

12.15 hrs.

**STATUTORY RESOURCES RE DIS-
APPROVAL OF ILLEGAL MIGRANTS
(DEPARTMENTATION BY TRIBU-
NALS) ORDINANCE, 1983 Contd.
AND
ILLEGAL MIGRANTS (DETERMINA-
TION BY TRIBUNALS) BILL Contd.**

MR. CHAIRMAN : The House will take up further discussion on the Statutory Resolution and further consideration of the Illegal Migrants (Determination by Tribunals) Bill. Shri Sontosh Mohan Dev was on his legs yesterday. He may continue. He had taken 8 minutes yesterday.

✓ SHRI SONTOSH MOHAN DEV (Silchar) : Sir, I was on my legs yesterday. Is there any restriction of time ? If so, how much ?

MR. CHAIRMAN : 5 minutes.

SHRI SONTOSH MOHAN DEV : I will require at least 25 minutes.
(Interruptions)

MR. CHAIRMAN : You start speaking now.

SHRI SONTOSH MOHAN DEV : Sir, yesterday when Mr. Kadiyan spoke about this Bill, he tried to say that the Assameese people are in difficulties because their culture, ethnic and language are in trouble. Sir, I have got the 1971 census report and as per that report, if you consider the Assam population from the point of view of religion, you will find :

Hindus—72.51%
Muslims—24.53%
Christians—2.61%
Buddhists—0.15%
Jain—0.09%
Sikh—0.08%

If you consider from the language point of view, you will find :

Assameese—59.44
Bengali—19.44

Hindi—5.34
Bori—3.65
Mize—1.70
Mikir—1.28
Miri—1.17
Oriya—1.00
Miscellaneous—6.88
Nepali and others

This is the language as well as religious percentage of the people in Assam. Therefore, to tell in this House that the Assameese ethnic, culture and other things are in danger is not correct. But at the same time it should not be questioned whether the fear which is in the mind of the Assameese people is to a certain extent correct. This is why this ordinance has been promulgated and in the preamble of the Bill the Minister has said :

“Whereas a substantial number of the foreigners who migrated into India across the borders of the eastern and north-eastern regions of the country on and after the 25th day of March, 1971, have, by taking advantage of the circumstances of such migration and their ethnic similarities and other connections with the people of India and without having in their possession any lawful authority so to do, illegally remained in India.”

Now, there is a thought. Certain quarters and certain political parties want to ask why the cut-off year is 1971. I would like to quote here what the international famous advocates and lawyers have said. According to the international law, you cannot push back any foreigner if they had entered before 1971 because before the 25th of March, 1971, there was no country of Bangladesh and it was only East Pakistan. You cannot send back the East Pakistan citizens to Bangladesh though geographically it is the same position, politically it is quite different.

This is the opinion of the international lawyers.

You say about the cut-off year. Mr. Ravindra Varma or Mr. Vajpayee or Assam regional parties, when they come and have meetings here, they say that the cut-off year 1951, 1961 and 1971 should be treated in a different manner, that they should be disfranchised or they should be deported.

You cannot deport anybody to Bangladesh who came before 1971. But when you are deporting people who came after 1971, the Government of India as well as our Foreign Minister should have a dialogue with the Foreign Minister and the President of Bangladesh, because you have to make sure that these people, when they are pushed back, are acceptable to Bangladesh people. If they are not acceptable, what are you going to do? On that also, you are to take a decision.

About 10 million refugees came to India. The hon. Minister has said that in the course of 9 years, about 3,20,000 people, have come and, out of them, excepting 60,000 people, all others have gone back to Bangladesh. Those who have stayed back, they are staying not because they want to leave Bangladesh but because they have no other shelter in Bangladesh and they are uprooted humanity. We have to consider this uprooted humanity in a different perspective.

In this Bill, there is Clause 2, sub-clause (a) under which there is a provision that those people who have been identified as foreigners as per the Tribunal which was in existence till 1969 will not come within its purview. On the other day, in the House, I had drawn the attention of the Home Minister that there are certain people, specially Hindu refugees who went to Bangladesh as per the Tribunal order, but they could not get back their property as a result of which they have come back again. So, this clause should be deleted. If those people who have come back because they could not get back their houses and property are pushed back again, that will be a very dangerous thing. I would appeal to the Government to consider this aspect of the matter.

Why I say this is that there is a commitment of the Government of India in this regard. On 22nd February, 1973, there was a Starred question No. 56 put by Shri Prabodh Chandra in this House. The question was :

“Whether a few thousands of Bangladesh refugees who had gone back to Bangladesh have since come back because they were not able to get possession of their houses and properties ; and

if so, what steps Government that taken to send them back ?”

The answer of the then Minister of Labour and Rehabilitation, Shri Raghunatha Reddy was :

“Some families from erstwhile East Pakistan who had come to India before the army crackdown in East Pakistan on 25.3.71 and had returned to Bangladesh in the wake of liberation of that country, have returned to India. Having regard to the circumstances, the Government of India have decided to take back the above mentioned category of refugees after proper verification .”

That was the stand of the Government of India in 1973. How can you go back on that now ?

Then, under Clause 4, sub-clauses (1) and (2), they have completely ignored and made inoperative the Immigrants (Expulsion from Assam) Act, 1950. In that, there is a provision that if people come to India out of fear or because of civil disturbance, they will be given shelter. That Act has been nullified by this particular Bill. Of course, I am thankful to the Government that after the Members of Parliament met the Prime Minister and the Home Minister, also Mr. Chitta Basu and CPM members in the House, an amendment has been brought forward by the Home Minister, Mr. P.C. Sethi. I thank the Government for that.

I have mentioned. I also always give the Tables to you. There is a question...

MR. CHAIRMAN : That is not very proper in Parliament to use that.

SHRI SONTOSH MOHAN DEV : I withdraw it, if you demand.

SHRI RAVINDRA VARMA (Bombay North) : It is quite in order. It is not un-parliamentary.

SHRI SONTOSH MOHAN DEV : This proviso of Citizenship Act, 1955 gives protection to persons who come to Indian and stay there for six months and they can apply for citizenship. The onus lies with the Government to give, they can accept it, they

can reject it. In this provision, there is also a proviso whereby when you consider applicants, if they were citizens of undivided India that is Bangladesh was a part of undivided India before 1947 & if their parents or grand parents or their other relations used to be the citizens of India, they were given protection. A criticism has been levelled before the public, specially in Assam by certain political parties "Look here. Everybody has been pushed back and if they are not accepted, what will happen? I think that Government, by keeping provision of 1955 Act have given some protection and, there is some scope, if the situation so arises.

There is a provision in Section 3 Clause 3 which says :

- "(i) He has entered into India on or after the 25th day of March, 1971.
- (ii) He is a foreigner.
- (iii) He has entered into India without being in possession of a valid passport or other valid travel document or any other lawful authority in that behalf."

Some people—I do not know whether the Government says—say that Nepalese will be protected under this rule. I would like to draw attention to a booklet which was produced before the Consultative of Committee of Assam Legislature when Giani Zail Singh was the Minister of Home Affairs. One question was asked by Mr. Subba, what will be the position of the Nepalese. This is a booklet by the Government, not by me. In that booklet, Government has said :

"As far as Nepali nationals are concerned, they were not required to obtain any restricted area permitted as the "nationals of Nepal" enjoyed a specific exemption under the Foreigners (Restricted Areas) Order, 1963, prior to enforcement of Government of India's notification No. 25022/110/76-F.I (i) dt. 30-7-1976."

This is the Government of India's position and in this booklet either under this proviso that I may mention or I have brought an amendment that when the cut-off year

is 25th March, 1971, for the Nepalese it should be 1976.

Another amendment has been brought before us. In these amendments, it has been said by Mr. Banatwala that 3 KM should be reduced to half KM. Again some people said, like Shri Ravindra Varma, that it should be made all over Assam. I do not accept half KM nor I accept all over Assam. If you say all over Assam, what will happen? With all respect and with folded hands to Mr. Ravindra Varma, AASU and Gana Sangram Parishad members will sit in Gauhati, will take the voters list and they will go on submitting complaints that these are the volunteers. This should not be. If AASU and Gana Sangram Parishad think : that their movement is total, if they think 'that Assamese people are supporting', they should muster volunteers to identify those areas where there are volunteers and they should be able to lodge complaints. I do not accept that changing of law.

Some amendment has come, giving of affidavit for Rs. 25/-. Some said that money should be increased. Some said that money should not be there. I congratulate the Government, the Ministry of Law and the Ministry of Home Affairs, for giving this provision.

Because this provision has been kept to protect the people. There is no unnecessary harassment. Genuine cases are there. I should congratulate the Government and the Home Minister on this. I want to elaborate on this because there are certain criticisms that this particular Ordinance which has been brought will create harassment to the people. But the Government, as I said at the beginning, had to take into account the sentiments of the Assamese people and also the demand of the religious and linguistic minorities. At the same time Government was also convinced that nobody who has come after 1971 should be there. In Clause 9 it is said :

"(a) discovery and production of any document ;

(b) reception of evidence on affidavits ;

(c) requisitioning of public records from any court or office ;

(d) issuing of any commission for the examination of witnesses."

All these four clauses which have been given in this particular provision reflect the sentiments of the people of Assam, both the Assamese as well as the linguistic minorities.....

MR. CHAIRMAN: Please try to conclude.

SHRI SONTOSH MOHAN DEV: I will require another five minutes. I have been asked by the Minister to take as much time as I want from my Party's time. I am the main speaker from my Party.

MR. CHAIRMAN: There are others also.

SHRI SONTOSH MOHAN DEV: I have been asked by the Minister. I have got his permission.

AN HON. MEMBER: You require the Chair's permission.

SHRI SONTOSH MOHAN DEV: I am taking only my Party time.

MR. CHAIRMAN: Please try to finish in five minutes.

SHRI SONTOSH MOHAN DEV: We have seen that most of the persons who are alleged as foreigners have lost their records during the last turmoil in Assam when 3,10,000 people became refugees and there are Assamese, Bengali Hindus, Bengali Muslims, people belonging to all communities. The houses of most of them have been completely burnt. Here this provision has been made that the Tribunal can call for the record from the office of the SDC or DC. This is very good. We have seen that certain people are afraid of coming before the Tribunal because when they go with their documents, there might be elements—I do not say AASU or Ganasangram Parishad, but some bad elements which are always there—who might stop them from going. So, the provision that the Tribunal can sit wherever the Government of India says or the Tribunal thinks, including the provision of issuing of any commission for the examination of witnesses, is quite good, and I

congratulate the Government for this particular Clause. But this is being criticised. This should not be criticised because we have to see the situation in Assam. The Assam situation is now normal, but the extremists have taken an upper hand; the AASU has lost control over the extremists and it has been proved that most of these extremists were, and also are, active members of AASU. By and large, the AASU and the Ganasangram Parishad are not involved in the extremists' activities, but a small section of them is aligned with the extremists of Nagaland, Manipur and Mizoram and they are creating so many bomb blasts in railway stations and people have died. They have made an attempt on the life of the Chief Minister of Assam on 19th November. The boy has been arrested. Fortunately no injury was caused to the Chief Minister and the statement which he has given shows that the police have found out various documents and various arms and ammunitions from people who are high up in the society—they are government officials, they are public leaders and all that. So, this is the situation. In view of that, I congratulate the hon. Minister.

There is another thing to which I want to draw the attention of the hon. Home Minister. I have given notice of Amendments and I will speak at that time. Yesterday, Mr. Kodyan was mentioning why the Assam police should be entrusted with this. I can tell Mr. Kodyan that, after the present Assam Ministry has been sworn in under the Chiefministership of Shri Hiteswar Saikia, we have seen them doing good work. At one time the Assam police was not acting; I would not say that they were involved in the agitation, but they were inactive.

But, unfortunately, under the leadership of the Chief Minister of Assam, the Assam Police is now doing a good work for maintaining law and order, for identifying the criminals and, as a result, you will see that there are also some agitations that the police repression must be stopped. Now 3,000 people have been killed. There are 1600 police cases. Each and every case, the police is enquiring. But, more people are involved. They may be anyone—Bengali, Assamese or Nepalis—but they are criminals. Now, if the National Parties Like the B.J.P. and the

Janata say that there is police repression, I think, it is wrong. I hope that sincerely Shri Ravindra Varma does not agree to that. He is always very reasonable. I request him to extend the help. A conclave of the Opposition Leaders in Assam is being called by the AASU. There is now a change in the attitude of the AASU. At one time there was behind the screen consultation in which the B.J.P. and the Janata parties were there. Shri Farooq Abdullah was invited and Shri N.T. Rama Rao and Shri Ramachandran were also invited.

With the background, they must also take into consideration the people who are going to Assam with some of the regional parties who came to Delhi and who had a press conference wherein they have said that we do not accept these Tribunals and we shall decide our course of action next time.

Now, in this very House, many Members said that the Congress(I) were trying to have some adjustment with AASU. The cat is now out of the bag. I am pleased to note that the C.P.M. and the C.P.I. are not going because they are very clear on Assam. What happened to B.J.P. and the Janata? They are going to attend the Conference. On the one side the regional parties are saying that we are the only people who will decide as to what will happen to this Ordinance. In Bhutia, there is an attempt to get the help of the Janata and, as a result, there, the regional parties also join them. So, I request that when they go to Assam, these national leaders should condemn them first on the violent activities of the people. Who are doing that I do not know. I do not know whether it is by AASU or Ganasangram Parishad. They should first condemn the attempt made on the life of the Chief Minister and should also condemn the attitude of certain political parties who are in the agitation. Before I conclude, I again say that Government has done a grand job in bringing forward this Ordinance. They have taken into account the sentiments of the people—the linguistic minorities people. This Ordinance can only be successful provided in the implementation stage, there is good action on the part of the Government. The officials involved should be given the help of all the national parties as also the regional parties. Unless that help is

there from public or from the regional parties, the Ganasangram Parishad, the Government of Assam and the Government of India as also the national parties, this Ordinance will again be a failure.

The Prime Minister, in 1980 gave a proposal to start the tribunals; nobody accepted that at that time. And we have lost three precious years. Now the Bill has come before us. By and large, all political parties are supporting this. While concluding, Sir, I appeal to the Home Minister as also all the National Parties who are present in this House should also make an appeal to the Assamese people that this Ordinance should be allowed to act as per the provisions with speed and no real citizens of the State should be harassed and those who are foreigners after 1971 should be detected, deleted and their deportation should take place taking into consideration the humanitarian aspect which the Government has last in view in the past. With these words, I support this Bill. ✓

MR. CHAIRMAN: Shri Chatterjee.

SHRI SOMNATH CHATTERJEE (Jadavpur): Mr. Chairman, Sir, it is a matter of misfortune that the Parliament of India has to discuss measures like this after thirty seven years of Independence. It seems that because of the activities of a section of the people in a part of the country—Assam—which is very much part of the country whose citizens are as much part of the Indian citizens as one of us are conducting the so called movement, unfortunately, with the help of some National Parties.

And it has become necessary that we have to concern ourselves with Bills of this nature. One should have thought that humanity and human rights are not negotiable matters. But what has happened in that part of the country is that physical annihilation was taken to be a mode of settling so-called political scores. Our country gave a commitment the Government of India gave a commitment, to the people of that part of undivided India (which became later part of a foreign country). Pandit Jawaharlal Nehru and Sardar Vallabhai Patel made definite commitment on the floor of our provisional Parliament at that time saying that those who are forced

to come away will be treated as our own 'brothers and sisters', and they will have the same rights. That commitment was given a partial statutory basis in the 1950 Act. That is called Immigration (Expulsion from Assam) Act, 1950. Soon after independence this assurance was given if not fully, but some statutory basis. That Act provided 'If anybody is forced to come before or after the commencement of the Act'. This is important; 'Before or after Act'-Certainly they will have the rights. But if they were not authorised, they will have to go back. But there is an important proviso. It says Provided that nothing in this section shall apply to any person who, on account of civil disturbance or the fear of such disturbance in any area now forming part of Pakistan has been displaced from or has left his place of residence in such area and who has been subsequently residing in Assam.' This is a national commitment in the form of a law.

It is a statutory law; it put down this commitment on a statutory basis. But unfortunately that commitment has been forgotten. Unfortunately people are more busy with deciding who is a foreigner and who is not a foreigner instead of leaving it to the law of the land, instead of leaving it to constitutional provisions, instead of leaving it to the Citizens Act and so on. An agitation was started, forgetting national commitment forgetting all human rights, forgetting the very human aspect of the problem. Sir, as you are aware, those who are born in India may be born of alien parents. Our constitution makes them citizens of India. Now, I have brought to the notice of our hon. Prime Minister certain cases early in 1980. I gave her the particulars of those cases. Family after family with young children born in India were involved. Under the Constitution they are citizens of India. It is their birthright. But they were being driven out as 'foreigners'. There is a law which is called Foreigners Tribunals Order, 1964'. I don't know whether Mr. Chavan was the Home Minister then,

There was a provision for formation of tribunals to ascertain the position, and power was given to the Central Government to constitute the tribunals. That was the position. Misusing the provisions of this law, tribunals were created in Assam by the State Govern-

ment. According to me, only the Central Government could form them, and that was a power, which was not delegated to the State Government. However, I am not going into the legal aspect of that. Those tribunals were issuing lists. Police was submitting lists to them, and the tribunals were making orders without giving the minimum opportunity to those people. Even those who had been born in independent India have been driven out, and even those people who had been staying there for years and years. This 1950 Act was thrown to the winds.

You will be surprised to know that I wrote to the hon. Prime Minister and got a reply from the then Home Minister, Giani Zail Singh after sixteen months, and Giani Zail Singh in his letter said: 'I am sorry, I could not send a reply earlier, because the State Government did not give me the information. It was after sixteen months. All the particulars had been given, the nature of the cases had been given, and he said, 'Yes, it was done'. No protection so far as the citizens of this country are concerned.

This is because a section of the people took upon themselves to decide who are foreigners and who are not foreigners. We have been saying that these are matters which would not be allowed to grow and generate, because these chauvinistic and secessionist attitude cuts at the root of the national integrity, unity and nationhood. We have no doubt, and we have said that openly that there are foreign elements behind it. I have said earlier also in this House that it is unfortunate that some of the national parties have considered it to be their right to take up their clauses, which according to us is no cause. It is, in fact, a serious matter affecting India's unity and integrity.

I know there has been several negotiations, several discussions. According to us, some people have been given undue prominence. In this case, they are dictating to the rest of the country.

The position is that the cutoff date of 1971 has been agreed by all the parties; my party is committed to that and I am not going back on that. At least that recognition is here; statutory recognition to that commitment is at least being given. We were hearing and getting newspaper reports that the Govern-

ment was having second or third thoughts on this, as to whether it should be 1951, 1961 or 1971, and creating greater and greater uncertainty in peoples' mind. At least, we get this much commitment by the Central Government that 25th March, 1971 will be the cutoff date. To that extent, we are agreeing to this.

What is our approach to this Bill? Probably, it is a necessary evil, and cannot be helped. The hon. Home Minister himself has said in his statement in this House, which he made justifying the issuance of the ordinance. He says :

"While the Government has been bending all its energies towards restoration of peace and normalcy and creating congenial atmosphere, the agitation has been resumed..."

Rightly, Shri Sontosh Mohan Dev has reminded the House about the attack on the life of the Chief Minister. The statement further says :

"This will certainly vitiate the atmosphere, as the history of violence accompanying the agitation shows. Among the various measures initiated by the Government to deal with the problem of illegal migrants, the work of detection of such migrants has assumed significance, having regard to the trend of recent events in Assam and other parts of the sensitive eastern and north-eastern regions of the country."

"I would like to ask the Home Minister that he is trying to implement one part of an understanding because no settlement has been arrived. Now, are you not thereby accepting an issue that this foreigners' question is very much germane and is very much an alive issue? You have given a go-bye to your commitment to the 1950 Act. Sir, fortunately an amendment has been proposed by the Home Minister for incorporating in it the citizenship Act. Now, what is going to happen, nobody knows. I will come immediately to some of the provisions of this Bill. Now, are we or are we not submitting to these secessionist forces and chauvinistic attitudes that have been adopted? Our apprehension is that this will also encourage chauvinistic

elements and secessionist forces and aggravate the feeling of doubt and suspicion. As I said I am not opposing the Bill as such. I cannot, because it gives some protection from living at the mercy of those people, from being killed like ducks to be annihilated. No protection had been given from the Physical annihilation. I do not wish to recount those events, which are a permanent shame on the people of our country, the darkest days of a civilised nation that in the name of people being of foreign origin, this type of happenings have taken place. That is why I say it is preferable to the inhuman method of so-called detection of foreigners that was going on.

Now, what I am trying to emphasise is that why this so-called attempt for piecemeal implementation of even this understanding? How do you wish to solve this problem? we have been always saying and we have demonstrated with facts and figures that it is the left democratic forces, workers, leaders of the left political parties, particularly of the CPI (M), who have been the special targets of attack, be they Bengalis, be they the Assamese speaking people. And I on two earlier occasions while participating in the Debate have given particulars about that also. I am not going into that again. It is not necessary either. It is not my intention to open the wounds, but have the wounds healed? Have you been able to create an atmosphere where linguistic and religious minorities in Assam are able to live there with a sense of protection, with a sense of security?

Other problems have not been solved. There has been no attempt to bring about a political solution. We say that political solutions are necessary. Because you wanted the democratic process in this country viz., the parliamentary process to continue, that is why we supported the election. Of course, I have made that charge on the floor of the House that the left parties were not even allowed to participate in the election. We were made targets of attack. We were not allowed to go to the Polling Stations. We have mentioned those matters. Nobody has suffered most as a political party as my party or the workers belonging to my party. Everybody knows this. That is why we have been paying the price,

Now, what is the political solution that you are going to bring about and how? Although this Bill is really to replace an ordinance which has come into force. The question is how many tribunals could not be set up. How this disease has gone deep. There are not even judges available to go there. This is the situation which has been created there. Therefore, don't pat on your back have come out with something extraordinary for trying to protect the people. Don't do that. At least we are happy that a cut-off date has been accepted by you and there is an attempt to follow a civilised method. Whether they would be successful to find out the so-called foreigners, I don't know. I say so because I don't know what will happen ultimately in these proceedings.

Unfortunately, I find some amendments are even suggested. How my friend, for whom my respect and regard are unbounded, Shri Ravindra Varma behaves in this manner in Assam? Everybody will be at every body else's mercy, if his amendment is accepted. He changes the proposals, to change the cut-off date, proposes a change in the territorial limit of tribunals, i.e., jurisdiction. Now it becomes a big cauldron, if his amendment is accepted. It will become not a law, but will become a law of the jungle, if it is accepted.

I would like to point out to 1 or 2 aspects of this Bill to the Minister, before I resume my seat. So far as Section 4 is concerned, now there is a proposed amendment. I would like to know from the hon. Minister: if the terms of the proviso of the 1950 Act are fulfilled in a case, why should one be treated as a foreigner? I am putting this positive question. Do you or do you not agree that proviso constitutes the nation's commitment to those people whom you did not consult before you left them there? You did not take their views or opinions. We are aware that people have been trying to stay there as long as possible. It is no fun coming out, leaving everything there. You can appreciate it; everybody can appreciate, but that seems to be forgotten. Why should we give up our national commitment to these people? At least there was some recognition in the proviso of the 1950 Act. But this is expressly made unworkable now.

Are the letters of law more important than national commitment?

So, we suggest that clause should not have been there, and that it should be consistent with the 1950 Act. There may be cases, we are not denying it, where people who should be treated as foreigners have come here for certain other purposes, like business, better economic conditions, better living conditions, jobs or because some relations were here or for purposes which we cannot recognize as entitling them to stay in our country. But if that proviso is fulfilled, why not?

Clause 7 is about staff. It says:

"The Central Government shall make available to every Tribunal such staff as may be necessary..."

Why are you looking for Judges from outside Assam? The reason is very well known. What about their staff? Who will provide them? If Central Government has to provide them, at least make it workable, in such a manner that it can get the confidence of those who will be dragged there.

Mr. Chairman, kindly see clause 8. A procedure has been laid down. The procedure is that any person can raise a question—and then what will happen?—and make an application with some little money. Then there will be an affidavit. What will he prove? Suppose Mr. Ravindra Varma persuades somebody—I am not naming him deliberately; but I am just giving a hypothetical example—Mr X persuades Y; or Mr X goes to the tribunal and files an affidavit saying that a particular person is a foreigner. What more does he have to say? He does not have to say anything more. Then, immediately the onus shifts on the other person. He has to prove that he is not a foreigner. I do not know how do I prove myself to have been born in this country, to be an Indian citizen. How will you prove that you are an Indian citizen? (*Interruptions*). I do not know if Mr. Satish Agarwal has got his birth certificate. I don't have it. I was born in Tezpur. My maternal grandfather was an officer there. Even that house has been swallowed by Brahmaputra.

The country has lost a national monument. What can be done about it? Clause 8 (4) says: "The place of residence of the person named in such reference or application, as the case may be, is situated." He has to come with all the record. That is also clause 10 that the person against whom he has to produce such evidence as he may think fit in support of his defence. What is defence? Why are you shifting the onus on the person that you prove your citizenship? Is it sufficient discharge of an obligation by filing an affidavit saying Santosh Mohan Dev is a foreigner? This is very serious and I request the hon. Minister to consider it (*Interruptions*) This is very very serious. A similar provision is made in clause 11 also; clause 11 (2) (b)—"to produce such evidence as he may think fit in support of his defence." That is at the initial stage; when he has to file his reply, he has to produce his evidence; and you are making that provision. Now, this is a very serious thing. I tell you that those foreign tribunals were also manned by judicial persons, District Judges, Additional District Judges, passing orders saying you are a foreigner; you get out because the police has filed a complaint that you are a foreigner and you are unable to prove that you are an Indian citizen. Therefore, you get out. The onus is shifted on me. This is dangerous. Therefore, I am requesting the hon. Minister to kindly consider it. Even that you can regulate by rules that after a statement has been filed, the evidence has to be given. (*Interruptions*) Mere filing an affidavit without taking the responsibility of proving it or giving a *prima facie* case of charge being a foreigner then there is no case to answer. X files an application saying that Y is a foreigner and Y has to produce all documents at the first stage. This is a very serious lacuna in this.

