

number of my friends have spoken to me about the statement that I made this morning about India crossing the international boundary when we discussed the issue. I only want to say this—because I did not have the time I could not make the point—that it was Pakistan which was responsible for crossing the international boundary and we had to take retaliatory action to strengthen our defensive position. I wanted to put this in the proper context so that this must be properly understood.

THE VICE-CHAIRMAN. (SHRI AKBAR ALI KHAN): I am glad you cleared it up. Now the Bill. Mr. Kesavan.

THE PASSPORTS BILL, 1967—*contd.*

SHRI A. M. TARIQ: Sir, I want one minute after he speaks.

SHRI KESAVAN (THAZHAVA) (Kerala): Mr. Vice-Chairman, if this Bill with the various clauses is allowed to be passed, we will be vesting the executive with extraordinary powers which will certainly curtail the liberty of the citizen. If an application is filed for a passport, what is stated in clause 5(2)? After making such enquiry if any—what is this enquiry, how it is made, how the enquiry is conducted, by whom; all these things are not found there. Ordinarily when an application is made, it will be forwarded to some inspector or some other person appointed. Finally that will come into the hands of a police constable. He will take it to the applicant himself and he will demand something. I am not speaking about the case of Mr. Mani or Mr. Govinda Reddy or Mr. Bhupesh Gupta. I am speaking of the case of the ordinary people who are living in villages. Their relations may be living in Malaysia,

in Singapore, in Borneo, in Sarawak, or West Asia. In many places they are living. They are doing some work. They are employed in Government service or doing some contract work or they may be merchants there. To meet them their relations may apply for a passport. And that application for passport will be forwarded finally which will come into the hands of a police constable. Who appoints this man and what for? It is not a question of security. That is what is happening today. In the case of appointments to Government service also, it takes place. If the applicant has paid something, he will send up a very fine report. If he failed to give something, then he will be a Communist, an enemy of the country, and so many things he will write. But the applicant may be an innocent man who wants to go and meet his relations in Singapore. Or he may be going there to start some business. He may not get a passport. That all depends upon the report of the constable concerned. Of course, when this matter is brought to the notice of the authorities, they will say that the provision is all right, who can go against the provision? What is stated is: "after making such inquiry, if any". It is very clear. But what is happening is that the matter will come into the hands of the police constable. That is what is taking place. So, this provision clearly goes to show that this is really a farce. No useful purpose will be served by this.

What I submit is this. I am not against a law being enacted for the issue of a passport. But when an application for a passport is filed, it must be put before a judicial officer. No new appointment need be made. In every district, there will be the District Judge, the District Magistrate or a Sub-Judge. An application can be filed there by the person who wants the passport. Then the officer concerned may issue notice to the State also to make an inquiry and submit a report. If there is no objec-

[Shri Kesavan (Thazhava).]

tion, let them state it. In case they raise any objection, the applicant can produce evidence, witnesses, and he can prove his innocence, and a decision can be got in his favour. If the judicial officer gives a decision in his favour, of course, the passport may be given by the passport authority of the Government. So, this can be done. There is nothing wrong in it. He can expect justice only from a judicial authority. In every district, there is the District Magistrate, there is the District Judge, there is the Sub-Judge. They are responsible officers. Nobody can deny that fact. Then can say whether he is entitled to get a passport or not. So, what I submit is that such a change should be made.

Under clause 5(3), when an application is refused, the applicant may or may not get a copy of the order. My submission is that it is clearly unjust. When an order is passed against a person, he gets the right to appeal. To file an appeal, he must have a copy of the order. If the copy is refused, that is against natural justice and is against the law also. It says—

“ . . . unless in any case the passport authority is of the opinion that it will not be in the interests of the sovereignty and integrity of India, the security of India, friendly relations of India . . . ”

These things do not arise in this matter. When an order is passed against an applicant, when a passport is denied to him, of course, he has the right to appeal, he has to take it to the appellate court. The appellate authority must also be a judicial officer, not an executive officer or some executive officer of the Government. That change has also to be made. (*Time bell rings.*)

SHRI D. L. SEN GUPTA (West Bengal): Sir, he is making his maiden speech.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): All right. You finish as soon as it is possible.

SHRI KESAVAN (THAZHAVA): Then, passport can be refused on various grounds. Clause 6(2) is there with sub-clauses (a) to (i). I do not deal with all those sub-clauses. Clause 6(2) (i) says—

“that in the opinion of the Central Government the issue of a passport to the applicant will not be in the public interest.”

Mr. Bhupesh Gupta is a Communist. If it is not in the public interest, he will be denied the passport. He is a Communist. . . . (*Interruptions.*) That is entirely different. Because of Mr. Bhupesh Gupta, he may get it. But Mr. Balachandra Menon or I may not get it, though I am not a member of the Communist Party. Even though I will not get it . . .

SHRI A. M. TARIQ: But you will get.

AN HON. MEMBER: Because he is a Member of Parliament.

SHRI KESAVAN (THAZHAVA): There are various reasons for that. What I submit is that there will be some enquiry, which is a farce.

SHRI D. L. SEN GUPTA: We live with it.

