

Prof. K. T. Shah (Bihar: General): Mr. Vice-President, Sir, I beg to move:

"That at the end of sub-clause (c) of clause (3) of article 1, the following be added:

or as may agree to join or accede to or merge with the Union'."

The clause, as amended, will read:

"such other territories as may be acquired or as may agree to join or accede to or merge with the Union."

I think this is a very simple amendment. It tries to include within the territories of the Union not only those which are at present in it, or which, under the provisions of this Article, come under its scope; but also those which after the Constitution is passed may agree to join, or accede to, or merge with, the Union. I confess that I am not very enamoured of the term 'acquired'. I do not suggest that acquisition is necessarily by conquest. I agree that acquisition may take place by other means than conquest. I have, therefore, not suggested any alteration of the word "acquired".

At the same time, however, I feel that the term is not sufficiently inclusive. It does not take account, for instance, of the addition to the territory by voluntary agreement, or by accession of States, which, at the time the Constitution is passed, had not yet acceded and/or were not merged with the Union. I have in mind two particular instances which have led me to table this amendment. There are neighbouring territories even today which are independent States, with which, however, we have much affinity. They may find in a closer union with us much greater chance of their own advancement or prosperity; and as such it is possible that they also may like to join this Union, and take all the benefits that joining with such a great State, with such resources as we have, may bring to them as well. There is in this suggestion no intention of coercion or conquest by any use of force, or aggressive designs upon any neighbouring territory, in an amendment of this kind. This is only a provision that, without any necessity to amend the Constitution, if some such contingency arose, we could simply under the existing provisions accept the joining or accession of such States as today are independent, sovereign States in their own name, in their own right; and which may yet feel the necessity of much closer union than any treaty or alliance may provide. I trust, therefore, that this provision which is only permissive and facilitating the joining of other States, will find no objection in any part of this House.

Then there is the accession of States, which, at the time I put in this amendment, had not acceded to the Union. Everybody would understand the example I have in mind. Even now I am not clear whether that particular State has, in point of technical, constitutional law, actually acceded to the Union even today. Whatever that may be, here is a provision that the territories of the Union will include also such a State if and when it accedes.

The third contingency is of merger. This contingency of States completely identifying themselves to the point of sacrificing their own identity and becoming part and parcel, integral units, of this Union should I suggest also be provided for so that in the long run the Union should consist of parts which I hope would be equal *inter se*, making the components of the Union.

These three contingencies I have sought to provide for by this amendment, *viz.* States joining voluntarily, States acceding - which have not yet acceded, and States becoming merged in the Union, may arise at any time; and so I do not think this amendment will in any way be objectionable in any part of the House. The merger problem is ticklish, rather delicate, and we do not yet know what final shape this great development will take. But whatever that shape may be, the integrity of the Union, the integral association, if I may put it that way, of States which are still retaining somehow their separate identity, will help to make this Union territory much more uniform under single jurisdiction and the parts thereof much more equal *inter se* than is the case today. On these grounds, therefore, Sir, I think this amendment ought to commend itself to the House.

Prof. K. T. Shah: Mr. Vice-President, Sir, this amendment which stands in my name is as follows:

"That the following proviso be added to article 1:

'Provided that within a period not exceeding ten years of the date when this constitution comes into operation, the distinction or difference embodied in the several Schedules to this Constitution and in the various articles that follow shall be abolished, and the member States of the Union of India shall be organised on a uniform basis of groups of village Panchayats co-operatively organised *inter se*, and functioning as democratic units within the Union'."

This also is part of the general idea I am trying to propagate. It tries to realise the ideals which I hope will commend themselves to the House, namely that, in the long run, this Union must consist of locally autonomous units, equal *inter se*, which will be the strength as well as the salvation of this country in my opinion.

Sir, it appears to me that in the various Schedules as well as in the various articles that follow, there is an obvious distinction between not only the old-time Provinces as they were called, but the old-time States whose designation is now sought to be applied to all the Members of the Union which are amongst themselves clearly not on an equal footing.

