

have done in bringing forward this Bill is only an implementation of the policy which has been laid down in the Constitution.

Whatever my friends from Delhi and Vindhya Pradesh feel about this matter—and their feeling is that even without this legislation the representation of the scheduled castes and tribes would have been assured in the House of the People—I welcome this measure for certain definite reasons. I can speak with some amount of knowledge as far as Himachal Pradesh is concerned and my feeling is that in spite of all that the Central Government and the other State Governments have done, our machinery is moving so slowly that the scheduled castes do not feel that enthusiasm that should have come with the Constitution. And that is all the more reason why we on our part should give a feeling, should give ample proof of our idea, of our determination to see that the scheduled castes do receive a fair deal in the next elections. What is happening in Himachal Pradesh makes it all the more necessary.

I do not want to take very much time of the House, but I will just refer to an incident or two to show how very necessary it is to make this provision. It was about four months back—on the 4th January 1951—that the Himachal Pradesh Advisory Council recommended to the Government to introduce, at least extend, the Untouchability Removal Act as it is in force in Uttar Pradesh, to Himachal Pradesh for there are a number of disabilities which the scheduled castes suffer from in those areas. I was surprised to learn from certain quarters in the States Ministry that some of them at least consider that there is hardly any necessity for this measure, for there is no such problem there as in Madras, nor is there such a serious demand from the people that it should be extended. If that is the view which is prevailing in the Central Government too, I am afraid that much that has to be done will remain undone.

When I had been to my constituency recently, a section of the scheduled castes, known as *kolis*, met me there in the interior of Himachal Pradesh in district Sirmur. They narrated to me a recent incident in which some members of that

scheduled caste of *kolis* who tried to assemble to consider some problems relating to their betterment were pounced upon by the landlords, fled hand and foot and locked up for about three days. If that is what the scheduled castes are to expect under the new Constitution, I am afraid we have to give the matter a very serious consideration. We have to admit the fact that our machinery has not yet geared itself to this new idea : they are still going along the same old rut and since not one scheduled caste is represented in the whole of the services, this sort of thing is allowed to happen. I was told of this incident not only by those people but also by people who contacted the police and the local congress committee which has taken the matter in hand with a view to doing justice to these people. But the Police feel that they will not be able to prosecute the offenders as no evidence will be forthcoming because those scheduled caste people, who are tenants, have been told that if they give evidence against the landlords, they will be howhere and that their lands will be taken away from them. That is why I feel that they should have representation, so that one of them at least will have a chance of coming here and expressing what they feel about the state of affairs. That will have a reaction on people who have not changed and who do not see the writing on the wall. I personally feel that unless we solve this problem, solve it of course in a spirit of friendship, unless this discrimination is done away with, the social order will go to pieces. I personally feel very strongly on this measure has been brought none too early.

Shri P. Y. Deshpande: (Madhya Pradesh): I wish to draw the attention of the Hon. the Law Minister and of this House to certain legal aspects which have so far escaped notice. This Bill proposes to amend the Representation of the People Act of 1950 and it is brought forward with the object of providing representation to scheduled castes and scheduled tribes. My submission is that this has already been provided for in the Representation of the People Act, 1950. Section 3 of the Act, which is sought to be amended, provides for the

allocation of seats in the House of the People, and states in sub-section (2) that “to each State specified in the first column of the First Schedule, there shall be allotted the number of seats specified in the second column thereof opposite to that State”. In the First Schedule the seats have been allotted to Part C States also. The question arises, what about the scheduled tribes and the scheduled castes? Now, that too has been provided for. In section 6 of the Act, in sub-section (2), it is stated, “As soon as may be after the commencement of this Act, the President shall, by order, determine—(a).....(b) (c) and (d) the number of seats, if any, reserved for the scheduled castes or for the scheduled tribes in each constituency.” This section authorises the President to determine reservation even for scheduled castes and scheduled tribes. Therefore, it seems to me that this Bill is altogether unnecessary. There is the Constitutional mandatory provision in article 330. The Representation of the People Act, 1930 goes further—in fact it implements that Constitutional mandate and provides seats for Part C States and also provides for representation to scheduled castes and scheduled tribes. Therefore, it seems to me there is only one matter which is left rather in doubt. And that is the specification of the particular castes and the particular tribes which would be entitled to be recorded as such. That could be done, as it has been done in the case of Part A and B States, by order of the President, not only under articles 330 and 392 of the Constitution but also under section 6 of the Act which is sought to be amended by this Bill. Although, I wholeheartedly agree with the purpose of this Bill—I do want that the scheduled castes and tribes should be represented and all doubts about their representation should be removed. There is no question about that—it seems to me that when a mere order of the President specifying these tribes and castes will do. when such an order could have been placed before Parliament and as in the case of the Part A and B States, it could have been revised, altered or modified by Parliament later on, giving enough time to the people of these States to

suggest amendments, to omit or add to the castes and tribes enumerated in the President's order—that being so. I do not see any propriety for this Bill at all. All that it seeks to do could be done by an order of the President specifying the castes and tribes and by placing the order of the President before the House and then following the same procedure as in the case of the Part A and B States. I hope the hon. the Law Minister will look into this matter and convince us that the Bill is really necessary.

