

[Shri Shah Nawaz Khan.] persons who are classified as .running staff, their duties are very much different and basically different from the duties that the T.T.Es. have to perform, and under the circumstances they cannot be treated as running staff.

SHRI AKBAR ALI KHAN: Sir, there is just one point. The charge or the suggestion that has been made by Dr. Dube that the inefficiency is mainly due to the fact

MR. DEPUTY CHAIRMAN: The main Appropriation Bill is coming up when you can make out that point.

The question is:

"That the Bill to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the service of the financial year 1957-58 for the purposes of Railways, as passed by the Lok Sabha, be taken into consideration."

The motion was adopted.

*-MR. DEPUTY CHAIRMAN: We shall now take up clause by clause consideration.

Clauses 2 and 3 and the Schedule were added to the Bill.

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

SHRI JAGJIVAN RAM: Sir, I ' beg to move:

"That the Bill be returned."

MR. DEPUTY CHAIRMAN: Motion moved:

"That the Bill be returned."

SHRI JASWANT SINGH: Sir, I hope that my point will be borne in mind.

MR. DEPUTY CHAIRMAN: Everything will be borne in mind.

The question is:

"That the Bill' be returned." . The motion was adopted.

MR. DEPUTY CHAIRMAN: The House stands adjourned till 2*30.

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

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

THE PUBLIC PREMISES (EVICTION OF UNAUTHORIZED OCCUPANTS) BILL, 1958

THE DEPUTY MINISTER or WORKS, HOUSING AND SUPPLY (SHRI ANIL K. CHANDA): Mr. Deputy-Chairman, Sir, I beg to move:

"That the Bill to provide for the eviction of unauthorised occupants from public premises and for certain incidental matters be referred to a Joint Committee of the Houses consisting of 45 members; 15 members from this House, namely: —

MW

Shri P. N. Saprú
Shri H. P. Saksena
Shri P. S. Rajagopal Naidu
Shrimati Yashoda Reddy
Shri Ram Sahai
Shri R. V. Dangre
Shri Onkar Nath
Shri Jugal Kishore
Shri Maheswar Naik
Syed Mazhar Imam
Shri S. C. Deb
Shri N. R. Malkani
Shri V. Prasad Rao
Shri N. B. Deshmukh, and
Shri Theodore Bodra,

and 30 members from the Lok Sabha;

that in order to constitute a meeting of the Joint Committee the quorum shall be one-third of the total number of members of the Joint Committee;

that in other respects, the Rules of Procedure of this House relating to Select Committees shall apply with such variations and modifications as the Chairman may make;

that this House recommends to the Lok Sabha that the Lok Sabha do join in the said Joint Committee and communicate to this House the names of members to be appointed by the Lok Sabha to the Joint Committee; and

that the Committee shall make a report to this House by the 22nd April, 1958."

Sir, the hon. Members of this House are aware that the Government of India possesses extensive real properties, both lands and buildings. These properties are held by the Government of India not as a business proposition, but for meeting the demands and needs for public purposes. Parliament is aware of the special responsibility of the Government in this respect, and it is because of this that Parliament, from time to time, has given authority to the Government of India to requisition private properties needed for public purposes and also to acquire properties where such properties need to be acquired. It is also because of this, Sir, that Parliament, since 1947, and particularly after 1950, has given certain special powers to the Government of India as owners of lands and properties for the eviction of unauthorised occupants from those lands and properties. In 1947, you will remember Sir, there was this unfortunate division of the country as a result of which there was an unprecedented influx of refugees from West Pakistan into Delhi, as also from East Pakistan into Calcutta, and these hordes of homeless refugees, forced by circumstances, squatted on all available Government lands in Delhi and they also got into possession of vacant Government and other public buildings in Delhi. It was because of this, Sir, that in 1947 special powers were given to Government for the

eviction of such unauthorised tenants and squatters from those lands and buildings. The law which was passed in 1947 referred only to the Delhi area. But in 1950, the Public Premises (Eviction) Act was passed which had its jurisdiction all over India wherever the Government of India's properties were situated. From 1950 till very recently the Government took recourse to the provisions of this Act in order to get evicted unauthorised occupants of their buildings and squatters from their lands. But during the last few months, Sir, there have been three judgments given by the three High Courts. Beginning with the Calcutta High Court, it held that this Act of 1950 was *ultra vires* the Constitution. In the opinion of the Calcutta High Court, it violated the provisions of article 19(1) (f) of our Constitution. And then came the judgment of the Allahabad High Court, which held that it violated the provisions of article 14 of our Constitution as virtually discriminating between citizen and citizen. And later on, there was another judgment by the Punjab High Court which reviewed the judgments of the Calcutta High Court and the Allahabad High Court, and agreed with the Calcutta High Court that it was an encroachment on the provisions of article 19 (1) (f) of our Constitution, but did not agree with the Allahabad High Court. But the sum and substance of all this is that the three High Courts have held this Act to be *ultra vires* the Constitution. And naturally, Sir, during the last few months we have not taken recourse to the provisions of this Act, and the result has been that a very large number of our properties are in the possession of unauthorised persons. If we have to take recourse to the provisions of the ordinary civil laws, it would take years before we can get these residences and lands vacated, and in the meantime, very important public needs cannot be fulfilled and also the important development works in various cities, and particularly in Delhi, cannot be carried out

[Shri Anil K. Chanda.]

I would like, Sir, to give you a rough idea of the enormity of the problem. 289 premises under the administrative control of the Estate Officer of the Government of India are at present under unauthorised occupation and arrears of rent and damages amounting to over Rs. 5 lakhs are outstanding. 317 acres of *nazul* land belonging to Delhi Development Authority is occupied by about 11,000 squatters, and most of this land is urgently needed for development and slum clearance schemes. A sum of Rs. 20 lakhs is recoverable as rent and damages. A substantial number of municipal premises in Delhi are under unauthorised occupation. The lands so occupied include the sites earmarked for parks, gardens, dispensaries, child welfare centres and *dhobi-ghats*. Among the municipal buildings in unauthorised occupation are primary schools, vaccinating stations, child welfare centres and municipal staff quarters. Nearly 507 premises belonging to New Delhi Municipal Committee are in unauthorised occupation and the amount of arrears of rent and damages is Rs. 4 lakhs. There has been, Sir, this unauthorised squatting even on the Defence Ministry's lands. Today there are 1,037 cases, where military lands are in the occupation of squatters. Some military lands in and around Calcutta are also under unauthorised occupation of displaced persons from East Pakistan. As I said, Sir, so far as Delhi particularly is concerned, all building work, particularly that which is needed in connection with the slum clearance schemes is held up because we cannot get these lands cleared of unauthorised squatters. Therefore, Sir, keeping the criticisms made by the learned High Courts of Calcutta, Allahabad and East Punjab in mind and also the various provisions of our Constitution regarding the fundamental rights of our citizens we have drafted this Billed the Public Premises (Eviction of Unauthorised occupants) Bill, 1958. A perusal of the Bill will show that most of the rigours of the old Act

have been dispensed with. Formerly, the sole authority concerned was what was known as "the competent authority." Now, we have in this Bill clarified the position. It will not be a vague term like the competent authority. The authority concerned will be the estate officer of the Government of India who will be of the rank of * gazetted officer. Formerly, Sir, there was no provision for a judicial review. There was a right of appeal to the Government, but in the opinion of the East Punjab High Court, that right was merely an illusory right, for the simple reason that in most cases the Government backed up its own officers who took action under the provisions of the Act. In this Bill we have provided for a judicial appeal. The district judge of the district concerned or a judicial officer of ten year's standing would be the final appellate authority. Similarly, also, we have provided various stages through which this eviction can be effected. First, the officer has to give a notice of 'show reason' and then he has to hear whatever the man has to say with regard to his case, and then if he decides that eviction has to be effected, due notice has to be served on the person and eviction can take place only after the next thirty days. As I said, provision has been made for judicial review. So, this Act will meet with most of the criticisms which had been made about the previous Act by the High Courts of Calcutta, Allahabad and Punjab. I commend this Bill to the House.

MR. DEPUTY CHAIRMAN: Motion moved:

"That the Bill to provide for the eviction of unauthorised occupants from public premises and for certain incidental matters be referred to a Joint Committee of the Houses consisting of 45 members; 15 members from this House, namely:-

Shri P. N. Saprú
Shri H. P. Saksena
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*nd 30 members from the Lok Sabha; |

that in order to constitute a meeting
of the Joint Committee the quorum shall be
one-third of the total number of members
of the Joint Committee:

that in other respects, the Rules of
Procedure of this House relating to Select
Committees shall apply with such
variations and modifications as the
Chairman may make;

that this House recommends to the Lok
Sabha that the Lok Sabha do join in the
said Joint Committee and communicate to
this House the names of members to be
appointed by the Lok Sabha to the Joint
Committee; and

that the Committee shall make a report
to this House by the 22nd April, 1958."

SHRI BHUPDSH GUPTA (West Bengal):
Sir, before we start the discussion, may I have
a little clarification or information with regard
to this Bill? What are the categories and
description of people who are general* /y
found to be in possession, so-called
unauthorised possession, of premise* except
the refugees?

SHRI ANIL K. CHANDA: All sorts -of
people. Suppose there is a Government servant
who has retired and who is in occupation of a
Government quarter, we cannot get him
evicted until and unless he chooses to clear
out. I have before me a case in Cal-
cutta where we were trying to dere-
quisition a property held by us, but the gentleman who
was a Govern-

SHRI AMOLAKH CHAND (Uttar
Pradesh): Sir, I rise to support the motion
which has been so ably moved by the Deputy
Minister. Now, I am glad that a Joint
Committee has to look into this Bill. The
chequered history of this measure in relation
to the main Act of 1950, which is going to be
amended, needs to be placed before this
House. The Select Committee also may look
into this. As has been pointed out, after the
partition there was difficulty, but before that
the Defence of India Act of 1939 was in force
and requisition and derequisition of property
and eviction from Government properties and
Government lands was there. But with inde-
pendence, the Defence of India Act became
void, and new Acts were to be put in. It was in
April 1950 that the first Public Premises
(Eviction) Act was passed, giving
summary powers to competent authorities to
evict persons, with appeal to the Central
Government. As has been pointed out, when
this Act came before the Calcutta, Allahabad
and Punjab High Courts, it was held that it
offended the very basic fundamentals of the
Constitution, and naturally the Ministry has
now come with this Bill. Now, you will find
that in the 1950 Act the question of the Delhi
Improvement trust or the Delhi Municipal
Committee or any other local body was never
considered. The main purpose of the Act was to
give protection to Government properties as
far as the eviction at tenants or unauthorised
occupants was concerned. The reason was
very simple. The Government needs some
discrimination from the ordinary law. Those
who have to deal with eviction from property
know how difficult it is to get a tenant evicted
because of so many civil laws which have been
enacted in favour of the tenants, and
Government should be above them, | Dut then
there should be some feelins;

[Shri Amolakh Chand.] in the Government for those persons who cannot evict tenants in the same circumstances as the Government is facing.

Now, it was in April 1950 that the Act was passed. On the 25th November 1950 the Defence Minister came with a Bill introducing an amending Bill, No. 87 of 1950, to include military lands in it, but what I find from the speech of the hon. Minister just now is that about 1,037 cases are pending as regards military lands. Now, if you go through the Statement of Objects and Reasons of that Bill, you will find that it says:

"A large number of cases of unauthorised occupation of military lands and refusal of lessees to give up possession thereof after the expiry of their leases . . .", etc.

