

SHRI H. P. SAKSENA: The wording of the motion suggests that there is no urgency about the matter because he is agreeable to its being postponed for discussion tomorrow.

SHRI BHUPESH GUPTA: I would like to have the discussion this afternoon as I said but in case it is difficult for the Government to manage discussion in both Houses, I am being only reasonable. That is why I ask the Government to have it here tomorrow morning.

MR. DEPUTY CHAIRMAN: Anyway, Mr. Bhupesh Gupta, the motion as you have brought forward cannot be discussed. A discussion cannot be raised on an intention to move a motion for papers. If you bring a proper motion and under proper rules, it will be considered. Anyway this motion is out of order.

REFERENCE TO NOTICE OF A MOTION RE SITUATION IN KERALA

SHRIMATI K. BHARATHI (Kerala): I have given notice of a motion for papers under rule 156(i) of the Rules of Procedure and Conduct of Business in the Rajya Sabha that this House . . .

MR. DEPUTY CHAIRMAN: It is not necessary.

SHRIMATI K. BHARATHI: Let the House know it.

MR. DEPUTY CHAIRMAN: It will be referred to the Government for their opinion and according to rules the Chairman will decide what is to be done.

SHRIMATI K. BHARATHI: I want to say only a few words. Let the House know.

SHRI T. S. PATTABIRAMAN (Madras): May I submit, Sir, the Leader of the Communist Party was

given an opportunity to explain his motion for 20 minutes.

MR. DEPUTY CHAIRMAN: It will be sent to the Government and after we get the Government's opinion . . .

SHRI T. S. PATTABIRAMAN: Our submission is that the same privilege which was extended to the Communist Party leader with regard to the motion relating to water supply should be extended.

DR. R. B. GOUR (Andhra Pradesh): So far as our motion was concerned, the Minister was ready with the reply.

AN HON. MEMBER: What is the motion about?

MR. DEPUTY CHAIRMAN: The motion is for a discussion about the situation in Kerala. (Interruptions.) The proper procedure should be adopted. The Government's opinion will be got first and then the Chairman will decide.

DR. R. P. DUBE (Madhya Pradesh): Let the House know what she wants.

MR. DEPUTY CHAIRMAN: At the proper time the House will know it.

THE PUBLIC PREMISES (EVICITION OF UNAUTHORISED OCCUPANTS) BILL, 1958

THE DEPUTY MINISTER OF
WORKS, HOUSING AND SUPPLY
(SHRI ANIL K. CHANDA): Sir, I beg to move:

"That the Bill to provide for the eviction of unauthorised occupants from public premises and . . .

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certain incidental matters, as reported by the Joint Committee of the Houses, be taken into consideration."

The Bill was first brought before this House on the 10th March this year and on the 12th March this House decided that this Bill should be sent to a Joint Select Committee. The Lok Sabha in its sitting of the 19th March 1958 agreed to the suggestion and a Joint Select Committee was appointed. The Joint Select Committee has reported now and on the basis of the recommendations of the Joint Select Committee the Bill has been presented before this House with the changes as recommended by the Joint Select Committee.

Sir, I may bring to the notice of this House that the reason for bringing an amendment to the eviction law was that three of the High Courts had considered some of the provisions of the Eviction Act of 1950 *ultra vires* the Constitution. The Calcutta High Court and the East Punjab High Court held the view that some of the provisions of this Act ran counter to article 19 (1) (f) of the Constitution and the Allahabad High Court held the view that it contravened the provisions of article 14 which enjoins equality of treatment between the citizens of India. We have paid particular attention to the judgments of these three High Courts and the Bill, as has been finally drafted, in our opinion, meets most of the points raised by the Calcutta, the East Punjab and the Allahabad High Courts. The contention of the Calcutta and the East Punjab High Courts was this that the law, as it stood practically gave unlimited power and authority to an undefined person known as the competent authority. The Government has a right under the Eviction Act of 1950 to certify any Government servant as a competent authority and it was on his subjective judgment that a man could be evicted out of the premises he was occupying. Now the Bill that I have the honour to place

before this House has prescribed a very definite and rigid drill. For instance, the competent authority has been replaced by the Estate Officer who is a gazetted officer of the Government of India. Secondly, due notice has to be given to the person whom it is sought to evict out of the place where he is staying. Then a time limit has been given. The person whom a notice is served has the right of producing evidence before the Estate Officer and upon it the Estate Officer has to give his judgment. He has also the right of appealing before the District Judge of the District within thirty days of the decision given by the Estate Officer. You might remember in the Act there was no provision for any judicial review of the orders of the competent authority. The great improvement in the present Bill is that it has not merely prescribed a very rigid drill for the Estate Officer—stage by stage he has to proceed for taking eviction proceedings—but judicial review has also been provided for. Therefore we feel that the objections of the Calcutta High Court and of the East Punjab High Court have been at least substantially met in this new Bill which is before this House. The contention of the Allahabad High Court was that article 14 of the Constitution which prescribes equality to the citizens of this country has been infringed upon by the provisions of the Act wherein a citizen who hired Government premises was in a more difficult position than a citizen who hired a private residence on rent. Now, after the improvements which have been effected in the Select Committee we feel that the Allahabad High Court would not have the same objections which it had to the previous Act. The Select Committee had the advantage of hearing the opinion of the Solicitor General. You will find in the Report stated that the Solicitor General of India attended the meeting and gave his view that the Bill generally met with the requirements of the Constitution. Moreover there is a judgment of the

Supreme Court reported in the journal of February 1958 wherein it says:

"It is now well established that while article 14 forbids class legislation it does not forbid classification for the purpose of legislation. In order, however, to pass the test of permissible classification two conditions must be fulfilled, namely (1) that the classification must be founded on an intelligible differentia which distinguishes persons or things that are grouped together from others left out of the group; and, secondly, that the differentia must have a rational relation to the object sought to be achieved by the Statute in question. Classification may be founded on different bases, namely, geographical or objects or occupation or the like. What is necessary is that there must be a nexus between the basis of classification and the object of the Act under consideration."

Now, my submission is this. There is a very definite connection between the basis of classification and the object of the Act under consideration. The unauthorised occupations of Government premises all over the country, particularly in Delhi, are of a most staggering nature. I may take a few minutes to give you some statistical information with regard to unauthorised occupation and damages in all these illegal squatting on Government premises and properties. In Delhi Municipality there are 12 buildings and 30 plots under unauthorised occupation; in New Delhi Municipality it is 507 and the damages to be recovered are Rs. 4,40,000; under the Delhi Development Authority 530 buildings, 11,000 squatters on 317 acres of *nazul* land and the damages to be recovered amount to Rs. 20,63,650. I need not go over all the details, but the total amount of damages alone recoverable runs to one crore and forty two lakhs of rupees. One thousand and thirty-seven pieces of land of the Defence Ministry are under unauthorised occupation and the damages to be recovered run to Rs. 5,81,234. Various deve-

lopment schemes of the city of Delhi are all held up because of Government not being able to properly utilise the lands which today it has not in its actual possession because they have all been squatted upon. But it is all Government land. The Commissioner of Delhi Municipality writes: a substantial number of municipal premises, including lands and buildings, are in unauthorised occupation. The lands so occupied include 20 sites earmarked for parks and gardens and a number of other sites reserved for dispensary, child welfare centres, dhobi ghats, etc. In all these cases, beneficent schemes have been hindered and seriously delayed by unauthorised occupation. Amongst buildings similarly occupied are primary schools, vaccination and child welfare centres and municipal staff quarters. So, I hope the House will readily agree with me that there is great urgency about this and we would like Parliament to give us the necessary powers so that these squatters can be evicted and work on the various development schemes which are before Government can be commenced as early as possible.

In connection with the passage of the Act of 1950, the then Minister, Shri Gadgil, had given certain assurances with regard to the evacuees from Pakistan who had settled on Government lands and in the Third Report of the Assurances Committee it has been specifically said that all the assurances given by the Government have been satisfactorily met. It, therefore, surprises me that some of the Members of the Select Committee have, in their Minutes of Dissent, said that Government promises mean nothing and the promises have been broken. In the Third Report of the Assurances Committee they say, "After examining all the facts the Committee came to the conclusion that the assurances had been satisfactorily implemented." It really passes my comprehension as to how hon. Members could have said that the Government's assurances have not been implemented and these are mere pious sentiments

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and the Government meant no business in giving these assurances. I am able to make a categorical statement that in regard to any evacuee who has been evicted and who was covered by the assurances given by Shri Gadgil, there was a time limit; those who had squatted upon Government lands, if I remember aright, up to 15th August 1950, had the benefits given by Shri Gadgil's generous assurance.

SHRI BHUPESH GUPTA (West Bengal): Has it been acted upon?

SHRI ANIL K. CHANDA: Yes, Sir. I am coming to that. Anybody who had been evicted was dealt with according to the terms of this assurance. I know of not even a single case where there has been any violation of the assurances given by Shri Gadgil. And with regard to the many thousands who are still in illegal occupation of Government premises and estates, we can only repeat the assurance that the Government will fulfil the assurance given by Shri Gadgil in connection with the passage of the first Bill.

With regard to the various points raised in the dissenting minutes, I do not intend to refer to them at this stage because quite likely hon. Members will speak on those points and it will be better for us to reply to those points at that stage.

With these words I commend the Bill for consideration.

MR. DEPUTY CHAIRMAN: Motion moved:

"That the Bill to provide for the eviction of unauthorised occupants from public premises and for certain incidental matters, as reported by the Joint Committee of the Houses, be taken into consideration."

SHRI BHUPESH GUPTA: Mr. Deputy Chairman, we have listened to the speech which had been highly unenlightening as far as the subject matter goes. The hon. Minister referred to certain assurances which had been

kept, but those people who were concerned directly with these assurances have been repeatedly telling us and other Members of this House and also through the press that the Government have kept these promises only by violating them. There may be one or two cases in a number of cases where because of some reason or other the Government could not follow its usual practice of violation of promises, but that is an exception rather than the rule in this matter. This matter concerns a large number of poor people, people who for no fault of their own have been uprooted from their homes and thrown into the streets, people who have come over from the other side of the frontier in quest of life and have settled in places like Delhi, people whose earnings are very meagre to give them proper accommodation and they have somehow or other found some roof to live under. Such are the people—industrial workers, employees, small traders, sweepers, cobblers, barbers and various other sections of the community as well as Harijans who come under the provisions of this particular measure. Therefore, a measure of this kind should be contrived having regard to human considerations that are before us. This should be so devised as not to cause hardship to these sections of the community. But unfortunately if you go through the provisions of this measure you will find that the Government has been more influenced by the decisions of certain High Courts, by the statistics which have been just read out to us rather than by human sympathies and human feelings towards these unfortunate men, women and children. But then this is the habit of the Union Government. When it is a choice between rigid law and human consideration, they go in for the rigid law. When it is a choice between sympathy and iron rule of certain provisions or measures, they prefer the iron rule of certain rigid law.

Now, Sir, we have just been told that many places are under unauthorised occupation, under what they call

unauthorised occupation. Well, what is authorised in this Government or what is not is very, difficult to say, because many things which are supposedly authorised seem to be morally highly unauthorised. Therefore I would not go into this question. Now, assuming that they are in unauthorised occupation, it is necessary for us to know as to how these unauthorised occupations came about. That is very important. Are they all trespassers, are they all criminals, are they all night-poachers and people like them that they should get into unauthorised occupation and then settle down there, or are they people who have been denied the barest conditions of life, who have somehow or other managed to find some shelter to live there with their families? We would like to know this.

