

Shri Mohiuddin: I want to know whether the permission has been granted by those Governments.

Shri A. C. Guha: Yes; the branches of the State Bank have already been opened in those countries.

Mr. Deputy-Speaker: The question is:

"That the Bill, as amended, be passed."

The motion was adopted.

CITIZENSHIP BILL

The Minister of Home Affairs (Pandit G. B. Pant): I beg to move:

"That the Bill to provide for the acquisition and termination of Indian citizenship, be referred to a Joint Committee of the Houses consisting of 45 Members, 30 from this House, namely,—I shall give the names presently and 15 Members from Rajya Sabha;

that in order to constitute a sitting of the Joint Committee the quorum shall be one-third of the total number of Members of the Joint Committee;

that the Committee shall make a report to this House by the 16th November 1955;

that in other respects the Rules of Procedure of this House relating to Parliamentary Committees will apply with such variations and modifications as the Speaker may make; and

that this House recommends to Rajya Sabha that Rajya Sabha do join the said Joint Committee and communicate to this House the names of Members to be appointed by Rajya Sabha to the Joint Committee".

The Bill to which this motion relates is of an important character. The subject not only relates to citizenship, but it has also wider bearings. While the citizens of this land will be acquiring all the rights and privileges which flow from this status which is cherish-

ed highly everywhere, the Bill also allows others, in special circumstances, to acquire a similar status. All rights in the State flow from citizenship, and it has far-reaching consequences. So, the Bill which prescribes the methods of acquisition and renunciation, termination and deprivation of citizenship rights deserves very careful consideration. I would appeal to the House to give it a very serious thought, so that if there are any defects in it, they may be removed and the Bill may be as perfect as it can possibly be.

The right of citizenship so far as we are concerned, has started only with the advent of independence. In the olden days when we were under foreign rule, we had virtually no such right; we were governed nominally and ostensibly by the British Citizenship and Alien Rights Act of 1914. That Act was modified later and it was repealed in 1948. But under that Act we could only be the subjects of a foreign Crown, with the result that we were subject to all liabilities which are associated with subjection, but enjoyed hardly any privilege. That continued to be the position, as I said, till 1947.

In our own country we had no law of citizenship. Only an insignificant Act relating to naturalisation was passed in 1928 which was meant more for the benefit of persons coming here from abroad than for our own. Apart from that, no law relating to registration or naturalisation or otherwise was ever adopted in our own country. So, when we started with a clean slate on the accomplishment of independence, we had no law of citizenship. The Constituent Assembly looked into this matter and for days and days the question was considered by the authors of the Constitution very carefully and very closely. As a result of such consideration, Part II of the Constitution which consists of clauses 5 to 11 was enacted. Under those clauses a person could acquire the right of citizenship if he was born in India, if either of his parents was born in India or if that person had resided in India for five

years or more provided such person had fulfilled the conditions of domicile. That was the main clause. But it was primarily concerned with the people who had come from Pakistan. So, the provision was made that persons whose parents or grand parents had been born in the territory which was included in Pakistan would be given the status of citizenship of India if they came to India before 19th July, 1948. So, large numbers of displaced persons were given this right. Persons who had come after 19th July, 1948, provided they belonged to Indian origin, were also to be deemed to be citizens of India, but they had to register themselves as such but they should have, before such registration, stayed here for at least six months. There was another provision under which persons migrating from Pakistan under a certificate allowing their permanent stay in India, provided such persons were of Indian origin, could also be registered as citizens of India. Besides these, persons living in other countries but either of whose parents, grandparents or great grandparents had been Indian citizens, were entitled to seek registration at the Indian Consulate and to be treated as such. These were the provisions incorporated in the Constitution. But they were not comprehensive and they related mainly to the date of the commencement of the Constitution.

The Constitution itself, in article 10 and by virtue of Entry No. 17 in the Union List, contemplated some legislation of the type that we are now attempting to get passed by the Parliament. Under the Constitution, Parliament was not only authorised, but expected, to pass the law—and elaborate and complete one for regulating the subject of acquisition and termination of the rights of citizenship. Since then, there has been some delay. We have been living almost in a vacuum. Many children have been born in the country and large numbers have also come from Pakistan who have to be given the status of Indian citizenship. There has been some delay, but it has not been as great as was the case in

America. When the American Constitution was passed, the word "citizen" was used in the Constitution, but there was no definition of the word, nor was any provision made for acquisition of citizenship. It was many years later, in 1868, that by the Fourteenth Amendment in that Constitution provision was made for the acquisition of citizenship either by birth or by registration. So, considering the difficulties that we had to face because of the ceaseless flow of our fellow-patriots from Pakistan and other problems, if there has been a little delay, one can easily understand the reasons and see that it would not have been politic and advisable to take any step earlier. Now things have almost settled down and we can frame appropriate law for this very vital subject.

As I indicated, the law of citizenship covers four points ordinarily: acquisition of citizenship, renunciation of citizenship, termination of citizenship and deprivation of the rights of citizenship. Our present Bill deals with all these. It provides for acquisition of the rights of citizenship in five ways. It may be acquisition by birth, acquisition by descent, acquisition by registration, acquisition by naturalisation or acquisition by incorporation of territory. Every person who is born in India acquires the right of citizenship, whether his father is a citizen of India or not. The mere fact of birth in India invests one with the rights of citizenship of India. That is a catholic provision, and it gives the opportunity to everyone who is born in this country to serve this country. We have only one exception, and that is the exception which is applicable to such cases everywhere and all over, i.e., the persons in diplomatic service who are not subject to the ordinary normal jurisdiction of the country are excluded from this privilege. That is the practice everywhere. This provision is akin to that we find in the British Nationality Act.

As to acquisition of right by descent, any person who is born outside this country, of a father who is a citizen of India will have acquired the rights of citizenship. If the father has

[Pandit G. B. Pant]

acquired such a right by descent, then in that case the father should have been registered as a citizen in the Indian Consulate. That is the provision for the acquisition of the right of citizenship by descent.

The third provision relates to the acquisition of the right by registration. Now, persons of Indian descent, i.e. either of whose parents, grand-parents or great-grand-parents was a citizen of India, may be registered as citizens of India if they are living abroad. Similarly, those persons may also be registered, who belong to other Commonwealth countries who have accepted the principle of reciprocity, and who have agreed and decided to admit Indians as citizens in their own country. In so far as other countries are concerned, even if they belong to the Commonwealth, their citizens cannot be registered as citizens of India under any circumstances whatsoever. Persons who are registered as citizens, their wives too, or persons who are of Indian origin, if they marry one outside, then their wives too, can be registered as citizens. These are the main provisions, and I do not consider it necessary to go into further details about this registration.

About naturalisation, the conditions are given in the Third Schedule. A person should have lived in India at least for seven years, and of these seven he must have spent not less than four years exclusively in this country. He should owe allegiance to the Indian State. He should take an oath of allegiance. He should also fulfil some other conditions. He should be familiar with one of the fourteen languages mentioned in our Constitution; and there are also some minor conditions.

When a territory is incorporated in India, then the people living there would perhaps automatically become the citizens of India. I hope the people of Goa will have the opportunity of acquiring the citizenship of India before long.

These are the main provisions about the acquisition of citizenship.

Then, this citizenship may also be renounced if a person of Indian origin has double citizenship. If he becomes the citizen of another country exclusively, or wants to be so, then he may renounce the citizenship of India. This provision had to be made because of certain difficulties that had arisen with regard to Ceylon and also certain other countries. The citizenship can be terminated under certain conditions; if a person who has been registered as a citizen or who has been otherwise allowed to enjoy this privilege does certain things or omits certain things, then his rights of citizenship can be terminated. The citizenship can also be revoked if a person has obtained that right by means of fraud, or if he had been convicted and sentenced in a criminal case to more than one year's imprisonment. If he is found to be disloyal to the Government of India, or otherwise fails to fulfil certain conditions, then also his citizenship can be revoked.

These are the main provisions. Besides these, there are certain other clauses, but they deal with matters of procedure, and therefore I need not dwell upon them. We have adopted a liberal attitude in framing this law. In some countries, no person, whose father is not himself a citizen of the country, even if born in that country, can acquire that right. In some others, dual citizenship is not allowed in any shape or form. We have tried to frame a law which, while fully serving the needs of our country and ensuring the status of dignity which Indian citizenship will carry with it, will also give opportunity to others by registration and naturalisation to acquire these rights. But all these can be done only with the approval of the State, so far as registration and naturalisation are concerned.

There is one important point which we have to bear in mind. Many of our people who had gone to Pakistan or who had to leave Pakistan, though they had been residing there, have come here during this interval. They

have to be registered before the next election and it is necessary that the Bill should be passed so that they may be able to exercise and enjoy the full rights of citizenship.

