

12.52 hrs.

**PUBLIC PREMISES (EVICTION OF  
UNAUTHORISED OCCUPANTS)  
BILL—contd.**

Mr. Speaker: The House will now resume discussion of the Public Premises (Eviction of Unauthorised Occupants) Bill, 1958, as passed by the Rajya Sabha. The House has already taken 4 hours and 10 minutes on the general discussion. After the general discussion is over, clause-by-clause consideration and thereafter the Third Reading of the Bill will be taken up for which two hours have been fixed.

The Minister of Law (Shri A. K. Sen): Mr. Speaker, Sir, I do not propose to take much time of the House to make my submissions as regards the Bill itself. It has become necessary for me to intervene because of various doubts which have been expressed by many hon Members including our esteemed friend Pandit Thakur Das Bhargava. I do not appreciate why any misunderstanding has been created or any difficulty has been experienced in following the provisions of the Bill or the objects of the Bill.

Hon. Members will recollect the context in which the Bill was introduced. The provisions of the old Act provided for a summary order of eviction without any enquiry into the rights of persons occupying the alleged Government premises. That Act was challenged in three High Courts, the Calcutta High Court, the Allahabad High Court and the Punjab High Court. The majority view expressed by two High Courts has been to the effect that the old Act infringed article 19 of the Constitution, namely that it involved an unreasonable restriction on the right to hold property or enjoy property. The Allahabad High Court seems to have taken the view that that Act infringed the provisions of article 14 of the Constitution as well. These were the difficulties which the Government had to meet.

The propriety of the Government in seeking a different procedure for dealing with Government property need not be questioned, because, in regard to various matters, the law provides a separate machinery and procedure for dealing with Government property or Government demand. Take, for instance, the Public Demands Recovery Acts in force in different States. In order to facilitate the recovery of revenue expeditiously and without delay, special provisions have been made in the Public Demands Recovery Act. Similarly Government premises form a class by themselves and the need is felt, genuinely felt, that it cannot be allowed to take years and years to recover possession of property belonging to the Government occupied by unauthorised persons. That is the main object of the Bill. So far as that object is concerned, it is not a question of law. It is a question of policy. It is only when we deal with the procedure which is prescribed by the Act for the purpose of giving effect to that object that the question of constitutional difficulty or propriety comes up or comes in question.

I submit, let it not be quoted later on that the Government have said or asserted that in the initial stages, when the bringing into operation of the procedure prescribed in clause 4 is made dependent on the opinion of a responsible officer, the initiation of the necessary proceeding can be challenged in a court of law provided a *bona fide* opinion is formed by the officer in charge or the officer set up by the Government under the Act. That point must be made clear. It seems there is a good deal of confusion with regard to that provision. It is now generally accepted and laid down by the Supreme Court that simply because the initiation of a particular procedure is dependent upon the subjective opinion of a responsible officer, that provision does not contravene either article 14 or article 19 of the Constitution. That matter is beyond

dispute at the moment. If that is clear, then, the question is, has the procedure provided within itself a sufficient safeguard which would prevent the procedure applicable to Government property from being regarded as an unreasonable restriction on the right to hold property. The point is not whether initiation of the procedure is dependent on the subjective opinion of the officer or not, but the point to consider is whether the proceeding initiated after *bona fide* opinion is formed by the authority concerned is a reasonable procedure or not. That is the whole question. Let there be no doubt that the initiation of the proceeding is dependent upon the opinion of the competent authority. I make that quite clear in order to safeguard against any future argument, should the matter be ever brought to a court of law, that on behalf of the Government any statement was ever made that *bona fide* opinion which sets into motion the proceeding prescribed by the Act can be challenged in a court of law.

In answering the objections or doubts regarding the reasonableness of the procedure prescribed, may I point out a few salient facts in contradistinction to the procedure which was prescribed under the old Act? Hearing the aggrieved party is made mandatory. Notice is made mandatory and it is not left to the determination of any and every officer as in the old Act. Because, under the old Act, no qualification was prescribed for the officer entrusted with that duty. Here, the competent authority must answer the qualifications prescribed by section 2 read with section 3, which says that the Central Government can only appoint such persons being Gazetted officers of the Government. That means, these officers shall not be below the rank of Gazetted officers. If that is so, these responsible officers are obliged to hear the parties concerned, give them notice, hear all objections and then come to a finding. But, under the old Act, there is a further infirmity attached

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to the proceeding which was rightly condemned by the different High Courts. An appeal lay only to the Central Government, not to an impartial judicial authority competent to decide questions of title and other complicated questions of law. The Bill has provided for sufficient safeguards in the matter of appeal so that even if gazetted officers go wrong in coming to their decisions, an appeal has been provided for under the Bill as hon. Members will notice in clause 9. If I may read that clause once again, it says:

"9(1) An appeal shall lie from every order of the estate officer made in respect of any public premises under section 5 or section 7 to an appellate officer who shall be the district judge of the district in which the public premises are situate, or such other judicial officer in that district of not less than ten years' standing as the district judge may designate in this behalf."

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Once the matter goes to the District Judge further appeals to higher tribunals are open. So, the entire machinery for judicial review and review by appellate authorities has been brought into the structure of the Bill which was not there in the old Act.

Hon. Members will notice the three striking features of the new Bill which cover up the deficiencies and vices from which the old Act suffered, namely, that the person responsible for adjudication in the initial stage must be an officer not below the rank of a gazetted officer; secondly, it preserves the principles of natural justice of having to give notice to all aggrieved parties and hear all objections and before pronouncement of any verdict; thirdly appeal has been provided for to the District Judge in the first instance and then the entire appellate machinery is thrown open under the ordinary law. As hon. Members are well aware, once an appeal is given to the District

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Judge the entire paraphernalia of further appeals unless barred by law would be opened up. Further, as hon. Members are fully aware proceedings under articles 226 and 227 of the Constitution can never be taken away by parliamentary legislation. So, even if we bar further appeals to the High Courts, appeals on points of law and point of jurisdiction will remain open under articles 226 and 227 of the Constitution on errors of law and such other matters on which proceedings under articles 226 and 227 would be permissible.

These, Sir, are the broad features of the Bill. My submission is that all we are concerned with in the consideration of this Bill is: does it set up a reasonable procedure so as to negative the objections which found favour in the different High Courts when they condemned the original Act? My submission is that these new features sufficiently protect the Bill from being impugned as contravening article 19 or article 14 of the Constitution.

Hon. Members will recollect that when doubts were felt at the stage the matter was before the Joint Committee desired that the Solicitor-General should address the Members of the Committee on the constitutionality or otherwise of this Bill and the Solicitor-General did address the Members and he explained that the present Bill was free from all the defects which had really made the previous one fallible.

With these words, Sir, I recommend to the House to accept the Bill before us and to clear their minds completely of the doubts which I must say with due respect were genuinely expressed on the floor of the House.

**Pandit Thakur Das Bhargava (Hisar):** May I submit one point?

**Mr. Speaker:** Has the hon. Member already spoken? Does he want to seek any clarification?

**Pandit Thakur Das Bhargava:** I want to submit.

**Mr. Speaker:** It is not a question of submission. If he wants any clarification he can get it.

**Pandit Thakur Das Bhargava:** I want to speak again. It is not a rule that a person who has spoken once cannot be allowed to speak again by the Chair. Absolutely new arguments were given now. These were not given at the time the Bill was brought before us for consideration. Absolutely new grounds have been brought in and we should be allowed to contravert them.

**Mr. Speaker:** I will not allow the same hon. Member. There are other hon. Members. Let them refute them. I cannot allow this to go on like a sea/saw. Hon. Members must anticipate arguments. If they do not do they should leave it to others to do that.

I shall now call one hon. Member after another. Anyhow hon. Members will be brief.

**Shri Mahanty (Dhenkanal):** Mr. Speaker, Sir, the protracted debate over the Public Premises (Eviction of Unauthorised Occupants) Bill has been of a very unusual nature. During the last six years of my tenure in this Parliament, I have never seen a Bill which has been unanimously condemned both by the Opposition as well as members of the ruling party. You will find from the proceedings that no one else but the hon. Minister of Law and the Deputy Minister has spoken a single word in favour of this Bill. I think, Sir, that is a very telling commentary on this Bill and I hope that Government will revise their attitude so far as the provisions of this Bill are concerned.

Sir, the rationale of this Bill has never been explained to us. The speeches of the hon. the Law Minister and the Deputy Minister have not

touched the rationale of the Bill. We would like to know from the hon. Minister as to what is the need for this Bill. There are various enactments and by taking recourse to them. Government can remove unauthorised occupants from the premises occupied by them. There are other statutes; there are other substantive laws which are in operation. Now what is the necessity of the hon. Minister of Works, Housing and Supply to come before this House with a legislation of this kind which certainly abrogates article 14 of the Constitution; whatever the hon. the Law Minister might have stated.

Sir, this Act is also capable of widest possible employment in matters of a wholly different nature. For instance, you will find that under clause 2 leases can be cancelled. Government might have entered into a lease agreement for a period of ninety-nine years with certain parties. Under clause 2, sub-clause (c) that lease can be cancelled without offering adequate protection of law, by taking recourse to this summary procedure and a lease for ninety-nine years may be cancelled by an Estate Officer who is not a judicial officer, who is only a gazetted officer. What is after all a gazetted officer? In this Welfare State, we find persons connected with fertiliser production are also gazetted officers. A school headmaster is also a gazetted officer. Now, the whole purpose was that persons who would exercise summary powers might have a judicial discretion because they are going to assume not only quasi-judicial, but full judicial powers. Therefore, it was necessary that these gazetted officers should have been judicial officers. Otherwise, the summary powers that we are going to give them will be misused.

Now, as I have pointed out, what is there to stop an estate officer from cancelling a lease which the party had entered into for 99 years, by taking recourse to this summary procedure?

Secondly, the hon. Law Minister, while he was practising in the Cal-

cutta High Court, himself had stated that the previous legislation offended against article 19 of the Constitution. That has been mentioned in a judgment of the Calcutta High Court. He has not satisfied or convinced the House, as to how and in what manner this Bill gets over the objections which he so ably pointed out before the Calcutta High Court.

He has also mentioned that this is not going to offend article 14 of the Constitution. He will kindly remember that when it came up before the Allahabad High Court, they held, if I remember correctly, that here the rational classification is not between Government property and private property. Here the rational classification is really between the tenants who are occupying other premises which are not Government premises and the occupants who are occupying Government premises.

Suppose there are tenants who are occupying premises belonging to the State Government or private premises, premises belonging to you and me. For them there are different procedures. But for tenants who are in unauthorised occupation of Government premises we are providing this summary procedure. Therefore, the Allahabad High Court had rightly held that this offends against article 14 of the Constitution which enshrines the concept of equality before the law. And we have to be satisfied how this legislation is going to meet that objection.

It is true the Solicitor-General had appeared before the Joint Committee. I had no intention of making a reference to that, but since the hon. Law Minister has made a reference to it, I think I will be failing in my duty if I do not inform the House as to what happened. The Solicitor-General took all pains to convince the Joint Committee how this legislation will meet the objections of the Allahabad High Court, but his conclusion was: let us wait for the judgment of the

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Supreme Court, as they are seized of a particular case. He said: it will be for the Supreme Court again to decide whether it meets that objection or not. I would like to know also from the hon. Minister what has happened to that case of which the Supreme Court was seized, and what judgment has been delivered, in that matter.

With this background, it cannot be said that this legislation has met the objections which were pointed by the Allahabad High Court and the Calcutta High Court regarding article 14 and article 19 of the Constitution respectively.

Then there is another matter of very serious importance. As I have said, this Bill is capable of the very widest possible employment in matters of a completely different nature. The other day we were trying to submit that this legislation would be applied also in case of persons whose lands have been requisitioned, be it in Damodar Valley, Hirakud or Rourkela. The hon. Deputy Minister interrupted and said that these fears were unfounded, and that this legislation was not going to be employed against persons who were going to be dislodged either in Rourkela or in Hirakud.

**The Deputy Minister of Works, Housing and Supply (Shri Anil K. Chanda):** Are those lands requisitioned, or are they lands which have been acquired under the Land Acquisition Act of 1894?

**Shri Mahanty:** I am coming to that. The whole burden of the hon. Deputy Minister's intervention was that these lands, be they in Hirakud or in Rourkela, had been acquired by the State Governments under different legislations. Therefore, this has nothing to do.....

**Shri Anil K. Chanda:** Not requisitioned, that is my point. They are under the Land Acquisition Act. There is a difference between operations of the Land Acquisition Act of 1894 and requisition.

**Shri A. K. Sen:** In one case the property vests in the Government, in the other case the property is only requisitioned for use.

**Shri Mahanty:** I am coming to that.

In that case, may I invite the attention of the hon. Minister to the speech of 18th March, delivered by the hon. Minister of Works, Housing and Supply, Shri K. C. Reddy. This is a very serious matter. The hon. Deputy Minister now says that this will have no application to these cases, but the hon. Minister Shri Reddy had himself stated in this House on 18th March:

"In Calcutta, there have been unauthorised occupants of buildings in 32 cases. In the case of the Hirakud Dam project, there have been 34 unauthorised occupations. In the Ministry of Defence, there have been 1,833 cases of unauthorised occupation of lands. In Kandla, where the port is being constructed, the number of unauthorised encroachments is on a very constant increase."

Therefore, if it is now said that this legislation will have no application to Hirakud or Rourkela, I would like to know why these figures, why these instances were cited before the House to show that unless we pass this legislation from Kandla to Travancore-Cochin, the Government premises and properties were in danger.

**Shri A. K. Sen:** May I point out that we never said that it will not apply to Hirakud or anywhere else. Whenever there are Government premises as defined under this Bill, it will apply.

**Shri Mahanty:** The hon. Law Minister was not there when that issue was raised.

**Shri A. K. Sen:** I can only answer when I am here.

**Shri Mahanty:** When the hon. Deputy Minister intervened.....

**Shri Achar (Mangalore):** I think the definition of "public premises" makes it clear that it will be applicable everywhere. "Public premises" means any premises belonging to, or property which belongs to the Government, and I think it will apply.

**Shri A. K. Sen:** May I only suggest that the hon. Member is putting something into my mouth which I never expressed? He says I said it will not apply to Rourkela or Kandla or other places. I never said, I mentioned no names in the course of my intervention.

**Shri Mahanty:** The hon. Minister is unnecessarily touchy about it.

**Shri A. K. Sen:** I am not touchy:

**Shri Mahanty:** I never said the Law Minister said so. I said the hon. Deputy Minister's intervention, so far as I was able to understand yesterday, was to the effect that this legislation would have nothing to do with, would have no application to, the persons in Hirakud or Rourkela or elsewhere. I did not make any reference to the hon. Law Minister because he was not there.

**Shri Anil K. Chanda:** May I make my position clear? The hon. Member who was speaking about Rourkela put his case in a manner which, I thought, was not relevant to this case. That was all that I said.

**Mr. Speaker:** That is all right. Now it is applicable to all Government premises, wherever situated.

**Shri Mahanty:** That makes the case very, very dangerous and serious. What has happened in Rourkela. The hon. Deputy Minister seeks to make a discrimination between acquisition and requisition.

**Shri A. K. Sen:** There is a distinction.

**Shri Mahanty:** There is. There is the human problem also.

**Shri Anil K. Chanda:** He was talking up to this minute of law and now he brings in the human element. It is very difficult. Stick to one point.

**Shri Mahanty:** If the hon. Minister is of the view that laws function in a vacuum, torn out of human context, that they are meant for bricks and stones, I have no quarrel with him. In that case, I would not bring in the human problem. He himself being a refugee from East Bengal....

**Shri Anil K. Chanda:** Not quite.

**Shri Mahanty:** .....being a displaced person from East Bengal....

**Shri A. K. Sen:** He is from Assam.

**Shri Mahanty:**....he himself might have experienced this human problem, the human miseries. Therefore, that has been our fundamental difference, the Government have taken a legalistic, technical, callous view of a matter which is innately human.

With this law the Government of India will requisition lands for setting up iron and steel plants or may be irrigational projects.

**Shri Anil K. Chanda:** Acquisition.

**Shri Mahanty:** The State Governments will acquire on your requisition. In the first place, the Government of India will requisition certain properties, as they have done. Then, the State Government will acquire those properties for the Union Government. I would like to know what is there in this law to stop that kind of situation. Then, what happens is that bulldozers are deployed to rage those cottages to the earth; green paddies are laid down under the bulldozers, and no compensation is paid. Even now, I can cite any number of cases in Rourkela. Even though the Prime Minister of India had assured them that they would get

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adequate compensation, land for land, and house for house, even though the Ministry of Steel had given them adequate promises and assurances, they still remain landless and homeless.

In HiraKud, as the Minister has been pleased to say, there are 32 persons who are in unauthorised occupation. The House will kindly remember that the HiraKud project is nearing completion after ten years of work. And after ten years, still there are persons who have not been provided any houses. And in order to dislodge them, you are now taking recourse to this kind of summary procedure. Certainly, it is reprehensible to us. And what about compensation? Nowhere has it been mentioned. I am not going to say whether this will offend article 19 of the Constitution or not, whether it is going to, offend the right to hold and acquire property or not. I am not going to examine it at the moment.

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[SHRI MOHAMED IMAM in the Chair.]

But what about compensation? You have made all kinds of provisions to auction away the small belongings that these poor fellows might have left in their shanties, when they are in search of other places. You have made provision as to how they will be auctioned away, and how the proceeds will be delivered to the nearest relations or whatever that may be. But I would like to know whether there is anything in this law which will restrain Government from cancelling a lease which a particular party had entered into with the Government of India for 99 years without any compensation. Government can very well cancel, and the estate officer can jolly well cancel a lease which has a tenure of ninety-nine years. In that case, do you give him adequate protection of a civil court? No. whatever jurisdiction has been given

to the civil court is illusory and notional. It is the estate officer here who decides everything. As I said, if he is a chowkidar, and Government declares him to be a gazetted officer, the chowkidar can be a gazetted officer; he will be there, or anybody else will be there.

Shri Anil K. Chanda: How can a chowkidar be a gazetted officer? He cannot say an impossible thing.

Shri A. K. Sen: Then, he will be somebody else, not a chowkidar.

Shri Mahanty: He can be; if he is recognised as a gazetted officer, he can be the estate officer.

Or, let us say, there is the headmaster of a school, whose subject was geography or whose subject was chemistry. He is a gazetted officer, and he can be made the estate officer.

Further, the estate officer is both the complainant and the arbiter. Certainly, he is the complainant; then he will himself be the arbiter. He is a party himself; he wants to dislodge Mr. X from a particular premises. All these notional provisions of law have been provided, to show that there is a rule of law functioning. Then, he himself is the arbiter. Whether the complaints are genuine or not, whether the person is in unauthorised occupation or not, it will be left to be decided by the estate officer, who will be a gazetted officer, no matter whether he has any judicial qualifications, judicial bent of mind and judicial objectivity or not.

Then, I would ask whether the provisions which have been made in clause 9 are adequate to meet the situation which I have just pointed out. A man might have entered into an agreement with Government for holding a lease for ninety-nine years. You can cancel that lease without giving him the protection which he deserves, which is his birth-right, which is his constitutional right, and

which has been guaranteed to him. This aspect was brought out in the judgment of, I think, the Punjab High Court or the Allahabad High Court. But, still that difficulty has to be met. These matters were raised time and again in the Joint Committee, but we have been able to find no satisfactory answer to these questions.

I would not take more time of the House. But I would say that I am certainly very much concerned about the displaced persons both from the east and from the west. The hon. Deputy Minister is of the view that this is a legal problem and a technical problem, and, therefore, a sentimental view or a humanistic view of the matter need not be taken. But it pains me to say that on the sacrifices, on the charred bones, on the blood of the displaced persons from eastern and western Pakistan that our independence has been consecrated. If, after having come to power, after having installed himself into office, he says that this is not a human problem, but it is a legal problem and it is a technical problem, certainly, posterity will charge him with ungratefulness. I would like to redeem my hon. friend for whom I have the greatest regard and affection from that charge which might be levelled against him by posterity. Certainly, it is on their sacrifices that our independence has been consecrated. Is there any doubt about that? Therefore, we pleaded our utmost in the Joint Committee that there must be some provision in this legislation to give a statutory recognition to Shri Gadgil's assurances which have remained mere scraps of paper in the files of the Ministry, so that, when the civil court under clause 9 or the executive estate officer under the various provisions of this measure comes to examine particular cases, they will take into account the assurances which were given by Shri Gadgil, and which, time and again, have been reaffirmed by Government. You will appreciate, Sir, that if Government themselves have treated those assurances as mere

scraps of paper, what force or what sanction these will have when a particular suit is being examined by the law courts. So, unless we give statutory recognition to these assurances and promises, they will be of no consequence; they will be mere scraps of paper. I am pained to say that our submissions were in vain. As you have found, no one else has come to defend this Bill except Shri A. K. Sen, the Minister of Law, and Shri Hajarnavis, the Deputy Minister.

**Shri Jaganatha Rao (Koraput):** I am also going to support it.

**Shri Mahanty:** Then, the hon. Member will be the third person to support it.

**Shri A. K. Sen:** Is it not too early to speculate about it?

**Shri Mahanty:** The more the merrier. So, I have no objection if more persons come to defend this.

**Pandit Thakur Das Bhargava:** Only they can defend the indefensible.

**Shri Mahanty:** We would like to be satisfied, and be convinced in regard to the doubts that we have raised. It does not appear well that relying on the majority behind, you can push through any legislation that you please notwithstanding the consequences that flow from it. With all these consequences, I feel it my painful duty to oppose this Bill lock, stock and barrel, and I shall be the happiest, if this Bill is thrown into the limbo of oblivion.

**Shri A. K. Sen:** May I intervene for a few minutes to explain certain things which seem to be responsible for the confusion on which the argument of the hon. Member Shri Mahanty appears to have been built? There is no question of the cancellation of the lease by an estate officer. In fact, if we gave that power, then it would be struck down the next moment, because you cannot deprive anybody of his property without compensation.



[Shri A. K. Sen]

That is why he said that we shall take away a man's lease and not provide for compensation. If the hon. Member would be good enough to look at clause 2 (e), he will see that unauthorised occupation is defined there, and an unauthorised occupant includes a person who continues in occupation after the expiry of his lease. If his lease remains, Government cannot evict him as an unauthorised person without acquiring his leasehold interest and paying him compensation.

Shri Mahanty: The provision reads:

"under which he was to occupy the premises has expired or has been determined for any reason whatsoever".

Shri A. K. Sen: The hon. Member is very impatient. The two things being different, I cannot take the two things simultaneously without making myself guilty of confusing the two things at the same time.

The next point is: 'or has been determined for any reason whatsoever'. In law, these are two different things. A lease may expire by effluxion of time, that means the after time fixed for the lease expires; and automatically the lessee continues as trespasser. That is called determination of a lease by effluxion of time. The next is the condition under which a lease which is not determined by effluxion of time has been determined. There are certain methods well known in law prescribed by the Transfer of Property Act by which a lease may be determined before its time. If it is a lease for a term, it is determined either by forfeiture or by surrender. If it is a monthly lease, it is determined by a notice to quit. Now, in either case, the person becomes unauthorised only when his lease has expired or has been determined. If his lease is subsisting and not determined, there is no right given under this Act—nor do we claim to give any such

right, nor could we have done so—to the Estate Officer to cancel a lease for 90 years, as he said, without compensation.

