

12.31 hrs.

PUBLIC PREMISES (EVICTION OF UNAUTHORISED OCCUPANTS) BILL

Mr. Speaker: The House will now resume further discussion of the following motion moved by Shri Anil K. Chanda on the 4th September 1958, namely:—

“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.”

Out of 4 hours for general discussion including one hour in the discretion of the Chair, 2 hours now remain.

After the general discussion is over, clause by clause consideration and thereafter third reading of the Bill will be taken up for which 2 hours have been fixed.

Shri Ajit Singh Sarhadi may continue his speech.

Shri Braj Raj Singh (Firozabad): Sir, only very few speakers have been able to speak on the Bill—only four.

Shri S. M. Banerjee (Kanpur): Out of the four, three were from the ruling party.

Mr. Speaker: Where they given more time—more than 15 minutes? The hon. Minister took some time.

Shrimati Renu Chakravarty (Basirhat): The difficulty is this. It is controversial at every stage. In the earlier stages also there has been a great deal of controversy over it. Therefore, I think, some more time should be allotted for discussion.

Shri Braj Raj Singh: There are a number of amendments.

Mr. Speaker: May I know who are the hon. Members that want to participate?

Some Hon. Members rose—

Shri Naushir Bharucha (East Khandsah): Some of them are outside also.

Mr. Speaker: I will call hon. Members representatively of their groups; that will do, I think. Will hon. Members kindly send me chits?

An Hon. Member: Chits have been sent.

Mr. Speaker: I will note them. As there are many hon. Members who want to speak, no hon. Member will take more than 15 minutes.

[Shri Ajit Singh Sarhadi]

12.23 hrs.

Shri Ajit Singh Sarhadi (Ludhiana): Mr. Speaker, Sir, I was submitting yesterday that I have my doubts if the recommendations of the Select Committee to implement the assurances given has any legal weight. A repetition of the assurances by the hon. Minister on the floor of the House would have no legal validity. And for that I quote an authority in support of my arguments. Therefore, I submitted that it would be well if the amendments are accepted and the assurances are incorporated in the provisions of the Bill under consideration. As the hon. Minister knows very well, those assurances pertain to the public premises, that is, the property which was in the occupation of displaced persons and on which they had made constructions before 15th August, 1950.

But, there is another category of property which has been recently acquired by Government under section 14 of The Displaced Persons (Compensation and Rehabilitation) Act, 1954 which is also in the occupation of displaced persons. And this comprises of extensive property of the value of nearly Rs. 100 crores. A part of it has certainly been adjusted against the claims of displaced persons; a part is to be adjusted in some time to come. Some of it has been duly allotted; but

there is some also which, under the definition in the present Bill, would be unauthorised occupation.

Now, about the property which would come within the definition of 'unauthorised occupation', there are certain commitments of the Rehabilitation Ministry of which, I think, the hon. Minister is well aware. I would only draw his attention to the Press Note that was issued by the Rehabilitation Ministry to the Members of the Select Committee during the course of the discussions. That Press Note concedes this position. That Note reads:

"A deputation of displaced persons who were in unauthorised occupation of evacuee houses met the Minister on the 9th March, 1958 and represented that they had occupied those houses towards the end of 1955 when they were uprooted by heavy floods in the Punjab. If they were again evicted from those houses, they would have no shelter anywhere. The Minister announced that the possession of the unauthorised refugee occupants of evacuee properties before and up to the 31st December, 1955 will be regularised on the condition that all dues etc. were paid by them in the prescribed manner. The Minister asked the Regional Settlement Commissioner, Patiala, who was also present there, to implement this decision."

This Press Note indicates clearly two things. That there was a notification by the Rehabilitation Ministry that unauthorised occupants of certain government properties which were evacuee properties before 1955 would be permitted to remain in such properties and their occupation will be regularised provided they paid their dues. That earlier notification was up to 31st December 1954. Subsequent to the floods, this date was extended to 31st December, 1955.

Now, it means that there are certain properties which do come within the mischief of this Bill which are, to all intents and purposes, unauthorised occupations. Yet, these unauthorised occupations are only in the technical sense. Then, the Rehabilitation Ministry has made a commitment that it would be regularised—either allotted to them or adjusted against their claims—if they pay the previous dues.

You find that this commitment of the Rehabilitation Ministry is subsequent to the one that was given by Shri Gadgil in 1950 and this pertains to property that was acquired by Government in 1955 under the provisions of section 14 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954. All those properties which have been so acquired come within the definition of 'public premises' in clause 2 of this Bill.

Those properties are in the occupation of displaced persons. The Rehabilitation Ministry stands committed to regularise their possession and adjust it against their claims. But, there is no provision in the Bill now before the House whereby those commitments could be implemented by a statutory provision. Therefore, I have tabled an amendment and I would request the hon. Minister to consider this aspect that evacuee property which has been acquired in 1955 should be excluded from the purview of the present Bill in order to avoid complications that might arise later on about such properties and such possessions.

The hon. Minister would know very well that we have got a special provision governing such evacuee properties. I refer him to that very Act. That Act, in itself, is very exhaustive. It has provisions which govern such property. It provides the procedure also whereby persons in occupation thereof can be ejected.

If we have got a special provision governing a certain category of pro-

[Shri Ajit Singh Sarhadi]

perties and that Act contains the procedure by which the persons in unauthorised occupation could be evicted, then, why have another provision of a general nature of the present kind whereby that will be superseded? Legal complications would arise.

I draw the hon. Minister's attention to section 19 of that very Act. It definitely postulates that the Government or the Appropriate Authority has got the right to eject a person and take possession if that Appropriate Authority finds that the person's possession is not in accordance with law. That provision is this:

"Notwithstanding anything contained in any contract or any other law for the time being in force but subject to any rules that may be made under this Act, the managing officer or managing corporation may cancel any allotment or terminate any lease or amend the terms of any lease or allotment under which any evacuee property acquired under this Act is held or occupied by a person, whether such allotment or lease was granted before or after the commencement of this Act."

Sub-section (2) says:

"Where by reason of any action taken under sub-section (1), any person has ceased to be entitled to possession of any evacuee property acquired under this Act, he shall, on demand by the managing officer or managing corporation, surrender possession of such property to such officer or corporation or to any person duly authorised by him or it in this behalf".

Sub-section (3) is very relevant. It says:

"If any person fails to surrender possession of any property on demand made under sub-section (2), the managing officer or

managing corporation may, notwithstanding anything to the contrary contained in any other law for the time being in force, eject such person and take possession of such property and may, for such purpose, use or cause to be used such force as may be necessary".

So, what I am submitting is this. We have got section 19 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 which authorises the appropriate authority to eject an unauthorised occupant if the appropriate authority comes to the conclusion that the possession is not proper or not in accordance with the law.

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[MR. DEPUTY-SPEAKER in the Chair]

This provision, namely, section 19, is subject to the commitment that the Rehabilitation Minister has given and this commitment, although where a person is in occupation before 31st December, 1955, his possession will be regularised in case he follows certain conditions, that he pays the dues and fulfils the requirements in the prescribed form and manner. If you supersede this Act and if you bring in another Bill and change it into an Act, namely, the present one, which does not contain any repealing clause about section 19 which is contained in the Act quoted by me, what is the legal implication or legal consequence? Is it a repeal or is it a supersession or what is it? On the one side, we have a special Act and on the other side we have a general Act. This is a point worthy of consideration. I therefore submit that the Government, at this stage even, would do well to exclude the evacuee property which has been acquired in 1955 from the purview and ambit of this Act and allow it to be governed by the Displaced Persons (Compensation and Rehabilitation) Act, 1954

which does vest power in the appropriate authority to eject a person where the possession is illegal, unauthorised or against the provisions of the rules and the law.

I fail to understand, when we have got an Act already governing such property and the provisions of that Act are subject to certain commitments, why you should bring in another measure which does not contain any commitment. The hon. Minister can ask us why it should not be done. There is no doubt that a very large number of refugees bank upon the assurances which had been given in this House, but I would submit that there is no legal validity for them, because the Estate Officers situated, as they would be, in different parts of the country, would not implement those assurances when they are not provided in the statute itself. I possibly cannot understand the position. Now, I shall make a few general observations after this submission.

I would submit that the refugees are your liability. They have suffered for the country, and you have to safeguard their interests. You certainly gave them assurances and we are grateful for that. It was very kind of you. You have done all that was possible for rehabilitating them. We are very grateful for that also. But do not do anything now to undo what you have already done. The Rehabilitation Minister says that their possession will be regularised in case they were in possession before a certain target date. The present Bill is brought, nullifying that assurance and commitment. Therefore, I pray that you will be pleased to reconsider—I would request the hon. Minister to reconsider—the position in the light of my submission which I have made now, and exclude such evacuee property which is now Government property acquired under the Act, from the provisions of this Bill. That is my submission pertaining to the evacuee property.

There is another category of people that would also be affected and they are the Government servants that would be evicted, and particularly the refugee squatters and Government servants who had opted out for India and who have been given houses not under the rehabilitation scheme but have been given Government accommodation. In between these periods, they have not built any houses for them. They would certainly be ejected the moment they retire in two or three or five years' time. What have you provided for them? I would submit that housing is one of the objectives in the Plan. It is also the duty of the Government to look to proper housing and see that every citizen gets a house. This is one of the objects of planning. Would it not be unfair if, after those people retire in two or three years you ask them to go out on the road? They have not built any houses. Therefore, my submission is, apart from the measures you take and apart from the schemes, and also as part of the schemes, you must give them some concessions. I support what the hon. Members who preceded me spoke—Shrimati Sucheta Kripalani and Pandit Thakur Das Bhargava. I would not take long. I have done. I would again draw the attention of the hon. Minister to those amendments which I have tabled, namely, the evacuee property which was acquired by the Government under the Displaced Persons (Compensation and Rehabilitation) Act, 1954, and which now comes within the definition here, should be excluded and that that the assurances that have been given by Shri Gadgil in 1950 about the public premises then should be incorporated in the statute. That would meet the ends of justice.

Shrimati Renu Chakravarty: Mr. Deputy-Speaker, I just want to add my voice to that of the other hon. Members who have proposed that there should be a very clear amendment added to this Bill so that it is made absolutely clear that those refugees who are covered by the assurance of Shri Gadgil and who have

[Shrimati Renu Chakravartty]

come to India before and had established their houses or premises before 1950 should not be brought within the purview of this Bill.

This Bill itself, as you know very well, had met with opposition at various stages earlier. When similar Bills had come, both at the Select Committee as well as later, you yourself, and many of us, have again and again tried to show what great hardship it will bring to those who have been uprooted from Pakistan and who have come here at a time when they had no house, and when they were literally on the street. When they were faced with that huge problem, they did set up unauthorised settlements not only here but elsewhere also. As the hon. Minister of Rehabilitation very well knows and as many of our hon friends here who have been interested in rehabilitation know, if those who have come from East Pakistan had not settled in what are known as squatters' colonies which are according to the law actually illegal possessions of land, thousands and thousands of people would still be shelterless. That is why, finally, in spite of every objection from the side of Government for years together, when eviction bills were passed, tremendous movements took place. There were frings, there were shootings, and people died. And the Government then accepted the position that squatters' colonies had to be regularised.

