

Volume 4

No. 14



Wednesday

25th August, 1948

PARLIAMENTARY DEBATES

(HANSARD)

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HOUSE OF REPRESENTATIVES

Wednesday, 25th August, 1948

The House met at 2 p.m., MR. SPEAKER [THE HON. MR. A. F. MOLAMURE] in the Chair.

ANNOUNCEMENT

Mr. Speaker: I have an announcement to make.

I have received today a copy of the Certificate issued under Section 81 of the Ceylon (Parliamentary Elections) Order in Council, 1946, by the Election Judge in the petition filed against Mr. R. A. de Mel, certifying that his election was void.

I must therefore consider the office of Deputy-Speaker and Chairman of Committees vacant, and desire to inform the House that we shall, according to the law, proceed to the election of a new Deputy-Speaker at the next Sitting of the House, that is, tomorrow.

Dr. N. M. Perera (Ruwanwella): If we are not sitting tomorrow?

The Hon. Mr. S. W. R. D. Bandaranaike (Minister of Health and Local Government and Leader of the House): Then at the next Sitting of the House on 2nd September.

PAPERS PRESENTED

(1) Twelve sets of By-laws made under Sections—

143 (b) & 166;
166 & 170;
166 & 170 (5);
166 & 170 (9); and
205

of the Urban Councils Ordinance, No. 61 of 1939.

(2) Six sets of By-laws made under Sections—

166 & 170; and
166 & 170 (3)

of the Town Councils Ordinance, No. 3 of 1946.

(3) Two sets of By-laws made under Sections—

148 & 267; and
267 & 272

of the Municipal Councils Ordinance, No. 29 of 1947.—[Hon. Mr. Bandaranaike.]

Ordered to lie upon the Table.

LEAVE OF ABSENCE: MAJOR MONTAGUE JAYEWICKREME

The Hon. Mr. A. E. Goonesinha (Minister without Portfolio): I move,

"That Major Montague Jayewickreme, Member for Weligama, be granted leave under Section 24 (1) (e) of the Ceylon (Constitution) Order in Council, 1946, to be absent from the Sittings of the House for a period of three months from Wednesday, 25th August, 1948."

Question put, and agreed to.

LEAVE OF ABSENCE: MR. R. G. SENANAYAKE

The Hon. Mr. Goonesinha: I move,

"That Mr. R. G. Senanayake, Member for Dambadeniya, be granted leave under Section 24 (1) (e) of the Ceylon (Constitution) Order in Council, 1946, to be absent from the Sittings of the House, for a period of three months from Wednesday, 25th August, 1948."

Question put, and agreed to.

BUSINESS OF THE HOUSE

The Hon. Mr. Bandaranaike: I move,

"That Government Business do have precedence this day."

I move this Motion in order to enable us to get on with the Immigration Bill. I do not know whether it will be finished today, it may be that it may not be and we will have to go on with it tomorrow; but the intention is that we meet today and go on tomorrow and finish all Government work tomorrow without meeting on Friday again. I may also indicate that one more meeting will be held on Thursday, the 2nd of September, in order to pass some Supplementary Estimates and certain other Government Business before the recess. The House thereafter will be adjourned till the 23rd of November.

Question put, and agreed to.

SITTINGS OF THE HOUSE

The Hon. Mr. Bandaranaike: I move,

"That if the Government Business on the Paper be disposed of this day, this House at its rising this day, do adjourn until Thursday, 2nd September, 1948."

If, of course, Government Business cannot be finished today, then another Motion will be introduced tomorrow.

Mr. Speaker: The Hon. Leader of the House may move the other Motion as well.

The Hon. Mr. Bandaranaike: I move,

"That if the proceedings on the Immigrants and Emigrants Bill be not concluded this day, this House at its rising this day do adjourn until 10 A.M. on Thursday, 26th August, 1948."

Dr. Perera: What for?

The Hon. Mr. Bandaranaike: If the consideration of this Bill is not finished today, to continue it tomorrow. Then there are also other Government Business waiting since last week to be disposed of.

Mr. W. Dahanayake (Galle): I want to ask the Hon. Leader of the House to amend this Motion to read, "do adjourn until 2 P.M. on Wednesday, 1st September, 1948" and also to make the necessary consequential Amendments in his next Motion. The Hon. Leader of the House knows that we have been deprived of a Private Members' day today, and he proposes to deprive us of yet another Private Members' day next week. I am sure he will be generous enough to concede that the Private Member is not altogether a nonentity as he would like to make out.

The Hon. Mr. Bandaranaike: Far from it.

Mr. Dahanayake: Private Members must have their day, and we certainly resent every Private Member's day being encroached on by Government or dismissed airily by Government. We insist on the Private Members' day being given an honoured place in the Agenda of the Parliament.

The Hon. Mr. Bandaranaike: The point I want to make again is this. I do not want to leave hon. Members with the impression that the Government has any desire to ride rough-shod over legitimate requests on the part of back-benchers, and so on. But what I say is, is it really necessary at the tail end of this Sitting, before we adjourn for the recess, to have a Private Members' day? On a Private Members' day, with so many Motions on the Order Paper, what usually happens is that a Motion is taken up Digitized by Nostalgia Foundation
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probably talked out, even a Vote is not taken on it sometimes. So, unless there is some particular reason for some particular Motion to be moved, I really do not think that any useful purpose will be served at all. I say that in order to prove that there is no desire on the part of Government to ignore what can be termed the legitimate claims of back-benchers. Now, for instance, there is a Private Member's Motion in the name of the hon. Member for Ruwanwella which may be a matter of very great importance, regarding Budget leakage. But there again, I should like to say the Cabinet would like to see the wording of the hon. Member's Motion, and a Private Members' day would thereafter be allocated for it when we meet again. But, Sir, to deal with a matter like this at the tail end of a Session will not, I think, be of any real benefit at all. Hon. Members have been here so long that I am perfectly sure they would not like to come here again on another day for the purpose mentioned by the hon. Member for Galle. That is why I say it is not possible for us, not in a spirit of unreasonableness, to accede to that request.

Resolved:

"That, if proceedings on the Immigrants and Emigrants Bill on the paper be concluded this day, this House at its rising this day do adjourn until Thursday, 2nd September, 1948."

Resolved:

"That, if the proceedings on the Immigrants and Emigrants Bill be not concluded this day, this House at its rising this day do adjourn until 10 A.M. on Thursday, 26th August, 1948."

IMMIGRANTS AND EMIGRANTS BILL

Order read for resuming Adjourned Debate on Question [24th August.]

"That the Bill be now read a Second time."—[Hon. Mr. D. S. Senanayake].

Question again proposed.

2.10 P.M.

Dr. Colvin R. de Silva (Wellawatta-Galkissa): Sir, I propose to take only about 10 minutes of the time of the House this morning—

The Hon. Mr. Bandaranaike: This afternoon.

Dr. Colvin R. de Silva: I am sorry, this afternoon. But you will permit me to say that I intend to take only 10 minutes not in order to satisfy any whipper-snapper reporters of newspapers who seem to be more concerned than you, Sir, with the conduct of the Business of this House. Yesterday, I was dealing with the question of the right of entry to workers in any country and to any country, that is, the right of movement to and fro. I do not propose to elaborate that matter further but to leave it at the point where it was yesterday.

But today I want to take my point of departure by reminding hon. Members that for the purpose of a correct immigration policy that has proper progressive features, it is necessary to draw a distinction between two separate aspects of what is normally termed immigration, that is, the distinction between the right of entry and the right to employment. The necessity to defend, as an absolute right for all workers throughout the world, the right of entry, the right to move to and fro, is dependent upon the necessity that is particularly present to the working classes of the world to avoid moving to and fro often in its own interests. But the moment you come to the question of the right to employment in a particular country, you come within the ambit of a different question, the right of movement to and fro being absolute to all.

The right to employment, that is, Sir, the right to demand work or maintenance from a particular State is absolute only for those who come within the ambit of that State's powers and who have duties towards that State. Now that absoluteness which is thus confined to the National State, you will see, qualifies the right of work or maintenance. It may be put in a more startling manner, in an apposite form. Sir, there may be those who are always concerned to cavil at us and deliberately to misrepresent us, in the name of the freedom of national newspaperdom, that we stand in some peculiar way for the duty of the State of a given country to give employment to the world. We would certainly welcome if any State can solve the world's unemployment problem in that way, but we, as

Marxists, that is to say as realists, start from the realities of the world scene and do not convert our internationalism into some form of astral abstraction. The National State is a reality, and the task of reality and the task of realistic thinkers, that is to say, the task of revolutionaries, is to apply the internationalism of their approach to every single political question, to the actual fact and reality of the National State. Consequently, we say that the right to demand work or maintenance is a right which is primarily available to those who fall within the ambit of a particular State's structure addressed to that particular State and Government. Not till a World State arises can this right gain the fullest expansion. If we look at it this way we will see that resistance to the control, or, in any other manner, to the interference with the movement to and fro between various countries has no relevancy, except from a reactionary point of view, to the question of employment and unemployment.

It will also be seen that, when the matter is looked at in that way, any Bill which concerns itself with the immigration and emigration question in the aspect not of unemployment or employment, but in the aspect of the right of movement to and fro, must also relate itself, necessarily, to the definition of citizenship. Thus, it is not merely by the fact that this Government has presented these two Bills, one after the other, and placed them before us cheek by jowl, so to speak, that the fundamental inter-relationship between the citizenship definition and the immigrant-emigrant question arises. You will see that if you narrow or unjustly restrict the definition of citizenship, and if you go on to the stage of limiting the right of movement, the right of entry and the right of employment only to those thus narrowly defined as citizens, you are discriminating between one section of the inhabitants and the other.

Now, here, it is necessary briefly to make one little point. The first necessity, the first rule of and for those who make an international approach, an internationalist approach to political questions, is to resist and to fight against the introduction of discrimination either openly or covertly on grounds of racial difference within one's own country.

[Dr. Colvin R. de Silva.]

If citizenship is defined in a form that shuts out a certain section of the community, namely, a community of a certain racial origin, from the rights of citizenship, and even then you introduce an Immigrants and Emigrants Bill by which you take the power of controlling the movement, particularly, of non-citizens and then seek to relate it further, to shut out that section—as I demonstrated yesterday it is not related to the problem of unemployment—you are, in fact, claiming the right to discriminate on grounds of racialism as between various groups in the community. I know, and I realize, and, even if the need is there, I will not take up the time of the House to show that it is difficult to introduce into the question of racialism an adequate dose of reason. But that is not the reason why we of the Left, we of the Revolutionary Left, should bend under the pressure of racialist agitation and propaganda.

I want to remind this House—my colleagues, be they of any Party—and everyone who stands for the revolutionary point of view, that the old saying in Marxism is that, "If you say 'A', you will be bound to say 'B'. For the same reason, I say, if you concede for any purpose to a capitalist administration a right of control of immigration, if you concede for any reason to a capitalist administration the right to place so-called five-year limitations for so-called economic reasons, which are always class reasons, then, you will find that on the day that that power of control is used in the interest of the capitalist class against the working class, or when a five-year period is said to be converted into a ten-year period, you have no reason logically based on which to resist the expansion of the principle. Consequently, it is that my Party, whatever be the consequences of it in current and contemporary politics, will permit no invasion of the principle and no relaxation of the rigidity of its purpose. This Bill, which this House has been asked to support or to pass, is one of the blackest spots in a Government of a thoroughly black record, and time will yet show whether the capacity of this Government to make black blacker or to the ultimate blackest point will yet be reached through this Immigration Bill which they threaten us with in some distant future.

2.18 P.M.

Mr. S. Thondaman (Nuwara Eliya): Mr. Speaker, hon. Members on this side of the House dealt with most of the major questions on this Bill on which I intended to speak, and I endorse all they have said. I do not propose to cover those points again, hence, I shall be brief. Not only inside this House, not only in the Cabinet, but even outside this House there are people who claim to be employers of local labour. But, I should like to point out to hon. Members how and when this love and affection for Ceylonese labour grew in their minds. It happened somewhere in 1927 when the Minimum Wages Ordinance came into operation. According to that Ordinance, all estates and all employers who employed Indian labour, had to pay a minimum wage. Those who wanted to avoid payment of that minimum wage to the worker, employed local labour, and they called it an act of patriotism, an act of nationalism.

Now, Sir, yesterday the hon. Third Member for Colombo Central read certain extracts from the "Daily News" which contained statements in regard to the love and affection the Hon. Minister without Portfolio had for the Indians. He was a spokesman for the Indians at that time. But, once he achieved his object, once he thought he had no use for them, he did not hesitate to let them down and disclaim them.

The Hon. Mr. Goonesinha: What did they give me?

Mr. Thondaman: You know it well. I agree with the Hon. Minister without Portfolio that there was constant agitation on the question of Indians in Ceylon. But when did that agitation actually come into being? It came into being only after the Donoughmore Constitution was adopted.

The Hon. Mr. Goonesinha: It was much earlier.

Mr. Thondaman: We have heard the view expressed by the Hon. Minister without Portfolio as far back as 1928. In fact, when the Donoughmore Constitution was introduced into this country, and adult franchise was granted, the

Hon. Minister without Portfolio and others of his school of thought felt that this country would be swamped with Indians. They had a fear, and, in 1931, the present Hon. Leader of the House brought a Resolution forward to restrict Indian labour. That Resolution was referred to the Chief Secretary under whose purview the matter came, and he reported to the first State Council. He said there was no cause for alarm. That report of the Chief Secretary was accepted by the State Council, and the whole House decided to appoint a Commission to go into the question. What happened then?

A Commission was appointed in pursuance of the Resolution of the State Council. It was a homogeneous Board of Ministers that appointed that Commission. That Commission sat and went into the details of this question of immigration. Evidence was led and several people, including the Hon. Minister without Portfolio, appeared before the Commission. A Report was produced by the Commission appointed by the homogeneous Board of Ministers, and, what did they say? The Commissioners agreed with the Chief Secretary and said that there was no cause for alarm. The Report stated that the problem of unemployment was not due to the presence of Indians in Ceylon. Be that as it may, the Hon. Leader was not satisfied with the Report because Ceylon was granted adult franchise. At every election one has to go to the people and produce a Balance Sheet of the work they did in the House. But, this Government, unlike other responsible Governments, failed to do anything constructive for the masses. They wanted something to tell the people. They put all the blame for their omissions and commissions on the Indians here, and, as a result of that this Indian question has been brought up. For the moment I do not question the right of this Government to control future immigration into this country, but, I strongly object to any measure brought up by anyone, or however great a power it be, that would affect the already existing population of this country.