Capt. A. P. Singh: (*English translation of the Hindi speech*) Sir, I am not opposed to the object of the Bill, namely, making a provision for representation of the Scheduled Castes and Scheduled Tribes. As for the many points that have been raised here, I will only say that I agree with the views of hon. Dr. Ambedkar. He himself says that Articles 341 and 342 apply in relation to Part A and Part B States only and that Articles 330 and 332 are also for Part A and Part B States. Then again, he has said that there is no specific provision of affording representation to the Scheduled Castes and Scheduled Tribes of Part C States. He admits this thing in the Statement of Objects and Reasons. Now, he finds that because it is necessary to reserve seats for these people, they must therefore be given representation by enacting legislation in the Parliament, that is to say he wants special powers for the Parliament to do it. That is the object for which he has brought this Bill before the House.

In this connection, my submission is that he himself was a Member of the Constituent Assembly when the Constitution was being framed. If we wish to find out the reasons why no provision was made for the Part C States, we must examine the spirit of the Constitution as to why the Scheduled Castes and Scheduled Tribes of Part C States were not given any representation. There must be some definite reasons for that. As far as I could make out, the entire population of Part C States were treated as Harijans for the reason that they have all been regarded as backward people. This right or reservation of seats is given to the Scheduled Castes and Scheduled Tribes

only because they are a backward class and since the people of those States have been treated as backward class, no provision has therefore been made to give separate representation to them. So, when there is no such provision, should we agree that they should not be given any rights and that there should be no separate representation for the Scheduled Castes and Scheduled Tribes? My submission is that there is another section in the Constitution which makes such a provision and they should be given these rights under that article which, I believe, is meant for Part 'C' States. They are Articles 239 and 240. Sir, I would like to draw your attention to Article 240, according to which these people can be given this right. Article 239 deals with special powers and Article 240 says :

“(1) Parliament may by law create or continue for any State specified in Part C of the First Schedule and administered through a Chief Commissioner or Lieutenant-Governor—

(a) a body, whether nominated, elected or partly nominated and partly elected, to function as a Legislature for the State; or

(b) a Council of Advisers or Ministers, or both with such constitution, powers and functions, in each case, as may be specified in the law.

(2) Any such law as is referred to in clause (1) shall not be deemed to be an amendment of this Constitution for the purposes of article 368 notwithstanding that it contains any provision which amends or has the effect of amending the Constitution.”

That is to say, according to the Constitution, we can make change, if necessary, under this article. But in that case one thing is certain and it is that we will have to give more rights to the people in Part C States. It would have been better had hon. Dr. Ambedkar brought forward a clear measure, just as he has declared in the case of Part B States that Part VI with the undermentioned amendment will apply to them, to the effect that the Part VI with the following modifications will apply in relation to Part C States as well. I wish to draw the attention of the Hon. Dr. Ambedkar to that. It is as follows :

“The provisions of Part VI shall apply in relation to the States specified in Part B of the First Schedule as they apply in relation to the States specified in Part A of that Schedule subject to the following modifications and omissions, namely:”

Similarly he could have provided the following:

“The provisions of Part VI shall apply in relation to the States specified in Part C of the First Schedule as they apply in relation to the States specified in Part A of that Scheduled subject to the following modifications and omissions, namely:”

If a Bill having this object and purport and which could also provide that all provisions of Part VI would be applicable, had been brought, it could automatically have solved this problem of Scheduled Castes and Scheduled Tribes. But he has chosen a different path and wants to enter through the backdoor. He does not take the simpler and a more direct course, which every hon. Minister has the option to adopt and which he must do. Dr. Ambedkar might probably say that it is the concern of the Ministry of States and not his. The Hon. Minister on several occasions, during my talks with him, expressed this view. But I take the Government as a whole, may he be Dr. Ambedkar or Shri Ayyangar or the Minister of Home Affairs. All that I want to submit is that such a Bill would have been much better. But in failing to do so he has put the cart before the horse with the result that people are complaining all round. He should now postpone this Bill and bring forward a Bill which would give all powers enjoyed by Part A States to Part C States. Then this object would automatically be fulfilled. At present he is not working according to the Constitution because, by this Bill, he is giving rights only to the Scheduled Castes and Scheduled Tribes. But we all are Harijans and so before taking this step, all other people must be made distinct from Scheduled Castes and Scheduled Tribes, that is to say they should first be given more rights as is the case of Part A and Part B States. He should first do this and then only bring such a measure, otherwise, in my opinion, it is of no use.

