

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill further to amend the Income-tax Act, 1961, the Wealth-tax Act, the Gift-tax Act, 1958, the Companies (Profits) Surtax Act, 1974, and the Interest-tax Act, 1974, as passed by the Lok Sabha, be taken into consideration."

The motion was adopted.

MR. DEPUTY CHAIRMAN: We shall now take up clause by clause consideration of the Bill.

Clauses 2 to 84 were added to the Bill.

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

SHRI S. M. KRISHNA: Sir, I move:

"That the Bill be returned."

The question was put and the motion was adopted.

MESSAGE FROM THE LOK SABHA

The Land Acquisition (Amendment) Bill, 1984.

SECRETARY-GENERAL: Sir, I have to report to the House the following message received from the Lok Sabha, signed by the Secretary-General of the Lok Sabha:

"In accordance with the provisions of Rule 96 of the Rules of Procedure and Conduct of Business in Lok Sabha, I am directed to enclose the Land Acquisition (Amendment) Bill, 1984, as passed by Lok Sabha at its sitting held on the 25th August, 1984."

Sir, I lay the Bill on the Table.

MR. DEPUTY CHAIRMAN: Now we shall take up the Motion for Modifications in the Illegal Migrants...

SHRI SUKOMAL SEN (West Bengal): Sir, on a point of order. In the morning the Civil Aviation Minister assured the House that he will make a statement about the hijacked plane... (*Interruptions*)

MR. DEPUTY CHAIRMAN: The House is not rising just now. He will be coming. Please wait. The House has still to sit for two hours more. There is no hurry. Yes, Mr. Jaswant Singh. Only five minutes, please.

MOTION FOR MODIFICATION IN THE ILLEGAL MIGRANTS (DETERMINATION BY TRIBUNALS) RULES, 1984.

SHRI JASWANT SINGH (Rajasthan): Sir, I beg to move the following Motion:

"That this House resolves that, in pursuance of sub-section (3) of Section 28 of the Illegal Migrants (Determination by Tribunals) Act, 1983, the following modifications be made in the Illegal Migrants (Determination by Tribunals) Rules, 1984, published in Notification G.S.R. No. 52(E), in the Gazette of India, dated the 2nd February, 1984, and laid on the Table of the House on the 1st March, 1984, namely:—

(i) In rule 3, the words, 'not below the rank of Sub-Inspector of Police', occurring, after clause (b), be substituted by the words 'not below the rank of a Superintendent of Police'.

(ii) The following proviso shall be added after Rule 4, namely:—

'Provided that if after experience it is found that the form as now devised by the rules is not satisfactory, it shall be suitably modified'.

(iii) After sub-rule (3) of Rule 8, the following sub-rule shall be added:—

(4) The Tribunals constituted under the Act shall be entitled to conduct a sample investigation of the recommendations of the Screening Committee, from time to time'.

(iv) After rule 10, the following proviso shall be added:—

'Provided that there shall be no requirement for witnesses for making the application in Form III'.

(v) Rule 11 shall be deleted; and that this House recommends to Lok Sabha that Lok Sabha do concur in this resolution."

Sir, I shall not go into the details of the modifications that I am seeking because they are already listed in the motion. And I take it that the Members would have read that already.

The reasons which motivated me to move this motion I shall put across very briefly. Under the Illegal Migrants (Determination by Tribunals) Act, 1983 certain Tribunals got established in Assam for the purpose of detecting illegal migrants. Consequent upon that Act, certain Rules were framed. These Tribunals have not worked satisfactorily. That is the point which I would like hon. Minister to answer. This question of establishing a suitable machinery for detection of illegal migrants has been activating us and has been exercising the minds of all of us ever since the Assam agitation started. Now, as on the 30th July 1984, 20 Tribunals had been set up. Out of these 20 Tribunals not all had their full staff and not all of them had the full complement of judicial officers, Justices, etc. One thousand, one hundred and ninety-seven cases up to 30th July 1984 had been reported to these Tribunals by the police. Seventy-two cases had actually been filed. Only one case has been disposed of. Ever since this Act came into being, these Tribunals came into being, the Police reported about 1200 cases, 72 cases got filed and during all these months of functioning, only one case was determined by the Tribunals. This illustrates as well as it can be illustrated by any example that the Tribunals are not functioning satisfactorily. I would expect the Minister to come up and say: "No, your information is wrong. We have decided so many cases. Tribunals are working satisfactorily. There is no need to amend the rules for the Tribunals and that everything is working satisfactorily as far as the detection of illegal immigrants is concerned." My reason for bringing this is motivated by yet another consideration that consideration are the impending elections all over the country. As is well

