

Several Hon. Member rose—

12.51½ hrs.

**Shri Nath Pai (Rajapur):** Lucknow does not seem to be doing what the Prime Minister has been trying to do.

**Mr. Speaker:** All these will be reported in the press. I proceed to the next item on the agenda.

12.51 hrs.

PAPERS LAID ON THE TABLE—  
contd.

AUDITED ACCOUNTS OF EMPLOYEES'  
STATE INSURANCE CORPORATION

The Deputy Minister of Labour (**Shri Abid Ali**): I beg to lay on the Table, under section 36 of the Employees' State Insurance Act, 1948, a copy of the Audited Accounts of the Employees' State Insurance Corporation for the year 1956-57 [Placed in Library. See No. LT-904/58.]

SUMMARY OF PROCEEDINGS OF INDUSTRIAL COMMITTEE ON JUTE

**Shri Abid Ali:** I beg to lay on the Table a copy of the Summary of Proceedings of First Session of the Industrial Committee on Jute held at Calcutta in August, 1958. [Place in Library, See No. LT-903/58.]

AMENDMENTS TO THE COMPANIES  
(CENTRAL GOVERNMENT'S)  
GENERAL RULES AND FORMS

The Deputy Minister of Commerce and Industry (**Shri Satish Chandra**): I beg to lay on the Table, under subsection (3) of section 642 of the Companies Act, 1956, a copy of Notification No. G.S.R. 723 dated the 23rd August, 1958, making certain further amendments to the Companies (Central Government's) General Rules and Forms, 1956.

MESSAGE FROM RAJYA SABHA

**Secretary:** Sir, I have to report the following message received from the Secretary of Rajya Sabha:

"In accordance with the provisions of rule 125 of the Rules of Procedure and Conduct of Business in the Rajya Sabha, I am directed to inform the Lok Sabha that the Rajya Sabha, at its sitting held on the 4th September, 1958, agreed without any amendment to the Working Journalists (Fixation of Rates of Wages) Bill, 1958, which was passed by the Lok Sabha at its sitting held on the 25th August, 1958"

12.52 hrs.

PUBLIC ACCOUNTS COMMITTEE  
NINTH REPORT

**Shri Ranga (Tenali):** I beg to present the Ninth Report of the Public Accounts Committee on "Excesses over voted Grants and Charged Appropriations included in the Appropriation Accounts (Railways), 1955-56 and 1956-57 and Appropriation Accounts (Posts and Telegraphs), 1955-56."

12.½ hrs.

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

**Mr. Speaker:** The House will now resume clause by clause consideration of the Public Premises (Eviction of Unauthorised Occupants) Bill, 1958, as passed by Rajya Sabha. The discussion on this Bill will continue for two hours as agreed to by the House yesterday.

Clauses 2 and 3 were adopted yesterday and the House may now take up clause 4.

**Clause—4.** (Issue of notice to show cause against order of eviction).

**Shri Kodiyam** (Quilon—Reserved—Sch. Castes): I beg to move:

Page 2,—

after line 31, add—

“Provided that in the case of bona fide refugees, scheduled castes and construction workers engaged in Delhi, it shall be incumbent on the estate officer to make available to the person or persons affected, such alternative accommodation, which is nearly equal in convenience and value before issuing such notice.

**Shri P. K. Deo** (Kalahandi): I beg to move:

Page 2,—

after line 31, add—

“Provided that in case of displaced persons in the steel plant areas of Rourkela, Bhilai and Durgapur and in the Hirakud area in the occupation of the Government, it shall be incumbent on the estate officer to make available to them such alternative accommodation which is nearly equal in convenience and value before issuing such notice.”

**Shri Jadhav** (Malegaon): I beg to move:

(i) Page 2,—

line 39, for “ten” substitute “thirty”

(ii) Page 3,—

after line 11, add—

“Provided that in the case of unauthorised occupants from the scheduled castes, the refugees, Government servants, building labourers and artisans the mention of the alternative accommodation be made in the notice of the order of the eviction.”

**Shri Naushir Bharucha** (East Khanshad): I beg to move:

(i) Page 2,—

line 26,—for “is of opinion” substitute “has reason to believe”

(ii) Page 2,—

line 39,—for “ten days” substitute—

“twenty clear days from the date of personal or substituted service”

Page 3,—

for lines 1 to 11, substitute—

“(3) The estate officer shall cause a copy of the notice to be served on every person concerned or claiming to be concerned in the manner prescribed by the Code of Civil Procedure for service of summons; in the event of personal or substituted service becoming difficult or impracticable in spite of his due diligence in ascertaining the names of persons concerned, the estate officer shall cause the notice served by having affixed on the outer door, or any other conspicuous part of the premises, in such manner as may be prescribed whereupon the notice shall be deemed to have been duly given to all persons concerned.”

**Shri Balmiki** (Bulandshahr—Reserved—Sch. Castes): I beg to move:

Page 2,—

after line 31, add—

“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.”

**Shri B. K. Gaikwad (Nasik):** I beg to move:

Page 3,—

after line 11, add—

"Provided that every show cause notice so issued shall state the purpose for which the premises are proposed to be used for which the eviction is sought."

**Pandit Thakur Das Bhargava (Hissar):** I beg to move:

Page 2,—

for line 39, substitute—

"a date not earlier than thirty days from the date of personal or substituted service."

**Pandit Thakur Das Bhargava:** I beg to move:

Page 3,—

after line 5, add—

"Provided that the Estate Officer shall have recourse to the method suggested in sub-clause (3) after he has exhausted all the methods for personal service as prescribed in the Civil Procedure Code relating to the personal service of the summons and other processes issued by the Civil Court and, for substituted service in the event of personal service not being successful or effective."

**Mr. Speaker:** These amendments are before the House.

**Mr. Kodiyar:** My amendment is with regard to the necessity of giving alternative accommodation to those persons who are evicted under the provisions of the present Bill. I have used the words "bona fide refugees" in my amendment as also the words "scheduled castes and construction workers" and others. But I am not asking special protection to all these people who encroach upon Government land and may be dubbed as trespassers, but only to those people who

are bona fide persons. After all, there may be mala fide cases also. All such mala fide cases can be singled out and such cases can be summarily dealt with according to the provisions of the Bill. However, there are a number of people who naturally have been forced to occupy Government premises for reasons beyond their control.

About the refugees a lot has already been said in this House. So, I do not want to go into the case of refugees except to refer to the fact that the assurances given by Shri Gadgil in 1951 have not been implemented fully. The hon. Minister said yesterday—and he also quoted some figures also, that several houses have been regularised and a large amount has been paid according to those assurances, and only a small fraction remains to be implemented. If, according to him, most of the assurances have been implemented and only a little remains to be implemented further, then, I would ask him, what is the difficulty in incorporating this proviso in the Bill.

About the scheduled castes people and other construction workers engaged in Delhi and other places, the hon. Minister said yesterday that he is always sympathetic to those poor and unhappy people. But what is the use of having mere sympathy if that sympathy is not brought into practical operation by giving such aid and protection to those poor people who are in dire necessity of such things?

About the scheduled castes people, the hon. Minister was pleased to say yesterday that he will instruct the officers concerned to take a lenient view of the cases of scheduled castes, and other poor people. But when the Bill actually becomes an Act and the provisions of the Act are being brought into operation, there is no guarantee, Sir, that lenient views could be held with regard to these poor people. There have been instances where, in Assam, the tribal people were driven away,

evicted, from their land. I am told that even elephants were used there to demolish their houses and huts. But still, the hon. Minister will continue to say that he is in full sympathy with those poor people. I am prepared even to accept the entire Bill on condition that this proviso is accepted by the hon. Minister, because it gives protection to those people who are in dire necessity of such protection.

**Shri Jadhav:** I have two amendments.

**Mr. Speaker:** As soon as any hon. Member begins to speak, he will mention the number of his amendment so that other hon. Members might follow.

**Shri Jadhav:** My amendments are 22 and 23. They are to clause 4. My first amendment seeks to substitute "thirty" days for "ten" days. I want to say that this time-limit given is very short. In the notice, various grounds have been mentioned and the time-limit for showing cause is very small. Therefore, I propose that instead of ten days, there should be thirty days' time given to show cause.

My second amendment—amendment No. 23—seeks to add a proviso at page 3, after line 11, which runs as follows:

"Provided that in the case of unauthorised occupants from the scheduled castes, the refugees, Government servants, building labourers and artisans the mention of the alternative accommodation be made in the notice of the order of the eviction."

The volume of unauthorised occupation is very great and the greatest hardship will be for the scheduled caste people, the refugees, government servants, building labourers and artisans, unless Government give them some alternative accommodation.

13 hrs.

I had suggested yesterday that Government should make a survey of unauthorised occupations and should

have a priority list and order schedule as to how they are going to demolish these unauthorised constructions. In that case when Government takes a decision that a certain site is to be demolished, they should give the affected persons alternative accommodation so that the people concerned can remove the material from that place, take them to another place and have their constructions there. Government should at the same time advance them loans and give damages if the persons concerned are covered by the assurance given by the ex-Minister Shri Gadgil.

**Shri P. K. Deo:** In my amendment No. 59 I have suggested the addition of a small proviso to the effect that in the case of displaced persons in the steel plants of Rourkela, Bhilai and Durgapur and in the Hirakud area in the occupation of Government it shall be incumbent on the Estate Officer to make available to them such alternative accommodation which is nearly equal in convenience and value before issuing such notices.

The scope of the Bill has been sufficiently enlarged. The previous Bill on the subject was restricted only to the Union Territory of Delhi. Now this Bill will automatically extend to such areas where development activities are being taken up and those lands which are being acquired by the Government of India. In this connection I would like to bring to your notice that in the Hirakud area a lakh of people have been affected. They have been displaced. In the Rourkela project 5,000 adibasi villages will be affected. The way the whole evacuation proceedings were conducted in May 1955 for the evacuation of the Hirakud refugees is far from satisfactory. In the month of May when there was 120° temperature in day-time the villagers were put in open trucks with their belongings and they were taken forcibly from their villages and left in the forest. I do not think it is the intention of Government that such things should be repeated. Instances

[Shri P. K. Deo]

of cases where people have been very badly treated and no provision even for drinking water has been made for them has been brought to our notice by the people there. In Rourkela area the villagers of Adibasi and other villages have been very shabbily treated. They have been asked to vacate their villages and when they asked for time bulldozers were used to demolish their villages. Overnight paddy fields were levelled up.

I say, Sir, that these problems have to be tackled from a humanitarian point of view. The displaced persons should be properly rehabilitated and alternative accommodation should be provided for them before such drastic steps are taken. I most respectfully submit that our Government which is thinking of having a welfare State, with its ideals of a socialist society in view, should before displacing these persons and creating new problems for the refugees, first provide alternative accommodation, before asking these people to leave their lands and houses. I think this provision should have been incorporated in the Bill and this mandatory proviso has been suggested especially because it is the duty of the estate officer to see that they are properly provided with alternative accommodation before he issues notice to them to leave their houses. I most respectfully submit that Government should not find any difficulty in accepting my amendment.

**Shri Naushir Bharucha:** My amendments are Nos. 11 and 12. Clause 4 relates to issue of notice to show cause against an order of eviction. That is the clause which marks the first stage of the proceedings. It reads:

"4(1) If the estate officer is of opinion that any persons are in unauthorised occupation of any public premises... the estate officer shall issue... a notice etc."

My first amendment is that in place of the words "is of opinion" the words

"has reasons to believe" may be substituted. The clause would then read: "If the estate officer has reasons to believe that any persons are in unauthorised occupation of any public premises..." The difference is this. I desire to substitute the subjective satisfaction of the officer by some definite objective criterion and that criterion is that the particular officer must have reasons to believe, must have definite grounds or information to believe, that persons are in unauthorised occupation. The difference between the two is this. When I say "reasons to believe" he must have some evidence before him to show that people are in unauthorised occupation. Otherwise, if it is left as "in his opinion" without having any ground a person may form his opinion. Therefore, in order to diminish the harassment that might be caused to persons, I desire that this terminology should be substituted.

**Mr. Speaker:** Why don't we say "be satisfied"?

**Shri Naushir Bharucha:** "If he has reasons to believe" is a better terminology and usually we use that.

**Mr. Speaker:** If we say "reasons to believe" some other man may feel he has no reasons to believe. "Be satisfied" will meet the case.

**Shri Naushir Bharucha:** It would be something better than the present terminology is required.

**Shri C. R. Pattabhi Raman (Kumbakonam):** The first portion refers to that.

**Pandit Thakur Das Bhargava:** The words "be satisfied" is used in clause 5.

**Shri C. R. Pattabhi Raman:** Sub-clause (2) (a) of clause 4 says:

"The notice shall—

(a) specify the grounds on which the order of eviction is proposed to be made;"

**Shri Naushir Bharucha:** Even in the matter of issuing of notice there must be some definite ground. Otherwise notices will be issued indiscriminately. This is what is actually happening.

**Mr. Speaker:** There if you say "reasons to believe" it will go to the Supreme Court.

**Shri Naushir Bharucha:** My intention is that there should be some objective criterion. Apart from that even the suggestion made by the Chair namely that "he is satisfied" is something much better than a mere vague opinion.

**Mr. Speaker:** I would like to invite the attention of the hon. Member to clause 5. I had not read clause 5 when I made the suggestion.

**Shri Naushir Bharucha:** I am referring to the point before the proceedings are started. A large number of people must not be unnecessarily rounded up on the speculation that something may emerge from it.

**Mr. Speaker:** My suggestion may not fit in. Satisfaction means there are some grounds after looking into all materials. Opinion is a little less than satisfaction. The hon. Minister will certainly take care to see that notice is not given as a matter of routine. He must have some evidence.

**The Deputy Minister of Works, Housing and Supply (Shri Anil K. Chanda):** We shall be very careful.

**Shri Naushir Bharucha:** I do not know what those assurances really count for in law courts. Anyhow, that is my view and I have put it in amendment No. 8.

In amendment No. 11, instead of 10 days, I have pleaded for twenty clear days from the date of personal or substituted service. Ten days is too small a period. People must have enough time to engage lawyers, etc. Here is a peculiar mode of service of

summons. Under sub-clause (3), the estate officer straightaway has to affix the summons on the outer door without making any efforts to find out who are the real respondents or defendants in the case. Under sub-clause (4), where the estate officer knows or has reasons to believe that any persons are in occupation of the public premises, then only personal service comes.

