

12-32 hrs.

**MAHENDRA PARTAB SINGH  
ESTATES (REPEAL) BILL**

The Minister of State in the Ministry of Home Affairs (Shri Datar): Sir, I beg to move that the Bill to repeal the Mahendra Partab Singh Estates Act, 1923 and to provide for matters incidental thereto, be taken into consideration.

Sir, you are aware that in 1958, an hon. Member, Shri Patei, had brought forward a Private Member's Bill in this very respect which was wider in nature.

12-33 hrs.

[MR. DEPUTY-SPEAKER in the Chair]

When the matter was taken up for consideration, the Prime Minister intervened and expressed his support to the object of the Bill; but pointed out that there were certain constitutional difficulties for the acceptance of the Bill in the form in which it had been brought forward. That was the reason why, after some discussion, the matter was postponed.

Last session a statement was made that, in view of certain fairly serious difficulties in connection with Shri Patel's Bill, Government considered it proper to bring forward their own Bill; and this Bill has now been placed before the House for its consideration.

The points are very brief. As you are aware, an honourable member of this House, Raja Mahendra Pratap, was held by the British Government in 1915 to have been guilty of seditious or disloyal acts. On account of that circumstance, according to their notions, they attached his property in the first instance. Then, they were not satisfied with the mere attachment of the property; and in 1923, before the Central Legislative Assembly a Bill was brought forward for the purpose of forfeiting his property altogether. That Bill was passed by

the Central Legislature, according to which all the property that he had—it consisted of different types of property including a zamindari—was confiscated. It had also been provided therein that it would be open to the then Government of India to grant any property to Raja Mahendra Pratap's son. Accordingly, the Bill was passed in 1923; and next year, on 7-9-24, the then Government of India granted the property to Raja Mahendra Pratap's son, Raja Prem Pratap Singh. By the *Sanad* certain conditions were laid down, to which I shall make a very brief reference subsequently.

But, since then, as per the terms of this *Sanad*, Raja Prem Pratap Singh, son of Raja Mahendra Pratap Singh, had been in possession of this property till he died in 1947. Thereupon the property devolved on Raja Prem Pratap Singh's son, Raja Amrit Pratap Singh, who is now living. The property had been taken possession of for some time, during his minority, by the U.P. Court of Wards. Subsequently, they relinquished their superintendence over the property.

In the meantime, in the U.P. Legislature an Act was passed for the abolition of zamindaris. In Raja Mahendra Pratap's original property there was a large zamindari also. That zamindari came to be abolished; and according to the terms laid down in the U.P. Zamindari Abolition Act, the estate was taken over. Certain moneys, by way of compensation, were given to the Court of Wards on behalf of the grandson of Raja Mahendra Pratap, namely, Raja Amrit Pratap Singh.

Some other property also came to be sold for the purpose of the repayment of certain debts of the estate. Barring this, the property remained with the Court of Wards. But subsequently, they relinquished their superintendence; and the property has remained with Raja Mahendra Pratap

Singh as the natural guardian of the grandson, Raja Amrit Pratap Singh.

At present the estate consists of different kinds of properties. There are certain houses, there are lands, bonds and also a number of other classes of property.

Naturally, after Independence the question arose—and Shri Patel brought forward a Bill for the purpose of repealing this Act completely. So, far as the repeal is concerned, Government were in favour. But, Shri Patel, in the course of his Bill, in clause 4 had laid down certain further provisions to constitutionality as also the constitutional propriety of which had to be considered. He wanted the estate that had now devolved on Raja Amrit Pratap Singh ought to be divested from him and revested in Raja Mahendra Pratap Singh. Therefore, the whole question had to be considered by Government. They also consulted the State Government and had also the highest legal advice so far as the constitutionality of the proposal was concerned. After taking every advice, Government came to the conclusion that it was open to Parliament to repeal the Act altogether. Government and the Parliament have powers to repeal this obnoxious Act of 1923 and, therefore, this Bill had been brought forward. Meanwhile this 1923 Act had exhausted itself when, as per the terms of the Act, the property was taken from Raja Mahendra Pratap and annexed to the Government of India. It empowered the Government of India to grant the property to the only son of Raja Mahendra Pratap and that was also done: there was a *Sanad* to this effect and you will see that the *Sanad* also exhausted itself. In that *Sanad* a number of clauses have been laid down. The first clause or the preamble has become entirely out of date and anomalous, no independent Government in India can call upon Raja Mahendra Pratap to be loyal to the British Government. There are two more clauses with which we are not directly concerned here but which have a bearing on the

question as to whether the *Sanad* should or should not be completely repealed. There were certain relatives of the family to whom maintenance had to be given. So far as those clauses are concerned, they will have to remain because the beneficiaries under the terms of the *Sanad* are entitled to certain advantages by way of maintenance or provisions, etc. Those provisions are innocuous and perhaps they are necessary. But there are two further provisions which are completely objectionable and we have provided in respect of one provision that it should be cancelled and the other should be modified. There is what may be called a vindictive provision in the *Sanad* that no maintenance should be given by the grantee—then the son and now the grandson of Raja Mahendra Pratap—to Raja Mahendra Pratap. That is a highly objectionable condition and we have said that it ought to be repealed. The British Government were intent upon seeing to it that he did not get even any indirect benefit and for that purpose a further condition was laid down that no part of the property should be alienated either by the grantee or his heirs to Raja Mahendra Pratap. That is a hard and unconscionable condition and we have said that this condition should not be there any more. By clause 2 we have stated that Mahendra Pratap Estates Act of 1923 is hereby repealed. That is complete. In clause 3 we say:

“On and from the commencement of this Act, all conditions and provisions attached to the *Sanad* granted to Prem Partap Singh.

- (a) prohibiting his heirs to render assistance or support to Mahendra Pratab Singh either pecuniarily or otherwise in any manner whatsoever, or
- (b) in so far as they prohibit his heirs to alienate any property referred to in the *Sanad* to Mahendra Pratab Singh without the sanction of the Government,

shall cease to have an effect.”

[Shri Datar]

So, the *Sanad* will now be bereft of these highly objectionable clauses to which I have already made a reference. My hon. friend Shri Patel brought forward an amendment. Some other hon. Members have also brought forward certain amendments. The sponsors of these amendments desire that the property now in possession of the grandson of Raja Mahendra Pratap should be divested and it should be re-vested in him. However much we may desire this thing to happen and however sympathetic we may be to this proposition, a new position has arisen after the inauguration of the Constitution. I would not go into the details over all these points but I will generally point out that there is no provision in the Constitution whereby the property of one citizen of India can be taken from him and vested in another. As the House is aware, there is a provision that under certain circumstances, in public interest, it is open to the Government to compulsorily acquire the property of a person after the grant of compensation. There are a number of provisions and I need not refer to them but I may point out that the Acts, etc. which were in force prior to the commencement of the Constitution were validated and saved by article 13 of our Constitution. The 1923 Act has completely exhausted itself: the property was taken away from him and given by a *Sanad* to his then living son. I would request the hon. Members to consider the difficulties that arise in accepting their amendments. Certain Fundamental Rights have been given to the citizens of India under article 19, etc. These rights can be curtailed under certain circumstances, provided certain property has to be compulsorily acquired in public interest by the Government of India or by the State Government. There also, it would not be open for the Government to acquire property compulsorily unless compensation is paid. So, these questions were very carefully and anxiously considered by the legal advisers of the Government

of India and they came to the conclusion that in our Constitution, there is no such provision according to which one citizen can be deprived of his property and it can straightaway be vested in some other person.

Now, such a procedure is not known to the Constitution of India. Therefore, as I have stated, however sympathetic we might be towards the objects that underlie the present amendments or the former Clause 4 of Shri Patel's Bill the difficulties are more or less insurmountable.

The hon. Law Minister points out to me that most of the important pieces or categories of property have already been not there. The zamindari attached to this house has already been taken possession of by the Government of Uttar Pradesh as the result of their Act which was passed by way of agrarian reforms. Therefore whatever property remains the question is whether at present we, the Parliament, by an Act of legislature can transfer this property from one person to another by depriving the grandson of Raja Mahendra Pratap Singh of the property that he has and can we by an enactment give the property to Raja Mahendra Pratap Singh. This is a very sure but an important question, and, as I have stated, we are governed by a written Constitution. Under the Constitution certain fundamental rights have been given to the citizens of India, and these rights have to be protected except where certain provisions have been laid down in respect of compulsory acquisition of property.

Therefore, a question arises as to whether such a property can at all be taken possession of from Raja Amrit Pratap Singh and by an Act of legislature given to Raja Mahendra Pratap Singh. This is the main difficulty, and perhaps a very great difficulty that posed itself before the Government of India. We had to accept the highest legal advice in this respect,

and therefore we could not bring forward or we could not incorporate in the short Bill that we are presenting to the Parliament any provisions for the purpose of such a divesting and consequent vesting. That point may kindly be understood by the hon. Members who have brought forward the amendments.

The last point that I have before me is a letter addressed to the hon. Home Minister by Raja Mahendra Pratap Singh. What he says in that letter is, it is true that in the preamble of the *Sanad* as also in some of the terms or conditions attached to the grant of such property certain expressions have been used which according to the British Government might have been proper but which are completely obnoxious now; and, under the circumstances, it was a suggestion placed before the Government of India that the *Sanad* itself might be completely repealed.

So far as the repeal of the *Sanad* is concerned, may I point out that if we accept the *Sanad* as it is, if we accept the basis on which the *Sanad* was given, then it laid down certain conditions. So far as those conditions are concerned, we are ignoring the obnoxious conditions altogether. We have done so all along, and therefore there is no question of maintaining any loyalty by Raja Mahendra Pratap's grantees under this *Sanad* so far as his property is concerned.

Therefore, if at all that *Sanad* has to be completely abrogated, a question arises whether we can do it. There are two points which the House will kindly take into consideration. One is, as I have stated, the *Sanad* has already exhausted itself when the property was granted to Raja Mahendra Pratap's sons. So far as the conditions are concerned, the obnoxious conditions that were laid down there have been provided against in one of the clauses of our Bill.

There are other conditions to which I have already made a reference. They provide for maintenance etc. to

certain other members. Therefore, I would assure Raja Mahendra Pratap that whatever might have been stated in the *Sanad* it has no reference to the present conditions at all. In fact, when the British Government itself was liquidated, naturally, whatever they did, so far as the laying down of such obnoxious conditions against the citizens of India was concerned, they have no value at all; and I would point out to my hon. friends that so far as those expressions are concerned they do not govern the policy of the present Government of India which is a Government on behalf of the people of India. Therefore, Sir, as the Prime Minister pointed out, the purpose of the Bill, namely, the repeal of an obnoxious Act and the removal of it from the statute-book is a point on which all the hon. Members and the Government of India are agreed.

Regarding the next question, as I have stated, as to whether in addition to the repeal something more can be done, we have done whatever was permissible under the Constitution so far as the striking down of certain obnoxious conditions was concerned. I believe, this is the utmost to which the Government of India can go. There is no question of any compulsory acquisition of the property, nor can the Constitution allow, as I have stated, the transfer of property from one citizen to another by any enactment. That can be allowed only by way of compulsory acquisition under certain circumstances in public interest and by way of compensation.

So you will find that the law as it is regarding compulsory acquisition and also compensation etc. cannot apply to the facts of this case. Under the circumstances, this is the utmost that we can do so far as the repeal of the obnoxious conditions and the consequential action that has to be taken on repeal are concerned.

I am confident, Sir, that the House will agree with the difficulties in our way caused by the constitutional structure by which we are governed. On account of these difficulties—not

[Shri Datar]

on account of any reluctance on our part—it is not possible for the Government to move further than the extent to which we have done. Therefore, Sir, I hope that the provisions of this short Bill will commend themselves to the approval of this hon. House.

**Mr. Deputy-Speaker:** Motion moved:

“That the Bill to repeal the Mahendra Pratap Singh Estates Act, 1923 and to provide for matters incidental thereto, be taken into consideration.”

Now, I have already got about six names. I find there are other hon. Members rising in their seats—at least there are six more. So far the indications are that there will be at least 12 hon. Members who would like to participate in this debate. The time allowed for this Bill is only one hour half of which has already been taken away.

**Shri Khadilkar (Ahmednagar):** This is an important Bill.

**Shri Naushir Bharucha (East Khandesh):** Ten minutes for each hon. Member:

**Mr. Deputy-Speaker:** Even if I give ten minutes to each I will require two more hours. Then there are certain amendments also.

**Shri Ansar Harvani (Fatehpur):** Five minutes for each hon. Member is enough.

**The Minister of Law (Shri A. K. Sen):** May I, Sir, plead for a little extension of the time? This is a fit occasion when the nation and the Parliament will acknowledge its deep debt of gratitude to great patriot of India. Even if it is in support of the Bill, I suppose, Sir, we owe it to the nation to devote a little more time.

**Mr. Deputy-Speaker:** What is the suggestion?

13 hrs.

**Shri A. K. Sen:** Any time which suits the occasion.

**Shri Naushir Bharucha:** I move:

“That the time allotted by the House on the 16th November, 1960 (Vide Fifty-sixth Report of Business Advisory Committee) for consideration and passing of the Mahendra Partab Singh Estates (Repeal) Bill, 1960 be increased from 1 hour to 2½ hours.”

**Mr. Deputy-Speaker:** Then it means two more hours from now.

**Some Hon. Members:** Yes.

**Mr. Deputy-Speaker:** The question is:

“That the time allotted by the House on the 16th November, 1960 (Vide Fifty-sixth Report of Business Advisory Committee) for consideration and passing of the Mahendra Partab Singh Estates (Repeal) Bill, 1960 be increased from 1 hour to 2½ hours.”

