Saw JASPAT ROY KAPOOR: Sir, I would like to know the view oi the hon. Minister with regard to clause 3(1)(e). I think the words 'State Legislatures' should be added.

SHRI GULZARILAL NANDA: Well, I can answer that question. Sir, this part of the clause was introduced in the Lok Sabha, after the Bill had been introduced, at the instance of the Speaker. We discussed the matter, and that was the form which he suggested. The question with regard to State Legislatures also come up for consideration. But he explained to us that there was some difference between the procedure adopted here and that adopted in the State Legislatures. It will take time for me to explain. So, that rendered it unnecessary to bring in the State Legislatures. Appointments are made here by

SHRI JASPAT ROY KAPOOR: Are we sure about all the State Legislatures? There are some State Legislatures . . .

MR. DEPUTY CHAIRMAN: Order, order.

SHRI JASPAT ROY KAPOOR: Sir, I am being ordered when I want some clarification and when I suggest something.

Mr. DEPUTY CHAIRMAN: According to him, it is not necessary. According to the Government, it is not necessary.

Clauses 2 to 10 were added to the Bill.

Clause 1, the Enacting Formula and the Title were added to the Bill.

SHRI GULZARILAL NANDA: Sir, I move:

"That the Bill be passed."

MR. DEPUTY CHAIRMAN: Motion moved:

"That the Bill be passed."

DIWAN CHAMAN LALL (Punjab): Might I intervene at this stage?

MR. DEPUTY CHAIRMAN: We have already exceeded the time by 45 minutes. Therefore, not at this stage.

SHRI V. K. DHAGE (Bombay); Sir, when he wants to say something, he must be allowed to do that. He must be allowed that chance. It is his right.

MR. DEPUTY CHAIRMAN: Tht; question is:

"That the Bill be passed."

The motion was adopted.

THE PUBLIC WAKFS (EXTENSION OF LIMITATION) BILL, 1959

THE DEPUTY MINISTER OF LAW (SHRI R. M. HAJARNAVIS): Sir, I beg to move:

"That the Bill to extend the period of limitation in certain cases for suits to recover possession of immovable property forming part of public wakfs, as passed by the Lok Sabha, be taken into consideration."

Sir, this is a very short measure of limited duration. It proposes to extend the period of limitation for a class of suits. If possession is claimed under the ordinary law of limitation, the period of limitation is twelve years, whether the suit is governed by article 142 or by article 144. So far as these public wakfs are concerned, Sir, it is felt that during the time of disturbances they did not enjoy adequate protection. The persons who were to protect the possessions had left the country. Therefore, Sir, in order to enable these persons to have the property restored to possession, it is proposed that the period of limitation, so far as these cases are concerned, should be extended up to the 15th of August, 1967. The conditions which would enable the application of this Bill are that the property should be forming part of the public wakfs,

and secondly, if the dispossession has taken place between the 14th of August 1957 and the 7th of May 1954, then that particular suit would be governed by clause 3, and the period of limitation would extend up to the 15th of August, 1967. Many of the suits, Sir, were likely to be barred by limitation before the Bill could become an Act. Therefore, an ordinance was issued for this purpose. Now this Bill proposes to repeal that ordinance. Sir, I move.

MR. DEPUTY CHAIRMAN: Motion moved:

'That the Bill to extend the period of limitation in certain cases for suits to recover possession of immovable property forming part of public wakfs, as passed by the Lok Sabha, be'taken into consideration."

SHRI B. K. P. SINHA (Bihar): Sir, I would like to point out some anomaly as between the Statement of Objects and Reasons and the body of the Bill. In the Statement of Objects and Reasons we are told that the period of limitation shall be extended in cases where dispossession has taken place between the 15th of August 1947 and the 7th of May 1954. Now the object is carried out by the first part of clause 3. The second part of clause 3 says:

". . . or, as the case may be, the possession of the defendant in such a suit has become adverse to such person at any time during the said period."