Now, clause 17 of this Bill. There is no time limit provided. For revisional proceedings, some time limit should be provided. It also provides for *suo motu* intervention by the Appellate Authority. Suppose there is an order in favour of a person against whom an order is made against so-called foreigner against whom proceedings were initiated. Now, there is an order in his favour. Then an appeal can be filed at any time. I do not find it here. I may have missed it.

Clause 21. There is a provision for delegation of Powers to any officer subordinate to the Central Government; any State Government or any officer subordinate to that Government. It says as follows:

"The Central Government may, by notification, direct that the Powers and duties conferred or imposed on it by this Act, other than the Powers conferred by section 28, and the Powers conferred by this action may, subject to such conditions as may be specified in the notification, be exercised or discharged..."

This also raises a doubt in people's mind.

This Act obviously is intended now for Assam. Now, you have also made a provision that this can be extended to any other part of the country.

13 hrs.

Sir, I have already told the hon. Home Minister that this is giving rise to serious complications. There are persons who are believing in secessionist outlook and policies. You are aware of Uttarkhand movement, the so-called pernicious movement in North Bengal to make North Bengal not only a separate State but also an independent State. There is a demand for that also. There is also a demand that this Act should also be extended to West Bengal and North Bengal so that the job of finding out the foreigners can start in Uttar khand. Now, even a provision in this Bill has given rise to agitations and demands. There will be more and more demands from those sections of the people who are indulging in this secessionist tendency, these are vulnerable regions, we are now surrounded by foreign elements and the whole country today is in danger. This is being said by the Prime Minister, by the Home Minister, by the Foreign Minister. We are also saying. This is happening. Now, if in this vulnerable region, in the border region, this type of activity is even impliedly supported, then it will give rise to serious complications, Greater and greater will be the danger to the people. Therefore, these are the aspects I would request the hon. Minister to look into and see that this law is applied in at least a

civilised manner and in a way in which it will be able to carry the confidence of the people for whom it is meant. It is very very important. You cannot just thrust upon them something. This is after all a human problem. I hope you will treat it as a human problem. This is very important as the nation has made a commitment to these people. These people have been forced to flee for their lives and with a lot of difficulty, with all tribulations. They have not been settled up till now. Even after 37 years, they are in the refugee colonies still. They will die as refugees. This is not fulfilling our commitment. Therefore, do not treat them as unwanted people. You have put them to sufficient difficulty. Do not treat them as unwanted people in this country. At least they are not to be treated like that. They have to be treated in a civilised manner. I hope the Government looks into this aspect and brings about a political solution to this problem because this piece meal solution will not solve the problem. ✓

MR. CHAIRMAN : Shri Nurul Islam.

SHRI NURUL ISLAM (Dhubri): Mr. Chairman, in supporting the Bill I would like to make certain observations. In Assam certain political parties have adopted some noble family planning devices for the Muslims in Assam. There are political parties in our country which want to exist on the communal sentiments of the people of our country and at the same time on the blood of the minority community people.

13.04 hrs.

[DR. RAJENDRA KUMARI BAJPAI
in the Chair]

How these family planning devices you will understand if I narrate the history of Muslims in Assam. Prior to and after every census there were such movements to reduce Muslim population in the state. If you see, prior to 1951 censurs, in 1950 there were suddeir large scale arson and killings, and large number of Muslims, were forced to leave for East Pakistan. Only after the Nehru-Liaquat Ali pact in 1951-52 they were restored to their respective residences and they were given an opportunity to settle between 1951-

55 and some of them were not included in 1951 census and consequent tall in Muslim population as remarked by the then census commissioner. In that way in 1961 again after the completion of the census while it showed a slight increase in Muslim population there was a big hue and cry in certain presses and these presses tried to instigate communal riots in Assam and as a result of that the then Government headed by Mr. Chaliha took a firm stand that there was no such influx but ultimately they had to yield and Mr. Chaliha had to commit on way back from Delhi at the Calcutta airport that there was not so much influx as alleged by a certain section of the press. But these was influx to the tune of 2.50 lakhs. This happened in 1962. Do you know how these 2.5 lakh infiltrators were detected and deported? They were treated like cats and dogs. The armed forces went and raided the villages and got the people boarded in the trucks by force. They were taken to the Indo-Pak border and forced to cross the border at the gun point. This was the procedure. This procedure continued from 1962 to 1964. Then there was an all-India hue and cry. Then the Government was pleased to appoint the tribunal in 1964 and the process of deportation continued upto 1969. According to Assam Government figures, upto 1969 2.69 lakh people were deported from India to the then East Bengal. Perhaps, you remember that from 1969 to 71 there was Bangla Desh upsurge and there was general election. Perhaps in view of that there was no such movement against Muslims after and before 1971. But unfortunately, an unforeseen thing had happened that one Janata Party making an unholy alliance, came into power in 1978. They just smeared the soil of India with the blood of Hindus and Muslims, Bengalis and Assamse, Harijans and non-Harijans, tribals and non-tribals in their two and a half years of reign of terror. It is they who instigated this agitation in Assam. Originally in 1978 the students started an economic movement with the slogan 'You Indians go out', because Assamese youth felt neglected by the Central Government. They did not get any appointment in central government undertakings or in any Central Department. But after Janata Party came into power, they tried to win over the students. Why? Perhaps, you remember that

our great leader Shrimati Indira Gandhi who was elected from Chikmuglur, was removed inhumanly, injudiciously and criminally from the membership of this august House. Then suddenly one Mr. Hira Lal Patwari, who was an hon. Member of this august House, died and the Mangaldoi constituency which he represented, had fallen vacant. Stray rumours spread throughout the country that Mrs. Gandhi was going to contest from, Mangaldoi constituency in Assam. At that time, Mr. Barborra was the Chief Minister of the Janata Government. So the ruling party as well as the Government itself started the propaganda that there were 40,000 Bangladeshi nationals in the electoral rolls of Mangaldoi constituency and that unless and until their names were deleted from the Electoral Roll of Mangaldoi parliamentary constituency, there could not be any by-election. In this way, it was the Janata Government which started this movement of Bangladeshis, which was originally an economic movement started by the students. Then Mr. Barborra gained over the students, fed them, financed them and provided them with vehicles and started this propaganda against certain sections of people. At that movement, one Mr. Purnonarain Singh, who was a Member of this august House, made an inflammatory speech saying that there were 44 lakh Bangladeshi nationals in Assam and that they should be deported. A copy of his speech was circulated to every house of the Assamese people in the state. The Assamese people got frightened for their existence. So, this movement took a turn from the economic movement to political movement. In this way, the Muslims and the Bengalis were suppressed and repressed in Assam after every ten years. That is the history. We are not only politically repressed but economically also. The Muslims and the Bengali people are harassed and repressed in Assam in matters of appointments, economic development in distribution of contract work, etc. These people tolerated these things only because of their survival. This movement was at its peak during the Janata Party and BJP rule, I should be very frank.

Before coming to make the comments on the Bill, I make an appeal to the hon. Members of this august House that they

should realise what are they going to gain out of this. They are playing a nasty and heinous game at the cost of national unity, solidarity and integrity. Why? What for? Only for their meanest political interests. I submit to our Government that this type of political parties who do not have any economic programme, who do not have any other programme, save and except to play with the communal sentiments of the people for their political survival, should be banned or they should give up this heinous game.

Now I will comment on the Bill. I have scrutinised the Bill very carefully. Every time it is said on the Floor of this House that foreigners do not mean the Muslims. Only the wearer knows where the shoe pinches. We know, we have experience. Since decades we have been suffering. We know how this Act will be enforced by the bureaucrats we know how it will be implemented by the bureaucrats. So, we appeal to our Government and to our hon. Home Minister to remove the loopholes. It suffers from certain shortcomings. Firstly, in the first sentence of the preamble it says :

“WHEREAS a substantial number of the foreigners who migrated into India”.

This is a very serious thing. This becomes a commitment on the part of the Government and at the same time it gives scope to others to criticise. Thus, if it is known to the Government that there are substantial number of foreigners in Assam or in India, what did the Government do? Is it not the cardinal duty of the Government to detect them and deport them? So, the appropriate term should have been “the substantial number of foreigners alleged to have entered into India”.

Secondly, regarding Nepalese, many of my friends have already spoken. I once again want to repeat that there was a pact on these Nepali people that they had the opportunity to come to India and settle in India and work in India and to get employment in India upto 30th July, 1976. What will happen to these people? Would this cut-off year apply to them in the violation of this treaty or in violation of this agreement? So, there should be a separate cut-off year for

these Nepali people, which is not in the Bill.

The other day the hon. Home Minister had stated that there will be a time limit to the Tribunal for the disposal of case. It is too good otherwise it would have been a never-ending business and it would have continued for years together.

The fourth point is that in Section 26 of the Bill we apprehended that there will be some false and frivolous complaints against some genuine citizens of India. What will happen in such cases. We were just to request the Government to provide a penal provision for that instead of lotting or forcing that poor fellow to go to court again to file a defamation position or to file a case for damage or compensation. The Bill should have provided a provision for that but instead Section 26 provides : "No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act". This 'good faith' is such a term that neither it can be proved nor it can be disapproved. So, anybody making any mischievous or false or frivolous complaint will take shelter under this Section and escape the responsibility. Nor can he be personally prosecuted. So, there should have been a provision that the Tribunal should itself refer the matter to the police for registering a case under appropriate Section of laws.

Madam, I draw the attention of our hon. Home Minister to Section 4(i) and 4(ii) in which the provisions of Foreigners Act, 1946, have been waived. Now, the complication will arise as to what will happen to those people as mentioned in Section 2(a), which says :

"any person who was in any State and who had been expelled from that State or India before the commencement of the Act in that State or in relation to whole expulsion from such State or India any order made before such commencement under any other law is in force."

What will happen to those people? If anybody is served quit India notice under the Foreigners Act before 1971 and he has not

yet gone or he has not yet been deported to any country, what will happen to him? What will happen to all such people? Will they stay here or under the provisions of Foreigners Act they will be deported? So, that point should have been made clear under this Section which appears to be contradictory.

Again, another Section is there regarding the jurisdiction of civil courts. In Section 23 the civil courts' jurisdiction has been waived, but it has not been mentioned as to what will happen to those 60,000 foreign nationals, as stated by our hon. Home Minister, who could not be deported because some litigations are pending. What will happen to those cases? Should they be dismissed by the civil court stating that they have no jurisdiction after the enforcement of this Act? That should have been clearly laid down in this provision here mentioning the fate of those cases.

Our hon. friend, Mr. Kodiyan, suggested that there should have been a dialogue, and we also desire that the dialogue should continue. There should be an honourable settlement of this problem. But there must be a congenial atmosphere or environment created by both the Government and agitationists. That stage has not yet been reached. *(Interruptions).*

Again, Madam, Mr. Kodiyan has expressed an apprehension regarding the prescribed authority. Who is this prescribed authority? Who is this prescribed authority? It is the police? It is reasonable enough to have this apprehension if the 'prescribed authority' is not clearly defined. I shall, and everybody will, apprehend something about the prescribed authority because this prescribed authority will be the authority to refer each and every complaint to the tribunal.

Lastly, my learned and hon. friend, Mr. Dev, has mentioned about the 1961-71 foreigners. It will be very difficult to deport them to any country. You cannot deport a German to France. So, if you serve a person with a 'quit India' notice, stating that 'you are a citizen of Pakistan', you cannot deport him to Bangladesh. There will be certain constitutional complications. So, I request the Government to give a thought to

this aspect. Otherwise, it will lead to many legal and constitutional complications.

Certain political parties moved many amendments ; they want that 1950 should be the cut-off year and they want that the whole of Assam should be the jurisdiction. As Mr. Chatterjee correctly said, it will be a law of the jungle. They want that there should be chaos and confusion, they want that these catastrophes should continue for years and out of the catastrophe they want to reap the fruit. They should have some sort of sympathy for the human beings. But they do not have.

Madam, lastly, clause 8 (3) says that the alleged foreign national is to prove that he is an Indian national. It is really serious. There is no such legal provision in any statutory Act. No such provision is made that the accused is to prove his innocence which we are doing in this Bill. Even the general Evidence Act says that it is he who alleges must prove the facts. Now, by simply submitting in an affidavit that Mr. so and so is a foreigner, I am to prove that I am a citizen of India. There are quite a lot of people in our country who are living below the poverty line, who do not have any landed property and any document and whose children never go to schools or colleges. They do not have any document.

Over and above this, there is another danger. There is a provision in the Bill that the tribunal will have the power to call for any document from any court or any office. The law provides that until and unless certified copies are submitted on any particular document, no document shall be called for by any court. Even if it is called for, the court is not bound to give the same. How will it be called for? Madam Chairman, you know the situation prevailing in Assam. You know there was large scale arsoning and thousands of people have lost their documents. They cannot give even any description of the document. In such cases, how will this document be called for? There should be some clear provision in the rules with regard to this aspect.

Lastly, Madam Chairman, before I conclude my speech, I would like to congratulate our Government and the Home Minister for bringing forward this most exhaustive and comprehensive Bill to deal with the foreign nationals in Assam and in India as well.

श्री जगपाल सिंह (हरिद्वार) : सभापति महोदय, इस समय सदन में अवैध प्रवासी विधेयक पर चर्चा हो रही है। मुझसे पूर्ववक्ता ने तथ्यहीन आरोप लगा कर विरोधी दलों को छेड़ने का काम किया है। मैं नहीं चाहता था कि इस तरह की सीरियस प्राबलम पर विरोधी दलों पर कोई आक्षेप लगा कर उन्हें छेड़ने का काम किया जाय। लेकिन पूर्ववक्ता शायद सारे तथ्यों को नहीं जानते, और अगर जानते हैं, तो वह इन्टेन्शनली उनको इग्नोर कर गए हैं।

केन्द्र में जब जनता सरकार थी, तो उसकी अवधि के बीच में यह आन्दोलन चला। जनता सरकार और जनता सरकार के होम मिनिस्टर ने यह मांग की थी कि आन्दोलनकारियों को यह आन्दोलन वापस लेना चाहिए और आन्दोलनकारियों के नेता ने बयान दिया था कि जब तक**—उनका नाम रिकार्ड पर है—हमसे आन्दोलन वापस लेने के लिए नहीं कहेंगे, तब तक हम यह आन्दोलन वापस नहीं लेंगे। (व्यवधान) मैंने माननीय सदस्य को इन्टरप्ट नहीं किया था।

सभापति महोदय, : माननीय सदस्य एक ऐसे व्यक्ति का नाम नहीं ले सकते, जो सदन से बाहर ही नहीं है, दुनिया में भी नहीं है। आपको ऐसी बातों को यहां पर नहीं लेना चाहिए। वह नाम प्रोसीडिंज में नहीं आएगा।

DR. KRUPASINDHU BHOI (Sambalpur) : You cannot mention the name.

श्री जगपाल सिंह : दूसरा नाम**का है। वह तो अभी जिंदा हैं। आन्दोलनकारियों ने कहा था कि जब तक वह हमको आन्दोलन

वापस लेने के लिए नहीं कहेंगे, तब तक हम आन्दोलन वापस नहीं लेंगे।

SHRI BHUBANESWAR BHUYAN (Gauhati) : You have instigated the Assam agitation. They are thoroughly not connected with the agitation. You should not mention their names.

श्री जगपाल सिंह : जब माननीय सदस्य ने भारतीय जनता पार्टी और विरोधी दलों पर आक्षेप किया, तो आपको उन्हें रोकना चाहिए था।

सभापति महोदय, : पार्टियां एक दूसरे का नाम ले सकती हैं, लेकिन जो व्यक्ति सदन का सदस्य नहीं है, उसका नाम नहीं लेना चाहिए।

श्री जगपाल सिंह : आन्दोलनकारियों ने कहा कि हम आन्दोलन को तब वापस लेंगे, जब ग्रूथ कांग्रेस की हाइएस्ट लीडरशिप हमको आन्दोलन वापस लेने के लिए कहेगी। यह आन रिकार्ड है। आप मुझे यह कहने से रोक नहीं सकते।

(Interruptions)

MR. CHAIRMAN : Don't be agitated.

SHRI JAGPAL SINGH : Why are you getting agitated ?

(Interruptions)

SHRI BHUBANESWAR BHUYAN : Without knowing this, you should not have said anything at all.

श्री जगपाल सिंह : जब आपके दल के सदस्य ने भारतीय जनता पार्टी और विरोधी दलों पर आक्षेप किया, तब आपने उनको इन्टरप्ट नहीं किया। इस आन्दोलन के लिए विरोधी दल जिम्मेदार नहीं हैं। आपने यह समस्या पैदा की है। आप बैठिए। Who are you to interrupt me, जब यहां चेयरमैन बैठे हैं ? खून तुम बहाओ, आन्दोलन तुम चलवाओ, दस हजार लोगों को मारो, 5

परसेंट वोटों के बल पर सरकार बनाओ। वहां पर आग लगा करके चाहते हैं कि शांति हो जाय ? आप जैसे लोग इस देश के दुश्मन हैं... (व्यवधान) आपकी पार्टी इसके लिए जिम्मेदार है।

इस बिल का मैं विरोध नहीं करता लेकिन जैसे आप ने आसाम में चुनाव कराकर दस हजार से ज्यादा लोगों को मौत के घाट उतारा है उसी तरह फिर इस बिल को पास कराकर आसाम के अंदर खून खराबा कराने जा रहे हैं। आप ने जो एंडिविडुअल्स को छूट दे दी कि एक एफिडेविट दाखिल कर के कोई किसी को कह दे कि यह विदेशी है इससे फिर वहां पर भगड़ा कराने जा रहे हैं। मैं कहना चाहता हूं कि यह एक राजनैतिक भगड़े समस्या है। आन्दोलनकारी अपनी मांगों को लेकर लड़ाई लड़ रहे हैं। चुनाव के पहले भी उन्होंने कहा था कि हमारी मांगों पर कोई सेटिलमेंट होना चाहिए, तब आप चुनाव कराइए। इस बिल से फिर यही होगा। मैं कहना चाहता हूं कि यह पोलिटिकल प्राबलम है, पोलिटिकल उनकी डिमांड्स है, जब तक उन पर आप उनके साथ कोई समझौता न कर लें तब तक इस बिल को पास कराने का काम न करें क्योंकि वहां पर जो विदेशी हमारी सरकार के कुछ समझौतों के अनुसार चाहे वह वह इन्दिरा गांधी मुजीब का समझौता चाहे वह बंगला देश और पाकिस्तान का हमारे देश के साथ समझौता हो, कुछ इंटरनेशनल लाज भी हैं, मैं नहीं चाहता कि उनको तोड़ करके आप इस समस्या का समाधान करें, उनको मंद्दे नजर रख करके आप उनकी मांगों पर समझौता करें। वे आन्दोलनकारियों देश-द्रोही नहीं हैं। मैं कभी नहीं कहता कि वे देश-द्रोही हैं। आज तक भी उन्होंने हिंसा का रुख अख्तियार नहीं किया है...

एक माननीय सदस्य : हिंसा नहीं तो क्या है ? कितने आदमी मर गये।

श्री जगपाल सिंह : आप की सरकार और आप की पुलिस ने मारा है।

(व्यवधान)

सभापति महोदय : माननीय सदस्य का नाम बोलने वालों में है, शब उनकी बारी आए तो वह बोलें। माननीय जगपाल सिंह जी, आप अपने प्वाइंट पर बोलिए।

श्री जगपाल सिंह : मैं उसी प्वाइंट पर आ रहा हूँ। मुझे छोड़ने का काम किया था पूर्व वक्ता ने। जिस पर मैं बोल रहा हूँ उसका सम्बन्ध मेरे प्वाइंट से रहा है।

मैं इसका विरोध नहीं करता 1971 को मान करके, लेकिन इस बिल में आप खुला छूट दे रहे हैं कि जो वहाँ पर पाकिस्तान या बंगला देश के लोग रह रहे हैं उनके खिलाफ कोई एक साधारण आदमी भी एफिडेविट लेकर कोर्ट में चला जाय। यह पोलिटिकल प्रॉब्लम है और आप इसे इन अधिकरणों के द्वारा हल करना चाहते हैं। वहाँ पर पाकिस्तान और बंगला देश के आए हुए लोग और मूल निवासी जो आराम के रहने वाले हैं वह आपस में कट मरेगे, हर एक एक दूसरे के खिलाफ लड़ मरेगा क्योंकि आप के पास कोई रेकार्ड नहीं है, आपके पास कोई वोटर लिस्ट नहीं है पुराने-पुराने आदमियों की। वोट वह दे रहे हैं और अभी तक आप उनको वहाँ का नागरिक नहीं मानते हैं। गृह मंत्री जी यहाँ बैठे हुए हैं उन से मैं कहना चाहता हूँ कि उनको आपने बाकायदा बुलाया। पाकिस्तान के साथ जो युद्ध हुआ उस युद्ध के बाद जो लोग भारत के आए, पाकिस्तान आज होता तो आप उनसे मांग कर सकते थे कि अपने लोगों को वापस लीजिए, लेकिन आज इस्ट पाकिस्तान के अन्दर कोई नक्शे पर नहीं है, आज एक नया मुल्क खड़ा हो गया है और उसकी क्या स्थिति है वह आपके सामने है। तो 1971 कट आफ ईयर मानने के बाद जिन लोगों को आपके अधिकरण निकालने का काम करेंगे उनको आप कहां बसाएंगे। कोई आप का प्राविजन नहीं है इसके लिए। यह शंका

फिर पैदा होगी इस एक्ट के द्वारा। वहाँ जा विदेशी लोग हैं या जो दस-बस, पन्द्रह-पन्द्रह, या अठारह अठारह साल से रह रहे हैं उनके अन्दर शंका पैदा होगी कि अब हमको निकाला जायगा। उनको बंगाल की खाड़ी के अन्दर फँका जायगा या कहां फँका जायगा? इसलिए वहाँ पर इस से कत्ले आम होगा। इस एक्ट में इसका कोई इन्तजाम नहीं है कोई हिसाब नहीं है। आप के अधिकरणों के द्वारा कोई प्रापर साल्यूशन नहीं निकल सकता। मैं मांग करता हूँ कि इस बिल को पाएँ करने के पहले उनसे समझौता करिए और आज आप साफ-साफ कहिए अपने वयान में कि जो लोग 1971 के बाद विदेशी साबित होंगे उनको क्या करेंगे? मैं मांग करता हूँ अपनी पार्टी की तरफ से कि आप वादा कीजिए। आन्दोलनकारियों का कहना है कि आसाम से आप विदेशियों को निकालिए। उन्होंने यह कभी नहीं कहा कि उन लोगों को आप पूरे हिन्दुस्तान से कहीं निकाल दीजिए। वह केवल इतनी गारन्टी चाहते हैं कि आसाम के अन्दर से निकलने के बाद वे दोबारा आकर वहाँ न बसें। इसकी आप गारन्टी उनको दीजिए। लेकिन इसका आश्वासन आप दे नहीं सकते, कास्टीच्यूशनली नहीं दे सकते हैं।

कास्टीच्यूशन में इसके लिए कोई प्रावधान नहीं है कि हिन्दुस्तान के किसी विशेष प्रदेश में कोई बस नहीं सकता है। लेकिन आप उन लोगों को हिन्दुस्तान के दूसरे प्रदेशों से भेजने का आश्वासन दीजिए तभी जाकर वहाँ पर शांति हो सकती है। 1971 के बाद जितने भी लोग विदेशी साबित होंगे उनको बंगलादेश या अन्य कोई भी देश लेने के लिए तैयार नहीं है। आप कोई भी कट-आफ ईयर तय कर लीजिए लेकिन ऐसे लोगों को कोई भी देश लेने के लिए तैयार नहीं है। हिन्दुस्तान एक शांतिप्रिय देश है, आप उन लोगों को बंगाल की खाड़ी में फँकवाने या मिलिटरी को आर्डर देकर उन्हें मरवा देने की बात नहीं कर सकते हैं। इसलिए

मैं समझता हूँ यह बड़ा नाजुक प्वाइन्ट है और इस बिल को लाने से पहले आपको इस सम्बन्ध में सीरियसली सोचना चाहिए। प्रधान मंत्री 1971 को कट-आफ ईयर मानने की जिद कर रही है और कोई समझौता नहीं हो पा रहा है। हम सरकार की तो मदद करेंगे लेकिन जिस तरीके से जनता को इच्छाओं के विरुद्ध, आन्दोलनकारियों की मर्जी के खिलाफ, कोई राजनीतिक सेटिलमेंट किए बगैर आप यह बिल ला रहे हैं इससे हालत और भी सीरियस होगी। हमारी पार्टी और भारतीय जनता पार्टी ने कहा था कि असम में चुनाव नहीं होने चाहिए और अगर चुनाव होंगे तो खून-खराबा हो जायेगा और वही हुआ। हमारी पार्टी कास्टीट्यूशनल अमेन्डमेंट के लिए तैयार थी लेकिन आपकी पार्टी और सरकार ने नहीं माना। अगर आप सविधान में संशोधन करने के लिए तैयार हो जाते तो वहां पर 10-12 हजार आदमियों की जानें नहीं जातीं।

