

**Shri Kamath:** I have no doubt you will appreciate that it will be difficult for us to effectively participate in the discussion if things are sprung on us like this.

**Mr. Speaker:** I quite agree.

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**CITIZENSHIP BILL**

**Shri H. N. Mukerjee** (Calcutta North—East): I beg to move:

Page 6, line 41—

omit "and in any other case it may"

**Shri C. E. Narasimhan** (Krishnagiri): I beg to move:

Page 6—

after line 9, insert:

"(bb) that citizen has accepted any title from any foreign State, against the provision of article 18(2) of the Constitution of India; or"

**Shri Sadhan Gupta** (Calcutta South-East): I beg to move:

Page 6—

omit lines 15 to 17.

**Mr. Speaker:** These amendments to clause 10 are also before the House in addition to those moved yesterday.

**Shri H. N. Mukerjee:** Yesterday, in commending my amendments to clause 10, I asked Government to be good enough to explain why they cannot accept the suggestion that deprivation of citizenship rights should be a judicial proceeding and not an administrative one.

[**MR. DEPUTY-SPEAKER** in the Chair]

As far as I can see, the only recognisable argument advanced by Government on this point is that, except in the United States of America, the precedents they have looked for do

not warrant the adoption of judicial proceedings for purposes of deprivation of citizenship. I said yesterday that whatever degeneracies might have overtaken the rulers of the United States today, the founders of freedom in the United States advocated some grand principles like the right to life, liberty and the pursuit of happiness, and if in the United States there is a definite provision that judicial proceedings have to be taken recourse to in cases of deprivation of citizenship rights, then surely I would say that we ought to follow that precedent and not the precedent of the U. K. or of South Africa. This point in regard to the justiciability of deprivation items was argued before. But I think my hon. friend, Shri N. C. Chatterjee, is working under a misapprehension. I know that it is not for me to pull the chestnuts out of Shri Datar's fire, but I owe it to the Joint Committee, of which I was a Member, to make it plain that this clause regarding deprivation of citizenship rights does not apply as far as our own citizens by descent are concerned. And it does not also apply as far as refugees from Pakistan, who will acquire citizenship under this law, are concerned. It is only those who are citizens by naturalisation or by registration who would be affected. Even so, I feel that Shri Chatterjee's eloquence was absolutely justified, because we have no business to take away from people whom we have accepted as our citizens after proper inquiries their right to retain their citizenship and their right to fight to retain their citizenship in our courts of law. We have no business to accept as our citizens people from other countries on grounds which we have tried to delineate in this Bill and then to tell them that they can be deprived of citizenship rights purely by administrative action. I feel, therefore, that the arguments which Shri N. C. Chatterjee propounded are extremely important and they have got to be answered by Government. The only safeguard which Government have chosen to put in this Bill is in

clause 10, sub-clause (3) which lays down that the Central Government shall not deprive a person of Indian citizenship under this section, unless they are satisfied that it is not conducive to the public good that that person should continue to be a citizen of India. This continues to be a matter of executive discretion, and the safeguard is absolutely unreal. We are very well aware how often the phrase 'public interest' has been abused for executive purposes, and the phrase 'public good' which has been suggested as an alternative, by the ingenuity of the Home Minister, perhaps, will not prove more effective. Therefore, I feel that the safeguard of judicial determination in regard to questions of deprivation of citizenship has got to be put in our legislation. This is a point on which I feel Government ought to answer the arguments which have been put forward.

I have also suggested an amendment which is largely identical with the amendment moved by my hon. friend, Shri Kamath, and by that amendment I want to say that the citizen by registration should not be required to take an oath to be well affected and loyal towards the Constitution of India as by law established, as it has been promulgated in the Bill. At an earlier stage of the proceedings, the Government had suggested that it should be loyalty to the Government established by law which should be the criterion. Luckily in the Joint Committee that expression was altered and for 'Government', the 'Constitution of India' has been substituted. I agree that this is certainly a very substantial improvement. I agree that the Constitution is symbolic of the sovereignty of our country. But I wish to put the word 'Republic' or even 'India' as Shri Kamath has suggested, because I want to emphasise the idea that after all Constitutions can be changed, and it is the basic loyalty to the State, it is the basic loyalty to the Republic which is most important. Already,

the question of the word 'disaffected' has been discussed very exhaustively in this House. My friend, Pandit Thakur Das Bhargava, has explained with reference to a number of legal precedents that the word 'disaffected' is extremely ambiguous and it should be moved out of this Bill. But I feel that in place of the word 'Constitution' it is better that we put the words 'the Republic' or 'India', because I feel that the loyalty that we require of these citizens should be the basic loyalty which it is every citizen's duty to have towards our country.

Now, perhaps on this point I have spoken more than once before, but I wish to emphasise it because I want Government to realise the kind of people whom we are going to have as our citizens. They would be such people as are eminent in science, philosophy, art, literature, movements for world peace, human progress and that sort of thing. To the United States of America a large number of people went from Europe as refugees who were eminent in the field of science and in different fields of academic activity, and it has already been pointed out how an attempt was made in the United States to keep out people because of their ideological affiliations, specially because of their Communist affiliations. Already, at an earlier stage of the proceedings, Shri Chatterjee has referred to this aspect of the matter. In the United States, they got from foreign countries large numbers of people whom they accepted as citizens, who were people of the most unexceptionable character, of the highest academic achievement, of great integrity and idealism. In our country also, as I said in the case of a man like Prof. J. B. S. Haldane, we may be having people registering themselves as our citizens, people who will be notable for their integrity, for their idealism, for their character, for their contribution to progress in their country as well as in other countries. That is the kind of people we have in mind that is the kind of people whom we are subjecting to this kind of humiliation. I

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say when we accept anybody as a citizen let us accept him or her on terms of honour, on terms of dignity. Let us offer that citizen all those advantages which in reason we ought to offer. I say the minimum privilege which we ought to offer to these people is the privilege of the judicial determination of the charges against them and, therefore, I emphasise the matter which I need not emphasise. But, it is only because we want Government to come over and show some kind of gesture in this respect. I emphasise that it is very necessary that deprivation of citizenship rights should be a judicial proceeding and not an administrative one. I feel that things being as they are, the envisagements of our citizens by registration being what they are under the terms of the Bill, Government should find no difficulty in accepting the amendment that we have put forward. If Government can suggest some kind of alternative formula then we shall surely sit together and perhaps evolve a kind of formula which would satisfy both the claim which we are pressing and also those safeguards which the Government might consider to be necessary in cases of this description.

**Mr. Deputy-Speaker:** Now, I want to impress upon hon. Members that we are still on clause 10. There are a number of other clauses equally contentious. A lot has been said upon these provisions. We have to close this debate on consideration of clauses by 2 o'clock. One hour is left for the third reading and I am sure hon. Members would like to utilise that one hour for third reading. Therefore, when Shri Mukerjee was on his legs I did not want to interrupt him. Mr. Gadgil supported it; there seems to be a lot of talk in favour. We are saying the same thing on clauses now as was said in detail on the motion for consideration. I did not want to embarrass any hon. Member who was on his legs and pull him up by saying that it has already been spoken. I

left it to them. As soon as the clock strikes 2, I will put all the clauses together; there will be guillotine and there is no good getting impatient then.

**The Deputy Minister of Home Affairs (Shri Datar):** Clause 5 also has still to be considered, in addition to further clauses.

**Mr. Deputy-Speaker:** It has been left over; and clause 3 has also been held up.

**Shri Datar:** On clause 3, it is only voting, Sir.

**Mr. Deputy-Speaker:** There are a number of things now. The difficulty is hon. Members are not present. As soon as an hon. Member speaks he thinks it is none of his business to hear others. If he has been hearing other hon. Members he would have seen how many times and how often a thing has been placed before the House by various other persons also. That is the difficulty here. Shri Dhulekar.

**Shri Dhulekar (Jhansi Distt.-South):** I am sorry I shall have to repeat.

**Mr. Deputy-Speaker:** If he has only to repeat, I would not allow him to repeat. I think I must take the law into my own hands.

**Shri Dhulekar:** I will not take much time.

**Mr. Deputy-Speaker:** If it is repetition, even for one second I will not allow. What is the meaning of repeating again and again?

**Shri Dhulekar:** Very well, Sir.

**Mr. Deputy-Speaker:** Not only for him but for all people, all Members here. Repetition does not mean re-

petition by his own mouth; it means by others also. Unless it is such an extraordinary thing which requires so much of dinning and make other people understand.

**Shri Dhulekar:** I only wish to say that some of the clauses that I might refer to, clauses 9 and 10, have already been referred to by hon. Members here. I am placing before the House my anxiety. With regard to Pakistan, in the east especially, from time to time we find that a large number of people are pushed out from that country for no fault of theirs. These clauses 9 and 10 contain certain provisions which terminate the citizenship rights of those people who have been unfortunately in another country on account of no fault of theirs. The partition took place and the country was divided. Those poor people remained there. Now, it is an established fact that Pakistan has made it a policy to keep quiet for some time and then create some row in that part and push people out from time to time. It is quite clear that only one community, that is Hindus, are being pushed out from that country. So, I would submit that in these clauses 9 and 10, when we say that these people have been there since 1950 and on account of their long residence there, they have lost their rights of citizenship here, it is a pertinent question to put before the House, what will be the fate of those people who are sometimes assured by the hon. Minister for Rehabilitation that they need not come here and might stay there and that we shall protect their rights and, as soon as the hon. Minister has some parleys with the Minister of that country, after two or three months, we find that several lakhs of people are again pushed out. So, my anxiety is this. In this Bill, there ought to be something—I do not know what it should be—and the Government should provide something here that those unfortunate people who are pushed out from the other country of Pakistan only on account of their affinity to some religion should not be considered as aliens.

This is my submission and I would certainly request the hon. Minister who is in charge of this Bill not to take this thing which I have put before the House as a very light one. It is a very serious one. There are about a crore of people there and I can assure you that within one or two years, by instalments, they will be pushed out and we must be in a position to extend our hand to them and give them the rights of citizenship as easily as possible.

That is my submission.

**Mr. Deputy-Speaker:** I will now call upon the hon. Minister.

**Shri Datar:** A number of points have been raised and I would very briefly answer those points. My friend Shri Swamy suggested an amendment, amendment No. 90 to clause 8 stating that a child can take action not only after attaining majority but after having full knowledge. My submission is that it would be very difficult for a child to have full knowledge in such cases. Therefore, the ordinary period would be the attainment of majority. He has to understand the nature and implications also of the action, namely, the laws of citizenship. Therefore, I would submit, that so far as this amendment is concerned, it may not be acceptable in view of the difficulties that I have pointed out above.

My friend Shri Anthony has suggested certain amendments to clause 9. They are 117, 144 and 145. He desires that all those who have taken the citizenship of another country not only before the Constitution but even after the Constitution up to the commencement of the operation of this Act ought to be exempted from clause 9. So far as clause 9 is concerned, it deals with the termination of citizenship. I would point out the circumstances to show that it is necessary that in such cases when they have voluntarily taken the citizenship of some other contry, their citizenship of India ought to end. So far as the

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first point is concerned, it may be noted that even after 1950, a number of persons have gone over to Pakistan and they have taken Pakistan nationality voluntarily. If we accept this amendment of my hon. friend, then the difficulty would be that we shall have to accept the continuance of the citizenship of India in respect of lakhs of people, and in my opinion, it may not be proper. Either they are the citizens of India or they are not, and, therefore, it would not be proper to allow dual citizenship to continue especially when the numbers are likely to be so large.

There is also another aspect of this case. Oftentimes we receive complaints from various countries. Take for example the case of Ceylon. If an Indian in Ceylon desires to have the nationality of that country, then he will have that nationality provided he renounces his Indian nationality; in other words, his citizenship of India has to be terminated and then only his case for the nationality of Ceylon or citizenship of Ceylon would be considered. This aspect of the question also has to be considered by my hon. friend.

Oftentimes we receive complaints that Indians wherever they are, even though they are the citizens of Commonwealth countries or other countries, have always an eye upon Indian citizenship—it is a complaint, may be wrong or unfounded—and, therefore, they do not get themselves completely assimilated with the particular country of which they have taken citizenship and all along they are looking to India for going back and for their own citizenship. Whatever might be the nature of this objection—it may be true or may not be true—we have to take into account the important fact that in all these cases, after the commencement of the Constitution particularly, if a man has voluntarily taken citizenship, this voluntary acquisition involves an exercise of volition. The word “voluntarily” has to be understood very clearly. If, for example, he desires to have the citi-

zenship of some other country, then naturally my submission is that he should not be considered as continuing his citizenship of India.

So far as the very relevant point raised by my hon. friend that during the war certain persons, especially of the Anglo-Indian community, had taken the citizenship of U.K., in some cases without their knowledge, is concerned, that is a reasonable point and we have accepted and made a special proviso in clause 9. I would submit to the House that there is nothing inconsistent or incompatible between clause 8 and clause 9. So far as clause 8 is concerned, the wording that is there is—

“If any citizen of India of full age and capacity, who is also a citizen or national of another country....”

The words “also a citizen” may be noted, because either by birth or by descent he would acquire citizenship, and that is entirely different from the wording of clause 9, where it is stated—

“Any citizen of India who by naturalisation, registration or otherwise voluntarily acquires....”

Therefore, my submission is that the wording is entirely different and the provisions should remain as they are so far as clauses 8 and 9 are concerned.

So far as clause 10 is concerned, even during the consideration stage, the whole matter had been traversed very exhaustively. Various points were raised and I have answered almost all of them. I would, therefore, within a minute or two go over some of these grounds where they require a specific answer.

An hon. friend has moved an amendment No. 22 where he has stated that the acceptance of any title by a citizen in India who has obtained his citizenship either by registration or by naturalisation should be a ground for the deprivation of his citizenship. My

submission is that in some cases some of our Indian nationals might obtain a title for a good purpose also and it is not that in every case, obtaining a title from a foreign country is necessarily wrong. Therefore, let us treat all the citizens of India alike. Article 18(2) of the Constitution says that titles have been dispensed with and that titles cannot be acquired from foreign countries except as far as possible with the permission of the Government.....

**Shri Kamath (Hoshangabad):** Not 'as far as possible'.....

**Shri Datar:** I speak only from memory. My hon. friend has corrected me and I am quite happy. So far as this is concerned, let all the citizens of India, the ordinary citizens and also these other citizens of India, remain on the same footing. My point is that this is after all not a very important matter, it is more or less a trivial matter and we need not raise it to the dignity of being considered as a ground for deprivation of citizenship. Therefore, it is not possible for me to accept this amendment.

I have already answered the question as to whether deprivation should be in justiciable circumstances or whether it is necessary in all cases that a Judge of the Supreme Court should be the chairman and also whether there ought to be an appeal to the Supreme Court or to any other courts. On all these points Government's attitude has been made very clear. Except in the U.S.A., in all other countries such matters have been left and naturally entrusted to the State machinery, namely, the executive machinery. We have provided for a number of safeguards according to which it would not be possible for Government to take any action arbitrarily. In a way that would be inconsistent with the spirit of clause 10.

**Shri Kamath:** May I ask about Australia and even South Africa, where the Committee is presided over by a judge of the federal court or judge of one of the provincial courts?

**Shri Datar:** I have seen it. Australia is the only country where it is stated that there ought to be a judge of the High Court or some other court.

**Shri Kamath:** Even South Africa.

**Shri Datar:** It may be even a district court.

**Shri Kamath:** Also the U.S.A.

**Shri Datar:** In the case of Australia also there is some reference made by my hon. friend, but our conditions are entirely different so far as this point is concerned and we have made the position very clear by pointing out that the chairman shall have ten years' judicial experience, and judicial experience does not necessarily mean judicial experience of Third Class Magistrate.....

