

PUBLIC PREMISES (EVICTION OF UNAUTHORISED OCCUPANTS) BILL

Mr. Speaker: The House will now take up further consideration of the motion for concurrence moved by the hon. Minister yesterday regarding the Public Premises (Eviction of Unauthorised Occupants) Bill. The hon. Minister may continue his speech.

The Minister of Works, Housing and Supply (Shri K. C. Reddy): Mr. Speaker, Sir, in the debate that followed yesterday after I made the Motion for Concurrence quite a large ground has been covered by hon. Members who participated in the debate. They have made a number of points, some of them of course major ones but most of them relating to various provisions in the Bill may be termed of a minor nature. May I express my thankfulness to the various hon. Members who have thrown some light on some aspects of this Bill and who have also made some constructive suggestions for the consideration of the Joint Committee. Obviously, it will not be possible for me to take up all the points that were made by hon. Members yesterday nor I think it is necessary on my part to do so at this stage. If it is realised that this Bill is going to the Joint Committee—a large Joint Committee comprising of about 45 persons—one may be sure that the various points that have been made by hon. Members in the course of their speeches will receive due attention at the hands of the Joint Committee. So, I shall content myself in the course of my reply to refer to some of the major points that were made yesterday in the course of the debate.

One of the main points that were made yesterday was that if we take all aspects into account, there is really no need for a Bill of this kind at all. In fact, one of the hon. Members pointed out that, particularly after hearing my speech, the impression that he had for the necessity of a Bill of this kind was modified and that he had to revise his opinion and

come to the conclusion that there was no necessity for a bill of this kind—I am referring to my hon. friend Shri Bharucha. It was also pointed out by some hon. Member—I think it was Shri D. C. Sharma—that we should not short-circuit the process of ordinary law and seek for special powers of this nature to deal with the problems that we have got to face.

I thought that I had given sufficient facts and figures in the course of my speech yesterday which indicated the magnitude of this problem and which highlighted the necessity for Government to have some special powers to devise a speedy machinery by which eviction of unauthorised occupants of public premises would take place. I gave certain figures—possibly I mentioned in the course of my speech that about Rs. 10 lakhs were involved as damages, which had to be recovered and certain number of buildings which were under unauthorised occupation in cities like Bombay and Calcutta—and they created the impression that the problem that we have got to meet now is not a very acute one. But I would like to point out that I mentioned yesterday another fact which is very important. I mentioned that in Delhi today there are more than 9,500 unauthorised structures. There are about 15,000 squatters in these unauthorised structures and something has to be done in order to speed up the building programme of the Government for the very persons, to some extent, who are squatters there now.

I would also like to point out that this Bill not only provides for the eviction of unauthorised persons from unauthorised occupation of premises but also deals with the recovery of arrears of rent. This is a very important matter which I did not mention yesterday. I would like to say that so far as recovery of arrears of rent is concerned, the information that we have received from the various ministries discloses the startling fact that about Rs. 1.42 crores are in arrears from the various persons who

are occupying Government premises. We should surely, in the interest of our national exchequer, take certain speedy steps for the recovery of all these arrears of rent, which is of a very high order.

So, I do not think that it will be said—it can be said by anyone—that we are not face to face with a problem of such magnitude that we are not facing a very acute situation. After all, it is in the public interest that we have got to have these extraordinary and special powers and that we want to set up a speedy machinery for eviction of persons who are in unauthorised occupation of public premises, for the recovery of rent, etc. So, the need is there and is felt very keenly. It is only against this background that the Government have come forward with a Bill of this nature. Let it not be forgotten that we had some such machinery during all these nearly twenty years. It is not as if the Government is coming forward now for the first time to seek for itself powers of this nature because during all this period there had been necessity for powers of this kind and there has been legislation in order to vest Government with such powers.

The reason why we are coming forward with the present measure, viz. to replace the existing Public Premises (Eviction) Act, 1950, by this Bill, has already been indicated to the House yesterday in the course of my speech. During recent months certain High Courts in our country have held that certain provisions of the existing Act offend against the provisions of the Constitution. I have given the details already and it is not necessary for me to cover the same ground again.