This clause extends protection to dispossessions which have taken place after the 15th of August, 1935. Therefore in such cases also this protection is extended. I would like to know whether this part of the clause has been inadvertently incorporated or it has been deliberately done. I feel that in such cases also it is proper to extend protection. I would like to know how this matter got in.

The second point is, the Statement of Objects and rteasons says that

where the properties have passed into, unauthorised hands, the period of limitation shall end on 15th August, 1967. Now, I would like to ask if some of these properties are not under the charge of the State evacuee property administrators? Would, in such cases also, the parties or the plaintiffs have to take recourse to courts? If in such cases some other less expensive machinery than that of suits and courts is devised, I think that would have been better.

These are the only two matters on which I would like to get some clarification from the hon. Minister.

SHRI P. N. SAPRU (Uttar Pradesh): I would like to know why the State of Jammu and Kashmir has been excluded from the operation of this Bill. The usual practice now is to exclude Jammu and Kashmir. But I think the practice should be to in-i elude Jammu and Kashmir. I want j greater integration of the State with us, of course, with the consent of the Government of that State. We were told that the Jammu and Kashmir Government was prepared to have the jurisdiction of the Sunreme Court fully extended to them. We were-told that the Jammu and Kashmir Government was prepared for the-extension of the jurisdiction of the Election Commission to them. And there is the question of the status of the High Court. I am not going into all those questions. But as <i maupr of Dolicy. it should be our endeavour to have legislation which operates in Jammu and Kashmir as well, and this can be done with the consent of t.h<> Jammu an^ Kashmir Government. I mean, we should be able to obtain the consent of that Government. That is the only point T wanted to rai«<*.

شمی قریب الحق انصامی (اتر پردیش) مستر دیتی چیرمین - یه بل جو آج اس وتت همارے ساملے پیش هاش کو میں سپورٹ کرتا موں - یة صرف اس لئے نہیں کة یه

لے سکی - اس لئے یہ قانون یہاں بنایا جا رها هے - ية قانون مفيد هے اور ان جاندادوں کو بھانے کے لئے اس میں پوری کوشھی کی جا رعی ھے - اس کے لئے میں گورنمنت کو مبارکبان دیا هوں اور اس بل کو سپورے کرتا هوں -اس کے ساتھ ساتھ میں لا منستر صاحب اور وقف کے انتہارے جو آنریبل منستر صلحب عیں ان سے بھی یہ عرض کرنا چاھتا ھوں کہ اس بل کو بنانے کے معنی یه هیس که تانتل سوت دو دادر کوئے کا حق آپ دے رہے میں - لیکن اس کے ساتھ ساتھ گورنمفت کو اس صورت پر بھی غور کرنا ھے کہ اس کا متولى صحيم طريقة سي كون هوكا -وقف بورد هوگا يا اور كوئي خاص پرسن عَوِيًا - يه هي كه گورنمات وقف بورد بنائیکی جو که اس چیز کو دیکھے کا -اس کے ساتھ سانھ ایک سوال یہ ھے کہ جبتک آپ یه مراعات نه دیں یه کنسیشن نه دی. که گم کورت فیس میں مقدمه دائر کر سکیں تب تک مجهے اس بات کا آور ھے کہ اس قانون سے جو فائدہ ہوتا ہے۔ اس کو نہیں اللهايا جا سكيكا - اس الله مين لا منستر سے اور وقف کے لئے جو بورک منسٹر انجارے هيں ان سے يه عرض كرنا چاهتا هون که ولا اس بات پر غور کرین -کہ کیا کورٹ فیش کے ایکت میں اس طرح کا پراویزن نهیں هو سکتا هے که وقف بورة يا كوئى حقدمه دائر كوے تو

[شرى فريدالتحق انصاوي]

