



THE SENATE OF PAKISTAN DEBATES

OFFICIAL REPORT

Thursday, August 15, 1974

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SENATE DEBATES

SENATE OF PAKISTAN

Thursday, August 15, 1974

The Senate of Pakistan met in the Senate Chamber, (State Bank Building), Islamabad, at ten of the clock in the Morning, Presiding Officer (Mr. Qamaruz Zaman Shah) in the Chair.

(Recitation from the Holy Quran).

Mr. Presiding Officer : Now we take up questions.

POINT OF ORDER

جناب زمرہ حسین : ہوائنٹ آف آرڈر - جناب والا ! میری گزارش یہ ہے کہ مجھے Order of the day نہیں مل رہا ہے - کیا میں یہ سمجھوں کہ مجھے اس معزز ایوان کی کارروائی میں شریک ہونے سے محروم کرنے کی کوشش کی جا رہی ہے -

جناب صدارت کنندہ آفیسر : قطعاً نہیں - آپکو Order of the Day پہنچنا چاہئے اور وقت پر پہنچنا چاہئے اور یہ آپکو ضرور پہنچیں گے -

STARRED QUESTIONS AND ANSWERS

Mr. Presiding Officer : Question No. 84.

Khawaja Mohammad Safdar : Question No. 84, Sir.

Ch. Mohammad Hanif Khan : Mr. Chairman, as the Minister Incharge is not here so it was for me to prepare these three questions. If the Honourable Senator insists on supplementaries then I would request that these three questions may be deferred.

Khawaja Mohammad Safdar : I would not ask supplementaries, if you like.

Ch. Mohammad Hanif Khan : Sir, if the Honourable Senator insists I can give answers to supplementaries, they are very simple questions. I have got the material and I can read it out.

Khawaja Mohammad Safdar : I will not ask supplementaries.

CURRENCY THEFTS

84. *Khawaja Mohammad Safdar : Will the Minister for Finance, Planning and Development be pleased to state :

(a) the number of currency thefts in the Pakistan Security Printing Corporation premises reported since 1st January, 1973 ;

(b) the number of cases of shortage of currency notes in the consignments reported by the State Bank of Pakistan since 1st January, 1973 ; and

(c) the action taken by the Corporation to bring the culprits to book, and to prevent further thefts as well as pilferage ?

Mr. Rafi Raza (Read by Ch. Mohammad Hanif Khan) : (a) Seven cases of theft/shortages were detected in the Pakistan Security Printing Corporation premises since 1st January, 1973.

(b) Three cases of shortages of consignments were reported by the State Bank of Pakistan, since 1st January, 1973.

(c) Two cases were reported to the Police. A number of steps were taken to tighten the scrutiny and security procedure to prevent such incidents.

Mr. Presiding Officer : Question No. 85.

PAKISTAN SECURITY PRINTING CORPORATION PROFITS

85. *Khawaja Mohammad Safdar : Will the Minister for Finance, Planning and Development be pleased to state the net profits of the Pakistan Security Printing Corporation in the years 1972-73 and 1973-74 respectively ?

Mr. Rafi Raza (Read by Ch. Mohammad Hanif Khan) : The net profit of the Pakistan Security Printing Corporation for the year 1972-73 was of the order of Rs. 11.82 lacs. The profit for 1973-74 has not yet been determined as the accounts are still under preparation.

Mr. Presiding Officer : Question No. 86.

BRAWL CASES IN PAKISTAN SECURITY PRINTING CORPORATION

86. *Khawaja Mohammad Safdar : Will the Minister for Finance, Planning and Development be pleased to state :

(a) the number of incidents of brawl, clash and lawlessness reported by the Watch and Ward Staff of the Pakistan Security Printing Corporation since January, 1973 ;

*Speech not corrected by the Honourable Member.

(b) the action taken by the Corporation on each of the reports mentioned in (a) above ; and

(c) the steps taken by the Corporation to prevent or minimise such incidents ?

Mr. Rafi Raza (Read by Ch. Mohammad Hanif Khan) : (a) Two cases of brawl were reported since January, 1973.

(b) In one case, the two workers involved were charge-sheeted. No action was taken in the other case as it occurred outside the factory premises after closing hours.

(c) It is the constant effort of the management that such incidents do not take place.

LEAVE OF ABSENCE

Mr. Presiding Officer : There is an application for leave.

A telegram from Mr. Mehran Khan was received.

"GRANDMOTHER IS ON DEATH BED KINDLY GRANT SEVEN DAYS LEAVE"

(Leave was granted)

Mr. Presiding Officer : Now, we take up adjournment motion. Adjournment Motion No. 27 by Mohammad Hashim Ghilzai.

ADJOURNMENT MOTION *Re* : ORDER SERVICE ON EDITOR AND PUBLISHER OF DAILY 'SACHAI, TO LEAVE BALUCHISTAN WITHIN TWENTY FOUR HOURS

Mr. Mohammad Hashim Ghilzai : Sir, I beg leave of the House to move a motion for adjournment of the business of the House to discuss a definite matter of urgent public importance and of recent occurrence, namely, the order served on editor and publisher of the daily 'SACHAI' of Quetta to leave the province of Baluchistan within 24 hours. This order is complete negation of the fundamental right of a citizen as ensured by the Constitution of Pakistan and, therefore, should be discussed in the House.

Mr. Abdul Qaiyum Khan : Mr. Chairman for the most obvious and most convincing reasons the order is not of the Federal Government, therefore, this is not the forum for agitating this question. This is the order of the Provincial Government. If it is against the fundamental rights then it is a matter for the adjudication of the court. Fundamental rights have now been restored to the citizens of Pakistan. So this is not the forum to adjudicate the fundamental rights, the forum is the High Court and the Supreme Court. First objection is that this is not order of the Federal Government and this is not the place to agitate.

Mr. Presiding Officer : Ghilzai Sahib, you don't press it.

Mr. Mohammad Hashim Ghilzai : Yes, I don't press it.

Mr. Presiding Officer : Motion is not pressed. Now we take up adjournment motion No. 28. Yes, Ghilzai Sahib.

**ADJOURNMENT MOTION *Re* : FORFEITURE OF BI-WEEKLY
'HIMMAT' OF QUETTA**

Mr. Mohammad Hashim Ghilzai : Sir, I beg leave of the House to move a motion for the adjournment of the business of the House to discuss a definite matter of urgent public importance and of recent occurrence, namely, the forfeiture and confiscation of the copies of the Bi-Weekly HIMMAT of Quetta and consequent arrest of its Editor, Publisher and even Katib. This action is in contravention of the constitutional freedom of press and have been causing great annoyance in the province of Baluchistan and, therefore, immediately should be discussed in the Senate.

Mr. Abdul Qaiyum Khan : Sir, this is also based on the same reason which I had very respectfully advanced in the case of the first adjournment motion. This is not the forum to agitate it and the Prime Minister had yesterday announced that the fundamental rights have been restored. So every citizen has a right to go to the High Court to challenge the validity of these orders.

Mr. Presiding Officer : Is it not pressed.

Mr. Mohammad Hashim Ghilzai : Yes.

Mr. Presiding Officer : No, we take up adjournment motion No. 29 by Haji Sayed Hussain shah. Yes, Haji Sahib.

**ADJOURNMENT MOTION *Re* : FAILURE OF GOVERNMENT
TO STOP SALE AND EXPORT OF HASHISH AND OTHER
CONTRABAND DRUGS FROM PAKISTAN**

Haji Sayed Hussain Shah : Sir, I beg leave of the House to move a motion for the adjournment of the business of the House to discuss a definite matter of urgent public importance and of recent occurrence, namely, the failure of the Pakistan Government to check sale and stop export of Hashish and other contraband drugs from Pakistan. As reported by the daily Nawa-e-waqt, Rawalpindi in its issue dated the 11th August, 1974, British Customs seized two and a half tons of cannabis packed in two crates, brought aboard a Pakistani ship. The drug was worth three million pounds Sterling, which in Pakistani currency it is worth more than six crore rupees. It is also reported in the same newspaper that the suspicious crates were fraudulently addressed to the Embassy of the United Arab Emirates and on the request of the Embassy the aforesaid crates were opened up by the British Customs Authorities. Failure of the

Pakistan Government to stop export of cannabis, which is destroying the prestige of Pakistan abroad, has caused great disappointment and concern to the public of Pakistan.

Rao Abdus Sattar : Sir, I oppose this adjournment motion on the following grounds:—

First of all Rule 71 (a) says :

“It shall raise an issue of urgent public importance;”

Secondly, that is not a matter of recent occurrence. The news item mentions that cannabis was carried by a British ship whereas the adjournment motion mentioned that it was carried by a Pakistani ship. Besides the matter is neither of urgent public importance nor of recent occurrence as hundred of items are smuggled throughout the world. The news item, therefore, cannot form the basis of adjournment motion.

Thirdly it contravenes Rule 71 (j) which says :

71 (j) “It shall not deal with a hypothetical case”

Sir, there are so many issues raised in the same adjournment motion, so I oppose it strongly.

Mr. Presiding Officer : Haji Sahib, firstly it has been indicated that news item says that it is not a Pakistani ship. Please verify that fact. It says it is the British ship. Secondly, you have said two things, firstly that the Government has failed to check sale of contraband HASHISH and secondly about the smuggling. Leader of the House has opposed this and said that it is not correct that it was a Pakistani ship.

حاجی سید حسین شاہ : جناب والا ! دو اخباروں میں یہ خبر شائع ہوئی ہے
ایک نوائے وقت میں اور - - - -

جناب صدارت کنندہ : آپ نے تو نوائے وقت کا حوالہ دیا ہے -

حاجی سید حسین شاہ : ایک نوائے وقت ہے اور دوسرا New Pakistan Times
ہے - اور نیو پاکستان ٹائمز میں واضح الفاظ میں یہ تحریر ہے کہ یہ شپ - - - -

جناب صدارت کنندہ آفیسر : دیکھئیے - میں آپ سے مؤدبانہ عرض کروں کہ
سوال یہ پیدا ہوتا ہے کہ دو اخباروں میں Contradictory News ہوتی ہے تو اس
کا مطلب یہ ہے کہ news ہی صحیح نہیں ہے کیونکہ پہلی چیز تو یہ ہے کہ fact
تو ہونا چاہیے -

Now, you have yourself mentioned Nawa-e-Waqt Rawalpindi, where-
in it was stated that it was a British Ship. If it sailed from Karachi port

British port was not its port of stoppage. It might have stopped at a number of other ports and it may have loaded the thing from any other port. Therefore, I think, on facts this motion is not in order.

حاجی سید حسین شاہ : آپ کو اختیار ہے جناب ! مگر حقیقت یہ ہے کہ اس مسئلے میں - - -

جناب صدارت کنندہ آفیسر : آپ نے خود فرمایا ہے کہ - - -

حاجی سید حسین شاہ : اس پر ہمارے ملک کے وقار کا دار و مدار ہے ۔
جناب صدارت کنندہ آفیسر : لیکن کوئی بھی چیز درست ہوتی - کوئی بھی چیز authentic ہوتی تو پھر تو ٹھیک تھا - لیکن خود آپ نے جس اخبار کا حوالہ دیا ہے - وہ کہتا ہے کہ وہ برٹش شپ تھا - تو اب ایک چیز برٹش شپ سے ملی ہے اور وہ کئی پورٹوں سے آیا اور کئی ports پر stop کر کے اس کے بعد کہیں جا کر وہ British port پر پہنچا -

حاجی سید حسین شاہ : جناب والا ! یہ نیو پاکستان ٹائم میں ہے - اور یہ مقبوضہ پریس کا ایک اخبار ہے اور یہ بھی بقول خان صاحب کے Peoples Party کا gospel ہے - اس میں یہ تحریر ہے کہ یہ برٹش شپ پر وہاں لے جایا گیا ہے -

Mr. Presiding Officer : Your motion is based on Nawa-e-Waqt, therefore, I rule it out of order.

Haji Syed Hussain Shah : You have the power to do so, Sir.

Mr. Presiding Officer : Next adjournment motion. That is about the Pakistan Railways and is to be moved by Haji Syed Hussain Shah Sahib.

ADJOURNMENT MOTION *Re* : FAILURE OF PAKISTAN RAILWAYS TO PREVENT ACCIDENTS

Haji Syed Hussain Shah : Sir, I beg leave of the House to move a motion for the adjournment of the business of the Senate to discuss a definite matter of urgent public importance and of recent occurrence, namely, the failure of the Pakistan Railways to prevent accidents in which passenger and goods trains are involved. As reported by the Daily Dawn in its issue dated the 11th August, 1974, one person was killed and three others were seriously injured when 248 down passenger train collided with a truck which was crossing an unmanned level crossing somewhere between Sialkot and Ugoke on Sialkot Wazirabad Section. Failure of the Railways to prevent railway accidents, which have become a daily practice in Pakistan, have caused great concern and resentment in the public all over the country."

Rao Abdus Sattar : Sir, I oppose the motion but I would request that as the Minister concerned is not here it will be better if this adjournment motion is deferred for another day.

Mr. Presiding Officer : O. K. I defer it. Haji Sahib ?

Haji Syed Hussain Shah : I don't mind, Sir.

Mr. Presiding Officer : Next motion No. 31 by Khawaja Mohammad Safdar.

ADJOURNMENT MOTION *Re* : COTTON TRADE IN
QUANDARY

Khawaja Mohammad Safdar : Sir, I beg leave of the House to move a motion for the adjournment of the business of the Senate to discuss a definite matter of urgent public importance and of recent occurrence, namely, according to Pakistan Times of 13th August, 1974 whole cotton trade has been thrown into quandary and consequent to the above situation, picking operations have been deferred in Mirpurkhas resulting in loss to the grower, ginner, spinner and weaver, depriving the state of its revenues and the country of its foreign exchange.

Ch. Mohammad Hanif Khan : Sir, I would like to make submission. I have just received intimation from the Ministry of Commerce that they have received the notice this morning, and I would request that it should be put off, so that they are in a position to examine this adjournment motion and frame a reply.

Khawaja Mohammad Safdar : This is a very important matter. The whole country is being turned into I don't know what is it being turn into—but I must say that the growers are suffering a lot. There is a lot of unrest amongst the cotton growers and the businessman as a result. I must say that we must take it up now.

Ch. Mohammad Hanif Khan : Sir, I have made a submission which is very clear that the notice was received by the Ministry of Commerce this morning.

Mr. Presiding Officer : Khawaja Sahib, it will be better if we postpone it.

Now we take the legislative business. Ch. Mohammad Hanif to move item No. 3.

THE WEST PAKISTAN INDUSTRIAL AND COMMERCIAL
EMPLOYMENT (STANDING ORDERS) (AMENDMENT)
BILL, 1974

Ch. Mohammad Hanif Khan : Sir, I move the motion :

“That the Bill further to amend the West Pakistan Industrial and Commercial Employment (Standing Orders) Ordinance, 1968. [The West Pakistan Industrial and Commercial Employment (Standing Orders) (Amendment) Bill, 1974], as reported by the Standing Committee, be taken into consideration at once.”

Mr. Presiding Officer : The motion before the House is :

“That the Bill further to amend the West Pakistan Industrial and Commercial Employment (Standing Orders) Ordinance, 1968. [The West Pakistan Industrial and Commercial Employment (Standing Orders) (Amendment) Bill, 1974], as reported by the Standing Committee, be taken into consideration at once.”

Khawaja Mohammad Safdar : Opposed Sir.

خواجہ محمد صفدر : جناب چیئر مین ! میں ابتدا ہی میں عرض کر دوں کہ اس بل کی غرض و غایت سے مجھے مکمل اتفاق ہے اس وقت تک West Pakistan Industrial and Commercial Standing Orders, Ordinance میں کچھ نقائص تھے اور شائد ابھی اور بھی ہیں۔ ان میں سے ایک کو یہاں رفع کرنے کی کوشش کی گئی ہے ان میں سے ایک تو یہ ہے کہ اگر کوئی کارخانہ دار اپنے مزدوروں کو اور شرط یہ ہے کہ وہ مزدور مستقل ملازم ہوں۔ ان کو اگر insure نہیں کراتا۔

Ch. Mohammad Hanif Khan : Khawaja Sahib, let me make a submission. When the Bill is opposed, it is my duty to explain.

Mr. Presiding Officer : They may not agree with you.

