

tion of the ten varieties mentioned in the Textile Commissioner's reservation order under Essential Commodities Act and for prohibition of production of such varieties by mills or powerlooms. Government may be pleased to take early steps for the redressal of the grievances of the handloom weavers at the earliest.

12.22 hrs.

[English]

STATUTORY RESOLUTION RE :
DISAPPROVAL OF REQUISITION-
ING AND ACQUISITION OF IMMO-
VABLE PROPERTY (AMENDMENT)
ORDINANCE, 1985

AND

REQUISITIONING AND ACQUI-
SITION OF IMMOVABLE PROPERTY
(AMENDMENT) BILL CONTD.

MR. DEPUTY-SPEAKER : The House will now take up items 13 and 14 together, namely : Further discussion of the following Resolution moved by Prof. Saif-up-Din Soz on the 27th March, 1985, namely :—

“This House disapproves of the Requisitioning and Acquisition of Immovable Property (Amendment) Ordinance, 1985 (Ordinance No. 2 of 1985) promulgated by the President on the 8th March, 1985.”

Further consideration of the following motion moved by Shri Abdul Ghafoor on the 27th March, 1985, namely :

“That the Bill further to amend the Requisitioning and Acquisition of Immovable Property Act, 1952, as passed by Rajya Sabha, be taken into consideration.”

Shri Vyas to continue his speech.

[Translation]

SHRI GIRDHARI LAL VYAS (Bhilwara) : Mr. Deputy Speaker, Sir, yesterday, I was speaking on this Bill, which has particularly been brought for those properties and buildings in which

Government offices are located or which are being utilised for other Government purposes. Generally, the government requisition houses of big persons. As regards. The mode of fixation of rent after requisition, only this provision has been made that the competent authority would fix the rent. But no specific information has been given about the mode of fixation. In this respect I would like to submit that it has been the objection of the house-owners that the rents which were fixed 10 to 15 years ago, are not revised early. That is why the house-owners avoid letting out their houses. I suggest that it should be provided in the beginning that if the period of requisition is extended, the rent would also be enhanced for the extended period and the rate thereof should also be fixed so that the house-owners do not have any objection. The reason for the litigation in the courts is that if the market rent at present is Rs. 1000, the government are paying what was fixed 20 years ago. Such difficulties are being experienced in this metropolitan cities like Delhi, Bombay, Calcutta and Madras. Government do not fix rents keeping in view the increase that has occurred in rents of the buildings in these cities during the past few years. The Competent authority does not fix rents according to the prevalent rate, which causes resentment.

I would like to say one thing more. The day before yesterday, I raised a question that a Government Officer takes a house building advance of Rs. 100,000 from the Government, but actually he spends Rs. 20 to 25 lakhs on the construction of his house. The Government do not make any enquiry as to how he had amassed these assets. Later on, these let out offices buildings to the government at an exorbitant rent. Higher rent is fixed for the houses of the government officers and if the house belongs to a common man, the rent is fixed at the rate which existed 10 years ago. This discrimination is causing resentment among the people. Some

clear-cut provision should be made in this regard, so that there is no resentment in the matter of requisition of houses. This is particularly true about the Metropolitan cities. Dockyards have no godowns of their own to store their goods. It is the responsibility of your department to arrange land or accommodation for them according to their needs. Similarly, in other cities, there are some revenue earning departments, like Customs and Excise. They have their own buildings at very few places. The matter of fixing the compensation or the rent for the houses taken on rent for them is very complicated. If a particular house does not come under their jurisdiction, they have to face great difficulty in acquiring it. As a result, your departments are facing difficulties at different places. Previously, you fixed a period of five years for acquiring houses. Later on, it was extended to 10 years and now you want to further extend it by 2 years. What guarantee are you proposed to give that this period would not be extended after the expiry of these 2 years? You have yourself accepted that you do not have sufficient number of buildings at your disposal. You must, therefore, bring forward a legislation within a period of 2 years, which should provide that the government can keep a particular house for as long as they need. If this is done, there will be no need to bring amendments time and again. I request you to prepare a list indicating the names of various departments which are in need of accommodation at different places. In this way, your department will be benefited and the state of uncertainty would end. It will also free the government of litigations going on in the high courts and other courts. There are some glaring short comings in this Bill, but till I support this Bill and draw your attention to all this things. I again request you to bring forward a Bill so that you may not have to face difficulties in future.

With these words, I support the Bill.

[English]

SHRI JAGANNATH RAO (Berhampur : Mr. Deputy Speaker, Sir, while supporting the Bill, I wish to make a few observations. The power for requisitioning and acquisition of property was given to the Government during the Second World War under the Defence of India rules. Some buildings were found necessary for certain new Government Departments which had to be opened to combat the war. So, buildings continued to be in the possession of Government and its Departments. There was no time-limit when the requisitioned building would be surrendered. It went on and in 1952 this Act was passed. It gave power to the Government to requisition and acquire land for a public purpose. where the public purpose for which a building or land was requisitioned by the Defence Ministry ceases to exist, Government continued to be in occupation of these premises, on the ground that though the public purpose originally intended was over, there was still a public purpose because they wanted the buildings for some other department. There was on time-limit in the Act, by which time the requisition would come to an end.

