

[Shri Jawaharlal Nehru]

to our knowledge, yesterday afternoon? The House was not sitting on Saturday and Sunday and I have taken the earliest opportunity to inform the House.

**Shri Hem Barua:** We got the news of the fall of Walong day before yesterday all right. (Interruptions).

**Mr. Speaker:** We shall now proceed with the motion moved by Shri Datar.

**Shri Hari Vishnu Kamath:** I made a request. That has not been replied to.

**श्री बागड़ी :** अध्यक्ष महोदय, मैं अर्ज करना चाहता हूँ कि .

**अध्यक्ष महोदय :** माननीय सदस्य ने अपना सवाल पूछ लिया है। इस वक्त और कोई इन्फॉर्मेशन नहीं है।

**श्री बागड़ी :** मैं अर्ज करना चाहता हूँ कि इससे ज्यादा ज़रूरी और ग्रहम बात देश के सामने कोई नहीं है। इसी के वास्ते इमर्जेंसी हालात में लोक सभा का इजलास रखा गया था। आज सारा देश इस बारे में उठा हुआ है। जब हम आगे की बात कह कर पीछे जाते हैं, तो देश की मानसिक वृत्ति को ठेस लगती है। इसका यह हल है कि आज नहीं तो कल, कल नहीं तो परसों, लोक सभा को साफ़ तरीके से अपना मन बना कर, अपना रास्ता बना कर चलना पड़ेगा। उस के लिए आप बहस के लिए एक और दिन रखें। जो नीति सरकार ने पहले सोची थी वह नीति फ़ेल हो चुकी है। जो बात हमने कही थी, वह गलत हो चुकी है। जो विश्वास हमने देश के सामने रखा था, वह पीछे जा चुका है। इस लिए यह ज़रूरी है कि दो-बारा इस बारे में बहस की जाये और नये सज़ेस्टियन्स देश के सामने रखे जायें, ताकि देश उठे और उस में कमजोरी न आए।

**अध्यक्ष महोदय :** अच्छा।

**Shri Hari Vishnu Kamath:** I understand the Prime Minister telling the House that the House did not sit on Saturday and Sunday. But on Friday morning, the papers carried the news that fierce fighting was going on in Walong and Jang, but no statement was made in the House.

**Shri Jawaharlal Nehru:** Fierce fighting was going on. It is always going on in various places. But Walong fell day before yesterday, on Saturday.

**Mr. Speaker:** The House will now proceed with the motion moved by Shri Datar.

12.45 hrs.

FOREIGNERS LAW (APPLICATION AND AMENDMENT) BILL—contd.

**Shri Hari Vishnu Kamath:** The House is no doubt in full agreement with the Minister that in this hour of grave national emergency, the executive should be armed with adequate powers to meet the needs of the situation in various spheres of their activity and to deal with foreigners and similar other individuals who may be considered to be security risks in the situation. I do not wish to make any elaborate speech on this occasion, but will only seek clarification on certain matters which are germane to the Bill and to the ordinance which is now being sought to be replaced by the Bill.

The first point I wish to make out is with regard to the Bill. It does not mention as to when it will actually come into force, whereas clause 1 of Ordinance No. 5 of 1962 says:

“It shall be deemed to have come into force on the 26th of October, 1962.”

This gives rise to a little doubt in my mind with regard to this particular

provision of the ordinance. The ordinance was carried in the extraordinary gazette of 30th of October, 1962 saying that it would come into force on the 26th October, 1962, that is to say, with retro-active effect. I do not know whether this is quite right that something is published in the gazette on 30th October, providing that it will take retrospective or retro-active effect.

The next point I would like to ask the Minister is about this provision about parents and grandparents. It is no doubt necessary that power should be taken to detain persons who are considered to be security risks at that time. I ask with some trepidation whether it would be right to go back two generations, 40 or 50 years and consider any person who was born of either parent—mother or father—who was Chinese at that time. I do not wish to make any odious comparison, but if I remember aright, there was in Germany under the regime of Hitler a law with regard to the Jews saying that any person whose grandparent was....

**Mr. Speaker:** May I draw his kind attention to articles 5 and 6 of the Constitution? These are the qualifications for acquiring Indian citizenship. Therefore, those words are being taken from there, because some Chinese might have acquired Indian citizenship on that account. Article 6 says:

“he or either of his parents or any of his grand-parents.....”  
 These are the conditions of acquisition of citizenship.

**Shri Hari Vishnu Kamath:** That is for citizenship.

**Mr. Speaker:** Therefore, those Chinese that were of Chinese origin but who acquired Indian citizenship under these articles are intended to be brought under this Bill.

**Shri Hari Vishnu Kamath:** If it logically follows from that, I have

nothing more to say. But I had certain doubts and I thought you might allay them. If that is the position, the logical position under the Constitution, then I have nothing more to say.

May I now proceed to another point? Clause 2 of the Bill says:

“a citizen or subject of any country at war with, or committing external aggression against, India or of any other country assisting the country at war with or committing such aggression against India....”

That means to say, in the present context, any other country assisting China. I hope that the Government really means business and is serious about enforcing the provisions of this clause. I do not know whether Government has followed the implications of this term as understood. I would be happy if they are enforced, but I am doubtful whether at all this particular provision would be enforced, because the citizens of any nation or country which is helping the enemy, that is, China in the present situation, will also be liable to be proceeded against under this clause.

