

Force called the Central Industrial Security Force for the better protection and security of certain industrial undertakings be referred *to* a Joint Committee of the Houses consisting of 45 members; 15 members from this House, namely:—

1. Shrimati Violet Alva,
2. Shri K. S. Ramaswamy,
3. Shri M. P. Bhargava,
4. Shri M. Govinda Reddy,
5. Shri Nand Kishore Bhatt,
6. Shri Akbar Ali Khan,
7. Shri B. K. P. Sinha,
8. Shri M. M. Dharia,
9. Shri Krishan Kant,
10. Shri Bhupesh Gupta,
11. Shri K. Sundaram,
12. Shri Rajnarain,
13. Shri Banka Behary Das,
14. Shri D. Thengari and
15. Shri A. P. Chatterjee

and 30 members from the Lok Sabha;

That in order to constitute a meeting of the Joint Committee the quorum shall be one-third of the total number of members of the Joint Committee;

That in other respects, the Rules of Procedure of this House relating to select committees shall apply with such variations and modifications as the Chairman may make;

That the Committee shall make a report to this House by the first day of the next session; and

That this House recommends to the Lok Sabha that the Lok Sabha do join in the said Joint Committee and communicate to this House the names of members to be appointed by the Lok Sabha to the Joint Committee." *The motion was adopted.*

The amendment moved by Shri Balachandra Menon was barred.

THE PASSPORTS BILL, 1967

THE DEPUTY CHAIRMAN: The next item on the Order Paper—the Passports Bill, 1967. Shri Surendra Pal Singh.

श्री राजनारायण (उत्तर प्रदेश) : पाइन्ट आफ़ आर्डर। मेरा पा न्ट आफ़ आर्डर यह है कि यद्यपि संविधान के बारे में मैं कल कह चुका, संविधान की जो मेरी मान्यता है उसके अनुसार 1965 के बाद कोई विधेयक मूल हिन्दी में ही आ सकता है, उसका ट्रांसलेशन अंग्रेजी में होगा। कल हमारे माननीय मित्र श्रीरलनॅड सेक्रेटरी, राज्यसभा, ने काफी मदद की हमको समझाने में। जो आफ़ीशियल लॅंग्वेज एक्ट बना हुआ है उसको भी देखा जाय। उसमें भी यही है कि इंगलिश 1965 के बाद कन्टीन्यू करेगी as an associate language.

उपसभापति : इसका फ़ैसला हो चुका है।

श्री राजनारायण : मैं आपसे रिक्वेस्ट कर रहा हूँ, सुनिए।

SHRI AKBAR ALI KHAN (Andhra Pradesh): The Chair has given a ruling.

THE DEPUTY CHAIRMAN: I cannot

(Interruptions)

श्री राजनारायण : रूलिंग कैसे हो सकती है। अभी तो मेरा सवाल आ रहा है। मैं नया पाइन्ट कह रहा हूँ। 1963 का एक्ट है जो '65...

उपसभापति : 'एक्ट' लफ़्ज तो इंगलिश है।

श्री राजनारायण : इंगलिश है तो मैं क्या करूँ रेल इंगलिश है, टेशन इंगलिश है, लालटेन इंगलिश है।

एक सामग्रीम सदस्य : अधिनियम कहीं।

श्री राजनारायण : आफिशियल लैंग्वेज एक्ट, 1963 का तीसरा सेक्शन पढ़ रहा हूँ—

"Notwithstanding the expiration of the period of fifteen years from the commencement of the Constitution, the English may, is from the appointed day,"—

'अपडेटेड डे' माने पहली जनवरी 1965—

" . . . continue to be used, in addition to Hindi."

यानी हिन्दी के एडिशन में अंग्रेजी कटीन्ग कर सकती है 1 जनवरी 1965 के बाद। इसका 'ए' कहता है :—

"(a) for all the official purposes of the Union for which it was being used immediately before that day; and" . . .

अब मैं पांचवां सेक्शन पढ़ रहा हूँ।

उपसभापति : वह तो पढ़ा था आपने।

SHRI RAJNARAIN:

"5. (1) A translation in Hindi published under the authority of the President in the Official Gazette on and after the appointed day,—

(a) of any Central Act or of any Ordinance promulgated by the President, or

(b) of any order, rule, regulation or bye-law issued under the Constitution or under any Central Act,

shall be deemed to be the authoritative text thereof in Hindi."

THE DEPUTY CHAIRMAN: Mr. Rajnarain, I have never interrupted you when were on a point of order. But you are mistaking what you are reading. You are mixing up Acts with Bills. Your reference is to Act and not to Bills. When a Bill becomes an Act, that provision may be fulfilled. Therefore, there is no point of order. I have given my ruling. And therefore, the Minister may now proceed.

श्री राजनारायण : देखा जाय, माननीया। मैं आपसे . . .

उपसभापति : मैंने रूलिंग दे दी।

श्री राजनारायण : आप एसी रूलिंग देंगी और कहेंगी, तुम हर तरह से इनको मानो ?

उपसभापति : मेरे पास कांस्टीम्यूशन नहीं है, मैं आपको सुनता। (Interruption).

This is not an Act, this is a Bill.

श्री राजनारायण : मेरे पास कांस्टीट्यूशन है। मैं कह रहा था :—

"For all the official purposes of the Union for which it was being used immediately before that day;"

"After the expiration of ten years from the date on which section 3 comes into force, there shall be constituted a Committee on Official language, on a resolution to that effect, being moved in either House of Parliament with the previous sanction . . ."

आगे देखा जाय, और आता है।

उपसभापति : आने दो।

You have given the relative portion.

SHRI RAJNARAIN:

"The President may, after consideration of the . . ."

THE DEPUTY CHAIRMAN: Mr. Rajnarain, please take your seat.

श्री राजनारायण : माननीया, देखा जाय। जब आफिशियल गजट में आ गया तो यही विधि तो एक्ट बनेगी।

THE DEPUTY CHAIRMAN: I have already given my ruling. The Minister will now move the Motion.

THE DEPUTY MINISTER IN THE MINISTRY OF EXTERNAL AFFAIRS (SHRI SURENDRA PAL SINGH): Madam, I beg to move:

"That the Bill to provide for the issue of passports and travel . . ."

श्री राजनारायण : मैं आपसे रिक्वेस्ट कर रहा हूँ कि आप इसको पढ़ कर तो देखें । आप कहती हैं कि यह रूलिंग है, मैं बैठ जाऊँ ।

THE DEPUTY CHAIRMAN: Please sit down.

प्लीज बोलती हूँ, आपसे रिक्वेस्ट करती हूँ ।

श्री राजनारायण : आप प्लीज बोल रही हैं, प्लीज कर नहीं रही हैं ।

[THE VICE-CHAIRMAN (SHRI M. P. BHAROAVA) in the Chair.]