In 1970, the Act was amended to say that the requisitioned property should be surrendered within 15 years of the date of requisition or that it should be acquired within 15 years, under Section 7 of the Act. Then, the Act again was amended in 1980 regarding the payment of compensation. For the requisitioned building, the rent that is paid is called compensation. It is not rent, because they do not treat it as a relationship between a landlord and the tenant. So, when the premises are requisitioned, Government feels that it has become the owner of the premises; and the poor owner is driven to the streets. No principle is laid down in the Act, and there is no rule framed under

[Shri Jagannath Rao]

the Act according to which compensation is to be fixed.

As my hon. friend earlier stated, suppose a building was requisitioned, say, 30 years ago, in 1952. Government has been in possession. What is the rent payable to him? what are the circumstances that should be taken into consideration in revising the rent? The policy of revision of rent was also introduced for the first time in 1975, if I am right. So the owner is not able to get back the requisitioned premises, though he wants it for his own use. In respect of the requisitioned premises in possession of the Government, Government's position should be in the nature of a tenant; and the owner of the building should continue to be the owner. But the position has been reversed. Government feels that it has become the owner, and the poor owner has no place. These are the practical difficulties.

Now the Minister says, in the objects of the Bill, that in two years' time Government will be in a position to vacate or surrender all the requisitioned premises. I have my grave doubts. I was Minister of Works and Housing some Years ago. I know the difficulties. Government is not able to construct buildings for its departments all over the country. This two year period, I think, is too short. I can never imagine that the Government would be in a position to surrender these requisitioned buildings within two years' time. I am sure it will come back again to Parliament for a further extension.

I would like to have a list of requisitioned buildings, the dates of requisition, the dates when any of them were surrendered, or when the land was acquired. I do not think the Minister would be in a position to give this, because there are so many buildings all over the country, which are in Government's possession. The poor owner applies to the Government for release.

Even after retirement when he wants his own flat so requisitioned during war time, he is not able to get possession. Therefore, Government should be in the position of a tenant, so that the provisions of the Rent control Act would apply. So, where the owner needs it for his own personal use, Government should vacate it. But those provisions do not apply because of this special Act which we have already passed.

So, this is the situation. And the compensation that is paid even after revision after five years, is so meagre that the poor owners are driven the courts. So many petitions are pending in High Courts and the Supreme Court. Therefore, Government should feel that it should, as a duty, view these cases with sympathy, so that what is due legitimately to the owner is given by way of compensation.

A large number of pending cases in the High Courts and Supreme Court are those which relate to disputes between the citizen and the State. Even where the State feels that the citizen has the right, Government does not concede it. They say: "Let the court decide", and the poor citizen has to engage lawyers and fight the litigation out.

These are circumstances which are unreasonable. At the same time, the government has been constructing so many buildings, but it does not construct them for their own purpose. I know the building in Calcutta which has come up earlier and is now under construction. I do not think it will be sufficient to house all the departments in Calcutta. So also is the case in Bombay. The principle of revision of rent every five year should be applied to cases where lease is taken by the government from the owner. This lease was taken some 20 years ago at a particular rate per sq. ft. Meanwhile, the corporation tax and the cities have increased considerably. The owners apply to the Ministry for revision

of rent at least to pay the additional levy of corporation tax that has been levied, but the Ministry does not listen to reasons what can a poor citizen do? These are difficulties which the poor owner who are citizens of this country are facing. So, this Bill, though I am inclined to support it will be a great hardship on the citizens. Therefore, I would very kindly request the Minister not to come forward again after two years but see that all the requisitioned buildings and premises are surrendered under Section 6 of the Act as also the difference is paid once you acquire a portion of the land which has been requisitioned. Then the question is when a portion of the land is acquired, what would be the value of the other portion which is not acquired? The value of the land goes down. These are the difficulties. The principle enumerated in the Land Acquisition Act should be applied in such cases so that the citizen is not at a disadvantage because the Government is all powerful. Therefore, please act, as a tenant and not as a super land lord or super owner. In the circumstances mentioned in the statement of objects and Reasons, I have no option but to support the Bill I support it.

[Translations]

SHRI RAMASHRAY PRASAD SINGH (Jahanabad) : Mr. Deputy Speaker, Sir, the Requisitioning and Acquisition of Immovable Property (Amendment) Bill, which has been introduced in the House, seeks to extend the period of 15 years for which a property can be requisitioned by another two years. In this connection I would like to submit that the property already requisitioned by them could not be put to proper use. They become owners of the land requisitioned by them and do not pay the due compensation or the compensation at the market rate on account of which landowners face great difficulty and suffer heavy loss. I am in favour of extending the period, but the properties requisitioned by them should

be put to proper use. Plots of land are acquired but no record is maintained thereof which causes great difficulties and harassment to the persons whose land is acquired.

Keeping in view all these things steps should be taken to ensure that the land owners are not put to any difficulty on this account. I have nothing more to say in this regard,

SHRI RAM PYARE PANIKA (Robertsganj) : Mr. Deputy Speaker, Sir, I support the Requisitioning and Acquisition of Immovable Property (Amendment) Bill.