As far as Delhi is concerned, everybody knows that it is a growing city. At the time of independence, the population here, I am told, was something like 5 lakhs or so, even less. But today the population of Delhi has risen to 21 lakhs of people. Correspondingly there has been no expansion, not to speak of Government measures, in order to find housing to meet the requirements of the expanding populace. Where would these people live? Do these people belong to unwanted categories? Do these people belong to any tribes of malcontent people? Not at all. They have come here because of certain professions, because of certain other businesses, because of certain employment opportunities, and some of them of course are refugees, as we all know. Delhi is growing every day. Government is not taking measures to find accommodation for the people. The stream of humanity rushes before us when the gentlemen of the Ministry sit idly in their Departments doing nothing for them. What are these people to do in such a situation? Are they expected to come and line up before the Secretariat asking for accommodation? If they come, they are frowned upon. Police is let loose upon them. They are chased away. If they

do not come, then they will have to find some place to live. Naturally they find places, unoccupied places. Sometimes they clear jungles to build human habitations there. We know in Bengal they took many Government areas, areas belonging to the Central Government which were neglected, which were jungles, which have now been turned into human habitation by the sheer toil and labour of the displaced persons from East Pakistan. Likewise in this great capital, we have seen people building up houses, huts, slums and tenements at various places which were unoccupied and which had been hitherto neglected by the Government. Now, these are, therefore, people who cannot be called to be in unauthorised occupation. Assuming that the Government acquired these lands, it is wrong to regard them as in unauthorised occupation in the sense that they are trespassers. Therefore, if they are—technically they are—to be regarded as unauthorised occupants, some different treatment has to be meted out to them. Natural justice should be invoked here. Rules of good public policy should be kept in view all the time, and what is more, when they are working people, alternative accommodation should be found for them. Until and unless this is done, it is no use calling them unauthorised occupants defaming them in this manner.

Sir, here in this city a large number of people may be regarded, what they call, as unauthorised occupants, but everybody knows that they have been forced into this position for no fault of theirs. Their case needs the utmost human consideration by the Government, and the Government has not done it. On the contrary we have known that the families of the Government employees, the lower grade employees, have been asked to quit their tenements immediately after some trespass had taken place, and some people had been dismissed or suspended from service. Such things happen. Let the hon. Minister deny

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it. We have known that people have been served with notices and sought to be evicted after the Government had acquired or requisitioned certain premises or certain lands. Such things are happening. Now we do not like to have this sort of thing happening. Here the main consideration is not so much eviction as to see that these people are properly housed.

Sir, we are told that for development purposes, for building great cities like Delhi, it is necessary to evict people. Well, it is cooing like a dove when biting like a serpent. Everybody knows that Delhi is not developed in a manner that it should be in the interests of the poor people. They live in huts and slums, neglected and looked down upon by those people who live in the upper strata of society. Everyone knows that when Harijans complain and put forward their grievances, if they are to raise their voice, the kindly hands of the Ministers are not stretched towards them but firing takes place in the 'bhangi' colonies. Everyone knows that when industrial workers raise their voice for housing, that demand is sought to be suppressed by police methods. Therefore, it is no use telling us that Delhi is developing, we must evict. Important cities in the world have been built—New York, Moscow, London, Paris, Rome, Zurich, Berlin—many cities in the world, big cities stand high—also Tokyo—they have been built to a plan, but there the methods were not like what we have in our country that they must be built by evicting people right and left, throwing them into the streets no matter what happens to their fate. I cannot imagine the London County Council undertaking a development scheme regardless of the interests of the citizens of London, especially those people who are very poor. I cannot think of any development scheme being put into operation in a city like Paris, where many people living in the urban areas, and where they deserve some assistance from the

Government, being given no assistance whatsoever. Such things do not happen. I have seen myself a number of cities. Take, for instance, Stalingrad which was destroyed in the Second World War. That city was built again and many people were brought in to be given accommodation. It was built quickly and there was no such method as here. Moscow, Stalingrad and Leningrad were being developed, but there we did not see this kind of unauthorised occupation coming into operation. The first consideration is always given to the city poor the first consideration is always to those people who run the industries, who carry on the affairs of the society and national life. This is how things are approached. Here in the name of development of Delhi a machine is set in operation which like bulldozers smashes houses, demolishes houses, breaks up families, and creates havoc in the lives of the common people. This sort of thing we do not want. After all we want to build cities not for some ministerial gentlemen or some big people. We want to build cities so that the poor people can live a prosperous and more honourable life. Then the laws have got to subserve the social objective. Now this is not at all the case. On the contrary we find there is overcrowding in the cities, and there is a tendency on the part of the Government to carry out development of the cities regardless of the needs of the poor people. The Second Five Year Plan tells you the grim story of housing shortage in the cities as well as in the rural areas. At the end of the Second Five Year Plan, we are told, the housing problem will be twice as acute as it is today. You cannot, therefore, understand the pressure in the cities, and in such a situation some vacant lands, whether belonging to the Government or belonging to the municipal bodies, are likely to be occupied by people, where they will build their houses. Suppose the 3 P.M. Government starts acquiring them and then evicting people from these places, what will happen? That is

the question that I would like to put before the Government. There is no guarantee whatsoever in this measure that such people will not be put in jeopardy and there is no provision here in that regard. Sentiments have been expressed. Mr Gadgil expressed his sentiments when he sponsored the measure first in the provisional Parliament. We know that. But have we lived up to those sentiments? Those sentiments have not been respected. Ask any refugee in Delhi. He will tell you that the promise that Mr Gadgil made has not been kept up by those who stepped into his shoes. This is what they tell you. They are telling this even as we are discussing this measure here. This is an important aspect of the question which has to be gone into.

You will find in sub-clause (e) of clause 2 the definition of 'unauthorised occupation'. This definition has been made so broad that almost everybody will be covered. We have suggested amendments deleting certain portions of it. I think, Sir, that such a sweeping power should not be given. Everyone should not be considered to be in unauthorised occupation and these definitions should apply strictly and rigidly in respect of certain very limited and specific cases so that others are not covered and are not liable to be subjected to harassment under this law. When we come to the amendment, we shall speak about it. Here, for instance, it is said, that 'unauthorised occupation' includes the continuance in occupation by any person of the public premises after the authority (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. Some categories of people will come under the operation of this measure although they may have been perfectly in legitimate occupation to begin with, and some subsequent development may have created certain difficulties in their way. We would not like such a broad definition to be incorporated into this legis-

lation in order to make it much more oppressive than it need be. This is one point that I would like to make in this connection.

Then, you will find that 'premises' has been defined as 'the garden, grounds and out-houses, if any, appertaining to such building or part of a building' and so on. We have got some Government houses around which there is sprawling land which is not put to use, which nobody cares to look at even. Such lands have been taken for occupation by some needy people. Naturally, under this measure, they all will be regarded as being under unauthorised occupation. I do not know why this sprawling land, the land that is not much in use should not be allowed to be used by these people. At any rate, those people who have been in occupation of this land should not be evicted just because the Government have some scheme to implement. We can understand this in case of certain necessity arising for development. I am not at all suggesting that there will be no need to clear certain houses in order to construct roads or in order to develop the city, according to a good lay-out. I am not at all denying that. But, such cases should be gone into with extreme care and wherever there are lands adjoining these Government palaces or big Government houses, which are in occupation, they should not be generally looked upon as if they have to be cleared of their occupants.

Sir, there is no protection whatsoever here. There is no use telling us that this is being done or that this measure is being passed in order to develop the cities, because everyone occupying every such land will be liable to eviction regardless of the fact whether such a land is needed for development purposes or not. That is the position. For instance, there are the refugees in the Sealdah Station. It is a Government land. If Government finds alternative accommodation for the refugees, they will be turned out of that station platform. We cannot allow the refugees to be

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there But then, they have to be provided with certain alternative accommodation before they are turned out of that place Similarly, there are big magisterial bungalows around which there is sprawling land and there, some people have built houses These people should not be driven out just because the magistrate does not like the poor people to live around him We do not like that sort of thing

Government employees have entered in certain buildings which were left unoccupied by the Government Somehow or other, they were not used Then the Government employees and others got them They should not be turned out just because technically they would be regarded as persons who are liable to be classified as being in unauthorised occupation

Therefore, we feel that this measure as it is will work not so much to the advantage of the development of the city, but it will work to the disadvantage and hardship of the common man, of the people who need relief and help to the utmost from the Government

Here, Sir, as far as the displaced persons are concerned, there is a feeling in Delhi that perhaps it is these people who constitute the bulk of those who are regarded as unauthorised occupants But this is not so Many of them have found alternative accommodation or their occupation has been regularised But there are many others who are not refugees, who are small traders, who are clerks in commercial offices or even in Government offices, who have been forced to live in houses which may be claimed as Government properties and by reason of this they may be regarded as unauthorised occupants What about them? Are they going to be driven out of these places? What has the Government done about alternative accommodation? There is not a word about alternative accommodation in the whole of this measure I

could have understood if the Government has sponsored a Bill of this kind for meeting the needs of growing city, especially for its development Then I would also expect the Government which claims to be the apostle of a Welfare State to look after this small welfare of the common man, by making a statutory provision for alternative accommodation for these people Nothing of that sort is done here I should ask the hon Minister to explain as to why this is not done We are told that in Delhi, eleven thousand acres have recently been acquired by the Government and another 4,500 acres are likely to be acquired Now, whole lot of villages is being acquired in this manner What will happen to those people? I am not going into the reasons for the acquisition of such property The Government may have its own reasons Some reasons may be very good I concede it But what will happen to those people? Under this law, they are liable to be evicted within 45 days' notice and they have no remedy whatsoever Anyone will see that if these people are to be evicted from these lands or places, the first and foremost consideration should be given to finding alternative accommodation for them, so that they do not suffer, so that they are not rendered destitutes and beggars This is a very legitimate question I ask of the Government I would like to know what answer the Government has to give to such a question

Again, I refer to the 45 days' notice This would be a very short notice for many people who have been in occupation for three, four, five or ten years Within 45 days, they have to find a place I would ask the hon Minister how many of you can find alternative accommodation if by some deadlock you are no longer in the Ministry nor in Parliament? How many of you will be able to find alternative accommodation in Delhi? Tell me Do you think that it would be easy for you to find alternative accommodation within 45 days? You will say, 'No' If it is 'No' in your

case, despite your big connections, big position in society, you can imagine how much more difficult it would be for a displaced person, for a small trader, for a poor Government employee or an employee in a commercial firm or a teacher to find alternative accommodation within this short period of 45 days in a city like Delhi where the pressure on accommodation is so heavy? You must consider this thing.

Therefore I think the Government should take into account these things. I should have thought that in the Select Committee these questions would be gone into but unfortunately they have not been given adequate attention at all. In Delhi, for instance, the Delhi Municipality has certain laws or rules which provide for even 15 months' notice in some cases. Here is a Municipality which for very good reasons, has to provide for 15 months' notice before it can put into effect certain eviction orders but here when it comes to Government, it is only 45 days. This is not right. Maybe, in some cases 45 days' notice would be adequate but there will be many cases where this period would not be sufficient for finding an alternative accommodation and when we pass measures of this kind, we must keep in view not the case that is most favourable but the cases which would be subjected to the greatest of disadvantage. That is how we should view this matter. Then there is provision for assessment of damages, it is said, according to the principles, but the principles are not laid down in this measure. It is said they will be prescribed and the prescribing authority will be the Estate Officer or somebody—certainly not this law. This parent Act will not be the prescribing authority as far as the principles are concerned. We know the principles are arbitrarily prescribed by the executive officials regardless of the conditions to which these principles relate. They go by the expediency of the need of the administration rather than by the needs of the people whom this measure affects. I should

have thought in this measure the principles would be enumerated saying that these are the guiding principles according to which the rules would be prescribed. Rules are sometimes necessary for the authorities to make. These powers have to be delegated for some good reason. It is necessary to make delegations of this kind.

