

MR. CHAIRMAN : I shall now put Amendment Nos. 11 to 23 moved by Shri Ram Lal Rahi to the vote of House.

Amendments Nos. 11 to 23 were put and negatived.

MR. CHAIRMAN : I shall now put all the remaining amendments to the vote of the House.

Amendments Nos. 10 and 24 to 30 were put and negatived.

MR. CHAIRMAN : Now, finally, I take up the motion of the Hon. Minister.

The question is :

“That this House takes note of the Sixth Five Year Plan 1980-85—Mid-term Appraisal’ laid on the Table of the House on 19 August, 1983.”

The motion was adopted.

16.49 hrs.

**STATUTORY RESOLUTION RE :
DISAPPROVAL OF ILLEGAL MI-
GRANTS (DETERMINATION BY
TRIBUNALS) ORDINANCES 1983;
AND**

**ILLEGAL MIGRANTS (DETER-
MINATION BY TRIBUNALS) BILL**

MR. CHAIRMAN : Now, we take up the next item. Item Nos. 15 and 16 on the Agenda. The time allotted is four hours.

Statutory Resolution is to be moved by Shri Indrajit Gupta. He is absent. Shri P.K. Kодиyan.

SHRI P.K. KODIYAN (Adoor) : Mr, Chairman, I beg to move the following Resolution :—

“This House disapproves of the Illegal Migrants (Determination by Tribunals) Ordinance, 1983, (Ordinance No. 8 of 1983) promulgated by the President on the 15th October, 1983”.

Mr. Chairman, even though I have moved this motion for disapproval of the Ordinance, I should make clear one thing. Even though I have moved this Motion of disapproval, I should make it clear that I am not opposed to the intention of the Ordinance. I am opposed to the practice of issuing ordinances. This Government have been resorting to the practice of issuing ordinances even when the House was to meet a few weeks after the promulgation of the ordinance. This is why, I have moved this disapproval motion.

Coming to the substance of the Ordinance and the Bill, I should say that the Government should have brought forward this Bill much earlier because there was consensus among the political parties and all other people concerned regarding the detection of illegal entrants to India in the post 1971 period. Of course, AASU was opposed to this. But barring their opposition there was almost national consensus on the question of starting the work of detection on this. The Central Government had issued a pressnote as early as in October, 1983 that the Government had already decided to set up a number of tribunals to detect the foreign nationals in Assam. Now we are discussing this at the end of the 1983 and the work of actual detection of the foreign nationals in Assam for the post 1971 period will begin only after this Bill is enacted. Therefore, I should say that the Government has unduly delayed this very important aspect of finding at least a partial solution to the vexed problem of foreign nationals in Assam. Now since this Bill has been introduced and the process has begun, I request the hon. Minister to speed up the work of the tribunals as quickly as possible.

There are certain ambiguities in the present Bill. The illegal foreign entrants are mainly from the former East Pakistan, now Bangla Desh. But there are other nationals, people of other nationalities who had settled in Assam. For example, there are a number of people of Nepali origin. I want to know whether these people will be included in the category of the post 1971 foreigners in Assam. In my

opinion, the people of Nepali origin who had settled in Assam, should be treated on a different footing. Even if they are to be exempted from this, at least another cut off date should be prescribed for the people of Nepali origin. I may suggest or 1975 or 1976 as cut-off year for these people of Nepali origin. We all know the background of the process of setting up the Tribunals to decide illegal immigrants in Assam. Lot of things have happened in Assam, very unhappy, very very serious situations have developed there. The whole nation was very much concerned about the violence and the bitterness among the various nationalities and ethnic groups in Assam during the last few years. We know how much emotion has been generated on this question of foreign nationals in Assam how the Assamese people are agitated over the issue of foreign nationals. Therefore, when we start the process of detecting the foreign nationals of the post—1971 period, we have to be very careful to see that the interests of all sections of the people in Assam who have genuinely settled there and who can genuinely be considered as citizens of India, are protected. No section should be subjected to unnecessary harassment in the process of detecting the foreign nationals.