I admit that for reasons of health, for reasons of hygiene and for reasons of town-planning, etc., it is necessary to bring about a certain modicum of conformity with municipal rules and planning rules. But we should not make a fetish of it. Because of the rules, it is not right that those people, who have, after so much travail and suffering, got a shelter over their heads should again be evicted. After all, this Government itself is facing a huge shortage of housing, but on the pretext that a particular house is not having the measurements according to the model

rules or according to the town-planning rules, we should not allow them to be evicted and become shelterless again. That is why all of us have been pleading with the Government that it is necessary to exclude at least those who have come and who have built their houses before 1950. There should be under this unauthorised occupation clause, a proviso which excludes those displaced persons who were in occupation of public premises before the 15th day of August, 1950, and that they shall not be deemed to be unauthorised occupants if they had constructed any building on such sites.

Actually, a committee of assurances was set up. That committee of assurance had submitted three reports, if am not mistaken. The first report shows—and actually Shri Gadgil had stated—that they would have to comply with a certain modicum of rules, and in cases of construction which complied with or fairly complied with suitable modifications, or which fairly complied with the municipal rules and town-planning or improvement plans, the value of the land of the unauthorised occupant shall be assessed on a no-profit-no-loss basis, having regard to the cost of acquisition and development of land, and the displaced person would be given the option to purchase the site occupied by him against payment in easy instalment of the value of land etc.

Now, Sir, I am very much surprised that, in spite of the fact that the Committee on Assurances in its First Report says that many many owners of these houses have applied for regularisation, even today I find that 711 houses housing about 5,000 people with property worth about Rs. 2 crores will fall within the mischief of this Act because they have not yet been regularised.

Under the circumstances, I think it is absolutely essential that those who came at that time—of course, my hon. friend, Shri Sarhadi has pleaded about

the cases of those who are in possession of evacuee property; there is something to be said on that point because, after all, the Ministry of Rehabilitation made certain commitments to them and they would even fall beyond the date of 1950, and for them it is a separate case—should be given statutory protection that they will not be evicted. I think there can be absolutely no objection on the part of Government to at least assure those who have come before 15th August, 1950 that they will have statutory protection and that they will not be evicted, and that their houses will be regularised according to the conditions laid down in the assurance given by Shri Gadgil.

We have found that this Bill actually seeks to replace an old Act which has been declared void by some High Courts. Therefore, it is right that we should be very careful when we are drafting this Bill. We should give clear legal recognition to these unfortunate people who have lost their hearth and home once. We must see that they are not made to face the same problem again. They should not be made to lose them all over again. We should not make a fetish of law, town rules and hygienic conditions. We should only see that a minimum of rules are adhered to and, as far as possible, if these people abide by those rules they should have a shelter on their heads. The Government which is unable to give shelter to thousands and thousands of our people should not add to its burden by evicting these people who are today housed once again, who have today got some sort of a shelter. That is why, Sir, I plead that the Minister should accept the amendment which has been suggested to him from all sides of the House.

Mr. Deputy-Speaker: Shri Deo,

Shri Naval Frabhakkar rose—

Mr. Deputy-Speaker: I will be coming to that side also. * Perhaps hon. Members have listened to the

complaint that was made on behalf of the Opposition that from the ruling party four Members have already been called.

Shri P. K. Deo. (Kalahandi): Mr. Deputy-Speaker, Sir, this Bill seeks to empower the Government to evict from public premises certain persons without going through the normal Civil Code proceedings. Sir, it is a short circuit to the ordinary course of law. Though there was similar Act in 1950, it has been declared *ultra vires* of the Constitution as certain provisions of that Act offend articles 19 and 14 of the Constitution. The findings of the Calcutta and Punjab High Courts have been met by this Bill. Regarding the objection of the Allahabad High Court with regard to the discriminatory treatment to the citizens of this country, the hon. Minister is sanguine that if this matter be taken to the Supreme Court, probably the finding of the Allahabad High Court would be upset. In view of the sentiments expressed by the hon. Minister, I have nothing more to add.

Coming to the merits of this Bill, by this Bill we are going to give unlimited arbitrary power to our executive. The Government can institute ejection proceedings in the ordinary civil court. I do not understand why this summary procedure is being sought for in this particular case. In summary proceedings effective judicial safeguard should have been provided to the affected persons. Here we find that the Estate Officer himself is the Eviction Officer. In the ordinary procedure of law he would be a party. If you go through clause 5 of this Bill you will find that if a person is aggrieved by the 'show cause' notice of the Estate Officer, then he has to appear before him, produce some evidence in his favour, and after giving him full opportunity to be heard the Estate Officer will pass orders if he is satisfied that the possession has been unauthorised. Here the prosecutor

[Shri P. K. Deo]

himself is the deciding authority. In the ordinary course of law, as I said, he would be a party to it. Therefore, I feel that in such matters, instead of referring the matter to the Estate Officer, it should be referred to a third party.

Regarding recruitment of gazetted officer for the post of Estate Officer, I respectfully submit that such an officer should be an officer of the judicial department. For such summary proceedings we would like that the Estate Officer should have some judicial bend of mind, because he has to dispose of these cases in a summary way.

Then I come to the provision with regard to appeal. There is provision only for one appeal from the Estate Officer to some judicial officer like the District Judge. I think this is not adequate. There should be provision for a second appeal, and any aggrieved person who is not satisfied with the finding of the District Judge should be able to prefer an appeal to the High Court and the decision of the High Court should be final in these respects.

The way the whole ejection proceeding is rushed through, I feel that it will deprive the occupant a real and effective legal remedy if any injustice is done to him. If our Civil Courts cannot provide speedy remedy, why not change the Civil Procedure Code and improve the provisions so that speedy justice would be available? Instead of doing that, why make a legislation like this?

Sir, the axe of the Bill will naturally fall on three categories of persons. First of all there are those ab-initio trespassers. For this category of persons I do not think the House will have any sympathy. The second category of persons who would be affected by this Bill are such persons who suffer from social and pecuniary disabilities. Among,

them we can mention the refugees who have been reduced to the status of refugees by circumstances beyond their control. Even though assurances have been given by the Ministry of Rehabilitation that those refugees who were occupying public premises before 15th August, 1950 would not be removed from the premises if they fulfil certain conditions, and the possession of evacuee properties by refugees up to 31st December, 1954 would be regularised, they have not been incorporated in this Bill. If the Government are really sincere about it, mere assurances will not help the refugees. They should form part of the legislation. Otherwise, promises become pie-crust and are broken if there is no sincerity behind them. I most respectfully submit that those assurances should be incorporated in this legislation.

The second category of such persons affected would be the construction workers, the sweepers, the cobblers, the masons and other construction workers who have been occupying these public premises. They are rendering very useful service to the community and to throw them into the streets without providing any alternative accommodation for them or without making any plan for their rehabilitation would be a very cruel thing. This problem should be considered from its human aspect. It is a human question and even though they might be occupying some public premises not lawfully, still the Government, which is trying to build a socialist pattern of society, should see that they are properly rehabilitated and they find their proper place in the society.

In this connection, it would not be out of place to mention the way in which these construction workers have been treated in my state. The poor, Hafijans, or Raptapara in Kasinga who form the main bulk of construction workers, have been put

under undue official pressure and asked to quit their tenements and I do not think anybody in this House would agree that they should be thrown into the wilderness. It is the duty of the Government to see that they are properly rehabilitated with alternative accommodation and unless and until that is done, they should not be asked to leave their tenements. The third category of persons affected by this Bill would be the displaced persons who are about to be displaced from lands which are acquired for developmental purposes as for steel plants, big irrigation projects, cantonments, etc. To acquire these lands, necessarily the Central Government seeks the service of the State Governments and there are different land acquisition laws in different States.

Pandit Thakur Das Bhargava (Hisar): So far as the question of land acquisition or legislation about land is concerned, it is entry No. 18 in the State List and so, it cannot be a subject-matter of this legislation. He is speaking of Rourkela, Bhiali lands, etc. They do not come within the purview of this legislation

Shri P. K. Deo: The lands might be acquired by the State Government. After they are acquired, they are given to the Central Government and the Central Government would apply this legislation for their eviction. I am subject to correction, but that is my reading of this Bill.

According to the Orissa Act No. 18 of 1948, so far as displaced persons from Hirakud are concerned, you will be surprised to know that though 12 years have passed, they have not been paid a single pie of compensation. When the axe of retrenchment fell, it first fell on those displaced persons who have been employed in the project in various capacities. It is the primary duty of the Government to see that before these displaced persons are displaced from their lands which have been in their possession since centuries, they should be properly rehabilitated and proper com-

penensation should be paid to them before they are evicted from these lands.

I would be failing in my duty if I allow this Bill to be passed without recording a protest against the way the eviction proceedings have started in the Rourkela area. In that case, no compensation has been paid to the people and they are asked to leave their houses. Bulldozers are being used to demolish the villages and fields with luxuriant growth of paddy are being levelled overnight, because the State Government law under which these lands have been acquired is defective. According to that law, as soon as notice is given, the title of that land ..

The Deputy Minister of works, Housing and Supply (Shri Anil K. Chanda): On a point of order. The hon. Member is referring to some provincial legislation. We have nothing to do with that. We do not even know the provisions of that Act. In any case, it has no relevance so far as this Bill is concerned.

Shri P. K. Deo: They can issue a directive to the State Government . . .

Mr. Deputy-Speaker: This has been brought to his notice by Pandit Thakur Das Bhargava, but even then the hon. Member believes that those provisions do attract that also.

Shri Mahanty (Dhonkanal): If the hon. Minister would look to sub-clause (b) of clause 2, he will find that,

"Public promises" means any promises belonging to, or taken on lease or requisitioned by, or on behalf of the Central Government".

Pandit Thakur Das Bhargava: It is in regard to the Union Territory of Delhi only.

Shri Mahanty: There is a semi-colon and then there are the words

[Shri Mahanty]

"and, in relation to the Union Territory of Delhi, includes also" etc.

Shri P. K. Das: I would like to draw attention to the remark of the hon. Minister at the time this House referred this Bill to a Select Committee. He has given the statistics of persons unlawfully occupying public premises and he has mentioned people occupying the tenements in the Hirakud area. Naturally, when he speaks of Hirakud, there would be no objection if I bring to the notice of the House the state of affairs there.

In the Orissa Act, there is a provision that as soon as notice is given, the title will vest in the Government and the occupant is asked to vacate within 48 hours. But 12 years have passed since the acquisition proceeding started in Hirakud area and still not a pie has been paid as compensation to these people. So, I respectfully submit that these persons should be provided with alternative accommodation and should be properly rehabilitated before any drastic action is taken to evict them.

Shri D. C. Sharma (Gurdaspur): It is said that there should be no taxation with representation and I believe that natural justice requires that there should be no eviction without giving corresponding accommodation. This principle of natural justice has been very vigorously and eloquently propounded by our beloved Prime Minister in his Foreword to the book *Slums of Old Delhi* where he says:

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

It has been said that this law has been proved to be unconstitutional and it will work against the fundamental rights of humanity. I would also say that this law is bad in justice and that it offends one of the most fundamental principles of natural justice. My hon. friends have already argued the case on behalf of displaced persons. I

endorse every word of what Pandit Thakur Das Bhargava has said. Assurance once given should be acted upon. Otherwise I think the Government loses its prestige in the eyes of the persons who are sufferers. I also endorse what Pandit Thakur Das Bhargava has said about government servants. After all these government servants from East Bengal and from West Pakistan who have no homes of their own should be given some kind of concession so that they are not displaced twice over as it has been put so aptly.

13. hrs.

But, Sir, there are three classes of persons whose claims I want to put forward. They are, first of all, the Harijans and the members of the backward classes. Now these Harijans and members of the backward classes are without any kind of resources and they have been living in those places for a number of years. They are now being displaced from those places. I have in my pocket notices which have been served upon these persons. I want to bring to the notice of the House the instance of a village in Delhi, in Vinayanagar, where people have been living for so many years, and where they have their homes and their sources of livelihood. But now they are being displaced and notices are being served on them. They are asked to quit their houses; their cattle are attached and all kinds of things are being done to them, subjecting them to a great deal of hardship. In other words this Bill is going to affect those persons, Harijans and members of the backward classes, whom it is our foremost duty to protect.