Now, I would like the Committee to look into what was done with regard to this Bill. This Bill was introduced on the 25th November 1950, and it remained as it was till March 1952. No action was taken by the then Parliament; probably there was much work and it remained as it was. Then, what do we find? By another Act, Act XXX of 1952, this Act was amended—by section 25 of the amending Act—and there you will find that the Delhi Municipal Committee and the Improvement Trust were brought, in. They were placed on a par with the Government with regard to their properties. Later, difficulties were again felt because the definition of premises did not include land also. So, in 1954, what do we find? We find that the Minister of Works, Housing and Supply, Mr. Swaran Singh, moved a Bill, Bill No. 32 of 1954, for the amendment of this Act. Let us see what the Statement of Objects and Reasons says. It says that while in the 1950 Act the expression "government premises" has been used in relation to and to cover buildings and lands, in relation to the Delhi Improvement Trust, it covers lands

only and it does not cover buildings. also. This Bill was discussed in the Lok Sabha and on 30th August, 1954, it was referred to a Select Committee of the Lok Sabha which consisted of twenty Members, including three Ministers on it. I am referring to the Public Premises Eviction (Amendment) Bill, 1954. This Select Committee was constituted on 30th August, 1954 to report back to the House by December, 5, 1954. This period was later extended till 30th August, 1955. The reason why I want the proposed Select Committee to look into this matter is, I want them to see why that Select Committee could not work and could not proceed with the work of suggesting amendments to that Bill for one complete year. If you go through that Select Committee's Report, you will find that even though it was constituted with three Ministers on it, and though it consisted of 20 Members, this is what happened. The three Ministers were—Rajkumar* Amrit Kaur, Shri H. V. Pataskar and" Sardar Swaran Singh. When this Committee went into the matter, they decided, because the question of Delhi Improvement Trust was there and since the idea was to proceed with the slum clearance, that it would be desirable to have evidence from the persons who are occupying those areas and it would be beneficial to the Committee to hear them. As a matter of fact, you will find that in two meetings, witnesses were examined and we have got the list of witnesses who were examined. Later on, we find that the Select Committee decided that clause 3 of the Bill should be dropped and so this clause was omitted. They suggested that those powers should not be entrusted to the Delhi Improvement Trust. Probably, the reason was, as the hon. Minister was pointing out, it was not clear who would be the competent authority as far as the Improvement Trust or the Delhi Municipal Committee was concerned.

What the Delhi Municipal Committee is doing, Sir, how they are treating the residents of Delhi, is a differ-

ent story. I wanted to point out a very serious case today during the Question Hour, as I am informed that about 4,000 persons are being bitten by dogs and they have to form queues at the Wellington Hospital to get injections and proper treatment is not meted out to them. And what surprised me most was that the Health Minister in charge of Delhi was even not aware of the conditions of the patients in that hospital and he said that in spite of these reports in the press he had not looked into it. I offered the cutting to him and he said that the information given to him was not complete. What is this? If you cannot get these figures and this information in the city of Delhi from the Municipal Committee, about this hospital what is the function of the Minister? What is the function of those who have to bring these things to the notice of the Minister?

There was a feeling that so far as the Delhi Municipal Committee was concerned, or the Improvement Trust was concerned, things were not going on well. So, they decided that the then existing clause 3 may be omitted. They further said that the evidence collected by that Committee should be laid on the Table of the House. But I do not know what happened then. The Chairman of the Committee resigned and after that we find another Chairman coming in. And then that Select Committee decided that what was omitted should be reinstated and that the evidence which had been tendered before that Committee should not be laid on the Table of the House.

I would like the Members of the proposed Select Committee to go into all these things and then decide how far it would be desirable to invest such drastic powers in local bodies. This one in Delhi is not the only local body. We have got so many improvement trusts. In the Uttar Pradesh, I may mention there is the Allahabad Improvement Trust about which Mr. Sapru, who is to be on this Select Committee, knows so much. Then there is the Lucknow Improvement

Trust. There is the similar question of slum clearance in Kanpur and there is the Kanpur Development Board. And then in Benaras there is an Improvement Trust. Why Delhi is being selected, I fail to understand. As far as slum clearance is concerned, a committee was appointed to look into this under the chairmanship of no less a person than Shri G. D. Birla. We do not know what happened to the recommendations of that committee. I think even today there was a question in the name of Shri Kailash Bihari Lall regarding some recommendations of the Birla Committee.

There is lack of accommodation for Government servants, I admit. While this Requisition of Immovable Property Act was extended for six years by this House only a week back, the hon. Minister was pleased to say that he would lay a copy of a statement detailing where Government of India offices are to be shifted, to Gwalior, Nagpur and other places. I do not know whether he has laid such a statement on the Table of the House. I think, at least the hon. Minister might like to circulate that statement to -some of the Members who are interested in these matters, and who raise questions on the floor of the House. In all fairness to those Members, it is proper that the Ministry should at least try to send to Members such statements about which Members are trying to understand the difficulties. Paper shortage, shortage of personnel, and so many other shortages may be there; but there is something—courtesy—demanded from persons who make these statements. I am not concerned about it, and this is only by the way.

Now, let us see what powers are required by this Bill. If you go through the scheme as it has been explained by the hon. Deputy Minister very lucidly, it will be seen that formerly there was a competent authority who could issue notices and then ejections would follow, if necessary, with the help of the police force. That is all right. Now, let us see, when the High Court raised the objec-

[Shri Amolakh Chand.] -tion, what is the scheme? Now, the -scheme is that they will appoint estate officers. I know something about estate -officers who have to deal with Members of Parliament and with the residents of the city of Delhi. I do not know whether the Works, Housing and Supply Ministry is thinking of appointing estate officers of the Delhi Municipal Committee and the Delhi Improvement Trust, or the Delhi Development Board, as it is now being ^called. Who would be the officers, who would look after this? What is the >position today? I am really surprised to find that so many cases are yet pending with the Ministry. Have they tried to understand what is the reason ■behind it? Is it in the power of the ■Government servant who retires to •continue in the Government property ■unless and until there is somebody else who can give him some help in continuing? Any Government servant who retires first wants that he should be .given his pension, for otherwise, how will he continue to live and maintain •his family? Such extensive powers are proposed to be given to these officers and I think it is, therefore, implied that the estate officer also will come up to the expectations of the people with whom they have to deal, that they will deal with them sympathetically. If that is so, then there ■will be no difficulty in giving them such powers.

As I just now said, I fail to understand what will be the position of these local bodies. There is the issuing of notice regarding unauthorised -occupation and then giving of copies. If orders are passed against a party, then he may within fifteen days file an appeal in the court of a chief judge or the principal judge of the city civH court who has got ten years' experience Clause 11 is all right.

3 P.M. clause 10 deals with the finality of the orders— ""Save as otherwise expressly provided in this Act, every order made by an estate officer or appellate officer under this Act shall be final and shall not be called in question in any **original**

suit, application or execution proceedings". I do not know what the word "application" in the original side means. If this includes writs then this would be against articles 32 and 226 of the Constitution. So, the Select Committee may like to consider this aspect whether by mentioning that the whole thing would be final, the whole thing would be final in the eyes of the law.

Now, Sir, powers are being taken even for the State Governments. Under clause 12, you will find, "The Central Government may, by notification in the Official Gazette, direct that anyt^>ower 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 should like to know the idea in giving these powers to the State Government officers. If the idea is that this Bill is for the protection of property belonging both to the Centre and the States, then, what will happen to properties belonging to the local bodies? Will the executive officer of a municipality or an improvement trust be authorised to work as an estate officer by the Government of India or by the particular State Government? On this point, I think, Sir, it would be desirable to devote some attention.

Now, Sir, there are also other points regarding the time, the method of filing appeals and the powers that would be exercised by the estate officer. What we find is that the estate officer, under clause 8, would be entitled to exercise the same powers as are vested in a court of law in civil cases. Now, Sir, they should think not once but twice as to whether they would like their executive officers, the estate officers or officers working in the estate offices to exercise these civil court powers, or whether they would like to appoint some judicial officers to look into the legal aspect and the human aspect while considering this question. I would suggest to the Joint Select Committee to consider this point as to how far it

will be desirable to invest the executive authority with powers under the Civil Procedure Code. There will be more than one estate officer; there may be officers appointed as estate officers but drawn from the judiciary who may exercise these powers to the satisfaction of the people concerned. At the same time, Sir, I would like them also to consider the condition in the ordinary courts. They want summary procedure only because Government would suffer otherwise but, what about the people? Are they taking any steps to see that cheap justice is made available to the people? Justice delayed is justice denied—that is the maxim, and if Government now want these powers for themselves, why should not they think that there should be early legal reforms so that people may not run after courts and may not spend more than what they could get later on? These are the points I would like the Joint Select Committee to consider.

I thank once again the hon. Minister for referring this important Bill to a Joint Committee of both the Houses. Thank you, Sir.

SHRI BHUPESH GUPTA: Mr. Deputy Chairman, this is a measure which lays down certain procedure, after amending the old law, but that does not help us very much because we would like to know what kind of unauthorised occupations are causing anxiety to the Government, what sort of occupation is causing them trouble that such preemptory powers are to be given to the administration in order to evict such people. I wanted to know, after his speech was over, the categories of people who are supposed to be in unauthorised occupation of the premises of Government and the hon. Minister almost made out that the persons concerned are a Government official here and an official there. Well, if that is so, the problem would have been perhaps easier to solve. I do know that there are Government officials . . .

SHRI ANIL K. CHANDA: The hon. Member asked me, over and above

the refugees, who are the others? In fact, a very large number of these-squatters are refugees.

SHRI BHUPESH GUPTA: I am-very glad that he has come to the-point which I have in mind. Now, Sir, that is an important point.

SHRI ANIL K. CHANDA: That was-"the hon. Member's question.

SHRI BHUPESH GUPTA: The hon. Minister had also mentioned the other thing. I would like to be a little more informed about the description off" these people who are supposed to be-in unauthorised occupation. Sir, as far" as the Government officials and the big shots in the administration are concerned, their unauthorised occupation becomes *ex post facto* authorised occupation; ex-Ministers, former Ambassadors and even some former M.Ps, belonging to the Congress Party happily go on in unauthorised occupation of the premises, their occupation • having been sanctioned later on by the grace of the Government by the-pleasure of the Government. That we know. I have not come across many instances where the big people, on their retirement, or big Ministers-when the fortune does not favour" them so much, are evicted from their" unauthorised occupation.

SHRI ANIL K. CHANDA: But that may not be unauthorised occupation. I would like to inform the hon. Member that they are not in unauthorised occupation.

SHRI BHUPESH GUPTA: I would; like to tell the hon. Minister that their unauthorised occupation becomes, by the pleasure of this Government,, authorised occupation, by legal trickery. Now, you can always make them authorised. For instance, you can pass a Bill or lay down by an order that all those who are in unauthorised occupation would not be deemed to have been in unauthorised occupation any more. Why don't you do it with regard to the refugees? When it comes to the Ministers, whether they remain in the Cabinet oc

[Shri Bhupesh Gupta.] not, in the Ministerial gallery or not, they continue to occupy the old houses in unauthorised occupation, whatever the occupation is, legally speaking Excuses are found, law is changed and orders are issued but I have not come across very many cases of Ministers and officers seeking houses either in Delhi or in Calcutta. I am talking about those who had been living in the premises provided by the Government. Therefore, I would like to have a little more detail about it. If I am wrong, I would be very happy to correct myself.