इसलिए इस बिल को पास करने से पहले आप उनकी मांगों पर समझौता कीजिए वरना वहां पर जो बंगलादेशी लोग हैं, पाकिस्तानी लोग हैं और जो वहां के मूल निवासी हैं उनका खून बहेगा। आप जो अधिकरण बनाने जा रहे हैं उसका फल यह होगा कि लोग एक दूसरे के खिलाफ एफिडेविट देकर यह साबित करने की कोशिश करेंगे कि वे इस देश के नागरिक नहीं हैं और इस तरह से उनमें दुश्मनी पैदा होगी। जो लोग इस देश के नागरिक होने चाहिए उनके पास भी कोई जन्म-पत्री या बर्फ सर्टिफिकेट नहीं है, वोटस लिस्ट में उनका नाम नहीं है, उनको एक सिम्पल एफिडेविट देकर आम निकालना चाहें तो यह बड़ी गम्भीर बात होगी और इससे यह समस्या और भी बिगड़ेगी।

इन शब्दों के साथ मैं इस बिल का समर्थन तो करता हूँ लेकिन यह उम्मीद करता हूँ कि माननीय गृह मन्त्री जी इस पर गहराई से विचार करेंगे।

हरीश रावत (अल्मोड़ा) : सभापति महोदय, असम की समस्या जिन स्थितियों में पैदा हुई और सतत् रूप से जो प्रयास सरकार ने किया, मैं समझता हूँ यह बिल भी उसी की एक कड़ी है जोकि आर्डिनेन्स की जगह पर यहां लाया गया है। सभी पत्रों से सरकार को इस बात के लिए बधाई भी मिलनी चाहिए। माननीय गृह मन्त्री जी का ध्यान इस तथ्य की ओर पहले भी लोग दिला चुके हैं कि कहीं इस बिल के जरिए, जो इंडियन सिटिजन्स हैं, उनका अननेसेसरी हैरसमेंट न हो जिससे कि वहां पर असंतोष पैदा हो। साथ ही साथ वहां पर नेपाल के जो लोग हैं उनको भी दिक्कत नहीं होनी चाहिए। मैं समझता हूँ इस बिल में इन बातों को जितना साफ किया जाना चाहिए था वह नहीं किया गया है। मैं चाहूंगा मन्त्री जी अपने उत्तर में इन शंकाओं का निवारण करें।

असम में आज जो स्थिति है उसके सम्बन्ध में केन्द्र और इस समय वहां पर जो वर्तमान प्रदेशीय सरकार है, उसने जो प्रयास किए हैं वह सब अपनी जगह पर स्तुत्य हैं परन्तु केवल आर्थिक विकास करने या कानून बना देने से कुछ प्रश्नों का समाधान नहीं होगा जैसे कि इस बीच में वहां पर रहने वाले भाषायी और धार्मिक अल्पसंख्यकों के मन में जो इतनी गहरी खाई पैदा हो गई है उस खाई को कैसे काटा जाए।

उस अविश्वास की भावना को कैसे दूर किया जाए, जो आपस में एक दूसरे उग्रवादी तत्वों के द्वारा घृणा का वातावरण पैदा किया गया है, उसका कैसे निराकरण किया जाए। पैदा किए गए जल्मों को कैसे भरा जाए। उन जल्मों को भरने का तरीका केवल कानूनी नहीं हो सकता है। हम सभी राजनीतिक लोगों को इसके लिए प्रयास करना चाहिए। इस संबंध में मुझे विरोधी पक्ष के माननीय सदस्य की बात सुनकर बड़ा आश्चर्य हुआ। जिस प्रकार उन्होंने आक्षेप लगाया, उससे यह बात साफ है कि उनका या उनकी पार्टी का या उनकी तरफ के

लोगों का राजनीतिक नजरिया इस समस्या के प्रति कैसा है। यदि इस प्रकार के राजनीतिक नजरिए से ये लोग बात करेंगे या बाहर बात करेंगे तो इससे फायदा होने वाला नहीं है।

माननीय गृह मन्त्री जी ने इस बिल को आज सदन में विचार के लिए प्रस्तुत किया है। जब यह आर्डिनेन्स जारी हुआ था, तब आर्डिनेन्स के विरुद्ध कुछ विरोधी दलों ने, जिनमें मान्यता प्राप्त विरोधी दल भी हैं, उन्होंने जो कुछ बाहर और सदन में कहा है, जिस प्रकार का प्रोपैगण्डा पैदा करने की कोशिश की है, उस से कोई भी विवेकशील व्यक्ति सहमत नहीं हो सकता है। मैं निवेदन करना चाहता हूँ कि जितने हमारे विरोधी पक्ष के नुमाइन्दे बोले हैं, उनके नेताओं का इस बारे में क्या विचार है, वे राजनीतिक लाभ हासिल करने के लिए बाहर जो कुछ कर रहे हैं, वे इस बारे में क्या सोचते हैं, इस बारे में उनको स्पष्ट करना चाहिए।

यह कह देना कि असम में जब चुनाव हुए थे, तो इतने लोगों की सरकार हत्या करवा दी या पुलिस ने हत्या कर दी, यह एक फिजूल की बात है। वहाँ पर यदि चुनाव नहीं करवाए जाते, स्थानीय लोगों को वहाँ शासन नहीं सौंपा जाता, प्रतिनिधि सरकार वहाँ कायम नहीं की जाती, तो मैं समझता हूँ कि असम में जो आज शान्ति की स्थिति है और जो स्थिति बनाने जा रहे हैं या बनाने की कोशिश कर रहे हैं, वह आज नहीं होती। बजाय इसके कि मन्त्री महोदय को साधुवाद दिया जाता और उनका स्वागत किया जाता, वे यहाँ पर अपनी बौखलाहट को प्रकट कर रहे हैं। मैं समझता हूँ कि यह सबथा अनुचित है और राजनीतिक दल के रूप में उनका व्यवहार और उनका आक्षेप अशोभनीय है।

आसू और गणसंग्राम परिषद् के लोगों के मन में जो बदलाव आया है, वह अखबारों की रिपोर्टों से प्रकट होता है। उसका हम स्वागत भी करते हैं। मगर आसू और गणसंग्राम परिषद्

के लोगों को यह बात स्पष्ट करनी चाहिए कि जो उग्रवादी तत्व हैं, वे उनका राजनीतिक संरक्षण प्राप्त न करें। जिस प्रकार पंजाब के अन्दर भिड़वाले या उनके जो उग्रवादी साथी हैं, उनको अकाली दल का संरक्षण मिल रहा है। और अकाली दल को अप्रत्यक्ष रूप से विरोधी दलों का संरक्षण मिल रहा है। वही हालत आज असम के अन्दर है। असम के जो उग्रवादी तत्व हैं, जिन्होंने वहाँ मुख्य मन्त्री पर हमला किया, रेलवे स्टेशन पर तोड़फोड़ की, कई राजनीतिक कार्यकर्त्ताओं की हत्याएँ कीं, उन लोगों को किसी न किसी प्रकार राजनीतिक संरक्षण प्राप्त है, चाहे उनका सीधा संबंध न हो।

आसू और गणसंग्राम परिषद् को हमारे विरोधी दल के लोग, भारतीय जनता पार्टी और जनता पार्टी के लोग या दूसरे विरोधी दल के लोग उनको संरक्षण देने जा रहे हैं। वे लोग जो एक मीटिंग करने जा रहे हैं, उसमें विरोधी दल के लोगों को भी आमंत्रित किया है। यदि वे उनसे कहने के लिए जा रहे हैं कि क्षेत्रीयता गलत है, सरकार ने जो शुरुआत की है उसमें हम सहयोग देते हैं, अच्छा वातावरण बनाने के लिए सहयोग देते हैं यदि उनकी गलतियों को याद दिलाने जा रहे हैं, और क्षेत्रीयता की भावना के खिलाफ कहने जा रहे हैं, तो हम उनका स्वागत करेंगे। यदि वहाँ पर एनटी आर और फारुख अब्दुल्ला उनकी क्षेत्रीय धारणा को पुष्ट करने जा रहे हैं, यदि भारतीय जनता पार्टी या जनता पार्टी के लोग उनकी भावनाओं को पुष्ट करने जा रहे हैं, जैसी कि प्रैस रिपोर्ट है, उन्होंने आमंत्रण स्वीकार किया है, तो मैं समझता हूँ कि कोई भी विवेकशील व्यक्ति इस बात से सहमत नहीं होगा। मैं समझता हूँ कि राजनीतिक बल के रूप में भारत के संविधान के प्रति और भारत की जनता के प्रति उनका जो दायित्व है, वह उसको पूरा नहीं करेंगे।

इन्हीं चन्द शब्दों के साथ माननीय गृह मन्त्री जी जो इस बिल को लेकर आए हैं, मैं

उसका स्वागत करता हूँ कि भारत सरकार का जो अन्तरराष्ट्रीय दायित्व है जो लिगविस्टिक रिलीजियस माट्टिनोरिटीज के प्रति कर्तव्य है, उस पर वह पूरी भावना के साथ कायम रहे।

SHRI RAVINDRA VARMA (Bombay North): Madam Chairman, I have very high esteem and regard for my Hon. friend, the Minister of Home Affairs. I have often admired his sagacity and tenacity. I was, therefore, dismayed when I read the text of this Ordinance. I wondered what evil stars had occasioned an eclipse of his sagacity and tenacity and persuaded him to embark on a venture that might well lead to the hardening of attitudes and to the further complication of an already complicated problem.

With great ability and tact, he was piloting the negotiations on the very points and problems that this Bill seeks to deal with namely, the identification of illegal immigrants, the detection of illegal immigrants, the criteria for the determination of illegal immigrants and the judicial authority that will make the ultimate pronouncement on the status of a person whose citizenship is in doubt.

It is most unfortunate, as events have proved, that the negotiations ended abruptly. Elections were ordered.

Elections were described as a necessary evil and were conducted under conditions that can only be described as "mini martial law conditions".

There was a holocaust, against which I had specifically warned my Hon. friend the Minister of Home Affairs and even the Prime Minister.

I do not want to use this occasion for the purpose of going into the question of the responsibility for the holocaust or for the seismic shock that was administered to the electoral system by the manner in which elections were conducted in Assam.

But, after the holocaust, after the so-called necessary evil was over, I thought my Hon. friend the Minister of Home Affairs, in partial expiation for committing an evil

though it was described as a necessary evil, would have at least returned to the path of sagacity and would have taken up the thread from where it had snapped.

The massive non-participation in the elections had proved that Assam was unreconciled, that there was no faith or belief that a consensus had emerged, and the Government was acting on a consensus.

I would have, therefore, expected that a person of the persuasive ability and devotion of the Minister of Home Affairs—I honestly mean it—would have commenced the process of negotiations again.

The Government often says that the doors for negotiations are open. These are very familiar phrases which have a ring of the Raj!

(Interruptions)

SHRI RAVINDRA VARMA: You have come from the Andamans. Don't think of the old Andamans.

You go on piling one *fait accompli* on another on the very issues that constitute the core of negotiations and then say that the doors are open for negotiations! My Hon. friend the Minister of Home Affairs I am sure, would not want to be found guilty of such an attitude to negotiations!

Hon. Members have referred to many aspects of this problem. I know, Madam, you are very conscious about time. I am very conscious of the fact that you are conscious about time, and that cramps my style. I wish to say, therefore, that I shall not deal with all aspects of the question. Still I have to say that it is most unfortunate that some hon. Members have tried to approach this issue from a partisan point of view, to inject a tone of acerbity and acrimony in the discussion. I must state very plainly and categorically that we have, at no time, said any word which can even distantly be interpreted as a word in defence of secessionism, or of chauvinism or of violence or of communalism. Certainly not. We are not behind anybody sitting in this House or outside, in our loyalty to the basic concepts of our Constitution. We are against secessionism,

against extremism, against violence ; against communalism ; we are for secularism. And it is a pity that these accusations are flung so easily at one another in this House.

Government claims that the Bill is meant "to speed up the work of detection and vitalise the machinery. Unless we approach this question with a full sense of the gravity of the issue and the magnitude of the issue, I agree with my hon. friend, Rt. Hon. the Home Minister, we will not be able to tackle this problem. He has rightly pointed out that the vulnerability of our frontiers continues. After 36 years of independence, we cannot say that we have succeeded in defending our frontiers against infiltration. He has rightly pointed out that there are ethnic reasons for it, there are historical reasons for it. Can we shut our eyes to these and say that our frontiers are open to all ?

“सब के लिए खुला है मन्दिर हमारा”

or whatever the equivalent may be ; he knows very well. We are a sovereign State. We have certain laws on citizenship. This is not a 'Dharmasala'. Therefore, we have to think in terms of the definition of citizenship provided in our Constitution and the laws relevant to this question.

As my hon. friend knows very well, the magnitude of this problem and the urgency of this problem were responsible for an Ordinance being promulgated in 1950. At that time the then Home Minister and subsequently Mr. Gopaldaswamy Iyengar talked of the magnitude of the problem, the dimension of the problem, danger to security, danger to the economy. Again my hon. friend has come before the House with another Ordinance after 33 years.

Madam, I wish to point out to all those who want to look at this question with a rather restricted vision that the problem of illegal immigration in our country has now assumed very serious proportions. It is not only in Assam, as my hon. friend has very rightly said. As you know, the Chief Minister of Mizoram has repeatedly drawn the attention of the Central Government to infiltration of Chakmas from Bangladesh and has pointed out that today the Chakma population in Mizoram has gone up ten times, and has become virtually ten per cent

of the four lakh population of Mizoram ; he has complained that the Mizos have become a minority in Demagiri, Marpara, Toipuibari and other areas ; my hon. friend knows this very well. In Arunachal Pradesh the Chief Minister has complained about heavy infiltration of Nepalese. In Tripura, the tribals have been reduced to 28 per cent of the population because of infiltration. In Nagaland the leader of the Opposition complained in April 1983 that a massive influx of Bangladeshi nationals was upsetting the demographic balance in the State. In Manipur the Deputy Chief Minister has said that the/district of Jiribain was very badly affected by infiltration. In West Bengal, from which my learned, honourable and dear friend, the hon. Member for Jadavpur, comes, reports have appeared of increasing infiltration in Nadia, in 24-Parganas, in Malda, in West Dinajpur and elsewhere. In Nadia, we are told, there has been an increase of 26.95 per cent in the population in ten years.

Madam, it is reported that colonies of illegal immigrants have been set up in the border areas in Nadia. At certain points of entry, it has been pointed out that thirty to forty per cent of these who entered legally with documents did not go back. I am sorry, I know that there is very little time for me. So, I cannot describe the situation in detail. But, my hon. friend knows all this very well and, his colleagues, the hon. Ministers of state, Shri Venkatasubbaiah and Shri Laskar, said in Calcutta that they were concerned with the problem and they were asking for a report from the West Bengal Government on this question.

In Bihar, Madam, in August, my hon. friend, the Rt. Hon. Home Minister, agreed that there was a massive infiltration in the districts of Purnea and Katihar. The Chief Minister has said that his Government has issued notices to 15,000 people in one area— I am not saying that all those to whom notices have been issued are illegal immigrants—but I want to point out the massive nature of the problem. In Rajasthan, Madam, there is insidious, continuous, infiltration. In Kutch, as well. In far off Bombay, there is infiltration. The Special Branch reported that from January to June, 127 Bangladeshis have been arrested for illegal entry in

Bombay, and they have said that it is impossible to estimate the each number because infiltrants have distributed themselves in different slums.

Now, Madam, I must point out that this presents a very very difficult picture, a very dangerous picture. I do not say that this is an alarming picture. There is constant nibbling of our borders. The religion of the illegal immigrants cannot affect or alter their status. Madam, I must say we are being treated fairly. There are Buddhist Illegal immigrants; there are Hindu illegal immigrants; there are Muslim illegal immigrants; perhaps, there are Christian illegal migrants as well. To look at the problem through the glasses of religion is to undermine our secularism; to don the glasses of religion is to discard the vision of secularism. In India, as you know, there is no hostility to any community; nor is there any immunity provided to any particular community. Such hostility or immunity will be inconsistent with secularism. Who can say that this infiltration has no economic consequence, no demographic consequence, no consequence in the field of security and defence? If we went to deal with this problem, madam, we must be aware of the magnitude, the near universality of infiltration all along the land frontiers, the vulnerability of the front as well as the rear, and the variety in the patterns of infiltration. I am putting it in a few words because I do not want to take the time of the House. There is variety in the pattern of infiltration, eluding the check posts or otherwise, they are coming into the country with legal documents, but staying on, and not going back when visas expire. The difficulties arise because it is difficult to detect a man whose ethnic character is similar or whose culture is similar. If we are to tackle this problem, Madam, we must accept that the primary responsibility for defending our frontiers against infiltration, for detecting these who dodge our check posts lies with the government. The paramount responsibility is that of the Government, and not that of the individual citizen. A citizen can at best play a supplementary role by not providing protection or by helping in the identification. Madam, if the objective of the Bill is to enable the State to be more effective and more expeditious, The Bill

will, I am afraid, turn out to be an exercise in futility. It tries to shift the primary responsibility to the citizen.

Madam, the Bill, in fact, is another milestone on the road of retreat. In 1950, the Government sought some powers from Parliament to declare a person as an illegal immigrant an undesirable immigrant and to deport him. But, Madam, I will remind you that the situation continued to deteriorated became so grave that in 1964, the Assam Pradesh Committee which is not the AASU or the Gana Sangram Parishad—I was also in the Congress at that time and I was a Member of Parliament also representing that party, sitting there, on the other side—said :

- “(1) That a target date not later than March 31, 1965, to complete the deportation of the Pak infiltrants in Assam be announced and acted upon accordingly ;
- (2) That the Citizens' National Register with house numbers intended for preparation of the Census of 1951 be made a basis for tracing out Pak Nationals and deporting them without delay.
- (3) That adequate numbers of tribunals be appointed immediately to achieve complete deportation of Pak Nationals within the target date.”
etc., etc.”

In response, Madam, in 1964, under the Foreigners' Act, Tribunals were set up. My hon. friend from Jadhavpur referred to them. In fact he may recall that there were certain amendments brought into the order which ensured the right of the person whose status was impugned to present his case.

SHRI SOMNATH CHATTERJEE : This may have been misused.

SHRI RAVINDRA VARMA : It may have been misused. But the Central Government, in its annual report, to the House said that in one year after the establishment of the Tribunals, 32,654 cases were referred in 1964-65 and 32,022 of them were held to be Pak infiltrants. It appears, Madam, that these Tribunals were too effective—inconven-

iently affective and, therefore, the prescription, I suppose, of withering away was applied to them.

SHRI SOMNATH CHATTERJEE : If I were in power there, at that time, I could have solved the problem.

SHRI RAVINDRA VARMA : Now, Madam, I come to the proposed Tribunals. The proposed Tribunal reflects a lethal dilution of the responsibility of the State if not, the abdication of the responsibility of the State and, having transferred the responsibility to the citizen, it makes it a herculean task for him to make a complaint. In fact, it almost knocks out the *locus standi* of the complainant. The idea is clever indeed. I think the Home Minister is a victim of somebody else's cleverness. Madam, Clause 8 says that the Tribunal will consider two kinds of cases—one, a reference made by the Government on the basis of a representations made by somebody against whom an order has been passed under the Foreigners' Act. That means that the action will originate with a citizen making a complaint about an order under the Foreigners Act. The second is when a citizen makes a direct representation to the Tribunal. In both the cases, my hon. friend will realise, the action has to originate from a citizen. Now, the representation or the application is made by a citizen. That is why I say the primary responsibility has been shifted to the citizen. Handicaps have been heaped on his head by imposing conditions of eligibility that render the right a meaningless mockery.

Now, Madam, I shall refer to the three kilometre radius. I was the butt of some good humoured attack and it was said that there would be the law of the jungle in Assam if this limitation of a 3 kilometer radius is removed. Madam, this clause prescribes that a citizen may make a complaint only about a person living within a three kilometer radius of his residence. My hon. friend knows the pattern of infiltration in Assam. I wonder whether he has forgotten it. This Bill turns a blind eye to the pattern of infiltration in Assam. In Assam it is not that the people queue up at the check posts, or evade checkpoints, enter and then get lost as in Bombay city. Infiltration in Assam has been along the banks of the way ward, tur-

bulent, Brahmaputra. There are settlements or colonies, many of them of illegal migrants littered on the banks of the river. In various parts of the Char lands and riverine fastnesses which are far from other habitation inhospitable or inaccessible. Now what does my hon. friend propose? He knows very well that this is the configuration in Golpara, Darrang, Nowgong and Lakhimpur. What is his recommendation? If a man has to make a complaint, he must himself be in the same village. That is the point. So, you recommend that an Indian citizen first gets a certificate of citizenship; then he goes and settles down in an illegal migrant village and he acquires the eligibility to make a complaint. He induces two others to go with him and settle down in the same village and acquire the right to file affidavit if they survive. I am reminded of a saying in my mother tongue about the manner in which one can attempt to capture a pigeon. First put a piece of butter on its head, and when the butter melts, and streaks into its eyes and they close them, you can get held of the pigeon. It can flutter, but not fly away.

14 hrs.

But you cannot put the piece of butter on the pigeon's head unless you have access to the pigeon, unless the pigeon is in your grip. Similarly, you are providing very gleefully, very generously for a man in that village (which is almost, by definition, a village settled by illegal immigrants to complain. Madam, if this is not a 'strategic retreat' or 'successful retreat' in the tradition of Lord Wavell, who made that theatre of war well known in history, I do not know what is it.

Then there is another ploy which the Government has used; that is, to declare that there is no problem,—a method that a Howdini or Sarkar could have adopted,—a sleight of definition. Or should I say, it is quite Biblical. God said 'Let there be light; and there was light.' My hon. friend here says that 'those who come before 1971 are not illegal immigrants' and they, cease to be illegal immigrants. When you say illegal, what is the law? Does mere physical presence on the territory of India constitute title for citizenship? If that were the case then there was no question. Those who are found there are either legal immigrants or illegal immigrants or born citizens of

this country. Then, by what law do you make illegal immigrants legal? The laws governing citizenship in this country are in Part II of the Constitution and the Citizenship Act. Article 6 (1) (a) and (b) talk of those who were here before the 19th day of July 1948 and after 19th day of July 1948, and prescribe a procedure for acquiring residential qualification, then for applying and then for being registered as a citizen of India. In the same way the Citizenship Act, Clause 6, talks of a procedure which again involves application and registration. Therefore, both the Constitution and this law talk of a procedure of residential qualification, application and registration. Now you say, whether a man is registered or not, whether he has come in legally or not, whether the constitution and citizenship Act confer eligibility on him or not, the mere fact that he has come here before 1971 and he is in physical occupation in Indian territory makes him an Indian citizen. It is very generous. My friend talked of consensus—consensus excluding the people of Assam. Hamlet without the Prince of Denmark. My hon. friend must realise that there can be no Hamlet without the Prince of Denmark. Now Madam, mere physical presence does not constitute eligibility. If my hon. friend's bill is accepted, there will be an instant regularisation and conferment of citizenship on all illegal immigrants from 1947 to 1971. By what provision do they become legal? What is the provision of the constitution and the citizenship law that is being invoked? In fact, it is violative of the provisions of the constitution and the law.

Now, Madam, I have to turn to another question. We often hear it being said that international obligations have to be honoured. What are these international obligations? No published text of any treaty, to my mind, talks of any such international obligations about 1971. Have they been spelt out in any secret document?—so secret that the House cannot be told even, when it is being asked to confer citizenship on millions of people? What is the reason? We are told that in 1971 a new State was born, Bangladesh. Am I to understand, Mr. Minister that at the time of the operation, at birth—whether it was a Caesarian operation or not, I don't go into that,—the midwife was asked for this born? Am I to understand that Mr. Mujibur

Rahman said that since a new State was being born, nobody now will be admitted into Bangladesh, who originally had gone out from that territory? Was there no such thing as the concept of a successor Government? Or is it that in our magnanimity to give a push, a launching pad, we made this altruistic concession and said, okay, we agree, we will take this burden?

The country must be told when you talk of international obligation, otherwise we would not have asked you this question. Of what value is such a concession if it militates against the Constitution? Why then did the Government give the impression that they were willing to talk of 1965-66 if the demand for dispersal was given up.

Now, towards the end I must turn to the deletion of the proviso to clause 2. I entirely agree with my hon. friend from Jadavpur. He feels somewhat embarrassed that I am agreeing with him but I agree with him and with my friend from Silchar. The proposal here in clause 4 is dangerous, ominous, impractical and I would even say, historically immoral, because the proviso was included in the Constitution to provide for exigencies which were foreseen—that there might be civil disturbances in that area. A new State had come into being, which did not agree with our basic conception of secularism, therefore, the people left there could not be made to pay the penalty for partition. Rejection of proviso to clause 2 of the Illegal Immigrants (Expulsion from Assam) Act, 1950 takes away the protection given to those who migrated as a result of the civil disturbances.

My hon. friend from Silchar is a very dear person. I see he has now walked in after I suppose, a 'light' lunch, because he does not want to get stumped in the first over after lunch. I have high regard for his intelligence I have high regard for his industry, dustry, his patriotism, and his impartiality. Therefore, I was amazed at his smug satisfaction that the Home Minister and the Prime Minister had responded to their delegation and brought in an amendment to delete lines 12 to 14 on page 3 of the Bill. I do not know what sugar-coated crumb, my Rt. hon. friend, who perhaps does not take sugar in his tea, but before him, because

the offending part is sub-clause 2 of clause 4, which says :

“In particular and without prejudice to the generality of the provisions of sub-section (1), nothing in the proviso to section 2 of the Immigrants (Expulsion from Assam) Act, 1950 shall apply to or in relation to an illegal migrant as defined in clause (c) of sub-section (1) of Section 3.”