SHRI KESAVAN (THAZHAVA): The constable concerned may submit a report. That may be accepted as true. Mr. Bhupesh Gupta is known to the highest authority and so, no inquiry will be conducted. Even if it is conducted or even if he is not a Member of Parliament, he will be given one. Otherwise, there will be no peace. So, he will be given. Mr. Mani quoted certain cases. A man applies for a passport. Then a recalcitrant man will come to a magistrate and file a petition for criminal offence. It may be a non-cognizable offence. In the first instance, a sum-

mons will be issued. The summons will be returned at the instigation of the complainant himself with the endorsement that he refused to accept it. The next thing will be a warrant, bailable or non-bailable. If the sub-clauses (f) and (g) of clause 6 are there, where is the safety for that person? That man is innocent. He is entitled to get a passport, it is not to be refused on any of the grounds mentioned in clause 6. This is taking place every day. I know it. And I have appeared in such cases. That is why I say this. And people were detained on account of such proceedings. So, a provision must be made to safeguard against those things.

SHRI D. L. SEN GUPTA: Mr. Vice-Chairman, Sir, I believe I have fifteen minutes time.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): No, ten minutes.

SHRI D. L. SEN GUPTA: Why?

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): The whole thing is, there are four or five more speakers. I leave it to the judgment of the House whether they would like to sit more. If they want to sit more, then I would like to know their views.

SHRI BHUPESH GUPTA (West Bengal): Tomorrow morning. The Minister has decided not to reply today. Accommodation should be made.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): No, no . . .

SHRI BHUPESH GUPTA: Let me make this submission. If the Minister had replied by 7:00, the House would rise at 7:00. Now, we do not like this. Accommodation is always made according to the convenience of the Minister.

SHRI BHUPESH GUPTA: Well, to some extent, it is understandable. But if you think that there are more speakers and if you do not want to sit, do not try to embarrass the House by asking whether we would like to be here longer to hear the speeches. It is embarrassing to those who make the speeches and to those who are called upon to give opinion. Therefore, normally you adjourn when you like, and tomorrow speeches can be made.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): Mr. Bhupesh Gupta, it is at our request that the Minister has agreed to reply tomorrow. He wanted to reply today. But we told him that as there were many speakers, we would like to accommodate as many as possible. That is why I advised the Minister not to reply today.

SHRI BHUPESH GUPTA: Yes, Sir. Therefore, you can kindly tell the Minister that he need not reply at 12 o'clock. He can reply at half past 2 also.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): There is other work also. I hope you will co-operate with us. There are some more speakers.

SHRI BHUPESH GUPTA: What is the pre-sumption? The moment we see the Minister is not in the House the presumption is that he may have got some other business; otherwise why should he not be in the House? Therefore, he has got some more important business.

THE DEPUTY MINISTER IN THE MINISTRY OF EXTERNAL AFFAIRS (SHRI SURENDRA PAL SINGH): The Minister is returning shortly.

SHRI BHUPESH GUPTA: Who is giving the reply?

SHRI BHUPESH GUPTA: If that is so, he will not be in a position to listen to the speeches. I presume that if he is not in the House, he must have got some other more important business.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): He is coming shortly. Mr. Sen Gupta.

SHRI D. L. SEN GUPTA: Now, Sir, it is 15 seconds past 20 minutes. Mr. Vice-Chairman, I have an amendment for which I have given a notice. When the Bill was piloted first we thought that it would be over much earlier. But there was a big gap. In my motion of the 31st May, I have asked the Select Committee to report by the 7th June. Now in my second amendment of the 7th June I have asked for the date to be extended up to 17th July, 1967. That is my amendment.

Sir, I beg to move:

"That in the notice of amendment dated the 31st May, 1967, in the motion for reference of the Bill to Select Committee, for the figures and words '7th June, 1967', the figures and words '17th July, 1967' be substituted."

Now coming to the Bill itself, let me tell you in brief why I moved my motion for referring the Bill to a Select Committee.

Sir, the Supreme Court decision was, in substance, against the arbitrariness in the system of granting passports. In my respectful submission that arbitrariness still remains; that has not been cured. I shall refer to it at the relevant time.

Now, Sir, regarding the other point which I would like to develop my

They go out just for pleasure trips or for fictitiously doing business, for securing order or pushing trade and all that. There is no restriction, no prohibition for those who have been found guilty of under-invoicing or defrauding the Customs or found otherwise guilty for contravening the provisions of our Finance Act.

Now what is the secret of capital in this country? The secret of it lies in under-invoicing. Though it is a matter of very great national importance, there is nothing here regarding that.

The third thing that I would like to develop is this. This is regarding the passport of a general nature. I want certain special provisions by way of liberalised movement in respect of India and Pakistan. Till the other day Pakistan was a part of this country and the division was a political division. We have our relations in East Pakistan and vice versa. These people have to undergo the same ordeal as one has to undergo for going to America or Russia. That is a matter which has not been considered by the hon. Minister. These three things I shall develop.

Let me take up the first point, arbitrariness. Since I have very little time at my disposal I shall only indicate this. Sub-clause (3) of clause 5 says:—

"Where the passport authority makes an order under clause (b) or clause (c) of sub-section (2) on the application of any person, it shall record in writing a brief statement of its reasons for making such order and furnish to that person on demand a copy of the same."

India, the security of India, friendly relations of India with any foreign country or in the interests of the general public to furnish such copy."

Sir, is it not arbitrary? You give us a right with one hand and snatch it away with the other hand. Sir, anybody who is to be denied a passport can be brought under this clause. That is why I said there is arbitrariness. This was not intended by the Supreme Court.

