

the clause, which contains the word "stigma" from this very good proposal. I request the hon. Minister to comment on it.

I heard Shri George There is a provision of appeal and arbitration in the Bill which need to be looked into. It would be duly considered. Let me find out the practice obtaining in other universities. I will discuss it later on as to how can it be done. At the moment, I am not in a position to give full assurance in this regard because it is not good to say anything in correct. I will thoroughly look into it and discuss it with you.

SHRI SURYANARAYAN YADAV (Sahasra): You should accept it as it is in the public interest.

SHRI BALRAM JAKHAR: I said that I would like into it.

[English]

MR. CHAIRMAN: The question is:

"That the Bill be passed."

*The motion was adopted.*

17.11 hrs.

#### CITIZENSHIP (AMENDMENT) BILL

[English]

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

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

Sir, the Government proposes to amend Section 4(1) of the Citizenship Act, 1955. The Convention on Elimination of All Forms of Discrimination Against Women was adopted by Resolution No. 34/1980. of the U.N. General Assembly on the 22nd January, 1980. India was the Chairman of the Working Group which had drafted the Convention.

The Preamble of the Convention notes that the State Parties to the International Convention of Human Rights have the obligation to ensure equal rights of men and women to enjoy all economic, social, cultural, civil and political rights. The term discrimination against women " has been defined to mean any distinction, exclusion or restriction made on the basis of sex which has effect on purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on the basis of equality of men and women of human rights and fundamental freedom in the political, economic, social cultural, civil or any other field. The ratification of this Convention by the Government of India had, however, been held up due to a conflict between Article 9(2) of the Convention and Section 4 (1) of the Indian Citizenship Act, 1955. Article 9 (2) of the Convention reads:

" State parties shall grant women equal rights with men with respect to the nationality of their children."

This is in conflict with existing Section 4(1) of the Citizenship Act, 1955, which provides that 'a person born outside India on or after the 26th January, 1950, shall be a citizen of India by decent, if his father is a citizen of India at the time of his birth'. Ratification of the Convention would require an amendment of the Citizenship Act so as to grant women equal rights with men with respect to the nationality of children.

There will be no expenditure from the Consolidated Fund of India.

Accordingly, it is proposed to enact the Citizenship (Amendment) Bill, 1992. The proposed legislation which is by way of amendment to the citizenship Act, 1955, seeks that in future a child born abroad may become an Indian citizen of either of his parents is an Indian citizen at the time of his birth and also to make necessary consequential amendments in the Act.

With these few words, I commend the Citizenship (Amendment) Bill, 1992, for the consideration of the House.

MR. CHAIRMAN: Motion moved:

"That the Bill further to amend the Citizenship Act, 1955, be taken into consideration:

Now, Shri Prem Kumar Dhumal to speak.

[*Translation*]

PROF. PREM DHUMAL (Hamirpur): Mr. Chairman, Sir, the objective of this Citizenship (Amendment) Bill is very limited. It aims at ending the injustices being done to women on the ground of sex. The resolution passed by the U.N.O stipulates that while granting citizenship to children of a country, no discrimination should be made on the basis of sex. We support this Bill in view of this limited scope. Earlier, there was a provision only for a male person in it but the latest amendment says that a child born outside India after 26th January, 1950 or after the implementation of this Bill and if either of his parents is an Indian national, he can be granted Indian citizenship. We support this Bill upto this point. But Sir, the way the population of India is increasing day by day and every year newborns equivalent to Australia's population are added. crores of Bangladeshi migrants coming to India and the way Government is dilly-dallying in deporting the Bangladeshis is a matter of grave concern. I would like to draw the hon. Minister's attention whether the Bangladeshi infiltrates who were arrested have been deported to Bangladesh or they are still here under well protection so that their votes could be utilized in the next elections. The hon. Minister is requested to throw some light on it also.

