

[Shri Harish Rawat]

supplied at concessional rates and industrial products should be exempted from local taxes.

To create an industrial atmosphere in these areas, one big industry should be set up in every district.

For the electronics based industries these region should be declared as electronics zone.

14.15 hrs.

CITIZENSHIP (AMENDMENT) BILL

[English]

**THE MINISTER OF HOME AFFAIRS
(SHRI S. B. CHAVAN) : I beg to move***

“That the Bill further to amend the Citizenship Act, 1955 be taken into consideration”.

As the House is aware, on 15th August, 1985 Memorandum of settlement was signed between the representatives of the Government and the leaders of the All Assam Students Union and the All Assam Gana Sangram Parishad, which I had the occasion to lay on the floor of the House on 16.8.1985. The core of this Memorandum of Settlement are the clauses relating to the foreigners issue Assam Accord being a political settlement, legislation is required to give effect to the following clauses amongst them :

“5.1. For purposes of detection and deletion of foreigners, 1.1.1966 shall be the base date and year.

5.2. All persons who came to Assam prior to 1.1.66, including those amongst them whose names appeared on the electoral rolls used in 1967 elections, shall be regularised.

5.3. Foreigners who came to Assam after 1.1.1966 (inclusive) and upto 24th March, 1971 shall be detected in accordance with the provisions of the Foreigners Act

1946 and the Foreigners (Tribunals) Order, 1964.

5.4. Names of foreigners so detected will be deleted from the electoral rolls in force. Such persons will be required to register themselves before the Registration Officers of the respective districts in accordance with the provisions of the Registration of Foreigners Act, 1939 and the Registration of Foreigners Rules, 1939.

5.6. On the expiry of a period of ten years following the date of detection, the names of all such persons which have been deleted from the electoral rolls shall be restored.

5.7. All persons who were expelled earlier, but have since re-entered illegally into Assam, shall be expelled.”

Accordingly, it is proposed to enact the Citizenship (Amendment) Bill, 1985. The proposed legislation which is by way of amendment to the Citizenship Act, 1955 and seeks mainly to insert a new section 6-A in the Principal Act deals with the following two categories of persons of Indian origin who came from east while East Pakistan, now Bangladesh, to Assam :

- (i) Those who came prior to 1.1.1966 and
- (ii) those who came between 1.1.1966 to 24.3.1971 (both day inclusive).

3. The salient features of the proposed legislation are as under :

3.1. The Act shall come into force with effect from such date as Central Government may notify.

3.2 For persons who came before 1.1.1966 to Assam from Bangladesh, it has been provided that all persons of Indian origin (including those whose names were in the 1967 electoral rolls) and who have been ordinarily resident in Assam, since the dates of their entry into Assam shall be

*Moved with the recommendation of the President.

deemed to be citizens of India as from 1.1.1966.

3.3. For every person of Indian origin who came to Assam between 1.1.1966 and 24.3.1971 from Bangladesh *and* who has been ordinarily resident in Assam since then *and* who has been detected to be a foreigner, following provisions have been made :—

- (i) he shall register himself in accordance with the rules framed for this purpose;
- (ii) if his name is included in any electoral roll in force on the date of detection, it shall be deleted from the electoral roll;
- (iii) every person so registered shall have all rights and obligations as a citizen of India (including the right to obtain a passport), *but* shall not be entitled to have his name included in any electoral roll before the expiry of a period of ten years from the date of his detection as a foreigner;
- (iv) after the expiry of a period of ten years from the date of detection as a foreigner, every person so registered shall be deemed to be a citizen of India for all purpose;
- (v) It has been expressly provided that in determining whether a person seeking registration fulfils the requirements of registration as indicated above, the registering authority shall act in conformity with the opinion of the Tribunal.

It is possible that Foreigners' Tribunal's might have given their opinion in respect of some persons in the past without specifically mentioning their date of entry into Assam and the fact of their being ordinarily resident in

Assam. With a view to enable the registering authority to deal with such cases, it has been provided that the registering authority shall make a reference with respect to such points to the Tribunal in accordance with the rules framed by the Central Government and shall act in conformity with the opinion of the Tribunal.

3.4 The proposed amendment will not effect any person who prior to the commencement of this enactment is a citizen of India.

3.5 The benefits of the proposed amendment will not be available to such of the persons who have been expelled from India under the Foreigners Act prior to the commencement of this Act.

4. It may be pointed out that only those persons of Indian origin who entered Assam during the relevant period and who have been ordinarily resident in Assam since then are being covered under the proposed legislation. Proper records will be maintained of persons who came between 1.1.1966 to 24.3.1971. To inspire confidence, judicial element would be associated, to determine eligibility in each and every case under this category.

5. The Bill *inter alia* stipulates that persons of Indian origin who came to Assam from erst-while East Pakistan, now Bangladesh, between 1.1.1966 to 24.3.1971 (both days inclusive) shall be detected in accordance with the provisions of the Foreigners Act and Foreigners (Tribunals) Order, 1964. Following detection, these persons will have to be registered in accordance with the rules to be made by the Central Government in this behalf. This will require strengthening of the governmental machinery, which will involve some expenditure from the Consolidated Fund of India. For various reasons it is not possible at this stage to precisely quantify the expenditure likely to be incurred on this account.

6. With these words, I commend the Citizenship (Amendment) Bill, 1985 for the consideration of the House.

MR. DEPUTY-SPEAKER : Motion moved :

“That the Bill further to amend the Citizenship Act, 1955 be taken into consideration.”

SHRI H. A. DORA (Srikakulam) : Mr. Deputy-Speaker, Sir, I rise to support this Bill because our party has taken a decision to support this particular accord between the agitating groups of Assam and the Government of India. Prior to second February 1980, the people of Assam had expressed their deep apprehensions about the demographic balance and also a fear about the cultural, economic and political life in the State. Therefore, on 2nd February 1980 they submitted a memorandum to the then Prime Minister expressing their fear in unequivocal terms. Thereafter, the then Prime Minister was pleased to have a dialogue with these agitating groups in the State, which ultimately culminated in bringing about this particular accord or settlement, whatever it may be. The settlement, as the hon. Minister has said in his speech, contains only two categories of foreigners who have come to Assam, but actually there are three categories. The first category is of those persons who came to Assam prior to first January 1966. These persons also enrolled themselves in the voters list of 1967. So far as this category is concerned, these people are to be regularised. The controversy is only with regard to the second category. Those persons who came on or after 1st January 1966 but before 25th March 1971, are covered in the second category. The third category of persons are those who have come to this particular State-Assam on or after 25th March, 1971. So, it deals with three category of persons.

At the very outset, I may be permitted to ask the hon. Minister why this piece of legislation has been introduced in this august House at this particular point of time. It is not for the purpose of gaining undue importance in the elections that are to take place next month? Why was this particular piece of legislation not introduced in the last session itself? Therefore, I must say that the very introduction of this particular Bill is politically motivated.

That apart, there is another aspect that is provided in the Accord itself. The Accord has provided certain safeguards to the people of Assam. According to the Accord, Constitutional, legislative, administrative safeguards as may be appropriate will be provided to protect the cultural, social, economic and linguistic identity and heritage of the Assamese people. This has not been taken into consideration here. Only that part of the matter which is not very much relevant to the people of Assam has been taken into consideration and the Bill has been introduced.

Besides the Accord also spells out the commitment to the speedy and all round economic development of Assam so as to improve the standard of living of the people. ‘It says : Special emphasis will be placed on education, science, technology and establishment of national institutions in Assam.’ When such important safeguards and important matters are provided in the Accord itself, why these have not been adverted to by the Government of India? Only a portion of this particular Accord has been adverted to in this. This shows the purpose is only to gain some importance in the coming elections. This is very unfortunate.

I would now like to analyse the provisions of this Bill. As I have already pointed out the Bill provides three categories of persons in Assam. As regards those who have come prior to 1st January, 1966 there is no difficulty with regard to these people and they will be regularised. So far as the second category of people are concerned, I may submit that following legal consequences should be taken note of. The foreigners are to be detected in accordance with such procedure as prescribed under rules. After detection their names should be deleted from the electoral rolls. Thereafter they are eligible to register themselves. On such registration, they are entitled for the similar rights and obligations as the citizens of India except that they are not eligible to be included in the electoral rolls for any Assembly or Parliamentary Constituency. Fifthly, this disability will expire after the expiry of 10 years from the date of detection, not from the date of coming into force of this Bill,

which will be converted into an Act. From the above mentioned announcement, a curious and anomalous consequence would arise. Is it in consonance with the provisions of Article 326 of the Constitution? That is the question now. I would like to quote Article 326 of the Constitution. It says :

Elections to the House of the People and to the Legislative 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 may be fixed in that behalf by or under any law made by the appropriate legislature and is not otherwise disqualified under the Constitution or any law made by the Legislature on the ground of non-residence, unsoundness of mind, crime or corrupt or illegal practice, shall be entitled to be registered as a Voter at any such election.

This is article 326 of the Constitution. But now the procedure that is laid down under this particular Bill is in conflict with that of Article 226 of the Constitution. I suspect the validity of the Bill in so far as the second category of persons are concerned in this behalf. So far as the third category is concerned I may be permitted to submit this: In respect of those persons who came to Assam *on or after* 25 March, 1971, what is their legal status? They are to be deleted and expelled. That is what is stated in the accord itself. The Bill provides for the expulsion and the deletion. Presumably, this particular expression 'deletion' refers to deletion of their names from the voters' list. Whatever I say is subject to correction. If that be the case, it is not indicated as to how they are to be expelled from this particular country and from this particular State and where they are to be accommodated. The Bill is also silent as to the steps that are to be taken to expel them. Anyway, an important feature that is to be noted is that the Bill speaks of expulsion of foreigners. But it does not speak of Indians. This is an important factor that has to be taken into consideration by my learned friends in this august House. It refers only to those persons who have come or who are likely to come on or

after 25 March, 1971. This is one of the good features of this particular Bill and therefore this accord is a good one, according to Telugu Desam party. With these reservations, I stand to support the Bill.

SHRI BHOLANATH SEN (Calcutta South) : Mr. Deputy Speaker, Sir I remember and also most of the Members of the House will remember the time when the Bangladesh War was going on. Our former Prime Minister, Shrimati Indira Gandhi, one of the leaders of the world, was fighting for human dignity. She was fighting for human values. She was fighting in order to save many people who had been in trouble there and when many murders, rapes and slaughters were going on there. At that time, millions of people came over to this country just for the sake of taking shelter from our late Prime Minister. She gave them the shelter. Many people went back and some people did not or could not go back for some reason or the other. It was decided under an agreement that 1971, the particular date, will be the cut-off date and they will be given the protection and they will be made the citizens of India but not anybody who had come after that date. Now, just because there is an international agreement, it does not form part of the law of the land and naturally a law had to be made and this is that law by which some protection is being given to those who had come before a certain date in 1971. Now up to 1966, there is no problem. They are deemed to be citizens. There is no problem there. The problem that has arisen now has been made clear and it is for the benefit of all. We have been seeing trouble, dissensions, bandhs Janata bandh, this and that bandh. Life had come to a complete halt, Sometimes suddenly without any notice. Some incident takes place in some town and the State and some persons declare bandh. That is not a desirable thing. So, Assam accord was reached with the cooperation of all and for the benefit of everyone concerned. Now, how are they going to be made the citizens of India? That has been given here. It is true that those who had come here in 1966, that is between 1966 and 1971, are not automatically declared as citizens as those who had come before 1966. But if this law was not there, what would have happened to these people? What were their rights? Everything was uncertain.

[Shri Bholanath Sen]

They were not recognised as the citizens of this country. They were foreigners for all practical purposes. They did not know what their rights were. Those persons who had come to this country before 1966 or after 1960, they did not know what their rights were and we do not know what their rights are. It was found in 1967 that some of them were voting and taking part in the matter of election in that State. My hon. friend has mentioned about Article 326. But one thing must be noticed that Article 326 deal with the law regarding the election in our country. It is only a citizen of our country who can cast a vote and not an outsider. A foreigner cannot cast a vote. A foreigner cannot have a say in the administration of our country, as to who will be his representative, who should be an MP or who should be MLA or Prime Minister. This is a fallacy. Though they were not declared as citizens, though they had admittedly come from outside, though they were totally foreigners in the eye of the law, they were casting their vote. In 1967 in the voters list, their names appeared and they cast their votes and we did not know that foreigners came and cast votes and made the Government in our country. How can we agree to that? Now it is being regularised. The Government has taken a policy decision to regularise upto 1966. There is the problem after 1966. What is happening? Just see those people who had no power, whose rights were not known in this country, they were being given certain rights. It is really something which is unique.

