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LOK SABHA

THE DELHI RENT CONTROL BILL, 1958

(Report of the Joint Committee)

PRESENTED ON THE 27th NOVEMBER, 1958

LOK SABHA SECRETARIAT
NEW DELHI
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SECRETARIAT

Shri A. L. Rai—*Under Secretary.*

REPORT OF THE JOINT COMMITTEE

I, the Chairman of the Joint Committee to which 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 was referred, having been authorised to submit the report on their behalf, present this their Report, with the Bill as amended by the Committee annexed thereto.

2. The Bill was introduced in the Lok Sabha on the 1st September, 1958. The motion for reference of the Bill to a Joint Committee of the Houses was moved by Shri B. N. Datar on the 10th September, 1958 and was discussed in the Lok Sabha on the 10th, 11th and 12th September, 1958 and was adopted on the 12th September, 1958 (Appendix I).

3. The Rajya Sabha discussed the motion on the 19th and 22nd September, 1958 and concurred in the said motion on the 22nd September, 1958 (Appendix II).

4. The message from the Rajya Sabha was read out to the Lok Sabha on the 24th September, 1958.

5. The Committee held 8 sittings in all.

6. The first sitting of the Committee was held on the 27th September, 1958 to draw up a programme of work. The Committee at this sitting decided that the four principal organisations of tenants and landlords be allowed to tender oral evidence before them.

7. Twenty-eight Memoranda or representations on the Bill were received by the Committee from different associations and individuals as mentioned in Appendix III.

8. At the second and third sittings of the Committee held on the 1st and 3rd November, 1958, respectively, the Committee heard the evidence tendered by the four associations specified in Appendix IV.

The Committee have decided to lay the whole of the evidence before them on the Table of the House.

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*Published in Part II, Section 2 of the Gazette of India, Extraordinary, dated the 1st September, 1958.

9. The Committee considered the Bill clause by clause at their sittings held on the 4th, 5th, 6th and 7th November, 1958.

10. The report of the Committee was to be presented by the 17th November, 1958. The Committee were granted extension of time on the 17th November, 1958 upto the 27th November, 1958.

11. The Committee considered and adopted the Report on the 22nd November, 1958.

12. The observations of the Committee with regard to the principal changes proposed in the Bill are detailed in the succeeding paragraphs.

13. *Clause* 2.—The Committee consider that the definition of "tenant" ought to be enlarged to include a sub-tenant and also any person continuing in possession after the termination of his tenancy but excluding any person against whom any decree or order for eviction has been passed.

The definition of "tenant" in clause 2(l) has accordingly been amended.

Other changes made in this clause are of a drafting nature.

14. *Clauses* 4 *and* 5.—The amendments are clarificatory in nature.

15. *Clause* 6.—The Committee are of opinion that for the purpose of fixation of standard rent, the poorer classes of tenants should be given relief and that the rent payable by them should not be appreciably increased. At the same time, they consider that in the case of non-residential premises, a higher increase might be allowed. In view of the fact that the repair charges of pre-1944 houses will be heavy, it was felt that they should be treated differently from post-1944 houses.

The Committee, therefore, suggest that the standard rent should be fixed as follows:—

A. *Residential premises*—

(*a*) residential premises let out before the 2nd June, 1944—

(*i*) Basic rent Rs. 600/-or beolw—such basic rent

(*ii*) Basic rent above Rs. 600/—basic rent plus 10% of such rent.

(*b*) *Residential premises let out after the 2nd June,* 1944—

(*i*) if rent already fixed under the Rent Control Acts of 1947 or 1952—

(1) Rs. 1200/- or below . . . rent so fixed.

(2) above Rs. 1200/- . . . rent so fixed plus 10 % of such rent.

(*ii*) if rent has not been fixed under the earlier Rent Control Acts—

(1) Rs. 1200/- or below . . .	7½% of the aggregate amount of the reasonable cost of construction and the market price of land comprised in the premises.
(2) above Rs. 1200/- . . .	8¼% of such cost.

B. *Non-residential premises—*

(a) *non-residential premises let out before the 2nd June, 1944—*

(*i*) Rs. 1200/- or below	basic rent plus 10% of such rent.
(*ii*) above Rs. 1200/- . .	basic rent plus 15 % of such rent.

(*b*) *non-residential premises let out after the 2nd June, 1944—*

(*i*) if rent already fixed under the Rent Control Acts of 1947 or 1952—

(1) Rs. 1200/- or below . . .	rent so fixed.
(2) above Rs. 1200/- . . .	rent so fixed plus 15 % of such rent.

(*ii*) if rent has not been fixed under the earlier Rent Control Acts—

(1) Rs. 1200/- or below . . .	7½% of reasonable cost of construction and the market-price of land comprised in the premises.
(2) above Rs. 1200/- . .	8¼% of such cost.

The Committee also feel that premises which have been let out for the purpose of public hospitals, educational institutions, public libraries, reading rooms or orphanages should be treated for the purpose of this clause as "residential premises".

The clause has been redrafted accordingly.

16. *Clause* 7.—(1) *sub-clause* (1).—The Committee are of the view that a landlord might be permitted to increase the standard rent under this sub-clause for any improvement, addition or structural alteration only when such improvement, addition or structural alteration was done with the written approval of the tenant or of the Controller. The percentage of such increase has been reduced from eight and one fourth per cent to seven and one half per cent of the cost of improvement addition or alteration.

(2) *Sub-clause* (2).—The Committee consider that a landlord should not be allowed to pass on any tax on building or land to the tenant even by agreement. But they feel that if any such agreement was entered into before 1st January, 1952, such agreement should be honoured.

Sub-clause (2) has been amended accordingly.

(3) *Original Sub-clause* (3).—The Committee consider that while sub-letting should be permitted with the consent of the landlord in

writing but neither the landlord nor the tenant should be allowed to charge more than the standard rent.

The sub-clause has been omitted accordingly.

17. *Clause* 8.—The Committee have omitted original sub-clause (3) as being now unnecessary.

18. *Clause* 9.—The definition of "tenant" has been amended to include a sub-tenant and it will be permissible for a sub-tenant to file an application under this clause to the Controller for the fixation of the standard rent of the part sub-let to him. The Committee have, however, added a new sub-clause (3) to make this position clear.

19. *Clause* 12.— The Committee are of the view that limitation of one year for application for fixation of standard rent is too short and should be increased to two years.

The Committee have also made certain drafting changes to make the intention clear.

20. *Clause* 14.—(1) *sub-clause* (1).—

Item (*a*) *of the proviso.*—The Committee feel that the limitation of one month within which the tenant should pay or tender the whole of the legally recoverable arrears of rent is too short and ought to be increased to two months.

The item has been amended accordingly.

Item (*b*) *of the proviso.*—For the purpose of creating a valid sub-tenancy, it was necessary under the Act of 1952 to obtain the written consent of the landlord but no such written consent was necessary under the Act of 1947. The Committee are of opinion that every sub-tenancy which was created before the Act of 1952 should be treated as valid and should not be a ground for eviction.

The item has been amended accordingly and a new clause 16 has been inserted.

Item (*c*) *of the proviso.*—The Committee consider that *bona fide* requirement of any premises for any member of the family dependent on the landlord should also be a valid ground for eviction.

The item has been amended accordingly.

Items (*j*) *and* (*k*) *of the proviso.*—As the original item (j) dealt with two separate matters, the Committee have redrafted this item as items (j) and (k).

Item (1) *of the proviso* (*original item k*).—The Committee feel that a landlord should get the benefit under this item only if the

building work cannot be carried out without the premises being vacated.

(2) *Sub-clause* (4).—The Committee consider that hardship in genuine cases might be caused, if presumption was made by the Controller in every case that premises were sub-let where a person not being a servant or a member of the family had resided in the premises for a period exceeding one month.

The original item (a) has been omitted accordingly.

The Committee further feel that a person should not be penalised for entering into any genuine partnership. He should come within the mischief of this sub-clause only if he sub-lets the whole or any part of the premises under the cloak of partnership.

Sub-clause (4) has been re-drafted accordingly.

(3) *Sub-clause* (5).—The amendment is clarificatory in nature.

(4) *Sub-clause* (6) (*New sub-clause*).— The Committee feel that in order to stop *mala fide* transfer of premises for the purpose of evicting tenants on the ground specified in item (e) of the proviso to sub-clause (1), it is necessary to provide that where a landlord has acquired any premises by transfer, he should not be allowed to evict a tenant on the ground of *bona fide* requirement of the premises within five years from the date of such acquisition.

Sub-clause (6) has been inserted accordingly.

Original sub-clauses (6) and (7) have been renumbered as sub-clauses (7) and (8).

(5) *Sub-clause* (9) (*New sub-clause*).—The Committee feel that *bona fide* disputes often arise as to whether a person has ceased to be in the service or employment of the landlord and whether he is liable to be evicted on the ground specified in item (i) of the proviso to sub-clause (1) of this clause. The Committee consider that if the Controller thinks that there is any *bona fide* dispute regarding the matter the tenant should not be evicted.

Sub-clause (9) has been inserted accordingly.

(6) *Sub-clause* (10) (*New sub-clause*).—The Committee consider that a tenant should not be evicted on the ground specified in item (j) of the proviso to sub-clause (1) of this clause, if the tenant repaires the damage caused to the premises or pays to the landlord suitable compensation.

Sub-clause (10) has been inserted accordingly.

(7) *Sub-clause* (11) (*New sub-clause*).—The Committee also consider that a tenant should not be evicted on the ground specified in item (*k*) of the provise to sub-clause (1), if the tenant within

the period specified by the Controller complies with the condition imposed on the landlord by any of the authority referred to in that clause or pays to that authority such amount by way of damages or compensation as the Controller may decide.

21. *Clause* 15.—The amendments are of a drafting nature.

22. *Clause* 16 (*New Clause*).—Before the Act of 1952, a sub-tenancy could be validly created with the consent of the landlord but it was not necessary to obtain a written consent. The Committee feel that it is often very difficult to ascertain whether a sub-tenancy was lawfully created. The Committee, therefore, are of opinion that a sub-tenancy which was created before the 8th June, 1952 and is in existence at the commencement of this Act should be deemed to have been lawfully created, notwithstanding that such sub-tenancy was created without the consent of the landlord.

The Committee were further of opinion that there should be a specific provision preventing the landlord from claiming or demanding any premium or other consideration for giving his consent to the sub-letting of the whole or any part of the premises.

Clause 16 has been inserted accordingly.

23. *Clauses* 17 *and* 18 (*Original Clauses* 16 *and* 17).—The changes are of a consequential nature.

24. *Clause* 19 (*Original Clause* 18).—The Committee consider that where a landlord recovers possession of any premises on the ground of *bona fide* requirement, the tenant should have a right to be put back into possession of the premises if the Controller is satisfied that the possession of such premises has been transferred to another person within three years from the date of obtaining possession for reasons which are not *bona fide.*

Sub-clause (2) has been amended accordingly.

25. *Clause* 20 (*Original Clause* 19).—The Committee are of the view that after the completion of work or repairs, it may not be possible in all cases to place the tenant in occupation of the premises or part thereof on the original terms and conditions.

The words "on the original terms and conditions" have been omitted accordingly.

26. *Clause* 24 (*Original Clause* 23).—The Committee are of opinion that the provisions of this clause should not be restricted only to specified areas but should apply to all areas in which the Act is enforced.

Sub-clause (1) has been omitted accordingly.

27. *Clause* 28 (*Original Clause* 27).—The Committee feel that the limitation of 15 days provided for making valid deposit or rent was short and should be increased to 21 days.

The words "or negligently" have been omitted to avoid causing unnecessary hardship to tenants.

28. *Clause* 34 (*Original Clause* 33).—The Committee feel that offences committed under the provisions of Suppression of Immoral Traffic in Women and Girls Act, 1956, by a lodger should also entitle a manager or owner of a lodging house to recover possession of the accommodation provided by him.

The clause has been amended accordingly.

29. *Clause* 35 (*Original Clause* 34).—The Committee consider that a practising lawyer of seven years' standing should also be eligible for appointment as a Controller.

Sub-clause (3) has been amended accordingly.

30. *Clause* 44 (*Original Clause* 43).—The Committee are of view that it is the duty of the landlord to keep the premises in good and tenantable repairs, and these responsibilities should not be cast on the tenant even by agreement.

Sub-clause (1) has been amended accordingly.

Under the original sub-clause (3), where major repairs were required in any premises to make them habitable, the Controller was vested with powers to sanction for their repairs an amount not exceeding two years' rent payable by the tenant for such repairs. The Committee consider that it is not necessary to impose such limitations on the powers of the Controller and it should be left to the discretion of the Controller to sanction such a sum as he considers necessary for the repairs of the premises. The Committee, however, feel that in any particular year, the amount deducted from rent should not exceed one-half of the rent payable by the tenant for that year.

The Committee further feel that if any repairs not covered by the sanctioned amount are necessary in the opinion of the Controller and the tenant agrees to bear the excess cost himself, the Controller may permit the tenant to make such repairs.

31. *Clause* 45 (*Original Clause* 44).—It sometimes happens that an essential supply is withheld on account of some act or omission attributable to the landlord, although he himself does not withhold such a supply. The Committee feel that even in such a case, the landlord should be held responsible.

A new explanation has been added to this clause accordingly.

32. *Clause* 48 (*Original Clause* 47).—The period of imprisonment provided under clause 1(b) has been increased from three months to six months as being more deterrent. Other changes are consequential in nature.

33. *Clause* 53 (*New Clause*).—The Committee considered the question of including vacant land within the scope of the definition of premises with a view to giving relief to amildars. The Committee feel that the question of giving such relief to amildars should be separately considered but as it will take some time, the Delhi Tenants (Temporary Protection) Act, 1956, in so far as it relates to vacant ground, should be extended for another year with effect from the 11th February, 1959, when that Act is due to expire.

This clause has been inserted accordingly to amend the aforesaid Act.

34. *Clause* 55 (*New Clause*).—Under provisions of the Delhi Tenants (Temporary Protection) Act, 1956, some decrees for recovery of possession of premises were stayed. The Committee feel that on the expiry of that Act when those decrees are sought to be executed the person against whom such decree has been passed should be entitled to have his case reopened and get it decided in accordance with the provisions of this Act.

New clause 55 has been inserted accordingly.

35. *The First Schedule*.—The Committee consider the present Bill when enacted should apply to the areas included within the limits of the South Delhi Municipal Committee and the Notified Area Committee, Mehrauli.

This Schedule has been amended accordingly.

36. The Joint Committee recommend that the Bill, as amended, be passed.

NEW DELHI;
The 26th November, 1958.

GOVIND BALLABH PANT,
Chairman,
Joint Committee.

MINUTES OF DISSENT

I

I am of the opinion that no law should be repealed with retrospective effect otherwise no existing law will be respected with the fear that it may also be repealed before time.

The state of affairs with regard to houses completed after 1st June, 1951 but before 9th June, 1955 is not such as necessitates withdrawal of the exemption given by Parliament before the time of expiry. The allegation that there have been many evictions from these premises is false.

I strongly feel that clauses 50(2) and 50(3) and first proviso of clause 57(2) are unnecessary and unjustified and should be deleted.

NEW DELHI; MIRZA AHMED ALI

The 24th November, 1958.

II

The Delhi Rent Control Bill, 1958 as it has now emerged from the Joint Committee is a considerable improvement on the original.

Nevertheless, we are only sorry that we could not convince our colleagues on the Committee to bring about further improvement in the Bill.

We feel that clause 3 should be dropped. We think it is unfair that the Government which is the biggest house owner in the capital should be exempted from the operation of the provisions of this legislation.

This exemption, in our opinion, is bad in principle.

We are opposed in principle to giving any holiday of rent on new constructions. The argument advanced in favour of this holiday is that the landlords should have some incentive to construct houses. But the experience of the last few years shows that despite the fact that landlords have been enjoying this holiday, in practice not a single low income group house has been constructed by the landlords.

Majority of our colleagues on the Committee could not even accept that if at all a holiday is to be enjoyed let it go to only those landlords who construct low income group houses.

We insist that this holiday is indenfensible in principle and taxing the tenant in practice.

We firmly believe that the real incentive for construction activity would be a check on the price of land. It was brought to the notice of the Committee that the price of land has gone up tremendously in Delhi since the pre-war days. In fact the price of land is prohibition in practice.