I have moved amendment No. 12 which says that the estate officer shall cause a copy of the notice to be served on every person concerned or claiming to be concerned in the manner prescribed by the Code of Civil Procedure for service of summons. The hon. Minister has not made out a case why in the service of notice, the Civil Procedure Code should be departed from. I have also said in my amendment that

"In the event of personal or substituted service becoming difficult or impracticable in spite of his due diligence in ascertaining the names of persons concerned.."

then, substituted service will come. My submission is that this is a matter in which the parties must have proper notice. Firstly the estate officer must exercise due diligence to ascertain who are the persons in unauthorised occupation of the premises and then make an attempt at personal service. If he fails in that, then as a last recourse, substituted service will come in. Therefore, I commend my amendments to the acceptance of the House.

श्री बाल्मीकी (बलन्दशहर—रक्षित—  
घनसूचित जानिया): ब्रह्मक्ष महोदय. इस  
विषयक की धारा ४ पर ६० नम्बर का जो  
संशोधन है वह इस प्रकार है

Page 2.—

after line 31, add—

"Provided that no displaced person, Harijan, building labourer or other poor person who has raised unauthorised construction

## [श्री बाल्मीकी]

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."

माननीय मंत्री को मैं उनके हल में से एम्प्लॉयमेंट के लिये जो उन्होंने कल ग्राम रेपब्लिकी भाइयों के साथ साथ हरिजन भावि के लिये दिया, घन्टा देता हूँ। उन्होंने "लीनिअेंट व्यू" की जगह "जेंटिल व्यू" का विश्वास दिलाया और उससे एक हलकी भी आगा बंबती है कि उन रेपब्लिकी लोगों, हरिजनों और दूसरे इमारती मजदूर और गरीब लोगों के साथ कुछ हमदर्दी का बर्ताव किया जायेगा।

यह बात ठीक है और यह समझ में आ सकती है और हम भी यह स्वीकार करने हैं कि आपको बहुत जल्दी इवेलपमेंट कार्यों के बास्ते, टाउन प्लानिंग की वजह से, प्रजेक्ट्स और दूसरी रूढ़ियों में इस प्रकार की अनेक लाभदायक योजनाएँ चल रही हैं उनके कारण आपका उन जगहों की आवश्यकता है और आप उन जगहों पर जिन लोगों ने इस तरीके से अनएयोराइज्ड स्ट्रक्चर्स बड़े कर लिये हैं उनको वहाँ से हटा कर उन जमीनों पर कब्जा करना चाहते हैं। इसी के लिये मैंने अपने ६० नम्बर के प्रमैडमेंट में एक सुझाव दिया है कि दिसम्बर मन् १९५७ तक जिस किसी ने भी अनएयोराइज्ड स्ट्रक्चर्स इजाजत या बगैर इजाजत खड़ा कर लिया है, उसको वहाँ से तब तक बेशकल नहीं किया जायेगा जब तक कि या तो उसे प्रालटरनेटिव एकीमोडेशन न दे दी जाये या उस स्ट्रक्चर के लिये उसे कुछ मुआबिका न दे दिया जाये अगर उसको उसे खाली करने पर मजबूर किया जाता है। मैं चाहता हूँ कि इस बात तारीख के आधार पर आप सर्वे कराये और उन लोगों पर (ता कि वे कमी रहें) नम्बर बाँटें। इसी आधार पर

भारत सेवक समाज के द्वारा सर्वे हुआ और एक्सीट्रीज ने भी सर्वे कराया और इस तरह से बहुत से लोगों पर नम्बर पड़े हुये हैं। मैं चाहता हूँ कि इस बात तारीख तक आप सर्वे कराये और उनके लिये यह व्यवस्था करें जो मैंने अपने प्रमैडमेंट में सुझाई है उस तारीख के बाद खड़ी होने वाली लोगों के लिये मैं यह नहीं कहता कि वे भी बनी रहें लेकिन उनके लिये भी यह बात जो जाहिर है कि प्रालटरनेटिव एकीमोडेशन की व्यवस्था होनी चाहिये। अब यह बात साफ है कि मुपवाइजरी स्टाफ इस प्रकार गिबत लेता है और उससे कारण यह देखने में आता है कि नई की जगह पुरानी झोपड़ी गिरा दी जाती है और पुरानी की जगह नई खड़ी रहने दी जाती है। इसलिये मैंने यह सुझाव दिया है कि इस तरह का सर्वे करा लिया जाये और उस तारीख तक बने हुये स्ट्रक्चर्स पर नम्बर डाल दिया जाये ताकि इस तरह की धागा मछली न हो सके।

जब इस प्रकार से चाणक्यपुरी और रोडिंग रोड पर अन्धधुंध झोपड़ियाँ गिराई जा रही थीं तो मैंने रजिस्ट्रार जवाहरलाल नेहरू जी को एक लेटर लिखा था और उनको बतलाया था कि झोपड़ियों को गिराने में यकीनी तौर पर प्रालटरियर मोटिव की बात थी और वह चलता है और जिसको कि बजह में जो नये स्ट्रक्चर्स हैं वे तो खड़े रह जाते हैं और जो उन से पुराने स्ट्रक्चर्स हैं वे गिरा दिये जाते हैं और यह इस बात को साफ जाहिर करता है कि प्रालटरियर मोटिव की बात जो मैंने कही वह दुस्त थी। मेरे पत्र के जवाब में जो उन्होंने मुझे पत्र लिखा उसके अन्तर्गत यह है :

"The motive is to provide good accommodation, clean living conditions and not to encourage slums".

हम भी विचारावस दिलाते हैं कि हम भी किसी प्रकार यह गन्दी बस्तियां नहीं बढ़ाना चाहते। यह भी ठीक है कि दिल्ली और अन्य बड़े बड़े नगर जिनको अन्य प्रांत शासन-दार बनाया जा रहा है, वहां पर इस तरह की गन्दी बस्तियां न हों लेकिन उनमें साथ ही यह भी जरूरी है कि जब हम सोषलिस्टिक पैटर्न प्राक सोसाइटी की बात करते हैं, एक समाजवादी ढांचे में समाज की स्थापना की बात करते हैं जिसमें कि सबको समान रोजी मिले कपड़ा मिले और सब को समान रहने का साधन मिले तब तबमें यह बात कहां तक ठीक बैठती है कि इन तरह में हजारों आदिमियों के रहने का कोई समुचित प्रबन्ध न हो और जो उन्होंने अपने घरवादी शौपड़े बना लिए हैं, उनमें से उनको निकाल बाहर किया जाये। मैंने कौन भी इसका विरोध किया या और मैं आज फिर इसको कहना चाहता हू कि सरकार को एक मानवीय दृष्टि में और दयापूर्ण दृष्टि में इसको देखना चाहिये। इन तरीके से एक रहने वाले आदिमियों को जिनके कि पास खाने का नहीं है, जिसको कि स्वच्छ पानी नहीं मिलना उसको इस तरह से बेदखल कर दिया जाय यह कुछ आज के जनता युग में उचित नहीं जंचता। अपनी मुबह मुझे चाण्डेयपुरी के लोगों ने बताया कि उनको पानी का महान कष्ट है। पानी की एक छोटी गाई न्यू दिल्ली म्युनिसिपैलिटी की तरफ से जाती है और यह देखा जाता है कि जो लगड़े लोग होते हैं, जो ऊर्बा जाति के लोग होते हैं और जिन में बल होता है वे कमजोरों को पानी नहीं लेने देते हैं। कहने का मतलब यह कि आज भी इस तरह की नाइसाफी उनमें साथ बर्ती जा रही है। आज हम देखते हैं कि शरीरों और कमजोरों के घर गिराये जाते हैं और उनको बेदखल किया जाता है लेकिन बड़े आदिमियों के और ऐसे वाले आदिमियों के आलीशान मकान और कोठियां बेसी की बेसी खड़ी रहती हैं और उनकी तरफ कोई ध्यान भी नहीं उठा सकता। मैं इस तरह के डिस्क्रिमिनेशन का यकीनी तौर पर विरोधी

हूँ और इस प्रसंग में मुझे महारत्ना कबीरदास का यह दोहा याद आ जाता है :

“हुबल को न मताइये बाकी मोटी आह,  
मुई खाल की मांस सों सार भस्म हो जाय।”

सार कहते हैं वोहो को। मैं यह तो मानने के लिये तैयार हूँ कि हमारी सरकार लोहा नहीं हो सकती लेकिन पत्थर है। पत्थर पर आसू और आहों का प्रभाव होता है। लेकिन भवभूति ने इसके लिये भी अपने एक श्लोक के अन्दर कहा है : “प्रावाऽपि रोदन्ति।” मनुष्य के आसूओं से पत्थर तक पिघल जाता है। जब वहां पर एक मनुष्य का मकान गिराया जाता है तो उसको देख कर पत्थर की शिलायें भी रो पड़ती हैं। जब उनके शौपड़े गिराये जाते हैं तो उनकी आसूओं में आसू बह निकलते हैं और आहें भी निकलती हैं। इस तरह का उनके प्रति एक विद्वेय-पूर्ण भाव रखने में काम नहीं चलेगा और निर्दयतापूर्वक जो इस तरीके से मकानों को गिराया जाता है वह नहीं चलेगा। मैंने इसलिये कहा है कि जो संस्थाएँ उनमें बैठ कर काम करती हैं जैसे दलित वर्ग संघ है, हरिजन सेवक संघ है अथवा भारत सेवक समाज है, इन संस्थाओं के जरिये सरकार इस तरह का एक सबे कराये और यह तय करे कि इतने शौपड़े खड़े रहेंगे और इतने शौपड़ों को गिराया जायेगा ताकि हम जाकर उन लोगों को इसके लिये तैयार कर सकें, उनके दिमाग में यह बात डाल सकें कि उनको यहां से हटा कर इतनी दूर जाना है और जहां से फिर उनको हटना नहीं होगा। हमारे वे भाई कहीं पर स्थायी तौर पर आबाद न किये जायें और उनको एक जगह से दूसरी जगह हटाया जाता रहे, मैं इस बात का विरोध करने वाला हूँ। मैं सारे देश के अन्दर जाता हूँ और मैं उन शरीर लोगों की समहाय प्रवस्था से बली भांति परिचित हूँ। मुझे मालूम है कि टाऊन प्लानिंग के नाम पर मंसूर, नई दिल्ली तथा अन्य नगरों के अन्दर शरीर आदिमियों के साथ कितनी बेरहमी के साथ पेश धाया गया। वहां पर शहर के हार्ट में बसे हुये



[श्री बात्मीकी]

शरीर आदमियों को वहाँ से हटा करके बाहर की बाहरी सीमाओं पर फेंक दिया गया है और उनके दरवाजे भी बाहर की तरफ नहीं हैं बल्कि बाहर की तरफ हैं। इस तरीके से कोई टाउन प्लानिंग नहीं चला करती है। यह जरूरी है कि जब आप कोई एक नकशा बनायें तो उसमें इस तरह की शरीरों की बस्तियों का भी ख्याल रखें। उदाहरणार्थ रीडिंग रोड पर भंगी बस्ती है जहाँ कि पूज्य बापू भी रहे, वही पर हमारे शरीर लोगों की बस्तियाँ बसा दें और इसके लिये अगर आपको कोई नया टैक्स लगाना पड़े, हलका टैक्स = आने का खपया घेली का, उनसे यदि इसके लिये आपको लेना पड़े तो आप उसको उन पर लगा दीजिये और वे उसको देने को तैयार हैं। आप अपने जरायों से इस तरह का एक फंड बनायें ताकि उनके मकान रह सकें। आज जो उनको बंदखल किया जाता है और उनकी झोपड़ियाँ गिराई जाती हैं और उनके लिये आन्टरनेटिव एकोमोडेशन का प्रबन्ध नहीं होता है, तो उसको लेकर उनमें असंतोष बढ़ता जा रहा है। अब एक और तो विशाल गगनचुम्बी अट्टा-निकायें खड़ी की जाती हैं और दूसरी ओर जो शरीर अपनी झोपड़ी बना कर रह रहे हैं उनके झोपड़ों को गिरा कर निकाल बाहर किया जाता है तो इस दुर्व्यवहार और इस नाइंसाफी का उनके दिमाग पर बहुत बुरा असर होता है और दिन में ददं और असन्तोष उत्पन्न होता है। उस शरीर का जिसका कि झोपड़ा गिरा दिया जाता है और उस के मन और दिमाग में एक तूफान पैदा होता है। मैं देश में जाता हूँ और उनसे मिलता हूँ और उन शरीरों के बीच में काम करता हूँ और मैं यकीन के साथ कह सकता हूँ कि वह सब होते हुये भी उनके अन्दर माम्यवादी विचारधारा और तोड़फोड़ की नीति नहीं है वे अब भी शान्ति और धर्मन से इस बात को बर्दाश्त कर रहे हैं लेकिन आपको इस बात को ध्यान में रखना चाहिये कि उनका असन्तोष इतना न बढ़ जाये कि उनके सब की इन्साहा हो जाय।

मैं बराबर उनकी तरफ से बालन क लय तैयार हूँ क्योंकि मैं उनके बीच में रहता हूँ, काम करता हूँ और मैं उनकी मदद करने के लिये तैयार हूँ और मैं यहाँ पर यह कहना चाहता हूँ कि मिडैवल पीरियड की तरह से मध्यकालीन हमलों के रूप में उनको हटाने के लिये स्कुवैड्स जायें, पुलिस जायें, दुनिया भर के आदमी जायें, लाठियाँ और कसबे जिनके हाथ में हों उनके द्वारा उन पर हमला किया जायें। बिना सोचे समझे उनके स्ट्रक्चर्स को जबदस्ती गिरा दिया जाय, यह बात मुनासिब नहीं है और इससे आज उनमें बहुत असन्तोष है। आप उनको उनके स्ट्रक्चर्स के हटाने के लिये कुछ पैसा दें ताकि वे बेचारे वहाँ से उनको हटा कर ले जायें क्योंकि आपको यह बात भुला नहीं देनी चाहिये कि उनमें हजारों आदमी ऐसे रहते हैं जिनके कि पास कोई रोजगार नहीं है जिनके कि पास कांटेंट धंधा और व्यापार नहीं है और जो बिल्कुल निर्ग्राहित हैं।

