

must be a special observation from you on this. I say all this because of late, all these matters of propriety are being observed in total breach, breach after breach Sir. Therefore, you must rise to the occasion and observe that even after the quorum bell, not even a single minister of the cabinet rank has turned up.

AN HON. MEMBER: We should not insist. Today, there are Rajya Sabha elections...(*Interruptions*)

SHRI SOMNATH CHATTERJEE (Bolpur): Just because of Rajya Sabha elections, Cabinet Ministers will not be heard! What are you saying? (*Interruptions*)

MR. DEPUTY SPEAKER: Please take your seats. I cannot insist like that.

(*Interruptions*)

SHRI. G.M. BANATWALLA: Such important and controversial Bills are being introduced and discussed and here: not even a single minister of the Cabinet rank is present to listen to us and to see to our aspirations also.

THE MINISTER OF STATE OF THE MINISTRY OF LABOUR (SHRI JAGDISH TYTLER): Even your own colleagues are not going to listen to you. (*Interruptions*)

MR. DEPUTY SPEAKER: Mr. Banatwalla, you had your say, but I cannot insist. You please take your seat.

SHRI G.M. BANATWALLA: It is not a matter of party politics. Take it as parliamentary dignity and parliamentary prestige....(*Interruptions*)

SHRI T. BASHEER (Chirayinkil): Ministers are Ministers, whether they are of the cabinet rank or state rank.

SHRI JAGDISH TYTLER: The hon. member who raised the issue of quorum himself is not present here now. Where is he? Such important issues were raised! But

your own colleagues are not interested in listening to you.

SHRI BASUDEB ACHARIA (Bankura): What about your Cabinet Ministers? How many are here?

SHRI G.M. BANATWALLA: You adjourn this House at least till one Cabinet Minister turns up....(*Interruptions*)

SHRI B.K. GADHVI: It is not as if we have got no respect for this House. We have got the highest respect for this forum. Today, we are having the Rajya Sabha elections....(*Interruptions*)

SHRI G.M. BANATWALLA: Keep the prestige and dignity of the House in mind. Your adjourn the House Sir. (*Interruptions*)

MR. DEPUTY SPEAKER: There is no such thing. I cannot insist. Why should I adjourn the House. Please take your seats. Let us take up the next item. Mr. Chidambaram, please.

16.25 hrs

ILLEGAL MIGRANTS (DETERMINATION BY TRIBUNALS) AMENDMENT BILL

[*English*]

THE MINISTER OF STATE IN THE MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS AND MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI P. CHIDAMBARAM): I beg to move:

"That the bill of amend the Illegal Migrants (Determination by Tribunals) Act, 1983, be taken into consideration."

As the House is aware, the Illegal Migrants (Determination by Tribunals) Act, 1983 was enacted by parliament to replace the Ordinance which was promulgated on 15th October, 1983. The Act provides for the establishment of tribunals for the determina-

[Sh. P. Chidambaram]

tion, in a fair manner, of the question whether a person is an illegal migrant, to enable the Central Government to expel illegal migrants from India and for matters connected therewith or incidental thereto. This Act is presently in force in the State of Assam.

During the talks leading to the Assam Accord, some reservations had been expressed by the representatives of the AASU/AAGSP about some of the provisions of the Act. These reservations find expression in clause 5.9 of the Assam Accord, which reads as follows:

"The Government will give due consideration to certain difficulties expressed by the AASU/AAGSP regarding the implementation of the Illegal Migrants (Determination by Tribunals) Act, 1983".

In pursuance of the above clause, the State Government of Assam had submitted a proposal suggesting a number of amendments to the Act. Experience gained in the implementation of the Act for the last four years has also indicated the need for bringing about some changes in order to streamline the working of the Act. Discussions were held with the State Government representatives at various levels, and, as a result, the following were identified as the main issues:

- i) Number of members in the Tribunal;
- ii) Residence limit in case of private complaints;
- iii) Quantum of fee with every private complaint;
- iv) Burden of proof;
- v) Provision relating to revisionary powers of High Courts; and
- vi) Power of arrest/detention.

As a result of further discussions held

between the Chief Minister, Assam and the Prime Minister, an agreement has finally been evolved and, accordingly, it is proposed to enact the Illegal Migrants (Determination by Tribunals) Amendment Bill, 1987. The Bill which has been finalised after detailed discussions with the State Government of Assam provides, among other things for the following, namely:

- i) reduction in the number of members of an Illegal Migrants (Determination) Tribunal from three to two;
- ii) relaxation of residence restriction in case of private complaints from 3 kms. to residences within the same police station area;
- iii) reduction of minimum fee in case of private complaints from Rs. 25/- to Rs. 10/-.
- iv) enabling any person living beyond the limits of the same police station to make an application to the Central government for reference to a Tribunal;
- v) reduction in the minimum number of members of an Appellate Tribunal from three to two;
- vi) deletion of the existing provision relating to revision by High Court in view of the powers of the High court under Articles 226 and 227 of the Constitution;
- vii) conferment of the powers on the Appellate Tribunal to exercise superintendence over all the Determination Tribunals in a State;
- viii) empowering a police officer not below the rank of a Superintendent of Police to bind certain persons;
- ix) providing for a minimum punish-

ment for offences under the Act.

I would, however, like to clarify that deletion of an existing provision in the Act relating to revision by High Court is without prejudice to the powers of the High Courts under Articles 226 and 227 of the constitution under which the High courts have the power to entertain revision applications and issue writs and exercise superintendence over all the courts and Tribunals throughout the territory in relation to which they exercise jurisdiction.

As regards the question of burden of proof, it was agreed to abide by the advice of the Attorney General that no change need be made in the Act.

Through the proposed amendments, it is intended to facilitate smoother functioning of the Tribunals constitute under the Act so as to appropriately speed up the process of detection and expulsion of some 24th March, 1971 illegal migrants in Assam as envisaged in the Assam Accord. Due care has been taken in formulating these amendments, to see that the procedure under the Act is fair and just and does not become a source of undue apprehension or harassment to any group of citizens in Assam. In view of some doubts expressed in some quarters I would like to take this opportunity to reiterate the commitment of the Government to fulfil its obligations under the Assam Accord in toto.

With these words, I commend the *Illegal Migrants (Determination by Tribunals) Amendment Bill* for the consideration of the House.

MR. DEPUTY SPEAKER: Motion moved:

"That the Bill to amend the *Illegal Migrants (Determination by Tribunals) Act, 1983*, be taken into consideration."

Now we take up amendments to the Motion for Consideration. Mr. Suresh Kurup is not here. Mr Basudeb Acharia

is here. But Mr Manik Sanyal is not here. Prof. Soz is also not here.

Mr Acharia, I hope you are moving both the amendments.

SHRI BASUDEB ACHARIA (Bankura): I beg to move:

That the Bill be circulated for the purpose of eliciting opinion thereon by the 4th August, 1988.(24).

