The motion was adopted.

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

Clause 2 was added to the Bill.

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

SHRI D. P. KARMARKAR: Sir, I move:

"That the Bill be passed."

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill be passed."

The motion was adopted.

THE DELHI RENT CONTROL BILL, 1958

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI B. N. DATAR): Sir, I beg to move:

"That this House concurs in the recommendation of the Lok Sabha that the Rajya Sabha do join in the Joint Committee of the Houses on the Bill to provide for the control of rents and evictions, and for the lease of vacant premises to Government, in certain areas in the Union territory of Delhi, and resolves that the following members of the Rajya Sabha be nominated to serve on the said Joint Committee:

Shri Gopikrishna Vijaivargiya
Shrimati Ammu Swaminadhan
Shri Deokinandan Narayan
Dr. W. S. Barlingay
Shri Awadeshwar Prasad Sinha
Babu Gopinath Singh
Shri Onkar Nath
Shri A. Dharam Das
Shri R. S. Doogar
Dr. Raj Bahadur Gour
Shri Faridul Haq Ansari
Shri Anand Chand
Shri Mulka Govinda Reddy
Mirza Ahmed Ali
Shri Govind Ballabh Pant."

This Bill has been brought forward for the purpose of improving the position so far as the question of housing in Delhi is concerned. The task has to be approached both in the interests of the landlords and also the interests of the tenants and, in particular, the interests of the tenants. In this respect may I very briefly bring under review the position in respect of rent control from 1939 onwards down to the present date? When the war started in 1939, there was naturally an attempt made from numerous quarters, especially of the landlords; to have a short increase in rents. In order to prevent any such increase, especially a speculative increase, what the Government then did was to have an order on this question known as the Rent Control Order of 1939. It applied to the area of New Delhi and what it did was to stabilise the rent as it existed during 1939 so that it should not be increased, so that the tenants who were in possession of various houses should not have the inconvenience of paying fantastic rents. That is the reason why the rent, as prevailing on (or during the year) 1st January, 1939 was stabilised. Then in 1944 an Ordinance was passed known as the Delhi Rent Control Ordinance. What it did was, it applied the same principle of stabilisation plus some increase with a view to meeting the changing situation in 1944. The whole urban area in the then Delhi Province including, naturally, New Delhi, came under the orbit of this Ordinance. Thereafter we had an Act known as the Delhi and Ajmer-Merwara Rent Control Act which was passed in 1947 and here what was done was to take into account, to a certain extent, the conditions then obtaining and then to fix a rent on some fair criterion. In the terms of the present Bill you will find that there is a schedule—schedule No. 2—where there have been given 3 categories of rent. One is known as the original rent, the rent that was fixed as in 1939. Thereafter some increase had to be effected and that was done and that was called the basic rent. Now it is called the basic rent. Regarding this basic rent, I would not go into details because the Bill is

[Shri B. N. Datar.]

going to a Joint Select Committee and there all the provisions would be duly scrutinised and we shall have a Bill which I am confident will meet with the largest measure of approval of both the Houses of Parliament. Therefore, I am merely pointing out certain very salient features of this Bill. Therefore, in 1947 when an Act was passed for rent control in Delhi and some other areas under the control of the Government of India, what was done was, generally,—I am putting it in a general way—7½ per cent. was considered as a proper measure of rent so far as the costs and value of the land was concerned. That was how in 1947 a certain criterion was followed and thereby we had an increase up to 7½ per cent. and thereafter—I would not go into further details here—that constituted the basic rent. Then we come to the third law on the subject, which was passed in 1952. Therein the rent structure was not substantially changed but what was done was that whenever there were certain new buildings constructed within a certain period, then in regard to those buildings an exemption was granted from the obligations of the rent control because the object was that the building construction should be increased because the population of Delhi has been increasing by leaps and bounds. Therefore, what was done was in respect of the particular period that has been mentioned in this Bill also, the rent as fixed between the parties was allowed to continue and to constitute the rent, the standard rent, but only for a period of seven years. In 1952, as I stated, this particular exemption was granted with a view that after the building had been constructed the rent should remain as it had been agreed upon between the parties. The object was to induce persons, who were in a position to construct buildings, to carry on their building activities, because as I have said, there was a sharp rise in the population of Delhi and there was no consequent rise in the number of houses actually constructed every year. That was the reason why in the Act that was passed this particular exemption was granted. Thereafter, in 1956, as you are aware, what was done was to grant an interim or temporary protection, especially against eviction. When that Act was sponsored before Parliament, it was clearly pointed out by the then Minister for Works, Housing and Supply that that Act was passed by way of giving a temporary or interim protection to the tenants against evictions by landlords so that the Government also would have sufficient time to consider the whole position and to see what particular improvements were necessary in respect of the Act passed in 1952. Thus we had the Act of 1952 and then we had the interim Act of 1956.

Thereafter, Sir, the Government took into consideration the changing conditions, and as I have pointed out, they took into consideration the interests of the tenants and subject to these, the interests of the landlords also had to be taken into account. And therefore, while considering the question of the contents of the new Act, that was to be passed in this respect, Government had three objectives before them. One was that in all these cases the rent ought to be fair, particularly to the landlord. That was the point that the Government had kept before themselves. Secondly the point that they kept in view was that there ought to be a very large measure, perhaps a larger measure, of protection to the tenants as compared with the provisions in the Act of 1952. The third and fourth points have to be properly appreciated, because we know that a number of houses were not properly looked after, that necessary repairs also were not effected by the landlords and oftentimes there was a lot of inconvenience, if not hardship, also to the tenants who had been occupying these premises. Therefore, the next point that was kept in view was that in fixing the new rent structure, something should be done, some allowance should be made, or in other words, some increase should be given in the extent of rent to the landlord so that he can carry out his

obligations of keeping the houses or the premises in proper and necessary repairs. That was also an object which we kept in view.

Then the last object was the one which naturally had to be taken into account and that was the desire, naturally, on the part of the Government to see that more and more houses were constructed by those who were in a position to do so. This is naturally a matter for the private sector and it would not be possible and it would not be practicable for Government at least for a number of years to come to take up building activities themselves and to construct buildings and let them out to tenants. That is a task almost beyond the financial capacity even of the Central Government, because so many lakhs and lakhs of houses would be required. Under the second Plan, if I mistake not, only Rs. 84 crores have been reserved for the purpose of housing. Now, as you are aware, Government have already been taking certain steps so far as certain aspects of this question are concerned. One is the clearance of slums. There are a number of slums, especially in Delhi area and the sooner they are removed the better. To that extent Government have taken some liability upon themselves. This question, therefore, has to be considered from the point of view of the private sector and some inducement, though not a very unreasonable inducement, not a very extravagant inducement, has to be offered to the various classes of persons who are in a position to build. That is the reason why when this question was taken into account, naturally, it was considered advisable that there ought to be a legitimate or reasonable inducement offered to intending builders of houses that if they build houses they will have a fair, not a very high but a fair, margin of profit, a fair margin of return on the constructions and also on the market value of the land. So these were the three or four objectives that the Government placed before themselves.

We also evolved a particular method according to which we desired to know the wishes of the tenants in general and also of the landlords to the extent that they came together. That is the reason why in the course of the negotiations that were carried on during the last year and this year, we had informal meetings with certain representatives of tenants and landlords and then at a certain stage, these persons representing different interests met under the chairmanship of the Chief Commissioner in an informal manner, and they came to certain conclusions. So far as most matters were concerned, they were unanimous in their conclusions and what were agreed upon between these representatives of the landlords and the tenants have been incorporated in this Bill. There were, naturally a number of points on which they could not agree and there the Government had to take a decision and the Government have taken such decisions and incorporated them in the form of the provisions in this Bill.