मुझे यकीन है कि जैसा मैंने अपने इस असेम्बलमेंट में आन्टरनेटिव एकोमोडेशन देने की बात कही है उसकी आवश्यकता को आप महसूस करेंगे और साथ ही साथ अगर किसी ने इस तरीके का अनएथोराइज्ड स्ट्रक्चर बनाया हुआ है तो उस स्ट्रक्चर को हटाने और उसको वहाँ से बंदखल करने के लिये आप उसको कुछ मुआवजा देने की बात सोचें। मैं आशा करता हूँ कि इस सदन में मैंने और दूसरे अन्य महानुभावों ने जो इस प्रकार के विचार व्यक्त किये हैं, उन पर मंत्री महोदय गम्भीरता से विचार करेंगे और मुझे इसका पूरा विश्वास है कि इस तरह का मौका लोगों को नहीं दिया जायेंगा कि वे यह महसूस करें कि हमारे मकान गिरते रहेंगे और हमारे मकान खड़े नहीं होंगे और यह सरकार हमारे लिये कुछ नहीं करना चाहती है। यद्यपि मुझे बरोसा है कि आप उनका ध्यान रखेंगे।

आपने बाग बाग "स्वीडी" शब्द का इस्तेमाल किया है। लेकिन मैं चाहूँगा

कि इसके पीछे लोगों की तकलीफ को महसूस करने की प्रादत भी होनी चाहिये कि उनको इस प्रकार कितनी दिक्कत होती है। इसे भी समझें। अल्वबाजी से काम नहीं चलेगा।

घ्रापने कहा कि इन लोगों में करीब ५०,००० आदमी हैं जिन पर इस कानून का प्रभाव पड़ेगा। मैं कहता हूँ कि इन लोगों में ज्यादातर हरिजन, भंगी, चमार, काबिल आदि लोग हैं जो मामूली मामूली काम करते हैं। इन में कुछ रिपयूज भी हैं। इनमें कुछ लोग तगड़े और मालदार हैं। मैं अपने तजुर्बे से कहता हूँ कि इस प्रकार के मालदार लोग मिलजुल कर ले दे कर बच जाते हैं और जो मामूली लोग हैं उनको हानि पहुंचती है। लेकिन मुझे भरोसा है कि आप इस बात का खयाल रखेंगे। मुझे इस सम्बन्ध में एक पुरानी कहानी याद आती है। एक माहूकार परदेश चला गया। जब वह अपने घर से गया था तो उसकी स्त्री को कुछ गर्भ की स्थिति थी। जब वह २० साल बाद लौट कर आया तो उसने घर में एक २० बरस का जवान सोता देखा। उसने चाहा कि तलवार से उसे मार दे लेकिन उसकी नारी ने कहा कि यह तो आपका ही पुत्र है। एक क्षण को विचार में मग्न वह रुका। दीवार पर लिखे श्लोक को पढ़ा। तो इस प्रकार सहसा वे समझे काम करने से हानि हो सकती थी। भवभूति का वह श्लोक इस प्रकार है, "सहसा विदधीत न क्रियाम्"। बिना सोचे समझे कोई काम नहीं करना चाहिये। माननीय अध्यक्ष जी, आप तो संस्कृत के विद्वान् ज्ञाता हैं, आप भवभूति के दर्द को पहचानते हैं। तो मुझे भरोसा है कि इस अल्वबाजी में इन हजारों लोगों को कल नहीं किया जायेगा। आप सोचें, समझें और उनके कष्ट को महसूस करेंगे और उनके लिये समुचित प्रबन्ध करेंगे।

मुझे आशा है कि इन सब बातों को ध्यान में रखते हुये माननीय मंत्री जी मेरे इस संकीर्षण की स्वीकार कर लेंगे।

Mr. Speaker: I request hon. Members to be brief.

Shri B. K. Galkwad: My amendment, Amendment No. 3, reads as follows:

"Page 3,—

after line 11, add—

"Provided that every show cause notice so issued shall state the purpose for which the premises are proposed to be used and for which the eviction is sought."

The amendment is self-explanatory. When we want to take possession of a particular house which has been constructed on Government land, we will have to mention in the notice which will be issued by the Estate Officer for what purpose we want to take that land. That is the substance of my amendment.

Shri Balasaheb Patil (Miraj): I rise to speak on clause 4 itself. So far as clause 4 is concerned, it speaks of three things. First is the mental make up of the estate officer, because in sub-clause (1) the words used are "If the estate officer is of opinion". Secondly, in sub-clause (4), we find, the words used are "the estate officer knows", that is to say, his knowledge. In the alternative, the other words are "has reasons to believe". At this stage, I may bring it to the notice of the Deputy Minister that in sub-clause (1) it is his (estate officer's) opinion and in sub-clause (4) it is his knowledge.

Mr. Speaker: The subject matter is entirely different.

Shri Balasaheb Patil: No. What happens is this. He has to give notice under sub-clause (3) as well as (4). No new thing has been stated in sub-clause (4). Only the modes are different. I do not know why the modes are different. Under sub-clause (3) the mode is affixing a notice on the outer portion of the

[Shri Balasaheb Patil]

house. Under sub-clause (4), the mode is serving by post. I do not know why there is this differentiation.

Then, so far as clause (2)(b) is concerned, he has to get knowledge of all the persons concerned. He must know the name of the person, his father's name, his surname and not only the name of the head of his family but even that of his wife, children and relatives, because all of them can be served with notices, for the word used here is "all". If he knows everybody, what would be the effect? There would be the danger of the notice being affixed everywhere. Sometimes, when a notice is affixed on the door, some child may come and tear it away. Ten days after the date on which the notice was affixed, other proceedings will follow and then only the person concerned will know when persons come to his house and take possession of it. Therefore, my submission is that the mode that is prescribed in sub-clause (4) should be adopted in sub-clause (3) also. First of all, the notice must be served by post. If he is not found, then there must be substituted service. Only lastly should the procedure prescribed in sub-clause (3) be adopted.

13.27 hrs.

[MR. DEPUTY-SPEAKER in the Chair]

Under sub-clause (2)(a) the notice shall specify the grounds. But we find in clause (13)(2)(a) it is stated that the rules will provide the form of any notice required or authorised to be given under this Act. My submission is that this is a one-sided proceeding. He has to give notice. Whenever a notice is presented, department has to give a written statement or plead, whatever he wants. If the estate officer wants to take possession of a premises, he must specify in the notice the reason for it. The person concerned is entitled to know the reason. He (the estate

officer) must also state whether it is Government premises, whether it is a premises that is requisitioned or whether it is a premises where the lease has been terminated. That is the first thing.

Secondly, I support the point of Shri Gaikwad. When eviction is resorted to by the estate officer, he must inform the person to whom the notice is served the purpose for which eviction proceedings are being taken. If, for instance, the purpose is the betterment of the city or any such thing, and if it is given in the notice, then, instead of the person concerned going before the estate officer, pleading his case, giving evidence and prolonging the case, even going in appeal before the District Judge, which will take some more time, he may, of his own accord come to some compromise.

Then, if some promises have been given by the Government, those promises should be incorporated in the form of the notice. That will be a solace given to the refugees and other persons who will be affected by this notice.

**Pandit Thakur Das Bhargava:** I have to speak about my amendments Nos. 43 and 44. You have been pleased to see in the Bill that the substantive provisions are very drastic and even possessions of 50 years or 60 years are being disturbed. It will be found that even possessions of more than thirty years can be disturbed and notices given. So, whatever may be the nature of the substantive provisions, at least the procedural sections should be quite clear. At least a person must know as a matter of fact whether a notice has been given to him or he is going to be evicted. He must get good opportunity to see that when the notice comes....

**Shri Jagannatha Rao (Koraput):** What is the amendment number?

**Pandit Thakur Das Bhargava:** 43 and 44.

He must get good opportunity to see that when the notice comes he gets sufficient time to engage lawyers and at the same time be in a position to collect evidence which he is ultimately to produce.

Now, what do we find? In clause 4, sub-clause (2) (b), last line, we find this:

"on or before such date as is specified in the notice, being a date not earlier than ten days from the date of issue thereof."

Suppose, a notice is issued on a particular date. The notice is not served. We do not know, because the date of issue must be quite different from the date of service and not necessarily earlier than ten days from the date of issue. Then it means that the service may not have taken place and yet that date might have passed. I am anxious that when such a drastic power is going to be used against a person, he must have sufficient opportunity to see to all the things which are necessary to meet that notice and to do all that lies in his power to see that those powers are not used against him. These ten days are insufficient though the words are not less than ten days. They are quite insufficient especially in regard to cases in which a person has been in possession for say 50, 60 or 40 years. Therefore, I am anxious that at least one month should be allowed to that man.

Then, in regard to sub-clause (3) unfortunately the same spirit prevails in regard to procedure as it prevails in regard to substantive law. In the procedure we find that the only thing which the Estate Officer has to do is to cause the notice to be served by having it affixed on the outer door or some other conspicuous part of the public premises, and in such other manner as may be prescribed, whereupon the notice shall be deemed to have been duly served on all persons concerned. This is most drastic. We know the provisions of the Civil Procedure Code. Even if it is a decree or a suit for Rs. 5 against a person,

all attempts are made to see that it is personally served. Now, I find that there is a feeble attempt in sub-clause 4 that where the Estate Officer knows or has reasons to believe that any persons are in occupation of the public premises, then a copy of the notice will be served on such person. But, suppose the Estate Officer chooses not to know or even chooses to say that he has got no reasons to believe, then he can have recourse only to sub-clause 3.

Then again, there is a provision for service by post or by delivering or tendering it to that person or in such other manner as may be prescribed. So, even personal service is not there. We know that according to the rules of High Court service by post is not regarded as a safe service, because, we know, interested persons usually get the postman to make a report that the man has not been found or even in certain cases to make absolutely bogus reports and obtain the signature of the person that the report is correct. So, according to the provisions in the rules made by several High Courts, this procedure is not a safe service.

Then there is the provision of delivering it or tendering it to that person or in such other manner as may be prescribed. Even then I do not know how far it can be proved. It is not necessary that it may be tendered. We do not know what that such other manner as prescribed will be. Therefore, the first thing to be secured is that that person who is going to be turned out from the premises, which may be his home or may not be his home—he may be living somewhere else in some other town but the thing may be in his possession and he may not come to know of the notice being affixed on the door—must be informed. It is absolutely necessary. Suppose that person happens to be in another place. Then it will be most difficult for him to know as to what is happening and by the time he comes to know of it this period of time might

[Pandit Thakur Das Bhargava]

be over. Therefore, it is absolutely necessary that the provision with regard to personal service and the provision with regard to substituted service as we have got in the Civil Procedure Code must be resorted to. If personal service is there, the matter ends.

In regard to the substituted service also, apart from other measures, this measure which is suggested must be resorted to as a last measure.

So far as the other provisions are concerned, our complaint may be correct or it may be wrong. It may be accepted or it may not be accepted. But so far as the procedure is concerned, let us be quite clear that it is very wrong first of all not to allow the person to go to the civil court and then even not to let him know fully what the matter is. He must be given sufficient time. The hon. Minister has agreed to my suggestion that he will be allowed to be represented by a pleader. If that is so, time must be given to him to engage a lawyer and to collect evidence. Even this is not being done. It is being rushed through. Ten days is not sufficient. It is much more objectionable than the substantive provision. Therefore, I request the hon. Minister to agree to a change in the procedural section so that the rights of persons may not be invaded without their even knowing as to what measures are going to be used against them.

**Mr. Deputy-Speaker:** The hon. Minister.

**Ch. Ranbir Singh rose—**

**Mr. Deputy-Speaker:** We have to close also. I have called the hon. Minister now. I am sorry.

**Shri Anil K. Chanda:** Mr. Deputy-Speaker, a number of amendments have been moved to clause 4 of this Bill. Some of them refer to the old question of providing alternative ac-

commodation to this class of people or to that class of people. We have heard both the sides—those who have opposed this measure and others.

On several occasions I have mentioned the difficulties. I have in my reply also given the reasons which make it impossible for the Government to incorporate any special provision giving special treatment to a certain class of people in this Bill. So, I need not touch those amendments at all.

With regard to the amendment moved by Shri Gaikwad, where he says that the purpose is to be stated, you will remember that to start with this is my own property. It is not that I am acquiring somebody else's property. The property is mine and I want back the possession of it because somebody else has been in unauthorised occupation of it and I need it for public purpose.

Secondly, yesterday I had indicated that a vast number of the properties, which have been squatted upon, are defence properties and it is not possible for Government to publicly state sometimes as to what is the purpose for which the Government is trying to get back this property. I am therefore, unable to accept this amendment.

**Shri Jadhav:** What is the harm in mentioning the ground?

**Shri Anil K. Chanda:** I have already stated that it is not possible for Government in many cases to state publicly the purpose for which the property is being acquired.

Then, a number of amendments...

**Mr. Deputy-Speaker:** Hon. Members say that it might be stated that it is required for defence purposes.

**Shri Warier rose—**

**Shri Anil K. Chanda:** The very fact that I am requiring it for defence

purposes is a secret and the moment I mention that I am giving out a secret.

**Mr. Deputy-Speaker:** This much will also be a secret that it is required for defence purposes?

**Shri Anil K. Chanda:** I would only say that it will be required for public purposes.

**Mr. Deputy-Speaker:** They do not want to probe into it further as to what kind of defence purpose it is. They only want you to state that it is required for defence purposes. They want to prove that they are as patriotic as anybody else.

**Shri Anil K. Chanda:** Certainly. I am sure that they are.

**Pandit Thakur Das Bhargava:** All property is not defence property.

**Shri Anil K. Chanda:** I do not say that. But if you make a provision in this law, I have to give the reason.

I submit that it is not that I am taking possession of somebody else's property. It is my own property. It is Government's property (*Interruption*) and it is being restored to the Government for the use of the public. Therefore, I submit....

**Mr. Deputy-Speaker:** But hon. Members put it in a different way. They say that it is people's property and the people want it.

**Shri Anil K. Chanda:** When we have a people's Government in the sense they understand it to be, I am sure that will be done.

With regard to the amendment moved by Shri Naushir Bharucha, I have to say something. In his amendment No. 8, he wants the words 'is of the opinion' to be substituted by the words 'has reason to believe'. At this stage, it has to be as far as this Bill is concerned, a sort of subjective judgment of the Estate Officer that this is Govern-

ment property, there has been a sort of squatting on it, Government wants to take it back and therefore, he will issue notice. As far as I understand English, if you put in the words 'has reason to believe', it means that, for all practical purposes, it becomes justiciable and the whole legal process is there.