***Ch. Mohammad Hanif Khan :** There are two things. One is that the Ordinance provides for an undertaking that where 50 or more workers are employed, it is duty bound under the law to have all the workers duly insured against all sorts of risks. These new reforms are being introduced by the present Government because initially compensation was paid only to those workers who received injury or suffered death etc. while on duty. But this is a general sort of insurance so that it covers a workman even if he may have received injury or met death when he was off duty. But in certain cases it was noted that the employers were not complying with the provisions of the law although this was a punishable offence. So, by this Bill it is sought that where the employer does not get his workmen insured under the law then he will be compulsorily liable to pay the compensation in case the workman receives an injury or suffers death.

The second one is a small amendment about the seasonal factories, which is that it will enable the employer of the seasonal factories to require that the workmen retrenched in one season to report for duty ten days ahead of the start of the factory in the following season, and the workmen in that case will be entitled to get wages for those ten days not exactly for ten days but the wages for the days which he will be offering himself to be prepared to get on duty. If he comes nine days before then he will get nine days wages, and if he comes eight days before the start of the season, then he will get eight days wages and so

***Speech not corrected by the Honourable Member.**

on and so forth. So ten days will be given to the workmen. The result will be that the factory will start functioning at the right time. Previously, the position was that it could have delayed because the workmen were allowed to report for duty within ten days of the start of the work. But that would have delayed the functioning of the factory and now it is provided that the employer will be in a position to give the notice to the workmen and they come on duty ten days ahead of the start of the work and they will be entitled to get wages for that period. So these are two simple amendments.

Mr. Presiding Officer : The question before the House is :

“That the Bill further to amend the West Pakistan Industrial and Commercial Employment (Standing Orders) Ordinance, 1968. [The West Pakistan Industrial and Commercial Employment (Standing Orders) (Amendment) Bill, 1974], as reported by the Standing Committee, be taken into consideration at once”.

(The motion was adopted)

Mr. Presiding Officer : There is an amendment to Clause 2 also. Mr. Shahzad Gul is not in the House. So, should we go over? Yes, there is no amendment.

The question before the House is :

“That Clause 2 of the Bill should form part of the Bill”.

(The motion was adopted)

Mr. Presiding Officer : Clause 2 forms part of the Bill.

Clause 3 has an amendment.

Ch. Mohammad Hanif Khan : Sir, amendments No. 1, 2, 3, 4 and 5 can be disposed of all at once. Because the Honourable Member is not here it can be said that amendments are not moved. Then of course.....

Khawaja Mohammad Safdar : Sir, No. 6 is in my name. Should I move it?

Ch. Mohammad Hanif Khan : First, it will have to be brought on the record that because the Honourable Member is not here, therefore...

Mr. Presiding Officer : Amendments 1, 2, 3, 4 and 5 are not pressed because the Honourable is not here.

Amendment No. 6., Khawaja Sahib.

Khawaja Mohammad Safdar : Sir, I beg to move :

“That in paragraph (b) of clause 3 of the Bill, in the proposed new proviso, after the word “factory” occurring in the fifth line, the words “in the next season” be inserted”.

Mr. Presiding Officer : The amendment moved is :

“That in paragraph (b) of clause 3 of the Bill, in the proposed new proviso, after the word “factory” occurring in the fifth line, the words “in the next season” be inserted.”

Ch. Mohammad Hanif Khan : Sir, I will explain it. Probably it is not necessary otherwise I would have accepted it. It is not necessary because it is second proviso to Section 14 which clearly says :

“Provided that in the case of a seasonal factory within the meaning of section 4 of the Factories Act, 1934 (XXV of 1934), a workman who was retrenched in one season and reports for duty within ten days of the resumption of work in the factory in the immediately following season shall be given preference for employment by the employer.

So it is covered in that first proviso.

Khawaja Mohammad Safdar : I don't think it is covered.

Ch. Mohammad Hanif Khan : Immediately following the season.

خواجہ محمد صفدر : نہیں ، نہیں ، یہ درست ہے کہ پہلی proviso میں یہ امر درج ہے مگر دوسری proviso میں نہیں شامل کرینگے تو اس کا مطلب اور لیا جانے کا اس لئے دوسری proviso میں یہ الفاظ آپ کو شامل کرنے پڑینگے ۔

Ch. Mohammad Hanif Khan : Actually provided further that in the case of such seasonal factories.

Khawaja Mohammad Safdar : The words in clause 1 of proviso 1 do not qualify proviso 2.

Ch. Mohammad Hanif Khan : I will read the whole section.

“Where any number of workmen are retrenched and the employer proposes to take into his employ any person within a period of one year from the date of such retrenchment, he shall give an opportunity to the retrenched workmen belonging to the category concerned by sending a notice by registered post to their last known addresses to offer themselves for re-employment, and they shall have preference over other persons, each having”
Sorry, sorry.

“Provided that in the case of a seasonal factory within the meaning of section 4 of the Factories Act, 1934 (XXV of 1934), a workman who was retrenched in one

season and reports for duty within ten days of the resumption of work in the factory in the immediately following season shall be given preference for employment by the employers”.

Now I read second proviso.

“Provided further that, in the case of such a seasonal factory, the employer may by sending notice by registered post to the last known address of a workman who was retrenched in one season require him to report on a day specified in the notice, not being earlier than ten days before resumption of work in such factory, and if such workman so reports he shall be given.....”

The word “such” is used.

Khawaja Mohammad Safdar : The word “such” qualifies the factory.

Ch. Mohammad Hanif Khan : No, such workman and such factory. If such workman so reports he shall be given preference. I think it is covered.

Khawaja Mohammad Safdar : Not opposed, Sir. I beg leave of the House to withdraw it.

Mr. Presiding Officer : Does Khawaja Mohammad Safdar have the leave of the House to withdraw ?

(Leave was granted)

Khawaja Mohammad Safdar : Sir, there is a new clause.

Mr. Presiding Officer : Let us put clause 3 first.

The question before the House is :

“That Clause 3 forms part of the Bill.”

(The motion was adopted)

Mr. Presiding Officer : Clause 3 forms part of the Bill.

Khawaja Mohammad Safdar : New Clause, Sir. Sir, I beg to move :

“That after clause 2 of the Bill, the following new clause be added, namely :—

“2A. *Amendment of Section 2, Ordinance No. VI of 1968.*—
In the said Ordinance, para. (e) of section 2 be substituted by the following namely :—

(e) “Government” means the Government of the respective Province.

Mr. Presiding Officer : The amendment moved is :

“That in said Ordinance para (e) of section 2 be substituted by the following, namely :—

(e) “Government” means the government of the respective Province”.

خواجہ محمد سفدر : میں درخواست کرونگا کہ آپ اصل آرڈیننس کا مطالعہ فرمائیں اس میں لفظ ’گورنمنٹ‘ کی تعریف کی گئی ہے اور اس سے مراد یہ لی گئی ہے مغربی پاکستان اب اس ملک میں ویسٹ پاکستان کسی علاقہ کا نام نہیں ہے۔ اس لئے اس کو ہم نے تبدیل کرنا ہے۔

Ch. Mohammad Hanif Khan : Actually, this is not the only law where the word “West Pakistan” has been used. Whatever the word “West Pakistan” has been used, it means the provincial law because when these Ordinances were made there were two Provinces—West Pakistan and East Pakistan. After the dissolution of One Unit such Ordinance which were captioned as “West Pakistan” they were considered to be provincial laws.

Khawaja Mohammad Safdar : There are no such laws as East and West Pakistan laws.

Ch. Mohammad Hanif Khan : I have already said that these laws were made when there were two Provinces, namely, East Pakistan and West Pakistan.

(Interruptions)

Ch. Mohammad Hanif Khan : The question is that if your view is accepted that will change the whole shape of things. There is not one law but there are hundreds of laws where the word “West Pakistan” is used. Where the word “West Pakistan” is used, it is assumed that it is a provincial subject.

Khawaja Mohammad Safdar : It can't be assumed.

Ch. Mohammad Hanif Khan : The Provinces can adopt these laws.

Mr. Presiding Officer : Don't you think it is high time that we brought in some Bill saying that wherever the word “West Pakistan” has been.....

(Interruption)

Ch. Mohammad Hanif Khan : I will have it examined because I don't know what will be the actual position. If we amend it in the manner Khawaja Sahib has suggested the whole law will become ridiculous. It was suggested in the National Assembly that we should change the word “West Pakistan” with “Federal Government”.

Khawaja Mohammad Safdar : That is wrong because it is a Provincial subject.

Ch. Mohammad Hanif Khan : That would make the whole law very ridiculous. It would say "Governor of West Pakistan".

Mr. Presiding Officer : But even the "Governor of West Pakistan" would not sound good.

Ch. Mohammad Hanif Khan : So, it will have to be examined whether it does fit in and if it does then I have no objection provided it makes good reading and it does not change the sense.

Mr. Presiding Officer : Do you want some time ?

Ch. Mohammad Hanif Khan : I will check up just now.

Mr. Khurshid Hasan Meer : First of all I owe an apology to you. I was sitting upstairs in my office and I was waiting for the question Hour to be over and to come down but I could not coincide. I think, the Honourable Minister dealing with this Bill needs some time to consult the Law Division on the matter which has been raised by the learned senator. If in the meantime, with your permission and the permission of the House, we could go back to the adjournment motions, I think, that will give time to the Minister to look into this matter.

Ch. Mohammad Hanif Khan : I would like to submit with your permission that the word "West Pakistan" has been used in so many places in the Ordinance that it will make the whole thing ridiculous if we change it. The word "West Pakistan" can't be done away with for the simple reason that.....

Mr. Presiding Officer : If you think that this amendment is necessary then why don't you bring in a clause saying that wherever the word "West Pakistan" occurs.....

Ch. Mohammad Hanif Khan : It is never necessary because ultimately when the provinces want to make laws in this respect they can always adopt these laws and say that it is a provincial law. For example, "Government", means the Government of the respective Province. Now, actually we want to do away with these laws of West Pakistan. The word "Government" means the Government of the respective Province here. There we have used "... to amend and consolidate the law relating to industrial and commercial employment in the Province of West Pakistan". It will remain as it is because the word "Government" was not used here. Further, "...whereas the Provincial Assembly of West Pakistan is not in session and the Governor of West Pakistan.....

Khawaja Mohammad Safdar : You can bring in a verbal amendment.

Ch. Mohammad Hanif Khan : Even then your purpose will not be solved. You want that the word "Government" should be defined but you cannot change the word "West Pakistan". It has been examined by the Law Division and they say that it will remain as it is.

Mr. Presiding Officer : You mean that wherever the word "West Pakistan" is used, the provinces have always taken it to be the "Provincial Government" and not the "Federal Government".

Ch. Mohammad Hanif Khan : Yes, they have been adopted by the respective Provinces wherever the word "West Pakistan" has been used.

Mr. Presiding Officer: Should be take up adjournment motions?

Ch. Mohammad Hanif : Sir, it has been mentioned that the terminology is different at different places. It shall have to be seen whether the change of these two words "West Pakistan" would actually fulfil the object or not.

Mr. Presiding Officer: This amendment won't be sufficient.

Ch. Mohammad Hanif Khan : It is like this, "to amend and consolidate the law relating to industrial and commercial employment in the Province of West Pakistan". Now, we can't change it because we can't say "Province of Pakistan" or the "Province of the respective Province".

Khawaja Mohammad Safdar : Of course, that is not sufficient.

Mr. Presiding Officer : He agrees that this amendment is not sufficient.

Khawaja Mohammad Safdar : But you can move an oral amendment and make this Ordinance up-to-date.

Ch. Mohammad Hanif Khan : It would not make any difference. It will remain up-to-date because there are [so many laws—West Pakistan laws—which are up-to-date.

Khawaja Mohammad Safdar : I was consulting the Dissolution of West Pakistan Order by the last President and I did not find any provision there for the adoption of laws. Therefore, I think, it is high time that we should issue an order and make an amendment. Only one enactment, is enough to change all these words in all the laws which, at present, we are using. Only one enactment, only one amendment, only one Bill is enough for this purpose but my friends are not giving their proper attention to it.

Mr. Presiding Officer : Won't it be covered by Article 268 of the Constitution ?

Khawaja Mohammad Safdar : No, Sir, it is not covered by Article 268.

Ch. Mohammad Hanif Khan : Thousands of enactments have actually been passed.....

خواجہ محمد صفدر : آرٹیکل 268 (Adoptation of laws) کے متعلق ہے ۔
صوبہ جات ایسا کر سکتے ہیں مگر جب ہم ایک قانون میں ترمیم کر رہے ہیں تو
اس قانون میں دوسری ضروری ترامیم کیوں نہ کر لی جائیں ۔

Ch. Mohammad Hanif Khan : That is through a different law.

Mr. Presiding Officer : I know. Wherever there is a West Pakistan Act or a West Pakistan Ordinance, the Provinces can always adopt it as a provincial enactment for their own purpose.

Ch. Mohammad Hanif Khan : It is their responsibility.

Khawaja Mohammad Safdar : If you think it is sufficient, then it is all right.

Mr. Presiding Officer : I think that is sufficient.

The question is :

“That after clause 2, of the Bill, the following new clause be added, namely:—

“2A. Amendment of Section 2, Ordinance No. VI of 1968.—

In the said Ordinance, para (e) of Section 2 be substituted by the following namely :—

(e) “Government” means the Government of the respective Province”

(*The motion was negatived*)

Mr. Presiding Officer : The question is :

“That clause 1, Short Title, Preamble, Extent & Commencement from part of the Bill.”

(*The motion was adopted*)

Ch. Mohammad Hanif Khan : Sir, I beg to move :

“That the Bill further to amend the West Pakistan Industrial and Commercial Employment (Standing Orders) Ordinance, 1968. [The West Pakistan Industrial and Commercial Employment (Standing Orders) (Amendment) Bills, 1974], be passed”.

Mr. Presiding Officer : The question before the House is :

That the Bill further to amend the West Pakistan Industrial and Commercial Employment (Standing Orders) Ordinance 1968 [The West Pakistan Industrial and Commercial Employment (Standing Orders) (Amendment) Bill, 1974], be passed."

Mr. Mohammad Hashim Ghilzai : Opposed.

جناب والا ! میں اس کی مخالفت کرتا ہوں ۔ اس میں ایک غلطی جو کہ اکثر قوانین میں چلی آ رہی ہے ۔ اس کی اصلاح نہیں کی گئی ۔ ویسٹ پاکستان کا لفظ اس میں زائد ہے ۔ اگر اس لفظ کو ایسے ہی رہنے دیا گیا تو پھر صوبوں کو از سر نو قوانین میں ترمیم کرنی پڑے گی یہ صوبائی subject ہے ۔ ۔ ۔ ۔

Why to make so many laws. Why not amend this in a proper way so that every province may be in a position to adopt. Now in this case every province will be compelled.....

Mr. Presiding Officer : But that will not be an impediment in their way.

Ch. Mohammad Hanif Khan : Sir, the word 'Government' used it means the Government of the Province. It cannot be Federal Government because at that time when this Bill was passed the West Pakistan was Province, so it is a misunderstanding. Here Government means the Government of the province. It is interpreted very much clear.

Khawaja Mohammad Safdar : Sir, I beg to interfere.

اگر یہی بات ان کی سمجھ میں آ جاتی تو پھر پہلی ترمیم اس بل میں شامل نہیں ہونی چاہیئے تھی کہ لفظ "سنٹرل" کی بجائے "فیڈرل" پڑھا جائے ۔ ۔ ۔ ۔

Ch. Mohammad Hanif Khan : There is no word 'Federal'. We are not using the word federal anywhere. Not at all. It is the amendment which was moved by Honourable Member of the Opposition in the National Assembly and not moved by the Honourable Senator here. So, I want to explain that if we use this word.....

خواجہ محمد صفدر : جناب والا ! کلاز ۲ کو دیکھیں ۔

Mr. Presiding Officer : Perhaps you remember Khawaja Sahib on the last occasion you yourself had said wherever the word Central occurs it should be Federal.

Mr. Khurshid Hasan Meer : Sir, I think the parallel is not correct. The point is, all the laws which mention the Central Government have not ceased to operate by the mere fact that instead of the Central Government we have now Federal Government. They continue to operate

but whenever an act is coming up we prefer the word amended. Now, if that the parallel was the same then it should have been done in the other case also, but is not the same. In all these laws which we have framed during the days when there was One Unit (West Pakistan), they have not ceased to operate in all the four Provinces. They continued to operate. One difference.....

Khawaja Mohammad Safdar : The same thing.

Mr. Khurshid Hasan Meer : Here the original name of the act is there. That is all. It is purely a provincial subject, so all those laws when they come up before a Provincial Legislature or the Provincial Government wants to adapt them then they will change it.

Mr. Mohammad Hashim Ghilzai : Make it more clear. There is no harm.