*The motion was adopted.*

**Mr. Deputy-Speaker:** So, the time is extended. But again, I will have to impose the time-limit. I think ten minutes for each Member will be enough.

**Shri Khadilkar:** 15 minutes may be allowed for each Member.

**Mr. Deputy-Speaker:** Then Shri Khadilkar himself would complain if he does not get an opportunity. That is my difficulty. There are many hon. Members who wish to express themselves. So, normally, it will be ten minutes for each, and in exceptional cases, it might be extended by a minute or two. But I request that hon. Members will themselves see that they should finish within ten minutes.

**Shri H. N. Mukerjee (Calcutta—Central):** Mr. Deputy-Speaker, Sir, I had at one time the idea that when this Bill comes forward we should all be in a position to give it a unanimous and enthusiastic welcome. I recall what the Prime Minister said on an earlier occasion when my hon.

friend Shri P. R. Patel, speaking from this side of the House, had brought forward a Bill for the restoration to Raja Mahendra Pratap of his rightful properties. After that, I had a feeling that when Government had considered this position and brought up a Bill on its own, then we would all support it enthusiastically and unanimously. But I fear that the Bill as it stands, un-amended, is such that I find it very difficult to offer it my support. I would certainly like this Bill to go through, but with the amendment as moved by my hon. friend Shri Naushir Bharucha which, I think, covers the lacuna to which my hon. friend the Minister tried to make some laboured reference a little while ago.

I must say that I regret that Government has behaved so gracelessly in regard to this matter, and if you will permit me, I would like to point out here that even the Statement of Objects and Reasons does not have one word to say in the spirit of what the Law Minister suggested a little while ago. It does not have one word to say about Raja Mahendra Pratap himself. In this House we have had many an occasion to differ from what Raja Mahendra Pratap has said from time to time and occasionally—I do not mind saying—we have found some of his ideas to be rather strange and impractical, but, all the same, there is no getting away from the fact that Raja Mahendra Pratap is part of the history of our country. When I saw him in this House, it was not as if I was meeting him for the first time. I had met him in the records of India, and I met him again in the flesh. I do hope that we in this House at long last should register our appreciation of the great work which Raja Mahendra Pratap and his colleagues tried to do once upon a time in conditions of almost unimaginable difficulty. So, I say Government has behaved so gracelessly in regard to this matter because it took Government 13 years to make up its mind and, even then, after having been goaded by a private Member's attempted Bill to bring forward this legislation to rectify at least

partly the wrong which had been done by the British Government to Raja Mahendra Pratap for having had the effrontery to challenge that Government in spite of all its might, in those days when the national movement was very weak.

I notice also—it has come only lately to my notice—that there is the successor to Rani Lakshmibai of Jhansi, who used to get a footling little pension which had been stopped, and he is running from pillar to post in an attempt to find out some kind of appreciation from the Government of the country in regard to the memory of the heroic Rani Lakshmibai of Jhansi. I do not want to labour that point, but I do feel that Government has behaved very gracelessly in regard to this matter and that is why I do not like the legal conundrums which were put up by the Minister. I do not like law degenerating into logomachy in the hands of those who swear by our Constitution whose spirit is clear for all to see and who resort to the Constitution in order to refuse the concept which is natural according to justice, equity and good conscience and humanity and all the virtues that you can think of.

You do not restore the properties to Raja Mahendra Pratap because you have discovered some footling, little, legal hurdle which according to your interpretation of the Constitution, you cannot surmount. Here is the amendment of my hon. friend Shri Naushir Bharucha which says that the *Sanad* should go altogether. The *Sanad* itself is so obnoxious. I am using an adjective which was repeatedly employed by my hon. friend Shri Datar—that it should go, and Shri Naushir Bharucha being a good lawyer himself has made a provision that if on account of the *Sanad* itself being abrogated some citizen of India discovers that his property rights have also been violated, which it should not be under the Constitution, then, he has a remedy. If it so happens that by means of the abrogation of the *Sanad*, which surely Parliament

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in its legislative power can bring about, if, as a result of that, some citizen of India discovers that certain property rights have been infringed, then there is the provision in this very legislation itself that he has his remedy in the appropriate court of law which will consider his reasons and which will give him some kind of compensation if that is found to be necessary. If therefore, there is in the legislation which Parliament now adopts some provision which makes sure that there would be no expropriation of anybody's property, and if there happens to be incidentally some compulsory acquisition of property, then there would be a provision for the payment of legitimate compensation according to the adjudication by a competent tribunal, then, surely, I can say that the legal objections held up repeatedly before the House by the Minister can be overridden. That is why I say that we owe it to the country, we owe it to the national movement for freedom, we owe it to the memory of generations of our fighters for independence. To do something about this matter as quickly as we can and we should do it not in a graceless manner, not in a half-hearted manner and not in a manner which does not really put Raja Mahendra Pratap in the position where he was before the British Government passed its infamous order. We are under duty bound, so to speak, to do something which would be in conscience and in all propriety due to Raja Mahendra Pratap and not only to him but to the memory of the generations of fighters for our freedom.

Therefore, I say that this Bill should be amended and it can easily be amended on the lines of what Shri Naushir Bharucha has suggested. If there is some legal lacuna, surely there are legal brains good enough to find out ways and means of plugging the loopholes, and I am sure it should be kept in mind all the time by this House that we should not do things in this kind of half-hearted fashion but

that we should go the whole hog, because we can; there is nothing really hindering our doing so and we should register our appreciation of the great work which has been done by Raja Mahendra Pratap and his many colleagues whom we forget.

I know that from time to time political sufferers go from door to door asking for doles of little sums of money at a time when some of their old colleagues who could not even perhaps undo their shoe-strings are now in positions of authority and power. That sort of thing is happening. Let us forget all about that. Let us undo the wrong which was done to Raja Mahendra Pratap and symbolically speaking do something which would mean performing our responsibility and our patriotic obligations.

**Shri P. R. Patel (Mehsana):** I am glad that the Government has come with a Bill, but it is a half-hearted Bill. If we pass this Bill, Raja Mahendra Pratap will be a beggar on the street, because the properties will be with his grandson and if his grandson will be pleased to maintain him, he may do so or he may throw Raja Mahendra Pratap out and make him a beggar. What for? For his loyalty to the country and for the fight he displayed for the independence of the country! For that act, the British had the power to confiscate his property and to give it to somebody who then showed loyalty to the Britishers. To us, it was disloyalty to our Motherland. For this disloyalty to the Motherland, the property taken away from Raja Mahendra Pratap was given to his son and then inherited by his grandson. Are we going to perpetuate it? Are we going to perpetuate the misdeeds of the Britishers?

By passing this Bill, we put a seal on the misdeeds of the Britishers. The Britishers had the authority to take away his property, but our present Government has not got the authority—according to the advice

given by the legal advisers to restore that property back to Raja Mahendra Pratap. The mighty Government has not got that power according to the Home Minister. This august House, which is the supreme body of the country, cannot do anything in the matter according to him. This is too much for this august House. This supreme body can do anything. The Home Minister says, the property has been given and under the Constitution we cannot take it back without paying compensation. If compensation is to be paid, this Government must pay it, because Raja Mahendra Pratap has served the country in his own way. He has been out of the country for about 31 years fighting for the independence of this country. So, if the Government pays any compensation, there is nothing wrong.

13.13 hrs.

[MR SPEAKER *in the Chair*]

The second argument put forward is, the property can be taken back if it is for public interest. I say that to take back this property is in the interest of the public, because the fight for independence was the fight for the people. In fighting that fight, the properties were confiscated and so, if we return the property, it is in public interest. That should be done. I think the Home Minister and the Law Minister should put their heads together, be above the legal advisers and do something in the matter. The country desires that something should be done in this matter.

The whole argument put forward is that we cannot cancel the Sanad. A grant that is given by the Government can be cancelled by the Government. There were so many grants with the zamindars and we cancelled them. We passed legislation and took the properties. Under the tenancy law, we take away land from the land-owners and give it over to the tenant. If the tenant is not willing, the Government takes it and gives it to anybody. If that power is with the

Government, can that power not be used in this case? I fail to understand this.

Who can cancel the Sanad? It is the donor of the Sanad that can cancel the Sanad. Let us consider the Sanad as it is. Under the Seventh Schedule of the Constitution, the power to cancel the Sanad is with the Central Government and not with the State Government. It comes under the residuary powers. If this Government cancels the Sanad, naturally the property reverts back to the Government. The Britishers confiscated the whole property. By a grant, the Government under certain conditions gave the property to the son of Raja Mahendra Pratap. Let us consider the conditions. The first condition is:

"That the said Prem Pratap Singh and his heirs will be faithful and bear true allegiance to His Majesty King George the fifth, his heirs and successors according to law."

According to this, he should be loyal to the Britishers and their heirs and for this pious act, the Sanad has been granted to him. Should we go on with this condition? Should we allow this to continue for this simple act of the son, who had been disloyal to his father? For this act, we are paying a premium to his son and his heir by continuing the property.

We must find out some way. I would not say anything more, but I would request the Law Minister who is very expert in law, to be above his advisers and find out some way. Otherwise, the blot will be there. I was told a story. One man was deprived of his mango tree. After sometime, another man came and said, "You were deprived of your mango tree. I will return the mango tree to you". But that mango tree was barren, not bearing fruits. I would say the Bill before the House is a barren Bill. It does not bear any fruits. It repeals the old Act and



[Shri P. R. Patel]

nothing else. I do not understand why the Government should repeal the law.

**Mr. Speaker:** Would he not get back all his rights?

**Shri P. R. Patel:** Under the present Bill, he does not get.

**Mr. Speaker:** Raja Mahendra Pratap was deprived of his property by an Act and the property was conferred upon his son subject to certain conditions that he ought not to alienate it in favour of Raja Mahendra Pratap nor given him maintenance. It is as good as Raja Mahendra Pratap having gone out of existence. Then his son would have succeeded and there is no question of doing anything more to Raja Mahendra Pratap. By repealing this Act, the original Raja Mahendra Pratap's property will vest in him. Is it not so?

**Shri P. R. Patel:** It does not say so. That is the difficulty. If you repeal the law. . .

**Shri Datar:** I had explained the position when I made the opening speech. If necessary, I will explain the position again.

**Mr. Speaker:** If the original Act is repealed, what will it mean?

**Shri Naushir Bharucha:** Nothing.

**Mr. Speaker:** Then will it not relate back?

**Shri Datar:** There is no question of relating back because immediately the property was taken over and thereafter the Act exhausted itself. Then, subsequently, under one of the provisions of the Act.

**Mr. Speaker:** By whom?

**Shri Datar:** By the British. They took the property from him. That was the main purpose of that Act.

**Mr. Speaker:** Was it not given to his grandson?

**Shri Datar:** Yes, Sir. There was another section in the said Act according to which it was open to the British Government to grant the property by a Sanad to Raja Mahendra Pratap's son. That also has been done.

**Shri Naushir Bharucha:** The Act has exhausted itself.

**Mr. Speaker:** Then, whatever has happened depriving Raja Mahendra Pratap shall remain void. The object of this Bill is to repeal the original Act, which took away the property from Raja Mahendra Pratap.

**Shri C. R. Pattabhi Raman** (Kumbakonam): But, subsequent to that, the estate has been abolished. If I am given two minutes, I will explain the whole position. The legal position simply is this. There was the Raja Mahendra Pratap's estate in the then United Provinces. He was more or less a zamindar or jagirdar, whatever it is. Then he was deprived of his property for a reasonable act according to the then British Government, and his heirs were recognized as estate holders, jagirdars or zamindars. Thereafter, after independence, the State of Uttar Pradesh abolished all zamindari. As a result, only certain farmlands will remain with the heirs of Raja Mahendra Pratap, he now having become estate holders as grantee's heir. Now, so far as the question of divesting is concerned, our Constitution comes in the way. According to the interpretation by the Supreme Court of the provisions of the Constitution in two or three cases, there cannot be a divesting of an estate and then vesting it on another individual. That would be discrimination. That is to say, while there can be a divesting for police purposes, or for the purpose of State, or for the purpose of abolishing under article 31—you are, Sir, quite familiar with all the subsequent amendments; so far as compensation is concerned, it can be given by way of bonds or in some

such matter; in some States money is also given—there cannot be any divesting and vesting it in another person, which would be discriminatory *per se*. Therefore, when Shri Patel was talking about it, I was trying. . .

**Mr. Speaker:** Now we will assume that the Estates Abolition Act had not been passed. Then Raja Mahendra Pratap would have been entitled to the farmlands plus compensation. Is it not so?

**Shri C. R. Pattabhi Raman:** Yes.

**Mr. Speaker:** Does this Bill not have the effect of restoring to Raja Mahendra Pratap all his estates?

**Shri Datar:** No, Sir. That is the difficulty.

**Shri C. R. Pattabhi Raman:** Because, in the meanwhile, our Constitution has come into force. Now his son or grandson has been vested with the property. If you now divest it from that person in favour of another person, that would be clear discrimination according to the recent decisions of the Supreme Court. Government can give some pension or something like that, with which we are not concerned at present in this Bill.

**Mr. Speaker:** I do not know. I am not a practising lawyer and, therefore, I am not able to follow it. But I am really surprised to hear it. If an Act has been passed depriving one person of a kind of property and allowing his successor to take it, then if the Act is repealed, my feeling is that the *status quo* will be restored.

**Shri Datar:** That could have been done before the Constitution came into force. Now it cannot be done. Under the Constitution, if some property has to be acquired, it has to be for a public purpose and after paying compensation.