Only the other day we read in the papers—I do not know whether the press reports are correct; I believe they are, sometimes; often—that one of the East European countries, Czechoslovakia, is supplying arms in abundance, in great numbers, to China. I ask the Minister of Home Affairs—perhaps, he will never answer the question; the Prime Minister will answer it, because it is his subject; but I should like to put it to the Minister because he is part of the Government—does the Minister consider, does the Government consider that because Czechoslovakia, which is a Communist country, an East European Communist country, is sending

[Shri Hari Vishnu Kamath]

arms and thereby assisting China, therefore, every citizen or national, every Czech or Slovak whose parents or grand parents were of Czech or Slovak origin would be affected by this provision? I would like to ask: God forbid, tomorrow Russia may help China. Will all citizens, whose parents or grand parents were of Russian be affected by this provision? Government must make up its mind on this point first and not pass a law which will be a dead letter. It must make up its mind before it passes a law like this or comes up before the House with a measure like this. Let it make up its mind that if any country, whether England, America or Russia, or East European countries, or Pakistan or Burma, if it helps the enemy, the enemy being China, it must make up its mind from now and now on to seriously enforce this provision of the Bill and any person, not merely Chinese, any ally of China, any country which will help China in any manner, by arms, men, ammunition, money or anything, must be proceeded against under this provision. I would be glad and the House would be glad if the Government means business in this matter and seriously means to enforce this provision with all the power that we propose to arm them with.

The Defence Minister, the new Defence Minister, who will perhaps take over day after tomorrow, made a statement in Bombay day before yesterday that Russia will side with China. He must have plenty of material on which he based his conclusion. That means, at some distant date, God forbid, Russia may help China, may be on the side of China and, therefore, Russia may be helping the enemy in that manner. Will Government take similar action against Russia.....

**Mr. Speaker:** Why should the hon. Member mention the names of countries? He could say "those countries which help the enemy by sending arms or by other means".

**Shri Hari Vishnu Kamath:** I mentioned Czechoslovakia first. Then, I said, God forbid, Russia may help China. I hope Russia will not. But if, God forbid, Russia helps China, what would be the position?

**Mr. Speaker:** Then the phrase "God forbid" will not help us in any way.

**Shri Hari Vishnu Kamath:** Government must make up their mind before they come forward with this Bill. They must state the position clearly; otherwise, let them not bring such a provision before us. I make a humble submission to you to direct the Minister, if not this Minister some other senior Minister, to make a statement on this matter.

Then, finally, I will ask for clarification on another point. The Minister said there is a provision in this Bill about internee, but I find that the word "internee" is not defined here, whereas in the order passed by the President under this Ordinance, which is now being passed into a law, in the order dated the 3rd November, the word "internee" is defined. That is to say, the order of the President was some days later, after the Ordinance, and there the word "internee" is defined. I do not know why it is not defined here also. My hon. friend, Shri Bade, is therefore, quite right in giving notice of his amendment, because it is not defined, because it is suddenly sprung on us in the Bill. The words "internee" and "parole" must be defined. We knew to our cost during the Second World War what "parole" was; I do not know whether the Minister himself was on parole or not. Anyway, it is good, it is necessary that these two words "parole" and "internee" should be defined in the Bill itself. I do not know why it should not be done.

Lastly, I take the order, because we shall not get another occasion.

**Shri Bade:** The hon. Minister has given the explanation in his speech that "internee" and "detainee" mean the same thing.

**Mr. Speaker:** No, he has not said that. He said that "detained" would also include "interned"; that is what he said.

**Shri Bade:** But the dictionary meaning is quite different.

**Mr. Speaker:** If one includes the other, it does not mean that both are the same.

**Shri Bade:** It does not include.

**Mr. Speaker:** That is a matter of opinion.

**Shri Hari Vishnu Kamath:** One word more and I have done. Sir, I crave your indulgence to take up these matters because they are all related, inter-linked with each other. The order passed by the President in the Ministry of Home Affairs Notification No. GSR 1418, published in Gazette Extraordinary dated Tuesday, October 30, says:

"In exercise of the powers conferred by clause (1) of article 359 of the Constitution, the President hereby declares that the right of any person who is—

- (a) a foreigner, or
- (b) a person not of Indian origin who was by birth a citizen or subject of any country committing external aggression against India, or of any other country assisting the country committing such aggression against India,

to move any court for the enforcement of the rights conferred by article 21 and article 22 of the Constitution shall remain suspended for the period during which the proclamation of emergency issued under clause (1) of article 352 thereof on the 26th October 1962 is in force."

It is in strange contrast to another order passed by the President on the 3rd November directing that similar

rights shall be suspended. There is an explanation there which reads as follows:

"If such a person has been deprived of any such right under the Defence of India Ordinance"

Suppose a person is detained or arrested for some other matter, not under the Defence of India Act but under some other law, his right to move a court against his confinement or internment under that law should not be affected. So, this proviso should be included there so that it will affect only those persons who have been deprived of any such right under the Defence of India Ordinance, now Act, or any rule or order made thereunder. It is all the more necessary when we are fighting a totalitarian power that we should see to it that in every way, whether fighting a war, or keeping peace or keeping the country fit for democracy and for the future also, our system is infinitely superior to the total defence system which China has espoused. Therefore, it is all the more necessary, when we are arming the executive with whatever power they require, we see to it that this clause or proviso is included even in this order so that it is only when a person is deprived of his right under the Defence of India Act or the Foreigners Act that his right to move the courts is suspended, not otherwise.

13 hrs.

**Shri Indrajit Gupta** (Calcutta South West): Mr. Speaker, Sir, as my hon. friend, Shri Kamath, has said, there can be no two questions as to the necessity of the Government arming itself with adequate powers at a time like this to deal with both foreigners and, if it considers it necessary for the sake of the security of the country, also with persons whose origin of birth may not have been Indian. On this question of principle there can be no controversy. But I should also wish to raise one or two points

[Shri Indrajit Gupta]

for the consideration of the Government arising out of the letter of the law because I have some questions to ask which are not quite clear to me. I hope the hon. Minister will clarify the implications of these provisions which are now before the House.

