

[Shri S. B. Chavan]

a point about some of the pockets which are outside the tribal belt. They have not been approved by the Government. I have the information with me that 17 such pockets in Andhra Pradesh were cleared earlier and now the latest is that 21 more have also been cleared last year.

So the point which has been made is very important and I am sure that he will be able to take full advantage of these different concessions which will be available.

Sir, the last point which, in fact, I should have mentioned earlier, was about the emphasis which, in fact, is very badly required to be given to the family planning programme. The entire exercise of the Five Year Plan or the Annual Plan will be completely nullified if the rate at which our population is growing is allowed to continue; then it will be the end of everything. We will have to emphasise the family planning aspect on a voluntary basis, but this should become a mass movement. And sooner or later, in fact, the sooner the better, we should be able to achieve a reasonable rate of growth of population. If we can bring it to 1 per cent, then nothing like that. Fortunately we have been able to go slightly below 2 per cent. So if we can achieve a figure of 1 per cent, then the impact of total planning can be felt by all the hon. Members.

I think I should not dilate any more on this. I do not agree with either Mr. Indradeep Sinha or Mr. Ghan-shyabhai Oza—the kind of picture that they wanted to paint, as if everything is going wrong, as if there is a very bleak future. I do not think there is any scope for coming to this kind of a conclusion. The analysis clearly shows that, in fact, there has been a tremendous impact on all aspects of the developmental programme and we can legitimately claim that we have been able to go ahead with full speed. The lessons that we learn in the Sixth Plan will be fully utilised for preparing the Seventh Plan.

I again express my thanks to all the hon. Members who have taken part in the debate.

MR. DEPUTY CHAIRMAN: I shall now put the amendment of Shri Shiva Chandra 'Jha' to vote. The question is:

"That at the end of the Motion, the following be added, namely:—

"in the light of the approach to the formulation of the Seventh Five Year Plan."

*The motion was negatived.*

MR. DEPUTY CHAIRMAN: Now the discussion is over.

अब सदन की कार्यवाही ढाई बजे तक के

लिए स्थगित की जाती है

The House then adjourned for lunch at twenty-seven minutes past one of the clock.

The House reassembled, after lunch, at thirty-two minutes past two of the clock. [The Vice-Chairman (Shri Syed Ramat Ali) in the Chair.]

I. STATUTORY RESOLUTION SEEKING DISAPPROVAL OF THE ILLEGAL MIGRANTS (DETERMINATION BY TRIBUNALS) ORDINANCE, 1983 (NO. 8 OF 1983)

II. THE ILLEGAL MIGRANTS (DETERMINATION BY TRIBUNALS) BILL, 1983.

SHRI JASWANT SINGH (Rajasthan): Mr. Vice-Chairman, I move—

"That this House disapproves of the Illegal Migrants (Determination by Tribunals) Ordinance, 1983 (No. 8 of 1983) promulgated by the President on the 15th October, 1983."

Sir, I would like to clarify that I will have a right to reply....

THE VICE-CHAIRMAN (SHRI SYED RAHMAT ALI): It is left to you.

SHRI JASWANT SINGH: I would like to exercise that right. Now, Sir, it would be a fair question to ask as to

why, if we have all along been pressing for the institution of precisely such tribunals for the determination of illegal immigration, why should we now be persuaded to move a motion opposing their promulgation. It is because there are valid and sound reasons which have prompted me to do so. I do believe that this measure is yet another in a long list of measures which illustrates the Government's omissions, and wherever there are, also acts of commission. Such measures have come invariably, inevitably, either too late or in too little a form or too politicised a manner when what has all along been necessary has been political statesmanship. The institution of tribunals for determination of illegal immigration in Assam was one of the requirements, one of the demands, one of the requests, which was constantly put across in the tripartite discussions which were held preceding the very sorry and ghastly carnage which took place in that unfortunate State at the beginning of this year.

It is necessary to recount very briefly that this demand about the determination of illegal immigration got entrapped into what I think was an illusory and wrong by-lane of the division of the whole problem into artificially assumed decades. 1951-61 became a decade for determination of illegal immigration. Preceding that period became a decade and following that another decade. The 25th March 1971 became some kind of a halved date about which the Government kept on saying that we are in agreement and that subsequent to that date they stood committed to identifying illegal immigration. And during the entire pendency of the negotiations and talks not once did the Government take the initiative for a constructive act. Not once did they come forward with an act of political statesmanship with a view to assuaging the sentiments of the people of the State, with a view to contributing towards the settlement of the problem about which they declared and announced: "Yes, it is incum-

bent on us, on this Government, to identify illegal emigration and to take some executive measures to rectify the situation". And therefore for fixing 25-3-1971, which we accepted ourselves, reasoning was not put forward except the tentative and illusory reasoning of the coming into being of Bangladesh. For the Government, the whole process of talking was a process of attrition, attrition of the leaders of the movement, attrition of the people of Assam.

Mr. Vice-Chairman, if I am harsh in the words that I use, I would like to clarify that they are harsh about the institution of the Government. There is nothing harsh about any particular individual who has the misfortune, in my mind, of being part of this Government. And, therefore, I do say that during the entire pendency of the talks, what we witnessed was political chicanery. The Government did not come forward with a single act of political statesmanship which was what was necessary then. They did not come forward with a single act of goodwill which could win the confidence of the people of Assam and contribute meaningfully and substantially towards assuaging their feelings and apprehensions. Even on the basis of that date the Government did not think it fit to take any executive action to institute these Tribunals. That is the first reason why I oppose this Ordinance.

The second reason is that the Government always acts with too little and they act too late and with too much politics in what they act. This is too little. I will come to substantiate my point as to why I feel so. It is also too political. This view has a long history starting with the story of tripartite talks and ending with that ghastly carnage in Assam which resulted in the death of 5,000 people and which rendered homeless near about 500,000 people. Any Government in this civilised world which carries the burden of such a massacre on its head cannot possibly come forward in a white-faced manner saying: Yes, we

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are now taking steps to rectify the situation. Whatever they have come forward with is too little, it is too late and it is patently political. What has been installed in Assam, that so-called Government, on the 'chita' of 5,000 people dead and 500,000 people rendered homeless, has no legitimacy and no creditability. If it is the onus of that Government, if it is this Central Government which played the role and game it did during the entire protracted discussions, which is going to institute these Tribunals, then I do not have any faith in these Tribunals.

In specific terms, Sir, I would like to illustrate why I particularly have said this measure, this Ordinance, is too little, too late and too political. But, before we come to that, we have to recount what preceded this particular Ordinance with regard to the detection of the illegal immigrants. In the State of Assam there have been enforced and have existed various measures since 1964. All that is not as if it is the Opposition's making. The Government itself was aware of it. Indeed, Sir, with your permission, I would like to read out a quote from the Report of the Intelligence Bureau which is a report of 1964. The IB had submitted its Report to the Ministry of Home Affairs in 1964 and just two quotes will suffice. These are not my words, these are the words of the Ministry of Home Affairs. I would like to quote now:

"In several past instances it has been seen that though they have come and they are making a living in this country, their sympathy lies entirely outside. This can be illustrated by the attitude of the immigrants in the Darang District during the time of the Chinese invasion in November 1962 and in Nowgong District, recently. Means, therefore, will have to be adopted to detect and remove these illegal immigrants who have already settled in Assam."

This quotation is from the IB Report of 1964 and there is a relevance for my quoting it here to which I will come subsequently. Now, there is another very small and short quote which says:

"The number of illegal immigrants into Assam from Pakistan during the course of the last 12 years has been very conservatively estimated at about two hundred and fifty thousand."

Mark the words, Sir, "very conservatively estimated". 1964 is the year we are talking of. It says further:

"Local and unofficial estimates, however, put this figure much higher. The fact that such a large number of immigrants succeeded in illegally crossing the frontier and settling down unnoticed would prove that the measures so far taken have not been effective."

Just one more quote Sir. This is from a brochure which is entitled "Influx and Infiltration from East Pakistan". This was produced by the DAVP, Ministry of Information and Broadcasting. It was produced for the Ministry of External Affairs in the month of August 1963. Amongst the various things it says, it tables and compares the present-day population growth in the districts of Assam and of the districts of East Pakistan and points out like this:

"That fact is that the enlistment of the foreigners in the voters' list..."

I am not saying it, but it is the Government publication which is saying that—

"The fact is that the enlistment of the foreigners in the voters' list has at times taken place at the instance of politically interested persons or parties, political parties having been known to take dubious pleas to inflate the number of their supporters at the election time and some undoubtedly used the illegal settlers

from east Pakistan towards this end. The persons' names rightly or wrongly inscribed in the voters' list do not prove or confer Indian nationality or citizenship."

This legal position has been confirmed by the decisions of the Supreme Court of India. Indeed, Sir, recently, the Chief Election Commissioner taking into account the unprecedented increase in the population of Assam, had been moved to say that if this very tendency, if this trend, continued by the turn of the century, it might well happen because Assam's population is increasing as against the all-India average, at 34 per cent and I am not here talking of Karbulong district where in the decade 1961-71, the increase was by 80 per cent. Now there is the 34 per cent decennial increase of population—that by the turn of the century—the Election Commissioner rightly pointed out—Assam will have nothing but the migrant population and, therefore, their articulation the articulation of the local people of Assam for having a say in their political dispensation will be wiped out. Sir the reason why I quoted this was to ask the honourable Minister to tell us what the fate was, what the fate was of the measures which were earlier introduced.

THE MINISTER OF HOME AFFAIRS (SHRI P. C. SETHI): Is the IB Report authentic?

SHRI JASWANT SINGH: Pardon me, Sir?

SHRI P. C. SETHI: Is the IB Report authentic?

SHRI JASWANT SINGH: If it is not authentic, I would be happy if the hon. Home Minister got up and said that it was not authentic, and I would need to be corrected. It is for him to enquire whether it is authentic. I make an averment in the House in the belief that it is authentic. I would not come forward in this House and quote from a document which I know is not authentic, is wrong. The onus, Sir, is on you

Now Sir, this question of illegal migrants is not of today's making. It has continued since the Constitution making days and it goes back to the days of freedom fight; it is a continuing problem. The objection is on this ground also. Firstly, it takes 25th March 1971, assumes and works on that date as the date from which all migrations into the State of Assam, without valid and due processes of law, are treated as illegal migrations, illegal immigration and, therefore, 25th March 1971 is going to be treated as kind of cut-off date. My objection, Sir, rests on the ground that by one executive Act you have, therefore, in the preceding years, from Independence to 1971 treated all immigration into Assam as valid, as legal, and therefore, now having a *de jure* status, you are conferring a *de jure* status on a *de facto* situation merely by an executive Act. Therefore, these 5000 that lost their lives and 500,000 that were rendered homeless, their agony has been turned into ashes. That is one reason why I take objection to this Ordinance.

Sir, I would like to quote from the Bill itself, because it overrides. It says:

"...for the establishment of Tribunals for the determination, in a fair manner...."

Now, any law proposed by the Government is assumed to act in a fair manner, and I am at a loss to understand why it is necessary even to include these words. However, be that as it may, it says in section 4:

"(1) The provisions of the Act or of any rule or order made thereunder shall have effect notwithstanding anything contained in the Passport (Entry into India) Act, 1920 or the Foreigners Act, 1946, or the Immigrants (Expulsion from Assam) Act,....."

It also goes on to say:

"(2) In particular and without prejudice to the generality of the

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provisions of subsections (1), nothing in the provision to section 2 of the Immigrants (Expulsion from Assam) Act...."

By one executive order you have put aside, rendered impotent, turned ineffective a number of previous measures that were existing to control this particular development in the State of Assam.

Sir, I now come to my next objection to this particular Ordinance. There is a supposition, there is a presumption in this Ordinance that.... (Interruptions)

Sir, I beg your indulgence, because the Minister of State for Parliamentary Affairs, is having his private conference; he should desist from.... (Interruptions) It sometimes disturbs me. No doubt, he has very compelling reasons for carrying on with his political discussions here but we are also participating in a political discussion.

THE VICE-CHAIRMAN (SHRI SYED RAHMAT ALI): Mr. Jaswant Singh, please continue.

DR. RAFIQ ZAKARIA (Maharashtra): Sir, nobody can compel anybody to listen in the manner in which the hon. Member is wanting. Ears are open—everybody's (Interruptions)

SHRI JASWANT SINGH: There is in this Ordinance a provision which I find is with a particularly malevolent intent. That provision says that the executive authority has no onus, has no responsibility, for the detection of foreigners. And the entire responsibility for detection of illegal immigrants is on the citizen themselves. I appeal to you and through you, to the honourable Home Minister, this is a very pernicious measure. By one executive stroke, the executive is absolving itself of all its past misdeeds and for any future responsibility, whichever

arm of the executive it may be, they are required to act by an oath which they have taken towards the Constitution to act on their own initiative, and to identify illegal immigration, where the citizenry of Assam are persuaded or moved or induced to do so or not to do so. This is a blatant perfidy which has been enacted on the people of Assam and this is one of the most harmful measures contained in this Ordinance because of which I am persuaded to rise and object to it. There is a provision here, a provision which is a 3 km provision and an affidavit and two people to sign that affidavit. 3 km provision is again a highly dangerous provision. I understand the persuasions and the motivations of the drafters who have said and indeed I have gone through the debates in the Lok Sabha where the Home Minister said that this is to obviate harassment; people staying in one part of Assam may not, without knowing facts, report about another part of Assam, therefore, a 3 km limit has been put. Because of the historical development illegal immigration has had a pattern. Pockets of immigrants have developed in the State where there is no population other than the immigrant population. It is therefore, a kind of incestuous safeguarding. Who will point out illegal immigration? Nobody. Secondly, the executive has washed its hands off the entire responsibility. Where citizenry is not there, whatever illegal migrations have taken place and wherever they are in pockets, wherever they predominate, there is nobody going to be reported against. Thirdly even within this 3 km limit if people are persuaded, you are showing seeds of further civil strife in Assam. 3 km is a village limit. Within the village you are expecting people to come with affidavit and two additional people to say, so-and-so, I believe, is an illegal immigrant. The process of law is rather slow in this country, and we are familiar with it. It is not axiomatic that to have law is to have justice. This country knows that only too well. We may have our statute books which are full of legal documents,

but still we have not brought about justice in this country. Therefore, if you now make a law and say within 3 km you can report if you can get affidavits signed by two additional witnesses, only then will we recognise it, then this surely is a pernicious measure and it is going to lead to further civil strife in Assam. There is a provision of fees when it comes to appellate tribunals. On the face of it, you say it is a kind of discouragement from flippant and frivolous complaint making. But please understand that when the executive has withdrawn its functions and an aggrieved citizen is to move, looking at the size of the problem, how is he going to find a hundred rupees or fifty rupees, how is a common villager in Assam going to come forward and say, I stake a hundred rupees, this is false, this is my assertion? Please take that into account. This is yet another reason why I object to this Ordinance. I have some specific objections about this particular Ordinance. I have spoken about the fair manner. This particular Ordinance, though motivated in its enactment and its conversion to a Bill, by the ghastly and sad happenings in Assam covers the whole of India. Following the example of Assam that we have witnessed there are reports of unchecked illegal immigration in West Bengal, in the State of Bihar, in the other adjoining States of north-east India. I have already written to the Honourable Minister of Home Affairs about the reports that I have received about Gujarat. The hon. Home Minister, of course, has not been enough to reply to it. I know for a fact that there are such reports about the State of Rajasthan. Therefore, in that much, enabling this particular Ordinance to cover the rest of India may, perhaps, be a convenient executive action. I do feel, however, that this convenience is born out of laziness; it is not size of the born out of the recognition of the size of the problem of illegal immigration that this country is now witnessing. Therefore, I feel that this is something that the Government ought to look into very closely. Sir, if it is to

cover the whole of India, then, of course, this Ordinance and the Bill that has been passed by the Lok Sabha, must actually reflect that particular position.

Sir, I do have a right to reply and, therefore I shall reserve some of my other points for them. I would like to conclude by just saying one or two sentences. Sir, in Assam, we continue to make the mistake between cause and effect. It would be a gross tragedy, if those of us who sit in this House, and those of us who feel concerned about the developments in that State, were to treat the problem of Assam as an ordinary law and order problem or as routine killings between Hindus and Muslims of this land to which we are accustomed. It is not a law and order problem. It is not a routine communal matter in the sense of reducing it to a Hindu and Muslim matter. We would be indulging in gross over-simplification if we do this. Assam is a story, a continuing story of profound human errors, mis-governance cloaking itself as firm governance, acting out of arrogance of power, and an insensitivity that has had to be witnessed in independent India. I appeal through you, Sir, to the Home Minister. I know that this debates that we are going through has only a routine character that nothing that I will say here will either will make him or persuaded him to change his mind. Indeed, I don't think he has the powers to change it this. But I do appeal to him that if what I have said, if I am able to make impress upon him of the total social problems that exist in Assam, I would have made some contribution to this debate. Thank you.

*The question was proposed.*

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

"That the Bill to provide for the establishment of Tribunals for the determination, in a fair manner, of the question whether a person is an illegal migrant to enable the

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[Shri P. C. Sethi]

Central Government to expel illegal migrants from India and for matters connected therewith or incidental thereto, as passed by the Lok Sabha, be taken into consideration."

Since 1980, as the House is aware, the Government have been making continuous efforts to find a satisfactory solution to the complex problem of foreign nationals in Assam. The influx of foreigners into Assam and other parts of the eastern and north-eastern regions of the country calls for a package of measures to effectively deal with the situation. The continuance of the migrants in India is detrimental to the public interests and it is, therefore, necessary that the interests of the people affected by such influx are protected adequately. The measures taken by the Government, so far, include intensification of vigilance on Indo-Bangladesh border with a view to prevent illegal entry of such foreigners, increase in the number of check-posts on the Indo-Bangladesh border, intensification of patrolling along the riverine sector. A decision has been taken to erect a barbed wire fencing along the Indo-Bangladesh border and construct a broad jeepable road track alongside the barbed wire fencing. The Government have also decided that three additional Battalions of BSF should be raised for strengthening the border outposts and opening new ones, were necessary.

The House will recall that a number of these measures had been initiated even as the Assam talks were going on. Prime Minister had initiated the process of consultation with the Opposition Leaders and this was continued till 5-1-1983.

3 P.M.

In March, 1980 an all-party consensus was reached at a meeting which the Prime Minister had with a leaders of the Opposition in Parliament and leaders of political parties represented in the Assam Assembly to

treat 1971 as the starting year for detection and expulsion. The Prime Minister reiterated the suggestion during her visit to Assam in April, 1980 that 1971 be taken as the starting year for the commencement of the work detection of foreigners so that the magnitude of the problem could be assessed and the talks continued to arrive at a final decision. If this had been accepted by the agitation leaders, substantial progress could have been achieved in identifying the foreigners. Regrettably, the remained adamant. The positions adopted by the Government and the AASU and AAGSP during negotiations are fairly well known. In respect of the pre-1961 and the post-1971 entrants an area of agreement was found. However, in case of pre-March, 1971 entrants no agreement could be arrived at.

Against this background, Government considered it necessary to start the process of detection and expulsion of the migrants who came to India on or after 25-3-1971 in terms of the consensus arrived at. Having regard to the inadequacy of the machinery to deal with the problem of detection of foreigners, the need for certain modifications had arisen in the scheme of Foreigners Tribunals constituted under the Foreigners Tribunals Order, 1964. In the light of the experience gained in the working of these Tribunals and the suggestions made by the agitation leaders, the minority groups, the State Government and others as also the assurances given in Parliament from time to time, an Ordinance incorporating the modified scheme to deal with the detection and expulsion of illegal migrants was promulgated by the President on the 15th October, 1983. The Bill seeks to replace the Ordinance.

The Bill takes into account the need for speedy detection, protection of genuine citizens of India and public interest and seeks to ensure that the machinery sought to be set up under the Bill commands the confidence of all concerned and, at the same time.

its efficiency and effectiveness are not impaired to an extent that it loses all credibility. The proposal enactment shall be applicable to Assam, to begin with, but a provision has been made to extend it to the whole of India by notification. The Bill seeks to provide for the establishment of the Tribunals for the determination, in a fair manner, of the question whether a person is an illegal migrant. The Bill seeks to define 'illegal migrant' in terms of the consensus.

At this stage I would like to explain the implications of the amendment to clause 4(1) of the Bill which was moved by me in the other House and was passed. The amendment specifically seeks to list out the enactments whose jurisdiction is sought to be ousted in relation to the provisions of this Bill. It may be clarified that clause 4(1) even prior to its amendment would have had the effect of overriding the provisions of only such of those Acts as would operate in the same fields. The amendment only seeks to remove any ambiguity in its interpretation and makes the position clear by specifically mentioning the enactments.

The Bill contains provisions seeking to empower the Central Government to establish as many Tribunals as it may deem necessary, specifying the principal places of sitting and territorial limits within which each Tribunal will exercise its jurisdiction. The Bill also seeks to provide that the Tribunals to be constituted shall consist of three Members each, who shall be a serving or retired District or Additional District Judges. The Central Government is sought to be empowered to make a reference to the Tribunal to determine the question whether a person or is not an illegal migrant. Also, the Bill alternatively seeks to enable a private citizen to make an application to the Tribunal for determining such question without in any way diluting the responsibility of Government. However, with a view to ensure that frivolous and vexatious applications are

not made, the Bill seeks to provide certain safeguards, namely, the application should be accompanied by a fee; the person in relation to whom an application is made resides at a place within 3 kms from place of the residence of the applicant; and the application should be accompanied by an affidavit of two persons residing within 3 kms. of the area in which the person referred to in the application is residing. In addition, in regard to the application made by the individuals, it is proposed to empower the Tribunals to call for reports from the prescribed authorities, after making due enquiries on the application. Provision is also sought to be made for constitution of Appellate Tribunals consisting of not less than three members and more than six members who shall be either sitting or retired judges of the High Court. The jurisdiction of the civil courts is sought to be barred in the Bill. However, it is proposed that the High Court, under its revisionary powers, may call for the record of any case which has been decided by the Appellate Tribunal and pass suitable orders. Once the problem of determination of illegal migrants is over, the question of expulsion of such migrants would arise and it is, therefore, proposed that the Central Government shall expel such migrants from India.

The Bill, which seeks to aim at speeding up the detection and expulsion of the post-24th March, 1971, entrants, deals with only some of the aspects of the problem of influx of foreigners. However, along with other measures taken by the Government, mentioned by me earlier, this Bill demonstrates that the Government are genuinely interested in solving the foreigners' problem.

*The question was proposed.*

THE VICE-CHAIRMAN (SHRI SYED REHMAT ALI): There is one amendment by Mr. Goswami.

SHRI DINESH GOSWAMI (Assam): Sir, I beg to move:



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[Shri Dinesh Goswami]

"That the Bill to provide for the establishment of Tribunals for the determination, in a fair manner, of the question whether a person is an illegal migrant to enable the Central Government to expel such illegal migrants from India and for matters, connected therewith or incidental thereto, be referred to a Select Committee of the Rajya Sabha consisting of the following members, namely:—

1. Shri Era Sezhiyan
2. Shri Lal K. Advani
3. Shri Harikishan Singh Surjeet
4. Shri Indradeep Sinha
5. Shri Satya Pal Malik
6. Shri Ajit Kumar Sharma
7. Shri Biswa Goswami
8. Shri Robin Kakati
9. Shri Shridhar Wasudeo Dhabe
10. Shri Ladli Mohan Nigam
11. Shri Dinesh Goswami
12. Shri Khushwant Singh
13. Shri T. Aliba Imti
14. Shri V. Gopalsamy
15. Shri Ghulam Rasool Matto

with instruction to report by the first week of the next Session."

*The question was proposed.*

**THE VICE-CHAIRMAN (SHRI SYED REHMAT ALI):** The Resolution, the Motion for the consideration of the Bill and the amendment moved by Shri Dinesh Goswami for reference of the Bill to a Select Committee are now open for discussion.

**SHRI BISWA GOSWAMI (Assam):** Mr. Vice-Chairman, Sir, I rise to oppose this Bill. Sir, this Bill is a fraud on the people of Assam. This has been brought forward before this House to hood-wink people of the State. In the Preamble of the Bill it has been stated that a substantial number of foreigners have migrated into India across the borders of the eastern and north-eastern region. It

has also been stated that the continuance of such foreigners in India is detrimental to the interests of the public of India. Sir, the people of Assam launched a massive mass movement to draw the attention of the Central Government to this problem of infiltration. Many lives were sacrificed in the movement. What did they demand? They demanded detection, deportation of foreign nationals and deletion of their names from the voters list. The Government did not concede to their legitimate demand and instead, they tried to suppress the movement. Today, the hon. Minister has come forward with this Bill where in he has said, in the Preamble, that a large number of foreigners have infiltrated into India. What did the Government do? How could such a large number of foreigners infiltrate into India? What did the Government do? Why did they not perform their Constitutional obligations? What prevented them from checking this large-scale infiltration into this country? The Government neglected this vital issue, vital question and that is why, there has been a large-scale infiltration into India today.

Sir, the Preamble itself is frank admission of the Government of its inability to protect the frontiers. It is a frank admission of the Government that it failed to discharge its constitutional obligation. And by this Bill does the Government really want deportation of foreigners? No, Sir, this Bill has been brought forward to hoodwink the people, they are not serious in detecting the foreigners.

Had they been serious, they would have continued the process of detection and deportation of foreigners. Today they have brought forward this Bill for setting up of Tribunals and what is the substantial deviation in this Bill from the earlier order of the Foreigners Act? The order which was issued on the basis of the Foreigners Act said that the onus of proving that he was not a foreigner lied on the person against whom complaint was made and now the onus has been shifted to those

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who make the complaint. Therefore, this Bill is meant to protect the interests of the foreigners, it is not meant to detect or deport foreigners. The main purpose of this Bill is to protect the interests of the foreigners.

Then, Sir, in clause 8 of this Bill it has been stated that the Government will make a reference when some representations are made by persons against whom some action has been taken under the Foreigners Act. Government has totally shifted its responsibility to the citizens, as if Government has got nothing to do in the matter. There is nothing in this Bill to show that the Government will act of its own and detect the foreigners. It is not possible for the citizens to file complaints against foreigners because they do not know who are foreigners and who are not. It is the Government which knows about them. Government has got the necessary information as to who the infiltrators are.

What was done previously? Detection was done by police, determination was done by the Government. This is was done by the Government. This is the normal process followed up till now for detection and deportation of foreigners. So, the police can detect, but it is not possible for the citizens to detect the foreigners. Why is the Government silent? Why is the Government not prepared to perform its own duties? The reason is that they do not want to perform its own duties? The reason is that they do not want to detect and deport the foreigners. Again it has been stated that a person residing within the radius of three kilometres will be able to make a complaint to the Tribunal as to who the foreigners. If anybody has got any idea of the population pattern of Assam, he will know that particularly these illegal migrants have come and in places where they got support and cooperation. So, can we expect that

somebody from that area will file a complaint against the illegal migrants? They will not. Government also knows it. Government knows it fully well that it is simply meaningless to ask a person living within the radius of three kilometres to file a complaint. Nobody will come forward to do so. Afterwards the Government will say, look here, there was no complaint and so there can be no foreigners. They will say like that. Only with this purpose they have brought forth this Bill. Then there is another motive also—political motive—behind this. The political motive is that this Government wants to create misunderstanding among the different sections of the people of Assam again. They did it in the last so-called "elections". They instigated one section of the people against the other, which resulted in a holocaust and the ruling party at the Centre derived political advantage out of it. They want to divide the people of Assam again so that they can derive political benefit. That is the purpose. That is why they shifted the responsibility to the citizens to detect the foreigners. These are absurd provisions of the Bill. Government has got its own duty to detect foreigners, to identify the foreigners. Previously also this was the procedure followed by the Government for detecting foreigners. But now the hon. Home Minister has come forward with this Bill shifting his own responsibility to the citizens. The Home Minister has not given any idea about how these large numbers of foreigners will be detected and deported.

Sir, it has been stated by the hon. Home Minister that there was a consensus regarding 1971 as the cut-off year. I want to make it clear that no such consensus was arrived at. At least so far as my party is concerned, our party did not consent to this cut-off year of 1971. By this Bill, Government wants us to believe that those who came before 25th March, 1971, were all citizens. That means there was no infiltration before 25th March, 1971 and infiltration of foreigners

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[Shri Biswa Goswami]

started only after March, 1971. I want to refer to the Ordinance passed in 1950 for the detection of foreign nationals. Then in 1964, the Tribunals were constituted for detection and deportation of foreigners. And now today by this Bill Government has said that illegal infiltration started after 25th March, 1971! This infiltration is a continuous process. It started long before India achieved Independence. After achievement of Independence and after the creation by Pakistan, this infiltration started with new vigour and that is why these Acts were passed—the Foreigners Act, Expulsion of Immigrants Act. All these Acts were passed and Tribunals were constituted and orders were issued for the detection and deportation of foreigners. Now the hon. Home Minister wants us to believe that there was no infiltration before 25th March, 1971.

We are told about the international obligations. We do not know what these international obligations are. The Parliament should know what those international obligations are. No Prime Minister of a sovereign country can enter into any secret agreement with any foreign country. The Parliament should be informed as to what our international commitments or obligations are. But it has not been done. It was done secretly; we do not know if some agreements were reached.

Then, again, we are told about national commitments. Will these national commitments continue for eternity? How long those national commitments will continue? Even today in Bangladesh there are lakhs of Hindus. If today they want to cross over to India, will it be possible to give them shelter on the basis of national commitment, supposing, but not agreeing, that we have a national commitment? Again does that mean that Assam alone should accommodate all these migrants? National commitment does not mean that Assam, West Bengal and Tripura alone will take the entire burden. The entire nation must take the burden if there

was any national commitment. The entire nation should take the burden of this national commitment and Assam, West Bengal and Tripura alone cannot take the burden of this national commitment. Sir, a foreigner cannot be detected on the basis of the language he speaks or religion he follows. We should determine that a foreigner is a foreigner and it will be determined by the provisions of the Constitution and the laws of the land and a foreigner cannot be decided on the basis of the language he speaks or the religion he follows. Therefore, Sir this national commitment or international commitment, whatever that might be, this Government has itself agreed that there has been large scale of infiltration into India. This infiltration has not started on 25th March, 1971.