Shri Naushir Bharucha (East Khadesh): What happens if the man contests that his lease is not determined and there is a dispute?

Shri A. K. Sen: That is why adjudication and appeal are there. If there was no dispute, there is no question of adjudication or appeal.

Shri Naushir Bharucha: If it is a disputed fact?

Shri Mahanty: My difficulty is ....

Shri A. K. Sen: His difficulty is refusal to follow, not inability to follow.

Shri Mahanty: Unless the hon. Law Minister is divested of his understanding of language, he should be able to follow my difficulty.

Mr. Chairman: He has clarified the legal point.

Shri Mahanty: There is no reason why he should find it hard to follow my difficulty unless he has divested himself of his knowledge of English. I am speaking Queen's English.

Shri A. K. Sen: I do not claim any knowledge of English!

Shri Mahanty: My difficulty is whether the Estate Officer can cancel a lease entered into with a party for 99 years or not?

Shri A. K. Sen: The power of cancellation of a lease is given under section 39 of the Specific Relief Act under which alone the court can, apart from the act of parties, cancel a lease. The hon. Member is a lawyer; he ought to know that the power to cancel is only under section 39 of the Specific Relief Act. There is no power of cancellation here. It is power of adjudication, whether a man is unauthorised occupant or not. If he says, 'No, I am not; I have got a subsisting lease' and if Government say,

'No, your lease is not there; either it has expired or it has been determined properly', the Estate Officer will judge. If he is wrong, the aggrieved party will go on appeal to the district court. If the District Judge is wrong, appeal lies to the High Court.

**Pandit Thakur Das Bhargava:** In the Punjab High Court, there was a question of determination of lease *ex parte*. The matter was taken to the Punjab High Court and they held that this was the very objection.

**Shri A. K. Sen:** Even in the Calcutta High Court, that was there.

**Pandit Thakur Das Bhargava:** I am speaking of the Punjab High Court. There a case similar to the one mentioned by Shri Mahanty came up. The High Court held that so far as this law is concerned, it is null and void and *ultra vires*. That is in the ruling. So my hon. friend is not right in saying that the Estate Officer will not be able to do that.

**Shri A. K. Sen:** Not only in the Punjab case, but in the Calcutta case also, the objection was that the person concerned was claiming a valid lease subsisting and the Act provided a procedure which allowed no adjudication thereon consistent with the rules of natural justice. That was the precise objection taken, because they said that we had left everything to the summary determination by the Estate Officer, that he is to determine in his own subjective manner whether a lease is there or not, whether anything is there or not. That was why the High Court struck down the old Act—, because it did not provide for a reasonable machinery of adjudication of that very dispute. As I endeavoured to explain when I intervened earlier this morning, it is precisely to meet those objections which arose out of the condemnation of the old Act by the different High Courts that we have provided these three new features.

First of all, the Estate Officer is obliged to allow a hearing. He cannot determine it in a summary way. Secondly, if the Estate Officer goes wrong, there is an appeal to the District Judge, and further appeals after, the District Judge. It remains to be seen whether we are correct or not. If after this the Courts strike it down, our hon. friend will be proved to be in the right and if we are in the right, the Act will remain.

**Shri B. K. Galkwad (Nasik):** Mr. Chairman, Sir, I rise to oppose the Bill. I want to bring to the notice of this hon. House that there are lakhs and lakhs of people who were living and are living in villages. They have no lands in the jungle, no houses in the villages. When these people did not get any employment in villages, they left them and went outside to earn their bread. So you will find in all big cities lakhs of people have come to earn their bread. Naturally when they came, the question of getting accommodation was there. They did not get suitable accommodation. So wherever they found vacant plots, they constructed their small huts, and they are living there. Most of them are building labourers. Some of them are rickshaw drivers and some are tonga drivers and so on. Anyhow, they are leading their lives. If you visit the labour colonies, you will find that they have got small huts 10 X 10 where there will be about 8—10 persons in a family. Such is their pitiable condition.

I just want to remind the Congress people who have occupied the Treasury Benches that it was one of their slogans that they want to provide food, shelter and cloth to every human being, every citizen of the country. Taking into consideration these factors together, you will find that these people belong to this country. In order to earn their bread, they have come here. Under the circumstances, if we do not provide them with shelter, their position will be very pitiable. If this legislation is passed, the Estate Officer will be authorised to evict these

[Shri B. K. Gaikwad]

persons from their huts and the natural question will be: where should they go? So my proposal is that unless and until some suitable accommodation is provided for them, they should not be evicted from their present premises. Some kind of arrangement should be made.

I have investigated the matter and found that most of the labourers come from the Scheduled Castes, Scheduled Tribes and other backward classes. Some of them are refugees. Most of them are from these poor communities. So the question before the House is: if we want to evict them, what will be the next stage? What about their residential accommodation after their eviction? So before passing this legislation, I want to bring to the notice of Government that they are inviting not only trouble but several other difficulties too. In order to avoid all these things, Government should take back this Bill. If not, it should be thrown out by majority.

If Government are really keen on this measure, on clearing all these public premises, I want to bring to the notice of this House one thing. Some years back there was shortage of food in the country and hence there was food rationing. When there was not enough food in the country, naturally, food rationing was applied. In the same way, if there is difficulty of housing accommodation in the country, may I request Government just to introduce a scheme of house rationing. If you go to a Governor's house or the President's house, or M.L.As houses or M.P.s houses, or localities of rich people you will find that there is ample space. You can ration these houses.

**Pandit D. N. Tiwary (Kesaria):** You have a house here also.

**Shri B. K. Gaikwad:** I am prepared to accommodate as many as Government desire.

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

**Shri B. K. Gaikwad:** I am prepared to accommodate as many as Government desire. At present it is not allowed according to the rules.

**An Hon. Member:** As paying guests?

**Mr. Chairman:** The hon. Member wants the example to be set up by the Ministers.

**Pandit D. N. Tiwary:** I wanted to say that any hon. Member of this House can accommodate any person free of charge; that can be permitted. You can take permission here. (Interruptions.)

**Shri B. K. Gaikwad:** I can bring to the notice of my hon. friend that without any rent I have already provided two or three families of my state.

**An Hon. Member:** Against rules?

**Shri B. K. Gaikwad:** As my hon. friend proposed, that we can accommodate without taking any rent. As myself I am even prepared to have only one room for myself and spare all other rooms for homeless persons if it is permitted by Government. Under the circumstances, you will find that this is a very difficult problem. Government should not think it otherwise. Otherwise, Government will have to face worse consequences. Perhaps, they will have to face another difficulty which I would call satyagraha when people will not go from the places where they are residing. (Interruptions.)

These are the facts I have mentioned and I request that Government would not insist on this Bill and that they would withdraw it.

श्री ब्रजेश (मानेगांव) : सभापति महोदय, यह जो बिल सदन के सामने है इसके जरिये गवर्नमेंट, यह कानूनी अधिकार प्राप्त करना चाहती है कि दिल्ली में और

घर जगहों पर जहां कि सेंट्रल गवर्नमेंट की जगह पर लोगों ने गैरकानूनी कब्जा किया हुआ है उन जगहों को सरकार खाली करा के अपने कब्जे में ले और वहां पर जो शासदार इमारतें या बरेक्स बनाने की इच्छा गवर्नमेंट के सामने है वह बहुत अच्छी इच्छा है। मैं इस चीज को समझ सकता हूँ हांलांकि गवर्नमेंट इस बात की तरफ दूसरे नजरिये से देखेगी और मैं इस चीजे पर गवर्नमेंट के सामने यह बात लाने की कोशिश कर रहा हूँ कि गवर्नमेंट को किस चीज की तरफ पहले देखना चाहिये था।

श्री श्री पार्लियामेंट के एक माननीय सदस्य ने कहा कि कांस्टीट्यूशन ने हमें यह गारंटी दी है और कहा है कि कम से कम हमारे यहां के जो लोग हैं, हिन्दुस्तान के बसने वाले, उनकी जो बुनियादी बातें हैं, उनकी तरफ गवर्नमेंट पहले देखेगी चाहे वह भ्रजा का सवाल हो, चाहे रहने का इन्तजाम हो, चाहे कपड़ा हो, एजुकेशन हो या दवादाक हो, इन चीजों की तरफ गवर्नमेंट सब से पहले देखेगी। मैं यह भी समझ सकता हूँ कि हमारी दिल्ली में बहुत बड़ी पलेशिएल बिल्डिंग्स बनें लेकिन हमारे हिन्दुस्तान का नक्शा जो भाज दिखता है वह भाज का नहीं बहुत पहले से यही है कि हिन्दुस्तान में एक तरफ बहुत बड़ी पलेशिएल बिल्डिंग है और उसके पास एक छोटी सी झोपड़ी है, वह नक़्शा हमेशा रहा है और यदि वह नक़्शा हमेशा रहे तो उसके लिये हमें दुखी भी नहीं होना चाहिये। बाहर के लोग जो यहां आयेंगे और इस नक़्शे को देखेंगे तो वे कहेंगे कि कि क्या यही हिन्दुस्तान है कि इसमें इधर तो एक बहुत बड़ा धालीशान महल खड़ा है और उसके पास में एक झोपड़ा है। इससे हममें कुछ ऐसी बात पैदा नहीं होनी चाहिये कि दूसरे लोग क्या कहेंगे ?

जिन लोगों पर इस कानून का असर होने वाला है उनमें न तो खाली बहूतकाल

और बहूतकाल ट्राइस के लोग हैं, न इमारतें बनाने वाले लोग हैं बल्कि उनमें हमारे गवर्नमेंट सर्वेंट्स भी हैं जो कि हमारी गवर्नमेंट को बसाने वाले हैं। इनके अलावा ऐसे लोगों का भी इससे सम्बन्ध है जिनको कि गकिस्तान को छोड़ कर यहां पर भ्रजा पड़ा। ऐसे लोग भी इसमें हैं। कई वर्ग के लोगों के ऊपर इस कानून का असर होने वाला है। यहां बताया गया कि अगर उनसे हम नुक़सान मांगने के लिये जायेंगे तो क़रीब डेढ़ करोड़ रुपया नुक़सान के तौर पर उनसे लेना पड़ेगा और इतना ही नहीं। जिन लोगों ने ऐसी जमीनों पर मकानात बनाये हुये हैं उनको रैगुलराइज किया जायेगा। इसके लिये भूतपूर्व मंत्री महोदय श्री गाडगिल ने यह प्रस्तावना दिया था कि उनको रैगुलराइज किया जायेगा लेकिन मेरे पास कुछ ऐसी फ़ीगर्स धाई हैं, एक पैमकलेट के अरिये यह बताया गया है कि क़रीब एक हजार मकानात ऐसे हैं जिनके कि रैगुलराइज नहीं किया गया। क़रीब ४००० से ज्यादा लोग उनमें रहते हैं और उन्होंने अपने सब ख़ेवरात वगैरा बेच कर अपने पास जो कुछ भी कमाई थी उसको लगा कर के १५ से २० लाख रुपया मकानात बनाने के लिये खर्च किया। वह बात तो जिनको रैगुलराइज नहीं किया गया उनके बारे में मैंने कही लेकिन ऐसे कितने ही मकानात हैं जिनके बारे में यह कहा गया कि वहां के लोगों को भी निकलना चाहिये और उनको क्यों निकलना चाहिये क्योंकि स्कूलों के लिये, बैंक्सनिशन सेंटर्स कोलने के लिये, बहुत बड़े बड़े पार्क्स बनाने के लिये, यह जो चीजें हमारे सामने हैं उनके वास्ते हमें उन लोगों को हटाना पड़ेगा। इसके पहले कि यह कानून इस सदन के सामने लाया जाता अगर गवर्नमेंट ने दिल्ली में और और जगहों में जहां जहां कि सेंट्रल गवर्नमेंट की जमीनों का सवाल धाता है, पहले उन जगहों का सर्वे कराया होता कि कैसे लोग उन जमीनों पर रहते ह, क्या

[श्री जाधव]

मजबूरियां हैं उनके सामने और उनके लिये हम कोई आल्टरनेटिव ऐ कोमोडेशन दे सकते हैं या नहीं, तो बेहतर होता। गवर्नमेंट को इस बिल को यहां लाने से पहले इस प्रकार का सर्वे करना चाहिये था। मैं पूछना चाहता हूं कि क्या दिल्ली में यह सर्वे किया गया है ?

भाज हमने पेपर में पढ़ा कि दिल्ली रेंट कंट्रोल बिल सदन के सामने आने वाला है तो भाज भी हालत यह है कि कई बस्तियों के भन्दर बो रूम्स के ट्रेनामेंट के लिये २०० रुपये किराया देना पड़ता है, २०० रुपये से लेकर २००० रुपये तक का किराया देना पड़ता है। मैं गवर्नमेंट से पूछना चाहता हूं कि वह गवर्नमेंट सर्वेंट्स को किराये की तौर से क्या देती है ? गवर्नमेंट साढ़े सात फी सदी से एक पैसा भी ज्यादा अपने सरकारी मूलाजिमों को नहीं देती है और किराये बूक इतने अधिक बढ़े हुए हैं कि वे उनको नहीं ले पाते तो मजबूरन उन लोगों को गवर्नमेंट की जगहों पर, जिसका कि गवर्नमेंट कुछ उपयोग नहीं कर सकती है, ऐसी जगहों पर गवर्नमेंट सर्वेंट्स, शेडयूल्ड कास्ट के लोगों, इमारतें बनाने वाले लोगों और रेपयूजीज को जाना पड़ा और वे वहां पर प्राबाद हो गये। उनको यहां रहने में कोई लक्ष्मी नहीं है लेकिन क्या किया जाय मजबूरी सब करा देती है। लोगों के रहने का माकूल इन्तजाम करना यह तो गवर्नमेंट की जिम्मेदारी है जिसको कि उसे पूरा करना चाहिये था। गवर्नमेंट ने एक ऐसा माहोल पैदा कर दिया जिसमें कि लोग शोर मचाने के लिये मजबूर हो गये और उन्होंने इसके खिलाफ शोर मचाया। बाद में गवर्नमेंट की तरफ से यह कहना कि ऐसी हवा नहीं है ऐसी परिस्थिति नहीं है कि इस तरह का शोर और गड़बड़ पैदा की जाय। कुछ मुनासिब नहीं जंचता। गवर्नमेंट की ओर से कहा जाता है कि कुछ लोग राजनैतिक स्वार्थ साधने के हेतु उनकी

शोर और गड़बड़ करने के लिये उभरते हैं लेकिन मेरा कहना है कि हवा तो घाप खुप पैदा करते हैं और लोगों को इसके लिये मजबूर करते हैं और जब घापके खिलाफ आवाज उठती है तो घाप बिल्वाते हैं और कहते हैं कि इसमें सिधासी बातें लाई जाती हैं। मैं पहले यह पूछना चाहता हूं कि क्या गवर्नमेंट ने दिल्ली में इस तरह का कोई सर्वे कराया है कि कैसे लोग उन जमीनों पर बसते हैं और उनकी आल्टरनेटिव एकोमोडेशन के वास्ते उसने क्या कोई कोशिश की है ?

मैं बतलाना चाहता हूं कि नई दिल्ली में भशोक होटल के पास झुगियां डाल कर म्युनिसिपैल्टी में, राष्ट्रपति भवन में और पार्लियामेंट हाउस में जो स्कैवजर्स हैं, जी सफाई का काम करते हैं, वे लोग उनमें रहते हैं। एक दफा उनको पुलिस के जरिये उस जगह से हटाने की कोशिश की गई। अब घाप ही बतलाइये कि वे बेचारे लोग वहां से कहाँ जायें। मैंने कहा कि पहले उनके लिये आल्टरनेटिव बन्दोबस्त करो तब हटाओ। मैं यह मानता हूं कि गवर्नमेंट इस तरह का बन्दोबस्त करने के लिये तैयार है। करीब १०० मुरब्बा एकड़ हमारी दिल्ली का विस्तार हो भी चुका है और और अधिक विस्तार होने वाला है। मेरा कहना है कि अगर उन लोगों को उस जगह से हटाने के बाद उनके वास्ते किसी दूसरी जगह बन्दोबस्त किया भी जायेगा तो आपने उनके लिये ट्रान्सपोर्ट का क्या इन्तजाम किया है और उनकी जगहों से उन स्थानों पर जहां कि वे रोजी कमाने के लिये आते हैं, उनके आने जाने का आपने क्या बन्दोबस्त किया है ? अब दिल्ली में जो ट्रान्सपोर्ट की व्यवस्था है मैं समझता हूं उसका कटू अनुभव दिल्ली वासियों और पार्लियामेंट के मेम्बर्स को बखूबी होगा। लोगों को यहां की ट्रान्सपोर्ट व्यवस्था ठीक न होने के कारण बहुत अधिक झुगियां और परेशानी उठानी

पड़ती है। मैं एक दिन यहाँ पार्लियामेंट हाउस के बाहर १५ नम्बर की स्ट बस के लिये खड़ा था, मैं एक घंटे तक उसका इन्तजार करता रहा लेकिन वह बस ही नहीं आई। अब जहाँ पर ट्रांसपोर्ट की यह हासल हो और अगर गवर्नमेंट के एक मुलाजिम को १० मील के फासले पर अगर आलटरनेटिव एकोमोडेशन दी गई तो ट्रांसपोर्ट की जैसी हालत है उसको देखते हुये तो वह बस के इन्तजार में नहीं रुका पड़ा रहेगा और वह आफिस बक्त पर नहीं आ सकेगा और रात के बारह बजे उनको आफिस में भाना पड़ेगा। इस लिये आपको जहाँ उनके लिये आलटरनेटिव एकोमोडेशन प्रोवाइड करना है वहाँ यह भी देखना है कि उनके लिये ट्रांसपोर्ट की उचित व्यवस्था हो।

दूसरी बात यह है कि जिन लोगों को यहाँ से हटाने की कोशिश की जायगी और जिन्होंने मकानात बनाये हैं उन लोगों को आप क्या मुआवजा देने वाले हैं। इतना ही नहीं मैं तो समझता हूँ कि अगर वे वहाँ से जो उनका माल है नहीं उठाये तो गवर्नमेंट जो मये सामान के उनको वहाँ से हटायेगी, उसके लिये उनसे गवर्नमेंट फिर पैसे मांगेगी। ऐसा नहीं होना चाहिये। मैं यह मानता हूँ कि यह जो आपको रिंग रोड तैयार करनी है तो उसके लिये आपको कुछ जगह दरकार होगी लेकिन मेरा कहना है कि उनको बेदखल करने के पहले आप उनके बास्ते आलटरनेटिव जगह का बन्दोबस्त कर लें। दिल्ली के डेवलपमेंट के भाने वाले काम जो आपके सामने हैं उनके बास्ते एक नक्शा तैयार किया जाय कि भाने वाले साल में हम इतना काम कर सकते हैं। उसका बजट ही और हिसाब हो कि हमें इतने लोगों को हटाना पड़ेगा। ऐसा न हो कि जो यह कानून का स्टीम रोलर है वह चलने लगे और सब लोगों को उसके नीचे साकर दबा दिया जाय और खत्म कर दिया जाय और उसके बाद हमारे प्लांस तैयार होंगे और

उन प्लांस को पूरा करने के लिये क़रीब ५०, १०० साल लम जायेंगे, ऐसा नहीं होना चाहिये। एक नक्शा तैयार करो, एक सर्वे करो, इतना काम करना है, और उसके बास्ते इतने पैसे का प्रबन्ध करना है, इसका अनुमान करो, उसके बाद काम हाथ में लौ तो कुछ होने वाला है।

मैंने पहले भी कहा था और गायकवाड़ साहब ने भी यह कहा है कि इस कानून को तो मंजूरिटी से फेंक देना चाहिये। लेकिन ऐसा नहीं हो सकता। यहाँ उस तरफ इतनी मंजूरिटी है कि अगर सरकार की ओर से प्रादमी को औरत कहा जाये तो उसका भी समर्थन हो जायगा। ऐसा बराबर होता रहा है। जो परिस्थिति होती है उसको मंजूरिटी के कारण दबाया जा सकता है लेकिन ऐसा करने से गवर्नमेंट को बहुत नुकसान उठाना पड़ेगा।

इस कानून को धमल में लाने के पहले जो बातें मैंने बताई हैं उनको कर लेना चाहिये। इतना ही मुझे कहना है।

**Shri Jaganatha Rao:** Mr. Chairman, several hon. Members have so far spoken opposing the Bill in all its aspects. Perhaps I am the only Member who will be in agreement with the provisions of this Bill. Several objections have been raised. The question of the Scheduled Castes and displaced persons and others was brought in. I would appreciate the sentiments expressed by the hon. Members with regard to the difficulties of this class of persons. These are problems which cannot be mixed up with the provisions of this Bill. I could see the difficulties of the displaced persons who have come over to India from West Pakistan being deprived of their homes. Unfortunately, they have been squatting on these premises without authority and if they have constructed houses, I would ask my hon. friends whether they could have acquired a right to hold that building which they have

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constructed on the premises belonging to the Government without authority. If any building has been put up by any displaced person with the authority of the Government and if it is according to the municipal regulations, it is a matter for consideration. The Government would not then go straightaway and demolish the building or evict the persons. I fail to see how for that reason the provisions of this Bill can be mixed up with that question and why the Bill should be urged to be thrown out in toto.

Several objections have been raised about the interpretation of this clause—the definition of unauthorised occupation. Any person in occupation of a public premises without authority or who continues to be in possession after the authority ceases is such a person. It does not contemplate the cancellation of a lease. A lease can be cancelled for valid reasons. Take the instance of a landlord and tenant. It is open to the landlord to cancel the lease if there is any breach of the conditions of the lease. If the lease is by the Government in favour of a person, and if there is any breach of it, it is open to the Government or the officer representing the Government to cancel the lease. How does it make any difference if the occupant happened to be a displaced person or a Scheduled Caste member?

It has been said that alternate accommodation has to be provided if resort is to be had to the provisions of this Bill to evict a person. The provision of alternate accommodation is not a condition precedent for eviction. We have to view these things without passion and prejudice and should not mix it up with the question of displaced persons and Scheduled Castes. I see that the Government is taking steps, as far as possible, for providing housing facilities to persons.

It has also been urged that this Bill offends articles 14 and 19 of the Constitution. Article 19 gives certain guarantees to a person to own and enjoy property. How can a person who is a trespasser and who has no right to be on a premises belonging to the Government and who constructs a building unauthorisedly obtain a guarantee under the Constitution? Article 14 has been brought in to say that the Bill violates the equal protection clause in the Constitution. It has been said that there has been some differentiation in treatment. Every differentiation is not violative of article 14. It means that every litigant in the country should have a reasonable opportunity of being heard. There should be no discrimination between man and man. That is all. The mere fact that the jurisdiction of a civil court is ousted and some persons are not allowed to civil courts does not amount to discrimination because the principles of natural justice have strictly been adhered to. Where the estate officer feels or is of the opinion—necessarily subjective opinion on the facts before him that the person in possession is in unauthorised occupation of the premises, action is taken. Under clause 5, an opportunity is provided to show cause why he should not be evicted and there is an elaborate enquiry as in a civil suit. If he can prove to the satisfaction of the officer who presides at the enquiry and if the enquiry officer finds that he has a right to be in possession, the proceedings will be dropped. If on the other hand, the person in occupation cannot prove it to the satisfaction of the officer, he has no right and has to be evicted. An appeal against that decision is provided for under clause 9. The District Judge, who is the appellate authority, hears the appeal. Then, there is the quashing power of the High Court which acts as a deterrent so that the officer holding the enquiry cannot be arbitrary. Articles 226 and 227 give power to the High Courts to interfere and

quash the proceedings. To contend that articles 14 and 19 are violated is not sound. The trend of modern legislation is to oust the jurisdiction of the civil court. Ours is a welfare State and the 19th century notion of the State being a police State is no longer applicable.