As long as this remains there, the vulnerability of those who want to seek the protection of the proviso to Section 2 will remain. I hope, my hon. friend will see reason to and drop this totally. I would have moved for its deletion, but rules do not permit one to move for deletion. If it is passed, as I said earlier, it will be a betrayal of history, it will be untenable, unenforceable and the nation may not accept it, if a situation arises to put us to test.

Mr. Chairman, I have taxed your patience a good deal and I shall not do so any more... I (*Interruptions*). I would conclude by saying that the Bill as it has now come before the House, is an abdication of the Government's responsibility. It is an elaborate eye-wash. I am very sorry that my friend, for whom I have high regard, and who I hope, sincerely wants to find a solution for this problem, has come forward with this Bill. He has got the very heavy burden for protecting the frontiers of this country from infiltration.

He is as much responsible as his colleague, the Defence Minister. Whose primary task is defence against an invasion. This is even more difficult. You get into the country, get lost, you look a like and you can not be detected. He has a very hard task. He must realise the gravity of this task and ask from Parliament an instrument which will help him to deal with that task ; and not ask for a nut-cracker where he has to deal with a massive problem of this size which is much larger than a nut.

SHRI BHUBANESWAR BHUYAN (Gauhati) : Madam, I take this opportunity to congratulate our Home Minister for introducing this Bill that will go a long way to fulfil the demands of the people of Assam,

particularly of a particular ethnic group. There is no doubt that the Bill contains certain points on which I have every doubt and I believe the Hon. Minister will give the necessary clarification. Particularly in regard to the over-riding power given in this Bill, I am really having some apprehension. Can you say boldly that there will be no more disturbances in any other parts of our neighbouring country? Are we going to seal them. I believe, Madam, ours being a democratic and socialist country based on non-violence and being a peace-loving country, the doors are open for the oppressed even of other countries. This point, I hope, you will consider very seriously.

I have heard the speech and the argument forwarded by our learned Member of the opposition, Shri Varma. He raised one objection only a few minutes ago that it is almost meaningless to allow a person to lodge complaint that so and so is a foreigner within a limit of three kilometres, which according to him will nullify the very purpose of the Act. May I say through you Madam that if we are to allow Mr. Varma sitting in New Delhi to lodge complaints to the people of Assam that so and so are foreigners? I think that will create a great havoc.

Madam, I have noticed that there are leaders who are championing the cause of the Assamese people and their agitation not only in this House, but outside also. I ask are they aware who are the people living in that particular State? If you kindly permit me I would like to enlighten just a few points in regard to the composition of the people of Assam. Madam, long back in the early history you will find Mon Khmer of Austric origin settled in Assam. Just after them or almost simultaneously Mongoloids covered most of the parts of Assam. Probably that was the time of the Sixth Century as per Nidhanpur Copper Plate when the first batch of the Aryan people were invited and settle in Assam. Scholars are of the opinion that not the caste Hindus but Kalitas and Kaibartas are the real and the first Aryans who came into Assam. Then some tribes whom we call Ahoms came to Assam in the 13th century headed by Great Ahom King Sukaph. Thereafter, you will find many other tribes known as Khamtis, Phakils,

Naras and Aitomyas settled there. They are particularly settled in the Upper Assam. The Muslim migration started in the year 1498, when Hussein Shah of Bengal invaded and occupied Kamtapur in Assam. Then Bengali-speaking Muslims migrated into Assam after the Yandeboo Treaty in 1875 when a major portion of the Goalpara district formed part of Bengal. At that time Assam and Bengal, all were part of one unified India under the British rule. After 1828 in Assam, mostly the Bengali Hindu exodus came and settled in Assam. Thereafter, you will find that the Britishers established tea-gardens in Assam, and with tea-gardens the peoples of tribal origin particularly came to Assam from Orissa, Madhya Pradesh, Bihar and even from Bengal and they formed a vast portion of the present population of Assam. So, I would like to point out that the so-called leaders of the Opposition who are lending support to the cause of the people of Assam, who are today voicing in favour of the Assam agitation, they are demanding that this solution must be peaceful and there must be honourable negotiations Government should not take a unilateral decision. Whether it is a matter of cut off year or a matter dealing with the question of foreign infiltrators into Assam. I may say they have not taken any step for the promotion-economic, linguistic or cultural activities—of these so many people belonging to different ethnic groups of Assam, what right have they to speak of the Assamese people as a whole. Some of these people were in the Government during the Janata Rule. What have they given to the Assamese culture, Assamese economy and its industrial development? The answer is that they have not done anything for them. Even now they are not giving any attention towards their problems. They are only giving lip-service. They are just sympathising with a particular section or ethnic group of Assam who are agitating in the name of the foreign infiltrators.

As to the question of foreign infiltrators, I would like to enlighten you that long back during the time of Mangaldoi elections when Hiralal Patwari was elected, a total of 48,000 voters had been deleted from the Voters' List. I hope you are aware that a memorandum was submitted at that time by Sarvashri Y. B. Chanvan, C. Subramaniam, D. K.

Barua, Hitendra Desai, B.B. Raju, K.P. Unnikrishnan, K. Gopal, Bedobrata Barua, Dinesh Goswami, Sohagata Ray, B.P. Das, Jawharlal Banerjee and or Rafiq Zakaria.

Now, some of these are the people who had to protest against these unauthorised, whimsical deletion of so many names, and so many voters being deprived of their right. Do you know that these are the people belonging to the religious and linguistic minorities in the Mangaldoi constituency?

I am also surprised to find that the names of 30,000 people mainly belonging to the minority community have been deleted from the voters' list in Karbi-Anglong district. I am really surprised to find that they had voted during the last February elections. They were then eligible, and to-day they are not. I do not understand the mystery of this adding, subtracting and slashing down of so many thousands of votes without properly examining and judiciously giving scope to those people to justify whether they are Indian citizens or not.

In the past also it has been admitted in the Assam Legislative Assembly that in most cases, these are Indian nationals who are harassed in the name of detection of foreign nationals. Such is the case.

It is because of this agitation, because of this lip-service from these people that the tribal people of Assam are really afraid, and they are demanding that a particular Union Territory be carved out of the present Assam, comprising the tribal belt of Assam. You will recognize that it is a serious development. It has taken place because of the lip service, because of instigation done by such reactionaries of our country, as well as because of instigation coming from outside India.

I agree that there is a certain amount of genuineness in some of their demands. I will refer to one, as a result of the present agitation in Assam, the tribal people, not to speak of ourselves, have sided with Government and supported the elections. They are still facing immense difficulties in getting their children educated in Assam. In the light of this, the tribal people of Assam have demanded a separate University or a full-fledged

degree college upto post-graduate level in their belt under any Central university. I would request the Home Minister to consider whether a Central University is needed or not, whether it can be justified and provided within this tribal in order just, belt to fulfil their aspirations.

These people are facing immense difficulties in the matter of higher education. They have to risk their life if they come to the Assamese majority areas to get their children educated. This will have to be considered.

In this connection, I would like to refer to some other facts. Although this particular Bill will go a long way, instead of welcoming it, the members of the Opposition are raising their voice against it, just for the sake of opposition, without going into it. They are instigating the Assam agitationists to continue or to begin another agitation in Assam.

Just a few minutes back, some of the hon. Members were trying to absolve the Janata Government of any responsibility. Some BJP leaders have visited Assam frequently on the eve of, and during the Assam agitation. Will you please enquire how many times those leaders visited Assam, what were the places they visited, who were the persons they met, and what were their associations, where did they dine and where did they get so much money to make so many air dashes to Assam during that period? It is a matter of very serious concern. It is due to the visit of those members of the Opposition that the February riots in Assam occurred, which is the dark spot in the annals of this country.

14.26 hrs.

[SHRI N.K. SHEJWALKAR *in the chair*]

You know the horrifying story of that particular riot. So many thousands of people lost their children. So many women and children were butchered, not to speak rape etc. I am thankful to the Chief Minister of Assam for the steps he has taken to rehabilitate and give help to those victims. These Opposition leaders are taking this minor plea in order to achieve their political aims and to reap a harvest from the Assam situation.

Even now they are going to support an agitation, seeking political advantage. Evidence of this I found in to-day's debate.

Will the Home Minister take every precaution to save the innocent people of Assam who are mostly of different ethnic groups, and particularly those religious and linguistic minorities in the near future, in the light of the threats coming even from these elements in this House?

Lastly, I hope that our Home Minister will not fail to do justice as far as the question of detection of foreigners is concerned. In this context, I reiterate my support to this Bill. With these words, I conclude.

SHRI CHITTA BASU (Barasat): I speak with sense of deep anguish and pain, because I had never imagined that I would ever be called upon to remind this august House of the commitment made by the national leaders to the hopeless displaced persons who, under historical circumstances, had to migrate to India. It gives me great pain and anguish that I am required to remind them of the national commitment, which they are going to dishonour now.

Coming to the problem, I would urge upon the entire House to consider the situation prevailing not only in Assam, but in the entire north eastern region. If you have patience to have a critical analysis of the contemporary trends of Indian politics, you would have to arrive at the conclusion that there is a distinct phenomenon of drift towards chauvinistic regionalism, and that there is not only a drift away from national mainstream, but a calculated effort on the part of many, to consolidate the forces, of division, secessionism and chovainism.

They are taking advantage of this discussion today, because the so-called demand on the question of detection/deportation of the foreign nationals is not only limited to the plains or hills of Assam but it has also been echoed and re-echoed in other vulnerable parts of the north-eastern region of our country.

You are well aware of the fact that very recently a delegation on behalf of 7 regional parties of the north eastern had been here

lobbying on certain issues. They have demanded that the foreign who entered Assam after 1971 should be detected and deported, those who entered Assam between 1961 and 1971 should be dispersed out of north eastern region and those who entered Assam between 1951-61 should be disfranchised. Therefore, the so-called movement regarding removal of foreign nationals is not only confined to the area of Assam alone but it has spread to other north eastern State also. My very respected friend, Shri Ravindra Varma, has also come out with a settlement right in the House that this demand which is now being raised in Assam and north eastern region is likely to be raised in other parts including West Bengal, Rajasthan and Gujarat. Therefore, we should understand the way we are moving. Is it the way to maintain the unity and integrity of the country? My grave apprehension is that all those dark forces of secessionists, all those dark forces of parochialism, all those dark forces who want to disintegrate the unity of the country, I want to say, will get further boosted up to raise this so-called demand and create conditions for the destabilisation of our entire country.

It has been stated on more than one occasion on this side and I am glad that the government does not disagree that there are foreign hands behind all this. Therefore, the matter is not merely limited to setting up of certain tribunals or taking steps to remove somebody and not to get them registered as Indian citizens, as I have been all along pressing but it is a matter which relates to the national unity and integrity of the entire country and all patriotic, democratic and secular forces should discuss or analyse the situation of Assam from that national point of view. Unfortunately, some of the national parties have taken a different view. I do not know unless to say that they are more for populist attitude than the interest of the country and its unity. Therefore, I would only request them to have a second thought over the approach which is to be taken in the matter of development in Assam.

It is not merely an apprehension; it is going to be a reality that the Government has so far decided to dishonour the national commitment which the national leaders of our country did give to the people of a part of

country. I want to refer to you the Statutory Act of 1950 which provides certain safeguards for the helpless people to migrate into Assam under certain conditions of communal disturbances and religious persecution.

Even after that, even after the statutory enactment was there to safeguard their interests the Government chose to have a policy instruction, which was issued on June 16, 1965. I want to be on record what was the content and text of the policy instruction I quote :—

“As state Governments are aware, the question of registration as Indian citizens of members of the minority communities who have recently migrated from East Pakistan, has been under consideration. The matter has been examined in the light of the views expressed by the State Governments. It has been decided that such of the migrants (Whether they have come with or without migration certificates or other travel documents) as have served their ties and connection with Pakistan and have settled in service, trade or profession in India, may be registered and Indian citizens under Section 5 (1) (a) of the citizenship Act, 1955, provided they fulfil the conditions laid down in Rule 9 of the Citizenship Rules, 1950. It is requested that necessary instructions may be issued to the registering authorities concerned and the number of migrants registered during each month intimated to this Ministry by the 15th of succeeding month”.

It is believed that the Government not only reiterated that statutory protection given by the 1950 Act, but they have also decided to issue a policy instruction which was an additional instrument for the safety and security of these minorities. Again, coming to the Assam Government's views which were issued by a Press Communique on 30-3-1980, it reads :

“So far as the members of the minority community of erstwhile East Pakistan who have migrated into Assam before 1971, there are already policy decisions laid down right up to 1969, to register them as Indian citizens provided that they fulfil the conditions laid down in

rule 9 of the citizenship rules. These refugees have been accepted for all practical purposes as citizens; not only have many of them been enrolled as voters but many of them have been rehabilitated by the Govt. themselves in agriculture, trade, industries, etc. They are, therefore foreign nationals only in the purely technical sense that they have not applied for and secured registration as citizens of India. Obviously the policy to register them as citizens having been laid down more than a decade ago, there can be no genuine grievance, if this situation is rectified in a manner which will cause the least amount of hardship to them."

I again only refer to another statement made by the then Home Minister, Sardar Zail Singh, who is now the President of the country. And he was on record that the Government had decided that the migrants (whether they had come with or without migration certificates or other formal documents) who had severed their ties and connections with Pakistan (now Bangladesh) and had settled in service, trade or profession in India might be registered as Indian citizens under section 5 (1) (1) (A) of the Citizenship Act 1955 provided they fulfil the conditions laid down in Rule 9 of the Citizenship Rules 1956. This is just a repetition of the 16th June 1965 policy instruction.

What is my point? My point is, according to them, to give statutory safeguard, not only safeguard, but by issuing policy instructions and by various statements made on the floor of the House the Government wanted to ensure the protection of the displaced persons who had to migrate to Assam under peculiar circumstances of history.

Now this Bill seeks to take away those assurances those statutory protections, those policy instructions, and those instruments which are still available with them. This constitutes, as I said earlier, with a deep sense of not only pain but anguish, a betrayal of the promise which was solemnly made to those sections of the people who are very much a part of our body, flesh of our flesh, blood of our blood.

I want that clause 4 (1) and (2) should be deleted because of the fact that this seeks to

take away those protections, which have been ensured to the East Pakistani displaced persons who have settled in Assam, by a law, several policy instruments, several declarations and announcements of the Government.

Again, when I say this I am quite conscious that this Bill or the Ordinance is not the substitute for a political solution of the problem. One point is very clear that this Ordinance or the Bill recognises the very fact that the cut off year should be 1971 25th of march. But merely by acceptance of the cut-off year 1971, 25th March does not constitute the solution of the foreign national problems in Assam and north-eastern part of the country. It requires a political solution. My charge against the Government is that they are always drifting away from their position and in this way they are encouraging those forces, who want to de-stabilise the country. Even at this late stage, unless you take a firm position in the matter of arriving at a political solution of the problem, the is unlikely to return to Assam. This piece of legislation may also ignite fresh troubles, fresh disturbances which may lead to further loss of life and property.

Lastly I would say that on more than one occasion I have been drawing the attention of the Home Minister that even if the tribunal is established, it cannot work satisfactorily unless there are properly laid down guidelines. And these guidelines have not yet been formulated properly. If they are really interested in seeing that the tribunal functions properly, it is necessary that the guide lines are properly prepared not only in consultation with the Government of Assam but also with the political parties, democratic organisations and the organisations of the minorities, both religious and linguistic. That alone can provide certain assurances for the protection of the minorities, religious and linguistic, even in the matter of conduct of the business of the tribunal, with these of words, I conclude.

SHRI MANORANJAN BHAKTA (Andaman and Nicobar Islands); Mr. Chairman sir, we are discussing Illegal Migrants (Determination by Tribunals, ordinance and which is subsequently replaced by the Bill.

The very roots of the problem comes from the partition of India. Right now I heard the

eloquent speeches of Mr. Ravindra Varma and many other opposition leaders. But the problem cannot be solved by the eloquency of the speaker. It requires understanding and feeling for the human beings.

All these problems which have arisen are, as I said, due to the partition of India. In 1947, when the country was divided, the refugees started coming from both sides—from East Bengal and from Punjab. Both the States Punjab and Bengal, were divided and thereafter the national leaders came in the fore-front and assured the suffering humanity that they will give them protection, they shall give them shelter and they shall rehabilitate them in this country. That was the position. Thereafter what happened was on Punjab side arrangements were made and the entire minority community were brought back. From this side also people went back. The problem on this side was minimised. But on the other side in Bengal, every now and then the national leadership tried that the minority population, the minority communities should live in that country and that is why the dialogue started. There were a number of agreements—the Nehru-Liyaqat Pact and other pacts—so as to give confidence to these people so that they need not leave their country and become a burden on India. When we speak about ethnic similarity, we must know that we were one country before 1947 and our relations, our culture everything was inter-mixed but when due to the political decision the country was divided and we became two, then only the two different citizenships question arose, not before that. After that these people were always under, some fear, threat some communal tension, killing, massacre, arson, looting, raping and what not. These people started pouring into this country to take shelter, to save their souls, to save their families. They were completely uprooted leaving all their property, belongings, everything in that part of the country. Thereafter, the Government of India received them in the camps and they were provided the rehabilitation facilities. In this very august House a lot of discussion took place, very eminent persons participated in the discussion, time and again assurance was given to the minority communities in that part of the country and all kinds of persuasions were made with that country to see that minorities are protected. One point

that I would like to mention here is what was the procedure when these people came? Our Constitution came into force on 26th January 1950 and in the Citizenship part of the Constitution, it is made clear that these people who came before the commencement of the Constitution will be treated as citizens of this country. As such, all the refugees who came from Punjab, were covered by the Constitutional shelter. But from the Bengal side how these people came? Every now and then they were tried to be persuaded not to come not to leave their country and so they remained. But when some situation arose that they could not live there out of fear, because of communal disturbances, atrocities, they left and come and they were received. How did they come? There were three modes of their coming. One mode was that these people came prior to the passport system, that is, without any valid documents. The second mode was that they went to the Indian High Commission's office and applied for the migration certificate and those migration certificates were granted by the Indian High Commission at Dhaka thereby accepting those people in India and with those migration certificates those people entered in India and they were received by the Government of India.

But the funniest part of it is their migration certificates were collected at the border check post when they were received and when they were sent. If today any body asks those people as to where their certificates are, they cannot say anything. Even I myself am a refugee. If you ask me today about the migration certificate, I will not be able to produce the migration certificate; and there after the third group came without the migration certificate. When such a chaotic situation existed, out of fear to save themselves and their family members they entered this part without any migration certificate. (*Interruptions*) and they were also taken. These are the categories. (*Interruptions*). Mr. Daga can very well say it because I told him a little while ago that one will not understand, who has not lost anything in that part, whose motherland is not divided, and who has not suffered and who has not lived on the platform and the streets. That is why they will not understand the complication of this human problem. And thereafter what happened? When these people came, the Government of India took them in different camps

and from there to the rehabilitation centres, and they were rehabilitated. So, what will you say about these people? Are they illegal immigrants? They are definitely not illegal immigrants. And thereafter, when the question of citizenship comes with this Ordinance or the Bill, if any body challenges them that they are not the citizens of India, the onus is with them to prove, but they will not be able to prove that they are citizens of India. Now, the question is what protection we are going to give to these people whom the Government rehabilitated, the refugees who came out of fear. And it is related in the proviso in the Immigrants (Expulsion from Assam) Act, 1950, an Act of Parliament as follows :

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

In this regard also, what are you going to do? With the deletion of this particular safeguard, what will be the position? The position will be that all these refugees who have come, the minorities, out of the civil disturbances there, will have to suffer under the present law. But one thing I must tell here and that is that this Government is bold enough at least to bring a document before the Parliament. This Government is bold enough to bring this Bill and the Ordinance. At least it is a beginning; and there are many versions from the Opposition side, I was carefully listening to them. But one thing I can tell is that they must come out and they must understand the practical problem of it because I have my own idea. During those days when refugees came particularly into West Bengal, the Ruling Party now or the Left Front people were in the Opposition at that time and at that time when the question of the rehabilitation of the refugees came, they were propagating and advocating that they should all be settled in Bengal and nowhere else. And thereafter many rehabilitation centres were deserted and people went back and whatever sympathies they have shown today if those sympathies were shown on that day, the refugee problem

would have been solved much earlier, but that was not done.

AN HON. MEMBER : How?

SHRI MANORANJAN BHAKTA : That you must know. You are from Haldia. You may not be knowing what is the suffering.

Whatever I am telling, I am just reminding you what you have done. I am not blaming any body. That is the conception in those days. But thereafter what did happen? The same refugees when they went to Marijappi, they had been killed. Even the children and babies were not given milk. There was shortage of water and all that. This had happened. Though in West Bengal, we are similar to them ethnically and culturally. We are one. There also these things had happened—in Marijappi—and that cannot be denied.

SHRI SOMNATH CHATTERJEE : I am avoiding all controversies. You raise those controversial things unnecessarily.

SHRI MANORANJAN BHAKTA : I am just mentioning that this problem is a human problem.

Some of the Opposition Members like Janata and BJP wanted what 60-71 should be taken and they should be sent to other States. But now the point has arisen that if that is done today, then a time will come when they will demand that in Delhi Delhites are in minority and therefore other have to be taken out. What would be the condition of Bengal? They will also say that some people should be taken out here and sent outside. So, this will be a mess and it will not at all solve the problem.

More so, when these people will be detected, most of the people—may be 5% or 10% are rehabilitated by the Government—and the majority of the people have their own properties. They have owned the properties and houses etc. What do you do? How do you shift them from these areas? This is a big problem. Therefore, here the question of 1971 is bound to be the base year. I am really grateful to the Government of India and particularly to the Prime Minister that at least a date has been fixed for this purpose.

At the same time, I would request the Home Minister to say categorically in this House and to assure that all these refugees who came from that part of the country the minority communities who have particularly due to civil disturbances and out of fear, entered in the country and have been living in this country are no less patriots and no less well-wishes of this country than any body else. For their protection and to provide them the citizenship right, the Home Minister should taken steps. He should give an assurance so that due to this legislation there is no problem arising in future in different areas that these people are not citizens and thereafter again another areas also starts this kind of disturbance which will be detrimental to the unity of the country and harmony of the people.

With these words, I support this Bill.

SHRI RAM JETHMALANI (Bombay North West); Mr. Chairman, Sir, I regret that I cannot support this measure though the measure is one which some day in a more comprehensive, in a more honest and in a more effective manner has got to be brought before this House.

I am glad, at least there is now some thinking along these lines. To that extent it may still be welcomed but I must indicate why I must drastically oppose this measure and disapprove of it.

First of all, let us come to brass tacks—the contents of this document. To my mind, this is an eye-wash. It is a smoke—screen. It is a fraud.

It is a fraud on those who have carried on agitation in Assam and made you alive to your responsibilities in Assam and have at last compelled you to bring this smoke screen before this House.

15 hrs.

Why it is a fraud and a smokescreen? The key Clause here is Clause 8. Under Clause 8, the tribunals will be activated into action if a reference is made by the Central Government. When will the Central Government make a reference? It will primarily make a reference when some representation

has been made by a person who is alleged to be an illegal migrant and against whom some action has been taken under the Foreigners Act. Of course, there is a further residuary power in the Central Government to make a reference. But the fraud consists in this that the Bill creates no obligation on the Central Government or any instrumentality of the Central Government to set up an effective machinery for the detection of these illegal migrants. If the Central Government in its secretariat receives some representation from the proposed illegal migrant, it will make a reference to the tribunal and, if in some other matter the question arises in the corridors of the secretariat of the Central Government, it will be referred to the tribunal. But the Central Government does not recognise its obligation which it has failed to fulfil since 1947 to enforce the law and the Constitution of this country. Where is the machinery under this Bill that you have set up for the detection of these illegal migrants? I would have expected that the Government would have now at least sprung into effective action, energetic action. This is only intended to full the people into a false sense of security that something is being done by the Government in the creation of tribunals. But nothing will be done.

Then, sub-clause (8) of Clause 8 is a very curious provision to be found in any statute. The substantial duty of investigating illegal migrants is put on the common man in the country. If any citizen of India, if any other person, makes an application that so and so is an illegal migrant, then the tribunal will look into that problem. Therefore, this is an abandonment of the constitutional obligation of every civilised Government to enforce the Constitution to which it owes an oath of allegiance. Every Government is supposed to enforce the law of the country, that is, the Foreigners Act. The people who enter in violation of the Foreigners Act must be detected by the Government and must be brought before the courts of the country for proper action of expulsion and other actions by the Government and its agencies. But here the Government is not concerned about that. The Government is happy only with its political prospects and with furthering their political prospects. It will sit quiet. If some vigilant citizen discharges the responsibility of the Government, then the

Government will move into action and make a reference to the tribunals.

I, therefore, submit that this is a negation of the constitutional obligation of the Government which these so called agitators in Assam have been drawing your attention to. Even to day, you have not spoken up to the reality of the situation and you only want to throw dust in our eyes.

I oppose this measure for more than one reason. The measure is based on a totally erroneous, a totally dubious and a totally unconstitutional policy. You look at the Preamble. It says :

“Whereas a substantial number of the foreigners who migrated into India across the borders of the eastern and north-eastern regions of the country on and after the 25th day of March, 1971...”

By this Preamble, you want the Parliament to whitewash for you your crime and your neglect of your elementary duties as a Government for more than a quarter of a century. The Preamble seems to suggest as if the first illegal migrant came into this country on 25th March, 1971.