Thousands and lakhs of persons have come to Delhi in order to put up these buildings where we work and in which we live. They have built their colonies in all kinds of places and they have been living there for so many years. One day I met a worker who told me that it was in his

presence that the foundation stone of Connaught Place was laid. Now that person along with so many thousands is going to be displaced. What is Government going to do about these persons?

At the same time there are these slums and I think some of those slums will also be covered by the provisions of this Act. I am sure the process of eviction will go on at a very rapid pace so that all these persons will be evicted. Eviction is a nightmare—the very word is a nightmare—and I believe that the process which has been outlined in this Bill to give effect to eviction does not inspire any kind of hope or any kind of assurance in the minds of people who live there

In the first place the definition of "public premises" has been made so wide and so sweeping that I think anything can be covered under this. My hon. friend over there was speaking of Rourkela. He was perfectly justified in speaking about Rourkela, as I am perfectly justified in speaking about the town of Bilaspur or where they are building the fertilizer factory in Hoshiarpur District. These persons are being uprooted. They may be uprooted on account of some State law, or they may be uprooted on account of some Central law. I think you cannot distinguish between one kind of eviction and another kind of eviction and I think what is being done in the matter of eviction by the States now is going to be done by the Centre. Therefore I think there is a kind of conspiracy between the States and the Centre to evict these persons and to evict these persons in such a way that they are not provided with alternative accommodation. I would, therefore, say that the definition is such that it leaves no loophole of escape for anybody who is going to come within the net of this definition.

When I come to Delhi I find that the Delhi Development Authority has been included in the purview of this Bill. What that Authority has been doing is common knowledge to all of us; it is common knowledge to all the

citizens of Delhi. People have been putting up constructions because their blue-prints were not passed for years together. It is common knowledge. I am not saying something which is not known to anybody else. Now people have put up constructions. Why have they put up constructions? On account of the default of the Delhi Development Authority in not sanctioning these constructions in time and not giving them permission to do so. Now this Development Authority is coming within the purview of this measure and I do not know how much of property will come within it, on account of the inclusion of the Delhi Development Authority in this Bill.

Then I come to the definition of "premises". When you talk of premises you usually refer to the ground on which the house is built. But here the whole thing, the garden and everything else, is going to be included in the definition of premises. The definition of the word has been made so wide that it will affect people very very harshly and very very badly. This Bill is not only harmful in intention, but it is also damaging so far as the definition of the word "premises" and the definition of the word "public premises" are concerned.

When I was speaking on the Bill before it was referred to Joint Committee I asked: who are these estate officers? What kind of functionaries are we going to create in these estate officers, the kind of officers who I think are going to exercise not only judicial functions but also executive functions, not only judicial and executive functions but also police functions? We are creating a new type of officers in this country of ours, who I think are going to be more dangerous for these persons than any other officer has been so far. I feel that the estate officer should not have been clothed with so wide powers as he has been. At the same time I would have liked that the period of notice should have been longer, but nothing has been done. Nothing has been done to give more scope for redress to the person whom it is going to affect.

[Shri D. C. Sharma]

This Bill, from whatever angle you may look at it, gives unlimited powers to the estate officer. When a State comes under the President's rule, even the Governor who is put in charge of that State does not enjoy such unlimited powers as the estate officer is going to enjoy and still nothing has been done to put a curb on the powers of the estate officer. He is the assessing authority also. He can do anything. Again, the right of appeal has been taken away. It has been kept at only one level. You can prefer your appeal to the judicial officer who is of the rank of a District Judge. Beyond that you cannot go.

So, I would submit that this Bill is going to create a new class of persons. In this country we have the tenant class and the land-owner class. All these years we have been trying to solve their problems and we have not been able to do so very effectively. By passing this Bill we are going to create a new class in our country, a houseless class, a homeless class. Of course, that class already exists. This is a new class, because they have houses. But they stand in danger of their houses being demolished. They have their premises and they stand the danger of being evicted from their premises. We are going to create a new class, and that class will constitute a danger to the social life of our country I believe that this should not be done.

Again, as I said, the intention may be good. But the implementation of a good intention may not be as desirable as it should be, and here the implementation is not such as will promote any kind of well being.

So far as delegated legislation is concerned, more power is taken by this Bill than is necessary. As you are the Chairman of the Committee on Subordinate Legislation, I would request you to go into the provisions of clause 13 of this Bill. You will find that more power has been sought to

be taken through subordinate legislation than is done in any other Bill. I can understand that some power should be taken under the rule making power. I have no quarrel about it. But here even how the enquiry is to be conducted would be decided in the rule-making power of the Ministry. What is the procedure to be followed? What is the manner in which the damages are to be worked out? All these things are very essential parts of this Bill, and the essential parts of the Bill should not be left to the rule-making power of the executive. They should form part of the Bill, so that we know how the Bill is going to be implemented. I think this is one of the biggest defects of this Bill. So far as the implementation part is concerned, and that is a very important part, that has been left to the rule-making power. When we passed the Refugee Rehabilitation Rules, we had to discuss them for days together, because there was some difficulty. So far as the power for making rules under this Bill is concerned, that goes one step further than that Bill. Therefore, I would say that the rule-making power should not be given in extenso to the executive, so far as this Bill is concerned.

Mr. Deputy-Speaker: Shri Kadiyan

श्री नवल प्रभाकर (बाह्य दिल्ली-रक्षित-अनुसूचित जातियाँ) : उपाध्यक्ष महोदय, क्या मैं प्रार्थना कर सकता हूँ कि मेरे निर्वाचन क्षेत्र पर इसका व्यापक प्रभाव पड़ने वाला है, इसलिये क्या मुझे बोलने का

उपाध्यक्ष महोदय : इसलिये क्या मैं बाकी मੈम्बरों को छोड़ दूँ और माननीय सदस्य को पहले बोलने दूँ ? माननीय सदस्य को बुलाया जाकर जायेगा, लेकिन अपनी टर्न आने पर आप कैसे बोल सकते हैं ?

श्री बाल्मीकी (बुलन्दशहर—रहित-अनुसूचित जातियाँ) : उपाध्यक्ष महोदय, मैंने मिनट ग्राफ डिसेंट दिया है। मैं प्राथना करता हूँ कि मुझे भी बोलने का समय मिलना चाहिये।

उपाध्यक्ष महोदय : जिन दसम्बरों ने मिनट ग्राफ डिसेंट नहीं दिया क्या उनको मैं बोलने का वक्त न दूँ ?

एक माननीय सदस्य : आपका नोट छप गया है, अब आपको बोलने की क्या जरूरत है ?

Mr. Deputy-Speaker: Yes, Shri Kodiyan

श्री बाल्मीकी : उपाध्यक्ष महोदय, आपने कहा कि नोट छप गया है। लेकिन उससे शान्ति नहीं होती है। मुझे कुछ और कहना है।

उपाध्यक्ष महोदय : मैंने नहीं कहा कि नोट छप गया है।

Shri Kodiyan (Quilon-Reserved-Sch. Castes): Mr. Deputy-Speaker, this a very controversial Bill, and in the Select Committee, we tried our best to remove the evils of this Bill, as far as possible. But our efforts did not succeed. I shall try to explain some of the important points raised in our dissenting minute

Yesterday, commending this Bill the hon. Deputy Minister said that they have tried their best to meet the objections raised by the various High Courts of our country regarding the previous Bill, that is, the Public Premises Eviction Bill of 1950. But, I do not think, even after the deliberation of the Rao Committee, this Bill has overcome all the objections raised by the various High Courts. There is the judgment of the Calcutta High Court, and the Punjab High Court had agreed with that judgment. But I am not referring to these two judgments. I am here referring to the judgment given by the Allahabad High Court,

and that judgment was that certain provisions of the previous Act offended against article 14 of our Constitution, which deals with equality of persons before the law.

Yesterday, the hon. Minister said that even though the Allahabad High Court had given that particular judgment, there is room for such classification if there is reasonable rationale behind such classification. As far as I know, according to the provisions of this Bill, Government is empowered to evict all those persons who are deemed to be in unauthorised occupation of public premises. Here in our country, under ordinary law, if a person happens to be in unauthorised occupation of another premises of a private individual, he has all the right to go and approach a court of law and try to get his grievances redressed by the normal procedure of the law court, if the owner of that particular tenant takes action against him through the law courts. But in this Bill Government are being given summary powers to evict all those persons from the public premises. Here the differentiation or classification is not between a private individual and a State, but it is a classification between a private individual or a private citizen on the one hand, who occupies private premises, and another private citizen, occupying public premises, on the other hand. Therefore, under the law, even though every citizen has got the right to be heard, if the citizen happens to be in unauthorised occupation of Government land, he has no such option to go to a higher court to get his claim adjudicated by that higher court. Therefore, this kind of a provision in the Bill, giving arbitrary powers to the estate officer, is, in my opinion, contrary to the provisions of the Constitution and is undemocratic and unconstitutional also.

Here, of course, in the provisions of the Bill there is room for appeal to the higher authority, but it is a

[Shri Kadiyan]

District Judge who may be appointed as Appellate Officer according to this Bill. I am referring to the higher courts. If an aggrieved person thinks that justice has not been done to him, he must have the right to approach the higher courts in the country. Here the complainant is the Government and who is to judge the complaint? The Government themselves are to judge their complaint through their officers—the Estate Officer and other like officers. The ultimate decision rests with the Estate Officer or the Appellate Officers.

Another point that I wish to bring to the notice of the House is that this whole problem has not been viewed by the Government from the human aspect of it. The human aspect of the problem has been completely neglected. This is a measure which is going to affect tens of thousands of people in our country. Several hon. Members have already pointed out that a lot of refugees and other people are going to be affected by this Bill. Yesterday the hon. Minister said that there are squatters in several parts of Delhi, but all these people cannot be termed as trespassers. Of course, there may be some people who deliberately encroach upon Government land and if they are deliberately trying to encroach upon Government property, of course Government must have the power to evict them. But all of these people do not belong to that category. There are a large number of refugees and people like harijans. Then, there are construction workers, Government servants and such other poor people. Take for example, the case of construction workers. These people have been here playing their part in building up the city, but after having played their part in building up this great city of our country, are they going to be driven away? If for the expansion of the city and for the sake of the development of the city, all these poor people are to be driven away and the city is to remain the paradise of the high-ups alone I have nothing to say against it. But my

submission is—of course, Delhi must be expanded, other cities must be expanded, the projects in the public sector must be executed; I am not against it, I am all for the success of such project:—but what I submit is that the needs for expansion of the city must reconcile with the requirements of the people, especially the working people who have played their part in building up the city.

A lot has already been said by hon. Members who preceded me about the assurances given by Shri Gadgil. I am not going into the details of these assurances. Yesterday the hon. Minister has been pleased to say that those assurances have been implemented. I do not think that those assurances have been implemented. If those assurances have been implemented, I would like to ask the hon. Minister why these refugees are coming to us? Yesterday and on the previous day also, several representatives of these refugee associations had come to me and I have a memorandum submitted to me by those people. In that memorandum they say:

“The very fact that there are thousands of constructions which have not been regularised and even the question of their regularisation has not been examined clearly shows that the assurances have not been implemented.”

As a proof of this argument of theirs, they have given some figures of those houses which have not so far been regularised. I need not read out all those figures, but I may say that there are 711 houses, with a population of 4,654 people, the value of which is Rs. 14,77,000. They say that these houses have not been regularised.