SHRI SURENDRA PAL SINGH: Sir, I beg to move:—

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

While doing so, I wish to assure the House that the Government is fully-aware of its responsibility under our democratic and liberal Constitution. The Bill has been prepared in full consciousness of that responsibility. With respect, I should like to point out that it is not true that heretofore the Government was exercising its powers in the matter of issue of passports and travel documents in an arbitrary manner. It was suggested by an hon. Member from the other side, a couple of days ago, that the Supreme Court had cast aspersions on the Government and condemned it for the illegal and unconstitutional manner in which it was exercising its powers. I submit that this allegation could not be further than the truth. The Supreme Court had not cast any aspersions on the Government. They concentrated their attention to the interpretation of article 21 of the Constitution which provides that no person shall be deprived of his personal liberty except according to procedure established by law. Their view was that the right to travel abroad was part of a person's personal liberty and that it must be regulated by a law. The power to

be exercised under such a law must also satisfy other provisions of the Constitution, such as equality before the law.

It is true that before this judgment was pronounced, the Government had claimed absolute discretion in the matter of issue of passports. This claim was based on the view that a passport was essentially a political document addressed to the head of another State or authorities in foreign countries requesting them to afford facilities of safe travel to the holder in their territories and to provide him necessary assistance and protection. It is well known that the presence abroad of a passport holder and the manner in which he conducts himself while there, or receives treatment from the other foreign governments, its authorities or people, necessarily bring into play the relations between India and the foreign countries concerned. Government might have to protect his interests abroad vis-a-vis a foreign State and might also have to arrange for his repatriation to India at public expense, should this become necessary. It was against this background, namely, as an aspect *c.t* the exercise of its executive power to conduct international relations, that the Government had exercised its powers in the matter of issue of pass-ports. Only such persons, therefore, were not allowed to leave India whose departure was not in the public interest, whose presence abroad was not likely to be welcome in the foreign States, or was likely to affect India's foreign relations with that or any other country. The manner in which this power was exercised, I can assure the House, was neither arbitrary nor mysterious. There was a set of detailed instructions to regulate the exercise of power by all passport authorities, and the power was subject to adequate supervision. There were provisions for appeal. The functioning of the passport office has also been subject to periodic reviews. During the past few years, the rules were liberalised still further so that the general policy of the Government was to grant pass-

[Shri Surendra Pal Singh.] ports to every person applying for it unless he was such a person or came within a category whose departure from India was not in the public interest. By way of illustration, I might mention that in 1964, 90 per cent, of the applicants were issued passports out of a total applicant number of 54,685; the percentage increased to 94 in 1965 and was a little less than 90 per cent, in 1966. During 1966, the number of applicants had also gone up to approximately 83,000. The percentage of persons refused passports was 2.5 in 1964 2.4 in 1965 and only .4 in 1966.

That the legal position maintained by the Government of India was a plausible one could be seen by reference to the fact that not all countries in the world have laws regulating the issue of passports—the U.K., Canada and France, for example, have no laws relating to the issue of passports that a large discretion is claimed in this matter even in those countries where legislation is adopted, and that even in India, although some High Courts decided some cases against the stand taken by the Government, the Delhi High Court in a full bench judgement (R. N. Malik v. Union of India decided on 23rd December 1966) decided in favour of the Government and when the matter came up in the Supreme Court in another case (Sat-want Singh Sawhney v. Union of India) the decision of the Court was 3-2 and the minority accepted the contentions of the Government. However, since the judgment pronounced by the majority on April 10, 1967 was the law of the land. Government was bound to act in accordance with the law and to comply with it. Since Parliament was not in session, an ordinance was promulgated by the President on May 5, 1967, copies of which have already been placed on the Table of the House and which is now sought to be replaced by an Act of Parliament.

May I now invite the attention of the hon. Members to the text of the

Bill which has been circulated among them? They will kindly note that along with the Bill, a statement of Objects and Reasons, Notes on Clauses, Financial Memorandum and Memorandum regarding Delegated Legislation have been appended. I shall clarify certain aspects of the Bill. The Bill is divided into 27 sections and, by and large, follows the provisions of the ordinance. I shall indicate the variations between the two shortly.

An analysis of the Bill will indicate that it makes provisions on three subjects, namely (i) for the issue of passports and travel documents, (ii) for the regulation of departure from India of Indian citizens and other persons, and (iii) for matters incidental or ancillary thereto. The Bill, it will be noticed at once, only regulates the departure from India of all persons. It does not deal with the question of entry into India, which is regulated by the Passports Act, 1920. Let me now refer to the main provisions of the Bill. A distinction has been made between passports and travel documents. Passports, whether ordinary, official or diplomatic, are generally to be issued to Indian citizens, an Emergency Certificate may be given to a citizen when he is abroad with a view to enable him to return to India, and a Certificate of Identity may be given to a foreigner, such as a stateless person, for his travel abroad.

The Bill provides for the machinery necessary for the issuance of passport and travel documents. It also provides for the procedure for obtaining passports and travel documents. It is now clearly provided in clause 3 that no person shall depart from, or attempt to depart from, India unless he holds in this behalf a valid passport or travel document. Since passports will be issued only to citizens of India, foreigners must possess valid passport issued to them by their State before departing from India. Exemptions from this rule may be made in the case of certain persons who, not being citizens of India, are foreigners and yet depart from India to their coun-

tries. I have in mind the nationals of Nepal and the subjects of Bhutan and Sikkim.

The Bill clearly defines the grounds on which passports or travel documents or endorsements thereon may be refused. These are mentioned in clause 6 and only safeguard the legitimate interests of the society. Only such persons will not be issued a passport or travel document whose departure from India will not be in the national interest. In every case of refusal, the reasons will have to be recorded in writing and a copy thereof will be given to the applicant on demand, except in some cases mentioned in clause 5(3). The same procedure will apply if he is issued a passport or travel document for a shorter period of time than what he applied for. Provisions have also been made for impounding or revoking of passports on the grounds similar to those for which passports could be refused. Any person aggrieved from the order of the Passport authorities may prefer an appeal before the appellate authority, the only exception being that no appeal shall lie against an order made by the Central Government. The Bill also provides that upon the issue of a notification by the Central Government that a foreign country is committing an external aggression against India or assisting such aggression, or where armed hostilities are in progress, or travel to which must be restricted in the public interest, the passport issued for that country will cease to be valid for such travel. Provisions are also made regarding delegation of powers or functions. The rule-making power is of a normal character, so that the essential policy regarding the issue or refusal of passports and related matters is set out in the Bill. The Bill also makes provisions for offences and penalties.

I might now indicate the differences between the ordinance and the Bill. In clause 6, sub clause 2, a ground for refusal has been deleted, namely "that the applicant has no adequate means of supporting himself outside India

consistently with his dignity and self-respect as citizen of India".