**Mr. Deputy-Speaker:** That is exactly his objective.

**Shri Anil K. Chanda:** That is exactly the reason for which I cannot accept it because the whole basis for this Bill is that it is for enabling the Government to have speedy eviction of unauthorised occupants from its own land which is required immediately for urgent public purposes. You would kindly remember that here it is only giving notice. I am not taking any action. The whole clause has reference to giving notice. I come and tell you, look here, it is Government property, you have no authority to be here, therefore, on a particular date you can come and tell me what are the reasons which would not justify the Government in evicting you from that. Nothing beyond that. Therefore I am unable to accept this amendment.

**Shri Jadhav:** If you want speedy remedy, take action under the I.P.C. for trespass.

**Mr. Deputy-Speaker:** Now, at least, there ought to be no trespass.

**Shri Anil K. Chanda:** He is trespassing on my time.

**Mr. Deputy-Speaker:** That is what I am appealing to.

**Shri Anil K. Chanda:** Thank you, Sir. As regards amendment No. 11 and the amendment of Pandit Thakur Das Bhargava, that is really for lengthening the process. As it is, in this Bill, we have made a very liberal provision with regard to time as compared to the original Act. There is notice. An Estate officer cannot take any action within the

[Shri Anil K. Chanda]

first ten days—the minimum period. It does not mean that on the eleventh day he will begin the proceedings in every case. For the first 10 days he cannot move. Then, on an appointed day....

Shri Naushir Bharucha: What about ten days from the date of 'service' instead of 'issue of notice'?

Shri Anil K. Chanda: I am coming to that. Then, there is the hearing. He has to give reasonable opportunity of hearing to the party affected. Supposing, for instance, the Estate Officer, after hearing the party says that you have to be evicted, 45 days' time is there. In the case of a certain class of people, we have extended the period. We have accepted an amendment in the Rajya Sabha to extend the period to 90 days. Then, within 30 days, he has the right to go to the district judge. The district judge, in his discretion, can even extend the period. The district judge can stay the proceedings. With the result that, though this is supposed to be really a summary measure giving me a chance of taking possession of Government land quickly, if you will kindly calculate the days, you will see that it would take general months before the Government can actually get back possession of the land which is urgently needed.

Shri Jadhav: If it goes to the Supreme Court?

Shri Anil K. Chanda: With regard to the methods of service of notice, sub-clause (3) is mandatory. The Estate Officer, before he can proceed any further, has got to affix on the outer door or some conspicuous place a notice. Due notice has to be affixed there. This is mandatory. In every case he must do it. Then, sub-clause 4 provides that if the Estate Officer knows who are the people staying there, or has reason to believe that persons are in occupation of the public premises, then

and then alone, he would serve individual notices and the notices may be served either by post or it may be delivered by hand or it may be tendered. I remember, in the original Bill, there was a provision for the notice being served by beat of drum. I personally think and I mentioned it in the Select Committee that it would not look decent to serve notice by beat of drum that X, Y, Z is in unauthorised occupation and he has to be chucked out. We have also provided, "or as prescribed in the rules". If my hon. and esteemed friend Pandit Thakur Das Bhargava would be satisfied that it should be none by beat of drum, I shall incorporate it in the rules.

What Shri Naushir Bharucha wants by his amendment is, personal "service should be mandatory. Not merely to those whom he knows to be there, but somebody who may claim to be in possession of the property—that is being made mandatory—and failing all that only, he can put up a notice on the outer door. I am afraid that will not serve the particular purpose of this Bill. You will please remember that most of the people who are likely to be affected by this Bill are slum dwellers. It is difficult for the Government to know who are actually in possession or who have put up the kucha structure here and there. I have a particular case in mind. It is, however, not with regard to a kucha structure. It is a pucca house in Calcutta, No. 176, Rashbehari Avenue, if I remember aright. During the days of the Great Killing in Calcutta in 1946, Hindus from some Muslim localities had sought shelter there. By a process of "somebody going out and somebody else coming in", a number of people have been in continuous, I should say in perpetual, illegal possession. All are evacuees from East Bengal, just coming and going. Who is living there, we do not know. The damages which have accumulated run up to Rs. 3 lakhs. Somebody comes from

East Bengal. He finds shelter there. His cousin is possibly there and he also is put up there. In the mean time, the cousin gets a job in Durgapur and he moves out. Another gentleman comes in there. Then, somebody else comes in. Somebody else is there. How is the Government to know who is actually in occupation of a particular flat? Anybody who has any knowledge of the slums will see how difficult it is for the Estate Officer to be sure that A is in possession or B or something like that. We have provided that when the Estate Officer knows that A or B or C is there, personal notice should be served. Different methods have also been prescribed. If there is any other method that Pandit Thakur Das Bhargava would like us to consider, we shall consider it and we shall prescribe it in the rules.

**Mr. Deputy-Speaker:** Pandit Thakur Das Bhargava says, why should the Estate Officer worry to know, why would he care to know anybody.

**Shri Anil K. Chanda:** Shri Naushir Bharucha says that he should not merely care, but he should engage a Sherlock Holmes to find out who are there, who may claim to be there and who may have reason to be there. I do not know where I am.

Subject to this condition that it is not an ordinary piece of legislation—this is the whole basis of this law—if you once admit that you are giving extraordinary powers to meet an extraordinary situation, all the amendments fail.

But we have to see that natural justice is not denied. In clause 5 of this Bill, we say there should be reasonable hearing. Supposing, for instance, notice has been issued and it is not actually put up on the door till the 9th day and on the 10th day, the Estate Officer proceeds, it is not reasonable opportunity given to the person who is sought to be evicted. I am sure the

judicial authority will take cognizance of that fact. Similarly, Pandit Thakur Das Bhargava said, a person may have been living there for 60 years, and he may be evicted, and for the purpose of fighting the case, he requires time. If the appellate authority comes to know that reasonable opportunity has not been given to him to contest the claim of the Government, obviously, that would be something which the reviewing judicial authorities will take cognizance of. I am, therefore, unable to accept any of these amendments.

**Shri Balasaheb Patil:** On a point of clarification, Sir....

**Mr. Deputy-Speaker:** Is there any other clarification required?

**Shri Balasaheb Patil:** Just now, the hon. Deputy Minister said that the words 'is of opinion' means subjective opinion and it must be like that. In the three judgments of the Supreme Court, it was because of the subjective aspect of the Estate Officer that the previous Act was challenged and challenged successfully.

**Shri Anil K. Chanda:** Not the Supreme Court, but the High Courts. My hon. friend has forgotten that this is not with regard to the decision of the Estate Officer. It is merely a notice. Secondly, there was no provision for a judicial review in the previous Act. Here, there is the judicial review.

**Mr. Deputy-Speaker:** Am I required to put any particular amendments separately?

**Shri Naushir Bharucha:** The whole lot may be put together.

**Mr. Deputy-Speaker:** Then I put all the amendments together, to the vote of the House. The question is:

Page 2,—

after line 31, add—

"Provided that in the case of bonafide refugees, scheduled castes



[Mr. Speaker]

and construction workers engaged in Delhi, it shall be incumbent on the estate officer to make available to the person or persons affected, such alternative accommodation, which is nearly equal in convenience and value before issuing such notice."

Page 2,—

after line 31, add—

"Provided that in case of displaced persons in the steel plant areas of Rourkela, Bhilai and Durgapur and in the Hirakud area in the occupation of the Government, it shall be incumbent on the estate officer to make available to them such alternative accommodation which is nearly equal in convenience and value before issuing such notice."

Page 2, line 39,—

for "ten" substitute "thirty".

Page 3,—

after 11, add—

"Provided that in the case of unauthorised occupants from the scheduled castes, the refugees, Government servants, building labourers and artisans the mention of the alternative accommodation be made in the notice of the order of the eviction."

Page 2, line 26,—

for "is of opinion" substitute "has reason to believe".

Page, 2, line 39,—

for "ten days" substitute—

"twenty clear days from the dated of personal or substituted service".

Page 3,—

for lines 1 to 11, substitute—

"(3) The estate officer shall cause a copy of the notice to be

served on every person concerned or claiming to be concerned in the manner prescribed by the Code of Civil Procedure for service of summons; in the event of personal or substituted service becoming difficult or impracticable in spite of his due diligence in ascertaining the names of persons concerned, the estate officer shall cause the notice served by having affixed on the outer door, or any other conspicuous part of the premises, in such manner as may be prescribed whereupon the notice shall be deemed to have been duly given to all persons concerned."

Page 2,—

after line 31, add—

"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."

Page 3,—

after line 11, add—

"Provided that every show cause notice so issued shall state the purpose for which the premises are proposed to be used and for which the eviction is sought."

Page 2,—

for line 39, substitute—

"a date not earlier than thirty days from the date of personal or substituted service."

Page 3,—

after line 5, add—

"Provided that the Estate Officer shall have recourse to the method suggested in sub-clause (3) after he has exhausted all the methods

for personal service as prescribed in the Civil Procedure Code relating to the personal service of the summons and other processes issued by the Civil Court and, for substituted service, in the event of personal service not being successful or effective."

Those in favour will say "Aye".

Some Hon. Members: Aye.

Mr. Deputy-Speaker: Those against will say "No".

Some Hon. Members: No.

Mr. Deputy-Speaker: The "Noes" have it.

An Hon. Member: The "Ayes" have it.

Mr. Deputy-Speaker: Should I count them? If the hon. Members want, I have no objection.

Shri B. K. Gaikwad: For counting I have no objection.

Mr. Deputy-Speaker: If I have to count, I will have to ring the bell also.

Shri Anil K. Chanda: There is not much time left.

Mr. Deputy-Speaker: The "Noes" have it. The amendments are lost.

All the motions were negatived.

Mr. Deputy-Speaker: The question is:

"That clause 4 stand part of the Bill".

*The motion was adopted*

*Clause 4 was added to the Bill.*

**Clause 5—** (Eviction of unauthorised occupants)

**Pandit Thakur Das Bhargava:** I beg to move:

(1) Page 3, line 16,—

after "occupation" insert—

"and that persons in unauthorised possession should be evicted".

(ii) Page 3, line 16,—

after "occupation" insert—

"and that there are sufficient and good reasons necessitating the eviction of the person in possession".

**Shri Jadhav:** I beg to move:

(i) Page 3, line 24,—

for "forty-five" substitute "ninety".

(ii) Page 3, line 34 and 35,—

for "ninety days" substitute "six months".  
substitute "six months".

**Shri Balashah Patil:** I beg to move:

(i) Page 3,—

for clause 5, substitute—

"5. If, after considering the cause, if any, shown by any person in pursuance of a notice under section 4, the estate officer is of opinion that an action be filed either for eviction or for recovery of rent or damages or for both, he may institute a suit in the court having jurisdiction to try the suit under the Provincial Small Causes Court Act, 1887."

(ii) Page 3,—

after line 35, insert—

"5A. The court, within a week of the institution of the suit shall cause a notice of hearing of the case to be served on the defendant.

5B. The procedure as laid down in the Provincial Causes Court Act would apply *mutatis mutandis* to the suits under this Act.

5C. If the court comes to the conclusion that the question of title or limitation by prescription is involved in the suit, it may stay the suit and direct the defendant to get a declaration of his right in proper court within three months.

[Shri Balasaheb Patil]

5D. If the defendant fails to produce the declaration as stated in section 5C, the court shall proceed to hear the case finally, and decide the same.

5E. If any person refuses or fails to comply with the orders of eviction of the court within 30 days from the date on which it was passed the estate officer or any officer duly authorised by the estate officer in this behalf may evict the defaulter or any person claiming through him and take possession of the public premises and may for that purpose use such force as may be necessary."

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

(i) Page 3,—

after line 35, add—

"Provided further that in case of the persons belonging to the Scheduled Castes, Scheduled Tribes and Budhists from other Backward Classes the order of eviction so made shall not be given effect to unless suitable accommodation is provided."

(ii) Page 3,—

after line 35, add—

"Provided further that in *bona-fide* cases of displaced persons and retired Government servants, it shall be incumbent on the Estate Officer to provide suitable alternative accommodation to such persons affected."

(iii) Page 3,—

after line 35, add—

"Provided further that in case of Scheduled Castes, Scheduled Tribes and Budhists from other Backward Classes, who have been in continuous occupation for a period exceeding three years, the Estate Officer shall, on the application of persons sought to be evict-

ed, extend the period of ninety days to five years."

Mr. Deputy-Speaker: Amendment 64 is for a new clause. That would be taken up later. The hon. Member will be very brief now. We must conclude the whole discussion on this before 3 o'clock.

Shri Balasaheb Patil: Yesterday I moved amendment 62, that was the beginning of this, because I wanted to define the court. I further wanted to add in clause 5 that as soon as the notice is given by the Estate Officer and if he forms the opinion that he should proceed, then instead of himself holding an enquiry, getting evidence and coming to a conclusion that the order must be served and that the person must be evicted, he must file a case before a small causes court, because the procedure there is very speedy and in one day the Judge decides the case.

Furthermore, in another amendment I have stated that the decision given by the Judge is not to be executed through the machinery of the court, but that the Estate Officer is to be the executor. He himself should execute it. Therefore, it will be speedy and the requirements of normal procedure will be met.

There are two or three things from the point of view of which I am moving this, because there will be certain cases in which the question of title will be involved, and the question of title is not such a subject as can be decided by the Estate Officer. He may be a gazetted officer, but if there is much of the subjective aspect in him, if he is to act as an agent of the Government, then he is not competent, and he is not an independent person to decide such a thing as a question of title.

Furthermore, there may be a question of acquiring a title by prescription. So far as this Bill is concerned,

It seems that the law of limitation has been suspended, because, after all in all the cases, in the case of eviction, in the case of recovery of dues and damages, whether it is recovery of rent or damages, there is no question of limitation. So also, I have got a right by prescription by living for more than 60 years. Even then I have no voice whatsoever to say before this officer at least that I am the owner.

The further difficulty is this, that this officer being a custodian of Government property and also the Judge, if I have sent him certain documents and he has not cared to look into them, my fate will be sealed. There is no doubt the provision for appeal under clause 9, but if the Estate Officer writes a judgment in two lines only: heard the party, decided that he should be evicted, what will the District Judge do? He will say there is no ground whatsoever because he has heard you and given a judgment. Therefore, even though it is a repetition, I submit that this should be considered favourably, and the case taken to the court for decision.