We were only amazed to learn that the Government themselves own vast plots of land and are making profit on it.

It was last year in October that the Mysore Session of the Housing Ministers' Conference recommended the freezing of price of land in order to encourage construction activity. Only then will low income housing co-operatives will succeed. And only then would the poor and lower middle classes get certain encouragement.

We strongly feel that a beginning should be made in the capital of one country. And it is vital and urgent.

As regards clause 6, we admit that the present scheme is a great improvement over the previous provisions. For example it is only fair that a difference in rent payable is introduced in case of residential and business premises.

Nevertheless we maintain that this clause should be as follows:

"6. 'Standard rent' in relation to any premises means rent chargeable under this section.

in cases wherein the premises have been let out and used as such for residential purposes the rent calculated at 6¼% on the aggregate value comprising of the reasonable cost

of construction and the value of land on which the building is constructed at 400% of the value of that land in September, 1939, or its market value at the time of construction, whichever is less".

The principle underlying this is that there should be a limit on the cost of land that goes to determine the standard rent. It could not be allowed to inflate artificially and quite out of proportion to the general rise in the costs.

We agree that business premises should be charged more.

We do feel that the Bill has been improved considerably even in respect of the eviction clauses.

But much would depend here on the administration as to how it carries out the spirit of the legislation.

We, therefore, feel that there is much force in the argument that the Rent Controller should be not under the executive but under the supervision of the judiciary.

Lastly we wish to emphasize that we earnestly hope that due consideration would be given to our suggestion that the Government should create a fund from out of the appropriation of a percentage of rent charged to advance cheap credits for substantial repairs. Otherwise repairs of dilapidated ramshackle premises would remain a pious hope.

We command these suggestions to the two Houses of Parliament for consideration and adoption.

RAJ BAHADUR GOUR
SHAMRAO VISHNU PARULEKAR
V. P. NAYAR
MULKA GOVINDA REDDY
G. K. MANAY

NEW DELHI;
The 24th November, 1958.

III

I regret I do not concur with the decisions of the Joint Committee with regard to provisos (a) & (b) of clause 6 of the Bill as it has now emerged from the Committee.

The effect of these provisos is to take outside the purview of the Rent Controller all cases for the fixation of standard rent wherein—

Firstly—The building in question has been constructed after the 2nd of June, 1951 but before 9th June, 1955. In such cases the rent control does not apply for a period of 7 years from the date of construction of such building and the landlord has the freedom to fix any rent he chooses right upto March, 1958, and

Secondly—the building is constructed after 9th June, 1958 and even after the commencement of the Act. In such case the rent agreed to between the tenant and the landlord is to be taken as the standard rent for a period of five years from the date of the first letting-out of such premises.

The reason advanced for this "Rent Holiday" is to produce sufficient incentive in the landlords to bring-out their hoarded wealth for putting up new structures in the city of Delhi and thus reducing the housing problem to some extent. But to my mind the reverse is the case. This rent holiday has already skyrocketted the rents of buildings which needy tenants were compelled to pay and has also indirectly raised the price of building land in Delhi to astronomical figures in the past few years. Big moneyed people are freely speculating on land and buildings safe in the knowledge that laws like rent control do not touch them in the latest degree.

To my mind the main object of rent control is to protect the interests of the tenant and to give him much needed relief. By keeping the above mentioned provisos in the law we are not only allowing a certain class of landlords freedom to charge what rents they choose but are also making an undesirable exception between landlord and landlord. I therefore feel that keeping in view the spirit of this measure some ceiling on rent should also be laid down for their buildings which have now been left out under the provisos first above mentioned.

NEW DELHI; ANAND CHAND

The 24th November, 1958.

IV

The Bill, as it now emerges from the Joint Committee, has been much improved but all the same there are certain points, some of which are fundamental ones, on which we differ and that is why we are appending this note of dissent.

Clause (3).—We feel that the time has come when control should be extended to the premises belonging to the Government. The Government of the day is easily the biggest house owner and there is every likelihood of its building activities to increase. In the memorandum submitted to us by the Delhi House Owners' Federation instances have been given where the Government is charging much more rent than what is charged by the private owners for similar accommodation. We were somewhat surprised to read in this memorandum that the rent demanded by the Government for the Pyare Lal Buildings, which have been donated to the Government, are nearly twenty times of what then rent was charged by the private owners. Moreover, the tenants of such premises are also in need of fixity of tenure and should not be evicted arbitrarily. As such we recommend that clause (3) be amended as follows:

Page 2, *Clause* (3):—

(1) Line 33, *omit* "Nothing in" and

(2) Line 34, *for* "or" *substitute* "and".

Clause 14.—It has been brought to our notice that there are certain houses to which this Bill applies which are owned by widows, orphans and small landlords, whose entire income consists of the rent they get from such houses. We would, therefore, recommend that some relief be given to them by amending this clause.

Clauses 35 (1), (2) *and* 38 (1):—

In the old Act, which this Bill replaces, the Civil Courts had the jurisdiction to decide all matters of dispute between the landlord and tenant. Now this jurisdiction is being taken away and vested in the Controller and the Rent Control Tribunal, both of whom will be appointed by the Central Government. It is true these will not be appointed unless they have held judicial office but all the same they will be executive officers. In our country, where political influences also count, such officers are not expected to ignore such influences unless they are appointed on the nomination of the Hon'ble High Court. We, therefore, suggest that these clauses be so amended as to provide for such appointments to be made on the nomination of the Hon'ble High Court.

NEW DELHI;
The 24th November, 1958.

FARIDUL HAQ ANSARI
KHUSHWAQT RAI

V

It is gratifying to observe that the Bill as amended by the Joint Committee marks a considerable improvement upon the original draft and would, when enacted, afford appreciable protection to the tenants. I would, however, be failing in my duty if I did not pin-point one or two aspects of the Bill which are likely to detract from its usefulness and which I think should have been avoided.

In the first instance, the presumption underlying the idea of giving landlords a "holiday from Rent Control" under section 6 of the Act is entirely unsustainable. If past experience can offer any guidance, such a holiday has instead of encouraging house-building activity on a desired or necessary scale, retarded it. The need of the hour is house-building activity on a mass scale directed towards fulfilling one of the basic needs of the vast mass of people belonging to the middle, lower middle, and working classes. A holiday of the type envisaged in section 6 of the Act will defeat this very purpose, since it would be utilized by local "barons" of the House Building industry to construct bungalows and flats carrying huge rents which only the richer classes would be in a position to pay. The vast mass of common people would thus remain where they are.

Secondly, such a 'holiday' has had the direct effect of raising the value of land in the city and its surroundings. As it is, there had already been "racketeering" in land, on a staggering scale in Delhi. "Holiday" from rent control has given a lot of fillip to such racketeering. An analysis of house-building costs will convince any one that the value of land among the various elements is generally disproportionately high. The real remedy would therefore lie in a drastic control of value or cost of land so that it bears a reasonable relation to the general rise in cost of living instead of perpetually being ahead in this respect.

House-building activity should be encouraged not by giving a holiday at the expense of the poor tenant, but taking bold measures to reduce the cost of building. I am sorry to say that this important aspect of the issue has been ignored by the Committee.

NEW DELHI; SUBHADRA JOSHI.

The 24th November, 1958.

VI

"An experiment in law-making with a view to establishing some control on the rent chargeable for premises let to tenants primarily in Calcutta and other Municipal Areas has been going on in this province since 1943 and so far there have been five products of that

experiment. As each of the successive pieces of legislation superseded its predecessor there has on each occasion been some attempt to adjust the new law to the old or to extend some of the benefits of the new law to those against whom the old law had already been set in motion", thus remarked the Chief Justice of Calcutta High Court in a full bench case while interpreting a certain section of the West Bengal Premises Rent Control Act. *Mutatis mutandis*, it applies to the Bill with which we are presently concerned. No doubt, the scope of the Bill lies within a narrow compass but it is not free from complications. In drafting a Bill of this sort, we should be careful to see that even-handed justice is meted out to the tenants and the landlords. If we are all out for the production of the good tenants, we cannot penalise the landlords, far less a house-owner, big or small. What we are to do is to put a check on the soaring greed of the landlords and to guard against the misuse of his vantage position which he occupies in relation to the tenant in these abnormal times. On this principle this Bill should be judged.

The primary object of a Bill of this kind is (a) to fix a standard rent and (b) to guard against unnecessary eviction. Deposit of rent and other subjects occupy a secondary position. Now if we put a limitation of two years for filing applications for fixation of standard rent, then much force in this Bill will vanish and will result in artificially bringing down the number of litigations which will not be conducive to the best interest of the society. The importance of it then only remains in matter of eviction. If that be the intention, then I submit that much of our toil and energies have been consumed for a matter which could have been settled in a simple way.

Now I discuss some of the clauses of the Bill:—

Clause 2 (e).—It is difficult to understand the meaning of the definition. To me, it is beautifully cumbrous, if not meaningless. If by putting much strain on commonsense, some meaning is attributed to it, then it comes to this, that every house-owner is a landlord although he never intends to let out his house to tenants throughout his life and he may come within the mischief of some of the provisions of this Act without receiving any corresponding benefit. No house-owner will be safe within the area where this law has been made applicable.

It was known that Acts of similar nature of several States were consulted at the time of drafting this Bill. One of the State Acts defines "landlord—includes a person who for the time being is

entitled to receive, or but for a special contract, would be entitled to receive, the rent of any premises, whether or not on his account." This is simple and is recommended for acceptance by the House or the latter part of the definition in this Bill "or who would so receive the rent or be entitled to receive the rent, if the premises were let to a tenant" be deleted.

Clause 2(1).—I am glad that this clause has been amended. But the addition of the words, namely, "includes a sub-tenant", to me is an unnecessary though mischievous appendage. There would be no difference even if it is deleted. Had it been an inoffensive tautalogy, there may not be any objection. But there is every possibility of its being differently interpreted by different Controllers and Judges. It is no use saying that "sub-tenant" in this definition means a sub-tenant as contemplated in this Act, when we have deliberately omitted that and thereby left the Controllers and Judges to speculate.

Clause 3.—I do not know why government should be a favoured landlord or a favoured tenant. We have found that many houses have been requisitioned under cloak of public purpose which causes immense trouble to the house-owner and the tenants. The government will not be affected in any way if this is deleted, rather the people will be affected if it be allowed to stand. More over, this point has been made clear by one of the witnesses Mr. Kaushish to which the government have furnished no answer.

Clause 5(1) (2) (3).—No house-owner or tenant within the area where this Act will be made applicable will feel safe if the word 'claim' be allowed to remain. It may increase false and vindictive litigations. It should be deleted.

Clause 5(4) (6).—This is indirect encouragement to *'Pugree'*. If after the completion of the house, the house-owner turns round and does not let it out to the person making the advance, where is the remedy? Shall he file a suit for specific performance of contract or for refund of the advance which might take some years to be finished? Also no provision has been made for refund of the advance, even if the house is let out to the said person. This is only complicating the matter and should be deleted.

Clause 7(1).—It will be highly oppressive to the tenant and sometimes it is meaningless. "Whether before the commencement of this Act" has no meaning because before the commencement of this Act, there was no Controller as contemplated here and the question of his written approval does not and cannot arise and before the commencement of this Act the question of written approval of the tenant never arose nor was anticipated.

Further, it will encourage litigation. It may be presumed, no tenant will give any written approval knowing fully well that he will rush to the Controller for the said purpose and the Controller additions or alterations or not. As such the landlord at any time will rush to the Controller for the said purpose and the Controller has no right to refuse as there is no provision for refusal. It may be helpful the ladnlord for evicting the tenant in an indirect way, namely:—

(a) The rent will be enhanced which might not be within the competence of the tenant to pay for which he will have to quit.

(b) The tenant will be dragged to the law courts and if the tenant wants to avoid the harassment, he is to go elsewhere.

(c) This clause along with 14(g) will be of substantial help to the landlord for eviction.

Further, it is to be reconciled with clause 23. A poor incentive has been provided for house-building. In spite of aiding, it defeats relief to the tenant. It may be deleted.

Clause 10.—It is duplication of work putting an unnecessary impediment to speedy disposal. The cases of this nature are disposed of quickly like small cause court suits and there is no necessity of fixation of interim rent. The evidence for fixation of standard rent and interim rent will, to all intents and purposes, be the same.

Clause 12.—This is one of the instances of bad drafting that is found across the Act. If the tenant forfeits his right after lapse of two years, one is at a loss to understand how it can be reconciled with clauses 4, 5(1), 14(1) (a), and 15(2) (3). If this clause is allowed to prevail, then provisions of the afore-mentioned clauses are relegated to the category of wishful thinking or expression of pious desire. On the other hand, if the provisions of these clauses are allowed to prevail, then there is no meaning in retention of "two years".

Moreover, on principle there should not be any limitation. The period of two years is too short a period for calculating the standard rent in relation to basic rent and original rent which will in all probability baffle the intelligence even of the Chartered Accountants, not to speak of the lay public. The taking of rent in excess of standard rent has been made penal. An offence should not cease to be an offence after lapse of time unless there be some very cogent reason, which I do not find any.

Clause 14(e).—Some amendments have the result of adding more complications to this over-complicated clause. There may be

bona fide requirements by landlord for widowed sister or any relative dependent on him but he cannot want it even for his wife, if she be an earning member, which goes against the fundamental principles. The words "dependent on him" may be deleted.

Truth to tell, I have not been able to appreciate what benefit the tenant will derive by saying "reasonably suitable", rather it goes against his interest. Is the word "suitable" divorced from "reasonableness"? Can there be any "reasonably unsuitable" or "unreasonably suitable"? There is every chance of our swift wisdom being interpreted differently by different Controllers when we have left them in the field of speculation.

Clause 14(2) *proviso*.—The tenant cannot get the benefit of three months unless little time is extended. If the tenant be coaxed or cajoled into indolence or inactivity or for want of necessary fund cannot go to the landlord before the last date of the expiry of three months and the landlord refuses to accept the rent tendered by him, the tenant will be left without any remedy. Hence it should be after consecutive three months—and the landlord without reasonable cause did not agree or failed to accept the rent for the period though tendered by money order within 15 days from the period of default.

Clause 15.—It is self-contradictory. Sub-clause (1) may be interpreted as legalising the excess of standard rent and also it is not helpful to the tenants in other aspects. I do not know who is the landlord who will lease his claim of eviction simply on the ground of default, when he can file a suit for arrears of rent and perhaps by paying less court fee. If the landlord bases his claim of eviction on the ground of default and also on other grounds then it is doubted whether this sub-clause is of any avail to the tenant. The amendment that will be necessary here is also the rent should be legally recoverable and the tenant will be in a position to deposit rent even if grounds other than default be taken in the suit for eviction.

Clause 13(3) (4) (5).—They will cause duplication of work. In sub-clause (5) is it the intention that there will be first hearing regarding the dispute raised by the tenant whether it is false or frivolous then defence will be struck out and then second hearing of the application? But if the dispute raised by tenants is heard along with the hearing of other points also then there cannot be any scope for striking on the defence and after the hearing of the application. The remedy suggested is worse than the disease. The clause requires suitable changes.

These are some of the defective features as are noticed in this Bill.

One thing, I like to draw the attention of the House. There is a growing tendency of Executive Control everywhere. Even in appointment of High Court Judges, we find Executive Control. Here also the Executive Control is manifest in appointment of Controllers. The Central Government may appoint Controllers, but the appointments should be on the recommendation of the Chief Justice of Punjab High Court, if we want to keep this institution outside the pale of Executive influence. Moreover, the Controller should be a judicial officer of five years standing, and not holding a judicial office for five years. I give a concrete case which I have come across. One Munsif was transferred to the Secretariat and during the major part of his service he remained there and when there was little over one year left for his retirement, he was made the District and Sessions Judge according to time scale. It is quite natural that he proved a failure in his new post.

Another curious thing is clause 46. It is well nigh impossible to interpret it. One man constructs a house to live in, and lives in the said house for some months or years, then lets it out—will he come within the mischief of this clause? I submit he does not and should not. But it is said that he comes within the definition 'landlord'. Then every house-owner is a potential landlord, whether he becomes such after lapse of 10 or 20 years or even if does not let it out for any time to come. One is yet to understand what a house-owner has to do with an Act which deals with relationship of landlord and tenant.