I have tried to give the House, in brief, the summary of the provisions of this Bill and also of allied matter contained in the Constitution, in so far as it bears on the subject of citizenship. I commend this motion to the acceptance of this House. It will be referred to a Joint Committee, and after this motion has been adopted by the Upper House, we will be able to start with the consideration of the Bill in the Joint Committee. It is not at all a party measure, it is a Bill which affects everyone in this land and we have to approach it in that spirit, and to examine it in a dispassionate and detached way, with a determination to improve it, if we can possibly do so.

These are the names—Shri Kotha Raghuramiah, Shri P. T. Thanu Pillai, Shri K. G. Wodeyar, Shri K. T. Achuthan, Shri Ahmed Mohiuddin, Shri Nibaran Chandra Laskar. If you will permit me, I would like to revise this list and see if some of the people whom we would like to be put there have not been left out.

Mr. Deputy-Speaker: I will place the motion formally without the names and I will announce the names some time later. Evidently, the hon. the Home Minister wants to revise the list.

Shri Kamath (Hoshangabad): According to rules, that is not in order.

Mr. Deputy-Speaker: With the permission of the Chair, anything can be done. The general discussion does not turn upon X, Y, Z being in the Joint Committee.

Dr. Krishnaswami (Kancheepuram): But X, Y, Z may not get a chance to speak.

Mr. Deputy-Speaker: I will allow those persons who are there to speak until.....

Shri S. S. Mero (Sholapur): That will be unfavourable to those who are

not on the Joint Committee, because taking advantage of this lacuna, Members who are already on the Joint Committee may exploit the time and be sharers.

Mr. Deputy-Speaker: I am not going to allow a discussion on this. Hon. Members are fully aware that even in the case of a Member who is on the Joint Committee, it is open to the Chair, if it considers that it is in the interest of proper debate that he should participate, to allow him to do so. But normally there won't be any discrimination.

Motion moved:

"That the Bill to provide for the acquisition and termination of Indian citizenship, be referred to a Joint Committee of the Houses consisting of 45 Members, 30 from this House, namely—the names will be given presently—and 15 Members from Rajya Sabha;

that in order to constitute a sitting of the Joint Committee the quorum shall be one-third of the total number of Members of the Joint Committee;

that the Committee shall make a report to this House by the 16th November 1955;

that in other respects the Rules of Procedure of this House relating to Parliamentary Committees will apply with such variations and modifications as the Speaker may make; and

that this House recommends to Rajya Sabha that Rajya Sabha do join the said Joint Committee and communicate to this House the names of Members to be appointed by Rajya Sabha to the Joint Committee."

Shri Vallatharas (Pudukkottai): I beg to move:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 31st December, 1955."

[Shri Vallatharas]

This is a measure, a legislative measure, is quite welcome under the circumstances. Nearly four years have elapsed since the Constitution had been passed, and quite at leisure, preparations have been made in connection with this Bill, and it is now brought forward for further consideration.

So far as the general aspect of the Bill is concerned, it is needless to emphasise that it is a great improvement on many of the existing provisions in different parts of the world so far as the citizenship of those respective countries is concerned. Though the Constitution had stated who are citizens and who can become citizens, yet further things in respect of the termination of citizenship and further measures by which citizenship law may be improved all these have been left to Acts of Parliament. Though there are provisions in the Constitution, yet Parliament has got the sole right to enact what is necessary for the purpose of enforcing a very prosperous and resourceful citizenship in this country. It is needless to state that in all aspects, the present tendency is to have a socialistic State or, in a limited sense, a State of socialistic pattern. Such of those who are not, in any way, influenced by the various theories now existing in the political world and cannot come to a conclusion as to which is better and which is worse, have chosen to adopt an intermediary way. So far as this nation is concerned, the inclination goes to conceive a socialistic pattern. A socialistic pattern, is a thing which surpasses imagination and description. All should be happy; that is the general wish. And if all cannot be made happy, there is no use in a government existing. So also the question can be put: if all are not to be made happy, if the state of happiness is not to be envisaged with some definiteness or some precision, what is the use of conferring citizenship on the people of this country? Citizenship, of course, is primarily and *prima facie* treated with some sort of, not indifference,

but, a certain lack of enthusiasm. Though this Bill has been published sometime ago and the provisions of the Constitution have made plain what citizenship is, and the entire nation is based upon the conception of citizenship, yet the public enthusiasm has been very little. The enthusiasm in the intellectual quarters and also in the business world has been very little. After this Bill has been published, there is not much reaction, either in the way of favouring or in the way of criticising it. So it is a normal thing which has come as an ordinary matter for consideration at present. As I have already said, citizenship is the basic factor on which a national government or a government, the form of which people have to choose, has to be formed. That is a very important factor. I do not find myself much competent to deal with this subject in an extensive manner. On the other hand, as a member of the mass, the general people, of this country, I will have to place some aspects before the House.

Nearly one thousand years of known historical life have aided us to discard certain preliminaries and to start from a certain point from where alone progress can be thought of and progress can be aimed at. All the history leading to citizenship in England, in America or in various other countries need not worry us much. Of course the framers of our Constitution are to be congratulated on the vast scope of their resourcefulness and the trouble they had taken to bring about a uniform understanding of all the aspects of the aspirations of the national people, and the way in which these aspirations have to be regulated and finally realised. It is a very difficult matter. Originally the conception of citizenship in olden days did not at all arise. There was a monopoly by certain interested classes who behaved as the promoters of the social welfare and the individual's rights. As time passed, and trade and commerce expanded; the world atmosphere has been envisaged as the only forum wherein humanity

has to move on a general basis; the idea of world citizenship came up; after all these had come up, the conception of citizenship arose in such a manner that there has been a separation of the three constituent elements which now constitute citizenship: civil, political and social: Civil: concerning the man's freedom, freedom of speech and security of person and the like; political: the man being a member of society on an equal basis with others, having full right to participate in the administration and the exercise of political power; and social: that means being entitled to all amenities for a decent living, with, of course, the right to work, the right to earn and the right to command other conveniences as does everybody else in the community. These three things took their own time in developing in the western countries. But, in the 20th century these became too prominent. Even in 1950 when the western politicians have been troubling themselves to evolve a fundamental theory of the conception of a world citizen, they could not come to a normal understanding. Why? Because all their minds had been swayed by a sense of militant nature. Being armed to the full, being physically able to overawe and being able to kill as many as possible on the other side, that was considered to be the paramount condition precedent for the existence of an independent sovereign nation. The conception of the welfare of other people, the conception of living in a spirit of co-existence with others, the conception of sharing with all other sections of the people and their welfare were all of secondary importance. I can say, they were not thought of. So capitalism had made a stronghold in the shaping of the society and also in the shaping of citizenship.....

Mr. Deputy-Speaker: How is all this relevant to the Citizenship Bill?

Shri Vallatharas: Of course, I can sit down by saying that the Bill is good, that citizenship is defined; it can be acquired and that it can be terminated, without going into the history of citizenship as to how it has an impact

on social inequality and all that. If citizenship is not going to have any influence in evolving a socialistic society it is not worth while having it. It is only in so far as my capacity can go, I am trying to show what impact there is between citizenship and.....

Mr. Deputy-Speaker: Order, order. The hon. Member can easily say it is useless to remain in this society as citizens unless this becomes a communistic State. Am I to allow that? Or he can say that capitalism should be thrown out lock, stock and barrel because it is not a pattern of society and therefore citizenship is useless? This is what the hon. Member is driving at. Who are possible citizens, whether citizenship can be had by birth or by acquisition, what are the grounds of termination of citizenship, whether we should have reciprocal basis and admit any others and whether there can be dual citizenship; these are all matters on which it is expected one would speak. Particularly with regard to the amendment that has been moved by the hon. Member, I thought he would speak on what benefit would result by sending it for eliciting opinion, who are all the persons who are likely to give information, whether such information is not already in possession of the Government and why it should be circularised and not sent to a select committee. These are all the matters which are to be placed before the House. All this talk of new status, the history of citizenship law and there is no use of taking this citizenship unless the whole face of society is changed and all that, I am not going to allow.

Shri Vallatharas: I am not proceeding on that aspect.

Mr. Deputy-Speaker: I think the hon. Member has raised the question of a capitalistic society and all that.

Shri Vallatharas: There should be some little toleration. Nothing which you have been pleased to conceive has been within my concept and I am not pleading for an entire change of

[Shri Vallatharas]

society or the capitalistic society being abolished or a communistic system being introduced. I was just making a reference to the rights of the people in the capitalistic system that existed and I am not at all going to say what the hon. Deputy-Speaker is going to infer.

Mr. Deputy-Speaker: Order, order. We are not going into the rights of citizens, what are their rights, whether they are attractive, whether they can be enforced and maintained and lost. We are now referring to these rights following from the status of citizens, who are competent to be citizens, what are the qualifications what are the methods of acquiring and maintaining that etc. It is not any other thing or every other Act that could be brought in. The hon. Member is a lawyer and he knows what is relevant and what is not relevant.

Shri Gadgil (Poona Central): There is a difference in the rule of relevancy, Sir.