In this connection, one should know what the view of the Hon. ^{Prime} Minister was. Speaking on the 8th of

November, 1928, the Hon. Mr. D. S. Senanayake spoke as follows on the franchise question:

"Our desire is not to restrict the Indians, but to ensure that they are settled here and are part of ourselves before they are allowed to share in the Government of the country. We do not want to differentiate; we do not want to discriminate. We do not consider the Indians as aliens. We tell them 'Become part of ourselves, become Ceylonese, and then share in the Government of the country.' " [OFFICIAL REPORT, Vol. III, 1928, p. 1800.]

Today, we ask that same right which was suggested by the Hon. Prime Minister in 1928. We say, "Give us those rights, give us those facilities." I ask, are you providing those facilities in the Bill before us? No! Yesterday the hon. Member for Wellawatta-Galkissa told us in plain words how this Bill, if passed, will cause great hardship on the Indian community in this country. None of the Ministers, including the Hon. Prime Minister, denied or disputed that fact. In other words, they more or less agreed that this Bill is going to work hardship on the Indian Community here. Nobody has, so far, on behalf of the Government, told this House that that is not the intention of the Government. Even according to the general principles adopted by International Law, when there is immigration between two countries, and when new legislation is provided, sufficient notice has to be given. This is what is said in the International Labour Code of 1939. On page 521, paragraph 857, the following is stated:

"There should, whenever possible, be a reasonable interval between the publication and coming into force of any modification of the conditions on which immigration or emigration or the employment of foreigners is permitted in order that these conditions may be notified in good time to persons who are preparing to emigrate."

What I have said is in respect of those who are yet to immigrate into this country. But, if that is the general principle of International Law, what is the position today of this Bill? How is it going to affect the people already here? I ask, is it fair to introduce legislation such as is being introduced today?

It was only last week that this Government introduced a Citizenship Bill which it was able to steer through by a ^{Minority} vote of eleven elected Members. When I speak of eleven elected

[Mr. Thondaman.]

Members, I mean that the majority was eleven and that they were elected Members.

Mr. Speaker: There is no distinction between elected Members and other Members. Every hon. Member of this House, including the hon. Member, is in the same position. It is not Parliamentary to make any distinction between any Member of the House because the hon. Member himself is in just the same position as other Members.

Mr. Thondaman: I have come here on an election by the people.

Mr. Speaker: It is not Parliamentary to make any distinction between any Member of the House. Every Member of the House is just the same.

Mr. Thondaman: If this Bill is going to cause hardship, as pointed out by the hon. Member for Wellawatta-Galkissa, then what is the difference between this Bill and the Bill introduced in South Africa called the Registration of Asiatics Bill?

Speaking on the Registration of Asiatics Bill in an interview, Dr. Malan, the Minister of the Interior, explained the intention of the Bill thus:

"The Bill is generally intended to stop effectively the further encroachment of Indians, and he hoped it would go further than that; that is, as a result of the exercise of pressure on the Indian, he will take advantage of the inducements which are held out to him to leave the country, so that the Bill is meant not only to stop further encroachment but actually to reduce the Indian population of the country."

Speaking on the same Bill in the Union Parliament he says:

"I must say that the Bill frankly starts from the general supposition that the Indian, as a race in this country, is an alien element in the population, and that no solution of this question will be acceptable to the country unless it results in a very considerable reduction of the Indian population in this country."

If by this Bill the Government's intention is to reduce the present Indian population, it is better to tell so plainly. Even this Bill says that anyone can come here at the will and pleasure of the Government, and can stay here and put up with the atrocities of the planting community; otherwise you have no place. Does it speak well of any

Government which boasts of democracy, fair play and justice, to allow itself to be in the hands of the employers, the planting community of this country, so that the foreigners would be more or less slaves in this country? The Indians in Ceylon shall not put up with such a suggestion. If the Indians are not wanted here, then it is for this Government to tell the Government of India what its attitude is. It is no use telling things in a way which, in effect, is not in the best interests of both countries. If this Government is going to treat a big population in this country as aliens, I say that it will always lead to friction between the two Governments. Therefore, I say that once and for all this matter should be settled and settled finally in the interest of all concerned.

2.32 P.M.

Major J. W. Oldfield (Appointed Member): Not being handicapped by the advantages or disadvantages of a legal training, when I came to this House I was under the impression that this Bill was more or less a formal Bill, very much in the nature of the Citizenship Bill which was passed last week. This is a measure which I consider desirable and necessary for the protection of the State. It contains no doubt controls which are objectionable but which are, I must submit, very necessary under the conditions prevailing in the world today.

However this does not make it a good Bill. I consider it a thoroughly bad Bill. It is a gross interference with the rights of the individual, but what can you have when conditions are what they are today throughout the world? I appreciated, before I came to this House, that this Bill was only put before us for the purpose of allowing the Government to frame Regulations and when those Regulations came before the House it would be the time for a very careful survey to be taken. But it would seem that that careful survey has been carried out by hon. Members of the Opposition in advance before the Regulations and the implications of this Bill are before the House.

After listening to the Hon. Leaders of the Opposition—the Hon. Leader and the Hon. Deputy Leader, if I may so refer to them, but perhaps I am more in order in calling them the hon. Member for Ruwanwella and the hon. Third

Member for Colombo Central—I felt that there were perhaps clauses in this Bill which require some explanation as to the intentions of the Government. If I may say so, I consider that the arguments of those two hon. Members were reasoned and moderate although, in my opinion, they were based on wrong premises.

I do not propose to deal at length with their speeches, but I must refer to one point made by the hon. Member for Ruwanwella when he mentioned the position in regard to passports before World War I. He said, I consider, a very nice compliment to a country, or rather to an Association of countries, which, as a rule he abuses and endeavours to misrepresent; I refer to what was in those days called the British Empire and today the British Commonwealth of Nations. He referred to the conditions which prevailed when passports were not required within the British Empire. But the position then was the same as it is today in regard to most countries in Europe, and certainly in regard to entry into Russia. Passports were then as essential as they are today. I thank him for making that reference to what prevailed under Pax Britannica some 30 years ago.

There is just one point in connection with the speech of the hon. Third Member for Colombo Central. I am sorry he is not here. He mentioned slavery on estates. All those hon. Members, and those members of the public who are acquainted with the true facts, will realize that if that remark is any criterion of the substance of his eloquence, then his speech was completely wasted in this House. I would submit that if any reference to slavery on estates is an example of the validity of his arguments, then the other remarks in his speech will not hold water.

The hon. Member for Nuwara Eliya (Mr. Thondaman) seems very concerned that this Bill was a definite attack on the Indian community. I cannot, with any stretch of my imagination, see that. We do not know what Regulations will be framed under this Bill. As I have already stated, the time will come for consideration of the question when those Regulations are before us, but I cannot see that this Bill is any more an attack on the Indians on our estates or where than it is on the small community

which I have the privilege of representing here.

Then I shall refer to the speech of the hon. Member for Wellawatta-Galle Face [Laughter]—I am sorry, Sir, Galkissa. One is rather apt to associate the hon. Member with Galle Face. Incidentally, in my opinion, the hon. Member made a very fine speech in support of this Bill. I consider that he made a speech in support of the Bill better than any of the hon. Members who occupy the Front Benches on the other side of the House could have done. After listening to him I realized, as I had never done before, the need, the very urgent need, for this measure.

As I listened to him, I felt thankful that I had not had a legal training and that I could judge these proposals with a certain amount of commonsense. The hon. Member amused himself, but certainly not us, by ventilating his alleged superiority in all legal matters. He went so far as to twit the Hon. Prime Minister by referring to him as an amateur in such matters. If I may say so, I prefer the sound commonsense of the Hon. Prime Minister to the legal training of the hon. Member. The Hon. Prime Minister's commonsense has done more for this country than the legal training of the hon. Member for Wellawatta-Galkissa will ever do. The hon. Member attacked capitalism—I do not know and I have never seen a satisfactory definition of the term capitalism—

Mr. D. B. R. Gunawardena (Kotte):
You will never understand.

Major Oldfield: What does he offer in its place? I am sorry he is not here to answer that question. He offers totalitarianism of the very worst kind that ever existed in the modern world. He offers the abolition of all freedom, even the freedom of thought. That is all I can read in his arguments.

I was certainly interested to hear him say, as a representative of the Fourth International or the Fifth International—whichever it is I am not certain—that he includes Stalin amongst the famous bad men of the world. He mentioned Hitler and Mussolini. If he thought a little more, he would have included Roosevelt and Churchill. He told us that he includes Stalin with them. The hon. Third Member for Colombo Central

[Major Oldfield.]

has not told us what his reaction was to that suggestion. It would be certainly interesting to hear it one of these days. Then the hon. Member went on apparently to idolize Trotsky—I was going to say deify Trotsky, but all deities are outside his ideology. He went on to idolise Trotsky whom most people would include with the famous bad men he mentioned. He might have added Robespierre, and Charlotte Corday so as not to exclude the fair sex from his galaxy.

The hon. Member spoke for a very long time in examining certain clauses of this Bill. I suppose that it is one of the advantages or disadvantages of a legal training that you cannot come to your point till you wrap it up in a mass of verbiage. He examined these clauses in an attempt to show that they were directed against all human rights, all conceptions of the—"liberty of the individual" I think is one of the exact expressions used. Instead of an appeal to a Minister of the Government with the right of ventilating grievances in this House, I presume, Sir, that the hon. Member for Wellawatta-Galkissa would prefer the procedure which today is being enacted behind the iron curtain which surrounds the Soviet Republics of Russia. He would prefer slavery, the concentration camps of Siberia, the bludgeon or the bullet.

Instead, Sir, of the right of appeal to the hon. Members of this House for the ventilation of any grievances against what may be considered an injustice done by a Minister of the Government, there is being planned today behind the iron curtain to which I referred, the destruction of civilization; and it is quite evident that we have, outside that curtain, others who are also interested in the destruction of civilization, in the destruction of human rights and in the destruction of equity and principles which we know under democratic rule.

Sir, if I had had any doubts when I entered this House as to the desirability of this measure, the urgent need, I would say, of this measure, this protagonist of world disorder, world revolution, has convinced me of the necessity of this legislation. The hon. Member for Wellawatta-Galkissa has convinced me that for the protection of the people

of this country, those people who have the true welfare of Lanka at heart, this Bill is essential.

I have mentioned that under ordinary circumstances, under conditions which prevailed some years ago, this Bill would have been considered a gross violation of the liberty of the subject; but, Sir, conditions are such today that I consider it is essential that this power should be given to the hands of the Government of the country. If there is any question of misuse of that power, this House has the right of inquiring into that, unlike under conditions behind the iron curtain; and it is for these reasons that I shall support this Bill.

2.48 P.M.

Mr. I. M. R. A. Iriyagolla (Dandagamuwa): Sir, not being a member of any Party, I think it is my duty to give my reasons why I am casting my vote for or against this Bill.

Hon. Members: For or against?

Mr. Iriyagolla: Necessarily, it is against the Bill.

When you consider the actions of the Hon. Prime Minister in the past, up to the moment of his presenting this Bill, you will see that there is some good or bad motive behind it; according to him, a good motive.

First, he came to some agreements with the British and gave over the aerodromes and harbours of our country to them.

The Hon. Mr. D. S. Senanayake (Prime Minister): No.

The Hon. Mr. J. R. Jayewardene (Minister of Finance): Question!

Mr. Speaker: The Hon. Prime Minister denies that statement. The hon. Member must accept that denial as correct.

Mr. Iriyagolla: All right, Sir, I accept his denial. Then he took over the Ministry of Defence and also the Police Department after separating it from the Ministry of Home Affairs.

Mr. Speaker: I think the hon. Member need not concern himself with the biography of the Hon. Prime Minister. Let him confine himself to the subject matter before us.

Mr. Iriyagolla: There is some connection, Sir.

Mr. Speaker: I am afraid I cannot allow that.

Mr. Iriyagolla: Whatever it may be, he is expecting some revolution in the near future and is perhaps trying to safeguard his Party and his friends.

The Hon. Mr. Bandaranaike: What are all these suppositions? Are they relevant?

Mr. Iriyagolla: I am not as experienced a Parliamentarian as the Hon. Minister of Health. He took me to task the last time for keeping my legs apart; but, knowing as I do the past record of the Hon. Minister, I am afraid to keep them closer.

Whatever it may be, this Bill gives enormous and large powers to the Minister, so that at his sweet will and pleasure he can allege that such-and-such a person is conspiring against the Government and put him in jail without trial. Therefore, I am opposed to the vesting of these unlimited powers in anybody as I am opposed to dictatorship. In short, I am opposed to this Bill not because I love my people less, but because I love justice more.

The Members of the Government are going round the country and telling the people that those who opposed the previous Bill and those who will oppose this Bill are traitors to this country; but, history will show who the real traitors are. I will say this much, that if the Front Benchers on the other side, including people like the Hon. Minister of Health, who is only consistent in inconsistency, love this country once, I love my country ten times more. I am opposed to this Bill because I am opposed to dictatorship and because I do not wish to see such large powers vested in one single Minister so as to enable him to put innocent people who hold opposite views to his in jail.

Thank you, Sir.

2.54 P.M.

Mr. Wilmot A. Perera (Matugama): I did not intend to speak Digitized by Nookaham Foundation nookaham.org/aayanaaham.org of this Bill, but after the remarks of the hon.

Appointed Member (Major Oldfield), I feel that one has to express one's dissent from his views of democracy.

The Hon. Mr. Bandaranaike: What about the legs of the hon. Member for Dandagamuwa?

Mr. Wilmot A. Perera: We will leave the legs alone, for the present.

In introducing this Bill and the one previous, Sir, the Hon. Prime Minister almost said nothing. I felt that he—in his wisdom—thought it fit not to say much, although he intervened when the hon. Member for Ruwanwella (Dr. Perera) was addressing the House to say that there was no racialism intended in the Bill, that is to say, taking both Bills together. But after the remarks of the Hon. Minister of Food and the Hon. Minister without Portfolio, one has to face the truth, however unpleasant it may be, that though there may be many facts, there can be only one truth; and that is, that this Bill is intended to impinge on the rights of a large section of the population of this country.

This Bill and the previous one bristle with provisions which endanger the very fundamental rights of human beings and, in the concept of the modern world, I feel that a Bill such as this should have no place.

