

THE
PARLIAMENTARY DEBATES

OFFICIAL REPORT

[VOLUME 2]

PROCEEDINGS AND DEBATES OF THE SECOND SESSION OF THE FIRST
PARLIAMENT OF GUYANA UNDER THE CONSTITUTION
OF GUYANA.

6th Sitting

Thursday, 24th August, 1967

NATIONAL ASSEMBLY

The Assembly met at 2 p.m.

Prayers

[Mr. Deputy Speaker in the Chair]

Present

His Honour the Deputy Speaker, Mr. R. C. Tello.

Members of the Government

Ministers

The Honourable L. F. S. Burnham, Q.C.,
Prime Minister

~~Dr.~~ the Honourable P.A. Reid,
Minister of Trade.

The Honourable N. J. Bissember,
Minister for Parliamentary Affairs (Leader of the House).

The Honourable R. E. Cheeks,
Minister of Local Government

The Honourable E. F. Correia,
Minister of Communications.

The Honourable Mrs. W. Gaskin,
Minister of Education.

The Honourable C. M. L. John,
Minister of Home Affairs.

The Honourable R. J. Jordan,
Minister of Agriculture and Natural Resources.

The Honourable W. O. R. Kendall, C.B.E., J.P.,
Minister of Health and Housing.

The Honourable C. A. Merriman, J.P.,
Minister of Labour and Social Security.

The Honourable M. F. Singh,
Minister of Works and Hydraulics.

The Honourable S. S. Ramphal, C.M.G., Q.C.,
Attorney-General and Minister of State.

The Honourable M. W. Carter,
Minister of Information.

Parliamentary Secretaries:

Mr. D. B. de Groot,
Parliamentary Secretary, Prime Minister's Office.

Mr. G. Bowman,
Parliamentary Secretary, Ministry of Agriculture and Natural Resources.

Mr. O. E. Clarke,
Parliamentary Secretary, Ministry of Education.

Mr. P. Duncan,
Parliamentary Secretary, Ministry of Local Government.

Mr. J. G. Joaquin, O.B.E., J.P.,
Parliamentary Secretary, Ministry of Works and Hydraulics.

Mr. C. V. Too-Chung,
Parliamentary Secretary, Ministry of Finance.

Other Members:

Mr. W. A. Blair

Mr. J. Budhoo

Mr. M. Kasim

Mr. R.G.B. Field-Ridley

Mr. D. Mahraj

Mr. H. Prashad, J.P.

Mr. T. A. Sancho

Mr. J. H. Thomas

Rev. A. B. Trotman

Mr. H. M. S. Wharton, J.P.

Members of the Opposition

Dr. C. B. Jagan,
Leader of the Opposition.

Mr. A. Chase

Mr. B. H. Benn

Mr. Ram Karran

Mr. R. Chandisingh

Mr. H. J. M. Hubbard

Dr. Charles Jacob, Jr.

Mr. C. V. Nunes

Dr. F. H. W. Ramsahoye

Mr. E. M. G. Wilson

Mr. M. Hamid, J.P.

Mr. J. R. S. Luck

Mr. D. C. Jagan

Mr. H. Lall

Mr. Mooneer Khan, J.P.

Mr. Y. Ally

Mr. L. Linde

Mr. R. D. Persaud, J.P.

Mr. M. N. Poonai

Dr. S. A. Ramjohn

Mr. E. M. Stoby

Mr. S. M. Saffee

Mr. M. Bhagwan

Clerk of the National Assembly – **Mr. F. A. Narain.**

Deputy Clerk of the National Assembly – **Mr. M. B. Henry.**

Absent

The Honourable P. S. d'Aguiar

Minister of Finance

.. .. .

— *on leave*

Mr. W. G. Carrington

.. .. .

— *on leave*

ANNOUNCEMENTS BY THE SPEAKER

LETTER OF CONDOLENCE

Mr. Deputy Speaker: Hon. Members, I have to announce that I have received a letter from the Surinam Parliament extending to us condolence on the death of the Speaker.

LETTER OF THANKS FROM MRS. ALLEYNE

I have also received a letter from Mrs. Alleyne, who requests that her sincere thanks, and those of her children, be conveyed to the Members of the National Assembly for the condolences expressed in the Resolution passed on the death of her husband, and also for the kind tribute paid to him by Members.

PRESENTATION OF PAPERS AND REPORTS

The following Paper was laid:

Financial Paper No. 4/1967 - Schedule of Additional Provision on the Capital and Current Estimates for the period ending August, 1967, totalling \$13,654,884. [The Minister of Trade on behalf of the Minister of Finance.]

In terms of Standing Order No. 69, the Minister of Trade named Monday, 28th August, 1967, as the day for consideration of the Financial Paper.

MOTIONS RELATING TO THE BUSINESS OR SITTINGS OF THE ASSEMBLY AND MOVED BY A MINISTER

PROCEEDINGS UNDER GUYANA CITIZENSHIP BILL

The Minister for Parliamentary Affairs (Leader of the House) (Mr. Bissember): I move that the proceedings under the Guyana

Citizenship Bill be exempted from the provisions of Standing Order No. 9(2).

Mr. Deputy Speaker: The question is that Standing Order 9(2) be suspended. I have been given an undertaking that this has already been agreed with the Opposition.

Mr. Bissember: The hon. Leader of the Opposition (Dr. Jagan) did agree on this, but on the last occasion when we made a similar agreement the hon. Member Mr. Luck got up and spoke against it. Therefore, out of abundant caution I move this Motion.

Question put, and agreed to.

PUBLIC BUSINESS MOTION

CONFIRMATION OF CUSTOMS DUTIES (AMENDMENT) ORDER 1967 (No. 18).

The Minister of Trade (Dr. Reid): On behalf of the Minister of Finance, I beg to move the following Motion:

"Be it resolved that this National Assembly, in terms of section 9 of the Customs Ordinance, Chapter 309, confirm Customs Duties (Amendment) Order, 1967 (No. 18), which was made on the 30th June, 1967, and published in the Gazette on the 8th of July, 1967."

I am certain that hon. Members on both sides of this House will agree with this Motion, which deals with custard powder. The policy of the Government is to assist local industries and to give them every practical and possible encouragement. For that reason this Motion is before the House.

Usually young local industries face competition from imported commodities. If they are to survive and to generate economic viability, then Government must give them the necessary protection. Such protection will encourage and stimulate them so that they will grow strong enough to provide more employment for people and prevent us from using imported goods where we can use goods produced locally.

[DR. REID]

This Motion, when passed, will give this type of assistance to a local industry, the production of custard powder. The Assembly is now asked to give effect to this, so that the preferential duty on custard powder will be increased from 25 per cent to 40 per cent and general tariff from 45 per cent to 60 per cent.

I need say no more on this because I believe this is the policy of both sides of the House, namely, to give protection to local industries.

Mr. Hubbard: As the Minister pointed out, the question of protection for local industries is not a subject of controversy between the two sides of this Assembly, but I would like to feel that when the Government comes and asks for special concessions in respect of an industry it would give full information to the House about what is proposed.

2.20 p.m.

The manufacture of custard powder in Guyana means the importation in bulk of all the ingredients, the mixing of those ingredients together and the packaging of the whole into containers which are themselves imported or the constituents of which are imported.

We have learnt from the Minister that the beneficiaries of this legislation will be protected by an additional 15% on the import duty. Custard powder is used, among other things, as a substitute for eggs. It is the poor man's food and I would have liked to have some more information from the Minister in regard to the economics of this whole exercise. What are we losing and what do we stand to gain? How much are we giving away in the form of duty? How many jobs are to be provided and what is the likely profit to accrue to the beneficiaries?

These are the minimum details which we would expect from the Minister and I hope that he will exercise his right to reply and satisfy the Opposition that due caution has been exercised in this matter and that it has

not merely been the question of reward for services rendered.

Mr. Luck: Like my hon. Friend I agree in principle that local industries must be protected but, in relation to this particular proposition, I should like the hon. Minister to tell this House whether this proposed custard powder factory is situated in an area marked out for business places and not for industry. It is a national scandal that a wealthy manufacturer of curry powder, and now custard powder, in the clearest possible defiance and contravention of the laws providing for zoning by the Central Housing and Planning Authority, manufactures curry powder in a central situation in Georgetown.

Mr. Deputy Speaker: That is not the question before the House.

Mr. Luck: I am talking about curry powder. You simply cannot imagine the nuisance it creates. One lady in Charlotte Street died before her time. I want the Minister to tell us whether this custard powder factory is going to be cited, contrary to all the laws in that behalf, in Charlotte Street. I should also require of him an assurance that the insanitary conditions which prevail in that same factory would cease to prevail. An American expert came down here and reported to this Government that he was horrified to find the insanitary conditions which prevail in this factory for the manufacture of food. I would require of the Minister an assurance that minimum standards of hygiene which have up to now never been attained in this factory will be attained in that factory.

I would also require an assurance that if this manufacturer is to be protected, his flagrant violation of the labour laws known to the Minister of Information personally, as a former employee of his, should cease and he no longer be allowed to enjoy exceptional protection. We are going to protect his industry, we must also protect the consumer in the sense that the quality of powder - curry or custard - is hygienic and reaches a sufficient standard. I am being very serious in this.

You cannot, under the guise of saying you are benefiting the country, allow the abrogation of all laws. I have seen, with my own eyes labour laws violated day and night. The laws of parking — he owns the whole parapet — the laws of Town Planning, the laws of hygiene are all broken with glaring impunity.

Above all, a point of vast substance was raised by the hon. Member Mr. Hubbard. We want industry. We would also like, I hope, to see that the cost of living does not rise disastrously. To my knowledge, many of the alleged industries which have been set up in this country provide very little employment. [Mr. Bowman "Why?"] Because all that you would have to do in this custard powder factory would be to take the contents of large drums, funnel them into packets and seal the packets. For this service I would guarantee that only two persons will be employed. Every single person who uses this custard powder will have to pay twice as much as before.

It is one thing to say that we must encourage local industry but I would ask the Minister when he makes these proposals to inform the House what percentage of Guyanese labour is to be employed in the manufacture of this custard powder. Is it a fact that the only activity that will be done in Guyana will be packaging and labelling, employing, to my knowledge, no more than two persons? A big drum will come down; they will agitate, shake it, mix it up and say it is Guyanese custard powder. This same thing has been happening on a much larger scale in relation to poultry feed. This is a fundamental matter of principle. When we give these industries this protection the Government should insist that some proportion of Guyanese labour be employed in the product to be produced.

I have personal knowledge of a particular industry. I would not call its name; I am a little connected with it. It gets all kinds of concessions: tax holiday concessions, duty free this and duty free that. There is a machine; you cut it, join it and put a stamp

on it "Made in Guyana". That is the only thing that is done locally. Two persons can provide the requirements for this entire country.

I hope, therefore, that the hon. Minister would allay these suspicions which I have raised. I will repeat them for his benefit: (1) is this custard powder factory to be sited in an industrial site, or is it to be sited contrary to the laws in that behalf, in a central area in Georgetown, making a public nuisance?
2.30 p.m.

I shall confess I do not know how the judges do not smell this in the Victoria Law Courts when the curry powder is going out of Charlotte Street. We are the Legislature and it is not a laughing matter when raised in this House. This is another example of public diffidence of law that goes on in this country.

One cannot put up a custard powder factory in Lacytown and I want first to be assured that this factory is not to be put up in Lacytown.

Secondly, I should like to know whether the hon. Minister is satisfied from the reports he has had — I hope he has read the report that the whole process is unhygienic — that the quality and standard of the custard powder would be hygienic enough for local consumption. I want the hon. Minister to assure this House that those who are to benefit from laws passed here, will not flout the laws of the country with impunity.

These are matters to which I wish the hon. Minister to reply.

Dr. Reid: Some of the absurdities one must perforce ignore or else we shall be talking nothing day after day but I should like to say as Minister of Trade, that the ingredient is not imported duty free. Starch, coloured powder and flavouring essences, these are all subject to duty.

Care has been taken to examine this question and the economics of it are of some significance but it is unfortunate that it is difficult, since custard powder is not separated from other items, to determine exactly what the financial position will be.

[DR. REID]

With these few remarks, I commend the Motion to Council.

Question put, and agreed to.

Motion carried.

BILL - SECOND READING GUYANA CITIZENSHIP BILL

A Bill intuled: "An Act to make provision for the acquisition of citizenship of Guyana by persons who do not become citizens of Guyana by virtue of Chapter III of the Constitution of Guyana, for deprivation and renunciation of citizenship of Guyana and for purposes incidental thereto or connected therewith."

The Minister of Home Affairs (Mr. John): The Guyana Citizenship Bill seeks to supplement the provisions of the Constitution relating to citizenship. In that Constitution, there is provision for broadly four classifications of citizenship, citizenship by birth, citizenship by descent, citizenship by registration and citizenship by naturalisation.

It is true to say that for the majority of Guyanese, their status as regards citizenship has been determined by the Constitution and in fact, it is really in connection with the remainder that many of the provisions now sought to be made law will be operative.

Notwithstanding the fact that the Independence Constitution was debated in this Assembly and in that debate there was a passing reference to citizenship, there was never, in fact, a debate in depth on this very fundamental Constitutional matter. It is felt, therefore, that in the course of this debate reliance will be placed not only on the provisions of the Bill now before the House, in so far as it seeks to supplement the provisions of the Constitution or to provide the means whereby the forms set out in the Constitution can be given any depth, but there must be an examination of the provisions of the of the Constitution relating to citizenship as such, so that after today, much of what hitherto remained in doubt

will be clarified.

It is also the view of the Government that an issue such as one of citizenship, which is important should be the subject of such debate and examination as will give to the majority of Guyanese a full and clear understanding of the concept of citizenship as propounded by the Constitution.

I think that I have to point out that even though this moment has been awaited for some time, there has been a little inconvenience at times. I refer to that point because some people had expressed anxiety over earlier passage and debate of the Citizenship Bill.

In some countries, when they attained independence, they continued to rely on the provisions of the Constitution for number of years and in fact, it was only several years afterwards that a citizenship bill was passed.

It is no answer to rely on that excuse here but, in fact, the minimum period provided for some applications extends to the 26th May, 1971 and the issue will very fully and amply be covered by the arguments during this Debate and, what I would expect, subsequent passage of this Bill at this time.

2.40 p.m.

I think I ought to refer to the fact that in Clause 1 it is stated that:

"This Act may be cited as the Guyana Citizenship Act, 1967, and shall be deemed to have come into operation on the 26th May, 1966."

Bearing all that I have said in mind, and having regard particularly to this Clause for resolving doubts, I hope that hon. Members of the Assembly will be quite satisfied that we have put forward a Bill that substantially adheres to the wishes of all freedom-loving Guyanese.

I said earlier that having regard to the nature of this debate, it will be necessary to restate some of the provisions of the Constitution as they now exist, when dealing broadly with the four classes of citizenship as stipulated by the Constitution and by the

Bill. Every person who, having been born in the former Colony of British Guiana, and was on 25th May 1966 a citizen of the United Kingdom and Colonies shall have become a citizen of Guyana on 26th May 1966. Also, every person who, having been born outside the former Colony of British Guiana, and was on 25th May 1966 a citizen of the United Kingdom and Colonies shall, if his father becomes or would but for his death have become a citizen of Guyana in accordance with the provisions of the preceding paragraph, have become a citizen of Guyana on 26th May 1966.

