid because of political balance?

You have given them the rights under article 341 and article 342 of the Constitution. You must allow them to enjoy whatever rights you have given them under the Constitution. This is one point which I want to stress.

The other point is about clause 5. In clause 5, it has been stated:

"As soon as may be after the commencement of this Act, the population as at the last census of the Scheduled Castes or, as the case may be, of the Scheduled Tribes, in each State shall be ascertained or estimated by the census authority."

Now, you are going to ascertain the population figure on the basis of the last Census, that is, 1971 Census. If you do that, what is going to happen? Not only in 1971 Census but even in 1961 Census, their population has decreased numerically. If their population is to be rightly ascertained, 1951 Census figures must be taken into consideration because the first Scheduled Castes and Scheduled Tribes Orders Bill was passed in 1950. Since then, a majority of the communities have been recognised as Scheduled Castes and Scheduled Tribes. Another amendment was passed in 1956. If you do not want to take the figures of 1951, you should at least take into consideration the figures of 1956. That will give you the correct picture of the total population figures of Scheduled Castes and Scheduled Tribes.

As you know, even if you take the last Census figures of Scheduled Castes and Scheduled Tribes and take the percentage increase of their population in comparison to the gene-

ral increase in total population, you will find that the percentage increase in the case of Scheduled Castes and Scheduled Tribes is very low. Perhaps, you have read a newsitem which appears in the newspaper two or three days before that in one family of a Scheduled Tribe, there are 38 children. I do not mean to say that I am against family planning. But the point is that the increase in the population figures of Scheduled Castes and Scheduled Tribes prior to taking up the family planning programme is much more than in any other community. Therefore, if you take the Census figures of 1971, I should say, you are not going to give justice to these people. You must take the census figures of 1951 or those of 1956 when the second amendment to the Scheduled Castes and Scheduled Tribes Orders Bill was passed. Only in that case, you can get the correct picture of the total population of these people. I hope, this will be taken into consideration.

I have nothing more to say. I am only saying, whatever action the Government may take, they should allow these people to enjoy all the rights given to them under article 19 of the Constitution. If it is necessary, you can amend in whatever way you can articles 341 and 342 to give them all the facilities to enjoy all the rights given to them under the Constitution. Without objecting to anything, I certainly support this Bill.

श्री अनावि चरण दास (जाजपुर) :  
सभापति महोदय, जो यह विधेयक लाया गया है मैं इसका समर्थन करता हूँ। इस अवसर पर मेरे मन में कुछ बातें आती हैं, जिनको मैं कहना चाहता हूँ। जब हमारे संविधान-प्रणेताओं ने हरिजन और आदिवासियों को आइडेंटिफाई किया उस वक्त उनके क्वाल में यह था कि समाज में जो दलित पतित या शोषित हैं उनको आइडेंटिफाई किया जाय। इसी वजह से उन्होंने कुछ प्रतिनिधित्व किया जिससे आदिवासियों

और हरिजनों को उन्होंने आइडेंटिफाई किया और संविधान में सब जगह उनको थोड़ी सहूलियत दे दी। उनको कुछ पोलिटिकल सहूलियत दे दी, शिक्षा में कुछ दे दिया जैसे ग्राजकल स्टाइपेंड वगैरह मिलती है और आर्थिक क्षेत्र में कुछ सहूलियतें दीं। लेकिन आज 30 साल के बाद हम चाहते हैं कि वह लिस्ट और बढ़ाई जाये। यह हमारे लिए जरा खद की बात है। क्यों हम यह चाहते हैं ? आप देखें पहले दस साल के लिए था, दस साल से 20 साल हुआ और अब 30 साल चल रहा है। तो कितने दिन तक हम हरिजन और आदिवासी होकर रहेंगे ? दलित शोषित वर्ग होकर रहेंगे ? आज खुद को हमें कहना पड़ता है कि हम दलित हैं, नीचे रहने वाले हैं और समाज में कुछ दूसरे लोग हैं जो जरा ऊंचे और अच्छे रहते हैं ? क्यों ऐसा होता है ? क्योंकि हमारी आर्थिक अवस्था ऐसी खराब है कि हमें यह कहना पड़ता है कि हम इस हालत में हैं। सरकार हमारी हालत को दस साल, बीस साल और 30 साल में ठीक नहीं कर पायी और आप देखेंगे कि कम से कम 100 साल तक यह हालत चलती रहेगी।

हम अपना संविधान अब बदलने जा रहे हैं। हमारा भारतवर्ष अब समाजवादी देश हो रहा है। समाजवादी देश में यह जात-पात की व्यवस्था क्यों है ? तो इसके लिए कुछ ऐसी व्यवस्था आप सोचें कि जिससे हमारी आर्थिक अवस्था ऐसी हो जाय जिसमें समाज के अंदर जात-पात न रह सके। इस दिशा में कुछ चिन्ता हम को रहनी चाहिए। जब संविधान बदल रहे हैं तो यह चिन्ता भी हमको होनी चाहिए कि कैसे ऐसी व्यवस्था कायम हो जिसमें देश के अंदर जात-पात न रहे। जब तक यह जात-पात रहेगी तब तक ये हरिजन और आदिवासी रहेंगे और कुछ बड़े बड़े लोग रहेंगे जो इनका शोषण करते रहेंगे, हम लोग शोषित होते रहेंगे। अब शोषित हैं और आगे भी शोषित होते रहेंगे।



[श्री अनादि चरण दास]

तो इसके लिए कुछ दूसरे ढंग से सोचना चाहिए कि कैसे यह व्यवस्था बिलकुल मिट जाय। इसके बारे में आप लोगों को कुछ सोचना चाहिए। इन बिल के सम्बन्ध में मुझे यह कहना है कि हमारे यहां कुछ ऐसी जातियां हैं जो बिल्कुल पीछे पड़ी हैं और जिनको हरिजन माना जाता है, उसको जब हम लोग शेड्यूल्ड कास्ट में लाना चाहते हैं तो दूसरे लोगों को मना करने का क्या हक है। जैसे कुछ हमारे हरिजन और आदिवासी लोग दूसरे धर्मों में चले गये तो उनको ऐसा मानने में क्या हर्ज है। उनकी आर्थिक अवस्था, गरीबी आदि हटाना हमारा पहला काम होना चाहिए। इसका क्यों विरोध किया जा रहा है? मैं उदाहरण देता हूं। घोड़ी घोबा सब जगह हैं। तीन जातियां हिन्दुस्तान में आप सब जगह देखेंगे, घोड़ी गोबा, चमार मोची और जो मछली पकड़ते हैं। ये तीन जातियां कम से कम मालूम पड़ गई कि भारत भर में हैं। एक एमेंडमेंट यह लाया गया है कि घोड़ी घोबा उड़ीसा में शेड्यूल्ड कास्ट में नहीं रहने चाहिए। इनको वहां शेड्यूल्ड कास्ट की लिस्ट में मानते हैं। वहां यह हालत है कि ये सब कपड़ा धोकर वापस लाते हैं तो उसी वक्त उस पर कुछ पानी छिड़क कर दूसरे वर्ग के लोग उसे लेते हैं। मेरा यह कहना है कि इनको वहां शेड्यूल्ड कास्ट में से हटाने की क्या जरूरत है? हमारी स्टेट के बारे में दूसरी स्टेट वालों को क्या पता है? दूसरी स्टेट्स में घोड़ी घोबा को हरिजन नहीं मानते और हमारी स्टेट में मान लिया है तो दूसरे स्टेट वालों को उससे खिलाफ नहीं जाना चाहिए। मेरा यही कहना है कि जैसे हमारे दासचौधरी जी ने कहा कि घेवर के साथ घेवर और केवट भी कर दिया जाये तो उसको करने में क्या खराबी है? सरकार को इस बात को मान लेना चाहिए। आदिवासियों के लिए हमने कुछ अमेंडमेंट दिया है, कुछ लोकल नाम होते हैं जैसे सेवुरा है तो उसको जोड़ देने से लाभ पहुंचेगा। जो सहूलियतें मिल रही

हैं वह उनको भी मिल जायें। यह मेरी भावना है जिसको मैंने आपके सामने रख दिया। इतना ही कह कर मैं अपनी बात समाप्त करता हूं।

श्री बंगर उइके (मंडा) : सभापति महोदय, मैं मंत्री महोदय को इस बिल को लाने के लिए शतशः धन्यवाद देता हूं। इसका कारण यह है कि मैं मध्य प्रदेश से आता हूं जोकि पुराना सेन्ट्रल प्रोविन्स था जिसमें 22 जिले थे उसमें रोजनल बेसिस पर आदिवासी माने गये थे, जैसे मैं आदिवासी हूं, मेरी लड़की नहीं है और मेरा दूसरा भाई जो दूसरे गांव में रहता है वह आदिवासी नहीं है। एक जाति के लोग एक तहसील में सूची में थे लेकिन दूसरी तहसील में उसी जाति के लोग सूची में नहीं थे। इसी तरह से एक रेवेन्यू सिकिल में थे और दूसरे रेवेन्यू सिकिल में नहीं थे। नतीजा यह था कि उनकी जाति विरादरी में झगड़े पैदा हो गये कि तुम आदिवासी हो और हम नहीं हैं इसलिए हमारी रोटी-बेटी नहीं हो सकती। यह झगड़ा इस बिल से समाप्त हो जायेगा। इसी तरह से महाराष्ट्र प्रदेश में जो विदर्भ के 8 जिले हैं उसमें 5 तहसीलों के आदिवासी माने गये हैं, बाकी नहीं जबकि 41 की मर्दमशुमारी के अनुसार वहां पर 11 लाख आदिवासी हैं जो अब 15-16 लाख हो गये हैं। यह तो स्टेट्स की बात तो मुझे मालूम है। अब एरिया रेस्ट्रिक्शन के रिमूवल से 45 लाख लोगों को लाभ होगा।

इसके साथ साथ मैं यह कहना चाहता हूं कि खाली बिल पास करने के बाद मिनिस्टर साहब को चुपचाप बैठ नहीं जाना चाहिए। जितनी भी जल्दी हो सकता है उनकी सेन्स होनी चाहिए ताकि उनको सारे सुर्वाते मिल सकें और डिस्मिशन होने के बाद राजनीतिक क्षेत्र में उनको अपने प्रतिनिधि भेजने का भी अवसर मिल सके।

यहां पर बहुत सी बातें उठाई गई हैं। कहा गया कि 1967 का जो बिल था उसको गवर्नमेंट ने दबा दिया, गवर्नमेंट पर यह दोष भी लगाया गया लेकिन मैं कहता हूँ इसमें गवर्नमेंट का कोई दोष नहीं है बल्कि सेलेक्ट कमेटी में जो लोग थे उनका दोष है। मैं भी सेलेक्ट कमेटी में था। ढाई साल तक हम लोग पूरा देश घूमे। उस समय हरिजन आदिवासियों की साढ़े 6 करोड़ तक पापुलेशन बढ़ गई थी जिसका सवाल सरकार के सामने आया।

दूसरी बात यह कि एक भाई साहब ने कहा कि मैं हंगर स्ट्राइक करूंगा अगर ईसाई आदिवासी अलग नहीं विये गये। यह सवाल भी उस वक्त सामने आया। तीसरा सवाल यह आया कि पूरे देश के आदिवासी और हरिजनों की एक सूची होनी चाहिए। सरकार के सामने यह सवाल भी आया। चौथा सवाल यह आया कि असम में जो चाय-बागानों में लोग हैं उनको आदिवासी क्यों न माना जाये। यह चार सवाल बड़े सिरदर्द के थे। 9 नम्बर के कमरे में पूरी कैबिनेट बैठी थी, दूसरों की बात मैं नहीं जानता लेकिन मैं वहां गया था तो मुझ से पूछा गया कि इन बातों पर तुम्हारे क्या विचार हैं। कई मेम्बरों ने कहा कि हरिजनों और आदिवासियों की एक ही लिस्ट होनी चाहिए। इसमें एक नुकसान आदिवासियों का होगा तो एक नुकसान हरिजनों का भी होगा। जो पिछड़े हुए आदिवासी हरिजन हैं वे जहां-वे-तहां रहेंगे और जिस प्रदेश के आदिवासी हरिजन आये वड़े हुए हैं, वे उन प्रदेशों में जाकर लाभ उठाना शुरू कर देंगे जहां के लोग लाभ उठा नहीं पा रहे हैं। आज हम ऐसा देख रहे हैं—जहां-जहां रक्षित लेण्ड्स प्रापर्टी है, उस प्रापर्टी पर भी वे लोग हमला कर देंगे। इस लिये पूरे भारतवर्ष की सूची और किसी प्रदेश की सूची में जो आदिवासी है, दूसरे प्रदेश में भी आदिवासी माना जाय, यह उनके लिये हानिकारक होगा। . . .

श्री टी० सोहब खान (करीलबाग) : अगर हरिजन आदिवासी नहीं था रहे हैं तो दूसरे था रहे हैं—ऐसा क्यों नहीं कहते हैं ?

श्री मंगल उद्दे : यहां मईमसूमारी का सवाल आया था—कहा गया था कि हमारी संख्या घट रही है। आप जानते हैं इसका असर कारण क्या है—जो लोग शहरों में रहते हैं, जिन्होंने काला धन कमाया है, वे अब देहातों में जाकर खमीन ले रहे हैं, वहां बस रहे हैं। जिस गांव में पहले 100 फ्रीसदी आदिवासी रहता था, अब उसकी संख्या 10 फ्रीसदी कम हो गई है, क्योंकि शहरों से दूसरे लोग वहां जा कर बस गये हैं। मेरे अपने जिले में पहले हमारी संख्या 62 प्रतिशत थी, लेकिन अब घट कर 60 प्रतिशत रह गई है, 2 प्रतिशत इंपलिये घट गई है कि बहुत से शहरों के लोग वहां आकर आदिवासियों के बीच बस गये हैं। इसमें सरकार का कोई दोष नहीं है।

अब आगे चलकर सरकार जो काम्प्री-हैन्सिव बिल लाना चाहती है—मैं चाहता हूँ कि हरिजनों और आदिवासियों के लिये जो क्राइटेरियन रखा गया है, उसके अनुसार ही उनको लेना चाहिए। वह क्राइटेरियन क्या है—सरकार ने ही इसको निश्चित किया है—

अनुसूचित जातियां : छुप्राछूत की प्रथा के कारण उत्पन्न अत्यधिक सामाजिक, शैक्षणिक तथा आर्थिक पिछड़ापन।

अनुसूचित आदिम जातियां : प्राचीन आदिवासी होने के लक्षण, विशिष्ट संस्कृति, भौगोलिक अलगाव, ग्राम जनता के साथ सम्पर्क करने में संकोच तथा पिछड़ापन।

ये क्राइटेरियन जिस में मिलें, उसे आदिवासी या हरिजन मानना चाहिए। यदि आप ऐसा नहीं करेंगे तो एडवांस्ड लोग आकर उसका लाभ उठा लेंगे और जो असली आदि-

## [श्री मंगल उद्दक]

वासी या हरिजन हैं, जो गरीब हैं, जिनकी आवाज नहीं उठती है, उनको कोई लाभ नहीं मिलेगा, जो सरकार देता चाहती है। इसमें कोई सन्देह नहीं कि प्रधान मंत्री जी के बीस सूत्री कार्यक्रम से हमारे आदिवासी कल्याण विभाग से काफी अधिक काम हुआ है, काफी उम्मान करने का प्रयास किया जा रहा है।

अन्त में मैं मंत्री जी को फिर से धन्यवाद देता हूँ।

SHRI K. PRADHANI (Nowranpur): Sir, I rise to support the Scheduled Castes and Scheduled Tribes Order (Amendment) Bill, 1976.

This Bill contemplates to remove the area restrictions within the State though not in the country. According to the present Bill and according to existing Order, there is no restriction for any tribe in our State. So also is the case for the castes. This Bill cannot bring any material effect to the scheduled castes and tribes in our State.

But, Sir, though not in paper and in law, in practice, some discrimination is there in our State. The same tribals are deprived of those privileges in one district though their counterparts are enjoying the privileges in another district. I can pinpoint by referring to serial No. 5 on page 23 of this Bill. There, it is noted as bhottada and dhotada. I submit here that there is no tribe in the State of Orissa who is known as Dhotada. This is irrelevant. This continues to be there since long. However, the word bhottada is partially correct. Why I say that it is partially correct is that in Koraput district of Orissa mostly Oriya people live there and partially also some Telugu people live there. These Telugu people and the tribal people pronounce this as Bhottada, while the

correct name is Bhattara. The Government of India have given these privileges to the tribes in Koraput district and I happen to be a member of the tribe which enjoys this privilege since 1908 when it was part of the Madras Presidency, before the State was formed. Though the tribe numbering about 50,000 resided, and they had settled down in Kalahandi District which was part of the C.P. before merger. Those people, though they are mentioned in this List—in the existing list—meant for the whole State, as per the list amended in the year 1956, are denied of this privilege. I intervened in this matter and asked the State Government how is it that you accept these people in Koraput district as tribal people and deny this privilege to the people who are residing in the border district of Kalahandi in the same State.