Now coming to the other aspect. Coming to clause 6, there is another instance of arbitrariness. Sub-clause (2) of clause 6 says:—

"Subject to the other provisions of this Act, the passport authority shall refuse to issue a passport or travel document..."

Then section (b) of sub-clause (2) of clause 6 says:—

"that the applicant may, or is likely to, engage outside India in activities prejudicial to the sovereignty and integrity of India;"

It is about the future. If somebody shall do it, if apprehension is there, if the passport authority thinks for himself, he will deny a passport.

Then section (c) says:—

"that the departure of the applicant from India may, or is likely to, be detrimental to the security of India;"

For the entire future. If anybody says "likely to be detrimental" the clause will operate.

Then, Sir, it is said:—

"that in the opinion of the Central Government the issue of a passport to the applicant will not be in the public interest."

So, Sir, you are now codifying the law for passport. You are going to remove the arbitrariness against

which the Supreme Court made a stricture. It is full of arbitrariness. You have not removed it. You have codified arbitrariness. That is my submission.

Again coming to the proviso to clause 11:—

"Provided that no appeal shall lie against any order made by the Central Government."

The Central Government is the executive and this executive is being made the final authority. No appeal will lie against any order made by the Central Government. I can go in appeal only to the High Court or the Supreme Court under article 226 or 227, for the matter of that, when the Court can intervene on an error of law apparent on record, not error of fact or error of law, but on apparent error of law, where they have a very limited jurisdiction. Sir, we are thinking of removing arbitrariness. We are evolving a forum for appeal. But what is there? There is nothing. I am just indicating the arbitrariness since I have got only five minutes more.

Coming to the question of the prohibitive clause, I shall not repeat what other friends have said because they have highlighted their points. I shall only highlight my point. Teja's case was referred yesterday by the lady Member, Mrs. Yashoda Reddy, as to how he could go out. How could Teja go? Sir, there is not one Teja in this country. There are Tejas in every corner. They under-invoice the goods and deposit the money they get against those goods in foreign banks. Otherwise how could they, with so little money that is sanctioned, afford to go abroad with their families? They draw money which they illegally deposit in foreign banks. Sir, it is in this way that the blackmarketeers, anti-social elements and anti-national elements are provided for. You should see that this type of action is checked. They get money for luxury and if they cannot

[Shri D. L. Sen Gupta.]

spend in luxury, they spend it in this way and so this must be checked. Now, Sir, on the question of smuggling and illegal money, I need not tell you. There is the Bird and Company and the company bosses go to America and London. And this Government of ours, the Finance Department, found them guilty and imposed a penalty of more than Rs. 1 crore.

SHRI M. C. CHAGLA: May I intervene for a moment, if my hon. friend will agree? 'P' Form has nothing to do with passports. This deals with merely passports. 'P' Form is the concern of the Finance Ministry. Even if a man has a passport, he must get foreign exchange for which he has got to make an application to the Finance Ministry. The External Affairs Ministry has nothing whatever to do with 'P' Form. The right to have a passport is regulated by this Bill. After a man gets the passport, even then he may not be able to leave India if he does not get foreign exchange but that is not the concern of the External Affairs Ministry; that is the concern of the Finance Ministry.

SHRI D. L. SEN GUPTA: My point is that you are not the Home Department here. You have made a provision that if there is a criminal case pending, then passport will not be issued. So I wish the External Affairs Ministry to make a provision that any firm or any member found guilty of under-invoicing or of any offence under the Finance Act, shall not be allowed a passport. I want that provision to be included. I am not asking that the 'P' Form should not be given and all that. I am insisting that such a provision should be there and for that, this matter should be sent to a Select Committee. So I am not off the track. I know that you are not the 'P' Form or foreign exchange giving authority. But you have certainly authority to make a provision that those who are guilty of this kind of offences shall not be

allowed a passport. This is within your jurisdiction.

Now, coming to the question of Pakistan, there was a time, immediately after the Partition, when people could go there freely. But unfortunately, because of political changes, because of certain political interests somewhere, that has been stopped. I do not like to dilate on that. Now we are going to make a passport law for our country. Can't we at this stage think anew, have certain negotiations with the Pakistan Government and make certain reciprocal arrangements with them and have a provision in law that hereafter people of India shall be able to go to Pakistan without a passport? Why not? It was the position in 1947-48. If it was the position then, can't we go back to that position? Can't we normalise the situation? So that is my request to the Minister to be considered. Let this Bill be not passed hurriedly; let it be referred to a Select Committee.

شری اے - ایم - طارق : مسٹر

وائس چیمبرمین—جہاں تک اس بل کا تعلق ہے میں سرکار کی حمایت کرتا ہوں اس بل کے لئے میں -

श्री राजनारायण: हरबाव की हिमायत करते हैं ?