Sir, today it has become a gigantic problem due to the negligence of the Government; it has assumed a serious proportion today. This infiltration is continuing even today. There has been fresh infiltration into Assam, Mizoram and other adjoining States of north-eastern India, like West Bengal and Bihar. Even reports are there that some Bangladeshis were arrested in Bombay. So, unless the Government comes forward firmly to deal with this problem, the problem will not be solved.

Sir, if this problem is to be solved, they must hope talks with the movement leaders. The Government agreed that there would be a National Register of Citizens with photographs. What happened to that? Unless you prepare that National Register of Citizens with photographs, it will not be possible to detect foreigners in future also. Is the Government going to prepare this National Register of Citizens with photographs? They agreed with the movement leaders that the Government would prepare this National Register.

Sir, here I want to say that the Home Minister has unilaterally come to Parliament for

passing of this Bill. I want to warn the Government that without a settlement reached with the movement leaders in Assam, this measure will not help in any way but it will only complicate the situation in Assam further. So, the Government should have invited the movement leaders for talks and come to settlement. Without doing that, unilaterally this Bill has been brought and this Bill will complicate matters further and, as I have already said, this Bill is meant not to detect the foreigners but this Bill has been brought forward to regularise the foreigners in Assam. After a few months they will say, we have tried to detect but nobody was found and therefore, there are no foreigners in Assam. But, Sir, this the people of Assam will not tolerate and there will be more complications. So I would urge upon the Government to withdraw this Bill and come forward with a comprehensive Bill after coming to a settlement with the movement leaders. Sir, I know what the Government is doing today. Sir, on the one hand, they tried to crush the movement, and on the other, they have brought this Bill to make it a *fait accompli*. After the passing of this Bill, there will be no room for discussion. So, the Government wants to make it a *fait accompli* which people will have to follow. That is the intention of the Government. And what are they doing in Assam? There are no human rights, no civil rights. I am not going to dwell upon it. But I want to mention just one or two instances. Anybody who is today arrested in Assam is severely beaten up in the lock-up. Hundreds of youths have been made cripple by assaulting them in the police lock-up. Under what law is the Government doing it? I do not know. When the movement leaders give a call for *bandh* the policemen will break open the doors and they will ask the shopkeepers to open their shops; and if they do not, they ask them not to open for seven days. So the policemen also given a call for *bandh*, then only one incident I will refer, and I will stop. On 11th November, 1983; Dr. H. N. Sharma; Dean of

the faculty of Veterinary Sciences Agricultural University was arrested. He was dragged to the police post. He was kicked, beaten, insulted, and abused. You want to humiliate the people of Assam. He was not at all connected with the movement. He is a man who is going to retire very soon. He is a respectable man. He was kicked by the policemen inside the police station. He was asked to sit on the gunny bag on the floor of the police lock-up. He was assaulted. Then Mrs. Bora wife of Dr. N. N. Bora he is also a professor there; he was not there; he was away in Jorhat—was arrested, she was pulled by her hair; she was dragged not by the female police but by the male police; she was kicked and abused in filthy language, and beaten inside the police lock-up. You want to humiliate the people of Assam in this manner. Do you know the consequence of this, Mr. Home Minister? You are helping alienation of the people of the State from the mainstream of Indian nationalism. You want to create another Nagaland or Mizoram in Assam. I warn you, I request you, not to try to create another Nagaland or Mizoram in Assam. If you are really sincere for detection and deportation of foreign nationals, you withdraw this Bill. You have got an inherent responsibility. The Government has got a constitutional obligation to detect the foreigners. Why did you not detect the foreigners who had been coming? According to your own admission, foreigners are there. What did you do about it? There was a massive mass movement in Assam you wanted to crush the movement. You did not pay any heed to the demands of the movement leaders and the people of Assam. You allowed the situation to drift. And today you have come with this Bill. If you want to detect foreigners, detection must be done by police; determination must be done by the Tribunal and deportation should be done by Government—at Government to Government level deportation should be done. Unless you do it, it will be merely a hoax, merely a smoke screen, it will not

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satisfy the people of Assam, and you will only be deceiving yourselves. That is why I would urge upon the Government to do something. I know, Sir, it is too much to expect anything from this Government. I remember these Congress leaders wanted to hand over Assam to Pakistan. It is because of the fact that the people of Assam revolted under the leadership of late Gopi Nath Bordoloi, and we were supported by Gandhi, that Assam was saved. Then, in 1982, Sir,...

THE VICE-CHAIRMAN (SHRI RAHMAT ALI): Mr. Goswami, please conclude.

SHRI BISWA GOSWAMI: Only one minute. In 1962 the Central Government drew up a scheme to drive out infiltrators because there were some incidents near Tezpur. In some places near Tezpur Pakistani flags were hoisted at time of the Chinese aggression. There was an enquiry on behalf of the Central Government, and a scheme was drawn up. And when the detection and deportation started, the Central Government asked the State Government to go slow, and that was abandoned, and most of those who were deported have now come back.

Sir, this Bill will not serve any purpose. It is only a hoax, and it will only regularise those who have illegally infiltrated into India.

Sir, with these words, I strongly oppose this Bill.

DR. RAFIQ ZAKARIA: Mr. Vice-Chairman, I was horrified to listen to the speech of Mr. Jaswant Singh with all the venomous innuendos with it contained against a section of our citizens. But I was distressed at what Mr. Biswa Goswami had to say.

I think the Home Minister deserves not only our congratulations but also our thanks for presenting a Bill which

tries to soothe the wounds as well as cure the disease.

Mr. Biswa Goswami said that it was because of Mr. Gopinath Bordoloi that Assam was prevented from being handed over to Pakistan. I would like to put the record straight. In fact, it was because of Mr. Bordoloi that Pakistan was created. It was one of the major factors. Sir, if you remember, under the Cabinet Mission's plan the three-tier system which sought to preserve the territorial integrity and the national unity of India as then existed, would have gone through but for Mr. Bordoloi's opposition one has only to read Maulana Azad's account in his book "India Wins Freedom" to understand as to who were the guilty parties who turned the table at the eleventh hour.

SHRI DINESH GOSWAMI: Mr. Vice-Chairman, I only want Dr. Zakaria to understand that the situation is already complicated and that Mr. Gopinath Bordoloi is today acclaimed by all sections of the community as one of the most respected man in Assam, which, I think, Mr. Baharul Islam will also bear out. Any criticism of Mr. Gopinath Bordoloi will create a situation which they will find difficult ultimately to handle.

DR. RAFIQ ZAKARIA: I know how to take care of myself. I do not need Mr. Goswami's protection. I am quite entitled as a historian to give my version. And let me tell you, as a student of history, that with regard to the particular part of Mr. Gopinath Bordoloi, the opting out of Assam, I am giving him a reference of what Maulana Azad has said in his book "India Wins Freedom" (*Interruptions*) I do not want this kind of interruptions.

SHRI BAHARUL ISLAM (Assam): May I make a request? Historically Mr. Zakaria is correct because there was a proposed grouping system and Assam was sought to be tagged to Bengal at that time. . .

DR. RAFIQ ZAKARIA: Sir, what is this? Are we going to allow this kind of cross discussion?

THE VICE-CHAIRMAN (SHRI SYED RAHMAT ALI): Mr. Islam, your namr is there.

DR. RAFIQ ZAKARIA: I am only talking of the Cabinet Mission's plan. He was referring to Mr. Gopinath Bardoloi. Mr. Gopinath Bardoloi was a very respected Congress leader. I know that. He was our Chief Minister. But that does not mean that every thing that Mr. Gopinath Bardoloi did has got to be commended. I only reacted when he said that but for him, Assam would have been handed over to Pakistan. That means, the entire national leadership stands condemned.

That means, the entire national leadership of the Congress wanted Assam to be handed over to Pakistan. How can it be ever accepted?

SHRI AJIT KUMAR SHARMA (Assam): It is historical fact.

DR. RAFIQ ZAKARIA: How can we accept this proposition?

SHRI AJIT KUMAR SHARMA: You read history again, please.

(Interruptions)

THE VICE-CHAIRMAN (SHRI SYED RAHMAT ALI): Order, please. No interruptions.

DR. RAFIQ ZAKARIA: If this kind of interruptions is allowed you people will not be listened to in patience from our side. After all, we listened to whatever Mr. Biswa Goswami had said, every sentence of it. Because you don't like what I say, therefore, you are going to interrupt me? All right, you may disagree with it. You may disagree with my interpretation of history. But you have no right to interrupt me every second simply because you do not like what is being said. As I said, when an attack is

being made on the national leadership of the Congress that but for Mr. Bardoloi, Assam would have been handed over to Pakistan, I say, that is not correct. In fact, the whole controversy started because of Assam's opting out of the three-tier system in the Cabinet Mission's plan, as Mr. Baharul Islam said. Now that is a historical fact and one has only to read Moulana Azad's book to know what situation was. Therefore, as I said, let us not try to sort of give an impression to the people of Assam as well as the rest of the country that but for a particular individual, however great he might have been Assam would have been handed over to Pakistan. That is a travesty of history, I maintain.

Besides that, the problem of Assam is not so simple as is sought to be made out, as if the whole question has arisen as a result of the infiltration of Bangladeshis is. Is that the problem of the Assamese? The problem of Assam has a long history and their grievance goes back to a lot of people coming from neighbouring States into Assam, where the Assamese felt that their majority was being threatened. Naturally there was a certain resentment and ever revolt as far as when their cultural identity was endangered. That we can understand. But these dangers are inherent in a situation where a country is one and there is vast migration of population from one part to another. Take, for instance, Bombay. If you see the composition of Bombay 30 years ago and what it is today, the whole complexion has changed. That is why the shiva sena movement started in Bombay. But if we have to preserve the unity and integrity of India, we have to guard against any kind of demands that there should be a national register with photographs and other things and everyone has got to give proof as to whether he is a citizen or is not a citizen. I want to ask you, Sir: If this criterion is to be followed, will you not be able to say that in every

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State, there will be millions who can be deemed to be foreigners, who may not be able to produce the kind of evidence that you desire? After all, when freedom came, in the wake of partition, a lot of migration from one part of the subcontinent to another, from one state to another, took place. Therefore, it is a question of understanding, it is a question of being realistic, it is a question of taking stock of the situation as it was and trying to find a solution. Another charge that Mr. Biswa Goswami made was that it is for the police to detect, the tribunal to determine and the Government to deport. A very good slogan all right. But have these people faith in the police? they don't recognise the Government. Then whole movement was a movement of censure against the Government all the time censure against the bona fides of the Government. In fact, I think it is a concession on the part of the Home Minister that he has said, all right, if you say that we are not serious about deporting foreigners, we are giving you an opportunity; any person can come forward, make an application, coupled with an affidavit and tell us as to who these foreigners are. As regards the question of 3 kms it is to relieve the inconvenience, in detection. In fact, I am not also very happy about this particular limit. I wish instead of 3 kms limit, he would have confined it to gram panchayats because that is known area; otherwise 3 kms is rather vague. It may create confusion. Whatever it may be, as the Home Minister made out in his introductory speech while introducing the Bill that the idea is to so regularise this that detection may be easily possible. But even that is challenged, because the whole purpose behind these attacks, to my mind, is not to allow a solution to be found. Those who have been interested in carrying on this movement and those who have been supporting it, somehow or other want that there should be no end to it excepting on

their terms. And what are those terms? That whomsoever they believe to be foreigners, they should be deported. Is this a police State? What do you mean by 'let the police detect'? Do you mean to say police always detects rightly? Do you mean to say the citizens should have no protection, should have no defence? After all, their whole existence is at stake. It is a question of life and death therefor. You want to throw the citizen out. Where will he go? You know what the plight is of the more than 8 lakh Biharis in Bangladesh. They are living as drawers of water and hewers of wood, disowned by Pakistan, not wanted by Bangladesh. Do you want such a situation should arise here? Simply on an application? Simply on defection the police? As if a policeman always detects rightly; as if a policeman is a paragon of virtues as if a policeman would not be an interested party being influenced by one side or the other in detecting genuine citizens and declaring them to be foreigners and throwing them out. A most dangerous proposition, a proposition which no democratic country would ever accept. I think the Home Minister has done a lot of exercise in trying to reconcile the various conflicting interests and at the same time seeing that whatever are the genuine grievances of the people of Assam, that these are met. I particularly felicitate him as far as this Bill is concerned because it is for the first time that this measure obliterates the distinction between Hindu and Muslims. The other legislations that have been there, were introduced with a communal purpose and a communal aim, and here is for the first time a genuine effort being made to see that a judicious approach is brought to be on it without distinction of what religion or what language or what other considerations. And to that extent I think it is the most commendable piece. Then, Sir, Shri Biswa Goswami talked of national commitment. I do not know who has said that there is a national commitment that whoever comes from any other country will be deported? But certainly, certain commitment arose as

a result of historical reasons. It is wrong on the part of my friends from Assam to think that they alone are bearing the brunt of such a problem. This burden is shared by many States including my State. A large number of refugees came from West Pakistan and they were absorbed and rehabilitated with a spirit of understanding and accommodation. I am all for preserving the culture and identity of the people of Assam and for certain historical reasons there were, I agree, certain dangers against their identity. We have certainly to guard against this. I wish Shri Shahabuddin was present in the House. Shri Biswa Goswami said his party is committed to all that he said. If that is so I would like to know what the other members of the Janata Party have to say in this regard. As far as my reading of their attitudes is concerned, I have my own doubts about it. I don't think Shri Shahabuddin would agree with him. Therefore my plea to all concerned is, if we are interested in finding a solution and taking the right step, then we must support this Bill. There may be certain limitations. There are a few provisions in the bill with which I may also disagree. But by and large it makes a sincere effort to meet the situation. Shri Biswa Goswami was asking as to what happened before 1971? There were other legislations which took care of it. In fact under Assam Emigrants Expulsion Act of 1956 lakhs of foreigners were deported. It has been a continuous process. It may be that the number multiplied as a result of certain developments across the borders, and therefore a graver solution to the problem is called for. But if the approach that Mr. Biswa Goswami has enunciated were to be adopted I do not think that the leaders of the Assam movement themselves will agree. Are they prepared to leave the whole matter of detection to the Police? Are they prepared thereafter that whatever the tribunals say shall be accepted? I do not think that is their case. In fact they said that this Government was illegal, the government before that was illegal, what the police was doing was wrong, etc. He himself gave instances of police beating

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ing up people. If the police is misbehaving in one case, why should they not misbehave in the other case also? Here, for the first time people have been allowed some freedom. Some of my friends have been objecting to the words "any person". "any person" also can be instigated. Political parties who are interested in carrying on this movement and keeping Assam in this turmoil, may make any kind of fictitious application, although affidavits are to be there. Because of it the Home Minister may say that under sec. 193 of the IPC they could be prosecuted. I would like to say that, for those who make such kinds of frivolous applications, in the Act itself, if not in Act, at least in the rules, you must provide that some sort of punishment will be given. I say this because this is a harassment to genuine citizens. (Time bell rings). And, Sir, to say that every citizen in India should be in a position, if called upon to prove, to prove that he is a citizen of India is a proposition—which I am not prepared to accept. These are the harsh realities and, therefore, when we take into account all these aspects, I believe that this Bill despite these fears, is a welcome piece of legislation, this is a good piece of legislation, and I hope that those who are interested not only in finding a solution to what is happening in Assam, but also in preserving communal harmony and national unity, will not hesitate to support it. Thank you, Sir.

**SHRI DINESH GOSWAMI:** Mr. Vice-Chairman, Sir, I approach this Bill with a great sense of anguish and pain because I feel that by this legislative measure the Government has lost the last chance of bridging the gap of crisis of confidence between the people of Assam and the Central Government. We in Assam consider it to be the greatest betrayal by this Government of their people of Assam.

Sir, before I start speaking on the Bill, I feel it is my duty to put the record straight by saying that I strongly contest the uncharitable remark



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made by Mr. Zakaria about Shri Gopinath Bordoloi. If Mr. Gopinath Bordoloi is guilty of frustrating the Cabinet Mission's Plan, then, Sir, equally Gandhiji is guilty. I know that the ruling has disowned Gandhiji in the past many a time. But I am happy to find that Gandhiji has been disowned by the Deputy Leader of the Congress (I) Party in Parliament today.

Sir, I oppose this Bill primarily because it is beyond the jurisdiction of Parliament.

DR. RAFIQ ZAKARIA: Sir, I would also like to put the record straight. Gandhiji supported the Cabinet Mission's Plan. It was only when there was opposition from Mr. Gopinath Bordoloi and others that he said, "Since there is this much of feeling, we may allow them the option to opt out of Group B." This is history.

SHRI DINESH GOSWAMI: Sir, coming to the Bill, I oppose this Bill firstly, because it is beyond the legislative competence of Parliament to enact this provision.

I oppose this Bill because it is violative of the Constitutional provisions, particularly articles, relating to citizenship and other provisions to which I will come later.

I oppose this Bill because it is illegal and *ultra vires* of the substantive laws like the Passports Act, the Foreigners Act and the Citizenship Act.

I oppose this Bill because this Bill is politically motivated.

I oppose this Bill because this Bill will further complicate the Assam issue.

I oppose this Bill because this Bill is against the national interests.

And, Sir, I oppose this Bill because it will only open up new wounds and, as I said earlier, it is a gross betrayal of the people of Assam.

Sir, I am happy that the honourable Home Minister has, in the Statement of Objects and Reasons, admitted that there are a substantial number of foreigners who have entered India. Of course, regarding the substantial number of such foreigners who migrated up to the 25th March, 1971. I am sure that the honourable Home Minister, before he brought forward this legislation, with all his machinery at his command, . . . . .

SHRI P. C. SETHI: I think you have not read the Statement of Objects and Reasons properly.

SHRI DINESH GOSWAMI: I am reading from the Statement of Objects and Reasons only.

SHRI P. C. SETHI: That has been changed to "good number".

SHRI DINESH GOSWAMI: There has been no change in the statement of objects. The change is not in the preamble. Mr. Home Minister, in the Statement of Objects and Reasons, you have categorically stated that there are a substantial number of foreigners and before bringing forward this Bill, I am sure, with all the machinery at your command, you did enquire to find out whether there was a "good number" or a "substantial number" of foreigners and you came to the conclusion that there was a substantial number. What made you change that to "good" in the preamble? Then are you prepared to admit that the assessment before bringing forward this Bill was wrong or it is because a particular member of your party, of your own party, brought forward an amendment? I do not want to go into that now. But the fact remains—and I would like to quote from the documents which the honourable Member, Mr. Jaswant Singh, quoted—that "between 1951 and 1961, according to the Government of India, which made a study of the census figures of the then East Pakistan and India, the Government found that in the census figures of the then East Pakistan, there was a decrease of the population growth from the

the normal biological growth to the extent of 31,73,985." The Government of India concluded from the study that from the normal biological growth East Pakistan's population decreased by 31,73,985, and there was an increase from the normal-biological growth of the population of Assam, West Bengal and Tripura, to the extent of 34,01,245. And what were the conclusions drawn by the Government of India then? Government of India's conclusions were that this large increase in population was because of a tremendous influx from the neighbouring country, East Pakistan. And that document says that in a district like Noakhali—you know, Sir, that present Bangladesh—former East Pakistan—has the highest population growth—that document says that in the district of Noakhali which adjoins India there was increase of population between the age group of 0 to 14 by 12.1 per cent. There was increase of population above 60 by 70 per cent but there was no increase of population between the age group of 15 to 59. In fact, there was decrease of this population to the extent of 5.9 per cent. And here the Government says, I quote "in Noakhali, apparently there was not only no increase in population in 10 years, in respect of the age group of 15-59, but in fact there was a decrease by 5.5 per cent. This is a demographic absurdity of statistical facts." And then, after analysing the census figure the Government drew the obvious conclusion is that from East Pakistan there was a considerable migration of particularly from 8 out of the 17 districts during the decade 1951-61. My friend Mr. Rafiq Zakaria said that the situation was tackled before 1971. But what was the situation? The population of Assam increased between 1951 and 1961 by 34.98 per cent as against the national increase of 21.60 per cent. If the problem had been tackled in 1962, there would have been a parity between the growth of Assam population and national population after 1962. But what we find is that the same growth rate remains. It was 21.60 per cent as compared to 34.98 per cent between 1951 and 1961. In 1961

and 1971 it was 21.57 per cent (*Interruptions*).

DR. RAFIQ ZAKARIA: Give the break-up, apart from the foreigners, of the other non-Assamese.

SHRI DINESH GOSWAMI: If my hon. friend does not understand my argument, I am helpless. What I am saying is that you have claimed that in 1962 document that there was a tremendous migration to the extent of 33 lakhs of people between 1951-61. Now, if the migration had been stopped in 1962, the population growth in Assam would have been less in subsequent years. But look to the figure? The figure for 1961-71 is 21.57 per cent in Assam as against 21.60 per cent of 1951-61 compared to the national figure of 34.98 and 34.95 respectively. What I am trying to prove is that the growth of population was in the same pattern. Otherwise between 1951 and 1961 and between 1971-1981 it is almost the same figure, 21.74 for the whole of India, this time it is slightly more for Assam it is 36.90. The point I am making is that the migration of population continued right from 1951 till date almost unabated and in the same pattern. Now, unfortunately, I find that this Act seeks to deal with the post 1971-people, a substantial number of foreigners who migrated across the border of the eastern and north-eastern region of the country on or after 25th March, 1971, what about those who migrated before 1971. According to you, the continuance of those foreigners who have come after 1971 is detrimental to the interest of the public in India. The Bill states in the preamble the continuation of foreigners who have come after 1971 is detrimental to the interests of the country. Am I to understand, Mr. Home Minister,—24th March 1971 was the date on which Bangladesh came into being—according to you, the people who have come after Bangladesh came into being, only their presence is detrimental to the interests of India?

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Is it the case of the Government of India that the presence of the people who came from Pakistan prior to 24th of March, 1971, is not detrimental to the interests of this country? Let us take it to the international community saying that India does not consider the presence of Pakistani nationals in India as detrimental to the interests of this country and that India considers the presence of Bangladesh nationals detrimental to the interests of this country. This is precisely what the interpretation of this Bill is in the international community. Do you know how it is going to affect adversely your relationship with Bangladesh, when you say that people coming from Bangladesh are a security threat and not the people who have come from Pakistan? If the presence of a foreigner is a security threat and if it is detrimental, then it is detrimental whether they have come before 1971 or they have come after 1971.

**DR. RAFIQ ZAKARIA:** It is twisting of words.

**SHRI DINESH GOSWAMI:** The whole Bill is a twisting of words, Mr. Zakari. Let us not twist words.

**DR. RAFIQ ZAKARIA:** East Pakistan became Bangladesh.

**SHRI DINESH GOSWAMI:** This is precisely what I am saying. In Bangladesh, before 24th of March, 1971, the same population was there. Can the Government consider as if that population is different because there is a new government and a new constitution's change of name. If Bangladesh tomorrow changes its name and brings about a new Constitution, we shall say that those who have come up to that date are no longer a security threat. My point is this. Can you determine whether a foreigner is a security threat or not, whether the presence of a foreigner is detrimental to the interests of the country or not on the basis of an artificial date which

you have done under this act. In this way you have tried to regularise all other people.

The second point that I want to make is that in this Bill you have categorically admitted that because of ethnic similarities and almost the same language and the same habits, it is very difficult to detect such foreigners. If you look at your statement of Objects of your Immigration and Expulsion Act, 1950, it says: "During the last few years, a serious situation has arisen from the immigration of a large number of East-Pakistani residents into Assam. Such large immigration is disturbing the economy of the Province which is giving rise to a serious law and order problem." Now, you to tackle this situation the Governor promulgated the Immigration Expulsion Order. In 1962 again, you tried to confront the people of Assam by saying that the continued presence of illegal immigrants on Indian soil does involve a fundamental principle. No Government can allow foreigners to live on its territory permanently. This is what you said in 1962. What I am trying to ask you, Mr. Home Minister, is that what special provisions you have made in this Bill by which you can detect these foreigners. You expressed a very pious wish in the 1950 Act and you failed to check the foreigners. You made another solemn declaration in 1962 that you are going to detect the foreigners and you failed to detect them. You have said in the Preamble of this Bill that detection is extremely difficult because of ethnic similarities. Therefore, I expected that in the Bill there will be some provisions by which Government will indicate as to how they propose to detect the foreigners on the basis of some particular guidelines and criteria. How do you detect whether a foreigner has come before 1971, the date you have mentioned? In that context, I say that the Government has abrogated its responsibility. If there had been an honest attempt to detect the foreigners from 1971 onward, I would have been fully happy—but let me say it publicly—and I would

not have given limited support to this Bill. But where are those provisions? One way by which you could have done it is to take the 1952 National Register of Citizens and the subsequent Voters' List as basis for detection. The Government could have taken the position that for the time being they will not question those who are there in the 1971 Voters' List. But those who do not appear in the 1971 Voters' List and whose names have subsequently been enlisted will be scrutinised to find out whether they are foreigners under the purview of this Bill. Let me point out to my friend, Dr. Zakaria, that the NRC is a document which was accepted. It was decided in 1950 after the Nehru-Liaquat Ali Pact that there will be a national register of citizens for Assam so that this question...

**DR. RAFIQ ZAKARIA:** You say that the Government of India has accepted it. I do not think it was accepted. If so, why was it not implemented?

**SHRI DINESH GOSWAMI:** We are not bound by what Dr. Zakaria accepts or not. (Interruptions) I am only pointing out that the N.R.C. is a valid document which the Government of India accepted, And if the Government of India was anti-national in 1950 to accept a document which it ought not have accepted, it was for you to take it up with Jawaharlal Nehru and accuse him of anti-nationalism. Don't blame us.

**DR. RAFIQ ZAKARIA:** You say that you do not agree. You see this twisting of words and accusing me of ascribing to Nehru's anti-nationalism. What Kind of logic. . .

**SHRI DINESH GOSWAMI:** You used those words. So far as NRC is concerned, Mr. Zakaria, you said that such a document will be against the interest of the country.

**DR. RAFIQ ZAKARIA:** No, I have not said that.

**SHRI DINESH GOSWAMI:** Let us look to the record. (Interruptions)

The other point that I am making is about 3 KMs and all that. Dr Zakaria has some good suggestions and Mr. Shahabuddin wants it half a kilometre. Luckily, the Government has not brought an amendment that the objection should come from the same household. I am not going into that. But there is a potential safeguard which my friend has failed to note. The moment a person submit an objection to the tribunals, the case is immediately not taken up. (Interruptions) It is not that because Clause 11 lays down this. When this application is received, it is sent by the tribunal to the Government, to the prescribed authority for comment. And only after the prescribed authority verifies and points out there is some justification for pursuance with this objection, then only this objection will be taken note of. Therefore, it is not that if a person just files an application, the tribunal will issue a notice on the party always when the application is made. No. The Tribunal will first ask the State Government for its comments whether this application should at all be entertained. And only then if the State Government through its machinery comes to the conclusion that, yes, here is a genuine case then only it will be pursued. If it is the case, why do you saddle a person with an artificial limitation of three KMs knowing fully well that in the riverine areas at no point of time anybody can come out who will be able to submit objections within three kilometres. There is nothing in this Act also which shows how you are going to determine whether a person has come before 1971 or after 1971. There is no guideline whatsoever, in spite of the fact that your whole Act is based on a date, 25th of March, 1971. I have also objections regarding the areas as I will dwell on the same when I move my amendments.

I will next come to the question that it is unconstitutional. My submission will be that the powers to constitute the Tribunals have been given in the Indian Constitution. The specific

[Shri Dinesh Goswami]

provisions are articles 323A and 323B. Article 323A talks about administrative tribunals providing for adjudication of trial. Article 323B says that the appropriate legislature—and in this case it will be Parliament—may by law provide for the adjudication or trial by tribunals of any disputes, complaints or offences with respect to all or any of the matters specific in Clause (2). And what are these matters? The matters specified are: levy, assessment, collection and enforcement of tax, foreign exchange, industrial labour disputes, land reform, ceiling on urban property, elections to either House, production, procurement, supply and distribution of foodstuffs, offences against laws, any matter incidental to any matters referred to in sub-clauses (a) to (h). Where from do you get the power in this jurisdiction to constitute Tribunals under article 323B relating to the foreigners of this country. This is a question which, I hope, you will answer. And I am submitting that this Bill is beyond the legislative competence of this Parliament because this power has not been conferred on us either by article 323A or by article 323B.

My next objection is that this Bill is violative of article of the Constitution or, in fact, articles 5, 6 and 7. Article 7 lays down: "Notwithstanding anything in articles 5 and 6, a person who has after the first day of March, 1947 migrated from the territory of India to the territory now included in Pakistan..." etc. What I am pointing out is that by one stroke you are trying to regularise and declare by implication that anybody who has come before 25th March, 1971 is a citizen, which power the government do not enjoy under the constitution if you do not have a power directly, you cannot achieve it through an indirect means. And my submission will be that this Act, through an indirect means, wants to declare that those who have come before 1971 are not foreigners, which goes against the very provisions of the Constitution. And, therefore, it is

*ultra vires*. This, in my respectful submission, is against Section 5 of the Passports (Entry Into India) Rule which says that nobody can enter into the country without a passport. It is against the Registration of Foreigners Act. It is against the Foreigners Act. And, it is against the Citizenship Act. By one stroke of pen, by one stroke of law, you are undermining all these statutory laws. Let me read Passport (Entry into India) Act. Section 5 says that nobody can enter without a passport, no foreigner can enter, and if he enters without a passport, then he should be driven out. Section 3 of the Registration of Foreigners Act says, any foreigner who comes must register with the prescribed authority. By one particular act, by an amendment under section 4, you have done away with all these provision. Therefore, I say that this Act is violative of all the substantive clauses relating to the Citizenship Act and the Foreigners Act and is politically motivated and is illegal and, therefore, I oppose this Act.

