

SHRI GOVIND BALLABH PANT: As I just said, we are in touch with the Government of Orissa and as soon as we have definite information, I will let the hon. Member know.

STATEMENT RE STARRED QUESTION NO. 456 ANSWERED ON 30TH MARCH, 1955

THE PARLIAMENTARY SECRETARY TO THE MINISTER FOR INFORMATION AND BROADCASTING (SHRI G. RAJAGOPALAN): Sir, on behalf of Dr. Keskar I read the following statement:

"In reply to a supplementary question by Prof. G. Ranga to the Starred Question No. 456 answered by me in the Rajya Sabha on the 30th March 1955, I had informed the House that we had not yet thought of a general kind of reduction in prices for particular clientele in respect of the publications brought out by the Publications Division of my Ministry. The position was slightly different inasmuch as the Division allowed 10 per cent, discount to important libraries and educational institutions on request. We have now gone a step further and have decided to extend similar concessions to all the educational institutions including libraries, as far as possible through the recognised selling agencies of the Publications Division all over the country."

THE CITIZENSHIP BILL, 1955

THE MINISTER FOR HOME AFFAIRS (SHRI GOVIND BALLABH PANT): Sir, I move:

"That this House concurs in the recommendation of the Lok Sabha that the Rajya Sabha do join in the Joint Committee of the Houses on the Bill to provide for the acquisition and termination of Indian citizenship, and resolves that the following members of the Rajya Sabha

be nominated to serve on the said Joint Committee:

Shri K. Madhava Menon Shri Jaspal Roy Kapoor Shri Akbar Ali Khan Shri Sri Narayan Mahtha Shri B. P. Agarwal Diwan Chaman Lal Dr. R. P. Dube Shri P. T. Leuva Shri Trilochan Dutta Dr. H. N. Kunzru • Shri B. C. Ghose Shri J. V. K. Vallabharao Shri M. P. N. Sinha Shri Amolakh Chand, and The mover (Shri Govind Ballabh Pant)."

Sir, I had the privilege of making an allied motion in the Lok Sabha about a month ago. The subject matter of this motion which is of more than ordinary importance was discussed there for some days and ultimately the motion was adopted unanimously by the entire House. I am glad to have the opportunity of placing it before the hon. Members of this House. The question of citizenship affects every person living in our land and it also has a bearing on other countries and still more so on the persons in those countries who owe their origin to India. All rights, if they are not the creatures of the status of citizenship, are in a way associated with it. Civic rights flow from this perennial fountain. So long as we were under foreign rule, we had hardly any law of citizenship. The British law was supposed to govern the people residing in our country. They had all liabilities and obligations, but hardly any rights and privileges. Only in the year M28, an insignificant sort of Bill having a bearing on the law of citizenship was passed, and even that law was more for the benefit of outsiders than of the nationals of this country. The question assumed importance and naturally attracted the attention of the Constituent Assembly on the advent of independence. The Constituent Assembly dealt with

[Shri Govind Ballabh Pant.] this matter. Hon. Members may have seen the Constitution as finally adopted. Its Preamble indicates in a way the fundamental character of the status of citizenship. The Constitution ensures and guarantees the enjoyment of certain rights, but only to and by the citizens of India. The Preamble runs thus:

"WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN DEMOCRATIC REPUBLIC and to secure to all its citizens:

JUSTICE, social, economic and political;

LIBERTY of thought, expression, belief, faith and worship;

EQUALITY of status and of opportunity; and to promote among them all;

FRATERNITY assuring the dignity of the individual and the unity of the Nation;"

All these precious rights were secured to the citizens of India. That was the pledge that the authors of this Constitution gave to the present generation and those who will be coming hereafter, on behalf of the people of India. So the status of citizenship is of supreme importance. The Bill that I am placing before this House for reference to a Joint Select Committee deals with that vital subject.

Sir, when the country was declared independent, we had, as I submitted, no law of citizenship. The British I Act of 1914 had undergone various revisions and in the year 1948, the present Nationality and Aliens Act was passed by the British Parliament. It was not applied to India. So virtually we had not, even in theory, any law of citizenship at that time. The authors of the Constitution were faced with this problem and they dealt with the situation as it then existed. Hon. Members are presumably aware that Part II of the Constitution deals with citizenship. Under that part, the rights of citizenship were confer-

red on those people who had domiciled in India and who were born of parents living in India or either of whose parents was in India and also* to others who had been here for five-years. Then there were other provisions, mainly concerning the displaced persons. All those who had returned to India from Pakistan before 19th July 1948, were to be regarded as citizens of India and those who had come thereafter and had lived in the-country at least for six months were entitled to be registered as citizens.. Those who had come with permits for permanent settlement in India were-also entitled to similar treatment and privileges. Persons who were born of Indian parents or who had either of their grandparents as citizens of India in foreign countries could also be registered as Indian citizens. Those were the substantial provisions of the Constitution. But the main part with which the Constitution dealt related to the date of the commencement of the Constitution so that persons who have been born since January 1950 or who have come to-India thereafter are not governed by the provisions of the Constitution^ The Constitution itself contemplated a fuller law on this subject to be passed by the Parliament. Articles 10 and 11 make that clear. So it has become necessary to frame a suitable law on the subject. It is needed for regularising the status of not only those who are under the law Indian citizens,, but those who have been born here after 26th January 1950, and also the large numbers of displaced countrymen of ours who have had to return to this country after the commencement of the Constitution. For them an immediate law of citizenship would be necessary in any case. But still we would require a comprehensive statute on this subject.

The law of citizenship deals with. the acquisition of the rights of citizenship, with the termination of such rights, with the renunciation of such rights and with the deprivation of such rights. Under our Bill as it has been introduced in Parliament, the

rights of citizenship can be acquired in five ways; that is to say, by birth, by descent, by registration, by naturalisation and by incorporation of territory. We have a very liberal provision so far as citizenship by birth is concerned. Every person who is born in this country, whether of Indian parents or of others, will be treated as a citizen of this country. We have in that way taken a cosmopolitan view and it is in accord with the spirit of the times and with the temper and atmosphere which we wish to promote in the civilized world. Many other countries have dealt with this subject in a niggardly way. That is, only persons born of parents who are citizens of those countries can be citizens there. Here, our provision goes much further. Anyone who is born in this country, except children of persons belonging to the Diplomatic Corps who are governed by their own laws, is entitled to be regarded as a citizen of this country. That is also in accordance with our traditions of tolerance and brotherhood.

Next comes the right of acquisition by descent. Any person who is born of an Indian father in any other country is entitled to be regarded as a citizen—he is a citizen by descent—but, if his father is not a citizen in his own right but is a citizen by descent, legislation has to be enacted for the child to become a citizen of India. That presents no difficulty and can easily be arranged, wherever the person may be.

There are then provisions about registration. Primarily, all those who have come to India from Pakistan and who have been here for years are entitled to be registered as citizens of India. Besides, all those who are in foreign lands but whose fathers, or grandfathers were citizens of India, can also be registered as citizens of India; the wives and children of such children can also be registered as such. Those who are admitted by us, on the basis of the principle of reciprocity, *s citizens can also be registered as such provided the other country has

! accepted the principle of reciprocity I and we are satisfied about the good | behaviour of the people. This is | another mode of acquisition by registration.

Then there is acquisition by the-method of naturalisation, that is, those-who have been here for at least seven years and of these seven years have spent at least four years in Government service and have fulfilled the conditions that are laid down in the-Third Schedule, can also acquire the right of citizenship.

If a territory is incorporated uv India—as I hope Goa will be ere long—then the inhabitants of that country can also acquire the right of rizenship. That is so far as the acquisition of the right is concerned.

You will see from the methods and modes that I have just enunciated in-order to enable a person to acquire the right of citizenship of India, that several will acquire what is called dual citizenship. An Englishman born here will be a citizen of India but he-may also, under the British law, be a British citizen; if he is a Frenchman,, he may be a French citizen. In that case, there will be dual citizenship.. Similar will be the case with Indian citizens who are born in another country and who are also registered as citizens of our country. There are complicated cases but, under this Bill, a person who enjoys dual citizenship-has the right to renounce the citizenship of India. A question has arisen because of certain complications which had to be faced in other countries like Ceylon. We give those people the option of renouncing their right of citizenship. There is then the question of termination. If a citizen voluntarily acquires the right of citizenship in other countries, he ceases to-be a citizen of India. The State has the right of depriving a person of the right of citizenship if a man is found guilty of certain offences or if he behaves in a manner detrimental to-the interests of our country, or, if he is disloyal.

[Shri Govind Ballabh Pant.] These are the main provisions of the Bill and I trust that there will be 110 difference of opinion so far as this particular motion is concerned. This Bill is a national measure and it concerns every individual in our land. You have to approach it in a dispassionate manner with a determination to improve it wherever it may be possible to do so. A question was raised in the Lok Sabha that while dislodged persons might be registered as citizens, the clause relating to deprivation of citizenship rights need not be applied to them. I have indicated there that it will be open to the Select Committee to consider that suggestion. They stand on a different footing and are certainly entitled to have their case considered on its true merits. They need not be huddled together with the others who may be given the privilege of being treated as citizens of India by registration. But for the unfortunate circumstance that they had to move from their part—a part which formed an integral part of our country—to another part, they should not be put at a disadvantage, and while legislation would be necessary as was the case when a similar provision was made in the Constitution, their rights should be as secure as those of other citizens and they should not be subject to the rules that will govern the deprivation of rights.

I have given a complete summary of the provisions of the Bill and I have every hope that the motion will be accepted unanimously by this House too and that concerted endeavours will be made by all of us to make, if necessary, such changes as will improve the Bill and invest the precious right of citizenship with still greater sublimity, dignity and nobility, as the citizenship of India naturally and inevitably must bear.

MR. CHAIRMAN: Motion moved:

•That this House concurs in the recommendation of the Lok Sabha that the Rajya Sabha do join in the

Joint Committee of the Houses on the Bill to provide for the acquisition and termination of Indian citizenship, and resolves that the following members of the Rajya Sabha be nominated to serve on the said Joint Committee:

Sari K. Madhava Menon Shri Jaspat Roy Kapoor Shri Akbar Ali Khan Shri Sri Narayan Mahtha Shri B. P. Agarwal Diwan Chaman Lall Dr. R. P. Dube Shri P. T. Leuya Shri Trilochan Dutta Dr. H. N. Kunzru Shri B. C. Ghose Shri J. V. K. Vallabharao Shri M. P. N. Sinha Shri Amolakh Chand, and The mover (Shri Govind Ballabh Pant)."

It is now open for discussion.

[MR. DEPUTY CHAIRMAN in the Chair.]

SHRI S. MAHANTY (Orissa): Mr. Deputy Chairman, I feel that this Bill has come rather too late. So far, articles 5 and B of the Indian Constitution were the only guide in the matter. In fitness of things, we ought to have passed legislation for citizenship much earlier which could have saved many complications that will ensue as a result of the working of this legislation. This is a very technical question. Also it is a general question and a political question. But before I go to those aspects I would submit my observations on certain clauses of this Bill.

I Now, clause 10 says: "A citizen of India who is such by registration or by naturalisation or by virtue only of clause (c) of article 5 of the Constitution shall cease to be a citizen of India if he is deprived of that citizenship by an order of the Central Government under this section" on the ground that—here comes sub-clause (2) (b)—"that citizen has shown himself by act or speech to be disloyal or disaffected towards the Government established by law in India*.

Now, Sir, this fact has to be borne in mind that the provision of this Bill <lrni not affect a citizen inside India. This legislation is naturally meant for the five millions of Indians or so, who have settled abroad. Now if we look at the cultural standard of those five million Indians who live abroad we find that usually most of them are not of that intellectual or cultural standard that we naturally expect. If we go to East Africa or the various British colonies where the majority of Indians have settled as citizens, we find, Sir, a very curious situation. Legally they were subjects of British India, and the majority of them—also this ha? to be borne in mind—are Muslims. I quite concede that the majority of those Muslims are very reasonable. They look at India with pride and with hope, but their number is very small. Now, Sir, what has happened? To avoid the consequences of evacuee property law, to save their own properties which they left in Gujerat, Surat or Bombay, they have appeared before the Indian Consul in those colonies and have declared themselves as Indian citizens, and after their temporary purpose has been served they have again declared themselves as citizens of Pakistan because the citizenship article in the Pakistan Constitution says that any Muslim belonging to undivided India can be a citizen of Pakistan. Therefore, on the basis of that article in the Pakistan Constitution those very persons who had declared themselves as citizens of India to save their own property from the operation of the evacuee property law in India have gone over and have declared themselves as citizens of Pakistan.

Now what I would like to say at this stage is that we should not make our citizenship so cheap. We have no organization to see that the persons on whom we are conferring our citizenship conform to the standards that we expect. What the hon. the Home Minister has said is very good, name-

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ly, that to be a citizen of India is a matter of great pride. Naturally, we all expect that citizenship of India should also have a certain standard. A kind of double loyalty which has been brought about by all these complications really is not very healthy for our country or for the prestige of our country abroad. Now looking at sub-clause 10 (2) (b) we find that if the citizen by any act or speech gives an indication of his disloyalty or disaffection towards the Government of India, then his citizenship should be cancelled. Sir, I would like to know what organization is there abroad to see, to check that any person on whom we have conferred citizenship by registration does not act in a manner which is disloyal or does not show disaffection towards the Government of India established by law. That is question No. 1. And No. 2 is, this kind of double standard certainly, I will resent and I hope the Select Committee will be able to evolve some kind of better formula. Now in India a citizen certainly has got his democratic right, his political right, his moral right—though not to be disloyal to the State—to express his disaffection. He may differ, from the Government; he may oppose the Government established by law; he may also organize opposition to that Government. But that does not mean that his citizenship should be withdrawn. Moreover, this is also to be remembered that we are giving this power to the executive authorities of the Central Government. What I would have liked is that this should have been given to the judiciary. On the decision of the executive alone citizenship which has been conferred on a citizen should not be withdrawn

Then, if we come to sub-clause (2) (d) of clause 10 we find that if a "citizen has, within five years after registration or naturalisation, been sentenced in any country to imprisonment for a term of not less than twelve months" then his citizenship should also be withdrawn. Now, as

[Shri S. Mahanty.] I have said earlier, this Bill does not affect us, the citizens who are in India. This Bill relates to those who have settled abroad.

SHRI RAJENDRA PRATAP SINHA (Bihar): No.

SHRI S. MAHANTY: That is how I am viewing it—I may be wrong. This Bill only relates to the five millions of Indians who have settled abroad. Now as regards those who have gone, let us say, to East Africa or to Mozambique or to Madagascar and the other parts of Africa, we find most of them are adventurers and it has so happened that Governments like the Government of Madagascar, or the East-African Governments, have in the past deported a number of persons, who had Indian citizenship, to India because as soon as a man is convicted, he is deported back to India.