That the Bill to amend the *Illegal Migrants (Determination by Tribunals) Act, 1983*, be referred to a Joint Committee of the Houses consisting of 30 members, 20 from this House namely:

- (1) Shri Ajoy Biswas
- (2) Shri Buta Singh
- (3) Shri Somnath Chatterjee
- (4) Shri Saifuddin Chowdhary
- (5) Prof. Madhu Dandavate
- (6) Shri D nesh Goswami
- (7) Shri Indrajit Gupta
- (8) Shri V.S. Krishna Iyer
- (9) Shri Hannan Mollah
- (10) Shrimati Geeta Mukherjee
- (11) Dr. A.K. Patel
- (12) Shri Balwant Singh Ramoowalia
- (13) Shri C. Madhav Reddy
- (14) Dr. Sudhir Roy
- (15) Shri Amar Roypradhan
- (16) Shri Manik Sanyal

[Sh. Basudeb Acharia]

16.32 hrs

(17) Shri Syed Shahabuddin

[SHRI ZAINUL BASHER *in the Chair*]

(18) Shri Piyus Tiraky

(19) Shri K.P. Unnikrishanan

(20) Shri Basudeb Acharia

and 10 from Rajya Sabha;

that in order to constitute a sitting of the Joint Committee the quorum shall be one-third of the total number of members of the Joint Committee;

that the Committee shall make a report to this House by the first day of the next session';

that in other respects the Rules of Procedure of this House to Parliamentary Committees shall apply with such variations and modifications as the Speaker may make; and

that this House do recommend to Rajya Sabha that Rajya Sabha do join the said Joint Committee and communicate to this House the names of 10 members to be appointed by Rajya Sabha to the Joint Committee. (25).

MR. DEPUTY SPEAKER: Now, Mr Somnath Chatterjee, you can speak.

SHRI SOMNATH CHATTERJEE (Bolpur): Mr Deputy Speaker, Sir: This is another tragic day for Indian Parliament that it should discuss this proposed legislation, and the issues which are purported to be covered by this legislation which will divide the people further than unite them.

This is another instance of the Government's betrayal of the millions of hapless people in this country.

The human rights of a very large number of people are being further sacrificed by this inept Government which can neither think coherently nor can act honestly, with political honesty. They are sacrificing the interests of vast sections of humanity, by compromising with the forces of division and forces of chauvinism.

We know, as a very large number of people of this country have come to realize, that this Government is beyond any redemption, and the only way to save the people of this country from the ravages of administration, of this Government, is to consign it into the dust-bin of history.

But I wish to take this opportunity to appeal to my friends from Assam, specially those who belong to AGP—they are our very good friends. We are fighting together forces of reaction, forces of repression and authoritarianism. We are fighting together, both within and outside Parliament. We are fighting together for preserving the democratic rights of the people; and I appeal to them that to maintain the proper federal structure in our body-politic, we should continue to fight together further. I appeal to them to consider whether this Bill will help in bringing together, in a more cohesive manner, in a more effective manner, the downtrodden and the struggling humanity in this country. We consider them as our friends, as our comrades-in-arms. And, therefore, my appeal to my friends from Assam: not to divide the people, but to unite them, not to stress upon the differences among people, differences of language, differences of religion, caste or creed, but to emphasise on those aspects which unite the people more than divide them so that....

SHR! ATAUR RAHMAN (Barpeta): This insinuation....

SHRI SOMNATH CHATTERJEE: You

have not heard me from the beginning.

SHRI AJAY MUSHRAN (Jalalpur): You can imagine how it has provoked him?

SHRI ATAUR RAHMAN: I am sorry.

SHRI SOMNATH CHATTERJEE. ...so that people from all parts of the country speaking different languages and professing different religions can form part of an organic whole, indispensable part of an organic whole. I hope our friends in AGP would not do anything which allows the ruling party in the Centre to utilise them as tools in their hands.

I had a very interesting experience. Last session, when a delegation from AASU met me—I am sure, they met many hon. members of this Parliament—we had a very cordial discussion with no bitterness. I told them that we were opposed to the Assam Accord. But even if whatever they had got, they had to see that it was implemented properly without any attack on human rights and that proper respect was shown to the people who were staying in Assam maybe not out of their own choice but out of compulsion of events.

In this very building, in this very campus, great Indian leaders had made their commitments, which have been treated as national commitments. What Panditji had said, it is proper that it should be repeated. Panditji said on 15th August, 1947:

"We think also of our brothers and sisters who have been cut off from us by political boundary and unhappily cannot share us at present in the freedom that has come. They are of us and will remain of us whatever may happen and we shall be sharer in their good and ill fortune alike."

He also said that "there is no doubt that those displaced persons who have come to settle in India are bound to have their citizenship. If the law is inadequate in this respect, the law should be changed." This is what Panditji, the first Prime Minister of India,

stressed.

Sardar Vallabhbhai Patel, the Deputy Prime Minister, said,

"Our hearts naturally go out to those who were of us and with us so long but we are now to be separated. A few can realise the bitterness and sorrow which partition has brought to those who cherished unity but lived to fashion its details. But let not our bretheren across the border feel that they are neglected or forgotten Their welfare will claim our vigilance and we shall follow with abiding interest their future in full hope and confidence that their rights will be protected."

Then there is another quotation from Sardar Vallabhbhai Patel. I wish to remind our young Minister who is piloting this Bill that this is what the markers of modern India had said and that is a commitment that was given as a national commitment.

Sardar Vallabhbhai Patel said:

We cannot fully enjoy freedom that we have got until and unless we can share it with the Hindus of North and East Bengal. How can I forget the sufferings and sacrifices which they cheerfully endured for freeing our motherland from foreign domination? Their future welfare must engage the most careful and serious attention of the Government and the people of the Indian Union in the light of developments that may take place hereafter."

Sir, Mahatma Gandhi, the Father of Nation, what did he say? He said:

"My friends ask whether those who being mortally afraid or otherwise leave Pakistan will get shelter in the Indian Union. My opinion is emphatic on this point. Such refugees should get proper shelter in the Union and vice-versa."

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"My friends again asked me as to what will happen to the lands and buildings, if any, left in Pakistan, I have said repeatedly that the State should pay the present market price for the land and the buildings."

I am reading reading these to remind this House that these were the commitments made to the people of India, who became the residents of a different State, after the partition, for which their views were not taken.

Then I told the AASU, my young friends who met me, about these commitments, and an obligation to maintain these commitments, whatever agreement they have arrived at in spite of our objections and opposition. This takes away many of the rights of those people but whatever is provided in the Accord at least should be maintained. And they admitted, I must say, very bright young men some of them admitted, that there are excesses, there are imperfections, in carrying out even the Accord or even laws that were in existence and they said, "we are young people taking responsibility but we shall see that these are properly implemented and there is no hardship caused to the people." But I find today, this Amendment Bill has come, which makes it more difficult for these people and which makes it easier for the administration or some people to take recourse to laws which according to us, go against the very ethos of our country—our united country—and go against the solemn assurances given by leaders, of men and leaders of Government at that time.

When the original Bill was passed in 1983, Mr. P.C. Sethi was the Home Minister, and a Cabinet Minister for that matter. What did he say? he said, ... *(Interruptions)*

SHRI AJAY MUSHRAN: May I interrupt? He has quoted the late Pandit Nehru and the late Sardar Vallabhbhai Patel. I do

not think that they have given any definite commitment or assurance. That was more an expression of sympathy for our brothers and sisters who chose to become citizens of a different country and ultimately they became the citizens of another country. *(Interruptions)*

SHRI SOMNATH CHATTERJEE: In the dictionary of the present Congress men there is no word for commitment for the people. *(Interruptions)*

SHRI AJAY MUSHRAN: I am not talking about the Congress.

I want your advice as you are an eminent lawyer and a jurist.

SHRI SOMNATH CHATTERJEE: Let us wait for the Government's reaction to it.

I am not a jurist.

Mr. P.C. Sethi, while replying to the debate in 1983, said ... *(Interruptions)*

SHRI AJAY MUSHRAN: You are twisting the history.