**Shri Kamath:** Maybe a Sub-Judge.

**Shri Datar:** We may appoint a District Judge. Generally District Judges are appointed in such cases although I cannot bind the Government in this matter. Generally you will find that a man who begins even as a District Munsiff or a Magistrate might be a District Magistrate or might be a District or Sessions Judge. Therefore, ten years is a sufficiently long period for getting mature experience so far as judicial experience is concerned. I submit that the provision, as it is, is fairly satisfactory and does not admit of any circumstances under which injustice or hardship is likely to be done to such persons.

For similar reasons I cannot accept my hon. friend, Shri Kamath's suggestion that the grounds of deprivation should be made public.

**Shri Kamath:** I said only the findings should be made public.

**Shri Datar:** There is one amendment to that effect, perhaps by some other Member. Some other hon. Member has moved an amendment that the grounds of deprivation should be made public. My hon. friend, Shri Kamath, desires that the finding should be made public. This question has been answered by a number of hon. friends. In certain cases it might be a matter of the greatest security reasons so far as

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India is concerned. Ordinarily you will find that everything will be done quite properly especially when there is a judicial officer as the head of the Committee of Inquiry.

**Shri Kamath:** Not always.

**Shri Datar:** As pointed out by Shri Gadgil and other hon. friends there might be circumstances where it will not be in the interest of the security of India to publish all these findings. Therefore, it would not be proper always to go on mistrusting the Government in these cases and something should be left to the Government.

**Shri Kamath:** Not 'always'; but 'sometimes'.

**Shri Sadhan Gupta:** May I just ask for a clarification, Sir?

**Mr. Deputy-Speaker:** Let him finish and then he can ask for clarification.

**Shri Datar:** It has been suggested that the word 'disaffection' should be taken away. I would like to submit that the word 'disaffection' ought to remain in the interests of the aggrieved party. Either it is 'disaffection' or it is 'disloyalty'; both these words together show the magnitude of the offence that the man may have committed so far as this is concerned. Therefore, I would not like to accept this amendment regarding the omission of the expression 'disaffection'.

It has been contended that something like the words 'moral turpitude' ought to be put in so far as sub-clause (d) of clause 10 which deals with punishment of two years is concerned. Such a clause occurs in all the clauses of the Citizenship or Nationality Acts.

**Shri Kamath:** Except in that of Canada.

**Shri Datar:** A case was made out so far as Portugal was concerned where some of our nationals who had gone there had been imprisoned to such a long period as 10 years. That is true so far as Portugal is concerned, but we shall be very careful so

far as such cases are concerned. In ordinary cases the period of one year is more than sufficient when the offence is technical. The period is less than one year ordinarily but the Joint Committee considered that it would be proper to have this raised to 2 years because a punishment for two years cannot be expected to be a punishment for a technical offence and the extent of the punishment itself is a guarantee to show that the offence for which a particular person has been convicted must have been a grave offence naturally involving moral turpitude. Therefore, we have accepted the wording as it is in most of the Acts but the Joint Committee has raised the period from one year to two years. So, I submit that what has been done ought to satisfy the Members of this House.

**Shri Bansilal (Jaipur):** May I have a clarification from the hon. Deputy Minister.....

**Mr. Deputy-Speaker:** Let him finish. I would advise hon. Members that they may note down the points with respect to which they want clarification and not interrupt the hon. Minister when he is in possession of the House. When he concludes his speech hon. Members may put their questions.

**Shri Datar:** So far as this period of two years is concerned, if, for example, a person who has become a citizen of India turns out to be a criminal and it is quite likely that we might take in such persons, within 5 years—that must be noted—if he is found to be such that his conduct is not proper, that he has been sentenced to punishment extending to two years, then, naturally, it is a circumstance that will show that though he has become a citizen of India by naturalisation or registration still he is an undesirable person. Now, the Government, as far as possible, must have a right so far as such new entrants to citizenship are concerned. We are always to understand that these are persons who have been

allowed the right of citizenship by this Citizenship Bill and, therefore, we must have greater control at least during the first five years over such persons and if it is found that they are undesirable persons then the Government must have some power for taking action against these people.

**Shri Kamath:** Why not include 'grave moral turpitude'?

**Shri Datar:** 'Moral turpitude' is an expression which again admits of interpretation. Ultimately some Judge has to interpret it or some committee of inquiry has to interpret the expression 'moral turpitude'. It is an expression which is not used in law though often in certain disciplinary proceedings and others that expression is used.

**Pandit K. C. Sharma (Meerut Distt.—South):** It is used, but it is not a very good term.

**Shri Datar:** It is not a very good term and it may raise some difficulties also; one man may say a particular thing means moral turpitude and another may say it is not. Therefore, we have not used an expression which is not generally used as a legal expression.

**Pandit Thakur Das Bhargava (Gurgaon):** We have used it in the Companies Act.

**Shri Bansilal:** What I want to know is whether "being a person who has for at least ten years held a judicial office" will include a member of the bar?

**Shri Datar:** No, it will not include. It is said: "who has held judicial office" and not "who is eligible for judicial office".

**Shri Bansilal:** For all intents and purposes members of the bar are holding judicial office.

**Shri Datar:** With due deference to lawyers and advocates I would submit that it would be better to have such a person as Chairman who has actual judicial experience.

**Shri Sadhan Gupta:** The hon. Deputy Minister has stated that his objections to revealing or making the grounds of deprivation justiciable is that it might endanger the security of India. Now, turning to the grounds for deprivation I find there is hardly any which will affect the security of India except one. The first ground is that he obtained registration by false representation. There is nothing prejudicial to the security of India. The second ground is that the citizen has shown himself by act or speech to be disloyal or disaffected towards the Constitution. The third ground is that he has been engaged in unlawful trading with an enemy. This ground only may have some connection with the security of India. The fourth ground is that he has been convicted in some other country; that has nothing to do with the security of India. The fifth ground is that he has been ordinarily resident outside the country for a continuous period of several years. This ground also has nothing to do with the security of the country. Therefore, I want clarification as to where is the security of the country involved in these grounds?

**Shri Datar:** On this question I might invite the hon. Member's attention to the expression 'disloyal' or 'disaffected'. It is said: "by act or speech". What is the particular act that is complained of? This act might reveal certain circumstances which it may not be proper for the Government to place before the public because there might be different acts regarding disloyalty or disaffection. There might be speeches made somewhere else but the contents of the speeches if they are to be made public in this general way might go against the security of India. Secondly, he himself has pointed out sub-clause (c) which says: "unlawfully traded or communicated with an enemy". Now, the communication may be such that it may be utterly against the interests of India to be made public. I merely pointed out circumstances. I did not say that in all cases this question will arise, but it is likely that in certain cases



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such a question would arise. Therefore, it would be wrong to insist upon the publication of the findings of the Committee of Inquiry in such cases.

Shri Dhulekar: May I know.....

Shri Sadhan Gupta: Then, I want to know.....

Mr. Deputy-Speaker: We are not going to argue about it. The hon. Member may resume his seat. Nobody can convince another absolutely.

Shri Sadhan Gupta: I am not arguing. What I want to know is.....

Mr. Deputy-Speaker: He has said enough.

Shri Sadhan Gupta:.....whether except for sub-clauses (b) and (c)....

Mr. Deputy-Speaker: It does not matter. I am not going to allow. The hon. Member must resume his seat. The hon. Minister considers it is inadvisable. Enough has been said regarding the association of judiciary; these are judicial functions and soon. It has been asked how it is against the security of the country. The hon. Minister may feel that even a person who speaks disloyally here may endanger the security of India. There can be differences of opinion.

Shri Kamath: Disloyal here?

Mr. Deputy-Speaker: Anything can be said regarding this matter. Now, I will put the clauses to the vote of the House.

Shri Sadhan Gupta: Even accepting the Minister's decision I want to know whether except for (b) and (c) he will agree to the other findings being made public?

Shri Datar: I would not like to bind the Government in any way in this respect.

Mr. Deputy-Speaker: No part judiciary and part executive; that is what he feels

Now, I will put the amendments to vote First clause 8.

The question is:

Page 5, line 9—

add at the end: "except in the case of persons to whom the proviso to sub-section (1) of section 6 applies."

*The motion was negatived.*

Mr. Deputy-Speaker: The question is:

Page 5,—

for lines 10 to 12 substitute:

"(2) Where a person ceases to be a citizen of India under sub-section (1), every minor child of that person shall thereupon cease to be a citizen of India unless the other parent of such minor child continues to be a citizen of India."

*The motion was negatived.*

Mr. Deputy-Speaker: The question is:

Page 5, lines 13 and 14—

for "attaining full age" substitute:

"knowledge of such cessation of citizenship".

*The motion was negatived.*

Mr. Deputy-Speaker: The question is:

"That clause 8 stand part of the Bill."

*The motion was adopted.*

Clause 8 was added to the Bill.

Mr. Deputy-Speaker: Now amendments to clause 9. The question is:

Page 5, line 19—

after "voluntarily" insert:

"(other than by reason of marriage)".

*The motion was negatived.*

Mr. Deputy-Speaker: The question is:

Page 5, line 21—

after "country" insert:

"not included in the First Schedule"

*The motion was negatived.*

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

Page 5—

after line 23, add:

“provided that absence from India for a period of five-years from the commencement of the Constitution, except for specified reasons, shall automatically lead to the loss of Indian citizenship.”

*The motion was negatived.*

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

Page 5—

after line 27, add:

“Explanation.—Marriage of a citizen of India with a person who is not a citizen of India does not by itself operate as voluntary acquisition on the part of such citizen of India of the citizenship of another country, notwithstanding that such persons acquire such citizenship under the law of that country.”

*The motion was negatived.*

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

Page 5—

omit lines 18 to 27

*The motion was negatived.*

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

Page 5,—

for lines 18 to 23 substitute—

“9(1) Any citizen of India who by naturalisation, registration or otherwise voluntarily acquires, from the commencement of this Act, the citizenship of another country shall, upon such acquisition cease to be a citizen of India.”

*The motion was negatived.*

**Mr. Deputy-Speaker:** Amendment No. 117 is not pressed by the hon. Member.

The question is:

“That clause 9 stand part of the Bill.”

*The motion was adopted.*

*Clause 9 was added to the Bill.*

**Mr. Deputy-Speaker:** Now, we come to amendments to clause 10.

**Shri Kamath:** I want my amendments Nos. 7 and 30 to be put to vote.

**Mr. Deputy-Speaker:** Very good. I will put those first. The question is:

Page 6, line 43:

for “has for at least ten years held a judicial office” substitute:

“is or has been a Judge of the Supreme Court of India”.

*The motion was negatived.*

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

Page 7,—

after line 5, add:

“(7) Any person aggrieved by an order made under this section may, within a period of thirty days from the date of the order, make an appeal to the Supreme Court of India”.

*The motion was negatived.*

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

Page 6, line 8—

omit “or disaffected”

*The motion was negatived.*

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

Page 6—

omit lines 15 to 17.

*The motion was negatived.*

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

Page 5—

after line 38, add:

“Provided that the person deprived of such citizenship has been given an opportunity to show cause in writing why his citizenship should not be terminated and provided further that on such explanation being given in writing by the person concerned, the advice of the Supreme Court of India has been taken on the question of terminating the citizenship.”

*The motion was negatived.*

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

Page 6, lines 8 and 9—

for “Constitution of India as by law established” substitute:

“Republic of India”

*The motion was negatived.*

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

Page 6, lines 8 and 9—

for “Constitution of India as by law established” substitute “India”.

*The motion was negatived.*

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

Page 6, lines 8 and 9—

for “Constitution of India as by law established” substitute “State”

*The motion was negatived.*

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

Page 6—

after line 9, insert:

“(bb) that citizen has accepted any title from any foreign State, against the provision of article 18(2) of the Constitution of India; or”

*The motion was negatived.*

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

Page 6, line 11—

after “enemy” insert:

“in such manner as to assist such enemy”

*The motion was negatived.*

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

Page 6, line 16,—

after “been” insert:

“convicted of a criminal offence involving grave moral turpitude, and”

*The motion was negatived.*

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

Page 6, lines 42 to 44—

for “a Committee of Inquiry consisting of a chairman (being a person who has for at least ten years held a judicial office) and two other members appointed by the Central Government in this behalf” substitute:

“the Supreme Court of India”

*The motion was negatived.*

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

Page 6, line 44—

add at the end:

“in concurrence with the chairman.”

*The motion was negatived.*

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

Page 7—

(i) line 1—

for “Committee of Inquiry” substitute “Supreme Court of India”;

(ii) line 2—

for “submit” substitute “forward”; and

(iii) line 4—

omit “ordinarily”

*The motion was negatived.*

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

Page 7, lines 4 and 5—

for "ordinarily be guided by such report in making and order under this section" substitute:

"in making an order under this section, publish and accept the findings of the Committee:

Provided that the Government shall have the power not to deprive a person of Indian citizenship notwithstanding the findings of the Committee."

*The motion was negatived.*

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

Page 7—

after line 5, add:

"Provided that an appeal against such an order shall lie to the High Court."

*The motion was negatived.*

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

Page 6, line 17—

after "two years" insert "for any offence involving moral turpitude"

*The motion was negatived.*

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

Page 6, line 41—

omit "and in any other case it may"

*The motion was negatived.*

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

Page 5—

omit line 33.

*The motion was negatived.*

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

Page 6—

omit lines 7 to 9.

*The motion was negatived.*

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

Page 6, line 8—

for "disloyal or disaffected towards" substitute "disloyal to".

*The motion was negatived.*

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

Page 6, line 8—

omit "or disaffected"

*The motion was negatived.*

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

Page 6—

after line 9, insert:

"(bb) that citizen has accepted any title from any foreign State against the provision of article 18(2) of the Constitution of India: or"

*The motion was negatived.*

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

Page 6—

omit lines 15 to 17

*The motion was negatived.*

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

Page 6, line 17—

after "two years" insert:

"for an offence involving moral turpitude;"

*The motion was negatived.*

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

Page 6, lines 39 and 40—

omit "other than clause (e) thereof"

*The motion was negatived.*

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

Page 6, line 41,—

omit "and in any other case it may."

*The motion was negatived.*

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

Page 6, lines 42 and 43—

for "(being a person who has for at least ten years held a judicial office)" substitute:

"(being a judge of the Supreme Court of India or of any High Court)"

*The motion was negatived.*

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

Page 7, line 4—

omit "ordinarily"

*The motion was negatived.*

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

Page 6, lines 8 and 9—

for "the Constitution of India by law established" substitute: "the Indian State"

*The motion was negatived.*

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

Page 6, lines 42 and 43—

for "(being a person who has for at least ten years held a judicial office)" substitute:

"(being a judge of the High Court or any person qualified to be a High Court judge)"

*The motion was negatived.*

**Mr. Deputy-Speaker:** All the amendments to clause 10 have been negatived. The question is:

"That clause 10 stand part of the Bill."

*The motion was adopted.*

*Clause 10 was added to the Bill.*

**Mr. Deputy-Speaker:** Now amendment No. 8 proposing new clause 10A. The question is:

Page 7—

After line 5, insert:

"10A. A woman who was an Indian citizen before her marriage with a person who was not a citizen of India and had renounced her Indian citizenship on account of such marriage may, within one year after the death of her husband or dissolution of her marriage, make a declaration that she wishes to resume Indian citizenship and shall thereupon again become an Indian citizen."