Now, the Government of India, according to this, is going to withdraw the citizenship if a person is convicted for a period of 12 months. Suppose there is a person in Madagascar and he is convicted for 13 months. When we withdraw his citizenship, what will be his legal position? He is no more a citizen and has to be deported. That is the law and I hope the hon. the Home Minister will not contest it. In the past so many persons have been deported to India and we have been forced to accept them. So now by this we are going to leave them in void. What will happen to them? I was told some time back that some persons were deported to Pakistan because they had declared themselves as citizens of undivided India but being Muslims they were, of course, citizens of Pakistan. In Karachi the Pakistan Government would not accept them and, therefore, they were sent back and we had to accept them, it is also a human question because you are not going to allow a man, whatever might have been his offence, to live in a kind of purgatory, in a Roman's land. We have to rehabili-

tate him; we have to give him citizenship. Sub-clause (2) (d) of clause 10 says that if within five years after registration a person is given a term of imprisonment or a punishment which extends to not less than 12 months, then his citizenship should be withdrawn. I think the Select Committee will find out some other method and it will also demand of the Government to know how the citizenship law has worked so far, whether it is a fact that such cases have arisen and if so how they have been met and how this new piece of legislation is going to solve those problems.

Again, if we look at clause 8 (1), it says:

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

Now, I beg to submit that this makes our citizenship too cheap. This Bill has to be viewed only from one angle—whether we are going to attach any price to our citizenship or not. As it is, we are going to make it as cheap as possible. As I have said earlier, there are many who have declared themselves as Indians to serve their own temporary ends, maybe to save their property which they have left in India, maybe also for a variety of reasons. Citizenship of India has afforded them some protection. They have made some profit out of the conferment of Indian citizenship on them. Now, they will go and declare that they are no more citizens of India and we will register their declaration and withdraw our citizenship. Therefore, I would like to submit that if this is to be retained, this should have no retrospective effect. In the case of those who have declared themselves as citizens of India, if now they want to change their citizenship, cer-

tain other factors should also be taken into consideration and it will not be in our interest to give retrospective effect to this provision.

Before I come to the most important question of Commonwealth citizenship, I would like to bring another small matter to the notice of the Select Committee. In the Second Schedule there is the oath of allegiance. One has to affirm or swear allegiance to the Constitution of India. I would like to know what legal force it has. Now, probably a citizen may be illiterate; he might have been an adventurer; he might have just been a labourer who has rehabilitated himself in some territory or other. Now, what does he know of the Constitution and what does he understand of it? While he will take the oath of allegiance to the Constitution, what is there to stop him from working against that very Constitution, not because of the inherent mischievousness in him or disloyalty in him, but because he does not know what the Constitution is? Therefore, I think this form of allegiance should also deserve some attention at the hands of the Select Committee. They should consider the manner in which it can be improved or made more practical.

Now, the most important question that seems to me in relation to this Bill is the citizenship of the Commonwealth. In the First Schedule you will find the various Commonwealth countries enumerated. Now, apart from its political aspect there is also a practical aspect. The Commonwealth citizenship imposes on a citizen a double standard, a double role. An Indian, if he has settled, say, in Kenya or New Zealand or South Africa or Australia has to declare himself as an Indian citizen before the High Commissioner or the Consul or whoever he may be and then he has also to swear allegiance to the particular Commonwealth country also. It may be that his allegiance to the Commonwealth country, his responsibility to the Common-

wealth, is much more than his allegiance as a citizen of India.

SHRI H. N. KUNZRU (Uttar Pradesh) : What allegiance to the Commonwealth is the hon. Member speaking of?

SHRI S. MAHANTY: In all these countries an Indian who is settled in any one of them has to be a Commonwealth citizen and also has to be a citizen of India. In the past this has led to many complications and the problem will be better solved if an Indian in any of the Commonwealth countries is considered as a foreigner and *vice versa*. He should be considered a foreigner and have all the privileges and liabilities that are associated with it. This kind of double citizenship certainly has got no merit to commend itself. That is the practical aspect.

The political aspect is this. We would like to be told what definite direct benefits the Commonwealth has brought to us. The other day we were discussing Goa. It has been pointed out by all sections of the House what the attitude of U.K. is in this matter. U.K. may not be the Head of the Commonwealth but she is the mother of the Commonwealth. It is common knowledge that every year in U.K. the Commonwealth Prime Ministers' Conference is convened; not only Prime Ministers' Conference but also Commanders-in-Chief's Conference and so many other conferences also are convened. All these are convened and it is no good trying to conceal the fact from the public today by saying that Britain is no more the Head of the Commonwealth. I am prepared to examine this issue most dispassionately. It is true that after our independence our sterling balances were with U.K. Our entire defence was linked up with the British system. We also had inherited from them an Administration which was in many ways linked up with the U.K. Therefore, it might have been expedient on our part to be a member of the Commonwealth

[Shri S. Mahanty.] Now that membership of the Commonwealth is not an immutable conclusion. In the changed context, in the light of the various developments that have taken place since then, is it not necessary that we should revise our attitude towards that question? I think it is high time that we considered that issue and I think a discussion on this Bill provides an opportunity for it.

Now, let us look at the countries, *e.g.* the Union of South Africa. A citizen of the Union of South Africa is also to be extended the privileges of a citizen of India. We are also going to confer on him the citizenship of India with the proviso that we take note of the legislation passed by the Union of South Africa. And, then, look at Pakistan. The other day even the Prime Minister had expressed his disappointment at the manner in which Pakistan has been behaving towards India in respect of Goa. I would like to know what special merit is attached to Commonwealth citizenship that India should sit in the ignoble company, at least of South Africa. It is high time that this business of Commonwealth should be finished. It is true there was a time when circumstances warranted our membership of the Commonwealth. I do not think those circumstances exist now. Therefore, clauses 2 (1) (b) and 5 (1) (e) of this Bill should be suitably revised so as to meet these requirements. With these words, I commend this motion.

SHRI RAJENDRA PRATAP SINHA: Mr. Deputy Chairman, it is a great day for this Parliament to legislate on this very important and, I should say, sacred measure of our citizenship rights. Citizenship is a proud privilege for every national to cherish and those dark days are over when an Indian citizen was branded as a native and he had to hang his head in shame. Now we can proudly say, as Romans used to say: "I am an Indian citizen." I know Parliament is supreme and it has the plenary

power to legislate on our citizenship law, notwithstanding the constitutional provisions contained in articles 5 to 8. We can bring in new principles in our citizenship law. We have the powers. But I would like to bring to your notice a fundamental departure that this Bill has brought about in our concept of citizenship as embodied in the Constitution. On the whole, I regard this measure as a welcome one, as it embodies very wholesome principles of citizenship. But there is room for improvement in matters of detail and I would like to draw the attention of the Joint Committee to these few points.

I am happy that we have accepted the principle of *jus soli* and we have said that birth will be the sole criterion, irrespective of the parentage, for the conferment of our citizenship rights, as was embodied in article 5 of the Constitution. Many progressive countries like the United States, the United Kingdom, Australia and others have adopted this fair principle. On the other hand, we find that there are many countries who have not accepted it. For example, our neighbour Burma has made Burmese blood as the sole criterion for conferment of their citizenship. Indonesia accepts only those who are of indigenous population or who satisfy the residence qualification. Canada and South Africa give this right of acquisition only to those who do not belong to the prohibited immigrants' class. So also I find that China and Japan have not accepted this principle.

I am also happy that we have embodied in this Bill the principles of *jus sanguinis*; a person could acquire citizenship by descent. In clause 4, however, there is a fundamental departure from the principle" embodied in the Constitution. We are taking away or restricting some of the rights that we conferred upon our nationals under article 5 (b) and article 8, which recognize the equality of sexes in the matter of transmission of nationality to their children. TOE

words used in the articles which I have referred to are "parents or grandparents"; whereas in clause 4 we have used the word "father". That is to say, we are limiting citizenship by descent only to the male line. Sir, a mother who could transmit citizenship at the commencement of the Constitution will not be able to do so after the 26th January 1950. There may be cases where children born to the same mother may have different treatment. A child born to her before 26th January 1950, when the Constitution came into operation, was entitled to be registered as an Indian citizen; but a child born to her after the 26th January 1950 is not entitled to be registered. Such a provision is incongruous with the principle that we have adopted that marriage will have no automatic effect upon the nationality of Indian citizens.

Why do we restrict, so far as the transmission of citizenship rights are concerned through the male line? I am sorry the mover of this Bill while referring to this clause has not given any justification for abridging and abrogating the rights which were conferred by our Constitution on our women nationals. I am aware that this clause has been borrowed from the United Kingdom Act of 1948. There also, only the father, the male line, can transmit citizenship in the United Kingdom law. But may I ask why we should follow blindly the United Kingdom's provisions which are in direct conflict with the principles enunciated in our Constitution? Even commentators on international law have expressed surprise that such a provision was included in the British Act of 1948, although the United States of America had discarded this principle and have, along with other countries, Canada and Australia, permitted the transmission of citizenship through the female line. I find that clause 4 will go against the Hague Convention to which India is a signatory. I would, therefore, commend to the Joint Committee to suitably amend this clause, so that we do not practise discrimination in matters of

transmission of nationality on the basis of sex.

Clause 4 makes it clear that the process of perpetuation of Indian nationality is not automatic beyond the first generation, born outside India, because in each generation a positive act is demanded on the part of the father who has to get a child registered as an Indian citizen. I find, however, that in the interest of safeguarding against dual nationality resulting by the accident of birth in a foreign land, citizenship laws of other countries like Australia, Canada, Ceylon, Japan and U.S.A. demand « a positive act on the part of the child when he attains the age of majority to renounce the nationality which he may have acquired by an accident of birth, and to assert the nationality of the parent. Similar provisions were there in England as well before the Act of 1948 came into operation, I would ask the Joint Committee to go into the implications that flow out of dual nationality and see whether we should not also demand from such nationals on attaining the age of majority, to assert the nationality of India if they desired to have it.

Sir, clauses 5 and 6 deal with the acquisition of citizenship by the method of registration and naturalisation. Nations and States are great in themselves. But individuals must be free to get out of them and get into them. That is the modern concept of a State and citizenship. It is envisaged in this Bill, under clause 5, that persons of Indian origin in other countries and citizens of Commonwealth countries mentioned in the First Schedule can acquire Indian citizenship by registration. Under clause 6, foreigners can acquire Indian citizenship by the process of naturalisation.

Now, let us consider clause 5. Here we find that persons of Indian origin and persons belonging to the Commonwealth countries are placed on the same footing. How far it is fair to do so, I would like the Joint Committee to consider this question. The

[Shri Rajendra Pratap Sinha.] partition of India into two has brought about certain factors which must be recognized. There often takes place a large influx of population from across the other side of the border and we are morally bound to accept them into our fold and grant them the privileges of Indian citizenship. Then there are persons of Indian origin living in Malaya, South East Asia, Ceylon and other countries and their problem is a legacy of the British rule. The question of their nationality and rights presents all kinds of difficulties and there is every danger of a large number of these people being thrown out as Stateless persons and it will be a bad day for us if they are thrown out as Stateless persons. I grant that this is a difficult question. But I submit that the Joint Committee should go into it in detail and see that we do not legislate in a manner that it may dash all their hopes because ever since our attainment of independence, they have been looking up to their mother country for rectification of all the wrongs that have been committed upon them.

Sir, in this context, I would like you to consider clause 14. It reads as follows:

"(1) The prescribed authority or the Central Government may, in its discretion, grant or refuse an application under section 5 or section 6 and shall not be required to assign any reasons for such grant or refusal.

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

I would like to submit that the executive is being vested with special powers in the matter of the disposal of the applications which are received. Under clauses 5 and 6, they can grant registration to persons of Indian

origin or they can refuse their applications and they are not required to assign any reasons for the refusal to grant such registration. Then, Sir, there is no appeal against the decision of the executive. They have the final say in the matter. Only the other day, we heard the Prime Minister saying that there is a possibility of a vast number of persons of Indian origin in Ceylon becoming Stateless. There is no doubt that they are persons of Indian origin and that very fact gives a constitutional guarantee, and the Bill also provides, that they are entitled to be registered as Indian citizens. Now, the Government may find it inconvenient, embarrassing, to have them in India and to absorb them. They may find it difficult to look after them and to look after their interests while they choose to stay in Ceylon. The State's obligation is at least to keep a kindly eye on all its citizens wherever they may be, and in so doing it may involve the Government politically, internationally and economically and may lead to all kinds of problems and complications. The Prime Minister thinks that it is their responsibility to look after those persons in Ceylon who are Indian citizens. Naturally he thinks juridically. But does not the Constitution guarantee that all those who are persons of Indian origin, if they so like, can be registered as Indian citizens, and does not this Bill give that assurance and guarantee? But the executive may take a hint from the Prime Minister's approach and they may refuse to register them as Indian citizens and they may refuse to assign any reasons for their refusal to accept them as Indian citizens. That is a very dangerous proposition and we cannot leave the registration of the persons of Indian origin to the vagaries of the executive. I grant that the Government today is benevolent; it is a sympathetic Government and they will do their best to look after their interests. But even then there must be legal guarantees that their grievances would be looked into, and that their registration would not depend upon the vagaries of the exe-

utive. I urge that they should provide for an appeal to the Supreme Court by any person who may be aggrieved by the refusal of the executive to grant him registration

MR. DEPUTY CHAIRMAN: Will you take more time?

We will continue in the afternoon.

The House then adjourned for lunch at one of the clock.

The House reassembled after lunch at half past two of the clock, MR. DEPUTY CHAIRMAN in the Chair.

SHRI RAJENDRA PRATAP

SINHA: Mr. Deputy Chairman, I would like to make my position clear. I do not mind giving to the executive the discretion to accept as citizens, foreigners or citizens of the Commonwealth countries. But certainly, I would like to have some provision made so that the persons of Indian origin may have a right of appeal, if they are aggrieved against the decisions of the executive in the matter of their registration as Indian citizens. I would like to assure our brothers and sisters living in foreign lands that if they are victims of racial, political or religious persecution or frenzy, and if they choose to return to our country, they will always find a welcome here in their mother country. What I am suggesting is not very novel, because in other countries also we find that judicial guarantees are there, judicial processes are there for registration of foreigners as citizens, as we have in the United States of America. In Belgium, Sir, I find it is a legislative process.

Then, I would like to draw the attention of the House to clause 5(1) (c) where we find it is stated that "women who are, or have been, married to citizens of India". Again, Sir, this is contrary to the Hague Convention to which we are signatories, because we are discriminating. Why can't we say that husbands who

are married to Indian women can also claim registration? I would like to suggest that the word 'woman' should be substituted by the words 'spouse, or widow or widower'. This would eliminate the discrimination that we have in this sub-clause.