2.56 P.M.

Mr. K. Kumaravelu (Kotagala): I rise to speak on this Bill, Sir, because it affects that section of the population which my group represents in this House.

The hon. Member for Wellawatta-Galkissa (Dr. Colvin R. de Silva) explained lucidly yesterday and today the obnoxious clauses that are contained in this Bill, and I shall not repeat them again.

"There is no conceivable extremism of man's inhumanity to man that cannot be justified on at least grounds of high policy," said Sir Radhakrishnan in one of his speeches on the U.N.O. This Bill completely reduces a large section of the population to a form of slavery almost unknown in any other part of the world today.

[Mr. Kumaravelu.]

Sir, I want it to be understood perfectly well and clearly that my Party, and the group that represents the Ceylon Indian Congress in this House, are for restriction of future immigration into this country. But any measure calculated to liquidate a whole section of the permanent *de facto* population of this country is not restriction of immigration, and when it is presented to us in such a form, it behoves us to lodge our emphatic protest against it.

I hope you will bear with me if I deviate to some extent to state how immigration started from India a century ago. Questionable means were adopted by the then Government of this country and the planting interests to attract a labour force from India. Many of the labourers were kidnapped from market and other places in India during festival occasions. That was not all, Sir. This Government and its predecessor—this Government cannot deny that it is the lineal descendant of the former Government that existed in this country—have time and again assisted immigration into this country.

I will now read a paragraph from the Administration Report of the Controller of Indian Immigrant Labour for 1926, On page 11 of the Report, para. 106, we find the following reference to the agitation on the part of the Indians here who wanted emigration from India to Ceylon to be banned:

" Certain politicians, disregarding the elementary right of British subjects to emigrate in search of a livelihood, would like, for political reasons, to ruin Ceylon planting capitalists by cutting off the estate labour supply. Some South Indian employers object to the economic and social effects created in South India on labourers by emigration to Ceylon. For these and other reasons certain persons would like to prohibit emigration to Ceylon. The Indian and Ceylon Governments, however, instead of trying to ruin Ceylon estates and the prospects in Ceylon of Indian labourers by making the latter a pawn in a political game, have set about removing all just grounds of complaint regarding the labourer's lot. The more successful the policy of the two Governments is, the greater will be the popularity of Ceylon in rural South India, where its name is already held in great respect, and greater will be the amenities of the deserving Indian labourers working in Ceylon."

I have quoted this from the Report written by a Ceylon Government official, in order to point out to the present Government that it cannot brush aside

our objections to this Bill on the score that the Government of this country had no part at all in the immigration of Indians to this country.

It is said in certain quarters that a section of the indigenous population were the pioneers in opening up the plantations. While contradicting that claim in its entirety on the ground that it is not in accord with the facts, may I say this? Assuming, for the sake of argument, that members of the indigenous population were in fact the pioneers in opening up the plantation areas, the accusation that it was the Indians who robbed these lands from the peasantry of this country cannot hold water.

Indian labourers were recruited not merely to develop the plantation areas but also for the major public works carried out by the Government itself. Monuments have been erected to the memory of these labourers, and some of these monuments can be seen even today. To mention two, may I refer to the monuments erected at Kalawewa and Nuwarawewa—

The Hon. Mr. D. S. Senanayake:
Monuments for whom?

Mr. Kumaravelu: For the Indian labourers who worked on these schemes.

The Hon. Mr. D. S. Senanayake:
Kalawewa and Nuwarawewa?

Mr. Kumaravelu: Is it not preposterous to class these people and their descendants as temporary residents, and subject them to these trials and tribulations, at the sweet will and pleasure of the Ministers?

I am not at all surprised at the position taken up by the representatives in this House of the Planting community, the Appointed Members. Their support of this Bill is consequential to their support of the Ceylon Citizenship Bill. When they supported the Citizenship Bill they must have made up their minds to support the Immigrants and Emigrants Bill as well.

May I remind these hon. Members that they and their predecessors, through their various associations, helped Indian immigration into this country in the past? They, and their

representatives in the Government of the day, have, time and again, given us assurances that they would safeguard the right of the Indians here.

Not very long ago, in 1939 to be exact, when this was the burning problem of the day, they gave the Indians here a very categorical assurance. I am quoting from a report which appeared in the "Times of Ceylon" of July 10, 1939, under these captions,—

"Planters Perturbed."; "P.A. and C.E.P.A. will zealously guard their rights in the matter of Indian labour."

This is the text of the report:

"In view of the repatriation scheme that has been brought into operation, at the last meeting of the Planters' Association Standing Committee for Labour, Excise and Medical Wants, members discussed the state of anxiety that exists among immigrant labour on estates, consequent on recent legislation passed in regard to certain classes of non-Ceylonese employees in Government Departments. They decided that the following resolution should be circulated among District Planters' Associations,—

'The Planters' Association of Ceylon is aware of the anxiety that exists among estate labourers due to recent action taken by Government against certain classes of non-Ceylonese employed in Government Departments. The Planters' Association of Ceylon, supported by the Ceylon Estates Proprietary Association, desires publicly to assure all concerned that estate labour is a matter in which it is vitally interested, and that it will oppose with all the strength at its command any measures which are likely to affect the well being of estate labourers, and will specially resist any action that may be directed towards the involuntary repatriation of Indian labourers on estates in Ceylon.'

I appeal to the representatives of the planting industry to stand by their pledges and not to retreat, for the sake of convenience, from the position they took up in the past.

Sir, this Bill has been rushed through in indecent haste. When he introduced the Ceylon Citizenship Bill, the Prime Minister told this House that there would be three classes of citizenship provided for by three separate Bills, (1) the Ceylon Citizenship Bill, (2) the Indian Residents Citizenship Bill, and (3) the Commonwealth Citizenship Bill, and that legislation would follow defining these various types of citizenship.

We maintain that this hurried legislation is both discriminatory and recriminatory. This Bill is numbered 20, after the Ceylon Citizenship Bill which was numbered 19. We maintain that after

the Ceylon Citizenship Bill (No. 19), Bills Numbers 20 and 21 should have been those relating to the citizenship rights of Indians and Commonwealth subjects. That would have made the position simple and straightforward. I make that assertion, because it was only yesterday that it was made clear to us that all those who do not come under the purview of Bill No. 19 (Ceylon Citizenship Bill) would be dealt with under this Immigrants and Emigrants Bill.

It has been maintained by this Government and its predecessors that domicile of choice would be preferred to the accident of birth, but now this Bill contradicts that position, and relegates a good portion of the population of this Island to the status of temporary residents. This is not merely adding insult to injury: it is humiliation with a vengeance. This Bill, in its present form, cannot be considered as an Act based on professed high policy, for the simple reason that it does not confer the liberty for which we have been fighting so long for a section of the people of this Island.

This Bill intends to perpetuate a form of slave trade which is highly vicious. The arbitrary powers vested in the Minister is repugnant to all ideas of civil liberty, and the death-knell of healthy trade unionism in this country has been sounded. This Bill affects the entire plantation workers. The boundary for "criminal trespass", which ran along the four corners of the estate has been widened to include the whole Island.

Where then shall we seek for the Four Freedoms? In the name of democracy, which this Government professes time and again to adhere to, in the name of justice and fair play, we ask that this Bill be stayed till the other two Bills have been passed, and that this Bill be reintroduced in a form that would be in keeping with the noble tenets of Buddhism and the traditions of the Sinhalese race. Then and only then would it be possible for us to give our whole-hearted collaboration and support.

In all humility, I appeal to the Prime Minister not to treat our plea lightly. I ask him to allow the back-benchers on the Government side a free vote on this Bill. Members in the back benches there have told me that they regard this

[Mr. Kumaravelu.]

Bill as iniquitous and vicious, and if a free vote were allowed, I am sure that an overwhelming majority in this House would vote against this Bill.

3.14 P.M.

Mr. E. E. Spencer (Appointed Member): Mr. Speaker, I propose to be very brief.

The hon. Member for Kotagala started his speech with a heart-rending appeal to our sympathy on the plea that this Bill imposed slavery on Indians here. That bogey has already been laid by the Appointed Member (Major Oldfield) a few minutes ago. I do not propose to add anything more on that aspect of the question, except to say that there is not a grain of sense in any such allegation.

Furthermore, reference has been made to repatriation. As far as I am aware, no mention of repatriation is contained in this Bill.

Mr. Kumaravelu: Deportation.

Mr. Spencer: So I suggest the hon. Member should wait for the Bill that is coming—I understand it is called the Indian Settlers Bill—and not scream before he is hurt.

3.16 P.M.

Mr. S. J. V. Chelvanayakam (Kankesanturai): It was my intention to enter into a detailed analysis of this Bill. But now I do not think it proper for me to detain this House to listen to such an analysis as that task has been so admirably performed by my hon. Friend the Member for Wellawatta-Galkissa.

I do not approach this Bill from any revolutionary point of view. I am not a revolutionary. But what I am, I am known to be.

The Hon. Mr. Bandaranaike: What is that?

Mr. Chelvanayakam: But I will certainly approach this Bill from a democratic point of view, from the standards set in that country where Digitalized by Noolaham Foundation
noolaham.org/jaavanaham.org Leader of the House was educated,

from the standards set in that country wherefrom the hon. European Appointed Members come. I shall judge the Bill not by the standards set by these people when they went to India and the colonies and tried to create legislation in fear of uprisings and revolutions and wanted to suppress them.

It is my intention to attempt to show that this Bill should not be a blot on our Statute Book, that the Statute Book of this country should conform to the highest traditions of legislation that had ever been enacted in any country whatsoever.

Approaching the matter from a democratic point of view, one of the essentials of democratic legislation is this, that is for a government not to take to itself any more powers than are necessary. The liberty of the subject demands that the executive shall appropriate to itself the minimum of power and, as a corollary to that first principle, comes the second principle, namely, that except in very exceptional cases the rights between an administrative department and the subject shall be determined beforehand by an independent tribunal, namely, the courts.

It is not questioned in any part of this House that every country must have its immigration and emigration laws and that for the purpose of controlling immigration and emigration appropriate powers should be vested in the Government to deal with real immigrants and real emigrants.

If you take the immigrants and emigrants of any country, you will see that they form a very minute proportion of the population, and in dealing with such a small section of people that pass through the ports of a country, you assume for the officers of Government at times powers that are necessary to deal with such people. But to assume all these large powers which are found in this Bill to deal with a class of people that will not be more than ten per cent. of the population of this country, I say, is to belie the principles of democracy for which this Government and the House stand.

The Hon. Mr. Bandaranaike: You cannot understand those principles.

Mr. Chelvanayakam: Look at the powers that are granted to the administrative department and to the Minister. They have been detailed by hon. Members of this House already. Look at Part IV—"Supervision of activities of Persons other than Citizens of Ceylon". As has been amply pointed out by hon. Members, into this category of persons other than citizens of Ceylon will fall a very large section of the people of this country, a section which is not criminal in its manner of living, a section which is most peaceful and has in regard to crime records a nil return. All that category of people will fall into Part IV of this Bill. And what is more, into that category of persons will fall a large number of others who are non-citizens by reason of the very restrictive nature of the Citizenship Bill which has just been passed in this House.

When you deal with such large sections of the people, you do not expect a democratic Government to assume to itself all the powers that are vested in the Minister and the Department under the control of the Minister, as envisaged in this Bill that is before the House. In England, I make bold to say—

The Hon. Mr. Bandaranaike: Who decides in England?

Mr. Chelvanayakam:—to the Appointed Members who defended this Bill that a piece of legislation of this nature affecting a large section of the permanent residents of that country will not be tolerated for one minute. They have a history of having fought for the liberty of the subject against the Government. In point of fact, during times of emergency, departments were dealing with functions which should properly have been dealt with by courts. Even His Lordship the Chief Justice of England protested against it, and wrote a book on the question, called "The New Despotism". Even such things as administrative tribunals dealing with small disputes between the Government and the administrative department on the one side and the subject on the other were matters which were opposed, and the dispute culminated in the issue of a book by His Lordship called "The New Despotism". But they say that for administrative efficiency and quickness of despatch of business a certain

amount of administrative adjudication on matters are necessary. But even that is reduced to a minimum, and that is during times of emergency. But here, during normal times, we are granting to the Government powers which are not thought of by a democratic Government which is very anxious to see that the liberty of the individual subject is preserved.

The fact of the matter is that this Government is creating a Bill or law for other people. What happens in England is that when they frame a piece of legislation, they legislate for themselves. But one can easily read behind the minds that are responsible for this legislation, that they frame legislation, not for them to administer but for others to administer. That is the danger. If they are administering this law, we feel sure that it will be administered fairly. But if some other person has to administer it for them, what is going to happen? Perhaps they do not expect that to happen, and therefore they are assuming—the Department, the Ministers and others above the Department—powers unprecedented in a democratic Government.

The hon. Appointed Member (Major Oldfield) spoke of the Camps in Siberia. I have not studied conditions in Siberia or gone to Siberia. But, granting conditions to be so, we must see what caused these Camps, what caused these revolutions in Siberia. It is because the Czarist Government assumed to itself powers which no English Government ever dared to assume to itself.

The Hon. Mr. Bandaranaike: What about Stalin? His powers are much greater.

Mr. Chelvanayakam: There is one matter which is common to my hon. Friends the European Appointed Members and the Government. It is this, that they fear a revolution. I characterized the earlier piece of legislation as panicky legislation, and I repeat that I am going to characterize this Bill in the same way. The Government is fearing the whole time. I tell the hon. Members of this House that the European Appointed Members feared the Hon. Prime Minister at one time. I was at school when they

[Mr. Chelvanayakam.]

feared him. Twenty-five years ago the compatriots of my hon. Friend the Appointed Member (Major Oldfield) feared Mahatma Gandhi. Then, by a process of thinking, they felt that he was the safest connexion for the British Empire. That was before that great soul's life was ended.

I do not get easily frightened. I am not frightened of these revolutionaries. They have got to be elected to this House by our people, and I do not want any piece of legislation to be passed on the grounds supported by my hon. Friend the Appointed Member (Major Oldfield) who said that this piece of legislation is necessary to stave off a revolution. We have confidence in the judgment of the people of this country. The only way to help a revolution is to produce a repression beforehand. History tells us that repression is the thing that feeds a revolution.

Judged by the legal standards in which we have been brought up, namely, the legal standards of the principles of justice that have grown up in the democratic country of England, which I still appreciate and admire, I say that this Bill is a bad piece of legislation and it is a piece of legislation which should not be a blot on our Statute Book.