SHRI ABDUL GHAFOOR (Siwan): Large number of Hindus migrated from East Bengal because they were tortured by the Pakistan Government. Then, will you throw them out when they come here and settle here? That is the thing that you are saying. Why do you not ask BJP to do something? This is your commitment. *(Interruptions)*

SHRI SOMNATH CHATTERJEE: I am not angry. I am shocked today. *(Interruptions)*

Sir, I want to ask whether the assurance given to the people of this country.... *(Interruptions)* There is no legal enforceability of a commitment. But the question is the commitment should be an

article of faith so far as this country is concerned; so far as this Government is concerned; whether it considers it an article of faith as an honest promise made to the people of this country, and that was made honestly I have no doubt. Sir, their followers today are not giving any credence to the commitment and they are not giving any respect to the commitment that have been made. Mr. P.C. Sethi....(*Interruptions*)

SHRI SAIFUDDIN CHOWDHARY (Katwa): Mr. P.C. Sethi from Madhya Pradesh.

SHRI SOMNATH CHATTERJEE: Mr. P.C. Sethi, as the Minister of Home Affairs, while replying to the debate in 1983 has said:

"What the Government has done by promulgating an ordinance and introducing the Bill to repeal the Ordinance is only to give effect to an all-Party consensus arrived at in March 1980 in a meeting which the Prime Minister had with the leaders of the opposition in Parliament and leaders of political parties represented in Assam Assembly to treat 1971 as the starting year for commencement of work relating to detection and expulsion of foreigners."

That was the statement made in the House by the then Home Minister while replying to the debate. (*Interruptions*)

I do not know what happened to Col. Mushran. The fire burning in Jabalpur seems to have been....(*Interruptions*)

SHRI AJAY MUSHRAN (Jabalpur): It is only an expression of sympathy. (*Interruptions*)

SHRI DINESH GOSWAMI (Guwahati): In spite of the fact that there will be strong differences of opinion between myself and my colleagues on this Bill, let him have his say. We will give our own reply on the points

where we feel that the reply has to be given. (*Interruptions*)

SHRI SOMNATH CHATTERJEE: I welcome it. As I said, we have no quarrel. We differ on certain issues, but there is no question of quarrel. We shall settle it very keenly. But the question is let this disturbance not come from Col. Mushran. (*Interruptions*)

SHRI P. CHIDAMBARAM: Sir, when Somnathji differs from me, he quarels; but when he differs from Dinesh Goswami, he does not quarrel.

SHRI SOMNATH CHATTERJEE: I do not quarrel. Why should I quarrel? (*Interruptions*)

Yesterday we were told by our young Home Minister on the TV that the Army people should have discipline. He was sorry that Gen. Arora did not display that disciplined state of mind. But what sort of Army were you in colonel, I do not know. (*Interruptions*)

SHRI AJAY MUSHRAN: I am thoroughly spoiled in your company.

[*Translation*]

SHRI BASUDEB ACHARIA: What about Jabalpur explosion?

SHRI AJAY MUSHRAN: The Jabalpur explosion is under control. (*Interruptions*)

[*English*]

SHRI SOMNATH CHATTERJEE: Sir, certain minimum safeguards were provided in the Bill which was passed in 1983 by this Honourable House. The then Home Minister Justified that those were the minimum safeguards that should be provided. I do not know whether Mr. Chidambaram had an

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occasion to go through his predecessor's speech. At least get a copy of it.

He says why certain provisions have been made. In his speech in December 14, 1983 in this House, he says, I quote:

"With a view to ensure that frivolous applications are not made, certain safeguards are sought to be provided, namely, the application should be accompanied by a fee; the person in relation to whom the application is made should reside at a place within three kilometres from the place of residence of the applicant; the application shall be accompanied by affidavits of not less than two persons residing within three kilometres of the area in which the person referred to in the application is residing"

He says further:

"With a view to ensure that the machinery commands the confidence of all concerned, it is proposed in the Bill that the Appellate Tribunal shall consist of not less than three and more than six members and the members of the Appellate Tribunal shall be either sitting or retired judges of the High court."

Then he referred to the important features of the 1983 Bill which provided for jurisdiction of the civil court and that the Central Government will take the necessary administrative action for the expulsion of those who will be found out to be illegal migrants. Further, there have been repeated assurances which have been given by the Government of India. It was said:

"Government is anxious that the post 24.3.71 illegal migrants should be detected and expelled."—We had

also supported that—"With a view to attract judges for being appointed as members of the Tribunals additional incentives have been offered by the Government and the response has been encouraging. The names of judges received from various States Government have been forwarded to the State Government of Assam."

He further said: "It is impractical to fix any other date than 25th March, 1971." He says:

"...total disfranchisement of 1961-71 entrants and their dispersal outside Assam regardless of the impracticability of the demand and the misery it would entail" was not acceptable to the Government of India.

He said that it would cause misery to the people who would be affected by this.

These were the statements made on the floor of the House on behalf of the Government of India when Mrs. Indira Gandhi was the Prime Minister. Now, what happens? Without any discussion, without taking the views of the people who would be most affected, the Assam accord was entered into.

Please see para 5.9 of the Assam Accord:

"Government will give due consideration to certain difficulties..." I was waiting for the hon. Minister to state what were the difficulties—the difficulties—expressed by the AASU and AAGSP regarding the implementation of this Act. But nothing has been said by the hon. Minister about that.

Kindly see the Statement of Objects and Reasons of the Bill. You will find how these matters of human dignity, human protection and human rights have been dealt

with. The Statement of Objects and Reasons says that the Amendment Bill has been finalised after detailed discussion with the State Government of Assam. And nobody else! There are other organisations. Those organisations, groups or parties are even represented in the House. Certainly you will discuss with the Government of Assam—no doubt about it. But you should discuss with other people, those who are being affected. Their organisations are there. They are not fighting for the moon. They are fighting for just survival as human beings. Nobody leaves his hearth and home for pleasure or for fun and to stay in an area where he has to develop from scrap. They have contributed for all these years for the growth of Assam, for the prosperity of Assam. Now this Amendment Bill is brought without having any discussion and the admission in the Statement and also from the statement of the hon. Minister in which he says that there were discussions with the government of Assam and the need for changes to streamline the procedure was felt. What is the procedure which should be streamlined and why?

What is the difficulty with this procedure which has been accepted by the then Government of India has minimum protection; otherwise, it will cause miseries? How the commitment of the Government of India, the commitment of Shrimati Indira Gandhi that the cut off date will be 25th of March, 1971, was given a go-by in Assam Accord, I am not going into it any longer because we had discussions and the country knows it. According to us, that was a definite surrender of the interests of the people. Their minimal rights were taken away and a new type of citizenship was created in this country. People will be able to stay here, will exercise other rights as a citizen, will be entitled to hold passport, but will not be entitled to vote. What type of human beings were created in a democratic country based on the system of parliamentary democracy! Parliament will

be there, I will be entitled to stay and exercise my rights as a citizen otherwise, but I will not be allowed to vote. Well, what has happened in Assam Accord, this is not the place to either change it or do anything else. But the point is that this Assam Accord was entered into contrary to the definite commitment of the Government of India. Now you are making laws, you are entering into Accords, you are changing that law which was accepted to be the minimum protection to be given, without even any discussion, consultation, taking the views of the people who will be affected. The only people you consider is the administration. Only the police people you have considered who will exercise the police powers. Is this the way the Government of India should treat millions of people? I strongly protest against this approach to the matter.