It would take a long time to deal with its details and to describe its reasons. Shri Ayyangar has also stated in his speech that so far as Himachal Pradesh and Vindhya Pradesh are concerned, a Bill will be soon coming for them. It is being framed and we are on the Standing Committee. The Committee has considered it and although it is very unsatisfactory at this time but we hope it will be improved upon to the satisfaction

of the people. Now, it is said that Delhi should also be allotted one seat. As for Delhi, I submit that there should be no hitch to give this right to it. It is said that since it is the capital of the country, it cannot be given this right. Sir, I would submit that Calcutta too had a Lieutenant-Governor when it was the capital of India but the people of Calcutta enjoyed full rights. Then again, taking the case of Simla, it used to be the capital of India for some period of the year and being situated in Punjab, the Lieutenant-Governor also used to live there, but there had never been any difficulties about the two Governments functioning from the same place. Therefore, I am at a loss to comprehend the argument put forward that the people of Delhi should not be given this right on account of its being the capital of the country. I for one, feel that the people of Delhi should be given more rights because they are living in the capital itself. Shri Ramchandra had said : *Sab te priya mohi yahan ke basi, mum dhamda puri Sukhrasi*. (I love most the people of my own place which is the land of wealth and prosperity). He had said it for the people of Ayodhya. So when there is so much of hesitation in giving rights to the people of Delhi, I am afraid, other people will have to face even more difficulties. Therefore, in my opinion, it is most desirable to keep the people of Delhi contented as it is the capital of the country and it will not be wise to dissatisfy them in any way. It would have been more proper had we arranged to hold a plebiscite of the people of the area which we are administering.

Mr. Chairman: May I draw the attention of the hon. Member to the fact that we are not discussing the problem of Delhi but we are discussing the Representation of the People (Amendment) Bill ?

Capt. A. P. Singh : Since it is being enforced in Delhi also, I thought I might refer that Delhi should also be given these rights which we are going to have. I meant only that. Anyway, if it is so, I will not discuss that. My submission is only as to why smaller States like Manipur and Tripura should be refused these reforms of introducing responsible Governments. Aundh is one of the smallest states but it was the first state to have a responsible Government. Therefore I see no reason why other small States like Manipur and Tripura be deprived

of a responsible Government and why a responsible type of administration be not established there. There are so many other States where a responsible administration does not exist but I have no time to speak about them.

The next point which I would like to submit is with regard to the population of Harijans in Vindhya Pradesh. How much is that? No figures have been given about Scheduled Tribes. But it seems that the population of both comes to about, nine lakhs, that is, a little less than one-fourth of the total population. But they are being given one-third of the total seats allotted, that is to say, two out of six seats are being given to them while their population is less than even one-fourth. If Hon. Dr. Ambedkar deems it proper, and it is my personal request to him, he should allot one more seat to Vindhya Pradesh so that the population ratio may be adjusted to a greater extent. Although I have not submitted any amendment to that effect, but it is my request to him and it would be better if he agrees to do it. I submit to hon. Dr. Ambedkar that if he thinks it proper he should withhold the present Bill and bring another Bill to that effect. If he is agreeable to do it, I can submit my own Bill to him which I have already drafted in a comprehensive manner. It will be a small Bill saying that more rights should be given to Part 'C' states and that responsible Government should be set up there. If it is done, I believe the problem will automatically be solved. That is all I have to say.

(Translation concluded)

Mr. Chairman : I think this has been sufficiently discussed. I therefore, propose to call hon. Dr. Ambedkar to speak.

Dr. Ambedkar: Yesterday when Mr. Kapoor raised a constitutional question that in view of certain articles in the Constitution, this Bill was unnecessary and that I had brought this Bill for some other motive, I myself did not believe that Mr. Kapoor believed in his argument.

Shri J. R. Kapoor (Uttar Pradesh): You never believe in a fact.

Dr. Ambedkar: It seems to me that his argument has caught on and it has been repeated by several Members today on the floor of this House.

[MR. SPEAKER *in the Chair*]

It is therefore incumbent on me to repel the suggestion which has been made in the course of this debate that this Bill is uncalled for. hon. Members have referred to article 330 on which they have built their main argument. It is quite true that article 330 refers to the reservation for the scheduled castes in the House of the People. What we are considering in this Bill is the reservation of seats in the House of the People for the scheduled castes in certain Part C States. As I said, it is therefore relevant that this article should be referred to. It seems to me that hon. Members who have relied upon article 330 seem to have altogether forgotten that the basis of representation of the scheduled castes must be the enumeration or the definition of the scheduled castes. Unless and until we knew what the scheduled castes are and what their total population is, it is absolutely impossible for anybody to make any provisions for the practical and factual representation of the Scheduled Castes. The question, therefore, is this : Is there any provision whereby it is possible for any authority except Parliament to make a list of the scheduled castes so that we might know what they are, and also their population? For that purpose, it is necessary to refer to article 341. This is what article 341 says :

“(1) The President may, after consultation with the Governor or Rajpramukh of a state, by public notification, specify the castes, races or tribes or parts of or groups within castes, races or tribes which shall for the purposes of this Constitution be deemed to be Scheduled Castes in relation to that State.”

