

(c) Rs. 3,00,000 have been given by the Central Government as grants and loans to the State Governments towards the implementation of the Schemes.

A Statewise statement showing the number of ex-Servicemen given resettlement assistance under the various schemes together with the expenditure incurred thereon is laid on the Table of the Council. [See Appendix IV, Annexure No. 40.]

COST OF MAINTENANCE AND REPATRIATION OF INTERNEES

¹ 12. SHRI M. VALIULLA: Will the Minister for HOME AFFAIRS be pleased to state:

(a) the total amount due to India from foreign countries up to the end of 1952 on account of the cost of maintenance and repatriation of their internees;

(b) how much of this sum has been collected; and

(c) the amount which India had to pay for similar arrangements to other countries on account of the cost of maintenance and repatriation of their internees in foreign countries during the same period?

THE MINISTER FOR HOME AFFAIRS (DR. K. N. KATJU): (a) Rs. 3,33,29,502.

(b) Rs. 3,08,20,251.

(c) Nil.

SANGEET NATAK AKADAMI

13. SHRI B. V. KAKKILAYA: Will the Minister for EDUCATION be pleased to state:

(a) what is the purpose of the Sangeet Natak Akadami recently established by Government; and

(b) what was the initial expenditure in the setting up of the academy and

what will be the estimated recurring annual expenditure thereon?

THE MINISTER FOR EDUCATION (MAULANA ABUL KALAM AZAD): (a) The purpose of the Academy is set forth in the Government Resolution No. F.6-5/ 51-G2(4), dated 31st May 1952, copies, of which are available in the Parliament Library.

(b) The Government of India have paid a grant of Rs. 25,000 to the Academy for the year 1952-53. The Government cannot indicate at this stage what will be the recurring annual expenditure of the Academy. The Academy is an autonomous body and will frame its own budget.

THE ADMINISTRATION OF - EVACUEE PROPERTY (AMENDMENT) BILL, 1952

MR. CHAIRMAN: The hon. Minister for Rehabilitation to reply to the debate on the motion for consideration of the Administration of Evacuee Property (Amendment) Bill.

SHRIMATI LILAVATI MUNSHI (Bombay): Sir, before the hon. Minister begins his reply, may I put a few questions?

MR. CHAIRMAN: The hon. Member will have an opportunity later.

SHRIMATI LILAVATI MUNSHI: I should like him to reply to my questions now.

Well, Sir, I am putting these questions because when I read the Bill I did not properly understand it. It was a very complicated Bill; so I did not understand it. Then I heard partly the hon. Minister's speech yesterday; and there also it was my misfortune, as I had to leave the House I could not grasp the Bill properly. Therefore, while the hon. Minister replies, I would like him to clarify certain doubts in my mind and in the minds of some other Members also.

The first question is: What will be the effect of this new law in practice?

Would it adversely affect the interests of refugees here by diminishing the property pool?

The second question is: Is there any chance of our getting reciprocal treatment in Pakistan?

Thirdly, how will you satisfy yourself that a person who keeps the members of his family in Pakistan is not ultimately going to migrate to Pakistan some time after he has liquidated his property?

Fourthly, what, is the purpose of extending the date of migration?

And fifthly, why is the judicial authority being removed?

Sir, in asking these questions, my object is to get clarification of certain doubts in my mind and in the minds of some Members. So far as we know, unlike in Pakistan, no person who wants to be a genuine Indian citizen suffers in India.

THE MINISTER FOR REHABILITATION (SHRI A. P. JAIN): Questions have been asked, and I will cover them in my reply.

SHRIMATI LILAVATI MUNSHI: Let me proceed, because there are other doubts. No person who wants to be a genuine Indian citizen suffers in India, and the members of the minority community themselves, will say that there is no discrimination against them in our Republic. Even the highest posts in every walk of life are occupied by members of the minority community, which proves that there is no discrimination against them and that genuine Indian citizens have nothing to fear. But by passing this law, are we or are we not favouring those persons who are not genuine citizens of India, those who want to be citizens to the detriment of the interests of our own people, our own refugees, as well as put the security of our country in danger? These are some of the doubts in my mind and in the minds of some

hon. Members, and I hope the hon. Minister, while replying to the debate, will clarify these doubts.

SHRI A. P. JAIN: Sir, I am grateful to the hon. Members of this House who participated in the debate yesterday and raised a number of questions. Some of those questions were relevant to the Bill; others unfortunately were not relevant to it. Some of the debate was of a rambling type, raising the issue of displaced persons and complaining of delays and annoyances occurring in my Ministry. An hon. Member who was working in Rajasthan for three or four years in the Rehabilitation Department talked about delays and annoyances for a pretty long time. If half of the enthusiasm which he displayed here had been shown when he was working with the Rehabilitation Department, all I can say is things would have greatly improved. If there are any delays and annoyances, I am sorry, and I may assure the House that I am doing my best to remove them.

Sir, the general approach to the question has been that, while we have to adopt one particular type of attitude in regard to persons who have gone over to Pakistan, we should at the same time try to remove hardships that are being caused to our nationals here in India. I fully share that approach. It is from that point of view that we have framed this Bill; and I dare say that judging both from the debate that took place in this and the other House, that object have been largely achieved to a considerable extent.

Now, Sir, so far as those people are concerned who have gone over to Pakistan, there was unanimity of opinion among the speakers, Mr. Bhupesh Gupta being the only exception. He said that a Frenchman could go to the United Kingdom and start his business there; he could own property in the United Kingdom; and that an Englishman could go to France and

[Shri A. P. Jain.] start his business there; he could own property in France, and yet none would lose his rights in the property in his own country. They could own property in both countries. That is true. But this kind of argument may appeal in a debating society.....

SHRI B. GUPTA (West Bengal): That is what we are. You have made it so.

SHRI A. P. JAIN: That is the hon. Member's view. We are serious people sitting here deciding the fate of the nation. That argument will appeal in a debating society or in a mock parliament, but not in this House. We "have to take stock of the realities of the situation. Can a displaced person who has come to India go back and live in safety in Pakistan? Can he derive benefit from the property which he has left behind? Can he collect the rents or benefits arising from the property?

SHRI B. GUPTA: He should.

SHRI A. P. JAIN: He should. But that is not a fact.

Now, Sir, to apply an analogy which is wholly inapplicable here is to live in an unreal world. The history of the evacuee property law is well known. We have had to pass this law on account of the special conditions that were prevailing.

SHRI B. GUPTA: Do those conditions operate today?

SHRI A. P. JAIN: They are not wholly obviated until today.

The hon. Member Mr. Gupta said that I had complained that Pakistan had not played the game, and he asked me whether we had played the game. Another hon. Member, Mr. Rajah, said something to the same effect. Hon. Members of this House should be aware that as far back as April 1950, when there were meetings between the Prime Ministers of India and Pakistan, the Prime Minister of

India made an offer to the Prime Minister of Pakistan that he was prepared to scrap off the evacuee property law provided an agreed settlement was brought about with regard to the properties that have already become evacuee property.

SHRI B. GUPTA: The game is not played merely at the Prime Minister's table but also at the District Magistrate's table.

SHRI A. P. JAIN: Sir, I think, this interruption is not called for.

MR. CHAIRMAN: He is talking about inter-Governmental matters.

SHRI H. P. SAKSENA (Uttar Pradesh) : Sir, are these interruptions in order?

MR. CHAIRMAN: No. They are not.

SHRI A. P. JAIN: Now, Sir, it is well-known fact that a large number of persons have migrated from this side to the other side and an equally large number of persons have migrated from Pakistan to India—not temporarily but permanently. Both of them have left properties behind. These properties in either countries are being used for the rehabilitation purposes, i.e. for the purpose of accommodating those who have had to leave their original homes and have come here or have gone there. It is, therefore, necessary, Sir, that some settlement about the properties, which have been left behind in either country, must be made. A few months after, in the month of June, there was another meeting between the representatives of Pakistan and ourselves. Shri Gopaldaswami and myself represented India and Mr. Shahbuddin represented Pakistan. We took up the question and we said that this issue of the evacuee property must be settled. We suggested that titles in these properties on either side might be quashed, valuation of the properties in the two countries made by some agreed formula, or by some agreed a?enov and the difference in values paid by one country to the other. There was no response. Then we made a very

moderate offer. There were a large number of properties—evacuee properties—in the occupation of the Government officers and the Governmental Departments in Pakistan and also some evacuee properties in India in the occupation of Government officers and Governmental Departments. There might be difficulties about the immediate payment of rents due from displaced persons who have been settled in these properties. We said: "What do you say about the properties which your officers and departments are occupying? Let us settle the accounts; let us make a beginning. You pay us rents of the properties which you are occupying and we pay the counter bill." Even that little offer was not accepted. Sir, it has been suggested that we must sit at a round table. I am prepared to sit across a square table, a rectangular table or a table of any shape, provided Pakistan is prepared to play the game. I say, Sir, that we have been trying our best to settle this question of the evacuee property, but Pakistan is not prepared to do it. And therefore, to say that we have also not played the game, is, Sir, I say wholly unjustified.