Now, I come to clause 10 which deals with deprivation of citizenship. It is a very serious matter and we should not treat it very lightly. Here again you will find, that the executive has got the final authority in the matter of depriving a citizen of his right of citizenship. There is no provision for appeal in respect of a person who has been deprived of his citizenship rights. Of course, I find that there is a provision about an enquiry committee, and if any person is aggrieved by the decisions made by the executive, he can appeal to this enquiry committee. And this enquiry committee is to be presided over by a chairman having ten years of judicial service. Now, such a chairman is not expected to be an independent person. He may be merely a judicial magistrate of 10 years' standing. In Australia, Sir, I find that such a chairman is the Judge of the Federal or State Court, or a Barrister or a Solicitor of 5 years' standing. Now such a chairman will be more independent than what we have provided here. I would very much like that there should be a judicial process here, in the matter of deprivation of citizenship rights, and particularly for the deprivation of the citizenship rights granted to a person of Indian origin living in another country. Sir, I would like to draw your attention to clause 10(2) (b), which reads as follows:

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

Sir, this clause has been entirely borrowed from the Act of 1948. But I do not know whether the Government has improved upon the provisions contained therein or has just made them worse. In the U.K., as

[Shri Rajendra Pratap Sinha.]

also in Australia, I find that they have not used the words "His Majesty's Government". They have used the words "His Majesty", that is to say, persons who are disloyal or disaffected towards His Majesty. And they have differentiated between "His Majesty" and "His Majesty's Government". Every citizen is entitled to be disaffected and disloyal to the Government of the day, and is entitled to change the Government. Now I am glad to find that the hon. Mover of this motion has kept his mind open on this point. He thinks that if the Select Committee so likes, it can have a provision so that at least persons of Indian origin may not be deprived of Indian citizenship so easily and readily as provided for in this clause.

I would very much like to add here that we must provide for loss of nationality. If a person migrates to some other country and enters into the Armed Forces of that country—his has also been provided in the nationality laws of the United States and Australia—he should be deprived of the Indian citizenship.

Now, Sir, a word about the Commonwealth citizenship, which has been dealt with in clauses 11 and 12. I find that the words "citizens" and "nationals" are synonyms, because the whole concept of citizenship has developed with the growth of the national States after the end of the middle ages. Today, a new growth is taking place. The idea of sovereign States is undergoing a change with modern developments. The region, the blocs and, as a matter of fact, the whole world is impinging upon the sovereign State. New relationships are growing. An individual is finding the State a narrow and limited place to confine his activity to. He is bursting forth into wider fields. State cannot contain him. The concept of citizenship must undergo a change and the old ideas must not circumscribe him and dwarf him. Sir, we should not confine ourselves to the old concept of citizenship. The con-

cept of Commonwealth citizenship is a growth in that direction of the enlargement of this idea. Sir, the idea of Commonwealth citizenship has been evolved with the growth or the evolution of the Commonwealth. Without going into the history of this idea, I would like to say that the old idea of British subject, possession of which connoted the duty of permanent allegiance to the Crown, has been buried deep in past history. It has nothing to do with the Commonwealth citizenship idea of today. Each country of the Commonwealth is a sovereign State and is entitled to enact its own law of citizenship, which may or may not be like the laws of citizenship of the other Commonwealth countries. I find that there is difference in the different enactments on this subject in the different Commonwealth countries. All that they have agreed to is to have a common clause which is nothing but to say that the citizen of a Commonwealth country will not be regarded as an alien in another Commonwealth country, but I find that this common clause is also missing in most of the enactments of the Commonwealth countries. They have merely provided for it in the definition of "alien", that a person belonging to a Commonwealth country will not be regarded as an alien. By itself the common clause does not confer any rights of citizenship in any of the laws of the Commonwealth countries on this subject. I would, therefore, think that this clause II is a harmless one, and I would go a step further and submit that we should enlarge the First Schedule by including further countries in it if possible. There are regions and countries with which we are equally intimately connected as we are with the Commonwealth countries. Our association with the Commonwealth countries is only, comparatively speaking, a recent one and is of historical interest but there are countries with which we have got geographical, cultural and other relationships. It may be possible for us, on a reciprocal basis, to enlarge the First Schedule

as to include these new countries with whom now we are developing all kinds of relationships.

Clause 12 says:

"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."

Clause 12 gives ample guarantee that our interests will be safeguarded. We shall recognize or confer any of the rights of citizenship on any citizen of a Commonwealth country strictly on a reciprocal basis. If we find that the other Commonwealth country is also conferring similar benefits and advantages on the nationals of our country, then alone we shall be conferring, on a reciprocal basis, the same rights and privileges on such a country's national. I say that by no stretch of imagination can we be placed in a position which we may disapprove of and which is not to our advantage. Therefore, I don't think that if we strictly follow the provisions contained in clauses 11 and 12, we shall at any time be placed at a disadvantage. I think that these clauses are also welcome and as I have stated, we should try to enlarge the Schedule and we should welcome this growth of the new concept of citizenship.

SHRI T. BODRA (Bihar): Mr. Deputy Chairman, I have got only two points to submit so far as the Citizenship Bill, 1955 is concerned. My first point is about clause 8 which reads as follows:

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

Provided that if any such declaration is made during any war in which India may be engaged, registration thereof shall be withheld until the Central Government otherwise directs.

(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:

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

(3) For the purpose of this section, any woman who is or has been married shall be deemed to be of full age."

Now in this clause a person has got dual citizenship. Supposing a person commits a crime or there are cases against him of civil or criminal liabilities, in order to evade such charges he can renounce his citizenship by giving a declaration that he would not like to be an Indian citizen. He may have dual citizenship of America or Britain as well as of India. If somebody has sued him, say, for Rs. 50,000, or if he has committed a murder or dacoity and a warrant of arrest is issued against him, in order to evade the civil or criminal liability, he can renounce his citizenship. To me it appears that under this clause you have made renunciation of citizenship so easy and cheap that he can very well evade civil or criminal liability if he wants. So I submit that when the Joint Select Committee considers this clause 8, some provision must be inserted so that a man may not evade the law of the land.

My second point is in regard to clause 16.

Clause 16 reads as follows:

"Any person who, for the purpose of procuring anything to be done or not to be done under this

[Shri T. Bodra.]

Act, knowingly or recklessly makes any representation which is false in a material particular shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both."

I am very happy to read this clause which punishes the offences committed under this Bill. I was listening very attentively to the statement of *the* hon. the Home Minister and he has rightly observed that this Citizenship Bill affects every citizen. It is meant to secure justice for all and it is a most precious right and it is of supreme importance and we acquire the right of citizenship also by birth. Taking all these noble ideas and keeping them in view, I submit that if any Indian citizen, in his ways of behaviour or actions makes discrimination while discharging his public duties, he should also be liable to punishment, which provision is not here in clause 16. If clause 16 (1) reads as I have already read, I would suggest that a clause 16 (2) should be there reading as follows:

"Any person who for the purpose of administration under this Act, knowingly or recklessly makes any discrimination between man and man having Indian citizenship rights, should be punishable with imprisonment for a term which may extend to six months or with fine or with both."

I have got reasonable grounds for making a statement like this here in the Parliament. Only on the 5th, that means two days back, I found, to my utter astonishment, that the S.D.O. of Ranchi who is a brahmin by caste had begun to discriminate between cases in which the tribals are concerned and those in which the non-tribals are concerned. The Constitution of India was just hanging there over his head. There was the chair of the presiding officer and there were the litigants and the public. And what happened? The officer

forgets that he is the Sub Divisional Officer. He forgets that he is an officer who has got the responsibility for the safety and welfare of all the people in his sub-division. Therefore, he says, "What is this name? Bhilla Munda?" That name is not palatable to him. "Why should these people put on such names? These people are *junglis*. Why should they come with cases?" And all sorts of such things. It rather pains me to speak like this. But I do feel that in the absence of any clause, in the absence of any section in the Act, it is very difficult even for a lawyer or I even the aggrieved party, the aggrieved Indian citizen, to bring a charge against an executive officer, who may be a Deputy Commissioner, may be a Sub Divisional Officer, may be a Tah-sildar or Munsif or a Judge. When a public servant sits in the chair and behaves so astonishingly and shamelessly, although the Constitution of India is hanging over his head, I think he is perhaps thinking that the Constitution is only to be looked at and not to be acted upon. But if there is a clause like the one I suggested inserted under clause 16, giving punishment; and, if a man, whosoever he may be, for the purpose of administration makes discrimination between man and man who have acquired Indian citizenship, he should also be punished with six months rigorous imprisonment or fine or both. Unless there is some such hanging sword, unless there is some sort of a section or clause which puts a limit on the man who is devoid of all sense, though he may be a gazetted officer, which compels every Indian citizen to obey the Constitution and to take the Constitution in its entirety and in its pure spirit, I think that many of the things that we desire and those things that we most piously hope for will get frustrated when people with perverse minds and character behave so.

Sir, I have nothing more to say.

SHRI J. S. BISHT (Uttar Pradesh): Mr. Deputy Chairman, I support the motion for reference to a Joint Select

Committee of this very important Bill, namely the Citizenship Bill, 1955. It is a rather belated Bill, because it is one of the fundamental laws of every nation that they should know what citizenship; rights they have got and this Bill certainly should have come a bit earlier because there have been so many migrations of people from one country to another, whether from Burma or from Jammu and Kashmir or from West Pakistan or East Pakistan and now, may be from Ceylon. However, this Bill has been very well drafted as far as I can see, because when I compare it with the provisions of the British law of nationality, I find most of the provisions here have been based on those of the British law of nationality.

I would like to invite particular attention to one fact about this Citizenship Bill, namely the convention which arose out of the Hague Conference. It was in 1930 and the convention came into force in 1937. It lays down:

"The High Contracting Parties agree to apply the principles and rules contained in the preceding articles in their relations with each other, as from the date of the entry into force of the present Convention.

The inclusion of the above-mentioned principles and rules in the Convention shall in no way be deemed to prejudice the question whether they do or do not already form part of international law.

It is understood that, in so far as any point is not covered by any of the provisions of the preceding articles, the existing principles and rules of international law shall remain in force."

Therefore, my submission is that in this matter of citizenship law, we are more or less governed by this convention which obtains among all the civilized States. Of course, there is no uniformity in this matter, because I find that the U.S.S.R. has a provi-

sion—Article 4 of the Statute on Citizenship of the U.S.S.R. of April, 22, 1931, which says:

"Foreign citizens admitted to citizenship of the U.S.S.R., enjoy no rights and have no duties, derived from allegiance to a foreign State."

That is to say, they do not accept the principle of duality of nationality. Of course, the principles of international law tend to show that as far as possible, duality of nationality would be avoided and that each person should have only one nationality and should be governed by the law of the State to which he belongs. But later on, especially after the coming into existence of the independent States upon the dissolution of the British Empire, a new position arose and a new conception of dual nationality was evolved and on this point there has been some objection taken by some hon. Members. For instance, my hon. friend Mr. Mahanty, I think raised that point and asked why we should here give this dual citizenship to the members of the Commonwealth countries? But the First Schedule attached to this Bill says that the following Commonwealth countries, *i.e.* United Kingdom, Australia, Canada, Ceylon, New Zealand, Pakistan, Southern Rhodesia and the Union of South Africa and also the Republic of Ireland will come under clause 5 of the Bill and that, therefore citizenship may be given to people from those countries by registration. Here I may inform Mr. Mahanty as also Mr. Sinha that on this point the British Nationality Act of 1948 lays down:

"If a person who under this Act is a citizen of the United Kingdom or who under any enactment for the time being in force in any country mentioned in subsection (3) of this section is a citizen of that country, shall, by virtue of that citizenship, have the status of a British subject"

[Shri J. S. Bisht.] And sub-section (3) mentions the countries that I referred to, i.e. Canada, Australia, New Zealand, the Union of South Africa, New Found-land, India, Pakistan, Southern Rhodesia and Ceylon. In other words, the British Nationality Act of 1948 itself has provided the same thing that we are providing here. So the citizens of these countries, namely, India, Pakistan, etc. shall have by virtue of that citizenship the status of British citizens. The same provision with regard to registration is also given. They say that subject to the provisions of sub-section (3), any citizens of any country mentioned in the list—and they are the countries which I just read out and which includes India— can have themselves registered as British subjects and get all the rights and obligations that they are entitled to. Similarly other countries, like Ireland, for instance, have also provided for this thing. Therefore I think this criticism is not well-founded, because if we are getting on the basis of reciprocity certain rights in certain other countries, it is only fair that we should give here these rights to them also.

It should also be remembered that there are a large number of colonial territories under the British where a very large number of people of Indian origin are settled namely, Fiji, Trinidad, British Guiana, Kenya, Uganda, Tanganyika, Mauritius and many other places. If we do not confer these rights on the citizens of the Commonwealth countries, then it means that we also lose such rights there. It is a matter of practical importance. The people of England or of Canada and Australia who probably will get some benefit out of this law will be hardly one per cent, of the nationals of India who will derive the benefit in the other colonies of the British Empire.

SHRI H. P. SAKSENA (Uttar Pradesh):
Are you for dual citizenship?

SHRI J. S. BISHT: Yes, of course, it is very necessary, and if we stand to gain by anything we should not hesitate to accept it. Merely by calling it dual citizenship you should not get frightened about it because, if you are member of the Commonwealth, as you are—we are members of the Commonwealth because it is to our advantage to be a member of the Commonwealth because we consider that it is a miniature and a living United Nations Organisation, in fact a living U.N.O. that has survived two wars—then there is no reason why we should not accept this conception of dual citizenship.

SHRI H. P. SAKSENA: Even about South Africa?

SHRI J. S. BISHT: My hon. friend has got some objection. With regard to that I have already said that there is the Schedule which lays down certain qualifications for naturalisation of a person who is not a citizen of a country specified in the First Schedule. One of the qualifications is: "That he is not a subject or citizen of any country where citizens of India are prevented by law or practice of that country from becoming subjects or citizens of that country by naturalisation". That comes under that law and if any country does not give those rights, you can easily cut out that country from these benefits.

Now, Sir, coming to this law, I wish only to draw the attention of the Minister-in-charge and the members of the Joint Select Committee to certain omissions which I find here in this particular law. According to clause 5 "women who are, or have been, married to citizens of India" should get themselves registered as citizens of India. This is a new conception that a woman, if she marries a citizen of India, does not automatically become a citizen of India at all, that is to say, she has got to get herself registered under this law. This is not so in certain other laws of

other countries because there once a woman marries a national of that country she automatically acquires the citizenship of that country. Be that as it may, in this particular law 3 do not find what happens to a woman who marries a foreigner, that is to say, an alien in this country. We have not provided in this law as to the nationality of an Indian woman who marries a foreigner. And in that case she should lose the nationality of this" country because that is the ordinary international convention. Then, there is another point. This particular provision in clause 5 does not say what happens if this woman becomes a widow, that is to say, if the husband happens to die; or what happens if there is a divorce. These contingencies must be provided for. In the British Nationality Act all these things have been provided for and have been properly denned, I mean, their rights and obligations. I would suggest to the Joint Select Committee that they should be very clear on this point with regard to the nationality and citizenship of other women who marry Indian citizens or the Indian women who marry aliens. In both cases it should be decided as to what will be their nationality on their marriage, secondly, what will be their nationality on their becoming widows, and thirdly, what will be their nationality when their marriage is dissolved, whether they will have to get themselves registered or to have a certain declaration filed with the prescribed authority so that their new status starts from that time.

Then, Sir, with regard to subclause (e) of this clause 5, it says:

"persons who, being citizens of a country specified in the First Schedule and of full age and capacity, either are ordinarily resident in India and have been so resident for one year immediately before making an application for registration, or are in service under a Government in India"

and the Explanation under it reads:

"For the purposes of this section, 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."