14 hrs.

It is a welfare State. The activities of the State have increased enormously in all directions. We want a speedy remedy. In all advanced countries of the world, in all civilised countries of the world we find that delegated legislation or, what is called, administrative tribunals are the order of the day: only matters relating to disputes between individuals, relating to marriage, divorce, minors, bankruptcy and so on are left to ordinary courts of the land. All other matters are brought within the cognizance of administrative tribunals.

The Estate officer of an administrative tribunal has to enquire into the case. Then there is the right of appeal, which is a substantive right that has been recognised. The original Act did not recognise the right of appeal. Naturally, in that case, the person concerned used to be at a disadvantage. That is why the High Courts held previously, on the basis of the provisions of the old Act, that these provisions violated articles 14 and 19 of the Constitution. But now we find that regular appeal has been provided, and jurisdiction of the High Court is there.

**Shri Mahanty:** How does the hon. Member get over article 14?

**Shri Jaganatha Rao:** Probably my hon. friend was not here when I explained that. Mere differentiation in procedure *per se* does not amount to discrimination. According to my hon. friend, the jurisdiction of civil court is ousted, in the first instance. Mere divesting the jurisdiction of civil court

does not amount to discrimination at all.

**Shri Mahanty:** What I said was, there will be two kinds of procedures. There will be one procedure for the tenants occupying premises other than public premises defined in this Act, and there is the summary procedure for tenants occupying public premises as defined in this Act. Therefore, there is discrimination in law and as such it offends article 14 of the Constitution. How does he get over that?

**Mr. Chairman:** He says that it does not offend article 14.

**Shri Jaganatha Rao:** The trend of modern legislation is to oust the jurisdiction of civil courts. My hon. friend can look to the legislations of various advanced countries of the world.

**Shri Mahanty:** Which country? Does he mean to say that all countries are civilised except India?

**Shri Jaganatha Rao:** As I said, mere differentiation or inequality of treatment do not *per se* amount to discrimination—I have taken this from a judgment of the Supreme Court. All that the article contemplates is that litigants should have the opportunity to show cause and appear. That procedure has been provided in another form. Therefore, according to me, the objection that it is violative of article 14 does not arise.

I may also point out that clause 4 follows practically the procedure laid down in Order V of the Civil Procedure Code regarding service of notice. Personal service of notice is also contemplated under sub-clause 4 of clause 4, and service by affixure is provided in sub-clause 3 of clause 4. Therefore, ample opportunity is given to the person to appear and show cause.

The other day, while moving the motion for consideration, the hon.



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Minister said that lawyers are not excluded from appearing before the Estate Officer. Therefore, a person who has been served with a notice can appear before the Estate Officer either in person or through a pleader.

I feel, Sir, that we should not be rather sentimental or very sensitive in these matters. We should only see whether the procedure provided for does not meet the ends of justice. Therefore, I do not see that any provision of the Bill would offend any article of the Constitution on any of the grounds urged by the hon. Members.

Mr. Chairman: Shri Vajpayee. This Bill has been discussed for a sufficiently long time. Therefore, after this hon. Member, I will call upon the hon. Minister to reply.

Some hon. Members: The time may be extended.

Mr. Chairman: It has already been extended sufficiently.

Shri Braj Raj Singh (Ferozabad): There are so many Members who want to participate in this debate.

Mr. Chairman: I am afraid all Members cannot be accommodated; but every party has been given a chance to express its view.

Shri Braj Raj Singh: Even all the parties have not been given a chance.

श्री जगन्नाथ प्रसाद (बाह्य दिल्ली, रक्षित, अनुसूचित जातियाँ) : सभापति महोदय, मैं तीन दिन से इन्तजार कर रहा हूँ। बास तीर से मेरे निर्वाचन क्षेत्र पर इसका बहुत प्रभाव पड़ने वाला है। इसलिये मेरी प्रार्थना है कि जल्द समय जल्द मिनटा चाहिये।

Mr. Chairman: My difficulty is this. A certain time was fixed for this Bill. That time limit has expired. We have

actually exceeded that time limit. This Bill must be finished before 5 p.m. today. There are a number of amendments also which have to be considered.

Shri Braj Raj Singh: We will finish it by 5.

Shri Mahanty: I will not move my amendments; so, that time will be saved.

Mr. Chairman: If all the hon. Members undertake not to move their amendments, we can easily extend the time.

Shri Achar: I would suggest, Sir, that more time may be given for general discussion; I do not think the amendments will take much time. Mr. Speaker said that all Members will be given an opportunity.

Shri Naushir Bharucha: I would suggest, Sir, that we may continue general discussion till 3-30 and from 3-30 to 5 we may consider the amendments.

Mr. Chairman: I will call the hon. Minister to reply at 3.

Pandit Thakur Das Bhargava: Whatever you may be pleased to decide, Sir. I have no objection. I only want to point out that the Speaker or the Deputy-Speaker had announced that two hours will be devoted for third reading and the amendments. That time should not be curtailed.

श्री बाबूजी (दुलन्दमहर, रक्षित, अनुसूचित जातियाँ) : सभापति जी, दो तीन दिन से मैं भी लगातार बैठे हुए हूँ।

Mr. Chairman: We will proceed with the general discussion till 3-30. I will call the hon. Minister to reply at 3.00 and afterwards we will take up the amendments.

Shri Anil K. Chanda: May I make one submission, Sir? You have stated that I should begin to reply at 3.00 and end by 3.30. As you will realise, Sir, about 20 hon. Members have fired their fusillades at me, and my reply may take a little longer time.

Mr. Chairman: He may take ten minutes more. Shri Vajpayee may now proceed. I would request him to conclude his speech within 15 minutes.

श्री बाबूरेब (बलरामपुरा) : सभापति जी, इस विधेयक पर अभी तक जो वाद-विवाद हुआ है उसको सुनने के बाद सिलेक्ट कमेटी की रिपोर्ट के साथ मैंने अपना जो नोट आफ डिस्टेंस लगाया था मैं उस पर अभी भी कायम हूँ। मैं यह समझने में प्रसन्न रह रहा हूँ कि सरकार ने पब्लिक प्रिमिसेज इन्विजन एक्ट १९५० के स्थान पर, जिसे अनेक हाईकोर्टों ने प्रथम घोषित कर दिया, यह नया बिल लाने के बजाय उसकी शक्ति प्रथम घोषित के सम्बन्ध में सुप्रीम कोर्ट का निर्णय जानने का प्रयत्न क्यों नहीं किया।

सालिसिटर जनरल महोदय ने सिलेक्ट कमेटी की बैठक में जो कृष्ण कहा और विधि मंत्री ने अभी जिन शब्दों में उसे दहराया, उससे यह विश्वास पैदा नहीं हो सकता कि जब यह विधेयक कानून का रूप ले लेगा, उसके बाद यदि सर्वोच्च न्यायालय में उसकी शक्ति को चुनौती दी गई तो सर्वोच्च न्यायालय उसे प्रथम घोषित नहीं करेगा। सरकारी पत्र केवल इतना ही कहता है कि हमें विश्वास करके चलना चाहिये कि यह विधेयक प्रथम घोषित नहीं होगा, और अगर हो गया तो हम फिर दूसरा विधेयक ले आयेंगे। मेरी समझ में यह बुद्धिकोण ठीक नहीं है। राष्ट्रपति महोदय अपने अधिकार के अन्तर्गत अनेक विधेयकों को स्वीकृत होने से पूर्व सर्वोच्च न्यायालय की राय जानने के लिये ले जा सकते हैं और उन्होंने कुछ राज्यों के

प्रसन्न हूँ कि इस विधेयक के सम्बन्ध में इस पद्धति का अवलम्बन क्यों नहीं किया गया।

विधेयक जिस रूप में हमारे सामने प्रस्तुत है, मेरा निवेदन है कि अपने संविधान में हमने राज्यों के जिन निर्देशक सिद्धान्तों का निरूपण किया है, जो हमारे डाइरेक्टिव प्रिंसिपल्स हैं, यह विधेयक उनकी भावनाओं के विरुद्ध जाता है।

इस विधेयक के अन्तर्गत जो भी स्टेट अफसर नियुक्त किये जायेंगे उनके सम्बन्ध में यद्यपि यह कहा गया है कि जहाँ तक संभव हो ऐसे व्यक्ति नियुक्त किये जायें जिनमें सीगल क्वालिफिकेशंस हों। अब "जहाँ तक संभव हो" इस शब्दावली का कानून में कोई अर्थ नहीं है। यदि किसी ऐसे व्यक्ति को नियुक्त कर दिया गया जिसमें कानूनी योग्यताएँ नहीं हैं तो सरकार की ओर से कहा जा सकता है कि हमने लिये पम्पब नहीं था कि हम कानूनी योग्यताओं का व्यक्ति नियुक्त करें, और मैं समझता हूँ कि कोर्ट में अगर इस पर आपत्ति की गई तो उसकी कोई सीगल रेमेडी नहीं है। न्यायालय मजबूर नहीं कर सकता कि सरकार को कि वह ऐसा ही व्यक्ति नियुक्त करे जिसमें कानूनी योग्यताएँ हों। और जहाँ तक सेना के मकानों और सेना की जमीन का सम्बन्ध है, सिलेक्ट कमेटी में इस बात को साफ़ कर दिया गया था कि सेना में तो ऐसा व्यक्ति मिलना सम्भव नहीं होगा कि जिसमें सीगल क्वालिफिकेशंस हों। वहाँ तो संभव ही नहीं है। परिणाम यह होगा कि लोगों को जिस पद्धति का कानून में और संविधान में निरूपण किया गया है उसका पूर्णतया अवलम्बन किये बिना उजाड़ा जाना अपने मकानों से, अपने स्थानों से।

यह विधेयक स्टेट आफिसर के आदेश के विरुद्ध डिस्ट्रिक्ट जज के यहाँ अपील करने की व्यवस्था है और जो भी सरकारी

## [श्री बाणपेयी]

प्रवृत्ता बोलते हैं उन्होंने इस बात को बहुत बड़ा बड़ा कर पेश किया है। लेकिन इस बात से इन्कार नहीं किया जा सकता कि सिविल केस में फस्ट कोर्ट में जो झगड़े की शकल होती है, जहाँ गवाहियां ली जाती हैं या पेश की जाती हैं, वह शकल अपील की कोर्ट में नहीं रहती, और अगर फस्ट कोर्ट एक ऐसा अफसर है जिसके लिये कानूनी योग्यतायें आवश्यक नहीं हैं, तो वह जो भी निर्णय देगा बाद का डिस्ट्रिक्ट जज तो मैरिटस याव केस पर अपना फैसला करेगा, और इसलिये जित्त व्यक्ति को उजाड़ा जायेगा उसको जो शिकायत होगी उसमें सम्बन्ध में उसे डिस्ट्रिक्ट जज के यहाँ से पूरा न्याय मिलने की आशा नहीं की जानी चाहिये।

स्टेट आफिसर सरकार का एक गजेटेड अफसर होगा। इसका यह मतलब है कि वह एग्जीक्यूटिव काम भी करेगा। कार्यपालिका और न्यायपालिका दोनों को मिला दिया गया है जब कि हमारा मंत्रिपाल इस बात का स्पष्ट आदेश देता है कि एग्जीक्यूटिव और जूडीशियरी अलग अलग होनी चाहिये। मगर यह स्टेट आफिसर उन दोनों का मिश्रण होगा और मैं नहीं समझ सकता कि यह संबिधान की भावना के अन्तर्गत होगा।

अनेक माननीय सदस्यों ने इस विधेयक पर बोलते हुये, हमारे पुखार्षी बन्धु जो निर्बाधित होंगे उनके सम्बन्ध में अपनी आवाज उठाई है, और मैं समझता हूँ कि जो उन्होंने भय प्रकट किया है वह साधारण है। सिलेक्ट कमेटी ने अपनी सिफारिस में सरकार से यह अपील की है कि जो भी आस्थासन दिये गये हैं उनका सैटर एंड स्पिरिट में पालन होना चाहिये। मगर मैं पूछता हूँ कि सरकार की सिलेक्ट कमेटी की अपील का कानूनी बलन क्या है। कोर्ट के द्वारा तो उस अपील को नहीं मनवाया जा सकता है और मंत्री महोदय यदि सदन में सजे होकर

यह आश्वासन दे भी दें, जैसे कि श्री वाडविल जी ने दिया था, और कानून की धाराओं में उसका समावेश न किया जाये, तो मैं नहीं समझता उन आश्वासनों की कीमत कागज के टुकड़े से कुछ अधिक हो। आवश्यकता इस बात की थी कि उन आश्वासनों को कानून की शकल दी जाती। उन्हें इस विधेयक की धाराओं में शामिल किया जाता जिससे पुखार्षी भाइयों में यह भय न होता कि एक बार तो हम उजड़ गये सरकार की प्रदूरदर्शी नीति के कारण जिसके परिणामस्वरूप देश के विभाजन हुआ, मगर स्वतंत्रता के ग्यारहवीं वर्ष में फिर से हमें उजाड़ने की कोशिश की जा रही है, और ऐसे व्यक्ति दो बार नहीं हैं, हजारों की संख्या में हैं।

मैं निवेदन करना चाहता हूँ कि हमारे देश में असंतोष के लिये प्रायः पहले ही बहुत से कारण मौजूद हैं। काफी बाल्य फैला हुआ है। काफी चिनगारियां लगी हैं। क्या सरकार को इसी समय इस विधेयक को लाने की आवश्यकता थी। मालूम होता है कि सरकार बरं के छूते में हाथ डालना चाहती है। असंतोष का एक नया कारण दे रही है। मैं नहीं समझता कि जितने आश्वासन दिये गये हैं उन आश्वासनों का पालन करने के लिये सरकार कोई ठोस कदम उठाने पर विचार कर रही है। यह समस्या कानूनी नहीं है। यह मानवीय समस्या है। और मानवीय पहलू के इस पर विचार किया जाना चाहिये। इस विधेयक के कानून की शकल लेते ही लोगों को उजाड़ना शुरू हो जायेगा जो अनुचित होगा, अन्यायपूर्ण होगा, अमानवीय होगा, जो नये आन्दोलनों को जन्म देगा, तब फिर हमारी सरकार की कुछ ऐसी भावत हो गई है कि जब आन्दोलन होते हैं तब वह मान लेती है। अभी भावना याद-विवाद की स्थिति में है, अभी समय है, सरकार इस विधेयक की धाराओं में आनून परिवर्तन कर सकती है। और अगर वह

अभव नहीं है, तो वह इस विधेयक को वापस ले सकती है। मेरा इतना ही निवेदन है कि इस विधेयक के रूप में या तो परिवर्तन किया जाय, या सरकार इस विधेयक को वापस ले ले। यह समय नहीं है इस विधेयक को प्रागे बढ़ाने का, लेकिन अगर सरकार तुली हुई है, तो परमात्मा से प्रार्थना की जा सकती है कि वह सरकार को सद्बुद्धि दे, जिसकी कि मुझे प्राप्ता कम है। इससे अधिक मैं कुछ नहीं कहना चाहता।

**Shri Mulchand Dube (Farrukhabad):** Mr. Chairman, this Bill provides an expeditious remedy for the eviction of persons in unauthorised occupation of public premises, but this expeditiousness seems to have been obtained at the sacrifice of principles of natural justice. The courts which are competent to decide cases have been given the go-by. The procedure provided for evictions is also abandoned. The rules of evidence are absolutely abrogated. In ordinary cases, the Government would have to go to the court firstly to prove its title to the property, secondly to give evidence that the defendant is in unauthorised occupation of the premises, and thirdly to prove the amount or rent or damages to which it may be entitled.

This Bill substitutes the civil courts by an Estate Officer. What that Estate Officer will be, it is difficult to say. When the Estate Officer is substituted, what happens is, when the question of title of the Government comes up, it is left to the opinion of the Estate Officer. The Government need not prove its title. The Estate Officer has only to form an opinion that some Government property or public premises are in unauthorised occupation. Once this is done, the Estate Officer issues a notice to the person in possession, asking him to show cause why action should not be taken against him. Sometimes, some kind of evidence is given, and after that evidence is given, if the Estate Officer comes to the conclusion that

the occupation was unauthorised, the man is evicted. There are also provisions for decree for the loss or damage suffered. This is how the thing is being done.

I have advisedly not called this Bill as providing for a summary procedure because summary procedure is evidently a short procedure. But in this case, there is an absence of all procedure. The hon. Minister, intervening in the debate on Friday last, said that this Bill will apply only to cases where the title of the Government is accepted or admitted. There is no such provision in this Bill. If that is so, I think much of the rigour of the Bill would be taken away. I would request the hon. Minister to insert a suitable amendment to that effect, so that this Bill may apply only to cases where the title is admitted. Once the title is not admitted, the Bill should not be applied and the procedure provided therein should not be followed.

Then, it is said that lawyers would be entitled to appear before the estate officer. The estate officer is not a court. A lawyer is entitled to appear only in a court of law and if that is not a court, he will have no right to appear. The estate officer may at any time say, "You have no right to come and appear before me". Therefore, that provision also goes.

Another thing that is said is that in case a *bona fide* dispute is being raised before the estate officer, he might stay his hands. That is also not provided in this Bill.

The next thing is that it is said that the defendant may be able to institute a suit in a court of law to obtain some relief by way of injunction or otherwise. That also is not of a substantial character, because under section 9, if the suit is expressly or impliedly barred, the civil courts cannot take cognizance of it. When you provide for a certain procedure for the eviction, recovery of rent or damages from a person, it may be that

[Shri Mulchand Dube]

a civil suit also may be barred under section 9. Apart from that, even if it is not barred, it would be putting the cart before the horse. The burden of proof in ordinary cases should be on the Government. Instead of proving the case, the Government is asking the defendant to go and prove his case. That is also a different matter.

Then, it is said that appeal is provided and for that reason the Bill is a good one. My submission is that the appeal would be valueless, if the lawyer has no right to appear before the court in a proper manner. He would be powerless to help the defendant.

Also, the principle of equality before law which the Constitution gives to all parties is also violated, because in these things, the Government puts itself in a better position than the other side, for the burden of proof is absolutely shifted on the other man. Whereas the two parties—the Government and the other person—should be on the same footing, what happens is that the Government appoints an estate officer, who is empowered to do everything that he likes and in the manner provided in this Bill which, as I have said, conflicts with the principles of natural justice. I, therefore, think that the Bill, as it stands, is not a proper Bill and the hon. Minister should give due consideration to it, so that it may be amended and injustice may not result to anybody.

About the assurances that have been given previously by the hon. Minister then in charge, the hon. Minister has said that they will be implemented in spirit and letter. If that be so, I do not think there will be any ground for complaint. Whenever a man is uprooted or sent away after having been on the land for 8 or 10 years, what should be done is, he should be provided with alternative accommodation. If that is not

possible, the matter should be regularised by just compounding or allowing him to purchase the property or land at a reasonable price.

Shri Barman (Cooch-Bihar—Reserved—Sch. Castes): Mr. Chairman, I have heard the speeches of other Members on this Bill and from the trend of the speeches, I just like to appeal to the hon. Minister that all the speeches are not really speeches directly opposing the very objective of the Bill; but, behind all the speeches lies the fact that everyone feels that by the blind operation of a punitive measure like this, much hardship may be caused. According to some hon. Members who have got practical experience in the past, due to the operation of the existing Act of 1950, much hardship has been caused. So, at the outset, I would like to appeal to the hon. Minister that after the Bill is passed, it will become an Act of a punitive character not against persons who can defend themselves, but against the most helpless section of our body politic.

So, after this is transformed into an Act, he should not leave it simply to the executive to carry on its chariot just as it is permitted by the law, but at every step and in every action, he should himself consider whether the main objective of the Act is going to be impaired by withholding its operation. After due consideration he should permit the department to proceed with it only in cases where the urgent operation of the Act is necessary. I think that is a proper study of the speeches made on the floor of this House.

It has been very much contended that instead of taking recourse to the ordinary law, the Government is coming before this House to be armed

with an Act in order to have summary procedure approved by this House. The hon. Minister stated that the squatters are blocking development in many spheres. We have to consider very carefully whether we want the development which the Government have in mind and whether development of a city like Delhi or Calcutta requires such a summary procedure or not. He has said, and truly, that ordinary procedures under which evictions can be had are dilatory, because there are appeals after appeals and in certain cases, cases go up to the High Court and Supreme Court; and, until the cases are decided, the whole project is held up. He has mentioned, for instance, the case of the ring road. It is in the interest of the development of the capital city of Delhi that the construction of the road should be expedited. If we have to proceed under the ordinary law, then the case may be dragged for years together.

Even though this Act was passed in 1950, in the year 1958 the Government have not been able to make the way clear for the construction of that ring road. We have also several other instances. As a member of the PAC, I know of one particular case where the P. & T. department took lease of a house at Calcutta in order to start a posts and telegraphs office in that locality. The department took a lease from the landlord. Before the department could occupy the House, unauthorised persons occupied it and the landlord carried on exacting rents from the Government year after year. The Government could not under the ordinary law evict those persons. Because of that, the department had to pay a few lakhs of rupees as rent or compensation to the landlord. Nobody will say that this sort of things should not be remedied, if a proper remedy could be found out by the Ministry or this House. But the thing is that if after the passing of this law Government allows the department to carry on in this way, many hardships will be caused to the refu-

gees, as apparently have been caused in the past.

I could not follow the point when the hon. Minister cited the case of squatters in Purana Quila. I know it for a fact that from the beginning the houses were constructed by the refugees at the instance of Government. The materials were supplied by Government and payment was also made by Government. Now, I do not know whether the original refugees that were housed there had been given alternative accommodation elsewhere and whether, as the hon. Minister alleges, before they could be taken elsewhere another set of squatters came and occupied them. It may be true, I accept that. But I do not know why the Purana Quila refugees need eviction. I do not know why the squatters should be evicted from there.

My point is that Government should proceed with the operation of this Act only in cases where vacant possession of any area is urgently needed for a certain public purpose. Then, before that area is cleared of squatters, Government should give alternative accommodation to those persons. The hon. Minister says that alternative accommodation for the rehabilitation of these squatters will require at least five years. Even if it takes five or ten years, I am sure there will not be much difficulty for the Government to construct ordinary cheap houses elsewhere and gradually evict those who do not want to shift of their own accord. So, a judicious operation of this Act is necessary. Since the Government is responsible to this House, I am sure they will take every care so that they may not be criticised for doing something harsh or unlawful or tyrannical to those persons who have been evicted from their original abode at one time under circumstances which were not within our control. Let them not accuse us of their being evicted by their own national government.

