

**REPORT OF THE JOINT COMMITTEE OF THE HOUSES ON THE MERCHANT SHIPPING BILL, 1958 TOGETHER WITH THE EVIDENCE TENDERED BEFORE THE COMMITTEE.**

**SHRI V. K. DHAGE (Bombay):** Sir, I beg to lay on the Table a copy of the Report of the Joint Committee of the Houses on the Bill to amend and consolidate the law relating to merchant shipping.

Sir, I also beg to lay on the Table a copy of the evidence tendered before the Joint Committee of the Houses on the Merchant Shipping Bill, 1958.

**MOTION FOR ELECTION TO THE INDIAN CENTRAL JUTE COMMITTEE AND THE PROGRAMME THEREOF**

**THE DEPUTY MINISTER OF AGRICULTURE (SHRI M. V. KRISHNAPPA):** Sir, I move:

"That in pursuance of clause (9) of paragraph 3 of the late Department of Education, Health and Lands Resolution No. F. 254|34|A, dated the 28th May, 1936, as amended by the Ministry of Food and Agriculture Resolution No. F. 4-13|53, Com II, dated the 17th December, 1955, this House do proceed to elect, in such manner as the Chairman may direct, one member from among themselves to be a member of the Indian Central Jute Committee in the vacancy caused by the resignation of Shri Rajpat Singh Doogar from the membership of the said Committee."

**MR. CHAIRMAN:** The question is:

"That in pursuance of clause (9) of paragraph 3 of the late Department of Education, Health and Lands Resolution No. F. 254|34|A, dated the 28th May, 1936, as amended by the Ministry of Food and Agriculture Resolution No. F. 4-13|53-Com. II, dated the 17th December, 1955, this House do proceed to elect, in

such manner as the Chairman may direct, one member from among themselves to be a member of the Indian Central Jute Committee in the vacancy caused by the resignation of Shri Rajpat Singh Doogar from the membership of the said Committee."

The motion was adopted.

**MR. CHAIRMAN:** I have to inform Members that the following dates have been fixed for receiving nominations and for holding election, if necessary, to the Indian Central Jute Committee:—

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|---|---|
| Number of Members to be elected.                  | One.  |
| Last date and time for receiving nominations.     | 27th August, 1958<br>(Up to 3 P. M.)                                  |
| Last date and time for withdrawal of candidature. | 28th August, 1958<br>(Up to 3 P. M.)                                  |
| Date and time of election                         | 29th August, 1958<br>(Between 3 P. M. and 5 P. M.)                    |
| Place of election                                 | Room No. 29<br>Ground Floor, Parliament House,<br>New Delhi.          |
| Method of election                                | Proportional representation by means of the single transferable vote. |

**THE PUBLIC PREMISES (EVICTION OF UNAUTHORISED OCCUPANTS) BILL, 1958—continued**

**MR. CHAIRMAN:** Now we get back to the Bill—The Public Premises (Eviction of Unauthorised Occupants) Bill. We have to take up clause 7 of the Bill.

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

**MR. CHAIRMAN:** There are four amendments proposed to this clause.

SHRI BHUPESH GUPTA (West Bengal): Sir, I move:

8. "That at page 4, after line 20, the following further provisos be inserted, namely:—

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

Provided also that no damages shall be claimed where a person vacates the premises.'"

*(The above amendment also stood in the names of Dr. R. B. Gour, Dr. A. Subha Rao and Shri J. V. K. Vallabharao).*

DR. R. B. GOUR (Andhra Pradesh): Sir, I move:

9. "That at page 4, after line 26, the following proviso be inserted, namely:—

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

*(The above amendment also stood in the names of Dr. A. Subba Rao and Shri J. V. K. Vallabharao).*

SHRI JASPAT ROY KAPOOR (Uttar Pradesh): Sir, I do not want to move my amendments, Nos. 16 and 17.

MR. CHAIRMAN: Now the clause and the amendments are before the House. I would like you to be as brief as possible, for we have taken such a long time already. Yes, Mr. Gupta. Talk a little, just a little. You have taken such a lot of time.

SHRI BHUPESH GUPTA: Yes, I would like to; though the talking does not seem to have much effect.

MR. CHAIRMAN: Then why waste your breath?

SHRI BHUPESH GUPTA: Sometimes we feel we are crying in the wilderness but still we speak.

Sir, as you will see, in this clause, clause 7, the calculation of damages and all these things are dealt with. But we want certain principles to be clearly laid down. Unfortunately, in the text of the Bill, no principles of assessment of damages have been set forth. We are told by the hon. Minister that there are certain guiding principles somewhere else and we are asked to accept them. But when we legislate, it is important that we lay down the principles which would govern certain provisions, especially when there is every danger of certain provisions being used against the common people. Here it is stated: "having regard to such principles of assessment of damages as may be prescribed." But who will prescribe them? Obviously the executive authority, the estate officer or somebody. It should rather lie in the power of Parliament to prescribe them. We are told that the rules will be placed before the House. But what is the use of placing the rules before the House unless and until we have a chance of making those rules? In any case it is no good being wise after the event. When we anticipate that such measures may be used to the detriment of the people, it is essential that we should take necessary precautions in the legislation itself. Therefore, the rules should have been provided and at least the principles should have been stated in the Bill itself. But since it has not been done and since at this stage it is not possible to lay down the principles, we have suggested the proviso:

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

[Shri Bhupesh Gupta.]