شری اے - ایم - طارق : نہیں -

ظاہر ہے کہ ہر ایک بات کی نہیں کرتا لیکن پاسپورٹ ہر مہذب ملک کے شہری کے لئے ضروری چیز ہے اور ہر مہذب ملک اپنے شہری کو بغیر اجازت کے بغیر انٹیمپروکیشن کے کسی غیر ملک میں جانے کی اجازت نہیں دے گا تاکہ وہاں جا کر کسی ملک میں گرفتار نہ ہو جائے - پاسپورٹ صرف جانے کا اجازت نامہ نہیں ہے بلکہ ایک قسم کی ضمانت ہے - آپ کی پہچان ہے کہ آپ نکون ہیں اور آپ کہا ہیں خدا نخواستہ

آپ کسی مصیبت میں گرفتار ہوں تو پاسپورٹ کی بنا پر آپ بچ سکتے ہیں اور آپ کے حالات معلوم ہو سکتے ہیں۔ پاسپورٹ ایک ذریعہ ضمانت بھی آپ کے لئے ہے لیکن پاسپورٹ کو کوئی مصیبت بلذا نہیں چاہیئے شہری کے لئے بلکہ پاسپورٹ ایک علاج ہے۔ ایک ضرورت ہے پاسپورٹ دہلے والے کی سمجھ اور دل وسیع ہونا چاہیئے یہ تلک نظی پر مبنی نہیں ہونا چاہیئے؟ پاسپورٹ دینے کے وقت کسی کمیونٹی کے لئے ڈسکریمینیشن نہیں ہونا چاہیئے۔ میں منسٹر صاحب سے یہ امید کرتا ہوں کہ جب وہ جواب دینگے تب وہ ایوان کو یہ ضمانت دینگے کہ ہندوستان میں رہنے والے شہریوں میں کسی طرح کا ڈسکریمینیشن نہیں ہوگا۔ نہ رنگ کی بنا پر، نہ نسل کی بنا پر اور نہ ہی مذہب کی بنا پر۔ جہاں تک پاسپورٹ کا تعلق ہے سیاسی نظریہ کی بنا پر بھی اس بارے میں ڈسکریمینیشن نہیں کیا جانا چاہیئے بشرطیکہ وہ سیاسی نظریہ ہمارے ملک کی آزادی اور ہمارے ملک کی جمہوریت کے خلاف نہ ہو لیکن میں یہ جاننا چاہتا ہوں کہ پاسپورٹ ہر ہندوستانی شہری کے لئے ضروری ہے جس کو باہر جانا ہے۔

جہانتک پاسپورٹ کے ایڈ-منسٹریشن کا تعلق ہے اس کے بارے میں مجھے کچھ کہنا ہے۔ میرے دوست پدمہزاری نے کہا کہ آج سے چند سال پہلے ہندوستان کے

لوگ اس قدر باہر نہیں جاتے تھے جس قدر آج جاتے ہیں لیکن اب ریاستی لوگوں کے لئے بڑی مشکل ہو گئی۔ اگ نیک کشمیری کو باہر جانا ہے تو اس کو پاسپورٹ کا فارم شملہ میں لینا پڑتا ہے سردی اور موسم کی خرابی کی وجہ سے اور ویسے بھی تین چار پانچ مہینے لگ جاتے ہیں۔ ضرورت اس بات کی ہے کہ ہر اسٹیت کو پاسپورٹ حاصل کرنے کی دیکھداری ہو۔ یہ بات بھی بالکل درست ہے کہ جہاں یہ کہا جاتا ہے کہ مقامی ریاست کی سفارش ہو تو میرے پاس ایسے کیسیز بھی ہیں جہاں سرکار نے کہا کہ اس آدمی کو پاسپورٹ نہ ملنا چاہئے لیکن اس آدمی کو دلی میں آکر پاسپورٹ مل گیا لیکن جس آدمی کے بارے میں ریاست کی سرکار نے کہا کہ اس کو پاسپورٹ دے دیجئے اس کو چھ مہینے لگ گئے۔ میرے پاس دو کیسیز ہیں جس میں کشمیری دوکاندار کو پاسپورٹ دے دیا گیا جو نہ کشمیر کو لینا سمجھتا ہے نہ ہندوستان کو۔ ایک طالب علم کے لئے فارن اسکالرشپ دے دیا۔

Sending students on scholarships to a foreign country for further education is the responsibility of the State Government.

اس کا مطلب یہ ہے کہ جہانتک قوانین کا تعلق ہے یہ اختیار مقامی آفیسر کے ہاتھ میں ہو بشرطیکہ ہماری

क्रिमिनेशन नहीं होना चाहिये। मैं मिनिस्टर साहब से यह उम्मीद करता हूँ कि जब वह जवाब देंगे तब वह एवान को यह जमानत देंगे कि हिन्दुस्तान में रहने वाले शहरियों में किसी तरह का डिसक्रिमिनेशन नहीं होगा, न रंग की बिना पर, न नस्ल की बिना पर और न ही मजबूत की बिना पर, जहाँ तक पासपोर्ट का ताल्लुक है सियासी नजरिया की बिना पर भी इस बारे में डिसक्रिमिनेशन नहीं किया जाना चाहिये, बशर्ते कि वह सियासी नजरिया हमारे मुल्क की आजादी और हमारे मुल्क की जम्हूरियत के खिलाफ न हो। लेकिन मैं जानना चाहता हूँ कि पासपोर्ट हर हिन्दुस्तानी शहरी के लिये जरूरी है जिसको बाहर जाना है।