It is true that the rules framed regarding the requisitioning of property are not proper. The market rates increase every year and we should pay rent or compensation accordingly. During the last Session we passed a Land Acquisition Act in the Lok Sabha and a cross section of the Members had expressed their views at that time. Hon. Minister, Sir, There are a large number of complaints particularly about your Department. You do enact legislations saying that compensation would be paid at the market rates, but actually you do not pay it. You know how your Ministry are acquiring the Land of the farmers at cheap rates which is an unjust to them. They are neither paid adequate compensation nor given employment. Even plots are not allotted to these whose lands are acquired.

You have a place to construct houses on a mass scale in big cities, but the speed with which you are constructing these houses is very slow. Through this Bill, you have sought extension for two years, not beyond that. How clever your Department is ! when the period of this law was about to expire, They got an ordinance promulgated. It has brought a bad name to us and it is due to the inefficiency of your Department.

You should get the quality of the material of the flats, etc., constructed

[Shri Ram Pyare Panika]

through your department, checked. Your department has earned a bad name for it throughout the country. Just see the condition of the flats in which we are living. The BARSATIS constructed in these flats are substandard, No cement, etc., has been used in them. You have made the payment also for these barsatis, You have a set of contractors who are entrusted with this work I have even written to you against a contractor in this regard.

You have chalked out a plan to construct houses on a large scale in big cities. Which are the cities where you propose to construct houses expeditiously? You have constructed houses in Bombay, you are going to construct house in Calcutta which are the places where you propose to construct houses speedily? As long as the speed of the construction is not accelerated by your Department, the people would not get houses early. Therefore, of your Department must work at a faster pace.

You have a number of schemes in the Seventh Plan. You will require many buildings for that purpose. We have raised our Defence Budget by Rs. 77000 crores. We shall have to requisition buildings in big cities for the Defence Department and you have sought only two years, extension of this law. I want that you should seek extension beyond that period also.

The Bill should also have an unambiguous provision to the effect provision that compensation would be paid at the prevailing market rates.

Sir, I know that the Executives, C.M.D. and other officials of the public undertakings get a higher rent fixed for the buildings hired by the undertakings in collusion with the property dealers in big cities, and the rent actually paid is far less than that. This is happening in all the big cities including Delhi.

The rent actually paid is less than that shown to have been paid.

This is a small but important Bill. It becomes all the more important in view of the expansion of building activity in our country. Therefore, I want that there should be a provision in the Bill itself for the competent authority to pay compensation at market rates. There should be increase in the rate of compensation in proportion to the rise in the price of land in big cities.

Ours is a welfare state. We have to acquire lands in the public interest. But, acquisition does not mean exploitation. We should not allow any form of exploitation.

In the end, I would like to say that an efficient Minister has now taken charge of this Department. We are conversant with his style of functioning and with his approach. We want that he should chastise his Department a bit. The bunglings of the material going on in the matter of the quality material and price should not be allowed to continue. engineers feel lucky if they find a job in your Department. You should not allow any slackness in your Department now and should instead enforce strictness. I am sure, you will take steps in this regard.

What strictness is to be enforced? The first thing to be seen is who was responsible for getting an ordinance issued when the period of the Act was about to expire. The person who is responsible for it should be punished so that the work in this Department goes on smoothly in future.

Yours is a Department which affects the vocal section of society, who criticise your Department throughout the country. Therefore this needs to be given attention to.

I conclude by saying that you should pay compensation for lands at market rates and should bring forward a comprehensive Bill for this purpose.

[English]

SHRI PRIYA RANJAN Das MUNSI (Howrah) : I can appreciate the position of the Government that it had no other alternative but to bring the Ordinance to avoid litigation. I would like to highlight a few points because the city which is affected greatly in the extension of this Bill is the city of mine i. e. Calcutta.

During the British days, people built their houses. In those days Calcutta was the city of Calcutta lords or Calcutta babus, who, now a days, are no more babus but have their properties within the city of Calcutta. During the Second World war and after that also, most of their properties inside the city, which is called Chowrangee area, have been requisitioned by the Government. Most of the Government offices have been functioning from there. My fundamental question before the Minister is what is your actual policy and planning in regard to determining the requirement of houses for the Government departments in a particular period and how do you actually implement it? Is it that you obtain information from respective Ministries and then go for it? Or do you evolve a policy which you call a perspective plan for another five years as per the capacity of different Ministries and their expansion and how much area and space they require? I think, the Ministry has been functioning in this matter in a very *ad hoc* manner resulting in untimely requisitioning and extending the scope of the Bill has now become compulsory. I, therefore, request the Minister to explain as to how they evolve the policy for constructing houses for Government offices here and there and especially in big cities like Calcutta Bombay and Madras.