Of course, this does not lay down a definite, concrete principle. At the same time it does give some guidance how in laying down or prescribing the principles, the authority concerned should be guided. This is what I want. I do not think the Government, if it is sincere in this matter should have any objection to this particular proviso.

Here I have got a telegram which I received yesterday. It relates to this point and it comes from Hojai in Assam:

"3000 REFUGEE FAMILIES UNDER EVICTION IN MIKIR HILLS, DISTRICT ASSAM. SIX FAMILIES AT SHAMA GURI EVICTED YESTERDAY. FOUR DOZEN ARMED FORCES TWO ELEPHANTS AND LOCAL TRIBAL PEOPLE ARE ENGAGED BY D. C."

—that is, the Deputy Commissioner—

"TO DESTROY HOUSES. PRAY STOP EVICTION TILL NEXT HARVEST"

I suppose, due to some reason, the central authority has taken the decision to requisition those lands and it has become necessary for them to evict the people. And this is how they start evicting them. Elephants are being used. Tribal people are being summoned and set on the residents and armed forces have been called. When the Government behaves in this manner and when it takes recourse to such methods of repression, it is all the more necessary that some governing principles should be there.

We got some letters from Uttar Pradesh when the Military took over certain lands for defence purposes, for training or some such purpose. I am not going into that. The purpose may be good or bad, that is not the point. But the manner in which the eviction was carried out was shocking. These things are happening in different parts of the country. We know that this is the common practice. Therefore, some guidance should be given and I should like to ask the hon. Minister to consider this very seriously and not to treat it very lightly.

Then, Sir, the question of damages is a very important thing. We do not know what the assessment will be; what norms will guide the assessment. The hon. Minister was telling me yesterday that No. 167, Rash Behari Avenue in Calcutta is in arrears to the extent of three lakhs of rupees. An assessment had been made. The poor refugees who are living there do not have any means of livelihood and an assessment of three lakhs has been made. Am I to understand that they will be served with an eviction order? That property belongs to the Central Government. Will an eviction order be issued and will they be called upon to pay such damages? How have you fixed this figure as damages? Where is the moral conscience? I do not think there is anything except some means for getting some money or at least they have got to be intimidated. The idea of fixing such damages is to intimidate these people. They will think that the damages are accumulating against them, liabilities are growing and, therefore, they had better quit. This is the kind of blackmail that is practised in the name of calculating damages on the people who deserve the utmost sympathy from the Government and the people. I do not know whether the Government will accept it but I would still urge upon the Minister to accept it. From the moment this Bill has been before, us, we are getting communications from various places in India; telegrams are coming as far as from Assam drawing our attention to certain things that are being done. Today, if we cannot give relief when we are passing this measure, when shall we give relief? They say that the rules shall be placed on the Table of the House. We know what you do with the rules. You say that you shall be guided by the sympathies for these people. You are employing elephants to demolish the houses of refugees in Assam. Therefore, I press this amendment and I hope the hon. Members opposite who do not believe in using elephants against the refugees will also kindly support this particular amendment because it does not change the

substantial law. That is there; the only thing is that there should be some kind of humanitarian guidance when such questions are dealt with by the officers who are otherwise likely to lose sight of the human aspect of the whole problem.

DR. R. B. GOUR: My amendment is also a very simple one and I do not see why the Government should not give this power to the Estate Officer. The only thing is that the Estate Officer should have the power to write off, in a case where he finds, a *bona fide* person, a refugee, is unable to pay, either the whole of the arrears or part of the arrears. In this Bill, there is no provision authorising any authority, including the highest authority, the Government, to write off part of the arrears. I hope Government will think about this question of giving this authority to the Estate Officer. It should be within the discretion of the Estate Officer to write off such arrears or damages or a portion thereof by way of a final settlement with the occupant of the premises, keeping in view the financial condition of the person concerned and other circumstances relating to the case. As I said yesterday, it is quite possible that you have requisitioned land and the occupant occupied the land for the last five years. Obviously, he could not comprehend that in five years the position of the land would have changed. In such cases also, there may be a problem and he may ask for more time. If you ask for arrears or even damages and all sorts of things, it will be impossible for him to pay and it will be unjust on your part also. There must be cases and there will definitely be cases where such arrangement must be made. Even the Delhi Municipal Corporation Act provides—any Corporation Act provides—that the Commissioner can write off part of the arrears and any Municipality can write off the whole thing. I do not see any reason why this Bill should not also provide for the writing off of arrears or damages by the Estate Officer himself when he finds that the case is a *bona fide* one. I hope that this amend-

ment will be accepted by the Government.