Incidentally, I would just point out one thing. I do not know whether it is a lapse or it is a deliberate amendment. At least, it has not come before us as an amendment. You will find, Sir, that in the Ordinance of the 30th October, 1962, the definition, or rather where the question of extending the application of the Foreigners Act is taken up, the words used are:—

“in relation to any person not of Indian origin who was at birth a citizen or subject of any country at war with”

etc. In the statement of objects and reasons of this Bill the same words are used, but in the body of the Bill I find that in clause 2, lines 10 and 11, the words used are slightly different. There it says:—

“any person who or either of whose parents, or any of whose grand-parents was at any time a citizen or subject of any country”

etc. So, in the Ordinance it is put as “was at birth” and in the Bill itself it is put as “was at any time”. This may have certain implications—I do not know. I would like the Government to explain why this discrepancy is there. If it is an amendment made subsequently in the Ordinance itself, it has not been put in that form. Is it a lapse or is it a printing mistake? I am not quite clear about it. But we should be told what it is because a person's nationality ‘at birth’ and ‘at any time’ are two different things. I hope, the hon. Minister will clarify this question, otherwise it is likely to lead to some confusion.

Then, as far as I have understood it, the only purpose of this Bill is to deal with those persons whose number, of course, I do not know. I think we should be taken into confidence a little. If the exact figures are not available to Government, we should be told the number, roughly, of Chinese residents in this country who have acquired Indian citizenship and have become Indian nationals. I know, there are many thousands of Chinese residents the overwhelming majority of whom fall into two categories and they automatically classify themselves as foreigners, that is, those who are either citizens of the Chinese People's Republic or those who are Stateless in the sense that they have not become Indian citizens. They have been residing in this country for many, many years perhaps and they are not able to take out the nationality papers of the Government or regime in Formosa because our Government does not have diplomatic relations with that Government. They are in this position. These two categories between them, as far as I know, I think, cover almost the overwhelming majority of the Chinese residents in this country. Regarding these two categories, there can be no doubt that at least there must be an enabling legislation to allow the Government to take action, if necessary, against both of these categories.

I cannot help recalling that there have been some remarks made in this House earlier about a suggestion that Mr. Chiang Kai-Shek's Government is an ally of ours in this war and so on and that we should try to co-ordinate our action with an offensive from Formosa and so on. Such things were also said in this debate. So, it is well to remember that Mr. Chiang Kai-Shek's Government also has made it clear publicly that they do not accept the MacMahon Line as the border. Let that be clear. Therefore, there is no question about these two categories. Surveillance must be kept on them and, if necessary,

action must be taken against individuals.

But I am concerned with the third category whose number I do not know, who may have become Indian citizens and are our nationals by the mere fact of applying for citizenship and accepting the citizenship of our country. We have to take it at face value. They have cut off their connections with their country of birth or their original homeland. What is the implication of this for them? That is what I am concerned with. Did the Government not have adequate powers under the other existing provisions of the Defence of India Rules, Preventive Detention Act and so on to deal with persons who may be Chinese originally but who have now become our citizens? I do not see what power is not at the disposal of the Government under these other Rules and Acts. As far as I can see under section 30 of the Defence of India Rules—Restriction on movement of persons or suspected persons, restriction orders and detention orders—there are very wide and sweeping powers taken by the Government under which they can take action against anybody, foreigner or otherwise. Then, there is the Preventive Detention Act and so on. So, I would like to know as to what the particular necessity, if any, is of bringing forward this particular amending Bill only for the sake of dealing with these people who have subsequently become our citizens and are our nationals. I hope, the hon. Minister will clarify that because if they are our citizens, they can be arrested, detained, interned or externed under the other existing powers which the Government already has. If the definition of 'foreigner' is extended to them, according to the letter of the law, they can also be deported. I think, that is a very strange thing. I do not know whether such a law exists in any other country whereby a national of a country can be deported. Where or to which country will he be deported? To the country

which he has decided to leave and with which he has severed his rights and citizenship? Are we possibly to deport a national of our own country back to that country? I do not know what the position is in the matter of law. I am apprehensive about it and that is why I want to raise this point. I would like the Government to give it its most serious consideration and see whether it is likely to have any undesirable repercussions on Indians who are residents, either as citizens or, maybe, as Stateless persons, in very large numbers in some other countries. Has this point been considered? I do not want such a thing to be passed here which may add to the difficulties of Indians in other countries.

I was, for example, reading the other day in the papers—it is just a sort of an illustrative reference that I am making—the statement of the Prime Minister or the Premier of Singapore which, as you know very well, is a city with a very mixed population in which the Chinese and the Indians are numerically the biggest sections of the population and the Chinese are very much more numerous than the Indians. There was a report in the Statesman and it appeared a few days ago. With your permission, I would like to read out a few lines. It is the report of their own correspondent. It says:—

“the only comment”

regarding this conflict between India and China

“the Singapore Prime Minister, Mr. Lee Kuan Yew, has made on the border conflict so far was on Thursday. He said his Government's concern was that the conflict should not ‘upset the harmony and unity’ of the Chinese and Indian communities. It should, however, be recognized that Mr. Lee is the Premier of an overwhelmingly Chinese city.”

There are Indians in positions similar to this in other parts of the world

[Shri Indrajit Gupta]

too. They are there in some African countries. They are there in Ceylon. The matter has been discussed here several times. Some are Stateless; some have become citizens of Ceylon; some are Indian citizens in Ceylon and so on. Then, they are in Hong Kong and in many other places, as is known to the Government. I just want to raise this for the serious consideration of the Government that if we adopt a piece of legislation which gives us the power virtually to denationalise a national of ours and say, "Henceforth, in practice, you cease to be a national and we can even deport you"—that is the power that is being taken—then, apart from the question of the letter of the law, is there any possibility of there being rather unfortunate repercussions in countries where there may be people wanting to make mischief on this score? Has this been considered? I do not like Indians, however few they may be, even in China still, to be put to difficulties which are even more severe than they have already suffered.

**Shri D. C. Sharma:** Are there any Indians in China?

**Shri Indrajit Gupta:** The other day, there was an answer saying that there are some. I do not know their number. This is a question which I would like the Government to consider very seriously.

