

[Mr. Speaker]

power in a few hands and attenuate the autonomy of the States. It will also continue the process of proliferation of the bureaucracy;

- (g) the conception of compulsory labour in the Plan is contrary to the Constitution and to the principles of democracy and will prepare the ground for communism;
- (h) the provision of hundreds of crores of public money by way of distribution through grants-in-aid and otherwise by the Union to the State, and by the States to local organisations including panchayats, co-operatives and welfare societies, will lead, in the absence of a non-partisan approach and suitable checks, to a continuance of waste and corruption through political influence being brought to bear on the administrative apparatus;
- (i) as a result of all this, the Plan would reduce the real income and the standard of life of the present generation and is, therefore, against the interests of the people."

I think the 'Noes' have it.

Shri Ranga: The 'Ayes' have it.

Mr. Speaker: If it is a question of division we can have it only afterwards. Shall we have the division now?

Shri Jawaharlal Nehru: Unless somebody in the House objects, we can have it now.

Shri Jaipal Singh (Ranchi-West—Reserved—Sch. Tribes): I personally feel that we should not deviate from the sanctity of the convention we

Evacuee Interest (Separation, have established, and there should be no voting during lunch hour.

Shri Tyagi: We must stick to the convention once established, even at the cost of some inconvenience, because after all if we make an exceptional rule today it may be broken any other day. We should stick to this convention that during lunch hour votes are not taken.

Shri Raghunath Singh: It is there in the rules also.

Mr. Speaker: Then this amendment will be called at 3 o'clock. After this is disposed of, the other amendments will be put to the House.

13.29 hrs.

EVACUEE INTEREST (SEPARATION) AMENDMENT BILL—contd.

Mr. Speaker: The House will now take up further consideration of the following motion moved by Shri Mehr Chand Khanna on the 20th August, 1960, namely:—

"That the Bill to amend the Evacuee Interest (Separation) Act, 1951, as passed by Rajya Sabha, be taken into consideration."

The Minister of Rehabilitation and Minority Affairs (Shri Mehr Chand Khanna): Sir, when I moved the motion for the consideration of the Bill, it was towards the fag end and I could not advance any argument in favour of the Bill then. I was just saying then that with a view to appreciate the importance of the amending Bill that I have brought before the House, it may perhaps be appropriate if I give the background or the history of the parent Act. In that context, we may be able to understand the implications of the amendments that are before the House. The Bill has been accepted by the Rajya Sabha.

When the country was partitioned in 1947, there was a big exodus of population from both sides, from Pakistan to India and from India to Pakistan, with the difference that as far as the exodus from West Pakistan was concerned, there was more or less a mass migration. Not many Hindus or Sikhs were left in the North West Frontier Province, West Punjab, Bhawalpur, Baluchistan and Sind. Perhaps, in the last province there was a small number left. In the rest, it was a wholesale exodus of all the minority communities from Pakistan to India. The position on our side, that is, India, was very different. It is on account of the fact that our ideology is different. We believe in a secular State. It is a very redeeming feature of our country that we have a very large population of Muslims in our country today. What I was trying to say was this. Except in East Punjab and parts of Rajasthan, may be western districts of the U.P. and Delhi, from the rest of India, the exodus of Muslims was not on that scale as it was of the Hindus and Sikhs from Pakistan to India.

The result was that while in our case, all the properties that were left in Pakistan became evacuee property in full, in India, as part of the family had remained behind and the other part had gone away to Pakistan, in a large number of cases, the property became partly evacuee property and the rest of the property vested in our own nationals who stayed on in our country. The result was, in 1951, we had to bring forward a legislation in this House. Under this, the interest of the evacuee was to be separated from the interest of the non-evacuee in the case of composite properties. That Bill was passed in this House in the year 1951 and it is called the Separation of Evacuee Interest Act. That Act has been in operation for quite 9 years now. We passed it in 1951. It has been in operation since then. Under that Act, thousands of properties have been adjudicated upon and separation taken place

under orders of Competent Officers. I may state for the information of the House that up till now, in round about 70,000 cases, adjudication has taken place. In about 115,000 or 120,000 cases, separation has also taken place, where the interest of the evacuee has been separated from the interest of the co-sharer who happens to be our own national.

A definite procedure is laid down and under that procedure, certain facilities have been given to the co-sharer to become owner of that property. Our intention throughout has been that except in the cases which are not governed by the rules, the other part of the property should remain in the family. As I was just saying, in thousands of cases, adjudication has taken place and even separation has taken place. When this Act was framed, it was not visualised that a day will come when this Act must come to an end. There had been an omission, whatever the position then was. Because, it was laid down in section 6 that either on information received in this behalf from the Custodian or on application from a claimant, the Competent Officer is authorised to issue notice and then adjudication and separation takes place.

My main idea in bringing forward this Bill is this. During the last 9 years, if there was a co-sharer in India whose relations or friends had interest in the property and who had gone away to Pakistan, he should have known it in 1951, 1952, 1953, 1954. Nine years have elapsed. Naturally, they had ample opportunity to come forward and claim a share. I am prepared to make a bold statement in this connection. It has never been our intention to appropriate or misappropriate the shares of our nationals for paying compensation to displaced persons. If an indication of that was needed, I would go to the length of saying that in the year 1954, we unilaterally abrogated the Evacuee Property law. Though in Pakistan where mass exodus had taken place and the number of Hindus

[Shri Mehr Chand Khanna]

and Sikhs left there was very small, Pakistan, up till now, has not abrogated the Evacuee Property law in the manner that we have done it, we did it 5 years ago, because we wanted normal conditions to prevail. We wanted our Muslim nationals to have a sense of security and a sense of confidence.

As far as the operation of the Evacuee property law was concerned, whatever abnormal conditions prevailed in the initial stages, those abnormal conditions do not exist now and the operation of the Act should cease. So, it is not with a view to appropriate or misappropriate the share of the co-sharer in the composite property that I am bringing forward this measure.

My position today is this. For all the cases which were genuine, all the cases which were *bona fide*, all the cases in which the co-sharer was interested and he wanted adjudication and separation to take place, we gave him 9 years. Today, I have not come forward with a measure that the operation of the law should entirely cease. I am not doing that. I am still giving the co-sharers a period of six months. That was my original intention. When I took this Bill to Rajya Sabha, at the request of some of the Members there, I agreed to extend the period to 12 months. Amendments have been sought to be moved in this House where the period is further desired to be extended to 18 months to 2 years or possibly three years. I do not know the reasons. Perhaps, the hon. Movers will enunciate their reasons. But, as far as I can see, the man was given 9 years and I am still going to give him another year. There does not appear to be much necessity for accepting these amendments unless, of course, it is desired that the work of this Ministry should be continued.

The implication of this decision would be this. The Estimates Committee of Parliament comprising of Members of this House and the Members of the other House have definite-

ly laid down as part of their specific recommendation that the work of this Ministry should be completed during the next year. It was with that intention that I wanted the life of this Act to be finished within the next six months. And it was in response to the suggestion made by some of the Members, and more so, by the Members of the Opposition in the other House, that I agreed to increase the period to 12 months. Generally, when a Government motion is brought forward, I have been rather allergic to accepting their suggestions, because right or wrongly, I have maintained or held that these suggestions are mostly in the shape of certain considerations which have not much relevance to the rehabilitation of displaced persons. But I went out of my way to accept that recommendation. But I am not going to accept a recommendation to increase the period further, because that recommendation, if it is accepted today, would mean going directly against the decision of the Estimates Committee to which this House, and the other House, I believe, are a party, whether wholly or solely, I cannot say.

Another thing that I have suggested is this. Under the old Act, a competent Officer has the right to condone the delays and go on giving extensions. Once, my hon. friend Shri D. C. Sharma was not very happy about the performance of my Competent Officers. Today, what I have done is this. I want to restrict the powers of those very Competent Officers.

Shri D. C. Sharma (Gurdaspur): That is very good. I want to restrict the powers of the hon. Minister also.

Shri Mehr Chand Khanna: I do not want that the Competent Officer should have any further discretion. I totally agree with my hon. friend Shri D. C. Sharma that my powers should also be restricted.

An Hon. Member: Rather terminated.

Shri Mehr Chand Khanna: Unless my powers are restricted and this Ministry wound up, I am prepared to concede that there will be the fear, and there is a fear in certain minds, and perhaps rightly, that we can go on extending the life of this Ministry. With a view not to be a party to that charge, I have brought forward a Bill in which I want that my powers and the powers of the Competent Officers should be restricted. Here, I believe a little lacuna is there, as has been pointed out by my hon. friend Shri Ajit Singh Sarhadi, namely that whereas we have restricted the period in respect of an application from a co-sharer, we have kept the door open for the Custodian. I am grateful to him for the suggestion. I want the Custodian to be more restricted than the co-sharer. Though it is not there in the Bill, I wish to give a categorical assurance to the House that whatever period is given in the Bill shall apply equally to the Custodian also, because if the Custodians go on receiving applications, and time is also given to the co-sharers to go on filing applications, the result will be this, that an application will be filed today, it would take a little time then in adjudication and separation, then, that property would go the Regional Settlement Commissioner; then the Regional Settlement Commissioner has to see in what form it has to be auctioned or allotted. Then, under our Act, we have a provision for appeal; we have a provision for revision, and we have a provision under section 33. The result is that unfortunately that process would take a long time.