While constructing a new house for an office complex you have certain policies and framework to calculate the depreciation values as well as other cost of maintenance. Will you kindly inform

the House as to how you calculate the depreciation value of the requisitioned properties which you have requisitioned 10, 15 or 30 years ago? If you compare both, you will find that the properties which have been requisitioned 30 years ago on lease or any other term, their depreciation value and maintenance cost are not taken in that seriousness as it is done for new by constructed houses for office complex. It is in one way denying the right or legally speaking, denying justice of equality between the citizens and the Government office. I personally feel that this should also be taken care of. If some lacung is there, kindly find it out and see that when two years period is over, they are adequately compensated so far as depreciation and maintenance cost are concerned. I have seen that whenever Government do-requisition a house, it gives it back to the owner in such a condition that it does not remain habitable. And to make the house habitable or suitable for renting again, the owner has to spend a sum which he might not have accrued during the last 10 or 15 years i. e. all through the lease period. This is the great suffering of a large number of people in the city of Calcutta, who complain to us in this regard. Kindly see that they are not treated in this manner. Whenever you do-requisition a property, please see that it is handed over in a proper condition. Otherwise, what happens is that even after de-requisitioning, it takes quite a lot of time for the owner to put the house in a proper condition. The owner of the house suffers for nothing. The Government does not pay any compensation, Why should it be? If you de-requisition a house, before handing it over to the owner, put it in proper condition or pay him the compensation.

Another thing I would request the Minister to consider is about the bank buildings. I do not know the policy of the Government in this regard, he may spell it out. The banks pay a higher

[Shri Priya Ranjan Das Munsi]

rent whenever they get a good house whereas I have seen that whenever some other Departments requisition a house, they pay very poor rent. Why should this discrimination be there? Why should there not be a uniformity of rent in the case of all Government departments whether it is a bank or Health or Defence or any other department? If you make a study, you will find that the premises requisitioned for banks fetch higher rent than the premises requisitioned for other departments, even for the Defence establishments. Long back the DGOF's office in Calcutta had requisitioned a property; that office has now been shifted from there. They used to pay more rent whereas certain other departments are paying less. I would request you to kindly find out why this disparity is there. Since you had assured the property owners last time here, on the floor of this House, that you will not trouble them after the period of requisitioning was over, accordingly they have planned certain things that after five years they will use their property either for shops or for a trade complex, and for that purpose they have invested some infrastructure and have brought some of their friends and relatives also. Now if you extend the period by another two years, in what manner are you going to compensate them? Therefore my request to you is that those who will come within the ambit of this Bill, that means, those who will have to suffer for another two years, should be adequately compensated by paying them more rent than in the past so that they get adequate compensation for the investment they have already made anticipating that they will get their property back after the expiry of five years. If you do not do it, it will be an injustice to them, and having been a student of law I tell you that if on this ground somebody goes to the court, you will be in the dock. It is a question of property. You cannot do like this.

Therefore, I request you to kindly consider all these suggestions and cover them in your reply. After two years please don't come here and say that you want to extend the period by another one year or two years. If you do so, you will yourself be requisitioned at that time. With these words, I conclude.

[Translation]

SHRI ABDUL RASID KABLI (Srinagar): Mr. Deputy Speaker, Sir, I would like to submit to the hon. Minister that, in fact, there is nothing extraordinary in this Bill. You have sought extension only for two years. So far as this Bill is concerned, you are seeking amendment in the Requisitioning and Acquisition of Immovable Property Act to enable you to get more time. You requisition properties and release them later. You have sought two years for this purpose. Having come into effect in 1970, it should have expired in 1985. But, you are seeking two years extension for it. I think, you should not bring forward piecemeal legislation. You have paid that properties worth over five crores of rupees have been requisitioned by the defence forces. I am of the view that you should examine the whole issue carefully. Thereafter, you should bring an amendment for the extension of the period at least ten or twenty years. After that, if the Government feel further need extension, the period can be extended by two to four years. The whole aspect requires a thorough study. It has been mentioned that you have been releasing properties in Calcutta no government property is being built at any place. You are releasing property at some places, whereas at other places you are acquiring. I want to know one thing which concerns Jammu and Kashmir. The State of Jammu and Kashmir touches the borders of China and Pakistan. Complaints are pouring in from the entire Jammu Sector, the Kashmir Valley and Ladakh that the Armed

Forces are in need of land. They have already acquired a lot of it. The Government needed land for the airport at Srinagar. Similarly, the army needed land at Aurentipura for airport facilities. The area of Badgaon falls in my constituency and aerodroms were constructed in that area, one each for the army and the civilians. For that purpose, they got most of the land evacuated from the people. The people around that area and the villagers were asked to vacate and move away. Anyway, if our Defence Forces need land, nobody can have any grouse in this regard, but the question is that the claims for their lands should be assessed in accordance with the prevailing market rates. The price of land in and around Srinagar has gone up to Rs. 100,000 per 'konal' and at some places, you would not get land even at this price. But this aspect is not taken into consideration while acquiring land for our Armed Forces. Then, the people whose lands were acquired are tillers, peasants who used to work on the lands to raise crops, whereby they used to get benefit and so did the State, but they are not being paid reasonable compensation for their lands. This is most regrettable. In Uri Tangdar Rajauri and Pooch, thousands of such cases are lying pending. I had been a Member of the Jammu and Kashmir Assembly for about 11 years and during these 11 years I continuously tried to find out a solution to this, but failed because this subject does not come under the State's Jurisdiction. Therefore, I want you to pay attention to Jammu and Kashmir where not hundreds but thousands of such cases are lying pending. The poor people have been rendered homeless, they have been evacuated from their agricultural lands, but their compensation cases are still pending. Since your propose to extend that period by another two years through this Bill, I want to draw your attention to that problem. There is no doubt and nobody can grudge that our