*The motion was negatived.*

**Clause 5— (Citizenship by registration)**

**Shri Datar:** Clause 3 might be put to vote now.

**Mr. Deputy-Speaker:** It depends upon the results of clause 5. It has been held over till clause 5 is finished. Yes, Shri Chatterjee.

**Shri N. C. Chatterjee (Hooghly):** With regard to clause 5—citizenship by registration—you remember that this clause has far-reaching effects in respect of the lakhs of people who have migrated from Pakistan, especially those who have come from East Bengal. They are covered by clause 5(1)(a). Pandit Thakur Das Bhargava and myself tried to contact the Home Minister last night with the object of discussing this matter with him and we are trying to simplify the procedure for these persons, so that the necessity for these two million persons to put in applications for registration and incur much expenditure and so on may be avoided. The Home Minister pointed out the difficulty of eliminating applications for registration on the ground that it might have very serious and far-reaching consequences, but there was an assurance that he would do everything that is possible by executive

direction and also by rules, in order to help the poor migrants from Pakistan. Particularly in regard to Bengal, I pointed out to him that there are people, not thousands but lakhs of people, concentrated in different districts and the Minister has been good enough to assure us that he would depute officers who would work actually on the spot where the refugees are concentrated so that the registration will not be a dilatory procedure and would not involve any serious and heavy expenditure. Otherwise, the people have got to go to the headquarters, go to the capital, go to Calcutta for the purpose of lodging application for registration. There are 20 lakhs of such people. One day they have to go file the affidavit and declarations; another day for the purpose of adducing the requisite evidence; another day for the purpose of taking the oath. This will be very difficult and the procedure will be dilatory. Therefore, we pleaded with the Minister that something should be done to eliminate all this difficulty. He has promised to eliminate all expenses. I think the hon. Deputy Minister also said that no stamps, no affidavits, no fees will be required or charged for. Otherwise, ordinarily, stamps and affidavits involve much expenditure. I appeal to him to see that no fees should be charged in such cases and that there should be no stamps or affidavits.

With regard to the rules, the Minister has given us an assurance that any suggestion that we would forward to him—he asked Pandit Thakur Das Bhargava and myself, Pandit Bhargava representing West Pakistan refugees and myself pleading for the East Bengal refugees—will be taken into consideration and Government will frame necessary rules and also frame executive directions so as to expedite the matter. For instance, in Bengal, it may be possible to appoint nine district officers who will be actually on the spot, would visit the refugee camps and other places where the migrants are concentrated and do the work expeditiously. The whole thing

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will be done on the spot then and there so as to eliminate any dilatory process or expensive procedure.

I am glad that the Minister has accepted one suggestion of ours. I hope the hon. Deputy Minister will accept the suggestion that I now put forward. If you will kindly look at clause 5(1)(a), you will find that it runs as follows:

“persons of Indian origin who are ordinarily resident in India and have been so resident for one year immediately before making an application for registration”.

We pointed out to the Minister that in the Constitution itself, a lesser period has been provided in some cases, and we told him that it was not proper to insist on the full one year. You know migrants from Pakistan are still pouring in and unfortunately, the refugee exodus has assumed gigantic proportions. Even according to the latest statement of the hon. Minister of Rehabilitation, over 40,000 people come in every month. Therefore, within the last one year, it must have been a large number. So, we have suggested a reduction in the period, and he was good enough to express his concurrence with our view that this period of one year should be reduced to six months. I hope the hon. Deputy Minister will accept it.

We had another suggestion to make, namely, in the rule-making powers, power should be taken to prescribe conditions of restrictions in regard to registration under clause 5. The hon. Deputy Minister pointed out to me that that power is already provided in clause 18(2)(a). Therefore, I do not think that anything more need be done in that respect. But he has assured us, and I hope the hon. Deputy Minister will also repeat that assurance, that any suggestions which we make to the Government for the purpose of simplifying the procedure and for the purpose of appointing and posting district officers or sub-district

[Shri N. C. Chatterjee]

officers to facilitate registration will be considered. We hope district officers and sub-district officers will be made available so that these poor people may not be put to the expense of Rs. 50 lakhs or Rs. 1 crore for the purpose of securing registration.

**Shri Datar:** I am accepting the amendment in so far as the reduction of the period from one year to six months is concerned. That is the amendment in regard to clause 5(1) (a). There is already an amendment by Shri Barman. It is No. 51. I am accepting amendment No. 51.

**Shri S. C. Samanta (Tamluk):** My amendment No. 113 is there.

**Mr. Deputy-Speaker:** Shri Barman has given exactly the same amendment as Shri Samanta. I shall put it to the vote.

**Shri Shree Narayan Das (Darbhangha Central):** I have an amendment to this clause. It is No. 14 It says:

Page 3, line 28—

after "year" insert:

"or such shorter period as the Government may in the special circumstances of any particular case accept,"

**Mr. Deputy-Speaker:** The Government have now agreed to "six months", and therefore, there ought to be no discrimination or discretion. I do not think Shri Shree Narayan Das will press his amendment or will move it. I shall put Shri Barman's amendment to the vote.

The question is:

Page 3, line 28—

for "one year" substitute "six months".

*The motion was adopted.*

**Mr. Deputy-Speaker:** What are the other amendments to this clause?

**Shri Sadhan Gupta:** I beg to move:

(1) Page 3, lines 21 and 22—

omit "and such conditions and restrictions as may be prescribed".

(2) Page 3, line 22—

for "may" where it occurs for the second time, substitute "shall".

(3) Page 3, line 31—

add at the end "but who have their domicile in India".

(4) Pages 3 and 4—

omit lines 35 to 40 and lines 1 and 2 respectively.

(5) Page 3, line 36—

add at the end:

"other than the Commonwealth of Australia and the Union of South Africa."

(6) Page 4—

(i) line 6, after "full age" insert "other than a person referred to in clause (a) of sub-section (1)" and

(ii) line 7, for "under sub-section (1)" substitute "under that sub-section".

(7) Page 4—

after line 15, add:

"(4A) The prescribed authority, or, as the case may be, the Central Government, shall not register any person, other than a person of Indian origin, as a citizen of India unless the country of which the person applying for registration is a citizen, affords facilities to citizens of India for acquisition of citizenship of such country, which are similar to or better than those afforded by this Act to citizens of such country for acquisition of Indian citizenship."

**Shri Shree Narayan Das:** I beg to move:

Pages 3 and 4, lines 40 and 1, respectively—

for "citizens of India" substitute "persons of Indian origin".

**Shri Mulchand Dube:** I beg to move:

(1) Page 3, line 27—

for "ordinary resident" substitute "domiciled".

(2) Page 3, line 28—

for "so resident" substitute "domiciled".

**Pandit Thakur Das Bhargava:** I want to move amendment No. 52 and with your permission, amendments Nos. 87 and 88 also.

**Mr. Deputy-Speaker:** Why is permission necessary for amendments Nos. 87 and 88?

**Pandit Thakur Das Bhargava:** The original amendment was in pursuance of a scheme which I had, in which I suggested an amendment to the other clause and wanted this to be put as a new section. Since the other clause has been passed, I request your permission to move these amendments in substitution for clause 5(1)(e) and the proviso.

**Mr. Deputy-Speaker:** I will request the hon. Member to redraft the two amendments. I will take it that the substance of amendments Nos. 87 and 88 for the insertion of new clauses must be treated as amendments to item (e) of sub-clause (1) of clause 5 and the proviso.

**Pandit Thakur Das Bhargava:** I beg to move:

(1) Page 3—

omit lines 30 and 31

(2) Pages 3 and 4—

for lines 35 to 40 and 1 to 2 respectively, substitute:

"(e) Subject to such conditions and restrictions as may be pres-

cribed, the prescribed authority may, on application made in this behalf, register as a citizen of India any person who is of full age and capacity and is a citizen of a country specified in the First Schedule but who is not already such citizen by virtue of the Constitution or any other provision of this Act:

Provided that in prescribing the conditions and restrictions subject to which persons of any such country may be registered as citizens of India under this section, the Central Government shall have due regard to the conditions, facilities and restrictions obtaining in that country, subject to which citizens of India may by law, become citizens of that country by registration or otherwise."

(3) Page 4—

after line 2, insert:

"(f) The Central Government may in its discretion refuse registration to any person on account of any emergency or in case of large influx in India of such persons as are mentioned in section 5A, for reasons of security or maintenance of the economy of India or any part of it."

1 P.M.

**Mr. Deputy-Speaker:** All these amendments are now before the House. Discussion will now proceed on this clause and the amendments.

**Shri Datar:** We have got one hour now; the time-limit may be fixed.

**Shri Kamath:** You yourself announced from the Chair that amendments to this batch of clauses will be discussed for 2 hours.

**Mr. Deputy-Speaker:** The total time-limit is there; the hon. Member need not put it to me. The Speaker announced that round about 3 o'clock, the whole discussion must close. One hour has already been reserved for the third reading. We started at 12-12 and 1 hour and 48 minutes were



[Mr. Deputy-Speaker]

allotted for the discussion on the amendments, and the clauses. So, I shall apply guillotine at 2 o'clock.

**Shri Kamath:** It was said that 2 hours would be given.....

**Mr. Deputy-Speaker:** I cannot be bamboozled by this sort of thing....

**Shri Kamath:** I am sorry you are using the word "bamboozlement".

**Mr. Deputy-Speaker:** I have been repeatedly saying that I cannot agree to giving more time.

**Shri Kamath:** We have done it before. This is a very important Bill and the House may give its consent to extend the time.

**Mr. Deputy-Speaker:** No, no.

**Shri N. C. Chatterjee:** My suggestion is that discussion on the amendments and clauses may be allowed not till 2 o'clock but till 2-30; and half an hour may be allotted for the third reading.

**Pandit Thakur Das Bhargava:** We can agree to this and allot half an hour for the third reading.

**Mr. Deputy-Speaker:** I have no objection. I have no objection even if hon. Members are prepared to do away with the third reading. The total time has been fixed and if at every stage, hon. Members want more time, it is rather inconvenient for me. Discussion on the clauses will be over at 2-30. Hon. Members may kindly have regard for this.

**Shri Sadhan Gupta:** I have moved a few amendments to this clause. Firstly, I want to make registration compulsory and that is the object of my amendment No. 50. When people like refugees are being subject to registration, in the clause as it is, there is no sense under such circumstances to make registration a matter of grace. Secondly, I want to do away with the conditions and restrictions in regard to registration for the same reason. Thirdly, by my amendment No. 55, I want to do away with

the privileges given to the people of the Commonwealth countries as such to register themselves as Indian citizens, irrespective of the relations which we have with those particular countries. Therefore, I have proposed to delete sub-clause (e). There are one or two minor matters to which I would not refer to save time. Finally, I would call attention to my amendment No. 59 by which I seek to add a sub-clause (4A) after sub-clause (4), namely,

"(4A) The prescribed authority, or, as the case may be, the Central Government, shall not register any person, other than a person of Indian origin, as a citizen of India unless the country of which the person applying for registration is a citizen, affords facilities to citizens of India for acquisition of citizenship of such country, which are similar to or better than those afforded by this Act to citizens of such country for acquisition of Indian citizenship."

I am quite aware of the proviso that has been added under clause 5 by the Joint Committee. That proviso refers only to certain matters, namely, to the provisions in regard to the acquisition of citizenship. Here I want also to include the facilities for acquisition of citizenship. For example, I have in mind restrictions like the White Australia policy, where, of course, there is nothing against Indian citizenship. Yet, there is the provision in Australia that none except a white man is taken as a citizen. That kind of a provision I have in mind in suggesting this new section 4A. With these remarks, I commend my amendments to the acceptance of the House.

**Pandit Thakur Das Bhargava:** I have given an amendment asking for the deletion of lines 30 and 31 from clause 5, on page 3. It runs thus:

"(b) persons of Indian origin who are ordinarily resident in any country or place outside undivided India;"

Article 8 of the Constitution provides for these persons. To me, this looks to be superfluous. As it is covered by article 8 of the Constitution, we need not make any provision here.

My two other amendments are 87 and 88, I want to move these two amendments for substitution of sub-clause (1)(e) and the proviso, so far as amendment No. 87 is concerned, and for the addition of a new clause so far as amendment 88 is concerned. My idea is this. The present proviso says:

"...in prescribing the conditions and restrictions subject to which persons of any such country may be registered as citizens of India under this clause, the Central Government shall have due regard to the conditions subject to which citizens of India may, by law or practice of that country, become citizens of that country by registration."

**Mr. Deputy-Speaker:** Am I to understand that clause 5A is in substitution? Of what?

**Pandit Thakur Das Bhargava:** Clause 5(1)(b) I want to see deleted, as there is article 8 of the Constitution, which relates to these persons. That is amendment No. 52.

**Mr. Deputy-Speaker:** Already, provision is made in the Constitution and therefore it is not necessary to make this. But, it is not inconsistent.

**Pandit Thakur Das Bhargava:** Not inconsistent; provision is there.

**Mr. Deputy-Speaker:** That does not restrict. At best, it is superfluous.

**Pandit Thakur Das Bhargava:** Yes. That is my submission. My amendment No. 87 runs thus:

"Subject to such conditions and restrictions as may be prescribed, the prescribed authority may, on application made in this behalf, register as a citizen of India any person who is of full age and capacity and is a citizen of a

country specified in the First Schedule but who is not already such citizen by virtue of the Constitution or any other provision of this Act:

Provided that in prescribing the conditions and restrictions subject to which persons of any such country may be registered as citizens of India under this section, the Central Government shall have due regard to the conditions, facilities and restrictions obtaining in that country, subject to which citizens of India may by law, become citizens of that country by registration or otherwise."

As has been referred to by Shri Sadhan Gupta, in Australia there is a policy that they will only allow immigration of white people. They will not register any other people from any country as citizens. You have to look to the conditions also. For instance, in Pakistan, the conditions are such that a person from India may go there, but he will not be able to settle. It is not only to the rule or law that we should see. We should see the conditions and facilities, whether any persons can go and become citizens there. If a person cannot go and cannot become a citizen there, I submit we should not allow citizens of those countries to become citizens of our country. Take the case of Ceylon or Pakistan. Unless the conditions and facilities are equal in all matters, I do not want this provision. For instance, we should be able to enjoy all the facilities and the public should not be against us. Suppose a Sikh or a Hindu goes from here, and the conditions are intolerable, it is useless to provide that persons from that country could come and become citizens here. It is only in respect of those countries where the conditions are such that our people may go and become citizens, we should allow these facilities. Otherwise, the condition of law only should not be seen; the actual conditions must be seen.

In regard to amendment No. 88....

**Mr. Deputy-Speaker:** But, how is that to be fitted in?

**Pandit Thakur Das Bhargava:** Sub-clause (e) refers to persons of full age and capacity who are citizens of a country specified in the First Schedule. As I submitted, this is in substitution of sub-clause (1)(e) of clause 5 and the proviso. Because, I wanted to divide it into parts, registration of refugees one part, and.....

**Mr. Deputy-Speaker:** My difficulty is one of drafting. The new clause 5A consists of two parts: the main clause and the proviso. New clause 5B consists of another para. Now, clause 5A, the earlier portion along with the proviso is to be taken in substitution of sub-clause (1)(e) and the proviso?

**Pandit Thakur Das Bhargava:** Yes.

**Mr. Deputy-Speaker:** What is clause 5B?

**Pandit Thakur Das Bhargava:** 5B is in addition to sub-clause (e).

**Mr. Deputy-Speaker:** It must be (f) or a part of (e).

**Pandit Thakur Das Bhargava:** It may be (f) or it may be a separate part in (e).

**Mr. Deputy-Speaker:** Is it necessary to retain the Explanation after (e)? Or, is it in substitution of the Explanation also?