13.44 hrs.

[SHRI JAGANATHA RAO in the Chair]

So, my submission to the House is that I can safely say that there is no objection to the principles underlying the Bill which I have brought forward, because the amendments that have been tabled are only to the effect that the period of 12 months should be extended to 18 months or 24 months or even 36 months.

With these words, I wish to move for consideration of this Bill by the House, and I would ask my hon. friends to appreciate that the extension of the time is doing no good to anybody, unless it is intended that the organisation of the Custodians and the Regional Settlement Commissioners and the competent officers should continue. As far as the co-sharer is concerned, it can have no effect whatsoever, because he had nine years so far, and I am still giving him another year more; if he had a genuine case to bring forward, he can do so, and during that period, his case shall be examined according to the law that was passed by this House nine years ago.

Mr. Chairman: Motion moved:

"That the Bill to amend the Evacuee Interest (Separation) Act, 1951, as passed by Rajya Sabha, be taken into consideration."

Shri D. C. Sharma: I welcome this Bill. It is very seldom that I have welcomed anything that has come from the Ministry of Rehabilitation. But, fortunately or unfortunately, I am in support of this Bill. I want to support this Bill for many reasons. One of them is this that the principle underlying this Bill namely that the evacuee interest should be separated from the non-evacuee interest has given rise to a lot of fraud in this country, a lot of dishonesty in this country and a lot of unfair dealings in this country.

An Hon. Member: Question.

Shri D. C. Sharma: My hon. friend says 'Question'. I want to tell him that he need not put this question to me, but I should put this question to him, because it is he who goes and pleads the cases of those persons in the law courts.

Shri M. C. Jain (Kaithal): My hon. friend Shri D. C. Sharma is right.

Shri D. C. Sharma: It is because every day people are discovering new

[Shri D. C. Sharma]

things. For instance, I come from a constituency which is inhabited by refugees, not mainly, but partly. When I was in Hoshiarpur, there were many refugees there. When I am in Gurdaspur, there are so many refugees there also. Every time I go to my constituency, I find some new cases coming to me saying that their interest in the evacuee property had not been taken note of. I ask them, 'When did you discover it? Nine years have passed. When did you come to know it?'. They say 'We forgot to put in an application; we did not think that this was coming to an end so soon.'. All kinds of excuses are being brought forward to establish one's interest in the evacuee property. There are some adventurous spirits. Probably, my hon. friend Shri Ajit Singh Sarhadi is not aware of them, because he is not so adventurous. There are some adventurous spirits who have gone to Pakistan and who have sometimes brought documents, all kinds of documents, to show that they have some interest in the evacuee property. There are some persons who have done all kinds of things in order to grab some of these properties. I shall be the last person to deny any man any right to any property. I want to defend the justifiable rights of every man to any kind of property. But I would not like that a man should establish his right to that piece of property which should go to the evacuee pool, that property whose proceeds should form part of the evacuee pool, that property whose earnings should go to the evacuee pool, and that property whose income should be part of the evacuee pool so that it could be distributed among the refugees who are seeking compensation.

What has happened is this. Sometimes these persons who have tried to show their interest in this evacuee property have tried to rob the evacuee pool of its natural and legitimate share of that property. Now I am very glad that our Minister has woken up. Of course, he wakes up very late always. He has taken 9

years to wake up. I think he should have known what was happening during the first two or three years.

Shri M. C. Jain: Kumbhakarna slept for only six months; but our Minister has slept for 9 years.

Shri D. C. Sharma: Now our Minister has woken up after 9 years.

Shri Chintamani Panigrahi (Puri): Why so late?

Shri D. C. Sharma: Let the hon. Member ask him. He does not have an alarm time-piece in his house. He has woken up after such a long time and he has brought forward this Bill so that all kinds of fraudulent transactions which have been going on in the name of evacuee property should come to an end. I am very happy for that and I think this Bill will promote good moral values in my country. It will put an end to all those things by which some persons are justifying that.

The second reason why I support this Bill is that it is going to help the refugees in general. It is because whatever we are going to get after the separation of this evacuee property is going to form part of the evacuee pool. The evacuee pool will swell, our resources of compensation will increase; our funds for giving compensation to persons will be augmented. After that, they will be distributed to people whose claims for compensation are there.

Shri Ajit Singh Sarhadi (Ludhiana): Will the quantum of compensation also increase?

Shri D. C. Sharma: This is a Bill which is going to subserve the ends of social justice in this country.

Thirdly, this Bill is going to delimit the powers of the officials. I have always a good word to say about these officials, but I must say that the way the officials of the Ministry of Rehabilitation have been working has not always been very very satisfactory. I do not say that all officers

have been working like that. But I must submit very respectfully that some of these officers have been working in such a way as to cause hardship to people. Some people from the Rehabilitation Ministry came to me and said, 'Help us'. I said, 'How can I help you when half a dozen persons come to me everyday and complain against your behaviour?' Of course, I helped them. But I said to them, 'Not a single day passes when somebody does not come to me and complain to me against what you are doing, your lack of good manners, your lack of courtesy or your habit to delay things and all that kind of thing'.

As I said, this is going to delimit the powers of these persons, custodians and competent officers. I am very happy at this because the competent officer deals with these things in his own magisterial way and the custodian deals with these things in his own lordly way. The civil law, as it stands in our country, is a law which will, of course, give justice to everybody, but it is justice which is deferred. There are always loopholes to delay delivery of the judgment. Our law is a series of delays. I know there are some lawyer friends of mine who are a party to that kind of delay. Of course, I am also a party to that whenever my case comes up. But since this Bill is going to put a time-limit on the powers and authority of the competent officer and the custodian, I welcome it. This will mean that there will be no delay in future, when we have set a time-limit. I wish there had been a time-limit like that in the case of every kind of litigation so that we are not able to postpone things from day to day, from month to month and year to year.

I think this Bill meets the ends of natural justice, social justice and human justice in this sense that the hon. Minister has not been very drastic in the provisions of this Bill.

He said that the time-limit should be six months. The Rajya Sabha said that it should be one year, and the Minister is very amenable to good suggestions occasionally. He accepted the suggestion of the Rajya Sabha and extended the time-limit to one year. Now, if a man does not know that he has an interest in some evacuee property, I think he has to blame himself. He cannot blame anybody else. A period of 9 years has passed and one more year is going to be given. I think after that there should be no such trouble about it.

I am very glad that the time-limit is not going to be further extended. If we extend the time-limit, we will have to do so at all those stages to which the hon. Minister referred. The competent officer will take his own time, the Regional Settlement Officer will take his own time, the Settlement Officer will take his own time and the Custodian will take his own time. It is a series of links which make up the chain and all these links will mean delay.

I again welcome the Bill and I hope that it will serve the ends of justice.

Shri Sadhan Gupta (Calcutta—East): This Bill, *prima facie* appears to me to be a bit too drastic way of dealing with a situation, the tackling of which is desirable. No one will disagree with the necessity of separating evacuee interests and bringing this matter to a finality sometime or the other. The Bill has been designed for that purpose.

Now, I can understand the time-limit fixed under the amendment to section 6 by putting it at one year. I shall explain my objection to the one-year time-limit in a moment. But I cannot understand the reason for deleting the proviso under section 7.

I was saying that it seems to me to be a bit too drastic way of dealing with the situation. If Government

[Shri Sadhan Gupta]

really think that enough time has passed for everyone to claim his interest in evacuee property and no time need be given, they could have said that henceforward or after such and such date—which may be even before the Bill—no person shall be entitled to file any application. When you think of a time-limit, it follows that you are apprehensive that there may be cases where there was good reason for not filing application and for them a last limit should be given. If there are cases of this kind, I am afraid the one-year time-limit may not be sufficient, for this reason that in a matter of Bills of this kind, in a matter of legislation of this kind, people hardly become aware of legislation of this kind before one year is out, particularly when nothing is done to advertise this kind of legislation very widely.