SHRI JASPAT ROY KAPOOR: Sir, I heartily support this amendment number 9 moved by my friend, Dr. R. B. Gour. I am encouraged to lend my support to an amendment moved by a Member belonging to the Opposite Party because yesterday I found the hon. Minister piloting this measure in a very generous and liberal mood even to the extent of accepting an amendment moved by a Member of the Opposite Party. This seems to be a very very reasonable one.

DR. A. N. BOSE (West Bengal): Come on to this side.

SHRI JASPAT ROY KAPOOR: All the same, why not come over here? This amendment appears to me to be a very very reasonable one . . .

SHRI BHUPESH GUPTA: It takes you six years to accept an amendment of ours.

SHRI JASPAT ROY KAPOOR: . . . more particularly because this vests in the Estate Officer, a certain amount of discretion. The Estate Officer is not a judicial authority over which the Government will have no control but he will be an executive officer all the time. I think the implication of this amendment is also that any order passed by the Estate Officer under this proviso will not be appealable for, what it says is this:

“Provided that it would be within the discretion of the Estate Officer . . .”

So, any order which the Estate Officer would pass by virtue of the authority vested in him to exercise a discretion would not be appealable. So, the Government need have no apprehension of any kind that if the man goes in appeal, the order of the Estate Officer may be modified in such a manner as to mean a further liability on the part of the Government. I earnestly hope, Sir, and request the hon. Minister to kindly accept this amendment.

~~SHRI ANIL K. CHANDA:~~

THE DEPUTY MINISTER OF WORKS, HOUSING AND SUPPLY (SHRI ANIL K. CHANDA): I am afraid, Sir, I am not able to accept the amendment moved by Mr. Bhupesh Gupta. Yesterday, I read out the Fundamental Rules which govern the rents of Government premises. If you will refer to clause 13(2) (d), you will see that the rules will prescribe the manner in which the damages for unauthorised occupation may be assessed and also the principles which may be taken into account in assessing such damages. Therefore, Sir, the principles which will guide the assessment of the damages will also be in the form of rules to be laid on the Table of the House and it is for the House to decide whether the rules should be as they are drafted or that they should be modified. Therefore, Sir, I am unable to accept amendment number 8.

In regard to the next amendment also, I am afraid I am not in a position to accept it because there is always the inherent power of the Government to write off dues from other persons. In fact, we are doing it every day; whenever we are convinced that a particular case is a hard case, and we have to write off the damages or the rents; we do it.

SHRI JASPAT ROY KAPOOR: Under what provision of the law?

PANDIT S. S. N. TANKHA (Uttar Pradesh): The question is, which authority will do it? Some authority must be named, the authority, the officer of the Government, who will do it on behalf of Government.

SHRI ANIL K. CHANDA: There is another word. "The estate officer mav..." Does it mean "shall"? Does it not leave enough discretion with the estate officer?

SHRI JASPAT ROY KAPOOR: With regard to the implication of the word "may", we have almost always interpreted "may" as "shall".

SEVERAL HON. MEMBERS: No. no.

SHRI JASPAT ROY KAPOOR: I say, "almost always" but if the interpretation of the hon. Minister is that by using the word "may", they are authorising the Estate Officer not only to write off part of it but even the whole of it, well, of course, our purpose is more than served.

SHRI ANIL K. CHANDA: As far as I understand, "may" and "shall" are quite different.

MR. CHAIRMAN: The question is:

8. "That at page 4, after line 20, the following further provisos be inserted, namely:—

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

Provided also that no damages shall be claimed where a person vacates the premises".

The motion was negatived.

MR. CHAIRMAN: The question is:

9. "That at page 4, after line 26, the following proviso be inserted, namely:—

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

The motion was negatived.

MR. CHAIRMAN: The question is:

"That clause 7 stand part of the Bill."

The motion was adopted.

Clause 7 was added to the Bill.

Clauses 8 and 9 were added to the Bill.

Clause 10—Finality of orders.

**SHRI BHUPESH GUPTA:** Sir, I move:

10. "That at page 5,—

(i) in line 22, after the word 'shall' the word 'ordinarily' be inserted; and

(ii) in line 24, after the word 'proceedings' the words 'save and except where the Estate or Appellate Officer may, on the recommendation of the residents of the locality concerned, permit the institution to institute such legal proceedings to test the validity of the order on grounds of natural justice, public policy or otherwise' be inserted."