Sir, in the district of Koraput this Madras Land Act of 1908 and ATALT Act of Madras 1917 applied before 1950 whereas in Kalahandi district these Acts did not apply because this district was part of Chhattisgarh States which was under another government. This Act was amended in 1956 while both these districts—Kalahandi and Koraput—were under the same Government, namely, Orissa and it is mentioned here that the tribes listed here are meant for the whole State and this will apply for all.

So, Sir, my request is that at least give this facility to these people living in Kalahandi district also. My amendment may be accepted. It does not contemplate an addition but only a substitution.

श्री टी० सोहन साह (करीलबाग) :

इस लिस्ट को लाने के लिए मैं आपको धन्यवाद देता हूँ। एक बात समझ में नहीं आई। एक ही प्राविस में ए० ही कौम की अलग-अलग लिस्ट क्यों बनती हैं। अब आप इस लिस्ट को थोड़ा बढ़ा रहे हैं इससे लाभ क्या होगा? फिर जो शैड्युल्ड कास्ट दिल्ली में

माना जाता है वह पंजाब में क्यों न माना जाए ? इसका कोई और कारण नहीं हो सकता है कि वाय राजकीय दमन के और उस कारण से उनके साथ भेदभाव किया जाता है। यह पोटिटिकल चाल ही मालूम देती है और यह चाल मालूम देती है कि इनको डिमाइड किए रखो।

विधान में लिखा हुआ है बाई बर्थ। शैलानी जीने ठीक ही कहा है कि इसको भी वही बार आधार नहीं माना जाता है। मैं एक मिताल देना चाहता हूँ। पार्लियामेंट में एक मुसलमान जो बारह साल की उम्र में शैड्यूल्ड कास्ट बन गया था और जिसने शैड्यूल्ड कास्ट औरत से शादी कर ली थी और जिसने खिलाफ पेटिशन दायर हो गई थी उसको चार लाख के बाद पार्लियामेंट की मੈम्बरी से हाथ धोना पड़ गया था। अगर धर्म के ऊपर माना जाता तो उनको क्यों निवाला गया। यह सोचने की बात है। एक तरफ तो आप धर्म की बात कहते हैं और दूसरी तरफ बाई बर्थ कहते हैं। बाई बर्थ को भी आप नहीं मानते हैं। आज बाई लोग बौद्ध धर्म में जा रहे हैं। बौद्ध धर्म में वह लोग शोषण की दृष्टि से गये। रिश्ते में इसी वजह से गये। मुझे एक किस्सा मालूम है, मेरे सामने की बात है कि एक लड़का अलीगढ़ के अन्दर इसलिये बुरी तरह से मारा गया कि उसने दूसरी जाति के एक पहलवान को पछाड़ दिया। लेकिन जब वह सरदार हो गया और गिहंग ले आया तो सब उसको सरदार जी कहते हैं और सलाम करते हैं। मुझे पता है दिल्ली में ऐडमीशन नहीं मिलता था इसलिये लोग ईराई बने और तब उनको शिक्षा मिली। ऐसे धर्म परिवर्तित लोगों में से बहुत से शिक्षित हैं और आफिसेज में हैं। इस धर्म परिवर्तन की जिम्मेदारी हिन्दू समाज पर है। बजाय उस चीज को मिटाने के और बढ़ा रहे हैं जो ठीक नहीं है। जो बौद्ध धर्म में चले गये हैं उन्हें कोई हिन्दू मानने को तैयार नहीं है। जब

रिजिस्ट्रार देने का उबाल आता है तो क्यों देश में एक कौम को एक जगह तो शैड्यूल्ड कास्ट माना जाता है, और दूसरे जगह नहीं माना जाता ? यह क्या बात है ? क्या हिन्दुस्तान में भी कोई हिस्से हो गये हैं ? इसको हमें जल्दी से जल्दी मिटाना चाहिये।

अभी एक हमारे वजुर्ग साथी ने कहा कि 40 लाख लोग का मुद्दा है। क्या चाय बागान में काम करते से उनकी कीमत बढ़ गई ? क्या उन के खून और रिश्तेदारी में परिवर्तन हो गया ? उन 40 लाख आदिमियों को आदिवातियों में न मिलना कोई राजनीतिक कारण मालूम होता है। अगर आप सचमुच गरीबों को ऊपर लाना चाहते हैं, बराबर लाना चाहते हैं तो खुले दिग से यह काम करना चाहिये वरना यह ब्यूरोक्रेट नहीं होने देंगे। यह लिस्ट भी ब्यूरोक्रेट्स ने बनाई है। मैं आप को बताऊँ दिल्ली में चमारों में बरबाद काम की एक जाति है जो राजस्वाग, पंजाब और हरियाणा में शैड्यूल्ड ट्राइब मानी जाती है, मगर दिल्ली में नहीं। जिन की 6 लाख तादाद है उन को यह नौकरग्राह भूल गये। दिल्ली की लिस्ट में उन कों नहीं रखा। अपनी मनमानी यह नौकरग्राह लोग करते हैं आप जब लिस्ट बनाये तो लोगों से मालुमात करें, केवल अधिदारीयों पर ही इस काम को न छोड़ दें। पार्लियामेंट के चुने हुए सब मेम्बरों को बोलने का मौका दिया जाय। हमारे कई साथी यह रहे हैं हैं कि उन को बोलने का मौका नहीं दिया जा रहा है क्यों कि वह शैड्यूल्ड कास्ट और ट्राइब के नहीं हैं। मेरा निवेदन है कि मसला सारे देश का है, किसी एक जाति का मसला नहीं है जिस पर एक ही जाति के लोग बोझें; समझ में नहीं आता कि क्यों आखिरी दिने ऐसे बिल को लाया जाता है? हाथद इसीलिये लाया जाता है कि समय की कमी के कारण केवल शैड्यूल्ड कास्ट के लोगों को ही बोलने का मौका दिया जाये।

[बी टी० सोहन लाल]

औरों को नहीं। शुरू में क्यों नहीं ऐसे बिलों को लाया है। मैं तीन साल से देख रहा हूँ ऐसा ही होता है। जब कहा जाता है कि सेशन के बीच में ऐसे बिलों को लाओ, उस पर कोई ध्यान नहीं दिया जाता। आखिरी दिन ही ऐसे बिल रख देते हैं जिस से समय की कमी के कारण अधिक से अधिक लोगों को बोलने का मौका न मिले और जल्दी में पास हो जाय। यह ठीक नहीं। जो भी आप काम करें, जो भी चीज दे वह ईमानदारी के साथ दें। यह नहीं होना चाहिये कि बतायें बहुत कुछ और दे कुछ नहीं।

17.00 hrs.

SHRI PARIPOORNANAND PAI-NULI (Tehri Garwahl): In the beginning, seven or eight minutes were to be allowed to be everybody. There was a long list and if I mistake not, my name was the third. How is it that discrimination has been made?.. (Interruptions)

MR. CHAIRMAN: Please resume your seats. I am working under certain constraints. The Speaker has ruled and I am told that it stands, that the Minister must be called at 5 O'clock. There was a long list and from out of that members had to be selected. It is not that Scheduled Caste Members alone were called; others also were called. This subject is something on which they have particular interest and so they have to be called, not that the others do not have interest. Preference was that way given to Members from the Scheduled Castes and Tribes. Then State by State Members were given opportunity. All the relevant considerations were taken into account. All Members who wanted to speak could not be accommodated, if you are to work within the constraint of time stipulated. There are one or two Bills to be passed also and I have been told that I have to keep to the schedule and I have no freedom in

this matter; there is no flexibility left with me except to call the hon. Minister to reply now.

बी बाबुबंश धोटे : (नागपुर) :

सभापति महोदय, यह विषयक बहुत महत्वपूर्ण है। सारे देश के शिड्युन्ड कास्ट्स और शिड्युन्ड ट्राइब्स के लोगो की दृष्टि इसकी तरफ है और वे इस संबंध में बहुत इन्ट्रेस्ट ले रहे हैं। इस विषयक का प्रभाव पूरे देश पर होने वाला है। मैंने अपना नाम शुरू से दिया हुआ है। इस सदन में मेरे जैसे और सदस्य भी हैं, जो शिड्युन्ड कास्ट्स और शिड्युन्ड ट्राइब्स के नहीं हैं, लेकिन जो बचपन से ही बड़ी ईमानदारी के साथ इन वर्गों में काम करते आ रहे हैं। इसलिये जो माननीय सदस्य इस विषयक पर अपने विचार प्रकट करना चाहते हैं, उन सब को बोलने का वक़्त दिया जाये। यदि आवश्यक हो, तो हाउस को रात को चलाइये और अगर आप इस के लिये असमर्थ हैं, तो हाउस की सिटिंग को एक दिन के लिए एक्सटेंड कर दीजिये। आप सब लोगो को बोलने का मौका दी जिए।

MR. CHAIRMAN: As far as Mr. Dhote is concerned, he should have no justification to make this claim. The Forward Block has got two members and one was allowed to speak. It is not possible that all members belonging to a particular party should be called. Therefore, if there was any justice done, it was done to that party. I am sorry that Mr. Dhote in his usual manner came out with an attack like this on this matter. Nothing could be done about it. I say that I am under some constraints and the ruling was given by the Speaker and it has to prevail and at 5 O'clock I shall have to call the hon. Minister. Now I call upon the hon. Minister to reply.

श्री जयचरित चौधरी: भाषाति सहोदर, आप इस बारे में भारतीय गृह मंत्री से पूछ ले। प्रत्येक बड़ा काम है, तो आप दाकी सदस्यों को भी बोलने का अवसर दे दे।

**MR. CHAIRMAN:** Members will kindly realise that the Chairman who is coming to occupy the Chair from time to time has got to work under the general direction given by the Speaker. The Speaker has announced that the minister will be called at 5 O'clock. After this, we have two Bills to be passed. Members will kindly cooperate. I have 23 more names in the list. There is no reason why I should call somebody and not somebody else. I do not have the time to call all the 23. Therefore, kindly bear with me and allow the minister to reply.

**THE MINISTER OF HOME AFFAIRS (SHRI K. BRAHMANANDA REDDY):** Mr. Chairman, Sir,...  
(Interruptions)

**MR. CHAIRMAN:** The Minister has the floor of the House. Nothing that anybody else says will go on record.  
(Interruptions)  
17.09 hrs.

[SHRI P. PARTHASARATHY in the Chair]

**SHRI K. BRAHMANANDA REDDY:** Sir, I feel extremely grateful to all the hon. members who have shown considerable interest in this matter and participated in the discussion on this Bill. We are all aware that some hon. members who wished to express themselves on this subject could not have time. However, if you had noticed the trend of the discussion in the House, you will find that the points that could be made in connection with this Bill have been made and therefore, nobody need be under the impression that anything relevant which is to be said on this Bill has not been said or brought to the notice of the government. Therefore, hon. members who had no time

to express themselves may take it that their points of view have already been expressed and it will be my effort to answer some of them. Several hon. members spoke on general matters as well as on particular matters of interest to their particular State or communities.

I am sorry that while opening the discussion on this Bill, Shri Jhar-khande Rai said that the condition of the scheduled caste and scheduled tribes had become worse.

I am very sorry to hear a statement like that from a person who is acquainted with all particulars. There is no denying the fact that after independence a very voluminous and large effort has been made by successive governments to improve the lot of the Scheduled Castes and Scheduled Tribes in the country, by increasing the allotment in the plans of the States and the Centre, by reservations, by giving representations etc. You are also aware of the large amount of money that has been set apart, either in the State plans or in the Central sector, for the development of the Scheduled Castes and Tribes in this country. Then, as my colleague, Shri Om Mehta, mentioned while replying to the debate either in this House or the other House, about Rs. 1,400 crores were set apart, either in the State or Central sector of the plan, by way of financial assistance from banks etc. for improving the lot of the tribals. Then, apart from the Plan expenditure, in every State in the non-Plan expenditure large sums of money have been set apart for this purpose. Even in the Central sector, about Rs. 255 crores or so have been set apart for schemes for the Scheduled Castes and other backward classes.

**SHRI S. M. BANERJEE (Kanpur):** Where has the money gone?

**SHRI K. BRAHMANANDA REDDY:** The money has not gone anywhere. It is being used. In the Central sector Rs. 200 crores have been

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allotted for the tribals and particularly in 1976-77 Rs. 40 crores have been allotted as additional assistance by the Central Government to the States. All of you will have to keep an eye on how the expenditure is made, particularly the expenditure with regard to the Scheduled Tribes to see whether there are any deficiencies or drawbacks and, if so, to rectify them and to ensure that they are properly implemented so that the benefits may reach the Scheduled Tribes.

He has also mentioned, which was repeated by some other hon. Members, that a certain amount of exploitation has developed even among these communities. It is said that only a few families or a certain set of people are trying to exploit the benefits that are accruing to the Scheduled Castes and Tribes. I do not want to go into the merits of this question, but it is a matter which can be gone into by us to see what steps could be taken to prevent that trend, that type of exploitation, which may be happening in that arena.

Shrimati Maya Ray with a large heart has been saying that there should be national integration, there should be no communities like Scheduled Castes etc. Certainly, all of us wish for the day when all communities, castes and regions in this country are fully integrated without any distinction. We all wish for that and we are all working towards that.

Sometimes a confusion is created because our conception of a Scheduled Caste or Tribe varies from time to time. Unless we are able to keep this clearly in our mind, we are likely to commit mistakes of pleading for every person who is poor or backward. The conception of a Scheduled Caste, as you are aware, is extreme social, economic and educational backwardness relating to the characteristic of untouchability. You should bear in mind that it is extreme social, economic and educational backwardness

relating to the characteristics of untouchability. Unless you bear this in mind, you are likely to commit the mistake of pleading for every caste or community which may be poor, which may be backward, which, of course, may be deserving your aid and sympathy. If thus, you keep that in your mind, your mind will be clear as to who can get included under the heading of Scheduled Castes. And now, who is a Scheduled Tribe? A Scheduled Tribe is one who shows some primitive traits, a distinctive culture, a geographical isolation, shyness of contact with the community at large and backwardness. These are the people who can be called Scheduled Tribes. Just because a man is poor, just because a man is backward, he is not entitled to be called a Scheduled Tribe. It may be that he deserves your help, that he deserves your sympathy, it may be that you may, in your generosity, make allotments of large sums of money so that they also get the benefit. Well, we are doing that in our general Budget, in our general scheme of things. What is our effort in planning? Our effort in planning is to lift our people, to whichever community, to whichever religion, they may belong, socially, educationally, economically. Therefore, in the general scheme of things they get the benefit, and they come up to certain standards. My submission to the hon. Members, therefore, and particularly to the Members of the Scheduled Castes and Scheduled Tribes is that unless you have these clear conceptions, unless all this is before your eyes, you are likely to commit the mistake, as the mistake has been committed just now during this discussion.

DR. KAILAS: Shri Ujkey also said the same thing.

SHRI K. BRAHMANANDA REDDY: I am happy that my hon. friend Shri Ujkey supported that proposition.

You all know that in the Constitution there are two articles relating to them, articles 341 and 342. Article

341 relates to the scheduling of the Scheduled Castes and article 342 relates to the scheduling of the Scheduled Tribes. Why did they limit it to a State or a Union Territory? Because a community in a State may on certain considerations be a Scheduled Castes in that State and may not be a Scheduled Castes in another States, though belonging to the same community, because a Scheduled Caste in one State may undergo disabilities in certain areas as I just now mentioned, and may not at the same time undergo the same disabilities or the same type of untouchability in the other area.

SHRI PRIYA RANJAN DAS MUNSI (Calcutta—South): They are equally neglected everywhere.

SHRI K. BRAHMANANDA REDDY: After hearing me, why do you commit the same mistake? Neglect is not the consideration. After hearing the Ramayana, if you ask me "Who is Sita?", how can I tell you?

SHRI PRIYA RANJAN DAS MUNSI: You have begun the Ramayana from the last chapter, that is why I interrupted. If you had begun from the first chapter, I would not have interrupted.

SHRI K. BRAHMANANDA REDDY: The point I have been making is that it is not neglect, it is not mere poverty, it is not mere backwardness that entitles a man to come under the Scheduled Castes and Scheduled Tribes. That is my point. That is why even under the scheme of things, even under the Constitution, these articles 341 and 342 have been included to limit them to a State or a Union Territory. The question of an all-India basis does not, therefore, arise. The question that a community is Scheduled Castes in a State and therefore it is a Scheduled Castes throughout India, does not arise; the question that a tribe is a Scheduled Tribe in

a State and therefore it is a Scheduled Tribe throughout India, does not arise under the scheme of things under the Constitution.

SHRI PRIYA RANJAN DAS MUNSI: This is a wrong conception, I am sorry to say.

SHRI K. BRAHMANANDA REDDY: In any case, kindly reserve your opinion.

SHRI PRIYA RANJAN DAS MUNSI: A Brahmin of Delhi will not be regarded a Brahmin in West Bengal.