[Shri Barman]

In a general way I support the Bill, because the objective of the Bill is such that it will serve a public purpose—development of cities and slum areas. At the same time, when we arm the Government with such drastic punitive powers, I would request Government to proceed very cautiously, judiciously and in a humanitarian way. With these words I support the Bill.

Mr. Chairman: Shri Braj Raj Singh. I hope he will finish within ten minutes.

Shri Braj Raj Singh: I will finish in five minutes.

श्रीमती सहोदरा बाई (सागर-रक्षित-अनुसूचित जातियाँ) : समापति महोदय, बांस्मीकी जी को तो समय दीजिए। वह दिल्ली में रहने वाले हरिजनों की समस्या को ज्यादा जानते हैं।

एक माननीय सचिव : श्री नवल प्रभाकर दिल्ली के हैं।

श्री ब्रजराज सिंह : समापति महोदय, इस विषयक पर चर्चा के समय सरकार की तरफ से बार बार यह दिखाने की कोशिश की गई है कि एस्टेट आफिसर का वर्ज जुडिसल आफिसर के बराबर है। मैं निवेदन करना चाहता हूँ कि यह एक गलत दृष्टिकोण है कि जो काम एक जुडिसल आफिसर का है, वह एस्टेट आफिसर को दे दिया गया है। एस्टेट आफिसर को इस बिल में जो ताकत और जो काम दिया गया है, उस का इस्तेमाल बिल्कुल उस तरह होगा, जिस तरह जुडिसल आफिसर कमी किया नहीं करते हैं। जुडिसल आफिसर का दूसरी तरह का अस्तित्व होता है। मिन्ट आफ डिसेंट में हम ने यह सुझाव दिया था कि एस्टेट आफिसर के पद पर कानून जानने वालों की रखा जाय, लेकिन सरकार ने उस सुझाव को न मान कर एक ऐसी व्यवस्था कर दी है कि एस्टेट आफिसर से वह

कमी भासा नहीं की जा सकती कि उस का दृष्टिकोण कमी वैसा बनेगा, जैसा कि जुडिसल आफिसर करता रहा है। इस बिल में जो व्यवस्था की गई है, उस के अनुसार एस्टेट आफिसर चाहे जिस तरीके से अनधिकृत कब्जा करने वाले व्यक्ति के साथ न्याय करते हुए उस को वहाँ से धलगा कर सकता है।

इस संदर्भ में हमें यह देखना पड़ेगा कि श्री गाडगिल ने इस सदन के मंच पर जो धाश्वासन दिए, जिन की कई बार यहाँ पर चर्चा की गई है कि इतना समय हो गया है, लेकिन उन को पूरा नहीं किया गया है, उन को यदि कानून का रूप नहीं दिया जाता है—भविष्य में उन को पूरा किया जायेगा या नहीं, यह विवादास्पद विषय है—तो कानून की कोई भी अदालत—वह सुप्रीम कोर्ट हो या हाई कोर्ट—उन धाश्वासनों की कोई कीमत नहीं रख सकती। इस लिये यह एक बहुत ही आवश्यक चीज है कि इस कानून को बनाने समय उन धाश्वासनों को कानूनी रूप दिया जाय। लेकिन सरकार की तरफ से बार बार इन्कार करने और उन धाश्वासनों को कानूनी रूप देने विषयक संशोधनों को अस्वीकार करने से यह लगता है कि सरकार उन धाश्वासनों को पूरा करने के लिये तैयार नहीं है। उन धाश्वासनों की वजह से कितने ही लोगों ने अपनी पूंजी का लाखों रुपया लगा कर ऐसी जमीनों पर कुछ बनाया है, खड़ा किया है, जिस को कि वे अन-प्रथाराइज्ड कब्जा समझते थे। इस कानून से उन लोगों की क्या हालत होगी, यह सोचने की कृपा कीजिए। अगर एस्टेट आफिसर चाहे, तो वे लाखों रुपये बरबाद हो सकते हैं और ऐसे जमाने में, जब कि मकानों की समस्या बहुत बिकट है, जिन लोगों ने उन धाश्वासनों को ध्यान में रखते हुए और यह समझते हुए कि वहाँ से वे नहीं हटाये जायेंगे, वहाँ पर अपनी गाड़ी कच्चाई के लाखों रुपय लकर कर अपने मकान बना लिये हैं, या झोंपड़ियाँ बना रखी हैं,

या एसी जगह बना ली है, जिस में वे रहते हैं, इस कानून के बनने के बाद उन को वहां से हटाया पड़ेगा। उन आशवासनों के बल पर ब सुप्रीम कोर्ट या हाई कोर्ट में नहीं जा सकते हैं, क्योंकि ब अदालतें कह देंगी कि उन की कोई कीमत नहीं है। मैं समझता हूँ कि हर जनतंत्रवादी सरकार को अपने मिनिस्टर्स द्वारा दिये गए आशवासनों का मूल्य करना चाहिये। अगर सरकार श्री गाडगिल द्वारा दिये गये आशवासनों की कुछ प्रतिष्ठा करना चाहती है, तो उस को यह संशोधन जरूर स्वीकार कर लेना चाहिये कि जो लोग १५ अगस्त, १९५० को अनधिकृत कब्जे में थे और जिन्होंने उन आशवासनों के बाद वहां पर अपने मकान बना लिये हैं, उन को किसी तरह नहीं हटाया जायेगा। अगर सरकार उस को मानने के लिये तैयार नहीं है, तो उस के साफ माने ये हैं कि सरकार नहीं चाहती कि उन आशवासनों को पूरा किया जाय। यह कहा गया है कि एस्टेट आफिसर नोटिस जारी करेगा और उस के बाद जिला जज के यहां उम के खिलाफ अपील हो सकेगी और साथ ही यह भी कहा गया है कि सुप्रीम कोर्ट और हाई कोर्ट घाटिकल २२६ और १३६ के अन्दर उस पर अपना निर्णय दे सकते हैं। लेकिन प्रश्न यह है कि ऐसे कितने लोग हैं, जो घाटिकल २२६ और १३६ के अन्दर सुप्रीम कोर्ट या हाई कोर्ट जा सकते हैं। क्या वे लोग, जिन की शीपड्रियां पड़ी हैं, जिन के पास रहने के लिये कोई स्थान नहीं है, जो अपनी जीविका नहीं कमा सकते हैं, हाई कोर्ट या सुप्रीम कोर्ट की शरण ले सकते हैं? इस के लिये उन को पैसा चाहिये, जो कि उन के पास नहीं है। लेकिन अगर वे हाई कोर्ट या सुप्रीम कोर्ट की शरण में भी, तो भी उन आशवासनों की कोई कीमत नहीं हूँगी, जो कि इस सदन में दिये गये थे। मैं वह निबंधन करना चाहता हूँ कि इस समस्या को जरा हल्के दिल से सोचने की कोशिश न की जाये। वह बहुत गम्भीर समस्या है और इस में लम्बी समयों का खर्चा है और इस पर बहुत से लोगों का भविष्य निर्भर करता है।

इस समय मैं उस इतिहास में नहीं जाना चाहता कि किस तरह यह समस्या पैदा हुई, किस तरह उस वक्त प्रधान मंत्री और दूसरे मंत्रियों ने इस तरह की भावना फैलाई कि जहां पर खाली जमीन है, वहां जो लोग कुछ बनायेंगे, उन को हटाया नहीं जायेगा। उस के बाद आज अगर इस तरह का कानून बनाया जाता है कि उन को जबर्दस्ती निकाल दिया जाय, उन को पुलिस की ताकत से निकाल दिया जाय, तो यह उन के साथ अन्याय होगा। जिन लोगों ने उस भावना के आधार पर उन जगहों पर कुछ निर्माण कर लिया था, उन का विश्वास टूट जायेगा कि यह सरकार अपने किसी भी पुराने वादे को कायम रखना चाहती है। इस लिये मैं सरकार से यह निबंधन करूंगा कि इस सदन में श्री गाडगिल ने जो आशवासन दिये हैं, उन को पूरा करना चाहिये और इस बिल में ऐसी व्यवस्था करनी चाहिये कि जो लोग इस समय भयभीत और उत्तेजित हैं, वे आश्वस्त हो सकें। जो लोग वहां पर कुछ बना कर बैठे हुए हैं, उन को वहां से हटाया न जाये और धाने से इस समस्या को अच्छी तरह से समाधान किया जाये। मुझे विश्वास है कि सरकार इस पर सहानुभूति-पूर्वक विचार करेगी और जिन कानूनी दिक्कतों के विषय में यह कहा जाता है कि उन के कारण इन आशवासनों का समावेश नहीं किया जा सकता है, उनको पार करने की कोशिश करेगी, क्योंकि ये दिक्कतें हमेशा के लिये नहीं रहेंगी।

सभापति महोदय : क्या श्रीमती सहोदरा बाई बोलना चाहती हैं ?

श्रीमति सहोदरा बाई : मैं यह कह रही थी कि श्री बाल्मीकी को बोलने का मौका दिया जाये।

श्री नरेश प्रभाकर (बाह्य दिल्ली-रमित-अनुसूचित जातियां) : मुझे भी बोलने का मौका दिया जाये।



Mr. Chairman: I think Shri Balmiki will finish in ten minutes. Then I will call him.

श्री नवल प्रभाकर : अत्यन्त दुख के साथ कहना पड़ता है कि माननीय उपाध्यक्ष जी ने भाषवासन दिया था कि भाप को बोलने का मौका दिया जायेगा, लेकिन सारा दिन बैठने के बाद मैं मुझे मौका नहीं दिया गया ।

Mr. Chairman: I am not aware of any assurance given by the hon. Speaker or by the hon. Deputy-Speaker. Anyhow, I will call him after he finishes.

श्री बालमीकी : सभापति महोदय, सरकारी भू-गृह आदि (अनधिकृत कब्जा करने वालों का निष्कासन) बिल पर दो तीन दिन से बहस चल रही है। मेरा भी यकीनी तौर से इस बिल से कुछ आघात पर विरोध है। दुनिया के दूसरे देश वैज्ञानिक रूप से उन्नति कर रहे हैं और आकाश के मंगल आदि ग्रहों में बसने की कोशिश कर रहे हैं, लेकिन इस देश में धरती पर बसे हुये अभागे लोगों को उखाड़ने की कोशिश की जा रही है, जो कि गरीबी और मजबूरी के मारे हुए हैं, जिन के पास न घन है न जमीन है। इस बिल के द्वारा उन लोगों पर जो आपत्ति आने वाली है, उस की ओर मैं इस सरकार का ध्यान खींचना चाहता हूँ।

बहुत सी कानूनी पेचीदगियों का इस सदन में जिक्र किया गया। उन की तरफ मैं नहीं जाना चाहता, लेकिन जब जब माननीय मंत्री जी के मुखारविन्द से और दूसरे साधियों के मुंह से यह सुना कि हरिजनों का, जो कि बहुत बड़ी तादाद में अनधिकृत कब्जा कर के बैठे हुए हैं, इस से कोई सम्बन्ध नहीं है, तो मुझे आश्चर्य हुआ। मैं इस बात को नहीं मानता हूँ। जहाँ तक दूसरे मंत्रालयों का तात्त्विक है यकीनी तौर से उन मंत्रालयों के पास रुपया है, जमीन नहीं है, लेकिन यह मंत्रालय ऐसा है, जिस के पास रुपया भी है और जमीन भी है। इस कारण भाप का उन

की तरफ ध्यान जाना बहुत जरूरी है। मैं ने और श्री प्रभाकर जी ने अपने मिनट आफ डिसेंट में अपने उस विचार को बड़े जोरदार शब्दों में जाहिर किया है। मैं उस बात को यहाँ पढ़ कर इस लिये बताना चाहता हूँ कि माननीय मंत्री जी व सरकार तक हमारी बात जा सके। हमारा मतलब सरकार के मस्तिष्क पर इस बात को बैठाने का है कि जो हरिजन लोग बड़ी भारी तादाद में देहातों से आकर, दूसरे शहरों से आकर यहाँ पर दिल्ली शहर में तथा दूसरे नगरों में बस गये हैं, उन पर बहुत भारी आफत आने वाली है और उनकी तरफ भापका ध्यान जाना आवश्यक है। उनको बिना नोटिस दिये हुए उठाना और उनके लिए किसी भी आल्टरनेटिव एकांमोवेशन का प्रबन्ध न करना ठीक नहीं समझा जा सकता है। अभी तो यह बिल पास नहीं हुआ है लेकिन फिर भी मैं आपको बतलाना चाहता हूँ कि अभी से ही झोंपड़ियों को गिराना शुरू कर दिया गया है और लोगों को परेशानी में डालना शुरू कर दिया गया है। हमने जो मिनट आफ डिसेंट दिया है, वह इस प्रकार है:—

"We appreciate the spirit of the Bill that the practice of unauthorised occupation in public premises should be discouraged. With the large scale influx of the refugees, the housing problem in the country has taken a serious turn. The Government, in spite of its vast resources has not been able to cope with the gigantic problem. The occupants of these unauthorised places stem from very very poor strata of society, viz., Harijans, displaced persons, labourers engaged on building construction. They were removed from place to place until they constructed their unauthorised houses, huts or tenements on those premises from where they await their eviction. The Joint Committee has recommended that a

lenient view should be taken while dealing with displaced persons and that they should not be put to undue hardship or unnecessary loss. Either they will be allowed to live at the same site or will be given alternative accommodation if they are evicted at all. We have got every sympathy with displaced persons but the condition of the Harijans and labourers engaged on building construction is probably worse. We poignantly feel that they will be badly affected by this enactment. They sail in the same boat with the displaced persons and their plight is no less miserable than that of displaced persons. We are, therefore, strongly of the opinion that the same lenient and sympathetic consideration be shown to Harijan and labourers engaged on building construction as is proposed in the case of displaced persons.

They all are without hearth and homes and monetarily in lifelong drudgery. If they are evicted, they will be rendered homeless and shelterless. When we talk of socialistic pattern of society, at least such poor persons do need some consideration at the hands of the National Government. There are a number of such slums throughout the country in which displaced persons and Harijans, particularly the labourers engaged on building construction dwell. In some such camps Harijans constitute more than 80 per cent. of the dwellers. We simply demand that either they should be allowed to continue in their huts or be given alternative accommodation in case they are evicted from the site."

इस बिल पर मेने दो एमेंडमेंट दिये हैं। पहला एमेंडमेंट नम्बर ५७ है जो इस प्रकार है:—

"Provided that lenient view will be taken in the case of Harijans,

building labourers and other poor persons like displaced persons while evicting them."

दूसरा एमेंडमेंट नम्बर ६० है, जो कि इस प्रकार है:—

"Provided that no displaced person, Harijan, building labourer or other poor person who has raised unauthorised construction with or without permission of the authority upto December, 1957, will be evicted until he is provided with alternative accommodation or given compensation for structure raised by him, if he is compelled to vacate."

भाज यहां पर बहुत बड़ी तादाद में हरिजन तथा दूसरे गरीब लोग भ्रूकर बस गये हैं। आप कहते हैं कि ये अनआयोराइज्ड रूप में भ्रूकर बस गये हैं और अनआयोराइज्ड रूप में इन लोगों ने मकान इत्यादि बना लिये हैं। मैं आपसे प्रश्नता चाहता हूँ कि ये जो अनआयोराइज्ड रूप में मकान बने हैं, इनके लिए कौन उत्तरदायी है? मैं कहना चाहता हूँ कि इसके लिए यकीनी तौर पर और मोलह भाने सरकारी अफसर उत्तरदायी है। मैं मानता हूँ कि अशोक होटल की जो बड़ी शानदार बिल्डिंग खड़ी की गई है, वह हमारी खुशहाली की ही प्रतीक समझी जा सकती है और उन्नति की प्रतीक समझी जा सकती है कि हम तरक्की कर रहे हैं। उसको देखकर सभी को खुशी होती है। लेकिन उसके साथ ही साथ उसके पास बसी हुई बस्ती को देख कर, गरीब गुरबा लोग को देखकर दुःख हुए बिना भी नहीं रहता है। भाज जिस को बाणक्यपुरी कैम्प कहा जाता है वहाँ पर कुछ लोगों को बसाया गया है और यह कह कर बसाया गया है, इस तरह की हवा पैदा करके तथा इस तरह की धावाज लगा कर बसाया गया है कि उनको उखाड़ा नहीं जाएगा। जब वहाँ पर उजड़े हुए, मजबूर लागे, बेकस लोग जा कर बस गये जिन में

**प्रश्न [श्री बालगोपी]**

बहुत से हरिजन जी हैं और शरकारी भवनराम के आवासन देने पर तथा बताये जाने पर बस गये, तो अब उनको किसी भी सूरत में वहाँ से उखाड़ा नहीं जाना चाहिये। एक तरफ तो आप बड़ी-बड़ी इमारतें, गगन चुम्बी-घट्टा-निकारों लड़ी करते हैं और वे ऐसी हैं जिनको देखकर हर किसी की तबीयत खुश हुए बिना नहीं रहती है और दूसरी तरफ ये बबूवार, गली लड़ी हुई गन्दी बस्तियां हैं जिन में किसी तरह से शौपड़ी में लोग रह तो रहे हैं, आप उनको उखाड़ते हैं। आप बड़ी-बड़ी बिल्डिंग बनायें लेकिन इन छोटी-छोटी शौपड़ियों में रहने वाले लोगों का भी तो खयाल रखना आपका फर्ज है।

एक तरफ खुशनमा इमारतें हैं और दूसरी तरफ ये धिनीती शौपड़ियां हैं। इनमें रहने वाले लोगों के हितों का भी आपको खयाल रखना चाहिए। जब इतनी बड़ी-बड़ी इमारतें लड़ी की जाती हैं तो इन शौपड़ियों में रहने वाले गरीब लोगों की मदद की जानी चाहिए। आप इन लोगों की मदद करके एक आदर्श कायम करें। अगर आप इनको उखाड़ते हैं तो वहीं पर मकान इत्यादि बना कर आप इनको बसावें भी।

इस प्रसंग में मुझे गांधी जी की याद आपके बिना नहीं रहती है। मैंने गांधी जी को उस रूप में देखा है जिसमें कि वह गरीबों के बीच में रखा करते थे। वे गन्दी बस्तियों में रखा करते थे, भंगियों के अन्दर रखा करते थे, कड़े हुए जोशों के अन्दर रखा करते थे, पदचलित जोशों के अन्दर रखा करते थे, बबूवार जन्मे मजदूरों की हासस को देखने के लिए खम्पा करते थे, और मई १९४५ में बरिड-नारद्वज के बीच में प्रजमेरीनेट की हरिजन बस्ती में कड़े हुए जो मैंने उनको देखा, उनका वह रूप आज भी मेरी आंखों

के सामने है। प्रजवेदी गेट का उस बस्ती में कड़े हुए पड़ने गरीब मजदूर बीच रखा करते थे और जहाँ पर आज बड़ी-बड़ी बिल्डिंग लड़ी कर दी गई है और जिन को ब्यापारिक रूप से खफा किया गया है, इन गरीब लोगों को उखाड़ कर ही खफा किया गया है। उनको इसका कोई कम्पेंसेशन नहीं दिया गया है, उनको कोई आस्टरनेटिव एका मोडेशन नहीं दी गई है।

मैं मानता हूँ कि आपके हृदय के अन्दर हरिजनों की उन्नति के लिए तड़प है। आप चाहते हैं कि जो शरणार्थी भाई हैं वे अपने पांवों पर खड़े हो जाएं और आप उनकी मदद भी करना चाहते हैं। लेकिन, इसके साथ ही साथ मैं आपसे कहना चाहता हूँ कि गाडगिल साहब ने जो एम्प्योरेंसिज दिये थे, उनको आप लैटर प्रीए स्पिरिट में पूरा करें। जिस प्रकार बापू जी हरिजनों के बारे में सोचा करते थे, मैं चाहता हूँ कि आप भी उसी तरह से सोचें। मुझे पूरा भरोसा है कि सरकार वे जो एम्प्योरेंसिस दिये गये थे उनको लैटर एंड स्पिरिट में पूरा करेगी। मैं चाहता हूँ कि जो मामूली लोग हैं और जो कि आज किसी तरह से किसी बस्ती में बसे हुए हैं, किसी जमीन पर अपनी शौपड़ी बनाये हुए हैं उनको तब तक न हटाया जाए जब तक कि उनके लिए आस्टरनेटिव एका मोडेशन का प्रबन्ध न कर दिया जाए। मैं यह भी चाहता हूँ कि आप इन सब बस्तियों का सर्वे करें। इन सभी पूर बसाई बस्तियों के लिए ग्राम चीरे-चीरे से धाने जाने के साधन पैदा करें ताकि इनको सङ्गलियत हो। उनको कम्पेंसेशन का विश्वास ही आप न दें बल्कि मदद को हटाने के लिये नकद रकमा पड़ने दें और फिर बाद में हटावें। साथ ही साथ आप उनके लिए आस्टरनेटिव एका मोडेशन का प्रबन्ध भी प्रबन्ध करें।

आज प्राप बल रह ह कि दश में घन को हटाया है, घनका पा १ पीने को नहीं भिज रहा है। बस का इतना बड़ा खवाल नहीं है लेकिन बस के मामले में आज हमारे उन कुछ डक से हैं और इसके लिए मैं प्रापको दायर करवा हूँ। लेकिन रहने की जो समस्या है यह भी विकट रूप धारण किये हुए हैं। मामूली लोग जो बसे हुए हैं उनको घब ऐसी बसा में उखाड़ना कोई बहुत बड़ी समझदारी की बात नहीं है। मैं यह भी चाहता हूँ कि जो दूर दूर बस्तियां बसी हुई हैं या जो बसोधी उनमें प्राप माने जाने के साधन पैदा करें। जब प्राप उनके जो मामूली स्ट्रक्चर हैं उनको उठावें तो आल्टरनेटिव एकापोजेशन या तो उनी जगह पर या फिर पास में ही दें। आज मैं देख रहा हूँ कि अनधिकृत रूप से कब्जा जो है वह बढ़ नहीं रहा है। मैं सुपरवाइजरों स्टाफ को चाहे वह नई दिल्ली म्यूनिसिपैलिटी का हो, चाहे कारपोरेशन का हो, चाहे किसी दूसरी संस्था का हो और चाहे प्राथारिटी का हो, जो भी ठहरता हूँ कि उसमें रिजर्व को आदतें बढ़ रही हैं। नई प्रोपर्टियों को गिरा दिया जाता है, पुरानी को रहने दिया जाता है, पुरानी को गिरा दिया जाता है और नई को खड़ी रहने दिया जाता है, नम्बरों को बदल दिया जाता है। भारत सेंक समाज की धोर से तथा प्रथारिटी की धोर से कई बार सर्वे कराया गया है। मैं विश्वास करता हूँ कि प्राप दिल्ली को खुशनुमा बनाने के लिए इन गरीबों की बस्तियों को उखाड़ने नहीं जायेंगे। इस दिल्ली को सुन्दर बनाने के लिए, इसको गौरवशाली बनाने के लिए गरीब बुरा लोगों को प्राप उखाड़ते नहीं जायेंगे। मैं चाहता हूँ कि प्राप इन लोगों के दिमागों में इस तरह की कोई बात भी न आने दें कि उनका घलित होना। प्राप मैं समझता हूँ कि कुछबूंदार और बदनबूंदार कटहल गरीब लोगों के अन्दर भी फैसला होना है, बड़े मकानों में रहने वालों और छोटे मकानों तथा प्रोपर्टियों में रहने वालों लोगों

के बीच में फ़ैसला होना है। देखना यह है कि कौन प्राप पर प्राधिपत्य स्थापित करता है, बड़े लोग करते हैं या छोटे लोग। देखना यह है कि क्या प्राप मेहनत कसा, गरीब लोगों की बिल्डिंग, मेबरस की, हरिजनों की, शरणार्थियों की, पुश्तार्थियों की बात को सुनते हैं या घमीर लोगों की। मैं चाहता हूँ कि जब प्राप रूल बनायें तो उनमें यह प्रोवाइड कर दें कि उनको कम्पेंसेशन तथा आल्टरनेटिव एकापोजेशन नजदीक में ही दी जायगी। मेरे दिमाग में आज भेड़िये और मेमने के न्याय की बात है। मेरा ऐसा विश्वास है कि प्राप के द्वारा दी गई शक्तियों का एस्टेट प्राधीमर द्वारा दुुरुपयोग न हो। वहाँ पर बसे लोगों को अधिकारी एसेनेटीस बना नहीं चाहते हैं, सलूलियनें बना नहीं चाहते हैं, न हरिजनों को, न शरणार्थियों को, न बस्तियों में रहने वालों को और न ही बाजारों या सड़कों पर इधर उधर रहने वालों को। मैं प्रापके विश्वास के ऊपर शक करता हूँ। प्राप ऐसा नहीं करेंगे। लेकिन फिर भी मैं प्रापसे प्राधना करता हूँ कि प्राप इन लोगों को एसेनेटीस दें, इनको प्राप धीरे धीरे उखाड़ेंगे, समझदारी के साथ मांच समझ कर उखाड़ेंगे, होश में रह कर उखाड़ेंगे। आज देश के अन्दर दूसरे तत्वों द्वारा लाच समास्या को लेकर एक बावैला सा खड़ा किया जा रहा है। एक माननीय सदस्य ने घेरा डालने की बात भी कही है। उन्होंने कहा है कि जब मकान उखाड़े जायें, तो जिनके घर गिँ तो उनके द्वारा विरोध में घेरा डाला जाए। इसमें मैं विश्वास नहीं करता हूँ। कि इससे समस्या का हल निकलता है। मैं क्षान्तिपूर्ण किये जाने वाले कार्यों में विश्वास रखता हूँ। रहने के लिए मकानों का एक भँकर सवाल है। इसको हल करने के लिए प्राप हर सम्भव प्रयत्न करेंगे और जो प्राप्वासन दिखे गये हैं, उनको लेंटर और स्पिरिट में प्राप पूरा करेंगे, ऐसा मैं विश्वास करता हूँ।

Mr. Chairman: I will call the hon. Member here. We have to close this discussion by 3 o'clock. I think he will be the last speaker. Then, we can see if Shri Jaipal Singh and others can be given a chance in the clause by clause consideration stage. I would request the hon. Member to close in ten minutes.

