

[Shri K. C. Reddy]

to suggest that we need not think of now changing that provision of the Act.

With regard to tenure also, our proposal is that the tenure of these Members who will be elected by the Parliament should be coterminous with their membership of the House from which they have been elected. That is not a very unusual thing. And with regard to the proposal to restrict their membership to three years or five years, or whatever it may be, I do not see any strong reason to accept that amendment. In fact, as I said yesterday, the Committee on Subordinate Legislation, in their report to the House in 1957, have suggested that these Members may be elected by both the Houses and that their terms may be coterminous with their membership of the House from which they have been elected. It is in accordance with that recommendation that we have brought forward this proposal.

In view of all this I hope the amendments will not be pressed and the House will be pleased to take up the Bill for consideration as it has been placed before the House.

Mr. Speaker: The question is:

"That the Bill to amend the Rajghat Samadhi Act, 1951, be taken into consideration."

*The motion was adopted*

Mr. Speaker: Now we shall proceed with the clause-by-clause consideration. Hon. Members who have tabled amendments may say if they are pressing any of their amendments.

Shri Nath Pal: They are not here.

Mr. Speaker: None. Very well.

The question is:

"That clause 2 stand part of the Bill".

*The motion was adopted*

Clause 2 was added to the Bill.

Clause 3 was added to the Bill.

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

Shri K. C. Reddy: Sir, I beg to move:

"That the Bill be passed".

Mr. Speaker: The question is:

"That the Bill be passed".

*The motion was adopted*

12.59 hrs.

PUBLIC PREMISES (EVICTION OF  
UNAUTHORISED OCCUPANTS)  
BILL

Mr. Speaker: The House will now take up the Public Premises (Eviction of Unauthorised Occupants) Bill, 1958, as passed by Rajya Sabha.

As the House is aware, five hours have been allotted for all the stages of the Bill. I would like to take the sense of the House as to how these five hours should be distributed among the various stages of the Bill.

Shri Naushir Bharucha (East Khadesh): There are 55 amendments.

Mr. Speaker: What time would the hon Member suggest?

Shri Naushir Bharucha: I would suggest four hours for the general consideration and two hours for the clause-by-clause consideration.

Mr. Speaker: There are only five hours.

Shri Naushir Bharucha: It is within your discretion to give more time. I suggest four hours for the general discussion and two hours for the clause-by-clause discussion. You may take one hour more at the discretion of the Chair.

Mr. Speaker: Only five hours have been allotted.

**Shri Naushir Bharucha:** It is within the discretion of the Chair to extend the time.

**Mr. Speaker:** The discretion is to extend it by one hour. But he says five plus one plus one.

**Shrimati Sucheta Kripalani (New Delhi):** The suggestion is that within your discretion you may extend it by one hour.

**Pandit Thakur Das Bhargava (Hissar):** If there are six hours I suggest that four hours may be given for the general discussion and two hours for the clause-by-clause reading. But if there are only five hours then let it be three hours and two hours—because there are fifty-five amendments.

**Mr. Speaker:** I understand. Clause-by-clause consideration would require two hours inasmuch as there are fifty-five amendments. The suggestion is that the general discussion may be restricted to three hours or extended by one more hour, as necessity may arise. If I find a number of hon. Members I shall certainly extend the time.

13 hrs.

**The Deputy Minister of Works, Housing and Supply (Shri Anil K. Chanda):** Sir, I beg to move:

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

Sir, when my senior colleague, Shri Reddy, brought this Bill for the first time before this House in the month of March 1958 we had a fairly long discussion on the general principles of this Bill. Therefore, Sir, it is not necessary for me to go at great length into the general aspects of this Bill. We had also in the preliminary stage given statistics with regard to squatting which has taken place in an unauthorised manner on government lands.

Briefly speaking, Sir, there are four very important basic reasons which make it necessary for us to come before Parliament seeking legislative powers for quick and speedy eviction of unauthorised squatters from Government lands and premises. Sir, squatting has taken place on a very large scale on Government lands, whatever be the reasons for it. Here in passing I may mention that all squatters are not refugees or displaced persons either from the East or from the West. Recent statistics prove that in Delhi nearly 50 per cent of the squatters are not displaced persons.

Similarly, Sir, the Rehabilitation Ministry informs us that of the thousands who squat in Sealdah Station nearly 45 per cent are not refugees.

Secondly, there is immediate need for Government to get back possession of those lands, because various important development projects are being held up, in Delhi particularly. For instance, I can mention here the case of the Ring Road which, as you know, is being constructed all round Delhi for better facility of communication with the city from outside. Construction of a part of the Ring Road is being held up because squatters who are in possession of the land through which this road is to be constructed refuse to move out. Similarly, from the Delhi Administration we have received an alarming report that very important development projects, construction of schools, laying down of parks, vaccination centres, etc., cannot be proceeded with because the land happens to be in unauthorised occupation of the squatters. I believe, Sir, nearly 357 acres of nazul lands are in possession of these squatters who number well over 11,000.

Of course, there is the ordinary process of law—the ordinary laws, to which we could have taken recourse, and sought their eviction. But as it is well known it takes a very long

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period. There is a very cumbersome—if I may say so—judicial process to be gone through and then on the top of that there are the appellate courts and you will never know when the final decision may be available. But these lands and premises are very urgently needed. In fact, they are very urgently needed sometimes in the interest of the squatters themselves. The Purna Quila had been squatted upon by a very large number of refugees from West Pakistan for a number of years.

**Shrimati Sucheta Kripalani:** They never squatted. Government put them there.

**Shri Anil K. Chanda:** We have built tenements and we have provided lands for these squatters to move out. But before these people could move out another set of squatters have come and squatted over there, with the result that Purna Quila remains in much the same condition as it was before.

Similarly, with regard to Sarai Rohilla, there also we have provided alternative accommodation and sites for the squatters, but another set of squatters have taken possession and they refuse to move out. Similarly, with regard to auctioned evacuee properties, as soon as notice is given and sometimes even before that, these people go and occupy those houses with the result that we cannot give vacant possession to the people who have purchased those lands and properties in auction.

Therefore, some speedy and quick method of evicting these squatters is needed. Government have special powers from the beginning of the last Great War. There have been various enactments and ordinances which permitted Government to get people evicted normally. But the Act which we seek to amend by the present Bill met with certain difficulties, because there were three High Court decisions which held that this Act contravened

certain provisions of our Constitution. The Calcutta and Punjab High Courts held the view that it violated article 19(1) (f) of our Constitution because under the Act which we are seeking to amend practically all powers for eviction were vested in an officer who was quite an indefinite person known as the "competent authority" and he could, bluntly speaking, quite in an arbitrary manner evict somebody who, in his opinion, was an unauthorised occupant of government land.

The Bill that we had first presented to the House, in our view, met with the objections which were raised in the Calcutta and the Punjab High Court judgments. In the process of discussion in the Select Committee further liberalisation has taken place. Now there is the Estate Officer in the place of the "competent authority" and this Estate Officer is a gazetted officer of the Government of India. He has to give notice, he has to hear what the other party has to say. The other party can produce evidence. After hearing the evidence the Estate Officer gives his decision and then also we have provided in this Bill a judicial review by the District Judge of the locality or a judicial officer of ten years' standing nominated by the District Judge, as the case may be. Therefore, Sir, anybody who would closely look into the provisions of this amending Bill will find all the objections, defects, which are mentioned by the Calcutta and the Punjab High Courts, have been very fully met.

Then remains the judgment of the Allahabad High Court which held the view that it contravened article 14 of our Constitution, the equality clause. It was making a sort of discrimination in treatment between people who were tenants of, let us say, properties owned by private persons and the people who were tenants of Government properties. Now, as I went through the first debate in this House as well as in the other House, I thought there was a misconception

with regard to the judgment delivered by the Allahabad High Court. The Allahabad High Court itself said that there could be valid reasons for some sort of a discrimination in treatment and there has also been a Supreme Court judgment to that effect. Discrimination in the sense of difference in treatment of citizens is allowed provided there is a rational reason behind it and there is a nexus between the purpose to be served and the discrimination.

The points mentioned by the Allahabad High Court in their judgment were practically the same as enumerated in the Calcutta judgment, viz., everything is left to the subjective judgment of a person known as the competent authority. Now we have specifically mentioned that that competent authority is going to be the Estate Officer. We have provided a rigid drill through which the Estate Officer has to proceed before he can really evict a person. Above all, we have provided for a judicial review of his decision. We think that satisfactorily meets the difficulties mentioned in the Allahabad judgment. We had the advantage of the legal opinion of the Solicitor-General who appeared before the Select Committee at the specific request of certain members of the committee and he said that so far as he understood the law, he was certain that it met very well the difficulties which the Allahabad High Court had enumerated in their judgment. This is with regard to the legal aspect.

I am now coming to the amendments, numbering 55, which have been tabled. Really speaking, they fall under three or four categories. A vast number of them are in regard to eviction of Harijans and Scheduled Castes people and the poor people who have squatted on Government lands forced by circumstances. The question of Harijans and Scheduled Castes people should not be mixed up with the question of eviction of

squatters on Government properties. The Government are fully aware of the difficulties which our Harijan and Scheduled Castes brethren daily experience. Society has dealt with these people very harshly for centuries and certainly nobody can accuse our Government of having been unmindful to the special needs of those unfortunate people. Vast sums had been placed at their disposal and different organisations had been created in the Government—both Central and State—to look after the needs of the Harijans, Scheduled Castes, Scheduled Tribes and so on. Similarly with regard to the displaced persons, I have gone through the figures supplied by the Rehabilitation Ministry and I find that hundreds of crores of rupees have been spent on the rehabilitation of refugees. So, it would not really be proper for hon. Members of this House to chastise us, saying "you are going to throw out people who have already been thrown out once from their homeland, only because they have squatted on Government lands". We have tried to deal with them as humanely as possible. The very fact that even today thousands of people are squatting on Government lands is enough proof that Government do not evict these people out of the areas where they have squatted only because they happen to be squatting on Government land. We have been evicting from Government lands only after we have made the best possible arrangement—they may not be quite adequate—for alternative accommodation for those people.