SHRI K. BRAHMANANDA REDDY: The hon. Members have been able to see that this Bill as has been brought is not controversial. Nobody has objected to this Bill while many friends here have supported this Bill. The Bill though restricted in its scope does not raise any controversy. No hon. Member has said that this Bill is unwelcome or that it suffers from certain disabilities. The only point that has been made is that a comprehensive Bill should have been brought. That point I will answer later.

SHRI DASARATHA DEB: The only point is that the blunder which was committed by the earlier Bill, the same blunder is going to be committed by this Bill.

SHRI K. BRAHMANANDA REDDY: There is no blunder here. I do not know if the hon. Members heard my opening remarks yesterday while moving the Bill for consideration. I said like this:

"Its general scheme is not to have any inclusion in, and exclusion from, the existing lists of Scheduled Castes and Scheduled Tribes, except to the extent they are consequential to the removal of area restrictions which is the basic object of the Bill. However, such of those communities which were recommended for exclusion by the Committee and in respect of which there had been no



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census returns in 1961 as also in 1971 have not been retained in the Bill. In other cases where the Committee had recommended exclusion, the status quo has been maintained and whenever any area restriction now applies, such restriction is also being continued. In other words, while many will stand to gain from the provisions of the Bill, none will be deprived of a benefit that may exist at present."

Therefore, I claim to say that this Bill has no controversy because it is not taking away any benefit which any community is having today.

SHRI SUBODH HANSDA (Midnapore): May I point out an anomaly? There was a Presidential Order for U.P. Though there are certain communities which have been declared as Scheduled Castes, they are not being included here.

SHRI PRIYA RANJAN DAS MUNSI: The same thing has happened in West Bengal. What are the criteria to consider a group of people or a community in a State as being recognised as Scheduled Castes and Scheduled Tribes?

SHRI K. BRAHMANANDA REDDY: I have just mentioned them. As regards Scheduled Castes, it must suffer from extreme social, educational and economic backwardness with the characteristic of untouchability. As regards Scheduled Tribes, it is one with primitive traits which lives in a secluded place which has a characteristic of shyness of contact with community at large and which is backward. Those characteristics must be there.

As I have just said, there cannot be an all-India Scheduled Castes or an all-India Scheduled Tribe. It can be only related to a State or a Union Territory.

Another question was raised about migrants and also about tea garden labour in Assam...

SHRI PRIYA RANJAN DAS MUNSI: Bengali Brahmins take meat and they are non-vegetarians whereas Kerala Brahmins do not take meat and they are vegetarians. Why are both allowed to go to the temples?

You must lay down some criteria. You are telling us that a person is a Scheduled Castes or a Scheduled Tribes person as per the State's criteria. I would like to ask: Have you ever set up any commission to inquire into all these things and find out as to who are the people or communities which face the stigma of untouchability?

SHRI K. BRAHMANANDA REDDY: Do you mean to say that this Scheduling has taken place overnight?

SHRI PRIYA RANJAN DAS MUNSI: I do not say that. I think, you are confusing the issue. It will not help.

SHRI K. BRAHMANANDA REDDY: I would request my young hon. friend very earnestly to go through this Bill and not merely be carried away by emotions. If a certain community which is undergoing all these disabilities is not included as a Scheduled Castes, certainly, there is a case for including it in the Schedule.

Suppose in your area or in another area of West Bengal certain people satisfy the criteria which I have just now mentioned but are not included in the 'Scheduled Castes', certainly it is a case for you to plead for them and see, whenever a chance comes, that they are included in 'Scheduled Castes'.

SHRI SUBODH HANSDA: We agree with your point. But what about the Presidential order which has been issued? Has that been withdrawn?

**SHRI PRIYA RANJAN DAS MUNSI:** By his statement, is the hon. Minister establishing that the families or the next generation of those Scheduled Castes and Scheduled Tribe families who have been economically lifted, will not get any benefit?

**SHRI K. BRAHMANANDA REDDY:** If some characteristics which are essential to be considered as a Scheduled Castes or a Scheduled Tribe are not there, then, it is a matter for consideration.

Another point...

श्री विभूति मिश्र (मोतीहारी): घांगड़ एक कम्युनिटी है जिसको प्लान्टर्स लोग छोटा नागपुर से चम्पारन में लाकर बसाये थे। यह न तो शेड्यूल्ड कास्ट में है और न शेड्यूल्ड ट्राइब में है। अगर इसी तरह बिल पास कर दिया गया तो घांगड़ कम्युनिटी कहाँ जायगी जो न शेड्यूल्ड कास्ट और न ही शेड्यूल्ड ट्राइब में है?

**SHRI K. BRAHMANANDA REDDY:** Another point which has been made is this: why should religion be a bar? My friend, Mr. Kartik Oraon, and Mr. Basumatari also in one sense, have asked as to why should religion be a factor; even if a Scheduled Caste becomes a Christian, he should be considered as a Scheduled Caste. I suppose, all of you are aware that the Constitution does not permit it; it only permits a Hindu or a Sikh.... (Interruptions).

श्री चन्द्र शैलानी: मान्यवर, गृह मंत्री बिल्कुल खुल कर संविधान की धज्जियाँ उड़ा रहे हैं। संविधान में हिन्दू शब्द है और आप कह रहे हैं कि संविधान में कोई शब्द नहीं है। और यह भी लिखा हुआ है कि हिन्दू धर्म के अन्तर्गत सिख, जैन और बौद्ध संतों आते हैं और हिन्दू ला से गवर्न होते हैं।

1714 LS-5.

**SHRI K. BRAHMANANDA REDDY:** I have heard the hon. Member. Before he had spoken here, my colleague, Mr. Maurya, explained to me.... (Interruptions) what orders have been passed in 1950 and what orders have been passed in 1956.... (Interruptions).

There is one point which has been mentioned by many hon. Members....

**THE MINISTER OF STATE IN THE MINISTRY OF INDUSTRY AND CIVIL SUPPLIES (SHRI B. P. MAURYA):** The hon. Minister has been kind enough to mention my name. In order that I may not be misquoted, I would like to make my position clear. I would not like to speak on this issue because it is very controversial, but, unfortunately, the Home Minister has mentioned my name. So far as the Constitution is concerned, it is very clear on this issue. Under Art 25 a 'Hindu' is defined and when you go to the Scheduled Castes Order issued under Art 341, this Art does not talk of the religion. So, whatever you say, you say. Kindly do not drag my name. I have been explaining my position to you privately. Why do you mention here my name?

**SHRI K. BRAHMANANDA REDDY:** I am sorry Mr. Maurya has misunderstood me.....

**SHRI DINEN BHATTACHARYYA:** The hon. Minister should address the Chair.

**SHRI K. BRAHMANANDA REDDY:** I have never misinterpreted him. The point raised by the hon. Member has been explained to me.... (Interruptions).

**SHRI C. K. CHANDRAPPA (Telli-cherry):** The Minister should listen to us also if he is going to answer. What about this Bihar community, raised by Mr. Madhukar?

**SHRI K. BRAHMANANDA REDDY:** I am very sorry Mr. Maurya has misunderstood me. I am not trying to

[Shri K. Brahmananda Reddy] misinterpret him. I am only trying to say that the point made by my hon. friend here has been explained to me by Mr. Maurya. That is all. I am not misinterpreting him. I know his views. He also explained to me how under various orders some distortions have crept in ....

DR. KAILAS: Shri Maurya just now briefed Mr. Shailani and Coaxed him to speak... (Interruptions)

SHRI N. E. HORO: Is this Parliament or a Congress Party meeting? (Interruptions).

MR. CHAIRMAN: Order, please.

SHRI JAMBUWANT DHOTE: On a point of order. You should hear my point of order.... (Interruptions). I rise on a point of order.

समापति महोदय, मेरा प्वाइन्ट आफ ऑर्डर है। यह विधेयक कितना महत्वपूर्ण है, हाउस का माहोल देखकर आप यह बात समझ गये होंगे। आप देख रहे हैं कि एक कौन्सिल रॉक के मिनिस्टर—होम मिनिस्टर, श्री ब्रह्मानंद रेड्डी, और एक दूसरे मिनिस्टर, मेरे मित्र, श्री मोर्य भी इस पायंट पर आपस में उलझ गये। इस का मतलब साफ है कि हाउस में ऑर्डर भी बराबर नहीं चल रहा है और आप हाउस को ऑर्डर में रखने में असमर्थ साबित हुए हैं। (व्यवधान)

SHRI PRIYA RANJAN DAS MUNSI: No, No.

श्री जाम्बुवंत धोटे : आप को मेरा पायंट आफ ऑर्डर सुनना पड़ेगा।

MR. CHAIRMAN: There is no point of order. Please sit down.... (Interruptions). I have listened to you. There is no point of order. Please resume your seat.

SHRI JAMBUWANT DHOTE: I am making it now.

MR. CHAIRMAN: What is that? Please sit down. You are a senior parliamentarian. Please help us.

SHRI JAMBUWANT DHOTE: I know my duty. ....

MR. CHAIRMAN: If you are not listening to me, we are not honouring the spirit of democracy.

SHRI JAMBUWANT DHOTE: You are not here to teach me. I know my duty.

SHRI K. BRAHMANANDA REDDY: I was just now mentioning that the Constitution Scheduled Castes (Union Territories) Order says:

"Notwithstanding anything contained in paragraph 2...

which my friend just now read,

...no person who professes a religion different from the Hindu or Sikh religion shall be deemed to be a Member of the Scheduled Caste."

It has been pleaded by a few Members, that religion should not be the basis in treating a member as a scheduled caste. At any rate, as orders and things stand today, I am not in a position to accept that position.

17.36 hrs.

[MR. SPEAKER in the Chair]

Another question that has been raised persistently by several hon. Members is this. This Bill restricts the scope. It is true that certain communities and castes who are being considered as scheduled castes and tribes in a portion of the State will, tomorrow, after the Bill is passed, in the other areas of the State also be reckoned as scheduled castes and scheduled tribes.

However, is considerably improves the position of about five to six million people in several States in this

country. The question has arisen as to why a comprehensive Bill could not be brought forward. I do not want to go into the history of it. In fact, there was a Lokur Committee which had made certain recommendations and on the basis of which, a Bill was introduced which was referred to the Joint Committee and that Joint Committee had made a report on that and it was brought before this Parliament. Subsequently, a controversy had arisen wherein several hon. Members of Parliament had taken a particular stand with regard to a particular issue which was also considered by the Cabinet. On some matters, the Cabinet also differed with the recommendations of the Joint Committee. However, Sir, with the dissolution of the House in December, 1970 that Bill lapsed.

Keeping the history of the Bill in mind as also the controversy raised, we wanted to bring in a bill with the least controversy and, which at the same time, would improve the lots of a considerable section of the scheduled castes and scheduled tribes. Therefore, last time—in the last session when this particular Bill was introduced by me, several hon. Members, particularly, belonging to the scheduled castes and scheduled tribes, had brought before Parliament the point that this schedule is very long and they wanted to have more time for studying the provisions. Therefore they wanted this Bill to be brought forward in the next session. We agreed with them and that is how, the Bill is now before the House. Even to-day several hon. Members have pleaded that certain communities in the list of Scheduled Castes should go to the Scheduled Tribes while certain communities in the list of Scheduled Tribes should go to the Scheduled Castes. There are many amendments which have been given but they have no relationship with the recommendations of the Joint Committee which had not recommended either for inclusion or exclusion in these cases. Therefore

it is a matter which results in a difference of opinion and controversy etc. As our learned and old leader, Shri Bhibuti Mishraji had said, this is a matter in which naturally the scheduled castes and scheduled tribes should exercise their minds. It is also true... (Interruptions) that on this matter, Government will have to consider in due course about ringing in a comprehensive Bill.

**SHRI A. K. KISKU:** Sir, may we know when is that comprehensive Bill coming before the House? We want a categorical answer to this.

**SHRI K. BRAHMANANDA REDDY:** Now, Sir, there is another plea that several communities have not been included here though they are synonyms. It is very difficult for me to go into each community and say whether it is a synonym or not a synonym. I would, however, like to assure the House that if a community is a synonym of a community which is included—and if it is a genuine synonym—certainly the Government of India in consultation with the State Governments and other bodies will issue necessary instructions to give them the benefits.

Some friends have made the point regarding delimitation which has to be done after the passing of this Bill and have said that it be done quickly. Sir, I have not indicated the exact period but it is our intention to do it as quickly as possible. Therefore, my submission to the entire House is that this Bill—though restricted in scope—does not raise any controversy. It helps a considerable section of the scheduled castes and scheduled tribes. When this Bill was introduced in the last Session hopes had been raised in the minds of those communities and, as such, it is not proper to shatter their hopes and I would, therefore, earnestly plead with the House to pass this Bill.

श्री एन० ई० होरो : मिनिस्टर साहब  
ने इस बात का जवाब नहीं दिया—लेखक

[श्री एन० ई० होरो]

सिद्धांत की बात कही—कि प्रसन में चाय बागानों के जो लोग हैं उनको किस कारण से प्रादिवासी नहीं मानते ? (व्यवधान)

SHRI K. BRAHMANANDA REDDY: Mr. Speaker, Sir, I thought by not making a detailed reply to this point I was helping Mr. Horo. I did not want to say just now that the characteristic which a scheduled tribe has or should have has been lost. (Interruptions)

I did not want to go into the details of the matter and express a definite opinion which may not be desirable.

श्री विभूति मिश्र : मैं मंत्री जी से जानना चाहता हूँ कि चम्पारन जिले में, छोटा नागपुर के जो घांजर लोग हैं उनका नाम किसी लिस्ट में नहीं है—न तो वे शेड्यूल्ड कास्ट की लिस्ट में हैं न शेड्यूल्ड ट्राइब्ज की लिस्ट में हैं—उनका नाम बिल्कुल छोड़ दिया गया है ? मंत्री जी ने सेलेक्ट कमेटी की बात कही लेकिन मुझे नहीं मालूम बिहार का कोई सदस्य सेलेक्ट कमेटी में था या नहीं । इसी तरह से बरार लोगों का नाम भी छोड़ दिया गया है । (व्यवधान)

SHRI DASARATHA DEB: Sir, the Minister has not replied to the point as to why 40 lakh tribes have been excluded from this list.

MR. SPEAKER: He has explained

SHRI N. E. HORO: Sir, this question was examined by the Select Committee and they have also identified these tribes. So, my point is as to why they are not accepting the recommendation of the Select Committee. Unless that is done, this thing will go on like this.

SHRI PRIYA RANJAN DAS Minister to one thing. You may re-attention and the attention of the Minister to one thing. You may remember that during the time of the Bihar-Bengal border dispute and its

settlement when Shri K. B. Sahay and Dr. B. C. Roy were there, a portion of the Purnea district where there were some people who were treated as Scheduled Castes in Bihar, came into Bengal. They have not been recognised as Scheduled Caste in Bengal. This is a genuine case. There is no need for investigation in this case.

The second thing is about the Hela community which is recognised as a Scheduled Caste in U.P. They have been accepted as Scheduled Caste by the Government of Bengal whose recommendation was sent to the Home Ministry during the time of the 1970 Bill. That Bill lapsed. The Home Ministry had given an assurance in writing that it would be brought into this Bill. This was two months ago. Still you say investigation is needed. Why could not this issue arising out of this Bihar-Bengal settlement be settled? You can easily settle it.

SHRI K. BRAHMANANDA REDDY: As I have said once, twice, thrice, this Bill is not a Bill either to include communities or to exclude communities, except for the limited purpose I mentioned. Therefore, if that community there in that particular area should have to be a Scheduled Caste, certainly it is a case for inclusion, which is not being considered in this Bill. That was my point. This Bill is restricted. It only says that if in West Bengal a certain community is scheduled as Scheduled Caste in three or four districts but not so scheduled in other districts, that community will be Scheduled Caste in the other districts also. That is all.

So far as Shri Horo's point is concerned...

SHRI N. E. HORO: Please see the list of Business. This Bill is about inclusion in and exclusion from the list.

SHRI K. BRAHMANANDA REDDY: I do not want to go into what the Dbebar Commission said, what the Lokur Committee had said, or what the Joint Committee said or what the Government of India decided on that issue. I do not want to go into those details which may not be helpful to Shri Horo.

श्री बिभूति मिश्र : अध्यक्ष जी, मेरे सवाल का जवाब नहीं आया।

अध्यक्ष महोदय : सब घा गया है—वह इस समय नहीं है, आगे उस के लिये रास्ता खुलेगा।

SHRI N. E. HORO: On a point of order. What the Minister has said is not consistent with what is listed in the order paper. It says here '.... Bill to provide for the inclusion in, and exclusion from....'. But he says it does not provide for this very thing.

MR. SPEAKER: He is refering to the contents. He has explained it.

There is an amendment by Shri Kartik Oraon.

SHRI KARTIK ORAON: I am not pressing it. I beg leave of the House to withdraw it.

Amendment No. 115 was, by leave, withdrawn.

MR. SPEAKER: The question is:

"That the Bill to provide for the inclusion in, and the exclusion from, the lists of Scheduled Castes and Scheduled Tribes, of certain castes and tribes, for the re-adjustment of representation of parliamentary and assembly constituencies in so far as such re-adjustment is necessitated by such inclusion or exclusion and for matters connected therewith, be taken into consideration."