Shri Vallatharas: I have attached much value to the precious time of the House. If my mind is convinced that even a minute of this precious time of the House is wasted, I would not proceed with the speech.

Mr. Deputy-Speaker: Others have also to decide.

Shri Vallatharas: Sir, I am an ordinary man and I come from a corner of this country. Several Members here including those who occupy the Chair are experienced people with decades of experience. I cannot be a match for them. I cannot conceive the status of being a student taking a question paper for an examination and trying to secure 33.13 per cent for a pass. I think my mind should roam about even though it is indefinite and I must be given freedom of speech. What is the freedom of speech here?

Mr. Deputy-Speaker: I am not going to interrupt the hon. Member. He can proceed with his speech. Whenever I see that he roams about, I will not allow him to roam about.

Shri Vallatharas: But, anyhow, I would like to be encouraged in my approach. I may humbly request the Chair to be an encouraging element to speakers like me so that we can speak. If a higher standard is expected, if that is the conception, certainly it is very difficult for me or for any other Member to rise to it. If I am to be given an opportunity.....

Mr. Deputy-Speaker: All right; the hon. Member may go on.

Shri Vallatharas: Anyway I am yet to see how Members are going to demonstrate themselves and get the appreciation or approval of the Chair. I was saying that the ordinary worker and the ordinary peasant were totally denied the opportunity to vote in the elections under the previous Government. The conception then was not that every man born in this country is entitled to vote; but he must have the capacity to vote. So, a graduate or somebody who had got land and was paying some kist could vote. There was not the people's government. There was no government of the man-in-the-street or the man-in-the-village. After one or two centuries of alien rule the general masses, the ordinary labourer and the peasant were not able to get their rights to participate in the political administration of this country. After independence was achieved, there was a provision in the Constitution that all who are born in this country are entitled to vote. They are citizens and the construction of citizenship was so liberal and so extensive that there was absolutely no limitation at all for any person of Indian origin to become a citizen of this country. Articles 5 to 10 have been incorporated. They are the basic foundation on which the other things, the Directive Principles and the Fundamental Rights are to be conceived. That is why I submitted at the outset that to bring happiness to the people a government must exist. So also, the conception of that citizenship and the implementation of that conception in this country should be able to lead to the happiness. Some of

the important elements that are necessary for the formulation and appreciation of citizenship are that every one in this country should feel that he has the fullest power as a citizen, that he must be able to contribute his mite to the financial and all other needs of the nation; and that every able-bodied man must be in a position to serve the country when emergency requires it, that is, when a necessity requires it, he must be able to come up as a military man to save the country from alien attack or from any dangerous situation. Now, poverty has been the watch-word or the prevalent word in this country—not only poverty; poverty may be defined as one wherein a man or a family is not able to find work and also cannot find earning because there are no resources and there are no opportunities. But indigence i.e. destitution is another factor in which a family is not able to have a decent living in a manner in conformity with the environments. Whatever that may be, the general mass of people have been subject to great strains of poverty. How to lift them up is the question. When the people in general are given the right to vote or participate in the exercise of political power and in the shaping of the economic structure of the country, every citizen must have a sort of responsibility, so that the rendering of the further situation may be made easier still. In the course of that I solicit that the attempts of the Government so far as the uplift of the so-called masses of the people is concerned, be earnest and serious. There is an attempt in the course of the entire Constitution to provide them with education and with work, remove unemployment and make them decent people and there are provisions for health and so many other things. If you go into the history of these things, certainly it is a welfare State, and in a welfare State all things that are necessary are provided. To say that India has been brought to this level and the people of India are made citizens in 1955, I must submit, is a great thing. It is not a great thing by itself. There must be a resourceful future

thinking. Now trade and commerce have so far improved and extended throughout the world; every nation has come in close contact with the other nations; and the destinies of one nation have been made to depend upon the export or import policies and success therein of a particular nation. In that way, several international conventions have come even in the way of education, medical assistance, health.....

Mr. Deputy-Speaker: I am afraid I must ask the hon. Member to stop at this stage, and I have no other alternative. The hon. Member has not been speaking either on his amendment or the motion moved by the hon. Minister. I now will call upon other Members.....

Shri Vallatharas: I would submit...

Mr. Deputy-Speaker: I am not going to allow this indulgence. He has strayed away far and he is far off the mark. That may be all very good, but not relevant to the purpose here now. I will call upon another Member.

Pandit G. B. Pant: The names of the Members of the Joint Committee are as follows:

Shri Kotha Raghuramaiah, Shri P. T. Thanu Pillai, Shri K. G. Wodeyar, Shri K. T. Achuthan, Shri Ahmed Mohiuddin, Shri Nibaran Chandra Laskar, Shri Surendra Mohan Ghose, Shri T. Sanganna, Pandit Krishna Chandra Sharma, Shri Raghubar Dayal Misra, Shri Lotan Ram, Shri Rajeshwar Patel, Shri Liladhar Joshi, Shri Narendra P. Nathwani, Shri Birakisor Ray, Shrimati Ansuyabai Kale, Shri Hari Vinayak Pataskar, Shri Manikya Lal Varma, Sardar Ranjit Singh, Dr. Ram Subhag Singh, Shri Anandchand, Shri Hirendra Nath Mukerjee, Shri Mangalagiri Nanadas, Shri Sarangadhar Das, Shri Hari Vishnu Kamath, Shri P. N. Rajabhoj, Dr. Lanka Sundaram,

[Pandit G. B. Pant]

Shri Raghbir Sahai, Shri Uma-charan Patnaik and Shri Balwant Nagesh Datar.

Mr. Deputy-Speaker: Not the Mover?

Pandit G. B. Pant: No, he is not a Member of this House.

Mr. Deputy-Speaker: I shall now place the complete motion.

Motion moved:

"That the Bill to provide for the acquisition and termination of Indian citizenship, be referred to a Joint Committee of the Houses consisting of 45 Members, 30 from this House, namely: Shri Kotha Raghuramiah, Shri P. T. Thanu Pillai, Shri K. G. Wodeyar, Shri K. T. Achuthan, Shri Ahmed Mohiuddin, Shri Nibaran Chandra Laskar, Shri Surendra Mohan Ghose, Shri T. Sanganna, Pandit Krishna Chandra Sharma, Shri Raghubar Dayal Misra, Shri Lotan Ram, Shri Rajeshwar Patel, Shri Liladhar Joshi, Shri Narendra P. Nathwan, Shri Birakisor Ray, Shrimati Anusyabai Kale, Shri Hari Vinayak Pataaskar, Shri Manikya Lal Verma, Shri Ranjit Singh, Dr. Ram Subhag Singh, Shri Anandchand, Shri Hirendra Nath Mukerjee, Shri Mangalagiri Nanadas, Shri Sarangadhar Das, Shri Hari Vishnu Kamath, Shri P. N. Rajabhoj, Dr. Lanka Sundaram, Shri Raghbir Sahai, Shri Uma Charan Patnaik and Shri Balwant Nagesh Datar, and 15 members from Rajya Sabha;

that in order to constitute a sitting of the Joint Committee the quorum shall be one-third of the total number of Members of the Joint Committee;

that the Committee shall make a report to this House by the 16th November, 1955;

that in other respects the Rules of Procedure of this House relating to Parliamentary Committees will apply with such variations and modifications as the Speaker may make; and

that this House recommends to Rajya Sabha that Rajya Sabha do join the said Joint Committee and communicate to this House the names of Members to be appointed by Rajya Sabha to the Joint Committee."

Shri Vallatharas: I would just refer to two sections and close my speech.

Mr. Deputy-Speaker: I am sorry to interrupt the hon. Member. As all hon. Members know, we have allotted ten hours for this Bill and many hon. Members have expressed a desire to speak on it.

Shri Gadgil (Poona Central): For the whole Bill?

Mr. Deputy-Speaker: This is only a reference to Select Committee. I do not know what the hon. Member means by whole Bill.

Shri Vallatharas: The question of dual citizenship is very important and the Select Committee will be able to consider it in a very enlightened manner. So far as the Commonwealth countries are concerned, there is a system of dual citizenship. In view of the fact that countries have come closer together, there may be a conception of this type of dual citizenship, wherein one citizenship will be confined to the welfare and interests of one's own country and the other confined to the welfare of the society as a whole in the world. That is a very important aspect and necessary provisions which will lead to the formulation of dual citizenship throughout the world on this basis may be preferable. The power of the Government to appoint a committee of enquiry when a citizenship is to be terminated should be vested in the courts of law, however eminent and efficient the committee to be appointed by the Government may be. Anyway, better sense would prevail only when the regular courts of law in this country have been allowed to exercise their jurisdiction over that aspect. In that case, there will be a logical revision of not only everything but also of the various constitutional objections by the parties concerned.