जहाँ तक पासपोर्ट के एडमिनिस्ट्रेशन का ताल्लुक है उसके बारे में मुझे कुछ कहना है। मेरे दोस्त पंजहजारी ने कहा कि आज से चन्द साल पहले हिन्दुस्तान के लोग इस कदर बाहर नहीं जाते थे जिस कदर आज जाते हैं लेकिन अब रियासती लोगों के लिए बड़ी मुश्किल हो गई है। अगर एक काश्मीरी की बाहर जाना है तो उसको पासपोर्ट का फार्म शिमला में लेना पड़ता है। सर्दी और मौसम की खराबी की वजह से और वैसे भी तीन चार पांच महीने लग जाते हैं। जरूरत इस बात की है कि हर स्टेट को पासपोर्ट हासिल करने की जिम्मेदारी हो। यह बात भी बिलकुल दुरुस्त है कि जहाँ यह कहा जाता है कि मुकामी रियासत को मिफारिश हो तो मेरे पास ऐसे केसिज भी हैं जहाँ सरकार ने कहा कि इस आदमी को पासपोर्ट न मिलना चाहिए लेकिन उस आदमी को दिल्ली में आकर पासपोर्ट मिल गया लेकिन जिन आदमी के बारे में रियासत की सरकार ने कहा कि इसको पासपोर्ट दे दीजिए उसको 6-6 महीने लग गये। मेरे पास दो केसिज हैं

जिस में काश्मीरी दुकानदार को पासपोर्ट दे दिया गया जो न काश्मीर को अपना मम-झता है न हिन्दुस्तान को, एवं ताल्लुक डलम के लिए फारेन एक्सचेंज दे दिया। Sending students on scholarships to a foreign country for further education is the responsibility of the State Government. इसका मतलब यह है कि जहाँ तक कवानेन का ताल्लुक है यह अख्तियार मुकामी आफिसर के हाथ में हो बशर्ते हमारी कंट्री के लिए खतरनाक न हो, अगर आफिसर के हाथ में इस की वागडोर है कि जिसको पासपोर्ट नहीं देना है उसको मिल जाए और जिसको देना है उसको न मिले और इन्फ्लुएस और दोस्ती के जरिए लोग पासपोर्ट हासिल कर ले तो मुझे चागला साहब से उम्मीद है कि वह इन मामलों में और कम से कम इन मामलों में तवज्जो देंगे।

जहाँ तक पासपोर्ट आफिस का ताल्लुक है मुझे यह अर्ज करना है कि हम जब भी बाहर जाते हैं बेरूनी मुल्कों में वहाँ हमको जो एतराम मिलता है वह यहाँ के पासपोर्ट के आफिस में नहीं मिलता। कोई बैठने को जगह नहीं मिलती है। एक और मुझे अर्ज करनी है और वह यह है कि यह जरूरी नहीं है कि पासपोर्ट आफिस में वही आदमी हों जो अपोजी जानता हो। हमारे मुल्क में मुख्तलिफ जवान हैं। छोटे छोटे लोग पासपोर्ट के लिए जाते हैं कोई उर्दू जानने वाला होता है, कोई गुजराती जानने वाला, कोई बंगाली जानने वाला होता है। तो मैं यह अर्ज करना चाहता हूँ कि पासपोर्ट के आफिस में कुछ ऐसे आफिसरान भी हों जो कुछ मुकामी ज्ञान जानते हों, उर्दू और हिन्दी में दरखवास्त पढ़ सकें हो वरना लोगों को बेहद तकलीफ होगी।

इन चन्द लफ्जों के साथ एक दफा मैं फिर चागला साहब से गुजारिश करूँगा कि

[श्री ए० एम० तारिक]

वह इस तरह का गारंटी देगे कि पासपोर्ट के बारे में कोई डिस्क्रीमिनेशन किसी नस्ल, रंग की बिना पर नहीं किया जाएगा।

SHRI BHUPESH GUPTA: Mr. Vice-Chairman, Sir, I should like to make some preliminary observations before I deal with some provisions of the Bill. The first thing I should like to point out here in this connection is that we have really got two systems of passports. One is passport in its real name given or supposed to be given by the Ministry of External Affairs; and another system—it is concurrent system—is the system under the Ministry of Finance, the 'P' Form. Then again we have got the secret system under the Home Ministry. Therefore, it is not simple as the hon. Minister for External Affairs would like to make out, that the issue of passport is fair to all and that it is not concerned with any other thing, as if the Finance Ministry and the Home Ministry do not come into the picture at all as the Minister of External Affairs does. Now, to me this is cock and bull story understandable to those people who are ignorant about how things go in this part of the world. But those who are a little knowledgeable know only too well that, even if you get a valid passport, you may not be in a position to leave the country because there is the Finance Ministry, then there is the Home Ministry, and unless you get the 'P' Form clearance, the passport is virtually negated. That is to say, the valid passport that we hold becomes infructuous in the hands of the same Government, because the 'P' Form is not sanctioned on flimsy grounds. Mr. Vice Chairman, I took up this matter, on the basis of experience, with the Minister of Finance at that time. Mr. Morarji Desai was the Minister for Finance even then. He wrote me a letter in which he had said that as far as the 'P' Form was concerned, it was intended to serve certain purposes, of the preservation of our foreign exchange or, shall we say, to prevent misuse of foreign ex-