Now, we all know what has happened in Assam in the past few years? It is clear that unless we take special care to the maximum possible extent, to make foolproof arrangement for detecting the foreign nationals, these provisions are likely to be misused. For example, I may draw the attention of the hon. Minister to sub-section (1) of Section 11 of the Bill. that is :

“On receipt of an application under sub-section 8, the Tribunal shall issue a notice, accompanied by a copy of the application, to the prescribed authority calling upon it to furnish, after making such inquiry as that authority may deem fit, a report to the Tribunal with regard to the averments made in the application.”

So, it is the responsibility of the prescribed

authority, Once an application has been referred to the authority, it is the authority's duty to make an investigation and report to the Tribunal with regard to the averments in the application. What is the authority? Of course, authority will be prescribed by the rules that I know but this prescribed authority should be an impartial authority. Let it not be an authority which will act in favour of a particular section of the people or a particular nationality or a particular ethnic group.

17.00 hrs

For example, if the Assam police is to make the investigation and make a report, naturally that will go against the applicants who are non-Assamese who have settled in Assam. To what extent emotion has been worked up there, we are all aware of. Therefore, it should not be left to the Assam police to make the investigation and make the report to the Tribunal. I would suggest here that in all such investigations, the local people's representatives, i.e., Presidents of panchayats and the local M.L.As. should be associated—this is my suggestion—in order to ensure that the prescribed authority functions in a very impartial and fair manner.

About the intention of the Bill, here it is stated :

“The Bill has been brought forward to provide for the establishment of tribunals and to decide the question of illegal migrants in an impartial and fair manner.”

Therefore, I would request the hon. Minister to consider this suggestion about the prescribed authority.

Sir, the detection of post—1971 entrants is just a beginning. The Assam agitation people do not agree with this at all. They are insisting on an earlier cut-off date.

MR. CHAIRMAN : Can you give an estimate of time that you will take ?

SHRI P. K. KODIYAN : I will take about 10 minutes more. (*Interruptions*)

You want me to conclude ? I can conclude within one minute. (*Interruptions*).

Sir, in respect of these pre-1971 entrants, i.e., the earlier entrants, that is, entrants from 1961 to 1971, the question of detecting the foreign nationals this period, the entrants of this period, i.e., pre-1971 period, is still left undecided. So long as this question is left undecided and so long as this in decision exists, it gives an opportunity for the agitationists to continue the agitation. Actually, on this plea the Assam agitation people have already decided to resume the agitation. In August last, they had already re-started the agitation and the situation in Assam, though outwardly it looks normal, is very very grave. Outwardly it may look normal. But the agitationists are preparing for a big movement, the extremists are looking for an opportunity to carry on their nefarious activities to fan the feelings of different sections of the people in Assam and plunge the State into a patricidal type of war. Therefore, it is all the more important, while initiating the working of the tribunals and also speeding up their work, that the Government should also start negotiation with all sections of the people in Assam, including the AASU leaders, to decide the question of foreigners emigration during 1961-71 period. Otherwise, it will give a handle to the extremists to make capital out of the situation.

Already much harm has been done to the cause of unity and integrity of different sections of people, different nationalities and different ethnic groups in in Assam. Therefore, such a situation should never be allowed to occur again.

17.05 hrs.

(SHRI SOMNATH CHATTERJEE
in the Chair)

That is why I request the hon. Minister not to delay negotiations with all the people concerned. There is another danger also. I want to point out that not only the

extremists, not only the chauvinists, but also the communalists are looking for an opportunity there. They have already meddled enough in the previous agitations and hundreds and thousands of innocent people have been butchered in Assam. Therefore, please don't give any opportunity to not only the extremists amongst the agitationists but also to the rank communalist who are looking for opportunity to fan the flame of communal violence in Assam and engulf the entire State and the entire north-eastern region in flame, particularly, at this juncture when it has become more and more clear that forces of destabilisation have increased their activities and they are aiming at the disintegration, a disunity and insecurity of the great country of ours. Destabilisation from across the border, destabilisation from internal forces and anti-national elements and all sort of activities are going on to undermine the unity and integrity of the country.

We know what is happening in Punjab, what is happening in some other parts of the country and what dangerous security environments are developing across our borders in the Indian Ocean. We know how our neighbour Pakistan is feverishly trying to from themselves with all sort of offensive weapons, not defensive weapons. Therefore, it is all the more imperative that the earliest opportunity should be seized in prior to start negotiations with all the people concerned to find a final settlement to this difficult problem of foreign nationals in Assam.