This, in short, is the history of the attempts that we have been making during the last two years for the purpose of placing on the Statute Book a fairly satisfactory measure, an enactment in the interests, as I have said, of the tenants as also of the landlords, to the extent that it was necessary. When the question arose as to what ought to be the reasonable rent, what ought to be the fair rent or, in other words, what ought to be the standard rent, for the consideration of the present Bill, then after taking into account all the circumstances, after taking into account for example the increase in the taxes, we had to come to a decision. Local or public taxes have been increased to a very large extent. They were round about 3 per cent., but now they are more than 10 per cent. and under the Act that was passed by this honourable House regarding the establishing of the Delhi Municipal Corporation, it is open to the Municipal Corporation to increase the tax on houses to the extent of even 20 per cent. That had also to be taken into

[Shri B. N. Datar.]

account, though we start with this, that from 3 per cent. it has come to 10 per cent. This fact had also to be taken into account.

We have also naturally to find out the extent to which there has been an increase in the costs of construction. I might point out that if the cost of construction was Rs. 100 in 1939, it has now become Rs. 325. To that extent there has been a rise in the cost of construction of houses as also in the cost of repairs. So, these circumstances have to be taken into account. The number of houses in Delhi is not sufficient at all. The population of Delhi has been increasing by leaps and bounds. The population now is round about 23 lakhs. In 1951 it was about 17 lakhs. The population has been rising but the number of houses available are not many. If I can give broad figures, I might point out that on the 6th October 1957, the private houses were to the extent of 1,38,000 odd or about 1,40,000. Now, in all the areas comprised in the present Bill, there were about 84,000 houses belonging to the State and there were a few belonging to statutory bodies. The small number of about 1,40,000 houses cannot satisfactorily house a population of nearly 23 lakhs even excluding the small percentage of Government servants for whom Government have made some provision. Government have been making provision especially so far as the lower category of Government servants is concerned. I might tell the House that in respect of Class IV employees of the Government of India resident in Delhi, we shall be in a position, in the course of the next few months, to house about 60 per cent. of them. So far as the higher category of officers is concerned, we are taking some steps but naturally they would not be commensurate with the large demand that is coming to us. As you are aware, we have also spent considerable moneys for giving grants to the refugee population for the construction of their houses. Leaving all these things aside, we had to provide for a standard rent so far as the houses, either constructed within a particular period or the houses that would be available for occupation by the tenants were concerned. As I have pointed out, the increase we had in 1947 was about 7½ per cent. Then, Sir, there was no increase as such in 1952 but, taking all these circumstances into account, Government came to the conclusion that over the standard rent that was fixed, a certain percentage should be allowed. We called the standard rent as the basic rent. The term "basic rent" has been defined as the original rent. The idea was to have the basic rent plus a certain percentage, which percentage varies according as the rent goes on increasing. That was taken as the basic rent and the question arose as to what percentage should be added to that. The principle that was followed was that it should be increased to the extent of 10 per cent. We laid down that it should be 7½ per cent. *plus* 10 per cent. of 7½ per cent. which comes to 8¼ per cent. That is how the figure of 8¼ per cent. of the cost of construction *plus* the value of the land came up. If we take into account the rising obligations on the part of the landlords, then this 10 per cent., you will find, cannot cope even with the legitimate rise that was taken into account. After all, we had to be more solicitous about the tenants whose number is naturally very large. Therefore, we came to the conclusion that on the whole there ought to be a 10 per cent. increase on the rent structure fixed in 1944 or that it should not exceed 8¼ per cent. That was the principle that we accepted and that constitutes, as you will see, the standard rent as laid down by the present Bill.

Wherever there has been any standard rent duly fixed either under the laws that were passed before 1944 or by the two Acts of 1947 and 1952, this percentage has to be taken into account and we have to examine them individually, so far as one category of cases is concerned, that is, those houses let out after a particular period

and within a particular period in 1944, to which a reference has been made. We have, therefore, said that where the parties have entered into an agreement then that agreement or the rent that was fixed ought to be considered as the standard rent and this involves by implication certain further obligations, namely, that this rent has to be the same for a period of seven years. That was what was agreed upon under the Act of 1952. What we have done now is to stabilise that and we have said that it should be for a period of seven years from the date of the completion of the particular building that has been given in for rent. In other words, what we have done is that we have stabilised it in the sense that it is not to be increased. That is how we have done it. After the completion of seven years from the date of the completion of the building, the building comes under the provisions of this law. This was one of the most important questions, one of the highly controversial questions, but we have tried to approach it from the various points of view that I have pointed out.

After dealing with this, we went on to the next question of what is known as the evictions. Now, in respect of eviction of tenants by landlords, there were a number of grounds in the former Act. We have brought them down now to 11. I would, in this connection, request the hon. Members to look to the various provisos that have been laid down in the Bill. Under the proviso to sub-clause (1) of clause 14, it would be found that restrictions or exceptions have been provided for all the eleven grounds. Take, for example, the first ground, non-payment of rent. I would not go into the details but I would only point out that where such a suit has been filed for non-payment of rent, it is open to the tenants to deposit the money in the court. We have created a new machinery of the rent control organisation for settling the disputes of the landlords and the tenants. If a complaint is made by a tenant that the rent is excessive or that there is no standard rent fixed for the house, then it is open to the Rent Controller to go into the question immediately and to fix the standard rent afterwards but, in the meanwhile, it is perfectly open to him to pass an interim order for finding out what *prima facie* would be the standard rent. Then, Sir, the tenant has to pay not the original rent but the standard rent which has been fixed as an interim measure. We have also allowed certain other concessions so as to avoid the consequences of default in the payment of rent. If the landlord refuses to give a receipt, such a refusal on his part involves very serious consequences but if he does, then we have provided in one of the chapters for the payment of this rent or the deposit of this rent with the Rent Controller himself. If he deposits it before the Rent Controller—it constitutes in law payment to the landlord—then subsequently it is open to the landlord to take the money, and if he does not take it all for five years—the period of five years has been laid down—then in that case that amount would be forfeited to Government. Therefore, so far as this question was concerned on which there was considerable difference of opinion, Government came to the conclusion that in all such cases the rule should be that eviction should be an exception, that non-eviction of or retention of possession with the tenant ought to be the rule. That is why even in the phraseology of clause 14 the ordinary rule has been laid down and the exceptions have been laid down in the proviso to sub-clause (1) of the said clause. There it is pointed out how, so far as even this clause was concerned, if the payment is made or if the deposit is made, he will not be in a position to be evicted.

Then, Sir, the next ground is one which is very important, the question of sub-letting. So far as sub-letting is concerned, Sir, under the ordinary law of the land there can be no sub-letting except in certain circumstances. Here it was found that the tenants

[Shri B. N. Datar.]

took the premises from the owner and then they found that sub-letting was highly profitable because, by sub-letting.....

SHRI V. PRASAD RAO (Andhra Pradesh): Even for Ministers.

SHRI B. N. DATAR: Ministers have nothing to do; they do not come into this picture at all.