One other point that I wish to raise is regarding this definition. This definition has been made very comprehensive as the Minister said. Mr. Kamath, welcoming this comprehensiveness tried or rather hoped that it would be used in the case of certain people whom he named.

**Shri Hari Vishnu Kamath:** I said for all countries.

**Shri Indrajit Gupta:** I say in reference to the particular example he cited. I am sure he reads the papers even more avidly than I do.

**Shri Hari Bishnu Kamath:** I cannot compare.

**Shri Indrajit Gupta:** Even yesterday's papers have got the official news that the four factories in Czechoslovakia which were shipping or manufacturing certain weapons for China have stopped doing so. He should have mentioned it.

**Shri Hari Vishnu Kamath:** I do not read as avidly as you do.

**Shri Indrajit Gupta:** You should. At least in that matter, you should follow me if not in anything else.

**Shri Hari Vishnu Kamath:** I will try.

**Shri Indrajit Gupta:** Can this definition be stretched like, "or either of whose parents, or any of whose grandparents was at any time—because it is not at birth—a citizen or subject of any country at war with, or committing external aggression against, India or of any other country assisting the country at war with, or committing such aggression against..."

What about the lakhs and lakhs of people who have come over from Pakistan as refugees? You may say that I am stretching the point a bit too far. I do not mean to imply for a minute that the Government wishes to use this Act against those people. What is the position in law? Of course, I know these people were born in the then undivided India, subsequently a part of which became Pakistan. That is the position. But, the way it is defined here, I do not see what there is to prevent the use of the Act against these unfortunate people who have come as refugees from Pakistan and settled in India and acquired Indian citizenship. Their parents or grandparents were born or at some time or other were citizens of Pakistan. What is the position?

**Shri Tyagi:** It was not Pakistan then. It was India. If they were born after Pakistan came into exist-

tence, they will be born in Pakistan. They were actually born in India.

**Shri Indrajit Gupta:** I am grateful to Shri Tyagi.....

**Mr. Speaker:** Order, order. This makes an enabling provision. If any of them also including myself behaves in any manner that is detrimental to the security of the State, why should they be brought under this law?

**Shri Indrajit Gupta:** If you and I behave—God forbid—in a manner like that, even if our parents were born in Pakistan, there is nothing to prevent the Government taking action under the Preventive Detention Act and Defence of India Rules. They have got all the powers.

**Shri Tyagi:** My question is, when they were born, on that date, there was no Pakistan and therefore they were not born in Pakistan. They were born in India.

**Mr. Speaker:** Order, order. Shri Tyagi would remember that this question arose whether they had got citizenship automatically and definite provision had to be made in that regard. Shri Indrajit Gupta is right in that respect.

**Shri Indrajit Gupta:** I am grateful to Shri Tyagi for his legal assistance. I do not know as much law as he does. I am seeking clarification. If there is no danger, it is all right. Let it be explained. After all, the execution or implementation of this law is not going to be done everywhere by the Home Minister himself going round. We know how things are implemented down below by petty officials. That is why I am raising this question. I have a genuine apprehension in my mind. It should be clarified.

What about Portugal? What about people who are born in Goa? It was part of the Portuguese empire. The parents or grandparents might have been born in Goa. What happens?

Do they come within the ambit of this definition? Nobody is going to take action against them under this Act, I know. The point is, this is a position which we should examine. Why should we unnecessarily cause trepidation and confusion by saying that a new thing has been passed which brings in all these people and they may tomorrow be treated as foreigners, not nationals. This is a very serious position in my opinion. This should be considered carefully.

These are the main points that struck me and I wanted to raise them. I hope very much that the Government will consider them. If there is any lacuna of this type of anomalies the Government should not hesitate to make the necessary changes or amendments in it. As far as the general powers are concerned, there can be no two questions about it. The positions of our nationals should not be jeopardised in any way, neither here nor those who are living in other countries abroad.

**Shri Sham Lal Saraf (Jammu and Kashmir):** Sir, to my mind, the provisions that are embodied in this Bill are absolutely clear. I want to raise two points for the consideration of the hon. Minister.

One thing is clear and it has also been made clear by the hon. Minister that foreigners, even nationals who are actually of foreign origin have to be dealt with under this law. My consternation about one matter is, in the borders right from Karakorum up to the other end, N.E.F.A., on either side of the border, the population is such that it is very difficult to say who is a Chinese and who is not. My experience also is, sometimes like that. We have to be very vigilant. The Government have to be very vigilant in order to find a wolf in the garb of a lamb. He may look like a Tibetan. In fact, he is Chinese. He may look like somebody else. Even a person from Ladakh has to be found out if he is Chinese. These are matters which



[Shri Sham Lal Saraf]

have to be looked at very carefully and cautiously. Along with that, it may not be difficult for our Government to detain people who may be found doing things against our country or against our war effort. It will be easy to detect them or bring them to book in the plains. But, I am talking of higher in the mountains and particularly in the border regions. We have to be very vigilant and careful. Unless the Intelligence wing both in the Army as well as the Central Intelligence are well organised, as I said the other day, it will be very difficult to implement the main provisions of this law. My feeling is that these people who may have come with this purpose or who may be within the country, who want to sabotage our efforts, their main work will be along the borders, along the areas where it may be a little difficult to detect them unless we are fully armed and are fully prepared to lay our hands upon them.

Secondly, I must say very candidly that the reports that we get from the Pakistan border, round about Rajasthan, Punjab and Jammu and Kashmir, more particularly Jammu and Kashmir and at the eastern end are not only against us. But, I may tell you and through you the Government that their action may be very very dangerous. They have already been doing sabotage and sending saboteurs into our territory, at a moment when our Army is engaged elsewhere, in a life and death struggle. Though a number of attempts are being made in order to have some friendly relations at least at the moment and to have a sort of political cease fire with Pakistan also I do not know how far it will succeed. The Government have to be vigilant on that side. Because on that side, the terrain is not so difficult as on the borders that confronts us on the side of Tibet. The borders are so completely cut off and people can come and go like anything Not only that. We have to be cautious even within our territory. We have men and women who may very easily be prone to help such elements as might

come from that side also as foreigners, who work against our interests and ultimately jeopardise our efforts.