I was suggesting a two-year limit or 18-month limit so that people might be able to know that such an Act existed and that there was a time-limit, so that after being aware of it, they might have time to file the requisite application, if there are any people who have a genuine case. If the hon. Minister is not willing to accept my suggestion of having an extended time limit, I would suggest that Government should at least take steps to advertise this legislation very widely so that people may come to know in the course of a week or a fortnight or even a month that such a provision has been made and the time to file their applications has come and will expire and they will have no further opportunity. Unfortunately, that is not done. What is done is that the Bill is published in the Official Gazette and there it all ends. We all know that we read newspapers and so many other things but hardly any of us read the Official Gazette. So, what is the use of relying on that publicity alone? I shall be prepared even to withdraw my amendments if the hon. Minister is prepared to give me the assurance that he will very widely publicise

through newspaper advertisements in the leading newspapers of this country—or in whatever way—about the provisions of this Bill and about the need to make the application within the time.

14 hrs.

The third clause of the Bill which is the second part of the Bill, to my mind, seems very objectionable. In the third clause, the residuary jurisdiction given to the Competent Officer to entertain a claim after the time for limitation has passed is being taken away. This is a very extraordinary provision from the legal point of view. There are laws of limitation affecting various claims, suits, for example, or applications and so on. In every case there is always a provision for hard cases, for *bona fide* cases where people may not have been in a position to make applications for some reason or other. Provisions for those cases are there. Those provisions are never looked upon as provisions which would have to be applied as a matter of course. Courts observe the strictest rules in enforcing these provisions. They scrutinise the applications, consider the merits of the case and never allow such applications unless they are thoroughly satisfied that there is some *bona fide* reason for not making the application in time.

Here we are dealing with the property of our own nationals. We have no right to deprive them of their property without compensation. If it happens that on account of this provision any person who has a genuine claim to the property is deprived of that property without compensation then the whole Act will turn to be *ultra vires* the Constitution. That is a thing to be noted. Therefore, we should not deprive a litigant of this very reasonable safeguard which we could always trust the officers—of course, if we appoint proper officers—to use with the utmost discretion and with the utmost circumspection, not that every application that is

made will have to be allowed as a matter of course. The application may be thrown out *in limine*. I do think that they will be thrown out *in limine* in most cases because after 9 or 10 years very few people will really be able to present a suitable excuse if they have none. But there might conceivably be cases where there may be *bona fide* reasons.

In such cases most of the people affected will be Muslims. You know that among Muslims succession is very much diffused. All this happened 9 years ago when the Custodians took over the property. It might belong to a *pardanashin* woman and she might be living far away—say in Calcutta or some other place—about a thousand miles away and might not have been aware that a property had been taken over by the Custodian. All these cases might come up. I do not know what may happen or what may not. But they might come forward. And, if such a person finds herself or himself deprived of property, it would be clearly unconstitutional because she or he would be deprived for no fault of hers or his.

Shri Mehr Chand Khanna: Has she not got the right to apply during the next 12 months?

Shri Sadhan Gupta: She has got the right to apply; but there may be reasons why she cannot. For instance, she may be insane during this period. It always happens that in any law of limitation, for instance, insanity or some kind of disability or fraud is always provided for as a safeguard against limitation running.

Shri Mehr Chand Khanna: Insanity would extend over a period of ten years. Is it so?

Shri Sadhan Gupta: In suitable cases. Under the ordinary law of limitation that is a different matter. But the whole point is this. Leave it to the competent officer to judge each case according to its merits. As I

said, I have no doubt that in most of the applications there will be absolutely no merit at all. But, if there is merit in some case, there is no reason why such a person should be deprived. That is what I try to maintain.

In this connection, I would like to make some reference to Shri Sharma's objection. He said all kinds of frauds are perpetrated; people go to Pakistan and bring forged documents and all that. It might happen. I am sure in 99 cases out of 100 it has no effect. But then to stop the judicial process on the ground that fraud might take place is a very desperate argument, if I may say so.

For instance, there have been many cases where, on the basis of false evidence, on the basis of forgeries, people have been convicted wrongly of murder and even sentenced to death. It happened in Egypt that a person was wrongly convicted of murder and was sentenced to 20 years' imprisonment, which is the punishment for murder in Egypt. After 20 years, he came back and found the murdered man going about happily in the village and then murdered him again out of revenge because his life had been ruined. That kind of thing happens. But, do we say for that reason that we should stop all murder trials and have some other way of punishing a murderer? Take another illustration. You can have a headache. There are two ways of curing it. You can cure it by medicine but, in a sense, the better way is to cut off the head because the ache will not return. So, is he advocating the latter way if that were the surer way? I would not. I would rather have the process of law take its own course, and even if in one case out of 100 there is an abuse of it let justice be done in 99 cases out of 100.

That is why I would again urge upon the hon. Minister that if he must insist on the one year time limit let him assure us that steps will be

[Shri Sadhan Gupta]

taken to advertise this Act very widely through very wide publicity. Secondly, I would urge on him not to delete that proviso. Let the competent officer, who is a judicial officer for all practical purposes, exercise his own discretion and at least let him give him a trial and see how things fare, because I am sure that no competent officer will take it into his head to entertain frivolous claims if such claims were to be made. But if any genuine case should occur—there may be conceivable circumstances which may arise after nine or ten years and if such a claim should arise—it should not be made impossible for the competent officer to do so.

लाला अञ्जितेराम (पटियाला) : सभा-पति महोदय, यह जो बिल यहाँ पर आया इसको राज्य सभा ने पास कर दिया है। यह बिल स्वागत योग्य है। यह कहना मुनासिब नहीं है कि मैं हमेशा ही गवर्नमेंट को अग्रज करता हूँ। इस बिल को मैं कबूल करता हूँ। मैं चाहता हूँ कि इस काम को एक्सपीडिट किया जाये और इसके लिये जो इस बिल में एक टाइम लिमिट न्यूरर की गई है, यह बहुत जरूरी है। इसका कारण यह है कि जो इक्वि प्रॉपर्टी रिलीज होगी, उसका ताल्लुक कम्पेंसेशन से है और इसको रिलीज करने में जितनी देर लगेगी, उतनी ही ज्यादा देर इक्वि पूल की असला मिकदार का पता लगाने में होगी। अगर मुझे पता है कि मेरी जेब में एक रुपया है तो मैं उसके मुताबिक ही अपने हाथ बढाऊंगा और अगर मुझे पता है कि मेरी जेब में चार आने हैं, तो उसके मुताबिक अपने हाथ मैं बढाऊंगा। इसलिये इस बात का पता करना और इसका फंक्ला करना गवर्नमेंट के लिये बड़ा जरूरी है कि आज इक्वि पूल जो है वह किस हालत में है और उनका पता तभी लग सकता है कि जब जो रिपेरेशन इक्वि प्रॉपर्टी में होना है वह जल्दी से हो जाए और मामला साफ हो जाए। मैं इस बिल के बुनियादी तौर पर

हक में हूँ। यहाँ पर यह बात कई बार कही गई है कि इस डिपार्टमेंट को हमें वाइज अप करना है। आज वैंस्ट बंगाल की तरफ रिपयूजीज के रिसेलमेंट का काम हो रहा है, उसे भी बन्द करना है लेकिन इस बिल का ताल्लुक तो ईस्ट जाब और वैंस्ट पाकिस्तान से है। मैं समझता हूँ जो चीज अोरिजनली कंतीव की गई थी और जो यह कहा गया था कि छः महीने की टाइम लिमिट हो, वह एबोल्यूटली कोरेक्ट थी। मुझे पता नहीं उसको क्यों बदल दिया गया। इस देख कर मुझे अफसोस ही हुआ है। यह ख़ना साहब ने क्या किया है। मैं समझता हूँ कि इस मामले में उन्होंने जल्दबाजी से काम लिया है। मैं इस एमेंट को अग्रज करता हूँ। मैं समझता हूँ कि एक साल की जो टाइम लिमिट रखी गई है, यह मुनासिब नहीं किया गया है। छः महीने की टाइम लिमिट विल्कुल ठीक थी। जो अपील होती हैं, रिविजन्स होती हैं अगर वे होतीं रहीं, वे चलती रहीं तो १९६२, १९६३ और १९६४ तक यह काम चलता रहेगा और इसका कुछ भी मतलब नहीं है। मैं इस बिल में खास तौर पर इंटेरेस्टिड इक्विप्रॉपर्टी इसका ताल्लुक कम्पेंसेशन के साथ है। जितना पैसा ज्यादा होगा उतना ही ज्यादा रिपयूजीज को कम्पेंसेशन मिल सकेगा। मैं देखता हूँ कि जो काश्मीर के लोग हैं, जो रिपयूजीज हैं, उनको शिकायत है कि उनको वाफी नहीं मिल रहा है। मैंने अज प्रॉपर्टी जांच देखी तो उसमें कई इस प्रकार की चिट्ठियाँ थीं जिन में इस बात की शिकायत की गई है। तो अगर एपया इनके पास नहीं है, अगर इनका हाथ खुला नहीं है, तो ये कहाँ से दे सकते हैं। इस वारंते मैं समझता हूँ कि मिनिस्टर साहब की जो पहली प्रोपोजल थी छः महीने की, उसको ही रखा जाए। बेट वाज ए वेरी प्रॉपोजल। आज मैं एम्बंडमेंट मूव नहीं कर सकता हूँ। लेकिन मेरी दरख्वास्त है कि मिनिस्टर साहब पहली बात पर ही स्टिक करें।