Now, so far as this sub-letting is concerned, Sir, it gave certain, I would say, uncalled for advantages to the tenant, and even at the representative meeting of the landlords and the tenants it was laid down that sub-letting should be stopped. Now what has been done here? In the present Bill you will find there is a provision according to which only that sub-letting will be recognised for which there was consent, written or oral, before 1952, and that after 1952 consent of the landlord for sub-letting ought to be in writing. So in case there is no such consent, verbal or written, before 1952, and there is no consent after 1952 in writing, then in that case sub-letting would constitute one of the grounds for the tenant's eviction. It is not, as I have pointed out, Sir, an unconditioned ground. A number of clauses have been laid down setting forth the various provisions according to which, in the case of sub-letting, it would be open to the landlord to regularize it, to ask for more rent. If for example, Sir, the tenant has nearly sub-let the premises or he is not at all residing there, then in that case the very purpose of the law governing the relations between landlord and tenant would have been defeated if there was no provision to check it. In a case where the tenant does not reside there at all, it has been provided that in such a case he has no right at all to the premises, and that in appropriate cases direct relations between the sub-tenant and the landlord can also be recognised. As I have pointed out, it is open to the landlord also to regularize the relations, and it is the duty of the tenant, whenever the landlord calls upon him, to give him full intimation of the creations and the conditions thereof—of sub-tenancy. That is how sub-tenancy has been recognised. As I stated, there was considerable public opinion that sub-tenancies as such should not be allowed and the sub-tenancies existing after 1952 should not be there without the written consent of the owner or the landlord. Thus so far as sub-tenancies are concerned, except where these exceptions or reservations have been laid down, sub-letting will constitute a legitimate ground and lawful ground for eviction. But we have put in a number of conditions according to which the right has been reduced to a certain extent so that direct relations between the landlord and the sub-tenant can be established; but in any case, Sir, whenever the tenant is not in possession at all—there are a number of cases where the tenant is not in possession; he has let out the premises to other persons; he does not reside there at all—in such circumstances two very important consequences follow. One would be that the landlord by a sort of recognition of the sub-tenancy can charge more rent, and we have given a percentage of 12½ in the case of residential houses and 25 in the case of non-residential occupations. He can charge his tenant additional rent or he can ask for possession on the footing that the sub-letting was unauthorised.

Therefore, you will find, Sir, that everyone of these grounds has certain restrictions or conditions laid down, and if the conditions are satisfied nothing can be done. For example, payment is not made or, as I shall subsequently elaborate, there are the circumstances where the premises have been taken on rent but they have been misused, misused in the legal sense that the house was taken for a particular purpose but was subsequently used for an entirely unauthorised purpose, that would constitute, as the provisions would point out, a ground for eviction. But even

here, Sir, there would not be an immediate or forthright eviction, and I shall explain it. When there is a misuse it is open to the landlord to give notice to the tenant or file an application before the Rent Controller, and he can call upon the tenant to remove that misuse and to subject the premises only to lawful use, and if within a month of the service of such a notice upon him he removes the misuse, then the tenant will not be evicted at all. Thus you will find, Sir, that we have laid down a number of very salutary restrictions under which the right of the landlord to evict the tenant has been brought down to the minimum extent so that only when the tenant is obstinate, when the tenant is not prepared to carry out the conditions laid down properly—there are occasions, Sir, when the tenant does not comply with or violates the orders or directions given by the local authorities or the Government—only then is the inevitable course of eviction resorted to and the tenant will lose possession as these would constitute grounds for eviction.

Then, Sir, there is also another ground where the tenant . . .

MR. DEPUTY CHAIRMAN: Before you go to the next point let me tell you that the time fixed for the disposal of this motion is 2½ hours. You have already taken thirty-five minutes.

DR. R. B. GOUR (Andhra Pradesh): Let him take time; the Select Committee will have to consider all these aspects.

SHRI B. N. DATAR: If you like I will finish quickly.

MR. DEPUTY CHAIRMAN: You need not go into details.

SHRI B. N. DATAR: I am not repeating a single thing, Sir.

MR. DEPUTY CHAIRMAN: I said: You need not go into details.

SHRI B. N. DATAR: All right, Sir.

Then, Sir, there are other grounds where, for example, if a tenant has not been in possession for six months the purpose of the tenancy is frustrated, and therefore in that case he would lose possession.

These are more or less hotly contested points. That is the reason why I am pointing out how we have tried to hold the balance evenly, perhaps, to a certain extent in favour of the tenants. Now, let us take, for example, a case where the landlord himself requires the house. Let not my hon. friends bring in the capitalist class of landlords. There are only a few very large structures. There is the other class of landlords who are not very rich people, and a fairly large number of landlords are themselves very poor people. And if, for example, he requires the house, he would get possession provided he requires it *bona fide* for his own use and when there is no suitable accommodation for him otherwise. So that would show that only in the case of poor landlords can the tenants be evicted, provided the landlord himself has no house at all to live in.

Then we have introduced certain other serious conditions. If a landlord recovers possession from the tenant, then we have laid down as a rule that he shall not re-let it to any other person for a period of three years. So, that also has been laid down in the interest of the tenant and assuming, for example, that the landlord does it in the sense that either he does not occupy or that he leases it to some other person, then in that case we have followed, what is known as, the rule of restitution. Where a former tenant was ejected under an order of the Rent Controller he will get back possession on account of the wrong action on the part of the landlord. Thus you will find—I need not go into the other grounds—that so far as every ground is concerned, we have made it very clear that only in exceptional cases, when it is required for such repairs as could not be effected when the tenant is there, can the

[Shri B. N. Datar.]

tenant be evicted. In that case also we have laid it down that when the house has to be reconstructed or valuable additions have to be made, these are to be made not for the purpose of permanently evicting the man altogether; in other words, as they say, the tenant cannot be improved out of his possession. In such cases the condition is laid down that as soon as the proper repairs are carried out, as soon as the improvements are made, the house or the premises have to be given back to the tenant, naturally, on terms that are proper under these circumstances. Thus you will find that as many as eleven conditions have been laid down.

I have dealt with the question of the consequences also and the consequences are penal. We have also introduced another very necessary reform on which both the landlords and the tenants generally agree. After 1952 in all cases where there were disputes between landlords or tenants either about rent or about eviction, naturally suits were filed in civil courts. Now, civil courts, as all of us are aware, take long for coming to a decision and it was extremely inconvenient. Apart from other inconveniences, there was the greatest inconvenience of harassment and suspense. That is the reason why the Government considered, on the unanimous recommendation of the representatives of the landlords and of the tenants, that a new machinery should be evolved and that machinery is this provision of Rent Controllers. Delhi would be divided into certain regions and Rent Controllers would be appointed for each region and it shall be the duty of the Rent Controllers, whenever approached either by the landlord or by the tenant, to consider and decide all questions of dispute between the landlord and the tenant. They can fix the reasonable rent or, what is known as the, standard rent; they can fix an interim rent; they can find out whether there has been sub-letting or whether there has been any misuse. They can also consider whether there is a legitimate ground for eviction and a number of other circumstances. So far as these Rent Controllers are concerned, we have laid it down that they ought to be judicial officers; they should have at least five years' judicial experience. He has been given certain powers and ordinarily he would follow the small cause procedure under the Code of Civil Procedure. Against the orders of these Rent Controllers, there will be an appeal both on the question of fact as also on the question of law before, what is known as, an appellate tribunal. The tribunal will consist of an officer who is or must have been either a District Judge or must have ten years of judicial experience; and, lastly, this question can be taken up to the High Court also provided there is a question of law. Thus the alternative machinery has been so evolved as to have the most expeditious disposal of such matters without affecting the principles of the law of jurisprudence. One of the provisions says that no order adverse either to the tenant or the landlord can be passed without hearing him. That is one of the most important principles of jurisprudence and that has been specifically laid down here.

Then we have provisions about hotels and lodging houses, how fair rates can be fixed or how, when it is found that a particular lodger constitutes almost a nuisance, he could be removed, how he can have a fair rate so far as lodging and messing charges are concerned and so on. Then certain special obligations have been laid down. It has been stated that it is the duty of the landlord to keep the premises in good repair. If he does not, or if he omits to do so, then it is open to the tenant to have the necessary repairs done within a certain amount, say, one-twelfth of the annual rent. Often times what these landlords did was to cut off or withhold connections of water and electricity and that was one very dubious way in which they tried to coerce the tenants into eviction. Now, it has been laid down that they shall not do

so. If they did that, then certain consequences will follow including a penal consequence. So they cannot re-let; they cannot cut off essential supplies and they have to give information to Government whenever there is reconstruction of the house.