(The amendment also stood in the names of Dr. R. B. Gour, Dr. A. Subba Rao, and Shri J. V. K. Vallabharao)

[MR. DEPUTY CHAIRMAN IN THE CHAIR]

**MR. DEPUTY CHAIRMAN:** The clause and the amendment are before the House.

**SHRI BHUPESH GUPTA:** Sir, there was some discussion on this. As the Bill stands, the cases are not at all justiciable. We have noted that the District Judge will be the appellate authority but the District Judge will not be functioning as a Judge and the cases before him will not be fully justiciable. They will be only the appellate authorities for the purposes of this Act. And that is about all. It will not be possible for anybody to have the normal process of civil law. Let us not feel that just because the District Judge is there as appellate authority, we are providing for justiciability of the various cases that may come up. I hope I have made that point clear. When you come to the Estate Officer there you find that there can be an appeal against his order to the appellate authority. What I propose here is this. Ordinarily let it be that the decisions of the Estate Officer or the appellate authority are final. I have

no objection to that but I want to have a safety valve here. I want this proviso to be added here.

"Save and except where the Estate or Appellate Officer may, on the recommendation of the residents of the locality concerned, permit the institution to institute such legal proceedings to test this validity of the order on grounds of natural justice, public policy or otherwise."

What do I say here? I leave it to the Estate Officer or the appellate authority to take into account the various local factors and the representations that may be made in such cases and then decide as to whether he should allow a particular case being tested in a court of law by way of normal proceedings. The proceedings may be original suit, application or execution proceedings, whatever is mentioned in clause 10. I want this provision because there may be cases where excesses may be committed there may be cases where even the law may not be properly understood and applied, and there may be cases where the principles of natural justice will be disregarded or even the provisions of the Act may not be interpreted in favour, as far as possible, of the people who are really badly affected by such eviction. Naturally, such cases ought to be tested in a court of law. Nothing is lost by testing such cases. I am not saying, give an overall authority or right to take every single case from before the appellate authority to a civil court. All that I am saying is, after hearing the complaints that may be made, the points of view that may be expressed by the resident of the locality, and taking into account the peculiarities of the case, it should be the duty of the Estate Officer or the appellate authority to consider as to whether the person concerned, the occupant, should be allowed to go to a civil court. Nothing unreasonable is there in it. Now, it may be argued that if such a thing is allowed, the purpose of the measure will be defeated inasmuch as it would not be

[Shri Bhupesh Gupta.]

possible to secure the land or the premises by eviction. I do not think the purpose would be defeated because in the first instance there will be these officers themselves to consider and secondly the court itself will give priority to such matters. When these are brought before them the court can be apprised of the urgency, and it will be for the Government or for the other authorities concerned to explain to the court as to why an early decision in such a matter is needed. Therefore I do not think that there is any need for apprehension that this will delay matters. From the point of view of public policy also it is of great importance because otherwise there will be a panic that these people are being evicted on some false plea; under some false pretext people are being evicted without any consideration being shown to them by the authorities. If we so arrange that the people of the locality can express themselves and also that they can test the action of the Government in a court of law, such feelings will be minimised to a considerable extent. It is of great importance that not only we have a measure but it is also of greater importance how we implement that measure. The trouble with this Government is, even when it takes a good decision—I do not consider this to be a very good decision—it has the supreme knack of implementing it in a bad way. That is the trouble with this particular Government and this danger will grow all the more when you have a bad decision in their bad hands, hands that are not very clean. The execution is very clumsy and the execution is done with utter indifference to the interests of the people. Therefore some such provision should be there and I do not think that the hon. Minister could have any objection to it. He is very frightened; I do not know why the Government is afraid of judicial proceedings, why they are fighting shy of courts. It is your court, the court of the State under the Constitution. Honourable men sit there weighing the scales of justice

evenly I believe, and you can easily go there and fight out your case. Especially when there is a doubt or apprehension, that should be your approach but that is not being done. You are trying to debar the court. The District Judge is kept as an appellate authority as if trying to keep what we call in Bengali, *Sakhi Gopal*. He may be all powerful but for the purposes of this Act he is only an appellate authority. You cannot have recourse to the normal civil law. We want the normal legal procedure to be followed—the law of evidence, the Civil Procedure Code and all that—and the case to be conducted in the normal way. We want the decision of these people to be tested in a court of law. Therefore we insist that this matter should be sent to a court of law and I hope this amendment of mine will be acceptable to him. Well, I do not hope that, but anyway I want this amendment to be considered by the hon. Minister and provided for in the Bill. Nothing substantial is going to be lost by accepting this amendment of ours.

SHRI ANIL K. CHANDA: I have a feeling, Sir, that my friend, Mr. Bhupesh Gupta, has anticipated my answer. I am afraid I cannot accept this amendment of putting in the word 'ordinarily' after the word 'shall'. The very basis of this measure is to devise an expeditious method of getting possession of Government lands which are very urgently needed for public purposes. If you want to have the ordinary normal judicial process then there was no need of bringing forward this Bill. The Judge of the district is empowered to scrutinise the decision of the Estate Officer and I think under the circumstances I am justified in refusing to accept this amendment.

MR. DEPUTY CHAIRMAN: The question is:

10. "That at page 5,—

(i) in line 22, after the word 'shall' the word 'ordinarily' be inserted: and

(ii) in line 24. after the word 'proceedings' the words 'save and except where the Estate or Appellate Officer may, on the recommendation of the residents of the locality concerned, permit the institution to institute such legal proceedings to test the validity of the order on grounds of natural justice, public policy or otherwise' be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 10 stand part of the Bill."

