

Shri Jawaharlal Nehru: May I answer that question, Sir? Of course, strictly speaking, it is not an award, but even so, a great part of it, in the nature of a solid recommendation, has been treated by us as an award—nearly the whole of it.

In regard to loans, it is suggestion that they have made; even though they treated it somewhat differently, we had, in fact, accepted even that—a great part of it—as minor variations. I need not go into the reasons; why the minor variations do not fit in, and the difficulty arises.

PUBLIC PREMISES (EVICTION OF
UNAUTHORISED OCCUPANTS)
BILL

The Minister of Works, Housing and Supply (Shri K. C. Reddy): Sir, I beg to move:

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

Shri N. B. Maiti, Shrimati Sucheta Kripalani, Shri Naval Prabhakar, Shri T. N. Vishwanatha Reddy, Shri Vutukuri Rami Reddy, Shrimati Maftida Ahmed, Shri Jhulan Sinha, Shri Bholu Raut, Shri Chhaganlal M. Kedaria, Sardar Amar Singh Saigal, Shri N. Sankarapandian, Shri M. K. Shivananjappa, Shri Ajit Singh Sarhadi, Shri Shobha Ram, Shri S. Ahmed Mehdi, Shri Kanha'ya Lal Balmiki, Shri Sindhya Singh, Shri Padam Dev, Shri Shivram Rango Rane, Shri Chintamani Panigrahi, Shri P. K. Kodyan, Shri Mohan Swarup, Shri

Braj Raj Singh, Shri Subiman Ghose, Shri Jaipal Singh, Shri Surendra Mahanty, Shri Atal Bihari Vajpayee, Shri B. N. Datar, Shri Anil K. Chanda and the Mover."

I do not propose to take much time of the House by way of commending this motion to the approval of the House. I would like, in the first place, to give the House an idea of the magnitude of the problem that we have got to face in this connection. So far as the public premises are concerned, they are defined in the Bill that is before the House. They include all central Government property, lands and buildings as also certain property and lands belonging to the local bodies in Delhi. Since 1947, there have been unauthorised occupations of the Government premises on a very large scale. For example, in New Delhi, the number of buildings in unauthorised occupation since 1947 has been of the order of 6,302. In Bombay, there were 25 unauthorised occupations and there were also 4,000 squatters in a plot of land at Kolaba.

13.35 hrs.

[MR. DEPUTY-SPEAKER in the Chair]

In Calcutta, there have been unauthorised occupants of buildings in 32 cases. In the case of the Hirakud Dam project, there have been 34 unauthorised occupations. In the Ministry of Defence, there have been 1,833 cases of unauthorised occupation of lands. In Kandla, where the port is being constructed, the number of unauthorised encroachments is on a very constant increase. Recently, we have received information to the effect that in Delhi there have been more than 9,000 unauthorised constructions and that in these constructions there are about 50,000 squatters. I am giving these figures with a view to emphasise the magnitude of this problem. Apart from the unauthorised occupation of buildings, the question of rent collection and the assessment of damages also will have to be kept in

[Shri K. C. Reddy]

mind. The amount of damages that have been assessed and recovered including rent has been of a very big size. For example, in New Delhi itself, so far as damages due to unauthorised occupation is concerned, the amount has been of the order of about Rs. 10,74,000. In the Ministry of Defence, in the case of unauthorised occupation of lands belonging to them, and the damages thereon, the amount has been of the order of Rs. 6,83,000.

So, this question of unauthorised occupation which has assumed such a large magnitude, has to be tackled with speed and vigour. The properties belonging to the Government of India as also to the Delhi Development Authority are intended for public purposes, and we have got a big development programme in the country at the present moment. We should, therefore, do nothing in order to impede or slacken the pace of development programme. We have got to have power to deal with those unauthorised occupations in a satisfactory manner.

It may be argued that we may have recourse to the ordinary law of the land in order to evict unauthorised occupation of persons from these premises. As the House is well aware, this ordinary process of law takes a long time and involves prolonged delay. There have been cases in which many years have been taken before it has been possible to evict unauthorised occupants from the premises.

So, it has become necessary, and it has been realised very sufficiently, that Government should be vested with some powers which would enable them to ensure the eviction of unauthorised occupants from the public premises. Realising this, Parliament from time to time has been pleased to invest the Government with certain special powers, and some speedy machinery has been created in order to enable the Government to evict

unauthorised persons from those premises.

I do not want to go into the history of this legislation. It has a very long past. Before 1947, Government were exercising certain powers in order to effect these evictions, etc., under the Defence of India Act. In 1947, an Act was passed, and in 1950 another Act was passed. There have been certain amendments to those Acts and the present Act which is holding the field. The Public Premises Eviction Act, 1950 has vested Government with certain powers and it is under this Act that Government have been taking prompt measures in order to evict the people from unauthorised occupation and also taking steps to collect rent and damages.

The need for coming forward with this Bill at the present moment has been explained sufficiently clearly in the Statement of Objects and Reasons, accompanying the Bill which was introduced in the Rajya Sabha the other day. I am quite sure that the hon. Members would have gone through the Statement of Objects and Reasons. During recent months certain High Courts of our country have pronounced certain judgments regarding the operation and provisions of the Public Premises Eviction Act. For example, the Calcutta High Court, in a recent judgment, has held the view that certain provisions of this Act infringe the provisions of the Constitution. The court has held that certain provisions offend against article 19(1)(f) of the Constitution which deals with the fundamental right of citizens to acquire, hold and dispose of property. The provisions under that article do not sufficiently protect the provisions of this Act. The Allahabad High Court has also held that the provisions of this Act offend against article 14 of the Constitution and make discrimination between citizens and citizens, distinction bet-

ween unauthorised occupants of private premises and public premises. But the latest decision is that of the East Punjab High Court, which agrees with the judgment of the Calcutta High Court, saying that the provisions of this Act offend against article 19 (1) (f) of the Constitution; but they have disagreed with the judgment of the Allahabad High Court that the provisions of this Act are discriminatory.

It is in the light of these judgments that Government have had to consider what to do about the matter. If we are to go to the Supreme Court, as was suggested by some hon. Members in the Rajya Sabha, it would involve a good deal of time. So, finding that there is some substance and weight in the judgments of the High Courts delivered in recent months, Government came to the conclusion that the far better method would be to repeal the existing Act and go in for a new Bill which, while providing the speedy machinery for the purposes which have been mentioned already, at the same time, would not be inconsistent with the provisions of the Constitution. So, keeping these objectives in view, Government have come forward with this Bill, and this Bill has now been unanimously referred to a Joint Committee by the Rajya Sabha. They have recommended that this House should nominate 30 members of the Lok Sabha to serve on the Joint Committee and the Joint Committee should submit the report before the 22nd of April or so.

Now I would like to say one or two things briefly about some aspects of this Bill. This Bill, as I said, seeks to meet most of the objections that have been raised by the various High Courts in the course of their judgments. It was held, for example, that the appointment of the competent authority according to the existing Act was not quite satisfactory. So, we have in the Bill, that is now before the House, taken provision to appoint what we call "estate officers", at the same time making it quite clear that

these officers should be gazetted officers who, according to Government, are fit to exercise the powers vested in them.

What is more important, a definite procedure has been laid down as to how these estate officers will have to act in future, after the Bill becomes an Act. For example, when they propose to make an eviction order, they have to give notice to the persons concerned that they intend to make such an order, calling upon the person or persons concerned to show cause why such an order should not be issued. Provisions have been made for the due service of the notice also. Sufficient opportunity will be given to the person against whom the eviction order is proposed to be issued to have his say. He will have to be properly heard, and it will be only afterwards that the estate officer, after considering all the objections of the person concerned, issue the eviction order. After the issue of the notice, the person concerned has to be given sufficient time, within which he can prepare his case and submit it to the estate officer.

After the estate officer has given sufficient opportunity, and has heard the case of the person concerned, then he proceeds to make the eviction order. After the eviction order, another thirty days' time is given to the person to vacate the premises.

Then, what is still more important is this. Under the existing Act, there is only one appeal over the decision of the competent authority, and that appeal lies to the Central Government. And, if I may say so, rightly it has been stated that the Central Government, not being a judicial authority, would more often be inclined to uphold the decision of the estate officer, who is the competent officer. In such circumstances, the person would not get justice.

It is not as if the Central Government would always uphold the decision of the competent authority. But, since the jurisdiction is there, more

[Shri K. C. Reddy]

often than not the Central Government would uphold the decision of the lower authority. So, in order to obviate the difficulty and in order to give sufficient safeguards to the people concerned, provision has been made in the Bill that is now before the House for an appeal to a judicial officer. The person aggrieved may appeal within 15 days of the passing of the order to a judicial officer. And the judicial officer should be of the rank of not less than a district judge or a person who has had ten years of judicial experience.

Then the procedure has been laid down as to how the case is to be heard by the judicial officer. It is only after the judicial officer has heard the case and pronounced the judgment that the eviction order becomes final. In respect of assessment of rent, collection of rent and in respect of damages that have to be collected sufficient opportunity has been given to the aggrieved person to go to a judicial officer for redress.

It will be readily admitted that because of the changes that we have introduced, the present Bill is much more liberal than the 1950 Act. I have referred to some of the main provisions of the Bill. Then, it has been stated that the time for appeal should be extended, and should not be merely fifteen days. With regard to that, I would like to point out that if the judicial officer feels that, for good reasons, the appeal could not be filed within fifteen days, there is a provision in the Bill now before the House that the time could be extended by the judicial officer at his discretion. All these safeguards have been incorporated in the Bill that is now before the House. I would like to say that the Bill meets most of the objections that were raised by the various High Courts when they pronounced their recent judgments, holding the 1950 Act to be ultra vires the Constitution.

I would not like to take the time of the House in giving further details about the matter at this stage. I would only like to repeat once again that there is very great necessity for a Bill of this kind to be put on the statute book. If I may say so, the problem is *sui generis* in our country, and particularly in Delhi we have embarked upon a dynamic developmental activity. The housing accommodation problem in Delhi and other places like Bombay and Calcutta is none too rosy, and there has been constant influx of population into the cities. I would refer to Delhi in particular.

It is not as if the unauthorised occupants are only refugees, as may be the impression in the minds of some hon. Members. The unauthorised occupants are of various categories of people. For example, there are Government servants, retired Government servants, Government servants who have resigned or who have been dismissed or who infringe the provisions of the allotment rules; officers of various kinds come under this category. I asked for information about the unauthorised occupants in Delhi, and I was surprised to learn that out of about 290 and odd cases, only 11 cases were cases of refugees and the rest were, more or less, Government servants who have been unauthorisedly occupying these buildings for one reason or another. That is against the law. For example, the construction labour, which is coming in large numbers to Delhi because of the large-scale developmental and building activity that we have taken up, occupy sometimes premises, sometimes roads, sometimes pavements and sometimes even pucca buildings. They have put up structures in governmental land without any permission whatsoever. That has been going on even now.

Also, the employment potential in Delhi has increased considerably in recent years and people of all types come to Delhi in search of employment. People, who are already Government officers, send word to their

friends and relatives that they could come, stay here and look out for Government employment, which is on the increase. So, all these people come, stay for some time and then shift and in some cases some people have been in unauthorised occupation of buildings. There are these various categories.

Another difficulty is that we have put up a number of buildings for Government officers in the last few years. Unfortunately, during the last few years we have not taken equally good care of having put up buildings for the menial establishment, which inevitably come in the way of putting buildings for such officers and other Government officers. So, these menial service personnel have also contributed to it. By service personnel, I mean not Government servants but people who come as barbers, cobblers, washermen, sweepers and so on and so forth. They are all unauthorisedly occupying certain lands and premises and have put up unauthorised structures. We have got to face this problem. In this peculiar and extraordinary situation we want that the Government should be vested with powers to deal with this problem quickly and satisfactorily.

As I have said earlier in the course of my speech, it would be futile if we were to depend on the ordinary law for this purpose. As I said, it takes inordinately long time and it would seriously affect public interests.

At this stage I would not like to say more about certain other aspects of the Bill. One important aspect, however, I would like to briefly mention. In the definition of "public premises", we have included premises belonging to the Delhi Development Authority and the Delhi Corporation. It is for a very good reason. We are not including in this Bill premises that may belong to other local bodies. We have made an exception in the case of Delhi because the case of Delhi is *sui generis*. In fact, the problems that we are facing in Delhi are of a nature

that are not perhaps faced with in any part of the country, say, in Calcutta. The population has gone up from five lakhs, I suppose, to nearly 20 to 25 lakhs and all kinds of problems—new bodies have been created as the Delhi Development Authority and the Delhi Corporation—have got to be faced. So, in their case also, as a special case, we have thought it fit to have the necessary powers to evict unauthorised occupants of premises belonging to these two local bodies only. All other cases of unauthorised occupation pertain to premises belonging to the Central Government.

With these brief remarks, I would like to commend the Motion for the acceptance of the House. There may be certain features of the Bill which may require being looked into. I do not deny that. Certain points have already been made in the Rajya Sabha and I am sure certain points will be made in the course of the debate in this House today. I submit that these matters could very well be looked into by the Joint Committee, which is now being constituted. The Joint Committee is a fairly big one—fifteen Members from the Rajya Sabha and thirty Members from the Lok Sabha. A big Joint Committee of 45 Members of Parliament will go into the detailed provisions of this Bill and I do not think there will be any one in the course of the debate today, who will take objection to the principles of this Bill. If we accept the principles of the Bill and the necessity of vesting Government with such powers—powers of the nature that I have indicated—then the details could certainly be discussed in the Joint Committee. After the report of the Joint Committee is available, we could give further thought to the consideration of the report of the Joint Committee.

Mr. Deputy-Speaker: Motion moved:

"That this House concurs in the recommendation of Rajya Sabha that the House do join the Joint Committee of the Houses on the

[Mr. Deputy-Speaker]

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

Shri N. B. Maiti, Shrimati Sucheta Kripalani, Shri Naval Prabhakar, Shri T. N. Viswanatha Reddy, Shri Vutukuru Rami Reddy, Shrimati Mafida Ahmed, Shri Jhulan Sinha, Shri Bhola Raut, Shri Chhaganlal M. Kedaria, Sardar Amar Singh Saigal, Shri M. Sankarapandian, Shri M. K. Shivananjappa, Shri Ajit Singh Sarhadi, Shri Shobha Ram, Shri S. Ahmad Mehdi, Shri Kanhaiya Lal Balmiki, Shri Sinhasan Singh, Shri Padam Dev, Shri Shivram Rango Rane, Shri Chintamani Panigrahi, Shri P. K. Kodyian, Shri Mohan Swarup, Shri Braj Raj Singh, Shri Subiman Ghose, Shri Jaipal Singh, Shri Surendra Mahanty, Shri Atal Bihari Vajpayee, Shri B. N. Datar, Shri Anil K. Chanda and Shri K. C. Reddy."

Shri Tangamani (Madurai): Mr. Deputy-Speaker, Sir, I shall be very very brief in my observations. I am grateful to the hon. Minister for giving certain instances of unauthorised occupation in Delhi itself. Before I go into this, the statement of objects and reasons of this Bill makes it clear that because three High Courts—the High Courts of Calcutta, Allahabad and Punjab—held that the Public Premises (Eviction) Act, 1950, is *ultra vires*, this new Act had to come. It will be a good thing if certain pronouncements are made by the various High Courts. It will be better to take it on appeal to the Supreme Court and after the Supreme Court's decision is known, if necessary, similar enactment could be brought here. So

I submit, there has been some haste in bringing this Bill itself. But, having said this, in view of the importance of this Bill, I am glad that this Bill is going before a Joint Committee.

Certain mischief is likely to be created, which is patent from the definition clause itself. "Public premises" means any premises belonging to, or taken on lease or requisitioned by, or on behalf of, the Central Government; and, in relation to the Union territory of Delhi, includes also any premises belonging to the Municipal Corporation of Delhi or any municipal committee or notified area committee; and any premises belonging to the Delhi Development Authority, whether such premises are in the possession of, or leased out by, the said Authority. This definition is so comprehensive that it will include not only the Union territories, but those premises belonging to the Municipal Corporation also. Virtually, the whole of Delhi will come under this.

Of late so many people are now coming to Delhi, not as refugees, not as squatters, but these people who are doing very valuable work. I know there is a concentration of a large number of construction labour. When so much construction is going on, and the Government is not in a position to provide them with quarters, where are they to stay for being engaged in this construction work? So evicting these people under these new powers, which have been taken by the new Estate Officer, will certainly do great harm to these workers, who are doing a very constructive job. My submission and suggestion to the Joint Committee is that where we find a case of this so-called unauthorised occupation, where we find that these are manual labour or people who are doing some constructive work in the territory of Delhi, they should not be evicted unless some alternative arrangement is made for housing them.

I can mention in this connection in one of the States, particularly in

Madras State—Madurai, there are about five acres of land right in the middle of the city and now new hutments have come up. Because new hutments have come up, they call it Dhaidirnagar, i.e., a small *nagar* which has sprung up all of a sudden. This sprang up in 1947. Most of the people there are either textile workers or transport workers or municipal workers. These workers were really doing a very useful job and when the question of eviction came, the Government of Madras sought the power to evict them. But then good sense prevailed over the authorities and an assurance was given that unless certain alternative site is found and some quarters are provided for these squatters, these people will not be evicted.

14 hrs.

To this day—more than ten years have elapsed—these people still continue to stay there. There is the additional advantage of these workers choosing a particular site. When they are building houses in a particular place they choose to stay in a nearby area. So it would be a hardship to provide them with houses at a place five or ten miles away from the place of their work. These are certain genuine hardships which will be experienced by these workers.

Formerly at least there was competent authority who had to go through a certain process of law. Here is an estate officer who is now clothed with wide powers. He will give notice. The hon. Minister himself knows that as soon as a notice comes, the ordinary worker may not know for what purpose that notice has been served. He will probably think that the notice has been served for evicting him. So he may not make the necessary representation. All these things like making representation and the right of appeal may be all right for people who are deliberately occupying premises or sites. Here are poor workers who occupy these sites so that they may be in the vicinity of their area of work. So the mischief done is likely to be great. That is why we

want some safety clause to be provided.

It is a good thing that there is a provision for appeal to a judicial officer. But during the period of appeal there must be a provision for staying the eviction. I do not find any provision to that effect in this Bill.

Shri K. C. Reddy: It is there.

Shri Tangamani: A case may arise where the appeal may be pending and the poor person will be evicted. Even after he wins the appeal, if you want him to go back to that site, he will not go back to that place.

Shri K. C. Reddy: I would refer the hon. Member to clause 9, sub-clause (3) which reads:

“Where an appeal is preferred from an order of the estate officer, the appellate officer may stay the enforcement of that order for such period and on such conditions as he deems fit.”

Shri Tangamani: What I would like is that there are certain appeals in criminal cases where the appeal is preferred to the higher court. But the original court which convicted the person can as well grant bail. In the same way I would like the estate officer himself to give the stay order. Instead of his going to the appellate court and obtaining a stay from it, there should be a provision for getting a stay from the estate officer himself. So, although I am in general agreement with the purpose of this Bill, it contains potentialities of mischief.