Then in this Chapter about Special Obligations a new provision has been introduced according to which certain acts of omission and commission on the part of the landlord to a large extent and on the part of the tenant to a certain extent would constitute offences. So far as the landlord is concerned, he has to carry out the provisions laid down, as I have mentioned, there are as many as six clauses under which violation of this measure would become an offence and apart from other things that we have laid down, we have also said that there ought to be a punishment to the landlord and the punishment might extend up to three months and in some cases there might even be a fine extending to Rs. 1,000 and in one or two cases even up to Rs. 5,000. So far as violations by tenants are concerned, there also penal provisions have been introduced. For example, when they sublet without consent, when they do not give the particulars of sub-letting to the landlord, then a penalty has been provided, and so far as the tenants are concerned there is only fine and not imprisonment and the fine might be up to Rs. 1,000.

In the last Chapter there is one provision to which I would like to invite the attention of hon. Members of this House and that is regarding pending suits. In this connection clause 49 may be noted. It was the desire of many of the tenants whose representatives met and considered the whole question that the pending suits and applications ought to be disposed of only by the civil court and that they need not go before the Rent Controller. We agreed to that demand but we laid it down that even in cases where the pending matters have to be disposed of by the civil courts they ought to follow the principles laid down in the present Bill in respect firstly of fixation of standard rent and secondly of eviction. So even though the present suit need not be transferred to the Rent Controllers, still the civil courts have to follow the salutary provisions laid down in the present Bill so far as the fixation of standard rent or the question of eviction is concerned.

Lastly, we have laid down that whenever there are questions relating to title, naturally they should be left to the civil courts. Title between the landlord and tenant in this sense that generally, as you are aware, a tenant, if he takes premises from a landlord, is estopped from taking the title of the land. That is the ordinary rule. But there are certain circumstances where it would be open to the tenant even in a *bona fide* manner to dispute the title. Oftentimes the question of inheritance or succession might arise. In such cases we have stated that nothing in this sub-section shall prevent a civil court from entertaining any suit or proceeding for the decision of any question of title.

4 P.M.

Lastly, we have saved the provisions of certain Acts because they deal with certain specific aspects and it was considered advisable that those Acts might remain as they are. You will find in this connection clause 52 which says that the provisions of the Administration of Evacuee Property Act, the Slum Areas (Improvement and Clearance) Act and the Delhi Tenants (Temporary Protection) Act, 1956 will remain. As I have stated, this was only for a temporary purpose. Its life is only for two years. It will expire in February 1959. It was considered with that Act also an indirect Act might remain as it is. Thus you will find that in respect of the various questions we have followed the policy of generally following what has been unanimously agreed upon so far as the landlords and the tenants are concerned, or of finding out a reasonable way of meeting the various disputes

[Shri B. N. Datar.]

and putting them on a fairly reasonable basis as far as possible. As one of the objects we have tried to prevent the eviction of the tenant to the extent that it is possible. Only when it becomes inevitable, will he be evicted. But certain other restrictions have been laid on the landlord. Under these circumstances, I am confident that this House will agree to the appointment of the Members, whose names I have already placed, to the Joint Select Committee and that the Joint Select Committee will submit a report that will have the largest measure of support from all its hon. Members.

MR. DEPUTY CHAIRMAN: Motion moved:

> "That this House concurs in the recommendation of the Lok Sabha that the Rajya Sabha do join in the Joint Committee of the Houses on the Bill to provide for the control of rents and evictions, and for the lease of vacant premises to Government, in certain areas in the Union territory of Delhi, and resolves that the following members of the Rajya Sabha be nominated to serve on the said Joint Committee:—
>
> Shri Gopikrishna Vijaivargiya
> Shrimati Ammu Swaminadhan
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> Dr. Raj Bahadur Gour
> Shri Faridul Haq Ansari
> Shri Anand Chand
> Shri Mulka Govinda Reddy
> Mirza Ahmed Ali
> Shri Govind Ballabh Pant."

SHRI ROHIT M. DAVE (Bombay): Mr. Deputy Chairman, the hon. Minister has given us a fairly long history of the present measure, as well as some detailed analysis of the Bill which is before us. I will not go either into the history or the detailed analysis of this particular Bill, but would confine myself mostly to the objectives which the Government has in mind in bringing this Bill before the House. These objectives have been enumerated by the hon. Minister as well as given in the Statement of Objects and Reasons. The objects are two-fold. I will not deal with the objective—"to devise a suitable machinery for expeditious adjudication of proceedings between landlords and tenants", because the new machinery that has been provided in the Bill and which has been explained in detail by the Minister is certainly an improvement on the cases in the civil court where the time-limit is almost indefinite. It is with reference to (b) and (c) that I would like to offer certain remarks. Objective (b) says:—

> "To provide for the determination of the standard rent payable by tenants of the various categories of premises which should be fair to the tenants, and at the same time, provide incentive for keeping the existing houses in good repairs, and for further investment in house construction".

The determination of the standard rent thus follows three principles. The first principle is fairness to the tenants; the second principle is to provide incentive for keeping the existing houses in good repairs; and the third principle is to encourage further investment in house construction. With this aim in view the Government has given us a Bill which defines 'standard rent' in clause 6 which is one of the most important clauses of this particular Bill. Now, here we are told firstly that the existing rent can be increased by ten per cent. And in case any new premises are constructed, then it is the rent calculated on the basis of annual payment of an amount equal to eight and one-fourth per cent per annum of the aggregate amount of the reasonable cost of construction and the market price of the land comprised in the premises on the date of the commencement of the construction. These

are the two innovations which have been laid down. Now, Sir, in the long history of this rent in Delhi, which the hon. Minister gave to the House, he has made it quite clear that by 1947, when perhaps it was not this Government but the former Government was still in power, an Act was passed which provided for 7½ per cent. of the cost as rent, which was considered to be the basic rent. The standard rent which was now been provided for the premises which have been constructed on or after the 2nd day of June, 1951, on which the rent agreement might not be existing, or the premises that might be constructed after the commencement of this Act, is to be calculated in terms of eight and one-fourth per cent per annum. The question that needs to be examined is why this 7½ per cent. has been raised to 8¼ per cent? The argument as it has been given in the Statement of Objects and Reasons, namely, that the landlord should have the incentive to keep the existing houses in good repairs, may be perhaps a presumable argument which might be put in this particular case. But if we examine the whole thing from the point of view of how a landlord would react to this particular provision, we find that it is likely to be misused to a very great extent, firstly, because as far as the repairs are concerned, it has been provided elsewhere in the Bill that the repairs as contemplated would be one-twelfth of the annual rent at a particular time. If the landlord does not himself carry out the repairs, then the tenant can do so, and the maximum that he can spend on it would be 1/12th of the annual rent, which comes to nearly one per cent. of the total cost. As far as repairs are concerned, presumably there will not be repairs every year, but even assuming that he repairs every year, it will come to one per cent. of the total cost of construction, which might still leave 7¼ per cent. to be accounted for. Sir, if it is argued that any building might have a reasonable life of, say, thirty years, then nearly 3 per cent. might be accounted for by way of replacement cost. Assuming that the replacement cost will remain the same and will not decrease or increase, there is still 4¼ per cent. which has to be accounted for. Sir, it is here that this question of incentive for further investment comes in. Sir, this particular figure of 4¼ per cent. has been arrived at after a very very liberal provision has been made for repairs as well as for replacement. If we want to take the minimum of 4¼ per cent. which the landlord might get as a result of this particular provision, we would find that as far as the rent is concerned, it is an yield which is more than what should be allowed for giving them incentive to construct new buildings. Even if this is done for that object, this is rather a return which is not quite in consonance with the socialist objective which all of us have in mind.

Similarly, Sir, with regard to this 10 per cent. rise, I just do not understand how this 10 per cent. rise can be justified for any new building to be constructed or even in the case of repairs which might be carried out. Surely, Sir, even in the existing premises certain repairs are being carried out, and it is only in exceptional cases or in cases in which the landlord just does not care for the maintenance of his building, for keeping it in good repair, not for the purpose of the convenience of the tenant but for keeping the value of his building intact, in which the landlords are callous to their own interests apart from the interests of the tenants,—in such cases the landlords would come into the category of those who neglect the repairs so thoroughly that that particular repair might come under the provisions of the law. Other repairs of a minor character may be taken care of either by the tenant himself or in certain cases by an agreement between the tenant and the landlord. Under the circumstances a ten per cent. increase in rent at such a time seems to be rather uncalled for, and there seems to be no reason why that increase should be there, especially in view of the fact that we have already a 7½ per cent. increase in 1947.