known, the Chief Election Commissioner of the country was good enough recently to convene a meeting of all political parties and it was my privilege to represent my party in that meeting also. There are two things which are considerably exercising the Chief Election Commissioner of India as also all the parties. Firstly, Assam must not go unrepresented in the forthcoming elections. Elections must be held in Assam. If it is not to go unrepresented and elections have to be held, then the basic document, on which the electoral rolls of Assam are to be determined, corrected officially and elections held, has to be determined. The Election Commissioner has been good enough to say that the basic document has to be the electoral rolls of 1971. We cannot proceed unless the Tribunals are activated, work purposefully and certify more demonstrably than merely disposing of one case in almost one year of their existence. These are the reasons which prompted me to bring this motion before this House. I would expect the Minister to throw some light on this.

SHRI BISWA GOSWAMI (Assam): Mr. Deputy Chairman, Sir, I support this motion. While supporting this motion, I want to make certain observations. This Bill about Illegal Migrants (Determination of Tribunals) was discussed in this House. At that time, I expressed my apprehension that this Bill was brought before the House not to detect the foreign nationals, but to regularise the foreign nations in Assam. My apprehension has proved to be correct now. As the hon. Member, Mr. Jaswant Singh, has already said, up till now only one case has been disposed of. At the time of discussing the Bill, I had said that by this Bill the Government wanted to shift the responsibility to the people to detect the foreigners. But the then Home Minister assured the House that the Government had the inherent responsibility for detection of foreign nationals. If it was so, how is it that only 1200 persons could be detected, only 72 cases have been filed and only one case has been disposed of? Is it in this manner the Government wants to deal with the gigantic problem of foreign nationals in Assam? The people of Assam have been

[Shri Dinesh Goswami]

launching a movement for the last five years. After the illegal elections were held in 1983, the illegal Ministry that has been constituted in Assam has let loose a rein of terror in the State of Assam. I am not going into the details of the incidents of police brutalities. I would like to mention one or two cases. In Chandkuchi in the Nalbari sub-Division, one man was stripped of his clothes in front of the women members of his family and he was severely beaten up for no fault of his. Sir, the police in that State have thrown to the winds all norms of civilised behaviour of a civilized society and they have derived vicarious pleasure of indulging in such barbarous and savage activities. Sir, one student was brutally tortured in the police lock-up and subsequently he died. Sir, the policemen make raids in search of young people and if they do not find them in their houses then their parents are beaten up and their brothers and sisters are beaten up. One 80 year old lady, who was the mother of a student who was wanted, not finding the student in the house, that 80 year old lady was severely beaten up and she got a fracture injury. This is the way they are trying to deal with the foreign nationals problem in the State of Assam.

Sir, they feel that the movement has died down. As you know, Sir, instead of the movement dying down, it has spread to other parts of the North-Eastern region. Recently on the 14th August last in the North-Eastern region a bandh call was given by the regional parties of the North-Eastern region and the bandh was observed. It has spread to other States also and the people of other States in the North-Eastern region also similarly feel that this problem of foreign nationals should be solved at an early date.

Sir, now the elections are approaching and the electoral rolls in Assam are not revised. Recently, the Chief Election Commissioner held a meeting of the representatives of the national political parties in which I was also present as one of the representatives of my party and there a consensus was arrived at.

Except the CPI (M) and the Congress (I) all other parties supported that the 1971 should be the year on the basis of which the revision of electoral rolls in Assam should take place. The Chief Election Commissioner has accepted it and he has sent a recommendation to the Government. Sir, even the CPM and the Congress (I) were opposed to it on legal points. They say that according to the present laws the 1971 as the electoral roll revision year cannot be accepted and that is why the Chief Election Commissioner has suggested certain amendments in the Representation of the Peoples Act. Now, I do not know what the thinking of the Government of India is. The Assam Government does not come into the picture although Mr. Hiteswar Saikia has been speaking against this, against the decision of the Chief Election Commissioner. The Assam Government does not come into the picture. It is the Chief Election Commissioner who has to decide as to how the electoral rolls are to be revised. I do not know what the thinking of the Government of India is. Sir, I would like to emphasise that a situation has come today when there is the possibility of an amicable settlement of the foreign nationals issue. If the Government wants here is the opportunity of amicably settling the issue of foreign nationals. After the news of the Chief Election Commissioner's recommendation appeared in the papers, the reaction in Assam has been very much favourable. People have reacted in such a good manner and even the movement leaders have reacted saying that if 1971 electoral roll is accepted as the basis for the revision of electoral rolls then the people of Assam will be happy. If this is accepted the ways for an amicable settlement of the foreigners issue will be paved. So the Government should take this opportunity and accept this recommendation of the Chief Election Commissioner. It has been said that if 1971 electoral roll is accepted, then the names of 23 lakh voters will be deleted. That is not so. As a matter of fact, a draft roll will be prepared on the basis of 1971 rolls and the names of the descendants of those whose names appeared in 1971 electoral rolls, will be included, plus the names