I would be failing in my duty if I do not bring to the notice of the House that in West Bengal particularly there are large chunks of refugees in unauthorised occupation of public premises. We do not have so many refugees from West Bengal in Delhi, but there are refugees from East Pakistan occupying not only lands belonging to the State Government

[Shri Tangamani]

but also of the Central Government. In those cases greater caution is necessary to see that these refugees are resettled properly before they are evicted. It may be a case of a refugee occupying a particular place, and that place itself may be the probable place of resettling him. Instead of exploring that possibility, if he is evicted it will cause not only hardships, but bitterness in the minds of the people.

I am sure the Joint Committee will go into all these matters.

श्री अश्वित राव (पटियाला) : साहिबे सदर, मंत्री जी ने इस बिल के मुताल्लिक कहा है कि यह बिल्कुल मुनासिब बिल है। मेरा दिल भी करता है कि मैं भी यह कहूँ कि यह बिल्कुल मुनासिब बिल है। उन्होंने कहा कि जिन लोगों ने भ्राजुवाई किया हुआ था, उनमें से ११ आदमी रेफ्यूजीज थे। उनके सामने जो फ़ैक्ट्स आये, वे वाकई ऐसे हैं, जिनसे उनके दिल में यह ब्याल पैदा हुआ कि रेफ्यूजीज को कोई दिक्कत नहीं हुई। मैं बाकी लोगों के बारे में कुछ नहीं कहता, लेकिन रेफ्यूजीज के मुताल्लिक अर्ज करना चाहता हूँ।

बवकिस्मती से आज रेफ्यूजीज का मामला लिये हुये दस वर्ष हो गये हैं। शुरू में गवर्नमेंट आफ इंडिया ने रेफ्यूजीज के मामले को हल करने के लिये एक मशीनरी बनाई। उस वक्त कोई स्टेट की मिनिस्ट्री नहीं थी। कुछ देर तक उसने काम किया। यहां पर लाखों रेफ्यूजीज आये। बाद में दिल्ली स्टेट गवर्नमेंट बन गई और हमने कहा कि हम इस मसले को हल नहीं कर सके, अब इस मसले को स्टेट गवर्नमेंट हल करे। स्टेट गवर्नमेंट ने इस मसले को हल करने की बहुत कोशिश की। इसमें कोई शक नहीं कि यहां पर बहुत मकान बने। उन्होंने एक सैन्सेस ली कि यहां पर कितने रेफ्यूजी हैं और ३३ हजार की एक लिस्ट बनाई गई और उन लोगों के फोटोष लिये गये, ताकि जो आवसी मुस्तहिक हों, उनको रिलीज

दिया जा सके। फिर स्टेट गवर्नमेंट टूट गई और फिर यह मामला सेंट्रल गवर्नमेंट के पास आ गया। २०, २३ हजार के करीब मकानात और दुकानों का इन्तजाम कर दिया गया, लेकिन १० हजार लोग ऐसे रह गये, जिनमें से ७ हजार लोगों को मकानों की जरूरत थी और ३ हजार को दुकानों की जरूरत थी। जब यह मामला सेंट्रल गवर्नमेंट के पास आया, तो उसने कहा कि अब हम और मकान नहीं बनायेंगे। अब हालत यह है कि वे तमाम लोग शहर के अन्दर पड़े हुए हैं और उनके लिये कोई मकान या दुकान नहीं है। यह जो बिल आ रहा है, वह बड़ा कामिअहेसिव है। मैं समझता हूँ कि पहले भी इस मिनिस्ट्री का रवैया रेफ्यूजीज के साथ बड़ा हमदर्दानी रहा है। गाडगिल साहब का रवैया भी बड़ा हमदर्दानी रहा है। इसके साथ मेरा धुआउट ताल्लुक रहा है। उसके बाद भी आई बस्ट से, जब कोई मामला आता रहा है, आपने भी थोड़ा बहुत किया है। लेकिन मैं पूछता हूँ कि उन का क्या इन्तजाम किया गया है। अब आपने कहा है कि इस सिलसिले में कार्पोरेशन और दिल्ली डेवेलपमेंट ऑथोरिटी में दखल दिया जा सकेगा। जब कार्पोरेशन का मामला यहां पर आया, तो यह सबाल उठा कि दिल्ली डेवेलपमेंट ऑथोरिटी बने वा नहीं। इस हाउस में यह आवाज आई कि दिल्ली कार्पोरेशन डील करे, लेकिन मैंने सपोर्ट किया कि नहीं, दिल्ली कार्पोरेशन नहीं, दिल्ली डेवेलपमेंट ऑथोरिटी करे, ताकि जिन हजारों आदमियों का कोई इन्तजाम नहीं हो सका है, उनका इन्तजाम किया जा सके। मैंने उस वक्त कहा कि मेहरबानी करके इनका इन्तजाम कर दीजिये, इसीलिये हम सपोर्ट करते हैं, शायद दिल्ली कार्पोरेशन उनका इन्तजाम न कर सके और दिल्ली डेवेलपमेंट ऑथोरिटी कर सके। एक नई बात और आ गई और वह यह कि यह दिल्ली कार्पोरेशन और दिल्ली डेवेलपमेंट ऑथोरिटी दोनों पर लागू होगा। मेरी समझ में यह बात नहीं आती कि जो इनका एरिआ

हैं, वहाँ वहाँ बैठे हैं, उनके मुताल्लिक आपने क्या इन्तजाम किया है। वे जमीन पर भी बैठे हैं, हट्टस बना कर भी बैठे हैं। यह ठीक है कि नये आदमी भी आते रहते हैं। आज मैं उस मामले में नहीं पड़ना चाहता हूँ कि जो लोग दिल्ली में आते हैं, वे क्यों आते हैं। बेचारे रेक्यूजीज बनने ला ला कर आते हैं। जिन लोगों को पंजाब में और हिन्दुस्तान में कहीं जगह नहीं मिली, वे यहाँ आते हैं। वे ऐसा रोटी के लिये करते हैं। वे ऐथो-इशरत नहीं करते हैं। वे महलों में नहीं बैठते हैं। वे रोटी के लिये कोशिश करते हैं। यह ठीक है कि जो लोग १९५७-५८ में आये, गवर्नमेंट उनकी जिम्मेदारी नहीं ले सकती है। आई कैन अंडरस्टैंड बेट। प्राप्तिर एक लिमिट होती है। लेकिन जो लोग १९५५ में आये, जिनके कार्ड बने, जिनके मुताल्लिक आपने पास मुजुत है, जो दिल्ली में बैठे रहे और राह देखते रहे कि सेंट्रल गवर्नमेंट हमारा इन्तजाम करती है, स्टेट गवर्नमेंट हमारा इन्तजाम करती है, अब दिल्ली डेवेलपमेंट ऑथॉरिटी हमारा इन्तजाम करती है, उनकी जिम्मेदारी आपके ऊपर है। अब आप यह बिल ले आये हैं। यह ठीक है कि हार्ड कोर्टों ने फैसला दे दिया है—बम्बई हार्ड कोर्ट ने दिया है या पंजाब हार्ड कोर्ट ने दिया है, लेकिन मैं यह प्रार्थना करना चाहता हूँ कि इस मसले को हल करने की जिम्मेदारी गवर्नमेंट की है। जो आदमी यहाँ पर बैठे रहे और इन्तजार करते रहे, उनका आप क्या इन्तजाम कर रहे हैं? क्या आपने उन लोगों के लिये किसी आल्टरनेटिव एका मोडेशन का इन्तजाम किया है? आपके पास सुबूत मौजूद है कि वे लोग कई सालों से वहाँ बैठे रहे हैं, लेकिन आपने उनके लिये कोई इन्तजाम नहीं किया है। आज उनकी हालत बदतर है। इस मुल्क में आये उनको घाठ बस बरस हो गये हैं, लेकिन उनका कोई इन्तजाम नहीं किया गया है। आपने कहा है कि इसमें अपील का भी प्राविजन रखा गया है, लेकिन आपको मालूम हो कि

सैकड़ों, हजारों आदमी ऐसे भी हैं जो पैसा न होने की वजह से अपने क्लेम फाइल नहीं कर सके। वे रोटी कमाने में रात दिन इतने मसरूफ रहे कि उनके पास बक्ता नहीं था। आप तो बाकायदा इनचार्ज हैं और बिल लाना और इन्तजाम करना आपका फ़र्ज है, लेकिन मैं यह प्रार्थना करना चाहता हूँ कि आप उन लोगों की एक्युप्रल डिफ़ी-कल्टीज को देखिये और उनका कोई इन्तजाम कीजिये। जो लोग अब तक बैठे रहे हैं, आप उनका क्या इन्तजाम करेंगे। इसलिये मैं प्रार्थना करूंगा कि आप इसका कोई प्राविजन कीजिये। मैं अभी प्राया हूँ। मुझे सिलेक्ट कमेटी के मेम्बरों की लिस्ट मालूम नहीं है, लेकिन मैं यह चाहता हूँ कि आप इस बात का इन्तजाम करे कि जो जेनुइन आदमी हैं, जो पाकिस्तान छोड़ कर इस मुल्क में आये हैं और यहाँ रह रहे हैं, उनको तकलीफ़ न हो। यह कहना तो बड़ा आसान है कि हमारे पास फंडज नहीं हैं, इसलिये हम नये मकान नहीं बनायेंगे, लेकिन जिन लोगों की किस्मत की जिम्मेदारी आपने ली है, उनका क्या बनेगा? पहले उनका मामला सेंट्रल गवर्नमेंट के पास था, फिर वह दिल्ली गवर्नमेंट के पास चला गया, फिर सेंट्रल गवर्नमेंट के पास आगया और फिर दिल्ली डेवेलपमेंट ऑथॉरिटी के पास भेज दिया गया। उन लोगों के पास कुछ नहीं है। अगर उनके पास रुपये होते, तो वे अपना इन्तजाम कर लेते। मैं आपके सिम्पैथेटिक एटीच्यूड पर बैंक करता हूँ और उम्मीद करता हूँ कि आप ज़रूर उनका कुछ इन्तजाम करेंगे। जिनका कोई नहीं है, आप ही उनके बने। ईश्वर की कृपा से आपके जिम्मे यह ट्रस्ट लगा है। मैं इस बक्ता और ज्यादा नहीं कहना चाहता हूँ। अगर सिलेक्ट कमेटी में मीका मिला, तो डिटेल में बात करेंगे। यह एक बड़ा भारी मसला है, जो कि आज तक अनसाल्व्ड रहा है।

Nobody has solved it. Nobody has taken the responsibility to solve it. Responsibility was taken, but it was not discharged either by the Central

[Shri Achint Ram]

Government—Rehabilitation department—or by the State Government. Nobody has discharged it. Those people are there, uncared for, not looked after. I do not know who on earth will look after them. Bills after Bills may come. But, who will look after them? This is my painful submission before you. I do not look at that from any other point of view. I speak only out of a sense of grief. There are thousands of people who are unlooked after. There is nobody to look after their interests. You may bring Bills after Bills. But, under these Bills, their hard sufferings must be looked after. That is my submission.

Shri Naushir Bharucha (East Khandesh): Mr. Deputy-Speaker, Sir, before I heard the hon. Member incharge of the Bill justifying this Bill, I was under the impression that this Bill was badly needed. After I heard him, I am beginning to wonder whether the comparatively small number of unauthorised occupations cannot be dealt with according to the ordinary law of the land. It is true that if unauthorised occupation increases to a scale where it becomes impossible to house essential personnel, it is necessary that some sort of a law should be there for evicting unauthorised occupants from public premises.

At the bottom, there is shortage of housing accommodation because this Government has not done anything sufficient to house even the population that is being born, let alone those who are already there. The previous Act of 1950 was held *ultra vires* on two grounds; (i) that it offended against the fundamental right to hold property and (ii) that it denied equal protection of law to the occupants who were dealt with under the 1950 Act.

I am afraid the present Bill is not going to solve that problem. It is no use the hon. Minister saying that the Allahabad judgment has been dissented from by the Punjab High Court. After all, this Act will also be enforced in Uttar Pradesh. So long as

it is enforced in the U.P., the judgment of the Allahabad High Court will hold good there because the judgment of the Punjab High Court is not binding on the Allahabad High Court. At least in one big State this new Act will continue to be *ultra vires*. Therefore, what is proposed to be done about it? I am afraid the question is not being tackled scientifically.

Mr. Deputy-Speaker: The hon. Minister said that the Government had taken care to meet this objection in the new Bill.

Shri Naushir Bharucha: As I understood him, he said that the objection relating to the holding of property, where it came into conflict with the article relating to the holding of property,—those things have been taken care of. He relies on the fact that the Punjab High Court did not accept the Allahabad judgment and therefore he thinks that the Allahabad High Court judgment is wrong. That is what I understood him to say.

Shri K. C. Reddy: May I intervene, Sir? As regards the judgment of the Allahabad High Court which holds that there is differentiation and so it offends against article 14 of the Constitution, Government are advised that there is an intelligible basis for such a differentiation and if the judgment of the Allahabad High Court went to the Supreme Court, our case is very strong. It is only in respect of the other aspect of the judgment that we have been advised that we have to go in for a new Bill. It is under these circumstances that we have not taken steps to meet the objections made in the judgment of the Allahabad High Court.

Shri Naushir Bharucha: I cannot understand this conflicting position. Then the hon. Minister must hold that the judgment of the Allahabad High Court is wrong and prefer an appeal and keep in force the Act of 1950. I

can understand that. But if he says that there has been differentiation, until the matter is taken to the Supreme Court on the point under article 14, the judgment of the Allahabad High Court is still there.

Mr. Deputy-Speaker: I agree with the observations of the hon. Member. When the hon. Minister says that in the opinion of the Government, the views held by the Allahabad High Court would not be sustained and the Government thinks otherwise, unless an appeal is preferred to the Supreme Court, that judgment would hold ground in that State at least. If that has not been taken care of in this Bill that is before the House, perhaps that particular provision so far as differentiation is concerned, would remain *ultra vires*. There would be difficulty again unless the Supreme Court holds otherwise as is the view of the Government.

Shri K. C. Reddy: Moreover, in the U.P. we have not much of a problem.

Shri Naushir Bharucha: We may not have a big problem in the U.P. The Bombay High Court may be inclined to agree with the Allahabad High Court. Any other State High Court may be inclined to agree with the Allahabad High Court. You may have to come with another Bill. That is a point for the Joint Committee to look into. I am coming to that in greater detail.

If we analyse the problem of unauthorised occupation, it really falls under these categories. People whose services have been terminated, continue to remain in the premises. They are in the nature of tenants holding over. People have sublet and they themselves have disappeared. There may be cases of leave and licence. In spite of revocation of leave and licence, people continue to stay there. There may be purely cases of trespass. All these require to be dealt with in a different way.

So far as the scheme of the 1950 Act was concerned, as the hon. Minister explained they appointed a competent authority that subsequently turned out to be not so very competent in the eyes of law. They left him all the power. He, at his sweet will, could dislodge any person. I do not know how the Bill of 1950 was passed and how the law officers of the Government advised the Government to formulate a Bill of that type. Virtually it meant, 'no vakil, no appeal, no dalil.' That was the type of Bill and it has rightly been held *ultra vires*.

Shri K. C. Reddy: Parliament in its wisdom passed it.

Shri Asoka Mehta (Muzaffarpur): No vakil, no appeal, no dalil.

Shri Naushir Bharucha: That means no arguments. The point now is, have we done anything better here? Simply labelling the competent authority as Estate Officer does not materially alter his position in the eyes of law. The hon. Minister has explained that the scheme of the Bill which really is, that public premises have been defined, unauthorised occupation has been defined, and there are Estate Officers. I do not know who are going to be the Estate Officers. Probably, in a State like Bombay, the Mamlatdars would be entrusted with the work of Estate Officers. A totally new procedure which virtually denies natural justice has been evolved and incorporated in this Bill. Exactly the same argument would be urged that you are denying the same procedural law for one set of unauthorised occupants which is given to another set of unauthorised occupants.

I will tell you what the difference is.

Firstly, if you examine the provisions of the Bill, there is no personal service of summons. Never heard of a thing like that. Straightaway something is stuck on your door, which leaves a lot of loopholes. Any man

[Shri Naushir Bharucha]

can come and say the summons was pasted on the door ten days back.

Shri S. M. Banerjee (Kanpur): Not only this, but also by drum beating which will be announced.

Shri Naushir Bharucha: Who knows about the drum beating? There is no meaning. He can say that battaki was sounded on a particular street. I cannot say it was not sounded. I cannot lead evidence on that point.

Therefore, firstly personal service of notice is not there. The new procedure says that without making any effort at personal service, straightaway paste it. I do not know how the hon. Minister can make a provision like this.

Secondly, after ten days are past, there is no provision for a written statement being put in, because grounds are specified in the notice or summons, and the evidence will not be indicated there. Therefore, what is the man to reply to?

Then again, the requirement is that reasonable opportunity is to be given to the man to be heard. Therefore, the provisions of the Civil Procedure Code will not apply except to the extent that it is made applicable for enforcement of summons, discovery of documents and things like that.

It is even doubtful if under the Bill, if it is passed into an Act, a lawyer for a defendant can, as of right, cross-examine. Even that is doubtful.

Therefore, a totally new procedure, presumably with the intention of compressing and expediting enquiries, has been evolved, and that new procedure basically differs from the Civil Procedure Code, and makes a material and discriminating difference between two sets of unauthorised occupants, and therefore, the Bill again attracts the mischief of article 14.

My submission is that this new procedure that has been evolved is not materially different from the one that was in the 1950 Act, and unless one says that the procedure has got to be the same as the Civil Procedure Code, the mischief of article 14 will be undoubtedly attracted. I have no doubt about it.

The second point is this, that if we examine the position, what actually happens is that after the service of the notice, a particular defendant comes up, and he has got to show cause. He may show cause, but he has no right to lead evidence unless the Estate Officer in his discretion says that he is permitted to lead evidence. 'Show cause' means, giving reasonable opportunity, to be heard that is, that if a statement is produced by the defendant, on that the Estate Officer may decide. I submit that apart from technical and constitutional requirements, it is unfair that such a procedure should be imposed.

I could have even reconciled myself to injustice being done to a few if the work can be expedited, but the fact is that this procedure does not expedite the whole thing. Let us see how it will happen.

After a man is ordered to be evicted, 30 days time is given, during which he can prefer an appeal, and the appeal is preferred to the District Judge. I do not know how the hon. Minister is going to expedite the work before the District Judge. My own experience is that at least in Bombay State appeals before a District Judge do not come up before two or three years. I cannot say what the position is in other States, but if after expediting the whole thing before the Estate Officer, one gets bogged down at the appellate stage, I ask the hon. Minister how he is going to justify this Bill.

Shri K. C. Reddy: What would the hon. Member suggest then?

Shri Naushir Bharucha: You are the Minister. You are paid for suggesting. I am here for criticising.

Shri K. C. Reddy: Any constructive suggestion?

Shri Naushir Bharucha: If you are prepared to exchange positions, I will say what should be done.

