

[Mr. Speaker]

Members may please collect copies therefrom.

Mr. Sethi.

DR. SUBRAMANIAM SYAMY
(Bombay North East): What about Discussion under 193 ?

MR. SPEAKER : After 377. Mr. Sethi.

12.41 hrs-

ILLEGAL MIGRANTS (DETERMINATION BY TRIBUNALS) BILL*

THE MINISTER OF HOME AFFAIRS
(SHRI P. C. SETHI : I beg to move for leave to introduce a Bill to provide for the establishment of tribunals for the determination, 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.

MR. SPEAKER : Motion moved :

“That leave be granted to introduce a Bill to provide for the establishment of tribunals for the determination, in a fair manner, of the question whether a person is an illegal migrants to enable the Central Government to expel illegal migrants from India and for matters connected therewith or incidental thereto.”

Shri Chitta Basu.

SHRI CHITTA BASU (Barasat) : Sir, I rise to oppose the introduction of the Bill. There are various reasons for my opposition.

12.42 hrs.

[MR. DEPUTY-SPEAKER *in the Chair*]

to the introduction. I have already mentioned a few. One ground of my opposition is this. You will certainly

know if you come to the very first paragraph of the Bill. It constitutes nothing but the nullification of the solemn commitment made by Pandit Jawaharlal Nehru and the leaders at that time regarding the protection to the victims of the Partition. The commitment, if I am allowed to remind the House, was given to the House and to the nation that the victims of partition would be the flesh of our flesh and the blood which, in actual terms means that the Government of India, at that time, was prepared to afford all kinds of protection to those minorities in Pakistan created after Partition. That is they would be afforded all kinds of help and assistant if they took shelter in India to save themselves from atrocities, harassments and all civil disturbances in that part of Pakistan.

Sir, the opening paragraph unmistakably reflects, what should I say, the shameful shift of the attitude of the Government. It reflects the utter, cynical disregard, to the national commitment made by the national leaders at the time of Partition. This is a shameful betrayal and shift of the policy. I have got no time to elaborate on it now. I shall do so later.

MR. DEPUTY-SPEAKER : Be short. We have to take up this discussion.

SHRI CHITTA BASU : I want five minutes.

MR. DEPUTY-SPEAKER : Five minutes is too much. Then you will yourself say that we have no time to discuss the important discussion.

SHRI CHITTA BASU : Kindly listen to me. This is very important. This Parliament, as the representative of the people of India, is entitled to remind the House and the Nation of the solemn Commitment that was made in the early fifty or early 1949 or early forty. Before the days of Partition, a solemn pledge was given to the people of that part of the country regarding protection, safety and

security if they chose to travel over to this part of the country for their protection. This only I remind the House of before you take up the Bill. Sir, this is a shameful betrayal of the solemn pledge given to them. The government at that time not only gave that solemn promise or commitment but they also enacted certain legislation and certain administrative policies. This Act of 1950 which is called Immigrants Expulsion from Assam, Act, 1950 and policy instrument of 1963, however, designed an instrument to defend the interests, security and safety of those persons both in legislative way and also in administrative manner. This Bill very specifically over-rides the provisions of this 1950 Act which was designed to protect the interests of those people who will be migrating to India.

Sir, my third ground of opposition is that certain mentions have been made about the ethnic similarity. I am very much sorry about casting aspersions and doubt on the bonafides of those Indian people. This is an uncharitable remark in the body of the Bill itself. I protest against it with all emphasis. (*Interruptians*)

MR. DEPUTY-SPEAKER : How can you oppose the Bill ? You can only make a statement based on the legislative competence of the House. Only legislative competence can be opposed. Rule 72 very clearly says :

“Provided that where a motion is opposed on the ground that the Bill initiates legislation outside the legislative competence of the House. . .”

You have not said anything about the legislative competence.

SHRI CHITTA BASU : I say on principle. By this time I would have completed. This House enacted a law in 1950, *viz.*, the legislation called Immigrants Expulsion from Assam Bill, 1950. Certain principle was incorporated in that Bill and this Bill is completely contrary to it and this Bill seeks to over-ride the provisions of this Bill. So, I say this House

has no legislative competence. Even the policy enunciation made by the Government recently, namely, that they want to solve the Assam problem on the basis of certain agreed tripartite principles, They are : reliance on the Constitution of the country, reliance on the existing laws, reliance on the existing laws, reliance on the international agreement, humanitarian consideration, respect for the national commitment ; these were the 5 principles which were worked out in a Tripartite meeting and the Government wants to solve the problem of Assam on the basis of these 5 basic principles.