Now, Sir, another question was raised by Mr. Gupta. He said that in the Lower House I had connected the question of evacuee property Act with the payment of compensation. The question of evacuee property is connected with the question of payment of compensation only in a limited way. It does not mean that we are going to grab any property merely because we want to increase the evacuee property pool, but at the same time, it has been made clear by the Government, including the Prime Minister, that the evacuee property will be utilised for the purposes of rehabilitating the displaced persons and for paying them compensation. Now, naturally, when that kind of decision is taken, evacuee property has to be preserved in the interest of those who are rehabilitated in those properties or are going to receive them as compensation. Again I repeat, Sir, that it does not mean that we are going to lay our hands on

any property merely because we want to increase the pool.

Now, with regard to the provisions of the Bill, the provision deleting the intending evacuee has almost universal support. I need not say anything about it. The other provisions regarding sections 16 and 52 have also had general support; except that Shri Jaspat Roy Kapoor made some observations that final power under section 16* should not vest with the Government but with the Custodian General or with some other officer.

SHRI J. R. KAPOOR (Uttar Pradesh):
Judicial officer.

SHRI A. P. JAIN: Yes, with some other judicial officer. I have made the position of the Government clear. Mr. Jaspat Roy Kapoor is at liberty to hold his opinion. He may prefer the judgment of the Custodian General or an officer to the judgment of the Government, but I have no doubt in my mind that that power must vest with the Government. I want to make it clear that I do not want this power merely for the sake of formality, but I want this power to be used effectively in cases where injustice has been done or policy decisions are involved etc. This power will be used with all caution and care.

Now, Sir, the provision with regard to section 40 has been the subject matter of long debate. I said in my opening speech that so long as the evacuee property law exists on the Statute Book, it is bound to have some repercussions indirectly. Section 40, as I said, is the pivotal section. If that section is removed, anybody who wants to go to Pakistan can sell his property and go away. The evacuee property law will, therefore, become totally ineffective. Now, while the modifications made have been welcomed, it has been said that they do not go far enough. The proposal to amend section 40 has been before me for the last two years and before one or another committee for over a year. It has been before the Legislature for about six months. I have been waiting all along for alternative proposals

[Shri A. P. Jain.] from Members of this House and of the other House suggesting the manner in which section 40 should be amended. If you look at the list of the amendments that have been tabled, no specific amendment giving any alternative suggestion has been made. There are certain minor amendments—reduce two years to one year and increase the limit from Rs. 3,000 to Rs. 5,000—but there has been no substantial change which could be treated as dealing with the problem in an alternative manner.

Now, regarding certain minor suggestions that have been made—raising the limit from 3,000 to 5,000—I have no objection in accepting it.

With regard to the totality of the effect of the modifications which I have made, I dare say that the evacuee property law will henceforth not be operative in respect of at least 50 per cent, of the members of the minority community who have been hitherto affected by it. Why do I say so? Anybody who has property worth Rs. 5,000 or less can sell all his property. I have got some statistics collected of the displaced persons who have come from the other side and I find that 45 to 50 per cent, of the displaced persons who have come from the other side own property worth less than Rs. 5,000. The members of the minority community who have gone over to Pakistan were poorer than the people who have come from the other side, and if their percentage works out at between 45 and 50 per cent., then here the percentage may go up to even 60 per cent. This is no minor relief.

I will deal with certain other suggestions that have been made. The notification of the 3rd July 1950 has also been the subject of debate. I may explain what that notification is. Anybody who went to Pakistan and returned before the 18th July 1948 is entitled to the return of his property subject to certain conditions. Anybody who went to Pakistan and returned to India under a permit of permanent resettlement up to the 18th

October 1949 is also entitled to the return of his property under certain conditions, but a person who returns to India under a permanent resettlement permit after the 18th October 1949 is not entitled to the return of his property. What is suggested is that that notification should be extended and the property restored to all persons who have returned to India, on a permanent resettlement permit. Now, that matter has been the subject of consideration by the Government at the highest level, and in regard to permanent resettlement permits granted in 1950 and later on, it was decided that these permanent resettlement permits will have no bearing on the evacuee property. In granting these permits, that position has been made clear, and I am sorry that I cannot be a party to the extension of the provisions of the Notification of the 3rd July 1950.

Now, Sir, another suggestion has been made that we must incorporate the provisions of the 3rd July 1950 notification in the enactment. I think it will be a very unwise thing. The House will remember that a certain interpretation was given by the Custodian General to this Notification. So long as it was a notification, we could amend it, we could alter it. In fact, this Notification was found to be defective in certain respects and it was modified later, but if it becomes part of law, it becomes hard and rigid and it will become very difficult to work the notification in its real spirit. Sir, I do not propose to withdraw any of the concessions which have been given to certain persons who migrated to Pakistan but I am sorry I cannot accept the proposal to make the notification a part of the law.

SHRI H. N. KUNZRU: May I put a question to my hon. friend? Is it or is it not the intention of the Government to use the powers that the new clauses 16 and 52 will confer on it for the benefit only of persons coming under the Notification of the 3rd July 1950 or does it propose to use these powers for the benefit of certain undefined classes of persons whenever it chooses to do so?

SHRI A. P. JAIN: The powers are of a general nature and are not confined in their applicability to the 3rd July 1950 Notification. In fact, from time to time certain cases have come to our notice where it has been found just and proper to use the powers under section 16. I will refer to a recent happening. A certain case was decided by the Custodian General declaring a person evacuee. Some sort of writ or petition was filed in the Bombay High Court. The Bombay High Court considered the case and found that while they had no power of interference, yet there has been some miscarriage of justice. Certain observations were made by the Bombay High Court, and I referred that case to the Law Ministry. It was found that there had been a miscarriage of justice. We have corrected it. There will be cases outside the Notification of the 3rd July 1950, where "this power may have to be used, but that will be done in a just and proper way with all possible precautions.

SHRI H. N. KUNZRU (Uttar Pradesh) : The point is this: I am sorry I have to take up the time of the House. Suppose that case goes before the Custodian General and he decides in a particular manner with regard to a man that he is not entitled to any of the concessions mentioned in the Notification of the 3rd July 1950 or the High Court of a State pronounces a man whose case goes before it, to be a citizen of Pakistan or to be a person who should be considered as an evacuee, do the Government propose in these cases to exercise the discretionary powers that they will enjoy under the new clauses 16 and 52?

SHRI A. P. JAIN: Surely we are not going to exercise these powers arbitrarily but there are some types of cases in which we may have to exercise this power, and I should like to mention some of them. For instance, there have been cases of certain Iranians who were declared evacuees. In such cases we have exercised this power. Then there are the cases of about 21,000 persons who went to Pakistan during the exodus of 1950

and returned under a mutual arrangement between India and Pakistan on condition that properties would be restored. Now, as a result of that arrangement between Pakistan and ourselves, that power has been exercised. Now, there is another point which has been raised and that is the question of providing an appeal to the High Court against the orders of the Custodian General and the argument advanced in support of this suggestion is that a certain High Court has observed that the order of the Custodian General on a point of law was wrong. Is that a sufficient ground? There have been differences of opinion on points of law between the Division Benches of High Courts. There have been differences of opinion between Full Benches of High Courts and there have been differences of opinion between High Courts and High Courts. There have been differences of opinion on the interpretation of the word 'natural justice' and so many other things between the Privy Council and the Supreme Court of U.S.A.

SHRI B. GUPTA: It is an old story.

SHRI A. P. JAIN: Now differences of opinion there will be and there have been on points of law. High Courts have erred and even the Supreme Court have erred. I am not prepared to say that in case of every order, on points of law or points of fact the Custodian General is correct. Custodian General may comment mistakes as High Courts and Supreme Court do. But that does not necessarily provide ground for another appeal. Yet I can appreciate the decision to have one more appeal. The House will observe that this Amending Bill deals only with certain aspects of the Evacuee Property problem. We have not touched in this Amending Bill the question* of jurisdiction. The hon. Member Mr. Ismail pointed out certain anomalies in the present law as enacted in Sections 25 and 27. His point was that if the District Judge has held a person to be a non-evacuee and the Custodian General does not agree with the

rShri A. P. Jain.]

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decision, the Custodian General may send the case up to the High Court. On the contrary if the District Judge has erred and he has held the man to be an evacuee, the evacuee has no right of such appeal. I think that was his point.

SHRI V. K. DHAGE (Hyderabad): It is correct.