MR. DEPUTY CHAIRMAN. Read section 13. The rules will provide

SHRI BHUPESH GUPTA. Where are the principles? The principles are not here.

MR. DEPUTY CHAIRMAN. The Central Government . . .

SHRI BHUPESH GUPTA. That will be only laid down by us. We know what principles are laid before us.

SHRI ANIL K. CHANDA. You can modify that.

SHRI BHUPESH GUPTA. I should have thought the guiding principles and not the rules would form part of this very legislation. We want to bind the hands of the rule-making authorities so that the bureaucracy has not the better of judgement in such matters. This is very essential and I don't think it is very right to even empower the delegated authorities to formulate principles. I can understand the rule-making power being given but not the formulating of principles. It should not be left in their hands if we can help it. That is my another complaint.

We have been told that damages have accumulated of the order of Rs 1½ crores. I think the Minister made this statement to stagger the House, to show how people are in arrears. Am I right or wrong? Otherwise what was the need for making a statement about damages? I think a point is sought to be made that the Government is incurring heavy losses, that the people are not paying, that arrears have accumulated and everything is wrong with the people and

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SHRI ANIL K CHANDA: That is in India. There is no refugee from Silchar as it is in India.

SHRI BHUPESH GUPTA: Someone has gone there and built a house. The land belongs to Government, he has spent for the construction, he has put in his labour and money. When he is evicted, where is the provision for compensation? He may have been technically in unauthorised occupation of land but the construction that he has made certainly is not an unauthorised construction. It is a fully authorised construction. He is entitled to have some compensation for the construction that he has made. Where is the provision in the Bill for paying compensation in such cases of eviction? Everybody knows that the people are being thrown out from the houses they

had built. That is another matter which has to be gone into by this House. I would ask hon Members opposite especially to consider this measure dispassionately because the poor are poor. Some of them may be Congressmen, others may be Communists and others may be Jan Sanghis but they are all poor. They need relief. Here party lines disappear. Human considerations come into the picture and all parties should be guided in this matter by human consideration. There is unfortunately no provision and it is most unfortunate that this Bill should have been sponsored by a person who himself comes from the other side of the Border but would not see the difficulties to which his people have been put. It has been pointed out by many critics of this measure, because this has been before the country for a long time, that the impact of this measure will be mostly on the poor people. Rich people will not be affected by it very much and they will not come really under the operation of this measure. The impact will be on the poor people but I find that here they have not at all taken into consideration this aspect of the matter in order to create safeguards in the legislation itself. Nothing is there. The Estate Officer is being made a Zamindar. For all practical purposes the Estate Officer will be a Zamindar functioning under the benign authority of this great Government. When they are made zamindars, they are made zamindars drawn from the magistrates and others and they behave in a typical bureaucratic manner and there is little that one can expect from them. I don't blame individuals. They are part of the machinery, a ruthless machinery of bureaucracy and therefore one cannot expect very much from them but there again in appointing Estate Officers care has not been taken to choose the right type of people. Why can't you choose Estate Officers at least from among members of the Judicial service? Not that I think they are free from any kind of allegation or reproach, but perhaps they know these things a little better and probably

they are a little more worldly-wise and a little more sympathetic to the needs of these poor people and would be more amenable to justice. Therefore, I say, even in selecting the Estate Officer care has not been taken.

Then, again, you will find that notice is to be given and the period of notice shall be counted from the date of issue and not from the date of service. Suppose the authority issues a notice and it is not served on the person concerned and the period is calculated from the date of issue. In such a case, after all, it is conceivable that a notice issued by the Government or the authority does not reach the occupant for a long time. Maybe it is lying in the Government file for a long time. And when it reaches the person it is on the point of expiry. At that time it reaches the occupant. In such a case he will be in difficulties. Therefore, this also has to be considered and the necessary amendment should be made in this regard.

About displaced persons, I have given notice of an amendment that those who have been in occupation of premises before August 1950, their cases should not in any case be regarded as unauthorised occupation. This has been the demand of the refugees and displaced persons, and I think this demand merits acceptance by the Government for the very simple reason that those who have been so long in occupation should not be suddenly by the stroke of the pen, driven out of their dwellings. This should not be done. Therefore, this demand, I think, deserves the support of every right-minded person in this country. I hope the Government would consider this matter and itself sponsor an amendment to this effect.

Then, Sir, there are various other things. I have suggested a separate clause before the last clause, to make the payment of compensation obligatory.

Mr. DEPUTY CHAIRMAN: Are you speaking on all your amendments now?

SHRI BHUPESH GUPTA: No. The amendments will speak for themselves. I am only trying to show that this is a very important point. Here there is no such provision and, therefore, I have suggested a provision in order to compensate these people.

Mr. DEPUTY CHAIRMAN: Yes. You speak when your amendments come up.

SHRI BHUPESH GUPTA: I am not speaking on the amendments. Probably you have not got my amendments, I believe.

Now, generally speaking, even if it is assumed that a Bill of this kind is necessary, a measure for getting certain places vacated for occupation, I would submit that this particular measure is very harsh. This is what I want to say. It will go against the interests of large sections of the community. This is my second point. My third point is that there are no safeguards and no protection against abuses and against some injustice being done to the people. And the most regrettable feature about it is that the people who need our support most, our consideration most and who need relief most, they will be adversely affected by the operation of this law. There is no point, as I have pointed out, in justifying this measure on the grounds that have been advanced by the Government.

Today we must discuss how we are to reconstruct our cities. We must reconcile the need for expansion of the cities with the needs of the people, the needs especially of the working class people in respect of their housing and so on. This is so important and essential. Some adjustment must be made. Otherwise we shall create a situation which no one would like to see, especially so when Delhi is concerned. If you put into force a measure of this kind with the provisions as they are, it would mean not only a hardship, but it would be a very bad example for the whole of

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India. In other States the same example would be followed and people would be evicted on a mass scale, people whose eviction would not be justified on any decent ground. Such things will happen. Therefore, we have great reservations about this particular measure and we would like this House to give it its very careful thought to its various provisions so that we can amend them when the measure is sent to the other House. I would not like people to be left to live on promises. If you think that the promises are there, why not incorporate these promises in terms of the sections of this measure? What stands in the way? It is possible to embody them in this Act itself. It is no use telling the people that you have given them promises, that your heart is bleeding for them and at the same time pass a measure of this kind which we all know would go against them, which in practice would go against the interests of those large sections of the community, especially the poorer sections.

SHRI KAILASH BIHARI LALL (Bihar): Sir, I rise to support this measure and in supporting this measure I want to make some observations also. I do not agree with my hon. friend Mr. Bhupesh Gupta who opposed it on so many grounds that he has just mentioned. To me it appears that the very fact that these people have so long been in occupation of these places shows that they should have found the time, sufficient time, to make arrangement for alternative accommodation rather than remain longer in those government premises. They have lived in those places for a sufficiently long period and they should have found time to find out alternative places for themselves and vacated the Government premises. I think perhaps this is a fit measure and it is the fit time and people should learn some moral principles and practise some moral habits.

At the same time I want to make an observation that there should not be two sets of moral standards for measuring the conduct of people and that those who occupy government premises should not be distinguished from those who occupy private premises. Private owners are in much worse conditions than the Government. I want to bring this to the notice of the Government. When they themselves feel the pinch, when Government premises are occupied unauthorisedly, Government should realise how much the private owners are in difficulty when people have occupied their premises, and now the relationship of landlord and tenant is established between them. They are, therefore, governed by a different set of laws and people are put to harassment because of the fact that they have become landlords and tenants and they will be governed by those laws and they will have to take recourse to law courts and the landlord will be harassed in that way. When the Government is feeling the difficulty so much, I submit Government should realise how much more the private persons must be feeling. Therefore, I say they should have only one standard for measuring the morality in the case of these two sets of people, namely, those who occupy government premises and those who occupy private premises. I can tell the Government that I know of such hard cases where people have come to me. Their houses are in occupation by others. They do not leave the house even if I am prepared to pay something which is called in the common parlance of Delhi—*pugree*. Even if I pay them *pugree*, they would not vacate my house. I have come to know of some cases where the house is valued Rs. 15,000 and the occupier demands as much as Rs. 5,000. The owner says he is prepared to pay Rs. 2,000, but he would not agree but want about a third of the total cost of the house. You can understand how much these occupiers are harassing the owners. There is, of course a different set of law to govern the private owners and the tenants. I think those

hardships should also be taken into consideration

Now, Sir, so far as this Bill is concerned, I find one difficulty. The " 'Estate Officer' means an officer appointed as such by the Central Government under section 3" I am not satisfied with the fact that the officers may be gazetted officers but there are people in the rank of gazetted officers who may not be dealing with the things properly. There should, therefore, have been some safeguards for the people that those officers who will deal with such cases will have proper regard for the law as well as the propriety of the occasion. As things stand at present, and as we know the minds of the executive officers, I am apprehensive that they may not be able to bring to bear on their judgement a judicial mind as we expect it of them. There should be appointed mostly judicial officers. If that is done, then there will be some faith in them, otherwise, there will be more of hue and cry. Of course, so far as the appellate courts are concerned, the officers presiding over those courts will be officers of the rank of District Judges. That is something satisfactory, but then if officers of the rank of Deputy Magistrates are appointed as estate officers, I think they may not be able to do justice to the people.

Another thing is about the definition of 'public premises'. I have gone through this definition and I find that it concerns only Delhi and not beyond Delhi. But, in clause 12, I find, "The Central Government may, by notification in the Official Gazette, direct that any power exercisable by it under this Act shall, subject to such conditions, if any, as may be specified in the notification, be exercisable also by a State Government or an officer of the State Government." I am not able to understand this. It is not clear to me. I want to be clarified as to whether this Bill will be applicable to other Governments than the

Delhi State Government. For instance, if the Government of Bombay or the Government of Bihar want to

SHRI ANIL K CHANDA Sir, in clause 1(2), it is said, that this Act extends to the whole of India. It does not refer only to the Union Territory of Delhi.

SHRI KAILASH BIHARI LALL But the definition of 'public premises' says that it relates only to the Delhi Government, the Union Territory

SHRI ANIL K CHANDA May I correct it? The definition says, '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 certain municipal buildings, etc.

SHRI KAILASH BIHARI LALL Do I understand this to mean that this applies only to the estates which belong to the Union Government?

SHRI ANIL K CHANDA Yes. The Bill is with regard to the properties of the Union Government.

SHRI KAILASH BIHARI LALL This will not apply to property belonging to any State?

SHRI ANIL K CHANDA It is only for property owned by the Central Government or taken on lease by it.

SHRI KAILASH BIHARI LALL This power may also be exercisable by an officer of the State Government but in the case of property of the Central Government?

SHRI ANIL K CHANDA Yes.

Dr R B GOUR (Andhra Pradesh) Then, half of his speech is over.

SHRI KAILASH BIHARI LALL: May I enquire one more thing? If the State Governments want this power, can they also apply this to areas under their jurisdiction?

DR. R. B. GOUR: They can pass the necessary laws.

MR. DEPUTY CHAIRMAN: Any-way, we are not concerned with that now.

SHRI KAILASH BIHARI LALL: There is one last thing that I want to ask of the Government. Clause 11 says: "No, suit, prosecution or other legal proceedings shall lie against the Central Government or the appellate officer or the estate officer in respect of anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or orders made thereunder." Of course, if it is a formal thing, I have no objection. If the limitation of time provided for in this Bill is passed, then there is some remedy open to the aggrieved person in the civil courts in the form of a title suit.