Mr. Presiding Officer : The question before the House is :

“That the Bill further to amend the West Pakistan Industrial and Commercial Employment (Standing Orders) Ordinance, 1968. [The West Pakistan Industrial and Commercial Employment (Standing Orders) (Amendment) Bill, 1974] be passed.”

(The motion was adopted)

Ch. Mohammad Hanif Khan : Sir, I beg to move.....

Mr. Khurshid Hasan Meer : Sir, I would like to make a request regarding the adjournment Motion No. 30, if the Chair wants to defer it until the end or whichever the way suits the House and the Chair, I will come back after the legislative business.

Mr. Presiding Officer : I think let us ask the House for leave.

Should we take up adjournment motion now.

(The leave was granted)

Ch. Mohammad Hanif Khan : Sir, just to remove that doubt, I have received the Province of West Pakistan Dissolution Order, 1970, because that would allay the misapprehension :

“Continuation and Adaptation of Existing Laws.

19. (1) Except as expressly provided by or under this Order all existing laws shall continue in force, so far as applicable and with the necessary adaptations. until altered, repealed or amended by the appropriate legislature or other competent authority.

- (2) For the purpose of bringing the provisions of any existing law into accord with the provisions of this Order, in relation to laws in the Central legislative field, the President, and in relation to other laws, the Governor of the Province concerned may, by order, make such adaptations, whether by way or modification, addition or omission, as he may deem necessary or expedient, and any order so made shall, unless otherwise provided therein, take effect or be deemed to have taken effect on the appointed day.
- (3) Any Court, tribunal or authority required or empowered to enforce an existing law shall, notwithstanding that no actual adaptations have been made in such law by an order made under Clause (2), construe the law with all such adaptations as are necessary to bring it into accord with the provisions of this Order”.

خواجہ محمد صفدر : میں نے بھی یہی عرض کیا ہے - جو آپ نے فرمایا ہے -
لیکن بات یہ ہے - کہ جب ایک ترمیم کر رہے ہیں تو پھر دوسری ترمیم جو ضروری
بھی ہے اور ہم کر بھی سکتے ہیں ، اسے کیوں نہ کر لیں - - -

Mr. Presiding Officer : Now, we take up adjournment Motion No. 30. Yes, Haji Sahib.

ADJOURNMENT MOTION *Re* : FAILURE OF PAKISTAN RAILWAYS TO PREVENT ACCIDENTS

Haji Syed Hussain Shah : Sir, I beg leave of the House to move a motion for the adjournment of the business of the Senate to discuss a definite matter of urgent public importance and of recent occurrence, namely, the failure of the Pakistan Railways to prevent accidents in which passenger and goods trains are involved. As reported by the Daily Dawn in its issue dated the 11th August, 1974, one person was killed and three others were seriously injured when 248 down passenger train collided with a truck which was crossing an unmanned level crossing some where between Sialkot and Ugoke on Sialkot Wazirabad Section. Failure of the Railways to prevent railway accidents, which have become a daily practice in Pakistan, have caused great concern and resentment in the public all over the country.

Mr. Khurshid Hasan Meer* : Sir, first of all this adjournment motion suffers from the defect that whereas on the one hand it mention a specific incident which can be a subject-matter of adjournment motion on the other hand it combines red incident with the general statement and therefore, it suffers from that defect. I would nevertheless not say or like to make a specific statement. As regards the general state, I would say there have been some incidents no doubt, but to say that has become daily occurrence is not correct. It is factually incorrect, and

*Speech not corrected by the Honourable Minister.

then whereas every attempt is made and our effort is that there should be no accident at all. Nevertheless, accidents occur on the roads, unfortunately some times in the air and also on the railways all over the world and the incident of accidents on the Pakistan Railways has by no means such that such a statement should be warranted.

[At this stage the chair was vacated by Mr. Presiding Officer and occupied by Mr. Chairman].

Mr. Khurshid Hasan Meer : As I said earlier, I would repeat it that it is not with a sense of complacence that I am making this statement that every time instructions are issued to the Railways to make sure that there is no accident, to do everything to prevent accidents and whenever an accident unfortunately occurred an Inquiry is made into it and those of the Railway Department found to have been guilty of a lapse or negligence, severe action is taken against them and I assure the country that no one found negligent or guilty would escape. With regard to this particular accident I state that it was an unmanned crossing. On an unmanned crossing what the Railway can do? It is like this. On the roads for instance there are various crossings. We have traffic lights in major cities. On others we have traffic constables. But there are hundreds of thousands crossings which are neither manned by traffic constables nor are they equipped with traffic lights. So what happens on those crossings? There is a general rule that a vehicle coming from a branch road and getting on to the main road has to take precaution and to see that there is no vehicle on the main road. That is the duty of the driver of the vehicle coming from the branch road. Similarly, on an unmanned crossing of the Railways, it is for the person crossing that unmanned crossing to see if a train or an engine is coming and to wait until that has passed. The speed of the engine is not such that it can be stopped at once. This is what happened in this case also. The driver of the railway engine or the Railways is in no way responsible for this accident. What happened was this Sir :

On August at 11-30 hours one road truck No. ST 4417 loaded with earth in an attempt to cross unmanned level crossing C-35 situated at mile 44/18-19 between Sialkot and Ugoke Station collided with the train engine of 248 down passenger train. As a result of this accident, one occupant of the road truck died on the spot and three occupants were injured. Rear portion of the truck was damaged. The dead body was handed over to the police. After being rendered first aid by the Guard Incharge of 248 down, the injured were sent to the Civil Hospital. Out of the three two were discharged from the Hospital after being given medical treatment. Railway doctor Sialkot and Assistant Transportation Officer, Pakistan Railways visited the hospital to enquire about the welfare of the injured persons. There was no damage or injury to the Railway passengers.

Sir, it is unfortunate but on an unmanned level crossing, I must submit the Railways can in no way be held responsible.

حاجی سید حسین شاہ : جناب چیئرمین میں آپ کی وساطت سے میں اس معزز ایوان کے معزز اراکین کی خدمت میں یہ گزارش کرنا چاہتا ہوں کہ آج کل پاکستان میں ریلوے کا معمول ہو چکا ہے کہ روزانہ - - - (قطع کلاسی)

Mr. Khurshid Hasan Meer : Point of order Sir. Whatever the Honourable Member is now saying, he has already read out in his motion. There is really no fun in repeating it. If the general situation about the railway accidents is to form a subject, then it should be a separate adjournment motion and for that I would have to come prepared with statements and comparatives.

Mr. Chairman : Mr. Khurshid Hasan Meer, let me read the motion.

Mr. Khurshid Hasan Meer : Sir, I have made an objection that whereas one specific incident mentioned in the adjournment motion can form a subject of an adjournment motion but then it follows with a general statement. There are two or three different things and I have said that the adjournment motion is not admissible on that account and, nevertheless, I said I would like to make a statement on that specific question just to inform the House as to what happened.

Mr. Chairman : What do you say, Haji Sahib. In the first part of your adjournment motion you have mentioned that the Railway accidents have become almost a daily routine. This is a general thing. In the other half you have mentioned one particular incident which took place on 11th August, 1974, in which some persons were injured and one was killed.

Haji Syed Hussain Shah : Yes, Sir.

Mr. Chairman : Do you want the Minister concerned to reply to your first part or second ?

Mr. Khurshid Hasan Meer : Sir, I have made a short statement on the first, saying that this is not correct. It is factually incorrect and on the second part I have made a detailed statement but if the Honourable Member persists in discussing the general part, then I make the technical objection that this is not in order. I have denied the charge mentioned in the first part but on the second part I have made a statement on the whole thing that it was an unmanned level crossing and for any accident on an unmanned crossing Railway cannot be held responsible because it is the duty of anyone crossing the road to see that the crossing is free.

Mr. Chairman : Yes, I follow you.

حاجی سید حسین شاہ : جناب والا ! محترم وزیر صاحب نے دونوں موضوعوں پر تقریریں کیں -

Mr. Khurshid Hasan Meer : First, I raised an objection that it is not admissible as it is not properly framed.

جناب چیئر مین : حاجی صاحب تقریر تو تب ہوتی ہے - - -

(مداخلت)

جناب چیئر مین : کہ پہلے اس کو admit تو کیا جائے۔ انہوں نے تو صرف اتنا بتایا ہے کہ technical objection ہے۔

حاجی سید حسین شاہ : جو کچھ انہوں نے فرمایا ہے۔ اس کو rebut کرنے کے لئے مجھے کچھ عرض کرنے دیا جائے۔ حقیقت میں 14 اگست کو ایکسیڈنٹ ہوا ہے۔ جناب والا۔ unmanned crossing یقیناً ہے بالکل اسی طرح 16 اگست کو ٹمپل دسیرا میں کوئٹہ ایکسپرس کو اس طرح کا حادثہ ایک لیول کراسنگ پر پیش آیا۔ جس میں 8 آدمی زخمی ہو گئے۔

جناب چیئر مین : 16 اگست کا اس میں جو ذکر ہے۔

(مداخلت)

حاجی سید حسین شاہ : حضور والا ! میرے پاس اتنے تراشے ہیں حضور !

(مداخلت)

Mr. Khurshid Hasan Meer : On an unmanned level crossing, Railway takes no responsibility. It is impossible. It is the responsibility of the oncoming vehicle crossing the level cross.

جناب والا ! 16 والی بھی ڈسکس کر سکتے ہیں ، وہ ان میں تھی۔ اگر وہ unmanned نہیں تھی تو پھر نوٹس ہونا چاہیئے۔

خواجہ محمد صفدر : آپ وہاں آدمی مقرر کریں۔

جناب خورشید حسن میر : پھر تو آپ کل یہ کہیں گے کہ ہر چیک میں ایک کانسیٹیل آفیسر مقرر کر دیا جائے۔

جناب چیئر مین : حاجی صاحب میں عرض کروں اب میں 16 اگست کے واقعہ کی طرف آپ کو لئے جاتا ہوں۔ اس میں تو اس کا ذکر ہی نہیں ہے۔

حاجی سید حسین شاہ : جناب والا ! ریلوے کی یہ daily practice ہے کہ ملک کے کسی نہ کسی حصے میں حادثہ ہوتا ہے۔ ان چیزوں کو ثابت کرنے کے لئے میرے پاس کافی مواد موجود ہے۔ اگر آپ مجھے اجازت دیں تو میں بیسیوں اخباروں کے تراشے آپ کی خدمت میں پیش کر سکتا ہوں اس میں نہ صرف unmanned کراسنگ ہے بلکہ بہاول پور میں derailment ہوئی ہے جناب والا !

Mr. Khurshid Hasan Meer : It was a case of sabotage.

حاجی سید حسین شاہ : جناب والا ! اصل حقیقت یہ ہے کہ ملک میں لوہا مہنگا ہو گیا ہے ریلوے کے ملازمین چوری چھپے پلیٹیں نکالتے ہیں ۔

Mr. Khurshid Hasan Meer : You are not technical man. You have no right to say this. I challenge it and I can prove it. I bring the whole inquiry committee. It was sabotage. You can have a Committee of this House.

جناب والا ! وہ Fish plates نکالتے سے بھی نہیں ہو سکتا ہے ۔ بہاول پور والا انجن ۔

(مداخلت)

Mr. Chairman : Will you please listen to me.

(مداخلت)

Mr. Khurshid Hasan Meer : I have been there also.

Mr. Chairman : Will you please stop this cross talks and resume your seats.

(مداخلت)

جناب چیئر مین : میں تو اتنا کہوں گا ۔ جب بھی آپ اٹھیں مجھ سے اجازت لے لیا کریں ۔ پوائنٹ آف آرڈر ہو یا کوئی چیز explain کرنی ہو ۔ کیونکہ یہ مشکل ہے اگر میں اس سے بات کروں تو وہ مجھے روک دیتے ہیں ۔ میر صاحب سے بات کروں تو آپ مجھے اٹھ کر روک دیتے ہیں ۔

Then I cannot decide anything.

Mr. Khurshid Hasan Meer : I apologise. But it has become impossible for us because the Honourable Members from the Opposition.....

Mr. Chairman : I must be frank Meer Sahib. The difficulty is when I am dealing with him and just asking him to explain one thing, you stood at this time and cut me short.

Mr. Khurshid Hasan Meer : It is no so, sir. I would not cut short the chair. But the question is, you were asking the Honourable Member how the two things are combined and he launched into a fullfledged attack on the railways, and started mentioning Bahawalpur and this and that. How can we let go these activities ?

Mr. Chairman : All right. It was for me to stop and to control the House. But as long as I am in the Chair.....

Mr. Khurshid Hasan Meer : That is true, Sir. But these allegations are levelled knowing fully well that they will be ruled out later. But they nevertheless.....

Mr. Chairman : There was no personal allegation. Will you please resume your seat.

Mr. Khurshid Hasan Meer : Sir, their main object is that even if they have been ruled out they will find a place in the Press.

Mr. Chairman : But there is no ruling yet.

حاجی صاحب ! مجھے بتائیں کہ اس تحریک التواء کار میں ایک تو آپ نے 16 اگست کے واقعہ کا ذکر کیا ہے کہ وہاں پر جو کچھ ہوا - - -

حاجی سید حسین شاہ : جناب والا ! میں جون سے لے کر آج تک بیسیوں حادثات کی مثالیں پیش کر سکتا ہوں جن میں ریلوے کو کروڑوں روپے کا نقصان ہوا -

جناب چیئر مین : حاجی صاحب تشریف رکھیں - میں آپ سے یہ سوال پوچھتا ہوں - آپ تقریر نہ کیجئے میرے سوال کا جواب دیجئے - آپ نے ابھی فرمایا کہ 11 اگست کو بھی واقعہ ہوا اور 16 اگست کو بھی ہوا - تو 16 اگست تو ابھی آیا نہیں - وہ تو کل آئے گا -

حاجی سید حسین شاہ : میں اس کا جواب دوں گا - ہمارے وزیر صاحب نے یہ فرمایا ہے - - -

جناب چیئر مین : آپ وزیر صاحب کا ذکر کیوں کرتے ہیں ؟ آپ مجھے

جواب دیں If you have no answer, concede that you can't answer.

آپ نے 16 اگست کا ذکر کیا ہے تو ابھی وہ آیا ہی نہیں - وہ تو کل آئے گا -

حاجی سید حسین شاہ : 16 اگست نہیں جناب 16 جولائی -

جناب چیئر مین : تو اس کا بھی آپ کی تحریک التواء میں کوئی ذکر نہیں - آپ مجھے یہ بتا دیں کہ آپ کی تحریک التواء کے دو حصے ہیں - ایک میں آپ نے ایک جنرل بات کی ہے کہ ریلوے وائے ہمیشہ فیل ہوتے ہیں - یہاں کئی حادثات ہو جاتے ہیں - یہ تو ایک جنرل بات ہے - دوسرے آپ نے 11 اگست والی بات کی ہے - تو میں ان دونوں کو کیسے ملا سکتا ہوں - وزیر صاحب ان میں سے کس بات کا جواب دیں - میں تو صرف یہ دریافت کر رہا تھا کہ آپ وزیر صاحب سے کیوں جھگڑا کر رہے ہیں ؟ پہلے میرے سوال کا جواب دیں کیونکہ ابھی تو یہ تحریک التواء بحث کے لئے ایوان کے سامنے پیش نہیں ہوئی - اگر تو یہ درست ہوئی تو میں ایوان سے پوچھوں

گا کہ آیا وہ اس تحریک التوا کو پیش کرنے کی اجازت دیتا ہے یا نہیں دیتا - لیکن آپ یہ بتائیں کہ آپ کی تحریک التوا کے دو حصے ہیں - ایک تو جنرل ہے کہ ریلوے ہمیشہ فیل ہوتی رہی ہے - حادثات ہوتے رہے ہیں - لوگوں کی جانیں ضائع ہوتی رہی ہیں اور دوسرے حصہ میں آپ نے 11 اگست کے حادثہ کا ذکر کیا ہے - تو اب ان دونوں باتوں کو ایک ہی تحریک التوا میں کیسے ملائیں - میرے لئے مشکل یہ ہے کہ رولز مجھے اجازت نہیں دیتے - رولز میں یہ ہے کہ :

“.....one specific issue.....”