Therefore, two points I have to bring to your notice. First, people who may not look like Chinese may actually be born in China and may work for our Chinese enemy. That is one point so far as the entire border is concerned. Secondly, entry of people from Pakistan has to be watched about. In order to implement this law we have to be armed well. These are the two points that I want to bring to your notice.

**Shri A. C. Guha (Barasat):** I welcome the introduction of this Bill. I have personal experience of similar Bills and similar enactments during the last two wars. I think it is a necessity to have a measure of this nature. At the same time, I appreciate at least one of the points mentioned by Shri Indrajit Gupta that this Bill will cover persons who are technically Indian citizens but who might have been alien citizens or foreigners some years ago. As they are Indian citizens for the present, they will equally come within the purview of the Defence of India Bill which will be enacted by this House, and in respect of which an Ordinance is also prevalent already. But, still, I feel that some difference should be made between the attitude of Government towards those who are Indian citizens and their attitude towards those who were alien citizens but who have now taken Indian citizenship. We have to be somewhat specially careful about such people particularly when we are engaged in a war.

I do not know what the attitude of Government is about the dimension and immensity of this war. There is a feeling that Government may still consider this war to be of a limited

nature. But the developments of the last two or three days should, I think, remove that illusion from the mind of Government, and there should be a total effort and a total mobilisation of our resources, manpower and everything else for the prosecution of the war and for freeing our country from foreign invasion. For that purpose we have to be particularly careful about those who are now Indian citizens but who were previously Chinese citizens. I am sure that this Bill is particularly meant for the Indian citizens of Chinese origin. Though their name has not been specifically mentioned, yet, this Bill is, specially meant for them.

Sir, I belong to Calcutta, and I find that there are a large number of Chinese citizens in Calcutta. Some of them have taken Indian citizenship. Some of them belong to Kuomintang China, maybe, for the sake of convenience; some of them surely do not have Indian nationality nor do they belong to Kuomintang China but they belong to Communist China. It was rather distressing for us to see that Government were indulgent towards these Chinese residents of Calcutta. For the last four or five years, repeated mention was made about the Chinese opening up laundry shops; they were taking big shops on almost fantastic rents; we do not know whether the business they were doing would cover such high expenses and overheads and rents. Still, Government were allowing those laundry shops not only to continue but also to grow in number.

Then, on many occasions, the attention of Government had been drawn to the operations of the Bank of China. We are almost on a sort of war with China for some years; technically, even now, we are not at war with China, but this kind of border clashes with China was going on for the last five or six years. So, the operations of the Bank of China in Calcutta should have been the subject-matter of Government's attention long before. There is a general convention that

foreign banks can function in a country only on a reciprocal basis. Only if any Indian banks have been functioning in China the Bank of China should have been allowed to function here; but to my knowledge, there is no Indian bank functioning in China. So, I do not understand why Government allowed the Bank of China to operate here and do all sorts of things, which, according to the general feeling in Calcutta, were not conducive to the healthy growth of banking operation and often hostile to Indian nationality and Indian solidarity.

The original Act provides punishment for any offences under it or for the violation of its provisions. The penalties may range up to imprisonment which may extend to five years, and the person concerned shall also be liable to a fine. But the general tendency of the courts is to treat such cases very leniently. It has been reported that a person of dubious nationality was arrested in Assam, while he was taking photographs of the newly constructed Brahmaputra Bridge, and on his person was found Rs. 1,200. That person was released on a bail of Rs. 1000 only on the security of one Mr. Kamaruddin, and that person is reported to have escaped. This is only a very recent occurrence; it shows that the courts take a lenient view of such serious offences. The Brahmaputra bridge is of a great importance, it is a national asset, but particularly at this moment it is of great strategic importance. Anybody taking photographs of that bridge from different angles should not have been allowed to go out on bail on the security of a person whose loyalty to India also should have been the subject-matter of doubt. So, I think that Government should issue a sort of circular to the courts that all such offences should be dealt with rather with some sternness particularly in consideration of the present situation, and should not be treated leniently.

My hon. friend has referred to the Pakistan refugees, that is, the refu-

[Shri A. C. Guha]

gees coming from Pakistan and to the Goan citizens. We are not in conflict now with Pakistan or with Portugal. Technically, the citizens of these two countries would not be covered by the provisions of the Bill at present. I do not know what further developments will take place in the future, but at present, this Bill would not touch any citizen or any person connected with Pakistan or with Portugal. The operations of this Bill will touch only those who will be engaged in sabotage or other doubtful activities damaging the interests of the Indian nation and Indian solidarity. If the refugees do any of these things or any of these activities, then they will also come under this Bill. I too, like my hon. friend Shri Indrajit Gupta, belonged originally to East Pakistan.

**Shri Indrajit Gupta:** Why should he come under this Bill?

**Shri A. C. Guha:** That is true. I may not come under this Bill, but I may come under the other Act. But that does not matter much. This Bill makes some special provisions, and I am sure that those special provisions are particularly meant for the Chinese residents in India, and I think that their number is about 20,000 or 30,000; I hope the Government should at least take the House into confidence about the actual number of Chinese residents in India.

There is also one other thing. I do not like to say anything about any countries which may be supplying arms to China. If the two contesting parties, India and China, go on banning all countries rendering any sort of help, such assistance would cover also trade connections, because trade connections also would be a sort of assistance. Purchasing things from China or supplying even civilian goods to China would also amount to assistance rendered to China. Similarly anything done to India by way of encouraging our export policy or

by way of supplying civilian goods apart from military goods would also be in a way a sort of assistance to India. So, I do not like the idea of our banning all sorts of countries in the world, for then, I think that the whole civilised world will become something uninhabitable. We should not limit ourselves only to military assistance. But I should like to draw the attention of Government to some countries, to some of our neighbouring countries whose intentions are not at all friendly to India, and who have been expressing sentiments and ideas quite hostile to the interests of India, particularly in these difficult times.