There are categories, I take it. Firstly, there is the category of big men, rich men, big officers and other people in similar stations of life. Then there are Government employees, smaller fries, who find it very hard to get accommodation in cities and Who are sometimes thrown out of employment and who have to continue in their houses, because they have no alternative roof to live under. Then, Sir, there are peasants whose lands are taken away by the Government first and who are then declared to be in unauthorised occupation, and against them eviction orders are issued and they are forcibly and cruelly evicted. Then there are of course the refugees in the country who fall within this category of persons in unauthorised occupation. Now, they all cannot be tarred with the same brush and the treatment that is to be meted out to them cannot be the same; there must be wise discrimination. There must be equity in this matter and there must be a human approach proceeding from human sympathies and from commonsense. All these things should be there, but we do not find anything. On the contrary we find that the poorer categories of people, who are really in distress, who have no alternative accommodation, who do not (have even the means to try for alternative accommodation, are thrown out and evicted by the Government. Therefore, we have our doubts with regard to this Bill.

I would particularly deal with the case of refugees. I wish the gallant

Refugee Rehabilitation Minister were present here. I say that many refugees have been forced to find shelter for HO fault of their own, because of the crime of the party in power, in the houses belonging to the Government; and the premises belonging to them have been most cruelly and brutally evicted from them, and in this task all the Ministries combined to get the eviction done. That is what has happened. May I know, Sir, from the hon. Minister whether the station platforms would be considered to be premises under the definition given in this Bill? By reading this Bill it seems to me that they would come under the definition of the Bill. If so, do I get any assurance from the hon. Minister that without providing alternative accommodation to the refugees from East Bengal, who have been forced to find shelter on the station platforms, they would not be evicted from there? I would like to have some clarity on this subject because I fear, if these sweeping powers are to be given to the executive, Mr. Khanna and his friendly departments in the Government would jointly make a drive to evict these people from these places and throw them into the streets. This is what I fear. I tell you: Do not go here by wrong ideas of some people keeping large numbers of people there because of political reasons. In the country today, in some cities and towns, unauthorised occupations do take place. I am talking in legal terms, your terms. To me they are only the right thing to do in certain cases. If I do not have a house to live in, if I have to wander about the streets, if I have nobody to look after me in the so-called welfare State, then I have my constitutional right to enter a place and live there, and the first place to enter into should be the Government House. What is wrong there if you fail

SHRI AKBAR ALI KHAN (Andhra Pradesh): Which constitutional provision you are referring to?

SHRI P. D. HIMATSINGKA (West Bengal): His own constitution.

SHRI BHUPESH GUPTA: Constitution? Here it is the right of freedom. Now I know, all citizens have certain rights. Are these rights guaranteed in practice? You can find constitutional interpretation since you are a lawyer. You will of course say that what I say is wrong. But these rights are guaranteed. These rights are stated in the Directive Principles and elsewhere. Are these guaranteed? Now, if you cannot ensure accommodation to your refugees or Government employees, to the poor man . . .

SHRI SONUSING DHANSING PATIL (Bombay): On a point of information, how can the right be guaranteed by Directive Principles? Either they are fundamental rights or rights which are ...»

MR. DEPUTY CHAIRMAN: He is saying it is guaranteed by the Constitution.

SHRI SONUSING DHANSING PATIL: He says they are guaranteed by Directive Principles. Where is the guarantee for unauthorised occupation?

SHRI BHUPESH GUPTA: I do not think the hon. Member's contention is -this that the Directive Principle was ■enunciated for the mere fun of it.

MR. DEPUTY CHAIRMAN: You please go on, Mr. Gupta.

SHRI BHUPESH GUPTA: Now if these people are in that desperate condition, before you think of eviction you should think of provision of accommodation for them. This is what your approach should be. Now, Sir, first, I was just talking about the refugees because they are by far the largest number, constitute the biggest chunk of those who would come under the operation of this measure. But it is these people who deserve the utmost sympathy of the Government. Am I right or am I wrong? Now, Sir, what I fear, therefore is that if this measure is passed as it is, without certain amendments which it will be for the Select Committee to consider, there will be abuse of this power against

the refugees. Now, I was talking about the station platforms, and you find that the people living in the station platforms at Calcutta are the refugees. I do not think they like to live there which is an internal place in many ways with overcrowding, congestion, epidemics, with no one to look after them, no proper arrangement for cooking or anything of that sort. They live in such grim conditions, and if they continue there, it is because the Government does not find alternative accommodation for them, and when they demand alternative accommodation, we see the hon. Rehabilitation Minister saying that the Communists are behind this. Are the refugees chattel that a political party can toss them about just as they like? You don't seem to have some respect for human intelligence and human character. This is what I find. It is sometimes the ruling party who behave with these people as chattel, who are inclined to think that way. They are not so. I can tell you, Mr. Deputy Chairman, that the refugees who are coming from East Bengal are men and women of self-respect; they are men and women who would not like to be treated in this manner. They would not like to live on the doles of anybody. They would like to be honourably settled in life; when they come to our country, this is what they expect of the Government. But this is not done; on the contrary they are evicted without finding alternative accommodation for them. I have known apart from the stations, of lands in Calcutta in Government possession which the refugees occupied, occupied by clearing the jungles, by building houses and huts there, and after they had done that, the law was applied and they were evicted by the power of law and the force of authority. This is what is happening. We would not like a repetition of such things, and let there be no mistake, there is 10 party politics in it. We do not play with the fate of the refugees. We do not want to cash in on the misery of the refugees. We have got other ways of dealing with the Government and

[Shri Bhupesh Gupta.] other methods of fighting this. Therefore, the Government should not shirk its responsibilities by raising a bogey or by raising a false alarm with regard to this matter. If the Sealdah station is crowded, there are two reasons for it. One, the influx of refugees from East Pakistan continues. For that I do not blame even Mr. Khanna; I do not blame him for that. There is another reason for which he must answer, and it is this. They live there because the Government does not find alternative accommodation. That is why they remain there. If the influx had stopped, he would not find Sealdah Station in unauthorised occupation or any other Government building's in unauthorised occupation. If the Government had found suitable shelter and made arrangements for the rehabilitation of these people, they would not be in unauthorised occupation in any of these places. Therefore, Mr. Khanna who is fond of making a false offer and addressing it to wrong quarters should make this offer to his conscience, and he will know that it is he alone on this side of the border who can solve the problem of unauthorised occupation in the stations and other Government places.

Sir, for demonstrations and other things it is made out that people are kept in such places. I can tell you that in Calcutta at any rate we do not need 2,000 people for demonstration against the Government. The whole of Calcutta is demonstrating every day against this regime in West Bengal. This is what I say. Every day they are demonstrating. They have been hounded out in 18 out of 26 constituencies. In such a city the Communist Party, or for that matter, any other party, would not require some 2,000 or 3,000 refugees or group of people anywhere to demonstrate against the Government.

Sir, therefore, let us not introduce such political aspects in this matter. It is not a question of demonstrations; it is not a question of taking political advantage. It is your policy that leads to such unauthorised occupation. This

is what I say and that policy has to be changed. Therefore, as far as the refugees are concerned, my suggestion would clearly be that the Government should immediately, before they think of applying such Draconic, harsh and! brutal measures, think of getting alternative accommodation for them. You are in honour bound to find alternative accommodation for them. Well, when' a Deputy Minister is promoted to the post of a Minister of State or, for that matter, to the post of a Cabinet Minister, the gentleman or the gentlewoman concerned immediately moves out from a smaller house to a bigger house. Accommodation is immediately found for him. The small lamps in the verandah become the big domes at the entrance. Now, Sir, when it comes to the question of refugees, when it comes to the question of those poor people, they are evicted and no alternative accommodation is found. This is a policy which should go. That is what I am suggesting. If you do this, you will find that automatically the problem of unauthorised occupation is considerably solved. People would not like to enter into Government houses or premises—they have got that much sense—until and unless they are in a absolutely hopeless condition. This is what we find; this is exactly what is happening. They do not like to live in unauthorised occupation in flats and houses unless and' until it becomes impossible for them to find alternative accommodation. Therefore, the policy in this direction has to be changed.

Now, with regard to Government employees, I am not in favour of evicting them the moment their service terminates. I have in mind the smaller Government employees; the bigger ones can look after themselves. They are big people; they have got resources, and what is more, they have got connections who will look after them, but what about the smaller employees like clerks, ministerial staff and others, who have to continue in the houses even when the circumstances of their stay there do not any longer obtain? They do not find other

places and the Government should provide alternative accommodation for these people also. Therefore, the housing scheme in this connection becomes of great importance. Until and unless you simultaneously provide houses, unless you improve the housing situation in the cities, you will always be faced with this problem and some kind of what you call unauthorised occupation on the part of these employees. This is what I find. They should be treated with sympathy. The steam-roller of this measure by notices on the trees should not be used against them. They should be allowed to continue there as long as possible and as long as no alternative accommodation is found for them. Now, if necessary, the Government should ration out living space, the space in a house, so that more people can live in one house rather than one person occupying a big house and living all by himself. Such should be the policy of the Government in this matter. Therefore, whether it is refugees or employees, the principle should be the same. Only in the case of refugees there is every need for greater human consideration; there is every need for greater sympathy; there is every need for greater latitude. That is what I say.

As far as the peasants are concerned, they are also suffering. And what is happening? It is not that they live in unauthorised occupation of some land. Certain lands are there on which they live or on which they have got their cultivation and all that. Those lands for military reasons or for purposes of the defence forces are suddenly taken over, are suddenly requisitioned and immediately after requisitioning the occupants are served with a notice to evacuate the lands within a very short time without being given any alternative place to go to. We have in the past received many such complaints from various States. Complaints came from Uttar Pradesh; complaints came from Rajasthan; complaints came from Delhi and various other States of such mass evictions of the peasants. Now, I would

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ask the Defence Department in the first place to be extremely discreet in this matter and when it becomes absolutely essential to take over certain lands for defence purposes, the people concerned should be first provided with alternative accommodation or land before they are asked to quit. That should be the policy. This measure again should not be used against such persons. I would like an assurance from the hon. Minister that this is going to be so in future and the old grievances of the peasantry in regard to this matter would be remedied.

MR. DEPUTY CHAIRMAN: We are not concerned with acquisition of land by the military. We are now concerned with the eviction of unauthorised persons in occupation of military lands.

SHRI BHUPESH GUPTA: That is true; you are quite right; we are not concerned with acquisition but how the people who are in perfectly authorised possession of land become people in unauthorised occupation immediately after the lands are taken over by the Government, that is what I am trying to show.

MR. DEPUTY CHAIRMAN: That is a completely different matter. We are now concerned with the eviction of persons who are in unauthorised occupation of military land.

SHRI BHUPESH GUPTA: Not military land but Government land belonging to Defence Department. Please understand this point. Sir, You are thinking of retrospective ...

MR. DEPUTY CHAIRMAN: You are referring to the acquisition of land for defence purposes; we are not concerned with that.

SHRI BHUPESH GUPTA: You understand my point, Sir. My quarrel at this moment is not with the Defence Department.

MR. DEPUTY CHAIRMAN: I understand your point but that point is irrelevant to this Bill.

SHRI BHUPESH GUPTA: It is very relevant because you see tomorrow my house, or you are there; suppose you are not Deputy Chairman . . .

MR. DEPUTY CHAIRMAN: That is a different matter. Order, order. Do not bring in my name or your name. It is not necessary.

SHRI BHUPESH GUPTA: All right; I will refer to him. Suppose this gentleman here; I may tell you how it becomes relevant.

MR. DEPUTY CHAIRMAN: You do not want to understand the point. The provision in the Bill is for the eviction of unauthorised persons from lands belonging to the Defence Department. What you are now speaking about is acquisition of land from the people for defence purposes. The two are quite different.