**Mr. Speaker:** I do not treat the other person as having become owner. In view of this Bill, it shall be treated that Raja Mahendra Pratap continues to hold his property. Is it not open to us to say so?

**Shri Datar:** Article 13, sub-clauses (1) and (2), says:

“(1) All laws in force in the territory of India immediately before the commencement of this Constitution, in so far as they are inconsistent with the provisions of this Part, shall, to the extent of such inconsistency, be void.

(2) The State shall not make any law which takes away or abridges the rights conferred by this Part and any law made in contravention of this clause shall, to the extent of the contravention, be void.”

When the Constitution was adopted, this provision was made according to which whatever laws were in existence they became valid except when they contravened the provisions of the Constitution. There are also certain fundamental rights in this Part of the Constitution itself according to which any person, by whatever methods he may have become the owner of the property,—in this case the grantee and after him the grantee's son became the owner of the property by the Sanad granted in furtherance of the 1924 Act—became the absolute owners.

**Mr. Speaker:** Have we not the right to modify, amend or repeal the previous laws? So far as the fundamental rights are concerned, all laws which contain provisions contrary to the fundamental rights, which we have given later on, will become unconstitutional. There were no fundamental rights at the time these Acts were passed and, therefore, those Acts may contravene some of the fundamental rights which are guaranteed under the Constitution in this chapter. Therefore, it was stated all laws which contravene the fundamental rights shall be void. But it does not mean that the other laws, permanent laws. . . .

**Shri Datar:** May I make it clear that when the Constitution came into

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force, Raja Mahendra Pratap's grandson, that is, the son of the grantee, became the fullest owner of this property. By whatever law it may be, he became the fullest owner of the property and his properties, as a private citizen, have become final under article 19. Now the short question is whether those rights can be divested.

**Mr. Speaker:** Leave alone Raja Mahendra Pratap. Before the Constitution was adopted, certain laws had been passed and certain rights have accrued to some people. Is it not open to us to abrogate those laws and rights?

**Shri Datar:** Provided they contravene the provisions of the Constitution.

**Mr. Speaker:** Otherwise, you cannot abrogate those laws at all?

**Shri Datar:** No, Sir, unless they are hit by the provisions of the Constitution.

**Mr. Speaker:** Take the Criminal Procedure Code. It need not affect any of the Fundamental Rights. This House has always got the right to modify any of the Acts passed by this House.

**Shri Datar:** Provided those provisions are contrary. . . .

**Mr. Speaker:** I am not talking of the fundamental rights here.

**Shri C. R. Pattabhi Raman:** Here we are concerned only with articles 13, 19 and 31 of Chapter III, dealing with fundamental rights.

**Shri Datar:** The position has completely changed after the coming into force of the Constitution.

**Mr. Speaker:** If your property has been given to him, how does it become a fundamental right?

**Shri Datar:** It might not have been, but it becomes now by the inauguration of the Constitution.

**Mr. Speaker:** Leave the property of Raja Mahendra Pratap alone. Suppose a thief or a dacoit before 1950 got possession of some property and left it to his son, who normally inherits it. Now can this Constitution be treated to have guaranteed to the son of the thief the absolute ownership of the property notwithstanding the fact that the property had been stolen from some other person?

**Shri C. R. Pattabhi Raman:** With great respect, I may submit that it is not possible to give him back the estate so long as we have Chapter III.

**Mr. Speaker:** That seems to me to be immoral.

**Shri Datar:** We are acting within the terms of the Constitution, within the limits of the Constitution.

**Shri A. M. Tariq** (Jammu and Kashmir): The hon. Minister said that he cannot restore the property and give it to his grandson. The State of Jammu and Kashmir was taken away from the Maharajah who had purchased it and it was given to the people of Kashmir.

**Mr. Speaker:** What is the object of this Bill?

**Shri Datar:** I had explained the position earlier. I will do it again now. Formerly, Shri Patel had brought forward a Private Member's Bill to repeal the Act of 1923. He further wanted that the property now in the possession of Raja Mahendra Pratap's grandson should be divested from him and re-vested in Raja Mahendra Pratap. The objection was with regard to clause 4 of his Bill. That question was considered in all its aspects, namely, whether Parliament was competent, whether under the limitations laid down by the Constitution it was open to us, short of acquisition of the property—whether we can do so is an entirely

different matter—to directly transfer the property from Raja Mahendra Pratap's grandson to Raja Mahendra Pratap himself. That was the short question that we had to consider.

The question was considered at the highest legal level. The whole point was put before the authorities and they came to the conclusion that just as we are governed by the great fundamental rights given by the Constitution we are also governed by the limits placed upon certain Acts of Parliament. The Parliament also, with due deference to the Parliament, is governed by the Constitution and it is not like any other Parliament or the House of Commons. Therefore here we cannot directly take away the property and give it to him.

**Mr. Speaker:** What then is the benefit?

**An Hon. Member:** No benefit.

**Shri Datar:** The benefit, as I have stated, is that we repeal the Act altogether.

**Mr. Speaker:** What is the benefit so far as Raja Mahendra Pratap is concerned?

**Shri C. R. Pattabhi Raman:** Clause 5 of the *Sanad* says that the heirs should not help him.

**Mr. Speaker:** What is the benefit then except to tell him that we have not treated you as a person who is a patriot?

**Shri Datar:** We have taken away two condition from the *Sanad*.

**Mr. Speaker:** What is the material benefit?

**Shri Datar:** The material benefit is that he can have direct allowance from within the estate whatever it is now.

**Mr. Speaker:** If he gives.

**Shri Datar:** Now the question if he gives' does not arise.

**An Hon. Member:** Why not?

**Shri Datar:** I may point out that even when Raja Mahendra Pratap's grandson was a ward of the Court of Wards, in fact Raja Mahendra Pratap was recognised as the natural guardian. Now the Courts of Wards has withdrawn its superintendence and he is the natural guardian even now, if I remember right.

**Mr. Speaker:** He continues to be a minor?

**Shri Datar:** He is 20 years of age. Until he completes 21 years he is a minor under the Court of Wards Act. Raja Mahendra Pratap Singh is the natural guardian. The natural relationship between the grandson and the grandfather may also be taken into account. Therefore what we have done is that in the first instance we have gone to the limit of repealing the Act.....

**Mr. Speaker:** And removing the stigma.

**Shri Datar:** Yes, and removing the stigma. Secondly, we have made it possible for the Raja Sahib to be maintained out of the estate whatever it remains now.

**Mr. Speaker:** There is no prevention.

**Shri Datar:** No. That is all that we can do.

**Mr. Speaker:** Now it will be open to the grandson to give him and the Government will not say, "You ought not to give?"

**Shri Datar:** Government would not insist on the fulfilment of those conditions. I have already made that quite clear.

**Shri C. K. Nair (Outer Delhi):** With the passing of this Bill, does he automatically become the guardian or has he to go to the court?

**Mr. Speaker:** That is a different question. Shri Patel may continue his speech. What is the object of labouring on this point with so many speeches unless you want to thank Raja Mahendra Pratap for all the trouble that he has undertaken.

**Shri P. R. Patel:** It is not so. The point that has been put forward by the hon. Home Minister is that he is the natural guardian. But after two or three months the boy will be completing 21 years and then it would be his discretion. He may dispose of the property and make Raja Mahendra Pratap a beggar.

**Mr. Speaker:** There is no good in arguing this matter. In the end when the boy attains the age of 21 he ceases to be guardian. Parliament cannot make him the guardian of an adult *sui juris*. If the Constitution stands in the way of restoring this property to him once again, there is no good in pursuing this matter. So long as the Britishers, that is, the previous Government were here, it was not open to him even to give a pie to his grandfather directly or indirectly. Now that ban has been removed. That is all that can be done. Now it is a question of his endearing himself to the grandson and the grandson taking care of his grandfather. That is all that this House can give. I am not prepared to allow further discussion unless the hon. Member is prepared to show that this House can do something more. Otherwise, it will only be taking away the time of this House.

**Shri P. R. Patel:** The last condition of the *Sanad* at page 5.....

**Mr. Speaker:** What is it that he is driving at?

**Shri P. R. Patel:** It is that the British Government had the right to cancel the *Sanad* if some of the conditions were broken. So the right was with the Government. It says:

"And it is hereby declared that if the said Prem Pratap Singh or any of his heirs is proved to the satisfaction of the Governor-General in Council to have broken or to have failed to observe any of the conditions hereinbefore contained on his or their part to be observed and performed, then and in any such case it shall be lawful for the Governor-General in Council to forfeit all the said properties hereby granted unto the said Prem Pratap Singh and his heirs or the share of the person who has broken or failed to observe.....".

and so on. So my submission is that the authority to cancel the *Sanad* and to take back the properties at any time remained with the Government.

**Mr. Speaker:** On breach of the conditions. Here such a condition has not been broken.

**Shri P. R. Patel:** Here the condition has been broken because the man was disloyal.

**Mr. Speaker:** I am talking of the grandson. He should break any of those conditions.

**Shri P. R. Patel:** The first condition is:

"That the said Prem Pratap Singh and his heirs will be faithful and bear true allegiance to His Majesty King George the fifth, his heirs and successors according to law."

It is His Majesty King George the Fifth and not the Government of India.

**Mr. Speaker:** Even here all contracts and all executive orders are supposed to be done in the name of the President. The Queen or the King means the Government for the time being. There is no purpose, I am afraid, to discuss it further. The hon. Member has said enough. **Shri**

Bharucha, may speak if he has anything more to say. He must first of all satisfy this House that we can interfere more than what the Government has proposed. If it is possible to give something more, the House is very much inclined to do so. Without a single dissenting voice it will give. Therefore if the hon. Member is able to satisfy the Government and this House that legally we are not incompetent, I will allow him to proceed further. Otherwise I will close this discussion and go to the next item.

**Shri Naushir Bharucha:** Mr. Speaker, Sir, very briefly the Constitutional objection pointed out by the Government is this. They say that we can only proceed in this Bill to the extent of repealing the 1923 Act and certain conditions of the *Sanad* and beyond that we can not go because the Constitution prevents us from doing so.

**Mr. Speaker:** He agrees to that.

**Shri Naushir Bharucha:** Yes. Now what the Constitution says is that the State can acquire the property of another person for a public purpose. In the first place, I am not quite sure that rendering such service to the cause of the nation as Raja Mahendra Pratap has done and rewarding him for it is not a public purpose. I am not sure of that. But supposing for a moment that that is not a public purpose, still I submit something can be done and on what lines, I shall presently indicate.

The Government's objection is that after the Constitution was passed in 1950, it is not open to the Parliament to divest anybody of his property which he has acquired by the law for the time being prevailing, however immoral or unpleasant the fact of his acquisition may be. With that we are not concerned. The hon. Minister has said that by the Constitution the property in the estate so far as the present incumbent is concerned has been finalised. Therefore I have suggested an amendment to the Bill.

First, it is necessary, not merely to declare the Act of 1923 as repealed but also to declare the *Sanad* as repealed. Secondly, it will be necessary to declare that this repeal will have retrospective effect from the 7th day of September, 1924, that is, the day on which the *Sanad* was issued. Thirdly, it will be necessary to confirm acts and things which have already been done so far under the *Sanad*. That should be done. Fourthly, the confirmation should extend only to things which do not relate to ownership of the estate specified in the Schedule annexed to the Act. Fifthly, it will be necessary in my opinion to make a provision that any person who feels aggrieved under the provisions of this Act may apply to a court of appropriate jurisdiction and such court may award him compensation on certain basis.

As the Bill stands, as you Sir, have rightly pointed out, what is the material benefit that Raja Mahendra Pratap is going to get? Absolutely none, because one clause says that the 1923 Act is repealed. Whether you repeal it or not, the Act has exhausted itself the moment the forfeiture of the estate was complete and the property was handed over by a *sanad* to the son of Raja Mahendra Pratap.

Secondly, if you do not repeal, the *sanad*, which I dare say, you have full power to do, if you simply cancel some of the items in the *sanad*, it really means that the *sanad* continues to stand. If it continues to stand, what you have done is that you have thrown Raja Mahendra Pratap on the mercy of his grandson. If he chooses, he can give some maintenance. What I have done is this. I propose to move an amendment that from the commencement of this Act, the *sanad* shall be void and cease to have any effect. This section shall have retrospective effect from 7th September, 1924: Provided that all acts and things done under or by virtue of the *Sanad* up to the commencement of this Act shall be confirmed, except transfer of right, title and interest in the ownership of

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the estate specified in the Schedule annexed to the Mahendra Pratap Singh Estates Act, 1923 to Prem Partab Singh, his heirs or any other person. The idea is this. Even after passing the Bill in the form which I am suggesting, Raja Mahendra Pratap will have to go to a court of law and file a declaratory suit that a certain estate by virtue of this Bill now belongs to him. He cannot get automatically the estate again. This Bill will enable him only to go to a court to have it declared that this estate now belongs to him by virtue of this Bill.

**Mr. Speaker:** How can the court do it?

**Shri Naushir Bharucha:** I shall explain. The court will look into the Bill and see that the Act is repealed, the Act has exhausted, the *sanad* is repealed with retrospective effect. The court is bound by what we say. The court is bound by the fact that the *sanad* is repealed with retrospective effect from 7th September, 1924.

**Mr. Speaker:** Would not the court say that under article 13, the property has vested and this House has no right to repeal the *sanad* with retrospective effect?

**Shri Naushir Bharucha:** We are repealing the *sanad* to the extent of transfer of right of ownership; all other acts done so far have been confirmed.