Moreover, what is meant by 'completion'. If a man wants to construct a three-storeyed house, the ground floor, which he occupies and goes on with the construction of the first floor, should it be called 'completed'?

If it is the intention of the Government to keep it posted with all recent constructions, then Municipality or like authority is the best machinery from whom Government can take information.

Moreover, such a clause has been made penal and further it is apprehended, that false and vindictive prosecution may find a temptation and opportunity in the hands of designing persons. It should be deleted being an awkward encumbrance like the fifth wheel of a coach.

In the beginning I have said that it is an experiment in law making and we should have been more cautious and should have taken lessons from the past acts of omission and commission. It seems that we have not been able to fulfil our mission. Instead of bringing out harmonious relationship between the landlords and tenants, we have, though unconciously, widened the cleavage, for which the responsibility rests no less with the draftsmanship and that disable me, much as I desire, to congratulate it. Our draftsmanship should not be such as will be beyond the keen of the astutest judicial vision and we shall not place the judge, in struggle for construction, to wage a battle in difficult situation to produce swans out of geese. These words are not my own but quoted from a judgement while deciding a case on Rent Control Act of a State Legislature. The learned judge also remarked, "The heavy pressure upon the Courts today to do what ought to be works of legislature is a growing hindrance to normal administration of Justice. All normal Judicial work is frequently held up to find meaning of statutes which should have been plain and on that ground alone to-day, there is colossal waste of Judicial time. Unless much greater care, than so for evinced is exercised by those solemnly charged by the Constitution with the responsible task of framing the statutes of the land, the Courts will soon be reduced to suburban adjuncts of an inadequate Legislature, for publishing commentaries on ill-drafted and immaturely expressed statutes in the vain hope of injecting meaning into meaningless and of explaining the inexplicable".

Everybody like myself will be anxious to avoid the odium like the one stated above, as it does not redound to the credit of an august body, to which all of us have the honour to belong.

NEW DELHI; SUBIMAN GHOSE

The 24th November, 1958.

VII

Clause 3 of the Bill excludes the Government Premises and the premises taken on lease or requisitioned by Government from the operation of the Act. Delhi being the Capital, the Government have enormous building activity in this city. Government premises are let out to business and commercial concerns as well as to public for residence. I submit that the privilege claimed by Government should be relaxed so far as the above categories of tenanted premises are concerned. Likewise Government, the Public Institutions and the Local Authority have their due part in so far as building

activity is concerned but the privilege is not extended to them. In fact, we often find the misuse of this privilege in discriminatory evictions and disproportionate high rate of 'rent'. Whereas a private owner had to be satisfied with a rent of Rs. 11/- p.m. for a shop in Subzimandi Market area the average rate of rent for a shop in that Market owned by the Delhi Improvement Trust is Rs. 124/- per month. It is therefore, urged that the exemption enjoyed by the Government be restricted and at least those premises let out to members of Public for commercial purposes or residential purposes be brought within the purview of the Bill.

Clause 6 deals with standard rent. In sub-clause 2 (a) and (b) 'holiday' from determination of 'standard rent' is given to premises built in particular period mentioned in those sub-sections. This 'holiday' is provided for only with a view to give incentive to private owners to build more houses. In a way every building relieves the tension of the 'homeless'. Though a number of private owners came forward to enjoy this 'holiday' they construct spacious buildings for high income groups. The result being the low and middle class people are still faced with the 'vexed' problem of accommodation. From the evidence tendered before the Committee by the Delhi House Owners' Federation it will be found that there was negligible building of houses for the middle class or low income group people. It means that this 'holiday' was utilized only for big profits by big landlords. It did not in fact relieve the tension of scarcity of housing accommodation. I submit that this 'holiday' is no more necessary and should be done away with. More so when practically it has come to end or is almost on the verge of end in a number of premises! If the good intentions of Government were in fact taken to their own advantage by the Landlords, Government should not be keen on 'promise' given for the holiday. These discriminatory 'holiday' provisions be deleted.

Under the existing law a tenant can be evicted if his conduct is a nuisance or causes annoyance to others. This provision has been omitted in the Bill. This omission appears absolutely unjustified. Rowdy, quarrelsome and trouble-making tenants need not be thrust upon the landlords. This ground of eviction needs to be retained in the present Bill.

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NEW DELHI;

The 24th November, 1958.

UTTAMRAO L. PATIL

THE DELHI RENT CONTROL BILL, 1958

ARRANGEMENT OF CLAUSES

CHAPTER I

PRELIMINARY

CHAPTER II

PROVISIONS REGARDING RENT

CHAPTER III

CONTROL OF EVICTION OF TENANTS

CLAUSES

CLAUSES

THE DELHI RENT CONTROL BILL, 1958

(AS AMENDED BY THE JOINT COMMITTEE)

(Words underlined or side-lined indicate the amendments suggested by the Committee; asterisks indicate omissions).

A

BILL

to provide for the control of rents and evictions and of rates of hotels and lodging houses, and for the lease of vacant premises to Government, in certain areas in the Union territory of Delhi.

BE it enacted by Parliament in the Ninth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (*1*) This Act may be called the Delhi Rent Control Act, 1958. Short title, extent and commencement.

(*2*) It extends to the areas included within the limits of the New Delhi Municipal Committee and the Delhi Cantonment Board and to such urban areas within the limits of the Municipal Corporation of Delhi as are specified in the First Schedule:

Provided that the Central Government may, by notification in the Official Gazette, extend this Act or any provision thereof, to any other urban area included within the limits of the Municipal Corporation of Delhi or exclude any area from the operation of this Act or any provision thereof.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "basic rent", in relation to premises let out before the 2nd day of June, 1944, means the basic rent of such premises as determined in accordance with the provisions of the Second Schedule;

(b) "Controller" means a Controller appointed under sub-section (1) of section 35 and includes an additional Controller appointed under sub-section (2) of that section;

(c) "fair rate" means the fair rate fixed under section 31 and includes the rate as revised under section 32;

(d) "hotel or lodging house" means a building or part of a building where lodging with or without board or other services is provided for a monetary consideration;

(e) "landlord" means a person who, for the time being is receiving, or is entitled to receive, the rent of any premises, whether on his own account or on account of or on behalf of, or for the benefit of, any other person or as a trustee, guardian or receiver for any other person or who would so receive the rent or be entitled to receive the rent, if the premises were let to a tenant;

(f) "lawful increase" means an increase in rent permitted under the provisions of this Act;

(g) "manager of a hotel" includes any person in charge of the management of the hotel;

(h) "owner of a lodging house" means a person who receives or is entitled to receive whether on his own account or on behalf of himself and others or as an agent or a trustee for any other person, any monetary consideration from any person on account of board, lodging or other services provided in the lodging house;

(i) "premises" means any building or part of a building which is, or is intended to be, let separately for use as a residence or for commercial use or for any other purpose, and includes—

(i) the garden, grounds and outhouses, if any, appertaining to such building or part of the building;

(ii) any furniture supplied by the landlord for use in such building or part of the building;

but does not include a room in a hotel or lodging house;

(*j*) "prescribed" means prescribed by rules made under this Act;

(*k*) "standard rent", in relation to any premises, means the standard rent referred to in section 6 or where the standard rent has been increased under section 7, such increased rent;

(*l*) "tenant" means any person by whom or on whose account or behalf the rent of any premises is, or but for a special contract would be, payable and includes a sub-tenant and also any person continuing in possession after the termination of his tenancy but shall not include any person against whom any order or decree for eviction has been made;

(*m*) "urban area" has the same meaning as in the Delhi Municipal Corporation Act, 1957. 66 of 1957.

Act not to apply to certain premises.

3. Nothing in this Act shall apply—

(*a*) to any premises belonging to the Government; or

(*b*) to any tenancy or other like relationship created by a grant from the Government in respect of the premises taken on lease, or requisitioned, by the Government.

CHAPTER II

PROVISIONS REGARDING RENT

Rent in excess of standard rent not recoverable.

4. (*1*) Except where rent is liable to periodical increase by virtue of an agreement entered into before the 1st day of January, 1939, no tenant shall, notwithstanding any agreement to the contrary, be liable to pay to his landlord for the occupation of any premises any amount in excess of the standard rent of the premises, unless such amount is a lawful increase of the standard rent in accordance with the provisions of this Act.

(*2*) Subject to the provisions of sub-section (*1*), any agreement for the payment of rent in excess of the standard rent * * * shall be construed as if it were an agreement for the payment of the standard rent only.

Unlawful charges not to be claimed or received.

5. (*1*) Subject to the provisions of this Act, no person shall claim or receive any rent in excess of the standard rent, notwithstanding any agreement to the contrary.

(*2*) No person shall, in consideration of the grant, renewal or continuance of a tenancy or sub-tenancy of any premises,—

(*a*) claim or receive the payment of any sum as premium or *pugree* or claim or receive any consideration whatsoever, in cash or in kind, in addition to the rent; or

(*b*) except with the previous permission of the Controller, claim or receive the payment of any sum exceeding one month's rent of such premises as rent in advance.

(*3*) It shall not be lawful for the tenant or any other person acting or purporting to act on behalf of the tenant or a sub-tenant to claim or receive any payment in consideration of the relinquishment, transfer or assignment of his tenancy or sub-tenancy, as the case may be, of any premises.

(*4*) Nothing in this section shall apply—

(*a*) to any payment made in pursuance of an agreement entered into before the 1st day of January, 1939; or

(*b*) to any payment made under an agreement by any person to a landlord for the purpose of financing the construction of the whole or part of any premises on the land belonging to, or taken on lease by, the landlord, if one of the conditions of the agreement is that the landlord is to let to that person the whole or part of the premises when completed for the use of that person or any member of his family:

Provided that such payment does not exceed the amount of agreed rent for a period of five years of the whole or part of the premises to be let to such person.

Explanation.—For the purposes of clause (*b*) of this sub-section, a "member of the family" of a person means, in the case of an undivided Hindu family, any member of the family of that person and in the case of any other family, the husband, wife, son, daughter, father, mother, brother, sister or any other relative dependent on that person.

Standard rent.

6. (*1*) Subject to the provisions of sub-section (*2*), "standard rent", in relation to any premises means—

(*A*) in the case of residential premises—

(*1*) where such premises have been let out at any time before the 2nd day of June, 1944,—

(*a*) if the basic rent of such premises per annum does not exceed six hundred rupees, the basic rent; or

(*b*) if the basic rent of such premises per annum exceeds six hundred rupees, the basic rent together with ten per cent. of such basic rent;

(2) where such premises have been let out at any time on or after the 2nd day of June, 1944,—

(a) in any case where the rent of such premises has been fixed under the Delhi and Ajmer-Merwara Rent Control Act, 1947, or the Delhi and Ajmer Rent Control Act, 1952,—

19 of 1947. 38 of 1952.

(i) if such rent per annum does not exceed twelve hundred rupees, the rent so fixed; or

(ii) if such rent per annum exceeds twelve hundred rupees, the rent so fixed together with ten per cent. of such rent;

(b) in any other case, the rent calculated on the basis of seven and one-half 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:

Provided that where the rent so calculated exceeds twelve hundred rupees per annum, this clause shall have effect as if for the words "seven and one-half per cent.", the words "eight and one-fourth per cent." had been substituted;

(B) in the case of premises other than residential premises—

(1) where the premises have been let out at any time before the 2nd day of June, 1944, the basic rent of such premises together with ten per cent. of such basic rent:

Provided that where the rent so calculated exceeds twelve hundred rupees per annum, this clause shall have effect as if for the words "ten per cent.", the words "fifteen per cent." had been substituted;

(2) where the premises have been let out at any time on or after the 2nd day of June, 1944,—

(a) in any case where the rent of such premises has been fixed under the Delhi and Ajmer-Merwara Rent Control Act, 1947 or the Delhi and Ajmer Rent Control Act, 1952,—

19 of 1947. 38 of 1952.

(i) if such rent per annum does not exceed twelve hundred rupees, the rent so fixed; or

(ii) if such rent per annum exceeds twelve hundred rupees, the rent so fixed together with fifteen per cent. of such rent;

(*b*) in any other case, the rent calculated on the basis of seven and one-half 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:

Provided that where the rent so calculated exceeds twelve hundred rupees per annum, this clause shall have effect as if for the words "seven and one-half per cent.", the words "eight and five-eighth per cent." had been substituted.

(*2*) Notwithstanding anything contained in sub-section (*1*),—

(*a*) in the case of any premises, whether residential or not, constructed on or after the 2nd day of June, 1951, but before the 9th day of June, 1955, the annual rent calculated with reference to the rent at which the premises were let for the month of March, 1958, or if they were not so let, with reference to the rent at which they were last let out, shall be deemed to be the standard rent for a period of seven years from the date of the completion of the construction of such premises; and

(*b*) in the case of any premises, whether residential or not, constructed on or after the 9th day of June, 1955, including premises constructed after the commencement of this Act, the annual rent calculated with reference to the rent agreed upon between the landlord and the tenant when such premises were first let out shall be deemed to be the standard rent for a period of five years from the date of such letting out.

(*3*) For the purposes of this section, residential premises include premises let out for the purposes of a public hospital, an educational institution, a public library, reading room or an orphanage.

Lawful increase of standard rent in certain cases and recovery of other charges.

7. (*1*) Where a landlord with the written approval of the tenant or of the Controller 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 necessary or usual for such premises, and the cost of that improvement, addition or alteration has not been taken into account in determining the rent of the premises, the landlord may lawfully increase the standard rent per year by an amount not exceeding seven and one-half per cent. of such cost.

(*2*) Where a landlord pays in respect of the premises any charge for electricity or water consumed in the premises or any other charge levied by a local authority having jurisdiction in the area which is ordinarily payable by the tenant, he may recover from the tenant the

amount so paid by him; 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:

Provided that nothing in this sub-section shall affect the liability of any tenant under an agreement entered into before the 1st day of January, 1952, whether express or implied, to pay from time to time the amount of any such tax as aforesaid.

* * * * *

Notice of increase of rent.

8. (*1*) Where a landlord wishes to increase the rent of any premises, he shall give the tenant notice of his intention to make the increase and in so far as such increase is lawful under this Act, it shall be due and recoverable only in respect of the period of the tenancy after the expiry of thirty days from the date on which the notice is given.

(*2*) Every notice under sub-section (*1*) shall be in writing signed by or on behalf of the landlord and given in the manner provided in section 106 of the Transfer of Property Act, 1882.

4 of 1882.

* * * * *

Controller to fix standard rent, etc.

9. (*1*) The Controller shall, on an application made to him in this behalf, either by the landlord or by the tenant, in the prescribed manner, fix in respect of any premises—

(*i*) the standard rent referred to in section 6; or

(*ii*) the increase, if any, referred to in section 7.

(*2*) In fixing the standard rent of any premises or the lawful increase thereof, the Controller shall fix an amount which appears to him to be reasonable having regard to the provisions of section 6 or section 7 and the circumstances of the case.

(*3*) In fixing the standard rent of any premises part of which has been lawfully sub-let, the Controller may also fix the standard rent of the part sub-let.

(*4*) Where for any reason it is not possible to determine the standard rent of any premises on the principles set forth under section 6, the Controller may fix such rent as would be reasonable having regard to the situation, locality and condition of the premises and the amenities provided therein and where there are similar or nearly similar premises in the locality, having regard also to the standard rent payable in respect of such premises.

(5) The standard rent shall in all cases be fixed for a tenancy of twelve months:

Provided that where any premises are let or re-let for a period of less than twelve months, the standard rent for such tenancy shall bear the same proportion to the annual standard rent as the period of tenancy bears to twelve months.

(6) In fixing the standard rent of any premises under this section, the Controller shall fix the standard rent thereof in an unfurnished state and may also determine an additional charge to be payable on account of any fittings or furniture supplied by the landlord and it shall be lawful for the landlord to recover such additional charge from the tenant.

(7) In fixing the standard rent of any premises under this section, the Controller shall specify a date from which the standard rent so fixed shall be deemed to have effect:

Provided that in no case the date so specified shall be earlier than one year prior to the date of the filing of the application for the fixation of the standard rent.

Fixation of interim rent.