SHRI BHUPESH GUPTA: I am extremely sorry that you do not understand my point. You please hear me. I am not at all now discussing the point as to how the Defence Department acquires land or whether they should acquire land or not. That is not at all my point.

MR. DEPUTY CHAIRMAN: But what you are dealing with is only that.

SHRI BHUPESH GUPTA: I will tell you how it comes. You follow my logic, my syllogism.

MR. DEPUTY CHAIRMAN: There is no logic in it.

SHRI BHUPESH GUPTA: See if I am illogical. This law applies to persons in authorised occupation of lands.

MR. DEPUTY CHAIRMAN: Whose lands?

SHRI BHUPESH GUPTA: Such lands as are denoted in this measure. Now, this relates today to the existing land which comes under that definition but it may also relate to other lands which **may** be taken over by the Government

as Government property by requisition or by acquisition. Therefore, I have to look ahead.

MR. DEPUTY CHAIRMAN: You cannot presume hypothetical questions, and argue on those points. You can argue on the provisions of the Bill.

SHRI BHUPESH GUPTA: I am now dealing with how in the past people who up till 1st January were in full authorised occupation of land suddenly became unauthorised occupants because the land had been taken over by the Government., I am trying to explain to the House how such category of people should be treated. I am not discussing whether the lands should have been taken over or not.

MR. DEPUTY CHAIRMAN: That does not come under the provisions of the Bill.

SHRI BHUPESH GUPTA: How is it? Will the hon. Minister help me? Suppose, by chance, I do not get elected! to Rajya Sabha but like some Ministers I continue in my house. What happens?

MR. DEPUTY CHAIRMAN: YOU come under the provisions of this Bill.

SHRI BHUPESH GUPTA: Am I in unauthorised occupation or not?

MR. DEPUTY CHAIRMAN: Yes; when you cease to be a member of the Rajya Sabha.

SHRI BHUPESH GUPTA: Just as Ministers are treated with sympathy, I should also like to ensure that I am-treated with sympathy.

MR. DEPUTY CHAIRMAN: You; can ask for sympathy for them..

SHRI BHUPESH GUPTA: I am speaking prospectively about this measure rather than retrospectively when I am touching this point. This should! be clear to the House.

SHRI «LNIL K. CHANDA: On a point of information the hon. Member is very often referring to ex-Mims-ters in unauthorised occupation of Government buildings. Would he supply us one or two names?

SHRI BHUPESH GUPTA: Suppose. That Ministers know better. Now, this is what I am saying. Therefore, these categories of persons who happen to be, at a given point of time due to certain actions of the Government, in unauthorised occupation of land— whether the particular department concerned is Defence Department or **his** Department I am not bothered with it here—they should be treated with sympathy. Is it clear or is it not clear to the hon. Minister? Now, Sir, since he has taken over the Ashoka Hotel, he understands this better than I. I do not know about it.

SHRI ANIL K. CHANDA: He is very often seen in the Ashoka Hotel..

MR. DEPUTY CHAIRMAN: He likes it very much.

SHRI BHUPESH GUPTA: This is what I want to be guarded against. I am not blaming; I am not discussing. That is a different matter, whether the land should be acquired or not. Because in the past there had been very serious complaints on the part of the people of being so evicted under similar kinds of measures. These are the things to be gone into. You will say how in this Bill we can give guarantee or create safeguards. It is extremely difficult in a Bill of this nature to create safeguards. But I would ask the Joint Select Committee to consider certain provisos which would make it impossible for the Gov-ernment to evict some categories of people in unauthorised occupation without finding alternative accommodation for them.. These powers are sweeping, make no discrimination whatsoever between one person in unauthorised occupation and another person. I would like some provisions to be made or provisos to be added so that certain pick and choose is made

when we deal with the different categories of persons supposed to be in unauthorised occupation. The Select Committee would do well to consider this point.

Then, Sir, according to this measure the power would be exercised in rather a bureaucratic way. Here the estate officers will be appointed with powers of issuing notice and all this has been laid down. What I fear is that in the first place there is room for a lot of corruption because those who are in a position to be on the right side of the Government like Mr. Haridas Mundhra, will be in a position to continue in unauthorised occupation. Those who are not so favourably placed in life would find it difficult to remain there because the Government would spring upon them and would see that the measure is immediately invoked and they are chucked out of the places. Therefore, I have my fear. I was considering as to whether it is not possible to make it obligatory on their part to arrange the procedure in such a manner that the officials do consult some people. For instance, it may be that certain committees might be appointed in certain areas.. Suppose in an area the refugees are in unauthorised occupation of certain Government lands, it is possible to have some kind of an advisory committee there in order to seek their advice and suggestions in regard to this matter. Or it may even be necessary to consult the persons concerned or their representatives before the step is contemplated or taken. This is very essential. Otherwise, what will happen is that this might turn into an engine of oppression against the people who are not in a position to defend themselves against the excessive bureaucratic powers or the excesses of this measure. It may also be that the municipality is consulted. Now, those things are there. These could be thought of. I could not give off hand very many suggestions, but I would request the Select Committee to consider what steps, as to what provisions they could make in order to circumscribe the arbitrary power— I am not

[Shri Bhupesh Gupta.] talking about the power as such—the arbitrariness in the power of the officials, in the interests of those people who are supposed to be the victims of this measure. That is my another suggestion.

Now, Sir, I would also suggest that in cases where the Government has to take action and evict the people, there is no other go, and where the people deserve some alternative accommodation but the Government is not in a position immediately to provide alternative accommodation, some compensation should be given. Now, it may be for reasons of national emergency, for important defence purposes or for some other reason, Government take over some lands or houses. Now, it may be that in such cases it would not be possible to wait till alternative accommodation is found—such cases arise, but that should be rare—then the Government should give compensation to these people who are asked to quit these places. This is another suggestion I would make. I am making all these suggestions from the angle of those people who are likely to suffer from the abuse of this power. I am not at all making this suggestion from the point of view of those who should be rightfully evicted if they are in unauthorised occupation or who do not deserve any special treatment or consideration on the part of the Government. I am not talking about that category of people. I am talking about the other category of people whose case is to be treated a little differently from the cases of these fortunate people. Now, this is another thing.

Then, Sir, the appeals. There is provision for appeal. Now, I do not know how it is going to work in this particular measure, as far as this particular measure goes. It seems to me on reading this measure that practically the person who is evicted, whether he is a refugee or employee or a peasant, would not have much scope for redress of grievance or even examination, re-examination or review of the order

passed against him. Now, Sir, natural justice would be lacking in this case. There is a thing called natural justice and why the natural justice should be denied just because the Government has acted in a particular manner—a house is to be taken or a land has to be taken in the possession of the Government. That is another point which needs, I think, careful examination by the hon. Minister.

Now, Sir, about Government houses.. Again here I can understand some of the Government places being treated on a very special footing. But there are Government houses which are empty, which are somewhat vacant. In Calcutta, for instance, we come across Government houses which are very partially occupied. Now, such houses should provide alternative accommodation to the people who have no shelter or to the people who for reasons of national emergency or for other valid reason have to be evicted from the places in which they may happen to live at a given point of time. Now, it is no good. It is demoralizing to public life to see on the one hand the Government employees and other people and the refugees being evicted from certain Government premises; and on the other hand some officer or some office occupying only a part of a huge palatial house or only a part of a big premises or land. That is not good to see and this is very, very demoralising, as I have said. Therefore, that point should also be taken into consideration. I do not know exactly what the Government has in mind. Until and unless the hon. Minister would tell us as to how they propose to administer this measure, would tell us the checks and balances in this measure, as to how they view this matter, we are not in a position to understand as to what will be the result of this measure as far as the needy people are concerned, people who deserve our sympathy. I have no idea at all. Therefore, when such measures are brought it is essential for the Government to give us a little more facts than they usually give. It is not

enough to tell us so many houses there are, so many cases of unauthorised occupation; we would like to know what are those cases, who are in unauthorised occupation, how much space they are occupying. Because we find that in one room two families live sometimes in Government buildings in what you call unauthorised occupation. We would like to know all these things. Until and unless we know that we do not know how we can tackle this matter.

Then, Sir, some stalls and other things are started on Government land for some reason or other. Sometimes some functions take place and the stalls are started, or because of marketability some people start stalls and other things in certain Government places which are lying vacant. Suddenly, the Government comes down upon these people and demolishes the whole thing. I am not supporting that without proper permission everybody should go and start the stalls like that, but when some small traders and businessmen are forced to set up stalls and business centres in places which are not in Government use, even though they technically belong to Government, they should be treated with sympathy. They should not be summarily and peremptorily evicted from the land. It should be the endeavour of the Government to see that they are in a position to continue there as far as possible without prejudice to other considerations of civic amenities of public life. They should be allowed to continue, and if they are to be removed from there for very valid reasons, alternative accommodation should be given to them or at least they should be given some compensation, because if suddenly they are forced to wind up their business and go out they will be in a very difficult position. Complaints from such people have also been received by our Parliamentary Party and by our Party. We have written to the Government with regard to many such cases, but I regret to say that sympathetic consideration of such cases has been lacking in the Government Departments.

Now, these are some of the points that I wanted to make with regard to this Bill. Much will depend on how it is administered, and I hope the Joint Select Committee will tie down the hands of the Government as far as possible, will restrict the powers of the officials, will see that the small man, the poor man, the refugees and others are not unnecessarily harassed and evicted because of this measure. This should be our consideration. The bureaucrats have conceived of a Bill and have given it to us through a ministerial dish. It is the task of the members of the Joint Select Committee to bring their mature wisdom, judgment and sympathy to bear upon this measure in order that it is amended in the right direction and does not become a terrible engine of oppression and tyranny against men who perhaps need sympathy and consideration on the part of the Government.

SHRI KISHEN CHAND (Andhra Pradesh): Sir, when the hon. Minister moved the reference of this Bill to a Joint Select Committee, he tried to make out that it is a very simple Bill—after all it is Government land, Government property, and there are unauthorised occupants and they will have to be evicted—and created an impression that on such a simple Bill and on such a simple reference to a Joint Select Committee if any hon. Member speaks on the opposite side and raises his voice, he is doing a very great injustice to the hon. Minister. I beg to disagree with him and I am very glad that this Bill is being referred to a Joint Select Committee which will go into the Bill very carefully and try to remove the many hardships that it will cause, Sir, I shall put a few facts before you which I would like the Joint Select Committee to very carefully consider.

The hon. Minister in his opening remarks tried to say that there are 289 unauthorised occupants of Government premises at Delhi, Calcutta and so many other big cities. Now, think of it, Sir, in Delhi alone there are 40,000 Government houses, and probably there is a large number

[Shri Kishen Chand.] of such houses in Calcutta and Bombay also. So, in a list of nearly 60 or 70 thousand houses, there are only 289 unauthorised occupants. Immediately somebody tells you that there are 289 houses occupied unauthorisedly, he should say that this is in a perspective of 60,000 houses. 289 is not such a big number in a perspective of 60,000.

Sir, the hon. Minister tried to make out that they are mostly occupied by persons who have retired and who do not want to leave the house. May I remind the hon. Minister that in regard to rent there are two categories *c'* rent: one is under 45(a) and the other is under 45(b). Under 45(b) when the person is not a Government servant, it is a very high rent. The Government servant will be getting pension from Government, actually his emolument is reduced to less than half of his salary. Whatever he was getting before retirement he is only going to get less than half of that. If on the top of that the rent is nearly doubled, as he is no longer in service, that person will not be able to pay that rent. He will immediately vacate the house. I submit that the hon. Minister gave a wrong example and tried to gain our sympathy. Possibly, there may be one or two cases like that, otherwise a retired Government servant cannot afford to retain a Government property in his occupation and pay its rent. If there are one or two cases, they must be cases of very great hardship. Possibly, when his salary is halved and he has got to hunt a house within his means—you know the rents in Delhi are excessively high—in such cases it is very difficult to find a house. Therefore, I have a hunch that these 289 cases or **the** majority of them are refugee cases.