A similar provision is contained in article 342 which relates to scheduled tribes. There is a proviso contained in sub-clause (2) of article 341 and sub-clause (2) of article 342 which prevents the President, after having once made the order, from modifying it. The power to modify the order has been expressly reserved to Parliament. It is necessary to read very carefully the words of article 341 and article 342. No doubt, the President is empowered to issue a notification; but, there is a very important condition attached to his power to issue a notification. That condition is that he can issue it only after consultation with the Governor or Rajpramukh of a State. Any

one who reads the Constitution will know that by making reference to a Governor or Rajpramukh, it is quite clear that what is meant is states in Part A or States in Part B. Because, it is only in States in Part A or Part B that you find the institution of a Governor or Rajpramukh. If article 341 also stated in specific terms that the President can issue such a notification in consultation with the Chief Commissioner, undoubtedly, the President could have been presumed to have been empowered by the Constitution under articles 341 and 342 to issue a notification with regard to States in Part C also. Unfortunately, or fortunately, such a clause was not put in article 341.

My. hon. Friend who spoke last asked that I must explain as to why the Constitution did not make any provision giving the President the power to issue a notification with regard to the scheduled castes in Part C States. I think those Members, who took part in the discussion of the various articles when the matter was before the Constituent Assembly, will recall that this question was a matter of great controversy. Everybody felt that politics might enter into this field, that the President might be advised for political reasons to omit a certain community, that the President might be advised to add a certain community because of its political affiliation. Consequently, we had to draft this article with the greatest care and attention. It was also insisted that once the President had made the order, he should not have the power to alter it, because, there again, politics might enter. This is evident from the fact that in both the articles clause (2) was introduced, because it was felt that once the order was made, if any change was demanded, that change ought to be made in the open House, by the House, with the knowledge of the scheduled caste Members of Parliament. That was the reason why these articles were drafted with such meticulous care.

My point, however, was this. The argument of my hon. friends who said that this Bill was unnecessary is based upon a complete misunderstanding and misreading of article 341. As I stated in my opening remarks, it is absolutely impossible to devise any kind of scheme of reservation for the scheduled castes unless two things are known : who the scheduled castes

are and what their population is. As I said, if this matter was covered by article 341, then it would have been quite unnecessary to come to this House for making provision for representation of scheduled castes in Part C States. Because, then the President would have the same power as he has with regard to the scheduled castes in Part A and Part B states to determine the Scheduled Castes in Part C States and their population so that the Election Commissioner could easily proceed to delimit the constituencies. Therefore, my submission is that there is no substance in this argument that this Bill from a constitutional point of view is unnecessary.

My hon. Friend Mr. Deshpande has challenged me on another ground that this matter is already covered in the former Act called the Representation of the People Act, 1950. He has referred to section 6 of that Act where it is stated that the President may determine among other things, "the number of seats, if any reserved for the scheduled castes or for the scheduled tribes in each constituency". Here again, he seems to be suffering from one fallacy. This Act has reference to the order issued by the President with regard to the scheduled castes and scheduled tribes in Part A and Part B States. This section 6 could have no reference to or relevance to a case where the scheduled castes or the scheduled tribes have not been notified by the President. It is only when the President can notify that this section can be attracted. What we are doing now is to enact a list of the scheduled castes and the scheduled tribes in the various Part C States where we propose to reserve seats for them. Therefore, my submission is that his argument too is based on a complete misunderstanding of the provisions of that particular Act.

There is, I find, no disagreement on the question that provision should be made for representation of the scheduled castes and scheduled tribes in Part C States. So far, so good. Two Members from Vindhya Pradesh have said that by taking two seats, one for the scheduled castes and one for the scheduled tribes, the general representation has been cut into too much. *Prima facie*, I am not prepared to accept that argument. That argument seems to be founded on the supposition that all the six seats were to ensure to the benefit

of the caste Hindus. I am not prepared to accept that argument. Those seats have been given to Vindhya Pradesh not only for the caste Hindus but for all other people who are resident in those States. They have appealed to me to see if the quota of seats allotted to Vindhya Pradesh in the House of the People may not be increased by one. You know that in the Constitution a definite maximum limit has been placed for the House of the People and I believe it is about 500. It is quite obvious that I could not increase the quota of representation of Vindhya Pradesh if the thing is going to offend against that maximum which would be quite impossible and unconstitutional. It is quite possible that other Part C States may also claim an enlargement of their quota because they may also claim the same sort of treatment. It is therefore difficult for me to commit to any such proposal as has been put before me. All that I can say is that I will look into the matter and see if something can be done. Beyond that I do not propose to say anything.

Then, my friend from Vindhya Pradesh drew my attention to article 240. His argument was that instead of taking action under article 240 I was proceeding under some other articles of the Constitution. Well, I know he will agree that the articles under which I am proceeding are perfectly legitimate. The reason why he wants me to act under article 240 he knows very well and I do not wish to expose the thing more than is necessary. All that I need tell him is this, that it is unnecessary for me to refer to article 240 because my problem is very different. My problem is to provide for the representation of the scheduled castes and scheduled tribes in Part C States in the House of the People. My present problem is not to find representation for the scheduled castes and scheduled tribes in any local assembly or a Parliament that may be devised hereafter. When the Government of India will take action to satisfy my friend for the purpose of establishing some local legislature, then undoubtedly article 240 will be resorted to and provision will be made for the representation of the scheduled castes and scheduled tribes therein also. But for the moment, it is not necessary for me to resort to article 240.