Therefore, it would not be proper to bring in the question of the special case of Harijans and Scheduled Castes people, displaced persons or people engaged in construction labour, with regard to this particular Bill. If hon. Members say that Government should spend more and take certain other steps which would ensure a better life to these unfortunate brethren of ours, I shall certainly be with them.

Quite a number of the amendments refer to the Estate Officer also. In

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the Select Committee also, we were asked to mention specifically in the Bill itself that the Estate Officer would be either a judicial officer or an officer who has had legal training. Unfortunately, it may not always be possible for us to do so, because the post of Estate Officer is not being specially created to satisfy the needs of this Bill. In various States, Estate Officers are already there, functioning more or less as managers of Government properties and estates. It is only with regard to the eviction of squatters that this additional responsibility is being thrown on the Estate Officer. The Estate Officer is a responsible officer of the Government and therefore, it is expected that he will act in a manner which will meet with the full legal requirements of the situation.

Another practical difficulty has been that quite a large number of properties which have been squatted upon are defence lands and the Defence Ministry tell us that it is impossible for them to find always officers who have had legal training. But in our own interest, we will try to post only those people as Estate Officers who have a legal training or a judicial training.

So far as the question of legal title of these lands is concerned, we will by executive directive, instruct the Estate Officer that wherever the legal title to property is involved, he should not proceed in the manner prescribed in this Act.

I now come to the most difficult problem. The largest number of amendments have been given notice of with regard to what are known as the Gadgil assurances. You may recollect that when the Bill was first brought before the House, the then Minister for Works, Power and Supply, Shri Gadgil, had given certain assurances. Those assurances do not cover any and every squatter; they do not cover any and every dis-

placed person. He said that if it is proved that a squatter is a displaced person and he has been in occupation of Government property before the 15th August, 1950, certain special facilities will be given to him before he is evicted out. If he is a displaced person and squatter on Government lands between 15th August, 1950 and 31st December, 1950, he would be given three months notice before he is asked to vacate. With regard to all other squatters, whether they are displaced persons or belonging to any other category, they would be summarily ejected from Government lands. In connection with that assurance, Shri Gadgil had said that there would be a consultative committee and there will be representatives of various interests in that committee. A sector-wise plan would be created and the squatters covered by the Gadgil assurance would be asked to move out only when alternative sites had been prepared and for the destruction of the hutments, etc. that they might have built, some sort of *ex gratia* payment—not compensation, as he made it very clear—would be paid by the Government, because Government are fully aware of the difficulties of those people and do not like to add to their miseries.

The second Assurances Committee of this House went into the question as to how far the assurances had been implemented. My hon friend, Shrimati Sucheta Kripalani, I believe, was the Chairman of that committee. They were not satisfied with the manner in which the assurances had been implemented, and they gave certain directives as to how the Government should proceed in the implementation of the Gadgil assurances.

13.19 hrs.

[MR. DEPUTY-SPEAKER in the Chair]

In the Select Committee also, in the dissenting note given by Shrimati Sucheta Kripalani and several others,

they have been harsh enough to say—I think it was even incorrect—that these were merely pious wishes in the sense that they have not been worked upon and possibly Government did not intend working upon them. Certain other Members of the Rajya Sabha had said that a specific assurance should again be given that the Gadgil assurances would be implemented by this Government, even after the passage of this Bill. We have given that assurance. Now, after the report of the Second Assurances Committee was received by our Ministry, we prepared a detailed note about the working of the implementation of the Gadgil assurance, and that note is before the House; it was laid on the Table of the House. Later on, the third Assurances Committee categorically gave us a certificate that the assurances given by Shri Gadgil have been faithfully carried out. I, therefore, fail to understand how Shrimati Kripalani sticks to her second report of the Assurances Committee, completely ignoring the third report, which has given us a good certificate.

**Shrimati Sucheta Kripalani:** I have not spoken yet.

**Shri Anil K. Chanda:** A large number of squatters were covered by the Gadgil assurance. I believe their number runs into several thousands. We have categorically stated in the other House, and we repeat it here, that the Gadgil assurances would be implemented in letter and spirit as they were made by the then Minister when he piloted the first Bill. There will be an advisory committee and a sector-wise plan will be prepared. But do not ask us to solve the problem in a day. Several thousands of people are involved and I am told that the development of the land where they would have to move will cost us about Rs. 5 crores. Naturally, a lot of time would also be needed. Therefore, we cannot solve this problem in a day; it will take some time. It will take some more time before all these squatters who are covered by the Gadgil assurance could be given

alternative sites and *ex gratia* payments for moving from where they are squatting today. I do not think at this stage I need add anything more.

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

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

पंडित ठाकुर दास भार्गव (हिस्तार) :  
जनाब डिप्टी स्पीकर साहब, . . . . .

**Shri Anil K. Chanda:** In English please. I am sure he will do it. Important points may be raised by him. Further, he speaks in English most eloquently.

**Pandit Thakur Das Bhargava:** I ought to have requested him to speak in Hindi. All the same, since I forgot, I will not take advantage of it and will speak in English according to his direction.

**Shri Anil K. Chanda:** “Request” not “direction”.

**Pandit Thakur Das Bhargava:** This Bill has a chequered history and the predecessor to this Bill, when it came before the House, was discussed in an atmosphere which was then charged with excitement. Now after all these long years, this Bill has come to this House under more favourable circumstances.

**Shrimati Sucheta Kripalani:** You are right.

**Pandit Thakur Das Bhargava:** I remember, when Shri Gadgil brought a similar Bill, he said in this House that the Bill was a small measure, which would take an hour or so. At that time, I also spoke and I almost took about three hours, and other Members also spoke on it, and instead of one hour about thirteen months were taken for the passing of the Bill.

## Bill

Mr. Deputy-Speaker: I am sure, the hon. Member is not taking as much time today.

Shrimati Sucheta Kripalani: But we want enough time.

Pandit Thakur Das Bhargava: I am not taking that much of time. I am only suggesting that, as a matter of fact, the time allotted is not really sufficient and, therefore, the hon. Speaker has been pleased to say that he will consider whether it should be extended at least by one hour. Be that as it may, the hon. Minister has just spoken about Gadgil's assurance. I did not want to speak about it at this stage, but since that is the last thing that he spoke about, I will take it up first.

Those assurances were given at a time and in an atmosphere when the refuge question was not so much settled as it is now. There is no doubt about it. But, at the same time, assurances were given in a solemn manner, and I am very glad that the hon. Minister has not repudiated them. They have been repudiated in practice very much, and this is not the first time that I am speaking about them. I have spoken about those assurances very many times before and I had occasion to show that, as a matter of fact, the assurances which were given were violated in spirit as well as in letter. Even some of the Ministries wrote to the Committee on Assurances they did not know what the assurances were. Ultimately, when the matter went before the Assurances Committee—the Second Report of the Assurances Committee will bear testimony to that fact—evidence was led before the Assurances Committee that those assurances were not kept. My hon. friend has spoken about the third report also. May I humbly tell him that the fourth report is in the offing?

These refugees have applied to the Assurances Committee of today that the assurances have not been implemented and that the third report, they say—I cannot vouchsafe for that—is one-sided and is not correct.

If my hon. friend would kindly look into the assurances, he will come to the conclusion that the assurances are continuing ones and therefore, as he has suggested, if all the assurances were to be made effective, it would require about Rs. 5 crores. He has suggested that. He has also said that, as a matter of fact, even if the money was available, the Government will take a long time to implement them. If it would take a long time, may I ask him why he said that the third report says that the assurances have been implemented? From his own speech it is quite clear that the assurances have not been so far implemented and they require, according to him, a fund of Rs. 5 crores and at least five years. He has not specified the time. He says "in course of time". Be that as it may, I stand here to show that, as a matter of fact, those assurances have been broken in spirit as well as in letter, more often than they have been observed.

One of the assurances was that in regard to such buildings as were constructed, they will be allowed to stand and they will not be demolished, provided they stood the test of the municipal rules etc. Somebody would go into the question and on "no profit; no loss" basis, first of all find out the value of the land underneath the structure, and after that they will regularise it. Now seven or eight years have gone by. We have requested the Municipal Commissioner; we have requested those Committees which were functioning. We have asked even the Chief Commissioner to go to the spot and ask the authorities concerned to inspect and put some value on them. Yet, I am very sorry to say, that all those houses in Ahata Kedara and other places are still standing without the land beneath being valued so far. Their value has not been appraised and we have not been asked to pay the amount. We were agreeable to pay the amount and we will agree to pay the amount. But nobody has yet regularised those constructions, and we are in jeopardy and

action is being taken against us under the Act.

Now, suppose a notice is given by the estate officer today in regard to those buildings. The assurance given to this House stands, as Shri Gadgil said and as has come out from the mouth of the hon. Minister who has just spoken. But the house will be demolished. But we have instances where houses worth as much as Rs. 40,000 were demolished and people were sent at dead of night with all their bag and baggage in a lorry to a jungle. It was said that alternative accommodation was being given. It was nothing but a piece of vacant land. And this has been done before our very eyes. Even an adjournment motion was moved in this House once and I have stated in this House very many times, as also other hon. Members that this is what is happening and this is likely to happen as a result of this law even if there is a provision for alternative accommodation.

Some of those persons affected by these Gadgil assurances went to the High Court, and the High Court said these assurances do not constitute a legal basis for the High Court to take action, because they are not to be found in the Act. Now my hon. friend has again repeated that assurance. I congratulate him for repeating that assurance and I hope that during his tenure of office the assurances will certainly be upheld and followed. But, at the same time, I am constrained to say that Shri Gadgil spoke in the same strain and now his successor is also speaking in the same strain. These refugees and these displaced persons underwent all the sufferings that could be imagined from the acts of those who were subordinate to him.

**Shri Anil K. Chanda:** Sir, could I ask the hon. Member a question? Suppose this Act were not there, could we not have proceeded against these squatters under the ordinary law of the land? What would have been the position of these squatters if we had

done that, except for the time element?

**Shrimati Sucheta Kripalani:** Follow the ordinary law of the land.

**Pandit Thakur Das Bhargava:** I understand that my hon. friend is taking away what he has given. The Estate Officer is subordinate to this Government. As long as the assurances stand the Estate Officer will not have the heart to go against the assurance, and a honest Government like ours will not allow him to go against them.