It was, however, suggested by one hon. Member that in the light of this development we need not have rushed to the House by bringing a Bill of this kind. We could have taken steps to take the matter to the Supreme Court and sought the judgment of the Supreme Court in respect of

the various High Court judgments. The argument sounds very plausible, but let us look at the practical difficulties. If we had gone to the Supreme Court—in fact we took permission to go to the Supreme Court from two of the High Courts—then the papers had to be prepared and the Supreme Court had to give a suitable date for hearing. We were advised by the Law Ministry that it would take anywhere about two years in order to get an order of the Supreme Court in regard to these contentious points. During all these two years what are we to do? We are advised that under the provisions of the existing Act, we have no redress and it would be advisable for us not to invoke the provisions of the existing Act for the purpose we have in view. So, there will be a stalemate, as it were, and for a year or two we will have no remedy in these cases where such a remedy is called for. It is under these circumstances that we thought that since there was considerable force—at least in the course of the judgments of the Calcutta High Court and the East Punjab High Court—that we can accept the position as stated by them in their judgments and come forward with a bill of this nature which would by and large, to the maximum extent, meet the points raised by them.

I do not think that anyone will contend that unauthorised occupation of public premises by itself is an exercise of fundamental rights and whatever we may do in that regard will be an infringement of the fundamental rights of the citizens of the country. I do not believe that it is anyone's case. But what has been pointed out by the Calcutta High Court and the East Punjab High Court is that when this concrete right, as was mentioned yesterday by Shri Pattabhi Raman, is vested or conferred on the citizens of the country, there should be only a reasonable restriction of such fundamental right in public interests. So, that it should be in the public interest is quite obvious

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and is accepted by one and all. The whole question points to what are reasonable restrictions.

It was the contention in the judgment of the High Court to which I made reference that the restrictions imposed by the existing Act are not reasonable.

Shri Naushir Bharucha (East Khandesh): What is the reference to the case—Law report No.?

Shri K. C. Reddy: The hon. Member has written to me and I will find out the reference and communicate it to him.

The question before the House was to bring forward a Bill which, in the opinion of Parliament and in the opinion of every one concerned would be a fair one, providing for a proper procedure, providing for appeals to judicial officers, by the exercise of which powers one may be fairly sure that only a reasonable restriction is being imposed on the fundamental right.

Some reference was made to the judgment of the Allahabad High Court. It is true that the Allahabad High Court held that the provisions of this Bill infringe article 14 of the Constitution, that they are discriminatory. In this connection, I would like to take a few minutes of this House and point out that the Allahabad High Court itself in the course of its judgment said that the necessity for evicting unauthorised persons from Government premises in a speedy and effective manner is a laudable object, and there can be no doubt that the Government does at times stand in need of speedy recovery of possession over its property. That is a basic thing that the Allahabad High Court itself conceded. They further went on to say that this necessity offers an intelligible basis of differentiation between the occupants of Government premises and the occupants of private premises.

In this connection, I would also like to point out that article 14 of the Constitution has been the subject of interpretation in several cases by the Supreme Court in the past. In a recent judgment of the Supreme Court in February, 1958,—I came to know about it yesterday—it has been stated as follows:

"It is now well established that while article 14 forbids class legislation, it does not forbid reasonable classification for the purpose of legislation. In order, however, to pass the test of permissible classification, two conditions must be fulfilled, namely (i) that the classification must be founded on an intelligible differentia which distinguishes persons or things that are grouped together from others left out of the group, and (ii) that the differentia must have a rational relation to the object sought to be achieved by the statute in question. Classification may be founded on different bases, namely geographical or objects or occupations or the like. What is necessary is that there must be a nexus between the basis of classification and the object of the Act under consideration."

It will be seen that the classification between occupants of private premises and those of public premises is founded on an intelligible differentia and that the difference in this case has rational relation to the object sought to be achieved by this Bill. Hence, legislation on the lines of the present Bill cannot be held to be *ultra vires* on the ground that it offends against article 14 of the Constitution. If it becomes necessary for this matter to be taken to the Supreme Court either by the parties concerned or by the Government concerned, we shall look into it. We are at present advised that there is not much of substance in the position taken up by the Allahabad High Court.

Though not strictly relevant to the purposes of this Bill in the legal sense several hon. Members have spoken about the extremely difficult conditions in which the refugees are living. They have referred to the acute distress which is their lot. They have also said that before we eject any refugees from unauthorised occupation of public premises, alternative accommodation should be given and that until alternative accommodation is given, there should be no eviction whatsoever. Also it has been said that in the past when a similar Bill was being piloted by my distinguished predecessor Shri Gadgil, certain assurances were given to Parliament that there will be no wholesale eviction of these refugees from unauthorised occupation, that every care would be taken to give all possible relief and every endeavour will be made to give them alternative accommodation as far as possible and in some cases compensation also, etc. It was stated by my hon. friend Pandit Thakurdas Bhargava and one or two others that these assurances were not honoured at all, that these assurances were not kept in view by the Government and that they have been set at naught.