As I said, we had accepted this Bill with reservations because it gave some protection at least. The former Prime Minister of India at least took this precaution that there was no harassment. I had written to her about the various misuses even of the Foreigner Orders that had been issued—how without any proper trial, without inquiry, people were being treated as foreigners and were driven out—and she had written back saying that all precautions would be taken that there was no misuse of this procedure. At least that assurance was kept in view. But whatever minimal rights had been provided, have been taken away. It is said in the Statement of Objects and Reasons, and in his speech also the Minister has said that the object is to streamline the procedure. The object also is: "for the determination, in a fair manner, of the question whether a person is an illegal migrant so as to enable the Central Government to expel the illegal migrants from India." It says 'fair manner'. Fair for whom? They are considering the fairness only from the governmental point of view not from the point of view of the person who will be affected by this. Not one word is there in

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hon. Minister's statement or in the Statement of Objects and Reasons. If you analyse what are the changes, he has also said, and mostly I find that is in the Statement of Objects and Reasons also. Maybe a little addition here and there in words or language, but substantially it is here. I would ask even my friend Mr. Goswami, my very good friend, as to which way this makes it fair or it lays down even conceptually a fair manner of dealing with the question.

After our independence, what happened in keeping with the commitment? I will remind Col. Mushran if he takes the trouble of looking into books. After becoming a Congressman if he has still got any habit of reading, then he can please go through the 'Immigrant Expulsion from Assam Act, 1950'. There was a provision made in section 2 of that Act providing for power to order expulsion of certain immigrants from Assam. But there was a provision consciously introduced in that Act.

I shall read that, with your kind permission:

"Provided that nothing in this section shall apply to any person who, on account of civil disturbances or the fear of such disturbances, in any area now forming part of Pakistan, has been displaced from or has left his place or residence in such area and who has been subsequently residing in Assam."

Therefore, all the migrants who have illegally gone to Assam, without proper documents etc., will be covered by the Act, the proviso protected those who came due to disturbances.

Now, today this has been sent to cold storage. He was making a distinction here;

no attachment, no respect for the commitment. I believe, he has. At least, he has lip service to them....

SHRI AJAY MUSHRAN: This commitment is something for those people who have gone there because of riots and come back to India; they have not become citizens of Pakistan. But whereas he is giving an impression that the late Pandit Nehru and late Sardar Patel implied that the Government would hold the commitment for them also.

SHRI SOMNATH CHATTERJEE: I am sorry, I have addressed myself to him, because he is not a mood to understand.

Now what are the changes that are made?

SHRI DINESH GOSWAMI (Guwahati): I do not mind giving Mr. Chatterjee more time. But my experience has been that you give time to speakers who speak first and ultimately those who speak at a later stage would have to conclude in 5 minutes.

SHRI P. CHIDAMBARAM: Ultimately the Minister's reply suffers.

SHRI DINESH GOSWAMI: Therefore, you please keep a balance. I do not mind him speaking for a long time. But the other speakers should also get the same time. That the other speakers should also get the same time. That the other speakers conclude within 5 minutes should not happen. That happened to me in the Constitution (Amendment) Bill.

MR. CHAIRMAN: You will have your say.

SHRI SOMNATH CHATTERJEE: I concede. My additional time may be given to him.

SHRI G.M. BANATWALLA (Ponnani): Not only he alone, everybody must have a fair say.

PROF. SAIFUDDIN SOZ (Baramulla): I have given my amendment.

SHRI SOMNATH CHATTERJEE: The number of members of the Tribunal is reduced from 3 to 2. Why? How does it necessarily bring about fair manner, establish fair manner of determination of the question. Now, what is happening? Where is the equality now? It will go to another person. Therefore, one person will be able to decide that. Why is this duplication also? What is the fairness in this? That a conscious decision has been taken to put 3 members. I will quote Mr. P.C. Sethi's statement: "By way of minimum protection, 3-member tribunal has been decided".

Then, next change is relaxation of the residence restriction. It was put because no frivolous complaint is made. If you go through the provisions, when one makes a complaint and an affidavit is filed, then immediately that person against whom a complaint is filed, would have to come and say that he is not a foreigner. Now, it is somebody who knows him personally and stays within 3 kms. radius can file a complaint. The principle behind it, as one understood, is that he would know personally the person who was foreigner, who had no right to stay or who was an illegal migrant. But that is now being changed to police station area—covering hundreds of square kms. I do not know in your area, what is the area of police station. Then, anybody without knowing anything personally—may be they are residing at different corners of the police station area—will make any complaint. How it is easier for a person who has to make this charge. Is it in consonance—apart from the assurance—with the principles of natural justice?

Next thing is about the fees. It is said, only poor people are making these complaints. I am sure ordinary poor people who are not motivated, or who are not persuaded to file complaints would not go and file complaints against those persons. Then, for whose sake this fee is reduced. This fee is also necessary to see that some sort of constraint is put against frivolous complaints. The number of tribunals is also reduced. High court revisionary jurisdiction is taken away. For what object? It does not require the clarification of the hon. Minister. We find nowadays clarifications are to be accepted apart from what is stated in the law. Even in regard to the constitutional amendment, we have to be rest assured on the basis of their clarification. I do not know how long they they will be there.

The next two important points are, empowering a Police Officer not below the rank of Superintendent of Police to bind certain persons. This is a new introduction in this Amendment Bill. Now the power goes to the Police from the Tribunal. And then providing for minimum punishment for offences under the Act. Maximum punishment could be up to three years. Minimum one year has to be given. What is the police power that is given? Section 14 of this Amendment Bill:-

"21A. Notwithstanding anything contained in any other law for the time being in force, it shall be lawful for a police officer not below the rank of Superintendent of Police, if he is satisfied that the circumstances so require and for reasons to be recorded in writing to direct any person"

—without any judicial adjudication—

"against whom a reference or an application has been made under this Act to enter into a bond with or without sureties for making himself available for the inquiry and observance of such restric-

[Sh. Somnath Chatterjee] tions or conditions as may be specified by such police officer.

Provided that if such person fails to enter into such bond he may be arrested and detained in such manner as may be prescribed."

Is this police power given for a fair manner of detection of foreigners? This police power is given to those officers under the control of the Government which has its own policies and programmes, who has been asking the Central Government to change the law so that their police can get this power? Is it in consonance with the minimum protection which a human-being is entitled to get? Uptill now nobody is saying that those who have come even after 25th March, 1971 should not be detained. But the question is, you have to follow human and human procedure. All sorts of powers have been given. The little protection that was given is being taken away.

There are cases. What is happening? So far as this Act is concerned, the persons are asked to produce documents. Those who are producing documents of even 30 years back are being asked to prove that they have been residing in Assam. They have been asked to produce the person who has given a certificate 30 years back.

There are instances which we can give you that a voters list prior to 1966, land document prior to 1966, school certificates prior to 1966, employment certificates prior to 1966 etc are not honoured. The Tribunal has asked them to summon the Issuing Officer and to produce a certificate to give evidence before the Tribunal. How can a School Headmaster who has given a school certificate 30 years back be found out even if he is alive? This is the position with regard to that. I have got a number of instances where certificates issued by the Govern-

ment of India prior to 1966 even, have not been honoured. Ceremoniously, they are driven out. Our grievance has been the grievance of the people. The grievance of the people there is that even this protection under the Tribunal Act has not been fully given and they are relying on the procedure under the foreigners Orders. The onus is on the persons concerned. Then an order is made. The Police is immediately asked to remove them and they are removed. One thing is not being said by anybody. Where will they go? (*Interruptions*) They are living in hell. They are consigned to lifelong subjugation. Where will they go? Nobody is saying that. (*Interruptions*). I am not asking for it. I am only appealing to my friends in the Government as also in the Government of Assam to consider how it is helping our well-being.