इस मिनिस्ट्री को वाइण्ड-अप करना है यह बात तो ठीक है ६ बरस उनकी काफी मोका मिल गया कि वे अपने क्लेम दाखिल करा दें। मुझे दुःख है कि जो कम्पॉटेंट आफिसर हैं वे बिल्कुल कुछ काम नहीं करते हैं, यों हाँ केसिस को लम्बा करते जाते हैं। अगर इसी तरह से केसिस को लम्बा किया जाता रहा तो वे भी कायम रहेंगे और उनको भी तनकाहें देना पड़ेगी उनके पास कुछ काम नहीं है। तो साल के लिये, डेढ़ साल के लिये या दो साल के लिये अगर आप उन्हें रखते हैं और अधिक तो आरका जो खर्चा है वह बढ़ेगा और मैं इसमें कोई विग्रह नहीं देखता हूँ। पहले छः महीने की लिमिट थी, उसको एक साल किया गया। अभी किसी ने कहा कि इसको दो साल कर दिया जाए और दूसरे ने कहा कि तीन साल कर दिया जाए। शुरुई कि किसी ने यह नहीं कहा कि इसको चार साल कर दिया जाए। इस टाइम को बढ़ाने में मुझे कोई बेंग मालूम नहीं पड़ती है। लेकिन अपने अपने ख्याल होते हैं जो माननीय सदस्य वहाँ पर रखते हैं। लेकिन मैं कहना चाहता हूँ कि जो श्रीरजनली कमीश किया गया या देव वात्र एमप्लोयून्स को करेक्ट।

दूसरी बात जो मैं कहना चाहता हूँ वह एक्लिपेन्स रिसेव करने के बारे में कहना चाहता हूँ। इसमें परमिशन की बात है। इसके बारे में जो कुछ आप करने जा रहे हैं वह ठीक है। वह राइट स्टेप है और जो लोग इस प्राप्ति को बनाये रखना चाहते हैं, मैं उनका विरोध करता हूँ। कहा गया है कि इन्फिनिटी की बात है। अब ७ बरस इन्फिनिटी तो हो चुके हैं। वह इन्फिनिटी कब तक बढ़ती चली जाएगी। इसकी कुछ हद होनी चाहिये। मोका देने की भी कोई हद मुकर्रर होनी चाहिये। इसके लिये कहा गया था कि सिक्सटी डेढ़ के बाद भी एक्लिपेन्स को एन्टरटेन किया जा सकता है। अब इसको भी अगर आप रहने देते हैं, इस प्राविमी को रहने

देते हैं और इस चीज को बढ़ती जाते हैं, तो यह हमारे लिये ठीक नहीं होगा।

अन्त में मैं इतना ही कहना चाहता हूँ कि जो छः महीने की बात रखी थी वह ठीक थी और उस पर आपको स्टिक करना चाहिये था और अब भी अगर आप उसको रख सकें तो अच्छा होगा।

Shri Ajit Singh Sarhadi: Mr. Chairman, Sir, however much I may disagree with the Ministry's claim that the work of rehabilitation has been completed or that the rehabilitation problem has been solved, yet I welcome this Bill for it will at least finish up one aspect of the evacuee property.

I am sorry to find from the speech of my hon. friend from Calcutta that he has pressed and has given an amendment also for the extension of the period. Probably he is not aware that in all the legislations that pertain to the displaced persons in India there was a time limit. In relation to the Claims Act a time limit was laid down, that a claimant must give his application by a certain period failing which he would not be entitled to have his claim verified—of course, the Ministry was kind enough to extend the period from time to time in view of the situation and in view of the circumstances that had arisen but a limit in time was placed. In the matter of compensation also, applications for compensation under the Displaced Persons Rehabilitation Compensation Act, again a target date was fixed and it was said that all applications must be given by that date and a claimant would not be entitled to any compensation unless he gave his application within the target date. That period too was extended once or twice because of certain circumstances but a time limit was there.

I believe, Sir, this was the only Act where no time limit was given to the finishing of the matter; the Custodian at any time could send the information for the competent officer to take

[Shri Ajit Singh Sarhadi]

it up and anybody could give him an application at any time and have the matter raised up if that was in his interest. So I am submitting that this is a thing which was long overdue, that a time limit should be fixed. I agree with my hon. friend who preceded me that six months is a sufficient time. Where a claim has not been put in for nine years it should be put in within six months.

Therefore, I submit, so far as the underlying objective of the principle of the Bill is concerned I am in full agreement with the hon. Minister who has sponsored it, but my apprehensions are—to which he has already made a reference—that this Bill in the present form will not be able to meet the objective, which is to have an expeditious disposal of the composite evacuee property or the claims of non-evacuee property.

Now, Sir, he has been kind enough to make a reference to a difficulty which is given in the Statement of Objects and Reasons:

“Certain difficulties are being experienced in the working of this Act as no period of limitation is prescribed under section 6 for filing of claims by the claimants, with the result that new claims are being filed by interested parties even now after a lapse of 9 years and can continue to be filed, for all times to come. In order to expedite the completion of the work under this Act, and to bring finality to the proceedings, it is felt necessary to prescribe some time limit under section 6.”

Now under section 6 either the Custodian can send the information to the competent officer or the claimant can move the competent officer to take up the question. According to the present provision “No application under this section shall be entertained if filed after the expiry of six months from the commencement of the Evacuee Interest (Separation) Amendment Act, 1960.” The amendment

seeks to change the period of six months to one year. It is now open to the claimant to make an application, if the Custodian had not sent the information. The hon. Minister was pleased to say that he would be able to stop it by an order or direction to the Custodian. I submit that would be wrong. He knows very well the fate of directions which were held to be of no statutory value by the Division Bench of the Punjab High Court. The matter is now under consideration of the Full Bench. Only what are contained in the Statute or rules are legal and binding. I put a contingency before the hon. Minister. I bring a claim and submit an application to the Custodian. He does nothing and he would not be in a position to do anything in this case. He cannot sit over my application; he must forward it to the competent officer. The moment he forwards it, it would be an information and the moment the information comes to the competent officer he is legally bound to take up the issue. How is he going to escape from the provisions of this amendment that the Custodian can send information and how can he make the Custodian sit on my application and not forward it? So, it would have been much better as I submitted earlier that the Bill should have been in the form that we finished up this matter and that there should be no further claims. My submission to the hon. Minister is that there should be a finality to this legislation, there should be a finality to all the disputes which are pending about evacuee property and the finality can be provided only if we put a time-limit to the entertainment of applications.

In this connection I would submit one thing. The principle which he has incorporated in this amending Bill should be extended to other pieces of legislation also pertaining to claims for compensation. The Ministry of Rehabilitation is not an abnormal feature of the country; it is an abnormal feature of an exigency and it is time that the displaced persons adapted themselves and fitted into the economy of the country.

I would like to refer to one small point mentioned by my hon. friend from Gurdaspur. He said there have been frauds. I beg to differ from him, with all the emphasis at my command. How can he say that there are cases of a fraudulent nature? There was no composite evacuee property; except mortgager and mortgagee there are no others. Nobody can claim to be a mortgagee unless he has a registered deed in his possession. I fail to understand how he can speak of frauds having been committed. How can a man go to Pakistan and get in writing a registered deed? My hon. friend from Calcutta said that there should be advertisement. I have no objection, but I must tell the hon. Minister that the moment he advertises he will have a crop of applications. All the people who have lost will come forward and make claims. I do not object to advertisement, but I must warn that if an advertisement is made, it will give rise to all sorts of fictitious claims. I hope the hon. Minister will give a finality to this question.

Shri Amjad Ali (Dhubri): Sir, certain statements made by the hon. Minister have intrigued me. He said that he had been experiencing certain difficulties during the past nine years. But he has not explained the nature of the difficulties that he has faced. It would have been better if he had explained these in his opening speech. It was pointed out that it has taken nine long years for the interested parties to come and file claims. But the point which has intrigued me very much is that the power of the competent officers to entertain claims is sought to be taken away. This had been a helpful provision.

As a matter of fact to entertain claims beyond limitations section 5 of the Indian Limitation Act gives power to any competent officer or a *munsif*. But that is the general law not applicable to specific laws we have at hand. This being a healthy provision, I think it would not be offending against any

other provisions of law and if we continue this there will be absolutely no harm. If we are at all going to give some concession to people who are going to file claims and become claimants, this provision as it appears would not give them much of a concession which was till now being given to other people. The proviso was to the effect that the competent authority may ascertain the claim after the expiry of the said period of six months if he was satisfied that the claim was a genuine one. He should be allowed to entertain it. The proviso should remain. That is my humble submission. To take away that right to entertain the claims would be unfair and unjust. The hon. Minister has said that nine years have elapsed and another year is going to be given. To that extent I agree. But he should also agree that if there are hard cases and genuine claims, he should not debar those persons from filing their claims even after the period that has elapsed. That is all my submission.