Sir, I come to the second point. The hon. Minister said that about 380 acres of *nazul* land are occupied by 11,000 squatters. That was his second charge.

AN HON. MEMBER: He is after them also.

SHRI KISHEN CHAND: Here also you probably know that during the last eight or ten years the Delhi Improvement Trust went on acquiring lands for development purposes in and round about Delhi. They used to notify, and I know definitely about one or two acquisitions where compensation has not been paid up to date. Sir, in the matter of acquisition the Government notifies; the majority of people agree to it, they hand over charge, but some people do not agree with it. The moment the matter has been notified and charge has been handed over by some parties, it becomes Government property. You were raising an objection when Mr. Bhupesh Gupta was speaking. He was saying that by notification it becomes Government property; some people hand over charge, some other people do not hand over charge. Because some have handed over charge it has become Government property. Others who have not handed over charge become squatters, though it really belongs to them, but they come under the definition of squatters. Similarly, Sir, for military purposes land is acquired. Some poor peasant is not paid his compensation. That poor peasant has no place to go, he does not surrender his land. After notification it is Government land and he becomes a squatter and he can be evicted under this **law**.

SHRI JASPAT ROY KAPOOR (Uttar Pradesh): Under what provision?

SHRI KISHEN CHAND: He is in occupation of Government property when the matter has been notified.

MR. DEPUTY CHAIRMAN: The remedy for it is under the Land Acquisition Act. I am afraid your interpretation of the law is not correct.

SHRI KISHEN CHAND: I submit, Sir, under the Land Acquisition Act he can fight for getting his compensation. But there is no law by which without his agreement, by a simple notification—I am not going to read the Land Acquisition Act—although it is supposed to have become Govern-

ment property, its possession can be taken. Even if the owner does not liand over charge, the Government can acquire charge of it after due process of law as it has become Government property.

MR. DEPUTY CHAIRMAN: Even if there is such power, it will be under the Land Acquisition Act, not under this. In that case your remedy will toe under that Act.

SHRI KISHEN CHAND: Under that Act the property has become Government property. Here we are dealing with eviction. You have got to get possession of that property. It is in the possession of somebody else. Therefore, you will have to apply the eviction law. If you follow the old law. . .

SHRI P.. D. HIMATSINGKA: That law will entitle the Government to do that.

SHRI KISHEN CHAND: Under the •old law, if you want to oust a man, there is a process of law. Under this process of law, it will take ten years ito get possession of it The hon. Minister is bringing forward this Bill for summary eviction. If there was no question of summary eviction, there is no need of this law. I wish to point out why it was that the Calcutta High Court and the other High Courts held the law *ultra vires*. The whole idea ■was of summary eviction. There is a process of law and you can certainly follow it. Every person who owns a property has a right over that property, and for getting him evicted there is a process of law. Whether rthat process is a cumbersome process or a defective process and it takes 8 ■to 10 years to get possession of that property and you cannot help that. In order to circumvent the long period, the Government is bringing forward this eviction law. We must be very clear about the law. The land acquisition law gives you only the ownership of it, but it does not give you the

possession of it, and if you follow the normal procedure, it would take you about 10 years. Sir, I have full sympathy with the Government; I do feel that in certain cases this law is most essential, and I have no objection against it. But what I am trying to point out is that it can be abused, and I am just asking the Joint Committee to so frame it and to so modify it that this law is used for good purposes and it is not abused. That is my whole purpose. In order to achieve that object I am trying to place before the hon. Minister cases where it can be abused.

Sir, I now come to another point with regard to squatters. The hon. Minister said that about 1,100 squatters are in the occupation of about 380 acres of *nazul* land in Delhi. I know, Sir, that a few days back a question was asked by Mrs. Savitry Devi Nigam from the hon. Minister and she said that this construction of houses was going on for years and years and the Department was sleeping over it. The refugees who had come to India had no place and they could not afford to purchase any land, because the land pricqs were very high. The lands were being kept empty intentionally by our Government in order to raise their prices. They said, "We do not want to build houses. Let us wait for some time till the population of Delhi goes on increasing and the price of land goes on increasing and then we shall sell it at a fabulous price". Sir, do you know that the Delhi Improvement Trust has sold lands in the heart of the City of Delhi at Rs. 150 or even Rs. 200 per square yard? Do you think that a squatter or a refugee can afford to pay Rs. 200 per square yard for land? If the intentions of the Improvement Trust were honest, they could have said, "Well, this is the price of land and we can sell it at that price". But instead of doing that, they just kept the whole thing pending and they held it up. When no land was available, these refugees came and occupied a small portion of land, say, 200 yards

[Shri Kishen Chand.] or 100 yards, and they started putting up thatched roofs. The Department 01 the hon. Minister did not go round to protect its *nazul* lands. The Department just kept quiet and slept over it. In the meantime, the man has built a complete house and has lived in it for two years, and now the hon. Minister comes forward with this eviction Bill providing for summary eviction. He says that it is Government land. I have the fullest sympathy with him, it is certainly the Government land. But why were they sleeping for years and years? When the man was laying the foundation stone of his house or when he was starting the digging work, the officers of his Department should have gone and protected their property. They should have seen to it that the squatters, as he calls them, or the refugees, as I would like to call them, did not start any digging work, or some other land had been provided to them, or the Government had sold the land to them. Therefore, Sir, we should be very careful. We certainly want proper development of the City of Delhi. We do not want any unauthorised construction. But I do feel that the Government are neglecting their duties by delaying this process, by delaying the development work that has got to be done by them.

Sir, whenever we go beyond the process of law in a democratic country, there must be a very good justification for it and we must provide for all kinds of safeguards so that there is no abuse. Now, the hon. Minister is going to appoint some estate officers. There may be quite a number of them—possibly petty officials—who may not get very high salaries. Naturally there will be opportunity for temptation and for corruption and there is a possibility of abuse of power. What steps are being taken against that? You are taking these powers for summary eviction, and possibly where a house has been constructed unauthorisedly, you are going to demolish the house.

After that the man may make any number of appeals and may even get possession of the land, but by simply possessing that land he cannot reconstruct the demolished house and there is not going to be any compensation paid for any unauthorised construction which is demolished. So, by just pulling down that house, you can easily evict him. Sir, I would like the Joint Committee to make certain provisions in this Bill while considering it; and number one is that it should be considered whether the land and the house has been in his possession for over two years. If he has possessed the land and the construction for more than two years and if the Government has been sleeping over it, well, in that case he has acquired a right and there should be a fair and reasonable amount of money fixed as the price of the land and some rent may be charged for past occupation, but he should be allowed to occupy it, or some other alternative land may be given to him and time may be given to him so that he can build a house there. I can cite a number of cases here where very small landholders' plots of land have been unauthorisedly occupied. In their case the Government will not apply this law. The Government only wants to apply this law in the case of Government lands. Supposing there is an equally genuine case of a man holding only 100 square yards of land, he cannot easily fight a law case of eviction. Our Government, with all its resources, wants to have summary occupation of its land and deprive the person of it. This is not reasonable. So, my first suggestion to the Joint Committee is that they should carefully examine for what period the land has been in his possession. You know, Sir, that if there is an unauthorised occupation for more than 12 years, under the common law it becomes the property of the person who has occupied it. Here in the case of Government property, the Government has been neglecting it, and so I would bring down the period from 12 years to **a much** shorter period.

Sir, the hon. Minister said something about this law being applied by the State Governments to almost all municipalities. Now, you know what the calibre of the petty officers in the case of municipalities and especially of small town municipalities spread all over India is, and if you give them this summary power, you can imagine how great danger there is of its being abused. How the safety and security of anybody can be challenged by a petty officer of a small municipality. Therefore, Sir, I do hope that the hon. Minister will not try to call this Bill a small and an innocuous Bill as he has tried to do by the figures that he has quoted. This is a Bill which affects the fundamental rights of the people. I know that the hon. Member over there raised a very important question by asking: Where is the fundamental right of any citizen of this Republic to ask from the Government that shelter should be provided to him, that employment should be provided to him and that food should be provided to him? Well, the hon. Member is certainly entitled to his opinions. He can turn round and say, "Well, we do not mind starvation deaths, we do not want to provide food, where does the Constitution say so?" Can he provide any clause by which the Government of India takes such a good care that there is no starvation? Sir, it is the common duty of every Government to that . . .

SHRI SONUSING DHANSING PATIL: It is not guaranteed under the fundamental rights.

SHRI KISHEN CHAND: It is more than the fundamental rights. Every citizen who is born in this country must be provided with . . .

SHRI BHUPESH GUPTA: That is guaranteed by the code of good and honourable behaviour in a civilised society.

SHRI KISHEN CHAND: It is the fundamental right of any person born in a civilised society that he must be provided with food, clothing and shelter. All I am saying is that the

Government should not sleep over the matter. In the case of any land being occupied by any person unauthorisedly, they should be vigilant, they should take quick decisions and they should provide alternative accommodation.

All their negligence they are 4 P.M. trying to cover up by this.

They have been sleeping over the matter and now they want these powers to take over the houses that have been constructed by the refugees. The point is that, as was pointed out by the previous speaker, in many cases these lands were uneven, were not suitable for house construction. They have spent their energy and money in clearing the land and making it suitable, laying mains for water, sometimes for electricity also, and after all that effort, you now come forward and secure summary powers. The hon. Minister mentioned parks, etc. I do say that in presenting the case for a Bill of this type, we should not appeal to the element of sympathy by quoting such an example.

Now, about the right of appeal, a period of 15 days is given for making an appeal. You know the difficulties in approaching the law courts, and in many cases a small refugee may not be able to obtain the services of a lawyer. Even in ordinary cases you give one month but here you want to give only 15 days for appeal. Is it fair, is it right? I would submit to the hon. Minister that the period allowed for appeal should be at least two months.

Then it is said, a district judge or a judicial officer of ten years' standing. It is a very good safeguard. But suppose, in a district the district judge is not of ten years' standing. Suppose, it is a small town and it has a municipality, and they will have these powers. After all, such things may not happen in the City of Delhi.

SHRI ANIL K. CHANDA: I think that the hon. Member is under a misapprehension, because he is talking of municipalities and small places. It

[Shri Anil K. Chanda.] is not all municipalities that come under the operation of this Bill. It is only the properties of the Municipal Corporation of Delhi and the Delhi Development Authority.

SHRI KISHEN CHAND: I am grateful. The hon. Minister has not probably read clause 12. May I read out clause 12? It says:

"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."

"In the majority of the municipalities, the executive officer is an officer of the State Government.

SHRI JASPAT ROY KAPOOR: No, no.

SHRI ANIL K. CHANDA: It simply means that an estate officer may be one who belongs to the State Government. He need not necessarily be a Central Government servant.

SHRI KISHEN CHAND: From municipal property which is under unauthorised occupation a person can be evicted.

SHRI JASPAT ROY KAPOOR: Only in the Delhi Municipality, nowhere else.

SHRI ANIL K. CHANDA: May I intervene? If the hon. Member would kindly refer to clause 2(b), he will find that it 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—

(i) any premises belonging to the Municipal Corporation of Delhi or

any municipal committee or notified area committee; and

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

The trouble is that the hon. Member seems to have read only the latter portion of the Bill and not the first portion.