The motion was adopted.

Clause 10 was added to the Bill.

Clauses 11 to 13 were added to the Bill.

MR. DEPUTY CHAIRMAN: Now clause 13A is out of order. You want compensation to be paid and that means money.

SHRI BHUPESH GUPTA: The Bill was before us but I did not apply for permission. I do not know what to do with it.

MR. DEPUTY CHAIRMAN: I am ruling it out.

SHRI BHUPESH GUPTA: I do not know if it is possible now to apply to the President and hold this over.

MR. DEPUTY CHAIRMAN: I have ruled it out.

Clause 14 was added to the Bill.

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

SHRI ANIL K. CHANDA: Sir, I beg to move:

"That the Bill, as amended, be passed."

MR. DEPUTY CHAIRMAN: Motion moved:

"That the Bill, as amended, be passed."

SHRI ANIL K. CHANDA: Sir, with your permission, I would like to ask for the permission of this House to make some slight verbal change in the amendment\* moved by Mr. Bhupesh Gupta, which I had accepted yesterday. It is with regard to clause 5. I would like it to be like this:—

"That for the proviso, the following proviso be substituted, namely:—

'Provided that in the case of any such person who is not a Government employee and who has been in continuous occupation of the public premises for a period exceeding three years immediately preceding the date of the publication of the order of eviction, the estate officer shall not, if an application is made to him in this behalf, evict such person from the public premises within ninety days of such publication.'

The substance is not at all altered.

MR. DEPUTY CHAIRMAN: Do you agree?

SHRI BHUPESH GUPTA: Yes.

MR. DEPUTY CHAIRMAN: I will put the amendment to the House.

The question is:

"That for the proviso, the following proviso be substituted, namely:—

'Provided that in the case of any such person who is not a Government employee and who has been in continuous occupation of the public premises for a period exceeding three years immediately preceding the date of publication of the order of eviction, the estate officer shall not, if an application is made to him in this behalf, evict such person from the public premises within ninety days of such publication.'

The motion was adopted.

\*Amendment No. 7.



**SHRI ANIL K. CHANDA:** Sir, I have not concluded. May I say a few words? There was an amendment of Shri Bhupesh Gupta yesterday which you did not permit to be moved. It was with regard to clause 4, where he had asked that there might be a Committee consisting of certain categories of persons with regard to eviction. Now, Sir, all the cases are entirely covered by Shri Gadgil's assurance, because he has specifically referred to people who have been in unauthorised occupation of Government lands before 15th August 1950. There are the refugees, they are the category of people who are covered by Shri Gadgil's assurance. In Shri Gadgil's assurance, the relevant clause of that assurance is:—

"Where any displaced person, without being authorised to do so, has occupied any public land or constructed any building or part of a building on such land before 15th August, 1950, such person shall not be evicted nor such construction shall be removed unless the following conditions are fulfilled, namely:—

'(a) a sector-wise plan in this behalf is prepared by the Chief Commissioner of Delhi, on the recommendation of the Allotment Committee and such plan is approved by the Central Government in the Ministry of Rehabilitation; and for the purpose of preparing such plans, the Allotment Committee functioning under the Chief Commissioner shall be strengthened by two persons nominated by the Central Government in the Ministry of Works, Production and Supply to represent the interests of displaced persons.'"

I have already said, we shall respect and carry out the assurances given by Shri Gadgil. There will, therefore, be an Allotment Committee more or less on the lines suggested by Shri Gupta in his amendment which was not allowed yesterday.

**SHRI H. P. SAKSENA** (Uttar Pradesh): Mr. Deputy Chairman, after

this Bill has been passed, or is going to be passed in a minute's time, I hope and pray that it will be implemented in a very humane and human manner, simply because it relates to persons who have lost very many precious and valuable things, including their relatives, and who are in dire distress and calamity. So, this should be the guiding factor of those persons who will implement this Bill, especially the Government. I do not know if I can credit the present Government with a generous and humane heart because sometimes they display tactics of 'Nadir Shah' and it is not very safe to credit them with such qualifications. I hope that so far as this Bill is concerned, it will be judged in a very considerate manner. 'Considerate' is the word that I use considerately because it is considerateness that is needed in dealing with problems of human beings and especially that class of human beings who have suffered irreparably. My task has been lightened to a very great extent by the hon. Minister, Mr. Chanda, moving this amendment himself. Those persons who are not Government servants should be treated sympathetically. That does not mean that I have no sympathy with Government servants. But my sympathy unfortunately lies only with those persons who are in trouble, who are in suffering, who are in distress, who are poor and downtrodden and not with those people who have been placed in a high position and who have lived a very luxurious and a very rich and prosperous life. They do not deserve my sympathies to that extent to which those persons who are now in trouble and suffering. So, this Bill, I am sure, will bear in mind the antecedents and the happenings of which these people have been victims. With these words I would beg of the authorities to mitigate the sufferings of the people and not to add to them by the levy of irreparable compensation and damages and losses and all that. The list is inexhaustible. You can increase it to any amount of money you please, but then there is no money to pay. The whole difficulty lies with the purse of

the person who is required to pay. With these words, I give my support to the Bill.