Shri Achar (Mangalore): Mr. Chairman, Sir, it is with some hesitation and almost reluctance that I have risen to make my observations because I am not very familiar with the evacuee problems, the problems of those unfortunate persons who have been displaced. But I venture to make these observations because I felt that the provisions seem to be not at all in accord with the general principles of the law of limitation regarding immovable property. I do concede that this problem of refugees has peculiar circumstances. Certainly, the hon. Minister is the best judge about it. I have heard him always with respect, and I have always admired his sympathies for evacuees. But, all the same, I felt it is my duty to make these observations because, as a lawyer, I felt that the provisions of the Bill are not at all—I am saying it with all humility—in accord with the general principles of the law of limitation.

Let us take the jurisprudence of any country, not only of Britain but of

[Shri Achar]

all other countries also. Practically, everywhere, the period of the limitation—the ordinary law of limitation regarding immovable property—is 12 years. It is so for every aspect of the question. The present provision is against the general scheme of legislation also, namely, the Limitation Act. Let alone the earlier provisions of two months and three months for appeals etc., and later on, one year for smaller items like wages, etc. When we come to contracts, it is three years. For registered documents, it is six years. But for immovable property, there is not even one provision in the Limitation Act which restricts the period for anything less than twelve years.

I shall give one instance for the consideration of the hon. Minister in charge of this portfolio. Supposing a man lives in a house, his own house, and other people come and beat him out of the house. Some people trespass and drive him out, openly to his knowledge, the man has all the rights in the house. In point of fact, he is kicked out of the house. But he has 12 long years to put in his claim. Apart from this question of the possession of the house, take the question of a charge on the property. Supposing a man or a woman is entitled to maintenance on the charge on the property, the claim is allowed for 12 years. That is why I said that this restriction on the right to claim immovable property to a period which is less than 12 years is not correct. As I said at the outset, I do not know the problems relating to our unfortunate refugees. All the same, this law of limitation is the result of experience of almost all civilised countries of the world. They have all provided twelve years because it is considered to be a sacred right. As the British law of jurisprudence would have it, it is real property.

How far we are encroaching upon the rights of property and how far we are going to the extent of depriving the persons from having an enquiry by any judicial tribunal and all that, are beside the point. Whatever that be,

I would request the hon. Minister to bestow his attention on this important aspect of the question. He is of course very familiar with the problems relating to the displaced persons. We from the South have also felt how extraordinary the circumstances were and how human beings could behave, as they behaved, at the time of partition. Even then, I would submit that this provision which cuts down the period of limitation is not correct. Already, nine years have passed, and so the period of twelve years need not be restricted.

Even if he is not able to agree to my suggestion, I would make a suggestion with regard to the proviso at least. I find from the Statement of Objects and Reasons that it is not on merits that this provision is being decided upon. If I have understood the position correctly, in order to expedite the completion of the work under this Act and to bring a finality to this work, this amending legislation has been brought in. It is not merit but expediency. The Government wants to close this Ministry. But what is the difficulty? Supposing the Ministry is abolished, why not some other Ministry be charged with the work for some more time?

Shri Ajit Singh Sarhadi: There are provisions of the ordinary law.

Shri Achar: I am thankful to Shri Ajit Singh Sarhadi for reminding me of the ordinary provisions of the law. If it is absolutely necessary, some other Ministry can be put in charge of this work for some more time. I was referring to the proviso. My hon. friend from Calcutta also said about the proviso that it should be retained. I am making a special appeal that the proviso should be retained. I feel it must be there. This is what the proviso says:

"Provided that the competent officer may entertain the claim after the expiry of the said period of sixty days if he is satisfied that

the claimant was prevented by sufficient cause from filing the claim in time."

The important words are "sufficient cause". All persons who know something of the law know that "sufficient cause" has been explained by the high courts as a very important thing. They have gone to the extent of saying that not only every day, or every month or every year, but every hour must be explained.

The person who claims benefit comes under the proviso. This proviso will be applicable only in a very strict manner, because there are judicial precedents and judgments which clearly show that a person who comes and claims benefit under this proviso must explain why he was prevented from applying earlier. Not only a year or a month or a day but every hour must be explained. That is the trend of the judicial decisions. For example, there may be a case of a minor. Is he to be deprived of this right? It may be said against a minor that the limitation will not run. That will not be the correct position, because once the limitation begins to run it will run and it will not stop. If limitation has to run, even a minor will not have any remedy. So, even if my suggestion that the period of twelve years should remain is not accepted, I will certainly press this matter, namely, in cases where there is real cause of hardship, this provision should be retained. Even if the Ministry has to be wound up, I would submit that some other Ministry or officer can look after the matter.

श्री म० चं० जैन : चेयरमैन साहब, जहाँ तक इस अमेन्डमेंट बिल का ताल्लुक है मैं इसके क्लॉज २ की तो हिमायत के लिए खड़ा हुआ हूँ और क्लॉज ३ की सख्त मुखालिफत के लिये।

ज्यादा अच्छा होता अगर इस किस्म का बिल लाने से पहले मिनिस्टर साहब कुछ

आँकड़े भी हाउस के सामने रखते। मिसाल के तौर पर, इस बिल की अगर जरूरत है तो तो इसलिये कि मिनिस्ट्री का काम खत्म नहीं होता। तो अच्छा होता अगर हाउस को बताते कि कितनी कम्पोजिट जायदादें अभी बाकी हैं जिनके लिये आप यह बिल हाउस में ला रहे हैं। यह भी बताते कि दफा ६ के नीचे जो लोग एप्लीकेशन्स दे रहे हैं वह एप्लीकेशन्स किस रफ्तार से आपके पास आ रही हैं पिछले साल में या इस महीने में, ताकि हाउस अन्दाजा लगा सके कि इस तरीकी बिल की जरूरत है या नहीं। यह भी बताना चाहिये था कि दफा ७ के नीचे जो जो प्रोवाइजो हैं जिसके बारे में अभी मुझ से पहिले बोलने वाले मेरे साथी ने कहा है, और दूसरे साहब ने भी कह है कि यह प्रोवाइजो डिलीट नहीं होना चाहिये। इस प्रोवाइजो के तहत कितनी एप्लीकेशन्स आई हैं जिससे कि हाउस यह अन्दाजा लगा सके कि यह क्या इस प्रोवाइजो का गलत इन्तेमाल हो रहा है या क्या बात है। इन आँकड़ों के बगैर किसी किस्म का अन्दाजा लगाना मुश्किल है। जहाँ तक इस तरकीमी बिल की दफा २ का ताल्लुक है, मैं समझता हूँ कि यह छः महीने का पीरियड रहता, या जो अब राज्य सभा ने एक साल का पीरियड मान लिया है, इसमें कोई फर्क नहीं है। मेरे लायक दोस्त श्री आचार को कोई गलतफ़हमी है। जहाँ तक इम्पूत्रेबल प्रापर्टी का ताल्लुक है, बारह बरस की मियाद तो आम तौर पर कानून में है। अगर किसी ने क्लेम देना है, तो चूँकि १९४७ में डिस्प्लेस्ड पर्सन्स आए और इवँकुईज गए, इस लिये बारह बरस तो खत्म हो गए, बल्कि बारह बरस से भी ज्यादा हो गए। तो बारह बरस की आर्युमेंट मुझे पसन्द नहीं है। इस लिहाज से जहाँ तक क्लॉज २ का ताल्लुक है, मैं उसकी मुखालफत नहीं, बल्कि हिमायत करता हूँ। छः महीने रह जाता, तो अच्छा था। अब राज्य सभा ने एक साल कर दिया है, तो इस में कोई बात नहीं है।

[श्री मू० चं० जैन]

लेकिन यह जो प्रोवाइजो को डिलीट करने की बात है, मैं उसकी सख्त मुखालफत करता हूँ। मैं समझता हूँ कि शायद इस हाउस के ज्यादातर मेम्बरान को इस की बैरु-प्राउण्ड का पता नहीं है कि किस तरह ही है बि-लिटेशन मिनिस्ट्री के इनकाम्पोजिट आफिसरों ने लोकल आदमियों की जायदादों को बगैर नोटिस दिए, या दफा ६ के प्राविजन के बिना तहस-नहस करके हड़पा है। दफा ६ में लिखा है—

"in such form and manner as may be prescribed:

(a) a general notice requiring all persons who claim interest in such property;

(b) also a notice on every person who, in the opinion of the competent officer, may have a claim in such property;

to submit claims, if any, in respect of that property."