*The motion was adopted.*

MR. SPEAKER: We take up clause by clause consideration. Amendment No. 90 by Shri Painuli—this is not moved.

## Clause 2 (Definitions)

Amendments made:

Page 1,—

omit lines 13 and 14. (128)

Page 1, line 15,—

for "(e)" substitute "(d)" (129)

Page 2, lines 1, 4 and 8,—

for "(f)", "(g)" and "(h)" substitute "(e)", "(f)" and "(g)" (180)

(Shri K. Brahmananda Reddy)

MR. SPEAKER: The question is:

"That clause 2, as amended, stand part of the Bill".

*The motion was adopted.*

Clause 2, as amended, was added to the Bill.

MR. SPEAKER: The question is:

"That Clause 3 stand part of the Bill."

*The motion was adopted.*

Clause 3 was added to the Bill.

Clause 4 was added to the Bill.

Clause 5 (Determination of population of Scheduled Castes and Scheduled Tribes)

MR. SPEAKER: We take up clause 5. There is an amendment No. 65.

SHRI S. M. SIDDAYYA: I beg to move:

Pages 2 and 3,—

for clause 5 substitute—

"5(1) As soon as may be after the commencement of this Act, the population as at the last census of the Scheduled Castes or as the case may be of the Scheduled Tribes shall be ascertained or estimated by the census authority in such manner as may be prescribed by the Central Government by rules made in this behalf and shall be notified

[Shri S. M. Siddayya]

by that authority in the Gazette of India.

(2) The population in figures so notified shall be taken to be the relevant population figures as ascertained at the last census and shall supersede any figures previously published." (65)

The proviso to clause 5, as it stands, leaves discretion to the census authority not to determine the population of any scheduled caste or tribe if the population is small. If this power is given to the census authority, small communities will be completely ignored and therefore it should be obligatory on the part of census authority to estimate their population.

SHRI K. BRAHMANANDA REDDY: I am not accepting the amendment.

SHRI S. M. SIDDAYYA: I am not pressing my amendment.

MR. SPEAKER: Has the hon. Member leave of the House to withdraw his amendment?

Amendment No. 65 was, by leave, withdrawn.

MR. SPEAKER: The question is:

"That Clause 5 stand part of the Bill."

The motion was adopted.

Clause 5 was added to the Bill. ..

Clause 6 (Re-adjustment of Constituencies by the Election Commission)

MR. SPEAKER: We take up clause 6. There is a Government amendment—No. 151.

Amendment made:

Page 3,—

for lines 16 to 35, substitute—

"6. (1) After the population figures have been notified for any State under section 5, it shall be

the duty of the Commission to make such amendments as may be necessary in the Delimitation of Parliamentary and Assembly Constituencies Order, 1976, (without altering the extent of any constituency as given in such Order), having regard to the provisions of articles 81, 170, 330 and 332 of the Constitution of section 8 of the Delimitation Act, and of this Act, for the purpose of giving proper representation to the Scheduled Castes or, as the case may be, to the Scheduled Tribes of that State on the basis of the number of reserved seats as specified in that Order as hereunder amended by the Commission, and the First Schedule and Second Schedule to the Representation of the People Act, 1950. Act, 1950 shall be deemed to have been amended accordingly.

(2) In making any amendments under sub-section (1), the Commission shall, as far as may be necessary, have regard to the provisions of clauses (c) and (d) of sub-section (1) of section 9 of the Delimitation Act." (131)

(Shri K. Brahmananda Reddy)

MR. SPEAKER: The question is:

"That Clause 6, as amended, stand part of the Bill."

The motion was adopted.

Clause 6, as amended, was added to the Bill.

Clause 7 was added to the Bill.

Clause 8 (Publication of amendments and their dates of operation)

MR. SPEAKER: We take up clause 8. There are Government amendments, 132, 133 and 134.

**Amendments made:**

Page 4, lines 21 to 23,—

for "in each of the Orders, made by the Delimitation Commission under section 8 or under section 9 of the Delimitation Act" substitute—

"in the Delimitation of Parliamentary and Assembly Constituencies Order, 1976" (132)

Page 4, in lines 34-35,—

for "in any such Order of the Delimitation Commission and provided for in such Order as so amended"

substitute—

"in the Delimitation of Parliamentary and Assembly Constituencies Order, 1976 and provided for in that Order as so amended." (133)

Page 4, in lines 40-41,—

omit "and the original Orders made by the Delimitation Commission under sections 8 and 9 of the Delimitation Act" (134)

(Shri K. Brahmananda Reddy).

MR. SPEAKER: The question is:

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

*The motion was adopted.*

Clause 8, as amended, was added to Bill.

Clause 9 (Certain other powers of Election Commission)

MR. SPEAKER: We take up clause 9. There are Government amendments—135, 136 and 137.

SHRI K. BRAHMANANDA REDDY: There is a mistake in amendment No. 135. The words 'as amended' should be added instead of 'and amended'.

MR. SPEAKER: The grammatical mistake may be corrected.

**Amendments made:**

Page 5, in lines 8—10,—

for "in any of the Orders made by the Delimitation Commission under section 9 of the Delimitation Act and amended" substitute—

"in the Delimitation of Parliamentary and Assembly Constituencies Order, 1976 as amended" (135)

Page 5, in line 13,—

for "in any of the said orders" substitute—

"in the said Order." (136)

Page 5, in line 15,—

for "the orders"

substitute "the Order" (137)

(Shri K. Brahmananda Reddy)

MR. SPEAKER: The question is:

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

*The motion was adopted.*

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

Clause 10 was added to the Bill.

**First Schedule**

MR. SPEAKER: We take up the First Schedule. There are amendments.

SARDAR SWARAN SINGH SOKHI (Jamshedpur): I beg to move:

Page 6,—

after line 42, insert—

"17. Arya Mala, Arwa Mals

18. Basphor

19. Bowri, Bhoi

20. Bhokta

21. Bhuyan

22. Bhumij

23. Bedia

24. Beldar, Sunkar



[Sardar Swaran Singh Sokhi]

25. Baratik, Chick, Tanti

26. Baiga

27. Bhatta

28. Chamar, Mochi-Satnami

29. Chowdhari

30. Dandari, Rabidas-Robidas

31. Dandasl, Dhobi, Chakali,  
Dhoba, Rajak

32. Dhopi, Suklabedia

33. Dusad

34. Dhanwar, Dhauar

35. Ghansi, Haddi

36. Ganda, Sutradhar, Tanti

37. Gorait, Korait

38. Hari, Keyot, Malha, Majhi,  
Malakar

39. Gonda, Bhangi, Hadi, Harhi,  
Mehtor

40. Keot, Keyot, Malha, Majhi,  
Malakar

41. Koiri, Mirdha, Koli, Kalia

42. Khonyor, Khangar, Munda,  
Kanora

43. Ketwal, Kamar, Karmaakar

44. Lohar, Korua

45. Madari, Ahir, Goala

46. Mohli, Ahir, Goala

47. Nath, Swasi, Sansia, Sansi

48. Pan, Pashi

49. Pasi, Nayak, Dom, Balmiki,  
Pano

50. Paidi

51. Panika, Patowa

52. Patratanti

53. Majwar

54. Rajbansi

55. Sasoni-Tonti

56. Nayak (Patnayak)" (1)

Page 7, line 6,—

for "20. Pan, Sawasi"

substitute "20. Pan, Sawasi, Tanti,  
Tantwe". (2)

SHRI RAM HEDAOO: I beg to  
move:

Page 10, line 39,—

for "6. Barahar, Basod" substi-  
tute—

"6. Barhar, Basod, Burad" (7)

SHRI ANADI CHARAN DAS: I beg  
to move:

Page 12, line 25,—

for "24. Dewar" substitute—

"24. Dewar, Dhibar or Kenta,  
Koibart" (14)

Page 13, line 6,—

for "52. Laheri" substitute—

"52. Laheri, Lohara" (17)

SHRI M. C. DAGA: I beg to move:

Page 14,—

after line 36 insert "60. Valdar  
61. Bhats (Baldia Bhat)" (19)

SHRI RAMAVATAR SHASTRI: I  
beg to move:

Page 6, line 47,—

after "Parganas" insert—

"and Champaran" (32)

Page 7,—

after line 9, insert—

"24. Basphor

25. Beldar

26. Tanti-Tantwe

27. Rabidas

28. Rajak

29. Gorait

30. Kunjara

31. Manghi

32. Balmiki

33. Patwa

34. Dhunfa." (33)

**SHRI C. K. CHANDRAPPA:** I beg to move:

Page 10,—

after line 30, insert—

“69. Kudumbi

70. Hindu Chemmar

71. Converted Christians” (108)

**SHRI DASARATHA DEB:** I beg to move:

Page 15,—

after line 55, insert—

“33. Laskar termed as Deshi

Tripura by ex-vulter's Order” (44)

**SHRI S. M. SIDDAYYA:** I beg to move:

Page 8, line 41,—

omit “16. Banjara, Lambani” (66)

Page 9, line 9,—

omit “22. Bhovi” (69)

**SHRI JAMBUWANT DHOTE:** I beg to move:

Page 11,—

after line 16, insert—

“48. Dhobi” (78)

Page 12,—

after line 10, insert—

“60. Dhobi” (79)

**SHRI K. G. DESHMUKH:** I beg to move:

Page 11, line 54,—

for “19. Down, Dumar” substitute—

“19. Down, Dumar, Dhobi” (83)

**SHRI PARIPOORNANAND PALNULI:** I beg to move:

Page 16, line 2,—

omit “1. Agariya” (91)

Page 16, line 6,—

omit “5. Baiga” (92)

Page 16, line 4,—

omit “36. Gond” (93)

Page 16, line 18,—

omit “49. Kol” (94)

Page 16, line 31,—

omit “62. Saharya” (95)

**SHRI B. S. BHAURA:** I beg to move:

Page 5,—

after line 31, insert—

“(aa) after paragraph 2, the following paragraph shall be inserted, namely:—

“(2a) Where in the Schedule any caste, race or tribes are part of group within any caste, race or tribe is specified as pertaining to any particular area, of a State, then, every member of that Caste/Race or Tribe residing in that area, shall be a member of Scheduled Caste in that State, provided no such member so long he resides, in that State, shall cease to be a member of Scheduled Caste by reason only of the fact that he, ceased to reside in that area;

(2b) Where in the Schedule of this order any Caste/race or tribe is specified as a Scheduled Caste in relation to the State of West Bengal, then every displaced person from Eastern Pakistan, who is a member of that caste/race or tribe shall be deemed to be a member of Scheduled Caste, in relation to any State in which he is voluntarily residing and each such caste, race or tribe shall be deemed to be included in that part of Schedule which relates to the State in which such person is voluntarily residing;

[Shri B. S. Bhaura]

(2c) Any person who belongs to any caste, included any part of the Schedule and who ceases to reside in the State to which he belongs and migrates to any other State, shall continue to be member of Scheduled Caste in other State, where he voluntarily resides, notwithstanding the fact that the caste to which he belongs is not a Scheduled Caste in that State.

(2d) Notwithstanding anything contained in any law for the time being in force or any custom or usage to the contrary, a Woman who marries a person belonging to the Caste, specified in any part of the Schedule, shall be deemed to be belonging to that Scheduled Caste to which her husband belongs;

(2e) the word "or the Sikh" appearing in paragraph 3 shall be deleted and following explanation shall be added.

*Explanation I.*—In paragraph 3, the reference to Hindu shall be construed as including a reference to person professing Sikh, Jain or Buddhist religion.

*Explanation II.*—Scheduled Caste who is professing Budha, Jain or Sikh Religion, shall be deemed to have been specified as a Scheduled Caste in the Schedule." (99)

SHRI PARIPOORNANAND PAINULI: I beg to move:

Page 12, line 27,—

omit "26. Dhoba, Dhobi" (109)

Page 12, line 32,—

for "8. Bariki" substitute—

"8. Bariki, Barik" (110)

SHRI M. C. DAGA: I beg to move:  
Page 14,—

after line 36, insert—

"60. Valdar (Od)" (127)

SHRI CHANDRA SHAILANI: I beg to move;

Page 5,—

after line 31, insert—

(aa) for paragraph 3, substitute—

"3. Notwithstanding anything contained in paragraph 2, no person who professes a religion different from the Hindu religion shall be deemed to be a member of a Scheduled Caste."

*Explanation.*—A person professing the Sikh, Jain or Buddhist religion shall be construed as professing the Hindu religion for the purposes of this Order." (138)

श्री मान सिंह भौरा : मेरा अमेंडमेंट यह है कि अगर कोई लड़की शिङ्गूल कास्ट या शेङ्गूल ट्राइब के किसी आदमी से शादी करती है, तो उसको भी शिङ्गूल कास्ट या शिङ्गूल ट्राइब मानना चाहिये।

श्री रामावतार शास्त्री : अध्यक्ष महोदय, बिहार में भूमिज जाति को अनुसूचित जाति माना गया है, लेकिन उसमें कह दिया गया है कि "उत्तरी छोटा नागपुर, दक्षिणी छोटा नागपुर डिवीजन और संथाल परगना को छोड़कर। मैं अपने संशोधन संख्या 32 के द्वारा यह चाहता हूँ कि इसमें चम्पारन जिले, को भी शामिल करना चाहिये, क्योंकि वहाँ पर इन लोगों को काफी संख्या है।

मैंने अपने संशोधन संख्या 33 में कुछ जातियों के नाम दिये हैं, जिन को बिहार में अनुसूचित जातियों में शामिल नहीं किया गया है। मैं चाहता हूँ कि उनको अनुसूचित जातियों में शामिल कर लिया जाये।

जहां तक संशोधन संख्या 143 का संबंध है, अगर किसी प्रदेश का कोई अनुसूचित जाति का आदमी किसी दूसरे सूबे में जाता है, जहां उस जाति को अनुसूचित जातियों में शामिल नहीं किया गया है, तो वहां भी उसकी गिनती अनुसूचित जातियों में होनी चाहिये।

18.02 hrs.

[MR. DEPUTY-SPEAKER in the Chair]

श्री जाबवंत घोटे : उपाध्यक्ष महोदय मेरा संशोधन इस प्रकार है :—

पृष्ठ 11—

पंक्ति 36 के पश्चात् “48, घोबी” अन्तःस्थापित किया जाये।

पृष्ठ 12—

पंक्ति 35 के पश्चात् “60. घोबी” अन्तःस्थापित किया जाये।

घोबी जमात इस देश में कई राज्यों में शिङ्गुल्ड कास्ट की लिस्ट में शरीक की गई है, लेकिन उसको महाराष्ट्र मध्यप्रदेश, तमिलनाडु, आंध्रप्रदेश, चंडीगढ़, हरियाणा और दिल्ली वगैरह में शिङ्गुल्ड कास्ट की लिस्ट में शरीक नहीं किया गया। घोबी कम्युनिटी के लोग सदियों से, कहना चाहिये कि जब से चातुर्वर्ण्य शुरू हुआ, तब से घोने का काम करते आ रहे हैं। आज भी कई राज्यों में घोबियों को भूमी और मेहतर की कैटेगरी में रखकर लोग उनको असुपूष्य मानते हैं। कई प्रांतों में वे लोग शिङ्गुल्ड कास्ट की लिस्ट में हैं और कई प्रांतों में नहीं हैं। जिन प्रांतों में वे शिङ्गुल्ड कास्ट की लिस्ट में हैं, वहां उनको सारी फीसिलिटीज मिल रही हैं।

MR. DEPUTY-SPEAKER: You have made the point.

श्री जाबवंत घोटे : अध्यक्ष महोदय, मैं ने अमेंडमेंट मूव करने का तय किया, आप ने मुझे इजाजात दी। जनरल डिस्क्शन में मुझे बोलने का वक्त नहीं मिला। ऐसी अवस्था में ये अमेंडमेंट मैंने मूव किया है उस की रेलीवेंस को छोड़ कर अगर मैं बोलू तब आप रोकिए।

मेरा निवेदन है कि यह घोबी बहुत ही पिछड़ी जाति है, इस को शिङ्गुल्ड कास्ट की लिस्ट में शरीक करना चाहिए। एक मेरा यह अमेंडमेंट है।

इस के पश्चात् मेरा अमेंडमेंट नं० 81 है। पृष्ठ 23 पर पंक्ति 33 के पश्चात् 47, गोवारी, 48, पहाड़ी, पहाड़ी, 49 हलवा कोष्टी, हलवा विणकर (बुनकर) अन्तःस्थापित किया जाय।

क्रम संख्या 82 पर मेरा यह अमेंडमेंट है—

पृष्ठ 24 पर पंक्ति 36 के पश्चात् निम्न-लिखित अन्तःस्थापित किया जाए :—

गोवारी, पहाड़, पहाड़ी, मोई, डिवर, कोली, कहार, कंवट मासेवार, हलवा कोष्टी, हलवा विणकर (बुनकर) गोवारी समाज सदियों से जंगलों में रहता है और आज भी जंगलों में रहता है। (इंटरपोज़) में जो क्राइटीरिया है वह आपके सामने रखना चाहता हूँ। जिन सारी जमातों के बारे में मैंने कहा है सभी वे इस क्राइटीरिया में आती हैं।

“The criteria for deciding a community as a Scheduled Tribe community are as below: indication of primitive traits, distinctive culture, geographical isolation, shyness of contact with the community at large and backwardness.”