SHRI J. S. BISHT (Uttar Pradesh): Mr. Deputy Chairman, may I appeal through you to my friend, Mr. Saksena to have the word 'Nadir Shah' expunged?

SHRI H. P. SAKSENA: I have deliberately used it and I do not agree to withdraw it.

SHRI BHUPESH GUPTA: What is that word? It is perfectly parliamentary.

SHRI H. P. SAKSENA: I only hope that my friend, Mr. Bisht knew the personality to whom I have referred and it is Nadir Shah.

MR. DEPUTY CHAIRMAN: Order, order. That will do.

DR. R. B. GOUR: Mr. Deputy Chairman, even after the Minister has accepted one or two of our suggestions we are not quite sure how this Bill may be used, how the authorities are going to use the powers that they are taking by this Bill in relation to evicting persons whom they call unauthorised. We still maintain that two of our most important amendments ought not to have been rejected by the hon. Minister. The very fact that they have rejected them creates a lot of suspicion in our minds as to the method, as to the *modus operandi* of the authority that is being sought to be taken by this Bill. Now, Sir, one was the question of giving alternative accommodation to the deserving persons, *bona fide* persons who are being evicted. The second thing was the discretion to the Estate Officer to write off part of the dues that are sought to be collected from the person who is being evicted. The hon. Minister had said that 'may' includes the discretion and 'may' is not 'shall'. If that were so, why was the amendment rejected? I do not know whether 'may' is 'shall' in the law and I do not know whether in every such

case 'may' includes discretion to the authority in this respect. He also said that after all the Government is at liberty, has got the necessary powers to write off the dues in any deserving cases. When the pertinent question was asked under which clause, he only rounded it off by saying that 'may' includes discretion. Therefore, these are two important things. Well, I do not go into the details at this stage, but these are the two very important features of this Bill which create apprehensions in our minds. One is that even deserving cases may be harassed; even *bona fide* cases may be harassed, because in the very spirit of the Bill primacy has been given to the requirements of the Government and no consideration is there for the requirements of the occupant. Therefore, absolutely the danger is there, not merely a possibility, but it is there that the occupants will be put to a lot of harassment and after all the authority is being given to executive officers. Therefore, these two things that we suggested would only give certain discretion, in both the cases. In the first case, the discretion is that in *bona fide* cases he will try to find alternative accommodation and give more time for eviction. And in the other case also, the discretion is in *bona fide* cases he will give concessions he will write off the arrears or the dues concerned. In both these cases Government have not thought it fit to accept our amendments, even when it was not obligatory but only discretionary powers that were given to the Estate Officer. The very fact that you are not prepared even to accept the discretionary powers to the executive officer shows that our apprehensions are true that this is going to be used rather in a very strong manner. Of course Shri Saksena's apprehension is totally correct. We are having so many Nadir Shahs . . .

DR. W. S. BARLINGAY (Bombay): They have got discretion under clause 4.

DR. R. B. GOUR: We have discussed it. That discretion is not there.

[Dr. R. B. Gour.]

Finally I must say that you have not accepted the obligation that you will appoint only judicial officers or persons with judicial experience. Therefore all these three things taken together give a totality of picture which creates apprehensions more than all the assurances put together that you will be discreet, that you will be considerate, and all that. Well, I do not know to what extent the entire appeal of my distinguished colleague, Mr. Saksena, will have its effect. Nevertheless we go into the Third Reading with apprehensions rather than with an assurance that it is going to be used discreetly.

**SHRI JASPAT ROY KAPOOR:** Sir, just as I began so do I close with the remark that this measure is a considerable improvement on the measure which we are just repealing. Both the measures are actuated obviously by very human considerations. But then, there is one thing which I would ask the hon. Minister to be always careful about, and that is that he must keep a very watchful eye on the manner in which the assurances of Mr. Gadgil, reiterated by the hon. Minister also on this occasion, are implemented, because I might remind him that during the first two or three years after the assurances were given by Mr. Gadgil, those assurances were not implemented. In this connection I may bring to his notice—I hope it may already be within his knowledge—the second report of the Assurances Implementation Committee, June 1955, wherein that Committee had specifically come to this conclusion:

“This Committee is therefore constrained to observe that there has been a serious failure in the implementation of these assurances by the Government.”

It is true that in a subsequent report, December, 1956, another Assurances Implementation Committee came to the conclusion that these assurances were satisfactorily implemented. Obviously, therefore, during the period

June 1955 to December 1956 things had improved, but then things improved because of these strictures of that Committee. I therefore hope and trust that the Minister who has so very generously reiterates the assurance of Mr. Gadgil will ever be watchful to see that the various executive authorities do really, both in spirit and in letter, implement the assurances given. Otherwise these assurances howsoever good they are will have absolutely no meaning.

