

Page 6, lines 41 and 42,—

for "the Braithwaite and Company Limited" substitute "the Government Company or to the Custodian" (26)

MR. DEPUTY-SPEAKER: I put amendment Nos. 18 to 26 to the vote of the House.

*Amendment Nos. 18 to 26 were put and negatived.*

MR. DEPUTY-SPEAKER: The question is:

"That Clause 11 stand part of the Bill."

*The motion was adopted.*

*Clause 11 was added to the Bill.*

MR. DEPUTY-SPEAKER: The question is:

"That Clauses 12 and 13 stand part of the Bill."

*The motion was adopted.*

*Clauses 12 and 13 were added to the Bill.*

MR. DEPUTY-SPEAKER: Dr. Ramji Singh—Absent.

The question is:

"That Clause 14 stand part of the Bill."

*The motion was adopted.*

*Clause 14 was added to the Bill.*

MR. DEPUTY-SPEAKER: The question is:

"That Clauses 15 to 33 stand part of the Bill."

*The motion was adopted.*

*Clauses 15 to 33 were added to the Bill.*

MR. DEPUTY-SPEAKER: The question is:

"That the Schedule stand part of the Bill."

*The motion was adopted.*

*The Schedule was added to the Bill.*

MR. DEPUTY-SPEAKER: The question is:

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

*The motion was adopted.*

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

SHRI GEORGE FERNANDES: I beg to move:

"That the Bill be passed".

MR. DEPUTY-SPEAKER: The question is:

"That the Bill be passed."

*The motion was adopted.*

15.43 hrs.

[DR. SUSHILA NAYAR in the Chair]

#### ENEMY PROPERTY (AMENDMENT) BILL

THE MINISTER OF COMMERCE AND CIVIL SUPPLIES AND CO-OPERATION (SHRI MOHAN DHARIA): I beg to move:

"That the Bill to amend the Enemy Property Act, 1968, be taken into consideration."

This Bill seeks to provide for the continued vesting of enemy property, already vested in the Custodian of Enemy Property for India under the Defence of India Act, and Rules, 1971, and orders made thereunder. Hon. Members will have observed from the Statement of Objects and Reasons attached to the Bill that it seeks to replace the Enemy Property (Amendment) Ordinance, 1977 (11 of 1977), which had to be Promulgated on 23rd September, 1977, by the Vice-Presi-

gent discharging the functions of the President in exercise of the powers conferred by Clause 1 of Article 123 of the Constitution

The Enemy Property Act, 1968 (34 of 1968) was enacted on 20th August, 1968, to provide mainly for the continued vesting of enemy property already vested in the Custodian of Enemy Property for India under the Defence of India Rules 1962. No fresh enemy property could be taken over by the Custodian under the said Act.

Consequent on the aggression by Pakistan in 1971 and the issue of the Proclamation of Emergency on 3rd December, 1971 and the enactment of the Defence of India Act 1971 and the rules made thereunder, the Custodian was empowered to take over by him under the Enemy Property Act, 1968. Consequently immovable and some specified movable Pakistani property in India were vested in the Custodian of Enemy Property in accordance with the provisions of the Defence of India Rules 1971, and the orders made thereunder. The Custodian has been managing the properties taken over by him under the Enemy Property Act 1968, as well as those taken over by him under the Defence of India Rules, 1971.

With the revocation of the Proclamation of Emergency with effect from 27th March 1977 the powers under the Defence of India Act, 1971, and Rules made thereunder were to remain in force only for a period of six months thereafter, i.e. up to and inclusive of 26th September, 1977. It was, therefore, considered necessary to have fresh legal authority with effect from that date (i.e. 27th September 1977) for the continued administration of the enemy properties which are already vested in the Custodian of Enemy Property for India under the Defence of India Rules, 1971 and the orders made thereunder. Hence, the Enemy Property (Amendment) Ordinance, 1977 was issued as the Parliament was not in session.

With these words, Sir, I beg to move that the Bill to replace the

Enemy Property Ordinance, 1977 be considered

I have already stated the reasons and, I hope, the House will appreciate that it is very much necessary that the property that vests in the Custodian and the rights that were given to the Custodian shall have to continue till the time all the claims are settled.

When some matter concerning the enemy property was discussed last time I had assured the House that we shall have an office in Calcutta because many of the claims are of those who have come from *Bangladesh*, the then East Pakistan. Accordingly, we have now constituted an office at Calcutta. I have already told them that nobody should be asked to go to Bombay for getting his claim settled. Even the Custodian will go over to Calcutta and will have the hearing. I have also instructed them to settle these claims as expeditiously as possible.

