

[Shri Shyam Dhar Misra]

has already tried to answer the point raised by Shri Gauri Shanker Kakkar. She wanted to know in particular whether any other society which is not particularly working in that field, if it extends its activities to a similar field, can take over the assets and liabilities. My answer would be 'Yes'. The only question is whether that society is prepared to pass a resolution to take the assets and liabilities, and the registrar of the particular State where the principal office of the multi-unit co-operative society is located is satisfied about the transfer; once that is done, there is no legal bar to the transfer.

My hon. friend Shri Sivamurthi Swami raised the problem regarding Mysore. This problem has been there to some extent and we are looking into it. The transfer of the assets and liabilities as regards Mysore has not been much of a problem. It has almost been settled; but to some extent whatever is there is being looked into by us, and it will be taken care of.

There is no other point which has been raised. As I stated earlier and as the Members realise, this is a non-controversial Bill; it is an enabling Bill with just three clauses. I move that the Bill be taken into consideration.

Mr. Deputy-Speaker: The question is:

"That the Bill further to amend the Multi-unit Co-operative Societies Act, 1942, be taken into consideration."

The motion was adopted.

Mr. Deputy-Speaker: We shall now take up the clauses.

The question is:

"That clauses 2 and 3 stand part of the Bill."

The motion was adopted.

Clauses 2 and 3 were added to the Bill.

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

Shr Shyam Dhar Misra: I beg to move:

"That the Bill passed".

Mr. Deputy-Speaker: The question is:

"That the Bill passed".

The motion was adopted.

13.55 hrs.

DELIMITATION COMMISSION BILL.

The Deputy Minister in the Ministry of Law (Shri Bibudhendra Mishra): I beg to move:*

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

This Bill has been brought forward in pursuance of articles 82 and 170(3) of the Constitution which provide that upon the completion of each census, the allocation of seats in the House of the People to the States, the total number of seats in the Legislative Assembly of each State, and the division of each State into territorial constituencies for electing members to the House of the People and the Legislative Assembly shall be readjusted by such authority and in such manner as Parliament may by law determine.

I would, first of all, like to refer to the definition of 'State' given in

*Moved with the recommendation of the President.

clause 2 of the Bill. This Bill will have no application to the State of Jammu and Kashmir and the State of Nagaland, the reason being that article 81 of the Constitution which provides that not more than 500 members shall be chosen by direct election from the territorial constituencies in the States has been modified so far as the State of Jammu and Kashmir is concerned, by the application of the Jammu and Kashmir Order, 1954, which enables the President to nominate the Members from that State to the Lok Sabha in consultation with the State Legislative Assembly. Therefore, the Jammu and Kashmir State does not come within the purview of the Bill.

So far as the State of Nagaland is concerned, I would refer to the State of Nagaland Act itself, section 3 of which provides that as from the appointed day, there shall be formed a State to be known as the State of Nagaland, and the appointed day has been defined as meaning the day which the Central Government may by notification in the Official Gazette appoint. The Nagaland State has not come into existence so far the appointed day being dependent on the Constitution (Thirteenth Amendment) Bill which requires ratification by not less than one-half of the total number of States. I may inform the House, that the Act has been ratified already by five States, and it has to be ratified by three more States, before the Nagaland State can come into operation. But when the State comes into existence, there will be no delimitation, so far as the parliamentary constituency is concerned, because for the whole State of Nagaland, it has been provided in the State of Nagaland Act itself that the parliamentary constituency will be one. But then, it has to be divided into sixty Assembly constituencies, and it has been specifically provided in the Act itself that the Election Commission will start working upon the delimitation of the Assembly Constituencies in the Nagaland State when it comes into existence.