I know, Sir, as we have said that we want Assam should be prosperous; Assam should be economically more viable. I want the people residing in Assam to enjoy the all the opportunity that they are entitled to ... (*Interruptions*) It is absolutely a wrong notion that we are against Assam and the prosperity of Assam. We shall fight as much for Assam's prosperity and development; for the setting up of the Petro-chemical complex as we are demanding for ourselves. We have demanded. The AASU Delegation came to us to thank us for the support we gave to the people of Assam during the devastating flood and they said: "We must thank you for the strong support you gave in the Parliament for what you have said about the afflicted people of Assam." I have got all these things. (*Interruptions*) If you kindly give me 5 more minutes, I will narrate the harrowing instances. Where will they go? We are trying to find out as to what is their fault; What is the crime they have committed. Therefore, Sir, our appeal is that we want to see a strong India; we want to see a strong State and a strong people. You cannot have a strong India with weak people or who are

divided. There are many divisive tendencies in this country. Many divisive trends are there in this country. The Government at the Centre and the way they are functioning, the people are getting more and more separated amongst themselves. This is not the time to consider things on the basis of language, the so called linguistic division or on the basis of what was initially somebody's place of residence; whether it is in undivided India or not; when he came to find out whether he is here for one or two days and this makes all the difference.

Sir, as it is, people who have come after 1971 have no protection even under this Act. But merely alleging that somebody is an illegal migrant, should not make him lose all the protection and benefits as a human-being, as a citizen, as a person residing in this country entitled to enjoy.

According to us, I say that this amending Bill is against the human interest, against the interest of the people who are going to be affected. It has been brought in a manner which is only to appease the Administration there so that it can take steps which make it more difficult for those people who require protection. I should have expected this Government to see and bring forward a legislation which will make the protection intended to be given by the original Act more effective than some empty provision. But, instead of that, the Government has brought an amending Bill which is against the interests of those people. Instead of standing by them, instead of giving them support and succour, they are being treated in a manner which is destructive of their human dignity and their very existence. Therefore, I oppose this Bill and I request even at this stage that the Government and my friends in the Assam to kindly consider whether they will make it difficult for the hapless people who are not at fault and whether it will be more in the interest of the nation as a whole and for Assam and for everybody else. There

should be forces which will cement them together than divide them further.

Sir, with these words, I request them to withdraw the Bill. In any event, I oppose this Bill with all vehemence lock, stock and barrel.

PROF.SAIFUDDIN SOZ (Baramulla): I must be allowed to move my amendment. I was in the House and I did not hear my name being called by the Deputy Speaker.

MR. CHAIRMAN: Your name was called. You were not present.

(Interruptions)

PROF.SAIFUDDIN SOZ: I must move my amendments. I have not moved. I won't make a long lecture. My amendments are very important. I was in the House. *(Interruptions)* I am moving my amendments.

MR. CHAIRMAN: Your name was called.

PROF.SAIFUDDIN: SOZ: I did not hear my name *(Interruptions)*.

MR. CHAIRMAN: You were not present. Your name was called.

SHRI P.CHIDAMBARAM: Don't say, "I was here." *(Interruptions)*

MR. CHAIRMAN: I was sitting there. I heard your name being called. But you were not here.

(Interruptions)

MR. CHAIRMAN : Shri Bipin Pal Das to speak.

SHRI BIPIN PAL DAS (Tezpur): Mr. Chairman, Sir, I rise to support this Bill. This Bill, as the Minister has said, is the outcome

[Sh. Bipin Pal Das]
of series of consultations with the State Government of Assam. It seeks to remove the supposed difficulties claimed to have been faced by the Assam Government in implementing the Assam Accord. Now when this bill will become an Act, I hope that the AGP Government will have no more excuses for not being able to implement the Accord.

Last year, while discussing this subject in course of a debate on the Ministry of Home Affairs, I said that the IMDT Act of 1983 was not a hindrance in the path of detecting and deporting the foreign nationals. I said that. But now the few difficulties that have been pointed out, have been sought to be removed by this Bill. I hope, they will not raise another alibi to cover up their failure.

Let me quote a few lines from 'The Sentinel' published from Guwahati dated 22nd March, about what the Chief Minister of Assam said on the Floor of the Assembly. Replying to a question put up in the House, Mr. Mahanta said that the enquiries against 3,85,103 persons have been initiated under Foreigners' Act 1946 up to February 29th and out of this, 21,501 enquiries have been referred to the foreigners' tribunals for opinion. The tribunals have declared 3,854 people as foreigners of the 1966-71 streams, he said. Further, Mr. Mahanta said that 1,17,472 enquiries have also been initiated under Illegal Migrants (Determination by Tribunals) Act, 1983. Out of this, 639 people have been declared as illegal migrants and 140 deported, What does this statement mean? On the one hand, it means that the IMDT Act, 1983 was not a hindrance in the way of the Government taking action against so many people.

They could issue notices to 3,85,103 people under Foreigners' Act and 1,17,472 persons under the IMDT Act which proves that IMDT Act was not a hindrance on the

path of their trying to implement the Assam Accord so far as foreign nationals are concerned.

That is the first thing proved by the statement. The second thing that is proved by the statement is, although notices have been issued to lakhs of people ultimately...

SHRI DINESH GOSWAMI: No notice was issued. It does not say that. This is only a propaganda word. Enquiry has been made, no notice has been issued.

SHRI BIPIN PAL DAS: It is my knowledge...*(Interruptions)*....

You will have your say....*(Interruptions)*....

MR. CHAIRMAN: When your turn comes, you will have your say. Let him say what he says...*(Interruptions)*.... You may reply when your turn comes. He will say what he says, you cannot make him say.

SHRI BIPIN PAL DAS: They will have their say, why should they stand in my way?

The news says, the news has used the word 'enquiries'. My knowledge is, notice has been served on people to appear before tribunals. Lakhs of people have been notified to appear before tribunals and only 3994 persons have been found so far as aliens within two years. That means thousands and lakhs of people have been harassed for nothing. They have been asked to move to the court to and fro for nothing. Some people from one district have been asked to go and appear before tribunals in another district...*(Interruptions)*... Mr. Hamid, don't be excited, I am coming. I am only saying that this is happening and this has been substantiated by the newspaper report.

So, I demand that even after passing this Amendment Bill which I support - I will tell

you why I support this- there should not be any harassment of innocent people who are citizens of India and that the process of identification of foreigners should proceed in accordance with the law. Not that gangsters of youngmen should go to the police station and say that so and so is a foreigner, arrest him, take action against him; not that kind of a thing.

Action should be taken in accordance with the law. Detection should go on in accordance with the law; no harassment of innocent people should take place.

SHRI SAIFUDDIN CHOWDHARY: You make law to encourage gangsters.

SHRI BIPIN PAL DAS: No, we are not making law to encourage the gangsters, Mr. Saifuddin Chowdhary. You don't know the situation in Assam on the ground. That is why Mr. Chatterjee spoke so loud, he was so eloquent about high sounding principles. He quoted Nehru, Patel, Gandhi and all that. He does not know what is the situation in Assam ...*(Interruptions)*... He is saying without knowing the situation on the ground. Mr. Chowdhary also, with great respect to him because he is a good friend of mine, does not know the situation on the ground.