**Mr. Speaker:** That means, the property vests in the grandson.

**Shri Naushir Bharucha:** It continues to vest in the grandson. We are saying by this amendment that all acts and things done are confirmed except transfer of right in property.

**Mr. Speaker:** Retrospectively?

**Shri Naushir Bharucha:** Under the *sanad*, whatever was done, we are obliged to ratify, because they are things of the past, except one thing, namely, transfer of right, title and interest in the estate, to Prem Partab, his son.

**Mr. Speaker:** That is exactly what the Minister has been saying.

**Shri Naushir Bharucha:** The point is this.

**Mr. Speaker:** Let him understand the point. I put the same question to the hon. Minister. He says that rightly or wrongly (An Hon. Member: Wrongly) the Government had the right to take it away and pass the law. They were wrongly in possession of the whole country. That is another matter. Because they were sovereign and in charge of the Government, they removed him and gave it to some other and gave a conditional *sanad*. What he said is, by repealing this, Raja Mahendra Pratap would not get it back because there is an inherent difficulty that from the date of the Constitution, if property is vested in somebody, you have no right to re-vest it in some other. Therefore....

**Shri Naushir Bharucha:** Therefore, I am circumventing it by saying transfer to Prem Partab Singh. Prem Partab Singh died in 1947 before the Constitution came into force.

**Mr. Speaker:** It is now vested in his grandson.

**Shri Naushir Bharucha:** That question comes later. So far as Prem Partab Singh is concerned, he died in 1947 before the Constitution came into force. If we say that the *sanad* is void to the extent of that, the grant to Prem Partab Singh stands cancelled. Amar Singh inherited from Prem Partab Singh. The court will have to consider whether the inheritance is correct or not in the sense....

**Mr. Speaker:** Why do you leave it to the court?

**Shri Naushir Bharucha:** Because there is no other way.

**Mr. Speaker:** If the courts can by interpretation take away property of the grandson, we can more explicitly here and now decide that the grandson shall not have the property, it shall vest in so and so. The objection is this. After all, the courts do not make the law. We make the law. Even the law makers are not competent to make a law, in view of the Constitutional provision, taking away the property of one even for a public purpose. This is not a public purpose. You cannot deprive a person of his property. When we ourselves are not able to do it when we have the Bill before us, how can the judiciary interpret?

**Shri Naushir Bharucha:** We cannot interpret.

**Mr. Speaker:** Does the hon. Member agree with me that we are not able to do a particular thing under the law or Constitution? Can the court give a right which we are not able to give?

**Shri Naushir Bharucha:** It is not that.

**Mr. Speaker:** There is no more use in going on like this. The hon. Member wants to clothe the judiciary with a power which the legislature has not got. How can it happen?

**Shri Naushir Bharucha:** May I point out, the legislature cannot do what the courts can do because the courts can interpret in a particular way.

**Mr. Speaker:** They interpret what the legislature does.

**Shri Naushir Bharucha:** This will indirectly achieve the purpose which we have in mind. It is not necessary that in a legislation we must say that such and such will be divested and

such and such will be re-vested. It is not that.

**Mr. Speaker:** If the courts should say that notwithstanding this, it does not revest in Raja Mahendra Pratap, won't we be stultifying ourselves—500 Members, in spite of legal opinion, passing some legislation which will be knocked on the head? We ought not to pass a legislation which is futile. We are responsible Members, representing the country as a whole. If the hon. Member is able to satisfy our friends here that the interpretation of the law is wrong, that is another matter. You must convince the House.

**Shri Naushir Bharucha:** What I am explaining to the House is this.

**Mr. Speaker:** The hon. Member says that the interpretation of the Minister is wrong and his interpretation is right.

**Shri Naushir Bharucha:** My submission is, you can achieve the particular purpose indirectly which you cannot do so directly.

**Mr. Speaker:** They definitely say, directly or indirectly, it cannot be done. Does the hon. Member say that though directly you cannot do it, indirectly you can? He wants to convince that we may pass the amendment with retrospective effect that the *sanad* is cancelled, leaving it to the courts to confer such rights upon Raja Mahendra Pratap though we in all our wisdom are unable to do it?

**Shri Naushir Bharucha:** It is not that. In fact, we can provide indirectly for a thing to do done.

**Mr. Speaker:** I will put his amendment to the vote of the House.

**Shri Naushir Bharucha:** My submission is this. Supposing this Bill is amended according to my amendment, it can only be challenged on one ground that it is an oppressive legislation and there is no provision made for compensation. Provision is made



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for compensation also, but the compensation is limited to a particular amount, the idea being that the court will decide whether any compensation is due, and if so, what amount.

**Mr. Speaker:** Is this one of the objects for which property could be acquired that way, paying compensation?

**Shri Naushir Bharucha:** This compensation is not under article 31. This compensation is to prevent the party from taking any defence that the Act is otherwise oppressive. My submission is that if Raja Mahendra Pratap is left with the Bill as it stands, he has got nothing except to fold his hands before his grandson and ask for some mercy. That is not the state to which we want to reduce him. If we pass the Bill as amended, he will have the right to go before the court with a declaratory suit that now that Parliament has repealed the Act, and repealed the *sanad* to a certain extent and Parliament has prevented alienation of ownership to the son by Act and if the son does not have ownership under this Bill and when he died in 1947 before the Constitution came into force, the grandson cannot have any right of inheritance to the property which the son, in law, did not have. I submit that this is the only way that the matter could be remedied. At any rate, it is a much better way which would enable him to go to court than this Bill which may not help him much in a court.

**Mr. Speaker:** I will put the question to the vote of the House.

**Shri Khadilkar:** I wish to make a submission.

**Mr. Speaker:** The point is simple.

**Shri Khadilkar:** It is an important matter.

**Shri Ansar Harvani:** Three hours have been allotted for this, instead of one.

**Mr. Speaker:** The point is this. There is an amount of goodwill on the part of the House and every Member and the Ministers that, if possible, the property should be restored to Raja Mahendra Pratap, and every avenue has been explored for the purpose of revesting the property in him. After coming here, I asked the hon. Minister to repeat the arguments that he had already advanced when I was not here, and I tried to satisfy myself. All hon. Members have heard him. They say that the previous Government was competent to pass such a legislation, but under the existing law the property cannot be revested in somebody, it will be discrimination. You cannot also acquire this property as it is not for a public purpose. Therefore, they cannot compel the grandson to give up the property and vest it in the grandfather. I further asked what avail this Bill was in the circumstances. The hon. Minister replied that there was a condition that not a pie shall be given by the grandson to the grandfather, and that if any breach took place the *Sanad* could be revoked. All that he says is that by removing that ban, it is open to the grandson, on account of his affection for his grandfather, to maintain the grandfather. Beyond that this House is not competent to do anything.

If any hon. Member says that we can do something more, I will allow not two hours, but as much time as necessary. We shall see that all possible steps are taken to secure for Raja Mahendra Pratap the possession and enjoyment of this property. If any hon. Member gets up, let him argue the question of law first.

**Shri Khadilkar:** When extension of time was moved by the hon. Law Minister, . . .

**Mr. Speaker:** I am not sticking to two or three hours.

**Shri Khadilkar:** . . . he said this gave an opportunity to this House to express our sense of gratitude to the

revolutionaries in general. Raja Mahendra Pratap is a representative of revolutionaries in this country. He is not alone. He has not come before the House just for a little remuneration or grant. There are so many people in Maharashtra, Bengal, Punjab and U.P. and other States. Their relations are there, and Government has not done anything for them. They have come forward with a grudging legislation of this type. So, I want to say....

**Mr. Speaker:** Let us go on for two hours. Shri Khadilkar can make his speech.

**Shri Khadilkar:** I welcome the measure though it is very grudging for one reason. Because Raja Mahendra Pratap was elected by the people for his past services and brought to the notice of the House, Government has come forward with this legislation. While doing so, they ought to have considered the whole question of revolutionaries who are still alive, or their dependants who are in difficult pecuniary conditions. What have you done for them so far? This is a moral issue, it is not just a constitutional or a legal issue.

When Government came to power after freedom, they were ready to compromise with time servers, but neglected those who fought the Britishers, the great revolutionaries, I mean, who fought against time. I do not agree with them, many of them had taken to a different path altogether. Still, it was the duty of the Government to recognise their services in the cause of freedom and see that they were looked after properly in their life time, that their dependants did not go on the streets.

For instance, in Maharashtra I can tell you there is Shri P. M. Bapat, a great revolutionary of the early twentieth century. There is also Shri V. D. Savarkar. I do not agree with him at all; his politics is absolutely at cross purposes with all the progressive politics in the country. But

his property stands confiscated by the old British regime of Bombay. The Maharashtra Government will say: what can we do? Are you going to allow whatever sacredness is attached to property rights to come in the way when the question of old revolutionaries is concerned, when compensation in some way or other is to be paid to them, when their rights have to be restored back to them?

I am surprised that you bring forward a Bill which has no tangible effect. Why do you not repeal the sanad? Have we no right to repeal the sanad which is so abnoxious as the hon. Deputy Minister himself admitted? He is not doing anything about it.

What Shri Bharucha is trying to do is to remove it, but he is also putting Raja Mahendra Pratap at the mercy of his grandson after the passing of the Bill. He is perhaps asking him to go to a court of law where some remedy might be open to him.

I am not at all satisfied with this. I say this because we must recognise the services of the revolutionaries who fought for this country, to free it from the foreigners. They came together from different provinces. It does not matter if they fought with violent methods. They did help bring about our freedom near. That fact must be recognised by this House. Unfortunately, after 13 years of freedom, we are not prepared to do anything for them in a tangible way.

I know of many revolutionaries and their dependants. I do not know what has happened to the near relations of Bhagat Singh, but his colleague Raj Guru was hanged. What have we done to his near relations? He came from a poor family. This is only one instance. There are many people in U.P., Punjab and Bengal like that. Are we not going to recognise their services? Leave aside their politics—they might be now in the Communist Party or the Hindu Maha Sabha, I am not concerned with that.

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We are a democracy, and therefore it can be done. We are not a dictatorship like the Soviet Union where most of the immediate colleagues of Stalin were done to death; and a man like Trotsky, who was the man of the age, an outstanding figure in the political and social philosophy of the world, was hacked to death in a foreign country because of dictatorship and a certain ideology. We claim to be a democracy. Let us act as democrats and recognise our debt of gratitude to all the old revolutionaries who are still alive in the country.

I thought this Bill would be a representative measure in a way because Raja Mahendra Pratap represents the old revolutionaries. I do not think he has come here just for a little pittance of a monthly allowance. That was not the main question. I am sorry to say the Home Ministry has taken a wrong view of the whole thing. The Bill that was brought forward by a private Member was an attempt to focus attention on this problem as to what we have done as a free country, after achieving freedom, functioning under a new constitution, and as a democracy, to recognise their services.

The State Governments say they cannot do anything. At the local level, these revolutionaries are so neglected. Sometimes when we meet an old revolutionary we consider him a sort of crank, a misfit in society, a person who can be kept in a zoo for historical purposes. Is this the way of dealing with them? I would appeal to the Home Minister to look at the problem from a more generous point of view, and announce here and now that something will be done for them.

We have got historical records of old revolutionaries. The Maharashtra Government has published two volumes. If you go through that record, particularly the Sedition Committee's Report, you will find glorious examples of sacrifice, supreme sacrifice by people. They might have been misguided, they might not have been in

the main stream of the national struggle, that is admitted, but even then let us recognise their sacrifice and show that we are not going to let them down that they will not die just neglected, that their relations will not die on the streets in the worst pecuniary conditions. This Parliament should remove whatever hurdles there may be. There are several families of revolutionaries in many States including Maharashtra. Their recognition is essential. Therefore, I say the Law Minister rightly stated, while asking for extension of time, that this was an occasion to express our gratitude for those acts of courage and supreme sacrifice of those who fought against the British Empire, the British power in this country.

We did not recognise their merit in time, we have come to recognise them later. Early in the twentieth century, when Savarkar wrote about "the war of independence", we never recognised that the 1857 movement was a war of independence, but Panditji in his Autobiography has said that in the old days he was impressed by him as many others were inspired by him. Now we do recognise that 1857 uprising was the earliest attempt of revolutionary character. Now, we recognise the services of such people after such a long time. So, when there are men of such type, who are too near our times, we should not sit on judgment on the acts of such revolutionaries. That would not be correct. Let time pass, and all the acts of those who helped in our struggle and their statues will be determined.

Therefore, I would once again appeal to the Home Minister that instead of bringing forward this legislation, he must do something more concrete; this measure does not remove the *Sanad*, does not confer any benefit, does not show that recognition that ought to have been shown, namely that in this country, those who have died or suffered for the cause of freedom will be recognised, will be looked after,

and whatever wrong acts have been perpetrated against them by the Britishers will be done away with. I do not want to mention the constitutional hurdles; the constitutional hurdles must be brushed aside, because this is a supreme duty that we owe to such people.

14 hrs.

**Mr. Speaker:** Shri Ansar Harvani. Does the Home Minister want to speak.

**The Minister of Home Affairs (Shri G. B. Pant):** I do not want to deprive any hon. Member from speaking.

**Mr. Speaker:** Two more hours have been allotted for this Bill. He can speak afterwards also.

**Shri G. B. Pant:** I want to make only a few remarks, and if hon. Members want to continue the discussion even after I have spoken, I do not want to come in their way. They may do as they please.

**Shri Naushir Bharucha:** Why not take the Bill to a Select Committee?

**Shri G. B. Pant:** If, after hearing me, the hon. Member thinks that it is necessary, I shall be prepared to consider that too.