I may also make it clear that this Bill does not apply to the Union Territories, firstly because article 82 of the Constitution in pursuance of which this Bill has been brought forward is not applicable to article 81 (1) (b), because the Union Territories are not States. Article 81 (1) (b) provides that not more than 20 Members to represent the Union Territories shall be chosen in such manner as Parliament may by law provide. Parliament by law has provided how these 20 seats which have been allocated to the Union Territories has to be distributed between the different Union Territories. It will be remembered that Pondicherry as such has no representation up till now, because again, that is dependent on the ratification of the Constitution (Fourteenth Amendment) Act by the States, and the 20 seats that have been given to the Union Territories have already been filled up. Therefore, the 14th amendment to the Constitution suggests that the number should be raised from 20 to 25. Once the number of seats for the Union Territories is raised from 20 to 25, the question of representation of Pondicherry and the allocation of the increased number of seats between the different Union Territories will be taken up. Therefore, these are the reasons why the Bill does not apply to the State of Jammu and Kashmir, to the State of Nagaland and to the Union Territories.

Then I will say that this broadly follows the pattern of the 1952 Delimitation Act except for certain changes which have become consequential upon the amendment of the Constitution.

14 hrs.

Shri Hari Vishnu Kamath (Hosangabad): 1960?

Shri Bibudhendra Mishra: The Delimitation Act No. 81 of 1952. I will point out broadly what are the departures made from the 1952 Act. The general principles have been taken

[Shri Bibudhendra Mishra]

from the same Act. But the departures have been because the two-member constituency is no longer in existence. Now the reference is to single-member constituencies. Then I will refer to section 5(1) of the 1952 Act itself which prescribes how many associate members would be there from the different States. It depends upon the number of population. If it is more than 75,000, it should be a certain number—7; if it is less than 75,000 but more than 20,000, it should be such and such. So it gives different numbers for different States relying on their population. Now that Parts A, B and C States categories have been abolished, it has been proposed that there should in all cases be only 7 associate members, three representing the Lok Sabha to be nominated by the Speaker and four Assembly Members to be nominated by the Speaker of the Assembly concerned

Shri Hari Vishnu Kamath: You must increase the number.

Shri Bibudhendra Mishra: That is his amendment. I will come to that later on.

So this is another aspect in which this Bill differs from the previous legislation.

Then there is another difference, that is, in the procedure regarding the making of readjustment and delimitation. You will find that in making readjustment and delimitation, there are two stages involved. The first is to allocate the number of seats to the different States and to decide the number of seats to be reserved for the scheduled castes and scheduled tribes and then proceed with the demarcation of boundaries. The law as it stands—I am referring to the 1952 Act again—requires that in both the stages, the proposals have to be published, objections and suggestions have to be invited and then it would be decided in a public sitting. What the present Bill proposes to do is to

eliminate public sitting altogether so far as the first stage is concerned because in deciding the number of seats one has to go by the Census Report, that is, the 1961 Census Report. That being a question of fact, there cannot be any dispute about it. Of course, two questions will arise at that stage, that is, if the number is to be increased, to how many, and then what would be the multiple between the seats allocated to the Lok Sabha and the seats allocated to the State Assemblies. These two points which will arise at the first stage can very well be decided by the members of the Commission themselves with the help of the associate members and so there need not be any public sitting so far as the first stage is concerned, so that there will be economy of time and money and the Commission can finish its work earlier.

These are mainly the three departures that have been made from the Act of 1952. The rest of the provisions deal with the constitution of the Commission, the powers of the Commission, the principles to be followed by them etc. Of course, the principles given in the Bill are the very principles enunciated in the Constitution itself. There is nothing new by way of procedure to be adopted by them while deciding the question of reservation of seats for the scheduled castes and scheduled tribes.

Then I will refer to clause 9 of the Bill itself. Item (c) of sub-clause (1) of clause 9 says:

“constituencies in which seats are reserved for the scheduled castes shall be distributed in different parts of the State and located, as far as practicable, in those areas where the proportion of their population to the total is comparatively large”.

Item (d) says:

“constituencies in which seats are reserved for the scheduled tribes shall, as far as practicable,

be located in areas where the proportion of their population is the largest".

Therefore, the principle that has to be followed by the Commission in regard to scheduled tribes is not to disperse the seats throughout the State, because it is a matter of common knowledge that they are not dispersed throughout the State. The constituencies should be located in areas where they are the largest in number. So far as the scheduled castes are concerned, it is well known that they are dispersed throughout the State. There the principle would be that first of all the constituencies should be dispersed throughout the State and then for the purpose of locating the exact constituencies their number is to be taken into consideration. These are the principles indicated in the Bill itself which the Delimitation Commission should observe while deciding and making reservation of seats for scheduled castes and scheduled tribes.