Shri Jaganatha Rao (Koraput): Constructive criticism is possible.

Shri Naushir Bharucha: I will come to the constructive criticism presently.

Therefore, again, the same trouble will be there. What is more, arrears are only Rs. 10 lakhs. I do not think it is such a big amount of arrears that it justifies a separate procedure for that.

In the matter of recovery of arrears, the procedure is much worse. It simply says that no order with regard to arrears shall be passed unless a notice has been issued and reasonable opportunity is being given. Therefore, again here a different procedure is being followed than would be followed normally. Therefore, the position will be that you run the risk of attracting the mischief of article 14 without ultimately expediting the cases.

What should be done? I am inclined to think that if the Government have a little bit of foresight, what they should do is: when premises are handed over, they should obtain an agreement in the sense that the premises are not let, rent is not charged, but the premises are given on leave and licence terms; that is to say, there is no tenancy interest passed on to the occupant, but only the right to use the premises is given. If a leave and licence agreement is taken, a clause may be inserted in that agreement to the effect that on the termination of the service, or whatever the purpose the premises are given for, if the man does not vacate after a particular period to be specified in the agreement, that man gives the necessary

authority to the Government to effect re-entry into the premises and remove the belongings for safe custody to another place. I think if a clause like this is inserted, and if a reasonable period is given after the termination of service, it will act as a very salutary check. Supposing we give everybody six months or three months, whichever is reasonable, after termination of service, then automatically Government effects entry into the premises after that period under the contract between the parties. Then there is no question of eviction or anything coming in. If such a procedure were adopted, the bulk of your difficulties will be removed.

With regard to those people who do not come under this category, but are nothing but pure trespassers, they should be straightaway handed over to the police to be dealt with.

When first housing accommodation was allotted to me as M.P. here, the old M.P. had gone away, and some unauthorised intruders occupied my flat. When I asked the Secretary to have them ejected, he said 15 days notice is necessary. I said: "Nothing of the kind. These are trespassers. You inform the police, or I will have them ejected through the police." I went there and asked them: "Will you go out tomorrow morning, or shall I call the police and ask for action to be taken against you?" They straightaway left.

Therefore, where there are pure trespassers, no formalities are necessary; hand them over straight to the police and the work can be done.

Then, there are genuine cases of tenants holding over who deserve sympathy. A man's service may have been terminated, and he may dispute the fact that it is legally terminated. Then the man cannot be shifted. He need not be considered as a trespasser or a tenant holding over. He must have reasonable chances to put in an appeal to see that his service is regarded as continuous.

[Shri Naushir Bharucha]

Barring these cases, I think, if you have some such procedure, that will shorten the whole thing. Otherwise, this Bill is not going to give the relief which the Government is expecting in the shape of quick decisions.

I think it is very necessary that a totally different angle must be brought to bear upon this problem which undoubtedly is one which worries the Government, and with the increasing shortage of accommodation, I am of opinion that this problem will increase rather than decrease in intensity.

One more constructive suggestion, if the Minister would care to listen to it. Ultimately it boils down to a question of how many Judges or Estate Officers you are going to appoint. If the District Judges are to have the same quantum of work plus this work, then it is bound to be delayed. Therefore, my concrete suggestion to the hon. Minister is that for the purposes of this Act he may appoint retired Judges or retired lawyers to act as appellate tribunals.

Mr. Deputy-Speaker: Does a lawyer ever retire?

Shri Naushir Bharucha: I know of some people who are actually retired lawyers, but you can find any number of retired Judges who can take up this work. I am inclined even to think that there may be some retired Judges who may even take up this work as honorary Judges, as we have honorary Magistrates in Bombay. If you create a new cadre of such persons and entrust the work to them, the normal burden of the law courts will be lessened, and this type of work will be expedited. It is necessary in all such cases as this to strike a judicious balance between expedition and seeing that no injustice is done to anybody.

I think that if these points which I have made are borne by the Minister in his mind, a way can be evolved

in the Joint Committee whereby we can side-track the possible attraction of the mischief of article 14 as well as attain the purpose that Government have in view.

Shri D. C. Sharma (Gurdaspur): I am afraid I do not agree with the objects of this Bill and I do not agree with the way in which it is sought to implement this Bill. Being a law-abiding citizen of India, I would not like any Minister to short-circuit the ordinary course of law, the ordinary process of law, unless that be necessitated by reason of the security of State or by reason of any defence needs of our country. Those reasons can be legitimate grounds for adopting a summary procedure. But I do not think that the occupation of public premises in an unauthorised manner by about ten thousand persons or more entitles anybody to put in cold storage any normal law of this country. I believe the Minister has given no reasons why we should depart from the ordinary course of law. I wish he had given some reasons.

Of course, he has given one reason, and that is that the developmental needs of our country require that we should have this kind of measure. I do not know what the developmental needs of this country are, for the purposes of this Bill. Of course, I have read the First Five Year Plan and the Second Five Year Plan, and I do get my education from this House as from outside. But on whom is the axe of this Bill going to fall?

My hon. friend Shri Achint Ram referred to the refugees. Of course, the Minister said that the number of refugees was not very large. I do not know, but I think the refugees are going to be affected by this. In spite of the fact that our refugees have been immensely helped and in spite of the fact that by far the largest number have been rehabilitated, there are

certain hard cases even now. I do not want that any Bill should be passed on the floor of this House...

Shri M. B. Thakore (Patna): On a point of order. There is no quorum in the House.

Mr. Deputy-Speaker: The bell is being rung.

Shri Naushir Bharucha: Voluntary eviction from the House.

Shri Tangamani: No such Bill was required for that eviction.

Shri S. V. Ramaswami (Salem): The lunch hour is just over.

Mr. Deputy-Speaker: Now, there is quorum. The hon. Member, Shri D. C. Sharma, may continue.

Shri D. C. Sharma: I was saying that this Bill was going to be hard upon the refugees, some of the refugees, who, in spite of the best efforts of Government, in spite of their own best efforts, and in spite of the good things that have been done for them, have failed to rehabilitate themselves. They are pitiable and hard cases.

Of course, the Minister referred to the case of certain retired Government servants or those who had resigned their jobs and who were still there. I do not know why the Minister has not been able to deal with those cases. If I have sufficient influence in this world, and all the agencies of the world to defy the provision of any law that you can make, after all, it speaks very ill of the Ministry. Why is it that the Minister has not been able to deal with the cases of those retired Government servants who draw pensions from Government, or who have resigned and who are drawing pensions from Government? What is that due to? I think there must be some reason for that. I do not want to blame anybody, but I think the

fault lies not so much with those Government servants who have been snapping their fingers at those laws as with the Ministry which is not able to deal with this problem.

Therefore, I say that the axe is going to fall on the construction labour, which, as the Minister has said, is coming in very large numbers to the capital. It is very strange that while we talk of our developmental activities in one breath, in the other we should take steps to make the life of those persons who are helping to build our country, and who are helping us to build up these buildings or to put up these fine buildings, very difficult, and we should try to do something in order to put not the fear of God into their hearts, but the fear of the Ministry into their hearts, I cannot understand this logic, and I cannot reconcile myself to this. On the one hand, the developmental needs of the country are there; and on the other, the needs of those workers who are going to help us in building these buildings are there. There is no connection between the one part and the other. Therefore, it only means that those workers who come here in search of jobs and who come here to do that kind of manual work which is needed for putting up these buildings should be penalised. Therefore, I feel that this Bill, instead of serving the developmental needs of our country will block the path of development of our country.

I would also say that the legal aspect has been argued very ably by some of my friends. I am not a lawyer.

An Hon. Member: The hon. Member is only a professor.

Shri D. C. Sharma: I know, But I have to remind myself several times about it, lest I should get mixed up with the legal luminaries of this House.

I was saying that when the Public Premises (Eviction) Act, 1950, was tested not by one High Court but by so many High Courts, it was found

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wanting. It is because it offended the provisions of our Constitution. After listening to the speech of the hon. Minister, I have not become convinced that the present Bill is going to be a guarantee that the provisions will be in accord with the provisions of the Constitution.

Without going into legal details, to which my hon. friend, Shri Naushir Bharucha, has already referred, I think that if that Act happened to be imperfect law, this amendment is also going to be an imperfect law. If that Act proved infructuous, this will also prove infructuous, because, after all, there is the Supreme Court and there are the High Courts which are the guardians of the rights and privileges of the ordinary citizens of India. I am sure they will see to it that any discrimination practised will not be allowed to be there.

I have read many Bills in this House. I draw the attention of the Minister to clause 13 of this Bill. Of course, we always make provision for subordinate legislation in our Bills. But the provisions for subordinate legislation which have been demanded in this Bill are far beyond those which we give to the Ministers on the floor of the House. What is going to be the form of the notice? After all, this is going to be a new Bill. Everything is going to be done in a new way. What is going to be the form of the notice? I think a lot of mischief can be done in this form of notice. What is the manner in which it is going to be served? How are inquiries to be held? What is the procedure to be followed when the premises are to be taken possession of? What is the manner in which damages are going to be assessed? What are the principles?

In the case of subordinate legislation, we do not go into principles and we do not go into procedures. Subordinate legislation is a kind of

legislation which follows the provisions of the Bill, and it is of a minor character. But here the hon. Minister wants us to leave everything to him. He has given here a few clauses, but those things which are going to be the operative parts of this Bill are left to our rule making power.

An Hon. Member: They are subject to our approval.

Shri D. C. Sharma: Of course, they are subject to that. But here the subordinate legislation asked for is much bigger than the Bill itself. The provisions demanded in clause 13 are a bigger chunk of the Bill than the other provisions. I therefore will not be a party to any Bill of this kind, where provisions relating to the operative part, the implementation part, which are going to lead to the operation of the Bill are left to what we may call, minor legislation. I think the Bill should be complete in itself, because it deals, I have already said, with hard cases, and those hard cases are such as need extra vigilance on the part of the Members of this House. Therefore, I would say that so far as this legislation is concerned, all these things should not be left to the executive only; all these things should form part of the Bill.

Again, I was going to submit that the time allotted was inadequate. Of course, I know the purpose of this Bill. It is to expedite work. But too much haste is also very bad. I find that this Bill is a specimen of indiscriminate haste. I should think that this Bill is more or less like an emergency measure. I would not mind if the hon. Minister wants to have a thing of that kind. But we cannot legalise indiscriminate haste. We cannot put the seal of this House on a measure which denies even the most ordinary rights to the citizens of India, whether they be workers, labourers or refugees or anybody else.

What do we find in clause 9(2) (a)? 15 days. What about 9(2) (b)? 15

days. After all, the person will have to take counsel with his lawyer. I think the period of 15 days is too short a period for this kind of appeal.

Then every appeal under this section shall be disposed of by an appellate officer 'as expeditiously as possible'. The words here are a warning, 'as expeditiously as possible'. You make this part of the law, the law of the land. You can say that it should be expedited as judicially as possible. But by approving the phraseology giving here, we are going to put our seal upon summary trial, summary judgment, judgment of a kind not in keeping with the canons of law or justice.

I would, therefore, say that this word 'expeditiously' is a very very mischievous word, and it has no right to be in a Bill of this kind. It will put the seal on all kinds of things which will not bring people any fair justice.

So far as damages are concerned, clause 7(3) says:

"If any person refuses to pay the arrears of rent payable under sub-section (1) or the damages payable under sub-section (2) within the time specified in the order relating thereto, the estate officer may issue a certificate for the amount due to the Collector who shall proceed to recover the same as an arrear of land revenue".

I want to know how many powers are going to be delegated to the estate officer. I think the estate officer is going to be a kind of omnibus officer, who is going to be not only a Judge, but some kind of a Magistrate, some kind of revenue officer. (An Hon. Member: Also a police officer). Normally, we have one person to try judicial cases, another to try another thing. Then we have revenue officers. Here we are asked to give all these three powers to one officer. From where are we going to get such wonderful officers who will be able to

exercise judicial powers, revenue powers and magisterial powers? I do not know.

Ch. Ranbir Singh (Rohtak): There are so many tehsildars.

Shri D. C. Sharma: Yes. I think Ch. Ranbir Singh lives in the world of tehsildars. I am very sorry for it; but I would submit respectfully that you cannot think of a multiple officer of that kind without his being deficient in one part or another. I would, therefore, say that the Bill should be thoroughly revised.

In this Bill we should keep different categories of persons with whom we are going to deal. We should devise one type of treatment for those government officers who, with the connivance of the Ministry, are illegally occupying these houses. We should devise another method for dealing with the refugees, whose cases, as I have said, are pitifully hard; and we should devise other methods for dealing with those persons who are workers.

At the same time, I know that all the premises are not needed by Government for developmental purposes. Therefore, Government should discriminate between those premises which are required for developmental purposes and those which are not intended for developmental purposes. I should say, there should be two types of treatment; one for those which are needed for implementing our plans, and the other, for those premises which are not intended for the implementation for the time being.

I would submit very humbly to the hon. Minister that in dealing with human material of this kind, discretion is the better part of haste. I say that all the premises are not going to be required overnight. Therefore, there should be some plan, a plan as to which premises should come first, which next and so on. There should

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be something like priority in dealing with these unauthorised occupations. Unless there is priority, I know, it is the poor refugee or the poor worker who would be the first to suffer and those government servants who are already occupying these houses due to the non-intervention of this Ministry or some other Ministry will continue to occupy them. I say, we should not have a blanket Bill for this purpose. We want a Bill which deals with different categories of premises we have in different ways. We cannot be a party to giving blanket powers to the Ministry so far as this Bill is concerned.

Mr. Deputy-Speaker: Shri S. M. Banerjee.

Pandit Thakur Das Bhargava (Hissar): rose—

Mr. Deputy-Speaker: I will call Panditji next. Shri Bannerjee inform me that he has to go.

श्री स० म० बनर्जी : उपाध्यक्ष महोदय, पब्लिक प्रीमिसेज (एविकशन आफ अनएथोराइज्ड आकुपेंट्स) बिल, १९५६, इस समय सदन के सामने पेश है। पहले तो मैं माननीय मंत्री से यह पूछना चाहता हूँ कि इस दिल्ली शहर में अनएथोराइज्ड आकुपेंट्स हैं कौन लोग और वे कितने हैं ?

मेरे मित्र श्री संगामणि ने कहा कि दिल्ली में जहाँ कि बिल्डिंग कंट्रक्शन मुक्त शर में तमाम जगहों की अपेक्षा शायद सबसे ज्यादा हो रहा है दिल्ली की रूपरेखा अगर हमारी भाँखों के सामने हो तो एक अजीब लकड़ा नजर आता है। एक तरफ तो आलीशान अशोक होटल खड़ा है लेकिन उसकी बगल में अगर आप देखें तो आपको अनेकों झोंपड़ियाँ खड़ी दिखाई पड़ेंगी जिनमें आदिमियों को बैठ कर अथवा रंगते हुए घुसना पड़ता है। उन झोंपड़ियों में इधर उधर से

आये हुए मजदूर पेशा लोग रहते हैं जो कि दिल्ली में मजदूरी करके अपना ब अपने बाल बच्चों का पालन पोषण करते हैं। वहाँ से चल कर करोलबाग की तरफ आप जायें तो देखेंगे कि झंडेवाला में हजारों आदमी उसी तरह से रह रहे हैं, हजार दो हजार तो वहाँ पर आदमी होंगे ही। उसके बाद सरकारी मुलाजमीन हैं। दिल्ली शहर जिसकी कि आबादी कभी ४ या ५ लाख थी आज हमारे माननीय मंत्री ने स्वयं कहा है कि वह करीब २०, २२ लाख हो गई है, मैं तो समझता हूँ कि आज इससे भी ज्यादा होगी लेकिन अगर २० लाख ही मान लिया जाय तब भी यह जाहिर है कि दिल्ली की आबादी पहले की अपेक्षा बहुत अधिक बढ़ गई है। वे कौन लोग हैं जो यहाँ पर आये? दिल्ली में हमारे लाखों पुरुषार्थी भाई आये और अभी तक उनका प्रीपर रिहैबिलिटेशन नहीं हो सका है। हमारे रिहैबिलिटेशन मिनिस्टर अक्सर कहा करते हैं कि वेस्टर्न रेफ्यूजीज की प्रॉब्लम तो हम सौल्व कर ही चुके हैं और ईस्टर्न रेफ्यूजीज की प्रॉब्लम इसलिये सौल्व नहीं होती कि वह मोबाइल नहीं हैं और उनके कहने का यह मतलब होता है कि रिहैबिलिटेशन मिनिस्ट्री की जरूरत नहीं रह गई है और ऐसे ही काम चल रहा है और चलने दिया जा रहा है।

इस बिल में जो अनएथोराइज्ड आकुपेंट्स के लिये प्राविजन है वह अच्छा प्राविजन है अनएथोराइज्ड आकुपेंट्स का एविकशन होना चाहिये। लेकिन अभी थोड़े दिन हुए इसी सदन में माननीय उप-गृह मंत्री ने एक सवाल के जवाब में बतलाया कि कितने होमलैस आदमी हैं जिनके लिये कि नये शेल्टर्स देने की बात चल रही है। सन् १९५४-५५ में एक सर्वे हुआ था जिसके कि अनुसार होमलैस की तादाद ४ हजार थी। सवाल यह था कि क्या उनकी तादाद घटी है या बढ़ी है तो मंत्री महोदय ने बतलाया था कि आज यह तकरीबन ६ हजार हैं।

एक जालनीब सवय्य : १०,००० है ।

श्रीस० अ० अमर्षी : ६००० से १००००

तक उन्होंने कहा था । ६००० भाज तकरीबन हमारे पुरुषार्थी भाई हैं और उसके साथ साथ सरकारी क्वार्टर्स में एक अजीब चीज देखने में आती है, अनएथोराइज्ड प्राकुपेशन तो वह नहीं है क्योंकि लोग मिल कर रहते हैं लेकिन एक एक क्वार्टर में ४, ४ और ६, ६ फीम्लीज तक रहती हैं । वे आखिर इस तौर पर क्यों रहते हैं ? उसकी वजह यह है कि सरकारी क्वार्टर्स कम हैं । मैं सन् १९५८-५९ में सरकार द्वारा जो क्वार्टर्स बनने जा रहे हैं उनकी प्रीगर्स इस सदन के सामने रखना चाहता हूँ । क्लास ३ सर्विसेज के लिये ४३५२ और क्लास ४ सर्विसेज के लिये ३०८४ क्वार्टर्स बनने जा रहे हैं । अब इस दिल्ली शहर में कितने कर्मचारी क्लास ३ के हैं और कितने कर्मचारी चौथी श्रेणी के हैं ? मैं समझता हूँ कि तकरीबन २, ३ लाख सेंट्रल गवर्नमेंट के एम्प्लाइज हैं और उनमें क्लास १ और क्लास २ के लोगों के पास तो क्वार्टर्स हैं लेकिन क्लास ३ और ४ का जहाँ तक टाल्लुक है ५० परसेंट से ज्यादा लोगों के पास सरकारी क्वार्टर नहीं हैं और सवाल यह है कि वे कहाँ रहें ? यह ठीक बात है कि लोगों को सेंट्रल गवर्नमेंट की जमीन पर दखल अन्दाज नहीं होना चाहिये । यह बुरी बात है । लेकिन मैं पूछना चाहता हूँ कि आखिर उनके वास्ते क्या इन्तजाम हो रहा है ? अनएथोराइज्ड प्राकुपेंट्स का एविकशन होना चाहिये और उन लोगों को हटाना चाहिये और इस्टेट आफिसर्स के जिम्मे यह काम सौंपा जा रहा है और इस्टेट आफिसर या तो डिबोरा पीट कर या नोटिस टंगवा कर एविकशन की कार्यवाही कर सकता है, अगर कोई मुकर्ररा बक्त के अन्दर अन्दर पहले जहाँगीरी में पहुँच जाये तब तो ठीक है करना अगर किसी ने नोटिस का जवाब ठीक टाइम में नहीं दिया तो मैं आपको बिश्वास दिलाता हूँ कि उसके साथ जो हक़त होती उसका नज़ार मेरी आँखों के