दो शर्तें यीं दफा ६ में नोटिस जारी करने की। जब कभी भी काम्पोजिट प्रापर्टी का सवाल हो, तो एक जेनरल नोटिस उस इलाके में दिया जायगा और उस जेनरल नोटिस के अलावा एक व्यक्तिगत नोटिस, जितने भी हिस्सेदार, को शेयरजं प्रापर्टी के हैं इन्कुई इन्ट्रस्ट के अलावा, उन सब को नोटिस दिया जाये। मैं मिनिस्टर साहब से पूछता हूँ कि क्या उनके आफिसरों ने जेनरल नोटिस दिये। क्या वह छाती पर हाथ रख कर कह सकते हैं कि जेनरल नोटिस देने के इस प्राविजन पर अमल किया गया? मैं यह कहना चाहता हूँ कि उन्होंने स प्राविजन को कतई तहस-नहस कर दिया और जेनरल नोटिस नहीं दिये।

दूसरी शर्त यह है कि व्यक्तिगत नोटिस दिया जाये। कस्टोडियन के अलावा अगर दूसरी तरफ से हिस्सेदार हैं, तो उनमें से एक हिस्सेदार को नोटिस देकर आप के महकमे नेकःफ्री समझा और बाकी नौ हिस्सेदारों को कतई नोटिस नहीं दिया। हो सकता

है कि जिस हिस्सेदार पर नोटिस दिया गया, वह मर चुका हो। उसके लीगल रिप्रेजेंटेटिव को फाइल पर लाया नहीं गया और उस मुद्दे को नोटिस देकर काफ़ी समझा गया और किसी ने क्लेम नहीं किया, तो दफा ११ के माताहत काम्पोजिट प्रापर्टी का काम्पोजिट प्रापर्टीपना खत्म कर दिया गया और उसको इक्वई प्रापर्टी समझ लिया गया। यह जुल्म किया है मिनिस्टर साहब के महकमे ने। उनके नोटिस में, महकमे के नोटिस में ऐसी हजारों मिसालें लाई गईं। महकमे के काम को खत्म करने के नाम पर लोकल आदमियों की हज़ारों लाखों करोड़ों पयों के जायदाद के हिस्से को महकमे ने ले लिया। एक एग्री-कल्चरल लैंड है। रेवेन्यू रिकार्ड में दर्ज है कि उसके दस हिस्सेदार हैं। एक मुसलमान हिस्सेदार दर्ज हैं और नौ लोकल आदमी हिस्सेदार दर्ज हैं। मैं ख.स तीर पर जाब की बात कह रहा हूँ। महकमे को इस बात का क्या हक है कि सिर्फ एक हिस्सेदार को नोटिस देकर—और वह इसमें दिलचस्पी नहीं लेता है—बाकी के आठ हिस्सेदारों को नोटिस दिये बगैर उस सारी की सारी जायदाद को इक्वई बना ले और मालिक बन जाये। मुझे पता है कि पंजाब गवर्नमेंट ने इस महकमे को लिखा, काम्पोजिट आफिसर को लिखा कि आप यह गलत बात कर रहे हैं, आपको चाहिये कि जेनरल नोटिस भी दें इसका कुछ असर हुआ, लेकिन फिर सेंट्रल गवर्नमेंट की तरफ से पंजाब गवर्नमेंट को हिदायत दी गई कि इन इन्स्ट्रक्शन्स को मत फालो करो और एक ही नोटिस दिया जाना काफ़ी समझा जाये। इस तरह का अन्वेष इस महकमे ने किया है। इस के बावजूद वह यह चाहता है कि यह प्रोवाइजो भी उड़ा दिया जाये। अगर किसी भूले-बसरे बेचारे को पता चल जाये कि मेरी एक काम्पोजिट प्रापर्टी है और उस पर नोटिस जारी हुआ है, लेकिन अगर उसको दो महीने के अन्दर पता न चले, जसा कि प्राविजन है, और दो महीने

के बाद वह कहता है कि मुझे अब इसका पता लगा है, मेरे पास नोटिस नहीं गया है, नोटिस तो किसी और मेरे को-शेयरर को गया है, अब मैं आप की कचहरी का दरवाजा खटखटाता हूँ, तो उस क्लेमेंट का वह हक भी आज लिया जा रहा है। कहां तक यह महकमा जुल्म करेगा ?

जहां तक डिस्प्लेस्ड पर्सन्स के हित का सवाल है, इससे उनका कोई खास हित होने वाला नहीं है। मिनिस्टर साहब ने बंगाल के डिस्प्लेस्ड पर्सन्स का हाल देख लिया है कि वे कितनी उन की तारीफ़ कर रहे हैं। पंजाब के रेफ्यूजीज कितनी तारीफ़ कर रहे हैं, या नहीं कर रहे हैं, उस सवाल को इस वक्त छोड़िए। लेकिन लोकल आदमियों के साथ वह बड़ा जुल्म कर रहे हैं। इस बारे में एक किस्सा मैंने पहले भी बताया था। आज मैं उस को टच नहीं करता हूँ। हमने देखा कि किस तरह से उन्होंने थर्ड पार्टी क्लेम्स को खत्म कर दिया, जो कि करोड़ों की जायदाद थी, करोड़ों रुपए के कर्ज लोकल आदमियों के मुसलमानों पर थे। महकमे ने मुसलमानों की जायदाद पर तो कब्जा कर लिया, लेकिन उन कर्जों को नहीं लेने दिया। यह कहां का जस्टिस है ? इस तरह के इनजस्टिस की एक एक मिसाल, जो डेमोक्रेटिक गवर्नमेंट के मातहत होती है, लोगों के दिमागों में फ्रस्ट्रेशन पैदा करती है और वह इनजस्टिस इस महकमे ने किया है। अब इस प्रोवाइजों को उड़ा कर वह एक और इनजस्टिस करने जा रहा है। मुझे हरानी है कि मेरे दोस्त, जिन में से कुछ बुजुर्ग वैस्ट पंजाब से आए हैं, इतना भी नहीं देखते कि लोकल आदमियों के साथ कितनी ज्यादाती हो रही है। इस बात की बाबत तो वे कहते हैं कि कस्टोडियन से भी पावर्ज ले लो, लेकिन यह नहीं देखते कि प्रोवाइजों के डिलीट करने से लोकल आदमियों धर, जो काम्पोजिट प्रापर्टी के को-शेयरर हैं, कितना भारी भ्रत्याचार किया जा रहा है। अगर यह प्रोवाइजों का यूं करे, तो अच्छा है,

हालांकि यह महकमा जिस तरह से इस पर अमल दरांमद कर रहा है, उसमें उसने जुल्म की कसर नहीं उठा रखी है। अब इस प्रोवाइजों को उड़ा कर क्या वह बिल्कुल ही उसको हद से गुजारना चाहता है ? क्या वह लिमिट को कतई तोड़ना चाहता है ? मुझे खुशी है कि यह तजवीज आई है कि मिनिस्टर साहब इस काम को खत्म करने की इतनी फ़िक्र में क्यों हैं कि उसको खत्म करते करते इतने लोगों पर जुल्म किया जाये। अगर उनका कोई काम बाकी रहेगा, तो वह कोई दूसरा महकमा करेगा। उन्होंने पचासों काम पंजाब में दूसरे महकमों के जिम्मे लगाए हैं, तो यह काम भी दूसरे महकमे के सुपुर्द किया जा सकता है। अगर एग््रीकल्चरल लैंड है, तो पंजाब का रेवेन्यू डिपार्टमेंट काफ़ी मजबूत और तगड़ा है। अगर शहरी जायदाद है, तो और डिपार्टमेंट इस काम को सम्भाल सकते हैं। इस काम को खत्म करने के बहाने जो ज्यादातियां उनके महकमे ने लोकल आदमियों के खिलाफ़ की हैं, वे इस तरफ़ीमी कानून के तहत और ज्यादा हो जायेंगी। मैं चाहता हूँ कि उन ज्यादातियों के करने में वह बराये मेहरबानी और ज्यादा हिस्सेदार न बनें, वरना जहां कुछ लोग उनको दुआयें देंगे, तारीफ़ करेंगे, वहां लोकल आदमियों की आह उन को बहुत नुकसान पहुंचायेगी।

इन शब्दों के साथ मैं क्लोज़ ३ की मुसालफ़त करता हूँ और उम्मीद करता हूँ कि मिनिस्टर साहब इस क्लोज़ को इस बिल में नहीं रखेंगे।

Shri Oza (Zalawad): Sir, I have only a small point to urge. As you know, this Bill relates to the procedural part of the law. It does not confer any substantive right nor does it take away any right, but by taking away the remedy, it makes the substantive right extinct. So far as the first part is concerned, I have very little dispute with it, in view of the

[Shri Oza]

fact that the claimants had already 9 years before them. I do not dispute if the Ministry chooses to give now a period of six months.