These are, in the main, the recommendations in the Bill. Otherwise, as I said, it broadly follows the 1952 Act except for the constitutional changes.

There are quite a number of amendments, most of them tabled by the redoubtable Shri Kamath. I will deal with them at the appropriate stage.

Mr. Deputy-Speaker: Motion moved:

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

Time has not been fixed for this Bill. Shall we have three hours?

Shri Hari Vishnu Kamath: Four hours at least. You may increase it to five.

Mr. Deputy-Speaker: We may have three; if necessary, I will extend it by another hour.

Shri S. M. Banerjee (Kanpur): I have to ask a question of the hon. Minister. This particular Bill is welcome. It is in conformity with article 82 of the Constitution which provides that such readjustment shall not affect representation in the House of the People until the dissolution of the then existing House.

Will the Delimitation Commission be appointed immediately and will the work start immediately? If so, my fear is that this is going to affect the other all-important work we have all got to do during the emergency.

Mr. Deputy-Speaker: Is he making a speech?

Shri S. M. Banerjee: I am asking for a clarification as to whether this will be done in 1964.

Mr. Deputy-Speaker: If he wants to speak, he may make his points at that time.

Shri S. M. Banerjee: I will finish quickly.

I support the Bill with the amendments tabled by Shri Kamath. But there is some confusion about this which should be removed by the hon. Minister. Now that we are in an emergency, practically every work in the country except that which is connected with the defence of the country, is almost suspended. All the energies from this department or that are being canalised and diverted for concentrating on this work. My information is that the Election Commission has no work now because there are no by-elections, and a very able officer, the Chief Election Commissioner, who was Secretary of the Ministry of Law, is almost without work. So, I want to know if this work will start immediately.

[Shri S. M. Banerjee]

This Bill is a welcome feature and it was the wish of the House also, but I have my fears and apprehensions. The Commission has to go to the various districts, even to the tehsil level, and the elected representatives of this House and the State legislatures will be diverting their energies to this, because, after all, they are interested in this. It is a very major, big thing. Naturally, we shall not be able to divert our attention and concentrate it on defence work. So, I would like to know whether this work will start immediately or it will be done in 1964, and whether the staff working in the Election Commission, including its Chief Election Commissioner, will be utilised in urgent defence work. Now, they have given one day's salary to the National Defence Fund. Is that enough? There are some senior officers, IAS and CS, in the Commission. I would like to have an assurance that their services would be properly utilised and that this work will not be started now. This is only a suggestion of mine. When the amendments come, I will support Shri Kamath's amendments.

Shri Surendranath Dwivedy (Ker. drapara): We are in an emergency, and by-elections have been stopped in this country. I do not think during this emergency there is any possibility of having a general election or by-elections. We do not know how long this emergency will continue.

But it is good that we provide legislation and the machinery required, so that when the opportunity comes, we can have elections without delay. From that point of view, there is no harm if we have this Bill which provides for the constitution of a Delimitation Commission to go into the entire question of delimiting the present constituencies.

As is well known, the delimitation of the constituencies has become overdue, because when we abolished the double-member constituencies, the census was on and its report was not

available. When dividing the double-member constituencies we should also have reviewed the percentage of representation of the scheduled castes and scheduled tribes, because then the 1951 census figures were depended upon and actually there was great difference between them and the real population of the scheduled castes and scheduled tribes. Also, to my knowledge some new cities have come up where on account of industrial establishments and other things, the proportion of the scheduled castes and scheduled tribes as against the general population has greatly varied. So, this should have been done even then, but we waited for the report of the census to decide it.

