

[Shri, Satya Narain Sinha]

7. Supplementary Statement  
No. XXXIII. Third Session,  
1953, of Lok Sabha.

[See Appendix IV, ~~annexure~~  
No. 35].

8. Supplementary Statement  
No. XXXI—Second Session,  
1952 of Lok Sabha.

[See Appendix IV, ~~annexure~~  
No. 36].

### CITIZENSHIP BILL

Mr. Speaker: Before we proceed with the further discussion on the Citizenship Bill, I would like to know the time that will be taken by Government for replying to the discussion on that Bill. The balance of time available is 2 hours and 57 minutes—roughly, three hours.

The Deputy Minister of Home Affairs (Shri Datar): About one hour.

Mr. Speaker: That means there are two hours available for the further discussion of the Bill now.

The House will now proceed with the further consideration of the Bill moved by Pandit G. B. Pant on the 8th August, 1955, along with the amendment to the motion for reference to the Joint Committee. I think Shri Veeraswamy was on his legs yesterday.

Shri Veeraswamy (Mayuram—Reserved—Sch. Castes): Yesterday in my speech I suggested to the House that there must be better and more congenial relationship between the commonwealth countries. I proceeded to refer to the lot of our Indians in Ceylon who constitute about ten lakhs of the Ceylon population. The House knows that the majority of the people of Indian origin in Ceylon are Tamilians and so I wish to draw the attention of the Government to their sufferings and miseries and request the Government to take a serious note of their sufferings in Ceylon and try

to bring them here and treat them as citizens of India and give them all possible help to rehabilitate themselves, as the Government has been doing in the case of displaced persons from East and West Pakistan.

The next point I want to refer to is the South African problem. Indians in South Africa have been discriminated against by the South African Government. This is a burning problem and this has been before us for the past several years. If our relationship with Britain and other commonwealth countries has not been able to make those countries prevail upon South Africa and stop this discriminatory policy, what will our relationship with the commonwealth countries mean in the future?

[MR. DEPUTY-SPEAKER in the Chair]

In this connection what I want to suggest is that the commonwealth countries should take keen interest in the welfare of the people of Indian origin in other commonwealth countries and see that they are not ill-treated there. So, I go a step further in suggesting to create a commonwealth council consisting of representatives of the various commonwealth countries so that they may discuss the problems of the people of the commonwealth countries and see that the people of one country living in another country are not badly treated or are not discriminated against.

I strongly support the suggestion of my hon. friend Shri S. S. More. Shri S. S. More enunciated Panch Shila citizenship to all those countries which have accepted the principles of Panch Shila enunciated by our Prime Minister. The whole world knows that the acceptance of Panch Shila principles by countries like Burma, China, Russia, Yugoslavia and some other countries has created a better and more cordial atmosphere than hitherto in the east, and this constitutes a stronger and more permanent foundation for the

establishment of peace not only in the east but also in the whole world. In Panch Shila citizenship will do, I am sure more good to humanity in general and to the countries of the east in particular. So, it is a suggestion which must be given very serious consideration by the Government, and if it is considered by the Government and if such a citizenship is instituted, I am sure peace will be more permanent than now.

I welcome clause 10 because it is a saving clause. It deprives the citizenship of persons who may be disloyal to our country. It deals with such deprivation of citizenship because the country cannot entirely rely upon those persons who become citizens of India by registration or by naturalisation or by descent. But people need not fear that those who are born in this country and who are citizens of this country by birth will be deprived of their citizenship. Nobody under the sun can deprive any person who has become a citizen of this country by birth, of his citizenship. However, sub-clause (d) of clause 10(2) I think, unnecessary, because it states that any person has been sentenced in any country to imprisonment for a term of not less than twelve months within five years after registration or naturalisation, he will lose his citizenship. But if a person gets lesser punishment and that after five years of registration of his citizenship, he will be allowed to remain as a citizen of India. I require a clarification on this point.

With regard to section (2) of clause 4, I register my protest, because it takes away the right of a citizen to go to a court of law and secure judgment on a decision of the Government terminating the Indian citizenship. This clause interferes with the right of citizen. He must be given full freedom to go to a court of law and see that any action taken by the Government is not improper.

I also oppose section (1) of clause 4 which enables a person born outside India to become a citizen of India by

decent in the male line. In these days of fight for freedom and rights to women—fight not only by women but also by men—I do not understand why citizenship should be given to a child only in the male line. If the mother of that child happens to be a citizen of India, the child cannot get citizenship. So this clause must be removed from the Bill.

Regarding citizenship by incorporation of territory, I want to know what would become of the people of Pondicherry and other erstwhile French pockets in India. It has been incorporated in India now *de facto*, but I think that when it becomes part and parcel of Indian territory *de jure*, they will also become Indian citizens.

I have got a doubt with regard to section (2) of clause 1 which says that the child that is born in a ship or aircraft will be deemed to have been born in that place where that ship or aircraft has been registered. So, I understand that that child will acquire the citizenship of that country where the ship or aircraft has been registered. If a woman belonging to India goes to Britain in a ship and gives birth to a child, according to this clause, that child will become a citizen of Britain. Does it mean this? I want a clarification on this point also.

I do not have other points to deal with and I conclude my speech by asking my hon. friend sitting on the other side that if Periyar Ramaswami, who was a close associate of Mahatma Gandhi for more than ten years, who was the President of the Tamil Nad Congress Committee and who was also the Secretary of the Tamil Nad Congress and Secretary of the Village Industries Association and who felled hundreds of coconut trees when Mahatma Gandhi resorted to satyagraha before toddy shops can be deprived of his citizenship because of his protest against Hindi. I pose a question: who else can be the citizen of this country? I also want to remind him.....

**Mr. Deputy-Speaker:** Yesterday I said that all this is irrelevant. Once again the hon. Member has started like this. I think he may conclude now.

**Shri Venkateswamy:** I would just remind my friend on the other side of what Tiruvalluvar says about what ought not to be said in a big assembly like this Parliament:

*Vagayarinthu pallavai vey Sorar  
Sollin Thopayorintha thoomaiyavar.*

**Shri Frank Anthony (Nominated—Anglo-Indians):** This is not only a welcome measure, but is also a long overdue measure. I do not think any of my hon. friends in this House realises that citizenship is only provided for in the Constitution for those who are born before the commencement of the Constitution. We have this anomalous position that the children of the Members of this House born after the 26th January, 1950 are without any citizenship rights.

I am going to deal briefly with some of the provisions and I hope they will be duly considered by the Home Ministry and also by the Joint Committee. The definition of the word 'person' in the interpretation clause 2 (1) (f) is very necessary. It says, "person" does not include a body of individuals. There has been some conflicting opinion as to whether the word 'person' so far as citizenship is concerned applies both to a natural and jurisdic person. I am glad that this matter has been standardised; because it might well have been argued by some persons that since the Constitution is governed from the point of view of the interpretation of the definition of 'person' in the General Clauses Act, namely, person includes both natural and jurisdic person, certain foreign corporations also have citizenship rights in this country. I am glad about the clarification.

I particularly welcome clause 8. This clause deals with the renunciation of citizenship and it requires that before an Indian citizen can renounce his citizenship and become a citizen

of another country, he must make a declaration in the prescribed manner renouncing his citizenship and that declaration shall be registered by the prescribed authority. My reading of this clause 8 is that no Indian citizen, although he may be deemed to have acquired foreign citizenship, shall be deemed to have renounced his Indian citizenship until he first makes a declaration and then it should be registered. I would like the matter to be made absolutely crystal clear, because it may still be the subject of certain conflicting interpretation. That is my reading and if it is correct, I think it should be put beyond all doubt that no citizen of India, although he might have already acquired foreign citizenship, shall be able to renounce his Indian citizenship unless he first makes a declaration and that declaration is registered. My reasons will become more clear when I come to clause 9 and I would request the particular attention of the Deputy Home Minister to my observations on clause 9. I feel that clause 9(1) is a rather unnecessary innovation and a limitation on clause 8. What does clause 9(1) purport to do? It says:

"Any citizen of India who by naturalisation registration or otherwise voluntarily acquires, or has before the commencement of this Act voluntarily acquired, the citizenship of another country shall, upon such acquisition, or, as the case may be, such commencement, cease to be a citizen of India."

I feel that clause 9(1) means this: As soon as a person voluntarily acquires the citizenship of a foreign country, he automatically ceases to be an Indian citizen. That, to my mind, is a negation of the principle in clause 8. Clause 8 requires that before an Indian citizen can renounce his Indian citizenship, even though he might have voluntarily acquired the citizenship of a foreign country, he must do two things. He has first to make a declaration and that declaration shall have to be registered. But

nder clause 9(1), if before the commencement of this Act any Indian citizen has merely voluntarily renounced his Indian citizenship, ipso facto he is deemed to have ceased to be an Indian citizen. I have a very special reason why clause 9(1) should be carefully considered and deleted. It shall illustrate not only the anomalies, but also the dangers that may arise by specific reference to what has happened with regard to the members of my own community. I know it may be said that an Act should always be prospective. But, so far as citizenship is concerned, we have, for some reason or another, left a vacuum. We have had no citizenship law. We could have had a citizenship law from immediately after Independence. That is why I am asking that clause should also be retrospective. If clause 8 is made retrospective, clause 9(1) becomes unnecessary.

What happened immediately after independence? I am only giving an example. The British authorities opened a U. K. citizenship register in this country and they allowed almost any person to register as a U. K. citizen: not only persons who have never been to England, but people whose parents, grand parents or great grand parents have never seen England; perhaps they have vaguely heard about it and knew its geographical position vaguely. If they merely wrote a letter to the U. K. authorities saying, I am an Anglo-Indian, they were automatically registered as U. K. citizens. It was not a question of colour. You may be white, brown, black or blue-black. You merely write a letter and indiscriminately the U. K. authorities will put you down as a citizen of the U. K. I must mention with regret that to some extent I blame the British authorities. A condition precedent to citizenship must be that these people had never been born in the U. K.; nor their parents or grand parents nor great grand parents. There must be some predication of domicile; there was no domicile. As I said, the conditions were unsettled in the country, not

only politically but psychologically. There was an impetus given and in the uncertain conditions, some members of my community from motives of sheer ignorance, not having the slightest appreciation of the implications, registered because this register was thrown open. They did not know that they would stand in danger of losing their Indian citizenship. They thought that the U. K. citizenship had a special charm. I do not know what it is. As soon as I heard this, I clarified the position and I stopped this kind of indiscriminate registration. As I said, the idea was rooted that if you register as a U. K. citizen, if any trouble happened to a member of the minority community, all the resources of the declining empire would immediately be pressed into service to rescue somebody in some out-of-the-way place in India. Many people had no idea of leaving this country. They were registered as U. K. citizens. Some, on the other hand, have done it advisedly.