श्री नवल प्रभाकर : सभापति महोदय, मैं दस मिनट में समाप्त कर दूंगा।

हमारे सामने प्रश्न प्रस्तुत विधेयक के विरोध या समर्थन का नहीं है। मैं तो मंत्री महोदय को कुछ वास्तविक तथ्य बताना चाहता हूँ और चाहता हूँ कि बहुत सहृदयता से वह अपने मन में विचार करें और उस के बाद निर्णय करें। मैंने यह देखा है, मैं अपने अनुभव के आधार पर कहता हूँ कि जो लोग साधन सम्पन्न हैं उन की ओर कोई उंगली नहीं उठाता है, किन्तु जो बेचारे गरीब हैं, जो साधनहीन हैं, जब कोई कठिनाई आती है तो उन्हीं के ऊपर आती है। जब कोई बच्चापात होता है तो उन्हीं के ऊपर होता है।

यह दिल्ली है, मैं दिल्ली का प्रतिनिधित्व करता हूँ और दिल्ली के उस भाग का प्रतिनिधित्व करता हूँ जिसे बाह्य दिल्ली कहते हैं, जहाँ पर सभी तरह की परेशानियाँ हैं। अभी पिछले दिनों बाढ़ आई। बाढ़ आई और सब कुछ बहा कर ले गई। मुझे लगता है कि जैसे ही यह विधेयक अधिनियम बनेगा, एक और बाढ़ आयेगी और उस में न जाने कितने घरों को बहा ले जायेगी। इस का मुझे दुःख है। मैं आप के द्वारा मंत्री महोदय से नम्र निवेदन करना चाहता हूँ कि जरा कल्पना कीजिये उन गरीब हरिजनों की और उन गरीब श्रमिकों की जो शोषणियों में रहते हैं। मैं समझता हूँ कि बिन के पास बड़े बड़े मकान हैं, उन को कोई खूने वाला नहीं है क्योंकि

उन के पास एप्रोपेज हैं, वह बड़े प्राइमरियों के पास जा सकते हैं। सब्सिडी के पास जा सकते हैं, मंत्री महोदय को भी एप्रोच कर सकते हैं और जो एस्टेट अफसर बनने वाले हैं उन को एप्रोच कर सकते हैं। उन के एप्रोच का कुछ फल भी होगा। लेकिन आप उस मजदूर की कल्पना कीजिये जो सबेरे जाता है और २६० की मजदूरी करता है। कहाँ जाता है? सी० पी० डब्ल्यू० बी० के, आप के मंत्रालय के मातहत जो काम चलते हैं, उनमें जाता है, उस की यह हालत है कि वह १६० १२ घा० रोज कमाता है। जब उस के पास नोटिस आयेगा तो वह किस के पास जायेगा? अगर उस दिन यह अपना धंधा छोड़ कर जायेगा, एस्टेट अफसर के पास जवाबदेही देने के लिये जायेगा, उस दिन उसे रात को खाना नहीं मिलेगा, यह निश्चित बात है। फिर जो इस की कानूनी पेचीदगियाँ हैं, वह उस के सामने कैसे आयेगी? आज दिल्ली के अन्दर जो जमोनों के भाव हैं वह १००६० गज, २००६० गज, ३००६० गज तक हैं। ऐसी हालत में एक गरीब धादमी, झाड़ू लगाने वाला, जिस को महीने में ८०६० मिलते हैं, एक ऐसा धादमी, जिस को सवा रुपये रोज मिलते हैं और बड़ी मुश्किल से रात को अपना पेट पालता है, उस को कीजिये, एक बेलदार को कीजिये जो सबेरे सिर पर ईंटें डोता है, जो मकानों के अन्दर चुनाई का काम करता है। क्या वह दिल्ली में जमीन खरीद सकता है? क्या दिल्ली में मकान बना सकता है? मैं मंत्री महोदय से कहना चाहता हूँ कि आखिर यह लोग कहाँ से आये? यह लोग घनाधिकृत रूप से क्यों बैठे? जब आप की सड़क बनती है, जब बड़ी बड़ी बिल्डिंगें बनती हैं और आप एक ठेकेदार को ठेका देते हैं तो उन को यहाँ दिल्ली में तो मजदूर मिलते नहीं, वह पास पास के गाँवों में जाते हैं और वहाँ से मजदूरों का प्रबन्ध करते हैं और उनको भरती कर के यहाँ पर बिठलाते हैं। उन को वहाँ बिठलाने के बाद ठेकेदारों का काम शुरू

हो जाता है। एक साल, दो साल, तीन साल तक बिल्डिंग का काम चलता रहता है और वे लोग वहाँ बैठे रहते हैं। एक जमाना हुमा वह भवनी पुरानी जगह छोड़ कर भाग्य हैं और यहाँ पर भवनी जगह बना ली है। उन से अब फिर यह जगह छोड़ने के लिये क्यों कहा जाये? मंत्री महोदय अगर सबको पर धाड़ लगाना चाहते हैं तो म्युनिसिपल कमेटी वालों से साफ कह दें कि अगर उसके पास धाड़ लगाने वाले का देने के लिये मकान है तो वह पहले उस को मकान दे और उस के बाद नौकरी दे। इसी तरह से अगर आप को सबके बनवानी है दिल्ली के अन्दर, प्रयोक्त होटल को तरह से बड़ी बड़ी बिल्डिंगें बनवानी हैं तो अपने मजदूरों के लिये पहले आप मकान बनवाइये, उस के बाद उन को इस काम के लिये रखिये और काम लीजिये। चूँकि आज ऐसा नहीं किया जा रहा है इस लिये यहाँ पर सदन के अन्दर इतना विरोध हो रहा है। अगर ऐसा किया जायेगा तो जो सब और से यह कहा जा रहा है कि इस विधेयक से बड़ी भारी हानि होने वाली है, नहीं वह नहीं होगी। मुझे यह पहलू तो सब से अधिक दुःख देता है कि माने वाले समय के अन्दर इस बिल का जो भी प्रभाव पड़ेगा वह इन गरीब हरिजनों के ऊपर पड़ेगा जिन की धामदनी बहुत कम है, जिन के पास गाँवों में रहने के लिये जगहें नहीं हैं। और जो जमींदारों के नीचे दबे हुए हैं। इस कानून से उन के घर भी छीने जा रहे हैं। आप इस बात को जरा ठंडे दिल से सोचिये, और तरह से नहीं तो मानवता की दृष्टि से सोच कर देखिये कि आखिर वे गरीब हरिजन और मजदूर कहां जायेंगे, कहां नहीं।

आप रिफ्यूजीज को लीजिये। पाकिस्तान से उजड़ कर भाग्ये और यहाँ आ कर बैठे। यहाँ आकर बैठे नहीं, उन्हें बिठाया गया। उन्होंने एक झोंपड़ी बनाई और उन में से बहुतों को वह धमाटा भी कर दी गई। पर जो गरीब थे, मजदूर थे, जिन की कोई ऐश्वर्य

नहीं थी, जो दफ्तरों की लाक नहीं खान सकते थे, उन को एक भी मकान नहीं मिला। उन में से बहुतों की भाग्य इतनी है कि सरकार को जो किराया है वह भी नहीं दे पाते हैं। अगर उनको मकान दिया जाता है तो कहा जाता है कि उस का किराया १२ ६० महीना है, २५ ६० महीना है, ५० ६० महीना है। एक आदमी जो मुश्किल से ६० ६० महीना कमाता है वह २५ ६०, ५० ६० किराया कैसे दे सकता है? यह बड़ा गम्भीर प्रश्न है जिस को आप को सोचना पड़ेगा। अगर नहीं सोचेंगे तो सदन को यह देखना चाहिये कि अगर वे मजदूर दिल्ली छोड़ कर चले जायेंगे तो हमें फिर मजदूर कहां से मिलेंगे। यहाँ पर हम को मजदूर मिलेंगे १० ६० रोज पर। फिर अगर गवर्नमेंट उनको रखेगी तो वह तभी कर सकेगी जब कि उनका मकान दे। नहीं तो यह २ ६० रोज पाने वाले, ढाई रुपये पाने वाले, या ०० ६० महीने पाने वाले धाड़ लगाने वाले उन को नहीं मिल सकेंगे।

15 hrs.

इस लिये मैं कहना चाहता हूँ कि इन गरीब लोगों के सम्बन्ध में आप कुछ सोचिये। जैसा मैं ने कहा कि जो माघन सम्पन्न लोग हैं उन्होंने बड़े बड़े मकान बनवा लिये हैं, और अब भी बिल्डिंगें खरीदने जा रहे हैं। गाडगिन माहव ने एस्पोरैन्स दिया था इस हाउस में, उस के दूम्बर दिन में उन के मकानों का बनना शुरू हो गया, उन में इंटें लगनी शुरू हो गई, जिन का इतना स्वायत्तत्व है जिस का ठिकाना नहीं। मुझे अब भी सन्देह है कि उन्हें हटाया जा सकेगा। उन्हें कोर्ट हटा नहीं सकता है, सरकार भी नहीं हटा सकेगी। और अगर उनको आप हटायेंगे भी तो आप को बहुत बड़ा मरदब लेना पड़ेगा। आप हटायेंगे उन गरीब लोगों को और मजदूरों को, उन धाड़ लगाने वालों को हटायेंगे।

इस लिये मेरा सरकार से मन्त्र निवेदन है कि अगर सरकार के अन्दर चपरासियों

[श्री मन्मथ प्रसाकर]

को भरती किया जाय तो पहले उन के रहने का इन्तजाम किया जाय, अगर शाइ लगाने वाले को भरती करना है तो पहले प्राप म्युनिसिपल कमेटी से कहिये कि वह उस के लिये क्वार्टर का प्रबन्ध करे। अगर प्राप को अपने मकानों को बनवाना है, अगर प्रापने निर्माण के काम को जारी रखना है तो इस के पहले कि प्राप उन मकानों को बनवायें, मजदूरों के लिये मकान बनवायें और फिर निर्माण का काम कराइयें। मैंने कई जगह पर देखा है कि सी० पी० डब्ल्यू० डी० के मकान बनते हैं, तरह तरह के उस के काम चलते हैं तो उन के बीच में मजदूरों के लिये शौपड़ियां बना दी जाती हैं। लोग बार बार कहते हैं कि वहां गन्दगी होती है, नये स्लमस फिष्ट हो रहे हैं, लेकिन उन की कोई नहीं मुनता। उस वक्त यह कहा जाता है कि नहीं, यह यहां के मजदूर हैं।

नो मेरा यही नम्र निवेदन है। मैं बहुत अधिक समय नहीं लना चाहता लेकिन बहुत ही दुखी हृदय के साथ यह कहा चाहता हूं कि सरकार उन गरीब भ्रातृमियों को कुछ क्याल रक्खे जो न तो भ्रदालत का दरवाजा खटखटा सकते हैं और न ही प्राप के एस्टेट आफिसर्स के दरवाजे खटखटा सकते हैं और न ही जिनको कानून का पता है और जो कि सुबह से ले कर शाम तक घोर श्रम करके अपनी रोखी कमाते हैं। ऐसा व्यक्ति जो सुबह से लेकर शाम तक गाड़ी मेहनत करके २६० कमाता है उसकी अगर नौकरी छुट जाये या वह अपने बंधे पर न जाये तो उसे उस २ रुपये की मजदूरी से भी हाथ धोना पड़ेगा और उस हाबत में उसको दो जून पेट भर भोजन भी नहीं मिल सकेगा और शाम को उस हाबत में उसको भूखे पेट खोना पड़ेगा। इसलिये मेरी सरकार से प्रार्थना है कि वह इस प्रश्न पर अनहित और मानवता की दृष्टि से विचार करे और भी चाहता हूं कि मंत्री

महोदय जब बोलें तो वे उन लोगों के लिये जरूर प्रावधान दें।

Shri Anil K. Chanda: This is the third day of this general discussion on this Bill, and quite a number of my hon. friends have spoken on this Bill. It is but natural that, as this Bill touches the lives of the comparatively poorer sections of our people, so many Members should have felt stirred and should have spoken so eloquently so that some consideration could be shown to the poor displaced persons from Pakistan, to our Harijan brethren, to other poorer people who, forced by circumstances, have been in unauthorised occupation of Government lands and premises.

I would only very humbly submit to the House that it should not be thought that we who sit on the Treasury Benches are devoid of any sense of humanity or charity. One hon. Member has referred to me as being a refugee myself. I am not quite a refugee. I can call myself half a refugee, but so far as this Bill is concerned, excepting my senior colleague who is sitting here, every one else who has been involved in the drafting of the Bill and in trying to get it through the House, is a refugee, beginning from the Law Minister himself to the draftsman who made the present Bill. So, I can at least claim this, that we who are so directly involved in the construction of this Bill and trying to get it passed through Parliament are.....

Shri Naushir Bharucha: You are not going to be affected by the Bill.

Shri Anil K. Chanda: Nor are you going to be affected by the Bill.

I submit we also have not divested ourselves of a sense of humanity and charity when we were in the process of drafting this Bill.

As could have been expected, two very respectable Members of this House, Pandit Thakur Das Bhargava and Shrimati Sucheta Kripalani....

**Shri V. P. Nayar (Qullon):** Only two Members are respectable?

**Shri Anil K. Chanda:** All Members are respectable.

**Shri V. P. Nayar:** I take serious objection.

**Shri Anil K. Chanda:** I withdraw the remark. Two very loved Members of this House, Pandit Thakur Das Bhargava and Shrimati Sucheta Kripalani, had naturally taken the lead in the opposition to this Bill. It could not have been otherwise, because Pandit Thakur Das Bhargava and Shrimati Sucheta Kripalani, right from the beginning of the partition of our motherland, have been taking very keen and lively interest in bringing relief and succour to the millions of displaced persons who have come away from Pakistan and sought shelter in our country.

On previous occasions when this Bill in some form or other had been before Parliament, Pandit Thakur Das Bhargava has spoken eloquently, and if I may say so, long, with regard to this particular law. In his last speech I thought there were several contradictions. I noticed several contradictions in his speech, and I hope he will forgive me if I point these out.

In the course of my preliminary observations to impress upon the House the enormity of the squatting problem, I had mentioned the case of Sealdah, and Pandit Thakur Das Bhargava very strongly assailed my position and said it could not be mentioned because....

**Pandit Thakur Das Bhargava:** My hon. friend need not labour that point, because I feel that I was wrong and I accept what he said. I misread the law and had omitted the word "includes" and also the semicolon. I am extremely sorry for the mistake.

**Shri Anil K. Chanda:** Also in the course of his speech at one place

he gave an instance to show how heartless we were that structures costing Rs. 40,000 had been demolished, but soon, a few minutes later on, he said: "You drive away the rich man if he has illegally squatted on your land. I have no sympathy for him." If a man who in an unauthorised manner can put up a structure costing Rs. 40,000 is not a rich person, I do not know who is. I for one would have no sympathy with a person who, without any legal authority, would encroach upon public land and then put up structures costing thousands and thousands of rupees. One who has the money to put up a structure worth Rs. 40,000 obviously has enough of legal knowledge in him to know the enormity of the illegality he is performing. I am entirely at one with the hon. Members who have spoken on behalf of the millions of very poor displaced persons, the poor Harijans or the people who are engaged in construction labour in Delhi, and who are living without any proper habitations of their own.

Very considerable time has been taken up on what is known as the Gadgil assurances and I think I have to touch this point at some length. We have submitted before this House that we have been given a certificate by the third Assurances Committee that the assurances have been implemented. But, Pandit Thakur Das Bhargava and Shrimati Sucheta Kripalani took their stand on the second report, which, they felt, had said that the committee were dissatisfied with the manner in which Government had been carrying out their assurances. And I think it rather uncharitable, the way these two senior Members of the House referred to the third report. One said that it was an one-sided affair, and the other said that it could not be taken seriously, because Pandit Thakur Das Bhargava and she who knew about all these things were not there and others were there. I thought it was



[Shri Anil K. Chanda]

not quite charitable on the part of two hon. Members of the House to refer to another set of Members of the House, who were carrying out a very responsible duty entrusted to them by Parliament, in that manner. The Third Committee was presided over by a very distinguished Member of the Opposition, Shri Raghavachari, who was very often a very bitter critic of our Government, and I find at least one very prominent Communist Member, Shri T. B. Vittal Rao, was a Member of this committee. I am sure they are not the people who at the behest of the officers of my Ministry would have signed above the dotted line. There must have been various serious reasons which prompted them to tell Parliament solemnly that they had examined the case of the assurances and they were satisfied that the assurances had been properly implemented.

One question that arises is this. If Government mean to carry out the assurances, why are not the assurances put in the body of the law itself? This is not the first time this point has been mooted or brought up before the House. When Shri Gadgil gave the assurances, Parliament did not incorporate those assurances into the law. In the course of the various amendments which had taken place to this law, the former Minister of Works, Housing and Supply, Sardar Swaran Singh, also repeated those assurances, and he also said that these assurances could not be put in the body of the law for the very simple reason that the very basis of this Bill is that we want speedy eviction of squatters from Government lands, but as soon as you put these assurances in the body of the law—and the language was 'as far as possible' we would do certain things—you make it justiciable, and the same process begins the process to avoid which we have come before Parliament to ask for a special enactment giving a method by which speedy recovery of Government lands

could be made. Therefore, the assurances cannot be put on the statute book, as Shri Gadgil had said, and he had given good reasons, and Sardar Swaran Singh also had given good reasons, and for those same reasons we are unable to put those assurances on the statute book. But in word and spirit, this Government will fulfil completely the assurances which had been given by Shri Gadgil.

Pandit Thakur Das Bhargava had in his speech used something which I had said, to prove that the assurances had not been implemented. I had said that several thousands of people who in our opinion were covered by the Gadgil assurances still remained to be properly settled. He said that from the words of the Minister themselves, one could see that the assurances had not been fulfilled. Now, my case is this that whomsoever we have evicted out of Government lands to which they had no legal right,—and who are covered by the Gadgil assurances—there has not been a single case where we have evicted the person without giving him alternative land. I shall, with your permission, go into the details of the working of the Gadgil assurances, because these assurances have played a very important part in our discussions.

Now, the Gadgil assurances cover people, that is, refugees, from Pakistan, only up to the period of 15th August, 1950; and then, up to 31st December, 1950, they had to be given notice. But, so far as the assurances are concerned they really referred to those who were pre-15th August, 1950 displaced persons. Uptill now, 27,700 people—there might be a few more by now—had been evicted and they have been settled on land. I would like to point out that of these only 20,500 people are people who are covered by the Gadgil assurances, and 7,200 people are people who are not covered by the Gadgil assurances; in spite of that, on purely humanitarian grounds, we have

given them alternative sites. Therefore, it would be very wrong on the part of any hon. Member to think that Government's pledged word is being broken every day by officers. One hon. Member has said, the Ministers are all right, Government orders are issued, but the officers do not carry out those orders. If any particular case is brought to our notice we shall certainly see to it that the orders of Government are properly carried out by the officers.

**Shri B. K. Gaekwad (Nasik):** On a point of information. The Minister had said that accommodation had been provided to a particular number of the homeless or displaced persons. May I know the number of Scheduled Caste people to whom houses have been provided?

**Shri Anil K. Chanda:** I am referring to the people who are covered by the Gadgil assurances. I said that 20,500 of those people who are fully covered by the Gadgil assurances had been evicted, and each one of them had been given alternative site. Over and above that, we have got evicted 7,200 people who were displaced persons not covered by the Gadgil assurances, but in spite of that, purely on humanitarian grounds, we have given them sites. My hon. friend wants to know how many of them are Scheduled Castes. I am afraid we have not the statistics. We are dealing here with the case of the displaced persons and not dividing them on the basis of their religion and caste.

श्री बाबूजीकी : मैं जानना चाहता हूँ . . .

**Shri S. M. Banerjee (Kanpur):** On point of clarification.

**Mr. Chairman:** Order, order. I cannot allow interruptions. Any point of clarification can be asked.

**Shri S. M. Banerjee:** During the question hour today, the Home Minister, while the question of unauthorised constructions was being discussed, said that there were 30,000 people here who were having these unauthorised constructions, and whose cases had not been regularised. That is also a matter which will come under this. May I know whether these people are going to be evicted in this manner, for, he said that about 27,000 people had been rehabilitated, but there are 30,000 cases more to be decided still?