**Pandit Thakur Das Bhargava:** The Explanation is quite different. The new clause may be (ee) of clause 5(1). I want to add this, if amendment No. 87 is not accepted.

**Mr. Deputy-Speaker:** If it is accepted?

**Pandit Thakur Das Bhargava:** Even then, it will be added and it will form part of the clause.

**Mr. Deputy-Speaker:** Therefore, the hon. Member moves amendment No. 87 in these terms:

Page 4, for the entry (e) in sub-clause (1) of clause 5, along with the proviso and the Explanation also.....

Is it in substitution of the Explanation also?

**Pandit Thakur Das Bhargava:** The Explanation is quite separate.

**Mr. Deputy-Speaker:** The Explanation has to stand. Therefore, Page 4, for entry (e) in sub-clause 1 of clause 5, along with the proviso, substitute amendment No. 87 instead of making it a separate clause as clause 5A.

**Pandit Thakur Das Bhargava:** Yes Thank you.

**Mr. Deputy-Speaker:** Amendment No. 88 to be added after (e). So, after entry (e) including the Explanation, insert an additional new entry as (f) to sub-clause (i) of clause 5 in terms set out in amendment No. 88, instead of new clause 5B.

**Pandit Thakur Das Bhargava:** In regard to amendment No. 88, my submission is this. We had the sad experience in Assam. We had to make a law in regard to the immigrants from Pakistan, for their expulsion. That did not materialise on account of the Nehru-Liaquat Ali Pact. All the same, a similar situation may again arise in Assam or in any other part of the country. Many persons may come in and a sort of emergency may arise. In conditions like this, for reasons of security and the maintenance of the economy of India, as well as in any threatened emergency, Government should refuse registration. It is not only discretionary. I am of opinion that they should refuse registration and they should not allow persons to come into India and endanger the economy of this country.

**Shri V. G. Deshpande (Guna):** I rise to oppose, or rather, I suggest that clause 19 of this Bill be deleted.

**Mr. Deputy-Speaker:** We have not yet come to clause 19. He will have an opportunity.

**Shri Mulchand Dube:** By my amendments 150 and 151 I want that the words "ordinarily resident" should be substituted by "domiciled", and again the words "so resident" by the word "domiciled". When amended, the clause would read thus:

"persons of Indian origin who are domiciled in India and have been domiciled for one year immediately before making an application for registration;"

My submission is that the word "domiciled" should be substituted for "residence". The highest courts have distinguished between residence and domicile. A person may be resident in a country for 20 or 30 years even and even then he may not be domiciled in that country. "Domicile" in fact implies an intention to make the country one's own. So long as a person has not intended to make Indian territory his home, my submission is that any length of residence should not enable him to get himself registered.

I would also draw attention to the Explanation at page 4, which reads:

"For the purposes of this subsection, a person shall be deemed to be of Indian origin if he, or either of his parents, or any of his grand-parents, was born in undivided India."

The result of this will be that every person in Pakistan would be entitled to be registered as a citizen of India if only he resides here for six months. Having regard to the disputes and differences that we are having with Pakistan, this kind of thing would not be safe at all. They might send some people as saboteurs. In that case, so long as we are not satisfied with the intention of the person to

make India his home, it would not be safe to allow any person who has resided for six months to register himself as an Indian citizen even though he is a resident of Pakistan and of Indian origin, even though his grand-parents were born in undivided India. As defined in clause 2, "undivided India" means India as defined in the Government of India Act of 1935 as originally enacted. That would mean that all the territories that are now included in Pakistan would be undivided India, and therefore every resident of Pakistan would be entitled to be registered as a citizen of India if only he resides for six months in this country. For some reason or other, the hon. Deputy Minister has not seen his way to accept the condition of domicile which is present in article 5 of the Constitution. Under article 5 of the Constitution, mere birth, descent or even residence is not sufficient. The reason given by my hon. friend yesterday was that because this kind of provision did not exist in the Citizenship Act of any country, and therefore they had also omitted it. May I draw his attention to the fact that the British Nationality Act was passed in 1948? It became law from January, 1949. In 1950 when we enacted the Constitution that Act must have been before the framers of our Constitution, but the framers of our Constitution in their wisdom insisted upon having the word "domicile" in article 5. I cannot understand why my hon. friend does not see his way to accept this amendment so that we may be certain that persons whom we are registering as our citizens have at least made this country their home. There is, of course, the oath of allegiance. That is quite all right, but the mere oath of allegiance may not be sufficient, unless that oath is backed by conduct to prove that the oath is right or that the oath is taken after due consideration and after understanding the full implications of the thing that he is doing. For that reason I submit this amendment should be accepted. It is in the interests of the country itself.

**Shri Datar:** Two or three points have been raised. My hon. friend Shri Sadhan Gupta has suggested that we should not allow registration so far as the Commonwealth citizens are concerned. He says that it ought to be a common provision, not only in respect of Commonwealth citizens but others as well. It cuts at the root of the position that the Government have taken the position that the Commonwealth constitutes a particular fellowship in respect of which we might recognise certain rights namely rights by way of registration. There also I have made it clear that merely because a man is a Commonwealth citizen, he does not get any rights at all. Therefore, this amendment cannot be accepted at all.

Secondly, he desires that the proviso to clause 5(e) should all go. This proviso after clause 5(e) has been put in for the purpose of having a safeguard so far as the recognition of the rights of citizenship of certain other countries are concerned. And here it has been made very clear that so far as such countries are concerned, the conditions subject to which citizens of those countries are entitled to be citizens here would depend upon the rights that Indians would have in those countries, and therefore you will find that the proviso which has been introduced by the Joint Committee is of a very salutary kind, and this is one of the three safeguards that have been introduced for the purpose of seeing that countries which practise discrimination even within the Commonwealth would not be entitled to be recognised for the purpose of citizenship.

Lastly, my friend suggested that we should introduce the question of domicile here. I have explained the whole position yesterday, and I have also pointed out how even in the Constitution in article 5 they have put in this provision because they had to do it because at the time of the Constitution all those who were residents in India for a period of not less than five years had to be taken in. There-

fore, you will find that the question of domicile cannot be introduced in this particular case.

**Shri Mulchand Dube:** May I draw his attention to the opening words of article 5?

**Shri Datar:** I have read it:

“At the commencement of this Constitution, every person who has his domicile in the territory of India.....”

I have pointed out that the word “domicile” had to be used because the right of citizenship had to be given to the persons at the commencement of the Constitution. But this is a full Act so far as the right of citizenship is concerned, and here it is not necessary to bring in that doctrine at all.

I would request the hon. Member not to make a reference to foreign Governments. He can make reference to persons, but he should not say that foreign Governments are sending saboteurs etc. That is likely to impair the good relations between countries and countries.

**Shri N. C. Chatterjee:** But that is true, unfortunately.

**Shri Datar:** It may or may not be true, but we should not make a reference to foreign Governments as such, and therefore I am anxious that all such expressions, insinuations and innuendoes are as far as possible avoided, especially when we are dealing with such important subjects.

Lastly, my friend made one point, that so far as one of the amendments was concerned, it was covered by article 8. It is true that to a certain extent this provision is there in the Constitution. Clause 5(1)(b) reads:

“persons of Indian origin who are ordinarily resident in any country or place outside undivided India;”

It is true that this has been referred to and to a certain extent provided for in article 8 of the Constitu-

tion, but we should take into account the scheme of the Constitution so far as the conferment of rights of citizenship was concerned. There in Part II what the framers of the Constitution did was that they made a provision for the recognition of the rights of citizenship or for the conferment of the rights of citizenship as at the commencement of the Constitution, and in article 8 also a reference has been made to article 5 where the expression used is "at the commencement of the Constitution", and therefore I would submit that though it has been provided for, still so far as the Citizenship Bill is concerned, this applies for all time to come. Therefore, in a self-contained law of citizenship, it is better to have a provision, though it corresponds to a certain extent with the provisions of article 8.

**Shri S. C. Samanta:** Towards the beginning of the discussion on clause 5, Shri N. C. Chatterjee said that he and Pandit Thakur Das Bhargava had had some discussion with the hon. Deputy Home Minister about the displaced persons.

**Shri Datar:** With the Home Minister also.

**Shri S. C. Samanta:** And he said that the hon. Ministers had been kind enough to accept six months as the period qualifying for registration, and that they had also given an assurance to them in regard to the procedure that they will adopt. I hope the hon. Deputy Minister will give us an opportunity to hear about it.

**Shri N. C. Chatterjee:** I thought the hon. Deputy Minister would repeat it.

**Shri Datar:** I should like to endorse whatever has been stated by the hon. Home Minister before my friends Shri N. C. Chatterjee and Pandit Thakur Das Bhargava. It is our desire that the procedure should be as simple as possible. It is our desire that as large a number as possible of these unfor-

tunate refugees should become citizens of India as early as possible, and therefore, all the steps that are necessary would be taken for the purpose of bringing in these people by registration, and whatever difficulties have been pointed out by my hon. friends would be taken into account. The procedure would be simplified also in the sense of having the registration and if possible the oath-taking at the same place, so that people need not come often. We shall also appoint officers in a fairly large number for the purpose of meeting the requirements of registration so far as these persons are concerned.

**Shri N. C. Chatterjee:** And they will complete the registration on the spot?

**Shri Datar:** As far as possible.

**Shri Mulchand Dube:** May I put one question? Under the British Nationality Act every Indian citizen is a citizen of the Commonwealth or a British subject. I should like to know what our rights are in the United Kingdom as British subjects.

**Shri Datar:** That comes under clause 11. When clause 11 is considered, I shall explain that.

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

Page 3, lines 21 and 22—

omit "and such conditions and restrictions as may be prescribed".

*The motion was negatived.*

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

Page 3, line 22—

for "may" where it occurs for the second time, substitute "shall".

*The motion was negatived.*

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

Page 3, line 31—

add at the end "but who have their domicile in India".

*The motion was negatived.*

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

Pages 3 and 4—

omit lines 35 to 40 and lines 1 and 2 respectively.

*The motion was negatived.*

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

Page 3, line 36—

add at the end:

“other than the Commonwealth of Australia and the Union of South Africa.”

*The motion was negatived.*

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

Page 4—

(i) line 6, after “full age” insert “other than a person referred to in clause (a) of sub-section (1)”; and

(ii) line 7, for “under sub-section (1)” substitute “under that sub-section”.

*The motion was negatived.*

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

Page 4—

after line 15, add:

“(4A) The prescribed authority, or, as the case may be, the Central Government, shall not register any person, other than a person of Indian origin, as a citizen of India unless the country of which the person applying for registration is a citizen, affords facilities to citizens of India for acquisition of citizenship of such country, which are similar to or better than those afforded by this Act to citizens of such country for acquisition of Indian citizenship.”

*The motion was negatived.*

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

Pages 3 and 4, lines 40 and 1, respectively—

for “citizens of India” substitute “persons of Indian origin”.

*The motion was negatived.*

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

Page 3, line 27—

for “ordinarily resident” substitute “domiciled”.

*The motion was negatived.*

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

Page 3, line 28—

for “so resident” substitute “domiciled”.

*The motion was negatived.*

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

Page 3—

omit lines 30 and 31.

*The motion was negatived.*

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

Pages 3 and 4—

for lines 35 to 40 and 1 and 2, respectively substitute:

“(e) Subject to such conditions and restrictions as may be prescribed, the prescribed authority may, on application made in this behalf, register as a citizen of India any person who is of full age and capacity and is a citizen of a country specified in the First Schedule but who is not already such citizen by virtue of the Constitution or any other provision of this Act:

Provided that in prescribing the conditions and restrictions subject to which persons of any

such country may be registered as citizens of India under this section, the Central Government shall have due regard to the conditions, facilities and restrictions obtaining in that country, subject to which citizens of India may by law, become citizens of that country by registration or otherwise."

*The motion was negatived.*

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

Page 4—

after line 2, insert:

"(f) The Central Government may in its discretion refuse registration to any person on account of any emergency or in case of large influx in India of such persons as are mentioned in section 5A, for reasons of security or maintenance of the economy of India or any part of it."

*The motion was negatived.*

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

"That clause 5, as amended, stand part of the Bill."

*The motion was adopted.*

Clause 5, as amended, was added to the Bill.

**Clause 3—(Citizenship by birth).**

**Mr. Deputy-Speaker:** Now I will put the amendments to clause 3 which was held over yesterday.

The question is:

Page 2—

after line 37, add:

"(3) Every person who is a citizen of India by virtue of article 5 of the Constitution or is deemed to be such citizen by virtue of article 6 thereof or who, since the commencement of the Constitution has migrated or may migrate to India from Pakistan by reason of communal distur-

bance or from fear of communal disturbance or oppression, shall be deemed to be a citizen of India by birth."

*The motion was negatived.*

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

Page 2—

after line 37, add:

"Every foundling who was or is found as a deserted minor in India shall, until the contrary is proved, be deemed to have been born in India."

*The motion was negatived.*

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

Page 2—

after line 37, add:

"(c) at least one of the parents is a citizen of India."

*The motion was negatived.*

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

Page 2—

after line 37, add:

"(3) Every foundling either before or after the commencement of this Act, if found on the soil of India, shall be deemed to have been born in India."

*The motion was negatived.*

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

"That clause 3 stand part of the Bill."

*The motion was adopted.*

Clause 3 was added to the Bill.

**Clauses 11 to 19 and 1 and Schedules**

**Mr. Deputy-Speaker:** We shall now take up the remaining clauses, namely clauses 11 to 19, and the First Schedule, the Second Schedule, the Third Schedule, clause 1, the Enacting Formula and the Title.



[Mr. Deputy-Speaker]

Hon. Members who want to move their amendments to these clauses and Schedules may do so.

**Shri Kamath:** I beg to move:

Page 1—

(i) line 3, after "1" insert "(1)"; and

(ii) after line 3, add:

"(2) It extends to the whole of India."

**Shrimati Renu Chakravartty:** I beg to move:

Page 7, line 13—

(1) add at the end "or any other country which the Central Government may from time to time specify".

(2) Page 10—

after line 12, add:

- "C. 1. Nepal  
2. Burma  
D. 1. Singapore  
2. Malaya  
3. British Guiana  
4. Bermuda  
5. West Indies  
6. Kenya."

**Shri H. N. Mukerjee:** I beg to move:

Page 10—

(i) line 3—

omit "Commonwealth".

(ii) omit line 11.

(iii) line 12—

for "B" substitute "8"; and

(iv) after line 12, add:

"9. Burma.

10. The Peoples' Republic of China.

11. Nepal.

12. Indonesia.

13. Egypt.

14. Afghanistan.

**Shri Kamath:** I beg to move:

(1) Page 7—

after line 28, add:

"Provided that no application of a person of Indian origin, ordinarily resident in India, shall be refused except for reasons to be stated in writing and provided that no order refusing such application shall be made without reference to a Committee of Inquiry constituted as suggested in connection with section 10."

(2) Page 7, line 32—

add at the end "except in the case of an order refusing the application of a person of Indian origin, ordinarily resident in India".

(3) Page 7—

after line 32, add:

"(3) Any person of Indian origin ordinarily resident in India, aggrieved by an order of the Central Government made under this section may, within a period of thirty days from the date of the order, make an appeal to the Supreme Court of India."

(4) Page 10, lines 21 and 22—

for "I, A.B.....do solemnly affirm (or swear)" substitute:

"I, A. B.....do swear in the name of God solemnly affirm".

