[Shri Vidya Charan Shukla]

at whatever time they like, it will not be possible to do any useful work here. I submit in all humility that hon. members should be very careful in raising such matters. We do not mind replying to these things or dealing with them. But it should be done strictly according to the rules made for this purpose. If any case comes to our notice, we take appropriate action We are not interested in whitewashing anything or not dealing with any matter. There is not one case which has come to our notice which we have not dealt with in an appropriate manner. I deny these allegations.

श्री मधु लिमये : मेरा प्वाइंट आफ आर्डर है । इन्होंने नियम 353 का उल्लेख किया है । आप नियम को देखिये ।

"No allegation of a defamatory or incriminatory nature shall be made by a member against any person unless the member has given previous intimation to the Speaker and also to the Minister concerned so that the Minister may be able to make an investigation into the matter for the purpose of a reply."

ये कोई नए मामले नहीं हैं । जो पुरानी कार्रवाई है उसका उल्लेख करने का मुझे अधिकार है । मैंने इसके ऊपर सवाल दिए थे और आपने जवाब दिलवाये थे । यह सब लोक सभा वाद-विवाद में है । इनके ऊपर आपने कोई सख्त कार्रवाई नहीं की है । इसीलिए यही मौका है, यही अवसर है कि मैं इनको उठा सकूं ....

श्री रणधीर सिंह (रोहतक) : पब्लिक सर्वेंट है ?

श्री मधु लिमये : हां पब्लिक सर्वेंट है । इस में लिखा हुआ है कि डेफ्टिव कार्रवाई के लिए यह बिल है ।

Mr. Deputy-Speaker: The hon. member raised this issue in the third Lok Sabha, not in the present Lok Sabha. Therefore, the minister has every right to say so.

श्री मधु लिमये : तो खत्म हो गया क्योंकि वह ? खत्म नहीं हुआ है । मैं नियम के अनुसार बोल रहा हूं ।

Mr. Deputy-Speaker: The question is:

"That the Bill be passed".

The motion was adopted.

14.43 hrs.

PASSPORTS BILL

The Minister of Parliamentary Affairs and Communications (Dr. Ram Subhag Singh): Sir, on behalf of Shri Chagla, I beg to move*.

"That the Bill to provide for the issue of passports and travel documents, to regulate the departure from India of citizens of India and other persons and for matters incidental or ancillary thereto, as passed by Rajya Sabha, be taken into consideration."

Mr. Deputy-Speaker: The motion that the Bill be taken into consideration has been moved in the absence of the Minister of External Affairs. Now that he has come, if he thinks it would facilitate the debate, he might say something.

The Minister of External Affairs (Shri M. C. Chagla): I am sorry, Sir. I will explain the position.

I hope the measure I am asking the House to consider and pass is a non-controversial measure. It has been necessitated by a recent judgment of the Supreme Court, which held that every citizen of India had the fundamental right to get a passport. This judgment was based on article 21 of

*Moved with the recommendation of the President.

the Constitution, which says:

> "No person shall be deprived of his life or personal liberty except according to procedure established by law".

The Supreme Court has taken the view that personal liberty includes not only the right to move about within the country but also the right to go abroad. But you will notice that the fathers of the Constitution specifically provided "according to the procedure established by law". And the view taken by the Supreme Court was that as there was no law laying down the restrictions on the issue of passports denial of passport was a violation of article 21.

The position before the Supreme Court passed this judgment was that passports were issued according to administrative regulations. Although they were administrative regulations I wish to assure the House they were not arbitrary. There were proper regulations, proper procedure, proper passport officers, provision for appeal, provision for control and supervision But as soon as the Supreme Court gave this judgment it became the law of the land and, therefore, as a matter of emergency we had to pass an ordinance as the Parliament was not in session. Now that the Parliament is in session we have come before it to put a proper Act on the statute-book.

The Bill deals with various matters. I do not propose to go into the details. But before I deal with them I want to make one observation. There is hardly any country in the world which does not control the issue of passports. Some countries have laws, others do it administratively. For instance, the United Kingdom, Canada and France have no laws. There it is regulated by administrative regulations as was the case here before the Supreme Court passed this judgment. In the United States the position is very curious. I was reading the provision of law in the United States. There the President has the power to regulate the issue of passports provided there is an emergency. An emergency has to be declared for that purpose. The emergency was declared some time at the time of the Korean War and that emergency continues till today, and it is because of the emergency that the President has the power to issue passports and it is under that that possports are issued, regulated and given

Shri S. S. Kothari (Mandsaur): Does it mean that if there is no emergency there is no regulation and everybody must be given passports?

Shri M. C. Chagla: That seems to be the American law as far as I know because it specifically provides that on the declaration of an emergency for the purpose by the President the President is vested with the power to regulate the issue of passports.

Shri S. S Kothari: Do you like to follow that? You do not like to follow that and that is why you are bringing this Bill.

Shri M. C. Chagla: I am not following that. I want an ordinary law. We have the rule of law. Therefore, we want a procedure in accordance with the law laid down in article 21.