**Mr. Deputy-Speaker:** Shri B. K. Gaikwad.

**Shri B. K. Gaikwad:** I will be very brief because there is not much time at my disposal.

**Mr. Deputy-Speaker:** In his amendment, would not this part "Buddhists from other backward classes" be open to objection? Would it not be discriminatory and open to objection? There are provisions so far as the Scheduled Castes are concerned. He can make any exception and for their welfare he might bring in any provision, but so far as "Buddhists from other backward classes are concerned", can we put it? He might argue it. I appreciate the motive behind it, but I am only objecting to the form in which it has been put.

**Shri B. K. Gaikwad:** Yesterday also in my speech I have stated the position of the Scheduled Castes, Scheduled

Tribes and other backward class people. This Bill will be applicable not only to Delhi but throughout India. Everywhere you will find that these poor homeless people, landless people have no other source of income except labour. They go to cities to earn their bread. When they go there, wherever they can get open sites belonging to Government, they erect their small huts. Yesterday while giving assurances, the hon. Deputy Minister was kind enough to say that he had a very soft corner for the Scheduled Castes, Scheduled Tribes and all these poor persons.

**Shri Anil K. Chanda:** Everybody has.

**Shri B. K. Gaikwad:** That was only a speech, but when this Bill is passed and becomes an Act, the Act will be circulated to all State Governments and to the Estate Officers for implementation. At that time, these assurances will not be seen by the officer or even by the State Governments in the Act concerned.

**Mr. Deputy-Speaker:** If the hon. Minister says he has got a very soft corner, this is no assurance.

**Shri B. K. Gaikwad:** He said, if I remember correctly, yesterday the hon. Deputy Minister said that the cases of the Scheduled Castes and Scheduled Tribes people will be considered favourably.

If I remember it correct, this is what he said yesterday.

14 hrs.

**Shri Anil K. Chanda:** Not favourably. I said 'gently'.

**Shri B. K. Gaikwad:** I think there is not so much difference between leniently and gently. Then, even if we say 'gently', it will not go in the Act. The Act will have only what we will be passing and the Estate Officer will see only what is in the Act. He will not refer to the proceedings of Parliament, the Lok Sabha, and see what

[Shri B. K. Gaikwad]

assurance the hon. Deputy Minister has given when the Bill was under discussion.

**Shri D. C. Sharma (Gurdaspur):** He will send a copy of the speech along with the Act.

**Shri B. K. Gaikwad:** Anyhow, I just want to say that this is the position. Even today what is the position of the Scheduled Caste people when Government are so sympathetic towards the Scheduled Castes and Scheduled Tribes. In spite of all that, you know how harassment is going on at the hand of the police and how we people are suppressed even today by the Government, even in this House, if you will excuse me for saying so.

**Mr. Deputy-Speaker:** Should we open out that harassment by police also in this eviction?

**Shri B. K. Gaikwad:** No, no; I am just bringing it to your notice at this stage as to how Scheduled Caste people are treated.

**Mr. Deputy-Speaker:** We know of other hardships. But today we are only concerned with eviction.

**Shri B. K. Gaikwad:** As soon as this Bill is passed, what will be the position? In this connection, I want to draw the attention of the Government to the fact that the law will be applicable to all States in India. I gave notice of a Calling Attention motion on the 28th August. Yet, it has not been replied to. No action has been taken and no reply has been received.

**Mr. Deputy-Speaker:** That is being treated 'gently'.

**Shri Anil K. Chanda:** By the Speaker, I believe.

**Shri B. K. Gaikwad:** By that motion I want to bring to the notice of this House the grievances which the Scheduled Castes have suffered and the

difficulties they are facing. There is one locality in Moti Bagh area. The Scheduled Caste people residing there have a Dalit Varg Stall Holders' Association. They are running certain shops, but when the police officers of the Delhi Municipal Corporation go there, they demolish the shops only of the Scheduled Caste people and of none else. This was done not only once but several times. This fact was brought to the notice of the Minister of State in the Ministry of Home Affairs, Shri Datar, several times on the telephone and by letters. Then the Calling Attention notice was given. It was given on the 28th August, 1958. Still it has not been replied to and no action has been taken.

For the information of the House, I will just read out one or two passages to show what is going on there in Moti Bagh area:

"Recent demolition by the police of the shops of Scheduled Castes only in the Moti Bagh locality and the use of filthy language against women by the police on the occasion".

The second is:

"Deliberate harassment caused to the members of the Dalit Varg Stall Holders' Welfare Association by the field staff of the Delhi Municipal Corporation".

The third thing is one which is shameful on the part of the police department. The hon. Members of this House, who speak about 'gently' will be sorry to know of it—

"Badly beating the she-buffaloes with iron bars".

Most probably, the she buffaloes will die very soon.

This is the position. This is how things are going on. A Calling Attention Notice has been given. But no action has been taken. This is how we people are suppressed.

**Mr. Deputy-Speaker:** The hon. Member should not repeat it again and

again. The Speaker might be considering that. That cannot be a complaint against Government. He has given notice of a Calling Attention Motion. He must find out from the office what has happened to that, what is its fate, whether it is going to be taken up.

This is not the occasion to discuss that.

**Shri B. K. Gaikwad:** I know this is not the occasion to discuss that. But what I want to show is how only Scheduled Caste people are treated partially.

Suppose tomorrow this Bill is passed. You will find that the Scheduled Caste people will be the victims of this Act; others will be saved, as so many of my hon friends have said.

Some Hon. Members: No, no.

**Shri B. K. Gaikwad:** That is all right. But what I want to say is that the Scheduled Caste people will be the first victims. So by amendment No. 4, I have said that some suitable accommodation should be provided to these people and then they should be evicted. We do not insist that they should not be evicted. Then by my amendment No. 5, I have said that those who are displaced persons and retired government servants should also have similar provision made for them. In my last amendment, I have said that for the words "ninety days", the words "five years" should be substituted (*laughter*). Of course, everybody will laugh at this. But I have put this with the intention and faith that Government are very kind to the Scheduled Castes and Scheduled Tribes. They say that in case the Scheduled Castes people are prepared to form a co-operative society, Government will give a certain amount of loan and they can have their own houses too. But if you go through the procedure of today, you will find that if I apply for registration of a housing society,

it will take not less than a year. If a society is registered then for getting a loan, it will require one year more. After that, if we start constructing houses with the help of government loan and with our labour, it will take about two years more at least.

In view of all this, I have said that if Government want to remove these Scheduled Caste and Scheduled Tribe people, at least that time-limit should be extended so that they will form societies. They will just get some help from Government. It is said that Government are very kind to give them that help. They will have their own houses and then they will shift there. That was the object of moving all these amendments. I request the Deputy Minister to accept these amendments taking into consideration the points raised by me.

**Shri Jadhav:** I have moved amendments Nos. 24 and 25.

In page 3, line 24, for "forty-five", I want to substitute "Ninety".

**Mr. Deputy-Speaker:** It is very simple.

**Shri Jadhav:** But the difficulty will be this. Suppose the man concerned comes to the conclusion that he should remove it. There will be some structure there. He will have to remove the materials. The period of 45 days will not be enough; so 90 days' time should be given.

My amendment No. 25 also relates to extension of time. In page 3, lines 34 and 35, for "ninety days" substitute "six months". I am at a loss to know whether Government have been able to provide accommodation even to government servants. I have some information with me to the effect that even government servants who have got ten years' service to their credit have not been provided with accommodation. So if there are some government servants who are occupying sites for a period exceeding three years, it will be better if they are first given accommodation.

[Shri Jadhav]

As I said, the time should be extended to six months so that he must have sufficient opportunity to find out some other accommodation. Then and then only should the unauthorised structure be removed.

**Pandit Thakur Das Bhargava:** I have moved amendments Nos. 45 and 39. Amendment No. 45 runs thus:

'Page 3, line 16,—

after "occupation" insert—

"and that there are sufficient and good reasons necessitating the eviction of the person in possession"

And, amendment No. 39 reads thus:

'Page 3, line 16,—

after "occupation" insert—

"and that persons in unauthorised possession should be evicted"

As a matter of fact, amendment No. 45 is only an amplification of what is contained in No. 39. If you kindly look at the operative part of clause 4, it appears that the Estate Officer has been given certain powers. In the first two lines of clause 4, you will be pleased to find the words—

"If the estate officer is of opinion that any persons are in unauthorised occupation of any public premises and that they should be evicted, . . ."

There are two conditions before the estate officer will take any action. First is that the unauthorised occupation is there; and secondly, that, in his opinion, such and such a person should be evicted. These are the two points. I can see that it is quite logical. It is unauthorised occupation and he thinks that this man should be turned out of the occupation. He will give notice and ultimately evict him.

But, if you go to clause 5, the operative part of it, the second condition,

that he should be evicted, is missing. It reads:

"If, after considering the cause, if any, shown by any person in pursuance of a notice under section 4 and any evidence he may produce in support of the same and after giving him a reasonable opportunity of being heard, the estate officer is satisfied that the public premises are in unauthorised occupation, the estate officer may, on a date to be fixed for the purpose, make an order. . ."

My submission is this. Yesterday I put a question to the hon. Minister to the effect whether the estate officer—he is always a human being—will be ordered to work as an automaton or will be given some discretion that in proper cases, where he finds that the order shall work harshly against a particular person, he will stay his hands for the time being, and allow the person to stay though it is unauthorised occupation. The hon. Minister's reply was that the estate officer will not work in this rigid manner, and that in all cases in which he issues notices he will not evict, and that he shall have a discretion to stay his hands in proper cases. This was a very proper reply for which I am thankful to the hon. Minister. In my humble opinion, if you do not allow even this discretion, this Act will act very harshly.

After getting this reply, I am rather fortified in my view and I would ask the hon. Minister to kindly consider my request in this light. If he agrees, this amendment at least, if not the previous one in 45, may be accepted, though that would be much better; because this will also bring the attention of the estate officer to the fact whether there are good and sufficient reasons necessitating the eviction. Even if that is not accepted, and the hon. Minister does not want to give a great deal of discretion to the estate officer, yet there will be no harm if he adds these words "and that

the persons in unauthorised possession should be evicted". Just as they are in clause 4, I want these words should be inserted in clause 5 also, so that there may be the two conditions as in clause 4. We will be doing a laudable thing by putting these words here. The effect of that will be, as the hon. Minister and as the hon. Deputy Minister of Law have claimed, this Act will not work great hardship. As a matter of fact, hardship will be very much less if this man is given the discretion so that he will take action only in cases where action is called for. Otherwise, the difficulty will be that he will be bound to give notice in every case and when cause is not shown he is bound to evict. The officer to whom you entrust this work will work as an automaton and will not exercise discretion. The hon. Minister said that he wants him to exercise discretion. It is absolutely necessary that these words are inserted and the discretion is given.

We have been calling this Act a very drastic one, a very brutal one and a very unjust one and all that. The edge will be taken away and many an estate officer will work in such a way that, as a matter of fact, people will appreciate that it is only to get possession for Government in proper cases that he is evicting and not for simply harassing people. If these words are added, I should think nothing will be lost so far as Government is concerned; but, at the same time, the difficulty will be solved. As my hon. friend, Shri Gaikwad said, though there is an assurance that the authorities will act gently and sympathetically towards the Scheduled Caste people and others in humbler circumstances, the difficulty is this. Will he broadcast this matter; will he print this as a leaflet and take it to every officer and tell him that this is the view of the hon. Minister? The same thing applies to me. If the words are not there, should I print this as a leaflet and take it to every officer and tell him that this is the manner in which the hon. Minister wanted this Act to be worked? Should I tell him that he is invested with the

discretion? The officer might say, No; I am not going to read the proceedings of the House; the words are not there in the Act; I am not bound to stay my hands even in proper cases'. If the words are not there in the law, the Act will not be worked in the way in which the hon. Minister wants it to be worked.

So, in the interest of the estate officer who will not work so harshly, in the interests of the administration, in the interest of the Act, whenever it goes to the Supreme Court or High Court, these words will have their own value and it will be said that the Act is not so hard as it has given a discretion. It is in the interests of the Administration and the inhabitants of the whole of this country that the Act shall be enforced in the right spirit.

Therefore, I very humbly request the hon. Minister not to stand on prestige but to accept this amendment which is a just and fair one. Nothing would be lost if it is accepted and I would request him to accept this.