I will just read p. 3 sub-clause (4) of Section 6A :

“(4) A person registered under subsection (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 (including the right to obtain a passport under the Passports Act, 1967 and the obligations connected therewith), but shall not be entitled to have his name included in any electoral roll for any Assembly or Parliamentary constituency at any time before the expiry of the said period of ten years.”

Now protection of the law is there. They had no protection previously. A foreigner was not recognised. Now they are being given the right; they can say, “I have been given, by this law, the same right as any other citizen; my business cannot be taken away; I shall carry on my business; I shall have my living here; I shall earn money here because this has been recognised by this law”. All those who had come between 1966 and 1971 had no such right before. No such law was there in this country which could have given them this protection. This protection is now being given. Many people go to Haj for religious reasons and they need a Passport. They will be given Passport. They might like to go even to Bangladesh to see their own relations. They will be given Passport. Passport will be given to them and that is recognised by this legislation clearly. The only thing that is being taken away from them is that they will not be able to cast vote for ten years from the date of detection as foreigners. This is not contrary to article 326 of the Constitution because they have not been declared as citizens till today, but they will be declared as citizens through a process, through the machinery of law and Tribunal. I do not find anything wrong in this. In fact, I find that there is a little bit of heart-burning. First when the Assam Accord was reached, there was a little bit of heart-burning. They had been playing politics with this saying, “Assam is in danger; the minorities are in trouble”. All kinds of things were being said. Now that has been put an end to. This is the real anger. If anybody has any feelings for those people who are going to be recognised as citizens of this country, he has no reason to complain now—now that the law is being passed. Accord is an Accord; the law had not been passed. Now the law is going to be passed.

So far as the persons who had come after 1971 are concerned, obviously there are laws. Don't we deal with foreigners? Is there not the Foreigners' Act? Is there not the Police? What do they do? The foreigners are just thrown out. It does not require any other legislation because the law is there that, in India foreigners will not be allowed to stay if one is a foreigner, if he does not choose to become a citizen of this country, if he does not choose to

have lawful entry into this country; the Government has the supreme power to throw them out. That law is still there. Those who have come after 1971 are not going to be protected by this law. It is, absolutely clear. Let it be Bangladesh or any other country; let those people realise that they cannot keep on coming here and create problems with regard to the politics of that State or the politics of India or even their culture and other things. Nobody will be allowed to do that. This is a firm commitment, this is a firm pronouncement, this is the law which is being passed. I do not think anybody can have any grievance. Yesterday I heard people saying that there would be two types of; citizenship and all that. This is rather a unique proposition. Citizens are not of two types. One has to read every line, every word, in this particular legislation which has been very carefully drafted. Deemed citizens are those persons who have come before 1966. This is all right. Those who came between 1966 and 1971 have to go through the process of getting themselves declared as foreigners and thereafter getting themselves declared as citizens—that will be through a process, through a method. The method is being prescribed here and through that method, every one has to go. Suppose you go to Europe or England and you want to become a citizen of that country. What do you do? You have to wait for five years or seven years, then apply, then you get your recognition as a citizen of that country. That also depends on the Government. The Government is the supreme judge. It is not justiciable; you cannot question that decision. If you go to Heathrow Airport, you may be turned out; then you have no remedy at all because you are a foreigner. Every government worth its name, every Government which rules, has to protect that country from invasion by outsiders and foreigners. This is being done. It is clearly pronounced here that after 1971 anybody who had come here, will not be there. Therefore, there are three classes and so long as the classification are reasonable, there is no bar.

One clause says that upto 1956 those who have come stand on a different footing. Another clause is for those who have come between 1956 and 1971. There is no discrimination amongst them amongst per-

sons of that group. It that group all of them will have to pass through the procedure that have been announced here.

With regard to those who came after 1971 there is no discrimination. The third category has been rationally classified. Nobody will be allowed to call himself a citizen of this country and they are liable to be thrown out.

Mr. Deputy-Speaker Sir, after a long time, after years, the Government has chosen this particular time. When our Prime Minister had come he acted and it has been on claimed throughout the world; I have seen in the papers abroad, in international papers like the Guardian, the Times etc. Everywhere, there was praise in America. There was praise because the Prime Minister had not only settled the Punjab problem, but also settled the Assam problem.

It is only in this country, sometimes I think that the opposition feels that their weapon has gone and they cannot go any further by exploiting the situation which previously existed. If they could not take advantage of the unhappy situation which existed in the past, they won't have it any more.

I have talks with many persons belonging to minorities. You may have seen in the papers also, the minorities and those who have come before 1971 are satisfied. They know that their interests will not be adversely affected in any way and they will be protected according to this law. These are my submissions.

[Translation]

SHRI ABDUL HANNAN ANSARI (Madhubani) : Mr. Deputy Speaker, Sir, I welcome this Bill brought forward by the Government. At the same time, I want to submit that the methods adopted for identifying the foreigners are resulting in injustice to this section. There is need to bring about improvements therein.

There is no arrangement for issuing birth certificates in the Government offices in Assam. Also, there is no arrangement in the offices in regard to N.R.C. Those areas have also been affected where the

[Shri Abdul Hannan Ansari]

names of the people have been included in the voters list. There also the people queue up but voters' lists are stated to be missing. They have to face difficulties as a result of this.

The people take voters list with them but no recognition is given to that. I would, therefore, request the hon. Home Minister to pay attention to these things. These things should not happen there. Those people who are eligible to be citizens as per the rules framed by the Government should not be deprived of the citizenship. This aspect must be looked into.

With these words, I welcome the Bill.

[English]

SHRI SAIFUDDIN CHOWDHARY (Katwa): Mr. Deputy Speaker, Sir, you know that when the Assam Accord was signed, we opposed certain provisions of that Accord. When this Bill was introduced we opposed that also. I may make it clear that our opposition is not for the good intention of the Government where they are trying to give certain rights to those persons who entered Assam during 1st January, 1966 till 1971, 25th March, 1971 but we opposed the Timing away of voting rights from these people. As Mr. Bholanath Sen has also referred that our country has a commitment. During Bangladesh war it was made clear that as a result of the war and the disaster that had taken place there the lakhs of refugees that came to India will be sent back and others who came before that will be naturalised as citizens and their names in the voters' list came not due to any fault but that was the accepted policy of the Government then. He has referred to international commitments. We had that commitment and people came from Bangladesh. Now here it is said that the people of Indian origin who have entered Assam during that period will be excluded from the electoral rolls. So, why are you so allergic to the people of Indian origin? What will happen to the people who are not of Indian origin? We are one country and you can well remember what your leaders did at that time. The country was divided. These people were not in fault

for that. They are the suffering people? Those who had to come. The country was divided on communal lines. Communal riots took place. They came here and Pandit Jawaharlal Nehru told on 15th of August 1947 in a message to the people of the country, 'They are our brothers. We have to share their feelings and sorrows.' Despite the fact that we have one Foreigners Act to which Mr. Sen has referred to, our Government chose to allow those people to come and to give them shelter and to take them as citizens. Now what happened we do not know. You are going to take away from them their voting rights. When they started the movement, when the AASU leaders started it we opposed them vehemently. At that time, Mrs Gandhi was the Prime Minister. She called a meeting of all the opposition parties and the Government of West Bengal also was represented there and a consensus was reached. It was to make 1971 as the cut off year. That was the consensus. Now what happened? You have surrendered that position to the leaders of the Assam movement who came to be known as the secessionist protagonists in our country. We all vehemently fought them. But now through this Act, you have let down the minorities there. That is a separate question. Now, let us see what has been the movement these. In the name of driving away the foreigners, movement was launched to attack and drive away genuine Indian people from Assam on the secessionists line and on the communal line. That is the history of the movement there. The people of Assam are not in fault. They have their genuine grievances and we take the share of our failure also that—we have not been able to organise the people there on a massive scale so that a movement of this kind cannot be organised there and cannot come out there, what we could very well take care of in West Bengal. But in Assam it is different, secessionist movement was there off and on (Interruptions) You don't laugh, Mr De-facto Defence Minister. Please listen. Now that is our position....

THE MINISTER OF STATE IN THE DEPARTMENT OF DEFENCE RESEARCH AND DEVELOPMENT (SHRI ARUN SINGH): I am entitled to laugh I think.

SHRI SAIFUDDIN CHOWDHARY : If you laugh, I am very happy. If you laugh, you laugh at the cost of the people. You are going to throw and dump them into the hands of the people there. Anyway, you have every right to laugh.

Now the position is that. What prompted this Government to go back on that promise that was given to them, and that was the consensus also? The minorities have faced certain onslaught and they tried to resist it. But the other point was very important. That is, that though the movement had continued for more than 5 years, that was receding—not as a natural course of death but due to resistance that was coming from the Assamese people also. So many Assamese people laid down their lives. Their heroic deeds are there and they laid down their lives to stick to 1971 on the cut off year and to keep intact the harmony among the people in the State. Now what will happen to that? I had been there during the elections and I stayed there for one month. So many of our people could not stay on their own. They came out in the field and they made something of straw and they stayed there for months together. They have made enormous sacrifices. Now you have let down everything. You have let down those who stood by this country and by this government and for the unity of the people and for the international commitment. Those who lost their lives and those who have lost everything—they are no matter for you?

You are taking away voting from them. I am not in favour of allowing foreigners to come and stay there and disrupt peace. This is the responsibility of the Government to check influx of foreigners. When you could not do it with friendly approach now you have to erect barbed fence. We have supported you on that. At that time when war took place you committed yourself to certain human values and said these who are coming as a result of the war will be sent back but before that who came will be naturalised as citizens. Now, we cannot go back on that what we have already committed. So, how are you going to justify this separation of voting rights with the citizenship rights. I want to know

from the Home Minister if one suit is moved in the court that they will have to be given voting rights also then what will be his reaction to that? These are very vital questions.

Sir, the movement was dying out. Assam accord has given a boost to the secessionist movement and as a result of that in different parts of North East area secessionism is coming up again. When we opposed this accord on certain grounds on 20th August the Hindustan Times also wrote that the position taken by the Left Front is that they have a real apprehension about the resurgence of secessionist movement in North eastern area and that has to be taken into consideration. I thought when after so many reactions and so many criticisms they were thinking of bringing in the Bill the voting right will be included there.

You are taking away the voting right. We cannot just support that. We feel strong that in this accord you have let down these who stood for the integration of the country, for the unity of the people, who opposed secessionism and Imperialist designs in the North eastern area. You are arbitrarily applying your powers to take away the voting right from the citizens whose names were there and who will be enjoying other citizenship rights. How you are going to separate it is beyond our comprehension and, I think, it is totally un-constitutional.

With these words I oppose the Bill.

15 hrs.

[Translation]

SHRI P. NAMGYAL (Ladakh) : Mr. Deputy Speaker, Sir, on 2nd February, 1980 a memorandum was submitted to the late Prime Minister, Mrs. Indira Gandhi on behalf of AASU : They had demanded in that memorandum that the foreigners who came to Assam in and after 1971, should be expelled. Some of those foreigners went back but some settled there. This created a situation wherein the AASU thought that a time would come when their identity, culture and language would be in jeopardy. You all know about the large scale agitation that took place there as a

[Shri P. Namgyal]

result of this, but our late Prime Minister Mrs Indira Gandhi continued her efforts to bring the agitationists to the negotiating table and to hold dialogue. The dialogue was held but they could not reach any conclusion. More rounds of talks were held. Unfortunately, Mrs. Indira Gandhi is not with us at this moment but the hard task she had left has been picked up very efficiently by our present Prime Minister Shri Rajiv Gandhi and on 5 January, 1985 in a broadcast to the nation, he made an announcement, which I shall quote in English because I shall not be able to translate its exact meaning :

[English]

“earnest effort will be made to settle the foreigners issue in Assam and that the give and take of the conference table can yield victories which confrontation cannot.”