I want to make it clear to the agitationist of Assam that has Assam remain a multi-lingual State due to historical and geographical reasons. Assam became multi-lingual State with different ethnical and religious groups. Therefore, there is no question of washing it away. Assam has to preserve its composit character and this can be done only by amity and goodwill of all sections of the people in Assam. It can be preserved only on the basis of recognising the individuality and the identity of Assamese nationality and also the rights and privileges of the ethnic and linguistic and religious minorities in the State. Only on

this basis, the unity of Assam and of the entire country can be preserved and Assamese can make their contribution to the cause of unity and integrity of the entire country.

Therefore, I again request the Hon. Minister to start negotiations with all people concerned.

With these words I conclude.

THE MINISTER OF HOME AFFAIRS
 (SHRI P. C. SETHI) : I beg to move :*

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

The influx of foreigners into Assam and other parts of the Eastern and North-Eastern regions of the country has been a matter of concern. These migrants have remained in India without any lawful authority by exploiting the circumstances of migration and their ethnic similarities and other connections with the people of India. The continuance of such migrants in India is detrimental to the interest of the public.

The Government have been fully alive to the genuine concern of the people in this region. Several measures have been initiated to deal with the problem of illegal migrants. Vigilance on the Indo-Bangladesh border has been intensified with a view to prevent illegal entry of such foreigners. A decision has been taken to erect a barbed wire fencing along the Indo-Bangladesh border and to construct a broad jeepable road track alongside the barbed wire fencing. It has also been decided that three additional battalions of BSF should be raised for strengthening the

border outposts and opening the new ones, where necessary.

The main question in regard to foreign nationals is how to deal with those who came over from Pakistan or Bangladesh many years ago and after the formation of Bangladesh and have since been living in Assam and other parts of the country. Detection and deportation of the migrants has been a continuing process. For various reasons, however, the process of detection and deportation has been rather slow. As the Hon. Members are aware, there has been a consensus about detection, and deportation of entrants who came after 24th March, 1971. After taking into account the need for speedy detection, protection of genuine citizens of India and public interest, the President promulgated on the 15th October, 1983 the *Illegal Migrants (Determination by Tribunals) Ordinance, 1983* to provide for the establishment of Tribunals. The Bill seeks to replace the Ordinance.

The salient features of the Bill are as follows :

The proposed enactment shall be applicable to Assam, to begin with, but a provision has been made to extend it to the whole of India by notification wherever Government feels necessary. The Bill seeks to provide for the establishment of the Tribunals for the detection in a fair manner of the question whether a person is an illegal migrant. The Bill seeks to define the expression ‘illegal migrants’ in terms of consensus. It is proposed to empower the Central Government to establish as many Tribunals as it may deem necessary and specify the principal place of sitting and territorial limits within which each Tribunal will exercise its jurisdiction. The Bill seeks to provide that the Tribunals to be constituted shall consist of three members each and no person shall be appointed as a member of any such Tribunal unless he is or has been a District Judge or an Additional District Judge in the State. Apart from the provisions enabling the Central Government to make a reference to the Tribunal, it is proposed to provide that a private citizen may make

*Moved with the recommendation of the President.

application to the Tribunal for determining the question whether any person is an 'illegal migrant' as defined in the Bill. This provision, it is hoped, will provide an alternative channel in the matter of detection of foreigners. However, with a view to ensure that frivolous applications are not made, certain safeguards are sought to be provided, namely, the application should be accompanied by a fee; the person in relation to whom the application is made should reside at a place within three kilometres from the place of residence of the applicant; the application shall be accompanied by affidavits of not less than two persons residing within three kilometres of the area in which the person referred to in the application is residing. Further, in regard to the application made by individuals, it is proposed to empower the Tribunal to ask the prescribed authority to call upon it to furnish a report after making due enquiries on the application. With a view to ensure speedy disposal, it is proposed that every reference made to the Tribunal or application made to the Tribunal shall be enquired into as expeditiously as possible and every endeavour should be made to conclude the enquiry within a period of six months. Provisions are also sought to be made for constituting an Appellate Tribunal. With a view to ensure that the machinery commands the confidence of all concerned, it is proposed in the Bill that the Appellate Tribunal shall consist of not less than three and more than six members and the members of the Appellate Tribunal shall be either sitting or retired judges of the High Court.