یل بہت چهوا سا هے ، بہت آسان ھے اور نان کنتروورشل مے بلکہ اس لیے بھی کہ اس کی اس وقت سخت ضرورت تهی - بیت سی وقف کنی جائدادين اس وقت بهي موجود هين جن پر که لوگ تاجایز طریقه پو كلاف قانون قابض هين اور جب تك که لمیتیش کی میعاد بوهائی نهیس جائيگي تب تک بہت هي نقصان ھوگا اور بہت ہے لوگ مشکل اور، مصيبت مين پهنسينگے - اس لئے اس گراوند پر اس بل کو میں سپورت كرتا هوں -

سید مظهر امام (بهار): مستلق دپتی چیرمین - میں بھی اس بل ب کی تائید کرتا ہوں - جیسا که همارے دوست نے ابھی عاوس کے سامنے عوض كيا هے اور جيسا كه ايسس ايلاء آبجيكتس ميں بھي بتايا گيا هے پارتيشن کے بعد بہت سی وقف کی جائدادیوں ناجایز طریقه پر لوگوں کے قبضه سیوں آگئیں اور اس وقت بھی ھیں - جو مسامان یہاں وہ گئے هیں انہوں نے اگور مطالبه کیا ہے تو بعض بعض جگه جائدادوں کو وقف بورڈوں کے حوالہ کر دیا گیا ہے جو کہ اس وقت گورنملت، کے قبضہ میں شیں اور ان کا انتظام میں سمجھتا ہوں کہ اچھی طرح ہے۔ هو رها هے - مگر بہت سی جاندادیں۔ ایسی هیں جن کے لئے قانوں بنانا پوا --اس کو کم کورے فیس دیلی ہو ۔ وہ اس لئے کہ ان کا قبضہ گورنملے نہیں

खिलाफ कानून काविज है और जब तक कि लिमिटेशन की मियाद बढ़ाई नहीं जायेगी तब तक बहुत ही नुकसान होगा और बहुत से लोग मुश्किल और मुनीबत में फंसेंगे । इसलिये इस ग्राउन्ड पर इस बिल को मैं सपोर्ट करता हूं ।]

†[सै-द मजहर इम.म (विहार) : मिस्टर डिपुटी चैयरमैन ! मैं भी इस बिल की ताईद करता हं। जैसा कि हमारे दोस्त ने सभी हाउस के सामने अर्ज किया है और जैसा कि एम्ज एंड भोबजेक्ट्स में भी बताया गया है, पाटीशन के बाद बहुत सी बैबफ की जायदादें नाजायज तरीकों पर लोगों के कब्जे में ग्रागई ग्रीर इस वक्त भी है। जो मसलमान यहां रह गये हैं उहोंने अगर मुतालबा किया है तो बाज-बाज जगह जायदादों को वक्फ बोर्डों के हवाले कर दिया गया है जो कि इस वक्त गवर्नमेंट के कब्जे में है और उनका इन्तजाम में समझता है कि अच्छी तरह से हो रहा है, मगर बहुत सी जाय-दादें ऐसी हैं जिनके लिये कानून बनाना पड़ा । इसलिये कि उनका कब्जा गवनंमेंट नहीं ले सकी । इसलिये यह कानून यहां बनाया जा रहा है। यह कानन मफीद है स्रीर इन जायदादों को बचाने के लिये इसमें पुरी कोशिश की जारही है। इसलिये मैं गवर्न-मेंट को मुवारकबाद देता हूं ग्रीर इस बिल को सपोर्ट करता है। इसके साथ-साथ में ला मिनिस्टर साहेब और वक्फ के इत्वार्ज. जो ग्रानरेबिल मिनिस्टर साहब है उनसे भी यह अर्थ करना चाहता हूं कि इस बिल को बनाने के मायने यह हैं कि टाइटल सुट की दायर करने का हक आप दे रहे हैं। लेकिन इसके साथ-साथ गवनंमेंट को इस सुरत पर भी गौर करना है कि इसका मृतवल्ली सही तरीके से कीन होगा। वक्फ बोर्ड होगा या श्रीर कोई खास परसन होगा। यह है कि गवर्नमेंट वक्फ बोर्ड बनायेगी जो कि इस चीज को देखेगा । इसके साथ-साथ एक