Under the circumstances, I am sure, the House will give its concurrence and pass the Bill.

MR CHAIRMAN Motion moved

"That the Bill to amend the Enemy Property Act, 1968, be taken into consideration."

SHRI SAMAR GUHA (Contd.)  
Madam the Bill, as it appears, is a very simple one and, naturally, there should not be any objection to adopt-

ing it. But behind it there is a story. Even I did not know about it. I could come to know about it in the year 1974 when Mrs. Nelli Sen Gupta, the former President of the Congress, wrote to me from Chittagong for pleading the case of a gentleman who had lost everything there. That is how I came to know that there was a possibility of at least giving some help to the unfortunate people who came particularly from the then East Pakistan. Perhaps, nobody could put Questions on that and it is only me that I put a dozen Questions during the last six or seven years. I came to know many things. Even I did not

[Shri Samar Guha]

know that there was an office called the Office of the Custodian of Enemy Property located at Bombay. What to speak of poor refugees who had come from the former East-Pakistan.

I have to draw your attention to the plight of millions of unfortunate people roaming in different parts of the country who contributed most in the freedom struggle of our country. Today they are the worst sufferers due to the partition of our country. In the case of West Pakistan, there was an exchange of population and an exchange of property also. About Rs 400 crores worth in kind and cash was given as compensation to, fortunately, I should say, those refugees who migrated from West Pakistan. But not a single farthing was given as compensation to any of the refugees who migrated from the former East Pakistan for the property they left there.

In 1950, Pandit Nehru assured, according to the Nehru-Liaquat Ali Pact, that the refugees who had come from East Pakistan would have their right to their properties, movable and immovable that they left there and, similarly, those who migrated from West Bengal, Assam and Tripura to former East Pakistan would have their rights to their properties, movable and immovable. But what has happened finally you know. Slowly the properties of the minorities in East Pakistan were either forcibly occupied or requisitioned or seized by the Government. I do not know whether it is known to you all that although the minorities constituted nearly 35 per cent of the population, for historical reasons they owned about 70 per cent of the urban properties, about 90 per cent of the industries and major trades in East Pakistan—about 75 per cent of the landed property there. But when they came to India in millions, about 65 lakhs if not more—I think now it is about 70 lakhs—they came as paupers, they live as paupers, because they did not

get a single farthing from the Government as compensation for their properties. The Nehru-Liaquat Ali Pact still remains. But what has happened now? Even the present Bangladesh Government, under recent enactments have taken possession of almost all the properties now. If there is any member of the joint family in India their properties are being forcibly occupied they are being requisitioned and occupied as enemy properties by Government.

Fortunately there are some properties called properties of Pakistan, movable and immovable, after the 1965 War. When Pakistan unilaterally declared as enemy properties from India and when Pakistan started selling those properties, the Government of India also took steps to declare the Pakistan properties, movable and immovable as enemy properties. A Custodian was appointed and his office was in Bombay. In 1971, perhaps the Government decided that ex-gratia compensation would be given to those who could prove one-fourth of the total value of the properties that they had left in Pakistan and that the optimum benefit would be not more than Rs 25 lakhs. Because of the location of the office of the Custodian of the Enemy Property in Bombay and because there was lack of publicity, very few people from East Pakistan knew about it. I raised this question and I was simply surprised to find this. It is known to everybody that most of those minorities who had migrated from West Pakistan got their compensation. I found that 90 per cent of those claimants from West Pakistan had been given the ex-gratia compensation. At that time not even ten per cent of the claimants from East Pakistan had been given compensation. I have the figure here. Upto 1975 only about 400 or 500 persons were given the compensation. But one striking thing was this. I got the full list of those who got the compensation in reply to my question. I was surprised to find that, out of those who got the compensation, ex-gratia compensation, claiming that

they had left their properties in West Pakistan or they had their properties in West Pakistan, strangely enough, some were from Bombay, some were from Assam, some were from Calcutta, some were from Bihar and some from other places. Naturally I raised this question at that time also. It created a great doubt in me. I could not verify it, but I had information that spuriously many documents were produced. People did not know because there was not much discussion about it in Parliament, not much publicity was given. About two crores of people from West Pakistan got the compensation. I have got here a few examples. One Ganesh Flour Mills Co., Ltd., Delhi got Rs 27,00,000. The optimum limit was Rs 25 lakhs. They however, got 27 lakhs. How could it happen? It is doubtful whether they had so much assets for which they got compensation. There are a number of cases. There is the Sutlej Cotton Mills, Amritsar, they got Rs 25 lakhs. There is one H P Shroff Bihar they got Rs 10.34 lakhs. Then, MS Carac and Co got 25 lakhs. I can add many more names. I got information, rather ugly information that in the case of some of these claims which amounted to over a lakh of rupees, the Minister concerned had asked the Secretary to send those files—some of the files—to him directly. Some of these files were personally dealt with by him. This information was given to me.