SHRI A. P. JAIN: I feel that there is an anomaly. But I am sorry that it is not possible to correct it within the purview of this Bill. If I am asked why I was not aware of this anomaly and why I did not take steps to remove it, my answer is this. I have made enquiries and so far as the information goes—all the files have not been gone into and it is only general information—that in not one case has the Custodian General made—reference under Section 27 to the High Court. The provision has been a dead letter. Personally I think it will not be good to induct the jurisdiction of the civil court in evacuee property matters. When this Bill was passed, a hierarchy of offices was set up and, appeals and revisions were provided. Experience has shown that the decisions by the civil courts including High Courts take long time. Evacuee property matters have to be dealt with expeditiously. There may have been delays in the office of the Custodians and Custodian General, but nothing like the time that it takes in the civil court. A first appeal takes about 3 years to be decided. I took a case in 1935 and it was finally decided in 1950 after I had become Minister. Now apart from that, the administration of Evacuee Property Law has been dealt with in a somewhat elastic manner by the provisions of Sections 16 and 52. I cite another example. The case of Chatri-wala is a well-known one which has received a lot of publicity. That is still pending in the High Court of Punjab. What is being sought there? It is to substitute a technical decision in place of a substantial and good decision. I am not sure whether those friends of mine

THE MINISTER FOR LAW AND MINORITY AFFAIRS (SHRI C. C. BISWAS) : Sir, with due deference to my colleague, I don't think it would be proper to say anything in regard to any case which is still pending before the High Court.

SHRI A. P. JAIN: I have not made any observations with regard to- the merits of the case.

SHRI C. C. BISWAS: You should not say whether the judgment is a substantial and good decision when it is under appeal.

MR. CHAIRMAN: You mentioned 'to substitute a technical decision'.. You need not refer to that.

SHRI A. P. JAIN: I said the decision-of the Government which was an executive decision Now, I am not sure whether after full consideration, those friends of mine who are today insisting upon induction of the jurisdiction of the civil court will feel happier if we do it. I am prepared to consider this question but separately and comprehensively at a later-stage. I am sorry it is impossible to accept that proposal in this Bill.

Some minor points were raised by some Members and two of them by Mr. Ismail. He objected against the words "transactions ought not to be confined for any other reasons" in Section 40. I have consulted the Ministry of Law and I have been advised that when particular words are followed by general words as is the case here, the general words will have a restricted meaning and must be construed as referring to the class of cases which are similar to the cases which are intended to be covered by the particular words. He need have no apprehension that these words are going to be used in any other sense.

SHRI B. GUPTA: Why don't you put in a proviso in that case?

SHRI A. P. JAIN: It is not necessary.

Now, the hon. Member has made another suggestion. If a property is sold on account of inadequacy of consideration, but the highest is less than the consideration passed, in such cases Mr. Ismail would like the transfer to be confirmed. I see the force of his argument and I shall provide by rules that the transferee should have the power to bid at the auction, and set off the bid-money against the consideration payable.

Mr. Sobhani referred to the question of the first informant and how it is worked within Bombay. More than a year ago, I abolished that system. I consider it a vicious system. It places temptations in the way of a person to make all kinds of malicious allegations. The hon. Member also referred to the case of dependants of evacuees who may be living in the houses whose tenancy rights or occupancy rights have become evacuee property. We have taken lenient view in such cases and wherever we found that the eviction would cause hardship, either we gave alternative accommodation or gave a portion, not the whole house. I have already tried to do my best and I hope to do my best. Most of the points raised by Mrs. Munshi have been answered; but I could not understand one of her objections. She asks why judicial authority is being removed. We are not removing any judicial authority. So far as the evacuee property pool is concerned, I have made the position clear more than once that our amendments do not touch the pool of the properties which have been declared as evacuee property. Evacuee property pool, to my mind, includes properties which have become evacuee property up till now and properties which may become evacuee property according to the law that may prevail hereafter. You have made certain modifications in the law and any property that becomes evacuee property according to the law which will be in force hereafter will be treated a evacuee property.

Sir, I have done.

KHWAJA INAIT ULLAH (Bihar): Sir, for the sake of information.

خواجہ عذایت اللہ (بہار) :

پہلے جو قانون تھا اس میں سیکشن

۴۱ میں بیچنے کی اجازت مل جاتی

تھی اور سرٹیفیکیٹ (certificate)

مل جاتا تھا - مگر اب وہ سیکشن

۴۱ دیا گیا - تو کہا اب تک جو سرٹیفیکیٹ

مل چکے ہیں اس کو پرہوس

پرہوس (previous permission)

سمجھیں گے یا نہیں -

[KHWAJA INAIT ULLAH: Under clause 41 of the law which was in force formerly, one could get permission to sell property as also a certificate to that effect. But now since that clause has been abolished may I know whether the certificates already issued will be considered to be previous permission or not?]

[SHRI A. P. JAIN: No. They will not be considered as previous permission.]

SHRIMATI LILAVATI MUNSHI: Sir, on a point of information. The hon. Minister said that 21,000 came over here according to the Prime Ministers' Agreement.

SHRI A. P. JAIN: Not the Prime Ministers' Agreement, but according to the arrangement.

SHRIMATI LILAVATI MUNSHI: I want to know how many people who went there were allowed to settle down in Pakistan?

SHRI A. P. JAIN: Though the question is not altogether relevant, I will answer it. In 1950 exodus took place from India and Pakistan. So far as Pakistan was concerned, as the West had been already denuded of all non-Muslims, exodus took place only from:

† English translation..

East Bengal. In India the exodus took place towards East Bengal and towards West Pakistan. The movement between the two Bengals was free. About two and a half lakhs of people had gone to West Pakistan from India and arrangements were made that some families, who had gone from U.P., could under certain arrangements be brought back. As a result, 21,000 were brought from the West. In the East the traffic was free.

SHRIMATI LILAVATI MUNSHI: But my question was different. 21,000 have come here. But how many have gone from here to Pakistan and been settled there?

SHRI A. P. JAIN: None.

SHRI B. GUPTA: I made a suggestion that popular committees may be constituted to deal with the question of evacuees and evacuee properties. The hon. Minister has not said anything on that.

SHRI A. P. JAIN: That is not at all acceptable.

MR. CHAIRMAN: The question is:

"That the Bill further to amend the Administration of Evacuee Property Act, 1950, as passed by the House of the People, be taken into consideration."

The motion was adopted.

MR. CHAIRMAN: Now we take up the clause by clause consideration of the Bill.

The motion is:

"That clause 2 stand part of the Bill."

There are three amendments to this clause. Janab Ismail Saheb.

MR. DEPUTY CHAIRMAN in the Chair.]

JANAB M. MUHAMMAD ISMAIL SAHEB (Madras): Mr. Deputy Chairman, I move:

"That in clause 2, sub-clause (a), before part (1), the following new part be inserted:

—

(al) to sub-clause (i), the following proviso shall be added, namely: —

'Provided that any person who has returned before the 18th day of July 1948 or returns from Pakistan under a valid permit issued under the influx from Pakistan (Control) Act, 1949, for permanent resettlement in India or permanent return to India or whose temporary permit has been converted into a permanent permit shall not be deemed to have been an evacuee under subclause (i) or any other Act or Ordinance amended or repealed by this Act and his property shall not be deemed to have been vested in the Custodian.'

Sir, the hon. Minister for Rehabilitation explained why he could not accept this suggestion that is contained in the amendment. In this connection I have to say that I appreciate the sympathetic manner in which he dealt with the whole subject, both in his opening speech and in the reply which he has given to the general debate. 4PM While doing so, Sir, I want to ask him a question in connection with the statement he made that he wants the subject matter of my amendment to be left over for a notification that the Government may issue on the subject and that he does not want to incorporate the suggestion in the Act itself. He fears, Sir, that the incorporation of this suggestion in the Act would make the matter very rigid and it will not leave any room for the Government to reconsider any matter connected with the subject. Sir, in this connection, the question I want to put to him is this. These three categories which are being sought to be exempted from the purview of the Evacuee Act have been before the Government from the time when they issued the Notification on the 3rd July 1950. For almost three years this matter has been before the Government

and even today, after nearly three years, they are of opinion that these three categories have to be exempted from the operation of the Act. That being so, Sir, if there was to have been any change or alteration in the attitude towards these three categories, that ought to have come to light during these three years. Now, therefore, this matter having received all possible consideration during these three years, Sir, this might be incorporated in the Act itself. I ask him, Sir, whether the Government cannot consider now—it is time enough, Sir, after the lapse of three years—to have this matter settled once and for all. That is what, Sir, I want to ask him and I think that he will consider it sympathetically.

My point is, Sir, that this matter has been before the Government for the last three years, at least from when the Government issued the notification on 3rd July 1950 to the effect that these three categories are fit enough to be exempted from the operation of the Evacuee Act. Now, if there was to have been any change in the matter, that would have come to light by now within these three years. Therefore, I think, the incorporation of this into the Act, will not produce any complication or difficulty. If there was any difficulty, it ought to have come to light during these three years. Therefore, Sir, I think that the Government may consider this question also sympathetically. Sir, I put this matter before the Government and the House because, without such incorporation, the concession given to the intending evacuees might not have its full value and benefit and that is the consideration that makes me more the amendment even after what the hon. Minister has said.

I move, Sir.

MR. DEPUTY CHAIRMAN: Mr. Razak, are you moving your amendment?

SHRI ABDUL RAZAK (Travancore-Cochin): Yes, Sir. I beg to move that in clause

SHRI A. P. JAIN: If he wants, he can speak on the amendment already moved.