SHRI KISHEN CHAND: I am thankful to the hon. Minister. But the hon. Member who spoke first, Mr. Amolakh Chand, in his remarks, made reference to the municipalities. If this is absolutely clear, then I withdraw my remarks in so far as they relate to municipality which is not covered by this Bill. I admit that if it is restricted only to the Delhi Municipality, much hardship will not arise. But the hon. Minister made mention of Calcutta and Bombay. Would this Bill apply to Calcutta and Bombay or not?

SHRI ANIL K. CHANDA: To all Central Government properties.

SHRI KISHEN CHAND: Central Government properties anywhere, even if they are in the smallest little village.

SHRI JASPAT ROY KAPOOR: Even in the Andamans.

SHRI KISHEN CHAND: My main point was that even in small places there may not be a district judge or judge of ten years' standing.

SHRI ANIL K. CHANDA: There is no place where there is no district judge in the whole of India. The Bill says, a district judge or any other judicial officer of ten years' standing.

MR. DEPUTY CHAIRMAN: The district judge having jurisdiction over the area, or any other judicial officer of ten years' standing.

SHRI KISHEN CHAND: I withdraw that also. One of the objects of having a House. I am grateful. Our approach is to clarify points. discussion of such motions at length in the House. If Government has taken care to see that is that the hon. Members of the Committee may hardship does not arise, it is well and good. I am give due consideration to what we say here. only trying to suggest that in case hardship arises, I think that we ought to establish a where the aggrieved party cannot approach a convention to the effect that Members who have the proper magistrate who is empowered to hear given their consent to serve on the Joint the appeal under this Bill, and he cannot prefer his Committee should be present in the House to appeal, the hon. Minister may make some other hear what other Members have to suggest for provision. My only contention is that there their consideration later on. The hon. Minister should be reasonable chances for appeal. proposed the names of about fifteen hon. Members to serve on the proposed Select Committee and I can find here only two of them present. I would like to express the gratitude of this House to the hon. Members Shri Ram Sahai and Shri Onkar Nath who alone out of the fifteen are now here.

SHRI AKBAR ALI KHAN: Your approach is always constructive.

SHRI KISHEN CHAND: What I feel even now is that it will be very difficult for a poor man who is occupying a small house with a rent of four or five rupees to approach a judicial authority . . .

MR. DEPUTY CHAIRMAN: Such property will never be under unauthorised occupation, nor will that be acquired.

SHRI KISHEN CHAND: In Delhi you will find . . .

MR. DEPUTY CHAIRMAN: Delhi is different.

SHRI KISHEN CHAND: . . .in the harijan colonies, the sweepers, etc. of the Delhi Municipality are occupying Government houses. There are a large number of cases where small, little houses are being occupied unauthorisedly, because the person has retired and is not able to find a house. I do want the hon. Minister to carefully examine all these points.

SHRI JASPAT ROY KAPOOR: Mr. Deputy Chairman, I extend my support, not of course to this measure as it stands at the moment, but to the motion according to which this Bill is to be referred to a Joint Committee in the hope and belief that the Joint Committee would carefully consider the various provisions and the various suggestions that have been made so far and will be made hereafter in this

MR. DEPUTY CHAIRMAN: Mr. Sapru is here.

AN HON. MEMBER: And Mr. Prasad Rao also is here.

SHRI JASPAT ROY KAPOOR: I am glad my hon. friend Mr. Sapru has also just now come in.

SHRI AKBAR ALI KHAN: He was already here.

MR. DEPUTY CHAIRMAN: All the Members will get a full report of the proceedings here.

SHRI JASPAT ROY KAPOOR: And so the number has increased from two to three and four. I hope, Sir, that the other Members will emulate the good example of these four hon. Members who are here now.

SHRI AKBAR ALI KHAN: Mr. Naidu was here.

SHRI BHUPESH GUPTA: But they miss the melody of your voice.

SHRI JASPAT ROY KAPOOR: I do hope that these hon. Members will convey to the other hon. Members of the Joint Select Committee the various suggestions made by the various hon. Members here.

[Shri Jaspat Roy Kapoor.]

Sir, this measure relates to unauthorised persons. Now, unauthorised persons are of two categories. One of them consists of displaced persons who got hold of premises as they found them, in an unauthorised manner initially. The other category is of such persons who, although they were initially permitted to occupy Government premises, but later on that permission had been withdrawn from them, or they had retired from Government service, but continued to occupy the premises, in spite of notices from the Government. So far as the case of the latter category of persons is concerned, it is entirely on a different footing and I do not think that they deserve much sympathy from us or from any other quarter. Government servants who have been in occupation of Government premises know very well in advance that after their retirement, they will have to make their own arrangements and I am inclined to think that in the vast majority of cases such Government servants have some alternative accommodation at their disposal. There may be some cases in which they may not have some alternative accommodation to resort to after their retirement. But even in such cases, I do not think there is much occasion for us to extend our sympathy.

But so far as the question of displaced persons is concerned, I think that is on an entirely different footing. I would like to consider this whole measure from the point of view of a welfare State. Now, what are the duties and obligations of a welfare State towards its citizens? One of these obligations is—and I think it will be readily admitted—to provide accommodation or some sort of shelter to those who have no shelter. These displaced persons obviously came over here either from West Pakistan or from East Bengal and when they came over here, naturally they had no accommodation here. They, in a state of emergency under those difficult conditions in which they came here, got hold of

some places here and there and ever since then, or some probably from a subsequent period, have been in occupation either of a piece of land or of some small Government premises. Now, the question arises and it may be said that they have no right, no legal right, to be there. But then the question also arises whether Government which is attempting to establish a welfare State, should not see to it that before these people are called upon to vacate and surrender such land or premises, some alternative accommodation should be provided to them. I have no doubt in my mind that the Government and the hon. Minister will never say that it will not be their concern to see that some alternative accommodation is provided to them. I cannot imagine for a moment that the Government thinks of forcibly turning out such unauthorised persons and throwing them on the streets. I use the word "unauthorised" in inverted commas. They are "unauthorised" in the sense that they have no legal right, though in many cases, they have a moral and humanitarian right to be there. I am sure in such cases it is not the intention of the Government to forcibly turn them out from such premises and put them on the streets. I would very much like the hon. Minister to tell us what schemes they have in this respect. I am presuming, as I said, that it will not be their intention to throw them away on the streets. I would appeal to them to please let us know what their schemes are in this respect. All these years many of these people have been in these premises. Government also knows that these poor persons who are in unauthorised occupation of the Government premises are there because they have no other shelter. Government also must have been applying their mind to this aspect of the question, namely, when these people are thrown out of these places, where will they be accommodated later on. It would be very kind on the part of the hon. Minister if he would tell us what their housing or house-building programme hereafter is going to be. Of course, from

time to time, we have been told as to what their house-building programme is to be. But on this specific occasion I would like to have a clear view on this subject. Not many months ago, a housing conference, I understand, was held somewhere in the South and they had taken some decisions on the subject. We would very much like to know what those important decisions are and to what extent the Government thinks it would be possible to implement those decisions and what effect such implementation of those decisions would have in the next one or two years, or during the remaining period of the Second Five Year Plan.

Sir, so far as the City of Delhi is concerned, no doubt, many buildings have been constructed by the Government, obviously both for the displaced persons and for the Government employees themselves. But the obvious fact remains that a very large number of houses are still required to accommodate these persons, even these Government employees and a very large number of them are still without accommodation. So, we ought to apply our mind very seriously to this question of creating new premises. So far as the private enterprise is concerned, of course, it is there. But then I would like to say that the Government ought to take up this question a little more seriously, that they should take up the construction of houses of various types so as to make them available to those who have no accommodation.

May I in this connection make a suggestion that the Life Insurance Corporation funds may to a substantial extent, be utilised for the purpose of building . . .

MR. DEPUTY CHAIRMAN: I am afraid we are going far beyond the scope of this Bill.

SHRI JASPAT ROY KAPOOR: I am only going to the extent of trying to know as to where these evicted persons would be accommodated.

MR. DEPUTY CHAIRMAN: But we are not concerned with that now.

SHRI JASPAT ROY KAPOOR: I want to know whether they will be thrown on the streets or whether they will be accommodated in some existing Government buildings or whether they will be accommodated in any new buildings which Government think of or propose to build hereafter.

MR. DEPUTY CHAIRMAN: There is no provision with regard to that in this Bill. What we are concerned with here is the eviction of unauthorised persons from Government premises or Government property. Please confine your remarks only to the provisions of this Bill. And let us not go into the housing programme of the Government of India.

SHRI JASPAT ROY KAPOOR: That exactly is my grievance. This is a one-sided measure. It deals with eviction only and does not provide accommodation to those who are evicted and that is just the thing which I would like this Joint Committee to consider as to whether we should agree to people being evicted without making any provision for alternative accommodation. If you think, Sir, that this positive, constructive and humanitarian aspect is out of the scope of this measure, then probably we will have no alternative but to say that we shall not touch this measure with a pair of tongs. If, Sir, it is not within the scope of the Joint Committee to consider ways and means for mitigating the evil effects of this measure and if it is to be allowed to be passed in this present form, what is it that the Joint Committee is going to do with regard to this measure? I submit, Sir, that this measure is a one-sided measure and, in order that this measure may be made more easily acceptable to us, I would like the Government and the Joint Committee to seriously apply their mind to the question of accommodation for the people who would hereafter be evicted from Government premises. In that connection, Sir, I

[Shri Jaspal Roy Kapoor.] was submitting that the Government ought to take up a huge building programme so that this measure may be easily implemented and all those persons who may be evicted under the provisions of this measure may be accommodated there. Therefore, I was going to make a constructive suggestion that if they had any financial difficulties, they might resort to the funds of the L.I.C. for this purpose. In this connection, Sir, with your permission I would like to take this opportunity of referring to the activities of the Hindustan Housing Factory because that factory can be very easily utilised for constructing new houses.

MR. DEPUTY CHAIRMAN: All this would be relevant in the discussion on the Budget proposals but not on this Bill, Mr. Kapoor. I do not know how you can bring in all these things.

SHRI JASPAT ROY KAPOOR: Very well. If you think that any suggestion with regard to the construction of houses is irrelevant and beyond the scope of this Bill, I will have to submit to your superior wisdom, but then I wonder what the function of the Joint Committee would be. In what way will they be able to suggest ways and means of lessening the rigours of this measure?

Sir, one important point that I want to point out here is this. When a notice is issued for purposes of evicting someone from a Government premises, it is not provided here as to whether that notice will also mention the purpose for which the premises are being sought to be got vacated. I would very much wish that it should be provided in the measure itself that Government premises should be called upon to be vacated only for a public purpose and the notice must specifically mention the purpose for which Government is getting that premises vacated. Otherwise, there will be hardly any case in which an appeal will be allowed. Now, a notice will be issued only in 99 out of 100 cases when there is a strong and conclusive

case that some unauthorised person *u* in, occupation of Government premises. Now, on what possible ground can an objection be made by the person on whom a notice is served? Naturally, if he is the owner, he will say that he is the proprietor in which case it will be a question of civil rights. I cannot conceive of the possible answer of an unauthorised occupant to this notice. He will come and say that he does not own the land but then there are certain difficulties in his vacating it. I think it is necessary that Government should ask these unauthorised persons to vacate the premises only for genuine public purposes. You may have this public purpose defined or it may be left to be interpreted according to the general law of the land. If the purpose is not a public purpose, then there is hardly any justification in issuing a notice. I do not say that these people should be allowed to be in possession of such premises till eternity but then they should be allowed to remain there so long as alternative accommodation is not available to them. This is a very important aspect. You must say the purpose for which you want them to vacate the premises and then it will be open to the sessions judge, when an appeal goes before him, to consider and decide whether you are genuinely in need of the premises. Of course, I can presume that the Government would not issue a notice merely for the fun of it, merely for the satisfaction of issuing a notice. It must always be in genuine need where the estate officer would issue such a notice but then to give a reasonable opportunity to the person against whom a notice is issued, Government would do well to specify in the notice itself the purpose, the specific public purpose, for which you want the premises.