On the day this Bill was introduced in the House some of my friends here made a loud noise and also staged a walkout. They have their points. They think that they are serving the interest of the people there, the interest of the minorities there; well, very good, But I will make a very humble submission to them. In all humility and sincerity I would appeal to them not to make such noise outside Assam which will create difficulties for the minorities themselves inside Assam. When the minorities face difficulties these friends are seen nowhere around.

I have the experience of defending, of guaranteeing the safety and security of the

minorities in Assam in the 1960 linguistic trouble. There are hundreds of people in Assam, political parties and organisations who are there to safeguard the interests of minorities. One need not shout from outside. They may better go there, defend their rights and privileges their safety and security instead of shouting from outside. In the ultimate analysis, may I in all humility say, that the safety and security of minority community anywhere in the world, in any part of the globe, ultimately depends upon the goodwill of the majority community? That goodwill must be earned. That goodwill must be there. Assam has a record of its own. There were communal riots nearby Bengal in 1946. Elsewhere, Assam has not experienced any communal riot in its history except once in 1950. That also was confined to a very small area in a district.

SHRI AMAR ROY PRADHAN: That was not a communal riot. Assam has not experienced *(Interruptions)*

SHRI BIPIN PAL DAS: I am talking of communal riots in the light of what happened in Bengal, In Punjab, in other parts of India in those days. *(Interruptions)* Mr. Chowdhary, you must listen to me. In that sense, Assam has not experienced communal riot. That is because of the good feeling between the majority and the minority communities.

SHRI SAIFUDDIN CHOWDHARY: That's right.

SHRI BIPIN PAL DAS: That is going on. Please, for God's sake, don't disturb the situation.

SHRI ABDUL HAMID: Your Government is disturbing this.*(Interruptions)*

SHRI BIPIN PAL DAS: Sir, I will sit down. What's this going? Mr. Hamid, you should know how to behave.

MR. CHAIRMAN: When your turn comes, you should speak.

(Interruptions)

AN HON. MEMBER: How can you ignore this massacre? *(Interruptions)*

SHRI BIPIN PAL DAS: What I have been trying to say is that historically, there has been harmonious relationship between the majority and the minority relationship between the majority and the minority community. That is what I am trying to emphasise. That is the history of Assam. Now, therefore, we must not say or do anything which will create difficulties for the minorities inside Assam. *(Interruptions)*

SHRI SYED SHAHBUDDIN: You are creating difficulties.

SHRI P.K. THUNGON (Arunachal West): But for the Government of Assam at that time in 1983, the situation would have been worse.

SHRI BIPIN PAL DAS: That's a different thing. But this is my view. Being a man of Assam, born in Assam and having read its history, I know what Assam is and what the Assamese people are.

Sir, let me now take the provisions in the Bill one by one. I need not go as Mr. Chatterjee has gone. I might try to speak about the changes that have been brought about. I don't think there is any major, substantial or revolutionary change of the original Act.

SHRI SYED SHAHBUDDIN: Then, why this Bill?

SHRI BIPIN PAL DAS: There are some minor changes made. *(Interruptions)* There are some minor changes or some changes made in order to remove the difficulties pointed by the State Government to imple-

ment the Assam Accord. After all, you are bound by the Assam Accord. Mr. Chatterjee is also bound. His party is bound by 1971 cut-off year. What does the Accord say? The Accord simply codifies '1971' as the real - for all practical purposes - cut-off year. Those who came before 1971, they will not be expelled. They might lose voting rights for ten years. But the real cut-off year was 1971 which had been accepted by all political parties in this country under the leadership of Shrimati Indira Gandhi and Mr. Chatterjee was a party to this. How can you object to this?

SHRI SOMNATH CHATTERJEE: I am not objecting. I have never said that.

SHRI BIPIN PAL DAS: We have to see that the Accord is implemented. If the Police administration, local administration, points out certain difficulties, the Central Government should try to remove those difficulties.

He may disagree. He may think it as dangerous. The Central Government does not think so. My feeling is that if this Bill is passed, things will become easier for the minorities to live with certain dignity in Assam.... *(Interruptions)* ... Mr. Chidambaram may or may not agree. He is not a man from Assam. This Bill will help the minorities to live with greater security and safety and with dignity. Certain things become difficult.... *(Interruptions)* Let me have my say. I am not hesitant.

SHRI SOMNATH CHATTERJEE: May be unlike you.

SHRI BIPIN PAL DAS: I am saying what I feel. The changes suggested are not of a substantial or revolutionary character. Out of three-man tribunal, it becomes two-man tribunal. Where is the major change in it? If three Kilometers distance.... *(Interruptions)*

MR. CHAIRMAN: Now you are creating trouble.

SHRI BIPIN PAL DAS: Mr. Shahabuddin, you will not have to live with those people. I have to live with those people. *(Interruptions)*

MR. CHAIRMAN: Now you are creating trouble.

SHRI BIPIN PAL DAS: Mr. Shahabuddin, you will not have to live with those people. I have to live with those people. *(Interruptions)*

MR. CHAIRMAN: You can speak when your turn comes. And he will answer.

(Interruptions)

SHRI P. CHIDAMBARAM: Don't give a running commentary. You control yourself. *(Interruptions)*

SHRI SAIFUDDIN CHOWDHARY: You are not controlling the Minister.

SHRI P. CHIDAMBARAM: I am standing up to say that Mr. Saifuddin Chowdhary should not interrupt so often.

SHRI BIPIN PAL DAS: To cut short my time, I will not go into all the changes one by one which the Minister will do in his reply. But my point is that except in one matter, other matters are very simple and very minor. He cannot object to one matter that the right of revision jurisdiction of the High Court has been taken away. That is because there are other provisions which give that right to the High Court automatically. Any citizen has the right to go to the High Court with a writ petition. Therefore, that major change which has been made is not such a change as has taken away the rights of the people for approaching the High Court for justice. I need not discuss the other things.

I will refer to two points made by Mr. Chatterjee. He talked about the commit-

ments of the leaders. There are other statements made by Pandit Nehru in those days. It is about the situation in Assam. I do not have the readymade speeches on hand and hence I cannot quote them. In spite of those commitments that you have referred to, the Government of India was compelled to pass an Act called the 'Expulsion of Pakistanis Act, 1950'. There was proviso. All right. But they were compelled to pass that Act in spite of those commitments. Why? Those who are not citizens, the illegal migrants must be expelled as per the principle accepted by the Government of India in those days and this Government also accepts the same principle.

Another point is, I have already said that CPM also stood for 1971 being made the cut-off year. Having done that, they cannot object to the substance or the basic principles of the Assam Accord. Having done that, they cannot object to the steps taken by the Government to implement the Assam Accord or make things easier for the Government to implement the Assam Accord. They cannot object to that.

I will conclude by referring to one point which is very important. There has been a malicious propaganda against us in the Central Government and the Congress Party that the Congress Party and the Central Government are not serious about implementation of the Assam Accord, because they say, that we are afraid of losing our vote bank. This charge has to be answered squarely and I take this opportunity to do that today. Had Shri Rajiv Gandhi not been serious and sincere about solving the Assam problem, there would have been no Assam Accord within six months of assumption of office by him. AGP would not have come to power but for the Accord. This Bill is another proof of the sincerity and seriousness of the Government in this matter....*(Interruptions)*

MR CHAIRMAN. Please do not interrupt him. You say when your turn comes.