[Translation]

He said this on 5 January and continued the dialogue. Ultimately, on 15 August, this year on the Independence Day, a settlement was reached with AASU and others including Assam Gana Sangram Prishad. The Bill brought forward today is the result of this settlement to which everyone had agreed. Now they have all formed one party-AGP, i.e. Assam Gana Parishad. I am not a legal expert. But as a layman I do not see anything wrong in this Bill. It is not going to create any new difficulties. There are many good things in the Bill and, therefore I support it.

My esteemed colleague Shri Sen has made the things clear in detail. The controversy regarding the period between 1966 and 1971 has also been cleared. I do not want to repeat all that.

Recently, when I went to Assam I observed an apprehension in the minds of the people. This apprehension does not relate to those who have been covered in the Bill. That is also not related to the problem of the period between 1966 and 1971. Rather it relates mainly to those who are in fact Indian Nationals—Some of them are Bengalis, some are from Bihar,

U.P. Rajasthan or from some other State. These are the people who had settled there long ago and are engaged in business, agriculture or in other vocations. Some of them are labourers in tea gardens. They had come to Assam and had settled there long ago. Their parents and grandparents were born in Assam and since then their families have been residing there. But unfortunately recently the representatives of AGP have created a misunderstanding there and they have started saying that the Accord applies to those persons also who had come from outside Assam and had settled there. This situation has been exploited there.

As a result of the exploitation, an apprehension has crept in the minds of those people. At the time of scrutiny of the electoral rolls, the AGP people handed over those rolls to the students of sixth, seventh, eighth, ninth and tenth classes. From those lists, they started deleting those names which did not appear to be Assamese. For example, if they saw Mukherjee or Banerjee against a name, they deleted the name thinking that person would be a Bengali. Similarly, they could guess from the names of others that they were from Bihar, U.P etc. On this basis the names of these persons have also been deleted from the voters' lists without any scrutiny. This has caused anger and resentment among the people. This way complaints have been filed against about 22 lakh people.

The names of even those persons who are low ranking employees like clerks and others, who had casted votes before 1966-67 have also been deleted resulting in a lot of difficulties to them. They are being asked to produce their birth certificates. Others are being asked to prove that they had cast their votes earlier. Wherefrom the people belonging to the far-flung tribal areas can produce these things? They reach there after three or four days' journey and when they do not get such certificates they, go back dejected. Some people manage to get the certificate but some do not get. The names of even those persons, who have been living there originally, have been deleted and they have not been ratified yet. Government should look into this aspect and ratify their names.

There is a constituency, Diphu whose sitting member was Mr. K. Gutti. His

name has also been deleted. From this it is evident that the names of those persons who have been living there originally have also been deleted by the school children. I would, therefore, request the Government to look into this. The names of the local tribals who might have been living in Assam since its formation have also been deleted.

PROF MADHU DANDAVATE (Rajapur) : Was he a sitting Member of Parliament ?

SHRI P. NAMGYAL : No, he was a sitting member of the Assembly. Anyhow, his name might have been restored without any difficulty but what will happen to others. Therefore, I feel that the Government should look into it.

Besides, there is need to give publicity to this Accord. There is a lot of confusion in the people about the issue of 1966 and 1971. Wide publicity should, therefore, be given to this issue on T.V. and radio. The local officers there do not deliberately give it proper publicity. Therefore, I request that the media should be strengthened there.

The work relating to sealing and fencing of the borders should be completed early in order to check infiltration of the people. This process will continue because of the availability of food and clothes in our country. Hence, the fencing work should be completed early. Unless you do so, infiltration of the people into the country would continue.

With these words, I thank the hon. Home Minister for bringing this Bill. I also want to congratulate the Hon. Prime Minister, Shri Rajiv Gandhi, that he has solved the Punjab issue and also the Assam issue. We hope that the remaining petty issues will also be solved early.

With these few words, I again thank you and congratulate you.

15.10 hrs

[**SHRIMATI BASAVA RAJESWARI** in the chair]

DR. G.S. RAJHANS (Jhanjharpur) : Mr. Chairman, Sir, while pondering over this Bill I recalled the day when

Pt. Jawahar Lal Nehru had formulated the policy of non-alignment and at that time both the Eastern Bloc and the Western Bloc had blamed India. They levelled the charge against us that we were in league with one or the other Bloc.

The same thing is true so far as this Bill is concerned. Neither the minorities nor the AASU people are happy with us, as has been said in this house just now.

Recently, I was in Assam for many days. I stayed at the place where the minorities were subjected to utmost victimisation and harassment. I went from village to village and met the people there. They said that they did not want voting rights, they wanted bread, clothes and shelter which should be ensured to them. I can say that the minorities are quite happy with the introduction of this Bill. I would like to ask my opposition friends

SHRI AMAR ROYPRADHAN (Cooch Behar) : Then abolish voting rights.

SHRI BHOLA NATH SEN : It has been done in Bengal.

DR. G. S. RAJHANS : Sir, under the prevailing circumstances, a better solution could not have been found to the problem of Assam. Besides Indian newspapers, I read many foreign newspapers also. All the newspapers of the world, except a few of West Bengal, commended the Hon. Prime Minister for solving the Punjab and Assam issues. The people all over the country commended the Hon. Prime Minister. No solution better than this was possible.

My friends, who are agitated over it, should understand the reality. Government have adopted the most suitable course. People who came before 1966 have been absorbed and those who came after 1966 and before 25th March, 1971, will not get citizenship for 10 years only. They can enjoy all other rights.

The minorities told me that they did not want voting rights as they were not much interested in them. But a person who was working in a school was removed from service on the plea that he was a foreigner. He wants to be reinstated in

[Dr. G. S. Rajhans]

service. He owned land there. AASU people come and try to blackmail him with the threat of eviction on the ground that he could not own property there. They have no right to cultivate the fields. That is way I say that the people there are very happy over this Bill and no better solution than this could be there for them

Some people say that undue rights have been given to the minorities and they have been given preferential treatment in this country. I would like to say that humanitarian aspect is also important. They came here and have become one with our culture. That is why those who came before 1966 are part of us and we shall continue to provide all the facilities, barring citizenship, to those who came between the period from 1966 to 1971. But we shall detect those who came after 1971 and expel them.

There is not much to say about this Bill. In the end I would like to repeat what I have said in the beginning that no better solution was possible to this problem. I would like to say that those who are pleading for some other solution, are taking a unilateral view and are not facing the truth.

SHRI KALI PRASAD PANDEY (Gopalganj): Madam, I support the Citizenship (Amendment) Bill introduced by the hon. Home Minister. The main reason for supporting this Bill is that the eyes of the people of India were focussed on two problems i. e. the Punjab problem and the Assam problem and they had been waiting for their solution for a long time. Both these problems have been solved by the Hon. Prime Minister.

Madam, I am an Opposition Member but the purpose of opposition should not be to oppose a good step and commend a wrong step.

Most of the 'AASU' people had said that the agitation had come to an end, but the problems had, however, become very complicated. When Congress (I) formed the Government in Assam and Shri Saikia become the Chief Minister, some Assamese had felt that the agitation had fizzled out,

but the Hon. Prime Minister looked into the matter afresh and solved this problem.

Many Assamese live in Bihar and Uttar Pradesh. I got an opportunity to meet them. All of them have welcomed this accord. Being an Independent Member, I welcome this Bill impartially.

[English]

SHRI VIJAY N. PATIL (Erandol) : Madam I rise to support this Bill, but I am surprised to listen to my friend on the opposite side who said that this Bill is politically motivated. I would like to take him back to the year 1978 to show that Assam agitation is the creation of the Janata Party. It is one of the wrongs done by the Janata Party because it started in 1978 from Mangaldoi. Then by-election was due. I do not want to go into more political details. But this is a timely presentation of the Bill in the parliament and on this point, I want to emphasise because it has come after the accord. Madam, we have to see the peculiar situation in Assam Bangladesh is bordering both Assam and West Bengal but the economic and political conditions in West Bengal are not so suitable for the border people of Bangladesh to migrate to West Bengal. The Bangladeshis were invited by the landlords for working in their fields, in their tea gardens because these people were very hard workers. Gradually they started acquiring land there. Their number started increasing, especially in the border areas of Goalpara, Barpeta etc., and even upto Kudalgaon in Mangaldoi these people went. So, the original Assamese started feeling bad about their influx in large numbers; and the agitation started.

This Bill provides different treatments for the three categories of persons; and it is rightly done so. We also see that in different countries, even in countries like the USA, certain restrictions are being put on the foreigners. Some years ago, many of our Indian friends used to go there, and acquire citizenship and property in the USA and other countries. Now we find that in many developed countries also, Citizenship Acts are being amended, and foreigners are being prohibited from acquiring citizenship there, because of economic reasons. In Assam also, if we do not stop the influx well in time, the

results will be disastrous. It is not a question of one minority community. It is a question of influx from another country, where the density of population per square mile is too high as compared to the one in Assam, whose green fields lure the people from Bangladesh. I would urge upon the Home Minister to implement the decisions taken by the Central Government about putting barbed wire fencing across the Bangladesh border.

As regards minorities, I would like further to say that when some foreigner comes to this country and tries to acquire land, it is not a question concerning one religion. Suppose a man from Nepal decides to enter into Bihar, and then stays in Bihar, which is a border State. Is the same treatment as the one given to Indians, expected to be accorded to him? Because of the peculiar geographical situation in Goalpara and Barpeta, and because of the invitation of the landlords to the Bangladeshi people some years ago, this situation has developed. We must congratulate our young Prime Minister for being successful in achieving this result, viz. the accord with the AASU. At the same time, I would like to warn the Central Government and all the Opposition leaders also, that in this country, a new trend is developing among the younger generation. They are becoming conscious of their economic rights, and adopting the idea of sons of the soil. That is why different types of agitation start. Mostly, young people are involved in those agitations whether they are in Gujarat, Punjab or by AASU in Assam. So, whenever an agitation starts, timely steps should be taken, before the agitations develop dangerous proportions. Otherwise we will find that loss of life and property occurs.

I once again congratulate the Home Minister for bringing in this legislation in time, and I support this Bill. Thank you.

SHRI INDRAJIT GUPTA (Basirhat) : Madam, I think it would have been better, more appropriate if this Bill had been entitled "The contraction of loopholes Bill". That is all this Bill seeks to do. A great big gaping loophole was left in the accord, and after a long delay, this Bill is seeking to plug that loophole to some extent. To that extent, of course, it is a salutary Bill. But is that enough? That means the

only point, an important point is, I think, that it did rouse genuine apprehensions in the mind of many people in Assam, particularly belonging to the minorities that those who are to be disfranchised for ten years, will they be treated in all other respects as citizens or not. This question was being raised in Assam by many people also who are saying that once you are deprived of the right to vote, well you cease to be a citizen and, therefore, whether you can claim to hold property in Assam, or whether your children can have the right to education there or whether you can get employment there or not, all these questions are linked with it. This is not a question in the vacuum because, after all, there is some background to all this; there is a history. I do not want to go into all that now. So, there was a ground for apprehension. To that extent, this Bill, of course, has made it clear that this category of people, unfortunate category, I should say are being assured that, apart from being struck off from the electoral rolls for ten years, they will have the right of citizenship. Though I must point out that the accord says and it is being repeated here just now by the hon. Minister that after ten years, their names should be restored, there is no such provision in the Bill. Restore means what? It is not being pointed out to me. Restore means something different to say that after ten years, these people will be eligible again to apply for inclusion in the electoral rolls. It is not the same thing. I do not know. Perhaps my knowledge of English is little bit defective. But restore has a particular meaning; it means that your name is cut off from the rolls now and that your name will be put back in the rolls again. But, that certainly is not provided for in the Bill. It is very much there in the accord.

SHRI H. A. DORA : You see here in the Bill.

SHRI INDRAJIT GUPTA : That means at the end of ten years, these people have to again seek enrolment. Now, they cannot even seek enrolment. After ten years, they will have to seek enrolment. That is not called restoration, as though automatically they will be restored; their names will be restored. It does not mean that. Of course, my own feeling is that time and

[Shri Indrajit Gupta]

attention which was given to the drafting of this accord had an element of haste in that it was not given as much attention and care as was done in the case of Punjab accord. There was an element of haste and, therefore, these loopholes have remained, and at dead of night of August 15, 16, somehow, it had to be signed, even in the early hours of the morning.