**Shri Anil K. Chanda:** The hon. Member has not understood my question. What I want to know is this: suppose from the very beginning this law was not there and they were squatting on Government land, had not the Government a legal right to get it cleared?

**Pandit Thakur Das Bhargava:** I am very glad that this question has been asked. The question is not new. The question has been asked in these rulings which I hold in my hand—the Calcutta, Delhi and Punjab rulings. My hon. friend says that if there were no law, how we would have proceeded. You would have proceeded like an ordinary citizen in the land. You would have filed a suit in the civil court. In the civil courts what would have happened? All my defences were there and I would have succeeded against you. It is your own officers and the Minister, Shri Mohan Lalji and the Deputy Commissioner and the Chief Commissioner who encouraged these people to construct these buildings. In 1947 and 1948 they asked them to put up these buildings and encouraged them. Now you come and say, "Take away these buildings" and demolish them. All these advantages are not open to me in this. Even your assurance will not be open to me in this as you have not seen it fit to put a clause here enacting those assurances. But you are afraid of your own assurances. You do not want to uphold them. As a matter of fact,



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you say in words which you never effect in practice. Excuse me if I am making a statement which is too strong, but this is my experience and I have seen day after day people coming to us.

**Mr. Deputy-Speaker:** The hon. Minister should not be so near to him. It will be better if he passes through me.

**Pandit Thakur Das Bhargava:** My own apprehension is that even if it goes direct or goes through you, it will be ineffective. So there is no chance of his being affected by what I am saying.

Anyhow, I was submitting that it would have been much better if these assurances were enacted in this Bill. As my hon. friend has said, he has got sympathy with the displaced persons. I do not doubt it. Every right-minded person has got sympathy with displaced persons. As a matter of fact, it is on account of their sacrifice that we have got this freedom. My hon. friend has asked me, "The assurances are there. What would happen if this Act were not there"? As I said, if the Act was not there nobody would touch us and if the Act is there nobody can protect us. We went to the High Court to get protection and yet what did we get? The High Court said that the assurances are of no legal value. So, these assurances are of no legal value and there are none so far as the High Court is concerned. I accept that statement. But so far as the Government is concerned, it is the very basis of good administration of this land. If the assurances of a Minister are not worth the paper on which they are written, it will be a bad day for India. Therefore I am submitting to keep up your prestige and your honour, we want that in the Bill itself it may be enacted that these assurances stand.

**Shri Anil K. Chanda:** Does the hon. Member completely ignore the Third Report of the Assurances Committee?

**Pandit Thakur Das Bhargava:** In fact, I am very sorry my hon. friend had gone out when I dealt with the Third Report of the Assurances Committee. If the hon. Deputy-Speaker gives me much more time, I will repeat those arguments. I will quote my hon. friend himself. I will prove that the statement of the hon. Minister says that the Third Report of the Assurances Committee has no legal existence as it is an *ex parte* report and the refugees were not heard before it was made. The Fourth Report is in the offing. They have complained that it is a continuing thing. You cannot have any sort of a report to the effect that assurances have been implemented when, according to you, it will take five years and it will need Rs. 5 crores to implement these assurances. Your own statements are a standing reply to the Third Report.

Now, I was submitting that all these amendments are emanating from all sides of the House. Members belong to all the parties. The consensus of opinion is that these amendments be made. Now, certainly the hon. Minister will not be respecting this House, if he stands up and says, "I do not accept these amendments", it is possible people may give a vote but then if he really wants to do the right thing, I will request him to just appreciate the feelings of the hon. Members of this House, who in a large number have given notices of amendments. This is the declared wish of the House. I hope the hon. Minister will see that these wishes of the House are carried out.

Again, the hon. Minister said that people were squatting in Serai Rohilla and some other places. He spoke of Sealdah also. I do not know how could that be relevant so far as this Bill is concerned. This Bill is not an all-India measure.

**Shri Anil K. Chanda:** It is.

**Shri Jaganatha Rao (Koraput):** Yes, it is.

**Pandit Thakur Das Bhargava:** May I request him to kindly read the definition of public premises.

**Shri Anil K. Chanda:** It extends to the whole of India.

**Pandit Thakur Das Bhargava:** I know that. But I say that is wrong. The words are:

"public premises means any premises belonging to, or taken on lease or requisitioned by, or on behalf of, the Central Government;"

If it ended here it will be all right, but it says further:

"...and, in relation to the Union territory of Delhi,...."

Therefore it means that the public premises at Sealdah are not included in the Bill.

**Shri Mahanty (Dhenkanal):** They are.

**Shri Jaganatha Rao:** They come under the first clause.

**Pandit Thakur Das Bhargava:** It is not a public premises according to this definition. Sealdah station is not a public premises according to this definition. If you extend it to the whole of America, I have no objection provided public premises means what it means. Public premises can exist only in the Union territory of Delhi and nowhere else.

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

**Pandit Thakur Das Bhargava:** I would like to be enlightened.

**Shri Anil K. Chanda:** As far as we understand—of course, I am not a lawyer—it says in clause 1(2) that it extends to the whole of India. Then clause 2 says:

"public premises means any premises belonging to, or taken on lease or requisitioned by, or on

behalf of, the Central Government;"

There is a semi-colon. Therefore, I think it is a complete statement by itself. Then it adds:

"...and, in relation to the Union territory of Delhi,...."

Certain other things are included.

**Pandit Thakur Das Bhargava:** As if the Union territory of Delhi is not included in the whole of India.

**Shri Anil K. Chanda:** Not that but certain special categories of properties in Delhi

**Pandit Thakur Das Bhargava:** In one sense it extends to the whole of India. I know. May I explain the sense? Suppose, the Estate Officer gives notice about arrears and damages to a person who lived here six years ago or seven years ago. He was here and damages are to be paid or the arrears of rent are to be paid by him. In that case he can be proceeded against as if the recovery of land arrears was due not even in Delhi but somewhere else also. Wherever he goes this decree will dog him. Therefore, it extends to the whole of India. Otherwise, so far as immovable property is concerned, if he says it extends to the whole of India—here we find "on behalf of the Central Government and in relation to the Union territory of Delhi"—what was the necessity of writing this "in relation to the Union territory of Delhi"?

**Shri K. C. Reddy:** Also.

**Pandit Thakur Das Bhargava:** Where is 'also'? The words are only that public premises are these in relation to the Union territory of Delhi. Therefore, my humble submission is that really they are giving an answer to an argument which argument I made in this House, viz., why is the Government of India discriminating between State and State? The Bombay Government does

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not have these powers. In other parts of India these powers cannot be used. They are only in relation to Delhi. This is discriminatory.

Then again, what do we find?

"any premises belonging to the Municipal Corporation of Delhi.."

Why not the Municipal Corporation of Calcutta or Bombay or Ahmedabad and others?

Shri Jaganatha Rao: They are not sought to be included.

Pandit Thakur Das Bhargava: They are not sought to be included. Even there is a discrimination. Then—

"any premises belonging to the Delhi Development Authority, whether such premises are in the possession of, or leased out by, the said Authority"

Therefore I submit, so far as this law goes, as the Allahabad ruling says, it does not only discriminate between trespassers and persons who are in unauthorised occupation of lands which are owned by the Government and those which are owned by private persons. This goes further. This makes discrimination between States and States and between Corporations and Corporations, and in other ways also. It is also discriminatory in this sense. I am not concerned with what is happening in Calcutta, etc. I only object to the use of the word Sealdah here, because Sealdah is out of the question.

May I humbly ask the hon. Minister who had taken so much pains, to tell us whether the objections taken in these three rulings of the High Courts of Allahabad, Calcutta and Punjab have been taken away? Before I come to that, I want to submit for the elucidation of the matter that if my

hon. friend says that they do not want to disturb those squatters who are displaced persons—he said that those squatters have been sent away, but other squatters have come in their places—we are at one with him. I say that we do not want that any person may enter into unauthorised occupation of Government land or government buildings. As regards those people who were there before 15th August 1950, on his own showing, my hon. friend should not have a law against them. As I have submitted, in 1947 and 1948, what happened in Delhi and other places in the Punjab, very many Members in this House are not fully aware of. People came in streams absolutely having nothing but their clothes on their persons, with their families. They must be given some alternative accommodation. I have said in this House before and I repeat with affection and devotion that it was only our Prime Minister and Sardar Patel who solved that question. Lesser men would not have solved that question. In a sort of brain-wave as it usually affects our Prime Minister in times of difficulties and emergencies, he made it a rule that no displaced person shall be evicted from any place unless he was given alternative accommodation. These assurances are not of Shri Gadgil's giving alone. Shri Gadgil was only an instrument in seeing the difficulty, in feeling the difficulty solving it. He was surrounded by all of us who knew the things as they were. After negotiations for 13 months, these assurances were given. They are solemn promises and any attempt to give them go by any effort in this direction is not entitled to any respect. On the contrary, I cannot find words adequate enough to express myself when I find that officers of the Government disregard the words of a Minister and solemn assurances given by him.

As I was submitting, these three rulings given by the High Courts of Allahabad, Calcutta and Punjab are

in my hand. I find that the executive which has brought forward this Bill has not fully considered the objections given in this judgment what to speak of meeting them. The main objection was that the fundamental right of the citizens of this country are sought to be interfered with and jurisdiction of civil court has been excluded. Every person is entitled to have his civil rights decided in a civil court and to see that due procedure as is found in all the civilised countries is observed in his case. Even in our Constitution, we have article 50 that the separation of the judiciary and the executive must be there. What do we find here? We find that the Government has not placed itself in the same position in which ordinary law places it. What happens in an ordinary civil suit? There is the plaintiff on the one side and there is the Government as defendant on the other side. If the Government is the plaintiff, there is the defendant on the other side. Both the parties are before the court equally. Even costs are awarded; they are heard and issues are struck. Everything is done as if there are two persons, as if Government was a person. What do we find in a criminal case? Government is a party; the accused is a party. They are equally balanced in their rights. Here, the Government has become a superior person in the sense that it wants to enact this law for its own purposes.