Another important feature is the bar of jurisdiction on the civil courts. However, it is proposed that the High Court, under its revisionary powers, may call for the record of any case which has been decided by the Appellate Tribunal and pass suitable orders. Once the process of determination of illegal migrants is over, the question of expulsion of such migrants would arise and it is, therefore, proposed that the Central Government may expel such illegal migrants.

The Bill is aimed at speeding up the

detection and expulsion of post-24th March, 1971 entrants. In the context of the prolonged agitation in Assam, the need for vigorously implementing the detection and expulsion of illegal migrants cannot be overemphasized. It is hoped that this measure, coupled with other steps taken by the Government in dealing with the problem of illegal migrants, will allay the fears in the minds of the people of Assam and create a congenial atmosphere.

With these words, I move that the Bill be taken into consideration.

MR. CHAIRMAN : Resolution moved.

"This House disapproves of the illegal migrant (determination by Tribunals) Ordinance, 1983 (Ordinance No 8 of 1983) promulgated by the President in the 15th October, 1983."

Motion moved :

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

There is an amendment given notice of by Shri Ravindra Varma. Is he moving it ?

SHRI RAVINDRA VARMA (Bombay North) : Yes, Sir. I beg to move : That the Bill be circulated for the purpose of eliciting opinion thereon by the 10th March, 1984.

17.20 hrs.

[SHRI N. K. SHEJWALKAR *in the Chair*]

श्री राम लाल राही (मिसरिख) : सभापति महोदय, यह अवैध प्रवासी (अधिकरणों द्वारा अवधारण) विधेयक, 1983 जो पेश किया

गया है, यह एक बड़ी चर्चा का विषय रहा है वड़े लम्बे असें तक इस देश में असम की समस्याओं को लेकर चर्चाएं होती रही हैं और इस सदन और दूसरे सदन दोनों में भी बहस होती रही है। इतनी बड़ी बहस-मुवाहसः के बाद एक अवसर आया है कि बिल पेश कर के तय किया जा रहा है कि वास्तव में असम में रहने वाले मूल निवासी जो भारतीय हैं, और जो गैर-भारतीय बस रहे हैं, उन को निकाला जाए।

इस बिल के सारे प्रावधानों को मैंने देखने की कोशिश की लेकिन शुरू ही में मेरी नजर अटक गई और मैं आप के माध्यम से गृह मंत्री जी से कहना चाहता हूं कि वह मेरी शंका का समाधान करें। वे एक विद्वान गृह मंत्री हैं लेकिन हो सकता है कि कहीं भूल हो गई हो, तो वे इस भूल को स्वीकार करें। मेरी यह प्रार्थना है कि बिल को यहाँ पर पास कराने में वे जल्द बाजी न करें और इस बिल को एक प्रवर समिति को सुपुर्दा किया जाए अन्यथा जो कमियां या खामियां इस बिल में रह गई हैं, उन के कारण जिस उद्देश्य से यह बिल लाया गया है, उसको प्राप्त करना संभव नहीं हो सकेगा।

श्रीमन्, आप प्रथम अध्याय के खंड 3 को देखें, जोकि परिभाषाओं और निर्देशों के अर्थान्वयन के बारे में है। उस के (ग) भाग में अवैध प्रवासी की परिभाषा दी गई है। वह इस तरह से है : अवैध प्रवासी से ऐसा व्यक्ति अभिप्रेत है जिसके संबंध में निम्नलिखित शर्तों में से प्रत्येक पूरी की गई है, अर्थात :—

(1) उसने भारत में 25 मार्च, 1971 को या उसके पश्चात् प्रवेश किया है,...

मानलोजिए कि इस तारीख से पहले किसी ने प्रवेश किया हो और वह यहाँ रह रहा है।

अब वह प्रवेश करने वाला अकेला तो यहाँ नहीं आएगा। (व्यवधान)

SHRI BHUBANESWAR BHUYAN (Gauhati), I want to know who according to him is the original inhabitant of Assam ?