آپ نہ وزیر صاحب کو چھیڑیں نہ کوئی اور بات چھیڑیں - آپ یہ بتائیں کہ اس میں دو مختلف issues ہیں - ایک جنرل ہے اور دوسرا 11 اگست والا ہے - میں ان دونوں کو ایک جگہ کیسے اکٹھا کر سکتا ہوں اور میں اس تحریک کو کیسے admit کر سکتا ہوں ؟ ایوان مجھے پوچھے گا کہ ان دونوں میں سے کس پر بحث کرنی ہے۔

حاجی سید حسین شاہ : جناب والا ! 11 اگست والا واقعہ تو جملہ معترضہ ہے - حقیقت میں جو روزانہ ریلوے کے حادثات ہوتے ہیں ان پر بحث کی جانی چاہیئے -

جناب چیئر مین : اگر آپ 11 اگست والے واقعہ کو اس تحریک التوا سے نکال دیتے ہیں کہ یہ جملہ معترضہ ہے جس کے متعلق ہم آنکھیں بند کر سکتے ہیں تو باقی مسئلہ اتنا جنرل ہے کہ وہ one specific issue نہیں ہو سکتا - It is too vague to general - نہ ہی کوئی تاریخ ہے - یہ سلسلہ تو بہت عرصہ سے چلتا آ رہا ہے - مہینہ ، دو مہینے ، سال ، دو سال - اگر یہ بات ہے کہ ریلوے والے فیل ہو گئے ہیں تو پھر آپ ریزولوشن لائیں - کوئی motion لائیں - یہ تحریک التوا تو آپ تب لا سکتے ہیں جب آپ ایک specific accident کا ذکر کریں - اگر one issue suddenly ہو جائے تو اس کے متعلق آپ کہہ سکتے ہیں کہ ایوان کا اجلاس برخاست کریں یہ بہت ضروری معاملہ ہے - تو یہ تو بہت عرصہ سے چل رہا ہے -

Sorry. It is ruled out of order.

I have been told that there are no adjournment motion.

حاجی سید حسین شاہ : بھارت میں ایسا واقعہ ہوا تھا تو ریلوے کے وزیر نے استعفا دے دیا تھا -

جناب خورشید حسن میر : جناب ! انہیں تو بھارت کہا گیا ہے -

حاجی سید حسین شاہ : جناب ! میں نے کہا ہے کہ اگر بھارت میں ایک ایسا حادثہ ہوتا ہے تو وزیر استعفا دے دیتا ہے -

جناب خورشید حسن میر : وہاں تو Head-on-collision ہوا تھا اور چالیس (40) آدمی مر گئے تھے ۔

حاجی سید حسین شاہ : آپ پر بدعیدن کا حادثہ دیکھ لیں ۔ وہاں بھی آمنے سامنے ٹکرا ہوئی تھی ۔ اس کی میرے پاس تفصیل ہیں ۔

جناب خورشید حسن میر : تو آپ اس کے متعلق تحریک التوا لائیں ۔

All right you bring an adjournment motion on that.

Mr. Chairman : Now, let us proceed further. Let us cool down. If you want I can adjourn the House for a cold drink. Do you want that, Haji Sahib. Should I adjourn for five minutes.

Haji Syed Hussain Shah : Yes, Sir.

جناب چیئر مین : میرے خیال میں طبیعتیں نرم ہو جائیں گی ۔ وہ تو خواہ مخواہ ایسا کہہ رہے ہیں ۔

to generate heat.

چوہدری محمد حنیف خان (وزیر محنت) : آپ مجھے اجازت دیں ۔ سب ٹھیک ہو جائے گا ۔

Mr. Chairman : I don't know about items No. 3 and 4.

چوہدری محمد حنیف خان : جناب ! وہ تو پاس ہو چکی ہیں ۔

Mr. Chairman : So, items No. 3 and 4 have been disposed of. All right. You take up No. 5.

THE EVACUEE TRUST PROPERTIES (MANAGEMENT
AND DISPOSAL) BILL, 1974

Ch. Mohammad Hanif : Sir, I beg to move :

“That the Bill to provide for the management and disposal of evacuee properties attached to charitable, religious or educational trust or institutions. [The Evacuee Trust Properties (Management and Disposal) Bill, 1974], as reported by the Standing Committee, be taken into consideration at once”.

Mr. Chairman : The motion moved is :

“That the Bill to provide for the management and disposal of evacuee properties attached to charitable, religious or educational trust of institutions. [The Evacuee

Trust Properties (Management and Disposal) Bill, 1974], as reported by the Standing Committee, be taken into consideration at once”.

Khawaja Mohammad Safdar : Opposed, Sir.

Ch. Mohammad Hanif Khan* : In a nutshell, I would like to submit that the Settlement and Rehabilitation Department was under the Central Government until the 1st of January, 1972.

I don't have to say as to why this Department was created because everyone knows about it. It was under the control of the Chief Settlement Commissioner but after 1st January, 1972, this Department was transferred to the respective Provinces and it ceased to exist as a Central agency after the 1st January, 1972. Now, there are four Chief Settlement Commissioners under whose administrative control these respective Departments are functioning or this Department in respect of Provinces is functioning. There were two types of properties : one was evacuee property and the other was evacuee trust property. There is no necessity for me to say anything about evacuee property because it relates to the Provinces but the evacuee trust property enures for charitable, educational and religious purposes. Whereas the work relating to evacuee property was transferred to the Provinces, the work relating to evacuee trust property was retained by the Central Government. The position until 1st January, 1972 was that the evacuee trust properties were administered by the Chief Settlement Commissioner but since the intention was to retain the evacuee trust property under Central Government's control, therefore, relevant amendments were made in the laws, namely, Displaced Persons Compensation and Rehabilitation Act and Displaced Persons Land Settlement Act, 1958. The evacuee trust property, since then, is under the control or management of a Board. The Head of the Board is the Chairman and the property is administered under the scheme which was initially prepared under those laws which I have mentioned, that is, the Displaced Persons Compensation and Rehabilitation Act and the Displaced Persons Land Settlement Act. Now, Sir, it has been decided that the Settlement and Rehabilitation Department should be wound up. As a matter of fact it has been wound up although a law with regard to that is still before the National Assembly and it will be coming up before the Senate as well but with effect from 1st July, 1974 this Department has ceased to exist and all the laws which were applicable to the disposal etc. of the property, those laws are going to be repealed. Now, when these two laws are repealed then the scheme which was prepared under these laws will automatically cease to exist and there would not be any law under which the evacuee trust property could be administered. Those laws cease to exist. The Bill provides a full scheme. As a matter of fact, it will be applicable to the maintenance, management and disposal of property. In fact, I want to be very clear and, therefore, I will give the salient features of this Bill.

The salient features are :

*Speech not corrected by the Honourable Minister.

The Federal Government shall constitute a Board, to be known as the Evacuee Trust Property Board, for the management and disposal of evacuee trust properties.

The Board shall be a body corporate by the name aforesaid having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall by the said name sue and be sued.

The Board shall consist of a Chairman and such members as the Federal Government may, by notification in the official Gazette, appoint.

The general supervision and control of all evacuee trust property shall, subject to any directions that may be given by the Federal Government, vest in the Board, and the Board shall take such action as it deems fit for the proper management, maintenance and disposal of such property in accordance with the provisions of this Act and the rules, scheme, or directions made or issued thereunder.

In particular and without prejudice to the generality of the foregoing power, the duties of the Board shall be :

- (a) to maintain a complete and/authentic record of all evacuee trust property ;
- (b) to prepare and submit, by the 31st of May each year, to the Federal Government for its approval, the annual budget estimates alongwith detailed statements of receipts and expenditure ;
- (c) with the prior approval of the Federal Government, sell, dispose of, transfer or make an endowment or otherwise manage evacuee trust property consistent with the objects of this Act or a scheme ;

All evacuee trust property shall vest in the Federal Government.

It empowers the re-imbusement to the Evacuee Trust Property Board the sale proceeds of all evacuee trust property which :

- (a) if situated in a rural area and utilised bona fide under any Act prior to June, 1964, for allotment against the satisfaction of verified claims ; and
- (b) if situated in an urban area and utilized bona fide under any act for allotment against the satisfaction of verified claims in respect of which permanent Transfer Deeds were issued prior to June, 1968.

A person aggrieved by an order passed by an Administrator, a Deputy Administrator or an Assistant Administrator may prefer an appeal to the Administrator.

The Federal Government and the Chairman of Evacuee Trust Property Board have also been given powers to revise the orders of the Administrator, a Deputy Administrator, or an Assistant Administrator.

The Chairman has been empowered to revise his own order on his own initiative. Thank you very much.

خواجہ محمد صفدر : جناب والا ! مجھے دو، تین، بنیادی اعتراضات ہیں اس مسودہ قانون کے متعلق۔ سب سے پہلے تو میں یہ عرض کروں گا کہ اس قانون کے معرض وجود میں آنے کے بعد اس ملک میں ایک ہی موضوع پر ایک ہی قسم کی جائیداد کے متعلق دو قانون ہونگے یعنی subject matter بھی ایک ہوگا اور اس کے متعلق علیحدہ علیحدہ دو قانون ہونگے۔ بلکہ دو سے زیادہ قانون ہونگے۔ چاہیئے تو یہ تھا کہ جن احباب نے اس مسودہ قانون کو تیار کیا ہے۔ وہ اس مسودہ قانون میں ایک ایسی شق شامل کرتے کہ فلاں فلاں قانون کی فلاں فلاں شقیں منسوخ تصور کی جائیں گی لیکن ایسا نہیں کیا گیا اس لئے میں یہ سمجھتا ہوں کہ اس مسودہ قانون میں یہ ایک بہت بڑا نقص ہے اور اگر اس ایوان نے اس قانون کو اسی شکل میں منظور کیا تو اس صورت میں ایک ہی موضوع پر دو قوانین ہونگے اور ان میں اختلاف بھی ہوگا۔ اب عدالتیں کس قانون۔۔۔۔۔

Ch. Mohammad Hanif Khan : Point of Order, Sir.

جناب چیئر مین : آپ اس کو clarify کرنا چاہتے ہیں۔

Ch. Mohammad Hanif Khan : There is only one thing, Sir.

جناب چیئر مین : نہیں اگر آپ پوائنٹ آف آرڈر raise کرنا چاہتے ہیں تو بے شک بولیں لیکن اگر آپ اس کی clarification کرنا چاہتے ہیں تو جب آپ کی باری آئیگی اور جب آپ جواب دیں گے تو اس وقت اس کی clarification کر دیں۔

چوہدری محمد حنیف خان : ٹھیک ہے سر۔ اس وقت اس کا جواب دے دوں گا۔

Mr. Chairman : Yes, Khawaja Sahib.

خواجہ محمد صفدر : جناب والا : میرا پہلا اعتراض تو وہ ہے اور دوسرا اعتراض یہ ہے اور وہ بھی ضمنی ہے۔ آئینی ہے۔ وہ یہ ہے کہ جہاں تک متروکہ جائیداد کے متعلق قانون سازی کا تعلق ہے۔ اسے کنکرنٹ لیسٹ میں ہمارے آئین میں رکھا گیا ہے یعنی مرکزی اسمبلی اور ضوابطی اسمبلیاں بھی اس کے متعلق بنا سکتی ہے لیکن اس سے یہ مراد نہیں ہے کہ اس قسم کی

جائیداد کو وفاق حکومت اپنی تحویل میں لے لے یہ قطعی اس سے مراد نہیں ہے۔ اس سے مراد یہ ہے کہ صرف اسی حد تک، اس جائیداد کے متعلق وفاق حکومت قانون بنائے جہاں تک کہ چاروں صوبوں میں یکساں طور پر پالیسی رائج کرنے کا تعلق ہو ورنہ جہاں تک جائیداد کا تعلق ہے یہ جائیداد بھی دوسری متروکہ جائیداد کی طرح صوبوں کی ملکیت ہوگی۔ یہ جائیداد بھی متروکہ جائیداد کا ایک حصہ ہے فرق صرف اتنا ہے کہ یہ جائیداد مہاجروں میں تقسیم نہیں کی جا سکتی ہے دوسری جائیداد تقسیم کی جا چکی ہے یا کی جا رہی ہے۔ اس فرق کے پیش نظر میں سمجھتا ہوں کہ وفاق حکومت اپنے اختیارات سے تجاوز کر رہی ہے جب وہ اس جائیداد کی ملکیت کو اپنی تحویل میں لینا چاہتی ہے یا اس قانون کے تحت اپنے لئے حاصل کرنا چاہتی ہے۔

جناب والا! محترم وزیر صاحب نے ارشاد فرمایا ہے کہ اس قانون کے ذریعہ ایک بورڈ بنایا جائے گا۔۔۔ یہ ٹھیک ہے۔ مگر بورڈ پہلے سے بنا ہوا ہے ۱۹۷۲ء سے بنا ہوا ہے۔ جس قانون کے تحت وہ بورڈ بنایا ہوا ہے وہ قانون بھی موجود ہے۔ اس بورڈ کے اختیارات جو محترم وزیر صاحب نے ارشاد فرمائے ہیں۔ وہ اختیارات بورڈ کو پہلے بھی حاصل ہیں لیکن اس سے یہ مسئلہ حل نہیں ہوتا۔ اس مسئلے کا حل میرے نزدیک یہ ہے کہ اس وقت اگر مرکزی حکومت نے بورڈ قائم کیا ہوا ہے تو اس بورڈ کو توڑ کر اس جائیداد کو صوبائی حکومتوں کی تحویل میں دے کر، ان سے یہ کہا جائے کہ وہ اس جائیداد کے انتظام و انصرام کے لئے جو چاہیں کریں جو مناسب سمجھیں کریں۔ ہو سکتا ہے کہ کسی صوبہ میں وہاں کی ضروریات کے پیش نظر اس جائیداد کا کہیں بہتر مصرف ہو سکے۔ اس مصرف سے جو کہ وفاق حکومت کے پیش نظر ہے۔ بلوچستان میں تو ہو سکتا ہے۔ سندھ میں ہو سکتا ہے، پنجاب میں ہو سکتا ہے۔ کیونکہ چاروں صوبوں کے حالات قدرے مختلف ہیں اس لئے وہ مختلف مصارف اس جائیداد کے پیدا کر سکتے ہیں۔ اس لئے میری سمجھ سے یہ امر بالا ہے اور میری سمجھ میں نہیں آتا کہ مرکزی حکومت کیوں دنیا بھر کے اختیارات اپنے ہاتھ میں مرکوز کرنا چاہتی ہے۔

جناب والا! آج کا زمانہ decentralisation کا ہے، سنٹرلائزیشن کا نہیں سنٹرلائزیشن کا زمانہ گزر گیا ہے لیکن وفاق حکومت شاید میونسپل کمیٹی کے اختیارات بھی اپنے پاس ہی رکھنا چاہتی ہے۔ چہ جائیکہ ایسے اختیارات وہ صوبائی حکومتوں کو دے۔

جناب والا ! ایک اور قابل توجہ بات یہ بھی ہے - جس کے متعلق وزیر صاحب نے اپنے خیالات کا اظہار فرمایا ہے - وہ یہ ہے کہ اس قانون کے تحت ایڈمنسٹریٹر ڈپٹی ایڈمنسٹریٹر ، اسسٹنٹ ایڈمنسٹریٹر مقرر کئے جائیں گے - اور انہوں نے یہ الفاظ بڑے فخریہ انداز میں ارشاد فرمائے ہیں کہ ان افسروں کو عدالتی اختیار بھی دئے گئے ہیں اور ایک کے فیصلے کے خلاف دوسرے کے پاس اپیل ہو سکتی ہے - نگرانی بھی ہو سکتی ہے ، نظر ثانی بھی ہو سکتی ہے -

جناب والا ! اس میں بہت بڑا سقم رہ گیا ہے وہ یہ ہے کہ چیئر مین سمیت ماتحت افسروں کے فیصلے کے خلاف نگرانی کی درخواستیں ساعت کریگا اس مسودہ قانون میں یہ بھی تجویز کیا گیا ہے بورڈ کے فیصلوں کے خلاف بھی نگرانی کی ساعت چیئر مین کریگا - جناب والا - ملاحظہ فرمائیں کہ چیئر مین جو کہ ایک رکن کی حیثیت سے بورڈ میں بھی بیٹھے گا اور بورڈ کے ممبران کے ساتھ کسی کیس کا فیصلہ کرے گا اور جب اس فیصلے کے خلاف نگرانی ہوگی تو وہ اکیلا ہی سننے گا اور فیصلہ کریگا - سبحان اللہ - یہ کیا اصول ہے یہ عجیب بات ہے کہ پورے بورڈ کے فیصلے کے خلاف صرف ایک رکن خواہ آپ اس کا نام چیئر مین ہی کیوں نہ رکھ دیں نگرانی کی ساعت کریگا اور اس حیثیت سے پورے بورڈ کے فیصلہ کو منسوخ کر سکے گا - اس مسودہ قانون میں ہے کہ بورڈ اگر چاہیے تو وہ اپنے اختیارات میں سے کوئی اختیار چیئر مین کو تفویض کر سکیگا یعنی چیئر مین بورڈ کے ماتحت ہوگا - اس مسودہ قانون میں یہ بھی ہے اور اس قانون کی منشا اور غرض یہ بھی ہے کہ چیئر مین بورڈ کے ماتحت ہوگا اور چیئر مین بورڈ سے کوئی بالاتر افسر نہیں ہوگا - اگر ایسا ہے تو وہ بورڈ کے فیصلہ کے خلاف کیسے نگرانی کی درخواستوں کی ساعت کر سکتا ہے ؟ جو درخواستیں بورڈ کے فیصلوں کے خلاف ہوگی ان کے سننے کے اختیارات کسی بالاتر ادارہ کو دینے ہونگے - ایسے اختیارات ہائی کورٹ کو تفویض کرنے ہونگے جو کہ اس سلسلے میں نگرانی کی درخواستیں سن سکے -