1 C of S. D.

MR. DEPUTY CHAIRMAN: It is about the same thing. Do you want to move yours also?

SHRI ABDUL RAZAK: Sir, it is the same as the one moved by my hon. friend, Mr. Ismail, excepting for some verbal change towards the close.

MR. DEPUTY CHAIRMAN: Then, you can speak on it.

MR. DEPUTY CHAIRMAN: Amendment moved:

"That in clause 2, sub-clause (a), before part (1), the following new part be inserted:

—
(al) to sub-clause (i), the following proviso shall be added, namely: —

'Provided that any person who has returned before the 18th day of July 1948 or returns from Pakistan under a valid permit issued under the influx from Pakistan (Control) Act, 1949, for permanent resettlement in India or permanent return to India or whose temporary permit has been converted into a permanent permit shall not be deemed to have been an evacuee under subclause (i) or any other Act or Ordinance amended or repealed by this Act and his property shall not be deemed to have been vested in the Custodian.'

Both the amendment and the clause are open for discussion.

SHRI ABDUL RAZAK: Sir, the object of this amendment is not to secure a general amnesty, in the words of the hon. Minister, for all those persons including the Mir Laik Ali type now in Pakistan who are now desirous of staging a come back to India. Far from that. The amendment seeks only to secure the innocent and the unwary nationals of India who have been stranded in Pakistan specially for one reason; that is to say that the phraseology of section 2, clause (d), subclause (i) is not happy. It reads: "evacuee" means any person,— (i) who, on account of the setting

[Shri Abdul Razak.]

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up of the Dominions of India and Pakistan or on account of civil disturbances or the fear of such disturbances, leaves or has, on or after the 1st day of March, 1947 left, any place in a State for any place outside the territories now forming part of India,..... "

Sir, as I said, the use of the words "leaves or has left" is not happy. Instead, the use of the words "migrates or has migrated" would have brought the definition of the evacuee well within the legal requirements of a definition; but, as it is, it includes, besides the deliberate migrants and also the runaways, a variety of persons, as for example, persons who have been prevented from coming over here on account of the then prevailing conditions in Pakistan that were beyond their control and the persons who went to those areas on business trips, the casual visitors and, above all, a class of students. About this class of students, especially, I could bring a number of instances to the notices of the hon. Minister; but, as some of those students are involved in cases now pending before the various Custodians and the Custodian General, I do not think it proper on my part, Sir, to mention any. Still, a broad illustration is warranted and that I shall do better with particular reference to the Talimul Islam College, now at Lahore. Sir, this college was primarily founded for the propagation of the Ahme-diya movement in Qadian within the territory of India, in East Punjab. That institution was functioning there till September 3, 1947, when it moved on to Lahore, through an act on the part of the executive. As it moved on to Lahore, it inevitably carried with it, a number of students belonging to the remotest corners of India, including South India.

Now, the point that I wish to bring to the attention of Government is not whether that institution should or should not be allowed to come over here. That is not my point. I would say that that institution must run its

course out in its present place. The one broad question that commends itself for the sympathetic consideration of the House is whether these students belonging to different parts of India should be shut out from this institution? Therefore, Sir, my submission is that I should not be mistaken to plead for a general amnesty. All that I wish to bring to the consideration of the Minister through this amendment is that a fair and equitable decision has got to be made in respect of the students belonging to the various places in India. With these students, specially, one more point has to be considered. These students have not acquired or derived any interest whatsoever in Pakistan. Therefore, all these persons, as I have said before the innocent and the unwary, this class of students deserves special consideration, and I request the hon. Minister to consider it. As against this suggestion, the only objection that could be raised—and that has been raised—is that there is no corresponding provision in the corresponding Act in Pakistan. My answer to this objection is that the lead has always come from India. Let India take the lead in this matter also and then insist on Pakistan for reciprocity. With these words, Sir, I commend this amendment for the sympathetic consideration of the House and for the acceptance of the hon. Minister.

MR. DEPUTY CHAIRMAN: Mr. Jain.

SHRI A. P. JAIN: Sir, I think there is a large amount of misunderstanding when so much emphasis is being laid on students. We are not considering the Passport law or the Citizenship law but the Property law. Few students will be affected by the Property law. Reference has been made to section 2(d) (i) and the expression 'leaves India' is objected to. I think, Sir, that the use of the words 'leaves India' is perfectly correct. It is not open to any objection. The leaving must be due either to the setting up of the Dominion of India and Pakistan, that is, Partition, or it must be due on account of the civil disturbances or fear of civil disturbances. Everybody here knows that since the

beginning of 1948, we in India have been living in a perfectly peaceful atmosphere. Whatever unfortunate incidents took place, they happened in 1947. So, any person who left India on account of the disturbances or fear of disturbances must have done so in 1947 or, at the utmost, early in 1948. What are the concessions given to these persons? If anybody happens to have come here before the 18th July 1948, his property is returned. Further on, a period of one year and three months has been permitted, that is, from the 18th July 1948 to 18th October 1949, during which a person would get a permanent resettlement permit for the mere asking. He could write to somebody here who would apply to the Collector and get the permit. A period of 15 months was sufficiently long for a person to decide whether he wanted to return to India. If he had gone to Pakistan in fear or huff, he had the opportunity to come back either during the period prior to the introduction of the permit system or during the period before 18th October 1949. Sir, I have already given reasons why we propose to adhere to the existing decision. I am sorry I cannot accept the amendment.

MR. DEPUTY CHAIRMAN: I am putting the amendment to the vote.

The question is:

"That in clause 2, sub-clause (a), before part (1), the following new part be inserted:—

(a) to sub-clause (i), the following proviso shall be added, namely:—

'Provided that any person who has returned before the 18th day of July 1948 or returns from Pakistan under a valid permit issued under the influx from Pakistan (Control) Act, 1949, for permanent resettlement in India or permanent return to India or whose temporary permit has been converted into a permanent permit shall not be deemed to have been an evacuee under subclause (i) or any other Act or Ordinance amended or repealed by

this Act and his property shall not be deemed to have been vested in the Custodian."

The motion was negatived.

MR. DEPUTY CHAIRMAN: Mr. Kapoor does not move his amendment.

The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

MR. DEPUTY CHAIRMAN: The question is:

"That clauses 3 and 4 stand part of the Bill."

The motion was adopted.

Clauses 3 and 4 were added to the Bill.

MR. DEPUTY CHAIRMAN: Clause 5. Mr. Kapoor.

SHRI J. R. KAPOOR: Mr. Deputy Chairman, I have given notice of an amendment, late of course it is, and I do not know whether the hon. Minister is in a mood to accept it.

MR. DEPUTY CHAIRMAN: He has told you that he is not prepared to accept it.

SHRI J. R. KAPOOR: Then, Sir, what I have to submit for his consideration and more for the consideration of this House—because after all this House is supreme—is that the provisions of clause 5 of the Bill seem to have the implication of acting in a very harsh manner on the tenants-in-chief. Hitherto, what the original section 12 of the Act meant was that any property which became evacuee property, if it had been allotted or leased out after the 14th day of August 1947, then the Custodian in whom the evacuee property vests could step in and take necessary steps to annul the arrangement which the tenant-in-chief may have had with any sub-tenant. But the provision is now sought to be applied

[Shri J. R. Kapoor.] to property allotted or leased even before 14th August 1947. We could very well understand the propriety of that, because anything done after the 14th day of August 1947 should not be considered to have been done in good faith or with proper justification. But now what is intended to be done is that agreements entered into by a tenant-in-chief even in good faith, in accordance with law, in accordance with the rights which he has obtained from the landlord—even those agreements which he has entered into with his sub-tenant are going to be nullified. I submit that this does not appear to be fair, because whatever the tenant-in-chief had done in accordance with the law of the land or of the State where the property is situated or whatever he has done in accordance with the rights which he has obtained from the original landlord should not be interfered with. This is my first point.

My second point is that in some of these cases we find that the action of the tenant-in-chief has helped certain displaced persons to be rehabilitated in a certain measure. The original tenant-in-chief has sub-let either the whole of the building in his possession or a part of it. Now what is intended to be done hereafter is that the entire rights of this tenant are going to be wiped out. I would like the hon. Minister to throw definite light on the subject as to what would be the fate of, say, a displaced person who is a sub-tenant of such property. The intermediary, of course, it is obvious, would be removed. The tenant-in-chief goes away entirely. But then the question arises whether the subtenant who has acquired his rights from the tenant-in-chief will be allowed to stay in the premises or not. That is the question. Perhaps the strict interpretation of this amending clause would be that the rights of the subtenant would also be taken away automatically because when the original rights of the tenant go away, the rights of the subtenant which he has derived from the tenant would also automatically go away. But if the inten-

tion of the hon. Minister is something different, I wish he would suitably amend this provision, or if he thinks that it is too late now to amend it, then he should give us a categorical assurance that it is not his intention nor the intention of this legislation that the sub-tenant would also be interfered with. It is all right in these democratic days that intermediaries should go away. If the tenant is not there, if the tenant is only making a profit by sub-letting, all right, let him go; but then please do not disturb the sub-tenant. That is the second point.