सामने कम से कम मौजूद है । मैं जानता हूँ कि इतनी पावर्स देने का क्या नतीजा होता है । कानपुर शहर में कारपोरेशन के होते हुये डेवलपमेंट बोर्ड के ऐडमिनिस्ट्रेटर एक भाई० सी० एस० साहब थे और हमने देखा कि उनके वक्त में लोगों को बसाने की बात न हो कर मकान गिराने की बात होती थी और गिराने के कुछ पहले ही और उसके बाद लोगों को वहाँ से एविकट करने के लिये कितने फोर्स का इस्तेमाल किया जाता था वह स्वयं मैंने अपनी आँखों से देखा है । अगर इस तरह की इन्स्टिक्त पावर्स इस्टेट आफिसर्स को दे दी गईं तो मुझे अन्देशा है कि लोगों को बहुत हार्डशिप हो जायेगी । यह ठीक है कि सरकार की नज़र में वे अनएथोराइज्ड प्राकुपेंट्स हैं लेकिन वे अपने आप से वहाँ पर कब्जा करके नहीं बैठे हैं बल्कि जमाने की गदिश और मकानों की कमी ने उनको ऐसा करने पर मजबूर कर दिया है और उनको जबदस्ती वहाँ पर रहना पड़ रहा है । एविकशन के खिलाफ़ यह अपील करें, एक तो मुकद्दमेबाजी के लिये उनके पास पैसा कहाँ है और अगर हो भी तो उनकी सुनवाई कौन करेगा ? मेरा कहना है कि इन सब दिक्कतों और बातों पर विचार करके सरकार को यह बिल बनाना चाहिये था । यह नहीं कि भाज चूँकि इलाहाबाद हाई कोर्ट और दूसरे हाई कोर्ट्स ने इस ऐक्ट की किसी धारा को प्रल्टावायरस करार दे दिया है इसलिये सिर्फ़ उस ऐतराज को रफ़ा करते हुए आपने इस बिल को यहाँ पर रख दिया है । आप कहते हैं कि यह फ्लोटिंग प्रापुपेशन है लेकिन क्या आप यह समझते हैं कि लोगों को सड़कों पर सेटने में मज़ा आता है और क्या उससे उनकी सेहत बनती है ? मेरा कहना यह है कि जब तक आप इस समस्या पर गहराई के साथ विचार नहीं करेंगे और उसकी तह में नहीं जायेंगे तब तक यह प्रॉब्लम हल नहीं हो सकेगी । आप इस तरह के कितने ही कानून बना लें और लोगों को एविकट करें, ऐसा करके आप उसका सही इलाज नहीं कर

[श्री ५० न० बनर्जी]

रहे हैं क्योंकि आप एक्ट तो करेंगे लेकिन उनको बसाने की कोशिश नहीं करेंगे। और अगर हम उन पीड़ित लोगों की सहायता करने जायेंगे तो फिर हमें वही चीज सुननी पड़ेगी जो आज हमने रेपयूजीज की बाबत अपने हरदिलप्रज्ञीज प्राइम मिनिस्टर साहब के मुँह से सुनी। कलकत्ता शहर की बाबत मैं आपको बतलाऊँ कि वहाँ पर डिफेंस मिनिस्ट्री की जमीन पर हमारे पुरुषार्थी भाई जा कर बस गये। वहाँ कोई ऐसा लिखा तो था नहीं कि यह डिफेंस की जमीन है और वे वहाँ पर बस गये और रहने लगे। प्रथम एक एक साल या दो साल के बाद यह मालूम हुआ कि वह मिनिस्ट्री आफ डिफेंस की जमीन है और डिफेंस मिनिस्ट्री की जमीन में इस तरह के प्रादमी कैसे रह सकते हैं। उनको कहा गया कि वे वहाँ से उठ कर फ़ौरन चले जायें। मुझे ठीक तारीख़ याद नहीं है लेकिन वे वहाँ से हटे और दुबारा चलते फिरते कारवाँ की शकल में एक जगह से दूसरी जगह भ्रम करने लगे। आज मुख्य सवाल हमारे सामने लोगों को बसाने का है और उनको सेक्टर प्रोवाइड करने का है।

इसके प्रतिरिक्त हमें यह भी देkhना है कि हर साल तकरीबन हजारों क्लास ३ और क्लास ४ के सरकारी कर्मचारी रिटायर होते हैं, यह मध्यम वर्ग के कर्मचारी जो कि २५, ३० साल तक नौकरी करने के बाद रिटायर होते हैं, उनका कोई लैड से प्रैक्टिसमें नहीं होता, उनकी कोई एप्रोरियन टाईज नहीं होती क्योंकि जो भाई पंजाब की तरफ से यहाँ पर आये हैं या ईस्ट बंगाल से आये हैं उनके पास जमीन होने का कोई सवाल ही नहीं है, वे पुरुषार्थी भाई हैं उनके पास जमीन नहीं है और यहाँ पर २५ या ३० साल तक नौकरी करने के बाद उनको २५ रुपये माहवार पेंशन मिलेगी और वह भी ५ साल के बाद जाकर मिलेगी और आप स्वयं सोच सकते हैं कि रिटायर होने पर ऐसे लोग कहाँ जायें ?

उनके बाते हुए परचेज सिस्टम की कोई ऐसी स्कीम की जाये ताकि वे कुछ ख़र्चा अपने प्राबिडेंट फंड से या पेंशन से जितना दे सकते हैं वें और उसके बाद सरकार उसमें सबसिडाइज करे और हुए परचेज सिस्टम के ऊपर कुछ ऐसे मकानात और कौलोनीज बनाई जायें जहाँ कि ऐसे पेंशनयाफ़ता कर्मचारी रह सकें। मैंने देखा है कि हमारे राज्य सभा के मेम्बर जो कि अब के रिटर्न नहीं हुए हैं रिहायश की समस्या को लेकर परेशान हैं कि वे कहाँ रहें। मेरे बगल में एक ऐसे सज्जन हैं जो कि इस कारण परेशान हैं। जब लोक सभा और राज्य सभा के मेम्बरों तक के सामने रिहायश की समस्या मौजूद हो तो आप भली भाँति समझ सकते हैं कि मध्यम वर्ग के वे हजारों कर्मचारी जो कि हर साल रिटायर होते हैं उनको मकान की बजह से कितनी परेशानी का सामना करना होता होगा।

16 hrs.

मैं इस सम्बन्ध में कुछ सुझाव मंत्री महोदय और सदन के समक्ष रखना चाहता हूँ। मैं इस चीज को जानता हूँ कि माननीय मंत्री इस बिल को जो इस सदन में लाये हैं और इसमें इस्टेट आफ़िसर्स की जो व्यवस्था की है उसमें उनका मकसद अच्छा ब पाक है लेकिन उसका इस्तेमाल किस तरीके से किया जायेगा और जो शरुस एक्ट किया जायेगा उसको प्रोटेक्शन क्या मिलेगा और उसके लिये मैं कहता हूँ कि ज्वाएंट सिलेक्ट कमेटी जिसके कि पास यह बिल जा रहा है वह इस पर पूरी तरह विचार करे। मैंने बिडिम्स वर्कर्स और हैडलूम वर्कर्स को देखा है जो कि मद्रास की तरफ से यहाँ पर आते हैं, उनके रहने के लिये कोई जगह नहीं है और उनसे यह कहा जाय कि तुम सेंट्रल गवर्नमेंट की जमीन पर क्यों बूज रहे हो और तुम्हारे लिये यहाँ दिल्ली शहर में कोई जगह नहीं है और तुम तो फ़्लोटिंग पापुलेशन हो,

धर उधर घूमते रहते हो, उचित नहीं होगा। इसी तरीके से हमारी तमाम चीजें हैं। आप कंस्ट्रक्शन वर्क्स को देखिये। कंस्ट्रक्शन्स की जो लेबर है कंस्ट्रक्शन्स उनको कुछ नहीं देते। आप रोहसक रोड पर चले जायें। उसके दोनों ओर भ्रगर आप देखें तो पायेंगे कि छोटी छोटी झोपड़ियां हैं उनमें बिल्डिंग वर्क्स रहते हैं। इसलिये मैं भ्रष्ट करना चाहता हूँ कि भ्रगर यह सवाल एविकशन के साथ साथ रिहैबिलिटेशन का नहीं हुआ तो यह एविकशन इस तरीके से होगा जिस तरीके से हमने किसानों को बेदखल किया। लोग हसरत भरी निगाहों से भ्रपनी जमीनों को, जिन जमीनों में उनके बाप दादों की हड्डियां हैं, देखते देखते चले गये। कहीं ऐसा न हो कि एविकशन हमारे देश के लिये एक सवाल बन जाये। मैं नहीं कहता कि दिल्ली शहर के लिये यह सवाल पैदा हो, लेकिन दूसरी जगहों पर ऐसे सवाल पैदा हो सकते हैं। इसलिये मैं कहता हूँ कि जो हमारे सरकारी मुलाजमीन हैं, जो कि रिटायर होने वाले हैं, जो कंस्ट्रक्शन वर्क्स हैं, उनकी तरफ देखा जाय। भ्रमी हमारे पुरुषार्थी भाइयों का रिहैबिलिटेशन भी नहीं हो सका है। मैं यहां उनका सवाल भी लाना चाहता हूँ। यह कहना गलत है कि हमारे रिफ्यूजियों का सवाल हल हो गया है। पुराने किले का सवाल हमारे सामने है। वह जो जमीन है उसको आप एक्सटेंड करना चाहते हैं। पुराने किले के लोगों को आप दूसरी दूसरी जगहों में भेज रहे हैं। मैं यह नहीं कहता कि उनको वहां स भेजना नहीं चाहिये, लेकिन होता यह है कि जो एक जगह रिहैबिलिटेट होते हैं उनको दुबारा वहां से भ्रपकृत किया जाता है, और उनकी सारी जिन्दगी एक कारवां की शकल में होती है। वह किसी जगह रह नहीं सकते हैं।

इसलिये मैं इस बिल के बारे में यह चन्द सुझाव रखना चाहता हूँ। मैं चाहता हूँ कि उनकी तरफ ध्यान दिया जाय। धाब जो अनएथोराइज्ड आकुपेंड्स हैं वह हैं

कितने, और भ्रगर हूँ और उनकी भ्रपनी अवह से हटाना ही हो तो उनको इस बिल्ली शहर में ही रिहैबिलिटेट करने का इत्तजाम होना चाहिये। भाज बिल्ली के भ्रन्दर बड़ी बड़ी बिल्डिंगें बन रही हैं, एभर कंडिशनड बिल्डिंगें बन रही हैं, लेकिन दूसरी तरफ छोटे लोगों के क्वार्टर साल में तीन हजार भ्रगर बनते हैं तो कैसे काम चल सकता है। कैसे भ्रप दिल्ली की पापुलेशन के सवाल को इस तरह से हल कर सकेंगे? इसलिये भ्रगर मिनिस्टर साहब जवाब में इसके भ्रतात्त्विक कुछ कहें तो भ्रशको तसल्ली होगी और तसल्ली होगी उन छोटे छोटे भ्रजदूर साधियों को जो बेचारे भाज झोपड़ियों में रह रहे हैं

पंडित ठाकुर दास भागवत : जनाब डिप्टी स्पीकर साहब, इस बिल के बारे में मेरी भ्रदब से गुजारिश यह है कि मैं सेलेक्ट कमेटी की खिदमत में कोई बहुत कंस्ट्रक्टिव तजवीज पेश करने के काबिल नहीं हूँ क्योंकि मैं इस बिल के उसूलन विरुद्ध हूँ। मैं इस बिल को बिल्कुल गलत समझता हूँ। इतना ही गलत नहीं कि मैं इसे गलत कहूँ, बल्कि मैं इसे फंडामेंटली रांग समझता हूँ। यह बिल हमारे सामने नहीं लाया जाना चाहिये था। जिस वक्त इस बिल को इसके प्रेडिसेसर हाउस में रखा गया, वह भ्रीका मुझे याद है। श्री गाडगिल साहब ने फरमाया था कि यह एक छोटा सा बिल है, सिर्फ चन्द क्लाजेज का बिल है और ध्राचे घंटे में या एक घंटे में खत्म हो जायेगा। मैंने उस वक्त इस बिल की मुलालिफ्त की थी, और कई रोज तक वह बिल इस हाउस में चला। फिर एक सेलेक्ट कमेटी बनाई गई जो कि बारह महीने या उससे ज्यादा चलती रही। उसके भ्रन्दर बहुत सी ऐसी बातें प्राई जो कि कभी श्री गाडगिल साहब के दिमाग में नहीं थीं। उसी तरह मैं इस बिल के बारे में भ्रष्ट करना चाहता हूँ कि यह ऐसा छोटा सा बिल नहीं है, इतना

[पंडित ठाकुर दास भार्गव]

नानकट्टोवर्षाल बिल नहीं है, जिसके बारे में इतनी आसानी से यह बातें कही जा सकें।

मेरे साथक दोस्तों ने मुझसे पहले बहुत से ऐतराजात किये हैं और वह इस किस्म के हैं जो कि निम्नायत जबर्दस्त ऐतराजात हैं। ऐसे हैं कि दोहराये जाने में भी उनकी विकत कम नहीं होगी। सब से पहला ऐतराज जो हमारे तीन हाई कोर्ट्स ने इस पर कर दिया क्या वह काफी नहीं था। किसी गवर्नमेंट को बतलाने के लिये कि इस किस्म का बिल सदन में नहीं लाया जाना चाहिये, क्या गवर्नमेंट को मालूम नहीं कि डाइरेक्टिव प्रिंसिपल्स ग्रॉफ स्टेट पालिसी के अन्दर कांस्टिट्यूशन में दर्ज है कि यह सारे बवेवचन जो देश के होंगे उनमें संशाल जस्टिस होंगी, एकानामिक जस्टिस होंगी, पोलिटिकल जस्टिस होंगी। क्या इस बिल में कहीं भी जस्टिस की अलक है? अजोब तरद् का यह बिल है जो कि हमारे क्रिमिनल प्रोसीजर कोड में, सिविल प्रोसीजर कोड में जो उमूल माना गया है उसके बखिलाफ है। हमारे सारे एडमिनिस्ट्रेश में जो प्रिंसिपल कायम हैं उनके बखिलाफ है। मैं हाउस की तवज्जह दिलाऊंगा कि क्रिमिनल प्रोमीजर कोड की बफा ५५६ में लिखा है: नौ पर्सन ऑल बी ए बब इन हिज ओन काब। एक्साइज का जो बड़ा अफसर है, वह एक्साइज के मुकदमे नहीं कर सकता। हालां कि उसका जाती इंटरेस्ट कोई नहीं ताहम नुंकि वह महकमे का बड़ा अफसर है वह एक्साइज के मुकदमे नहीं कर सकता। यहां पर इस काम के लिये अफसर कौन है? गवर्नमेंट क्या है? गवर्नमेंट, जैसा अभी हमारे चौधरी साहब ने फरमाया, तहसीलदार है। ग्रामतौर पर एक गैजेटेड आफिसर होता है, तहसीलदार का गैजेटेड आफिसर होता है, इसी किस्म

का यह अफसर होगा। एसा अफसर जो, एक तरह से पर्सनली इंटरेस्टेड नहीं है, जाती तौर पर इंटरेस्टेड नहीं है, लेकिन बाइ सेफ में, लीगली वह पर्सनली इंटरेस्टेड है, वह शरू मुकदमे का फंसला करेगा वह यह सवाल तै करेगा कि आया यह जायदाद गवर्नमेंट को है या नहीं क्योंकि साफ अल्फाज हैं, नौ प्रेसिपेब बिलॉगिन टु गवर्नमेंट। इसलिये वही फंसला करेगा कि क्या फलां शरू अनाधाराइज्ड आकुपेंट है, जिसको तारीफ में पद कर सुनाऊंगा। उमे पहली तारीफों के मुकामिले से और भी लम्बा चौड़ा कर दिया गया है जिमे कि किसी तरह भी अनाधाराइज्ड आकुपेंट नहीं कहा जा सकता।

दूसरी चीज यह कि क्या यह म्नासिब है कि उसको इस तरीके मे जो कि इस बिल में दिया हुआ है वहां से निकाल दिया जाय? अभी जनाबवाला की रूबरू यह सवाल कई तरीके से पेश किया गया। मैं इस सवाल को, इस भरहले को, कम से कम दो तरीकों से फौरन पेश करना चाहता हूं। (१) जब यह बिल आया तो यह सेलेक्ट कमेटी के अन्दर गया इतने दिनों तक उसमें रहा। उसके मेम्बर हाउस के बड़े गवर्दा मेम्बर में। इसके अलावा दिल्ली के चीफ कमिशनर साहब और बड़े बड़े आदमी उसके मेम्बर थे। इस वजह से कि मामला बहुत अग्रह था। उस सेलेक्ट कमेटी ने कुछ ऐश्वोरेन्सेज रिफ्य-जीज को दिये, जिनमें से एक बड़ा भारी ऐश्वोरेन्स यह था कि जो किसी ने मकान बना लिया उम मकान से उसको निकाला नहीं जायेगा, जहां तक मुमकिन होगा। अगर कहीं गवर्नमेंट के कवायद के बखिलाफ या किसी म्मुनिसिपल कमेटी के कवायद के बखिलाफ या किसी और बाडी के कवायद के बखिलाफ मकान बनाने की कोशिश की