Some people followed thereafter and the Government has now decided to treat those persons and deal with them through the machinery of Government. It is perversion of historical truth. The Parliament is being asked to utter a historical untruth in one of the Preambles of its solemn documents like the statute. Migration and illegal migration on a much vaster scale has taken place before 25th March, 1971, and you make a solemn pronouncement in the Preamble as if this problem has arisen for this country after that particular date.

I have never seen—I have heard that in some Communist countries, they write history to suit their purpose—but the Parliament of this country is now being persuaded and compelled to re-write history, for the purpose of again putting under the rug the crime of callous neglect of constitutional and legal duties which this Government has been guilty for a quarter of a century.

Yesterday's figures which were given to Parliament show that during the last about

nine months, roughly about 9,000 persons have come in. Now, if 1,000 persons a month are able to infiltrate after we were told nearly three years ago that the Government has now taken stringent measures and the Parliament was told that we have now sealed the border, if through a sealed border, 1,000 illegal immigrants are coming in every month, what must have been the position before the borders were sealed? That shows that your figures were totally false. They were totally dishonest. The real figures were those which these great patriots of Assam had put forth before the country. On any rough estimate, if 1,000 can come through a sealed border, how many can come through unsealed border, make your calculations and I believe that at least 3 millions must have crossed into this territory between 1947 and 1971 which is the date fixed. After that, undoubtedly, on the contrary there has been less of infiltration of illegal immigrants into this country.

My friend here said that we have an aftermath of the partition. How many persons have come during these times?

We are all the time accusing the so called agitationists that “You are exaggerating” but now the cat is out of the bag and we know on which side the truth lies.

(Interruptions)

SHRI RAM JETHMALANI: The date, 25th March, 1971, still remains a mystery.

(Interruptions)

SHRI RAM JETHMALANI: This Bill is based upon a false political philosophy and false constitutional philosophy. Every person who came into this country, whether he came before 1971 or after 1971 is an illegal immigrant and is liable to be dealt with under the Foreigners Act. I want to ask what right has any ruling Government, what right any ruling party, what right has any Prime Minister, what right has any Foreign Minister, to say that millions of persons who occupied our territory illegally, will continue to occupy that territory illegally?

This proceeds upon the assumption that the Indian soil, that Indian territory is the

private property of those who negotiate on behalf of the people of this country and they are free for the furtherance of their political advantage to barter away the national territory in this way. Because if millions of persons sit on our territory and squat there and share the resources of the adjoining territory, then it means that you have virtually ceded that territory to them and this is why, I must very seriously oppose this Bill.

There is still one ray as they say, there is a silver lining to every dark cloud, that silver lining to a dark cloud is to be found in confession in the Preamble. The confession in the Preamble is that these persons, by taking advantage of circumstances of their migration and their ethnic similarities, have continued to remain in India whereas the continuance of such foreigners in India is detrimental to the interests of the people of India.

This is a confession. If this is a confession, then how do you justify the millions who came before the 25th March 1971. If those who came on the 25th March, 1971, are detrimental to the people of India or the public of India, why not those who came one day earlier, on 24th March? Why not those who came one year before or two years before? Therefore, somebody will have to explain to us this fraud. If the Prime Minister did something in 1971, she should take the people of this country into confidence, she should come before the people of this country and say, 'I have entered into a secret international deal and I want the people of the country now to respect me and to respect the deal which I have entered into'. But that is not being done. Slowly some time it comes through the Ministers who speak on various occasions, in public functions; on occasions where those speeches are not called for, they just let go some hints that some international obligations of the Government are being observed and fulfilled by this kind of a cut-off line. But if you have entered into this kind of secret deals, please inform the nation, the people of the nation; take the nation into confidence, and the nation may support you. But this is a very fraudulent manner of getting along with you work.

As I said, the correct Constitutional, legal philosophy underlying any such measure should be that every one who has disobeyed the law, violated the law, should go. But my friend here should not think that I am stone-hearted, that I have no sympathy for the refugees. I started my life as a refugee, twice in my life. He has perhaps started as a refugee only once. Therefore, I have the greatest sympathy for those who go through that phase of life and become refugees and displaced persons. I would have thought that the correct policy underlying the measure should have been that every illegal migrant will go, whether he is antique or whether he is new, but subject to one great international humanitarian obligation of every civilized country again, that he who has come here as a genuine refugee must receive an asylum in this country and must share our poverty, our meagre resources, because that is in consonance with the civilization of India—anybody who has come in search of refuge must get it in this country whatever be the inconvenience to the hosts. But that kind of humanitarian philosophy, that kind of commitment to international law, is not to be expected from this Government, and no wonder it is conspicuously absent from the provisions of this Bill.

I submit, therefore, that this Bill requires a drastic improvement, this Bill requires a more honest preamble, this Bill requires a more honest machinery, this Bill requires a more vigorous enforcement of the law. And you are abandoning and jettisoning your responsibility and are transferring it to the citizen when the liability and obligation is really yours.

SHRI SATISH AGARWAL (Jaipur): How generous the people of the country are! Both the refugees have been sent to Parliament. Shri M. Satyanarayan Rao: It happened twice in his case. Shri Satish Agarwal: He will come here next time also and.

I wish the same to you also.

श्री मूल चन्द डागा (पाली) : इस बिल को मैं पढ़ रहा था तो मैंने उस में यह पाया :

"The 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..."

मैं आप से यह जानना चाहता हूँ कि उस बिल का आप का आर्जेक्ट क्या है कि आप किसी आदमी को एक्सपेल कर देंगे? किस प्रकार करेंगे एक्सपेल करने का तरीका क्या है? कौन उसको आगे स्वीकार करेगा? क्या ये हमारे बनाए हुए कानून आस पास के पड़ोसी देश मान लेंगे? आप ने फैसला किया किसी आदमी के बारे में कि वह माइग्रेंट है और उससे कहा कि यहां से चले जाओ। वह नहीं जाता तो आप ने जेल में रख दिया। जेल में रखने के बाद उसने सजा भी भुगत ली। उसके बाद फिर कहते हैं कि जाओ। दूसरा देश कहता है कि हम नहीं लेते। पड़ोस का देश लेने को तैयार नहीं है। तो जब सेक्शन 20 आप पढ़ते हैं तो देखते हैं किस प्रकार इस एक्ट को आप इम्प्लीमेंट करेंगे? सेक्शन (20) में कहा गया है।

"Where a person has been determined by a Tribunal or, as the case may be, by the Appellate Tribunal, to be an illegal migrant, the Central Government shall, by order, served on such person, direct such person to remove himself from India within such time or by route as may be prescribed in the order and may give such further directions in regard to his removal from India as it may consider necessary or expedient."

आप क्लॉज (20) के अन्तर्गत एक आर्डर देते हैं लेकिन उसके बाद लिखा हुआ है कि अगर वह उसको नहीं मानता है तो उस पर मुकदमा चलाया जायेगा और फिर उसके बाद आप उसको जेल में रख सकेंगे। मान लीजिए वह बार्डर पार करना चाहता है लेकिन बार्डर वाले कहते हैं कि हम तुम्हें नहीं लेते तुम वापिस जाओ तो वह क्या करेगा? एक तरफ तो हिन्दुस्तान के लोग मानते हैं कि जो भी दुखी आ गया है उसको रखा जाए, इस सिद्धांत को मानते हैं और इस

आदर्श को स्वीकार करते हैं कि मनुष्यता और मानवता के नाते उसको रखा जाए लेकिन दूसरी तरफ इस बिल में आपने लिखा है 'एक्सपेल'। मैं चाहता हूँ आप अपना कानून दूसरे देश पर कैसे लागू कर सकते हैं आप अपना कानून बंगला देश पर लागू नहीं कर करते। यह जरूरी नहीं है कि वे आपके कानून को मानें। अगर वे उस आदमी को बार्डर पार नहीं करने देते हैं तो ज्यादा से ज्यादा आप उस आदमी को जेल में रखेंगे लेकिन कितने समय तक? एक बात हो सकती है कि उनको वोट का अधिकार न दिया जाए लेकिन वह बात भी आपने इसमें कहीं नहीं लिखी है। उस आदमी को एक्सपेल करने के बाद जो प्रक्रिया होगी उसके बाद भी वह आदमी इसी देश में रहेगा और आपने यह भी नहीं लिखा है कि उसको वोट देने का अधिकार नहीं होगा। आपने यह नहीं लिखा है कि क्या क्या कांतिवैसेज होंगे।

इसलिए मैं जानना चाहूंगा कि आपने इस बिल के आर्जेक्ट में जो लिखा है उसकी पूर्ति कैसे होगी, किस तरह से आप इसको इम्प्लीमेंट करेंगे और उसका तरीका क्या होगा।

श्री एस० रामगोपाल रेड्डी (निजामाबाद): इस बिल में सब कुछ लिखा है।

श्री मूल चन्द डागा: रेड्डी साहब का विभाग बहुत रेड्डीली काम करता है। इनके दिमाग में कोई गड़बड़ नहीं है, ये बिल्कुल रेड्डी हैं। इसमें लिखा है:

"Provided that no such application shall be entertained by the Tribunal unless the person in relation to whom the application is made is found, or resides, at a place within three kilometres from the place of residence of the applicant."

आपने लिखा है कि कोई भी एप्लीकेशन देकर कह सकता है कि यह फारेनर है। पड़ोस का या उस एरिया का रहने वाला शिकायत कर सकता है।

शिकायत करने के लिए कौन आदमी मेहनत करेगा और अपनी जेब से 25 रु. देगा और एफिडेविट पेश करेगा। इस बारे में आपको किसने बताया है। यह सारा काम सरकार को करना चाहिए। डिटेकशन का काम सरकार के जिम्मे हैं, वह पता लगाए कि कौन लोग 1971, 25 मार्च के बाद आए हैं। कोई मशीनरी नहीं है, क्यों कोई एक नयी आफत मोल लेगा और एफिडेविट के लिए पैसे खर्च करेगा।

... 'shall also be accompanied by such fee being not less than Rs. 25 and not more than Rs. 100 as may be prescribed.'

इस प्रकार शिकायत करने से एक नई आफत पैदा हो जाएगी। 1971 में जब बंगलादेश बना, उस समय उन्होंने एक डेट फिक्स कर दी। तब उन्होंने एक पोलिटिकल डिमीजन न लेकर एक ऐसा डिमीजन लिया कि 1950 के बाद जो भी आए हों, उनको भी लिया जाए। तो उसकी प्रापर्टी क्या होगा, इस बिल में इस बारे में कुछ भी नहीं कहा गया है। उसकी जायदाद का मालिक कौन होगा, इस बारे में कहीं भी लिखा हुआ नहीं है कि उसको उसकी जायदाद दी जाएगी या नहीं।

श्री गिरधारी लाल व्यास : (भीलवाड़ा)
प्रापर्टी भी होगी तो देंगे।

श्री मूलचन्द डागा : देंगे, तो यह भी ठीक है। 1971 के बाद जो आप ने डेट फिक्स की है, ऐसे कितने लोगों को आइडेंटिफाइड कर दिया जाएगा, डिटेक्ट कर दिया जाएगा, इस बारे में आप कुछ कहने को तैयार हैं।

मैं कहना चाहता हूँ कि इस एक्ट के अन्दर कुछ खारियाँ हैं, उन खामियों को पूरा करना चाहिए और पूरा करने के बाद सोचना चाहिए कि उन खामियों के अन्दर कैसे अपने

उद्देश्यों की पूर्ति कर सकेंगे। इन्हीं शब्दों के साथ मैं अपनी बात समाप्त करता हूँ।

MR. CHAIRMAN: Now Mr. A.K. Roy. Kindly be brief.

SHRI A.K. ROY: I don't take more than half an hour.

MR. CHAIRMAN: You should not take more than 7 minutes. Please be brief and conclude within the time.

SHRI M. SATYANARAYAN RAO (Karimnagar): Yesterday, hon. Speaker has given a Direction. According to that Direction, if the hon. Member exceeds the time allotted, that will not be recorded.

SHRI A.K. ROY (Dhanbad): Sir, in distant future people will be surprised to read long ago there was a government in a country called India which seriously negotiated with some party on the question of uprooting millions of people settled for a long time; and there was an opposition which criticised that Government was not firm enough to uproot those people. And they would be further surprised to know that ultimately the Government came with a Bill to form a tribunal to legalise the process of uprooting.

Sir, I consider this Bill is not only a crime against humanity, but it is a crime against the Indian Culture. Those of us who were in Bangladesh and who migrated, know the pain of it. We tried to remain there even after partition and I can tell you if you accept the criterion fixed by those Assam leaders or as has been reported by my friends on this side or that side, then I am also a 'foreigner'. I would like to bring on record that if the 1961 criterion you are fixing then I am proud to declare myself that I am also a foreigner. If partition is legal, I would like to say every refugee is a legal citizen. If partition of India is illegal, then only the question of legality of the refugees arise. Who is responsible for the Partition? We did not want it. Who enforced it? Is there anybody who left his home and hearth willingly? I have not seen anybody. I have seen how we had to leave our country, our village and our towns.

And what an inhuman and unsympathetic attitude this House is putting on record. What is the aim of this Bill. I am of the firm opinion that these people sometimes confuse as if the Congress Party is a great protector of the minorities and the Janata and the BJP opposing the minorities. My views are there. The Janata, Congress, BJP—all brands of Congress and Janata are all bourgeois parties. They are in collusion and they are all against these minorities who are helpees. They ought to appease the majorities because they have to get votes.

This anti-foreigner movement has died a violent death, I should say it has not died silently since thousands of people died in this Movement. Those people who died at Nellie are their children foreigner? Now, what is the definition of citizen in your Citizenship Act? Anybody born in India is an Indian. Then all those person who were killed, who were called foreigners, their children because they were born in India, are they also foreigners? Those leaders of the AASU whom these people are supporting, have they shed even a drop of tear for them? Are you going to solve this problem with the Tribunals? If so, then what is 'foreigner'? Foreigner is an attitude. It is not so under the 'Citizenship Act' It is an attitude and a very very dangerous attitude in India where every outsider is a foreigner and every foreigner is not an enemy. What is the attitude that we are cultivating?

Now, this Movement has died a violent death, as I said, but the Government does not want that should end. It wants the Movement should continue. This bourgeois Opposition also wants the Movement should not die, but it should remain. Why?

PROF. MADHU DANDAVATE (Rajapur): I am not a bourgeois; I am a petty bourgeois.

SHRI A.K. ROY: He may be called a repented bourgeois.

I would like to say that if the movement dies, then communalism will die; and for the survival of this bourgeois parties, there should be communalism. The only difference between the opposition and the ruling party is that the letter wants that communalism;

should remain, but it should be controlled—calculated communalism; but the opposition wants uncontrolled communalism. That is the only difference.

The Preamble to the Bill says:

“Whereas a substantial number of the foreigners who migrated into India across the borders...”

You are rather certifying that all the allegations of the Assam movement leaders are correct. You are bringing that in this Bill, and you are also in league with them. You are actually seconding their allegations that there are a substantial number of foreign migrants. Who are those foreigners? Were those children who were killed in Nillie the foreigners? The Preamble continues:

“And whereas the continuance of such foreigners in India is detrimental to the interests of the public of India.”

Is it true that the continuance of the migrants from Bangladesh is against the interests of India? I would like to ask the BJP people who are now in the forefront: what is their concept of 'Akhand Bharat'? Is not Bangladesh also included in 'Akhand Bharat'? Do we consider a Bangladeshi as a foreigner, seriously, even if he comes with a passport? Let us ask our soul: have we reconciled ourselves to the partition of India in such a way that we consider the Bangladeshi as a Foreigner, even to the extent of thinking that his entry is detrimental to our country? There should be a limit to everything.

If you consider that Bengladeshis are foreigners, say so; we will go somewhere. If you consider all Muslims as foreigners, they will go elsewhere. Then what is the point in my facing the bell here? That way, we will go home, if you say that we are all foreigners. We will then go home. You tell Bengali people: 'You are all Marxists. You go to hell. You may also say that Muslims cannot be believed.

So, you are establishing a tribunal and now you will call people one by one and tell them so. I am declaring that we will not go any where. We will not go

from Assam, from Bengal, or from Delhi. We have come. We will not migrate a second time. We will fight with our back to the wall. It is not an easy thing. You are uprooting, and re-uprooting.

I read a book, "Fall of Paris" by Elia Ehrenberg. In that book, it is mentioned that one French soldier was standing in his own village on the German-French border during the First World War. He fought on the side of the French, but had to retreat at that time. His village was destroyed, and then they re-built it. During the Second World War he was again recruited ; and he was standing in the same village, and again he fought; but that village was destroyed. Then he started wondering how many times they were to re-build their homes, to be destroyed again and again.

This is what is happening here also. BJP and JP and all parties should go there. These people have said: "They are hooligans and beggars collected from Bengal." I tell Mr. Ravindra Varma: he was not a foreigner at Ranchi. I request him: he should go there investigate and see whether those people are genuinely settled in Assam or they are beggars collected from West Bengal. If he says so, I will accept it. If that is not the position, they should tell the ASSU people that they have no right to increase the misery of the people. We are compromising with, and surrendering to the forces of communalism.

They say the secessionists ; our left front people are also wonderful. They tell the communalists that now they have discovered a new Marxist thought. What is that ?

Communalists should be called secessionists. Communalists are not extremists ; they are not. Extremism has a different meaning. Secessionism has a different meaning. Even in a communist country the right to secede is accepted. If somebody wants to secede from India, we want to talk to him. If somebody says, these people will secede from India, these AASU boys, they will remain in India as sepoys. If they want to go away that is the best thing ; they will not go. These are communalists. Communalism and the racism are the racism for India.

This is what once Jawahar Lal Nehru said. I believe it. There should not be a compromise. You cannot negotiate. I tell you that the entire Congress people had negotiated with Mohammad Ali Jinnah. Could they prevent the partition ? No. You have to fight communalism ; you cannot compromise ; you cannot come with this Bill. Section 8 will infer. Section 12 will detect. Section 20 will deport and Section 25 will jail. Finished. These are the sections you have brought in. It will be on record where you deport.

If tomorrow Ceylon comes with this type of a Bill that all the Stateless people will be deported, what will be the reaction in this House ? For Tamilians, there will be one tribunal in Jaffna and other places and they will be called, come on, show your certificates." How many of you are having Indian certificates in your pocket ? If tomorrow you people are put before the tribunal and are asked to prove whether you are Indian citizens, can you do it ? Can you, in the Chair, prove that you are an Indian citizen ?

MR. CHAIRMAN : I at least can.

SHRI A.K ROY : That is a very exceptional thing you have done. That is why you are in the Chair. But I say what will be the reaction in this House ? Did you not condemn the Immigration Bill in this House about England ? As the Conservatives were tightening the immigration rules, were you not condemning them ? If tomorrow in England they start holding tribunals saying all those people have to prove whether they are illegal immigrants or not and then they would be thrown out, what will be the reaction here ? Nobody knows where they will be dropped, whether in the English Channel or any other place.

Is there any civilized government which can frame a law of deportation without knowing where they should be dropped ? We read in the Old Testament that the Palestinians were multiplying. What can be done ? Drive them out. So, the Moses had to lead them. Are you to become the Moses taking all the immigrants from Assam; and there is no Sinai Desert. You are making a fun with history, culture, tradition and the conscience

of the country. So, I condemn this Bill as a criminal Bill. ✓

THE MINISTER OF HOME AFFAIRS (SHRI P.C. SETHI) : I am grateful to the hon. members who have taken a very live interest which is evident from the discussion and the amendments moved in the Bill under consideration, namely, *Illegal Migrants (Determination by Tribunals) Bill, 1983*. The hon. members are aware that the subject matter of the Bill under consideration has been of considerable interest to the House and the people of Assam and the whole of country. The interests of various sections of people have to be duly taken into consideration in putting forward a Bill of this type. We have tried to be fair and just. While apprehensions of linguistic and various minorities who have had a bitter experience of the agitations are understandable, the apprehensions of the Assamese speaking people, that their language, culture and interests are likely to be jeopardised have also considerable weight. Therefore, we have to strike a balance so that in general the people of Assam could feel assured that government is deeply committed to safeguard the interest of the area and its people.

At the same time we have ensured that the interests of minorities are also safeguarded and there is no undue harassment to any minority groups while ensuring the detection and expulsion of the post-1971 migrants.

As far as the suggestions made by the hon. Members are concerned, with regard to the suggestion made Mr. Kodyan I would like to say that in the rules to be framed this aspect which he has mentioned that the prescribed authority on receipt of an application under sub-clause 2 of clause 8 should be an impartial authority will be taken care of and action will be taken to ensure that fairly high ranking officials will be made the prescribed authority.

I do not want to deal with the individual points of the Members. When the amendments are moved I shall reply to the amendments when they come.

MR. CHAIRMAN : Mr. Kodyan, Do you want to add anything ?

SHRI P.K. KODIYAN (Adoor) : I do not want to add anything.

MR. CHAIRMAN : How the Resolution has to be taken.

SHRI P.C. SETHI : Before the resolution is put to vote I would like to reply to the Resolution also.

MR. CHAIRMAN : That you can do even now.

SHRI P.C. SETHI : It may be recalled that when the Bill was introduced in the Lok Sabha on 22.11.1983 it was opposed by Shri Banatwalla, Shri Chitta Basu, Prof. Chakraborty, and others. It may also be recalled that when Started Question No. 207 was answered in the Lok Sabha on 7.12.1983, Shri Atal Bihari Vajpayee, Shri Suraj Bhan, Dr. Basant Kumar Pandit and Shri Indrajit Gupta had made critical comments on the Bill. The lines on which the Members have opposed the Bill are as follows :

- (1) Government has not taken adequate steps to solve the Assam problem and the talks have not been resumed.
- (2) The protection given to the 'refugees' under the Immigrants (Expulsion from Assam) Act, 1950 is being withdrawn under the provisions of the Bill. Government is, therefore going back on the commitment made earlier in respect of 'refugees' from time to time.
- (3) The Bill seeks to deal with illegal migrants who have entered into Indian or after 25.3.1971. However, it is silent on those who entered into India before this date. In other words, what is the policy of the Government in regard to pre-25.3.1971 entrants ? Will they be allowed to remain in India ?
- (4) The Government is trying to appease the minorities and is acting against the interests of Assamese.
- (5) The Government has abdicated its responsibility by providing in the Bill that applications may be made to the Tribunal by private citizens.

- (6) There is a provision in the Bill that a person in respect of whom an application is made shall reside within an area of 3 kms. from the place of residence of the applicant. There are areas in Assam in which only the migrants reside in vast stretches of land, and therefore nobody will come forward from these areas to make applications to the Tribunal.
- (7) The fee prescribed for making an application to the Tribunal will deter people from making applications as even the minimum fee of Rs. 25/- is not a small sum.

It is not correct to say that Government has not made any efforts to solve the Assam problem. Government has been alive to the genuine concern of people of Assam on the issue of foreigners. Various measures have been taken in this regard. Government has decided in the light of the recommendations made by an Expert Group to erect a barbed wire fencing along the Indo-Bangladesh border and construct a broad black tar jeepable track along side the wire fencing. Government has also decided to raise 3 additional Bns of B.S.F. and strengthen the border outposts. These measures will go a long way in preventing illegal entry. The promulgation of the *Illegal Migrants (Determination by Tribunals) Ordinance, 1983* is also a step in this direction. Government is anxious that the post 24.3.1971 illegal migrants should be detected and expelled. 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 the judges received from various State Governments have been forwarded to the State Government of Assam.

On the question of resumption of talks Government have made its stand clear that its doors are open for negotiations. The positions adopted by the Government and the AASU/AAGSP during negotiations are fairly known. In respect of the pre-1961 and post-1971 entrants an area of agreement was found in the several rounds of talks with AASU/AAGSP and later with the representatives of Government, Leaders of Opposi-

tion in Parliament and AASU/AAGSP. Government while remaining firm in honouring the national commitment in respect of pre-March 1971 entrants was prepared to consider different alternatives with a view to accommodate agitators' point of view. However, these were not found feasible.

However, in view of the resumption of agitation by AASU/AAGSP the efforts made by the State Government to restore normalcy have received a set-back. Some of the incidents which have accompanied the resumption of agitation such as bomb explosions, encounter with Meiti extremists and attack on the life of the Chief Minister, Assam show that the agitation is now passing on to the hands of extremist elements. In such an atmosphere the question of resumption of talks does not seem to have any relevance at this stage. What the Government has done by promulgating an Ordinance and introducing the Bill to replace 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 Leaders of 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. In April 1980 the Prime Minister during her visit to Assam suggested that 1971 be taken as the starting year for commencement of work so that the magnitude of the problem could be assessed and talks continued to arrive at a final decision. If this had been accepted by the agitation leaders, substantial progress could have been achieved in identifying foreigners. However, they remained adamant in their approach and wanted total disfranchisement of 1961-71 entrants and their dispersal outside Assam regardless of the impracticability of the demand and the misery it would entail. Government is keen that a solution to the problem should be found. However, the situation being an extremely complex one and at this stage when the State Government are trying their best to restore normalcy the need of the hour is to strengthen the feeling of cooperation and find a solution to the problem amicably and eschew doing or saying anything which may reopen the wounds or incite ill feelings.

MR. CHAIRMAN : The question is :

“This House disapproves of the Illegal Migrants (Determination by Tribunals) Ordinance, 1983 (Ordinance No. 8 of 1983) promulgated by the President on the 15th October, 1983.”

The Motion was negatived

SHRI RAVINDRA VARMA : I beg to move :

“That the Bill be circulated for the purpose of eliciting opinion thereon by the 10th March, 1984.” (36) Since the Minister has not spoken on this, I think, he is accepting my amendment.

SHRI P.C. SETHI : There is no question of my acceptance at this stage. If I accept it, it will take along time and it will endanger the entire process of action taken.