What would be the attitude of Government to those people who may be suspected to have some loyalty to those countries. In the border areas of West Bengal, Assam, Punjab, and Kashmir, I think the number of such people would not be quite negligible. Government should make up their mind about what they intend to do with such persons who may be Indian citizens and technically who are not covered under this Bill. I think they are a source of potential danger to Indian solidarity. I think they constitute a greater potential danger to Assam and West Bengal than the Chinese themselves because the Chinese are localised in some cities; but these people are spread over all the border. We do not know what action Government are taking in this matter and may work in a subtle way. From this point of view, Assam requires special consideration. The number of infiltrators from neighbouring countries in Assam has been estimated from 7—8 lakhs to 3—4 lakhs. They can do much harm if they roam about the border between India and other countries and try to act counter to our interests. So Government should make up their mind about such elements.

With these words, I support the Bill. At the same time, I wish Gov-

ernment to be careful in applying the provisions of the Bill so that really the right persons may be dealt with under it.

**Shri U. M. Trivedi** (Mandsaur): I really welcome the provisions of this Bill. This Bill, I should say, is coming late. We have delayed it. We are today in a very gloomy atmosphere so far as the aggression on our country is concerned, and if we have not woken up so far, we have committed a wrong to ourselves. To wake up today, however, is indicative of the fact that the Government has bestirred itself to the situation that is unfolding before us.

However, as a Member of this House and also as a lawyer, I feel that the Bill is not well drafted. In clause 3, the words used are 'arrested and detained or confined'. I see no reason whatsoever for changing over from this expression and making it an 'internee'. The word 'interned' does not occur anywhere; the words used are 'arrested, detained or confined'. Why is it that the word 'detenu' has not been used? Instead of that, the word 'internee' has been used. Why create this difficulty for those officers who will have to interpret this law? Naturally we know that we cannot put our mind into the mind of the officer who interprets the law. Why leave room for unnecessary haggling about the position? It will be better to use the word 'detenu' instead of 'internee'. If Government think that the word 'internee' is useful, then in clause 3 it may be put as 'arrested and detained, or confined or interned' to indicate that the word 'internee' means a person who has been defined in clause 3 of the Bill itself. Do not leave scope for unnecessary quibbling before courts.

**Mr. Speaker:** Here it is said, 'knowingly assist an internee or a person on parole to escape from custody or the place set apart for his residence'. Detenu would be in the custody of the Government itself in some jail or lock-up. Internee would have been

ordered to remain in some place; he would not be under the custody of Government. Therefore, probably there was a distinction required between the two words in this respect.

**Shri U. M. Trivedi:** You have exactly followed what I wanted to say. This clause 3 says, 'shall be arrested and detained or confined'. These are the only words used. Then suddenly the word 'internee' has been used. I want a definition of the word 'internee' somewhere. Who will be an internee? I quite appreciate the fact that the dictionary meaning of the word 'internee' is as you have suggested, that is, internee would be a man who has been asked to remain at a particular place and not move about. But why not define the word? Why suddenly use the word without defining it? There is no definition given in the clause of this Bill or anywhere. Why leave the question as to who will or who will not be an internee undefined? That is why I submit that we may add the words 'or interned'. I leave it to the hon. Minister to consider.

13.37 hrs.

[MR. DEPUTY-SPEAKER in the Chair]

Shri Indrajit Gupta was very solicitous about some people who might innocently get detained or interned or confined under this law and suggested that some who had come from Pakistan might get into trouble on account of this. I will ask Shri Gupta—I am told that he is a lawyer.

**Shri Indrajit Gupta:** He is told wrong.

**Shri U. M. Trivedi:** I withdraw my words. But if he has any manner of doubt, I would suggest that he must brush up his knowledge of law by reading the Registration of Foreigners' Act of 1939 and Foreigners' Act 1946 and the British Nationality Act 1948. Then he will find that a Pakistan citizen is not covered by this.

**Shri Indrajit Gupta:** Is he excluded from this?

**Shri U. M. Trivedi:** At present. So far as those persons are concerned, they might have to be dealt with under the Defence of India Act. At the same time, even in this law, if he wants to apply this law to them, what is said is: 'or any of whose grandparents was at any time a citizen or subject of any country at war with...'. If Pakistan were at war with us, what harm is there in getting them included in this? There is nothing to prevent me from including such persons in this definition.

**Shri Indrajit Gupta:** Not a Pakistani.

**Shri U. M. Trivedi:** Anybody whose parents or any of whose grandparents was at any time a citizen or subject of any country at war with India. If Pakistan were at war with us, and he was assisting the country at war with India or has committed aggression against India, I am not afraid of dealing with him, and he must be dealt with accordingly.

**Shri Indrajit Gupta:** Has he got no other law to deal with him?

**Shri U. M. Trivedi:** I have got any amount of law. Why should this not apply to that person? This law must be applied. Other laws may also apply. Any number of laws may apply. We are going to apply them. We are not going to act merely in an arbitrary manner against him.

So there is nothing wrong with the provision made in the law. We cannot have a soft corner for those who are assisting the enemy, a country which is at war with us, whichever country it is.

**Shri Indrajit Gupta:** It is not his country. It is referring to those people who have become Indian nationals. India is their country, not Pakistan.

**Shri U. M. Trivedi:** I am sorry you are not correct.

**Shri Indrajit Gupta:** Read it again.

**Shri U. M. Trivedi:** I have read it. The whole question is, even if he becomes a citizen of India, if his parents or grandparents belong to a country which is at war with me, I have no faith in such a person. He might make many declarations, just as we are now criticising you; you are shouting from the house tops that the communists are with the country, but we have no faith in you.