Armed Forces need land, but the cases of compensation for these lands are still lingering on. Through you, I would like to bring to the notice of the hon. Minister also that the people whose lands were acquired were poor farmers, Gujars, living on the hills for centuries. Their lands were agricultural lands and now they have been rendered almost homeless, no land worth cultivating has been left with them and they are facing a critical problem. I went to bring that issue to your notice. I do not know whether the State Government have brought that matter to your notice or not, but since this matter has been raised here now, I want you to give your attention to that also. You must, take this matter up with the Ministry of Defence and see that some solution is found to the hundreds and thousands of cases lying pending for a long time. Arrangements should be made to pay them compensation and to rehabilitate them as soon as possible. For providing relief also, you will have to talk to the concerned Ministry.

In the end, I would also say that we have no objection to your extending the period by two years. But, I would again submit that, as was said yesterday also, the summons were issued, perhaps, on the 5th-it is for the Secretariat to clarify what the correct date was-but according to us, the ordinance was issued on the 8th, whereas, Parliament was due to meet from the 13th. This brief period there was not a big gap between 5th and 8th and between 8th and 13th was not that long a period which would have resulted in a revolution or created a crisis in case you had not issued the ordinance for another four or five days and brought forward this Bill formally in Parliament. I would repeat what the Members from the Treasury Benches as also the oppositor have said that for God's sake keep it in mind in future. It does not matter if there is a long gap between the issuance of an ordinance and the sitting

[Shri Abdul Rashid Kabuli]

of Parliament, but if the gap is not that long, you need not issue a separate ordinance but instead bring that forward in Parliament in the form of a Bill. I hope you will keep this in mind in future and will also throw some light on this issue.

13.00 hrs.

THE MINISTER OF WORKS AND HOUSING (SHRI ABDUL GHAFOOR)
Mr. Deputy Speaker, Sir, the point raised by my friend Shri Kabuli regarding the dates 5th and 8th is true, but I will explain what made us adopt this course.

Last time, when this amendment was made, its life was fixed at five year and it was to expire on the 10th March. Had we not promulgated this ordinance and had instead brought forward a Bill in Parliament, it would have taken at least some time before it could have been passed. In the meantime, all the people whose properties were requisitioned would have gone to the court praying for restoration of their properties as they could not be held any more according to the Act. That was why an ordinance was promulgated and it was decided simultaneously to have a Bill passed in this very session to provide safe guard against this lacuna.

One thing I want to make absolutely clear. Almost all the hon. Members who have participated in this discussion were of the view that nothing substantial could be achieved in two years and that we could easily extend this law by five years, instead of two years. But when the amendment was made last. Government had taken five years time and it was decided at that time that all the requisitioned properties would be restored to the owners in a phased manner many of the properties have already been restored. But about 200 properties and 8,000 acres of land, particularly with the Defence Department have not

been restored. Government also fully realise its importance, but two years extension has been sought because our conscience is clear and we would restore all the properties within two years.

SHRI MOOL CHAND DAGA (Pali) : When you could not do so in five years, how do you propose to do it in two years ?

SHRI ABDUL GHAFOOR : Since you are in a que Mr. Daga, please wait for some time.

You think that all this is the making of the Ministry of works and housing It is not so. You realise our difficulty, also. The Defence Department, the Posts and Telegraphs Department the Railways and the education Ministry all of them acquire properties, but I have to shoulder all their responsibility. Therefore, you should have some sympathy for me. The entire burden of answerability falls on me. Therefore, I have decided to extend it by two years and all the Departments are being asked to release the properties within this period. I hope all these properties would be released within two years, maybe before that. In case some department do not release the property, they are empowered to acquire it and pay compensation at the market rates, but it is not proper to retain it indefinitely. The state Governments have pointed out that the rents were fixed 20 years back and the payment is being made at these rates even today// There is a provision in the Act that after five years the owner of the house, whose property has been requisitioned would apply to the Government and get the rent fixed mutually and if there is disagreement between the two there is a further provision namely that both of them would jointly appoint an arbitrator and the decision of the arbitrator would be binding on both. //

My friend Shri, Priya Ranjan Das Munshi has also raised this question

that the banks hire property at high rent but the properties which were requisitioned long back, are at lower rates of rent. Therefore, we want that all these properties should be restored to their owners. As per the all India figures, which we have collected. There are hardly 200 such properties, some of which are residential and some non-residential while some of this land. Land has mostly been requisitioned by the Defence Department. If the Defence Department require land for storing purposes and for manufacturing additional equipment, they should acquire that land. They should not keep that land on rent. I am sure, like me, the owners of these properties would continue to pursue with every Department about the whole thing. They would continue to fight as long as these things do not come to an end. I hope as we shall solve this problem within two years. The entire cabinet met and discussed this matter and then only the ordinance was promulgated. Therefore, they know their responsibility. Now the Department would have to see what their requirements are. In Calcutta and Bombay, some buildings are ready after construction and many offices have been shifted. There are many others are proposed to be shifted. We seeking two years extension to undo the injustice, about which a hint has been given. We would have easily extended this law by five years, had we wanted to do so. We can of course imagine the difficulties that would be there in two years. Therefore, I would request the hon. Members to pass this Bill in order to convert this ordinance into an Act.