Sir, during the course of the last three or four days a number of displaced persons have been seeing me and conveying to me their grievances, and they have pointed out to me that in several cases the assurances were not implemented. I have of course told them that if they bring such specific cases to the notice of the Minister, surely he would look into them, and they have told me that in due course they will prepare a memorandum detailing therein the cases in which the assurances were not implemented. I hope and trust that the hon. Minister will be pleased to give an interview to them and look into those cases.

There is one part of the assurance to which I would like to draw the hon. Minister's particular attention, and that is that part of the assurance which deals with giving *ex gratia* relief to the persons whose houses are demolished. Now, Sir, even this third report of the Committee on Assurances has said, while commenting on the Ministry's replies, that *ex gratia* payment has not been made in the spirit of the assurance. The reply of the Ministry to the Committee was to the effect that *ex gratia* payment, wherever it was made, was deducted from the compensation which was payable to the persons to whom it was made. Now, Sir, if *ex gratia* payment is deducted from the compensation payable to the displaced persons, it does not conform either to the spirit or to the letter of the assurance.

That means only a certain amount of money is lent to these people which is subsequently realised from the amount of compensation payable to them. This is something very important. The reply which the Ministry gave to the Committee was to this effect. The assurance given by Shri Gadgil was to the effect that "In every case where any construction is demolished or removed, rehabilitation grant *ex-gratia* is made to the displaced persons either in cash or in the shape of building materials or both, the amount of which shall be determined by the Ministry of Rehabilitation"—the following words were underlined—"having due regard to the circumstances of each case." The words underlined are significant. Realisation of the rehabilitation grant given to the squatters out of verified claims in cases in which claims are accepted is not against the letter and the spirit of the assurance given. Now, I submit that this is an entirely erroneous interpretation of the assurance. What the words "due regard to the circumstances of each case" mean I can say with a certain amount of knowledge of this subject because I was a member of the Select Committee on the 1950 Bill as well as I have been a member of the Allotment Committee. We never thought that these words would ever be interpreted to mean that the *ex-gratia* payment would be deducted from the compensation amount. Surely, this was not what it meant and the only thing that it could mean is that each ~~interpreted to mean that the *ex-gratia*~~ on its merits—merit so far as the amount of *ex-gratia* payment is concerned. If it is a house worth Rs. 5,000 obviously Rs. 5,000 would not be paid; only Rs. 1,000 or Rs. 1,500 would be paid. In another case, it may mean Rs. 500, Rs. 200 and so on. It could never mean that if an amount is payable to the displaced person, then that payment will be deducted from that. *Ex-gratia* grant and deduction cannot obviously go together. So, the displaced persons have a considerable amount of grievance on this. There is one more thing. Though so many years have passed, yet it has not

been finally decided on what basis this *ex-gratia* payment would be made and on what basis the valuation of the demolished property would be worked out. I think it is time that these things are done as quickly as possible, more so because the Rehabilitation Ministry is going to be disbanded.

Only one word more, Sir, and I have done. That is with regard not to all Government servants, but only to such of them as are displaced Government servants. The other day, my hon. friend, Shri Sapru, said that there should be no distinction between Government servants and ordinary citizens. I agree there. But so far as the displaced Government servants are concerned, that question is entirely on a different footing. As a matter of fact, they had been in a worse position than the ordinary displaced persons for the simple reason that the ordinary displaced persons who have certain claims of property with them and who had occupied any Government premises or public premises, have been allowed not only to retain possession of those premises, but they have been allowed to purchase them and pay the price thereof in the shape of their compensation claims. But the displaced Government servants were allotted some buildings to reside in by the Government themselves. Naturally therefore, they could not and did not forcibly take possession of any other property all these years. They had been living in Government allotted property. Therefore, their condition is worse than that of other displaced persons who had forcibly occupied some property and now they have been allowed to retain it and pay the price thereof by their admitted claim. I, therefore, submit that, though the Government need not commit themselves to anything specifically, they should always see that such of the displaced Government servants who hold compensation claims with them and who have no other property to live in after they have retired, may not, soon after retirement, be compelled to vacate those places. You may give them some latitude.

SHRI ANIL K. CHANDA: Mr. Deputy Chairman, Sir, eviction is a very hard process and naturally, I could appreciate the hon. Members feeling disturbed that we are taking some sort of an extraordinary power with regard to the eviction of squatters from Government lands. But considering the history of this Government, the vast crores of rupees that they have spent for the rehabilitation of the refugees, the various steps that they are taking for giving subsidised houses for industrial labour, the various steps that they have taken in improving the housing conditions in the rural areas and in regard to payment of loans to low income group people, I do not think that anybody would be justified in saying that we have been acting in a very heartless or in-human manner. Our difficulties indeed are very great. Sometimes, the refugees themselves create difficulties. I do not want to go at a great length into this, but I will mention only two cases. You know, Sir, the Purana Quila and Sarai Rohilla near Delhi. These had been squatted upon by refugees from West Pakistan for a number of years. These areas have got to be cleared and the Government had taken the necessary steps for constructing tenements where these people who are squatting in Purana Quila and Sarai Rohilla <sup>could</sup> be moved out. But as soon as the structures were ready, another band of squatters came and squatted there, with the result that we cannot clear Purana Quila and Sarai Rohilla of those squatters who have been there from the earliest period. There have been innumerable such instances. This action of another group of squatters has deprived us of the opportunity of giving proper shelter to the squatters who have been there early in illegal occupation of such Government premises.