(5) Page 10, lines 22 and 23—

for "the Constitution of India as by law established" substitute

"the Republic of India".

(6) Page 10, lines 22 and 23—

for "the Constitution of India as by law established" substitute "India".

(7) Page 10, lines 23 and 24—

omit "observe the laws of India and".

(8) Page 9, line 26—

for "1943" substitute "1948".

(9) Page 10—

omit line 11.

(10) Page 9, line 21—

for "fourteen days" substitute "thirty days".

(11) Page 9, lines 23 and 24—

for "during the session in which they are so laid" substitute "therein".

(12) Page 9—

after line 24 add:

"(5) Every notification proposed to be issued under this Act, shall be placed in draft before both Houses of Parliament and shall not be so issued except with the approval of both Houses of Parliament."

(13) Page 10—

for the First Schedule, substitute:

**"THE FIRST SCHEDULE**

[See sections 2(1)(b) and 5(1)(e)]

A. 1. The Republic of Ireland, that is, Eire.

2. Burma

3. Nepal

4. Bhutan

5. Afghanistan

B. The following Commonwealth countries:—

1. United Kingdom

2. Canada

3. New Zealand

4. Pakistan

5. Commonwealth of Australia

6. Ceylon

7. Federation of South Rhodesia and Nyasaland

8. Union of South Africa.

*Explanation.*—In this Schedule, 'United Kingdom' means the United Kingdom of Great Britain and Northern Ireland, and includes the Channel Islands, the Isle of Man and all Colonies; and 'Commonwealth of Australia' includes the territories of Papua and the territory of Norfolk Island."

**Shri Sadhan Gupta:** I beg to move:

(1) Page 7, line 7—

omit "Commonwealth".

(2) Page 7, line 8—

after "the First Schedule" insert:

"other than Australia and Union of South Africa."

(3) Page 7, line 9—

for "Commonwealth citizen" substitute:

"friendly citizen."

(4) Page 7, line 13—

add at the end:

"other than Australia and the Union of South Africa."

(5) Page 7, lines 33 and 34—

for "by the prescribed authority" substitute:

"by the Central Government of the prescribed authority."

(6) Page 7, lines 34 and 35—

omit "(other than the Central Government)".

[Shri Sadhan Gupta]

(7) Page 7, lines 36 and 37—

for “to the Central Government” substitute:

“to the High Court which exercises appellate jurisdiction in the place where such person ordinarily resides or personally works for gain.”

(8) Page 7, line 38—

for “the Central Government” substitute:

“such High Court”.

(9) Page 8, lines 3 and 4—

for “the Central Government” substitute:

“such High Court”.

(10) Page 8, line 6—

after “may submit” insert:

“and any other evidence, documentary or otherwise, which may be produced by any party to the proceedings.”

(11) Page 8, lines 7 and 8—

for “the Central Government” substitute:

“such High Court.”

(12) Page 8, line 11—

for “section 17” substitute “section 18”.

(13) Page 8, lines 25 and 26—

omit “and the conditions and restrictions in regard to such registration.”

(14) Page 9, lines 1 to 3—

omit “in respect of applications, registrations, declarations and certificates under this Act, in respect of the taking of an oath of allegiance, and”.

(15) Page 10—

omit line 11.

(16) Page 10, line 12—

for “Ireland” substitute “Eire”.

(17) Page 10—

after line 12 add:

“C. Afghanistan, Bhutan, Cambodia, Laos, Nepal, Peoples' Republic of China, Republic of Indonesia, Union of Burma, Union of Socialist Soviet Republics, Viet Nam.

D. Any other country which may be specified by the Central Government by notification in the Official Gazette, which has developed close relations with India through acceptance of common principles for establishment and perpetuation of world peace or through economic agreements entered into on the basis of respect for and benefit of India.”

(18) Page 10, lines 22 to 24—

for “to the Constitution of India as by law established, and that I will faithfully observe the laws of India” substitute “to the Indian State”.

**Shri K. K. Basu** (Diamond Harbour): I beg to move:

(1) Page 10—

after line 12, add—

“C. Any other country which may be notified by the Central Government.”

(2) Page 11—

omit lines 1 to 4.

**Shri B. S. Murthy**: I beg to move:

Page 10—

after line 11, add:

“9. Republic of Burma.”

**Pandit Thakur Das Bhargava**: I beg to move:

(1) Page 9, line 21—

for “fourteen days” substitute “one month”.

(2) Page 9, lines 23 and 24—

omit “during the session in which they are so laid.”

(3) Page 10, lines 22 and 23—

for “Constitution” substitute “State”.

**Shri N. B. Chowdhury** (Ghatal): I beg to move:

(1) Page 10, line 15—  
omit "and all Colonies".

(2) Page 10—  
for line 11, substitute:

"8. Colonies of United Kingdom."

**Shri N. C. Chatterjee**: I beg to move:

(1) Page 10, lines 23 and 24—  
omit "and that I will faithfully observe the laws of India".

(2) Page 11—  
after line 13, insert:

"(dd) that he possesses means to support himself and his family, if any, in India."

**Shri Raghuraj Sahai**: (Etah Distt.—North-East cum Budaun Distt.—East): I beg to move:

Page 11—  
after line 21, insert:

"(h) that he must know the concepts on which the Indian Constitution is based:".

**Shri R. D. Misra** (Bulandshahr Distt.): I beg to move:

Page 11—  
after line 16, insert:

"(ff) that he has adequate knowledge of the responsibilities and privileges of Indian citizenship;".

**Shri Datar**: I beg to move:

Page 10—  
for the First Schedule substitute:

"THE FIRST SCHEDULE

[See sections 2(1)(b) and 5(1)(e)]

A. The following Commonwealth countries:—

1. United Kingdom.
2. Canada.

3. Commonwealth of Australia.

4. New Zealand.

5. Union of South Africa.

6. Pakistan.

7. Ceylon.

8. Federation of Rhodesia and Nyasaland.

B. The Republic of Ireland.

*Explanation.*— In this Schedule, 'United Kingdom' means the United Kingdom of Great Britain and Northern Ireland, and includes the Channel Islands, the Isle of Man and all Colonies; and 'Commonwealth of Australia' includes the territories of Papua and the territory of Norfolk Island."

All that we have done in this amendment is that we have sought to recast the order of the countries in the First Schedule.

**Shri Kamath**: And badly recast. Also in favour of the white race.

**Mr. Deputy-Speaker**: All these amendments are before the House for discussion.

**Shrimati Renu Chakravartty**: I shall confine myself only to clauses 11 and 12. From the very beginning we have opposed the inclusion of clause 11, and we continue to do so in spite of the speech made in this House by the hon. Prime Minister, because we have not been enlightened in any way.

**Shri Datar**: May I request that amendment No. 68 also may be taken as moved? I forgot to mention it earlier through oversight.

I beg to move:

Page 8, line 11—

for 'section 17' substitute 'section 18'.

We want to substitute the words 'section 18' in place of 'section 17'.

**Mr. Deputy-Speaker**: You want to renumber the clauses?

**Shri Datar:** No. You will find that in clause 16 which deals with the delegation of powers, there is a mention of section 10 and section 17. The words 'section 17' are there by mistake. Actually, the words should be 'section 18'.

**Mr. Deputy-Speaker:** Very well. All these amendments are now before the House.

**Shrimati Renu Chakravarty:** I was saying that after hearing the speech of the Prime Minister, we are still not clear as to how being a member of the Commonwealth has helped and facilitated us in getting good citizenship laws and reciprocity, because that is exactly the particular point which we are considering in this Bill. He also said that he was of the same opinion, that we should be moving towards world citizenship—he was in favour of it. But when we see the actual wording of clause 11 and of the First Schedule, we find that this Commonwealth citizen idea has been taken totally from the British Nationality Act, as it were, by the back door and at the same time the Schedule has been kept as a tightly hinged door instead of being the first step to open up our citizenship to people of other countries with whom we are very closely related and where reciprocity would be of the utmost importance to us, because we have large numbers of our nationals in those countries. Instead of that, we have made this Schedule. We become more and more suspicious because any move to include any other country has been totally opposed by the Treasury Benches. Let us take as touchstone the case of Burma. Now, the hon. Prime Minister said: 'well, Burma does not want it; that is why we should include such a clause'. Now, even if Burma does not want it; probably they feel—I do not know what the reason is but—probably they may be rather frightened that large numbers of Indians would also claim Burmese nationality. But that should not deter us from taking the first step in the right direction. Even if other people may be suspi-

cious of the future, the first step in liberality, the first step in a wider outlook would naturally bring about reciprocal feelings after a period of time. That is why I see no reason why we should introduce this clause and the Schedule as they stand today, and open up certain privileges of our citizenship to countries like Australia which have a 'white' policy or South Africa. As regards South Africa, the provision has now been amended, but the provision as it originally stood, as it emanated from Government, was something different and reflected the attitude of government was to echo the British Nationality Act. That is why I feel that there is absolutely no reason why we should have clause 11, and why we should not have clause 12, as it is, with this addition which I have put in in my amendment, at the end of clause 12(1), namely: "or any other country which the Central Government may from time to time specify". I hope the hon. Deputy Minister will be able to shed some light as to why he finds it difficult to accept this amendment, if it is true that he accepts the proposition that we are moving towards—and we do desire to move towards—world citizenship.

Now, I want to raise one particular point which has been raised again and again. But again I want to put certain facts before this House in regard to this question of Commonwealth citizenship. Now, the expression "Commonwealth citizenship" has not been defined in our Act. We do not know what privileges accrue to a person by being a Commonwealth citizen, as far as our Act goes, if we were to take it that this is an Act that is totally independent of reference to any other Act. The expression "Commonwealth citizen" which has been taken from the British Nationality Act, which occurs again in the various Acts passed by the Parliaments of other Commonwealth countries, has a specific idea as to what it particularly means. There, it is clearly stated that a British subject and a Commonwealth citizen has the same meaning. Now, by clause 11, a citizen

of a Commonwealth country *ipso facto* has the status of a Commonwealth citizen in India. Clause 12 says that there are certain provisions of reciprocity which must be fulfilled in order that the rights of a citizen of India may accrue to that person of that country. Now, I want to make this distinction. Since we have not specified what is meant by 'Commonwealth citizen in India', by clause 11 we have *ipso facto* given Commonwealth citizenship to that person. But clause 12 is something different; you are only granting the rights of Indian citizenship to that person if there is a reciprocal law in that country. In that case, I would like to know why do we need clause 11 regarding Commonwealth citizenship. It looks as if some sort of an agreement has been reached by the Prime Minister at the Commonwealth Prime Ministers' Conference in 1949 with those countries. Something has happened whereby we have to have this clause as a sop to the Commonwealth. I fail to see the logic behind this. I fail to see how we are going to help Malaya and other colonial territories by our being tied to the citizenship laws of this Commonwealth. I really do not understand the logic of what the Prime Minister said.

Lastly, I want to place before this House another point. The Prime Minister has said that we do not repeal the British Nationality Act of 1948, as it applied to India, because by the Indian Independence Act of 1947, we have already repealed all Acts which were passed prior to that date by the British Parliament. Now, there are certain things which happened at that time which I want to bring before this House. This Act was passed in 1947. In April 1949, at the Commonwealth Prime Ministers' Conference, the Prime Minister said that India had decided to become a Republic. There it was decided to give a special status for India etc. within the Commonwealth. Again, about the 26th November 1949, I think certain clauses of the Constitution were brought into force and

the rest was supposed to have come in force on 26th January, 1950. Now, after the Indian Independence Act of 1947 had been passed repealing certain Acts, an Act was passed on the 16th December 1949, called the India (Consequential Provision) Act, 1949. It is a British Act. It was published in the Government of India Gazette Extraordinary dated 13th January, 1950. It says in sub-section (1) of section 1:

"On and after the date of India's becoming a Republic all existing law, that is to say, all law, whether being a rule of law or a provision of an Act of Parliament or of any other enactment or instrument, whatsoever, is in force on that date or has been passed or made before that date and comes into force thereafter *shall have the same operation in relation to India*, and to persons and things in any way belonging to or connected with India, as it would have had, if India had not become a Republic".

Now, this is very important. Together with this we have to see that the Act of 1947 was repealed by article 395 of the Constitution. Now, everything at that time was done in close consultation with the Commonwealth, with the United Kingdom, with those were the initiators and leaders in the British Parliament. So to say that the India (Consequential Provision) Act, 1949 does not stand at all because we have the Indian Independence Act of 1947 repealing all Acts prior to that date is to explain away the point. The Treasury Benches are trying to explain it away, but I am afraid up till now no suitable case has been brought forward and placed before this House whereby this position can be certified. In spite of the closest co-ordination between the British Government and ourselves—at every stage we were in consultation with them—we find that these things are happening. Therefore, I feel that there is a lot to be said about the fact that this particular phrase 'Commonwealth citizen

[Shrimati Renu Chakravartty]

of India' is nothing more than meaning a British subject which is totally below our dignity to accept. I hope that if we keep clause 12 with the addition that I have proposed in my amendment and delete clause 11, that will meet the position.

One last word about the Schedule. I have tried to amend the Schedule. I am totally opposed to the amendment proposed by Shri Datar. I do not know why he has suddenly taken it upon himself to put the white nations first and the coloured nations later. I suppose it will be said that it is according to the date on which one entered the Commonwealth. I do not know the reason why it should have been done. We could have just kept it as it is. Nor has he not increased the number in the Schedule.

Lastly, I would again urge that we should have the countries outside the Commonwealth of Nations' like Burma and other countries included and that we should not also use the words 'Colonies of the British Empire'. We should at least take the trouble of specifying the names because they are entities by themselves and we should at least respect them and give them that dignity which we ourselves would like to have, the dignity of an independent nation for which they are fighting today.

**Shri Kamath:** Mr. Deputy-Speaker, at the outset I wish to dispose of the superficially convincing plea of the Prime Minister which was made to the House yesterday. I should like to invite the attention of the House and the Minister to sub-section (8) of the British Nationality Act, 1948. Will you also please lend me your ears, Sir?

**Mr. Deputy-Speaker:** You have both my ears and eyes. Both ears are there.

**Shri Kamath:** One ear will do; I know how efficient and keen they are.

In this Act, the expression citizenship law in relation to any country mentioned in sub-section (3) of section 1 of this Act—and the Common-

wealth countries are mentioned there—means an enactment of the Legislature of that country declared by order of the Secretary of State—mark these words, 'declared by order of the Secretary of State'—made by statutory instrument at the request of the Government of that country to be an enactment making provision for citizenship thereof and a citizenship law shall be deemed for the purpose of this Act to have taken effect in a country on the date on which the Secretary of State by order made at the request of the Government of that country declares to be the date on which it takes effect.

This completely disposes of the argument that we are not bound by whatever law the British Parliament enacts.

**Mr. Deputy-Speaker:** I am not interrupting the hon. Member. But, he drew my attention. Therefore, I must say something. Let him refer to clause 2, the definition of the word 'citizenship'. We want our persons to be recognised as citizens there in a country which is reciprocating. We must pass a law and then request that other country to recognise it. It is said—"citizenship or nationality law", in relation to a country....

**Shri Kamath:** Our law does not take effect until he approves of it.

**Mr. Deputy-Speaker:** Our law will take effect with respect to us. Our law recognising their citizenship will not take effect unless they recognise our law. It is only for those persons who want to have one nationality and who want to register. They have also to see whether our law satisfies all the conditions of reciprocation which they have passed. This is so both in our Act and in their Act. Where reciprocation is necessary in terms of the First Schedule, they have a right to look into our law and we have a right to look into their law. Unless both of us are satisfied there is no question of granting those rights. Therefore we make a request regarding our law and they make a request regarding their law.