change, or wastage of foreign exchange. That was the sole purpose. Now the letter is with me even now. What happened? Then, when people got a valid passport, well, the Finance Ministry stopped it by not granting the 'P' Form. When I approach the Ministry of Finance, they say: "That Home Ministry has stopped it." Now you see how things were handled. That it to say, the 'P' Form became a handle in their hands to invalidate a valid passport. I can cite many many instances. We had certain invitations given to certain trade union and other organisations, where it was made clear that no foreign exchange would at all be involved. And the Government was not in a position to question the *bona fides* of those invitations. And even so the 'P' Form was not sanctioned. Naturally, when we approach the Ministry of Finance, they politely advise me to take it up with the Home Ministry. I often said: "Why should I go to the Home Ministry? This matter had been settled when the passport was issued. If it were a question of the antecedents of that person or the credentials of that citizen of India, that matter had been gone into under the existing regulations when the passport application was under consideration. Why then, after the passport has been issued, the other processes should come in in order to make this process absolutely useless and infructuous?" This is what I used to say. Now, how many instances you need? If you like, I can draw up a list of cases where, for absolutely no reason, a valid passport had been negated in this manner, in this clandestine and unfair manner by the same Government. Now we know our External Affairs Ministry. It is a glittering Ministry. It was more shining when Pandit Jawaharlal Nehru was there, because he held that portfolio. I say this thing because I had taken up certain passport cases to Pandit Jawaharlal Nehru also.

SHRI DAHYABHAI V. PATEL: It was tarnished when Mr. Krishna Menon came.

SHRI BHUPESH GUPTA: Do you suffer from any obsession with Mr. Krishna Menon? You may be so, but I am concerned with the Government here. Now there you see, at that time when the External Affairs Ministry used to say something, the other Ministries more or less fell in line, because the great man was sitting in South Block. Today, well, you have Mr. Chagla. He is a very intelligent man, a good man, but certainly he will agree that he does not enjoy the same authority as Pandit Jawaharlal Nehru; he himself will concede it. But the regret is this that these people in the Home Ministry and the Finance Ministry forget that the Minister for External Affairs, by reason of the office he holds, is the final arbiter in this matter, that once he gives an order, that order should be carried out, that once he has allowed his Ministry to grant a valid passport to a citizen of India, nothing unfair should be done to make this passport useless or unusable by a particular citizen of India. They never have suppressed facts. Sometimes I find that the External Affairs Ministry has become the butt of jokes in certain ruling circles. Since we function here, we come to know so many people. I will not tell you secrets, but it is well known that today it has become the butt of jokes.

SHRI NIREN GHOSH: What are the secrets?

SHRI BHUPESH GUPTA: In public interest I will not divulge secrets; for the security of the country I will not divulge secrets.

SHRI M. C. CHAGLA: I did not catch him there.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): He said that the External Affairs Ministry has become a matter of joke.

SHRI BHUPESH GUPTA: You should know, Mr. Chagla. I want to protect you.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): Mr. Bhupesh Gupta, you want to insist that all these

formalities of Finance and Home should be completed before the passport is issued.

SHRI BHUPESH GUPTA: No, no, you have not followed me.

SHRI M. C. CHAGLA: May I say this? The Home Ministry does not come into the picture at all. As far as the Home Ministry is concerned, whatever enquiries had to be made, had to be made before the issue of the passport. It is the sole privilege of the External Affairs Ministry to decide whether the passport in a particular case is to be issued or not; it is for the External Affairs Ministry but, as I explained to my hon. friend, where the 'P' Form comes, I have no hand. My hon. friend is wrong in mixing up both; the Home Ministry has nothing to do with it.

SHRI BHUPESH GUPTA: What can I do, Mr. Vice-Chairman? Should I name individuals? Should I name more than one Cabinet Minister? I have been here for long, for too long a time perhaps. They have told me that the Home Ministry was coming in the way. I have been referred to the Home Minister.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): Before he issued the passport.

SHRI BHUPESH GUPTA: Yes, yes, people who were holding valid passports, with regard to them I am talking; I know the other part of it. In respect of cases of valid passport holders I had to meet the hon. Pandit Govind Ballabh Pant earlier—the problem was not so easily solved. I had to meet Shri Lal Bahadur Shastri. I had to meet Shri Gulzarilal Nanda, and I had been advised to meet Mr. Chavan recently also. But again in public interest I will not divulge it, because I want cohesion among Ministers to be maintained.

SHRI M. N. KAUL (Nominated): Under what provision of the law?

SHRI BHUPESH GUPTA: Mr. Chagla is such an intelligent man, by all accounts brilliant if I may say so, but in which world he is living, I should like to know. He does not know the simple thing which every Cabinet Minister tells me every day. Therefore, Sir, I would not go into that. I will tell you; the Home Ministry is the final vetoing authority.

SHRI NIREN GHOSH: Who, did you say?

SHRI BHUPESH GUPTA: The Home Ministry. Mr. Chagla, if you have an intelligence service as Mr. Chavan has, and you put that intelligence service to action and get the information through it, you will find that the Home Ministry, in political and other cases, is the final arbiter in the matter of passport. In case the passport had already been issued, the Home Minister comes in through the back door and utilises the 'P' Form business and asks the Finance Ministry not to sanction the 'P' Form. I have it said by a Cabinet Minister. I repeat it. When Mr. Krishnamachari was there, I took it up with him. Now he is not in this crowd of Ministers. Well, he told me. Let him deny it. I will not mention other names. He told me: "Take it up with the Home Minister. I do not like this. I would not like this 'P' Form to be used for this purpose of "political witch-hunting." He did not use the word "political witch-hunting" I must say. But this is the kind of thing. Now it is quite clear. Therefore, let there be no doubt about it. I have dealt with such cases, you know, on behalf of many many people coming to me, and delegations of various mass organisations go to various countries, and we also sometimes do. I must say that from the External Affairs Ministry we get a reasonable approach in such matters. That is because they are not so much bothered about it. But the moment the Home Ministry comes in there is difficulty. They are mighty afraid of the Home Ministry. The External Affairs Ministry is a sub-Ministry in that respect as far as the passports are concerned,