I think it would be agreed that there is little difficulty here, and as I said before, the majority of Guyanese will be covered by these provisions. What is noteworthy is the fact that the reliance is placed upon the person being a citizen of the United Kingdom and colonies on the 25th of May, 1966. At a later stage in this debate I shall deal with our approach to the concept of Commonwealth citizenship and there I hope I shall be able to show this House how far we are going to maintain our relationship within the Commonwealth.

I shall now deal with women other than those who have acquired Guyanese citizenship in their own right, by virtue of the provisions to which I have referred earlier. By virtue of Article 21, a woman who, on 25th of May 1966 had been married to a person who became a citizen of Guyana or a person who, having died before the 26th of May, 1966 would, but for this death have become a citizen of Guyana, by virtue of that Article, shall be entitled, upon making application to be registered as a citizen of Guyana. If, of course, she is a British protected person or an alien, she has to take the oath of allegiance to be registered as a citizen.

We know that from time to time the question of allegiance even within the Commonwealth has resulted in quite a lot of controversy and argument between politicians and jurists alike, but the provision that we have here, I think, broadly covers the usual

provision which is found in the citizenship legislation of most Commonwealth countries, in short, we are giving as much recognition as possible to the concept of belonging to the Commonwealth. The provision however, has been made in relation to this Article that in the case of a woman who, on the 26th of May, 1966 was not a citizen of the United Kingdom and Colonies, the right to be registered as a citizen of Guyana shall be subject to limitations as national policy may prescribe. Now, for the other class. I shall deal with a person who, on the 25th of May, 1966 a citizen of the United Kingdom and Colonies, having become such a citizen under the British Nationality Act of 1948 by virtue of having been naturalised formerly in what was then British Guiana or having been naturalised or registered in the former Colony under that Act shall also be entitled, on making application before 26th May, 1971, to be registered as a citizen of Guyana.

There is also provision to the effect that any person who, on the 26th of May 1966 was a Commonwealth citizen, that is to say, a citizen of a country in the Commonwealth other than by virtue of being a citizen of Guyana, and who has been resident in Guyana for a totality of five years during the preceding ten years shall be entitled, upon making application, to be registered as a citizen of Guyana. It is to be noted that the five years need not be five continuous years. But if there are periods amounting in the aggregate to five years - providing that a total period of five years occurred within the preceding decade, that period of five years would account for a Commonwealth citizen to be registered as a citizen of Guyana.

2.50 p.m.

Provision is also made that "a woman who on 25th May 1966 is or has been married to a person who subsequently becomes a citizen of Guyana by registration" shall be entitled to be registered as a citizen of Guyana. In the case of aliens and British protected persons the requirement of taking

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the oath of allegiance is also required. Provision is also made that if on 26th May, 1966, a woman were not a citizen of the United Kingdom and Colonies, then the right to be registered as a citizen of Guyana under that paragraph shall be subject to such exceptions or qualifications as may be prescribed in the interests of public policy or national security.

One can see that the main aims of the provision are to give greater weight to the right of citizenship to those who are born in Guyana, or born out of Guyana of Guyanese parentage within the first generation. Throughout the web of the Constitution and Bill which we propose we lay special emphasis on the fact that the right to citizenship of a person born in Guyana of Guyanese parents or out of Guyana of Guyanese parents within the ambit of the first-born generation stands on a plane of rights, of greater weight than any other category of entitlement to citizenship.

Applications and the method of making applications are provided for; also the method when the person has not attained a majority. At a later stage I shall proceed to deal with specific provisions relating thereto.

In relation to persons born in Guyana after 25th May, 1966, any person shall become a citizen of Guyana at the date of his birth. There is provision that it shall not be operative if the father possesses diplomatic immunity from suit and legal process or if the father is an enemy alien and the birth occurs in a place under occupation by the enemy. This is one of the usual provisions.

One can see there, in relation to those born in Guyana after 25th May 1966, that they shall, except they possess that immunity, be citizens. In relation to those born after 25th May, 1966, if they are born of Guyanese parentage then, as I said before, once they come within the first generation they are Guyanese citizens. In short, we give the right to extra-territorially born first generation. What is intended is that those of the extra-territorially born first generation

after 25th May 1966 shall be citizens of Guyana.

In relation to a woman, if after 25th May, 1966, she marries a person who is, or becomes, a citizen of Guyana, she will be entitled, upon making application, to be registered as a citizen. There again, the right is subject to exceptions or qualifications in the interest of public policy.

Now, in the Constitution it is provided that Parliament

“may make provision for the acquisition of citizenship of Guyana by persons who do not become citizens of Guyana by virtue of the provisions”

of the Constitution, and in the Bill before the House, in relation to several categories, to which reference has been made, there are provisions which supplement those which already exist and which have been enacted by virtue of that power which is given to Parliament under the Constitution in Article 28.

There is in the Bill the definition of “alien” as set out in the Constitution -

“a person who is not a Commonwealth citizen, a British protected person or a citizen of the Republic of Ireland.”

We have also given to “Commonwealth” the same meaning as assigned to it under the Constitution. There are a number of other definitions which deal with important aspects of the Bill. Such are the definitions of “foreign country”, and of “Guyana.”

In Clause 1(2) provision has been made for the determination of citizenship by those born aboard a registered ship or aircraft or even aboard an unregistered ship or aircraft of the Government of any country. They shall be deemed to have been born in the place in which the ship or aircraft was registered or in that country. The provision that operates where the ship or aircraft is registered will be different from that where the ship or aircraft is not registered.

3. p.m.

One cannot prevent a ship from sailing or an aircraft from flying. In relation to the age

of majority, there is the specific provision in Section 2(3) that, for the purposes of this Bill, a person shall be of full age if such person attains the age of twenty-one years or is a woman who is or has been married and of full capacity if such person is not of unsound mind.

In Section 3 we have made provision that the reference to a British subject in any law in force will have the same meaning and construction as reference to a Commonwealth citizen. We feel that that is an important provision because, within recent times, there was quite a lot of confusion between the two: British subject and Commonwealth citizen. In fact, even among several countries of the world that difference was very manifest at one time and it is felt that this provision, which has been adopted by many other Commonwealth countries, makes such simplicity for interpretation when questions arise thereon.

In relation to registration, it is provided in Section 4, that a Commonwealth citizen, or a citizen of the Republic of Ireland, of full age and capacity, on making application to the Minister in a prescribed manner, may be registered at the discretion of the Minister as a citizen of Guyana if he satisfies the Minister that he has been ordinarily resident in Guyana, or has been in the service of the Government of Guyana, or has had partly such residence and partly such service, throughout a period of five years ending on the date of his application or such shorter period so ending in the circumstances of any particular case.

Article 28 of the Constitution provides, as I have said before, for Parliament to take care of cases for registration or naturalisation of citizens where such provision does not exist in the Constitution. Here it is proposed, since it is possible that there could be instances of residences shorter than five years in which the Minister responsible for citizenship may deem it right that a person should be registered as a citizen of Guyana, that such registration be made.

There is the provision also, under the said Section 4, that, subject to the provisions of Section 7, a person is entitled, on making application in the prescribed manner, to be registered if he satisfied the Minister responsible for citizenship that he has always been stateless and, if he were born before the 25th May, 1966, that his mother was a citizen of the United Kingdom and Colonies at the time of his birth by reason of her having been born in the former Colony of British Guiana; or if he were born after the 25th May, 1966, that his mother was a citizen of Guyana at the time of his birth; or that he was born in Guyana. Provision is also made that it should apply to persons born legitimate as well as to persons born illegitimate.

In relation to the making of this application, it is to be noted that a minor may have the application made by a guardian or, if he has attained the age of sixteen years, by the minor himself or by the parent or guardian. We provide specifically for the registration of the minor in such circumstances but the Minister may, at his discretion, cause the minor to be registered upon application made in the proper manner by a parent or guardian.

There is also a provision which appears in the citizenship laws in a number of Commonwealth countries - Trinidad, Jamaica - that the Minister may, in special circumstances and as he thinks fit, cause a minor to be registered as a citizen of Guyana. We feel that that provision is very useful and we have no doubt that it must have been considered very useful because it appears not only in the citizenship laws of Trinidad and Jamaica, to which I referred, but even in the Canadian Nationality Act. In the case of a minor the Minister may, in his discretion, cause him to be registered as a citizen of Guyana. One would see that the operative fact there is the Minister's discretion. Provision is also made for the position where adoption exists where, under the law in force relating to adoption, an adoption order is made in respect of a minor

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not a citizen of Guyana, then if the adopter is a citizen of Guyana should become a citizen of Guyana as from the date of the order.

It is to be noted, therefore, that a difference is made, however, in relation to the position - whether the adopter is a single adopter which is a woman, or whether the adoption is effected by two persons, husband and wife. In the case of the male adopter, if he is a citizen of Guyana, the child shall become a citizen of Guyana as from the date of the order. If it happens to be a woman only, the same effect follows in relation to the above.

In Clause 7(1) it is provided that the Minister may, if satisfied that the interests of national security or public policy so require, refuse to register as a citizen of Guyana any person to whom the proviso to Article 22(1), 22(4) or 25 of the Constitution or subsection (2) of Section 4 of this Bill applies.

3.10 p.m.

I am happy to hear my hon friends ask what it means. It seems they are appreciative of the fact that one cannot attempt a debate of this measure without reference to the provisions of the Constitution since they are read together.

I am to remind the House that those provisos refer to the various classes of registration which have been set out in those Clauses to which reference was made, or in the case of a woman who, after 26th May, 1966, marries a person who is or becomes a citizen of Guyana as the very Bill points out in Clause 4.

If one examines the provisions for registration in a number of countries, one would find - I am referring to countries of the Commonwealth - that they are not all exactly the same thing, but in a large number of cases, and particularly in those countries where Independence was attained

within the last decade and a half, this provision exists.

As I said, the provision finds its support on the basis which has been stated before, that we consider citizenship by birth or by descent within the extra territorially first-born generation to be of a class, a right, of greater weight than that of citizenship by registration or naturalisation. Every country does that, so that where one seeks to be registered, that right exists as we have provided, and the Minister may refuse to make such a registration.

If one looks at the Jamaica provision, Section 11 states:

"The Minister shall not be required to assign any reason for the refusal to grant any application under this Act."

The decision is at his discretion and the decision of the Minister on any such application shall not be subject to any appeal or to review in any Court. We are omitting the discretion of the Minister on any application under this Act.

I had a look at some of the provisions of the other Commonwealth countries, but I would not bore you with the details.

We have put in the provision that no reason need be assigned for refusal in relation to an application for registration under this Act and there you will have seen that the provision operates more narrowly than one in relation to any application made under the Act.

We have made provision also for additional grounds for citizenship. In Clause 8 we provide that a person born in Guyana after the commencement of this Act shall be a citizen by birth if his mother was a citizen of Guyana at the time when he was born, for he would, apart from this subsection, be stateless.

We have also made provision for the grant of citizenship to foundlings. Those found anywhere abandoned in Guyana, have a right to citizenship. If an infant is found abandoned without the necessary information by which one could determine its origin, the law makes it possible for the

infant to be registered as a citizen of Guyana.

3.20 p.m.

There have been attempts to correct what was in former times an anomaly created by the fact that we took citizenship by descent according to the British Nationality Act before 1948, that is, it came through the father and the child had to be illegitimate. We have sought to improve upon that provision by allowing the citizenship of the mother in the case of an illegitimate child to operate in favour of the child. That is particularly important in cases where children will otherwise be stateless.

Certain questions have arisen with respect to a father who might come from a country where he has been rendered stateless. He may have come from a country where they have a law depriving him of his status. If he came to Guyana and married a woman before 1948, their child would take his citizenship. But the fact that he had been rendered stateless from the country whence he came will mean that the child would also automatically be stateless. All of that will be simplified by virtue of the fact that that child was born of a mother who was a Guyanese citizen. Indeed, it clears quite a lot of doubts which would otherwise have existed.

In relation to the naturalisation of aliens and British protected persons, we have made provisions in the Bill which is now before the House, consequent upon the rights which have been given in the Constitution. We have provided that at the discretion of the Minister, if application is made by any alien or British protected person of full age and capacity who satisfies him that he is qualified under the provision of the First Schedule of this Nationality Act for naturalisation, the person to whom the certificate is granted shall, on taking the oath of allegiance become a citizen of Guyana with effect from the date on which that certificate is granted.

In that Schedule, the qualifications for naturalisation in relation to aliens are:

“(a) that he has resided in Guyana throughout the period of twelve months immediately preceding the date of the application;

(b) That during the seven years immediately preceding the said period of twelve months he has resided in Guyana for periods amounting in the aggregate to not less than five years;

(c) that he is of good character; and

(d) that he intends in the event of a certificate being granted to him to reside in Guyana.”

Pursuant to the provisions contained in Article 21 of the Constitution, we have provided that the Minister may, if in the special circumstances of any particular case he things fit -

“(a) allow a continuous period of twelve months ending not more than six months before the date of the application to be reckoned, for the purposes of sub-paragraph (a) of paragraph 1 of this schedule, as if it had immediately preceded that date;

(b) allow residence in any part of the Commonwealth to be reckoned for the purposes of sub-paragraph (b) of paragraph 1 of this schedule;”

That is, in the case of an alien who has to be resident for seven years normally to be naturalised, if those seven years were partly spent in another country in the Commonwealth, that period could be reckoned in the period immediately preceding the twelve months. In naturalisation we do not insist on the limitation of seven years being spent necessarily in Guyana. In special circumstances where part of that period was spent in a Commonwealth country it shall be counted for making up the seven-year period which is necessary.

3.30 p.m.

We feel, and we have so provided, that that will entitle one to naturalisation. [Mr. Luck: “Speedily and fairly.”] I can assure the hon. Member who has just made an aside that he hopes the processes will be speedy -

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[Mr. Luck: "And fair."]— that in keeping with what I have said, that the Minister may make regulations for carrying that into effect, that [very] speedily, we will have those regulations for carrying the Act into effect. Also, as a lawyer, he must presume that we will act fairly.

In circumstances where he has a doubt the Minister could refer a case to a committee comprising men of judicial experience, whose advice will be of persuasive influence to the Minister to determine whether there will be deprivation. Each case will be dealt with on its merits.

I am sure also that one would recognise the flexibility of the law in relation not only to naturalisation, but to deprivation, to which we will come a little later.

Mr. Deputy Speaker: Hon. Minister, I wish you would desist from answering asides. It is a bad principle.

Mr. John: In the case of renunciation, the provisions follow the provisions of Clause 9 dealing with naturalisation. It is a common provision in a number of other countries in that a person who is about to become a citizen of another country, to which Article 27 applies, or a national of a foreign country, such a person could make a declaration of renunciation, and the Minister, pursuant to that declaration of renunciation, will be able to make an order that the person shall cease to be a citizen of Guyana.