I do not know whether this will facilitate the cases of people of Indian origin who are in Burma, in Pakistan and in Ceylon, because here the condition is laid down that the application should be made here after they have been already residing in this country and I believe for the number of such people of Indian origin who may have to find shelter in this country after they are not wanted there in those countries—especially as the people of Burma and the people of Ceylon do not seem to like them *to* be there— there should be some additional facility granted for them to acquire their citizenship rights in this country when they happen to come here.

Then, I find that in this very clause 5 there is another omission. For that the British Nationality Act has provided and I think we should also provide in this. Suppose a Bengali gentleman or a Bengali couple living in West Bengal want to adopt a child, a close relation of theirs from East Bengal. Now that child is a foreigner. So what will be the status of this adopted child? That is an omission here and there is no provision made in this Bill at all. Although some provision has been made in regard to registration of certain infant?, with regard to adopted children no provision has been made. Therefore, I submit that the Joint Select Committee might look into this matter because these cases will arise in the case of Sindhis or Punjabis or Bengalis, may be of Tamilians living in the South some of them living in Ceylon. Therefore, children of other countries who are adopted by parents living in this country should be deemed to be citizens of India with effect from the date they are so adopted because, after all, "adoption" is a sort of birth in the family of adoption.

With regard to termination of citizenship provided for in clause 9, I

[Shri J. S. Bisht] have already pointed out that the marriage of an Indian woman with an alien should be treated as termination of her citizenship in this country because that has not been provided here or anywhere. I do not know whether it will be covered by clause 9 because clause 9 says this:

"Any citizen of India who by naturalisation, registration or otherwise voluntarily acquires, or has before the commencement of this Act voluntarily acquired, the citizenship of another country shall, upon such acquisition or, as the case may be, such commencement, cease to be a citizen of India." Here it is "or otherwise voluntarily acquires" and I do not know what the decision of the courts will be, but why should we leave it so vague when we can make it quite clear that the moment an Indian lady citizen marries an alien, that would automatically act as the termination of that citizenship?

SHRI H. C. DASAPPA (Mysore): She will become Stateless if it were to be automatically terminated. A citizen of this country, when she has not acquired citizenship of any other country, will become virtually Stateless.

SHRI J. S. BISHT: But because in that case she acquires citizenship of the other country.....

SHRI H. C. DASAPPA: Clause 9 covers it.

SHRI J. S. BISHT: Here the words are: "or otherwise voluntarily acquires"; I do not know whether by mere operation of law she becomes a citizen of another country. The law of the British, or rather under the British Act, if, for instance, an Indian lady marries an Englishman then she becomes a British subject there at that very time.

SHRI H. C. DASAPPA: It all depends,

SHRI J. S. BISHT: So far as the question of the British subject is concerned, it comes under it because they have made some distinction with regard to registration and all that.

As I was reading out, the first subsection says:

"Every person who under this Act is a citizen of the United Kingdom and Colonies or who under any enactment for the time being in force in any country mentioned in sub-section (3) of this section is a citizen of that country shall by virtue of that citizenship have the status of a British subject."

He becomes a British subject because of the fact that he belongs to one of the countries mentioned in sub-section (3). Of course, there is the question of registration. Registration is necessary under section 6. In any case that is a point which I have brought to your notice and it is for the Select Committee to look into that. If you think that it is covered by clause 9, then I have nothing to say on that point.

Sir, there remains only one point to which I may draw your attention. This Bill does not say what happens to crimes committed by certain people. For instance, in the British Nationality Act there is a provision in section 3 which seems to me very appropriate but which does not find a place here in the Bill. That section 3 says:

"A British subject or citizen of Eire who is not a citizen of the United Kingdom and Colonies shall not be guilty of an offence against the laws of any part of the United Kingdom and Colonies or of any protectorate or United Kingdom trust territory by reason of any thing done or omitted in any country mentioned in sub-section (3) of section 1 of this Act....."

That seems to me to be a very useful provision and that might as well be adopted here.

Then there is one point about which I am not quite sure. Article 19 of the Constitution in relation to Fundamental Rights says:

"All citizens shall have the right to acquire, hold and dispose of property;"

Here I think there should be some provision as to whether aliens living in this country shall have this right and, if so, whether it will be an unfettered right or whether it will be a limited right, and if so under what conditions they will have that right with regard to acquisition, holding and disposal of property, movable or immovable, or even to do business. Otherwise, the law remains vague and the position will be a bit confused because the guarantee given by the Constitution under Fundamental Rights is limited to citizens of India.

With these remarks, Sir, I support this Bill.

SHRI R. C. GUPTA (Uttar Pradesh): Sir, I welcome this measure. It is really in fulfilment of the powers given by the Constitution to Parliament. Certain provisions are already included in the Constitution and these have become necessary because the provisions in the Constitution did not contain the entire provisions that are necessary for the creation and extinction of rights of citizenship. The question is whether the Bill, as it is, fulfils the entire requirements of the rights of a citizen. It seems to me that it is a very comprehensive Bill and deals with practically all aspects of the case. If we look into the various provisions of this Bill, we will find that there are three modes of acquisition of rights of citizenship—citizenship by birth or descent, citizenship by registration and citizenship by naturalisation. These are the three modes in which rights of citizenship may be acquired. Similarly, there are three modes in which the rights of citizenship may disappear and they are renunciation, termination and deprivation. We have

to see whether the rights to acquire citizenship as embodied in this Bill are satisfactory or whether they require any improvement. As the Bill is going to be referred to a Select Committee, I would like to make a few suggestions.

The hon. the Home Minister has said with regard to clause 3 that this clause has been made very wide and not in a niggardly way as in some similar Acts of other countries. I do not know whether the way in which the rights of citizenship are acquired under clause 3 is quite consistent with the provisions of the Constitution. If it is, to my mind they are too wide. It says that every person who is born here in India after the 26th January 1950 would automatically become a citizen of India. I will give an instance. Supposing a Pakistani couple under a temporary permit comes to India and a child is born. According to this clause, he will become a citizen of this country. Is it necessary that such rights should be conferred on such a person? He may not desire them. His parents came for a parti-drqsuazirp jo rrgu stir; pjnoqs AqM. •pouad /dejodtiia} e JOJ ssoamd jBjno be thrust on him? I only wish to point out that the definition seems to me to be a little too wide. There will be other complications also and I would point out one of them. Now, a couple from Pakistan comes here on a temporary permit and a child is born. The child, according to Pakistan law, would be a citizen of Pakistan and under this clause he will also become a citizen of India. So he will have acquired dual citizenship, one of Pakistan and the other of India.

SHRI J. S. BISHT: That is covered here.

SHRI R. C. GUPTA: I wish to say something on this. Is it necessary that this dual citizenship should be conferred on a person who does not desire to become a citizen of this country? Why should it be thrust on him? I, therefore, think that this

[Shri R. C. Gupta.] point has to be considered and if possible some sort of amendment should be suggested so that the citizenship rights of this country may not be thrust on persons who do not desire them.

SHRI J. S. BISHT: He can renounce it by registration.

SHRI R. C. GUPTA: He can renounce it only after he comes of age. He cannot renounce it as a minor. For renunciation it is necessary that the child must be of full age of 18 years. He must be capable of entering into a contract and unless he is 18 years of age there is no question of renunciation in a case like this. This is a point which I wish to place before the House for the consideration of the Members who will sit on the Select Committee.

V.ith regard to clause 4 it se'ems to me that citizenship by descent penalises to a certain extent an Indian citizen. Sub-clause (1) of clause 4 reads like this:

"A person born outside India on or after the 26th January 1930, shall be a citizen of India by descent if his father is a citizen of India at the time of his birth."

Then he is penalised because there is a disability attached later on by the proviso:

"Provided that if the father of such a person was a citizen of India by descent only, that person shall not be a citizen of India by virtue of this section, unless"

I consider it to be unfair that if the father is a citizen of India and a son is born to him in England the son will be considered to be a citizen by descent, and will not come under clause 3. And, in turn, if his son is also born in England—this son who should be a citizen of India—will not be so unless he gets himself registered. This disability is attached to a son born to an Indian citizen while he is outside India. I submit that

this requires reconsideration by the Select Committee.....

SHRI H. C. DASAPPA: Because he " might have acquired the citizenship of that country where he was born.

SHRI R. C. GUPTA: You have by clause 3 permitted a foreigner to acquire citizenship here. If foreign parents come here only for a temporary period and a son is born to them, you give him full-fledged rights, all rights of citizenship. But if an Indian citizen goes to England and a son is born, you penalise the son. You don't give him full rights of citizenship. He will be only called a citizen by descent and not a citizen under clause 3.....

SHRI JASPAT ROY KAPOOR (Uttar Pradesh): All the same, he will have the rights of a citizen.

SHRI R. C. GUPTA: No, no. There is difference between the two. If a person is a citizen by descent, then if his son happens to be born outside India, that son would not be a citizen of India unless he gets himself registered under (a) of the proviso. There is distinction between these two. You will find that this man suffers from some disabilities which a citizen by birth does not.

Then, Sir, with regard to clause 5, I have not been able to understand sub-clause (1) (b) which reads:

"persons of Indian origin who are ordinarily resident in any country or place outside undivided India".

It seems to me that Pakistan has been left out from this category. But what are the reasons for excluding Pakistan? "Undivided India" has been defined in clause 2 (I) (h) as follows:

" 'Undivided India' means India as defined in the Government of India Act, 1935, as originally enacted."

There does not seem to be any reason and nothing has been said with regard to this clause.

Then, something has been said in this House with regard to clause 5 sub-clause (1) (c). Mr. Rajendra Pratap Sinha said that the word "woman" should be substituted by spouse or some other word. I do not agree with him. I think the word "woman" is all right because it refers to women of foreign nationality. If such women are married to citizens of India, they should be entitled to be treated as citizens of this country. Of course, there is one disability. Such a wife will have to apply for registration under clause 5 and unless she applies for registration she will not become a citizen of India. That is, she does not become a citizen of India automatically. It may be considered whether this clause may be transposed to clause 3—"a woman is or has been married to a citizen of India she automatically becomes a citizen of this country."

My friend Mr. Bisht suggested that there should be some amendment, with regard to meeting a case where adoption takes place when the adoptive father belongs to West Bengal and the adoptee belongs to East Bengal. Generally, except amongst Jains, adoption takes place while the adoptee is a minor. Sub-clause (1) (d) of clause 5, I think, seems to cover this case—"minor children of persons who are citizens of India;". As soon as a boy is adopted, he becomes a child of a citizen of this country. It is not necessary that he should be born, of parents with rights of Indian citizenship, or that he should be a natural son. As soon as the adoption takes place, the child becomes the child of the adoptive father or the adoptive parents. Therefore this clause may cover cases of this type.

SHRI J. S. BISHT: The difficulty is that the word "child" has not been defined.

SHRI R. C. GUPTA: I do not think it is necessary to define the word "child": at any rate this is my view.

With regard to clause 9, I have to make only one small suggestion.

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Clause 9, sub-clause (1) reads like this:

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

The words "or otherwise voluntarily acquires" do not seem to me to fulfil any important purpose, because the ways to acquire the right of citizenship are naturalisation, registration and two others are covered by clauses 3 and 4, and probably also by clause 7. Now, what is the significance of the word "voluntarily"? If this word "voluntarily" is deleted, I think the purpose will be served very well and it might meet the case which I have just instanced while discussing clause 3, namely, as soon as a person acquires the right of citizenship and if he becomes the citizen of another country, automatically he ceases to be a citizen of this country. It is not necessary that a person should "voluntarily acquire", because if you keep the word "voluntarily", then it will probably exclude the case instanced by me. Because under clause 3 a person born in India automatically becomes a citizen of India. Therefore, if you keep the word "voluntarily" in sub-clause (1), clause 9, my submission is that it will not cover the case of citizenship under clause 3, as mentioned by me.

Then, one other suggestion which I would like to make is with regard to clause 10 (2) (b), which reads:

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

This is one of the ways by which a citizen may be deprived of the right of citizenship. It is all right so far as it goes. But does it cover the case of a person who has proved himself to be disloyal otherwise than by any

[Shri R. C. Gupta.]
 act or speech? There may be a case in which disloyalty may be quite serious. Suppose a man omits to do a certain thing which in law he is bound to do. I am giving an instance. Suppose a man has returned from a foreign country. He knows that foreign country is preparing for an invasion of this country, or for bombing this country, or something of that kind. He has full information. He comes to this country. He neither acts in any way, nor does he make a speech. He certainly omits to do a duty. Will you not call him a disloyal person? Is it not disloyalty of the first water? My submission, therefore, is that if you use some such word here "by act, omission speech or other wise".....

SHRI TRILOCHAN DUTTA
 (Jammu and Kashmir): "Omission" is covered by the word "act".

SHRI R. C. GUPTA: "Act" does not mean "omission", in my opinion, and it may be contested. So, it should be made as plain as possible, because such cases may arise where disloyalty may be proved and everybody may agree that the man is disloyal, although he has neither acted nor made a speech.

Then, Sir, with regard to sub-clause (5) of clause 10, I agree with Mr. Sinha that the chairman of the committee should not be merely a person who has held a judicial office for ten years. He should be a judge, because the words "being a person who has for at least ten years held a judicial office" contained in this subclause include a magistrate also. I would not be satisfied if a magistrate presides over such a committee. It should, therefore, be specifically provided here that the person who is to be the chairman of this committee must at least be a District Judge, or who has exercised the powers of a District Judge for at least five years. The importance of this subclause is enhanced by sub-clause (2) of clause 14, which states as follows:

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

Now, if you are giving this finality to this decision, the committee must be such as to inspire confidence in the persons found to be guilty. Therefore, this requires to be slightly changed.

Now with regard to sub-clause (2) of clause 14, I submit that it is a very good provision, because nobody, as a matter of fact, should be allowed to take the case to the Supreme Court and thus drag on, simply because the Government has refused an application for the registration of citizenship. Clause 14 is restricted, because it applies only to the cases covered by clauses 5 and 6. So, it does not do much harm. After all, there should be some finality, and we should rely on the judgment of the Government, so far as the conferment of certain powers with regard to acquisition of rights of citizenship is concerned. This is all what I have to say.

SHRI B. M. GUPTE (Bombay): Sir, I must congratulate the draftsman of the Bill for the efficiency with which this Bill has been drafted. Considering the complexity of the subject, I think the Bill is well-drafted. I can recall an amusing incident in this connection to prove the complexity of the subject. This happened in the Constituent Assembly. At that time, in the first draft that came before the Assembly, it was discovered that the wording was so gravely defective that even the framers of the Constitution would not be citizens under that formula. And then, naturally revision had to be made, and nearly four or five revisions were made, before the constitutional provisions with regard to this matter emerged in the final form. So, considering that experience, I think, the Bill is well drafted. At the time of

the Constitution we were very very generous. The citizenship right was granted even on the ground of residence for merely five years, and domicile. No other condition was attached. This measure is not equally generous. It generally follows the lines of other countries with slight improvements.