श्री० रणवीर सिंह (होतक) :

उपाध्यक्ष महोदय, गायकवाड़ जी ने जो मंशोधन रखा है, उसके साथ मुझे पूरी हमदर्दी है। जैसा कि उन्होंने कहा है, अगर इस बात को लिखा नहीं जायेगा, तो कोई लाभ नहीं होगा, क्योंकि कानून के साथ मंत्री महोदय के आचारासन नहीं जायेंगे, लेकिन आप जानते हैं कि यहाँ तो जो कानून को चलाने वाला है, वह कोई अज नहीं है, वह तो एस्टेट आफिसर है और एस्टेट आफिसर मंत्री महोदय का सरकारी नौकर है। मंत्री महोदय "जेन्टली" शब्द के जो मायने निकालना चाहें, निकाल कर वह उसके पास भेज सकते हैं और उम्मी के मुनाबिक एस्टेट आफिसर कानून को चलायेगा। हमारे बहुत सारे दोस्त इसको कानून की खासी समझते हैं, लेकिन गरीब आदमी के हक में इस कानून का फायदा भी उठाया जा सकता है, बस उन्हें कि मंत्री महोदय इस कानून की धाराओं को हरिजनों और गरीब लोगों के लिये "जेन्टली"



[श्री० रणवीर सिंह]

इस्तेमाल कराये, जैसाकि उन्होंने प्राश्वसन दिया है। वह कानून में संगोपन बेशक न करे, लेकिन झुंझा हो अगर वह एस्टेट आफिसर को भेजे जाने वाले सर्कुलर में यह दर्ज कर दें कि इस कानून के मातहत हरिजनों और शरीब आदिमियों के साथ नरमी का व्यवहार किया जाय। जैसाकि गायकवाड़ जी ने कहा है— और जैसाकि ग्राम तजुर्बा है— बाहर से जो मकान बनाने वाले मजदूर बगैरह आते हैं, वे कोई पर्मानेंट नेचर का मकान नहीं बनाते हैं, बल्कि वे एक टेम्पोरेरी किस्म का एबोड बना लेते हैं। जब मंत्री महोदय और उनके आफिसर समझें कि उन लोगों को उठाया जाना चाहिये, तो यह जरूरी है कि उनको जिस वक्त उठाया जाय— उस वक्त ही उनको शो-काज नोटिस भेजा जाये, जब कि दर-ग्रन्ट नया मकान बनाने के लिये उस जमीन की जरूरत हो। उनके सामान को सरकारी खर्च पर किसी ऐसी जगह पहुंचाया जाये, जो कि हमेशा के लिये उनको दी जा सके और अगर यह मुभकिन न हो सके, और उस जमीन की बहुत जल्दी जरूरत हो और उन लोगों को पर्मानेंट तौर पर दूसरी जगह न दी जा सके, तो फिर उनको ऐसी जमीन दे दी जाये, जहां जल्दी ही कोई कंस्ट्रक्शन न होनी हो और साथ ही लिख कर उनको बताया जाये कि तुमको यहां रहने का पर्मानेंट हक नहीं दिया जा रहा है, बल्कि यहां भी पहले की तरह की टेम्पोरेरी एबोड बनाइये और जब सरकार कोई दूसरी जगह पर्मानेंट तौर पर या कोई मकान बना कर देगी, तो उस वक्त आपको यहां से जाना होगा। अगर मंत्री महोदय दर-ग्रन्ट अपने प्राश्वसन को पूरा करना चाहते हैं, तो वह संगोपन को चाहे न मानें, लेकिन, जैसा कि मैंने अभी कहा है, जब यह कानून पास हो जाये, तो सर्कुलर भेज कर अपनी इच्छाओं को एस्टेट आफिसर के पास भेज

**Shri Nausahir Bharucha:** My amendment No. 13 is extremely simple; it clarifies the intention of the Government. I beg to move:

Page 3, line 15—

after "heard" insert—

"personally or by a legal practitioner, if so desired by the noticee"

I want these words to be added after the words 'after giving him a reasonable opportunity of being heard'. It has been held by High Courts that giving opportunity of being heard is complied with if mere written representation is seen by the court and that it need not hear that party further; that itself is sufficient opportunity of being heard. In view of the drastic nature of this legislation, it is desirable they must have the benefit of the lawyer's advice.

**Mr. Deputy-Speaker:** The amendments are before the House.

**Shri Anil K. Chanda:** Mr. Deputy Speaker, I am sorry that an impression has been created in the mind of our esteemed friend, Pandit Thakur Das Bhargava that if we refuse to accept amendments, it is because we are standing on prestige. Nothing could be farther from the truth. In the Upper House, we did accept a substantial amendment moved by a Member from the Opposition because we thought there was substance in what was said. If I am unable to accept any of the amendments moved to this clause, I would like the hon. Members to believe that it is not because we claim any sacrosanct nature for this Bill but because there are good reasons for which we cannot accept any of the amendments moved. So far as the amendments of Shri Patil are concerned, they practically nullify the whole basis of this Bill; I need not dilate on that point. With regard to what Shri Gaikwad has said, I may say this. For centuries the Scheduled Castes have suffered at the hands of our society and in spite of

various enactments and very sincere desire on the part of the Government to rectify the mistakes and misdeeds of the past, the Scheduled Castes do not in many cases enjoy in fact the rights and privileges which they are entitled to as a citizen of this country. But I am afraid I cannot, for the same reasons for which I could not accept amendments of this nature to the other clauses, accept this amendment also.

Pandit Thakur Das Bhargava's amendment amounts to this that the reasons for eviction are to be stated. Let us see how this law is going to operate. Government has certain lands. Those lands are in unauthorised occupation. Government decides that land A or B or C or D is needed for a public purpose. It communicates that decision to the estate officer and says: here is a plot of land; it is mine and is now in unauthorised occupation of some X and is needed for public purposes; so you please take proceedings under this Bill. The estate officer has to be sure that it is Government land; he is to be assured that the man who is there is in unauthorised occupation of the land and thirdly that it is needed for public purpose. That 'public purpose' is an executive decision, it is a policy matter; it is not for the estate officer to decide whether this particular plot is needed for this public purpose or not. It is, I claim, a policy decision of the Government which he has to execute. Because of this, notice is given under clause 4. Clause 4 is not made reviewable by the appellate or judicial authority under clause 9. It is only the decisions under clauses 5 and 7 that the appellate authority can review because, as I said, public purpose is a matter of policy and it cannot be the subject matter of any judicial review.

**Pandit Thakur Das Bhargava:** Am I to understand that the District Judge will not be able to decide whether this is a proper case in which eviction should have been ordered.

**Shri Anil K. Chanda:** The District Judge, as far as I understand the law,

will decide if it is a governmental land, if the person who is sought to be evicted is in unauthorised occupation thereon and thirdly, if the procedure prescribed under this law has been fully followed or not.

I am unable to accept any of these amendments.

**Mr. Deputy-Speaker:** Now, I shall put all the amendments to the vote of the House. The question is:

Page 3, line 16,—

after "occupation" insert—

"and that persons in unauthorised possession should be evicted"

The motion was negatived.

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

Page 3, line 16,—

after "occupation" insert—

"and that there are sufficient and good reasons necessitating the eviction of the person in possession"

The motion was negatived.

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

Page 3, line 24,—

for "forty-five" substitute "ninety".

The motion was negatived.

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

Page 3, lines 34 and 35,—

for "ninety days" substitute "six months"

The motion was negatived.

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

Page 3,—

for clause 5, substitute—

"5. If, after considering the cause, if any, shown by any person in pursuance of a notice under section 4, the estate officer is of opinion that an action be filed either for eviction or for recovery

[Mr. Deputy-Speaker]

of rent or damages or for both, he may institute a suit in the court having jurisdiction to try the suit under the Provincial Small Causes Court Act, 1887."

*The motion was negatived.*

Mr. Deputy-Speaker: The question is.

Page 3,—

after line 35, add—

"Provided further that in case of the persons belonging to the Scheduled Castes, Scheduled Tribes and Budhists from other Backward Classes the order of eviction so made shall not be given effect to unless suitable accommodation is provided."

*The motion was negatived.*

Mr. Deputy-Speaker: The question is.

Page 3,—

after line 35, add—

"Provided further that in bona-fide cases of displaced persons and retired Government servants, it shall be incumbent on the Estate Officer to provide suitable alternative accommodation to such persons affected."

*The motion was negatived.*

Mr. Deputy-Speaker: The question is.

Page 3, —

after line 35, add—

"Provided further that in case of Scheduled Castes, Scheduled Tribes and Budhists from other Backward Classes, who have been in continuous occupation for a period exceeding three years, the Estate Officer shall, on the application of persons sought to be evicted, extend the period of ninety days to five years."

*The motion was negatived.*

Mr. Deputy-Speaker: The question is.

Page 3, line 15,—

after "heard" insert—

"personally or by a legal practitioner, if so desired by the notice"

*The motion was negatived.*

Shri Naushir Bharucha: I have a new clause 5(A).

Mr. Deputy-Speaker: I am coming to that. The question is:

"That Clause 5 stand part of the Bill".

*The motion was adopted.*

Clause 5 was added to the Bill.

Mr. Deputy-Speaker: There are now two amendments Nos. 53 and 64.

Shri Naushir Bharucha: I beg to move:

Page 3,—

after line 35, insert—

"5A. Nothing in this Act shall apply to persons, displaced as a result of the partition of the country, who have, before the 15th day of August, 1950, occupied any public premises without authority for such occupation, built structure thereon and have been in continuous occupation of such structure.

Provided that in case of constructions which substantially comply, with or without modifications, requirements of any municipal town planning or other authority, such occupation may be regularised on the application of an unauthorised occupant, on such terms and conditions as the Central Government may prescribe, either for individual cases or class or classes of cases; and any eviction proceedings against such occupant under the Act shall, on such regularisation, abate."

Sir, the hon. Minister has been telling us how it is not possible to put in legal language Shri Gadgil's assurances. My amendment does nothing but to put the pith and substance of that assurance in the legal language. If the intention is really that these assurances should be implemented then this amendment must be accepted. This amendment has been carefully drafted bearing in mind the following points. Mr. Gadgil suggested a date; the date has been put down. The assurance relates to displaced persons who have occupied premises without authority or built structures thereon. I have added one more condition: continuous occupation of it. So, it is not a case of any number of persons using the premises and then claiming it. If these three conditions are satisfied, then one question may arise, as Mr. Gadgil has pointed out, that the municipal authorities might have objection to such a structure being unauthorised from the point of the municipal building by-laws. It is possible that the town planning authorities might object to that because it does not conform to certain town planning regulations. Therefore, I have incorporated that also. Such structures exist and have been assured of protection. Where they comply with, either by modification of the structure or without modification, any requisition issued by a municipal authority, town planning authority or any other authority, then on an application of such unauthorised occupant the structure should be regularised and all eviction proceedings against him should abate.

Unless this type of assurance is translated into legal language and incorporated in the Act, the assurance of a Minister has absolutely not a penny worth of value in a law court. Even if the law court is satisfied that the Minister has given an assurance, the law court will say that it is not part of the Act, and unless it is part of the Act how can they call upon anybody to implement such assurance.

The hon. Minister said that the assurance could not be put in legal

language. I have put it in legal language, and I would request him to accept it.

Shri Balasaheb Patil: I beg to move:

Page 3,—

after line 35 insert—

"5A. The court, within a week of the institution of the suit shall cause a notice of hearing of the case to be served on the defendant.

5B. The procedure as laid down in the Provincial Causes Court Act would apply *mutatis mutandis* to the suits under this Act.

5C. If the court comes to the conclusion that the question of title or limitation by prescription is involved in the suit, it may stay the suit and direct the defendant to get a declaration of his right in proper court within three months.

5D. If the defendant fails to produce the declaration as stated in section 5C, the court shall proceed to hear the case finally, and decide the same.

5E. If any person refuses or fails to comply with the order of eviction of the court within 30 days from the date on which it was passed the estate officer or any officer duly authorised by the estate officer in this behalf may evict the defaulter or any person claiming through him and take possession of the public premises and may for that purpose use such force as may be necessary."

Mr. Deputy-Speaker: The amendments are before the House.

Shri Anil K. Chanda: Mr. Deputy-Speaker, Sir, I am grateful to Shri Naushir Bharucha for putting in legal language the assurance given by Shri Gadgil, but I have on several occasions in the course of the last few days said that Shri Gadgil's assurance

[Shri Anil K. Chanda]

referred only to Delhi and his assurance has no effect so far as areas outside Delhi are concerned. Secondly, from the day the Bill was moved for first time by Shri Gadgil, Minister after Minister has said that it is impossible for us to incorporate, for very good reasons, this assurance in the body of the Bill. It is an executive decision, that as far as possible we will try to do certain things. I do not think I can add anything to what has been already said over and over again.

**Mr. Deputy-Speaker:** I shall now put the amendments to the vote of the House.

**Shri Naushir Bharucha:** Sir, my amendment may be put separately.

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

Page 3,—

after line 35, insert—

"5A. Nothing in this Act shall apply to persons, displaced as a result of the partition of the country, who have, before the 15th day of August, 1950, occupied any public premises without authority for such occupation, built structure thereon and have been in continuous occupation of such structure.

Provided that in case of constructions which substantially comply, with or without modifications, requirements of any municipal, town planning or other authority, such occupation may be regularised on the application of an unauthorised occupant, on such terms and conditions as the Central Government may prescribe, either for individual cases or class or classes of cases; and any eviction proceedings against such occupant under the Act shall, on such regularisation, abate."

The motion was negatived.

**Mr. Deputy-Speaker:** I shall now put amendment No. 64. The question is:

Page 3,—

after line 35, insert—

"5A. The court, within a week of the institution of the suit shall cause a notice of hearing of the case to be served on the defendant.

5B. The procedure as laid down in the Provincial Causes Court Act would apply *mutatis mutandis* to the suits under this Act.

5C. If the court, comes to the conclusion that the question of title or limitation by prescription is involved in the suit, it may stay the suit and direct the defendant to get a declaration of his right in proper court within three months.

5D. If the defendant fails to produce the declaration as stated in section 5C, the court shall proceed to hear the case finally, and decide the same.

5E. If any person refuses or fails to comply with the order of eviction of the court within 30 days from the date on which it was passed the estate officer or any officer duly authorised by the estate officer in this behalf may evict the defaulter or any person claiming through him and take possession of the public premises and may for that purpose use such force as may be necessary."

The motion was negatived.

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

"That clause 6 stand part of the Bill."

The motion was adopted.

Clause 6 was added to the Bill.

Clause 7. (Power to recover rent or damages in respect of public premises as arrears of land revenue.

Shri Jadhav: I beg to move:

(i) Page 4, line 11,—

after "person" insert "other than from scheduled castes and refugee"

(ii) Page 4, line 15,—

after "person" insert "other than from scheduled castes and refugees"

Shri Kadiyan: I beg to move:

(i) Page 4,—

after line 27, add—

"Provided further that in prescribing the principles of assessment, the maximum possible consideration shall be shown to the occupants having regard to the difficulties they may be facing as a result of eviction."

(ii) Page 4,—

after line 33, add—

"Provided that it would be within the discretion of the estate officer to write off such arrears or damages or a portion thereof by way of a final settlement with such occupants of the premises, keeping in view the financial condition of the person concerned and other circumstances relating to the case."

Shri Naushir Bharucha: I beg to move:

(i) Page 4, line 27,—

add at the end—

"Such notice shall contain a full and complete statement of arrears claimed, the rate and period of arrears and such other details as are necessary to complete the cause of action."

(ii) Page 4,—

after line 27, add—

"Provided further that the estate officer shall record his reasons for such order."

Pandit Thakur Das Bhargava: I beg to move:

(i) Page 4,—

(i) in line 11,—

for "payable" substitute "recoverable"

(ii) in line 12,—

after "premises" insert—

"in accordance with the provisions of the Indian Limitation Act".

(ii) Page 4, line 15,—

after "any time" insert—

"within the period prescribed by the Indian Limitation Act for the recovery of such damages".

Shri Jadhav: Sir, by moving my amendments Nos. 27 and 28, I seek to insert the words "other than from Scheduled Castes and refugees". I have already advanced my reasons, and I do not want to say anything further.