جناب والا ! میں بخل سے کام نہیں لوں گا - اس بل میں ایک پہلو اچھا بھی ہے اور وہ پہلو یہ ہے کہ ان حالات میں بورڈ کے فیصلہ کے خلاف ہائی کورٹ میں اپیل کا حق دیا گیا ہے - اپیل کا اختیار اس فریق کو ہوگا جس کے خلاف فیصلہ کیا جائے گا - یہ ایک احسن تجویز ہے جو کہ مسودہ قانون میں رکھی گئی ہے - اسی جذبے کو بروئے کار لاتے ہوئے جس جذبے کے تحت یہ تجویز رکھی گئی ہے اگر اس قانون کا دائرہ اس حد تک وسیع کر دیا جائے کہ ہمارے ملک کے عوام کو دیوانی

عدالتوں میں بھی کسی سٹیج پر، کسی مرحلہ پر، یا ہریلن میں اپیل دائر کرنے کا حق دیا جائے اس طرح لوگوں کے حقوق زیادہ محفوظ ہوں گے یہ ایسی بات نہیں کہی گئی ہے جو کہ ملک کے قانون میں پہلے موجود نہیں ہے۔ مثال کے طور پر زیر بحث قانون تو متروکہ وقف جائیدادوں کے متعلق ہے مگر مسلم اوقاف کی جو جائیدادیں قبضہ میں لی گئی ہیں ان کے متعلق اگر کسی وقت تنازعہ ہو جائے کہ مسلم اوقاف بورڈ کسی جائیداد کو اپنی تحویل میں لے لے اور اوقاف ایکٹ کے تحت جو شخص اس کا مالک ہو یا متولی ہو اس کو حق دیا گیا ہے کہ نوٹیفیکیشن کے بعد ۳ دن کے اندر اندر وہ ڈسٹرکٹ کورٹ کے پاس اس نوٹیفیکیشن کو چیلنج کرنے کے لئے اپنی درخواست پیش کر سکتا ہے۔

جناب! وہ بھی ٹرسٹ پراپرٹی ہے اور یہ بھی ٹرسٹ پراپرٹی ہے۔ اس میں فرق صرف یہ ہے کہ وہ ہندو چھوڑ گئے۔ غیر مسلم چھوڑ گئے اور یہ مقامی آدمی ہیں۔ فرق صرف اتنا ہے۔ جائیداد کی نوعیت ایک قسم کی ہے۔ اگر وہ کسی مدد کے لئے ہوگی تو یہ کسی مسجد کے لئے ہوگی۔ وہ بھی کسی سکول کے لئے ہو سکتی ہے اور یہ بھی کسی سکول کے لئے ہو سکتی ہے۔ اگر یہ خانقاہ کے لئے ہو سکتی ہے تو وہ کسی گردوارے کے لئے ہو سکتی ہے۔ اس میں فرق کوئی نہیں ہے۔ غرض اور مدعا دونوں قسم کی جائیدادوں کا قریب قریب ایک ہی ہے۔ اس لئے دونوں جائیدادوں کے متعلق اس ملک میں ایک جیسا قانون رائج کیا جائے۔ اس میں بھی ایک شق ہے کہ اگر کسی جائیداد کے متعلق یہ تنازعہ ہو۔ کہ یہ Evacuee Trust Property ہے۔ تو پھر اس کا فیصلہ بورڈ کرے گا۔ البتہ اس کی اپیل ہائی کورٹ میں ہو سکتی ہے۔ یہ بڑی اچھی کلاز ہے۔

چوہدری محمد حنیف خان : کونسی کلاز ہے ؟

خواجہ محمد صفدر : میں آپ کو بتاتا ہوں۔ ایک ہی اچھی کلاز ہے اور وہ بھی آپ بھول گئے۔

Mr. Chairman : Which clause ?

خواجہ محمد صفدر : وہی میں عرض کرتا ہوں۔ یہ کلاز نمبر ۸ ہے۔

“8. Declaration of property as evacuee trust property :

- (1) If a question arises whether an evacuee property is attached to a charitable, religious or educational trust or institution or not, it shall be decided by the Board whose decision shall be final and shall not, except as provided in sub-section (4), be called in question in any Court.

Now look at sub-clause (4) which reads :—

“(4) Any person aggrieved by a declaration under sub-section (2) or an order under sub-section (3) may, within thirty days of such declaration or order, prefer an appeal to the High Court”.

اور اسی طرح جناب والا ! کلاز ۱۰ جو کہ آخری کلاز ہے۔ اس میں Validation of certain transfer کے متعلق طریقہ کار دوج کیا گیا ہے کہ اگر کسی جائیداد کے انتقال کے متعلق کوئی جھگڑا ہو جائے۔ کہ یہ متروکہ وقف جائیداد ہے یا نہیں ہے۔ یا اس میں کوئی جائیداد صرف متروکہ جائیداد تصور کرتے ہوئے محکمہ بحالیات نے کسی مہاجر کو منتقل کر دی ہے۔ تو اس مہاجر کے حقوق محفوظ رکھنے کے لئے یہ کلاز شامل کی گئی ہے۔ لیکن بورڈ کو یہ اختیار دیا ہے۔ کہ اگر یہ transfer یا انتقال جائیداد بد نیتی سے ہوئی ہے۔ تو وہ پھر اس کو واپس لے سکتا ہے۔ اب بورڈ کے فیصلے کے خلاف ہائیکورٹ میں اپیل ہو سکتی ہے۔ اور یہ امر سب کلاز چار میں درج ہے۔ اس لئے میں سمجھتا ہوں۔ کہ یہ اچھی شقیں ہیں۔ اور اسی اصول کو پیش نظر رکھتے ہوئے مجھے امید ہے۔ کہ جہاں تک تنازعہ یا جھگڑنے کا تعلق ہے۔ کہ آیا وہ متروکہ وقف جائیداد ہے یا نہیں ہے۔ تو اس کا فیصلہ اگر مقامی ڈسٹرکٹ جج کرے۔ تو یہ نامناسب نہیں ہوگا۔ ان الفاظ کے ساتھ میں اس بل کی موجودہ صورت میں مخالفت کرتا ہوں۔

Mr. Chairman : Yes, Mr. Qamaruz Zaman Shah.

Mr. Qamaruz Zaman Shah* : Mr. Chairman, Sir, at the very outset I would like to submit that since the evacuee and rehabilitation laws were made provincial subject, the administration of evacuee property was given to the Provinces. A small little portion of that whole gigantic organization has been left with the Federal Government for which, I am sure, the Federal Government would definitely have some sound reasons for doing that. But since Auqaf is with the Province and so is the evacuee property, if the evacuee trust properties had also been placed either under the Auqaf Departments of the Provinces or under the administration of evacuee property in the Provinces, the people would have really been facilitated in the task. Because what is happening is this that there is very small properties in the towns. There people are in occupation. They have taken this property either on rent from the Evacuee Trust Board or they had been transferred to them because at the earlier stage all properties were declared as evacuee properties, and subsequently when the new law came in, some of those properties have been declared as being evacuee trust properties. There are so many properties at present in the Provinces in rural as well as urban areas where the people

*Speech not corrected by the Honourable Senator.

who are in occupation still feel that these were wrongly put in the evacuee trust properties. They were actually evacuee properties and ought to have been transferred to them as evacuee properties and not as evacuee trust properties. The properties are of such a small nature that they hardly give few rupees a month to the Evacuee Trust Board. I think for such small properties some provisions ought to have been made whereby the occupants should be transferred these properties because I think even the management of these properties would be rather cumbersome for the Evacuee Trust Board. Then the procedure for making a clarification and for deleting those properties that were wrongly put in the list of evacuee trust properties and bringing them in the properties which are evacuee properties for transfer to the occupants or otherwise, should be simplified. I think, the High Court is too big a forum where a small man would go all the way to High Court while the value of the properties is few thousands to get it declared as evacuee property. A district judge or even an officer of a lower rank stationed at the smaller towns should have been given the powers to do that. I know the honourable Minister was of the apprehension that thus these powers would be misused. Well, when you give some officer the judicial powers, then I expect those powers are to be used judiciously. The district judge or the officer concerned should have the power to declare some of the wrongly put in evacuee trust properties as evacuee properties deleting them from the list of evacuee trust properties. Also the small properties which do not give any benefit to the Evacuee Trust Board, or they don't add much to the revenues, should be transferred to those power people who are in occupation of those properties.

I think that is all that I want to say.

Mr. Chairman : Yes, Mr. Tahir Mohammad Khan.

جناب طاہر محمد خان : جناب والا ! میں اس بل کی مکمل تائید کرتا ہوں ۔ اگرچہ اس بل میں بہت سے اچھے پہلو بھی ہیں اور توقع کی جا سکتی ہے کہ جو ٹرسٹ ہراہڑی میں دھاندلیاں ہوئی ہیں۔ ان کو اس بل کے توسط سے رفع کیا جاسکے گا۔ مجھے محض وزیر بحالیات سے ایک گزارش کرنی ہے ۔ وہ یہ ہے کہ دفعہ تین میں Constitution of Board کا ذکر ہے ۔ اس میں چیئر مین اور باقی ممبران کی تقرری کا تذکرہ کیا گیا ہے اور اس میں یہ گزارش کرونگا کہ اس سے پیشتر جو Evacuee Trust Board بنائے گئے ۔ اس میں عام طور پر ضلع کا ڈپٹی کمشنر بورڈ کا چیئر مین بنایا جاتا تھا ۔

Sir, I refer you to Sub-clause (4) of Clause 3 of the Bill :

“(4) The Chairman shall be appointed by the Federal Government on such terms and conditions as it may determine, shall hold office during the pleasure of the Federal Government and shall be the Administrative and executive head of the Board.

Now sub-clause (5) is :

“(5) A member shall, unless he earlier resigns his office under sub-section (7), hold office for a period of three years on such terms and conditions as the Federal Government may determine.”

Before that we see Clause 3 (3) :

“The Board shall consist of a Chairman and such members as the Federal Government, may by notification in the official Gazette, appoint.”

سر ! صورت یہ ہے کہ سرکاری ملازمین جو پہلے ہی بہت tight ہوتے ہیں - ان کے اوپر اور بہت ساری سرکاری ذمہ داریاں ہوتی ہیں - اگر ان کو بورڈ کا چیئرمین بنا دیا جائے - تو ہمارا تجربہ ہمیں یہ بتاتا ہے کہ بورڈ کا کام paralyse کر جاتا ہے - بورڈ کا کام نہیں ہو پاتا - اب کیونکہ اسے open رکھا ہے - اس لئے کسی بھی شخص کو بطور بورڈ کا چیئرمین یا بطور ممبر بورڈ مقرر کیا جا سکتا ہے - اس لئے میں گزارش کروں گا کہ اس میں officialdom جس قدر ممکن ہو - اس کو ہٹایا جائے - تو اتنا ہی مفید ہوگا اور اگر بورڈ کا چیئرمین اور ممبر پبلک سے لئے جائیں - تو میں سمجھتا ہوں - کہ وہ بہتر طریقے سے احسن طریقے سے اپنے فرائض انجام دے سکتے ہیں - مجھے محض اتنی گزارش کرنی تھی -

Mr. Chairman : Yes, Mufti Zafar Ali Nomani.

مفتی ظفر علی نعمانی : جناب چیئرمین ! میں اس متروکہ املاک کے بل کے متعلق ایک دو باتیں عرض کرنی چاہتا ہوں - ہندوؤں نے یا ادھر سے ہندوستان جانے والے لوگوں نے جو املاک یہاں چھوڑی ہیں ان کی کئی حثیتیں ہیں - بعض تو تعلیمی ادارے تھے - بعض عبادت گاہیں تھیں اور بعض ایسی جگہیں تھیں جہاں اس زمانے میں غریب لوگ بستے تھے - اب تقسیم کے بعد جو مہاجرین یہاں آئے ہیں جہاں تک میرا خیال ہے غریب اور مفلس لوگ جو کوئی جگہ حاصل نہ کر سکے زیادہ تر اس وقت سے لے کر اب تک ان جگہوں اور دکانوں میں رہتے ہیں اور جہاں تک میرے علم کا تعلق ہے ان لوگوں نے ان مکانوں میں تھوڑی بہت تبدیلیاں بھی کی ہیں - اور ان سے معمولی کرایہ وصول کیا جا رہا ہے اس صورت میں جب یہ قانون کی تبدیلی ہو رہی ہے اور اسے ایک کمیٹی کے سپرد کیا جا رہا ہے تو اس میں کافی دشواریاں پیدا ہونگی - اگر صحیح انصاف کے ساتھ اس چیز کا تعین کیا جائے تو جو اس زمانے میں تعلیمی ادارے تھے انہیں تعلیمی مقاصد کے لئے استعمال کیا جائے اور جو صنعتی

ادارے تھے انہیں صنعتوں کے لئے استعمال کیا جائے۔ اس قسم کی املاک میں کافی لوگ آباد ہو چکے ہیں۔ بہتر یہی ہے کہ انہیں مالکانہ۔۔۔۔۔ یہ کوئی وہی نہیں کہ جو چیز پہلے وقف تھی اب بھی وقف رہے۔ اگر آج ان لوگوں کو ان املاک سے بے دخل کر دیا جائے تو یہ ان کے لئے پریشانی کا باعث ہوگا اور اس سے بڑی دشواریاں پیدا ہونگی۔ ہر شہر میں اس قسم کے شہری رہتے ہیں جن کا اس بل میں تذکرہ نہیں کیا گیا۔ جہاں تک میں سمجھتا ہوں یہ زیادہ بہتر ہوگا کہ یہ املاک بجائے نائندوں کو دینے کے حکومت کے ملازمین کو دے دی جائیں۔ یہ کسی حد تک انصاف کی بات ہوگی۔ مگر جب خاص طور پر عوامی نائندوں کو دی جائیں گی تو اس سے زیادہ دشواریاں پیدا ہوں گی اور لوگ زیادہ پریشان ہوں گے۔

جناب چیئرمین : محمد ہاشم غلڑی !

جناب محمد ہاشم غلڑی : جناب چیئرمین اب جہاں تک اس بل کے مفید ہونے کا اور ضرورت کا سوال ہے میں اس سے متفق ہوں۔ لیکن ایک پہلو سے مجھے اس پر سخت اعتراض ہے اور وہ یہ ہے کہ اس میں تمام اختیارات فیڈرل گورنمنٹ کو دے دئے گئے ہیں۔ اس قسم کے اختیارات کا فیڈرل گورنمنٹ کا لئے لینا سراسر صوبہ کے اختیارات پر حملہ ہے۔ بہتر یہ ہوتا کہ جو اختیارات ان امور کے متعلق صوبوں کے پاس ہیں وہ صوبوں کے پاس رہیں اور انہیں مرکزی حکومت اپنے ہاتھ میں نہ لے۔ اور جو املاک جس صوبہ میں ہیں ان کے اختیارات بھی اس صوبہ کو ملیں اور وہی اس کے متعلق بورڈ بنائے کیونکہ وہ ٹرسٹ کی املاک ہے۔ اتنی مختصر سی بات پر مجھے اعتراض ہے۔

Mr. Chairman : Yes, Ch. Mohammad Hanif.