This has been done primarily for the reasons that there will be difficulties in applying this rule before a person leaves India and consequently there might be delays in the issue of passports. A new clause, clause 18, has been added providing that passports, etc., shall not be issued to persons who cannot emigrate under the Emigration Act, 1922. Another addition relates to the repeal of the Ordinance and savings regarding action taken under the Ordinance.

To sum up, it will be clear from a perusal of the Bill that the intention is to issue passports to every Indian citizen unless his case falls in one of those categories where he could not be allowed to go abroad in the public interest. When such action is taken, reasons will be recorded in writing and generally a copy thereof will be given to the affected person. The aggrieved persons will have the right to be heard by an appellate authority where a fair hearing will be ensured. This, I submit, provides the essentials of a fair law and a fair procedure whereby the citizens' right to travel abroad will be ensured consistent with the public interest.

SHRI RAJNARAIN: Sir, I beg to move:

"That the Bill to provide for the issue of passports and travel documents, to regulate the departure from India of citizens of India and other persons and for matters incidental or ancillary thereto, be circulated for eliciting opinion thereon by the 5th September, 1967."

SHRI D. L. SEN GUPTA (West Bengal); Sir, I beg to move:

"That the Bill to provide for the issue of passports and travel documents, to regulate the departure from India of citizens of India and other persons and for matters incidental or ancillary thereto, be referred to a Select Committee of the Rajya Sabha consisting of the following members,

Shri A. D. Mani,
 Shri Lokanath Misra,
 Shri Jagat Narain,
 Shri D. Thengari,
 Shri M. V. Bhadram,
 Shri Chitta Basu,
 Shri K. C. Baghel and
 Shri D. L. Sen Gupta (Mover)

with instructions to report by the 7th
 June, 1967."

The questions were proposed.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): Now the Motion and the amendments are open for discussion. Shri Ruthnaswamy.

SHRI M. RUTHNASWAMY (Madras) : Mr. Vice-Chairman, it is a sad commentary on the progress of our civilisation and culture that in the year 1967 A. D., the Government should see the necessity for passport system. For nearly 5,000 years, the world has got on without any passport system. It is only from about the time of the French Revolution when nations began to suspect and envy and hate each other, that the passport system came to be introduced. And, now, when we are in a state of cold war between the East and the West, between this bloc and that bloc, each one suspecting the policies and the intentions of the other, this passport system seems to be confirmed. Time was when people used to move from country to country; in my student days we were allowed to go from country to country; I never asked for a passport. I just went, rather my father went to the steam ship office, bought a ticket and off people went from India to Europe; and in Europe itself, before the outbreak of the First World War, students and others went from country to country without asking for any passport or any visa. No doubt from the stand point of the Governments of States, the passport system is justified on the ground that it helps the traveller to go from country to country without any trouble that it gives protection to him in foreign countries and facilitates his move-

ments. These are the usual arguments put forward by Governments in order to support the passport system. But from the stand-point of the travellers, the passport system is a great nuisance because one has to go and dance attendance at the passport office and wait sometimes for hours and one would be asked to come and visit the passport office from day to day. It is a prolonged agony—this process of application and acquisition of a passport. It is a great discouragement to international travel. Also the passport system imposes a tax on traveling, so much so that we may say that international travel has become international travail under the passport system.

Let me come to some of the chief provisions of the Bill. It starts off with the statement that it is 'in consonance with the practice and usage followed by the Government.' No doubt it is in consonance with the practice and usage followed by this Government and other Governments suspicious of each other. But is it in accordance with the usages of civilisation, of civilised States, from time immemorial? Then there are certain vexatious conditions imposed by this Bill. An enquiry has to be made. The one principle that ought to regulate the issue of passport is that passport should be issued as a matter of course, that the issue of passport should be the rule and the refusal of the passport should be the exception. That is the principle that ought to be followed by all civilised countries. Why should a police enquiry be made? I am sure the Government has a list of citizens whose travel abroad may be a danger to this country. If they are a wise Government, if they are an alert Government, they should have a list of such people, of undesirable people, of people who should not be allowed to go out. Then all other people should be allowed the issue of passport as a matter of course. There is also a provision for refusal to endorse a passport. Why should a passport, once given, be endorsed from time to time?

Unless a person has been declared an undesirable citizen whose movements abroad would be a menace to the country, would be a danger to the country, endorsement should also be a matter of course. Then there is a provision for passport authorities to be established all over the country and these passport authorities are given the power to impose conditions of their own, not imposed by the Act, not imposed by the Central Government. Of course, the right of appeal to the Central Government is given to any person adversely affected by these local rules. But why should the passport authority should have any particular power of imposing special conditions?

There is also a provision for the impounding of passports. That again is a very undesirable and dangerous provision because unless you follow the principle that the issue of passport should be the rule and the refusal of the passport should be the exception, you come across all kinds of difficulties. The Leaders of my party in this House was refused a passport when he wanted to go to Taiwan by the Ministry of External Affairs and it was only on an appeal to the Prime Minister that the passport was given. Political or party considerations may be brought into play in regard to the issue of passport, in regard to the endorsement of passport and in regard to the refusal of passport. No doubt, in the Bill there is provision for an appeal, but it is only an appeal from the local passport authority to the Central Government. That is no kind of appeal, from one executive authority to another. If the passport system is not to be used as an infringement of the liberty of the subject, the appeal should be to an independent tribunal—not a High Court, but an administrative tribunal established for this purpose, a passport tribunal, to which all the cases of appeal from [local] passport authorities should go. These precautions should be taken. First of all, the principle should be recognised that the issue of passport will be a matter of course and the

refusal should be an extraordinary exception. A police enquiry need not precede the issue of passport. Already every wise Government, every alert Government, has a list of people who are considered to be dangerous citizens to be sent abroad, whose loyalty is under suspicion or whose travels abroad may be against the public interest of the country. So this demeaning and sometimes dangerous process of asking the police to send a report on the application for a passport should be deleted from any civilised legislation on passports. As I said the issue of a passport should be a matter of course and the refusal of a passport should be an exception and all the disagreeable conditions that are now to be found in the Bill should be deleted and specially a provision should be made for an appeal to an independent or quasi-independent tribunal—an administrative tribunal—to hear all the cases of appeals from the Regional Passport Authorities. If such amendments are made or accepted by the Government making the passport Bill as agreeable as possible—it is an evil, a necessary evil which is to be tolerated on account of the international jealousies and envious as well as the suspicions from which we suffer at present—but the evil should be mitigated as much as possible—it is only when such amendments are made to this Bill that the Bill ought to be accepted by the House.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): Shrimati Yashoda Reddy.