10. If an application for fixing the standard rent or for determining the lawful increase of such rent is made under section 9, the Controller shall, as expeditiously as possible, make an order specifying the amount of the rent or the lawful increase to be paid by the tenant to the landlord pending final decision on the application and shall appoint the date from which the rent or lawful increase so specified shall be deemed to have effect.

Limitation of liability of middlemen.

11. No collector of rent or middleman shall be liable to pay to his principal, in respect of any premises, any sum by way of rental charges which exceeds the amount which he is entitled under this Act to realise from the tenant or tenants of the premises.

Limitation for application for fixation of standard rent.

12. Any landlord or tenant may file an application to the Controller for fixing the standard rent of the premises or for determining the lawful increase of such rent,—

(a) in the case of any premises which were let, or in which the cause of action for lawful increase of rent arose, before the commencement of this Act, within two years from such commencement;

(*b*) in the case of any premises let after the commencement of this Act,—

(*i*) where the application is made by the landlord, within two years from the date on which the premises were let to the tenant against whom the application is made;

(*ii*) where the application is made by the tenant, within two years from the date on which the premises were let to that tenant; and

(c) in the case of any premises in which the cause of action for lawful increase of rent arises after the commencement of this Act, within two years from the date on which the cause of action arises:

Provided that the Controller may entertain the application after the expiry of the said period of two years, if he is satisfied that the applicant was prevented by sufficient cause from filing the application in time.

Refund of rent, premium, etc., not recoverable under the Act.

13. Where any sum or other consideration has been paid, whether before or after the commencement of this Act, by or on behalf of a tenant to a landlord, in contravention of any of the provisions of this Act or of the Delhi and Ajmer Rent Control Act, 1952, the Controller may, on an application made to him within a period of one year from the date of such payment, order the landlord to refund such sum or the value of such consideration to the tenant or order adjustment of such sum or the value of such consideration against the rent payable by the tenant.

38 of 1952.

CHAPTER III

CONTROL OF EVICTION OF TENANTS

Protection of tenant against eviction.

14. (*1*) Notwithstanding anything to the contrary contained in any other law or contract, no order or decree for the recovery of possession of any premises shall be made by any court or Controller in favour of the landlord against a tenant:

Provided that the Controller may, on an application made to him in the prescribed manner, make an order for the recovery of possession of the premises on one or more of the following grounds only, namely:—

[(*a*) that the tenant has neither paid nor tendered the whole of the arrears of the rent legally recoverable from him within two months of the date on which a notice of demand for the arrears

of rent has been served on him by the landlord in the manner provided in section 106 of the Transfer of Property Act, 1882; 4 of 1882

(*b*) that the tenant has, on or after the 9th day of June, 1952, sub-let, assigned or otherwise parted with the possession of the whole or any part of the premises * * * without obtaining the consent in writing of the landlord; *

* * * * *

(*c*) that the tenant has used the premises for a purpose other than that for which they were let—

(*i*) if the premises have been let on or after the 9th day of June, 1952, without obtaining the consent in writing of the landlord; or

(*ii*) if the premises have been let before the said date without obtaining his consent;

(*d*) that the premises were let for use as a residence and neither the tenant nor any member of his family has been residing therein for a period of six months immediately before the date of the filing of the application for the recovery of possession thereof;

(*e*) that the premises let for residential purposes are required *bona fide* by the landlord for occupation as a residence *for himself or for any member of his family dependent on him, if he is the owner thereof, or for any person for whose benefit the premises are held and that the landlord or such person has no other reasonably suitable residential accommodation;

Explanation.—For the purposes of this clause, "premises let for residential purposes" include any premises which having been let for use as a residence are, without the consent of the landlord, used incidentally for commercial or other purposes;

(*f*) 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;

(*g*) that the premises are required *bona fide* by the landlord for the purpose of building or re-building or making thereto any substantial additions or alterations and that such building or re-building or addition or alteration cannot be carried out without the premises being vacated;

(*h*) that the tenant has, whether before or after the commencement of this Act, built, acquired vacant possession of, or been allotted, a * residence;

(*i*) that the premises were let to the tenant for use as a residence by reason of his being in the service or employment of the landlord, and that the tenant has ceased, whether before or after the commencement of this Act, to be in such service or employment;

(*j*) that the tenant has, whether before or after the commencement of this Act, caused or permitted to be caused substantial damage to the premises;

(*k*) that the tenant has, notwithstanding previous notice, used or dealt with the premises in a manner contrary to any condition imposed on the landlord by the Government or the Delhi Development Authority or the Municipal Corporation of Delhi while giving him a lease of the land on which the premises are situate;

(*l*) that the landlord requires the premises in order to carry out any building work at the instance of the Government or the Delhi Development Authority or the Municipal Corporation of Delhi in pursuance of any improvement scheme or development scheme and that such building work cannot be carried out without the premises being vacated.

(*2*) No order for the recovery of possession of any premises shall be made on the ground specified in clause (*a*) of the proviso to sub-section (*1*), if the tenant makes payment or deposit as required by section 15:

Provided that no tenant shall be entitled to the benefit under this sub-section, if, having obtained such benefit once in respect of any premises, he again makes a default in the payment of rent of those premises for three consecutive months.

(*3*) No order for the recovery of possession in any proceeding under sub-section (1) shall be binding on any sub-tenant referred to in section 17 who has given notice of his sub-tenancy to the landlord under the provisions of that section, unless the sub-tenant is made a party to the proceeding and the order for eviction is made binding on him.

(*4*) For the purposes of clause (*b*) of the proviso to sub-section (*1*), any premises which have been sub-let for being used for the purposes of business or profession shall be deemed to have been sub-let by the tenant, if the Controller is satisfied that the tenant without obtaining the consent in writing of the landlord has, after the 16th day of August, 1958, allowed any person to occupy the whole

or any part of the premises ostensibly on the ground that such person is a partner of the tenant in the business or profession but really for the purpose of sub-letting such premises to that person.

(5) No application for the recovery of possession of any premises shall lie under sub-section (1) on the ground specified in clause (c) of the proviso thereto, unless the landlord has given to the tenant a notice in the prescribed manner requiring him to stop the misuse of the premises and the tenant has refused or failed to comply with such requirement within one month of the date of service of the notice; and no order for eviction against the tenant shall be made in such a case, unless the Controller is satisfied that the misuse of the premises is of such a nature that it is a public nuisance or that it causes damage to the premises or is otherwise detrimental to the interests of the landlord.

(6) Where a landlord has acquired any premises by transfer, no application for the recovery of possession of such premises shall lie under sub-section (1) on the ground specified in clause (e) of the proviso thereto, unless a period of five years has elapsed from the date of the acquisition.

(7) Where an order for the recovery of possession of any premises is made on the ground specified in clause (e) of the proviso to sub-section (1), the landlord shall not be entitled to obtain possession thereof before the expiration of a period of six months from the date of the order.

(8) No order for the recovery of possession of any premises shall be made on the ground specified in clause (g) of the proviso to sub-section (1), unless the Controller is satisfied that the proposed reconstruction will not radically alter the purpose for which the premises were let or that such radical alteration is in the public interest, and that the plans and estimates of such reconstruction have been properly prepared and that necessary funds for the purpose are available with the landlord.

(9) No order for the recovery of possession of any premises shall be made on the ground specified in clause (i) of the proviso to sub-section (1), if the Controller is of opinion that there is any *bona fide* dispute as to whether the tenant has ceased to be in the service or employment of the landlord.

(10) No order for the recovery of possession of any premises shall be made on the ground specified in clause (j) of the proviso to sub-section (1), if the tenant, within such time as may be specified

in this behalf by the Controller, carries out repairs to the demage caused to the satisfaction of the Controller or pays to the landlord such amount by way of compensation as the Controller may direct.

(*11*) No order for the recovery of possession of any premises shall be made on the ground specified in clause (*k*) of the proviso to sub-section (*1*), if the tenant, within such time as may be specified in this behalf by the Controller, complies with the condition imposed on the landlord by any of the authorities referred to in that clause or pays to that authority such amount by way of compensation as the Controller may direct.

When a tenant can get the benefit of protection against eviction.

15. (*1*) In every proceeding for the recovery of possession of any premises on the ground specified in clause (*a*) of the proviso to sub-section (*1*) of section 14, the Controller shall, after giving the parties an opportunity of being heard, make an order directing the tenant to pay to the landlord or deposit with the Controller within one month of the date of the order, an amount calculated at the rate of rent at which it was last paid for the period for which the arrears of the rent were legally recoverable from the tenant including the period subsequent thereto upto the end of the month previous to that in which payment or deposit is made and to continue to pay or deposit, month by month, by the fifteenth of each succeeding month, a sum equivalent to the rent at that rate.

(*2*) If, in any proceeding for the recovery of possession of any premises on any ground other than that referred to in sub-section (*1*), the tenant contests the claim for eviction, the landlord may, at any stage of the proceeding, make an application to the Controller for an order on the tenant to pay to the landlord the amount of rent legally recoverable from the tenant and the Controller may, after giving the parties an opportunity of being heard, make an order in accordance with the provisions of the said sub-section.

(*3*) If, in any proceeding referred to in sub-section (*1*) or sub-section (*2*), there is any dispute as to the amount of rent payable by the tenant, the Controller shall, within fifteen days of the date of the first hearing of the proceeding, fix an interim rent in relation to the premises to be paid or deposited in accordance with the provisions of sub-section (*1*) or sub-section (*2*), as the case may be, until the standard rent in relation thereto is fixed having regard to the provisions of this Act, and the amount of arrears, if any, calculated on the basis of the standard rent shall be paid or deposited by the tenant within one month of the date on which the standard rent is fixed or such further time as the Controller may allow in this behalf.

(*4*) If, in any proceeding referred to in sub-section (*1*) or sub-section (*2*), there is any dispute as to the person or persons to whom the rent is payable, the Controller may direct the tenant to deposit

with the Controller the amount payable by him under sub-section (*1*) or sub-section (*2*) or sub-section (*3*), as the case may be, and in such a case, no person shall be entitled to withdraw the amount in deposit until the Controller decides the dispute and makes an order for payment of the same.

(*5*) If the Controller is satisfied that any dispute referred to in sub-section (*4*) has been raised by a tenant for reasons which are false or frivolous, the Controller may order the defence against eviction to be struck out and proceed with the hearing of the application.

(*6*) If a tenant makes payment or deposit as required by sub-section (*1*) or sub-section (*3*), no order shall be made for the recovery of possession on the ground of default in the payment of rent by the tenant, but the Controller may allow such costs as he may deem fit to the landlord.

(*7*) If a tenant fails to make payment or deposit as required by this section, the Controller may order the defence against eviction to be struck out and proceed with the hearing of the application.

Restrictions on subletting.

16. (*1*) Where at any time before the 9th day of June, 1952, a tenant has sub-let the whole or any part of the premises and the sub-tenant is, at the commencement of this Act, in occupation of such premises, then, notwithstanding that the consent of the landlord was not obtained for such sub-letting, the premises shall be deemed to have been lawfully sub-let.

(*2*) No premises which have been sub-let either in whole or in part on or after the 9th day of June, 1952, without obtaining the consent in writing of the landlord, shall be deemed to have been lawfully sub-let.

(*3*) After the commencement of this Act, no tenant shall, without the previous consent in writing of the landlord,—

(*a*) sub-let the whole or any part of the premises held by him as a tenant; or

(*b*) transfer or assign his rights in the tenancy or in any part thereof.

(*4*) No landlord shall claim or receive the payment of any sum as premium or *pugree* or claim or receive any consideration whatsoever in cash or in kind for giving his consent to the sub-letting of the whole or any part of the premises held by the tenant.

Notice of creation and termination of subtenancy.

17. (*1*) Where, after the commencement of this Act, any premises are sub-let either in whole or in part by the tenant with the previous consent in writing of the landlord, the tenant or the sub-tenant to whom the premises are sub-let may, in the prescribed manner, give notice to the landlord of the creation of the sub-tenancy within one month of the date of such sub-letting and notify the termination of such sub-tenancy within one month of such termination.

(2) Where, before the commencement of this Act, any premises have been lawfully sub-let either in whole or in part by the tenant, the tenant or the sub-tenant to whom the premises have been sub-let may, in the prescribed manner, give notice to the landlord of the creation of the sub-tenancy within six months of the commencement of this Act, and notify the termination of such sub-tenancy within one month of such termination.

(3) Where in any case mentioned in sub-section (2), * * * * the landlord contests that the premises were not lawfully sub-let, and an application is made to the Controller in this behalf, either by the landlord or by the sub-tenant, within two months of the date of the receipt of the notice of sub-letting by the landlord or the issue of the notice by the tenant or the sub-tenant, as the case may be, the Controller shall decide the dispute.

Sub-tenant to be tenant in certain cases.

18. (1) Where an order for eviction in respect of any premises is made under section 14 against a tenant but not against a sub-tenant referred to in section 17 and a notice of the sub-tenancy has been given to the landlord, the sub-tenant shall, with effect from the date of the order, be deemed to become a tenant holding directly under the landlord in respect of the premises in his occupation on the same terms and conditions on which the tenant would have held from the landlord, if the tenancy had continued.

(2) Where, before the commencement of this Act, the interest of a tenant in respect of any premises has been determined without determining the interest of any sub-tenant to whom the premises either in whole or in part had been lawfully sub-let, the sub-tenant shall, with effect from the date of the commencement of this Act, be deemed to have become a tenant holding directly under the landlord on the same terms and conditions on which the tenant would have held from the landlord, if the tenancy had continued.

* * *

Recovery of possession for occupation and re-entry.

19. (1) Where a landlord recovers possession of any premises from the tenant in pursuance of an order made under clause (e) of the proviso to sub-section (1) of section 14, the landlord shall not, except with the permission of the Controller obtained in the prescribed manner, re-let the whole or any part of the premises within three years from the date of obtaining such possession, and in granting such permission, the Controller may direct the landlord to put such evicted tenant in possession of the premises.

(2) Where a landlord recovers possession of any premises as aforesaid and the premises are not occupied by the landlord or by

the person for whose benefit the premises are held, within two months of obtaining such possession, or the premises having been so occupied are, at any time within three years from the date of obtaining possession, re-let to any person other than the evicted tenant without obtaining the permission of the Controller under sub-section (*1*) or the possession of such premises is transferred to another person for reasons which do not appear to the Controller to be *bona fide*, the Controller may, on an application made to him in this behalf by such evicted tenant within such time as may be prescribed, direct the landlord to put the tenant in possession of the premises or to pay him such compensation as the Controller thinks fit.

Recovery of possession for repairs and re-building and re-entry.

20. (*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 on or before which he shall deliver possession so as to enable the landlord to commence the work of repairs or building or re-building, as the case may be.

(*2*) If the tenant delivers possession on or before the date specified in the order, the landlord shall, on the completion of the work of repairs or building or re-building place the tenant in occupation of the premises or part thereof.

(*3*) If, after the tenant has delivered possession on or before the date specified in the order, the landlord fails to commence the work of repairs or building or re-building within one month of the specified date or fails to complete the work in a reasonable time or having completed the work, fails to place the tenant in occupation of the premises, in accordance, with sub-section (*2*), the Controller may, on an application made to him in this behalf by the tenant within such time as may be prescribed, order the landlord to place the tenant in occupation of the premises or part thereof * * * * or to pay to the tenant such compensation as the Controller thinks fit.

Recovery of possession in case of tenancies for limited period.

21. Where a landlord does not require the whole or any part of any premises for a particular period, and the landlord, after obtaining the permission of the Controller in the prescribed manner, lets the whole of the premises or part thereof as a residence for such period as may be agreed to in writing between the landlord and the tenant and the tenant does not, on the expiry of the said period, vacate such premises, then, notwithstanding anything contained in section 14 or in any other law, the Controller may, on an application made to

him in this behalf by the landlord within such time as may be prescribed, place the landlord in vacant possession of the premises or part thereof by evicting the tenant and every other person who may be in occupation of such premises.

Special provision for recovery of possession in certain cases.