Mr. Bhupesh Gupta has mentioned about the difficulties of the refugees in Calcutta. But he knows also very well that in Jadavpur, the West Bengal Government has built a large number of houses—three-storeyed houses—

with one room tenements where refugees were to be sheltered. But nobody would move in there. Most of them would like, as Mr. Bhupesh Gupta said, 'to stay on where they had been' as at 167, Rash Behari Avenue. These are the practical difficulties which face the Government.

Dr. Gour had specifically asked about. . . .

SHRI BHUPESH GUPTA: You want to evict those people who are living in Rash Behari Avenue?

SHRI ANIL K. CHANDA: They are in unauthorised occupation of Government lands and premises. Such lands and premises are needed for public purposes. Obviously, they should be evicted. It is because of these things that we have sought powers from Parliament, asked them to give us the legislative authority to evict them out of those lands and premises.

Dr. Gour had asked me under what authority the Government would waive the dues to them? Well, Sir, there are the general financial rules of the Government which allow them to waive payments due to Government and different categories of officers are authorised to deal upto certain amounts. The Estate Officer, for instance, without any reference to Government, can write off about Rs. 250 and so on. But, I would say, this Government is not a Shylock. Where we know that there is a genuine difficulty on the part of a person to pay the dues, we come to the rescue of such people. We shall, of course, pay due attention to the remarks made by my hon. friend, Mr. Jaspat Roy Kapoor, and with these few words, I ask that the Bill be passed.

SHRI BHUPESH GUPTA: I will just read out a telegram. I would request the hon. Minister to make an enquiry as to what is happening in Assam.

**SHRI ANIL K. CHANDA:** This is Assam Government's land. The Central Government have no authority there.

**SHRI SANTOSH KUMAR BASU:** (West Bengal): Will the hon. Minister be pleased to enquire as to why these buildings at Jadavpur have not at all been attractive in spite of the fact that they have been recently constructed? There has been considerable discussion in the public press of a very valuable character. If you only care to enquire as to why these buildings have not been attractive yet, it would be of considerable use to those people for whom they are intended.

**SHRI ANIL K. CHANDA:** One of the reasons is very clear. Whereas you are now occupying buildings where you do not pay any rent, there you will be required to pay rent and you will therefore, not move out. Of course, there have also been certain other criticisms about the construction of those buildings.

**MR. DEPUTY CHAIRMAN:** The question is:

"That the Bill, as amended, be passed."

The motion was adopted.

**MR. DEPUTY CHAIRMAN:** The House stands adjourned till 2.30 P.M.

The House then adjourned for lunch at one of the clock.

The House reassembled after lunch at half past two of the clock, **MR. DEPUTY CHAIRMAN** in the Chair.

# THE MINERAL OILS (ADDITIONAL DUTIES OF EXCISE AND CUSTOMS) BILL, 1958

**THE MINISTER OF REVENUE AND CIVIL EXPENDITURE (SHRI B. GOPALA REDDI):** Sir, I beg to move:

"That the Bill to provide for the levy and collection of additional

duties of excise and customs on certain mineral oils, as passed by the Lok Sabha, be taken into consideration."

The object of the Bill is to replace the Ordinance that was promulgated by the President on 30th June 1958, by which additional duties of Central Excise and Customs were imposed on certain mineral oil products with effect from 20th May 1958.

As hon. Members are probably aware, the Government of India were negotiating for some time past with the private companies responsible for the distribution of petroleum products, in India, with a view to obtaining some reductions in the prices of petroleum products marketed by them. As a result, the oil companies agreed to certain reductions in the prices effective from the 20th May 1958. The actual reductions varied from item to item. In the case of kerosene, it was 6 nP. per gallon, in the case of refined diesel oil, it amounted to 7 nP. per gallon and in the case of motor spirit, 14 nP. per gallon.

An important point about these reduction is that they are provisional. The companies have agreed to an examination being made of the cost structure of the petroleum products in question and dependent on the results of such examination the reductions now made will have to be re-negotiated, and finalised, and necessary adjustments made.

The question naturally arose as to whether these price reductions should be passed immediately on to the consumer. After carefully considering the matter, Government decided that the reductions should be mopped up in the form of additional duties of Excise and Customs. One of the main considerations which weighed with Government in arriving at this decision was that the reductions were provisional and would call for readjustment in the light of the Cost Accountant's examination of cost structure. If the reductions were