The position now is this. Unless the Government say that no one can renounce citizenship except by a declaration and registration which are the conditions prescribed in clause 8, which are the conditions unfortunately struck down in clause 9(1), it means that people who were employed in this country as Indian citizens are today, without the knowledge of the Government, foreigners. That is the actual position. The Government do not know how many of these people were registered as U. K. citizens. The U. K. citizenship register is shrouded in complete secrecy. Nowhere you get any information about that. It has not happened. I know, with regard to the members of my community in the armed services. They were not so stupid or ignorant as to do this. But, I have been informed that two members of my community who are in the highest civil positions, have registered as U. K. citizens. If tomorrow the Government say, we shall conscript all government servants, these people may

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very well turn round and say, no, in section 9(1) you have allowed me voluntarily to renounce my citizenship, I may purport to work as Indian citizen, I am registered as a U. K. citizen and as such, I am no longer an Indian citizen. That is the anomalous position that would be created if clause 9(1) is left there. How do we know that Pakistan did not, like the British authorities, open a secret register saying that any Muslim in this country could register and become a Pakistani citizen? We do not know. That is why I say that clause 9(1) is not only a gratuitous clause, but it is a dangerous clause. The Government will not know which of the people, employed originally as Indian citizens, continuing ostensibly to work as Indian citizens, have *sub rosa* secretly changed their citizenship. Under clause 9(1) they are permitted to do that. If clause 8 is left there, it means that no person, even though he may have purported to have changed his citizenship, will be deemed to have changed his citizenship *qua* the Government unless he makes a declaration and that declaration is registered.

**Shri S. V. Ramaswamy:** (Salem): May I know how any law that is passed elsewhere is binding on us? We are a sovereign Republic.

**Shri Frank Anthony:** I am not submitting that what they may have done is something which we can intervene in. What I am suggesting is this. Clause 9(1), up till this Act comes into operation, allows any Indian citizen, merely by voluntarily renouncing his Indian citizenship, to be deemed to have renounced his Indian citizenship. The act may have been *sub rosa*. If it is voluntary, he immediately sheds all his obligations. Whether one would stoop to do that is a different matter. But, immediately he sheds all the obligations of a government servant as an Indian citizen. I shall show this when I come to the penal clause. Government have no way of ascertaining. There are not many such persons. Government are

acting under the impression that they are Indian citizens. They are continuing to get their promotions as Indian citizens. I am told that one member of my community—I say this with the greatest regret,—is holding the highest civil position because Government think that he is an Indian citizen. They take the declaration that they are Anglo-Indians and they assume that they are Indians. He may even declare that he is an Indian. How are the Government to verify the declaration? He knows,—I know,—that some of the U.K. authorities have told, you can make any declaration you like, we are not going to disclose the fact that you are registered as a U. K. citizen. He may continue to make a false declaration. There is no way of checking it. That is why I say that clause 8 should be there and clause 9(1) should be deleted. If person has been an Indian citizen, he may purport voluntarily to have acquired a foreign citizenship, but the Government will not accept that renunciation of citizenship unless the conditions prescribed in clause 8 are fulfilled.

So far as clause 10 is concerned, it deals with deprivation of citizenship of those who have acquired it by registration or naturalisation. I appreciate the need, for security reasons, for the Government to be invested with powers of deprivation. This only applies to those who have acquired citizenship rights by registration or naturalisation. Still, I feel that even for those who have acquired citizenship by these artificial processes so to speak, citizenship is a fundamental right. I think it is the most fundamental of all fundamental rights. If a man is deprived of his citizenship, then, legally he has no reason to be alive. Because of that, I feel that some qualification or amendment of some of the provisions of clause 10 is necessary.

Clause 10 (2) (b) says.

"that citizen has shown himself by act or speech to be disloyal

or disaffected towards the Government established by law."

It is not a question of gratuitous criticism. We know that in all these matters, Government are usually guided by the reports of the police officials. I say with regret,—I do not say it happens in all cases—that cases have come to my notice where the police officials animated by petty motives, sometimes by deliberate motives of hostility, have made false reports against persons who are absolutely innocent of any political activities, suggesting that they have been guilty of disloyalty or disaffection to the Government. And I also know that very often these false reports by the police have been accepted at their face value by the Government. There is no way of Government verifying it, and because of that I feel that it would be dangerous to leave it entirely to the subjective satisfaction of the Government as is being done in 10(3) and deprive this class of citizen of his citizenship status. It may well happen that in some small place some person has fallen foul with the police, and the local investigating officer or the sub-inspector may submit a series of false reports questioning this person's loyalty to the State. Because of that under clause 10(3) the Government, if it is satisfied subjectively, can terminate that person's citizenship in the interests of public good. I feel that clause 10(3) will have to be qualified. I feel that it should not be left to the subjective satisfaction of the Central Government to terminate the citizenship of any Indian, even if that citizenship has been acquired by naturalisation or registration. And I say that for a very definite reason. I know that the courts will not intervene where this phrase "subjective satisfaction" is brought in. They will not look at the satisfaction of the Government. That satisfaction may be baseless, it may be *mala fide* and yet a person can be deprived of citizenship rights under clause 10(3) merely because the Government says: "We are satisfied". I feel that some

objective process will have to be introduced; it cannot be left to the subjective satisfaction of the Government. I appreciate that Government may not in the interests of security be able to disclose all the reasons for wanting to terminate a person's citizenship, but there may be a saving clause that it may be done for reasonable grounds provided that the Government need not disclose grounds the disclosure of which it considers to be against the public interest. But to leave a vital matter of this sort like deprivation of citizenship entirely to the subjective satisfaction of the Government is, I feel, unsatisfactory.

I also feel that in clause 10(3) this omnibus phrase "public good" should not be there. "Public good" is a phrase which is at large, which can be made to include almost any allocation. I feel that this vital right of citizenship is sought to be taken away by this phrase. The phrase "in the interests of the security of the State" which has accepted and recognised legal connotations should be introduced in clause 10(3). "Public good" is much too large a phrase which can be,—might be,—abused. It is a phrase which has almost blanket coverage something which might lead to considerations of an irresponsible character for depriving a person of his citizenship.

I welcome clauses 11 and 12 dealing with Commonwealth citizenship. I know that some of my hon. friends, on this side particularly, have boggled at it because they seek to look at this expression with unreasoning if not blind prejudice. But I feel and I agree with Shri More that not only Commonwealth citizenship, but even an extension of this concept is a definite move in the right direction. After all, under the British Nationality Act people from this country have been given certain limited benefits as Commonwealth citizens. Why should we because of some unreasoning political prejudice, seek to gratuitously deprive our people of those few benefits? As I have said

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I am all in favour of Shri More's suggestion of extending this concept to cover not only the Commonwealth countries, but the countries which have subscribed to Panch Shila.

In this connection, I would like to ask the hon. Home Minister—he is here—to consider this. I feel that citizenship should not be taken away from anyone except by a judicial process and except for very, very substantial reasons. I know that this Influx from Pakistan Control Act was an emergent measure, but I do not know whether Members of this House realise—and this is an interpretation which has been upheld by the courts—that by purely executive action, purely arbitrary executive action any Indian citizen can be refused—an Indian citizen, I am not talking of a Pakistani—an entry permit into this country. That means in effect that purporting to act under this measure any executive authority can completely arbitrarily terminate or determine an Indian's rights of citizenship. He merely says: "I refuse to grant you an entry permit". Therefore, when we are dealing with clause 10, with the powers of the Central Government, with the powers of the executive to terminate citizenship, I feel that we should bring it within the purview of judicial process, or we should impose some safeguards to make it if not a judicial process, at any rate, a process which is of an objective character, a process which can be subjected to judicial scrutiny, not a process which can be left entirely to the discretion of the executive.

Then I want a provision added to clause 16. Clause 16 is the penal clause, but it punishes only a false declaration made under this Act. I feel that that is not sufficient. I have already given one example of members of my community who may be required to make a declaration in some form. They have registered as U. K. citizens. They may say "Anglo-Indian". There may not be a nationality column in the declaration and Government

presumes they are Indians. There may even be a nationality column. They will deliberately, falsely put "Indian". There is no way of checking it up because Government will not have access to the U. K. Citizenship Register, and that official declaration by a Government servant, because it does not come within the purview of this Act, will not be visitable with a punishment prescribed by this Act.

Then, I will give another example. I do not know whether the Home Minister is aware that I had asked and I think it was partly because of my insistence on this matter that my friend Shri T. T. Krishnamachari began to require foreign firms in this country to submit their lists of employees, Indians and foreigners. I know that many of these firms are deliberately submitting false lists. I know that many of these firms are showing in the Indian quota members of my community who are registered as U. K. citizens, whom they know are not Indian citizens. I want to stop this, because in every community you will get misguided people. Most of these people—a small number—who registered as U. K. citizens did it naturally from motives of ignorance. Some few have done it advisedly. I say that if a person wants to renounce his citizenship here let him do it. Not only that. The sooner you leave the country the better. The country does not need you. We do not need you. If you feel that this is not your country, the sooner you leave it the better. But what happens? Those people are allowed to cheat in two ways. By registering as United Kingdom citizens they get all the benefits given to foreigners. Yet, when the lists are submitted to Government, they take their share in the Indian quota. They are shutting out Indians from their quota which has been fixed by convention and to which the foreign firms are supposed to subscribe. I believe the foreign firms say that they are employing up to about 50 per cent. of Indians, but

that is being evaded in many firms. I do not want to name them, but I can give the names of these firms to the Minister, if he so chooses, later on. I know that these people are employed as United Kingdom citizens and get all the benefits, and then, in order falsely to inflate the Indian quota, they put them down as Indians. That is why so far as this penal clause is concerned, I am suggesting a further provision. I do not mind if a person goes to a hotel and registers himself there falsely, but where any declaration is required for special purposes, I say that any one who makes a declaration falsely or causes it to be made should be liable to be affected by this penal clause.

**बीबती कबरी, जिला मजिस्ट्रेट (जिला गढ़वाल—परिषद व जिला टिहरी गढ़वाल व जिला बिबती—उत्तर) :** मुझे इस नागरिकता विधेयक पर यह कहना है कि किसी भारतीय व्यक्ति को नागरिक बनाने व छीनने का अधिकार सरकार के हाथ में नहीं होना चाहिए। इससे कुछ पञ्जाबी या मुट् कर्मचारियों द्वारा अन्याय किये जाने का भय है। अतः आवश्यकता पड़ने पर उन्हें अधिकार न्यायालयों द्वारा जांच जाने चाहिए।

प्रत्येक भारतीय को न्यायालयों अथवा सुप्रीम कोर्ट की हरण, मोटेपहन, मिसली चाहिए नहीं। जो उसके नागरिक अधिकार छीने जाने पर वह मूिम सम्पत्ति इत्यादि सब कुछ लौ बैठेगा।

प्रत्येक भारतीय को चाहे वह कहीं भी बन्ना उभा रहता हो, उसके माता पिता भारतीय हों, जो उसे भारतीय नागरिकता का बन्नीपद अधिकार होना चाहिए जिससे उसे रीबस्ट्रेशन इत्यादि करने की जरूरत न पड़े और उसका यह अधिकार छीना न जाना चाहिए। हां अगर किसी कारण से वह भारतीय सिटिजन न रहना चाहे तो वह बदल सकता है।

हमारी जनसंख्या अन्य देशों के अनुपात में बहुत अधिक बढ़ रही है। अमेरिका यूरोप आदि देश, रंगमंद के कारण, भारतीयों को नागरिकता के अधिकार नहीं देते। श्री संका, बर्मा इत्यादि

देशों में भारतीयों की क्या दशा हो रही है, यह किसी से छिपा नहीं है। हमारे लिए पाकिस्तान का नागरिक बनना असम्भव है जब कि एक पाकिस्तानी आसानी से भारतीय नागरिक बन सकता है, अतः हमें विपरीतियों को नागरिकता के अधिकार बहुत कम या उसी मात्रा में देने चाहिये जितने उन अन्य देशों में भारतीयों को मिलते हों, नहीं तो भारतीयों का न भारत में स्थान रहेगा न अन्य देशों में मिलेगा।