श्री राजनारायण : श्रीमन्, मेरा एक प्वाइन्ट ऑफ ऑर्डर है और कृपा करके आप उसे समझने का कष्ट करें। श्रीमन्, यह एक्ट बना है जब 1965 के बाद अंग्रेजी का प्रचलन बंद होने की बात संविधान में कह दी गई थी। पर 1963 में वह स्थिति पदा नहीं हुई थी। और यह एक्ट 1965 के बाद आया ताकि अंग्रेजी किसी तरह से चालू रहे। तो समें दिया हुआ है

[श्री राजनारायण]

"In this Act, unless the context otherwise requires—

(a) 'appointed day' in relation to section 3, means the 26th day of January, 1965 and in relation to any Other provision of this Act, means the day on which that provision comes into force.

(b) 'Hindi' means Hindi in Devnagari script."

Then section 3 says:

"Notwithstanding the expiration of the period of fifteen years from the commencement of the Constitution, the English language may, as from the appointed day, continue to be used, in addition to Hindi,—"

अब मैं हैरत में हूँ कि हिन्दी के साथ साथ अंग्रेजी को इस्तेमाल करने की बात इस कानून में मानी गई है। 1965 के बाद हमने कह दिया था कि

"for all the official purposes of the Union for which it was being used immediately before that day;".

यानी इन तमाम सरकारी कारोबार के लिए जहाँ 26 जनवरी 1965 के पहले अंग्रेजी का इस्तेमाल होता था, वहाँ पर अंग्रेजी 26 जनवरी 1965 के बाद भी जा रही थी और अंग्रेजी बंद नहीं होगी। हिन्दी के साथ साथ पार्लियामेंट का बिजनेस ट्रान्जेक्ट करने के लिए अंग्रेजी भी जारी रहेगी। यही इसका मकसद है। मैं अफसोस के साथ कहना चाहता हूँ कि जब तक इसकी हिन्दी की कापी नहीं होगी तब तक केवल अंग्रेजी की कापी रख कर पढ़ा नहीं जा सकता है और न उस पर विचार ही किया जा सकता है। हमने कार्यालय से इसकी हिन्दी कापी चाही थी परन्तु कार्यालय से हमको यह जवाब मिल गया कि हिन्दी में इसकी कापी नहीं है। तब हमारा प्वाइन्ट अपनी जगह पर खड़ा हो जाता है कि बगैर हिन्दी के कापी के सिर्फ अंग्रेजी कापी से ही यह बिल किस तरह से पास कराया जा सकता

है? अगर अंग्रेजी कापी के साथ हिन्दी की कापी बिल की नहीं होती है तो बिल पास नहीं कराया जा सकता है। इसलिए मैं आप से बड़े अदब के साथ अर्ज करूँगा कि सविधान के अनुसार इस बिल की कापी हिन्दी में रखी जानी चाहिये और यही निवेदन आपके द्वारा सरकार से है।

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): I would invite Mr. Rajnarain's attention to article 343 under which the Act which he has just cited was made. Now I would further request him to see article 348. It reads:

"Notwithstanding anything in the foregoing provisions of this Part"

This Part applies to Part XVII—and in Part XVII article 343 is an earlier article to article 348 and the later article says:

"Notwithstanding anything in the foregoing provisions of this Part, until Parliament by law otherwise provides—

(a) all proceedings in the Supreme Court

shall be in the English language."

As such I see no point of order—Shrimati Yashoda Reddy.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): When Parliament has provided. Even article 120, if you see, is

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): This is under 243 and that is under 348.

श्री राजनारायण : मुझे मालूम है।

subject to article 348 but specifically it has been mentioned:

"Notwithstanding anything in Part XVII, but subject to the provisions of article 348 ..."

Article 348 is the article to which I referred—

"business in Parliament shall be transacted in Hindi or in English."

SHRIMATI YASHODA REDDY (Andhra Pradesh): Mr. Vice-Chairman I entirely agree with Mr. Ruthnaswamy when he said that this passport business was not there earlier and it has been a later development because of various factors. We all know that before 1914 nobody ever possessed a passport or needed one. It was because of the First World War for military reasons and later after 1918 for political reasons and may be after 1929 for financial reasons that this passport system was introduced and during the Second World War under this permit system going from one country to another became very popular. (Interruptions) I welcome the Government for having brought forward this Bill because this is directly the result of the majority judgment of the Supreme Court in Satwan Singh Sawhney case. Before I go further, I would bring to this attention of the House two things. First of all, the majority judgment did decide that a passport was necessary because of the international conventions and usages and it said that a passport is factually necessary for an Indian when he travels¹ abroad because of international usages and conventions but the difference between the minority view and the majority view was on whether one had a right to obtain a passport because the question of personal liberty under article 21 came in. The majority judgment said that he had that liberty and automatically, because the right was given to him under article 21, nobody could put a stop to his travel abroad by denying the passport. Anyway we need not go into the question of the judgment. To-day we are bringing this Bill because of the judgment. I would place before this House that it is not only so in this country. Mr. Ruthnaswamy said that every civilised country must automatically give a passport and allow people to go about. There is no question of anybody putting any restriction on

anybody going abroad but may I say this that excepting I think in England . . .

SHRI SYED AHMAD (Madhya Pradesh) :
What about E. C. M. countries?

SHRIMATI YASHODA REDDY: About E. C. M. countries, I will come later. Almost all countries have some law or some restriction. In the U. K. they said that there is no law but my information is that in the U. K. passport is still Her Majesty's property. It can be recalled at any time. (Interruptions) They do have statutory control. It is not as if a person can have a passport and it is not within the right of the Government to withdraw it, and the British Government can any day withdraw its still it is the property of the British Government. Whether a person has got an absolute right to travel abroad has never been successfully challenged. Maybe in the U.S.A., Sir, that the right to travel has been conceded. But then, this right to travel is regulated by not one single statute but by more than a dozen statutes and Presidential Orders and regulations of the Secretary of State. Then in the Soviet Union—Mr. Bhupesh Gupta will be interested—it is not very clear.

SHRI BHUPESH GUPTA (West Bengal):
I have only interest in this.

SHRIMATI YASHODA REDDY: Now for your information and for the information of the House, my information is this. Absolutely we do not know whether there is any law, but there seems to be no inherent right or absolute right for a citizen to leave the country,¹ and it is more or less controlled by the Ministry of External Affairs in consultation with the Ministry of Home Affairs. Of course here, Sir, we have had a sort of control, but then the Supreme Court has said that it should not be left to the executive directly, to the bureaucratic whims and fancies, and I am sure many would welcome it. It is not the

[Shrimati Yashoda Reddy.] question that we oppose the machinery for the issuance of passports or the procedure for obtaining passports; it is the question of the issuance of passports based on the whims and fancies of the people in the South Block and sometimes the great delays caused by the so-called police verification and sometimes the discrimination practised for no valid reasons whatsoever. These were the things which were upsetting the people of India. And the most important thing is that it had no sanction of law and this defect of the absence of the sanction of law is now being removed by this Bill. In spite of the fact that the Supreme Court did give this judgment, I think it would be very safe to presume that they did not say that passports should be automatically given to all and sundry. All that they have said, I presume, is that the issuance of passports should be regulated by legislation. Now if a legislation is brought forward by Parliament in a very open and indiscriminatory way, and if there is an appeal provided for, I am sure the Supreme Court will not have anything against it. Sir, I would like to draw the attention of the House to only one or two matters. In clause 3 of the Bill it is said:

"No person shall depart from, Or attempt to depart from, India unless he holds in this behalf a valid passport or travel document."