22. Where the landlord in respect of any premises is any company or other body corporate or any local authority or any public institution and the premises are required for the use of employees of such landlord or in the case of a public institution, for the furtherance of its activities, then, notwithstanding anything contained in section 14 or in any other law, the Controller may, on an application made to him in this behalf by such landlord, place the landlord in vacant possession of such premises by evicting the tenant and every other person who may be in occupation thereof, if the Controller is satisfied—

(*a*) that the tenant to whom such premises were let for use as a residence at a time when he was in the service or employment of the landlord, has ceased to be in such service or employment; or

(*b*) that the tenant has acted in contravention of the terms, express or implied, under which he was authorised to occupy such premises; or

(c) that any other person is in unauthorised occupation of such premises; or

(*d*) that the premises are required *bona fide* by the public institution for the furtherance of its activities.

Explanation.—For the purposes of this section, "public institution" includes any educational institution, library, hospital and charitable dispensary.

Permission to construct additional structures.

23. Where the landlord proposes to make any improvement in, or construct any additional structure on, any building which has been let to a tenant and the tenant refuses to allow the landlord to make such improvement or construct such additional structure and the Controller, on an application made to him in this behalf by the landlord, is satisfied that the landlord is ready and willing to commence the work and that such work will not cause any undue hardship to the tenant, the Controller may permit the landlord to do such work and may make such other order as he thinks fit in the circumstances of the case.

Special provision regarding vacant building sites.

24. * * * Notwithstanding anything contained in section 14, where any premises which have been let comprise vacant land upon which it is permissible under the building regulations or municipal bye-laws, for the time being in force, to erect any building, whether

for use as a residence or for any other purpose and the landlord proposing to erect such building is unable to obtain possession of the land from the tenant by agreement with him and the Controller, on an application made to him in this behalf by the landlord, is satisfied that the landlord is ready and willing to commence the work and that the severance of the vacant land from the rest of the premises will not cause undue hardship to the tenant, the Controller may—

(*a*) direct such severance;

(*b*) place the landlord in possession of the vacant land;

(c) determine the rent payable by the tenant in respect of the rest of the premises; and

(*d*) make such other order as he thinks fit in the circumstances of the case.

Vacant possession to landlord.

25. Notwithstanding anything contained in any other law, where the interest of a tenant in any premises is determined for any reason whatsoever and any order is made by the Controller under this Act for the recovery of possession of such premises, the order shall, subject to the provisions of section 18, be binding on all persons who may be in occupation of the premises and vacant possession thereof shall be given to the landlord by evicting all such persons therefrom:

Provided that nothing in this section shall apply to any person who has an independent title to such premises.

CHAPTER IV

Deposit of rent

Receipt to be given for rent paid.

26. (*1*) Every tenant shall pay rent within the time fixed by contract or in the absence of such contract, by the fifteenth day of the month next following the month for which it is payable.

(*2*) Every tenant who makes a payment of rent to his landlord shall be entitled to obtain forthwith from the landlord or his authorised agent a written receipt for the amount paid to him, signed by the landlord or his authorised agent.

(*3*) If the landlord or his authorised agent refuses or neglects to deliver to the tenant a receipt referred to in sub-section (*2*), the Controller may, on an application made to him in this behalf by the tenant within two months from the date of payment and after hearing the landlord or his authorised agent, by order direct the landlord or his authorised agent to pay to the tenant, by way of damages, such sum not exceeding double the amount of rent paid by the tenant and

the costs of the application and shall also grant a certificate to the tenant in respect of the rent paid.

Deposit of rent by the tenant.

27. (*1*) Where the landlord does not accept any rent tendered by the tenant within the time referred to in section 26 or refuses or neglects to deliver a receipt referred to therein or where there is a *bona fide* doubt as to the person or persons to whom the rent is payable, the tenant may deposit such rent with the Controller in the prescribed manner.

(*2*) The deposit shall be accompanied by an application by the tenant containing the following particulars, namely:—

(*a*) the premises for which the rent is deposited with a description sufficient for identifying the premises;

(*b*) the period for which the rent is deposited;

(*c*) the name and address of the landlord or the person or persons claiming to be entitled to such rent;

(*d*) the reasons and circumstances for which the application for depositing the rent is made;

(*e*) such other particulars as may be prescribed.

(*3*) On such deposit of the rent being made, the Controller shall send in the prescribed manner a copy or copies of the application to the landlord or persons claiming to be entitled to the rent with an endorsement of the date of the deposit.

(*4*) If an application is made for the withdrawal of any deposit of rent, the Controller shall, if satisfied that the applicant is the person entitled to receive the rent deposited, order the amount of the rent to be paid to him in the manner prescribed:

Provided that no order for payment of any deposit of rent shall be made by the Controller under this sub-section without giving all persons named by the tenant in his application under sub-section (*2*) as claiming to be entitled to payment of such rent an opportunity of being heard and such order shall be without prejudice to the rights of such persons to receive such rent being decided by a court of competent jurisdiction.

(*5*) If at the time of filing the application under sub-section (*4*), but not after the expiry of thirty days from receiving the notice of deposit, the landlord or the person or persons claiming to be entitled to the rent complains or complain to the Controller that the statements in the tenant's application of the reasons and circumstances which led him to deposit the rent are untrue, the Controller, after giving the tenant an opportunity of being heard, may levy on the

tenant a fine which may extend to an amount equal to two months' rent, if the Controller is satisfied that the said statements were materially untrue and may order that a sum out of the fine realised be paid to the landlord as compensation.

(6) The Controller may, on the complaint of the tenant and after giving an opportunity to the landlord of being heard, levy on the landlord a fine which may extend to an amount equal to two months' rent, if the Controller is satisfied that the landlord, without any reasonable cause, refused to accept rent though tendered to him within the time referred to in section 26 and may further order that a sum out of the fine realised be paid to the tenant as compensation.

Time limit for making deposit and consequences of incorrect particulars in application for deposit.

28. (1) No rent deposited under section 27 shall be considered to have been validly deposited under that section, unless the deposit is made within twenty-one days of the time referred to in section 26 for payment of the rent.

(2) No such deposit shall be considered to have been validly made, if the tenant wilfully * * * makes any false statement in his application for depositing the rent, unless the landlord has withdrawn the amount deposited before the date of filing an application for the recovery of possession of the premises from the tenant.

(3) If the rent is deposited within the time mentioned in sub-section (1) and does not cease to be a valid deposit for the reason mentioned in sub-section (2), the deposit shall constitute payment of rent to the landlord, as if the amount deposited had been validly tendered.

Saving as to acceptance of rent and forfeiture of rent in deposit.

29. (1) The withdrawal of rent deposited under section 27 in the manner provided therein shall not operate as an admission against the person withdrawing it of the correctness of the rate of rent, the period of default, the amount due, or of any other facts stated in the tenant's application for depositing the rent under the said section.

(2) Any rent in deposit which is not withdrawn by the landlord or by the person or persons entitled to receive such rent shall be forfeited to Government by an order made by the Controller, if it is not withdrawn before the expiration of five years from the date of posting of the notice of deposit.

(3) Before passing an order of forfeiture, the Controller shall give notice to the landlord or the person or persons entitled to receive the rent in deposit by registered post at the last known address of such landlord or person or persons and shall also publish the notice in his office and in any local newspaper.

CHAPTER V

HOTELS AND LODGING HOUSES

Application of the Chapter.

30. The provisions of this Chapter shall apply to all hotels and lodging houses in the areas which, immediately before the 7th day of April, 1958, were included in the New Delhi Municipal Committee, Municipal Committee, Delhi and the Notified Area Committee, Civil Station, Delhi and may be applied by the Central Government, by notification in the Official Gazette, to hotels and lodging houses within the limits of such other urban area of the Municipal Corporation of Delhi as may be specified in the notification:

Provided that if the Central Government is of opinion that it would not be desirable in the public interest to make the provisions of this Chapter applicable to any class of hotels or lodging houses, it may, by notification in the Official Gazette, exempt such class of hotels on lodging houses from the operation of this Chapter.

Fixing of fair rate.

31. (*1*) Where the Controller, on a written complaint or otherwise, has reason to believe that the charges made for board or lodging or any other service provided in any hotel or lodging house are excessive, he may fix a fair rate to be charged for board, lodging or other services provided in the hotel or lodging house and in fixing such fair rate, specify separately the rate for lodging, board or other services.

(*2*) In determining the fair rate under sub-section (*1*), the Controller shall have regard to the circumstances of the case and to the prevailing rate of charges for the same or similar accommodation, board and service, during the twelve months immediately preceding the 1st day of June, 1951, and to any general increase in the cost of living after that date.

Revision of fair rate.

32. On a written application from the manager of a hotel or the owner of a lodging house or otherwise, the Controller may, from time to time, revise the fair rate to be charged for board, lodging or other service in a hotel or lodging house, and fix such rate as he may deem fit having regard to any general rise or fall in the cost of living which may have occurred after the fixing of fair rate.

Charges in excess of fair rate not recoverable.

33. When the Controller has determined the fair rate of charges in respect of a hotel or lodging house,—

(*a*) the manager of the hotel or the owner of the lodging house, as the case may be, shall not charge any amount in excess of the fair rate and shall not, except with the previous written

permission of the Controller, withdraw from the lodger any concession or service allowed at the time when the Controller determined the fair rate;

(*b*) any agreement for the payment of any charges in excess of such fair rate shall be void in respect of such excess and shall be construed as if it were an agreement for payment of the said fair rate;

(c) any sum paid by a lodger in excess of the fair rate shall be recoverable by him at any time within a period of six months from the date of the payment from the manager of the hotel or the owner of the lodging house or his legal representatives and may, without prejudice to any other mode of recovery, be deducted by such lodger from any amount payable by him to such manager or owner.

Recovery of possession by manager of a hotel or the owner of a lodging ouse.

34. Notwithstanding anything contained in this Act, the manager of a hotel or the owner of a lodging house shall be entitled to recover possession of the accommodation provided by him to a lodger on obtaining a certificate from the Controller certifying—

(*a*) that the lodger has been guilty of conduct which is a nuisance or which causes annoyance to any adjoining or neighbouring lodger;

Explanation.—For the purposes of this clause, "nuisance" shall be deemed to include any act which constitutes an offence under the Suppression of Immoral Traffic in Women and Girls Act, 1956; 104 of 1956.

(*b*) that the accommodation is reasonably and *bona fide* required by the owner of the hotel or lodging house, as the case may be, either for his own occupation or for the occupation of any person for whose benefit the accommodation is held, or any other cause which may be deemed satisfactory to the Controller;

(c) that the lodger has failed to vacate the accommodation on the termination of the period of the agreement in respect thereof;

(d) that the lodger has done any act which is inconsistent with the purpose for which the accommodation was given to him or which is likely to affect adversely or substantially the owner's interest therein;

(*e*) that the lodger has failed to pay the rent due from him.

CHAPTER VI

APPOINTMENT OF CONTROLLERS AND THEIR POWERS AND FUNCTIONS AND APPEALS

Appointment of Controllers and additional Controllers.

35. (*1*) The Central Government may, by notification in the Official Gazette, appoint as many Controllers as it thinks fit, and define the local limits within which, or the hotels and lodging houses in respect of which, each Controller shall exercise the powers conferred, and perform the duties imposed, on Controllers by or under this Act.

(*2*) The Central Government may also, by notification in the Official Gazette, appoint as many additional Controllers as it thinks fit and an additional Controller shall perform such of the functions of the Controller as may, subject to the control of the Central Government, be assigned to him in writing by the Controller and in the discharge of these functions, an additional Controller shall have and shall exercise the same powers and discharge the same duties as the Controller.

(*3*) A person shall not be qualified for appointment as a Controller or an additional Controller, unless he has for at least five years held a judicial office in India or has for at least seven years been practising as an advocate or a pleader in India.

Powers of Controller.

36. (*1*) The Controller may—

(*a*) transfer any proceeding pending before him for disposal to any additional Controller, or

(*b*) withdraw any proceeding pending before any additional Controller and dispose it of himself or transfer the proceeding for disposal to any other additional Controller.

(*2*) The Controller shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, when trying a suit, in respect of the following matters, namely:—

5 of 1908.

(*a*) summoning and enforcing the attendance of any person and examining him on oath;

(*b*) requiring the discovery and production of documents;

(*c*) issuing commissions for the examination of witnesses;

(*d*) any other matter which may be prescribed;

and any proceeding before the Controller shall be deemed to be a judicial proceeding within the meaning of section 193 and section 228 of the Indian Penal Code, and the Controller shall be deemed to be

45 of 1860.

a civil court within the meaning of section 480 and section 482 of the Code of Criminal Procedure, 1898. 5 of 1898.

(3) For the purposes of holding any inquiry or discharging any duty under this Act, the Controller may,—

(a) after giving not less than twenty-four hours' notice in writing, enter and inspect or authorise any officer subordinate to him to enter and inspect any premises at any time between sunrise and sunset; or

(b) by written order, require any person to produce for his inspection all such accounts, books or other documents relevant to the inquiry at such time and at such place as may be specified in the order.

(4) The Controller may, if he * thinks fit, appoint one or more persons having special knowledge of the matter under consideration as an assessor or assessors to advise him in the proceeding before him.

Procedure to be followed by Controller.

37. (1) No order which prejudicially affects any person shall be made by the Controller under this Act without giving him a reasonable opportunity of showing cause against the order proposed to be made and until his objections, if any, and any evidence he may produce in support of the same have been considered by the Controller.

(2) Subject to any rules that may be made under this Act, the Controller shall, while holding an inquiry in any proceeding before him, follow as far as may be the practice and procedure of a court of small causes, including the recording of evidence.

(3) In all proceedings before him, the Controller shall consider the question of costs and award such costs to or against any party as the Controller considers reasonable.

Appeal to the Tribunal.

38. (1) An appeal shall lie from every order of the Controller made under this Act to the Rent Control Tribunal (hereinafter referred to as the 'Tribunal') consisting of one person only to be appointed by the Central Government by notification in the Official Gazette.

(2) An appeal under sub-section (1) shall be preferred within thirty days from the date of the order made by the Controller:

Provided that the Tribunal may entertain the appeal after the expiry of the said period of thirty days, if it is satisfied that the

appellant was prevented by sufficient cause from filing the appeal in time.

(*3*) The Tribunal shall have all the powers vested in a court under the Code of Civil Procedure, 1908, when hearing an appeal. 5 of 1908.

(*4*) Without prejudice to the provisions of sub-section (*3*), the Tribunal may, on an application made to it or otherwise, by order transfer any proceeding pending before any Controller or additional Controller to another Controller or additional Controller and the Controller or additional Controller to whom the proceeding is so transferred may, subject to any special directions in the order of transfer, dispose of the proceeding.

(*5*) A person shall not be qualified for appointment to the Tribunal, unless he is, or has been, a district judge or has for at least ten years held a judicial office in India.

Second appeal.

39. (*1*) Subject to the provisions of sub-section (*2*), an appeal shall lie to the High Court from an order made by the Tribunal within sixty days from the date of such order:

Provided that the High Court may entertain the appeal after the expiry of the said period of sixty days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(*2*) No appeal shall lie under sub-section (*1*), unless the appeal involves some substantial question of law.

Amendment of orders.

40. Clerical or arithmetical mistakes in any order passed by a Controller or the Tribunal or errors arising therein from any accidental slip or omission may, at any time, be corrected by the Controller or the Tribunal on an application received in this behalf from any of the parties or otherwise.

Controller to exercise powers of a magistrate for recovery of fine.

41. Any fine imposed by a Controller under this Act shall be paid by the person fined within such time as may be allowed by the Controller and the Controller may, for good and sufficient reason, extend the time, and in default of such payment, the amount shall be recoverable as a fine under the provisions of the Code of Criminal Procedure, 1898, and the Controller shall be deemed to be a magistrate under the said Code for the purposes of such recovery. 5 of 1898.

Controller to exercise powers of civil court for execution of other orders.

42. Save as otherwise provided in section 41, an order made by the Controller or an order passed on appeal under this Act shall be executable by the Controller as a decree of a civil court and for this purpose, the Controller shall have all the powers of a civil court.

Finality order.

43. Save as otherwise expressly provided in this Act, every order made by the Controller or an order passed on appeal under this Act shall be final and shall not be called in question in any original suit, application or execution proceeding.

CHAPTER VII

PROVISIONS REGARDING SPECIAL OBLIGATIONS OF LANDLORDS AND PENALTIES

Landlord's duty to keep the premises in good repair.

44. (*1*) Every landlord shall be bound to keep the premises in good and tenantable repairs * * *.