थाय तो कयायद बदलने की काशिश की थाय न कि मकान उसका गिरा दिया जाय, लेकिन अगर यह भी मुमकिन न हुआ तो ऐसी स्कीम बनेगी जिसके जरिये कि रिफ्यूजीज को फायदा पहुंचाया जायेगा । भला हो हमारे पंडित नेहरू का और सरदार पटेल का, जिन्होंने सन् १९४८ में एक उसूल कायम किया, और वह उसूल था कि किसी रिफ्यूजी को कहीं से निकाला नहीं जायेगा! जब तक उसको आल्टरनेटिव अक्रोपोडेशन नहीं दी जायेगी । इस उसूल की वजह से रिफ्यूजीज का बहुत फायदा हुआ लेकिन पंडित नेहरू इस्टेट आफिसर तो नहीं, बड़े अफसर नहीं, बजारत उनकी नहीं रात को ११ बजे लोगों के मकान पर पहुंचे, लारियों में उनके भ्रमबाब को डाला, सारे आधुपेंटस को डाला उसी में, और जाकर सात मील पर छोड़ आये । उनके मकान गिरा दिये । यह हमारी भ्रांखों के सामने, जब कि यह सदन बैठा था, नहीं किया गया । सदन खत्म हुआ और अगले दिन मकानों को गिराना शुरू कर दिया । मैंने इन वाक्यात को अपनी भ्रांखों से देखा है और उनके लिये लड़ाइयां लड़ी हैं । यह ऐश्वोरेन्सेज मिले । यह मैं आगे चल कर बतलाऊंगा कि उन ऐश्वोरेन्सेज पर भ्रमल कितना हुआ, लेकिन मैं एक सीधा सवाल आनरेबल मिनिस्टर साहब से पूछना चाहता हूं और मुझे उम्मीद है कि जिस सादगी से मैं पूछता हूं वह उसी सादगी से जवाब भी देंगे । अक्वल बिल के बाद जब दुबारा नया बिल आया सन् १९५० में तो यहाँ श्री बर-गोहन साहब मौजूद थे । उनसे भी मैंने यह सवाल पूछा था कि इन ऐश्वोरेन्सेज का क्या बनेगा जो कि आपने दिये थे । उन्होंने फरमाया कि वह ऐश्वोरेन्सेज कायम हूं और कायम रहेंगे, हम उनके खिलाफ नहीं जाना चाहते । मैं इस मौके पर पूछना चाहता हूं आनरेबल मिनिस्टर साहब से कि क्या यह ऐश्वोरेन्सेज जो हाउस में निहायत सालेमली उन रिफ्यूजीज को दिये गये, जो कि लूट-पिट कर यहाँ आये, जो सख्त मुसीबत में थे,

जिन्होंने कि उस जमाने में यहाँ मकान बनाये, जिनका डिप्टी कमिश्नर ने और बड़े अफसरों ने बपको दी कि तुमने बड़ा अच्छा काम किया कि मकान बना लिया, क्या वह ऐश्वोरेन्सेज आज कायम रहेंगे या नहीं । क्योंकि अगर आप ऐश्वोरेन्सेज कायम नहीं रखते तो मैं भदब से अर्ज करना चाहता हूं कि अक्वल दर्जे की, मैं ज्यादा सख्त अल्फाज तो इस्तेमाल नहीं करना चाहता, लेकिन सरीहन यह वायदा शिकनी होगी । वे ऐश्वोरेन्सेज चन्द दिनों के वास्ते नहीं दिये गये थे, वह परमानेंटली दिये गये थे । मैं पहली बात यह पूछना चाहता हूं पेशतर इसके कि आगे बढ़े । मुझे उम्मीद है कि आनरेबल मिनिस्टर साहब कोई साफ जवाब देंगे । क्या मैं उम्मीद करूं कि आनरेबल मिनिस्टर साहब इस बारे में कुछ स्टेटमेंट देंगे ?

अन और रोजगार तथा योजना मंत्री के सभा सचिव (श्री ए० ना० मिश्र) : भभी मैं क्या कह सकता हूं ।

उपाध्यक्ष महोदय : भभी जवाब न दीजिये ।

पंडित ठाकुर दास भांगवत : जब ये ऐश्वोरेन्सेज दिये गये रिफ्यूजीज को उसके बाद क्या हुआ ? मैं हाउस में बहुत मर्तबा कह चुका हूं । मुझे कहते हुए शर्म आती है कि हमारी गवर्नमेंट ने जिसको हम बेलफेयर स्टेट कहते हैं, जिसके बारे में कहते हैं कि दुनिया में उसका सानी नहीं है, उसने अपने अल्फाज के मुताबिक आज तक उनको नो प्राफिट नो लास बेसिस पर जमीनें नहीं दीं । मकान उनके खड़े हैं । बावजूद हजार कोशिशों के उनसे कम्पेन्सेशन दाखिल नहीं कराया जाता । रोज-रोज वह अर्जियां देते हैं लेकिन उनसे कम्पेन्सेशन दाखिल नहीं कराया जाता । और भी ऐश्वोरेन्सेज में कई बातें थीं जिनके ऊपर गवर्नमेंट की तबज्जह

[पंडित ठाकुर दास भार्गव]

दिलायी गयी। कई डिपार्टमेंट्स ने तो कहा कि हमें पता नहीं कि ये एश्योरेसेज क्या बला है, हम नहीं जानते। यहां पर कह दिया गया कि हमने उनके मकान नहीं गिराये। फिर उनकी तबज्जह दिलायी गयी। आखिर मरहूम स्पीकर साहब ने एश्योरेसेज कमेटी मुकर्रर की जिसके सामने गवाहियां ली गयीं और यह तै हूमा कि लोगों को कम्पेन्सेशन देना लाजिमी था और यह एश्योरेस तोड़ दिया गया। तो किसी हद तक कुछ कैसेज में उन्हें कम्पेन्सेशन दिया गया। लेकिन . .

एक जाननीय सबब : प्रांसू पोंछे गये।

पंडित ठाकुर दास भार्गव : लेकिन ताहम में अदब से अर्ज करना चाहता हूँ कि वह एश्योरेसेज आजतक पूरे नहीं हुए और जिन लोगों के कब्जे में मकानात हैं उनको आजतक जमीनें ट्रांसफर नहीं की गयीं। उनके दिलों में डर है कि गवर्नमेंट मौका पाकर न जाने कब क्या कर डालेगी और यह बिल उसका नमूना है। मैं अदब से अर्ज करना चाहता हूँ कि आज इस्टेट आफिसर, उन रिफ्यूजीज को, जिनके मकान का मुभावजा लेकर सरकार को उनके मकान पक्के कर देने चाहिये, नोटिस जारी कर दे। क्योंकि जमीन तो सरकार की थी। क्या नतीजा निकलेगा। Those houses will be taken to belong to the Government. Unauthorised occupation का सवाल ही नहीं है। वह तो मानते हैं कि अनआथोराइज्ड आकुपेशन है। तो उनका क्या बनेगा? वे इस बिल के जद में आजायेंगे और हजारों आदमी, आप चाहेंगे तो, बेधर हो जायेंगे। मैं जानता हूँ कि गवर्नमेंट यह नहीं चाहती। मैं जानता हूँ कि कोई गवर्नमेंट इस मकसद के साथ नहीं चलती। लेकिन हम उस नेक मकसद का क्या करे। वह रास्ता नेक मकसदों से पेच है। लेकिन हम उसका क्या करे। मैं चाहता हूँ कि आप आज कहें कि जो एश्योरेसेज आप

ने रिफ्यूजीज को दिये थे वह कायम हैं ताकि उनकी हीसला शिकनी न हो।

मैं आपको एक और मामले की याद दिलाना चाहता हूँ। चन्द बरस हुए, एक बिल यहां हमारे सामने आया था। उसके लिये एक सिलेक्ट कमेटी मुकर्रर हुई थी। बदकिस्मती से मैं उसका चेयरमैन था। हमने इस जमीन को भी देखा जिसके बारे में रिफ्यूजीज को एश्योरेसेज दिये गये थे। हमने जाकर स्लम एरिया को देखा। उस वक्त स्लम का जिक्र चला ही था। सारी कमेटी उस एरिया को देखने गयी। वहां पर उसके मुतालिक गवाहियां भी लिखी गयीं : हमने देखा कि हजारों गरीबों के मकान, आर्टिजन्स के मकान, काबलर्स के मकान, वेजीबिल सेलर्स के मकान, दस रुपये गज का मुभावजा मुकर्रर करके इम्प्रूवमेंट ट्रस्ट ने एकवार कर लिये, बाद में १० रुपये से १५ रुपये कर दिये गये। उन लोगों ने आजतक सरकार से वह रुपया नहीं लिया है। मकानों में वह बैठे हैं। जब इम्प्रूवमेंट ट्रस्ट को फुरसत होती है तो उनके नाम नोटिस जारी कर देता है कि निकल जाओ। वह जानते हैं कि उनके साथ इन्साफ नहीं हुआ है। क्योंकि वह देखते हैं कि उनके सामने वही जमीन ३०० रुपये गज पर दी जा रही है और उस पर मकानात बन रहे हैं। इसलिये वह लोग अश्वल दरजा डिस्टेसिफाइड हैं। उनको सब नहीं होता कि हमारे साथ इन्साफ हुआ है। उनके लिये छः छः आठ आठ मील के फासले पर मकानात बनाये गये हैं लेकिन वहां उनके लिये कोई रोजी का जरिया नहीं है। वहां पर वह कुछ कर नहीं सकते। यह सब हमने अपनी आंखों से देखा और उसके बाद वह नये एक्ट बने डेवेलपमेंट के। मुझे पता नहीं वह किस हद पर हैं। मैं अदब से अर्ज करना चाहता हूँ कि ये जितने मकानात हैं वे सब इस बिल की जद में आते हैं।

They belong to the Government. They belong to an authority which is the successor of the Improvement Trust.

इन सब लोगों के नाम नोटिस जारी किये जायेंगे। एक तरफ तो उनसे कहा जायेगा कि तुम डेमेज्ड लाभो क्योंकि तुम इतने धरसे से अनआधोराइज्ड पजेशन में थे, और दूसरी तरफ उनको नोटिस जारी किया जायेगा कि बतलाओ कि तुम को क्यों बेदखल न किया जाये। आपकी पुलिस के आदमो पहुंच जायेंगे और उनको मकानों से निकाल देंगे। शायद उनको कोई मुआवजा देने को भी जरूरत नहीं होगी। मैं जानता हूँ कि अगर इस किस्म का कोई मामला हमारे प्रानरेबिल मिनिस्टर साहब के सामने आवेगा तो वे उसमें जरूर दखल देंगे या अगर हमारे प्राइम मिनिस्टर साहब के नोटिस में ऐसा मामला आया तो वे ऐसा न होने देंगे। पर परमात्मा जाने कि वह मामला उनके सामने आवेगा भी या नहीं और आवेगा भी तो कितने धरसे के बाद आवेगा। और फिर जब यह कानून मौजूद होगा तो क्या बन सकेगा।

मैं अदब से अर्ज करना चाहता हूँ कि कुछ लोगों के इस बारे में गवर्नमेंट से झगड़े हैं। गवर्नमेंट उनके दावे को नहीं मानती। एक मकान ए० और बी० के पास है। ए० और बी० कहते हैं कि गवर्नमेंट का मकान नहीं है। पर आपके इस बिल के आने के बाद उनके टाइटल का क्या बनेगा। स्टेट आफिसर जैसा चाहे इसका फैसला कर दे। इसमें लिखा तो नहीं है लेकिन इसमें यह भी नहीं लिखा है कि इस मामले में सिविल कोर्ट के क्या हुकूक होंगे। इसमें एक चीज दर्ज है जो दोनों चीजों पर असर डालती है। इसमें लिखा हुआ है :

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

suit, application or execution proceedings."

जनाब वाला, वह सारे टाइटिल मुझे नहीं मालूम किस वक्त इस एक्ट के लागू होने के बाद स्टेट आफिसर के नोटिस के अरिये खत्म हों जायेंगे। क्योंकि ग्रोरिजिनल सूट के सिवा कहीं इस बारे में फैसला नहीं हो सकता। अगर स्टेट आफिसर का आर्डर फार्नल है तो ग्रोरिजिनल सूट नहीं हो सकता बग मामला खत्म हुआ। तो That man goes to dogs. तो मैं निहायत अदब से अर्ज करना चाहता हूँ कि यह जो प्रावीजन बनाया गया है यह मुनासिब नहीं है।

इसके अलावा मैं जनाब की तबज्जह इसमें जो एक तारीफ के साथ एक एडीशन की गयी है उसकी तरफ दिलाना चाहता हूँ। जो अनआधोराइज्ड आकुपेशन की तारीफ दी हुई है उसकी चार लाइनें तो सही हैं लेकिन बाद में उसमें यह अल्फाज़ डाले गये हैं "or has been determined for any reason whatsoever". अनआधोराइज्ड उस शरू को समझा कि जिसको रहने का अस्तित्पार नहीं है। उसको भी समझा जिसका कि वक्त खत्म हो गया है, जैसे कि अगर पांच बरस की लीज थी वह खत्म हो गयी है लेकिन एक नया दरजा बनाया गया है :

"or has been determined for any reason whatsoever". Who is to determine that? It will be determined unilaterally by the Government or by the Estate Officer. By whom is it to be determined?

मैं अदब से अर्ज करना चाहता हूँ कि क्यों कानून में इस तरह की लेंग्वेज लिखी गयी है जिसके कि इतने मानी हो सकते हैं। इसके मानी हैं कि सारे टाइटिल का फैसला स्टेट आफिसर करेगा। जनाब वाला अभी मेरे एक दोस्त ने बतनाया

No person can be a judge in his own cause.

को एतराजात इन हाई कोर्टों ने किए, क्या इस बिल ने उस सब पर अग्र हासिल कर लिया है? जो बज्रहात और जो एतराजात इन हाई कोर्टों ने इस एक्ट के खिलाफ पेश किए, क्या वे बज्रहात और एतराजात आज भी दस्त हैं या नहीं? अगर इस बिल के बरखिलाफ़ वे एतराजात आज भी दुस्त हैं और उन को रेमेडी नहीं किया गया है, तो मैं अर्ज करना चाहता हूँ कि इस बिल को यहां नहीं आना चाहिये था। हम दुस्त तौर पर अपनी सुप्रीम कोर्ट और हाई कोर्ट्स के अहकामात की बड़ी परवाह करते हैं। मुझे याद है कि जब किसी हाई कोर्ट ने ज़मींदारी एक्ट को गलत करार दिया और किसी ने दुस्त करार दिया और आखिर में वह मामला सुप्रीम कोर्ट में गया, तो इस भवन में हम ने जो भी फ़ैसला किया, वह उन अदालतों की पूरी इज्जत करते हुए किया और कोई भी शक़्स नहीं कह सकता है कि हम ने अदालत के अहकामात की परवाह नहीं की। मैं चाहता हूँ कि हमारे देश में कभी भी गवर्नमेंट की निस्वत यह न कहा जाय कि उस ने सुप्रीम कोर्ट या हाई कोर्ट के किसी फ़ैसले की परवाह नहीं की। मुझे डर है कि यह बिल उस उसूल के खिलाफ़ जाता है और वे सब एतराजात जो उस हाई कोर्ट्स ने किए वे सब के सब इससे दूर नहीं हुए। इस बिल पर यह एक बड़ा लांछन है। मैं उम्मीद करता हूँ कि जब सिलेक्ट कमेटी इस बिल को ग़ौर से देखेगी, तो वह इस को कम से कम लीगली दुस्त कर देगी और उन एतराजात को दूर कर देगी और अगर वे दूर नहीं, तो वह यह सिफ़ारिश नहीं करेगी कि इस को पास किया जाय।

इस के बाद मैं यह अर्ज करना चाहता हूँ कि हिन्दुस्तान में सेंट्रल गवर्नमेंट के सिवाय कितनी ही स्टेट गवर्नमेंट्स हैं। कितनी ही जायदादें स्टेट्स की दिल्ली में हैं और सेंट्रल गवर्नमेंट की स्टेट्स में हैं। यह कानून डिस्ट्रिक्टिबिनेट करता है। यूनियन गवर्नमेंट की जो जायदादें यहां पर हों—वह चाहे

कार्पोरेशन के मातहत हों, कमेटी के मातहत हों या डेवेलपमेंट प्रयारिटी के मातहत हों—और लाख से गवर्न होंगी और स्टेट्स की जायदादें और लाख से गवर्न होंगी। यह दुस्त नहीं है। यह डिस्ट्रिक्टिबिनेटरी लैजिस्लेशन है, चाहे क्लासिफ़िकेशन के सिद्धान्त से हाई कोर्ट इसको डिस्ट्रिक्टिबिनेटरी करार दे या न दे, लेकिन सरीही तौर पर एक ही मुल्क में मुल्कालिक जायदादों में मुनालिक मुस्तलिक कानून हों, यह वाजिब नहीं है। मैं अर्ज करना चाहता हूँ कि अब तक तो हम कांस्टीच्युशनल ला और हिस्टरी का यह सबक पढ़ते आये हैं कि सारी आजादी, प्रैस की आजादी, पर्सनल आजादी पर बेस्ठ है—जो एक इन्सान को लिखने का हक़ है, वह प्रैस को भी है। सारे क्लब ग्रुप ला में जो एक ग्रुप्स को हक़ है, उस को हम सभी जगह लागू करते हैं। यहां पर हम देखते हैं कि एक प्राइवेट इंडिविजुअल की प्रापर्टी और गवर्नमेंट की प्रापर्टी में फ़र्क़ किया जाता है। गवर्नमेंट को कैसे इल्म होगा कि प्राइवेट लैंडलाईड और टेनान्ट्स का क्या सलूक होता है। शिकायत की जाती है कि के। लम्बा हो जायगा मैं पूछना चाहता हूँ कि आज कोर्ट्स में केसिज़ का क्या हाल है—लैंडलाईड और टेनान्ट के केसिज़ का क्या हाल है। आप का यह फ़र्ज़ है कि आप उस को दुस्त करे। आप का यह फ़र्ज़ है कि आप देखें कि लिटीगेशन लम्बा न हो। यह गवर्नमेंट का फ़र्ज़ है, वर्ना लोग शिकायत करेंगे कि जब गवर्नमेंट अपने लिये कानून बनाती है, तो यह प्राविजन रखती है कि इतनी छोटी मियाद में—चौदह दिन में—अफ़ान से वेदखल कर दो और जो जायदाद वहां पाई जाय, उस को नीलाम कर दो। मैं यह पूछना चाहता हूँ कि कहीं ऐसा कानून बना है कि लैंडलाईड को यह अस्तियार हो कि जो जायदाद मिले, उस को नीलाम कर दे और जो पसा मिले, वह उसको पकड़ा दे। इस किस्म के इस्टिक और सल्ट अस्तियाराय किसी लैंडलाईड को हासिल नहीं है। इस

[पंडित ठाकुर दास भार्गव]

सिये यह मुनासिब नहीं है, कि गवर्नमेंट को ये भस्तिपारत दिये जायें। जब टैक्सेशन इनवेस्टीगेशन कमीशन बना था, तो हम ने बहुत सस्त भस्तिपारत उस को दिये और मैं ने अर्ज किया था कि जहाँ तक इन्वेजन का सवाल है, आप वे भस्तिपारत दे दें, लेकिन लेकिन मुझे डर है कि इसी किस्म के भस्तिपारत हमारे बाकी लाज के मातहत भी दे दिये जायेंगे, वे सब भस्तिपारत हमारे इनकम टैक्स आफिसर्स को दिये जायेंगे और वही हुआ। मुझे डर है कि इस बिल के पास होने से सब स्टेट्स में इस किस्म के कानून आ जायेंगे और वह निहायत सस्ती होगी कि जहाँ तक प्रापर्टी का ताल्लुक है, प्राइवेट आदमी के लिये और कानून है और स्टेट के लिये और कानून है। यह मुनासिब नहीं है। यह एक बिल एन्ड आफ दी बेज है। मुझे मालूम नहीं कि हम कहाँ जा कर ठहरेंगे। अगर एक जगह हम रूल आफ दी ला की परवाह नहीं करते हैं, तो फिर मालूम नहीं कि किस किस बजारत में कहाँ कहाँ हम शलतियां करेंगे। जहाँ तक इस में डिस्क्रिमिनेशन का सवाल है, इस को हटा देना चाहिये।