Mr. Chairman, Sir, through you I would like to warn the hon., Minister in the House that this Bill encourages infiltration, then it is not good but if this amendment Bill intends to remove the earlier discriminations, then I welcome it. But the Government should clearly give an assurance that under the pretext of this amendment one should not encourage foreign infiltration and misuse it to give citizenship to foreign nationals.

Mr. Chairman, Sir, if you make arrangements for deporting foreign infiltrators and granting citizenship to deserving cases, I would welcome this Bill. It states:

[*English*]

Article 9(2) of the United Nations Convention requires that the State Parties shall grant women equal rights with men with respect to the nationality of their children.

[*Translation*]

This amendment provides that a child born outside India having either of its parents as Indian national and is registered in India within one year's time, then he should be granted Indian citizenship. If this is the intention of the Bill, I support, it, but if it is misused for granting citizenship to foreign nationals, it would oppose.

Sir, there was some discrimination in the main Bill, and it is being removed by the amendment. It is a welcome step but if the hon. Home Minister proposes to grant Indian citizenship to the Bangladeshi infiltrates on this pretext, then I strongly oppose it. Sometime back some 125-126 Bangladeshi nationals were arrested and deported. What happened to them I do not know whether they were actually deported.

17.18 hrs.

[MR. DEPUTY SPEAKER *in the Chair*]

Finally, I hope that, through this Bill, narrow political interests should not come in between granting citizenship eligible persons and foreign nationals, who are infiltrating into many parts of the country would be deported. If this amendment is meant for removing sex discrimination, I welcome it.

[*English*]

SHRI BOLLA BULLI RAMAIAH (Eluru): Mr, Deputy Speaker, Sir, in this Citizenship (Amendment) Bill there are only two points with which we are mainly concerned. Since this matter has come up in the United Nations

and all the countries have accepted to give equal responsibilities and recognition to women and men, instead of only for men whose children are given citizenship, now that recognition has been given for the women also. It is a good idea; it is an extremely nice thing.

The question of giving only one year within which they have to report is a short duration. That can be extended for a longer time, so that people will have the right to report even later. As regards the option for the children, after they attain majority, they can decide which way to go. But of late our NRI's have a suggestion that for the development to utilise their service for this country whether we can consider giving them a dual citizenship. This happens in other countries also. This happens in other countries also. We can consider this as a dual citizenship and it will be helpful for us in this country. They have their experience, proper technology, knowledge and resources. This has become a common practice in so many other countries — advanced countries, developed countries. We can make use of some of the things because we will also gain the benefit of their advantage, who would like to help this country. This dual citizenship has got a lot of benefits like free taxation. So many other problems can also be solved. We can take this into consideration and this will be helpful for us.

With these few points, I thank the hon. Minister for introducing this Bill in this House.

SHRI SHARAD DIGHE (Bombay North Central): Mr. Deputy Speaker, Sir, I rise to support this Bill that is brought before this House by the hon. Home Minister, wholeheartedly. It is a very simple Bill and I do not think that there can be two opinions as far as this Bill is concerned.

In the existing law, it has been laid down that only those children will get the citizenship of India, whose father is a citizen of India. Now, we are providing that, if either of the parents is a citizen of India, then a child born outside India would get citizenship of this country. The Home Minister has already

explained the reasons for bringing this Bill before this House; and the Government is strongly relying upon the fact that India is a signatory of the 'Convention of Elimination of all forms of discrimination against Women adopted by the General Assembly the United Nations; and Article 9 has been cited for this.

My submission is that this principle of not recognising discrimination has already been accepted by us, from the time we framed our Constitution. Part II of the Constitution of India which deals with citizenship always uses the words either of the parents. If I may refer to Article 5 of the Constitution which is title as 'Citizenship at the commencement of the Constitution', it says:

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

(a) who was born in the territory of India; or

(b) either of whose parents was born in the territory of India or;

In fact this principle that there should be no discrimination as far as men and women are concerned has already been accepted, when we framed our Constitution. Not only that, we have also laid down the general principle under Article 15 which says that nobody should be discriminated on the ground of sex. Article 15 is clear; and we have been following this for the legislations in this country.