**Shri Anil K. Chanda:** Then, there are various assurances. Some of them are unimportant. I am coming to the more important things. This was the assurance:

"Where any construction is demolished or removed, rehabilitation grant *ex gratia* is made to the displaced persons either in cash or in the shape of building materials or both, and the amount of which shall be determined by the Minister of Rehabilitation having due regard to the circumstances of each case."

This is not compensation in the legal sense of the term, but *ex gratia* payment. Cash grants covering this assurance totalling to Rs. 24,78,459 have been paid; hutment charges amounting to Rs. 1,65,810 and building material worth Rs. 3,39,414 have been given by Government. In this case also, people who had not been covered by Gadgil assurances by the time factor have been given financial assistance just as we have given them alternative sites even though they were not really entitled to it so far as the Gadgil assurance was concerned.

With regard to remission of rents, and damages, arrears up to July, 1948 had already been accepted for being written off. In regard to the arrears up to 31st August, 1949, it was assured that this matter would be considered sympathetically and

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at any rate, hard cases and the like would be given relief. But we have wiped away all claims not only up to 31st August, 1949 but up to 31st December, 1951; and the amount runs to over Rs. 20 lakhs. Therefore, I do claim that we have tried, and we have implemented the Gadgil assurances in law and in spirit. It is a fact that thousands remain yet to be properly settled. That alone shows how sincere we are. Under the law, we could have thrown them out, but we have not done it for the simple reason that we have not yet got developed sites ready for them.

I will now deal with various statements which have been made about particular cases. I am coming to Purana Qila a little later. Pandit Thakur Das Bhargava mentioned about the Ajmeri Gate area and said that the lands of poor people who have been acquired at Rs. 10 or Rs. 15 per sq. yard and who have been driven out, these very lands have been sold for enormous amounts later on.

**Pandit Thakur Das Bhargava:** I never said that.

**Shri Anil K. Chanda:** That was the substance. I do not want to take up time on that.

**Pandit Thakur Das Bhargava:** I only submitted that those lands have been acquired at the rate of Rs. 10 or Rs. 15 whereas the lands in front have been sold for Rs. 300 per square yard. I never said that those very lands which were acquired have again been re-sold at that price.

**Shri Anil K. Chanda:** The position in the Ajmeri Gate area is this. The lands which have been sold out are nazzool lands or government lands. It was not acquired or bought from anybody. Some more lands were available to Government by the demolition of the City Wall. Incidentally, I feel, it was an act of vandalism to have demolished that wall. But certain lands came into Government's possession by the demolition of the

City Wall and certain other lands came to their possession by filling up of the old city drains. These are the only lands which had been sold off. But it is also a fact that in order to clear up the slums in that area, we have acquired certain properties, but because we have not yet been able to give them alternative sites, no family has yet been evacuated from that area. As soon as developed sites are available, we shall remove these people to that area.

Another hon. Member had referred to Ahata Kedara and said that regularisation had not taken place. Regularisation has not yet taken place because the plans are not yet ready. The plans have to be continually changed in order so to plan them that these structures which are substantial pucca structures could be allowed to remain where they are. The whole alignments of the roads have to be changed. The whole plan of that area has got to be changed and it takes time. Therefore, they have not yet been regularised, only to save as many of these structures as possible, as contemplated by the Gadgil assurance.

Reference has been made to the houses on Pusa Road. There are 11 pucca buildings involved; some, I believe, covered by the Gadgil assurance. These people want to stay on there. These buildings are on the tip of Pusa Road, at the junction of Arya Samaj Road and Pusa Road. For traffic reasons, they have got to be removed. Alternative sites to those covered by the Gadgil assurance are being offered in Jhandewala area which, incidentally, is now one of the best of the new areas in the City. And since the land will be available at no-loss, no-profit basis, they will get these lands at a considerably cheaper rate than the market rate. But these friends do not move out and they are remaining where they are.

I had made some reference to Purana Qila. On the last day when we met, I had referred to it also. One

hon. Member—I think it was Shri Barman—asked: why should they not remain where they are? The Purana Qila is a protected monument, a historical monument of great importance in our country. Forced by circumstances, Government in 1947 or 1948 had allowed first Muslim to-be refugees to be settled there before they were evacuated to Pakistan, and after they had moved out, other refugees who came from Pakistan were lodged there because the situation was absolutely impossible at that time. The Purana Qila is an archaeological monument and a settlement of displaced persons could not be kept there permanently. All available tenements in Lajpat Nagar, Kalkaji and Malaviyanagar were reserved for the inmates of Purana Qila. The representatives of the residents of these tenements desired that in addition to tenements reserved for the inmates in the three colonies, already mentioned, 400 cheap tenements in Lajpat Nagar which were said to be under unauthorised occupation of other displaced persons should also be thrown open to them. This was agreed to. But the response from the inmates of Purana Qila was not very encouraging. Only 115 families accepted built-up accommodation in the various rehabilitation colonies; 113 accepted allotment of cheap tenements. All the families which were allotted built-up accommodation had shifted from the Qila. But only 19 families have shifted to cheap tenements. Others have not been able to shift as the cheap tenements were under unauthorised occupation of other displaced persons. Practically, all built-up accommodation in Delhi has been allotted. The remaining displaced families who have not been allotted accommodation elsewhere as families which could not be given physical possession of cheap tenements have been offered small plots in Lajpat Nagar, which is not very far from their present residence and which is one of the biggest of the colonies for displaced persons fully equipped with schools, hospitals and other civic amenities. Only 149 families have accepted small plots and they have been

given six months time to put up structures on their plots. The remaining families have not communicated their acceptance of the allotment of plots so far, and are insisting upon built-up accommodation—which is not available.

The actual picture of the Qila is this: total number of families in Purana Qila 689; number of families who have accepted built-up accommodation and who have already shifted 185; number of families who have accepted allotment of small plots of 100 sq. yards each in Lajpat Nagar, 177; number of families to whom allotment of plots is pending, 13; balance of families who were offered plots but have not accepted them, 347.

I submit it is rather bad that such an important historical monument should continue to be occupied by people when we had offered them alternative lands.

**Shri S. M. Banerjee:** Though these people have to be evacuated, these people residing in Purana Qila have got a case and if we are given time, we shall explain what lands have been given to them and how they have been tackled...

**Shri Anil K. Chanda:** I am not yielding.

Shri Achint Ram said that in course of my preliminary observations when moving for consideration of the Bill I had mentioned that there were 11,000 squatters on 347 acres of nazool land. He has taken that to mean that this is the total quantum of squatters in Delhi and said that if that was the position, why drive out these poor 11,000 people, why not make our plans in a manner that these people could be accommodated? I wish it were so—that there were only 11,000 squatters in Delhi. The number of squatters I had referred to was on what is known as nazool lands, 347 acres. The New Delhi Municipal Committee informs us that there are 9406 unauthorised structures on which 50,000 persons are squatting.

[Shri Anil K. Chanda]

Then the question is: what do Government propose to do with regard to these 50,000 squatters in the New Delhi Municipal limits alone, very often without the most ordinary amenities of life. The question may be asked what Government, being aware of the enormity of this problem, propose to do. I will give you in brief some idea of what Government have done up till now in Delhi itself for the purpose of slum clearance etc. In Amrit Kaur Puri, we are building 240 single room double storeyed tenements at a cost of Rs. 7.6 lakhs; at Kilokheri, we have completed 396 tenements costing Rs. 10.91 lakhs....

श्री नवल प्रभाकर : अमृत कौर पुरी में  
७२ बने हैं । मैं वहाँ ही रहता हूँ ।

Mr. Chairman: He is not yielding.

Shri Anil K. Chanda: At Kilokheri another 396 tenements are in progress costing Rs. 10.91 lakhs. At Kilokheri, 46 shopping centres and 42 residential flats for shopping centres costing Rs. 2,27,000 are in the process of construction—work is in progress. At Jhilmil Tahirpur, single room tenements numbering 1196 costing Rs. 35 lakhs are completed. At Jhilmil Tahirpur shopping centre, 34 such units—cost not known—have been completed. Then, in Bagh Amba, Padam Chand Land, Mundewala Road, Canala Closure Scheme, 288 tenements are in progress costing Rs. 10.53 lakhs. In the Government colonies—my hon. friend Shrimati Sucheta Kripalani was asking what about the servant class, what about the barbers, cobblers and others who are rendering valuable services to us and who have no accommodation—we are building single room tenements for domestic servants, barbers, washermen, cobblers and sweepers, in Moti Bagh, Main Vinay Nagar, East Vinay Nagar, North of Medical Enclave, South of Housing Factory, Pinjrapole, Sewa Nagar—272 in number; construction is in progress and Rs. 9.97 lakhs are involved.

In Patel Nagar, for the use of slum dwellers, 500 houses costing Rs. 7.6 lakhs are being built and 50 acres of land are being acquired and will be developed for allotment to slum dwellers who would put up their own houses to approved specifications.

Over and above this, there is a scheme for the remodelling of the Dhujana houses for clearance of Jama Masjid area which has been sanctioned and the Central P.W.D. has been asked to go ahead with the execution of the work.

There is another fact. Whatever may be the law, so far as our eviction law is concerned, we have not evicted anybody whom we have not given alternative site. Shrimati Sucheta Kripalani mentioned about a hard case. She mentioned a case of a mother with a child of 20 days in arms and said that just before the rains somebody came and demolished her hut. It may sound hard. But, certainly, those who demolished these houses were not astrologers and they did not know that the rains were going to come in such a terrible manner 2 days later. Wherever there are unauthorised constructions, obviously, the municipal authorities will take steps to get these unauthorised constructions demolished. It has nothing to do with the law that we are now discussing before the House. Ever since the Punjab High Court judgment, we have not been taking any action under the provisions of this law. So far as we are concerned, we have ceased to take any action. But this Parliament has made certain other enactments and it is well worth mentioning them.

Under the Delhi Municipal Corporation Act, the Commissioner can acquire any land or building for opening, widening or extending or improving any street or for making any new street, can order the demolition of any building constructed with-out or contrary to sanction; order the

demolition of any building in a ruinous condition or likely to fall down or in any way dangerous to any person; order the demolition of buildings in an unhealthy condition due to being overcrowded or narrowness or faulty arrangement of streets or for want of proper drainage or ventilation or of the impracticability of cleansing; order the demolition of buildings unfit for human habitation; order the removal of insanitary houses and sheds.

Then, under the Clum Clearance Act of 1956, the Chief Commissioner can order the demolition of buildings unfit for human habitation. Under the Delhi Development Act, 1957, the D.D.A. can order demolition of any erection in a developed area if the erection is itself in contravention of the development plan or without any permission.

None of these Acts incorporate the Gadgil assurance. They have nothing to do with the Gadgil assurance. The Municipal authorities and the Administration Authorities in Delhi Union have those rights. So, whenever an unauthorised structure is pulled down, please do not blame us. We have not taken any action under this law because, as I said, ever since the Punjab High Court passed that judgment, we are not working this law in any part of the country.

There are several other points made out by other hon. Members. My hon. friend, Shri Ajit Singh Sarhadi, asked about the assurances given by Shri Khanna. The assurances are there and he knows very well that even in the presence of the deputationists who had met the Minister, he gave instructions to his officers that the implementation of these assurances were to be immediately taken in hand. Just as the Gadgil assurances will be honoured by this Government, so also the Khanna assurances with regard to the particular type of property will also be honoured by our Government.

Shri Vajyapee had referred to the Estate Officer and said that he is an

executive officer who might not have any legal knowledge and asked how was he to decide the intricate problem of title etc. In revenue cases, the tahsildars who deal with such cases very often are not judicial officers and very often they are not people who have any legal training, whatsoever. I have explained our difficulties that the Estate Officer is not being created specially for the purpose of the working of this Eviction Act. If it had been so, we could have given a categorical assurance that we would only appoint such people as Estate Officers who are either judicial officers or have considerable legal training. Estate Officers are, more or less, the Managers of Government of India properties. They are already there functioning as such. It is only when the question of eviction arises, that, instead of anybody and everybody being authorised by Government to act as the competent authority, this law provides that the Estate Officer will be the person who will be held responsible for the working of this law.

**Shri U. L. Patil (Dhulia):** On a point of information, Sir. May I ask the hon. Minister what would be the number of officers required for the implementation of this particular Act; and, secondly, is it impossible for Government to collect officers with enough legal qualifications and appoint them as Estate Officers?

**Shri Anil K. Chanda:** The number of Estate Officers is not very large. Government of India properties are mostly concentrated in certain areas, though there are stray pieces of property here and there. They are mainly concentrated roundabout Delhi, Calcutta or Bombay and such other areas. The reason why we cannot give a categorical assurance to the House or put it in the law that a civil judge or somebody who has judicial training or who belongs to the judicial cadre or has had legal training alone would be made an Estate Officer is this that a considerable amount of the properties which have been ille-

[Shri Anil K. Chanda]

gally squatted upon are Defence properties and the Defence Ministry are not able to provide judicial officers from their own organisation to work as Estate Officers for this purpose.

But, as I said, the Estate Officers are people who are daily dealing with government lands; in the process of their work, they acquire a working knowledge of—I should say a considerable proficiency in—the intricacies of the tenure laws etc. And, then, they are not the final authority. There is the judicial review. Therefore, I do not think, as the hon. Law Minister had said, that the principles of natural justice would not be followed.

Hon. Members have referred to this Bill as a very harsh and almost inhuman measure.

**Shri Ajit Singh Sarhadi (Ludhiana):** While dealing with evacuee property, the hon. Minister said that the Khanna assurances would be carried out. May I ask, when we have got section 19 of the Displaced Persons (Compensation and Rehabilitation) Act, which also provides a procedure for ejection from evacuee property, which are now government properties, why have this Bill now?

**Shri Anil K. Chanda:** This is not the only instance where there are two or three laws covering more or less the same cases. This Eviction of Unauthorised Occupants Bill itself is an instance. We have the ordinary civil laws of the land open to us for evicting people from our land. In addition, we have this law also. When we want to deal with persons, we can deal with them in the ordinary process of law or we can deal with them under the provisions of this particular law. Similarly also under section 19 of the Rehabilitation Act a special procedure for eviction has been prescribed. There is a procedure for eviction under this Act also. Incidentally, as far as I am personally concerned, I think, those rules are a little harsher. But, anyway, there are two sets of rules and it is up to the Government to operate

either this or that. The Government Servants Corruption Act—I do not know what is the proper name of that Act—was passed in 1947 or 1949 but a Government officer who is accused of some corrupt practices could also be tried under the ordinary laws of the country. So, it does not mean that this law and the law which Shri Ajit Singh Sarhadi referred to are at logger heads. It is a special law meant for speedy solution of a particular problem whereas this is the general law of the land and the cases which are not covered by the provisions of that Act will be covered by this.

**Shri P. K. Deo (Kalahandi):** I want to know if this legislation will be applicable to Rourkela and Hirakud and such other developmental areas which have been acquired by the State Governments and which had been handed over to the Centre and which had become the property of the Centre.

**Shri Anil K. Chanda:** Whatever lands belong to the Government of India and whatever premises belong to the Government—they will all come under the purview of this Bill.

**Mr. Chairman:** It applies to the whole of India.

**Shri Anil K. Chanda:** Many hon. Members have said that this a harsh Bill. They have been forgetful of the fact that this Bill is not as harsh as the previous law, and any dispassionate examination of the previous law will show that this is a much more humane law than the previous one which this Parliament had itself enacted; it was harsher and we have made it considerably more humane. We have provided for due notice to be given to a person who is sought to be evicted. He has a right to lead evidence in support of his case and on an appointed day the estate officer has to give his ruling. Then, there are other things which were not available in the previous law. There is the judicial review of the District

Judge of the area. In the old law, there was a penalty of a thousand rupees if anybody contravened the provisions of that Act. We have wiped that away also. Therefore, I submit that this is a very just measure. The Joint Committee went into the details of this Bill and many of their recommendations have been accepted. Not merely that. In the Upper House, we have accepted an amendment moved by a communist Member as we thought there was some considerable sense in what he has said. We want back these lands not for any commercial purposes or for serving the interest of a particular person; they are needed for the general public as a whole and therefore I submit that we may be given the necessary legislative powers by the acceptance of this Bill.

**Mr. Chairman:** The question is:

"That the Bill to provide for the eviction of unauthorised occupants from public premises and for certain incidental matters, as passed by the Rajya Sabha, be taken into consideration."

*The motion was adopted.*

**Mr. Chairman:** Now, we shall take up clause-by-clause consideration. First, we shall take up clause 2. There are some amendments. Shri P. K. Deo has indicated his intention to move amendment No. 56.

**Shri P. K. Deo:** Sir, I beg to move:

Page 2,—

after line 16, add—

"(f) 'displaced persons' means persons whose lands and houses have been acquired for Government purpose and who have been displaced from their lands and houses."

Sir, it has become highly essential that there should be a definition of the displaced persons and the scope

of the Bill is sufficiently enlarged to include the Hirakud, Rourkela, Bhilai and Durgapur and also such other areas which are being acquired by the Government for various development purposes. Even though the lands in the Hirakud area have been acquired for the last 12 years and those lands are being submerged for the last three years, no compensation has been paid to them. The Prime Minister's assurance at Sambalpur in 1948 that land for land and house for house will be provided still remains a myth. So, I feel that there should be some mandatory provision in this legislation to deal with displaced persons. I have given notice of my subsequent amendment for this Bill how these displaced persons should be treated. So, I feel that there should be a clear definition of the displaced persons and there could be no valid objection on the part of the hon. Minister to accept this very simple amendment.

श्री बाहनीकी : सभापति जी, मेरा  
संगोपन नं० ५७ इस प्रकार है :

Page 2,—

after line 16, add—

"provided that lenient view will be taken in the case of Harijans, building-labourers and other poor persons like displaced persons while evicting them."

श्री बाहनीकी : सभापति जी बोल रहे थे तो उन्होंने फिर कुछ ऐश्वोरेन्स दिये डिस्प्लेस्ड पर्सन्स के बारे में, लेकिन हरिजनों और बिल्डिंग लेबरर्स के बारे में कोई इस तरह का ऐश्वोरेन्स वह नहीं दे सके। यह बात जरूर है कि जहां तक हरिजनों का ताल्लुक है, पुरातन काल के शरणार्थी हैं, पुरुषार्थी हैं। हम यह मानते हैं कि हमारे रिफ्यूजी भाइयों ने देश के खातिर जो कष्ट झेले हैं उन्हें हम न भूलें और वह सब जिस बुरी हालत में हैं उस में न रहें, उन से हमारी हर प्रकार की सिम्पैथी है।



[श्री बाहमीकी]

15-49 hrs.

[SHRI BARMAN in the Chair]

लेकिन जहां तक हरिजनों का तात्त्विक है उन की दशा आज उन से भी बदतर है और जितना ध्यान रिफ्यूजी भाइयों की तरफ दिया गया है, हरिजनों की तरफ उतना नहीं दिया गया है। इस लिये मैं ने यह कहा कि उन के मकानों को गिराने के लिये जिस तरह से पुलिस के स्कवैड और प्रचारिटीज चलती हैं, उस से ऐसा मासूम पड़ता है जैसे कोई मेडिकवियल पीरियड का हमला हो रहा है, मैं इस तरह के हमलों का जोरदार शब्दों में विरोध करता हूं। मैं चाहता हूं कि हम इस को देखें कि हमारे यहां भारत सेवक समाज है, हरिजन सेवा संघ है, हम लोग जो हरिजनों की सेवा करते हैं, उन से सलाह कर के कोई काम किया जाये। मैं तो कहता हूं कि उन लोगों के मकानों को गिराया न जाय बल्कि एक खास पालिसी बना कर सरकार उन के मकानों का सर्वे कराये कि उन के मकान या झोंपड़ी इस तरह के गन्दे हैं और उन से बेहतर बनायें। इस के लिये क्या किया जाय, उस के लिये मैं ने एक और प्रमोंडमेंट दिया है, जिस पर मैं बाद में बोलूंगा, लेकिन मेरा विचार है कि माननीय मंत्री इस बात को याद रखें कि इस बिल के पास हो जाने के बावजूद भी चूंकि उन के रहने का ठीक ठीक प्रबंध नहीं किया जा रहा है इस लिये अन-आथराइज्ड कंस्ट्रक्शन बन्द नहीं हो पायेगा। हम उसे बढ़ाना नहीं चाहते, लेकिन प्राय उन लोगों से भली प्रकार व्यवहार करें। आज प्राय जिस प्रकार निर्दयतापूर्वक कदम उठा कर चलते हैं वह कोई अच्छी बात नहीं है, उस के उन के दिमाग पर कोई अच्छा प्रभाव नहीं पड़ता। इस लिये जब भी प्राय उन को वहां से हटाने का विचार करें, जिस तरह के प्राय हमारे रिफ्यूजी भाइयों के बारे में सोचते हैं, उसी तरह से इन लोगों की हालत को देखते हुए इन के बारे में भी व्यवहारिक

धीर वास्तविक रूप को प्राय लें। धीर मानबता के प्राचार, पर उन के साथ न्याय करें।

मुझे आशा है कि जो स्पिरिट मेरे संशोधन के अन्दर है खास तौर से उस का ध्यान में रखते हुये माननीय मंत्री जी मेरे संशोधन को स्वीकार करेंगे।

Mr. Chairman: May I just know what other amendments hon. Members would like to move to this clause?

Shri Balasheb Patil (Miraj): I beg to move:

Page 1,—

after line 8, insert—

'(aa) "Court" means a small causes court as defined in the Provincial Small Causes Court Act, 1887 and includes a civil judge having jurisdiction to try the small cause cases.'

Shri U. L. Patil: I beg to move:

Page 2, lines 15 and 16,—

for "for any reason whatsoever" substitute—

"for any reason or reasons under the rules"

Pandit Thakur Das Bhargava: I beg to move:

(1) Page 2, line 16,—

add at the end—

"But no unauthorised occupation by any displaced person before 16th August, 1950 shall be regarded as unauthorised occupation."

(2) Page 2,—

after line 16, add—

"Provided that a displaced person in occupation of public premises before the 15th day of August, 1950 shall not be deemed

to be in unauthorised occupation if he has constructed any building on such premises."

**Shri Ajit Singh Sarhadi:** I beg to move:

Page 1,—

after line 18, add—

"Provided that it shall not include evacuee property acquired by the Government of India under the Displaced Persons (Compensation and Rehabilitation) Act, 1954 in 1955;

Provided further that a displaced person in occupation of public premises before the 15th day of August, 1950 shall not be deemed to be in unauthorised occupation if he has constructed any building on such premises."

**Mr. Chairman:** Amendments 56 and 57 have already been moved. Now, all these amendments are before the House.

**Pandit Thakur Das Bhargava:** Mr. Chairman, Sir, in moving my amendments to this clause I have only to repeat, to a certain extent, the arguments that have already been advanced. In so far as the hon. Minister himself admits that the Government will stand by the assurances that have been given, if we are convinced that the assurances will be accepted in their letter and spirit, these amendments really do not have any force. He has, at the same time, taken good pains to relate before the House the various acts which the Government had to perform in relation to these assurances.