SHRI ABDUL RASHID KABULI : I would request the hon. Minister to pay attention to the problem of Jammu and Kashmir. They have acquired most of the lands for Defence Forces. In respect of some lands, compensation should be paid at the market rates but no compensation has yet been paid. Thousands of people in our border areas are facing this

problem. I want that you should give an assurance in this regard.

SHRI ABDUL GHAFUOR : I have got the figures with me. The figure is 8,400.

SHRI ABDUL RASHID KABULI : You ask our Guptaji who would vouchsafe that this problem is there in Jammu, Laddakh as also in Kashmir, but no solution seems to be in sight. The people have been rendered homeless. The people whose lands were acquired are cultivators, Gujars, the people belonging to weaker sections and they are indistress. I want you to give us an assurance that you would talk to the Defence Ministry and that the matter of compensation would be settled as soon as possible. An assurance should also be given to the effect that compensation would be given at the prevailing market rates, as the litigation has been going on for the last ten years. The problem should be solved as early as possible, because thousands of people have been affected because of negligence.

[English]

SHRI MOOL CHAND DAGA : May I ask two or three clarifications?

MR. DEPUTY-SPEAKER : Only one clarification. That is all, I won't allow any speech.

SHRI MOOL CHAND DAGA : I will ask only clarifications and nothing more.

I want to know whether all the Departments which have got immovable properties have given in writing that they will vacate them within two years. I think you have received applications from the various Departments stating that they will be vacating these properties within two years. Which are the Departments which have given you in writing like that? If those properties are not returned to the owners within two years, will the Government pay compensation to them? This is one thing which I want to know from you.

[Shri Mool Chand Daga]

Secondly, suppose you have assured the House that within two years the properties will be returned to the owners. But if they are not returned, what further steps you will take ?

MR. DEPUTY-SPEAKER : I asked you to ask for one clarification only. That is all.

SHRI MOOL CHAND DAGA : He has not given the names of the properties. Please sit down.

MR. DEPUTY-SPEAKER : I don't allow the second one.

SHRI ABDUL GHAFOR: Ministry of Works and Housing : 5 Residential, 34 for office and other purposes.

Ministry of Defence : 26 Residential, 5 others.

(Interruptions). 4,164 acres.

Ministry of Communications)
(Interruptions).

SHRI RAJ MANGAL PANDE : The question is different and the answer is different.

(Interruptions)*

MR. DEPUTY-SPEAKER : Please don't interrupt. I do not allow. Nothing will go on record.

(Interruption)*

[Translation]

SHRI ABDUL GHAFOR : He wants to know whether the other Ministries have given in writing that they would release the properties. He is, perhaps, aware that whatever work is done here is done with joint responsibility. The question comes before the Cabinet which decides whether a Bill is to be brought forward or an ordinance is to be promulgated, which names that it has been done with joint consent. Therefore, I think, Shri Daga will not have to wait for long.

On the other hand, with regard to the point which Shri Kabuli has raised, I want to tell him that I know that a lot of land was requisitioned by the Defence Department. In the ordinary

course, had it been some other Department, the lands would have been vacated within five or six months, but in the case of Defence, it will take quite time. We shall try to get it settled as soon as possible with the same view-point which have in mind.

(English)

MR. DEPUTY-SPEAKER : Prof. Soz, are you withdrawing the Resolution ?

PROF. SAIFUDDIN SOZ (Bara-mulla) : Mr. Deputy-Speaker, Sir, I am very happy that my resolution has evoked very great response from both sides of the House. I was particularly happy yesterday when Prof. Ranga congratulated me on bringing this resolution before this august House. But I am a little sorry for Mr. Abdul Ghafoor because, I don't think it is his fault that he got this ordinance before this House. Perhaps, he is answering for the evils that have accumulated throughout the administration in various Ministries. I do not hold the Works and Housing Minister to be answerable. But since it pertains to his Department, he has to answer and reply to these queries.

The matter of requisitioning and acquisition of land is a very important one because for years together, you remain undecided whether you have to acquire a property or not. You have said that you have 200 properties only and you have requisitioned only 8,400 acres. I don't have any access to the place where the data are prepared. But I feel, roughly I have an impression, that this figure of 8,400 acres is wrong. Perhaps, it has not been properly calculated as to what is the number of acres you want to acquire or requisition. But I will raise that issue later. But at this time, apart from the fact that most of the Ministries remain undecided particularly the Ministry of Defence as to what lands they have to acquire finally, the time lag is very long. The Ministries remain undecided. That is

a national loss. Wherever there is a piece of land, it is not cultivated, no buildings are erected there. That land is not put to any use. It is a national loss. The owner cannot sell that land.