Ch. Mohammad Hanif Khan* : *Sir, I am really much obliged to the Honourable Senator for bringing some of the very important, very pertinent points. I personally feel that these points do need some clarification so that all sorts of doubts which exist in the minds of the Honourable Members, or after this Bill is passed may come into the minds of the people, may be removed. I, in my introductory speech, made it clear that this property is entirely of a different kind. It is absolutely of a different kind. Now, at the very outset, before I meet these points one point is raised that why after all this property is being kept by the Federal Government. There is a reason for that. There is a very cogent reason for that. The reason is that as far as this property is concerned, it is governed by different laws. The first thing I would like to submit is that as far as Trust properties are concerned the law with regard to Trust properties is very clear and that is that the Trust always

*Speech not corrected by the Honourable Minister.

ensures the execution of those objects for which a Trust is created, and normally the Trust are created for charitable, educational and other religious purposes. These are the objects for which the Trusts were created, and nobody is entitled or empowered to violate these objects. The law does not allow it. The courts will interfere at once. I will be in a position to explain to the Honourable Members how the courts did interfere in this particular case. That was the opinion expressed by the courts when the matters relating to this property were taken before the courts. But before that I would like to submit that probably in 1950 there was an agreement between India and Pakistan for the restoration of immovable property and in 1953, the date is also with me, it was concluded between the two countries that so far as the Trust properties were concerned, non-Muslim properties on this side and Muslim properties on the Indian side, the Governments concerned will ensure that proper sanctity of all religious and other places of worship is preserved.

So, it is an agreement between the two Government. It was reiterated again and again. In 1958 the two Government again entered into an agreement and one of the provisions of, an important provision, that agreement is that the Governments of both the countries must have respect for the trusts which exist in the two countries. So, it was a different type of property. This was one point why the Federal Government has to keep this property with them. It is entirely a different type of property and, under the law, it cannot be given to anybody at all. It has been contended and argued here that the property which is in possession of certain individuals, and for which they are paying rent, should be transferred to them and proprietary rights should be given to them. As a matter of fact, the position is that the Government cannot do it because courts will interfere and the courts have actually interfered. Just to explain that upto 1968 what happened in certain cases was that trust properties were transferred to certain individuals in lieu of their claims as evacuee property through mistake, I can't say what was the reason behind it may be because the Chief Settlement Commissioner was not in a position to determine the status of the property before transferring it some claimant, but the fact remains that the properties were transferred to certain claimants in lieu of their claims and when the cases went to High Court, it was decided by the High Court that this property cannot be transferred to anybody at all, it can be given on lease but the funds and the money which is realised from the trust properties can be used only for some specific purpose and that the Government cannot violate and infringe the objects of the Trust. The present position is that the Government is not in a position to transfer this property to anybody. Of course, it can be administered but keeping in view the objects of the transfer. So, this is one point why this property has been kept by the Federal Government. It is an agreement between the two countries, it is a property which cannot be transferred to anybody, the money which is realised from this property is to be spent for some specific purposes. Now, the question is that it is to be managed by a Board. The law says that it will be administered by a Board. I may respectfully submit that as far as the constitution of the Board is concerned, it is headed by the Chairman, who has the status of an Additional Secretary to the Central Government, and so far as the other members are concerned, already, we have got almost all the members who are either MNAs or MPAs from different Provinces.

Mr. Mohammad Hashim Ghilzai : Why not from the Senate ?

Ch. Mohammad Hanif Khan : When the Board was constituted the Senate was not in existence at that time because this property was transferred to the Provincial Government on the 1st January, 1972 and immediately after that we had to constitute a Board. Of course, there is no bar to having more members. We will welcome it and that can be done very easily and comfortably. We will certainly bring some Senators on the Board, and why not, because there is no limit to the members to be on the Board. We can have as many as you want. At the same time, just to meet the argument, we have got members on the Board who are either MNAs or MPAs ; may be one or two others who are not public representatives. So, this is the present constitution of the Board.

Now, some of the points that have been raised can be easily dealt with. Number one is that in respect of one property why should we have different laws? As a matter of fact, the laws under which this property is now being administered they are going to be repealed. We are going to have one law in respect of this evacuee trust property because the Displaced Persons Compensation and Rehabilitation Act, 1958 and the Displaced Persons Land Settlement Act are going to be repealed as we don't need them any longer. A scheme was prepared under those Acts and under that scheme this property was administered. Now, when those Acts are being repealed, the scheme will automatically go.

Khawaja Mohammad Safdar : Then the provisions of those Acts which pertain to this property should be repealed through this Bill.

Ch. Mohammad Hanif Khan : It does not make any difference. They are certainly going to be repealed and, once they are repealed, there would not be any scheme or law under which this property can be administered. Therefore, we must have a separate law. Moreover, what difference does it make when there are enactments repealing not only one or two laws but so many other Acts before the National Assembly.

Mr. Chairman : These points can be debated upon when the relevant clauses are taken up.

Ch. Mohammad Hanif Khan : Sir, it is a thing which has to be examined thoroughly by the Law Division. We would have certainly repealed those laws if the Law Division would have advised that it can be done through this Act but we have already submitted a separate law in that respect.

Now, these were the points which I wanted to clarify. The only thing which I want to say is that, under this law, it has been said that proprietary rights should be given to the persons concerned, I submit that at one stage it was decided by the present Government that the people who are living on small plots or who have constructed houses on those small plots which form part of the Trust should be given those plots on long lease. It was, more or less, decided and instructions had been

issued to that effect but then the Supreme Court ruling came that it can't be given on lease for a long period and that it can be given on lease for a period of five years. So, we could not implement that decision. Now under this law, with the approval of the Federal Government, the Board will be given powers to dispose of property. This is the provision :

“(d) with the prior approval of the Federal Government to sell, dispose of, transfer or make an endowment or otherwise manage evacuee trust property consistent with the objects of this Act or a scheme ;”

Under this law, now, the Board will be having power, of course subject to the approval of the Federal Government, to deal with this property in the manner which I have just referred to, and then it will be seen because there are so many complications. The first complication is that upto 1969, most of the evacuee trust properties were given to the people in lieu of their claims. Now, it is very difficult for the Government to take back those properties from the people because it is not their fault. However, the fault is there. It is the fault of the Chief Settlement Commissioner, who gave that property in lieu of claims, which he could not give under the law. If we take back those properties from them the result would be that the poor people would be without any property at all for no fault of theirs. At the same time, we cannot transfer the property to them. Under the present conditions, the whole position would have to be seen. I don't mean to say what decision is going to be taken by the Government. I don't want to make any commitment but, at the same time, so far as the law is concerned, the provision is being made whereby the Board will be entitled to sell and dispose of property with the prior approval of the Federal Government. At present, the Board does not have any such power at all.

I think, that removes all the doubts.

Mr. Chairman : The question is :

“That the Bill to provide for the management and disposal of evacuee properties attached to charitable, religious or educational trust or institutions. [The Evacuee Trust Properties (Management and Disposal) Bill, 1974], as reported by the Standing Committee, be taken into consideration at once.”

(The motion was adopted)

Mr. Chairman : Now, we take up second reading of the Bill.

I think there is no amendment in clause 1 to 16. But I see amendments moved in clause 3. Yes, I am sorry. A fresh paper has come to me containing amendments.

The question is :

“That clause 2 forms part of the Bill.”

(The motion was adopted)

Mr. Chairman : There is an amendment to clause 3. Khawaja Sahib, are you moving it ?

Khawaja Mohammad Safdar : Yes, Sir, I am moving it :

Khawaja Mohammad Safdar : Sir, I beg to move :

A. "That sub-clause (5) of clause 3 of the Bill, be substituted by the following, namely :—

"(5). A member shall, unless he earlier resigns his office sub-section (b) or is removed because of incurring any of the disqualifications mentioned in sub-section (7), hold office for a period of three years on such terms and conditions as the Federal Government may determine".

Ch. Mohammad Hanif Khan : Opposed.

Khawaja Mohammad Safdar : Sir, I beg to move :

B. "That in sub-clause (7) of clause 3 of the Bill, the words "The Federal Government shall have the power to remove a member if he—", be substituted by the following namely :—

"a person shall be disqualified to be appointed as Chairman or as member of the Board if he."

Ch. Mohammad Hanif Khan : Opposed.

Mr. Chairman : The amendment moved is :

A. "That sub-clause (5) of clause 3 of the Bill, be constituted by the following, namely :—

"(5). A member shall, unless he earlier resigns his office under sub-section (b) or is removed because of incurring any of the disqualifications mentioned in sub-section (7), hold office for a period of three years on such terms and conditions as the Federal Government may determine".

B. "That in sub-clause (7) of clause 3 of the Bill, the words "The Federal Government shall have the power to remove a member if he—", be substituted by the following, namely :—

"a person shall be disqualified to be appointed Chairman or as member of the Board if he—".

خواجہ محمد صفدر : جناب والا ! میری رائے میں کلاز نمبر 3 کی سب کلاز 7 میں ایسے الفاظ استعمال کئے گئے ہیں جو میرے نقطہ نظر سے مبہم ہیں اور حکومت

پر ایک ایسی ذمہ داری ڈال رہے ہیں جو میرے نقطہ نظر سے نہیں ہونی چاہیے۔ جناب والا! اس کلاز نمبر 3 میں یہ درج کیا گیا ہے کہ وفاقی حکومت چیئرمین اور بورڈ کے ارکان کو نامزد کرے گی۔ اس اختیار کو استعمال کرتے ہوئے مجھے یقین ہے کہ حکومت یہ دیکھے گی کہ کوئی ایسا شخص جو فائز العقل ہے نامزد نہیں کیا جاتا۔ وہ یہ دیکھے گی اور نامزدگی سے پیشتر دیکھے گی کہ کوئی ایسا شخص جو کہ دیوالیہ ہو وہ نامزد نہیں کیا جاتا۔ وہ یہ دیکھے گی کہ کوئی ایسا شخص جو کہ سرکاری ملازمت سے درخواست ہو چکا ہو اسے اس بورڈ کا رکن یا چیئرمین نہیں بنایا جاتا اور وہ یہ دیکھے گی کہ کسی ایسے شخص کو اس بورڈ کا رکن نہیں بنایا جاتا جو کسی اخلاقی جرم میں ملوث ہو کر سزا پا چکا ہو۔ جناب والا! جو شکل اس وقت سب کلاز 7 کی ہے وہ یہ ہے کہ جیسے نامزدگی کے وقت تقرری کے وقت وفاقی حکومت کو قطعاً علم نہیں ہوگا کہ کسی شخص میں یہ خامیاں ساری کی ساری یا کوئی ایک شخص میں موجود ہے اور یہ ساری خامیاں یا ان میں سے کوئی خامی نامزدگی کے بعد پیدا ہوگی۔ ان میں سے اکثر وہ خامیاں ہیں جو کہ پہلے موجود ہونگی۔ مثال کے طور پر جیسا کہ ابھی محترم وزیر جناب رانا صاحب نے ارشاد فرمایا ہے کہ اس وقت جو بورڈ حکومت قائم کر رہی ہے اس کے ارکان کا بیشتر حصہ بلکہ کلہم قومی اسمبلی کے ارکان یا صوبائی اسمبلی کے ارکان پر مشتمل ہوگا۔ ظاہر ہے کہ ان کا انتخاب کرتے ہوئے ان کو نامزد کرتے ہوئے یہ بات پہلے دیکھ لی گئی ہوگی کہ ان میں سے کسی صاحب کو کسی عدالت نے دیوالیہ تو نہیں قرار دیا۔ یا کوئی صاحب فائز العقل تو نہیں۔ یا کوئی صاحب کسی اخلاقی جرم میں ملوث تو نہیں رہے۔ اس لئے میں یہ سمجھتا ہوں اور میں نے اس پر بڑی سوچ بچار کی ہے کہ وفاقی حکومت تعیناتی کے بعد میں کیوں نہیں نکالے گی جیسا کہ کلاز نمبر 5 میں دیا گیا ہے کہ اگر فلاں فلاں خابیاں پیدا ہو جائیں تو حکومت انہیں نکال سکتی ہے۔ میں کہتا ہوں کہ وہ پہلے کیوں نہیں دیکھ لیتی۔ میرا نقطہ نظر یہ ہے کہ حکومت اپنے آپ پر یہ ذمہ داری نہ لے کہ وہ اس قسم کے لوگوں کو جن کا کلاز نمبر 7 میں ذکر ہے بورڈ کا رکن مقرر کر دے اور جناب والا! میں نے اس غرض کے لئے اپنے ملک کے آئین سے استفادہ کرنے کی کوشش کی ہے اور آپ دیکھیں گے کہ آرٹیکل 63 میں واضح طور پر لکھا ہوا ہے کہ :

“63. (1) A person shall be disqualified from being elected or chosen as, and from being, a member of Parliament, if :—

(a) he is of unsound mind and has been so declared by a competent court ; or

- (b) he is an undischarged insolvent ; or
- (c) he ceases to be a citizen of Pakistan, or acquires the citizenship of a foreign State ; or
- (d) he holds any office of profit.....” and so on and forth.

اسی آرٹیکل کو سامنے رکھتے ہوئے میں نے ان ارکان کی disqualifications درج کی ہیں کہ یہ اس مسودہ قانون میں ضرور درج ہونی چاہیں - میں نے ان میں اپنی طرف سے کسی امر کا اضافہ نہیں کیا - میں نے صرف یہ کہا ہے کہ اس قسم کے لوگ ممبر نہیں بن سکتے - اور یہ ممکن ہی نہ ہو کہ وہ ممبر بن جائیں - میں حکومت کو ایسا کم فہم تصور نہیں کر سکتا کہ وہ اس قسم کے لوگوں کو بورڈ کا رکن مقرر کرے گی - اس لئے میں نے اس کلاز کو محض از سر نو ترتیب دیا ہے -

Mr. Chairman : Will the membership be restricted to the Government or outsiders ?

Khawaja Mohammad Safdar : Anybody can be there even the Government Servant.

میں نے کب کہا ہے کہ گورنمنٹ سرونٹ نہ ہو -

Mr. Chairman : No, No, I want this for my own knowledge.

خواجہ محمد صفدر : میں نے کسی qualification کا اضافہ نہیں کیا اور کوئی disqualification اپنی طرف نہیں بڑھائی - میں نے حکومت کی ذمہ داری کو shift کرنے کی کوشش کی ہے کہ حکومت اپنے آپ پر یہ ذمہ داری نہ لے -

Mr. Chairman : Supposing a Government servant, in order to understand the discussion, is appointed as a member and in the mean time for certain reasons he is dismissed, he was not dismissed when he was first taken, but during the course of his membership of the board have been dismissed, and because the Government servant cannot be removed.

Khawaja Mohammad Safdar : Why not, Sir ?

Mr. Chairman : He is disqualified. Initially he was neither dismissed nor there was any case against him. He was appointed already as a member of the board. During the course of his service the parent department starts some case of corruption against him and he is removed, the moment he is dismissed from there and disqualified for appointment he is removed from there.

Khawaja Mohammad Safdar : Sir, I have made it clear.

Ch. Mohammad Hanif Khan : Sir, the disqualifications are provided that these are the grounds on which he can be dismissed.

Mr. Chairman : All right, you can say this in your reply. Yes Khawaja Sahib.

خواجہ محمد صفدر : جناب والا ! آپ نے جو اعتراض فرمایا ہے اس کے متعلق اگر میری ترمیم جو کہ میں نے سب کلاز پانچ میں تجویز کی ہے اس کے الفاظ دیکھیں تو

“A member shall, unless he earlier resigns his office under sub-section (b) or is removed because of incurring any of the disqualifications mentioned in sub-section (7) . . .”

اب اگر کوئی ملازم اس کا رکن بنایا گیا ہے اور وہ بن سکتا ہے اور وہ ملازمت سے برخاست ہو جاتا ہے یا اس کا اپنا محکمہ کسی وجہ سے اس کو برخاست کر دیتا ہے تو

He would incur the disqualification.

It is quite simple. There is nothing wrong about it Sir.

اس لئے آپ نے جو شک ظاہر کیا ہے وہ سب کلاز ۵ کے پڑھنے سے واضح ہو جانا چاہیئے۔ تو میں یہ عرض کر رہا تھا کہ اگر اس کلاز کو موجودہ صورت میں رکھا جائے تو پھر یہ شکوک پیدا ہوتے ہیں اس قسم کے الفاظ سے جس قسم کے الفاظ کہ یہاں استعمال کئے گئے ہیں ان الفاظ سے یہ شبہ پیدا ہوتا ہے کہ حکومت دانستہ یا نا دانستہ طور پر یہ کام بھی کریگی اس قسم کے لوگوں کو رکن نامزد کر دے گی تو میں نے اس شک کو دور کرنے کے لئے اور عبارت کو واضح کرنے کے لئے یہ ترمیم تجویز کی ہے۔ اس میں جہاں تک معنی کا تعلق ہے۔ جہاں تک ان کے مطالب کا تعلق ہے۔ اور جہاں تک ان کے اغراض و مقاصد کا اس کلاز سے تعلق ہے۔ وہ میں نے بعینہ جوں کے توں رکھے ہیں۔ میں نے صرف الفاظ کو تبدیل کیا ہے کیوں کہ میری رائے میں وہ الفاظ درست نہیں ہیں۔ اس کا draft کم از کم اس کلاز کی حد تک حد درجہ ناقص ہے۔

Ch. Mohammad Hanif Khan : Sir, I really don't find any reason why there should be any change although as far as the intention is concerned, we have the same amendment. But the question is that is it necessary to bring this amendment at all? I cannot really understand. I am reading every time this amendment :

“That sub-section 5 of Clause 3 of the Bill be substituted by the following, namely ;

“A member shall unless he earlier resigns under sub-section (b) or is removed because of incurring any of the disqualifications mentioned in sub-section (7)...”