It appears that a great amount of money has been spent by the Government in regard to the welfare of the refugees. So far as the refugees are concerned, the House knows that not less than Rs. 300 crores have been spent by Government for the welfare and protection of refugees. Nobody denies that. It is usual for Government to quote all these figures before

us. I have said many times that no Government in the world has spent such an amount over the refugees, and we are all beholden to the Government in so far as unprecedented steps have been taken by Government to give protection to the refugees. All the same, may I humbly ask the hon. Minister who has taken so much pains, has any house so far been regularised?

During these eight years Government would have got an enormous sum. If the hon. Minister will kindly look into the debates of 1951, he will find that I got this assurance from Shri Gadgil. If he will kindly look into my speech and that of Bakshi Tekchand, he will find that we offered to the Government something like Rs. 30 lakhs to Rs. 40 lakh. If they had regularised these buildings, they would have got that amount. But Government has not regularised, according to my information, a single house. If these houses were regularised, great satisfaction would have prevailed. When you spent something like Rs. 300 crores and yet you are not able to give satisfaction to the refugees, what does it mean? It means that your implementation is not correct, the way in which you work is not correct.

If these houses were regularised, by this time every refugee would have been satisfied that he is the owner of his own house. The houses are there. You are not going to demolish them. I know that the hon. Minister will not have the heart to demolish them. Nobody said here that the hon. Minister, whether he is a refugee or not, has got the heart to demolish those houses. At the same time, we know that a special squad was brought into being by the Delhi Administration, at dead of night that squad went to the houses of the refugees, put those people in lorries and demolished their houses. The refugees were taken to Tehar. It is a fact which cannot be denied. I do not want to repeat all

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those things and refresh your memory; I do not want to bring it again to the notice of the Government, but this has been done.

At the same time, Sir, is it not a fact that for the last eight years eligibility chits have been given to the refugees; those eligibility chits are in their possession and they are not in possession of any house? It is not correct to say that all that the Government promised has been done. Did not Government promise that every refugee shall be given a shelter, every refugee shall be given the means of livelihood? Has that been done?

But that is not the point of my complaint. The point is this; that whatever you have given, whatever promise you have made, by this Bill you are taking away all that. Kindly see the definition of "unauthorised occupation". It is said: "unauthorised occupation, in relation to any public premises, means the occupation by any person of the public premises without authority for such occupation..." Let us consider this. Lakhs of people came to Delhi and there was no room. They occupied certain premises without taking permission from anybody; but they did so, at the same time, with the acquiescence of your highest authority, with the acquiescence of the Chief Commissioner, the Deputy Commissioner and the Rehabilitation Minister. The Municipal Committee granted them electric connections, gave them water connections, and the people spent money on those premises and put up their houses. Even though this was done with the acquiescence or encouragement given by the highest authority, the premises may have been acquired without authority.

The definition goes on to say: "... and includes the continuance in occupation by any person of the public premises after the authority (whether by way of grant or any

other mode of transfer) under which he was allowed to occupy the premises ...." Naturally, no transfer was made; but, at the same time, there is acquiescence from the Government, there is encouragement from the Government. There was every sort of incitement, if I may say so, to them. If it is a crime to settle on another's property, the incitement for that was given by Government for them to occupy those premises. The circumstances were such. If the Government did not do that, it would have been impossible for them to restrain the refugees from doing so.

What I take exception to is this provision: "(whether by way of grant or any other mode of transfer) under which he was allowed to occupy the premises has expired or has been determined for any reason whatsoever". What is the meaning of these three words: "any reason whatsoever"? Supposing the reason is absolutely wrong, absolutely unjustified that it would not stand scrutiny, that it would not stand anywhere when the matter goes to court, what will happen? Even if there is such unilateral denunciation, it will be upheld because of this provision "determined for any reason whatsoever". The Estate Officer or the Gazetted Officer, call him anything, he will not have the heart, he has not got the power to question this determination. That is my complaint.

We know what this determination means. On one fine morning 6000 verified cases were scored off by the Rehabilitation Ministry without those people being called. Once an Estate Officer enhanced the rents retrospectively so far as the refugees are concerned; the rates of rents already paid for a period which had already expired were enhanced. Then we came here before this House, and Shri Mehr Chand Khanna was kind enough to order that these things should not be done. But these things have happened. If such a thing is done, by infatuation of power or whatever it

may be, my simple question is, will the Estate Officer go into this question or will he not. My humble submission is, he has no right.

My hon. friend is quite right in saying that so far as the previous Bill is concerned, they have introduced certain changes which make it less harsh. But, to start with, he says, "Another Parliament enacted another measure. Why are you objecting to it?" If he goes and sees the proceedings, he will find that even that measure was stoutly resisted by me and other hon. friends. It is not that we were agreeable to it; we were never agreeable to it. Whenever the Government is a party, which adduces proof the Court comes to the conclusion that it is Government property. Now Government property will be assumed. In every case, he starts with the presumption that the property belongs to Government

16 hrs.

Then what about the authority? The authority which is prescribed in clauses 2 will be regarded as perfectly good authority. He will not have the right to hold that in absence of good authority also a person can have occupation which he can justify. If you look at clauses 3 to 5, you will find that the authority has just to form an opinion if a person is an unauthorised occupant or not. That opinion is already formed, because the authority has been determined. It was very kind of the hon. Minister to say that the assurances already given will be followed, but supposing, one fine morning, another person comes in and determines and without any reason assurances are cancelled, then what about this protection? If they determined it unilaterally and say we have determined it, where will the refugees go? So far as this Estate officer is concerned, he will not go into the question as to whether the determination was correct or wrong, justified or unjustified. The officer has to do one thing. He has to issue a notice when he finds that the person is an unauthorised occupant. Government have not

proved anything; neither it is in possession nor in ownership. Nothing of the kind. The officer sits on his chair and says, "All right; this possession is unauthorised". At the back of the person against whom the notice is issued, this is determined. This is unheard of.

When that is done, what happens? What has he to find? It is an important question. In clause 4, we find that "If the estate officer is of opinion that any persons are in unauthorised occupation of any public premises..." etc. the officer will issue a notice. He has to form an opinion. This opinion is *ex parte* and there is no question of a subjective or an objective satisfaction. If he is of opinion that the person is an unauthorised occupant, he proceeds at once against him. He does not go deep into the question. He says, "those persons should be evicted".

Judging from these aspects, under clause 4, I think that the officer will have to consider two things. Firstly, whether it is unauthorised occupation, and secondly, whether the person should be evicted. This, to an extent, is good. But then, what happens? My hon. friends Shri Balmiki and Shri Naval Prabhakar have spoken about Harijans. After all, the Estate Officer is as much a human being as any other citizen of India and should be enabled to find whether a proper case for eviction exists. It is not that in every case of unauthorised occupation, they want to evict. In clause, 4, ordinarily speaking, there are two things to be done. There is discretion given to the officer as to whether the person should be evicted. This discretion given in clause 4 has been apparently taken away in clause 5. There, the only question is to decide after hearing the other party on whom the burden has been shifted. This is the worst thing that I have seen. The burden is put on the man who is sought to be evicted. It is not on the Government to show why he should be evicted, because Government is not a party. Only the representative of Government sits as an

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agent of the Government and starts with the presumption that the premises belong to Government and that, therefore, the person should be evicted.

In clause 5, if the officer is satisfied, what happens? "The Estate Officer may make an order," etc. He has virtually got no choice. He has to make an order if he finds unauthorised occupation there. He cannot go into the question whether the man has been there for the last 20 or 25 years, or whether the Harijan or any other person has been holding on to that house for any length of time. He cannot go into the question even if a person happens to occupy the premises for more than 60 years or so. There are such cases in Delhi, where the property has ripened into actual ownership. People from such premises can also be turned out.

**Mr. Chairman:** May I ask one thing? I find from the amendments that the hon. Member has tabled amendment Nos. 37 and 41. Both these amendments say that the displaced persons who had occupied the premises before the 15th August, 1950, should not be treated as unauthorised occupants. So, I think that is the only point so far as clause 2 is concerned. Will he please confine himself to that point?

**Pandit Thakur Das Bhargava:** Yes; I am speaking on these two amendments. But I will get no other opportunity. I can speak on the amendments of other Members also. Apart from that, I can speak on clause 2, because what is before us is clause 2.

**Mr. Chairman:** But only with reference to the amendments.

**Pandit Thakur Das Bhargava:** I am speaking on clause 2, as I submitted already. From my amendments also, this point is very relevant, because, these persons who occupied the land in 1950 have got the further protection by way of the Gadgil assurance.

**Mr. Chairman:** The hon. Member has already made these points during the general discussion.

**Pandit Thakur Das Bhargava:** Am I to understand that those who have spoken during the general discussion will not be allowed to put in their arguments at this stage.

**Mr. Chairman:** The only thing is if you speak all over again, on the whole Bill, there will be no end to it.

**Pandit Thakur Das Bhargava:** I will not take much of the time of the House, but, at the same time, the argument is perfectly correct. This is a point which at that time I did not make. It is an entirely new point, a new argument. In regard to this Bill, about the unauthorised occupation, the worst thing that we have got in this Bill is this very aspect of unauthorised occupation which has been defined in such a manner that it becomes unauthorised occupation by the act of those persons whose acts cannot be questioned by us.

May I now refer to another Bill that is coming up before the House shortly, namely, the Delhi Rent Control Bill? As between this Bill and the Bill that is now before the House, there is a great disparity. In that Bill, in clause 49, you will be pleased to find that specifically the Government have said that so far as the question of title is concerned, the question can be decided by the Civil Court. In that Bill, there is a controller who is not like the estate officer. He is a judicial officer. He proceeds as in a small cause court. He will hear all evidence and full rights have been given to him. In spite of that, clause 49 says that if, at any stage, the question of title comes, the person has to stay his hands and it may have to be settled by another court.

My difficulty is this. You have been pleased to refer to the definition of unauthorised occupation. On the one hand, the Government have closed the door. If this is a unilateral act by which this authority has been taken away, can I question that authority? This is cruelty indeed. They do not allow me to go to the civil court or go to the officer and plead with him that I am an innocent man and that this thing should not have been determined in this illegal manner. So, according to me, in this case, the man has been throttled to such an extent that he cannot even cry, because he cannot plead his title.

Therefore, my humble submission is that we should not pass this Bill. After all, the land has not been transferred. Only the right of my occupation is there. According to the Gadgil assurance, what I have been given is the right to remain in occupation, though it is not the right to property which will become mine if I pay the amount fixed by them. They say that no house will be demolished. This is how they start the thing. I have got an equity in my favour. That equity is there. I say that equity, we should be enabled to plead. This was pleaded, in the high courts according to a reported ruling. But here, they say that it is not part of the Act and that we would not be allowed to plead. My hon. friend gags me to such an extent that I am not allowed to plead that equity in my favour, and those assurances in my favour solemnly given and given on a principle which was enunciated by the Prime Minister—no eviction without alternative accommodation, which should have been accepted by the hon. Minister who has sponsored the Bill. That principle is that in such cases alternative accommodation must be given even to a person who is not a refugee. It should apply not to a refugee alone but to others. I would go further and say that in a welfare State, when the Government is responsible for housing the people, every person who is ousted from a certain

place should not be thrown on the street, but alternative accommodation should be provided for him, whose case sometimes may be much worse than that of a refugee. We may be very wrong if in every case we evict the person. Therefore, I submit that the provisions, even though they are tempered by the acceptance of the amendments relating to refugees, will not be enough. Because to us, every citizen of India is very dear. Apart from the refugees, there may be many others like the Harijans who may be in an equally bad position. I am not concerned with the fact that Mr. Gadgil or Mr. Swaran Singh did not incorporate them in acts. If the hon. Minister did not stand by them, I can understand. But when he stands by them, what is the harm in putting it in the Act itself? That will give security to many people. Therefore, my humble submission is that for the proper implementation of these assurances, they should form part of the Act itself. In the part, the High Courts have said that the assurances are not legal enough and do not furnish good basis for accepting them as the basis of title, as they are not contained in the law. So, I request that the Government should make it possible for persons to plead that on the basis of these assurances, they cannot be turned out.

**Shri Ajit Singh Sarhadi:** Mr. Chairman, I have moved amendment No. 20.

**Mr. Chairman:** Hon. Members may confine themselves mainly to their amendments.

**Shri Ajit Singh Sarhadi:** Yes, Sir. Part one of my amendment seeks the exclusion of Government property which was evacuee property before 1955. Part two deals with what are known as the Gadgil assurances. So far as the second part is concerned, my hon. friend, Pandit Bhargava, has already dealt with it and I would not deal with it further.

So far as part one is concerned, it seeks the exclusion of Government

[Shri Ajit Singh Sarhadi]

property which was evacuee property before 1955. I have got sufficient reasons for it. The hon. Deputy Minister has conceded that there is an Act which governs this property and according to him a summary procedure is provided there. I concede that the procedure of eviction of unauthorised occupants of evacuee property, which is now Government property, is more summary there than in the Bill but that summary procedure is subject to certain conditions. It is subject to the commitments which the Rehabilitation Ministry has made under the rules. There the aggrieved party has recourse first to the managing officer; he can request him that he should not be ejected, because there is a commitment under the rule. Then, he has got the right to approach the Assistant Settlement Commissioner and thirdly to the Chief Settlement Commissioner. If he fails in all these three forums, then under section 33 of the Displaced Persons (Compensation and Rehabilitation) Act, there are residuary powers vested in the Central Government. They can rectify any mistake that has been committed by the three officers I have mentioned.

So, there the final authority is the Central Government i.e., the Rehabilitation Ministry, whereas according to the present Bill the Central Government does not come into the picture. He has got the estate officer as one of the forums, then the district judge, etc. Whether we look at it from the legal point of view or equitable point of view, this property known as evacuee property before 1955 and now Government property should be excluded, because whereas it would give the right of summary eviction under section 19, it would also give certain powers to the Central Government to rectify any mistake that might have been made.

I fail to understand how the hon. Minister can be sure that the commitments would be carried out and hon-

oured when the evacuee properties are situated throughout the country in different nooks and corners and the estate officers would be very far off. I have the authority of the Punjab High Court which has said that this is only concession which the Government may or may not give. It is not a statutory provision. According to the ruling of the Punjab High Court, it is left to the discretion of the Government to honour those commitments or not.

I have listened with care to the hon. Deputy Minister and I am grateful to him for his statement that the Government stands by the assurance that no unauthorised occupant before the target date of 31st December, 1955 would be ejected if he otherwise pays his dues. I submit in all honesty and sincerity that if this amendment of mine is accepted, it incorporates both the commitments of Shri Gadgil and Shri Khanna and it would not in any way damage the interests of the Government, because already the provision is there.

Shri Warior (Trichur): On a point of order. There is no quorum.

Mr. Chairman: The bell is being rung. Now there is quorum.

Shri Balasaheb Patil: I have moved amendment No. 62 which says that a new sub-clause (aa) should be added. After the estate officer has been defined in clause 2(a), I want to add this sub-clause. In his opening speech, the hon. Deputy Minister said that he wants a quick and speedy remedy in order to evict the persons and that the procedure now followed in the courts is cumbrous, lengthy and takes years. Looking to the scheme of the Bill as it is, there is no quick and speedy remedy at all, because under clause 4, the estate officer has to form his opinion, give notice and then he has to give reasonable time. If he gives only a

week's time, that will be injustice. If he gives 15 days, it may be too short. He must give at least 2 months notice. That will be a reasonable time to come to a conclusion. Finally, he has to give time—45 days or 90 days in case the persons are staying in the house for more than 3 years. That means it is mainly procedural and if that is to be termed as quick and speedy, nobody can agree with hon. Deputy Minister.

So many objections have been raised arising from articles 14 and 19 of the Constitution. This Act was once challenged successfully. The Attorney General has also stated, "Let us see whether the Supreme Court upholds this Act". The point before us is whether we are going to disturb seriously the lives of so many persons by passing this Bill. So, I want to submit before the House a new scheme. Under this Bill, the estate officer has to form his opinion as to whether a certain person is an unauthorised occupant and then he has to give notice.

Thereafter he has to go to a court, and that too a Small Causes Court. Then the court will come to the conclusion in as short a time as possible. The procedure that is followed under the Provincial Small Causes Court Act is very speedy. Therefore, my submission to this House is that the Estate Officer, instead of hearing the party, may give his decision. If the Estate Officer takes it into his head, he can, even without asking him to produce a written statement, give his judgment in three lines. Then he will be evicted. After all, no right is given to the party to come in appeal under section 9, because that appeal would not be admitted before the District Judge. Therefore, my submission is that my amendment may be accepted, so that the Estate Officer will file the cases in the Small Causes Courts, which will decide the cases and give judgment.

**Shri U. L. Patil:** My amendment reads as follows:

"for 'for any reason whatsoever' substitute—'for any reason or reasons under the rules'."

Since this point has been elucidated by my hon. friend, Pandit Thakur Das Bhargava, I will quote only one instance. The Estate Officer might determine the grant or transfer for the non-payment of rent for one month, he might in some cases, sleep over the non-payment of rent for a year or two. Therefore, my submission is this. There are specific provisions under the various Rent Control Acts for determination of grant or leases for arrears of rent. Now, Government cannot be treated on par with private persons. There must be some rules to restrict the wide discretion given to the Estate Officer. Therefore, in my amendment, I have suggested the substitution of "for any reason or reasons under the rules" for the words "for any reason whatsoever". Clause 13 gives the Government the rule-making power. But it does not specify in any way the determination of grant or lease for non-payment of rent. Therefore, rules must be provided in that behalf and the determination of grant or transfer must be strictly under the rules that will be framed.

**Shri Jagannatha Rao:** I have heard the arguments advanced by the hon. Members who have moved their amendments. I feel that they are a repetition of what was stated during the general discussion.

Regarding amendment No. 20, I should like to point out that it is not the intention of the present Bill to give complete immunity from eviction to persons who are in authorised occupation of the public premises. My hon. friend, Shri Sarhadi, referred to the Displaced Persons Rehabilitation and Compensation Act. Even under that Act, Government had the power to take action under section 19. Sub-section (2) of section 19 reads thus:

"Where any person has ceased to be entitled to be in possession



[Shri Jagannatha Rao]

of an evacuee property by reason of any action taken under subsection (1), or is otherwise in unauthorised possession of any evacuee property or any other immovable property.... of the compensation pool, he shall, after he has been given a reasonable opportunity of showing cause against such eviction from such property, surrender possession of the property on demand being made in this behalf by the managing officer or managing corporation or by any person duly authorised by such officer of the corporation."

**Shri V. P. Nayar:** You are reading the whole thing. Is it not a repetition?

**Shri Jagannatha Rao:** A person cannot have larger rights under this Bill.

**An Hon. Member:** He has not followed the point.

**Shri Jagannatha Rao:** The Bill does not take away the rights which a person enjoys. The Bill only seeks to remove persons in unauthorised occupation. If the amendments which are now sought to be moved are accepted, the very object of the Bill will be defeated. The amendment will have the effect of giving immunity to unauthorised persons from eviction by Government. That can never be the position. They have no title to the property and so they have no right to continue in possession of the property. Where the Estate Officer finds that a particular person is in unauthorised occupation, he has got the right to evict him. It is a remedial power given to him under the provisions of this Bill. Therefore, with due respect to the hon. friends who want their amendments to be accepted, I fail to see any sound reason why the amendments should be accepted.

**Shri Anil K. Chanda:** I am afraid, I am unable to accept any of the

amendments which have been moved in connection with clause 2. Most of these amendments relate to matters which have been debated at great length on the floor of this House. I will only refer to matters which have not been dealt with already.

There is amendment No. 51, moved by Shri U. L. Patil. He wants to substitute the words "for any reason or reasons under the rules" for the words "for any reason whatsoever". That means that the reasons have to be shown, the reasons which prompted the Estate Officer to come to the conclusion that the unauthorised person is to be evicted should be made known. It is not possible for Government in every case to publicise the reasons for which they seek eviction of a particular person from a particular Government property which has been squatted upon. A considerable number of properties which are covered by this Act belong to the Defence Ministry. It may be a reason which cannot be publicly stated. Therefore, I hope the hon. Member will not mind if I inform him that I am unable to accept his amendment.

**Shri U. L. Patil:** You can say in the rules "for defence purposes".

**Shri Anil K. Chanda:** Whenever I say "for defence purposes", I would be giving out my secret. Then, I understand that even the Land Acquisition Act does not require any reasons to be given. A public purpose is a good enough reason.

With regard to the point by Shri Balmiki, it is well-known that he feels very strongly for the Harijans; so do we all. But, as I said before, it does not mean that in every case Harijans have to be brought in.

Similarly, with regard to amendment No. 56, of Shri P. K. Deo, he has referred to the displaced persons and in amendment No. 57 he says that these displaced persons should also be

given certain benefits. I am afraid, it is not possible for Government to accept this.

Amendment No. 62 of Shri Bala-saheb Patil refers to Small Causes Court etc. Now the very basis of this Bill is to deal with matters more or less in a summary manner must also, not to deny natural justice to citizens. If we once bring in the court of law, the whole gamut of the judicial procedure is there; there is then no particular point in our coming before Parliament and asking for a special legislation for the purpose of eviction. The whole basis of the Bill is speedy eviction. On the other hand, the citizen has got certain rights. We have to see that those rights are respected. At the same time, the public need, that is, the speedy eviction of unauthorised persons, must also be given effect to. That is the whole basis of this Bill. Now, if these amendments were to be accepted, I think the Bill itself will thus become absolutely unnecessary.

With regard to what Pandit Thakur Das Bhargava has said about the Gadgil assurances, we have described at great length the reasons which make it impossible for making them justiciable. If we once make the assurances justiciable, the same process is there. Therefore, I am unable to accept any of these amendments.

श्री बालसाहेबजी : समापति महोदय, मेरा ५७ नम्बर का प्रॉपोज़िशन है। इसमें मैंने कहा है कि रूल बनाते वकन हरिजनो का विशेष रूप से ख्याल रखा जाये। इस के बारे में मैं उनका उत्तर चाहता हूँ।

Shri Anil K. Chanda: Is it intended that it goes as a part of the Bill?

Mr. Chairman: Working of the Bill.

Shri Anil K. Chanda: He wants an assurance or something like that. In every case we will give every instruction to our officers that they should deal very gently with the Harijans and as far as possible protect their rights.

An Hon. Member: Gently.

Shri Anil K. Chanda: No, no. We mean it very seriously.

Mr. Chairman: No, I put the amendments to the vote of the House.

The question is:

"That on page 1, after line 8, insert—

"(aa) "court" means a small causes court as defined in the Provincial Small Causes Court Act, 1887 and includes a civil judge having jurisdiction to try the small cause cases;"

The motion was negatived.

Mr. Chairman: The question is:

page 2, lines 15 and 16—

for "for any reason whatsoever" substitute—

"for any reason or reasons under the rules."

The motion was negatived.

Mr. Chairman: The question is:

page 2, after line 16,—

"Provided that a displaced person in occupation of public premises before the 15th day of August, 1950 shall not be deemed to be in unauthorised occupation if he has constructed any building on such premises."

The motion was negatived.

Mr. Chairman: The question is:

page 2, line 16, add at the end—

"But no unauthorised occupation by any displaced person before 16th August, 1950 shall be regarded as unauthorised occupation."