Therefore, we need not merely rely upon our signature in the Convention of the United Nations. This country has accepted from the beginning, that there should be no discrimination between men and women as far as the legislations of this country are concerned.

Therefore, my submission is that, in fact, it is inherent in the principles which we have accepted from the time we attained our freedom that there should be no discrimination as far as women are concerned. I do not

[Sh. Sharad Dighe]

know why from the beginning - when we framed this Citizenship Act in 1955 - we did not accept this principle from that time itself. We would not have waited or relied upon the United Nations convention That was not the answer.

The time or the delay for introducing this legislation has been explained also by the Home Minister on the ground that there were discrepancies or anomalies in the different articles of the United Nations and, therefore, we had to wait. My submission is that when we had accepted this principle throughout, then we could have also done it even earlier than this. Even then., at this stage we are introducing the legislation on that principle. I must wholeheartedly support it.

Now I would like only to point out one thing as far as this Bill is concerned. As far as citizenship is concerned, it is divided into two parts: (a) and (b). and those who are born after 26th January, 1950., but before the commencement of this amending Bill, will get citizenship only if his after is a citizens of India and those who would be born on or after such commencement of this Bill, would get citizenship if either of his parents would be a citizen of India., I do not exactly understand why this part has not been given retrospective effect and why this prospective measure has been drawn two divisions have been made. Those who were born before the commencement of this amending Bill and those who would be born on or after the commencement of this Bill will again be treated on different foundations. The discrimination, as far as the women are concerned, remains for those who are born between 26 January, 1950 and the commencement of this Bill. I would like the Home Minister to explain or justify this division and explain to the House what is the purpose and what is the necessity of making this difference as far as the citizens are concerned.

Therefore, with words, I wholeheartedly support this Bill. I only request the Home

Minister to explain to the house as far as this small discrimination is concerned.

DR. SUDHIR RAY (Burdwan): Mr. Deputy Speaker, Sir, I would like to congratulate about the Bill as the Government has amended its position and because the Government is a party to the convention evolved by the United Nations in 1980. Government should have long brought this Bill. But now it is proposed that all the gender bias would be waived against women and till then, both Indian parents, irrespective of sex, should be recognised as Indian citizens.

Now, thousands of women are going abroad for earning their livelihood. Therefore, it is most incumbent; But I would also support the connection of Mr. Sharad Dighe that this right to equality was first guaranteed by the Indian Constitution. Article 14 says there must be equality in the eyes of law. Sir, Indian Constitution has already guaranteed through Article 15 that there must not be any discrimination only on the basis of sex but Mr. Dighe has rightly said that in 1955 Act, this discrimination was there. Now, this discrimination is sought to be waived. This is well done. In this connection, may I add that there are crores of overseas Indian who are claiming Indian citizenship? I think the Government should think of their cases because already three lakh Indians have signed the application and they are lying with the Prime Minister. These overseas Indians/ are very much proud of their motherland. They always try to remain conscious of the rules and they can contribute much to the economic development of our country. It is a matter of regret that whenever they come to India, it is found that the police harass them. At the time of purchasing property or constructing a house, all sorts of objections are raised and they feel much harassed. But there are many teachers, engineers, scientists and business men among overseas Indians who want to come here and help India. They want to settle here. Therefore, their cause should be considered by the Government. With these words, I conclude.

SHRI SURYA NARAYAN YADAV (Saharsa): Mr. Deputy Speaker, Sir, I wholeheartedly welcome this Bill. The Government should have brought this Bill long back. It is very late now.