ये सभी जातियाँ इस क्राइटीरिया को फुलफिल करती हैं। इसलिए मैं इस संशोधनों को मूव कर रहा हूँ।

**SHRI K. BRAHMANANDA REDDY:** I am not accepting. I wish again to submit for the consideration of the House that this Bill is not an inclusion Bill. This is only an area restriction Bill as I have submitted once twice, thrice. That is why I am not going into the merits of the claim.

**श्री जाम्बुवंत धोटे :** प्वाइंट ऑफ़ ऑर्डर ।  
गृह मंत्री ने अभी कहा कि यह विधेयक कोई जमायत या जातियों को शामिल करने या निकालने के लिए नहीं है । लेकिन आप एजेंडा देखें । उस में स्पष्ट लिखा है—अनुसूचित जातियों और अनुसूचित जन जातियों की सूची में कतिपय जातियों और जन जातियों को सम्मिलित करने और उन से उद्देश्यपूर्वक करने के लिए यह विधेयक है । ऐसी अवस्था में गृह मंत्री कैसे कहते हैं कि यह शामिल करने या निकालने के लिए नहीं लाया गया है ? उनका यह कहना कहाँ तक सही है ? इस पर आप क्लियर देने की कृपा करें ।

**SHRI RAMAVATAR SHASTRI:** Why were the amendments admitted if the scope was not that?

**MR. DEPUTY-SPEAKER:** I have understood the point of order. Let the Minister clarify the position.

**SHRI K. BRAHMANANDA REDDY:** In my opening speech itself, I have said, "except to the limited extent", this is not an inclusion or exclusion.... (Interruptions).

**SHRI JAMBUWANT DHOTE:** In the agenda, it is clearly mentioned. There is no limitation.

यहाँ कोई ऐसा लिमिटेशन नहीं है ।

अगर एजेंडा गलत छाना है तो कहना चाहिये ।

**श्री रामावतार शास्त्री :** अगर आप पहले ही इस को ठीक से छापते तो लोक सभा का इतना समय क्यों बर्बाद होता ।

**MR. DEPUTY-SPEAKER:** As far as I understand, the controversy is about the scope of the Bill. Mr. Dhote and Mr. Ram Avtar Shastri contend that the scope of the Bill includes the inclusion or exclusion of certain people from the list of Scheduled Castes and Scheduled Tribes. As far as I understand, I think, the Minister said that this is only to a limited extent. But, I feel, since the amendments have been admitted, and if it is within the scope of these amendments, I should say, it includes that scope also.

**SHRI K. BRAHMANANDA REDDY:** I oppose the amendments.

**MR. DEPUTY-SPEAKER:** That is a different question. (Interruptions). I think, there is some misunderstanding. He has the right to oppose the amendments. But I have upheld the point of order that the discussion includes the scope of inclusion and exclusion. That is all. (Interruptions). I think, I have made myself very clear. I cannot make myself clearer. My command at the language is very limited.

**श्री जाम्बुवंत धोटे :** उपाध्यक्ष महोदय, एजेंडे में स्पष्ट लिखा है कि यह बिल इन्क्लूजन और एक्सक्लूजन के बारे में है....

**MR. DEPUTY-SPEAKER:** I am saying that I have upheld your point of order.

**श्री जाम्बुवंत धोटे :** उपाध्यक्ष महोदय, मैं दूसरी बात कह रहा हूँ । एजेंडे में साफ लिखा है कि यह विधेयक इन्क्लूजन और एक्सक्लूजन पर विचार करने के लिये है, जब कि गृह मंत्री जी कहते हैं कि यह बिल इन्क्लूजन और एक्सक्लूजन के लिये नहीं है । मैं चाहता हूँ कि उन के भाषण के इतने पोरशन को एक्सपंज कर दिया जाय ।

MR. DEPUTY-SPEAKER: There could be a different interpretation or understanding. There is no question of expunction.

Now, there are a number of amendments that have been moved. I would first take up amendment Nos. 50, 51 and 52 by Shri Brahmananda Reddy to the First Schedule.

*Amendments made:*

Page 8, line 50,—

for "12. Bakad, Bans" substitute "12. Bakad" (50).

Page 8, after line 50,—

insert "12A. Bant (in Belgaum, Bijapur, Dharwar and North Kanara districts)". (51).

Page 10, lines 29-30,—

for "36. Malayan (excluding the hill areas)" substitute "36. Malayan [in the areas comprising the Malabar district as specified by sub-section (2) of section 5 of the States Reorganisation Act, 1956 (37 of 1956)]. (52).

(Shri K. Brahmananda Reddy)

MR. DEPUTY-SPEAKER: If Members do not have any objection, I shall put all the rest of the amendments together....

SHRI M. C. DAGA: Those Members who have moved their amendments should be allowed to speak for one minute at least....

MR. DEPUTY-SPEAKER: If that were so, then you have missed the bus. I know that you work very hard, you are very alert, but because of too much of work, you must have fallen asleep a little. You should have got up at that time. That is past now. (*Interruptions*).

Now, let me make it very clear to all the Members: if they do not want to press any particular amendment separately, I shall put all the rest of the amendments, moved by the hon. Members on both sides of the House, to the vote of the House.

*Amendments Nos. 1, 2, 7, 14, 17, 19, 32, 33, 44, 66, 69, 78, 79, 83, 91 to 95, 99, 108 to 110, 127 and 138 were put and negatived.*

MR. DEPUTY-SPEAKER: The question is:

"That the First Schedule, as amended, stand part of the Bill."

*The motion was adopted.*

*The First Schedule, as amended, was added to the Bill.*

#### *Second Schedule*

SHRI RAM HEDAOO: I beg to move:

Page 22, line 16,—

for "29. Koli Mahadev, Dongar Koli" substitute—

"29. Koli Mahadev, Dongar Koli, Dhiwar, Bhoi, Koli, Kahar, Kewat, Palewar, Bhimar" (8).

Page 22, line 36,—

for "Dhurwa, Dhoba, Dhulia" substitute—

"Dhurwa, Dhoba, Dhobi, Pareet, Waththi, Warthi, Dhulia" (10).

Page 22, line 38,—

for "Gaita, Gond Gowari, Hill" substitute—

"Gaita, Gond Gowari, Gowari, Hill" (11).

Page 22, line 43,—

for "Mana, Mannewar, Moghya" substitute—

"Mana, Mani, Manneswar, Moghya" (12).

[Shri Ram Hedao]

Page 22, line 49,—

for "19. Halba, Halbi" substitute—

"19. Halba, Halbi, Halba Koshti,  
Halba Weaver, Halba Bunkar" (13).

SHRI M. C. DAGA: I beg to move:

Page 19, line 36,—

for "27. Vaghri (in Kutch district)"  
substitute "27. Vaghri" (20).

SHRI BIBHUTI MISHRA: I beg to move:

Page 19,—

after line 11 insert—

"31. Tharu" (28).

SHRI RAMAVATAR SHASTRI: I beg to move:

Page 18, line 47,—

after "Parganas" insert—

"and Champaran" (35).

Page 19,—

after line 11, insert—

"31. Tharu

32. Bhuwan" (36).

SHRI DASARATHA DEB: I beg to move:

Page 18,—

after line 42, insert—

"10. Any tribes recognised as  
Scheduled Tribes in other States of  
India". (46).

Page 25, line 29,—

for "18. Tripura, Tripuri, Tippera"  
substitute—

"18. Tripura, Tripuri, Tippera ex-  
cluding Laskar termed as Deshi  
Tripura by ex-ruler's Order" (49).

SHRI K. BRAHMANANDA RED-  
DY: I beg to move:

Page 20, line 7,—

for "28. Kuruba" substitute "28.  
Kuruba (in Coorg District)". (53).

Page 20, line 14,—

for "35. Maratha" substitute "35.  
Maratha (in Coorg district)". (54).

Page 20, line 15,—

for "36. Marati" substitute "36  
Marati (in South Kanara district)".  
(55).

Page 20, line 43,—

for "25. Malayan (in the hill  
areas)" substitute

"25. Malayan [excluding the areas  
comprising the Malabar district as  
specified by sub-section (2) of  
section 5 of the States Reorganisa-  
tion Act, 1956 (37 of 1956)]". (56).

Page 25, lines 5—8,—

for "25. Malayali (in Pudukottai,  
North Arcot, South Arcot, Salem and  
Tiruchirappalli districts) substitute  
"25. Malayali (in Dharmapuri, North  
Arcot, Pudukottai, Salem, South Arcot  
and Tiruchirappalli districts)". (57).

SHRI K. M. 'MADHUKAR': I beg to move:

Page 19,—

after line 11, insert

"31. Tharu

32. Dhangar" (80).

SHRI JAMBUWANT DHOTE: I beg to move:

Page 21,—

after line 55, insert—

"47. Gowari.

48. Pahar, Pahari.

49. Halba Koshti, Halba Vinkar (Bunkar)" (81).

Page 22,—

after line 46, insert—

"48. Gowari

49. Pahar, Pahari

50. Bhoi, Dhivar

51. Koli

52. Kahar

53. Kewat

54. Palewar

55. Halba Koshti, Halba Vinkar (Bunkar)" (82).

SHRI SHIVAJI RAO S. DESHMUKH: I beg to move;

Page 22, line 49,—

for "19. Halba, Halbi"

substitute "19. Halba, Halbi, Halba Koshti, Halbi, Koshti, Halba Bunkar" (97).

SHRI PARIPOORNANAND PAI-NULI: I beg to move:

Page 25,—

after line 51, insert—

"PART XVII.—Uttar Pradesh.

1. Agaria

2. Baiga

3. Buksa

4. Gond

5. Jaunsari, Rawanla and Jaunpuri in Janusar-Bawar of Dehradun, Rawain of Uttarkashi and Jaunpur of Tehri Garhwal

6. Kol

7. Raji

8. Saharya

9. Tharu" (98).

SHRI B. S. BHAURA: I beg to move:

Page 17,—

after line 26, insert—

"(3a) Where in the Schedule any Tribe, Tribal communities are part of or groups of the tribes or tribal communities, has been specified as pertaining to any particular area of a State then every member of the Tribe, Tribal Community or part of groups within Tribes or Tribal Communities residing in that area, shall be the member of Scheduled Tribe in that State:

Provided no such member so long he resides in that State shall cease to be a member of the Scheduled Tribe by reason only of the fact that he ceased to reside in that area.

(3b) Where in the Schedule to this order any Tribe or Tribal Communities are part of or group within Tribe or Tribal Communities in relation to the State of West Bengal, then every displaced person from Eastern Pakistan who is a member of that Tribe or Tribal Communities shall be deemed to be member of that Tribe or Tribal Community in which he is voluntarily residing and as such shall be deemed to be included in that part of the Scheduled which relates to that State in which such person is voluntarily residing;

(3c) Any person who belongs to any Tribe included in any part of the Schedule and who ceases to reside in the State to which he belongs and migrates to any other State shall continue to be member of Scheduled Tribe in other State where he voluntarily resides, notwithstanding the fact that the Tribe to which he belongs is not a Scheduled Tribe in that State; and

(3d) Notwithstanding anything contained any law for the time being in force or any custom or



[Shri B. S. Bhaura]

usage to the contrary, a woman who marries a person belonging to the Tribe, specified in any part of the Schedule shall be deemed to be belonging to that Scheduled Tribe to which her husband belongs." (100).

SHRI N. E. HORO: I beg to move:

Page 18,—

after line 31, insert—

"15. Asur

16. Baiga

17. Bedia

18. Bhumij, Tamaria

19. Bhunya

20. Binjia

21. Birhar

22. Chero

23. Chik Baraik

24. Dhanwar

25. Ho

26. Kavar

27. Korwa, Paharia, Pahari

28. Kol

29. Kharia

30. Khrwar

31. Kisan

32. Mahali, Manjhi

33. Maj Paharia

34. Munda, Mura, Mundari,  
Murari

35. Monkl, Manki, Munda

36. Oraon Orang

37. Santhal, Santal

38. Lohars, Lohara

39. Saura." (124).

SHRI BIBHUTI MISHRA: I beg to move:

Page 19,—

after line 11, insert—

"31. Dhagar

32. Musahae

33. Bhuiya". (141).

SHRI PAOKAI HAOKIP: I beg to move:

Page 23, line 6,—

for "27. Thadou" substitute—

"27. Any Kuki tribe including:—

(i) Thadou

(ii) Chongloi

(iii) Hangshing

(iv) Baite

(v) Mate

(vi) Guite

(vii) Ngailute

(viii) Haokip

(ix) Kipgen

(x) Chongthu

(xi) Thangeo

(xii) Doungei

(xiii) Lhamao

(xiv) Changsen

(xv) Misao

(xvi) Paite

(xvii) Hmar

(xviii) Gangte

(xix) Vaiphei

(xx) Zou

(xxi) Simte

(xxii) Sukte

(xxiii) Kom" (142).

श्री रामावतार शास्त्री : सैंकिड  
शैंड्यूल में जहां भूमिज का उल्लेख है और  
ब्रैकेट में इन नार्थ छोडानागपुर एंड साउथ  
छोडा नागपुर डिविजन एंड संथाल परगना

है, उसके आगे चम्पारन डिस्ट्रिक्ट्स लिख दिया जाए। इसका कारण यह है कि चम्पारन जिले में भूमिज लोगों की आबादी बहुत है। उन्हें अनुसूचित जन जातियों में माना जाना चाहिये।

दूसरी बात पर बहुत ज्यादा रोशनी डाली जा चुकी है। इसका मैं जोरदार समर्थन करता हूँ। थारू और घोरार इनकी भी जन जातियों में गणना होनी चाहिए। ये बहुत पिछड़ी हुई हैं और इनकी आबादी दो पीने दो लाख से भी अधिक है। एक और जाति है भूवन। इसको भी जन जाति में शामिल किया जाना चाहिये। इससे जन जातियों को सरकार जो सहायित्व देती है, वे इनको भी मिल सकेगी।

श्री कमला मिश्र 'मधुकर': मैं अपने संशोधन के सम्बन्ध में तीन बातें कहना चाहता हूँ। पहली तो यह है कि आप शैड्यूलड कास्ट कमिश्नर की 155 और 56 की रिपोर्ट को देखें। दूसरी यह है कि अगस्त 1975 की बिहार सरकार की रिपोर्ट को देखें। इससे भी पहले पिछली सर्दी में 1885 के बिहार टेनेसी एक्ट को देखें। इन तीनों बातों का आप देखें। सौ धरम से यह समस्या उलझी हुई है। मेरी प्रार्थना है कि इसकी ओर आप ध्यान दें। थारू जाति के लोग न केवल बिहार में हैं बल्कि उत्तर प्रदेश में भी हैं। इनको इस में सम्मिलित किया जाए और उनकी समस्याओं को हल किया जाए। मेरी प्रार्थना है कि इसे आप प्रस्टीज का मामला न बनाएं।

श्री भान सिंह भौरा : यह मामला बहुत गम्भीर है, नेशनल इन्टिग्रेशन का यह मामला है, अनटचेबिलिटी रिमूव करने का यह मामला है। इसके लिए यह बहुत जरूरी है कि जो लड़कियां ट्राइब्स की शादी करें दूसरी जातियों में उनको वे सुविधायें मिलती रहनी चाहियें जो ट्राइबल्स को मिलती हैं।

इनको आपने मान लिया तो आप बहुत बड़ा काम करेंगे। इसको मानने में आपको कोई एतराज नहीं होना चाहिये।

SHRI N. E. HORO: I want to request the Minister that the 40 lakhs of Adivasis in the tea-gardens of Assam who carry with them even today all the characteristics of Scheduled Tribes should be included in the list of Scheduled Tribes and there should be no difficulty at all. Till now, due to political reasons, they were not accepted. But, you should not also forget that if you continue to neglect them, you will have to face another political problem.

I request even now that you should accept my amendment that you should accept these 40 lakhs people as tribes.