With regard to a certain part of those assurances given by Shri Gadgil, i.e., regarding ex gratia payment to displaced persons whose houses may be demolished, it is true that some payments have been made to those

persons, but as far as I understand even that *ex gratia* payment was later deducted from the compensation which was due to the refugees from the Rehabilitation Ministry.

In the memorandum that I just now mentioned, they have quoted several other things also, but I do not want to enter into the details of such complaints. What I submit is that the assurances given by Shri Gadgil have not been implemented satisfactorily and I am very glad that the hon. Minister was gracious enough to inform the House yesterday that he still stands by those assurances. But standing by those assurances is one thing and implementation of those assurances is another thing. Yesterday as Pandit Thakur Das Bhargava has pointed out if he is prepared to stand by the assurances, why is he not prepared to incorporate those assurances in the provisions of the Bill by making a statutory provision in the Bill? If he is prepared to implement those assurances, what is the difficulty in making statutory provision for such assurances in the Bill? I think the hon. Minister would reply to this specific question.

Then many things have been said about gazetted officers. I also strongly feel that these gazetted officers, specially as they have to deal with this complicated problem in the course of which they have to deal with many legal aspects of the problem also, should be recruited from the judicial service. I think every section of this House demands such a provision because in the notices of amendments given by several hon. Members I find that there is unanimity of opinion regarding this particular matter.

Then lastly, again I repeat that this problem must be viewed from the human point. If you take the example of refugees, they have been once refugees and again if they are going to be made refugees for all their life, certainly it is very unfortunate. Having allowed these refugees to

construct houses in public premises, as several hon. Members pointed out, yesterday, having encouraged them to settle more or less on these public premises, if now the Government is coming forward with this Bill which gives them arbitrary and sweeping powers, if they come forward to unsettle the already settled life of the refugees, it will create a more complicated situation, that would be very difficult to meet.

With these words, I conclude.

The Deputy Minister of Law (Shri Hajarnavis): Sir, may I have your respectful permission to intervene to make submissions on behalf of the Government on one aspect about which complaint has been made by several speakers that we have not paid due regard to the various decisions of the High Court by which they struck down the earlier Act? It is out of respect due to the eminent Members of the legal profession like Pandit Thakur Das Bhargava and also out of respect and reverence which we have to the High Courts who are the custodians of the fundamental and other civil rights in this country that we must meet that charge and I submit to this House with all the earnestness that I have that that charge is not true.

I may remind the House and Pandit Thakur Das Bhargava must have noticed that the earliest decision comes from the Calcutta High Court. That particular petition on behalf of the citizen was argued by the Law Minister. The objections raised to the earlier Act were raised by our Law Minister.

Shri Anil K. Chanda: Not as Law Minister.

Shri Hajarnavis: As counsel. It is his objections to the Act which were upheld by the High Court. Therefore, we were more aware than any other person could be aware of the grounds on which this Bill was likely to be assailed. We went all out and

[Shri Hajarnavis]

we paid anxious consideration to every aspect of the Bill to see that the Bill did not suffer from any of the defects about which complaint was earlier made.

Then, it has been said that we have disregarded certain additional point which has been made by the Allahabad High Court. I briefly intend to deal with them. Before I do so, there are two preliminary observations which I might make. The first is that the Government, as any other owner, as Pandit Thakur Das Bhargava admitted, is entitled to protect its property. Not only it is entitled to protect its property, but it is in trust bound as the guardian of the property of the whole nation to take steps to see that all trespassers are evicted and Government's possession of the property is protected and that no person without any right—unless good cause is shown—is allowed to use Government property. That is the primary duty of the Government as owner, as trustee on behalf of the whole community. Government can file a suit to oust any trespasser. That right is there. The only question is whether, Government's title being admitted, Government's right to possession being unchallenged, it would be in the interests of the Government and the person who is in illegal possession—that is the assumption I make—it is admitted that a person is in illegal possession and the property belongs to the Government—is it necessary that a costly litigation should be launched before possession is recovered from him? As Pandit Thakur Das Bhargava said yesterday, court fee will have to be paid. Pleadings will be drafted by lawyers. Before he goes to the court and very probably before he makes an effective defence, he will also have to engage counsel himself. There will be protracted proceedings. On the assumption that the property in respect of which the suit is launched belongs to the Government, the Government is able to prove that the

right of possession of the defendant has come to an end or it had never existed, and a decree for ejection is bound to follow. In such a case, he will be saddled with costs. His own costs have been in vain. He will be further liable to a decree for mesne profits. Assuming that a person of no means, a refugee, a destitute person, is to be proceeded against, assuming we are heartless and we have decided to be vindictive, is it in his interest that he should fight his case in the civil court? Should it not be a procedure where there are no technicalities, where he will not be saddled with costs, where if he has any defence, it will be heard without technicalities? I submit that the easier and cheaper method is as much in his interest as in the interests of the Government.

The point that I want to emphasise is that the Government, in attempting to enact this Bill, is merely trying to change the procedure. It does not create any right which did not exist before. Yesterday, a question was asked by Pandit Thakur Das Bhargava and he is, as I know, a very able lawyer but he has not answered it. The question is, has not the Government today the right to evict a person who is without any right occupying property which admittedly belongs to the Government and for this what should be the procedure.

Shri Achar (Mangalore): May I just ask one question? Is it the case of the Government that the Act will apply only in cases of admitted title?

Shri Hajarnavis: I entirely heartily endorse what my hon. friend has said. This Act is not intended to be applied to a case where there is any *bona fide* question of title because, we know that in such cases where we are not able to prove that Government have a clear title or right to possession, the defendant is entitled to go to the civil court and say that the powers under the Act are being

abused and we are going outside the Act. As a matter of fact, Pandit Thakur Das Bhargava will notice that in the Allahabad case, the suit was entertained in spite of a clause to the effect that civil suits will be barred.

As I said, there can be only two very simple issues in this case. Does the property belong to the Government? If there is the slightest doubt about this, the Government will be well advised not to have resort to this proceeding at all.

Pandit Thakur Das Bhargava: May I enquire, where is the provision in this Bill to say that, where there is doubt, or where the plea raised is about title, the Estate officer will stay his hands? There is no such provision in the Bill.

Shri Hajarnavis: May I submit that the Bill permits the Estate officer to do so, and he can only act under clause 4 if he is of opinion that any person was in unauthorised occupation of any public premises. He must form an opinion in respect of public premises. If he tries to set in motion proceedings under this Act in respect of premises which are not public premises as defined by the Act, he is going outside. We have no doubt about it.

Pandit Thakur Das Bhargava: So that, his opinion is final.

Shri Hajarnavis: No.

Pandit Thakur Das Bhargava: Who decides the question of title? If he is of the opinion that the property belongs to the Government, the other person is practically debarred from raising that question.

Shri Hajarnavis: No.

Pandit Thakur Das Bhargava: Why not?

Shri Hajarnavis: In such a case, he can go to the civil court.

Pandit Thakur Das Bhargava: Where is that provision? We are all agreed if there is that provision that he can go to the civil court. This was the point taken in the Allahabad High Court that he cannot go to a civil court because the section says that the civil court's jurisdiction is excluded.

Shri Hajarnavis: Will Pandit Thakur Das Bhargava refresh his memory and see that that particular decision of the Allahabad High Court arose from a suit under an Act in which a similar provision was there? The suit was not barred because we went outside the Act.

Pandit Thakur Das Bhargava: It was argued by the Government Advocate on that ground. But, the ground was not upheld by the High Court. On the contrary, the High Court held, since civil court's jurisdiction is barred, and the matter is decided by the subjective satisfaction of an executive officer, these provisions were *ultra vires*.

Shri Hajarnavis: If the jurisdiction of the civil courts were ousted, the High Court could not have made that declaration. The High Court would have said, the suit does not lie. It would not have made that declaration. As I read the Act, as I interpret the Act, it can only be applied where the title of the Government to the property is in no doubt whatsoever.

Pandit Thakur Das Bhargava: We agree there. If this is the interpretation and if there is a provision like this for determination of rights by civil courts, much of the complaint will disappear.

Shri Hajarnavis: The Act means that; to our mind it means that.

Mr. Deputy-Speaker: If there is question of title raised, who will decide?

Shri Hajarnavis: I may inform the House that we will consider that aspect of the matter also. This Act is supposed to provide a summary remedy. We have no doubt in our mind that this particular house or this particular building belongs to the Government, and Government are urgently in need of that house. The man there comes and says that he has some sort of title. Must we stay our hands? Must the title be again referred back to the civil court? Then, why have this Bill?

Mr. Deputy-Speaker: Then the question of title is to be decided by the same Estate Officer. In the first instance if the Government decides the title is clear, if Government is of that opinion, then the Estate Officer...

Shri Hajarnavis: First of all, we have to make up our mind, but maybe we have come to a wrong decision. First of all we make up our mind, then the matter. . . .

Pandit Thakur Das Bhargava: Government does not make up its mind. Only the Estate Officer makes up his mind.

Shri Hajarnavis: He does. Then the Estate Officer decides that issue initially. Well, the matter goes to the District Judge.

Suppose we launch a suit in a civil court, it would go, in the first instance, to the Munsiff, and the appeal would be to the District Judge. The appellate authority would be just the same. I submit so far, short of the High Court, there is no court which enjoys the confidence of the country at large except the District Judge's court. And it would ordinarily go to the District Judge, but I submit the defendant need not wait to see what the Government does. He can himself file a suit for injunction for a declaration and injunction as was done in the Allahabad High Court. I have no doubt about that.

Shri Braj Raj Singh: How will clause 10 be interpreted?

Shri Hajarnavis: So far as clause 10 is concerned, a clause like that has been interpreted not to bar the jurisdiction of a civil court where the conditions of operating that clause are not fulfilled. The moment you do so, when the conditions precedent to the operation of the clause are not satisfied, then we are acting outside the Act.

Pandit Thakur Das Bhargava: This is the rulling of the Allahabad High Court which I have got in my hand. I can read from it the passages which go to show that the other Act was declared to be illegal because of the fact that the civil court's jurisdiction was barred. They said:

"He cannot even move the civil court to restrain the 'competent authority' to proceed under this Act."

And then again:

"The provisions of the impugned Act are so harsh and unjust that they cannot possibly be said to have any reasonable relation with the objective of the Legislature. The objective of speedy and effective eviction of unauthorised persons from Government premises could very well have been achieved without unjustifiably denying to persons in occupation of Government premises rights which are considered fundamental in all civilised societies.

In 'Ram Prasad v. The State of Bihar' Patanjali Sastri, C. J., observed that the Constitution prohibits by Art. 14 the State from denying the protection of adjudication of a dispute by observing the well established procedural safeguards which include the right to be heard, the right to produce witnesses and so on."

In the end they stated:

"The unguided and unfettered discretion of a non-judicial

authority to regulate persons similarly situated to different remedies clearly violates the principle of equality before the law."

And it is not once. In several sentences they have maintained that as a matter of fact the real question is that the civil court's jurisdiction is taken away and only the subjective determination of a non-judicial officer is the very basis of the entire Act. If my hon. friend reads it and then says I will accept it. My hon. friend and we are of the same view that...

Mr. Deputy-Speaker: Now the hon. Minister may be allowed to proceed.

Shri Ajit Singh Sarbadi: The hon. Minister said that this Bill would cover admitted Government premises. What does he mean by "admitted"? Does he mean that that clauses 4 and 5 will only apply when the occupant admits in a written statement Government possession, that they are Government premises? What does he mean?