One more liberal provision should be made. At present, the Bill provides that a child born to parents either of whom lives outside this country can be given citizenship. Provision for granting citizenship to the child both of whose parents are foreigners, but he has become an adult here and now wants to be a citizen of this country, should also be granted citizenship as per his wishes. Sooner or later, the Government will have to make such a provision because there are a number of such cases in the country. If a child is born in India and his parents are foreigners and now he has become an adult and wants to become a citizen of this country and live here, there is no such provision at present in the law to meet his demand. Therefore, such a provision should be made because the Government enacts laws on the basis of laws prevailing in the other countries of the world. Therefore, besides the existing laws, laws should also be made so as to remove people's hardship.

I would like to call upon the Government to be a bit liberal. It should not be patronise the Hindu region because there is untouchability, casteism and distinction between high and low. (Interruptions) I would like to submit to the hon. Minister that in Christianity or Islam people sit, together eat together and move together. But in Hindu religion there is no such thing which results in contraction of the religion instead of its expansion. Similarly, the Government should think seriously over making such a provision that when either of the parents is an Indian the child should be granted citizenship of India. It is good. Similarly, if the parents of a child are foreigners and the child becomes an adult here and wants to become a citizen of this country, he should be granted citizenship. Attention should be paid to this aspect also. With these words, I heartily welcome this Bill.

SHRI TEJ NARAYAN SINGH (Buxar): Mr. Deputy Speaker, Sir I support this Bill. This Bill should have been brought long back. But it is better late than never. This will promote love among people towards this country. Till now, it was thought that if Indian parents live in a foreign country and a child was born to them in a foreign country, the child should become the citizen of that foreign country. Now people will claim that even in their parents of abroad for their livelihood and their child feels that despite all this he belongs to India, it will give impetus to his love for this country. If this type of love is inculcated, the country will become strong. And a person who loves this country will always think about the unity and integrity of the country and until he thinks so, the country will not be in jeopardy.

Therefore, this Bill will safeguard the unity and integrity of the country. I think a sort of terror which prevails in the country will be controlled through this Bill. I agree to the objects and reasons of this Bill. The provisions for awarding citizenship as per the Constitution are right and I understand that according to the Constitution a person who lives here for six months or more will be granted citizenship of this country. It is beyond my comprehension that if a person lives here and becomes loyal to the Constitution and obeys the rules and regulation of the country, the country will be in danger. Several things are said that if a person lives here for six months, he become a traitor. But our Constitution does not speak any such thing. Therefore, if we overlook the Constitution another kind of crisis will engulf the country. Therefore, the Constitution should be safeguarded this Amendment Bill safeguards the Constitution. With these words, I conclude.

SHRI MADAN LAL KHURANA (South Delhi): Mr. Deputy Speaker, Sir, I support this Bill. I think the provision in the Bill to waive any discrimination in the basis of sex is a good beginning. Some steps should be taken to waive discrimination made against women in other fields also.

Mr. Deputy Speaker, Sir, I do not talk

[Sh. Madan Lal Khurana]

about major cities here, because the women are already advanced there, but in villages and small towns, be it the field of education or work place, women are still considered second grade citizens. Therefore, through you, I want to request the hon. Minister to think over uplift of women and given equal status to them in other fields not only because of the fact that the U.N.O. has said so, but our Constitution has also provided equal status to men and women in these fields. The hon. Minister should make a pronouncement in this regard here.

Its other benefit is that it will remove the obstacles coming in the way of making children of Indian nationality the citizens of India and the talent and capability of the child could be utilised for nation building. I support the endeavour made by the Government to bring the child in India from abroad to utilise his talent and capability here.