There has been some talk about the position in Jamaica. I should make this point here: We have sought to make our Citizenship Bill after consideration of our own requirements as well as precedents ranging over a large number of Commonwealth territories. If one examines the provisions carefully one would find that they come from Acts in Jamaica, Trinidad, India and Singapore.

In relation to the act of renunciation, the Minister would, of course, have a discretion to refuse to accept that renunciation if the

person is about to become a national of a country which is at war with the state of Guyana because one could not allow a renunciation made merely to be used as a means for carrying out a disloyal act. Otherwise, where a declaration is made which incorporates those provisions, the Minister shall make that order that a person shall cease to be a citizen of Guyana.

We have provided also that a declaration of renunciation of citizenship made as I said before shall be registered only if the Minister is satisfied that the person shall become a national of some other country. We want to ensure that we observe international propriety and not to leave people stateless. Therefore, the acceptance of that renunciation and the making of the order that the person shall cease to be a citizen of Guyana will be subject to the condition that the Minister has satisfied himself that that person shall become a citizen of another country.

We have gone further to say that if the person does not become such a citizen or such a national within six months from the date of registration he shall be deemed to have remained a citizen of Guyana despite the fact. If we reasonably believe that he will acquire the citizenship of another country and he does not in fact acquire it, we will not close our doors to him if he were already in fact a Guyanese.

We come now to the important question of deprivation of citizenship which is bound up to a great extent with registration and naturalisation because, as I said before, those are the two aspects where we give a right. The Constitution provides that —

"If the Governor-General is satisfied that any citizen of Guyana has at any time after 25th May 1966 acquired by registration, naturalisation or other voluntary and formal act (other than marriage) the citizenship of any country other than Guyana, the Governor-General may by order deprive that person of his citizenship."

And if he has —

"at any time after 25th May 1966 voluntarily claimed and exercised in a country other than Guyana any rights

available to him under the law of that country, being rights accorded exclusively to its citizens, the Governor-General may by order deprive that person of his citizenship."

It will be observed that the power of deprivation is discretionary and I think that all those who have been thinking otherwise must have been rudely shocked by the recent American decision where it had to be realised that, having regard to the method of movement of people, and the habits of people and their attitude towards residence in modern times, that sort of an absolute limitation is no longer a reasonable thing. I think that those who looked at this provision only in relation to the Americans will also recognise that there are Guyanese everywhere and they also move all over the place.

Deprivation, whether under the Constitution or under the provisions of the Act - discretionary in relation to those who exercise rights exclusively as citizens of other countries - is one provision which remains and should quite rightly remain. I know that some people have suffered from confusion of thought and have sought to tie up this question with dual and plural citizenship. They seemed to have laboured under the erroneous impression that the Constitution is repugnant to dual citizenship.

3.40 p.m.

We seek to consider citizens in relation to the Constitution and in relation to the Bill. We consider them so far as they are nationals or citizens of Guyana. The consideration of another country does not preclude the exercise of the rights of Guyanese citizenship to such person even if such other country regards that person as its citizen by its municipal law. That consideration is not primarily our consideration. Our consideration is different. We must decide what shall be the standards of behaviour that we will ask and demand of those who we regard as our citizens. We do so in full recognition of the fact that we give

as liberal an interpretation of the concept of belonging to Guyana as we understand.

In this Bill we have provided that the Minister may deprive of his citizenship any citizen of Guyana who is such by registration or naturalisation if he is satisfied that the registration or naturalisation was obtained by fraud. That is, of course, similar to provisions in other countries and, in any case, there is every right that it should be so because a man who, by fraud, by misrepresentation, acquires the right ought not to continue to carry that right and to impair the security of the state when, in fact, he got it by making a representation which he was not entitled to make. I do not think that there are many who would seriously quarrel with that. [Mr. Luck: "Where did you get Clause 11(2) (d) from?"]

My friend asks where we got Clause 11(2) (d) from. I must ask him to refer to the Constitution of Malaya. I must tell him that his reading is not extensive. The provision states that the Minister shall deprive a person of his citizenship if he has done any voluntary act which is incompatible with his loyalty to the Constitution. [Mr. Luck: "Explain it to us." I would not explain it yet but I would invite him to read it because it does appear that he has not read very widely or he would have come across that provision. There are a few other Constitutions to which I might refer him and he would be surprised to realise that that provision exists. I prefer to continue in the order I first started but I thought I would answer him immediately. It appears that the hon. Member Mr. Luck thought that we were original, though we have to be original sometimes.

Mr. Deputy Speaker: Again I must ask you not to reply to asides. You are creating precedent; remember that you are a Minister of the Government.

Mr. John: In Clause 11(2) (a) where the citizen so registered has shown himself disloyal or disaffected towards the Constitution, that provision for deprivation will be operative. In relation to the provisions about an act or speech, certainly,

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the interpretation of that has got to be made by the nature of the speech when that time comes or by the nature of the act when it is done. I think that no one can seriously quarrel with that provision because the Constitution is very important and we cannot allow anyone to subvert it and still give him the amount of shelter and protection as a citizen even by registration or naturalisation. While the State will continue to tolerate and punish those who are citizens by birth, it cannot tolerate unnecessarily the continued presence or otherwise of those who do not fall within the two classes of citizenship.

I think that when one looks through legislation dealing not only with citizenship but dealing with a number of matters that are ancillary to citizenship, such as immigration and dealing with aliens, that principle underlies the whole construction. Now that deprivation which is discretionary will also be operative if a citizen by registration or naturalisation has, during any war in which Guyana was engaged, unlawfully traded or communicated with an enemy or been engaged in or associated with any business that was, to his knowledge carried on in such manner as to assist an enemy in that war, we feel that that is a very useful provision and would tend to cover the methods which are normally used for circumventing the provisions of the Constitution.

If within five years prior to the deprivation or within five years after becoming naturalised a person was sentenced in a country to imprisonment for a term not less than twelve months, or if he has done any voluntary act which is incompatible with his loyalty to the Constitution, that provision also applies. I said that I was going to read the Section which refers to that matter in the laws of the Federation of Malaya where it is provided, under Section 11(d), that anyone who has done any voluntary act which is incompatible with his loyalty to the ruler of

the Federation of Malaya shall be deprived of his citizenship.

3.50 p.m.

So that this concept is nothing new and it is very necessary, we contend, in these days to have such a provision because many countries have seen, and we are also satisfied, that there can be a number of instances where it becomes no longer possible to tolerate those who, with one voice claim that they want to be Guyanese citizens and with another voice, take steps which, in fact, are designed to undermine the continuance of good government in Guyana.

I think, therefore, that it must be agreed that our grounds for deprivation, in which the discretion exists, are grounds which are very necessary to ensure the operation of registration and naturalisation. These grounds have been provided for in the earlier Clauses of the Bill - the Clauses before Clause 11 - and are necessary in the interest of the country.

There will be, of course, a right, before making any order under this Clause, that the Minister should give this person on whom it is intended to issue an order of deprivation, an opportunity of being heard, by giving notice in writing, informing him of the grounds upon which it is proposed to deprive him of his rights. Deprivation is no whimsical right or fanciful right or a mere pronouncement by the Minister that the status of a citizen has come to an end. He will have a notification in writing that the Minister proposes to put an end to his status and that will give him an opportunity to put grounds to the Minister why he ought or ought not to exercise his rights.

If a person, against whom an order is proposed to be made, applies for an enquiry, the Minister shall, and in any other case, the Minister may, at his discretion, cause an enquiry to be held. When an enquiry is to be held, it must be by a committee headed by a person professing judicial experience.

There is a right there. The Minister will not deprive a person of his citizenship except he gives a notice in writing of his proposal to make an order of deprivation and even then, that citizen has a right to call for an enquiry which the Minister can at his discretion call for. The discretion is the Minister's.

No one, I think, can reasonably say that the Minister should not have the final say because this right to exercisable only in relation to two classes of citizens - citizens by registration and by naturalisation - and when one considers that registration and naturalisation could be good servants and could be very difficult masters, that they could be applied and misconstrued, one can recognise that they could be abused. One would recognise that there must be clear discretion for the Minister to cause a person registered or naturalised as a citizen to be deprived of his citizenship.

Those who seem to say that one should not have an official discretion should first be aware that there are many aspects of the law. If one has got to make that order of deprivation in respect of a person, registered or naturalised, I am sure that one must give great weight and consideration to the fact that there is a committee headed by a person of judicial experience. In some other cases, the Minister exercises discretion after advice given to him by the committee but he does not necessarily have to take the advice of that committee.

In the case of the prerogative of mercy, the Minister listens to what the committee says. Very often he takes its advice but the Minister still makes his own decision.

In the case of deprivation, the Minister actually has before him two things, one is that the person to be deprived can, by himself, call for an enquiry and the second is that the Minister can, of his own, set up a committee.

We have had one right, we feel, in respect of those persons whose citizenship is obtained by registration or by naturalisation. The effect of such an order of deprivation

will be that the person shall cease to be a citizen. There are various forms in which this provision becomes applicable in a number of countries

I have to refer again to the fact that in Jamaica, the discretion applies to any application under the Act. We have gone further. The Minister shall not deprive a person of his citizenship unless he is satisfied that it is not to the public good that that person should continue to be a citizen of Guyana.

Mr. Deputy Speaker: This sitting is suspended until 4.30 p.m.

Sitting suspended at 4 p.m.

4.34 p.m.

On resumption —

Mr. Deputy Speaker: The hon. Minister of Home Affairs may continue.

Mr. John: At the suspension I was making reference to the cases where the tribunal could be appointed to advise on a particular course of action to be taken, notwithstanding the fact that the Minister, having the responsibility for the action, need not take the advice of the tribunal.

I referred to the case of the exercise of the prerogative of a person where a special advisory committee exists. It also exists in some cases in preventive detention where one is not bound to accept the advice of the tribunal.

I wish to direct the attention of hon. Members to the fact that we have gone thus far in insisting that the Chairman of the tribunal must be a person possessing judicial experience. But they did not provide for that at all.

That tribunal could, in fact, make a decision on which the Minister could be advised by, but not bound to follow. When one considers the provisions set out for deprivation, not only do we go far in ensuring the existence of a judicial attitude in arriving at a decision, but, in fact, we have gone much further than many other countries have gone.

Now, sir, rules could be made by the Minister to regulate the powers of this

[MR. JOHN]

committee - conferring powers, rights or privileges - as is done in a court. The tribunal must follow the principles of natural justice. These will be exercisable as in a court.

In section 12 provision is made for a certificate of citizenship in cases of doubt. This, we feel, is very important because the circumstances do exist where, by virtue of the antecedence of a person, one might be doubtful what his particular status is and to a great extent this might well relieve the necessity of a very long and complicated legal procedure. Sometimes that doubt comes about in deciding rights of inheritance and then one has got to go back to a long enquiry to examine the ancestral connection of the applicant to ensure that a person gets a particular status. This means that in a much more summary manner one could decide and give a certificate so as to remove that doubt.

We have tried to simplify the position in regard to evidence in dealing with matters affecting this particular Act. We have provided that:

"Every document purporting to be a notice, certificate, order or declaration, or an entry in a register or a subscription of an oath of allegiance, given, granted or made under this Act or under the provisions of Chapter III of the Constitution shall be received in evidence and shall, unless the contrary is proved, be deemed to have been given, granted or made by or on behalf of the person by whom or on whose behalf it purports to have been given, granted or made."

4.40 p.m.

This, of course, will quite remove the possibility of people being able to make a statement at one time designed to create a particular effect and then coming back to say that the construction was entirely different.

We have also tried to simplify the method of production of such documents by making it possible that prima facie evidence of any such document, saying that such declaration

of a document purporting to be certified as a true copy thereof by such person and in such manner as may be prescribed. I think it is very important for us to have an alternative because in many cases one will have to go to quite a lot of trouble to endeavour to prove specific documents. The necessity for such documents may be such that they ought to remain in the custody of a particular person. What we have done here is intended to ensure that once that copy is taken from the custody of that particular person in whose custody that document ought to remain, whether it be a consular officer who is not in the country or anyone else, that document will be prima facie receivable in evidence.

As entry in the register under the Act will also be received as evidence of matters stated therein. Once a register is set up to deal with the new citizens who will now be added to supplement those who claimed citizenship under the Constitution, there will be no necessity to bring that person in whose custody the register is or to actually produce the book. In other areas of normal activity we find, apart from quite a lot of delay and inconvenience, the same thing has reached the book. In other areas of normal activity we find, apart from quite a lot of delay and inconvenience, the same thing has reached the point where, in some cases, it actually slows down the entire Government machinery. Where there is a document, or an entry has been made, a certified copy ought to be able to operate as evidence of that particular document or entry.

In relation to offences, we feel there ought to be some vigilance on the type of statements that persons can make under the Act for causing a declaration of one sort or the other to be made or for obtaining an order of one sort or another. We have made provision to deal with persons who make statement false in a material particular or those who makes statements recklessly. We have made it punishable as an offence on summary conviction by a fine not exceeding five hundred dollars or imprisonment for a

term not exceeding three months or by both such fine and imprisonment. We feel that we can never be too cautious in matters of this sort which affect status.

We have also gone ahead to make provision in relation to compliance with requirements imposed on a person as a result of application for naturalisation, because a few circumstances are going to arise in relation to naturalisation which will have to be looked at. Some persons, as we pointed out before who have been naturalised in the former colony of British Guiana would have their entitlement to be registered - [Mr. Luck: "Until 1971."] - and where further applications are to be made I think it is very important that those requisites be looked into.

Accordingly, provision is made in clause 14 that there should also be a fine for persons who fail to comply with the requisites imposed under the Act in relation to delivery up of certificates of naturalisation where it is found necessary to make some act or order that will affect the status for naturalisation.

In relation to the forgery of passports, we have made provision for that also, many similar ones of which are contained in the former British Nationality Ordinance. With regard to the forgery of passports, that is an offence that has come to notice very recently, as must have been seen. Those who forge passports or utter passports knowing them to be forged, or makes statements for the sake of obtaining forged passports shall be liable to penalties and those penalties will involve imprisonment, a fine, or both in some cases. We have adopted a definition of "forgery" as is found in the Criminal Law (Offences) Ordinance.

Some question was raised as to why it should be necessary for the delivery up of certificates of naturalisation if a person fails to comply with the requisites imposed on him under the regulations, but it is quite obvious that where the regulations are made and one has to take any action that brings to an end that status which was before created,

it ought not to be possible for persons to be left with these certificates or papers still going around. One might well decide that even though a change in status had been made, he may not deliver it up at all or may keep it, and it may find itself in the hands of other persons or may be used by the same person or another person. Where it is necessary for an executive authority to bring to an end a particular status, which is given legal recognition by virtue of a document which has been issued already, it is found to be a very desirable thing that one should have that document delivered back when that status comes to an end.

One finds the necessity for that has caused Governments to change their attitude not only in relation to matters affecting naturalisation and registration, but even in matters affecting things like passports and so on, where they make a provision that on the cancellation or revocation of a passport there should be a special order for the delivery back of that passport to the registry. The provision in respect of naturalisation is to make it possible for these transactions to be brought to an end. When you make an act in relation to naturalisation you bring to an end a particular status or, so to speak, you ought to be able to close the chapter by bringing in the document to ensure that it does not remain in circulation to be used by other persons. There does not appear to be any doubt why that regulation exists in a Bill such as this.