I would not grudge that I want, we all want that the Government should not be put in any difficulty if there is a situation or emergency in which we ought to see that the Government is not put in any difficulty. We are agreeable to enact such provision. At the same time, my difficulty is that the Government has taken such a large chunk of power, such a measure of power that nobody can support it. If they had confined themselves to cases in which people took forcible possession of certain properties and there was unauthorised possession of any building, if any proper

law is brought in which the fundamental rights of the citizens were not crushed altogether out of existence, I would have supported it. The Allahabad High Court also said that it is not wrong to enact a law in which the good rights of the Government could be secured. The other High Courts also are not so much opposed to the principle of having a law in which the Government property of this nature may be secured. What they are opposed to is this. You enact a law in which all the fundamental rights are crushed. This law is not better than the previous law which has been held invalid by these three High Courts.

The first thing is that they do not want that the executive should take charge of the civil rights in this country. Another Bill is coming before you, the Delhi Rent Control Bill under which instead of the courts which have been deciding the matters all these years, a Controller, an executive officer is going to be appointed. Under this Bill, not the court, but an Estate officer, an executive officer will decide the rights of the parties.

**Shri Naushir Bharucha:** Only the label of the officer is changed.

**Pandit Thakur Das Bhargava:** Only the label is changed. By the change of label, the real obstacle in this law cannot be removed. What is this Estate officer? Who is this Estate officer? Exception was taken in one of the rulings of the Allahabad High Court. It was said, we do not know what are the qualifications of this officer. But, this aspect of the case was not agreed to, this argument was not agreed to by the Punjab and the Calcutta High Courts. They said, let us assume that the Government will appoint good officers, why should we assume that the Government will abuse these powers. I am of the same view. I will not assume that the Government will appoint such officers as will abuse their powers. It is not in the interests of the Government to

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appoint such officers. At the same time, they have now given what kind of officers they will be. If they had not given this, and if they had said, an officer, I would perhaps rest content. What do they say here? Objection was taken in the rulings that they were going to be executive officers and it was said, we do not know what kind of officers they were. Now, they say that the Estate officer will be a gazetted officer. What is a gazetted officer, I would like to know. Not a judicial officer necessarily. The point there was that judicial officers should have been appointed. What is a judicial officer? A magistrate is a judicial officer. If magistrates were to decide these things, we know what will happen. You do not appoint judicial officers. You say, gazetted officer. Can an Excise officer be a gazetted officer or not?

**Shri Braj Raj Singh (Ferozabad):** Why not?

**Pandit Thakur Das Bhargava:** In every department, there are gazetted officers. It means, every kind of officer will be appointed.

**Shri Braj Raj Singh:** A Deputy Superintendent is a gazetted officer.

**Pandit Thakur Das Bhargava:** As a matter of fact, that officer must be a person who can efficiently discharge his duties. He must know a certain amount of law. He must be a judge. He must have experience and all that. A judicial officer would have been better. At the same time, even a magistrate as I said is a judicial officer. A Civil Judicial officer would have been much better. Even if you wanted to give such officer these powers—I am opposed to the appointment of an executive officer—if executive officer was allowable, still, a gazetted officer is out of the question.

What are the powers of this man? That you have an Estate officer is not

our grievance. The real gravamen of the charge is that the procedures which are the safeguards for the right determination, for the legal determination of the rights of the parties are not to be found in this Act. First of all, appeals. Does my hon. friend want to say that our Central Government is worse than a district officer, a district judge? Previously, the appeal was made to the Central Government. The Central Government certainly is much bigger than the district judge. Though it is not a judicial officer, still the Central Government had some powers. Now, a district judge has been substituted. I beg to ask: What will the district judge do? The Central Government, after all, is a powerful body, and could decide cases according to its own light. But this district judge will be totally helpless. First of all, the roots of this system are there in the estate officer. What evidence will he take? It depends upon him. How will he approach the case? It depends upon him. Will he allow any defence to be raised or not? It depends upon him. And a bold order made by this officer will go before the district judge. What will the district judge do? He must do everything according to the file; and if the file will be silent, what will he do? What is the use of having this district judge? Perhaps, so far as the Central Government is concerned, it would have approached it in a different manner. A judicial officer cannot approach it in this day. Therefore, my humble submission is—in fact, in one of the rulings, I find that this is a case of Caesar upon Caesar. The district judge will be helpless; he is a mere tool; he will not be able to do justice according to the procedure. Only district judges can give justice according to the accepted procedure in all the civilised countries; the case is fought out, the parties are there, the pleas are there, the issues are there and the evidence is there. But, where is the provision in this Bill that the estate officer is forced to take the

evidence of any party or even to allow him full opportunity for pleas? The question of going into the title to the property and principles of Estoppel etc. will never be decided. In this hybrid system of a judicial officer being trust upon an executive officer.

**Shri Jaganatha Rao:** Clause 5 makes that provision.

**Pandit Thakur Das Bhargava:** Clause 5 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,...."

My hon. friend calls my attention to clause 5 and says that there is a provision there for hearing evidence. Evidence on what? First of all, the words are:

"the estate officer is satisfied that the public premises are in unauthorised occupation....",

that is, he shall be satisfied that the person is in unauthorised occupation. Can a person say before him, 'I am entitled to the property, not the Government and further that possession was encouraged by the Hon. Shri Mohan Lal Saksena, the Central Rehabilitation Minister and the Deputy Commissioner, Shri Shankar Dayal; they encouraged me to build this thatched shed or this house? He would not be heard in this matter. That is the real difficulty.

Again, suppose a person says, 'I went to the office and gave the rent, but the person in charge refused to accept'. Will you accept this statement from him? I gave many examples in this House in 1951 that in such cases, people took the rent to the

officers but the officers refused to accept the rent. They themselves put in respect of those properties three times the rent. When the matter was brought to the notice of the authorities, they then saw to it that the rent was reduced. There are many cases where people ran about to give their rent, but the rent was not accepted. Will it be a case of no rent having been paid? Will it be a case of arrears? Will it be a case of taking interest on arrears? Will it be a case of charging damages? All these things will never be allowed to be produced. All this evidence can only be there if such pleas are allowed to be taken and there are no provisions for allowing the pleas. Suppose the estate officer who is the executive officer, says, I do not accept your evidence, take away your witness, where is the record to show that that such order was given? At least if there is a proper record and there is a proper procedure, the man knows, the counsel knows and the vakil knows. But where is the vakil here? In this Bill, I do not find any provision that a legal practitioner will be allowed to represent these matters.

**Shri Anil K. Chanda:** He is not barred from appearing.

**Pandit Thakur Das Bhargava:** From a thing which does not bar on the face of it, I do not know whether he is barred or not. Suppose the officer says, I do not hear you, how can the person just insist on being heard and appearing before him, when there is no provision in this? Even in the Income-tax Act and other Acts, we have got provisions. If there is no bar, here is the test; I have given an amendment, and let the Minister accept it.

**Shrimati Sucheta Kripalani:** If there is no bar, let him accept the amendment.

**Pandit Thakur Das Bhargava:** And I shall be very happy. I am now giving another example.

**Mr. Deputy-Speaker:** Appearance of lawyers is not provided for in every separate Act.

**Pandit Thakur Das Bhargava:** Usually, there are many Acts where specific provision has been made.

**Mr. Deputy-Speaker:** It is only when it has to be restricted, that provision has to be made.

**Pandit Thakur Das Bhargava:** So far as the court of a district judge is concerned, you are perfectly right. And the person may be able to say, I am here by my right, because I have the right to practise in the district court. But before the estate officer, can he appear? I want to know where the rule is whereby the lawyer can insist on appearing.

**Shri Anil K. Chanda:** We are going to provide it in the rules. It is not barred by the law as it is.

**Shrimati Sucheta Kripalani:** Let us have it in the text of the Bill.

**Mr. Deputy-Speaker:** It is now conceded that Government would provide it in the rules.

**Pandit Thakur Das Bhargava:** May I humbly request to the hon. Minister is to point out to me whether in any of the items in clause 13, it has been provided that the rules will provide for it.

**Shri Anil K. Chanda:** It is given in clause 13(2)(b) which reads:

"the holding of inquiries under this Act".

**Pandit Thakur Das Bhargava:** The holding of inquiry is no inquiry at all. I want to know whether there is anything here by which he can say that a vakil would be allowed. Anyhow, I do not want to press it, and I am glad that the Minister has said that such right of representation will be allowed; so, I do not want to say that what he says will not be done.

May I humbly ask him another question? In all civilised laws, in this limited span of life which has been vouchsafed to man by God, there is a law of all laws, which is the law of limitation. Suppose a person has come in in 1947, and the arrears are there still due from him, and he stayed here only for six months, and he has not paid the rent in the year 1958, or suppose a person is in possession of any premises in Delhi for more than sixty years, of any land which belonged to Government, or, say, for fifty-nine years. What happens to that man? I beg to ask my hon. friend. The law of limitation is not there. On the contrary, it is a well known thing that many refugees did not come here to Delhi in 1947, and yet rents were realised from them from 15th August, 1947 though they were not in India. This was not just in one case, but in regard to all the refugees. This is a well known thing. According to the ordinary law, if a person has got a decree, but does not execute it for three years, or he sues for rent which was due for a period of more than three years, his suit will be thrown out. But there is no law for this Government. Therefore, if at any time a person was there, he will be sued. Or, where is the question of suit or decree? An order will be passed for eviction. Does my hon. friend contend that in these rules he will also make a law about limitation? There is no reply.

**Shri Anil K. Chanda:** I shall reply later on.

**Pandit Thakur Das Bhargava:** At the same time, I do beseech him to kindly look at the matter in another way. After all, he is dealing with human beings, and the span of life which has been given to every person is a specific period and not an indefinite period. Therefore, he may kindly see that so far as these damages and arrears of rent are concerned, only in respect of legally recoverable dues

an order can be made. When I come to the question of the possession of land, I shall have some observations to make in regard to that also. I was submitting that we have heard for a long time that no person can be a judge in his own cause. But here, the officer is himself the judge, himself the executor and himself the investigator; all the three things have been combined in one. Practically, he is a government agent; he is not a court. The court is not a Government agent; the court is a distinct body. But, here, he is a servant of the Government; Government charges all these things, and the servant decides all these matters with one stroke of the pen. Is it fair and just? And where is the evidence before us that there are many people in Delhi who did not pay their rents regularly? So far as I know, some lakhs of rupees were remitted by Shri Gadgil when he was the Minister, that is, rents which were due and which could not be paid were remitted. May I humbly know whether those remissions will stand, for, according to this Bill, for any time, the person can be asked to pay the rents etc.? I would very humbly request Shri K. C. Reddy to kindly consider this question and see that he also remits a good amount of rent if it is irrecoverable.

