

SHRI C. D. DESHMUKH: So far as  
I -could gather .....

SHRI B. GUPTA: May I ask him one  
question? Is the hon. Minister pre-  
pared to appoint an All Parties' Com-  
mittee .....

MR. DEPUTY CHAIRMAN: No further  
questions.

SHRI C. D. DESHMUKH: The hon.  
"Member gave expression to some com-  
mendable sentiments in regard to stores. I  
certainly think that what the public Accounts  
Committee say is right and that there is a  
great deal of care required in regard to the  
verification and in regard to the reduction of  
quantity of stores which are kept. Otherwise,  
it means locking up of capital. I think,  
perhaps, as an afterthought the hon. Member  
was right in referring to stores in the course of  
his speech because if capital is not locked up,  
then he would not have to pay additional  
interest. That is that.

In regard to Ambica Airlines I am afraid I  
am not able to add anything #b what is  
contained in this rather lengthy note on page  
4.

As regards Committees, I don't quite know  
what the hon. Member wants us to do. As the  
public sector expands in this country, we  
shall be undertaking more and more projects,  
and mistakes and instances of neglect are  
sure to arise and I think it is much better to  
appoint a Committee than to liquidate people  
all of a sudden.

MR. DEPUTY CHAIRMAN: The question  
is:

"That the Bill be returned."

The motion was adopted.

# **THE ADMINISTRATION OF EVACUEE PROPERTY (AMEND- MENT) BILL, 1952**

THE MINISTER^FOR REHABILITATION  
(SHRI A. P. JAIN): Mr. Deputy •Chairman, I  
move:

"That the Bill further to amend the  
Administration of Evacuee Pro-

perty Act, 1950, as passed by the House of  
the People, be taken into consideration."

Sir, this Bill has remained before the House  
of the People for several months and at the  
different stages the Members of the House of the  
People have given deep consideration to the  
provisions of the Bill. In fact the Government  
took a lot of precaution in framing this Bill. A  
committee consisting of three Ministers—  
Shri N. Gopala-swamy Ayyangar, Dr. K.  
N.Katju and myself—was appointed to look  
into the Evacuee Property Act. The directive  
was that the existing law should be reviewed  
with a view to remove hardships upon those of  
our citizens who have no intention of  
migrating to Pakistan, yet upon whom the  
existing law has been placing some sort of  
hardship and at the same time, we were to take  
care that the Evacuee Property Pool does not  
suffer or is frittered away. I therefore submit  
to the House that in considering the  
provisions of this Bill, those two view-points  
should be carefully kept in mind. In fact  
whenever any matters relating to the evacuee  
property comes before Parliament, a lot of  
prejudice is created— some misinformed and  
some interested. Therefore I would very  
earnestly request the Members of this House to  
• very carefully consider the provisions of this  
Bill. I propose to go in a somewhat detailed  
manner into the principal changes that are  
proposed to be made.

The principal changes are three.

The first is the removal of the category of  
persons who are known as intending  
evacuees under the present law.

The second is the amendment of the two  
sections 16 and 52 of the existing law with a  
view to give effect to the manner in which we  
have been working the law in the light of the  
difficulties that have arisen during the last  
two and a half years.

The third main change relates 10 section  
40.

Now, I shall take up all these three matters  
some what in detail and shall refer to certain  
other things rather cursorily. In order to fully  
appreciate

[Shri A. P. Jain.] the first point, namely, with regard to the intending evacuee, it is necessary that we clearly understand what the words "intending evacuee" mean. The expression "intending evacuee" has been defined in section 2(e) of the Act and it runs as follows:

" 'intending evacuee' means any person who, after the 14th day of August, 1947,—

(i) has transferred to Pakistan his assets or any part thereof situated in any part of the territories to which this Act extends:

Provided that the transfer to Pakistan of any reasonable sum of money in accordance with the rules made in this behalf by the Central Government, for the purpose of financing any transaction in the ordinary course of his trade or for the maintenance of any member of the family of such person shall not be deemed to be a transfer of assets within the meaning of this subclause, or

(ii) has acquired, if the acquisition has been made in person, by way of purchase or exchange, or if the acquisition has been made by or through a member of his family, in any manner whatsoever, any right to, interest in, or benefit from any property, which is treated as evacuee or abandoned property under any law for the time being in force in Pakistan,