This Bill deals with the issue of passport and travel documents. Apart from passports you also need indentity certificates or emergency certificates. Passports can only be issued to a citizen. But you need identity certificates in cases of persons who have not got passports or who are stateless persons or whose passports have been impounded and who want to come back to a country. You want also emergency certificates in certain cases. Therefore you have documents permitting people to travel apart from passports.

The Bill lays down the grounds on which passports can either be refused or impounded and the grounds are similar. I want to assure the House

[Shri M. C. Chagla]

one thing, that we have seen to it that the issue of a passport should be the rule and denial should be the exception.

It is only in exceptional case, where broadly speaking, say, national interest or public interest are involved....

Shri Vasudevan Nair, (Peermade): That can be misinterpreted; that can be missued.

Shri M. C. Chagla: May I say this? When you pass a law, you must have trust in the *bona fides* of those who are administering it. If you don't do this, then no law can remain in the statute book. If you start by saying that those who are going to administer the law are going to be dishonest then, never mind what law you pass, there will be no rule of law. Therefore, every law-making body must start with the assumption, it is an elementary fact, that those who administer the law will administer it *bona fide* and honestly.

Shri Vasudevan Nair: Unfortunately, the experience is there.

Shri M. C. Chagla: I agree that we must put proper restrictions in the law to see that it is honestly adminstered.

Shri S. S. Kothari: Ince you issue a passport, it should be valid for at least ten years.

Shri M. C. Chagla: Normally we issue a passport for 3 or 5 years.

Shri S. S. Kothari: Make it 10 years

Shri M. C. Chagla: That is a matter of administrative detail which can always be changed.

Shri K. M. Koushik (Chanda): Why should you debar the case being taken to a court? Why have you not made the issue of passport justiciable? That makes us apprehensive that there is something which will lead to the abuse of this law.

Shri M. C. Chagla: I have given careful thought to this myself. I have been a judge myself and my proclivities have always been in favour of courts

Shri K. M. Koushik: Then why did you do this?

Shri M. C. Chagla: I will tell you why I have done it like this. When it was put up to me and I found that no appeal will lie to the court. I gave serious thought to it. Now there is so much of delay in the issue of passports. I have tried to do the best I can to expedite the issue of passports. But if you have an appeal to a court of law, the result will be this. I believe I know something about courts of law. Laws delays are provebial There will be arguments, there will be adjournment, the whole paraphernalia which a court of law has to have. A court of law cannot refuse whatever the procedure provides. Therefore, it will cause greater hardships to a citizen if he has to go in appeal to a court of law than to an administrative officer who can dispose of it quickly. But I will give the assurance to this House, which I gave to the other House—the notification does not provide it, but you can change it— that we will see to it that the appeal lies to an administrative officer who has legal qualifications.

An argument was advanced in the other House that if you have an appeal from one officer to the other, normally the higher officer upholds the decision of the subordinate officer That is not correct. Suppose the regional officer in Bombay refuses a passport. The appeal will lie to Delhi, and we will provide it that the appeal will lie to an administrative officer who has legal qualifications. I do not see why the officer here is interested in upholding the decision of the subordinate officer, if it is wrong. Again, you have got to trust your officers. The whole machinery of Gvernment must run on trust. Trust begets trust. If you start by saying that the law will be administered *mala fide*, if you say that the officers

will be dishonest, then no machinery can be run, certainly not the machinery of Govenrment.

Shri S. S. Kothari: Would you agree that the issue of passport should immediately entitle a person to foreign exchange automatically?

Shri M. C. Chagla: No Again, this question was raised there. I am concerned with foreign affairs. The External Affairs Ministry is concerned with the issue of a passport. The P form is issued by the Finance Ministry. You have a right to go as far as the External Affairs Ministry is concerned. For your right to get the foreign exchange you must go to my hon. colleague, the Deputy Prime Minister and Finance Minister and his ministry. The External Affairs Ministry has nothing to do with the issue of foreign exchange. But as soon as you have got a passport, you have got the right to leave the country.

Then, as I said, we have provided for appeal except in the case of an order made by the Central Government. This is for obvious reasons. The Central Government would rarely make an order except in public interest or in the interest of security and national defence. Therefore, we have not provided for appeal against the Central Government.

Then, we have provided another safeguard. When the Passport Officer refuses a passport he must give his reasons in writing except in certain cases where it would not be in the public interest to give those reasons. For instance, if he refuses it on the grounds of security or relations between different States, we may have evidence which it may be difficult to disclose. Therefore, except in exceptional cases an aggrieved party will be able to know the reason why a passport has been refused to him and he can go in appeal to the higher administrative officers.

Now I would like to point out two changes that we have made in the Ordinance and the Bill. Both are for good reasons. The Ordinance provided one of the grounds for refusal that the applicant had no adequate means of supporting himself outside India consistent with his dignity and self-respect as a citizen of India. I see that one hon. Member has given notice of an amendment to restore this. The reason for deleting this is that it will be very difficult for us to find out factually whether a person, when he goes there will be able to subsist or live there in a manner not unworthy of an Indian citizen. It will only mean delay in the issue of passports and we felt that this was not correct. That is why we have deleted it.