Now, there may be reasons why at the present time it is not possible to make them all, with one stroke of the pen so to say, equal by themselves and amongst themselves. I recognise the difficulty. I notice, however, that even in the Constitution, and in the reports of the Experts Committee and others, the intention obviously is to see that even though at the present time there may be these difficulties, within a given period- I have given here the period of ten years - within a given period these differences, should disappear, and the country reorganised on a uniform basis. These differences, at the present time, hinder not only the uniformity of jurisdiction of authority and of working but I suggest it will also impede the developing of the country for lack of this very uniformity. Whatever, therefore, may be the heritage of the past, and whatever may be the restricting, conditioning factor of today which compels us to recognise these inequalities between the member States, I suggest that we must make up our mind, and this Constitution should provide that these differences, these inequalities, these variations, must disappear, and that too within a pre-determined, within a given period of ten years.

The ten-year period suggested is sufficiently long not to cause any difficulty in smoothing away the present differences. The ten year period would be sufficient to readjust the tax systems, the ten year period would be sufficient to readjust if necessary the judicial systems, the legal and fiscal systems, the ten year period would be sufficient to readjust all differences in communications, transport, and other common factors which at the present time do cause a great deal of variation, and, in my opinion, a great deal of hardship, impediment and heart-burning as between the various units. To give you but one instance, it has been recently held by many people that the existence of the States as independent jurisdictions leads to considerable evasion of taxation; or, what is worse, that it leads to an artificial attraction of industry from one area into another, where the taxes are believed to be lower or where other facilities for the growth of industry are easier or greater. These arise not from the inherent qualities, resources, or peculiarities of those regions; these arise not from the natural differences that cannot be abolished by human effort; they arise simply and solely because there are varying jurisdictions, which permit all these differentiations to go on accumulating.

As I have already suggested, their presence is bound to work against the best long range interests of the country, which seeks to march forward, which seeks to make a uniform plan for all-round development within a given period. And therefore it is but right and proper that we should try and eliminate these traditional differences, so that within the stated period we should attain the goal that we have in view.

I have already stated that these differences are of human creation. They are legacies of the past. But as these are impediments in the way, they must be removed at the earliest opportunity. The period of ten years is long enough for making constructive efforts to readjust and make more or less uniform the various units that compose the country as between themselves.

In trying to reconstruct and readjust these various units, I have further suggested that they should be re-organised. The moment we have an opportunity to do so, we must re-organise them into autonomous village groups, which would have more natural geographical affinity amongst themselves and more economic sympathy amongst themselves than happens to be the case in the *ad hoc* creations which we call either provinces or States.

We have in this regard a burning problem already causing considerable amount of difficulty in there construction of the units or provinces on what is called linguistic basis. The constitution of the provinces on a linguistic basis is not by itself a guarantee that the intrinsic unity of each region or group will be properly developed; and, what is more, that the principle of democratic self-government of the people, by the people, for the people, would be equally promoted, if these various units are reconstructed on any other basis but that of local unity, local affinity, and local identity of interest. It is for that reason that I am suggesting the regrouping, there-construction and the re-adjustment on a village basis.

The constitution of the villages on a co-operative basis, enabling them to make common cause, make of them assort of internal republics so to say, - *imperium in imperio*, if I may use the expression, - would be the best guarantee for the development that we have in view. They would be able to take note of the local resources, the local talent, and the local possibilities much better than any distant Government, like the one at the Centre or even at the provincial headquarters even of the size that many of them in our country are.

Sir, remarkable is the emphasis that our great leaders have laid upon the re-vitalisation of the villages. As such I think I am following very honoured foot-steps, if I put forward this ideal before you, and invite you to consider the possibility of re-developing the State in the only manner in which in my opinion it can be assuredly developed, e.g., on the basis of co-operative village reorganisation, forming groups sufficiently strong and big to enable them to progress among themselves, and realise the ideal of a better standard of living that we have been hoping and striving for all these years. I commend this proposition to the House.

Prof. K. T. Shah: Mr. Vice-President, Sir, I beg to move:

"That the following new proviso be added after clause (e) of article 3:

'Provided that every proposal for legislation which increases or diminishes the area of an existing State, or alters its name or boundaries, shall originate in the Legislature of the State concerned or affected, in such form as the rules of procedure in the Legislature concerned consider appropriate'."