**Shri Indrajit Gupta:** We have no faith in you either.

**Shri U. M. Trivedi:** Certainly you have no faith in India.

**Shri Indrajit Gupta:** India is more than you, remember that.

**Shri U. M. Trivedi:** India does consist of me.

**Mr. Deputy-Speaker:** Order, order. He has exceeded the time. He should conclude now.

**Shri U. M. Trivedi:** I have just begun. It will take some time.

**Shri Tyagi (Dehra Dun):** He says he has no faith in you. He is supposed to be addressing the Chair!

**Shri U. M. Trivedi:** Shri Tyagi should realise the context in which it was said.

The whole question that has to be considered is this. It is said:

"(b) in section 4,

(i) before sub-section (2), the following sub-section shall be inserted, namely:—

"(1) Any foreigner (hereinafter referred to as an internee) in respect of whom there is in force any order made under clause (g) of sub-section (2) of section 3,

"directing that he be detained or confined, shall be detained or confined in such place and manner and subject to such conditions.."

That is why I raised this objection about the word "internee". Would it mean that the internee would also be such a person who has been asked to be put at a particular place or who has been ordered to be put in a particular house? Would that also include an internee? That is why a specific definition of "internee" would be necessary in this case.

As Shri Guha had suggested, it is high time that this law was made operative. Unfortunately, our country has been a peace-loving country and very hospitable to all and sundry who have ever cared to come to our country, and we have never done anything wrong to the Chinese who are settled in our country for a long time. When Burma was a part of India, lakhs and lakhs of Chinese had come and settled in Burma, and no objection was ever raised, although Burma was a part of India. Similarly, in Bengal and other places the Chinese are there in large numbers, but we have never raised any objections about their living there. But now since our country has been invaded by the Chinese, and our men are being killed mercilessly in thousands and thousands, we cannot sit complacently and watch the movement of these people, whom we are not able to watch at all. We talk here today, we talk somewhere in a meeting. About an hour after that, the Peking Radio announces what we in India have done. How does thing leak out? That means we are surrounded by people who are not in any manner loyal to us. And where the loyalty of a particular person or citizen is doubted, it is in the interests of the country that steps must be taken as provided for in this law. I therefore say that in these days it is meet and proper that this law must be put into force. I support the Bill.

**Shri Datar:** I am obliged to the hon. Members who have supported the provisions of this Bill. Some of the other hon. Members raised certain questions which are more or less due to a misunderstanding of the position in respect of which this Bill has been brought forward.

I would invite their attention to the Statement of Objects and Reasons as to why this particular amending Bill had to be brought forward. It says:

"In view of the present emergency, it is necessary that powers should be available to deal with any person not of Indian origin who was at birth a citizen or subject of any country at war with . . . who may have subsequently acquired Indian citizenship in the same manner as a foreigner."

This is the small purpose of this particular Bill. There are certain persons in India like that. The hon. Member Shri Indrajit Gupta wanted to know how many Chinese have acquired Indian citizenship either under article 5 of the Constitution or subsequently. I have got the figures here. Under article 5 of the Constitution, the total number of Chinese who obtained Indian citizenship or who were treated as Indians was 430. Subsequently a few persons of Chinese origin have become Indian citizens, either by naturalisation or by registration. The total there is about 441. Therefore, what has now been done, so far as the first part of the present amending Bill is concerned, is that in respect of those whose parent or grandparents were not of Indian origin, but, as in the present case, were Chinese in origin, but who have subsequently become Indian citizens, certain regulation was necessary. The regulation or the control of their conduct on the same footing as foreigners has to be made. So, the only purpose of making this Act self-contained so far as foreigners are concerned, is to place such persons, whose origin was not of India, but, as I have pointed

[Shri Datar]

out in this connection, was China, on this footing. As my hon. friend Shri Saraf rightly pointed out, we have to be vigilant with regard to this class of persons. So, it is only for those who have subsequently acquired Indian citizenship that certain provisions have to be made, and such persons have to be treated as foreigners for the purpose of the Foreigners Act of India, and it is only in respect of them that the present provision has been brought forward.

Another point was raised by certain hon. friends as to whether these words would be made applicable to others. I have noted what Shri Indrajit Gupta has stated about the hardship or inconvenience that may be caused to others. I may point out that the words have been used in such a careful manner that only when any other country either commits an act of aggression or goes to war with India, can further action be taken. That is the reason why I have stated that enabling powers have been taken by Government, and that is the reason why it has been stated:

“ . . . or of any other country assisting the country at war with or committing such aggression against India . . . ”

These are of an enabling nature, and therefore everything will be done extremely carefully.

The next point raised by my hon. friend Shri Kamath was with regard to clause 4. So far as clause 4 is concerned, you will find that the ordinance came into effect on 26th October, 1962 and this particular Bill is in furtherance of that ordinance, so that there should be no break at all.

Then, a number of hon. friends wanted me to put in a definition of the expression “internee” or “internment”. This word ‘internee’ has a descriptive touch. We had in the

original Act of 1946 similar expressions: ‘arrested, detained or confined’. A detained person was a detenu. The hon. Member suggested that we might accept the expression ‘detenu’. But a detenu need not necessarily mean a person who is actually interned. An internee is interned in a particular camp. A man might be released on parole and he might be confined to a particular place or may stay in a particular place. As the hon. Member knows all of us were detenu and once I refused to obey an order on parole and therefore I was sentenced. A detenu is one who might remain in a particular place without actually being interned behind the prison. There is some distinction, especially of a descriptive character. Section 4(1) of the original Act makes this distinction and says that an internee is one who has been detained in an internment camp. So, he has to be described as an internee.

**Shri U. M. Trivedi:** I am sorry to disturb the hon. Minister but I wish to say this.

**Shri Datar:** Let me complete the sentence. Section 4(1) was treated as invalid and had to be dropped in view of the provisions regarding Preventive Detention in the Constitution itself. I am relying upon the circumstances to show that in the original Act itself a distinction was made between an internee and a detenu and a person who may be on parole.

