

Dr. P. S. Deshmukh (C.P. & Berar: General) : Nobody said that.

Pandit Hirday Nath Kunzru : Well, one of the speakers said that.

Dr. P. S. Deshmukh : I never said that :

Pandit Hirday Nath Kunzru : Well, if Dr. Deshmukh is clear on that point or has modified his opinion on that point, I gladly concur in the view that he now holds on this point.

Dr. P. S. Deshmukh : I do not think my Friend listened to my speech with any care.

Pandit Hirday Nath Kunzru : I was in the House when the honourable Member spoke, but I may have misunderstood him, I may not have heard him correctly. In any case it seems from what Dr. Deshmukh has stated that there is nobody in this House that has anything to say against article 5.

Now I come to article 5C. Prof. K. T. Shah was probably thinking of the Indians in Malaya when he gave notice of the amendment that if the municipal law of any country did not require that a man should renounce the citizenship of the country to which his ancestors belonged before acquiring the rights of citizenship in that country, there was no reason why our law should prevent him from claiming Indian citizenship. I have taken a great deal of interest in the position of the Indians residing abroad since we got a copy of the Draft Constitution. It has been my endeavour since then to enable Indians living abroad living at least in certain places, to be regarded as Indian citizens without fulfilling difficult conditions. I can say with perfect confidence that article 5C has been so drafted as to take into account the rights of the people whom probably Prof. K. T. Shah had in mind when he sent in the amendment that I have just referred to. Obviously we, cannot allow a man whose ancestors settled down in another country two hundred years ago, to be still regarded as an Indian citizen. There must be some limit to the time during which the descendants of people who were Indians could be regarded as Indians even though they were living outside India. Article 5C lays down that "any person who, or either of whose parents or any of whose grand parents, was born in India as defined in the Government of India Act, 1935, as originally enacted, and who is ordinarily residing in any territory outside India as so defined, shall be deemed to be a citizen of India" if he has fulfilled certain conditions. Now, the condition laid down is that he should get himself registered as a citizen of India by the diplomatic or Consular representative of India in the country where he is living. It thus seems to me that article 5C takes full account of the just rights of Indians living not merely in Malaya, but also in other countries where some doubt has been cast on the position of Indians who have been resident there for a long time. If there are among them any persons who still regard themselves as Indian citizens, they will have an opportunity of claiming Indian citizenship under article 5C. If anyone does not take advantage of the provisions of article 5C to get himself registered as an Indian citizen, then that ought to be a proof in the eyes of the authorities of the country where he is living that he is not an Indian citizen but a citizen of the country of his adoption.

I shall now come to article 5A. It is this article that has been occupying the attention of the Members since yesterday. It has been criticised on the ground that its provisions are Undesirably wide and that it throws open the door of citizenship to people who have no moral right to be regarded as Indian citizens. I do not personally agree with the critics of this article. Let us consider calmly what article 5A lays down and the circumstances that require that such an article should form part of our Constitution. Article 5A and article 5AA contain extraordinary provisions arising out of the present extra ordinary circumstances, arising out of the extraordinary situation created by the partition of India. You

will find no counterpart to them in the Constitution of any other country. We have to define clearly the position of those persons who had to leave Pakistan for some reason or other after the partition of India or about that time. There is such a large number of such persons here that their position had to be taken fully into consideration. The representatives of these people have made every effort to get these people recognised as citizens of India from the very start, without being required to fulfil any conditions. The Draft Constitution provided that people coming from outside India should get themselves registered as Indian citizens and that, in order to prove their domicile, they should show that they had been resident in India for a month before their registration. But these conditions were not acceptable to the representatives of the refugees. They wanted that these people should unconditionally be regarded as Indian citizens. Consequently, it has been laid down in article 5C that all those people who migrated to India permanently leaving their homes in Pakistan up to the 19th July 1948 will, without complying with any condition, be citizens of India, if they have been residing here since their migration.

Then, the next category of persons that article 5A takes account of is persons who have migrated to India since the 19th July 1948. Now, if we had listened to those who wanted that all the people, who had come from Pakistan up to the present time or up to the date of the coming into force of this Constitution, should, without any enquiry and without fulfilling any condition, be regarded as citizens of India, I am sure this article would have been subjected to much severer criticism. It would then have been justly pointed out that it provided an opportunity for the acquisition of Indian citizenship by those who had no claim to it.

Sir, it has been said that we should consider whether as desired in an amendment of Pandit Thakur Das Bhargava, that the provisions of this article should not be made more restrictive, so that it may apply only to persons who had left their homes on account of civil disturbances or the fear of such disturbances. It will be very strange if such a condition is laid down. How will it be possible for a person to prove that he left his home on account of the particular cause referred to above? And how would the registering officers be in a position to decide whether the claim was valid or not? There is an even more serious objection to Pandit Thakur Das Bhargava's amendment. He says that the citizenship of India should be open to persons who have not merely migrated to India on account of civil disturbances or fear of such disturbances, but also to persons who having the domicile of India as defined in the Government of India Act 1935 and being resident in India before the partition have decided, to reside permanently in India, or have migrated to the territory of India from the territory now included in Pakistan. Now, the first thing that requires attention in connection with his amendment is the words "having the domicile of India." We know that these words have created difficulties. We know what was said in this connection when the articles relating to the establishment of an Election Commission were placed before the House.

Pandit Thakur Das Bhargava : Sir, may I point out in article 5 also the same words occur "having the domicile of India". These are exactly the same words.

Pandit Hirday Nath Kunzru : This is true but as my honourable Friend knows, difficulties have cropped up in this connection. But there are other objections too to his amendment. Take the persons who did not leave Pakistan because of civil disturbances or the fear of such disturbances. Take the people who lived in Sylhet