The other thing is that we have banned passports to those persons who fall under the Emigration Act, 1952. This Act prevents the emigration of unskilled persons. We do not want our persons to go as unskilled persons and be exploited in foreign countries. You know, Sir, what happened in the old days in South Africa and in other countries. Wherever Indians went as poor labourers, they were exploited. Now this is covered by the Emigration Act and we cannot give passports to them.

Shri S. S. Kothari: If a person gets an employment voucher in a foreign country and desires to go there and take up that employment, would you grant him a passport or would your refuse it?

Shri M. C. Chagla: If he gets a voucher, he will certainly get a passport.

Shri S. S. Kothari: Then, what is this particular provision that you are referring to?

Shri M. C. Chagla: This is a provision about indentured labour where people from other places come and want to take unskilled labour outside.

[Shri M. C. Chagla]

"There is already an Act on the statute book which prevent Indian citizens to go out as unskilled labourers and be exploited.

Then, I would also like to mention one amendment that we accepted in Rajya Sabha. That was officially moved by me because after discussion I realised that there was considerable force in the contention. We have provided in the Bill:—

> "that the applicant has, at any time during the period of five years immediately preceding the date of his application, been convicted by a court in India for any offence and sentenced to imprisonment for not less than two years;"

It was pointed out that a man may be convicted for political reasons; a man may be convicted for rash and negligent driving. It was said that it was not right that he should be debarred from getting a passport Therefore, we have inserted in this clause 'an offence involving moral turpitude' so that unless moral turpitude is involved, he would not be deprived of the passport.

15 hrs.

One other criticism that was offered and which I will anticipate here is the power given to the Central Government to decline a passport in the public interest, that in the opinion of the Central Government, the issue of a passport or a travel document to the applicant wil not be in the public interest. No court, no judge, has succeeded in defining what the public interest is The public interest is the interest of the public. That is the only way I can define. But the Central Government must keep residuary powers with them. There may be cases where the interest, the welfare, the security, of our country might be jeopardised by giving a passport to an individual. I assure you that this power will be very sparingly used.

Shri Nambiar (Tiruchirappalli): Is it on the report of the Intelligence Department, the C.I.D. that such passports are refused in the name of public interest?

Shri M. C. Chagla: Of course, we get reports from C.I.D, we get reports from Police; we get reports from the Criminal Investigation Department and others. We apply our mind and see what are the grounds on which he should be refused a passport.

Shri E. K. Nayanar (Palghat): May I know the definition of 'public interest'?

Shri M. C. Chagla: As I said, it is impossible to define 'public interest'. Public interest is the interest of the public. That is the only way I can define. No court, no judge, that I know of has been able to define 'public interest'.

May I now give you certain figures to show how rarely passports have been refused? In 1964, the number of applications received were 54,685 and the number of applications rejected were 1408, that is, 2.5 per cent. In 1965, the number of applications received were 56,028 and the number of applications rejected were 1400, that is 2.4 per cent In 1966, the number of applications received were 82,925 and the number of rejected applications was 316, that is 0.4 per cent. From these figures, you will see that the administration has been very lenient. May I give another assurance to this House? In the administration of this Act, there will be no discrimination whatsoever. As a matter of fact, the Supreme Court has sounded a note of warning that Article 14 which deals with equality will apply to any law passed by Parliament. I give an assurance that, as far as my Ministry is concerned, in the issue of passport, there will be no discrimination as between party and party, as between citizen and citizen and as between rich and poor. We will test every case according to the provisions laid down in the Bill. With this assurance, I commend the Bill to the House.

Mr. Deputy Speaker: Motion moved:

"That the Bill to provide for the issue of passports and travel documents to regulate the departure from India of citizens of India and other persons and for matters incidental or ancillary thereto, as passed by Rajya Saha, be taken into consideration."

Now, there are some amendments. Shri Goel.

Is he moving his amendment?

Shri Shri Chand Goel (Chandigarh): Yes

Mr. Deputy Speaker: Just a minute I would like to regulate the time Only 3 hours are allotted to this Bill. I would request the Members to be brief and not to take more than 10 mmutes each.

Shri Shri Chand Goel: At least the mover of the amendment may be given a little more time

Mr Deputy Speaker: Normally, it should be 10 minutes each.

Shri S. S. Kothari: I am a signatory to this amendment.

Shri Narendra Singh Mahida (Anand): It would not be finished today

Mr. Deputy-Speaker: I have got to regulate the time. Three hours have been allotted for this

Shri Nambiar: Within three hours, can such a big Bill with so many clauses be passed?

Mr. Deputy-Speaker: We shall see as we proceed further.