14 hrs.

What is the use of proceeding against these people? Supposing you evict them, what would happen further? They will be your problem again. It is Government's duty to provide houses for the people. Shri Reddy when he spoke two or three months ago in this House gave almost a promise that so many crores of rupees were going to be spent by the Government of India so far as housing was concerned. We consider this a necessary aspect of the activities of a welfare State and we congratulate the Government and Shri Reddy on doing that divine thing. At the same time, if he proceeds with this Bill in the manner he wants to, what would

happen? So many persons will be his responsibility that it will be very difficult for him to provide them accommodation.

What do we find in this provision? There are two things mentioned before the Estate Officer can take action according to the provisions of this Act. One is that the persons are in unauthorised occupation of certain premises and further, that they should be evicted, which means that the Government are giving discretion to the Estate Officer to proceed or not. It may be undesirable to proceed against people whom the Estate Officer knows will be thrown on the streets. For example, a person is ill, lying on his deathbed and he is in unauthorised possession. Will Government put him on the streets? They will not I know of many cases, specially of refugees, men of 70 years age and more who have been in government service. They have been asked to vacate their premises on the specific assurance that they will get alternative accommodation. They were sent to other places and in those places again, they were given notice. They were asked to become licensees. Now they have become licensees. They have again been given notice. They came to me. The man is an old man who has worked all his life for Government. He says: 'I do not know where I am'.

In this operative paragraph, two things, as I said, must be fulfilled. One is that he is in unauthorised possession and the second is that he should be evicted. As against this, we find in a subsequent clause that this provision is taken away. It is said in clause 5 that if the Estate Officer is satisfied that the public premises are in unauthorised occupation, he may, on a date to be fixed for the purpose, make an order of eviction. So that condition goes away here. In one place, Government say that in case a person is in authorised occupation and that he should be evicted; and in the other place, they do not arm him with the power to consider



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whether he should be evicted. Logically, they should have enacted in the operative clause the same provision, that where the Estate Officer is satisfied that a person ought not to be evicted, he ought not to be evicted.

Therefore, even knowing that this law is illegal and is bound to be declared unconstitutional again if the matter goes before a High Court or the Supreme Court, I want that at least so far as justice is concerned, so far as the officers whom Government appoint for this purpose are concerned, they should not be given authority in one place and in another place that authority should not be taken away from them. Government ought to say that if there are good and sufficient reasons why a person should not be evicted, he should not be evicted. At least give that power to somebody. Even under the Delhi Rent Control Bill which is coming before us, discretion is given and people are not simply to be evicted from their places. This is a basic thing. There we find that no court shall pass a decree for eviction and the Controller will also in certain contingencies not pass orders evicting a person, whereas according to this law, no Estate Officer shall desist from evicting the person if he is in unauthorised occupation. Is that what Government mean, that every person who cannot show an authority on account of the efflux of time or for any other reason, ought to be put on the streets? I do not think Government mean it. Government do not mean it. Government only want to safeguard certain rights in the case of obstinate and obdurate persons, to see that an effective remedy is there. But here we find that even the Estate Officer is not given any discretion whatsoever to do some justice in proper cases.

If my argument is accepted, my hon. friend ought to accept the amendment tabled by Shrimati Sucheta Kripalani

and myself to the effect that if there are good and sufficient reasons, he should not be evicted, then the hands of the Estate Officer should be stayed.

I was submitting that in this manner, really the equities of a case would not be gone into by the Estate Officer. The equities ought to be gone into before the notice is issued. But my own difficulty is that there is no provision here whereby even the equities can be allowed to come before him what to speak of their being proved? Who will be affected by this Bill? If such persons were affected who were not behaving rightly, who were in unauthorised occupation, who were committing all sorts of crimes, who were trespassing on government property and so on, I would have agreed to any kind of Bill to deal with them. But here my difficulty is that the persons who will be affected by this Bill will be—number one—all the refugees from West Pakistan and other places. They will all be the subject matter of the tyranny of this Estate Officer. If he chooses to punish them, if he chooses to exercise authority over them, he will certainly be able to do so. A man may be absolutely innocent. He might even have been egged on by the officers to put up those constructions.

Again, the other persons who will be affected will be those who are living in the slums. In the name of slum clearance, authority has been taken by the Government. Government are doing something for slum clearance. We are all very happy. What would happen to the Ajmeri gate slums? We went there to see, when another Bill came before us. I and my fellow Members went to see the Ajmeri Gate slums. We found that the Government had acquired the houses of very many poor people there at the rate of Rs. 10 or Rs. 15 per sq. yard, whereas afterwards these very lands just in front were sold at the rate of Rs. 300 per sq. yard.

Representations were made to us and we went into the question. We said that these persons should not be turned out by one stroke of the pen without their being given alternative accommodation.

If I have my own way, I would respectfully ask my hon. friends who are in charge of this Bill and particularly Shri K. C. Reddy, that the principle adopted by the hon. Prime Minister which saved all these refugees should be adopted as a part of this Bill in regard to the vulnerable sections of society, those poor people living in the Ajmere Gate slums and other slums in Delhi, those refugees and Harijans—if they are poor enough. At the same time, government servants who had houses in Lahore and other places, who have spent their whole lives in the service of Government for 30 years or more, have a right to see that at the fag end of their lives they are not thrown out of these houses into the streets. If they are entitled to compensation, give them compensation. Give them alternative accommodation. Charge from them. After all, if they have been in government service, they would have saved something.

Now, we know what is happening in Delhi. Even one room cannot be had for Rs. 100 or more. What is the use of our passing this law when we know that it will inflict very great hardship upon all these persons. Government servants are Government's own servants. Then there are Harijans for whom Government have got a special concern. Government are spending crores and crores for the Harijans. Let Government show to them real sympathy. What is the use of expressing lip-sympathy? Many of us have tabled amendments regarding government servants, Harijans and refugees and slum dwellers. We passed a law about slum clearance. Let the properties of the big men be taken away. I do not mind. But the slum people should not be disturbed unless

alternative accommodation is provided to them. Even if you provide alternative accommodation, it is no good if it is provided several miles away, seven or eight miles from their place of livelihood. My humble submission is that alternative accommodation should be provided to them near places where they have their means of livelihood. That is the duty of Government.

Therefore, my submission is that these poor classes must be protected in this legislation which is unconstitutional, very harsh and very unjust. These are not my words. These are the words given in these rulings.

I do not want to read from these three rulings. My only submission is that all the rulings have been ignored and the very good principles given therein have not been considered by the Ministry. If this Bill goes again to the High Court it will be nullified. Because I have taken sufficiently long time, I do not want to go into these questions in detail. It is very interesting. If you will read these rulings—it is worth reading and perusal—it will repay any person who reads them.

**Mr. Deputy-Speaker:** I am very glad that the hon. Member is conscious that he has taken a very long time. But how long does he propose to take more? Has he any idea?

**Pandit Thakur Das Bhargava:** No, Sir; I have got no idea. I am always practical. As soon as you ask me to sit down I will sit down.

**Mr. Deputy-Speaker:** It is only 50 minutes that the hon. Member has taken so far.

**Pandit Thakur Das Bhargava:** I am entirely in your hands. If I have said anything irrelevant or if I am repeating.....

**Mr. Deputy-Speaker:** I am sure if the hon. Member is given even three hours he will not say anything irrelevant.

**Pandit Thakur Das Bhargava:** Then, I am sure you will not deny me three hours, Sir.

**Mr. Deputy-Speaker:** If the House so desires, I have no objection.

**Pandit Thakur Das Bhargava:** After all, it is a Bill which affects everyone of the citizens of India. What have I come here for if not to protect them and represent their grievances?

**Mr. Deputy-Speaker:** I do not grudge giving the hon. Member time as long as he desires. But my only difficulty is that when other hon. Members want to speak I shall have no time at all.

**Pandit Thakur Das Bhargava:** Therefore I do not want to take time according to my will. I have said that whenever you ask me I will sit down, whether I am in the middle of a sentence or in the middle of an argument. I do not mind that. You have allotted me much time than any other hon. Member would have been allotted. At the same time, I feel about the provisions of the Bill. I have no idea of time and I can go on like this for any length of time if you permit me. As a matter of fact, no person who has studied law and who has spent so many years, and has been studying the conditions of refugees etc. would be a party to this Bill nor say that this is good law. It is very difficult. But, anyhow, if you are fed up with my arguments I will certainly sit down.

**Mr. Deputy-Speaker:** I never said that I am fed up with arguments of the hon. Member. My position should not be misunderstood. (*Interruption*).

**Pandit Thakur Das Bhargava:** If you will allow me ten minutes, I will finish? Or if your view is that I should finish now, I will finish now.

**Mr. Deputy-Speaker:** He will have some minutes. He says that I am fed up with his arguments. I should show that I am not.

**Pandit Thakur Das Bhargava:** I am not saying, Sir, that you are fed up with my arguments personally, but as a Speaker. As Speaker you have to look to the interests of the other hon. Members also. As a private Member I should also look to that. I forget it sometimes.

**Mr. Deputy-Speaker:** The only remedy is that I should ask the hon. Member to occupy the Chair after he finishes.

**An Hon. Member:** He sometimes occupies it.

**Pandit Thakur Das Bhargava:** Sir, I would now call your attention to section 10. Section 10 reads:

"Save as otherwise expressly provided in this Act, every order made by an estate officer or appellate officer under this Act shall be final and shall not be called in question in any original suit application or execution proceedings."

