

West) : I would like that the name of Sanjiv Kumar also be mentioned here.

MR. SPEAKER : Not like this. You come to me ; we will find out some other way.

12.21 hrs.

**CITIZENSHIP (AMENDMENT)
BILL***

[English]

THE MINISTER OF HOME AFFAIRS (SHRI S.B. CHANAN) : I beg to move for leave to introduce a Bill further to amend the Citizenship Act, 1955.

MR. SPEAKER : Motion moved :

"That leave be granted to introduce a Bill further to amend the Citizenship Act, 1955".

SHRI AMAL DATTA (Diamond Harbour) : I oppose the introduction of this Bill on the ground that it violates Article 326 of the Constitution of India.

Apart from the merits of other clauses of this Bill, in clause 4 a citizen is being deprived of the right to vote. Person may be registered for citizenship and yet for ten years he will not be allowed to vote. The period of ten years starts from the date of detection that he is not a citizen. After that he applies for the citizenship. He is registered but for ten years he will not be entitled to vote.

What is the adult suffrage under Article 326 of the Constitution :

"The elections to the House of the People and to the Legislation Assembly of every State shall be on the basis of adult suffrage that is to say, every person who is a citizen of India and who is not less than

twenty-one years of age, on such date as by the appropriate Legislature and is not otherwise disqualified under this Constitution or any law made by the appropriate Legislature on the ground of non-residence, unsoundness of mind, crime or corrupt illegal practice. . . ."

MR. SPEAKER : Please be brief ; do not elaborate.

SHRI AMAL DATTA : Why I am mentioning this is that what they are trying to do does not come under any of these. So, it violates the Constitution.

MR. SPEAKER : You can only point that out.

SHRI AMAL DATTA : This Bill is dichotomy between citizenship and right to vote which is not permissible under Article 326 of the Constitution.

This particular clause of the Bill will be struck out by the court as soon it is challenged.

MR. SPEAKER : Shri Indrajit Gupta.

SARI AMAL DATTA : Why this lady was shouting ?

MR. SPEAKER : She is your compatriot.

SHRI INDRAJIT GUPTA (Bsiraht) : Sir, it seems to me that you do not want us at this stage to enter into any arguments as to why we are opposing this Bill. How will the Minister then reply ?

MR. SPEAKER : You cannot elaborate, you can just point out in a concise form.

SHRI INDRAJIT GUPTA : Several provisions of this Bill are full of legal and Constitutional contradictions and anomalies. I would request the hon. Minister to give careful thought to this because later on it may be challenged also in courts of law. The point is that this Bill which is coming now, is, of course,

*Published in Gazette of India Extraordinary, Part II, Section 2 dated 18.11.1985.

[Shri Indrajit Gupta]

seeking to plug a loophole which has been created earlier by the accord itself. To that extent, of course, it is a salutary measure because it had left a big loophole saying that people will be disenfranchised for ten years, but not making clear whether they will then cease to be the citizens and will lose other citizenship rights also, like the right to have property or education or employment and all that. Now this Bill is saying that no, all other citizenship rights will remain. Only the right to vote for ten years is being taken away. I do not know whether such a thing is Constitutionally or legally possible because here it is said : "A person registered under sub-section (3) shall have, as from the date on which he has been detected to be a foreigner and till the expiry of a period of ten years from that date, the same rights and obligations as a citizen of India ..." but shall not be entitled to vote for ten years. So, I would say that the hon. Minister should explain as to how these people are not being required to leave Assam although they have been detected to be foreigners. The accord which they have signed, says that they will remain in Assam and after ten years their names will automatically be again enrolled in the voters list. So, Ipso facto they cannot be foreigners. How can a foreigner now to be excluded from the voters list and after ten years automatically be reinstated in the voters list? Obviously the implication is that he is not being treated as a foreigner. In that case how can he be disenfranchised for ten years? Under which law, under which Constitution can that be done? The only limited virtue of this Bill is that having left a huge loophole, they are trying to plug it now by saying that all other rights of citizenship will be there. Of course, that is so and that must be so, but the hon. Minister must please explain how will he get over this Constitutional and legal contradiction and anomaly created here. For the first time such a thing is happening in this country that people who are considered to be citizens, are being disenfranchised for ten years and, at the same time, it is being said that they have been detected to be foreigners. How will they be then

reinstated automatically in the list of voters? It does not make any sense at all. You may do anything to give statutory form to an illogical accord, that is a different matter, but since the House is expected to pass this, so I am opposing it here itself.