Now, this Bill is contrary to principle No. 2, principle No. 3 and principle No. 5. Therefore, if this Bill is passed, ultimately you are going not to work out a political solution for the problem of Assam. Therefore, I would appeal to the Members of this House and remind the Government that they are taking a measure which is in complete cynical disregard of the solemn commitment made to the people of our country. This is being passed at a time when the people of India are seeking to have a political solution for Assam problem and this is the time when it is necessary to adhere to the principles, this Bill violates all the principles and therefore with all the emphasis at my command, I oppose the introduction of this Bill. Even the Congress-I Member, Mr. Santosh Mohan Dev said that he had approached the Prime Minister for necessary modification in the Bill.

MR. DEPUTY SPEAKER : How are you concerned with that Mr. Santosh Mohan Dev said ? The hon. Minister will reply to that.

SHRI CHITTA BASU : So, when peace is necessary in Assam, when the protection of the minorities, linguistic group and the people belonging to other religions is very much called for, this Bill will not do any justice. Even at this late stage, if the hon. Minister wishes, he can withdraw the Bill. The situation will improve the Assam. On that ground, I request the hon. Minister to give a last-minute thought over it and seek to with-

[Shri Chitta Basu]

draw the Bill or agree not to introduce the Bill even at this stage.

SHRI G.M. BANATWALLA (Pannani): Mr. Deputy-Speaker, Sir, in the prevalent situation in Assam, the enforcement of the provisions of the Bill will result in yet another large-scale harassment and persecution of minorities. In a situation of fear and insecurity, those from minority dragged before the Tribunal to prove that they are not illegal migrants, will hardly be free to defend themselves and will face grave risk to their life and property. Law and order situation in Assam is far from satisfactory. The other day there was the dastardly attack even on the life of the Chief Minister himself. Now, service of notices, rendering people suspect, is the surest way of offering them to the anti-social elements targets. The first and foremost task in Assam is ensuring law and order and situation of normalcy is restored. Let us address ourselves to the question first.

Government may give us all sorts of assurances, about the security of life and property. But we have had a taste of the hollowness of such assurances before elections took place and blood flowed cheaper than water during those elections. Mr. Deputy Speaker, Sir, it is provided in the Bill that any person may complain to the Tribunal against any other person challenging the citizenship, depositing a fee of Rs. 25 to Rs. 100/-. Permit me to say that this is the value of the citizenship of a minority member in our secular state, because no punishment whatsoever is prescribed for frivolous and mischievous complaints made without any good reason.

Today, there is widespread, baseless and tendentious propaganda of large-scale infiltration of foreigners in several parts of our country like West Bengal, Bihar, Rajasthan, Gujarat, Jammu and Kashmir in addition to Assam. It is provided that the Bill will be applicable to the whole of India. This is, therefore, indirectly supporting the vicious propaganda with grave consequences. The Bill, therefore, is yet one more example of the Government

appeasing the communal elements carrying out the propaganda.

The people who have been victims of violence in Assam are yet to be rehabilitated. Many are destitutes, and they are still waiting to be rehabilitated, and now it is provided that many of them will be dragged to the Tribunals leaving the onus of burden upon them. I, therefore, strongly oppose the introduction of the Bill. It will have grave consequences and I appeal to the Government not to press on the introduction of this Bill, otherwise I appeal to all sections of the House to throw out this measure lock, stock and barrel.

श्री० अजित कुमार मेहता (गमस्तीपुर):
कृपया, शांतिपूर्वक सुनिए।

उपाध्यक्ष महोदय : ओ३म शांति, ओ३म शांति।

श्री० अजित कुमार मेहता : उपाध्यक्ष महोदय, मैं निम्नलिखित बिन्दुओं पर इस विधेयक के पेश होने का विरोध करता हूँ। एक तो यह कि यह विधेयक पारित होने के बाद एक दुधारी तलवार की तरह से काम करेगा। अगर किसी पड़ोसी से झगड़ा हो जाए तो वह इस ट्रिब्युनल के सामने यह शिकायत करेगा कि यह विदेशी है। अब उस आदमी के सामने यह समस्या खड़ी हो जाएगी कि वह सिद्ध करे कि वह विदेशी नहीं बल्कि देश का नागरिक है, वेसतलब का झमेला उसके ऊपर पड़ेगा। इस विधेयक के अनुसार ३ किलोमीटर के रेडियस में रहने वाले नागरिक के ऊपर यह भार हो जाता है कि किसी विदेशी के बारे में ट्रिब्युनल के सामने शिकायत कर सके। इस तरह से हम देखते हैं कि इस बिल से विदेशियों को देश से बाहर निकालने की मंशा पूरी नहीं हो पायेगी बल्कि इससे नुकसान ही होने की सम्भावना है। अब आप सोचिए कि किसी को इतना क्या पड़ा हुआ है कि वह अपने किसी पड़ोसी के बारे