I differ from my friend, Mr. Gupta, who preceded me, with regard to the marriage of women. In other Constitutions, Sir, marriage makes that lady automatically a citizen of the country of her husband. But here we have said that she does not automatically become a citizen, but she may register herself for citizenship rights, if she so wishes. Out of the two methods—whether she automatically becomes a citizen, or whether she registers herself voluntarily for citizenship—I prefer the present method provided in this. Bill, because that is more in consonance with the status of women in the modern times. Instead of forcing them to automatically become the citizens of their husbands' countries, it is better that they should voluntarily choose whether they prefer to be citizens there or not.

Then, Sir, I have certain suggestions to make with regard to the refugees from Pakistan. I think clause 5 (1) (a) should be modelled on article 6 of the Constitution, because article 6 makes a provision that some of the refugees, up to a certain period, shall automatically become citizens, and they will not be required to register themselves. So, there should be such a provision here also, laying down that up to the commencement of this measure, all persons coming from Pakistan, East Pakistan particularly, should automatically become the citizens of India, and they should not be required to register themselves for citizenship. And, Sir, even for registration, the period mentioned here is twelve months. In article 6 of the Constitution the period mentioned is only

six months. So I submit, Sir, that the period of six months only should be prescribed, and not of twelve months. That is my suggestion.

SHRI OASPAT ROY KAPOOR: Does sub-clause (1) (a) cover the case of refugees at all?

SHRI B. M. GUPTE: Now this period of twelve months is mentioned here.

SHRI JASPAT ROY KAPOOR: But it refers to the persons of Indian origin. Are refugees persons of Indian origin?

SHRI B. M. GUPTE: My submission is that this period of twelve months is a long period, and I, therefore, suggest that it should be six months only.

Then, Sir, with regard to clause 10 (c), I have to make a suggestion. Clause 10 applies to citizens by naturalisation registration etc. And I do not see why this sub-clause (c) of clause 10 should not apply to others also, that is to say, to the citizens by descent or by birth, because this subclause (c) deals with treason. I do not, therefore, see why even a citizen by birth or by descent should not be penalised on this ground and why he should not be deprived of his citizen-ship rights; he does not deserve any sympathy at all. Therefore, Sir, I submit that this point should be considered.

Then, I have certain doubts with regard to persons born on ships. It is provided that a person born on a ship belongs to the country in which the ship is registered but it is not quite plain whether this happens when the ship is on the high seas or in the territorial waters of any country. Perhaps it is meant that even if born in the territorial waters of any country, the person shall belong to the country in which the ship is registered. But that is not clear. I

[Shri B. M. Gupte.] think in the English law there is a definite provision to that effect. That should be made clear, if that is the intention.

There is another doubt with regard to sub-clause (5) of clause 5. Here it is said:

"A person registered under this section shall be a citizen of India by registration as from the date on which he is so registered; and a person registered under the provisions of article 6 or article 8 of the Constitution shall be deemed to be a citizen of India by registration as from the commencement of the Constitution or the date on which he was so registered, whichever may be later."

I don't see why reference to article 6 is made at all because under that article there can be no question of registration now. Article 6 provided for registration before the commencement of the Constitution. There can be no registration under article 6 after the commencement of the Constitution and, therefore the question whether a person becomes a citizen on registration has been closed so far as article 6 is concerned. Under article 8, of course, registration could be done before the commencement of the Constitution or after the commencement. But under article 6 that is not the case and therefore I don't see why article 6 is mentioned at all. That should be looked into. With these suggestions, I support the motion.

SHRI BHUPESH GUPTA (West Bengal): Mr. Deputy Chairman, at this stage we can only make certain broad suggestions to be examined by the Select Committee, when the Bill goes there. As many Members have pointed out, this Bill is overdue and there is no denying the fact that in the absence of such a Bill and also of proper procedure under the existing law with regard to the conferment of citizenship rights, there have

been lot of difficulties and disabilities on the part of a large section of the people more especially those who have come from East Pakistan. I can speak from my own experiences about them and I can tell the House that even today there are thousands of displaced persons who live in West Bengal, Assam and Tripura, but who don't have the citizenship rights even when they are entitled to that right under the existing law. The position is so not because there is no law but because the existing law has not been applied in their cases. It has been left to them to register and to go through the procedure; but that has not worked because many of them are not apprised of even the existence of such laws. It is only when they go in for certain jobs or other things, when the question of citizenship becomes relevant, that they know that they are not the citizens of India. Naturally this creates a good deal of difficulties. Apart from that, there are, of course, many others who have been denied citizenship because there was no law to confer that right on them. In Tripura today there are people—I think they are called *ziraiyas*, about one lakh of them—who had lands before the partition of Bengal on the Indian side of the border but who went to work on the other side. Now after the partition many of them had come back to Tripura and started cultivating their lands. These people include also Muslims and for the last several years they have been denied the right of citizenship. Not only that. They are not even treated as properly displaced persons. They are called *ziraiyas* and what not. This is the position. Then in and around Calcutta and in very many districts of West Bengal, where the refugees from East Bengal live, you will come across many who are entitled to citizenship but have not got it. You will come across still more people who are not at all entitled to citizenship because of certain provisions of the existing law.

Naturally, when such a Bill comes I we are concerned about them and it is

also the intention of the Bill—as I can understand from its statement of Objects and Reasons and also from the speech that has been made—that it seeks to remedy the present position and remove the difficulties in the way of displaced persons. Here in this connection I would like to share the views expressed by the previous speaker when he said that all those coming from East Bengal, or for that matter from West Pakistan, should be given citizenship right immediately. They should not be asked to register or go through all the processes. Naturally, they will have to come and inform the proper authorities before they can expect to be regarded as citizens; but here are certain laws providing for a kind of procedure called registration. I don't see why this kind of procedure should be applied in their cases although it is quite understandable that the procedure of registration has to be there. This has been the demand of the refugees also and it is important for practical reasons. If you have this kind of thing—the procedure of registration—you will see that large numbers of people who would come or have already come as displaced persons will not be in a position to get themselves registered, for the simple reason that many of them are illiterate people and live in far distant villages and are not apprised of these laws etc. You might say that ignorance of law is no defence when the question comes up, but that way it should not be treated. I think in view of the fact that large number of unfortunate people are here on our soil who had been our kith and kin and with whom we had shared everything, in the same country and who are today with us, they should be given citizenship and we should, if necessary, go out of our way to see that they get immediately the citizenship rights. I think a kind of moral obligation attaches to us, especially the Government, to treat this matter differently than in the ordinary way and see that they get citizenship rights. The Government should take

the initiative in the matter. For that it will be necessary to establish a certain machinery. I do not deny that it is a difficult task, but since it is difficult it is also necessary for the Government, especially the State Governments, to treat it sympathetically and to set up adequate machinery so that whatever law is there comes into force and really becomes available to those people for whom it is intended. Sir, during the last general elections I can tell you, it was found out that vast numbers of refugees had not got the citizenship rights though under the Constitution they should have been conferred these rights. I deliberately say "conferred these rights"—because it was our duty to confer it on them and we should not have left it to them to come to us and get this right. Because in the circumstances in which they were placed then and they are placed even today, it is not right to expect, since there is a law, automatically they will come and take advantage of this law. The situation is not like that. Now that position remains and you know that large numbers of people have suffered for it. For the last few years, complaints have been made to the State Governments and other authorities. Unfortunately not much attention has been given to those complaints. Complaints had been made not merely against existing laws but also against the procedure that had been adopted in the matter of applying the law that was in force at that time or is still in force today. Therefore, this is a matter which, I think, should get the particular attention of the Select Committee. It is not a question of a small number of people coming in. It is not a question of dealing with certain odd individuals who are spread over the country. It is a question of dealing with the vast numbers of people who are part and parcel of our economic and social structure and without whom we cannot really build up our country, and here I am especially speaking of my State. *Without them we cannot build up our country.* That

[Shri Bhupesh Gupta.] is how we view this matter. Therefore, it is necessary for us to treat this matter on a different plane. We need not bother very much here about what exists in other countries, because other countries had not to face a situation like this. Therefore, I leave it to the Select Committee to treat this matter with sympathy and in a manner which will be really beneficial to the displaced persons. They should be made citizens of India, in the same way as we are today citizens of India, or any one born of Indian parents under this Act would be a citizen of India. This is a very important point I wish to make. From our part, the Government must have received heaps of complaints and allegations and petitions on this question. And as you know, there are no less than forty to fifty lakhs of displaced persons spread over West Bengal, Tripura and Assam and out of them quite a large number, of course, are entitled to the rights of citizenship, even under the existing law.

Here certain fundamental questions are involved. I do not know whether this Bill is so well drafted as it has been sought to be made out. That, of course, is a question which I leave to the Select Committee to consider, I do not deny that it is difficult to draft a Bill of this nature. But I would not take it for granted that this is fool-proof or that it has been well drafted even from the point of view of its own approach.

Sir, this question of approach is very important. A citizenship Bill is a very important document which has serious implications. Naturally, one has to make up one's mind as to whom are we going to make citizens of India, apart from those who are born in India, that is to say who are citizens by birth. But to that I will come later. Once having made the decision as to who should be the citizens of India and who should be given the citizenship and who should get citizenship by acquisition, we should

then make the procedure as simple as possible. The procedure should not be cumbersome or something which will be vexatious for those people who might like to be citizens of our country.

But, first of all, the decision has to be taken as to who should be the citizens of our country. In this respect, I think their decision has not been well taken. Not that everything that is said here is wrong; many things said here are valid and deserve appreciation. But I think the approach has not been wholly right. There are certain lacunae. If I may say so, in the understanding of it. And from that understanding, many wrong approaches seem to emerge. There is clause dealing with the subject citizenship of India, and the hon. the Home Minister when speaking on this point said that he was betog very catholic. Well we welcome catholicity, more specially from the Home Department because we have had a different experience of the Home Department,—not of the present hon. Minister. So naturally a spirit of catholicity in them we greatly welcome and we appreciate it. But when they are dealing with the question of citizenship here, they need not be unnecessarily cosmopolitan. We should be catholic and we must stick to these broad humanitarian, political and national principles. But that does not mean that we should throw our country's doors wide open for any one to come in and become a citizen at any time that he likes. That would not be the right approach when we are dealing with the question of citizenship. It is said here:

"every person born in India on or after the 26th January 1950, shall be a citizen of India by birth."

That is clearly stated here; but you have to examine the implications of it. The Select Committee will certainly consider this point, whether such a broad definition is justifiable in the present situation in our coun-

try. For instance, if you have this thing passed, it means—hon. Member's will kindly bear with me and would not impute any prejudice to me for what I am saying—that every Britisher here in 1971, who has been born here, would be a voter and would also be eligible to be elected to legislatures. Sir, I am not prepared to accept that position. I would like our Parliament to be cleared of such people. They are not here at the moment and I think Government was very right in having taken the decision that those gentlemen who had once come to the Central or State legislatures from the specified special constituencies, or by way of nomination do not find their way here again. I think that is a very good decision. But under this provision they will get all those rights. Once they are citizens here, you naturally cannot discriminate that way between those people who are of British origin from other's who are of Indian origin. All these implications have to be gone into and all that I now say is that I am not prepared to accept that position yet. I say "yet", because most of the Britishers here are exploiters. If it had been the case that they are employed as workers, taking part in the country's development and not as exploiters, but as workers, I should not have grudged that position. Probably I would have given a little more serious thought to it in their favour. But when it is a question of vesting certain rights in the exploiting classes, alien, exploiting classes, I am not prepared to accept it at all. I want to be denuded of their vested interests and naturally I am interested in getting them denuded of some of their rights as well. Sir, you know in most countries, after a revolution—I am not talking especially of the Russian Revolution, but other revolutions of which many had taken place even before Lenin was born—the Government always saw to it that certain classes of people were not given the rights of citizenship even people who had been born in that country before the revolution. That was necessary

in order to remake society and in order to liquidate the legacy of the past and to rebuild the future. In our country too, we inherited certain things and here we should be concerned with this aspect of the matter when we deal with the citizenship question. Its economic implications are there. Surely I do not wish to treat the British in the same manner as I would treat our Indians. If you like, I would like some sort of discrimination to be made even between the capitalists, depending on whether they are British capitalists functioning in India or Indian capitalists living in India. I shall go in for this kind of discrimination for obvious reasons, because it is not in our national interest that these people, these alien people should get economic advantages or equal status. The problem is there, because we have to liquidate some of the inequalities that exist in the facts of life. I know many hon. Members would get up on that side of the House and unburden their catholic hearts and tell me: After all, we are all very good people, good Samaritans and so why should Britons living in India be discriminated against in this way? I appreciate that kind of outlook and approach, if it is only a question of broadness, but we are here dealing with certain important and vital social facts. We are dealing with certain existing realities of our social life. I think we have to go through a period of discrimination, a period of preference for our own nationals before we can think in terms of such Catholicism.

A question will arise about taking properties and other things. You have amended the Constitution. May be, in the course of your own experience during the next Five Year Plan or thereafter, you would require to take certain other measures for the economic development of the country and such matters may relate to questions of rights. I should certainly like the rights of such people to be safeguarded in favour of our own nation-

[Shri Bhupesh Gupta.] als. The rights of our own people should be enlarged. That is what should be fair approach. Therefore, the outlook before us today is not one of equality with them, one of functioning equally with them, but it is one of creating a situation in which the Indian element the Indian people are elevated to higher pedestal, it is one of putting the socio-economic life of the country on a higher plane. One might ask: What about Pakistanis? It is a different matter. This would not, of course, be true of those people who are here and of children born of them. I may make some exception in the case of Pakistanis, but we are concerned with such people who are known to India and to our State as alien exploiters of our resources, of our country's wealth. Such people should not be conferred any right. I know that their number is small but if you look at the economic position of the country, at the economic life of the country, you will find that their hold is very substantial and the ramifications are very, very widespread. I think, therefore, this Catholicism is somewhat misplaced.

Clause 7 contains provision about conferring the right of citizenship on the incorporation of any territory. It is quite right that such a provision should be there. I was very glad to hear the hon. Home Minister saying that the Goanese would be welcomed under this clause as citizen of India. I did not like only the word he used; he said, "country". I would not consider the Portuguese possessions in India as a separate country; these are territories. I would never use that word "country" when I refer to that section of our country. The country is India and a particular portion of that territory is under their occupation. Here again, I would submit that the law should be so made that it becomes possible for them to acquire citizenship rights without delay, as soon as the question of Goa's liberation is settled. I am not concerned with the *dp jure* transfer and all that.

Immediately on the settlement of the question, they should be entitled to citizenship of our country which is also their country because, after all, they are part of India. Here, I am in favour of keeping the door open for such people and there should be no clause or provision which causes any delay in the matter. I only hope that the Home Minister will work for getting these people as citizens of India and making them the citizens of India a reality as soon as possible. My only regret is that I do not know how long it will take for the people living in those territories to acquire Indian citizenship rights if this policy of the Government of India continues.