of the Home Ministry. The tentacles of the Home Ministry have reached the External Affairs Ministry. Therefore, my first submission is that not only in law but in fact, the Ministry of External Affairs should be the decisive and final Ministry in this matter. If any other Ministry interferes in the matter of issuance of passports, that should be regarded as something very improper, an impermissible interference in the normal functioning of the Government and an attempt to bluff and cheat Parliament. Now he said that the Home Ministry does not come in. I do not like to take this case to the Privileges Committee because I do not believe in taking these things to the Privileges Committee. But Mr. Vice-Chairman, I would like to say this. If I can prove the thing, then I say in future if the Home Ministry interferes in this matter, I would like to know what Mr. Chagla is going to do.

SHRI M. C. CHAGLA: I must make my position clear. I said it and I repeat it, that before the passport is issued it may be necessary to consult the Home Ministry with regard to the satisfaction of the various requirements laid down in the Bill. But once that stage has passed it is for the External Affairs Ministry to decide whether the passport should be issued or not. There is no interference after the issue of the passport. I do not know anything about the Home Ministry and 'P' Form. I have nothing to do with that.

SHRI BHUPESH GUPTA: Mr. Vice-Chairman. I am not disputing what he says. It is precisely on that ground that I am saying all this. I am not speaking of cases where the Home Ministry has entered the picture before the passport application is sanctioned. I am now referring to cases where the valid passport holders, which means people to whom they had given passports, have been denied the facility to travel because of the backdoor, secret, concealed interference by the Home Ministry.

This is what I am saying. Now that Mr. Chagla has said this thing I do not want to debate the matter now. But I know that in his heart of hearts he believes in what I have said. If he does not believe, let him consult his officers and if he has no faith in his officers, let him consult his Cabinet colleagues. I say this because I know such things have taken place.

I say first of all this 'P' Form business should go. Why do you want it? Do you mean to say that you want to save foreign exchange? Because of this have you saved any foreign exchange?

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): Mr. Gupta this has nothing to do with the Bill.

SHRI BHUPESH GUPTA: Mr. Vice-Chairman, it has to do with the Bill. I say this because this 'P' Form prevents travel facilities. You cannot have two lines of argument. Why is this 'P' Form there? Is it on the ground of foreign exchange? Have you saved foreign exchange because of this 'P' Form business? No. The statements made by the Government and the statement made by the Economic Affairs Ministry say that it has not produced any result. In fact the Administrative Reforms Commission has recommended the abolition of the 'P' Form business. It is utterly useless and it has become an instrument of oppression and interference in the hands of the Finance Ministry and through the Finance Ministry in the hands of the Home Ministry. This is the position.

Mr. Vice-Chairman, passports are issued easily to the capitalists. You see they can go abroad and they go very often and all that they have to say is, "I am going to the United States for some business" and of course, always they can produce a letter saying that some business people have invited them. And they get the 'P' Form easily and also the sanction of the foreign exchange.

And in addition to all this, as Mr. Morarji Desai said this morning, they can take their wives also with them and also some other people. I am not saying about concubines. Some of the capitalists have their concubines also, but I do not know if they can take their concubines also with them. But their wives they certainly can take with them. So this is the position. They have no difficulty at all. But the moment a political worker or people connected with trade unions and other people apply, even when they have their valid papers and even if there is no involvement of foreign exchange at all, they are not given the 'P' Form, even though they are valid passport holders. This should stop. That is what I say.

Then I should like to point out about various other things also. Well, here you see there are Members of Parliament and also Members of the State Assembly who sometimes get passports. Even in their cases there were difficulties and we had to take it up and for years we had to fight. And then Pandit Jawaharlal Nehru gave an administrative order in which he said—he told me and I think he wrote to a letter also—that from now onwards the MLAs and MPs normally, the Members of the State Legislatures, the MLAs and MLCs—would be given passports, unless, of course, there are special reasons against it. Even that became a source or ground for denial of passport. Later on some MPs and MLAs has been denied passports despite Nehru's instructions, on purely political grounds, because the party in power did not like it and so even the instructions of Pandit Nehru were not carried out. I had occasion to point it out to him and he said he would look into it. I do not know what he did. Well, I can tell you of one case. Take the case of Shri E.M.S. Namboodiripad. He applied for a passport. He was an MLA and I think in the first instance his application for a passport was refused in 1963, in the middle of

[Shri Bhupesh Gupta.]

1963, I think. We took it up with the Prime Minister. Well, he also had hesitation because the Home Ministry came in the way and certain other people in the Ministry also came in the way. But later on after a number of representations he was issued a passport and he could go to the Soviet Union, in June, 1963. I am giving an example. Well, if this could happen with regard to a man who was a Member of a State Legislature and who was at that time a former Chief Minister of his State and who is now the Chief Minister of his State, you can imagine what kind of things must be happening to other people. I know of a case when it was a problem for example, to get passports even for Members of Parliament because of political reasons, despite the instructions of the Prime Minister. Therefore, I say that this is being done. Mr. Vice-Chairman, even Members of Parliament sometimes have had difficulties in getting the 'P' Form because of the interference of the Home Ministry. Therefore, I say these things should be gone into.