We all admire the indomitable courage of Raja Mahendra Partab, and we cherish a feeling of gratitude for all that he has done. He was a pioneer in a way in this struggle for Independence.

I, perhaps, am the oldest Member here, who has been acquainted with Raja Mahendra Partab for a longer time than anyone else. We have been known to each other for nearly fifty years. Long before he went to Germany and from there to Afghanistan, we had worked together, at least for some time, myself not as a revolutionary—I do not claim that sacred title for myself—but rather in some other constructive field connected with education in the Banaras Hindu

University. But we are here to consider the matter in a constitutional way.

We would have been happy if it had been open to us to divest Amrit Partab Singh, his grandson, of his property and to vest it in Raja Mahendra Partab. But, as you may be remembering, a statement was made by the Minister of Parliamentary Affairs to the effect that according to the best legal advice, it was not open to us to do so, and it was on that account that the Bill that had been introduced by a private Member could not be proceeded with, and we explored all possible avenues in order to bring forward a suitable measure. We have consulted the foremost jurists or advocates and also the Attorney-General of the State, because we wanted to find out if we could do what had been suggested by hon. Members, but we did not find it possible to take that step.

Now, I shall state in a few words how the difficulty arises. At the time the Constitution was passed, Raja Mahendra Pratab's son was the owner of the property that belonged to Raja Mahendra Pratap previously.

**Shri Naushir Bharucha:** He died in 1947.

**Shri G. B. Pant:** If he died in 1947, then his grandson was the owner at that time.

**Shri Naushir Bharucha:** That makes a difference.

**Shri G. B. Pant:** I do not think it makes any difference whatsoever, whether it be the son or the grandson. They are the descendants of Raja Mahendra Partab, and their rights are not in any way affected by the grandson taking the place of the son of Raja Mahendra Partab. Does Shri Naushir Bharucha mean that if the son had been in possession of this property, then the position would have been different today?

**Shri Naushir Bharucha:** No, I do not mean that.

**Shri G. B. Pant:** Then, that interjection was hardly very relevant.

**Shri Naushir Bharucha:** I do not think the hon. Minister has studied my amendment.

**Shri G. B. Pant:** I was submitting that the grandson was the owner of the property, at the time the Constitution was passed. Under article 19(1)(f), every one has the right to hold the property that he possesses, and article 13(2) lays it down that:

“The State shall not make any law which takes away or abridges the rights conferred by this Part and any law made in contravention of this clause shall, to the extent of the contravention, be void.”.

I may also point out that the word ‘law’ as defined in this article includes any Ordinance, order, bye-law, rule, regulation, notification, custom or usage having in the territory of India the force of law. So, the word ‘law’ here also is very comprehensive; it refers not only to law but also to any rule, order, bye-law etc. At the time the Constitution was passed and came into force, the grandson was the rightful owner of the property. It is unfortunate, and we all, in fact, feel that it is very wrong, according to our views, that Raja Mahendra Partab’s property should have been confiscated or that it should have been conferred on his son. But, according to the law of the time, it was open to the then Government to do so, and the then legislature to pass such a law. And they did that. Now, according to that law and that *sanad*, the son, and after him, the grandson, became the proprietor and the owner of this property. We cannot divest any person of his property in order to vest that property on some other person by virtue of any provision in the Constitution. It is not open to us to do so. So whatever we may do, we

cannot achieve the purpose which Shri Naushir Bharucha has in mind and which I share with him. If it were open to me to do so, I would be happy to do it.

**Shri M. C. Jain (Kaithal):** Change the Constitution.

**Shri G. B. Pant:** That means, for the present you postpone the Bill—till the Constitution is changed. But according to the present Constitution, as it exists, it is not open to us to do so. Every lawyer here will except that this is an elementary matter. If you look at the Constitution, you cannot take such a step today. In order to see that Raja Mahendra Partab was not unnecessarily prejudiced in any way, I examined the *sanad*. The *sanad* was not mentioned by the private Member in his Bill. I looked into the *sanad* and found that there were two provisions there which would work to his advantage. Without interfering with the *sanad* in a manner which would be repugnant to the law, I by virtue of the Bill that I have placed before the House suggested that these clauses should be deleted from the *sanad*: But we cannot divest any person of his property, nor can we confer proprietary rights or any other rights like that on another person by divesting a person, who is the lawful owner, of that property.

Today many people in our country hold properties which were given to them by the British Government after the Mutiny, because of the services rendered in the course of the Mutiny. They are lawful owners of those properties and they enjoy them. We would not like to punish the sons or grandsons for that.

Shri Khadilkar made a very emotional speech. So far as the sentiment underlying that speech is concerned, we all share it. But so far as the present Bill goes, his speech really makes the position even more vulnerable, because if there are many cases like this, you cannot by virtue

of article 14 undertake discriminatory legislation with regard to every one of them. That rather makes this Bill even more vulnerable than it would otherwise be. Sometimes in our zeal, we often spoil even good cases, but there was no question of spoiling here because the case was weak by itself.

So I submit that it is not because we do not share the desire which other Members share, but it is because the law does not permit us to do anything else that we have gone to the maximum extent we can after consulting the best legal opinion in the country in putting forward this Bill before this House.

**Shri C. K. Nair:** The form in which the Bill has been introduced does not do much credit to our Law Ministry. I do not think it is beyond our power to find a way out. Therefore, it will be better to refer the Bill to a Select Committee where we may examine the pros and cons. It is a fundamental thing especially because of the great sacrifices made by a few thousands of people, if not lakhs. I think they have not been given a fair deal by our Government. This is unfortunate. Even in Delhi, we know that some of these people are really almost at the point of begging. But we are not in a position to give them a heartening word as to how we will be able to help them. It is a very important piece of law. It does not concern Raja Mahendra Pratap alone; it concerns so many other people also.

After all, this House is noted for its legal wisdom and we have produced a wonderful Constitution in such a short time. We still want to stick to the provisions of the Constitution. No doubt, it is to our credit that we want to do so, but...

**Mr. Speaker:** The hon. Member may be enthusiastic, but no Member can cast aspersions on the Constitution.

**Shri C. K. Nair:** No, no.

**Mr. Speaker:** What else is the meaning of this exuberance of feeling?

**Shri C. K. Nair:** Things should not be hurried or rushed through.

**Mr. Speaker:** Why does he say 'wonderful Constitution'?

**Shri C. K. Nair:** Our wisdom could be used for further investigation. That is what I beg to submit.

**Mr. Speaker:** It is a good Constitution. Hon. Members should not, directly or indirectly, cast any aspersions on the Constitution. We are all bound by the Constitution. We have taken the oath of allegiance to the Constitution.

**Shri C. K. Nair:** We are wedded to that approach because we still want to uphold the Constitution.

**Mr. Speaker:** I am afraid the hon. Member's language does not indicate that.

**Shri C. K. Nair:** We know that Nairs are famous for circumventing the law themselves. Therefore, let us find some way out.

**Mr. Speaker:** Mere sentiment is not good.

**Shri Ansar Harvani:** After the speech of the hon. Home Minister, I have not much to add. He has clarified the position as far as the legal point is concerned. But I would only make an appeal to him, that in future the Government of India, constituted as it is, should be more considerate to those fighters of freedom many of whom are starving today. Unfortunately, in no other country have the revolutionaries and fighters for freedom been neglected more than they have been here. Unfortunately, in no other country have the former British stooges been looked after better than in this country. When we can have a lot of money to pay privy purses to these Princes who fought against the struggle for freedom in 1857, if we can have lot of money to pay privy purposes and allowances to those people who helped the British Government when India was engaged in a life and death struggle, I cannot understand why the Government cannot set apart some money to give help to those people who fought for the freedom of the country. With these words, I support the Bill.

**Shri Achar (Mangalore):** Accepting the position that the grandson cannot be divested of the property vested in him and accepting the position that we have to obey the Constitution which protects the private properties of people, I have a humble suggestion to make. Are Government prepared to acquire the property? Whatever the Constitution may be, we feel that nothing is being done to our great patriots. Something must be done to home. That is the feeling in the House. If this is so, I would submit that Government can acquire all the property belonging to Amrit Pratab Singh.

The only objection taken was with regard to the legal aspect. Of course, Shri Naushir Bharucha was not conceding it. He was taking it for granted that public purpose would not come under this—he did not concede that it was not a public purpose. To this, it was said we could not acquire it. I would submit that it is a public purpose, because a great wrong was done by the British Government and we are trying to do something to remedy that injustice and do something for that great patriot. It is a national purpose and a public purpose. It is not just enough to say that we have sympathy. We have to do something with regard to the estate.

**Mr. Speaker:** There is no estate.

**Shri Achar:** If there is no estate, whatever property is there. I am told there are some houses at least. I would not go into details.

As many hon. Members have suggested, I do not think there will be any harm if the Bill is referred to a Select Committee. But apart from that, I would only suggest to Government to consider if they cannot acquire the property or estate or whatever it may be. There is some immoveable property also. It can certainly be acquired. I say it is a public purpose, to do something for a great patriot to whom a great injustice

has been done. Can we not acquire the property for that public purpose?

Granting for the sake of argument that it is not a public purpose, can we not define what 'public purpose' is in the Bill itself? Certainly, it will not go against the Constitution. We are entitled to define what is public purpose. In that definition, we can say that 'public purpose' includes this contingency also. I have got the greatest admiration for our friend Raja Mahendra Pratap Singh. I am not dilating on this point. I am only concentrating on the legal aspect. If the Government has any mind it can acquire property. If there is no definition of 'public purpose', I feel there is no difficulty; public purpose can be defined and the property acquired and given to Raja Mahendra Pratap Singh.

**पंडित ठाकूर दास भार्गव (हिसार) :**

जनाब स्पीकर साहब, इस हाउस में इस मामले में तकरीबन युनेनिमटी है, जिस में गवर्नमेंट खुद भी शामिल है—और मेरे ब्याल में होम मिनिस्टर साहब और मिनिस्टर आफ स्टेट साहब भी इस बात के उतने ही स्वाहिशमन्द हैं—कि राजा महेश्वर प्रताप के साथ जो इन्साफ हो सके, वह किया जाये। मुझे इस में कोई डाउट नहीं है। हाउस में यह फ्रीलिंग है कि इस एक्ट के मन्सूख होने पर भी उन को किसी किस्म का कोई फायदा नहीं पहुंचता है जावे वाला ने भी यह सवाल होम मिनिस्टर साहब से पूछा था। सारे पार्लिमेंट बमै गवर्नमेंट के इस बात की स्वाहिशमन्द है कि उनके लिए जो भी किया जा सकता है, वह किया जाये। यहां पर एक कानूनी मसला उठाया गया है। होम मिनिस्टर साहब, मिनिस्टर आफ स्टेट और एड्नी जेनरल की राय के मुक़ाबले में मैं अपनी राय को बुक्कत नहीं देता हूँ। लेकिन मैं जानता हूँ कि डाइवेस्ट करने के लिए ला में, हिन्दू ला में बहुत से प्राविजन्य हैं। मैं ने उन को इस प्वायंट आफ व्यू से देखा नहीं

है, इस लिए मैं यह कहने के लिए तैयार नहीं हूँ कि जो राय वे रखते हैं, वह गलत है लेकिन मैं श्रद्धा से यह पूछता चाहता हूँ कि क्या इस पार्लियामेंट के हाथ और गवर्नमेंट के हाथ इतने बन्धे हुए हैं कि ऐसे मामले में वे कुछ नहीं कर सकते ? मुझे खुशी है कि मुझ से पहले बोलने वाले दोस्त न इस तरफ़ तवज्जह दिलाई है कि गवर्नमेंट को यह अस्तिपार है कि वह कोई भी जायदाद एक्वायर कर ले बग़ैर कि उस में पब्लिक परपज हो । जहाँ तक पब्लिक परपज को डिफ़ाइन करने का ताल्लुक है, अकेली गवर्नमेंट इस बात का फैसला करने के लिए जिम्मेदार है कि पब्लिक परपज क्या है और किसी भी कोर्ट, हाई कोर्ट या सुप्रीम कोर्ट में यह मामला नहीं उठाया जा सकता है । गवर्नमेंट जिस को भी पब्लिक परपज करार दे दे, उस को कोई क्वेश्चियन नहीं कर सकता है, या ला है । मैं यह पूछना चाहता हूँ कि क्या यह पब्लिक परपज नहीं है कि एक ऐसे शरूत को रीकम्पेन्स किया जाय, जिस ने अपनी सारी उम्र कोम की खिदमत ग़ुजारी, जिस ने इतने मसयव झेले उस जमाने में, जब कोई जानता नहीं था कि पट्रियटिज्म क्या होती है, जिस को इस वजह से देन-बदल किया गया और देश भर में जिस की इतनी इज्जत है ?