Shri Naushir Bharucha: Sir, my amendment reads thus:

"Such notice shall contain a full and complete statement of arrears claimed, the rate and period of arrears and such other details as are necessary to complete the cause of action."

My amendment No. 15 says:

"Provided further that the estate officer shall record his reasons for such order."

The idea is that the party who is called upon to pay up arrears and which arrears are going to be recovered by a peculiarly drastic process, should have sufficient information as to what are the arrears, who did they accrue, what is the total amount etc. Also, when an order is passed against a person, the reason must be stated so that the party concerned can go in appeal.

**Shri Kodiyar:** My amendments read as follows . . . . .

**Mr. Deputy-Speaker:** Those we have got, and all Members must have gone through them. He may say what he has got to say about them.

**Shri Kodiyar:** In sub-section (2) of clause 7 it is said: "Where any person is, or has at any time been, in unauthorised occupation of any public premises, the estate officer may, having regard to such principles of assessment of damages as may be prescribed, assess the damages . . ." Prescribed by whom? Presumably by the Government or the Estate Officer. My amendment says that in assessing the damages consideration should be given to the financial position of the person affected and the difficulties that have arisen as a result of eviction. By accepting this amendment, Sir, I think there will be no harm so far as the operation of this particular clause is concerned.

My second amendment No. 17 seeks to give the Estate Officer certain discretion to write off some arrears, or the whole of the arrears or damages or a portion thereof in case he finds that a person affected is not in a position to pay such damages. Even in the Municipal Corporation Act there is a provision empowering the Commissioner to write off such arrears in case the person affected is not in a position to pay at all.

The hon. Minister has just now said that most of the people who are going to be affected by this Bill are the slum dwellers. The slum dwellers, as we all know, are very poor people, and if they are assessed to pay big amount of damages or arrears they will not be in a position, in most of the cases, to pay. How can the Government realise that amount? Therefore, such discretionary powers should be given to the Estate Officer to write off either a part or the whole of the arrears or damages that may be assessed.

**Pandit Thakur Das Bhargava:** Sir, my first amendment relates to the

substitution of the word 'recoverable' for the word 'payable'. The words 'the clause as it now stands are "Where any person is in arrears of rent payable in respect of any public premises . . ." I want the word 'recoverable' to be substituted for the word 'payable', so that the Law of Limitation may apply, and only in respect of such arrears as are recoverable notice of this sort may be given or recovery may be made. Similarly, I have said that in regard to recovery of damage also the same rule may apply.

Now, we know that the Rehabilitation Ministry is charging the displaced persons damages or rents even for the period when they were in Pakistan. From 15th August 1947, when that displaced person could have come to India, rent is being charged and the burden is placed on the displaced person to prove that he came later. It is very unjust. In this case, I know that Shri Gadgil was pleased to announce in this House that many of the arrears due from these displaced persons were remitted. By my amendment No. 48 to clause 8 I have also pressed that the Estate Officer may be given powers. But from what I find today, it appears that the Estate Officer is not an officer who will be in a position to remit all these amounts, because yesterday I came to know from the hon. Minister that the Estate Officer will be like a general manager of certain properties. But I would request the hon. Minister himself to remit all such dues, if they are barred by limitation or they are no longer recoverable. We have got the precedent already in the action of Shri Gadgil when he remitted such arrears twice; and up to December, 1951, I believe, the remissions were made. But, even today, after notice is given about those remissions, if the estate officer takes it into his head and issues notice, what is the bar? He cannot go into the question whether the rent is due or not. He cannot go into such a question. He has only to know that the arrears of rent are there, and he will issue the notice. The question of remission cannot be decided by him

## Bill

because he is unable to decide the question.

So far as the district judge is concerned, I think his powers have been defined, and now, the district judge has become a wooden automaton; he cannot go into the merits of the case, according to the definition of his powers by my hon. friend. Similarly, this estate officer cannot go into them. Therefore, unless and until a change is made in this behalf, I am afraid this officer will be able to effect recoveries from the slum-dwellers, as well as from the refugees and other people and even from the Government officers. I cannot understand why in a law of this nature, even ordinary equities cannot be gone into. When I come to clause 10, about which the Law Minister has given some explanation to this House, I shall have occasion to show from all the four rulings in my hand that even such equities as estoppel, even such equities as condonation by Government, even the question that a person is entitled to have possession on account of lease or mortgage have not been gone into because under the previous Act, as also under the present Act they could not be gone into. If that is so, my fear is that all those laws which safeguard the liberty of the people and their properties etc., will be given a go-by. And the only question will be whether the arrears of rent are due, whether the possession is with authority or not. The burden of proving that the person is in unauthorised occupation is not on Government; on the contrary, it is on the person against whom the proceedings are being taken, to show that he is not in unauthorised occupation. Similarly, when the recoveries are made, the burden will be thrown on that person, that is, the defendant, to prove that the money is not due and that he is not in arrears. If an officer could choose to give notice in spite of payments, he could very well do so, the man may have made payments, and yet the payments may not be given credit for. What would happen in such a case? He will issue notice of arrears of rent. And we know

what the position of the accounts of Government is. I know that even in the case of people who have given their income-tax, notices have been issued against them; though it is noted down in the papers of Government that the income-tax has been paid by them, notices have been issued. When Government were complaining of income-tax arrears, it became a task for the Finance Ministry to find out why there were so much of arrears; and ultimately, it was found out by the income-tax authorities that the money had been paid in the treasury, and yet, in the accounts, it had not been shown. Similarly, in these cases, if the rent has been paid but if the accounts show otherwise, then the man will not be allowed to plead that he has paid the amount. Therefore, my difficulty here is that the provision here is of such a nature that I am afraid that unless this amendment is accepted, the arrears of rent or damages which have been received already and are not due will also be recovered. And what about damages? And what is the type of estate officer that we are going to have? Previously, I had argued,—yesterday and the day before—that Government would not appoint such people as will not be able to do justice. But I have heard from my hon. friend today that they have not got judges like this. He has admitted. Had he not admitted that, I would presume, as I had presumed on those two days, that Government would only appoint such people as would be able to deliver the goods. But now he says and he has confessed that there are not so many judges available; so many estates are there, and, therefore, Government cannot appoint such people.

If that is the case, then who will assess these damages? This gazetted officer will assess the damages? This gazetted officer from the Veterinary Department will assess the damages?

**Ch. Panbir Singh:** Any ordinary accountant can do it.

**Pandit Thakur Das Bhargava:** But he is not an ordinary accountant. My hon. friend is giving his own



experience, when he says that the accountant will know how to assess the damages. But a gazetted officer of the Veterinary Department will be the last person to be able to assess damages.

My humble submission, therefore, is that so far as these persons are concerned, kindly save them at least to this extent that the law of limitation should apply to the whole of India just as this law applies to the whole of India. And let these liberties and other safeguards of the people not be subjected to such laws as this, as my hon. friend wishes to do.

**Shri C. E. Pattabhi Raman:** The learned speaker who preceded me, I am sure, has in mind when he talks about barred debts, that it is a matter of sixty years. We are now dealing with Government land and Government premises. The limitation will be sixty years, so far as these items of property are concerned.

**Pandit Thakur Das Bhargava:** I never said about debts barred by efflux of 60 years. So far as lands are concerned, in regard to adverse possession of land, it is 60 years against Government, and against the corporation 30 years only.

**Mr. Deputy-Speaker:** The amendments are before the House.

**Shri C. E. Pattabhi Raman:** I am only wishing to draw the attention of the House to the fact that it is not the usual routine matter that we are having in mind here. We are now dealing with Government land, either Government vacant land or Government premises.

**Shri Achar (Mangalore):** If I may point out, the Law Minister himself admitted that it was not a question of admitted title. The hon. Member was just stating that it was Government land, and, therefore, the question of limitation need not be considered. On the other hand, the Law Minister himself had to concede that this law

did not apply only to admitted title. The other man who is there may be having the title. Even then, it applies. Where is the question of Government land then?

**Shri C. E. Pattabhi Raman:** Denial of title is a matter of adjudication. I am not here arguing at all with regard to this, nor has it got any analogy with land acquisition proceedings.

**Shri Achar:** The essence of his argument was that it was Government property.

**Mr. Deputy-Speaker:** And, therefore, the ordinary limitation should not apply. That is what he has been arguing.

**Shri C. E. Pattabhi Raman:** That is all right. I am much obliged to you.

The stress is on the words 'is in arrears of rent'. So, the person must be in arrears. *Proprio vigore*. Unless he is in arrears, there is no case at all. The power of recovery is only when there is a case of arrears of rent. The question whether the person is in arrears of rent or not has to be satisfied first. The Supreme Court has held again and again that wherever a man has to exercise his judgment, it must be a reasoned judgment; in the case of income-tax cases too, they have said so on a number of times. The reasons must be recorded, whether the man is in arrears, whether they are proper arrears, whether they are arrears due and so on; and then only, the rent recovery proceedings can be started.

**Shri Jadhav:** For how many years?

**Pandit Thakur Das Bhargava:** Does my hon. friend contend that for Rs. 40 arrears, the man will have to go to the High Court and the Supreme Court to get a writ? That is no remedy at all.

**Shri C. E. Pattabhi Raman:** It is not as if that is the remedy. I am not saying that. I am not here saying

anything with regard to the other clauses giving the right to appeal against the district judge to the High Court and so on. I am only saying that it is not a naked arbitrary power that is being exercised against that person. That is what we are concerned with here.

**Mr. Deputy-Speaker:** Does the hon. Minister want to say anything more?

**Shri Anil K. Chanda:** I am afraid I have to repeat the formula that I am unable to accept any of the amendments. In this connection, I may point out one thing with regard to what my esteemed friend Pandit Thakur Das Bhargava has said, so far as the Displaced Persons (Compensation and Rehabilitation) Act of 1954, to which previously a reference has been made by Shri Ajit Singh Sarkadi, is concerned. This was amended in 1956, and in sub-section 3, it says:

"For the purpose of this section, the sum shall be deemed to be payable to the custodian, notwithstanding that his recovery is barred by the Indian Limitation Act, 1908 or any other law for the time being in force relating to limitation of actions."

**Pandit Thakur Das Bhargava:** May I just enquire if my hon. friend knows that Shri Mehr Chand Khanna, at the time of the enactment of this measure, gave an assurance to the House that in regard to claims of evacuee property, limitation will be allowed to have force.

**Shri Anil K. Chanda:** I am referring to the Act as it is before us. Anyway, when I gave a statement yesterday about remitted damages . . .

**Mr. Deputy-Speaker:** He says that in the face of the provisions of the Act, the assurances of a Minister would be of no avail.

**Shri Anil K. Chanda:** . . . I showed the humane manner in which Government have been dealing with damages.

Government know that these are poor people.

**Ch. Ranbir Singh:** This is a people's Government.

**Shri Anil K. Chanda:** Very much so.

**Mr. Deputy-Speaker:** If the same formula is going to be repeated, then we need not take much time.

**Shri Anil K. Chanda:** As for Shri Naushir Bharucha's point, before the estate officer gives his decision, obviously, if he is going to levy damages on a person, he has to state the accounts on the basis of which he is coming to a decision, and that will be reviewable by the appellate authority. Therefore, his fears are not well-founded.

**Mr. Deputy-Speaker:** I shall now put all the amendments to clause 7 to vote. The question is:

Page 4, line 11,—

after "person" insert "other than from scheduled castes and refugee".

*The motion was negatived.*

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

Page 4, line 15.—

after "person" insert "other than from scheduled castes and refugee".

*The motion was negatived.*

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

Page 4,—

after line 27, add—

"Provided further that in prescribing the principles of assessment, the maximum possible consideration shall be

[Mr. Deputy-Speaker]

shown to the occupants having regard to the difficulties they may be facing as a result of eviction."

*The motion was negatived.*

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

Page 4,—

after line 33, add—

"Provided that it would be within the discretion of the estate officer to write off such arrears or damages or a portion thereof by way of a final settlement with such occupants of the premises, keeping in view the financial condition of the person concerned and other circumstances relating to the case."

*The motion was negatived.*

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

Page 4, line 27,—

add at the end—

"Such notice shall contain a full and complete statement of arrears claimed, the rate and period of arrears and such other details as are necessary to complete the cause of action."

*The motion was negatived.*

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

Page 4,—

after line 27, add—

"Provided further that the estate officer shall record his reasons for such order."

*The motion was negatived.*

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

Page 4,—

(i) in line 11,—

for "payable" substitute "recoverable".

(ii) in line 12,—

after "premises" insert—

"in accordance with the provisions of the Indian Limitation Act".

*The motion was negatived.*

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

Page 4, line 15,—

after "any time" insert—

"within the period prescribed by the Indian Limitation Act for the recovery of such damages".

*The motion was negatived.*

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

"That clause 7 stand part of the Bill."

*The motion was adopted.*

*Clause 7 was added to the Bill.*

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

"That clauses 8 and 9 stand part of the Bill".

*The motion was adopted.*

*Clauses 8 and 9 were added to the Bill.*

**Pandit Thakur Das Bhargava:** All of them have been passed?

**Mr. Deputy-Speaker:** Yes.

**Shri Naushir Bharucha:** I have amendment No. 19 for new clause 9A.

**Mr. Deputy-Speaker:** I shall have to apply the guillotine since I have only ten minutes. The hon. Member might move his amendment.

**Shri Naushir Bharucha:** I beg to move:

Page 5, after line 26, insert—

"9A. The provisions of the Indian Limitation Act shall apply

in computation of the time prescribed for instituting any appeal or other proceedings under this Act."

**Mr. Deputy-Speaker:** That point has been answered now.

**Shri Naushir Bharucha:** That is a different point. Now, I want that the Limitation Act should apply in regard to this Bill for appeal. What may happen is, the judgment may be given on one day but certified copies may not be available for one month. By that time, the period of appeal will expire, unless the Limitation Act is made applicable. The decisions have been that when a special Act creates a right of appeal and prescribes a time for that, then the Limitation Act will not apply. The position is that when a special Act creates or gives a right of appeal, when a special statute creates a new right of appeal, it lays down a special time for filing that appeal which cannot be extended by any court for whatsoever reason. If, therefore, certified copies of the order are not available, let us say, within 30 days, as it very often happens, the right of appeal will lapse and the man may be handicapped completely and the courts will say that since this is a special statute creating a special right of appeal and a special time limitation they are helpless and the time cannot be extended. Therefore, I have moved this amendment.