But, Sir, we take "No person" to mean an Indian as well as a foreigner. I would like to ask the hon. Minister whether this will apply to everybody. The people from Sikkim, Bhutan and Nepal, their exit from and entry into India has been covered by the Indian Passport Act, 1920, I take it. Will they be treated as foreigners, and will their exit and entry be still regulated by the 1920 Act?

SHRI SYED AHMAD: They are covered by the Foreigners Act.

SHRIMATI YASHODA REDDY: They are not foreigners. As far as Bhutan, Sikkim and Nepal are concerned, their entry and exit are *via* India, by the Indian passport issued by the Indian Government. Anyway I would like to have a clarification from Government.

About appeals, one thing I would like to say. I entirely agree with Mr. Ruthnaswamy as far as the appeals go. You see in this Bill that they are more or less

SHRI BHUPESH GUPTA: Does it add to the dignity of the House? An hon. Member is fast asleep.

SHRIMATI YASHODA REDDY: I do not think it is unparliamentary if one were asleep.

As far as the appeals go, I entirely agree with Mr. Ruthnaswamy. We do not know how the appeals are going to be. (Interruptions) I would like to add to what Mr. Ruthnaswamy has said. The appeal should not be only to the executive but, as in America, we should have the judiciary, semi-judiciary or appeal to the courts. It should not be confined to the executive alone. And again, Sir, I would like to say in the matter of appeals that in America the reasons must be given for the refusal, and an applicant can appear through a counsel who will have the right to cross-examine and to produce witnesses. But in India, the action, if it is taken in the interests of the sovereignty and integrity of India, as in subclause 5.(3), or as in sub-clause 10.(5), no reasons are given, and no appeal is given if it is decided by the Central Government. I am sure the Central Government will be very democratic in its approach, and certainly not discriminatory but still, I do feel that if this right of appeal is given to a semi-judicial or to a judicial body, it would be better, and the complainant should have the right to produce witnesses and to cross-examine the other side. There should be the procedure laid down

for fair hearing and for the possibility of presenting evidence. Some provision should be made.

Another thing I would like to say about the passport is this. Our wording in the passport, if you have studied it, is more or less on the basis of the British Passport; I think they have copied it more or less from the British passport. By requesting and requiring the foreign persons to give the bearer assistance, the President may seem to be vouchsafing for his bona fide instead of simply his identity and national status. In practice, of course, the President can vouchsafe for no such thing. Even a passport-holder of unblemished character, previously, may easily commit an offence. Here I would like to make a suggestion; I do not know whether the Central Government will be in a mood to accept it. But somebody reminded me of the question of an identity card. After all, a passport, originally, was meant to be just an identity card, and even in the International Travel or Tourism Conference at Rome in 1983 they had said that the passport system should be abolished and the national identity card should be introduced, apart from other things. I do not know whether the Central Government would ever think of introducing the national identity card as is the case in the European Common Market, where just an identity card is given instead of this passport system, and a person can travel from place to place though, of course, as long as the passport wording is such that the President vouchsafes for the good behaviour of a person, certainly the Government will have the right to look into the antecedents of the person concerned, so that he may not commit crime or misbehave and then bring indignity to the country. So, if this could be brought in, I think it would be better. But as far as this police verification is concerned, certainly there is too much delay. Government should not allow this sort of delay. I am reminded of an instance where the Govern-

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ment gives always the reason that, 'in the interests of the country, and the foreign interests also, the people should be questioned and their police records should be scrutinised. But with all these things what could Government do when Dr. Teja left this country? And when, we do not know. Thus, one feels that on one side you take such a long time to verify the antecedents of a person applying for a passport and yet, with all these things, one finds, on the other side that actually one of the biggest persons, one who has done the greatest harm to our country has just slipped through your hands, right from Delhi, the centre of the whole Government. Nobody realised it and nobody did anything to stop his escape. This sort of thing we see. On the one side innocent people are held up and there is long delay. I speak subject to correction, but when I went abroad I was told by a parent that the wife and a child were given passports but not the other child. They had applied for passports for both the children. The younger was given but not the elder one. I am speaking subject to correction, as I said. But it sounds rather foolish. And here is Dr. Teja who goes away. So I say, do not use these powers of police verification and cause delays unnecessarily. As long as the person can travel and you see no reasonable objection, you should accept the application. You expedite the matter. Of course, it cannot be said that there should not be any restrictions at all, because for more than one reason it is necessary to have restrictions. There was another curious suggestion and that was made by Dr. Jivaraj Mehta, that no passport should be given unless a job was ensured. With due respect I would submit that this is very wrong thinking.

I am very glad that this Passport Bill has come up and whatever its limitations I hope the Government will implement this measure properly and that the executive officers, will be

[Shrimati Yashoda Reddy.]

reasonable. As far as appeals are concerned, I do hope that these appeals will be made at least semi-judicial if not completely judicial.

Thank you.

श्री राजनारायण : आन ए पाइन्ट-आफ आर्डर । मैं आपके प्रति बड़ा अनुगृहीत हूँ कि आपने हमारा ध्यान आकर्षित किया । यह हमारे पहले वाले पाइन्ट आफ आर्डर को बिलकुल वैलिड बना देता है । क्लोज 2 कहता है :—

"5(2) As from the appointed day, the authoritative text in the English language of all Bills to be introduced or amendments thereto to be moved in either House of Parliament shall be accompanied by a translation of the same in Hindi authorised in such manner as may be prescribed by rules made under this Act."

श्री महेश्वर नाथ कौल (नाम निर्देशित) : यह कौन सा है ?

श्री राजनारायण : यह 5 सेक्शन का क्लोज 2 है ।

जब आपके पूर्व हमारी माननीय डिपुटी चैयरमैन साहिबा थीं तो जब हमने क्लोज 1 का 'ए' पढ़ा था "एनी सेन्ट्रल एक्ट . . . तो उन्होंने जल्दी में कह दिया यह एक्ट है, इसमें बिल मेन्शन नहीं है । इसको अगर भाइन्स्यूटली नीचे पढ़ा जाय तो सेक्शन 5 के सब-सेक्शन 2 में :—

"As from the appointed day, the authoritative text in the English language of all Bills to be introduced or amendments thereto to be moved in either House of Parliament shall be accompanied by a translation of the same in Hindi."