If I were advising the Hon. Prime Minister in respect of a piece of legislation like this, I would tell him that it is not necessary to assume all these powers in respect of any Immigration or Emigration Ordinance and to apply them to such a large section of population, the permanent residents of this country.

Judged from the point of view of a democratic approach to a question, without examining, but assuming it is necessary to have all these features of the Bill which have been referred to by hon. Members who have preceded me, there are other defects. This is a piece of patchwork legislation. It is a Bill drafted in bad style. You take from some piece of legislation which you consider a standard of some other country certain powers of deportation, removal, surveillance and other extreme powers which are made to apply to a narrow class—I have already referred to these—and then apply such powers to a large section of population. Now the

justification no doubt would be that similar powers are found in other pieces of legislation in other countries. But you miss the point that similar powers are found in other pieces of legislation in other countries relating to a very much narrower class.

When you legislate, for example, for the unsound in mind, you give powers of control over the unsound in mind. But you cannot take that piece of legislation and that power and exercise it over everybody else. Powers that are needed to deal with exceptional cases, you cannot put into a Bill which deals with not only exceptional cases but a very large section of the people.

From the political angle, it has already been stated that this discriminates against a large section of the people of this country, namely, the Indian immigrant population. All the objections that I have urged against the Citizenship Bill will apply to this. Quite apart from that, dealing with a class of people who are not being given citizenship rights, it would still have been possible to have legislated for that class in a different way to what is being done here.

Take, for example, people who have been born and been resident in this country for fifty years. They are to come under the operation of this Ordinance. They may have lost all contact with any other country. They may live here for five hundred years, but still they will come under the power of surveillance, for the reason that they do not come under the definition of "citizen" in the earlier Bill. It would have been quite possible to have drafted a piece of legislation, leaving out long standing residents out of the operation of the Bill. It would have been quite possible to apply it to exceptional cases among immigrants and emigrants, but unfortunately the Bill has been drafted in a bad form to apply to a large section of the people, utilizing powers which are not meant for application to such a large section. The draftsmen of this Bill have not even taken into consideration the general conventions and recommendations of the International Labour Organization, of which this country is a member.

Now clauses 11 (2) (a) and 31 (1) (a) provide for the removal from this country even of labourers who are not citizens but have been resident here for a very

long period and are unable to support themselves and their dependants. Now this is absolutely contradictory to Article 881 of the International Labour Code, which provides specifically that on the ground of their not being able to support themselves, labourers who have been resident in a country for a certain number of years should not be removed.

There are various other conventions and recommendations of the International Labour Organization, of which this country is an honoured member, which are being contravened by the provisions of this Bill. Now, why is it necessary to take all those steps? I say it has become necessary to do so, because this legislation is approached in a very wrong spirit. It is approached in a discriminatory spirit and in a spirit of fear from the point of view of the exclusion from the body politic of a certain section of the people. Therefore, on behalf of my Party, I oppose this Bill as a bad piece of legislation embodying principles which ought not to be the subject-matter of legislation in this country.

3.33 P.M.

Mr. H. Sri Nissanka (Kurunegala): I felt that it was my turn to speak in Sinhalese, but since I had not given you notice, the intention to do so will have to be deferred, and whatever I have to say about this Immigration Bill will have to be said unfortunately in English.

I do not hope, Mr. Speaker, to speak long, nor do I hope to convince hon. Members on the opposite side of this House. But I owe a duty to my conscience and to my Friends on this side of the the House, and may be to some of those on the other side who may yet have a kind thought for me, to say why I propose to oppose this measure. I do so, because by voting for this Bill I do not want to betray my people. By that word I mean that the passage of this Bill, as far as I can understand it, is going to hasten the day of this revolution even by one day sooner than most of us ever hoped it would come.

The Hon. Sir John Kotewala (Minister of Transport and Works): Let it come!

Mr. Sri Nissanka: Because, Mr. Speaker, there is nothing like provocative legislation to evoke provocative

reciprocity on the other side. By kindness alone can you win your enemy, not by repressive measures. That is the faith to which I am pledged. This piece of archaic legislation might well have been used ten years ago.

We are sometimes at a loss to understand, although we have nothing to say against the British people as such, why the nominated British vested interests are so anxious to rise up in all their enthusiasm and gallantry to back up proposals of this kind brought by the U.N.P. Government.

The Hon. Sir J. Kotewala: Because that is the Party that governs.

Mr. Sri Nissanka: I do wish to remind hon. Members of this House, and particularly my hon. Friends of the Treasury Bench, of the remarks of Mr. Dulles, personal adviser to Mr. Thomas Dewey, the President-to-be of America. He had stated—and it is reported by Reuter today—that the Red menace is something that cannot be crushed, that there are sixteen governments which are controlled by the Communist forces, and that twenty-five per cent. of the world is today Communist. That percentage is increasing perceptibly and gradually. There is no need attempting to put this evil day off by bits of legislation and calling them by whatever name you like. A rose by any other name would smell as sweet. And although it is stated rather innocuously on the cover of this Bill that this is an Immigration Bill, to my mind—and, if I read aright the thoughts of the Appointed Members, in their minds—this is an anti-Red Bill, an attempt to crush the Red movement.

Now, Sir, the Reds are not such fools as all that. They are a clever lot of people, and if you try to deport a Red, you will find yourself deporting the wrong man. The Red will be here, and the man you deported would be the other chap. Similarly, regarding the smuggling of documents from abroad and the examination of baggage and so on, you will find that the goods and baggage and the letters you want to keep out of this country will arrive from other sources, and the people who had given that information to the Minister, upon which he is to act and upon which he is to search that particular individual, will find nothing in his pocket.

[Mr. Sri Nissanka.]

I had a strange experience whilst travelling by train to India. I was in the company of some person, when into his hands a mysterious document was thrust. The train reached Talaimannar Pier and, before the light of dawn was upon us, a powerful search-light was thrown on the compartment in which this person was travelling. The Police came up to the spot and asked him, "Mr., Are you So-and-so?" He said, "Yes, and what is more, I know the orders which are in your breast-pocket." The Superintendent in that particular case was Mr. Arndt. I am pulling no long bow, Sir; I am telling you a perfectly true story. And Mr. Arndt was told that a carbon copy of the document, the secret document, sent to him by a secret messenger by the Inspector-General of Police, was on that person who was travelling by that train.

So what is the idea of trying to put up a paper wall, or trying to stop the waves of the great ocean, as old King Canute tried to do? I would appeal to the Members of the Government to follow the good advice of Mr. Dulles, that one of the best ways of meeting the Red menace is not by attempting to crush it, but by trying to fall into line with the democratic ideals of the world and to democratize your ways of thought, your ways of government and your attitude towards the other humans of the world.

For these reasons, and because of the undemocratic and dictatorial powers which are vested in the hands of the Minister, and because I see in the distant future the dangers that may arise from legislation of this sort, I take the liberty of expressing on the Floor of this House my opposition to this Bill and the reasons why I shall vote against it.

Mr. Speaker: The Hon. Prime Minister has no right of reply, but if the House agrees, he can reply.

3.43 P.M.

The Hon. Mr. D. S. Senanayake: I might not have asked for permission to reply, Sir, if I had not listened to the last two speakers before I applied for permission. The last two speakers happen to be two K.Cs with a great

reputation for advocacy, and I know that as advocates, their duty is not to be concerned with their conscience or the truth, but to plead their case as best they could. Although I had heard that stated outside the courts, since I had had no personal experience of it, it was with a great deal of regret that I listened to these gentlemen today, not only because I have a great regard for their knowledge, but because I thought that they had a high sense of duty as Members of this House, not so much to plead a cause as to give a well-considered decision.

My hon. Friend the Member for Kankesanturai (Mr. Chelvanayakam) spoke of this Bill as something that does not exist in other parts of the world, as something strange and new. He went so far as to quote from some convention regarding labour. He went on to say that nowhere else in the world are people sent away when they are in unfortunate circumstances, when they cannot support themselves. I believe my good Friend has read more of Ceylon law than the records of proceedings of conventions in other countries. Does not our Ceylon law permit of destitutes being sent away? And is that not the law that my good Friend is helping to administer in the courts? When he himself helps to administer a law for sending away destitutes, why should he object to this provision here in this Bill, and pretend to be very indignant and say that a grave injustice is being done to these people who should be treated better?

Another thing I noticed he said was that we are legislating against a particular class of people in Ceylon. I dare say we are legislating for all people in Ceylon, because we are concerned not only with immigration but with emigration as well. But the clauses that the hon. Member for Kankesanturai referred to relate only to immigration. He asked us why when a person has been refused admission to this country he should not be dealt with by a Court here. But I must say, with what little knowledge of the law I have been able to gather from the lips of others, that a person has got to be resident in this country before he could be dealt with by a Court here. So, till a person is resident here, the Courts of this country have no jurisdiction over him. That is my

belief. The Courts have no jurisdiction over a person who is not a resident of this place—

Mr. Chelvanayakam: If found in this country, he is liable to the jurisdiction of our Courts.

Mr. Speaker: The Hon. Prime Minister referred to those people who do not belong to this country.

The Hon. Mr. D. S. Senanayake:—over a person who wants to enter the country, and for whom permission is not to be given. I would like my hon. Friend to tell me in which country is that authority not vested in the respective Minister? Which is the country? If that is so, why should he consider this Bill to be such a horrible piece of legislation that will bring disaster to us?

Now, with regard to the vesting of this authority, it has been stated that a Minister, whether it is the Prime Minister or any other Minister, should not be vested with such an authority as this, but that it should be vested in a Judge of the Supreme Court or in some other Judge. I do not want to say anything either about the Supreme Court or with regard to its efficiency to deal with any matter that comes before it, but at the same time I should like to say that I certainly feel that in matters of this nature there is no other person or body of persons more competent than this House to deal with them. I say this House, because we are the representatives of the people, the elect of the people, and as elect of the people I say this House is the best and the highest authority that could deal with matters of this nature. After all, the Minister who exercises this authority, whatever Party he may belong to, exercises it on behalf of the country and on behalf of the people, and as such he is answerable not only to this House but also to the country. I wonder what better safeguard you could have in political matters than that.

Now when I listened to the way in which some of my hon. Friends expressed their indignation by threatening us with dire consequences, I felt that they must have been a bit agitated within the last few days. It is quite possible that they could have been speaking of the United National Party going to the

this issue, and that may have worried them a bit. After all, they are not the kind of people who depend on, I should say, the wishes of the people. They are people who wish to bring about a different state of affairs, a revolution, according to their way of thinking, whether it is acceptable to the people or not, and they hope and predict that if we do not submit to their will, we would be faced with dire consequences. And my good Friend the hon. Member for Kurunegala, I see, has already fallen a victim to that threat. He told us that he would have been a party to this Bill 10 years ago, but that now owing to this red menace or rather the red influence spreading all over the world he saw no reason why he should not act according to his conscience. That was the attitude he adopted. If my good Friends have got convictions, if they feel that they should act according to their convictions, and if they are prepared not to shed their blood but to shed other people's blood, I would say this much, that there runs red blood even in our veins.

Mr. Dahanayake: Blue blood.

The Hon. Mr. D. S. Senanayake: Yes, it may not be the stinking blood that my hon. Friend thinks of. Be that as it may, I say that for our people and for our country we are willing, Sir, to stand up not only to the threats that are held out but to face up to any consequences arising therefrom. All sorts of dire consequences of what is going to happen to us were mentioned. I was surprised that a man of such intelligence, such bearing and such courage should have thought that these threats were going to sway us in any way. I was really surprised.

Now, with regard to my hon. Indian Friends, I might say this much. I quite agree with what the hon. Appointed Member (Major Oldfield) had to say in regard to this Bill. I feel more convinced now than even before this Bill was brought forward as to the necessity for it, because one of the reasons that was given in opposing this Bill was that the revolutionaries must be allowed to come here, that they must have free entry and that they must be permitted to play the game that they wish to play. Well, my good Friends may think that that is the best thing for the country, but

[Hon. Mr. D. S. Senanayake.] if we feel that it is in the interests of the country to keep these revolutionaries away from the country so as to preserve and to maintain the peace and good harmony of this country, we cannot be blamed for taking this step.

Now, with regard to the fear of my Indian Friends at the haste that they seem to be complaining of in introducing this legislation, I can say this much, that we have not been so hasty as they seem to think. I believe it was in 1939 that Pandit Jawaharlal Nehru came to this country, and it was my good friends who then made representations to him that immigration of Indians into this country should be stopped. The reason for their attitude may have been that they could have driven a harder bargain with the planters if there was a shortage of labour. But, however that may be, it was the Indians themselves who wanted immigration to be restricted.

Mr. Thondaman: Yes.

The Hon. Mr. D. S. Senanayake: Yes, it was done by you and not by us. At that time we ourselves mentioned to Pandit Nehru and others that, as too much of an Indian population was coming out here, there must be some control. But, of course, we did not want to control immigration without some sort of negotiations or talks with India. But no sooner had Pandit Nehru crossed over from here to India than he introduced restriction of immigration to Ceylon. We did not complain. If anything, we think he rendered us some service. But what I want to say is this. In 1939, it was not only we, but their greatest leader, I suppose he is the greatest leader today, thought that control of immigration was necessary, but still my good Friends want to know from us why there is this indecent haste to introduce this Bill. If after 9 years, the introduction of this Bill could be said to have been introduced in haste, I wonder how they would describe the action that was taken by Pandit Nehru. From that time I must say it had been the earnest desire of Government, not the present Government but the last Government, and the earnest desire of even the patriots of India to settle this question to the satisfaction of both parties with-

out doing any injustice to anyone. But if there is anyone who has prevented a settlement, it is these very people who speak so loudly—

Mr. Thondaman: No.

The Hon. Mr. D. S. Senanayake: What is the use of saying "No"? My good Friend can say, "No". He can speak today as a labourer, and tomorrow he can speak as a capitalist. He can speak today as a Ceylonese, and tomorrow as somebody else. I mean, a person in that capacity can say "Yes" or "No", but the fact is, if there is anybody who has prevented a settlement, it is these very people who want to exploit the unfortunate Indian labourer who is not allowed even to lead a peaceful life. I do not want to delay the House any longer because, if I speak for a longer time, my throat will get worse, and my position will be worse than that of the Indians. However, I can give this assurance here, that is, under the Citizenship Bill that was passed the other day, anyone who is entitled to be a Ceylonese, not anybody who wants to be a Ceylonese today and something else some other time, but anyone who has got a just claim to be a Ceylonese, will be treated as a Ceylonese. There is just one other thing I should like to mention, and that is this. I remember when I went to India for rice, one of the first things they told me was, "We will send our population rice and not to any others."