में जो वहां हर दस साल से रह रहा है, शिकायत करने जाए ट्रिब्युनल के सामने और भगड़ा मोल ले। यह तभी हो सकता है जब तक कि उनसे दुश्मनी न हो। इसलिए, बिल से किसी मंशा की पूर्ति नहीं होती है बल्कि इससे सदन का समय बेकार ही नष्ट होगा, यदि इसको पेश किया गया और इस पर विचार किया गया।

मेरा दूसरा तर्क यह है कि यह विधेयक असम आन्दोलन को दृष्टि में रखकर लाया गया है। क्या आप समझते हैं कि इस बिल से असम आन्दोलन का समाधान निकल आएगा। यदि नहीं निकलेगा तो वास्तविकता को ध्यान में रखना चाहिए। वास्तविकता को ध्यान में रखने से आप निश्चित रूप से इस निष्कर्ष पर पहुंचेंगे कि विधेयक पारित भी हो जाए। तो भी आन्दोलन बंद नहीं होगा अशांति बनी ही रहेगी। सभी तरफ के लोगों को बैठकर सर्वसम्मति से निकालना चाहिए। फिर विधेयक के पेश करने से क्या लाभ होगा? इस बिल से आपकी कोई मंशा पूरी नहीं होती।

कानून बनने के बाद यह विधेयक 31 मार्च 1971 से लागू होगा। उससे पहले जो घुसपैठ करके यहां आ गए हैं उन के ऊपर यह कानून लागू नहीं होगा। इसका मतलब हुआ कि इससे पहले जो चोरी छिपे या अनैतिक उपायों का सहारा ले कर जो यहां आ गए हैं उनको आप नियमित करने जा रहे हैं। इस विधेयक के द्वारा आपकी कोई भी मंशा पूरी नहीं होगी। वे विदेशी यहां बने रहेंगे। 1971 के पहले जो विदेशी आ गए हैं उनको आप निकाल नहीं सकेंगे।

आप सहमत होंगे कि नागरिक चुनाव में भाग ले कर सरकार बनाते हैं, सरकार बनाने का काम करते हैं। इस तरह से इन विदेशियों को इस अधूरे कानून के द्वारा रहने दे कर आप उनको चुनाव में लेने का अधिकार दे देते हैं। इस तरह से परोक्ष रूप से आप इन विदेशियों को देश चलाने को जिम्मेदारी भी देते हैं। मैं समझता हूं कि इस बिल पर पुनर्विचार करके ठीक ढंग से संवार कर इस सदन में आप इसको पेश करें तो ज्यादा अच्छा होगा। बर्ना इससे कोई लाभ होने वाला नहीं है। इसलिए मैं इस बिल के पेश होने का विरोध करता हूं।

SHRI SATYASADHAN CHAKRABORTY (Calcutta South) : Sir, I rise to oppose the introduction of this Bill. I don't know who has advised our Home Minister to introduce this Bill, but he has been manifestly ill-advised.

Sir, what my colleague Shri Chitta Basu has said is correct. I am not going to repeat it. But I would like the hon. Minister to go into the Bill. This Bill is manifestly discriminatory. It is stated in the Statement of Objects and Reasons—and it is unconstitutional—"The influe of foreigners who illegally migrated into India across the borders of the sensitive eastern and north-eastern regions of the country and remained in the country poses a threat..." What about the other regions, I would like to ask our Home Minister, because there has been illegal entry into our country by other sectors of our border also viz. the Western sector? But here, the Government only mentions that Eastern or North Eastern sector is posing a problem.

Sir, the two Ministers are talking, who is going to hear? Through you I am addressing them.

Sir, there has been an illegal entry into India, not only through only this sector, but through other sectors also.

SHRI G. M. BANATWALLA : It is that your Party believe ?

SHRI SATYASADHAN CHAKRABORTY : Who are you to ask it.

SHRI G. M. BANATWALLA : Are you the victim of the propaganda that is going on ?

SHRI SATYASADHAN CHAKRABORTY : Please take your seat. Let me complete. The second thing is this. Yes, there are some and they have to be detected. We see the people who have come after 1971—the 1971 being the cut-off year—they are to be identified and detected. It is in Assam only ; it is in West Bengal only or is it in other places of India also ? The Government has to make a principle because Article 14 says law will give equal protection to all. But what are you doing ?

In Chapter I, Preliminary, Section (3) you say :

“It shall be deemed to have come into force in the State of Assam on the 15th day of October, 1983 and in any other State on such date as the Central Government may, by notification in the Official Gazette appoint and different dates may be appointed...”