Now, these are the words which are intended to be added :

“.....removed because of incurring any disqualifications mentioned in sub-section (7)...”

And nothing at all. And what is the Section is :

“A member shall unless he earlier resigns his office under sub-section (6) or is removed under sub-section (7) ...”

Where is the necessity of incurring any disqualifications because sub-section (7) clearly relates to disqualifications on the basis of which a person can be removed. I cannot find any difference. If we read sub-section (7), it says :

“(7) The Federal Government shall have the power to remove any member if he :—

(i) is disqualified for employment in, or dismissed from the service of Pakistan ; or”

It relates to disqualification of a member. So where is the necessity. There is no necessity for that because the sense is clearly conveyed.

And so far this Sub-section (7) is concerned, I may respectfully submit that it is a universally recognised principle, everybody knows it happens everyday in the courts, that when the disqualifications are mentioned then on the basis of these disqualifications, a person can be removed from his office. Impliedly the law says that when a person suffers from these disqualifications he cannot be appointed. Where is the necessity or sense in appointing an individual who can be removed the next moment. Question does not arise. It does not convey any sense at all. I think we know it fully well that when the disqualification is there, there is no question of appointing a man who suffers from that disqualification. Does it convey any sense that you appoint a man and then you say that as he suffers from this disqualification he is dismissed ? And if somebody is appointed by a mistake, well, that is a different thing. Even if I accepted the possibility of mistake being committed that still depends upon the inquiry as to whether the Government is in a position to find out before hand whether or not a man suffers from these disqualifications. That mistake can still be committed.

Thank you, Mr. Chairman.

Mr. Chairman : I will put the question. The question is :

A. “That sub-clause (5) of Clause 3 of the Bill, be substituted by the following, namely :—

“(5) A member shall unless he earlier resigns his office under sub-section (b) or is removed because of incurring any of the disqualifications mentioned in sub-section (7), hold office for a period of three years on such terms and conditions as the Federal Government may determine”.

- B. That in sub-clause (7) of Clause 3 of the Bill, the words "The Federal Government shall have the power to remove a member if he—", be substituted by the following, namely :—

"a person shall be disqualified to be appointed as Chairman or as member of the Board if he.—"

(The motion was negatived)

Mr. Chairman : The question before the House is :

"That Clause 3 forms part of the Bill"

(The motion was adopted)

Mr. Chairman : Clause 3 forms part of the Bill.

Now, we take clause 4. There is no amendment to clauses 4 to 15.

Then I take all the clauses together.

The question before the House is :

"That Clauses 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15 form part of the Bill"

(The motion was adopted)

Mr. Chairman : Clause from 4 to 15 form part of the Bill.

Clause 16. There are two amendments standing in the name of Khawaja Mohammad Safdar. He may move his amendment.

Khawaja Mohammad Safdar : Sir, if your honour permits, may I move both the amendments together ?

Mr. Chairman : None of deletion ?

Khawaja Mohammad Safdar : No, Sir.

Mr. Chairman : Then you can move both.

Khawaja Mohammad Safdar : Sir, I move the amendments :

1. "That in clause 16 of the Bill, the word "fifteen" occurring in the third line be substituted by the word "thirty".
2. "That the full stop occurring at the end of Clause 16 be substituted by a semi colon and the following words be added thereafter, namely :—

"and in case the order is passed by the Administrator, any person aggrieved by such order may, within thirty days of the passing of such order, prefer an appeal to the Chairman."

Mr. Chairman : The amendments moved are :

1. "That in clause 16 of the Bill, the word "fifteen" occurring in the third line be substituted by the word "thirty".
2. "That the full stop occurring at the end of Clause 16 be substituted by a semi colon and the following words be added thereafter, namely :—

"and in case the order is passed by the Administrator, any person aggrieved by such order may, within thirty days of the passing of such order, prefer an appeal to the Chairman."

Khawaja Mohammad Safdar : Sir, according to my view there is a lacuna left in this clause. I would refer you to Clause 16 which reads :

"16. Save as otherwise provided in this Act, any person aggrieved by an order passed under this Act by an Assistant Administrator or a Deputy Administrator may, within fifteen days of the passing of such order, prefer an appeal to the Administrator."

جناب والا ! اپیل کے متعلق اس مسودہ قانون میں ماسوائے اس کلاز کے اور کوئی کلاز نہیں ہے اور اپیل کن احکامات کے خلاف ہوگی ؟ اگر Assistant Administrator کوئی حکم جاری کریگا - کوئی آرڈر جاری کریگا - اس کے خلاف ہوگی یا Deputy Administrator کے حکم کے خلاف اپیل اس مسودہ قانون کے مطابق ، پندرہ دن کے اندر Administrator کے پاس اپیل ہو سکتی ہے - لیکن اگر Administrator خود کوئی آرڈر پاس کرتا ہے - تو اس کے لئے اپیل کہاں ہوگی - اس کے متعلق یہ مسودہ قانون بالکل خاموش ہے - یہاں تک تو ہے کہ اگر بورڈ کوئی فیصلہ کرے تو اس کے خلاف کوئی شخص ہائی کورٹ میں جا سکتا ہے - جیسا کہ کلاز دس میں ہے -

[At this stage the Chair was vacated by Mr. Chairman and occupied by Mr. Deputy Chairman].

خواجہ محمد صفدر : جناب ڈپٹی چیئرمین ! میں عرض کر رہا ہوں کہ کلاز ۱۶ کو سامنے رکھئے اس میں صرف اسسٹنٹ ایڈمنسٹریٹر ، ڈپٹی ایڈمنسٹریٹر کے احکامات کے خلاف اپیل کا حق دیا گیا ہے لیکن میں نے مسودہ قانون کا ایک سرے سے دوسرے تک اس غرض کے لئے مطالعہ کیا ہے کہ کمپن ایڈمنسٹریٹر کے احکامات کے خلاف اپیل کی کوئی گنجائش رکھی گئی ہو - میں کم از کم ایسا معلوم کرنے میں ناکام رہا ہوں -

جناب والا ! ایسا معلوم ہوتا ہے کہ مسودہ قانون کے ذریعے ایڈمنسٹریٹر کے احکامات کو آخری اور قطعی تصور کیا گیا ہے اور بنایا گیا ہے۔ اس سقم کو رفع کرنے کے لئے میں نے ایک تجویز کی تھی کہ اگر ایڈمنسٹریٹر کے حکم کے خلاف کسی فرد کو شکایت ہو یا وہ سمجھے کہ اس کی حق تلفی ہوئی ہے ، اور وہ اپیل دائر کرنی چاہیے تو ۳ دن کے اندر اندر بورڈ کے چیئرمین کے پاس ایڈمنسٹریٹر کے احکامات کے خلاف اپیل کر سکتا ہے۔ بڑی سیدھی سی بات ہے اپیل کا حق اصولی بات ہے۔ محترم وزیر صاحب نے مسودہ قانون میں تسلیم کر لیا ہوا ہے اگر سرے سے اپیل کا حق عوام کو نہ دیتے ، تو یہ اور بات تھی اس پر اصولی بحث ہو جاتی کہ آیا کس کو اپیل کا حق دینا چاہیے اور کس کو نہیں دینا چاہیے۔ لیکن اس وقت اصولی بحث نہیں ہے۔ اپیل کے حق کا جہاں تک تعلق ہے وہ محترم وزیر محنت صاحب عوام کو دے چکے ہیں کہ عوام اسسٹنٹ ایڈمنسٹریٹر اور ڈپٹی ایڈمنسٹریٹر کے احکامات کے خلاف تو اپیل کر لیں لیکن ایڈمنسٹریٹر کے خلاف اپیل نہیں کر سکتے لیکن اگر یہ اصول بھی ہوتا کہ ایڈمنسٹریٹر اور اس کے اوپر کے جتنے عہدیدار ہیں ان کے احکامات کے خلاف اپیل کا حق ہونا چاہیے یا نہیں اگر ایسا ہوتا تو یہ بات اصولی ہوتی لیکن نہیں ، بورڈ کے فیصلوں کے خلاف تو مسودہ قانون میں ہائی کورٹ میں اپیل کرنے کی گنجائش رکھی ہے اس لئے ان کے ذہن میں یہ نہیں ہوگا کہ چیئرمین کے فیصلوں کے خلاف اپیل نہیں ہو سکتی کیونکہ انہوں نے اسسٹنٹ ایڈمنسٹریٹر اور ڈپٹی ایڈمنسٹریٹر کے فیصلوں کے خلاف اپیل کا حق دیا ہے اس لئے یہ ان کے ذہن میں یہ نہیں ہوگا کہ اوپر کے عہدیداروں کے خلاف اپیل کا حق نہیں ہونا چاہیے۔ یہ بات غلطی سے رہ گئی ہے تو میں نے جناب ڈپٹی چیئرمین صاحب ! اس سقم کو دور کرنے کے لئے عرض کیا ہے۔ اسے سقم کو رفع کیا جائے۔

جناب ڈپٹی چیئرمین : دو امینڈمنٹ ہیں۔

چوہدری محمد حنیف خان : یہ بھی منظور ہے اور دوسری بھی منظور ہے۔

Sir, I think Khawaja Sahib has made a very good point and I think I should accept it—both thirty days and appeal to the Chairman against the order of the Administrator.

Mr. Deputy Chairman : Amendments No. 1 and 1(A). You accept them.

Ch. Mohammad Hanif Khan : Yes, Sir. (Then he read the amendments).

Mr. Deputy Chairman : Now, the question before the House is :

“That in clause 16 of the Bill, the word “fifteen” occurring in the third line be substituted by the word “thirty”. and
“That the full-stop occurring at the end of clause 16 be substituted by a semi-colon and the following words be added thereafter, namely :—

“and in case the order is passed by the Administrator, any person aggrieved by such order may within thirty days of the passing of such order, prefer an appeal to the Chairman”.

(The motion was adopted)

Mr. Deputy Chairman : Now I put clause 16. The question before the House is :

“That clause 16 as amended forms part of the Bill”.

(The motion was adopted)

Mr. Deputy Chairman : Clause 16 as amended forms part of Bill.

Now, we take up Clause 17. There is an amendment. Yes, Khawaja Sahib.

Khawaja Mohammad Safdar : Sir, I beg to move :

“That clause 17 of the Bill be substituted by the following, namely :—

“17. *Revision.*—(1) The Federal Government may of its own motion if no appeal is preferred to the High Court within the period allowed for preferring, at any time after the expiry of such period, call for the record of any case or proceeding pending before or disposed of by the Board for purposes of satisfying itself as to the correctness, legality or propriety of such order and may pass such orders in relation thereto as it may deem fit.

(2) The Chairman may at any time of his own motion or on an application made by a person aggrieved by an order passed by the Assistant Administrator, a Deputy Administrator or an Administrator within thirty days from the date of such order, call for the record of any case or proceeding for the purpose of satisfying himself as to the correctness, legality or propriety of such order and may pass such order in relation thereto as he thinks fit”

Mr. Deputy Chairman : Now, the motion before the House is :

“That in sub-clause (1) (b) of clause 17 of the Bill, the word “may” occurring in the first line be substituted by the word “made”.

“that clause 17 of the Bill be substituted by the following, namely :—

“17. *Revision*.—(1) The Federal Government may of its own motion if no appeal is preferred to the High Court within the period allowed for preferring, at record of any case or proceeding pending before or disposed of by the Board for purposes of satisfying itself as to the correctness, legality or propriety of such order and may pass such orders in relation thereto as it may deem fit.

(2) The Chairman may at any time of his own motion or on an application made by a person aggrieved by an order passed by an assistant Administrator, a Deputy Administrator or an Administrator within thirty days from the date of such order, call for the record of any case or proceeding for the purpose of satisfying himself as to the correctness, legality or propriety of such order and may pass such order in relation thereto as he thinks fit”.

Do you oppose the motion ?

Ch. Mohammad Hanif Khan : I don't oppose or accept it at the moment. Let him explain, Sir.

Mr. Deputy Chairman : Will you explain, Khawaja Sahib ?

خواجہ محمد صفدر : جناب والا ! اگر آپ ملاحظہ فرمائیں - میں جناب کی خدمت میں کلاز نمبر ۱۷ پڑھے دیتا ہوں -

Clause 17 of the Bill :—

“17. *Revision*.—(1) The Federal Government or the Chairman may,—

(a) of its or his own motion, if no appeal is preferred to the High Court within the period allowed for preferring, at any time after the expiry of such period, or.....”

For the time being we leave part (b).

“.....call for the record of any case or proceeding for the purpose of satisfying itself or himself as to the correctness, legality or propriety of such order and may pass such order in relation thereto as it or, as the case may be, he thinks fit.”

خواجہ محمد صفدر : بس ابھی اتنا عرض کروں گا - بی کو بعد میں زیر بحث لائیں گے - جناب والا ! میں نے اس امر کی جانب پہلی خواندگی میں اشارہ کیا تھا -

کہ ہائیکورٹ میں صرف دو صورتوں میں اپیل دائر ہو سکتی ہے۔ اور وہ اپیل صرف بورڈ کے فیصلوں کے خلاف دائر ہو سکتے گی۔ کسی ماتحت افسر کے فیصلے کے خلاف نہیں ہو سکتے گی۔ دونوں شکووں میں بورڈ کے فیصلوں کا ذکر ہے۔ کہ اگر کسی آدمی کو بورڈ کے فیصلہ کے خلاف کوئی شکایت ہو تو وہ ہائی کورٹ میں اپیل دائر کر سکتا ہے۔ اب اگر بورڈ ایک فیصلہ کرتا ہے۔ اور چیئرمین صاحب اس کے چیئرمین ہے۔ اور وہ بھی اسی فیصلے میں شامل ہیں۔ اور جیسا کہ میں نے عرض کیا تھا کہ بورڈ بحیثیت مجموعی اس مسودہ قانون کے اعتبار سے تمام اختیارات کا حامل ہے۔ تمام اختیارات اس کے پاس ہیں۔ چیئرمین کے پاس نہیں ہیں۔ البتہ بورڈ کو یہ اختیار ہوگا۔ کہ وہ اپنے اختیارات میں سے کوئی اختیار چیئرمین کو تفویض کر دے۔ جیسا کہ مسودہ قانون کہتا ہے کہ وہ ایک subordinate اتھارٹی ہے، اور قانون کا بنیادی اصول یہ ہے، کہ ایک ماتحت ادارہ ایک ماتحت فرد کسی اعلیٰ ادارے یا کسی اعلیٰ فرد کے خلاف اپیل یا نگرانی نہیں من سکتا۔ میں نے اس سقم کی نشاندہی کی ہے۔ کہ اس کو رفع کیا جائے۔ اور میرے محترم دوست رانا حنیف صاحب کی بھی غرض و غایت یہ ہے۔ کہ فیڈرل گورنمنٹ کے پاس بھی نگرانی کے اختیارات ہوں۔ میں نے کہا ہے کہ بالکل ٹھیک ہے۔ کہ فیڈرل گورنمنٹ کے پاس ضرور اختیار ہونے چاہیے۔ لیکن میں نے فیڈرل گورنمنٹ کو وہ اختیارات دیئے ہیں۔ کہ جن مقدمات کا بورڈ فیصلہ کرے۔ اور ان مقدمات کے خلاف اگر کسی نے اپیل دائر نہیں کی۔ تو از خود وفاقی گورنمنٹ ایسے مقدمات کے کاغذات اور مثل طلب کر سکتی ہے۔ کہ بورڈ نے نیک نیتی سے، دیانت داری سے قوانین کے مطابق درست فیصلے کئے ہیں۔ یا غلط کئے ہیں، اب اس میں کسی ترمیم کی ضرورت نہیں ہے۔ کیونکہ وفاقی حکومت کو یہ اختیار ہوگا۔ کہ وہ اس فیصلے میں رد و بدل کر سکتی ہے۔ یا یکسر تبدیل کر دے۔ اور اس مسودہ قانون کے دوسرے حصے میں میں نے یہ تجویز کیا ہے۔ کہ اگر کسی ایڈمنسٹریٹر، ڈپٹی ایڈمنسٹریٹر، اور اسسٹنٹ ایڈمنسٹریٹر کے حکم کے خلاف کوئی نگرانی کرنا چاہے۔ تو وہ نگرانی کون سنے گا؟ میرے نقطہ نظر سے یہاں آ کر مسودہ قانون میں کڑ بڑ ہوئی ہے۔ اور میری رائے میں مسودہ قانون کی غرض یہ ہے۔ کہ ایڈمنسٹریٹر، ڈپٹی ایڈمنسٹریٹر، اور اسسٹنٹ ایڈمنسٹریٹر اگر کسی مقدمے کا فیصلہ کرے گا۔ تو اس کے خلاف نگرانی چیئرمین کے پاس جائے گی۔ کیونکہ وہ بلند تر اتھارٹی ہے۔ چیئرمین ان سے اونچے درجہ کے افسر ہیں۔ ان کا درجہ بلند ہے۔ اور وہ اسی مرتبے پر فائز ہوں گے۔ کہ اپنے ماتحتوں کے حکام میں مداخلت کر سکیں یا یکسر منسوخ کر دیں۔ یا اپنے خیال کے مطابق اس میں رد و بدل کر دیں۔ اس لئے میں نے اسے دو حصوں میں تقسیم کر دیا ہے۔

چوہدری محمد حنیف خان : اگر اس کو accept کر لیں تو فیڈرل گورنمنٹ صرف وہ فیصلے دیکھ سکتی ہے - جو بورڈ نے فیصلے کئے ہیں - حالانکہ سنٹرل گورنمنٹ کے پاس power زیادہ ہے - اس میں بڑا فرق ہے کیونکہ ہر گورنمنٹ کے پاس یہ شکایت آتی ہے کہ اس قسم کی گڑبڑ ہو رہی ہے -

Mr. Deputy Chairman : Well, the motion is opposed. Both the parties have spoken on the issue, I will now put both the amendments separately.