Mr. Thondaman: Sinhalese are also Indians.

The Hon. Mr. D. S. Senanayake: I do not want to say anything more, except to say that an Immigration Bill is necessary and that control of immigration is necessary. There is no provision here in our Bill which is not found in any other Immigration Bill of any other country. We have got to look after Ceylon, and Ceylon has got the right to determine its population. We have got to see that the number of people who come here and live here are controlled.

Question put.

The House divided: Ayes, 53, Noes, 35.

AYES

The Hon. Mr. D. S. Senanayake
 The Hon. Mr. S. W. R. D. Bandaranaike
 The Hon. Mr. A. E. Goonesinha
 The Hon. Mr. T. B. Jayah
 The Hon. Mr. J. R. Jayewardene
 The Hon. Sir John Kotelawala, K.B.E.
 The Hon. Mr. E. A. Nugawela
 The Hon. Mr. A. Ratnayake
 The Hon. Mr. Dudley Senanayake
 The Hon. Mr. C. Sittampalam
 The Hon. Mr. C. Suntharalingam
 Mr. M. D. Banda
 P. B. Bulankulame Dissawa
 Mr. G. R. de Silva
 Mr. H. S. Ismail
 Mr. A. P. Jayasooriya
 Gate Mudaliyar Kariapper

Mr. J. Aubrey Martensz
 Major J. W. Oldfield, C.M.G.
 O.B.E., M.C.
 Mr. S. A. Pakeman, O.B.E., M.C., E.D.
 Mr. T. B. Panabokke
 Mr. Albert F. Peris
 T. B. Poholiyadde Dissawa
 Mr. H. R. U. Premachandra
 Mr. D. A. Rajapaksa
 Mr. J. A. Rambukpota
 H. B. Rambukwelle Dissawa
 Mr. V. G. W. Ratnayaka
 Mr. H. L. Ratwatte
 Mr. M. Senanayake
 Mr. R. G. Senanayake
 Mr. A. Sinnalebbe
 Mr. E. E. Spencer
 Mr. K. V. D. Sugathadasa

NOES

Mr. H. D. Abeygoonewardane
 Mr. S. J. V. Chelvanayakam, K.C.
 Mr. W. Dahanayake
 Dr. Colvin R. de Silva
 Mr. P. H. W. de Silva
 Mr. D. B. R. Gunawardena
 Mrs. Kusumasiri Gunawardena
 Mr. D. F. Hettiarachchi
 Mr. T. B. Ilangaratne
 Mr. I. M. R. A. Iriyagolla
 Mr. K. Kanagaratnam
 Mr. P. G. B. Keuneman

Mr. D. Ramanujam
 Mrs. Florence Senanayake
 Mr. S. A. Silva
 Mr. H. Sri Nissanka, K.C.
 Mr. T. B. Subasinghe
 Mr. S. M. Subbiah
 Mr. A. L. Thambayah
 Mr. S. Thondaman
 Mr. C. Yannasingam
 Mr. C. V. Yelupillay
 Mr. W. P. A. Wickremasinghe

Bill accordingly read a Second time.

Bill referred to a Committee of the Whole House—[Hon. Mr. D. S. Senanayake.]

Mr. Speaker: The Sitting is suspended till 4.30 P.M.

Sitting accordingly suspended until 4.30 p.m., and then resumed.

Bill considered in Committee.

[MR. SPEAKER in the Chair.]

CLAUSE 1.—(*Short Title.*)

Question, that the Clause stand part of the Bill, put, and agreed to.

Clause ordered to stand part of the Bill.

CLAUSE 2.—(*Exemption from operation of Act.*)

Mr. P. G. B. Keuneman (Third Colombo Central): I gave notice of an Amendment. I move, to leave out all words in lines 14 and 15.

You will notice that sub-clause (a) seeks to exempt persons who are members of His Majesty's Naval, Military or Air Forces. I am opposing the sub-clause as a matter of principle because we do not approve of the Government's policy of allowing British forces in Ceylon, and we do not think such persons should be exempt under this Bill.

Question, that the words proposed to be left out, stand part of the Clause, put, and agreed to.

Question, that the Clause stand part of the Bill, put, and agreed to.

Clause ordered to stand part of the Bill.

CLAUSE 3.—(*Ports of entry and departure.*)

Question, that the Clause stand part of the Bill, put, and agreed to.

Clause ordered to stand part of the Bill.

CLAUSE 4.—(*Officers and servants.*)

Question, that the Clause stand part of the Bill, put, and agreed to

Clause ordered to stand part of the Bill.

CLAUSE 5.—(*Powers and duties of Officers.*)

The Hon. Mr. D. S. Senanayake: I move, in page 3, immediately after line 20, to insert at end:

"(3) The Permanent Secretary or any Assistant Secretary to the Ministry may exercise, perform or discharge any power, duty or function vested in, or imposed or conferred upon, the Controller or an authorized officer, by or under this Act."

The Chairman: The Amendment proposed by the Hon. Prime Minister is to come immediately after sub-clause (2) in Clause 5; that is, after line 20.

Question, that those words be there inserted, put, and agreed to.

Question, that the Clause, as amended, stand part of the Bill, put, and agreed to.

Clause, as amended, ordered to stand part of the Bill.

CLAUSE 6.—(Authorization by Minister or Controller to act on his behalf.)

The Hon. Mr. D. S. Senanayake: I move, in page 3, line 22, to insert after the word "authorise" the words "the Permanent Secretary or any Assistant Secretary to the Ministry or"

Question, that those words be there inserted, put, and agreed to.

The Hon. Mr. D. S. Senanayake: I move, in page 3, line 23 to leave out the words "any power," and insert "any power (other than the power conferred by section 31)."

Question, that the words proposed to be left out, stand part of the Clause, put, and negatived.

Question, that those words be there inserted, put, and agreed to.

Question, that the Clause, as amended, stand part of the Bill, put, and agreed to.

Clause, as amended, ordered to stand part of the Bill.

CLAUSE 7.—(Authorization by Controller of other officers to act on his behalf.)

Question, that the Clause stand part of the Bill, put, and agreed to.

Clause ordered to stand part of the Bill.

CLAUSE 8.—(Application of Part III).

Mr. Keuneman: I move, in page 3, line 40, to insert at end:

" ; or,

(c) he has been resident in Ceylon for a period of at least six months within the five years immediately preceding the appointed day."

I think you will see that in this Clause the list of persons who will be exempted are a large body of people who are already resident in Ceylon for a long period. I fear that, while there might be some justification that new persons entering for the first time might have to go through restrictions of this nature, I do not think that such restrictions

should fall upon persons who have been working here and who have been contributing towards the development of the country.

Question, that those words be there inserted, put.

The Committee divided (under Standing Order 48): Ayes, 25; Noes, 48.

Mr. Thondaman: I move, in page 3, line 40, to insert at end:

" or

(c) he or she is the holder of a permanent residence permit."

Question, that those words be there inserted, put, and negatived.

Question, that the Clause stand part of the Bill, put, and agreed to.

Clause ordered to stand part of the Bill.

CLAUSE 9.—(Entry to be at approved ports of entry only.)

Question, that the Clause stand part of the Bill, put, and agreed to.

Clause ordered to stand part of the Bill.

CLAUSE 10.—(Documents required at the time of entry.)

Mr. Keuneman: I move, in page 4, line 11, to leave out all words from the word "permit" to the word "issued" in line 13.

In the course of my speech on the Second Reading of this Bill, I said that this was not the way in which to solve the problem of labour. I do not think a temporary residence permit should be allowed.

If this Amendment is passed, I shall move consequential Amendments to the other Clauses of the Bill.

Question, that the words proposed to be left out, stand part of the Clause, put, and agreed to.

Question, that the Clause stand part of the Bill, put, and agreed to.

Clause ordered to stand part of the Bill.

CLAUSE 11.—(Documents of entry not to be issued to certain persons.)

Mr. Keuneman: The Amendment I have to move is to delete sub-clause (2) (d). I move, in page 4, to leave out all words in lines 37 to 41.

The Chairman: Does the hon. Member for Ruwanwella press his Amendment?

Dr. Perera: No.

Question, that the words proposed to be left out, stand part of the Clause, put, and agreed to.

Mr. Keuneman: My next amendment refers to the deletion of sub-clause (f). I move, in page 4 to leave out all words in lines 44 to 47, namely, "fails to fulfil such other requirements as the Minister may impose in the public interest by special or general instructions issued in that behalf."

Question, that the words proposed to be left out stand part of the Clause, put, and agreed to.

Mr. Keuneman: My next amendment seeks the deletion of sub-clause (i.) which reads:

"is declared by order of the Minister under section 12 to be a prohibited immigrant or a prohibited visitor."

I therefore move, in page 5, to leave out all words in lines 4 to 6.

Question, that the words proposed to be left out stand part of the Clause, put, and agreed to.

Question, that the Clause stand part of the Bill, put, and agreed to.

Clause ordered to stand part of the Bill.

CLAUSE 12.—(Power of Minister to declare persons to be prohibited immigrants or prohibited visitors.)

Mr. Keuneman: I move the deletion of the whole of Clause 12.

The Chairman: The hon. Member may vote against the whole Clause when I put the Question.

Mr. Keuneman: Very well, Sir.

The Chairman: There is an Amendment of the hon. Member for Kopai.

Mr. C. Vanniasingham (Kopai): I move, in page 5, line 36, to insert at end the words:

"Provided that no such order shall be made against a person entitled to a permanent or temporary residence permit under the provisions of Section (14) (2) and (3)."

The object of the Amendment I am proposing is to see that a person who is permanently or temporarily resident may be dealt with under the ordinary law of the land and not be subject to any other law.

Dr. Perera: I think the position taken up by the hon. Member is with regard to the law governing normal citizens.

The Hon. Mr. Bandaranaike: This is a section dealing with deportation. If it is knocked out, there will be no reason for deporting people at all.

The Chairman: This is a section which gives the Minister power to declare certain persons as prohibited immigrants or prohibited visitors.

4.45 P.M.

The Hon. Mr. Bandaranaike: This must apply to persons before they come to Ceylon.

Mr. Vanniasingham: I am contemplating the case of a person who wishes to come back to Ceylon after a short stay outside. For purposes of argument, let us take the case of the hon. Member for Nuwara Eliya. He is entitled to a temporary residence permit or permanent residence permit. He leaves for India on a short holiday and he wants to come back and the Hon. Minister may apply Clause 12—

The Chairman: He has got to get a passport to leave Ceylon.

Mr. Vanniasingham: He will be readily given a passport because they want to get rid of him.

Dr. Colvin R. de Silva: There is precedent in that matter. Mr. Sacklatvala left India with a passport for England and actually became a Member of Parliament in England but was not allowed re-entry into India. If it is, in fact, the intention of the Government not to include such people as have such residence permits, why should the Government resist the clarifying of the matter by an Amendment?

The Hon. Mr. D. S. Senanayake: What about the case of Lord Haw-Haw?

Dr. Colvin R. de Silva: Lord Haw-Haw! Since he has been referred to, there are two factors that might be remembered; his actual nationality was in doubt and he was ultimately acquitted on the ground that he had no British nationality and therefore could not be treated as a traitor. He had acquired German citizenship. Lord Haw-Haw, having left Germany, was entitled to return to it. I think it is proper to permit a little time on this. The Government should appreciate that this is a subject of genuine apprehension. The matter that is being raised by this Amendment is very important for, as a consequence of the Citizenship Bill, there is going to be a large number of people who are going to be subjected to the issue of temporary residence permits. Now, Sir, such people should not come under that form of prohibition, because they are not people entering; they are merely people temporarily out of the country for some business of their own such as the Hon. Prime Minister is going for very soon. In that matter at least I would suggest that, in accordance with the principle that the Bill is alleged by the Government to possess, there is no need to make a distinction between people who have the necessary descent and people who have the necessary residence.

The Hon. Mr. D. S. Senanayake: There is a difference between residence—

Dr. Colvin R. de Silva: I said there is no need to make the distinction in this field.

The Chairman: I quite see that. I quite realize that this proviso is not out of Order. It can be moved. The reason stated by the hon. Member for Kopai is that no such order should be made against a person entitled to a permanent or temporary residence permit.

Mr. D. B. R. Gunawardena: I would like to mention what happened to a former Member of this House, the Member for Avissawella. After being away in America, when he came back to England, he was prevented from leaving that country for $2\frac{1}{2}$ years. He was not given a visa to come back to Ceylon.

The Hon. Mr. Bandaranaike: Under our law he can.

Question, that those words be there inserted, put, and *negated*.

Question, that the Clause stand part of the Bill, put, and agreed to.

Clause ordered to stand part of the Bill.

CLAUSE 13.—(Requirements as to endorsements).

Question, that the Clause stand part of the Bill, put, and agreed to.

Clause ordered to stand part of the Bill.

CLAUSE 14.—(Requirements as to visas and permits.)

Mr. Keuneman: I move, in Clause 14, sub-clause 3 (a), to leave out 'or temporary residence permit' in lines 33 and 34 and insert after the word 'Act' in line 43 the following:

; or

(iii.) in the case of a person who was ordinarily—"

The Chairman: We will put the first Amendment first.

Mr. Keuneman: This is divided into two—permanent residence permit and temporary residence permit. Shall I read the whole of my Amendment?

The Chairman: Yes.

Mr. Keuneman: After the word "Act" in line 43, add the following words:

; or

(iii.) in the case of a person who was ordinarily resident in Ceylon for a period of at least six months within the five years immediately preceding the appointed day."

In other words, I want a new category added to the class of persons who cannot be refused the permanent residence permits.

The Chairman: The hon. Member for Kopai has sent another Amendment also to the same effect.

Mr. Vanniasingham: There is also another Amendment in regard to sub-clause (3) (a) (i.) which I would like to place before the House.

I move, that the words ' husband or ' be inserted between the words ' the ' and ' wife ' in line 35.

Might I explain my Amendment?

The Chairman: That is quite clear. You want " husband " also included.

Mr. Vanniasingham: The House will remember—

The Hon. Mr. D. S. Senanayake: May I suggest that, instead of the words " husband or wife " the word " spouse " be inserted? I move that.

Mr. Vanniasingham: It is all right.

Dr. Perera: I have an Amendment.

The Chairman: You have no Amendment.