In the Second Schedule to the Bill we have set out the countries to which Article 27 of the Constitution shall extend.

4.50 p.m

Those are the countries which normally should be added since the Constitution came into effect.

Section 16 provides that regulations may be made in order to give effect to the provisions of the Constitution as well as the provisions set out in the Bill now before the House and even with respect to provisions which might later be prescribed for the registration of anything required or

[MR. JOHN]

authorised under this Bill. Regulations may also be made for the fixing of fees, for the giving of the notice, for the cancellation of the registration, for the registration by consular officers, for enabling the births and deaths of citizens to be registered, and a number of other provisions.

I think that I have shown, by reference to merely some of the instances where legislation exists in other Commonwealth countries similar to the legislation which exists in this Bill before the House, that we have sought to make use of a number of precedents that were established in other Commonwealth territories. Our presentation of this Bill, however, is not a mere slavish desire to follow any one precedent or another. Our attitude to the Bill here and the provisions which we have sought to put in this Bill are dictated by our belief and our sincere desire to make a reality of our membership of the Commonwealth.

Sometimes people raise doubts as to questions like dual or plural citizenship which they do not really understand. I do not think that at times they realise that, in fact, even Commonwealth citizenship is dual citizenship because it presupposes that one is a citizen of all the countries which make up the totality of the Commonwealth states and that, as part of that, he is a citizen of that particular country which is a member of the Commonwealth.

In our approach to this Bill which is before the House — whether it be something which comes from the Constitution of India, or the citizenship laws of India, Canada, Australia, New Zealand, Trinidad or Jamaica — we have sought to get and to extract from all those what we feel is applicable to Guyana. We have sought to put in those provisions which we feel are necessary for Guyana.

We have frowned upon the old form of citizenship by marriage as such and we have sought to bring our position in line with the new attitude to married women being

citizens in their own right. That is why we have put the provisions for registration so widely as we have them here. No longer do women want to be slavishly tied by a condition which affects their husbands. In fact, that seems to be the whole concept under the British Nationality law. There has been a tendency to move away from that and we have shown that, to a great extent, by the elaborate provisions we have made for registration.

One would see also that, in dealing with those rights, we have sought, as far as possible, to eliminate any that are not normally acceptable within the comity of nations. Covering those provisions as they are, we have been able, in this Bill, not only to maintain the spirit of the Constitution and the principles which have been set out there, but we have also been able to cover almost every circumstance relating to the status of those for which such questions will arise in the future.

I want to make it clear that the Government, in its attitude to citizenship, believes that the right to become a citizen, if it does not fall within the category of those who are born such or are citizens by descent, should be accorded to all those who are willing to assist us in nation-building, who mean well and whose contribution to our country, once we give them citizenship, will be such that they will demonstrate that they are assisting the country in reaching its goal. We do not want to frown upon anyone who will assist us in that task and we have sought to give those who are from the Commonwealth an even easier means of becoming Guyanese citizens.

5.00 p.m.

That is in keeping with what I said before. We assure those who wish to be registered that every case will be given quite a lot of serious consideration. Indeed, some of them have the right and where they have the right, they shall get that right. That right exists, in certain cases, upon a certain condition and that will be a matter for argument when the time comes. It will be

for those persons to convince the Minister that they were Commonwealth citizens at a particular time.

Our provisions for deprivation are no different from those which exist in many other countries. I have pointed out the purpose for them and every case will be considered on its own merits, and there will be serious deliberations where issues dealing with the status of persons arise.

I think it is a situation in which we need have no worry and, apart from our citizens, we are here to give a welcoming hand to all those who will assist us to build, and those who come and apply for citizenship will find that we have our arms quite open to friends.

In many cases, the effect of the Bill will be to assist Guyanese who are out of the country. It will be necessary in some cases to effect renunciation because they want to have some other status.

After this Bill shall have been passed by this Assembly, we know that all these things will be considerably simplified and it will provide the opportunity for making it clear to those who are our friends, that they really belong to Guyana. I commend this Bill to this Assembly for speedy passage and acceptance.

Dr. Ramsahoye: The words "citizen" and "comrade, from time immemorial, have been revolutionary in content and character. They are words which have been used to signify a situation in which men fought despotism and tyranny.

The word "citizen" is a word which, as revolutionaries have come to know, means the "true state" and "true situation", a situation in which there are many rights and privileges, but we see now, situations in which men expect that certain conditions should be satisfied before governmental powers could be exercised in relation to them.

Citizenship, therefore, is very important because it has a bearing upon the power, on the form of Government, on the rights and privileges of the people who will then have the powers of the State and as far as we on

this Side are concerned, it is a matter of such tremendous importance that we would have expected the hon. Minister in his opening remarks in support of this legislation, to make a clear statement of the Government's policy in relation to citizenship in cases where persons were not entitled to be citizens by virtue of birth in this land.

We are not able to get any clear policy from the Government in respect of these cases. We have been harangued with statements to the effect that we have followed Commonwealth precedent. Indeed, we might have done this to avoid a stumbling block in our way, but we need to know something in relation to people who are not covered by citizenship by birth.

We know that in other countries, the Minister is given effectual and democratic power in relation to citizenship. We, in Guyana, are living in a context in which we must move to make sure that people who acquire the right, acquire it in conditions as favourable as possible, and that people who lose it, lose it in conditions as fair as are possible.

What we have been treated to in this Bill is a sort of present, after a very long delay but, of course, we have learnt that we must be wary when gifts like these are brought. It is a Bill which signifies once again, the obdurate and implacable motivation of this Government to seize to itself autocratic power. The hon. Minister will decide whether he will grant citizenship. He will decide whether a person is a citizen and whether he will have him any longer. He will decide what sort of certificate he will issue in respect of disputed questions of citizenship, and he will not be obliged to assign a reason for his exercising his power of refusing.

We seem to have become confused with certain elementary things in relation to responsible Government. The necessities of modern statehood do very often demand that powers should be put in the hands of Ministers and that is why every day, there is subsidiary legislation drawn up by a Minister

[DR. RAMSAHOYE]

for the purpose of an Act of Parliament.

The necessities of administrative business force this upon us but we have to be careful when vesting in a Minister the right to discharge such powers. That is why, for example, we have courts. That is why we have followed faithfully, the doctrine in relation to separation of powers. That is why, in the United States in 1787, it was taken to a further stage of development. This doctrine of separation of powers, had been spoken of by Socrates and Aristotle and in the works of Plato. To invest a Minister with the sort of judicial power envisaged is the most dangerous thing one can think of in any form of democratic institution.

5.10 p.m.

This Bill, in the context of this country, is a wicked thing. This is a country in which, as I have observed before, there is need to make better use of our parliamentary institutions. Citizenship, like foreign affairs in this country should be one of the matters subject to consideration and review by a committee of this House. [Mr. Luck: "That is elementary and sound."] This is not a country in which we can borrow from the British Nationality Act. We need to have safeguards and we are not going to get them in this context. The powers given here are going to be used to vindicate political hatred, and to subject people to oppression. [Interruption.] They are going to be used to prevent opponents of the Government, genuine though they may be, from becoming citizens where the Minister can avoid it.

We must remember that where opinions are so sharply divided as in this country, and where we have been having for the last two years so many instances of victimisation and/or discrimination, we need for our own good to develop institutions which will protect us from ourselves. Nobody doubts that in Trinidad or in Jamaica the Minister has the right to register or to declare a person nationalised, or to deprive another of citizenship. What we are saying is that this

country is in a situation at the moment where the best we can do for ourselves — and nothing less than that is good enough — is to subject citizenship to review by a committee of this House. Then there could be genuine representations among people who are supposed to represent that politically active part of the population whom we normally describe as citizens.

It is not everybody who has political rights, who has the key to political liberties and who has the key to political equality. We draw a distinction as they did in ancient times between citizens and non-citizens. Now we have the provisions to be naturalised. But what are the provisions? The provisions are simply those which show that the Minister who is administering this Act could say yes or no to an application for naturalisation. Why should this be? The Greeks had been very jealous of granting citizenship. The Romans had taken the opposite view. As you will observe, the Romans had sacrificed vanity for ambition and had decided that all and sundry who came within their walls were to be clothed with citizenship on the basis of merit.

What is merit in this country? Merit, today, has become totally irrelevant, secondary to political subjectivity, for none of us could hope to get any place with a sectarian Government unless we are prepared to toe the party line. [Interruption.]

We, on this side of the House, take the view that citizenship has become a matter of such serious importance for our welfare that we cannot afford to be, at any given time, without clear expressions of policy in respect of its grant and deprivation and without the fair and efficient functioning of the machinery which will determine rights and obligations.

We see in one of the marginal notes the expression "Commonwealth citizen." Those of us who know about the meaning of the word "citizen," those of us who know about its development and its indication will know that there is no such thing, as a "Commonwealth citizen" for a

Commonwealth citizen to a Guyanese is nothing but a foreigner. If a man is a citizen, he has the right to come to the country and to go when he likes. It has never been heard that a man is a citizen of a country and has been denied the right to be in that country. Let me go to a Commonwealth country and claim to be a Commonwealth citizen and see what rights I will enjoy! So, this is a ruse to fool the public and beguile the unthinking. It is not really a matter which should give us joy unless we were to see a complete change of attitude with respect to the creation of machinery to deal with these matters.

I look forward to the day when we will be able to speak of world citizenship. In so far as it may be within my power, I will certainly join with anybody who favours the same concept and to work for it. I think we have been going backwards in that more and more we are seeing laws being passed in relation to citizenship which provide a protection for insularity rather than encouragement to world citizenship. We see in this Bill and we have heard the Minister saying that certain provisions were borrowed from Malaya. But Articles 15 and 18 of the Malaysian Constitution contain a provision which permits a man married to a citizen to apply for citizenship. That is the case where the man marries and he applies for citizenship, but that provision has been discreetly omitted. Other things have been borrowed. The P.P.P. had proposed this in 1962. Why is it omitted? Is it because of the Wilson case? Surely, that cannot be the case. If the Minister did not want to register Wilson he did not have to — *[Interruption.]* If the marriage is dissolved within two years there can be a deprivation. So, for what reason have you decided not to borrow that particular provision from Malaya?

This Government was obviously reviewing the Constitution of Malaya because it borrowed some of its provisions and it must have deliberately omitted this provision. I would have thought that the Minister would have known that we would notice, this and he would have assisted the House by telling us why this particular provision was omitted.

5.20 p.m.

I accept no excuse that this is done on account of Mr. Wilson because, the way this has been drawn up, Wilson need not have been registered. It is not a matter that should be trifled with. It is not a matter which should cause laughter, because we must remember that in a small country there are certain things that are of fundamental importance, things which redound to the benefit of the country if we treat them with the importance that they deserve.

We need to borrow talent for some time. We need to ensure that persons of ability and character can be allowed to become citizens in our country if they want to do so. We should not just have our eyes on West Indians in the event that they wish to come here merely to vote to keep the political positions in balance.

Under this legislation it will be possible for the Minister to exercise his power and to make Commonwealth citizens — citizens of Guyana at a very early period and, indeed, if they can vote they will also want the privileges of citizenship because when we read the fundamental rights as they appear in the Constitution — not that they are worth anything in this country at this time; daily occurrences convince us that the fundamental rights are not being observed. This Government has shown itself completely unwilling even to draft the rules to enable the fundamental rights to be observed. A citizen has certain rights and immunities from expulsion and a man who comes here and works here would wish to have himself elevated to that higher status. So that it is a matter of some importance and it should be possible for a man in that position to have a fair consideration of his case. I would have thought that short of allowing him to go to a Court and be represented and have his arguments put, in case he feels that his rights are being jeopardised, he ought at least to be able to have his matter indicated to the elected representatives in this Assembly.

We must remember that a Minister represents the people in a very direct way. In

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Roman times the citizenry all met in general assembly. They took decisions. Under the pressure of numbers we cannot afford to have all the population meet to take decisions so we have gone more and more to the idea of representation by the few elected by the many. Why then, if we have gone to this position, don't we use it? Why do we still feel that one Minister in a country like this, where divisions are so sharp, should at all times exercise this tremendous power to the exclusion of his other colleagues on both sides of the House. Let us say that he speaks for his side; he may not always speak for the other side of the House and at least he should be in a position where he can hear the views of the other side of the House even though we were to assume that he must have a final right. — [Interruption.]

The hon. Prime Minister tells me about a Committee but how is this relevant to a plea that the House should be brought into the consideration of these matters at least at a high level? The hon. Minister has observed that when moves are being made to deprive persons of citizenship he may appoint a Committee. Well, he may appoint a Committee. He is not bound by the decisions of the Committee, and let us hope that this Committee will not be quite useless because when there is no compelling force to make him abide by those recommendations he may wish to enforce his opinion as often as he can.

In other cases, of course, there is no provision for acquiring citizenship. Clause 7 of the Bill goes as far as it could go in saying that when the discretionary powers are exercised he need not give any reasons why he exercised them. Citizenship has been considered, certainly through the last two Milleniums to be a thing of such vital importance to democratic government that men have avoided political and other cataclysms by merely urging that persons should be allowed to enjoy at least the rights which the citizen is supposed to enjoy. In other words, citizens have always felt that

the act of rebellion was a last resort. They have always tried to press for their constitutional rights under a democratic institution.

We in this country ought to give citizenship the same importance. We should try, wherever it is fair and just to do so, to accord people who deserve them the rights of citizens. If authority is needed for the proposition that the Minister in this case should not be vested with the power of judgment in the way in which this Bill attempts to vest that power in him, I will refer to the Judgment of Judge Hart in the Adam Clayton Powell case, which is a recent case in which a Motion to the Court concerning Clayton Powell's exclusion from the House of Representatives was discussed. I would wish in particular to refer to page 8 of the Judgment of Judge Hart in which he had these observations to make:

"John Locke . . . , in order to prevent tyranny, would divide the government between two organs, the executive and the legislative.

"Montesquieu . . . stated the doctrine as it was conceived in the early 18th century as follows:

'The political liberty of the subject is a tranquillity of mind arising from the opinion each person has of his safety. In order to have this liberty, it is requisite the government be so constituted as one man need not be afraid of another.

'When the legislative and executive powers are united in the same person, or in the same body of magistrates, there can be no liberty; because apprehensions may arise, lest the same monarch or senate should enact tyrannical laws, to execute them in a tyrannical manner.

'Again, there is no liberty, if the judiciary power be not separated from the legislative and executive. Were it joined with the legislative, the life and liberty of the subject would be exposed to arbitrary control; for the judge would be then the legislator. Were it joined to the executive power, the judge might behave with violence and oppression.