Thirdly, I find from the proposed amendment that even if a part of the building which is with the tenant-in-chief has been sub-let to a sub-tenant, then not only will the intermediary's rights with regard to the portion which he has sub-let be taken away, but his rights even in respect of the portion of the building in which he himself is residing will be taken away. This appears to be a little too harsh. This also needs consideration and clarification. I hope the hon. Minister would throw adequate light on these two points and would assure us that that is not his intention, though I know even such assurances will not help anybody much because after all the court of law will interpret a section in accordance with the obvious meaning of that section, but it will certainly give us some satisfaction. It would be perhaps better if the hon. Minister is prepared to accept my amendment, notice of which I have given. It is a very small amendment and only suggests that if the tenant has sub-let the property in contravention of any law that was then in force, then his right should be taken away, but not otherwise. But if the amendment is not acceptable to him, let him at least give us an assurance and provide for it in rules and instructions.

SHRI A. P. JAIN: Sir, two points have been raised: one with respect to the tenant, and the other with respect to the sub-tenant. Dealing with the question of the tenant first, may I remind the hon. Member that in the law

which preceded the existing Act there was a provision that the Custodian could exercise his power of eviction not only with respect to the post— 14th August 1947 tenants but also with respect to the pre-14th August 1947 tenants. The latter part of it, what is, in respect of the tenants who had been there before 14th August 1947, was not reproduced in the existing law. During this period we have experienced difficulty. Many pre-14th August 1947 tenants, are sub-letting the properties, realising *nazaranas*, and charging high rents; and we see all that sitting almost helplessly. While it will be possible for an ordinary landlord to file a suit in a court of law, for the Custodian, who holds thousands and tens of thousands of properties, it is not possible to do so. Therefore we have taken this power, but in a limited way, namely, that the Custodian will not have the permission to evict a pre-14th August 1947 tenant except when there is a case of sub-letting or when there is a misuse of the property. I do not think that anybody need shed tears for a man who does not need the property for his own use but is letting it out to others.

So far as the question of the subtenant is concerned, I am prepared to give a much larger undertaking than what the hon. Member wants. I will treat not only the case of displaced persons but also of others in a humane manner. I do not want to throw people out of their houses. There are difficulties of accommodation. Although technically I may have to deal with displaced persons, non-displaced persons are also my countrymen and wherever it will cause hardship to a subtenant, I will not only not evict a displaced person, but also a non-displaced person.

KHWAJA INAIT ULLAH: Can everybody come to the hon. Minister? Or will a rule be made?

SHRI A. P. JAIN: The whole world cannot approach one single individual. But there are rules and regulations, and I guide the spirit of the administration. I daresay we have been able

to give some satisfaction to the people—not everybody, but to many—it may not be cent, per cent.

Now, another point which has been raised by the hon. Member is that if the tenant has sub-let a portion of the property, why not confine the proceedings to the portion which has been sub-let? I am sorry that I cannot accept that as a general rule. It will depend upon the circumstances of the case.

SHRI J. R. KAPOOR: What circumstances, please?

SHRI A. P. JAIN: There is a person lying in the street and some tenant takes him in; without charging premium, or high rent. Mere out of pity, or compassion somebody gives shelter. I will not evict a person because he has done a decent act. I shall try my best and all I can say is that so far as the sub-tenants are concerned it is none of my intention to cause them unnecessary hardship, whether displaced persons or otherwise. And so far as tenants are concerned, there might be hard cases in which the Custodian may not exercise the power. Government can give directions to the Custodian under section 54 in a matter like this and we shall take jolly good care that no unnecessary hardship is caused.

MR. DEPUTY CHAIRMAN: Nov/ I will put the question to the House.

TrTe question is:

"That clause 5 do stand part of the Bill."

The motion was adopted

Clause 5 was added to the Bill.

Clauses 6 to 9 were added to the Bill.

MR. DEPUTY CHAIRMAN: Then we come to clause 10. There are two amendments.

JANAB M. MUHAMMAD ISMAIL SAHEB: Sir, I do not want to move this amendment not because I think that it is not important, but because

[Janab M. Muhammad Ismail Saheb.]
there is another amendment bearing on the same subject which my hon. friend Mr. Dhage will move. Then, if you would allow me, after he moves his amendment, I shall have a few words to say.

MR. DEPUTY CHAIRMAN: Oh yes.

SHRI O. SOBHANI (Hyderabad): Sir, I do not wish to move my amendment.

SHRI V. K. DHAGE: Sir, I beg to move:

"That in clause 10, after subclause (a), the following new subclause be inserted:—

(aa) after clause (b), the following new clause shall be inserted, namely:—

'(c) to the High Court where the order, whether original or appellate, has been passed by the Custodian General:"

Sir, I have heard the speech of the hon. Minister for Rehabilitation with regard to this point which has been raised in the amendment. While he has appreciated the anomaly that has been pointed out by Mr. Ismail, he does not think that it will be nice for him to accept the point. My point is, Sir, that it is not merely an anomaly, but it is more or less unjust not to have the provision of an appeal to the High Court in this Bill. This will be made clear by the explanation that I will give. All the powers are vested in the Custodian General under the Act and he also has the power to take decisions in the matter of disputes that arise. Section 24 of the Act provides for the procedure of appeal. That section makes the provision that an appeal from a Custodian or the Assistant Custodian can go to the Custodian General. But an aggrieved person cannot go in appeal under that section if he contends that he is not an evacuee. If the contention is that he is not an

evacuee, he has to take an appeal under section 25 and there the procedure laid down is that that appeal shall be heard by the District Judge nominated by the Government. Under section 27 of the same Act, there is no provision of appeal, but there is a provision of revision and review. Under that section, the Custodian General can, on his motion or on the motion of an application, send for the papers or records from the Custodian or even from the District Judge. Now, there is one exception that has been provided and that is: ".....and pass such orders as he deems fit or proper in the matter, but no prejudicial to the interests of the evacuee or the person aggrieved without having given him a proper notice or a hearing in that regard." That is of course a legal formality. But if he happens to disagree with the decisions of the District Judge, he has the right under section 28 to make a reference to the High Court. Now, Sir, if we examine the position under certain hypothetical conditions, we will see as to how unjust it is that there should be no provision of appeal in that Act. Supposing, the Custodian comes to a decision that a person is an evacuee. Then that aggrieved person, who contends that he is not an evacuee, will appeal to the District Judge. The District Judge might uphold his contention that he is not an evacuee or he may uphold the contention that he is an evacuee. Now, if he upholds the contention that he is not an evacuee, then the Custodian General can send for those papers and might come to a decision which is not in accordance with the judgment of the District Judge. He can make a reference to the High Court. But if the District Judge comes to the decision that the person is an evacuee or in other words confirms the decision of the Custodian, then the aggrieved person has no appeal. There is no appeal under any of the sections.

Now, Sir, take another question. If the Custodian comes to the decision that he is not an evacuee, then the Custodian General, by invoking the powers of revision can come to a contrary decision, but from there there is

no appeal to the High Court. The hon. Minister has also referred to the decision of the Bombay High Court in which the Bombay High Court held that the Custodian General had come to an erroneous decision, but having come to that erroneous decision, they could not, even on a writ application, upset that decision because they held that they were out of jurisdiction to come to any decision contrary to that of the Custodian General. On the contrary, they appealed to the Government of India to consider the case sympathetically and I think, it is in that appeal that the hon. Minister came to the decision that some sort of a concession should be made to the aggrieved party. Now, Sir, it is not that there is only one instance of this kind. It is no use saying that in the number of cases that the hon. Minister has gone through, not one case has come up in which the Custodian General has acted rather wrongly. But that is not the way to make a law. It may be that so far the Custodian General has not done anything wrong but the same Custodian may not continue and it may be that another Custodian General might come in his place and may not act in the same manner as the Custodian General is now acting. And therefore, even if a single case has occurred in which the Bombay High Court has come to the conclusion that the judgment of that Custodian General was wrong, then it is up to us, as it is done in many other cases, particularly in the matters of income-tax where the law is generally amended, to improve the law. I would therefore say that whether there is a single case or not, even if there is a possibility of erroneous judgment being delivered against a person, if he has a right to go and appeal against the judgment of the District Judge, then the aggrieved person should also have a similar right to appeal to the High Court.

Another point is that the Custodian and the Custodian General are both subordinate to the executive authority, while the District Judge is subordinate to the High Court. An aggrieved person cannot go and appeal

to the High Court against the judgment of the Custodian General. It is certainly not fair to place the Custodian General in the position of a Mikado. Therefore I will implore that the amendment that I have moved be accepted.