MR. CHAIRMAN : The question is :

“That the Bill be circulated for the purpose of eliciting opinion thereon by the 10th March, 1984.”; (36)

The Motion was Negative

MR. CHAIRMAN : Now the question is :

“That the 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 Control Government to expect illegal migrants from India and for matters connected therewith or incidental thereto, be taken into consideration.”

The Motion was Adopted

MR. CHAIRMAN : Now I have to proceed clause by clause. On clause 2 there are three amendments by Shri Mool Chand Daga, Shri Banatwalla and Shri Santosh Mohan Dev. I will call them one by one.

Shri Mool Chand Daga—Absent

Shri G.M. Banatwalla.

Clause 2—(Application)

SHRI G.M. BANATWALLA (Pounani) : I beg to move that :

Page 2,—

Omit lines 18 to 22. (38)

I will speak on this amendment, Sir.

MR. CHAIRMAN : Just wait. What about Mr. Santosh Mohan Dev. Oh, yours is the same, you cannot move. So, Mr. Banatwalla.

SHRI G.M. BANATWALLA : Mr. Chairman, Sir, my amendment is to clause 2 (a) and that is to delete this clause 2 (a). This clause 2 (a) says that :

“Nothing in this Act shall apply to or in relation to—

- (a) any person who was in any State and who had been expelled from that State or India before the commencement of this Act in that State or in relation to whose expulsion from such State or India any order made before such commencement under any other law is in force.”

My submission is that this Clause (a) of Section 2 is not in conformity with scheme of the Bill. The scheme of the Bill is that an illegal migrant is one who has entered into India on or after the 25th day of March, 1971. But here, a proviso has been made, an exemption has been made, and that is that expulsion orders issued prior to this Bill shall remain in force. My submission is that such expulsion orders as may have been made prior to the commencement of this Bill not necessarily be based on this date, namely, the 25th of March, 1971. As such we will have a very piquant and a very discriminatory situation — discriminatory situation in the sense that some will be expelled pursuant to orders which have not been based on this date of 25th March, 1971 while others will be expelled pursuant to this date and pursuant to this date being taken as the basis in accordance with the present Bill. So, we have this discriminatory situation and this discrimination violates Article 14 of the constitution. We have a number of persons on whom expulsion orders continue to remain in force without taking into consideration this basic date of 25th March, 1971 and there are others who are being sought to be expelled taking into consideration this date of 25th of March, 1971. Therefore, my submission is that there will be a discriminatory situation. As such, that, it is necessary

to provide that orders passed prior to the Bill expelling anybody cannot remain in force so that in future any person expelled is expelled only pursuant to the scheme of this Bill.

And we should have the scheme of this Bill uniformly applicable to one and all. I, therefore, urge upon the House and the hon. Minister to accept this amendment.

PROF. MADHU DANAVATE (Rajapur): He has challenged the constitutionality of the Bill.

SHRI P.C. SETHI: Sir, this amendment seeks to suggest that any person who was in any State and who had been expelled from that State or India before the commencement of this Act in that State or any person in relation to whom an expulsion order has been passed and is in force before the commencement of this Act should be given an opportunity to utilise the form of the Illegal Migrant Tribunals established under the present enactment. This amendment is not acceptable because under the Foreigners Act, the Tribunals had been constituted in Assam and if the person concerned had chosen either to avail or not to avail of this form and alternatively or in addition seek remedy through civil court, he could not be permitted to re-agitate the issue *de novo* under the present enactment before the newly constituted Tribunal.

SHRI SOMNATH CHATTERJEE: The Foreigners Tribunal is a farce. You know of that. Who manned them and what sort proceedings took place there? It is a very vital issue he has raised. I have got the letter of Giani Zail Singh saying that these Tribunals have not really worked properly, how the police at that stage brought the people before those Tribunals and those Tribunals just passed on line order.

So, this is a very valid point. Please reconsider it. Don't read this out. Your reply was prepared before you heard us. Please reconsider this.

SHRI P.C. SETHI: This reply has been prepared after going through it.

(Interruptions)

MR. CHAIRMAN: I shall now put amendment No. 38 moved by Shri Banatwalla to the vote of the House.

Amendment No. 38 was put and Negatived.

MR. CHAIRMAN: I shall now put clause 2 to the vote of the House. The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill

Clause 3—

(*Definitions and Construction of reference*)

SHRI G.M. BANATWALLA: I move:

Page 2, —

for lines 36 and 37, substitute—

"(i) he, having been ordinarily resident in any place outside India, has entered into India across the borders of the eastern and north-eastern regions of the country on or after the 25th day of March, 1971." (4)

Page 2, —

after line 41 insert—

"Provided that where a person has migrated into India from Nepal, the date for the purpose of sub-clause

(i) Of this clause shall be the 30th day of July, 1976." (39)

SHRI SURAJ BHAN (Ambala): I move:

Page 2, lines 36 and 37, —

for "25th day of March, 1971" substitute—

"26th day of January, 1950" (52)

SHRI RAVINDRA VARMA: I move: Page 2, —

Omit lines 36 and 37 (56)

MR. CHAIRMAN: Mr. Banatwalla, Do you want to say anything on your amendments?

SHRI G.M. BANATWALLA: I will continue to pursue it when it involves the fate of the nation.

Mr. Chairman, Sir, this clause is very important because we have the definition of the term 'illegal migrant' there. The entire Bill is coming because of certain observations made in the Preamble. In the Preamble to which I had already taken objection at the time of introduction of the Bill, we are told that a number of foreigners etc., had migrated into India across the borders of the eastern and north-eastern regions. We were, therefore, dealing with people who migrated into India across the borders of the eastern and the north-eastern regions alone. As such, it was necessary to have incorporated this particular point in the definition of an illegal migrant. But we are told that an illegal migrant is one who has entered into India on or after a particular date. There is no mention here of this important point that an illegal migrant is one who has entered into India from eastern and north-eastern borders of the country on or after the date mentioned here in the Bill.

Otherwise, this definition of the term "illegal migrants" is so wide that any person coming from any country—Sri Lanka or any other country—will come under the purview of this Bill, with this date of 25th March, 1971. That is ridiculous also. I must, therefore, say that the definition should be corrected so as to have this intention, namely to label only to those persons as "illegal migrants" who have entered into India from across the border of east or northeastern part of the country on or before that particular date, i.e., 25th March, 1971.

16 hrs.

My second amendment No. 39 deals with people who have come from Nepal. I do not want at this stage to go through the history of the question. But with respect to those people we have been talking about, the date is not 25th March, 1971, that but there the contention was to have the date as 30th July, 1976, is the date from which the question of restricting the entry of persons from Nepal came into being. That was the logical point. But I think, through oversight perhaps this particular point has been missed, therefore appeal to this House and to the Hon. Minister to consider these points seriously and to accept both the amendments.

श्री सूरज भान (अम्बाला): सभापति महोदय मैंने इस में तारीख रखी है 26 जनवरी 1950 इस की एक सिगनिफिकेंस है कि इस दिन संविधान लागू हुआ था। 25 मार्च 1971 को क्या सिगनिफिकेंस है वह मुझे बता दीजिए। कहीं गरीबी हटाने की बात होती तो बात समझ में आती। 71 का चुनाव आप ने गरीबी हटाओ के नाम पर लड़ा था। गरीबी हटाने से वह कहीं लिंक होता तो बात समझ में आती। हम किसी मजहब की बात नहीं कर रहे हैं किसी कास्ट की बात नहीं कह रहे हैं, 26 जनवरी 1950 के बाद जो भी आया अगर वह फारेनर है तो उसको डिटेक्ट किया जाय। हां, उनका सवाल है कि आप आसम में ही क्यों रख रहे हैं, आप उनको कहीं और ले जाइए तो आप मंत्री स्टेट में ले आइए हरियाणा में। राजस्थान में बहुत से लोग पहले ही रह रहे हैं। मेरा सिर्फ कहना यह है, किसी किस्म की डिस्क्रिमिनेशन की बात मत रखिए। 26 जनवरी 1950 जिस दिन संविधान लागू हुआ था उस दिन से लागू कीजिए वरना हमें 71 की सिगनिफिकेंस बता दीजिए।

SHRI RAVINDRA VARMA : Sir, I shall be very brief. I have already referred to the fact that this particular sub-clause c (i) prescribes :

(c) "illegal migrant" means a person in respect of whom each of the following conditions is satisfied, namely :—

(i) he has entered into India on or after the 25th day of March, 1971 ;

It means, conferring instant citizenship on all the illegal migrants who have been in India since 1950. Is it supposed to be a bonus for their efficiency in escaping detection? In this context, I wish to remind the hon. Home Minister that the Government of India has acknowledged the fact that there have been illegal migrants in Assam and other parts of India who entered even before 1971. In fact, the Prime Minister of India, Pandit Jawahar Lal Nehru, in 1962, had this to say :

"You refer to Pakistani infiltration. This is perfectly true . . . Therefore, we would not look upon it as essentially a political move. Nevertheless it is true that this infiltration should be stopped and effectively dealt with. I believe that much of this infiltration took place in the first five years after independence when the border was not adequately guarded. After that it has been limited greatly. Therefore, steps have been taken recently to stop such infiltration. We may take further steps to remove illegal immigrants. In doing so however great care has to be taken as you yourself say so as to not cause injury and harassment to innocent people. Probably, it will be difficult now to deal with illegal immigrants who came before 1952. We might, therefore, fix 1952 as the date of our enquiry."

This is what the Prime Minister of India had said in 1962, 10 years after the date of inquiry that he proposed. The Bill proposes 1971. If we maintain this part of the definition, it will mean conferring citizenship on illegal migrants in violation of Part II of the Constitution and the Citizenship Act.

SHRI P. C. SETHI : Mr. Banatwalla's amendment seeks, to suggest that any person who was if any State and who had been expelled from that State or India before the commencement of this Act in that State or in relation to whose expulsion from such State or India any order made before such commencement under any other law is in force should be given an opportunity to utilise the forum of the Illegal Migrants Tribunal established under the present Act. This amendment is not acceptable because under the Foreigners Act, the Tribunals have been constituted in Assam and if the person concerned...

MR. CHAIRMAN : That was the earlier clause. You now come to Amendments to Clause 3.

SHRI G.M. BANATWALLA : Is he reconsidering the amendment ? Let him do it.

SHRI P. C. SETHI : This Amendment seeks to amend the definition of "illegal migrant" in Clause 3, that is in respect of any

person who has migrated into India from Nepal, the date for the purpose of sub-clause (i) of this clause shall be 30th day of July, 1976 and he shall be treated as an illegal migrant. In other words, in the case of those who have migrated into India from Nepal the date is proposed to be altered from 25th March, 1971 to 30th July, 1976.

In this connection, it may be mentioned that the Nepali nationals entering into India by road, rail or air are not required to be in possession of passport or visa for India. They need special permits for entering into the restricted or protected areas from any place outside the area. Till August, 1976, the nationals of Nepal were also exempted from the provisions of the Foreigners Order, 1958 and the Foreigners Order, 1963. This exemption was withdrawn by issue of a notification dated 14.8.76.

SHRI G. M. BANATWALLA : So, you should accept it. It is in accordance with what you have said.

SHRI SONTOSH MOHAN DEV : So, they are protected.

SHRI P.C. SETHI : They are not required to have any passport.

SHRI G.M. BANATWALLA : He has advanced all the arguments that I have advanced. He has said it in his own language. If I am not in a position to express it clearly, he has done it. He should accept it.

SHRI SONTOSH MOHAN DEV : He says, they are protected.

MR. CHAIRMAN : It is now on record.

SHRI P.C. SETHI : As far as Mr. Suraj Bhan's Amendment is concerned, it seeks to amend the definition of "illegal migrant" and change the date with reference to which an illegal migrant is to be determined from the 25th day of March, 1971 to 26th January, 1950. If this Amendment were accepted, all the migrants who entered into India on or after 26th January, 1950 will have to be detected and expelled. We have kept this issue open in order to have negotiations and, therefore, we have not made any provision in the Bill. This Amendment is, therefore, not acceptable.

So far as Mr. Ravindra Varma's Amendment is concerned, this amendment seeks to amend definition of "illegal migrant" by omitting the sub-clause, "he has entered into India on or after the 25th day of March, 1971".

The effect of this Amendment is that any foreigner who has entered into India without being in possession of a valid passport or other travel document or any other lawful authority in that behalf shall be detected and expelled. This Amendment is not acceptable as it does not set any time—frame for the detection of foreigners particularly when the question of pre-1971 entrants has been kept open.

MR. CHAIRMAN: Now, I put amendment Nos. 4, 39, 52 and 56 moved to Clause 3 to the vote of the House.

Amendments Nos. 4, 39, 52 and 56 were put and negatived

16.10 hrs.

[SHRI SOMNATH CHATTERJEE *in the Chair*]

MR. CHAIRMAN: The question is:

"That Clause 3 stand part of the Bill".

The motion was adopted.

Clause 3 was added to the Bill.

Clause 4—(Overriding effect of the Act)

SHRI P.C. SETHI: I beg to move:

Page 3,—

for lines 12 to 14, substitute—

"34 of 1920 Passport (Entry into India) 31 of 1946 Act, 1920 or the Foreigners Act, 1946 or the Immigrants (Expulsion from Assam) Act, 1950 or the Passports Act, 1967.

10 of 1950 or any rule or order made under

15 of 1967 any of the said Acts and in force for time being". (35)

SHRI CHITTA BASU: I beg to move:

Page 3,—

after line 14, insert—

"Provided that adequate safeguards shall be given to those who migrated to India

across the border of the Eastern and North Eastern regions to save themselves from atrocities, harassment and civil disturbances. (50)

SHRI SONTOSH MOHAN DEV: I beg to move:

Page 3, lines 12 to 14—

Omit "or any other enactment for the time being in force, or any rule or order made under any such enactment and in force for the time being." (58)

Page 3,—

Omit lines 15 to 19" (59)

MR. CHAIRMAN: Mr. Chitta Basu, will you speak?

SHRI CHITTA BASU: As a matter of fact, I wanted the deletion of this Clause. But since it is not admitted, I had to put across my point of view by a proviso:

"provided that adequate safeguards shall be given to those who migrated to India across the border of the Eastern and North-Eastern regions to save themselves from atrocities, harassment and civil disturbances".

As I have mentioned earlier, the purpose of the Clauses 4 (1) and (2) is to withdraw the protection which the Act of 1850 provides as it does not only withdraw that protection, but also says that all policy instructions, all other instruments which have been designed for the protection of the interests of the dismissed persons who have migrated to Assam are also to be withdrawn. You can well imagine the fate of those who had to leave their country which is now Bangladesh at a particular point of history and seek shelter in India will now be disarmed. In order to provide adequate protection to them, I have sought to introduce this proviso.

I shall be glad if the Hon. Minister reconsiders it and accepts it in this general form.

SHRI SONTOSH MOHAN DEV: In Sections 4 (1) and (2), this is the one point on which almost all political parties including the Janata, BJP and CPI (M) have urged upon the Government to consider this.

This is not only from the point of national policy but also from the immigrants point of view.

I shall again appeal to the Minister of Home Affairs to accept it, and even if he does not accept it, on the last day during the reply of the Minister of Home Affairs in the House, to the question of Mr. Indrajit Gupta and my question, he has said that the Bill will take care of it. I read in "Daily Telegraph"—There they have written that the Hon. Minister has sated "We will take care of means. They will all be deported who are genuine migrants."

I would like to have a categorical answer from the Hon. Minister, when he has himself amended the Bill and kept the Citizenship Act, 1955 valid, whether a firm commitment is given by the Government when in case the situation arises for the genuine migrant refugees, the Government, as per Citizenship Act, 1955, will take care of these cases. This firm commitment should be there because the national continuity and the immigrant point of view should be taken into account and the feeling which has been expressed by all political parties including yourself. When you have been spoken, you have harped on this point very much

SHRI P.C. SETHI : As far as Shri Chitta Basu's amendment is concerned, this amendment seeks to amend Clause 4 (1) and provide that safeguards should be given to those who migrated on account of harassment, atrocities and civil disturbances. The Bill does not make a distinction between those who migrated to India on account of the economic compulsions or because of civil disturbances and atrocities across the border. The Bill specifically overrides the provisions of the Immigration Expulsion from Assam Act, 1950. This Amendment seeks to bring back into effect the provisions of the Assam Act through the back-door. This is, therefore, not acceptable in view of the consistent stand taken by the Government during the negotiations and in Parliament that all the post-24th march 1971 entrants shall be detected and expelled.

As far as the amendments of Shri Sontosh Mohan Dev are concerned, there have been consistent pronouncements and the stand of the Government has always been, during the course of the negotiations,

that the post-24th March 1971 illegal migrants shall be detected and expelled. Any decision to continue the protection under the proviso will militate against the known stand of the Government.

I have moved an amendment. The existing provision generally sought to oust the jurisdiction of all other Acts which are in force though under the rules of interpretation only the jurisdiction of such Acts would be ousted in respect of which this Bill has the status of occupied field; yet, in order to make the Position clear and unambiguous, the Government have decided to specifically mention the Acts whose jurisdiction is sought to be ousted in relation to this Bill. I would again like to repeat that in individual cases Government would certainly look into them.

MR. CHAIRMAN : I shall now put Amendment No. 35 to the vote of the House.

The question is :

"Page 3,—

for lines 12 to 14, substitute—

"34 of 1920. Passport (Entry into 31 of 1946. India) Act, 1920 or the Foreigners Act, 1946 or the Immigrants (Expulsion from Assam) Act,

10 of 1950. 1950 or the Passports 15 of 1967. Act, 1967 or any rule or order made under any of the said Acts and in force for the time being." (35)

The motion was adopted.

MR. CHAIRMAN : I shall now put Amendment No. 50 moved by Shri Chitta Basu to the vote of the House.

Amendment No. 50 was put and negatived.

MR. CHAIRMAN : Mr. Sontosh Mohan Dev, are you pressing your Amendments ?

SHRI SONTOSH MOHAN DEV : No, Sir. I seek leave of the House to withdraw my amendments.

Amendments No. 58 and 59 were, by leave, withdrawn.

MR. CHAIRMAN : The question is :

"That Clause 4, as amendment, stand part of the Bill."

The motion was adopted.

Clause 4, as amended, was added to the Bill.

CLAUSE 4A (New)

SHRI RAVINDRA VARMA : Sir, I beg to move :

Page 3,

after line 19, insert—

"4A. Nothing in this Act shall take away the responsibility of the Government to ensure that every foreigner who has entered India after 1951 without valid documents, and/or has not acquired Indian citizenship as provided for in Part II of the Constitution and the Citizenship Act, 1955 and other relevant laws, is detected and to see that the cases, in which there is a doubt or which are contested by the person so detected are referred to a Tribunal set up under this Act." (60)

There are three reasons why I have proposed this amendment. Firstly, as I said earlier, the Bill gives the impression that the Government is washing its hands off the responsibility cast on it by the Constitution. The dilution of the responsibility of the Government is almost lethal, and the Bill as it stands today drags its entire responsibility into a twilight zone. It is not in the interest of the Government itself. It must, therefore, be made clear that the Government has its continuing responsibility to detect and to ensure that action is taken on illegal migrants. The first part of my amendment, therefore, deals with this aspect of the necessity to re-define, in the context of this Bill, the role and the responsibility of the Government.

The second part of the Amendment deals with detecting those who have entered after 1951. Earlier on, the hon. Minister said that my amendment for the deletion of

Clause 3 (1) (c) does not mention any specific date. I have mentioned 1951 here for two reasons. Number one, as the Assam Pradesh Congress Committee demanded in 1964, the National Register of citizens of 1951 can from the basis of detection.

NUMBER 2—The Government of India is a continuing Government with a continuing responsibility. The Prime Minister of India, in 1964 said that 1952 will be the base year of enquiry and I quoted the statement of the Prime Minister, Shri Jawaharlal Nehru. You cannot go back on this responsibility.

NUMBER 3—I would like to point out that this amendment protects those who have crossed into India or migrated to India with valid documents. It protects those covered by the proviso to Clause (2) of the Immigrants Expulsion Act, 1950 and those who have registered according to procedures prescribed either in the Constitution or in the Citizenship Act. Therefore, every person who is a legal migrant or who is entitled to acquired Indian citizenship and who has gone through the necessary process of application and registration will be protected by this amendment.

NUMBER 4—The amendment says that wherever there is doubt, it is the responsibility of the government to refer such cases to the Tribunal. I would also like to point out in the end that the amendment talks of detecting and, as the hon. Minister himself said in a different context, it leaves the question of dispersal and deportation open. But, it says that the detection of the illegal migrants should take place with the base year that has been suggested in the amendment.

SHRI P. C. SETHI : Sir, if this amendment suggested by Shri Varma is accepted, then the Central Government's responsibility in respect of pre-1971 should continue to remain in spite of the provisions of the Bill. It may be mentioned that the issue of pre-1971 entrants has been kept open as has just now been mentioned for further negotiations. It does not mean that Government's responsibility in dealing with the question of foreigners before 25th March 1971 has ceased to exist. The Bill seeks to provide for the establishment of

Tribunals for the detection of illegal migrants with reference to 25th March 1971. As the Prime Minister has observed, a beginning has to be made in the detection of foreigners and this date will be the starting point. Government hopes that the issue of pre-1971 entrants will be solved as early as possible. It is, therefore, not necessary to accept this amendment.

MR. CHAIRMAN : I shall now put amendment No. 60 moved by Shri Ravindra Varma to the vote of the House.

Amendment No. 60 was put and negatived.

MR. CHAIRMAN : I think there are amendments to this clause. Shri M. C. Daga. He is not here. There are no amendments to Clauses 6 and 7 also.

I shall now put Clauses 5, 6 and 7 together.

The question is :

“That Clauses 5, 6 and 7 do stand part of the Bill”.

The motion was adopted.

Clause 8—(References or applications to Tribunals).

MR. CHAIRMAN : I think there are amendments to this clause. Shri Banatwalla.

SHRI G. M. BANATWALLA : I beg to move :

“Page 4, lines 21 and 22, —

for “not less than twenty-five and not more than one hundred rupees”

substitute “not less than five thousand rupees”. (5)

“Page 4, line 14, —

for “three kilometres” substitute “one kilometre” (40)

Page 4, line 19, —

for “three kilometres” substitute “one kilometre” (41)

“Page 4, line 21, —

after “accompanied by” insert —

“a statement giving particulars of

such proof/evidence on the basis of which the applicant has made the averments in his application, and shall further be accompanied by” (42)

“Page 4, —

after line 31, insert —

“(5) Every reference under sub-section (1), shall be accompanied by a statement giving particulars of such facts, proof and evidence on basis of which the reference has been made”. (43)

SHRI RAVINDRA VARMA : I beg to move :

“Page 4, lines 14 and 15, —

for, “at a place within three kilometres from the place of residence of the applicant”

substitute “in Assam” (61)

Page 4, lines 19 and 20, —

for “within three kilometres of the area in which the person referred to in the application is found, or residing”

substitute “in Assam” (62)

SHRI SUDHIR GIRI (Contai) : Sir, I beg to move.

“Page 4, line 14, —

*for “three kilometres” substitute —
“half a kilometre” (67)*

“Page 4, line 19, —

for “three kilomeres” substitute “half a kilometre” (68)

“Page 4, line 22, —

for “twenty-five, and not more than one hundred, rupees, “substitute” one hundred rupees” (69)

MR. CHAIRMAN : Shri Banatwalla.

SHRI G. M. BANATWALLA : Mr. Chairman, Sir, this Clause 8 of the Bill provides that in addition to reference being made by the Central Government to the Tribunal, any person is entitled to make an application to the Tribunal to determine

whether a person is or is not an illegal migrant.

— Sir, I oppose this very basic idea of applications being made by any Tom, Dick and Harry by paying just a sum of Rs. 25/- and challenging any person there. Sir, under the situation prevalent in Assam, this is bound to create a havoc. It will lead to a lot of harrassment.

I feel, Sir, that the citizenships of the members of minorities are being quoted at a price of Rs. 25 to 100. Any person can come and challenge this is a rather serious matter. A reference may be made by the Government. But, as I said, if we allow these applications being made by anybody to the Tribunal and then get away with that also without any provision for the punishment in case his application is found *malafide*, such a provision will then lead to a lot of harasment to the people. We had the Immigrants (Expulsion from Assam) Act, 1950. There also the only provision is for the Central Government to decide. It is for the Central Government to come into the picture. Not for any and every person to come into the picture at all. Therefore, I have to oppose this particular move.

Sir, the Government is naving almost a closed mind on this issue. Therefore, there are other Amendments also which have been moved by me in order to make things not so easy for any person to come before the tribunal and harass the innocent citizens of Assam. My amendment says that the fee must be raised. The condition which says that a person should be residing within 3 K. M. of the person whom he proposes to challenge, should be reduced to 1 K. M. It should be made compulsory for every applicant to come before a tribunal and give a statement of evidence on the basis of which the application has been made. It is not that he makes a statement and comes to an end of that. He must give certain concrete evidence-concrete documentary evidence or other evidence-on the basis of which he is making the averment in his application.

Similarly when the Central Govt. makes reference to the tribunal the Central Govt. must also give a statement with respect to the evidence on the basis of which

the averments have been made in the reference. This is necessary in order to see that innocent citizens of Assam are not harassed. I therefore hope that these Amendments will be accepted by the Government and by the House.

SHRI RAVINDRA VARMA : Sir, I do not want to make long speech on this occasion. I would only say that I have moved my amendment only because the prescription of 3 K.M. limit ignores the pattern of migration in Assam, reduces the eligibility to an illusory and national eligibility, and therefore, makes a mockery of the law. It converts this Bill into an eye-wash.