श्री राम हे डाऊ (रामटक) : उपाध्यक्ष महोदय, गृह मंत्री जी ने कहा है कि इस में इनक्लूजन और एक्मक्लूजन नहीं करना है। इस बात को ध्यान में रखते हुए ही मैंने अपना संशोधन दिया है। यह संशोधन इनक्लूजन का नहीं है। हर एक विभाग में एक ही जाति के लोगों का दूसरे नामों से पहचाना जाता है, उन के उपनाम होते हैं। जैसे संशोधन नम्बर (7) में मैंने अमंड मेंट दिया है उस में "बमीड़" है, कहीं उन को बरहर, कहीं बसोड़ और कहीं सुरड़ कहते हैं। इसी तरह से जो है कहीं उन का कहार कहते हैं, कहीं केवट, कहीं हिवार पर, कहीं डिभर और कहीं पालेवार कहते हैं। इसी तरह से धरवा, धाधा, धुलिया, डोरला के स्थान पर मैं धरवा, धाधा, धोबी, परीट, बरठो, धुलिया और डोरला लिखने को कहा है, क्योंकि यह एक ही जाति के उपनाम हैं। इसी तरह से गायकी, गट्टा, गट्टी आदि जो हैं इन्हीं को कहीं गंड गोबारी और कहीं केवल गोबारी कहते हैं। इसी तरह मारिया को भी अलग अलग उपनामों से पुकारा जाता है, यद्यपि जाति एक ही है, लेकिन उप

[श्री राम हेडाड]

नाम अलग अलग हैं। उसी प्रकार हलबा के बारे में है, कहीं उसको हलबा कोड़ी कहते हैं, कहीं हलबा बीवहर; कहीं हलबा बुनकर कहते हैं। कहने का तात्पर्य यह है कि यह सब एक ही जाति के उप-नाम हैं। इसलिये मेरा संशोधन है कि एक ही जाति के उप-नाम होने के कारण उन्हें या तो सहूलियतें देनी चाहियें, या उप-नाम में इनक्यूड कर देना चाहिये।

SHRI DASARATHA DEB: I say that some tribes are specified as scheduled tribes in one State but they are not specified as such in any other State. I want that they should be specified as scheduled tribes in other States also within the territory of Indian Union. That is my amendment which should be accepted.

श्री जांबवंत बोटे (नागपुर): उपाध्यक्ष महोदय, "पहाड़ समाज शेड्यूल्ड ट्राइब का लिस्ट में इन्क्यूड करना चाहिये। "पहाड़" समाज खास तौर पर महाराष्ट्र राज्य में है। इस समाज के पूर्वज पहले पहाड़ी तथा जंगलों में गोंद और शहद जमा करते थे और गांवों में लाकर बेचा करते थे। कुछ लोग मसाले बेचने लगे। 1969-70 में इस समाज का जो सेंसस लिया गया उस के अनुसार इनकी संख्या बहुत ही कम है।

MR. DEPUTY-SPEAKER: You want that to be included. You have made that point.

श्री जांबवंत बोटे: 1970 की सेंसस के अनुसार 1080 पुरुष, 1264 महिलाएं, 1322 बच्चे तथा 1107 बालिकाएँ। इस तरह इस समाज की कुल संख्या 4773 है। यह महाराष्ट्र राज्य में खास तौर पर है; तथा गुजरात और मध्य प्रदेश में भी है। अगर 1970 में जो इनकी आबादी थी उस में कुछ वृद्धि भी हुई हो तो 6,000 से ज्यादा इस समाज के लोगों की संख्या नहीं है। मैं चाहता हूँ कि इस समाज को शेड्यूल्ड ट्राइब में शामिल किया जाय।

SHRI K. BRAHMANANDA REDDY: I am sorry I am not able to accept the amendment of Shri Deb because it entirely goes against the spirit of the Bill and the Constitution, as I have pleaded in my reply. With regard to the point raised by my friends from Bihar, I cannot go on repeating.

So far as inclusion is concerned, I have submitted that this is not a Bill for inclusion except for a limited purpose that area restrictions imply some inclusion. I will again say that in respect of any community which is not mentioned but which is a synonym of some other community included—if it is genuinely so—in consultation with the State Governments and others, the Government of India will issue necessary instructions.

MR. DEPUTY-SPEAKER: The question is:

'Page 20, line 7,—

for "28. Kuruba" substitute "28. Kuruba (in Coorg district)." (53).

'Page 20, line 14,—

for "35. Maratha" substitute "35. Maratha (in Coorg district)." (54).

'Page 20, line 15,—

for "36. Marati" substitute "36. Marati (in South Kanara district)." (55).

'Page 20, line 43,—

for "25. Malayan (in the hill areas)" substitute "25. Malayan [excluding the areas comprising the Malabar district as specified by sub-section (2) of section 5 of the States Reorganisation Act, 1956 (37 of 1956)]." (56).

'Page 25, lines 5-8,—

for "25. Malayali (in Pudukkottai, North Arcot, South Arcot, Salem and Tiruchirapalli districts)" substitute "25. Malayali (in Dharmapuri, North Arcot,

Pudukottai, Salem, South Arcot and Tiruchirappalli districts)." (57).

*The motion was adopted.*

MR. DEPUTY-SPEAKER: I will now put amendment No. 46 moved by Shri Dasaratha Deb to the vote of the House.

*Amendment No. 46 was put and negatived.*

MR. DEPUTY-SPEAKER: I will now put amendment No. 124 moved by Shri N. E. Horo to the vote of the House.

*Amendment No. 124 was put and negatived.*

MR. DEPUTY-SPEAKER: I will now put all the other amendments in respect of Second Schedule to the vote of the House.

*Amendments Nos. 8, 10 to 13, 20, 28, 35, 36, 49, 80 to 82, 97, 98, 100, 141 and 142 were put and negatived.*

MR. DEPUTY-SPEAKER: The question is:

"That the Second Schedule, as amended, stand part of the Bill."

*The motion was adopted.*

*The Second Schedule, as amended, was added to the Bill.*

**Clause 1** (Short title and Commencement)

SHRI RAMAVATAR SHASTRI: I beg to move:

Page 1,—

for lines 5 and 6, substitute—

"(2) It shall come into force within three months after the enactment by Parliament." (31).

हा विधेयक में यह प्रावधान किया गया है :

"It shall come into force on such date as the Central Government may by notification in the Official Gazette, appoint."

यह बहुत बेग है। सरकार इस में देर भी लगा सकती है और जल्दी भी कर सकती है। इसलिए मैं ने इस में यह संशोधन रखा है।

"It shall come into force within three months after the enactment by Parliament."

इसका मतलब यह है कि इस कानून को एक हफ्ते में भी लागू किया जा सकता है, लेकिन इस में तीन महीने से ज्यादा देर नहीं लगनी चाहिए। मेरे संशोधन का भाव यह है कि इतने महत्वपूर्ण विधेयक को जल्दी से जल्दी लागू करना चाहिए।

SHRI K. BRAHMANANDA REDDY: Sir, I am not accepting that.

MR. DEPUTY-SPEAKER: I will now put amendment No. 31 moved by Shri Ramavatar Shastri to the vote of the House.

*Amendment No. 31 was put and negatived.*

MR. DEPUTY-SPEAKER: The question is:

"That clause 1, the Enacting Formula and the Title stand part of the Bill".

*The motion was adopted.*

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

SHRI K. BRAHMANANDA REDDY: I beg to move:

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

MR. DEPUTY-SPEAKER: Motion moved:

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

We are hard pressed for time. But I have a number of names of members who want to speak at the third reading stage. I cannot, of course, shut the right, but I would remind them that discussion at this stage is confined to either opposing or supporting the Bill. Arguments should not be repeated, new ideas should not be brought in. You have only to say why you support or oppose. Even so, I would request them, if they agree, not to insist on speaking. I have the names of Shri Ramavatar Shastri, Prof. S. L. Saksena, Shri Bibhutj Mishra, Shri Painuli, Sardar Swaran Singh Sokhi.

SHRI N. E. HORO: My name is there.

MR. DEPUTY-SPEAKER: No.

SHRI N. E. HORO: I would plead for Shri Mishra.

श्री रामावतार शास्त्री : इस बिल का समर्थन करते हुए कुछ आम बातें मैं कहना चाहता हूँ। बिहार में धोबी, मेहतर, हाड़ी, लाल बेगी, हलालखोर और धनिया ये हिन्दू जातियों में भी हैं और बहुत सी मुसलमान जातियों में भी हैं। मुसलमान जातियों में इन्हें ऐनक्सचर 1 में रखा गया है और हिन्दुओं में इन्हें अनुसूचित जातियों में रखा गया है। मैं चाहता हूँ कि इन तमाम को आप अनुसूचित जातियों में रखें।

हमारी बात यह है कि हजारी बागजिले में, जो बिहार का एक महत्वपूर्ण जिला है गुफ़ और कोल जातियाँ हैं जिनको अनुसूचित जातियों में रखा जाना चाहिये था। इनको आप उसमें रखें। आज इनको नहीं रखा गया है।

तीसरी बात यह है कि आप इसका ठीक से जायजा ले कर मैडम्लेड कास्ट और मैडम्लेड ट्राइज के निर्वाचन क्षेत्रों को फिर से डिमावेट करिये ताकि इनकी संस्था बढ सके और इन लोगों को ठीक से प्रतिनिधित्व मिल सके।

श्री जांबवंत बोटे : एक महत्वपूर्ण विधेयक का मेरा फ़ावंड ब्लाक और महान् विदर्भ राज्य संगठन समिति समर्थन कर रही है। मैं पूछना चाहता हूँ कि इन्क्लूशन के लिए बहुत बड़ी लिस्ट एमेंडमेंट के लिए आपके सामने आई। इस पर भविष्य में विचार करने के लिए आप कोई समिति गठित करने वाले हैं या किसी और तरीके से विचार करने वाले हैं? गृह मंत्री यह बताने की इच्छा करें।

प्रो० एस. एल० सक्सेना महाराजगंज : हमने हरिजनो और अनुसूचित जातियों के लिए बहुत विधेयक पास किए हैं। जो जातियाँ पुराने ज़मींदारों की गुलाम थीं उनको छुटकारा दिलाने के लिए बिल पास किए हैं। उनका ऋण माफ़ कर दिया है। मिनिमम वेजिः एक्ट उनके लिए पास किया है जिसमें देहाती मजदूरों की कम से कम मजदूरी 6 रु० दैनिक कर दी गई है। अब एक और बिल हम आज पास कर रहे हैं जिससे उनको मंदिरों में जाने से रोक्ने वालों को, कुओं से पानी न भरने देने वालों और हरिजनों को अपमानित करने वालों को जेल की सज़ा होगी। लेकिन हालत क्या है? सरकारी अधिवारी स्वयं समझते हैं कि हरिजन--आधमी नहीं आन्वर है। आज भी यही माहौल चल रहा है। आज हरिजन व अनुसूचित जातियों के लोग व गरीब किसान और मजदूर जबरिया नसलबन्दी के शिकार हैं।

आज सरकार का हुक्म है कि जो लोग नसबन्दी करायेंगे उनको खर्चा मिलेगा। आजकल लोग गांवों में जाते हैं, हरिजनों को इकट्ठा करते हैं और उनको पकड़ कर ले

आते हैं—यह उद्दीका बिबुल गलत है। मैं चाहता हूँ हरिजनों के साथ अनुष्यों जैसा व्यवहार किया जाये। प्राइम मिनिस्टर ने भी कहा है कि फेलिग, एलर्निंग, कम्पलसरी नहीं है लेकिन इसको कम्पलसरी ही किया जा रहा है। हरिजन क्या प्राइमी नहीं हैं, क्या वह जानवर हैं? मैं समझता हूँ यह बहुत जगहती है। वे लोग बुरा नहीं जाते हैं, घर में सोते नहीं हैं क्योंकि उनको डर रहता है कि उनको प्रकड़ लिया जायेगा। इसलिए हरिजनों के साथ ऐसा व्यवहार नहीं होना चाहिए। उनको भी इनसान समझा जाना चाहिए।

**श्री विभूति मिश्र : (प्रोतीहारी) :**  
उपाध्यक्ष जी, हमने अमेंडमेंट दिया है कि थारुओं को सेक्रेण्ड गेडयूल्ड में लिया जाये लेकिन उद्दीसा में 62 नम्बर पर सेक्रेण्ड लिस्ट में बरवा लिखा हुआ है पर घांगर किसी भी लिस्ट में नहीं है। मन्त्री जी को धन्यवाद देता हूँ कि उन्होंने कहा है कि जिनके नाम छूट गए हैं, जो सिनानिमस नाम हैं उनको लिस्ट में ले लिया जायेगा। वहां से छोटा नागपुर में हमारे जिले में घांगर आये हैं और वह उसी जाति के हैं इसलिए मंत्री जी इनको जल्दी से जल्दी लिस्ट में जोड़ दें। इसको एनाउन्स करने से पहले मंत्री जी बिहार सरकार से पूछ लें और तब फ़ैसला कर दें।

**श्री परिपूर्णानन्द पं:युली (टिहरी गढ़वाल) :** मैं इस विधेयक का समर्थन करते हुए मंत्री जी से निवेदन करना चाहता हूँ कि जौंसारी जनजाति को इसमें कायम रखा जाये। आपकी एरिया रेस्ट्रिक्शन की जो शर्त है उसके अन्तर्गत यह आ जाता है। यह संयोग की बात है और इतिहास की बात है कि एक राजा का इलाका था और एक दूसरा जिससे दो जगह अलग-अलग बंट गए इसलिए आप खांटा, जौंसारी और जौनपुरी—इन तीनों को उसमें जोड़ दें।

**सर्वार स्वर्णसिंह सोखी (जमशेदपुर) :**  
इण्टी स्पीकर साहब, मैं इस बिल का समर्थन

करता हूँ। इसके साथ ही मैं कहना चाहता हूँ कि मिनिस्टर साहब ने कहा था कि जो जेन्युइन सिनानिम होंगे उनको देख लेंगे तो इस बारे में मैं एक बात कहना चाहता हूँ कि बिहार सरकार ने रेकमेंडेशन की है तांती के लिए जोकि बिहार बैलकेपर डिपार्टमेंट की रेकमेंडेशन नं० यू० ओ० आई० 256, एम, दिनांक 17-3-68 है। आप मेहरबानी करके इसको देख लें। बिहार गवर्नमेंट ने इसको रेकमेंड किया है तांती के लिए इसलिए इसका नाम उसमें आना चाहिए।

**SHRI K. BRAHMANANDA REDDY:**  
I wish to thank Mr. Ramavatar Shastri as well as Mr. Dhote for the support they have given; the rest of the speech I have heard. So far as Shri Sakeena's remark is concerned, we are not treating Harijans as beasts of burden; it is our desire to attempt honestly to give them as much help as is possible and treat them as privileged persons.

**SHRI JAMBUWANT DHOTE:** What about my question? He has not replied.

**SHRI K. BRAHMANANDA REDDY:**  
I thanked you for your support; I said; the rest of the speech I heard.

**MR. DEPUTY-SPEAKER:** The question is:

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

*The motion was adopted.*

18.45 hrs.

**UNTOUCHABILITY (OFFENCES)  
AMENDMENT AND MISCELLA-  
NEOUS PROVISION BILL—contd.**

**MR. DEPUTY-SPEAKER:** Now, I have a request from the Minister for Parliamentary Affairs to vary the order of the rest of the agenda. His letter reads: "The Speaker and Members of all sides have agreed that item 10 may be taken before item 9 and disposed of without discussion." If that is the consensus of the House, I will not stand in the way.

The motion for consideration of the Bill was moved sometime in the last session and a Member of the House Shri Sarjoo Pandey was on his legs; he is not present today. So, it means he has concluded his speech. We have all agreed that there will be no discussion. Even so the order is that the Minister is to reply. If he replies and concludes his speech, we proceed on to the next stage; otherwise it will be irregular; unless the Minister has made a motion of reply, it will be incomplete.

**THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS, DEPARTMENT OF PERSONNEL AND ADMINISTRATIVE REFORMS AND DEPARTMENT OF PARLIAMENTARY AFFAIRS (SHRI OM MEHTA):**

I need not reply because it has been decided.

**MR. DEPUTY-SPEAKER:** You have to say something by way of conclusion.

**SHRI OM MEHTA:** I will say something when I come to amendments.

**MR. DEPUTY-SPEAKER:** The question is:

"That the Bill to amend the Untouchability (offences) Act, 1955 and further to amend the Representation of the People Act, 1951, as reported by the Joint Committee, be taken into consideration."

*The motion was adopted.*

**MR. DEPUTY-SPEAKER:** We take up clause-by-clause consideration. I find that the Minister has given notice of a large number of amendments. Do I take it that he may not move them?

**SHRI OM MEHTA:** I am moving those amendments.

**MR. DEPUTY-SPEAKER:** There are no amendments to clauses 2 to 11.

The question is:

"That Clauses 2 to 11 stand part of the Bill."

*The motion was adopted.*

*Clauses 2 to 11 were added to the Bill.*

**MR. DEPUTY-SPEAKER:** We take up clause 12.

*Clause 13 (Amendment of Section 10)*

**SHRI OM MEHTA:** I move my amendments 3, 4, 5.

I beg to move:

Page 5, line 23,—

for "Explanation 1", substitute "Explanation" (3).

Page 5, line 23,—

for "who shows any negligence in"

substitute "who wilfully neglects" (4).

Page 5,—

omit lines 26 to 37. (5).

By amendment No. 5, we are seeking to omit lines 26 to 37. This amendment is because the committee recommended that the appointing authority who shows negligence in giving effect to the reservation orders for scheduled castes should be deemed to have committed an offence. This Bill specifically deals with one aspect, untouchability. We are making the offence

of untouchability very stringent and we are providing for summary trials in this Bill. I am quite in agreement with what the Committee has stated but because the scope of this Bill is different, the Government is considering how the desire of the committee might be fulfilled by other ways. We are issuing orders. But at the same time we want to assure them that we are considering how to modify this.