**SHRI MOHAN DHARIA** Please quote the year, otherwise there will be a misunderstanding.

**SHRI SAMAR GUHA** I have said that this was done by the then Minister. The man is dead, I do not want to mention his name. Many fishy things have happened, ugly things have happened. Compensation for Rs 25 lakhs, Rs 27 lakhs and so on has been paid to many parties, and there was no proof whatsoever whether they had their property in West Bengal or not. Even, they have been violating the provisions of the notification, where it was said that the optimum limit of compensation may be

only Rs 25 lakhs. I would urge the hon. Minister—in which way he will do it, I do not know—that a thorough probe should be made about the way, the claims—I do not mean the claims of Rs 500, Rs 1000 or Rs 2000 or so, but claims which exceeded Rs one lakh and went upto Rs 27 lakhs—were verified whether they had industries, these properties left there and how the negotiations were done. As I have been told there was an underground deal to sanction these claims. I would urge the hon. Minister once again to have a thorough probe and see how these things happened.

Now I have to make an honest appeal to our present hon. Minister. As I have already told, none of the refugees from East Pakistan, have been paid a single farthing although they have left properties—movable and immovable worth crores of rupees. I have given you the figures already. A very few have got some benefit, but that is just a druplet, and that too not from the Consolidated Fund of India, but out of the properties of Pakistan that were left and have been declared enemies' properties. I do not know exactly what is the amount at the disposal of the Government of India after selling those properties. I think, it is nineteen crores.

**SHRI MOHAN DHARIA** It is Rs twenty-five crores.

**SHRI SAMAR GUHA** There are still some properties which have not been disposed of. What will be the total amount?

**SHRI MOHAN DHARIA** Twenty-nine crores in all.

**SHRI SAMAR GUHA** Out of that, perhaps only five crores have been given. I would urge the hon. Minister that let the remaining 24 crores or so be judiciously given to those poor people, I again emphasise, the poor people who have made their claims for the properties left by them. Unfortunately a lot of talk of socialism was being heard at the time of the last regime. Do you know that the Zamindars of Mysenjing and others

[Shri Samar Guha]

from East Pakistan with claims of Rs. 7 lakhs, 6 lakhs, 10 lakhs got the money whereas poor Scheduled Castes, Harijans and other poor middle class people got nothing. Therefore, I congratulate the hon. Minister. I was writing to him, I was fighting on the floor of the House and I was writing to his predecessor also.

16 hrs.

The first thing to be done is that there should be an office at Calcutta of the Custodian of the Enemy property because it is impossible for these people to go all the way to Bombay and substantiate their claims at the time of hearings by producing the necessary documents. It is impossible. I would congratulate Mr. Dharja but my congratulation will remain incomplete unless a really competent authority or a Deputy Commissioner of the Custodian is appointed there. This is my first request to the hon. Minister.

My second request is the one that I have already mentioned. He should take expeditious measures that the properties which have been left unsold are sold quickly and the proceeds distributed to these claimants from the former East Pakistan. I would not say that the former West Pakistan refugees should not get but most of the present outstanding claims are from East Pakistan. Their claims should be given adequate and justified attention.

Thirdly, I would urge on the hon. Minister that the panel dealing with the claims of refugees from the former East Pakistan is, I should say, very inadequate. It has, I think, three Judges. It is impossible for them. I have been told Mr. Rangachari—I should say that he has been sympathetically dealing with the cases—when he comes to the Nizam Palace, he has to escape from there because a large number of people come there and stand in the queue just requesting him to take into consideration their claims. This is in the case of Judges also. I would request that the panel should be expanded so that they can expedi-

tiously deal with the claims of the refugees from the former East Pakistan.