**Mr. Deputy-Speaker:** The amendment is before the House.

The hon. Minister. It is just computation and nothing else.

**Shri Anil K. Chanda:** If you will kindly refer to clause 13(2)(e) you will find that the rules may provide for the manner in which appeals may be preferred and the procedure to be followed in appeals. The discretion is already with the judge. After all, the appellate authority will satisfy himself. The rules also will say the manner in which appeals may be preferred.

**Shri Naushir Bharucha:** It is a substantive right. The rules cannot provide for it.

**Shri Anil K. Chanda:** Let me finish.

**Shri Achar:** There is also a proviso in clause 9.

**Shri Anil K. Chanda:** Yes; in clause 9 also, it may be seen:

"Provided that the appellate officer may entertain the appeal after the expiry of the said period of thirty days, if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time."

So, I do not accept the amendment.

**Shri Naushir Bharucha:** I do not press the amendment, even though under the above provision extension of time may not be as of right.

**Pandit Thakur Das Bhargava:** Will you allow me to move my amendment No. 50 which is for new clause 10A? It is on the same subject. It may be disposed of along with this.

**Mr. Deputy-Speaker:** Yes.

**Pandit Thakur Das Bhargava:** As a matter of fact, the law of limitation has to be applied. I have to submit only two points. Firstly, my hon. friend has brought to my attention section 19 of the Act of 1956. But what about the rest of the world who are not displaced persons? Will the law of limitation apply in their case or not? I want a reply to this. The damages may be recoverable not only from the displaced persons but from other persons in India. Similarly, so far as the arrears are concerned, the arrears may be due from any person, apart from a displaced person. Then, it practically means that the law of limitation is being eliminated so far as all these actions are concerned. Is that the purport of the hon. Minister? Does he want it?

**Shri Anil K. Chanda:** Yes.

**Pandit Thakur Das Bhargava:** So, it means that we are not living in this land where the law of the land prevails. They want special powers and special officers; they want special rules of procedure and special rules of limitation for Government as against other properties. If this is the law of this country and a law of this nature, I think it can only be compared to the Droit Administratif of France where they have got two kinds of law—one for administration and the other for private men. All that laws must be the same in this country so far as the Government and the people are concerned. This is a departure of a very drastic nature from the laws to which we are accustomed. I would request the hon. Minister not to take this question lightly, and would ask him to apply this law of limitation. I am rather surprised at his telling me that there is a provision and there are powers with the appellate courts by virtue of which all this absence of copies of judgment with the appeal etc. is condoned. Under section 5 of that Act, ordinarily, every appeal, in his view, must be entertained. But here, neither the order of the Civil Procedure Code nor any principles nor the period of limitation as mentioned in limitation law has been taken into consideration. This is a law unto itself. If this is passed, I have nothing more to say. Only, new clause 10A may be rejected; I have no objection.

I beg to move:

Page 5,—

after line 30, insert—

“10A. The provisions of the Limitation Act shall apply in respect of recovery of possession of premises as well as recovery of arrears of rent or of damages.”

**Mr. Deputy-Speaker:** Shri Naushir Bharucha does not press his amendment, No. 19.

*The amendment was, by leave, withdrawn.*

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

“That clause 10 stand part of the Bill”.

*The motion was adopted.*

*Clause 10 was added to the Bill.*

**Mr. Deputy-Speaker:** Clause 10A—new clause.

**Pandit Thakur Das Bhargava:** So far as clause 10 is concerned.....

**Mr. Deputy-Speaker:** I am putting clause 10A. Clause 10 must come before clause 10A. 10A could only follow 10.

**Pandit Thakur Das Bhargava:** Please give me three minutes in the third reading stage.

**Mr. Deputy-Speaker:** Amendment No. 50 to new clause 10A is not pressed.

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

“That clauses 11 to 14 stand part of the Bill”.

*The motion was adopted.*

*Clauses 11 to 14 were added to the Bill.*

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

“That clause 1, the enacting formula and the Title stand part of the Bill.”

*The motion was adopted.*

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

**Shri Anil K. Chanda:** I beg to move:

“That the Bill be passed”.

The time is very short and I do not think it calls for any speech from me. I request that the Bill be passed.

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

“That the Bill be passed”.

**Pandit Thakur Das Bhargava:** I stated in my opening speech that if this law goes again to the high courts or the Supreme Court it will be held to be *ultra vires* and I maintain that position now also. The hon. Deputy Minister of Law and the hon. Law Minister came to this House and tried to justify this law by saying that the objection in the four rulings of the High Courts have been met. If they had made reference to the four rulings, that would have been better, so that we could reply to those points. I want to intervene ~~at~~ this stage because we could not get an opportunity to raise those points earlier. I now take this opportunity to reply.

If you look at the Punjab Act, the very reason which the hon. Deputy Minister gave here is contradicted by the last portion of the Judgment given under the Punjab Act. The Solicitor-General made the same argument as the hon. Deputy Minister made in the House and the high court held that this argument was not open to him; that, since the powers of the civil court are taken away, the law is *ultra vires*. The same thing is to be found in the Bill. All the powers of the civil court have been taken away and all the safeguards which any civilised administration should give and all the procedures which the civil administration should follow have been taken away. Therefore, they said that this section is *ultra vires*.

Secondly, we have just heard that the question of title will not ordinarily arise. I might refer to these three cases which were the subject-matter of adjudication by the high courts of Calcutta, Allahabad and Punjab. In all these three cases, you will be pleased to find that it was held *ultra vires*. In Punjab it was a case of a lease for 90 years. It was held that the matter about the lease could not be decided by the estate officer and as such the law was *ultra vires*. The Deputy Minister was not here when I spoke about the Punjab Act. It was said that this argument is not open

to them. The hon. Deputy Minister, when speaking, also referred to the Punjab High Court judgment. If he kindly goes through it, he will find a complete answer to it. In the case in the Calcutta high Court, the matter was about hawkers in Calcutta, and it related to a transaction in 1930. It is not rare that such cases, which may be 30 to 40 years old, are brought into question. In Calcutta, it was a peculiar case. The hon. Deputy Law Minister took care to see, and wanted us to believe, that in cases where a question of title is involved, a suit may be had. The hon. Deputy Minister told us that anyhow the powers given under articles 226 and 227 of the Constitution were available. I do not doubt that writ applications can be made in spite of this law and in spite of such laws this House can make as long as the Constitution is there.

In Calcutta, the remedy by the civil court was available. After all, when a man is evicted, he will be evicted from the property and his right to possession will be taken away. The right to possession is a right by itself. When a suit is brought two months' notice is necessary, and by that time, the man will be out for two months. At the same time, the suit will not be decided on the very day. Even conceding that the right in the civil court is available, even then this law will be held to be *ultra vires*. Therefore, this reason by itself that it is possible for a man to go to a High Court or Supreme Court is of no avail. On the contrary, I should have expected that our hon. Ministers who are really representatives of the people will certainly realise that it is no easy matter to go to the High Court or Supreme Court to prove that a person is in authorised possession and to obtain a writ; such a law is no good law at all. This also means discrimination between an ordinary person and a person who happens to be in alleged unauthorised occupation of Government property. There should be no difference between Government

[Pandit Thakur Das Bhargava]

property and private property so far as the law is concerned.

15 hrs.

I can understand that the Government may be well-advised in having speedy remedy in certain respects when people take illegal possession, etc., but then they should provide a procedure in which the right of title is saved to that man. If you kindly see the Delhi Rent Control Bill, in clause 49 it is specifically laid down that so far as the question of title is concerned, whenever it arises, the Controller has to stay his hands and the matter can be taken to the civil court.

I therefore, submit that these three or four rulings are to be respected—they should have been respected; this House did not do well in disregarding these rulings—this is not the law that we should pass. We cannot set at naught the judiciary; it is an entirely wrong thing. This law should not have come in this shape, if these rulings are to be respected. I am very sorry that when these cases go again to the Supreme Court or the High

Court, I am afraid our Legislature will be brought into disrepute, because we have acted in this manner and we have not respected these rulings. I would, therefore, submit that so far as I am concerned, I would like to oppose this law and not agree to it in any manner whatsoever.

Shri Anil K. Chanda: We took particular care in drafting this Bill to see that the objections raised by the various High Courts have been met and the legal opinion that we have had is in favour of the Bill—that it meets all the difficulties. I believe, Sir, there is always a question mark behind every law. One never knows how the Supreme Court would interpret a particular law. I do not know, it may be that Bhargavaji is correct and it may be that the law may be declared *ultra vires*. But so far as the opinions that we have secured go, we are on very firm ground.

Mr. Deputy-Speaker: The question is:

"That the Bill be passed".

The Lok Sabha divided: Ayes 66;  
Noes 34.

Division No. 4 ]

AYES

[ 15.05 hrs.

Achar, Shri  
Agadi, Shri  
Ambalam, Shri Subbiah  
Bahadur Singh, Shri  
Benerji, Shri P. B.  
Besumtari, Shri  
Bhatkar, Shri  
Bhogji Bhai, Shri  
Birbal Singh, Shri  
Borooah, Shri P. C.  
Chaturvedi, Shri  
Daljit Singh, Shri  
Damani, Shri  
Dube, Shri Mul chand  
Easwaran, Shri I.  
Gandhi, Shri Feroze  
Ganga Devi, Shrimati  
Gohain, Shri  
Hasda, Shri Subodh  
Jinchandaran, Shri  
Joishi, Shri A. C.  
Joishi Shrimati Subhadra

Jyotishi, Pandit J. P.  
Karmarkar, Shri  
Maiti, Shri N. B.  
Mandal, Shri J.  
Mathur, Shri Harish Chandra  
Mehta, Shri J. R.  
Mehta, Shrimati Krishna  
Mishra, Shri B. D.  
Mishra, Shri R. D.  
Narayanasamy, Shri R.  
Nathwani, Shri  
Negi, Shri Nek Ram  
Nehru, Shri Jawaharlal  
Nehru, Shrimati Uma  
Pahadia, Shri  
Panna Lal, Shri  
Pattabhi Raman, Shri C. R.  
Pillai, Shri Thanu  
Radha Raman, Shri  
Raj Bahadur, Shri  
Kamaswamy, Shri P.  
Ranbir Singh, Ch.

Rane, Shri  
Rao, Shri D. V.  
Rao, Shri Jagannath  
Raut, Shri Bhoia  
Rungtong Suissa, Shri  
Sadhu Ram, Shri  
Saghal, Sardar A. S.  
Sanganna, Shri  
Sarkadi, Shri Ajit Singh  
Sen, Shri P. G.  
Sharma, Shri D. C.  
Shobha Ram, Shri  
Shukla, Shri V. C.  
Singh, Shri H. P.  
Sinha, Shri Satyendra Narayan  
Sonawane, Shri  
Subramanyam, Shri T.  
Sultan, Shrimati Maimoonah  
Tariq, Shri A. M.  
Tiwari, Shri R. S.  
Tiwary, Pandit D. N.  
Wilson, Shri J. N.

## NOES

Banerjee, Shri S. M.  
Bhargava, Pandit Thakur Das  
Bharucha, Shri Naushir  
Braj Raj Singh, Shri  
Chakravartty, Shrimati Renu  
Chandramani Kalo, Shri  
Dasaratha Deb, Shri  
Daulta, Shri P. S.  
Gaikwad, Shri B. K.  
Ghose, Shri Subiman  
Godsora, Shri S. C.

Halder, Shri  
Jadhav, Shri  
Kar, Shri Prabhat  
Kodiyam, Shri  
Kunhan, Shri  
Majhi, Shri R. C.  
Menay, Shri  
Masani, Shri M. R.  
Mehdi, Shri S. A.  
Mullick, Shri B. C.  
Nath Pai, Shri

Nayar, Shri V. P.  
Panigrahi, Shri  
Parulekar, Shri  
Patil, Shri Balasabeb  
Ram Garib, Shri  
Ramam, Shri  
Reddy, Shri Nagi  
Sonule, Shri H. N.  
Sugandhi, Shri  
Tangamani, Shri  
Warior, Shri  
Yadav, Shri

*The motion was adopted.*

**Some Hon. Members: Shame!**

15.07 hrs.

**MOTION RE: FOOD POISONING  
CASES IN KERALA AND MADRAS  
STATES**

Shri M. R. Masani (Ranchi—East):  
Mr. Deputy Speaker, I crave your indulgence to rise on a point of order under rule 186 of the Rules of Procedure of this House. I would like to bring to your notice that according to the statement laid on the Table by the hon. Minister of Health on the 11th August, the opening day of this session, there are cases pending against certain individuals in regard to the incidents which have been covered by the report which is the subject-matter of this motion.

The Minister of Health reported that the Kerala Government have registered cases against Messrs D. N. Nakhate of Chika Limited; V. V. Dabke, Shipping Agent; A. A. Jaffar, Captain, S. S. *Jai Hind*; G. Gopinath Kaimal, Chief Officer, S. S. *Jai Hind*; Sandhil, Second Officer, S. S. *Jai Hind*; Ibrahim Rajee Pathan, Cargo Supervisor, Bombay; Rattansey Panchan, Steamer Agent; Albert Fernandez, Cargo Supervisor, Cochin and P. C. Varkey, Agent, Messrs Jaffar, Gopinath Kaimal and Sandhil have also been prosecuted under section 225 of the Indian Shipping Act.

I am sure we all agree that we want wrong-doers to be brought to book. But it is one of the principles of our Constitution and system of law

that a man shall be presumed to be innocent until he is found guilty. I would like to have your ruling, under the rules of procedure, whether this motion can be debated without endangering a fair trial for 12 of our citizens who will be put up on trial for various charges. The charges levelled against them are serious—charges under section 304A and 284, punishable with imprisonment, for causing death through negligence.

At the very least, something that can be done might be, if the debate is not to be frustrated altogether, that there are 15 general recommendations made in this report before this House and these can certainly be discussed now without any prejudice to the trial of the persons concerned. But it would be most improper and would prejudice a fair trial if personal references were made or the guilt or culpability of people were referred.

Mr. Deputy-Speaker: I entirely agree with the hon. Member that when these prosecutions are pending and when the matter is under enquiry, if we refer to those cases and try to apportion guilt on certain persons, that would prejudice the enquiry. We are not entitled to do that. But, as he himself suggested, we can discuss in this debate whether