At the same time, as my hon. friend has expressed apprehension, I would like to say that the people should not utilise the country as 'dharma-shala' (refuge) that whenever they feel like, they may come here and whenever they feel like, they may go from here. I want to submit to the hon. Minister that such type of exemption should not be allowed in the matter of granting citizenship. I am saying so because the hon. Minister of Home Affairs has himself expressed concern that there is infiltration of more than 50 lakh people in India and of one and a half lakh people in Delhi alone. With the result economic crimes are on rise in the country and social perturbations are taking place. It is creating law and order problem. It is also deteriorating law and order situation. Therefore, I would like that the hon. Ministry may assure the House in his reply that such type of situation would be kept in mind. It should not be the case that one becomes the citizen of the country, his name is included in ration Card and voters' list but the situations towards which I have drawn your attention are not controlled. The hon. Minister may tell how would he control that situation. Infiltrates should not be granted citizenship unless all

the conditions are fulfilled so that this amendment is not misused and infiltrators are not able to infiltrate into the country. It would also be told as to what precautionary measures would be taken.

With these words I support the Bill.

[English]

SHRI A. CHARLES (Trivandrum): Sir, I rise to support the Citizenship (Amendment) Bill, 1992 which is being brought before the House. The Bill has a very limited purpose and it seeks to remove the discrimination that is there in respect of the citizenship of the children born to the fathers and mothers of Indian nationality. I fully agree with the views expressed by Shri Sharad Dighe.

I feel even without these amendments this Bill is all right. Our constitutional provision is very clear with regard to this. Articles 14, 15 and 16 give equality before law. There cannot be any discrimination on the basis of the sex alone. Even without these amendments I feel that every citizen of this country, be it a man or a woman has equal rights but, unfortunately in the citizenship Act, 1955 there is some sort of discrimination. It is unfortunate that this Act is being amended only after the signing of U.N. resolution on Human Rights.

With these words I support the Bill but I would like to bring to the notice of the House other facts. The citizenship Act, 1955 was amended several times in the past to meet the need of time.

In 1986, there was an amendment. By means of that Amendment, the right to acquire citizenship was made more stringent. But in spite of that, as reported by some friends, there have been infiltrations especially in Assam and in North-Eastern parts of the country. So, we have to make rules in order to see that no more infiltration is allowed to be there. We have to check that. We have to see what method should be adopted to see that there is no infiltration.

We have the problem of Sri Lankan

terrorists. This has started now. It is every much there in South India. When we considered electoral reforms, probably, there was a proposal to give photo identity cards. But I feel that there should be a provisions in the Citizenship (amendment) Act that within a period of time, every citizen of this country will be given an identity card. That is a right if every citizen. When we have given ration cards for our citizens, in similar way we should also give some identity cards. That has become a real need. You know, the identity cards which were given to Members of Parliament are very helpful. You know how advantageous the identity cards are. Wherever we face any difficulty, we just show our identity cards and the problem gets solved. So, every citizen of this country shouldn't have such an identity card.

I would request the hon. Minister to consider this suggestion and to pass a suitable legislation so that at least in the course of say three or four years, it can be implemented. That will solve one of the greatest problems even in respect of elections.

There should not only be a physical attachment viz. having an identity card or Passport for going to foreign countries and coming back, but here should be some sort of unemotional and spiritual attachment towards his country.

During the last forty years, much has been said about the rights of citizens by overlooking the duties. I feel that there should be some provision in the Citizenship Act also that every citizens of this country should have some duties towards his country so that the problems of commercial violence and all sorts of unnecessary bands, unnecessary strikes that ruin the future of the country can be removed.

I again request the hon. Minister that he may give his attention on these two points viz. giving identity cards and making some provision that every citizen should be dutiful and discharge his duties towards his country and to its citizens.

With these few words, I support this Bill and I hope there are no two opinion in passing this Bill.

SHRIMATI MALINIBHATTACHARAYA (Jadavpur): Sir, I rise to support this Bill. I think that it does rectify an injustice but at the same time I must say that there is a mountain of injustice and this Bill only scraps the top. Nonetheless, this being a positive step, I support it and welcome it. But, I would also nonetheless say - Hon, Shri Dighe has been saying that this is an anomaly because our Constitution grants equal rights to men and women- in spite of that, in this particular Citizenship Act, according to him this particular anomaly has somehow survived. I do not think that is the case. The fact of the matter is that, although, there is some constitutional guarantee for gender equality but this is not be found in actuality.