If due to lapse of time or due to any other reason the person aggrieved has not taken advantage of the appellate court, then the other remedy is open to him to go to the civil court and file a suit. I think that right is being denied to people by this clause. If it is so, then it will be a real hardship. I suggest that the Government should assure the people about that so that an opening is left to the people to seek a remedy in the civil court.

That is all that I wanted to say.

DR. R. B. GOUR: Mr. Deputy Chairman, at this stage, I would like to give certain of our observations with regard to the Bill before us. I have given notice of certain amendments and when the clause by clause consideration comes I would like to stress certain of the most important features which I feel were the motives behind our amendments.

Now, Sir, this Bill comes before this House after it has been referred to a Joint Select Committee, in fact, to replace another Act which was invalidated by three courts of law in our country. Now, Sir, the Government of India, through this Bill, wants to place itself in an absolutely separate category as regards the owners of premises, not only separate and distinct from other categories of owners of premises but also, I should say, a super-owner type of category. Here is a serious problem facing the country today; the Government of India wants to pose itself as a distinct category in relation to the other citizens of our country. Without going into the fact or the legal quibbling of the case, if it is an industry owned by the Government, well, the ordinary course open to labour, course opened by the labour legislation in the country, are not, at least in practice, applicable to that industry. If they are Government premises, occupied by a certain citizen ordinarily, may be unauthorised, you can call it unauthorised, you want to place yourself in a distinctly different category in relation to the law of the land. You want special powers for dealing with the occupants of the premises owned by you. Now, this entire situation is distinctly different from even a situation in which a State Government is placed in relation to its own property.

Now this itself, Sir, is a very serious question, whether the Government of India could claim distinct powers and sweeping powers in relation to its own property. Now if I own a premises and if somebody else occupies my premises, well, it is either for me or for the gentleman occupying my house or premises to go to the court.

SHRI P. N. SAPRU (Uttar Pradesh): I am intrigued by this defence of private property.

DR. R. B. GOUR: I am not talking of private property. I am talking of personal property. I am not talking of property which is exploited for

getting interest or profit and all that. I am talking of personal property, residence, property of this type. For me it is only an ordinary court of law. For even the municipality it is an ordinary court of law. But for the Government in relation to its own property the case is otherwise. Now this Government is not only the owner of the property but is also the judge in relation to evicting the person occupying it. Now you decide that you own the property and you also decide that the person is in unauthorised occupation of it and you also decide to evict him and you decide to call upon the police to evict him, whereas for me it is quite a different thing.

Now here, Sir, an important point is raised, whether it is just for the Government of India to take such sweeping powers in relation to this. That is why my friend, Mr. Bhupesh Gupta, said that these powers are going to be abused and the ordinary poor citizens of the country are going to suffer. It is they who would suffer. This is the reason for it; it is because you are the owner, you are the deciding authority, you are the evicting authority, you do not give chances to any impartial authority to come into the picture and decide about the whole issue, even about the ownership of the piece of land. Now this is one point which I want the House to very seriously consider

Then, Sir, I think the House will give some consideration to the judgement of the Allahabad High Court because, I am afraid, the Government and more particularly the hon. Minister has not treated that judgement with the care that it deserved. Speaking in the other House the hon. Mr. K. C. Reddy said something concerning that judgement, that the Government had been advised that that judgement did not apply to their case, that that judgement did not hold good according to their information. I do not know why they have not thought it fit to agree with that judgement but I should like to read

certain portions of that judgement. Now the Allahabad High Court judgement which invalidated the earlier Act as *ultra vires* the Constitution and offending Article 14 of the Constitution, reads like this. They have argued that it is not a question of one type of owner being discriminated against another type of owner. For example, it is not merely the question of the Government as the owner of a premises being treated differently from a private citizen who is the owner of a premises. They have said, without going into the merits of this question whether the Government is a person or could be equated with a person, that there are two types of persons. One is an unauthorised occupant of a Government premises; another is an unauthorised occupant of a private premises. Now Article 14 which gives us equality before law does not give equality to these two citizens. There are two ordinary citizens. One is unauthorised occupant of Government premises; another is an unauthorised occupant of private premises. Where the person who is an unauthorised occupant of private premises has got open before him the entire court procedure, the judiciary, to challenge the person who thinks that he is the real authorised owner of the premises and he can even challenge the ownership and he can have his claim decided through a court of law, a citizen who is an unauthorised occupant of a Government premises is denied this opportunity under law. This is the point raised by the Allahabad High Court and I do not know with what stretch of imagination could the Government brush it aside by saying that it does not affect their case.

Then the other point that I wish to raise in this connection is that earlier Select Committees of even the Provisional Parliament have given certain very important advice to the Government to be adhered to. Now, Mr Deputy Chairman, may I request your indulgence for a little reference to the Report of the Select Committee

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on the Delhi Premises (Requisition and Eviction) Amendment Bill, 1950, what it is that was suggested by the Select Committee in that year? Now this Select Committee says: "We are of opinion that Government should exercise its powers under this clause (the clause for eviction) having due regard to certain broad principles which we propose to recommend to the Government." What is it that they have said should be the principles? The principles that they are very seriously insisting upon to be implemented or to be taken into consideration are about this question of displaced persons. "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 the 15th August, 1950, such person shall not be evicted nor such construction shall be removed unless the following conditions are fulfilled." I am not reading them in detail here. The substance of it is that he should be given compensation or he should be shown an alternative site, the whole thing has to be gone into, etc. etc. That means that even as early as 1950 the Select Committee of the Provisional Parliament considering a similar Bill did ask you to treat the displaced persons from a different angle, an angle not only humane, but an angle essential and very absolutely necessary in relation to displaced persons. Government should be sympathetic towards its own citizens.

SHRI P. D. HIMATSINGKA (West Bengal): Why should you assume that they won't be sympathetic?

DR. R. B. GOUR: The question is, no clause of your Bill ever suggests that in any case compensation could be paid or alternative site could be given. The important point is that no clause of the Bill provides that any Estate Officer or a competent authority of the India Government could show any alternative site or give compensation. You have not even qualified such a thing by saying that

bona fide cases of refugees, displaced persons or workers or Scheduled Castes or Scheduled Tribes could be considered by the Estate Officer of the Government for giving compensation or for showing alternative site. Now, Sir, does it stand to reason that, if he is a displaced person and has occupied a premises, has constructed a structure thereon, you can demolish the structure and also call upon him to pay damages? It stands to reason that he should be compensated for the cost he has incurred on the structure on the premises concerned. But you are not doing it. You are going to demolish the structure; you are not giving him any compensation; you are not showing him another hutment in any other area. He cannot go to a court of law under any provision of the Bill and demand of you certain compensation or demand the provision of an alternative site. Then you will see, assurances apart, what is the provision in the law. Who is going to take cognizance of the assurances then? And what is the wrong in providing for it here? I am prepared even to qualify it in the provisions of the Bill itself that *bona fide* cases will be taken into consideration for either payment of compensation or for provision of alternative sites in case the structure is demolished or in respect of arrears of rent and all that. Sir, I may remind the Government that in a previous case, when the matter was before the Calcutta High Court, the Government came with the defence that they were not charging rent because charging rent would amount to implicit acceptance of the person being converted into a tenant and therefore if the ordinary tenant law came into operation the person cannot be evicted even by the Government from the premises owned by them. Therefore you have not charged him rent. Now you want to evict him and get arrears of rent. You have not charged him rent because charging rent would by implication mean that he is a tenant occupying your premises. Now you are saying that he has not only to pay arrears but also damages. Well, it is absolutely unjust; it does not stand to reason.

Now I would like to know whether the arrears of rent etc. which the hon. Minister quoted just now are *bona fide* arrears or arrears not collected because you did not want to collect rent since collection of rent would have meant that they would become tenants and you would have found it impossible to do anything with them. The hon. Minister must clarify the position. I would like to give examples. You are constructing new buildings. You were constructing the building for the Reserve Bank. Construction workers came to Delhi and they are occupying certain land owned by the Government of India and hutments have been erected there. Now the work on the Reserve Bank building is over. They will now be employed in some other building work, perhaps a building for the Defence Ministry. Now you say, we will evict them from our premises. The Finance Ministry owns a plot of land; the Defence Ministry owns a plot of land. The Finance Ministry's building is also a Government building; so also the building of the Defence Ministry. But you say you will evict him without even accepting the obligation of showing him an alternative site; his hutment will be removed; it will be demolished. Why don't you accept this obligation in such *bona fide* cases?

SHRI ANIL K. CHANDA: May I explain this point?

DR. R. B. GOUR: He can make a note of these points; let him take down notes.

SHRI P. D. HIMATSINGKA: If you explain, he won't have anything to speak.

DR. R. B. GOUR: The point is, you cannot find short-cuts to taking notes. So the question is this. In *bona fide* cases I want you to accept this qualifying phrase; in such cases you accept the obligation of giving him an alternative site, of giving him compensation

for the structure which he has erected. You accept this obligation. There will be cases where you will have to write off the arrears or the damages either wholly or partly. You have not given any such powers to anyone here. Even in the municipalities the municipal commissioners have got some powers to write off the arrears even when unauthorised persons are to be evicted. Then how is it in such an important measure that you are placing before the House we do not have such provisions by which the Estate Officer or any authority will have the necessary discretion to look into cases and write off partly or wholly arrears or damages. You have not made any provision even for *bona fide* cases. There may be cases where the ownership of the land is in dispute. For example you have defined as public premises a place which you have requisitioned. The person occupying it today as a tenant could not have known when he came in that you were going to requisition it. He might have occupied it five years ago on rent or *nazal* and built his hutment. He did not know that five years hence the Government of India would be requisitioning that plot of land. Now you are going to evict him. In such a case why should he not be compensated for the construction which he had erected five years ago? It was not within his comprehension then that five years hence you would be requisitioning that plot of land. Today he is going to be evicted from that plot of land. Such cases are not at all considered in this Bill which gives sweeping powers but there is not even a single chance left for a *bona fide* occupant to get any compensation or for the arrears or damages being written off wholly or partly or for being shown an alternative site to move in. Where is he to go? Where does that construction worker go after he has finished working on the Reserve Bank building but who is now working on a Defence Ministry building? Therefore my contention is that this Bill does not take into consideration the opinion of the Allahabad High Court which invalidated the previous Act

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as offending Article 14 of the Constitution, where a private unauthorised person occupying a Government premises is discriminated against another private person occupying a private premises. And then, as I have said, this Bill does not provide for contingencies, when displaced persons should be treated separately, when bona fide cases should be considered for payment of compensation or for writing off of arrears or damages wholly or partly or for being shown alternative sites. With these words I conclude.

SHRI JASPAT ROY KAPOOR (Uttar Pradesh): Mr. Deputy Chairman, Sir, I think it must be readily conceded that this Bill as it has emerged from the Select Committee is in a much more satisfactory form than what it was when it was referred to the Select Committee. This present measure is a considerable improvement—even as it was originally introduced—on the previous measure which was on the Statute Book and which because of certain judgements of some High Courts has to be repealed. As I have said as it has emerged from the Select Committee we now find it in a still better form.

I think I may mention here a few salient features of the Report of the Select Committee for the edification of my hon. friend, Mr. Bhupesh Gupta, who has nothing but harsh words against this measure. If he has an open mind on this subject, I am sure, when he listens to the various important improvements that have been effected in the measure, he will readily agree that some good words must necessarily be said about the Select Committee Report.

Firstly, Sir, the Select Committee has provided that the service of the notice must be in a very effective form. Formerly it was proposed that the service of notice regarding eviction should only be by its being affixed on the premises even if there be

a large number of unauthorised occupants therein. But now it has been expressly provided here in the Report that the notice must be served on each individual occupants of the building. Generally, there are quite a number of persons occupying a building or a public premises in an unauthorised manner and it is only just and proper that everyone of the occupants whose eviction is sought must be served with a proper notice.