मेरे विचार से दोहरी नागरिकता (दुएक सिटिजनशिप) भी कहीं कारणों से उचित नहीं है। जैसे यदि कोई अपने देश का नागरिक होने के अतिरिक्त किसी अन्य देश का भी नागरिक होगा, उन दो देशों में यदि युद्ध छिड़ गया तो जो देश उसकी बन्नीपम नहीं है वहां वह बंदी बना दिया जायेगा। बंदी बनने के बाद वह अपने देश की सेवा नहीं कर सकेगा, उसमें बाधा आयेगी और दूसरे यह भी नहीं सोच पायेगा कि वह किस देश की तरफदारी करे, तरफदारी तो वह अपने देश की करेगा। हेग कन्वेंशन की भी यही राय थी कि एक आदमी की एक ही नैशनैलिटी होनी चाहिए, दो नहीं होनी चाहिए। धारा ६ के अन्तर्गत एक विदेशी कः भी दोहरी नागरिकता का अधिकार नहीं मिलना चाहिये, जब कि एक भारतीय को नहीं मिलता। यदि एक विदेशी भारतीय नागरिक बनना चाहे तो उसे अन्य देश की नागरिकता छोड़ देनी चाहिए। अतः धारा ६ में स्थान से भारतीयों के लिए साम्प्रद नहीं है, क्योंकि भारतीयों को अन्य देशों में बचने में बाधा आयेगी।

धारा ६ की पहली उपधारा के साथ एक और उपधारा स्पष्टीकरण के लिए जोड़ देनी चाहिये कि जो भारत में स्वयम् बन्ना हो या जिसके पूर्व बन्ने हों, उसे किसी भी स्थिति में भारतीय नागरिकता से अलग न किया जाय, नहीं तो वह कहीं का भी न रह पायेगा, केवल जब वह नागरिकता छोड़ना चाहे तभी अलग हो।

भारत के गाँजा जैसे भागों की बनता को उस स्थान विशेष के स्वतन्त्र होते ही सहज स्वाभाविक ही भारतीय नागरिक समझा जाना चाहिये, एक



[श्रीमती कमलेशु माधव शाह]

कमलेशु की नगरिका का चुनाव उसकी हक पर निर्भर होना चाहिए।

कमलेशु को भी इस विषयक का समर्थन करनी है।

Shri Mukhsand Dube (Farrukhabad Distt.—North): The only condition and the only qualification which I think is necessary for the acquisition or grant of citizenship rights should be allegiance or loyalty. But it appears to me that the least attention has been paid to this aspect of the question in the present Bill. This Bill seems to have been cast on the model of the British Nationality Act of 1948. But in doing so, the provisions of our Constitution seem to have been given the go-by.

Due importance, I think, has not been given to the condition of allegiance or loyalty to the country and to the State. The question, however, arises as to what are the criteria by which loyalty or allegiance should be judged. That has been laid down in the Constitution itself. I would refer you to article 9 of the Constitution which says:

"At the commencement of this Constitution, every person who has his domicile in the territory of India and—

- (a) who was born in the territory of India; or
- (b) either of whose parents was born in the territory of India; or
- (c) who has been ordinarily resident in the territory of India for not less than five years immediately preceding such commencement.

shall be a citizen of India."

Therefore, mere decent or mere naturalisation or any of these things singly was not sufficient to confer on a person the right of citizenship. What was necessary was that a person

should have a domicile in the territory of India. I submit that domicile is the test of allegiance or loyalty. If a person has his hearth and home in a particular country, the probability is—and it may be assumed to be true—that that man will be loyal to that country and owe allegiance to that country in which he has his domicile. But if a person has his domicile elsewhere, then the mere accident of birth, the mere fact that he happens to be born in this country, or the mere fact that he may happen to reside in this country or even the mere fact that he may be the descendant of a person residing in this country should not be sufficient to grant him the rights of citizenship. It is only domicile, which is the criterion of allegiance or loyalty that should be sufficient to give him that right.

But the framers of this Bill while drafting it have been more concerned with the British Nationality Act of 1948 rather than with the Constitution of India. They have not given due attention to the Constitution in which the main condition laid down is the principle of domicile. According to this Bill, citizenship can be acquired in four ways, by birth, by descent, by registration and by naturalisation. But the condition of domicile is not attached either to birth or to descent, or near to registration or to naturalisation.

My submission is that it should be a condition precedent for all these cases. The hon. the Home Minister, in initiating the debate, clearly stated that it should not be treated as a party measure, and he expected the House to amend the Bill and to improve it so that it might become perfect. It may be that there has been emigration on a large scale from Pakistan—both the eastern side and the western side. Many of them have been squeezed out of the country to which they belong. Now, the question however, arises whether these persons have or have not their domicile

in eastern or western Pakistan. My submission is that if they have left their hearths and homes in circumstances in which they were compelled to leave them, they may, at some future time, like to go back to their own country where they have their property, where they have their homes and other things. I am perfectly agreeable to granting them rights of citizenship, but then a provision or an exception should be made in their favour, and the rule of domicile may, in appropriate cases, to a certain extent, be relaxed; but the principle of domicile should have the same importance as has been given to it by the Constitution. I think also that there should be a different class of persons—those who are mere residents and who have not acquired the right of citizenship. 'Residence' and 'citizenship' have been distinguished. There are decisions of the Supreme Court, and other courts also, where it has been said that mere residence for however long a period does not confer the right of citizenship. Citizenship is a special right which can be conferred only in special circumstances and on certain conditions being fulfilled:

Something has been said about the rights and obligations of the citizens of this country. My submission is that the rights and obligations of the citizens of this country are contained in the fundamental rights chapter of the Constitution, as also in the chapter on directive principles of State policy. Both these chapters clearly say that there are certain rights which are available to persons and there are certain other rights which are available to citizens. As pointed out by other hon. speakers, there should be two classes of citizens: those by naturalisation and registration and those by birth and descent. That is all I have to say.

सरकार इच्छामय विधि (फाइनल—सिरसा) :  
यू जो बिल इस वक्त जाया है वह हिन्दुस्तान  
। लोगों को इक सहरारयत देने के लिये है  
। लिये में इस बिल का स्वागत करता हूँ ।

इस में सब से पहली बात तो यह होगी कि जो लोग पाकिस्तान से आयेगे, उन को इस बात के लिये कुछ अर्से के दौरान में अपने आप को रजिस्टर कराना होगा। जिस वक्त तक वह अपने को रजिस्टर नहीं करवायेगे, उस वक्त तक उन्हें शहरी टुकड़ नहीं मिल सकेंगे। आप जानते हैं कि इस क्साब से वह लोग जो लाहौर की तादाद में सन् १९५० के बाद जाये हैं वह बड़ी सुरिक्स में पड़े जायेंगे, अगर उन का रजिस्ट्रेशन उसी ढंग से चला जिस ढंग से बमीनों के क्लेम लिये गये और इतने आदमी वैसे ही रह गये। आप वह भी जानते हैं कि शहरों की जायदादों के क्लेम लिये गये, फिर भी क्यूँ आदमी रह गये। वह लोग अपने को रजिस्टर नहीं करा सके क्योंकि उन में से बहुत से ऐसे हैं जो कि जनपद हैं, बहुत से ऐसे हैं जो ला को समझते नहीं हैं। इसलिये में आशा करता हूँ कि कुछ अर्से के लिये, कम से कम दस साल के लिये जो पाकिस्तान से आयेगे उन को रजिस्ट्रेशन करवाने की जरूरत नहीं होगी। क्योंकि अगर आप इस ढंग से इस कानून को लागू करींगे तो यह अगले मार्च तक तो लागू होगा, उस के बाद अगले एलेक्शन कुछ दिनों में आ जायेंगे। क्या आप वह समझते हैं कि इतने अर्से के दौरान में सब लोग अपने को रजिस्टर करा कर बाकायदा तौर पर वोट बन सकेंगे? मुझे तो यह नामुमकिन मान्य होता है।

दूसरी बात यह है कि हिन्दुस्तान के वह लोग जो दूसरे देशों में जा कर बस गये हैं उन को इस बिल के मुताबिक शहरी टुकड़ मिल सकते हैं। बशर्ते कि वह अपने आप को रजिस्टर करावे हिन्दुस्तान में जाने के बाद।

में समझता हूँ कि चार किस्म के लोग हैं। एक तो वह हैं जो कामनवेल्थ कंट्रीज में हैं, दूसरे वह लोग हैं जो उन मुल्कों में हैं जो कि आजाद मुल्क हैं, लेकिन वह कामनवेल्थ में शामिल नहीं हैं और जो शहरी टुकड़ कामनवेल्थ के लोगों को मिलते हैं वह उन को इस बिल के क्साब के मुताबिक नहीं मिल सकते हैं। कुछ वह मुल्क हैं जहां इमारत मुल्क के और खास कर इमारत खर्च के लोग

[उत्तर इत्थान पिय]

गये हैं, और जो कि डिफ़िनेट कंट्री हैं या ट्रस्ट कंट्री हैं, वहाँ न हिन्दुस्तान का कोई कंसुलेट हैं न कोई सीधा जालुज हैं या नावा हैं। कुछ वर मुक्त हैं जो कि न जावत हैं और न ट्रस्ट टैरिटर्री हैं, बरिक्त वर दूसरों के कब्जे में हैं। वहाँ पर हिन्दुस्तानियों के क्या हुक्क हैं वर अभी तक मान्य नहीं हो सका हैं क्योंकि उन इंसों के कानून आर पिन बरतते रहते हैं। अभी एक कानून बना बिच के मुताबिक कुछ जसों के लिये उन्में कुछ हुक्क मिले, लेकिन कुछ जसों के बाव दूसरी पार्टी उन इंसों में आई और उस ने उन हुक्क को बावत करने का बतल किया। ऐसे मुक्त अब भी मौजूद हैं। आप बतते हैं कि साउथ अफ्रीका में क्या हो रहा हैं, आप बत रहे हैं कि इस्ट अफ्रीका में क्या हो रहा हैं, इस्ट इंडीज में क्या हो रहा हैं। उन जगहों पर और कुछ दूसर ऐसे मुक्तों में वहाँ पर कि हिन्दुस्तानी गये हैं वहाँ बतल किया का रहा हैं कि किसी ढंग से उन्में सही सवरी हुक्क न मिल सकें। लेकिन आप ने इस बिल में बतला हैं कि अगर किसी माइनर या नाचालिग का बाव किसी और इंस का सवरी बन बाव तो उसे हिन्दुस्तान का सवरी होने का हक नहीं होगा। आप वर जानते हैं कि कनाडा के कानून में क्या हैं। कनाडा के कानून के मुताबिक अगर कोई कनाडा में जा कर रहे और वर अपने लकके को १४ साल या १८ साल की उम्र से पहले वहाँ न ले जा लके तो उस के बाव उस के लकके के वहाँ जाने पर उस को कनाडा के सवरी के हुक्क नहीं मिलते हैं। आप के कानून के मुताबिक अगर बाव को किसी और इंस के सवरी के हुक्क मिलते हैं तो लकके को हिन्दुस्तान के हुक्क नहीं मिल सकते हैं। कनाडा में लकके को हुक्क इसलिये नहीं मिलते कि वर १४ साल की उम्र के पहले कनाडा नहीं गया। आप के वहाँ उस को हुक्क इसलिये नहीं मिलते कि उस का बाव कनाडा का सवरी करार दिया गया हैं। इस के साथ ही हिन्दुस्तान की बहुत सी औरतें ऐसी हैं विन्धोने जा कर दूसर इंसों के आरमियों के साथ करार कर लेती हैं, उन के