Then, much criticism has been levelled against the list of the scheduled castes. Well, I do not know how one can satisfactorily deal with a matter of that sort, because anybody in the Government of India dealing with a matter of this sort as to what community is a scheduled caste community and what community is not a scheduled caste community, must necessarily depend upon the local information furnished to the Government of India by their officers and other agencies who are conversant with the matter. It is quite possible that the information supplied to the Government of India by their agency differs from the information which hon. Members have. Government, therefore, has to come to its choice necessarily relying on the information of its own officers. If any hon. Member can prove to my satisfaction that in the list that we have prepared, there has been any grave error or omission. I shall certainly consider the question. My friend Dr. Deshmukh of course, is very discontented, I think with the Government and thinks that the Government is always rushing through matters. I do not know how long he would like each Bill to take—probably a fortnight—and I do not know whether he would be satisfied even with that time. He expatiated a great deal upon the inadequacy and the errors of the list. My friend Dr. Deshmukh will permit me to say that as a member of the Round Table Conference, I had a great deal to do with the preparation of these tables. I had a great deal to do with it. We had before us a very grave problem. That problem was that in the census reports, right from 1910, if he will refer to them he will see, that certain classes were shown separately and they were called “depressed classes”. When the question came at the Round Table Conference for giving representation to these classes, the question arose what was meant by the “depressed classes”. There were a large number of people who were economically and educationally backward but who in the technical sense of the word were not untouchables. There were certain communities like the *mangarudis* for instance, who were criminal tribes put were not untouchables in the technical sense of the word; they were practically outside the pale of society and yet were not untouchables. The question was then considered at great length—Are we going to give

representation to the whole body of people who were in the census designated as “depressed classes”, which would have meant a very large division in the share of representation of the general Hindu population, or whether we were going to cut that class into something more precise, more definite, something which represented what were known as classes with disabilities imposed upon them and not those which were merely backward? Therefore, a decision was taken that the representation should be given only to what, were really untouchables and to no others. Now, some people did not like the word “untouchables”. They said, “We do not want that word ‘untouchables’.” So we had a term known as the “excluded classes”. That the Hindus did not like. They said: “These are our blood brothers and you must not have a terminology which would indicate that they are outside us.” And so we devised this phrase—scheduled castes—and I might say that to some extent I was responsible for it. I said, if you do not want the word untouchables, and if you do not want the term excluded classes, then have this term of scheduled castes. After all, they will have to be scheduled. Consequently the enumeration which is contained in the 1935 Act Order in Council for scheduled castes has been drafted with the greatest care and attention and I have no doubt in my mind that there is no community which is omitted from it which as a matter of fact ought to have been included, nor added any which ought not to have been added. It is as exact a classification as one could make. I may tell my friend Dr. Deshmukh that while sitting here I was myself making some mathematical calculations in order to find out what variations there were from the list contained in the Order in Council following the Government of India Act, 1935 and the list produced or rather notified by the President. Now I find that so far as these lists are concerned, this is the position. Unfortunately here it is done in the alphabetical order while there it was shown presidency-wise. Well, in Assam there are 15 communities listed in the order issued by the President. I do not find that any single community which was included in the Order in Council has been omitted. All of them are there.

You take Bihar. There again there are really 14 communities listed in the Order in Council under the Government of India Act, 1935 and here the number of communities that have been listed as scheduled is 21. What they have done is this. In Bihar certain communities were untouchables throughout the province but certain other communities were untouchables in parts of districts and not in others. Consequently they were listed separately. Probably the Home Department in making the notification thought that it was much better not to make this territorial distinction but to treat all of them as untouchables irrespective of the territorial distinction.

Take Bombay. There is no change at all. The old Order in Council mentions 34 communities. In this notification the communities listed are 36, which is two more.

I do not think it is necessary for me to go over the whole list. So far as Part A States are concerned I do not think there is any ground for complaint. With regard to Part B States it is not possible for me to give any such assurance, for the simple reason that no such lists were prepared under the Act of 1935 for Part B States. Consequently the lists are very new and it is possible that some errors might have crept in. I quite see that an important community like the *Ballia* whom I know, is not to be found in the list. So with regard to Part B States I have no basis for comparison. So far as Part A States are concerned the list is a fair list.

My friend referred to Delhi and produced some paper issued by the Union Public Service Commission. It is quite true that a larger number is mentioned in the list but I have checked it up, and I am prepared to say that compared to the list we have included in this Bill, I think you might as well say that, about 90 per cent, are included in our list. Some of them seem to me to be duplicate names, the same community called by two different names.

Dr. Deshmukh: Only 39 out of 64.

Dr. Ambedkar: Some people are called *Ramdasias* as also *Ravidasias*. Some others are called *Dhanuk* and *Dhanu*.