I think I have hardly anything more to add. If I venture to do that, I will be incurring your displeasure that it is irrelevant though I very much wish, Sir, I had some opportunity to give some concrete suggestions to the Government as to how their building activities should be easily extended so

that this measure would be more easily acceptable to the General public. Even now, I hope, Sir, that the Joint Select Committee will consider it, relevant or irrelevant apart.

SHRI AKBAR ALI KHAN: Mr. Deputy Chairman, before I submit anything regarding the principle of the Bill, I would venture to suggest that in a case where there are judgments from the different High Courts, it would be a very healthy and sound practice for the Government to take up such cases to the Supreme Court and get the final word from the highest court.

SHRI V. PRASAD RAO (Andhra Pradesh): They refer only the Kerala Education Bill, not such controversial measures.

SHRI AKBAR ALI KHAN: My friend, you do not try to take advantage of this thing. We have got here the Allahabad High Court and the Punjab High Court who on certain definite grounds have given a judgment against the Government point of view and, so far as the Calcutta High Court is concerned . . .

THE DEPUTY MINISTER OF LAW (SHRI R. M. HAJARNAVIS): Could we not legitimately accept the view expressed by the High Court and then try to give effect to it?

SHRI AKBAR ALI KHAN: I say that it would be better and you will be on stronger grounds if the matter is taken up in the Supreme Court, the highest court and you could get a judgment of the Supreme Court against the judgment of the High Courts.

MR. DEPUTY CHAIRMAN: But it the Government agrees with the view of the High Courts? If the Government disagrees, it is all right, but if it agrees with that?

SHRI AKBAR ALI KHAN: I say, generally speaking.

SHRI R. M. HAJARNAVIS: May I remind the hon. Member that when there was a judgment in 1946 by a Single Judge of the Bombay High Court, Mr. Justice Bhagwati, it was accepted by the British Parliament and they amended the Government of India Act in consonance with the judgment of a single Judge because that judgment carried within it very convincing arguments.

SHRI AKBAR ALI KHAN: I am not referring to any particular case. There may be cases where, after the judgment of the High Court, generally speaking, Government might like to get the final word from the Supreme Court.

MR. DEPUTY CHAIRMAN: If there is a difference of opinion between Government and the High Courts it is all right, but if there is no difference and if Government agrees with it, they may amend the Bill.

SHRI AKBAR ALI KHAN: But as you see here, in these three High Courts, the reasons given are different. I am sorry I could not read those cases; I wanted to get the references but could not. This is a point that I am suggesting for consideration but, Sir, fundamentally I am against the principle of this Bill. I feel, Sir, that every citizen of the Republic, so far as these civil matters are concerned, should have the same privileges as Government, whether it be a State Government or the Central Government. If with all the paraphernalia of Attorney-General and Solicitor-General and advocates Government feels that it cannot get them evicted in time and wants to have this short-cut, I think it is high time for you to think that there is something seriously wrong about the length of time, about the procedure that is prevalent in disposing of the cases of persons whose houses or premises are occupied by unlawful occupants. I mean, when we are moving in the direction of socialism and welfare State, then to bring in the same ideology which was prevalent during

[Shri Akbar Ali Khan.] ■the time of the Britishers or in the old States when the State used to have some superior position, I submit, Sir, is not right and the public will not welcome such a measure.

SHRI V. PRASAD RAO: This is socialism *a la* Congress.

SHRI AKBAR ALI KHAN: Besides, Sir, I would also submit, I wanted to know whether there is any corresponding law, a similar kind of law in the United Kingdom or in any other democratic country. So far as I remember, Sir,—I speak subject to correction—where there is a war or where there is any emergency. So the foundation of our law, as it has grown, the basis of it is the common law of England, and the law of democratic countries. If there is no such law or if there is no emergency for such law, for normal purposes to come with a proposal that the Government should have extraordinary powers to get somebody evicted, I submit, Sir, cannot be approved, at least in the present circumstances of our country.

The other thing I want of the Government is that, if they really feel about it, then let them come with a Bill—and I would request the Joint Select Committee to consider this question of principle also—let them bring some other Bill in which every citizen and the Government can get speedy enforcement of the rights against unlawful occupants. I am not one with my learned friend, Shri Bhupesh Gupta, when he says that under the Directive Principles of the Constitution, when he is out of Delhi, anybody can go and occupy his house or, when he is in Delhi, his house in Calcutta can be occupied by another.

SHRI BHUPESH GUPTA: I never said it.

SHRI AKBAR ALI KHAN: What I say is that it is a direction for the State, to work through planning and through other measures to see that every citizen gets accommodation.

that is a different thing. If you agree with my interpretation then I have nothing to quarrel with you. But I submit, Sir, that in such matters, of course the law will have to be there, but that law will have to be a law common to the Government as well as to every citizen. That is one point. But as regards the other provisions relating to the Bill itself, there also, if suppose this question of principle is not accepted by the Select Committee, Sir, and if they want to come forward with the Bill, then I do think that it does require certain drafting change's. For instance, Sir, it is obvious that the definition that has been given by my hon. friend, the Deputy Minister of 'public premises', that also requires to be further, I should say, looked into because it might bring within the scope of Government property a property which is not exactly so and I visualize the case of a property which Government may have temporarily occupied and from them somebody else has occupied it. That will be the point where this law may be abused. So, there must be some criterion; and when you say Government property, naturally, Sir, it will be very difficult to find any sale deed or any other title deed in favour of the Government. So, there must be something, some prerequisite conditions to see that it is Government property before this law is applied. Otherwise it may cause hardship to people whose land's may be occupied for a certain period and then it will be termed as Government property. Apart from that, Sir, I would also suggest that these 'estate officers' who will deal with the matter primarily, they should also have some legal qualifications; I mean, to everybody, to every 'estate officer' if you give this power to enquire and then get rid of it, that won't be proper, Sir. Let there be some minimum judicial qualification; let that man who tries this case for the first time, also be a man qualified; at least let him have the qualification of a Munsiff or some such legal attainments so that he may deal at the initial stage of the case also according to certain judicial principles.

Then, Sir, my another suggestion is regarding the appeal and the finality and I am sure it won't be difficult for the Select Committee and the Government to agree to this. Fifteen days' time is really inadequate, Sir. I think it should be at least a month or better, if it is two months. But what I submit is this, Sir, that there should be the power of revision given to the High Court. I mean, if it is to be expedited, let the High Court be given the power of revision on any point of law at least or where an estate officer and a district judicial officer differed on principles, on reasonings, then I submit, Sir, there should be ultimate authority vested in the High Court on the revisional side. So, that will at least give some protection to the citizens of this Republic. And there are certain other minor matters which have been referred to by my friend. I would request the Select Committee to take all these points into their consideration.

SHRI SONUSING DHANSING PATIL:
Mr. Deputy Chairman, Sir, Government is arming itself with extraordinary powers, which they are taking under this Bill. Though the object is laudable, yet it reflects on the Government policy in many respects and that reflection has already been made by the Members from the opposition benches.

Sir, I was surprised since I thought that the leader of the opposition will make some constructive criticism and offer some constructive suggestions, but his criticism was neither brilliant nor instructive* He was suffering more from the Mundhra mania than exactly point out the objection he has with the Bill. I can understand that the valid test of any Government, policy lies in making sufficient provision, as early as possible, for the preliminary needs of food, shelter and clothing, and we have to analyse the policy on these tests. Instead of analysing the evils and formulating them very vividly, the criticism should be more directed towards meeting the situation than aggravating it.

3 RSD—6

Sir, the Bill is not a new one. The law was already enacted in 1950, known as the Public Premises (Eviction) Act, 1950, which was declared illegal or *ultra vires* the Constitution, as it offends against the fundamental rights as laid down in articles 14 and 19. Sir, I agree with my friend from Hyderabad that Government should not have been moved merely because three High Courts have decided against it. They should have preferred an appeal to the Supreme Court and got a final decision on this point. But since the Government has come with this Bill, which now repeals the old Act, and Government wants certain extraordinary powers, we have to analyse whether those powers are necessary. And as has been made clear in this House, while dealing with the object and the provisions of the Bill we have to analyse the kinds of occupations that are contemplated. Of course, the Bill very categorically says that it will deal only with public premises, and with the eviction of unauthorised occupants therefrom. As one of my friends has already made it clear, an occupation may be authorised in the beginning but it is rendered unauthorised afterwards when the grant or the implied authority is terminated. Sir, we see this phenomenon mostly in the cities and that too after the refugee problem was made more acute. The problem is being met by the Government with all earnestness and I am surprised that the Opposition does not see the earnestness of the Government in meeting the problem but the criticism of the Opposition reminds me of the proverb that they want the Government to make a silk purse out of a sow's ear. The Government has tried to meet the situation and the Government wants to meet the situation but the developing economy is creating more and more problems as far as housing shortage is concerned. We see difficulties of housing in Delhi and other big cities like Calcutta and Bombay and the appropriate Governments are armed with the necessary powers. The Bombay Government has enacted a law by which they have

[Shri Sonusmg Dhansing Patil.] taken powers as far as the Government premises are concerned. The provisions of that Act of Bombay are very salutary and broad and I think that the Joint Select Committee will benefit if they take into consideration some of the provisions of the Bombay Act.

The other point which I urge is that this Bill is in a way very cursory, that it does not give the broad features as regards the tenure or rent or the period of unauthorised occupation for which a man is penalised. Hon. Shri Kishen Chand referred to acquired lands and eviction of occupiers, but I think the Minister has rightly given him the reply that he is labouring under a misconception. If we look at section 4 along with sections 16 and 17 of the Land Acquisition Act, a procedure is prescribed and I need not repeat those provisions. The procedure as far as urgency is concerned is laid down in section 4 read with section 17 of the Land Acquisition Act where before the compensation is paid or before the award is made the Collector is authorised to take possession. Under section 4(2) a Government officer is authorised to enter upon the land and remove the obstacle and for that he can pay the damages on the spot or if there is any objection he can examine it. That is the procedure that is laid down. The criticism of Mr. Kishen Chand in his own modest style and persuasive way, though attractive, was based more on misconception than on reality.

Now, coming to the provisions of this Bill, they do not lay down any sort of minimum. If the premises are only tenements or outhouses or bare lands worth only about a few hundred rupees, such a category should be separated and in those cases appeal should not be allowed when the property involved is very insignificant or paltry. Such category is not mentioned here. Appeal

in all cases means delay and howsoever the delay is tried to be minimised by the expeditious procedure it will not do. It gives only 15 days' time and if there are sufficient causes the appellate officer can extend the time and the appeal will not be disallowed on that ground. But the Joint Select Committee will do well to take into consideration such insignificant cases side by side with the important and big cases.

