

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

SHRI B. GUPTA: May I ask him one question? Is the hon. Minister prepared to appoint an All Parties' Committee.....

MR. DEPUTY CHAIRMAN: No further questions.

SHRI C. D. DESHMUKH: The hon. Member gave expression to some commendable 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 after-thought 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 to 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 (AMENDMENT) 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. Gopalaswamy 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 to 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 sub-clause, 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 sub-section (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 counterpart, 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. Guruswami 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.