[SHRI BARMAN in the Chair]

There is another question that may be taken into consideration. This is a Bill which comes for the first time. People do not know the import of citizenship or why it is introduced as the law. The common man must know it. Merely the general appreciation of a few intellectuals would not be sufficient. The Select Committee is competent to go into this matter. On the other hand, there is no urgency for passing this Bill under any circumstances. It is now placed before the House after four years. The public should have been provided with an opportunity to offer their own opinion as to how improvements can be made and they must be made to understand also in what way they have the citizenship of this country. The provincial Governments have not been asked to submit their opinions or suggestions as to whether these clauses could be improved upon, what other rights can be conferred by citizenship and in what other manners citizenship can be terminated. Because it is not an urgent matter, I submit that this Bill deserves to be circulated for eliciting public opinion.

Mr. Chairman: Amendment moved:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 31st December, 1955."

Now, discussion will go on both on the original motion and on this motion for circulation.

Shri Asoka Mehta (Bhandara): This is a great moment in the life of this Parliament because we are called upon to consider a law of fundamental importance. It is a matter of pride to be a citizen of this country and it should be a matter both of honour and of sacred privilege. To have opportunities at home and to get respect and protection abroad is invariably the ambition of every person of this land. There has been a movement all over the world but nowhere dramatised as effectively as in our country of passive subjects transform-

ing themselves into active participants or citizens participating in the processes of the government in an ever accelerating manner. It is this dramatic fact which is being brought out and on which attention is sought to be focussed today. In the past, a man sought protection from a feudal lord and his allegiance would remain unchanged; it was indelible. But in the world of today we have realised that a man is a free being. While a nation is a great entity, there should still be opportunities for him to get out of it or to get into it. That is why in the House of our nation we are anxious to provide both exits and entrances.

We are primarily concerned with the Bill as it has been placed before us and we find that as we had provided in our Constitution we are basing our citizenship not on relationship of blood, as is the case in the neighbouring country of Burma, but on other considerations. It is suggested in this Bill that our citizenship will be governed by the principle of *jus soli*. In the Constitution under article 5 there is the further need for domicile. A person has to be born in India and he is also to be domiciled in India. But under the Bill the principle of *jus soli* will operate without any kind of other considerations. I am not sure—I am merely expressing a doubt because the whole question is to go to the Select Committee—should we have an unrestricted operation of the principle of *jus soli*? Would it not be better if a child is born to a foreign family and if the child is to become an Indian citizen, to have either a provision that some kind of registration should be there or the child may be an Indian citizen but will be able to exercise the rights of Indian citizenship only after it comes of full age and makes an avowal to that effect? This question was discussed in England very carefully and the British authorities decided that the principle of *jus soli* should operate in an unrestricted fashion. I know that this Bill has been to some extent influenced in its shaping and drafting by similar

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statutes in the Commonwealth countries. But it would be useful for the Select Committee to consider whether the operation of *jus soli* should be unrestricted or some kind of restriction may be put at any time. We also accept the principle of *jus sanguinis*. A person can become a citizen by descent. Under article 5(b) of the Constitution, a man can become a citizen because his father was an Indian citizen or because his mother was an Indian citizen. I find that while citizenship can come to a person through his father, it could not come to him through his mother. I know he can become a citizen by registration but citizenship by descent evidently could not come to him through his mother and I wonder whether this kind of distinction between the two sexes should be made at all. It was not made when the article 5(b) was drafted.

Then again the next question that is raised is: should it be for one generation or more than one generation? We have answered that question and the last question that is raised in this connection is: should it be automatic or by registration? There also we have given a reply that it would be automatic as far as the first generation is concerned; it would demand registration for the second generation.

The next important question that we have to consider is of dual citizenship and the last question in this connection which is of importance is the nationality of married women. Before we take up these two questions, it is also necessary to consider very briefly the provisions that are made about naturalisation.

Naturalisation denotes both the act as well as the process of admitting an alien to the possession of privileges of our citizenship. Now, I find that the authorities try to explain the act and the process of naturalisation in the following words. Wherever general laws establish a right of the aliens to be naturalised its exercise involves

proceedings essentially judicial in nature. We have followed the British pattern and the authority that will be empowered to consider the question of naturalisation will be our executive—the Central Government. In the United States of America it is a judicial process; it is done by the courts. In Belgium it is a legislative process; it is done by the legislature. I listened very carefully to the speech that was made by the Mover and unless I have made a mistake I do not think he said or tried to explain to us why the executive should be authorised to handle this question of naturalisation.

Pandit G. B. Pant: I did not feel that it called for any explanation.

Shri Asoka Mehta: May be. I am just trying to point out that there are other kinds of provisions in other countries. If we look at the Bill, section 6 is, I believe, concerned with naturalisation and section 5 with citizenship by registration and section 14, gives plenary powers to the Government in the exercise of the provisions of sections 5 and 6. This is how section 14 reads:

"The prescribed authority or the Central Government may in its discretion, grant or refuse an application under section 5 or 6 and shall not be required to assign any reasons for such grant or refusal. The decision of the prescribed authority or the Central Government on any such application as aforesaid shall be final and shall not be called in question in any court."

A large number of persons in Pakistan today are of Indian origin and a number of persons living in countries overseas possess the qualifications of becoming Indian citizens by registration. If an Indian citizen marries a foreign woman, she is also to become a citizen by registration. In all these matters plenary powers are given to the Government. The Government is not called upon to give

any reason nor is there any appeal on the decision given by the Government. I wonder if it is wise and proper to give such plenary powers to the Government with no kind of judicial check whatsoever.

Then again when we take up the question of the nationality of married women, I find that we have struck a right balance and I have no complaints whatsoever. This question of nationality of married women has been a very controversial question and the world over it has received a considerable amount of attention.

The important question that we have to answer is should the basis of citizenship be a family or an individual? What should be the unit of citizenship? There was for a long time the doctrine of unity of family. The unity of family or the identity of interests was popular and prevalent and it was generally believed that the principle that should guide the citizenship of a woman and a wife should be that of her husband. As you know the wife's domicile is that of her husband; she has no separate domicile unless she is separated. As far as domicile is concerned it is axiomatic that a wife's domicile follows that of her husband. As far as nationality is concerned, should we say that nationality also should follow the principle of 'follow the husband'. I believe that in this age when the women are claiming equality it would not be fair on our part to adopt such a principle. Indian women should be entitled to retain their citizenship even after they marry foreigners and foreign women should also be entitled to retain their citizenship after they marry Indians. Indian women can become citizens of foreign countries by a voluntary act on their part; foreign women also can accept our citizenship only by a voluntary act on their part. As far as this is concerned, a proper balance has been struck and generally I welcome the provision that has been made. But I do not know whether some kind of a parallel provision should not be made

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for foreign males who marry Indian citizens. In other countries of the world the two are more or less kept on a par though the qualifying period of residence is a little longer. In Mexico for instance—and also in Japan—the qualifying period is two years; in India there is no qualifying period in the case of a foreign woman married to an Indian; she can apply immediately. But we find that in the case of a foreign male married to Indian citizen, and who does not belong to any of the Commonwealth countries, that person would have to wait for 7 or 8 years before he would be qualified to become an Indian by naturalisation. The hon. the Home Minister knows that there are Indian women now who are marrying foreigners. Whether we like it or not, that is a tendency which is developing and some of them want to settle in this country also. I know of some cases and I have brought one or two to the attention of the Home Minister also. Some of them desire to settle in this country and, I believe, when we are enacting this piece of legislation we should consider whether the two cases, foreign women and men marrying Indian male and female citizens, should be considered on a different footing or they should be considered on an equal footing; and if any difference should be made, what should be the difference. I find the Bill has not taken this aspect into consideration.

The next question of importance is dual citizenship. Here again the Mover seems to have accepted the idea of dual citizenship or dual nationality more or less axiomatically. India, if I am not mistaken, is a signatory to the Hague Convention of 1930. That Convention has specifically provided that, as far as possible, the general principle that should be followed is that a person should have a single nationality. At the same time care is to be taken that the danger of a person becoming stateless is averted. Under the provisions of our Bill and under the provisions of our Constitution also full care has been taken that there

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shall be no danger of statelessness. That is welcome. But, as far as dual nationality is concerned, the Mover, I am sure, knows very well that it is a very complicated and complex question. I know that at the Hague Convention it was decided that in case a person enjoys dual nationality then the principle of "master nationality" is to be followed. The principle of "master nationality" tells us that a man is to be considered a citizen of that country where he generally resides or with which he has the most intimate connection. Even if a person enjoys dual citizenship the principle of "master nationality" will ultimately determine, in periods of conflict and in times of crisis, as to which particular nationality is to be the predominant one. There was also a Protocol signed in 1930. It was a Protocol relating to military obligations. There it is said:

"If a person of more nationalities, possesses the effective nationality of one of them, he shall be exempt from all military obligations in the other country or countries subject to the possible loss of nationality in those countries."