मैं यह भी जानना चाहता हूँ कि क्या यह पब्लिक परपज है कि मेरी जायदाद छीन कर ए या बी को दे दी जाये । जब मखरा बांध बना, तो कुछ आदमी वहाँ से आउस्ट हुए । उन को जायदाद देने के लिए हमारे जिले में हमारी जायदादें एक्वायर कर ली गई क्या यह पब्लिक परपज है ? अगर है, तो क्या यह पब्लिक परपज नहीं है कि एक ऐसे शरूत को रीकम्पेन्स किया जाये, जो अब तक मुन्क की खिदमत करता रहा और आखिरी उम्र में हमारे लिए दर्शन की चीज बन गया है ? अगर यह पब्लिक परपज नहीं है, तो फिर पब्लिक परपज क्या है ? क्या किसी ला ने पब्लिक परपज

को डिफ़ाइन किया है ? क्या लेंड एक्वीजीशन एक्ट ने उस को डिफ़ाइन किया है ? जिस को गवर्नमेंट ने कहा, वही पब्लिक परपज है । कोई कोर्ट उस को क्वेश्चियन नहीं कर सकती है । अगर गवर्नमेंट किसी चीज को एक्वायर कर के किसी को देना चाहे, तो वह ऐसा कर सकती है ।

इस के अलावा एक सवाल यह है कि क्या यही एक जायदाद है, जिस से उनको रीकम्पेन्स किया जा सकता है । पंजाब गवर्नमेंट ने हमारे जिले में सात हजार एकड़ जमीन पोलिटिकल सफरज को दी । किस कायदे से दी ? हमारे यहाँ पोलिटिकल सफरज को देने का कोई कानून नहीं है । गवर्नमेंट ने दरखास्तें इनवाइट कीं कि जिन लोगों की १८५७ के गद्दर में जायदादें जब्त की गई थीं, उनको रीकम्पेन्स दिया जायगा । इसके लिये नोटिफिकेशन जारी किया गया । हमारे जिले में लोगों ने दरखास्तें दीं और गवर्नमेंट ने उनके साथ इन्साफ किया । क्या सेंट्रल गवर्नमेंट कह सकती है कि कौन सी स्टेट गवर्नमेंट ने पोलिटिकल सफरज के साथ इन्साफ करने की कोशिश नहीं की । अगर राजा साहब के पोते की जायदाद इनको नहीं दी जा सकती है, तो गवर्नमेंट के पास बहुतेरी और जायदातें हैं, मूवबल भी और इम्मूवबल प्रापर्टी भी । अगर गवर्नमेंट वाकई यह समझती है कि वह पोलिटिकल सफरज हैं और उनको इतनी तकलीफ हुई है, और जैसा कि होम मिनिस्टर साहब ने फरमाया है, उन्होंने देश में एक पायनीयरिंग वर्क किया है, तो क्या उनकी मदद करने का कोई और तरीका नहीं है ? अगर वह चाहे, तो इस बिल के जरिये ही उनको रीकम्पेन्स किया जा सकता है । क्या यह जरूरी है कि उसी जायदाद से उनको रीकम्पेन्स किया जाय ? अगर गवर्नमेंट उनकी रीविजिज को इकनालेज करना चाहती है और उनको इस हालत में नहीं रखना चाहती है कि वे अपने पोते की मरसी पर रहें, तो कई



### [पंडित ठाकुर दास भागंव]

तरीकों से उनकी मदद की जा सकती है। मैं जानता हूँ कि दुनिया में पोते क्या करते हैं। अगर एक शस्त्र पेट में है और जायदाद का बटवारा हो गया, तो वह भी बड़ा होने पर जायदाद डाइवैस्ट करा लेता है। डाइवैस्ट कराने के लिए एक ही नहीं, बीसियों तरीके हैं। दफा १३ में यह दर्ज है। लेकिन उस से पहले आप प्रिएम्बल को देखिए, जिस में लिखा है कि यह गवर्नमेंट हर तरह का जस्टिस, सोशल जस्टिस, पोलिटिकल जस्टिस करेगी और कांस्टीच्युशन तभी सैटिसफाइड होगा, जब हम हर तरह से जस्टिस कर सकेंगे। यह प्रिएम्बल में लिखा है, जो कि हमारे प्राइम मिनिस्टर की सारी नेशन को सब से बड़ी देन है। जहां सवाल जस्टिस का है, तो गवर्नमेंट हो, या कोर्ट हो, वह किसी भी तरीके से कार्यवाही कर के मदद कर सकती है। यह कोई जरूरी नहीं है कि वही पार्टिकुलर जायदाद दी जाये। अगर यह गवर्नमेंट और पार्लिमेंट जस्टिस करना चाहती है, तो इसी बिल में कर सकती है। उन को इतनी जायदाद दी जा सकती है कि जो उन की सारी जिन्दगी चले। उस से आगे देने की जरूरत नहीं है। फिलवाके हम को किसी न किसी तरह से उन की सर्विस को रोकनाइज करना चाहिए। अगर इस बिल के जरिये कुछ हो सके, तो कर दिया जाये और अगर न हो सके, तो यह पार्लिमेंट एक सोवियरेन अथारिटी है, इस गवर्नमेंट और इस पार्लिमेंट के हाथ इतने लम्बे चौड़े हैं कि उन के साथ इन्साफ कर सकते हैं। इन्सफ का तह तकजा है कि किसी न किसी तरह से उनकी सर्विसिज को रोकनाइज किया जाये।

हमारे यहां हिमाचल प्रदेश का बिल आया था, जिस में अक्टूबर से अक्टूबर तक सारे कानून पर पानी फेर दिया गया था। इस हाउस में यह सवाल उठाया गया कि जो इंग्लैंड रिट्रीज हुई हैं, उन को दुरुस्त करने

के लिए जो नया एक्ट लाया जा रहा है, क्या वह जायज है। फिर भी हम ने वह एक्ट पास किया। हम जानते हैं कि यह सावियरेन बाडी है। हमारा मकसद इन्साफ करना है। लीगल हो, या इल्लीगल इन्साफ करने के लिए इस गवर्नमेंट और पार्लियामेंट को कार्यवाही करने का पूरा अख्तियार है। मैं आनरेबल मिनिस्टर साहबान और गवर्नमेंट की खिदमत में यह अर्ज करना चाहता हूँ कि कंट्री की सोल बड़ी सैटिसफाइड होगी, अगर वे इस सिलसिले में उन की मदद करने की कोशिश करेंगे। देश में एक शस्त्र भी उन के काम को क्रिटिसाइज नहीं करेगा, क्योंकि यह इन्साफ के खिलाफ जाना नहीं होगा।

जहां तक कांस्टीच्युशन का सवाल है, वह तो गवर्नमेंट से भी बड़ी चीज है। हम उस के खिलाफ नहीं जाना चाहते हैं। अगर कांस्टीच्युशन कहता है कि हम को डाइवैस्ट नहीं करना चाहिए, तो हम को हरगिज नहीं करना चाहिए, चाहे कुछ भी हो, चाहे आसमान गिर पड़े। ताहम मैं यह पूछना चाहता हूँ कि अगर कांस्टीच्युशन से कोई चीज नहीं हो सकती है, तो क्या उस के लिए कोई रेमेडी नहीं है। क्या इन्साफ हर एक चीज से बड़ा नहीं है। अगर गवर्नमेंट यह समझती है कि यह एक फिट केस है, जिस में कुछ न कुछ किया जाना चाहिए, तो गवर्नमेंट और पार्लिमेंट को किसी और तरह से इस मामले को देख कर उन को प्राप-रली रीकम्पेन्स करना चाहिए और देश के सामने एक मिसाल कायम करनी चाहिए।

यह कहना कि और साहबान के साथ हम ने इन्साफ नहीं किया है, मुझे अपील नहीं करता है। जो केस गवर्नमेंट के सामने आया है, उस को तो वह इस तरह डील करती है और अगर कोई और मामला आया, तो वह कहेगी कि हम ने राजा महेंद्र प्रताप के

साथ इन्साफ नहीं किया है, इस लिए इस में भी कुछ नहीं हो सकता है। उस वक्त यह एक मिसाल बन जायेगा। यह कोई क्लील नहीं है कि हम ने औरों के साथ इन्साफ नहीं किया। इस लिए इस में कुछ नहीं कर सकते। गवर्नमेंट औरों के साथ इन्साफ करे। किस ने रोका है ? हर एक आदमी कहेगा कि जिस ने देश के लिए कुर्बानी की है और जो इस वक्त इमदाद का मुस्तहक है, उस को जरूर मदद मिलनी चाहिये क्या हम अपने बुजुर्गों को याद नहीं करते हैं ? क्या हम उन के दिन नहीं मनाते हैं ? क्या हम उन को भूल जाते हैं ? यह दुरुस्त है कि आज वह जिन्दा हैं। अगर वह मर गए होते, तो देश में उन की बहुत इज्जत होती। इन का कुमूर यही है कि वह जिन्दा हैं और बड़े हो गए हैं। जिस शास्स ने किसी बात की परवाह न करते हुए देश के लिए इतनी कुर्बानी की और देश में ऐसी स्पिरिट पैदा की, उस के बारे में यह कहना कि कांस्टीच्यूसन बीच में आता है, दुरुस्त नहीं है। क्या चीज है कांस्टीच्यूसन ? जो काम उन्होंने किए, वे बहुत आला दर्जे के थे और उन को रेकगनाइज कर के हम को अपनी शुक्रगुजारी दिखानी चाहिए। अगर हम ऐसा नहीं करेंगे, तो हमारे होम मिनिस्टर साहब के अल्फाज में वह प्रैटिच्यूड नहीं होगा, इनप्रैटिच्यूड होगा। अगर हम अपना प्रैटिच्यूड जाहिर करना चाहते हैं तो अगर इस बिल से नहीं हो सकता है, तो किसी और तरीके से उन को रिकम्पेन्स किया जाये।

**Shrimati Ila Palchoudhuri** (Nabardwip): Mr. Speaker, Sir, I will not go into the ramifications of law in this case. There are brilliant brains which have gone into this and seen what Parliament can do; but there is the human side of it which I will certainly put to you.

After all law is able to circumvent many of its own actions and we

have very great law brains; I do not know if they cannot find some way of doing something for Raja Mahendra Pratap by this Bill. This Bill leaves him cold; it does nothing for him. It does not repeal the *sanad*. He has to pray for his subsistence to his grandson. By this do you honour the work that he has done, the sacrifice that he has undergone? Not only that, I would bring to the notice of the House that when the revolutionaries, or those who took part in the freedom movement, die, we build halls for them; we put up monuments for them; we hold meetings for them. But while they are alive we never look after them. How is it that we cannot do something? If Government cannot compensate him from his property, they should be able to give him some sort of means of livelihood, that he during his lifetime should never be dependent on anybody. He should have the full co-operation from the Government to do this.

About other revolutionaries also, I would put this point to the Government. Not only do we not take care of them as long as they are living; their families are not taken care of. They go from door to door begging for doles. In the Andamans the little plaque that gives their names the cellular jail is not full; there are a few, but there are many other names which could be added to it. Even that little consideration we have not been able to how them yet!

Government has done many things. It has deprived the 560 ruling princes of their ruling rights. You have taken away jagirs from the jagirdars. Government has got the power to do many things. I do not know how it cannot take unto itself the power to do something for revolutionaries like Raja Mahendra Pratap who have written their names in letters of fire on the sky of India. I hope it will be written in letters of gold in the Parliament's debates for the future

[Shrimati Ila Palchoudhuri]

generations to see, what the Parliament thought of doing for the revolutionaries, which I hope will be something concrete.

**Dr. Samantsinhar (Bhubaneshwar):** Sir, the sanad contains six conditions and the provisions are if Prem Pratap Singh or any of his heirs did not observe any of the conditions the sanad would be deemed to have become void. Condition 3 reads as follows:

"That he or his heirs shall maintain and provide for the expenses of the marriage of his sister Bakvti Bai in a manner befitting her position."

You know Bakvti Bai is not yet married. That means the provision made in the sanad was not honoured and Bakvti Bai is still unmarried. No money was provided and arrangement made for her marriage. This is one of the conditions which has not been fulfilled. I hope the hon. Home Minister has looked into this matter.

**श्री० रणवीर सिंह (रोहतक) :**

अध्यक्ष महोदय, इस विधेयक में जो स्टेटमेंट आफ आर्बजैक्ट्स एंड रीजेंस दिए हुए हैं, उनको देखने से यह पता चलता है कि इस विधेयक का यह उद्देश्य नहीं है कि हम राजा महेन्द्र प्रताप को इस लायक बना सकें कि वह पोते या परपोते से पैसे ले सकें, इमदाद उनको वे दे सकें उनकी मेन्टेनेन्स लिये। इस बिल का मंशा यह है और यह चीज आर्बजैक्ट्स एंड रीजेंस में भी दर्ज है कि जिस नुक्तेनिगाह को सामने रखते हुए, जिस ध्येय को सामने रखते हुए, वह एकट जब बना था उसको आज की बदली हुई परिस्थितियों में हमारे कानूनों में नहीं रहना चाहिये, वैसा गदा कानून न रहना चाहिये। जो कारण तब मौजूद थे वे आज के जमाने के लिये सही नहीं है जैसा कि माननीय मंत्री जी ने कहा है। माननीय मंत्री जी ने कहा कि १९५० में पहले अगर यह कानून बनता तो हम बना सकते थे और यह चीज कांस्टीट्यूशन के लागू होने से पहले ही हो