Sir, the next objection is that this Act is entirely politically motivated. Under Section 4(1) of this Act you have brought an amendment under which you have included these Acts, the Foreigners Act, 1946, the Immigrants (Expulsion from Assam) Act, 1950 and the Passport Act to be out of the purview of this act. But why have you not included the Citizenship Act? Your argument for including these Acts was that they occupy the same field. I hope the hon. Home Minister will kindly listen to me instead of looking to the hon. Ministry of Energy.

THE MINISTER OF ENERGY  
(SHRI P. SHIV SHANKAR): I am on roster duty.

SHRI DINESH GOSWAMI: I am not objecting to your coming. Your argument is that you have included the Foreigners Act, 1946, the Passport Act and the Immigrants (Expulsion from Assam) Act, 1950, because they occupy the same field as this Act. But,

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I think, that the Citizenship Act also occupies the same field as this Act. Why did you not include the Citizenship Act also? The reason is that the Government wants to keep with itself the power to confer citizenship on persons who have come after 1971. It is politically motivated, look here,—The Government do not want to solve the Assam problem—but want to keep the threat alive to the linguistic and religious minorities, they may be treated as foreigners if you do not vote for the ruling party and those who go against the ruling Party you will have to go out. So, you have kept with yourself the power to confer citizenship and that is why I say it is politically motivated.

My next question to the hon. Home Minister, and he will kindly answer this question, is that in the case of all the laws relating to the Foreigners Act, for the Registration of Foreigners Act, the burden of proof is always upon the foreigner to establish that he is not a foreigner. I do not find anything in this Act by which the burden has been shifted to the person against whom notice is issued as a foreigner. Whose burden will it be to prove when the case comes before the Tribunal? Will it be of the applicant concerned to prove or the Government to prove that the person against whom an application is made is a foreigner or for the person against whom the application is made to prove that he is not a foreigner? Therefore, I have given an amendment. If the hon. Minister is actually serious, I hope he will accept it. This Bill has also not in any way said that the post-1971 people will continue to be foreigners and guided by the Foreigners Act, because under section 4 you have said that the Foreigners Act is not applicable. Therefore, I have given another amendment that the provisions of this Act shall be in addition to and not in derogation of the provisions of the Foreigners Act, 1946, or any other law for the time being in force relating to the foreigners who entered into India prior to the 25th March, 1971.

Therefore, I submit, Sir, as Mr Biswa Goswami has also said, that we consider this Bill to be a total eye-wash, it is a hypocritical exercise. I consider that by this Bill the Damocles Sword is being hung over the heads of linguistic and religious minorities and they are being told, look here, you are at our mercy, if we want you will remain, if we do not want you will go, and, therefore, whether you will remain or not will depend on the *quid pro quo* whether you will support us or not in the battle of the ballot box. If you do not support us, you go. If you support us you remain. (*Time bell rings*). Sir, I will make only one point and then conclude.

Sir, I am extremely unhappy that the hon. Minister in his reply in the other house has closed the doors of negotiations. He has said that because of the extremist activities, the doors of negotiations are closed. If any one thing will give a fillip to the extremist activities in the State it is this one statement made by the Home Minister. If the student and youth of Assam do not see a solution and a negotiated settlement, what is the alternative for them? Is the alternative not to go to extremism? This will give a fillip to extremists. This will give a handle to the extremists and this will isolate the moderates. This is absolutely impolitic statement (*Interruption*). I do not want the Home Minister to go. He is a very lovable person and I have the highest regard for him. Therefore, I have nothing personal against him. But if there has been extremism, I would like Mr. Sethi to have an independent enquiry about the extremist activities in the State. The hon. Minister as well as the State Minister assured this House about the enquiry in regard to veterinary campus incident. Will he please lay the report? We would like to know what really is the report.

I have got so many cases. There is the case of Mr. Biren Sharma, who is now in the Gauhati Medical College

[Shri Dinesh Goswami]

Hospital. You can go and check. Nails were hammered in his legs. Will you believe it? Hot nails were thrust into his pore. These are medical reports. He is still in a nervous shock in the Gauhati Medical College Hospital. There is the case of Mr. Amarjyoti Bez Barua. His private parts were injured and he was assaulted by the police in a manner which hardly one can describe. I am not going into the details of all these cases as I have been asked to conclude. I will beg of the Home Minister even now to revise his statement which he has made in the Lok Sabha and to open the door for negotiations. So far as Punjab is concerned, he has said that the initiative should come from the Akalis. Is it your case that the Punjab situation is such where no extremist activity is there? If you close the doors for negotiations, what will happen to the situation in Assam? It will be much more difficult. Therefore, I will beg, with all humility, at the same time, with all the responsibility and assertion kindly resume the negotiations.

Sir, I will conclude by saying that Mr. Bernard Levin, in a write-up in *Times*, London, described this Government is a Government born through lies, is nurtured through lies and flourishes through lies, the essential ingredient of which is a lie. I for myself, still has some belief that this statement is wrong. After the passing of this Bill, every child, man and woman young and old, have come to believe the statement of Mr. Bernard Levin that this Government is born through lies, nurtured through lies, flourishes through lies and its ingredient is lie, is an under-statement. Thank you, Sir.

SHRI BAHARUL ISLAM: Mr. Vice-nairman, Sir, before I make my submissions on the Bill, I would like to speak a few words on some points raised by my friends. One observation was made with regard to Mr.

Bordolai. Mr. Zakaria referred to Mr. Bordolai.

DR. RAFIQ ZAKARIA: I did not. Mr. Biswa Goswami referred to him. I was only replying to his charge.

SHRI BAHARUL ISLAM: Speaking from my personal experience, it is true that all great leaders of the world including the great leaders of India are controversial. Similarly, there was some controversy about even Mahatma Gandhi and Mr. Bordolai. No doubt about that. It may be remembered also that our late Fakhruddin was a disciple of Mr. Bordolai. The feeling in Assam today is that it was Mr. Bordolai who, with the blessings of Mahatma Gandhi, saved Assam from inclusion in Pakistan. Therefore, he is held in high esteem. Now, if some aspersions are cast on him, naturally, there will be new tensions in Assam. This is my request: he should not be dragged into this controversy.

DR. RAFIQ ZAKARIA: I would like to make it clear. I have not cast any reflections on Mr. Bordolai. I was only replying to Mr. Biswa Goswami who said that but for him, Assam would have gone to Pakistan, which was a reflection on the national Congress leadership then, which is historically not correct. This is all I said. Nothing more. These are the very people who, when Mr. Bordolai, was alive, used to denounce him. I am not talking of Mr. Islam, I am talking of the other side. Therefore, I also want to make it clear that I am not casting any aspersion on Mr. Bordolai excepting saying that perhaps in the interest of Assam he felt that Group B was not correct, but it is was not as if the national leadership was anxious to hand over Assam to Pakistan. That is not historically correct.

SHRI HAREKRUSHNA MALLICK: Let us not talk of the people who have died, let us talk of the living people.

**SHRI BAHARUL ISLAM:** Instances have been brought before the House by Mr. Biswa Goswami and Mr. Dinesh Goswami with regard to atrocities. Actually, nobody will support any atrocity that should be meted out to the citizen of India or part of India, maybe, Assam or any other part. Therefore, they are condemnable, reprehensible if they are true.

Thirdly, there has been a lot of misunderstanding or misconception of the entire position. Let me try to explain the position. Shri Dinesh Goswami has used the terms as 'a good number', 'a substantial number', 'a large number'. All these expressions are vague, they have no meaning. Quite a good number of foreigners is there, no doubt about that. Therefore, there was a fear in the minds of the Assamese people that they are going to lose our identity of culture and it was accepted by all concerned throughout the country that the identity of culture of the Assamese people as well as the people of any other State must be preserved. That was the idea and this point was taken up by the All Assam Students Union. Then, Mr. Dinesh Goswami also referred to the 1950 Act. It may be remembered that after partition there was a great immigration and migration of people. A large number of people migrated from East Punjab to West Punjab, from West Punjab to East Punjab, to Delhi, etc. on the Eastern side from the erstwhile East Pakistan to Assam and from Assam to East Pakistan, both ways. Therefore, that Act was passed. So far as the definition of foreigners is concerned, it is there in the Foreigners Act. A very simple definition is there that one who is not a citizen of India is a foreigner. Now who is a citizen? It is there in the Constitution. After the commencement of the Constitution, how to acquire citizenship of India has been described in the Citizenship Act. It is also a well-known fact, as I have already indicated, that a large number of persons came from East Pakistan to India and hence the 1950 Act. If some people came from

East Pakistan after the commencement of the Constitution, namely 26th January, 1950, naturally they were not Indian citizens because they were in East Pakistan on that day. Meanwhile, after having come to India or Assam they did not acquire Indian citizenship under the Citizenship Act. Technically and legally they are not Indian citizens, but these people, quite a large number, have been living there in Assam. Technically, therefore, till they acquired citizenship they are foreigners, but there is another fact with regard to these people which has to be kept in mind. A mention of the year 1971 has been there. My understanding is that 1971 is not an arbitrary date. It has a significance. I do not remember the exact date on which Bangladesh was born but it was in 1971. In international law Bangladesh is not equivalent to East Pakistan. Bangladesh may be a geographical identity of East Pakistan, but not the political identity because Bangladesh was established by revolution. Bangladesh, under the leadership of Sheikh Mujibur Rehman, fought against Pakistan, got itself extricated and established itself. Therefore, its political identity was entirely different from the political identity of East Pakistan and hence this great significance to 1971. So far as these people are concerned, who migrated after 26th January, 1950 till the birth of Bangladesh if they had not acquired Indian citizenship, they were foreigners.

But this is also an elementary principle of international law that a foreigner can be deported only to the country of his origin, not to any other country. If we find a foreign national of England or France, we cannot detect and deposit him to Burma, or even to England if he is a German. Therefore, as East Pakistan is not in political existence today, and if we detect a large number of foreigner from East Pakistan—I am separating the case of Bangladesh at the moment—you will find that these large number of foreigners is a great problem. It



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[Shri Baharul Islam]

is a human problem. Therefore, we will have to deal with this great problem of foreigners coming from East Pakistan to Assam between 26th of January, 1950 and the date of birth of Bangladesh. For the solution of these people. . .

**SHRI DINESH GOSWAMI:** May I ask you a question? Will these persons automatically become Indian citizens? If not, what will be the status of these persons? Are they Stateless persons? Should the Government not tell them "you belong to this class, whether you are citizens or Stateless persons". The question of deportation comes later. The question of identification and status comes earlier.

**SHRI BAHARUL ISLAM:** That question does not arise from what I am saying now. I am not telling the position of these people. Certainly what we can do, we will have to put our heads together—by "we" I mean the Government of India, the Governments of possibly all the States and the leaders of all political parties. It is a very big problem. We cannot throw away these foreigners to any place. There is no State of their origin for them now. We cannot throw them into the Bay of Bengal. We cannot kill them. What we can do, we will have to find out by putting our heads together, keeping all these human values in our minds. But we are not on that point now.

Secondly, with regard to the 1950 Act, that Act has been superseded by the present Act. That Act was for expulsion of people who illegally came from East Pakistan to Assam or to India at that time. If you examine that Act, you will find that there was a clause there that those persons who came as a result of the civil disturbances in Pakistan, namely out of communal disturbances, out of fear for life etc. were naturally exempted from deportation. All these people were popularly known in that part of the country as 'refugees' and they were

exempted from deportation. But there were other persons also who migrated to Assam, who came to Assam not as a result of disturbances but for other reasons. These people could have been deported. That was the position in 1950 Act.

So far as the present Bill is concerned, I must congratulate the Government of India, particularly the Home Minister, for bringing this legislation. There is no communal idea in this Bill at all, India now is the leader, so to say, of the Non-Aligned nations in which there are more than one hundred countries of which more than 70 are Muslim countries. And India has declared in the Constitution that we are not a theocratic State, as some of our neighbouring countries are. We are a secular State and the Government of India has proved so by acts and deeds that we are a secular State. Therefore, Government of India cannot afford to bring in a communal piece of legislation. This is a piece of legislation which does not differentiate between two communities and say: "You can deport these people and not the other ones". All the foreigners, whoever they are, are put in the same category. They can be detected and deported out of the country.

Now, Sir, there was an objection also by Mr. Biswa Goswami and Mr. Dinesh Goswami that when we have brought this legislation, only people coming after 25th March, 1971, can be deported. Kindly see if I quote you correctly. Mr. Biswa Goswami is also there. When you have said in this legislation that those foreigners who have come on or after 25th March, 1971 can be deported, by implication you have left out the other foreigners, as Mr. Dinesh Goswami was just pointing out. What will you do with those people coming between 1950 and 1971? I was saying, technically, certainly they are foreigners if they, in the meanwhile, have not acquired Indian citizenship and what you do with them is a different matter. But, so far as these people are concerned,

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certainly it is most desirable if we can solve the entire problem, the entire issue. It is creating a headache for all people, all communities in Assam, and all people and all communities of Assam will be very happy if this notorious problem is solved overnight. But it has been so difficult. So many sittings, so many negotiations and so many attempts have been made but people are failing. Therefore, half a loaf is sometimes better than no loaf at all. If we cannot solve the entire problem and there can be no objection if we detect at least some people and deport them, then we can go backward.

**SHRI AJIT KUMAR SHARMA:**  
May I ask the hon. Mr. Islam for a clarification?

**THE VICE-CHAIRMAN (SHRI SYED RAHMAT ALI):** Mr. Sharma, your name is there on the list. Don't interrupt him.

**SHRI AJIT KUMAR SHARMA:**  
Just a clarification, with his permission. I want to know whether by this Act you have not legalised foreigners prior to 25th March, 1971.

**SHRI BAHARUL ISLAM:** Without your putting that question, I was just going to answer that. You have not yet spoken, but Mr. Biswa Goswami and Mr. Dinesh Goswami have already spoken. They said, by implication that you have left these foreigners. With intention I used the words "by implication." The Government has not stated in this Bill that 1971 is the cut-off year. The Government has said in the Bill, we are starting from 1971. The Prime Minister also, in her statement, stated, let us start from 1971. That is the starting point. That is to say that if we cannot carry this very big timber, big tree, let us at least carry some portion of it, a branch of it. That is the idea. So, certainly my reading of the Bill is that the Government has not legalised the people coming between 26th January 1950 and the birth of Bangladesh. That period has been

left open, as I have already said. For that purpose, all the Governments of the States plus the Government of India plus leaders of other political parties, perhaps will have to put their heads together to find a solution, today or tomorrow.

**SHRI AJIT KUMAR SHARMA:**  
Please see the Statement of Objects and Reasons.

**THE VICE-CHAIRMAN (SHRI SYED RAHMAT ALI):** Sorry.

**SHRI BAHARUL ISLAM:** Now, many other friends were advising, particularly from public platforms and in the newspapers—I have seen even eminent leaders and eminent retired Judges and others—saying that the issue should be solved soon. Who says that the issue should not be solved soon? Solve it, if possible, overnight. But it is not possible. Up till now nobody has given a concrete suggestion, "Take this, here is a suggestion, accept it and solve this problem." None! Simply saying "solve it," won't help us. Therefore, if there is no categorical solution, let us start at least with a modest attempt from 1971. What is the harm?

And there are vested interests also who want that this problem should not at all be solved. There are vested interests and they are encouraging the young students of universities, schools and colleges to carry on this movement. They are encouraging these ideological, patriotic, inexperienced students. Even we know that pressure was brought on AASU not to press their demands of deportation against one community saying, "Please do not attempt to press your demands against particular communities; you press your demand against one community and not against all." Credit must be given to AASU that they did not yield to this communal attempt. Of course, certainly there are certain communal, extremist elements who are by this time out of the control of AASU and they are causing devastation here and there now. There are extremist and communal elements.

[Shri Baharul Islam]

But, so far as AASU is concerned, they did not yield to this attempt. Now what is more necessary is that we want a lasting solution. Assam is in agony. When our friends speak, you find that we have become very much involved, we will have to be there, our children will have to be there. We cannot leave that place. Therefore, we are involved. Particularly there is a crisis of confidence with so much of mistrust, distrust and suspicion among different communities. Therefore, this subject has to be handled with care. It is a very sensitive subject and a lasting solution is necessary. What is more necessary, in my humble opinion, is a lasting solution. Time has changed. Assam is a multinational State. Assam is a miniature India. If you go to Assam and the north-eastern region, you see hills, plains, heat, cold; snow, desert; hilly people, plains people, Aryans, non-Aryans Hindus, Muslims, Christians, Buddhists, all sorts of people. You get a miniature India there. We have to live there. Even at the time of Shankar Deb, Assam was torn into pieces for various reasons. But Shankar Deb was a saint and he was preaching the message of Upanishad that all human beings are one and are to be treated as Shiva and all are equal before God. Unfortunately, that saint was driven away to Cooch-Bihar. Today in Assam a new society has to be created, a new Assamese society consisting of people of all communities, irrespective of caste, community, language or ethnic origin. And for this purpose, a new progressive secular leadership must emerge, a leadership that could command the confidence and respect of all sections of people, who can bring about such a new society in which we can live peacefully and in harmony. Otherwise, there is no way out. We have seen that in Switzerland there are three different communities, linguistic and cultural communities, who did not see eye to eye, but they are living happily. We can also live happily if we can extricate ourselves from that crisis of confidence and create confidence. Of

course, some people do not like him, but the present Chief Minister is emerging as a secular leader. It has been acclaimed all over the country now that he has been able to successfully bring at least the law and order position to normalcy. So far as general normalcy is concerned, credit must be given to the Government in Assam today under the leadership of Mr. Saikia that it is doing a good job, it has rehabilitated all the displaced persons, thus bringing the situation almost to normal. Therefore, I would appeal to all sections of the people inside Assam, outside Assam, leaders of all political parties, to very kindly rise above party consideration and help us with a more practical solution so that we can live happily there, all the people, irrespective of caste, community or ethnic origin. Otherwise, Assam cannot be saved.

AN HON. MEMBER: What is your solution?

SHRI BAHARUL ISLAM: Now, so far as the present law is concerned, that is to say, so far as the post-1971 migrants are concerned, there is no constitutional or legal difficulty. If detected that these persons have migrated from Bangladesh and if they are found to be foreigners, naturally they can be deported to Bangladesh, the country of their origin. And for this purpose, if this Bill is introduced, certain objections have been raised so far as the area of 3 kms. is concerned. Now Mr. Zakaria said he would have been happy if it had been a gram panchayat. There is a meaning about it. Mr. Dinesh Goswami read the Preamble. As there are a large number of people, it is very difficult to identify them because of similarity of language, dress, ethnic origin etc. So it is very difficult to detect them. Therefore, there must be some limit. If a person is living within a radius of 3 kms. from another person—1971 is the last limit—then that person will be able to tell whether he is a new person or not. So, either the gram panchayat people

or other people living within a radius of three kilometres will be able to say that. How can a person residing at a distance of 10, 12, 20 kms. be able to say whether a particular person who is alleged to be a foreigner has come before or after 1971?

**DR. RAFIQ ZAKARIA:** Why do you not support the gram panchayats?

**SHRI BAHARUL ISLAM:** No objection to the 3 kms. limit.

Now regarding the closing of door to negotiation, I do not think so. As I have already indicated, my view after reading the Bill is that certainly there will have to be a negotiation for the settlement of those people who migrated either from 1951 to 1971 or 1961 to 1971 as the case may be. There must be some negotiations; early negotiations are better, because to my mind also if negotiations are started a lot of tension will be reduced and we will get a fair and better type of society. Therefore, I also appeal to the Government to start, to resume, negotiations as early as possible.

Thank you very much.

**SHRI ARABINDA GHOSH** (West Bengal): Mr. Vice-Chairman, Sir, I wish to raise some points on this Illegal Migrants (Determination by Tribunals) Bill, 1983.

Mr. Vice-Chairman, Sir, it is a great misfortune that after 37 years of the Independence Parliament of India has to discuss about the measures to detect foreign nationals and to form the tribunals and all things of this sort. But this is due to the activities of the so-called movements which were sponsored, not for the upliftment of Assam, not for the improvement of the socio-economic backwardness of Assam, but mainly to detect foreigners. This was the main aim of the struggle. They may differ with us. But this movement did not help to bring some political solution in the sensitive border States like Assam. Actually we could

have appreciated if this movement would have been conducted on the real issues of the people of Assam. There is no problem there either of caste or creed or Hindus or Muslims or Assamese or Bengalis. Assam is one. In this way we wanted to see and wanted to observe. But that has been totally belied. The last Provisional Parliament of India, the then Prime Minister, Jawaharlal Nehru, Sardar Vallabh Bhai Patel, all leaders, committed, and there was a national commitment, that after the division of the country into Pakistan and India, those who would be forced to come away would be treated as brothers and sisters from the foreign countries; and all facilities and privileges and human rights should be provided to them for their settlement or rehabilitation in our country. But that commitment unfortunately has been forgotten. Year after year since 1950, forgetting that very national commitment, forgetting the very human aspect of the problem, a series of agitations were carried on. Sometimes Assam was in a convulsion of communal riots. Many untold sufferings had to be shouldered by the Assamese on account of these unwarranted communal tensions and communal riots on the question of foreigners and on so many petty issues. This has caused great damage to the economy of Assam, to the socio-economic development of Assam. However, some elements like the AASU and the Gana Sangram Parishad did not realise the situation. Simultaneously the Government of India, the Home Ministry, as in Punjab, failed to intervene in time in the restive situation prevailing in Assam. In the beginning they supported the struggle of the secessionist and divisive forces. But ultimately they came to realise the situation but it was too late. Under pressure they came to realise it, but it was too late. Now some elements under the leadership of the divisive forces will dictate as to who is a foreigner and who is not a foreigner. And the entire Assam, the poor people, the down-trodden classes of Assam, the peasantry, the working

[Shri Arabinda Ghosh]

class the middle class, have to bear the burden of this damage. This is anti-working class and ultimately it is at the cost of the national integration of our country. It is misfortune that some of the national parties of the country supported this movement on foreign nationals.

Then several rounds of discussions and negotiations took place, but nothing tangible came out. This movement was given undue prominence. Sometimes, consciously or unconsciously, the Government of India by their attitude and by their way of tackling the situation, provoked the movement more and more. Actually I hold the Government of India's liberal attitude responsible for not fighting it out on the question of national integration of our country.

Sir, our party rightly agreed and we are committed that the cut-off year will be the 25th March, 1971 for detecting foreign nationals. We are naturally committed to that commitment. Many speakers have said in this House today that that was not a consensus decision. But as far as we know, from the press reports and proceedings and records, all the national parties agreed to this cut-off year. Now somebody is backing out of this. Now it appears from press reports and other things that this cut-off year may be 1951, 1957, etc. In this way things are moving. We do not know what will happen in future. Anyhow, the main danger was how to fight out this movement against national integration and to maintain and preserve the unity of the toiling masses of Assam who are the worst victims? Perhaps you may be aware and you may recall the last carnage in Assam—the tribals, the Assamese, the Bengalis, whoever may be, more than 10,000 people were the victims; they were butchered like anything. No shelter, no relief; thousands of people are still staying in refugee camps and they are dying in refugee camps. No Government of India, no Government of Assam, there coming forward

to help. We are not allowed to have democratic facilities and rights to participate in election. Even after the elected Government taking office in Assam no solution has been found to these refugees who are the victims of the last carnage in Assam. Our party, the Marxist Communist Party of India, the left and democratic parties, we stood like a rock to fight out these divisive forces, for the cause of national integration of our country. More than 40 of our workers have been attacked and some of them killed in this carnage. Our party offices were ransacked, whether Bengalese or Assamese, no matter, they attacked our people. This was a movement once backed by Government of India and Government of Assam. You are aware of what is happening in North Bengal. We are here discussing the Illegal Migrants Determination Tribunals Bill. It has been passed in Lok Sabha. People know the effect of this Bill. In our State of West Bengal there is a movement organised by a section of the people, Uttarakhand Movement. The consensus of the movement was to divide West Bengal and form a separate State of North Bengal. This movement is going on for so many years. Our Left Front Government is fighting tooth and nail against these divisive forces. We are proud that in our State of West Bengal there is no place for divisive forces like Uttarakhand, Jharkhand, and so on. There is a tense situation prevailing and there is a fight between our Government and the sponsors of the movement and the entire people have organised themselves are to fight out any divisive forces there. Lastly, about the tribunals being set up to check foreigners, to deport foreign nationals; many clauses are there. There are some lacune in Clauses 7, 8, 17 and 21 and others. I am not going into the details now. There are many lacune in this Bill. Some one or two years may be there to detect foreign nationals in Assam. Unnecessarily the poor people will be victimised or harassed. These affidavits, going to court, with all your bureaucratisation,

how can the poor people of Assam put up with harassment? The working class will be the victims of these tribunals. My appeal is, mere instituting of tribunals is not the real solution for a tense, backward in all respects, socially and economically, State like Assam. We want a permanent political solution to this problem. We do not like the whole country to be turned into Punjab. We want the law to be enforced in a civilised manner. This is a human problem and thousands of people are still residing in refugee camps. This should be kept in mind by the Central Government and the Assam Government while passing this Bill. We are not definitely opposing this Bill totally. Some lacunae are there and we feel that merely forming the Tribunal will not solve the problem. More problems will come up one after the other. Only a socio-economic-political solution will solve the problem.

**SHRI P. N. SUKUL (Uttar Pradesh):** Mr. Vice-Chairman, I rise to support the Illegal Migrants (Determination by Tribunals) Bill, 1983 and also the earlier Ordinance of the same name. I also congratulate my Government for taking this bold and positive step to start with the solution of the problem that has been facing Assam for such a long time.

I personally fail to understand the reasoning advanced by our opposition friends like Mr. Jaswant Singh and Mr. Biswa Goswami and others for opposing this legislation. Mr. Jaswant Singh said that because Government showed political chicanery and showed no political statesmanship in the past, he is opposing the Bill. What is this reasoning? If we could not do it in the past, you do not want us to do it now either? What is this logic? I think his own condemnation of this legislation and the action of the Government is politically motivated.

He also said that what is coming forth from the Government is too little and too late. And that is why he is opposing the Bill. What is this? If

the train is late, then you are not going to catch it. If you are thirsty, does it mean that you must get a bucket of water? Will not a glass of water do to start with? Now a glass of water is being presented to you. A beginning is being made. I think just like some of the foreign powers, our opposition friends, especially the rightist friends, are not interested perhaps in finding a solution to this problem so easily. That is why they are opposing the Bill. They are opposing the Bill for political reasons while our Government is trying to solve the problem in right earnest.

**[The Vice-Chairman (Shri Dinesh Goswami) in the Chair]**

5 P.M.

As regards this legislation, the cut-off date of 25th March, 1971 has been provided. Personally, I do not know why this date has been chosen. The actual war on Bangladesh was started in December 1971 and Bangladesh came into existence at the end of December 1971. Here the date is 25th March, 1971, and the only reason I can guess is that perhaps because the repression started in East Pakistan by the military junta about six to nine months before the liberation, that this date is there. The repression started earlier, the killings started earlier and also perhaps the exodus started earlier and that is why this date has been selected and I am sure that between the 25th March, 1971 and the actual date of liberation of Bangladesh, those people who migrated in to Assam would be taken by Bangladesh. I think our Government must have looked into this matter.

Sir, as many of our friends have said, an early solution to the problem of Assam is needed. We have had a lot of bloodshed. Personally, Sir, I went there three or four times to Assam and I have seen the situation myself and I saw what was happening and how serious the situation was. I could see that the studies of the students were hit, were badly hit, and

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they had to miss one or two sessions even. The whole economy of Assam was in a shambles. That was why it was necessary and that is why it is necessary that as soon as possible a solution should be found and prescribed and I am happy that at least the Government is going to identify and take action for the removal of these illegal migrants who came on or after the 25th March, 1971. Here, as regards this Bill, Sir, very few people have actually looked into the Bill and talked about its various provisions. We have been governed mainly by political reasons. There seems to be nothing wrong about it. But, personally, I feel that the proviso to clause 8(2) is not correct. The proviso says:

“Provided that no such application shall be entertained by the Tribunal unless the person in relation to whom the application is made is found, or resides, at a place within three kilometres from the place of residence of the applicant”. Why this provision of 3 kilometres? May be that those living within a distance of three kilometres do not know that he is a foreigner; maybe that somebody living at 15 kilometres knows that he is a foreigner and he may also prove it. But here you are putting a limit that may not be very helpful in the identification of so many foreigners at least, if not all. So, personally, I would suggest that this limit of three kilometres should be enlarged to 10 kilometres and this will make things easier, will make the identification process also easier.

Then, Sir, in clause 16(2), it has been provided that when an appeal is filed with the Appellate Tribunal and that a majority decision is not possible, the matter in that case will be referred to the President for a decision. Sir, the President is included among the members. Now, suppose there are four judges including the President. What will happen? according to this, the Appellate Tribunal

should consist of three to six judges. It could consist of four judges including the President and if there is equal opinion. What will happen and to whom will you refer the matter? That is why I say that it is necessary that if this majority decision has to be taken note of or given importance to, the number of judges in the Tribunal should be in odd numbers and it should be like five, seven or nine. Only then a majority decision can be arrived at and it can be respected and implemented. So, I think, the number of judges on the Appellate Tribunals, should including the President, be in odd numbers.

Otherwise, Sir, the Bill is all right. I have some doubts about the Nepalese living in Assam. They are in good number. But perhaps, I think, since they have not come through the eastern or north eastern border, but through the northern border, this Bill is not going to affect the Nepalese in Assam. However, if the Nepalese there are also to be identified and removed, then a separate date should be prescribed for dealing with such Nepali migrants.