These are some of the provisions to get over the difficulties that are created because of dual nationalities; but I am sure that the Mover knows that dual nationality created a large number of problems both during the First World War and the Second World War. I am not opposed to the principle of dual nationality. What I want the Select Committee to do is to go thoroughly into it,—and not take things for granted—go into its implications and find out the possible dangers; because, after all, when we are accepting these far reaching principles it is necessary that we should explore all their implications, understand them and find out what are the dangers. Some of those dangers we might have invited knowingly, and deliberately. We must know what are the difficulties and whether we

can provide against some of them. Here again, I feel, from the speech that was made by the Mover, that these aspects have either not been explored, or he has not thought it necessary to place before us the results of his explorations. I would like the Joint Committee to look into this question more carefully.

Then we come to the question of de-naturalisation or of deprivation of citizenship. As far as renunciation and termination are concerned renunciation of citizenship is by a voluntary act and the termination of citizenship is a consequence of a voluntary act. I have nothing particular to say about them. But, when we come to deprivation of citizenship, there are one or two points that deserve serious consideration. In clause 10 (2) (b) it is said:

"that citizen has shown himself by act or speech to be disloyal or disaffected towards the Government established by law in India;"

I do not know what is the meaning of "Government established by law in India". While explaining it the Mover of the resolution used the words "Government of India". If it means the Government of India then the naturalised citizen or a citizen by registration, or a citizen who has become a citizen under article 5(c)—that means mostly people from Goa—they would be deprived of their citizenship if by speech or by action they prove themselves or show themselves to be disloyal or disaffected towards the Government. The Government has the right, the Government has the power to take away their citizenship. Sir, I do not think similar provisions exist in any country of the world. In the Commonwealth countries it is His Majesty not His Majesty's Government.

Pandit K. C. Sharma (Meerut Dist.—South): That means Government.

Shri Asoka Mehta: I am sorry if I have not been able to make the distinction between His Majesty and His

Majesty's Government. I would like to know from the Mover whether he is thinking of State, which has nothing to do with the Government. To any citizen of India, once he is a naturalised citizen, the fundamental right guaranteed to him by the Constitution that he can be disaffected towards the Government. I shall explain the position. People coming from East Pakistan will become citizens of India by registration. Thousands of them come here and they are being looked after by the Government. Supposing their problems are not being attended to,—I hope that never happens—supposing that contingency arises, then what happens? They take out a procession and they begin demonstrations. It can be pointed out that they are being disaffected or disloyal to the Government of India. I want this question to be seriously considered for this reason that the man would later have no redress. For his case will be referred to a committee consisting of three persons one of whom will be a person of 10 years' judicial experience—may be even a magistrate and need not be a High Court judge—and the other two nominees of the Government. There is no appeal of any kind. Are you going to take away the citizenship of a person without any kind of appeal? He has already become a citizen. Once you take away citizenship he cannot go to the Supreme Court or High Court; because, after all, the rights of citizens alone are safeguarded by the Supreme Court or High Court. That right is taken away. He is deprived of his citizenship. In the process of deprivation the whole question is being looked into by the Central Government alone without any kind of independent and high level judicial supervision. That, to my mind, is objectionable. Again the bill provides clause 10(2) (d):

"that citizen has, within five years after registration or naturalisation, been sentenced in any country to imprisonment for a term of not less than twelve months;"

Here again, supposing there are displaced persons—there are so many of them settled as squatters and they are pushed out. We have known that; we have seen that and we have experienced that—and they protest, then they are arrested and sentenced. There is no moral turpitude involved in the sentence. All that is necessary for the Government is to make out a case against them and take away their citizenship. What will happen for a period of five years if they become citizens? They will be at the tender mercy of the Government. I would not like any citizens to be at the tender mercy of the Government—not because I do not trust the Government, but because the scheme of our Constitution provides for their rights and liberties and safeguards them against the executive. The whole concept of our Constitution is such that a citizen must be safeguarded against any Government even if it is a good government or even if it is a democratic government. Every man must have his *lebensraum* which is not encroached upon by the executive. I feel that for a period of five years, if the Bill remains as it is, we shall be encroaching upon and permitting the executive to encroach upon the sacred *lebensraum* of the naturalised and registered Indian citizen.

Before I move on to the next point, I would like to invite the attention of the Mover and of the Select Committee to the cases that have been decided in the United States of America. If I am not mistaken, the Supreme Court of the United States of America has said that as far as the taking away of nationality or citizenship of any one is concerned, the Bill of Rights must be observed. The observation of the Bill of Rights is fundamental in determining the process of de-naturalisation or deprivation of any one of his citizenship. I find here that our fundamental rights are completely ignored. We seem to forget that there are fundamental rights affecting a person who is already accepted in the comity of our nation.

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hood when we decide to take away his citizenship. He may be a bad person. I am not saying that the Government will try to take away the citizenship from a good and desirable citizen, but a bad man perhaps needs all the protection of the court far more than a good man. A weak man needs it far more than a strong man, and provisions have got to be made to see that ultimately, before his citizenship is taken away, he has an opportunity to place his case before the High Court or before the Supreme Court before final orders are passed.

Mr. Chairman: Does not sub-clause (8) of clause 10 say that the Central Government shall not deprive a person of citizenship under that section?

Shri Asoka Mehta: Could it be taken to the court? Is it justiciable? If it is not justiciable, then it is meaningless, because I have conceded already that the Government will try to keep the public good in view. But any Government, after all, is a human Government.

I next come to the concept of commonwealth citizenship. There was a doctrine of common status which had worn very thin because after the Second World War, most of the commonwealth countries adopted their own separate citizenship laws. Therefore, it was only later on that the commonwealth countries met together and the idea of common citizenship arose. All that was agreed to was that no one from the commonwealth countries should be considered an alien. Secondly, it should be possible, by some reciprocal arrangements, to bestow either all or some of the rights of citizenship on persons belonging to other commonwealth countries. Accordingly, the idea of a common clause arose—that in all legislations dealing with citizenship of commonwealth countries, there should be a common clause. Unfortunately, in the legislation that has been adopted on the subject by Pakistan, the common clause is missing, though in Pakistan also, citizens of the commonwealth are not treated as aliens. But there is no

common clause there. I welcome this provision, but I welcome it on condition that the First Schedule is extended. I would not accept the First Schedule as it stands. For instance, I see no reason why a South African should have the opportunity of becoming an Indian national after one year's stay in India. Under the rules that have been framed in the Third Schedule, we find that "he is not a subject or citizen of any country where citizens of India are prevented by law or practice". I do not know whether once we accept this commonwealth citizenship clause, we take into consideration only the law or the practice. The law in South Africa is that Indians can become naturalised, but the practice in South Africa is that Indian citizens will not become the citizens of South Africa. We have to be very clear on this point as far as naturalisation of foreigners is concerned. As far as commonwealth status is concerned, we have included South Africa. After one year's stay in India, a South African can become an Indian citizen. But in practice, no Indian can become a citizen of South Africa. Is this a reciprocity arrangement, and under that arrangement, does it mean that no South African citizen will be permitted to become a citizen of India, or, will the reciprocity arrangements be such that all Indian citizens will be permitted to become citizens of South Africa if they so desire? These are questions that need to be gone into. I feel that while we should move towards a concept of citizenship.....

Pandit G. B. Pant: Is there any room for doubt on that point—that a South African cannot become a citizen of India?

Shri Asoka Mehta: He can be a citizen of India.

Pandit G. B. Pant: He cannot be under sub-clause (a) of the Third Schedule—"that he is not a subject or citizen of any country where citizens of India are prevented by law or practice of that country" etc.

Shri Asoka Mehta: That is for naturalisation.

Pandit G. B. Pant: He can be a citizen only by naturalisation.

Shri Asoka Mehta: He can be a citizen by registration.

Pandit G. B. Pant: The law is clear.

Shri Asoka Mehta: According to Schedule I, a South African can become a citizen of India by registration and not by naturalisation.

Pandit G. B. Pant: Particular countries will be recognised for this purpose. I will explain it later. There is no doubt about it. If there is any doubt, I should be glad to remove it.

Shri Sadhan Gupta (Calcutta South-East): The Third Schedule does not apply to South Africans at all. Therefore, the Third Schedule does not confer on citizens the practice that prevails in South Africa. So, the Third Schedule does not have relevance for the purpose of Commonwealth citizenship.

Shri Asoka Mehta: The last point that I would like to make is about the status of friendly aliens. I find in most countries the law is not complete and is not considered to become complete unless the status of the aliens is also made definite. The British law that was referred to was only the British Nationality and the Status of Aliens Act. In the Canadian Citizenship Act also, part V is devoted to the determination of the status of aliens. We have no law in this country as far as the defining of the status of aliens is concerned. I know that there is an Act called the Foreigners Act of 1946, but that Act deals mainly with entry of foreigners, their casual stay and departure from India. Our Constitution has conferred certain rights upon resident aliens, friendly aliens. They have a certain personal rights; for instance, they can sue and be sued in courts, and they can also hold property, etc. It would be useful if the Joint Committee, while going through the various provisions about defining the citizenship

in India, about the acquisition as well as the termination of Indian citizenship, etc., would also include in the Bill, as is generally done in other countries, a separate section on the status of aliens. If that is done, perhaps technically the Bill will be more complete than it is today. On the whole, it is a good Bill and I welcome it, and I hope that the Joint Committee will carefully consider some of the points that I have tried to place before the House.