यह आफिशियल लैंग्वेज एक्ट 1963 है : उसमें लिखा हुआ है :—

"authoritative text in the English language of all Bills to be intro-

duced or amendments thereto to be moved in either House of Parliament shall be accompanied by a translation of the same in Hindi."

तो मैं आपसे विनम्रता के साथ निवेदन करता हूँ कि अंग्रेजी में बिल तो मूव कर सकते हैं, मगर इसका ओथराइज्ड हिन्दी ट्रांसलेशन हमको जरूर चाहिए । जब ओथराइज्ड हिन्दी ट्रांसलेशन नहीं है तो मैं आपसे अदब के साथ अर्ज करता हूँ कि इस समय इस पर चर्चा बन्द होनी चाहिए जब तक कि ओथराइज्ड हिन्दी ट्रांसलेशन हमको प्राप्त न हो जाय । इतना हमको कहना है । यह आपकी रूलिंग से भी मेल खाता है, आपके पूर्व जो डिपुटी चैयरमैन साहिबा थीं उनकी रूलिंग से भी मेल खाता है । इसलिए मैं आप से निवेदन करता हूँ कि आप सरकार को आदेश करें हिन्दी ट्रांसलेशन की कापी आ जाय तभी चर्चा हो । 5 मिनट बाकी रह गए हैं । सदन की मर्यादा भी रह जायगी, कानून की मर्यादा भी रह जायेगी, सदन की इज्जत बच जायेगी, हमारा पाइन्ट आफ आर्डर भी हो जायेगा ।

श्री महेश्वर नाथ कौल : पाइन्ट आफ आनर भी हो जायेगा ।

SHRIMATI LALITHA (RAJAGOPALAN) (Madras): On a point of order,

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): I will hear you. Let him finish. Have you finished?

श्री राजनारायण : हम हर जगह चाहे सदन के भीतर हो या बाहर हो कोई महिला खड़ी हो जाती है तो बैठ जाते हैं चाहे उनका पाइन्ट आफ आर्डर वैलिड हो या न हो क्योंकि हम उनको विशेषाधिकार देना चाहते हैं ।

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): So you have finished now?

श्री राजनारायण : तो मेरा निवेदन यह है कि इसको अच्छी तरह से देखा जाये। कोई व्यवस्था बहुत जल्दी में दे देना उचित नहीं है। आपकी व्यवस्था बहुत ही साधु व्यवस्था रही है, इसलिए आपको रिफर कर दिया। प्राइंट आफ आर्डर पर ज्यादा समय लेने की आवश्यकता नहीं है।

SHRIMATI LALITHA (RAJAGOPALAN): I am raising a point of order on his point of order. I say that once a ruling has been given no point of order can be raised on the same subject. I want to know under what rule he is allowed to raise this point of order again.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): Well, if he has any further point to bring to the notice of the House he can do so at any time.

श्री महेश्वर नाथ कौल : इसमें है कि कौन कौन प्रावीजन कहां कहां लागू होगा, वह बताइए।

श्री राजनारायण : कौल साहब ने ठीक बताया। इसमें लिखा हुआ है। सेक्शन 3 में :

"Section 3 shall come into force on the 26th day of January, 1965 and the remaining provisions of this Act shall come into force on such date as the Central Government, may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act".

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): Have the dates been appointed?

श्री महेश्वर नाथ कौल : यह तो लागू ही नहीं हुआ।

श्री राजनारायण : जरा सुना जाये। यह तो फाट पर फाट आ रही है। हम छिपाना नहीं चाहते : चेयर की तरफ से

यह न कहा जाये कि इसमें 'एक्ट' नहीं लिखा है, कानून नहीं बना हुआ है या चेयर की तरफ से रूलिंग आए कि सेक्शन 5 लागू नहीं है, इसलिए तुम्हारा प्राइंट, प्राइंट आफ आर्डर के रूप में इस समय बलिड नहीं है। मैं उससे भी सहमत नहीं हूंगा क्योंकि हमारे लिए सेक्शन 3 काफी है। सेक्शन 3 में यह कह दिया गया है—

"for the transaction of business in Parliament."

पार्लियामेंट की बिजनेस के ट्रांजेक्शन के लिए कह दिया गया है कि हिन्दी के साथ साथ अंग्रेजी की कापी रहेगी तो वह हमारे लिए काफी है, मगर यदि वह चेयर के लिए काफी न हो तो हमको यह मालूम होना चाहिए कि सेक्शन 5 सेन्ट्रल गवर्नमेंट ने लागू किया है या नहीं। अगर लागू नहीं किया है तो हमारी आपसे रिक्वेस्ट है कि इस समय इसको बन्द करें, कल हमारी जानकारी हुई है कि हिन्दी की कापी यहां आ जायेगी।

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): Still I hold that article 348 overrides all that you have pointed out. Apart from that I have ordered Hindi copies to be circulated tomorrow morning.

श्री निरंजन वर्मा (मध्य प्रदेश) : श्रीमन्, सदन के सामने अभी यह बिल प्रस्तुत हुआ है। इस सम्बन्ध में सुप्रीम कोर्ट ने सतवन्त सिंह वसेंज यूनिशन आफ इंडिया के केस में यह निर्णय दिया है और वह कांस्टीट्यूशन के अनुच्छेद 21 के अन्तर्गत दिया है—उसमें स्पष्ट रूप से बताया गया है—कि जहां तक पासपोर्ट देने के अधिकार हैं, उन पासपोर्टों को देने के अधिकार के लिए कोई कानून की मर्यादा होनी चाहिए और जब तक वह नहीं है सतवन्त सिंह के केस में उनके पासपोर्ट को लेकर जो निषेधाज्ञा की गई थी उसको अलग कर दिया गया है।

[श्री निरंजन वर्मा]

अनुच्छेद 21 कांस्टीट्यूशन में कहता है:—

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

यह बतलाया गया है। तो इसके अन्तगत जब तक कि कोई कानून न बने तब तक इस प्रकार के प्रतिबन्ध लागू रहेंगे। हमारी गवर्नमेंट समय समय पर कानून बनाती है लेकिन उसमें भूल से कुछ धारारों ऐसी छोड़ देती है जिसके कारण आगे चल कर कठिनाई होती है और उसी का परिणाम है कि जब सुप्रीम कोर्ट ने इस प्रकार का निर्णय दिया तो हमारी सरकार के सामने यह कठिनाई आई।

[THE DEPUTY CHAIRMAN in the Chair]

पासपोर्ट बिल जो प्रस्तुत किया गया है इसका उद्देश्य तो अच्छा हो सकता है और किसी भी सरकार के लिए इस प्रकार के कानून बनाने की बहुत सी चीजों के लिए आवश्यकता होती है और उन्होंने इसका समावेश किया है, उदाहरण के लिए अभी पिछले समय में यह देखा गया था कि हमारे देश के एक नेता को बाहर जाने की इजाजत दी गई थी और सरकार ने भी कुछ समझ कर के यह आश्वासन दिया था कि वह सद्भावना से सब कार्य करेंगे लेकिन बीच में ...