SHRI SUDHIR GIRI (Contai) : Sir, I beg to say that there is ample scope for misuse of this provision regarding distance.

It has been provided here that no such application shall be entertained by the tribunal unless the person, in relation to whom the application is made, resides at a place within 3 K.M.

Sir, the AASU and Gana Sangram Parishad boys are trying to uproot some people whom they consider to be their 'political opponents'.

That is why I say, there is ample scope for these boys and their agents, to go on acting against a person whom they consider as their political opponent.

So, I want to reduce the distance from 3 k.m. to 1/2 k.m. only. I request the hon Minister and the House to accept this amendment.

SHRI P.C. SETHI : Sir, Shri Banatwalla has moved an amendment and this is with regard to page 4, line 19. This amendment is with reference to Clause 8 (3) where it is provided that every application made by a private person shall be accompanied by an affidavit, sworn by not less than 2 persons residing within 3 k.m. of the area in which the person referred to in the application is found to be residing. The amendment seeks to substitute 3 k.m. by 1 k.m. This amendment is not acceptable to Government, because, as mentioned by me earlier, the Govt. has struck a balance by providing this limit of 3 k.m. between two extreme

views—one view suggesting that there should be no restriction at all, and the other view suggesting a restriction.

Then Mr. Banatwala's amendment on page 4, line 21 :

after "accompanied by" insert—

"A statement giving particulars of such proof/evidence on the basis of which the applicant has made the averments in his application, and shall further be accompanied by".

The Amendment suggests that a private individual making an application to the Tribunal should furnish a statement giving particulars of the proof or evidence on which he is making an application. This amendment cannot be accepted, because in Clause II, it has been provided that the Tribunal shall refer, the application made by the private persons to the prescribed authority of the Superintendent of Police calling upon him to furnish after making an inquiry a report to the Tribunal. In view of this provision, the Superintendent of Police will certainly take into account the material on the basis of which the application has been made before submitting his report to the Tribunal.

Then on page 4, after line 31, he wants an insersion :

"(5) Every reference under sub-section (1), shall be accompanied by a statement giving particulars of such facts, proof and evidence on basis of which the reference has been made."

This Amendment seeks to insert a sub-clause under Clause 12 with a view to provide that a reference made to the Tribunal by the Central Government under Section 8, shall be accompanied by a statement giving particularly facts or proof. This Amendment is not acceptable and it does not seem to be necessary to provide for details of procedure in the Enactment.

Further under Clause 2 and 1, the Tribunal shall make necessary inquiry and make such evidence as may be adduced before it. In any case, under rules to be

framed this can be taken care of, if necessary.

Then Shri Ravindra Varma's amendment on page 4, line 19 and 20 :

For "Within three kilometres of the area in which a person referred to in the application is found or residing"

Substitute : "in Assam".

I have replied to this. This again would open the flood-gate in the whole of Assam and the person concerned may not be a person who may be a genuine applicant.

Shri Sudhir Kumar Giri's Amendment again seeks to limit the Enactment to the State of Assam only. It is the same thing which Shri Ravindra Varma wanted.

Sir, it is not acceptable.

MR. CHAIRMAN : I shall now put all the Amendments to clause 8 together.

Amendments No. 5, 40 to 43, 61, 62 and 67 to 69 were put and negatived.

MR. CHAIRMAN : In Clause 9 there is no Amendment.

MR. CHAIRMAN : The question is :

"Clause 8 and 9 do stand part of the Bill."

The motion was adopted.

Clauses 8 and 9 were added to the Bill.

SHRI G.M. BANATWALLA : Sir. I move :

Page 4, line 44,—

for "thirty" substitute "ninety". (6)

Page 5, line 4,—

for "thirty" substitute "ninety" (7)

Page 5, line 6,—

omit "not exceeding thirty days," (8)

SHRI SUDHIR GIRI : Sir, I move :

Page 4, line 44,—

for "thirty days" substitute "one hundred and eighty days" (70)

Page 5, line 4,—

for "thirty days" substitute "one hundred and eighty days" (71)

Page 5, line 6,—

for "thirty days" substitute—

"one hundred and eighty days" (72)

SHRI G.M. BANATWALLA : My amendment seeks to give more time to the person accused as illegal migrant to file his representation with the Tribunal and it is most reasonable.

SHRI SUDHIR GIRI : I want more time should be given to the person against whom such a case has been made, because such a person would definitely be a poor man and he would not find enough time in going to the Courts and Tribunals. So, I want the time should be extended upto six months i.e. 180 days.

SHRI P.C. SETHI : Sir, we have provided the requisite time and these Amendments are not acceptable.

MR. CHAIRMAN : I shall now put all the Amendments to clause 10 together.

Amendments Nos 6 to 8 and 70 to 72, were put and negatived.

MR. CHAIRMAN : The question is :

"That Clause 10 stand part of the Bill."

The Motion was adopted.

Clause 10 was added to the Bill.

Clause II—(Procedure with respect to application under Sub-Section (2) of section 8)

MR. CHAIRMAN : Mr. Daga is not here. Mr. Sudhir Giri, are you moving ?

SHRI SUDHIR GIRI : Yes ; I beg to move :

Page 5, line 17,—

add at the end—

"and award to the applicant punishment of rigorous imprisonment for a term exceeding six months but not

more than five years as also fine not exceeding five thousand rupees" (73)

Page 5, lines 21 and 22,—

or "thirty days" substitute—

"one hundred and eighty days" (74)

Page 5, line 28,—

for "thirty days" substitute—

"one hundred and eighty days" (75)

Page 5, line 30—

for "thirty days" substitute—

"one hundred and eighty days" (76)

I have already said that some parties who want to do harm to the persons who have come to Assam, may bring about suits or cases before the Tribunal. So, I want that those persons should not do such things. For this purpose, I want to add the words :

"and award to the applicant punishment of rigorous imprisonment for a term exceeding six months but not more than five years as also fine not exceeding five thousand rupees".

I have brought this amendment in order to curb the propensity of some persons who want to harass some people who are basically poor and who have no means to give money to those persons.

SHRI P.C. SETHI : Now about the amendments moved by Shri Sudhir Giri to Clause 11, on page 5, line 17. This amendment seeks to amend Clause 11. In this clause, it is provided that on consideration of the report furnished by the prescribed authority, and when the Tribunal comes to the conclusion that the application by a private person is fictitious or frivolous, it shall reject the application, after giving an opportunity to be heard.

The amendment suggests that in case the application is frivolous or fictitious, a punishment should be awarded to the applicant. The applicant may not be accepted, as there are adequate provisions in the

Indian Penal Code for those persons who give false information and swear false affidavits before public authorities.

Then on page 5, lines 21 and 22 : for "thirty days", substitute one hundred and eighty days". This amendment seeks to amend clause 11 (2) (b). It is provided that if the tribunal on a consideration of the report made by the prescribed authority on an application forwarded to it by the tribunal, is satisfied that there are reasonable grounds to believe that the person named in the application is an illegal migrant, it shall issue a notice to the person calling upon him to make within 30 days from the date of the receipt of the notice, such representations as he may think fit.

The amendment seeks to substitute the period of 30 days by 180 days. The period of 180 days is on a very high side. The period of 30 days provided in the Bill is adequate and reasonable. The amendment is not acceptable.

MR. CHAIRMAN : Now I will put amendments No. 73, 74, 75 and 76 moved by Shri Sudhir Giri to the vote of the House.

Amendments No. 73 to 76 were put and negatived.

MR. CHAIRMAN : The question is :

"That Clause 11 stand part of the Bill."

The Motion was adopted.

Clause 11 was added to the Bill.

Clause 12—Determination of the question as to whether a person is illegal migrant

MR. CHAIRMAN : Mr Banatwalla, are you moving ?

SHRI G.M. BANATWALLA : I beg to move :

Page 6,—

after line 3, insert—

(5) "In every case of reference or application under section 8, any question as to whether any person is or is not an illegal migrant, the onus of proving that such person

is an illegal migrant shall, notwithstanding anything contained in any enactment for the time being in force, lie upon the Central Government making such reference or the person making the application, as the case may be." (9)

Page 6,—

omit lines 1 to 3. (44)

MR. CHAIRMAN : Mr. Daga, do you want to move your amendment ?

SHRI MOOL CHAND DAGA : I beg to move :

Page 5, line 47,—

add at the end—

"within fifteen days of the date of order sought to be communicated" (29)

MR. CHAIRMAN : Mr Sudhir Giri, do you move ?

SHRI SUDHIR GIRI : Yes ; I beg to move :

Page 6, lines 2 and 3,—

omit "and shall not be called in question in any court" (77)

Page 6,—

after line 3, insert—

"Provided that the decision of the Appellate Tribunal shall be subject to the review of the High Court and Supreme Court." (78)

MR. CHAIRMAN : Mr Banatwalla, do you want to say anything ?

SHRI G.M. BANATWALLA : Despite our opposition, it is provided in the Bill that any person may make an application before the Tribunal to determine the question as to whether a person is, or is not an illegal migrant.

Now, it is absolutely necessary that the onus of proving that the person is an illegal migrant should be on the applicant who is making those several averments in his application. This is the principal point. The

entire Evidence Act that is the entire Chapter 7, part III of the Indian Evidence Act has been given a go by. Any person may come before the tribunal and may make all sorts of averments and then disappear into the thin air. It is the poor person who has been dragged before the tribunal who has to collect all sorts of evidences and prove his not being an illegal migrant. Its, therefore, absolutely necessary in order to protect people from harassment that those who come before the tribunal making an averment that a particular person is not an illegal migrant, it is that applicant who must prove beyond any shadow of doubt to the tribunal that his averments are correct. I must say that in Assam this is more important in view of the circumstances prevalent over there into the details of which I may not go. Not only in Assam but today throughout the length and breadth of the country we are having false, poisonous propaganda of large scale infiltration; and these people who are carrying on this propaganda may well come before the tribunal and harass people. It is therefore necessary that the onus of proving should be on the applicant.

More-over, in Assam, as a result of violence over there; a large number of people have lost all their records. It will be now an hardship upon them to be called upon to bring those documentary evidences and prove the matter before the tribunal,

In the Bill, Clause 12 seeks to bar the jurisdiction of the court. I don't think why should this come in? There is no need whatsoever for the jurisdiction of the court to be barred. If it is in respect of citizenship, then the government should not feel shy of a person whose very citizenship has been questioned. It is such a basic matter, not an ordinary thing, but a serious matter. He should at least be allowed to have the fullest defence possible in the highest court that is available. Therefore, through my amendment I have sought to provide that the jurisdiction of the court be restored so that the matter concerning citizenship of a person cannot be taken so lightly.

I hope and I urge upon the government and this House to extend its kind attention to both my amendments.

MR. CHAIRMAN : Mr Daga is not here, but he has moved his amendments. Mr. Giri.

SHRI SUDHIR GIRI : The tribunal has been given the status of the final decision making authority. Why should it to be so? There is a Supreme Court and the high Court in our land; and that Supreme Court and the High Court should also consider the decisions made by the tribunals. I think the power given to the tribunal should not be final decision making power. Therefore, I want that these portions should be omitted and the Supreme Court and the High Court should be given the power to review the decisions of the tribunals.

AN HON. MEMBER : It is already there.

SHRI P.C. SETHI : As far as the amendment of Shri Banatwalla is concerned, and also of Shri Giri, they want the jurisdiction of the courts to be enlarged here appellate tribunal has been provided and at the same time the jurisdiction of the High Court also will be there.

MR. CHAIRMAN : If the House agrees I shall put all the amendments to Clause 12 to the vote of the House.

The Amendments Nos. 9,44,29,77 and 78 were put and negatived.

MR. CHAIRMAN : The question is—

“That Clause 12 stand part of the Bill.”

The motion was adopted.

Clause 12 was added to the Bill.

MR. CHAIRMAN : Now we come to Clause 13, Amendment no. 10.

SHRI G.M. BANATWALLA : I beg to move—

Clause 13—Reference and application to be disposed of within six month

Page 6, line 6 to 8,—

omit “and every endeavour shall be made to conclude such inquiry within a period of six months from the date of the service, on

the person concerned, of a copy of such referencce or application” (10)

It is a very simple amendment. I am sure the amendment is acceptable to the Minister.

MR. CHAIRMAN : It is for the Minister. He believes that it is acceptable to the Minister.

SHRI P.C. SETHI : No.

MR. CHAIRMAN : I shall now put Amendment No. 10 to Clause 13 moved by Shri G.M. Banatwalla to the vote of the House.

Amendment No. 10 was put and negatived.

MR. CHAIRMAN : There is no amendment to Clause 13. The question is—

“That Clauses 13 and 14 stand part of the Bill.”

The motion was adopted.

Clauses 13 and 14 were added to the Bill.

Clause 15 (Appellate Tribunal)

MR. CHAIRMAN : Clause 15, amendment Nos. 11 and 12; Mr. Banatwalla.

SHRI G.M. BANATWALLA : I beg to move—

Page 7, line 1,—

for ‘thirty’ substitute ‘sixty’ (11)

Page 7, line 7,—

for ‘thirty’ substitute ‘sixty’ (12)

These are simple amendments, seeking more time in order that the person may be able to appeal to the appallate tribunal. Instead of 30 days he may be allowed 60 days, especially in view of the situation prevalent. The people may have lots of difficulties in preparing to go to the appellate tribunal and therefore where it is a question of defence before the Tribunal or the Appellate Tribunal I have been pleading for a reasonable period of time so that the defence can be properly proceeded with.

SHRI P. C. SETHI : Thirty days is

ample time for him to prepare the appeal. The amendment is not acceptable.

MR. CHAIRMAN : I shall now put Amendments Nos. 11 and 12 to Clause 15 moved by Shri Banatwalla to the vote of the House.

Amendments Nos. 11 and 12 were put and negatived.

MR. CHAIRMAN : The question is—

“That Clause 15 stand part of the Bill.”

The motion was adopted.

Clause 15 was added to the Bill

Clause 16 (Order of the Appellate Tribunal)

MR. CHAIRMAN : Clause 16. Daga. He is absent. Mr. Giri, Amendments Nos. 79 and 80.

SHRI SUDHIR GIRI : I beg to move—

Clause 16

Page 7,—

omit lines 43 and 44. (79)

Page 7, line 44,—

add at the end—

“but shall be subject to the review by the High Court and the Supreme Court.” (80)

MR. CHAIRMAN : I shall now put the Amendments Nos. 79 and 80 to Clause 15 moved by Shri Sudhir Kumar Giri to the vote of the House.

Amendments Nos. 79 and 80 were put and negatived.

MR. CHAIRMAN : There are no amendments to Clauses 17 to 19. I shall not put.

Clause 16, to 19, together to the vote of the House.

The question is :

“That Clause 16, 17, 18 and 19 stand part of the Bill.”

The motion was adopted.

Clause 16, 17, 18 and 19 were added to the Bill.

MR. CHAIRMAN : Clause 20, Amendments Nos. 13 and 14.

Clause 20—(Expension of illegal migrants)

SHRI G.M. BANATWALLA : I beg to move :

Page 8,—

for clause 20, substitute—

20. "Where a person has been determined by a Tribunal, or, as the case may be, by the Appellate Tribunal, to be an illegal migrant, the Central Government may by order served on such person, direct such person—

- (a) to remove himself from India or Assam within such time and by such route as may be specified in the order ; or
- (b) to remove himself to, and remain in, such area in India as may be specified in the order ;

and may give such further directions in regard to his removal from India or Assam as it may consider necessary or expedient." (13)

Page 8, line 36,—

for "shall" substitute "may" (14)

Mr. Chairman, when a Tribunal holds a person to be an illegal migrant it has been provided that the Central Government shall compulsorily pass an order for his expulsion from India. This compulsion will pose several practical difficulties. You may order a person to be expelled. But supposing that other country, namely, Bangladesh is not prepared to accept that person, what is going to happen to him ? Is he going to evaporate into thin air ? Therefore, there should be a proper course left before the Central Government after the Tribunal's order is passed. It should be provided that the Government may order expulsion from India or order expulsion from Assam or order such a person to remain in a specific place and also to pass consequential directions and instructions. It is not compulsory at all upon Bangla Desh to accept the verdict of our

tribunal or appellate tribunal. Then what is going to happen to such persons who have been ordered to leave India and who are not in a position to leave India or go back to their country because the other country is not in a position to accept them. Therefore, I have moved the amendment in order to provide that after a tribunal has determined a person to be an illegal migrant, his case should be left open before the Central Government and the Central Government should accordingly pass appropriate orders.

SHRI SUDHIR GIRI : I beg to move ;

Page 8,—

after line 40, insert—

"Provided that if such person is found to have lived in India for a period exceeding five years, he may apply to the Central Government for the Indian Citizenship and the later shall grant such prayer on humanitarian grounds." (81)

If one person has been found to be a foreigner in our country and he has been ordered by the Central Government to go away from our country or drive him away from our country and that person has some children born in Indian territory, what will be the fate of those children after the father and mother or either of the parents is ordered to go away, because the children are Indian citizens ? So, if such a person is found to be a foreigner by a tribunal, that person would apply to the Central Government and the Central Government would grant him Indian citizenship on purely humanitarian grounds.

SHRI P.C. SETHI : As far as Mr. Banatwalla's amendment is concerned, for the reasons already explained, this may not be accepted because the intention seems to be to provide that the Central Government may direct a person determined to be an illegal migrant to remove from India. This was carefully considered and a conscious decision was taken to provide that the Central Government shall direct a person to remove from India and not may, as otherwise it was felt that this would be in line with the policy of the Central Government that the post 24th March 1971 migrants shall be expelled.

As far as Shri Giri's amendment is concerned, this amendment seeks to insert a proviso in clause 20. Clause 20 deals with expulsion of illegal migrants. The amendment suggests that if a person is found to have lived in India exceeding five years, he may apply to the Central Government for citizenship and the Central Government shall grant such prayer on humanitarian grounds. This amendment is not acceptable because under the Bill illegal migrants are determined with reference to 25.3.71. If the amendment have to be accepted the expulsion of illegal migrants will infact, take place from 1978 onwards which will defeat the very consensus on the subject of 25.3.71. The amendment is, therefore, opposed.

MR. CHAIRMAN : Now I shall put all the amendments to clause 20 to vote.

Amendments Nos. 13, 14 and 81 were put and negatived.

MR. CHAIRMAN : The question is :

"That clause 20 stand part of the Bill,"

The motion was adopted.

Clause 20 was added to the Bill.

Clause 21—(Delegation of powers)

SHRI G.M. BANATWALLA : I beg to move :

"Page 9—

omit line 9 and 10" (15)

Mr Chairman, Sir, clause 21 provides that the Central Government may delegate its powers under the Bill the any State Government or any officer subordinate to that Government. I oppose this particular provision because we have ample and bitter experiences of local administration being influensed by local pressures and adopting partisan attitude. I need not elaborate upon all the bitter experience that we have had in different parts of our country. The question of citizenship is very important, it should be above, every partisan attitude, it should be above all local pressures. The Central Government itself should came into the picture and perform its duty and there should be no delegation of such important powers under the Bill.

SHRI P.C. SETHI : Sir, the conditions which existed prior to the elections have completely changed and now there is an elected Government in the State. The amendment seems to betray lack of confidence in the State Government or the officers of the State Government but it is not possible for the Central Government to implement the provisions of this enactment without taking into confidence the machinery of the State Government and, therefore, it is not possible for me to accept this amendment.

MR. CHAIRMAN : I shall now put amendment No. 15 moved by Shri G.M. Banatwalla to the vote of the House.

Amendment No. 15 was put and negatived

MR. CHAIRMAN : There are no amendments to clauses 22, 23 and 24. I shall now put clauses 21, 22, 23 and 24 to the vote of the House. The question is :

"That clauses 21, 22, 23 and 24 stand part of the Bill."

The motion was adopted

Clause 21, 22, 23 and 24 were added to the Bill.

Clause 25—(Penalties)

SHRI G.M. BANATWALLA : I beg to move :

Page 9,—

after line 42, insert—

"(2) If the Tribunal is satisfied that any application under sub-section (2) of section 8 is frivolous or vexatious or has not been made in good faith, the Tribunal shall record the fact and the applicant shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine." (45)

Sir, the ends of justice demand that if an application made to the Tribunal by any person is found frivolous or vexatious or has not been made in good faith, then the applicant shall be made punishable. This is absolutely necessary in order to see that the innocent people are not put to harassment by mere payment of Rs. 25 before the Tri-

bunal. I, therefore, urge upon the Government and the House to accept the amendment.

SHRI P.C. SETHI : Sir, as far as this is concerned, first of all, when the application is moved, it is given to the police authorities for verification. Then, there will be an advisory body consisting of the representatives of the public. Therefore, the question of harassment in this case will not arise. As far as vexatious applications are concerned, the Indian Penal Code has got ample provisions to deal with such applications.

MR. CHAIRMAN : I shall now put amendment No. 45 moved by Shri G.M. Banatwalla to the vote of the House.

Amendment No. 45 was put and negatived.

MR. CHAIRMAN : The question is :

“That clause 25 stand part of the Bill.”

The motion was adopted

Clause 25 was added to the Bill.

Clause 26—(Protection of action taken in good faith)

SHRI G.M. BANATWALLA : I beg to move that :

Page 10—,

for clause 26 substitute—

“26. Suit, prosecution or other legal proceedings shall lie against any person or persons or authorities for anything done under this Act with *mala fide* intention.” (46)

It is on similar lines and I need not elaborate this.

MR. CHAIRMAN : I shall now put amendment No. 46 moved by Shri G.M. Banatwalla to the vote of the House.

Amendment No. 46 was put and negatived.

MR. CHAIRMAN : The question is :

“That clause 26 stand part of the Bill.”

The motion was adopted

Clause 26 was added to the Bill.

Clause 27—(Power to remove difficulties)

SHRI G.M. BANATWALLA : I beg to move that :

Page 10,—

for line 11 and 12, substitute—

“(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament, which it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the order or both Houses agree that the order should not be made the order shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that order.” (16)

17 hrs.

Mr. Chairman, Sir, this clause 27 gives very wide powers to the Government. It gives powers to make any order it may deem fit in order to remove any difficulty in giving effect to any of the provisions of the Bill. Of course it is very graciously provided in the clause that orders shall be laid on the Table of the House. Thank you, Sir. But are we to be merely helpless spectators of orders being laid on the Table of the House? The House is in possession of the orders when the orders are laid on the Table of the House. But no right is being extended to this House of modify those orders or to annul those orders. There is no reason why the rights of this House should be curtailed. It is a matter of general principle that when rules made under an Act are also placed on the Table of the House, the House has a right to modify those rules or to annul those rules. On similar analogy, when orders are placed on the Table of the House, the House must have an equal right to move any motion with respect to the modification of those orders or the annual

ment of those orders. I, therefore, move an amendment in order to restore the power of this august House. We should have the provisions with respect to orders made under the Act in explanation of certain provisions placed on the Table of the House to be on par with the rules that are made under the Act.

SHRI P.C. SETHI : This amendment seeks to bring clause 27 (2) on par with clause 28 (3). As far as clause 27 (2) is concerned, its life is only two years as may be seen from the proviso to clause 27. Further, the occasions on which this power may be invoked may be few and far between. However, it has been provided under clause 27 (2) that every order shall be laid before each House of Parliament. It is open to the House to make any suggestions which will no doubt be given due consideration by the Government.

MR. CHAIRMAN : I shall now put amendment No. 16 moved by Shri Banatwalla to the vote of the House.

Amendment No. 16 was put and negatived.

MR. CHAIRMAN : There are no amendments to clauses 28 and 29. So, I shall put clauses 27, 28 and 29 to the vote of the House.

The question is :

“That clause 27, 28 and 29 stand part of the Bill.”

The motion was adopted.

Clauses 27, 28 and 29 were added to the Bill.

Clause 1—(Short title, extent and Commencement)

SHRI G.M. BANATWALLA : I move :

Page 2, line 9,—

for “whole of India” substitute

“State of Assam.” (2)

Page 2,—

for lines 10 to 16, substitute—

“(3) It shall be deemed to have come into force on the 15th day of October, 1983.” (3)

SHRI SUDHIR GIRI : I move :

Page 2, lines 11 to 16,—

omit “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 for different States and references in this Act to the commencement of this Act shall be construed in relation to any State as references to the date of commencement of this Act in such State.” (66)

SHRI G.M. BANATWALLA : Sir, this whole Bill has come before the House in view of a certain situation in Assam. But then the net has been cast far and wide and it is sought to be made applicable to the whole of India. My amendment, therefore, is to restrict the application of this Bill to Assam. We are having a very peculiar situation; we are being told to consider the situation in Assam and we are being given a Bill which is made applicable to the whole of India. Then, we are told that we have to consider the situation of persons who have crossed into India from across the borders of north and north-east of our country and we are being told that any person is an illegal migrant who may have entered into India from any way whatsoever. So we find that in a meek submission to communal propagandists that is going on in our country the scope of the Bill has been unduly widened. I, therefore, oppose and move this amendment in order to see that the scope of the Bill is restricted to Assam and Assam alone.

MR. CHAIRMAN : Mr. Giri, do you wish to speak on your amendment No. 66?

SHRI SUDHIR GIRI : What I wanted to say was similar to what Mr. Banatwalla has said in this regard.

In respect of amendment No. 63, I want to say that if any person in India is challenged as a foreign national and if he has no necessary document with him, what will be his position? Therefore, I want to remove this line “and without having in their possession any lawful authority so to do”. I want to omit this sentence.

SHRI P.C. SETHI : Shri Banatwalla's amendment would amount to making this Bill applicable to only Assam. It is well known that the problems of illegal migrants obtain in other parts of the country too. But the right of declaring such action and the orbit of the Act has been left with the Central Government who after due and careful consideration will do it. Therefore, there is no need for this amendment.