[Shri Rohit M. Dave.]

and we had certain other increase in some of the orders that were passed when stabilisation took place.

Then Sir, it has been suggested that even with reference to premises that are constructed on or after 2nd June 1951, the present rent should be frozen. That again is a question which requires to be gone into. It is well known that there was very heavy pressure of population on the existing buildings, and that is one of the reasons why such liberal provisions of rent have been introduced in this Bill. They have been introduced with a view to seeing that more buildings should be there. Obviously, the Government has rightly come to the conclusion that the pressure of population on the existing buildings is so great that unless new buildings come into being, the pressure cannot be relieved. But I do not know why they take it for granted or why they are so anxious that these buildings should be in the private sector and not in the public sector. I do not wish to go into that argument of public sector and private sector here. Assuming that the Government wants the responsibility of putting up new buildings in the capital to be undertaken by the private sector and not by the public sector, even then the argument that there should be a provision so liberal is something which is not quite convincing. When this pressure on the buildings was there, certain rents were fixed and these rents were certainly very high and very exorbitant. There is no reason why the Controller should not be given the right to go into all these rents also which were fixed at a time when the tenant was not protected. Those rents had come into existence when the tenant was not protected. Now those rents are going to be frozen. To have them frozen for seven years is something which requires investigation, and I am not quite convinced of the reasonableness of that particular provision.

Again, with reference to the other buildings that have been constructed on or after the 9th day of June 1955, if an agreement already exists, then the rent will be frozen for five years. Here also the same remarks apply. I am not quite convinced of this particular provision.

Then, Sir, it is clause 7 which is really a very serious clause. The clause as it reads sounds on the face of it fairly reasonable, keeping the scale even. But if we go a bit deeper into the provision and the way in which the landlord might utilise or misuse this particular provision, we would find that it contains many mischievous elements, and these elements will have to be eliminated in the Joint Select Committee. Where an improvement has been carried out, the landlord may lawfully increase the standard rent per year by an amount not exceeding 8½ per cent. of such cost, provided the expenditure is not incurred on decoration or necessary tenantable repairs. Now, supposing the landlord suddenly decides that such alterations should be made and the tenant is not in favour of them because he might think he might have to pay more. The clause says:

> "Where a landlord has at any time, whether before or after the commencement of this Act, incurred expenditure for any improvement, addition or structural alteration in the premises, not being expenditure on decoration or tenantable repairs.... and the cost of that improvement, addition or alteration has not been taken into account in determining the rent of the premises..."

Now, as far as the new rent fixations are concerned, of 8½ per cent., I can understand that if they were not taken into account they may be taken into account. But supposing there are certain alterations in these buildings, the landlords might come and say that these alterations were not taken into account at the time—for example the rents for the premises constructed before June 1955 are frozen and these can be increased—if the landlord were

to argue that these alterations were not taken into at the time when this particular rent was fixed and therefore 8¼ per cent. of the cost of those structural changes will have to be paid as additional rent by the tenant, I see no protection to the tenant in the whole Bill which says that this additional rent might not be charged by the landlord from the tenant. As far as I can see, the landlord can increase the rent up to, say, 8¼ per cent. of any expenditure that he might have incurred between 1952 and 1958 or between 1955 and 1958 by merely arguing that this was the particular repair which was not taken into account when the rent was fixed and, therefore, he is entitled to 8¼ per cent. out of that. I am not a practising lawyer, but as far as I can read this particular clause, it looks like that.

Then there is another clause—sub-clause (2) of clause 7 which reads:

> " . . . but the landlord shall not recover from the tenant whether by means of an increase in rent or otherwise the amount of any tax on building or land imposed in respect of the premises occupied by the tenant, unless an agreement between the landlord and the tenant otherwise provides."

What exactly is the meaning of this? It might mean again, that there may be a particular rent fixed and the landlord has made an increase in rent. Suppose a new building is constructed and the rent of that building is 8¼ per cent. and it has been fixed accordingly. Now, the landlord comes and tells the tenant, "I am prepared to give this particular premises only if you further agree that whenever there is any increase in the local taxes, you will have to pay them also." Again, I do not see anything in this particular provision to stop the landlord from making such a demand from the tenant that, "Though 8¼ per cent. is the rent, I want a further condition to be agreed to that you should not only pay your rent, but you should also pay the local taxes." How will the landlord be stopped from making this further demand? If there is an agreement between the tenant and the landlord to that effect, then the landlord will be in a position to charge that local tax also from the tenant. This provision also requires some looking into.

The hon. Minister told us that the Government have tried to bring the eviction clauses also as far as possible on a reasonable level and to see that the scales are kept evenly between the landlord and the tenant. I am not going into the various eviction conditions because that will take a very long time. I am only trying to draw the attention of the House to two sub-clauses—(f) and (g) of the proviso to clause 14(1). Sub-clause (f) says:

> "That the premises have become unsafe or unfit for human habitation and are required *bona fide* by the landlord for carrying out repairs which cannot be carried out without the premises being vacated."

Here, the landlord has got the right to tell the tenant that this particular premises will have to be vacated and when it is required *bona fide* by the landlord for the purpose of rebuilding or making substantial additions or alterations then also he can ask the tenant to vacate the particular premises. That is all right.

Clause 19 deals with these very particular conditions of sub-clauses (f) and (g) of the proviso to clause 14(1) and says:

> "(1) In making any order on the grounds specified in clause (f) or clause (g) of the proviso to sub-section (1) of section 14, the Controller shall ascertain from the tenant whether he elects to be placed in occupation of the premises or part thereof from which he is to be evicted and if the tenant so elects, shall record the fact of the election in the order and specify therein the date...."

[Shri Rohit M. Dave.]

That is, if the tenant gives vacant possession of the particular premises as demanded by the landlord for rebuilding or repairing purposes, then the tenant can be approached again. To my mind, the question that arises is this. Where a particular premises is repaired, what would it actually mean? Would it mean repairs or would it mean the construction of a new premises or would it only mean repairs to an existing premises and therefore, not a construction of new premises? As far as the 8¼ per cent. formula is concerned, it applies only to the construction of premises after this Act is passed. Suppose a tenant is asked to vacate a particular premises and an agreement in writing is taken from him that he will reoccupy that particular place. The agreement is there and when he re-enters it after the whole thing has been repaired or rebuilt, what will be the new rent? It may be that the landlord may come and say to him, "Your original rent plus 8¼ per cent. on account of the repairs which have been undertaken should be the new rent and not the old rent." Really it ought to be 8¼ per cent. of the total cost that was incurred by that particular landlord. In all fairness to the tenant, the rent should not be more than that which he was originally paying because it is merely a rebuilding of the whole house or a reconstruction of it. But just to harass the tenant, the landlord might come and say to him, "I want to rebuild or reconstruct this building and therefore, go out. When you come back, you pay your original rent plus 8¼ per cent. of the expenses that I have incurred on this rebuilding." In that case, will he be justified in demanding that? Because this 8¼ per cent. applies only to premises newly constructed. As far as I can see, it does not apply to premises that are reconstructed or where repairs have taken place. This 8¼ per cent. is over and above the rent which the tenant is called upon to pay under some agreement or some law to be made. Therefore, I would beg of the Joint Select Committee to go into this particular aspect also because, as far as I can see, it does not fully meet with the interests of the tenants and satisfy them. The real objective is to defend the interests of the tenants and at the same time to give a certain incentive to the landlords. I would state that the rates at which rents are to be calculated are higher and therefore, 7½ per cent. which was agreed upon and which is in the 1947 Act should be kept here also and 8¼ per cent. should not be there.