Shri C. R. Narasimhan (Krishnagiri): I wish to refer to the principles governing clause 10 of the Bill which is now before us, but I shall do so in a very different context. The constitution guarantees certain fundamental rights to the people and also to the citizens. The citizens are guaranteed, through the directive principles of State policy, a welfare State. While this is so, it must be remembered that the citizens also have certain obligations to fulfil. If they disregard those obligations, naturally the Bill attempts to bring them in appropriate cases within the scope of clause 10 and deal with them suitably. But I want to make a suggestion to the Home Minister. There are certain obligations which the Constitution itself has imposed upon a citizen. My plea is that those obligations should also be protected by including them in clause 10. I refer in particular to Article 18(2) of the Constitution, which says: "No citizen of India shall accept any title from any foreign State." This thing seems to have been put there after a good deal of deliberation. I will just read, with your permission, from a commentary explaining why this has been put in the Constitution. The commentator says:

"This clause prohibits the acceptance of title by any citizen of India from a foreign State, the prohibition being conceived in the interests of the integrity of and to ensure equality amongst the citizens. It is quite possible that a person who is allowed to accept a title from a foreign State may, in addition to being puffed up

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with the honour so as to be disposed to look down upon others who have had not that good fortune, feel so disposed to the foreign power that conferred the title that the allegiance he owes to his own State may run the risk of deterioration. Evidently, the object of the framers of the Constitution is to see that no citizen of India feels beholden to any foreign power for any favour done or benefit conferred. He must be a citizen of India first, last and always with no affiliations or attachments for any reason whatsoever to a power outside the bounds of the Indian Union."

The question, therefore, arises whether there should be any punishment for the infringement of this provision. This was discussed by the Constitution making body and it will be very interesting to see what Dr. Ambedkar says in reply to the points raised therein: with your permission, Sir, I will read an extract from the Constituent Assembly Debates, Volume VII, Page 709 dealing with Article 12 as it then was. Dr. Ambedkar said:

"It would be perfectly open under the Constitution for Parliament under its residuary powers to make a law prescribing what should be done with regard to an individual who does accept a title contrary to the provision of this article....."

Mr. Chairman: How is it relevant?

Shri C. R. Narasimhan: I want to say that the obligation imposed by the Constitution must be respected. In the Bill itself certain offences are laid down as being so serious as to deprive an individual of citizenship. I want to add one more offence to that, namely, infringement of Article 18(2) of the Constitution. Dr. Ambedkar has further said:

"The non-acceptance of a title is a condition of continued citizenship; it is not a right, it is a duty imposed upon the individual

that if he continues to be the citizen of this country, then he must abide by certain conditions; one of the conditions is that he must not accept a title because it would be open for Parliament, when it provides by law as to what should be done to persons who abrogate the provisions of this article, to say that if any person accepts a title contrary to the provisions of this Article, certain penalties may follow. One of the penalties may be that he may lose the right of citizenship..... Certainly it is just commonsense that if the Constitution says that no person shall accept a title, it will be an obligation upon Parliament to see that no citizen shall commit a breach of that provision."

I just want to remind this House and the hon. Home Minister of that. We are aware that in this huge country certain sections of people get frustrated. There are people with morbid ideas as to race, creed, community and such other things; during times of excitement, these people, rightly or wrongly—I believe wrongly—go to the extent of committing sacrilege on sacred things like the emblems of the Union. When such tendencies are there, we must have a provision of this kind. Therefore, I only plead that it should be considered whether breach of that Article should be followed by some kind of punishment in the Citizenship Bill which we are now discussing.

In passing, I would like to say one more thing. Now a days titles are not granted with such generosity by foreign countries, but there are other methods of influencing people such as awarding prizes for certain type of conduct of aliens; and then it is quite possible that such prizes may concern not only cultural or educational matters, but.....

Shri V. F. Nayar (Chirayinkil): Does it include Nobel Prize also?

Shri C. R. Narasimhan: Nobel Prize is not given by the State. I am referring to what could be done by

the State as such. Today one country may offer a prize for one subject; after sometime another country may follow suit and offer a prize for another type of subject. The subject matter may be non-political at one time, but it may also take a political complexion in another time. For instance, peace is a very desirable subject. But it may become a controversial issue and countries can be divided politically over such issues. Therefore, once we look to foreign countries for appreciation of our normal conduct, there is always danger. We must set some standard and we must be true to our country.

Shri V. P. Nayar: What does the hon. Member say about prizes given by the Vatican in the form of medals?

Shri C. R. Narasimhan: I am not actually drafting a Bill and bringing it before the House. What I am doing is just to make a suggestion to the House that a suitable provision may be included in this Bill. I have already said that I am referring to the question of prizes only in passing. I only say that sometimes cash prizes could be much worse than even titles. Therefore, once again I request the Home Minister to consider this matter and suitably advise the Joint Select Committee. This is all I have to say.

Shrimati . . . Renu Chakravarty (Bashirhat): Sir, I regard that this Bill is one of the most important Bills that have been discussed in this House and I do not agree with my friend Mr. Vallatharas when he says that there is nothing to be in a hurry about this Bill, because I think that we are none too early with this Bill for the simple reason that without it children born after 1950 are almost stateless so far as citizenship is concerned.

I feel that, when we discuss this question of citizenship, we must be guided by two principles. One is that it must reflect both our national problems and foreign relations. Secondly, it must also take into consideration certain special circumstances through

which our country is passing or is about to pass. For instance, we must take into consideration the historical circumstances of our country at the moment, as also the political circumstances and economic circumstances. All these three have to be taken into consideration when we discuss a Bill of this kind, and not only a mere look at it from the judicial angle—not merely a citation of the various laws of citizenship passed by other countries. It is important, no doubt, but I think these considerations should be paramount when we draft our Citizenship Bill.

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Now, from the point of view of historical circumstances I feel that it is very important for us to give special thought to the manner in which we are going to give citizenship to those thousands and thousands of people who have come after partition to this country from East Pakistan and West Pakistan and who continue to come. Articles 5 and 6 of the Constitution show that we did give special consideration to them because the constitution-makers at that time rightly felt that we have a special responsibility towards those who have, through the division of the country, suffered such tribulation in the form of having lost their homes, their means of livelihood and having suffered so terribly. Time and again we hear the Prime Minister telling us that we stand by the pledges which we have given to the Princes, the pledges which we have given to the British. It is time, I think, that we reiterate this question about the pledges we made to those whose country has now passed, by division, to Pakistan. At that time I think we felt specially, because in Delhi we saw the problem only of people who came from West Pakistan, that this was a problem which was big, but which was finishing once and for all. But at this moment we find that what people thought at that time when we accepted partition was wrong, viz., that we thought it may be a painful thing, but it would be swift and that it would be done once and for all. But as events have

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happened and circumstances have developed, we see that even today thousands and thousands of people are coming into our country from East Pakistan. This is a point which I want both the hon. Minister who has introduced this Bill and the Members of the Select Committee to consider. For instance, in East Pakistan after 26th January, 1950 some of the biggest riots have taken place. The Barisal riot took place after that date. And this House is very well aware that since then we have had big influxes. Sometimes it has been reduced when the political relations between the two countries have developed better, but again certain things have happened and recently, during the last six or eight months, we have had 18 to 20 thousands people coming through every month.

Now, you may say that they can have the rights of registration, but I want you to consider the thousands of people, ordinary village people, people who are cultivators, some being sent off to Orissa, some to Assam, all spreading right through the country. These refugees are people for whom we should have a special consideration, and I feel that the same consideration, which was given at the time of framing the Constitution when we accepted as citizens (*ipso facto*) those who came from Pakistan before the 26th January, 1950, should be shown to these people. We must accord citizenship to those who have come from East Pakistan, without wanting them to go through the whole process of registration. This is a point which is very necessary, and I hope the Select Committee will give the greatest thought to this matter.

A small case came to my notice recently. There was a lady who wanted to go abroad. She applied for a passport. She was a refugee. She had come here after 1950. Now, she is a regular voter. She is on our voter's lists. Hundreds and thousands of our refugees are on the voter's lists, but they are not going to be citizens of India. These anomalies are there. We have not yet come out saying that we will give them voting rights, but they

have been already registered as voters. So, I feel this question of citizenship must be looked into and a suitable clause inserted in it.