SHRI A. P. JAIN: Sir, I have stated my position in general during the course of the general debate. I am afraid that the hon. Member who has preceded me has not correctly appreciated the position even with regard to the law as it stands. I say that, assuming that I accept his amendment, the difficulties pointed out by him are **not** solved. The relevant sections dealing with appeals are sections 24, 25 and 27. Now section 24 is the general section which provides for an appeal to the Custodian where the original order has been passed by a Deputy or Assistant Custodian, and to the Custodian General from an order of the Custodian. Then comes section 25 which says that in certain cases an appeal shall lie not to the Custodian but to the District Judge. What are those cases? No. 1 where a person has been declared an evacuee under 2(d) (hi). No. 2 where a person's property has been declared to be evacuee property under (b), and then where a person's property has been declared to be evacuee property under section 22. In these cases an appeal shall lie to the District Judge.

SHRI V. K. DHAGE: Section 22 is taken away by your Bill.

SHRI A. P. JAIN: That is quite different. The position is this: Ordinarily there is a finality about the decisions of the District Judge. No appeal lies to the Custodian General or to the High Court. Revision lies to the Custodian General. Now, if the Custodian General finds that a person has been declared a non-evacuee, but should be treated as evacuee, he cannot himself declare him an evacuee, **but** must refer the case to the High Court.

SHRI V. K. DHAGE: May I just interrupt the hon. Minister a little? Ca-cs under section 24 can be appealed against only under the conditions which the Minister has mentioned

[Shri V. K. Dhage.] under section 25 on the ground that he is not an evacuee. He must contend that he is not an evacuee.

SHRI A. P. JAIN: Just have patience for a few minutes.

SHRI V. K. DHAGE: If the Custodian comes to the decision that a person is not an evacuee, then under section 27, the Custodian General can send for the papers and hold a person to be an evacuee. He is entitled to do that. If that happens, what is the relief to the aggrieved person?

SHRI A. P. JAIN: That is what I was trying to explain. An appeal under section 25 lies from an order of an Assistant Custodian or the Deputy Custodian to the District Judge. The order in appeal is final and no appeal lies against the order of the District Judge, but a revision is provided by section 27. Now, if the Custodian General concurs with the judgment of the District Judge that he is a non-evacuee, there is an end of it, but if the Custodian General disagrees with the order of the District Judge declaring a person non-evacuee, then he must refer the matter to the High Court. In fact it is a concession in the sense that the Custodian General does not set aside the order of the District Judge declaring a person to be a non-evacuee, but he only refers the case to the High Court. The amendment says, "that an appeal shall lie to the High Court where the order, whether original or appellate, has been passed by the Custodian General." In this case no order has been passed by the Custodian General. The order passed is by the District Judge, and therefore the amendment does not solve the difficulty. I accept that sections 25 and 27 create a somewhat anomalous position, but it is not possible in this Bill to take up that question. The hon. Member's amendment does not meet the difficulty. I am sorry I cannot accept the amendment.

SHRI J. R. KAPOOR: Does not the hon. Minister think that there is obviously a lacuna in clause 2 of section

27 which is the point that the hon. Member is making? The Custodian General can send for the records from the office of the Custodian. Suppose the Custodian has passed an order to the effect that a particular person is not an evacuee. So, the person aggrieved is satisfied. He does not appeal to the District Judge. Now, the Custodian General on his own motion calls for the records. The Court of the District Judge does not come in the process. The records are called directly from the office of the Custodian, and then the Custodian General holds the view that the order of the Custodian is wrong and that the person should be declared an evacuee. Now, if this order had been passed by the District Judge, then the Custodian General could not reverse that order, but he has only to refer it to the High Court, but if, however, the original order has been passed by the Custodian, then there is nothing to prevent the Custodian General from reversing that order and holding the man to be an evacuee. So, there is obviously a lacuna, probably by oversight, and perhaps this lacuna can be very easily removed by a slight verbal amendment in sub-clause (2) of section 27 by adding the words "the Custodian" before the words "the District Judge" in line 3 of sub-clause (2). That is a lacuna. You might consider that. The amended clause will read thus:

"Notwithstanding anything contained in sub-section 1"

</ MR. DEPUTY CHAIRMAN: Mr. Kapoor, we are discussing clause 10 which refers to section 24 of the original Act. You are speaking about section 27. It is completely irrelevant.

SHRI J. R. KAPOOR: Clause 10 refers to section 24. But the reason advanced here is

MR. DEPUTY CHAIRMAN: (We are not concerned with 27 at all now. You cannot amend the original Bill here. You can only send an amendment to this Bill. If you can convince the Minister, he will bring another Bill. We are not concerned with it now. [will put the clause to vote.

The question is:

"That in clause 10, after subclause (a), the following new subclause be inserted:

—

(aa) after clause (b), the following new clause shall be inserted, namely: —

'(c)-to the High Court where the order, whether original or appellate, has been passed by the Custodian General:"

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 10 stand part of the Bill."

The motion was adopted. Clause 10 was added to the Bill

MR. DEPUTY CHAIRMAN: The question is:

"That clauses 11 and 12 stand part of the Bill."

The motion was adopted.

Clauses 11 and 12 were added to the Bill.

MR. DEPUTY CHAIRMAN: There are 6 amendments to clause 13.

KHWAJA INAIT ULLAH:

خواجہ عنایت اللہ -
میں نے کل آنریبل منسٹر
سے عرض کیا تھا کہ منجیسے.....

*[KHWAJA INAIT ULLAH: Yesterday I made a request to the hon. Minister to let me.....]

† English translation.

MR. DEPUTY CHAIRMAN: Are you moving No. 5? It is a negative amendment. Are you moving No. 6?

KHWAJA INAIT ULLAH: I want to speak about No. 5. I have suggested something yesterday and I think.....

MR. DEPUTY CHAIRMAN: You can speak on it when the clause comes up for discussion.

KHWAJA INAIT ULLAH: I don't move Nos. 5 and 6.

SHRI O. SOBHANI: Sir I move:

"That in clause 13, in the proposed section 40, in sub-clause (i) of clause (c) of sub-section (2) for the words "three thousand" the words "five thousand" be substituted."

In view of the statement made by the hon. Minister that he would accept the amendment, I don't think there is need for a long speech. I thank the Minister and move the amendment.

MR. DEPUTY CHAIRMAN: Mr. Barkatullah Khan is absent.

KHWAJA INAIT ULLAH: I don't move amendments Nos. 9 and 10.

MR. DEPUTY CHAIRMAN: Amendment moved:

"That in clause 13, in the proposed section 40, in sub-clause (i) of clause (c) of sub-section (2) for the words "three thousand" the words "five thousand" be substituted."

The clause and the amendment are for discussion.

SHRI A. P. JAIN: Sir, I accept the amendment.

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[Khwaja Inait Ullah.]

خواجه عیاض اللہ ! جذاب ڈپٹی
چیرمین صاحب - میں نے کل اس لا
(law) کے متعلق ایک لیگل پوائنٹ
(legal point) ریز (raise) کیا تھا
اور میں سمجھتا ہوں کہ یہ میرا فرض
ہے کہ جو سرجیشن میرے دل میں
آئے وہ میں ہاؤس کے سامنے اور آرڈر
میںسٹر کے سامنے رکھ دوں - اس
خیال سے میں نے یہ عرض کی تھی کہ
کلاز ۱۳ جس سے کہ ہندوستان کی
جٹلما پر ان کی جائداد پر کچھ بندش
لگائی جانی ہے - کچھ رستریکشن-
(restriction) لگایا جاتا ہے اس کی وجہ سے
ہمارے کانستٹی ڈیوشن کے کلاز ۱۹

*[KHWAJA INAIT ULLAH: Mr. Deputy Chairman, yesterday I raised a point of law with regard to this provision and I think it is my duty to place before the House and the hon. Minister the suggestion I have in my mind. With this very idea in view I submitted yesterday that clause 13 of the Bill which places some restrictions on the people of India, I mean to say which places some restrictions on the property of the people of India, conflicts with the spirit of clause 19 of our Constitution.....]

MR. DEPUTY CHAIRMAN: You have already urged all those grounds earlier. Why repeat them?

KHWAJA INAIT ULLAH: I am putting it in substance. If the hon. Minister and the Law Minister are satisfied that it is all right, then I have no objection.

SHRI H. P. SAKSENA: I am not satisfied.

MR. DEPUTY CHAIRMAN: The question is:

"That in clause 13, in the proposed section 40, in sub-clause (i) of clause (c) of sub-section (2) for

*English translation.

the words "three thousand" the words "five thousand" be substituted."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 13, as amended, stand part of the Bill."

The motion was adopted.

Clause 13, as amended, was added to the Bill.

MR. DEPUTY CHAIRMAN: The question is:

"That clauses 14 to 17 stand part of the Bill."

The motion was adopted.

Clauses 14 to 17 were added to the Bill.

MR. DEPUTY CHAIRMAN: The question is:

"That Clause 1, the Title and the Enacting Formula stand part of the Bill."

The motion was adopted.

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

SHRI A. P. JAIN: Sir I move:

"That the Bill, as amended, be passed."

MR. DEPUTY CHAIRMAN: Motion moved:

"That the Bill, as amended, be passed."