**Shri Kamath:** It does not answer my question. Anyway it is an interpretation.

I have got here a copy of a letter written by the Ministry of External Affairs on the 28th October, 1952. It is not the one quoted by Shri Gurusadaswamy nor the one referred to by Shri Mukerjee the other day. This is another letter from the Ministry of External Affairs. It is letter No. F-21 69/51, dated the 28th October, 1952. That says: 'I am directed to say—some Secretary or Deputy Secretary writes this—'that Indian citizenship...'

**Mr. Deputy-Speaker:** See sub-clause (c). It is that country that has to make this request. In their law they say for their recognising our law we must make a request to them. That is, if we want our nationals to be recognised in that country. They have to make a request like that if they want their nationals to be given any such rights here. Our clause 2(c) says:

'(c) "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;'

Any kind of law is not to be recognised. We have got a right or discretion to declare or accept a particular piece of legislation of that country as a law providing for citizenship or nationality of that country, for our purposes of reciprocation. Therefore, with respect to that law they have to pass that law and that Government has to request our Government to recognise that law. They are themselves a sovereign country and our recognition does not detract from their sovereignty. That is copied here. When we pass a law, we have to communicate to another country and ask them to recognise

that law. It is open to them; it may be accepted or not. So far as reciprocation is concerned, it is on all fours; in that respect, our people will have the same rights.

**Shri Kamath:** I followed your profound observations with the attention and care they deserve. But, may I point out that a part of this sub-section is not on a par with our provision. This sub-section (8) of section 32 of the British Nationality Act of 1948 says that the date on which that will take effect is the date which will be specified in the order. Till that date it will not take effect. There is no such provision in our Bill at all.

**Mr. Deputy-Speaker:** I think it must be in some other section later.

**Shri Kamath:** No, Sir.

**Mr. Deputy-Speaker:** I bow to his experience. I thought that it must be somewhere; it must be there.

**Shri Kamath:** No, Sir. It will not take effect unless the Secretary of State says that it will take effect and not before that date.

**Mr. Deputy-Speaker:** So far as other people are concerned, we need not worry. We shall also notify our date.

**Shri Kamath:** There will be a conflict. If the Government have the guts to stand up and say that, then I have no objection.

I was reading this letter of the Ministry of External Affairs. It says:

'I am directed to state that Indian citizenship is at present governed by the provisions of the Constitution of India.'

So far so good. This is not in the letter.

'More comprehensive principles are proposed to be embodied in an Indian citizenship law. Until the Indian citizenship law is enacted, the Government of India do not propose to approach the Secretary of State, Commonwealth Relations, London'—this



[Shri Kamath]

is not also in the Commonwealth Act—

‘for declaring the provisions of the Constitution as citizenship law in relation to India, within the meaning of sub-section (8) of section 32 of the British Act of 1948.’

**Mr. Deputy-Speaker:** That is the citizenship law which applies to Indians. If we want our law to apply for the benefit of our nationals, we must apply. We do not propose applying until we have passed this law which will be in addition to the law of citizenship which is there already in the Constitution. Therefore, they say, until a comprehensive law which is contemplated in the Constitution is passed, we do not propose to apply. Because, they may say we have not made a final law regarding citizenship. It is open to them to accept or not accept it. Hon. Members might say that they ought to be no difference between the words here and those words with regard to the countries in the First Schedule. That is another point. But, with respect to this clause here, so far as approval is concerned, I find the same provisions have been adopted by us which they have adopted. They apply and we also apply.

**Shri Kamath:** It is far more stringent than our provision.

2 P.M.

I come to the other point to which I referred yesterday and I am sorry the Deputy Home Minister, either because he misheard me or for some other reason, read the provision from the wrong Act. He was reading section 6 of the Independence Act. Then I asked him to refer to section 18 and by mistake he referred to section 18 of the British Nationality Act instead of section 18 of our Independence Act.

**Shri K. K. Basu:** That is the privilege of Ministers.

**Shri Kamath:** I did not want to interrupt then because I had already interrupted the Prime Minister earlier

and I felt that if you got impatient, I might not get a chance to speak today.

**Mr. Deputy-Speaker:** I am myself taking up so much time.

**Shri Kamath:** You are more entitled to than we are. As in section 32(8) of the British Nationality Act, we have also said in clause 12 that the Central Government may by order notified in the Official Gazette, make provisions on a basis of reciprocity etc., etc. It is left to us to choose a particular day. As they have said in section 32(8) we can also say the same thing.

Now I come to section 18 of the Independence Act of 1948. How do Government propose to reconcile section 18 of the Act with section 6? I will not dilate upon that as I am running against time but the hon. Deputy Home Minister may look this up more closely and furnish us with some satisfactory answer.

I now come to the First Schedule. Shrimati Renu Chakravarty referred to one aspect of the matter, that is, putting the white nations on top of the non-white nations. That is not the end of the matter. I find on a reference to the British Nationality Act, 1948, that the official amendment, which seeks to change the original draft and even the schedules as embodied in the Committee's Report, is a slavish imitation or copy of sub-section (3) of section 1 of the British Nationality Act. That is the only answer I can find to this. Because that says it, we must also put the things in the same order.

**Mr. Deputy-Speaker:** The order may be changed provided hon. Members have no objection.

**Shri Datar:** Will the hon. Member allow me to just interrupt him for a minute? So far as the list is concerned, what has been done is that the names have been mentioned in the list in the order of their attainment of dominion status.

**Mr. Deputy-Speaker:** The hon. Member will be more satisfied by deleting that portion.

**Shri Kamath:** South Africa was at the bottom as most of us want it to be and now by this amendment it is being promoted in the list. (*Inter-ruption*) I am prepared to reply provided the interruption is audible.

**Mr. Deputy-Speaker:** Why does he give time to others like this?

**Shri Kamath:** My friend, Shri Barman, the other day—he is not here now—referred to some Commonwealth Conference held some two or three years ago in which the South African delegate made a very offensive speech. I was not there myself and I take it that Pandit Thakur Das Bhargava endorses that it was a very offensive speech. When I asked him whether any other delegate took exception to that speech, Shri Barman said that our leader, the Speaker, did take exception. I am happy that the leader of our delegation took exception to that. Shri Barman said that no other country in the Commonwealth, including the so called mother country, the United Kingdom, took exception to the remark made by the South African delegate. Is that not so, Pandit Bhargava ji? Silence is tacit agreement, I take it. Therefore, I fail to understand why we should be at all enamoured of this Commonwealth when they have not got even that bit of sympathy with us. Not a single country, U.K., Canada, New Zealand, Rhodesia, Australia or any of these miscellaneous countries cared to raise a finger of protest against the South African delegate's speech. In spite of that we want to enact clause 11. But what is a Commonwealth citizen? Please turn up again the British Nationality Act, 1948. According to sub-section (2) of section 1 of that Act, it is nothing more and nothing less than a British subject.

**Pandit K. C. Sharma:** It carries no meaning.

**Mr. Deputy-Speaker:** It has been circulated to all hon. Members already. The hon. Member need not take notice of some of these observations. He only says that one term is used in one case and another term in another case and they are synonymous.

**Shri Kamath:** A Commonwealth citizen, according to this section, is nothing more than a British subject. Still we are enamoured of that subjecthood, in spite of their imperialism, colonialism and partitioning of our country seven or eight years ago. The Prime Minister yesterday laboured hard to convince the House about the necessity or desirability or even—what shall I say—the helpfulness of the Commonwealth link and that our independence has not suffered in any way. I shall cite one instance to show how our independence has suffered. Take the case of Cyprus. Government stands against colonialism; they stand for self-determination for Goa, even for Kashmir, but we have not raised our voice against this atrocity being perpetrated in Cyprus because it stands in the British life-line, the Middle East. The Cypriots stand for union with Greece. Our delegation at no time has protested against British oppression, imperialism, and colonisation of Cyprus. I do not want to refer to Kenya.

**Mr. Deputy-Speaker:** Does the hon. Member want to make this a debate on External Affairs?

**Shri Kamath:** This is one instance just to drive home my point.

**Mr. Deputy-Speaker:** Even if we are not in the Commonwealth, our external affairs' policy will depend upon enlightened self interest as to whether in every case in the whole world we must say it.

**Shri Kamath:** We have said that Formosa belongs to China and similarly we might have said that Cyprus belongs to Greece. However, I will talk more about this in the debate on External Affairs.

[Shri Kamath]

I will now refer briefly to my amendments to the other clauses. One refers to the rule-making power. I have sought to substitute "fourteen days" by "thirty days" and I have also sought to omit the words "during the session in which they are so laid" and to have the word "therein" instead. After the rules are placed on the Table of the House, modifications may be made in the rules by the Houses of Parliament, not necessarily during the session in which they are so laid.

Then, Sir, coming to clauses 13 and 14, I have sought to provide that refusal to grant an application for persons of Indian origin resident in India envisaged in sub-clause (c) of clause 5(1) should only be for reasons to be stated in writing and the applications in such cases should not be summarily disposed of. Also, in case of the Central Government's order refusing citizenship to such persons there should be a remedy by way of appeal to the Supreme Court.

Lastly, I come to the Schedules. To the First Schedule I have got an amendment which I have already moved by which I have sought to include two categories. In the present Schedule also there are two categories A and B—it is not entirely only Commonwealth countries. But, I have sought to put B on the top; that is, Commonwealth countries after A, and A will include The Republic of Ireland, that is, Eire; Burma, Nepal, Bhutan and Afghanistan. The Deputy Minister said the other day that Bhutan is regarded as an independent State, but we are negotiating with Sikkim about the status of the people of Sikkim *vis-a-vis* India and of Indians *vis-a-vis* Sikkim. The negotiations are in progress. I have sought to modify the Schedule by including more countries, our immediate neighbours about whom we ought to be more concerned than distant countries like Australia and Canada. I have sought to include Burma, Nepal, Bhutan and Afghanistan. Then I have

included The Republic of Ireland, that is Eire because so far as the freedom struggle is concerned, we had intimate contacts with Ireland and it had become a familiar name, almost a household name—Eire. Ireland and India came very close to each other in this freedom struggle. I have not got any race or colour prejudice and so I have put Eire on top of A category.

Then I come to the Second Schedule and that is with regard to the oath of allegiance. I only want to stress one amendment with regard to this and that is about the form of the oath. I have sought to bring it in line with the form prescribed in the Constitution itself. The Constitution prescribes a form of oath of allegiance for the President, Ministers, Members of Parliament and the Members of the legislatures. The form is "I do swear in the name of God" and then below the lines are: "solemnly affirm". That is the amendment which I have moved and I would commend all these amendments to the acceptance of the House.

Shri N. C. Chatterjee: I would ask the Deputy Minister seriously to consider what is the point in having clause 11. Let us see what it says. It says:

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

What is meant by "Commonwealth Citizen"? You do not define it in this Bill. Look at any Act promulgated in the Commonwealth countries and you will find that everywhere a Commonwealth citizen is defined. I have taken the trouble of going through the different Acts. I do not want to take up your time, Sir, or the time of this hon. House by going through them, but look at Pakistan. It has enacted the Act after the agreement with the Commonwealth was made. As India was a party to that

so Pakistan was a party to that. In the Pakistan Citizenship Act, in section 2 they say:

"A Commonwealth Citizen means a person described as such in the British Nationality Act of 1948."

May I ask the hon. Deputy Minister, does a Commonwealth citizen really mean a person described as such in the British Nationality Act of 1948? There is no other Act.

**An Hon. Member:** Yes, yes.

**Shri N. C. Chatterjee:** If that is so, be straightforward and say we love the British Commonwealth, we love to be members thereof and at the same time have the credit of putting it down expressly. What I am pointing out is, what is the point of simply enacting clause 11 which says:

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

You do not say what is a "Commonwealth citizen". You do not prescribe the rights and duties of Commonwealth citizens. You do not say what is the 'status' of a Commonwealth citizen. You do not even specify or indicate what is the connotation of that expression. If you delete clause 11 there will be absolutely no harm.

**Mr. Deputy-Speaker:** I understood it to mean that a Commonwealth citizen has those rights which are given to him under clause 12, that is, registration as opposed to naturalisation. One view is that clause 11 itself is the defining clause. Whoever is a citizen of any Commonwealth country as listed in the First Schedule is a Commonwealth citizen for us. Clause 11 seems to be a definition of Commonwealth citizens. Whoever is a citizen under the law in any Commonwealth country listed in the First Schedule will be a Commonwealth citizen so far as we are con-

cerned and he shall have the rights of registration etc. as defined later.

**Shri N. C. Chatterjee:** Whatever right is there is by sub-clause (1) of clause 5.

**Pandit Thakur Das Bhargava:** Clause 11 is introduced only to show what is contained in clause 12.

**Mr. Deputy-Speaker:** Clause 12 follows 11. Clause 12 seeks to confer rights on the basis of reciprocity and so on.

**Shri N. C. Chatterjee:** What I am pointing out is that a Commonwealth citizen is not defined and there is only a reference to that. Clause 2(1) (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;"

Now, look at clause 5(1)(e) which says:

"persons of full age and capacity who are citizens of a country specified in the First Schedule:"

Then for citizenship by registration there is a proviso.

What I am pointing out is, if you delete clause 11 even then there is no harm at all. Look at clause 12. Clause 12 stands by itself. It says:

"(1) The Central Government may, by order notified in the Official Gazette, make provisions on a basis of reciprocity for the conferment of all or any of the rights of a citizen of India on the citizens of any country specified in the First Schedule."

**Mr. Deputy-Speaker:** That is, a Commonwealth citizen.

**Shri N. C. Chatterjee:** What I am saying is that in clause 12 there is no mention of a Commonwealth citizen at all.

**Mr. Deputy-Speaker:** The words are not used.

**Shri N. C. Chatterjee:** As a matter of fact, there is no point in mentioning that. Even if you delete clause 11, clause 12 will have full force.

What I am pointing out is if the hon. Prime Minister is agreed and if my friends on the Treasury Benches think that we should be members of the Commonwealth, it is an expanding concept, it will help us and so on, then I am only pressing to delete at least the Union of South Africa. You know, I was a delegate of this country at a recent Commonwealth conference. I have already said that I did not like the South African delegate, not that he was personally offensive or disrespectful, but having regard to the antecedents of that country and the anti-Indian attitude. Therefore, we would like to have nothing to do with the Union of South Africa so far as our citizenship laws are concerned. If you want to make it a dynamic concept—the Prime Minister's answer was: "We are moving towards world citizenship"—if you really think it is a fluid something, a changing something, a progressive something, then why don't you have provision for adding some other countries in the First Schedule? Why simply concentrate on the British Commonwealth countries? Why don't you have provision to prescribe such other countries as may be notified from time to time by the Government of India or the Parliament of this country? You are not doing that. I am submitting that you should at least have the courage of conviction to have a clause like the one they have in the Pakistan Citizenship Act. It is perfectly correct. It is no good saying that the British Nationality Act of 1948 does not apply. Shri H. N. Mukerjee was putting to the hon. Prime Minister, namely, that in clause 19, you are simply saying that "the British Nationality and status of Aliens Acts, 1914 to 1943, are hereby

repealed in their application to India". But you are not mentioning the British Nationality Act of 1948. What the Prime Minister said or attempted to say was that it was done because of the Indian Independence Act. Sub-section 6 of section 4 of the Indian Independence Act says:

"No Act of Parliament of the United Kingdom passed on or after the appointed date shall extend or be deemed to extend to either of the dominions, as part of the law of that dominion, unless it is extended thereto by a law of the legislature of that dominion".