औताद हुए। लेकिन आप वर भी जानते हैं कि उन इंसों में कौसे हाताव हैं, किस किस के कानून हैं। एक वर कानून हैं जो कि सिर्फ बच्चे लोग या बिन का औरिबिन पोर से हैं उन के लिये हैं। बाकी लोगों के लिये मुल्तानिक कानून हैं। जो काले किस के लोग हैं अफ्रीका और दूसर इंसों के लोग हैं उन के लिये मुल्तानिक कानून हैं, वर गुलामों की तरह से हैं। जब एरिया और एरिया के पड़ोसी इंसों के लोगों के लिये मुल्तानिक कानून हैं। उन के लिये मुल्तानिक सवरी हुक्क हैं। अगर आप के कानून के मुताबिक कोई हिन्दुस्तानी औरत इसी इंस में किसी अफ्रीका के रहने वाले अंगूब के साथ शादी कर लेती हैं तो साउथ अफ्रीका के कानून के मुताबिक उस अंगूब को भी साउथ अफ्रीका के सवरी हुक्क से महकूम रहना पड़ता हैं। आप जानते हैं कि इस कानून के मुताबिक उसे हिन्दुस्तान का सवरी करार नहीं पिया जा सकता हैं और साउथ अफ्रीका में भी वर नहीं रह सकता हैं, न उस को सेटलमेंट कानून के मुताबिक कोई हुक्क मिल सकते हैं।

इसलिये इन सब बातों को बतते हुए मैं बारा करता हूँ कि इस बिल को और तिस्राहक किया जायेगा ताकि जो डिफ़िनेट हैं, जो ऐसी सीधे हो, बिन का अगर सास और से बाहर गए हुए लोगों पर, बिन के मुल्तानिक बचालाव हैं, पड़ता हैं, सास और से वर अपनी विन्धोने दूसर इंसों में सादियों की हैं, उन को दुस्तद कर के बाहर गये हुए लोगों के हुक्क को महकूम करने की कोशिश की जायेगी। जब हम जावत होने के बाव आहिस्ता आहिस्ता वर भी सोचते हैं वर हमारी सवरीबत के हुक्क हैं, वर लकके हैं और पासत हैं। अगर हमारे वासियों के लिये, जो कि गैर हिन्दुस्तानी हैं, बावत हुक्क नहीं हैं तो हम आगे कानून बना सकते हैं, लेकिन मैं वर समझता हूँ कि बिच इंस के आरमियों की मुल्तानिक समझाये हैं, बिच इंस के आरमियों के मूँठ के मूँठ दूसर इंसों की सरकारों के नीचे रहते हैं, उन के लिये मुल्तानिक कानून होंगे ही, लेकिन उन में से बहुत सी सरकारें ऐसी भी

हैं बिन का मुद्दा यह है कि हिन्दुस्तानियों को किसी तरीके से और किसी बरिये से उन के हक के महत्त्व दिया जाय, अगर उन के लिये हम अपने देश के कानूनों को इतना रीस्ट्रिक्ट करते हैं बिना से कि हिन्दुस्तान में भी उन के हक की रक्षाशील न हो सके तो यह उन के साथ अन्याय होगा।

1 P.M.

इस के साथ ही मैं यह समझता हूँ कि कामगरेज कट्टीव के जताया भी ऐसे देश हैं जो ट्रस्ट टैरिटरिय हैं या डिपेंडेंट हैं, कुछ ऐसे देश भी हैं जहाँ हिन्दुस्तानी गये हैं। सीकन वहाँ पर आज हमारा कोई कान्सलेट भी नहीं है और न हमारा डिप्लोमीटिक ताल्लुकाट ही उन देशों के साथ है। आज अगर उन मुल्कों में जो हिन्दुस्तानी जा कर बस गए हैं उन्हें रिजिस्टर कराने में कोई तकलीफ हो यह वहाँ के कानून के मुताबिक वहाँ पर अपने आप को रिजिस्टर कराने में कोई तकलीफ हो तो मैं समझता हूँ कि इस चीज को दूर कर दिया जाना चाहिये। मिसाल के लिए मैं कहता हूँ कि इटली के सुमाली लैंड में बहुत से पंजाब के लोग जा कर बस गए हैं। आज सुमाली लैंड रबोसीनिया के नीचे है और आप के एबीसीनिया के साथ रसीपोक्स बीसस पर शहरी हक के गत में कोई मुयहादा नहीं हुआ है और न ही वहाँ पर आप का कोई कान्सलेट ही कायम है। मैं समझता हूँ अगर किसी बचह से जो लोग वहाँ गए हैं वे उन के कानून के मुताबिक अपने आप को रिजिस्टर नहीं करवा सकते और आप भी यह कहते हैं कि एक साल में अगर उन्होंने अपने आप को हिन्दुस्तान के कानून के मुताबिक रिजिस्टर नहीं करवाया तो उन को हिन्दुस्तान की शहरिषत के हक नहीं मिल सकेंगे तो मैं एज्जा हूँ कि उन बंधारों का क्या बनेगा और उन को कितनी तकलीफ होगी। इस लिए मैं धारणा करता हूँ कि इस कानून को उन लोगों के बार्त में जो कि हिन्दुस्तान छोड़ कर दूसरे मुल्कों में चले गए हैं बिना क्यादा अप्रिमाह्व किया जा सकता है कर दिया जाय।

काका साहब ने वहाँ कहा कि पाकिस्तान को छोड़ कर जो भाई हिन्दुस्तान जा रहे हैं उन के बार्त में हमें सोचना पड़ेगा कि क्या हम उन को हिन्दुस्तान के शहरी हक दते चले जायें। उन का ख्याल है कि हमें उन को शहरी हक नहीं देने चाहिये। मैं उन के इस बिचार से मुताबिक नहीं हूँ। मैं समझता हूँ कि जब तक हिन्दुस्तान और पाकिस्तान के आपसी ताल्लुकाट ऐसे हैं जैसे कि आज हम देख रहे हैं और जैसी आज पाकिस्तान की अन्दरूनी हालत है वैसी ही रही तो उस वक्त तक हिन्दुस्तान में आने वालों के लिए किसी किसम की पाबन्दी शहरी हक के बार्त में अगर आप तगायेगे तो मैं समझता हूँ यह ठीक नहीं होगा। मैं कहना चाहता हूँ कि ये वे लोग हैं जिन्होंने कि हिन्दुस्तान की आजादी के लिए बहुत भारी कुर्बानी की है और आज ये लोग उस देश में रह रहे हैं जिस देश के कि ताल्लुकाट हमारे देश के साथ दोस्ताना नहीं है। हम यह भी देखते हैं कि जो लोग पाकिस्तान में आज रह रहे हैं वे अपने आप को सिक्खार फिल नहीं करते और साथ ही साथ जो पाकिस्तान की आर्थिक अवस्था है वह भी कोई अच्छी नहीं है। इस वास्त में समझता हूँ कि पाकिस्तान से जब भी लोग इधर आयें, बशर्ते कि वह इस नुकतेनजर से आयें कि वे हिन्दुस्तान को अपना घर बनाना चाहते हैं तो उसी दिने से उन को पूर्ण शहरी हक मिलने चाहिये। मैं समझता हूँ अगर आप उन को शहरी हक देने में कोई पाबन्दी लगाते हैं तो आप उन के साथ एक तरह से बेइन्साफी करते हैं।

इस सिरे में आशा करता हूँ कि इस कानून को जो कि सिलेक्ट कमेटी के पास जा रहा है काफी सिप्ताह्व कर दिया जायेगा खास तौर पर उन आदिमियों के लिए जो हिन्दुस्तान से दूसरे देशों में चले गये हैं और वहाँ पर हमारे कान्सलेट इत्यादि नहीं है या कोई डिप्लोमीटिक ताल्लुकाट नहीं है और वहाँ पर हिन्दुस्तानियों को अपने आप को रिजिस्टर करवाना मुश्किल है। मैं खास तौर पर उन के बार्त में कहना चाहता हूँ जो कि माह्नर हैं, बिन के आप को तो उस देश

### [संस्कृत इच्छाका विषय]

के सहरी इच्छाका विषय में जो केंद्रन उन को कभी एक नहीं मिले और न विचारने वाले हैं कोई प्राधिकरण इस विषय में कर दिया जाय केंद्र उन को वहाँ के सहरी इच्छाका विचार करने । मैं क्लेश कर रहा हूँ कि विचारके केंद्रों इस काम में त्वरणीयता कर के इस को कभी विचारके कर ईनी ।

Shri M. D. Joshi (Bastnagiri South): We are considering a very important measure which is going to be sent to a Joint Committee for further consideration. As pointed out by some hon. Members, we must consider what should attach to the idea of citizenship. What we find in this Bill—is that it is the principle which is generally accepted by the world, namely, that a person is given dual citizenship. The idea of dual citizenship has come to be accepted as an idea not repugnant to the requirements of citizenship.

However, the question deserves careful examination. In the Belgian Act of Citizenship it is required that a person or a legitimate child born even in a foreign country of a father having the status of a Belgian subject will have the citizenship of Belgium. It will be found that in Belgium this citizenship is acquired by birth provided the person is born of Belgian parents. In our Bill, however, merely birth on the soil of India gives the right of citizenship to anyone. As pointed out by my hon. friend, Shri Mulchand Dube, citizenship is a right which should not be acquired haphazardly, somehow or other, merely by birth. At least a condition should be attached, namely, that a person should be born of Indian parents in order to be a citizen of India.

Secondly, as regards naturalisation, the condition laid down in the Belgian Act for naturalisation also deserves consideration. It is said in article 12 of their Act that to obtain full naturalisation it is necessary for a person to have completed the 25th year of his life and then to have habi-

tually resided for at least 10 years in Belgium; the period of ten years will be reduced to 5 years in the case of a foreigner married to a woman of Belgian extraction. Some such condition should be attached in our Bill to naturalisation. Naturalisation for citizenship should not be made very easy

It has been said that we have been very liberal in framing this Bill. Sir, I know that we have to be liberal because India has come to occupy a place in the community of world States which is peculiar. Especially today India has acquired a high status in international politics and, therefore, when we legislate for the status of citizenship for our people, we must not seem to be narrow-minded, to be obsessed by ideas or what obtained in the past but we must be as liberal as possible. Granting all that, however, I think, we have been over-liberal in this Bill. I think that some such condition should be attached to the birth of child, namely, that he should be born of Indian parents and secondly some condition for naturalisation should be there.

Citizenship should imply some kind of reciprocity. We are ready to confer citizenship on anybody and everybody provided he satisfies certain conditions. But, what are other people doing? A citizen of India will be a Commonwealth citizen in the countries mentioned in the First Schedule. And, citizens of those countries mentioned in the First Schedule will be Commonwealth citizens in India. It would seem that this double status or this additional status would bring some advantage to us or to the citizens of those other countries. I, however, think that experience points otherwise. What is our experience? Take, for instance, the case of Commonwealth countries such as South Africa and Ceylon. What is our experience in South Africa? South Africa does not extend to us the same kind of honourable citizenship or honourable treat-

ment as is available to their own subjects or their own citizens. Here, in India, we are according good treatment to other people, aliens, to people who are intolerant or who are not charitable enough and who do not recognise us as equal to their own citizens; we are prepared to extend to them cordial treatment, while our own nationals are being treated as pariahs. Apartheid is the rule in South Africa. This ought to be taken into consideration and the mere sight of liberalisation should not carry us in a wrong direction.