It was on this account, because the jurisdiction of the civil courts was barred that this Act was held to be illegal. Even now, apart from putting in the District Judge, who cannot do justice without any material on the file and who cannot regulate the procedure etc you have done nothing. Under the Civil Procedure Code also we know that the powers of the appellate courts are those just as of the first court. The usual rule is that the appellate court gets the powers just like the first court, plus the power to set aside the judgment. Supposing the judgment is set aside or the case is remanded and after remand he gives the same judgment, what will happen? What will the man do? He cannot do anything. My own submission is that section 10 remains as before; only the District Judge is put in there instead of the Central Government. That makes no difference to me. It is just the difference between tweedledum and tweedledee.

There is absolutely no difference. The orders will be there. Pleas will not be gone into.

According to section 110 of the Evidence Act, every person is presumed to be the owner of the property of which he is in possession. But the estate officer proceeds from the fact of unauthorised possession. No attention is being paid to documents; not even the registered deed is seen; nothing of the kind. He starts from unauthorised possession. I would, therefore, say that it is a very unjust law and it is an arbitrary law. It is not worthy of being put on the statute-book of this civilised country which says that it has got a Constitution. To my mind, this is really and thoroughly unconstitutional. Though not so, as far as the latter is concerned, in spirit it is an Act which cannot hold water for a single minute. And, I hope the hon. Minister will withdraw it. But, if he persists in it, he will at least accept the amendments that so many hon. Members have placed before the House.

Mr. Deputy-Speaker: Shrimati Sucheta Kripalani.

Shri Naval Prabhakar rose—

Mr. Deputy-Speaker: Those hon. Members who were on the Joint Committee seem to be more anxious to speak.

Shrimati Sucheta Kripalani: Sir, we have given a long note of dissent. I would say that this is a Bill to which I was not looking forward. Not only I, but a large number of people in this city of Delhi were looking at it with great apprehensions. I do appreciate that Government premises or public premises should ultimately be utilised for the purpose for which they were put up, and they want vacant premises. But, I would also like to impress upon Government that they should realise the difficulties of the people.

What is the present housing situation? How is it that this situation

has arisen today. I would only impress upon the hon. Deputy Minister here that this Act is going to act very harshly on a very large section of the people in the city of Delhi.

When the hon. Deputy Minister was speaking, he was constantly talking of government premises. I would like to remind him that as far as Delhi is concerned, it is not merely confined to public premises. The scope is very wide and a very large number of people will be affected because even the D.D.P.A. land comes under that; as you know it occupies every vacant plot of land that lies in Delhi.

The housing problem, like the food problem, is a very acute and serious national problem and it has to be met. And this has to be met by Government. It is the Government, the local authorities, the Corporation and the Development Authorities who have to put up houses in order to serve the housing requirements of the people. Very little has been done in this regard. Something has been done; but that it is not adequate. People have been compelled to occupy unauthorisedly certain premises.

There are two kinds of unauthorised occupation. I would impress upon Government that they should distinguish between the two. One of the kinds of unauthorised occupation may be purely out of mischief. Somebody wants to get hold of some good property and squat there. But the unauthorised occupation that we see here in Delhi today—and also in other cities—is one under duress. They are law-abiding people who have no desire to unlawfully occupy anybody else's property, public or otherwise. But, they were compelled to do so.

Our hon. Deputy Minister was not here during the time of partition. If he had been he would have seen what Delhi looked like. It was a sprawling of the people, everywhere. The people were on the foot-paths, on the niches of the Old Delhi wall and they were

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squatting on Government and public premises. They could not help that. Some of us know that. He is partly wrong. The hon. Minister said that the squatters are sitting in Purana Qila. Purana Qila people were brought there by the Rehabilitation Ministry. They built those temporary houses. They were asked to stay there. Now, what do the Purana Qila people want? They want that they should be given regular accommodation so that they can shift. They do not want to stay there half a minute. They are very anxious to go; but they want proper allotment where they can live and from which places they can carry on their avocations.

The Bill provides for summary eviction. Our hon. friend, Pandit Thakur Das Bhargava has spoken at great length about it, and, therefore, I do not want to expand on that point. I want to save time for others. I would say that this is discriminatory in nature. When people have generally to be evicted from somebody else's land, we have to take recourse to the proper procedure. But here the proper procedure will not be followed and summary procedure has been provided both for eviction as well as for realising arrears and damages. Even the Limitation Act is not going to apply in such cases.

Who are the people that are going to be affected by this Act? Firstly, the refugees, second, the Harijans who live in bastis and thirdly, the retired Government servants. These are the three categories of people who are going to be seriously affected by this Bill.

I would have refrained from referring to the Second Report of the Assurances Committee but as the hon. Minister himself has referred to it, I am compelled to say a few words. The refugee situation was very acute in 1947 and it was impossible for the Government to provide shelter for them. They had to squat wherever

they could. We who have been working among the refugees know that they sold their ornaments and whatever articles of little value they had in order to get a little shelter over their heads. These are the squatters who are sitting in the unauthorised premises. The difficulty was appreciated in 1950 when the Public Premises Eviction Act was brought and Shri Gadgil gave us an assurance. He would never have given that assurance had the situation been different. Somehow those people had to be protected because it was not possible for the Government to give alternative accommodation at that time. This assurance was given very solemnly in the Select Committee and it was again repeated on the floor of the House. It is a matter of prestige for the House. I am very sorry to say that these assurances have been observed more in the breach rather than in anything else.

I do not want to go into all the conditions but these were the conditions that he had to fulfil according to the Gadgil assurance. There was to be a sector-wise plan on the recommendations of an allotment committee. This committee would among others, consist of a representative of the Rehabilitation Ministry, State Administration, Improvement Trust, Delhi Municipality and also representatives of displaced persons. Lala Achint Ram was one of the Members; I do not remember who was the other. But Lala Achint Ram's experience is he hardly ever attended a meeting. How did this committee function? The Second Assurances Committee has referred to this and says:

"The Committee referred to in item 1(c) of the assurance has not functioned as promised in the assurance. It appears that a High Power Committee was appointed in 1952 and it met twice only, viz., on the 8th March and on the 5th July, 1952. This Committee did not have three Members of

Parliament as promised in the assurance. After the second meeting, the Committee was dissolved and the work taken over by the Delhi State Government."

The other conditions were that alternative accommodation must be provided on developed land as near as possible to the place of employment; in the case of demolition, *ex-gratia* grants should be given; constructions which could comply or could fairly comply or with suitable modifications fairly comply with town improvement plans were not to be demolished, the land was to be valued on a no-profit-no-loss basis and given to the people, plans which complied with municipal requirements but do not comply with the Improvement Trust regulations were to be modified as far as possible and the houses were not to be demolished. All these were conditions that Shri Gadgil laid down not out of his free will but because of the pressure of circumstances. The Select Committee had said that they were not putting in these clauses in the text of the Bill because they hoped that the Government would implement them and on that condition we agreed that they should give assurances and they need not form part of the Bill. How were these assurances actually implemented?

I happened to be the Chairman of the Assurances Committee. We wanted information about these because we got complaint after complaint from the refugees. It was a unique experience for me in getting the information. Whichever authority we asked, they would put the blame on somebody else. Ultimately, when we called the representatives of the various authorities at one time, we were able to pin them down and get some admissions from them. The admissions showed that the assurances had been implemented in a most haphazard and careless manner. Some authorities were not even aware of the assurances. The authorities concerned were: the Delhi Improvement Trust, the Land and Development Office, DMC and

NDMC and also the Delhi State Government. The first four authorities were responsible for breaking and demolishing and the last authority had to give relief in accordance with Gadgil assurance. There was no proper co-ordination. The Land and Development Officer did not even know what the assurances were; he did not know the intention of the Government. The entire work had been done in a haphazard way.

I will read out a few remarks from my report to show how these assurance were implemented:

"The absence of a Central Co-ordinating Agency has caused considerable confusion in the process and the assurances could not have been observed satisfactorily in all cases if they were not even known to some of these agencies carrying out the demolition of the structures. . . . The Committee have examined the information supplied to them in regard to the provision of alternative accommodation to the displaced persons whose structures were demolished. They have noticed that no systematic allotment of alternative accommodation has been made. . . . The committee are satisfied that a number of displaced persons whose structures were demolished have not been provided with alternative accommodation. . . . No *ex-gratia* payment has been made to any of the displaced persons covered by this assurance either in cash or in the shape of building materials. . . . The Government have not so far fixed the final value of land to be levied on a no-profit-no-loss basis. In some areas an interim rate was fixed by the Government but that has been as high as Rs. 30 per sq yard."

This is how the assurances were implemented. Naturally we were very upset and the figures that were given to us in 1954 show that 13,000 people had built structures, unauthorised structures before the 15th August, 1950 of which 5,000 structures were

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demolished. Only about 2,000 people had been given some kind of accommodation and as far as regularisation is concerned, a very grand figure was given to us. Out of 13,000 structures only 119 structures had been regularised. We were told that Ahata Kidara and the quarters near the Junction of Pusa Road and Arya Samaj Road would be regularised. What did the Third Assurances Committee report say? It was a one-sided report. They merely heard the Government and they were not so experienced in this matter as Pandit Thakur Das Bhargava or myself. Otherwise, they would not have taken to word of the Government as correct because a promise was made to me when I was Chairman of the Committee that regularisation of these areas was going to take place. Even today the houses there are not regularised. When Pandit Thakur Das Bhargava goes into the question of implementation of assurances he will find that a vast sea of assurances still remain unimplemented.

In Jhandewala and MM Road, I know a number of cases because innumerable times I went to the Chief Commissioner and other authorities wherever they directed us. 28 people have been given eligibility chits in 1953. Today, in 1958, those people are still sitting on their chits which forms their shelter. (*Interruptions*). Of course, they are not barred by limitation. That is how the assurances have been implemented.

The hon. Deputy Minister stated that only fifty per cent. were refugees. This is wrong. If the others are quite well-to-do people who do not stand in need of shelter, I have nothing to say. This Government is responsible for giving shelter not only to the refugees but to other people. Who are the fifty per cent. people who live in the *bastis*? I would like to draw your attention to this new report published by the Bharat Sewak

Samaj—Slums of old Delhi. There are 2,25,000 people living in the slums of Delhi. Who are the categories of people? That is also described there.

Well, as far as New Delhi is concerned, I think it will be news to the hon. Minister that the people who live in *jhuggies* are government servants, peons, servants of the Ministry of Works, Housing and Supply, fitters, mechanics, our *dhobies*, our milkmen, our domestic servants and a lot of labourers and other people who work in small industries. Plenty of Harijans and others also live in these *bastis*.