Fourthly I would make another request. Please don't close the date for receipt of fresh applications. Why I say so is that even now I am getting not in dozens but in hundreds, representations from refugees rehabilitated in Dandakaranya, Andamans, etc. There are scheduled castes people, tribals, Harijans and other poor people who have been rehabilitated in different camps in Deoli, Mana and other camps. There are still 130,000 of them. These people have no information whatsoever. They are illiterate people and they do not read the newspapers. And over the radio once or twice only it was broadcast and the newspapers also all newspapers did not carry the news. So, if you extend the date, you may get a few additional cases. So, I would request you in the name of humanity not to close the date. Maybe a few hundreds more applications will be coming and those applications will be coming mostly from the tribals, the Harijans, the Scheduled castes and the poor refugees who have been distributed in the remote areas where they do not get any information. My last point is this. There are the zamindars, the big traders, the big industrialists and so on. They look to their own profits. In making a selection please see that there is a certain amount of priority. The illiterate people, the scheduled castes and tribes, the peasants of small means the poor cultivators, etc. should be given priority. Old and infirm people should get the priority. I wrote to you about one person. He is now 85. He is passing through miserable days. He pathetically wrote to me. A few days back I got a letter from there. He is a well-known doctor in Dacca, an old colleague of mine, he was in the same Revolutionary party. That gentleman is in a miserable condition. The Minister should give priority in such cases. In respect of widows, orphans and scheduled Castes there should be priority given.

Finally, I wish to say this. In respect of small claim it is not always possible for the harijans, tribals and other people, to supply foolproof documents. In those cases, you should take an overall circumstantial view of the matter and be sympathetic you should not give much importance there to production of documents. Wretched and betrayed people are there suffering very much. You have a meagre amount at your disposal. Please distribute it judiciously, expeditiously and quickly and see that it goes particularly to the poorer sections of these people.

**SHRI P. RAJAGOPAL NAIDU (Chittoor):** I must congratulate the Minister for starting an office in Calcutta for the convenience of the claimants in West Bengal and other places. I want to say one thing about the ordinance. Our hon. Speaker has suggested that we have to lessen the number of ordinances and we have to bring forth Bills straightway before Parliament. Here I am not pointing out that this is wrong. Here the date expired on 26th September, 1977 and therefore an ordinance was promulgated. I am taking this opportunity to tell the Government that they should lessen the number of these ordinances and see that proper Bills are brought before Parliament.

With regard to the title of the Bill, I have a feeling that the word 'Enemy' must be changed. It is called Enemy property (Amendment) Bill. I want to ask: are we an enemy to Pakistan or to China even now? We are having properties of the people of Pakistan and China, we are making friendship with them. Therefore I ask: is it not necessary to change the nomenclature of the Bill. I request the hon. Minister to consider this.

This act came into vogue in 1968 when the bill was passed. We are in 1977 and nine years since then have elapsed. Even now the Custodian of the Enemy Properties is continuing. Why is it so? I learn that we have lost nearly 100 crores worth of property in Pakistan. Also we have lost many industries in East Pakistan. I want to

know whether Government is or is not in a position to mediate with them and to get something more for our people? I request the hon. Minister to see to it if it is possible at this stage to let this House know the amount remaining with the Custodian and whether that amount is disbursed at all to the claimants; what is the estimate of the property which is remaining and what is the policy of the Government—whether they want to dispose it of or not. If so, what is the timetable which they are going to fix for that? And when are they going to wind up the office of the Custodian of Enemy Property and also to do away with this Act itself? These are the questions that are being put by me to the hon. Minister.

**SHRI MOHAN DHARIA:** I have already answered those questions.

**SHRI P. RAJAGOPAL NAIDU:** Sir, the hon. Minister must also clarify one thing. Why does this Act not apply to Jammu and Kashmir. Are we not having Pakistanies' properties in Jammu and Kashmir? What is happening to them? Are we having any control over them? And can we dispose them of? We want a clarification on these points also from the hon. Minister.

I learn that many of the textile mills were in East Pakistan. Those mills are now being sold. I want to know what is the total amount of property that we have lost in Pakistan? As Mr. Samar Guha said, there are many claimants who are very poor people. They are not getting anything out of the proceeds which we are getting from out of the sale of the property in Pakistan and China. Why not give the proceeds out of the sale of these properties to the people in proportion to the estimated cost of their property which they have lost?

There are so many people who have put in their claims as Mr. Samar Guha said just now. I request the hon. Minister to extend the time for claimant compensation for the properties.