Under the British Nationality Act, any person who is a citizen of one of the nations mentioned in sub-section 3) of section 1 of that Act, would be automatically a British subject. Now the converse of this is not true. We are extending the status of a Commonwealth citizen to any of the countries who are members of the Commonwealth. Formerly, before the Act of 1948 was enacted in England, England was an empire. It was the British Empire and not Commonwealth. Out of considerations of policy, they have shed the name 'Empire', and taken on the name 'Commonwealth'—or even the British Commonwealth of Nations. But the mental background of England is that all citizens belonging to all the nations mentioned in sub-section (3) of section 1 of that Act will be British subjects. But the converse is not true, namely, that a person born in England or a British subject does not become an Indian subject because we are inspired by a spirit of imperialism. We are merely extending to others the same status which is obtainable to a citizen born in India, to an Indian citizen. What the Englishmen are doing is that they are extending to us a British citizenship—a British subjectship, the idea being—it is their idea, not ours—that we are, as formerly, members of a nation although they do not and do not openly say so. I shall mention a very curious case which occurred in respect of a citizen of Ireland. A man named Murray was born in Ireland in 1908, went to England,

stayed there for the purpose of business, and by the British Nationality Act he was both a subject of Eire, that is, Ireland, which became a free State in 1922, and also a subject of Britain. The result was that in 1941, in World War II, he was called upon to submit himself to a medical examination for being enlisted in the army. He protested and said "I am a member of a free State; I am not subject to British laws; I am subject to the laws of Eire; which is a free State". But his protest was not allowed. He was hauled up before a court of law, prosecuted, convicted and sentenced to a payment of fine. He went up to the appeal court who rejected his contention and held that in spite of the fact that Ireland was a free country, there was nothing to show in the English laws or statutes that Ireland was not a dominion of England. A very strange case! If an Indian tomorrow, who stays in England for 10 or 15 years, in the hypothetical case of a declaration of war by England on some other country, is called upon to enlist himself in the British army, and if he then says 'no', I do not know what will happen in a court of law in England and what view will be taken there.

**Shri Heda (Nizamabad):** There is the India Act.

**Shri M. D. Joshi:** I am merely referring to the mental background of England, the English law-givers and the English courts of law. We must not be merely carried away by the idea that we are enacting a very liberal Act or a very novel piece of legislation and that we are giving to our citizens not merely Indian citizenship but Commonwealth citizenship and citizenship of the U. K. A citizenship of the U. K. would be a gain if the U. K. Government do stand by our side when any injustice is being done to us. What is the case today? South Africa is flouting all legal codes and international codes and the U. K. and all these nations mentioned in the First Schedule are saying not a word and lifting not a finger. I do not

[Shri M. D. Joshi]

know whether this charity on our part or this liberality on our part is a sign of our strength or a sign of our weakness. Liberalism is both a sign of strength and weakness. Provide our strength is respected,—generosity is a merit. A great poet has said:

अमर्षस्यैव वनस्पतौ न वारुणावर्षे न  
विद्विषावरा।

The man who is devoid of anger against injustice does not inspire either love in his friends or fear in his enemies. Therefore, we must remember that when we are legislating a measure which goes far to give a certain status to our nationals, there must be reciprocity. We must be sure that our nationals are treated with respect by other Commonwealth countries.

उद्वेगवद् वशीभवः : काम एव शोध एव  
राजगुणसमुद्भवः।

Anger is based on rajo guna.

Shri M. D. Joshi: Indian philosophy is full of sayings which seem contradictory and inconsistent with each other.

Mr. Deputy-Speaker: One is philosophy; the other is a practical thing.

Shri M. D. Joshi: I shall refer only to one thing and I shall have done. In the Third Schedule, the qualifications for naturalisation are given—sub-clause (a) states:

"That he is not a subject or citizen of any country where citizens of India are prevented by law or practice of that country from becoming subjects or citizens of that country by naturalisation;"

That means that this condition does not apply to citizens of countries mentioned in the First Schedule; it would seem that the countries mentioned in the First Schedule observe all the moral codes imposed by international law, which is not a fact. Therefore,

as I said, there must be strict reciprocity. A person or a citizen of another country should be shown as much courtesy as that country will show to our citizens. Robbers and thieves who have run away from India have become honourable citizens in some other parts of the world. I need not mention names, but a robber who was wanted in India has been given the status of an honourable citizen and has married in Pakistan. That is well-known. Now, an honourable citizen of another country which is a Commonwealth country becomes an honourable citizen on a par with our own citizens even though he has been wanted as a criminal in India. This state of things is not very commendable and therefore there must be some such provision in our Citizenship Bill so that such things will be prevented. Of course, there is provision for deprivation of citizenship but no penal provision is attached to it. There should be some penal provision by which a person who is deprived of citizenship will not easily run away with it especially when he tries to enter India.

Then, I fail to see the force of clause 18. Clause 18(1) says:

"The British Nationality and status of Aliens Acts, 1914 to 1943, are hereby repealed in their application to India."

I do not know whether all the British Acts are applicable to us, but here only those Acts between 1914 to 1943 are repealed. I find in the British Nationality Act of 1948 that these Acts are already repealed. For example, the Act of 1914 is repealed; the Act of 1918 is fully repealed; the Act of 1922 is wholly repealed; the Act of 1933 is wholly repealed and the Act of 1943 is wholly repealed. Only some sections of the 1914 Act remain. Now, are we to conclude that all those Acts have been applicable to us even though they have been repealed in England? Therefore, this clause, I think, makes no meaning and deserves to be omitted.

As regards the definitions it is said in clause 2(1) (f) "person" does not include a body of individuals. I think this is meant to exclude corporations or companies etc., although corporations, companies and even ships have got a nationality. But, that is as far as nationality is concerned and not citizenship. I think that persons belonging to corporations etc., are not covered by this and it should be made clear.

**Shri B. K. Das (Contai):** Sir, yesterday there was considerable discussion about the problem of citizenship of the displaced persons in our country. Without repeating the arguments that were advanced in that behalf I desire to make some concrete suggestions in this respect.

We have seen in our previous laws that a definition has been given to 'displaced persons'. I consider that it is necessary to have such a definition in this law also. We have accepted a definition and, I think, that definition should be put down here.

Now, it is said that for the sake of completing or having our electoral roll for the next election ready by the 31st March, 1956, it should be known who are our nationals on the 1st of March, 1956. In the Election Law also it is put down that every year on the 1st of March the electoral roll should be revised. As it is, 1st of March every year is the qualifying date and during the qualifying period—that is, one year preceding that date—180 days' residence is necessary for one to be a voter provided he fulfils the qualification of age. I do not see what difficulty there is if all the displaced persons who will be coming six months before the date of 1st March, 1956 are enlisted as citizens of India. The date may be fixed as 30th August or 15th August, 1955—I do not mind. But, if all those who will be coming by that date—either it be 15th August, 1955 or 30th August, 1955—will be qualified by their six months' residence here to be enlisted as voters on the 1st March, 1956, there will be no difficulty.

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According to the Bill that is before us the displaced persons require to be registered under clause 5. Apart from other things that have been put forward I consider this an impracticable proposition. A displaced person, when he will be applying, has got to prove that he is of Indian origin. He has got to prove that he has come from Pakistan. Some time back we had no migration certificate. All the displaced persons have not been registered as refugees. Many displaced persons have just crossed the border and are not in our registers either as registered refugees or as having migration certificates. If all these displaced persons have got to prove that they were born in Pakistan and they are here for an year, what proof will be necessary? What evidence will be necessary? It may be that by affidavit or some such method they will have to prove the truth of their contention. This is for lakhs of people and people who are living in miserable conditions. It will be very difficult for them to get themselves registered so that they may get the benefit of being citizens of India by the 1st of March, 1956 and in order to enable them to be enlisted as voters. We find today that these persons are being given many benefits and, as Pandit Thakur Das Bhargava pointed out yesterday, we have spent Rs. 250 crores for these people. They are *de facto* our citizens. What difficulty can there be if, without registration, these people are accepted as Indian citizens before a certain date? If that date be fixed for 15th August, 1955, and all those who have come by that date be admitted to the citizenship, I do not find any difficulty and it may be put down that only those who will be coming after such a date with migration certificate as is being done now or are being registered as refugees will be admitted to our citizenship and those who do not have that certificate—either the migration certificate or refugee certificate—will have to register themselves. I can understand that that is a practical and reasonable proposition. So from a



[Shri B. K. Das]

practical point of view I think that these displaced persons ought to be taken automatically as citizens if they have arrived before a fixed date, preferably, before the 15th August, 1955, or 30th August, 1955.

There is another category of persons who I think also require some consideration. I am speaking of the abducted persons who have been recovered and have been restored to their homes. I do not think that these persons also—their number may not be very large—are in such a condition that they cannot be automatically taken as our citizens. Practically, they are being treated as our citizens, but only it will remain on paper that they are not our citizens so long as they are not registered as our citizens. These abducted persons are in our register somewhere. We know them; we have rescued them; we know their identity and they have been restored to their families, or if any of them have not returned, they are in our homes or at least in some place where we know that they are living. I think these persons should also be admitted to our citizenship automatically. There is a provision in article 7 of the Constitution that the returning Muslim migrants, that is, the Muslims who migrated from India and returned with permits for permanent residence here, were allowed to come here. I do not know whether they will have again to go through the process of registration, because, for the time being, as the article says, they were not recognised and they were not to be treated as our citizens as soon as they migrated. But when they came with a permit for settlement or permanent return issued by or under the authority of law, they were treated as persons coming under article 6(b) (ii). If some of them have not been registered, I think some consideration should be shown to them also.

There may be another category of persons for whom also some thought should be given. We know in the

past there were revolutionaries who went away from this country. Some members of their families are abroad and they may return to this country and would also like to have the citizenship of our country. There is a process of naturalisation and also a process of registration. In the naturalisation clause it has been provided that any condition may be waived by order of the Government. If they fall under clause 5 which deals with citizenship by registration, I think there should be some provision made for them so that the conditions may be waived in their case, because under clause 17 there will be some conditions attached to each kind of registration. If some of those people come under clause 5(1) (a) or any other sub-clause under clause 5, then also, different conditions are to be attached to them as they fall under different categories. I think there should be some clause added to these provisions so that the conditions may be waived in their case and they may be admitted to our citizenship with honour and dignity. I have especially in my mind the case of the wife and daughter of Netaji Subhash Chandra Bose. Supposing they return to this country, special care should be taken to see that they may be admitted to our citizenship with honour and dignity.

A question was raised about the termination of citizenship and deprivation of citizenship. In the case of those whose citizenship is terminated, or who are deprived of their citizenship, what will happen to their minor children? If such a person chooses to go away from this country after termination or deprivation of citizenship and his minor children—even may be a minor wife because a Hindu can marry a girl under 18—also go away from this country, what will happen to them? There is no provision in clause 9 or 10 from which we can ascertain definitely as to what will happen in such cases? In section 23 of the Australian Act, there is such a provision regarding this aspect. I

think this matter should also be looked into.

**Shri N. B. Muniswamy (Wandish):** At the outset I must congratulate the Minister for having sponsored this Bill though this Bill was long. Our statutes will be missing an important link if this Bill has not been introduced and which is reaching its end of the consideration stage. I would say that we have almost reached even the stage of stalemate in the discussion of this Bill, for Hon'ble Members have touched all the points readable and so many suggestions have been given. When the motion for consideration was made, the hon. Minister of Home Affairs gave us a description of all the aspects of citizenship, how they are being acquired by birth, by descent, by naturalisation and by registration. I thought actually that this Bill would collapse because it was so easy but after having heard the speeches of Members who had given many suggestions about this Bill, I thought that it raised some difficulties and complications also.