There are places where there is extreme shortage of land. Unfortunately, I belong to a place where there is extreme shortage of land, i.e. Baramulla. Baramulla town is surrounded by mountains. There is a small valley. There is hardly any land. I invite the Works and Housing Minister to Baramulla and he can see for himself. Perhaps he had not been to Kashmir. He can visit Kashmir, the beautiful valley either in April or May. These are the beautiful months and he will see a situation where people have started construction of houses on the mountains, because the best piece of land is under the Army occupation. The rent paid is very meagre. After all, the people of Baramulla or the people of any place in India are the citizens of this great country. Defence is very important. But the freedom of citizens is also equally important. They must have a say. They fix the rent and the people have to accept it.

I may bring to the notice of the hon. Minister-let him kindly raise it with the Defence Ministry that the rent they pay to the people of Baramulla is very meagre. They even went to the Deputy Commissioner saying that they would not accept it. But what could they do? What could the Deputy Commissioner or the Chief Minister do? What could they do because Defence is very important?

More objectionable is that Baramulla is a very small valley and half of the land is under the Army occupation. The army could have the land. But there are other pieces of land that the Army could have. But in the heart of the Baramulla city, they have the biggest chunk of land under the Army

occupation. A very meagre rent is being paid for that.

Similar situations may be existing in other places throughout the country. This is the basic flaw in the problem of requisitioning and acquisition of land and immovable property. But much more than this is the question of dignity and honour of this House.

SHRI RAJ MANGAL PANDE :
 On a point of order, Sir.

PROF. SAIFUDDIN SOZ : I do not think there is any point of order involved here.

MR. DEPUTY SPEAKER : What is your point of order ?

SHRI RAJ MANGAL PANDE :
 This Bill applies to the whole of India except Jammu and Kashmir...

PROF. SAIFUDDIN SOZ : It is a connected problem.

MR. DEPUTY-SPEAKER : There is no point of order.

SHRI SAIFUDDIN SOZ : There must be prepared to answer how the Army got that land. I have raised a major question. This is the basic flaw in the law. Baramulla is only an example. In this great country, there are many other places which suffer from the same difficulty. My question is not only relating to the inherent flaw in the law but also how they acquire property, how there is a long time—gap and how the people suffer. They do not make up their mind for decades. But much more than that is the question of promulgating an ordinance like this. My question is that the very honour and dignity of the Parliament is in jeopardy.

Yesterday, I had raised the question as to how Mr. Mavalankar thought about it. I had explained how our great Prime Minister, Jawaharlal Nehru, reacted at that time. A very long corres-

[Shri Saifuddin Soz]

pondence had ensued, I will not repeat all that today. But I would tell you how Mr. Mavalankar continued to write to the then Prime Minister, Jawaharlal Nehru. In 1954, he wrote a letter.

MR. DEPUTY SPEAKER : You just tell the gist of that.

PROF. SAIFUDDIN SOZ : I will tell you the gist of that.

Before doing that, I will refer to Dr. Ambedkar's view. He was of the view that the President could have the power of issuing an Ordinance but, as to when the President can exercise that power, not every now and then, not at any time when the proposal is made before the President. Dr. Ambedkar agreed that there should be a provision in the Constitution for promulgation of an Ordinance. But he was equally convinced at the time when the Clause on Ordinances was being debated in the Constituent Assembly that such power must vest in the executive. He said :

"It is not difficult to imagine cases where the powers conferred by the ordinary law existing at any particular moment may be deficient to deal with a situation which may suddenly and immediately arise. The emergency must be dealt with and, it seems to me that the only solution is to confer on the President the power to promulgate a law which will enable the executive to deal with that particular situation."

Both the wording of the Clause in the Constitution and Dr. Ambedkar's defence of it make it clear that an ordinance must be resorted to only in the event of an emergency when immediate executive action is called for.

PROF. SAIFUDDIN SOZ :
Therefore, I stress the point that

the first Lok Sabha had envisaged and had visualised a situation that there would be an erosion of the authority of Parliament and the dignity of Parliament would be brought into jeopardy. Therefore, before I close my speech on this resolution, I must remind this august House of what Ambedkar finally wrote to Pandit Jawaharlal Nehru when he was the Prime Minister of this great country. Hon. Speaker Mavalankar in his letter of July, 17, 1954, to the Prime Minister said :

"The issue of an Ordinance is undemocratic."

There was a long correspondence between Shri Mavalankar and Pandit Jawaharlal Nehru. But this letter of 17th July, 1954 to the Prime Minister of India is a clear indication of how Shri Mavalankar finally thought on the problem of issuing Ordinances.

"The issue of an Ordinance is undemocratic and cannot be justified except in cases of extreme urgency or emergency We, as the first Lok Sabha, carry a responsibility of laying down traditions. It is not a question of present personal in the Government but a question of precedents and if this Ordinance issuing is not limited by convention only to extreme and very urgent cases, the result may be that, in future the Government may go on issuing Ordinances giving Lok Sabha no option but to rubber-stamp the Ordinance. I am invite your attention to one more aspect namely the financial aspect involved in the amendment to the Indian Income-tax Act, 1922. It is not directly a taxation measure. But is intended for the purpose of collection of taxes. Indirectly, it affects the finances and it

would be a wrong precedent to have an Ordinance for such a purpose."