SHRI BIPIN PAL DAS: The amending Bill has come because of the fact that we want to implement the Assam Accord. Therefore, Assam accord is relevant. What I said was that had the Government not been sincere and serious, there would have been no Assam Accord. And had there been no Assam Accord, AGP would not have come to power in Assam? Now, these are the people who criticise us.

They should be grateful to the Government and personally to Shri Rajiv Gandhi for what he has done.... *(Interruptions.)*

SHRI DINESH GOSWAMI: I do not want to interrupt, but we want to point out that we have not come to this House at the mercy of Shri Rajiv Gandhi or Congress(I). We have come on our own strength.

MR CHAIRMAN: No interruptions please.

SHRI BIPIN PAL DAS: After all, Shri Saikia and many of these Members are ex-Congressmen. Therefore, they shout more.

SHRI DINESH GOSWAMI: Do you mean to say that Congress(I) Members shout more.

AN HON. MEMBER: Ex-Congressmen shout more*(Interruptions.)*

MR CHAIRMAN: No interruptions please.

SHRI BIPIN PAL DAS: The second proof, as I said, about the sincerity and seriousness of this Government is this Bill.

Because the Government is sincere and serious about implementing the Assam

Accord, this Bill has been brought forward before this House.

I would go even farther backwards. Immediately after coming back to power in 1980, Indiraji proposed 1971 as the cutoff year. Had that been accepted by the leaders of the agitation at that time, much of bloodshed and loss of life and property would have been avoided. They did not do that, but ultimately in the Assam Accord, they had to accept 1971 as the cutoff year by going in a roundabout way. I ask this question to the hon. Members sitting there, who was responsible for everything that happened between 1980 and 1985? Who was responsible? Those people who did not accept 1971 as the cutoff year at that time are responsible for what happened in Assam*(Interruptions.)*

May I also ask who was the first in Assam to raise the question of foreign nationals? It was not AASU, not the Teachers' Association, not the Assam Sahitya Sabha, not any other Association or political party or organization, but the Assam Provincial Congress Committee which passed a resolution in 1964 and directed the State Government to take action. And then the Chief Minister of Assam, Shri Chaliha started the operation in 1965. Within one year he succeeded in expelling nearly 3 lakhs of foreigners. No noise was made then by anyone. There was no complaint by Shri Hamid and his forefathers. Mr. Chaliha expelled about 3 lakhs foreigners in 1965-66, i.e. within one year.*(Interruptions)*

The Assam Accord talks about 1966 onwards because up to 1966, Mr. Chaliha cleared the ground.*(Interruptions)*

MR. CHAIRMAN(Shri Zainul Basher): No argument, Please take your seat. It is not fair. Your name is there and I will call your.

SHRI BIPIN PAL DAS: Therefore, I submit, Sir, that it does not lie in the mouth of those people to attack the Congress party and the Central Government by saying that we are not serious and sincere about deporting the foreign nationals.

MR. CHAIRMAN: Mr. Das, please conclude.

SHRI BIPIN PAL DAS: I will just conclude by saying one point.

MR. CHAIRMAN: Not one point but one sentence.

SHRI BIPIN PAL DAS: They talk about the Vote Banks. What is a Vote Bank? A vote bank is constituted by the ideologically committed voters. In that sense which party in the world or in India does not have a Vote Bank? Every party has a Vote Bank, big or small. It may be that the Vote Bank does not necessarily determine the result in an election or it may be that the floating voters may ultimately decide the elections outcome. But every party has a Vote Bank of ideologically committed voters. The Congress Party in Assam or for that matter in India does not constitute a Vote Bank consisting of only one or two minorities. We approach all communities in Assam. Sir, I will conclude by saying that in Assam if one community has stood by the Congress all through since 1952 till today, it is the Tea Garden Community and that is because of a very strong and powerful Labour Movement we have built up among the community. They have stood by us all through these years. *(Interruptions)*

And, they have never gone against us. We get support from all communities. If the Muslims had constituted the Vote Bank of the Congress Party, then may I point out what happened to Dhubri. Out of 14 parliamentary constituencies in Assam, there is one Dhubri constituency which is predominantly a Muslim majority constituency. Con-

gress lost in 1952 in that constituency. 1957, 1962 and 1967 all through the....*(Interruptions)*

Consecutively in four elections, the Congress lost the Dhubri constituency to the Opposition.

SHRI DINESH GOSWAMI: At that time Shri Bipin Pal Das was in the Socialist Party and his candidate won.

SHRI BIPIN PAL DAS: I am telling the history of Congress in Assam. In 1971 because of the Indira wave, we won all the 14 seats in Assam and Dhubri was also captured. In 1985 again we lost the seat to Mr. Hamid. So, although the constituency was dominated by the Muslim community, the Congress was losing that seat. Similarly, I will give the opposite picture and then I will finish. My constituency is a predominantly Assamese Hindu Constituency. If we depend upon only Muslim vote and other minority votes and if we cannot get the support of majority communities....

SHRI SAIFUDDIN CHOWDHARY: What do you mean by Hindu Muslim Constituency? *(Interruptions)*

SHRI BIPIN PAL DAS: After all it is in your mind but you do not accept it. *(Interruptions)*

SHRI BASUDEB ACHARIA: I think it is in your mind. *(Interruptions)*

SHRI BIPIN PAL DAS: The charge against us is that we depend upon the minority community's votes only. My submission is that we have shown through the Dhubri example that it is not so. And the constituency from which I came has always elected Congress members right from 1952 till now, except once. It is not a minority-dominated constituency! So, the charge against the Congress that we are building a vote bank

[Sh. Bipin Pal Das]

consisting of minorities only is wrong. The charge that we are not serious and sincere about implementing the Assam Accord is totally baseless and false. We are very much serious and sincere about implementing the Assam Accord. And the hon. Minister will explain that certainly. I may again assure you that we are trying to implement all the points of the Assam Accord at good speed. But we shall not allow any harassment and torture of innocent Indian citizens in the name of implementing the Assam Accord. Please take note of that.

SHRI SYED SHAHABUDDIN (Kishanganj): I would like to bring down the temperature of the House.

SHRI P. CHIDAMBARAM: After having raised it.

SHRI SYED SHAHABUDDIN: I think we have unnecessarily travelled a long way from the Bill under discussion. We have invoked history, we have invoked electoral strategies, political compulsions, extra legal commitments, historic memories, demographic realities and I do not know what else. The fact is that it all strikes me as *deja vu* 'we have already gone through it'. We have had major debates in this House on these questions. What we are trying to question today is the wisdom of this Amendment Bill. According to my distinguished colleague, Shri Bipin Pal Das, whom I consider in many ways as my Guru...

SHRI SOMNATH CHATTERJEE: Which subject?

SHRI SYED SHAHABUDDIN: He was indeed my Guru at one point of time. And I consider that he at least deserves my respect all the time and his voice has always to be heard with due attention. He thinks that these amendments that are being incorporated in this Bill are not really important. I

have always been a very mischievous pupil, Mr. Chairman and I am, therefore, forced to ask, "Then, why this Bill?"

In fact, this has been my view all through. Why is the Government submitting to the tactics of pressure and rushing in, to complicate an already highly complex and complicated situation? Does that settle down good or bad things which are being managed efficiently or inefficiently? After all, not everything is done very efficiently in our country. Not even Punjab is being managed by Shri Chidambaram very efficiently. So, heavens will not fall down if this Bill were not introduced, which would raise passions again, which would again revive the old memories.....