But so far as clause 3 is concerned, if you do away with the proviso, I think it will be, as Shri Achar has pointed out, a bit controversial, because if you limit the period to six months, suppose for some sufficient reason, it is not possible for a claimant to file a claim, I think it will not be fair and just to take away the remedy for all times to come. After all, as he has pointed out, 'sufficient cause' has been very well defined and there have also been judicial decisions right from the Supreme Court to so many High Courts. So, by keeping the proviso as it is, I do not think the hon. Minister would keep the gates so open that there would be so many claims.

He must instruct his officers to interpret this clause a bit strictly and judiciously. If this safeguard is kept, I think there will be no harm. Before taking away the remedy for all times to come and thus making a substantive right, which is there in law, extinct, before we do so, we should pause and think. I would request the Minister to keep this proviso and instruct his officers to interpret this clause judiciously. I think, to say that no application is entertainable after a period of six months would be very unfair to those who have not got their claims filed. I would urge upon him to reconsider this matter.

श्री सख्त पाण्डेय (रसड़ा) : सभापति महोदय, इस बिल में मैंने एक अमेंडमेंट मूव की जिसके तहत मैंने चाहा है कि जो टाइम लिमिट रखी गई है, उसको तीन साल कर दिया जाए। माननीय मंत्री जी की तरफ से और साथ ही साथ कुछ माननीय सदस्यों की तरफ से यह दलील दी गई है कि कुछ लोग हैं जो यह चाहते हैं कि कस्टोडियन डिपार्टमेंट को कायम रखा जाए, और ज्यादा दिन तक इसको बरकरार रखा जाए। दूसरा रफ माननीय मंत्री जी ने यह दिया है कि

पाकिस्तान वालों ने बहुत पहले ही इवैक्वी प्रापर्टीज, एज सच, डिक्लेयर कर दी हैं और उन पर जो कब्जा है, वह लोगों को दिला दिया है। पाकिस्तान में बहुत सी चीजें हुई हैं जो कि मैं समझता हूँ कि हिन्दुस्तान में कोई भी पसन्द नहीं करता और उनको ठीक नहीं समझता और न ही उनकी गलत बातों को ठीक समझा जाना चाहिये।

टाइम लिमिट बढ़ाने की क्यों जरूरत है, इसके बारे में मैं अब कुछ कहना चाहूँगा। पहली बात तो यह है कि कस्टोडियन डिपार्टमेंट जो है, उसके अन्दर बिल्कुल एक धांधली सी मची हुई है। वहाँ पर कोई काम नहीं हो रहा है, वहाँ पर कोई कानून नहीं चलता है, किस तरह से कानून पर अमल किया जाना चाहिये, इसको कोई जानता ही नहीं है और इतनी जालसाजी वहाँ हुई है कि कुछ ठिकाना ही नहीं। गांवों के गांवों लोगों को रातों रात एलाट कर दिये गये हैं, रातों रात लोगों को जमीनों का कब्जा दिला दिया गया है। इस तरह की धांधला की बहुत सी मिसालें आपको मिल सकती हैं। मुझे यह भी बताया गया है कि किसी कांग्रेस कमेटी के आफिस का कस्टोडियन ने फौरन ही रातों रात कब्जा दिला दिया है। इस तरह के वाकत बहुत बड़ी तादाद में हिन्दुस्तान के विभिन्न हिस्सों में हुए हैं।

इस वास्ते मैं समझता हूँ कि जैसी हमारे देश की हालत है उसको देखते हुए यह लाजिमी है कि अगर आपने एक ही साल का और समय दिया तो बहुत सारे क्लेमेट्स को मौका नहीं मिलेगा कि वे अपने दावे दाखिल कर सकें। आज नौ बरस बीत जाने के बाद भी बड़त से लोग पड़े हुए हैं जिन्होंने कि अपने दावे दायर नहीं किये हैं और अब अगर आपने एक साल की टाइम लिमिट मुकर्रर कर दी तो बहुत से ऐसे लोग रह जायेंगे जो अपने दावे दाखिल नहीं कर सकेंगे। इस वास्ते यह जरूरी है कि इस टाइम लिमिट को बढ़ा कर तीन साल कर दिया जाए।

अभी हमारे माननीय सदस्य श्री साधन गुप्त जी ने कहा कि वह अपनी अमेंडमेंट को वापिस लेने के लिये तैयार हैं बशर्त कि आप इस चीज का इतना प्रचार करें कि कोई भी व्यक्ति ऐसा न बच रहे कि जिसने अगर दावा दाखिल करना है, तो वह दावा दाखिल न कर सके। बहरहाल मैं तो यह चाहता हूँ कि अगर आपने इस टाइम-लिमिट को एक साल किया है तो इसको कुछ और बढ़ाइये ताकि लोगों को मौका मिल सके दावे दाखिल करने का। डिपार्टमेंट तो आप का आलरेडी है ही, यह बात नहीं है कि आप को कोई नया डिपार्टमेंट क्रियेट करना पड़ेगा। न ही यह बात है कि इस बिल के पास जाते से जो कस्टोडियन का डिपार्टमेंट है वह खत्म हो जायगा और इस ने ही जो रिहैबिलिटेशन का सवाल है वह हल होता है। बहुत सी चीज फिर भी बाकी बच रही है जो कि आप को करनी है। इस वास्ते मैं चाहता हूँ कि मेरी एमेंडमेंट को मान लिया जाय।

अब जो क्लॉज ३ है, इस के बारे में मैं कुछ कहना चाहता हूँ। आप ने कहा है अगर कोई ऐसा केस होगा जिस पर पुनर्विचार करने की आवश्यकता हो तो उस पर पुनर्विचार किया जायगा। लेकिन यहां पर तो आप सारे अस्तियारात छीन लेना चाहते हैं और उस सूरत में जब राइट ही नहीं रहेगा तो पुनर्विचार करने का सवाल ही कहां से पैदा होता है। इस वास्ते मैं चाहता हूँ कि उस प्राविसो को भी रहने दिया जाय।

अन्त में मैं यह कहना चाहता हूँ कि टाइम लिमिट को भी बढ़ाया जाय ताकि लोगों को मौका मिल जाय दावेदायर करने का, अगर उन्होंने ने अब तक ऐसा नहीं किया है और साथ ही साथ सही जांच इस सब चीज की हो सके। आज तक होता क्या रहा है? एक इंस्पेक्टर ने लिख दिया कि कोई आदमी पाकिस्तान चला गया है तो उस को

बिना जाने बूझे फौरन अपने कब्जे में कर लिया गया है। बहुत ज्यादा धांधली हुई है इन सब मामलों में। इसलिये मैं अपील करूंगा कि जो सैक्शन ७ है और इस की जो प्राविसो है, इस को तो रहना चाहिये और साथ ही साथ वक्त की जो लिमिट मुकर्रर की गई है उस को बढ़ा दिया जाय। मैं यह भी मुनासिब समझता हूँ कि अधिकारियों को समझा दिया जाय कि अगर कोई सही चीज उन के सामने आती है, तो लोगों को दावा करने का मौका दिया जाय।

श्री महेश चन्द खन्ना : जनाबेवाला, मेरे माननीय मित्रों ने तकरीरों की हैं और मैं ने उन को सुना है। ज्यादातर यह कहा गया है कि कस्टोडियन का महकमा अच्छा महकमा नहीं है, कम्पीटेंट आफिसर साहिबान जुल्म करते हैं, धांधली करते हैं और लोगों की जायदादों पर नाजायज़ तौर पर कब्जा कर लेते हैं। जब ये बातें कही जा रही थीं तो मैं समझ रहा था कि यह भी कहा जायगा कि इस महकमे को जितनी जल्दी खत्म कर दिया जाय बेहतर होगा। लेकिन यह कह चुकने के बाद, हमें बदनाम कर चुकने के बाद, हमारी ईमानदारी पर शक कर चुकने के बाद, स्वाहिश क्या जाहिर की गई कि साहब कस्टोडियन को जिन्दा रखा जाय और जो कम्पीटेंट आफिसर हैं, उन के पास जो डिस-क्रीशनरी पावर्स हैं, वे भी रहें

श्री अ० मु० ता० (जम्मू तथा काश्मीर) : हम चाहते हैं कि आप सब जिन्दा रहें।

[شری اے - ایم - طارق : جموں اور

• کشمیر - ہم چاہتے ہوں کہ آپ سب زندہ رہیں -]

श्री महेश चन्द खन्ना : मुझे अफसोस इस बात का है कि ये बातें बकुला साहिबान ने कही हैं। मैं कहना चाहता हूँ कि अगर एक

[श्री मेहर चन्द खन्ना]