मैं अर्ज करना चाहता हूँ कि इस में इस के अलावा एक और बड़ी सस्ती की गई है, जिस के मुतालिक में कुछ लपज कह देना चाहता हूँ। आम तौर पर जब कोई एक मकान किसी दूसरे शक्त् से लेता है, तो उसका किराया तय करता है, दोनों राजी हों, तो किराया मुकरर किया जाता है। कुछ इंड्विटीज किरायेदार के हक में रहती है और कुछ लेंडलार्ड के हक में रहती है। आखिर कुछ मुकदमा हो कर खाल्व हो जाती है या भ्रदालत तय करती है। वहाँ पर खुद एस्टेट आफिसर को यह भस्तिपार है कि उस में चाहे जितने डेमेजिज लगा दे। मुझे मालूम है कि यहाँ पर हमारे इम्पूवमेंट ट्रस्ट ने खुद रेफ्यूजीज के अपर किराये लगाये। एक दिन सुबह बैठ कर

हजारों आदमियों को नोटिस जारी कर दिये और तुम से उबल किराया चार्ज होगा। उन लोगों के पास बेदखली के नोटिस भी पहुंचे और यह भी कि पुराना किराया इस हिसाब से देते रहे हैं, लेकिन कल से यह चार्ज किया जायेगा—भाईन्दा का ही नहीं, पुराना किराया भी एक दम—यककलम—बड़ा दिया गया। रेफ्यूजीज को बड़ी भारी हैरानगी पैदा हुई। यहाँ हम ने झगड़ा किया और श्री मेहर चन्द खन्ना की खिदमत में यह अर्ज किया कि ऐसा तो किसी भी कानून में नहीं देखा, आप उस भरसे का भी किराया लेते हैं, जिस में वह रह चुके हैं और उन को बताया नहीं गया है। उन्होंने ऐ; मेहरबानी फरमा कर उस हुसम को मन्सूख किया और लोगों में शान्ति हुई।

इसी तरह से डेमेजिज का भी यही हाल है। न मालूम कोई आफिसर कितने डेमेजिज मुकरर कर दे और वह यकतर्फा डेमेज होगा। मुझे डेमेजिज की भी कहानी मालूम है। मुझे मालूम नहीं कि वह कहानी रिपीट होगी। जिन को डाई डाई सौ रुपये डेमेजिज लगाये गये, उन के डेमेजिज २२ रुपये पर आ गये, लेकिन मैं जानता हूँ कि यहाँ यकतरफा चीज होती है और यह इन्स्टिट्यूट पार्टी करती है। उन में हमेशा इन्साफ नहीं हुआ करता है इस लिये इस तरह की पावर लेना वाजिब नहीं है। मैं पूछना चाहता हूँ कि क्या फक पड़ेगा अगर कुछ देर भी हो जायेगी? लेकिन जहाँ तक देर सबेर का ताल्लुक है वहाँ भी मैं चाहता हूँ कि आप कोई ऐसा प्रोसीजर इवाल्ब करे जिस से देर न हो। मैं यह नहीं चाहता कि जिस तरह से प्राइवेट पार्टीज के मुकदमे लटकते रहते हैं उसी तरह से इस तरह के मुकदमे भी लटकते रहें। लेकिन मैं पूछना चाहता हूँ कि क्या बजह है कि आप एस्टेट आफिसर को रखना चाहते हैं और ज्यूडिशरी के आदमी को नहीं रखना चाहते? आप क्यों नहीं मुनसिफ या स्वाडिनेट जज को सिर्फ इस गज के लिये रखते? इस में आपको क्या विक्कत नजर आती है?

बिस तरह से धाप कर रहे हैं, उस तरह से तो मुझे सिविल नुकसान के धीर कुछ नबर नहीं आता है।

इसमें जो शरकीब बसूली की रखी गई है वह धीर भी ज्यादा भजीब है। सभी साज में सिविल प्रोसीजर कोड में धाप जानते हैं कि मनी डिक्लीर के लिये कैद नहीं किया जाता है। पहले पहल कैद कर दिया जाता था लेकिन आहिस्ता आहिस्ता रिफार्म हो गई है और अब कैद नहीं किया जाता है। लेकिन यहां पर दू स्टार्ट बिब पहला फिकरा इस तरह से चलता है :

It should be recoverable as an arrear of land revenue.

इनको उसी तरह से रिकवर किया जाय जिस तरह से एरियर ग्राफ लैंड रेवेन्यू रिकवर होते हैं। ग्राप जानते ही हैं कि किस तरह से एरियरस ग्राफ लैंड रेवेन्यू बसूल होते हैं। मैं इसके ऊपर ज्यादा कहना नहीं चाहता क्योंकि एक मौके पर मैंने इस हाउस में तकरीबन एक घंटा लगा कर पंजाब के भन्दर जितनी भी प्राविजनस हैं, उनको पढ़ कर सुनाया था। लेकिन मैं इनके बारे में इतना ही कहना चाहता हूँ कि पहले तो दस्तक भेजा जाता है और उसके बाद जो दूसरी चीज होती है वह यह है कि उसको कैद कर दिया जाता है। मैं पूछना चाहता हूँ कि ग्राज के जमाने में क्या किसी को इस वास्ते जेल भेजना मुनासिब होगा कि उस पर एक दो महीने की डिक्ली है। इसमें तो पुराने जमाने की ही याद ताजा होती है। मैं समझता हूँ कि हर एक ग्रादमी महसूस करेगा और रिबोल्ट करेगा और चहेगा कि यह ठीक नहीं है। मैं भी उस जमाने की याद दिलाना नहीं चाहता जब लम्बरदार और बिस्वेदार को बुला कर उसे हवालात भेज दिया जाया करता था और उसकी बात सुनने के पहले हूँ उसके सिर पर सैंकड़ों जूते लगा दिये जाते थे। वह ब्रिटिश गवर्नमेंट का जमाना था। मैं उम्मीद नहीं करता कि ग्राज के

जमाने में इस तरह से बसूली की जायेगी। अगर ऐसा किया गया तो यह बही बात होगी कि एक ग्रादमी को पहले तो चन्द दिनों के लिये कैद कर दिया जाए और पीछे पूछा जाय कि तुम्हारे मुंह में कितने दांत हैं। कोई भी मुकदमा ऐसा नहीं होता चाहे वह पांच रुपये का हो क्यों न हो जिस में डिफेंडेंट पर सम्मन तामील न कराये जायें और उनकी परसनली तामील न की जाए। सिविल प्रोसीजर कोड में इसके लिये दो कायदे रखे गये हैं। एक तो परसनल तामील की बात कही गई है और उसके बाद सबस्टीट्यूट सर्विस की बात कही गई है। लेकिन यहां पर पहले तो सबस्टीट्यूट सर्विस की बात है और फिर परसनल सर्विस की बराय नाम कोशिश करने की बात कही गई है। धाप देखें दफा ३ में यह है :—

(3) The estate officer shall cause the notice to be affixed on the outer door or some other conspicuous part of the public premises, and the contents thereof to be proclaimed in the locality by beat of drums, whereupon the notice shall be deemed to have been duly given to all persons concerned.

कभी किसी कानून में यह नहीं देखा है कि मुहालय को इतिला न हो और उसके खिलाफ कार्रवाई कर दी जाय। अगर कोई दिल्ली से बाहर होगा तो उसके मुहले में सात दिन तक डौंडी पिटवाई जायेगी और उसको पता भी नहीं चलेगा कि क्या हुआ और क्या नहीं हुआ। डौंडी की बात ही कही गई है, नोटिस की तामील नहीं है, परसनल सर्विस नहीं है। उसके बाद क्या होगा ? इसके बाद यह होगा :—

Without prejudice to the provisions of sub-section (3).

क्योंकि असर प्राविजन सेक्शन ३ में है

The estate officer may also cause copies of the notice to be served on the persons principally concerned.

[पंजित ठाकुर दास भार्गव]

यह उसकी डिस्क्रीप्शन होगी, उसकी मर्जी होगी, यह उसकी मेहरबानी पर निर्भर करेगा कि अगर वह चाहे तो उसको नोटिस भी भेज दे, वरना यह काफी है कि मुहले में डोंडी पिटवा दी जाये।

इसके बाद यह होगा :—

.....served on the persons principally concerned either by post or delivering or tendering the copies to them.

सं समझता हूँ कि भानरेबल मिनिस्टर साहब मुझ से ज्यादा जानते हैं कि सिविल प्रोसीजर कोड में किस कदम सक्ती के साथ तामील के ऊपर जोर दिया गया है और जो सबस्टीट्यूट सर्विस है वह चन्द एक हालात में ही होती है, वरना परसनल सर्विस होती है। यहां पर पहले ही सबस्टीट्यूट सर्विस को रख दिया गया है और बाकी सब उसकी मर्जी पर छोड़ दिया गया है।

15.57 hrs.

[SHRI MOHAMED IMAM in the Chair]

इस बिल की खूबियों को कहां तक बयान किया जाये। आप देखें कि जो तरीका नोटिस का और जो वकफा इसके अन्दर रखा गया है वह कितना अजीब है और कितना थोड़ा है। अपील हो या कोई और प्राविजन हो बहुत ही कम अर्सा लोगों को दिया गया है। चौदह दिन के अन्दर सारा मामला तय हो जायेगा। इस अर्से में एरियर्स भाव संड रेवेन्यू भी यह बन जायेंगे, नोटिस भी जारी हो जायेगा, बसूली भी हो जायेगी। यह सारा काम एक दिन के अन्दर भी हो सकता है और शायद हो भी जायेगा। एक ही दिन के अन्दर मकान भी खाली, जायदाद भी नीलाम और वह भी घर से बाहर हो जायेगा, यह सब कुछ एक ही दिन में हो सकता है। वे दोनों चीजें एक ही दिन में जारी हो सकती हैं क्योंकि कम से कम एरियर्स तो बाकी होंगे ही।

अब मैं इस बात पर ध्यान चाहता हूँ कि कितने इस तरह के केसिस होंगे जिन में गवर्नमेंट को यह कार्रवाई करनी पड़ेगी। मैं समझता हूँ कि इसकी बहुत कम जरूरत महसूस होगी। इन थोड़े से केसिस में मुझे डर है बहुत सक्ती बरती जायेगी। एक तो इस तरह के केसिस होंगे जहां पर गवर्नमेंट के जो अफसर हैं वे तबदील हो कर कहीं और चले जायेंगे और वे अपने मकान खाली कर देंगे। बहुत से लोग ऐसे होंगे जो परमानेंट टेनेंट होंगे, गवर्नमेंट को किराया बराबर देने रहे होंगे और उनको गवर्नमेंट भी बेदखल करना नहीं चाहेगी। कुछ लोग ऐसे भी होंगे जो छोटी सी बात के लिये गवर्नमेंट के अफसरान को नाखुश करना नहीं चाहेंगे क्योंकि ऐसा करना उनके इंटिरेस्ट में नहीं होगा। गवर्नमेंट सर्वेड्स के साथ सक्ती नहीं होगी, यह भी मालूम है। लेकिन जो थोड़े से लोग बच रहेंगे, जिनको इसका शिकार होना पड़ेगा, मुझे उनके बारे में फिक्र है। उनके खिलाफ गवर्नमेंट इस तरह की कार्रवाई न करे जिससे कि वे यह समझने लग जायें कि उनको इसका शिकार बनाया जा रहा है और वे यह समझने लग जायें कि गवर्नमेंट ने एक ऐसा कानून बना दिया है जिस तरह के कानून का जिक्र फ्रेंच ला में आता है जिसको जब हम स्टुडेंट थे पढ़ा करते थे जबकि वहां पर एड्वायट एडमनिस्ट्रेटर था और कोई रूल भाव दी ला नहीं था और खास खास लोगों के लिये खास खास कानून थे। लेकिन इस तरह की चीज हिन्दुस्तान के अन्दर अननोन है। किसी आदमी के लिये इस तरह की चीज जायज होती या न होती, गवर्नमेंट के लिये यह चीज अच्छी नहीं है, यह उसको शोभा नहीं देती है, यह उसकी शान के शायं नहीं है कि वह इस तरह के बिल लाये।

हमने अपने विधान में इस बात को लिखा है कि हम हर एक आदमी के लिये

काय मुहैया करेंगे, उसको रहने के लिये मकान देंगे और सब चीजें देंगे। आज इस साल के बाद गवर्नमेंट यह कहती है कि कोई मकान तुम्हारे रहने के लिये नहीं है। भानरेबल मिनिस्टर साहब ने चन्द दिन हुये एक एनाउंसमेंट की थी कि वह मकान बनवाने की कोशिश कर रहे हैं। यह अच्छी बात है। एक तरफ तो आप इतना काम करते हैं और लोगों को मकान बनाने के लिये रुपया देते हैं, मकानों के लिये मैटीरियल मुहैया करते हैं और सब तरह की सहायलियतें देते हैं और दूसरी तरफ यह सक्ती करते हैं कि चौदह दिन के अन्दर अन्दर जिस को चाहें आप मकान से बाहर कर दें, उस जायदाद को नीलाम कर दें, न नोटिस दें और न कुछ लेना और न कुछ देना। ये सब चीजें एक ही दम करना तो ठीक नहीं है। अगर यह गवर्नमेंट की इयूटी है कि लोगों को मकान दे तो इतनी सक्ती नहीं की जानी चाहिये। मुझे उन पर सक्ती का डर नहीं है जिन पर कि दिल्ली में की जायेगी क्योंकि यहां पर तो मिनिस्टर्स हैं, पार्लियामेंट है। मुझे डर उस सक्ती का है जो दूसरी जगहों पर की जायेगी। मुझे डर इस बात का है कि दूसरी जगहों पर क्या होगा स्टेट्स में भी इसी तरह के कानून बनाये जायेंगे, वे भी आपकी नकल करेंगे और नकल करते वक्त अपने बिल को कोई और ही शकल दे देंगे और न मालूम क्या क्या चीज बनेगी। उस सूरत में आप कुछ भी नहीं कर सकेंगे क्योंकि आप की ही की हुई यह करतूत है। आप उनको उस सूरत में किस मुंह से यह कह सकेंगे कि तुम इस तरह का कानून न बनाओ।

मैं ज्यादा वक्त नहीं लेना चाहता और अधिक कहना भी नहीं चाहता क्योंकि मैं कुछ बीमार सा हूँ। मैं माफी चाहता हूँ कि मैं और ज्यादा डिटेल्स में नहीं जा सकता। मैंने बहुत मुलायम फलफाज में अपनी बातें मिनिस्टर साहब के सामने पेश की हैं।

दो तीन सवालों का मैं मिनिस्टर साहब से जवाब चाहूंगा और प्रार्था करता हूँ कि वे देंगे भी। जब मैंने ये बातें हाउस के सामने रखी थीं, उस वक्त बदकिस्मती से मिनिस्टर साहब यहां पर मौजूद नहीं थे लेकिन मुझे उम्मीद है जो भी उस वक्त यहां पर बैठे हुये थे उन्होंने मेरी बातों को नोट कर लिया होगा और मिनिस्टर तक पहुंचा दिया होगा। अब मिनिस्टर साहब चूंकि यहां हैं मैं चाहता हूँ कि जब वह जवाब दें तो मेरे दो तीन सवालालात का भी अवश्य उत्तर दें। इन दो सवालों को मैं दोहरा देता हूँ। पहली तो रिप्यूजिज की बात है। उनके बारे में इसी सीट पर बैठे हुये एक मिनिस्टर साहब ने एश्योरेंस दी थी और सालम एश्योरेंस दी थी। उसके बाद सिलैक्ट कमेटी बनी थी। सिलैक्ट कमेटी ने इस पर विचार किया और १२-१३ महीने बैठ कर इस पर खूब विचार किया। उसके बाद दूसरा बिल धारा और आपके प्रेडिसेसर ने उन एश्योरेंसिस को रिपीट किया। उन पर अमल हुआ या नहीं हुआ इस पर मैं इस वक्त नहीं जाता। मैं पूछना चाहता हूँ कि क्या आप उन एश्योरेंसिस के पाबन्द हैं या नहीं हैं। अगर पाबन्द नहीं हैं तो आप साफ साफ बता दें ताकि लोगों को यह पता लग जाये कि आने वाले वक्त में उनको और भी ज्यादा तकलीफ का सामना करना पड़ सकता है। अगर आप उन एश्योरेंसिस के पाबन्द हैं और आप इस चीज को तसलीम करते हैं तो लोगों को तसल्ली हो जायेगी कि गवर्नमेंट जो कुछ कहती है, उस पर अमल भी करती है, वायदा शिकनी नहीं करती है।

मैं अदब से अर्ज करना चाहता हूँ कि आपने हम से ६ साल पहले जो वायदे किये थे उनको पूरा कीजिये। आपने जो नो प्राफिट नो लीस बेसिस पर जमीनें दी हुई हैं, आज भी लोग उनके लिये रुपया दाखिल करने को तैयार हैं लेकिन वही हासल

[श्री ठाकुर दास मारनव]

हो रही है कि गोदस ब्लीट शेफर्ड सुनता नहीं। आप उनकी बात को सुनने के लिये तैयार नहीं हैं और परमात्मा न करे कि ऐसी सुसीबत किसी पर घाये जैसी कि बेचारे रेफ्यूजीज पर आई है। जब रेफ्यूजीज यहां पर शुरू २ में घाये थे और चूंकि वह बर्बाद हो कर और सब कुछ लुटा कर घाये थे तो रात दिन उनके साथ हमदर्दी की बातें चला करती थीं लेकिन आज उनकी क्या हालत है? मैं चाहूंगा कि मानरेबुल मिनिस्टर इसकी तहकीकात करायें।

दूसरी चीज जिसकी कि बाबत मैंने शुरू में कहा था, वह है अजमेरी गेट के बे नौज जिनको कि वहां से बेदखल किया गया है। उनको कम्पेंशन देने के वास्ते खजाने में कई लाख रुपया जमा किया हुआ है लेकिन आज कई वर्ष गुजर जाने के बाद भी उनको मुआविजा नहीं मिल पाया है। वे बहुत खराब हालत में हैं। हमने उनकी हालत को देखा है, वहां पूरी सिलेक्ट कमेटी गई थी। आप मेहरबानी करके उनके साथ इन्साफ करें और उनकी तरफ तवज्जह करें। इन दो केसेज में आप कोई अपनी बैफ्रनित पालिसी ले आउट करें ताकि यह मालूम हो जाय कि इन गरीब आदमियों का क्या बनने वाला है।

Shri Achar (Mangalore): Sir while supporting the Bill, I would like to make some observations for the consideration of the Joint Committee.