THE MINISTER OF HOME AFFAIRS
(SHRI S. B. CHAVAN) : You see on page 3. Clause 5 reads as follows :

“A person registered under subsection (3) shall be deemed to be a citizen of India for all purposes as from the date of expiry of a period of ten years. ...”

SHRI INDRAJIT GUPTA : You have missed my point. In the accord, you have written they will be restored, their names will be restored.

SHRI H. A. DORA : They have not got the right; they will be deemed as citizens. You see in the Bill No, citizens do not have to apply.

SHRI S. B. CHAVAN : No.

SHRI INDRAJIT GUPTA : It is in the city of Calcutta where I have been living for years and my father's house is there. I am paying taxes to the Calcutta Corporation, but my name is not included in the voters' list.

SHRI H. A. DORA : Thanks to marxist Government. (*Interruptions*)

SHRI INDRAJIT GUPTA : Do not claim, Mr. Minister, that the electoral rolls which are prepared in this country are without any defect and are very correct and accurate; they are not, as you know that. Anyway, my point is that this accord which was signed in the early hours of morning only because there was some decision taken previously that it must be announced from the ramparts of the Red Fort, I think it is not a proper way to set about these things. It concerns the future and the lives of so many millions of people.

Anyway, now I may say that one Member—I am not making generalisation out of

this—a Congress (I) Member of Rajya Sabha Shri Asad Madani has said as follows: I am quoting verbatim what he is supposed to have said in Gauhati :

“I am convinced that the Assam accord is contrary to the expressed policies of the Congress, violative of the Constitution of India, disruptiv of national unity, contrary to India's international commitments and disastrous for hundreds of thousands of Indian citizens.”

He had said that he would not leave the Congress (I) unless forced to do, and so on.

He is a prominent member of a minority community. This is the way he reacts. I do not share his opinions, of course.

SHRI S. B. CHAVAN : That was before the Bill was introduced.

SHRI INDRAJIT GUPTA : Of course; everything was before the Bill was introduced.

[*Translation*]

SHRI C JANGA REDDY : Have the Government kept their demands in view ?

[*English*]

SHRI INDRAJIT GUPTA : Now, it is welcome Madam, that for the time being as he said earlier and in another context this morning during the Question Hour, that for the time being at least the movement and agitation that have been going on for so many years have died down and things there are comparatively peaceful. We welcome it. It is not enough. Settlement and the attendant legislation must provide a basis so that similar type of agitation or movement is not raised again in the future. That is why, it was first of all very necessary to plug this loophole. You have taken several months to do it. Anyway, better late than never.

I would just like to know one or two things. Since the days Shrimati Gandhi came back to power and she called a very big meeting here of all the different parties and interests involved in this question, a consensus was reached. Ever since that time nobody had—except the agitators—in

Assam—quarrelled with this consensus idea, that March 1971 should be taken as the cut off year. And as far as the agitators are concerned they have sometimes been talking about 1951 to 1971; sometimes taking about 1961 to 1971 and all those people who have come during that period or periods must be detected and so on. I was associated, Madam, with those long, prolonged discussions which took place in Delhi between the Government and the representatives of AASU and the AGSP and some party leaders were associated with those talks. I know their particular stand. Since then the Government had stood quite firmly that 1971 should be the cut off year.

Now, another concept has been introduced. 1971 is still taken as the year which will be the basis for preparing the voters lists, when the elections are to be held. That is there. But another concept has been introduced that 1966 will be taken as the base year for the purpose of detection, as far as the foreigners are concerned. And whether they will be deported or not, I do not know. That is for the Minister to clarify. There will be people who will be detected as foreigners by the tribunals. They will continue to remain in Assam and they will enjoy the full rights of citizenship and after 10 years their names will be restored. Then *inso facto* by the provisions of this accord itself they are not being treated as foreigners at all. How can a foreigner be allowed to continue to live here, without citizenship? And you are now giving him advance assurance in this that his rights will be protected; he will be permitted to stay. That means they are not foreigners at all. The Government is prepared to treat them as citizens, but is subjecting them, without any justification whatsoever, to ten years of disenfranchisement. Why and for what reasons? This is nothing but a concession which was made under certain pressure not doubt. Perhaps, during that fateful night of August 14/15 because those agitators' leaders had not agreed to 1971 being the cut off year, therefore, some concession had to be made to them and this new concept was brought in—a new category of people from 1966 to 1971. I want to remind Mr. Bholanath Sen, who hails from the same State as I do,

that in 1965 there was an Indo-Pak war and in the aftermath of that war and the conditions which were created in East Pakistan, crowds of people came away as refugees into West Bengal and other States. They were bonafide refugees. It was not possible for them to live there. They had to leave their hearths and homes and come away. There was a time when our Government stood up and said that for humanitarian reasons we could not send such people away; we had to give them succour and shelter. It was in this period after the 1965 war that there was a wave of bonafide refugees coming into our country. It was not possible for them to go back also. Now, for no fault of their own, they are subjected to disenfranchisement for ten year in order to satisfy somebody or the other. And you are saying that ten years hence your names will be restored. That means that they are not foreigners. Why is this liability being put on them and for what reasons? Please explain this.

There are other people who have been detected as foreigners already. There are people against whose names for inclusion in the electoral rolls, huge number of objections were filed, as we read in the papers, and out of those objections, quite a large number of objections have been sustained. That means, their names are not being allowed to be entered into the electoral rolls, because it is said that they could neither produce their birth certificates—I cannot produce my birth certificate; I do not know whether you can Madam—nor their citizenship certificates—I do not know how many of us sitting in this House have got citizenship certificates; I have not got one; you can deport me tomorrow if you like—nor their names had been found in the national register. As far as national register goes, we were told during those negotiations, by the representatives of the Assam administration who were present, that the national register had not been updated since 1951 and large chunks of it were missing and they were not just available in the records. You should not take such a harsh and rigid line about this. The kind of people who have come here from there particularly as refugees, are poor people. They are not that much versed in the law and all that. Many of them are

[Shri Indrajit Gupta]

illiterate. They do not know exactly how to get hold of these papers, certificates, and all that.

Now, other foreigners, apart from 1966 to 71 people, who have been identified as foreigners and who do not fall in the category of sub-clause (4) of the Bill, what are you going to do with them? Are you going to expel them or deport them or what? I am not convinced because I find that one Cabinet Minister, who was sent to Assam, Shri A. B. A. Ghani Khan Chaudhury, visited Barpeta on October 9 accompanied by Sri Dharani Dhar Basumatary, Assam Congress (I) Chief and Sri Sadhan Ranjan Sarkar, Minister of Assam. Addressing a public meeting there he declared that no one from Assam would be deported even if he was declared as foreigner and if necessary the Constitution would be amended in this respect. It appeared in *The Assam Tribune* of October 13. I do not know whether he was authorised by you to say all these things. It is all rights that you sent him there to try to placate the mood of the minorities and try to get some votes for the Congress. But this is a very irresponsible statement.

SHRI BHOLH NATA SEN : That may be the contribution of the reporter.

SHRI INDRAJIT GUPTA : Then Shri A. B. A. Ghani Khan Chaudhary should come here and contradict this and say that he has never said this. Let those people of Assam know about it.

The other point is—I do not know whether the Minister said something about it because unfortunately I had to go out to see somebody in the hospital—who is going to be made responsible for all this administrative exercise which is going to be carried out. Is it to be left completely to the State administration or is the Centre going to be associated with it in any way? The Centre has already, in the accord, taken upon itself the responsibility, sole responsibility, of issuing citizenship certificates because the agitators have said that they would not accept any citizenship certificate which is not issued by the Centre. But then the Centre must also involve itself in

the responsibility for this whole exercise if they are to instil any confidence in different sections of the people. What about that? I do not know what they have proposed to do. I do not wish to take more time but this is the first piece of legislation which embodies the essence of the accord also. That is my difficulty. If it was limited only to this one point, well, I do not object to it at all, but the basic thing in the accord, to my mind, is totally illogical and unjustified and not supported by any law or any article of the Constitution. Just as our Finance Minister has been saying that in future we must have a long-term fiscal policy and no budgeting should be there from year to year, here also we have a long period of ten years. Beforehand we are assuring these people that though they have not been detected as foreigners now, but ten years hence their names will be restored. It is a contradiction in itself. You are a very eminent lawyer Mr. Bholanath Sen but I am not.

SHRI BHOLANATH SEN : It is ten years after detection of foreigners.

SHRI INDRAJIT GUPTA : What are you going to do during these ten years? Will they become citizens?

SHRI BHOLANATH SEN : No. Ten years after detection.

SHRI INDRAJIT GUPTA : How will they acquire citizenship at the end of ten years of they want? They will have to apply for it. Their names will not be restored automatically as the idea has been thought to be given in the accord and by the Minister. There is no such thing as restoration. Every individual will have to go through the whole process of applying again. So, please tell them this thing. Are the names to be deleted en bloc now and then to be restored en bloc? And if so, please put it in the Bill. It is not in the Bill at all.

SHRI S. B. CHAVAN : Yes, it is there in the Bill.

SHRI INDRAJIT GUPTA : Before I sit down, I insist that the hon. Minister must explain to the House and to the country as to what were the considerations on

which they had retreated from the agreed consensus of 1971 as the cut off year and introduced this new category of 1966 to 1971 which is a complete hatchpotch of things and can, I think, be successfully challenged in the court if anyone choses to do so.

[*Translation*]

SHRI MANVENDRA SINGH (Mathura) : Mr. Chairman, Sir, I welcome this Bill wholeheartedly. This matter had been pending since the time of late Indiraji. She had also tried her best to solve this problem. In this context, I would like to draw the attention of the House to the fact that India has been a great country from time immemorial where ideals like patriotism and respect for all communities and religions have always been held high. We had conquered the whole world. India had earned the name as the world conquerer. Our country remained under the foreign yoke of slavery for some time, but we continued our efforts to achieve freedom. When everybody from a child to an old man entered the freedom struggle and when people started sacrificing their lives for achieving the country's freedom, unity and integrity, we got freedom. We laid the foundation of independent India with our blood.

After independence, India earned a name and prestige among the comity of nations during the regime of late Prime Minister Shrimati Indira Gandhi. She was elected unopposed as the Chairperson of 105 NAM countries and she raised India's name still high among the comity of nations. We launched satellites. Our borders were strengthened. We became self-sufficient in many fields like foodgrains, science and petroleum. In the past, India used to go to other countries with a begging bowl, but now that era has come to an end. We have not only become self-sufficient in all the fields but also reached the stage where we can help small countries. Certain foreign powers became jealous of our progress and they hatched a conspiracy and started inciting some people here. First, this fire spread to Assam and then gradually to the Punjab. The misled elements started agitations at many places. You might be remembering that thousands of persons had

sacrificed their lives there. Our late Prime Minister established peace after holding fresh elections there. As some hon. Members have stated here, foreign powers had misled some students and organisations in Assam and they launched an agitation which posed a danger to our democracy and to the independence, unity and integrity of India. The impact of that conflagration was felt in Punjab as well and as a result our late Prime Minister had to sacrifice her life. If we recall rightly, she had said in her last speech that her last wish was that every drop of her blood might be shed to strengthen India's freedom, unity and integrity.

In a bid to fulfil that wish, our young Prime Minister signed the Assam accord on the 14th August and prior to that he solved the Punjab problem and established peace there. Recently, elections were held there and hon. Members from Punjab are present in the House. Their absence was felt badly some time back. We are happy that now peace prevails in the Punjab after the elections and some misled people who had created disturbances are inactive and are forced to think that the victory of ballot over bullet was most essential for the progress of the State in particular and the country in general. Similarly, our young Prime Minister took a step in the right direction by establishing peace in Assam. This Bill is before us due to those efforts. Elections would be held there in the near future. We welcome it wholeheartedly and hope that all possible efforts would be made to restore democracy in the State and elections are a must to achieve that end. We now hope that the State which was burning for the past many years, where progress had stopped, where the people had lost all hopes and the industries were on the verge of collapse, where the educational institutions had closed down, would be put on the road to progress by holding elections and restoring democracy there. We also hope that their demands which are essential for the progress of the State would be fully met.

With these words, I appeal to the people of Assam to participate peacefully in the coming elections and make it a success. We shall welcome the representatives who would be elected. I welcome the Bill and thank you.