I would like to say in all humility that this statement is absolutely incorrect. I have got before me a statement which indicates the various assurances that the then Minister gave to Parliament. I would like to say on the basis of information that I have got here that all these assurances were, by and large, duly implemented. I will take a couple of minutes of the House to read out what exactly has been done in this connection because I do not want Parliament to continue to have the impression that the assurances given to Parliament in the past have not been honoured.

Alternative accommodation was given to all persons who were included in the survey conducted in 1953. An allotment committee was constituted and on their recommendation, sector-wise plans were prepared and

implemented. Alternative accommodation was provided as far as practicable near the place of business or employment of displaced persons. About 27,700 persons had been given alternative accommodation in rehabilitation colonies or aid for rehabilitation. Ex-gratia payment for structures which had been demolished or which may be demolished was sanctioned in November, 1955. Cash grants totalling Rs. 25 lakhs and hutment charges amounting to Rs. 166,000, and building materials worth Rs. 339,000 were given by the Government. Fairly good constructions which, with some modifications could be made to comply with the municipal by-laws were regularised and the land was allotted to the owners of such constructions. Each and every case was examined by the Committee in detail. Orders regarding allotment of land to the squatters on a no-profit no-loss basis were issued by the Ministry of Health in November, 1955. No displaced persons squatting on private land approached Government for any relief. With regard to writing off of arrears and damages, Government gave a more liberal relief than that promised by Shri Gadgil. Damages were written off in the case of all squatters up to 31st December, 1951 instead of up to 31st August, 1949 indicated by Shri Gadgil. The implementation of Shri Gadgil's assurances was closely watched and pursued by the Committee of Assurances of this House and in their Third Report presented to Parliament in December, 1956, the Committee came to the conclusion that the assurances had been satisfactorily implemented. In the light of this, it is very uncharitable, to say the least, to say that the assurances given by the Government in the past have not been honoured or implemented.

Shri Nanshir Bharucha: Are you giving similar assurances.

Shri K. C. Reddy: It has been asked whether some assurances or similar assurances would not be given on the

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present occasion. I would like to say that I greatly sympathise with the unfortunate situation in which these persons are placed. I do appreciate the kind of approach that is made by hon. Members of this House to this question. It should not be understood that any Member of the Government is lacking in the same degree of sympathy which the hon. Members show to the people who are in such unfortunate circumstances. It is because of this that the Government have taken up a large-scale programme of construction, a large-scale programme of rehabilitation in order to improve the standard of living of our people, in order to usher in a welfare State in our country. That is a larger question and I do not want to dilate on the larger question on the present occasion. I want to submit that during the last few years, the Ministry of Rehabilitation and other Ministries have taken up large-scale schemes for putting up a number of colonies in order to rehabilitate these unfortunate displaced persons. In addition to that, the Government of India have taken up several housing schemes. As the House is aware, there is this construction programme. I mean, they are putting up various structures at Government cost for the occupation of government officers, etc. In addition to this, they have several industrial housing schemes in the country. I am referring to the subsidised industrial housing schemes, low income group housing schemes, slum clearance schemes and plantation labour housing scheme, etc. And all these activities have been going on. It would not be correct to say that the Government is not mindful of the intricate problem that is involved in this question, and that they are not taking satisfactory or sufficient steps in order to meet the situation. It is true all this cannot be done in a period of five years or ten years; it has to be done progressively, but as speedily as possible, without succumbing to any sense of complacency or anything of that kind.

All this is being done, but if you want me to give an assurance that in every case automatically, as a matter of compulsion as it were, we are going to provide alternative accommodation whenever persons who are in unauthorised occupation of public premises are evicted, I think it will be too much for me to give such an assurance, or to take such a responsibility. Much less could I introduce any provision in this Bill which is before the House, statutorily to provide for a solution or a redress of that kind.

Then, various other points have been made in respect of the provisions of the Bill. One main point that has been made is regarding the scope of this Bill. The question has been asked: why should this Bill cover the premises belonging to the Delhi Development Authority, whether such premises are in the possession of, or leased out by, the said Authority, and premises belonging to the Municipal Corporation of Delhi or Municipal Committee or Notified Area Committee?

It is true that this Bill wants particularly to evict persons in unauthorised occupation of public premises belonging to the Central Government. It is only in the case of Delhi, as I pointed out yesterday, that an exception has been made. Delhi has been treated as a special case, and whereas the properties of other local bodies have not been brought into the purview of this Bill or the operation of this Bill, Delhi has, however, had to be brought in.