MR. DEPUTY-SPEAKER: The question is:

Page 5, line 23,—

for "Explanation I" substitute "Explanation"

Page 5, line 23,—

for "who shows any negligence in"

substitute "who wilfully neglects"

Page 5,—

omit lines 26 to 37.

The motion was adopted.

MR. DEPUTY-SPEAKER: The question is:

"That clause 12, as amended, stand part of the Bill.

The motion was adopted.

Clause 12, as amended, was added to the Bill.

Clause 13 (Insertion of new section 10A)

MR. DEPUTY-SPEAKER: We take up clause 13. There is an amendment.

Amendment made:

Page 6, line 38,

for "1898" substitute "1973" (6).

(Shri Om Mehta)

MR. DEPUTY-SPEAKER: The question is:

"That Clause 13, as amended, stand part of the Bill."

The motion was adopted.

Clause 13, as amended, was added to the Bill.

Clauses 14 to 16 were added to the Bill.

Clause 17 (Substitution of section 15).

Amendments made:

Page 7, line 20,—

for "15" substitute "15(1)" (7)

Page 7, line 21,—

for "1898" substitute "1973" (8)

Page 7, line 24,—

for "Magistrate of the first class" substitute "Judicial Magistrate of the first class or in a metropolitan area by a Metropolitan Magistrate" (9)

Page 7,—

after line 25, insert—

"(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), when any public servant is alleged to have committed the offence of abetment of an offence punishable under this Act, while acting or purporting to act in the discharge of his official duty, no court shall take cognisance of such offence of abetment except with the previous sanction—

(a) of the Central Government, in the case of a person employed in connection with the affairs of the Union; and

(b) of the State Government, in the case of a person employed in connection with the affairs of a State." (10).

(Shri Om Mehta)

MR. DEPUTY-SPEAKER: The question is:

"That clause 17, as amended, stand part of the Bill."

The motion was adopted.



Clause 17, as amended, was added to the Bill.

The motion was adopted.

Clause 18 (Insertion of new sections 16A and 16B).

Clause 19, as amended, was added to the Bill.

Amendments made:

Clause 20 (Savings)

Page 8, line 15,—

Amendments made:

for "any person found guilty" substitute—

Page 9, lines 3—4,—

"any person above the age of fourteen years who is found guilty". (11)

for "the Untouchability (Offences) Amendment and Miscellaneous Provision Act, 1974" substitute—

"this Act" (14)

Page 8,—

Page 9, lines 10-11,—

for the marginal heading to proposed section 16A, substitute—

for "the Untouchability (Offences) Amendment and Miscellaneous Provision Act, 1974," substitute—

"Probation of Offenders Act, 1958, not to apply to persons above the age of fourteen years." (12)

"this Act" (15)

(Shri Om Mehta)

MR. DEPUTY-SPEAKER: The question is:

(Shri Om Mehta)

"That clause 18, as amended, stand part of the Bill."

MR. DEPUTY-SPEAKER: The question is:

The motion was adopted.

"That Clause 20, as amended, stand part of the Bill."

The motion was adopted.

Clause 18, as amended, was added to the Bill.

Clause 20, as amended, was added to the Bill.

Clause 19 (Construction of references)

Clause 21 was added to the Bill.

Amendment made:

Clause 1. (Short title and Commencement)

Page 8, lines 33—35,—

Amendment made:

for "the Untouchability (Offences) Amendment and Miscellaneous Provisions Act, 1974" substitute—

Page 1, line 6,—

"this Act" (13)

for "1974" substitute "1976" (2)

(Shri Om Mehta)

(Shri Om Mehta)

MR. DEPUTY-SPEAKER: The question is:

MR. DEPUTY-SPEAKER: The question is:

"That clause 19, as amended, stand part of the Bill."

"That Clause 1, as amended, stand part of the Bill."

*The motion was adopted.*

*Clause 1, as amended, was added to the Bill.*

*Enacting Formula*

*Amendments made:—*

Page 1, line 1,—

for "Twenty-fifth" substitute—

"Twenty-seventh" (1)

(*Shri Om Mehta*)

MR. DEPUTY-SPEAKER: The question is:

"That the Enacting Formula, as amended, stand part of the Bill."

*The motion was adopted.*

*The Enacting Formula, as amended, was added to the Bill.*

*The Title was added to the Bill.*

SHRI OM MEHTA: I beg to move:

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

MR. DEPUTY-SPEAKER: The question is:

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

*The motion was adopted.*

18.55 hrs.

ADVOCATES (AMENDMENT) BILL

THE MINISTER OF STATE IN THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (DR. V. A. SEYID MUHAMMAD): I beg to move:

"That the Bill further to amend the Advocates Act, 1961, be taken into consideration."

Sir, by introducing the Bill to abolish the dual system of Advocates and Solicitors in force in Bombay and Calcutta High Courts, I am only implementing the recommendation of the Joint Committee of both the Houses on

the Advocates (Amendment) Bill, 1970. The hon. Members, or such of them who have served on the Committee, would recall the recommendation of the Committee:

"It was pointed out that the existence of the dual system on the original sides of the High Courts of Bombay and Calcutta under which a litigant has to engage not only a counsel but also a solicitor to instruct counsel (i.e. he cannot engage or brief a counsel directly) is expensive and causes hardship to the poor litigant particularly. The dual system militates against the basic idea of unification of the Bar in the country. It also creates a monopoly for a section of the Bar to practice in a particular court. The Committee strongly feels that the system should be abolished as early as possible. The Committee could not, however, make any specific provision in that regard in the Bill as it felt that the matter should first be examined in all its aspects by the Government in consultation with the concerned Courts and others."

In deference to the above wishes of the Committee, we ascertained the views of the High Courts at Bombay, Calcutta, the concerned Bar Associations, the Bar Council of India, the Incorporated Law Societies of Bombay and Calcutta and certain business houses. The compulsion of engaging a Solicitor has no doubt been minimised by the amendment of the rules of the respective High Courts, but in actual practice the dual system continues to exist in these High Courts by force of habit as a legacy of the past. It imposes a multiple burden on the poor litigant inasmuch as he has to engage two sets of professionals, namely, a Solicitor and an Advocate for the conduct of his proceedings. I feel that the time has come when the dual system may be abolished with a view to reducing litigation expenses, but care has been taken to ensure that there is no hiatus in the continuity of practice by attorneys who have been enabled to enrol themselves as Advocates by

[Dr. V. A. Seyid Muhammed]

the end of this year. From the new year onwards there will be only one class of persons entitled to practice the profession of law, namely, advocates as envisaged in section 29 of the Act.

Now I turn to the two other aspects of the Bill. The first is regarding the share of the Bar Council of India in the fees paid by an applicant to enrol himself as an advocate from the existing 40 per cent to 20 per cent. One of the hon. Members from the opposition, Dr. Laxminarain Pande, had moved a private Member's Bill for reducing the share to 10 per cent. We ascertained the views of the Bar Councils and found that those of Andhra Pradesh, Assam, Meghalaya, Manipur and Tripura, Tamil Nadu, Uttar Pradesh, Orissa, Rajasthan, Maharashtra, West Bengal, Punjab & Haryana, Bihar are in favour of the proposal. The Bill seeks to meet the demand partially, by reducing the share of the Bar Council of India in enrolment fees to 20 per cent instead of 40 per cent proposed by the hon. Member from the opposition.

Secondly, the Bill seeks to make the Attorney-General of India and the Advocates-General of the States the *ex-officio* Chairman of the Bar Council of India and the State Bar Councils respectively. You would abide by me when I say that these Law Officers are leaders of the profession in their own right and it seems incongruous to deny them the Chairmanship of the professional body. Certain minor adjustments have been made for the Bar Council of Punjab & Haryana as well as the Bar Council of Eastern States so that the Advocates-General of the constituent States get their turn to the Chairmanship by rotation.

Considering the peculiar feature of the Bar Council of Delhi, it is proposed to empower the Central Government to nominate an Advocate as its Chairman and also give representation to the Central Government on the apex body, namely, the Bar Council of India.

Our major aim must be and remains, to reduce litigation expenses as far as possible and hence I would commend the Bill to the House as it seeks to achieve this aim and crystallise the wishes of the hon. Members from both the sides of the House.

MR. DEPUTY-SPEAKER: Motion moved:

"That the Bill further to amend the Advocates Act, 1961, be taken into consideration."

श्री मूल चन्द डागा (पाली) : उपाध्यक्ष महोदय, मैं इस बिल का स्वागत करता हूँ, क्योंकि इसके द्वारा एक प्रकार का दोहरा शासन खत्म कर दिया गया है। बम्बई या कलकत्ता में अगर कोई क्लायंट किसी एडवोकेट के पास जाना चाहता था, तो वह डायरेक्ट नहीं जा सकता था, बल्कि उसको सोलिसिटर के जरिये जाना पड़ता था। इस तरह उसको सोलिसिटर और एडवोकेट दोनों को फीस देनी पड़ती थी। कानून में यह संशोधन लाकर मंत्री महोदय ने एक बड़ा उपकार किया है और गरीबों को राहत पहुंचाई है, क्योंकि अब वह डायरेक्ट एडवोकेट के पास जा सकेगा।

आज भी सुप्रीम कोर्ट में कोई व्यक्ति बिना एडवोकेट आन रिकार्ड के किसी भी सीनियर एडवोकेट के पास नहीं जा सकता है। इस तरह उस पर दोहरा खर्च पड़ता है। मैं यह जानना चाहता हूँ कि क्या सरकार इस व्यवस्था में कोई रद्दोबदल करना चाहती है ?

आज बार काउंसिल आफ इंडिया और स्टेट बार काउंसिल के सारे मेम्बरस एलैक्टेड होते हैं। इस संशोधन के द्वारा सरकार चाहती है कि बार काउंसिल आफ इंडिया का चेयरमैन प्रटोनी जनरल और स्टेट बार काउंसिल का चेयरमैन एडवोकेट जनरल बन जाये। इस तरह से सरकार एक प्रकार से नामिनेशन लागू करना चाहती है। मेरी समझ में नहीं आता है कि

सरकार एक इलैक्ट्रेड बाडी को इस तरह क्यों डिस्टर्ब करना चाहती है। इस तरह बार काउंसिल्स की इम्पार्टेन्स कम हो जायेगी और लोग उसको महत्व नहीं देंगे।

क्लाज 3 में कहा गया है कि :—

"There shall be a Vice-Chairman of each State Bar Council who shall be a senior most advocate amongst members of that Council."\*

सीनियरमोस्ट से क्या मतलब है ? क्या चेयरमैन और वा इस चेयरमैन को नामिनेट करना प्रजातंत्र के सिद्धान्त के अनुकूल है ? एक भ्राम्यी सीनियरमोस्ट हो सकता है, मगर वह एफिशियेंट नहीं हो सकता है, उसकी रोरिंग प्रैक्टिस नहीं हो सकती है। सीनियर होना कोई क्वालीफिकेशन नहीं है। जो भी व्यक्ति वाइस-चेयरमैन हो, उसको एफिशियेंट होना चाहिये, उसका लीगल नालेज होना चाहिये और उसकी रोरिंग प्रैक्टिस होनी चाहिये।

मेरा निवेदन है कि मंत्री महोदय बार काउंसिल्स में, जिनमें हिन्दुस्तान की इन्स्टी-लियरन्सिया, बुद्धिजीवी वर्ग के लोग हैं, डेमोक्रेटिक प्रासेस को खत्म करने के बारे में फिर से सोचें। मैं समझता हूँ कि इलैक्ट्रेड बाडीज में नामीनेशन करना डेमोक्रेटिक प्रिंसिपल्स के विरुद्ध होगा।

इस विधेयक में यह व्यवस्था की गई है कि एनरोलमेंट के लिये दिये जावे वाले पैसे में से बार काउंसिल आफ इंडिया को 40 प्रतिशत के बजाय 20 प्रतिशत हिस्सा दिया जायेगा

मेरा कहना यह है कि बार काउंसिल आफ इंडिया में बाहर के लोग लैक्चर देने के लिये आते हैं और इस तरह उसको काफी खर्चा करना पड़ता है। इस हालत में उसके हिस्से को इतना कम क्यों किया गया है ? बार काउंसिल आफ इंडिया और स्टेट बार काउंसिल्स में रुपये को 20 परसेंट और 80 परसेंट के हिसाब से बांटने के बजाये 50-50 के हिसाब से बांटना चाहिये।

श्री रामाचलर शास्त्री (पटना) : इस विधेयक का पूरा समर्थन करना मेरे लिए सम्भव नहीं है। यह ठीक है कि द्वैध प्रणाली को उठाने की व्यवस्था आपने की है। एडवोकेट से ही काम चले, वकील ही रहे, सालिसिटर लोग नहीं रहें यह तो ठीक है। आपने यह भी कहा है कि जो बार काउंसिल के सदस्य होंगे और जो उनका सदस्यता शुल्क होगा उसमें से 40 प्रतिशत के बजाय अब 20 प्रतिशत ही बार काउंसिल आफ इंडिया कोटे के रूप में लेगा। यह भी ठीक है। ऐसा करने से उम संगठन को काम करने में आसानी होगी। इसका मैं विरोध नहीं कर सकता।

लेकिन जो बुनियादी बात है वह यह है कि जो स्टेट बार काउंसिल होगी और बार काउंसिल आफ इंडिया होगी जिसका पहले 1961 के एडवोकेट्स एक्ट के मुताबिक चुनाव होता था, दोनों पदों के लिए जो लोग प्रच्छेद थे, एडवोकेट्स और बार काउंसिल के सदस्य जिनको ठीक समझते थे अपने संगठन के लिए उनको बे निर्वाचित करते थे। अब इस व्यवस्था को बदल कर अपनी और से आप मनोनीत करना चाहते हैं। बार काउंसिल

## [ श्री रामावतार शास्त्री ]

आफ इंडिया में भी आप मनोनीत करेंगे, एटार्नी जनरल साहिब चेयरमैन हो जाएंगे और सॉलिसिटर जनरल ब्राह्मस चेयरमैन हो जाएंगे। स्टेट बार काउंसिल में एडवोकेट जनरल को चेयरमैन बना देंगे। ऐसा क्यों? यह बात मेरी समझ में नहीं आई। देश में जनतंत्र को अधिक से अधिक विकसित और विस्तारित करने की बात चल रही है ताकि जनता अधिक से अधिक हर चीज में हिस्सा ले सके। लेकिन आप यहां पढ़े लिखे जो एडवोकेट होते हैं जो तमाम बातें समझते हैं और दुनिया को समझाते हैं उनके अधिकारों को इस तरह से कुंठित और सीमित करने का काम कर रहे हैं, इसका क्या अर्थ हो सकता है? क्या इसका और जनतांत्रिक विकास का कहीं मेल है? इसका यदि आप ठीक उत्तर नहीं देंगे तो जनता को जरूर यह विश्वास होगा कि धीरे धीरे आप जनतंत्र को सीमित कर रहे हैं और कुछ लोगों के हाथ में तमाम सत्ता सौंपते जा रहे हैं। इस दृष्टि से अगर देखा जाए तो यह जो व्यवस्था आपने की है, पुरानी जो सही व्यवस्था थी उसको उलट करके, यह गलत व्यवस्था है। इसका कोई भी बार काउंसिल या एडवोकेट्स या वकीलों का कोई संगठन समर्थन नहीं कर सकता है। आपको चाहिये कि आप पुरानी व्यवस्था को रहने दें। आप उनको मौका दें कि वे जिस को ठीक समझें उसकी चुनें। आपने यह व्यवस्था भी की है कि जो सीनियर मोस्ट एडवोकेट होगा उसी को चुनेंगे। इसका लोगों पर यही असर पड़ेगा और समझेंगे कि सरकार अपने

विरोधियों को चुने अपने का अधिकार नहीं देता यह नहीं हो सकता है कहीं आपके विरोधी चेयरमैन हो जाएं और कहीं आपके ही भादमी हो जाएं लेकिन इतना डर क्यों है? आप सारी ताकत को अपने हाथ में केन्द्रित क्यों करना चाहते हैं? क्यों इस प्रकार की भावना वकीलों में पैदा करना चाहते हैं कि जनतंत्र को अग्राह्य खत्म किया जा रहा है? इस घाटा का इसलिए मैं जोरदार विरोध करता हूं। इसका मैं कभी समर्थन नहीं कर सकता हूं। लेकिन जो बाकी बातें हैं वे समर्थन लायक हैं।

## प्रो० एस० एल० सक्सेना (महाराजगंज)

मैं डागा साहब की स्पीच का पूरा समर्थन करता हूं। यह बहुत गलत बात है कि 40 परसेंट से आप ने 20 परसेंट कर दिया। फिर जैसा माननीय सदस्य ने कहा जो एक जनतांत्रिक प्रणाली थी उस को आप खत्म कर रहे हैं। बार कॉमिन जैसी पूरी तरह एवनाइटे जमात को भी यह अधिकार नहीं रहेगा कि वह अपने चेयरमैन को चुन सके। सरकार ने एटार्नी जनरल या एडवोकेट जनरल को चेयरमैन बना दिया। क्या कारण है? कोई कारण नहीं है। इनसे साफ मालूम होता है कि आप डर गए हैं। चूंकि इस वक्त जो चेयरमैन है वह जनसंघी है इसलिए आप सोचते हैं कि ऐसा नहीं होना चाहिये। एक बार अगर कोई जनसंघी हो गया तो क्या आप चाहते हैं कि उनका यह राइट हो छीन लिया जाये? मैं समझता हूं यह ठीक नहीं है और मैं आशा करता हूं

मैंने जो इसकी वापिस लें सब धीरे धीरे रद्द  
उन्हीं के पास रहने देंगे ताकि बेजिस्की नहों  
उस को चुन ।

**SHRI K. MAYATHEVAR** (Dindigul): I appreciate two points in this Bill and oppose the rest.

The appreciable points introduced in this Bill by way of amendment are (1) the abolition of Solicitors both in Bombay and Calcutta High Courts. Still the Solicitor's posts are retained in the Supreme Court. I have got my own personal experience. When I take a case from the Madras High Court to the Supreme Court, my clients are asked to pay dual fees even now in the Supreme Court. Therefore, it is high time that the hon. Law Minister and the Government of India consider this matter and abolish Solicitors in the Supreme Court also.