of all Indian citizens who might have migrated to that State, will be included in that list, and then objections and applications for inclusion of names would be invited. So, the propaganda that names or large number of voters will be deleted, is not true about which the Chief Election Commissioner has himself made it clear. Therefore, I would urge upon the hon. Minister to take this opportunity and accept the recommendation of the Chief Election Commissioner. Although, in law, the Chief Election Commissioner is the final authority, the Government cannot refuse it, I hope that Government will come forward with necessary amendment to the Representation of Peoples' Act. If that is done, there will be a congenial atmosphere.

Sir, this Government had been saying from the housetop that they want to have 1971 as the cut-off year and the movement leaders wanted 1951 first, then they shifted to 1961. If the Government really believes in what they had been saying before that 1971 should be the cut-off year, then what is the justification of not accepting the recommendation of the Chief Election Commissioner? I do not understand it. In the Objects and Reasons of the Illegal Migrants (Determination by Tribunals) Bill, which has been passed into Act, it has been stated that large numbers of foreigners have infiltrated into Assam. But upto now they have been able to dispose of only one case. They have made a mockery of it; they want to deceive the people of Assam; they want to hoodwink the people of Assam. I would warn the Government, if they think that people of Assam will tolerate this, they are totally mistaken. You are only alienating the people of Assam from the mainstream of Indian nationalism. You have already alienated the people of other north-eastern States.

Therefore, I would humbly urge upon the Government to accept the recommendations of the Chief Election Commissioner. Let there be a revision of the electoral rolls. You yourself supported 1971 as the cut-off year. Therefore, you must come forward and take this opportunity and come to a settlement with the

movement leaders for a lasting solution of the foreign nationals problem. I request that movement leaders should be called for formal talks and a solution found out. Here is an opportunity and you must not miss it, and you must accept the recommendations of the Chief Election Commissioner.

SHRI NEPALDEV BHATTACHARJEE (West Bengal): Thank you for the opportunity to put forward the point of view of our party. I will take some of the time because already one hon. Member...

MR. DEPUTY CHAIRMAN: You take five minutes.

SHRI NEPALDEV BHATTACHARJEE:...spoke for much of the time on the recommendations of the Chief Election Commissioner, and therefore, I have to speak something on that.

Before that, I want to say that what hon. Mr. Jaswant Singh has placed before the House, I fail to understand particularly one part of his motion where he says: "In rule 3, the words 'not below the rank of Sub-Inspector of Police' occurring after clause (b), be substituted by the words 'not below the rank of a Superintendent of Police'. But clause 3(b) says that where such competent authority is the Superintendent of Police himself, the Superintendent of Police shall direct to the Superintendent of Police again. I think it is rather confusing or meaningless to me. I would like to have a clarification from Shri Jaswant Singh as to what exactly he means by this. I can appreciate the situation that has provoked Mr. Jaswant Singh to bring forward this Motion, that the agitation is going on and the Tribunals set up by the Government were not functioning properly. That is one part on which Mr. Jaswant Singh wanted to draw the attention of the Government. But with regard to the other amendments, I beg to differ with him. He is asking to delete Rule 11 whereby it is required that Rs. 25 have to be paid with each application made to the Tribunal. Once you do away with this provision of making a payment of Rs. 25, there will

[Shri Nepaldev Bhattacharjee]

be a number of fake applications submitted to the Tribunal and also the number will be unwieldy. So, I strongly oppose this suggestion. He has also suggested that there is no requirement of witness and one single person can give the name of somebody where he thinks that such and such person is a foreigner. With this also I do not agree.