The second big point which I want to make is on the question of this Commonwealth citizenship. My hon. friend Shri Asoka Mehta has welcomed it partially. I oppose it for two reasons. For one thing, what are its antecedents? As my friend, Shri Asoka Mehta, has said, this idea of Commonwealth citizenship appears to have been born in British tunes out of a certain feeling that "British subjects", those who live in the colonies should be guided by a common law. When we refer to the British Nationality Act, we find that there are two terms used: "British subject" and "Commonwealth citizen", which are almost synonymous. Here we want to say this, that we must break with this idea of Commonwealth for the simple reason that our foreign relations are developing not with a view to keeping ourselves only within the grooves in which our British masters kept us. We want relations of reciprocal advantages, mutual benefits and mutual interest. These are terms that have been used in the Panch Shil. These are the principles along which our economic policy is developing. We are having diversification of trade and more and more economic and political relations with other countries. From that point of view I do not see why we should keep to the old idea which was given to us by the British about keeping this Commonwealth citizenship.

I have stated before that our attitude towards this Citizenship Bill must be guided by our political outlook and foreign relations. We stand by anti-colonialism, we stand by anti-imperialism. But if we look at the First Schedule, United Kingdom is shown to mean all the colonies. I think this is a bad remnant, I should say despicable old imperialist remnant that we are again keeping here. We do not give separate identity to colonies like Malaya, Bermuda, British Guiana and all those countries where large numbers of our own people of

Indian origin are already working. We merge them in this idea of the United Kingdom. For instance, tomorrow a country like Malaya, where there has been a big freedom fight going on for so many years, may become free. It may well be that they will declare themselves free, and we hope all of them will become free. If that is so, do we not want that we should be able to include countries which are nearest to us. Asian countries like Malaya and other countries where we have large numbers of Indians, on terms of reciprocal and mutual interest and benefit? Therefore, I feel that this clause should not be kept in this way. Of course, arguments can be brought forward that there is this question of reciprocity. If a country does not give us advantages, then we just do not give them such advantages in our country. The term "reciprocity" is there. Here, we have to see how this works out. For instance, this morning I asked a question about the Central African Federation which is a Commonwealth country. This Central African Federation is making barbaric laws, barbaric discriminations against our nationals, even our High Commissioner. You may say that these are not being made by the British people or the Ministers concerned, but in actuality all this is guided by the Secretary of State. The Secretary of State knows it. He is the man who is in charge of it. There is the Colonial Secretary. How is it that we accept the position that just because it happens to be the Central African Federation, the British have nothing to do with it? The British have definitely something to do with it. They can do something about it. And yet we are going to allow citizens of Great Britain advantages on this point of reciprocity, while they themselves, directly I would say, often indirectly, are helping towards this discrimination. They can if they so desire do away with it. I feel, therefore, that even in regard to this question, we should be much more careful. We have to see who are really responsible, and not straightway give such advantageous terms.

Then, we must have the closest of relations with those who are our neighbours. But in the First Schedule, we do not see Burma at all, because Burma does not belong to the Commonwealth; we have the closest ties with Burma, and yet Burma cannot be included in the First Schedule because it is not included within the Commonwealth. I feel that we must develop terms of reciprocity and the closest relations based on mutual benefit and mutual interest, firstly with those who are our neighbours, and secondly with those countries in which we have large numbers of our nationals. We should not restrict it only to Commonwealth countries, just because we have been guided so long by the British Nationality Act. This is what I want to place before this House, and I hope this point would be tackled by the Joint Committee. We must change this clause in such a manner that our Citizenship Bill reflects our correct political outlook, that it reflects our resolution at Bandung against colonialism, and also that it reflects our policy of friendship with all, on terms of mutual benefit and mutual interest. This is what I want to urge regarding this clause.

Now, there are certain complications which I want to raise, and I would like the hon. Minister to explain, when he replies, whether there is any truth in the following interpretation. It is stated that according to sub-section (2) of section (1) of the British Nationality Act of 1948, the expressions 'Commonwealth citizen' and 'British subject' have the same meaning. And we find, even after the formation of the Republic of India, that there is an Act in the U.K. called the India (Consequential Provisions) Act of 1949. There is a provision in that Act which reads:

"On and after the date of India's becoming a Republic, all existing law, that is to say, all law, which, whether being a rule of law or a provision of an Act of Parliament, or of any other enactment or instrument whatsoever, is in force on that date or has been

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passed or made before that date and come into force thereafter, shall, until provision to the contrary is made by the authority having power to alter that law, and subject to the provisions of sub-section. (3) of this section, have the same operation in relation to India, and to persons and things in any way belonging to or connected with India, as it would have had if India had not become a Republic."

That is the provision there. I seem to have heard the hon. Minister saying this morning that the 1948 Act was repealed. But I find as far as this particular Bill is concerned, that it repeals only the British Nationality and Status of Aliens Acts, 1914 to 1943. But there is this 1949 enactment which seems to say that the 1948 British Nationality Act still governs us. As such, we are rather agitated over this matter; if this still remains on the statute book of England, then in our relations with them, we still remain as "British subjects". I would like this point to be cleared by the hon. Minister. I hope the Joint Committee will go into this entire question, and see that such a thing does not remain.

Coming to clause 7, I want to say that this clause should be redrafted, because I felt that the clause in its present form gives one the feeling that one gets when one reads the British Nationality Act. For instance, when you read that Act, you feel as if the entire Act has been formulated with only imperialistic conceptions of new territories being acquired etc., and of what happens to those citizens, and so on. Here, I would certainly say that territories such as Goa or the French possessions must become part of India; and I would even go beyond what is provided in clause 7 namely:

"...the Central Government may, by order notified in the Official Gazette, specify the persons who shall be citizens of India..."

I would say that as soon as the transfer takes place, and as soon as the foreign pockets become a part of India, *ipso facto*, those citizens must become citizens of India, and there should be no question of their citizenship being subjected to executive action. That is what I would like to say in regard to this matter. But at the same time, I would not like this clause to be formulated in the way that, say, the British Parliament would do, namely by saying that "if any territory become part of India, etc." as if we intend to go out and grab somebody else's territory with that old imperialistic outlook. On the other hand, I would like this clause to be formulated in words that would be much more in keeping with the spirit of our Republic, namely that we do stand against colonialism in any form.

I would like to say now a word about the clause relating to deprivation of citizenship. Here again, I want to say strongly that such a thing as deprivation of citizenship should not be subject to executive action. It is totally wrong, and it should not be there. I would also join my friend Shri Asoka Mehta when he says that this must be something that is justiciable, that a fundamental right cannot be taken away just according to the whims and fancies of a Government that may be in power at a particular time. The committee of enquiry is there, no doubt. But what are the powers that that committee of enquiry has? We would very much like to see that this entire clause is tightened up so that no Government will be able to take away this right or deprive a citizen of his right of citizenship without giving him full right to acquit himself and to have his citizenship protected.

In this connection, I would like to draw special attention to sub-clause 2(b) of clause 10, where disloyalty or disaffection towards Government can also be one of the grounds for deprivation of citizenship right. We know in our political life how everything is turned out into one of these things.

A different political ideology one may have, and immediately you may say, that it is disloyalty or disaffection, and therefore you are going to take away the citizenship right. We know what has happened in a country like America. If you are a communist, then you cannot enjoy all the rights that are enjoyed by a citizen of America. That is what it has boiled down to. We do not want that sort of thing here. We want that the right of citizenship should not be subjected to the whims of executive action.

Then, sub-clause (2) (d) of clause 10 reads:

"that citizen has, within five years after registration or naturalisation, been sentenced in any country to imprisonment for a term of not less than twelve months; or".

I want to have one clarification in regard to this provision. I shall give you one specific instance in this regard. An Indian citizen went to East Pakistan to visit some relations of his and because he had been a political worker here, he has been put into jail there; he is still in jail there, and he has been in prison for more than twelve months now. Now, are you going to take away his citizenship right, because he has been in jail for twelve months there? These are things that you have to consider very seriously, for otherwise, we shall be making a farce of the rights we have granted in the chapter on Fundamental Rights in our Constitution.

There is one other point which I would like the hon. Minister to clarify. I am not very clear about sub-clause (2) (e) of clause 10 which reads:

"that citizen has been ordinarily resident out of India for a continuous period of seven years and during that period, has neither been at any time in the service of a Government in India or of an international organization of which India is a member, nor registered annually in the prescribed manner at an Indian

consulate his intention to retain his citizenship of India".

Does this provision mean that every year, during that seven year period, he has to register? That is the point I want to be cleared. Is he required to register annually during the whole of that seven year period for which he has been away, or is it only after the conclusion of the seven year period that he has to declare whether he wants to retain his Indian citizenship or not? This is a minor point, and I would like the Joint Committee to consider this.

Next, I come to the question of refusal of applications, referred to in clause 14. According to this clause, the granting or the refusal of applications can be made by an act of Government, and they shall not be required to assign any reasons for such grant or refusal. Now, what will the application of this particular provision lead to? For instance, there are hundreds of thousands of refugees who have come to India from East Pakistan. If the Bill comes to be passed in its present form, then it will be open to Government to say, well, we do not accept the application of so and so. I think this sort of provision is a very dangerous one. And not only this, the authority refusing the application is not required to assign, any reasons for the same and further:

"The decision of the prescribed authority or the Central Government on any such application as aforesaid shall be final and shall not be called in question in any court."

