

# \* Legal dispute threatens over citizenship bill

WHEN the Act on Namibian citizenship was unanimously passed yesterday, there were still unclariities of interpretation of the conditions under which one would be entitled to citizenship.

Unlike the interpretation given to citizenship requirements by the government, legal opinion held that citizenship was a mere official issue.

The interpretation given to it by the government invested the Constitution with dangerous political notions.

Should the government's interpretation be allowed, it might result in countless court actions.

The most contentious interpretation concerned the constitutional clause pertaining to the granting of citizenship to those not born in Namibia.

The Constitution reads that citizenship could be claimed, conditionally upon a residence qualifica-

tion of five years together with a requirement that such an application be filed with a year from independence.

Prior to such an application the applicant would have to renounce his former citizenship.

The Prime Minister, in a speech during the debate, interpreted the cause as saying that citizenship could only be obtained five years from the date of application, in other words, full citizenship could be conferred only after a minimum period of ten years.

According to the Prime Minister's interpretation, the application had to be taken as a signal of loyalty to Namibia.

The next five years would be some kind of waiting period, during which the original intention had somehow to be proven.

Mr Geingob's interpretation had been supported by the Minister of Home Affairs, Mr Lucas Pohamba,

who tabled the bill and moved it through its stages.

Prominent lawyers to which The Times had spoken denied, without exception, Mr Geingob's interpretation.

They claimed that such a reading of the Constitution refuted the surface reading of Clause 4 of the chapter on citizenship in the Constitution.

It was pointed out that a prospective candidate to citizenship would be stateless during the waiting period, as dual citizenship was disallowed and the applicant had to renounce any former citizenship.

"Let us suppose the five years to run out, and that the government then, for some reason, decides to turn down the application? Has the unsuccessful applicant then to apply for a United Nations passport for the 'stateless'?"

The Times were told that international law not merely frowned upon de-

claring people as stateless, but that states who declare people stateless, even for a temporary period, open themselves to serious international censure.

The constitution demanded only formal qualifications to citizenship. The issue of citizenship was considered an open and closed case, as long as the residential qualification is satisfied, and an application is entered before March 21 next year after renouncing all former citizenship.

To consider "a waiting period", to prove "loyalty" was to subject legal requirements to political considerations, it was said.

"Who is to decide on 'loyalty'?" it was asked.

It was pointed out that the Constitution made "health, morality, security...as prescribed by law" prerequisites for those who want to become citizens by naturalisation subsequent to March 21. "Health", "morality", "security" might be

given political connotations then, but this is not a constitutional leeway open to those already satisfying clause 4 of the chapter on citizenship.

Replying to the debate, a certain political undertone in the formal requirements for citizenship surfaced. Mr Pohamba said that Angolan refugees, some of whom were in the country since 1974, could not claim "automatic citizenship". "Some of us stayed for over twenty years in Zambia but never thought of becoming citizens of that country," he said and drew a parallel with Angolans residing in Namibia. He added, "They are refugees!"

Since independence, it has at various occasions been reported that pressure was exerted on former Angolan refugees living in Owambo and the Kavango to return to Angola.

"Going by the Constitution alone, as we must, the Minister is simply wrong."