श्री राजनारायण : अब पांच बज गया, अब आप बन्द कीजिए।

THE DEPUTY CHAIRMAN: The Prime Minister is coming.

श्री राजनारायण : कोई प्राइम मिनिस्टर के हम गुलाम हैं। प्राइम मिनिस्टर के हम गुलाम नहीं हैं। She should come exactly at five, अगर प्राइम मिनिस्टर न आवें तो क्या हम रात भर बैठे रहेंगे।

SHRI AKBAR ALI KHAN: She is busy in the other House.

श्री राजनारायण : यह हाउस उस हाउस का सबसर्वियंट नहीं है। यह एलबर्स का हाउस है। It has got its own time.

देखिये, हम डीसेंसी और डिकोरम के हकदार हैं, हड़बॉंग के नहीं, यहां हर चीज हड़बॉंग में चलाना चाहते हैं।

श्री निरंजन वर्मा : तो आदरणीय उप सभापति जी, उस समय जो काश्मीर के भूतपूर्व प्रबन्धन मंत्री शेख अब्दुल्ला थे उनको सद्भावना की धात्रा में यहां से भेजे जाने के लिए भारत सरकार ने निश्चित किया था और वह गये थे लेकिन उस समय उनकी सद्भावना दुर्भावना में बदल गई। तो सरकार के सामने ऐसे प्रश्न आ सकते हैं कि यदि कभी किसी को कोई पासपोर्ट दे दिया और कोई व्यक्ति उसका उल्लंघन करे या भारत के प्रति अपनी अशिष्टता दिखाये तो ऐसे पासपोर्ट को कैंसिल करने पर विचार हो सकता है। इसी प्रकार के और भी बहुत से कारण हो सकते हैं जिन कारणों के लिए कानून बनाना अत्यन्त आवश्यक हो। तब भी सरकार ने जो यह कानून बनाने के लिए बिल रखा है इसमें बहुत सी कठिनाइयां हैं, जैसे उदाहरण के लिए इसमें धारा 4 है। धारा 4 में तीन प्रकार के पासपोर्ट की बात की गई है। हम नहीं समझते कि किसी देश में जहां की सारी जनता को एक प्रकार के अधिकार हैं वहां पासपोर्ट की अलग अलग तीन किस्में बनाने में हमारे शासन का क्या प्रयोजन है। इसमें धारा 4 (1) में यह है :—

“The following classes of passports may be issued under this Act, namely:—

- (a) ordinary passport;
- (b) official passport;
- (c) diplomatic passport.”

फिर इसके आगे उपधारा (2) में बताया गया है :—

"The following classes of travel documents may be issued under this Act, namely:—

(a) emergency certificate authorising a person to enter India;

(b) certificate of identity for the purpose of establishing the identity of a person;

(c) such other certificate or document as may be prescribed."

इसमें जो आब्रैक्ट्स एंड रीजंस हैं उसमें शासन ने यह नहीं बताया कि क्या प्रयोजन शासन के सामने आया जिसके कारण एक सामान्य नीति न निर्धारित करते हुये विभिन्न प्रकार के पासपोर्ट को बनाने के लिये कहा है। इसमें शासन के लिये एक स्वेच्छा-चारिता के लिये दरवाजा खुल जायगा कि किन्हीं आदमियों को किसी तरह का पासपोर्ट दें और किन्हीं आदमियों को पासपोर्ट देने से इंकार कर दें। तो हम समझते हैं कि धारा 4 इस प्रकार से उचित नहीं है।

इसके आगे इसमें एक और भी धारा, धारा 6 है। धारा 6 की उपधारा 2 में (ई) और (एफ) ये दोनों जो हैं ये भी किसी प्रकार से उचित नहीं हैं। धारा 6 की उपधारा 2 के (ई) में यह है:—

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

अगर किसी मामले में किसी आदमी को पासपोर्ट की एप्लिकेशन दिये जाने के पहले दो वर्ष या दो वर्ष से अधिक की सजा हो गई तो उसे पासपोर्ट नहीं दिया जा सकता। यह सजा किस तरह से और किस प्रकार से हो इसका भी कोई उल्लेख किया जाना चाहिये था। अगर किसी को राजनैतिक

मामले में सजा हो गई या ऐसे मामलों में जिसमें कोई राजनैतिक उपस्थ से उत्पीड़ित किया गया हो और सजा हो गई हो तो उसको पासपोर्ट मिल नहीं सकता, सरकार के लिये बड़ा मुनहरा अबसर है कि अपने विरोधियों पर दमन करे और उनको पासपोर्ट देने से इंकार कर दे। ठीक इस प्रकार से उपधारा 2 की धारा (एफ) में लिखा है :—

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

इसमें भी शासन ने बुद्धिमानी का काम नहीं किया। अगर ए ने बी के खिलाफ किसी मैजिस्ट्रेट के यहां कोई प्रोसीडिंग कर दी तो शासन कह सकता है कि आपके खिलाफ फस्ट क्लास मैजिस्ट्रेट के यहां मुकदमा चल रहा है इसलिये आपके पासपोर्ट नहीं दिया जा सकता हलांकि वह प्रोसीडिंग बिल्कुल गलत है और अन्त में उसका परिणाम यही होना है कि वह मामला खारिज हो जायगा लेकिन उसके लिये भी शासन को यह कहने का इहाना हो जायगा कि इस कारण से हम पासपोर्ट नहीं देना चाहते और उसे पासपोर्ट नहीं दिया जायगा। इस तरह से शासन ने अपने हाथ में बहुत ज्यादा ताकत ले रखी है। अब आगे चल कर इसमें अपील के बारे में है।

पंडित श्याम सुन्दर नारायण तल्ला (उत्तर प्रदेश) : अगर वह आदमी बला जाय, उसको इजाजत मिल जाय बाहर जाने की, तो उसके खिलाफ जो मुकदमा फौजदारी का चल रहा है वह तो रुका पड़ा रहेगा।

श्री निरंजन बर्मा : यह तो बहुत साधारण बात है कि पासपोर्ट देते समय अधिकारी ध्यान रखते हैं कि जो मामला चल रहा है वह कैसा है, अगर किसी धारा 302 या 395 के अन्तर्गत कोई मामला चल रहा है तो उसके बारे में तो कोई निर्णय

[श्री निरंजन वर्मा]

लिया जा सकता है लेकिन अगर धारा 144 के उल्लंघन करने का कोई मामला चल रहा है या किसी के ऊपर धारा 107 का मामला चल रहा है या किसी के ऊपर 110 का मामला चल रहा है तो उस पर भी ...