All the other provisions which are likely to be misused by the landlord have to be gone into very carefully in the interest of the tenant, and we have to see that the tenant is not unnecessarily harassed either by way of eviction or by reason of rent. It might not have been contemplated by the author of the Bill, but it might have the effect of permitting the landlord to increase that rent.

श्री राम सहाय (मध्य प्रदेश) : उपसभापति महोदय, यह बिल जो हमारे सामने आया है, इसमें कोई शुबहा नहीं कि इसमें मकान मालिकों और किरायेदारों दोनों के लिये बहुत कुछ सहूलियतें रखी गई हैं। लेकिन एक खास बात जो मेरे देखने में आई है, उसके बारे में मैं समझता हूं, इसमें कोई प्राविजन नहीं रखा गया है। वह बात यह है कि बाज वक्त किरायेदार की ओर से मकान मालिकों को बहुत ज्यादा तकलीफ उठानी पड़ती है। ऐसे बहुत से केसेज देखने में आये है जिनमें वर्षों तक मकान मालिक को किराया नहीं दिया गया और किरायेदारान की तरफ से मकान मालिक के ऊपर मुकदमा चलाया गया। एक नहीं, चार-चार, आठ-आठ, मुकदमे दायर किये गये और इस तरह से मकान मालिकों को इस कदर परेशान किया जाता है, जिससे वे आजिज आ जाते हैं। खासकर ऐसे लोग जो अपनी कमाई का रुपया इस ख्याल से मकान बनाने में लगा देते हैं कि बुढ़ापे में किराया आदि की आमदनी से कुछ फायदा हो जायेगा, उनकी गुजर औकात हो सकेगी,

उनको ऐसी हालत में बहुत ज्यादा तकलीफ़ होती है ।

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

खास कर जो बेवाएं होती हैं, उनको इसमें बहुत ज्यादा तकलीफ़ होती है और मुकदमेबाजी में इतनी परेशानी होती है कि वे किसी तरह से इसे बर्दाश्त नहीं कर पाती । मेरे देखने में ऐसे बहुत से केसेज़ आये है जिनमें दो-दो, तीन-तीन वर्ष तक एक पैसा किराया न देने पर भी आठ-आठ दस-दस मुकदमे किरायेदारान द्वारा मकान मालिकों के ऊपर चलाये गये । तो ऐसी हालत में कौनसा तरीक़ा अख्तियार किया जा सकता है, जिससे मकान मालिकों की रक्षा की जा सके । क्योंकि आजकल जो सहूलियत किरायेदारान को दी जा रही है, उससे एक बड़ी दिक्कत यह है कि मकान मालिक अपने को सेफ नहीं समझते और उसकी वजह से उनकी मकान बनाने में दिलचस्पी एक प्रकार से बिल्कुल खत्म हो गई है ।

कोई भी शख्स जो पहले आमतौर पर किराये पर देने के लिए मकानात तैयार कराता था, उसको अब मकानात तैयार कराने में या बनवाने में कोई रुचि नहीं रह गई है । इसकी वजह से हम यह देख रहे हैं कि मकानात की तकलीफ गांवों में क़स्बों में और सभी जगह बहुत ज्यादा बढ़ गई है । हम ऐसा प्राविज़न तो रख देते हैं कि सन् १९५१ या १९५२ के बाद के बने मकानों पर क़ानून का कोई असर नहीं होगा, लेकिन फिर भी जिस प्रकार किरायेदारान को सहूलियतें दी जाती हैं और उन्हें मकान मालिकों को तंग करने का जिस तरह एक प्रकार का लाइसेंस मिल जाता है और उसकी वजह से जो हालात पैदा होते हैं, उनके बारे में कोई प्राविज़न इस बिल में नहीं रखा गया है । मैं सिलेक्ट कमेटी के मेम्बर साहबान से यह रिक्वेस्ट करूंगा कि मौजूदा हालात में मकान के मालिकों की परवाह न करते हुये वे किरायेदारों को जितनी भी सहूलियतें हो सकती हों, अवश्य देने की कोशिश करें, लेकिन जहां गैर ज़रूरी तरीक़े पर मालिक मकान सताये जाते हों, परेशान किये जाते हों, किराये में दिक्कतें पैदा की जाती हों, उसकी रोक का भी कुछ न कुछ इस क़ायदे में समावेश किया जाये, तो ज्यादा अच्छा होगा । गो इसमें यह है कि अगर किरायेदार किराया नहीं देगा, तो मकान खाली करा दिया जायेगा, लेकिन पहले यह अदालत तक सीमित रहता था और अब इसमें कंट्रोलर, जिसको अदालत के अधिकार दिये गये हैं, उसकी आज्ञा के बिना मकान खाली नहीं कराया जा सकेगा । बहरहाल, अगर कहीं ऐसी शिकायतें पेश आयें, जहां दीदो दानिश्ता मकान के मालिकों को तंग किया जाता हो तो उसके बारे में कोई ऐसा तरीक़ा ज़रूर होना चाहिये, जिससे मालिक मकान ऐसे किरायेदारों से छुटकारा पा सकें । मेरा अर्ज करना यह है कि आजकल जिस तरह की सब लोगों की टेंडेंसी हो रही है और जिस तरह से हमारा देश सोशलिस्ट पैटर्न की तरफ जा रहा है, उसमें हमारा ध्यान पहले किरायेदारों, काश्तकारों और मज़दूरों की तरफ जाता है । यह बिलकुल सही है; हमारा ध्यान उनकी तरफ जाना चाहिये, क्योंकि यह स्वाभाविक है, लेकिन हमारे देश की तरक्की के लिए, और लोगों का पैसा जो वे जमा करते हैं उसका उपयोग सारी जनता के लिए हो सके, इसके लिये भी हमें थोड़ा ध्यान रखने की ज़रूरत है । यदि हम ऐसा करेंगे, तो लोग अपने आपको सेफ समझ कर अपनी पूंजी इस काम में लगायेंगे, जिससे जनता को लाभ होगा और सरकार का भी एक प्रकार से बोझ हल्का होगा ।

हम यह जानते हैं कि मकानात बनाने के लिए सरकार ने जनता को कर्जा देने की स्कीम निकाली है और इसमें कोई शुबहा नहीं है कि उसकी वजह से लाभ होता है, लेकिन सरकार उतना कर्जा नहीं दे पा रही है, जितने की आवश्यकता है । आजकल हम

[श्री राम सहाय]

किसी शहर में जायें, तो वहां मकानों की तकलीफ़ होती है, किसी क़स्बे में जायें तो वहां मकानों की तक़लीफ होती है, किसी गांव में जायें तो वहां भी मकानों की तकलीफ होती है और लोगों को रिहाइश के लिए मकान नही मिलते हैं। जब ऐसी परिस्थिति है और गवर्नमेंट की तरफ़ से जैसा माकूल इन्तज़ाम चाहिये, वैसा नहीं हो पा रहा है और न अभी जल्दी हो सकता है, क्योंकि इतने बड़े देश में जहां लाखों-करोड़ों आदमियों के लिये मकानों की ज़रूरत है वहां गवर्नमेंट की तरफ़ से हम यह उम्मीद करें कि वह सब को मकान बहम पहुंचा सकेगी, यह कोई आसान बात नही है। तो फिर इस बात की आवश्यकता महसूस होती है कि इस सम्बन्ध में कानून बनाते वक्त हम इस बात का ज़रूर ध्यान रखें कि हम ऐसा तरीक़ा अख्तियार करें, जिससे लोगों में इंसेटिव पैदा हो, मकान बनाने की उनमें रुचि पैदा हो और बिला किसी डर के वे अपनी पूंजी लगा सकें। मैंने यह देखा है कि बहुत से लोगों ने अपनी ज़ईफ़ी के लिए, अपनी जवानी में जो कमाई की उससे या पेंशन इत्यादि जो मिली उससे या ग्रैचुइटी इत्यादि जो मिल गई उससे या प्राविडेंट फण्ड इत्यादि जो मिल गया उससे मकान बनवाया या खरीदा, लेकिन जो पुराना किराया था उसी के हिसाब से अन्दाज़ लगा कर उनको किराया मिलता है और जिस क़दर मंहगाई बढ़ गई है, उसका बहुत कम ख्याल रखा गया है। इसका नतीजा यह होता है कि उनको अपनी गुज़र-बसर करने में बड़ी तकलीफ होती है और मकानों की मरम्मत भी नहीं हो पाती है, जिससे उनकी जायदाद को बहुत नुकसान पहुंचता है।