I earnestly hope, Sir, that our AASU leaders and the leaders of the AAGSP and all the other political elements in the State will co-operate with the Government and that they will help the Government in the identification of these migrants from the 25th March, 1971. As I said, it is a beginning, and once you complete this chapter you can amend this Act, and then you can deal with the earlier people as well. Nowhere it has been said that in future you will not be dealing with them. That is why I say that it is a good piece of legislation, and without any reservation our Opposition friends and the people of Assam should cooperate with the Government in the identification of migrants and strengthen the hands of the Government in this regard.

Thank you.

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): Mr. Ajit Kumar Sharma.

SHRI AJIT KUMAR SHARMA: Mr. Vice-Chairman, Sir, at long last the hon. Home Minister, respected Sethi, has brought out a Bill before this House, which is a death sentence on the people of Assam. It is a death sentence on the composite society of the Assamese people, comprising Hindus, Muslims, Christians, Sikhs, tribals non-tribals and other communities. Now Sir, in view of this, you would permit me, as one of the Assamese society, to have my last wish before the hangman puts his rope around my neck and hangs me. It is a great surprise that a Bill of this nature should come from hon. Home Minister who is Mr. Sethi. It is very surprising in the very context of all the discussions, all the developments, regarding foreign nationals issue since 1979. The movement was started by the people not against any communities, not against any religion, not against any linguistic community but against the foreigners, and the movement only reminded the Government of India of its own responsibility to drive out the foreigners from that part of the country.

That the nature of the problem is very serious, at long last the Home Minister has admitted in the preamble and in the Objects and Reasons of this particular Bill before us. But may I point out, Sir, I am very sorry to say that the Government of India has proved dishonest to the people of Assam? All through they have talked of their commitments, whether national, or international, their commitments to the minorities in East Pakistan or Bangladesh but they have never said, that they have any commitments to the people of Assam who are a part of the country. And when the people of Assam demand a solution of a very serious problem, the Government takes the British methods of dividing them, injecting into the mass movements of communalism, secta-

rianism, and trying to suppress the people when they are agitating on a problem of their life and death. It is also very unfortunate that this Government, instead of trying to solve the problem of Assam, a genuine problem, which they have admitted, they have surrendered before what is called the Bengal lobby, the evidence of which was also seen in the very amendment of the Act in the Lok Sabha. This powerful lobby is omnipotent. We find it everywhere, inside the Ministry, inside North Block and inside the South Block. And Assam is so powerless to fight against it. The Government of India has ultimately announced its final stand against the people of Assam and brought forward this Bill to hoodwink, to commit a fraud, on the people. I still hope that the Home Minister will think again and not commit the mistake which he has made some time back. In this very House he made a statement on Assam situation containing a copy of untruths and half-truths. Even during the course of issuing that statement, he was found to realise his mistake and he had to withdraw two paragraphs because he himself considered them untrue. Yet that very statement was circulated to the foreign countries through the Minister of Foreign affairs. I do not know who did this mischief. But what I find is that two honest gentlemen, the Home Minister and the foreign Minister were made a party to a very dishonest deal against the people of their own country.

Now, Sir I come to the Bill. I do not understand why a Bill should have been necessary at all because this very Government and the Home Minister himself, times without number, in writing and in speeches, have said that detection and deportation have been going on. The Home Minister also has given the definition of Indian Citizenship. He said that the Indian citizenship is determined by the Citizenship Act, the Foreigners Act and the passport Act. He also said that there is a standing machinery for detection and



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deportation of foreigners from the country and that instructions have been issued to the State Government for deporting and detecting the foreigners. May I ask him now whether he told a lie before this House by saying that there was a standing machinery to detect and deport the foreigners? Why does he then need a new legislation in the form of this particular Bill to detect and deport foreigners? This shows that he is playing with the people of Assam not only with the people of Assam but with the people of whole of India. He is not detecting foreigners, but harbouring them. In other words, he has been deceiving the people and also himself.

Sir, I find that there is a direct contradiction in his speech made in the Lok Sabha and what is written in this Bill. He says in the Lok Sabha that 25th March, 1971, is the starting date. But in the Objects and Reasons of this Bill, he has very specifically stated: "The definition of illegal immigrants as provided in the Ordinance, recognises the 25th March, 1971 as the cut-off date." Whom should we believe? Should I believe this document or the speech made by the Home Minister in the Lok Sabha? That Lok Sabha statement will be recorded in the Lok Sabha proceedings. But the courts will take cognisance of this law only. May I ask the Home Minister to state frankly even today what he really means? Throughout, there have been accusations against the leaders of the Assam movement that they have been changing their words. May I say very firmly and on the basis of documents that the Government of India, the Prime Minister and the Home Minister have changed their words every two months? I have written a long letter to the Prime Minister and I am still awaiting a reply from her. If a Government betrays a people, where will the people go? The people may commit a wrong or do a right thing, but the Government must behave in a manner so that the people's trust is retained

in the Government. Sir, there was a talk of consensus. Whose consensus? Can there be a consensus when the aggrieved party is absent? What is the definition of consensus in this case? We can say that we have a consensus where all parties come to a certain agreement. And what was the consensus? And who were the persons present to arrive at a consensus? Whose consensus was this? According to a circular issued by the then Home Minister on 24th November, 1980, these were the persons: "Mr. Chitta Basu, Forward Bloc; Mr. Tridip Chaudhari, RSP; Mr. Bhupesh Gupta, CPI; Mr. Samar Mukherjee CPM; Mr. Y.B. Chavan, Congress (U); Mr. P. Ramamurti, CPM; and Mr. Ibrahim Sulaiman, Muslim League; and seven Ministers, including the Prime Minister." Is it the consensus of the nation or of some interested parties who want to have a particular decision or to approve a secret decision made elsewhere? I would like to know this specifically from the hon. Home Minister. Let him be frank. Let him not tell some thing untrue to the people making of a law does not make it effective. The law must also be accepted by the people. More, or less, it is 80 per cent willingness, and 20 per cent may be compulsion. By simply making a law, is he going to solve the problem which he has admitted to be very serious? This law will not be acceptable to the people of Assam. What are your promises? In this very House, the Law Minister promised that there will be no election in Assam either to the Assembly or to the part of Parliament without the revision of the electoral rolls. (*Time bell Rings*) But then, that election was held without the revision of the electoral rolls. Now, the Home Minister says that 25th March, 1971 is a starting point. But here the bill says it is a cut off date. By making a cut off date, you seek to regularise all foreigners who came before that particular date. As it appears to me and I am convinced about it—the so called consensus is an attempt to exterminate the Assamese people, to throttle

their neck because this whole thing will be a farce. You have made everybody a citizen of India upto 24th March, 1971. And the provision of this Bill are such that there will be no detection. Not to speak of deportation, there will be no detection anywhere in Assam.

Therefore, I would like to have a clarification, an honest clarification from Sethiji whom we all regard with great respect. But, as the Home Minister, he might have some constraints. But even then, let him be frank with people of Assam with the nation and with this Parliament. Sir, he has stated in Lok Sabha, and I quote:

"Some of the incidents which have accompanied the resumption of agitation such as bomb explosions, encounter with the Maiti extremists, and attack on the life of the Chief Minister show that the agitation is now passing on to the hands of extremists elements. In such an atmosphere, the question of resumption of talks does not seem to have any relevance at this stage."

Now, Sethiji, may I ask you one thing? Only yesterday, newspapers reported that you wanted to discuss with the Punjab leaders and your argument was that unless you discuss with the moderates, the extremists will go ahead and they will be conquering the field. In Assam, you have just taken the opposite stand. In Assam you do not want to discuss with the leaders of the movement by saying that there are extremist elements which the AASU and Gana Sargram Parishad have fail-

ed to control (Interruption) No, is your standard? Let us know what you really means.

Now, who are the extremists? Are you your self encouraging them? You have admitted that in the case of the bomb explosions you have captured certain Manipuris, Maities. It was very fortunate for the AASU members that this extremists was found to be a Manipuri. Had he not been caught, you and your Government would have said that it is the AASU members who have committed this crime. You have been doing it all these three years. I challenge you on this account. Have a judicial inquiry into all these acts of violence, murder, bomb explosions and you will see who are responsible. We can prove it. (*Time Bell Rings*). These are the conspirational action of some people organised elsewhere, outside Assam and based in Calcutta who have planned this violence. All such incidence are the action of those who are against the interests of the Assam Movement. (*Time Bell Rings*).

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): Please wind up now.

SHRI AJIT KUMAR SHARMA: I will need another five minutes. Now, even if a person who is committed to sentence of death is given some time. So, you have to give me some time and you cannot deprive me of that. Now, the point is that violence is there. If you institute a judicial inquiry, you will come to know the truth. I have

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written to you also and you were very kind enough to, reply to one of my letters. I have given you details of incidents, details of the instance, of the kind of unclivised atrocities committed by your agents, your Government, which is your illegitimate child, functioning in Assam.

SHRI HAREKRUSHNA MALLICK: (Orissa): By whom?

SHRI AJIT KUMAR SHARMA: This is what your Government has been doing. Now when the Prime Minister was present, just half a kilometre from the guest house where the Prime Minister was residing, at midnight, a woman, a respectable woman; was dragged out by the police from her bedroom, beaten up, and taken to the lock up. I referred this matter and the Minister of State has assured me that he will inquire into it but I have not received anything more from him so far although fifteen days have passed by now. If this kind of things are done, if you think that you can suppress the people like that, you are mistaken. There may be more revolts. It is your way of bringing about normalcy?

Now, Mr. Zakaria was referring to certain things regarding the Cabinet Mission's proposals. Let me tell you, Sir, and let me remind the Home Minister, that in 1946 we were being sacrificed by our national leaders and that was the prize given to us for our sufferings and sacrifices in the freedom struggle. In that struggle many young lives were lost in Assam. And, again in 1962 when the Chinese ag-

gression took place, the Prime Minister of India had no message of hope for us, except a farewell message, and today you have brought forward a Bill which seeks to finish the whole people. You are sentencing them to death (*Time bell rings*).

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): Your five minutes are over.

SHRI AJIT KUMAR SHARMA: Now, Mr. Home Minister, you have in your Lok Sabha speech said that if this amendment, the amendment of Mr. Suraj Bhan, is accepted, all the migrants who enter India on or after the 26th January, 1950, will have to be detected and expelled. We have to keep this issue open in order to have negotiations and, therefore, we have not made any provision in the Bill. May I ask the Home Minister to explain what he really means by it? After this Bill is passed, where is the scope for negotiations to decide the question of status of citizenship prior to 1971. Are you not trying cleverly to close the issue with your eyes on elections. (*Time Bell Rings*). Therefore Sir, with these words I would like to request the Home Minister, please think it over and tell us frankly whether you are going to resume the negotiations with the leaders of the movement, whether you believe in only suppressing the people, committing violence on them, and whether you will immediately order a judicial inquiry into the large scale violation of human rights in Assam by your Government?

I would like to know whether you are going to take steps for instituting a judicial enquiry into these matters? Now, I will request you, even today...

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): Mr. Sharma, you will have to conclude now.

SHRI AJIT KUMAR SHARMA: Mr. Home Minister, You should tell us

whether through this Act, you have made 25th March, 1971, as a cut off date or as a starting date. I hope, you will take back this Bill and bring it with an honesty of purposes an amended form to have a comprehensive solution to the problem in the interest of Assam and the N.E. Region. With these words, I oppose the Bill.

### श्री असद मदनो (उत्तर प्रदेश)

नायब सदर साहब, मुझे इस बिल में इस बात पर अफसोस है कि इसके प्रिम्बल में बड़ी तादात में गैर-मुल्कियों का हिन्दुस्तान में होना तस्लीम किया गया है। जो एक तरह से जिस चीज की जांच की जा रही है इसको पहले से ही इतनी बड़ी तादाद में तस्लीम करना यह हरकत इंसान, अमन और सही रास्ते पर चलने के लिए मुनासिब नहीं है। आसाम के वाशिदे, आसाम के लोग अमन पसन्द लोग हैं और भाई चारे के साथ, अच्छे ताल्लुकात के साथ जिन्दगी गुजारते आये हैं। तकसीम से बहुत पहले वहाँ अंग्रेजों के जमाने में पैदावार बढ़ाने के लिए, क्योंकि जो ऊपर के महफूज इलाके थे, जहाँ बाढ़ और कटाव न था, दिक्कतों का सामना कम होता था, वहाँ आसामी लोग बसते और खेती वगैरह करते और जानवरों को चराते। जमीनें बहुत खाली पड़ी थीं, लाखों एकड़ जमीन ऐसी जो जरा नीची थी, जहाँ बाढ़ आती थी और कटाव होता था, उस वक्त यों ही पड़ी हुई थी तो अंग्रेजों ने बंगाल के ज्यादा बस्ती वाले इलाकों के लोगों को आसाम में बसाना और उनको आबाद करके गले में, पैदावार में इजाफा करने के लिए उनको तरजीह दी और मैमनसिंह और नौआखली और दूसरे अंचल जो हैं 5 रुपये में नौगांव के दूर दूर देहातों में और दूसरे जिलों में मुफरासल इलाके में आने की परमीशन दी गई, सहूलियतें दी गई, ऐसे वक्त में लोग आये, 1910 में, 1915 में, 1920 में जब कि रेलवे लाइन भी नहीं थी और कहीं नहीं

थी। इन लोगों के सामने वहाँ रेलवे लाइन बनी थी, इन लोगों के दादा आये थे, पर-दादा आये थे और अब उनके पोते और पर-पोते बसे हुए हैं। आसाम में मुसलमान आहम लोगों से दस-बारह साल पहले आबाद हुए। तकसीम के बाद जो मरदुमशुमारी हुई और आसाम के लोग और जो वहाँ बाहर के लोग बसे हुए थे उनके ताल्लुकात बहुत अच्छे थे इसी वजह से उन लोगों ने भी अपनी मादरी जुवान आसामी लिखवाई इसीलिए आसाम में इतने लोगों की मादरी जुवान आसामी हुई। मैमनसिंह और नौआखली की जुवान अगर वे लोग बंगला लिखवा देते तो आसाम में दो जुवानें आसामी और बंगाली होती। बहरहाल इस तरह वहाँ चलता रहा और आपस के ताल्लुकात बहुत अच्छे थे। स्कूलों में, दफ्तरों में और कालेजों में सब लोग आसामी पढ़ते थे और आसामी वहाँ की भाषा मानी जाती थी। लेकिन आर० एस० एस० के लोग वहाँ पहुंचे और उन्होंने वहाँ जहर फैलाया, कशीदगी पैदा की और ताल्लुकात खराब किये, आसामी और नान-आसामी का मसला खड़ा किया और इस तरह से तलखी बढ़ते बढ़ते यहाँ तक बढ़ गई कि यह और मच गया कि फारेनर्स की तादाद बढ़ी है। पुलिस के जरिए से इस की जांच पड़ताल की गई और जिसे चाहा, ऐसे लोग जिनके दादा, परदादा यहाँ रहते थे जो कभी पाकिस्तान नहीं गये, हजारों लाखों की तादाद में, बाई फोर्स पकड़ पकड़ कर ट्रकों में भरकर ले गये। लोगों को बाजार जाना, स्टेशन पर जाना, बाजार-हाट में चलना-फिरना मुश्किल हो गया। हर कदम पर करप्शन था। जिसको देखते, कहते तुम पाकिस्तानी हो, लाखों 10 रुपये, लाखों 50 रुपये। ऐसे बहुत से लोग थे जो इस परेशानी और खोफ की वजह से सारा दिन जंगलों में गुजारते थे। आबादी में, देहातों में नहीं आ सकते थे। देहातों में आदमी नहीं पाए जाते थे सिर्फ और और वच्चे किसी तरह से अपना

[श्री असद मदनी]

गुजारा करते थे और किसी वक्त आ कर खबरगिरी कर लेते थे। बेइंतहा जुल्म इंसानियत के खिलाफ हुए उसकी मल्हारे गाई जा रही हैं और यह वास्ते दि ये जा रहे हैं कि उसी तरह से पुलिस को हक दे दिया जाये और लाखों आसामियों को वहां से उजाड़ा जाए और किसी किस्म की अदालती कार्यवाही और इन्साफ का हक लोगों को न दिया जाए। यह किसी मुल्क के शहरियों को जिनकी शहरीयत का मुकदस हक है उनको इस तरीके से बरबाद करना खिलवाड़ करना और इस तरीके से करप्शन और जुह्मों के जरिए से बरबाद करना ऐसे नौजवान आज शादी हुई और अभी उसकी बीवी घर में आई है और दिन में दुकान से उठा कर ले गये, दुकान भी बन्द न कर सके और न घर तक जा सके उनको बार्डर से बाहर कर दिया। इसी तरह से बहुत मजालिम जगह जगह हुए लोगों को परेशानी हुई फिर होते होते 1964 में वजीरेआला बी० ब्लाचालिया ने खत लिखा कि अब तक जितने गैरमुसकी थी जिस तरह से जो कुछ भी थे सब निकाल दिये गये और आसाम में कोई भी फारेनर नहीं है और अब कोई ट्रिब्यूनल की जरूरत भी नहीं है। चीफ सेक्रेटरी ने इस खत की कापी हमारे पास भेजी वह कापी हमारे पास महफूज है। उस के बाद फिर अब कुछ वर्षों के बाद जब जनता हकूमत आई तो आर० एस० एस० की फिर तहरीक चल पड़ी और गैरमुन्कीयों का आन्दोलन फिर शुरू कर दिया। इसमें त्रिजार्त ठप, इंडस्ट्री ठप, तेल बंद कर दिया गया, डेढ़ करोड़ रुपये योमेआ मुल्क को नुकसान उठाना पड़ा। आसाम की हालत बिलकुल बदतर हो गई। वह आन्दोलन करने वालों जिन्होंने अमन को बरबाद किया, चलना फिरना मुश्किल कर दिया अब कहा जाता है कि उनसे बातचीत होनी चाहिये। इन्होंने कान से कानून को माना? तशदुत

किया। यहां पर यह कोशिश हुई कि भाई इलेक्शन न कराना पड़े, मामलात, गुप्तगु से तय हों। गुजाइश दे दो दस्तुर में तरमीम कर दो ताकि सदर राज को बढ़ाया जा सके। तरमीम करने की मंजूरी नहीं दी। तरमीम भी नहीं करने देंगे, इलेक्शन भी नहीं करने देंगे यह कहते हैं कि इतने लोगों को फौरन निकाल दो खड़े खड़े, यह कैसे हों सकता है? नतीजा यह हुआ कि इलेक्शन कराना पड़ा। इलेक्शन कराने में जो तशदुद आसाम में हुई जो कल्लेगारदगरी हुई, पुल तोड़े गये, सड़के छोदी गई, स्कूल जलाए गए, बसें जलाई गई, लोगों को मारा गया हजारों की तादाद में। तकरीबन दो हजार मुसलमानों की लिस्ट तो हमारे पास मौजूद है जो कत्ल कर दिये गये। इस लिस्ट के इलावा जो हैं वो अलग है। इसी तरह से आसामी भाई, बंगाली भाई, नेपाली, ट्राइबल लोगों हजारों-हजारों लोगों को कत्ल कर दिया गया। एक लाख 10 हजार से जाइद मुसलमान बरबाद हुए, 50 हजार के करीब बंगाली भाई, 70 हजार के करीब ट्राइबल और नेपाली वगैरह और 70 हजार के करीब आसामी इस बरबादी में मुब्तला हुए और मुख्तलिफ गवर्नमेंट के कैम्पों में जिन्होंने पनाह ली। इस तरीके से आसामी हर तरह से बरबाद हुए, उन पर रहम नहीं किया गया फिर उनके बारे में यह कहा जाए कि उनसे बात करें, अगर ऐसी बात होती है तो फिर गुडगर्दी का नाम मुल्क होगा। हर शख्स जो चाहेगा गुडागर्दी करेगा, लूटेगा और मारेगा और हकूमत दबा करेगी उनसे बात किया जाया करेगी। कोई चीज, कानून इन्साफ नहीं चल सकेगा। अफसरान ने हिस्सा लिया, हर एक ने लॉ कानूनीयत का प्रोटेक्शन किया, तकवीयत, कमर थपकी। बड़े बड़े एस० पी० कलेक्टर, उनकी बीवियों और बच्चों ने आन्दोलन में बाकायदा खल कर हिस्सा लिया। इसी तरह से वोटर लिस्ट नहीं छापने दी। वोटज लिस्ट में

पुलिस ने लाखों आदमियों के नाम बिलकुल गलत तरीके से काट दिये यहां तक कि जो ओरिजनल आसामी थे, गांव के गांव के लोगों के नाम काट दिये गये, अभी भी कटे पड़े हैं। अब कहते हैं कि फिर उसी पुलिस को सारे अख्तियार दे दो और किसी किसम की कोई देखभाल न हो किसी किसम का कोर्ट का मानना न हो। वोटर लिस्ट नहीं छापने दी, इलैक्शन नहीं होने दिया तेल बन्द कर दिया और तिजारत और इंडस्ट्री का तो सभी जानते हैं कि क्या हाल हुआ। इसी तरह से अभी चीफ मिनिस्टर को इंजीनियरिंग कालेज का तालिबेइल्म जो आर० एस० एस० से ताल्लुक रखता था उसने पुलिस के घेरे में कत्ल करने की कोशिश की, डी० एस० पी० ने कार का दरवाजा खोला, चीफ मिनिस्टर को बैठाया, उसकी बीबी बैठी और दरवाजा खोल कर के पुलिस के घेरे के अन्दर इंजीनियरिंग कालेज का तालिबेइल्म जो आर० एस० एस० से ताल्लुक रखता है वह घुस जाता है। और उसकी पेशानी पर यहां रिवाल्वर रख देता है वह तो इतिफाक से कार लाकड थी वरना चीफ मिनिस्टर की मौत आ गयी थी। चीफ मिनिस्टर को खींचकर जब वह गोली नहीं मार सका तो 6-7 फुट उनको बाहर निकाल लेता है। सारे अफसरइन मौजूद हैं उसके बावजूद इस कदर की लाकानूनियत, इस कदर पुलिस का तसब्बुर, डी० आई० जी० तक मौजूद था ? किसको कहें। आप चाहते हैं कि लोगों की शहरियत का हक उस पुलिस वाले को दे दें वह जो चाहे करे और कोई उनके ऊपर रोक टोक न लगाएं पाबंदी न लगाएं। इसी तरह उसी तालिबेइल्म का आप जो चीफ इंजीनियर है उसके पास हथियार निकले, भाई, हथियार निकले। वे लोग गिरफ्तार हुए। इसी तरीके से ऐसे हालात में इन आंदोलनकारियों से बात करना, यह मुल्क के

मफाद में हो हम इसे नहीं मानते हैं। यह मुल्क के मफाद के खिलाफ है। बाहर की ताकतों से उनका ताल्लुक है और हिंदुस्तान के मफाद के खिलाफ उनका रुख चल रहा है। ऐसी सूरत में सिर्फ चन्द गैर मुल्कियों का तो अनुमान है बल्कि इसके पीछे सियासी दुश्मन मजहबी तहरीकों का हाथ है। इसलिए उसके साथ निपटने के वास्ते जो महीनों, वर्षों तक रविश को अपनाया गया उसका नुकसान मुल्क ने उठाया। इसलिए उनको अब इस तरीके से नहीं चलना चाहिए। शिकायत का हक इसमें दूसरे लोगों को भी दिया गया है। इसका यह मतलब नहीं हुआ कि हुकूमत की मशीनरी जांच नहीं करेगी। हुकूमत की मशीनरी जिसके बारे में शबुहा जाहिर करेगी पता चलेगा उसके बारे में कार्यवाही करेगी एस० पी० देखेगा और लोग देखेंगे और उसके बाद उनको नोटिस दी जायेगी और ट्रिब्यूनल में उसको पेश हो करके सबूत का हक दिया गया है लेकिन इसी के साथ यह मतलब था कि गवर्नमेंट आज कांग्रेस की है और उनसे इन्साफ की उम्मीद नहीं है इसलिए पब्लिक को भी हक देना चाहिए कि वह किसी के मुताल्लिक शिकायत कर सके। पब्लिक को हक दिया गया है...

†[شرو احمد مدنی (اترپوڈیس):

نائب صدر صاحب - مجھے اس بل میں اس بات پر السوس ہے کہ اس کے پری اہمل میں بڑی تعداد میں غیر ملکیوں کا ہندوستان میں ہونا تسلیم کیا گیا ہے - جو ایک طرح سے جس چیز کی جانچ کی جا رہی ہے اسکو پہلے ہی سے اتلی بڑی تعداد میں تسلیم کرنا یہ حرکت انصاف .... امن اور مصدع

[شری اسعد مدنی]

راستے پر چلنے کے لئے مناسب نہیں ہے۔ - آسام کے باشندے آسام کے لوگ امن پسند لوگ ہیں اور بھائی چارے کے ساتھ۔ - اچھے تعلقات کے ساتھ زندگی گزارتے آئے ہیں۔ - تقسیم سے بہت پہلے وہاں انگریزوں کے زمانے میں پیداوار بڑھانے کے لئے۔ - کیونکہ جو اوپر کے محفوظ علاقے تھے۔ - جہاں بارہہ اور کٹاؤ تھا۔ - دقتوں کا سامنا کم ہوتا تھا۔ - وہاں آسامی لوگ بستے اور کھیتی وغیرہ کرتے اور جانوروں کو چراتے۔ - زمینیں بہت خالی پڑی تھیں۔ - لاکھوں ایکڑ زمین ایسی جو ذرا نیچھی تھی۔ - جہاں بارہہ آئی تھی اور کٹاؤ ہوتا تھا۔ - اسوقت یوں ہی پڑی ہوئی تھی تو انگریزوں نے بنگال کے زیادہ بستی والے علاقے کے لوگوں کو آسام میں بسانا اور ان کو آباد کر کے دیے ہیں۔ - پیداوار میں۔ - اضافہ کرنے کے لئے انکو ترغیب دی۔ - اور مہمنہ سنگھ اور نوواکھالی اور دوسرے ضلع جو ہیں۔ - پانچ روپیہ میں نو گاؤں کے دو دور دیہاتوں میں اور دوسرے ضلعوں میں آنے کی پرمیشن دی گئی۔ - سہولتیں دی گئیں۔ - ایسے وقت میں لوگ آئے۔ - ۱۹۱۰ میں۔ - ۱۹۱۵ میں۔ - ۱۹۲۰ میں۔ - جبکہ ریپوے لائن بھی کھنٹی تھی اور کھنٹی نہیں تھی۔ - ان لوگوں کے سامنے وہاں ریپوے لائن بنی۔ - ان لوگوں کے

تھے۔ - پردادا آئے تھے اور اب انکے پوتے اور پرپوتے بسے ہوئے ہیں۔ - آسام میں مسلمان آہوں لوگوں سے دس بارہ سال پہلے آباد ہوئے۔ - تقسیم کے بعد ایک مردم شماری ہوئی اور آسام کے لوگ اور جو پہلے وہاں باہر کے لوگ بسے ہوئے تھے انکے تعلقات بہت اچھے تھے۔ - اسی وجہ سے ان لوگوں نے بھی اپنی مادری زبان آسامی لکھوائی۔ - اسی لئے آسام میں اتنے لوگوں کی مادری زبان آسامی ہوئی مہمنہ سنگھ اور نوواکھالی کی زبان اکثر وہ لوگ بنگلہ لکھوا دیتے تو آسام میں دو زبانیں آسامی اور بنگالی ہوتیں۔ - بہر حال اس طرح وہاں چلتا رہا اور آپس کے تعلقات بہت اچھے تھے۔ - اسکولوں میں۔ - دفتروں میں اور کالجوں میں سب لوگ آسامی پڑھتے تھے اور آسامی وہاں کی بھاشا مانی جاتی تھی۔ - لیکن آر۔ - ایس۔ - ایس۔ - کے لوگ وہاں پہنچے اور انہوں نے وہاں زہر پھیلا دیا۔ - کشیدگی پیدا کی۔ - اور تعلقات خراب کئے۔ - آسامی اور نان آسامی کا مسئلہ کھڑا کیا اور اس طرح سے تلخی بڑھتے بڑھتے یہاں تک بڑھ گئی کہ یہ شور مچ گیا کہ فونرٹس کی تعداد بڑی ہے۔ - پولیس کے ذریعہ سے اس کی جانچ پڑتال کی گئی اور جسے چاہا۔ - ایسے لوگ جنکے دادا۔ - پردادا یہاں رہتے تھے۔ - جو کبھی پاکستان نہیں گئے۔ - ہزاروں

لاکھوں کی تعداد میں - ہائی فورس  
 پکڑ پکڑ کر ترکوں میں بھر کر لے گئے -  
 لوگوں کو بازار جانا - استیشن پر جانا -  
 بازار ہات میں چلنا پھرنا مشکل  
 ہو گیا - ہر قدم پر کرپشن تھا - جس  
 کو دیکھتے کہتے کہ تم پاکستانی ہو  
 لاؤ دس روپیہ - لاؤ پچاس روپیہ -  
 ایسے بہت سے لوگ تھے جو اس  
 پریشانی اور خوف کی وجہ سے سارا  
 دن جنگلوں میں گزارتے تھے آبادی  
 میں - دیہاتوں میں نہیں آ سکتے  
 تھے - دیہاتوں میں آدمی نہیں پائے  
 جاتے تھے - صرف عورتیں اور بچے  
 کسی طرح سے اپنا گزارا کرتے تھے -  
 اور یہ لوگ کسی کسی وقت آ کر  
 خیر گیری کر لیتے تھے - بے انتہا ظلم  
 انسانی کے خلاف ہوئے - اس کی جو  
 ملہاریں گائی جا رہی ہیں اور یہ  
 واسطے دیئے جا رہے ہیں کہ اسی  
 طرح سے پولیس کو نہیں دیا گیا ہے  
 اور لاکھوں آسامیوں کو وہاں سے اجازت  
 جائے - اور کسی قسم کی عدالتی  
 کارروائی اور انصاف کا حق لوگوں کو  
 نہ دیا جائے - یہ کسی ملک کے  
 شہریوں کو جن کو شہریت کا حق  
 حاصل ہے ان کو اس طرح سے برہاد  
 کرنا کھلوا کرنا اور اس طریقہ سے  
 کرپشن اور مظالم کے ذریعہ سے برہاد  
 کرنا - ایسے نوجوان آج شادی ہوئی  
 اور ابھی اس کی بھوی گھر میں آئی  
 ہے اور دن میں دوکان سے اٹھا کر لے  
 گئے - دوکان بھی بند نہ کر سکے اور