Now I come to clause 10. Subclause (2) (b) says:

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

According to me this is very very objectionable. I would request, the hon. Minister to listen to me carefully at least on this point. This clause deals with the deprivation of citizenship rights and, taking the whole clause, it says:

"10. (1) a citizen of India who is such by registration or by naturalisation or by virtue only of clause (c) of article 5 of the constitution shall cease to be a citizen of India if he is deprived of, that citizenship by an order of the Central Government under this section."

When can the Central Government pass such orders? It is given below:

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

First of all, let us be clear as to who come under this category. If

you refer back to the clause which deals with the question of registration, these persons will be affected by it:

- (a) 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;
- (b) persons of Indian origin who are ordinarily resident in any country or place outside undivided India;
- (c) women who are, or have been, married to citizens of India;
- (d) minor children of persons who are citizens of India; and
- (e) persons who, being citizens of a country specified in the First Schedule and of full age and capacity, either are ordinarily resident in India and have been so resident for one year immediately before making an application for registration, or are in service under a Government in India.

These are the categories of persons among whom are included a number of refugees who are in India today and who will be affected by this.

MR. DEPUTY CHAIRMAN: It says, only clause (c) of article 5 of the Constitution.

SHRI BHUPESH GUPTA: The word is 'or'. "That citizen has shown himself by act or speech to be disloyal" I would like the hon. Minister to hear as to who will be affected. I know the matter will be discussed but I think this particular provision is wrong. I think it is undemocratic. You know, Sir, there is a distinction in political science between State and Government. Sometimes we talk as if they are interchangeable terms, as

if they are synonymous; but really there is a distinction between State and Government. Government may come and go within the same State. For instance, hon. Members are there, in this Republic and under this Constitution of India; but it may very well be that some of us may be in their place and they may be here. Such changes may come under the Constitution. It is quite clear that the State remains. There are also situations conceivable when one State is replaced by another form of State; but what I am saying here is that the Government and the State should not be confused when we are dealing with citizenship laws. No other country puts it that way. Generally, when such things are dealt with in law, what they have in mind is the State and not the Government. You have given me citizenship; I might have got it by registration or by naturalisation or otherwise. I have got it. Now, having got it, I have all the rights of citizenship of India and naturally also all the obligations of a citizen of India. One of the rights is: I can, if I so choose, work for lawful overthrow of your Government, for the replacement of your Government by another Government. Naturally, if I were to achieve that end, I should certainly not be loyal to your Government; but, do not confuse it with loyalty towards the State. I can conceive of a situation in which, a person remaining very loyal to the State, may be disloyal to the Government which he wants to replace by another Government.

Now, why should such a person be deprived of his citizenship for being disloyal to the Government and disloyal how? By an act of speech, if he has shown himself.....

SHRI GOPIKRISHNA VIJAIWARGIYA (Madhya Bharat): There will be a committee of enquiry and there is a provision for notice and all that.

SHRI BHUPESH GUPTA: There is provision for everything. I know

[Shri Bhupesh Gupta.] there is a law for preventive detention and there is an Advisory Board. However, at the moment we are not dealing with advisory board. Sir, the hon. Member is quite right but it does not console me at all. I say it is my inherent right as a citizen of India to work lawfully under the Constitution—you will be glad because you would like that phrase to be expressed by me—for changing the Government and that right I must have. There must not be anything that impinges upon this right, abridges that right or otherwise threatens me in the exercise of this right. Now, how can I do such a thing unless I become disloyal to the Government? If I were to be loyal to the Government, then I would be in the Congress benches. It is not necessary that I should be here. If I am loyal to the Government, I would be with them. Every person who is loyal to a particular Government, shall we say, a Government led by Mr. Saksena, will be interested in seeing that that Government remains in power and you cannot conceive of a situation when he will be "disloyal" to that Government. A person may be disloyal to the Government within the structure of the State owing full loyalty or allegiance to the State. He should not be interfered with in such a case. Sir, this is a very serious thing. I do not know whether it was the inadvertence of the draftsman or whether it emanated from certain wrong ideas. If it is a question of drafting inadvertence, I think there will not be any difficulty in getting it corrected. If it is a question of wrong outlook, I would beg of the hon. Members of this House not to pass over this matter lightly or without much thought. I would request them to ponder over this clause and its implications very seriously. If this remains as it is, if a person who has become a citizen of India by registration goes to a public meeting and says that he thinks that the present Government should be replaced by another Government which should be constituted by members of another

party—and he may say various other things like that—he may be then charged with being disloyal to the Government in power and confronted with a situation when he will have to risk his citizenship. Now, I am told by an hon. Member—and I know it—that there is provision for an enquiry board. That does not help matters at all. A large number of people in India will live under a constant threat of being hauled up under charges of disloyalty and under the risk of losing their citizenship. This is a position which I think the Government should not take at all when it is dealing with a question like citizenship and when this is the first comprehensive measure that we are having. If you have this clause, then you will be liable to the charge that you are trying to regiment a section of the citizens on your side and preventing them from opposing your Government or showing any inclinations against your Government. This position the Government should never take, and the Government would, I think, only discredit itself by taking this line. This will also be contrary to the provisions of the Constitution, because the Constitution gives me the right to fight against the Government in a lawful manner and seek the replacement of the Government: and as a citizen of India this is my inalienable and inherent right. There should not be any clause whatsoever to interfere with it. Now, you may say that you will not use it. That does not help me either, because I know that once that is there, some section of the people—and by no means they will constitute a small section—will always be under the constant threat of this Damocles Sword over their head that, if they go against the Government, if they speak against the Government, if they do anything against the Government, even though it may be perfectly lawful, they are liable to be deprived of their citizenship. Therefore, I think that this clause should be completely changed; should be deleted altogether.

The other phrase there is "disaffected towards the Government established by law in India". Well, I do not And a Government for which I have got very great affection. I do not know how these words in the clause will be interpreted by the courts of law and the Supreme Court. But they are English words and English words have their meaning. What does "disaffected" mean? It means this. I may have certain feelings against the Government and one may say that I have got disaffection towards the Government or it may be said that if I do not have affection towards the Government then I have disaffection and then I can be made to lose my citizenship and bear all the consequences that flow from it. Therefore, to say the least, this is a preposterous clause.

[THE VICE-CHAIRMAN (DR. P. SUBBARAYAN) in the Chair.]

I say in all seriousness that this is a preposterous clause. A reference was made to the English Constitution. Now, that is an unwritten Constitution; of course, they have got certain Statutes. But never will you find there a clause like this, which relates to the Government. The King is there but that King represents the State, not the Government. They will not say His Majesty, the Government; they say His Majesty the King. We have not got a King here; but we have got all other things. All other paraphernalia is here but not the King. A distinction must be made between His Majesty's Government and His Majesty for this purpose. Therefore, the analogy from the English law is misapplied here. In any case, we cannot tolerate such a thing because it goes against the democratic grain of any sensible person. I hope the hon. the Home Minister will kindly consider this matter and I have not a doubt in my mind that Members of the Select Committee—from the names I gather that they are all very reasonable people and people with a good sense of justice—would see to it

SHRI M. GOVINDA REDDY (Mysore): I am glad that they have got your certificate.

SHRI BHUPESH GUPTA: I do not know if you are there but I include you as one of them. As I said, they will see to it that this particular clause is deleted.

Now, I come to clause 11 which says that 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. Some hon. Member speaking from there said that after the dissolution of the British Empire this should be an acceptable proposition. I would only ask this. Since when has the British Empire been dissolved? I do not see the dissolution of the British Empire. I would be very happy to see the dissolution of the British Empire *and build our citizenship on the foundation of such a real dissolution of an unwanted thing, namely, the British Empire.

SHRI H. P. SAKSENA: We all saw it on the 15th August 1947.

SHRI BHUPESH GUPTA: Mr. Saksena is very relevant in such matters. As far as the 15th August is concerned, it is true that on that day under the Indian Independence Act of 1947 you acquired a certain status and then you passed a Constitution. You are a Republic now but you know that there are not many Republics in the British Commonwealth of Nations. Others are all Dominions. The head is the King there. You of course, got over the King by placing him as the Head of the Commonwealth but they have got the direct approach business there. Now they are all subjects; in Canada, in Australia and in all other countries under the British Empire and of course, in the Colonies like Kenya, Malaya and everywhere, they are all British subjects. The King is their head. So Juridically the Empire is not dissolved and factually, of course, also it is not The British Empire, as you know, is very much there and these

[Shri Bhupesh Gupta.] days it is something which exists in the shape of colonial exploitation and all that. Unfortunately, some remnants exist in our own country in the economic field but I am not going into that now. So do not talk about the dissolution of the British Empire and on that misconception build up your ideas of citizenship. Sir, I am opposed to this business of Commonwealth citizenship. It is a hangover from the British days. It is the British who thought that we were all British subjects as long as we lived in the British Empire where the sun never set. Of course, the sun could never set there because even God would not trust the British imperialists in the dark, but that is a different matter. Everybody was a British subject whether you lived in Malaya or you lived in Ireland.

Sir, I remember a very interesting occasion when as a student I went to the High Commissioner's Office in London to get myself registered. The Education Officer there gave me a form wherein I had to state my nationality. I said, "What shall I write". As you know, I am a little recalcitrant. All my life I have been so and I was very young at that time. He said, "Write British subject". I said, "My nationality is not British; I am an Indian" and over that issue the whole afternoon was spent with him.

Now, that person was, I think, somebody from Oxford or Cambridge. He thought he knew constitutional law well. Maybe he knew it very well. But it went against my grain that I should be called, when the question of nationality came, a "British subject". Then he brought books and other things and nearly convinced me that in law I was nothing but a British subject. In law Indians had no recognition. Later on I found, as Harold Laski once said, that as far as Parliament is concerned it can make a man a woman and a woman a man. So, if we say, our Mr. Saksena is a woman for all legal purposes, ;

for all legal purposes he would be a woman. That is how I was told by that particular officer "You have no status as an Indian". He was an Englishman, he spoke that way. I said, "I would never sign". He said, "Write British subject—'India' within brackets." That was the compromise he suggested. I said: "Indian"—'British subject' within brackets; if you like, I shall write them in capital letters." Then, he had to swallow it. I do not know whether that man is alive; but later on I had talks with him when I was about to leave England. I am told he remembers this quarrel. Here this idea of Commonwealth citizenship is repugnant, because it is a legacy and hangover from this idea of that conception of 'British subject'. Now, of course, we are a Republic. We cannot call ourselves here a British subject or something like a Commonwealth subject. In other countries, may be they would even use the word "subject". Here the whole thing is absolutely wrong and you should give up that business. The question may arise as to what will happen when we have got our own Indians spread over different countries within the British Commonwealth—otherwise called the British Empire or within the sphere of the British Empire. I do not deny that there are certain complications, but this can be easily met by reciprocal arrangements. These can be easily met by coming to agreements with those countries. And as far as I can see, if we do not provide for it in this Citizenship Bill—after all it is not obligatory that this provision for Commonwealth citizenship should be there—I do not think our citizens in other countries will suffer. If it is so, we shall take up with the respective countries and deal with them from case to case.

Now, Sir, the people of Malaya and Kenya are British subjects. Actually they have no rights. They suffer from the same disabilities from which we suffered in the past. On reciprocal basis, the question does not arise as far as the Malayan people are concerned or

the people of Kenya are concerned, unless and until the British element is removed. If the British element is removed, it presupposes that in those countries independent Governments will have come into being. We shall deal with such independent Governments and we can make whatever internal, reciprocal arrangements that are necessary in order to ensure our common interests.

Secondly, this idea is repugnant also to the concept of Asian solidarity. I say we do not stand for such things as this Commonwealth business. Now, Sir, I could have understood if it was conceived from the point of view of promoting fraternity between the Asian peoples and something like that. One could have understood it. Here a collection called the British Commonwealth is brought in. All types of people will be there. Those South African whites, who discriminate against you, follow apartheid methods, and persecute and prosecute Indians all the twenty-four hours, are also included within this. If you look at the Schedule, you will find the Union of South Africa comes under this Schedule. That is to say, anyone from there, any gentleman of the white order in South Africa would be entitled to Indian citizenship through this measure. We are not prepared to accept this position. Now, you see what is going on in South Africa today. Despite the fact that India is in the same Commonwealth as South Africa, you have got a Government there with whom you cannot even maintain normal diplomatic relations, a Government which persecutes Indians, a Government which threatens the Indians all the time. I had been to South Africa. I do not know how the Prime Minister would feel, but his daughter was there. And there what we saw was this: "Dogs and Indians are not allowed". We got into a bus and there again we found that some of the seats had been reserved there for the coloured people. That is to say, in the other seats we could not sit and I tell you that even the Prime Minister's

daughter was not an exception to it. As far as I am concerned, I am an untouchable on two counts—one, I am an Indian; two, I am a Communist. I suffered from double disabilities. But I do not think that she suffered from all these disabilities that I had suffered from. But the position was there. These things remain. Why should we treat them on the same footing as any other country, shall we say, people of Burma, people of Pakistan? Of course, Burma is not in the Commonwealth. Therefore, it has to be seriously taken into consideration. We are against the concept of Commonwealth citizenship. Certainly, we stand for fraternal relations between nations; fraternal exchanges between the people of one country and the people of another. We want individual contacts to be built for promoting friendly relations with various countries. For that we can make arrangements with citizens of such countries. It may be dealt with at the Government level; it may be dealt with also at non-official level. But that would not become a part of the law. Now, for instance, I can conceive of our trying to build a kind of different type of relationship in such matters with the countries of Asia. Certainly, we should strive for such a thing. After the Bandung Conference and developments of that sort, it is necessary to promote co-operation and closeness amongst peoples of Asian countries. Similarly, with like-minded peoples who stand for freedom, who stand for peace, who stand for democracy, who do not stand for exploitation of one people by another people—I am not talking of one man by another, but one people by another people—with such people certainly we will have to build an edifice on new types of relationship; and I think the citizenship laws have to be adjusted accordingly. But here *ex cathedra* what they have laid down, I think, would be unacceptable to any one. After all we do not want the British Empire citizenship, even if you call it Commonwealth citizenship. As far as we are concerned, we are conscious of our status. We are republicans.

[Shri Bhupesh Gupta.] our country is a Republic. We are an independent country. But you see we are not prepared to give the same status to those people who are really exploiting and oppressing our people and do not stand for equality amongst men or equality amongst nations, but on the contrary, stand for the preservation and maintenance of the system of empire and imperialism.

Sir, these are some of the points that I want to make. One can make very many points. I think the Select Committee should look into them properly.

Next, I would like to make one declaration that one need not be rigid about the citizenship question. It has to be changed from time to time in accordance with the change of time. But always we must keep in view the interests of our people. Always we must keep in view that we have to achieve certain aims, that we have to reach certain goals, and having regard to those factors, we should formulate our citizenship laws because they involve obligations and rights. I was very interested to listen to the hon. the Home Minister referring to the Preamble of the Constitution. When he referred to that, he said that Constitution makers have promised—that is how I would read it—to secure to all its citizens—and he underlined the words—Justice, social, economic, political, etc., and many other things he read out from the Preamble. Sir, the mere granting of citizenship would not bring any one this social, economic or political justice. Not at all. I am a citizen of India; so are many. There are the peasants who live in the villages, in the mud-huts, there are the workers who live in the slums; the refugees and those others who live in slum areas without proper housing, nutrition and job. Many of them are citizens of India. But whatever you may or you may not give them, you have certainly not given them social, economic and political justice. If you have not given it, it is not because your citizenship law is

bad it is not because you had not got a certain understanding of the question of citizenship and certain measures for them. It is because when you expect the citizens to fulfil their part of obligation, you do not extend to them the rights they should be given.