Shri Shri Chand Goel: I move:

"That the Bill be referred to a Select Committee consisting of 15 members, namely, Shri Hem Raj, Shri Kameshwar Singh, Nawabzada Syed Zulfiquar Ali Khan, Shri Krishnan Manoharan, Shri Samarendra Kundu, Shri Bal Raj Madhok, Shri Vikram Chand Mahajan, Shri K. Ananda Nambiar, Sirdarni Nirlep Kaur, Chaudhari Randhir Singh, Shri Gajraj Singh Rao, Shri Diwan Chand Sharma, Shri Prakash Vir Shastri, Shri G Viswanathan and Babu Sri Chand Goyal, with instructions to report by the 30th July, 1967

उपाध्यक्ष महोदय, जो बिल इस समय इस सदन के सामने है उस के सम्बन्ध में मैंने यह प्रस्ताव जानबूझकर किया है । चूंकि मैं यह समझता हू कि इस बिल के अन्दर इतनी कमियां है, इतनी खराबिया हैं, इतने दोष हैं कि अगर यह इसी शक्ल में पास हुआ तो मैं समझता हूं कि एग्जीक्यूटिव के हाथ में इतने अधिकार और इतनी शक्तियां रहेंगी कि उन का निश्चित रूप से दुरुपयोग होगा । यह तो शत्रहन सिंह साहनी के केस की कृपा है और सुप्रीम कोर्ट की कृपा है कि आज इस भारत सरकार को 1967 में यह बिल इस सदन के अन्दर लाने की आवश्यकता हुई है । 10 अप्रैल, 1967 को जब भारत के उच्चतम न्यायालय, सुप्रीम कोर्ट ने यह निर्णय दिया कि भारत सरकार को किसी भी व्यक्ति को विदेश यात्रा के लिए जाने के लिए पासपोर्ट देने से इनकार करने का अधिकार नही है, संविधान की दृष्टि से हरएक नागरिक सम अधिकार रखता है, बराबरी के अधिकार रखता है, उन अधिकारो से उस को वंचित नहीं किया जा सकता । उच्च न्यायालय ने यह भी करार दिया कि आर्टिकिल 21 के तहत हरएक व्यक्ति की जो व्यक्तिगत स्वतंत्रता है उस के ऊपर आघात नही किया जा सकता और उन्होंने यह समझा कि विदेश यात्रा भी एक व्यक्ति का अपना व्यक्तिगत अधिकार है उस के ऊपर किसी प्रकार का कुठाराघात करना यह उचित नहीं है और सरकार को

[श्री श्रीचन्द गोयल]

इस बात का अधिकार नहीं दिया जा सकता। इसलिए मैंने निवेदन किया कि यह सरकार तो शायद 1967 में भी इस बात का विचार न करती अगर सुप्रीम कोर्ट का निर्णय इस के विरोध में न होता। लेकिन मैं यह समझता हूं कि आज जिस कमी को यह पूरा करने जा रहे हैं उस बिल के द्वारा चाहिए तो यह था जिस प्रकार से गुड इन्टेन्शन या अच्छा इरादा हमारे विदेश मंत्री ने प्रकट किया है, उन्होंने यह कहा है कि भारत के अन्दर पासपोर्ट इश्यू करना एक नियम रहेगा और उस का इन्कार करना एक अपवाद, लेकिन मैं समझता हूं कि हर जगह जो अधिकारी पासपोर्ट इश्यू किया करेंगे आखिर उन्हें वहां चागला साहब के गुड इन्टेंशंस की तरफ विचार नहीं करना है, उन पर अनेकों प्रकार के राजनैतिक दबाव पड़ते हैं, अनेकों प्रकार से अड़चनें लगती हैं। जिन लोगों का आज तक का अनुभव है कि किन लोगों को पासपोर्ट इश्यू किए जाते हैं, किन लोगों को इन्कार किया जाता है, वह सारा इतिहास आपकी आंखों के सामने आये तो दिखाई पड़ेगा कि यह सरकार जानबूझकर इस अधिकार को अपने हाथ में लेना चाहती है। मुझे याद है राष्ट्रीय स्वयंसेवक संघ के सरसंघचालक श्री माधव सदाशिव राव गोलवलकर ने बर्मा जाने के लिए पासपोर्ट मांगा था। बर्मा सरकार ने उन को आमन्त्रण दिया था और कहा था कि आप बर्मा के अन्दर आइए, उससे भारत और बर्मा के जो कल्चरल रिलेशंस हैं जो सांस्कृतिक संबंध हैं वह दृढ़ होंगे, मजबूत होंगे, भारत और बर्मा एक दूसरे के निकट आयेंगे, लेकिन इस सरकार जो राजनैतिक दृष्टि से इन अधिकारों का उपयोग या दुरुपयोग करती है उन को भी यह पासपोर्ट देने से इन्कार कर दिया। मैं यह भी कहना चाहूंगा, आज इस को यह भी पता है कि शेख अब्दुल्ला को जिन के ऊपर अरीसा करके इन्होंने पासपोर्ट दिया था और शेख अब्दुल्ला ने जिस प्रकार की धोखाधड़ी का भक्ति दिखाई होगी, इस का इस को पता होगा लेकिन जब वह विदेशों में गए तो विदेशों में जाकर उनकी नीयत बदल गई और उन्होंने जाकर उस पासपोर्ट का दुरुपयोग करना शुरू किया। लेकिन मैं पूछना चाहता हूं कि क्या भारत सरकार ने उनका जो पासपोर्ट था उस को कैन्सिल किया या इम्पाउन्ड किया। ये हर चीज का इस्तेमाल अपनी इच्छा से, अपनी मर्जी के मुताबिक करते हैं।