So, a person entering India after 25th of March, 1971, will be detected and deported from Assam or the Eastern Sector. But a person who is entering India after that date in other sectors of India will be allowed to remain. It is not discriminatory. What is Government going to do about people who have fled Sri Lanka and are now staying in Madras, i.e. who have entered recently ?

In Assam, you say that 25th March 1971 will be the cut-off date. What are you going to do here ? I am pointing out the anomalies. Have you given serious thought to them ? You cannot say that Tamils who have entered Tamil Nadu will have to return to Sri Lanka.

You have to keep humanitarian considerations in mind. If they return, they might get killed, or oppressed. There is no security for them there.

I say that this Bill is not constitutionally valid because it discriminates between persons and persons and areas and areas. Government should have a uniform policy.

Lastly, I would say : “What policy are you pursuing ? Since there is an agitation in Assam, you will adopt one policy there. But about persons who have come to India from Sind, even after 1971 and who are residing in India, you have given age relaxation in the matter of Government service, irrespective of the date of their entry. But in the case of Bangladesh, you are detecting and deporting them i.e. anyone coming from that country after that date. This is unconstitutional, illegal and bad in Law. Government should pursue a uniform policy. You cannot have a policy in respect of people coming from Bangladesh, and another for those coming from Pakistan. So, I would request the Government to adopt uniform policy, so that any illegal entry into our country after a particular date is detected, and they are deported. That is why I vehemently oppose the introduction of this Bill.

SHRI P. C. SETHI : At this stage of introduction, I don't think there is need to go into the principles. When we start discussing the Bill, we shall certainly discuss all these points. Therefore, I would request you, Sir, to allow me to introduce the Bill.

SHRI SATYASADHAN CHAKRABORTY : What about the constitutional point ? Sir, you said that the constitutional point about the Bill could be raised. So, I raised it.

MR. DEPUTY SPEAKER : Now the question is :

“That leave be granted to introduce a Bill to provide for the establish-

ment of Tribunals for the determination, in a fair manner, of the question whether a person is an illegal migrant to enable the Central Government to expell illegal migrants from India and for matters connected therewith or incidental thereto."

The motion was adopted.

SHRI P. C. SETHI : I introduce the Bill.

STATEMENT RE-ILLEGAL MIGRANTS
(DETERMINATION BY TRIBUNALS) ORDINANCE, 1983

MR. DEPUTY-SPEAKER : Now the Minister—item 11.

THE MINISTER OF HOME AFFAIRS (SHRI P. C. SETHI) : I beg to lay on the Table an explanatory statement (Hindi and English versions) giving reasons for immediate legislation by the Illegal Migrants (Determination by Tribunals) Ordinance, 1983.

13.08 hrs.

TEXTILE UNDERTAKINGS (TAKING OVER OF MANAGEMENT) BILL*

MR. DEPUTY-SPEAKER : Now Shri Vishwanath Pratap Singh.

THE MINISTER OF COMMERCE AND OF THE DEPARTMENT OF SUPPLY (SHRI VISHWANATH PRATAP SINGH) : I beg to move for leave to introduce a Bill to provide for the taking over in the public interest or the management of the textile undertakings of the

companies specified in the First Schedule pending nationalisation of such undertakings and for matters connected therewith or incidental thereto.

MR. DEPUTY-SPEAKER : Prof. Ajit Kumar Mehta is not here Mr. Jai Pal Singh Kashyap is also not here.

SHRI K. RAMAMURTHY (Krishnagiri) : With your permission, Sir.....

MR. DEPUTY-SPEAKER : You cannot. The question is :

"That leave be granted to introduce a Bill to provide for the taking over in the public interest of the management of the textile undertakings of the companies specified in the First Schedule pending nationalisation of such undertakings and for matters connected therewith or incidental thereto."

The motion was adopted.

SHRI VISHWANATH PRATAP SINGH : I introduce the Bill.

STATEMENT RE TEXTILE UNDERTAKINGS (TAKING OVER OF MANAGEMENT) ORDINANCE, 1983.

MR. DEPUTY-SPEAKER : Now the Minister—statement regarding ordinance.

THE MINISTER OF COMMERCE AND OF THE DEPARTMENT OF SUPPLY (SHRI VISHWANATH PRATAP SINGH) : I beg to lay on the Table an explanatory statement (Hindi and English versions) giving reasons for immediate legislation by the Textile Undertakings (Taking over of Management) Ordinance, 1983.

*Published in Gazette of India Extraordinary Part II, section 2, dated 22-11-1983.

†Introduced with the recommendation of the President.