SHRI H. P. SAKSENA: Mr. Chairman, Sir, I would never say Deputy-Chairman because anybody who occupies the Chair is the Chairman—

I heard with regret the opening speech I that was delivered yesterday by no I less a person than my hon. friend, Mr. Inait Ullah. I have been, from the time we came together, admiring him for his vigour and for the keen interest that he takes in the proceedings of the House. Sir, he spoke in a spirit of gusto and bravado while starting the speech and asked for a ruling from you. He also spoke of making a petition to the President of the Indian Union for declaring the Act *ultra vires* forgetting altogether that the hon. Minister for Rehabilitation has not presented any original Bill. It was only an amendment to the Bill regarding the Evacuee property which had already been passed. There was no room for declaring the Act *ultra vires*.

5 P.M.

KHWAJA INAIT ULLAH: I have never declared it.

SHRI H. P. SAKSENA: I hope you will

KHWAJA INAIT ULLAH: I suggested

MR. DEPUTY CHAIRMAN: Order, order.

SHRI H. P. SAKSENA: Please listen to me. To me the speech, it appeared, was intended to

MR. DEPUTY CHAIRMAN: Mr. Saksena, all this is unnecessary. The House is concerned with the -clauses in the Bill and not with all these comments.

SHRI H. P. SAKSENA: I hope, Sir, I shall be allowed to have my say, because

MR. DEPUTY CHAIRMAN: Yes, on the Bill and not on what Mr. Inait Ullah said.

SHRI H. P. SAKSENA: But it pained me to hear his remarks, for they were tantamount to a vote of no-confidence a vote of censure on the Government of India as well as on the community which he in his language would call the majority community, because he styled the community to which he belongs as the minority community. I will not

KHWAJA INAIT ULLAH: Sir, if my speech is to be discussed,-I may please-be allowed to reply him..

MR. DEPUTY CHAIRMAN: Order, order.

SHRI H. P. SAKSENA: We have got a Central Government in which there can be no question of any community being a minor or major community.

KHWAJA INAIT ULLAH: That is what I demanded.

SHRI H. P. SAKSENA: Where all are being governed by a Secular State and there is no question of dividing the country into communities and call one community a minority community

MR. DEPUTY CHAIRMAN: Mr; Saksena

SHRI H. P. SAKSENA: The minority community is.. _____

MR. DEPUTY CHAIRMAN: Order,, order. I want you to confine your remarks to the Bill and not on what Mr. Inait Ullah. said or did not say.

SHRI H. P. SAKSENA: Sir, I thank, the hon. Minister for Rehabilitation for the amendments that he has accepted in order to satisfy the wishes of the persons who thought that they were being put to a sort of inconvenience as the amount mentioned in the Bill was only Rs. 3,000 while they wanted to raise it to Rs. 5,000 to make the minority community as my hon. friend Khwaja Inait Ullah would like to call them—I don't

MR. DEPUTY CHAIRMAN: You need not pursue it.

SHRI H. P. SAKSENA: Sir, I am glad the question of "intending evacuee"—that vexed question—has been so admirably solved and it has altogether been removed from the Bill itself and for this, the hon. Minister deserves the gratitude of the entire House, not of any particular community. He deserves the gratitude of all of us for removing that vexatious expression from the Bill.

[Shri H. P. Saksena.]

A most astounding and strange argument was put forward that under the pretext and under the cover of helping 2,000 intending evacuees, the entire community of 4 crores was being put at a discount, and it was being penalised. Was it not the most amazing part of the speech that while one act of grace, an act of goodness was being done, it was characterised as condemning the entire community? These were the germs that fell from the mouth of my friend, Khwaja Inait Ullah.

KHWAJA INAIT ULLAH: And which you could not understand. You could not understand.

SHRI H. P. SAKSENA: I am sorry

KHWAJA INAIT ULLAH: that you could not understand me and my speech. I was trying to kill these ; germs.

SHRI H. P. SAKSENA: Even the bona fides of the Government were doubted. I have said so much about that speech because I wanted to remove the rancour that it had produced in the House; but I will be guilty of introducing the same rancour if I harp on it any more and therefore I stop here.

To my hon. friend Mr. B. Gupta who delivered a speech yesterday I have got a word to say.

MR. DEPUTY CHAIRMAN: No, no. You will make him speak more. You are only provoking him to speak. I think it is better to leave that alone.

SHRI B. GUPTA: No, I don't mind it, Sir.

SHRI H. P. SAKSENA: He twisted and distorted a very good and laudable objective mentioned in the Bill

MR. DEPUTY CHAIRMAN: All this is not necessary, Mr. Saksena.

SHRI H. P. SAKSENA: So dexterously and exquisitely that it appeared that he was making a very great point.

MR. DEPUTY CHAIRMAN: You will get a similar speech now.

SHRI H. P. SAKSENA: Sir, he charged us of high treason and guilty of unpatriotic acts. I pay back the complements and I will only tell him, "Perversity? Thy name is Bhupesh Gupta!"

To my friend Khwaja Inait Ullah, my only advice would be, I wish all that he said yesterday was said by some one else of some one else. If you try to understand the meaning of the sentence, you will certainly be sorry for what you said yesterday.

I must pay my gratitude to my friend Mr. B. Gupta who said that there was a rise of democratic forces in this country.....

SHRI B. GUPTA: That is all on this side.

SHRI H. P. SAKSENA: For him to recognise that there was something like that, a rise of democratic forces in this country, was indeed a very good certificate that I got from an unexpected quarter.

Then there was a great deal of talk about

MR. DEPUTY CHAIRMAN: Mr. Saksena, we are now in the third reading stage.

KHWAJA INAIT ULLAH: And he is replying to all the speakers.

MR. DEPUTY CHAIRMAN: There is no need for that.

SHRI H. P. SAKSENA: I am talking of the fundamental rights which were mentioned yesterday.

MR. DEPUTY CHAIRMAN: No question of fundamental rights. We are not concerned with them here and we need not have an answer to all the speeches here on the third reading of the Bill.

SHRI H. P. SAKSENA: I am speaking on the Bill.

MR. DEPUTY CHAIRMAN: Yes, you may make general remarks. If you are going to comment on every speech, it is not relevant at the stage.

SHRI H. P. SAKSENA: If it is not a relevant subject that I can speak on the floor of this House, I would end by saying that I support the Bill and support it most heartily.

SHRI B. GUPTA: Mr. Deputy Chairman, I do not deal with the speeches made at this stage because it is rather late in the day. I can only say that the speech that has been just made has displayed some of the symptoms of the comrades organisation in which two Members began to quarrel openly on the floor of the House.

SHRI A. P. JAIN: That is life.

SHRI B. GUPTA: I only hope it will not develop into riots. Coming to the hon. Minister's speech, I would not deal with all the points he raised. I am very sorry he did not care to answer some of the fundamental points that I had raised. He tried to dismiss my points with the remarks that I lived in an unreal world, and he also said that I have tried to score a debating point. I would only submit that I neither live in an unreal world, nor do I wish to score a debating point. But, Sir, I live in a world which is a different world and I certainly do not live in the world in which the hon. Ministers flourish. I live in a world which they are trying to dominate, to persecute, to degrade and to tyrannise. I come from that world. Therefore it would be difficult for the Rehabilitation Minister to comprehend the inner urges and feelings of the world that is not his. Sir, neither am I here to score any debating point. After all, the debating talent in the Treasury Benches is not such as would particularly attract one from Calcutta to come all the way to score a point. The hon. Minister knows it very well.

Sir, I raised some important points and he said, "Well, the Prime Minister has said certain things; he has done certain things. Pakistan has not play-

ed the game" and all that sort of thing. You need not tell me; all that is obvious. I am aware of the statement made by the Prime Minister of India. I am aware also of the Constitution but, what I expect of the Government is that it should be aware of the realities of the situation as to what extent the Constitution is being translated in actual life. Sir, there is no use just telling me that we have got something in the Constitution of India, that we have got a Prime Minister who says very flourishing things. I know, Sir, that the Prime Minister is perhaps the last remaining staking horse of the Congress regime. I know, Sir, that they will use his name and prestige whenever confronted with a situation, but that will not pay. You know that that game is played not merely at the table where Sir Nazim-uddin and Pandit Jawaharlal Nehru sit; that game is also played on the table where the District Magistrates, the Police Officers, the politicians of the lower order of both India and Pakistan sit. Look at these places. In spite of the fine sentiments, there is always sabre rattling going on. Look at the Ministers of the lower grade and you would find how they talk; go to the Police Officers, go to Magistrates and you would find that they talk as if they were about to fight. It is no use just ignoring such things. That is not the way how democracy has to be practised.

Sir, it is very important to remember this, because, we know that whatever you may say, the Muslim mind is full of fear, full of apprehension and it does not feel secure. I come from a State where 20 per cent, of the population consists of Muslims; they are persecuted in their private life, in their social life. Whenever they go for a job in an office, they are persecuted at every stage.

KHWAJA INAIT ULLAH: No, it is not a fact.

SHRI B. GUPTA: I know. They are persecuted not with the threat of a dagger as they used to be in the olden

[Shri B. Gupta.] days but they are persecuted with all kinds of other things and the hon. Minister knows it. The trouble with our Rehabilitation Minister is that he will not understand such problems. If they accept our suggestion with regard to relief and rehabilitation, there will not have been any need for relief and rehabilitation and the only question that would have been then left would be the question of rehabilitating displaced Ministers.