نہ گھر تک جا سکے - ان کو باوقر سے  
 باہر کر دیا گیا - اسی طرح سے بہت  
 سے مظالم جگہ جگہ ہوئے - لوگوں کو  
 پریشانی ہوئی پور ہوئے ہوتے 1942  
 میں وزیر اعلیٰ ہی - پی - چالہ  
 آئے - انہوں نے خط لکھا کہ اب تک  
 جتنے غیر ملکی تھے جس طرح سے  
 جو کچھ بھی تھے نکال دیئے گئے اور  
 آسام میں کوئی بھی فارنر نہیں ہے  
 اور اب کوئی ٹریڈونل کی ضرورت  
 بھی نہیں ہے - چیف سیکریٹری نے  
 اس خط کی کاپی ہمارے پاس بھیجی  
 وہ کاپی ہمارے پاس محفوظ ہے - اس  
 کے بعد پھر اب کچھ ورشوں کے بعد  
 جب جنتا حکومت آئی تو آر -  
 ایس - ایس - کی پھر تحریک چل  
 پڑی اور غیر ملکیتوں کا آندولن پھر  
 شروع کر دیا - اس میں تجارت  
 ٹھپ - انڈسٹری ٹھپ - ٹیل بدن کر  
 دیا گیا - دیوہہ کرور روپیہ یومیہ کا  
 ملک کو نقصان اٹھانا پڑا - آسام کی  
 حالت بالکل دوبہر ہو گئی - وہ  
 آندولن کرنے والے جنہوں نے امن کو  
 برہاد کیا - چلنا پھرنا مشکل کر دیا  
 اب کہا جاتا ہے کہ ان سے بات چیت  
 ہوئی چاہئے - انہوں نے کونسل قانون  
 کو مانا - تشدد کہا - یہاں پر یہ  
 کوشش ہوئی کہ بھائی الیکشن نہ  
 کرنا پڑے - معاملات گفتگو سے طے  
 ہوں - گنجائش دے دو دستور میں  
 ترمیم کر دو تاکہ صدر راج کو بڑھایا  
 جا سکے ترمیم کرنے کی منظوری نہیں



[شری اسعد مدنی]

دی - توہم بھی نہیں کرنے دینگے -  
الیکشن بھی نہیں کرنے دیں گے - یہ  
کہتے ہیں کہ اتنے لوگوں کو فوراً  
نکال دو کہڑے کہڑے - یہ کیسے ہو  
سکتا ہے - نتیجہ یہ ہوا کہ الیکشن  
کرانا پڑا - الیکشن کرانے میں جو  
تشدد آسام میں ہوا - جو قتل و  
غارتگری ہوئی - پل توڑے گئے - سڑکیں  
کھودی گئیں - اسکول جلائے گئے -  
بسیں جلائی گئیں - لوگوں کو مارا  
گیا ہزاروں کی تعداد میں - تقریباً  
دو ہزار مسلمانوں کی لست تو  
ہمارے پاس موجود ہے جو قتل  
کو دئے گئے - اسکے علاوہ جو ہیں وہ  
الگ ہیں - اسی طرح سے آسامی  
بھائی بنگالی بھائی - نہالی - توائہیل  
لوگوں فرض ہزارہا لوگوں کو قتل کیا گیا -  
ایک لاکھ دس ہزار کے قریب مسلمان  
برباد ہوئے - پچاس ہزار کے قریب  
بنگالی بھائی - ۷۰ ہزار کے قریب  
توائہیل اور نہالی وغیرہ اور ۷۰ ہزار  
کے قریب آسامی اس بربادی میں  
مبتلا ہوئے اور مختلف گورنمنٹ کے  
کیسوں میں جنہوں نے پٹا لی -  
اس طریقہ سے آسامی ہر طرح سے  
برباد ہوئے - ان پر رحم نہیں کیا  
گیا - کسی بھی معقول بات پر  
نہیں .... انکے بارے میں یہ کہا  
جائے کہ پھر ان سے بات کریں - اگر  
ایسی بات ہوتی ہے تو پھر غلطہ کردی  
کا نام ملک ہوگا - ہر شخص جو

چاہے گا غلطہ کردی کرے گا - لوٹے گا  
اور مارے گا اور حکومت دبا کرے گی -  
ان سے بات کیا کرے گی - کوئی  
چیڑ - قانون اور انصاف نہیں چل  
سکیگا - انسان نے حصہ لیا - ہر  
ایک نے لا قانونیت کا پرتھکھن کیا -  
تقویت دی - کمر تھکے - بڑے بڑے  
ایس - پی - کلکٹر - انکی بیویوں اور  
بچوں نے آدمیوں میں باقاعدہ کھل  
کر کے حصہ لیا - اسطرح سے ووٹر  
لستیں نہیں چھاپنے دیں - ووٹر  
لست میں پولیس نے لاکھوں آدمیوں  
کے نام بالکل غلط طریقہ سے کات دیئے  
یہاں تک کے جو آریجنل آسامی  
تھے گاؤں کے گاؤں کے لوگوں کے نام  
کات دیئے گئے - ابھی بھی کتے پڑے  
ہیں - اب کہتے ہیں کہ پھر اسی  
پولیس کو سارے اختیار دے دو  
اور کسی قسم کی کوئی دیکھ بھال  
نہ ہو - کسی قسم کا کورٹ کا معاملہ  
نہ ہو - ووٹر لست نہیں چھاپنے دی -  
الیکشن نہیں ہونے دیئے - تھل بند  
کر دیا اور تھارت اور انڈسٹری کا تو  
سبھی جانتے ہیں کہ کیا حال ہوا -  
اسی طرح سے ابھی چیف منسٹر کو  
انجینئرنگ کالج کا طالب علم جو  
آر - ایس - ایس - سے تعلق رکھتا  
تھا - اس نے پولیس کے کیمبرے  
میں .... قی - ایس - پی - نے  
کار کا دروازہ کھولا - چیف منسٹر کو  
بتھایا - اسکی بیوی بھتی اور  
دروازہ کھولکر کے پولیس کے کیمبرے کے

Bill, 1983

اندر انجینئرنگ کالج کا طالب علم جو آر - ایس - ایس - سے تعلق رکھتا ہے وہ کھس جاتا ہے - اور اسکی پیشانی پر یہاں رہوالور رکھ دیتا ہے وہ تو اتفاق سے کار لاکڈ نہی ورنہ چیف منسٹر کی موت آگئی تھی - چیف منسٹر کو کھینچ کر جب وہ گولی نہیں مار سکا تو ۷-۹ فٹ ان کو باہر نکال لیتا ہے - سارے افسران موجود ہیں اس قدر کی لاقانونیت - اس قدر پولیس کا تعصب جب کہ قی - آئی - جی - تک موجود تھا - کس کو کہیں - آپ چاہتے ہیں کہ لوگوں کی شہریت کا حق اس پولیس کو دے دیں - وہ جو چاہے کریں اور کوئی ان کے اوپر روک ٹوک نہ لگائے - پابندی نہ لگائے - اسی طرح اسی طالب علم کا باپ چیف انجینئر - اسکے پاس بھی ہتھیار نکلے - وہ لوگ گرفتار ہوئے - اسی طرح سے ایسے حالات میں ان آندولن گاہیوں سے ہاتھ کرنا - یہ ملک کے مفاد میں ہو ہم اسے نہیں مانتے ہیں - یہ ملک کے مفاد کے خلاف ہے ان کا رخ - باہر کی طاقتوں سے ان کا تعلق ہے اور ہندوستان کے مفاد کے خلاف ان کا رخ چل رہا ہے - ایسی صورت میں صرف چند غیر ملکیوں کا تو انوسان ہے بلکہ اسکے پیچھے سیاسی دشمن - مذہبی تحریکوں کا ہاتھ ہے - اسی لئے اسکے

سالوں تک روہ کو اپنایا گیا اس کا نقصان ملک نے اٹھایا - اس لئے ان کو اب اس طریقہ سے نہیں چلنا چاہئے - شکایت کا حق اس میں دوسرے لوگوں کو بھی دیا گیا ہے - اس کا مطلب یہ نہیں ہے کہ حکومت کی مشینوں جانچ نہیں کرے گی - حکومت کی مشینوں جس کے بارے میں شبہ ظاہر کرے گی - پتہ چلے گا اسکے بارے میں کارروائی کرے گی - ایس - پی - دیکھے گا اور لوگ دیکھیں گے - اور اسکے بعد ان کو نوٹس دی جائیگی اور ٹریبونل میں اس کو پیش ہو کرکے ثبوت کا حق دیا گیا ہے لیکن اسی کے ساتھ یہ مطالبہ تھا کہ گورنمنٹ آج کانگریس کی ہے اور ان سے انصاف کی امید نہیں ہے اسی لئے پبلک کو بھی حق دینا چاہئے کہ وہ کسی کے متعلق شکایت کر سکے - پبلک کو حق دیا گیا ہے....]

श्री असद मदनो : मैं मुख्तसर कर रहा हूं । मैं इस बात को मानता हूं कि पब्लिक को हक उसी गांव वाले को देना चाहिए । अगर आप जेनइन काम करता चाहते हैं तो गांव वाले गांव वालों को जानते हैं इसलिए उस गांव में गैर मुल्की रहते हैं तो गांव वालों को हक दे सकते हैं कि आपको वे शिकायत करें । बाहर वाला जब शिकायत करेगा तो कोई साजिस हो सकती है उसमें गुंजाइश है इस बात की कि किसी साजिस के मातहत खास तरह के लोगों को परेशान करने के लिए लिस्ट बनाये और उनके नाम दिये जाय

[श्री अनंद मदनो]

इसलिए मैं तीन किलोमीटर के देने के हक में नहीं हूँ। इसमें करप्शन का दरवाजा खुलेगा। हाँ, गांव का कोई आदमी अगर जानता है कि कौन यहां का रहने वाला है कौन बाहर का इस लिए वह अगर शिकायत करेगा तो उसकी इजाजत होनी चाहिए।

दूसरी बात यह है कि जो 25 रुपये इसमें दैक्स रखा है इसको बढ़ाना चाहिए इस तरीके से लोगों को शहरियत जैसे हक के बारे में खेल तमाशा न हो और लोगों को अगर वह कुछ करना चाहते हैं तो कुछ बोझ पड़े। दूसरी बात यह है कि इतना बड़ा इल्जाम लगा द और लोगों को परेशानी में डाल दें और फिर अपने घर में साफ सुथरे जाकर बैठ जायें इसलिए अगर झूठे इल्जाम लगाते हैं, जानते बुझते लगाते हैं तो उन पर कुछ न कुछ होना चाहिए, कुछ सजा हानी चाहिए ताकि खामखाह लोगों को परेशान न किया जाये। तो बहरहाल इन चीजों को तरफ ख्याल रखना चाहिए और लोगों का हा मांग पर यह सहूलियत दी गयी है जिस पर यह ऐतराज किया गया है कि आर०एस०एस० अक्लियतों का दुश्मन है, उसका जो मूड है, कार्यक्रम है, वह मुल्क के हक में हरगिज नहीं है। हर वक्त वह साजिशों में मुस्तिला रहता है और तरह-तरह के शोशे मुल्क में अक्लियतों के खिलाफ और अमन के खिलाफ फलाती रहता है, उनके साथ इस तरह का रियायत मुल्क के लिए हरगिज मुनासिब नहीं हो सकता है। कहा गया कि तेजपुर में पाकिस्तानी झन्डे लहराये गये। झूठा बात है। सारे हिंदुस्तान में तरह तरह का दास्ताने हम सुनते चले आ रहे हैं जिनका कोई हकीकत नहीं होती है। आज आप देख लें कि लोकदल के झंडे में हरा कपड़ा है, भारतीय

जनता पार्टी के में, और पार्टियों के झंडों में हरा कपड़ा लगा हुआ है, कब्रों पर भी लोग हरे और सुर्ख मुख्तयलिरंग के झंडे लगा देते हैं और जिसको ऐतराज करना होता है वह उस को पाकिस्तानी झंडा कह देते हैं। इस तरह की फिजूल बातें कोई माकूल आदमी नहीं मान सकता है। हमने तो जितने इस किस्म के शोशे सुनें, हकीकत में सब झूठ निकले। और इस तरह बहुत से लोग कहा करने हैं। तो इसलिए इन चीजों का न इस हाऊस में तस्करा आना चाहिए, इस तरह की खुराफात का और न इस तरफ ध्यान देना चाहिए। यह बहुत अहम मसला है। वाक्यतन अगर कोई गैर-मुल्की है, गैर-कानूनी तौर पर, तो हमारी उसके साथ कोई हमदर्दी नहीं है। लेकिन शहरियों को बर्बाद किया जाए, करप्शन में मुबतला किया जाए, उनकी जिन्दगी अजीर्ण की जाए, उनका चलना-फिरना दूसर कर दिया जाये हिंदुस्तान की इक्तसोदियात बर्बाद की जाए, अहम तवाह किया जाए, यह मुल्क से गहारी है। इसको हरगिज बरदाश्त नहीं किया जाएगा।

[†] شری اسعد مدنی :

مختصر کر رہا ہوں میں اس بات کو ماننا ہوں کہ پبلک کو حق اسی گاؤں والے کو دینا چاہئے - اگر آپ جیمنوں کام کرنا چاہتے ہیں تو گاؤں والے - گاؤں والوں کو جانتے ہیں اس لئے اس گاؤں میں غیر ملکی رہتے ہیں تو گاؤں والوں کو حق دے سکتے ہیں کہ آپکو وہ شکایت کریں - ہمارے والا جب شکایت کریں تو کوئی سازش ہو سکتی ہے - گنجائش ہے اس بات کی

کہ کسی سازش کے ماتحت خاص طرح کے لوگوں کو پریشان کرنے کیلئے لسٹ بنائیں اور انکے نام دیئے جائیں۔ اس لئے میں تین کلومیٹر کے دیئے کے حق میں نہیں ہوں اسمیں کریشن کا دروازہ کھلیگا۔ ہاں گاؤں کا کوئی آدمی اگر چاہتا ہے وہ جانتا ہے کہ کون یہاں کا رہنے والا ہے۔ کون باہر کا۔ اسلئے وہ اگر شکایت کریگا تو اسکی اجازت ہونی چاہئے۔

دوسری بات یہ ہے کہ جو ۲۵ روپیہ اسمیں ٹیکس رکھا ہے۔ اسکو بڑھانا چاہئے تاکہ اس طریقہ سے لوگوں کی شہریت جیسے حقوق کے بارے میں کبیل تماشہ نہ ہو اور لوگوں کو .... اگر وہ کچھ کرنا چاہتے ہیں تو کچھ بوجھ پڑے۔ دوسری بات یہ ہے کہ اتنا برا الزام لگا دیں اور لوگوں کو پریشانی میں ڈال دیں اور پھر اپنے گھر میں صاف ستھرے جانر بیٹھ جائیں۔ اسلئے اگر جھوٹے الزام لگاتے ہیں۔ جانتے بوجھتے لگاتے ہیں تو ان پر کچھ نہ کچھ ہونا چاہئے۔ کچھ سزا ہونی چاہئے تاکہ لوگوں کو خواہ مخواہ پریشان نہ کیا جائے۔ تو بہر حال ان چیزوں کی طرف خیال رکھنا چاہئے اور لوگوں کی ہی مانگ پر یہ سہولیت دی گئی ہے جس پر یہ اعتراض کیا گیا ہے کہ آر۔ ایس۔ ایس۔

اقلیتوں کی دشمنی ہے۔ اسکا جو مدعا ہے۔ گریہ کر رہا ہے وہ ملک کے حق میں ہرگز نہیں ہے۔ ہر وقت وہ سازشوں میں مبتلا رہتی ہے اور طرح طرح کے شوشے ملک میں اقلیتوں کے خلاف اور امن کے خلاف پھیلاتی رہتی ہے۔ انکے ساتھ اسطرح کی رعایتیں ملک کے لئے ہرگز مناسب نہیں ہو سکتی ہیں۔ کہا گیا کہ تیج پور میں پاکستانی جھنڈے لہرائے گئے۔ جھوٹی باتیں ہیں۔ سارے ہندوستان میں طرح طرح کی داستانیں ہر سانسے چلے آ رہے ہیں جنکی کوئی حقیقت نہیں ہوتی ہے۔ آج آپ دیکھ لیں کہ لوک دل کے جھنڈے میں ہرا کھڑا ہے۔ ہمارے جنتا پارٹی کے جھنڈے میں۔ اور پارٹیوں کے جھنڈے میں ہرا کھڑا لگا ہوا ہے۔ قبروں پر بھی لوگ ہرے اور سرخ۔ مختلف رنگوں کے جھنڈے لگا دیئے ہیں اور جس کو اعتراض کرنا ہوتا ہے۔ اسی کو پاکستانی جھنڈہ کہہ دیتے ہیں۔ اس طرح کی فضول باتوں کوئی معقول آدمی نہیں مان سکتا ہے۔ ہم نے تو جتنے اس قسم کے شور سنے حقیقت میں سب جھوٹ نکلے۔ اور اس طرح بہت سے لوگ کہا کرتے ہیں۔ تو اس لئے ان چیزوں کا نہ اس ہاؤس میں تذکرہ آنا چاہئے اس طرح کی خرافات کا۔ اور نہ اس طرف دھیان دینا چاہئے۔

[شری اسعد مدنی]

یہ بہت اہم مسئلہ ہے - واقعاً اگر کوئی غیر ملکی ہے غیر قانونی طور پر - تو ہماری اس کے ساتھ کوئی ہمدردی نہیں ہے - لیکن شہریوں کو برہاد کیا جائے - کویشی مہن مبتلا کہا جائے - ان کی زندگی اجسور کی جائے - ان کا چلنا پھرنا... ہندوستان کی اقتصادیات برہاد کی جائے - آسام کو تباہ کیا جائے - یہ ملک سے غداوی ہے - اس کو مرکز برداشت نہیں کہا جائے گا -

SHRI SYED AHMAD HASHMI (Uttar Pradesh): Mr. Deputy Chairman, Sir,.....

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): You have promoted me to Deputy Chairman!

SHRI GULAM MOHI-UD-DIN SHAWL (Jammu and Kashmir): He wants you to be (Interruptions)....

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): We are running short of time. Please continue.

श्री संयद अहमद हाशमी : मि० वाइस-चैयरमैन, सर, मैं इस बात के कभी खिनाफ नहीं रहा कि जो फारेनर्ज हैं, उनको डिटेक्ट न किया जाये; या उनको आइडेंटिफाई न किया जाए और मैं समझता हूँ कि यह हर हिंदुस्तानी का फर्ज है और एक हिंदुस्तानी की हैसियत से हमें इसका अहसास है कि जो गैर-मुल्की हैं, वह गैर-मुल्की हैं। लेकिन गैर-मुल्की के नाम के ऊपर-उन लोगों को जो बोना/फाईड इंडियन सिटिजन्स हैं, उनको तंग करना, जाहिर है कि उसी तरीके से नाफर्जनासी होगी, या यूँ कहिए कि जिम्मेदारी की अदायगी नहीं की जायेगी, अगर इस बात को

तसलीम किया जाये कि उन लोगों को भी छेड़ा जाये या परेशान किया जाये।

असम में सिटुएशन कुछ ऐसी ही रही है। मैं मि० बह्रूल इस्लाम के इस खयाल से तो इत्तिफाक करता हूँ—जैसे कि हमारे बाज दोस्तों ने इस बात का शुबह जाहिर किया कि 1971 का इयर जो है कट-आफ इयर है। लेकिन मैं उनकी इस बात से इत्तिफाक करता हूँ कि ऐसा नहीं है, यह तो एक डिटेक्शन का प्रामेस है, जो पोस्ट 1971 के लिये लागू किया जा रहा है। यकीनन हमें खुशी होती कि इसको आखिरी प्वाइंट मान लिया जाता—मैं इसका मोस्ट वैल्यू करता कि 1971 को आखिरी प्वाइंट मान लिया जाता और इसे कट आफ इयर के तौर पर तसलीम किया जाता। लेकिन मैं मि० बह्रूल इस्लाम के इस खयाल से मुत्तफिक नहीं हूँ जो उन्होंने आगुमेंट पेश किया जिसमें उन्होंने इस बात को तसलीम किया कि प्री—1971 हिंदुस्तान की तकसीम के बाद जो सूरतेहाल पैदा हुई और असम आज में जो लोग हैं, वो गैर-मुल्की रहे हैं। रहे होंगे। और इस बिनाह पर कि आज ईस्ट-पाकिस्तान बंगला देश में चेंज हो गया है, इसलिये उनको वापिस नहीं किया जा सकता है, बलिकंटीवर्सि इस बात के ऊपर रही कि जिन लोगों को गैर-मुल्की कहा जाता है, पाकिस्तानी कहा जाता है, बंगला देशी कहा जाता है, वाकई वह बंगला देशी या पाकिस्तानी हैं या नहीं हैं।

मि० चालिहा का रेफरेंस दिया गया। हमें अच्छी तरह से यह बात याद है कि मि० चालिहा ने स्टैंट असम्बली में जोर से इस बात को रेफ्यूट किया था कि असम के अन्दर कोई भी पाकिस्तानी नहीं है जो थे, उनको वापिस कर दिया गया है।

तो इसलिये मसला यह नहीं है कि वह गैर-मुल्की है, इसलिये महज इस बिना पर कि आज ईस्ट-पाकिस्तान नहीं है, बंगला देश हो गया है वह लिहाजा उन्हें बंगलादेश कैसे भेजा जाये वक्ति इसलिये कि वह एक्चुअली हिंदुस्तानी हैं और हिंदुस्तानी होते हुये भी उनको परेशान करने को कोशिश की जा रही है।

हमारे बाज दोस्त सन 1950 का हवाला देते हैं। इस हिस्टारिकल रिप-लिटी को भूल जाते हैं कि जिस जमाने में कि दिस्तान तकसीम हुआ, उस माहौल के अन्दर हेटरिड, बदगुमानी और नफरत थीं। अब यह सही कहते हैं कि मर्दम-शुमारी के अन्दर, सेंसस के अन्दर 1951 में शायद उतनी तादाद में वहां पर मुसलमान नहीं थे। लेकिन बाद में वह हो गये। इसलिये नहीं कि वह पाकिस्तान चले गये थे या पाकिस्तानी थे और वहां से इंफिल्ट्रेट करके आ गये थे, लेकिन जिस माहौल में सेंसस हुआ था वह नाकाबिले भरोसा था। सही तरीके से उसमें मुसलमानों को आइडेंटिफाई करना बड़ा मुश्किल था। उसके बाद लोग भूल जाते हैं कि वह माहौल जो था वह बदगुमानी का था, वह फिजा थी जहां पर और जहां लोग अपनी जान माल और इज्जत आबरू बचाने के लिये पनाह ढूंढ़ रहे थे, हो सकता है कि उसमें बहुत से लोग गये हों लेकिन नेहरू लियाकत पैकट के बाद जब अमन की सुरते हाल पैदा हुई तो जो लोग बदगुमानी की बिना पर गये थे—इसलिये नहीं कि उन्होंने पाकिस्तान को आप्ट किया था, जो वहां शेलटर के लिये गये थे, बदगुमानी के बाद वे वापस हो गये। इन सारे फैक्टर्स को भुला दिया जाता है और छोड़ दिया जाता है और एक ही बात कही जाती है। तो मैंने अर्ज किया कि हम इस बात के खिलाफ नहीं हैं कि जो गैर मुल्की हैं उनका डिटेक्शन न हो, लेकिन मैं यहां पर एक

बात और कहना चाहता हूं कि रूलिंग पार्टी यह प्राबलम बराबर खुद पैदा करती रही है इस तरीके के। आज पंजाब के अन्दर देखिये क्या हो रहा है।

**डा० रफीक जकरीया :** यह सितमगरी ठीक नहीं है।

**श्री सैयद अहमद हाशमी :** मैं मिसाल दूंगा। पंजाब के अंदर जो लोग माकूल हैं, माकूल बात करते हैं उनसे बात करने के लिये हुकूमत तैयार नहीं और भिडरवाला की वह सरपरस्ती कर रही है। आज पंजाब के सुरतेहाल काबू से बाहर हो गये हैं।

**डा० रफीक जकरीया :** आप गलत बात कर रहे हैं।

**श्री सैयद अहमद हाशमी :** आज वहां के सुरतेहाल इस लिये काबू से बाहर हैं कि उन्होंने उसको पट्रोनेज दिया और उसको सरपरस्ती दी और उस का नतीजा है कि वहां के सुरतेहाल आपके काबू से बाहर हो गये हैं।

**श्री सत पाल मित्तल (पंजाब) :** आपको सपना आ रहा है।

**श्री सैयद अहमद हाशमी :** ठीक यही सेचुयेशन आसाम में है उन लोगों की जो कि वहां डिस्टिर्बिंग एलीमेंट्स थे उनको इंकरेज कर के किया गया—वसे शुरू में क्या पोजीशन थी मैं नहीं कह सकता लेकिन पलिंग पार्टी ने आसू को इंकरेज किया उसके मूवमेंट को इंकरेज किया और आज सेचुयेशन यह है कि हालात काबू से बाहर हो गये हैं।

**श्री सत पाल मित्तल :** रहे हैं।

**श्री सैयद अहमद हाशमी :** अंट शंट नहीं बोल रहा हूं। मैं अभी आपके सामने एक और मिसाल देता हूं। अभी पूर्णिया किशन-गंज की मिसाल आपके सामने है। उस से चुएशन को कौन खराब कर रहा है। वहां

[श्री संयद अहमद हाशमी]

शुबाहात कौन पैदा कर रहा है। अब एलेक्शन कमीशन भी उसमें आ गया है। पूर्णिया और किशनगंज में अब नोटिसेज जारी कर रहे हैं। जाहिर है कि जिस तरीके से आसाम में एक मसला बनाया गया है उसी तरीके से पूर्णिया और किशनगंज में यह मिसाल बनेगी। तो मेरे अर्ज करने का मतलब यह है कि शुरू में इसी तरीके का माहौल को, इसी तरह की सेचुरेशन को और तसव्वुर को इंकरेज किया गया, उस को पेट्रोनेज दिया गया और जब हालात सूरतेहाल काबू से बाहर हो जाते हैं तो बाबूला मचाया जाता है। मैं एक बात अर्ज करूँ कि आप के इस बिल के अन्दर मैं इस बात का तो खैरमकदम करूँगा कि पुलिस को दूर रखा गया है और जुडिशियरी को इवाल्व किया गया है। यह बात काबिले तारीफ है लेकिन जब आप ने यह कह दिया।

**उपसभाध्यक्ष (श्री दिनेश गोस्वामी):**  
अब आप खत्म करिये।

**श्री संयद अहमद हाशमी:** कि 25 से 100 रुपये तक, तो इसका मतलब है कि आप ने इवाइट किया है उन आर्गनाइज्ड लोगों को जो आर्गनाइज्ड कर सकते हैं। आपने मक्सिमम सौ रुपया रखा है। सौ रुपये में चाहे हजार आदमियों के खिलाफ दरखास्त दे दो। 25 से कम नहीं और 100 से ज्यादा नहीं, तो आर्गनाइज्ड फोर्सेज के लिये सौ रुपये की, कोई हैसियत नहीं है और आज भी हमें डर है कि इस बिल का मिसयूज होगा और पुलिस की कंप्लेन्स से उन लोगों को जो एक्चुएली शहरी हैं उन लोगों को तंग करने की कोशिश की जायेगी।

आप यह जानते हैं कि असम के अन्दर हजारों इंसान मारे गये हैं। मैं नहीं कहूँगा कि वहाँ मुसलमान मरे या हिन्दू मरे, बंगाली

मरे या नेपाली मरे, इंसान मर गये। लेकिन उसके बावजूद भी हमारी समझ में यह बात नहीं आई कि गवर्नमेंट आफ इंडिया क्यों सोती रही? क्यों? इसीलिये तो मैंने कहा कि उसकी दो खूबी पालिसी है। वहाँ पर भय और खतरा पैदा किया, ऐसी सूरतेहाल पैदा की कि कन्फ्रंटेशन हो, इसलिये उसको इलैक्शन के अन्दर कामयाबी हासिल हुई चाहे दस हजार आदमी मार दिये जायें।

**उपसभाध्यक्ष (श्री दिनेश गोस्वामी):**  
अब आप समाप्त करिये।

**श्री संयद अहमद हाशमी:** मैं खत्म कर रहा हूँ। बहरहाल मैं अर्ज कर रहा था कि आप इस सूरतेहाल से भी आज पूरा फायदा इस बिल के जरिये, नाजायज तरीके से न उठायें।

इसी तरीके से मैं यह कहूँगा कि तीन किलोमीटर की जो बात आपने रखी है वह भी मेरे नजदीक सही नहीं है और मैं डा० रफीक जकरोया के इस ख्याल से इतिफाक करूँगा कि अगर एक मौजे के, एक जगह के रहने वाले हों तो आइडेंटिफाई कर सकते हैं उन लोगों को जो वहाँ के रहने वाले हैं बहरहाल मैं यह कहूँगा कि इसका मिसयूज नहीं होना चाहिये।

शुक्रिया :

† [شری سید احمد ہاشمی]

(اثر پردیس) : مستقر وائس  
چیئرمین - سر - میں اس بات  
کے کہی خلاف نہیں رہا کہ جو  
فائررز ہیں انکو تکیکت نہ کیا جائے  
یا انکو آئی ڈیٹیفائی نہ کیا جائے