I do not propose to go into all the points raised by Members on the various questions, but let me come to one or two points which, I hope, will not be considered as an infliction on the hon. Minister by way of repetition. I propose to deal with a few points, so that they may be taken into consideration by the Joint Committee. On a second reading of this Bill, it is found that there are other categories of citizenship by naturalisation, registration, etc. I do not know whether these are placed in the same category as citizenship by birth or by descent. For example, suppose an Englishman comes and settles here for some time; if he satisfies the necessary qualifications and if he were to be registered as a citizen of India, I would like to know whether he will have the same rights as a citizen by birth, whether he can stand for election, whether he would represent the popular voice etc. These difficulties are there. I am aware that in the final stages of the Constituent

Assembly, some of the Englishmen who were here as Members of the Assembly were not allowed to contest even for the election and they were not given the right to exercise their votes. I have got many doubts. I want to know whether citizenship by naturalisation or registration have different merits and connotations with separate distinct features of their own, or whether they would be placed in the same category as citizenship by birth. These aspects have to be cleared.

In clause 4 reference is made to persons born outside India as well as persons born out of undivided India. I do not clearly understand this terminology. Person born outside India may mean any person born in Pakistan, Burma or any foreign country; and person born out of undivided India would naturally mean a person born out of Pakistan, out of Burma etc. What are the real imports of the terms "outside India" and "out of undivided India"? This has to be cleared because it presents some difficulty, namely, whether they really mean one and the same thing or two distinct things. Also, in clause 4 only citizenship by descent in the male line is provided. I wish to suggest that there should be no discrimination against females and both may be placed on equal footing, because that may later on present some difficulty.

Clause 8 says:

"If any citizen of India of full age and capacity, who is also a citizen or national of another country makes in the prescribed manner a declaration renouncing his Indian citizenship, the declaration shall be registered by the prescribed authority; and upon such registration, that person shall cease to be a citizen of India;"

I quite understand the significance of this, namely, for a man to renounce his Indian citizenship, he must necessarily also be a citizen of a foreign country. But it looks as

(Shri N. E. Munsiwamy)

Though before renouncing his citizenship he must necessarily be also a citizen or national of another country. Therefore, dual citizenship must be the condition before he can renounce the citizenship of India. I am unable to understand why that condition is put in there.

Shri Asoka Mehta (Bhandara): So that he may not be stateless.

Shri N. E. Munsiwamy: There is another thing also here. The moment he declares that he is no more a citizen of India, his minor son (post facto) becomes stateless. There is here a proviso which says:

"Provided that any such child may, within one year after attaining full age, make a declaration that he wishes to resume Indian citizenship and shall thereupon again become a citizen of India."

Mr. Deputy-Speaker: He automatically becomes a citizen of the other country.

Shri N. E. Munsiwamy: I know; but for purposes of resumption whenever a child wants to resume the original citizenship of the country in which it was born, one year is the period prescribed from the date of attaining majority. What I wish to insist is that no time-limit should be put so far as the child is concerned, because it does not know to which nationality it belongs. How could the child know that its father changed its citizenship when it was a minor child? I say that this time limit of one year after attaining full age should not be put here. Or else, you may say, one year after attaining the knowledge that his father renounced his citizenship. Otherwise, it looks as if the child is presumed to have known that his father has given the declaration of renunciation of his citizenship. Therefore I suggest instead of saying one year after attaining full age, we may say, one year after attaining that knowledge.

As regards termination of citizenship, clause 9(1) says:

"Any citizen of India who by naturalisation, registration or otherwise voluntarily acquires, or has before the commencement of this Act voluntarily acquired the citizenship of another country, shall, upon such acquisition or, as the case may be, such commencement, cease to be a citizen of India."

Here it presents some difficulty, because it says that—

"If any question arises as to whether, when or how any person has acquired the citizenship of another country, it shall be determined by such authority, in such manner and having regard to such rules of evidence, as may be prescribed in this behalf."

What I say is that instead of allowing the rule-making authority to decide all this, it is better that some incling is given in the Act itself as to whether, when or how any person has acquired the citizenship of another country, voluntarily or otherwise. Some salient features may be given in the Act itself instead of leaving the whole thing to the rule-making authority.

As regards deprivation of citizenship, it is said:

"A citizen of India who is such by registration or by naturalisation or by virtue of clause (c) of article 8 of the Constitution shall cease to be a citizen of India if he is deprived of that citizenship by an order of the Central Government under this section.....

(b) that citizen has shown himself by act or speech to be disloyal or disaffected towards the Government established by law, in India."

This portion of the clause is, according to me, pernicious. This clause does not speak of citizenship by birth; it only speaks of citizenship by registration or naturalisation. Whether any person born in India and who has acquired citizenship by

erth may be deprived of his citizenship under clause 10 (2) (b) is not quite clear; because here only citizenship by registration and naturalisation is mentioned. Therefore, if it is not made applicable to Indian citizens by birth, it should be stated that any act of theirs would be dealt with separately. Therefore, it should be made clear whether this would include also persons who have acquired citizenship of India by birth.

**Mr. Deputy-Speaker:** It excludes persons who have acquired citizenship by birth.

**Shri N. E. Muniswamy:** I want that to be clearly stated. Yesterday there was some discussion between Shri Muniswamy and Shri Veeraswamy. The former was under the impression that persons born in India who have acquired citizenship by birth also could be deprived of the citizenship at a moment they do some act which is disloyal or disaffected towards the Government of the country.

It clearly excludes that aspect.

**Mr. Deputy-Speaker:** They will be deprived of their liberty.

**Shri N. E. Muniswamy:** Certainly, they will be punished suitably by a separate provision of law.

**Shri U. M. Trivedi (Chittor):** They may be severely punished; but they should not be deprived of citizenship.

**Shri N. E. Muniswamy:** Exactly, that is my point. Otherwise, there would be any misunderstanding between one Hon. Member and another Hon. Member. After all, an Hon. Barister Member of 24 years' standing at the bar would not have made the mistake. That is why I want to have that doubt cleared.

As regards the offences which have been noted here in clause 16, I wish to make some observations. In the course relating to rule-making I find it is said:

"...the Central Government may provide that a breach thereof

shall be punishable with fine which may extend to one thousand rupees."

I do not find this corresponding provision in the main clause 16. It mentions about imprisonment which may extend to six months or fine or both. I do not find this sum of Rs. 1,000 in clause 16. In the rule-making clause, imprisonment has been excluded, I think if it is provided that this provision will be read with the other clause, probably it may mean imprisonment plus fine of one thousand rupees. It should be made clear. It may lead to difficulties later on. I suggest that this may be taken note of for consideration at the time of the Joint Select Committee.

It is said that all rules made under this section shall, as soon as may be after they are made, be laid before both Houses of Parliament. Instead of simply placing the rules that have been framed by the Government before both Houses of Parliament, it is better if they are approved by both the Houses, with suitable amendments and alterations suggested by the Hon'ble Members. Because, I find in almost all cases the rules framed are more stringent than the provisions of the main Act. Therefore, it is always better, instead of giving such a large blank cheque to the Government to make rules, which may in all probability, be derogatory to the main provisions of the Act, if the rules are discussed in both the Houses and approved by both the Houses. Then, they will be regular rules and they may be adopted by the Government.

A lot has been said about executive orders. Any order that may be passed so far as citizenship is concerned, should be made justiciable. I can understand the difficulties in this. I know that a party which runs the Government meets with difficulties. But, to meet the difficulties with executive orders is not fair. They should always be able to face the court and whatever order is passed should be justiciable. Otherwise, it

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would appear as if they may deprive anybody of his citizenship where he comes under any of the four or five categories which have been mentioned here. They may do anything with regard to registration or naturalisation. As regards citizenship by birth or descent they are more sacred. These cannot be dealt with by executive order.

In the naturalisation clause I find that the person must possess good character and that his citizenship should be conducive to public good. I do not know how to produce a certificate, or from which person it should be produced. Who is the authority to say that a man is of good character. This looks nice for all practical purposes. In actual administration of the clause, it would be difficult to know whether a certificate is genuine or not. The only thing that can be shown is that it is not conducive to the public good. That has been stressed very much in clause 10. That may be a very salutary provision which will suffice for all purposes.

Oath of allegiance is prescribed only to two sets of people: persons who are allowed to become citizens by registration or naturalisation. The rest are not required to take the oath of allegiance. I insist that so far as citizenship by descent also is concerned, the oath of allegiance should be administered to them because they are in a different country altogether. It is better that the same thing is extended to them though not to citizens by birth.

Some Hon. Members rose—

Mr. Deputy-Speaker: I wanted to call upon the hon. Minister at 2 o'clock. There are only five minutes more. If any hon. Member says that he will finish in 4 minutes, I can call him.

Shri Akhkar (North Satara): I shall finish in 10 minutes.

Mr. Deputy-Speaker: No. The hon. Minister.

The Minister of Home Affairs (Pandit G. B. Pant): This motion for reference of the Citizenship Bill to a Joint Select Committee has been under discussion for three days. Its importance has been recognised by all who have spoken on this matter. I should, if you will permit me, like to congratulate the House on the high level at which this debate has been maintained throughout. Hon. Members who have spoken have taken considerable pains and I have been impressed by the sincerity of their opinion. They have approached the subject in a rational manner and treated the ticklish issues which arise out of this Bill objectively, free from any bias or prejudice. I have, in fact, listened to the speeches not only with interest, but also with profit. All the points that have been raised here will certainly receive full consideration at the hands of the Members of the Joint Committee. I doubt if it will be possible for me to cover the ground fully. I must, however, make it clear that my mind will remain open to the end. Whatever may be the remarks I may make now with a view to elucidate and explain the provisions of the Bill, I shall be prepared for reasonable amendments so that the declaration that I made at the beginning that we should try to improve the measure and make it as perfect as we can may be realised.

Before I deal with the criticisms and comments that have been made, I have to refer to the motion for circulation which has been made by one of the hon. Members. He, for the most time, roamed over tangled morass and had little to say in support of the motion itself. He has had little backing in the House either. I might point out that the draft Bill was referred to the States before it was finalised by the Government. It was introduced in April. Several months have passed by since. The Joint Committee will have still several months at its disposal as the report is to be submitted on or before the 15th of November. So, the Joint

Committee will certainly be pleased to receive suggestions that the Members of the House who are not in the Joint Committee or others who are outside may choose to make. This measure has already been delayed for reasons which I had mentioned while moving the initial motion. There is pressing urgency at least on one account. The displaced persons who have arrived after the commencement of the Constitution have not yet been registered and their status has to be formally recognised before the next elections so that they may not be deprived of the valued privilege of taking part in the general elections. So, I hope that motion will not be pressed.

The Bill deals with a basic problem. It naturally deserves very careful consideration. The criticisms that have been made fall under different categories. It will not perhaps be possible to touch upon even the main points, but I shall try to refer to some of the questions which have been mooted in this House with sufficient vigour.