In Delhi we have got a large building programme. Delhi is expanding fast, as hon. Members are aware, and we have got several authorities set up in order to see that Delhi develops on a planned and proper basis. The Delhi Development Authority Act was passed only recently by this House. Several provisions of the Act hon. Members are aware of. If the Delhi Development Authority in the course

requires badly for putting up any additional colonies, or putting up any structures, or planning out the whole thing in a proper manner, is not at its disposal, and it will be driven to the necessity of going to an ordinary court of law and spend years and years before it gets such plots of land, then you can easily imagine how badly, how prejudicially, the development of Delhi will be affected. It is because of that reason that Delhi has been treated as a case *sui generis*, and provision has been made to bring Delhi within the operation of the provisions of this Bill.

Then, it has been said by some hon. Members that the Estate Officers whom we seek to appoint under this Bill will be sometimes not very competent persons, they will be sort of omnibus officers discharging various responsibilities, they will exercise their powers in an arbitrary manner etc. I do not think there is any justification for any apprehension of that kind. The Estate Officers whom the Government will appoint must be officers of gazetted status, people who may be expected to know what they are about, by and large I mean; and what is more important, the procedure that they have to follow has been more or less clearly laid down in this Bill itself. Several provisions of the Bill prescribe the procedure that has to be followed. They cannot act in an arbitrary manner.

One Member suggested that the Estate Officer can make his own rules. It is a totally incorrect statement. He cannot make his own rules. In fact, apart from the provisions that have been actually provided for in this Bill, under the rule-making power under clause 13 of this Bill, it is the Government that will have to make the rules, and those rules as the House is aware, will have to come before Parliament, will have to be placed before Parliament, and 30 days will have to be given to Parliament to consider those rules and to take steps to modify any such rules if they deem fit.

Another point I would like to stress in this connection, and it is this. These Estate Officers are subject constantly to the control of their superior authorities in the governmental apparatus. It is not as if they can act as independent officers without any check over them from above. There is a further safeguard that the decisions of these Estate Officers are appealable. The aggrieved person may go to a judicial officer and seek remedy. So, the Estate Officer is supervised from above by the superior officers, and from below by the possible decisions of a judicial officer. So, there are all these safeguards. So to say that these Estate Officers will act arbitrarily, I think, is not founded on facts. It is baseless.

It was also asked whether these Estate Officers were also going to function as revenue officers, and it was in that connection the phrase "omnibus officer" was indulged in, if I may say so, by an hon. Member. No, the Estate Officer is not going to function as a revenue officer. What he will do is this: he will give the certificate or pass on the papers to the Collector or the revenue officer, and it will be the revenue officer who will take the necessary steps to recover the arrears as arrears of land revenue. So, I do not think there is any justification for the apprehension that these Estate Officers will either be incompetent, or will not be equal to their task, or will exercise their powers in an arbitrary manner, or will do anything that they like.

Then, several suggestions have been made regarding the procedure of giving notice etc. As I pointed out yesterday I believe, in addition to the giving of notice by beat of drums or by affixing on the outer door or some other conspicuous part of the public premises the contents of the notice etc., it is stipulated that the Estate Officer may also cause copies of the notice to be served on the persons principally concerned, either by post or by delivery or tendering the notice to them. It has been suggested that

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it is only discretionary; he may do it or he may not do it, but if you do know who the unauthorised persons are, if they are not traceable, not to be readily found, what else to do? We have to go to the place unauthorisedly occupied, give some notice, some constructive notice there. But if we know, if we happen to know, who the persons are that are really concerned, then we can assume that this kind of written notice will certainly be given to the party.

Shri Naushir Bharucha: If the name is not known, on whose door will you affix the notice?

Shri K. C. Reddy: Anyway, I would not like to go into the various details. All these safeguards have been put in in this Bill. I do not want to refer to the provisions of this Bill regarding procedure etc. It will take me a long time, and I am already overstepping, I am afraid, the time that has been given to me for my reply, but I would like to say this, that on most of the suggestions and the apprehensions that the hon. Members had in their minds when they made speeches yesterday regarding the matter of notice, or the holding of the enquiry, or the procedure to be followed, or the manner in which damages will have to be assessed etc., with regard to all these matters, Government are going to frame detailed rules in pursuance of clause 13 of this Bill, and they cannot get away with whatever rules they may make. The Joint Committee may also go into this question and make suggestions. These rules, as I said a little while ago, have to be placed before Parliament, and for a period of 30 days Parliament may consider these various rules, and then if they want any modifications to be made, they are at liberty to make such modifications. So, the fundamental objection that my hon. friend Shri D. C. Sharma had with regard to this matter, I think, has no real validity.