SHRI BALWANT SINGH RAMOO-WALIA (Sangrur) : Madam Chairman, we are seriously discussing the Assam issue. India has faced many problems from time to time. This august House, of which we are the Members, has led the country through its critical days and during the freedom struggle. Eminent leaders of this House have played an important role in eradicating poverty, in realising the dream of freedom, in the advancement of the country and in maintaining its integrity. Therefore, we should seriously think over the problems in this august House.

Why did the Assam issue arise? In the Bill a provision has been made to debar some people from exercising their franchise for 10 years. We must consider whether it is proper to think in such terms in this House where we represent 75 crore people? What is the basis of representation in our country? It is the elections which empower us to represent the people, Will it be proper to disenfranchise some people of a State for ten years? Will the people of the world praise Indian Parliament and its Members for disenfranchising the citizens of one of the States? It should be considered carefully.

Those who have been debarred are the people who came to the State between 1966 and 1971. Does that mean that you are providing dual citizenship to the people in this country? Will it improve our image? Certainly not. Our ancestors, Mahatma Gandhi, Guru Nanak Devji, Guru Govind Singhji, and other warriors laid down their lives for only one thing. Sardar Bhagat Singh, Lala Lajpat Rai and Subash Chandra Bose lived and died for the cause of equal human rights and equal opportunities to all. It is our primary duty to ensure it. The hon Minister should, therefore, give a thought to it whether we are providing equal opportunities and equal rights to all? We are in fact snatching them away. This will be against the dignity of the country as also of the House, when the Government had already promised equal rights to the people. I am against using harsh language on the very first day but I would like to point out that it does not behove you. They will be issued passports; they will be given citizenship rights and the right to follow their vocations but they

will not have the right to vote. It is a paradoxical situation. Do not go back on your words. Guru Gobind Singhji had written to Aurangzeb that he did not keep his word. I would like to remind you that you are going back on what Shrimati Indira Gandhi had promised to the people of Assam. This should not happen.

Similar things are happening in respect of Punjab. Everywhere you are going back on your words. How long will it continue? An agreement was reached with Sant Longowal—I am merely referring to it and not raising the Punjab issue. We are happy that the Punjab tangle has been solved. An accord was reached between the Hon. Prime Minister and Sant Longowal which was signed by both of them. The text of the agreement is well known to all. It was laid on the Table of the house and the contents thereof have become the property of the House. The agreement categorically stipulated that Chandigarh will go to Punjab and in lieu thereof Haryana will get some Hindi speaking areas subject to three conditions, *i.e.*

[English]

Linguistic affinity, geographical affinity and contiguity and unity.

[Translation]

The third condition was 'village as unit'. This was agreed to and it formed one of the terms of reference of the Commission. Just as in the case of Assam, you did not stick to it, and added one more word 'other instructions'. Later, the Hon. Prime Minister stated in a press conference that there was an error in issuing the notification. When the error has been admitted why is it not being rectified? Will God descend from heaven to rectify it? Only you have to rectify it. Why do you not rectify it? What will the people abroad think of the agreement made with Sant Longowal to maintain the unity of the country and for which he had to sacrifice his life? I condemn Khalistan here and now and the Akali Dal has never supported it nor will it do so in future. We have never been for it, but why are you going back on the agreement which has been signed with the blood of Sant Longowal? What will be the verdict of history in this regard? If

even after signing the agreement, the Government tends to play clever, no Akali leader will come forward for negotiations in future. We have been elected because we defied the extremists and we are here to serve the country and the people. We are here for the integrity of the country and, therefore, I would request the Government not to retrace its steps. I am in favour of giving voting rights to all and, therefore, I think that this amendment is not proper. I would request the hon. Minister not to retrace steps and avoid playing one section against the other and work for the development of the nation and for the development of Assam. Rs. 500 crores should be sanctioned to Assam to improve the lot of tea plantation workers there. We shall support you in that endeavour but we do not support this amendment. With these words, I oppose this amendment.

16.00 hrs.

[English]

SHRI S. M. BHATTAM (Visakhapatnam): Sir, during this limited time available to me, I would like to make a very brief reference to such important issues which have come up in the course of the discussion. While doing so, I may have, once again, to reaffirm that our Party solidly supported the Accord which was reached on August 14, which was announced on the morning of 15th August, and we stand by that. At the time when the Accord was signed, we had supported it and, therefore, at the time of implementing the various provisions of the Accord also, we have to support it. We cannot go back. This is a moral commitment. We cannot support the Government at one stage and then retrace our steps at the next stage. So, from that point of view, it is not for us to reopen the entire thing. Therefore, what could have been a proper Accord, what could have been the provisions of the Accord, all those things we are not re-examining now. My only point is this. The Bill seeks to bring into effect the various provisions of the Accord, nothing more, nothing less. It will not take away whatever is contained in the Accord and it will not additionally give something more than what the Accord contains. Therefore, whether the Accord was proper or not, that is not a matter for discussion at the

moment. At the time the Accord was signed, we were committed to that, we had hailed it along with various other sections of the people, we supported it, we welcomed it. Therefore, now we do not go back on that. I want to make this very clear. But now the point which has been made out is this: there are certain issues; for instance, a stream of immigrants, some people, will be disenfranchised for a period of ten years. Objection was taken to this aspect, particularly on two grounds, on Constitutional and legal grounds, and also to various other aspects. As far as we are concerned, it is not open to us to re-examine the matter from a fresh point of view. It was agreed to at that time. It was part of the Accord. Therefore,

16.03 hrs.

[SHRI SOMNATH RAIH *in the Chair.*]

We are not reopening the issue. The only point is whether it is legally tenable, whether it is Constitutionally valid, whether it stands the test of the court's scrutiny. This is all the matter that is of importance or relevance as far as we are concerned. From that point of view, our friends have said that this bristles with all sorts of legal incongruities and contradictions, they are untenable from the Constitutional point of view. I have got here with me one or two provisions to which I would like to invite the attention of the House. This is article 11 of the Constitution:

“Parliament to regulate the right of citizenship by law.

Nothing in the foregoing provisions of this Part shall derogate from the power of Parliament to make any provision with respect to the acquisition and termination of citizenship and all other matters relating to citizenship.”

On all matters relating to citizenship, Parliament is the competent authority. They can legislate; they can make enactments; they can pass any Act. So, there is a constitutional provision to that effect. But the point which was raised is whether it is in consistent with Article 326 of the Constitution.

As far as this is concerned, I would also like to draw the attention of the Hon. Minister to Article 327. It says:

[Shri S. M. Bhattam]

“Power of Parliament to make provision with respect to elections to Legislatures : Subject to the provisions of this Constitution, Parliament may from time to time by law make provision with respect to all matters relating to, or in connection with, elections to either House of Parliament or to the House or either House of the Legislature of a State including the preparation of electoral rolls...”

they can pass a legislation. This is what is contained in Article 327.

As far as the preparation of electoral rolls is concerned, the Parliament is competent to make an enactment, to pass a legislation. Therefore, the competence of the Lok Sabha, of the august House, to pass a legislation of this kind is beyond doubt as far as we were concerned. But the propriety or otherwise from another point of view is open to discussion and debate. It can be contested; it can be disputed. The only point that is not open for us to discuss from a different point of view is the terms of the agreement. It is because we are bound by the terms of the agreement that was reached on 15th August. Therefore, from that point of view we support this. There is no other go for us.

Now this seeks to draw a distinction between the citizens of this country and the immigrants from Bangladesh. The question of Assamese, non-Assamese and, of course, of minorities was also raised. So far as I understand, the question of Assamese, non-Assamese does not arise at all because everybody is an Indian citizen and whoever is an Indian citizen, in respect of them no objection is there, no dispute is there and no controversy is raised. This is with regard to immigrants from a different country. I mean that part of the country which is now Bangladesh. It refers to them only. It is only a question of immigrants. Otherwise, with regard to minorities also the matter does not arise because it is not against the citizens of this country, it is not against the minorities. The minorities who originally belong to Assam, for instance, Tamil population is there, Telugu population is there, Biharis are there, nobody has

any objection to them. The question that arises is with regard to immigrants only.

That is how we have to look into it from a limited point of view viz., the distinction is drawn now between the citizens and also the immigrants. That is how it was conceived at that time. Now, the important point of objection is the timing of this Bill. On 15th of August this accord was reached and the Parliament was in session. A Bill could have been brought before the Parliament and then passed. It has not been done. After the election notification, this Bill has come forward with an eye to get some electoral advantage. That is my feeling about this. This is not proper.

In the accord also no mention was made about the possible legislation which will be brought forward in course of time. It was later thought of, I have no objection to the subsequent thought. But what is important is that these words are there in the accord itself, for instance, safeguards and economic development. These are the things which are contained in the accord. As far as the safeguards are concerned, nothing is done as far. For instance, the Government promised an oil refinery to Assam. It is not there even in the private sector in the Seventh Plan, let alone the public sector. So a promise was made and that is not being fulfilled. Again they were demanding that an Institute of Technology should be started in Assam what happened to that? That was also given a go by and they have not made a reference to that. Similarly anti-infiltration measures—the Government proposed to take them and they promised to do certain things and with regard to that also we are not sure where the situation is. Even the survey and construction of wire fencing which was started in March 1984 has been suspended. What happened after that? Are they going to restart the work? About Rs. 250 crores, I am told, is the amount that is said to be required for the purpose. Similarly, intensification of patrolling the international border. For that an amount of Rs. 250 crores is said to be required and the amount was provided originally, but then it was not sanctioned and it was not released and no steps were taken in this regard.

Therefore, the point is that the other aspects of the Accord, the other portions of the Assam, Accord because they safeguard their interests, they promote their economic interests and cultural and social interests were not given due attention. As far as this is concerned, the Minister will have to properly recollect and see that something is also done.

Before I conclude, I would like to once again mention that we are not re-opening the issue. The Accord which was signed on that day we welcomed it. We have to once again welcome it and support it and stand by it. Of course, it is open to all sorts of doubts, misapprehensions and differences of opinion. For instance, when the Punjab Accord was signed we supported that and subsequently some people went back. Some sections of the people from different areas questioned it. We have not questioned it anywhere. Once we supported at one stage, we have to stand by it. That is how once again we support the Bill and wish that the Government also should necessarily give due attention to the promotion of economic, cultural and social interests of the people of Assam also with a view to fulfil and implement completely the spirit of the Accord that was reached.

SHRI PIYUS TIRAKY (Alipurduars) : First of all I would like to remind the Home Minister because that is the declared policy of the Government, that India is a secular, democratic, socialist republic. I am an Indian and I can move anywhere and have job anywhere in India. But in Assam the movement was that Assam is for Assamese and they were thinking that they can decide the citizenship of India especially in Assam and in that movement, the Union Government has derailed and surrendered to that movement. That movement was mainly to drive out all the other Indians, whoever he be and however long he may be staying there and whatever work they are doing there. So that movement is something special where the Union Government has surrendered because no State Government has been given the authority to decide the citizenship of India because it is the duty of the Indian Government. So here the minorities are now in a majority. The question arises there Why are you not allowing these people to vote? Because Assam Government is saying that will get

imbalanced. What do you mean by that 'imbalance'? So, this should be clarified because already Assam is a peculiar State. It has been bifurcated many a time because of communal and sectoral considerations. Once Nagaland, Arunachal, Meghalaya and Mizoram were all in Assam. Why have these people get separated? Then how can the minorities have a faith that after ten years they will be recognised as citizens of India and they will have their voting right. After this Bill the fear is there among the linguistic and religious minorities.

You have to decide who are Assamese? Are people with Mangolian face only become Assamese and have the right to live there for some other people or Indians can live there? That should be defined otherwise you are going to create a civil war. The other States can also say that linguistic minorities are foreigners and they should leave or remain as second-class citizens. Now, where will the scheduled castes and scheduled tribes go because they have not got their own State? If Assamese want to keep their culture and because of other Indians going there they get imbalanced then Indian Government is supposed to protect the culture and language of all the people and minorities also. If we accept the present position then every State will face a trouble and more and more organisations will come up to save their culture, language and soon. So, this very concept of linguistic State which has started in Assam will bring lot of trouble in future. By the present step you have created two types of citizens.

What do you mean by protection? Are the minorities second class citizens and they must be protected? Who will protect them? Have they not got equal rights for their own protection or they will remain a beneficiary because they are minorities or because they have not got the States of their own? There are so many castes, tribes, languages and cultures in India. Can you have for everybody a State or something like that so that they can keep their culture, language and whatever they like to have it? Can you do it?