۲۲ روپیم کے اندر ھی ھو جائے - پہار کی -گورنمذت نے وہاں جو وقف ہورتنی بذائے میں ان کو یہ اختیار دیا ہے کہ وہ ٹائٹل سوٹ لا سکتے مہی اور اس کے لئے ۱۵ سے ۲۲ روپیہ تک کی کورت فیس مهی هی مقدمه دارو کو سکتے عين اگراس طوح كا قانون يهان بهي بنائين تو مين سمجهتا هون كم اس قانون کا زیادہ سے زیادہ فائدہ هوگا ورثم محجبے اس بات کا ڈر ہے کہ روپیہ کی کمے کی وجہ سے بہت سے جگہ لوگ كورت فيس جمع نهين كو سكينگے اور اس کی وجہ ہے بہت ہے۔ ڈالٹل سوٹ نهیں لا سکینگے اور جائداد کو واپس نہیں لے سکینگے - اور اس طرح سے جو آپ نے ۱۹۹۷ تک کا وقت دیا ہے وہ ختم شو جائيتا اور ولا جائدادين وايس نهين هونگي - اس لئے اِس بل کي تائید کرنے کے ساتھ ساتھ صیح گورنمات سے یہ اپیل کرونٹا کہ وہ میرے اس ستجیشن پرغور کرے اور میری اس ابیل کو منظور کرے تاکہ آسانی ہے ان جائدادوں کو بنجایا جا سکے -

ं [भा फरांदुल ह प्रस्तारो (उत्तर प्रदेश): मिस्टर डिपुटी चेथरमैन ! यह बिल जो आज इस वस्त हमारे सामने पेश है उसको में सपोर्ट करता हूं। यह सिफं इसिलयें नहीं कि यह बिल बहुत छोटा सा है. बहुत आसात है और नोत-पन्ट्रो-वर्षियल है बिल इसिलये भी कि इसकी इस वस्त सस्त जरूरत थी। बहुत सी बस्फ की जायदादें इस वस्त भी मौजूद हैं जिन पर कि लोग नाजायंज तरीके पर

सियद मजहर इमाम] सवाल यह है कि जब तक आप यह मराम्रात न दें, यह कन्सेशन न दें कि कम कोर्ट फीस में मुकटमा दायर कर सकें तब तक मझे इस बात का डर है कि इस कानून से जो फायदा होना है उसको नहीं उठाया जा सकेगा । इसलिये मैं ला मिनिस्टर से ग्रौर वक्फ के लिये जो बजर्ग मिनिस्टर इचार्ज हैं उनसे यह ग्रर्ज करना चाहता हं कि वह इस बात पर ग़ौर करें कि क्या कोर्ट फीस के एक्ट में इस तरह का प्रोवीजन नहीं हो सकता है कि वक्फ बोर्ड या कोई मुकदमा दायर करे तो उसको कम कोर्ट फीस देनी हो। वह २२ रुपये के अन्दर ही हो जाये। बिहार की गवर्नमेंट ने वहां जो वक्फ बोर्डस बनाये हैं उनको यह ग्रस्तियार दिया है कि वह टाइटल सुट ला सकते हैं और उसके लिये १५ से २२ रुपये तक की कोर्टफीस में ही मकहमा दायर कर सकते हैं। अगर इस तरह का कानून यहां भी बनायें तो मैं समझता हूं कि इस कानून का ज्यादा से ज्यादा फायदा होगा वरना मझे इस बात का डर है कि रुपया की कमी की वजह से बहुत सी जगह लोग कोर्टफीस जमा नहीं कर सकेंगे श्रीर उसकी वजह से बहुत से टाइटल सट नहीं ला सकेंगे ग्रीर जायदाद को वापिस नहीं ले सकेंगे और इस तरह से जो आपने १६६७ तक का वक्फ वक्त दिया है वह खत्म हो जायेगा ग्रौर वह जायदादें वापिस नहीं होंगी । इसलिये इस बिल की ताईद करने के साथ साथ मैं गवर्नमेंट से यह अपील करूंगा कि वह मेरे इस सजेशन पर ग़ौर करे और मेरी इस ग्रपील को मंजर करे ताकि आसानी से इन जायदादों को बचाया जा सके।]