Dr. Perera: I have an Amendment on the question of spouse.

The Chairman: I shall first put to the House the Amendment of the Hon. Prime Minister.

Question, that the word ' wife ' proposed to be left out stand part of the Clause, put, and *negatived*.

Question, that the word ' spouse ' be there inserted, put, and agreed to.

Mr. Keuneman: What about my Amendment?

The Chairman: That is further down. I got to put that together with the last item.

Mr. Keuneman: I want a new category of people to whom—

The Chairman: You want the words " or temporary residence permit " in lines 33 and 34 to be deleted?

Mr. Keuneman: Yes, and I want to add something else.

Question, that the words proposed to be left out, stand part of the Clause, put, and agreed to.

The Chairman: Now you withdraw your Amendment.

Mr. Keuneman: I want a new sub-clause (3) (iii.), the new sub-clause will read thus:

" (iii.) In the case of a person who was ordinarily resident in Ceylon for a period of at least six months within the five years immediately preceding the appointed day."

The Chairman: There is one from the hon. Member for Kopai which is more restricted than yours. His Amendment reads thus:

" In the case of a person who, being a subject of a State which is a Member of the British Commonwealth of Nations, was ordinarily resident in Ceylon for a period of at least five years preceding the appointed date."

Mr. Vanniasingham: I move that the following new sub-clause (3) (a) (iii.) be added and sub-clause (3) (b) deleted:

" In the case of a person who, being a subject of a State which is a Member of the British Commonwealth of Nations, was ordinarily resident in Ceylon for a period of at least five years preceding the appointed date."

The words " British subject " have no legal connotation after the Nationality Bill of 1948. So that, to be more specific, I want the words " British subject " to be deleted and the words " a subject of a State which is a Member of the British Commonwealth of Nations " inserted. Under the new sub-clause, I also want those who are resident for five years to be entitled to permanent residence permits.

The Hon. Mr. C. Suntharalingam (Minister of Commerce and Trade): What about the Colonies?

The Hon. Mr. Bandaranaike: The Colonies are not Members of the Commonwealth. British Commonwealth only refers to the Dominions.

Dr. Colvin R. de Silva: It is worth asking the Members of the Government whether, in the drafting of this Bill and especially in using the term " British subject " and the like in this part of the Bill the final forms in which the British Nationality Bill and the Commonwealth Nationality Bill were passed have been taken into consideration. You will see that in the final form in which it was

The Chairman: The Government has introduced—

The Hon. Mr. Bandaranaike: Dealing with the rights of the British subjects as well as the citizens of the new Commonwealth.

Dr. Colvin R. de Silva: Because in the form in which it is here you will be now introducing limitations because a British subject is a person who is a citizen of Britain and her colonies.

The Hon. Mr. Bandaranaike: That is right.

Dr. Perera: May I move my Amendment?

The Chairman: Where does your Amendment come in?

Dr. Perera: Sub-clause (3), line 44.

The Chairman: We are still dealing with sub-clause (3) (a).

Dr. Perera: My Amendment will be to sub-clause (3) (a) because I want to move the deletion of a portion of sub-clause (3) (b). My Amendment will become sub-clause (3) (a) (iii.).

I move, in lines 44 and 45 the words 'No temporary residence permit shall be refused' be deleted.

Then you will have—

The Chairman: That has already been put.

Dr. Perera: There is a slight difference between that Amendment and mine.

The Chairman: The hon. Third Member for Colombo Central moved an Amendment to the same effect. You also want the same thing.

The Hon. Mr. Bandaranaike: It covers the same ground.

Dr. Perera: The hon. Third Member for Colombo Central provided for six months within the five years. I am not purporting to change any permanent residence permit or temporary residence permit.

The Hon. Mr. Bandaranaike: Then what do you propose?

Dr. Perera: I propose to move, in the case of those who are ordinarily resident in Ceylon for a period of at least five years, that they be granted either permanent residence permits or temporary residence permits in accordance with their wishes.

The Hon. Mr. Bandaranaike: You want a separate Clause?

Dr. Perera: No. Might I make the position clear, Sir? Sub-clause 14 (3) (b) will remain as a part of sub-clause 14 (3) (a), so that it will read:

"No permanent residence permit or temporary residence permit shall be refused—

(iii.) in the case of a person who, being a British subject, was ordinarily resident in Ceylon for a period of at least five years immediately preceding the appointed date."

5.0 P.M.

The Hon. Mr. Bandaranaike: We can put it to the House, Sir.

Dr. Perera: That person will be entitled either to a permanent residence permit or a temporary residence permit.

The Chairman: That is exactly what the hon. Member for Kopai (Mr. Vanniasingham) wants: "In the case of a person who being a subject of a State which is a member of the British Commonwealth of Nations, was ordinarily resident in Ceylon for a period of at least five years preceding the appointed date."

If the hon. Member for Ruwanwella is in favour of adding those words, I will put the Amendment of the hon. Member for Kopai to the House.

Dr. Perera: I do not object, Sir.

Question, that those words be there added, put.

The Committee divided (under Standing Order 48): Ayes 28; Noes 49.

The Chairman: That removes the Amendments of both the hon. Member for Ruwanwella and the hon. Member for Kopai, both of which cover the same ground, and of the hon. Third Member for Colombo Central.

Mr. Thondaman: I have an Amendment in regard to Clause 14 (3) (b) dealing with permits for temporary residence. I move, in page 6, line 47, to leave out the words "five years" and to insert "one year".

Question, that the words proposed to be left out, stand part of the Clause, put, and agreed to.

Question, that the Clause, as amended, stand part of the Bill, put, and agreed to.

Clause, as amended, ordered to stand part of the Bill.

Clauses 15 to 18 ordered to stand part of the Bill.

CLAUSE 19.—(Inspection of letters, &c.)

Dr. Perera: Might we get some information from the Hon. Prime Minister in regard to this Clause? This seems to be so vague. Precisely what is the scope of this Clause?

The Hon. Mr. D. S. Senanayake: What do you want to know?

Dr. Perera: What is the scope?

The Hon. Mr. D. S. Senanayake: The scope is to prevent communication with any other part of the world in pursuit of activities inimical to the interests of Ceylon.

Dr. Perera: That would mean that every private letter would be subject to a kind of censorship.

The Hon. Mr. D. S. Senanayake: That depends on the person involved.

Dr. Perera: There should be some limit to the control of communication that is contemplated—

The Chairman: I do not know whether the hon. Member is raising the question of somebody examining a letter, for instance, addressed to his Majesty the King, as it occurred in India when an official of the Indian Union opened a letter addressed to His Majesty by the Nizam.

Dr. Colvin R. de Silva: Yes, of Hyderabad. But you will please remember that the Indian Union and Hyderabad have now reached a stage of quasi war. That is, there is an embargo and a certain boycott being

operated locally by the Indian Union which, you will appreciate, has further, by the present operative Standstill Agreement, been conceded the right of controlling the foreign affairs and relations of the Hyderabad Government.

What I wish to stress in this matter, supporting my hon. Friend on my right, is that this is to take during normal times powers which are normally taken only in abnormal times.

The Hon. Mr. Suntharalingam: What is normal to us is abnormal to them.

Dr. Colvin R. de Silva: I am entirely ready to concede, Sir, that we are in a period of utter abnormality both under this Government and under this particular Minister; but the point is that we must give the normal dictionary meaning to the term "abnormal".

Sir, I do wish to urge the Hon. Minister—

The Chairman: The Amendment proposed is to delete the whole Clause.

The Hon. Mr. D. S. Senanayake: By this Clause we do not propose to examine all letters; this is to enable us to examine those letters that we consider necessary.

Dr. Colvin R. de Silva: That is just the point, Sir, that there are no safeguards here in respect of discrimination against particular persons on grounds which are extraneous to that which purports to be the objective of the Clause.

Question, that the Clause stand part of the Bill, put.

The Committee divided (under Standing Order 48): Ayes, 48; Noes, 29.

Clause ordered to stand part of the Bill.

Clauses 20 to 23 ordered to stand part of the Bill.

CLAUSE 24.—(Application of Part IV.)

Mr. Thondaman: I move, in page 11, line 15, to insert:

" ; or
He or she is the holder of a permanent residence permit.

The Hon. Mr. Bandaranaike: That follows on the previous Amendment that has been lost, Sir.

Question, that those words be there inserted, put, and *negatived*.

Question, that the Clause stand part of the Bill, put, and agreed to.

Clause ordered to stand part of the Bill.

CLAUSE 25.—(Power to impose restrictions on persons by Order.)

Mr. Keuneman: There is an Amendment by me to delete the whole of sub-clause (1) of Clause 25.

The Chairman: In that case you can vote against the Clause.

Mr. Dahanayake: I have an Amendment, Sir. I will move it in case of the entire deletion of sub-clause (1)—

Mr. Keuneman: Are you taking sub-clauses (1) and (2) together?

The Chairman: Yes, I am taking the whole Clause.

Mr. Keuneman: Can I say a few words on sub-clause (2)?

The Chairman: Anything earlier?

Dr. Perera: I move, in page 11, line 18, to insert after the word "restrictions" the words "prescribed by previous regulations".

Might I explain this Amendment, Sir? This Clause provides for restrictions being imposed by Order. You will notice the various items this Order might include, like the form of registers to be kept, and so on. Now in every other case they are imposed by Regulations which come before this House, but in this particular case this Order will not come before this House. My purpose is to see that these details are embodied in a Regulation as suggested by the Hon. Prime Minister, and that this House is the place where the details of the Order are decided.

What I do not understand is this: he is going to provide by Order a large number of details which, surely, should be the subject of a certain amount of consideration by this House. Digitized by Noorulhaq Foundation

Sir, matters like restrictions on the activities of associations of such persons, the circumstances in which authorized officers and Police Officers may exercise certain powers in relation to such persons and so on, are things that ought to come under the cognizance of this House?

I do not see how the Hon. Prime Minister can object to this because it does not take away any of the powers he has. All that is stated in my Amendment is that such details should be provided by regulation. The Minister's powers to carry out the terms of the Order are not sought to be removed.

The Hon. Mr. Bandaranaike: Details cannot possibly be the subject-matter of Regulations.

The Chairman: Does the hon. Member intend that all these sub-clauses (a), (b), (c), (d), &c., should be matters to be settled by Regulation?

The Hon. Mr. Bandaranaike: That is what he wants.

Dr. Perera: Before the Order should come into operation we should see to it that it is based upon a Regulation which specifies certain conditions for making such an Order.

The Hon. Mr. Bandaranaike: What he wants is that the Order itself should come before the House.

The Chairman: Let him continue.

Dr. Perera: No, Sir, I have no wish to have the Order brought up before the House.

What the Clause states is that "the Minister may, by Order impose restrictions . . . and provision may be made in the Order in respect of all or any of the following matters."

5.15 P.M.

The Order has reference to these matters, and I am merely suggesting that if these matters were provided for by Regulation, we would know what precisely the Order would deal with, in broad terms. We are not asking that the specific Order be placed before us.

The Hon. Mr. Bandaranaike: The Order imposing restrictions on persons—

The Chairman: You want to know the reasons for the Order?

Dr. Perera: The precise points on which the Order is to be passed.

The Hon. Mr. Bandaranaike: The points are mentioned in the Clause itself.

The Chairman: Any one of these points, (a) to (g).

The Hon. Mr. Bandaranaike: All that he can ask for is that the Order be placed before the House.

Dr. Perera: The Order would contain the form of registers to be kept by authorized officers.

The Chairman: That will be by Regulation.

Dr. Perera: That should be by Regulation.

Dr. Colvin R. de Silva: If I may add a word to what has been said—

The Chairman: Before I allow the hon. Member to speak, I want to know whether the Amendment is in Order. I am not satisfied that the Amendment is in Order.

Dr. Perera: Why is it not in Order?

The Chairman: You want these words added,

“ . . . any of the following matters that are prescribed by previous Regulations.”

That would be meaningless here.

Dr. Perera: The previous Regulation will set out—

The Chairman: You want all these matters to be prescribed by previous Regulation?

Dr. Perera: Yes.

The Chairman: That is not an Amendment to this Clause. It would be meaningless to say:

“ The Minister may, if he deems it expedient in the public interest, make Order on the following matters—”
and then to provide—

Dr. Perera: “ May make Order imposing certain restrictions on I am not touching the second part of this Clause which states, “ provision may be made in the Order in respect of all or any of the following matters.”

The Chairman: You want to put in words to catch up with the first part of the Clause. Paras. (a) to (g) catch up with the first part of the Clause.

Dr. Perera: Para. (a) refers to, “ the circumstances in which such persons may be required to furnish returns ”

This House should know in what circumstances these persons should be required to furnish returns, and those circumstances should be prescribed by Regulations.

The Chairman: To move that those words be added would be out of Order—“ prescribed by previous Regulations.”

The Hon. Mr. Bandaranaike: What can the Regulations prescribe more than what is stated in paras. (a) to (g)? The hon. Member wants the Order to be approved by the House before it is put into effect. That cannot be done.

The Hon. Mr. D. S. Senanayake: May we proceed to vote on the Amendment?

The Chairman: I am not satisfied that the Amendment is in Order. If it is not in Order, I shall have to rule it out.

Dr. Perera: This Clause refers to the form in which registers are to be kept. That is a subject for regulations.

Mr. Wilmot A. Perera: May I suggest that the words “ prescribed by previous Regulation ” be inserted after the word “ restrictions ”? “ The Minister may by Order impose restrictions prescribed by previous Regulation.”

The Chairman: I can understand an Amendment to that effect,—“ The Minister may, if he deems it expedient in

[The Chairman.]
the public interest, by Order impose restrictions prescribed by previous Regulation. . . .

The Hon. Mr. Bandaranaike: Even that would be out of Order.

The Chairman: It will be out of Order in the context of the Clause.

Dr. Perera: I have no objection to that Amendment.

The Hon. Mr. Bandaranaike: You want the Order to be placed before the House?

Dr. Perera: I have no objection to the words I suggest being added after the word "restrictions".

Question, that those words be there inserted, put, and *negatived*.

The Chairman: The hon. the Third Member for Colombo Central wants sub-clause (2) of Clause 25 to be deleted.

Mr. Keuneman: Yes. I move, in page 12, to leave out all words in lines 8 to 11. It is a dangerous sub-section, making it possible by executive fiat to prevent even a strike on a plantation. Under this section, the Minister can by Order enforce restrictions on the movements and activities not only of individuals but of whole classes and groups of persons.