No doubt, a quick remedy is required for ejecting people who unauthorisedly occupy public buildings. While such a remedy is necessary, at the same time, we will have to remember this simple fact. After all, the Bill goes against the common law of the land. A remedy like this will not be required in cases where there is a clear case of illegal occupation. My hon. friend Shri Nau-

shir Bharucha also dilated on that point and remarked that if there is a clear case of illegal occupation, no further enactment or no further law is required. If it is clearly illegal, simply, the police need be requisitioned and the person should be ejected. So, this Bill, I take it, will not apply to such cases.

It will apply only to cases where some civil right is involved. It may be, under a certain contract or certain provisions, a man may be put in possession. After that period, he has to be ejected. So far as the provisions of the law is concerned, time is not the essence of the contract in such matters. There may be civil rights involved in such cases. If a civil right is involved, to eject a man from his possession, certain civil remedies also will have to be taken into consideration.

In this Bill as proposed, there is no provision whatsoever as to how the enquiry is to take place. Some Estate Officer is appointed. It may be a person who has absolutely no knowledge of civil law or he may have no respect, with all humility I submit, for the civil rights of people. In section 8 it is said that the Estate Officer shall, for the purpose of holding any enquiry under this Act, have the same powers as are vested in a civil court. So far as powers are concerned, he is given full power. Even persons, who are trained in civil jurisprudence, in principles of civil law, are circumscribed by certain provisions of form. There is the Civil Procedure Code. There are so many other provisions. There is the Evidence Act. I do see that all these cannot be made applicable for a remedy like this which has got to be very quick.

I understand the position that so far as persons who are occupying public buildings unauthorisedly are concerned, they must be ejected quickly. I do see that. At the same

time, though the powers are given, I feel there must be some provisions which will restrict the mode of enquiry and his discretion. Even it may be a summary enquiry: I do not mind that. In this Bill as proposed, there are no provisions whatsoever as to how the enquiry should take place. Is it to be simply *mugalai*? I submit with all respect that the provisions of this Bill are absolutely inadequate.

For example, we have the Rent Control Act. There are certain extraordinary measures. As I said in the very beginning, this must be considered not as the ordinary law of the land. When we are going against it and when we are making extraordinary provisions, it has to be seen that those powers are restricted by some provision. I would submit, with regard to notice, it is a very important point whether the man is served, how he is served, whether he has notice of it, how the enquiry takes place, whether there is examination and cross-examination. Let it be a summary enquiry, as I said. All the same, it should not be left to the utter discretion of the Estate officer. There must be certain provisions. I submit that the Joint Committee must look into this aspect of the question, and have some provisions which will restrict as to how the enquiry has to take place.

Then, the next point I would like to mention is regarding the provision for appeals. I find an appeal is provided to the District Court, but curiously enough I find there is absolutely no power given to the District Judge to stay the matter pending appeal.

Shri K. C. Reddy: It is given:

Dr. P. Snnbarayan (Tiruchengode): It is there.

Shri Achar: I am sorry if it is there.

Shri K. C. Reddy: Clause 9(3).

Shri Achar: I am sorry I made a mistake.

"Where an appeal is preferred from an order of the estate officer, the appellate officer may stay the enforcement ..."

I thought there was no provision. All the same, I find there is no second appeal to the High Court provided for.

As I pointed out, it is a question of civil rights. When it is a question of deciding certain matters, and especially when we are having a very quick remedy, I would submit that a second appeal, or at least a revision should be provided for to the High Court. Of course, we find of late that in almost all legislations and Bills coming in, there is a tendency, there is an attempt to oust the jurisdiction of the civil courts, but I would submit.....

Shri M. B. Thakore: Criminal courts.

Shri Achar: I said that in almost all the Bills and all the statutes that are coming up, there is an effort to avoid the jurisdiction of the courts, whether it be civil or criminal, as much as it is possible. I would submit that when we are having a legislation of this kind where the matter is considered in a very summary manner also,—of course, that has to be adopted because we must have a quick remedy—a mere appeal to the District Court will not be sufficient. I suggest, if not a second appeal at least a revision to the High Court may be allowed. That is all.

Shri Jaganatha Rao: I rise to support this measure. This Bill is a definite improvement on the earlier enactment of 1950. If we go through the various provisions of the Bill, we find a regular procedure has been prescribed.

Of course, several objections have been raised by hon. Members regarding some legal aspects. I shall try to deal with them *seriatim*.

[Shri Jaganatha Rao]

If you refer to the definitions of the unauthorised occupant in clause 2 of this Bill, it envisages two classes of unauthorised occupiers: (1) the person who occupies without authority, and (2) the person who having occupied with authority continues to remain in possession of the premises after the authority expires. In both these cases, a notice is prescribed under clause 4 of the Bill to be issued by an Estate Officer, and an opportunity is also given to the person in unauthorised occupation to show cause, and only on being satisfied that there are no valid reasons for which a person to continue in occupation would an order of eviction be passed.

It has been urged by several hon. Members that alternative accommodation has to be provided for by the Government before a person is ordered to be evicted. I see no reason in this argument. Firstly, if a person is in unauthorised occupation he has no right to demand alternative accommodation. Secondly, if the person had occupied originally under an authority and the authority or permission comes to an end, then what right has he to demand from the Government to provide for alternative accommodation so that he could remove to that alternative accommodation and then vacate the premises?

However, provision has been made in clause 4 for the Estate Officer to issue notice on this person to show cause, and it is open to the Estate Officer to grant him time. The clause does not prohibit the Estate Officer from granting time to such a person.

Then, objection has been taken to sub-clause (3) of clause 4 of the Bill which says that a copy of the notice shall be affixed on the outer door or some other conspicuous part of the public premises. But, if you look at clause 4, personal service of notice is also contemplated. In cases where

personal service is not possible, a further mode of service of notice as provided for in the Civil Procedure Code is by a fixture of a copy of the notice on a conspicuous part of the premises, and also by beat of drum. These requirements which are followed in the Civil Procedure Code have been followed in this clause. I fail to see how any hardship would be caused to a person who would be affected by an order that would be passed ultimately under clause 4.

Similarly, if we look at clause 5 also, ample opportunity, reasonable opportunity, is being provided to the person to show cause, and it is only on the officer being satisfied that he has no valid cause to continue in possession, that an order of eviction would be passed.

Then, it has been argued that the Estate Officer who issues notices of eviction is himself the judge, and that it is contrary to juristic principles, but I say in a welfare State where the activities of the State expand in all directions, it is not possible for a citizen to demand the right to be heard in a civil court. We can take it that the Estate Officer under this clause would be a tribunal, who can go into this question as an administrative tribunal, and his order would be subject to the jurisdiction of the High Court. The powers under articles 32 and 226 of the Constitution are there, and are not intended to be taken away and cannot be taken away by this Bill. So, the fears expressed by hon. Members in this regard, according to me, fall to the ground.

Shri M. B. Thakore: What about the expenses?

Shri Jaganatha Rao: I will come to that.

The Hon. Member, Pandit Thakur Das Bhargava, has referred to sub-

clause (e) of clause 2 of the Bill which say:

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

His objection is: who is to determine this order. If you read carefully the clause, you will find that "or has been determined" means only, in legal parlance, the authority which has come to an end. "A lease is determined" means a lease has come to an end, the right is extinguished, not that any person determines it in the sense that he puts an end to the authority. The authority automatically comes to an end.

I take the instance of a Government servant who is allowed to occupy public premises. On retirement or removal from service he has no right to continue. The authority which was given to him earlier to occupy the premises is determined along with his right to continue in service. Therefore, he is only in the position of a licensee. But the Bill, I say, goes further. Even in such cases, even in cases of trespassers, notice is given, 15 days' notice; notice is given by the authority asking him to vacate the premises which in law the person would not be entitled otherwise.

Another hon. Member referred to the time, the period of limitation, for preferring appeals under this Bill which is 15 days against an order under clause 5, and 15 days against an order under clause 7. Procedure under the Civil Procedure Code is applicable for the filing of appeals and also regarding the hearing of the appeals. The time taken to obtain a copy is also discounted, and 15 days would be in addition to the time taken to obtain a copy. I think fifteen days is not a short period. Certainly, if the person affected by an order adversely wants to prefer an appeal he has to be diligent and he has to go to the court within fifteen days. I

see no reason to complain against this provision.

16 hrs.

Then, it has been urged by Shri Achar that if a person is in illegal occupation, no Act is necessary to evict him. I am afraid I cannot agree with him. Supposing a person is in illegal occupation of a public premises, obviously the person has no right, but can Government forcibly evict him? Can Government, being a party, take the law into its own hands and eject him publicly? Supposing a person forcibly trespasses on the land of some other person, it is open to the owner of the land or the person in possession of the land to eject him provided he does not use any force. If he uses any force, he would be committing a criminal offence. So, it is not correct to say that no Act is necessary if a person be in illegal possession. So, I am not able to agree with my hon. friend.

Shri Achar: May I just give one instance? Suppose somebody gets it into his head to walk into the Parliament House and being cooking here, are we entitled to kick him out or are we to go to a court of law?

Shri Jaganatha Rao: My hon. friend confuses Parliament with public premises. No person has a right to enter the Parliament unless he is a Member. The Speaker has ample powers to eject the person.

Shri Achar: But suppose somebody manages to get into this place. Then, what happens?

Mr. Chairman: One person did in an unauthorised way.

Shri Jaganatha Rao: That was very recently, and certainly it must be in the memory of the hon. Member as to what happened to him.

Shri Surendranath Dwivedy (Kendrapara): He was sent to the mental hospital.

Shri Jaganatha Rao: That will be the result.

Then, objection was taken to the delegated legislation which is contemplated in clause 13 of this Bill. This is a routine matter which every Act contains, and I see no reason why this clause should not be there. The Bill speaks of only power to make rules regarding the mode of holding enquiry, from the notice etc. the mode in which appeals have to be preferred and heard and so on. It is not expected that in every enactment every minute detail should be put in there. It is again argued that article 14 is still hit. As I submitted earlier, in a welfare State, it is not possible for the citizen to expect to stand by his fundamental right. The State has got a right to qualify some of these fundamental rights to reasonable extent as is necessary in the discharge of its duties in a welfare State.

It is provided here that the arrears of rent or damages that may be determined by the officer should be recovered as arrears of land revenue. I see no objection to this procedure. Any amount due to Government would certainly amount to arrears of land revenue. This speedy remedy is provided for in every case. For instance, in the Revenue Recovery Act or the Public Demands Recovery Act, such power has been given to the officers. The very object of this measure is to give Government summary powers to proceed with eviction and also to realise the rents or damages due to Government. That very object would be defeated if it is said that Government have no right.

I am of the view that this Bill is not open to objection on any of the grounds urged by the hon. Members, and that it is a welcome measure, and it is a definite improvement over the earlier legislation of 1950. I fully support the measure.

Shri C. R. Pattabhi Raman (Kumbakonam): This Bill is going before a Joint Committee, and it behoves us

to think aloud on matters which may affect the citizen.

For instance, certain powers have been given to the estate officers, as they are called, to evict persons wherever they may be found in public premises.

Shri K. C. Reddy: Unauthorisedly.

Shri C. R. Pattabhi Raman: So far as the legal position is concerned, at one time there was a doubt in regard to article 19 (1) (f). In *Subodh Gopal vs. West Bengal*, the former Chief Justice of India, Mr. Patanjali Shastri thought that the rights envisaged in article 19 (1) (f) were abstract rights. He wanted to convey this idea in contradistinction to the rights conferred on all persons and not merely citizens, under article 31. He was of opinion that article 19 (1) (f) concerned itself only with abstract rights.

Soon after that decision, if I remember aright, in the very same year, there was another case, in which I had the good fortune to take part, namely, the case of *Lakshmindra Tirtha*, a mutt case from South Kanara. The Supreme Court unanimously held in that case that article 19 (1) (f) did not confer merely abstract rights, but conferred concrete rights on citizens of India. They said that citizens had concrete rights in existence, so far as article 19 (1) (f) was concerned. But article 19 (1) (f) is qualified by article 19 (5) and it saves the existing law in so far as the State imposes reasonable restrictions on the exercise of any of these rights for the protection of the interests of any Scheduled Tribe or

Shri K. C. Reddy: Or in the interests of the general public.

Shri C. R. Pattabhi Raman: or in the interests of the general public. Only it must be a reasonable restriction. It must be subject to the touchstone of judicial interpretation. I

am giving this background so as to explain to the House what it was that made the three High Courts strike down the previous legislation. The original Act, namely, Act XXVII of 1950, namely, the Public Premises (Eviction) Act was struck down by the Calcutta High Court, by the Allahabad High Court and by the Punjab High Court, one High Court confining itself to article 14 and dealing with discrimination in the grant of equal rights to all citizens, and the other two High Courts confining themselves to the unreasonableness of the restriction imposed. That was the position. That is the reason why Government have come forward with this measure before this House. The necessity for this measure is this, that the High Courts have struck it down, and, therefore, we shall have to have a formula which will be acceptable to the courts, and which will fit in with and square with the fundamental rights guaranteed to citizens and various other persons.

So far as the provisions are concerned, in the Financial Memorandum, it is stated clearly that it is intended that this work should be entrusted to existing estate officers and it may not, therefore, be necessary to incur any additional expenditure. I am not happy over it. I am sure the Joint Committee will consider that aspect of the matter.

There are certain very clear rules of what is called natural justice which have to be satisfied before any legislation can pass muster and can become valid. The first is that there is equality guaranteed to all citizens. My hon. friend Shri Jaganatha Rao would clothe the State with special powers. He is right. It is a welfare State, and there is no doubt about it. But it is not a totalitarian State. The welfare State is charged with some good intentions hurrying up social legislation, but it does not cease to be a person, for, any law which confers any special power will be struck down as being bad because it is not a reasonable classification. I wish to

impress upon Shri Jaganatha Rao that the classification must be reasonable.

Shri Jaganatha Rao: Impress upon the House.

Shri C. R. Pattabhi Raman: because in our enthusiasm we should not do something else. This is going to the Joint Committee and I am sure our thinking will be of some use to them.

The first rule is that there must be an independent tribunal. There must be notice given to the other party. There is a very famous maxim, *audi alteram partem*; you must hear the other side. The man must be served with a notice. He must be able to come and say what his grievances are. He must be allowed to let in evidence to say that it is not government property and it is his property, because the *ipse dixit* of the officer is not enough. What is really the position now? Who has to declare whether it is a public premises or not? That is presumed in this Bill.

I heard a whisper some minutes ago that they can go to civil courts for that. It is not so stated anywhere in this Bill. The *ipse dixit* of the estate officer will be there. He may be the person who may declare that it is public premises. Secondly, he may give notice. Thirdly, he may decide. I am sure the hon. Minister will bear this aspect in mind. I do not think he will be encouraged to clothe that very estate officer with the power of deciding the matter. I am sure they will have this in mind when the Bill goes before the Joint Committee.

So far as procedure is concerned, I do not think the legislation will be bad if the rules make it clear how the notice is to be given, how the hearing is to take place, in what manner evidence is to be taken and what the tribunal is. If all that is made clear, it will have all the features of what is called natural justice. If the rules make this clear, it is all right, because there are enough powers given under the rules.

[Shri C. R. Pattabhi Raman]

I find clause 8 deals with the power of the estate officer and clause 9 deals with appeals. What is the use of saying that there will be an appeal to the district judge if the original trial did not have the minimum requirements the very minimum, of what are called the principles of natural justice? If it does not satisfy the principles of natural justice, it only means that the district judge will hold that the whole thing is bad, and he may order a re-hearing. It will only multiply the procedure. So the rules must make it very clear how the trial has to be held, what notice is to be given, how the hearing is to be conducted and so on.

Shri Achar was saying that there was a tendency now-a-days to shut off courts. After all, there will be a bottleneck. We have got to achieve things. We have got so many schemes under the Plan. Just imagine a retired officer sitting in a government building and saying, 'I will not get out of it.' When he originally came there, it was lawful possession by him. Perhaps it was part of his perquisites. He had to be given a house. Suppose it comes under the definition of 'public premises' and he has to be asked to leave, can the Government go to courts and go through the regular paraphernalia with two appeals? I do not think this is necessary. That will be really pitching the claim too far and too high. You are really defeating the very purpose of your case. What is wrong, if the retired officer does not leave the premises, in having a proper tribunal, giving him opportunity to explain himself, and then throwing him out? And there is provision for stay. If anything is wrong so far as the format of the notice is concerned or so far as the hearing is concerned, you can always strike it down by going to the court with a writ petition. There is nothing to stop the court from exercising the writ jurisdiction. The High Courts under article 226 of the Constitution and the Supreme Court under Article

32, have got the power to strike down bad procedure through writ of certiorari, mandamus or prohibition. These rights would be available to citizens. So I am not frightened about that. It is only with regard to forms that I am frightened.

Lastly, in the explanatory portion under "unauthorised occupation", it is said:

"(whether by way of grant or any other mode of transfer) under which he was allowed to occupy the premises has expired or has been determined for any reason whatsoever".

Who determines it? You cannot have determination in the air.

Shri Achar: By expiry of time.

Shri C. R. Pattabhi Raman: Who is to decide that the time has expired?

Shri K. C. Reddy: The concerned administrative authority.

Shri C. R. Pattabhi Raman: I am sorry it is not so; "determined for any reason whatsoever". That is why I read it. Reading the former portion, I agree with him.

Shri K. C. Reddy: In accordance with the terms of the lease that might have been entered into.

Shri C. R. Pattabhi Raman: I am much obliged for the explanation. There again, all that will be placed before somebody. Who is to decide? Who is to hear the other side and decide? It may be a very quick decision. I do not want the courts to come in. I sincerely hope that the spirit in which I am pleading for what is called adjectival law will be understood. I do not want the courts to come in. I only want to see to it that there is a proper decision. Who is to determine that the lease period is over, or, what is worse, if a condition of the lease has not been fulfilled?

Who is to say that the lease is bad or the transfer is bad or the holding is bad? I can think of so many cases. A man be in possession of the property for a season. It can be a lease for a season in the case of land. Who is to determine that the period of tenancy has expired.

An Hon. Member: The estate officer who gives notice.

Shri C. R. Pattabhi Raman: The man who gives notice decides it. He initiates it and then gives the decision. I do not want to repeat myself. I am sure that this aspect will be borne in mind.

Some reference was made to the High Courts. The Allahabad High Court was dealing mainly with article 14. Actually, there are three decisions, which I referred to in the very beginning. The High Courts said that it was not a reasonable classification.

"The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India." I take it they held that the classification was not that for public premises, one law, and private premises, another law. Not only that. They thought that the classification was bad, so far as the relative right was concerned.

The other two High Courts, of Punjab and Calcutta, were dealing only with article 19(5)—reasonable restrictions.

So we have had three High Courts who have dealt with it and we have had the benefit of their judgments. I sincerely hope that whatever the learned Judges, who have devoted some time to it, have said, will be heeded in the Joint Committee.

Shri Naushir Bharucha: Government will come with a third Bill afterwards.