SHRI J. R. KAPOOR: The hon. Member is looking at the Press Gallery. May I know whether he is talking to the Press Gallery?

SHRI B. GUPTA: If you do that, I shall start making a speech on the Bill, word by word and I will detain you for one hour. Now, don't try this game. You have played it in the old Parliament. Do it there, if you can get back such a thing.

KHWAJA IN AIT ULLAH: We are not going to be threatened by a speech here. Let him go on and we are fit to reply, Sir.

MR. DEPUTY CHAIRMAN: Let him go on.

SHRI B. GUPTA: I hope the hon. Minister would please understand what I say. Now, Sir, what I say is: By all means you distribute the legitimately obtained evacuee properties among the refugees. Nobody would say that it should not be distributed amongst them but, don't make the question of compensation to the displaced persons contingent upon your getting such properties. That was my point. That is to say, you have to find money from the State Exchequer.

THE LEADER OF THE COUNCIL (SHRI C. C. BISWAS) : The question of compensation does not arise on this Bill at all.

AN HON. MEMBER: The Minister has said that.

SHRI B. GUPTA: I have to ignore even the Ministers. What with my being short of hearing and what with the ununderstandable things the Minis-

ter says, I have ignored him. Very sorry. Now, we have to find money from the State Exchequer for giving compensation to the displaced persons. After all, they are the victims of one of the greatest political treachery that the political history of the world has known. You must remember it.

MR. DEPUTY CHAIRMAN: Mr. Gupta, you are not concerned with compensation in this Bill. We are concerned only with the Evacuee Property Act.

SHRI B. GUPTA: Very well, Sir. The compensation question has been brought. It is also there.

MR. DEPUTY CHAIRMAN: You cannot do it; it is not relevant. You will have other occasions. Budget Debate is there.

SHRI B. GUPTA: I hope he has got it by now. I will not press it. But, I made certain suggestions about Popular Committees for the administration of this law. Now, this measure is going to be a part of the law of the land and the question of administration is very important. I know this law does not make provision for Popular Committees but, even so, it is quite possible to form at least Advisory Committees at all levels, at the Centre, at the Provincial level, at the District level, at the Taluka level consisting of representatives of the refugees, the minorities and of other parties to see that the law is properly administered and is not administered to the detriment of any party or any person. That should and could still be enforced. Those Committees can be formed on the basis of certain notifications by Government and there is no need to pass any measure. These Committees can at least be given advisory powers so that you don't have the need of having any legislative measures here and now. I know, Sir, the hon. Minister will reject it in the same synical way he has rejected every single suggestion I had made. But, he has said that he is here for deciding the destiny of the country. Destiny is not in your keep only. Some part of the destiny is on this side of the

House also and I know, Sir, that if you talk like that, people will just laugh. They have seen how you have decided the destiny of our country in the course of the last five years. The less the destiny is in your keeping, the better for the people. At least, since you have been given an Opposition on this side of the House, who can talk a little about the destiny of the people and can make the urges and the feelings of the people known to you, try to understand our point of view and then decide upon the course of action which will command the confidence of the majority of the people. They forget that they do not command the majority of the people in the country; they forget that in the last elections the majority did not vote for them and, when they talk about the destiny of the people and all that sort of thing, one only feels like laughing at them. After all, democracy has become comic in Congress Benches; it is shown in the absence of the Members of the Congress from the House; it is a caricature in many ways. Democracy is receding today, as far as that side is concerned and that has been shown in the speeches made there. So, let us not talk about destiny. Destiny, undoubtedly has to be taken into account' but, destiny has to be decided on a different basis in which the people of India, regardless of their political affiliations, regardless of their caste or creed should be given the fullest measure of representation and freedom. Your measure, your law, your administration is bureaucratic, is partisan, is undemocratic to the core, militates against all tenets of democracy and that is something that should be known to the hon. Members. I know the hon. Minister for Rehabilitation. After all, he has been there for a long time. "Every time you talk of the problems -of relief and rehabilitation, it becomes complicated. Every time your speakers from that side talk, hopes begin to recede into the background. You know all these things; kindly cultivate a different language, imbibe a different outlook so that we can, after 5 years of the nightmare of the Partition, begin to settle the problem in

the way it should be settled. Now, I know that the hon. Minister has been a lawyer some time in his life and he took about 16 or 17 years to get a decision on a case. I don't know how it reflected on

(Interruption by hon. Members.)

.....but, the country will not give you 17 years to decide the question of relief and rehabilitation. The hon. Minister has come from the bar at the Court to the Benches here on the Treasury side. Do you realise that the relief and rehabilitation question is so vital, is so important that it should be settled in no time and, as far as the evacuee question is concerned, it is no use just telling us that the Prime Minister has made a Statement and that Pakistan has not played the game. We know that. I can tell you, Sir, that we know that Pakistan Government has not played the game. After all, our leaders, the leaders of the Communist Party in Pakistan are still in jail, including a one time colleague of hon. Minister, Sajjad Zaheer, who is still in Jail. We know to our cost how the Pakistan Government is like; but, equally, we know to our bitter cost also how you are like,—and further how your politics is no longer misleading the people.

Therefore, Sir, we are telling you to try to settle this issue; get the help of the people. He ridiculed the idea of the Goodwill Mission. He says that there is no goodwill on the other side of the border. He has made that suggestion. As far as the Nazimuddin Government is concerned, I do not know what is there, but, as far as the people of Pakistan are concerned, they have got goodwill for the people of India and that is why you find in Karachi demonstrations that took place the other day; that is why you find in East Bengal the people rising against that Government. Read the signs on the wall; take those symptoms into account; look at the people and don't get misled by the look of Nazimuddin. We know, Sir, that if we can send a Goodwill Mission consisting of people, democratic people, then, we will have at least done some-

[Shri B. Gupta.] thing for the improvement of the situation.

It is the duty of the hon. Minister for Relief and Rehabilitation, unless he is very much interested in somehow keeping the department going, to take some concrete steps. There is no use sitting and suggesting "We don't know what is happening in Pakistan". We know that hundreds of people are still in jail in Pakistan. I am sure that we all know the way in which things are handled in Pakistan which is something undiminished in character. No law however adverse, no misfortunes that predominate there would take away an iota from our undying faith in people of Pakistan. Therefore, Sir, we are not talking about Ministers. After all what can they do? They say: Pakistan will not do that and do this. I know Pakistan Government is no better than the Government of India. So, take the initiative in your hand and take the people with you. You cannot have the people of Pakistan by dictation. Stars are rising in Pakistan and the horizon will soon be reddened with a promise of a new future. The hon. Member Sir, who is sitting with a gloomy face, should see the signs of the times. He should follow the approach of the Congress in the olden days. That is how he should approach this question to allay the fears of the people in this country, not to speak of the people across the borderland and elsewhere. He should begin to do his function. When we make a suggestion he should not be saying 'We do not know what is happening in Pakistan'. We know very well the Government of Pakistan. We also know very well what you are and what your opposite members in Pakistan are. Our anxiety is that these disputes that are tearing the relationship of our people should be settled early. Please do not complicate a situation which will only be helping the /n^lo-American powers. Therefore, I would ask the hon. Minister there who is sitting, to carry that message to his leader the Prime Minister of India—he is the Prime Minister of India, he is not an individual. His measure would be the measure of prac-

tical politics. His success should be judged not bjr sentiment and words of solicitude but only in the actuality of life, by the concrete practical steps he takes. That is how we shall judge the Prime Minister of a country and that is how a Prime Minister has got to be judged. Therefore, I wish to tell him to carry this message to the Prime Minister. We on our part are prepared to do what we can. We are anxious to heal the wounds that are giving so much trouble, causing so much sorrow and blessing. You should take things seriously. Do not turn it into a talking shop; it is the Parliament of India. Treat this House with a little more seriousness than you have been accustomed to treating the Provisional Parliament which was a fine talking shop of your partisans. Many suggestions have been made from this section of the House and not one suggestion has been accepted; nothing is so shocking, nothing is so disgraceful as that. Nothing is so black as this. He will perhaps say now something else in his defence because the brute majority is there. How long must we go on prostituting democratic principles at the counter of that brute majority? I would, therefore, say that the answer that he has made is not only absolutely unhelpful but it also shows the mentality behind it. I hope the hon. Minister at the fag-end of his political life

SHRI J/ R. KAPOOR: Why at the fag-end, he is in the prime of his life.

SHRI B. GUPTA: I am not saying 'at the fag-end of his life'. I am saying 'fag-end of his political life'. I wish him a long, very long life, I wish him to live long to see what a democratic revolution is like after we have assumed power. I hope he will do something in alleviating the miseries of the people.

SHRI A. P. JAIN: Sir, I have nothing to add.

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill be passed."

The motion was adopted.

The Council then adjourned till two of the clock on Thurs-

.. day, the 26th February, 1953. -