(*2*) If the landlord neglects or fails to make, within a reasonable time after notice in writing, any repairs which he is bound to make under sub-section (*1*), the tenant may make the same himself and deduct the expenses of such repairs from the rent or otherwise recover them from the landlord:

Provided that the amount so deducted or recoverable in any year shall not exceed one-twelfth of the rent payable by the tenant for that year.

(*3*) Where any repairs without which the premises are not habitable or useable except with undue inconvenience are to be made and the landlord neglects or fails to make them after notice in writing, the tenant may apply to the Controller for permission to make such repairs himself and may submit to the Controller an estimate of the cost of such repairs, and, thereupon, the Controller may, after giving the landlord an opportunity of being heard and after considering such estimate of the cost and making such inquiries as he may consider necessary,, by an order in writing, permit the tenant to make such repairs at such cost as may be specified in the order and it shall thereafter be lawful for the tenant to make such repairs himself and to deduct the cost thereof, which shall in no case exceed the amount so specified, from the rent or otherwise recover it from the landlord:

Provided that the amount so deducted or recoverable in any year shall not exceed one-half of the rent payable by the tenant for that year:

Provided further that if any repairs not covered by the said amount are necessary in the opinion of the Controller, and the tenant agrees to bear the excess cost himself, the Controller may permit the tenant to make such repairs.

Cutting off or withholding essential supply or service.

45. (*1*) No landlord either himself or through any person purporting to act on his behalf shall without just and sufficient cause cut off or withhold any essential supply or service enjoyed by the tenant in respect of the premises let to him.

(*2*) If a landlord contravenes the provisions of sub-section (*1*), the tenant may make an application to the Controller complaining of such contravention.

(*3*) If the Controller is satisfied that the essential supply or service was cut off or withheld by the landlord with a view to compel the tenant to vacate the premises or to pay an enhanced rent, the Controller may pass an order directing the landlord to restore the amenities immediately, pending the inquiry referred to in sub-section (*4*).

Explanation.—An interim order may be passed under this sub-section without giving notice to the landlord.

(*4*) If the Controller on inquiry finds that the essential supply or service enjoyed by the tenant in respect of the premises was cut off or withheld by the landlord without just and sufficient cause, he shall make an order directing the landlord to restore such supply or service.

(*5*) The Controller may in his discretion direct that compensation not exceeding fifty rupees—

(*a*) be paid to the landlord by the tenant, if the application under sub-section (*2*) was made frivolously or vexatiously;

(*b*) be paid to the tenant by the landlord, if the landlord had cut off or withheld the supply or service without just and sufficient cause.

Explanation I.—In this section, "essential supply or service" includes supply of water, electricity, lights in passages and on staircases, conservancy and sanitary services.

Explanation II.—For the purposes of this section, withholding any essential supply or service shall include acts or omissions attributable to the landlord on account of which the essential supply or service is cut off by the local authority or any other competent authority.

Landlord's duty to give notice of new construction to Government.

46. Whenever, after the commencement of this Act, any premises are constructed, the landlord shall, within thirty days of the completion of such construction, give intimation thereof in writing to the Estate Officer to the Government of India or to such other officer as may be specified in this behalf by the Government.

Leases of vacant premises to Government.

47. (1) The provisions of this section shall apply only in relation to premises in the areas which, immediately before the 7th day of April, 1958, were included in the New Delhi Municipal Committee and which are, or are intended to be, let for use as a residence.

(2) Whenever any premises the standard rent of which is not less than two thousand and four hundred rupees per year becomes vacant either by the landlord ceasing to occupy the premises or by the termination of a tenancy or by the eviction of a tenant or by the release of the premises from requisition or otherwise,—

(a) the landlord shall, within seven days of the premises becoming vacant, give intimation thereof in writing to the Estate Officer to the Government of India;

(b) whether or not such intimation is given, the Estate Officer may serve on the landlord by post or otherwise a notice—

(i) informing him that the premises are required by the Government for such period as may be specified in the notice; and

(ii) requiring him, and every person claiming under him, to deliver possession of the premises forthwith to such officer or person as may be specified in the notice:

Provided that where the landlord has given the intimation required by clause (a), no notice shall be issued by the Estate Officer under clause (b) more than seven days after the delivery to him of the intimation:

Provided further that nothing in this sub-section shall apply in respect of any premises the possession of which has been obtained by the landlord on the basis of any order made on the ground set forth in clause (e) of the proviso to sub-section (1) of section 14 or in respect of any premises which have been released from requisition for the use and occupation of the landlord himself.

(3) Upon the service of a notice under clause (b) of sub-section (2), the premises shall be deemed to have been leased to the Government for the period specified in the notice, as from the date of the delivery of the intimation under clause (a) of sub-section (2) or in a case where no such intimation has been given, as from the date on which possession of the premises is delivered in pursuance of the notice, and the other terms of the lease shall be such as may be agreed upon between the Government and the landlord or in default of agreement, as may be determined by the Controller, in accordance with the provisions of this Act.

(4) In every case where the landlord has in accordance with the provisions of sub-section (2) given intimation of any premises becoming vacant and the premises are not taken on lease by the Government under this section, the Government shall pay to the landlord a sum equal to one-fifty-second of the standard rent per year of the premises.

(5) Any premises taken on lease by the Government under this section may be put to any such use as the Government thinks fit, and in particular, the Government may permit the use of the premises for the purposes of any public institution or any foreign embassy, legation or consulate or any High Commissioner or Trade Commissioner, or as a residence by any officer in the service of the Government or of a foreign embassy, legation or consulate or of a High Commissioner or Trade Commissioner.

Penalties.

48. (1) If any person contravenes any of the provisions of section 5, he shall be punishable—

(a) in the case of a contravention of the provisions of sub-section (1) of section 5, with simple imprisonment for a term which may extend to three months, or with fine which may extend to a sum which exceeds the unlawful charge claimed or received under that sub-section by one thousand rupees, or with both;

(b) in the case of a contravention of the provisions of sub-section (2) or sub-section (3) of section 5, with simple imprisonment for a term which may extend to six months, or with fine which may extend to a sum which exceeds the amount or value of unlawful charge claimed or received under the said sub-section (2) or sub-section (3), as the case may be, by five thousand rupees, or with both.

* * * *

(2) If any tenant sub-lets, assigns or otherwise parts with the possession of the whole or part of any premises in contravention of the provisions of clause (b) of the proviso to sub-section (1) of section 14, he shall be punishable with fine which may extend to one thousand rupees.

(3) If any landlord re-lets or transfers the whole or any part of any premises in contravention of the provisions of sub-section (1) or sub-section (2) of section 19, he shall be punishable with imprisonment for a term which may extend to three months, or with fine, or with both.

(4) If any landlord contravenes the provisions of sub-section (*1*) of section 45, he shall be punishable with imprisonment for a term which may extend to three months, or with fine, or with both.

(5) If any landlord fails to comply with the provisions of section 46, he shall be punishable with fine which may extend to one hundred rupees.

(6) If any person contravenes the provisions of clause (*a*) of sub-section (*2*) of section 47, or fails to comply with a requirement under clause (*b*) thereof, he shall be punishable with simple imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

Cognizance of offences.

49. (*1*) No court inferior to that of a magistrate of the first class shall try any offence punishable under this Act.

(*2*) No court shall take cognizance of an offence punishable under this Act, unless the complaint in respect of the offence has been made within three months from the date of the commission of the offence.

(*3*) Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, it shall be lawful for any magistrate of the first class to pass a sentence of fine exceeding two thousand rupees on a person convicted of an offence punishable under this Act. 5 of 1898.

CHAPTER VIII

MISCELLANEOUS

Jurisdiction of civil courts barred in respect of certain matters.

50. (*1*) Save as otherwise expressly provided in this Act, no civil court shall entertain any suit or proceeding in so far as it relates to the fixation of standard rent in relation to any premises to which this Act applies or to eviction of any tenant therefrom or to any other matter which the Controller is empowered by or under this Act to decide, and no injunction in respect of any action taken or to be taken by the Controller under this Act shall be granted by any civil court or other authority.

(*2*) If, immediately before the commencement of this Act, there is any suit or proceeding pending in any civil court for the eviction of any tenant from any premises to which this Act applies and the construction of which has been completed after the 1st day of June, 1951, but before the 9th day of June, 1955, such suit or proceeding shall, on such commencement, abate.

(*3*) If, in pursuance of any decree or order made by a court, any tenant has been evicted after the 16th day of August, 1958, from any premises to which this Act applies and the construction of which has been completed after the 1st day of June, 1951, but before the 9th day of June, 1955, then, notwithstanding anything contained in any other law, the Controller may, on an application made to him in this behalf by such evicted tenant within six months from the date of eviction, direct the landlord to put the tenant in possession of the premises or to pay him such compensation as the Controller thinks fit.

(*4*) Nothing in sub-section (*1*) shall be construed as preventing a civil court from entertaining any suit or proceeding for the decision of any question of title to any premises to which this Act applies or any question as to the person or persons who are entitled to receive the rent of such premises.

Controllers to be public servants.

51. All Controllers and additional Controllers appointed under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

Protection of action taken in good faith.

52. No suit, prosecution or other legal proceeding shall lie against any Controller or additional Controller in respect of anything which is in good faith done or intended to be done in pursuance of this Act.

Amendment of the Delhi Tenants (Temporary Protection) Act, 1956.

53. For sub-section (*4*) of section 1 of the Delhi Tenants (Temporary Protection) Act, 1956, the following sub-section shall be substituted, namely:—

97 of 1956.

"(*4*) It shall cease to have effect,—

(*a*) as respects premises other than vacant ground, on the 11th day of February, 1959;

(*b*) as respects premises which are vacant ground, on the 11th day of February, 1960;

except as respects things done or omitted to be done before such cesser of operation of this Act and section 6 of the General Clauses Act, 1897, shall apply upon such cesser of operation as if it had then been repealed by a Central Act.".

10 of 1897

Saving of operation of certain enactments.

54. Nothing in this Act shall affect the provisions of the Administration of Evacuee Property Act, 1950, or the Slum Areas (Improvement and Clearance) Act, 1956, or the Delhi Tenants (Temporary Protection) Act, 1956.

31 of 1950.
96 of 1956.
97 of 1956.

Special provision regarding decrees affected by the Delhi Tenants (Temporary Protection) Act, 1956.

55. Where any decree or order for the recovery of possession of any premises to which the Delhi Tenants (Temporary Protection) Act, 1956, applies is sought to be executed on the cesser of operation of that Act in relation to those premises, the court executing the decree or order may, on the application of the person against whom the decree or order has been passed or otherwise, reopen the case and if it is satisfied that the decree or order could not have been passed if this Act had been in force on the date of the decree or order, the court may, having regard to the provisions of this Act, set aside the decree or order or pass such other order in relation thereto as it thinks fit. 97 of 1956.

Power to make rules.

56. (*1*) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the form and manner in which, and the period within which, an application may be made to the Controller;

(*b*) the form and manner in which an application for deposit of rent may be made and the particulars which it may contain;

(*c*) the manner in which a Controller may hold an inquiry under this Act;

(*d*) the powers of the civil court which may be vested in a Controller;

(*e*) the form and manner in which an application for appeal or transfer of proceeding may be made to the Tribunal;

(*f*) the manner of service of notices under this Act;

(*g*) any other matter which has to be, or may be, prescribed.

(*3*) All rules made under this section shall be laid for not less than thirty days before each House of Parliament as soon as possible after they are made and shall be subject to such modifications as Parliament may make during the session in which they are so laid or the session immediately following.

Repeal and savings.

57. (*1*) The Delhi and Ajmer Rent Control Act, 1952, in so far as it is applicable to the Union territory of Delhi, is hereby repealed. 38 of 1952.

(2) Notwithstanding such repeal, all suits and other proceedings under the said Act pending, at the commencement of this Act, before any court or other authority shall be continued and disposed of in accordance with the provisions of the said Act, as if the said Act had continued in force and this Act had not been passed:

Provided that in any such suit or proceeding for the fixation of standard rent or for the eviction of a tenant from any premises to which section 54 does not apply, the court or other authority shall have regard to the provisions of this Act:

Provided further that the provisions for appeal under the said Act shall continue in force in respect of suits and proceedings disposed of thereunder.

THE FIRST SCHEDULE

[*See* section 1(2)]

THE URBAN AREAS WITHIN THE LIMITS OF THE MUNICIPAL CORPORATION OF DELHI TO WHICH THE ACT EXTENDS

The areas which, immediately before the 7th April, 1958, were included in—

1. the Municipality of New Delhi excluding the area specified in the First Schedule to the Delhi Municipal Corporation Act, 1957; 66 of 1957.
2. the Municipal Committee, Delhi;
3. the Notified Area Committee, Civil Station, Delhi;
4. the Municipal Committee, Delhi-Shahdara;
5. the Notified Area Committee, Red Fort;
6. the Municipal Committee, West Delhi.
7. the South Delhi Municipal Committee.
8. the Notified Area Committee, Mehrauli.

THE SECOND SCHEDULE

[*See* sections 2 (*a*) and 6(*l*)]

BASIC RENT

1. In this Schedule, "basic rent" in relation to any premises let out before the 2nd June, 1944, means the original rent of such premises referred to in paragraph 2 increased by such percentage of the original rent as is specified in paragraph 3 or paragraph 4 or paragraph 5, as the case may be.

2. "Original rent", in relation to premises referred to in paragraph 1, means—

(*a*) where the rent of such premises has been fixed under the New Delhi House Rent Control Order, 1939, or the Delhi Rent Control Ordinance, 1944, the rent so fixed; or 25 of 1944.

(*b*) in any other case,—

(*i*) the rent at which the premises were let on the 1st November, 1939, or

(*ii*) if the premises were not let on that date, the rent

at which they were first let out at any time after that date but before the 2nd June, 1944.

3. Where the premises to which paragraph 2 applies are let out for the purpose of being used as a residence or for any of the purposes of a public hospital, an educational institution, a public library or reading room or an orphanage, the basic rent of the premises shall be the original rent increased by—

(*a*) 12-1|2 per cent. thereof, if the original rent per annum is not more than Rs. 300;

(*b*) 15-5|8 per cent. thereof, if the original rent per annum is more than Rs. 300 but not more than Rs. 600;

(*c*) 18-3|4 per cent. thereof, if the original rent per annum is more than Rs. 600 but not more than Rs. 1,200;

(*d*) 25 per cent. thereof, if the original rent per annum is more than Rs. 1,200.

4. Where the premises to which paragraph 2 applies are let out for any purpose other than those mentioned in paragraph 3, the basic rent of the premises shall be the original rent increased by twice the amount by which it would be increased under paragraph 3, if the premises were let for a purpose mentioned in that paragraph.

5. Where the premises to which paragraph 2 applies are used mainly as a residence and incidentally for business or profession, the basic rent of the premises shall be the mean of the rent as calculated under paragraphs 3 and 4.

C. B. (II) No. 76.

LOK SABHA

THE JOINT COMMITTEE ON THE DELHI RENT CONTROL BILL, 1958

Memoranda

Submitted by the Associations which tendered evidence before the Committee

LOK SABHA SECRETARIAT
NEW DELHI.
November, 1958

Price : Re 0·80 nP.

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I

MEMORANDUM

OF

THE CENTRAL TENANTS ASSOCIATION, DELHI

There is no gainsaying the fact that tenants in Delhi (who comprise at least 80 per cent of the population) are at present in an unprecedented miserable plight. This has been because the enactments enforced from time to time have only endeavoured to control a timely situation. No proper survey of the problem has ever been attempted particularly in the direction of: (i) whether housing activity should be treated as an 'industry', (ii) what percentage of interest should be allowed on housing enterprise, (iii) what changes in the matter of enactment are necessary in the new set-up of things, (iv) what change has to be brought about in the mutual obligations between tenants and landlords, and (v) what measures should be adopted to control the curse of black-marketing in the trade. Different laws have been enacted on different occasions; but experience has shown that the concessions extended to landlords were strongly exploited by them with the result that the series of Rent Control Acts have been a complete failure to even check the rising tempo of the problem.