SHRI ABDUL GHAFOOR (Siwan): Yet another set of extremists in Assam are raising their heads.

SHRI SYED SHAHABUDDIN: I do not know what the Government's broad strategy is in dealing with extremists. I really do not know. Maybe, they think that the extremists can be purchased off with some timely surrenders! I doubt that strategy will work. Anyway, what I am really questioning now is this. What is the basis for the Government to come to a decision that in order to implement the Assam Accord- a particular section that has been cited they are honour bound to come with this amendment? When they come with this Amendment when don't they concern themselves with the plight of the people who shall be the object of this exercise? The object of all this determination and what have you. They are not consulted. There were many organisations which had represented their views, informally and formally, if I recall correctly, Mr. Chairman, when the original Bill was being drafted in 1983, I too had an occasion to meet the then Home Minister and had a discussion with him for nearly two hours. Many of the ideas that were presented to him, he listened to

them very carefully because of the situation or the circumstances. To the extent it was possible for him., I must say that he tried to come upto the House, the Parliament, with what I would consider a balanced Bill. Now that balance has been upset. For what reason? Why? After all the Accord itself does not quite say that the Act will be amended. It merely says that the difficulties experienced in its implementation shall be looked into. The hon. Minister has not enlightened us as to what those difficulties are. If the numbers are a criteria and hon. Member Shri Das cited certain figures, I would like to say that he should look at the obverse of the coin. If lakhs of cases have been filed and finally only hundreds of them have been found it to be expelled, determined to be foreigners.....

SHRI DINESH GOSWAMI: Mr. Shahabuddin, I don't want to interrupt. Mr. Das had made a mistake and you are again making the mistake. Cases have not been filed in the Tribunal.

SHRI SYED SHAHABUDDIN: I am aware of the procedure. All these cases have come through a screening committee. I am aware of that. But I am making a different point altogether. I am saying that you create a doubt through executive action about the status of lakhs of citizens. Finally, you dig a mountain and come out with a mouse. Now, have you stopped to ponder over the quantum of human misery involved? Have you ever thought about what you have done, to what harassment they have been subjected? What burdens you have put upon these lakhs of citizens who were taken away by the local police for questioning; who were asked to report themselves to the police station day in and day out; who were subjected to all sorts of processes and finally with what results?

I assume that others who were not finally determined to be foreigners or were not

finally brought before the Tribunals by the Screening Committee, they were not let off for extraneous reasons. They were let off because they were innocent. They were let off because they were genuine citizens of this country. They were let off really because there was no case against them. They were let off because of the due process of law. Now, you are arguing no, no, we should have had more results. More achievements. Some arbitrary target is put in front of you. I will say, you must hit it. If you do not hit it, then I must make the law more tough. I must make the situation more difficult for the people who are subjected to this law. Why? Is it fair? Is it humane? Is it right? Is it legal? I doubt it. That is why I am saying that you are coming with an unnecessary piece of legislation. That is what I am questioning.

Now one thing is very clear. The Government have not cited so far any factual basis for coming up with this Bill. Do they consider that the Tripartite composition of the Tribunal was the difficulty? Can they say that the revision process was itself a difficulty? Can they say that any of the safeguards that were written in, for example, that in principle a complainant should know the person against whom he is complaining, not that some one sitting in Guwahati or sitting in some District Headquarters who signed pieces of printed paper and sent hundreds and thousands of copies and thus filed complaints can subject thousands of people to this arbitrary process? Can he set the ball rolling, set the wheels in motion? Is it fair? Therefore, certain safeguards were written in. Now you are disturbing it. Why?

Therefore, the answer is: it is not really a decision based on facts. Your decision to come in with this Bill is a political decision; and that is where, I think, it hurt the feelings of Mr. Das, when he tried to explain how the Congress was for all the sections of the people, and does not really worry about the vote banks.

[Sh. Syed Shahabuddin]

The trouble in Assam is this: the Congress lost its vote bank, and now it is trying to recreate its vote banks, and therefore, surrendering to pressures. Therefore, when a hue and cry is raised, it tries to cut into the AGP's constituency, saying: Look; AGP alone is not the guardian of the interests of a particular section of the community. We all are. Here we are; give us also the votes."

The purpose of this Bill, Mr Chairman, therefore, is purely political; and they are trying to create a constituency where none existed. That is why I said: 'Your vote bank had failed, and you are trying to establish a new bank.' But you are not doing any good to the country by eroding the rule of law. You are not doing any good to the country by enacting a piece of legislation which will cause a stink, which will cause human misery, which will destroy human rights.

I would like to ask another question: What kept the Government from consulting the various political parties? This exercise was gone through when the major Bill was drafted. And that is why there was more or less a consensus that in the given circumstances, that was the best possible compromise that could be had. Why could you not come up with facts and figures, and take the parties into confidence, take all the interests into account, take the representatives of the minorities into confidence? Call them and talk to them?

Sir, I will take a few more minutes. This is a very major issue.

MR. CHAIRMAN: Try to finish it by 6 p.m.

SHRI SYED SHAHABUDDIN: No, Sir; I cannot finish today. I am sorry you will have to give me a little more time.

I will rush through. Now, the Assam

agitation was directed against the presence of foreigners. None of us is for the presence of foreigners. None of us is for an open-door policy. All of us are for measures to restrict and check the inflow, if it takes place. All of us want the Government to have success in all the measures they had adopted, or will adopt, or may adopt in future. On that there can be no two views. All of us are for the detection of foreigners under due process of law as Mr. Das emphasized. We would all like the grain to be sifted from the chaff. On that there is no doubt. Let us not have any misgivings on that point. But there are several classes of foreigners." About one class, let it be endorsed time and time and again on the floor of this House—because it is a question of the honour of this country that those whom we have given shelter, we shall not drive away. This is a matter of honour for this country. And I had said this in Guwahati in 1981, that if nobody in this country stands up when the refugees, those who took refuge with us, whom we gave shelter are thrown out, at least I will stand up and speak on their behalf.

SHRI ATAUR RAHMAN: They are not being thrown out.

SHRI SYED SHAHABUDDIN: No; they are being harassed. All of them are being harassed today. The second group consists of the so-called Bengali-speaking Muslims. I would like to point out that I have done and done studies in depth about the demographic situation in Assam. One had total freedom of movement upto 1950; and if you take the 1951. Census and consider that 2 or 3 lakhs of people had gone out of Assam in 1950 and then under the Liaqat-Nehru Agreement they came back to Assam, but not in time to time to be counted and included in the Census total of 1951, then the rate of growth between 1951 and 1971 of the Bengali-speaking Muslims is lower, not higher than the rate of growth of Assam's population as a whole.

SHRI ATAUR RAHMAN: They are also not the target.....

SHRI SYED SHAHABUDDIN: All right; thank you very much. I just want to categorize people. Then, upto 1971 who are the blessed foreigners?

How many of them? Nobody can vouch save for this that not a single foreigner came into the country. There may be hundreds; there may be thousands; there were 300,000 thrown out by 1968-69, not by 1965.

SHRI BIPIN PAL DAS: In 1965-66.

MR. CHAIRMAN: Mr. Shahabuddin, you may continue tomorrow. The House stands adjourned to meet tomorrow at 11 A.M..

18.00 hrs

The Lok Sabha then adjourned till Eleven of the Clock on Tuesday, March 29, 1988 / Chaitra 9, 1910 (Saka)