The second appreciable point is that you have given 20 per cent to the All India Bar Council and the rest 80 per cent to the State Bar Councils. It is a very healthy point in the Bill in respect of the State Bar Councils which are crippled in their functioning and developmental activities for want of funds.

Regarding the points that I oppose, I plead with the hon. Minister to consider favourably this point. In regard to State Bar Council elections, even now the Advocates of the State High Court are electing the Bar Council Members. Then the Bar Council Members are electing their own Chairman on the basis of the democratic system. Now, the Advocate-General of Madras or Bombay High Court or other State High Courts are appointed Chairmen of the respective State Bar Councils...

**SHRI M. C. DAGA**: Nominated.

**SHRI K. MAYATHEVAR**: Yes, nominated. I oppose this. This is not a democratic way of doing things because in every other case, for example,

in the case of Vice-Chairman you say the seniormost lawyer....

**MR. DEPUTY-SPEAKER**: You have made the point.

**SHRI K. MAYATHEVAR**: I am coming point by point. Why should you say the seniormost lawyer? A lawyer who has got a minimum of 10 years may be allowed to contest for Vice-Chairmanship. Old people need not necessarily mean that the eldest people should be elected. Regarding the All India Bar Council, the Solicitor-General is going to become the Vice-Chairman. That also I am opposing. Therefore, they must encourage young lawyers to come up. This is a noble profession. That everybody accepts.

Then, Sir, regarding appointment of Government pleaders and advocates, in Madras High Court, we have got very old lawyers who are aged 70 or 80 who are still appointed Government Pleaders and Prosecutors. They are entrusted with Central Government cases in customs and other things. Why not you give your cases to junior lawyers? It is high time that you distribute your work.

Now, Sir, there is an unhealthy competition in the legal profession. That is admitted by all. Then why not the Government of India come forward to regulate and reduce the intake of students in the Law Colleges?

Then, Sir, the advocate's fees are not at all revised for the last 100 years. It is high time that you fix advocate's fees on a realistic basis in civil cases and civil suits.

With these few points, I support the Bill and I request the Government to come forward with very useful Bills covering the points I have raised in the next session at least.

**SHRI Y. S. MAHAJAN** (Buldana): Mr. Deputy-Speaker, Sir, I welcome

[Shri Y. S. Mahajan]

this small but significant piece of legislation. It provides for *ex-officio* Chairmen for the Bar Council of India and the State Bar Councils. The Attorney General of India and the Advocates-General of the States are the people who have distinguished themselves by reason of their ability, erudition, integrity and scholarship. They are undoubtedly the leaders of the Bar and therefore, this Bill turns the *de facto* into a *de jure* situation.

Secondly, it says that 20 per cent of the enrolment fees of advocates is to be given to the apex body instead of 40 per cent as at present. It is contended that more funds are required by the States Bar Councils to provide for insurance, Provident Fund etc. for the Members and also to pay for legal aid to the poor. I would like to know from the hon. Minister whether there are State Bar Councils who have in this way large enough funds to pay for legal aid to the poor people.

I am glad the dual system in Bombay and Calcutta is going to be abolished and against which there have been loud protests for so many years. It makes legal justice expensive and very dilatory. The amendment will reduce the delays and make justice less expensive than before. In this connection, I would like to make a suggestion to the Hon. Minister. The main difficulty in our legal system is that it delays justice and thereby it denies justice to the poor people.

If the Government were to appoint a Committee to enquire into the causes of delay and then take steps to improve procedural law and organisation of the legal profession, we would be able to have a better piece of legislation.

**सरदार स्वर्ण सिंह सोखी (जनसेदपुर):**

रिप्टी स्पीकर साहब, इस बिल को हाउस के सामने लाने के लिये मैं मिनिस्टर साहब को बहुत बधाई देना चाहता हूँ। यह वाकई बहुत अच्छा बिल है, इस से गरीब लिटिगेन्ट्स को बहुत राहत मिलेगी। इस में आप ने सोलिसिटर्स को बीच में से निकाल दिया

है—यह बहुत अच्छा कदम है कलकत्ता में पहले अगर कोई आदमी कोई केस लेकर किसी सोलिसिटर के पास जाता था तो वे उस को इतना ज्यादा लूटते थे, जिसका बयान नहीं किया जा सकता। बलेम से ज्यादा तो उनकी फीस बन जाती थी, टेलीफोन रसीव करने के ही 5-7 रुपये रखवा लेते थे; मुकदमा लेने से पहले ही फीस जमा करवा लेते थे, इतना ज्यादा लूटते थे कि जिस की कोई हद नहीं थी। एक बात यह कहना चाहता हूँ—जब आप ने सोलिसिटर्स हटा दिये हैं, सोलिसिटर जनरल को क्यों रखा हुआ है, इस को भी हटाइये।

आप ने इस में बार कॉन्सिल आफ इण्डिया का हिस्सा 40 परसेन्ट से घटा कर 20 परसेन्ट कर दिया है—यह भी एक बहुत अच्छा कदम है। इस से स्टेट बार कॉन्सिल को मदद मिलेगी कि वे बाँस सूत्री कार्यक्रम के तहत गरीबों की ज्यादा मदद कर सकेंगे।

स्टेट बार कॉन्सिल के चेयरमैन के लिये आप ने दो साल का प्रावधान किया है, लेकिन आसाम, नागालैंड, मेघालय, मणिपुर और त्रिपुरा में हर दो साल के बाद बाई-रोटेशन नम्बर आया करेगा; इस तरह से एक स्टेट का नम्बर 10 साल के बाद आयेगा—मैं चाहता हूँ कि इस को आप थोड़ा ठीक कीजिये।

मैं एक बार फिर मिनिस्टर साहब को बधाई देता हूँ—इस बिल को लाकर आप ने बहुत अच्छा काम किया है।

**SHRI D. N. TIWARY (Gopalganj):** Mr. Deputy-Speaker, Sir, I welcome this Advocates Amendment Bill. I support all the provisions except one. The provision for the division of fees 20—80 is very good because the Central Bar Council will get fees from all the States and thus they will have a substantial amount for them to spend while Bar Councils of the States will get income from that State only which will not be much. Therefore, this provision is good. I do not know why Shri Daga is opposed to it?

But, I do not relish the idea of nomination of the Chairman and Vice-Chairman. Even in sister institutions like Universities, students choose their executive through elections; the teachers of universities have also got elections. Why do you bar the Advocates from the elections? If you were to abolish elections, you first abolish the elections in the Universities because the students are to devote to their studies and not to the politics. Advocates are mature people and know politics. They indulge in politics. Why do you want to exclude them from exercising their rights. I would like to appeal to you to re-consider this matter and allow the elections for the selection of Chairman and Vice-Chairman to the Bar Council at the State level and also at the Central level.

THE MINISTER OF STATE IN THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (DR. V. A. SEYID MUHAMMAD): Mr. Deputy Speaker, Sir, I am thankful to all the hon. Members who have participated in the debate.

I am glad that generally there is support to the abolition of what is called the dual system. There is criticism about the other provisions. Mr. Daga and two other hon. Members have suggested that if you are going to abolish the dual system everywhere in India then why do you want to retain the advocate-on-record which corresponds to something like solicitor in other courts.

Sir, I can explain as to why it is necessary to have advocate-on-record in the Supreme Court. I started practice in the Supreme Court about 18 years ago. There are three types of advocates in the Supreme Court—advocates-on-record, junior advocates and senior advocates. In the course of eighteen years of practice in the Supreme Court, I have undergone all these three processes.

Sir, it is not only my experience but also it is the general experience of everybody that senior advocates has to be there and the advocate-on-record has also to be there. In the highest court to the land when extremely difficult and complicated legal problems are to be settled there must be eminent—who are accepted as eminent lawyers—senior advocates to plead the cause in all its various legal implications and subtleties before the court. The advocate-on-record's work is to file *wakalatnamas*, attending to various processes in the court, attending to the chamber work, seeing to cyclostyling work, etc. There is so much of administrative work. If the senior advocate is to take up that work it would be impossible for him to do full justice to the court. If the senior advocate attends to all this miscellaneous work then I do not think during the whole of the year he will be able to take more than two to three cases. So, it is very essential to have advocate-on-record, junior advocate and the senior advocate. Further, Sir, this three-tier system of advocates has not been created by an Act but by the rules of the Supreme Court. Section 52 of the Act empowers the Supreme Court to make rules under Article 145 of the Constitution.

It is under these rules that this has to be done. We cannot enter the field. Once under art. 145 the Supreme Court exercises the power conferred on it for rule making for the procedural and other necessities of the court, we disappear from the picture. This is entirely for the Supreme Court. They have justification for this. I would not repeat what I said. They have full justification for retaining these three-tiers of advocates.

Another point raised by Saksenaji and others is about the 20 per cent contribution of the State Bar Council to the Central Bar Council. I am proud to say, I am happy to say, that after a long slumber and indifference on the



[Dr. V. A. Seyid Muhammad]

part of the members of the Bar after independence—before independence they were in the forefront of the freedom fight; then they shank into a shell and became completely impervious to the social needs and their obligations to society as a whole—I am glad to say that in the last 1-1/2—2 years, there has been an awakening throughout India. I have travelled through most of the capitals of the States.

In the District Bars, there is an awakening which has come which is electrifying. The twenty point programme mentions about legal aid. It has become a slogan throughout India and members of the Bar are coming in thousands to help. They have started themselves thinking about their own situation, the necessity for insurance, the necessity for provident fund, the necessity for various other things to encourage junior members of the Bar as well as the poor sections. We have had a preliminary examination and find that this requires some voluntary contribution from the members themselves and a partial contribution from the Bar Council so that we foresee a situation when the Bar will come forward taking up these various progressive social measures to help themselves and also the entire public, particularly the indigent litigants. In that situation, a considerable amount will be required by the Bar Councils themselves for which we find it is necessary to cut down the percentage of contribution to the Central Bar Council. Actually the Central Bar Council has got Rs. 74 lakhs lying with them. What is the necessity of enriching them with another 20 per cent making the Rs. 74 lakhs into Rs. 1 crore? On the other hand, with 20 per cent more, these Bar Councils can do a lot for the indigent litigants as well as for themselves. It is not arbitrarily done; not that we sat down and said 'All right, from 40 we cut it down to 20'. We have definite reasons for this. I very recently came from the Bar, and I am sure I will have to go back to it

again, sooner or later—so also my senior colleague. Their problems are very much in our mind. Nobody can expect to make a permanent home here. So that we know those problems. After I became a Minister, travelled throughout the country, know the situation in these Bar Councils and I have found the new awakening. It is with justification that we have reduced it.

Another thing is about the nomination question. There was some criticism on principle. You would recall that when the Advocates Act came into existence first in 1963, I think there was a provision that the Attorney-General would be the *ex-officio* Chairman and the Solicitor-General *ex-officio* Vice-Chairman, as we have done now. We tried it for two or three years. Then we thought, why not try the other system, the principle which hon. Members want is, why not election. We tried it. It became absolutely impossible to carry on.

Bar Councils are split as a result of these elections. The man who gets elected as Chairman has his supporters and opponents and a regular fight is going on between them. Every issue is decided on the basis whether a particular person worked against the Chairman or for him during the election. When the Chairman wants to do certain things, those who were against him put restrictions and so on. So, there was complete chaos. This has been going on throughout the country, not in one Bar Council alone.

SHRI Y. S. MAHAJAN: Does it mean that lawyers cannot manage their affairs democratically?

DR. V. A. SEYID MUHAMMAD: Lawyers are capable of very many things. They are incapable of certain things. They are not perfect in this situation.

There are other reasons also. Various statutory duties are entrusted to the Advocate General as the leader of the Bar. Under Section 92 of the C.P.C., for example, he has to determine whether a suit should be allowed to be filed in the case of a trust. The law has been interpreted that once the Advocate General refuses or permits it, there cannot be an appeal against it. The High Courts have held that when the Advocate General discharges his function under section 92, he is not acting as a government representative. Therefore, it is not correct to say that he is government man and he will act in a particular way. I was Advocate General and I know that the Advocate General has to give his independent opinion. He is not a rubber stamp of the government. If he has not got the guts to tell the government what his independent opinion is, he is not worth his salt. So, I do not agree that he is a government official or a party man.

With these words, I commend the Bill for the acceptance of the House.

SHRI Y. S. MAHAJAN: How many Bar Councils have started social services like insurance, provident fund, etc?

MR. DEPUTY-SPEAKER: Having been a lawyer, in his own words, he is generous enough to say that lawyers are the people who need discipline most.

The question is:

"That the Bill further to amend the Advocates Act, 1961, be taken into consideration."

*The motion was adopted.*

MR. DEPUTY-SPEAKER: We shall take up clause by clause consideration.

The question is:

"That clause 2 stand part of the Bill."

*The motion was adopted.*

*Clause 2 was added to the Bill.*

Clause 3 (Amendment of section 3).

MR. DEPUTY-SPEAKER: There are two amendments by Shri Daga.

SHRI M. C. DAGA: I beg to move: Page 2, line 13,—

after "seniormost advocate" insert  
"with due legal acumen, efficient  
and having a roaring practice" (1)

Page 2,—

after line 14 insert—

"(3AA) The Chairman and the Vice-Chairman of the Bar Council of India and of the States and union territories shall invariably be guided by the majority decision of the respective Bar Councils and in no case the decision of the Chairman or Vice-Chairman be imposed on the members of the Council." (2)

THE MINISTER OF WORKS AND HOUSING AND PARLIAMENTARY AFFAIRS (SHRI K. RAGHU RAMAIAH): It is self-explanatory.

MR. DEPUTY-SPEAKER: Are you pressing the amendments?

SHRI M. C. DAGA: No.

MR. DEPUTY-SPEAKER: Does he have the leave of the House to withdraw his amendments?

HON. MEMBERS: Yes.

*Amendments Nos. 1 and 2 were, by leave, withdrawn.*

MR. DEPUTY-SPEAKER: The question is:

"That clause 3 stand part of the Bill."

*The motion was adopted.*

*Clause 3 was added to the Bill.*

*Clauses 4 to 11, Clause 1, the Enacting Formula and the Title were added to the Bill.*

DR. V. A. SEYID MUHAMMAD: I beg to move:

"That the Bill be passed."

श्री जांबुवंत खोटे (नागपुर) : अधिवक्ता संशोधन विधेयक जिससे उनमें तथा उनके सेशन में एक तब्दीलो और हलचल भवने वाली है, उस पर जब हम चर्चा कर रहे हैं तो देश के कानून मंत्री श्री गोखले साहब यहां हाजिर नहीं हैं। एक बात तो मैं यह कहना चाहता हूं।

एक प्वाइंट आफ इनफार्मेशन है। प्वाइंट आफ आर्डर नहीं है। ऐसा महत्वपूर्ण कानून बिना कोरम के पास कर लेना कहां तक उचित है? हम सदन की गरिमा को कितना गिराना चाहते हैं, इसकी जानकारी श्री मैं आप से चाहता हूं।

MR. DEPUTY-SPEAKER: Motion moved;

"That the Bill be passed."

MR. DEPUTY-SPEAKER: Does the Minister want to say anything in reply?

DR. V. A. SEYID MUHAMMAD: No, Sir.

MR. DEPUTY-SPEAKER: The question is:

"That the Bill be passed"

*The motion was adopted.*

MR. DEPUTY-SPEAKER: Hon. Members, we have come to the end of our labours. I wish you a good journey home or wherever you may go and a happy return thereafter. *The House stands adjourned sine die.*

19.38 hrs.

*The Lok Sabha adjourned sine die.*