Shri Hajarnavis: No. It does not mean the admission must come from the defendant. We say in a case where the assumption of the jurisdiction by the Estate Officer is challenged in the civil court, *prima facie* the defendant would be able to show that there is some doubt as to the satisfaction of the two preliminary conditions on the basis of which the jurisdiction is issued. That is what is meant. There is *prima facie* a case made out by the defendant. Then in such a case injunction would issue.

Shri Ajit Singh Sarbadi: Is there a clause in the Bill where it is stated that where there is doubt it will be outside the jurisdiction of the Estate Officer?

Shri Hajarnavis: I submit that is the ordinary law of the land. That is section 9 of the Civil Procedure Code.

Shri Braj Raj Singh: He is not a judicial officer. It does not apply to the Estate Officer. That is the difficulty.

Shri Hajarnavis: He can file a suit for declaration and injunction before any sub-Judge or Civil Judge asking for injunction. Apart from that, there is another safeguard, *viz.*, the District Judge himself is subject to the jurisdiction of the High Court under article 226 of the Constitution so that.

Shri Achar: Clause 11 bars all such things.

Shri Hajarnavis: When clause 10 is supposed to bar jurisdiction of the civil court, it does not include the jurisdiction of the High Court under article 226 or the Supreme Court under article 136. That is not barred at all. That has been held by the Supreme Court. If my hon. friend refers to the Raj Krishna Bose's case, he will find that it has been held that a clause like this is not capable of excluding the High Court's jurisdiction under article 226.

Shri Nausahir Bharucha: What about clause 10?

Shri Hajarnavis: As the order does not take away the jurisdiction of the High Court under article 226.....

Mr. Deputy-Speaker: But of what avail would that jurisdiction of the High Court under article 226 be to that man whose case is being decided by the Estate Officer when he contests the question of title?

Shri Hajarnavis: *Prima facie*, as I see, notice goes. On the issue of the notice, the person to whom notice is issued makes a defence showing firstly that the premises do not belong to the Government, or secondly that even though they belong to the Government he is entitled to remain in possession. These are the two things on which he can contest.

Mr. Deputy-Speaker: When he is in unauthorised possession and he is a refugee, it is to be presumed he has nothing more with him. Therefore, he cannot move the High Court under article 226.

Shri Braj Raj Singh: He will be put in the street.

Shri Hajarnavis: Is it suggested that if he goes before a sub-Judge, if a suit is filed before a civil Judge, he will be in a better position to defend himself? Let us go upon the experience that we have. (*Interruptions*).

Mr. Deputy-Speaker: Let us hear the views of the hon. Minister. I hope he would not be interrupted now.

Shri Hajarnavis: The chief point on which, I understand, the Allahabad High Court struck down the Act—if I might say so, I am in respectful agreement with their view—was the phrase that was employed in the earlier Act, which was this:

"If this competent authority is satisfied that the person authorised to occupy any Government premises whether before or after the amendment of the Act has sublet without the permission of the Central Government or has otherwise acted in contravention of any of the terms or that any person is in unauthorised occupation of Central Government premises, the competent authority may by notice served order that the person be evicted"

Now, the process was that the order of eviction was made dependant only upon this, that the competent authority should be satisfied. That is to say, there was no provision for hearing the person against whom the order was made. There was no provision for taking of evidence. Thirdly, no reasons had to be recorded. All that he had to do was to address himself in his own room to the answer to that question, and subjectively arrive at

the answer and then if he subjectively came to the conclusion that the man should be evicted, he made an order. Now, certainly the person may not be the owner, but because he was in possession, surely he is entitled to greater respect of his rights than deprivation of his right merely on the subjective satisfaction of the officer.

We have removed all that. We have said he will issue a notice. In that notice we will give all the reasons, specify the grounds on which the order of eviction is to be made. Then we will give him a reasonable opportunity of being heard, and thirdly, he will make an order giving reasons, so that unless the objective fact is established before the Estate Officer that the premises belong to the Government and that the person has no right to possession, no order can be made. So, we have changed the jurisdiction being exercised on subjective satisfaction to only being exercised after an objective fact has been established. So, we have changed the whole basis of the Act. We have carried into effect the observations of the Allahabad High Court.

The second ground that they made was that there was no opportunity given to the person against whom proceedings were taken, to hear him or to enable him to make his defence. That has been specifically provided. Thirdly, it was said that the right of appeal was illusory, because the right of appeal was given to the Central Government. I am aware of the care with which any appeal that is made to the Central Government is considered. But justice should not only be done but appear to be done. Therefore, we have constituted a district judge to whom normally this appeal would go, and it goes to him by a shorter process, which is economical to the person to against whom proceedings are taken. Government have no lack of funds; Government have no lack of resources; Government have machinery to fight litigation, but it is the other man's resources which are

to be considered. We have made it simpler for his benefit. The ordinary procedure before the civil courts is likely to be cumbersome and more expensive to him, not to Government; Government can go right up to the Supreme Court; it is the other man who will be tired.

So, we submit the whole proceedings to appellate court, that is to say, the proceeding begins anew before the district judge from beginning to end. And the district judge, Sir, is an experienced officer; he is probably the seniormost amongst the judges, next to the judges in the High Court. And then, if there is any error in law, there are proceedings under article 226 of the Constitution in the High Court itself.

That being so, we contend, and respectfully submit, and I hope that we have convinced this House, that we have complied with all the requirements which the various High Courts said we had to comply with before a shorter procedure was adopted. The procedure adopted is shorter, economical, but the essence of the judicial procedure is throughout maintained. That is my submission.

श्री बनवर (मैनपुरी) उपाध्यक्ष महोदय, विभागीय मंत्री जी ने इस बिल को लागू करने के कारण इस प्रकार से बताये हैं, (१) इस सम्बन्ध में जो पहला कानून था, उसके सम्बन्ध में तीन हाई कोर्टों ने कुछ एतराजात पेश किये हैं, (२) बहुत सी जगहों पर लोगों ने अन-अथाराइज्ड प्लॉट कर रखे हैं, (३) ऐसा कानून न होने की वजह से बहुत सी जगहों में विकास फायदा रुका हुआ है, और (४) दिल्ली का जो विकास होना है, उस में भी ऐसे कानून के न लागू होने की वजह से रुकावट है। जो इस सरकार के हाई कोर्ट्स हैं, सरकार से उनके जो सम्बन्ध हैं और उनकी जो कुछ भी तजवीजें हैं, उनके सम्बन्ध में मुझे ज्यादा नहीं कहना है, क्योंकि इस अवसर के लिये वह बहुत ही टेकिनिकल

चीज होगी। यह मैं अवश्य कहना चाहता हूँ कि विभागीय मंत्री ने बहुत सी जगहों पर नाजायज प्लॉट होने का जिक्र करके सरकार की कमजोरी का एक बड़ा भारी इजाहार किया है। इस सम्बन्ध में मुझे रहस्य का एक दोहा याद आता है। उन्होंने कहा है;

कन्त निपुणई गुण बिना रहिमान गुणी हजूर,
मानहुं टेरत विटप चढ़ि यहि प्रकार हम कूर।

वह कहते हैं कि उम सरकार को क्या कहा जाये, जो यह समझती है कि उमके प्रताप के होते हुए—उमकी सब प्रकार की ताकतें होती हुए—लोगों ने बहुत सी चीजों पर कब्जा कर रखा है। अगर उस सरकार को लचर सरकार कहा जाता है, अगर उसको कमजोर सरकार कहा जाता है, अगर यह कहा जाता है कि वह बिल्कुल सरकार है ही नहीं, या दिलमिल सरकार है, तो इसमें क्या कसर हो सकती है? मैं यह कहना चाहता हूँ कि इस बिल के उद्देश्यों की ही बात नहीं है, सरकार का कुछ डांचा ही ऐसा है। सारे एडमिनिस्ट्रेशन को बाबत यह बात कही जा सकती है। सरकार की सभी बाने ही ऐसी हैं, जिनमें सरकार की कमजोरी, लचरपन इंच इंच पर जाहिर होता है। मैं समझता हूँ कि इस बिल का यह उद्देश्य देना बजाय इस बिल के नियम उपकारी और लाभदायक होने के सरकार की कमजोरी को तर्क ज्यादा इशारा करता है।

तीसरा कारण उन्होंने विकास के रास्ते में रुकावट होना दिया है। यह कैसा विकास है? सरकार का हर एक काम विकास का है और तरह तरह के विकास के काम सरकार कर रही है, लेकिन चूँकि यह कहा गया है कि इस बिल के आने से, जो बहुत सा विकास का काम रुका हुआ है, वह प्रायः चलेगा, प्रगति पायेगा और रुकेगा नहीं, इसलिये मैं विकास के सम्बन्ध में भी थोड़े से शब्द कहना चाहता हूँ। इस कारण से

[श्री धीनगर]

सम्बन्धित एक शीघ्र कारण भी मंत्री महोदय ने दिया है और वह यह है कि दिल्ली के विकास के लिये, उसको एक उन्नतिशील और प्रगतिशील शहर बनाने के लिये भी, इस बिल का लाना बड़ा जरूरी है। सरकार के ग्राम विकास और विशेष कर दिल्ली के विकास के सम्बन्ध में मैं यह कहना चाहता हूँ कि जब हमारे देश को स्वतन्त्रता मिली, उस वक्त दिल्ली की आबादी ५ लाख थी और आज उसकी आबादी २१ लाख के करीब है। मैं मंत्री महोदय से यह पूछना चाहता हूँ कि क्या उन्होंने इस विकास की कोई परिभाषा दी है और बताया है कि वह दिल्ली का कैसा विकास करना चाहते हैं। जब हमारे यहां जनतंत्रवादी व्यवस्था शुरू हुई, तो पहली जनतंत्रवादी सरकार बनाने का श्रेय हमारी कांग्रेस पार्टी को मिला। वह हर जगह अपने प्रचार में कहती है कि हमने विकास करना है। वह विकास किसके लिये किया जा रहा है? हमारी सरकार की दशा उस भ्रष्टाचार की सी है, जो कि अपने विषयों को नहीं जानता है और जिन स्टुडेंट्स को वह पढ़ाने जा रहा है, उनको नहीं जानता है। विकास के सम्बन्ध में हमारी सरकार के लिये भी वही कहा जा सकता है। उस का यह विकास किन लोगों के लिये हो रहा है? चाहे कोई भी जनतंत्रवादी सरकार हो, उसका उद्देश्य बहुजन हिताय बहुजनसुखाय होना चाहिये। मैं पूछना चाहता हूँ कि इस मुल्क के बहुजन कौन हैं और किन के हित के लिये यह जनतंत्रवादी सरकार गठित की गई है। शायद हमारे सभी माननीय सदस्य इस बात से भ्रष्टाचारी तरह वाकिफ हैं कि हमारे देश में सब से ज्यादा आबादी किसानों और मजदूरों की है। अगर हमारे देश में सारी कामूनी व्यवस्था और सारे सरकारी विभाग किसानों और मजदूरों का विकास न कर सके, उनके सम्बन्ध में कोई प्रगतिशील व्यवस्था न ला सके, तो मैं समझता हूँ कि आज नहीं तो कल यह कांग्रेस पार्टी की सरकार जरूर फ़ेल होने