Immigrant labourers brought under a temporary residence permit, or a permanent residence permit, if they take part in a strike, can, by an administrative fiat of the Minister, be prohibited from continuing the strike, and they can be forcibly deported.

No Member of this House who is interested in the labour movement can support this provision.

Question, that the words proposed to be left out stand part of the Clause, put, and agreed to.

The Chairman: There is another Amendment, by the hon. Member for Galle: to add as a third sub-clause, these words:

"An Order made under this Section shall set out the reasons moving the Minister to make such Order and shall be subject to appeal to the Supreme Court."

Mr. Dahanayake: In moving this Amendment, I would remind the Prime Minister that he told this House that the Minister, in acting under the provisions of this section, would ultimately be responsible to Parliament and the people. If that is really the position, the Minister should only be too glad to set out the reasons for making an Order under this section. It is only when the reasons are set out that Parliament and the country can judge whether the Minister has done right or wrong.

Furthermore, I feel that the powers given to the Minister under this section are wide and menacing, because in certain eventualities the Minister can bring even his own personal enemy within the orbit of this particular section.

The implications of this section are so dangerous that it is essential, in order to safeguard civic liberties, that an appeal should be permitted to the highest tribunal in the land.

The Chairman: That principle was enunciated in the Second Reading Debate. That has been fought out.

Dr. Colvin R. de Silva: I want to stress just one point.

You will see, first of all, that Clause 25 is restrictive of movements, association, &c., and these restrictions can be imposed by administrative Order. In the first place, they allow a man in and then restrict his movements. One could understand some distinction being made when allowing or refusing the entry of a person into the country, but surely a person within the country should be subject to the jurisdiction of the Courts too?

It is not permissible for the Government to argue that some form of appeal is available. It is not so. There is not in law an appeal from an administrative order. One has to go by way of special writ, hedged in by special restrictions. Consequently, the express giving of the right to appeal would cause the Supreme Court to look at it not from the point of view of the value that history has imposed on the special rights, the prerogative rights, but to look at it from the angle of the liberty of the subject.

Question, that those words be there inserted, put, and *negatived*.

Question, that the Clause stand part of the Bill, put, and agreed to.

Clause ordered to stand part of the Bill.

Clause 26 ordered to stand part of the Bill.

CLAUSE 27.—(Application of Part V.)

Mr. Vanniasingham: I have an Amendment to this Clause.

The Chairman: It is the same thing—the same words.

Mr. Vanniasingham: This is an Amendment to the Clause providing that a person may be removed—

The Chairman: The hon. Member for Kopai wants to add a new sub-clause 27. His Amendment is, in page 12, line 36, to insert at end:

"(e) Is a person entitled to a permanent residence permit or a temporary residence permit under the provisions of Section 14 (3)?"

In other words, that a person entitled to this permit cannot be deported.

Mr. Vanniasingham: They might be made subject to the laws of the country, but not deported.

Question, that those words be there inserted, put, and *negatived*.

Question, that the Clause stand part of the Bill, put, and agreed to.

Clause ordered to stand part of the Bill.

Clauses 28 and 29 were ordered to stand part of the Bill.

CLAUSE 30.—(Application of Part VI.)

Mr. Keuneman: I have given notice of an Amendment. I want to add to the category of persons to whom this Part does not apply. I move, in page 13, line 41, to insert at end:

"or
(c) is the holder of a permanent residence permit."

We are going to admit into this country people on a permanent residence permit. Obviously, they are to be given

permits for an indefinite period, and the Minister would have been more or less satisfied that such persons are necessary for this country, that their stay here is necessary for a long period, and that he has reason to believe that these persons would conduct themselves satisfactorily.

Therefore, I do not see why the Minister should be given power forcibly to interrupt their stay, after having given them permits for an indefinite period, and to deport such persons.

Dr. Perera: It is the same Amendment as mine.

The Chairman: Yes.

Dr. Perera: The hon. Member is—

Mr. Keuneman: The Minister wants slaves here.

Dr. Perera: The Minister has accepted the position regarding permanent residence permits. This relates to the question of deporting people who have been granted permanent residence permits.

The Hon. Mr. Bandaranaike: Deportation applies to anybody who is not a citizen, whether he is a permanent or temporary resident.

Dr. Perera: A person has been given a permanent residence permit, he has been here for five years; he has lost all connexions with any other country. Where is he to go —

Mr. Keuneman: A person can come here; he can stay here for 20 years, because the period is indefinite. Suddenly, a member of the Government gets it into his head that he must chase that person away. The Minister serves him with a deportation order —

Mr. Dahanayake: Where are these people to go?

Mr. Keuneman: They get them in as slaves —

Dr. Colvin R. de Silva: If the Government will not look at the logic of it, will it not look at the human aspect of it? Or is it too much to ask them to pay some concern to the milk of human kindness? There must be some time

[Dr. Colvin R. de Silva.]
limit of residence, within which it can be assumed that the man loses his connexions with other countries and with other places.

The Hon. Mr. Bandaranaike: May I suggest to hon. Members that we go on for another half hour, in which case it may not be necessary to meet tomorrow.

Dr. Perera: Agreed.

Dr. Colvin R. de Silva: Agreed.

I shall cut myself short—[*Interruption*]—as short as possible—

The Hon. Mr. Bandaranaike: Do not cut at all!

Dr. Colvin R. de Silva: The Leader of the House suspects that I have changed my religious opinions—

The Hon. Mr. Suntharalingam: No, Sir!

The Chairman: Order, please!

Dr. Colvin R. de Silva: May I appeal to the Government that in all propriety there should be a time limit? Let us put it on a compromise basis: You may have granted a permanent residence permit; you may find that you have made a mistake in the matter of the admission, 'but that should be covered by some time limit. It is obvious that if you grant a permanent residence permit, there will come a stage at which to ask a man to go out of the country is to ask him to go out of the world and this planet—

5.30 P.M.

It being 5.30 p.m., the Chairman left the Chair to report Progress.

Committee report Progress; to sit again.

SITTINGS OF THE HOUSE

The Hon. Mr. Bandaranaike: I move that the House do continue to sit till we have finished—

Mr. Speaker: You will have to move that tomorrow, because the Motion moved by you, which has already been passed, is that if Government Business is not disposed of today—

The Hon. Mr. Bandaranaike: If we finish this Bill, it will be sufficient for our purpose. The other Gov-

ernment Business can be taken up next week. That was the intention of the Motion. If this Bill is finished today, it is not necessary for us to meet tomorrow for the rest of the Government Business. If the house agrees, I take it you will permit me to do so.

Dr. Perera: The only point is this. If there is one single Member opposing the Motion, it cannot be done. But if there is unanimous consent, it is possible to move the Motion.

Dr. Colvin R. de Silva: We agree.

Mr. Speaker: We will go on till 6 P.M. if there is no opposition. But I do not know whether I can go behind the Motion that has been passed, namely that the House sit tomorrow if all the Government Business is not finished.

The Hon. Mr. Bandaranaike: I deliberately deleted the other words in order to create this position. It would have otherwise meant a lengthy Motion.

Mr. Speaker: I am afraid we will have to meet for five minutes tomorrow and adjourn.

The Hon. Mr. D. S. Senanayake: Shall we finish this Bill now?

The Hon. Mr. Bandaranaike: I move, that the House go on till 6 P.M. till this Bill is finished.

Question put, and agreed to.

The Hon. Mr. Bandaranaike: We can go on till Government Business is over.

Dr. Colvin R. de Silva: It is always said that if you give them an inch, they go a mile.

IMMIGRANTS AND EMIGRANTS BILL

Further considered in Committee.
[*MR. SPEAKER in the Chair.*]

CLAUSE 30.—(*Application of Part VI.*)

The Chairman: The question now is that these words be included in sub-clause (c)—

Dr. Colvin R. de Silva: Will the Government agree to consider whether some time limit should not be placed—some period—on this matter?

The Hon. Mr. Bandaranaike: We cannot agree to an Amendment in this way. But the point may be considered in due course. Once you make an Amendment fixing the time limit, then through the whole length of this Bill you will have to give the same full concession to those for whom that time limit has been fixed. It will involve all kinds of Amendments.

Dr. Colvin R. de Silva: That may be so. But there is this point. Once you make a person a permanent resident and he proves to be a satisfactory permanent resident over a certain period, then why subject him to a disability of the nature which stands in the way of his assimilating himself within the country. The more a permanent resident begins to feel at home in the land which he has adopted, the more will he be—if I may say so—prone to participate in various movements of that country. That will be a sign that he is being assimilated. That is what I feel.

The Hon. Mr. Bandaranaike: That difference runs right through the Bill.

The Chairman: On the other hand, if you make an exception, you might have to do so in every case.

The Hon. Mr. Bandaranaike: It goes right back to the beginning of the Bill.

Mr. Keuneman: Will the Government consider the possibility of even bringing in an Amendment some time later?

The Hon. Mr. D. S. Senanayake: We have considered the matter.

The Hon. Mr. Bandaranaike: Legislation can always be amended.

Dr. Colvin R. de Silva: Now that the matter has been brought to the notice of a Government in which I trust there is not omniscience, it can at least undertake to look into the matter.

Mr. Keuneman: Omnipotent!

The Chairman: I do not think the hon. Member will press his Amendment at the risk of losing it.

Mr. Keuneman: I want to press it.

The Chairman: If you leave it at that, the Government will look into the matter.

Mr. Keuneman: If they give an assurance to look into it, it is all right.

Dr. Colvin R. De Silva: If you give that assurance, we will not object.

Mr. Keuneman: If the Government give an assurance to consider the problem, I will withdraw my Amendment.

The Hon. Mr. D. S. Senanayake: As a matter of fact, I do not want to say anything because there are two Bills yet to come. You can consider it then.

Question, that those words be there inserted, put, and *negatived*.

Question, that the Clause stand part of the Bill, put, and agreed to.

Clause ordered to stand part of the Bill.

CLAUSE 31.—(*Power of Minister to deport from Ceylon persons other than Citizens of Ceylon.*)

The Chairman: The first Amendment is in the name of the hon. Member for Ruwanwella.

Mr. Keuneman: I want the deletion of sub-clause (b).

Dr. Perera: I am suggesting a modification to catch up with the Citizenship Bill. I move, in page 14, line 20, to insert after "Ceylon" the words "of any of the offences against the State specified in Chapter VI of the Penal Code for which a sentence of rigorous imprisonment has been imposed".

May I say one word? This is precisely the position you have taken up in the Citizenship Bill.

The Hon. Mr. D. S. Senanayake: That is a different matter.

Dr. Perera: As it is worded, it means any kind of imprisonment—a motor offence or any other offence.

The Hon. Mr. D. S. Senanayake: We will consider it.

The Hon. Mr. Bandaranaike: The reasons operating in the deportation Order and the provisions of the Citizenship Bill are not on a par.

Dr. Perera: Does the Hon. Minister consider that a person guilty of a motor offence or any kind of offence should be deported? According to this section, it is possible to do so for a sentence of imprisonment in connexion with a motor offence.

The Hon. Mr. Goonesinha: That is the hon. Member's interpretation.

Dr. Perera: Surely this is not the intention of the Hon. Minister.

The Hon. Mr. D. S. Senanayake: It is not obligatory.

The Chairman: Is it covered by the words "reason of the circumstances connected therewith"?

Dr. Perera: Those words are sufficiently elastic to cover anything.

Mr. Keuneman: The point is this. In the Clause, as it stands now, it is left to the Hon. Minister to decide whether, in view of the circumstances, a person who receives a sentence of imprisonment should be chased out of the country or not. In the Amendment moved by the hon. Member for Ruwanwella, he wants to prescribe the offence and limit the number of offences for which a person can be deported. That is a different thing.

Dr. Perera: This is the position that is already accepted.

The Hon. Mr. Bandaranaike: It must be assumed that Ministers do not act in an irresponsible way.

Mr. T. B. Subasinghe (Bingiriya): We know how the Ministers act.

Dr. Perera: In that way we can give them *carte-blanche* authority.

Mr. Keuneman: They want dictatorial powers.

Question, that those words be there inserted, put, and *negatived*.

Mr. Dahanayake: I have an Amendment to move.

The Chairman: I will come to that.

Mr. Keuneman: I move the deletion of the whole of sub-clause (b).

Question, that the words proposed to be left out, stand part of the Clause, put, and agreed to.

Mr. Keuneman: I have an Amendment, to delete sub-clause (d).

Question, that the words proposed to be left out stand part of the Clause, put, and agreed to.

The Chairman: There are other Amendments. After the word "person" in line 35—in sub-section (d)—add the words "provided however that any person to whom this Part shall apply shall have the right to appeal against such Order". This is the same thing which has been objected to.

Mr. Wilmot A. Perera: Would not the House consider granting an appeal from a deportation Order?

The Hon. Mr. Bandaranaike: How can you have that? On what ground is the Appeal Tribunal going to decide whether the Minister is right or wrong.

Mr. Keuneman: The Hon. Minister is not prepared to consider any Amendment.

The Hon. Mr. Bandaranaike: We have accepted one—"spouse".

Question, that the Clause stand part of the Bill, put, and agreed to.

Clause ordered to stand part of the Bill.

Clauses 32 to 34 ordered to stand part of the Bill.

CLAUSE 35.—(Passports required for departure from Ceylon.)

Mr. Keuneman: I would like some information. At present persons are allowed to pass between India and Ceylon without passports. Is it the intention of the Government in future that no one can pass through without a passport? Does it include India?

The Hon. Mr. D. S. Senanayake:
Yes.

Question, that the Clause stand part of the Bill, put, and agreed to.

Clause ordered to stand part of the Bill.

CLAUSE 36.—(*Regulations.*)

Dr. Perera: I have an Amendment to delete sub-clause (g). There is a demand for security for passports. Why do you want security from citizens of Ceylon?

The Hon. Mr. D. S. Senanayake:
This provision is in the existing Regulations.

Dr. Perera: You have provided money for repatriation.

The Hon. Mr. D. S. Senanayake:
We must get it back.

Question, that the words proposed to be left out, stand part of the Clause, put, and agreed to.

Question, that the Clause stand part of the Bill, put, and agreed to.

Clause ordered to stand part of the Bill.

Clauses 37 to 41 ordered to stand part of the Bill.

CLAUSE 42.—(*Returns as to passengers and members of crews of ships.*)

Dr. Perera: May I have some information on this Clause? Why is it necessary to include the crew of a ship—that is sub-clause (b)?

The Hon. Mr. D. S. Senanayake:
Why not?