Then there is the power to recover rent or damages. Of course, in the case of unauthorised occupation the question of rent will not come in but there is the question of damage or what we call sometimes meagre profits. The Government has got extraordinary powers for this and they can collect it as arrear of land revenue. But while doing so the Government will have to consider what type of population is going to be affected by this provision and whether the poverty-stricken man who comes in search of employment in a city is affected. The cities are made more and more attractive by spending more and more Government money at the cost of the village*. Whether such a person who comes to the city merely to seek employment and make both ends meet can be removed without taking into consideration the human needs, the elementary needs of food and shelter; it is a question which should be seriously thought of. And I feel that unless and until there is reorientation of the housing programme of the Government and the Government devotes more and more attention to rural housing and makes the villages more and more attractive, this question will always be there and the question of housing shortage will be aggravated. This question needs a very thorough enquiry because we see the rising trend in the migration from villages to the cities and this, in turn, creates more and more difficult problems. This question of unauthorised occupation in the cities, though apparently it may appear now to be very small, not very big in

magnitude, still the Government will find it difficult to remove people from such premises. We can see the position of private persons whose premises are in unauthorised occupation in the cities. I will quote the instance of Malagaon in Bombay State where about 40 acres of land of a private person are unauthorised-ly occupied. The man has not got any remedy; of course, he has got the remedy under the civil law but it also creates a number of complicated problems which ultimately go up to the High Court and even to the Supreme Court. So the private, person is at a disadvantage. The Government is taking extraordinary powers; of course, we can understand the urgency of Government needs because it is the Government for the community. But even then when poverty-stricken people who are solely dependent for their livelihood and shelter on their manual labour flock to the cities, if their huts are removed, it creates a sort of a very touchy scene and such a removal of unauthorised occupation, even though it may appear very legitimate, will create side by side other problems which one has to think of. So, while considering this measure, the Joint Select Committee will have to take into consideration all these various aspects.

As regards other points, I would only say that the question of Fundamental Rights has been unnecessarily made much of, because even though our Directive Principles say that every citizen in India should have employment, food and other amenities which are essential for the maintenance of life or subsistence, still they are not guaranteed as Fundamental Rights.

SHRI V. PRASAD RAO: You think they are just decoration there? ,

SHRI SONUSING DHANSING PATIL: The question is, there should not be mixing up of the two things. The problem is quite clear. India's

poverty is not an immediate question involved in this Bill and India's poverty requires the wholehearted co-operation of the various political parties which are working in this land. It would not do merely to criticise or denounce the Government policies instead of suggesting constructive ways of removing it. It would only reflect the trend of their dictatorial and authoritarian role which merely sets the political leaders on a campaign of vilifying the Government. I did not accuse here Members of the Opposition, but I find that even in unauthorised occupation one cannot make it a vantage ground for creating trouble under the cloak of helping the poor. That is not the case. The question is if really we want to set apart amounts for rural housing, a substantial amount, then we must be very restrained in our claim for giving immediate advantages to the various industrial workers and we should not try to create a disparity between section and section of labour. This disparity arises because one gets a guaranteed employment. The other section comes merely out of helplessness from the villages and they flock to the town or city in search of employment. If we try to accentuate such disparities, then naturally it creates its own problems and howsoever we may sympathise with their lot, the question still remains that Government purpose cannot be subordinated to the needs of the people.

MR. DEPUTY CHAIRMAN: All right.

SHRI SONUSING DHANSING PATIL: I need not elaborate on this point because it is going to the Joint Select Committee and the Select Committee will exercise its collective wisdom on it. The Select Committee will take into account the various laws in other countries and the necessary material will be supplied. So, when it emerges out of the Select Committee and if one gets an opportunity to examine, I will reserve my comments for that time.

[Shri Sonusing Dhansing Patil.] In doing so, I once more support the Bill, because the purpose of the Bill is laudable and it is very essential and desirable at this stage when Government is faced with such a difficulty that Government must have an extraordinary power to deal with such an extraordinary situation. With these remarks, I support the Bill.

SHRI ANIL K. CHANDA: Mr. Deputy Chairman, I have heard with great attention, and respect the views expressed by hon. Members of this House on this Bill, but unfortunately most of the things which have been said today have not much relevance to this particular Bill. The Bill is very limited in its scope. It simply refers to certain provisions to be made in law entitling the Government to get unauthorised occupancy of Government residences and lands speedily vacated. I gave certain figures which would very clearly shew the acute position at least so far as Delhi is concerned. Some hon. Members have referred to the sad plight of the refugees. There have been references made to the poor economic condition of our people, scarcity of houses and so on. These are all very important matters. But I submit that they have not much connection with this particular Bill. You might recollect that in 1950 we had this law passed. The law is still there, but in view of three adverse judgments of three of our High Courts we have not been taking recourse to the provisions of this law for the last several months. One hon. Member made a suggestion that this matter might have been referred to the Supreme Court. Quite so. It could have been referred to the Supreme Court. But the time factor is very important. It is because of this we did not go before the Supreme Court and get the authoritative decision of the Supreme Court, the highest tribunal. The time factor is very important and we do not want to lose any more time. For the last few months we have not been taking

any action under the provisions of this Act owing to these judgments of the High Courts. It will be readily conceded by anybody who has looked into the provisions of this Act of 1950 and the provisions of this Bill that this is a very liberal measure compared to the Act of 1950. But because it touches one of the important fundamental rights of the citizen guaranteed under the Constitution we have thought it necessary to refer this Bill to a Joint Select Committee, so that with regard to the details of the Bill hon. Members might very closely scrutinise and if they consider it necessary improvements may be effected.

Some of the hon. Members referred to details, whether it should be fifteen days or one month and so on. Well, these are matters surely to be looked into by the Select Committee and I need not refer to them.

Some reference has been made about the States and about the municipalities. I have made it very clear that this Bill has reference only to Government of India properties wherever they may be situated; and for the purpose of acting on the basis of this law, if it is passed, the Government will appoint estate officers who will operate this law. And it is only where there are Central Government properties but there are no Central Government offices that we have provided in the Bill that the State Government may be authorised to act on behalf of the Government of India.

Jokingly somebody referred to it that it also includes the Andaman and Nicobar Islands. And as I looked into the details of the figures before me, I found that in the Andaman and Nicobar Islands there were 250 industrial employees of the administration who have occupied old barracks without authority and without paying rent. It is not merely wrongful occupation of Government residences and lands. It is also the non-payment of rents and

damages. If you look into the Bill you will find that we have provided under clause 7 power to recover rent or damages in respect of public premises as arrears of land revenue. Now, the figures are also very considerable. My hon. friend, Mr. Kishen Chand, referred to only 289 premises being under wrongful occupation. Possibly compared to 40,000 houses that we have in the whole of India or more, 289 is no figure at all. But the arrears of rent and damages run to Rs. 5 lakhs.

With regard to the 317 acres of *nazul* land

SHRI KISHEN CHAND: What is the monthly rent collected by the Government of India?

SHRI ANIL K. CHANDA: I do not have the monthly figure. Is my hon. friend ready to do away with Rs. 5 lakhs by a word?

SHRI KISHEN CHAND: No.

SHRI ANIL K. CHANDA: Now, with regard to the . . .

(*Interruption.*)

I have only a few minutes more. With regard to the 317 acres of *nazul* land, the arrears are running to a figure of Rs. 20 lakhs. With regard to the premises in New Delhi, for the 507 premises of the New Delhi Municipal Committee under unauthorised occupation the damages amount to Rs. 4-1 lakhs. Now, Sir, Mr. Kishen Chand asked what the Government had been doing all these years when the refugees were squatting on the lands. Hon. Member, Mr. Kapoor, appealed to us that we should act with compassion so far as the refugees are concerned. We are caught between two fires. So far as the refugees in Delhi are concerned, the previous Minister of this Ministry, Mr. Gadgil, had given certain assurances. I need not go into the details of those assurances—time is rather short—unless it is so desired; but I might say that these were duly

implemented. Alternative accommodation was given to all persons who were included in the survey conducted in 1952. The Allotment Committee was constituted and on their recommendation sector-wise plans were prepared and implemented. Alternative accommodation was provided as far as practical near the place of business or employment of displaced persons, However, it was not possible to do so in all cases because unauthorised squatting had taken place mainly in crowded localities and developed plots to rehouse the displaced persons were not available in those localities. About 27,700 persons had been given alternative accommodation in Rehabilitation Colonies or aid for rehabilitation. *Ex-gratia* payments for structures which had been demolished or which might be demolished were sanctioned in November 1955. Cash grants totalling about Rs. 25 lakhs, hutment charges amounting to Rs. 1,66,000 and building material worth Rs. 3,39,000 were given by Government. Fairly good constructions which with some modifications could be made to comply with municipal bye-laws were regularised and the land was allotted to the owners of such constructions. Each and every case . . .

SHRI AKBAR ALI KHAN: That might be so. Now, when you evict them, will you provide them with alternative accommodation? That is the question.

SHRI ANIL K. CHANDA: I am coming to that. Have a little patience. Each and every case was examined by a Committee. Orders regarding allotment of land to squatters on a 'no profit no loss' basis were issued by the Ministry of Health in November 1955.

SHRI V. PRASAD RAO: I suggest that the Minister can continue tomorrow. He has to clarify too many points.

MR. DEPUTY CHAIRMAN: How long will you take?

SHRI ANIL K. CHANDA: I will take only two or three minutes. Finally I would say that the implementation of Shri Gadgil's assurances was closely watched and pursued by the Committee on Assurances and in their third report presented to Parliament in December 1956 the Committee came to the conclusion that the assurances had been satisfactorily

implemented. But so far as 5 P.M.-an assurance which is

demanded of us is concerned that we will not evict any person unless we can give him alternative accommodation, I am afraid it is not possible for Government to do so. If there had been land enough, there would have been no question of this squatting.

Therefore, Sir, I submit that the main principle of the Bill is, from the trend of the discussion, acceptable to the House and that the Bill might be sent up to the Joint Select Committee.

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill to provide for the eviction of unauthorised occupants from public premises and for certain incidental matters be referred to a Joint Committee of the Houses consisting of 45 members; 15 members from this House, namely:—

Shri P. N. Saprū
 Shri H. P. Saksena
 Shri P. S. Rajagopal Naidu
 Shrimati Yashoda Reddy
 Shri Ram Sahai
 Shri R. V. Dangre
 Shri Onkar Nath
 Shri Jugal Kishere
 Shri Maheswar Naik
 Syed Mazhar Imam
 Shri S. C. Deb
 Shri N. R. Malkani
 Shri V. Prasad Rao
 Shri N. B. Deshmukh, and
 Shri Theodore Bodra,

and 30 members from the Lok Sabha;

that in order to constitute a meeting of the Joint Committee the quorum shall be one-third of the

total number of members of the Joint Committee;

that in other respects, the Rules of Procedure of this House relating to Select Committees shall apply with such variations and modifications as the Chairman may make;

that this House recommends to the Lok Sabha that the Lok Sabha do join in the said Joint Committee and communicate to this House the names of members to be appointed by the Lok Sabha to the Joint Committee; and

that the Committee shall make a report to this House by the 22nd April, 1958."

The motion was adopted.

MESSAGE FROM THE LOK SABHA

THE APPROPRIATION (RAILWAYS) NO. 2 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 Appropriation (Railways) No. 2 Bill, 1958, as passed by Lok Sabha at its sitting held on the 12th March, 1958.

The Speaker has certified that this Bill is a Money Bill within the meaning of article 110 of the Constitution of India."

Sir, I lay the Bill on the Table.

MR. DEPUTY CHAIRMAN: The House stands adjourned till 11 A.M. tomorrow morning.

The House then adjourned at three minutes past five of the clock till eleven of the clock on Thursday, the 13th March, 1958.