छागला साहब, जो न केवल भारत के एक सुप्रसिद्ध एडवोकेट रहे हैं, बल्कि भारत की उच्चतम बम्बई हाई कोर्ट के चीफ़ जस्टिस के नाते भी उन के जो निर्णय हैं, उन के जो अनेकों फैसले हैं, उन को आदर की निगाह से देखा जाता है और उनको हम हाई कोर्टों में पेश करते रहे हैं। मैं समझता हूं कि कानून के हाथ में या अधिकारियों के हाथ में इस प्रकार के अधिकारों को सौंपना, जिनका दुरुपयोग हो सकता है, एक सही कदम नहीं है। इस में जो अपील का प्रोवीजन रखा गया है, उस में तो सिर्फ यही कहा गया है कि एक एक्जीक्यूटिव अफसर के बाद दूसरे एक्जीक्यूटिव अफसर के पास वह व्यक्ति अपील कर सकेगा, जिसको पासपोर्ट देने से इन्कार किया जायेगा। लेकिन छागला साहब के सामने कई बार सफ्स कहे गये होंगे --This is an appeal from Caesar to Caesar. एक सरकारी अथोरिटी के बाद दूसरी सरकारी अथोरिटी के सामने अपील करना वास्तव में अपील का कोई अधिकार नहीं है। आज उन्होंने यह दलील दी है कि हम किसी न्यायालय या न्यायाधीश को अपील का अधिकार इस कारण नहीं देना चाहते कि इस में विलम्ब होगा, देर लगेगी और उस से जनता को ज्यादा कष्ट होगा, जितना कि अब होता है। लेकिन मैं समझता हूं कि आज अनेकों प्रकार के प्रोवीजन इस तरह के बनाये जा सकते हैं, जिससे कि देर न हो।

इन्होंने चुनाव याचिकाओं के सम्बन्ध में कानून बनाया है कि 6 महीने में हाई कोर्ट

को चुनाव याचिका का निर्णय करना होता। मुझे पता है कि पंजाब हाई कोर्ट ने किस तेजी से चुनाव याचिकाओं पर निर्णय किये जा रहे हैं और उस हाई कोर्ट ने निश्चय किया है कि 6 महीने के अन्दर अन्दर वे सभी याचिकाओं का निर्णय कर देंगे। क्या इस किस्म का प्रावीजन इसमें नहीं लाया जा सकता था कि जिस न्यायाधीश के सामने यह अपील आयेगी, वह उस अपील का निर्णय निश्चित समय में दे। एडमिनिस्ट्रेटिव अथोरिटी के सामने अपील का जो प्रावीजन रखा गया है, उस में भी कोई अवधि तय नहीं की है, उसमें मियाद मुकर्रिर नहीं की गई है। अपेलेट-अथोरिटी को ही अभी तय नहीं किया गया है। इनके पास जो रूल-मेकिंग पावर्ज हैं उसमें यह अधिकार दिया गया है कि अथोरिटी की नियुक्ति, उसकी जूरिस्डिक्शन, उसकी सारी बातें बाद में तय होंगी। इस लिये आज हम नहीं कह सकते—इन के दिमाग में शायद हो—लेकिन कम से कम पार्लियामेन्ट के सदस्यों के सामने न स्पष्ट नहीं है वह अथोरिटी कौन होगी। लेकिन यह ऊपर स्पष्ट रूप में कहा गया है कि सैन्ट्रल गवर्नमेन्ट के निर्णय के विरुद्ध कोई अपील लाइ नहीं करेगी। मैं समझता हूं कि सिवाय आर्टिकल 226 का लाभ उठा कर कोई व्यक्ति हाई-कोर्ट में रिट दायर करे, इस के अलावा उसको कोई अधिकार नहीं दिया गया है।

उपाध्यक्ष महोदय आपके भी अनुभव में यह बात आई होगी कि पासपोर्ट हासिल करने के लिये पासपोर्ट दफ्तर के अनेकों दर्जनों को बारबार खटखटाना पड़ता है, 10-12 बार जाना पड़ता है। आप इससे कल्पना कर सकते हैं कि इस से जनता को कितनी कठिनाइयां होती। किसी व्यक्ति को इलाज के लिए बाहर जाना है, वहां के डाक्टर ने उस को मशविरा दिया है कि वह स्विटजरलैंड जाये, इंग्लैंड जाये, यू० एस० ए० जाये, लेकिन उस को समय पर पासपोर्ट नहीं मिलता। मैं समझता हूं कि अगर उस को इस तरह से पासपोर्ट दफ्तरों के धक्के खाने पड़ते हैं, अनेक बार जाना पड़ता है तो आप कल्पना कीजिये कि उस को कितना कष्ट और परेशानी होगी। इस प्रकार के अनेकों उदाहरण अनुभव के अन्दर आये हैं। पिछले दिनों एक डाक्टर साहब इंग्लैंड में थे, वहां पर उनकी अचानक मृत्यु हो गई, उनकी धर्म पत्नी और भाई यहां पर थे, उन के पास तार आया कि उन के शव को लेने आओ, लेकिन कई दिन इन लोगों ने उन को पासपोर्ट देने में लगा दिये।