Technically it may be correct. But you know I read out in the House from the latest edition of Lord Simond's edition of Halsbury's Laws England where it is pointed out that the British Nationality Act of 1948 which came into force on the 1st January, 1949, is a measure on which general agreement was reached among Canada, Australia, New Zealand, South Africa, India, Pakistan and Ceylon. Therefore, it is no good saying that it need not be there in the Bill. You do not mention it, because you are really committed to that agreement and that was the result of some kind of agreement in London. Therefore, be frank and say that you are already committed to the acceptance of the British Nationality Act of 1948. As a result of international agreements, that Nationality Act has been followed by citizenship laws or similar laws in most of the countries. Therefore, the convention was not simply to adopt the general scheme of the British Nationality Act but also some kind of implied undertaking that the different States or the countries of the Commonwealth must also have similar statutes. Why do you not say that frankly? Why do you not say that you are doing it simply to implement that international agreement or that Commonwealth understanding? Be frank. Be candid. Take the Parliament into confidence and boldly say, "Yes; we cannot delete South Africa, or we cannot change the Schedule because of that agree-

ment of ours or that convention of ours". Do not try to camouflage it by simply saying that the Commonwealth is a dynamic concept and so on. South Africa has been perhaps more dynamic in its anti-Indian attitude than some of the countries which have stood by India in the struggle with Portuguese colonialism or French imperialism.

Now, look at the Second Schedule, which prescribes the oath of allegiance. It says: "...I will bear true faith and allegiance to the Constitution of India as by law established, and that I will faithfully observe the laws of India and fulfil my duties as a citizen of India". I do not think that "I will faithfully observe the laws of India" is necessary. Wherever you prescribe this formula, it is necessary only to say, "I will bear true faith and allegiance to the Constitution of India," to the State or to the Republic of India. The latest Czechoslovakian law says that and other countries have got similar laws. Without putting "I will faithfully observe the laws of India" the oath of allegiance will be all right. It is quite enough.

In the Third Schedule, residence, character, language and so on have been specified. But one thing has been omitted, which is generally found in all Constitutions and all citizenship laws, and it is this. That a citizen must satisfy the Government that he is getting the means to start or carry on an avocation without being a drag on this country. Otherwise, this country which is suffering from unemployment and other miseries may have people who will be coming in and accepting our citizenship laws and you are generous to extend our doors to them. But there may be derelicts or other people who will add to our troubles and economic distress.

**Pandit Thakur Das Bhargava:** I do not want to dilate upon my amendments. They speak for themselves. When the rules are laid on the Table of the House, it is only fair that there is a chance to make modifications in

the rules. But you say that in the same session the amendments should be made. It is too much. My humble submission is that this rule should be amended and we should not insist that the rules should be amended only in that session. Again, instead of fourteen days, we should extend the period to thirty days. Nothing will be lost because these rules will be of general application and will be enduring enough. It will not be temporary; it will be a permanent set of rules more or less. Therefore, the period should be thirty days. Therefore, the words "during the session in which they are so laid" must be amended. These words should be scored out.

**Shri Kamath:** I am in good company.

**Pandit Thakur Das Bhargava:** I should say so.

**Mr. Deputy-Speaker:** Reciprocity is necessary!

**Pandit Thakur Das Bhargava:** In the oath of allegiance, the words are "allegiance to the Constitution of India". I have given my amendment that instead of the word "Constitution" the word "State" be substituted. There is good reason for it. In the Representation of the People Act, in section 7(f), we have got these very words "disloyalty to the State". I can understand disloyalty to the State but I do not understand disloyalty to the Constitution. As has been said by many Members, the Constitution is a changing thing. There are many people who, even when they took the oath of allegiance to the Constitution, said in their minds that they are not bound by the Constitution but by the obligation to the State. We have got three amending Bills to the Constitution in this session and it may happen that the Constitution may change. The Constitution is not a living thing as much as a State is. One may be disloyal to the State and not to the Constitution. As we used these words in the Representation of the People Act, it would be better if we substitute "State" for "Constitution".

[Pandit Thakur Das Bhargava]

At the same time, I do not understand the meaning of the words "I will faithfully observe the laws of India". Everybody is bound to observe the laws, but to put this restriction here is meaningless. There may be laws which a person, in his conscience, may break. There is no reason why he should not break those laws and go to imprisonment and show to the world that he is faithful to himself and to his conscience and the country also.

**Shri Kamath:** You are in good company now.

**Pandit Thakur Das Bhargava:** "And fulfil my duties as a citizen of India" is quite enough. This is quite right. I do not understand the meaning of the words "faithfully observe the laws of India". Every person is bound to observe those laws. Otherwise, he will attract the consequences which will accrue.

**Shri Sarangadhar Das (Dhenkanal-West Cuttack):** Being faithful to the State implies that you observe the law of the land.

**Pandit Thakur Das Bhargava:** I am in good company. The oath should be as simple as possible and should be one which is acceptable to one. It is, therefore, enough if we keep these words: "faith and allegiance to the State of India and fulfil all my obligations to the State of India".

I should like to say a few words in regard to the clauses 11 and 12. Much has been said, and many Members have been eloquent on these two clauses. My humble submission is that now that we are part of the Commonwealth, how do we lose anything if there is clause 11? Suppose if all belong to the Commonwealth, certain rights will accrue to those people who are citizens of India. Then, I do not find anything objectionable in saying that all the Commonwealth citizens will be able to register themselves in all the countries of the Commonwealth.

**Shri Sadhan Gupta:** That argument itself is objectionable.

**Pandit Thakur Das Bhargava:** What is the objection? We are part of the Commonwealth. We are not British subjects. The British people can enact their own laws. They may say anything. We are not bound by them.

**Shri V. G. Deshpande:** If we put in, in our laws, "Indian subject", that would be reciprocal.

**Pandit Thakur Das Bhargava:** If there are so many interruptions, the point that I would like to say would not be made clear. I would like to be heard on this point. If we are part of the Commonwealth, I do not see any objection to being called a citizen of the Commonwealth. No person who belongs to a country which is part of the Commonwealth should feel ashamed in calling himself a citizen of the Commonwealth so long as he forms part of that Commonwealth. It is quite wrong to suggest that we are British subjects because the British nationality law says we are British subjects. We are not British subjects. Any person living in England is as much a citizen of the Commonwealth as we. We are Independent people and any Act passed by that British Parliament does not bind us unless we adopt their laws. We have not adopted their laws. On the contrary, we have got clause 11 which is perfectly justifiable. If you have clauses 11 and 12 as they are now, there is nothing wrong about them. If other parts of the Commonwealth extend certain privileges, we are obliged to extend similar privileges to them. It is a matter of mutual respect.

**Shri Kamath:** Call it the Indian Commonwealth not British.

**Pandit Thakur Das Bhargava:** It is not. It is the Indian Union. It is not Indian Commonwealth but a Commonwealth which is part of the Commonwealth of Nations.

**Shri Kamath:** But India, not Britain it the biggest country in it.

**Pandit Thakur Das Bhargava:** It is a distinct entity. There is no reason why we should fight shy of it. Either break off the connections or, if you do not break them off, it is perfectly justifiable to have clauses 11 and 12. The objection that has been levelled is more theoretical and according to me, it is not valid.

**Mr. Deputy-Speaker:** Now, the hon. Minister.

**Shri K. K. Basu:** It is now 2-30 and the Guillotine has to be applied. How can the Minister speak? He cannot.

**Shri Datar:** I have no objection.

**Mr. Deputy-Speaker:** All right; I will now put amendments Nos. 122, 123 and 124 to the vote of the House.

The question is:

Page 7, line 7—

omit "Commonwealth".

*The motion was negatived.*

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

Page 7, line 8—

after "the First Schedule", insert:

"other than Australia and Union of South Africa"

*The motion was negatived.*

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

Page 7, line 9—

for "Commonwealth Citizen" substitute "friendly citizen",

*The motion was negatived.*

**Mr. Deputy-Speaker:** I will now put clause 11 to the vote of the House. It says:

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

So, this clause relates to Commonwealth Citizenship.

The question is:

"That clause 11 stand part of the Bill."

*The Lok Sabha Divided : Ayes: 128 Nos: 26*

**Division No. 3**

**AYES**

**3-40 P. M.**

Achal Singh, Seth  
Achutha Shri  
Altekar, Shri  
Azad, Shri Bhagwat Jha  
Banerjee, Shri  
Banisilal, Shri  
Barupal, Shri P. L.  
Basappa, Shri  
Bhagat, Shri B. R.  
Bhargava, Pandit Thakur Das  
Bhatt, Shri C.  
Bheekha Bhai, Shri  
Bidari, Shri  
Birbal Singh, Shri  
Bogawat, Shri  
Brajeshwar Prasad, Shri  
Chatterjee, Dr. Suslranjan  
Chaturvedi, Shri  
Chaudhary, Shri G. L.  
Chavda, Shri  
Chettiar, Shri Nagsappa  
Dabhi, Shri

Das, Shri B.  
Das, Shri B.K.  
Das, Shri K.K.  
Das, Shri Ramananda  
Das, Shri Shree Narayan  
atar, Shri  
Deshpande, Shri, G. H.  
Dholkia, Shri  
Dhulekar, Shri,  
Dhusiya, Shri  
Dube, Shri Mulchand  
Dubey, Shri R. G.  
Dwivedi, Shri M. L.  
Eecharan, Shri L.  
Gandhi, Shri Feroze  
Gautam, Shri C. D.  
Gupta, Shri Badshah  
Hasda, Shri Subodh  
Hyder Husein, Ch.  
Ibrahim, Shri  
Jangde, Shri  
Jatav-vir, Dr.  
Jena, Shri K. C.

Joshi, Shri Jethalal  
Joshi, Shri M. D.  
Joshi, Shrimati Subhadra  
Jwala Prasad, Shri  
Kale, Shrimati A.  
Kasliwal, Shri  
Keshavaiengar, Shri  
Kirolikar, Shri  
Krishna, Shri M. R.  
Kureel, Shri B. N.  
Lingam, Shri N. M.  
Lotan Ram, Shri  
Majhi, Shri R. C.  
Malliah, Shri U. S.  
Malviya, Shri B.  
Malviya, Pandit C. N.  
Matthen, Shri  
Mishra, Shri Lokenath  
Mishra, Shri L. N.  
Misra, Shri B. N.  
Misra, Shri R. D.  
Morarka, Shri  
More Shri, K. L.



Muhammed Shaffee, Chaudhuri  
Murthy, Shri B. S.  
Muthukrishnan, Shri  
Nair, Shri C. K.  
Narasimhan, Shri  
Nathwani, Shri N. P.  
Nehru, Shrimati Shivravati  
Nehru, Shrimati Uma  
Neswi, Shri  
Palchoudhury, Shrimati Ila  
Pande, Shri B. D.  
Paragi Lal, Ch.  
Patel, Shri B. K.  
Patel, Shri Rajeshwar  
Patil, Shri Shankargaude  
Pillai, Shri Thanu  
Prabhakar, Shri Naval  
Radha Ramani, Shri  
Raghubir Sahai, Shri  
Raghunath Singh, Shri

Raj Bahadur, Shri  
Rajabhoj, Shri P. N.  
Ramanand Shastri, Swami  
Ramaswamy, Shri P.  
Ram Subhag Singh, Dr.  
Rane, Shri  
Rao, Shri Seahagiri  
Raut, Shri Bhola  
Roy, Shri Bishwa Nath  
Sahu, Shri Rameshwar  
Saigal, Sardar A. S.  
Saksena, Shri Mohanlal  
Samanta, Shri S. C.  
Sen, Shri P. G.  
Shahna was Khan, Shri  
Sharma, Pandi Bal Krishna  
Sharma, Pandit K. C.  
Sharma, Shri D. C.  
Sharma, Shri R. C.  
Shukla, Pandit B.

Siddananajappa, Shri  
Singh, Shri D. N.  
Singh, Shri H. P.  
Singh, Shri M. N.  
Singh, Shri T. N.  
Singhal, Shri S.C.  
Sinha, Shri S.  
Siva, Dr. Gangadhar  
Subrahmanyam, Shri T.  
Sunder Lal, Shri  
Suresh Chandra, Dr.  
Thimmaiah, Shri  
Thomas, Shri A. M.  
Tiwari, Shri R. S.  
Tiwary, Pandit D. N.  
Tripathi, Shri V. D.  
Tyagi, Shri  
Upadhyay, Shri Shiva Dayal  
Upadhyaya, Shri Shiva Das  
Zaidi, Col.

#### NOTES

Basu, Shri K. K.  
Biren Dutt, Shri  
Buchhikotaiab, Shri  
Chakraverty, Shrimati Reau  
Chatterjee, Shri Tushar  
Chatterjee, Shri N. C.  
Chowdary, Shri C. R.  
Chowdhury, Shri N. B.

Das, Shri B. C.  
Das, Shri Sarangadhar  
Deshpande, Shri V. G.  
Gupta, Shri Sadhan  
Gurupadaswamy, Shri M. S.  
Hansda, Shri Benjamin  
Kamath, Shri  
Khardekar, Shri  
Mahata, Shri B.

Mascarene, Kumari Annie  
More, Shri S. S.  
Mukerjee, Shri H. N.  
Nandaa, Shri  
Rao, Shri Gopala  
Rao, Shri Mohana  
Rao, Shri P. Subba  
Rao, Shri T. B. Vittal  
Singh, Shri R. N.

*The motion was adopted.*

Clause 11 was added to the Bill.

Mr. Deputy-Speaker: The question is:

Page 7, line 13—  
add at the end:

“other than Australia and the  
Union of South Africa.”

*The motion was negatived.*

Mr. Deputy-Speaker: The question is:

Page 7, line 13—  
add at the end:

“or any other country which  
the Central Government may  
from time to time specify.”

*The motion was negatived.*

Mr. Deputy-Speaker: The question is:

“that clause 12 stand part of  
the Bill.”

*The motion was adopted.*

Clause 12 was added to the Bill.

Mr. Deputy-Speaker: The question is:

“That clause 13 stand part of  
the Bill.”

*The motion was adopted.*

Clause 13 was added to the Bill.

Mr. Deputy-Speaker: The question is:

Page 7—  
after line 28, add:

“Provided that no application  
of a person of Indian origin, ordi-  
narily resident in India, shall be  
refused except for reasons to be  
stated in writing and provided  
that no order refusing such applica-  
tion shall be made without  
reference to a Committee of In-  
quiry constituted as suggested in  
connection with section 10.”

*The motion was negatived.*

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

Page 7, line 32—  
add at the end:

“except in the case of an order refusing the application of a person of Indian origin, ordinarily resident in India.”

*The motion was negatived.*

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

Page 7—

after line 32, add:

“(3) Any person of Indian origin ordinarily resident in India, aggrieved by an order of the Central Government made under this section may, within a period of thirty days from the date of the order, make an appeal to the Supreme Court of India.”

*The motion was negatived.*

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

“That clause 14 stand part of the Bill.”

*The motion was adopted.*

*Clause 14 was added to the Bill.*

**Mr. Deputy-Speaker:** Clause 15. The question is:

Page 7, lines 33 and 34—

for “by the prescribed authority” substitute:

“by the Central Government of the prescribed authority.”

*The motion was negatived.*

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

Page 7, lines 34 and 35—

omit “(other than the Central Government)”

*The motion was negatived.*

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

Page 7, lines 36 and 37—  
for “to the Central Government” substitute:

“to the High Court which exercises appellate jurisdiction in the place where such person ordinarily resides or personally works for gain.”