**SHRI SHYAMAPRASANNA BHAT-TACHARYA (Uluberia):** Madam Chairman, I fully support the purpose

[Shri Shyamaprasanna Bhattacharyya]

behind this Bill. While going so, I think that when we are going to have good neighbourly relations with all our neighbouring countries, I do not see any reason why the name 'Enemy Property' should be retained. I think this should be changed taking into account the present situation.

MR CHAIRMAN: Will the hon. Member please come near the mike as the Members cannot hear him. Will he kindly move a little forward?

SHRI SHYAMAPRASANNA BHATTACHARYYA: What I think is that this Enemy Property Act should be better named as Neighbouring Countries Property Act because we are not going to have enmity relations with them. We are trying to create some brotherly relations. For example take Farakka. Secondly, Sir, we have got various problems to solve. As for example in the West Pakistan the persons who came got money and they are not to pay back but the persons who came from East Pakistan—now Bangladesh they got money but they are to pay back. They are still indebted. This should be changed. Further so many human beings are still coming from Bangladesh to India through Tripura, Assam and West Bengal. These are human problems. These are to be solved. So it is not simply an Act. It is an extension of the policy which we are trying to develop viz. a good relation attitude and a brotherly attitude among the neighbouring governments and also the people. This is a complicated human problem and a statesman-like policy should be adopted so that just as in Europe so many countries are existing in the neighbourhood without enmity relations so in India also we should try to establish such a relation with all the neighbouring people. That good neighbourly relation must be developed. With this objective I support this Bill.

\*SHRI A. MURUGESAN (Chidambaram): Madam Chairman, on behalf of my Party the All India Anna Dra-

vidya Munnetra Kazhagam, I rise to say a few words on the Enemy Property Amendment Bill, 1977.

Sir, when the Congress Party was running the Central Government, the Members of Lok Sabha used to make the allegation that the Government was being run through Presidential Ordinances. Now I have to regretfully point out that the Janata Government is resorting to the same expediency.

The external emergency was revoked in March, 1977. The Lok Sabha was in session in July, August, and September, 1977. This Bill could have been very well introduced during that period in the Lok Sabha. I am afraid that the high-paid bureaucrats in the Law Ministry are lethargic in preparing the legislative programme of the Government. Madam, I wish to stress that the Ordinance-issuing power should be sparingly used by the Government.

I would refer to another important point before I conclude. The nomenclature of the Bill is Enemy Property Amendment Bill but the provisions deal with Pakistani property in India. We are trying to establish friendly relations with our immediate neighbours. We are invoking the spirit of Simla Pact with Pakistan. We are having negotiations with Pakistan for having sustained friendly relations. To have a law entitled Enemy Property Act in respect of Pakistani property will not be conducive to the establishment of such friendly relations with Pakistan, as the very title will offend the susceptibilities of our immediate neighbour.

I suggest that the nomenclature of this Bill must be modified suitably.

With these words I conclude my speech.

PROF. P. G. MAVALANKAR (Gandhinagar): Madam Chairman, I want to support what my friend Shri Bhattacharyya and my friend from Tamil Nadu said about the title of the Bill. For historical reasons we call it Enemy Property Bill but we need not

\*The original speech was delivered in Tamil.

carry on that particular historical tradition and as a gesture of our goodwill towards our neighbours why not at this late stage modify and re-name the Bill and not call it Enemy Property Bill because I feel the word 'enemy' causes a bit of irritation and leaves rather a bad taste. It might offend the susceptibility of our neighbours with whom we are trying to have better and better relations. That is why I am mentioning this fact by supporting what two friends have said earlier. On the previous Bill my hon. friend the Minister of Industries told us that the Janata government was not using the ordinance making powers for political purposes; I fully accept what he said. I also fully accept what my friend Shri Mohan Dharia says. But I ask: could not the government have been more alert and would they not have seen to it that this Bill was brought, not for passing but at least for introduction, as it does not require more time, in the budget session which went on from June 11 to August 8? We had ample time. But it is not his individual fault. I am only finding fault with the habit which has grown over a number of years with the administration. Officials feel: it does not matter, Parliament or no Parliament, we have the power; if the thing lapses, we will issue an ordinance. The ordinance-issuing power is not to be treated as something which is handy and which can be used the way you like at any time; government should have been more alert. Since the Janata Government have taken so many steps and have broken fresh grounds, they should also get rid of the old habits which die hard but they have to die soon. I request the government to look into this question.