'There would be an end of everything, were the same man, or the same body, whether of the nobles or of the people, to exercise those three powers, that of enacting laws, that of executing the public resolutions, and of trying the causes of individuals.' "

Then at page 9 he refers to Blackstone who said this:

"It is probable, and almost certain, that in very early times, before our Constitution arrived at its full perfection, our kings, in person, often heard and determined causes between party and party. But at present, by the long and uniform usage of many ages, our kings have delegated their whole judicial power to the judges of their several courts; which are the grand depositaries of the fundamental laws of the kingdom, and have gained a known and stated jurisdiction, regulated by certain and established rules, which the crown itself cannot now alter but by act of Parliament.

In this distinct and separate existence of the judicial power in a peculiar body of men, nominated indeed, but not removable at pleasure, by the crown, consists one main preservative of the public liberty; which cannot subsist long in any state, unless the administration of common justice be in some degree separated from the legislative and also from the executive power. Were it joined with the legislative, the life, liberty, and property of the subject would be in the hands of arbitrary judges, whose decisions would be then regulated only by their own opinions, and not by any fundamental principles of law; which, though legislators may depart from, yet judges are bound to observe. Were it joined with the executive, this union might soon be an over-balance for the legislative. For which reason, by the statute of 16 Car. I., c. 10, which abolished the Court of Star Chamber, effectual care is taken to remove all judicial power out of the hands of the king's privy council, who, as then was evident from recent instances, might soon be inclined to pronounce that for law which was most agreeable to the prince or his officers. Nothing, therefore, is more to be avoided, in a free constitution, than uniting the provinces of a judge and a minister of state."

5.30 p.m.

This is what this Bill is doing. It is uniting the functions of a Judge with the Minister of State, and nothing more is to be avoided than that. Let us, therefore, avoid it for it is within our power to do so. It certainly is not beyond us to be able to subject these matters to scrutiny by a committee of this House.

It is bewildering, in this period of our history, to understand the reason why our Government appears to shy away more and

more from the creation of institutions which are likely to produce a consensus. The hon. Prime Minister (Mr. Burnham), when the last Government was in office, used to end every speech like Cato and he used to ask for a national consensus. The hon. Prime Minister was like Cato in that at the end of every speech he had his famous observation to make of the necessity for consensus. Why not then follow his own example and create institutions which it is within his power to create to ensure that at least in certain vital matters affecting the populace we can have that sort of consensus, assuming that we are prepared to try?

I think we must try it; it has value to have men sitting to argue because every man has a certain inner conscience. Indeed, it is that inner conscience which has enabled us to live throughout all the political vicissitudes of this country since the parties in opposition in 1962 began to cause trouble in this land. It is that inner conscience which has enabled us to stand up in these troubled years and which gives us a hope for the future — a hope that we can rely upon one another, in the last resort, to treat fairly and with justice. Let us now appeal to our inner conscience. Let us forget party political affiliations or concerns. Let us endeavour to create institutions which will ensure that persons who are concerned in the acquisition or deprivation of citizenship will have a fair hearing.

I will refer to Clause 7 which, as it were, propagates a doctrine of ministerial infallibility, for only on that premise could we explain why the Minister will not be required to give any reason and why his decision should not be reviewed by the judiciary. But where in this country can we find ministerial infallibility? Why then should we, who claim that we do not wish to follow slavishly what other people do, bring a provision like this into the law, excluding judicial review, not only that, but providing that the Minister need not assign reason?

In the latter provision he has already attempted to exclude the ravages of public opinion for, if a reason were given, it will

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become known to the public and there will be public expressions of opinion about its rectitude. But if he is not to give reason, then he has excluded public opinion at any stage. I think we have waited a long time for this Bill. The Constitutional Conference was held in 1965; Independence came in 1966, and we have waited a long time to have this Bill. Now we have seen it.

The hon. Minister says that regulations are going to be made. Let us hope that there will be no further delays, for, assuming that they were enacted tonight, it would still not be possible to have any applications made until those regulations prescribing several matters are drawn. It is vital too that we should be able to see, as early as possible, how this hon. Minister is going to exercise these wide discretionary powers. There are, indeed, moments of anxiety about the extent to which such exercise will really be in the interest of the public good. When I speak on a matter of this nature I realise that in a changing world, in a society in which there can be sharp cleavages, opinions can differ and differ very genuinely.

My main object in condemning the delay in bringing this measure at all, in saying that it provides autocratic powers, and that Clause 7 may even be steering quite outside the Constitution, is based on the assumption that people who rule other people could consider for themselves that they too, although in the position of rulers, should be able to feel the wishes of those who are ruled. I would therefore ask the Government to have a closer examination of all the aspects of citizenship. I will commend to the Government a better use of the parliamentary machine so that the Members of this House can be brought nearer and become more concerned in the affairs which relate to this very vital subject. *[Applause.]*

5.40 p.m.

Mr. Luck: First of all, like my hon. Friend, Dr. Ramsahoye, I deplore that a Bill providing for citizenship should be made a

Party matter, for, as to who is a citizen of Guyana, should be among reasonable men, a matter of dispute.

Unfortunately, there are many features in this Bill which are, to say the least, objectionable. Our Bill is taken in most particulars from the Jamaica Nationality Act of 1962, and it would be fair to say that our Bill is based on the Jamaica Nationality Act. It is almost a complete copy of the work of the Jamaica legal draftsmen but nothing is wrong with that, but wherever there is a difference in our law, and there are differences in our law and the law of Jamaica, we find that these differences originated from a very false and unconscionable belief that the citizens of Guyana will be whoever this present Government says are citizens of Guyana.

My quarrel with our Bill is firstly, that it seeks to give preferential treatment of a very objectionable kind to Commonwealth citizens and when I first read the Bill, I wondered whether this Bill was intended to confer citizenship on migrant Barbadian workers for the purpose of rigging Elections in this country.

I studied this matter very closely indeed, but when I went into it I found that our Constitution was already rigged and Guyana is one of the few countries in the world, it must be, where citizens of other countries will be entitled to vote at national Elections. I want all Guyanese to know this, that we live in a false and delusive hope if we think that there will ever be fair Elections in this country. Section 65 of this Constitution provides that Commonwealth citizens resident in Guyana for only twelve months may be registered as electors and may exercise the franchise.

In the light of this, one wonders what the Government intends to do to enable Barbadians to vote at the Guyanese Elections.

Clause 4 (1) follows verbatim the Jamaican Section dealing with this matter but it does not follow the Trinidadian provisions. I shall compare them.

When we see Clause 4(1), we must realise that any Commonwealth citizen, who, over the ten years which preceded 26th May, 1966, had been resident for a total of five years in Guyana, is already entitled to be registered as a citizen of Guyana without this, but what does this Bill seek to do? This Bill states that a Commonwealth citizen may be registered at the discretion of the Minister as a citizen of Guyana if he satisfies the Minister that he:

(a) has been ordinarily resident in Guyana; or

(b) has been in the service of the Government of Guyana; or

(c) has had partly such residence and partly such service, and with the greatest respect for my learned Friends opposite, I should have thought that they must have intended a semi-colon there. I cannot be held responsible for the lack of understanding of the difference between a semi-colon and a comma.

Such a person can be registered within five years ending with the date of his application, or such shorter period so ending as the Minister may in the special circumstances of any particular case accept.

In the Trinidad legislation in this behalf, the Minister is allowed in his discretion, to accept a shorter period but no period shorter than twelve months, that is to say, in Trinidad, if one were to go over there and live for one year, and if one were a Commonwealth citizen, the hon. Minister may register such a person as a Trinidadian but he cannot take any shorter period in his absolute discretion.

One wonders, having regard to the unfortunate history of this country, why the Minister has been empowered to register as a citizen of Guyana any Commonwealth citizen residing here for any length of time he considers good enough, bearing in mind the large category of Commonwealth citizens who had been residing here previously and who will automatically be entitled to be registered.

Then, we have this new category of persons from the Commonwealth who have

come here but for a shorter period so ending as the Minister may, in the special circumstances of any particular case, accept.

I say categorically, that in Trinidad, the Minister's discretion is circumscribed and he may confer citizenship on a citizen of the Commonwealth only after he has been resident in that country for a period of twelve months.

5.50 p.m.

We live in a country that is in all honesty several countries, and the exercise we have embarked upon in this Chamber is to create a country, to create a State. In many respects, a State like Guyana is, clearly — to use the words of the great General DeGaulle — an improvised State, and it would need all the skill, honesty and goodwill of all sections of the country before Guyana can really become a State. There are suspicions based on the clearest evidence that rascality is afoot, that Elections are to take place in an atmosphere of rigging, that Barbadians and others are going to participate in the Elections to be held in Guyana. That is what this provides for.

There must be serious doubts in the minds of many people whether Guyana can long subsist as a single united country. I am aware, and I want to remind my hon. and learned Friend the Attorney-General that the British and their constitutional experts have drafted many Constitutions throughout the world, and in so doing they have always sought to bend the constitutional provisions either in their interests or in the interest of their servitors.

Section 65 of the Constitution of Guyana is a most objectionable provision and I would have thought a rather unique one. Putting that aside, we now come to section 4 of this Citizenship Bill and I say that one possible intention of this provision is that we will have migrant Barbadian workers a few months before the Elections being registered as Guyanese, and taking part in the national Elections.

I come now to section 7. May I say this. I recognise that those who will argue against

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the proposition I now put forward will be men of learning, vast learning and reputation. But I am reminded of the words of George Orwell. This is what he had to say about truth: "There was truth and there was untruth, but if you cling to the truth even against the whole world, you are not mad." I want to believe that this section 7(1) does not satisfy the provisions of our Constitution. Section 22 of our Constitution provides that a woman who is or has been married to a Guyanese citizen shall, upon making application be entitled to be registered as a Guyanese. I shall read this part:

"Provided that, in the case of any woman who on 26th May 1966 is not a citizen of the United Kingdom and Colonies, the right to be registered as a citizen of Guyana under this paragraph shall be subject to such exceptions or qualifications as may be prescribed in the interests of national security or public policy."

The whole thing turns on it. I will read it once more.

"... the right to be registered as a citizen of Guyana under this paragraph shall be subject to such exceptions or qualifications as may be prescribed in the interests of national security or public policy."

We are further told in the Constitution that "prescribed" means that it has to be prescribed by an Act of Parliament, and it is my submission that the meaning of this proviso is quite clear that it is by an Act of Parliament that we should create such exceptions or qualifications which would debar this married woman from becoming a Guyanese. We must set forth in this Parliament the exceptions or qualifications which would debar the applicant in the interest of national security or public policy from being registered as a Guyanese.

But what have they done? This is what is stated:

"The Minister may, if he is satisfied that the interests of national security or public policy so require, refuse to register as a citizen of Guyana..."

Now that the Constitution provides that the Parliament must prescribe the exceptions

and qualifications which would debar an applicant in the interest of national security or public policy from being registered, who can equate such a provision by saying that the Minister may, if satisfied in the interest of national security or public policy? I would have thought that it makes clear provision in the Constitution for objective exceptions, facts – that this Parliament must say in what circumstances in the interest of national security or public policy a woman married to a Guyanese is to be denied registration. Here, it is provided that the Minister alone is satisfied. This could not be within the spirit of the Constitution and I do not care which Anglo-Saxon lawyer or Guyanese Anglo-Saxon they bring, they cannot change the Constitution which they themselves drafted.

6.00 p.m.

I turn to naturalisation of aliens. At this point I wish to congratulate the hon. Minister, Mr. Llewellyn John. He has tried to set forth the philosophy – and it is a reasonable one – which underpins his concept of citizenship. I regret, however, that he has followed the Constitution in this regard and sought to put on a different plane citizens of the Commonwealth. In practical terms, the only people in this country who would be discriminated against would be Chinese.

In this Chamber I have never made, and I will never make, any special plea on behalf of Chinese people because I am confident that they will successfully claim and assert those rights which are rightly theirs, and neither Great Britain nor the servitors of Great Britain can obstruct them. But, in practical terms, there are two sets of people here who will have to be naturalised, a handful of Syrians and a few hundred, or almost a thousand, Chinese.

This is a mixed community and I hope that I do not speak boastfully when I say that the Chinese in this country, in proportion to their numbers, have made a vast contribution to the welfare of this community. It is not a statistic that is very

important, but the Chinese are less than one per cent in this country. They have won, and always will win, rather more than 10 per cent of any public scholarships handed out in this country. These people who – and it is to my regret that I say this – have supported this Government are going to find themselves in great difficulty in this matter of naturalisation. I have had much experience in this respect. I am aware of the tremendous difficulties that were deliberately put in the way of people who sought to be naturalised. The whole procedure was difficult. There was, and there always will be in matters of this nature, much room for fraud and dishonesty. I say this quite clearly: This is not 1949; this is 1967 and the great countries of the world formulate their policies based on such information as they get. I would think it very wrong and unfortunate for this Government, indeed, for any Government, deliberately to be discriminating against Chinese people on grounds of race. I say this so that all may hear.

The last time I had to arrange for naturalisation there was a venal and corrupt police officer who went around investigating the suitability and particulars of the applicants. His first question was, "How much income tax have you paid?" Depending on that he would know how costly was the certificate of character which had to be obtained. Fortunately for the persons fifty forged passports came to light and this gentleman was removed on promotion; from a sergeant he became an inspector. Unfortunately my friends complained to me. They said, "Rudy we preferred that last fellow. We understood him. He used to take from \$5 to \$20, but this other man –" They preferred the former man. My estimate of this person's wealth from this source of income alone exceeded \$40,000. It is not a matter to be taken lightly.

I hope that the hon. Minister of Home Affairs will bear in mind my remarks on this matter and will see to it that the applications for naturalisation which will be

made go forward speedily and efficiently, without corruption. I may say that many applications have been rejected. In one case, a man told me his name was Young and I spelt Y-o-u-n-g. When the female at Government House checked up on the fellow she said it should be spelt Y-u-n-g, so she marked it "Out of order". It is obvious to the meanest intelligence that there is no material contradiction. Hon. Members would be amazed to know that this application was suppressed for one year. When one makes enquiries one is told that the procedure is that you may not ask where an application for naturalisation is. When I put a little pressure she brought it one year after it was filed and said, "You spelt Yung wrong. It means he was telling a lie." I said, "Madam, it is only the criminal law that prevents me from telling you what I think about you." This sort of thing pleased the Anglo-Saxon and it still pleases them now, because this is done out of fear, this discrimination against people of Chinese origin.

I tell this Government it is well within their power and their competence, well within the framework of their past performances to discriminate against people on account of their race or colour. I tell them to be careful because we live in a world community and whatever else may be said of the hard-pressed Chinese people at this dangerous time in their history, it cannot be said that they have ill-will towards this country.

6.10 p.m.

Do not forget that whatever you mete out will be meted out unto you, if not here somewhere else. It argues a very peculiar frame of mind to prefer to rule in hell than to serve in heaven. It argues a particular poverty of spirit to act in such a way that if other people were to act in that way you would find cause for complaint.

I urge the Minister of Home Affairs (Mr. John) to see that in these applications for naturalisation there be no frauds, no corruption, unlike the Credit Corporation work which has to go exclusively to one

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firm. There was a time in the local history of this country when you had to go to one firm to get a rum shop licence. I understand that to get an Exemptions Tax Holiday Certificate now — I speak feelingly on this matter; I lost \$1,500 — the application has to be made up by somebody else. In this particular matter there is much legal work and I appeal to the gentlemen opposite to use some sense of statesmanship and allow these matters to proceed fairly.