मेरा यह निवेदन है कि अगर सिलेक्ट कमेटी इन सब बातों पर विचार करके कोई ऐसा रास्ता निकाले, जिससे लोगों में अपना पैसा मकानों पर खर्च करने की रुचि पैदा हो और जिन लोगों ने अपने बुढ़ापे के लिए मकानात बनाये है या जिन बेवाओं के पास अपने गुज़ारे के लिए मकानात हैं, उनको कुछ ऐसी सहूलियतें मिल सकें, जिनसे वे अपनी बक़ाया ज़िन्दगी आसानी से गुजार सकें तो मैं समझता हूं कि हम किरायेदार और मालिक मकान दोनों के प्रति जस्टिस कर सकेंगे। बस मेरा इतना ही निवेदन है।

SHRI SONUSING DHANSING PATIL (Bombay): Mr. Vice-Chairman, Sir, the hon. Minister in charge of the Bill has marshalled his arguments in a most effective manner and though it seems that they are convincing, they leave certain lacunae in this Bill which I will try to illustrate.

DR. W. S. BARLINGAY (Bombay): He has left nothing for the Select Committee.

SHRI SONUSING DHANSING PATIL: Since the Bill is going to the Select Committee and it would be subjected to the collective wisdom of that Committee, I will not bother the House with a discussion on the details but I will only broach some broad and salient points. As far as the title of the Bill goes, the Bill embraces in its fold several provisions which are applicable not to the houses and tenements only but also to hotels, lodging houses and such other places. So it is better that the Bill is called not 'Delhi Rent Control Bill', as it is styled now, but 'Delhi Hotels and Lodging Houses Rent Control Bill'. We have already such a Bill on the Statute Book as far as Bombay is concerned and if one goes through the provisions of the Bill, it is more or less modelled on that Bill.

The rising trend of urbanisation in all the cities makes the problem of housing more and more difficult. The approach to the problem is, how far Government, as the custodian of the welfare of the masses, the needy people, can solve that problem. The approach as far as the land and the urban houses are concerned, is entirely different. The Government is prepared to make the tiller of the soil the owner of the land in years to

come and hence we have seen the various tenancy legislations and land reforms taking place in the various States where the tiller of the soil is tried to be made the owner in the years to come and the ceiling is also effected. But as far as houses in the urban areas are concerned, one does not know when the ceiling will come. After 1951 the rent in respect of new premises is based on mutual agreement. There is the needy person on the one hand that is the tenant, and the person who has the whip-hand on the other. Whether such an agreement is based on social justice requires to be seen and requiries to be tested on the touchstone of the necessity of social justice. If one applies that today, I feel the approach to this problem is rather defective in the sense that there is no inkling in the Bill or anywhere in the policy of the Government that some time in the future the Government is going to make the tenant the owner of the tenements in which he lives. There might be a number of practical difficulties. The problem of the land and that of the houses may not be similar. The changing population of the tenants from year to year may not warrant the situation. But the necessity in the cities like Delhi, Bombay and other places makes one feel that there must be some such approach to the problem which we have to solve. On the question of housing the Government is committed, because it is one of the primary needs of the population and if the pressure of population on houses is growing more and more, how far is it desirable to encourage—there are certain incentives afforded to the private sector—and how far that incentive should go to the private sector instead of the Government organising the needy people on co-operative lines and giving them some small tenements according to their status and requirements? To depend on the private sector more and more will lead the economy of this country into the private hands and as I have pointed out the other day, Government in planning takes an approach which I said is an American method or an American type. We are encouraging the private sector in this field also. You are not entering into the private sector to build more houses in order to cater to the needs of the community and therefore, you have to encourage this profit motive in those who can build them. But if this profit motive is sought to be encouraged, then it means there is to be no ceiling on the tenements or houses owned. This sort of a faulty approach to this problem should once and for all be removed and the matter should be settled in such a manner that it is in keeping with or in consonance with our ideal of a socialist pattern of society. After all the Planning Commission has said that you have to hitch your wagon to the twin stars of social justice and production as far as land is concerned. Here also we should hitch our wagon to the twin stars of giving some amount of protection to the landlords and at the same time, enabling the tenants to become the owners.

Secondly, the hon. Minister in charge of the Bill gave the Houses the stages through which the Bill was evolved. He showed how the Government tried to keep the balance in such a manner that either side is not disturbed very violently. The interests of the landlords are safeguarded by the permitted increase in the rent. This has been commented upon by the hon. Member, Shri Dave, and I need not go into that matter. Though this increase may appear to be very sound and very fair, in order to give sufficient incentive to the landlord, the question remains as to how far it is desirable to allow the landlord to have more and more houses. There is no assessment of the housing property. We have a number of cases in cities like Bombay and Calcutta and even in Delhi, of one man owning hundreds of houses. We have such cases even in district places. So unless and until some sort of a reasonable limit is put on the income from such house properties, it is rather very difficult to solve this problem. Even if the Government tries to undertake building houses for the

[Shri Sonusing Dhansing Patil.]

whole population, the magnitude of the task is so great that it is impossible to do it. I remember to have read it in some book that if the Government devotes all the land revenue that it collects in India, it will take some 80 to 90 years to complete a housing scheme for the whole of India, for the five lakh villages. So one can understand the magnitude of the task. But at the same time one cannot understand this giving of incentive to the landlords.

This Bill does not give the right of pre-emption. The tenant may live in the house for fifteen or twenty years, but still he has no such right. The protection given extends only to this, that is long as he continues to pay the rent, he will not be evicted. The protection is also not heritable. He is not given the protection that is given to the protected tenant, as we see in the tenancy law. If he chooses, by his small fortune that he might have collected, to purchase the house he has been living in, he is not in a position to do so under the law. There is no such provision. So, this is only a sort of stop-gap arrangement just to see that the relationship between the landlord and the tenant is not violently disturbed, that the relations are kept smooth in a legal manner. This objective, though useful, does not solve the problem which still remains. Because of the increase of unemployment, people migrate from the villages to the cities and the problem assumes greater and greater magnitude. Unless and until Government has a definite scheme of cooperative housing or small group housing, howevermuch the Government may try to give relief to the tenants, it is not going to be very useful in the long run, and that way the Government will only be avoiding its own responsibility of giving shelter to the needy

In this Bill the Government has adopted a formula for what is called the fair or basic rent and that is the formula which existed in the Ordinance of 1944. As a matter of fact, when the hon. Minister gave the House the history of the measure and the necessity for enacting such a law, he said that the first order was the Rent Control Order issued on 1-1-39. That was the beginning of what was called the war period. But as a matter of fact, if the rents are to be fixed, then a standard or a norm is to be applied for deciding the fair or basic rent and that should not be what was obtaining in or about the year 1944. It should be somewhere after 1-1-39, say six months or a year later, as they have done in Bombay where they took September 1940 as the month when the rents had not abnormally increased. In the year 1944 rents had already increased abnormally and so if we take that as the norm or basis for deciding the fair or basic rent, then it would go very much against the interests of the tenant.