This is an important thing from the point of view of free and fair elections. If we do not have a quasi-judicial body, it is always possible there may be gerrymandering, there may be so many influences to adjust the constituencies to facilitate some party or person. Therefore, to avoid that, it is necessary to have a quasi-judicial body. So, the Delimitation Commission as it is proposed to be constituted under the Bill, is quite good and proper. I have also no objection to the association of representatives both from the State Assemblies and from the Lok Sabha, as it has worked very nicely in the past. In this Bill, like in the previous Act, it has been proposed that when the Speakers of the State Assemblies and the Lok Sabha nominate the members they should give consideration to the composition of the House as a whole. That is good so far as it goes, because we will have the co-operation and the opinion of almost all sections in the House represented. It may have worked quite nicely in the past, but we have seen in the three general elections that there is more than one party, besides the ruling party, in the opposition, and if we have only three members from the Lok Sabha and four from the State Assemblies I do not think all sections would be represented in this body. The associate members are not given even the

right to vote, they will be there is a purely advisory capacity. The final decision will be made by the Commission. The Commission will go round the country, invite suggestions, even take public evidence, request persons to appear before them if necessary. When all these things are provided, I do not think there should be any objection to increase the number of the associate members, keeping in view the composition of the different legislatures in this country. It will facilitate the work, rather than hamper it. I would therefore say that the number should be increased from seven. As to what that number should be, there are amendments. Let the Government consider and find out how it can be done.

In clause 9(a) it has been indicated how the delimitation should take place. It says:

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

These are all good principles, and we have always insisted on maintaining and not breaking up the administrative units. But, as a result of that it has been found from experience that there are constituencies which, although administratively contiguous areas, are difficult to reach from the point of view of communications. There are rivers and other physical disabilities. So, the chief consideration should be communications. In some cases the constituencies are so delimited that for the representative of the constituency the only method of communication is what they call *charan jodi*, that is to walk. There are constituencies where even the bullock cart cannot go.

Shri Hari Vishnu Kamath: *Pada-yatra*.

Shri Surendranath Dwivedy: *Pada-yatra* or the Vinobha method is pro-

bably the only method to reach the constituency. So, special attention should be paid to this aspect of communications. I am not mentioning this only with reference to elections. At least elections are contested by parties, and they can somehow or other manage, but for the member who represents the constituency, easy communications are necessary in this big country where you cannot avoid the population. We are not going to increase the membership of the House of the People because there has been an increase in the population of the country, because we do not want to make this House a more unwieldy body. We cannot avoid that. It is necessary that in bifurcating the constituencies we should give our attention to these aspects of the question. It is very rarely that what we do in Delhi reaches the people. So, it is the bounden duty of the representative concerned to carry the message to the people. He can discharge his duties if he is able to reach his constituency quickly. Taking into consideration his responsibilities in the Lok Sabha and also other duties, he has very little time to go to the constituencies. If the constituencies are such that it takes days to even reach them, it becomes almost impossible for the Member to get in contact with the constituencies and the people. So, we should not only insist on the administrative unit. In many constituencies this has been overlooked.

The other point I wish to touch is the representation of the Scheduled Castes and Tribes. When the double member constituencies were there, somehow or the other the constituencies were bifurcated in a manner so as to find out the constituencies which could be made a reserved constituency and a double member constituency. Now that we have village census and we have also single member constituencies it is necessary that we should decide which are the areas in a particular State which have the largest population of these people. It does not apply very much to the Scheduled Tribes, as they are concentrated, as the Deputy Minister point-

[Shri Surendranath Dwivedy]

ed out, in certain localities in almost all the States. So, it does not affect them very much. But the Scheduled Castes are dispersed throughout the State and so it becomes necessary that while in the different States we decide about their representation we should see whether the present reservation made in certain constituencies is proper and just. Today we find certain unreserved constituencies which have a larger number of Scheduled Castes than in the constituencies which have been reserved for them.

Mr. Deputy-Speaker: It is a suggestion which he will have to give to the Delimitation Commission.

Shri Surendranath Dwivedy: That is why I am pointing out that while delimiting constituencies, they have to take into account these factors.

Shri Hari Vishnu Kamath: The Minister can pass it on to the Chief Election Commissioner who is an *ex-officio* Member of the Delimitation Commission.

Shri Surendranath Dwivedy: There is an amendment of my hon. friend Shri Kamath. The Minister says that on account of the difficulties it is not going to be extended to the Jammu and Kashmir State. So far as I know, the State Assembly will no longer nominate six members to the Lok Sabha; they are going to have direct elections. For election purposes, they are taking the help and assistance of the Election Commission. When we bring in this Bill and when there is also talk of the entire Constitution being extended to them and of some method being found for total integration, was it not proper that they should have consulted the Jammu and Kashmir Government to find out and get their agreement for extending this legislation to Jammu and Kashmir?