One last point I wish to speak on would be the provision for the deprivation of citizenship. Clause 11(2) states:

“(2) Subject to the provisions of this section, the Minister may at his discretion, by order, deprive of his citizenship any citizen of Guyana, who is such by registration or naturalisation of the Minister is satisfied that that citizen —

(a) has shown himself by act or speech to be disloyal or disaffected towards the Constitution; or

(b) has, during any war in which Guyana was engaged, unlawfully traded or communicated with an enemy or been engaged in or associated with any business that was to his knowledge carried on in such manner as to assist an enemy in that war; or

(c) has within five years after becoming naturalised been sentenced in any country to imprisonment for a term of not less than twelve months; or

(d) has done any voluntary act which is incompatible with his loyalty to the Constitution.”

Nobody will have any reasonable quarrel with (b) and (c), we agree with them. We will talk about (a) and (d). A man is naturalised and gains the right of a citizen. This right is now to be taken away if he has shown himself by act or speech to be disloyal or disaffected towards the Constitution. A very interesting state of affairs arises here. Surely, this severely circumscribes the freedom of speech of all naturalised citizens.

We must remember that, in our Constitution, we have two Clauses. I used to remember the one where Bookers got as a guaranteed human right, titles to lands that they should not have — millions of acres

involved — as a personal gift between friends. We also have Section 65 which provides that citizens of other countries who reside in Guyana only for one year may vote at elections. Who with any sense will not say that this provision is wrong? If one does so he is entitled to be sent packing. All of this is the familiar apparatus of a Police state. These people already subjected to Police surveillance will now have to pay frequently for favourable reports. The hon. Prime Minister knows how valueless the normal run of security reports is. They say all kinds of foolishness but I believe he would understand, from his own knowledge, how to piece together the jigsaw. But to take as accurate a report of Agent “X” or “Y” would be utterly dangerous.

If a naturalised citizen has acted in a way which shows that he opposes the state of Guyana, I would say that he should go, or if, by his speech, he poses a clear and present danger to the state, here also good jurisprudence would say that such a fellow should go. But it is obnoxious to say that a man should go just because, by his speech, he criticises the Constitution.

As to ground (d), a man is liable to lose his rights of citizenship — and may I say that I would wish it to be known that the rights of a citizen of Guyana are beyond price. I trust and pray that, one day, to be a citizen of Guyana would be to be a citizen of no mean country. A man will lose his citizenship if he has done any voluntary act which is incompatible with his loyalty to the Constitution. Let us understand that it is a subjective matter to say that a man has done something voluntary which is incompatible with his loyalty to the Constitution. It is just like what is incompatible with wives; it has to do with hormones and all kinds of things.

America was developed, and speedily developed, by the labour and skill of a large number of immigrants and one would hope that, similarly, Guyana will be developed by the labour and skill of immigrants who come here freely, willingly and voluntarily, to work and to build, wishing to rob no one. Provisions like these — [The Prime Minister:

"Will scare them away.]" I would not say they would scare them away, they would scare the thinking away.
6.20 p.m.

I have been carrying out a little census of my own and, at least to my personal knowledge, a score of Guyanese doctors have left this country and another score will soon leave. [The Prime Minister: "Your brother is staying though."]

Let us understand it. I challenge the Government - neither in Jamaica nor in Trinidad can the Minister expel anybody who has done any voluntary act which is incompatible with his loyalty to the Constitution.

He has said that this provision is taken from the Malaya legislation. I make a prediction in this House. Ten years from now the Constitution of Malaya will have been thrown into the dustbin. It is harshly discriminatory. [An hon. Member: "Against whom?"] It reminds me that all of these are in shreds in Africa, the reason being that in framing these things - as in Malaya from which this Clause is taken - the intention was there that they should be discriminatory and I say, surely, there is no such provision in the Trinidad Constitution and there is no such provision in the Jamaica Constitution. I know and I speak from personal knowledge. I know of no difference in the circumstances existing in this country and in Trinidad in this particular matter - absolutely none.

Finally, Clause 12 (1) provides that the Minister may in such cases as he thinks fit, on application made by or on behalf of any person with respect to whose citizenship of Guyana a doubt exists, whether on a question of fact or law, certify that that person is a citizen of Guyana.

When a Bill provides that a Minister may do something, this is only a compendious way of saying that the civil servants will do it and put it up for the Minister to sign.

A tribunal could have been appointed by the Minister to do this job. The difference is substantial because the Minister is pressed with serious duties but if a tribunal were

appointed to investigate a particular matter, one would expect that due care and consideration and integrity would have been put into the matter so that the certificate of citizenship may be acceptable to all parties. To put in the hands of a political Minister the power to issue certificates of citizenship under the heading of clearing up doubts is surely obnoxious.

May I in conclusion say this, that I should have thought - and my hon. and learned Friend Dr. Ramsahoye expressed the same view - that the matter of who is a Guyanese citizen should be a matter of consensus. It should not be made a political matter.

Mr. Speaker, I do not propose to continue - I wonder whether this is an appropriate time to adjourn.

Mr. Deputy Speaker: It is not usual for a Member to direct the Chair. Would you like to conclude your speech?

Mr. Luck: I shall continue. One final thing. We find that the children of Guyanese women seem to be put on a different plane, indeed, on a higher plane than the children of Guyanese men. It is well known that West Indian families are "matri-focal", that is to say, the mother really rules the family - and my learned Friend Dr. Ramsahoye expressed this view - and I should have thought that men married to Guyanese women would have been given the right to be registered as Guyanese citizens.

My understanding is that in the United States of America, this is the position. If an American woman marries a foreigner, that foreigner, if he wishes, provided he qualifies otherwise, is entitled to be registered as a citizen.

If we acknowledge, as we have to acknowledge, that Guyanese families - legitimate and illegitimate - centre around the woman, it is one step further to give to the husbands of Guyanese women who otherwise qualify, the right to be registered as citizens. One wonders why this has not been done.

Mr. Deputy Speaker: This sitting is suspended until 8.00 o'clock.

Sitting suspended at 6.30 p.m.

8.10 p.m.

On resumption—

Mr. Deputy Speaker: We will continue the debate on Bill No. 12.

The Attorney-General and Minister of State (Mr. Ramphal): There are very few matters arising out of Guyana's Independence that at once so directly mirror and reflect the aspirations and achievements of that act of self-determination as the concept of Guyanese citizenship. Down through the ages, even before the days of Empire, when men would boast *civis Romanus sum*, communities, states, nations have found it expedient to identify those who belong — those who are members of the body politic, those to whom the authority and the protection of the State reach out through concepts of citizenship or nationality. It was not always a badge proudly worn. It has sometimes, particularly during periods when Empires entered their inevitable stage of dissolution, become a label symbolic of dominion and resented for that reason. In its purest sense, however, citizenship is much more than a mark of identification. It represents the unity that is the State, that sense of oneness that makes one people out of many and out of them all one nation.

It is the legal tie symbolic of our national identity that both pre-empts our collective efforts and in the end conditions our single destiny. It is more than a mere trapping of Independence for in substantial terms it confers right alike both on the citizen and on the State and imposes on each, correlative duties and obligations. And beyond the State on the wider international scene, citizenship is the touch-stone of national identification and is an essential basis of international dealing and organisation. So far has this been recognised in international society itself that the Universal Declaration of Human Rights, adopted at a supreme moment of internationalism, enumerated the right of nationality as being among man's fundamental rights as a human being. Today, it is as a citizen of Guyana that the world

treats with each of our people and it is as citizens of Guyana that we each take our place in the international community. I hope, therefore, that in our discourses in this House on so important a Bill, we will bring to bear in our deliberations an understanding of the significance of the concept itself and of the matters with which the Bill is concerned and I hope that we will relate its provisions to these more fundamental considerations by which in the main they ought properly to be evaluated.

But, I think the very first thing that we must acknowledge in our consideration of this Bill is that its provisions are supplementary merely to the provisions of the Constitution itself. It is in our basic law, in the Constitution of Guyana, that are to be found the essential provisions that regulate the acquisition of Guyanese citizenship. My hon. Friend, the Minister of Home Affairs, in his comprehensive survey of the relevant constitutional provisions has already dealt at great length and quite properly emphasised this aspect. Let us remember that it is from the provisions of Chapter III of the Constitution that the vast majority of our people — I am almost inclined to say 99.9% of our people — derive their status as citizens of Guyana. That status devolved upon them automatically by operation of the Constitution on May 26. It needed no Bill, no Act of Parliament to make this so. The legislation that we are considering today is legislation that the Constitution contemplated would be enacted in due course and with due deliberation, and the Constitution contemplated that a measure of this kind would be enacted to fill out those ancillary areas of the law that the Constitution specifically entrusted to the care of Parliament.

Thus it was by virtue of the Constitution itself that every person who was born in Guyana immediately before Independence or, indeed, who was born outside of Guyana before that date of a father who was Guyanese and who was a citizen of the United Kingdom and Colonies on 25th May,

became a citizen of Guyana as the flag was struck at the masthead at midnight to mark the birth of the new nation. It was by virtue of the provisions of the Constitution itself that all persons born in Guyana after Independence, or born outside of Guyana after Independence, of a Guyanese father will automatically acquire citizenship of Guyana.

This Bill deals primarily with the mechanics for the registration of certain persons who did not become citizens of Guyana by operation of law on May 26 but whom the Constitution contemplates might become citizens under the provisions of an Act of Parliament.

8.20 p.m.

This is a Bill for such an Act. It is also a Bill that deals with the acquisition of citizenship by persons for whom the Constitution has made no direct provision and for such important matters as the renunciation of citizenship or its deprivation on certain specific grounds. The point I wish to emphasise is that the range of the provisions with which the Bill is concerned is highly circumscribed and, alas, for such is the nature of legislation on matters of this kind, highly technical.

It is right, I think, in this debate, which is really the first debate in this Chamber that encompasses the provisions of Part III of the Constitution, that we might look beyond the textual provisions of the Bill itself to the framework of the citizenship law which the Constitution itself establishes. In this matter of citizenship, Guyana shares a common history and a common tradition with all other members of the Commonwealth, and our citizenship arrangements reflect these traditions, and form part of a pattern of Commonwealth legislation. To understand the nature of this pattern, it is necessary, I think, to go back just a little way.

Until 1946, despite the many developments that had taken place in the transition from Empire to Commonwealth, despite the constitutional changes that the Statute of Westminster had ushered in, the

common status of the people of the countries of the Commonwealth, whether they were colonies or dominions, was that of a British subject.

In many cases this common status was recognised by the statutes of several of the self-governing countries in the Commonwealth, but even among the dominions, to use the constitutional vocabulary of those days, there was no citizenship legislation as such. In 1946, however, Canada adopted legislation which was a new departure in several important respects from Commonwealth legislation and, in particular, established by its new Citizenship Act a pattern of separate citizenship while continuing to recognise a common status.

The Canadian legislation of 1946 resulted in a Commonwealth conference in 1947, and as a result of that conference, agreement was reached on what was then described as a common code of Citizenship legislation throughout the Commonwealth. It was, of course, a Commonwealth that had not yet grown to include among its full members the very many countries that have joined as Commonwealth countries since the War.

The essential feature of this common code was that each Commonwealth country would have its own citizenship law defining whom it acknowledged as its citizens and providing for the acquisition and loss of that citizenship. For this purpose, the United Kingdom and its Dependencies would be treated as one unit and their citizens, including ourselves in what was then British Guiana, would have the status of "citizens of the United Kingdom and Colonies". It was thus that this particular phraseology crept into our citizenship legislation.

The second feature of the scheme was that side by side with establishing its own citizenship, each Commonwealth country would recognise as a Commonwealth citizen (or as a British subject if the particular Commonwealth country preferred this nomenclature) its own citizens as well as the

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citizens of every other Commonwealth country.

There were other ancillary points of agreement such as that aliens naturalised according to the law of any Commonwealth country would be recognised as Commonwealth citizens throughout the Commonwealth, that women would not necessarily have the national status of their husbands and that, as far as practicable, a choice of status should be granted to them and, finally, — and this was a matter of some importance — that citizenship of a Commonwealth country would be obtainable rather more easily by citizens of other Commonwealth countries than by aliens.

This broad consensus arrived at in 1947 did not, of course, produce any stereotype form of legislation for all Commonwealth countries and the citizenship laws passed by Commonwealth countries since 1947 have differed considerably in their details. I think it is fair to say, however, that in general there has been an overall adherence to the agreed scheme and a great many significant common features.

The citizenship provisions contained in Part III of the Constitution have taken account of these Commonwealth arrangements and they reflect to a considerable extent provisions that would be found in the laws and constitutions of several other Commonwealth countries.

Thus we have, mainly by the Constitution, and supplementally through this Bill, defined the persons whom our law, the law of Guyana, will recognise as citizens of Guyana. We have conferred on our citizens the status of Commonwealth citizens, and we have recognised as Commonwealth citizens, citizens of other Commonwealth countries. We have given special rights to wives of Guyanese citizens through which they might exercise the option of securing citizenship of Guyana.

Finally, we have made it easier, both by transitional provisions in the Constitution

itself and through the provisions of this Bill, for Commonwealth citizens to acquire citizenship of Guyana rather more easily than it is for aliens. Our citizenship laws in their totality, therefore, reflect our membership of the Commonwealth and reflect to a considerable extent our adherence to the arrangements generally made between Commonwealth countries on the basis of mutual recognition and similar, if not uniform, legislation.

8.30 p.m.

Before I leave this aspect of the matter, I find it unfortunately necessary to say a word in response to the views expressed earlier in the debate by my hon. and learned Friend Dr. Ramsahoye on the subject of Commonwealth citizens.

In what I can only assume must have been a moment of forgetfulness, he expressed surprise at the appearance in the Independence Constitution and in this Bill of a reference to Commonwealth citizens. I understood him to say that the concept of Commonwealth citizen was an empty and meaningless one and that its adoption in our citizenship laws, including the Constitution, was merely to serve the purpose of “beguiling the unthinking”. I hope that in what I have already said on this matter I have placed it in its proper perspective and demonstrated the propriety of our recognition of these intra-Commonwealth arrangements.

These provisions need no defence or justification beyond this. What is difficult to understand is how my hon. and learned Friend could come before the House, as he did this afternoon, and speak the sentiments he uttered when he had himself, in 1962, prepared and presented to this country a draft constitution for an Independent Guyana in which he had provided in terms identical to the relevant provision of our current Constitution — the one that did in fact see us to Independence — provisions relating to Commonwealth citizens and providing for their mutual recognition.

Let me read to hon. Members from a document with which they, and in particular my hon. and learned Friend Dr. Ramsahoye, would be very familiar. I am referring to the provisions of that draft constitution relating to Commonwealth citizens. I read from Article 12 of the draft which bears the identical marginal note to that with which my hon. and learned Friend was dealing:

12. (1) Every person who under this Constitution or any Act of Parliament is a citizen of Guyana or who under any enactment for the time being in force in any country to which this article applies is a citizen of that country shall, by virtue of that citizenship, have the status of a Commonwealth citizen.