The New Delhi House Rent Control Order, 1939 was enacted mainly for controlling the rents of accommodation and for regularising the letting and preventing the unreasonable eviction of tenants. Under this Order the Controller would fix the standard rent on an application of a tenant. The tenants could be ejected on the grounds of: (i) non-payment of rent, (ii) subletting, (iii) misuse of property, and (iv) when the Controller thought it essential in public interest that the landlord, who had not been residing in Delhi for more than 12 months, should take up residing in that area and that he was unable to secure other suitable accommodation. Under this Order, a landlord, evicting a tenant under its clause (iv), could not let the house or any part thereof to any person other than the original tenant except with written permission of the Controller.

Vide Notification No. 71/42-Public dated 15th October, 1942, the Punjab Urban Rent Restrict Act, 1941 was made applicable to the Province of Delhi, except in areas where the New Delhi House Rent Control Order, 1931 was applicable. Provisions of this Act were found unsatisfactory and for better control of rents, the Delhi Rent Control

Ordinance, 1944 (according to which the rent of a premises on 1st January, 1939, was to form as basis of standard rent) was promulgated. Under this Ordinance, a tenant could be ejected on the grounds mentioned in New Delhi House Rent Control Order of 1939 and also that the tenant has been guilty of conduct which is a nuisance or annoyance to the occupiers of neighbouring premises. It is also provided in this Ordinance that a decree on the ground of *bona fide* necessity of a landlord could not be passed unless the landlord acquired his interest in the premises by inheritance or, if not by inheritance, at a date prior to the beginning of the tenancy or at a date not later than 3 years preceding the date of the institution of the suit for ejectment whichever is later.

Repealing the Order of 1939 and the Ordinance of 1944, the Delhi Ajmer-Merwara Rent Control Act, 1947 was enacted to provide for the control of rents and evictions in Delhi, Ajmer and Merwara. Under this Act standard rent of old buildings was to be fixed either on the basis of rent on 1st January, 1939 or the rent fixed under Order of 1939 or Ordinance of 1944. Under Section 7A and the Fourth Schedule, Rent Controller was appointed to fix standard rent of new buildings which would not exceed 7½ percent of the costs of the building. The number of grounds on which a tenant could be ejected was increased.

Thereafter, the Delhi and Ajmer Rent Control Act, 1952 was passed to provide for the control of rents and evictions. Under the scheme of this Act, to charge more than the standard rent is an offence punishable with simple imprisonment which may extend to 3 months. Also the tenants cannot be ejected ruthlessly at the whims and fancies of the landlord. But unfortunately the aforesaid two aims of the rent legislations have not been satisfactorily achieved even though they were recognised about 20 years back. Section 13(e) of this Act which entitles a landlord to get a premises vacated for his use, has been, more often than not, abused by the landlords. Most of the evictions have been effected on this ground and there are innumerable cases pending in the law courts calling for eviction of tenants under this very provision of the Act. Fictitious sales of houses are being effected solely with a view to oust the old tenant. To cite an example: a premises No. 2276-77 in Mandi Maid Ganj (Delhi) belonging to M/s Hulkar Mal Tara Chand was sold out to M/s. Boota Ram etc. on September 4, 1957 under registration No. 3680 (in the Court of Sub-Registrar, Delhi) for Rs. 14,000. The rent of the premises is Rs. 45/- p.m. with House Tax. In turn M/s Boota Ram etc., mortgaged the said premises in favour of M/s Hulkar Mal Tara Chand on September 4, 1957 (the

same day) under registration No. 3681 for Rs. 11,000/- @ 6% per annum which comes to about Rs. 55/- per month. It clearly indicates the intention of the first seller who assumes the position of a mortgagee in the latter case.

Under the provisions of this Act, buildings constructed between June 1951 to June 1955 have been exempted from the application of the provisions of Rent Act for a period of 7 years. Such an exemption has resulted in very high rents for newly constructed buildings. The landlords, while abusing this provision, have in many cases been able to recover the cost of building within a period of three to four years. Is it not too much? It is argued that such an exemption is necessary with a view to encourage the desired house building activity. But would not such an exemption mean spoon feeding of the landlords at the cost of the poor tenants? Encouragement to building activity could appropriately be extended by providing (i) land at cheap cost, (ii) cheap building material and (iii) free technical guidance which steps would not cost Government more than framing specific regulations and activating the technical personnel already with them.

Enactments after enactments have proved futile for a common man to secure accommodation at standard rent and to save him from unreasonable ejectments. As the position now stands, the Rent laws are so framed that no control over rent virtually exists and the rents are roaringly high. Ordinarily, one is supposed to spend 10% of his income on rent but in actual practice people have to pay at least 30% of their incomes as rent. In some cases this amount goes to 40% or even 50% of their income. The other primary needs of a tenant are neglected and ignored because of heavy rent rates. As soon as the agreed rent is challenged, there starts a battle between the landlord (who is generally resourceful) and the poor tenant. The law is so tedious and technical and the procedure so complicated that the standard rent is fixed in very rare cases, mostly, the battle is so much prolonged that the poor tenant gets exhausted and it has been noticed that the tenant has to abandon the premises rather than getting the benefit of standard rent. Even if in some cases the rent is fixed then the landlord would start some other indirect tactics to harass the tenant. Quarrels and abuses become a regular feature. Life becomes hellish and the poor tenant has to quit the premises and his victory is converted into a miserable failure. In various cases the tenants do not apply for fixation of rent under certain social, moral and other pressures. Is it not an open secret that the tenants have to pay much more rent than the standard rent of the premises? The tenant is helpless

as the law meant for him serves no purpose. Is it not deplorable that in spite of the control over rent, the rent of buildings remains uncontrollable? The people are made to pay Rs. 40|- or Rs. 50|- per room and the foreigners are paying still more for the accommodation they get. Either the rent is not at all controlled or if it is got fixed after going through all sorts of tribulations, the person is unable to take benefit of it. The control over rent is most ineffective and non-existant.

A person who charges more than the controlled price of soft coke is arrested, locked up and convicted. But landlord who openly charges three to four times more than what the standard rent of the premises would come to, is not touched even. What a lawless law! It embitters the relations between the landlord and the tenant and does no substantial good to tenants for the benefit of whom it is enacted.

There are innumerable difficulties in getting the standard rent fixed. The onus of proving many a thing is on the tenant. As no reliable witnesses can be available, the applications fail. Justice in most of the cases is not being secured for the poor tenants because of their manifold weaknesses. When a law has been made for the benefit of tenants and the people are promised accommodation on controlled rates and the charging of more rent than the standard rent has been declared as an offence, why should such law be not enforced in its true spirit?

The rent for each and every existing building should be fixed according to the method prescribed in the Rent Control Act after hearing both the landlords and the tenants concerned. Thereafter, whenever a new building is erected its standard rent should be calculated and fixed according to law. If after fixation of rent any landlord charges more than the standard rent, he should be dealt with and punished accordingly.

It shall remove all bitterness from the relations between the landlord and the tenant and would also save the people from loitering in the courts and wasting their time and energy. The mockery which is being done with the law shall also end. Once the principle of control over the rent is accepted, no one should grudge the aforesaid procedure of fixation of standard rent which is simple, inexpensive and is effective to achieve the desired goal. If cloth can be priced when it leaves the mills, if the price of wheat and other articles can be fixed prior to its coming in the market for sale, why cannot the standard rent of the buildings be fixed as soon

as the same is ready for use? When rate of interest on loans can be fixed why rate of rent cannot be fixed for investment on buildings? Once this is done, immense relief shall be caused to tenants and many of their difficulties solved. As under Section 70 of Control Order, 1939, the Controller should maintain an upto-date list showing the fair rents of houses as fixed by him which may be open to inspection and copy of which may be supplied on payment of reasonable fee.

As regards control on evictions, it is to be emphasised that the grounds of ejectment should be as few as possible. Under 1939 Order there were only 4 grounds and their number has been enhanced under Rent Control Act of 1952. But again temporary protection is given under 1956 Act. It may be noticed that these grounds are greatly exploited and abused by the landlords in order to quench their thirst for making more money by way of rent. The law in its spirit should be enforced and there should be real and effective control over evictions. Broadly speaking, no tenant who pays and is ready and willing to pay the standard rent should be ejected. The proposed measure should accommodate the following essentials:—

No decree should be passed on the ground of subletting unless it is proved that the tenant is making unreasonable profit. The increase in rent may be made by the landlord and the *bona fide* subletting be condoned. If the subletting is with the implied or written permission of the landlord the question of ejectment should not arise. The law as it stands now is exploited by the landlords who create the ground of subletting prior to their letting out the premises and then always keep the tenant under pressure.

Sub-tenants should be recognised as tenants directly.

It is commonly seen that the purpose for which the building is used is never harmful to the landlords' interests and the upkeep of the premises. But the landlords resort to this not because they are offended by the change in use but they just get an excuse to harass the tenant and seek ejectment to get enhanced rent. Decree on this ground should not be passed unless the change of use prejudicially effects the building and has caused substantial damage to the property and that the damages cannot be made good by payment of compensation or is not paid by a tenant.

A decree on the ground that neither the tenant nor any member of his family has been residing in the premises for some months should not be passed unless the court is convinced that the tenant had acquired vacant possession of suitable residence or that there is no likelihood of the tenant's occupying the premises during the coming three years.

The ground of *bona fide* requirements of the landlord has been most exploited by the owners. Fictitious and bogus transfers have been made simply to eject the tenants. This provision has been most unjust. The superiority of the landlord is unnecessarily established by this. Only by this provision, most of the Rent Control Act is undone. Sooner this provision ends the better. Simply because of the fact that one happens to be a landlord, the tenant cannot be compelled to have the worst and the landlord cannot be given the best. If there is difficulty of accommodation both must equally suffer. A tenant who has been regularly paying the rent since the time when the landlords anxiously searched for a tenant and has made the landlord what he is, the tenant should not be made to quit at the sweet will and ordinary need of a landlord. When more than 500 States have vanished from the map of India, when Jagirdari and Zamindari have abolished from the country and when tillers have been declared the owners of land, the landlordism which is in never less brutal form, too must fade away.

The necessary repairs of a building should be effected in the shortest possible period by the landlords under the supervision of the 'Controller' of the area and thereof the premises be handed over to the tenant. In fact, this situation is being badly exploited by the owners who get notices served on themselves and then cause all sorts of troubles to the tenants.

The landlords get ejectment order on the pretext that he wants to reconstruct the house, but he so delays the construction that provision of Section 15 of Rent Control Act 1952, are rendered useless. Once a landlord occupies the premises, redelivery of possession is an impossibility unless the tenant is sufficiently resourceful to get the law enforced and to face trial for years and is also in a position to arrange an alternative accom-

modation for himself. In such a case whatever is done should be done through the Controller and it should be seen that law under this clause is enforced in its spirit and that the tenant gets newly constructed premises easily and at the earliest possible moment.

The clause in the Act that the conduct of the tenant is such that it is nuisance must be abolished. If the conduct of any person whether a landlord or a tenant causes annoyance to others, law provides equally effective remedies to get right such a person. Where is the justification that a landlord or owner whose conduct is a nuisance and causes annoyance should be allowed to remain in the house and the tenant made to quit on that ground. To set right the misconduct of a person is the function of penal code and not the Rent Control Act.

The court should be empowered to order payment of rent and costs in suitable instalments keeping in view the status and financial position of the tenant.

If per chance the rent is not paid technically within time, the tenant is rendered without a remedy. The defence should be struck out only when the court is convinced that the tenant has refused or is not willing to carry out the order of the court.

The Rent Control Act should be made applicable to Government premises as well if they are letted out to the public in general.

As is provided in Section 4 of the New Delhi House Rent Control Order 1939, a landlord evicting a tenant in pursuance of a decree should not let the house or any part thereof to any person other than the original tenant except with the written permission of the Controller.

If any premises falls vacant, it should be rented out through the Controller of the particular area and the names of the persons in need of accommodation should be registered with the Controller of the area. In this connection it will also be necessary that there should be a local advisory committee consisting of the tenants and the landlords which would advise the Controller in matters of allotment of vacant premises.

All buildings should be brought within the purview of the Rent Control Act and no building should be granted exemption whatsoever on any ground.

Much more severe punishment may be prescribed for the contravention of the provisions of the Rent Control Act and withholding and cutting of essential supply or service. The Local Bodies may be directed to so amend their Rules as to provide water and electric connections in the names of tenants without pressing for a 'no objection' certificate from the landlord.

The Government should also encourage building operations on cooperative basis. The Government should construct 1 roomed, 2 roomed and 3 roomed sets which should not be far away from their places of work, to be given on standard rent to tenants so that dearth of accommodation in the Capital may eventually be minimised.

The Government should also find out ways and means so that the work of colonisation which has been greatly hampered may start once again.

The problem of the tenants in the evacuee houses which the Government are selling away to the claim holders, is also not less important. There are thousands of tenants who are at present living in these houses and as soon as any such house is purchased by a person, he serves an ejectment notice on the tenant. The law provides that such a house-owner could have the premises vacated. Therefore, tenants in such houses are being ruthlessly ejected. It is imperative that these people should be recognised as tenants and given all protection like other tenants.

As regards the proposed Rent Control Bill of 1958, the only welcoming feature in this is with respect to the appointment of Rent Controller. Otherwise, the measure totally stands to benefit the landlords. Therefore, besides several suggestions made above, we submit that the following amendments be incorporated in the proposed measure:—

Add paras 7, 8, 9 and 10 *after* para 6 of the First Schedule as under·

"7. Municipality of South Delhi.

8. Notified Area of Mehrauli

9. Notified Area of Narela.

10. Notified Area of Najafgarh."

Section 6 be *deleted* and instead the following be *substituted*:

"Standard rent in relation to any premises means—

(a) the rent of such premises which has been fixed under the New Delhi House Rent Control Order of 1939, or the Delhi Rent Control Ordinance of 1944, or the Delhi and Ajmer-Merwara Rent Control Act of 1947, or the Delhi Aimer Rent Control Act of 1952; and

(b) in the case of premises the standard rent of which has not been fixed under any of the measures mentioned at (a) above, the rent calculated on the basis of annual payment of an amount equal to 6¼ per cent per annum of the aggregate amount of reasonable cost of construction of the premises and the purchase price or the market price, whichever is less, of land comprised in the premises."

In clause (b) of sub-section (1) of section 14, the following proviso be *added*:

"provided where subletting is in the nature of sharing of accommodation, the sub-tenant be given the option to be the direct tenant of the landlord."

In clause (c) of sub-section (1) of section 14, *after* the words ".....for which they were let" *add* the following:

"and that such a change of purpose has caused damage to the premises or is a source of great public nuisance."

In clause (d) of sub-section (1) of section 14, *after* the words ".....for a period of" the words "six months" be *deleted* and "three years" be *substituted*.

Clause (e) of sub-section (1) of section 14 be *deleted*.

At the end of clause (j) of sub-section (1) of section 14, the following proviso be *added*:

"provided that the landlord himself has let out the premises for being used in a manner which is contrary to such conditions and provided the landlord has not acquiesced to any breach of the terms of the conditions."

Clause (b) of sub-section (3) of section 14, be *deleted*. (This clause if retained, would prove ruinous to the business community who have to enter into partnership in the interest of business every

now and then. Such a clause has never existed in the previous enactments).

Clause (a) of sub-section (4) of section 14, be *deleted.*

Sub-section (6) of section 14, be *deleted.*

The following sub-section be *added* after sub-section (7) of section 14:

"No order for recovery of possession of any premises shall be made on the ground specified in clauses (f) and (k) of sub-section (1) of section 14, unless the Controller is satisfied that suitable arrangements exist for the tenants to put up during the intervening period and that the estimates of such repairs and building work have been properly prepared and that the necessary means for the purpose are available with the landlords and that the premises will be given possession of immediately after the repairs have been carried out, to the evictee tenant."

In sub-section (1) of section 15, *after* the words "within one month of the date of the order and amount calculated at the rate of" the remaining portion of the sub-section be *deleted* and the words "interim rent fixed by the Rent Controller for the period for which the tenant may have made default including the period subsequent thereto and continue to pay and deposit month by month, by the fifteenth of each succeeding month a sum equivalent to the rent at that rate" be ***substituted.***

In section 19 at the end of sub-section (2), the following words may be *added*:

"and shall charge the rent as may be decided by the Controller."

In section 20, *after* the words "where a landlord does not require the whole or any part of" the words "any premises" be *deleted* and the words "the premises which has been under his own personal use" be *substituted.*

The following proviso be *added* at the end of section 20:

"provided that after the expiry of contracted tenancy, the landlord himself would occupy the premises in question and does not let out the same premises within a period of the five years from the expiry of the contracted tenancy."