In regard to the recommendation of the Chief Election Commissioner Mr. Jaswant Singh and Mr. Biswa Goswami spoke just now, that the electoral rolls should be revised from 1971. In this connection, I would like to say that on the basis of 1979 electoral rolls all the parties have taken part in the Assam elections and there was no objection from any party. Now if the electoral rolls are prepared from 1971, all these elections in the meantime and even two elections which have taken place after 1979 would be illegal. That means, they would be treated as bogus. Therefore, we cannot go back to that date. There are a good number of MPs and MLAs who have been elected on the basis of the 1979 electoral rolls. So, the electoral rolls cannot go back. They are not related to the cut-off year or the foreigners' issue. Therefore, I differ with Shri Jaswant Singh on this point. After the Election Commission has given the suggestion to the Central Government that 1971 should be the year for preparing electoral rolls, there is happiness and everybody is happy, that is what they say, but I have gone there, I have seen and talked to the people there. There is a panic in a good number of people. This is not the problem of Assam alone, it is a national problem. The Motion brought forward by Shri Jaswant Singh is not so simple and I beg to differ with his Motion. Also my submission here to the Central Government would be that they should come out with a concrete assurance that they are not going to accept the recommendation of the Election Commission of making 1971 as the date for preparing electoral rolls. With this conclude.

SHRI DHARNIDHAR BASUMATARI (Assam): I have listened to what Mr.

Goswami was saying. In his speech he referred to agitations and the movement launched on the 14th, that is on the eve of the Independence Day. I was there. I left Delhi just to see the position there. I have gone round the places which he has referred to on the 14th. I could not see the agitated persons. There was also no response to the call of the agitation anywhere in that part. We find that there is no agitation, number one. Number two, I quite appreciate what my friend from CPI(M) has said that already the elections have taken place on the basis of 1979 rolls thrice—one to the State Assembly, and twice to Parliament and Goswami himself has been elected on the basis of 1979 rolls. How can he now object to it having been elected on the basis of the same rolls? So I do not find any basis in what he has said.

About the recommendation of the Commission, I have not seen it, nor have we known about the recommendations about 1971—being made the basis. That was a different question. Now question of talk, last four years, negotiations have been held, talks have been taking place on those arguments. So many persons took part in it and nothing came out of the talk. He knows very well there is no agitation now. People are not responding to any call by any group or party. At the time of the Bandh, I myself went to Nalbari. We come from the same area. I did not see any agitation. About one person having been killed, I do not know how and when he was killed. I am not the police, nor did I enquire about it. I do not know why he gave this story. Therefore I oppose what Mr. Jaswant Singh has said and what Mr. Goswami has said strongly.

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRIMATI RAM DULARI SINHA): Sir, I have carefully heard the views of the hon. Members, including the mover of the Motion, Shri Jaswant Singh. The first modification suggested by the hon. Member in rule 3, if accepted, would only slow down the process of enquiry as every Superintendent of Police may not be able to cope with the workload in

view of the large numbers involved. The suggestion seems to be on account of the lurking suspicion that police officers at lower level may not act in a just and fair manner. To ensure that undue harassment during the enquiry is minimised, a number of safeguards have been provided by requiring that the report of the Inquiry Officer is scrutinised by the Screening Committee having a civil officer as a member and the SP before it reaches the Tribunal. In addition, the guidelines provide for an Advisory Committee at the district level for taking an overall review. If, on the other hand, the intention behind the suggestion is to expedite the work of detection, then this is unlikely to be achieved for reasons which have been stated above.

The need for inclusion of a proviso below rule 4 is not clear because even in the absence of such a proviso, it is always open to Government to amend the rules in the light of experience gained.

As regards the suggestion that the Tribunals should be entitled to conduct a sample investigation of the recommendations of the Screening Committee, I am to submit that the role of the Tribunal is quasi-judicial. Therefore an investigative role for them is not likely to go well with their quasi-judicial functions and will only create unnecessary complications.

Regarding suggestion for modification of rule 10, I may clarify that application in Form III is to be made by any individual possessing the prescribed residence qualifications. There is no requirement that it has to be submitted by the witness.

The purpose behind prescribing the fee, as some of the hon. Members have suggested, of Rs. 25 for submitting application to the Tribunal is to deter frivolous applications being made with a view to cause harassment. This purpose will be compromised if the amendment proposed for deletion of rule 11 is accepted. It is therefore not acceptable.

The House will recall that this issue was discussed at length at the Act stage itself. I would like to assure the House that every effort is being made to speed

up the implementation of the Act. As such I would request the honourable Member kindly to withdraw the Motion.