Then it has been provided by the Select Committee that before any order of eviction is passed by the Estate Officer he must hear evidence. He must hear witnesses and consider documentary evidence and whatever other evidence the unauthorised occupant may like to produce before him. Not only that; while passing the order the Estate Officer must give specific reasons in writing. This was a great omission in the original measure. Hereafter the unauthorised occupant against whom an order of eviction will be passed will know definitely on what grounds, on what basis, the eviction order is being passed against him. It will therefore be easy for him to go in appeal to the District Judge against that order. He can question the propriety of the reasons which have been advanced by the Estate Officer.

Then we find that the period of 30 days has been increased to 45 days only whereafter the eviction order can be enforced by the Estate Officer in a forcible manner.

Another important point that has been provided in the Report of the Select Committee is that the Estate Officer can, if he so likes, provide in the order that the arrears may be payable, not necessarily in one lump sum, but in instalments

Now in a small measure like this which only seeks virtually to replace the existing statute, these improvements are of a very substantial nature.

4 P.M. Then, Sir, there is one aspect of the case which we must not forget. Now, what is the reason behind this measure? For what particular reason has this measure been brought before us? Even before the various High Courts, the Calcutta High Court, the Allahabad High Court and the East Punjab High Court had declared some of the provisions of the old Act to be *ultra vires* of the Constitution. Government had ample powers under the old Act to eject all the 11,000 squatters and many more and many others in the eastern region and they could have ejected them if they so liked. It was not that they had not the power to eject them under the old Act until, of course it was declared to be *ultra vires* of the Constitution by the various High Courts. Now, between the years 1951 and 1957, during all these long years, the Government, let it be said to its credit, did not fully utilise the powers which were conferred on it. Should we not then be grateful to the Government and say that they have been dealing with the unauthorised occupants in a very lenient and in a very generous manner? After all if they so liked they could have ejected them summarily under the old Act which is being repealed by the present one and if they did not do it, it is to their credit. And relying on this generous attitude of the Government I venture to make a few more observations to suggest some improvements in this measure as also to elucidate from them once again the assurance which was given to the displaced persons by Mr. N. V. Gadgil when he piloted the 1950 measure. True, as has been reported by the Assurances Examination Committee, this particular assurance has been satisfactorily implemented by the Government. But then, this Report is dated December 1951. It is well and good that until then they had been implementing that assurance. Even without that report we could have easily inferred that they have been implementing that assurance, from the very fact that even up to today more than 11,000 squatters are there who have not been ejected.

Now, I suppose they have not been ejected for the simple reason that it was not easy for the Government to eject them without providing them an alternative accommodation, because conscientious as they were with regard to the implementation of Mr. Gadgil's assurance, they could not summarily eject them unless and until they had some alternative accommodation at their disposal to offer to persons who may have been ejected. Now, I want to know whether they are still prepared to stand by that assurance. I hope and trust the answer will be in the affirmative, but in order to create a sense of satisfaction in the minds of displaced persons it would be well and good if the Government once again said that all these 11,000 and more squatters would not be ejected unless and until such of them who were in unauthorised occupation before 15th August, 1950, were provided with an alternative accommodation in accordance with the assurance of Mr. N. V. Gadgil. I hope and trust that it is not the intention of the Government that since the old measure is now being repealed, any assurances given when that was on the anvil will also go away with that previous measure which is now being repealed. If they are prepared to give that assurance, I see absolutely no reason why we should not readily and happily agree to this measure without any further criticism thereof, because all that we want, all that we could expect the Government to do is to provide suitable accommodation to the displaced persons because they have not the means with them to obtain suitable accommodation without the help and assistance of the Government.

A few other suggestions that I have to make which, if accepted, I am sure will make this measure more acceptable to us are these. Before I pass on to suggest improvements, may I also associate myself with the Minute of Dissent—I would rather prefer to call it a note containing a suggestion—signed by Shri Kanhaiya Lal Balmiki and Shri Naval Prabhakar, who have tried to plead with us for the sake of

[Shri Jaspatt Roy Kapoor.]

the Harijan brethren? There is absolutely no doubt that their case deserves our sympathies. Harijan brethren, of course even those who are not displaced persons, have been in occupation of open land here, there and at many places. They have put up small huts of straw and bamboo and all that. Of course, it is necessary that they should be ejected from those places if you want to develop those places for building purposes, but then they deserve your sympathy as much as the displaced persons. Virtually both of them are in the same position. The displaced persons came over here without any shelter. So is the case with the Harijan brethren, and a Government which claims, and rightly claims, to establish a Welfare State, ought to see to it that these poor Harijan brethren are provided with some sort of adequate shelter before they are ejected from very small huts and which they have put up on Government land.

Then, Sir, a few suggestions for improvement that I wish to make are these. Firstly, since you are investing the Estate Officer with the functions of a judicial authority it would be desirable if you appoint an Estate Officer under the provisions of this measure, a person not only who is a gazetted officer, but one who has experience of judicial work. I do not suggest that this suggestion must necessarily be incorporated in the measure itself, but I hope and I would request the Government to always bear this consideration in mind while appointing Estate Officers for the purpose of this measure.

SHRI H P SAKSENA (Uttar Pradesh) That was the understanding in the Select Committee that only those persons who possess legal knowledge will be appointed Estate Officer.

SHRI JASPAT ROY KAPOOR Well then, I am in happy company with the Members of the Select Committee. I hope this understanding of which no

mention has been made in the Report itself would go down on record here after being made formally by the hon. Minister in charge of the measure.

Then, there is one important thing which I think, ought to be incorporated in this measure and to which I had referred on a previous occasion also when this measure had been introduced. The question is when you want an unauthorised occupant to be ejected, what is the purpose for which you want to eject him? Of course, the one initial purpose is that since the property is yours, you want to have it. True. Firstly you will eject him after providing alternative accommodation according to Mr. Gadgil's assurance. But then I think it is necessary that while you are issuing a notice, while the Estate Officer is issuing a notice of ejection, he must mention in the notice for what particular purpose he wants the unauthorised occupant to be ejected. If you want the land for any public purpose, if you want it in the public interest immediately, put it down in the notice. There is good justification. But if you do not want it immediately for any public purpose, you can continue to wait for some time more until you actually and immediately need it for a public purpose, and then if you put down the public purpose for which you require the land, it will be open to the person on whom you served the notice to question the propriety, to question the correctness of the objective before the appellate authority. Otherwise I do not know on what possible grounds he can go in appeal to the District Judge.

Sir, these are the few suggestions I have to make and I hope and trust that they will be acceptable to the hon. Minister in charge of this measure. I would like in particular, Sir, that the assurance of Mr. Gadgil may be reiterated, for I have no doubt in my mind that they do mean it, but if they expressly say so here again, it will allay considerably the fears of the displaced persons.

Sir, one thing more I stand corrected with regard to one thing I said earlier I have said that there is no mention in the Select Committee Report about the understanding that the Estate Officers who will be appointed by the Government under the provisions of this measure would be those possessed of legal qualifications I find it mentioned in the Select Committee Report under paragraph 12: "Clause 3—The Committee recommend to the Government that in the matter of appointment of Estate Officers, they should, wherever possible, appoint men with legal qualifications." True, this is what the Select Committee has suggested to the Government, but I fail to find in these words that there was any understanding between the hon. Minister and the other Members of the Select Committee So, a formal assurance on this ground seems to be necessary

Thank you, Sir

SHRI SONUSING DHANSING PATIL (Bombay) Mr Deputy Chairman, this is a small piece of legislation which gives Government summary powers of eviction of unauthorised persons from public premises. The hon. Members of the Opposition have made the Bill a little bit controversial whereas, as a matter of fact, a controversy does not exist By bringing in certain aspects of the Bill which relate to the persons who are termed as unauthorised occupants—the human problem in this Bill—they have made it appear that the Bill is of a controversial nature Sir, the general poverty of this country should not be mixed up with this Bill, though the National Government are pledged to an assurance that they will provide food, clothing and shelter to every citizen in the time which is possible Still we should not try to mix up the issue of poverty when the needs of evicting unauthorised persons from public premises is under consideration

The Government feel that in order to have an orderly development of this big city and also of places where the development is held up, because of

the unauthorised occupation of the the public premises, they must have summary powers to evict such persons, and when the question of human consideration comes in, that question should not be mixed up here. The hon. friends opposite tried to lay much emphasis on this point which is a matter of fact uncalled for and is absolutely unconnected with the object of the Bill. The Bill simply seeks to give summary powers which the Government needs for purposes of immediate eviction. If the Government is asked to resort to the ordinary process of law which means the civil remedy, then it will take a long time, and the purpose of development will be frustrated. This is not a single case or the first case where Government is arming itself with special powers We have had a number of provisions in the Land Revenue Codes and in the Income-tax Acts where Government revenues or public purposes are concerned and where Government is armed with special powers Ordinarily when these powers are given to the Government, it is not a discrimination, and even though some of the High Courts have criticised this on the point of discrimination, we can understand that the discrimination is not of that nature where one individual is discriminated against another After all Government is meant for the good of all and when Government is vested with certain additional or summary powers, Government is not in that respect a sort of a person but it is a repository of public trust or of power, and this is the exact object of the Bill

As far as the contents of the Bill are concerned, they are very simple, and its only important provision is that of Estate Officers What type of Estate Officers should be appointed, whether they should belong to the judiciary, these are matters for Government to consider, and we must have full faith in the normal wisdom of the Government that Government will appoint persons who have got knowledge of the problem they have to deal with When the Estate Officers have to

[Shri Sonusing Dhansing Patil.]
deal with complicated questions of unauthorised occupation, we must normally expect that the Government will appoint persons who have got legal qualifications. Besides, the Estate Officer is not a person who is to act arbitrarily. He has to take into consideration the say of the unauthorised occupant, he has to take into consideration the evidence which will be adduced or tendered, and after considering that, he will come to a certain decision. That decision will not be immediately implemented, but he will give at least 45 days' time to the unauthorised occupant to evict, and if within that time he does not remove the structure, etc., then he stands the consequences of the law.

My hon. friends tried to make out a case that there is no provision for compensation. When the law gives sufficient time for an unauthorised occupant and when the Estate Officer decides or comes to the conclusion that a particular person is an unauthorised occupant, normally 45 days are adequate, and besides that, he will be given a further notice of 14 days within which he must remove all things. There is no bar in the Bill that he should not remove his structure. If that is the provision, then I fail to understand the contention that there is no provision for compensation which Government should give to the *bona fide* occupant. The occupant does not become *bona fide* when his lease or his license terminates or comes to an end. He is only a person who is holding over, and, though not an actual trespasser because his first entry is not illegal, even then his subsequent entries become illegal because of his conduct. This act of holding over when the terms of the license have expired is something tantamount to a trespasser's act, and if that is tried to be dealt with by the particular procedure laid down in the Bill, I think there should not be any legitimate grievance. Besides, the Estate Officer is not the sole judge of the situation. His order is subject to an appeal to an inde-

pendent judicial officer who will be of the rank of a District Judge or a person who has got sufficient legal knowledge and experience of ten years. Such a person is also expected to do justice to the person who, if he shows that he has acquired certain rights against the Government, will also take that evidence into consideration. But all the procedure is not something which is arbitrary or which smacks of something which is not of a judicial nature. It is of a judicial nature, though the remedy is expedited.

So, the criticism which is levelled against the object of the Bill or about the procedure laid down is something which is not warranted by the situation. Do my friends from the Opposition suggest that the Government is coming forward, with no substantial reason, to have such an emergency piece of legislation so that they can use their summary powers? No. After all, when the figures are taken into account as to the extent of the damage that has been done and the extent of property that is in unauthorised occupation, it is necessary that the Government must arm itself with summary powers and this can only be done if such a Bill is passed into an Act.