उपाध्यक्ष महोदय, मैं यह समझता हूं कि अच्छा होता अगर इस किस्म की चीज कानून की शक्ल में लाई जाती। मैं आपसे पूछना चाहता हूं कि क्या इस बात का प्रावीजन किया गया है कि जो व्यक्ति पासपोर्ट हासिल करने के लिये दरख्वास्त पेश करता है, अगर 15 दिन में उसकी दरख्वास्त मंजूर नहीं की जाती, तो वह समझे कि उसकी दरख्वास्त मंजूर हो गई है। अगर इस तरह का कोई प्रावीजन इस में रखा जाता कि हफ्ते 15 दिन में उस की दरख्वास्त पर कोई निर्णय नहीं होगा, तो वह यह समझे कि उस को पासपोर्ट मिल गया है, अगर इस किस्म की कोई गारन्टी या आश्वासन इस में दिया जाता, तो मैं समझता कि नेकी नीयत ठीक है। यह ठीक है कि आंकड़े दिये गये हैं, लेकिन यह नहीं बताया गया कि ये पासपोर्ट हासिल करने के लिये कितनी-कितनी बार कितने-कितने अफसरों के पास उनको जाना पड़ा, कितनी-कितनी बार उनको पासपोर्ट दफ्तरों के दरवाजे खटखटाने पड़े, कितनी सिफारिशें करनी पड़ी, एम-पीज या मंत्रियों के प्रभाव का लाभ उठा कर उन को यह पासपोर्ट हासिल करना पड़ा, यह कोई व्याख्या इस में नहीं की गई है।

[श्री श्रीचन्द गोयल]

डागला साहब ने यह कहा कि यह पब्लिक इन्टरेस्ट का मामला है— यह ऐसा मिस्टीरियस शब्द है जिसकी कोई व्याख्या वह नहीं कर सके, जिसकी कोई परिभाषा नहीं कर सके। मैं समझता हूं कि खुले तौर पर सरकार इस प्रकार का अधिकार अपने हाथ में रखना चाहती है। अगर वे यह समझें कि किसी व्यक्ति की गतिविधियां, उसकी कार्यवाहियां देश के लिए खतरनाक हो सकती हैं या विदेश के अन्दर उस का आना जाना देश के लिये खतरनाक हो सकता है तो उसको उन्होंने पब्लिक इन्टरेस्ट की कसौटी पर कायम कर के सभी अन लिमिटेड पावर्स सरकार के हाथ में सौंप दी है कि सरकार अपने जो राजनीतिक विरोधी हैं, उन को पासपोर्ट अपनी मर्जी से दे या उनको पासपोर्ट अपनी मर्जी से न दे। मैं समझता हूं कि पब्लिक इन्टरेस्ट का यह शब्द इतना खतरनाक है, जनहित का यह शब्द इतना खतरनाक है कि इसका दुरुपयोग किया जा सकता है। इसलिये मैं निवेदन करना चाहता हूं कि यह बिल जब सिलेक्ट कमेटी के सामने जायेगा, तब वहां पर इस के अनेकों दोषों पर विचार किया जा सकेगा। यह खुशी की बात है कि राज्य सभा की बहस के नतीजे के तौर पर उन्होंने इस की एक क्लाज को इम्प्रूव किया है। जिसमें कहा गया कि एक व्यक्ति का दो साल की सजा हो, लेकिन किसी मोरल टरपीच्यूड वाले आफेन्स में हो, तभी उस का इनकार किया जा सकता है, लेकिन इसके साथ साथ जो और क्लाज हैं उनकी तरफ डागला साहब ने विचार नहीं किया। यहां इन्होंने सैक्शन 6 को (ई) तक इम्प्रूव किया है, लेकिन इस के साथ साथ आप देखें, दूसरी जो क्लाजिज हैं, क्लाजिज (एफ) पर भी विचार किया जाना चाहिए—

"Subject to the other provisions of this Act, the passport authority shall refuse to issue a passport or travel document for visiting any foreign country under cl. (c) of sub-sec. (2) of sec. 5 on any one or more of the following grounds—

यह (एफ) का जो कारण है—

"that proceedings in respect of an offence alleged to have been committed by the applicant are pending before a criminal court in India".

इसमें भी अनेकों प्रकार की प्रोसीडिंग्ज हो सकती हैं। मेरा यह विरोध नहीं है कि अगर मोरल-टरपीच्यूड वाले आफेन्स में किसी के खिलाफ कार्यवाही चल रही है तो उसको पासपोर्ट देने से इन्कार न किया जाय, लेकिन इस में यह भी तो हो सकता है कि सिक्योरिटी प्रोवीजन के तहत कोई कार्यवाही चल रही हो यह भी हो सकता है कि सैक्शन 34— पुलिस एक्ट के कारण कोई कार्यवाही चल रही हो या दूसरे किसी कारण से कोई मुकदमे की कार्यवाही चल रही हो। कोई व्यक्ति इस बात में दिलचस्पी रखता हो कि वह व्यक्ति विदेश यात्रा न कर सके और वह कोई फ्राडुलेन्ट कार्यवाही कर दे किसी के खिलाफ कोई कम्प्लेन्ट कर दे, इस तरह से वह उसके जाने में रोक लगा सकता है। अब सैक्शन (एफ) का उपयोग कर के कोई भी व्यक्ति किसी के भी रास्ते में बाधक बन सकता है, अड़चन पैदा कर सकता है, कि वह अपनी विदेश यात्रा न कर पाये। इस लिये जिस तरह से सबसैक्शन ई—मोरल-टरपीच्यूड को रिफाइन कर के सुधारा है, उसी प्रकार सैक्शन जी तथा एफ के अन्दर भी सुधार की आवश्यकता है। इसी तरह से जो सबसैक्शन (जी) है उस में भी है कि