Why do they live in these *bastis*? Why have they come to the city? They have come to the city only because they earn. Their slums are increasing because there is unemployment in the villages and there is constant pressure. Therefore, that has to be taken care of by the Government. The Government has to offer them employment. Secondly, those people who are here have come here because they have work here. It is the direct responsibility of the Government to give accommodation to the government servants who are living in these *bastis*. Instead of building big bungalows, instead of giving houses to the big officers who can afford to have alternative flats for the time being, if Government can build more cheap tenements where their own servants can go and stay, the pressure on the *bastis* will be reduced to a great extent.

Then, Sir, it is incumbent upon the Corporation, the N.D.M.C. and other local authorities to undertake cheap housing schemes where these people can be given some shelter. What happens today? It is heart-breaking. I speak with some feeling. Not a day passes without some people coming to me and saying that their *jhuggies* have been broken, and they ask me to go to the N.D.M.C. or the Chief Commissioner and give them protection. Every day they are driven from pillar to post.

## Bill

Bastis are increasing, and no amenities are given to these bastis. We cry, give them water, give them latrines, give them certain basic amenities of life. But the plea is that if we give them that they will permanently be staying there and they will not go to other premises. I am very happy to quote here what Shri Jawaharlal Nehru himself has said in this Foreword to this book, *Slums of Old Delhi*. He says:

"We have to provide housing for them before we can ask them to vacate."

I would like the hon. Minister to learn it and remember it. Then, he also says:

"The argument that any improvement might lead to their perpetuation is not one that we can accept."

He says that we should give them the basic amenities of life. These are his views. This Government is functioning under his direction, and his Government every day goes and demolishes huts and drives the people away. They are driven from pillar to post. Sir, I am reminded of the Jews, who had no homes of their own, who were driven from everywhere and who had to go in the high seas. In the same way we are treating our basti people. They have no place to go. Our attitude is entirely a penal attitude, the attitude of a Police State and not a welfare State. We want to drive them away because they are breaking our wonderful laws. Who are the people whom we want to drive away? They are our government servants, our domestic servants and others who reside and function in Delhi. If you cannot provide them with good houses, at least give them a plot where they can put up a shack and stay there.

These people are driven out from their huts every day. Just two days before the heavy rains the N.D.M.C. or the Land & Development Authority demolished 100 huts in Chanakyapuri.

I went there immediately after the rains and I found them sitting even without the meagre shelter of a sirki. There was a woman with a 20 day old child. I asked her and she said: "Yes; they came two days back and broke my hut". Today people came from Prithviraj Lane and said that their huts have been broken. Every day I get people who say that their huts have been broken. I ask the Government, have you given alternative accommodation to these people? How can you remove them without giving them alternative accommodation? All your big palaces have no meaning, if your own people have no place to live in, if your people have not got a spot where they can stay. If we do not give them shelter, at least give them a place where they can stand.

I feel under this Act as it is, under the present provision these poor people are being very harshly treated, and with this summary power where will they go? I am sorry the hon. Health Minister is not here, because he is also partly responsible for housing. But I would appeal to the hon. Minister for Works, Housing and Supply to take a more constructive approach. Do not throw these people away unless you have made alternative arrangements for their housing. I would say, please implement the assurance that you gave because that is a matter of prestige for you, not only for you, it is a matter of prestige for the whole House. We have undertaken to rehabilitate these people. We spend crores and crores of rupees. Can we not keep one small promise? Sir, it is a shameful thing to see that our assurance has been broken.

The third category of people are the government servants. My hon. friend, Pandit Thakur Das Bhargava has already said about government servants. Some of these government servants are refugees. I have myself forwarded a representation from the East Bengal Government servants



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who say: "We are refugees. We are retired. We have no homes. Where are we to go?" They cannot pay the exorbitant rents prevailing in Delhi. They have asked that facilities may be given to them for building houses. There are government servants who have come from West Pakistan and whose claims have not yet been settled because they do not come in the priority category. Today they are retired and they have no place. Where are these people to go. They have no town, no village which they can call their own and take shelter.

Therefore, Sir, this Act needs to be amended. Several sections of this Act need to be amended. Not only you should amend the Act, but you should also take up the matter with the Cabinet. Instead of talking about slum clearance and issuing reports and so on, I think we must take constructive steps to give adequate housing facilities to these poor people who are without houses.

**Shri Naushir Bharucha:** Mr. Deputy Speaker, Sir, we are discussing a type of Act which is not new to me, because we have a similar Act, the Housing Board Act in Bombay, and I fully appreciate the sentiments expressed by both the previous speakers. It has been our unfortunate experience that in Bombay City also a similar type of legislation has worked havoc, and I have no doubt that if this legislation is put on the statute-book the results will be equally disastrous.

Sir, the last 1950 Act was held *ultra vires* because it infringed certain articles of the Constitution, and I agree with my hon. friend Pandit Thakur Das Bhargava that this Bill is also likely to share the same fate.

It is rather unfortunate that in the treatment of various types of people which this Bill will have to deal with no account is taken of the fact that

there are various types of occupants whom this Bill seeks to throw out. There may be people who are purely trespassers for whom we may not waste too much sympathy; but there are people who occupy the premises as licencees; there may be people who may be described as tenants holding-over, and there may be people whose services may have been terminated. All these occupants are treated in the same category as if they are trespassers and they have to be haunted out from the premises.

So far as the 1950 Act was concerned, it went completely beyond the barest principles of natural justice. But what does this Bill seek to do except for changing the designation of the officers that may be there? We have defined "public premises" which is a very wide definition. I do not agree with Pandit Thakur Das Bhargava when he says that it is not applicable to other premises. It is applicable to all premises, and hence its disastrous effect will be felt far and wide.

I concede, Sir, that the Government has some claim to the premises which they own or which they desire to take on lease. But, at the same time, I am not prepared to say that all human considerations should be thrown aside. Let us see what is the procedure that is being provided under this Bill. Of course, the Estate Officer has been created. As I said, it is only a change of designation, nothing beyond that. But let us see the procedure itself. This Act does not provide, in the first instance, for the personal service of summons. It is, I suppose, the bedrock of our Code of Civil Procedure that service of summons must be adequately proved and the best efforts should be made for tendering summons personally to the defendant. In this case that very factor is set aside. Then, the officer is empowered to paste the summons on the outer door or on some conspicuous place and within ten days of such

service the hearing of the case proceeds. I ask in the first place about the summons sought to be served, on any conspicuous place or door. When it can be served and how it will be served under the Bill nobody knows, with the result that many people will receive the first intimation of their eviction by the order of eviction.

The normal procedure is not followed. No effort is to be made, no due diligence is to be exercised by the Government officers to find out who are personally responsible and to serve the summons on them. The things are pasted anywhere, and then in ten days there will be the hearing, and an eviction order.

And what type of hearing will it be? My hon friend has argued that possibly lawyers may not be allowed to argue. Certainly not as of right, but with the permission of the authorities they may appear. The High Courts have held that when it is provided in the Act that an opportunity should be given and the party should be heard, it is not necessary that the party must be personally heard. The High Courts have held that it is sufficient compliance if a written representation from the party is read by the authority which exercises jurisdiction. Therefore, there is no guarantee even that the defendant can, as of right, cross-examine the other side. What type of procedure are we evolving just because the Government wants to have certain premises for itself?

I am not disputing the fact that if public interests require, people may have to be evicted, but there has got to be an element of humanity in the matter. I have seen and I know how this type of legislation is operated in Bombay. People with fever have been thrown out, roofs over people's heads have been demolished at 2 o' clock in the morning. In this way possession of tenements has been taken by the Government. And in some cases, even ignoring the orders

of the Secretary of the Department, the officer has proceeded to execute eviction orders. These things have taken place, and I know in this particular case the same phenomena will be witnessed here.

I ask why is it necessary to provide a different procedure? If we are creating a new class of tribunals—let us take it, the estate officers—why can we not create a sufficient number of judges ask them to follow as far as possible the procedure prescribed by the Code of Civil Procedure and do justice? Why is it that this short-cut, this summary procedure is being adopted? I certainly think that this is not the way in which the Government should seek to recover the premises on which they may have an eye.

It is not merely in the case of eviction, but in the case of so-called arrears of rent also, the same procedure is prescribed. And what is more, the defendant who gets the summons may not even get the correct details as to in what respect he is liable to pay the arrears of rent, and still after a summary proceeding, the order can be issued and the arrears can be recovered as arrears of land revenue. I ask why this extraordinary procedure is being adopted by the Government. Have they no faith in their own law courts? Assuming that they find that on account of heavy congestion they cannot wait, let them evolve a separate cadre of courts, but let the procedure be properly prescribed so that principles of natural justice are duly observed.

It is very easy for us to pass this Bill who have never experienced what it is to be thrown out of premises, but when this Act came in Bombay I got letters after letters from refugees pleading "We have been refugees once in our life time; do not make us refugees again". This law may make them refugees a second time. And particularly as the law stands today, at least as it stands

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in Bombay State, you cannot go and lease any premises from any landlord. The landlord has no power to lease out premises, and the Rent Control Bill which you are going to bring before the House will also, in respect of certain tenements, contain similar powers. If due to shortage of accommodation there are no premises, if there are no premises to be let out, where is the uprooted person to go?

Therefore, my first appeal to the hon. Minister is that he must accept certain reasonable amendments which have been tabled here, which go to implement the assurance given by an hon. Minister to this House, by which assurance the hon. Minister in charge of this Bill is bound.

Then I would ask this: Assuming for a moment that certain structures which are unauthorised are there, why should they not be regularised? It is a very common practice for municipal corporations, and I speak with my experience of nearly 20 years in the Bombay Municipal Corporation, to regularise unauthorised structures. Therefore, there must be an amendment that where certain public premises within the meaning of the Act are occupied by unauthorised squatters, if they happen to be there before 16th August, 1950, if they have constructed any structures on them and if they have been in continuous occupation of those structures, and if they are prepared to comply either by modifications or otherwise with the requirements of any local authority, any town planning authority or any other authority, then Government, instead of evicting them, must regularise those unauthorised occupations. There are thousands and thousands of them, and I refuse to believe that they are squatters. They are not squatters. They have come there with the leave and licence of the Government. In fact, Government encouraged them, and now after five, six or eight years they cannot say:

clear out from here. Clear out where? This is a human problem. Have you established even transit camps for these people? Nothing is being done. It is extremely unfair.