जा रही है। किसानों और मजदूरों के विकास के सम्बन्ध में अभी कोई भी प्रगतिशील कदम नहीं उठाया गया है। सरकार का जितना विकास-कार्य है, वह चन्द लोगों तक महसूस है, उन चन्द वर्गों तक महसूस है, जो कि पहले से ही प्रगतिशील थे या जो बुद्धिजीवी क्लास से सम्बन्ध रखते हैं और जो पहले से पूंजीपति व्यवस्थाओं से बिपके चले जाते हैं और अब भी बिपके रहना चाहते हैं। यह कहते हुए भी कि हम किसान, मजदूर और सभी तरह के लोगों का विकास करना चाहते हैं, उन लोगों की तरफ़ धरा भी तबज्जह नहीं दी गई है। इस बिल के सम्बन्ध में सरकार का यह कहना कहां तक सही हो सकता है कि इस बिल के द्वारा वह ग्राम विकास करने जा रही है और उसके साथ ही दिल्ली का विकास विशेष रूप से करना चाहती है। जिस बिल पर हम बार्ता कर रहे हैं, उसका असर सब लोगों पर पड़ेगा। जहां तक मैं समझता हूँ, इस बिल का असर सब से ज्यादा—जहां तक दिल्ली का सम्बन्ध है—रेफ़्यूजीज पर पड़ेगा। दूसरे नम्बर पर उस का असर मजदूरों पर पड़ेगा, किसानों पर पड़ेगा, शरीब नौकरी पेशा लोगों पर पड़ेगा, मामूली दुकानदारों पर पड़ेगा, लोचें वालों, मोचियों, भंगियों, नाइयों, हरिजन भाइयों पर और एम० पी० पर पड़ेगा और कार्पोरेट्स के सदस्यों पर पड़ेगा। किस वजह से पड़ेगा? हमारे विभागीय मंत्री कितने धकियात्मक हैं और इस सम्बन्ध में कितने लचर तरीके से सोचते हैं, इसलिये सब लोगों पर इसका असर पड़ेगा। आज लोग शायद इस बात को महसूस नहीं करेंगे, लेकिन घाने वाली पीढ़ियाँ—बल्कि आज भी समझदार लोग—इसको महसूस करेंगे और इन सब बातों को समझेंगे। इसी तरह के और मंत्री शायद यह कह कर बरी होना चाहें कि यह विरोध तो पोलिटिकल पार्टीज का काम है। कि वह भूखे लोगों को भड़का देते हैं।

यह कैसा दिल्ली का विकास है कि गरीबों को उखाड़ा जा रहा है। इस बिल में आपने नाइट पोषर की तरह से, नाजायज तरीके से कमीनों पर कब्जा करने का अधिकार ले लिया है। मैं तो कहूंगा कि यह कोई छोटा बड़ा धार्मिसेस न हो करके एक फुल-स्लेज्ड धार्मिसेस है। क्या वह कोई ऐसी चीज थी जिसके बारे में हमारे मंत्री जी को आज तक कोई हिसा ही नहीं थी? उनको सायद मामूम नहीं कि ऐसा कानून पहले से ही लागू था। थोड़े से पढ़े लिखे लोगों के कुछ कहने पर जिनका वास्तविकता से कोई सम्बन्ध नहीं है, आप इस बिल को यहाँ पेश कर रहे हैं। मैं कहता हूँ कि क्या इस बिल के पास करवा लेने के बाद वह यह ममझते हैं कि आइंदा नाजायज कब्जा नहीं होगा या वह बन्द हो जायेगा? मैं तो कहूंगा कि वह और भी अधिक होगा। आप अपनी कम-जोरी की तरफ क्यों ध्यान नहीं देते हैं? मैं समझता हूँ कि पूरी की पूरी सरकार को, पूरी की पूरी कैबिनेट को इस बिल की व्यवस्थाओं को समझने की जरूरत है। आपका क्या मन्तव्य है, आपका क्या प्रकमद है कि आप इस बिल को यहाँ लायें? क्या इस सरकार का गठन चन्द लोगों के फायदे के लिये ही हुआ है? क्या यह सरकार बहुजनहिताय बहुजनसुखाय की बात में विदबाम नहीं करती है? यह बिल आम जनता की भलाई के लिये नहीं है और जिस तरह से लोग हमारे मुल्क में अपना जीवन व्यतीत कर रहे हैं, उसकी ओर हमारी इस सरकार का बिल्कुल भी ध्यान नहीं है। इसको पता ही नहीं कि किननी परेक्षानी में वे लोग आज हैं।

14 hrs.

किसान, मजदूर या दूसरे लोग जो बाहर से यहाँ दिल्ली में काम काज करने के लिये, नौकरी ढूँढने के लिये, रोज़ा करने के लिए रोज़ी की किराफ में आते हैं उनके प्रति इस सरकार के दिम में कोई जवाह नहीं है? उनके लिये यह सरकार कोई व्यवस्था करने के लिये तैयार नहीं

है। दिल्ली के विकास का अर्थ केवल इतना लगाया जा रहा है कि यहाँ पर जो बहुत बड़े बड़े धावनी हैं—छोटे छोटे नीकर भी नहीं— जो बहुत बड़े बड़े नीकर हैं और जिनको यह सरकार पास रही है, उनको फायदा पहुंचाया जाये। यह गांधीजी के उषूल के खिलाफ है। उनको इतनी बड़ी बड़ी तन-स्वाहें दी जा रही है, इतने अधिक भत्ते दिये जा रहे हैं, उनका पालन पोषण किया जा रहा है, लेकिन यही पर बस न करके उनको तरजीह और तरगीब देने के लिये हमारी सरकार दिल्ली का विकास करना चाहती है। दिल्ली के विकास के नाम पर, सायद हमारे माननीय मंत्री जी को पता नहीं किमानो की ११,००० एकड़ जमीन— ११,००० बीघा नहीं, बल्कि ११,००० एकड़ जमीन—पहले ही ली जा चुकी है और उम जमीन पर बसे लोगों को बेदखल किया जा चुका है। मुझे यह भी पता चला है कि साढ़े चार हजार एकड़ और जमीन दिल्ली के विकास के नाम पर किसानों में ली जाने वाली है और किसानों को उम जमीन में हटा दिया जायेगा। यह नाजायज कब्जे का भी मवान नहीं होगा यह तो गवर्नमेंट द्वारा मीघा कानून के सहारे एक्सीजीशन करना होगा। इस तरह में दिल्ली का विकास हो रहा है। इस तरह के काले कानून बनाते वक्त क्या हमारे मिनिस्टर साहिबान कमी खयाल करते हैं कि उन लोगों का क्या होगा जिनको बेदखल किया जायेगा? आबिर किनके फायदे के लिये आप कानून बनाते हैं? इस कानून के परिपालन से जो लोग विस्थापित होंगे, उनकी क्या हालत होगी, क्या इस पर भी आपने विचार किया है? सायद उनको तभी मोच पड़ेगी जब कि यह हालत उनके और उनके बाल बच्चों के साथ की जायेगी। सायद बहुत जल्दी वह दिन आयेगा जब कि ऐसी व्यवस्थाएँ गिन गिन कर आपके खिलाफ काम में लाई जायेंगी। आज आप बड़ी फुरती के साथ इस तरह के काले कानून पास करते जाते हैं। आज आप

[श्री बनगर]

इस स्थिति में है कि इस तरह के कानूनों को पास करवा सकते हैं और इनको क्रम में भी ला सकते हैं। लेकिन भागे घाने वाली पीढ़ियाँ और हम सभी लोग क्या बिल्कुल क्षान्तिपूर्वक इन सब चीजों को सहते चले जायेंगे? क्या हम हमेशा ही इस तरह की बातें सुनते रह सकते हैं? हर एक चीज की हद होती है और प्रति का भी कही न कही अन्त होता है। देश बे जागृति पैदा होकर रहेगी। येन केन प्रकारेण

उपाध्यक्ष महोदय : यह कब भन्दाजा लयाया जा सकता है कि माननीय सदस्य क्षान्ति से सुनोगे? अब वक्त हो गया है और माननीय सदस्य खरम करें।

श्री बनगर पाच मिनट और दीजिय।

उपाध्यक्ष महोदय पाच मिनट और नहीं, वक्त हो चुका है। मैं आपकी मदद भी करना चाहता हूँ और अगर आपको ज्यादा वक्त दिया गया तो आप बहुत थक जायेंगे।

श्री बनगर . यह पहली घंटी है

उपाध्यक्ष महोदय मैं पहले भी दो बार बजा चुका हूँ।

श्री बनगर एक तो मैं अपन लहजे में सुन ही नहीं पाया।

उपाध्यक्ष महोदय अब सुन नीजिय। यह तीसरी हो गई है।

श्री बनगर . जब माननीय मंत्री जी इस बिल पर अपनी स्पीच दे रहे थे, उस वक्त उन्होंने कुछ सरक्षणों का भी खिन्न किया था और कहा था कि गाडगिल साहब ने १९५० में कुछ सरक्षण दिये थे। मैं पूछना चाहता हूँ कि क्या आप उन पर कायम हैं? मैं समझता हूँ कि आप उनको क्रमली

रूप देना नहीं चाहते हैं। जिस तरह से आप क्रमली रूप देते भी हैं, उसको हमारे देश के लोग और हमारे देश की प्रजिक बहुत अच्छी तरह से जानती है। मैं आपको बतलाना चाहता हूँ कि सिलेक्ट कमेटी के एक सदस्य महोदय ने यह कहा है कि "गवर्नमेंट एक्मो-रेसिस धार नथिंग"। गवर्नमेंट बहुत सी व्यवस्थायें अपना वक्त निकालने के लिये, अपना काम निकालने के लिये कर देती है, लेकिन जब इम्प्लेमेंटेशन का वक्त आता है, जब उनको लागू करने का वक्त आता है, तो उनको लागू नहीं करती है, और ऐसा समझती है जैसे उनसे उसका कोई सम्बन्ध ही नहीं है।

Mr Deputy-Speaker: Lala Achint Ram. The hon Member has to go away, therefore, I am giving him the preference I shall try to accommodate other hon Members also

Shri Hajarnavis: There is one correction which I wish to make. I wonder whether when I was speaking I said the Allahabad judgement arose out of a suit. It was the Punjab judgment that arose out of a suit. That is the correction I have to make.

Pandit Thakur Das Bhargava: The Allahabad judgment has given it 11 complete words.

Shri Hajarnavis. Punjab has given

Pandit Thakur Das Bhargava Punjab judgment has given the right reply to your argument.