SHRI R. M. HAJARNAVIS: Mr. Deputy Chairman, as regards the doubts which have been expressed by Shri Sinha, I wonder whether a Member possessing the' legal acumen that he has, would seriously entertain any doubt as to whether both these clauses

are not really necessary whenever period of limitation for a suit for possession is being provided. He raised two questions, firstly as to the function of the clause relating to he 1 asked adverse possession. Secondly, us as to what would happen, whether it would be necessary to file a suit where the property is being held by the Custodian of Evacuee Pro-i perty. To both these questions, my answer is the same. A suit for posses-j sion is necessary of possession is denied. where the right Possession by itself does not give any right. It is the character of possession which determines whether a suit is necessary to be brought. If it is in the possession of the Custodian of Evacuee Property or is a permissive possession, or where property is custodia legis, then surely no suit is necessary, because the per-, son in possession holds it for the real owner. If there is doubt about the title, he directs the claiment to establish the title and is ready to hand it over to him. So, the question would be, is the possession adverse, or has the possession become adverse? Then alone does the right to sue arise. It is not merely the possession of a right 1 gives a person the right to sue, I possession of right accompani-I ed by the denial of that right. There-| fore, the mere fact that the defendant j has been in possession earlier than the I 14th day of August, 1947 would not I prevent the application of clause 3 of this Bill. It would be necessary to determine as to when that possession became adverse. If possession became adverse during the stated period, then also clause 3 would apply. As I said in my opening remarks in this House, this Bill is intended to apply only to limited clauses of cases, where the right to sue arose for persons affected during these disturbed times. Ordinary suits will be governed by the ordinary law.

So far as the question of court fees is concerned, it is mainly a question which falls within the jurisdiction of the State legislature and in the State

'List, and I am happy to find that in one State at least a nominal court fee has been provided for such suits. I am quite sure that the other State legislature would also follow suit..

But that, Sir, does not fall properly -within the scope of this measure.

5 P.M.

1199

I think the Members and the House ior their unanimous approval of this measure.

DR. W. S. BARLINGAY (Bombay): But he has not answered Mr. Sapru's question, if I might remind him.

MR. DEPUTY CHAIRMAN: But Mr. Sapru is satisfied.

The question is:

"That the Bill to extend the period of limitation in certain cases for suits to recover possession of immovable property forming part of public wakfs, as passed by the Lok Sabha, be taken into consideration."

The motion was adopted.

MR. DEPUTY CHAIRMAN: We shall now take up clause by clause consideration of the Bill.

Clauses 2 to 4 were added to the Bill.

Clause 1, the Enacting Formula and the Title were added to the Bill.

SHRI R. M. HAJARNAVIS: I move:

"That the Bill be passed."

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill be passed."

SHRI ABDUR REZZAK KHAN (West Bengal): I want one. minute, Sir.

AN HON. MEMBER: It is already five.

MR. DEPUTY CHAIRMAN: He will not take more than a minute.

श्रो ग्रब्दल रज्जाक स्नान : मिस्टर डिप्टी चेयरमैन, में ग्रपनी पार्टी की तरफ से इस बिल को प्री ताईद करता हं।

एक माननीय सदस्य : इस वक्त इसके कहने की जरुरत नहीं है।

भी ग्रब्दल रज्जाक खान : इसके कहने की जरूरत नहीं थी लेकिन इस स्वाल से कि कहीं दूसरी बदगुमांनी पैदा न हो इसलिए मैने यह ग्रजं कर दिया।

MR. DEPUTY CHAIRMAN: Any reply?

(After a pause)

The question is:

"That the Bill be passed."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The House stands adjourned till 11 A.M. tomorrow.

> The House then adjourned at two minutes past five of the clock till eleven of the clock on Thursday, August 20, 1959.