It means that there can be many matters on which Government will from a habit of putting forth Ordinances before Parliament. It is just an Ordinance in the same series. So, Shri Mavlankar had cautioned this country in 1954 finally, and since Ordinances like this are going to erode the authority of the Parliament, I take it as a great affront to the dignity of this Parliament. I press this resolution wholeheartedly with all the vigour at my command. It is for you to maintain the dignity at honour of this House.

MR. DEPUTY SPEAKER : Are you withdrawing your resolution ?

PROF. SAIFUDDIN SOZ : I am pressing my Resolution for the sake of principle. Had they not issued Ordinance, what will happen ? Would the people go and acquire the land ?

[Translation]

SHRI ABDUL GHAFOR : Mr. Deputy Speaker, Sir, this Ordinance too has been issued in exceptional circumstances. This Act, which was valid for a period of five years, would have expired on the 10th of this month. Even if we had introduced a Bill in this House on the 10th itself, it would have taken one month to get it passed after discussion and by that time we would have lost all the properties and there would have been litigation all over India. Therefore an Ordinance was issued to avoid this situation. The Bill has been introduced within 2 to 3 days of the commencement of the session and within two years all the things would be settled. It is not that the prestige of the House has not been taken care of. I have already stated that it is not a question of one department, but all the Government departments in India but the reply has to be given by the Housing Minister. Keeping

this contingency in mind, had the Ordinance not been issued before the 10th of this month, all the properties which were mentioned by you in the House earlier, would have gone under litigation. All the owners would have gone to the courts stating that the Government had no right any more to keep those properties under their control. Had this thing happened, there would have been commotion in the entire country, because there are certain sensitive departments like the Departments of Communication and Defence which would have been affected. That is why this Ordinance was issued. I, therefore, request that keeping the above in view, you may withdraw your Resolution.

PROF. SAIFUDDIN SOZ (Barmulla) : Mr. Deputy Speaker, Sir, so far as the Minister of Works and Housing Shri Ghafoor, is concerned, I have no doubt about his intention. Actually, it is his Department which has created this situation which left to other option with him except to issue this Ordinance. The matter does not relate to 10th or 8th March, it relates to January when the House was in session. Why was the Bill not brought forward at that time ? If a small officer, I do not mean it salary-wise, holding a post in a Ministry shows slackness, no one holds him responsible for that and it is the Minister who has to pay for his slackness and the status of the President is affected thereby.

[English]

The President should not be prepared to sign Ordinances at any moment of time. He must take into account the dignity of the House.

[Translation]

Shri Ghafoor's point is correct that on the 10th of March this law would have expired and the Government would have had to part with a good deal of land. But the matter relates not to the 10th or the 8th March, but to January.

211 *Statutory Resolution Re ;
Disapproval of Requisition-
ing and Acquisition of
Immovable Property
(Amendment) Ordinance
1985, and Requisition-
ing and Acquisition of
Immovable Property
(Amendment) Bill-Contd.*

MARCH 28, 1985 *Handlooms (Reservation 212
of Articles for
Production) Bill*

[Prof. Saifuddin Soz]

At that time the first session was being held. Why was this Bill not brought forward at that time? This means that the slackness and the carelessness in the Department should be checked and the President should also take note of this.

[English]

He does not have any Constitutional authority over the head of Parliament. Parliament is the supreme legislative authority.

[Translation]

The dignity of Parliament is in danger. Therefore, I am not withdrawing this resolution, rather I vehemently seek the support of the House for my Resolution.

[English]

My Resolution will remain. Of course, they have the power to negative it.

MR. DEPUTY-SPEAKER : The question is :

“This House disapproves of the Requisitioning and Acquisition of Immovable Property (Amendment), Ordinance, 1985 (Ordinance No. 2 of 1985) promulgated by the President on the 8th March, 1985.”

The Motion was negatived.

MR. DEPUTY-SPEAKER : The question is :

“That the Bill further to amend the Requisitioning and Acquisition of Immovable property, Act, 1952, as passed by Rajya Sabha, be taken into consideration.”

The motion was adopted

MR. DEPUTY-SPEAKER : The House will now take up clause-by-clause consideration of the Bill.

The question is :

“That Clauses 2 to 4 stand part of the Bill.”

The motion was adopted

Clauses 2 to 4 were added to the Bill

Clause I, the Enacting Formula and the Title were added to the Bill

SHRI ABDUL GHAFOOR : Sir, I beg to move :

“That the Bill be passed.”

MR. DEPUTY-SPEAKER : The question is :

“That the Bill be passed.”

The motion was adopted

13.28 hors.

HANDLOOMS (RESERVATION OF
ARTICLES FOR PRODUCTION)
BILL

[English]

MR. DEPUTY - SPEAKER : The House will now take up item 15 of the agenda, The Minister.

THE MINISTER OF STATE IN
THE MINISTRY OF COMMERCE
AND SUPPLY (SHRI P.A. SANGMA):
Mr. Deputy-Speaker, Sir, I beg to
move :

“That the Bill to provide for reservation of certain articles for exclusive production by handlooms and for matters connected therewith, as passed by Rajya Sabha, be taken into consideration.”