श्री अचिन्त राम (पटियाला) उपाध्यक्ष महोदय, मैं आपका बहुत मनाकूर हूँ कि आपने मुझे बोलने का वक्त दिया है। आपने मुझे पहले वक्त दे कर जो मुझ पर मेहरबानी की है, उसके लिये मैं मैं आपका धन्यवाद करता हूँ।

यह बिल बचकिस्मती में ही कलूंगा कि क्या साहब के विरुद्ध पड़ गया है। मेरे बिल में रेड्डी साहब के लिये बहुत इज्जत है। वह हर काम को सेवा भाव से और बड़े प्रेम से करते हैं। लेकिन मैं नहीं समझ पाया कि यह बिल उनके माथे कैसे जड़ दिया गया। यहां पर कई माननीय सदस्यो ने कहा कि यह बिल इस्लीगल है, अनकास्टीट्यूशनल है और शायद सरकार यह समझती है कि यह बात नहीं है। इस चीज को यहां पर साबित करने की कोशिश भी की गई है और इस बारे में मारा हाउस एकमत मालूम देता था। मैं मानता हू कि कई मीके ऐसे भी आते हैं जब कि कोई इस्लीगल बात करनी पड़ जा सकती है, अनकास्टीट्यूशनल बात करनी पड़ जाती है और वह तब जब कि ऐसी अवस्था हो जाती है जिसको ठोका नहीं जा सकता है या जिनका कानून में रहना हुए मुकामना नहीं किया जा सकता है। अब देखना यह है कि क्या ऐसी बात हो गई है ऐसी हालात पैदा हो गये हैं कि आप इस तरह की इस्लीगल इन-ह्यूमन, अनकास्टीट्यूशनल, अनसिम्पेयर्टक बात करने पर मजबूर हो गये हैं? आखिर-कार हमारे सामने प्रोजेजिन क्या है। इस बिल को खास तौर पर दिल्ली पर लागू करने की गरज में तैयार किया गया है। हमारे ला मिनिस्टर साहब यहां बैठे हुए हैं और उन्होंने यह सिद्ध करने की कोशिश की है कि यह बहुत जरूरी बिल है और हर प्वाइंट में ठोक है।

आखिर मसला क्या है? मसला यह है कि ११,००० परिवार यहां बैठे हुए हैं और ३५७ एकड़ जमीन है। कहते हैं कि उससे लोगों को एविकट करना है। पहली बात तो यह है कि आप ११ वर्ष के बाद, हिन्दुस्तान की आजादी के, यह बिल यहां पर लाये। यह क्या बहुत जरूरी हो गया था? जब लाखों आदिमियों को बसाने का सवाल तो और बात थी। आज क्या जरूरत पड़

गई इस की? अगर आप ३५७ एकड़ जमीन को ११,००० आदिमियों में बाँटें, तो एक एकड़ में ३१ परिवार बसते हैं, क्या इनकी जगह भी आप इन को देने के लिये तैयार नहीं हैं? यह कौन सी ऐसी बात है जिस के लिये आप का यह बिल लाने की जरूरत पड़ गई? जब मैंने मिनिस्टर साहब की स्पीच पढ़ी बड़े गौर से तो मालूम हुआ कि उन्होंने कहा कि दिल्ली से बड़ी जरूरी डिमांड आई है। यहां पर पाक्स बनाने हैं, यहां पर स्कूल बनाने हैं, यहां पर लिंक रोड बनानी है। इसके फिगर्स तो उन्होंने नहीं दिये कि इन कामों के लिये कितनी जमीन की जरूरत है लेकिन यह कहा कि लिंक रोड बनानी है, स्कूल बनाने हैं। इस के अलावा रिफ्यूजीज को छोड़ कर कितने आदिमी एविकट होंगे, इसके भी फिगर्स नहीं दिये हैं। मैं पूछता हू कि यह क्या ऐसी अनभाववायव्य बात थी जिस के बिना आप का काम नहीं चल सकता था?

दिल्ली में २२ लाख की आबादी है, २० लाख में से ११ हजार परिवारों को एविकट करने की बात आप ने मोची। क्या इस के अलावा और कोई रास्ता नहीं था? मेरा ख्याल है कि दिल्ली में ११ हजार नहीं, २० हजार २५ हजार आदिम ऐसे हैं जिनके पास ०-०, ३-३, ४-४ मकानात होंगे। कई एक एक फैमिलीज के पास ७-७, ८-८, १०-१० कमरे होंगे। तब फिर क्या यह नहीं हो सकता था कि आप उन को रिक्विजिशन कर लें, और उन में लोगों को बसा दें? मैं यह समझने से कासिर हू कि क्या यही एक रास्ता उन के पास बचा था। आपन रिफ्यूजीज को, बेचारे दूसरे हरिजनों को उलाड़ने की सोची क्योंकि आप को लिंक रोड चाहिये। मैं तो आशा करता था कि आप इस बिल का नाम "पब्लिक प्रेमिसेज। (एविकशन आफ अनआथराइज्ड आकुपेंट्स) बिल" के बजाये Necessary Regularisation of the Occupants of Public Premises Bill

[श्री अर्चित राम]

रखेंगे। जो काम कि आज तक नहीं हुआ। छात्राधी को ११ वर्ष हो गये, अब तक छात्र लोंगो को बसा नहीं सके हैं।

उपाध्यक्ष महोदय : सिर्फ बिल का नाम बदल दें, अन्दर ऐसा का वैसा ही रहे ?

श्री अर्चित राम : आपने बिल्कुल ठीक कहा। वह अन्दर ठीक न हो कर बाहर बाहर बदल जाये तो काम न होगा—मैं कहता हू कि नाम बाहर भले ही बही रहे लेकिन अन्दर तो उसे जरूर बदल दिया जाँ।

श्री बाल्मीकी : इस बिल के अन्दर ही यह सब कुछ किया जा रहा है।

श्री अर्चित राम : मेरी गुजारिश यह है कि आप यह समझें कि इम वक्त जरूरत यह थी कि आप इन प्राकल्पनाओं को रेगुलराइज करने का बिल लाते, और हम आप को सपोर्ट करने। अगर आप को निक रोड बनाना है तो आप हम को उस की पावर देते, लेकिन आपको उन लोगों को निकालने की पावर न देते। आप को पता है कि गांडगिल साहब ने हम को एग्जोरेन्स दिया था कि लोगों को उखाड़ा नहीं जायेगा, लेकिन जहा बिल पास हुआ और हम बाहर गये तो हम को खबर मिली कि बहा मकान गिरा दिये गये। गांडगिल साहब की बात को कोई पूछता ही नहीं था। यहा ता तमाम बातें कह दी जाती थीं, यहा पर एग्जोरेन्स दिये जाने थे आप भी कहते हैं कि हम एग्जोरेन्स देंगे। अगर आप को एग्जोरेन्स देना है तो आप निख कर दीजिये कि यहा पर इतने मकान हैं और हम उनको रेगुलराइज करते हैं। क्हाट इस दि डिफिकल्टी? यहा पर आज इस तरह की बातें करते हैं और जब बाहर जाते हैं तो दूसरा ही कुछ देखने को मिलता है। मुझे इन सब बातों का ज्ञाती तजुर्बा है। यहा पर एक कमेटी बनी, उसका मैं मेम्बर था। फार कूल ग्री इक्वर्स किसी ने मुझे पूछा ही नहीं। उस के

बाद जब एक बार मैं दिल्ली स्टेट के सेक्रेटरी से मिला तो उन से पूछा कि जनाव, क्या बिल है, मैं ने सुना था कि मैं इस कमेटी का मेम्बर बना हूँ। तो उन्होंने मुझ से कहा कि अब कुछ ठीक है, आप फिक न कीजिये।

उपाध्यक्ष महोदय : आप के सिवा दूसरे मेम्बरों का भी यही हाल था या सिर्फ आप का ही ?

श्री अर्चित राम : मुझे तो अपनी खबर है, दूसरों की खबर दूसरों को होती।

श्री अजराज सिंह (फिरोजाबाद) : उनसे पूछा नहीं ?

श्री अर्चित राम : मुझ का उन से पूछने की फुर्त नही थी। मुझसे तो यही कहा गया कि आप बिल्कुल फिक न कीजिये, सब ठीक चल रहा है। उन के बाद यह कमेटी बैठी, उन में मैं भी था। मैंने क्या देखा कि पहले से ही वह सारी पक पकाई चीज ले कर घाये, हम उस को स्वीकार करें या न करे। उसके ऊपर कुछ कह नहीं सकने। उस के बाद मैं रिहैबिलिटेशन मिनिस्टर के पास गया। उन्होंने कहा कि हमारा इम से कोई सम्बन्ध नहीं है। यह तो बक्स, हाउसिंग और मप्पाई मिनिस्ट्री का काम है। उस वक्त उस के मिनिस्टर सरदार स्वर्ण सिंह थे, उन्होंने मुझ से कहा कि उन से इम का कोई ताल्लुक नहीं है। यह मयला तो दिल्ली स्टेट का है। मैं दिल्ली स्टेट के पास गया तो उन्होंने कहा कि हमारा इस में कोई ताल्लुक नहीं है, यह तो ऊपर में हुआ है। इधर से उधर और उधर में इधर भागता हुआ परेशान हो गया, आखिर मैं कहा जाऊँ ? मुझे आप से बड़ी हमदर्दी है। आप क्यों मुसीबत में पड़ने के लिये इम चीज को अपने ऊपर लेते हैं? आप देखन नहीं हैं कि पिछले एलेक्शन में रिफ्यूजीय ने आप को निकस्त दी ! उन्होंने इस का पीछों का भयना बना रक्खा था। और

बहा पर सब लोगों में इस मसले ने एक यूनिफिटी पैदा कर दी है। यह कक्षा की धकलबादी है कि प्रयोजीवन वाले धाप के खिलाफ है, धाप के साथी धाप के खिलाफ है, कमी धाप के खिलाफ मबिबरा देते हैं।

श्री बाज राज सिंह : वह यह जानते हैं कि धाप उन के साथ धा जायेंगे।

श्री अशोक राम : आई कैन स्पीक फार आई सेल्फ, मुझे धाप की मदद की जरूरत नहीं। मैं कहता हूँ कि यहां पर पंडित जी ने कहा कि यह फूड का मसला जो है वह पार्टी का मसला नहीं है और सब लोग उन के साथ हो गये। कृपा कर के यह भी देखिये कि इट इज भालसो नाट ए पार्टी क्वेश्चन। धाप एविकशन को पार्टी का मसला बनाते हैं। धाप देखिये कि सारा हाउस इस के खिलाफ है। इस लिये कृपा कर के धाप जैसा मैं कहता हूँ वैसा बिल लाइये। इस पर पार्टी से ऊपर उठ कर देखिये। जब हम से पंडित जी ने कहा कि फूड का मसला पार्टी का सवाल नहीं है, सब ने उन की बात पर धमल किया। आज सब एक जवान से कह रहे हैं कि यह बिल गलत है, यह बिल गलत है। इस लिये धाप इनको हटाइये और धर्मनियन का सामने रखिये।

I would request you to take up courage in your hands as an experienced man.

इस बिल को धागे न चलाइये। यह वेलफेयर स्टेट का बिल नहीं है, यह इलफेयर स्टेट का बिल है। वेलफेयर स्टेट में वह बिल नहीं आ सकता। टेक धाप करोज इन थार हैंड्स और जा कर कहिये कैबिनेट से कि उस ने यह गलत कदम उठाया है और यह बिल धाप के इलाकत के मुताबिक नहीं है। धाप इस को याद रखिये कि अगर दिल्ली में मुसीबत आवेगी तो तमाम हिन्दुस्तान पर उसका असर पड़ेगा। यह मुनासिब बात नहीं है।

मैं बहुत ज्यादा बकत नहीं लेना चाहता इस लिये सिर्फ बही कहता हूँ कि यह बिल ठीक नहीं है। धाप जो बात है धाप उस को फेस क्यों नहीं करते? यह बात बिल्कुल गलत है इस लिये मेरी दम्बरिस्त है कि धाप तमाम बातों को देख कर बताइये कि क्या धाप इस की जरूरत महसूस करते हैं। तथा यह कोई ऐसी चीज है जिम के बिना धाप का काम नहीं चम सकता। मैं तो कहता हूँ कि पंडित ठाकुर दास भागव ने जो बातें कही हैं धाप उन को गौर से देखिये। स्पीकर साहब ने कुछ मजेशन दिये हैं, धाप उन पर ध्यान दें। यह चीज धाप के एनेक्शन में पता लग गई कि धाप के दो धाफिसर्स हैं वह लोगों की बात सुनते नहीं हैं। धाप लोगों के दिल में यह यकीन हो गया है कि "The Present Government is not in a mood to feel our grievances and remedy our grievances"

बाज दफा सेलेक्ट कमेटी फंसला देनी है, हाउस मुतफिक है, मेम्बरस एक आवाज में कहते हैं लेकिन कोई उन की सुनता नहीं है। इस डिमाक्रेसी के क्या माने हैं? मैं समझता हूँ कि कम से कम धाप के हाथों से ऐसी बात नहीं होनी चाहिये, औरों के हाथ में हो तो हो।

Shri S. M. Banerjee: Sir, I have listened with deep patience to the various speeches delivered by the Members of the ruling party as well as the Opposition. My hon. friend Shri Kodayan has pointed out to this hon. House a memorandum submitted by the Displaced Persons' Association. I need not mention much about this memorandum because much has been said about the assurances given by Shri Gadgil. I was pained to hear yesterday a few sentences of the hon. Minister about the squatters in Purana Qila. As far as I know, and it is best known to the hon. Minister of Rehabilitation, that the residents of Purana Qila are not squatters. Many times, their problems have been mentioned in this House, and if today, after a lapse of ten years, the Purana Qila

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residents become squatters, I do not know what is their fate in the hands of the Rehabilitation Minister,

Shri Anil K. Chanda: May I explain it? As a temporary measure these people were given shelter in the Purana Qila. We constructed tenements and developed sites so that they could go over to those tenements and we could clear up the Purana Qila, but as soon as those tenements were ready and the sites were developed, other squatters came in and occupied those quarters, with the result that the poor people who were given temporary shelter in Purana Qila have had to remain where they are. I am not saying anything against the people who are in Purana Qila, but I say that the squatters are behaving in a manner which makes it difficult for other displaced persons.