सकती थी। मैं समझता हूँ कि १९४७ के बाद से, जब हम अजाद हुए, इस कानून का हमारे कानूनों में शामिल रहना हमारे देश के लिये बहुत बुरी बात थी और इसको हटाना चाहिये था उसी रोज जिस रोज हम अजाद हुए। अगर उस को तब हम रिपील नहीं कर सके तो इसमें कसूर हमारी सरकार का है न कि उसका जिस के ऊपर इसका असर पड़ता है। हम हर कानून में यह कहते हैं कि अगर कोई गलती रह जाए किसी महकमे के अफसर से और बुरी इंटेंशन न रखते हुए वह एकट करे तो उसका जुर्माना वह नहीं भुगतता उसकी सजा वह नहीं भुगतता है, उसी तरह से मैं मानता हूँ कि हमारी एक गलती थी जिसमें सरकार भी शामिल है और संसद् के वे सदस्य भी शामिल हैं जो १९४७ के बाद से, जो चाहे प्राविजन न पार्लियामेंट के सदस्य रहे हों या कांस्टिट्यूटेंट असैम्बली (लैजिस्लेटिव) के सदस्य रहें हों। वे सभी कुछ न कुछ हद तक कसूरवार हैं। उस कसूर की जो सजा है वह हमें राजा महेन्द्र प्रताप को भुगतने पर मजबूर नहीं करना चाहिये जिन्होंने इस देश के लिए आम तौर पर उस वक्त ऐसा शानदार काम किया जब कि जो रजवाड़े थे, जगीरदार थे, अंग्रेजों से इतने ज्यादा डरते थे। राजा महेन्द्र प्रताप के लिए अंग्रेजों का राज्य कोई माने नहीं रखता था बमुकाबिल हम जैसे गरीब आदमियों के। उस वक्त जो उन्होंने काम किया उसके लिए उन्हें सजा भुगतने के लिए मजबूर नहीं किया जा सकता। कसूर अगर हमारा है कसूर अगर लीगल फ्रिजियोलोजी कम है जैसा कि पन्त जी ने कहा है, तो उसकी सजा राजा महेन्द्र प्रताप, देश भक्त को दी जाए, यह ठीक नहीं होगा। उसका मुआवजा—अगर आप मुआवजा कहना चाहते हैं—उनको मिलना चाहिये।

मैं पंडित ठाकुर दास भार्गव जी के साथ उनकी इस राय से सहमत हूँ कि यह

एक पब्लिक परपञ है और इसमें जो कसूर है वह हमारी सरकार का है, लोक सभा का है, पहली और दूसरी लोक सभा का है, उसके सदस्यों का है कि उन्होंने इस कानून को हटवाया नहीं। जहां तक राजा महेन्द्र प्रताप के कामों का सम्बन्ध है मैं पन्त जी के साथ मोलहों अने सहमत हूँ कि उनके ढर्रे के आदमी, उनके मुकबले के आदमी हमारे देश में बहुत कम हुये हैं।

मुझे मालूम है कि हिन्दुस्तान के देश भक्तों की कोई इमादाद नहीं की गई है और न ही उनके परिवारों की आज कोई की जा रही है। सरदार भगत सिंह के भतीजे, जब उनको कोई तकलीफ हुई और उसके इलाज के लिए उनको पैसे की जरूरत पड़ी तो पैसा उनको प्राइम मिनिस्टर फंड में से दिया गया और वह अपना इलाज करवा सके। उनके बाप भी जेल गए देश की खातिर और कई साल उन्होंने अपनी जिन्दगी के जेल में काटे अगर उन के प्राइम मिनिस्टर रिलीफ फंड में से पैसा दे कर मदद न की गई होती तो शायद वह आज जिंदा न रहते। लेकिन मैं समझता हूँ कि देश के कानूनों में, देश के तरीके राज में यह कमी है कि उनकी मदद नहीं की जा सकती है। वैसे तो हम मानते हैं कि हर देशवासी को हम तालीम देंगे, आगे चलकर जब हमारे में शक्ति होगी, हर बूढ़े आदमी को हम पेंशन देंगे, और हर बीमार का मुफ्त इलाज करेंगे। लेकिन आज हमारा देश इतना शक्तिशाली नहीं है कि हर उस आदमी को हम तालीम दे सकें जो वह पाना चाहता है, उसको फ्री एजुकेशन दे सकें या दूसरी सहायिलयतें मुहैया कर सकें बावजूद इस बात के कि कांस्टीट्यूशन में एक डायरेक्टिव यह भी है कि कम से कम कुछ सालों के लिए सरकार फ्री तालीम देगी, हम उसको पूरा नहीं कर सके हैं। इसी तरह से मुफ्त इलाज की और पेंशन की बात को हम अभी तक पूरा नहीं कर सके हैं। मैं चाहता हूँ कि सरकार

जो ये नेक काम है, जो कि वह हर निवासी के लिये करना चाहती है, इनकी शुरुआत वह देश भक्तों से करे। इस देश के अन्दर कोई ऐसा बूढ़ा देशभक्त न रहे जो कि पचास साल की उम्र में अपने बच्चों की तरफ मदद के लिए मुंह ताकता रहे। मुझे मालूम है सैकड़ों लोगों की मिसालें, जिन की सेवा शुश्रूषा कि उनके बच्चों को करनी चाहिये, लेकिन वे करते नहीं हैं। ये जो बूढ़े, देश भक्त हैं, इनकी आज बहुत बुरी हालत है। मैं चाहता हूँ कि पचास साल से ऊपर के सारे बूढ़े देश-भक्तों के बारे में सरकार यह फैसला करे कि उनको पेंशन दी जाएगी और वह पेंशन उनको तब तक मिलती रहेगी जब तक कि वे जिन्दा रहेंगे। ऐसा नहीं होना चाहिये जैसा कि आज कल हमारी सरकार कर देती है कि पांच सौ रुपया एड हाक ग्रांट के तौर पर उनको दे दिया गया या एक साल के लिये मदद दे दी या दो साल के लिये दे दी। आज वे बेचारे गरीब पिस रहे हैं। मुझे मालूम है कि जो देशभक्त हमारे साथ जेल गये थे, उन में से बहुत से आज अन्धे हैं, लेकिन उन के लिये आज कोई रोजगार नहीं, उन के लिये गुजारे का कोई इन्तजाम नहीं, और वह एक तरह से दूसरों के रहम पर हैं। इसलिये जैसा मैं ने कहा, हम उन की पेंशन क इन्तजाम करें। सारे देशभक्तों के लिये जो कि देश की आजादी की खातिर जेल में गये और जो भी पचास साल के ऊपर हो गये, हम उन के लिये पेंशन का इन्तजाम करें। इस के अलावा उन के बच्चों की तालीम का इन्तजाम करें और जो बीमार हो उन के इलाज का भी सरकारी तौर पर इन्तजाम हो न कि इस के लिये हमें प्राइम मिनिस्टर्स फंड या चीफ मिनिस्टर्स फंड या पोलिटिकल रिलीफ फंड की शरण लेनी पड़े। सरकार के पास इस के लिये अलाहदा पैसा हो।

**Shri Nath Pai (Rajapur):** Mr. Speaker, I shall be extremely brief. The debate has brought out certain truths which need to be taken note of, parti-

[Shri Nath Pai]

cularly, by the Government. I am sorry that inspite of the appeal by the Home Minister it is necessary to submit these remarks for his consideration. He had hinted that after he had spoken the debate would not be necessary to be continued further. The unanimity with which the House has reacted to the Bill has underlined a certain failure on the part of the Government itself. It has failed to honour those due to whose sacrifice we owe our Independence. I am not going to expatiate on it because if we go on talking it would make it cheap and it is too sacred for us to make it look cheap in that way. But it remains that this Government and the State Governments which the Congress Party controls failed miserably in doing honour to those whose sacrifice, I beg to repeat, has been principally responsible for giving us our Independence. There has of course been unanimity regarding paying homage and placing on record the gratitude of this House with regard to these people. But we are told that we are confronted with legal difficulties. I would like to say this that the country which does not know how to reward and honour patriotism may again find itself in a position where patriotism may prove a liability as it was once.

Since he gives an assurance that he shares the sentiments of the House, I would like to make one point. It should not be beyond the competence of people here, inspite of the very weighty juridical opinion, to find a way out. It is no use adducing more evidence because we can go on quarrelling. I see before me three eminent lawyers sitting who say that we cannot do anything beyond what has been incorporated into this Bill. The Law Minister feels very proud of the fact that he was a revolutionary when he was young. May I point out to him that all the revolutionaries were not lucky enough to end as Law Ministers and the lot of many remains rather miserable? So, it should not be beyond our competence to find a way out. There is a certain

difficulty but the difficulty is not the result of lack of unanimous opinion or willingness on the part of the Home Minister or the Government as a whole.

I propose a simple remedy which has already been suggested. It is for the Government of any country to decide what is public good. This definition or decision of the Government has always been, according to the interpretation available to us, accepted by even the Supreme Court. What is in the public interest is a matter for the Government to decide. We can bring this particular provision within the purview of this definition. Today it cannot be done. Therefore, Mr. Speaker, I make this very practical suggestion that the House be pleased to refer the Bill to a Select Committee so that we can suitably amend the Bill that has come.

I should like to say in conclusion that it was the initiative of a private Member that brought the matter to the notice of the Government. There are no party differences on this issue and the Government knows the unanimity of opinion. Even you, Sir, summed up the situation saying: this is what we would like to do but these are the legal barriers. I, therefore, propose that the Bill may be referred to a Select Committee so that we may evolve a formula which may be doing justice not only to Raja Mahendra Pratap but others also. We may find a way of dealing with those innumerable cases which are carrying for justice throughout the country. Raja Mahendra Pratap, as somebody said, is only a symbol. This Bill has provided this House and perhaps the country an opportunity of repaying the debt which we need to pay as quickly as possible. Sir, I, therefore, move that this Bill be referred to a Select Committee.

श्री प्र० मू० तारिक : जनाब स्पीकर साहब, मैं बजारत दाखिला को इस बिल को इस ऐबान में लाने के लिये मुबारकबाद देता हूँ,

इस लिहाज से नहीं कि इस बिल में वह तमाम खूबियां मौजूद हैं जिन के कि हम स्वाहिशामन्द थे, लेकिन इस लिये कि एक कदम उठाया गया है, इस मकसद के लिये कि हमारा मुल्क उन मुजाहिदों को उन वतनपरस्तों एजाज बख्शों जिन्होंने इस मुल्क की आजादी के लिये अपनी जवानी को, अपनी श्रीलादों को, अपनी खुशियों और अपने मुस्नकबिल को खतरे में डाला ।

वजीर दाखिला ने अभी हमें बतलाया कि उन्हें कुछ दिक्कतें हैं, कानूनी दिक्कतें हैं, आईनी दिक्कतें हैं । कांस्टीट्यूशन का चर्चा किया गया । यकीनन इस मुल्क में सब से बड़ी चीज है, इस मुल्क का आईन, हमारा कांस्टीट्यूशन, और यह ऐवान । लेकिन वजीर दाखिला से बेहतर यह किस को मालूम है कि अगर इस मुल्क में राजा महेन्द्र प्रताप जैसे मुहिब्बेवतन न होते तो न यह ऐवान होता और न आयर्डन होता । यह ऐवान और हमारा आईन मरहूने मिन्नत है उन मुजाहिदों का जिन में से बहुत से गुजर चुके हैं, लेकिन जो भी जिन्दा हैं यकीनन हमें उन का ऐतराफ करना चाहिये । हमारे सामने मिसालें हैं ऐसे बहुत से लोगों की, चाहे वे जागीरदार हों, वे नवाबजादे हों, या वे राजाजादे हों, जिन के हक को हम ने आजादी के बाद कबूल किया हम ने बरतानिया शाहशाहियत के दिये हुए एजाज और जागीरों जो कि उन की प्राइवेट प्रापर्टी के हक में दी गई, कबूल किया है आज भी हम करोड़ों रुपये उन के जेबखर्च के लिये, उन की जायदादों की हिफाजत के लिये, उन की जानों की हिफाजत के लिये देते हैं । आज भी हमारे सामने हुजर भीर उस्मान अली खां, यारे वफादार बरतानिया फर्जन्दे आलिया सिप्रे सल्लतन इंग्लिशिया, मौजूद हैं । उन्हें हम लाखों रुपये पेंशन देते हैं । उन की हिफाजत के लिये । इस तरह से और भी बहुत से लोग हैं । दूसरी तरफ ऐसे लोग हैं जिन को बरतानिया शाहशाहियत ने,

बरतानिय हुकूमत ने मजह इसलिये मुसीबत में डाला कि वे इस मुल्क की आजादी चाहते थे, वे मुहिब्बे वतन थे, वे वतनपरस्त थे । हमारा फर्ज है कि हम उन वतनपरस्तों को एजाज बख्शें, हम उन्हें अपनी तरफ से खुश व खुरम रक्खें, हम यह न देख पायें कि वे आजादी के मुजाहिद आज किसी के मरहूने मिन्नत हो, चाहे वे उन की श्रीलाद ही क्यों न हों । आज राजा महेन्द्र प्रताप को उन के पोते के रहम व करम पर डाल दिया जाता है । वजीर दाखिला श्री पन्त के नोटिस में ऐसे वाकयात रोज नजर आते हैं कि बेटा बाप को धक्के मार कर निकाल देता है अदालतों में ऐसे केसेज भरे पड़े हैं । चाहे मां बेटी हों, भाई भाई हों, ऐसे मामलात में जिन में पैसे का सवाल हो, किसी क लिहाज नहीं करते ।

मैं हुकमत की तवज्जह इस तरफ भी दिलाना चाहता हूँ कि यह जो अल्फाज पोलिटिकल सफरस के हैं उन को तारीख से मिटा देना चाहिये । हम पोलिटिकल सफरस नहीं हैं, हम पोलिटिकल फाइटर्स हैं । हमारे मुल्क में आज हमारी हुकमत के अन्दर कोई पोलिटिकल सफर नहीं होना चाहिये, यह मैं वजीर दाखिला से गुजारिश करता हूँ । आज अगर हम राजा महेन्द्र प्रताप को उन की जमीन वापस नहीं दिला सकते तो उन की तमाम उम्प के लिये एक ऐसी पेंशन मुकरर की जानी चाहिये जिस से वह किसी के मरहूने मिन्नत न रहें, वह किसी के मोहतात न रहें, हालांकि मैं यह चाहता था कि उन की सारी जायदाद उन को वापस दी जाती ।