Over and above this, as regards certain constructions which were built in 1951 and thereafter, they have got the agreed rents. But we know the system of *pugree* in Bombay and it may be existing in Delhi also. And so at that time people agreed to pay the rent under compulsion and they paid the *pugree* also. Of course, they agreed to pay the rent, but that rent was rather not warranted by the cost of the construction or by the realities of the situation. They agreed to the rent out of compulsion or necessity. That such a rent was agreed to, actually goes to show that there was no protection. Therefore, constructions subsequent to that period also need to be considered. Suppose there is an increase in the local taxes or there are circumstances beyond the control of the landlord or the owner of the house, then that can be divided between the tenant and himself. But because of the particular circumstance that the tenant is needy, he should not be made to agree to pay that much rent. Afterwards, owing to the increase taking place after 1951 though the rent was agreed upon, still because of the situation arising

in 1956, since the tenant needed temporary protection, the Temporary Protection Act of 1956 was passed. That only shows that the situation was going from bad to worse, that it needs re-thinking. That is why this Act came into force and it gave the tenant some interim relief, even though it was not sufficient. Hence the new Bill which we are now considering has come for the consideration of the hon. House. Here also, there are very salutary provisions which go to show that relief is given to the tenants either by way of the fixation of standard rent or by way of a large measure of protection so that the eviction may not be easy for the landlords. All these things are really in the interests of the tenants but even then the protection to the tenant is not sufficient. The considerations on which the standard rent is to be fixed have been adhered to and the rent has been increased from 7½ per cent. of the cost of the construction to 8¼ per cent. This only shows that the provisions are such as would give sufficient incentive to the land-owners to build more houses. Such a type of approach to this problem would naturally adversely affect the interests of the tenants and there is no knowing how far this will go on. If the tenant feels that the rent he is paying is not according to his capacity, he will rush to the Controller or the machinery provided by this law. He has to settle the standard rent. Even for collecting evidence, in the case of majority of the tenants, it is going to prove a difficult job. Most of the tenants are ignorant and many times they are at the mercy of the land-owners. The tenant at times has to come to a compromise and these compromises sometimes impose additional commitments on the tenant which he finds very difficult afterwards to fulfil. He then draws near the state of eviction Such a stage of eviction is not prevented by the law itself. In the case of certain tenancy laws, if a person pays the arrears after a decree is passed then the landlord is prevented from evicting him. Such is not the case in this case. As regards repairs and the clearance of slums are concerned, one can see the just side of the problem. When a building really requires immediate repair then the landlord must have certain rights which he must exercise. If that position is accepted then the subsequent actions are all accessories to the principle. My own approach to the problem is that the principal objective itself is defective and so the comments on the accessories will be not very much warranted because they are not in keeping with the first approach. The problem is that whatever the machinery Government may now devise and howsoever the Government may try to expedite the fixing of standard rent, I am afraid the question of fixation of the standard rent should be in the hands more of the judicial machinery than in the hands of the executive officer like the Controller. The real grievance in the whole of Bombay State regarding the Bombay Tenancy Act, if I may voice that grievance, was that the discretion was vested in the executive officers who have hardly got the knowledge of law or who are not used to the judicial machinery in the usual sense in which such a judicial approach is made or such a power is properly used. In the other case, the process of deciding the cases in civil courts may be rather slow but still we should impose the statutory restriction of period on the judicial courts. That object can be well achieved by making a suitable provision, but it is a matter of experience, and it is a method of trial and error which Government is adopting. One has to work the machinery but I feel that the speedy process which is being devised or intended in this Bill is certainly not going to be very happy, especially after our experiences, but the question is that the machinery which is now intended has to minimise the delay and bring the tenant nearer to the standard rent so that he can exercise his right and, if he has got a grievance, he can represent to the Controller. If the Controller's findings are not correct, the tenant has

[Shri Sonusing Dhansing Patil.]

got the right to go to the Rent Control Tribunal. This machinery is certainly going to be helpful to some extent but the real question is that the Controller must be vested with such powers of judicial discretion as we have got in the Bombay Tenancy Act. There, we have said that the judicial officer or the Mamlatdar should pass such orders as he deems fit which means that he has been vested with judicial discretion. If he sees justice in the case, even if the conditions are such as would result in eviction, he still can pass such an order as he deems fit. It means that he can exercise judicial discretion in a proper manner. Such a power is also needed under this Bill to be vested in the Controller to enable him to pass such order as he deems fit.

As regards the other points, Sir, I need not bother the House because the Bill is going to the Joint Select Committee and it will emerge out of the Joint Committee with certain necessary changes. At that time we will have further opportunities to speak in detail about the various provisions.

Regarding the pending cases, the hon. Minister in charge of the Bill has made this point very clear that while deciding pending cases about eviction— these pending cases may be very large—they will apply the provisions of this Bill but how far they will be able to do that legally is a question which has to be seen, because actually the provisions are in the Bill, and if the pending cases are to be decided according to the provisions of the new Bill, then we will be violating the general standards of judicial practice namely that the pending cases are to be decided according to the then existing law, how will they be able to apply the provisions of this Bill? That is a matter for legal experts to consider.

DR. W. S. BARLINGAY: If there is a specific provision in the Act. . .

SHRI SONUSING DHANSING PATIL: I do not say that my stand is correct but in all the other laws, pending cases are decided according to the law in existence and not on a prospective law which will be enacted. If that position is properly examined through legal channels, I feel that it will do away with much of the fears entertained by a large body of tenants. They have made representations and if that question is decided now, that will give substantial relief. If that relief is extended to the tenants in respect of pending cases, I think much of the purpose will be served.

With these remarks I lend my support to the motion.

THE VICE-CHAIRMAN (SHRI P. N. SAPRU): Yes, Mr. Datar.

SHRI H. N. KUNZRU (Uttar Pradesh): We have half-an-hour more and we can finish this on Monday.

THE VICE-CHAIRMAN (SHRI P. N SAPRU): But we have got two minutes more. Let Mr. Datar start.

SHRI S. D. MISRA (Uttar Pradesh): We have other meetings elsewhere.

THE VICE-CHAIRMAN (SHRI P. N SAPRU): We have got two minutes more.

SHRI V. K. DHAGE (Bombay): Let him begin.

SHRI B. N. DATAR: Sir, I am obliged to the hon. Members for their general support to the provisions of this Bill, though some Members have stated the Bill requires improvements in certain respects. May I point out, Sir, that this Bill was framed after considering the interests both of the landlords and of the tenants and that an attempt has been made to reconcile the conflicting interests of the two. One hon. Member who spoke just now asked as to why this increase of 10 per cent has been introduced into this matter. I have already pointed out that we have had a fairly large increase in the cost of construction of houses as well as in the cost of repairs. There has also been an increase in the taxes. I pointed out,

Sir, that from 3 per cent. the taxes have gone up to about 10 per cent. while in the case of the cost of construction from Rs. 100 in 1939, it has gone up to Rs. 325 in 1958. All these circumstances have to be taken into account. If we had maintained the rent structure at the level of 1947, it would mean that we have not taken into account all those changes that have happened and to a large extent things have happened on a larger scale, perhaps to a certain extent abnormal scale from what they were formerly. Therefore, Sir, it would not have been proper and also not in the interests of society as a whole not to have taken note of those changes. We have to look at this question from the point of view of the interests of society also, and one of the interests of society is that as large a number of persons should have houses to live in, either their own houses or houses at reasonable rents, as possible. So, this social aspect also has to be taken into account.

Then larger questions were also raised by my hon. friend. He stated that just as we were taking certain steps in the case of lands for purposes of eventually making the cultivator the owner of the soil . . . .

THE VICE-CHAIRMAN (SHRI P. N. SAPRU): Mr. Datar, you may continue on Monday.

The House stands adjourned till 11 A.M. on Monday, the 22nd September, 1958.

The House then adjourned at five of the clock till eleven of the clock on Monday, the 22nd September 1953.

66 R.S.D.—5.
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