SHRI BASUDEB ACHARIA (Bankura) : Sir, I oppose the introduction of this particular Bill because this Bill is not only undemocratic but it is unconstitutional also. Citizens will have all rights—right to live, right to employment and everything—but they will not have any right to exercise their franchise and that too for ten years *(Interruption)*.

SHRI INDRAJIT GUPTA : Only after this election. In this election they will vote and after this they will not vote.

SHRI BASUDEB ACHARIA : This, I think, will affect lots of people who came to Assam between 1966 and 1971 . *(Interruption)*

MR. SPEAKER : Don't go into all that. Just put a few words.

SHRI BASUDEB ACHARIA : That shows that it is unconstitutional and undemocratic.

This has also strengthened the secessionist forces in Assam. When these forces were being isolated, this Accord was hurriedly made. Now these secessionist forces have been strengthened in Assam. We are opposing the introduction of this particular Bill because as a result of this some citizens of the country will have all rights except the right to franchise.

SHRI ANIL BASU (Arambagh) : I am also of the same view as my learned friend just now has expressed.

SHRI G.M. BANATWALLA (Ponnani) : I rise to oppose the introduction of this Bill. I do understand that this Bill amending the Citizenship Act is for the purpose of implementation of the Assam Accord, but I must make it very clear without going into details that the

Assam Accord and the provisions of this Bill are a betrayal of the minorities in Assam. Now we have this motivated innovation that for a period of ten years some persons will have all rights but no right to vote. There can be no basis for such a thing. Prior to this period they have been voting and after ten years also they will continue to vote. There is absolutely no basis for providing that for ten years period they will have no right to vote. This is totally arbitrary and is betrayal of the minorities for the purpose of appeasement of the agitationists over there. I therefore, say that this is also a negation of the decision of this very House represented in the passage of the Illegal Immigrants (Determination by Tribunal) Act. This House had passed that Act. And as a result of the Act 1971 was adopted as the base year for all practical purposes, including the right to vote in elections. Therefore, this Bill is totally arbitrary in nature without any basis whatsoever and is a betrayal of the minorities.

SHRI SAIFUDDIN CHOWDHARY (Katwa) : We are opposing its introduction not to oppose certain rights that are going to be given to certain sections of the people as mentioned in the Bill. Actually all these rights that this Bill seeks to give to them are being enjoyed by them. Actually this Bill is now going to formalise that particular undemocratic provision which seeks to take away voting right of certain citizens. It is not a good Bill as it intends to be. The question is how can there be two types of citizens in the country some without voting rights? It is totally discriminating, undemocratic and unconstitutional as explained by Shri Amal Datta referring to provision 376 of the Constitution. All accords are not good and Assam Accord is more a discord than an Accord. That is why we oppose it very much even during the time of its introduction.

THE MINISTER OF HOME AFFAIRS (SHRI S.B. CHAVAN) : Sir, I have not been able to understand the purpose behind the opposition which has been expressed by some of the hon. Members.

SHRI G.M. BANATWALLA : We should be allowed to explain our stand further if you want.

SHRI S.B. CHAVAN : When the Bill comes at the consideration stage, certainly you will have your full opportunity to explain your point of view, but this is a very strange way. It is said minorities need to be protected and all kinds of things are being stated here. Sir, the agitation was going on for a considerable time in Assam and an amicable solution was found and an agreement was reached not to the satisfaction of all...

SHRI AMAL DATTA : It is not a Solution.

SHRI S.B. CHAVAN : I can well appreciate the anxiety of some of the hon. Members in regard to the kind of propaganda which was going on that is the minorities are not going to get anything out of the Accord, but since this Bill is now being introduced, I can also well appreciate your anxiety that this will create problems for some of the Opposition parties. That is why they are interested in opposing the Bill. There is no question of rising any legal or constitutional issue over it. In fact, we had consulted the Law Ministry in this respect and I don't think there is any point about raising any Constitutional issue over it. (*Interruptions*) I have heard you. I don't think there is any need for me to explain anything more.

SHRI BASUDEB ACHARIA : It is unconstitutional.

SHRI S.B. CHAVAN : I request that the Motion moved by me may be accepted by the House.

Mr. SPEAKER : The question is :

“That leave be granted to introduce a Bill further to amend the Citizenship Act, 1955.”

The motion was adopted.

SHRI S.B. CHAVAN : I introduce the Bill.