Secondly, now composite population is coming up everywhere because of industrialisation. Therefore, will a man coming

[Shri Piyus Tiraky]

from Kerala be a second class citizen in Assam or any other State because he needs protection? Does he need protection? Since the population is coming up in a composite manner you must assure them equal rights and opportunities wherever they want to live. That must be the condition of the Government and Government should declare that.

Further, in Assam itself tribals from Bihar, Orissa and Madhya Pradesh are working in tea gardens. They are forty lakh in number. They are not recognised as tribals because if they are recognised as tribals and reserved seats provided for them then the government gets imbalanced. Government must realise the impact of such thinking otherwise you are calling for a civil war.

Lastly, I would like to say that just now in my constituency Alipurduars four thousand people are still in camps. What to do with these people? Where will they remain in the campus for ten years? After remaining for ten years in the campus, they will have to go back to Assam. But what will be their future? This should also be clarified by the Government. From Assam, many people have come to West Bengal because they also speak Bengali. Supposing a person speaks certain language which is not the language of the State where he lives. That means in the case of people other than Assamese living in Assam, are they prohibited to reside there? Government should give clear decision on this point. The Indian Constitution provides following of any religion, culture or speaking of any language and all of them are treated on equal basis, no matter wherever he lives. They should not try to change it under the pressure of agitation and movement in Assam. The Government should not surrender to it. Therefore, a deep thinking is required before this Amendment Bill is passed. The Government should think over it. Otherwise, you will be inviting more troubles for India and other people also.

SHRI G.M. BANATWALLA (Ponnani):
Mr. Chairman, Sir, the citizenship Amendment Bill brought forward in this House

by the Government is highly retrograde step in so far as it tries to delink the right of citizenship, the right of voting from other rights of citizenship that the person would be entitled to nathely to own property, carry on business, so on and so forth. But he shall not be entitled to vote. I submit that such a provision may befit a country ruled by a king. But certainly it does not befit a seveign Democratic Republic where right to vote is the fundamental right for which we have the entire history of humanity before us. Mr. Chairman, Sir, we have here in this Bill a very clever political innovation, I must say. Now, it has been said that those of Indian origins who came to Assam and settled down there between the 1st January 1966 and the 25th day of March 1971 from specified territories, shall have all rights of citizenship, but not the right to vote. So, this particular point— I was saying—is a political innovation. I must respectfully submit to this House that this political innovation represents an abject surrender to the agitationists who were branded even by the ruling party as secessionists and as having danced to the tune of foreign powers and today we find the same Government has indulged in this responsibility, for this ignoble and abject surrender to these agitationists. The Government has come forward with an apologetic attitude saying “what to do, there was an agitation and the entire State was in turmoil, please forgive us for our inefficiency and we could not do anything. Therefore we have surrendered to them and now the right to vote of such people will be buried, will be buried sans everything.”

This surrender that a Government has to come forward with such an apologetic attitude, I must say, is highly detrimental to our national unity.

Sir; this Bill represents the negation of all legal positions taken by this House hitherto. We have the citizenship Act, 1955, not to mention the Constitution. According to this Act, all these people upto a particular date of 1971 about which we are talking were entitled for the citizenship to be regularised and upto now the idea was that the base date that will be taken will be that date of 1971: because that is the only practical date. But we find now that

today all these persons of Indian origin, who came to Assam and settled down between 1966 and 1971 are being deprived of their right under Section 5 of the Citizenship Act including the right to vote. You take away the rights and then at the top of it come to this House and say as if you are giving certain concessions and bestowing certain rights on people.

The Bill presents a negation of the attitude that was taken, of the principle that was understood as the underlying principle of the Illegal Immigrants (Determination by Tribunals) Act, 1983. At that particular time, this House understood that 25th March, 1971 was the date being accepted and those who came after that date will be turned out or will not have the rights including the right of citizenship, but today a negation of that legal position is also there, negation of all assurances that have been given to the nation. What a casual attitude has been taken. We were all along told that any agreement, any compromise, any accord will not be arbitrary in nature, but will be based on certain sound principles. Those principles have been very often enunciated in this House itself, namely the provisions of our Constitution, the provisions of the various enactments that we had upto now, the provisions of the international agreements, consideration of humanity etc. So many times, Sir, you also sitting in this House would have heard that there would be an Accord, but the Accord would not be arbitrary, but would be based on these principles. But today all these assurances have been thrown to winds and a casual attitude taken towards international agreements. After the Bangladesh war, you had certain commitments and you are retreating today from those commitments. I do not know, what face our country—it is with a very sad heart that I say—will have in the comity of nations, when we back out from our international agreements in this casual manner.

I must say that this Bill creates a very serious discrimination, a discrimination between those of Indian origin who came from specified territory, that is, East Pakistan and settled in Assam and those who came from abroad and settled in Assam or any other place. There is discrimination

between the two classes. Persons of Indian origin who came from specified territory, that is, East Pakistan during the years 1966 to 1971 is one class that you have created. Till ten years after their detection, they will not have right to vote. Then there are others, those who have not come from specified areas. What is the definition of the specified areas in the Bill? These are the places which are today in Bangla Desh. But what about those who have come from Nepal? The Bill is silent on this. Are they being thrown to winds? What a discrimination between people who have come and settled in Assam from one territory, from some other territory and so on and so forth? Then there are others who may have come from the specified territory and settled not in Assam but in other places; they still retain the right to ask for full citizenship with the right to vote under Section 5 of the Citizenship Act of 1955. How many classes of people are you creating? Discrimination upon discrimination is being piled up and we are told that a progressive step is being taken. Therefore, on an evaluation of the various provisions of the Bill, you will agree with me that the provisions represent a betrayal of all assurances that have been hitherto given and a betrayal of minorities also. There was the Nellie massacre and today you want a political massacre also to be re-enacted. Look at the Assam Accord and look at what has been happening after that Assam Accord. Agitacionists are being told that a lenient attitude will be taken about them. But then, what attempt has been made by this Government to bring to book the perpetrators of the heinous crimes that we witnessed when Nellie massacre and other incidents were there?

I must say that a casual attitude has been taken to international agreements. I must also say that a very casual attitude is being taken to the right to vote as if to say: It is nothing. Only the right to vote has been held back." In a sovereign democratic republic such a casual attitude that is being taken towards the right to vote is destructive of the nature of a republic and does not enhance its concept any further.

Sir, I must say that this entire thing, this entire exercise is being done because of

[Shri G. M. Banatwalla]

a Government with a weak-kneed policy. And this exercise is being done for the purpose of appeasement of the agitationists there in Assam. After all, there is an arbitrary basis. We were told that upto now nobody knew as to what were the rights of these people. You say you never knew them. You took away their votes and formed the government and now you have the audacity to come to this House, all along carrying their votes with you, all along assuring them that you shall stand by them, forming governments on their votes, forming governments even on their blood, and today very innocently you come to this House and say: "We never knew what were the rights of these people. Forgive and pardon us for our ignorance on the basis of which we have ruled Assam upto now." What an attitude is being taken after flouting all the assurance that have been given. I therefore, say that the provisions of this Bill are nothing but an appeasement of the agitationists there in Assam. How many more examples am I to go on citing before this House to explain and to support my contention that appeasement is going on?

We find in Assam 'indiscriminate striking out of names from the voters' list. Lakhs and lakhs of names are not found in the voters' list. The matter went to the Court and then the Court held the opinion that since the electoral process has started, it could not intervene now. It was this appeasement of the agitationists, of a very third rate, even of communal nature, I must say that immediately after the accord year what happened in Assam was, there were groups and groups of people moving about in Assam shouting.

Hatha bidi mukha paan, jao mian Pakistan.

That is *Beedi* in hand, *Paan* in the mouth, *Miyan*, that is muslims, will go to Pakistan. You have given encouragement to such elements in our country, which are detrimental to the concept of national unity. We have on the top of it the claims being made of protection of the concept of national unity. I must therefore, Sir, express my indignation, righteous indignation and protest against such a provision,

such a political innovation that has been found out with respect to persons of Indian origin who settled in Assam between 1966 and 1971. There are still so many things that could be said, but then I must even at this late stage appeal to the Government to review the entire matter. Do not hurry up and do not think of political considerations here. It is a serious matter. It has serious repercussions and must be seriously taken note of and not the very casual and cavalry attitude that is being shown.

With these words, I must oppose this Bill, such provisions of the Bill which have brought about these political innovations to which I have referred.

SHRI AMAR ROYPRADHAN (Cooch Behar) : Mr. Chairman, Sir, I would like to oppose this Bill. It is against the concept of national integrity. This Bill is nothing but surrender to the chauvinist forces in Assam.

SHRI C. MADHAV REDDY (Adilabad) : Chauvinist forces...*(Interruptions)*

SHRI AMAR ROYPRADHAN : You can deny it. This Bill is unconstitutional and undemocratic. This Bill is coming up, it is known to the Home Minister clearly that it is for the election which is going to be held on 16th of December. Because of the fact, that this Bill may be called as 'Vote catching net Bill'. Not much more than that. We know it very clearly and the people particularly, the minorities, whether it is linguistic minorities or the religious minorities know it better that just after the elections, just like a fish, they will be put to the frying pan and they will be fried and the chauvinists will eat them. This is the condition. This is the chauvinist force of Assam not Chauvinist. Before I go to the Bill, I would like to draw the attention of the Government to part (a) of my question No. 365 of yesterday, addressed to the Minister viz whether electoral rolls for Assam State have been completed". His reply was :

'Yes, Sir. Electoral rolls for all the 126 constituencies in Assam were published on the 7th November, 1985 after intensive revision and with 1.1.1985 as the qualifying date'.

My learned friend Mr. Bholanath Sen had referred to Article 326 of the Constitution and put the question whether those foreigners cannot cast their vote. According to the Constitution, you cannot deprive a citizen from casting his vote, and exercising his franchise. In this case what would be the fate of a person who, after 16th December becomes a Member of this House? He may be a foreigner. Subsequently, if he is found to be a foreigner, will his case be all right then? Will he be expelled from this House?

In the Financial Memorandum attached to the Bill, you have not been able to mention even a single name or exact figures as to how many people will be affected *i.e.* I speak of those to be registered as having come to Assam between 1st January 1966 and 25th March 1971. In the Financial Memorandum you have said :

“As no precise information as to the number of people who came in during this period is available, it is not possible to estimate the volume of work of detection and registration.”

On 24th January 1980 I had asked the then Prime Minister Shrimati Indira Gandhi in this august House as to what she meant by foreigners in Assam, and what was their number. She was not able to give the figures at that time. But the AASU and AAGP people gave a certain figure. But that is not a fact. We have forgotten all these things.

You are indulging in discrimination now. Through this Bill, you have created three types of citizens of India : one is citizen of India; two, those who are of Indian origin; and the third; those of the origin of another country.

With due respect to the spouse of the hon. Prime Minister, May I put a question to the Home Minister? How much time did it take for her to become a citizen of India? How much time will it take for people of Indian origin from Bangladesh to become Indian citizens? Why this discrimination and differential treatment? Under Article 14 of the Constitution of India, the right to equality before law is there. Does it prevail here? It is something for the

Prime Minister and something else for others.

“Shri Indrajit Gupta tried to raise the point, viz. that after the 1965 war, lakhs of refugees had come to India and they are staying in Dandakarnya, and Andamans. What would be their fate? Can you reply? No. Then what is the use of having this Bill? (*Interruptions*) You have said that so many foreigner have been staying in Assam. I would like to refer you to what the President of Bangladesh Gen. Ershad said. It has come in the Press. Gen. Ershad has categorically said during a Press meet : It was stated in the Press on the 10th September that not a single Bangladeshi was living permanently in India. Then where are those foreigners, Indian origin foreigners, can you tell us? Not a single one. This is the position. There is so much controversy in the Bill. We have totally forgotten what is our commitment to the nation and our leaders at that time. I would like to quote because of the fact that it should be known to you the promises made 38 years ago by the national leaders—Mohandas Karam Chand Gandhi, I think, you have heard his name. It is a post prayer speech on July 21st 1947. It reads as follows :

“My friends, whether those who be mortally afraid or otherwise leave Pakistan will get shelter in the Indian Union. My opinion is emphatic on this point. Such refugees should get proper shelter in the Union.”