It is very difficult to know whether they are two communities or one community with two different names. I am prepared to rectify this by omitting the word “or” and numbering them as though they were separate communities.

Then an hon. Member wanted figures. But I may tell him that we have been very meticulous in seeing that the proportion is very accurate.

I do not think there is any point made in the course of the debate which I have not dealt with. With these words I commend the motion.

Shri Ethirajulu Naidu : I would like to have a clarification from the Hon. Minister. Scheduled castes and tribes are in a way defined by articles 341 and 342, but only in respect to Part A and Part B States and there is no corresponding provision in the Constitution of scheduled castes and tribes in Part C States. It is a matter of doubt whether Parliament can by law define a term used in the Constitution. (*Dr. Ambedkar*: of course.) Is it not necessary that action should be taken by the President under article 392?

Mr. Speaker: The hon. Member is agitating the same point. If he coolly considers the reply of the Hon. Law Minister I think he will find the answer.

The question is :

“That the Bill further to amend the Representation of the People Act, 1950, be taken into consideration.”

The motion was adopted.

Clause 2—(*Insertion of new section 3A etc.*)

Shri J. R. Kapoor: I beg to move :

In clause 2, for the proposed section 3A of the Representation of the People Act, 1950, substitute:

“3A. for the purposes of reserving seats in the House of the People under the Constitution of India, the castes specified in the Sixth Schedule shall be the scheduled castes in relation to the Part C State under which they are so specified, and the tribes specified in the Seventh Schedule shall be the scheduled tribes in relation to the Part C State under which they are so specified.”

The implication of my amendment is that sub-clause (1) of the proposed new section 3A goes off. So far as sub-clause (2) of the new section is concerned for the words "for the purposes of this Act" we shall have the words "for the purposes of reserving seats in the House of the People under the Constitution of India".....

Dr. Ambedkar : May I say that this amendment is entirely outside the scope of the Bill? What we are doing is we are reserving seats in some of the Part C States. Only so far as those States are concerned we are preparing the list. The amendment is that there shall be a list of scheduled castes for all Part C States. That is a separate question.

Shri J. R. Kapoor: I do not know how my hon. friend could put this interpretation on my amendment. I have nowhere stated in the amendment that there must necessarily be a schedule in relation to all Part C States. I am referring only to the Sixth and Seventh Schedules which are already given in the Bill itself. I nowhere seek to add a new Schedule or even to amend the two Schedules. They shall remain intact unless of course they are amended by any other amendment which may be moved and accepted by the House. All that I suggest in my amendment is that sub-clause (1) of the proposed section 3A shall be omitted and so far as sub-clause (2) is concerned for the words "for the purposes of this Act" we shall have the words "for the purposes of reserving seats in the House of the People under the Constitution of India." Why I am moving the amendment is that I am definitely of the view as I submitted yesterday and reaffirm today, that article 330 of the Constitution specifically provides that in the House of the People seats shall be reserved for every State. And the word "state" as defined in article 1 of the Constitution includes all States whether they are in Part A or Part B or Part C. The Hon. Law Minister in his reply to the debate on the Bill a few minutes ago said that while he did admit that article 330 specifically provided for reservation of seats his only difficulty was that article 330 could not be complied with until there was a specific list of scheduled castes for Part C States and since there was no such list and since none could be made according to the provisions of article 341, it was necessary to

have a separate list of scheduled castes and scheduled tribes. To that I would repeat my submission made yesterday that article 341 should have been so amended and adapted by the President as to remove this difficulty. This he could have done under article 392. But that argument did not appeal to my Hon. friend Dr. Ambedkar. I am not reiterating that argument today, but even assuming that it is necessary for Parliament to pass a list specifying the scheduled castes and scheduled tribes, my original contention does remain, that it is not necessary to provide again in this legislation for the reservation of seats in the House of the People for scheduled castes and scheduled tribes residing in Part C States. This provision is already specifically included in article 330 of the Constitution. Therefore, sub-clause (1) of the proposed section 3A is absolutely redundant.

There is another reason why we should not have this sub-clause (1) of section 3A. It not only specifically provides—unnecessarily—for the reservation of seats but it goes beyond that and fixes the number of scheduled castes representatives in the House of the People on behalf of the scheduled castes and scheduled tribes of Part C States. This, I submit, is against the Constitution itself because under clause (2) of article 330 a definite formula has been given as to in what proportion there shall be reserved seats in the House of the People in relation to scheduled castes and scheduled tribes in Part C States—they shall be in proportion to their numbers. Here the number is absolutely ignored and theoretically speaking an arbitrary number of seats is fixed, one here and one there. May be today we know definitely the specific number of scheduled castes and scheduled tribes living in a particular Part C State of Vindhya Pradesh, Delhi and so on, but we do not know what the situation may be five years hence. Only this morning my hon. friend, Shri Deshbandhu Gupta brought to our notice that quite a large number of persons from different parts of the country, belonging to scheduled castes and scheduled tribes, have come over to Delhi and, for aught we know, during the next five years there might be material change in the figures of scheduled castes and scheduled tribes in the various Part C States mentioned in

the Bill. The difficulty then will be that we shall have to amend this legislation. Therefore, since a specific formula is already provided in the Constitution itself, it is not open to this Parliament to change that formula. It is for the Election Commissioner to find out at any particular time as to how many reserved seats there shall be in the House of the People in relation to any particular State in Part A, B or C. Therefore, I submit that sub-clause (1) of the proposed section 3A is against the Constitution and is also unnecessary.