I am glad the hon. Minister has announced the opening of an office in Calcutta; that will help. I want to suggest to him that he should give personal directions or guidelines to the custodian and his staff in those offices to dispose of these cases not only expeditiously but also with humaneness and sympathy. I think my friend

Shri Daria will agree with me that this is not just a matter of going to government office for money. It is something which really affects the destinies, lives and sensitivities of a large number of our fellow countrymen, who until Independence were part of India, a part of what India stands for. Therefore, I should like him to take that aspect of the matter into consideration and give instructions to the officers concerned in Calcutta or Bombay to dispose of cases not only expeditiously but with greater humanitarian approach and sympathy. I hope and trust that we shall soon come to a situation in the whole sub-continent, when many of these provisions will become completely out of date or obsolete, it will be good; I look forward to that day when every one in the sub-continent is a member of the same family and all this apportioning business about each other's property in a bureaucratic governmental way will be done away with; that is my hope.

SHRI BASHIR AHMED (Fatehpur): So far as this Bill is concerned, the Act was passed in 1958 and prior to 1965 when Indo-Pak war took place, under the Defence of India Rules, properties were taken over. I am associated with a number of litigations in the High Courts, especially in U.P. and I know the difficulties which are experienced by persons who have not migrated to Pakistan. Certain difficulties have already been experienced and the properties of persons who have not gone to Pakistan had been wrongly taken over because there is no forum for adjudication of claims under this Act. Formerly, after the Partition of the country, there was the evacuee property law but it was abrogated on account of the fact that it had been a drain upon the properties. In some cases the properties of minorities who had not migrated to Pakistan were wrongly taken over and so far as this Act is concerned, I know the difficulties which I want to highlight before the hon. Minister, since there is no forum for the adjudication of the claims. On account of certain political

[Shri Bashir Ahmad]

reasons during the emergency period this Act was implemented in such a manner that a large number of properties of minorities who had never visited Pakistan or any other country, were taken over and they had to go in litigation and in civil cases. I will request the hon. Minister to issue certain directions that the properties of those persons who have never migrated to Pakistan should not be taken over. And a serious check should be made and a proper scrutiny should be made before implementing the provisions of this Act. Though in the Enemy Property Act 1968 there is a provision that the properties of Indian citizens should not be taken over, there should be a forum for determining whether a person is an Indian citizen or not. More difficulties are experienced when the property is a composite property. Suppose there are certain co-sharers and one of the co-sharers has migrated to Pakistan and the other co-sharers are Indian citizens. There is no forum or machinery under the Act by virtue of which this property will be segregated. As a result merely by an executive order, a lot of properties have been taken over. So far as Indian citizens are concerned, they feel that this Act has been enacted merely to harass those sections of the people. I will request the Minister to see that the Act is not abused in the manner it was abused during the last 8 years, and especially during Emergency executive instructions were issued to Tahsildars and district magistrates to take over properties of those who were politically opposed. Therefore a thorough scrutiny in the matter is needed.

I would also suggest that so far, Indian citizens are exempted but suppose a person dies and his heirs are Indian citizens there is no provision by virtue of which the property can be inherited by them. Suppose a person dies in Bangladesh and all his heirs are Indian citizens there is no provision exempting those persons from the purview of this Act. The second difficulty which has given a handle to the Executive to take over the property of

those innocent persons that under the Act, they treat the properties to have automatically vested, under the Defence of India Rules of 1962. Therefore, a provision should be made saying that only those properties can be taken over in respect of which a notification has been duly issued and published. This will eliminate the handle to the executive officers to take over any property of any person. After all 8 years have passed. Now there is no war.

I agree with the suggestion, raised by the hon. Members that when we are improving our relations with those countries the word 'enemy' should also be deleted. Rather, the word 'evacuee' or any other word should be there. Otherwise it creates an impression that all these persons are still enemies, and all those countries are enemy countries.

So far as 'vesting' is concerned it should be defined to mean property already notified by means of a notification in the gazette. The way it will make it impossible for the executive to take any action arbitrarily. Secondly, instructions should be issued not to take away the property of people who have not actually migrated. Thirdly, a sort of forum should be created for the adjudication of their claims.

Mr. Samar Guha said that this Act is intended to rehabilitate the refugees but there is no provision in the Act saying that the ultimate destination of the property will be the effort to rehabilitate the refugees. There should be a provision to that effect because there is another Act known as the Displaced Persons Act of 1954 which is enforced in respect of persons who have come from West Pakistan.