The other point is as regards the question of settling the poor people like beggars, cobblers, barbers and others. We do feel sympathy for such types of human beings because, on account of their utmost poverty, by force of circumstances, they are compelled to take resort to premises which belong to the Government and which are reported to be unauthorisedly occupied. But the question of dealing with the needs of such people is entirely a different matter and unless and until we allow the Government to act by law and order, unless we enable them to proceed with the purpose with which they are actuated, I think impediments in the orderly development which bear no relation to the point at issue will be unnecessarily putting hurdles in

the way of the Government. I feel that the questions raised as regards the human side, compensation and discriminating treatment of private individuals as distinct from the Government are based upon imagination rather than on the actual state of affairs.

For all these reasons, I feel that the object of this Bill is most sound, is most necessary, and the problem needs immediate attention at the hands of the House, because after all, the main purpose of the Bill is to authorise the Government, to empower them, to evict people who are in unauthorised occupation without going through the usual civil court proceedings. The term 'public premises' has been very elaborately defined in sub-clause (e) of clause (2):

"Unauthorised occupation,' in relation to any public premises, means the occupation by any person of the public premises without authority for such occupation, and includes the continuance in occupation by any person of the public premises after the authority (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."

So, this is the definition of 'unauthorised occupation' and an 'unauthorised occupant' is one who occupies a place without any authority or who continues to occupy such a place after that authority given under a grant or a lease has expired. The definition is absolutely clear and persons who come under the above categories will be evicted immediately whether they are displaced persons or beggars or employees, or to whatever category they may belong. The main purpose of the Bill is only to allow the Government to have a summary remedy to evict such persons. Even then, the remedy would not be exercised in an arbitrary manner.

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ner. There is the Estate Officer whose order is subject to appeal to the District Officer. Even there, sufficient time is provided to the person concerned. All these considerations actually make the Bill rather not rigid, but very easy and just, to deal with such questions. Due to all these considerations, I give my wholehearted support to this Bill.

श्रीमती सावित्री निगम (उत्तर प्रदेश) :

उपसभापति महोदय, इस विधेयक के जनरल प्रिंसीपल्स का मैं विरोध तो नहीं करती, किन्तु साथ ही मैं यह कहना चाहती हूँ और गवर्नमेंट और आनरेबल मिनिस्टर साहब को यह आगाह करना चाहती हूँ कि अगर उन्होंने इन्विजन के मामलों को तय करने में पूरी तरह से काशन और केयर न ली तो इस विधेयक से बहुत से एम्प्लाइटेड शंस होंगे। जैसा कि इसका रूप है, इसके द्वारा, लोगों का बहुत शोषण होने का डर है।

श्रीमन्, पब्लिक प्रमिसेज के इन्विजन का प्रश्न बहुत ही मानवीय और बहुत ही उलझा हुआ प्रश्न है और विशेष रूप से दिल्ली जैसी जगह में जहाँ कि आज भी लगभग ग्यारह हजार स्क्वटर्स हैं, ग्यारह हजार के करीब ऐसे व्यक्ति हैं जिनको तुरन्त ही सिर ढकने के लिये कुछ न कुछ चाहिये। अगर उनको पब्लिक प्रमिसेज में खाली किया गया तो उनको दूसरी जगह टिकाना भी चाहिये। एक बहुत बड़ी तादाद ऐसे व्यक्तियों की है जो आज भी सड़क के दोनों किनारों पर रात को सोते हैं, चाहे कोई मौसम हो—गर्मी हो, जाड़ा हो, बर्षा हो। श्रीमन्, यह भी सबको बिदित है कि दिल्ली में जहाँ कि केवल तीन लाख या चार लाख लोगों को रखने का स्थान था और जो नयी बातें बनी हैं उनको भी यदि हम जोड़ लें तो छः लाख व्यक्तियों के रहने की व्यवस्था की गई है, तो जहाँ केवल दस लाख व्यक्तियों को के रहने को स्थान हो वहाँ अट्टारह और उन्नीस लाख व्यक्तियों का रहना और उनको ग्रकमोडेट करना, उनको सिर के ऊपर छाया दिलाना

[श्रीमती सावित्री निगम]

जो कि एक वेलफेयर स्टेट की, एक सरकार की पूरी पूरी जिम्मेदारी है, यह एक बहुत ही उलझा हुआ सवाल है।

THE VICE-CHAIRMAN (SHRI
P. N. SAPRU in the Chair.

श्रीमान्, यद्यपि मैं यह मानने को तैयार हूँ कि सेलेक्ट कमेटी ने इस विधेयक के रूप को बहुत संभाला है और खास तौर से दो, तीन जो नयी धाराये जोड़ दी गयी हैं उनसे कुछ प्रीकाशंस जरूर लिये गये हैं कि वे लोग जो इविक्ट किये जायें, कम से कम उनको अपनी आवाज उठाने और अपनी बात कहने का अधिकार हो। लेकिन, श्रीमान्, यदि मान लीजिये उन लोगों ने अपनी बात कही भी और उसके बाद एस्टेट आफिसर ने या सरकारी अधिकारियों ने यह सोचा कि यह आवश्यक ही है कि उस पब्लिक प्रेमिसेज को खाली कराया जाये, उस समय भी यदि हम उस व्यक्ति को जिसको हम बिना दूसरी जगह रहने के लिये दिये हुए, वगैर आल्टरनेट अक्रोमोडेशन दिये हुए, यदि एविक्ट करते हैं, तो हम उसको केवल इस बात पर मजबूर करते हैं या उकसाते हैं कि एक जगह वह खाली कर दे। लेकिन दूसरी ऐसी जगह पर कहीं न कहीं वह जाये, भले ही चाहे पब्लिक प्रेमिसेज हो या किसी तरह के अनअथराइज्ड ड्रग का स्थान हो उस पर कब्जा कर ले इसलिये, जब हम एक समस्या को एक तरीके से सुलझाते हैं तब बजाये उसे सुलझाने के उसे दूसरी तरफ उकसाते हैं जिससे दूसरी समस्या खड़ी हो जाये। ऐसे मामलात दिल्ली में एक नहीं, सैकड़ों बार हो चुके हैं और लोग उन्हें हमारे आर्गनाइजेशन, भारत सेवक समाज के नोटिस में भी लाये। हम लोगो ने इस बात के लिये विरोध भी किया कि यदि सरकार एक व्यक्ति को जब एक पब्लिक प्रेमिसेज से निकालती है तो उसको कोई आल्टर्नेटिव अक्रोमोडेशन क्यों नहीं देते ? यहाँ तक हमने कहा कि आप शोपड़ियो डालने

के लिये उन को कुछ जमीन दे दी जाये। कुछ दिन हुए अभी कुछ हरिजन थे जो पब्लिक प्रेमिसेज से निकाले गये थे। उनके लिये हमने सरकार से अपील कि आप कुछ न कीजिये, कुछ ग्रांट देकर उनको कुछ जमीन का स्थान उनके बसने के लिये दे दीजिये। तीन महीने तक वह मामला चलता रहा, और उस तीन महीने के अन्दर उन्होंने दूसरे खाली पार्क में शोपड़ियां बना दी जिस पर उनको नोटिस दिया गया। आप ही बताइये, इसमें कितना गवर्नमेंट की मशीनरी का टाइम वेस्ट होता है ; इनकी वेस्ट होती है एक ऐसी अव्यवहारिक नीति से।

श्रीमान्, जैसाकि कुछ लोगों ने, अपो-जीशन के मेम्बर्स ने इस विधेयक का विरोध किया, मैं इस का विरोध नहीं करना चाहती। मैं कहती हूँ कि अगर एक ज्यादा समूह के लिये, एक बड़ी तादाद के लिये अगर कोई जगह आवश्यक है तो उस को उन लोगों के लिये खाली कराया जाय। लेकिन जिन को आप खाली कराते हैं उन को यदि आप आल्टर्नेटिव अक्रोमोडेशन न देंगे तो वह उसी तरह होगा जैसे गंदे पानी को एक जगह रोक दे तो वह दूसरा रास्ता बना लेता है। इसी तरह से ये दीन दुखी लोग जिन को आप एक जगह से उखाड़ देंगे और उन को दूसरा स्थान नहीं देंगे तो वे दूसरी जगह चले जायेंगे। मैं आप को बताऊँ कि राजस्थान से आया हुआ मजदूरी का एक गिरोह सात बार इविक्ट कराया गया है और एक के बाद दूसरी और दूसरी के बाद तीसरी जगह हटाया गया है। इसलिये मेरा कहना है कि जब काफी ऐसे कई केसेज इविकशन के हों तब अगर उन की फाइल को हर तीन महीने बाद मिनिस्टर महोदय स्वयं देख ले और उन को रहने की जगह दिलाने की कोई न कोई सूरत निकाली जाय तो एक बहुत बड़ी समस्या भी सुलझ जायेगी और साथ ही साथ लोगों को भी भरोसा होगा कि अगर इस्टेट आफिसर ने स्थान खाली करवा दिया

है तो कहीं न कहीं हमारी सुनवाई हो सकती है। तीन महीने बाद या तो पार्लियामेंट में उन की रिपोर्ट रखी जाय जिन के मकान इविक्ट हों या सेलेक्ट कमेटी के सामने डिस्कश किया जाय। इस से लोगों में विश्वास जमा रहेगा और ढाढ़स बंधा रहेगा और साथ ही साथ वे लोग जिन के साथ ज्यादाती हुई है उन को भी अपनी कठिनाइयों को सुलझाने का सहारा होगा।

श्री श्याम० सुन्दर तन्खा : अगर किसी को इविकशन आफिसर के खिलाफ शिकायत हो कि उस ने गलत हुक्म दिया है तो अपील करने का अधिकार दिया हुआ है।

श्रीमती सावित्री निगम : अपील करने के राइट के बारे में मैं अभी बताऊंगी कि किस तरह से अपील हुई है। अभी तक कई एक मामलों को हम लोगों ने हाथ में लिया है।

पहली बात यह है कि स्लम आथरिटीज का जहां तक ताल्लुक है इस बिल का उन से कोई सम्बन्ध नहीं है। मेरी शिकायत तो यह है कि कहीं ऐसा न हो कि जो हालत इस समय वहां हो रही है वही यहां पर भी दोहराई जाय। इस में अपील करने का हक है, इस में कोई शक नहीं है। सेलेक्ट कमेटी ने भी इस बारे में सुधार किये हैं। अपील करने के बाद गवाही लेने की इस में जो व्यवस्था है इस का भी मैं स्वागत करती हूं। अक्सर ऐसा होता है कि वह व्यक्ति जो अप्लीकेंट होता है वह इतना योग्य नहीं होता और न उस में इतनी शक्ति होती है कि वह अपने केस को अच्छी तरह से पेश कर सके। इसलिए मेरा कहना यह है कि ऐसा व्यक्ति जब किसी सोशल आर्गेनाइजेशन को अप्रोच करता है तब उसे उस के प्रतिनिधि द्वारा बहस करने की इजाजत दी जानी चाहिये। साथ ही आनरेबल मिनिस्टर उन केसेज पर अन्तिम बार अपना डिसीजन करने की थोड़ी गुंजाइश रखें तो इस से बहुत लाभ हो सकता है।