Mr. Jaswant Singh has said something regarding the Tribunals. I can say that the Tribunals have taken a number of steps to speed up the process of detection. After the initial difficulties, progress is sure to pick up and I can say that the State Government have so far—as stated by the hon. Member, Shri Jaswant Singh—notified setting up of 20 Tribunals. Although only 17 Judges from outside and 13 Judges from Assam are in position at present, all the 20 Tribunals are functioning well. The State Government have issued a notification empowering a Tribunal to look after the work of a neighbouring Tribunals. According to the information received from the State Government, about 300 cases have been referred to the Tribunals after making necessary inquiries. About 1,400 cases are at various stages of inquiry. Efforts are being made to obtain the services of more Judges from outside to speed up the process of detection. The Chief Minister of Assam has written to all the Chief Ministers requesting them for the services of Judges. The response is said to be encouraging. The hon. Member, Shri Jaswant Singh, has said that the Tribunals are not working satisfactorily. It is not true. As I have already said, a number of steps have been taken by the Tribunals.

To what hon'ble Shri Biswa Goswami has narrated, I can say that Government are as anxious as anybody else that elections are held in Assam along with the rest of the country. However, the matter of electoral rolls, etc., pertains to the Ministry of Law (Legislative Department) who will no doubt look into the matter raised by the hon. Member.

Regarding the death of a young man in police custody, the State Government have announced a judicial inquiry by a High Court Judge. The other points about alleged police torture have been noted down and will be looked into. However, it is to be appreciated that the law enforcement agencies are operating

[Shrimati Ram Dulari Sinha]

under extremely difficult conditions and as a result of their sustained hard work there has been marked improvement in the law and order situation in Assam.

Sir, I extend my thanks to the hon. Members who have participated in this debate. I appreciate their suggestions and criticism also. We have taken note of some of the suggestions and they will be looked into.

Sir, I request, therefore, the hon. Member kindly to withdraw his Motion.

SHRI JASWANT SINGH: Mr. Deputy Chairman, Sir, I am not convinced by the Minister's reply, but in deference to the traditions of this House and parliamentary norms, I do not press my Motion.

The Motion was, by leave, withdrawn.

[The Vice-Chairman (Shri J. P. Goyal in the Chair.)]

STATEMENT BY MINISTER

Res Hijacking of Indian Airlines Aircraft to Dubai.

THE MINISTER OF STATE IN THE MINISTRY OF TOURISM AND CIVIL AVIATION (SHRI KHURSHED ALAM KHAN): Sir, I made a statement in the House on 24th August 1984 on the hijacking of the Indian Airlines Boeing-737 aircraft, based on the information then available. Now we have more information which I would like to share with Honourable Members.

Within a short while of the aircraft taking off from Chandigarh, seven persons arose from their seats. Two entered the cockpit after breaking the door open. They overpowered the commander and the co-pilot. They assaulted the co-pilot, inflicting an injury on his head and fastened him to a seat with a turban. The five young men who were seated at the rear of the aircraft took advantage positions in the cabin, shouting pro-Khalistan and anti-India slogans. They announced that the aircraft had been hijacked and

was being taken to Lahore. They displayed a round object in a paper wrapping which they described as a grenade, a camera case described as a 'time-bomb' and a bottle containing some liquid described as an 'explosive'. They also brandished two long metal pins, threatening that their tips were lethally poisoned. The hijackers had also seized the fire axe and the loose wheel pin crowbar from the cockpit and bandished them as weapons. At that stage and in fact until well after the plane had been at the Lahore airport, there was no sign of the hijackers being in possession of any fire-arms.

The aircraft landed at Lahore at about 9.45 a.m. and was there till 7.15 p.m. The hijackers released five passengers including two Norwegians and an Indian couple with a child.

At Lahore hijackers demanded refuelling of the aircraft and safe passage to USA via Bahrain. Throughout the day they kept repeating their demand for refuelling and threatened to blow up the aircraft if this demand was not met. Later in the evening at about 5.00 p.m. they made other demands including payment of Rs. 5 lakhs to each hijacker, Pakistani citizenship for them and the issue of passports with permission to travel to USA. At one point of time they threatened to start killing one passenger every fifteen minutes.

I should like to mention here that India repeatedly requested the Pakistan authorities not to permit the aircraft to leave Lahore. These requests were made not only at official levels but by the Home Minister directly to Gen. Arif. However, the aircraft was refuelled at Lahore and allowed to proceed to Karachi. The Prime Minister spoke to Gen. Zia-ul-Haq and repeated the request that the Pakistan authorities should ensure the safety of the passengers, the crew and the aircraft, not to allow the aircraft to leave Pakistan territory and apprehend the hijackers. The aircraft landed at Karachi at 8.55 p.m. At Karachi two more women passengers were released. Once again the aircraft was refuelled and allowed to take off at 2.30 a.m. disregarding our repeated requests.