The motion was negatived.

Mr. Chairman: The question is:  
 page 2, after line 16, add—

“Provided that lenient view will be taken in the case of Harijans, building labourers and other poor persons like displaced person while evicting them.”

*The motion was negatived.*

Mr. Chairman: The question is:  
 page 2, after line 16, add—

“(f) “displaced persons” means persons whose lands and houses have been acquired for Government purpose and who have been displaced from their lands and houses.”

*The motion was negatived.*

Mr. Chairman: The question is:  
 page 1, after line 18, add—

“Provided that it shall not include evacuee property acquired by the Government of India under the Displaced Persons (Compensation and Rehabilitation) Act, 1954 in 1955;

Provided further that a displaced person in occupation of public premises before the 15th day of August, 1950 shall not be deemed to be in unauthorised occupation if he has constructed any building on such premises.”

*The motion was negatived.*

Mr. Chairman: The question is:

“That clause 2 stand part of the Bill.”

*The motion was adopted.*

Clause 2 was added to the Bill.

Clause 3.—(Appointment of estate officers)

Mr. Chairman: May I know which of the amendments are to be moved? Amendment No. 2.

Shri B. K. Galkwad: Sir, I beg to move:

page 2, lines 19 to 20—

for “gazetted officers of Government” substitute “officers belonging to judicial service”.

Shri Jadhav: I want to move my amendment No. 21.

Mr. Chairman: I am calling the number of each amendment one by one. Amendment No. 30. Not moved.

Shri Jadhav: Amendment No. 21.

Mr. Chairman: I am coming to No. 21.

Amendment No. 7 is the same as amendment No. 2. Amendment No. 42.

Pandit Thakur Das Bhargava: Sir, I beg to move:

page 2, lines 19 and 20—

for “gazetted officers of Government” substitute “officers belonging to civil judicial service”.

Shri Kodiyani (Quilon—Reserved—Sch. Castes): Amendment No. 7.

Mr. Chairman: Amendment No. 7 is the same as No. 2 which has been moved. Amendment No. 58.

Shri P. K. Deo: Sir, I beg to move:

page 2, lines 19 and 20—

for “gazetted officers of Government” substitute “gazetted officers of the judicial service of the Government”.

Mr. Chairman: Amendment No. 21,

Shri Jadhav: Sir, I beg to move:

page 2, lines 19 and 20—

after “Government” insert “from judiciary”.

**Mr. Chairman:** Not to clause 3.  
बहु बलात् य में है ।

All these amendments are before the House.

**Shri Kadiyan:** Mr. Chairman, Sir, my amendment No. 7 seeks...

**Mr. Chairman:** Amendment No. 7 is the same as No. 2. No. 2 has been moved. He can speak on Amendment No. 2.

**Shri Kadiyan:** .....seeks that the Estate Officers should be appointed from the judicial service of the Government. The intention of moving this amendment is very obvious. The hon. Minister has just now pointed out that the number of Estate Officers required for the operation of this Bill will not be large and he has also informed us of the difficulty of appointing these Estate Officers from the judicial service. The difficulty, according to him, is that the gazetted officers are not to be appointed specially for the execution or the operation of this Bill. So, Government cannot appoint new officers for the purpose of this Bill. My contention is that if the number of officers required for the purpose of this Bill is not so large, then what is the difficulty in appointing judicial officers in the place of the gazetted officers or the estate officers now holding that post? Government, of course, can transfer those estate officers now holding those posts to other posts and appoint officers from the judicial service or at least those officers serving in the department who have got some judicial qualifications and judicial experience. Therefore, I do not think that it will be difficult to have such an adjustment and I request him to accept this amendment.

**Shri P. K. Deo:** Mr. Chairman, Sir, this Bill seeks to empower the executive with unlimited powers and the

summary procedure is to short-circuit the ordinary legal procedure. So, I respectfully submit that the estate officers should be officers with judicial temperament and it would be much better if they belong to the judicial service of the State. I strongly feel that the Government should take steps in appointing estate officers who shall be recruited from the judicial service of the State.

**Shri B. K. Gaikwad:** Mr. Chairman, Sir, my amendment is very simple and innocent.

**Shri Naushir Bharucha:** He means innocuous.

**Shri B. K. Gaikwad:** Yes,

**Shri Naushir Bharucha:** So?

**Shri B. K. Gaikwad:** So you will find that there are several departments of the Government and there are several officers who are gazetted officers having no judicial mind. If we appoint only gazetted officers, I do not know how far the purpose will be served. So, in order to serve the purpose, a man having judicial mind should be appointed for this purpose. In view of that I move this amendment.

**Shri Jadhav:** Sir, my amendment refers to the appointment of estate officers.

**Shri K. C. Reddy:** What is the number of the amendment?

**Shri Jadhav:** No. 21. In his reply the hon. Deputy Minister has in a way admitted that he has no objection to have these estate officers from the judiciary. The procedure which will be adopted herein would be a judicial procedure and the estate officers will have to initiate the proceedings. There is the right of hearing and there is the right for giving evidence. Then, counsels will also be allowed and there is provision for appeal also. In such a proceeding, it will be better

[Shri Jadhav]

if the Estate officer to be appointed is from the judiciary. No doubt, it is said that ignorance of law is no excuse. I do not think Government will be accepting this maxim for this purpose. Therefore, the Deputy Minister should not feel shy to appoint this officer from the judiciary. Therefore, I move this amendment.

**Pandit Thakur Das Bhargava:** Mr. Chairman, I have moved my amendment No. 42:

Page 2, lines 19 and 20, for "gazetted officers of Government" substitute "officers belonging to civil judicial service".

Very many hon. Members have suggested that gazetted officers will not only belong to the judicial line or the magisterial line. There are many other departments in which there are gazetted officers. My hon. friend was saying that even in the Education department there are gazetted officers. I cannot vouch for the Education department, whether they are called gazetted officers. Perhaps in all the departments of Government, there are gazetted officers. In the Engineering department, in the P.W.D., in all the major departments there are these gazetted officers. I do not understand why the Government is feeling shy and does not want to say that it will appoint judicial officers. It may be that judicial officers are not available. It may be that the Government has never used such an expression before. Then, I can understand. Otherwise, when we know what duties are to be performed, it is absolutely clear any gazetted officer except a judicial officer will not be able to discharge his duties satisfactorily.

Not only that. I go further and say that a judicial officer of the magisterial type will not be able to go into these complicated questions which may crop up before this Estate officer. I go further and say, even an ordinary civil judicial officer will not be able to decide these complicated questions. I

shall say what the questions will be. They will not be simply like this: whether a certain person is in unauthorised occupation or not. The questions will be of 90 or 99 years lease. He will plead and say, I am in possession under the lease. Who will decide this question? A gazetted officer of the Engineering department or who else will decide? Unless that man has a grounding in law, unless he understands law, he will not be able to decide rightly. When I remember clause 10 of the Bill, I feel that the Government is making a very great mistake in not agreeing to this amendment. Clause 10 makes the order of this gazetted officer final.

My hon. friend spoke of judicial review. I am rather ashamed to hear this from hon. Members who have got no experience of the law courts. What is a judicial review? I have seen in Egypt a man with a human head and a body of something else. What will this Estate officer do? He is not a judicial officer. He is an executive officer. What are the questions before him? Whether a person is in unauthorised occupation—nothing more. It goes to the district judge. The district judge will only see if this decision is right, whether the person is in unauthorised occupation. Nothing else. If you arm this officer with power as is given in clause 4, I can understand. If you invest him with discretion that he shall be able to say whether this man should be evicted, going into the merits of the question, that he shall be able to consider whether a person has got assurances behind his back and consider that he has got other equities, and if the Government has behaved in a certain way, if he has discretion in proper cases not to evict, I can understand the argument. You require higher officers and he must be a judicial officer. May I just refer the hon. Minister to clause 34 of the Delhi Rent Control Bill where they say that the Controller shall be a judicial officer of at least five years experience.

## Bill

This is what they themselves have said. Here, this man will be invested with such large powers that the Delhi Controller will stand no comparison. After all, what this Controller decides will go to the District Judge. He is like a Small cause judge. He is a judicial officer. He takes evidence. He cannot refuse to take evidence. The judgment of that officer will be satisfactory. Here in the case of Estate Officer he has no judicial experience. This officer has to decide such complicated questions as I am going to give you examples.

In these four cases which have gone to the High Courts of Calcutta, Punjab and Allahabad, you will find from these rulings that the questions which formed the subject matter of these cases were very intricate. In the Punjab Case, the question was about 90 years or 99 years lease. In the Calcutta Case, the question was about hawkers. Sales took place in 1923 and 1936—cases of long standing. These premises were in their occupation for a long time. It may happen that the occupation is for more than 60 years. Questions of limitation will arise; questions will arise whether the possession is lawful or not. In other cases even relating to arrears of rent and damages, questions will arise whether they are recoverable or not, whether they are within limitation or not. Questions arise as to what should be the damages. For assessment of damages, you do not require a doctor, a medical man. After all, a medical man may be a gazetted officer. These questions arise. Kindly see the four cases which have gone against the Government and the Act has been declared null and void. You will see that the *ratio decidendi* which was the basis for this Act being held *ultra vires* was that the kind of Estate officer cannot be expected to go into these complicated questions. Therefore, the demand of the House that he must be a judicial officer of some experience is very right, indeed, though I will not be satisfied with that, unless and until you make it clear what will be the issues before him. I 165 L.S.D.—8.

have asked several times; but the hon. Ministers are reticent upon this point. You will kindly consider the question and see what will be the jurisdiction of that man. Will he be able to go into the equities of the question or not? Will he be able to decide that the Government is estopped from evicting that person? Will he be able to decide that the Government has given certain assurances, which, if given effect will make the eviction unjustifiable? If there are sales, mortgages and if by virtue of other modes of transfer, a person is in possession, will this Estate officer be competent to go into these questions? Some time ago, to justify this Act, indefensible Act, two hon. Ministers, the Deputy Minister of Law and the Law Minister, came here. When you come to consider clauses 9 and 10, I will have something to say about them. I respectfully ask you—you are a distinguished member of the Bar—is it possible for any district judge or for the matter of that, for the High Court or even the Supreme Court to do justice in a case in which the first court or the first officer has got a limited jurisdiction. If he has only to decide one issue, one issue alone, whether the person is in unauthorised possession, what will the High Court do? If he cannot decide the question of equity, if he cannot go into the question whether a person should be evicted and decide on it, can they go into all these questions? The appellate court can only go into the question whether the judgment of the first court is right or wrong. Nothing more, nothing less. The burden is upon the appellant to show that the judgment is wrong. When the judgment of the first court is final, when you make the opinion of this Estate officer final under clause 10, you are really taking away the jurisdiction of the civil court. In more than 50 per cent. of the cases, there will be no appeals. What will the district court do? He will only look at the matter and see whether the judgment is right in so far as a person's unauthorised possession is concerned. No equity; nothing of the

[Pandit Thakur Das Bhargava]

sort. What is this appeal to a district judge? You may put, instead of a district judge, an immovable structure of iron and wood. He cannot go into these questions. Therefore, it is no judicial review. This aspect of the case should be considered. Where is the judicial review if the only question decided is about unauthorised person as defined in clause 2. It is only possible if you allow the first court, the Estate officer full powers to go into these questions. If you are shy of a judicial officer, invest the officer with full powers to go into all aspects of the case and let him come to a conclusion. Then, let the matter go with that evidence before the district judge. That would be much more acceptable rather than this where there is no jurisdiction for that man to go into these questions. I have given an amendment in the next clause that at least two things he must find: whether he is in unauthorised possession and whether he should be evicted. Even that is not being accepted. I fail to see how we can call it a judicial review by the district judge or how we can call this law. As a matter of fact, this is no law. This is a lawless law. It is a negation of law to invest the Estate Officer with these powers, and then tell him to make his decision and then say the matter goes to the District Judge.

I am afraid I am using strong language, but I feel this is, as a matter of fact, really closing the doors of justice to the citizens of India who may be in good authorised possessions and yet may be declared to be in unauthorised possession because some officer had passed an order, an *ex parte* order that such and such a thing is determined. I am very anxious that at least, even if you give the semblance of power, semblance of justice, have a judicial officer of seven or ten years standing. Do not have these gazetted officers.

I do not have any doubt that the Government will not behave in this

manner and appoint persons who have got no judicial experience. Why should you fight shy of saying so? You only give handle to the other people to say: here is the Government doing this thing. Government will never appoint such persons, Government have their prestige, they will never do so, but I do not know why this shyness in accepting such an innocuous, such a justifiable amendment. I submit he will kindly accept this amendment only to show that they are not out to get civil rights determined by executive officers.

Shri Balasaheb Patil: So far as the Estate Officer is concerned, he is the central figure in the Bill, and it has been stated that he will be a gazetted officer. No doubt about that, he will be a gazetted officer, but what are his functions?

His functions are of four types: investigation, enquiry, trial and execution. All the powers of the civil and criminal courts have been restored upon this person. So, this person must be a person from the judiciary. I am not using the expression "judicial officer", but "judiciary". So far, my friends have submitted something about his qualifications, but the further thing about the judiciary is their independence. This Estate Officer may be a gazetted officer, but he is a servant of the Government. When the Government wants certain things to be done and if the Government issues an order that some premises are to be cleared, he will not care for justice, but will care for his services.

He wants first of all his service should be maintained. Secondly, he wants to get a higher post. Thirdly, he wants to please the Government. Fourthly, he wants to do injustice to the others.

Shri S. M. Banerjee: To get some money also.

**Shri Balasaheb Patil:** That will be in course of time, but the Government will not be very vigilant about that. That is a different thing.

The hon. Deputy Minister said yesterday that he had no objection to appoint such persons, but he says that there are no such persons available. May I humbly bring to his notice that there are so many law graduates who are out of jobs nowadays? He can get hold of any of them and appoint him as Estate Officers, and definitely lay it down in the rules that he will be an independent person like the judiciary. Then he will be a fit person to go into the question of the title, the rights accruing, the question of leases, damages etc.

There is the question also of damages. A huge building is erected, thousands of rupees are spent, and the Estate Officer by one stroke of the pen says: demolish and evict him. What is this? Is it justice or injustice?

16.54 hrs.

[MR. SPEAKER in the Chair]

If the Estate Officer is of the judiciary, an independent person, independent of the orders of the Government, then he would say to the Government: pay adequate compensation. From this point of view also, let this point be considered by the House. A gazetted officer may be appointed, but he must be a person from the judiciary. Furthermore, give him the right to be independent.

Several Hon. Members rose—

**Mr. Speaker:** I do not know how far and how long the hon. House wants to sit regarding this matter.

**Shri Yadav (Barabanki):** The time may be extended.

**Mr. Speaker:** We have extended by a number of hours.

**Shri Yadav:** This is most important.

**Shri Jadhav:** There are nearly 67 amendments.

**Mr. Speaker:** For general discussion itself we took two days.

**Shri Yadav:** It is true, but the hours may be extended.

**Mr. Speaker:** Today?

**Hon. Members:** No.

श्री. यादव : अध्यक्ष महोदय, यह जो विधेयक, पब्लिक प्रेमिसेज इन्विकशन ऑफ अनऑथोराइज्ड आकुपेंट्स बिल है, और जिसका ड्रामा यहाँ खेला जा रहा है इसका मुख्य अभिनेता स्टेट आफिसर या राज्य अधिकारी होगा। इस अधिकारी के ही चारों तरफ यह विधेयक घूमता है। अगर इस अधिकारी के अधिकार पढ़े जायें तो भानूम होगा कि इस विधेयक के सम्बन्ध में शायद इतना जबरदस्त और कोई अधिकारी नहीं होगा। यदि इस अधिकारी को हम इस विधेयक का तानाशाह कहें तो कोई अतिशयोक्ति नहीं होगी।

यदि हम अपने संविधान की ओर नज़र डालें तो वह हमें आदेश देना है कि हमको न्यायपालिका और कार्यपालिका को अलग अलग रखना चाहिये। क्या यह जो इस विधेयक में इस राज्य अधिकारी को इतने जबरदस्त अधिकार दिये जा रहे हैं यह कदम न्यायपालिका और कार्यपालिका को अलग रखने की ओर जाता है। श्रीमान्, इस स्टेट आफिसर को जूरिसप्रूडेंस का कोई ज्ञान नहीं होगा। न्याय के जो आधारभूत सिद्धान्त हैं उनकी उसे जानकारी नहीं होगी। इस विधेयक में हजारों लाखों लोगों के घरों और रोटी-रोजी का सवाल है। ऐसे मामले को स्टेट अधिकारी के हाथ में एक बिलौने के रूप में दिया जा रहा है, उस अधिकारी के हाथ में जिसको कानून का कोई ज्ञान नहीं



[श्री यादव]

होगा। यदि सरकार जरा भी ध्यान दे तो उसे पता चलेगा कि जब यह विधेयक कानून की शकल में तबदील हो जायेगा और यह राज्य अधिकारी काम प्रारम्भ करेंगे तो क्या अवस्था होगी। उस अवस्था की कल्पना से ही सरकार को चाहिये कि थोड़ा सा सहमें और इस कदम को वापस ले ले।

वैसे संशोधन में तो जूडिशियल आफिसर शब्द इस्तैमाल किया गया है। संशोधन में कहा गया है कि न्याय अधिकारी रखे जायें। ये बड़ी संख्या में प्राप्त हो सकते हैं, राज्यों से और बाहर से भी लिये जा सकते हैं। जो मौजूदा न्याय अधिकारी हैं उन के हाथ में भी यह काम दिया जा सकता है। मैं समझता हूँ कि इस सदन के बहुत से माननीय सदस्यों को तो इन न्यायाधिकारियों से भी शिकायत होगी। लेकिन इस विधेयक में तो न्याय अधिकारी भी नहीं रखने का विधान है, इसमें तो सरकार अपने मन चाहे गजटेड आफिसर नियुक्त करेगी और उनको कानून के सारे अधिकार दिये जायेंगे।

शायद एक साल भी नहीं हुआ है कि उत्तर प्रदेश में न्यायाधिकारियों ने एक ड्रामा खेला था। उन्होंने उत्तर प्रदेश में राज्य सरकार के आदेश पर डा० राम मनोहर लोहिया जैसे आदमी को अदालत के सामने हाजिर न होने पर बांध कर लाने का आदेश दिया। फिर जब वह बांध कर लाये गये और जब दस्तखत की बात कही गयी तो उन के अंगूठे का निशान लिया जाता है। तो जब न्याय अधिकारी यह सब कर सकते हैं तो उस समय क्या अवस्था होगी जब यह कानून स्टेट आफिसरों के हाथ में दे दिया जायेगा। इस सदन के माननीय सदस्यों को वह कानून बनाने के पूर्व यह सोचना चाहिये कि इस कानून द्वारा कितनी जबरदस्त ताकत इन अफसरों को दी जायेगी, एक दो दस नागरिकों के सम्बन्ध में नहीं बल्कि बड़ी संख्या में नाग-

रिकों के सम्बन्ध में। यहां के नागरिकों के लिये इस नाटक का ढोंग नहीं रचा जाना चाहिये।

मैं एक शब्द और कहना चाहता हूँ इस सिलसिले में। माननीय मंत्री महोदय ने कहा कि हाईकोर्ट को अधिकार है कि उनकी अपील सुन सके। लेकिन जब राज्य अधिकारी नीचे ही सब कुछ खत्म कर देगा तो कौनसा ऐसा रिकार्ड रह जायेगा, कौनसा सबूत और शहादतें ऐसी रह जायेंगी जिन के आधार पर हाईकोर्ट में अपील हो सके और उस व्यक्ति को न्याय मिल सके। और दूसरे कितने ऐसे लोग होंगे जिनमें हाईकोर्ट तक जाने की ताकत होगी और जो ऊपर जाकर अपील से न्याय हासिल कर सकेंगे।

तो मैं चाहता हूँ कि कम से कम अब सरकार संविधान को तोड़ने से इन्कार करे। जो संविधान की मंशा है उसकी कद्र करे और उसकी कद्र करते हुए वह जो मामूली सा संशोधन है उसे स्वीकार कर ले। सरकार न्यायपालिका और कार्यपालिका को इस प्रकार से अलग रखे। यदि सरकार इस संशोधन को मान लेगी तो मैं समझता हूँ कि वह अपनी न्याय वृत्ति का परिचय देगी। यदि सरकार ऐसा करे तो अच्छा है।

17 hrs.

**Shri Anil K. Chanda:** I am afraid I cannot add anything new to what I have already said with regard to this matter. The question whether the Estate Officer should be a judicial officer has been debated and discussed at great length in the Committee. I have already told the House the Estate Officer is not there only for the purpose of eviction. He is a sort of a general manager of government estates. When the question of eviction arises, he will be acting on behalf

of Government for the working of this Act. It is not possible for us, for reasons which I have already stated, to be sure in every case that we are in a position to appoint a judge as the Estate Officer, particularly as we have a vast number of Defence properties which will be affected by this Act. Therefore, I am unable to accept any of these amendments.

**Pandit Thakur Das Bhargava:** May I be allowed to ask a question? Will this Estate Officer be invested with discretion to see that it is only in proper cases that he evicts and not in every case?

**Shri Anil K. Chanda:** Yes, we will give executive direction to the officer that only in cases where he is absolutely sure about the legal title to the property that he should proceed.

**Pandit Thakur Das Bhargava:** My question was not about legal title. Suppose a person is suffering from T.B. and he is in unauthorised occupation or he is fortified by other equities in his favour, will the equities of the case be considered and he allowed to remain there?

**Shri Anil K. Chanda:** Surely, it does not mean that in every case of unauthorised occupation, he has got to be evicted. The Estate Officer has the power to evict but he has his discretion.

**Mr. Speaker:** Which amendment is to be put?

**Shri Jadhav:** No. 21.

**Shri Anil K. Chanda:** The substance of all these amendments is the same.

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

'Page 2, lines 19 and 20,—after "Government" insert "from judiciary".'

*The motion was negatived.*

**Pandit Thakur Das Bhargava:** No. 42 also may be put separately.

**Mr. Speaker:** It was stated that it was the same as No. 21.

The question is:

'Page 2, lines 19 and 20,—for "gazetted officers of Government" substitute "officers belonging to civil judicial service".'

*The motion was negatived.*

**Mr. Speaker:** The other amendments are barred.

The question is:

"That clause 3 stand part of the Bill".

*The motion was adopted.*

*Clause 3 was added to the Bill.*

**Mr. Speaker:** So far as this Bill is concerned, in the earlier stages we have extended the time enormously. Even for the clauses, on the whole, two hours were allotted. Let us have one hour tomorrow for all the clauses.

**Shri Jadhav:** That will not be sufficient; 40 amendments remain. They are important.

**Mr. Speaker:** Let us have two hours for all the stages tomorrow.

**The Minister of Parliamentary Affairs (Shri Satya Narayan Sinha):** That includes the third reading also?

**Mr. Speaker:** Yes, everything.

17.04 hrs.

STATEMENT RE: INFORMAL  
MEETING TO DISCUSS FOOD  
SITUATION

The Prime Minister and Minister of External Affairs (Shri Jawaharlal Nehru): I am grateful to you for permitting me to make a brief statement about a matter which concerns all the Members of this House. This morning, in the course of the