اور میں یہ سمجھتا ہوں کہ یہ ہندوستانی کا فرض ہے اور ایک ہندوستانی کی حیثیت سے ہمیں اسکا احساس ہے کہ جو غیر ملکی ہے وہ غیر ملکی ہے - لیکن غیر ملکی کے نام کے اوپر ان لوگوں کو جو ہونا فائیڈ انڈین سٹیٹزنس ہیں انکو تلک کرنا ظاہر ہے کہ اسی طریقہ سے نفرض شناسی ہوئی - یا ہوں کہئے کہ ذمہ داری کی ادائیگی نہیں کی جائیگی - اگر اس بات کو تسلیم کیا جائے کہ ان لوگوں کو بھی چھوڑا جائے یا پریشان کیا جائے -

آسام میں سچوایشن کچھ ایسی ہی رہی ہے - میں مسٹر بہارالاسلام کے اس خیال سے تو اتفاق کرتا ہوں جیسا کہ ہمارے بعض دوستوں نے اس بات کا شبہ ظاہر کیا کہ ۱۹۷۱ کا ایر جو ہے یہ کت آف ایر ہے - لیکن میں انکی اس بات سے اتفاق کرتا ہوں کہ ایسا نہیں ہے یہ تو ایک قی ٹھکشن کا پروسیس ہے - جو پوسٹ ۱۹۷۱ کھلئے لاکو کیا جا رہا ہے - یقیناً ہمیں خوشی ہوتی کہ اسکو آخری پوائنٹ مان لیا جاتا - میں اسکا مومنٹ ویلکم کرتا کہ ۱۹۷۱ کو آخری پوائنٹ مان لیا جاتا - اور اسے کت آف ایر کے طور پر تسلیم کیا جاتا لیکن میں مسٹر بہارالاسلام کے اس خیال

سے متفق نہیں - جو انہوں نے آرگومنٹ پیش کیا - جسمیں انہوں نے اس بات کو تسلیم کیا ہے کہ پری ۱۹۷۱ع ہندوستان کی تقسیم کے بعد جو صورتحال پیدا ہوئی اور آج آسام میں جو لوگ ہیں وہ غیر ملکی رہے ہیں - رہے ہونگے - اور اس بلما پر کہ چونکہ آج ایسٹ پاکستان بلکلہ دیہیں میں چھلج ہو گیا ہے - اس لئے انکو واپس نہیں کیا جا سکتا ہے بلکہ کلترو وری اس بات کے اوپر رہی کہ جن لوگوں کو غیر ملکی کہا جاتا ہے - پاکستانی کہا جاتا ہے - بلکلہ دیہی کہا جاتا ہے واقعی وہ بلکلہ دیہی یا پاکستانی ہیں یا نہیں ہیں - مسٹر چالیہا کارمیرپاس دیا گیا - ہمیں اچھی طرح سے یہ بات یاد ہے کہ مسٹر چالیہا نے اسٹیمٹ اسمبلی میں زور سے اس بات کو رفیوٹ کیا تھا کہ آسام کے اندر کوئی بھی پاکستانی نہیں ہے جو تھے ان کو واپس کر دیا گیا ہے - تو اس لئے مسئلہ یہ نہیں ہے کہ وہ غیر ملکی ہیں - اس لئے محتض اس بلما پر کہ آج ایسٹ پاکستان نہیں ہے - بلکلہ دیہی ہو گیا ہے - لہذا انہیں بلکلہ دیہی کیسے بوجھا جا سکے بلکہ اس لئے کہ وہ ایکچولی ہندوستانی ہیں اور ہندوستانی ہوتے ہوئے ہی ان کو پریشان کرنے کی کوشش کی جا رہی ہے -



[شری سہد احمد ہاشمی]

ہمارے بعض دوست ۱۹۵۰ کا

حوالہ دیتے ہیں۔ اس ہسٹوریکل ریلیٹی کو بھول جاتے ہیں کہ جس زمانہ میں کہ ہندوستان تقسیم ہوا اس ماحول کے اندر ہیٹ ریجڈ - بدگمانی اور نفرتیں تھیں۔ اب یہ

صحیح کہتے ہیں کہ مردم شماری کے اندر - سینسس کے اندر ۱۹۵۱ء میں شاید اتنی تعداد میں وہاں پر مسلمان نہیں تھے - لیکن بعد میں وہ ہو گئے - اس لئے نہیں کہ وہ پاکستان چلے گئے تھے - یا پاکستانی تھے اور وہاں سے انفلٹریٹ کر کے آگئے

تھے - لیکن جس ماحول میں سینسس ہوا تھا وہ ناقابل بھروسہ تھا - صحیح طریقہ سے اس میں مسلمانوں کو آئیڈینٹی فائی کرنا بڑا مشکل تھا - اس کے بعد لوگ بھول جاتے ہیں کہ وہ ماحول جو تھا وہ بدامنی کا تھا وہ فضا ایسی تھی جہاں پر لوگ اپنی جان و مال اور عزت آپر بچانے کے لئے پناہ ڈھونڈ رہے تھے - ہو سکتا ہے اس میں بہت سے لوگ گئے ہوں - لیکن نہرو لیٹات پیکٹ کے بعد جب اس کی صورتحال پیدا ہوئی تو جو لوگ بدامنی کی بنا پر گئے تھے - اس لئے نہیں کہ انہوں نے پاکستان کو آپس کیا تھا - جو وہاں شہلگر کے لئے گئے تھے - بدامنی ختم ہونے کے بعد وہ واپس ہو گئے - ان سارے فیکٹس کو

دیا جاتا ہے اور چھوڑ دیا جاتا ہے اور ایک ہی بات کہی جاتی ہے - تو میں نے عرض کیا کہ ہم اس بات کے خلاف نہیں ہوں کہ جو غیر ملکی ہیں ان کا فیکشن نہ ہو - لیکن میں یہاں پر ایک بات اور کہنا چاہتا ہوں کہ رولنگ پارٹی یہ پراپلم برابر خود پیدا کر رہی ہے - اس طریقہ سے آج پنجاب کے اندر دیکھئے کیا ہو رہا ہے -

†[ڈاکٹر رفیق ذکریہ : یہ ستمبری

ٹھیک نہیں ہے -]

†[شری سہد احمد ہاشمی : میں

مثال دونکا - پنجاب کے اندر جو لوگ معقول ہیں - معقول بات کرتے ہیں ان سے بات کرنے کے لئے حکومت تیار نہیں اور بھندرا والے کی وہ سرپرستی کر رہی ہے - آج پنجاب کی صورتحال قابو سے باہر ہو گئی ہے -]

†[ڈاکٹر رفیق ذکریہ : آپ غلط

بات کر رہے ہیں -]

†[شری سہد احمد ہاشمی : آج

جہاں کی صورتحال اس لئے قابو سے باہر ہے کہ انہوں نے اسکو پیپرونیج دیا اور اسکو سرپرستی دی اور اسکا نتیجہ ہے کہ وہاں کی صورتحال آپکے قابو سے باہر ہو گئی ہے -]

†[شری ستیہ پال متل : آپ کو سہلا آ رہا ہے -]

†[شری سید احمد ہاشمی : ٹھیک یہی سچوایشن آسام میں ہے ان لوگوں کو جو کہ وہاں دستربلنگ الیمنٹ تھے انکو انگریج کر کے کیا گیا - ویسے شروع میں کہا پوریشن تھی میں نہیں کہہ سکتا لیکن رولنگ پارٹی نے آسو کو انگریج کیا اس کے موہنت کو انگریج کیا اور آج سچوایشن یہ ہے کہ حالات قابو سے باہر ہو گئے ہیں -]

†[شری ستیہ پال متل : انت شلت بول رہے ہیں -]

†[شری سید احمد ہاشمی : انت شلت نہیں بول رہا ہوں - میں ابھی آپ کے سامنے ایک اور مثال دیتا ہوں - ابھی پورنہ کشن گلج کی مثال آپ کے سامنے ہے - اس سچوایشن کو کون خراب کر رہا ہے - وہاں ہتھکات کون پیدا کر رہا ہے - اب ایکشن کمیشن بھی - اسمیں شامل ہو گیا ہے پورنہ اور کشن گلج میں اب نوٹسز جاری ہو رہے ہیں ظاہر ہے کہ جس طریقہ سے آسام میں ایک مسئلہ بنایا گیا ہے اسی طریقہ سے پورنہ اور کشن گلج میں یہ مثال بنے گی - تو میرے عرض کرنے کا مطلب یہ ہے کہ شروع میں

اسی طریقہ کے ماحول کو - اسی طرح کی سچوایشن کو اور تصور کو انگریج کیا گیا - اسکو پیٹرو نیج دیا گیا اور جب حالات اور صورتحال قابو سے باہر ہو جاتے ہیں تو واپس مچایا جاتا ہے - میں ایک بات عرض کروں کہ آپ کے اس بل کے اندر میں اس بات کا تو خیال مقدم کرتا ہوں کہ پولیس کو دور رکھا گیا ہے اور جو تیسری کو انوالو کیا گیا ہے - یہ بات قابل تعریف ہے - لیکن جب آپ نے یہ کہہ دیا -]

†[وائس چیئرمین (جناب دیش گو-واسی) : اب آپ ختم کر بیٹے -]

شری سید احمد ہاشمی : کہ ۲۵ سے ۱۰۰ روپیہ تک - تو اسکا مطلب ہے کہ آپ نے انوائٹ کیا ہے ان آرگنائزڈ لوگوں کو جو آرگنائزڈ کر سکتے ہیں - آپ نے میکسیم ۱۰۰ روپیہ رکھا ہے - ۱۰۰ روپیہ میں چاہے ہزار آدمیوں کے خلاف درخواست دے دو - ۲۵ سے کم نہیں اور ۱۰۰ سے زیادہ نہیں - تو آرگنائزڈ فورسز کے لئے ۱۰۰ روپیہ کی کوئی حیثیت نہیں ہے اور آج بھی ہمیں قر ہے کہ اس بل کا مس یوز ہوگا اور پولیس کی کانسٹیبلری سے ان لوگوں کو جو ایکسپولی شری ہیں ان لوگوں کو تلک کرنے کی کوشش کی جائے گی -

[شری۔ سید احمد ہاشمی]

آپ یہ جانتے ہیں کہ آسام کے اندر ہزاروں انسان مارے گئے ہیں۔ مہن نہیں کہوں گا کہ وہاں مسلمان مرے یا ہندو مرے۔ بلکالی مرے یا بھپالی مرے۔ لیکن انسان مر گئے۔ لیکن اہم بات یہ ہے کہ ان کے باوجود بھی ہماری سمجھ میں یہ بات نہیں آئی کہ کونسلٹ آف انڈیا کہوں سوتی رہی۔ کوں۔ اسی لئے تو میں نے کہا کہ اس کی دو رخی پالیسی ہے۔ وہاں پر بھ اور خطرہ پیدا کیا گیا۔ ایسی صورتحال پیدا کی کہ کنفرنسیشن ہو۔ تاکہ اس کو الیکشن کے اندر کامیابی حاصل ہوئی چاہے دس ہزار آدمی مار دیئے جائیں۔

†[وائس چیئرمین (شری ذنیہر

گوسوامی): اب آپ سمجھتے ہیں۔  
کیجئے۔]

†[شری سید احمد ہاشمی: میں

ختم کر رہا ہوں۔ بہر حال میں عرض کر رہا تھا کہ آپ اس صورتحال سے بھی آج پورا فائدہ اس بل کے ذریعہ۔ ناچائز طریقہ سے نہ اٹھائیں۔

اسی طریقہ سے میں یہ کہوں گا کہ تین کلو میٹر کی جو بات آپ نے رکھی ہے وہ بھی میرے نزدیک صحیح نہیں ہے اور میں ڈاکٹر رفیق ذکرہ کی اس بات سے اتفاق کروں گا

کہ اگر ایک موقع کے ایک جگہ کے رہنے والے ہوں تو انٹی ڈیفینس کر سکتے ہیں ان لوگوں کو کہ جو وہاں کے رہنے والے ہیں۔ بہر حال میں یہ کہوں گا کہ اس کا مس یوز نہیں ہونا چاہئے۔]

THE VICE-CHAIRMAN: (SHRI DINESH GOSWAMI): I want to seek advice from the House. I have before me still five more speakers, and then the Minister is to reply. And I think he is also exercising the right of reply. So, should I close the debate now or what?

SHRI SHRIDHAR WASUDEO DHABE: Five minutes each.

SHRI GULAM MOHI-UD-DIN SHAWL: Because there is no other business today, let this continue.

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): I am proposing it. I am not cutting it out. Will it do if I give five minutes to each speaker?

SHRI SHRIDHAR WASUDEO DHABE: Give a limited time.

DR. RAFIQ ZAKARIA: You may not sort of eliminate speakers, but if you could request them to confine their remarks to five minutes...

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): That is exactly what I am saying. Please try to be as brief as possible. Let us not spend more time. Mr. Handique.

SHRI BIJOY KRISHNAI HANDIQUE (Assam): Mr. Vice-Chairman, at the outset I cannot agree to your suggestion. I would not be able to finish in five minutes.

DR. RAFIQ ZAKARIA: He is from Assam.

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): I am not asking you to finish within five minutes. Try to be as brief as possible.

**SHRI BIJOY KRISHNA HANDIQUE:**  
I will try, Definitely I will try.

I am indeed amused to see that some of the hon. Member of the House constantly keep blowing hot and cold in this House. I have been listening to the debate on the foreigners issue since 1980 in this House. And if one keeps track of their views, one will realise how contradictory they are from time to time. Over the years, Sir, you will remember, since 1980 it is the preservation of the ethnic character of Assamese culture and society which was the burden of their concern for Assam, and the objective of the agitation on the foreigners issue was hailed by those Members to be this, as though this was the objective, to preserve the ethnic character of Assamese culture and society. But, Sir, quite surprisingly, amusingly when the Government true to its commitment comes forward with some positive steps to achieve that objective of starting the process of detecting illegal catants they frame some pleas to oppose it. There is, of course, no dearth of pleas. Pleas can be found at any time to suit their convenience. And now, Sir, the plea is of inadequacy of the step that the Government proposes. It was a plea taken by my friend, hon. Member, Mr. Jaswant Singh, and also you, Sir.

**SHRI HAREKRUSHNA MALLICK:**  
The Vice-Chairman cannot be addressed like this.

**THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI):** Please, Mr. Mallick. Mr. Handique, you are in an advantageous position because you can criticise me when I am a member, but I cannot do it.

**DR. RAFIQ ZAKARIA:** I wish I had spoken when you were occupying the Chair.

**THE VICE-CHAIRMAN: (SHRI DINESH GOSWAMI):** You have, of course, full liberty to criticise.

**SHRI BIJOY KRISHNA HANDIQUE:** Sir, very interestingly they

have kept their eyes deliberately shut on the basic point that it is only the beginning of the process, in consonance with that the Government had stated earlier, that year 1971 is the take-off year and not the cut-off year. There is definitely a difference between the take-off line and the cut-off and the cut off line, between the starting point and the cut-off point.

Sir, about negotiations some remarks have been made. A few Members have referred to it. But I do believe that the Government has not closed the doors of negotiations. But the hon. Home Minister is right when he made the remark—which was quoted by some hon. Members in the House—that so far as negotiations with the leaders are concerned, the bail is in their court. Indian atmosphere like this when there are bomb blasts killing innocent men, innocent women and innocent children, in an atmosphere when there is a pre-meditated, calculated attempt on the life of the Chief Minister of the State only because of the fact that he has been doing a good job to restore normalcy to the State. I am afraid. Sir the time is not opportune for a dialogue, for a fruitful and purposeful dialogue .....

**SHRI HAREKRUSHNA MALLICK:**  
With whom?

**SHRI BIJOY KRISHNA HANDIQUE:** ... With the leaders of the agitation.

**THE VICE-CHAIRMAN: (SHRI DINESH GOSWAMI):** Mr. Mallick, kindly do not interrupt.

**SHRI BIJOY KRISHNA MANDIQUE:** Sir, I am very sorry Members like Mr. Mallick profess to be very serious about the problem in Assam, this is how they behave, and his behaviour shows that they are not at all serious.

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**THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI):** If Mr. Mallick does not behave like this, I will think otherwise. It only shows that he is very keen regarding this subject. *(Interruptions)* Dr. Mallick, kindly do not interrupt. We are running short of time.

**SHRI BIJOY KRISHNA HANDIQUE:** Sir, it is amusing to see hon. Members keeping their eyes shut, keeping one eye shut when they raise their accusing finger at the Government. They do not have the guts. I mean moral courage, to condemn those incidents of violence. We have been consistently saying that these incidents of violence must be either disowned or condemned or must be owned up. Silence means tacit acceptance and approval. I am, however, not concerned at the moment with what the agitation leaders say or do at the moment. For me, Sir, it is my society, it is my State—it is a positive step that the Government wants to take towards the preservation of the ethnic character of the society and the people of Assam. The question is whether we want it or reject it. The plea of inadequacy of the steps cuts no ice with us since as I have already stated that, this is only the beginning of the process. We have been, Sir, consistently maintaining our views over the years that the endeavour of the Government is to develop the north-eastern region and preserve the ethnic character of the indigenous people who have been reduced numerically by the alleged influx of people. What we have been saying that the agitation conducted on wrong lines that the strategem of the agitation was wrongly defined and spelt out, that their demand was unrealistic, something that transgresses all bounds of practically

and that unfortunately it  
6.00 P. M. has some communal over-  
tone. But we have been always  
saying, and I am on record, as

I myself spoke in this House, "let us take advantage of the positive aspects of the agitation, let this movement not fizzle out without achieving anything concrete." And this is precisely where we seek the cooperation of the leaders of agitation. Sir, You will remember last year you yourself brought a private members' resolution on Assam about the preservation of the socio-cultural identity of Assamese people and we never opposed it. We agreed to your resolution in its spirit. What we said was that for this we need not

amend the Constitution, as Once the Constitution is amended, like a Pandora's box it will open up everyway. But on both sides, on our side, on the Government side and yours, we made common suggestions how to develop this region, how to preserve the socio-cultural identity of Assamese people. It is however true that culture cannot be protected by Government measures alone. It can be protected by the general awareness of the people who are determined to preserve it, who are determined to protect it. But I want to make one point clear. When you say that the people of Assam I have a clear concept in mind, we must bear in mind that here is a State we are dealing with, whose problem we are handling, has a mixed composite population. If we fail to take note of this composite character of Assamese society and culture aspect, the harmony and equipoise of the very fabric of this society, of the very fabric of this culture is gone. When I say Assamese cultural society, I mean the culture and society of Assam and there lies a subtle shade of distinction between the two propositions. When we consider the State its culture, its society, we cannot take it out of its historical context. You will

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of its historical context. You will remember the composite trend, if we go back to the history, it dates back to the beginning of the 20th century, even earlier, towards the end of the 19th century, during the British rule, we must not forget that at the beginning of the 20th century Assam was tagged on to Bengal for the convenience of imperialistic administration. Even sylhet which later formed part of East Pakistan, was a part of Assam, which was the largest district of Assam, and it formed part of East Pakistan on the basis of a referendum. In these two, sylhet and Cachar, where my Assamese language is not spoken, the predominant language was Bengali, whether you like it or not. These are historical facts. We have to accept these facts. This is something unusual. We cannot see a similar phenomenon in other parts of the country except one or two bordering districts of Maharashtra and Andhra, and that too, not as predominantly as in cachar. Again, during the British regime there was a great influx of immigrant Muslims to Assam. This gain is a historical fact, whether you like it or not. And interestingly enough there is a tendency amongst us to lose sight of that aspect while talking about infiltration into the State of Assam, and we have to bear keep in mind that those people migrated from one part of the country to another part. Then India was one and undivided under the British rule. We cannot undo it. We cannot wish it away.

Then again there is the tea garden labour community. You know and Mr. Mallick may also know that about hundred years ago they migrated from Orissa, Madhya Pradesh, Bihar and Andhra Pradesh....(Interruptions)

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): Mr. Mallick, will you kindly allow the debate to go on? Mr. Mallick gave his name for the third reading. I think he has already spoken. If you want to speak on third reading kindly remain quiet.

SHRI BIJOY KRISHNA HANDIQUE: Their number is not less than thirty lakhs....

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): You will have to be brief now.

SHRI BIJOY KRISHNA HANDIQUE: After the election everybody knows what happened. There were strained relation between them and agitation supporters leading to clashes with indigeneous people. Then there are tribal people. They are the original people of Assam. They have not by and large supported the agitation.

So, sir, what is absolutely necessary is to evolve a cultural milieu in which all sections of people will find their rightful place with honour and justice. At the same time what holds the key to this emergence of cultural milieu is assimilation which is at the moment lacking in the State. And for this we are all responsible. The various sections of the society of this composite society have to do some rethinking on this factor because this cultural assimilation is practically and woefully non-existent in Assam at present. For this, responsibility evolves on all sections of the society. It is the Assamese people who have to create that climate of understanding and the various sections of people living there must respond and cooperate. They must not live in isolation. So, assimilation alone holds the key. So those who are interested in the preservation of the ethnic character and social and cultural identity of the Assamese people should support this Bill which marks a beginning in the process of detecting the foreigners This is my appeal to them.

Some doubts have been raised about the effectiveness of the tribunals because of prescription of 3 kilometre limit. The hon. Members have kept their eyes shut on the other side of the picture. It is not a hypothetical proposition that I am going to make Mr. Mallick will remember and man

[Shri Bijoy Krishna Handique]

of the hon. Members of this House will remember what happened in 1978 in Mangaldoi Lok Sabha constituency. In the Mangaldoi Lok Sabha constituency about 40,000 voters belonging to one particular community, the Muslim community, were at one stroke deleted from the voters' list as a result of massive Police deployment in flagrant violation of all democratic norms. Then it was the Janata Party which was on the saddle of power. There are reports that a girl of 15 years signed a list containing 500 names of alleged migrants to the country. This may also happen. I do appeal to the Hon'ble Home Minister to see that either way this particular provision is not misused. And about refugees. I know there are certain apprehensions about this. It is true that we have to examine their position in the historical context. Nobody can deny that atrocities on the either side of the borders have led to one of the greatest exodus ever recorded in history. So, Sir, our commitment to the refugees still remains and must remain. However, we should bear in mind one point and it is that that commitment was conditioned by a historical situation. This situation was that there was communal violence, there was communal trouble and there was communal harassment and they had to leave East Pakistan evicted. This particular point, that they were victims of the communal trouble, that they were the victims of communal violence, must be convincingly proved. Otherwise, we cannot go on like this. This commitment to the refugees we must honour. But we must also remember this fact that this commitment was conditioned by a historical necessity. Thank you.

**THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI):** Yes, Mr Dhabe. I hope you will conclude in five minutes.

**SHRI SHRIDHAR WASUDEO DHABE:** Mr. Vice-Chairman, Sir,

whatever I have to say, I say it in five minutes only.

Sir, this Bill has not clearly stated whether 1971, that is, 25th March 1971, will be the cut-off date, because the definition clause says that the definitions should be taken from the Foreigners Act and the Citizenship Act is not abrogated by any of the provisions. The only thing that is abrogated is the Expulsion from Assam Order of 1950.

**THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI):** I think there are four Acts.

**SHRI SHRIDHAR WASUDEO DHABE:** Sir, I would like to know the scope of clause 4. I would like to know from the honourable Minister whether finally it has been decided that March 1971 will be the cut-off year and the earlier questions cannot be raised. This decision has been taken once for all. This is what I want to know. I would like to know whether this is the intention of this legislation.

My second query on this Bill is this: There is a provision in clause 8 that there shall be a fee of not less than Rs. 25/- and not more than Rs. 100/- I think the provision relating to the payment of this fee by the applicants is not good because they are doing a public duty only and this is almost like a tax and this should not be there. They are only doing a public duty when they bring it to the notice of the tribunal that there are some illegal migrants. There is no such provision with regard to the proceedings in the labour courts. Generally it is a free application and no fee is charged. This is a Constitutional duty which they are doing and they are helping the Government to find out what in fact is its duty. Moreover, clause 8 does not clearly say whether any group application can be made by organisations or only individual persons will have to make the application. If group application is

allowed to be made, then it may save a lot of time, energy and money in making the applications. Sir, my leader, Shri Sarat Chandra Sinha was the President of the LDF and he fought the elections there. When the elections were held, they were not conducted properly. We could not hold the elections for the Lok Sabha in 1980 and even today we have got four seats vacant in the Lok Sabha from Assam. Under article 82 of the Constitution, you have to revise the voters' list every year and I would, therefore, like to know whether the revision of the voters' list has started so that we can hold the elections in 1985 and we can hold the Assam Lok Sabha elections also earlier. I would like to have a categorical assurance from the honourable Minister in this connection. Otherwise the same story will continue and if the elections cannot be held in Assam for these seats, it is taken for granted then that we have to find a political solution to the problem which had its origin in unemployment, backwardness of the area, exploitation by outsiders, and so on. Therefore Sir, I would like to know from the honourable Minister as to what he is thinking about it. Lastly Sir, I would like to say that this is a political game which the Minister and the ruling party want to play. They do not want to find a solution to this problem and this has been pending for a long time. 1971 is the cut-off year according to this and they have been in power since 1980. Why has it taken them three years to have a Bill of this nature? Moreover, what was the urgency in issuing an ordinance of this nature? Everytime we are issuing ordinances. If it was so urgent that this Ordinance had to be issued, then I would like to know whether any Tribunal in Assam, as per the provisions of the Ordinance, has been set up so that the work there could start early.

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): Mr. Madan Bhatia. Please keep in mind the constraints by time.

SHRI MADAN BHATIA (Nominated): Sir, I have to make only legal points; that is all.

(MR. DEPUTY CHAIRMAN IN THE CHAIR)

Mr. Deputy Chairman, Sir, many hon. Members on this side have prefaced and punctuated expectedly their speeches with political attacks upon the Government. I have no desire to lose myself in the lanes and by-lanes of political controversies. At this moment, this hon. House is concerned with the Bill and Ordinance. I have risen, Sir, to support the Illegal Migrants (Determination by Tribunals) Bill, 1983, and the corresponding Ordinance.

So far as the Bill is concerned, the main thrust of the attack of the hon. Member Mr. Jaswant Singh, joined by some other hon. friends, was that by this Bill the Government has abdicated its responsibility of detecting and expelling the foreigners who have entered Assam. I respectfully submit, Sir, this is nothing but distortion of the Bill. In order to understand the nationals this particular Bill, first of all, we must bear in mind the object of this Bill. The object of this Bill is to effectuate the declared policy of the Government, namely, to initiate a process for detection and expulsion of the foreigners who have come into Assam, and the beginning we made is with the date 25th March 1971.

The question before this hon. House is: Has this Bill taken some steps forward to achieve this declared policy of the Government? In order to understand the rationale and the basis of this Bill we must bear in mind the existing law with regard to the foreigners. The existing law is that it is the Government and the Government alone which can initiate the proceedings for the detection and expulsion of a foreigner. But the Order of the Government is not final. If the Government makes an order against an individual that he is a foreigner, then



(Shri Madan Bhatia)

that person has got a right to file a civil suit or file a writ petition, leading to long drawn proceedings in the courts of law and ultimately he may succeed for years to frustrate the order of expulsion which is made against him by the Government.

Sir, my respectful submission is that this particular Bill has taken three big strides forward on the existing law so far as those foreigners are concerned, who have entered Assam after 25th of March 1971. The first step is that it is not the Government alone which will have the right to initiate the proceeding against a particular individual to declare him as a foreigners and to ultimately make an order under the Foreigners Act to expel him. The Government, by means of this Act, has decided to supplement its own efforts, its own power, its own jurisdiction, with the general public support from the people of Assam. It is a mistake and, as I have said, it is a distortion of the Bill to say that the Government has abdicated its responsibility. The Government's power, Government's jurisdiction, has not been supplanted by this Act; it has been supplemented with the general public support by virtue of clause (2) of section 8 of this particular Bill. (*Inter-rup-tion*)

MR. DEPUTY CHAIRMAN: Please don't disturb. Very little time is there.

SHRI MADAN BHATIA: The second step forward which this Bill has taken is that whenever there is a dispute as to whether a particular person is a foreigner or not, so far as those foreigners are concerned who have come to Assam after 25th of March, 1971, that dispute shall not be decided by the long-drawn proceedings of a civil suit, but that dispute will be decided expeditiously by means of special tribunals which are sought to be constituted under this particular Act. It is a step forward. Hon. Members on this side have said that this is an abdication of respon-

sibility. This is in consonance with the declared policy of the Government to bring about expeditious expulsion in the beginning and at the start of those foreigners who have come to Assam after 25th of March, 1971. In this connection section 8 reads:

"If any question arises as to whether any persons is or is not an illegal migrant, the Central Government may, whether such question has arisen on a representation made by such person against any order under the Foreigners Act, 1946 requiring him not to remain in India or to any other effect or has arisen in any other manner whatsoever, refer such question to a Tribunal for decision."