Shri Tyagi (Dehra Dun): Sir, there is no controversy about the Delimitation Bill. It should be done after the census work was over. But there are certain things which require a

little clarification. While I support this Bill, I want to bring to the notice of the hon. Minister that these days these investigations would cause unnecessary inconvenience to the administrative officers. At present on account of this war, all the administrative officers are too busy with war efforts and as time passes on I think they will be more and more busy with recruitment, training, etc. and fire-fighting and other things. There is enough time at the disposal of the Government. I think they would be better advised if they avoid expenditure and wait for sometime. The Bill may be passed and the actual work may not be taken forthwith. There is enough time at their disposal. If you just wait till the first phase of activity is over if war goes on, there is some time at the disposal of the administrative machinery. Most of the work is statistical and that could be done by looking into the census reports. There is not much of investigation needed. I hope most of the constituencies would not be disturbed and old constituencies must, as far as possible, be maintained because there are Members who have nourished them for years together and if they are disturbed certainly the body politic of the country will be upset.

Shri Hari Vishnu Kamath: Dehra Dun would not be disturbed.

Shri Tyagi: Fortunately for me, mine is such a small district and it is not possible to disturb it. But I am afraid about my hon. friends on the Opposition. If their constituencies are upset they will be upset altogether ... (Interruptions.)

Shri Hari Vishnu Kamath: Don't worry. We will fight the elections and come back.

Shri Tyagi: Some little adjustments may be made if necessary in the old constituencies. It is in the interest of my hon. friends who have really nursed their constituencies.

Then there are election difficulties. One of my difficulties was this and

something has to be done with regard to it. It was a queer type of difficulty I had to face. Unfortunately there was a lady candidate who opposed me. I was really in a great difficulty because she could canvass ladies inside purdah saying, *behinji, behinji* I could go only to men. Half of my voters were women and I was deprived of their votes. I wonder if there could be some method whereby these things could be overcome.... (*Interruptions*) Otherwise, it is unfair and the fair sex gets the better part of it....

Shri C. K. Bhattacharya (Raiganj): Shri Tyagi should take the better half with himself.

Shri Tyagi: I have another little suggestion to make. In the electoral rolls, along with the polling stations, the names of post-offices serving the villages could be given. We can send at least letters. I attempted to send letters to my voters but it became very difficult for me to trace the post office for each village. If that is done, a lot of expenditure will be saved. The candidates must have such facilities. This will also help the Commission and the Ministry too.

There are one or two matters on which I would like to have a clarification.

Mr. Deputy-Speaker: The hon. Member may continue the next day. We have to take up non-official business now.

Shri Tyagi: Please give me two more minutes so that I shall finish my speech. I have not much to say.

One point is in regard to clause (9) (1) (a) which says:

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

I want to know whether the term "administrative units" signifies only the districts or smaller units like the panchayats, etc., or not. If all the smaller administrative units are included, it may be clarified by the hon. Minister as to whether the term means only the tehsils or the boundaries of districts or whether the unit will go down to the community project areas or other administrative unit such as the district boards, small, little panchayats, etc. The term "administrative units" may be clarified.

Secondly, in the same clause, there is sub-clause (d) which reads as follows:

"constituencies in which seats are reserved for the Scheduled Tribes shall, as far as practicable, be located in areas where the proportion of their population to the total is the largest."

I want to know whether the word "largest" will be taken in relation to the district or the whole State. The word "largest" must be clarified, because, if it is to be taken in relation to the whole State, the Scheduled Tribes might fall within one corner and the population may be such that it may not be spread over. So, it must be clarified as to whether the word "largest" will be taken in relation to the district only or to the whole State.

I have nothing more to say, and I support this Bill.

14.32 hrs.

COMMITTEE ON PRIVATE MEMBERS' BILLS AND RESOLUTIONS

ELEVENTH REPORT

Shri Hem Raj (Kangra): I beg to move:

"That this House agrees with the Eleventh Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 28th November, 1962."