*The motion was negatived.*

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

Page 7, line 38—

for “the Central Government” substitute:

“such High Court.”

*The motion was adopted.*

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

Page 8, lines 3 and 4—

for “the Central Government” substitute:

“such High Court.”

*The motion was negatived.*

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

Page 8, line 6—

after “may submit” insert:

“and any other evidence, documentary or otherwise, which may be produced by any party to the proceedings.”

*The motion was negatived.*

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

Page 8, lines 7 and 8—

for “the Central Government” substitute:

“such High Court.”

*The motion was negatived.*

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

"That Clause 15 stand part of the Bill"

*The motion was adopted.*

*Clause 15 was added to the Bill.*

**Mr. Deputy-Speaker:** Clause 16. There is Government amendment No. 68.

The question is:

Page 8, line 11—  
for "section " substitute "section 18."

*The motion was adopted.*

**Mr. Deputy-Speaker:** Amendment No. 133 is the same as No. 68. It is barred.

The question is:

"That clause 16, as amended, stand part of the Bill."

*The motion was adopted.*

*Clause 16, as amended, was added to the Bill.*

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

"That clause 17 stand part of the Bill."

*The motion was adopted.*

*Clause 17 was added to the Bill.*

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

Page 8, lines 25 and 26—

omit "and the conditions and restrictions in regard to such registration."

*The motion was negatived.*

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

omit "in respect of applications, registrations, declarations and certificates under this Act, in respect

of the taking of an oath of allegiance, and"

*The motion was negatived.*

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

Page 9, line 21—

for "fourteen days" substitute "thirty days."

*The motion was negatived.*

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

Page 9, lines 23 and 24—

for "during the session in which they are so laid" substitute "therein."

*The motion was negatived.*

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

Page 9—

after line 24, add:

"(5) Every notification proposed to be issued under this Act, shall be placed in draft before both Houses of Parliament and shall not be so issued except with the approval of both Houses of Parliament."

*The motion was negatived.*

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

Page 9, line 21—

for "fourteen days" substitute "one month".

*The motion was negatived.*

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

Page 9, lines 23 and 24—

omit "during the session in which they are so laid."

*The motion was negatived.*

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

"That clause 18 stand part of the Bill."

*The motion was adopted.*

*Clause 18 was added to the Bill.*

**Mr. Deputy-Speaker:** Clause 19.  
The question is:

Page 9, line 26—

for "1943" substitute "1948".

*The motion was negatived.*

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

"That clause 19 stand part of the Bill."

*The motion was adopted.*

*Clause 19 was added to the Bill.*

**Mr. Deputy-Speaker:** Schedule first.  
There is a Government amendment No. 155. I shall put that first.

The question is:

Page 10—

for the First Schedule substitute:

"THE FIRST SCHEDULE

[See sections 2(1)(b) and 5(1)(e)]

A. The following Commonwealth countries:—

1. United Kingdom.
2. Canada.
3. Commonwealth of Australia.
4. New Zealand.
5. Union of South Africa.
6. Pakistan.
7. Ceylon.
8. Federation of Rhodesia and Nyasaland.

B. The Republic of Ireland.

*Explanation.*—In this Schedule, "United Kingdom" means the United Kingdom of Great Britain and Northern Ireland, and includes the Channel Islands, the Isle of Man and all Colonies; and "Commonwealth of Australia" includes the territories of Papua and the territory of Norfolk Island."

*The motion was adopted.*

**Shri Kamath:** Asia and Africa last. Is it according to the Bandung spirit?

**Mr. Deputy-Speaker:** It is the order in which they were accepted.

The other amendments are not at all to this Schedule.

**Shri Kamath:** The other amendments are to the same Schedule.

**Shri K. K. Basu:** We would like amendments Nos. 139, 156 and 159 to be put together.

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

(1) Page 10—

after line 12 add:

"C. Afghanistan, Bhutan, Cambodia, Laos, Nepal, Peoples Republic of China, Republic of Indonesia, Union of Burma, Union of Socialist Soviet Republics, Viet Nam.

D. Any other country which may be specified by the Central Government by notification in the Official Gazette, which has developed close relations with India through acceptance of common principles for establishment and perpetuation of world peace or through economic agreements entered into on the basis of respect for and benefit of India."

(2) Page 10, for the First Schedule, substitute:

"THE FIRST SCHEDULE

[See Sections 2(1)(b) and 5(1)(e)]

A. 1. The Republic of Ireland, that is, Eire.

2. Burma.
3. Nepal.
4. Bhutan.
5. Afghanistan.

[Mr. Deputy-Speaker]

B. The following Commonwealth countries:

1. United Kingdom.
2. Canada.
3. New Zealand.
4. Pakistan.
5. Commonwealth of Australia.
6. Ceylon.
7. Federation of South Rhodesia and Nyasaland.
8. Union of South Africa.

*Explanation.*—In this Schedule, "United Kingdom" means the United Kingdom of Great Britain and Northern Ireland, and includes the Channel Islands, the Isle of Man and all Colonies; and "Commonwealth of Australia" includes the territories of Papua and the territory of Norfolk Island."

(3) Page 10—

after line 12, add:

"C. Any other country which may be notified by the Central Government."

Those in favour will say "Aye".

Some Hon. Members: Aye.

Mr. Deputy-Speaker: Those against will say "No".

Some Hon. Members: No.

Mr. Deputy-Speaker: The "Noes" have it.

Shri Kamath: The "Ayes" have it.

Mr. Deputy-Speaker: Then, I have to ask the hon. Members to rise in their seats.

So far, the practice is that with respect to a matter of principle and importance we allow the House to divide, whatever be the volume of the voice, but with respect to other matters (*Interruption*). All right. If hon. Members want me, I will ask them to stand up in their seats. Those in favour will stand. They number 17.

Those against may please stand. By an overwhelming majority, the amendments are lost.

*The motion was negatived.*

Shri Kamath: The names should be recorded as to those who are against Burma and Afghanistan. This is the Bandung spirit!

Shri K. K. Basu: They have no spirit.

Mr. Deputy-Speaker: Now I shall put all the other amendments to the First Schedule to the vote of the House.

The question is:

Page 10—

omit line 11.

*The motion was negatived.*

Mr. Deputy-Speaker: Amendment No. 136 is the same as No. 73 negatived just now.

The question is:

Page 10—

after line 11, add:

" 9. Republic of Burma."

*The motion was negatived.*

Mr. Deputy-Speaker: The question is:

Page 10, line 12—

for "Ireland" substitute "Eire".

*The motion was negatived.*

Mr. Deputy-Speaker: The question is:

Page 10, line 15—

omit "and all Colonies".

*The motion was negatived.*

Mr. Deputy-Speaker: The question is:

Page 10—

(i) line 3,

omit "Commonwealth".

(ii) omit line 11

- (iii) line 12,  
for "B" substitute "8"; and  
(iv) after line 12, add:  
"9. Burma.  
10. The Peoples' Republic of China  
11. Nepal.  
12. Indonesia.  
13. Egypt.  
14. Afghanistan."

*The motion was negatived.*

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

Page 10—

for line 11, substitute:

"8. Colonies of United Kingdom".

*The motion was negatived.*

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

Page 10—

after line 12, add:

"C. 1. Nepal.

2. Burma.

"D. 1. Singapore.

2. Malaya.

3. British Guiana.

4. Bermuda.

5. West Indies.

6. Kenya."

*The motion was negatived.*

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

"That the First Schedule, as amended, stand part of the Bill."

*The motion was adopted.*

*The First Schedule, as amended, was added to the Bill.*

**Mr. Deputy-Speaker:** I shall now put the amendments to the Second Schedule to the vote of the House.

438 L.S.D.

The question is:

Page 10, lines 21 and 22—

for "I, A. B.....do solemnly affirm (or swear)" substitute:

"I, A. B.....do swear in the name of God" solemnly affirm.

*The motion was negatived.*

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

Page 10, lines 22 and 23—

for "the Constitution of India as by law established" substitute:

"the Republic of India"

*The motion was negatived.*

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

Page 10, lines 22 and 23—

for "the Constitution of India as by law established" substitute "India"

*The motion was negatived.*

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

Page 10, lines 23 and 24—

omit "observe the laws of India and"

*The motion was negatived.*

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

Page 10, lines 23 and 24—

omit "and that I will faithfully observe the laws of India."

*The motion was negatived.*

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

Page 10, lines 22 to 24—

for "to the Constitution of India as by law established, and that I will faithfully observe the laws of India."

substitute "to the Indian State."

for "Constitution" substitute  
"State"

*The motion was negatived.*

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

Page 10, lines 22 and 23—

"That the Second Schedule stand part of the Bill."

*The motion was negatived.*

**The Second Schedule was added to the Bill**

**Mr. Deputy-Speaker:** I shall now put the amendments to the third Schedule to the vote of the House.

The question is:

Page 11—

after line 13, insert:

"(dd) that he possesses means to support himself and his family, if any, in India;"

*The motion was adopted.*

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

Page 11—

after line 16, insert:

"(ff) that he has adequate knowledge of the responsibilities and privileges of Indian citizenship;"

*The motion was negatived.*

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

Page 11—

after line 21 insert:

"(h) that he must know the concepts on which the Indian Constitution is based:"

*The motion was negatived.*

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

Page 11—

omit lines 1 to 4.

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

"That the Third Schedule stand part of the Bill."

*The motion was adopted.*

**The Third Schedule was added to the Bill**

**Mr. Deputy-Speaker:** Clause 11. Amendment No. 147.

**Shri Kamath:** Kindly read it.

**Mr. Deputy-Speaker:** Wherever it is an exception it will be excepted. Otherwise, it is included. I have given the substance to the House. The hon. Member wants to make it explicit that this extends to the whole of India. I have said that only where Jammu and Kashmir are not included an exception is made. Hon. Members will bear this in mind and vote for or against this amendment of Shri Kamath.

The question is:

Page 1—

(i) line 3, after "1" insert "(1)"; and

(ii) after line 3, add:

"(2) It extends to the whole of India."

*The motion was negatived.*

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

"That clause 1, the Enacting Formula and the Title stand part of the Bill."

*The motion was adopted.*

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

**Shri Datar:** I beg to move:

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

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

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

**Some Hon. Members rose—**

**Mr. Deputy-Speaker:** We have five minutes. How am I to divided it? **Shri Deshpande.**

**Shri V. G. Deshpande:** I rise to oppose this Bill at this stage because I am convinced that the Government is not putting all its cards on the table and is not straightforward in this matter. They have failed to explain why in clause 19 they are repealing the British Nationality and Status of Aliens Acts, 1914 to 1943, in their application to India. My contention is that the very fact that they are repealing certain Acts creates a presumption that these Acts did apply to India. Had they not applied to India, the question of repealing them would not have arisen.

The fact is that the British Nationality and Status of Aliens Acts, 1913 to 1943 were repealed by the British Nationality Act as enacted, in 1948 but in so far as India was concerned, an exception was made that these Acts were not repealed, because it has been pointed out that in section 34 of that Act it has been provided that the law in force before the commencement of that Act relating to nationality shall continue to a person while he remained a British subject, that citizenship by virtue of section 13 of that Act would be available to him as if that Act had not been passed. And our position up to this time has been that is until this law is passed that we are persons who are without citizenship but are enjoying the status of British citizens. And now the position is this that after this Bill is passed, these Acts will have no application to India and only the British Nationality Act of 1948 will apply. Therefore, these Acts have to be repealed as laid down in the British Nationality Act of 1948.

Our Government should have come forward with a very frank admission and confession of this legal position,

but they are rather shy of accepting the position.

Our hon. friend **Pandit Thakur Das Bhargava** said that they may call us British subjects, it does not matter, we are Commonwealth citizens, and it is a law of reciprocity. I say that by that reciprocity you should have also included them as Indian subjects, particularly in the case of English citizens. If you had the courage to include that in this Act then I could have accepted that you are straightforward. I understand that there are historical reasons....

**Mr. Deputy-Speaker:** I do not know if the hon. Member is not throwing this wide open and making every man an Indian subject.

**Shri V. G. Deshpande:** In one minute I am finishing.

**Shri B. S. Murthy (Eluru):** He wants to close the doors.

**Shri V. G. Deshpande:** My submission is this, that our Government should have come forward with the frank admission that on account of historical reasons and on account of certain commitments we have made, we do occupy an inferior position, may it be technical, but it is there, and since we are in the Commonwealth, and since we have not taken any decision, that Act has to be recognised, and this Bill is being placed before Parliament, and it has to be passed in the scheme of things which we voluntarily have chosen to be in. This fact is not admitted and all kinds of things are said, that this was our position before 1947 and therefore we are repealing it. I say that if they were passed before 1947 and they did not apply to us in the last eight years, how it is suddenly you awoke to the fact that these Acts applied to us only in 1955 after five years of our Constitution coming into force? Therefore I submit that this Bill is based upon certain commitments and on account of them countries like South Africa and Australia where you are not given honourable treatment, or Pakistan or Ceylon, are being offered Common-



[Shri V. G. Deshpande]

wealth citizenship by us. Therefore, I oppose the Bill.

3 P.M.

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

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

*The motion was adopted.*

**Shri Kamath:** Three cheers for London! Bandung buried.

#### INSURANCE (AMENDMENT) BILL

**Mr. Deputy-Speaker:** The House will now take up the Insurance (Amendment) Bill.

**The Minister of Revenue and Civil Expenditure (Shri M. C. Shah):** I beg to move.....

**Mr. Deputy-Speaker:** On behalf of Shri C. D. Deshmukh.

**Shri N. R. Muniswamy (Wandiwash):** The hon. Minister of Finance is here.

**Shri Kamath (Hoshangabad):** The hon. Minister of Finance has got only a watching brief?

**Shri K. K. Basu (Diamond Harbour):** On a point of order. When a motion is in the name of a person, and that person is present in the House, can he authorise any other Member to move it on his behalf?

**Mr. Deputy-Speaker:** I think a Government Member can ask any other Government Member to move it.

**Shri M. C. Shah:** Shall I start?

**Mr. Deputy-Speaker:** Let me dispose of the point of order first. Under rule 2, this is what we find.

"Minister' means a member of the Council of Ministers, a Minister of State, a Deputy Minister or a Parliamentary Secretary;" and

"Member in charge of the Bill'

means the member who has introduced the Bill and any Minister in the case of a Government Bill;"

Shri M. C. Shah is as much a Minister as any other Minister.

**Shri K. K. Basu:** My point of order is this. I concede the position that so long as the Minister in whose name the motion stands is not present in the House, any other Minister can move it on his behalf. But when he is present in the House, is it in order that he should authorise some other Minister to move it?

**The Minister of Defence Organisation (Shri Tyagi):** A Minister actually working in the same Ministry is also a part of that Ministry.

**Mr. Deputy-Speaker:** Our rule does not make any difference in the case of a Minister, between his presence and absence. The rule does not say that the Member in charge means the Member who has introduced the Bill and if he is absent any other Minister. There is no such thing. So, the presence or absence does not matter. Now, Shri M. C. Shah.

**Shri M. C. Shah:** I beg to move:

"That the Bill further to amend the Insurance Act, 1938, be taken into consideration."

This is a Bill to replace an Ordinance that was issued when the Parliament was not in session. We have already laid on the Table of the House a statement giving the reasons why it was absolutely necessary to issue that ordinance at that time.

As the House is aware, insurance companies have always been treated differently from other joint-stock companies. As such companies have for most of the time the moneys of the policy-holders who have very little say in their management, many more restrictions have been imposed on those companies and the control exercised over them also is more ex-