The expression used is that the Central Government may refer this dispute to the Tribunals. There is a discretion given to the Central Government. The Central Government will refer this dispute only if there is a reasonable ground for urging that the order of the Central Government requires reconsideration. If the Central Government is of the opinion that the representation made by a foreigner against whom the order has been made by the Central Government under the Foreigners Act has no legal basis, no factual basis, the Central Government may refuse to refer that dispute to the Tribunal and that man would not be able to go to the ordinary courts because the jurisdiction of the ordinary courts under this Act is barred. Is this a backward step? I would respectfully ask the hon. Members whether it is not a step which seeks to close all doors to possible frivolous litigation and disputes which may be raised by particular individuals who have no case to say that they are the *bona-fide* citizens. These are the three major steps:

I would like to raise two more points. Mr. Goswami has stated that it is atrocious that the onus of proof has been placed upon the applicant or the Government to show that a person is an illegal migrant. I respectfully

submit that this is not so. So far as the Government is concerned, the Government has to make an order under the Foreigners Act. The provisions of the Foreigners Act to this effect are that the onus of proof will lie upon the person to prove that he is not a foreigner. So far as the powers of the Central Government to declare a person as an illegal migrant are concerned, the onus of proof remains where it was under the existing law. So far as the private applicants are concerned, even where there people make an application before the Tribunal, if the Tribunal comes to the conclusion that there is a bona fide case to be looked into *vide* they will issue a show-cause notice to the person concerned and that person concerned has to prove that he is not an illegal migrant. To say at that stage when the matter starts before the Tribunal that the onus should still lie upon the foreigner to prove that he is not an illegal immigrant will lead to, I respectfully submit, witch-hunting at the instance of private citizens in Assam. This will be atrocious. Then, it is said by the hon. Member that this is against the legislative competence. The hon. Member, Mr. Goswami, has cited Article 323 (b) of the Constitution which mentions "a proper legislature may constitute tribunals". And he says, where is the power with the Parliament to make a law constituting tribunals of this category. This is what I respectfully submit is a very convenient way of reading the Constitution. My hon. friend forgot article 246 of the Constitution and Entry 19 of the First List containing the subjects on which the Parliament can legislate. Article 246 says that the Parliament shall have the power to make laws on all subjects mentioned in List 1. And I would read that particular entry. This is entry 19. Admission into, immigration and expulsion from India, passports, visas. There is no provision in the Constitution which says that article 323B will over-ride article 246 of the Constitution. This, I respectfully submit, is a total misreading of the Constitution. That is all, Sir. Thank you.

PROF. SOURENDRA BHATTACHARJEE (West Bengal): Mr. Deputy Chairman, Sir, every Indian is mainly concerned with the maintenance of the integrity of the country and the solidarity of its people. In Assam both have been at stake owing to the movement that has been continuing there over the years. It can be nobody's case that foreigners should enjoy all rights and perhaps, also disabilities and distresses of the citizens of this country. It is nobody's case. But it has to be borne in mind that this problem of migrants, as it sought to be dealt with through the earlier Act, by this particular Bill—also for that matter the Foreigners Act—was the result of the vast churning of the population in India as it was on 14th August, 1947 in consequence of the unnatural partition of the country. The impact of this partition had been went over by the entire country, but most of all by those States or those erstwhile provinces which came to be partitions, among them Bengal, the undivided Assam etc.

The historical background of Assam has been dealt with by hon. Mr. Han-dique. He referred to that fact. Assam as it is today is not that Assam. Assam has not been partitioned for the first time. It was partitioned by Lord Curzon. It was united with the erstwhile East Pakistan, now Bangladesh of which was East Bengal. And when the partition was announced, Assam that came into being was again partitioned to form five other States and Union Territories. Assam that remained in spite of every thing is a conglomerate. Earlier, in our schools, in geography we used to read Assam as an ethnic museum. Perhaps those who initiated the movement forget all that history, all this composite character of the culture of Assam. Culture integrates. Culture does not divide. And those who initiated the movement in Assam lost sight of it. In India, all the groups, all the communities and all have to live together. That aspect has been lost sight of. Unfortunately in regard to this Bill, in the debate in this House, so far as I could follow it,

[Prof. Sourendra Bhattacharjee]

certain hon. Members lost sight of these aspects. There are valid criticisms regarding the election which were held as against constitutional requirements. The massacre which took place need judicial enquiry.

But this, in a very restricted way, tries to deal with the problem which is, at the same time, agitating a large section of the people. Though the entire country has been referred to in this Act, there is no denying the fact that this has been framed keeping in view particularly the situation obtaining in Assam. Since my times is limited, I would draw the attention of the Home Minister to two very specific problems. Number one, this leaves hanging the fate of those coming into India between 1950 and March 24, 1971. There is this uncertainty regarding the cut off year. In their case position should have been regularised. This has not been done. Their fate hangs in the balance and the full opportunity to play with their lives will remain. Hon. Mr. Baharul Islam said one thing, namely, that detection is one thing and deportation is another thing. Once they are detected, where can they be sent? They cannot also be killed. Here there is a provision of deportation. Section 20 provides for the expulsion. The expulsion law should not be impracticable, it should be practicable. Then the only alternative is that those who are detected will have to be kept in prisons. Is this a practical legal provision in the background of the situation obtaining in the border states of Assam, Tripura and West Bengal? I do not know what is going to happen to those coming from 1971. A percentage would be found because of the laxity in the application of the citizenship laws in our country as a whole and because of the various other factors, and we will definitely find a large number of people without any valid travel documents, without acquisition of citizenship, and it won't be difficult for tribunals to detect them and say that they are not the citizens of this

country. But what happens next? My party's Secretary in Assam, the RSP State Secretary, happens to be an Assamese. He put a question to us; you are accepting 1971 as the cut off year but what happens to the lakhs of people who have been in agricultural pursuits in this country, in this State, who have enriched this country by their labour, what happens to them? They are not smugglers, they are not criminals, they are not robbers, now what will happen to them? Bangladesh will not accept them. They have enriched this State. They have proved themselves useful persons in this State. Will you just drive them out and away by whichever means you like? This was the question put to us. We have demanded resumption of the tripartite negotiations, a discussion and settlement of the issue and resumption of the normal political activity which has been the greatest casualty in Assam. The toiling people's movement, the working class movement, the economic activity the academic life have suffered and the restoration of all that normalcy is necessary. So far as this Bill goes, I am not opposed to it. But this will leave many questions unanswered. And, it is impossible to implement what section 20 says. Let the Government say that they will be able to implement it. In that case, Assam has to be made a vast prison. Otherwise section 20 cannot be implemented. Well, it is said that those who are detected as foreigners, the Government shall expel them. Now, this compulsory clause without any elbow room for the Government of India creates a condition which is an impossible condition. The Government of India creates a condition which is a very impossible condition when it accepts all the possibilities. I am afraid, in bringing forward this legislation, this was not done. This aspect was not taken into account.

SHRI GULAM MOHI-UD-DIN SHAWL: Mr. Deputy Chairman, Sir, for the last three years at least, we have seen here in Parliament that most of the debates in every Session and discussions related to Assam, where millions of innocent lives have been lost and property worth crores of rupees has been burnt. It appears that the agitationists and the extremists there were holding not only Assam but the whole country to ransom. There was absolutely no end to this, as far as the loss of many innocent lives and other crimes were concerned. Sir, I support this Bill with the ardent hope that there will be an end to this. I hope, it will not open a Pandora's Box. I hope, the government will not go back and it will close the chapter for ever. Sir, the cut-off year, 25th March, 1971, should be the end, the Government should see that these innocent persons who are living there prior to 1971 and who are bona-fide citizens of India, are not harassed and no Democle's Sword hangs on their heads, they should not be prosecuted nor should there be persecutions against them. With these ardent hopes, I support this Bill.

But I find it difficult to accept certain provisions of the Bill. This is in regard to certain words which have been said in the preamble. It is said here 'whereas a substantial number of foreigners who migrated into India...' This averment amounts to a commitment, we have seen hon. Members here asking the Government that they had made a commitment in 1950, 1952, 1964 or 1974 and other times hence these words be modified so that there is no admission on the part of the government as these admissions create further problems. Hon. Home Minister has acceded to one request that instead, of the word 'substantial' it shall be 'good'. I would also suggest that the word 'alleged' should be prefixed to it so that tomorrow, nobody can say that the Government had committed at a particular time. You should say here 'it is alleged that a good number of foreigners have come'. It is also said here '... across the borders

of the eastern and north-eastern regions of the country on and after the 25th day of March, 1971, have, by taking advantage of the circumstances of such migration and their ethnic similarities and other connections with the people of India and without having in their possession any lawful authority... As far as this is concerned, I would suggest that after the words '... 28th day of March, 1971, have... the rest... by taking advantage of the circumstances of such migration and their ethnic similarities and other connections with the people of India' should be deleted. This is superfluous. It will suffice...

MR. DEPUTY CHAIRMAN: This is only the Preamble.

SHRI GULAM MOHI-UD-DIN SHAWL: My suggestion is, that it is enough, it suffices if you say 'foreigners'. The rest is superfluous. Then, the other thing is in regard to Assam. In the third paragraph, it is said '... to make suitable provisions for the detection of such foreigners in Assam and also in any other part of the country...' I think, this widens the scope of the Bill so that the provisions can be made use of in any part of the country. We are specific here about the eastern region and the north eastern region. Then can say, adjacent States. But if you say '... In any other part of India...' it will mean that people in other parts of the country may be brought under the provisions of this Bill and they may be, at any time, brought to book or harassed by unscrupulous persons who are out to create mischief. They may just present an application or something like that and create further problems. To that extent I submit that if it is confined to Assam, Government has the power to prepare another bill and the law of Parliament has the power to pass such a bill whenever there is any necessity in any other part of the country. (Time bell rings.) I am making my points briefly. There are certain things in the Bill itself which require some elaboration.

MR. DEPUTY CHAIRMAN: Leave that part of it. You have said about

(Mr. Deputy Chairman)

principles, you leave details for others.

**SHRI GULAM MOHI-UD-DIN SHAWL:** I am cutting it short. Whenever my turn comes the time is short. I might be speaking at the fag end, but kindly bear with me.

Sir, clause 8(1) says: "If any question arises as to whether any person is or it not illegal migrant, the Central Government may .....". So the question is, the Central Government has the power, why is the power of making an application being given to any individual. We have seen how much bad blood was created in Assam, what havoc and what travails and turbulations those innocent people had to undergo because of lack of peace, **SANTOSH 1414 RS 14M 23 2 1984** and law and order too was a casualty. So the position may not be that but this weapon should not be given in the hands of some mad persons who can misuse it. That apprehension is in the minds of all persons who honestly believe that the detection of illegal migrants may be there but the *bona fide* citizens of India should not be harassed. So, my point is that sub-clause (2) of clause 8 be completely deleted from the Bill.

Coming to fees, it is said that the application should also be accompanied by such fee, being not less than twenty-five and not more than one hundred rupees. Of course, it is very easy for any person to pay Rs. 25 or even Rs. 100 if he wants that a particular person or his family be harassed or his property be snatched or even he may be deported. So, my submission is that the amount be raised from Rs. 100 to 200.

Clause 9 gives the Tribunals same powers as are vested in the civil court under the Code of Civil Procedure and also the Evidence Act. Here its reliance shall be placed on reception of evidence on affidavits. To that I have strong objection because whenever any person submits an affidavit he can-

not be subjected to cross-examination. Cross-examination is the weapon to test, the veracity of any statements assertion or averment. When he submits an affidavit he cannot be subjected to cross-examination. So, it should be that the rules of Evidence Act and the Civil Procedure Code shall apply because it is a civil proceeding and all these things should be considered. (*Time bell rings.*)

So far as the notice period of 30 days is concerned, I suggest that it should be sixty days. There is a provision that it can be extended later on, but here itself it should be laid down as sixty days and not thirty days. A person who is not at his residence and a summon is issued; *ex-parte* proceedings can be launched against him. So, at this point of time if he has sufficient time of 60 days, he can return and meet the charges.

**MR. DEPUTY CHAIRMAN:** These are details and there is no time for details. Already a full discussion has taken place.

**SHRI GULAM MOHI-UD-DIN SHAWL:** My friends, Mr. Bhattacharjee, raised the point as to where these persons, who are detected as foreigners, will go. They cannot evaporate in the thin air. We cannot drown them in the Bay of Bengal. Where should these people go? That is for the Government to consider, after the Act is passed, if the necessity of this deportation arises, there should be a talk with the Government of Bangladesh so that these things are explained.

The other point is, the person against whom an application is made, he shall be considered an outcaste and he shall be harassed in so many respects. Therefore, there should be a provision or an order that till the decision of the Appellate Tribunal, he shall enjoy all civic rights and other amenities and shall be subject to all the obligations which a citizen of India has, because in that way his harassment shall stop.

MR. DEPUTY CHAIRMAN: Thank you very much. Now please conclude. You cannot discuss all the 29 clauses. Please conclude now.

SHRI GULAM MOHI-UD-DIN SHAWL: Yes, Sir. We have seen in Assam and other places, what havoc was created by inefficient or biased or partial role of the police and other authorities. When here you have under section 11(2) the "prescribed authority", kindly see to it that this prescribed authority, which has the power to scrutinise the application of any person, is so honest and scrupulous that he does not misuse his powers which are conferred on him, being the prescribed authority. I am concluding, Sir.

MR. DEPUTY CHAIRMAN: All this is not necessary. Nobody can guarantee from here.

SHRI GULAM MOHI-UD-DIN SHAWL: Yes, Sir. I am concluding. This section says: "the person named in the application is not an illegal migrant....". I am concluding, Sir. This is a grave omission, Sir... I can understand it. He does not want me to talk. But you, Sir, kindly bear with me. I shall not take more than a minute.

MR. DEPUTY CHAIRMAN: Please conclude now.

SHRI GULAM MOHI-UD-DIN SHAWL: Yes, Sir. Section 11(2)(a) says:

"the person named in the application is not an illegal migrant or that the application is frivolous or vexatious....."

MR. DEPUTY CHAIRMAN: Please do not read the whole section. You say what you have to say on this.

SHRI GULAM MOHI-UD-DIN SHAWL: ...."or has not been made in good faith, the Tribunal shall, after giving the applicant an opportunity to be heard, reject the application;"

We know, Sir, how the word "good faith" has been prostituted. So along with that, there should be a special provision for costs because an innocent person when he is brought before the Tribunal, suffers a lot at the hands of the applicant. So there should be provision that whosoever makes a frivolous application, shall bear the costs. He is not examined even. He enjoys liberty. That shall deter frivolous applicants.

MR. DEPUTY CHAIRMAN: Mr. Shawl, please take your seat now. Please conclude now. You have already taken 13 minutes. Only five minutes were to be taken.

SHRI GULAM MOHI-UD-DIN SHAWL: As regards the powers of the High Court and Supreme Court, whenever there is any decision...

MR. DEPUTY CHAIRMAN: No. Please take your seat. I don't allow this.

SHRI GULAM MOHI-UD-DIN SHAWL: Only one point I want to submit.

MR. DEPUTY CHAIRMAN: There are 29 clauses and 29 points.

SHRI GULAM MOHI-UD-DIN SHAWL: Nobody should snatch the powers of the Supreme Court.

MR. DEPUTY CHAIRMAN: No. body can do it. Even you cannot do it.

SHRI GULAM MOHI-UD-DIN SHAWL: I submit that the Supreme Court must have the powers to revise any order.

MR. DEPUTY CHAIRMAN: No. body can take away Supreme Court's powers. Even your own State cannot do it.

SHRI GULAM MOHI-UD-DIN SHAWL: Thank you, Sir.

SHRI HAREKRUSHNA MALLICK: Sir, this esteemed House is also called

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the Council of States, and Assam has no Council. Therefore I speak here with that sense and spirit as a Member of the Council of States for that part of India and not reflect any caste, colour, creed, language, region, religion past future this and that. History is there. Now the question is, what is good for the people who are reeling under the agony of delay with all the things that have happened so far? How long can we hear and how long can they bear if the Government at the Centre functions like this after giving lofty hopes that it is a Government that works but works so wrongly, so sadly and so badly? Therefore, I want to say something. Though I am not going to enunciate all the trouble that is there. I am going to say something which will solve the problem right now, here and today. Let the hon. Home Minister have the spirit to accept it and examine it whether it is true or not.

Now, hon. friends from Assam talked in a manner as if we have not seen Assam. Now he talks of only history, history, history. What about geography? (Interruptions)... Now, history is only the mysteries of elders, an ornate garland made through the threads of time. History cannot be allowed to repeat itself, however glorious it might have been. We have to create history right now, today, for the future and for the present. Therefore, we have to protect geography. Our sovereignty is at stake not only in Assam but also in the western sector and right on the borders of Jammu and Kashmir in Punjab and even in the south in Tamil Nadu.

Illegal or legal migrants do not stray only into that part of India called Assam or the seven States in the eastern sector including West Bengal. They can also enter other States in India like Punjab, Haryana, Jammu and Kashmir, Rajasthan, Gujarat, Tamil Nadu and so on. Therefore, I wonder whether there is a Law Minister at the Centre who advises the Home Ministry to draft such a Bill. Why do

you call it "The Illegal Migrants (Determination by Tribunals) Bill?" You can simply call it the Migrants Determination Bill. How do you take it as illegal? You are putting the cart before the horse. Why are you afraid of your own shadow? So, the Government makes mistakes at the very beginning. Therefore, the name should be only—you simply call it—The Migrants Determination Bill. Whether it is done by Tribunals or others it does not matter. You have given power to the people; even a panchayat can do it.

SHRIMATI USHA MALHOTRA:  
Please talk slowly; we cannot follow you.

(Interruptions)

SHRI HAREKRUSHNA MALLICK:  
Don't worry.

SHRI P. N. SUKUL: Slow delivery.

SHRI HAREKRUSHNA MALLICK:  
Slow delivery? All right. Thank you.

SHRIMATI AMARJIT KAUR: We can't hear you properly; we cannot follow you.

SHRI HAREKRUSHNA MALLICK:  
I will blast away the West Indies, you see. Don't worry; I am here.

Then, you see, luckily here they have mentioned "foreigners to India." But here again it is mentioned as "foreigners in Assam." How can foreigners be in a State of the country? It will be foreigners in India, wherever it is, from Kashmir to Kanyakumari or from Kutch to Arunachal. How hon. Members are saying—"from Assam!" Let them say, in that part of India called Assam.

Now I come to the moot point. The Government of India is the Government responsible for the sovereignty of the country—all around—and sovereignty lies exposed in the periphery, not at the Centre. So, they have the right to brand anybody as a refugee or escapee and confer citizenship on anybody. I am not going to question

that; I share that right also. But once we admit them as refugees, they are all our honoured guests, honoured friends and fellow citizens to be.

**SHRIMATI AMARJIT KAUR:** Honoured guests?

**SHRI HAREKRUSHNA MALLICK:** Yes, naturally. Our Prime Minister, the late Pandit Nehru, stated they are no foreigners; they are our honoured guests—meaning the tourists only. They are people coming from the West to live here and learn to love the country and naturally we have to establish cordiality. So, here now the question is, you are asserting your right to allow anybody anywhere in the country as refugees because our Border Security Force are idle or the outposts of the army are not working, they are coming, and after their coming, human factors and their claims and demands must prevail and they have to be dealt with as human material and not as dummies or this or that.

**SHRI P. N. SUKUL:** What do you want?

**SHRI HAREKRUSHNA MALLICK:** Yes, I am telling you. (*Interruptions*). Please bear with me, Madam. I am coming to your point very soon. Now there is a thing called responsibility. Let me remind the hon. Members that side that during the Emergency I think there was some talk of obligations, not only of rights, of citizenship. Let them remember their own articulations. Therefore, when the refugees come anywhere in the country, it is the duty of the Centre, not of Assam or of Punjab or of Orissa, to decide where they will go, how they will go and why they will go. The question is: is it possible that the refugees who has crossed the border is just sitting on the border? It is all right for one person, two persons or three persons, or hundreds of families. But when the families number thousands and lakhs—now it is reported that 30 lakhs have come into Assam—it is a different matter. In West Bengal 60 lakhs of people have got mixed up because the language re-

mains the same. Similarly, in the western sector, just with *dahr* and *pagri* the Pakistanis come and they demand Khalistan. (*Interruptions*) Let him check up how many Pakistani Muslims have come. Let the Home Minister check it up. I challenge him. I have the information that 50,000 have come. With *dahr* and *pagri* they have come and they demand Khalistan. In this State let the Members go and find out. (*Interruptions*) They are all Pakistanis. Now the responsibility of the Centre comes in, as to where they will rehabilitate them. I offer them the landscape where several lakhs of square miles are lying in no use, arid, or perhaps misused, namely the Chambal Valley and the desert area. Let them start from the grassroots level building roadways building canalways, having plantations, building houses, everything. Let them go there and we are ready to help them. We are ready to welcome them there. If all the Bangladeshis want to come, let them come, we are ready to accept them. Let us not create this question of language and other things. My point is that whenever people create imbalance—linguistic, social and communal; but I emphasise economic imbalance—this is the solution. In the case of West Bengal, there are many industries, and so they have been able to absorb them. But in Assam it is different. There are no industries, no investment. How will they be living there? I call upon the Home Minister to have consultation with all the Members and let a team of this House go and provide a healing touch and not a killing touch. Let the Home Minister take it up from today and from now onwards we will see a solution and not the problem.

**MR. DEPUTY CHAIRMAN:** Shri Jaswant Singh.

**SHRI JASWANT SINGH:** Now or after the Minister?

**MR. DEPUTY CHAIRMAN:** Now.

**SHRI JASWANT SINGH:** Would you like to check that.



MR. DEPUTY CHAIRMAN: Now.

SHRI JASWANT SINGH: Is it my right to reply?

AN HON. MEMBER: Unless you want to surrender it.

SHRI JASWANT SINGH: No, I do not want to surrender it. But I do not want to perform a perfunctory task either. I am mindful of the fatigue that has afflicted the House.

MR. DEPUTY CHAIRMAN: Don't mind.

SHRI JASWANT SINGH: But I am also mindful of my responsibility. To the hon. Home Minister, I wish to underline what my friend Mr. Dinesh Goswami has said, that it is sad and regrettable that the hon. Home Minister preceded his reply in the other House by saying that the doors to talks, negotiations are closed. And he gave certain reasons for it. In a democratic functioning country that we are this was not a befitting reply—perhaps a reply befitting this Government because the Government we expect nothing else but not from Shri Parkash Chand Sethi.

Sir, the hon. Home Minister has mentioned three points, which he says are the correctives that he has taken. The barbed wire, three additional battalions of BSF, and the present Bill, i.e. the institution of the tribunals. The barbed wire issue has run into trouble because there is diplomatic and administrative difficulty about implementing it. Therefore, I would request the hon. Minister please do not treat us as children. The barbed wire is not a solution, it is a palliative. It is only trying to do something. It is welcome as far as it goes, but it does not either serve the purpose or go far enough. Finally three battalions of BSF in that vast border of the north-eastern region will certainly not suffice.

I have had occasion to say why these tribunals would not suffice. 7.00 P.M. There was an averment by the hon. Home Minister that a consensus was reached on 25th March, 1971. Some hon. Members have rebutted it. I would like to take this opportunity to say that following upon the failure of the tripartite talks a drama was created in this capital, wherein certain political organisations which can hardly be called national representatives were made to come together. The Prime Minister presided at this function in all seriousness, the hon. Home Minister was present, and an illusion was created in the country that a consensus had been reached. I would like to rebut that No consensus was reached, and it would be wrong to say that that consensus commanded the confidence of all as the hon. Home Minister has attempted to convey.

About the IB report, mention here. The hon. Home Minister made a statement that perhaps I was quoting from a document which would not stand scrutiny. If it is a document which is incorrect, if what I have quoted is incorrect, I would request the hon. Home Minister to say so and declare that what I have quoted is from a wrong document in which case I would like to correct myself and apologise to the House.

SHRI P. C. SETHI: I only ask whether it is authentic.

SHRI JASWANT SINGH: Sir, the hon. Home Minister is repeating his query. He asks if it is authentic. The proof of whether it is authentic or not lies on him, not on me. That is a query raised by the hon. Home Minister. Whether what I have quoted is authentic or not, I have done so in the knowledge and belief that it is authentic. It is for the representative of the Government in the person of the hon. Home Minister to say that I have quoted wrongly and that it is a wrong document, in which case there will be a certain obligation which will

fall on me as a Member. Otherwise, there is an obligation on the Home Minister. Now having asked the question that he has asked, he should say "What you have quoted is right. It is a part of the I.B. report. It is on the Home Ministry's records." This is the least that I can expect.

The hon. Member from Maharashtra started his speech by broadsides against me. But that is a reflection of his nature. I would have rather preferred if he had taken the argument to where it belonged. There was the side-stepping into history, and I do not want to go into that.

DR. RAFIQ ZAKARIA: It may be in accordance with my nature. But it is in accordance with their declared policy. Their declared policy is anti-Muslim, anti-secular, for communal disharmony and disruption in the country.

SHRI JASWANT SINGH: This is a very irresponsible statement to make for a gentleman who is the Deputy Leader of the ruling party. I would ordinarily choose not to pay any heed to it. But the assertions are so sweeping in their effect. As Deputy Leader of the ruling party if assertions are made of this kind of irresponsibility...

DR. RAFIQ ZAKARIA: There is no question of any irresponsibility.

SHRI JASWANT SINGH: Sir, would you control him? I am on my feet.

DR. RAFIQ ZAKARIA: He is a Jana Sanghi. And what a Jana Sanghi is known to the whole world. And I stand by what I say. (*Interruptions*).

PROF. SOURENDRA BHATTACHARJEE: It is extremely unbecoming of the Member.

SHRI DINESH GOSWAMI: I am on a point of order. My point of order is, the hon. Member opposite can criticise the party. But I do not think he can use those words against an individual Member. I, therefore, submit

that he can criticise the party. A party can be identified. And I have no brief for that. But I do not think normally we use such words against individual Members. Against the R.S.S. or the Jana Sangh any criticism is welcome.

DR. RAFIQ ZAKARIA: I think what Mr. Dinesh Goswami has said has no basis because my attack on him was not personal I said: "the venomous innuendo in his speech against a section of the people". That is all I said. For that he calls in my nature and questions it, and Mr. Dinesh Goswami gets up like a gallant lord and wants to defend him.

SHRI JASWANT SINGH: Again, Sir, I am raising a point of order. A ruling must come. Is any Member entitled to point out another Member and say that he is a Jana Sanghi that he is communal? Is he entitled to say that one is a communist and that, therefore, one is communal? Sir I want your ruling.

DR. RAFIQ ZAKARIA: I am entitled... (*Interruptions*).

MR. DEPUTY CHAIRMAN: Please. Members should use restraint in referring to other hon. Members. He should not make such remarks against anybody. (*Interruptions*) I think he can reply to all these points. Let us exercise restraint in our observations. (*Interruptions*). He can take care of all these things.

PROF. SOURENDRA BHATTACHARJEE (West Bengal): Why don't you become that harsh with Dr. Rafiq Zakaria? You should have pulled him up. (*Interruptions*).

SHRI JASWANT SINGH: Mr. Deputy Chairman. Sir, just one factual thing needs to be set right. I do belong to the Bharatiya Janata Party of which fact I am proud. I am a Member of Parliament belonging to the Bharatiya Janata Party, of which fact I am proud. I am an all-India Secretary of that party, of which

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fact also am proud. As for the other assestions made by the hon. Member from Maharashtra, I would choose at the present moment, considering the fatigue of the House and the seriousness of the other question with which we are engaged, not to go into personal matters of this kind. It is unbelievable, but it is also reflective of the state of mind of the ruling party that in that sense, they should choose such a deputy leader. I will go along. Sir.....

DR. RAFIQ ZAKARIA: Sir I will not allow him to go unchallenged. (*Interruptions*). Who is he to tell the ruling party as to who should be appointed as the deputy leader? (*Interruptions*). As far as this question is concerned, we shall certainly make use of any forum to expose...

MR. DEPUTY CHAIRMAN: Let him complete now.

DR. RAFIQ ZAKARIA:.. the true nature of these people.

MR. DEPUTY CHAIRMAN: You have made some observations. Now have the patience to hear him. Every time you cannot get up. You should hear him. (*Interruptions*) Mr. Bhardwaj please. You have made all types of observations. You should have the patience and capacity to hear him also. It does not matter. You can reply at some other time.

DR. RAFIQ ZAKARIA: I have not made any personal aspersions.

MR. DEPUTY CHAIRMAN: I don't think he has done it. (*Interruptions*)

DR. RAFIQ ZAKARIA: He is making use of it ..(*Interruptions*)

MR. DEPUTY CHAIRMAN: Everyone is making use of it to make his point.

SHRI JASWANT SINGH: Quite legitimately, underlining the seriousness of the issue which a number of

speakers have raised the question is that a legal myth has been created, the date of 25th March, 1971, the date from which we will legalise illegal immigration as the legal myth. Implicit in that date and assumption is a question, preceding that date 25th March, 1971 what happens to illegal immigration? This immigration which had been recognised and which had resulted in the Government itself coming forward at various stages of time with various enactments? This point was raised by two very honourable Members from Assam, one of them from the ruling party with a very eminent legal background. The hon. Member from Assam said that it would necessitate putting our heads together. And putting our heads together is a recognition of what was done in the last three years. It is precisely because the putting of heads together was politicised that all this has resulted in an anomalous situation being created that from the 25th March, 1971, you will go through the tribunals, etc., and you will legitimise immigration. But what happens to the years preceding that date? Please recognise the seriousness of this matter. From within your own ranks eminent legal luminaries have pointed it out. It is not that, persuaded by my political opposition, I am saying so.

Sir, there have been other speakers, a number of speakers who expressed their concern, persuaded by their very deep commitment and feeling, for the religious minority, who might be affected. I think it is a matter which needs to be underlined that these tribunals are not directed against religious minorities. That is not the stand either of the Opposition or of the Government. The sentiments that have been expressed by a number of Members about possible consequences on religious minorities must be taken into account.