Pandit Thakur Das Bhargava: May I point out that the statement is not right? As a matter of fact, those persons themselves contributed to the construction of those premises; they themselves subscribed; they themselves helped to build it up. Subsequently, the Rehabilitation Minister gave them perfect assurance not once but twice—and he was garlanded—that they will be given some alternative accommodation, alternative accommodation for those who will be evicted from their premises, near the Purana Qila. That promise was given. Now, my hon. friend comes here and says, "other squatters have come in". No other squatters have come there. There were 500 people there and some of them were given houses in Lajpat Nagar. The other who have not been given are in such distress as cannot be described. And for my hon. friend here to say that other persons have come in and those persons are not denied the right to alternative accommodation is perfectly wrong.

Shri Anil K. Chanda: I am afraid what the hon. Member says is not

quite correct. I do not contest the fact that the people who were in the Purana Qila had been lodged there with the permission of the Government. But I stick to what I said: that tenements had been built for housing these people who are in Purana Qila, but squatters have taken possession of those buildings.

Pandit Thakur Das Bhargava: That is a different matter entirely.

Shri S. M. Banerjee: Here is very good news. In today's Urdu Daily called *Daily Milap*, dated 5th September, 1958 under the heading, "पुराने किले के पुरुषायियों की बहाली का मतलब"

they have said that at the time of the inauguration of the Bhagat Singh market, Shri Mehr Chand Khanna, the Rehabilitation Minister said this:

इस बीके पर कमाल हमदर्दी और दिल की इन्तहाई गहराई से परमात्मा की कसम खाकर ऐलान किया कि मैं परमात्मा को हाजिर नाजिर जान कर ऐलान करता हूँ कि मैं दिल से चाहता हूँ कि पुराने किले के लोगों को पुराने किले के नजदीक मकान और दुकान बना कर दूँ जहाँ यह आराम से रहे और अपनी रोजी कमायें।

This was the assurance given by the Minister when that market was opened.

Shri Anil K. Chanda: Please give it in English. I cannot understand what you read.

Shri S. M. Banerjee: It says that an assurance was given by the hon. Rehabilitation Minister at the time of the inauguration of the shops in Bhagat Singh market. The translation would show that the Purana Qila residents are given some land near the Purana Qila so that they can live there peacefully and also have their shops.

An Hon. Member: Assurance on oath.

Shri S. M. Banerjee: Yes.

Mr. Deputy-Speaker: How will that improve matters?

Shri S. M. Banerjee: I might translate this for the benefit of the hon. Minister.

“इस ऐलान के बाद जो हजारों लोगों की मौजूदगी में श्री लज्जा जी, वजीर, बहालियन ने ११ जनवरी सन् १९५७ को भगतसिंह मार्केट में किया। जनरल एलेक्शन आया। पुराने किले के लोगों ने इस एलेक्शन में कांग्रेस उम्मीदवार के लिये अपनी बिसान में बड़ कर सारे हल्के में भारी काम किया। भुना गया और महसूस किया गया कि यही काम पुराने किले के मामले के हल में स्कावट बना और एक जिम्मेदार कांग्रेसी नेता के कोम के मुताबिक पुराने किले के मामले की गाड़ी को सियासी रंग लग गया है जो आगे बढ़ाने की बजाय पीछे धकेली जा रही है।”

It says that they worked for some Congress leaders who were elected and the result was, the whole matter was hushed up, and nobody took anything. It was not done because of political considerations. Today, when much is being said that the Rehabilitation Minister—

Shri Naushir Bharucha: Is it Gadgil's assurance?

Shri S. M. Banerjee: Somebody's assurance. They have also commented very sarcastically and genuinely too, that our Rehabilitation Minister said that there is no problem now. The rehabilitation work of the western refugees is finished, and the problem of eastern refugees cannot be tackled because the Bengalese are not mobile. Therefore, the paper says:

“नगर कोम में बहाली का काम सत्य हो चुका है, या नहीं इसका जिम्मा सबूत पुराना किना है”

So, what I was saying is that the Purana Qila people also who contributed Rs. 500 drafted a memorandum

and at the time of Shri Mohanlal Saksena, they were actually asked to build their own houses. They were charged Rs. 12½ as rent, but after this matter was raised by Pandit Thakur Das Bhargava and Shri Achint Ram, their rent was reduced from 12½ to Rs. 4. If they become also squatters I do not know what will be their fate, the fate of those who are really considered to be squatters by our Central Government, who may be evicted any time just to rehabilitate these people. There are 11,000 people in that category. Now, in Delhi, we know that about 60,000 people are building workers engaged in various construction works. What will be their fate? I do not know what will happen, if this Bill is passed, apart from the legal aspects of it which I am not capable of arguing here. They were argued very nicely by my learned friends Pandit Thakur Das Bhargava and Shri Achint Ram and others. I do not want to say the same thing about the legal defects. But how this Bill will react on the people concerned? I know what will be the fate of those people who will be hit in the hands of the Estate Officers. The Estate Officer will have all the powers and I know how it will become impossible for those people who will face these troubles. If this is the policy of the Government to evict the people, this is not correct.

I submit to the hon. Minister to consider the voice of the people, the voice not only of the Delhi people but the genuine voice of the people everywhere in the country, heard through the mouths of the various people not belonging to the Congress Party only but to the Opposition. There is unanimous opinion in this House that this Bill should not be passed. But I know it will be passed. And then, all sorts of things, some assurances, will be given. What I say is, there is something wrong with this Bill. If there is general objection to it, if people raise their voice against this Bill, I know word will be sent to our hon. Prime Minister and he will come

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to the rescue of the hon. Minister and he would reply so that there will be quiet. That is my feeling.

What I feel is, when Vinobhaji and groups of honest persons in this country are really engaged in Bhoodan and Gramdan movements,—they are asking land from the rich people, from the zamindars, for distribution to the landless people,—here is a contrast. People who are having these jhompri, small cottages, will be evicted and you know how badly those refugees have suffered after partition after 1947. Lakhs of refugees have lost everything in Western Punjab. What is happening is, again, 11,000 people will be asked, "You become refugees". My hon. friend Shri Achint Ram has correctly pointed out one fact. In the recent elections in the Corporation, why is it that the Congress has miserably lost in those areas which is dominated by the refugees? Because, the western refugees feel today—and the eastern refugees also—that their interest is not safe in the hands of the Rehabilitation Minister. And now another Minister, unfortunately, he also becomes an eye-sore to the refugees.

So, with all the humility at my command, I appeal to the hon. Minister to consider the question of refugees, the question of retired government servants, the question of those toiling people who are constructing buildings like the Ashoka Hotel, and not evict them. With regard to this Purana Qila business there should be a genuine enquiry. Members of this House should be asked to enquire into this. I know that Purana Qila has become a scandal with the Rehabilitation Ministry—the way in which they are being treated, the way in which they have been assured but all those assurances have been kept in cold storage. And now it is said that the Purana Qila people, who gave everything, sold their ornaments and constructed their huts, are squatters. This is not the way in which Government should move, and I do not think

by such move the people will think that our Government is really after a welfare State. This will be bad for the Government itself, because these refugees whom we supported always have sacrificed for the country and they deserve better treatment.

Mr. Deputy-Speaker: Is the hon. Member concluding?

Shri S. M. Banerjee: I will finish within two minutes.

Mr. Deputy-Speaker: Let me take the sense of the House. Even the hour that was at the discretion of the hon. Speaker, that too has been exhausted now, by 2-30, and now there is no other time left. But I find that there are some hon. Members who are very anxious to speak on this—Mr. Naval Prabhakar is there, Mr. Balmiki, Mr. Mahanty, Mr. Daulta, Mr. Barman. Would the House be prepared to sit an hour longer in the day, that is till six o' clock today, in which case we might begin the non-official business at half past three?

Some Hon. Members: No, Sir.

Mr Deputy-Speaker: Then it will be difficult to find another hour.

Shrimati Renu Chakravarty: Tomorrow is a holiday.

Shri Radha Raman (Chandni Chowk): On the next day we could have it.

Shri Anil K. Chanda: On Monday perhaps it could be had

Mr. Deputy-Speaker: If the House is not prepared to sit late, then this discussion will be resumed on the next day.

Shri S. M. Banerjee: In the end I would request the hon. Minister to consider the various amendments that have been moved, and specially I would draw his kind attention to amendment No. 9 by Shri Kadiyan

the People (Amendment) Bill

and amendment No. 42 by Pandit Thakur Das Bhargava and Shrimati Sucheta Kripalani. If these amendments are accepted, I feel that at least they can face the refugees and go to the colonies with this Bill.

Mr. Deputy-Speaker: We will now take up Private Members' business. Introduction of Bills.

14.33 hrs.

MAHENDRA PRATAP SINGH ESTATES (REPEALING) BILL*

Shri P. R. Patel (Mehsana): I beg to move for leave to introduce a Bill to provide for the repeal of the Mahendra Pratap Singh Estates Act, 1923.

Mr. Deputy-Speaker: The question is:

"That leave be granted to introduce a Bill to provide for the repeal of the Mahendra Pratap Singh Estates Act, 1923"

The motion was adopted.

Shri P. R. Patel: I introduce the Bill.

REPRESENTATION OF THE PEOPLE (AMENDMENT) BILL*

(Amendment of sections 56 and 123)

Shri Radha Raman (Chandn: Chowk): I beg to move for leave to introduce a Bill further to amend the Representation of the People Act, 1951.

Mr. Deputy-Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the Representation of the People Act, 1951".

The motion was adopted.

Shri Radha Raman: I introduce the Bill.

CONSTITUTION (AMENDMENT) BILL*

Amendment of Articles 134, 136 and 145).

Shri Subiman Ghose (Burdwan): I beg to move for leave to introduce a Bill further to amend the Constitution of India.

Mr. Deputy-Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the Constitution of India".

The motion was adopted.

Shri Subiman Ghose: I introduce the Bill

COLOURING OF VANASPATI BILL*

Shri Abdul Salam (Tiruchirappalli): I beg to move for leave to introduce a Bill to provide for and to regulate the colouring of vanaspati so as to prevent it from being used as an adulterant of ghee.

Mr. Deputy-Speaker: The question is:

"That leave be granted to introduce a Bill to provide for and to regulate the colouring of vanaspati so as to prevent it from being used as an adulterant of ghee."

The motion was adopted.

Shri Abdul Salam: I introduce the Bill.