The Hon. Mr. A. Ratnayake (Minister of Food and Co-operative Undertakings):
They are not citizens of Ceylon.

Dr. Colvin R. de Silva: It is the captain's job.

The Hon. Mr. D. S. Senanayake:
We do not want the crew.

Dr. Colvin R. de Silva: I think a reason might be given from the well of the House.

Question, that the Clause stand part of the Bill, put, and agreed to.

Clause ordered to stand part of the Bill.

Clauses 43 to 46 ordered to stand part of the Bill.

CLAUSE 47.—(*Burden of proof.*)

Mr. Keuneman: I have an Amendment, to delete, in page 20, all the words from line 24 to the word 'person' in line 26; in other words, lines 24-26 should be deleted. When there is an objection on the basis that a person is not a citizen of Ceylon, the burden of proof should lie on the objector and not on the objectee.

Dr. Colvin R. de Silva: You will appreciate, and I trust that the Government will appreciate, that this is a very important matter.

The Chairman: It is contrary to the Evidence Ordinance.

Dr. Colvin R. de Silva: Yes, and please note it negates the Evidence Ordinance, and reverses the burden in these matters in which administrative fiats and orders are provided for. Thus we come to a terrible situation.

A person, anyone of us, whom the Government does not like, say, turns up at Talaimannar returning home from India. We have already been called many names, and it may be the intention of the Government to render some of us homeless. Thereon the Government appears and says, "we shut you out until you produce proof". That is a terrible difficulty. A person in that condition does not carry proof about with him, and humble citizens will find themselves with the burden of proving certain things. Always, as a principle of law, a person objecting must make good his objection and, at least, a modicum of proof on the side of the objector might be sufficient to shift the burden. But when you positively place the burden—

The Hon. Mr. Goonesinha: The claimant, the man who claims.

Dr. Colvin R. de Silva: No, you cannot by a formula change the reality. It is not a question of a person claiming to be a citizen. It is that a citizen is sought to be shut out on the ground that he is a non-citizen. A Government seeking to shut out a person must at least fulfil that degree of its obligation to indicate that there is reason for an impartial tribunal to have a doubt as to the reality of what is alleged to be a claim.

A passport is not *prima facie* proof of citizenship. So I, going out with a passport and returning, may be asked to prove my citizenship, and I will have to equip myself with a birth certificate and—

5.45 P.M.

The Hon. Mr. Bandaranaike: The point is this. This is a person claiming to be a citizen of Ceylon, and basing upon that claim, asks for certain acts to be performed under this Bill. Every single Act of any country that we know of in the world throws this burden upon the claimant. And I will explain why. For the simple reason that it is not possible for some Port officer or some other administrative officer to discover whether he is a citizen of Peru or Timbuctoo. If a person claims to be a citizen and claims, by virtue of that, certain rights and privileges, obviously he must have something reasonable to establish that claim. This is not a case of somebody objecting to that person, but the person himself claiming citizenship and, by virtue of that, asking for something to be done. This is a provision found in every single Act in other parts of the world; otherwise the whole thing becomes impracticable.

Dr. Colvin R. de Silva: With the greatest respect to the Hon. Leader of the House, I think his advisers have misled him. In the first place, the references to Timbuctoo are not relevant to sub-clause (c). Sub-clause (c) casts upon the citizen of Ceylon the burden to prove that he is a citizen of Ceylon. One can understand the Government of Ceylon asking a person who

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a citizen of Timbuctoo, and claiming consequently the rights of Timbuctoo citizenship in Ceylon, to prove that he is a citizen of Timbuctoo. But this covers a citizen of Ceylon, too.

The Hon. Mr. Bandaranaike: Also.

Dr. Colvin R. de Silva: That is the point. Will the Hon. Leader of the House be pleased, if I may use that formula, to give consideration to the point, instead of seeking to blast his way through it? Sir, he referred to Timbuctoo. We can well understand a citizen of Timbuctoo having to prove his citizenship of Timbuctoo in this country—

The Chairman: This is a debating point. What the Minister says is, if I am coming to Ceylon and say I am a British subject, and if somebody here says I am not, then I must prove that I am a citizen of Ceylon. I should be in a position to prove it.

Dr. Colvin R. de Silva: That is not the point. The passport is not proof of citizenship.

The Hon. Mr. Bandaranaike: It is *prima facie* proof.

Dr. Colvin R. de Silva: That is the trouble. A person with a temporary residence permit can have a passport.

The Chairman: He has a permit, a temporary residence or permanent residence permit.

Dr. Colvin R. de Silva: No, Sir. One could understand in line with the principle of the Bill, throwing some burden on the non-citizen. You will notice that the Bill has something of Gilbertian character in that clause: it says that a citizen of Ceylon shall prove himself to be a citizen of Ceylon. That may be legal phraseology, but it is Gilbertian in its consequence. One may well understand that any person who is not a citizen of Ceylon, claiming any rights, and so on, under some regulations of the Government, should have to prove that he comes under those regulations,

The Chairman: Suppose a gentleman having all the features of a Chinese gentleman comes to Ceylon and says he is a citizen of Ceylon. How are the officers here to know? So he must prove his citizenship.

Dr. Colvin R. de Silva: You will there see how slight is the degree of evidence that will be needed for an objector to shift the burden. He can very easily say, "Our citizenship proceeds on certain principles. This gentleman is obviously a Chinese by appearance."

The Chairman: But he may be a citizen of Ceylon.

Dr. Colvin R. de Silva: Is that quantity of evidence in that particular case sufficient to shift the burden? But supposing one does conform to the appearance of a Ceylonese, the habits of a Ceylonese, the language of a Ceylonese in every respect, you and I would say, he is a Ceylonese. Yet under the orders of a capricious Minister, the proper authority can say, "You are not a Ceylon citizen, prove it".

The Hon. Mr. Bandaranaike: Not under the "order". When a person makes a claim, he is asked to establish his *bona fides*.

The Hon. Mr. D. S. Senanayake: Every person who leaves Ceylon gets a permit, either a passport—

Dr. Perera: Will that be enough?

The Hon. Mr. D. S. Senanayake: That will be enough.

The Hon. Mr. C. Sittampalam (Minister of Posts and Telecommunication, and Industries, Industrial Research and Fisheries): It would act discriminatorily against the Tamils in Ceylon, because it will be alleged that Jaffnese and others coming to Ceylon are Indians. It cannot operate against the Sinhalese.

The Chairman: Whether it is a Tamil gentleman or a Sinhalese gentleman, if he is coming here, he must have a passport. He cannot get out of Ceylon without a passport.

Dr. Colvin R. de Silva: You will remember that even under the regulations to go to India and come back you do not need a passport.

The Chairman: But now you do. The Government has made a long statement in reply to a question by the hon. Third Member for Colombo Central.

Dr. Colvin R. de Silva: That may be so. But today to travel between England and France, for instance, there is no passport necessary. In other words, in circumstances of special relationship between countries, the Government itself may think fit to remove the requirement for a passport.

The Chairman: Then we will have to make a regulation.

Dr. Colvin R. de Silva: That is why I say the passport question will seriously affect the Vadamaradchy and Thenmaradchy people.

Mr. Wilmot A. Perera: Will a passport be accepted as proof of citizenship?

The Hon. Mr. Bandaranaike: It must be. That is complete proof.

Mr. Keuneman: I am pressing my Amendment.

Question, that the words proposed to be left out, stand part of the Clause, put, and agreed to.

Question, that the Clause stand part of the Bill, put, and agreed to.

Clause ordered to stand part of the Bill.

Clauses 48 and 49 ordered to stand part of the Bill.

CLAUSE 50.—(Interpretation.)

Mr. Vanniasingham: I find that the term "British subject" is not defined.

The Chairman: Government has stated that by a later Bill it will be defined.

Mr. Vanniasingham: If this is brought into operation before the other Act is enacted, there will be some difficulty. Government will have no objection, I am sure, to having it defined here.

The Hon. Mr. Bandaranaike: It cannot be defined here. You must bring it into line with British legislation, and only subsequent legislation can do it, because there will be two forms of citizenship: the citizenship of the Commonwealth, and the other is the citizenship of the particular country.

Mr. Vanniasingham: The difficulty will arise if this Act is brought into operation before the other Act comes into being. If the other Act comes into being now and this is brought into operation after that, there will be no difficulty. If that assurance is given by the Government, I shall be satisfied.

The Hon. Mr. D. S. Senanayake: The definition now existing will apply.

Mr. Vanniasingham: May I ask what the existing definition is?

The Hon. Mr. D. S. Senanayake: We are still British subjects until it is changed.

Dr. Colvin R. de Silva: I think the Hon. Prime Minister is misinformed. Who is a British subject will be determined by looking into the British law, unless there is specific legislation here as to whom we shall term a British subject.

The Hon. Mr. Bandaranaike: It is defined in the Citizenship Bill.

Question, that the Clause stand part of the Bill, put, and agreed to.

Clause ordered to stand part of the Bill.

Clauses 51 and 52 ordered to stand part of the Bill.

Enacting Clause and Title ordered to stand part of the Bill.

Bill reported, with Amendments.

The Hon. Mr. D. S. Senanayake: I move, that the Bill, as amended, be read the Third time.

Question put accordingly, and agreed to.

Bill read the Third time, and passed.

BUSINESS OF THE HOUSE

The Hon. Mr. Bandaranaike: May I suggest that that you might reconsider that situation about the rest of the Government Business being taken up tomorrow, because the House is adjourning—

The Hon. Mr. D. S. Senanayake: Why not do it now?

Mr. Dahanayake: We have not looked at the papers, Sir.

The Hon. Mr. Bandaranaike: Then it can be taken up on the 2nd of September.

ADJOURNMENT

Motion made, and Question proposed, "That this House do now adjourn"—
[Hon. Mr. Bandaranaike.]

Mr. V. Kumaraswamy (Chavakachcheri): I want to bring to the notice of the Hon. Minister of Finance the unsatisfactory position of the Assistant Shroffs working in the Treasury—

Mr. Speaker: The hon. Member has got only one minute more.

Mr. Kumaraswamy: Even temporary Stenographers are to be absorbed into the grade of Assistant Clerks. So I would ask that these Assistant Shroffs also should be given that concession.

The Chairman: There will be no time for a reply, if the hon. Member speaks any longer.

The Hon. Mr. D. S. Senanayake: As a matter of fact, my hon. Friend will realize that Assistant Shroffs are chosen not by Government, but by the Shroff himself.

The Hon. Mr. Jayewardene: I made a full statement to the House on this question when I explained that only those doing clerical work will be permitted to sit for this examination for absorption into the Clerical Service.

Question put, and agreed to.

Adjourned accordingly at 5.59 P.M., until 2 P.M. on Thursday, September 2, 1948, pursuant to the Resolution of the House this Day.

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Deputy Speaker and Chairman of Committees—

Deputy Chairman of Committees—Mr. J. A. MARTENSZ (Appointed Member)

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Amarasuriya, Mr. H. W. (Baddegama)

Attygalle, C. E. (Ratnapura)

Banda, M. D. (Maturata)

Bandaranaike, The Hon. Mr. S. W. R. D. (Attanagalla)

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Bulankulame Dissawa, P. B. (Anuradhapura)

Chandrasiri S. (Moratuwa)

Chelvanayakam, S. J. V., K.C. (Kankesanturai)

Dahanayake, W. (Galle)

Dasanaike, Ivan T. (Wariyapola)

de Silva, Dr. Colvin R. (Wellawatta-Galkissa)

de Silva, G. R. (Colombo North)

de Silva, P. H. W. (First Ambalangoda-Balapitiya)

de Zoysa, G. A. W. (Second Ambalangoda-Balapitiya)

Ebrahim, Mudaliyar M. M. (Pottuvil)

Ethirmannasingham, S. U. (Paddiruppu)

Fernando, J. J. (Chilaw)

Fernando, W. Leo (Buttala)

Goonesekera, D. S. (Udugama)

Goonesinha, The Hon. Mr. A. E. (First Colombo Central)

Goonewardene, Cholmondeley (Kalutara)

Griffith, F. H. (Appointed Member)

Gunawardena, D. B. R. (Kotte)

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Iriyagolla, I. M. R. A. (Dandagamuwa)

Ismail, H. S. (Puttalam)

Jayah, The Hon. Mr. T. B. (Second Colombo Central)

Jayasooriya, A. P. (Horana)

Jayasuriya, Mudaliyar D. P. (Ja-ela)

Jayewardene, The Hon. Mr. J. R. (Kelaniya)

Jayewickreme, Major Montague (Weligama)

Kanagaratnam, K. (Vaddukkoddai)

Kariapper, Gate Mudaliyar M. S. (Kalmunai)

Karunaratne, D. D. (Gampaha)

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Kumaraswamy, V. (Chavakachcheri)

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Nalliah, V. (Kalkudah)

Nanayakkara, V. T. (Matale)

Nugawela, The Hon. Mr. E. A. (First Kadugannawa)

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Rajapaksa, L. (Hambantota)

Ramalinkam, T. (Point Pedro)

Ramanujam, D. (Alutnuwara)

Rambukpota, J. A. (Haputale)

Rambukwelle Dissawa, H. B. (Minipe)

Ratnayaka, V. G. W. (Deniyaya)

Ratnayake, The Hon. Mr. A. (Wattegama)

Ratwatte, H. L. (Mawanella)

Senanayake, The Hon. Mr. D. S. (Mirigama)

Senanayake, The Hon. Mr. Dudley (Dedigama)

Senanayake, Mrs. Florence (Kiriella)

Senanayake, M. (Medawachchiya)

Senanayake, R. G. (Dambadeniya)

Silva, S. A. (Agalawatta)

Sinnalebbe, A. (Batticaloa)

Siriwardana, H. de Z. (Negombo)

Sittampalam, The Hon. Mr. C. (Mannar)

Sivapalan, S. (Trincomalee)

Spencer, E. E. (Appointed Member)

Sri Nissanka, H., K.C. (Kurunegala)

Subasinghe, T. B. (Bingiriya)

Subbiah, S. M. (First Badulla)

Sugathadasa, K. V. D. (Welimada)

Suntharalingam, The Hon. Mr. C. (Vavuniya)

Tenne, H. B. (Dambulla)

Thambiyah, A. L. (Kayts)

Thondaman, S. (Nuwara Eliya)

Vanniasingham, C. (Kopai)

Velupillay, C. V. (Talawakele)

Wickremasinghe, W. P. A. (Akureessa)