**Shri U. M. Trivedi:** It is only on this particular point that I want to draw your attention. That section has been omitted on 19th January, 1957 from the original Act itself; it no longer exists. If it does not exist, unless and until it is restored, how can that be used here?

**Shri Hari Vishnu Kamath:** May I, by your leave, Sir, supplement that my hon. friend has said? The word ‘internee’ has been defined afresh in this Order. I do not know whether

he has overlooked this. Internee, it says here, means a person arrested or liable to be arrested under paragraph of this order.

**Shri Datar:** There was some distinction between an internee in a particular internment camp and a man being technically detained but allowed to remain on parole.

**Mr. Deputy-Speaker:** He does not dispute that. He wants to know why you do not define it here.

**Shri Datar:** What we have done is that we are introducing certain provisions including the restoration of certain original provisions in the Foreigners' Act itself, which had proceeded on the footing of a distinction between internee and a person on parole. The same thing has been continued. We are saying here, in this clause: any foreigner, hereinafter referred to as an internee. Actually it is a descriptive portion. In these circumstances, the attempt is to make the Foreigners' Act complete in this by an inclusive definition and by restoring the provisions with regard to detention which were in the original Act but had to be removed when the Constitution was passed and articles 21 and 22 came into force.

**Shri Hari Vishnu Kamath:** On a point of clarification, Sir. May I ask whether still the Minister is in doubt as to how the word internee should be defined. He has given us a connotation of his own. I have read the definition given in this notification. He is not clear in his mind.

**Shri Datar:** This is a comprehensive Bill, complete in itself.

**Shri Hari Vishnu Kamath:** There is no definition at all in the Bill.

**Shri Datar:** Any foreigner called an internee that is there in clause 4(1); it is clear and I have read it. Any foreigner hereinafter referred to as an internee.....

**Mr. Deputy-Speaker:** But his objection is you have not defined it.

**Shri Datar:** It is not necessary.

**Shri Hari Vishnu Kamath:** Then it is a definite alteration from the earlier order. Why this anomaly?

**Shri Indrajit Gupta:** The Minister did not make any reference to the point about the discrepancy between Ordinance and the Bill?

**Shri Datar:** The position has been made quite clear in the Bill. The Ordinance was there but the whole position was considered and the matter was placed beyond doubt in the present Bill.

**Mr. Deputy-Speaker:** The Bill is an improvement on the Ordinance. Now, I shall put it to the vote of the House. The question is:

"That the Bill to apply the Registration of Foreigners Act, 1939 and the Foreigners Act, 1946 to certain persons to whom they do not at present apply and further to amend the Foreigners Act, 1946, be taken into consideration."

*The motion was adopted.*

**Mr. Deputy-Speaker:** The question is:

"That Clause 2 stand part of the Bill."

*The motion was adopted.*

*Clause 2 was added to the Bill.*

**Mr. Deputy-Speaker:** There is an amendment to clause 3. Is it moved?

**Shri Bade (Kharagone):** Sir, I am moving the amendment. I beg to move:

Page 1, line 18,

add at the end—

"or interned." (1)

**Shri Hari Vishnu Kamath:** Sir, the Minister ought to be a little more clear to the House. From the General



[Shri Harish Vishnu Kamath]

Clauses Act or other enactments, he must tell us why it is different from the words used. Does he think that it comprehends or includes internment also? Otherwise, it should be included to make it comprehensive.

**Mr. Deputy-Speaker:** He explained the difference between internee and detenu.

**Shri Hari Vishnu Kamath:** In that case it should be included here.

**Shri Datar:** It is quite sufficient; it has been made specifically clear and descriptive.

**Mr. Deputy-Speaker:** I shall put the amendment to the vote of the House.

*The amendment was put and negatived.*

**Mr. Deputy-Speaker:** The question is:

"That Clause 3 stand part of the Bill."

*The motion was adopted.*

*Clause 3 was added to the Bill.*

*Clause 4 was added to the Bill.*

14 hrs.

**Mr. Deputy-Speaker:** The question is:

"That clause 1, the Enacting Formula and the Long Title stand part of the Bill."

*The motion was adopted.*

*Clause 1, the Enacting Formula and the Long Title were added to the Bill.*

**Shri Datar:** I beg to move:

"That the Bill be passed."

**Mr. Deputy-Speaker:** Motion moved:

"That the Bill be passed."

**Shri Hari Vishnu Kamath:** Before the motion is put to vote, I would ask the Minister one thing. He forgot

to answer the question that I raised, and that is with regard to the order of the President. I do not know whether he has got a copy of that order, dated 5th November, with him. I had suggested that the same proviso should be adopted with regard to this order as has been adopted with regard to the order passed in respect of the suspension of fundamental rights. That should apply only to cases where the person is debarred of the rights under this particular Act and the Defence of India Act and rules and not under any other enactment that is in force.

**Shri Datar:** That is not necessary.

**Shri Hari Vishnu Kamath:** He is just sitting quiet and simply says it is not necessary!

**Shri Datar:** The Defence of India Bill is before the House. That is complete in itself. This relates only to the provisions relating to foreigners and persons to be deemed as foreigners and therefore it is not necessary.

**Shri Hari Vishnu Kamath:** I am only pointing out the anomaly between the two orders.

**Mr. Deputy-Speaker:** The question is:

"That the Bill be passed."

*The motion was adopted.*

14.02 hrs.

#### METAL TOKENS (AMENDMENT) BILL

**The Deputy Minister in the Ministry of Finance (Shri B. R. Bhagat):** Sir, I beg to move:

"That the Bill further to amend the Metal Tokens Act, 1889, be taken into consideration."

The object of this measure is simple and non-controversial. The Metal Tokens Act prohibits the making or the possession for issue or the issue