श्रीमन्, एक बात मुझे यह कहनी है कि जब सरकार कोई स्थान पब्लिक परपज्जेज के लिये खाली कराती है, तब वह उस आदमी को जो उस को आक्यूपाई किये हुए है नोटिस देती है। मुझे एक स्थान के बारे में मालूम है कि एक आदमी को नोटिस दिया गया है कि १५ दिन, २० दिन या २५ दिन या एक महीने के अन्दर वह उस स्थान को खाली कर दे। वह स्थान खाली हुए करीब डेढ़ साल हो गया है लेकिन वह उसी तरह से पड़ा हुआ है और उस का कोई उपयोग नहीं किया गया है। नतीजा यह होता है कि एक आदमी को आप ने ४५ दिन के अन्दर डिसप्लेस कर दिया, उस को दूसरी जगह या स्थान ढूँढने के लिये भी समय नहीं दिया ताकि वह बेचारा अपने लिये सिर छिपाने के लिये कहीं जगह तो ढूँढ सके। वह बेचारा एक सड़क से दूसरी सड़क में पड़ा रहा। जो स्थान आप ने खाली कराया उस को सरकार ने वैसे ही पड़ा रहने दिया और एक दूसरे आदमी ने उस पर अपना गैर कानूनी कब्जा कर लिया। इस तरह आप ने पहले जिस परपज के लिये उस जगह को खाली कराया वह पूरा नहीं हो सका। इसलिये मेरा अनुरोध है कि जब तक कोई प्लान पूरी तरह से फाइनलाइज न हो जाय तब तक इस प्रकार पब्लिक प्रेमिसेज को खाली न कराया जाय। इस के साथ ही साथ जिस व्यक्ति से आप कोई जगह खाली कराते हैं वह तो डिसप्लेस हो जाता है मगर उस को इतना अवसर नहीं मिलता है कि वह अपने लिये कोई दूसरी जगह ढूँढ सके। इसलिये मेरा अनुरोध यह है कि ४५ दिन की जो अवधि है उसे बढ़ा कर कम से कम ३ महीने कर दिया जाय। एक आदमी जो अपनी गृहस्थी ले कर वहां पर बैठा है अगर उस को दूसरा स्थान ढूँढने के लिये अवसर दिया जाय तो उस को बहुत आसानी हो जायेगी। इस के साथ ही साथ जनता में जो असन्तोष सरकार के विरुद्ध इस तरह के इविकशन कराने से हो जाता है, वह न होगा। अगर उसको यह मालूम करा दिया जाय कि

[श्रीमती सावित्री निगम]

इस जगह पर कोई स्कूल बनने वाला है, पार्क बनने वाला है, तो इस तरह से उन के थोड़े से आसू भी पुछ जायेंगे और उन को यह भी संतोष होगा कि सरकार की ओर से जिस आदमी को इविक्ट किया गया है उस को अपना मकान ढूँढ़ने के लिये काफ़ी समय दिया गया है। इसलिये मेरा अनुरोध यह है कि जब तक कोई योजना उस जगह के लिये नहीं हो जाती तब तक किसी आदमी से स्थान खाली न कराया जाय।

श्रीमन्, मैं ने देखा कि शहर को ब्यूटी-फाई करने के नाम से शहर में कुछ जगहों को खाली कराया जाता है। ऐसी दो तीन जगह मैंने देखी जहाँ पर से लोगों को खाली कराया गया है। मेरी समझ में नहीं आता है कि आखिर सौन्दर्य की क्या परिभाषा है। क्या सौन्दर्य की यह परिभाषा है कि शहर के बीच स्थान में पार्क बन जाय और सड़क के किनारे आदमी चियड़े कपड़ों में बैठे और लेटे रहें। मेरी समझ में नहीं आता कि जब सड़कों के दोनों किनारों पर चियड़ों में लिपटे हुए लोग रहते हों तो उस स्थान पर किस तरह से खूबसूरत लान्स और पार्क दिखाई पड़ सकते हैं। अगर शहर के दोनों किनारों पर चियड़ों में लिपटे हुए नर-कंकाल पड़े होंगे तो किस तरह से दिल्ली का सौन्दर्य बढ़ सकेगा, यह मैं पूछना चाहती हूँ। आखिर सौन्दर्य आराधना ह्यूमन सर्किंग की बुनियाद पर नहीं की जा सकती है। जिस शहर को देखने के लिये विदेशी लोग आते हैं अगर वे सड़कों के किनारे चियड़ों में लिपटे हुए नर-कंकाल देखेंगे तो क्या इस से उन के दिल में शहर के प्रति अनुराग बढ़ेगा? इसलिये मेरा अनुरोध यह है कि अगर शहरों को ब्यूटीफाई करने की योजना है, पार्क या लान्स बनाने की योजना है तो हमें यह भी सोचना चाहिये कि इन अभागे लोगों के लिये पहले ही शहर में किसी स्थान पर कुछ टिन के शैड बनाएं, जहाँ पर वे लोग अपने को छिपा

सकें। इस सम्बन्ध में सरकार का यह कर्तव्य हो जाता है कि यदि वह कोई जगह खाली कराती है तो उन लोगों के गर्मियों और सर्दियों से बचने के लिये कोई न कोई शैड या रहने का प्रबन्ध करना चाहिये।

इस के अतिरिक्त श्रीमन्, जो इस्टेट आफिसर है वह बहुत ही योग्य व्यक्ति होगा। उस को कुछ कानूनी अनुभव भी होगा और उस की पूरी योग्यता इस बात में होगी कि वह उन का इविडेंस वगैरह ले सके। मैं यह चाहूंगी कि अगर इस में थोड़ा सा यह अमेन्डमेन्ट कर दिया जाता तो बहुत ही अच्छा होता। अगर कोई सोशल आर्गेनाइजेशन या वह व्यक्ति जो अपनी बात को अपने मामले को ले कर आया है, वह चाहे तो कोई लीगल एडवाइजर ले आये। क्योंकि सरकार की ओर से तो सब तरह के लीगल व्रन्स मौजूद रहेंगे और उधर वह बेचारा जिसे बात करना भी नहीं आता है, वह अपनी मुसीबत में अकेला होगा। इसलिये मेरा अनुरोध यह है कि इस तरह के आदमी को लीगल एडवाइजर लाने की छूट दे दें तो बहुत अच्छा होगा।

(Interruptions.)

इस में यह बात लिखी नहीं गई है और न ही क्लीयर की गई है। इसलिये मैं मिनिस्टर महोदय से यह चाहती हूँ कि इस तरह के आदमी को यह अधिकार हो कि वह अपने लीगल एडवाइजर को लाये या सोशल आर्गेनाइजेशन के प्रतिनिधि उस के साथ आ कर उस के केस को प्लीड कर सके।

THE VICE-CHAIRMAN (SHRI P. N. SAPRU): That is implicit in our report. Evidence can be given.

SHRIMATI SAVITRY DEVI NIGAM: By some legal adviser, that is what I want.

SHRI ANIL K. CHANDA: A lawyer does not give evidence.

SHRIMATI SAVITRY DEVI NIGAM: That is what I want . . .

THE VICE-CHAIRMAN (SHRI P. N. SAPRU): That is evidence. That is clear.

श्रीमती सावित्री निगम : मेरे कहने का मतलब यह है कि जिस आदमी को खास हालात में इविक्ट किया जा रहा हो उस को भी लीगल एडवाइस देने के लिये यह हक दिया जाना चाहिये जबकि सरकार के इंटरेस्ट के लिये वहा पर लीगल ब्रेन्स है ।

श्री श्याम सुन्दर तन्खा (उत्तर प्रदेश)
आप कई बाने प्रिज्यूम करती है ।

(Interruptions.)

श्रीमती सावित्री निगम : मैं यह नहीं कह रही थी । बात यह है कि जो इस्टेट आफिसर होगा वह एक्सपीरियस्ड होगा, कानून में एक्सपीरियस्ड होगा । यह बात इस बिल में कही गई है । श्रीमन्, मैं चाहती हूँ कि मेरी बात धैर्य से सुन ली जाय, उस के पश्चात् जो माननीय सदस्य जवाब में कहना चाहेंगे, उस को मैं प्रसन्नता से सुनने को तैयार हूँ ।

मैं यह प्रिज्यूम नहीं करती बल्कि यह बिल में साफ साफ लिखा हुआ है कि जो इस्टेट आफिसर होगा उस को हर तरह का कानूनी अनुभव हागा, वह बहुत एक्सपर्ट होगा और वह गवर्नमेंट का इंट्रेस्ट सेफगार्ड करेगा । अब जिस व्यक्ति को खाली कराया जा रहा है वह बिलकुल लेमैन है । एविडेस वह जरूर ला सकता है लेकिन एविडेस भी कभी उस के साथ आयेगी ? जैसा वह इग्नोरेंट है वैसी ही उस की एविडेस इग्नोरेट होगी । मेरा यह कहना था कि अगर मिनिस्टर महोदय हम लोगों को यह अश्योरेस दे दे कि यदि आवश्यकता हुई तो वह व्यक्ति अपना लीगल एडवाइजर ला सकेगा या कोई सोशल आर्गनाइजेशन का रेप्रिजेंटेटिव ला सकेगा । उस से एक फायदा यह होगा कि वह व्यक्ति इग्नोरेंट

से मिलने वाले नेक्सान से बच जायेगा । मेरा केवल इतना निवेदन है ।

खाली कराते समय अक्सर ऐसा होता है कि एक तो उस के ऊपर यह मुसीबत आती है कि उस का मकान ४५ दिन की नोटिस दे कर खाली कराया जायगा । पहले ऐसे केसेज बहुत कम हुए हैं लेकिन हुए हैं और उन के बारे में हम लोगो ने रिप्रिजेंटेशन भी किया है । एक बात यह भी है कि जो व्यक्ति कही भी अनअथाराइज्ड ढंग से रहता होता है उस को कभी चैन की नीद नहीं आती है क्योंकि उस की गर्दन पर हमेशा इविकशन की तलवार लटकती रहती है । लेकिन उस की कुछ मजबूरियां होती हैं और मजबूरियों का नाम सब्र होता है और वह मजबूरन किसी तरह वहां रहता है । तो पहले उसको नोटिस मिलती है कि आप इसको खाली कर दीजिये, फिर उसके बाद एग्ज़ार-बिटेंट तरीके से डैमेज क्लेम किये जाते हैं जिनका कोई ओर छोर नहीं होता है । अक्सर ऐसा होता है कि एक व्यक्ति वहा रहता था और उसने उसे खाली कर दिया । लेकिन दूसरे हज़रत जो पकड़ जाते हैं वह अभी दो महीने पहले ही आये हैं । इस तरह जो व्यक्ति वहां पहले रहता था उसने संभव है चलते वक्त दर्वाजे की चूलें निकाल ली हों, या और सामान गायब कर दिया हो । लेकिन ये सारे डैमेजज जो उस व्यक्ति ने किये होंगे वे उसी व्यक्ति से क्लेम किये जाते हैं जो कि आज रह रहा है । इसका नतीजा यह होता है कि उस गरीब पर दोहरी मार पड़ती है । एक तो उस पर यह मुसीबत आयगी कि उससे यह कहा जायेगा कि आप ४५ दिन के अन्दर खाली कर दीजिये, आप चाहे कही जाइये । ठीक है, सरकार को उस बिर्लिडग की जरूरत है, उसको लीजिये लेकिन इसके साथ साथ उससे जो डैमेजेज क्लेम किये जायेंगे कि वह उसके ऊपर दूसरी मुसीबत का पहाड़ टूट पड़ता है । तो मैं यह कहना चाहती हूँ कि जब कभी ऐसे डैमेजेज क्लेम किये जायें तो वह व्यक्ति

[श्रीमती सावित्री निगम]

जो आज वहां रह रहा है उसकी फाइनेंशियल कंडीशंस जरूर देखी जायं। खाली वह नुक्सान न देखा जाय क्योंकि संभव है कि उस नुक्सान के लिए वह स्वयं जिम्मेदार न होकर उसकी तरह से और भी कोई अभाग भाई जिम्मेदार हो। अगर यह देखा जायगा कि कितना नुक्सान उस बिल्डिंग में हुआ और फिर उसी बसिस पर क्लेम किया जायगा तो आप यह समझिये कि उस व्यक्ति को एक नहीं बल्कि दो मुसीबतें उठानी पड़ेंगी।