And the Laws of Guardianship that we have are heavily biased against women. In the Guardianship Laws, as they exist today, for any child older than six years, the father is the natural guardian. Whether you want admission to a school, whether you want a ration card, whatever you want, it is the father's name which matters. And I think it is this in built bias in the Guardianship Law which lies at the base of this so-called anomaly in this particular Act. In other words, it is not an exception; it is a symptom, of the bias which is already there in our legal system, and which has to be amended.

Here the amendment that is being made is being made only with regard to the citizenship by descent. And for a person who is born outside India, if any parent, either of the parents is a citizen, then the right of citizenship is being granted to that child. So, this is a welcome change. And I think, at the same time, the point which Mr. Sharad Dighe has made about the earlier cases, the cases of discrimination which have been there already, or which are just being pushed to the background, should be taken into account very seriously; and it should be seen whether this amendment can be made with retrospective effect.

[Shrimati Malini Bhattacharaya]

There is one other point on which I would like to speak, namely, the amendment which is being made in clause 8 (2). Clause 9(2), as it is now, reads as follows;

"Where a male 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."

Here, in the amendment, the word 'male' is to be deleted. Now, with respect to this amendment, I think that a certain confusion might arise. So, I would request the Minister to look into the legal angle of this.

You take a hypothetical case where a child is born to Indian parents. Subsequently, the parents are separated. The father leaves India and gives up Indian citizenship; but the mother remains in India and retains Indian citizenship. What will happen to the child of such parents? As the amended clause would stand, if one person ceases to be a citizen of India, automatically his or her child also ceases to be a citizen. Actually, two persons are involved here; both the parents are involved. So, in case one parent remains a citizen, that child still has a right to citizenship. I think, this should be specifically mentioned in this amendment. Otherwise, instead of doing away with this discrimination, I think, this clause might be used against women, such women as I have talked about, Women who were separated from their husbands whose husbands have given up Indian citizenship. Who nonetheless, remains an Indian citizen herself this Act may become a ploy to take her child away from her. So, in this respect, I would request the hon. Minister to look into the legal angle of this and see whether this part can be expressed in more clear terms.

Finally, I would say that I am very much opposed to the points which have been made just now by some of my BJP friends, some of the hon. Members, BJP Members. Of course, Mr. Madan Lal Khurana was much more circumspect than the earlier speaker; he did not mention any particular

country; but already, the name of the country has been mentioned. That is the name of Bangladesh has been mentioned. Now it is quite true that illegal migration has to be checked. That is one of the things that has to be done by the Ministry of Home Affairs and the Government. But you cannot have a special prohibitive clause against some of the possible applications for citizenship as posed to there like, if they come from this or that particular country or if they belong to this or that particular religion, on the basis of that you cannot prevent them from applying for citizenship. Therefore, I would suggest that since the law is not for discrimination, law is for removing discrimination while trying to check illegal immigration at all costs, at the same time, in the law itself you cannot make any discrimination against any possible applicant for citizenship, for whichever country he or she may come, whichever religion he or community or she may belong to.

MR. DEPUTY SPEAKER: There are two more speakers. Before that I request Shri Saifuddin Choudhary to present the Twenty-Second Report of the Business Advisory Committee.

17. 56 hrs.

#### BUSINESS ADVISORY COMMITTEE

#### Twenty-Second Report

[English]

SHRI SAIFUDDIN CHOUDHURY (Katwa): I beg to lay on the Table Twenty Second Report of the Business Advisory Committee.

17. 56 1/2 hrs.

#### CITIZENSHIP (AMENDMENT) BILL CONTD

[English]

DR. K.D. JESWANI (Kheda): Thank you, Sir, for giving me an opportunity. At the