Shri Sudhir Giri's amendment is also on the same lines and, therefore, both of them are opposed.

MR. CHAIRMAN : If the House agrees I shall put all the amendments to the vote of the House. I put amendments No. 2 and 3 moved by Shri G. M. Banatwalla and amendment No. 66 moved by Shri Sudhir Giri to the vote of the House.

Amendments 2,3 and 66 were put end negatived.

MR. CHAIRMAN : Now the question is :

"That Clause I stand part of the Bill."

The motion was adopted

Clause I was added to the Bill.

Enacting Formula

MR. CHAIRMAN : The question is :

"That Enacting Formula stand part of the Bill".

The motion was adopted.

Enacting Formula was added to the Bill.

Preamble

SHRI G.M. BANATWALLA He is withdrawing the preamble, I think : I beg to move :

Pages 1 and 2, lines 14 and 1 and 2 respectively,—

omit "and also in any other part of India in which such foreigners may be found to have remained illegally;"
(1)

Page 1 and 2,—

for the Preamble

substitute "WHEREAS it is expedient to prove for establishment of Tribunals

to determine the question whether a person in Assam is an illegal migrant to enable the Central Government to pass an appropriate order with respect to such person and for matters connected therewith or incidental thereto;" (37)

SHRI CHITTA BASU : Sir, I want your permission. In amendment No. 48, instead of *March*, it should be *July*.

I beg to move :

Page 1, line 1,—

for "a substantial number of the" substitute "some" (47)

I beg to move the amended amendment :

Page 1, line 3,—

after "1971" insert—

"and in case of Nepalesesion or after the 31st day of July 1976" (48)

Page 1, lines 3 to 5,—

omit "by taking advantage of the circumstances of such migration and their ethnic similarities and other connections with the people of India and" (49)

MR. CHAIRMAN : Shri Suraj Bhan— not present.

Shri Sontosh Mohan Dev—does not want to move.

Shri Sudhir Giri, your amendment No. 64 is same as No. 1:

SHRI SUDHIR GIRI : I beg to move :

Page 1, lines 5 and 6,—

omit "and without having in their possession any lawful authority so to do" (63)

SHRI G. M. BANATWALLA : Mr. Chairman, Sir, this preamble is very horrible. Sweeping statements of highly objectionable character have been made in this Preamble. We are told that there has been large scale, substantial number of foreigners who migrated into India across the borders of eastern and north eastern regions of the country on or after the 25th day of March,

1971. We are further told that these people have taken advantage of their ethnic similarities and other connections with the people of India.

Now, Sir, in this very House, the hon. Home Minister Shri P.C. Sethi had made a statement in response to a call attention motion on August 18, 1983 and said that there has not been any large scale infiltration in the recent times. But now we are being told this perhaps in meek submission to the propaganda that is being carried on by the RSS, BJP and such elements that there are large scale infiltration I do not know why such a sweeping statement should be made in the Preamble.

Then, we are told that these migrants have taken advantage of ethnic similarities and other connections with the people of India. Mr. Chairman, Sir, I strongly object to this particular statement in the Preamble. All the members of minorities in India are being rendered as suspect in the eye of the nation, by saying that illegal migrants have so mixed up throughout the length and breadth of our country and that they have taken advantage of similarities—Banatwalla in a sherwani and a cap and the members of the minority are being rendered as suspect.

Then, we are told that these people have taken advantage of their connections with the people of India. This is an unabashed statement that we are having from the Government in a very unabashed manner. The members of the minority in India are being rendered as suspect in the eye of very and sundry person.

There is we know a false propaganda, a poisonous propaganda, going on that there is a large-scale infiltration not only in Assam but in other States also. Now, the Government has chosen not only to admit and given credence to this particular propaganda but also to go a step further than these communalists and say that there are so many similarities and that the people who have come from these countries have taken advantage of their connections with the people of India and all these things. It was not at all necessary, in case you are having a Bill, to make such a sweeping

statement of highly objectionable nature in the Preamble. You could have done away with such a poisonous Preamble, such a communal Preamble, which will be an instrument in the hands of the communal elements always to beat the people with. I must, therefore, urge upon the Government to let at least now better counsel upon the Government and not to aggravate the situation.

Then, we are told in the very statement that was laid on the Table of the House at the time of laying the Ordinance—I quote :

“The prolonged agitation in Assam has incited and aggravated the chauvinistic and regional forces which have left a trail of bitterness and misery.”

This is the statement that the Government is making. Here, in the Preamble, we are told that a substantial number has come; we are told that they have settled in various parts of the country; we are told that they are having similarities with the people of India and we are told that they are having connections with the people of India. These sweeping statements will only go to further incite and aggravate the chauvinistic and regional forces which have left a trail of bitterness and misery. I, therefore, strongly object to this particular Preamble. I have suggested a substitute one, a simple one and a plain one, or, I say, you can do away with this Preamble at all. I appeal to you and all to rise above all considerations and see to it that this Preamble, if not withdrawn by the hon. Minister, is thrown out of this House lock, stock and barrel.

SHRI CHITTA BASU : Sir, as a matter of fact I have got a similar amendment. When you accept that there is a substantial number of illegal migrants, why does not the Government come out with a straight figure as to what is the number of illegal migrants? According to the AASU and the Gana Sangram Parishad; the number is something like 45 lakhs to 50 lakhs. Naturally, I think, this very word “substantial” number of illegal migrants into Assam ultimately goes to substantiate the theory which is being propagated by the AASU and the Gana Sangram Parishad.

I am sorry to make a demand : Is this only to justify the movement of the AASU and the Gana Sangram Parishad ? If we accept this figure, if we accept this statement, I think, the AASU and the Gana Sangram Parishad have also some justification to conduct the agitation. I know this is a bone of contention. The Election Commission made a statement sometime ago and which has ultimately brought into operation all the chauvinistic, divisive and communal forces.

The result was the holocaust which demanded about 4,000 peoples lives belonging to all communities in Assam. I do not doubt the intentions. That is not my object. "Don't be misled, don't be entrapped." Therefore, my simple suggestion has been on that count, instead of substantial number, please substitute some and if you want to retain it, then the House is perfectly within its right to demand what is your estimate about that illegal migrants and if you are not in a position to give the House the information, if you raise that kind of a Bill or Ordinance, I think you have got no moral justification for bringing forward this Bill.

My second amendment is regarding Nepalese. I want again to correct by amendment. Simply instead of March, please put July It has been omitted by the Hon. Minister of Home Affairs that there was no restriction for the Nepalese till July 31, 1976. There are quite a large number of Nepalese who are still residing in Assam. They are entitled to become the citizens of Assam and citizens of India and if this is not specifically mentioned regarding the Nepalese population, innocent Nepalese will be put to harassment or they may be also a target of serious propaganda. Therefore, I would say, that instead of providing that there is protection for the Nepalese this kind of amendment should be accepted so that there will be proper protection for the Nepali population in Assam.

My amendment No. 49, is again nothing but an expression of confidence among the minority communities living in Assam, be they religious minorities, be they linguistic minorities. Do you mean to say this is the propaganda of the BJP and Janata parties,

that they are there to remove only all the Muslims and not the Hindus, they will protect the refugees from East Pakistan. They want all Muslims should go. They cannot be the citizens of India. By introducing these phrases, untruths and threats, ultimately you are feeding these communal and revivalist forces. Does it help you ? Does it help creating a condition.....

SHRI M. SATYANARAYAN RAO :
Why are you helping them ?

SHRI CHITTA BASU : I am not helping them. You are helping them. In order to see that a necessary and proper climate for national integration is created, it is necessary that this kind of remarks should not find a place in the Preamble.

On the one hand, you are for national integration, for fighting the communal forces and you want that the democratic and secular forces should be united to fight all communal forces. At the same time, you are introducing these words, these phrases which ultimately whip up communalism, the forces of disintegration and the forces of regionalism. I think you have second thought. I hope better counsel will prevail and if you get the Bill passed, it is unnecessary also. Is it necessary to get it here ? If it is not there, the teeth in the Bill are not at all reduced. If it is not there, no effect of the Bill is reduced and no force is reduced. Why are you unnecessarily bringing in measures which will ultimately defeat the purpose for which the Bill is being passed ? I hope that wisdom will prevail on you. I have made certain suggestions and if you feel it wise to accept them, I will be glad and the entire country will be happy.

SHRI SONTOSH MOHAN DEV : *rose*

MR. CHAIRMAN : Are you moving your amendment ?

SHRI SONTOSH MOHAN DEV : Yes, Sir. I beg to move :

Page 1, line 1,—

for "substantial" substitute "good" (54)

Regarding Preamble, a criticism has been levelled. I have suggested that it will be wrong to say that there is no foreigner,

There are some foreigners. That is why, I have suggested that for the word 'substantial', the word 'good' may be substituted; it will then read, "a good number of foreigners..." I request the hon. Minister...

PROF MADHU DANDAVATE : 'good foreigners'

SHRI SONTOSH MOHAN DEV : I have said, 'a good number of foreigners'. Prof. Madhu Dandavate, you know very well; 'good' is used for quantity as well as quality. I will appeal to the hon. Minister, in the light of these discussion, to consider accepting my amendment to substitute 'good' for 'substantial'.

MR. CHAIRMAN : Mr. Giri, do you want to speak ?

SHRI SUDHIR KUMAR GIRI : No, Sir.

SHRI P.C. SETHI : In the light of the discussion here, I accept the amendment moved by Shri Sontosh Mohan Dev.

MR. CHAIRMAN : I shall now put Amendment No. 54 moved by Shri Sontosh Mohan Dev to the vote of the House.

The question is :

"Page 1, line 1,—

for "substantial" substitute "good" (54)

The motion was adopted.

MR. CHAIRMAN : Now I shall put the other Amendments together....

SHRI A.K. ROY : Amendment No. 37, moved by Shri Banatwalla, may be put separately.

MR. CHAIRMAN : It is for him....

SHRI A.K. ROY : It is the property of the House.

SHRI G.M. BANATWALLA : I agree with him. Let it be put separately.

MR. CHAIRMAN : I shall now put Amendment No. 37 moved by Shri Banatwalla to the vote of the House.

Amendments No. 37 was put and negatived,

MR. CHAIRMAN : If the House agrees, I shall now put all the other Amendments together to the vote of the House, namely, Amendments 1, 47, 48, 49, and 63.

Amendments Nos. 1, 47, 48, 49 and 63 were put and negatived.

MR. CHAIRMAN : The question is :

"That the Preamble, as amended, stand part of the Bill."

The Lok Sabha divided.

17.30 hrs.

Division No. 1

AYES

Anuragi, Shri Godil Prasad
Arakal, Shri Xavier
Arunachalam, Shri M.
Bairwa, Shri Banwari Lal
Bajpai, Dr. Rajendra Kumari
Bhakta, Shri Manoranjan
Bhardwaj, Shri Parasram
Bhoi, Dr. Krupasindhu
Bhole, Shri R.R.
Bhurla, Shri Dileep Singh
Birbal, Shri
Brijendra Pal Singh, Shri
Buta Singh, Shri
Chaudhary, Shri Manphool Singh
Chennupati, Shrimati Vidya
Choudhari, Shrimati Usha Prakash
Chouhan, Shri Fatehbhan Singh
Daga, Shri Mool Chand
Dalbir Singh, Shri
Dandavate, Prof. Madhu
Desai, Shri B.V.
Dev, Shri Sontosh Mohan
Gadgil, Shri V.N.
Jadeia, Shri Daulatsinhji
Jain, Shri Nihal Singh
Jain, Shri Virdhi Chander
Karma, Shri Laxman
Ken, Shri Lala Ram
Khan, Shri Zulfiqar Ali
Kurien, Prof. P.J.

Laskar, Shri Nihar Ranjan
 Mallanna, Shri K.
 Mallick, Shri Lakshman
 Mallikarjun, Shri
 Mavani, Shri Ramjibhai
 Meena, Shri Ram Kumar
 Mishra, Shri Gargi Shankar
 Mohanty, Shri Barajamohan
 Naik, Shri G. Devaraya
 Nikhra, Shri Rameshwar
 Pandey, Shri Krishna Chandra
 Panigrahi, Shri Chintamani
 Panika, Shri Ram Pyare
 Parashar, Prof. Narain Chand
 Pardhi, Shri Keshao Rao
 Parulekar, Shri Bapusaheb
 Patil, Shri A.T.
 Patil, Shri Veerendra
 Patnaik, Shrimati Jayanti
 Potdukhe, Shri Shantaram
 Quadri, Shri S. T.
 Ranga, Prof. N. G.
 Rao, Shrimati B. Radhabai Ananda
 Rao, Shri M. S. Sanjeevi
 Rao, Shri M. Satyanarayan
 Ravani, Shri Navin
 Rawat, Shri Harish
 Roat, Shri Jai Narain
 Sathe, Shri Vasant
 Satya Deo Singh, Prof.
 Sebastian, Shri S.A. Dorai
 Sethi, Shri Arjun
 Sethi, Shri P.C.
 Shailani, Shri Chandra Pal
 Shamanna, Shri T. R.
 Shankaranand, Shri B.
 Sharma, Shri Nand Kishore
 Sharma, Shri Pratap Bhanu
 Shiv Shankar, Shri P.
 Shivendra Bahadur Singh, Shri

Singh, Kumari Pushpa Devi
 Solanki, Shri Babu Lal
 Subburaman, Shri A. G.
 Sultanpuri, Shri Krishan Dutt
 Sunder Singh, Shri
 Tayyab Hussain, Shri
 Thungon, Shri P. K.
 Uike, Shri Chhote Lal
 Unnikrishnan, Shri K. P.
 Varma, Shri Ravindra
 Venkataraman, Shri R.
 Verma, Shri Deen Bandhu
 Vijayaraghavan, Shri V. S.
 Vyas, Shri Girdhari Lal
 Wagh, Dr. Pratap
 Wasnik, Shri Balkrishna Ramchandra
 Yadav, Shri Ram Singh
 Zainul Basher, Shri

NOES

Acharia, Shri Basudeb
 Balan, Shri A. K.
 Banatwalla, Shri G.M.
 Basu, Shri Chitta
 Giri, Shri Sudhir
 Gopalan, Shrimati Suseela
 Madhukar, Shri Kamla Mishra
 Pal, Prof. Rup Chand
 Roy, Shri A. K.
 Sen, Shri Subodh

MR. CHAIRMAN : Subject to correction, the result* of the Division is :
 AYES : 88; NOES : 10

The motion was adopted.

The preamble, as amended, was added to the Bill.

The Title was added to the Bill.

MR. CHAIRMAN : Now, the hon. Minister.

*The following Members also recorded their votes :

AYES : Shri P.V. Narsimha Rao, Shri Digvijay Singh, Shri D.M. Pulte Gowda, Shri Jitendra Prasad, Shri Bhubaneswar Bhuyan, Shri Nurul Islam and Shri Bishnu Prasad;

NOES : Shri M.M. Lawrence, Shri Nirmal Sinha and Shri Ananda Pathak.

SHRI P.C. SETHI : Sir, I beg to move ;

“That the Bill, as amended, be passed.”

MR. CHAIRMAN : Motion moved :

“That the Bill, as amended, be passed.”

Now, Prof. Rup Chand Pal. Please be brief.

PROF. RUP CHAND PAL (Hooghly) : Sir, I am not taking much time. We have discussed this Bill on Illegal Immigrants. My question now is this : Is this Bill really going to solve the problem of Assam ? No.

16.33 hrs.

[DR. RAJENDRA KUMARI BAJPAI
in the Chair]

The Government thinks that the problem of foreign nationals is only the problem of Assam.

If we look to the history of Assam, if we look to the programme of action of AASU and Gana Sangram Parishad and their 35-point programme, you will see this, that as early as in 1980, we have drawn the attention of the Government to this sort of programme of the AASU. So, it is our contention that this Bill is not going to solve the problem at all. It means, the government is not serious, politically, to face the danger of secessionism which no doubt is posing a great danger to this country. Repeatedly our attention and the attention of the whole nation is being drawn to the problem of unity of the country. Our idea is that this legal position regarding ‘foreign nationals’ has been taken to camouflage the real intention of the Secessionists. The AASU and the Gana Sangram Parishad people are only trying to confuse the situation.

While trying to protect the interests of the genuine refugees, we must at the same time, also see that the other problems that are there, the political problems that are there, are solved. And these can be solved only by mobilising the democratic forces against the secessionist forces that are working there. Mr. Jethmalani described the AASU people as great patriots. But, in

the back ground of the information given by the Government itself that foreign agencies and imperialist agencies are operating in this country, to destabilise our unity, we have to see that by such measures the AASU boys do not harass the genuine refugees and the minorities who had migrated long ago and for historical reasons. The demand of AASU has to be separated from the demand of the people of Assam. AASU and Gana Sangram Parishad do not represent the whole of the people of Assam. The Left and the Democratic forces are trying we mobilise the people of Assam and kisans and workers we king in the fields and the factories. They are coming together. By this way, more and more, these secessionist forces are getting isolated and so they are taking to terroristic methods. But, unfortunately, when we are thus trying to mobilise the democratic forces and isolating the secessionist forces, this Government, even after election, are taking certain measures which, instead of helping these democratic forces (to mobilise themselves against AASU and Gana Sangram Parishad), are only just standing in the way. Very recently, the Prime Minister had gone there, and held the meeting. We are also holding meetings there. Recently, there was a large gathering of our youth wing at Barpeta ; thousands and thousands of young boys and girls, men and women had come. In other places also, at the call of the CPIM, and left and democratic parties, thousands and thousands of people are coming to the meetings, but the Government is not giving permission and they are saying : ‘Hold the meetings in the halls only ; do not hold the meetings in the open places. Is it the way to meet the challenge of the secessionist forces ? It is not.

Let us have a look at the irony of history. I have gone through the history of Assam. Migration to that part of the country was encouraged in the British days also. Thousands of peasants from other parts of Bengal, were encourage to go there, and a large number of them are still there. They had come, and turned those fallow lands to produce gold, to produce the best crops. Now, they are going to be harassed as foreigners even after this enactment. That is the irony of history. Prof. Ranga will

remember that some days ago, some old freedom fight had come here on some invitation. I had the occasion to speak to one of them. He was saying that today some people who are going to be harassed as foreigners, illegal migrants, their fathers and forefathers had fought with the people of this country for independence. This is the irony of history.

Some people, even some opposition leaders, fail to appreciate the historical reasons that this is the price of partition. We are thinking about the Palestinian refugees; we are shedding tears for the refugees of other countries, but what is the fate of the refugees in our country. Some people were sent to Dandakarnya area; a decision has been taken to wind up the camp. The refugee women working in Delhi in the Central Government Undertakings as apprentices are being paid Rs. 100/-per month. The Central Government has miserably failed to rehabilitate those refugees. Seven hundred crores of rupees are required for their proper rehabilitation. At present, the West Bengal State is bearing the brunt, one crore refugees are there. Assam is bearing the brunt, and Tripura is bearing the brunt. In the face of this crisis of under-development, wrong Policies, wrong priorities, lopsided plans, and in Assam and other places, the fissiparous tendencies, and secessionist forces, foreign agencies are operating. You will have to see that by this Act, you do not harass those genuine minorities, who were invited and who have settled there. At the same time I would request the government to see to it that when there is an attempt to mobilise the democratic minded people against the secessionist tendencies, they should be encouraged. Permission should not be withheld for holding meetings which has been done in the case of our party. Ours is the largest number of political workers who have died there. And we are proud that here is one Party which in a situation like this is facing the situation and is fighting for the unity of the country. That is a fact.

I am concluding Madam with one warning. In my hand I have got the 35-point programme of the AASU and the

Gana Sangram Parishad. The last point says :

“We should tell categorically to New Delhi that we require from you only salt for our poor necessities of life and your requirements from us are tea, coal, crude oil, ply-wood, jute, etc. We must make you understand that Assamese are not alone in the world. Assam is for the Assamese.”

They have given a call ‘Bahirgato’ outsiders. So, these foreigners, illegal migrants, would not solve the problem. They want to drive out all those who are not Assamese—the Bengalis, Biharis, all who have settled during the British days, pre-British days and others. So, we have to see the history of Assam from the pre-British days upto today.

So, my earnest appeal to the Government will be that the Assam problem is not a simple problem of the foreign nationals. They are inflating the figures of the foreign nationals. That is AASU people are crying to cover up their real intentions. So, we have to challenge all their real intentions. It is the secessionist Movement which is endangering the unity of the country. We have to face this challenge. We should mobilise the people. But I am sorry to say you are now standing in the way for the narrow political reasons. You are not even permitting us to organise mass meetings. We have seen when Barbeta meeting was organised thousands and thousands of people had come. You decided not to allow these meetings to be held. Sorry, Madam, this is not the way to solve the problem and to face the challenge.

श्री गिरधारी लाल व्यास (भीलवाड़ा) :
सभापति महोदय, इस प्रस्तुत बिल की भावना बहुत अच्छी है, मगर हमारे मार्क्सिस्ट पार्टी के लोगों ने और खासतौर से भारतीय जनता पार्टी के लोगों ने इस मामले में जो रुख अख्त्यार किया है, उसकी वजह से व्यवस्था ठीक नहीं है। जिस तरह से यह बढ़ा-चढ़ाकर यहां बातें कर रहे हैं और अपने आपको तीस-मारखां की तरह बता रहे हैं, जो बातें लोग यह कहां रहे

हैं, वहाँ कोई व्यवस्था नहीं है, यह बात नहीं है। ये लोग अपने मुंह मियां मिट्टू बन रहे हैं।

दूसरी बात में यह कहना चाहता हूँ कि भारतीय जनता पार्टी के लोगों ने वहाँ पर आग लगाई हुई है। वहाँ पर हर तरह से लोगों को परेशान करने के लिए और उस प्रदेश को बिगाड़ने का सबसे बड़ा श्रेय अगर किसी को है तो वह भारतीय जनता पार्टी को है। हमारे राव साहब ने ठीक कहा, अभी जो इनके सदस्य श्री जेठमलानी यहां बोल रहे थे, वह बहुत सारी इतनी गलत बातें कह गये जिसका कि कोई अन्दाजा नहीं लगा सकते। इस तरह की बातें कहने से कोई लाभ नहीं होता। इस तरह के गलत लोग जो कौमुनली टेंशन फैलाते हैं, साम्प्रदायिक भावनाएं फैलाकर एक-दूसरे से लड़ाना चाहते हैं, इस प्रकार के लोग देश का भला नहीं कर सकते हैं और असम का भी भला नहीं कर सकते हैं।

असम में जितनी आग लगाई है, बी० जे० पी० ने लगाई है। श्री वर्मा जी यहाँ बैठे हुए हैं इन्होंने कोशिश की कि कुछ हो जाए, लेकिन यह भी बी० जे० पी० के अंचल में चलने की कोशिश करते हैं, जिससे अलग न हो जायें। ये व्यवस्था इनके साथ बनाना चाहते हैं, लेकिन इन तिलों में तेल नहीं है। ये लोग कोई व्यवस्था नहीं कर सकते— न जनता पार्टी कर सकती है, न भारतीय जनता पार्टी कर सकती है और न कोई और पार्टी कर सकती है आसाम में बाहर से जो लोग आए, वे 1977 से पहले आए थे। इन लोगों के पास 1977 से 1980 तक तीन साल तक राज रहा, लेकिन इन्होंने उसके बारे में कोई कार्यवाही नहीं की। अब ये सारा दोष हमारा पार्टी पर डालना चाहते हैं, जो इस देश को उन्नति की ओर ले जाना चाहती है, जो आसाम के लोगों को ऊंचा उठाना चाहती है और वहाँ की समस्याओं को हल करना चाहती है। इस कानून के जरिए गलत आदमियों को वहाँ से निकाला जा सकेगा और वहाँ के लोगों को संतोष होगा।

मगर मैं गृहमंत्री का ध्यान आकृष्ट करना चाहता हूँ कि इस कानून को सारे देश पर लागू किया जाएगा, लेकिन इसमें केवल आसाम के लोगों के लिए प्रावधान किया गया है। काश्मीर में 1947 के वक्त से रिफ्यूजी आए हुए हैं। आज तक उनको नागरिकता प्रदान नहीं की गई है। इसलिए काश्मीर और इसके साथ ही गुजरात तथा राजस्थान आदि जिन राज्यों में जो रिफ्यूजी आए हुए हैं, उनके लिए भी कोई न कोई व्यवस्था करनी चाहिए।

इस बिल के प्रावधान बहुत बढ़िया है। श्री बनातवाला ने प्रिएम्बल के बारे में जो कहा है, वह बिल्कुल गलत है। हमारा दृष्टिकोण यह है कि हिन्दू, मुस्लिम, सिख, ईसाई और पारसी आदि सब लोगों को सम-दृष्टि से देखा जाए, सब के साथ समान व्यवहार किया जाए और सब को आगे बढ़ने के अवसर उपलब्ध किए जाएं। इसी नीति से प्रेरित होकर यह बिल लाया गया है।

इन शब्दों के साथ मैं इस बिल का पूरा समर्थन करता हूँ।

SHRI P.C. SETHI : I do not want to go into the whole gamut of debate again. I would only like to say that this Bill is going to resolve the problem in a proper direction. As far as the solution to the problem is concerned, detection of foreign nationals is one of the aspects of the problem ; but ultimately, we will have to solve the Assam problem through negotiations by mutual settlement. I hope a congenial atmosphere in Assam will prevail, and the Opposition parties will help in creating a congenial atmosphere, so that useful negotiations can be held.

I beg to move :

“That the Bill, as amended, be passed.”

MR. CHAIRMAN : The question is : “That the Bill, as amended, be passed.”

The Motion was adopted.