Sir, I would end by only referring to the Soviet Constitution and Fundamental Rights and rights of citizens. Article 118 of the Constitution says:

"Citizens of the U.S.S.R. have the right to work, that is, are guaranteed the right to employment and payment for their work in accordance with its quantity and quality."

Here is a right; ours is a promise. Now, our citizens do not have these rights. Now, what happens? The implication is very serious. Suppose a man, a citizen in the U.S.S.R. does not have any work, he can go to the Supreme Soviet of the U.S.S.R. and file a petition against the Government, saying that he has not got work and the Constitution has been violated because that fundamental right has been denied. Now, Sir, as I was reading, referring to the rights of citizens in the U.S.S.R., the hon. Deputy Home Minister, Mr. Datar, was looking at the watch. I hope the time for them is really running fast.

Article 119:

"Citizens of the U.S.S.R. have the right to rest and leisure."

Everywhgpe has that right

THE VICE-CHAIRMAN (DR. P. SUBBARAYAN) ; I do not think you need read all this. It is all very irrelevant, I am afraid.

SHRI BHUPESH GUPTA: Then, the right to education, right to maintenance in old age and also in case of sickness or loss of capacity to work

There are various other rights. I would only tell the hon. the Home Minister that, much as he may wish in the Preamble, such things will not accrue to the citizens of India until the social system itself changed, and these things are made a matter of fundamental right for the citizens of India. Even so, I would like the citizenship rights to be conferred on all those who deserve them; disabilities to be removed; to build the citizenship in India based on democratic foundations based on social justice, and social equality. This is how we should look at the matter. Therefore, when you deal with such a Bill, you should not be tied to a narrow outlook of the matter. I think a Bill of this sort opens a vista of broad thoughts before us and naturally we should try, while formulating these measures which become a sacred and important document that we confer upon them, as India's people, to remove the disabilities that many suffer from, that come in the free growth of our Indian people. That is how you should view this matter and I hope that the Select Committee will approach the whole question not merely from the legal angle, important as it is, but also from the social and moral angles which are even more important today when we are supposed to be on the threshold of remaking India.

श्री कन्हैयालाल दूंगर (मध्य भारत) :
उपसभाध्यक्ष महोदय, मैं इस बिल का हृदय से समर्थन करता हूँ। संविधान पास करने के बाद हमारे लिए, सरकार के लिए और इस पार्लियामेंट के लिए आवश्यक हो गया है कि इस प्रकार का कानून बनाया जाय कि जिससे भारतीय जनता राज्य की नागरिक मानी जा सकें और उसके नागरिक अधिकारों के सम्बन्ध में निश्चित नियम बनाये जा सकें। यह कानून इन बातों को पूरा करने के लिए सदन के सामने रखा गया है।

इसमें जिन सैद्धान्तिक प्रश्नों की चर्चा की गई है उनमें से बहुत सी बातों के बारे में

माननीय सदस्यों ने अपने विचार प्रकट किये हैं। हमारे माननीय मित्र श्री भूपेश गुप्त ने बहुत सी बातें इस सम्बन्ध में कहीं। हमारे मित्र जिस तरह से इस बिल को देखते हैं, उस तरह से उन्होंने अपने विचार इस सदन में प्रकट किये। किन्तु जहाँ हम इस कानून के ऊपर विचार कर रहे हैं और उन सैद्धान्तिक प्रश्नों पर विचार कर रहे हैं, वहाँ हमें सब दृष्टियों से, सब पहलुओं से इस बात को देखने की आवश्यकता है कि हमारे नागरिकों के वास्तव में क्या अधिकार होने चाहिये और यह कि हम किस प्रकार से और किन सीमाओं के अन्दर उन्हें इन अधिकारों का उपयोग करने के लिए रक्षण दें। जब किसी नागरिक को राज्य की नागरिकता का अधिकार मिल जाता है तो उसको वह हक हासिल हो जाता है कि राज्य उसे रक्षण दे। किसी घरलू समस्या या अन्तर्राष्ट्रीय प्रश्न से सम्बन्धित किसी व्यक्ति को राज्य तब तक ही रक्षण देता है जब तक वह उस राज्य का नागरिक होता है। अगर वह उस राज्य का नागरिक नहीं होता है तो उसे किसी प्रकार का रक्षण नहीं मिलता। अन्तर्राष्ट्रीय जगत के अन्दर नागरिकता के प्रश्न पर बहुत सी ऐसी बातें होती हैं जिनमें यह सवाल खड़ा होता है कि अमुक व्यक्ति को रक्षण का पात्र माना जाय या नहीं। सब से पहले यह देखा जाता है कि वह उस देश का नागरिक है या नहीं। यदि वह उस देश का नागरिक नहीं होता तो उसका रक्षण का अधिकार प्राप्त नहीं होता। इस दृष्टि से हमको यह देखना चाहिये कि हमारे देश के जो नागरिक भिन्न भिन्न देशों में, भिन्न भिन्न व्यवसायों में लगे हुए हैं, उदर पोषण के लिए वहाँ गये हुए हैं, उनको वहाँ पर किस प्रकार के अधिकार या रक्षण प्राप्त हैं।

जहाँ तक कामनवेल्थ का सवाल है, हमारा देश उसके अन्दर शामिल है और इस बिल द्वारा हमारे जितने भी दूसरे नागरिक वहाँ पर हैं, उन्हें हम सिटीजनशिप का अधिकार देने की व्यवस्था कर रहे हैं। इस विषय में यह देखना आवश्यक है कि क्या हमारे भारतीय

[श्री कन्हैयालाल दौं वेंच]

नागरिकों के लिये कामनवैल्थ दशों के अन्दर वैसे ही अधिकारों की व्यवस्था की गई है या नहीं, जैसी कि उन दशों के नागरिकों के लिए इस बिल में व्यवस्था है। वहाँ पर जिस तरह की व्यवस्था हमारे भारतीयों के लिये है, हमें भी अपने कानून में उसी तरह की व्यवस्था और कामनवैल्थ दशों के लिए करनी होगी। अभी दो तीन दिन की ही बात है कि हमारे प्रधान मंत्री ने इस सदन के अन्दर बतलाया था कि हमारे पड़ोसी मुल्क सीलोन में ७५० भारतीय नागरिक एसे हैं, जो कि स्टेटलैस हैं। इन आदिमियों को न तो सीलोन सरकार अपना नागरिक मानने को तैयार है और न हमारी सरकार ही। आज कई दशों में हमारे बहुत से नागरिक इसी हालत में हैं। इसलिए जब हम दूसरे दशों के नागरिकों को अधिकार देते हैं तो हमें यह देखना चाहिये कि हमारे दश के लोगों को दूसरे दशों के अंदर किस प्रकार के अधिकार प्राप्त हैं। संसार में जितने भी दश हैं उनमें दूसरे दशों के नागरिकों के अधिकार के बारे में कुछ सीमाएं होती हैं और यह देखा गया है कि उन्हें वहाँ की जनता की तरह वही अधिकार और रक्षण प्राप्त नहीं होता। आप अमेरिका में देखेंगे कि नागरिक अधिकार के अन्तर्गत वहाँ का नागरिक अपने उद्घरण, रहन सहन और अपने धन्य के बारे में रक्षण पाने का अधिकारी है जबकि दूसरे दश के नागरिकों को इस तरह का रक्षण वहाँ पर नहीं मिलता है। हमारे वहाँ भी संविधान की जो धाराएं हैं उनके अन्तर्गत कामनवैल्थ के नागरिकों को अधिकार दिये गये हैं। हां, यह मैं मानता हूँ कि विधान की धाराओं के अन्तर्गत जो रक्षण हिन्दुस्तान के एक नागरिक को प्राप्त है उस प्रकार का रक्षण उनको नहीं मिलने वाला है। तो इन तमाम प्रश्नों पर हमें बड़ी गम्भीरता के साथ विचार करने की आवश्यकता है।

श्री भूपेश गुप्त ने लायलटी के प्रश्न पर ध्यान खींचा है। मैं भी इस विषय में अनुभव करता हूँ कि स्वतंत्रता प्राप्ति के बाद भी, इन सात वर्षों

के बाद भी, आज इस दश के करोड़ों नागरिक गरीबी में, बेकारी में और भुखमरी में अपना जीवन व्यतीत करते हैं, उनके सामने जीवन-भरण की समस्या रहती है। वे पहले भी पशुओं की भाँफिक अकाल मौत के मुँह में पड़े जीवन व्यतीत करते रहते थे और आज भी, स्वतंत्रता प्राप्ति के सात वर्षों के बाद भी, उसी प्रकार से अकाल मौत के मुँह में पड़े जीते रहते हैं। हमने विधान के अन्दर बड़ी बड़ी पवित्र बातें कही गई हैं और उसमें इस बात का विश्वास दिलाया है कि हमारे दश के प्रत्येक नागरिक को बराबरी का अधिकार होगा, उसको समान मौका मिलेगा कि वह पढ़ाई के क्षेत्र में, उपचार के क्षेत्र में और दूसरे सब क्षेत्रों में बराबरी से सब बातों का फायदा उठा सके। किन्तु, आज जो समाज-व्यवस्था दश के अन्दर प्रचलित है उसमें हम देखते हैं कि शिक्षण के क्षेत्र में, नौकरी के क्षेत्र में, या जीवन के और जो दूसरे क्षेत्र हैं उनमें, सब को समान अधिकार नहीं है। दो दिन पहले हम वहाँ हरिजननों और पिछड़ी हुई जातियों के विषय में एक रिपोर्ट के ऊपर चर्चा कर चुके हैं और आपने देखा कि उस समय उस प्रश्न पर करोड़ों लोगों की दुर्दशा के विषय में कैसा नंगा चित्र वहाँ सदन के सामने रखा गया। इस कानून में जिन धाराओं की आपने चर्चा की है उनके अन्तर्गत सिटीजनशिप के अधिकार प्राप्त कर लेने के बाद उनके कुछ मूल अधिकार होंगे जो कि संविधान के चैप्टर ३ में धारा १२ से प्रारम्भ होते हैं। उसमें इक्वालिटी का क्लोज है लेकिन उस इक्वालिटी के क्लोज के होने पर भी आज सात वर्ष के बाद एक गरीब आदमी का बच्चा शिक्षण के लिये मोहताज है। पिछले सप्ताह यहाँ इस विषय पर वाद-विवाद होने पर माननीय शिक्षा उपमंत्री ने स्पष्ट शब्दों में कह दिया कि सरकार के पास इतने आर्थिक साधन नहीं हैं कि संविधान के अनुसार १० वर्ष के अंदर सारे १४ वर्ष तक के बच्चों की शिक्षा की व्यवस्था कर सके। यह सारी स्थिति है। तो जहाँ मैं इस बिल का समर्थन करता हूँ वहाँ नमोतापूर्वक मंत्री जी से प्रार्थना करता हूँ कि वह इस प्रश्न पर गम्भीरता के साथ विचार करें। वह इस बात को

सांचें कि जिन अधिकारों की आपने घोषणा की हैं वे कहां तक एक गरीब नागरिक को प्राप्य हैं। आपने यह कहा है कि इक्वल अपारचुनेटीज मिलेंगी, परन्तु जरा आप दृष्टांतों के अन्दर जाइये और देखिये कि क्या स्थिति है। सात वर्ष में आप उनका कर्नन की गोलियां भी नहीं दे सकते हैं और आज भी लाखों व्यक्ति मलेशिया से मर रहे हैं। उनके घरों तक आज भी आपके डाक्टर, आपके औषधालय और सुधार की ये सारी बातें नहीं पहुंच पाई हैं। इस देश के अन्दर लाल फीताशाही मशीनरी की व्यवस्था इस प्रकार की है कि आपकी सरकार का करोड़ों रुपया अपव्यय हो जाता है और सुधार की बातें गरीबों के दरवाजे तक नहीं पहुंचती हैं। वे गरीब आज भी मौत के मुंह में जाते हैं और कुछ होता नहीं है। तो आपने इसमें यह धारा जो रखी है कि अगर कोई व्यक्ति हिंसलायल होगा तो उसकी नागरिकता छीन जायेगी, यह ठीक नहीं है। मैं कहता हूं कि एक व्यक्ति को यह अधिकार है और संसार की कर्न सत्ता उसे इस अधिकार से वंचित नहीं कर सकती कि वह कानून की सीमा में रह कर, वैधानिकता के अन्दर रह कर, शान्तिपूर्वक रह कर विद्रोह के अधिकार का उपयोग करे। महात्मा गांधी ने भी कहा था कि हम इस अधिकार को छोड़ने के लिये तैयार नहीं हैं। इस सम्बन्ध में मेरा कहना है कि आवश्यकता इस बात की है कि संविधान का संशोधन किया जाय और उन धाराओं को बदला जाय। आपने यह आश्वासन दिया है कि राज्य प्रयत्न करेगा कि भूखे लोगों को, बेरोजगार और बेकार लोगों को धंधा मिले और वह अपना जीवन शान्ति से और सुख से बिता सकें। यह केवल गारंटीज की बात कहने से ही नहीं होगा बल्कि जब आप सिटीजनशिप के कानून को ला रहे हैं तो संविधान के अन्दर जो मूल अधिकारों के बारे में भाग ३ है उसकी धाराओं में भी परिवर्तन करना पड़ेगा। उन धाराओं में परिवर्तन करना चाहिये। आज संसार के जितने प्रगतिशील राष्ट्र हैं जिन्होंने अपने यहां के नागरिकों को पूर्ण अधिकार दिये हैं, उन देशों में नागरिकों के अधिकार इतने सुरक्षित हैं कि

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वहां का प्रधान मंत्री अगर एक छटांक मक्खन और डबल रोटी खाता है तो जो सड़क पर रहने वाले नागरिक हैं, मजदूर हैं या खेती का काम करने वाले नागरिक हैं वे भी एक छटांक मक्खन और डबल रोटी खाते हैं। इस तरह से लाखों लोग फुटपाथों पर बेहाल पड़े हुए मरते नहीं हैं जैसा कि इस देश में है। यह इस देश की एक बड़ी समस्या है। तो जब आप नागरिकता के अधिकार का कानून ला रहे हैं तब इस बात की भी गारंटी करने की जरूरत है कि इस कानून के अन्तर्गत जो नागरिक माने गये हैं उनका रक्षण सरकार करेगी और रक्षण ही नहीं करेगी बल्कि यदि वह व्यक्ति भूखा है और उसके पास पहिने के वस्त्र नहीं हैं तो निश्चित रूप से उसे खाना व कपड़ा मिलेगा, और वह इस देश में भूखा नहीं सोयेगा। तो निश्चित रूप से हमें ये सब चीजें सांचनी होंगी। हमने संविधान के प्राक्कथन में इस देश को एक रिपब्लिक राष्ट्र घोषित किया है तो रिपब्लिक राष्ट्र के नाते हमारा यह कर्तव्य हो जाता है कि हम उसके तमाम उच्च सिद्धांतों को भी स्वीकार करें। सिद्धांत की बहुत सी अच्छी बातें इस संविधान में कही गई हैं और हमारा कर्तव्य है कि हम उनको संविधान की पवित्रता के नाते स्वीकार करें।

मैं माननीय मंत्री महोदय के सामने और सेलैक्ट कमेटी के सामने एक सुझाव रखना चाहता हूं और वह सुझाव यह है कि आपने जहां इसमें कामनवेल्थ के नागरिकों को सिटीजनशिप का अधिकार दिया है वहां उन राष्ट्रों के नागरिकों को भी यह अधिकार दें जो कि संसार में शान्ति के उद्देश्य को ल कर चलते हैं, जो कि मानव जाति के कल्याण के लिये शान्ति चाहते हैं और जो कि पंचशील के उन्हीं सिद्धांतों पर चल रहे हैं जिन पर कि आप चल रहे हैं। जिन सिद्धांतों पर, शान्ति और अहिंसा के पवित्र सिद्धांतों पर, आपकी सरकार विश्वास करती है यदि उन्हीं सिद्धांतों के ऊपर संसार के दूसरे राष्ट्र विश्वास करते हैं तो उन राष्ट्रों में रहने वाले लोगों को भी उसी प्रकार से नागरिकता के अधिकार हैं

[श्री कन्हैयालाल दाँ० बँद्य]
जिस प्रकार कि कामनवैलथ के नागरिकों को दते हैं। मैं समझता हूँ कि ऐसा कर के आप एक बड़े अच्छे आदर्श को विधान में और इस सिटीजनशिप कानून में रखते हैं और संसार को बताते हैं.....