इसलिए मेरा बहुत ही विनम्रतापूर्वक मिनिस्टर महोदय से अनुरोध है कि वे इस सुझाव पर ध्यान दें। इस सम्बन्ध में एक अमेंडमेंट भी मूव किया जाने वाला है। सही बात चाहे अपोजीशन बैचेंज से आये चाहे हमारी बैचेंज से आये, लेकिन जब तक वह सत्य है, सही है, एक ह्यूमेनिटेरियन ग्राउंड पर कही गई है। हम लोगों को उसे मानने में इंकार नहीं होना चाहिये। इस लिए मैं यह समझती हूं कि यह जो अमेंडमेंट लाया जा रहा है कि उस व्यक्ति की माली हालत देखते हुये उससे डेमेजेज क्लेम किये जायं, वह बहुत ही ठीक है और बहुत ही माकूल प्रतीत होता है। यदि इस अमेंडमेंट को मिनिस्टर महोदय मान लेंगे तो मैं ही नहीं, जो अभागे व्यक्ति आज अनअथाराइज्ड पब्लिक प्रमिसेज में रह रहे हैं, जिन को किसी न किसी दिन इविकशन और इन सारी मुसीबतों का सामना करना पड़ेगा वे सब बड़े अनुगृहीत होंगे। धन्यवाद।

SHRI P. D. HIMATSINGKA: Mr. Vice Chairman, Sir, I have heard the speeches delivered in connection with the Public Premises (Eviction of Unauthorised Occupants) Bill, and I have not been able to understand some of the objections put forward to this measure. Sir, the Bill is a simple one, giving authority to the Government of India for evicting persons who are in illegal occupa-

tion of the premises belonging to Government. It is absolutely clear and the definitions make it clear too, that the public premises here referred to are 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, include also certain premises belonging to the Municipal Corporation and the Delhi Development Authority and so on. So it refers to properties belonging to the Government of India and the Government of India only. It does not refer to the properties belonging to the State Governments or to any other public authority. Sir, you will agree that the Government of India should not be placed in the position of an ordinary litigant to evict persons who may be thus occupying properties belonging to the Government, and if the Government is forced to the ordinary course of going to the civil court for evicting everybody who thus occupies its property, then it would become well-nigh impossible for the Government to carry on. There are so many properties with the Government. Somebody goes and squats on one of them. If the Government files a suit it takes months and months to get a decree and by that time another person comes and squats on the same land and therefore another suit will have to be started and it will thus go on *ad infinitum*. You can very well imagine the position in which the Government will be placed if this procedure is adopted for getting back possession of these premises.

THE VICE-CHAIRMAN (SHRI P. N. SAPRU): And he may get some social service organisation to support his cause.

SHRI P. D. HIMATSINGKA: As a matter of fact, if you speak something against the so-called persons who are in difficulties, you are yourself in difficulty. I know of such cases. It all emanates from what I may call, a false sense of sympathy. Some persons hold their shops and spread their

wares in the middle of the street. If you try to evict them from that place, you are asked, "How can they carry on their trade? After all, they are making a living. Therefore, please allow them to continue to spread their wares in the middle of the street." This is actually happening in Calcutta. In Clive Street, one of the most important thoroughfares of Calcutta, you will find people selling things on the footpaths and on the streets. And the moment you raise your voice against that, you are asked, "How else can these poor people earn their living? Allow them to earn a living." But if you continue to allow such things then living in towns will become absolutely impossible, life will become impossible for safety is affected and there is danger to life. As a matter of fact, a large number of accidents are happening because of people occupying the footpaths. They are cooking there and are even preparing sweetmeats, bread and things like that, and they sell them from the footpath and the streets. You go to the high court and you will find people occupying the footpaths and streets and selling foodstuffs on the roads and open places there.

DR. W. S. BARLINGAY (Bombay): What else can the refugees do?

SHRI P. D. HIMATSINGKA: They are not refugees. That is why I say it is a false sense of sympathy, a false notion. If they are really displaced persons, then provide them with proper places where they can go and start some business for their livelihood. Give them some money sufficient to start some occupation, some monetary help. But there is no reason why they should be allowed to squat on Government property which is needed for much better purposes, for Government's own purposes and so on. Our sense of sympathy should not blind us to the other necessities of life or necessities that have absolutely to be looked into if you really want to have a decent life or a decent town or even on grounds of safety. I know the moment I speak of displaced per-

sons your sympathy begins to flow and any one speaking against them is regarded as a person who has no sympathy and who is a hardhearted person and so on. I feel from my own experience that this is a very much misplaced sympathy and the sooner we have the courage to speak up what really should be the attitude in these matters, the better it is for all concerned, including those persons who are occupying these places. After all, sometime or the other, you have to remove them because they are occupying places which are not suitable even for them and, therefore, sooner or later you will have to take action. Therefore, before they get used to that place, make provision for other different and suitable places. I do not say that they should not be given alternative accommodation but that cannot be a condition of the Government being allowed to get back possession of the properties which they own.

DR. W. S. BARLINGAY: It is the duty of the Welfare State.

SHRI P. D. HIMATSINGKA: It certainly is the duty of the Welfare State but it does not mean that all the duties are cast on the Government and the citizens have all their rights and no duties. Just as we want our rights, we have got our duties and it is equally the duty of all of us to see that we do work for what we want. Therefore, I feel that if we really exert ourselves, there should not be any difficulty even for the displaced persons to have suitable accommodation. As a matter of fact, most of the people who came from West Pakistan have been provided with accommodation and in regard to the others who have not been provided with accommodation, it is our duty and it is the duty of the Government to give them such help and such succour as would settle them down on proper lines and in suitable places. No one will object to that.

SHRI H. P. SAKSENA: A Welfare State will have to provide wives for people who do not possess any wives, sons for people who have no sons.

DR. R. B. GOUR: And also husbands for those who do not have husbands.

SHRI P. D. HIMATSINGKA: I do not know what a Welfare State means, but surely we are trying to take advantage of certain catch words and I will not say anything else. A Welfare State also certainly means that we should also do something so that our State may become a Welfare State. We want Government to produce food and give us food; if there is no rain, Government must bring down the rain. We will not plough; we will not take any action to help in the grow more food campaign but, at the same time, throw all the blame on the Government.

So far as the framework of this present Bill is concerned, I find that practically all the provisions that are necessary for giving protection to persons who may be wrongfully proceeded against by mistake or otherwise have been incorporated.

Clause 3 provides for the appointment of persons who will be regarded as fit persons to be Estate Officers and such Estate Officers are expected, after prior examination about the justice of the case, to issue notices to show cause against the order of eviction if they find that certain property is in the wrongful or illegal occupation of persons and that property should be taken possession of. Only if the officer is satisfied that the unauthorised occupant should be removed from the property, he will cause a notice to be issued. After the issue of the notice, the matter will come up for hearing and the person against whom the notice has been issued will be given sufficient opportunity, reasonable opportunity of being heard. After giving him such reasonable opportunity and then and then only, can the Estate Officer, if he is satisfied that the cause is one where he should issue a notice of eviction, issue a notice for reasons to be recorded therein. That is to say, he cannot do it arbitrarily; he has got to record the reasons as to why he is

making that order. After that, he can direct such occupants to be evicted from the premises. He has got also to cause a copy of the order to be pasted on the outer door or some prominent part of the premises. After that, you will find provision which enables a man, if he is dissatisfied or if he finds that the order has not been made justifiably, to make an appeal and clause 9 provides that such an appeal shall lie from every order of the Estate Officer in respect of any public premises under clause 5 or clause 7 to an Appellate Officer and such Appellate Officer, you will notice, will be the District Judge of the district in which the public premises are situated or such other Judicial Officer in that district of not less than ten years' standing as the District Judge may designate in this behalf. As you know, a person who has been a Judicial Officer for ten years is also entitled to be made a High Court Judge. Therefore, the officer before whom the appeal will go will be a Judge who is entitled to be appointed as a High Court Judge, that is to say, a person of wide experience.

PANDIT S. S. N. TANKHA: There is no such stipulation of ten years.

SHRI P. D. HIMATSINGKA: It is there in clause 9, that it shall be such other judicial officer in that district of not less than ten years standing as the District Judge may designate.

PANDIT S. S. N. TANKHA: That is for the Appellate Authority, not for the Estate Officer.

SHRI P. D. HIMATSINGKA: That is what I am saying, not for the Estate Officer. The Estate Officer will be a gazetted officer. Then, Sir, the other provisions are also quite sufficient. In this connection, certain observations have been made that certain poor ordinary citizens like the Harijans and others should not be displaced from the places which they occupy. I feel that the Government which claims itself to be a Welfare State and which is looking after the welfare of all these citizens will not be so hard-hearted that it will try to evict the poor persons

who are occupying places which it does not require but if those people are occupying certain places which the Government needs for its own purposes, certainly I feel that Government will think twice before evicting such persons without making some alternative arrangements. I understand that some sort of understanding is also there that such persons will not be evicted unless there be very very urgent and cogent reasons for doing so. Therefore, I feel, Sir, that the measure is one which we can very heartily support. As a matter of fact, without a measure like this, it has become impossible in many places for Government to get back possession of certain lands which they need urgently. I know a case in Calcutta where a very important piece of work was held up for years because the party was adopting all methods possible to thwart the Calcutta Improvement Trust from getting possession of land required for making the Horwah Bridge really useful for those who want to come to Howrah. It took more than fifteen years for the Calcutta Improvement Trust to get possession of that land. There may be similar cases before the Government of India and it is only fair that they should have the power of evicting persons from their premises, from their properties, if they need the properties for their own purposes. Therefore, Sir, I heartily support this measure.

One point more. Just now I am told that there are a number of Government servants who have been occupying certain Government quarters and are about to retire. They are displaced persons and have come from West Pakistan. They feel that some arrangement should be made so that they may not be placed in a hopeless situation which may put them into a lot of trouble. I feel that even when this Bill becomes law and Government gets power to evict persons from wrongful occupation, they will not be heartless to oust a person who they feel should be allowed some time or some alternative accommodation. After all, we can assume that the law will be

applied sympathetically and with consideration, taking everything into consideration. We cannot certainly assume that they will be heartless and go about throwing persons from their present places which they are occupying; they will certainly make suitable arrangements for them before they take any action. That is my submission and I feel that the sooner this power is given to Government, the better it is for them and for enabling them to take steps towards the Welfare State because a very large number of measures cannot be proceeded with unless they have such powers.

THE VICE-CHAIRMAN (SHRI P. N. SAPRU): Mr. Secretary.

श्री पा० ना० राजभोज (मुम्बई) :
मुझे इस बारे में कुछ बोलना है ।

डा० राज बहादुर गौड़ : अब तो हाउस
का टाइम खत्म हो गया है ।

THE VICE-CHAIRMAN (SHRI P. N. SAPRU): Tomorrow.

श्री पा० ना० राजभोज : कल ही
बोलूंगा, जैसा आप चाहें ।

MESSAGE FROM THE LOK SABHA

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL, 1958

SECRETARY: Sir, I have to report to the House the following Message received from the Lok Sabha, signed by the Secretary of the Lok Sabha:

"In accordance with the provisions of Rule 96 of the Rules of Procedure and Conduct of Business in Lok Sabha, I am directed to enclose herewith a copy of the Code of Criminal Procedure (Amendment) Bill, 1958, as passed by Lok Sabha at its sitting held on the 18th August, 1958."

Sir, I lay the Bill on the Table.