इस के अलावा मैं वजीर दाखिला से यह भी उम्मीद करता हूँ कि वह इस मुल्क के पोलिटिकल फाइटर्स के लिये, जो कि उम्प-रसीदाह हो चुके हैं, जो इस काबिल नहीं हैं कि खुद अपने लिये कुछ कमा सकें, याअपनी श्रीलाद के लिये कमा सकें उनके लिये एक फंड कायम किया जाय । हुकमत फौरेन एक ऐसे फंड का इन्तजाम करे जिस से

[ श्री अ० मु० तारि ]

हम उन लोगों की खातिर कीमत करें। हम किसी को भी दूसरों का मरहून मित्र न होने दें बल्कि खुद इस मुल्क की दकूमत उन की जामिन हो।

मैं इन चन्द अल्फाज के साथ वजीर दाखिला से तबक्को रखता हूँ कि वह राजा महेन्द्र प्रताप की तमाम उम्र के लिये और दूसरे पोलिटिकल फाइटर्स के लिये किसी फंड का ऐलान कर दें।

[ श्री ए० - एम - طارق - جناب ]

اسمبیکر صاحب - میں وزارت داخلہ کو اس بل کو اس ایوان میں لانے کے لئے مبارکباد دیتا ہوں - اس لحاظ سے نہیں کہ اس بل میں وہ تمام خوبیاں موجود ہیں جن کے کہ ہم خواہشمند تھے - لیکن اس لئے کہ ایک قدم اُٹھایا گیا ہے - اس مقصد کے لئے کہ ہمارا ملک ان وعدوں کو - ان دین پرستوں کو اعزاز بخشیں جنہوں نے اس ملک کی آزادی کے لئے اپنی جوانی کو - اپنی اولادوں کو - اپنی خوشیوں کو اور اپنے مستقبل کو خطرہ میں ڈالا -

وزیر داخلہ نے ابھی ہمیں بتلایا کہ انہیں کچھ دیکھتے ہیں - قانونی دیکھتے ہیں - آٹھنی دیکھتے ہیں - کانسٹیبلوں کا چرچہ کیا گیا - یقیناً اس ملک میں سب سے بڑی چیز ہے اس ملک کا آؤٹین - ہمارا کانسٹیبل اور یہ ایوان - لیکن وزیر داخلہ سے بہتر یہ کس کو معلوم ہے ، اگر اس

ملک میں راجا مہندر پرناب جیسے صحابہ وطن نہ ہوتے تو نہ یہ ایوان ہوتا اور نہ یہ آئیں ہوتا - یہ ایوان اور ہمارا انہیں مرحورن مذت ہے ان مجاہدوں کا جن میں سے بہت سے گزر چکے ہیں - لیکن جو ابھی زندہ ہیں یقیناً ہمیں ان کا احترام کرنا چاہئے - ہمارے سامنے مثالیں ہیں ایسے بہت سے لوگوں کی - چاہے وہ جاگیردار ہوں - وے نوا بڑا دے ہوں یا وے راجازادے ہوں - جن کے حق کو ہم نے آزادی کے بعد قبول کیا - ہم نے برطانیہ شاہنشاهی کے دئے ہوئے اعزاز کو اور جاگیروں کو ہے جو کہ ان کی پرائیویٹ پراپرٹی کے حق میں دی گئیں قبول کیا - آج بھی ہم کروڑوں دینے ان کے جہب خرچ کے لئے - ان کی جائدادوں کی حفاظت کے لئے - ان کی جائوں کی حفاظت کے لئے دیتے ہیں - آج بھی ہمارے سامنے حضور مہر اُسمان علی خاں - یار وفادار برطانیہ - فرزند عالیہ سپر سلطانہ انگلشیہ - موجود ہیں - انہیں ہم لاکھوں روپے پینشن دیتے ہیں - ان کی حفاظت کے لئے - اس طرح کے اور بھی بہت سے لوگ ہیں - دوسری طرف ایسے لوگ ہیں جن کو برطانیہ شاہنشاهی نے - برطانیہ حکومت نے محض اس لئے مصیبت میں ڈالا کہ وے اس ملک کی آدھی چاہتے تھے - وے مصعب وطن تے

وے وطن پرست تھے۔ ہمارا فرغ ہے کہ ہم ان وطن پرستوں کو اعزاز بخشیں۔ ہم انہیں اپنی طرف سے خوش و خرم رکھیں۔ ہم یہ نہ دیکھ پائیں کہ وے آزادی کے مجاہد آج کسی کے مرہون ملت ہوں۔ چاہے وے ان کی اولاد ہی کیوں نہ ہوں۔ آج راجہ مہیندر پرتاپ کو ان کے پوتے کے رحم و کرم پر قائل دیا جاتا ہے۔ وزیر داخلہ شری پلٹ کے نوٹس میں ایسے واقعات روز نظر آتے ہیں کہ بیٹا باپ کو دھکے مار کر نکال دیتا ہے۔ عدالتوں میں ایسے کیسیز بھرے پڑے ہیں۔ چاہے ماں بیٹی ہوں۔ بھائی بھائی ہوں۔ ایسے معاملات میں جن میں پیسے کا سوال ہو۔ کسی کا نقصا نہیں کرتے۔

میں حکومت کی توجہ اس طرف بھی دلانا چاہتا ہوں کہ یہ جو الفاظ پولیٹیکل سفرس کے ہیں ان کو تاریخ سے مٹا دینا چاہئے۔ ہم پولیٹیکل سفرس نہیں ہیں ہم پولیٹیکل فائرس ہیں۔ ہمارے ملک میں آج ہماری حکومت کے اندر کوئی پولیٹیکل سفرس نہیں ہونا چاہئے۔ یہ میں وزیر داخلہ سے گزارش کرتا ہوں۔ آج اگر ہم راجا مہیندر پرتاپ کو ان کی ذمہ داری نہیں دلا سکتے تو ان کی تمام عمر کے لئے ایک ایسی پبلشن مقرر کی جانی چاہئے جس سے وے کسی کے مرہون ملت نہ رہیں۔ وے

کسی کے محتاج نہ رہیں۔ حالانکہ میں یہ چاہتا تھا کہ ان کی ساری جائداد ان کو واپس دی جاتی۔

اس کے علاوہ میں وزیر داخلہ سے یہ بھی امید رکھتا ہوں کہ وہ اس ملد کے پولیٹیکل فائرس کے لئے۔ جو کہ عمر رسیدہ ہو چکے ہیں۔ جو اس قابل نہیں ہیں کہ خود اپنے لئے کچھ کما سکیں یا اولاد کے لئے کچھ کما سکیں۔ ان کے لئے ایک فنڈ قائم کیا جائے۔ حکومت فوراً ایک ایسے فنڈ کا انتظام کرے جس سے ہم ان لوگوں کی خاطر قیمت کریں۔ ہم کسی کو بھی دوسروں کا مرہون ملت نہ ہونے دیں بلکہ خود اس ملک کی حکومت ان کی ذمہ ہو۔

میں ان چند الفاظ کے ساتھ وزیر داخلہ سے توقع رکھنا چاہتا ہوں کہ وہ راجہ مہیندر پرتاپ کی تمام عمر کے لئے اور دوسرے پوہ تہکن نام کے لئے کسی فنڈ کا اعلان کریں [

Shri B. C. Kamble (Kopergaon): Mr. Speaker, Sir, I shall be very brief. I would like to point out this, that upon the coming into force of the Constitution this *Sanad* became void. The reason is this. One of the conditions in the *Sanad* reads like this:

"That the said Prem Pratap Singh and his heirs will be faith-



[Shri B. C. Kamble]

ful and bear true allegiance to His Majesty King George the fifth, his heirs and successors according to law."

Sir, the moment our Constitution came into force every citizen became loyal to the Constitution and not to King George the V or to his heirs or his successors. Because of this very first condition this whole *Sanad* became void by virtue of coming into force of our Constitution. Therefore, the effect would be that the whole property, whatever was vested in the property—the asset—will revert to the Union Government and the whole property will vest in the Union Government. If it is the contention of the Government that the grandson of Raja Mahendra Pratap has inherited anything, my submission is that he has wrongly inherited it because on that particular date with the coming into force of our Constitution the *Sanad* has become void. I submit, therefore, that there will be absolutely nothing wrong in making provision in this Bill for either acquiring property or vesting the property in Raja Mahendra Pratap Singh.

Besides this, I would like to point out, though I am not very sure about it, that there is an article in the Constitution dealing with titles. It is on page 10 of the Constitution—article 18. Sub-clause (4) of article 18 reads like this:

"No person holding any office of profit or trust under the State shall, without the consent of the President, accept any present, emolument, or office of any kind from or under any foreign State."

Assuming, therefore, that this is to be treated as a present or emolument or an office as given by His Majesty King George the fifth or his successor, even then, unless there is the consent given by the President the *Sanad* will not be valid. Therefore, I submit that

this House is quite competent to make necessary provisions for vesting the property in Raja Mahendra Pratap.

Finally, in one sentence I will conclude by saying that this is a very sad spectacle, namely, that the House is unanimous, so to say, or willing to give the necessary benefits to Raja Mahendra Pratap but the House feels helpless. This is not a good spectacle. If we have any intention we can express that intention by making the necessary provisions. As many hon. friends have suggested, we can define "public purpose". We can say: "Notwithstanding anything contained in previous decisions on record or otherwise provided, for the purpose of this Act the term 'public purpose' shall mean so and so". I think we can provide that. That is the only thing, Sir, that I wanted to submit.

**Shri G. B. Pant:** Sir, we are concerned with the legal point, and that I have already explained. So far as other matters go, we have all our sympathies with those who have worked, laboured and suffered for the cause of the country. But so far as this particular case is concerned, the law and the Constitution have to be observed irrespective of our own wishes or desires.

Many have suffered. In fact, in this case, luckily, it is the grandson who is holding the property and Raja Mahendra Pratap is the manager. At least he has some sort of contact at present with the property. But, unfortunately, there have been many cases where properties were confiscated from those people who were beheaded and given to those who had sided with the British Government in the struggle that was carried on for independence from 1857 onwards.

The bigger question was, I think, always before this House. It was even discussed here previously, about political sufferers and certain decisions were taken then. In fact, when

I came here I suggested that we must do something for them—I am not referring to Raja Mahendra Pratap's case or the cases of other people to whom Shri Nath Pai or others may have referred—and I got a special amount reserved for giving some sort of assistance to political sufferers. Recently I also requested the Government; and it has been accepted by the Cabinet that stipends will be given to the sons and grandsons of those who have suffered for the cause of the country in order to enable them to continue their education not only in schools but also in colleges and universities. So, so far as the larger question is concerned we are all agreed. After all, we happen to belong to the same fraternity of political workers who had the privilege of working at one time for a common goal. So we all have a common mind on the subject. But here we have to observe the constitution, we have to respect it, and we cannot allow ourselves to be carried away by our emotion when the Constitution clearly forbids a course of action. We have got the best of advice and we ourselves are satisfied that according to the advice that we have received the step that we have taken is the best and the most that can be taken under the Constitution.

So, Sir, I would submit that the Bill may be accepted as it is.

**Mr. Speaker:** The question is:

"That the Bill to repeal the Mahendra Partab Singh Estates Act, 1923 and to provide for matters incidental thereto, be taken into consideration."

*The motion was adopted.*

**Mr. Speaker:** Is it necessary to pursue any of the amendments? I shall put all the clauses of the Bill together. The question is:

"Clauses 2 and 3 stand part of the Bill."

*The motion was adopted.*

*Clauses 2 and 3 were added to the Bill.*

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

**Shri Datar:** Sir, I beg to move:

"That the Bill be passed."

**Mr. Speaker:** The motion is:

"That the Bill be passed."

श्री ब्रज राज सिंह (फिरोजाबाद) :  
 अर्घ्यक्ष महोदय, यह बिल तो पास होने जा ही रहा है, लेकिन इस सदन में जो भावना व्यक्त की गयी है उस के सम्बन्ध में क्या इस स्टेज पर गृह-मंत्री महोदय से कुछ आश्वासन प्राप्त किया जा सकता है। अगर कानून और विधान के द्वारा हम चाहते हुए भी राजा महेन्द्र प्रताप की सहायता नहीं कर सकते, तो कम से कम उस भावना का आदर करते हुए जिसे गृह-मंत्री महोदय ने व्यक्त किया है उन लोगों के बारे में जिन्होंने देश की आजादी के लिये कुर्बानियाँ की हैं, और इसमें कोई दो मत नहीं हो सकते कि राजा महेन्द्र प्रताप उनमें बहुत ही आगे बढ़े हुए हैं, क्या सरकार कोई ऐसा तरीका निकालेगी कि इन कानूनी दिक्कतों के बावजूद राजा महेन्द्र प्रताप को इस वृद्धोवस्था में कोई सहायता की जा सके। अगर हम ऐसा कर सकें तो हम न केवल इस सदन का मान करेंगे बल्कि सारे देश का मान करेंगे। मैं चाहूँगा कि गृह मंत्री महोदय अन्तिम रूप में इस सुझाव के ऊपर अपने विचार प्रकट कर दें।

15 hrs.

श्री गो० ब० पन्त : मैं यहाँ समझता कि राजा महेन्द्र प्रताप इस को अपना सम्मान समझेंगे कि हम कोई ऐसा व्यवहार उन के साथ करें जो कि उन के समान ऊँचे स्तर के आदमी के साथ हमें करना चाहिये उस के अनुकूल वह न हो।

**Mr. Speaker:** The question is:

"That the Bill be passed."

*The motion was adopted.*