Now, it is the commitment of the first Prime Minister, Pandit Jawaharlal Nehru and the grand father of the present Prime Minister, on August 15, 1947. He said as follows :

“We think also of our brothers and sisters who have been cut off from us by political boundary and who unhappy cannot share at present in the freedom that has come. They are of us and will remain of us. They are our brothers and sisters. They have got the right to come over India, stay in India with full dignity and honour.”

Is this the position? We forget totally what Jawaharlal Nehru said, what Mahatma

[Shri Amar Roypradhan]

Gandhi said; even what Mrs. Indira Gandhi said. It is certainly against this Bill. We have forgotten even Indira-Mujib Pact. This Bill itself is against this Pact. Under all these circumstances, this Bill will not help us. It will not only create confusion but ultimately it will question national integrity and will divide the people in different manner in religions, in languages.

This should not be allowed to happen, as was mentioned by Mr. Banatwalla.

Those people who are staying even now, about 6000 people just on the border of Assam, they are Muslims and Hindus. You will be astonished to know that they have got registered deeds, 57 years ago, not to speak of 1947. But you are telling that they are foreigners. Mr. Priya Ranjan Das Munsi is also a refugee from East Pakistan. Will he be able to show his citizen certificate or birth certificate?

SHRI PRIYA RANJAN DAS MUNSI (Howrah) : Please enlighten us about your party proposals on Assam's problem?

SHRI AMAR ROYPRADHAN : Is this the way to determine foreigners? This is the way to divide and rule. We know that it is only a vote-catching Bill.

MR. CHAIRMAN : Now the Minister.

SHRI C. JANGA REDDY : I also want to speak.

MR. CHAIRMAN : You can speak after the Minister. I will call you at the end.

SHRI C. JANGA REDDY : Sir, I want to speak just now.

[Translation]

SHRI C. JANGA REDDY (Hanamkond) : Mr. Chairman Sir, prior to the Bill on Assam accord was moved, the Congress M. Ps. issued statements against it in the local newspaper and magazines to appease the minorities. This accord could have been reached three years earlier. But prior to this, there was blood-bath and those who got elected on 200-150 or even 50 votes

managed to from the Government. On the polling day, the voters instead of casting their votes met their doom. At that time, Assam witness mass massacre. This is the practice followed by the Congressmen.

This Bill was brought only after creating an atmosphere which was favourable to them and they could come to power in the State. Though it is late yet it is a good deed and we support it. They are being given citizenship but citizenship without voting rights. How is it possible? No amendment to this effect has been made in the Constitution and there is no such provision in it so far. How is it possible that one may be a citizen without figuring in the voter's list and having no right to vote? We have come to know that this has been done under some pressure. Serious thought will have to be given to it in case someone challenges it in the court.

SHRI PRIYA RANJAN DAS MUNSI (Howrah) : We have many such people in the country who would like to do so.

SHRI C. JANGA REDDY : Shri Munsi speaks in a different way while Shri Abdul Ghani Khan Choudhary has his own views about it. The Muslim and the Hindu Congressmen have their own different views.

I would request the Cabinet to seek legal opinion on this matter. Provision should be made that along with citizenship rights, their names should figure in the voters list. Once the matter is challenged in the Court, the Act will be struck down. Then, another amendment will have to be brought to rectify it. It would be better if the Law Ministry is consulted and the Bill is brought before the elections.

[English]

SHRI S. B. CHAVAN : Mr. Chairman, Sir, I must express my gratitude to all the hon. Members who have participated in the discussion and expressed their views. Unfortunately the tenor of the discussion which we expected on a measure of this nature got totally distorted. I know that some of the political parties were trying to vie with each other to have some kind of an understanding with the A.G.P. But

somehow they could not succeed in the understanding and that is why I feel that most of the people seem to be having some kind of a misapprehension that since they were at the crest of public opinion and if they are not with us, what to do? So, I am sorry, but this is the impression that I got.

Sir, a point has been repeatedly raised. I would not have liked to reply to this point at all, but for the fact that some hon. Members who consider that they are very eminent parliamentarians, are very serious in their views, and we have to take note of what they are saying. That is why I consider it necessary to clarify that point at the very beginning.

You have to accept the fact that this is giving a legal shape to a political understanding which was reached. If we try to go beyond this, then, of course, you will find some lacunae in the Bill which is at present before the House. I would like to request the hon. Members that within the ambit of the Accord try to find out whether the legal shape which has been given to the provisions of the accord, lacks in details or goes against the accord. That will certainly be welcome.

The Akali Dal Member who participated for the first time in the discussion, was very empathic that whatever has been the understanding, that has to be totally honoured. If that be his position, I would request him to refer to the accord. The Bill is nothing but a total translation of the provisions of the Accord in a legal shape. That is what we have attempted. So on that basis I must say in fairness to the hon. Member, that if it is properly translated into a legal document, he has no objection to it. If we go back on the Accord, then, of course, what he says, might hold good. I do not think, he subscribes to that view.

Some hon. Members have said that the statement of the Accord is all right, but there are legal and constitutional issues which are involved. There are some infirmities due to which if the Bill is challenged in a court of law the question is whether it stands the scrutiny of the judiciary. Some hon. Members especially relied on Article 326. My esteemed friend, Mr. Bhola Nath

Sen, tried to explain the whole thing about Article 326 read with Article 327.

(Interruptions)

I would like to refer to another Article of the Constitution which I am sure hon. Members have in view. Their main point is whether Parliament is competent to pass such a Bill. If you go through the citizenship Act of 1955 there are Sections 11 and 12 provided in the Act. I would not like to take the time of the House by reading them. But I am referring to them. You can go through them and verify them and tell me if I am wrong. I would like to refer to Article 11 of the Constitution. It says :

“Nothing in the foregoing provisions of this Part shall derogate from the power of Parliament to make any provision with respect to the acquisition and termination of citizenship and all other matters relating to citizenship.”

It is not only that Articles 326 and 327 are there but Entry 17 also clearly lays down as to what are the powers of the Central Government so far as the legislation part is concerned. I am also referring to Article 11 of the Constitution which clearly lays down that Government is within its own powers to enact legislation conferring or terminating the citizenship, any of the rights which a citizen can possibly have. So, this is a very wide power which has been provided for. There is no question of any infirmity under the Constitution or any other law for the time being in force. This morning during the question hour, some issue was raised and I did say that for the time being there is no question of amending the Constitution, which is being interpreted by some hon. Members that this seems to be a very convenient way of saying that now we do not propose to do it but later on we will have to do it. In fact, I should make my position absolutely clear that there is no question of amending the Constitution so far as this matter is concerned. We have satisfied ourselves after consulting the Law Ministry as also the lawyers in this field, and we are more than satisfied that there is no infirmity so far as this Bill is concerned and I do not think that this can be challenged in a court of

[Shri S. B. Chavan]

low. There are a number of other enactments also which have been challenged in the court of law but that cannot be a reason for saying that since we feel that there is some infirmity, so we had better consider very seriously about it. What we can possibly do is we can consult the Law Ministry and we have done it. Eminent people have also expressed their views and I do not think there is any scope for any misunderstanding so far as the terms of the Accord and the present Bill are concerned.

17.00 hrs.

Some hon. Members, I note, are trying their level best to provoke me to say something which normally I would not like to say. I know that they would like to take full advantage for electioneering if I would say anything, and that is why I have to be very cautious before I make any statement. So, they would not succeed in getting anything from me which they can possible use for their electioneering by saying that this is what I stated on the Floor of the House. I do not think that will be a very correct proposition.

There was another point which I would like to clarify at this stage. Where is the question of Bengalis and Biharis being treated in a different manner? That is why I said that in the background of the elections things have been distorted in such a manner that one section of the people goes against the Accord and they take advantage of it. For the information of the House I might say that though very precise figures of those who have crossed over from East Pakistan or Bangladesh to India are not available, but on a very broad basis I can tell you that it is not only the minorities who have crossed over, there are others also who have crossed over. On the other hand, the majority happens to be of people who are not minorities. Everybody should also have this in mind. But foreigners are foreigners. There is no question of one community or the other. Whether they are Hindus or Muslims, they have been status less people so far, and that is why we thought that a legal status has to be provided to them...*(Interruptions)*

SHRI SAIFUDDIN CHOWDHARY
(Katwa) : Can you tell us how the question

came that something has to be done to protect the minorities? It is a question related to foreigners only.

SHRI S. B. CHAVAN : This is how it is being distorted. Actually, minorities, in the context of the total Assamese population, is a totally different matter, but among the foreigners also, to consider that he belongs to majority or he belongs to minority, is not a correct interpretation of the facts. Correct position will be that irrespective of whether he is a Hindu or a Muslim. So long as he is not given a legal status, he is a foreigner. We cannot make any distinction between one and the other. The question was to give some kind of a legal status to all these people and I can say, without any fear of contradiction, that the major part of the people are covered up to 1966. It might be that very correct estimates of those who came there between 1966 and 1971 are not available, but at the same time I can say that their number is not very large compared to those who came upto January 1966. It is the bulk which in fact is involved and get total protection and full citizenship rights. So, the question of all others being created in a different manner should not normally worry anyone. But still there was another point which was raised by the hon. Member Shri Indrajit Gupta that there was going to be an *en masse* deletion and thereafter some kind of *en masse* restoration.

SHRI INDRAJIT GUPTA : It is not what I said. It is what your Accord said, but is not in the Bill.

SHRI S. B. CHAVAN : I would request you kindly to go through the Bill again. It very clearly states who are the people who are going to be disenfranchised. This is a total misunderstanding that I find in most of the people who came from Assam. If the names are deleted from the electoral rolls, everybody considers as if he is losing his citizenship right. I must tell you very frankly and let everybody understand it, even if his name is delated from the electoral roll, he does not lose his rights as a citizen. He will lose the right or he will become a stateless person or a foreigner if, under the Foreigners' Act and as per the Foreigners Tribunals, Order, finding is given by the tribunal that after having followed

the procedure we have come to the conclusion that he is a foreigner. Unless the competent authority were to declare that he is a foreigner, nobody is going to deprive one of the citizenship right. But this is a common misunderstanding that I found with most of the people. Those whose names were either deleted or even the other side also, whose names are included, do not automatically become citizens or do not automatically lose their citizenship right. So, this is the position which everybody has to understand.

SHRI INDRAJIT GUPTA : Excuse me, you are making things worse confounded by virtue of what you have said just now. You have said that only in the case of a person who is finally identified and detected by the Tribunal to be a foreigner, the question of his losing citizenship rights comes. But here you are saying that a person registered etc. shall have, as from the date on which he has been detected to be a foreigner, the same right and obligations as that of the citizen of India. I welcome this statement, but you are trying to say that if he is detected to be a foreigner, then alone he will not have the other citizenship right. My point is that in the Accord you have said in black and white that after a period of ten years the names of these persons who have been disenfranchised will be restored to the voters' list. But this is not what the Bill says. The Bill says : "He shall not be entitled to have his name included in any electoral roll for any Assembly or Parliamentary constituency at any time before the expiry of the said period of ten years." That means during the period of ten years he cannot be enrolled as a voter. After the period of ten years his name is going to be automatically restored. Why don't you put it beyond doubt by putting it in black and white? Every individual will have to go through the process of thinking as to when he will be a voter again.

SHRI S. B. CHAVAN : You have to have some patience. Let me finish the explanation.

SHRI INDRAJIT GUPTA : Now, you have said he will be registered as a foreigner. After ten years when his name is restored, he will have to be registered as an Indian citizen.

SHRI S. B. CHAVAN : It is a totally different register that we have prescribed. His name will be entered into that register. The procedure will be that of the Foreigners' Act and the determination of Foreigners Tribunals order of 1964. Following that procedure a separate register will be maintained and all the names will be entered into this register. After the date of detection, 10 years there after or after the expiry of 10 years, all those whose names are in the register, are deemed to be citizens.

SHRI BASUDEB ACHARIA (Bankura) : They will not have voting rights. (*Interruption*)

SHRI S. B. CHAVAN : It is total misunderstanding. It is there. You read it. You go to sub-section (5). It says, after the expiry of so many years, all those whose names have been entered in the register are deemed to be citizens thereafter. (*Interruption*) For all other rights they are citizens. It is merely the voting right. Whether we are competent to have such a legislation or not, I have explained. That is why I read this merely because everybody should know that barring the voting rights, all other rights are going to be enjoyed by those who are there between 1966 and 24th March, 1971.