(2) Every person who is a British subject without citizenship under the British Nationality Act, 1948, or who continues to be a British subject under section 2 of that Act shall by virtue of that status have the status of a Commonwealth citizen."

If I am to do no more than to reflect the language of my hon. and learned Friend I am bound to ask: who were the unthinking then being beguiled? Had my hon. and learned Friend been a Judge exercising, on this occasion, a professional as distinct from a political judgment, he might, I think with fairness, have uttered the words of a famous Judge who, when reviewing his own work at first instance at a time when he sat on the Court of Appeal, said without need for excuse: "The matter does not appear to me now as it appears to have appeared to me then".

One could only say these words, however, when the judgment one exercises is a professional one. I say, in all seriousness, it is a disservice to this honourable House for any suggestion to be projected that in the provisions of the Constitution and the provisions of this Bill that recognise and reflect the Commonwealth arrangements relating to Commonwealth citizens we have, in some way, acted uniquely or in some way attempted to mislead.

While I am on this theme of accusation, let me say a word in response to some of the things said by my hon. and learned Friend

Mr. Luck in the course of his contribution to the debate. I regret that the hon. Member is not in his place but I am sure that I do him no disservice in what I attribute to his speech. There were two particular matters on which he sought to castigate the Government for having pursued mischievous ends. The first was his allusion to the fact that, under the provisions of Article 65 of the Constitution, a Commonwealth citizen who was not a citizen of Guyana but who was domiciled and resident here for a prescribed period may vote in our national elections. The hon. Member suggested that there could be no other constitution in the world in which a person who was not a citizen could exercise the right to vote in national elections. In fact the hon. Member ought to have known very well that provisions of this kind are by no means unprecedented and appear in a large number of constitutions.

To go no further than the Constitutions of neighbouring Trinidad and Jamaica, let me remind my hon. and learned Friend that in both these countries Commonwealth citizens like himself enjoy the right to vote in national elections once they have fulfilled the prescribed conditions of residence. Thus, for example, Section 34 of the Trinidad and Tobago Constitution provides as follows:

"Qualification of voters.

34. Subject to such disqualifications as Parliament may prescribe, a person shall be qualified to vote at an election of members to serve in the House of Representatives if, and shall not be qualified to vote at such an election unless, he —

(a) is a Commonwealth citizen of the age of twenty-one years or upwards, and

(b) has such other qualifications regarding residence or registration as may be prescribed by Parliament."

The same is true of Article 37 of the Constitution of Jamaica which reads as follows:

"Qualifications and disqualifications for electors.

37. Subject to the provisions of subsection (2) of this section a person shall be qualified to be registered as an elector for elections to the House of Representatives if,

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and shall not be so qualified unless, he is —

(a) a citizen of Jamaica resident in Jamaica at the date of registration, or

(b) a Commonwealth citizen (other than a citizen of Jamaica) who is resident in Jamaica at the date of registration and who has been so resident for at least twelve months immediately preceding that date, and has attained the prescribed age.”

8.40 p.m.

Not only do the provisions of the Constitution of Guyana impose a minimum period of residence for Commonwealth citizens before they could acquire the right to vote — and I would commend to hon. Members, who are so vociferous, the text of the Constitution — but they impose the requirement of domicile, which is altogether absent from the provision of the Constitutions of Trinidad and Jamaica.

What is more, it would not have escaped the notice of my learned and hon. Friend Mr. Luck, that, if my information is correct, one of his colleagues who sits on the Opposition front Bench is actually a Member of this hon. House on the basis of his qualification as a Commonwealth citizen and not as a citizen of Guyana.

Let us, therefore, have an end to all this talk of rigging Elections based as it is on these spurious propositions of law and mistaken notions of comparative constitutions.

Finally, my hon. and learned Friend Mr. Luck suggested evil and dangerous intentions behind the provisions — and I am glad to see the hon. Gentleman entering the Chamber — of Clause 4 of the Bill which permit the Minister to shorten the period of residence for the purposes of registering Commonwealth citizens as citizens of Guyana without a minimum period being prescribed. My hon. and learned Friend drew attention to the fact that under the Citizenship Act of Trinidad and Tobago a minimum period of twelve months was prescribed. He made it clear in his speech, to me as I imagine to all other hon. Members, that he had examined the citizenship

legislation of Jamaica.

What he did not explain, what he ought to have explained, when he began to impute bad motives, was that the provision in our Bill follows the form of the Jamaica provision where, as would be the case in Guyana if this Bill is passed, the Minister has a general discretion, without any stipulation of minimum residence, to reduce the period of residence for the purpose of permitting the registration of a Commonwealth citizen as a citizen of Jamaica, and this provision also applies to the relevant Barbados legislation which was enacted just a week ago.

Hon. Members on the other side have an unquestioned right to examine measures brought before this House with scrupulous care and to voice their criticisms honestly and fearlessly but they also have a duty, when they make accusations in this House founded on a comparison between the measure before the House and similar legislation elsewhere, to be sure of their facts and to be accurate in their presentation. [Mr. Luck: “Trinidad has a minimum of twelve months.”]

My learned and hon. Friend Mr. Luck made only one other point which I should have liked to concede him since I could not concede him anything else. It concerns a comma which appears at the end of sub-paragraph (c) of subsection (1) of Clause 4 of the Bill. He seems quite convinced that that comma appears in error for a semi-colon. I have no doubt that he will pursue this matter in Committee. May I assure him in advance that a semi-colon would be entirely wrong and that the comma is correct.

When I interpolated these comments on the speeches made this afternoon, I was referring to the manner in which we have sought in the Legislature, through the provisions of the Constitution and the Bill, to fulfil our Commonwealth commitments.

There is another level of obligation which we have had to employ in framing both the

provisions of the Constitution and the provisions of the Citizenship Bill. I refer to our obligations as a member of the international community. Particularly since the end of the last war when the conscience of all mankind was quickened by the events of those terrible years of persecution and of violence a great deal of effort has been expended at the international level in framing declarations, conventions and covenants directed to securing just treatment by all states for all people in the laws relating to nationality.

Some of these international conventions touch directly on citizenship laws and we have had to take account of that. We have had to take account of the Conventions relating to the Status of Stateless Persons and the Reduction of Statelessness and we have had to take into account all the provisions of the Convention on the Nationality of Married Women and we have done so at every stage of our examination and our work whether it has been in the Constitution or in the Bill itself.

I think it is fair to say that even in those cases where we are not bound by the provisions of the relevant convention, for example, the convention on the Reduction of Statelessness, we have adhered to its precepts in drafting the constitutional arrangements and filling them out in the provisions of this Bill.

There will be time in the Committee stage of the Bill for me to deal in greater detail and, if necessary, at greater length with particular provisions that may be the subject of discussion by hon. Members.

I think it is sufficient for me to say at this stage that I can commend the Bill to hon. Members as a measure that pays respect to our obligations, to ourselves as a society, to the Commonwealth of which we are a member, and to the international community of which we are an integral part.
8.50 p.m.

Mr. Jagan: I have listened very carefully to the hon. Minister of Home Affairs, this afternoon. The hon. Minister of Home Affairs, in my view, wasted a lot of time in

this House by reading the provisions of the Constitution which all of us are capable of doing. Having done that, he read through the Bill Clause by Clause, without giving any explanation. I would also deal with a few of the Articles of the Constitution and some of the Clause of this Bill in due course. I had hoped that my hon. and learned Friend, the Attorney-General would have dealt with one of the points made by my colleague, Mr. Luck, with respect to the proviso to Article 22(1) of the Constitution where the Minister has a discretion in registering a woman who is married to a citizen of Guyana.

Before I deal with that, the hon. Minister of Home Affairs in trying to justify Clause 7(2) of the Bill in which it is stated that his discretionary power could not be questioned in any court, cited section 11 of the Jamaica Nationality Act of 1962, and told us that this provision is to be found in that Act. But the hon. Minister probably did not read the provisions in the Jamaica Constitution nor did he read the Jamaica Nationality Act of 1962. Clause 7(2) deals with the discretion to be exercised by the Minister in respect of the provision in clause 7(1) which is the proviso to Article 22(1), (4) and Article 25.

I have a copy of the Handbook of Jamaica for 1962. Their Article 3 is almost similar to our Article except that the name is substituted as required. Article 4 of the Jamaica Constitution, which is similar to our Article 22, deals with - if I may quote:

“4. - (1) Any woman who, on the fifth day of August 1962 is or had been married to a person -- (a) who becomes a citizen of Jamaica by virtue of section 3 of this Constitution; or (b) who, having died before the sixth day of August 1962 would, but for his death, have become a citizen of Jamaica by virtue of that section, shall be entitled, upon making application in such manner as may be prescribed and, if she is a British protected person or an alien, upon taking the oath of allegiance, to be registered as a citizen of Jamaica.”

Now, we have a provision in Article 22(1) which reads as follows:

[MR. JAGAN]

“Provided that, in the case of any woman who on 26th May 1966 is not a citizen of the United Kingdom and Colonies, the right to be registered as a citizen of Guyana under this paragraph shall be subject to such exceptions or qualifications as may be prescribed in the interests of national security or public policy.”

That is a part of the provision under which the Minister has the right to exercise his discretion, whereas in Jamaica there is no such provision. In Jamaica a married woman is entitled, as of right, to be registered.

The Minister also has a discretion in respect of Article 22(4) of our Constitution. Article 22(4) is almost similar to the provision in Article 4(3) of Jamaica. Article 22(4) reads as follows:

“Any woman who on 25th May 1966 is or has been married to a person who subsequently becomes a citizen of Guyana by registration under paragraph (2) or (3) of this article shall be entitled, upon making application and, if she is a British protected person or an alien, upon taking the oath of allegiance, to be registered as a citizen of Guyana.”

It means that such a person is entitled as of right to be registered and the Minister has no discretion whatsoever. But, Article 22(4) also has a proviso which is similar to that in Article 22(1). It reads:

“Provided that, in the case of any woman who on 26th May 1966 is not a citizen of the United Kingdom and Colonies, the right to be registered as a citizen of Guyana under this paragraph shall be subject to such exceptions or qualifications as may be prescribed in the interests of national security or public policy.”

9 p.m.

As I have stated the first part of that provision, without the proviso, is similar to Article 43 of the Jamaica Constitution and in Jamaica such a person is entitled, as of right, to be registered, whereas in Guyana the Minister, under the proviso as stated in the Bill, could refuse to register a person without giving any explanation.

The other Article referred to in clause 7(1) is Article 25 of the Constitution, which also has a proviso. Article 25 says:

“Any woman who, after 25th May 1966, marries a person who is or becomes a citizen of Guyana shall be entitled, upon making application in such manner as may be prescribed and, if she is a British protected person or an alien, upon taking the oath of allegiance, to be registered as a citizen of Guyana:

Provided that the right to be registered as a citizen of Guyana under this article shall be subject to such exceptions or qualifications as may be prescribed in the interests of national security or public policy.”

This provision, article 25 of our Constitution, is similar to Article 7 of the Jamaica Constitution but the latter has no provision as contained in the proviso to Article 25 of our Constitution, so it means that in Jamaica once a male who was a Jamaican citizen married someone other than a Jamaican citizen after Independence, that lady became automatically a citizen of Jamaica. Our provision seems to be contradictory to a certain extent. I hope my learned Friend will deal with it in Committee stage. Article 25 is dealing with the case of marriage after Independence. Article 22 dealt with marriage before Independence. With respect to marriage before Independence, if the lady was a citizen of the United Kingdom and Colonies, she was entitled as of right to be registered as a citizen of Guyana. It would seem however, that under the provision of Article 25, if the marriage takes place after Independence, although she may be a citizen of the United Kingdom and Colonies, she is not entitled to be registered as of right.

Why I say that there seems to be some confusion is because Article 25, which I just read, states:

“Any woman who, after 25th May 1966, marries a person who is or becomes a citizen of Guyana shall be entitled,”

this Article uses the words “shall be entitled” -

“... upon making application in such

manner as may be prescribed and, if she is a British protected person or an alien, upon taking the oath of allegiance, to be registered as a citizen of Guyana."

It seems that the word "shall" is mandatory, that the person, on application, is entitled as of right to be registered. The proviso, however, not only limits but it nullifies the whole of the mandatory purpose of the previous part of this Article. The proviso, if it is to be given its meaning, would have the effect that the word "shall" will have to be read as "may" It says:

"Provided that the right to be registered as a citizen of Guyana under this article shall be subject to such exceptions or qualifications as may be prescribed in the interests of national security or public policy."

This means that under the proviso the Minister has a discretion and the person shall not be entitled, as of right, to be registered under Article 25.

The hon. Minister of Home Affairs referred to Section 11 of the Jamaica Act, the section dealing with the discretion of the minister; in Jamaica the Minister does not have to exercise a discretion in respect of refusing persons to be registered, whereas in Guyana, with a discretion given to the Minister, they could be deprived of citizenship.

One would have expected also that instead of the hon. Minister of Home Affairs reading the proposed Bill he would have given us some explanation, for instance, of clause 4(1) of the Bill with which my learned Friend Mr. Luck has already dealt, and that he would have said something with respect to the Minister exercising his discretion in registering a Commonwealth citizen who has been resident in the country for a period of less than five years. Under this clause the Minister could do so in special circumstances in respect of particular cases. One would have expected that the Minister would have given us some indication as to what the circumstances under which such a discretion could be exercised.

My hon. and learned Friend the Attorney-General dealt with the criticisms

made by my colleague Mr. Luck in reference to Article 65 of the Constitution, but what I think Mr. Luck was dealing with is the point that although provision is made in the Constitution, in Article 65, in respect of citizens of Guyana who are domiciled in Guyana and Commonwealth citizens who are domiciled in Guyana and are resident in Guyana for a period of twelve months before they are qualified to vote, yet under Clause 4 (1) (c) the Minister could exercise his discretion in such a way as to enable people to be qualified to vote when normally they would not be qualified under Article 65 of the Constitution.

9. 10 p.m.

The first part of Article 65 dealt with the right of citizens of Guyana who are domiciled in Guyana. The hon. Member Mr. Luck was saying that, in respect of Commonwealth citizens, they had to be resident in Guyana for a period of twelve months and they must be domiciled in Guyana, whereas, under Clause 4(1) (c), a Commonwealth citizen who is in Guyana for four months could be made a citizen of Guyana and, therefore, that person would be entitled to vote not as a Commonwealth citizen but as a citizen of Guyana. I think my hon. and learned Friend was dealing with that part of the provision. I agree with him that this provision is found in other constitutions.

Article 23 of the Constitution reads as follows:

"23. Every person born in Guyana after 25th May 1966 shall become a citizen of Guyana at the date of his birth:

Provided . . ."

There is a proviso but, for the sake of my argument, I will not deal with that aspect of it. Clause 4(2) of the Bill reads as follows:

"(2) Subject to the provisions of section 7 of this Act, a person shall be entitled, on making application under this subsection to the Minister in the prescribed manner, to be registered as a citizen of Guyana if he satisfied the Minister that he is and always has been stateless and ."