Mr. Speaker: Amendment moved :

In clause 2, for the proposed section 3A of the Representation of the People Act, 1950, substitute:

“ 3A. For the purposes of reserving seats in the House of the People under the Constitution of India, the castes specified in the Sixth schedule shall be the scheduled castes in relation to the Part C State under which they are so specified, and the tribes specified in the Seventh Schedule shall be the scheduled tribes in relation to the Part C State under which they are so specified. ”

The Minister of State for Transport and Railways (Shri Santhanam): Does my hon. Friend suggest that without a Parliamentary enactment the Election Commissioner can give a specific number of seats to any specific State? It will have to be done by Parliament.

Mr. Speaker: The point, as I have been able to understand, is that the necessary directive having already been given by article 330 that representation shall be in proportion to the population, the Election Commissioner has already got the direction and it is for him to work it out, not for this House to lay down exactly what number of seats they will give to each State.....

Shri Santhanam: Sir, if I understand, it correctly, the directive is to Parliament and not to the Election Commissioner. Because the actual number of seats have to be laid down by Parliament—the Election Commissioner cannot fix the numbers.

Dr. Ambedkar: The specific article is 82 which deals with the representation in the House of the People. It says :

“Notwithstanding anything in clause (1) of article 31, Parliament may by law provide for the representation in the House of the People of any

State specified in Part C of the First schedule or of any territories comprised within the territory of India but not included within any State on a basis or in a manner other than that provided in that clause.”

We knew that the same principle could not be applied to Part C States and therefore a special article had been made.

Shri J. R. Kapoor : May I submit that article 82 has no relation to article 341? Article 82 says that so far as Part C States are concerned, the basis of representation in the House of the People, as specifically mentioned in article 81 in relation to Part A and Part B states, may be varied. Under article 81 the basis of representation is one representative for every five to 7 1/2 lakh persons. Article 81 does not refer to reservation of seats at all. Under the cover of article 82 this Parliament cannot take to itself the right of overriding the specific provision of article 330. As you rightly pointed out, Sir, under article 330 the direction has already been specifically given obviously to the Election Commissioner to do a little arithmetical calculation. It is merely a little arithmetical calculation and for that the Constitution-makers did not think that Parliament should be troubled. It is a little arithmetical calculation which can be done by the Election Commissioner and it is not open to the Parliament to make even a slight variation this way or that way.

Shri Santhanam : If you will kindly refer to article 81 (2) and (3) you will find, Sir, that all adjustments have to be made by Parliament by law. Upon the completion of each census, the representation of the several constituencies shall be decided by Parliament by law. The Election Commissioner cannot by notification allocate seats in Parliament.

Shri J. R. Kapoor : I readily agree with the proposition just now enunciated by my hon. friend Mr. Santhanam and even this time we have already passed one Representation of the People Bill. But the point we are now considering is not as to how many persons from a particular State shall be elected to the House of the People. We have already done that and we are not going to amend it, and even if we want to, we have to have a separate amending Bill for that. But all that we are considering now is this: Out of the total number

of seats which we have already fixed for representatives from Part C States, how many shall be reserved for the scheduled castes and scheduled tribes? That is the proposition that we are considering at present and not the bigger and the general proposition of the number of seats to be given to a particular State. The limited question is how many seats are to be reserved for the scheduled tribes and scheduled castes, and for that my submission is that we have not got to pass any legislation. The directive is given under article 330 (2) and it is only the Election Commissioner's business to make a little mathematical calculation from time to time (a) to find out how many scheduled castes and tribes there are and (b) on the basis of their number, to determine how many out of the total seats shall be reserved for them. For this, it is not only unnecessary but it is against the specific provisions of the Constitution to have the proposed section 3A. Therefore, it must be deleted. Since this is obviously against the Constitution, I have raised this question. I request that the House may not be pleased to accept sub-clause (1) of the proposed Section 3A but it may be pleased to accept only sub-clause (2) and that too in the form in which my amendment stands.

One word more and I have done. If it be the contention of the Hon. Minister that it is not provided in the Constitution that seats shall be reserved in the House of the People for Part C states, then I am afraid we cannot make any such provision here, because the House of the People must be constituted strictly in accordance with the specific provisions of the Constitution. I take my stand on the plea that it is already provided for in the Constitution, but if the contention of the Hon. Minister is otherwise, then it is a very risky one and in that event we must hold that it is not open to Parliament to say anything with regard to the composition or constitution of the House of the People. It may be a lacuna in the Constitution, or it may have been left over by oversight or deliberately. But if the contention of the Hon. Minister be that there is no provision in the Constitution itself providing for the reservation of seats for scheduled castes and scheduled tribes, then we cannot help it. My own view is that provision already exists. Therefore, in order that he may not run such

a risk and in order that this question may not crop up before the Supreme Court and be contested there, I would submit that the House should accept my contention and be content with accepting my amendment.