SHRI M. GOVINDA REDDY: But this list contains countries whose people do not believe in the Pancha

श्री कन्हैयालाल दाँ० बँद्य : माननीय सदस्य का कहना बिल्कुल ठीक है कि जहाँ कामनवैलथ की चर्चा है वहाँ जो लिस्ट दी गई है उसमें ऐसे राष्ट्र भी हैं जो कि शान्ति की नीति में और पंचशील के सिद्धांत में विश्वास नहीं करते हैं। तो हम इस कानून के द्वारा एक बड़े सिद्धांत के प्रश्न को भी निश्चित रूप से ला रहे हैं। यह बहुत बड़ी चीज है और कोई साधारण चीज नहीं है। जैसा कि मैंने निवेदन किया, नागरिकता का अधिकार देने के बाद इस देश की सरकार की जिम्मेदारी होती है कि नागरिकों को रक्षण प्रदान करे। अन्तर्राष्ट्रीय जगत में बिना उस प्रकार के संरक्षण के नागरिकता के अधिकार की प्राप्ति के कोई माने नहीं होते। तो यह बहुत ही गंभीर विषय है और इसके ऊपर अत्यन्त गंभीरता से हमें विचार करने की जरूरत है और सेलेक्ट कमेटी को विचार करने की जरूरत है। केवलमात्र इस कानून के पास कर देने से कार्य नहीं चलेगा। मैं यह सुझाव नहीं दता कि संविधान में जो बहुत सी बातें हैं उनको ला कर के आप इस कानून में रख दीजिये। लेकिन मैं यह बहुत ज़रदार शब्दों में कहना चाहूँगा कि वास्तव में जब आप इस कानून को इस सदन में ला रहे हैं, तो आपको जल्दी से जल्दी संविधान को भी बदलना चाहिये। संविधान के अन्दर निश्चित रूप से एक ऐसी धारा लाई जाय जिस के अन्तर्गत यहाँ के नागरिकों को पूरी गारंटी दी जाय। आज इस देश में करोड़ों भूखे नागरिक मौजूद हैं। आप स्टेट्स में और देशों में

में चलिये तो आपको पता चलेगा कि वहाँ क्या दशा है। उन तक शिक्षा का पहुँचना तो दूर रहा, उनके स्वास्थ्य की स्थिति, उनके जिन्दा रहने की स्थिति बिल्कुल पशुओं के समान है। आज उनको पानी तक नहीं मिलता है। मैं मानता हूँ कि हमारी सरकार प्रयत्नशील है, अगली बेंचों पर बैठने वाले जो मंत्रीगण हैं वे भी प्रयत्नशील हैं और हमारे प्रधान मंत्री जी को दिन रात चिन्ता रहती है। बड़ी सुन्दर सुन्दर रिपोर्ट हमें मिलती है और देश के कल्याण के लिये करोड़ों रुपया भी स्वीकार होता है। किन्तु मैं बहुत स्पष्ट शब्दों में यह कहना चाहता हूँ कि उसमें से 50 प्रति शत रुपये का दुरुपयोग होता है और लाल फीता शाही के कारण वह दूसरों की जेबों में जाता है। इस प्रकार जिस उद्योग को लेकर आप उसे खर्च करते हैं उसकी पूर्ति नहीं होती है और उसका परिणाम यह है कि हमारे देश से गरीबी, अन्धकार, दरिद्रता, बीमारी जैसी चीजें दूर नहीं हो रही हैं। तो मेरा निवेदन यह है कि एक माननीय दृष्टिकोण से इस चीज पर गंभीरता से विचार करके संविधान में इन चीजों को लाया जाय। मैं यह भी स्पष्ट कर देना चाहता हूँ कि मैं सरकार पर आक्षेप नहीं करता। सरकार की नीयत बड़ी शुद्ध है और उसी का यह परिणाम है कि जल्दी जल्दी मैं जो कुछ किया जा सकता था वह किया गया। संविधान को अमल में लाने के करीब छः वर्ष के अन्दर यह कानून आ गया। सरकार चाहती है कि वास्तव में संविधान के अन्दर जिन बातों की व्यवस्था उसे करनी चाहिये, उनकी व्यवस्था वह करे और जिन बातों को संविधान में रखा गया है उनको करने के लिये सरकार अपनी पूरी ताकत लगा रही है। किन्तु मेरा यह निवेदन है कि संविधान के अन्दर जितनी बातें हैं उनके लिये सरकार को केवल प्रयत्नशील ही नहीं होना चाहिये बल्कि अपने वचन की पूर्ति के लिये उसमें पूर्ण तत्पर रहना चाहिये। मैंने उस दिन माननीय मंत्री जी के सुझाव को मान लिया, किन्तु मैं इस बात को गन कर हँसना हो गया कि सरकार के पास शिक्षण के लिये रुपया नहीं है। जनतंत्र का

साग आधार जिस शिक्षण पर हैं उसी के लिये सरकार के पास रुपया नहीं है ? आप जनता को प्राइमरी एजुकेशन देना नहीं चाहते ? तो मेरा निवेदन यह है कि इस संविधान की रक्षा करने की आवश्यकता है । इस संविधान में बहुत सी ऐसी बातें हैं जिनके ऊपर देश के करोड़ों लोगों का जीवन और भविष्य निर्भर है । यदि इस संविधान की पवित्रता की रक्षा नहीं हुई तो देश का कल्याण नहीं होगा । आप एक वेलफेयर राज्य के लिये प्रयत्नशील हैं, आप एक सोशलिस्टिक पैटर्न आफ सोसाइटी का निर्माण करना चाहते हैं, किन्तु देश में एक ऐसा सत्य काम कर रहा है, कुछ ऐसे बड़े-बड़े पूंजीपति हैं जिन की कुछ और योजनाएं चल रही हैं । एक ऐसी ही चर्चा एक बार मेरे कानों तक पहुंची । देश के एक बहुत बड़े नेता हैं जो किसी दूसरी पार्टी से सम्बन्ध रखते हैं और एक बहुत बड़े कॉर्पोरेट हैं । मैं उनका नाम नहीं लूंगा क्योंकि वह सदन की परिपाटी के विरुद्ध होगा । आपस में यह चर्चा चल रही थी कि देश का उद्धार कैसे किया जाय । इस पर उन्होंने यह कहा कि आत्रादी २६ करोड़ के बजाय १८ करोड़ कर दी जाय । लार्ड वैंबल बंगाल में २५ लाख आदिमियों को मार कर एक कलंक की कहानी छोड़ कर हिन्दुस्तान से गये हैं । तो अगर हिन्दुस्तान की जनता के उद्धार करने का पूंजीपतियों का यह तरीका है कि १८ करोड़ लोगों को मार कर सोशलिस्टिक पैटर्न आफ सोसाइटी स्थापित की जाय, तो इससे कल्पना की जा सकती है कि गरीबों के साथ क्या करना चाहते हैं । इस दिशा में वे अपना काम कर रहे हैं और करते रहेंगे । मैं सरकार के सामने बहुत नमू शब्दों में यह चीज रखना चाहता हूं कि आपने इस कानून में ये शब्द रख दिये हैं कि जो व्यक्ति डिसलायल होगा उससे नागरिकता के अधिकार छीन लिये जायंगे । किन्तु मैं कहता हूं कि जो आदमी भूखा है वह रोटी मांगेगा ही और सरकार का विरोध भी कर सकता है । इसके अतिरिक्त मैं यह भी कहूंगा कि जो सरकार भूखे को रोटी नहीं दे सकती, नंगे को कपड़ा नहीं दे सकती, उस सरकार को रहने का कोई

अधिकार नहीं है । चाहे यह सरकार हो चाहे आन वाली कोई दूसरी सरकार हो, जनता का यह अधिकार है कि वह ऐसी सरकार को शांतिपूर्ण, अहिंसात्मक और वैधानिक तरीके से बदलने की कोशिश करे । आप यह कहते हैं कि जो व्यक्ति डिसलायल होगा उसके सिटीजनशिप के अधिकार छीन लिये जायंगे । किन्तु जो आदमी भूखा है वह अपनी रोटी मांगने के सम्बन्ध में सरकार का विरोध करेगा ही । उसको भाषण भी देना पड़ेगा । मैं ही जिन शब्दों का प्रयोग अपने भाषण में कर रहा हूं वे डिसलायलटी के लिये काफी हैं । तो इस धारा पर बहुत गंभीरता से सेलेक्ट कमेटी को और सरकार को विचार करना चाहिये । दूसरे देशों में भी ऐसी धाराएं हैं, लेकिन उन धाराओं का अर्थ इतने सीमित दायरे में नहीं है । यूनाइटेड स्टेट्स के जो इस तरह के सिटीजनशिप के कानून हैं और उनमें जो इस प्रकार की धारा है उसका अर्थ यह है कि अगर फौज का कोई आदमी समर क्षेत्र में काम कर रहा है और वहां से वह भाग जाता है या ऐसा ही कोई काम करता है तो उसका सिटीजनशिप का राइट खत्म हो जायगा । इसके अतिरिक्त यदि कोई व्यक्ति दूसरे देश में चला जाय और वहां से पांच वर्ष तक वापस न आवे तो उसका अधिकार जाता रहेगा । इस प्रकार जहां तक मैं समझ पाया हूं ऐसी धाराएं किसी दूसरे देश के विधान में नहीं हैं । किसी माननीय सदस्य ने रूस के संविधान का उल्लेख किया है । चीन के संविधान का भी उल्लेख मैं कर सकता हूं, लेकिन मैं इस सदन का अधिक समय लेना नहीं चाहूंगा । फिर भी इतना जरूर कहना चाहता हूं कि जो संसार के प्रगतिशील राष्ट्र हैं, जो पंचशील के सिद्धांत में विश्वास रख कर संसार में शांति चाहते हैं, मानव जाति का कल्याण चाहते हैं, जो इस देश के साथ कन्धे से कन्धा मिला कर विश्व शांति के लिये प्रयत्नशील हैं, उनके नागरिकों को भी कामनवैलथ के समान ऐसे अधिकार देने में मुझे आपत्ति नहीं है । किन्तु जो राष्ट्र आपके पंचशील के सिद्धांत में विश्वास नहीं रखते हैं और आपकी शांति की नीति का विरोध करने हैं, उन राष्ट्रों के लोगों

[श्री कन्हैयालाल दॉ० बॅद्य]
 को भी यदि इस प्रकार उदारतापूर्वक अधिकार
 दिये जाते हैं, तो यह अच्छी नीति नहीं है ।

इन शब्दों के साथ मैं इस विधेयक का
 समर्थन करता हूँ और आशा करता हूँ कि जिस
 भावना से मैंने ये सुझाव दिये हैं उनके ऊपर
 उसी भावना से माननीय मंत्री महोदय और
 संलैट कमेटी विचार करेगी । अन्त में मैं पुनः
 इसका समर्थन करता हूँ ।

SHRI KISHEN CHAND (Hyderabad) : Mr.
 Vice-Chairman, I welcome this Citizenship
 Bill, for as they say, better late than never.
 This is a very belated measure, for the
 Constitution came into force on the 26th
 January 1950 and this measure should have
 come within a year of the establishment of
 the Republic.

Sir, this Bill is modelled on the British
 Nationality Act. But as has been pointed out,
 in the case of the British Nationality Act, they
 had colonies, empires and dominions and they
 had naturally to extend the definition of the
 word "citizen". But this Bill is really a copy of
 the British Nationality Act in a way, and some
 of the clauses of that Act have crept into this
 Bill such as those relating to nationality,
 citizenship etc. The hon. the Home Minister
 when introducing this motion for reference to
 a Select Committee expressed in
 commendable words the sentiment that we
 should aim at world citizenship. Sir, that is a
 very good idea. But I am sorry to say that in
 this Bill, except restricting the idea of
 citizenship to Commonwealth countries, there
 is no clause or no loop hole for extending it to
 other nations who are members of the United
 Nations

If, as I wish to point out a little later, we are
 not going to get any benefit by retaining this
 "Commonwealth clause" and when we are not
 able to attain that world citizenship, it is far
 better that we make the citizenship of India a
 privilege and not thrust it on any and
 everybody who is born in this country.

I would, therefore, like to draw the
 attention of the House in particular
 to the very first clause about citizen-
 ship by birth. I refer to clause 3.
 Why should it be stated that any
 child, born of any parents, whether
 they are citizens of India or not,
 should become an Indian citizen by
 birth? There are to be only two
 exceptions. One is in the case of
 parents in the diplomatic service and
 the other is in the case of parents
 who are enemy aliens. In those two
 cases, the children do not get the citi-
 zenship right here. But as was
 pointed out by an hon. Member, sup-
 pose a couple from Pakistan who are
 citizens of Pakistan have come to
 India.....

THE VICE-CHAIRMAN (DR. P. SUB-
 BARAYAN) : How long will the hon. Member
 take?

SHRI KISHEN CHAND: Sir, I have only
 just begun and I will take at least 15 to 20
 minutes.

THE VICE-CHAIRMAN (DR. P. SUB-
 BARAYAN) : Then the hon. Member may
 continue his speech tomorrow. The House
 now stands adjourned till 11 A.M. tomorrow.

The House then adjourned at five
 of the clock till eleven of the clock
 on Thursday, the 8th September,
 1955.