MR. CHAIRMAN : There is a method of asking a question—not now.

SHRI BHUBANESWAR BHUYAN : Without knowing about Assam, its communities, its customs, etc one should not speak in the House.

श्री राम लाल राही : श्रीमन्, गैर भारतीय जिसे कहा जाता है वह यहाँ अकेला नहीं आया होगा और अपने परिवार वालों के साथ आया होगा और हमारे यहाँ 'परिवार' की जो परिभाषा है, उस के अनुरूप उस के साथ उस की बीबी आई होगी और उस के बच्चे आए होंगे और यहाँ रह रहे होंगे। अगर उस के बच्चे नहीं पैदा हुए हैं, तो उन को आप प्रवासी मानेंगे या विदेशी मानेंगे ? अगर उनको वासी मानते हैं, तो उन्हें इस देश में रहने का अधिकार देंगे या नहीं। इस बात का आप को निर्णय करना पड़ेगा। अब अगर वे गैर-प्रवासी की संतानें हैं, जो भारत में पैदा हुईं तो उन्हें निकालन के लिए उनके साथ में जब उनकी भी पहचान की जाएगी और तो क्या वे उन बच्चों को अपने साथ ले जा सकेंगे जो यहाँ पैदा हुए, इसकी कोई व्यवस्था आपने इस बिल में नहीं की है। मैंने जो इस बिल को देखा है, उसमें मुझे कोई ऐसा प्रावधान दिखाई नहीं दिया।

श्रीमन्, 1971 से पहले जो लोग आए हैं, उनके बच्चे पैदा हुए आज 15, 16 और 18 साल के हो गए हैं और 18 साल और 21 साल के लोगों को आप वालिग मानते हैं। अब जब वे वालिग हो गए हैं, तो उनके बारे में

आप क्या निर्णय लेगे। वे भारतीय माने जायेंगे या नहीं और उनको इस देश में रहने देंगे या नहीं या वापस भेजेंगे। कौन सा ऐसा खण्ड है, जिसमें आपने इस तरह के लोगों के बारे में में व्यवस्था की है, यह मैं जानना चाहता हूँ और माननीय मंत्री जी जब जवाब देने के लिए खड़े हों, तो इस बात को स्पष्ट करें।

एक बड़ी अच्छी बात आप ने इस बिल में की है और मैं उसके लिए आपको बधाई देना चाहता हूँ। आप ने इस बिल के द्वारा अधिकरणों की स्थापना की बात कही है और उसमें स्पष्ट कहा है कि इन अधिकरणों में सब के सब लोग जज ही होंगे। यह बड़ी प्रशंसा की बात आपने की है। इस खण्ड के अन्तर्गत जो अधिकरण बनेगा, हम उम्मीद करते हैं कि वह न्याय करेगा और प्रवासियों की पहचान करने में गलती नहीं करेगा और भूल नहीं करेगा तथा वे लोग जो मजबूरी में आकर हिन्दुस्तान में बसे हैं, उनको भी न्याय मिल सकेगा ऐसा उनमें विश्वास पैदा होगा।

इन शब्दों के साथ मैं अपनी बात समाप्त करता हूँ।

MR. CHAIRMAN : We have 5 minutes left; we have to go to the next item—Half an hour discussion.

I will call Mr. Sontosh Mohan Dev. You may speak for 5 minutes. Then you may continue on the next day.

SHRI SONTOSH MOHAN DEV (Silcher) : Sir, I rise to support this ordinance which has been promulgated by the president and brought before the House. While considering this ordinance we have to take into consideration the various aspects of Assam.

Assam was in turmoil for the last 21/2 years. After that there was election. After election a popular Government was formed. The Government there under the

Chiefministership of Shri Hiteswar Saikia is doing extremely well; it has been able to bring peace there. The linguistic and religious minorities as well as the Assamese people have now come to realise that they were misled by a handful of people by this agitation. After having won the election the first and foremost duty of the Government is to restore law and order and to rehabilitate 3.10 lakhs of refugees who have been rendered homeless. We are happy to note that each and every refugee (numbering a total of 3.10 lakhs) have been rehabilitated by this Government. We are also happy to see that at present they are able to take care of the development works in the State. Not only that. In the State they have taken up development works under the 20 point programme and this work is going on very well.