SHRI INDRAJIT GUPTA : Will they vote on 16th December?

SHRI S. B. CHAVAN : So long as their names are not deleted they have a right to vote.

SHRI INDRAJIT GUPTA : They have voted in 1971. They have voted in 1967. Now they are voting in 1985. Thereafter for a period of 10 years they will be deprived of their right to vote. Then after the end of 10 years they will come. What is this?

SHRI S. B. CHAVAN : That is the provision.

SHRI INDRAJIT GUPTA : It is done only to appease some people. Nothing else.

SHRI S. B. CHAVAN : There is a point which was made. It is said that some international commitments were made etc. as if we are trying to go back. It is not a fact. I have the copies of the agreement with me. It is a humanitarian problem. Large number of people had to cross over. Some people went from India to Bangladesh. Some people from Bangladesh came over to India. They have been coming thereafter also. Some shelter had to be provided to them. Every effort has been made that they are not disturbed. I don't think that any such stipulation was there that, those whom we accept as refugees are also entitled to all the right of franchise which were promised to them. You cannot show me anything that even franchise was also promised to those people who came to us as refugees; Now the refugees are being converted into citizens. In fact everybody should be happy that such a large number of people who otherwise would have been...*(Interruptions)*. I have never interrupted you. There is no point in interrupting me. Please don't do it. I have to complete my speech. After I complete my speech, certainly by all means, you can raise the point and I will try to explain it to the extent it is possible.

PROF. N. G. RANGA (Guntur) : There is the time limit also.

SHRI S. B. CHAVAN : There is no infringement or violation of any of the international agreements. There is no violation of any assurance given by late Prime Minister Shrimati Indira Gandhi. I don't think so. Indiraji merely said that 1971 can be a starting year; with negotiations you try to see that there is an amicable settlement. Our present Prime Minister, as soon as he took office in January, 1985, Made the policy statement in which he said that by conformation no solutions can be found; it has to be discussed across the Table in a spirit of 'give-and-take'. From 1961 they came up to 1966 and even 1967. You will be surprised to know that they were not even prepared for 1971 electoral rolls. Now they have also accepted 1971 rolls. I don't think that any better understanding could have been reached with any of them.

Mr. Banatwalla was very emphatic when he said. 'You are trying to succumb to political pressure'. I hope he will take the same line in some other matters which come before this House. I you try to rouse the sentiments of the people on the basis of agitations...

SHRI G. M. BANATWALLA : I mentioned about secessionist forces. I was very clear in what I have said. Don't distort what the Members have said in the House.

SHRI S. B. CHAVAN : I understand what you mean. Mr. Banatwalla. This is not the first day that we have seen each other. For the last 25 years we know each other very well. You need not tell me. I am not going to distort anything. I know the facts and on the basis of the facts I am telling you that ultimately the realities of the situation have to be considered. You cannot possibly take a very rigid line and say "We will stand by this and nothing else." As we cannot possibly take that kind of stand, some kind of a negotiation and spirit of give and take has to be there. The situation had become very complicated specially at the border of our country. How long are we going to continue with this kind of problems which are agitating the minds of the people? The best course is to find solutions by a spirit of give and take and not go merely by sentiments and be rigid. I do not think that ultimately this kind of a situation is going to help. It is not the question of AASU. It is a very wrong thing. AASU or no AASU, it is the sentiment of the Assamese people that we have to take into account. I do not think that anybody can possibly ignore the feelings of the Assamese people. It is the Assamese sentiments which they exploited and nobody dared to start any counter agitation against this movement, neither Congress nor any other political party which is a reality which we have to understand. I finding a solution, this is the amicable settlement which was arrived at and what we are trying to do is to translate into legal shape the Accord which was reached.

I do not think that I need clarify any other points. There may be some minor issues, specially electoral officers and the

kind of procedures that they have followed. I do not think that the Home Ministry is competent to give any guidance to electoral officers. It is entirely for the Election Commission and their officers in the field to follow particular guidelines and to finalise their electoral rolls.

It is totally wrong to consider whatever slogans and other things which are being raised by AASU and other people as the policy of the Government. We are totally opposed to any such forces which will create disunity among different sections of the people. For that matter, not only ASSU, but there have been different forces working on fundamentalist lines and trying to divide a large number of people. We should not create a situation where in these fundamentalist elements would succeed in their designs to create dissensions among different sections of the people. On the one hand, we give full assurance to Assamese people that Accord is going to be implemented in word and spirit. There is no question of going back on that account. We have made a commitment to stop a large number of infiltrators who have been crossing over. Only this morning we had the question. Unfortunately, the Member is not present. The average rate comes to about 2,400 per month. All these people have been trying to cross and we have been trying to push them across the border. There is no denying the fact that these people have come. Whatever Bangladesh Government might say, I can say without any fear of contradiction that, in fact, a large number of people have come. But they had come in very peculiar circumstances and that is why we could not possibly afford to take very harsh attitude and that is why conciliatory attitude had to be taken and that is why legislation if there. I have tried to explain the points which have been raised.

I think hon. Member Shri H. A. Dora and his other friends have raised the issue "Why is it that this Bill has been brought so late?" They say it is in order to take political advantage of the situation prevailing in Assam. I must make it absolutely clear that is the first Session after the accord. On 14th August we signed the Accord. Thereafter, there was hardly any time for preparing the Bill. After all, it

takes a considerable time for discussion, drafting the Bill, correcting it and going through it. It is a very laborious and long process. I do not think you can attribute any political motive to preparation of this Bill...

SHRI AMAL DATTA (Diamond Harbour) : You could have brought an Ordinance.

SHRI S. B. CHAVAN : I am happy that Mr. Amal Datta is saying this.

SHRI AMAL DATTA : If you were really serious about what you were saying—this is what I mean. (*Interruptions*)

(SHRI S. B. CHAVAN : I never thought that Mr. Amal Datta could go to the extent of asking the Government to bring an Ordinance. I can now say that, in fact, there was a proposal whether we should go in for an Ordinance, but we again thought that this was an important measure which should be discussed in the House and which should not be brought in as an Ordinance. That was the decision of the Government. In fact, I was trying to avoid that, but since you have forced me, I had to say that in the House.

SHRI AMAL DATTA : You thought of it only when you got notice of a question, not earlier than that.

SHRI S. B. CHAVAN : I think, Mr. Amal Datta, you were present in the meeting. I do not know whether you are a member of our Consultative Committee. In the Consultative Committee meeting I had made this position very clear. In Rajya Sabha also when the terms of the Accord were placed on the Table of the House—in this House no discussion is allowed at that time, but in Rajya Sabha a number of questions were asked—I had made my position absolutely clear that they would enjoy all the rights except the voting right. That is a statement which I am not making today; I had made that statement in the Rajya Sabha and also in the Consultative Committee meeting. Those who are members of the Consultative Committee, I am sure, will bear me out... (*Interruptions*)

SHRI SAIFUDDIN CHOWDHARY : In that Accord, nowhere is it written that

[Shri Saifuddin Chowdhary]

any other right will be taken away. Then how do these questions come? Because they were linked inseparably with the voting right...

SHRI S. B. CHAVAN : You better go through the Accord. It does contain...

SHRI SAIFUDDIN CHOWDHARY : Is it written in the Accord that these other rights also will be taken away?

SHRI S. B. CHAVAN : There is nothing here which is not in the Accord. That which is in the Accord is only given a legal shape now.

SHRI SAIFUDDIN CHOWDHARY : The Accord says only about taking away the voting right. How do all other things come; that the property right has to be protected, that the Passport right has to be protected? Is it because they are inseparably linked with the voting right?

SHRI S. B. CHAVAN : I think I have explained, to the extent possible, all the issues which the hon. Members have raised. I do not think that I should dilate any more. I would request the House to approve consideration of this Bill.

MR. DEPUTY-SPEAKER : The question is :

“That the Bill further to amend the Citizenship Act, 1955, be taken into consideration,”

The motion was adopted.

MR. DEPUTY-SPEAKER : The House will now take up clause-by-clause consideration of the Bill.

CLAUSE 2---(Insertion of New Section 6A)

SHRI G. M. BANATWALLA (Ponnani) : Sir, I beg to move :

Page 1,—

for lines 18 to 21, substitute—

“(b) “detected to be an illegal migrant” means detected to be an illegal migrant in accordance with the provisions of

the Illegal Migrants (Determination by Tribunal) Act, 1983”. (1)

Page 2, line 7 and 8,—

for “a foreigner” substitute—
“an illegal migrant” (2)

Page 2, line 9,—

for “Foreigners (Tribunals) Order, 1964” substitute—

“Illegal Migrants (Determination by Tribunals) Act, 1983” (3)

Page 2, line 10 —

for “a foreigner” substitute—
“an illegal migrant” (4)

Page 2, line 26,—

for “a foreigner” substitute—
“an illegal migrant” (5)

Page 2, line 36,—

for “Foreigners (Tribunals) Order, 1964” substitute—

“Illegal Migrants (Determination by Tribunals) Act, 1983” (6)

Page 2, line 36 and 37—

for “a foreigner”
substitute “an illegal migrant” (7)

Page 2, line 46,—

for “Order” substitute “Act” (8)

Page 3, line 25,—

for “a foreigner” substitute—
“a illegal mingrant” (9)

Page 3,—

after line 44, insert—

“(9) Nothing in section 10 shall apply in relation to any person registered under subsection (3).” (10)

Page 3,—

after line 44, insert—

“(9) Nothing in this section shall apply to any person born in India on or after the independence of India and such person shall be deemed to be a citizen of India for all purposes.” (11)

The purpose of these Amendments is that, instead of the detection work being done under the Foreigners' Act, it should be done by the Tribunals set up by the Illegal Immigrants (Determination by Tribunals) Act, 1983. That does not mean that I like the Bill; it is only by way of trying to rescue or aslvice whatever is possible.

SHRI S. B. CHAVAN : The whole purpose seems to be that all those who came after 1971 upto 1983 should be brought within the purview of this Bill which, in fact, is not the intention of the Government. This is only the Assam Accord which is now being given a legal shape. I am sorry I cannot accept the amendments moved by Shri Banatwalla.

MR. DEPUTY-SPEAKER : I shall now put the Amendments moved by Shri Banatwalla to the vote of the House.

Amendments No. 1 to 11 were put and negatived.

MR. DEPUTY-SPEAKER : The question is :

“That Clause-2 stand part of the Bill”.

The Motion was adopted.

Clause 2 was added to the Bill.

Clause 3 was added to the Bill.

Clause 1, the Enacting Formula, the Preamble and the Title were added to the Bill

THE MINISTER OF HOME AFFAIRS (SHRI S. B. CHAVAN) : I beg to move :

“That the Bill be passed”.

MR. DEPUTY-SPEAKER : The question is :

“That the Bill be passed.”

The motion was adopted.

**SICK INDUSTRIAL COMPANIES
 (SPECIAL PROVISIONS) BILL**

[English]

THE MINISTER OF FINANCE (SHRI VISHWANATH PRATAP SINGH) : I rise to move :

“That the Bill to make in the public interest, special provisions with a view to securing the timely detection of sick and potentially sick companies owning industrial undertakings, the speedy determination by a Board of experts of the preventive, ameliorative, remedial and other measures which need to be taken with respect to such companies and the expeditious enforcement of the measures so determined and for matters connected therewith or incidental thereto, be taken into consideration”.

The Honourable Members are aware that the sick Industrial Companies (Special provisions) Bill, 1985 was introduced in the Lok Sabha during the last session of Parliament. I trust the Honourable Members have had the opportunity to study it in detail and I look forward to a constructive debate about this proposed legislation.

Growing industrial sickness has been a cause of serious concern to the Government. Sickness in industrial units involves loss of production, loss of employment and loss of revenue to the Central Government and the State Governments. It also involves looking up of investible funds of banks and financial institutions which affects recycling of funds and impinges on the overall commercial viability of the banks and financial institutions.

The underlying objectives and reasons for bringing this legislation before this august House have been set out in the Statement of Objects and Reasons appended to the Bill. While the Government of India has been laying great stress on timely