5 P.M.

Now coming to this Bill, I do not want to say much because I have some amendments in my name. The first thing I have to say is that the spirit of the judgment of the Supreme Court is not reflected in the measure that is proposed. It is true that the judgment says that there should be some kind of arrangement for the issue of passports. But the spirit of the judgment is that it is the right of every citizen and that right should not be limited or restricted, I mean his right to get a passport. That is the spirit of that judgment. Now if you go through the provisions of this Bill, as hon. Members have already pointed out, there are so many clauses on which a passport may be denied to a citizen, one who is otherwise fully entitled to get a passport. I do not want to go into all these clauses just now. But I say there are a

series of clauses in the Bill. The Bill has been conceived in the spirit of the old British days. The Bill has not been conceived either in the spirit of the provisions of our Constitution or in the spirit of Part III of our Constitution, i.e. in the spirit of the fundamental rights, or in the spirit of the majority judgment of the Supreme Court. That is my first complaint. For example, the security of India, the interests of India and so many other things have been brought in in order to find grounds for refusing passport to the citizens. Which country has this arrangement? Not very many countries in the world. Now it is not for the Executive to say that somebody has not been given passport because the Executive thinks that the security of India is endangered. Not only that; it is also said vaguely that for public interests passport may not be given. What is that? If it is done in public interest then it should be known what it means when it says 'public interest'. No definition of this expression is here. Do you mean that the definitions in the Criminal Procedure Code shall be drafted here in order to explain it? No; we cannot do so. Therefore you see too much arbitrary power is given here. Arbitrariness in the matter of issuance of passports is enshrined and retained in the provisions of this Bill. It is a very serious matter. I think that it will give a handle to the Executive, to the Police and other people concerned to withhold passports in legitimate cases also. The Home Ministry is given a lead in this matter because if you go through the clauses very carefully you will see that many of the things will be actually decided by the Home Ministry although the issuing authority is the Ministry of External Affairs. Therefore, the Ministry of External Affairs is mortgaging its right of authority to the Home Ministry as a result of which the citizens of India in the matter of foreign travels are going to suffer. That is the point. Therefore, I say that this Bill has been drafted with the same old

D.I.R. mentality. I do not know who has drafted it but it does seem that the spirit of Mr. Nanda hovered over those people who drafted this Bill with the D.I.R. mentality. In fact you will find that some of the expressions in the Bill have more or less family resemblance to the expressions occurring in the Defence of India Rules. We find the security of India, the sovereignty of India, the integrity of India and so many other things. Well, Mr. Chagla, I ask you; do you think that this law is going to be administered in a fair way? Do you think that there is going to be liberalisation under this scheme of things? No; not at all. Maybe, some officers will like to do it but the tendency will be to tighten the issue of passports or at least to stop people arbitrarily in many cases from getting their passports which they should normally get. Therefore, the entire thing has got to be changed. Then there is the political worker. Why should I be denied passport because I have been in prison for two years. Many Members this side will be denied passports on the ground that we have been imprisoned for two years. And it is they who will put us in jail.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): That will apply not only to that side but to this side also.

SHRI BHUPESH GUPTA: I do not know. Have you been to jail, Mr. Vice-Chairman? But why do you judge the credential of a citizen of the country by the fact that he has been in jail? In some cases it is a recommendation, I know. I do not know how this will be applied. It does not even say, 'who had been imprisoned for two years after the commencement of this Constitution'. It simply says 'who had been imprisoned for two years'. It means many of the Congress leaders should not get the passport.

SHRI M. C. CHAGLA: That is not so.

SHRI BHUPESH GUPTA: You have said two years' imprisonment. You have written in the British style. You know the British very well.

SHRI M. C. CHAGLA: Will the hon. Member read the clause? It says:

"That the applicant has, at any time during the period of five years immediately preceding the date of his application . . ."

I take it that we got independence long before five years.

SHRI BHUPESH GUPTA: I do not know. You see other places. First of all . . .

SHRI LOKANATH MISRA (Orissa) Sir, let him continue tomorrow.

SHRI M. C. CHAGLA: Sir, may I know what the position is? Tomorrow how much time will be given? When am I supposed to reply?

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): Now there are three more speakers, Mr. Bhandari, Mr. Rajnarain and Mr. Jagar Narain.

SHRI NIREN GHOSH: Sir, I have given my name.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): Yes; you are here also.

SHRI NIREN GHOSH: You always seem to forget me.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): I would like to take the sense of the House. Shall we be able to finish these four speeches in an hour so that I might ask the hon. Minister to be ready to reply at 2.30?

SHRI BHUPESH GUPTA: You ask him to be ready at 2.30 P. M. and since he will be ready at 2.30 P. M. even if the speeches go up to 3.00 P. M. it does not matter.

श्री राजनारायण : अभी तो भूपेश गुप्ता का ही नहीं खत हुआ । हमको तो नया नजरिया रखना है ।

SHRI P. N. SAPRU (Uttar Pradesh):
I would like my name also to be included in the list. I won't take more than four or five minutes.

THE VICE-CHAIRMAN (SHRI
AKBAR ALI KHAN): All right.

The House stands adjourned till
11 A. M. tomorrow.

The House then adjourned
at five minutes past five of
the clock till eleven of the
clock on Thursday the 8th
June, 1967.