बुरी चीज है तो उस को क्यों रखा जाय, उस को क्यों न खत्म कर दिया जाय, क्यों उस बुरे सिलसिले को आप जारी रखना चाहते हैं। कुछ हमारे वुकला साहिबान बम्बई से आये हैं, कुछ जनूब से आये हैं। लेकिन उन को यह भूल गया कि एक एबनार्मल सिचुएशन में, एक एबनार्मल ला बना था। अगर सिचुएशन नार्मल होती तो नार्मल ला कंट्री का मौजूद था। उस में अपील की गुंजाइश भी है, दलील भी है, वकील भी है, जुरिसडिकशन भी है और लिमिटेशन भी है। एक मिनिस्ट्री बनाई गई इसलिये कि हम काम को खत्म करें और उस के लिये कुछ क्वानीन बनाये गये और जैसे सरहदी साहब ने कहा कि साहब क्लेम देने के लिये एक मियाद मुकर्रर, रिहैबिलिटेशन ग्रांट की एप्लीकेशन देने के लिये एक मियाद, कम्पेंसेशन देने के लिये एक डेट मुकर्रर और उस का जो वक्त है वह मुकर्रर। तो एक कानून था जिस में कम्पीटेंट आफिसर्स को हमेशा के लिये रखा गया था और पार्लिमेंट ने रखा था। उस वक्त मैं पार्लिमेंट का मेम्बर तो नहीं था लेकिन यह बात जरूर है जैसा शर्मा जी ने कहा कि मैं सोया रहा नौ बरस। तो जो असली मुद्दा था वह यह था कि हमारे हिन्दुस्तान में जो मुसलमान नागरिक हैं, जिन का इस कम्पोजिट प्रापर्टी में हिस्सा है और उन्हें यह हिस्सा मिलना है, वह उन को मिल जाय। हम नहीं चाहते थे कि किसी किस्म की भी शिकायत हो उन की तरफ से कि उन को काफी मौका नहीं मिला दावा दाखिल करने का। यह वजह थी कि हम ने अपने भाइयों को आठ नौ बरस मौका दिया।

अब साधन गुप्त साहब तो यहां नहीं हैं लेकिन उन्होंने कहा कि साहब परदा नशीन कोई मुस्लिम औरत होगी जिस को मालूम नहीं होगा क्वानीन का। मैं अर्ज करना चाहता हूँ कि यह खयाल कि मैं इस जायदाद को ले कर इस को निकासी पूल में डाल कर कुछ रिफ्यूजीज को ज्यादा देना चाहता हूँ, गलत है। निकासी पूल जो है, वह मुकर्रर है, जो शरणार्थी हैं, उन की तादाद मुकर्रर है, जो

हमारे पास क्लेम था चुके हैं वे हम जानते हैं और यह भी जानता हूँ मैं कि ग्रेडिड कट के नीचे उस को क्या कम्पेंसेशन मिलना है। इस गवर्नमेंट ने ८०, ८५ या ९० करोड़ रुपया कम्पेंसेशन देने के लिये अपनी गिरह से दिया है, अपने फंड में से दिया है। मेरे पास सौ करोड़ की निकासी जायदाद है और कम्पेंसेशन मुझे देना पड़ेगा १८०, १८५ या १९० करोड़ रुपया। तो वह सारा तो निकासी जायदाद से नहीं आता था। तो यह हमारा इरादा कतई नहीं रहा कि किसी मुस्लिम भाई या किसी परदा नशीन बहन को पूरा मौका न मिले कि कानून के मुताबिक अगर वह हिन्दुस्तान का नागरिक है तो उस का हिस्सा चाहे पूरा है या निस्फ है, उस को वह हम से न ले।

दफा १६ के नीचे हमें यह अख्तियार दिया गया है कि हम हार्ड केस में किसी मुस्लिम भाई की दरख्वास्त को देख कर अगर हम मुनासिब समझें तो उस की जायदाद को छोड़ सकते हैं। हम ने तकरीबन ३ करोड़ रुपये की जायदाद ४,००० केसिज में छोड़ी है। तो यह हमारा कतई इरादा नहीं है कि हम किसी की जायदाद को नाजायज तौर पर लेना चाहते हैं।

मैं सिर्फ इतना ही अर्ज करना चाहता हूँ कि नौ बरस तक तो यह चीज चलती रही, नौ बरस तक कस्टोडियन भी रहा, कम्पीटेंट आफिसर भी रहे, आज एक हिन्दुस्तान का नागरिक जो है, जो कि हिन्दुस्तान में रहता है अगर नौ बरस तक उस को यही पता नहीं चला कि उस की जायदाद कस्टोडियन के कब्जे में है और वह कम्पोजिट है तो साहब एक बरस और देने से क्या कुछ फर्क पड़ने वाला है? मैं आप को यह तसल्ली दिलाना चाहता हूँ कि मैं ने एक साल इसलिये दिया है कि हमारे ऊपर किसी किस्म का एतराज न हो कि हम ने यह कानून पास करवाया और कानून की आड़ ले कर हम ने अपनी बहनों और भाइयों की जायदाद को, जो कि हमारे नागरिक हैं, नाजायज तौर पर ले लिया।

14.58 hrs.

[MR. SPEAKER in the Chair]

साधन गुप्ता साहब ने कहा कि हमें चाहिये कि हम इस कानून को पूरे तौर पर मुश्तकर करें ताकि लोगों को इस का पूरी तरह से पता चल सके। शायद वह जानते नहीं हैं कि स्टेट गवर्नमेंट्स हैं जोकि कानून बनायेंगी अपने आप। मेरा कानून तो सिर्फ दिल्ली पर लागू होगा। वह एक किस्म का मॉडल है और हर एक स्टेट गवर्नमेंट को अस्तित्वार होगा अपने कानून बनाने का और हर एक स्टेट गवर्नमेंट अपने कानून बनायेंगी। वे चीजें स्टेट गवर्नमेंट के सामने आयेंगी। इस लिहाज से हर एक को यह पता लग जायगा कि जो हमारा कानून बन रहा है उस की क्या वजह है, क्या हम चाहते हैं। इसलिये मैं अर्ज करना चाहता हूँ कि जो तरमीमें दी गई हैं, एक साल या दो साल या तीन साल की मैं उन को मानने के लिये तयार नहीं हूँ। बारह महीने की तरमीम को मैं मान चुका हूँ और उस से मैं वापिस नहीं जाना चाहता। १८ महीने या २ बरस या ३ बरस इस को कर दिया जाय इस को मैं मानने के लिये तयार नहीं हूँ। मैं यह भी नहीं चाहता हूँ कि किसी कम्पीटेंट आफिसर को जो डिक्लीशनरी पावर दी गई थी आज से नौ बरस पहले, वह उन को दुबारा दी जाय ताकि उन को वे इस्तेमाल करें। मैं नहीं कहता कि बुरी तौर पर इस्तेमाल हुआ लेकिन मैं समझता हूँ कि वक्त आ गया है कि यह मिनिस्ट्री खत्म हो, काम्पिटेंट आफिसर्स भी खत्म हों, कस्टोडियन भी खत्म हों और इन्वेन्वी पूल भी खत्म हो। हमेशा के लिये यह चीज नहीं चलनी चाहिये और मैं चाहता हूँ कि इस में आप मेरी मदद करें और मेरा हाथ बटायें।

15 hrs.

Mr. Speaker: The question is:

"That the Bill to amend the Evacuee Interest (Separation) Act, 1951, as passed by Rajya Sabha, be taken into consideration."

The motion was adopted.

Mr. Speaker: We shall now take up the Clause-by-Clause consideration. Any hon. Member moving any amendment?—I see none. I shall put all the Clauses together.

The question is:

"That clauses 1 to 3, the Enacting Formula and the Long Title stand part of the Bill."

The motion was adopted.

Clauses 1 to 3, the Enacting Formula and the Long Title were added to the Bill.

Shri Mehr Chand Khanna: Sir, I beg to move:

"That the Bill be passed."

Mr. Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

15.01½ hrs.

MOTION RE. DRAFT OUTLINE OF THIRD FIVE YEAR PLAN—contd.

Mr. Speaker: The House will now revert back to the consideration of the motion regarding the Draft Outline of the Third Five Year Plan. I shall now put the amendment of Shri Ranga to the vote of the House.

Shri Ranga: May I request you to read it out? If you are not doing that, I will read it out.

Mr. Speaker: It is on the Order Paper which is with everyone.

Shri Ranga: Even then the House should know it.

Shri Speaker: Then I should read it out. Why should he read it? That is not the practice. When I put it to the vote of the House, I must read it.

Acharya Kripalani: May I Sir, seek some information from you and from the Government? This is a Draft Plan. The draft may be changed. How can we commit ourselves to a draft even if it is said that it only enunciates general principles. You know, Sir, that general principles come to be radically modified when details are worked out. So I think it would be better, now that we have discussed