An hon. Member said that this is a legal document and he would choose not to go into the political lanes and

by-lanes. Having said that, he promptly entered into these very political lanes and by-lanes, because the fact is that this is a political body. We are not a legal debating society. We are a political organisation. We reflect on issues politically as well as our faculties would permit us with other considerations which affect the nation's life. So, to say merely because it is a legal document, therefore, political aspects, lanes and bye-lanes, and so on, appears to me a trite observation. Before I come to certain definite recommendations which I wish to make to the honourable Home Minister, I would like to point out to this House that following upon the 1971 War with Pakistan 75,000 refugees came into the State of Rajasthan and Gujarat. These refugees remained Stateless citizens, as refugees, in tented accommodation which tents also were not provided by Government, deprived of medical facilities, deprived of rations, in a place, the western most districts of Rajasthan, prone to famine every second year, if not every year, deprived of educational facilities, deprived of any employment opportunities. Seventy to Seventyfive thousand of them remained Stateless, without citizenship, without voting rights, without opportunity to live and work in this country, for as long as 9 years. Thereafter, the then Government in power chose to regularise their status by going through the process of regularising them in accordance as with provisions enshrined in the Constitution. It made a distinction between refugees and illegal immigrants. This particular enactment talks nothing of that distinction. I would submit to the honourable Home Minister to take that factor into account. I will conclude in just two minutes. I would like to caution the Government to attempt to treat the cause of the problem and not treat by empty palliatives the effects only. I have had occasion earlier to mention this and I would like to repeat it. I caution the Government on the effects on our national security, about the consequences of disaffection amongst the peoples of

strategically sensitive border States. This is not an issue which confines itself merely to the aspect of how you are going to treat by cosmetry the question of tribunals. It is a very serious question concerning the nation's security. Please, therefore, when you reflect on these issues, when you do sit and discuss amongst yourselves if you do discuss, take my cautioning you into account. I consider it my duty to caution the Government on this issue. I would at the same time invite him to my specific recommendations and request the Government to move away from cosmetics, to move away from attempting to treat the effects only, whether it is Assam or Punjab or Jammu and Kashmir. Don't attempt to treat the effects only, go to the causes underlying them. This enactment which is now being attempted to be made is nothing more than treating the effects, is pure cosmetry, it smacks of nothing else but politicisation. I have on an earlier occasion made this recommendation, I did so during the tripartite discussions, I have done so in private conversations with the Government, with the honourable Home Minister. The State of Assam has not had a census since 1971 or 1970. It is time that in that State a special census be organised and in this census identification or detection of illegal immigration be made a part of the special census. I would recommend to the Home Minister, please do consider this particular aspect. Following upon that special census, where these tribunals and the judicial options and the question of appeals to appellate tribunals and High Court and Supreme Court should all be made available. Then please go in for preparation of fresh electoral rolls for that State, subject those electoral rolls to the usual scrutiny, the usual questioning, the usual methods of rectifying mistakes in them. Having done that, please order fresh elections in the State. The present Government that you have there, you may continue to shout at me and say, it is there, you are going to leave it there

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no matter what I might say. If you do that, you will be demonstrating yet again an arrogance of power which you think is firmness of Government. It is not firmness of Government, it is obstinacy, and due to that obstinacy, not today's generation, the future generations of Indians will have to pay for.

So, have a new Government in Assam through the media of those electoral rolls. When that new Government comes into being, trust that Government to treat their domestic questions, which we sitting here in Delhi, under the mistaken impression that we are the heart and centre of India, are trying to solve. We merely happen to be the geographical capital; we do not have the understanding of the pains or what moves the people of Assam. Leave the people of Assam to judge for themselves. There is no other way except to do this.

I would now conclude with one particular sentence which I came across in the recently concluded CHOGM. There was not much I could admire in that conference except one particular remark by Prime Minister Pierre Trudeau of Canada. He was attempting to explain the distinction between a politician and a statesman. He said that a politician is he who looks at the next election and a statesman is he who looks at the interests of the next generation.

I appeal to the Government to realise that the problem of Assam is not going to be solved by mere petty politicising and by acting as politicians. For Heaven's sake, for the sake of the country, demonstrate some political statesmanship and think of the next generations to come in Assam, indeed not just in Assam, but in the rest of the country.

SHRI P. C. SETHI: Sir, I am grateful to the Hon'ble Members of the House for participating in the debate and showing a keen interest in the

provisions of the Bill under consideration and expressing their views on this Bill. The Hon'ble Members are aware that the Bill is of considerable importance not only from the point of view of Assam but to the rest of the country. In having a Bill of this type the interests of various sections of the people have to be given due consideration. We have tried to be fair and just. While the apprehensions of the linguistic and other minorities who have and bitter experience of the agitation are understandable, the apprehensions of the Assamese speaking people that their culture and interests are likely to be jeopardised cannot be ignored. Therefore, we have to strike a balance so that the people of Assam could feel assured that the Government is deeply committed to safeguard their interests. At the same time, we have to ensure that the interests of the minorities are also safeguarded and no undue harassment is caused to any minority groups in the process of detection and expulsion of post-1971 migrants.

Some Hon'ble Members raised the question of resumption of talks. The Government have made its stand quite clear on many occasions that doors are open for talks on the foreign nationals issue in Assam. However, I would only like to quote what the Prime Minister stated recently on this issue:

But finding a solution to the problem did not mean that the Government had to agree to all the demands of the agitation leaders. It had to find a middle way which could meet their demands to some extent without causing harm to others.

During her recent visit to Assam, Prime Minister had observed that the delay in the detection of foreigners had harmed the people of Assam and affected the development work. If her suggestion, for constitution of Tribunals for detection of foreigners which was made as early as April, 1980 had been accepted, much work could have been done by now. Resumption of

agitation has certainly vitiated the atmosphere. The Prime Minister during her visit to Assam reminded the people that violence and terrorism never helped in finding a solution to any problem. Government have been making efforts to restore normalcy and create conditions congenial and conducive to a fruitful dialogue. Government have to involve in these negotiations not only representatives of AASU and AAGSP but all interests concerned.

Some Hon'ble Members had raised certain apprehensions regarding the over-riding of the Assam Act of 1950. I would like to make it clear that any decision to continue the protection under the proviso to section 2 of the Assam Act of 1950 would run counter to the known stand of the Government and the consistent pronouncements which have been made in this House that all the post-24th March, 1971 illegal migrants shall be detected and expelled.

Again, a point was raised about the Nepalese nationals by one honourable Member. I would like to deal with it at some length. The Nepalese nationals entering India by land or by air near the Nepalese frontier are not required to be in possession of passports or visas for entering India. They need special permits for entry into the restricted or protected areas from any place outside these areas. Till August 1976, the nationals of Nepal were also exempted from the provisions of the Foreigners (Protected Area) Order of 1958 and the Foreigners (Restricted Area) Order, 1973. This exemption was withdrawn by the Government by a notification dated 14th August, 1976. However, the provisions of the above Orders will not be applicable to the Nepalese nationals residing in the restricted and protected areas from the dates prior to 14th August, 1971, that is, five years before the issue of the notification of 14th August, 1976. However, under the definition of illegal migrants as mentioned in clause 3(1) (c) (iii) of the Bill, any foreign-

ner who has entered India under lawful authority on or after the 25th March, 1971 is not treated as an illegal migrant. In view of this position, the Nepalese who have entered India after 25th March, 1971 under the lawful authority are exempted from the purview of this Bill. Those who are exempted from the Restricted Area Permit under the notification of 14th August, 1976 and are staying in India under lawful authority are also protected.

Some honourable Members have expressed certain misgivings about the provisions in the Bill which enable private citizens to make an application to the Tribunal for determining the question whether a person is or is not an illegal migrant. I would like to make it quite clear that this provision does not detract from the provision which empowers the Central Government to make a reference to the Tribunals in this regard. What is sought to be done is to provide only an alternative channel to the existing machinery for the detection of foreigners. This does not, however, mean that the Government has abdicated its responsibility in the matter of detection of foreigners.

Again, on these provisions, different suggestions have been made. As far as the provision relating to the distance of three kilometres, different suggestions have been made. However, I would like to clarify that, if this provision had not been there, anybody and everybody, not only from Assam, but also sitting right in Delhi, would have made these things. Some of these points referred to by the honourable Minister will be certainly taken care of while issuing the guidelines. The guidelines have been prepared in consultation with the State Government of Assam and are likely to be finalised shortly.

In the end, I would like to say that in keeping with the Government's intention that the detection of foreigners should be speeded up, with a view

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to attracting the judges for being appointed as members of the Tribunal, additional incentives have been offered by the Government and the response has been adequate. The names of the judges received from the various States have been forwarded to the Governments and now, all the 20 Tribunals have been notified. The Bill seeks to strike a balance after taking into account the competing claims and conflicting demands on this delicate issue.

Sir, one point was raised by the honourable Member, Shri Dinesh Goswami that the subject matter of the Bill is not within the competence of legislation by this Parliament. Sir, the subject matter of the Bill is related to entry 17 dealing with citizenship, naturalisation and aliens, and entry 19, dealing with admission into, and emigration and expulsion from, India, and passports and visas, of List I—Union List in the Seventh Schedule of the Constitution and Parliament is, therefore, competent to enact the proposed measure.

MR. DEPUTY CHAIRMAN: I shall now put to vote the Statutory Resolution seeking disapproval of the Illegal Migrants (Determination by Tribunals) Ordinance, 1983. The question is:

"That this House disapproves of the Illegal Migrants (Determination by Tribunals) Ordinance, 1983 (No. 8 of 1983) promulgated by the President on the 15th October, 1983."

*The motion was negatived.*

MR. DEPUTY CHAIRMAN: I shall now put the amendment of Shri Dinesh Goswami to vote. The amendment is for reference of the Bill to a Select Committee of the Rajya Sabha. The question is:

"That the Bill to provide for the establishment of Tribunals for the determination, in a fair manner,

of the question whether a persons is an illegal migrant to enable the Central Government to expel illegal migrants from India and for matters connected therewith or incidental thereto, be referred to a Select Committee of the Rajya Sabha consisting of the following members, namely:

1. Shri Era Sezhiyan
2. Shri Lal K. Advani
3. Shri Harikishan Singh Surjeet
4. Shri Indradeep Sinha
5. Shri Satya Pal Malik
6. Shri Ajit Kumar Sharma
7. Shri Biswa Goswami
8. Shri Robin Kakati
9. Shri Shridhar Wasudeo Dhabe
10. Shri Ladli Mohan Nigam
11. Shri Dinesh Goswami
12. Shri Khushwant Singh
13. Shri Aliba Imti
14. Shri V. Gapalsamy
15. Shri Ghulam Rosool Matto

with instructions to report by the first week of the next Session."

*The motion was negatived.*

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill to provide for the establishment of Tribunals for the determination, in a fair manner, of the question whether a person is an illegal migrant to enable the Central Government to expel illegal migrants from India and for matters connected therewith or incidental thereto, as passed by the Lok Sabha, be taken into consideration."

*The motion was negatived.*

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

*Clause 2 was added to the Bill*

Clause 3 (Definitions and construction of references)

SHRI BISWA GOSWAMI: Sir, I beg to move:

2. "That at page 2, line 36-37 be deleted."

SHRI DINESH GOSWAMI: Sir, I beg to move:

3. "That at page 2, line 36, for the figures and words '25th day of March, 1971', the figure and words '1st day of January, 1962,' be substituted."

SHRI BISWA GOSWAMI: Sir, I beg to move:

4. "That at page 3, after line 15, the following proviso be inserted namely:—

'Provided that nothing in this Act shall be deemed to take away the responsibility of the Central Government to ensure that every foreigner who has entered into India after 1951 without valid documents and has not thereafter acquired citizenship of India in accordance with the provisions contained in Part II of the Constitution and the Citizenship Act 1955 or any other relevant law is detected and every case in which there arises a doubt or which is contested by the person so detected is referred to a Tribunal established under this Act.'

[The amendment No. 4 also stood in the name of Shri Robin Kakati]

SHRI AJIT KUMAR SHARMA: Sir, I beg to move:

28. "That at page 2, line 34, for the word 'migrant' the word 'infiltrator' be substituted."

29. "That at page 2 in lines 36-37 and wherever they occur in the Bill for the words '25th day of March, 1971 the figures and words '26th day of January, 1952' be substituted."

The questions were put and the motions were negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 3 stand part of the Bill."

The motion was adopted.

Clause 3 was added to the Bill."

Cause 4 (Overriding effect of the Act)

SHRI AJIT KUMAR SHARMA: Sir, I beg to move:

30. "That at page 3, for lines 10 to 15, the following be substituted, namely:—

'4(1) The provisions of this Act or of any rule or Order made thereunder shall have effect notwithstanding anything contained in the Immigrants (Expulsion from Assam) Act, 1950 or any other law for the time being in force.'

SHRI DINESH GOSWAMI: Sir, I beg to move:

31. "That at page 3, line 11 after the words 'contained in' the words and figure the citizenship Act 1955,' be inserted."

The questions were proposed.

SHRI DINESH GOSWAMI: I would only like to say one sentence. In clause 4 the hon. Minister has himself introduced an amendment in the Lok Sabha including the Passport Act, the Foreigners Act, etc. Why not the Citizenship Act? It also amounts to the same thing. Why not the Citizenship Act also?

SHRI P. C. SETHI: Sir, I have clarified. This amendment seeks to insert the words and figures "the Citizenship Act, 1955" in clause 4(1). This is not acceptable. As I explained in my speech, the amendment to Section 4(1), introduced by me and passed by Lok Sabha, seeks to list out the enactments whose jurisdiction is sought to be ousted in relation to the provisions of this



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Bill. Even before amendment Clause 4(1) would have had the effect of overriding the provisions of only such of those Acts as would operate in the same fields. As the Citizenship Act does not operate in the same field as this Bill, the amendment is not acceptable.

MR. DEPUTY CHAIRMAN: The question is:

3. "That at page 3, for lines 10 to 15 the following be substituted, namely:—

"4(1) The provisions of this Act or of any rule or Order made thereunder shall have effect notwithstanding anything contained in the Immigrants (Expulsion from Assam) Act, 1950 or any other law for the time being in force."

31. "That as page 3, line 11, after the words 'contained in' the words and figure the Citizenship Act, 1955', be inserted."

*The motions were negatived.*

MR. DEPUTY CHAIRMAN: The question is:

"That clause 4 stand part of the Bill."

*The motion was adopted.*

*Clause 4 was added to the Bill.*

*Clauses 5 to 7 were added to the Bill.*

*Clause 8 (References or applications to Tribunals)*

SHRI DINESH GOSWAMI: Sir, I beg to move:

5. "That at page 4, for lines 1 to 6 the following be substituted, namely:—

"8(1) Any person against whom an Order under the Foreigners Act, 1946 has been passed requiring him not to remain in India or to any other effect, may submit

an application to the Tribunal against such Order in the manner prescribed."

6. "That at page 4, lines 7-8 for the words 'without prejudice to the power conferred on the Central Government' the words 'without prejudice to the provisions of' be substituted."

7. "That at page 4, lines 13 to 15 for the words 'in relation to whom the application is made is found, or resides, at a place within three kilometers from the place of residence of the applicant' the words 'making the application is resident of Assam' be substituted."

10. "That at page 4, lines 18-20 for the words 'residing within three kilometres of the area in which the person referred to in the application is found, or residing' the words 'who must be residents of Assam' be substituted."

13. "That at page 4, line 22 for the words 'twenty five' and 'not more than one hundred' the words 'two' and 'not more than five' respectively, be substituted."

14. "That at page 4, after line 23, the following proviso be inserted, namely:—

"Provided that if any question arises in any manner other than manner provided in sub-section (1) or sub-section (2) as to whether any person is or is not an illegal migrant the Central Government may refer such question to a Tribunal for decision."

15. "That at page 4, for lines 24 to 27, the following be substituted, namely:—

"(4) Every application under this section shall be made to the Tribunal within the territorial limits of whose jurisdiction the applicant under sub-section (1) and the person against whom the application under sub-section (2), as the case may be, resides."

16. "That at page 4, lines 28 to 30, for the words 'where the person named in such reference or application has no place of residence, the reference or application, as the case may be,' the words 'where the applicant in sub-section (1) or the person against whom application is made under sub-section (2) has no place of residence, the application' be substituted."

SHRI BISWA GOSWAMI: Sir, I beg to move:—

8. "That at page 4, lines 14-15, for the words 'at a place within three kilometres from the place of residence of the applicant' the words in Assam' be substituted."

[The amendment No. 8 also stood in the name of Shri Robin Kakati].

12. "That at page 4, for lines 19 to 23 the following be substituted, namely:—

'in Assam'."

*The questions were proposed.*

SHRI DINESH GOSWAMI: I would like to speak on my amendment. So far as the Government is concerned, the position up till now was that if a notice under the Foreigners Act is given then the person has to approach the Tribunal to satisfy that he is not a foreigner. Now, here in case a representation is made then the Government may refer the matter. My amendment is why not the original position that the moment a notice is given the person may approach the Tribunal. Otherwise there is unguided discretion on the part of the Government to refer or not to refer. Secondly, the person may be satisfied. If he is satisfied there is no question arising. If he is not satisfied, he will approach the Tribunal. Why has the Central Government taken up the unguided responsibility of making the representation which seems to be against the procedure which was followed up till now?

SHRI P. C. SETHI: Under the Foreigners Act, a person in respect of whom the Order is passed requiring him not to remain in India could make a representation to the Superintendent of Police and the Superintendent of Police in turn would make a reference to the Tribunal. The amendment seems to suggest that the person affected should directly submit an application to the Tribunal.

Therefore, this amendment is not acceptable because the authority which passes an order under the Foreigners Act takes into consideration the representation made by the persons affected. Such a reference is made to the Tribunal. Only if the person concerned chooses to contest the order even after the matter is referred to the Tribunal, the Police Superintendent has to go into the matter and for the help and guidance of the Police Superintendent, there would be an Advisory Committee consisting of non-officials also.

MR. DEPUTY CHAIRMAN: The question is;

5. "That at page 4, for lines 1 to 6 the following be substituted, namely:—

'8(1) Any person against whom an Order under the Foreigners Act, 1946, has been passed requiring him not to remain in India or to any other effect, may submit an application to the Tribunal against such Order in the manner prescribed.' "

6. "That at page 4, lines 7-8, for the words 'without prejudice to the power conferred on the Central Government' the words 'without prejudice to the provisions of' be substituted."

7. "That at page 4, lines 13 to 15 for the words 'in relation to whom the application is made is found, or resides, at a place within three kilometres from the place of residence of the applicant' the words 'making the application is a resident of Assam' be substituted."

[Mr. Deputy Chairman]

10. "That at page 4, lines 18—20, for the words 'residing within three kilometres of the area in which the person referred to in the application is found, or residing,' the words 'who must be residents of Assam' be substituted."

13. "That at page 4, line 22 for the words 'twenty-five' and 'not more than one hundred' the words 'two' and 'not more than five' respectively, be substituted."

14. "That at page 4, after line 23, the following proviso be inserted, namely:—

'Provided that if any question arises in any manner other than the manner provided in sub-section (1) or sub-section (2) as to whether any person is or is not an illegal migrant, the Central Government may refer such question to a Tribunal for decision.' "

15. "That at page 4, for lines 24 to 27, the following be substituted, namely:—

(4) Every application under this section shall be made to the Tribunal within the territorial limits of whose jurisdiction the applicant under sub-section (1) and the person against whom the application under sub-section (2), as the case may be, for the words where the persons.' "

16. "That at page 4, lines 28 to 30, for the words 'where the person named in such reference or application has no place of residence, the reference or application, as the case may be,' the words 'where the applicant in sub-section (1) or the person against whom application is made under sub-section(2) has no place of residence, the application' be substituted."

8. "That at page 4, line 14-15 for the words 'at a place within three kilo

metres from the place of residence of the applicant' the words in Assam' be substituted."

12 "That at page 4, for lines 19 to 23 the following be substituted, namely:—

in Assam"

*The motions were negatived.*

MR. DEPUTY CHAIRMAN: The question is:

"That Clause 8 stand part of the Bill."

*The motions was adopted.*

*Clause 8 was added to the Bill.*

*Clause 9 was added to the Bill.*

MR. DEPUTY-CHAIRMAN: There is an amendment by Shri Dinesh Goswami for the insertion of a new Clause 9A.

SHRI DINESH GOSWAMI: Sir, I moved:—

32. "That at page 3, after line 40 the following clause be inserted, namely:—

9. "A. if any question arise under this Act or any rule made thereunder, as to whether any person is or is not a foreigner, or is or is not a foreigner of a particular class or description, the onus of proving that the person is not a foreigner or is not a foreigners or is not a foreigner of such particular class or description, as the case may be, shall, notwithstanding anything contained in the Indian Evidence Act, 1872, lie up on the concerned persons.' "

There are two procedures One is that the State Government may itself give a notice to a foreigner. The other is that a private citizen can make a complaint even where the Tribunal will ask for a report from the State Government. Now leaving aside the question of private citizens, the existing provision of the law is that in case of any order issued under the Foreigners Act, the burden of proof is upon that person. I may refer to clause 4 of the registration of Foreigners Act, 199:

"If any question arises with reference to this Act or any rule made thereunder, whether any person is or is not a foreigner, or is or is not a foreigner of a particular class or description, the onus of proving that such person is not a foreigner or is not a foreigner of such particular class or description, and case may be, shall notwithstanding anything contained in the Indian Evidence Act, 1872 (I of 1872), lie upon such person."

This is also the provision in some other Acts. Therefore, I would like to know what the Minister's reaction to this is.

*The question was proposed.*

SHRI P. C. SETHI : Under the Bill, ordinary rules of Evidence Act will apply. Under the ordinary rules of the Evidence Act, the burden of proof will be shifting. Therefore, this amendment is not acceptable.

MR. DEPUTY CHAIRMAN: The question is:

32. "That at page 4, after line 40, the following clause be inserted namely:—

"9A. If any question arises under this Act or any rule made thereunder, as to whether any persons is or is not a foreigner, or is or is not a foreigner of a particular class or description, the onus of proving that the person is not a foreigner or is not a foreigner of such particular class or description, as the case may be, shall notwithstanding anything contained in the Indian Evidence Act, 1872, lie upon the concerned person."

*The motions were negatived.*

Clause 10. Procedure with respect to references under sub-section (1) of section 8)

MR. DEPUTY CHAIRMAN: Now we take up Clause 10. There are two amendment by Mr. Dinesh Goswami.

SHRI DINESH GOSWAMI: Sir, I move:

17. "That at page 4, for lines 41 to 47 the following be substituted, namely:—

"10. On receipt of an application under sub-section (1) of section 8 the Tribunal shall serve notices on the parties concerned and call upon the applicant within a period of thirty days to produce such evidence, as he may think fit, in support of his defence that he is not an illegal migrant."

18. "That at page 5, lines 2-3 the words "making his representation and from" be deleted."

*The questions were put and the motions were negatived.*

MR. DEPUTY CHAIRMAN: The question is:

"That Clause 10 stand part of the Bill"

*The motions was adopted.*

*Clause 10 was added to the Bill.*

*Clause 11 was added to the Bill.*

MR. DEPUTY CHAIRMAN: Now, we take up Clause 12. There are four amendments. Shri Shahbuddin is not here.

Clause 12 (Determination of the question as to whether a person is an illegal migrant).

SHRI DINESH GOSWAMI: Sir, I move:

19. "That at page 5, lines 31-32 the words 'to which a reference has been made under section 8, or to which an application has been made under that section' be deleted."

20. "That at page 5, line 36, the words 'named in such reference or application, as the case may be, be deleted."

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[Shri Dinesh Goswami]

21. That at page 5, line 46, for the words 'to the reference or' the word 'making' be substituted"

*The question were put and the motions were negatiged.*

MR. DEPUTY CHAIRMAN: The question is:

"That Clause 12 stand part of the Bill".

*The motion was adopted*

*Clause 12 was added to the Bill.*

*Clause 13 was added to the Bill.*

MR. DEPUTY CHAIRMAN: Now, we take up Clause 14. There is one amendment by Mr. Dinesh Goswami:

*Clause 14 (Appeal)*

SHRI DINESH GOSWAMI: Sir, I move:

23. "That at page 6, lines 9-10 the words 'or any person, named in a reference or an application under section, 8, be deleted."

*The question was put and the motion was negatiged.*

MR. DEPUTY CHAIRMAN: The question is:

"That Clause 14 stand part of the Bill."

*The motions was adopted.*

*Clause 14 was added to the Bill.*

MR. DEPUTY CHAIRMAN: Now, we take up Clause 15. There is one amendment by Mr. Dinesh Goswami.

*Clause 15 (Appellate Tribunal)*

SHRI DINESH GOSWAMI: Sir, I move:

24. "That at page 6 line 21, for the words 'or has been' be deleted."

*The question was put and the motion was negatiged.*

*Clause 15 was added to the Bill.*

*Clauses 16 to 25 were added to the Bill.*

MR. DEPUTY CHAIRMAN: Now Clause 26. There is one amendment by Shri Syed Shahbuddin. He is not present. Now, I shall put Clause 26 to vote.

*Clause 26 was added to the Bill.*

*Clauses 28 to 29 were added to the Bill.*

MR. DEPUTY CHAIRMAN: There is now one amendment No. 33 by Shri Dinesh Goswami to add a New Clause No. 30.

SHRI DINESH GOSWAMI: Sir, I beg to move:

33. "That at page 10, after line 42 the following clause be inserted, namely:—

"30. The provisions of the Act shall in addition to and not in derogation of the provisions of the Foreigner Act, 1946 or any other law for the time being in force relating to the foreigners who entered into India prior to 25th day of March, 1971."

Sir, I want to point out that the point of controversy there has been whether this Bill regularises or legalises every one who has come before 1971. The hon. Minister has said that this is a starting point. In order to make it very clear in the statute, I have brought this amendment in line with the Registration of Foreigners Act, 1939 where it is said that the provisions of this Act shall be in addition and not in derogation of the Foreigners Act, 1946 or any other law for the time being in force so far as the pre-1971 illegal migrants are concerned.

*The motions was adopted.*

SHRI P. C. SETHI: Sir, this amendment will bring us in conflict with Clause 4(i) of the Bill as this amendment seeks to provide that the provisions of this Act shall be in addition to the provisions of the Foreigners Act.

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Therefore, this is not acceptable. Moreover, Sir, as far as the 1951 to 1971 entrants are concerned, we have kept this open for negotiations because time the negotiations will start and some reasonable settlement might arise.

MR. DEPUTY CHAIRMAN: Now, I put amendment No. 33 to vote.

The question is:

33. "That at page 10, after line 42, the following clause be inserted, namely:—

'30. The provisions of this Act shall be in addition to and not in derogation of the provisions of the Foreigners Act, 1946 or any other law for the time being in force relating to the foreigners who entered into India prior to 25th day of March, 1971.' "

*The motions were negatived.*

*Clause 1: Short title, extent and commencement.*

MR. DEPUTY CHAIRMAN: There is one amendment (No. 27) by Shri Ajit Kumar Sharma.

SHRI AJIT KUMAR SHARMA: Sir, I beg to move:

27. "That at page 2, line 7 and wherever it occurs in the Bill for the word 'Migrants' the word 'Infiltrators' be substituted".

The question is:

27. "That at page 2, line 7 and whatever it occurs in the Bill for the word 'Migrants' the word 'Infiltrators' be substituted.' "

*The motion was negatived*

*Clause 1 was added to the Bill*

*The Enacting Formula was added to the Bill.*

MR. DEPUTY CHAIRMAN: Now, I shall take up the Preamble. There are two amendments.

SHRI DINESH GOSWAMI: Sir, I beg to move:

1. "That at page 1, line 3, the words and figures 'on and after the 25th days of March, 1971,' be deleted."

SHRI AJIT KUMAR SHARMA: Sir, I beg to move:

26. That at page 1,—

(i) in line, 1, for word migrant-  
ed the word 'infiltrated' be substituted;

(ii) in the line 3, for the word 'on' the word 'before' be substituted; and

(iii) in the line 4, for the word migration' the word infiltratoin be substituted."

*The question was proposed.*

MR. DEPUTY CHAIRMAN: Now, I shall put amendment Nos. and 26 to vote.

The Question is:

1. "That at page 1, line 3, the words and 'figures' on and after at the 25th day March, 1971' be deleted."

26. That at page 1,—

(i) in line 1, for the word 'migrated' the word 'infiltrated' be substituted.

(ii) in line 3, for the word 'on' the word before be substituted, and

(iii) in line 4, for the word 'migration' the word 'migration' the word 'infiltration' be substituted."

*The motions were negatived.*

*The preamble was added to the Bill.*

*The Title was added to the Bill.*

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

"That the Bill be passed."

SHRI HAREKRUSHNA MALLICK: Sir,

MR. DEPUTY CHAIRMAN: You have already spoken.

SHRI HAREKRISHNA MALLICK: I have a right to speak. (*Interruptions*)

MR. DEPUTY CHAIRMAN: Mr. Mallick, you have already spoken.

SHRI HAREKRUSHNA MALLICK: I am walking out in protest.

(*At this stage, the hon. Member left the Chairman.*)

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill be passed."

*The motions were adopted.*

#### MESSAGES FROM THE LOK SABHA

(I) The Punjab Panchayat Samitis and Zila Parishads Temporary Supersession) Second Amendment Bill, 1983.

(II) The Punjab Financial Institutions (Obligation as to Fidelity and Secrecy) Bill, 1983.

MR. DEPUTY CHAIRMAN: Now the Messages from Lok Sabha.

ADDITIONAL SECRETARY: Sir, I have to report to the House the following messages received from the Lok Sabha, signed by the Secretary of the Lok Sabha:—

(I)

"In accordance with the provisions of Rule 120 of the Rules of Procedure

and Conduct of Business in Lok Sabha, I am directed to inform you that Lok Sabha, at its sitting held on the 19th December, 1983, agreed without any amendment to the Punjab Panchayat Samitis and Zila Parishads (Temporary Supersession) Second Amendment Bill, 1983, which was passed by Rajya Sabha at its sitting held on the 16th December, 1983."

(II)

"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 herewith the Public Financial Institutions (Obligation as to Fidelity and Secrecy) Bill, 1983, as passed by Lok Sabha at its sitting held on the 19th December, 1983."

Sir, I lay a copy of the Bill on the Table.

श्री उपसभापति सदन की कार्यवाही कल

11 बजे तक के लिए स्थगित की जाती है।

The House then adjourned at forty minutes pasts even of the clock till eleven of the clock on Tuesday, the 20th December, 1983.