Sir, here is a proposal to consult first the Legislature of the State, whose name or boundaries are proposed to be altered, or whose areas are proposed to be increased or diminished. We are all aware that the existing Units which make up this Federation are not equal *inter se* are not logical, are not happily constructed so as to minister to the development of the country or even of the areas themselves. It is necessary, and it will soon perhaps have to be implemented in some form or another, that these areas be reconstructed. That would mean that their boundaries, perhaps even their name, and their territories, may be altered, upwards or downwards. If that becomes necessary, then I submit the proper course would be to consult the people themselves who are affected, if not by a direct Referendum to the people affected, at least by a consultation of the legislature, rather than that the change be imposed from above, as in my opinion the clause as it stands requires. The parties primarily affected are the people themselves of the areas whose boundaries or name is to be altered, or whose position has in any way to be reconstructed. And it is but a simple proposition - a mere matter of fundamental principle I submit - that you should in a democratic regime consult the peoples affected, and not merely lay it down from above. I recognize that the article as it stands provides that in any such event you should have either a representation from the representatives of the people in the Central Parliament to suggest such an alteration, or alternatively the President should have received some such re-presentation from the people concerned. But it will be the act of the Central authority, and not of the people primarily affected to suggest this variation. I submit that is in principle a wrong approach.

I am afraid that the general trend of the Draft Constitution, as I view it, seems excessively and unnecessarily to place power and authority in the Centre, to the serious prejudice not only of the Units, but even of the very idea of democracy as we flatter ourselves we are embodying in this Constitution. If it is a democratic Constitution, if we desire that the people should govern themselves, or that, even if they are not prepared today to do so, they should learn necessarily by mistakes, to be fit for and practice self-government, then I think it is of the utmost importance that a provision like this should be insisted upon.

Any question which relates to the alteration of the present units, their territories, boundaries or name, should begin with the people primarily affected, and should not come from the authority or power at the Centre. The authority at the Centre obviously is not familiar with local conditions; or they may have other outlook, may have other considerations, other reasons, for not accepting or agreeing to such a course. The authority at the Centre, even if moved by the representatives of the areas concerned by some resolution or other procedure, may be guided by the very few persons which, under any scheme of election, will constitute the representatives of those areas in the Central Parliament; and not really consult the entire population, the adult voters of the

areas concerned, which I submit is the first requirement of any such readjustment.

Lest I should be misunderstood, I would at once add that I am certainly not in love with the present position, or the continuance of the alignment of the provinces and States as they stand today. They need to be altered, they must be altered. But they must be altered only as and how the people primarily affected desire them to be altered, and not in accordance with the preconception, the notion, of such adjustment that those at the Centre may have, even if some of those at the Centre are the representatives of the people concerned.

I make it imperative, therefore, that the first proposition, the initiation of the movement either to integrate or to separate, either to readjust the boundaries or to bring about any new form of configuration, must commence with the people themselves. There is another consideration in the matter, which also should not be ignored, namely that in any such readjustment, it will not be one single group that will be affected or concerned; there may be at least two or more which are likely to be affected; and as such the representatives of those two groups, or those more than two groups in the Central, may not be quite competent to reflect the views of the people as a whole. I admit that in democracy majority rule should prevail. But the majority has not the monopoly of being always right and still less to be always just. If that is so - and I strongly believe it is so - then I submit that the only cure, if you wish to retain democracy, is to secure the assent in advance, to make the initiation, from the beginning, from or by the people concerned in suggesting such readjustment.

The actual readjustment of boundaries, the actual formation of new units, may be left to competent Boundary Commissions, or to any other body or authority that may be set up, either *ad hoc* for the particular purpose, or in general terms as a kind of a statutory, constitutional authority, semi-judicial in character, that may decide upon and settle these matters. but in the absence of any such provision, and apart altogether from such mechanism that maybe set up hereafter, I think the principle must never be lost sight of that the matter should originate, and should originate alone, with the peoples concerned. I personally would advocate a direct Referendum rather than merely a vote of the Legislature, but lest the suggestion of a referendum sound too revolutionary to be entertained by a respectable House like this, I suggest - and I have put in the amendment - the idea only of the Legislature being consulted, and not necessarily the people as a whole. I trust this evidence of my intense, ingrained moderation would commend itself to the House, and allow the amendment - not merely to be opposed by a simple formal "I oppose", but by some sort of a reasoned answer rather than a fiat. Sir, I commend this proposition to the House.