*Explanation.*—For the purposes of sub-clause (ii), the acquisition of any right to, interest in or benefit from any such property as is referred to in that sub-clause by a firm, private limited company or trust of which any person is a partner, member, or beneficiary, as the case may be, shall be deemed to be an acquisition by that person within the meaning of that sub-clause; or

(iii) has, by the execution of any document of transfer in writing, whether registered or not, or by means of any other document in writing, sought to effect an exchange

of the whole or any part of his property situated in any part of the territories to which this Act extends, with any property situated in Pakistan;

and includes any person against whom an intention to settle in Pakistan is established from his conduct or from documentary evidence;"

In this connection it is necessary also to refer to section 2(f) which defines evacuee property. It says:

" 'evacuee property' means any property in which an evacuee has any right or interest (whether personally or as a trustee or as a beneficiary or in any other capacity), and includes any property ....."

Now, I will read the relevant portion:

"belonging to any person who, after the 18th day of October, 1949, has done or does any of the acts specified in clause (e) of section 2, or in which any such person has any right or interest, to the extent of such right or interest."

Now, Sir, taking these two provisions together, it means that a person who committed any of the three acts specified in clause (e) before the 18th October 1949, became an intending evacuee in one sense; but, if he did any of these things after the 18th October 1949, he became an intending evacuee in another sense, namely, equivalent to becoming an evacuee.

Now, Sir, the declaration with regard to the intending evacuee is made under section 19 which reads as follows:

"(1) Where the Custodian has reason to believe that a person is an intending evacuee, he may, by notice served in the prescribed manner, call upon such person to show cause why he should not be declared an intending evacuee, and shall, after holding such inquiry into the matter as the circumstances thereof permit, and after taking such evidence as may be produced by or on behalf of the person showing cause, pass an order (stating.

the reasons therefor) either declaring such person to be an intending evacuee or closing the case.

(2) Any declaration made under subsection (1) shall be published in the Official Gazette."

Section 20 lays down the consequences that will follow after the declaration. It runs as follows:

"No person, in respect of whom a declaration has been made under section 19 that he is an intending evacuee, shall transfer in any manner whatsoever any immovable property, in which he has any right or interest, situated in any part of the territories to which this Act extends, except with the previous approval of the Custodian, and any transfer made in contravention of the provisions of this section shall be void and of no effect."

Section 21 gives some further powers to the Custodian, namely:

"The Custodian may:

(a) by order in writing require any such person to furnish such returns, accounts or other information in relation to any such property and to produce such documents in his possession as the Custodian may require;

(b) inspect the books of account or other documents maintained by or in the possession of such person;

(c) pass such orders or direct such action to be taken in relation

- to any such property as may be considered by him to be necessary."

Now, Sir, the effect of all these provisions put together is this, to put it in a layman's language an intending evacuee, if he becomes so on account of

any of the actions committed before the 18th October, 1949, is subjected to certain disabilities, namely, he cannot transfer his property without the permission of the Custodian; the Custodian may ask him to furnish accounts or to keep accounts in a particular manner and he can get the accounts inspected. He can also place certain other reasonable restrictions upon the disposal of his property; but, if the same person were to commit any of those acts after the 18th October, 1949, he becomes an evacuee straight off.

A lot of confusion has been created, or an attempt to create confusion has been made both in Pakistan and in India with regard to these provisions. It has been said by my counterparty, the Rehabilitation Minister of Pakistan, that persons who are intending evacuees under the present law, namely, who suffer from the disability of certain restrictions, such as deprivation of right to transfer, keeping accounts, etc., are by this law being converted into evacuees.

"MR. DEPUTY CHAIRMAN: Will the hon. Minister take more time?"

SHRI A. P. JAIN: Yes.

MR. DEPUTY CHAIRMAN: He may continue tomorrow.

#### **PETITIONS RELATING TO FACTORIES (AMENDMENT) BILL, 1952**

SECRETARY: Sir, I have to report to the Council that eight petitions relating to the Factories (Amendment) Bill, 1952, introduced by Shri S. Guru-swami in the Council of States on the 8th December 1952, have been received by me.

The Council then adjourned till two of the clock on Tuesday, the 24th February 1953.