The first and foremost of these, I think, concerns the idea relating to the citizenship of the Commonwealth. It is no more than an idea, as I said. In fact, Commonwealth citizenship only indicates, I believe, the urge for a wider fellowship of nations. Apart from that it has not got much significance. It does not in any case impose any liabilities or obligations on us. The misunderstanding in this connection has to be removed and the misapprehensions allayed. Hon. Members might refer to clause 2(b) of the Bill—that is an important clause—and to clause (c) which is still more important. Clause 2(c) says:

“‘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;”

We have clauses 11 and 12 dealing with this subject and there is also the provision in clause 5 about registration of the citizens of a country specified in the First Schedule. Hon. Members will see that the only thing that concerns any Commonwealth country here is the provision for registration of a citizen of a Commonwealth country. The mere fact that a country is mentioned in the Schedule does not give any right, if it be called a right, or any opportunity to any person to apply for registration. He must be recognised as a citizen by us, by India, of that particular country. Before such a stage can be reached, the condition that is laid down in clause 2(c) should be fulfilled, i.e., the Government of India should declare that a particular enactment that has been passed by the legislature of that particular country is recognised by it. So long as the citizenship law of any country is not recognised by the Government of India and it does not issue a notification in the Official Gazette to that effect, that country does not possess any existence in the eyes of this Act. The Members of this House have been naturally concerned, and I think to some extent perturbed, by the idea that perhaps the South African Boer may be able to seek registration. That is not possible. It was not possible even in the olden days. Hon. Members may be remembering that even under the Naturalisation Act of 1926 this course was not open to them. Then we had the Reciprocity Act under which too this was not possible. But now you will see that unless and until you recognise the citizenship law of South Africa no citizen of that country can come here and seek registration, and such a declaration can be made only at the instance and on the request of the Government of South Africa. Even the Government of South Africa, I think, will not have the brazen audacity and impertinence to apply for such a declaration here. After all that they have done for the harassment and humiliation of our people,

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they cannot possibly muster courage to apply, but even if they do so, of course such an application will never be granted. So, until and unless such a declaration has been made, the fact that a country is a Commonwealth country, or a citizen is a Commonwealth citizen of a Commonwealth country, is immaterial and has no relevancy in law. So, there should be no worry about that.

**Shri Asoka Mehta:** On a point of clarification. I believe the status of Commonwealth citizenship has been introduced or has been created as a result of deliberations between the Commonwealth countries and as a result of those deliberations the idea of a common clause to be introduced into the Citizenship Acts was accepted. Once a common clause is there, it is generally presumed that that kind of reciprocity would be established. In the case of South Africa what you say may be true, but as far as the Commonwealth countries are concerned, is not the presumption in favour of accepting such reciprocity by the introduction and acceptance of the common clause in these Bills?

**Pandit G. B. Pant:** What has been called the common clause—and that term is used in a technical sense—has been introduced in the Citizenship Acts of certain Commonwealth countries. I am not sure if it finds a place in identical terms in the South African statute. It is conceivable that where countries which come within this fold of Commonwealth are prepared to admit our citizens into their own fold of citizenship, we may agree to have them as such here. But automatically no citizen of any commonwealth country can become a citizen or can apply for registration. The first initiative rests with us. That is what I wanted to bring to the notice of the hon. Members of this House. It is true that the concept of a commonwealth carries with it the idea that those who are associated with it whenever they can do so with mutual benefit and advantage, enter into such

arrangements as will do good to the members who are parties to such arrangements. That is there. But it does not carry with it the idea of automatic citizenship. That is the important thing that I wanted to place before the House, because throughout there has been considerable confusion and misunderstanding on this point.

**Shri S. V. Ramaswamy:** The common clause is not part of the South African Act.

**Pandit G. B. Pant:** I said so myself. That shows that a commonwealth country is not bound to have even the common clause; and the fact that we noticed further is that the invidious discrimination which is exercised against the citizens of India in South Africa itself indicates that every commonwealth country is free to frame its own citizenship law, and nothing that is done by U. K. is binding on anybody else. That is another important thing which has to be borne in mind.

In this connection, there was some reference to the Act of 1948. Before I come to that, however, I should like hon. Members, apart from what I have said with respect to this....

**Mr. Deputy-Speaker:** Under the circumstances, whatever might be the position with respect to the others, what is the object of including the Union of South Africa in the Schedule?

**Pandit G. B. Pant:** That is only a description of a commonwealth country, and so long as South Africa is within the commonwealth, you have to include it in the description of commonwealth countries. Besides, there is room for return to sanity for every man and for every country, and we may hope that even South Africa may some time outgrow its stage of insanity and behave in a mature and wise way.

**Shrimati Benu Chakravarty (Basirhat):** Why not leave it open for the whole world?

**Pandit G. B. Pant:** Apart from that, there has been some confusion also about this British Nationality Act of 1948. It has been alleged by some, and perhaps felt by others, that every one of us is a British subject. That is not so. No one of us takes any oath of allegiance to the British crown. We only take an oath of allegiance to our own country. But apart from that, when the Indian Independence Act was passed, it was laid down, I think, in section 6 that:

"No Act of Parliament of the U. K. passed on or after the appointed date shall extend or be deemed to extend to either of the new Dominions as part of the law of that Dominion, unless it is extended thereto by a law of the Legislature of the Dominion."

This was passed in 1947. The British Nationality Act was passed in 1948. It cannot apply to this country unless it is extended to it by this Parliament. Nothing that is done by the British Parliament has any bearing on our own status or on our position here.

**Shri S. S. More (Sholapur):** May I bring it to the notice of the hon. Minister that article 372 of the Constitution does assure the continuance of some of the laws passed by the U. K.? And particularly the India (Consequential Provisions) Act of 1949, which is subsequent to the Indian Independence Act, continues to apply?

**Pandit Thakur Das Bhargava (Gurgaon):** May I submit that so far as article 372 is concerned, it specifically mentions that all the Acts which are passed by foreign Government after the attainment of Independence are not binding upon us? Only the previous Acts are binding.

**Shri S. S. More:** But the British Nationality Act of 1948 is previous to the Constitution.

**Pandit Thakur Das Bhargava:** It is not binding on us, because it has been

passed after 1947, after the attainment of independence.

**Pandit G. B. Pant:** It was passed in 1948. And the Indian Independence Act of 1947 having solemnly laid it down that no Act of Parliament passed thereafter would be applicable to India unless the Indian Parliament itself adopted it, it is clear.....

**Pandit Thakur Das Bhargava:** We cannot pass an Act binding on England. So, they cannot pass an Act binding upon us.

**Pandit G. B. Pant:**...that the Act of 1948 does not apply to this country. It is also perhaps known to the hon. Members that the 1948 Act itself did not say anything about its being applicable to India. It was applied to the colonies and to U. K., but not to any other country. Hon. Members will be interested to hear a few of the remarks that were made by the Secretary of State for Home Affairs, when this Act was discussed in the British Parliament. He said on 13th July 1948:

"This country cannot impose a law with regard to nationality upon any other member of the British commonwealth of nations. Each of them is a distinct sovereign State for this purpose. We can legislate only for the U. K. and colonies, and that is what we are doing."

The same thing is developed in the course of the debates, but that is clear enough, so that they could not, and they did not, legislate for us.

**Shri S. S. More** referred to the order of 1949. I think he misunderstood its significance, import and connotation. This order of 1949 in fact was passed for the benefit of India. After India had become a Republic, the persons of Indian origin who were in Great Britain ceased to be entitled to the privileges to which they were entitled previously. So, in 1949 this order was issued in order to enable the Indians who were in Great Britain to fully enjoy the privileges and



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benefits to which they had been used in the pre-Republic days. If anything, it conferred certain benefit and advantage, and did not impose any disability. I think it was due to a misapprehension that he happened to refer to this section, which, if anything, stands to the credit of U. K.

**Shri M. S. Gurupadaswamy (Mysore):** May I know why the External Affairs Ministry in its letter which I referred to yesterday accepted the continuation of this Act of 1948 passed in British, stating that it is applicable to India also after Independence and after India became a Republic?

**Pandit G. B. Pant:** I have not been able to follow the question. But the questioner may rest assured that he will have a satisfactory answer now or hereafter.

**Shri M. S. Gurupadaswamy:** I refer to the letter written by the External Affairs Ministry.

**Pandit G. B. Pant:** I shall refer to that too.

**Shri M. S. Gurupadaswamy:** According to that letter, the Act of 1948 is applicable to India even after 1950.

**Pandit G. B. Pant:** I am sorry that the Under Secretary was trapped into sending a wrong answer, because his obiter dictum cannot override the law. If the explanation that I have given is found satisfactory, then what he wrote was obviously under a misapprehension, under a delusion, or if it was done deliberately....

**Shri S. S. More:** Why not make a reference to the Supreme Court under article 143 of the Constitution, in view of this wrong reply from the Government, and get it finally adjudicated upon?

**Pandit G. B. Pant:** If every wrong reply from a clerk were to necessitate a reference to the Supreme Court, the Supreme Court will have nothing else left to do.

**Shri S. S. More:** Is he a clerk?

**Sardar A. S. Saigal (Bilaspur):** An Under Secretary is a subordinate officer.

**Pandit G. B. Pant:** Shri More is not yet satisfied. If he still thinks that that reply was correct, I will not accept that. I think his intelligence is too keen to admit of such a wrong interpretation. So if that reply was sent, it was wrong. The law is clear and I wish the questioner had not unnecessarily referred the matter to Government like that. It is a question of law and one can decide it for himself. This is a matter of opinion and one should not dangle it against the expressed, positive and convincing provisions of the law and arguments based on it.

There was a reference to this Commonwealth citizenship. As I said, we have an urge for a wider fellowship of nations. We in the Congress from the olden days, have been dreaming about a world federation and about world citizenship. That has been our dream. The Commonwealth citizenship, without imposing any burden on us, takes us somewhat nearer to that goal. We need not, however, think that it is of any disadvantage to us. We are really deriving substantial benefits. And I would like hon. Members to remember that we have thousands of our nationals in the United Kingdom today, in business, in industry, in commerce, in professions and in public service. There are about five million Indians in the colonies and in some of the countries which are closely allied with Great Britain.

**Shrimati Benu Chakravarty:** On a point of clarification. On the question of the Dominions: the point has been made clear by the hon. Minister. But what about the colonies? The colonies are directly under Britain. They cannot pass any law without it being certified by the Secretary of State. As such the United Kingdom has direct responsibility for the discriminatory laws which are being passed in the colonies. Therefore, the idea of Commonwealth immedi-

ately inscribes within it the whole idea of colonialism also.

**Pandit G. B. Pant:** We all stand against colonialism.

**Shri S. S. More:** And yet we recognise it in our legislation.

**Pandit G. B. Pant:** We cannot shut our eyes not only to the existence of colonies, but even to the existence of reptiles. If they exist, they are there. What we have to consider is whether the large number of Indians who are in the United Kingdom, in the colonies or in other places, and whom we are not anxious to repatriate and bring back to our country, will be benefited by our creating an atmosphere which may be detrimental to them and of no benefit to us. That, however, does not affect any legal position; it may affect the ethical or moral attitude. So far as this goes, I hope there will be no misunderstanding left in any quarter now.

The other important point, to which reference was made in the course of the discussions, related to the registration of displaced persons. That is an important matter. Now, some of the hon. Members have suggested that we should admit the right of citizenship without even registering them as such. Of course, the right of citizenship is there. But it will lead to confusion if there is no registration. Even when the Constitution was framed, it was definitely laid down that all those who had come after the 19th July 1948 would have to be registered, and it was only on such registration that they were to enjoy the privileges and prerogatives of citizenship. So registration is necessary. I do not think that any great inconvenience would be caused to displaced persons because they had to seek rehabilitation, to apply for relief, and arrangements had to be made for their resettlement and other things. So everyone of them has to be registered for that purpose too. In the circumstances, registration for citizenship is a much simpler affair.