Shri M. B. Thakore: I thank you very much for giving me time to speak on this Bill.

Shri K. C. Reddy: May I know from the Chair whether we are closing the debate today or are carrying this forward to tomorrow?

Mr. Chairman: Four hours are set apart for this. After the hon. Member's speech, I will call upon the Minister to reply.

Shri K. C. Reddy: We began at 13.30 hours or so. I am only anxious to know whether I am called upon to reply today or tomorrow.

Shri Prabhat Kar (Hooghly): How many more speakers are there?

Shri Naushir Bharucha: We have allotted four hours for this in the Business Advisory Committee. I think the hon. Minister can reply tomorrow.

Mr. Chairman: The four hours include the time taken by the Minister also. Unless the House determines otherwise, I have no power to extend the time.

Shri Tangamani: We have not taken more than three hours so far. If we go on till 17.00 hours, there will be still half an hour left.

Sardar A. S. Saigal (Janjgir): Four hours are allotted for this motion. We have to adjourn at 17.00 hours. So the hon. Minister can reply tomorrow.

Mr. Chairman: All right. The discussion will go on till 17.00 hours.

Shri M. B. Thakore: I oppose this Bill not because I belong to the Opposition, but because it is against the fundamental rights conferred by our sacred Constitution. Secondly, it restricts the power of the judiciary. Thirdly, it gives discretionary powers to the Central Government.

Before I deal with the Bill in detail, I would make a reference to the increase of the centralising power of the Government of India.

[Shri M. B. Thakore]

Recently, it has been the tendency of Government to introduce Bills and amendments to Acts to increase their power. This is very dangerous in democracy. If power is to increase, I do not think, there is safety for democracy. In democracy, the three organs, the judiciary, the legislature and the executive are independent to each other.

Here, since 1947, we find that Government has been introducing Bills which aim at centralising power. The Preventive Detention Act and other Acts show that Government wants power at the cost of the judiciary. In this Bill also, the power of the judiciary has been restricted and it has been taken over by the Central Government. It is extraordinary that all powers under this Bill are conferred on the Estate Officer. He is everything, the judiciary, the executive and legislator also.

Mr. Chairman: He cannot be a legislator.

Shri M. B. Thakore: He would make rules; there is no mode of enquiry. So, he would make his own rules for enquiry and all that. That is why I say so.

I would request the hon. Minister to think over the question of increasing the power of the executive. It leads to a totalitarian State. I would cite the example of Hitler in 1930. He slowly and steadily, by introducing legislation, got power in his hands. In the same way, here, you find that since 1947, the Government is coming forward with legislation to have increasing powers. So, we should all combine, to oppose, tooth and nail, such kind of legislation.

It is shocking that clause 2 defines 'premises' as 'any land' etc. etc. Here I have to comment that in Delhi villages land has been acquired by Government for the development of Delhi. I do not mind if our beloved Prime

Minister wants Delhi to be like Paris or London. But, he should also think of those poor villagers whose agricultural lands have been acquired. Compensation has not been paid.

I had been to some meetings, with other Members of this hon. House and saw that the condition of those people is pitiable. We had been to Chirag Delhi which is only three miles away from this Parliament House where 140 bighas of land have been acquired. One farmer has constructed a tubewell costing about Rs. 22,000 and that has also been acquired. The agricultural land costs about Rs. 2,000 per bigha and these 140 bighas—have been acquired for some Ram Dayal Corporation. After the meeting was over, we went to the site and there we saw that it was a fact that the tubewell had been acquired and that the farmer was ousted without any compensation. I wrote to the hon. Minister and I invited him to visit that site but there was no reply whatsoever to my letter.

Mr. Chairman: Two more speakers have to be accommodated; and, so, I suggest the hon. Member may conclude in 5 minutes.

Shri M. B. Thakore: This is also a fact that there is sufficient waste land near by this acquired land. My point is this. Why not acquire such land which is lying idle instead of acquiring fertile land and ousting these poor people?

An Hon. Member: Very bad.

Shri M. B. Thakore: It is extraordinary also that houses have been acquired without making any alternative arrangements to settle people. So, I request the hon. Minister to think about this.

Why this legislation at all? Because we have failed to provide sufficient accommodation for the needs of the circumstances. We are working this

First Five Year Plan and the Second Five Year Plan all these ten years; but, still, I find that many people have no accommodation. What will be the effect of this legislation? It will create discord, disunion, dissatisfaction and discontent. It will affect the poor people.

Some hon. friend said that they may go to the High Court. But, does he know how expensive it is to go to the High Court and fight out a case? He is a lawyer and he knows that it is very difficult for poor people who have no accommodation—that is the most remarkable thing. Only when he has no accommodation will he occupy such land and he cannot afford to go to a High Court under the Constitution. How is it possible? This kind of legislation cannot do any good to the poor people; but it is a burden on those who have no means to construct buildings or accommodation to live in.

Mr. Chairman: I hope the hon. Member will conclude soon.

Shri Radha Raman (Chandni Chowk): Mr. Chairman, Sir, I rise to support the Bill . . .

एक माननीय सदस्य : हिन्दी में बोलिये ।

श्री राधा रमण : सभापति जी . . .

Mr. Chairman: All at once he should not switch on to Hindi. He should speak for some time in English and then speak in Hindi.

Shri Radha Raman: I only tried to make my points clear to the Minister; probably, he cannot follow Hindi and, therefore, I began in English. I am habituated to speak only in Hindustani.

Mr. Chairman: For the benefit of the Minister he may speak in English now.

Shri Radha Raman: Mr. Chairman, Sir, I rise to support the Bill, but I have my own doubts with regard to the objects of the Bill and also whether they can be achieved by the provisions that are contained in this Bill. I, somehow, find that such a Bill came before the Parliament sometime ago and it was passed. This Bill is an improvement on that Bill and, since the hon. Minister wishes to pass it on to the Joint Committee I am sure the Joint Committee will go into the questions or the problems that have arisen, and with the experience that is gained necessary changes will be made in the Bill.

I have however a few observations to make in respect of some of the provisions which are contained in this Bill. In the first instance, I say that in Delhi the problem of unauthorised occupation is an acute one. I am sorry to say that nearly 20-25 years ago the then Delhi Administration announced that quite a large number of areas round about Delhi were to be acquired through notification. It was nearly 20-25 years ago that this announcement was made, but those areas remain as they were. They are neither acquired nor allowed to be utilised by persons who are living in those areas since then. This has created a lot of complication and a big problem. The Government wants those areas to be developed and improved. Either they should be sold to the persons who are now living there or they must be acquired by the Government.

I find that it is impossible for the Government to acquire them without giving alternative accommodation to the persons living there. What has happened is, there are hundreds of buildings that have come up there. They are in a very dilapidated condition. Some of them which are new can stand the time but others which are old require a lot of repair or reconstruction. The Government's mind is not clear, with the result that a lot of suffering is experienced by

[Shri Radha Raman]

the people who are living in those areas.

I just want to draw the attention of the hon. Minister to this problem and wish that there should be some solution with regard to such cases. In a way the Government's intention to acquire those areas may be all right, but there should be some time limit fixed for acquiring them. If it is not the intention to acquire them, it should be finally decided that those areas are not to be acquired so that they can be sold to the persons who are already living there. If it is intended to acquire them there should be some alternative accommodation for the people who are living there. In any case the matter cannot be allowed to stand as it is for long.

In the same way I find that during the past ten years thousands of families have come to Delhi and since most of the outlying spaces or the lands that were available were frozen, there was restriction on everybody to possess those lands with the result that those who came occupied whatever was available. Many lands belong to the Government and naturally those persons who are living on them are unauthorised occupants. But it is a human problem. If law is to be executed or administered without any human approach or without any human consideration, I am sure thousands of people will have to suffer.

Our hon. friend, Pandit Thakur Das Bhargava, said that in the case of refugees or even in the case of local men there had been assurances given by the Ministers, one after the other. I remember Shri Gadgil gave an assurance and the same assurance or assurances were given a couple of years ago by the Minister in charge of this subject, Rajkumari Amrit Kaur. But what do we find? In spite of all those assurances thousands of families are

being uprooted. They are being asked to go wherever they like, and they have no alternative accommodation available anywhere nearabout. They are asked to go five or ten miles away, dislocating their business and disturbing their day-to-day life, which, I think is not the purpose of the Government. Nor it is human to expect of them that they should go away with their bag and baggages to a place far away.

I therefore say that this Bill, as it is, or even when it comes in the improved form from the Joint Select Committee, may not serve the purpose for which it is meant. Its purpose, as I see, is that the persons who occupy unauthorised Government premises or public premises are prevented by law from doing so, and that there should be a law for enabling the Government to do so within a reasonably short time. I am afraid that according to this Bill there will be thousands of families who will be called unauthorised occupants. Though there may be restrictions on the abuse of the provisions of the Bill, I have little doubt that provisions will be abused and there will be much hardship on the people who have been living on unauthorised lands for a number of years.

I therefore hope that the Joint Select Committee will examine very closely the effect of this Bill especially on those who have been living in a particular area or on lands which was intended to be acquired long, long ago, or which was lying vacant, and because of the urgent need of the people who came to Delhi and suffered for accommodation, and occupied by them. There should be some solution to it. Either there should be adequate alternative accommodation for those families to be shifted without disturbing their present occupation or dislocation to their business or they

should not be allowed to go away from there. There should be some provision by which those who have occupied such outlying lands will either be given, so to say, those lands on lease or on sale or on hire so that their life is not disturbed.

I have a few suggestions to make in respect of the provisions of the Bill for the consideration of the hon. Minister as well as for the consideration of the Members of the Joint Select Committee. I hope that those suggestions will be borne in mind while discussions are held on the Bill. In clause 4(1)(b), it is said as follows:

"require all persons concerned, that is to say, all persons who are, or may be, in occupation of, or claim interest in, the public premises, to show cause, if any, against the proposed order on or before such date as is specified in the notice, being a date not earlier than ten days from the date of issue thereof".

I think this is a very short time. In my opinion, the time should be extended to at least one month. In regard to notice, we have provided fifteen days. That also, I think, is too short, especially for people who are living in Delhi, where the shortage of accommodation is great. So, this time limit should be extended.

With regard to the definition of "land" or "premises" I think they should be more specific, because, at present, we find that "public premises" are interpreted in such a way that it hardly leaves much room for genuine cases to be considered. This is another thing which I want the Joint Committee to consider. I have another suggestion to make. In any locality where unauthorised persons are asked to quit or are ejected, there should be some association of respectable persons of the locality, whose advice or guidance in the matter will be taken.

Because, if you deal with the problem only in an official way, I am afraid that a lot of hardship will be brought upon such persons who are innocent but, out of duress or difficulty, do something which may not be very legal or very correct. This is another suggestion which I want the hon. Minister to consider.

With regard to arrears of rent there is provision in this Bill. I do not see why the estate officers are not given discretion that in hard cases or in cases where rent or damages cannot be recovered from a person, or where they can be recovered only partially, they can either reduce them or waive them. I think there should be some such provision, whereby the estate officers can examine such cases and either reduce the rent or arrears, or waive the damages.

I also think that the provisions of this Bill are such that it will mean extra work for the existing estate officers.

Mr. Chairman: How much more time will the hon. Member take?

Shri Radha Raman: I will finish in two minutes.

It is suggested in the Bill that in case there is need or necessity, more estate officers may be appointed. But I may point out that today Delhi courts are full of cases of this nature and, generally, it takes two years before any decision can be obtained. That is the time normally expected to be taken by the court. But, in my opinion, all the cases that go to the court should get a decision within six months or a year. So, I want to emphasize that since cases of this nature are growing in number, there should be extra estate officers for coping with this work, without which, I am afraid, the time that is taken will be increased to the disadvantage of both parties—the Government as well as those who occupy the building or land.

[Shri Radha Raman]

16.44 hrs.

[MR. SPEAKER *in the Chair*].

I have one more suggestion to make. The rules should be so well-defined that there will be no room for any misinterpretation or wrong interpretation. They should be very specific and clear with regard to the procedure and the way in which the unauthorised occupant is to be dispossessed of the house or of the accommodation that he occupies.

With these few suggestions, Sir, I feel that the Joint Committee will closely examine this Bill and when it comes out again to the Parliament, it will be better in its form and, comprehensive, and will have no such loopholes as to allow the Estate Officers to arbitrarily dispossess anybody from unauthorised occupation, and the problem will be dealt with more humanly and in a way that will not bring upon any hardship on the persons involved.

Shri Balasaheb Patil (Miraj): Mr. Speaker, Sir, the one person, who is very important in this Bill, is the Estate Officer and the whole of the Bill does not say anything about his qualifications or appointment. His work has been termed by some of the hon. Members here as omnibus and omnipotent and I may call his work as omniscient. The reason is that Clause 4 says that if the Estate Officer is of the opinion that a certain person is an unauthorised occupant etc. etc.—he has to form the opinion and what is the basis for his doing so? There is no provision in this Bill that the Government or Corporation or the Development Board is to make an application or write a letter to him, but sitting in his office he has to see all round and sense that certain person is an unauthorised occupant and then give a notice.

At this stage, I may submit that some appropriate provision may be made in this connection that the Government or the other bodies inter-

ested in the premises should make an application. That will form the basis of the whole proceedings; maybe that this person comes to know of this by *suo mot* or by getting some knowledge from some newspaper or by news brought to him by his servants and issues the notices; and what is his notice? It is a notice of eviction and the further clause to show cause, because after all, it is not a notice of calling upon the person to give his evidence to show his own title or rights. Not that, but first of all he says: "You will be evicted and give reasons why you should not be evicted." This sort of rather high-handed power should have some basis at least and therefore before Clause 4 there must be some adequate provision for the same.

Further, this provision must be there, because in appeal, as in every case there is pleading, that is pleading by one party and written statement by the other party. That forms the basis of the judgment. If there be a notice that cannot be a pleading by the party and any objection raised by the other party cannot be written statement. Therefore the persons and the parties interested, i.e., the Government or the local bodies, should make an application before this officer issues a notice to the unauthorised occupant.

Further, clause 2 (e) classifies three types of persons as unauthorised occupants. First is a person who is in occupation of the public premises without authority. That means he is a trespasser and occupies the house owned by the Government or by the Corporation or by the Development Board. The Government has its servants. It has also other authorities—they are paid by the exchequer of the Government of India. Then, how is it that these houses are there, vacant, without any attendants and without their being looked after? How is it that persons steal, come at night and occupy these houses? If the check is to be by the servants, they should see that nobody enters Government

houses without any authority occupies them, stays there and pulls on. This particular aspect is not looked at. On the contrary, when the person has already occupied them and stayed there for a certain time, then he has to be evicted. Then come the cases of those the period of whose tenancy has expired or whose tenancy is terminated. What is the reason? It is said 'determined for any reason whatsoever'.

The further point is that this authority has to make up his mind about public premises and unauthorised occupation. Reading clauses 2, 4 and 5 together, it seems that once the Local Authority has given notice of termination without any reason or for no reason saying I want to terminate, that would be sufficient for the Authority to take it as good notice. The Authority has no jurisdiction to go behind that and see whether this notice is legal and valid, whether the Government has the right to terminate the tenancy.

Then, there is the question of title. The question of title comes in because it is said here:

"'public premises' means any premises belonging to, or taken on lease or requisitioned by, or on behalf of....."

If there be any defective lease or if the requisitioning be illegal and be not complete, there arises the question of title between a party and the Government. Even if the Government knows that it is defective, illegal and *ultra vires*, the Government may make a note and say that the Estate officer should issue a notice to show cause. Then, the Estate officer, under clause 5, has no power, no jurisdiction, to go behind and see how the title stands. Suppose the person is one who is interested in the Central Government. The question of title is sometimes a very knotty one and it is not clear even for High Court Judges. But, this person has to solve that question at one stretch, by a stroke of the pen. This is something unheard of and this

cannot be found in any legal enactment.

Even in the case of Judges, there are provisions as to how the Judges are to be appointed, what are their qualifications, and what is the procedure for appointment. Reading the entire Bill, though this person is going to be first a Judge, secondly a magistrate and thirdly an executive, we do not find any provision prescribing any qualification whatsoever for him. The Government may appoint any person. A person from the Finance department or a military officer or a Captain or a Major may be appointed as the Estate officer. That person will come and deal with such questions as title, termination of tenancy, rights of parties as between the Government and an individual party. That is something which cannot be tolerated. There must be some provisions embodied in this Bill showing that these will be the qualifications of the person to be appointed as an Estate officer; either he must be a retired Judge or a lawyer who has practised for at least ten years, or something like that. That is the second suggestion that I want to make.

Coming to clause 9, we find that an appeal has to be made within 15 days. Reading the whole clause, I cannot understand whether copies of the order are to be taken and whether they are necessary or whether we have to file an appeal without a copy, to the District Court. All copies are not ready within 10 days or 15 days or one month. If there is delay what happens? It is common knowledge that in law courts, copies are not ready even for two or three months and there are various reasons for the same. In case an order has been given against the person to whom notice has been issued, that person will lose his premises first and then he will have to go to the District, fight for his cause, and then, after 2 or 3 years he will get justice on the day on which he will get an order from the District Judge. Then, there

[Shri Balasaheb Patil]

may not be the premises, there may not be the house the Government, in the meanwhile, might have destroyed on the same. What is the use of this right given to him? Therefore, there must be some provision by which section 5 of the Limitation Act must be incorporated in this Bill so that the period required for obtaining copies of the order could be excluded. That sort of a provision must be made in this Bill.

Further, it is said here in clause 5 that when an order of eviction has been passed, the authorities, or the Estate Officer and his servants, are to take possession of the premises. I cannot understand what sort of possession they are going to take, because, after all, under clause 6 it seems that if something is found on the premises, it should be auctioned. If possession is to be taken forcibly, if the person is to be driven out of the house, how will those officers take possession without throwing all his belongings into the road? That I cannot understand. Or, are they to have possession on paper, sit in their own office, write a note saying that they have taken possession, and on the next day go to the premises, take all the belongings and auction them? That will be great injustice done to any individual. For that purpose there must be some specific provision made in this Bill, showing in what way possession has to be taken. If we read clause 13, we do not find mention of the manner in which the possession is to be taken, and if there is resistance how that resistance is to be overcome.

All these things are to be incorporated in this Bill; otherwise it will be incomplete, and it will do great injustice to the individuals as against the Government.

Mr. Speaker: The hon. Minister.

Shri K. C. Reddy: How many minutes have I got now?

Mr. Speaker: We will rise at 5 O'Clock, and the hon. Minister will have half an hour tomorrow.

Shri K. C. Reddy: I think I will make the reply tomorrow, because I have got only two minutes more.

An Hon. Member: Three minutes.

Dr. Ram Subhag Singh (Sasaram): He can begin today and end tomorrow.

Mr. Speaker: The hon. Minister must address the Chair first.

Shri K. C. Reddy: Yes, Sir.

An Hon. Member: He must say, "Mr. Speaker, Sir...."

Mr. Speaker: He may reply tomorrow.

16.57 hrs.

The Lok Sabha then adjourned till Eleven of the Clock on Wednesday, the 19th March, 1958.