I feel that these are two dangerous sub-clauses which have to be gone into very carefully by the Joint Committee.

Lastly, there is the question of the rule-making powers given to Government. I feel that it is right to have such things as forms for registration etc. given to the rule-making powers of the executive but in regard to the cancellation of registration, I feel that that is rather an important matter,

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which should not be left to be provided for under the rule-making powers given to Government. I feel that there should be a separate clause in the Bill itself, specifying under what circumstances there will be cancellation of registration.

In regard to the woman's citizenship, I would like the hon. Minister to tell us one particular thing. Under the clause as formulated, it looks as if renunciation of citizenship by a husband does not automatically mean that the wife loses her citizenship. That is how I interpret it. There is a specific provision in sub-clause (2) of the clause 8 which says that a minor child of that person will lose the citizenship right but that it may regain it under certain circumstances. But as regards the woman's right, i.e. the wife's right, there is nothing said about that. As such, I conclude that the wife retains her Indian citizenship. That, I think, is a correct position, and I think that is a thing that should be allowed. In this particular instance, I welcome this clause.

[MR. DEPUTY-SPEAKER in the Chair]

Sir, I think this Bill raises many complicated questions. It is a question which is linked up with a lot of other matters and this House will have to go into this entire question in very great detail, and I would, therefore, ask the House to apply its deepest thought to it.

Shri S. S. More (Sholapur): I frankly admit that the subject which is covered by this Bill, and the different clauses thereof are a bit difficult to interpret and evolve a clear picture. In order to understand the provisions of this Bill, I have tried to compare it with some of the provisions of the British Nationality Act, and I came to the conclusion that our present measure is almost a sort of carbon copy of the British measure.

Now, I will try first to raise one constitutional point. In clause 2 (c), citizenship and nationality law has

been defined, and the definition runs thus:

"'citizenship or nationality law', in relation to a country specified in the First Schedule, means an enactment of the legislature of that country which, at the request of the government of that country, the Central Government may, by notification in the Official Gazette, have declared to be an enactment making provision for the citizenship or nationality of that country".

I want your very considered guidance in this matter. Will this mean that the moment the notification is issued by the Central Government, the particular enactment of that country, mentioned in the First Schedule, will be automatically part of our law? Because no enactment on the statute-book of this country.....

Pandit G. B. Pant: It does not become part of our law.

Shri S. S. More: That is what I want to have clarified.

Mr. Deputy-Speaker: There may be doubts as to who is a citizen of that country. Therefore, under that law, if he is a citizen....

Shri S. S. More: My submission is this. Here we are trying to develop a double conception of citizenship, citizenship of a country on the basis of nationality and citizenship of a sort of Commonwealth character, which is based on the friendly, fraternal relationship subsisting between certain nations. My submission is that these different countries have enactments of their own and they have conferred rights of citizenship on certain categories of persons. All those persons, for different reasons, who are given the privilege of citizenship by these different countries, will, the moment a notification is issued by this Government—automatically have a sort of

citizenship as mentioned in clause 11 of this Bill. Because clause 11 says:

"Every person who is a citizen of a Commonwealth country, specified in the First Schedule shall, by virtue of that citizenship, have the status of a Commonwealth citizen in India".

So we immediately adopt that. And what are the actual advantages of the status of a Commonwealth citizen in India? That is left undefined in this particular measure. But according to this definition, as I tried to understand it—I shall be corrected by the Home Minister or other Members if I am wrong—the moment a notification is issued by the Central Government, whatever has been passed or whatever has been enacted by these different countries mentioned in the Schedule, shall automatically be given the status of Commonwealth citizenship law here. My submission to you and to this House is that it is the right of this House to confer not only the privilege of citizenship on the different persons residing in this country but confer that right on any other person who is outside India, who is a citizen of a Commonwealth country. A notification by the Central Government cannot, by itself, be said to be the exercise of the sovereign right of legislation, which is the privilege of this House. I should like to get some clarification on that.

Then I come to the merits of this Commonwealth citizenship. Here I would say that this particular clause is almost a verbatim copy of the British Nationality Act, section 1, sub-sections (2) and (3). Let us analyse what are the advantages that we get. How do we stand by either getting this right of Commonwealth citizenship or by conferring this right of citizenship on persons of countries mentioned in the First Schedule? My friend, Shri Asoka Mehta, was pleased to welcome it. He is very generous and catholic in his vision. Unfortunately, I do not possess that sort of catholicity; I am more concerned with material advantages than points of generous

catholicity, which are more philosophical than material. Now, what are the advantages that we get by becoming Commonwealth citizens of Great Britain? I feel that when two or many nations of different industrial development, of different stages of economy development, in different stages of advancement come together, and an industrially advanced country says to the industrially backward country, 'well, we two are brothers; let us share our advantages', then what really happens is that industrially backward country is the sufferer. Take, for instance, the Ottawa Pact. Certain privileges were said to be common both to Great Britain and India, but eventually India being the exporter of raw materials, could not get that advantage which England, as the exporter of manufactured goods, could get. I should like to know from the Home Minister what are the advantages of the status of Commonwealth citizenship.....

Pandit G. B. Pant: There cannot be any Ottawa Pact now. That I can assure him.

Shri S. S. More: But these are our apprehensions. You know, once bitten is twice shy, and I am perfectly entitled to entertain my fears. I may not have the same trust in the *bona fides* of the Britisher as others. But I want to submit these points for the consideration of the House.

What are the advantages? I know that when I become a citizen of India, I get the right of voting, I get the right of offering myself as a candidate for different offices in this country, I get the right of carrying on trade, getting protection and so on. The right of citizenship is a sort of charter for me to do legitimate acts: at the same time, it is a protecting shield which will protect me from certain acts committed by other persons to harm me. But what are the advantages, in concrete terms, if we become citizens of the Commonwealth?

Shri V. G. Deshpande (Guna): Invitation to the Coronation.

Shri S. S. Mere: I want to understand this point not from the point of view of this man or that man, but from the point of view of the common man. What are the reciprocal advantages which the people of Great Britain or Australia are likely to derive by becoming Commonwealth citizens of our country?

Mr. Deputy-Speaker: They can stand for election to Parliament.

Shri S. S. Mere: I doubt it.

Mr. Deputy-Speaker: Can't they?

Shri S. S. Mere: No, Sir. I doubt it. Since you raised this point, I may refer you to article 18 of the Constitution. Article 18 says.....

Mr. Deputy-Speaker: There need not be any digression merely because I have said something.

Shri S. S. Mere: If we scan the fundamental rights, some of the rights of citizenship and some of the other rights will go to even persons who are not citizens, and according to the Constitution, particularly article 18, a person who is not a citizen may hold some office of profit. Some of the offices can be even under the Government of India.

Mr. Deputy-Speaker: The hon. Member may continue on the next day.

The House will now take up Private Members' business.

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COMMITTEE ON PRIVATE MEMBERS' BILLS AND RESOLUTIONS THIRTIETH REPORT

Shri Aitkar (North Satara): I beg to move:

"That this House agrees with the Thirtieth report of the Committee on Private Members' Bills and Resolutions presented to the House on the 26th July, 1955."

I might as well give a brief resume of this report. On the 26th of November 1954, the hon. Speaker made an observation that as the practice ob-

tains now of balloting for everyday of Private Members' Bills, it so happens that the priority is gained by the time of that particular ballot. The time allotted for Private Members' Bills is only two hours and a half. Usually only one Bill is discussed within this time and even though other Members' get priority, that is lost, because the whole list is re-shuffled in the next ballot. What happens is that an hon. Member is not sure whether he will be in a position to get his Bill moved at the time and naturally he does not make much preparation; or, even if he makes preparation, it goes to nothing.

In order to remove all uncertainty which this reshuffling over and over again involves, the hon. Speaker suggested that there should be one ballot for the whole session, and Bills should be taken in the order in which it comes in the ballot. This will enable hon. Members whose Bill have come in the ballot to prepare themselves, as there is very little chance of their preparations going to waste.

When this matter came to be discussed by the committee, it was thought that inasmuch as one month's time is given for Bills and we should have some sort of experience as to how this procedure works, the ballot for Private Members' Bills should be one month; in other words, a single ballot with respect to two consecutive days allotted for Private Members' Bills. The Committee was of the view that in the light of the experience gained, the question of holding a single ballot for an entire session may be considered later on. I am sure the House will agree with this recommendation, as it will remove all uncertainties involved by constant reshuffling.

The other recommendation made is with regard to the lapsing of identical Bills. If a certain Bill is introduced, notice of all other identical Bills on the same subject will lapse. This is due to the fact that if there are a number of Bills on the same subject, and one is moved, the others are simply unnecessarily crowding the list.