But there is another question which was also raised in this connection, that so far as deprivation of the right of the citizenship was concerned, the case of the displaced persons deserved special consideration. That aspect of the matter will, I hope, receive sympathetic consideration at the hands of the Joint Committee. Though they have to be registered, they are hardly distinguishable from other citizens of this country. It is a misfortune due to a certain political development, of which they have been the victims. So I would like the possibility of the registered citizens to be classified in two groups: those who have come here as displaced persons and others who are registered citizens. It may be possible to take them out of this deprivation clause altogether so that they may, after they have been registered, continue to enjoy the right of citizenship without any sort of interference, interruption or disturbance. It will be for the Joint Committee to consider that, and I hope the Committee will give thought to it.

There was also some proposal to the effect that deprivation should be a judicial proceeding and not an administrative one. Now, hon. Members are presumably aware that this clause finds place not only in our Bill but in the British Nationality Act, in the Acts of Canada, Australia, even in that of wretched South Africa, and other places. Except in the case of the United States, I think no country provides for a judicial proceeding in matters of this type. But here you will see how many safeguards have been provided in this clause itself. Firstly, the clause rests on the conditions which would entail the extinguishment of the right of citizenship. But even after one has incurred this disability and this penalty, the clause says:

“The Central Government shall not deprive a person of citizenship under this section unless it is satisfied that it is not conducive to the public good that that person should continue to be a citizen of India”

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Even if a person has incurred this penalty and is liable to be deprived, he will not be so deprived, unless the Central Government considers that his continuing as a citizen will be harmful to the interests of the country. That is a condition which I think should be borne in mind not only in respect of non-citizens, but even of citizens. If their presence in the country becomes detrimental to the interests of the country, then that will have to be curbed. These persons who have acquired the right of citizenship by naturalisation, or in a few cases by registration, have been given this privilege by way of concession. They are not the natural citizens of the country. They have been given certain concessions. If they misbehave, I do not see that there is anything unfair in asking them to choose other fields for their pastures. They need not continue to stay where they cannot find a good field; let them go out and look for this elsewhere. I do not see why there should be any objection to this.

Then it is laid down here that wherever a person so demands a committee will be appointed which will be presided over by a judicial officer. What more can be needed in matters of this type? So, I hope that this clause will be accepted.

There was also a reference to the clause which says that a person may cease to enjoy these rights if he is found to have done anything that is detrimental to the administration of the country by the Government of India:

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

As I said, this citizenship is not earned by a man by virtue of his right. It is something of a privilege which has been extended to him. So, if he behaves in a manner which creates difficulties in the way of

those who are in charge of the administration, he loses the privilege which was extended to him obviously on the condition that he would behave properly, not only once or twice, but continuously. He forfeits that privilege when he behaves in that manner. In other countries also there is a similar provision and although the words used may be different, they mean almost the same thing.

The Bill deals with acquisition of right of citizenship by birth and it confers the right on everyone who is born in this country. Some hon. Members have suggested that some restrictions should be devised and some conditions should be imposed on a person who is born of a non-Indian father or mother.

We are today working for peace in the world. We have built a stature for ourselves and for our country by our attitude towards world problems. In the circumstances, it would befit our attitude towards these basic problems, if we allowed everyone who is born in this country to acquire the right of citizenship. But it is not altogether an instinct of pious virtue that actuates me to say so. We have our own nationals, many more, in other lands than they have in our country. About fifty lakhs of our people are distributed all over the globe. It is to our interest that liberal provisions in this regard should be made in all countries. So if we give asylum to a few, we will be preparing the moral ground for similar treatment for millions of our people abroad in other countries. Looking at it therefore even from the selfish point of view, it is to our advantage and to our interest to have such a provision.

There was some comment made on the clause relating to citizenship by descent. This clause only recognises descent on the male or paternal side. That is, a person who is born of an Indian father in other lands can acquire the right of citizenship. It has been asked: why should the mother-

not have that privilege, if the father is a non-Indian? We in our country have always thought in masculine terms. That has been our attitude towards all matters. We are now trying to change our succession law so that women also may have equal rights with men. But even in countries where such a law exists they have restricted this right only to males. We have taken this provision bodily from the British Nationality Act. There I think women have been treated with courtesy and respect. In our country too in the olden days the highest virtue that one could earn was to be called the mother of the man addressing her. So, that is the sublime status that women occupied as such.

**Shri Asoka Mehta:** What about article 5(b) of our Constitution?

**Pandit G. B. Pant:** Article 5 of the Constitution relates to domicile. We have not got this condition of domicile in this measure. If we introduce it we will be shutting out many more than what we would be having by this clause as it is. On the other hand, it would lead to many difficulties too.

We have been reminded by some of the speakers about the complications that arise out of the system of dual citizenship. It does lead to certain difficulties. But we cannot help it. We have to accept it, because we want people born in the country to be treated as Indians and to enjoy the privilege of being citizens of our country. But if we were to give the right of citizenship to persons born of non-Indian fathers, but Indian mothers, then we may have to be prepared for triple or six-fold citizenship. If a Brazilian, for example, marries an Indian woman and gives birth to a child in England, then the child will have three citizenships. He will be a citizen of Brazil, he will be a citizen of India and he will be a citizen of the United Kingdom. And, if such a child, when he grows up and becomes mature is married to another Indian girl and they give birth to a child, not in the United

Kingdom but in France, then there will be fourfold citizenship. So, I think it is sound to stick to the provision that we have.

**Shri S. S. More:** Will not the Indian before he gives birth to another make his own choice about nationality?

**Pandit G. B. Pant:** He is not bound to under any law.

**Shri S. S. More:** He won't get citizenship anywhere.

**Pandit G. B. Pant:** He continues to be a citizen of all the countries so long as he does not renounce. I would respectfully ask Mr. More to point out the section on which he relies. That is what judges do now. So, I will leave it there.

**Shri S. S. More:** Clause 9.

**Pandit G. B. Pant:** I do not think you are right there. That was about citizenship by birth and citizenship by descent.

Then, under this Bill the wives of Indian citizens, even if non-Indian, can be registered as Indian citizens. Some people said that women should have the liberty not to be coupled with their husbands in the matter of citizenship. Well, there is no compulsion. It is open to a woman to apply or not to apply. If she does not apply for Indian citizenship, she is not bound to do so. They are at liberty to continue as husband and wife and still owe allegiance to two different countries.

There was also a suggestion that just as women can be registered as Indian citizens if they marry Indians, an alien should be allowed to register himself as an Indian on the marrying an Indian woman. That would really lead to some monstrosity of the same type to which I referred previously and it is better to limit the scope of such alliances. They are very rare and it is better to let people keep to their own respective affinities than to drive them to corners which are far away, whether they be obscure or whether they be illuminated. We should better

[Pandit G. B. Pant]

keep the company of our own people and live a natural life. So, it is better to discourage these things.

A suggestion was also made that if any person insults the flag then he should be deprived of his citizenship. I hope that nobody will be so hair-brained, mischievous or foolish as to have recourse to such a degrading course. We can rely on the good sense of our own people. I do not forget that recently certain declarations were made or intentions were announced by the very advanced leader of a certain party in the South which did affect the honour, the dignity and the sublime purity of the flag. But he did recant it and felt that what he had done was a very vile sort of deed. So, I hope nobody else will ever think of such a wicked act and relying on the good sense of our people we may not pursue that further.

Something was said about incorporation of territory; and, in that connection mention was made of Chandernagore and Pondicherry. I do not think any amendment of the clause is needed because an Act has already been passed by virtue of which the people of these two ex-French settlements will be citizens of India. Only there are some among them who want to retain their French nationality.

**Shrimati Renu Chakravarty:** Why should they not become *ipso facto* citizens and why should they wait for a notification by executive action?

**Pandit G. B. Pant:** So long as there is no *de jure* transfer of these territories to India there could be no legal form of citizenship; they are *de facto* citizens even today but we have to wait for perhaps a few weeks or months before we could get *de jure* transfer. They will then be automatic citizens of India.

**Shrimati Renu Chakravarty:** Will they become automatic citizens immediately the transfer is complete?

**Pandit G. B. Pant:** That Act is not before me. So, I should refer Mrs. Chakravarty to that Act and then if there is any difficulty I shall go through it with her, and see what it exactly means.

I have tried to deal with the main points. I do not consider it necessary to go through the minor ones. After all, what I have said is no more than an attempt to throw some light on obscure points. I hope hon. Members will feel that this Bill has been well drafted and that it will fulfil the purpose which has actuated the authors to give it this shape.

What we are doing today is of considerable importance. The state of subjection was over some time ago but still we and our society have to blossom into the status of full citizenship. That is what we seek to acquire through this Bill. And, I hope the select committee will consider every clause with care and consideration so that not only the present generation but posterity and generations to come will benefit by the edifice of new India which will be built on the foundations of this law.

**Mr. Deputy-Speaker:** An amendment has formally been moved and therefore I would like to know whether the hon. Member is willing to withdraw it.

**Shri Vallatharas (Pudukkottai):** I beg leave to withdraw it.

The amendment was, by leave withdrawn.

**Mr. Deputy-Speaker:** The question is:

"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 Raghuramaiah, Shri P. T. Thanu Pillai, Shri K. G. Wodeyar, Shri K. T. Achuthan, Shri Ahmad Mohiuddin, Shri Nibaran Chandra Laskar, Shri Surendra

Surendra Mohan Ghose, Shri T. Sanganna, Pandit Krishna Chandra Sharma, Shri Raghubar Dayal Misra, Shri Lotan Ram, Shri Rajeshar Patel, Shri Lildhar Joshi, Shri Narendra P. Nathwani, Shri Bisakisor Ray, Shrimati Anasuyabai Kale, Shri Hari Vinayak Pataskar, Shri Manikya Lal Varma, Shri Ranjit Singh, Dr. Ram Subhag Singh, Shri Anandchand, Shri Hirendra Nath Mukerjee, Shri Mangalagiri Nandas, 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."

*The motion was adopted.*

**INDUSTRIAL DISPUTES (APPELLATE TRIBUNAL) AMENDMENT BILL**

**The Deputy Minister of Labour (Shri Abid Ali):** I beg to move:

"That the Bill to amend the Industrial Disputes (Appellate Tri-

bunal) Act, 1950, be taken into consideration."

The Bill is a short one and is intended to replace an ordinance which was promulgated on the 21st June 1955. It is intended to ensure speedy disposal of applications under sections 22 and 23 of the Industrial Disputes (Appellate Tribunal) Act, 1950. More than 1600 such applications were pending before the Appellate Tribunal towards the end of June 1955. While the number of applications filed per month is near about 100, the rate of disposal ranges between 80 and 85. Under the existing law, every application has to be heard by a bench or a tribunal consisting of at least two judges. The applications are usually of an individual nature relating to the termination of the services of employees or some unauthorised changes in their conditions of service during the pendency of the appeal proceedings. The cases are not really important enough to merit consideration by two judges of the Appellate Tribunal. The time that the judges devote to these, I think, may with greater advantage be spent on hearing appeals proper. It is thus in the interest of economy and speedy disposal of individual justice that the Appellate Tribunal and also a single member industrial tribunal should be empowered to dispose of such applications. It is expected that this arrangement will bring about an appreciable improvement in the position both as regards pending applications and appeals and thereby ensure speedy justice to the workers concerned. As will be readily agreed, in industrial disputes it is very much in the interest of industrial peace that the decisions of the Tribunal are given within the minimum possible time. The Bill is designed to serve this purpose.

**Mr. Deputy-Speaker:** Motion moved:

"That the Bill to amend the Industrial Disputes (Appellate Tribunal) Act, 1950, be taken into consideration."