While coming to this particular ordinance (which is going to be a legislation) I must accept that this legislation had to be brought in, keeping in view the prolonged agitation by which the agitators tried to ventilate certain feelings about the Assamese people. At the same time, this ordinance has to take care about the safeguard of linguistic and religious minorities who are termed as 'foreigners'. But at the same time this legislation has to take care, as per Government declaration, that the real foreigners who are there after 1971,—that is 25th March, 1971,—should be detected, their names should be deleted and they should be deported from this country.

Keeping this as a background of this ordinance, I would admit that this ordinance which has been brought before the House, has been brought in a very nice manner, by which they have been able to protect the interests of the local people, the Assamese people, as well as the linguistic and religious minorities. Even then, there are certain clauses in this ordinance, there are certain provisions in this ordinance, which need to be discussed in this House, but before I go into the ordinance, I must say that when there is a criticism by certain Members...

MR. CHAIRMAN : The Half-an-Hour

Migrant and (Determ. by Tribunals) Bill

discussion is to be taken up at 17.30 hrs. I have been informed that the hon. Minister concerned is held up somewhere in some meeting, but we will be coming within another 2-3 minutes. With the consent of the House, we will take up the Half-an-Hour discussion at 1735 hrs.

SHRI H. N. BAHUGUNA : (Garhwal) The Minister is first the servant of the House, and, therefore, to say that let the House wait for the Minister is derogatory.

MR. CHAIRMAN : There is some difficulty, that is why, I asked consent of the House for accommodating.

SHRI H. N. BAHUGUNA : Unless there is something beyond control, the House has priority.

MR. CHAIRMAN : That is correct. He is held up in some meeting. We will take it up at 1735. hrs.

Shri Sontosh Mohan Dev; you may continue.

SHRI SONTOSH MOHAN DEV : Shri Kodyan has raised certain pertinent points regarding the Bill. I cannot agree with him on one point. He also suggested that the negotiations should start, immediately. Well, I agree with him that the negotiations should start, but before that, an atmosphere should be created in Assam, so that the negotiations are meaningful and purposeful and also fruitful. In that, the agitationists have got a part to play too. What has happened in Assam is that the agitationists have lost control of a small section of the boys who are indulging in the extremist activities. As a result, these extremist activities are going seriously in Assam, which is bringing a slur for the State of Assam. The agitationists have got a responsibility to appeal to this section of the people including the extremists to see that this sort of activities stop and a situation is created there, so that negotiations can be held in a good atmosphere. I agree with you that the negotiations should be held, The Central Government, the State Government and the agitationists have got a duty to create an atmosphere, and I am sure that atmosphere can be created, because almost all the parties, barring one

or two parties, want a solution to this problem across the table. That consensus is there, as you have mentioned in your speech. I do not want to blame Shri Ravindra Varma, but he should take care of his friends around him, specially those belonging to BJP.

MR. CHAIRMAN : You may continue your speech tomorrow. We will take up Half-an-Hour Discussion.

17.34 hrs.

**HALF-AN-HOUR DISCUSSION
POOR ENVIRONMENTAL
MANAGEMENT IN UTTARA-
KHAND**

MR. CHAIRMAN : The House will now take up Half-an-hour-Discussion to be raised by Shri H.N. Bahuguna.

SHRI H. N. BAHUGUNA (Garhwal) : Mr. Chairman, Sir, I am beholden to the hon. Speaker for providing me this opportunity through this Half-an-Hour discussion to discuss about the very limited subject, through the question of the subject matter is based on a very wider canvas. This discussion arises out of an answer to Unstarred Question 385 in this House on the 16th November, 1983.

The question related to not merely for environment management in Garhwal and Kumaon division of Uttar Pradesh, middle Himalayas but the whole thing related to development of Uttarakhand region, which is facing tremendous environmental and ecological problems and economic backwardness. Whether the government was going to take any step such as an appointment of a commission with regard to these factors and saving hills from the catastrophe, which is obvious to almost all old thinking people in the country. However, the subject matter of the discussion has, from the agenda paper, been reduced to the heading of the question on that day. But I do propose to take some of the points because I have asked for half-an-hour discussion in relation to this answer; and I