I want to deal with (c):

"(c) that he was born in Guyana."

[MR. JAGAN]

As I understand Clause 4(2), it means that if a person was born in Guyana and he was stateless, he is entitled to be registered as a citizen of Guyana, on application to the Minister. Now my view is that once the person is born in Guyana he is entitled to be registered as a citizen under Article 23 of the Constitution, regardless of whether he is stateless or not. The proviso to Article 23 dealt with a person who is born in Guyana in respect of parents who are in the country as diplomats. But let us deal with a case where the person is born in Guyana and the proviso to Article 23 would not apply to that person. It would mean that, at the time of birth, that person would be a citizen of Guyana, regardless of whether the parents were stateless or not. I would be grateful if, in his reply, the Minister of Home Affairs would deal with this aspect of the matter because it would seem that Clause 4(2)(c) need not be enacted.

Clause 5(1) is similar to a provision in the Jamaica Nationality Act dealing with registration of minors. It reads as follows:

“5 (1) The Minister may, at his discretion, cause the minor child of any citizen of Guyana to be registered as a citizen of Guyana upon application made under this subsection in the prescribed manner by a parent or guardian of the child.”

I have in mind a case where a Guyanese woman has a legitimate child outside of Guyana. In such a case, that child would not automatically be a citizen of Guyana under the provisions of the Constitution and this Bill.

It would seem that since the child is that of a Guyanese parent, the mother of that child, during the period when the child is a minor, could apply to the Minister for registration as a citizen of Guyana. If, for instance, the mother did not apply for registration, could that child, on attaining full age, apply to be registered as a citizen of Guyana? I looked through the Bill to see whether there is any provision to take care of such a case but I have seen none.

For instance, a Guyanese woman may have a child in a non-Commonwealth country and the woman may not apply to have the child become a citizen during the period when the child is a minor, under Clause 5(1). Now could that child, on attaining the age of 21, apply to become a citizen of Guyana? The provision seems to be limited to during the period when the child is a minor. Clause 4 deals with the question of persons who are Commonwealth citizens and who are resident in the country and it would seem that if the parent of a minor is entitled to apply to have the minor registered as a citizen, that minor, on attaining the age of 21, should also be entitled to apply to become a citizen of Guyana.

9.20 p.m. If the minor could apply through the mother, I see no reason - because of the fault of the mother that she did not apply - why the minor should not become a citizen of Guyana, why that person should be debarred from becoming a citizen.

May I refer to Clause 5(3) of the Bill dealing with the adoption of a child who is not a Guyanese:

“Where under a law in force in Guyana relating to the adoption of children an adoption order is made in respect of a minor not a citizen of Guyana, then if the adopter or in the case of a joint adoption, the male adopter is a citizen of Guyana the minor shall become a citizen of Guyana as from the date of the order.”

If I may pause there for a moment to reflect on, as I understand it, a case where one person only is applying for the adoption of a child who is not a Guyanese, whether that person is a male or a female. Let us take the case of a female. If a woman applies to have a child adopted, that child, on the making of an adoption order, provided the woman is a Guyanese citizen, would automatically become a citizen of Guyana.

In the case of joint adoption - according to the Bill - male and female, in many cases husband and wife, if the male adopter is a citizen of Guyana, then the child would

become a citizen of Guyana on the date of the adoption order.

However, it would seem that if the female adopter in a joint application is a Guyanese citizen, then the child would not automatically be a Guyanese citizen. Something seems to be wrong with this provision because if the woman is a single person, that woman, as a Guyanese citizen, has a right to adopt a person and on the making of that adoption order the child would automatically become a Guyanese citizen. If the same woman has a husband who is a non-Guyanese citizen and she makes a joint application with her husband, that child cannot become a citizen of Guyana on the making of the adoption order.

Something definitely is wrong because the same lady, although a Guyanese citizen in both cases, in one case because she is the sole applicant, the child would automatically become a Guyanese citizen, and in the other case where she is joining with her husband, who may not be a citizen of Guyana, the child would not automatically become a citizen of Guyana. I should have thought that once either party in a joint application is a citizen of Guyana, then the child would automatically become a citizen of Guyana.

If the Government wanted to put a limit in respect of the father, then the Bill should also state that in the case of a single applicant, when the applicant is a male, the child would automatically become a citizen of Guyana.

The Bill should go on to state that in the case of a female applicant, that child would not become a citizen of Guyana or else it would seem strange. It would seem that because she is married to a non-Guyanese citizen, the child cannot become a citizen of Guyana.

We have dealt to a certain extent with Clause 7 of the bill. The Minister, as I have said, has referred to the provision of the Jamaica Nationality Act in which, he said, the same provision as Clause 7(2) of our Bill can be found, but as I have already stated, in Jamaica, the Minister does not have to

exercise his discretion in so many cases or in these cases in which the Minister here is given a discretion.

During the debate on the National Security Act, the Minister of Home Affairs referred to certain provisions which we criticised, in particular, Clause 11 dealing with the committee of enquiry. He referred to the provision, in that Act, for the appointment of a tribunal but the Minister, under that Act, is not bound to accept the recommendation of the tribunal and as you will remember, we also criticised that Act. As you will remember, we had said that since the tribunal is set up by the Government, the Minister should accept the recommendation of the tribunal.

I must admit that there are similar provisions in other constitutions but as I said, not because there are similar provisions in other Constitutions that what is stated is right. My view is that once a Minister is given such wide powers, he should be subject to an appeal from his refusal to register such a person.

My learned Friend Dr. Ramsahoye has already dealt with rights of appeal in referring to Clause 7 of this Bill but one would have thought that if the Government appointed a committee, there would be a provision as in other Constitutions, where a person applying to be registered as a citizen has his application considered by a committee, and if the committee approves of the application, that is the end of the matter. If the Committee refuses it, then the person has a right to appeal to a Minister or some other person who is designated by the Government. There are two persons, so to speak, to grant or refuse.

The hon. Minister referred to dual citizenship in passing. There is nothing in the bill dealing with that aspect of the matter. If the Minister should read the Jamaica Act, he would see that there are provisions dealing with dual citizenship for persons naturalised or registered in Jamaica.

9.30 p.m.

Now, nothing is stated in this Act. No

[MR. JAGAN]

doubt, that is why the Minister did not deal with it to any great extent. I should like the Minister, in his reply, to tell us what is the Government's attitude, what is its policy in respect of dual citizenship. I am not talking about a person being a citizen in the Commonwealth at the same time. With due respect to the Minister, that in my view is not dual citizenship. Dual citizenship, as I understand it, is when a person is a citizen of two different countries at the same time. A person who is a Commonwealth citizen is not a citizen of any country other than, maybe Guyana. I should like the Minister to tell us what is the Government's policy in respect of persons with dual citizenship. I ask that because there is a provision in our Constitution in Article 26(1) which reads as follows:

"If the Governor-General is satisfied that any citizen of Guyana has at any time after 25th May 1966 acquired by registration, naturalisation or other voluntary and formal act (other than marriage) the citizenship of any country other than Guyana, the Governor-General may by order deprive that person of his citizenship."

If a Guyanese citizen applies to be naturalised or registered and acquires the citizenship of any other country, the Governor-General may deprive him of his Guyanese citizenship. That is the point. I shall now deal with Article 26(2) which reads as follows.

"If the Governor-General is satisfied that any citizen of Guyana has at any time after 25th May 1966 voluntarily claimed and exercised in a country other than Guyana any rights available to him under the law of that country, being rights accorded exclusively to its citizens, the Governor-General may by order deprive that person of his citizenship."

It means this. If a Guyanese citizen after the 26th of May does any act say, in the United States or any other country, or claims any rights that only a citizen of that country has the right to claim, the Governor-General may deprive that person of his Guyanese citizenship. One would have expected the Minister to tell us something of the Government's policy in

respect of the acquisition of citizenship after the 26th of May, by a Guyanese. It probably means that a person who is a Guyanese citizen may be deprived of that citizenship if he does an act as stated in Article 26 of the Constitution. Therefore, the Government should tell the country, the Guyanese citizens, what is its policy in respect of this.

There can be no doubt that the Government contemplates dual citizenship, and I say so having read Clause 10(2). Clause 10(1) deals with a person refusing renunciation of his Guyanese citizenship. In Clause 10(2) it is stated that:

"A declaration of renunciation of citizenship of Guyana made under subsection (1) of this section by a person who is not a citizen of any other country shall be registered only if the Minister is satisfied that that person will after the registration become a citizen of national of some other country; and if that person does not become such a citizen or national within six months from the date of registration he shall be, and be deemed to have remained, a citizen of Guyana notwithstanding the registration."

I am dealing with the renunciation of Guyanese citizenship. It means that the Government contemplates that a citizen of Guyana could be a citizen of some other country by what is stated in this subsection. The hon. Minister of Works and Hydraulics said that is not so. But it is quite clear that the Minister would not register it unless he is sure that this person is not a citizen of some other country. The legal adviser to the Government agrees with that.

We would expect the Minister of Home Affairs, in his reply, to deal with the policy of the Government with respect to the acquisition of citizenship of another country after one has acquired Guyanese citizenship. The Minister of Home Affairs and my learned friend, Mr. Luck dealt with Clause 11 of the Bill. The Minister cited Clause 11(2) (d). In fact, he cited a part of the Constitution of Malaya. I think the Minister would agree with me that there is no provision similar to Clause 11(2) (d) in the Jamaica Nationality Act, 1962. I think it is

obvious that it is not the Jamaica Nationality Act because Clause 11(2) (a) reads:

(2) "Subject to the provisions of this section, the Minister may at his discretion, by order, deprive of his citizenship any citizen of Guyana, who is such by registration or naturalisation if the Minister is satisfied that that citizen -

(a) has shown himself by act or speech to be disloyal or disaffected towards the Constitution; or"

9.40 p.m.

I would have thought that that would cover anything that the Minister intends to be covered under (d) which refers to the position where a person -

"has done any voluntary act which is incompatible with his loyalty to the Constitution."

"Any act" must mean by act or speech, and "any voluntary act" must be covered by (a), and that is why I am sure that the provision is not found in the Jamaica Constitution because there is no necessity for it.

The Minister has made great play with respect to the Committee of Enquiry headed by someone with judicial experience. First of all, what would be the position before the Committee comes into being, and before a matter is referred to it? Under Clause 11 the Minister decides whether he wants to deprive a person of citizenship and it is only after this is done that it would be sent to the Committee. The Minister is not bound by the Committee's recommendations which would go back to the Minister who has already decided that such person is to be deprived of his citizenship. It means, therefore, that the Committee, about which the Minister made so much play, might be a waste of time and a waste of Government's money.

The hon. Minister referred to the fact that in the National Security Act there is a Tribunal and that the Minister is not bound to accept a decision of the Tribunal. Hon. Members will remember that we criticised

that provision when the National Security Bill was before the House. We say that if the Minister decides that a person should be deprived of his citizenship and sets up a Tribunal, which would be appointed by him, with a Chairman who would be, as he himself said, a person with judicial experience, we would expect that the person to be so appointed by the Minister would be impartial and fair. Therefore, after the case is heard, the decision should be accepted, because the Chairman would be a person accepted by the Minister himself. One would expect a person with judicial experience to be impartial. Therefore one would expect the Minister to accept the decision of that person.

The Minister has the facts before him. One would expect him to exercise his discretion, although he may not be a judicial officer. One would expect a person of his training to exercise his discretion judicially. Having gone into all the evidence for and against a person, he decides that such person is to be deprived of his citizenship. Now the Minister told us that the person has a right which is stated here: if the person requests the appointment of a Committee, the Minister is bound to appoint such a Committee. Other than that the Minister in his own discretion may do so. Surely if the minister has made up his mind, as one sees from this whole Bill, there is no appeal from his decision. He does not have to give any reason but one expects that he would exercise his discretion judicially and, having done so, having gone through the evidence, and having decided that this person's registration should be revoked, what is the use of sending it to a Committee headed by a person with judicial experience? Most likely it might be a judge or an ex-judge. A person with judicial experience would have to be a judge or an ex-judge. What is the use of sending this person's case to a judge or an ex-judge appointed by the Minister unless the Minister is going to accept the Committee's recommendations?

I would have thought that the Minister and the Government would accept the recommendations of this Committee of

[MR. JAGAN]

Enquiry headed by a person with judicial experience. There could not be anything more unfair than that, that is, to send a person before the Committee when the Minister has made up his mind before.

The Minister also referred us to Clause 11(6) which states that there would be provision for the exercise of power by the Committee. As my hon. Friend stated, one would expect the person conducting the Enquiry to act impartially, to act with due regard to natural justice and so on.

9.50 p.m.

Having made these provisions, as the Minister has stated, that persons should be given a right of hearing and as to how the inquiry should be conducted, let us, for the sake of argument, suppose that the person conducting the inquiry refuses to carry out the provisions of this Article. Is there any provision for redress? There is no provision. The Minister said that the rule of natural justice would have to apply. One would expect that, but I am sure my friend has come across many cases in the Law Reports where persons in authority - Ministers and other persons - exercising judicial functions were also supposed to recognise the rule of natural justice and those provisions, in many cases, were disregarded. In many cases appeals have been successful because the persons who should have carried out those inquiries in a judicial manner failed to do so. The Minister of Works and Hydraulics (Mr. Singh) is also aware of this.

I am saying that although there is provision in the Bill that this person must carry out the elementary function of natural justice and so on, where these rights are given to persons, a breach of those rights usually entitles them to appeal to a higher body so that their cases could be reviewed. What is the use of setting up an inquiry unless one could ensure that the provision of natural justice would prevail?

There are three provisos in this Bill under which the Minister would exercise his

discretion as stated in Clause 7. In each of those provisos the exceptions and qualifications to be prescribed are referred to. We hope that the Minister would give us some indication of the exceptions and qualifications he has in mind. The Minister said that there would be regulations and, in order not to anticipate, one would expect the Minister to tell us what are the exceptions and qualifications he has in mind in exercise of his discretion under Clause 7. Surely, this House is entitled to be told this.

I am sure that, at some time, my hon. and learned Friend on the other side may be called upon to advise people as to whether it is possible for them to be registered as citizens of Guyana. Therefore, we should have some yardstick. The Minister should tell us something so that we who have to advise people would have some idea of what the Minister has in mind in the exercise of his discretion when he is called upon to do so.

The majority of women who are to be registered - [Mr. Joaquin: "All women."] Not all - would have to come under the discretion of the Minister. My hon. and learned Friend's wife would be registered as of right, therefore the Minister has no discretion in respect of his wife. But it is in respect of a marriage after 25th May, 1966 that the Minister has complete discretion. Before the 25th May, 1966, the Minister has no discretion where the wife was a citizen of the United Kingdom and Colonies, as my hon. Friend's wife is.

Mr. Deputy Speaker: Hon. Member, all those points were made already. I think this is the appropriate time to take the Adjournment.

ADJOURNMENT

Resolved, "That this Assembly do now adjourn until Friday, 25th August, 1967, at 2 p.m." [Mr. Bissember.]

Adjourned Accordingly at 10.00 p.m.