This kind of subordinate legislation is resorted to in almost every Bill

that comes before the House. It is not a new thing that we are doing for the first time in respect of this Bill. The purposes for which rules have to be made are more or less of a routine and administrative character, and I do not think any one can take very serious objection to having delegated all these matters to subordinate legislation.

I do not think I need take more time of the House in referring to various other points. As I said in the beginning, a number of detailed suggestions have been made. Some of them are very helpful and certainly the Joint Committee will have to go into them very carefully. I have no doubt in my mind that the Joint Committee will give its earnest thought to the various suggestions that have been made and I hope that the Bill, as it will emerge out of the deliberations of the Joint Committee, will be a more acceptable one even to those Members who had reasons to criticise certain provisions of the Bill in the course of the debate yesterday.

With these remarks, I commend my motion of concurrence to the acceptance of the House.

Shri B. K. Gaikwad (Nasik): On a point of information. Is there any scheme in the view of the Government to provide houses to those who are homeless and staying here in Delhi, before they are evicted from the places?

Shri K. C. Reddy: I have answered that point already.

Mr. Speaker: I hope there is no alteration or addition to the list of names as originally placed before the House. I shall put the question to the House.

The question is:

“That this House concurs in the recommendation of Rajya Sabha

that the House do join the Joint Committee of the Houses on the Public Premises (Eviction of Unauthorised Occupants) Bill, 1958, made in the motion adopted by Rajya Sabha at its sitting held on the 12th March, 1958 and communicated to this House on the 14th March, 1958 and resolves that the following members of Lok Sabha be nominated to serve on the said Joint Committee:—

Shri N. B. Maithi, Shrimati Sucheta Kripalani, Shri Naval Prabhakar, Shri T. N. Viswanatha Reddy, Shri Vutukur Ram Reddy, Shrimati Masfida Ahmed, Shri Jhulan Sinha, Shri Bhola Raut, Shri Chhaganlal M. Kocaria Sardar Amar Singh Jaigal, Shri M. Sankarapandian, Shri M. K. Shivanarajappa, Shri Ajit Singh Sarhadi, Shri Shobha Ram, Shri S. Ahmad Mendi, Shri Kanhaiya Lal Balmiki, Shri Sinhasan Singh, Shri Padam Dev, Shri Shivram Rango Rane, Shri Chintamani Panigrahi, Shri P. K. Kodiyan, Shri Mohan Swarup, Shri Braj Raj Singh, Shri Subman Ghose, Shri Jaipal Singh, Shri Surendra Mahanty, Shri Aral Binari Vasupayee, Shri B. N. Datar, Shri Anil K. Chanda and Shri K. C. Reddy."

The motion was adopted.

*DEMANDS FOR GRANTS

Mr. Speaker: The House will now take up discussion on the Demands for Grants Nos. 1, 2, 3, 4, 5 and 106 relating to the Ministry of Commerce and Industry. As the House is aware, 6 hours have been allotted for the Demands of this Ministry.

There are a number of cut motions to these various Demands. Hon. Members may hand over at the Table within 15 minutes the numbers of the selected cut motions which they propose to move. I shall ask the Members to move them if the members in whose names these cut motions stand

are present in the House and the motions are otherwise in order.

The time-limit for speeches will, as usual, be 15 minutes for the members including movers of cut motions, and 20 to 30 minutes if necessary, for Leaders of Groups.

DEMAND NO. 1—MINISTRY OF COMMERCE AND INDUSTRY

Mr. Speaker: Motion moved:

"That a sum not exceeding Rs. 60,89,000 be granted to the President to complete the sum necessary to defray the charges which will come in course of payment during the year ending 31st day of March, 1959, in respect of 'Ministry of Commerce and Industry'".

DEMAND NO. 2—INDUSTRY

Mr. Speaker: Motion moved:

"That a sum not exceeding Rs. 24,66,74,000 be granted to the President to complete the sum necessary to defray the charges which will come in course of payment during the year ending 31st day of March, 1959, in respect of 'Industry'".

DEMAND NO. 3—SALT

Mr. Speaker: Motion moved:

"That a sum not exceeding Rs. 1,44,87,000 be granted to the President to complete the sum necessary to defray the charges which will come in course of payment during the year ending 31st day of March, 1959, in respect of 'Salt'".

DEMAND NO. 4—COMMERCIAL INTELLIGENCE AND STATISTICS

Mr. Speaker: Motion moved:

"That a sum not exceeding Rs. 73,16,000 be granted to the

*Moved with the recommendation of the President.