I request the hon. Minister to ask the authorities to implement this Act after a thorough scrutiny. With these amendments I support this bill.

SHRI MOHAN DHARIA: Madam Chairman, hon. Members have expressed their concerns and have also made some constructive suggestions. I do agree with the hon. Members that the name 'Enemy Property Act' does not fit in with the new approach. It

certainly creates some bad taste. The question is whether we should go in for some new Act, or whether there should be an endeavour to see that there is no occasion in the life of the country when we have to deal with enemy property. I would request the hon. Members not to insist on the change of name, but it shall be the endeavour of the Government to see that there is no occasion for us to have any such enemy property in future.

MR CHAIRMAN: Why not call it 'evacuee property', instead of enemy property?

SHRI MOHAN DHARIA: I have no objection. That is what I have said.

AN HON. MEMBER: Why not accept an amendment now?

SHRI MOHAN DHARIA: It will create some difficulty. It is not as if this is only in our country. In Pakistan they call it Enemy Property Act. In England they call it enemy property. In America also they use a similar term. Of course, it does not mean that we should accept it. I do not say that we should accept it. If by any chance, such an eventuality comes, we will take care to see that we do not call it enemy property, as suggested by Madam Chairman, we can call it evacuee property, or some other nomenclature could be given to it.

So far as the Ordinance is concerned, I agree with the hon. Members that more alertness could have been shown because it is not proper to treat this House in that fashion. Ordinances should be promulgated only in such matters where they are unavoidable. Here is a case where it could have been avoided. I do not want to defend this with this or that excuse. Perhaps, nobody was then aware that the time-limit was six months after the emergency was withdrawn or revoked. I do share the anxiety of the Members and I shall immediately instruct my Ministry that if there are any

cases where immediate action is required, they should take the first opportunity of coming to Parliament, rather than resorting to an Ordinance.

Various points have been raised by hon. Members. It is not as if Government have now taken a decision to open an office at Calcutta. That office has already been opened at Calcutta and it has started functioning at the New Secretariat Building, Kiran Sanakar Roy Road, Calcutta-1.

I do agree with Shri Samar Guha, who is not here, that there was no need for having an office in Bombay. I do not know why it was located at Bombay. Perhaps, it was a legacy of the past, because this office was started in 1939, just before the second world war. It had continued in some form. Perhaps that may be the reason why it was in Bombay.

To be frank, having regard to the problem that we were confronted with at the time of independence, only two offices were necessary, one at Delhi and another at Calcutta, because the main exodus of our brothers and sisters was from these two cities. Naturally, these two offices would have helped those for whom this Act was meant. Now we have already taken care to open an office at Calcutta.

Shri Guha suggested that the present staffing pattern is short and that if more staff is necessary, it should be made available. I have gone through the Act just now. No amendment is necessary for that purpose. If it is felt that more officers are necessary, Deputy or Assistant Custodians, to settle these new claims, I shall see that those posts are created for the speedy disposal of claims.

Then it has been suggested that the time limit for filing claims should be enhanced. It was because of the desire by several hon. Members in the House that the time limit was enhanced till the 31st July 1977. It was widely publicised in the press, I have got a list of the papers where it was published. As a result of that publicity, more

[Shri Mohan Dharja]

than 52,000 new applications have been received

It has also been suggested that if, on compassionate grounds, some additional amount can be made available, it should be thought of I have gone into that aspect also It is most unfortunate that the properties that were lost by those who came over here were of the order of nearly Rs 109 crores in the then East and West Pakistan Against that, the property that has come to the Custodian is of the order of only Rs 29 crores Again, unfortunately,—I do not know the reasons for it—a decision was taken that ex gratia payment up to Rs 25 lakhs should be given I must concede that this was a wrong decision In the case of poor people we could have taken a decision that full value of the claim should be paid up to Rs 25,000 or Rs 50,000 and after that it could have been on a slab basis Unfortunately it has happened that because of this decision several claims have been settled and out of this Rs 29 crores, nearly Rs 17 crores have been disbursed and now only Rs 12 crores are left If we change that pattern now, it will create further complications and so, naturally there is no alternative but to continue with the same system which was adopted by the earlier Government I must concede that it was a very wrong decision What was needed was to give some protection to the weaker sections but it has not happened