"(g) that a warrant or summons for the appearance, or a warrant for the arrest, of the applicant has been issued by a court under any law for the time being in force or that an order prohibiting the departure from India of the applicant has been made by any such court;"

मैं यह गुजारिश करना चाहूंगा कि यह दोनों चीजें ऐसी हैं कि अगर मैं चाहूं कि किसी आदमी को पासपोर्ट न दिया जाय, तो उस के खिलाफ मैं कोई वारंट जारी कर दूं, कोई समन्स जारी कर दूं, उस के बाद उन को जो विदेश यात्रा का इच्छा है उस को उससे वंचित कर सकूंगा ।

इस के बाद आप मुलाहजा फरमायें कि जो सब-सेक्शन 13 है, उस में है कि

"(1) Any officer of customs empowered by a general or special order of the Central Government in this behalf and any officer of police not below the rank of a sub-inspector may arrest without warrant any person against whom a reasonable suspicion exists..."

किसी भी व्यक्ति के ऊपर कोई शंका या इल्जाम लगा दें

Give a dog a bad name and hang it.

उस के ऊपर दोष लगा दें या कह दें कि तुम्हारे विरुद्ध यह शंका है कि तुम वहां जाकर कोई न कोई अनुचित कार्रवाई करोगे, उसके बाद सब-इन्स्पेक्टर के रैंक का कोई भी आदमी किसी बिना वारंट के उस को गिरफ्तार कर सकता है ।

आगे आप मुलाहजा फरमायें कि सेक्शन 16 के अन्दर है कि :

"No suit, prosecution or other legal proceeding shall lie against the Government or any officer or authority for anything which is in good faith done or intended to be done under this Act."

मैं यह अर्ज करना चाहता हूं कि जब 1947 में भारतवर्ष आजाद हुआ, उस से पहले जितने भी ब्रिटिश रिजीम के कानून बने हैं उन के अन्दर एक इन्डेम्निटी क्लाज हुआ करता था कि जो भी सरकारी कर्मचारी अथवा अधिकारी अपनी सूझ बूझ से, अपनी नेकनियती से ठीक काम करेंगे, उन के विरुद्ध, चाहे उन्होंने कोई भी कार्रवाई कानूनी तरीके से गलत क्यों न की हो, कोई कार्रवाई नहीं की जा सकती । मैं नहीं समझता कि आज इस क्लाज को यहां पर जोड़ने की क्या जरूरत है । आज इन्डेम्निटी क्लाज रखने का एक फैशन सा बन गया है । हमारी सरकार जो भी कानून बनाती है, उस के अन्दर एक इन्डेम्निटी क्लाज जरूर रखती है ।

इस के साथ साथ जो सेक्शन 22(ए) है उस में उन्होंने कई जबर्दस्त पावर्स अपने हाथ में ली हैं

They can—

"exempt any person or class of persons from the operation of all or any of the provisions of this Act or the rules made thereunder;"

22(ए) में सरकार ने अपने हाथ में यह हक लिया है कि किसी व्यक्ति को या किसी भी श्रेणी को अगर वह इस कानून से मुक्त करना चाहे तो मुक्त कर सकती है ।

मैं अर्ज करना चाहता हूं कि इस कानून के अन्दर इतनी कमियां हैं, इतने दोष हैं कि अगर यह कानून किसी हाई कोर्ट में चैलेन्ज किया गया तो इसके अन्दर यह पाया जायेगा कि इस में अनगार्डेड और अनकैनलाइज्ड पावर्स हासिल की गई हैं । मैं समझता हूं कि इस प्रकार की जो पावर्स हैं वह सरकार के पास नहीं रहनी चाहियें । इसलिये इस बिल का सेलेक्ट कमेटी में जाना निहायत जरूरी है ।

श्री श्रीचन्द गोयल

जो सेक्शन 24 में रूल मेकिंग पावर है, उस में भी आप मुलाहिजा फरमायेंगे कि सब सेक्शन (2) (ए) में इस प्रकार है कि :

"(a) the appointment, jurisdiction, control and functions of passport authorities;"

फिर (बी) में है कि :

"(b) the classes of persons to whom passports and travel documents referred to respectively in sub-section (1) and sub-section (2) . . ."

आगे चल कर (सी) में है कि :

"(c) the form and particulars of aplication for the issue or renewal of a passport or travel document . . ."

इसी तरीके से (जी) में है कि :

"(g) the appointment of appellate authorities under sub-section (1) . . .".