श्री संयद अहमद : या किसी के ऊपर सड़क के किनारे पेशाब करने का चल रहा हो ।

श्री निरंजन वर्मा : जी हां, श्री संयद अहमद ने जैसा कहा कि धारा 34 के अन्तर्गत चले तो यह कैसे सम्भव हो सकता है, इस पर तन्खा साहब विचार करें । ये छोटे छोटे बहाने ले कर इंकार कर सकते हैं । तो इस बिल में जो खामियां हैं उनकी ओर मैं मंत्री महोदय का ध्यान आकर्षित करता हूं ।

अपोलिस के बारे में भी कुछ बातें ऐसी हैं जिन पर ध्यान दिया जाना चाहिये । इसमें अपील करने के बारे में धारा 11 की उपधारा (4) को पढ़ने का कष्ट करें । वह यह है :—

"Every appeal under this section shall be made by a petition in writing and shall be accompanied by a copy of the statement of the reasons for the order appealed against where such copy has been furnished to the appellant and by such fee (if any) not exceeding rupees twenty-five as may be prescribed."

यह एक टेकनिकल प्रकार का मामला है । इसमें 25 रु० का शुल्क लगाना बिल्कुल गलत बात है । जैसे कि किसी प्रकार के कोई रिट में शुल्क नहीं लगता है इसमें भी शुल्क नहीं रखा जाना चाहिये । और शुल्क का जो प्रावधान रखा गया है वह भी अपने स्थान पर सही नहीं है । इसमें एक और धारा 15 के अन्तर्गत एक सुझाव है, वह यह है :—

"No prosecution shall be instituted against any person in respect of

any offence under this Act without the previous sanction of the Central Government or such officer or authority as may be authorized by that Government by order in writing in this behalf."

और इसके साथ में धारा 16 में यह है:—

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

तो इस तरह से सरकार ने बहुत अधिक पावर्स, बहुत अधिक शक्तियां अपने हाथ में ले रखी हैं, वह नहीं लेनी चाहिये थीं । केवल यह लिख देने से कि हमने "गुड फेथ" के कारण यह प्रोसीडिंग चलाई, इसके कारण गवर्नमेंट के ऊपर, शासन के ऊपर कोई मुकदमा नहीं चला सकेगा । शासन पर मुकदमा चलाने से मुक्ति हो जायगी । इस प्रकार से यह भी ठीक नहीं है । इसमें अब शासन को निष्पक्ष रूप से व्यवहार करना चाहिये था, भारतवर्ष का कोई भी नागरिक आय . . .

SHRI SYED AHMED: My impression is that no prosecution can be launched against persons who commit offences in contravention of the Passport Act unless the prosecution is sanctioned by the Central Government. The Section does not adumbrate exemption of Government officials from prosecution. It has nothing to do with the cases against them.

श्री निरंजन वर्मा : मेरे मत में, मेरे बिल का कथन सर्वांश में सत्य नहीं है । अब मैं अगली धारा 22 के बारे में निवेदन करूंगा । इसमें उपसभापति जी सरकार ने अपने हाथ में बहुत बड़ा अधिकार ले रखा है । सरकार अगर चाहे तो किसी को पासपोर्ट दे, सरकार अगर किसी को चाहे तो पासपोर्ट देने से इंकार कर दे, सरकार अगर चाहे तो इस कानून के अंतर्गत जितने

प्राविजन हैं उनसे किसी को मुक्त कर दे और अगर चाहे तो उसका मुक्त न करे। तो सरकार को इस प्रकार की बहुत अधिक शक्तियां अपने हाथ में लेने का कोई अधिकार नहीं था और न लेना चाहिये। धारा 22 में सरकार के पास जो अधिकार हैं उन अधिकारों की विस्तृत समीक्षा की गई है:

"22. Where the Central Government is of opinion that it is necessary or expedient in the public interest so to do, it may by notification in the Official Gazette and subject to such conditions, if any, as it may specify in the notification,"

इसमें सबसे खतरनाक धारा है (ए) :—

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

इस धारा को निकालना चाहिये। यह धारा ही सरकार को निष्पक्षता से दूर रखने के लिये काफी है। अगर सरकार पक्षपात करना चाहे तो किसी भी आदमी के लिये यह कह देगी कि इस कानून की जितनी धाराएं उपधाराएं, नियम उपनियम, रेगुलेशन हैं, वे इस पर लागू नहीं होंगे और सरकार मन-मानी करेगी और जिसका चाहे उसको मुक्त कर देगी और दूसरे आदमियों को पासपोर्ट देने के लिये तैयार हो जायगी। इस प्रकार इस कानून के अंतर्गत जो सरकार ने बहुत देर करने के बाद, बहुत सोचने समझने के बाद भी यह बिल लाया हुआ है यह सरकार का बिल अच्छी तरह से सोच समझ कर सदन में प्रस्तुत नहीं किया गया है और सरकार ने इसके विषय में बहुत जल्दबाजी की है क्योंकि सुप्रीम कोर्ट के निर्णय के बाद, सुप्रीम कोर्ट के निर्णय को किस प्रकार से बदला जाय और उसके अनुसार जिन लोगों को फायदा मिल रहा है उनको किसी तरह से फायदा न मिल पाये, इसलिये सरकार ने यह कार्यवाही करने के लिये जल्दी से जल्दी यह बिल लाने का प्रयत्न किया है।

माननीया, अगर सरकार इस बिल को पास करना चाहती है और भारतवर्ष के सभी लोगों के लिये समान रूप में इस बिल का लाभ मिलने देना चाहती है . . .

RE PRIME MINISTER'S STATEMENT ON WEST ASIA

SHRI LOKANATH MISRA (Orissa): Madam, if I may make * submission, we thought that the Prime Minister, who is there in the other House, would come here to make her statement. The consensus of opinion on this side is that we should have the statement tomorrow to that

HON. MEMBERS: No, no.

SHRI LOKANATH MISRA: . . . we can have the latest position.

SHRI M. M. DHARIA (Maharashtra): No, no. Today we must have it.

(Interruptions)

THE DEPUTY CHAIRMAN: Order, order.

SHRI LOKANATH MISRA: The difficulty is that we shall not be having any additional information. It is a prepared text. The other House has dealt with it. If we can get some additional information tomorrow, it would probably be better and we could put our questions tomorrow.

SHRI B. D. KHOBARAGADE (Maharashtra): Madam, first we were informed that the hon. Prime Minister was going to make a statement in this House at 2.30. P.M. and later we were informed that the hon. Prime Minister would make the statement at about 5 P.M. I do not know what are the difficulties in the way of the Prime Minister that she should treat this House with such contempt. The statement has been postponed twice.

SHRI AKBAR ALI KHAN (Andhra Pradesh): The statement is being made in the other House.