I would like to take the House into confidence and say that in cases of above Rs 25 lakhs, it was only the Cabinet which was authorised to take certain decisions in order to give additional amounts The break-up of the claims up to 31st July, 1976 is as under number of claims up to Rs 1 lakh—1 284 amount Rs 52 lakhs, number of claims up to Rs 5 lakhs—290—amount Rs 158 lakhs, number of claims up to Rs 10 lakhs—63—amount Rs 92 lakhs, number of claims above Rs 10 lakhs—89—amount Rs 938

lakhs It is very surprising and agonising, but now it is beyond my control, but I felt that I should take the House into confidence and, therefore, I have given this break-up

Anyway, so far as claims above Rs 25 lakhs are concerned, I can assure the House that now we shall be very cautious The House will see that exceptions were made in several cases I know some cases where it has been to the tune of Rs 1 crore and more where ex-gratia payment has been accepted by the other Government It is now a *fait accompli*, but henceforth I shall see what can be done I am also trying to find out whether within this amount some reasonable justice can be given I have discussed the matter with the Custodian I must say that he has been very sympathetic and he has assured me that he will take all possible steps so that all these claims, are settled without any delay and that those who come with these claims are not treated as if they are beggars coming for a favour They are our brothers and sisters It is most unfortunate that because of partition they were forced to leave their own properties and come to the motherland but anyway while we are dealing with them we cannot forget that they must be treated with all possible respect I have already passed instructions and he has also accepted that they should be treated in a proper manner

Some other points have also been made by my friends I need not go into all these aspects

I have already discussed with the Custodian In the case of old, infirm, widows orphans or such cases where a priority is needed their claims will be taken up first and shall be decided first They will be given priority We have opened an office and, if additional staff is necessary, it will be given

Then, my hon friend from this side said that, in some cases, the enemy property has been taken over in a ruthless manner If it is brought to my notice that somebody has died and his children were here and even then

the property has been taken over, we shall certainly look into them and take immediate steps to see that no injustice whatsoever is done

An appeal has been made that this limit should be enhanced. The House will appreciate that if we want these claims to be settled as early as possible and, again, if we enhance the limit, the whole thing will be delayed further. Right from May, we gave a notice which was publicised and, if we want that these claims should be disposed of as early as possible, any more extension is not going to help. I hope, the House will bear with me on this count.

These were some of the important points that were raised by my hon. friends. I can certainly assure them that a humanitarian view, as has been pleaded, will be taken. I wish I could have rendered better justice. But my hands are tied because of the earlier decision, because of the earlier system as it evolved. In the present set-up, as to what could be done, to that extent all endeavours shall be made and justice will be speedily rendered.

With these words, I commend the Bill for the consideration of the House.

MR CHAIRMAN: The question is

"That the Bill to amend the Ene my Property Act, 1968, be taken into consideration."

*The motion was adopted.*

MR CHAIRMAN: The House will now take up the clause-by-clause consideration of the Bill. There are no amendments. I understand that some amendments were sent by Mr. Bashir Ahmad today. But according to the rules, they should have been sent at least a day earlier. Therefore, they have not been admitted.

Now, I take the clauses and put them to vote of the House.

The question is

"That Clauses 2 to 11 stand part of the Bill."

*The motion was adopted.*

Clause 2 to 11 were added to the Bill.

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

SHRI MOHAN DHARIA: I beg to move

"That the Bill be passed."

MR CHAIRMAN: The question is

"That the Bill be passed."

*The motion was adopted.*

16 45 hrs.

STATUTORY RESOLUTION RE DISAPPROVAL OF BANKING SERVICE COMMISSION (REPEAL) ORDINANCE, 1977

AND

BANKING SERVICE COMMISSION (REPEAL) BILL

SHRI SAUGATA ROY (Barrack-pore): I beg to move the following Resolution

"This House disapproves of the Banking Service Commission (Repeal) Ordinance, 1977 (Ordinance No 10 of 1977) promulgated by the Vice-President discharging the functions of the President on the 19th September, 1977."

Mr. Chairman, you will notice that the leader of our Party, Shri Yeshwantrao Chavan, is also present here. He will participate later in this discussion because our Party is taking this matter of repealing the Banking Service Commission very seriously. If I may point this out to you, when this new Government came to power, we assured them that we would not oppose the legislations which were brought forward during Emergency and which were of a retrograde nature. You will remember, when the Bill repealing the Prevention of Publication of Objectionable Matter, Act was passed, the Congress Party wholeheartedly supported it. Only yesterday we were discussing the Advocates (Amendment) Bill, and though we