सब चीजें इस कानून के अन्दर आ जानी चाहियें थीं ताकि पार्लियामेन्ट के मेम्बर्स को इस बात का पता होता है कि कौन इस में एपेलेट अथारिटी होगी, किन किन क्लासेज को किस किस प्रकार का पासपोर्ट मिलेगा। एक मांग की जा रही है कि जहां तक पार्लियामेन्ट मेम्बर्स का सवाल है, जब वह किसी डेलिगेशन के मेम्बर हो कर किसी विदेश में जाते हैं तो उन को बजाय इस के कि आर्डिनरी पासपोर्ट दिया ज डिप्लोमेटिक पासपोर्ट मिलना चाहिये ताकि बाहर जा कर डिप्लोमैटिक पर्सन्स को जो सुविधायें होती हैं उन को वह इस्तेमाल कर सकें। इस लिये मैं निवेदन करना चाहता हूं कि इस बिल में जिस प्रकार की कमियां हैं और जिस प्रकार के अधिकार इस में सरकार ने ले रखे हैं उन का दुरूपयोग हो सकता है। इसलिये इस को सेलेक्ट कमेटी में जरूर भेजा जाना चाहिये।

Shri Sradhakar Supakar (Sambalpur): Sir, I do not think there is any necessity to refer this Bill to the Select Committee. This Bill has come after an Ordinance and it will lapse before the date mentioned for the submission of the Select Committee's report. We should not be left in a void.

I am glad that the Supreme Court has underlined the necessity for a Bill to provide for passports. But I think the provisions of the Bill are not sufficient to cover all the cases that arise, if a passport is rightly or wrongly, refused or granted. Many cases relating to passports come before the House. On 13th June, there was an unstarred question No. 2207 about Dr. Dharma Teja: It reads:

> "Will the Minister of Transport and Shipping be pleased to state whether investigation has been carried out into the question of the responsibility of the Ministry of Home Affairs and of CBI in the matter of allowing Dr. Teja to escape from India and refusing to act on the suggestion of the Enforcement Directorate and the Finance Ministry that Dr. Teja be arrested and his passport be seized".

There are other cases also. Last year the case of Rita Faria came up when she wanted to go to Viet Nam; doubts were raised whether her passport should have been impounded or not. There was the question of allowing the Naga underground to go to England to meet Mr. Phizo. The question of Sheikh Abdulla came up as also the question of Members of Parliament who wanted to go to Taiwan or Israel. These are the types of cases brought before this House and the Minister has been asked to explain why passports were issued in particular cases or why not issued in other cases. Most of the questions that

arise are political rather than judicial and so it is properly provided that the question whether a person is entitled to a passport or not should be considered by the passport authorities and that appeals should be handled by appellate authorities. The case which gave rise to the promulgation of this Ordinance is interesting in this sense. There were two cases. In one case the allegation against the applicant was that he was a passport racketeer. And in the other case, there was an allegation that the—

Mr. Deputy-Speaker: The hon. Member may continue his speech on the next occasion. We will now have to take up private Member's business.

15.30 hrs.

COMMITTEE ON PRIVATE MEMBERS' BILLS AND RESOLUTIONS

FOURTH REPORT

श्री हरदयाल देवगुण (पूर्व दिल्ली) : मैं प्रस्ताव करता हूं कि यह सभा गैर सरकारी सदस्यों के विधेयकों तथा संकल्पों सम्बन्धी समिति के चौथे प्रतिवेदन से जो 14 जून को सभा में पेश किया गया था, सहमत है।

Mr. Deputy-Speaker: The question is:

> "That this House agrees with the Fourth Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 14th June, 1967."

The motion was adopted.

15.31 hrs.

RESOLUTION *RE.* DECONTROL OF STEEL—*Contd.*

Mr. Deputy-Speaker: Shri Nambiar is to continue his speech. He has spoken for nine minutes. Only one hour is allotted. So we have to ration the time. He may now take not more than 10 minutes, because he has the right of reply also for a few minutes.

Shri Nambiar (Tiruchirappalli): Sir, to make the House remember the resolution, I shall once again read it:

> "This House disapproves the action taken by the Government in decontrolling steel and thereby causing steep rise in the price of steel."

On the last day, I quoted certain figures as to how the price of steel has gone up very much during this period. This morning there was a question answered in this House, where in you could see that the figures for the steep rise in the price of steel have been given. The hon. Minister gave the figures. In all varieties, whatever it be, whether it is scarce variety or the free variety, there was a steep rise in price immediately after decontrol. In the case of beams it was six per cent; billets, nine per cent; bars (Light), seven per cent; structurals, four per cent; black sheet, five per cent; galvanised corrugated sheet, 29 per cent; plates, six per cent; cold rolled sheet, 12 per cent; cold rolled strips, 11 per cent; heavy rails (90 lbs.) eight per cent; light rails (30 lbs.), four per cent; in regard to wheel and tyres used by the railways and the government, new design, five per cent; old design, 20 per cent; axles, new design, five per cent, and old design, 21 per cent.

As I told you the other day, the Railway Minister when he submitted the budget, said that due to the price rise in steel, the expenditure on the side of the railways has increased. Here, the Government on the other hand, is allowing this sort of increase without much justification. Perhaps it may be a little inconvenient to you if I remind you that you were once the Chairman of the Committee which went into the question in this regard, and you also may be a party to the recommendations for the decontrol of steel.