Pandit Munishwar Datt Upadhyay: While making my submission in the morning, I had not gone into minute details, but after hearing so many speeches on the same point, I hope you might have seen that the position taken by the hon. Minister is not a sound one as far as the specification of the scheduled castes and scheduled tribes list is concerned, because this list could be prepared only by the President.

Dr. Ambedkar: No. I definitely deny that. He has no power to do that.

Pandit Munishwar Datt Upadhyay : Under article 341 it is the President who is authorised to prepare a list of these scheduled tribes and castes in consultation with the Governor or Rajpramukh concerned and that list has been prepared by the President and been published in the Gazette in respect of Part A and Part B States. But there is no list for Part C States. If there is no provision under which the President could prepare a list for Part C states, then I do not think that there is any other provision under which that list could be prepared by this House.

Mr. Speaker: Is the hon. Member prepared to go to the logical length that because no powers are specifically provided for Parliament preparing a list of scheduled castes, therefore in States other than Part A and part B there can be no recognition of scheduled castes? Is that his position?

Pandit Munishwar Datt Upadhyay: Yes. In article 330 general direction has been given and it is that according to the population of the scheduled castes and tribes the seats shall be allotted and after the allotment of seats and the delimitation of constituencies by the Election Commissioner...

Mr. Speaker: Let us leave aside the delimitation at this stage. Let us try to determine what the scheduled castes are. The other point will be the one raised by Mr. Kapoor. So, let us be clear on that point first.

Pandit Munishwar Datt Upadhyay: My submission is that there is no such provision except the one contained in article 341 where the specification of scheduled tribes and castes are mentioned in the Constitution. In the list prepared by the President in consultation with the Rajpramukh or the Governor concerned had been brought before Parliament for amendment saying that such and such castes should be added in the list for Part C States that would have been understandable ; otherwise, there is no authority vested in Parliament to have an independent Bill for providing lists of these castes for Part C States. This is my contention, unless of course my hon. friend can point out any provision in the Constitution under which he thinks that this House is authorised to have an independent list of castes and tribes on the basis of which these seats could be allotted to Part C States.

4-00 P .M.

Dr. Ambedkar: I will deal first with Mr. Kapoor's point—his amendment. He has all the time been relying on article 330 where provision for scheduled caste representation is made. His contention—if I have understood him correctly—is that that provision is sufficient not only for Part A and Part B, but also for Part C States. That is the only difference between us. My point is that a separate provision such as the one contained in the Bill is necessary : his contention is that it is unnecessary, because it is covered by article 330. I believe I have represented him correctly. That is the point .

The submission that I propose to make in favour of the course that I am following by bringing forth this Bill is just this. There is a definition of scheduled castes and scheduled tribes in article 366 of the Constitution. Clause (24) of article 366 reads thus:

“ ‘Scheduled Castes’ means such castes, races or tribes or parts of or groups within such castes, races or tribes as are deemed under article 341 to be Scheduled Castes for the purposes of this constitution.”

Now, it may be open to contention that the “Scheduled Castes” referred to in article 330 are “Scheduled Castes” as defined in clause (24) of article 366. Scheduled Castes in Part C States cannot be said to be Scheduled Castes within the meaning of that clause.

Shri J. R. Kapoor : That is what my amendment seeks to provide for.

Dr. Ambedkar : I am coming to that. Therefore, it may be open to contention that article 330, which directs that representation shall be on the basis of population may not apply to Scheduled Castes which do not fall within the definition in clause (24) of article 366. That being so, it is necessary to make a separate provision for that. That is my reply to Mr. Kapoor's point.

With regard to the point raised by Pandit Munishwar Datt Upadhyay, article 82 is worded in the widest sense. It says:

“Notwithstanding anything in clause (1) of article 81, Parliament may by law provide for the representation in the House of the People of any State specified in Part C of the First Schedule.....”.

My submission is this: That this power is so wide that in making provision for the representation in the House of the People of Part C States it is certainly open to Parliament to say that so many seats shall be allotted to the scheduled castes and so many seats shall be general seats. I cannot understand what more he wants by way of specific provision. If in making provision for the representation in the House of the People of any Part C State Parliament decides that there shall be a certain reservation for scheduled castes, then my submission is that it carries with it an implied power also to set out who are the scheduled castes.

Shri J. R. Kapoor: May I say one word?

Mr. Speaker : By way of reply?

Shri J. R. Kapoor: I do not know whether I have a right to reply.

Mr. Speaker: If the hon. Member thinks over the reply given by the Hon. the Law Minister just now, he will perhaps agree not to press his amendment.

Shri J. R. Kapoor : I will make one small submission and then seek your guidance on the subject.

Mr. Speaker : Let me repeat what I have understood, so that he may point out in the submission he makes whether I have committed any mistake in understanding the position.