The question is :

“That in sub-clause (1) (b) of the clause 17 of the Bill, the word “may” occurring in the first line be substituted by the word “made”.

Khawaja Mohammad Safdar : That amendment has not been moved yet.

Mr. Deputy Chairman : I read out the motion.

Khawaja Mohammad Safdar : I am sorry. I was not attentive. I will move the amendment.

I beg to move :

“That in sub-clause (1) (b) of clause 17 of the Bill, the word “may” occurring in the first line be substituted by the word “made”.

Mr. Deputy Chairman : There is no objection.

Motion moved. The question is :

“That in sub-clause (1) (b) of clause 17 of the Bill, the word “may” occurring in the first line be substituted by the word “made”.

(The motion was adopted)

Mr. Deputy Chairman : The question is :

“That clause 17 of the Bill be substituted by the following, namely :—

“17. *Revision.*—(1) The Federal Government may of its own motion if no appeal is preferred to the High Court within the period allowed for preferring, at any time after the expiry of such period, call for the record of any case or proceeding pending before or disposed of by the Board for purposes of satisfying itself as to the correctness, legality or propriety of such order and may pass such orders in relation thereto as it may deem fit.

(2) The Chairman may at any time of his own motion or on an application made by a person aggrieved by an order passed by an Assistant Administrator, a Deputy Administrator or an Administrator within thirty days from the date of such order, call for the record of any case or proceeding for the purpose of satisfying himself as to the correctness, legality or propriety of such order and may pass such order in relation thereto as he thinks fit."

(The motion was negatived)

Mr. Deputy Chairman : Now I put Clause 17.

The question before the House is :

"That clause 17 as amended form part of the Bill".

(The motion was adopted)

Mr. Deputy Chairman : Clause 17 as amended form part of the Bill. Now, there is no amendment in clauses 18, 19, 20 and 21, therefore, I put all the clauses together.

The question before the House is :

"That clauses 18, 19, 20 and 21 form part of the Bill".

(The motion was adopted)

Mr. Deputy Chairman : Clauses, 18, 19, 20 and 21 form part of the Bill. Now, we take up Clause 22. Yes, Khawaja Sahib.

Khawaja Mohammad Safdar : Sir, I beg to move :

"That in sub-clause (1) of clause 22 of the Bill, before the words "the Chairman" occurring in the first line, the following words be substituted, namely :—

"The Board."

Mr. Deputy Chairman : The amendment moved is :

"That in sub-clause (1) of clause 22 of the Bill, before the words "the Chairman" occurring in the first line, the following words be substituted, namely :—

"The Board".

Ch. Mohammad Hanif Khan : Opposed.

Mr. Deputy Chairman : Khawaja Sahib, would you like to say something.

Khawaja Mohammad Safdar : Certainly, Sir.

خواجہ محمد صفدر : جناب والا ! اس مسودہ قانون کی شق بائیس (۲۲) کی غرض و غایت یہ ہے ۔ کہ جن افسروں کو مقدمات کے فیصلے کرنے کا اختیار اس مسودہ قانون کے ذریعے دیا جا رہا ہے ۔ ان کو ضابطہ دیوانی کے تحت مقدمات کی سماعت کرنے کے متعلق جو اختیارات دیوانی عدالت کو حاصل ہوتے ہیں ۔ وہ ان کو دئے جائیں ۔ مثال کے طور پر وہ گواہ طلب کر سکیں ۔ سماعت جاری کر سکیں ۔ غرضکہ وہ تمام اختیارات جو کہ دیوانی عدالت کو حاصل ہیں وہ ان افسران کو مل جائیں تاکہ انہیں مقدمات کی سماعت میں کسی قسم کی رکاوٹ نہ ہو ۔ جناب والا ! یہاں سب سے زیادہ اختیار بورڈ کو ہوگا ۔ جس نے یہ فیصلہ کرنا ہے ۔ کہ کوئی جائیداد واقعی وقف ہے یا نہیں ؟ اور اگر کسی شخص کو اس کے دعوے کے عوض میں کوئی جائیداد الاٹ ہو چکی ہوئی ہو اور اس کے بعد یہ معلوم ہو جائے کہ یہ ناجائز طور پر یا بد دیانتی سے اس کی منتقلی ہوئی ہے تو بورڈ کو یہ اختیار ہوگا ۔ کہ وہ اس بات کی تحقیقات کے بعد یہ فیصلہ کرے ۔ کہ یہ بد دیانتی سے منتقل ہوئی ہے یا نہیں ؟ پھر اس عدالتی فیصلہ کے خلاف اس مسودہ قانون کے ذریعے ہائی کورٹ میں اپیل دائر کی جا سکتی ہے اور پھر اس شخص کو عدالت میں جانے کا اختیار نہیں ہوگا سیرے نکتہ نظر سے ۔

جناب ڈپٹی چیئر مین : آپ اس کی وضاحت کریں گے ۔

Ch. Mohammad Hanif Khan : Sir, the Board does not sit there because there is no limit on the number.

(مداخلت)

خواجہ محمد صفدر : آپ کلاز آٹھ اور دس پڑھ لیں پھر اس کے بعد ۔۔۔۔

Mr. Deputy Chairman : Now, I put the question before the House.

The question before the House is :

“That in sub-clause (1) of clause 22 of the Bill, before the words “the Chairman” occurring in the first line, the following words be substituted, namely :—

“The Board”.

(The motion was negatived)

Mr. Deputy Chairman : Now, I put clause 22.

The question before the House is :

“That Clause 22 form part of the Bill”.

(The motion was adopted)

Mr. Deputy Chairman : Clause 22 form part of the Bill.

I think there are no amendments in other Clause, therefore, I put clauses 23, 24 and 25 together.

Now the question before the House is :

“That Clauses 23, 24 and 25 stand part of the Bill”.

(The motion was adopted)

Mr. Deputy Chairman : Clauses 23, 24 and 25 form part of the Bill.”

Now we take up Clause 26. Yes, Khawaja Sahib.

Khawaja Mohammad Safdar : Sir, I move :

“That after clause 26 of the Bill, the following new proviso be added, namely :—

“Provided that no such person shall be ejected or caused to be ejected unless a notice by registered post (acknowledgement due) has been served on him stating the reasons of his ejection and calling upon him to show cause within thirty days of the receipt of the notice, why he should not be ejected from the evacuee trust property in his possession or occupation.”

Mr. Deputy Chairman : The amendment moved is :

“That after clause 26 of the Bill, the following new proviso be added, namely :—

“Provided that no such person shall be ejected or caused to be ejected unless a notice by registered post (acknowledgement due) has been served on him stating the reasons of his ejection and calling upon him to show cause within thirty days of the receipt of the notice, why he should not be ejected from the evacuee trust property in his possession or occupation.”

Ch. Mohammad Hanif Khan : Opposed.

خواجہ محمد صفدر : جناب والا ! میں نے بنیادی حقوق سے متعلقہ مسلمہ اصول کے پیش نظر یہ ترمیم پیش کی ہے ۔ ہو سکتا ہے کہ گزشتہ اڑھائی تین سال سے محترم رانا صاحب چونکہ وزارت کے چکر میں ہیں اس لئے انہیں عدالتی فیصلہ جات کی طرف دھیان دینے کا موقع نہ ملا ہو ۔ ۔ ۔ گزشتہ دو سال (۲) میں متعدد فیصلہ جات سپریم

کورٹ نے اس قسم کے کٹے ہیں کہ کسی شخص کے حقوق کے خلاف فیصلہ کرنے سے قبل اسے اظہار وجوہ کا نوٹس جاری کرنا لازم ہے۔

No one can be condemned unheard.

تو اس قانون میں یہ سقم ہو گا۔ میں یہ نہیں کہتا کہ ان لوگوں کو نہ نکالیں۔۔۔ میں یہ کہتا ہوں کہ یہ امر اس ملک کا مروجہ قانون ہے۔ یہ کہتا ہے۔ جس شخص کو نکالنا ہو۔ بیدخل کرنا ہو۔ یا جس شخص کے خلاف کاروائی عمل میں لانی ہو۔ اس کو پہلے اطلاع دی جائے کہ اس نے یہ غلطی کی ہے۔ جس کی بنا پر اسے نکالا جا رہا ہے۔ اس کی وجہ بیان کرو۔ اگر وہ وجہ بیان کرتا ہے اور وہ وجہ معقول نظر نہیں آتی تو تب ہی نکالا جا سکتا ہے کیونکہ اختیار آپ کے پاس ہوگا لیکن یہ ممکن نہیں آج کل کے مروجہ قانون کے مطابق جو کہ پاکستان کا ہے۔ کہ بغیر شوکاز نوٹس کے کسی کے خلاف کوئی فیصلہ کیا جائے۔ یہ ممکن نہیں رہا۔

جناب ڈپٹی چیئر مین : کیوں جناب۔

Ch. Mohammad Hanif Khan : Exactly for the reasons which have been stated by Khawaja Mohammad Safdar, it is absolutely unnecessary to incorporate this amendment in the law, because under the law nobody can be ejected unless he is given due opportunity of being heard. Inquiry is before hand made as to whether the allegations are justified against any individual. Otherwise no ejection can be passed. Where is the necessity of burdening this Bill with some additional lines which do not carry any weight. Khawaja Sahib has said that this is the law, the Supreme Court has held. I say, the Supreme Court has not held today but had held it long since. These are the basic principles of law. Where is the necessity of incorporating these lines here.

Mr. Deputy Chairman: So, you don't accept the amendment. Therefore, I put the question before the House.

The question before the House is :

That after 26 of the Bill, the following new proviso be added, namely :—

“Provided that no such person shall be ejected or caused to be ejected unless a notice by registered post (acknowledgement due) has been served on him stating the reasons of his ejection and calling upon him to show case within thirty days of the receipt of the notice, why he should not be ejected from the evacuee trust property in his possession or occupation.”

(The motion was negatived)

Mr. Deputy Chairman : The amendment is rejected.

Now the question before the House is :

“That Clause 26 form part of the Bill”.

(The motion was adopted)

Mr. Deputy Chairman : Clause 26 forms part of the Bill.

Clause 27. Khawaja Mohammad Safdar to move his amendment.

Khawaja Mohammad Safdar : Sir, I beg to move :

“That in sub-clause (4) of Clause 27 of the Bill, the word “or” occurring in the third line be substituted by the word “of”.

Mr. Deputy Chairman : The amendment moved is :

“That in sub-clause (4) of Clause 27 of the Bill, the word “or” occurring in the third line be substituted by the word “of”.

Ch. Mohammad Hanif Khan : Accepted, Sir.

Mr. Deputy Chairman : The question is :

“That in sub-clause (4) of Clause 27 of the Bill, the word “or” occurring in the third line be substituted by the word “of”.

(The motion was adopted)

Mr. Deputy Chairman : The amendment is accepted.

Now, the question is :

“That Clause 27 as amended form part of the Bill.”

(The motion was adopted)

Mr. Deputy Chairman : Clause 27 as amended form part of the Bill.
There is no amendment to Clause 28 to 33. So I put the question.

The question before the House is :

“That Clause 28 to 33 form part of the Bill.”

(The motion was adopted)

Mr. Deputy Chairman : Clause 28 to 33 form part of the Bill.

The question before the House is :

“That the Clause 1, Preamble and Title form part of the Bill”.

(The motion was adopted)

Mr. Deputy Chairman : Clause 1, Preamble and Title form of the Bill.

خواجہ محمد صفدر : تیسری خواندگی پرسوں ہو جائے گی ۔

جناب ڈپٹی چیئر مین : میرے خیال میں کافی بحث ہو چکی ہے ۔

خواجہ محمد صفدر : میں اپنے محترم دوست پر ثابت کرونگا جو اس وقت دوسرے قوانین ہیں اور دوسرے قوانین جو اس کے متعلق ہیں ۔ وہ سبھی اس وقت تک نافذ ہیں ۔

جناب ڈپٹی چیئر مین : نہ صرف آپ نے بلکہ دوسرے لوگوں نے بھی ثابت کرنے کی کوشش کی لیکن وزیر صاحب نہیں مانتے ۔

خواجہ محمد صفدر : وہ مانیں گے ۔ میں انہیں پوری طرح سمجھاؤں گا ۔

جناب ڈپٹی چیئر مین : میرے خیال میں نکلنے دیں ۔

خواجہ محمد صفدر : میں انتہائی ادب سے درخواست کرونگا ۔

چوہدری محمد حنیف خان : میں نے بار بار کہا ہے کہ وہ سبسٹ تو کرتے ہیں ۔ لیکن جناب دوبارہ ریپیل ہوں گے وہ بھی واپس جائے گا ۔

جناب ڈپٹی چیئر مین : آپ خواجہ صاحب سے سیٹل کر لیں اگر وہ تھرڈ ریڈنگ کے لئے اصرار کرتے ہیں تو وہ پھر پرسوں کے لئے جائے گا ۔

خواجہ محمد صفدر : ان کو اس پر اعتراض نہیں ہے ۔ کہ تیسری خواندگی اگلے دن پر ملتوی ہو جائے ۔

جناب ڈپٹی چیئر مین : چلیے موشن موو کرتے ہیں ۔

Ch. Mohammad Hanif Khan : Sir, I move the motion :

“That the Bill to provide for the management and disposal of evacuee properties attached to charitable, religious or educational trust or institution. [The Evacuee Trust Properties (Management and Disposal) Bill, 1974], as amended be passed.”

Mr. Deputy Chairman : The motion moved is :

“That the Bill to provide for the management and disposal of evacuee properties attached to charitable, religious or educational trust or institutions. [The Evacuee Trust Properties (Management and Disposal) Bill, 1974], as amended be passed.

Khawaja Mohammad Safdar : Opposed Sir.

Mr. Deputy Chairman : The Bill is opposed, therefore, I think we should adjourn the House.

MESSAGE FROM NATIONAL ASSEMBLY SECRETARIAT

Mr. Deputy Chairman : Before adjournment, I read a message from the Secretary, National Assembly to the Senate Secretariat. The message is :

“In pursuance of rule 109 of the Rules of Procedure and Conduct of Business in the National Assembly, 1973, I have the honour to inform the Senate Secretariat that the National Assembly passed the Islamabad (Requisitioning of Immovable Properties) Bill, 1974, on the 13th August, 1974. A copy of the Bill is transmitted herewith. Kindly acknowledge receipt”.

The message is over.

Now the House is adjourned to meet tomorrow at 10-00 in the morning.

The House adjourned till ten of the clock in the morning on Friday, August 16, 1974.