I have no sympathy for the trespassers who come and just get into Government premises. I am pleading for those refugees whom the Government have settled on this land. The Government has got no right to ask them to clear out unless the Government provides alternative accommodation. Do I understand from the hon. Minister in charge of the Bill that in the case of such refugees as I have described, who have been there before 16th August, 1950 and who are prepared to comply with any reasonable requirements of the town planning or municipal authorities, he will regularise them and not subject them to evictions or...

Shri Ajit Singh Sarhadi (Ludhiana): There are other commitments after that also.

Shri Naushir Bharucha: Apart from them, let us take the basic commitment first, because that will cover a large number of persons. Or, in the alternative, is he prepared to say they will not be evicted until they have been provided with suitable accommodation? Otherwise, what is the meaning of the assurance, 'and' who will trust Government assurances?

I, therefore, plead that before this Bill is put on the statute-book, we have got to see that there is a proper procedure and that procedure will be analogous to the procedure prescribed by the Code of Civil Procedure. I can understand your saying the small causes court procedure should be adopted, which is a sort of summary procedure, only detailed evidence may not be recorded, but all other rights of cross-examination etc., are guaranteed in the legislation itself.

Unless that is done, I am afraid this Bill, while it may serve the purpose of the Government, will convert these people into refugees for a second time. I am sure that is not the intention of the Government.

**Shri Ajit Singh Sarhadi:** I am afraid I cannot congratulate the Government on bringing forward this Bill in this form and at this stage, and my reasons are many.

The hon. Deputy Minister, while moving this Bill, admitted that it has a legal aspect also. He said that the predecessor of this Bill enacted in 1950 has been held to be *ultra vires* by three High Courts. The question before us is: Does the present Bill remove those objections which the High Courts raised and for reasons of which that Act was held to be *ultra vires* I am afraid it does not and I join my hon. friend, Pandit Thakur Das Bhargava that this Bill may possibly meet the same fate.

The reasons given by two High Courts were that this Bill offended the provisions of articles 19 and 14. The hon. Minister said that the Select Committee has tried to meet those objections. I am afraid that objections in regard to article 14 have not been met entirely. I would only draw his attention to the judgment of the Allahabad High Court where it was definitely laid down thus:

"Thus the classification here sought to be made by the Act is between two private individuals one of whom happens to occupy private land and the other Government land. Article 14, therefore, applies with full force to such a situation as the person occupying Government premises is not afforded the same protection of law as is afforded to a person occupying private land and the differential treatment meted out to the former person has no reasonable connection with the objects sought to be achieved."

it would have been very much better if the Government had waited for a decision of the Supreme Court on this point and then come with a Bill of this nature. I concede that the interpretation placed by the Allahabad High Court has not been concurred by the Punjab High Court; but all the same, it is true that as long as it has not been upset by the Supreme Court, the same objection can be taken against this Bill also, where distinction is made between occupiers of private land and those of Government premises. We are creating a separate forum for the eviction of those who are occupying public premises, as defined in this Bill, whereas for an individual in occupation of private land, there is the ordinary civil law. How far this classification is reasonable is a moot point. There is a further classification in this Bill which is sought to be applied to premises belonging to the Corporation. So, these are classifications which may be held to be unreasonable. Therefore, to my mind it appears that it would have been much better if the Government would have been well-advised to wait for the decision of the Supreme Court about the ruling of the Allahabad High Court and then bring forward a comprehensive Bill.

The second feature of the Bill is its effect on displaced persons. I am sorry that while piloting the hon. Minister has not appreciated the enormity of its effect on the displaced persons. I will remind him that when the predecessor Bill was brought in the House in 1950, at that time, the then Minister who was piloting the Bill said that even in 1950 the Bill would affect nearly 25 to 30 per cent of the people. To quote from the Debates, the Minister said:

"But I can say this that the number of refugees, as far as I have been able to ascertain, is

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not much. I am told the percentage is not more than 25 or 30 per cent at the maximum. That being the case, 70 per cent of the people who are occupying Government buildings are not displaced persons."

So, in 1950, it would have affected 30 per cent of the unauthorised occupants. In the year 1958, the hon. Minister knows very well the extent of evacuee properties acquired by the Government and which have come within the purview and mischief of clause 2, as public premises; I think it is worth nearly Rs. 100 crores. So, the Bill would affect a very large percentage of displaced persons now. My apprehensions are that it will be affecting nearly 70 to 75 per cent of unauthorised occupants. So, we have got to see its effect in the light of the commitments made by the Government at different stages in the last 11 years

The first commitment, about which my hon. friend, Shrimati Sucheta Kripalani was pleased to refer, pertains to the commitment of the Government in relation to Government land. You know fully well that in 1947 and 1948, when the refugee displaced persons poured into Delhi and other places, there was no arrangement for their rehabilitation. Their number was so large, the problem was so colossal and the resources of the Government were so meagre that it was very difficult to meet the situation. I can appreciate the difficulty. At that time, efforts were made to ask them to find a place by themselves and have some kind of rehabilitation. Several lakhs, 3 to 4 lakhs, came to Delhi and they had to be put somewhere. Naturally, they were encouraged to have constructions anywhere. The then Works and Housing Minister, Shri Gadgil, gave an undertaking that they would not be ejected if they had built certain constructions on certain Government lands. That point has already been fully

dealt with by Shrimati Sucheta Kripalani and I need not dilate on it further.

But there is one thing to which I would draw the attention of the hon. Deputy Minister, viz., what is the legal value of those commitments? He has told us today that the Government stands by that commitment and that will hold good. I have got no disbelief in it and I am sure he will issue the necessary instructions so that it may be done. Even when the assurances were given in 1950, a letter was circulated to all the authorities in Delhi that the commitments should be followed. But the difficulty is how far they will be legally valid. I am afraid that unless it is incorporated as a statutory clause, as a proviso to clause 2, it will have no legal value. This has been so held in the ruling of the Punjab High Court. That ruling is reported in the Punjab Law Reporter—it was a Bench ruling—where their Lordships held as follows. The letter referred to is the letter issued by the Works and Housing Ministry in 1952, subsequent to the assurances given by Mr. Gadgil, which definitely laid down that no person who was an unauthorised occupant before 15th August, 1950 should be ejected, if he complied with the conditions given in the assurance. Yet, when the matter came before the High Court for the final decision, the High Court held thus:

"This letter was followed by a communication dated the 22nd February, 1952, in which the Ministry of Works, Production and Supply directed that in the case of constructions which comply or with suitable modifications may be made fairly to comply with the municipal requirements and Town Improvement plans the value of the land in unauthorised occupation should be assessed on a no-profit-no-loss basis and that

the displaced person should be given an option to purchase the site occupied by him against payment in easy instalments of the value of the land assessed. The grant of these concessions did not preclude Government from exercising their own rights of ownership over the property in question."

One of the terms of the assurance was that in certain conditions, where the occupation is after 15th August, 1950, but before a certain other date, he would be entitled to take the land on a no-profit-no-loss basis or at its face value.

15 hrs.

That is the assurance. That shall be at the discretion of the Government. There will be no legal validity to this assurance. I beg to the hon. Deputy Minister to consider whether the assurance which he has given is a pious wish that has been expressed in the Report of the Select Committee on this Bill or that the assurance that he has given today on the floor of this House has got any legal value, when it has not been incorporated in this Bill.

**Mr. Deputy-Speaker:** Would the hon Member like to continue and finish in another two minutes?

**Shri Ajit Singh Sarhad:** No. I would like to continue.

**Mr. Deputy-Speaker:** He may continue tomorrow. Now the two-hour discussion will start

15.01 hrs.

#### INDO-PAKISTAN CANAL WATER DISPUTE

श्री रघुनाथ सिंह (वाराणसी) : उपाध्यक्ष महोदय, कल पाकिस्तान की अग्नेम्बली में नहरी पानी के विषय में एक विवाद हुआ। आज उस विषय पर हिन्दुस्तान की पार्लियामेंट में विवाद हो रहा है। लेकिन दोनों के नुकते-

नजर में फर्क है। वहां पर दोलताना साहब ने भाषण देने दृष्टे कहा :

"Over Kashmir and canal waters we will fight India with our own army. We will fight with our Police, our men and women and children will fight. We shall fight and fight and fight."

इसके बाद दोलताना साहब में देवरी ब्रेज की तरफ में मवाल किया गया कि आपने दिल्ली में एक समझौते पर दस्तखत किये थे मई ४, १९४८ को, तो दोलताना साहब कहते हैं

"The agreement relates to the waters of two canals. It was signed under duress."

हो सकता है कि चकि दोलताना साहब हिन्दुस्तान के खिलाफ हैं इसलिये उन्होंने यह बात कही हो। लेकिन इस समझौते पर दो आदमियों के और दस्तखत हैं जिनमें एक तो गुलाम मोहम्मद साहब थे, जो कि बाद में पाकिस्तान के गवर्नर जनरल बूये, और दूसरे शीकत हयात आ साहब थे। इन दोनों के भी हस्ताक्षर उस समझौते पर मौजूद हैं। मैं समझता हूँ कि शायद पाकिस्तान के और सब लोग दोलताना साहब की तरफ के नहीं हैं और व लोग इस विषय पर बड़ी संजीदगी के साथ विचार करेंगे। लेकिन आप देखें कि जो मौलिक बात इस समझौते में है वह यह है

"If the East Punjab Government to discharge the obligation to developed areas where water is scarce and which were underdeveloped in relation to parts of West Punjab."

इस समझौते में जो सब से बड़ी बात है वह यह है कि इसमें यह मान लिया गया है कि ईस्टर्न पंजाब विकसित नहीं है। वेस्टर्न पंजाब विकसित है। इसलिये हिन्दुस्तान को और ईस्टर्न पंजाब को पाकिस्तान की अपेक्षा ज्यादा पानी की आवश्यकता है।