The following sub-sections may be *added* after sub-section (4) of section 49:

"(5) That all the suits pending in the courts on the day of the commencement of this Act shall be decided according to the provisions of this Act.

"(6) That any decree passed under any Rent Control Act shall not be executed if it has been passed in contravention of the provisions of this Act.

"(7) That the decree passed on the ground of non-payment of rent shall not be executed if the tenant pays or tenders the decreetal amount."

The following section be *added*:

"55. If the landlord sells the premises, the tenant occupying the same shall have a preferential right to purchase that premises on payment of the market price or the selling price whichever is less."

II

MEMORANDUM

OF

DELHI PRADESH KIRAYADAR FEDERATION, DELHI.

Delhi, being the capital of India is expanding at a rapid rate and rents of premises have risen very steeply during the last few years. In the interest of the poor and middle tenants it is essential that the Bill be amended suitably. If 1954 be taken as a base year, one would find that rents have risen by 50% to almost 200% during the past three years. This has hit the poor tenants very much and their standard of living which is already low has been affected so much that it has become difficult for them to provide education and other necessaries of life to their children.

The Delhi Pradesh Kirayadar Federation was formed about two years ago with a view to point out to the Govt. various misdeeds of landlords and to request the Govt. to protect the interests of tenants. The Federation consists of the representatives of all the Kirayadar Associations of Delhi. It thus claims to be the true representative of the tenants of Delhi. The Federation had been trying its hard to bring home to the authorities that be in power in Delhi salient features of Landlords tenants problems in Delhi. We held mass meetings throughout the Delhi from time to time, staged many demonstrations, took out Prcessions, saw the highest authorities even, Shri Nehru, Shri Pant, Shri Reddy, Chief Commissioner of Delhi etc., etc., went on hunger strike (by the President of the Federation Shri Mahavir Parshad Gupta and others in front of the residence of the Prime Minister Shri Nehru) to bring home the gravity of the problems. But it appears that the vested interests of landlords had their full sway over the Govt. of the Day.

The methods of harassment of tenants by the landlords are many and varied. They cut off essential supplies like water and electricity; they close latrines, they issue no rent receipt and obtain ejectment orders from the Courts on the plea of non-payment of rent: they themselves sublet their tenants' premises and try to obtain ejectment orders stating that the tenants had sublet their premises; they get the eviction of the tenants on the plea that they either want the premises for their own residence or on the

plea of reconstructing their premises but immediately after eviction of old tenants the same premises are let out on considerable higher rent to new tenants. In order to ensure justice and fairness to the tenants, the federation is of opinion that something more drastic is essential to foil the misdeeds of the landlords besides, pluging loop-holes in the Bill which are likely to be exploited by the landlords to satisfy their rapicity for collecting exorbitant Rent and getting the tenant evicted from the premises on filmsy grounds. Accordingly federation after careful considerations lays down the following few suggestions which if accepted will safeguard the interest of both the parties *i.e.* tenants and landlords.

1. *Enhancement of Rent on Standard Rent in the Proposed Bill.*— The increase of 10% allowed by this Act on the standard rent is absolutely unjustified in view of the fact than in cases of buildings constructed and let out before 2.6.44, the Act of 1952 has already allowed a maximum increase of 50% on the original rent. Even this increase of 50% hit the tenants very hard and many representations were made to the Govt. to amend the provision of the Rent Act but nothing was done. According to the present Bill it is proposed to allow an increase of 10% over the standard rent which means that the rent would increase by maximum 50% according to 1952 Act plus 10%. All this means that an increase of 20% will be allowed on the 1952 basic rent *i.e.* a tenant paying Rs. 100 per month in 1944 had to pay Rs. 150 in 1952 and according to the present bill he is supposed to pay 181.50 nP. which means a total increase of the rent of more than 80% over 1944 rent. There is no justification for the increase in the rents once again particularly at a time when the rise in cost of living is making it difficult for people belonging to the lower middle and middle classes to balance their budgets. The exemption for seven years in respect of the buildings constructed between 1951—1955 from the fixation of standard rent is not justified as it takes away valuable right from the tenants for applying for the fixation of standard rent. The standard rent in case of all such buildings should be fixed with immediate effect on the basis of 6½% of the total cost of construction of the portion occupied by the tenants instead of 8½% over the cost of construction and the market price of the land as contemplated under section 6(B) (ii) of the Bill, and the calculation of the standard rent on the market price of the land will lead to unnecessary complications as it will always be a point for judicial adjudication.

2. *Main Demand.*—In this connection it may be pointed out that U.P., Bombay & Madhya Pradesh, (Bhopal) have enacted laws which fairly and satisfactorily protect the interests of the tenants.

In the opinion of the Federation the Enactment must provide an Advisory Committee consisting of the representatives of the Delhi Pradesh Kirayader Federation & landlords besides Officials who will look into the grievances of the tenants and landlords and also advise on letting and subletting of the vacant or vacated premises in terms of old Rent. The landlords and the tenants should not be authorised to let out the premises. No problem of the rent control and eviction is likely to be solved in Delhi unless advisory committee at the Centre and in each zone is constituted. The proposed Bill does not enjoin the rent controller to take notice of the alternative accommodation for the tenants before ordering his eviction from the premises. In order to ensure full justice to landlords as well as to the tenants it is essential that the rent controller in each zone of the city should be assisted by the advisory committee.

3. *Limitation for Application for Fixation of Standard Rent.*— There should not be any time limit for filing an application for the fixation of standard rent by the tenant as has been laid down under section 12 of the proposed Bill.

4. *Eviction of Tenants.*—The Bill provides a number of grounds under section 14 of the proposed bill on which a tenant can be evicted, while eviction on ground of non-payment etc., is not disputed even filmsy grounds have been provided for evictions. The grounds of evictions have been enlarged substantially and they have exceeded in numbers as compared with the previous enactment. This will lead to frequent litigations and untold hardship to the poor indignant 15 lakh tenants.

5. *Partnership.*—The Bill gives a severe blow to the business community as it takes away from them their fundamental rights to create partnership with a view to carry on their profession. The Bill provides that formation of partnership without the consent of the landlord will be a ground of eviction but in case of *bonafide* partnership the consent of the landlord should not be essential as the landlord can withhold his consent to the detriment of the tenant. The bill could however lay down certain conditions by which the *bonafide* and non-*bonafide* of a partnership could be ascertained. If this provision of the Act will be adhered to it will substantially benefit the landlord because all cases where a merchant becomes incapable to organise his business on the sound lines due to various factors it may be incumbent on him to admit some other person either for the sake of technical know how or other financial resources and if the landlord withholds his consent which

will always be *malafide* the merchant will have no other alternative but to close down his business, ruin his career, and surrender the premises to the landlord who will always be ready to step in either to carry out some other business or let out the same premises to some other tenant on exorbitant rent and charge a substantial premium outside the books of the account.

6. In spite of the unanimous agreement between the representatives of the landlords and tenants arrived at a meeting presided over by the Chief Commissioner, Shri A. D. Pandit that the sub-tenants who had occupied the premises in question after 1952 and before the commencement of this Act will be regularised but it is regretted that the bill is quite silent over this question. It is demanded that the sub-tenant should be regularised who have occupied the premises on the day of the commencement of this Act.

7. Then Rent Bill should also apply to the property auctioned by the custodian and no privileges should be given to the purchasers of the evacuee properties, the rights of tenants of such evacuee property also be protected under the proposed Bill otherwise the tenants will be at the mercy of the landlords purchasing evacuee property. Under the Custodian law from any property auctioned to the landlords by the Custodian tenants can be ejected after the expiry of the two years from the date of purchase.

8. Section 25 (iii) the Bill which lays down procedure for depositing rent should be amended in such a way that if the landlords fail to issue the receipts referred to in sub-section (2) to the tenants, they should not be authorised to collect the rent and suit cannot be filed for recovery of rent for more than six months as the existing Act empowers the landlord to file a suit for three years. The penalty provided in this clause is not practicable.

9. Section 44(5) is quite meaningless for a landlord can easily afford to pay Rs. 50 as penalty. It is suggested that where a landlord has cut off any such essential service, it should be made a cognizable offence and the police should be directed to help the tenants for restoring such services and challan the case. The police is not at all helping the tenant in connection with the cutting of essential supplies like water which is a cognizable offence at present under section 430 of the Indian Penal Code. Besides, the court should be directed that the compensation should not be less than Rs. 100 simultaneously there should be provision for imprisonment for a period of not less than three months.

10. No penalty has been provided in this Bill (Section 43) against the landlord when he fails to repair the building which should be

made a cognizable offence. It should be imposed on the landlords to keep the premises in good repairs but generally they deliberately avoid the repairs in order to compel the tenants to eject the premises so that it may be let out on the exorbitant rent. It is suggested that it should be made obligatory on the landlords to keep the premises in good repair every year, failing which tenants should be authorised to get the repairs done and deduct the expenses of such repairs from the rent provided that the amount so deducted or recoverable shall not exceed two months rent of every year.

In the end the Federation makes fervent appeal to all the members of the Joint Committee to weigh the pros & cons of the Bill with a view to stop the Policy of the Govt. to evict the poor tenants, to enrich the unscrupulous repacious and covertous landlords by introducing a Bill which unlike Delhi Rent Control Act and Delhi Tenants Temporary Protection Act, 1956 is impregnated with the clauses which have often been misused in the past and are likely to be misused in the future even after the enactment of this Bill. In a nutshell the bill will not at all give any relief to the indigent tenants but will aggravate problems of evictions exorbitant rent in Delhi as it does not ensure any protection to the tenants and obviate their hardship and harassment meted out to them at the hand of the landlords. The Federation expresses its great disappointment at the incogitancy of the Central Government to relieve Lakhs of tenants of Delhi from eviction and exorbitant rent. Moreover, it must be borne in mind that in a socialistic pattern of society which our country has aimed to achieve, it is a primary responsibility and fundamental duty of the Government to provide cheap tenements to the poor so that congenial environment may be created for increasing the standard of living and efficiency of the masses. The federation further sounds a warning to the Government if the Housing condition continues to worsen, the resultant effect would be a loss to the national wealth and it will also serve a death nail to the socialist pattern of society if the policy of Government to back the wrongdoers (landlords) at the cost of the helpless dumb tenants of Delhi. It is further suggested that if the advisory committee consisting of the representatives of the tenants, landlords, officials, are not constituted then the bill will prove a failure and it will be favourable to landlords, because by constituting this committee the temptation of the landlord for collecting exorbitant rent after getting the premises evicted would not be successful. We hope that this main demand will surely be included if the Government wants to protect the tenants.

III

MEMORANDUM
OF
THE HOUSEOWNERS" ASSOCIATION DELHI & NEW DELHI

I beg to submit the *Memorandum of Demands and Suggested Notifications.*

1. On page 1, Section 1, Sub-section (3) in line 15 after the word 'appoint', add: "and shall remain in force for 3 years".

2. On page 2, after sub-clause (m) after line 31, add: "(n) 'Sub-tenant' means anybody other than the tenant, occupying the whole or any part of the premises for a period of more than 3 months".

3. On page 2, Section 3, after line 37, add: Sub-section (c) "to any tenancy, the rental value whereof is not more than Rs. 600|- per annum and the owner whereof owns only one house, the part of which he has so let".

4. On page 3, Section 5, Sub-section 2, in Sub-clause (b) in line 24 after the words 'in advance', add: "In lieu of the grant of a tenancy".

5. On page 4, Section 6, in line 8, for the purposes of fixation of standard rent:—

Formula No. 1

1. The whole Delhi State, urban area, be divided into SIX ZONES:—

Zone No. 1. All buildings abutting and facing on the main roads called Connaught Place, Queensway, Chandni Chowk, Khari Bowli, Saddar Bazar and Ajmal Khan Road.

Zone No. 2. All buildings abutting and facing in the Connaught Place area leaving inner circle, Queensway area leaving main road, Gole Market, D. A. G. Road, Kashmere Gate Bazar and Subzimandi upto Tram-Terminus.

Zone No. 3. All buildings within two miles of the roads, mentioned above, leaving Zones Nos. 1&2.

Zone No. 4. All buildings in the Old Delhi, New Delhi, Motinagar and Saddar Areas, excluding those falling under Zones Nos. 1, 2 and 3.

Zone No. 5. All other urban areas of Delhi State, excluding those in Zones Nos. 1, 2, 3 & 4 excluding the areas and buildings used for factory purposes.

Zone No. 6. All buildings in the factory area of Najafgarh Road and Kalkaji, and also in other areas let and used for factory purposes.

2. All buildings be classified into FOUR STANDARDS OF THEIR QUALITY OF CONSTRUCTION, failing in any of the zones above-said:—

Standard No. 1. R. C. C. foundation, R. C. C. or R. B. walls, R. C. C. or R. B. roofs, C. S. plaster both sides, finished in oil-paints or cement-finished, flooring in Terazoo or Marbles, all steel shutters or shutters of 1st class teak, french or celloloid finished, and equipped with electrical lift and tube lights, if multi-storeyed.

Standard No. 2. All multi-storeyed buildings other than those in Standard No. 1.

Standard No. 3. All single storeyed buildings excluding those in Standards Nos. 1 & 2 built in 1st class burnt bricks cement roof and floors.

Standard No. 4. All buildings excluding Nos. 1, 2 & 3.

3. The rates of standard rent be fixed on covered area for non-residential use on ground floors per s. ft. basis subject to corresponding increase on account of enhancement of taxes and charges on land or buildings; levied hereafter:—

Category	Zone 1	Zone 2	Zone 3	Zone 4	Zone 5	Zone 6
1.	·50 nP.	·45 nP.	·40 nP.	·35 nP.	·30 nP.	·25 nP.
2.	·45 nP.	·40 nP.	·35 nP.	·30 nP.	·25 nP.	·20 nP.
3.	·40 nP.	·35 nP.	·30 nP.	·25 nP.	·20 nP.	·15 nP.
4.	·35 nP.	·30 nP.	·25 nP.	·20 nP.	·15 nP.	·10 nP.

4. ALL RESIDENTIAL PORTIONS, be reduced by 25% of the schedule above.

5. All uncovered areas, forming part of the covered-portion, if bare land add 5 nP. per sft. and if land developed as garden or paved add 10 nP. per sft.

6. All buildings built and completed before June 1951, reduce 20%.

7. Reduce 50% for basement, and 25, 30, 35% for 1st floor, 2nd floor 3rd floor, respectively.

8. All covered and uncovered areas in joint use be included proportionately among the beneficiaries. If any building falls partly in one and partly in other and so do about quality, partly in one category and partly in other category, the proportionate mean be taken of the two for the portion, involved.

9. All mechanical amenities, *e.g.*, lift, fans, air-conditioning, geasers. etc., be additionally charged for at 12% P.A. of their costs.

Alternate Formula No. 2.

An amount equal to 6% (Nett) of the market value of land and building, when erected after June 1944 per government schedule of rates for construction and depreciation, adding thereto:—

A. 1|6 for depreciation.

B. 1|12 for repairs.

C. 6% for collection charges.

D. House Tax at current rates.

E. All other taxes, and charges on property at current rates, *e.g.*, colonade, *chajja, saiban*, etc.

F. Ground rent at current rate.

G. Cost of facilities, *e.g.* garden, chowkidara, water, electricity, sweeper, etc.

H. Cost of maintenance and depreciation on mechanical amenities, *e.g.*, lift, air-conditioning, geasers, heaters, etc.

I. Insurance premium.

6. Alternate amendment suggested: In Sub-section (a) in line No. 10, alter: '1944' to '1947'.

7. In the same Sub-section in line 12, alter: 'ten' to 'twentyfive'.

8. On page 4, Section 6, Sub-section (b), Sub-clause (i), in line 19, alter: 'ten' to 'twenty-five'.

9. On page 4, Section 6, Sub-section (b), Sub-section (ii), in line 21, alter: 'eight and one-fourth' to 'ten'.

10. On page 4, Section 6, in proviso to Sub-section (b), in line 28, alter: 'ten' to 'twenty-five'.

11. On page 4, Section 6, Sub-section (c), in line 33, alter: 'eight and one-fourth' to 'ten'.

12. On page 7, Section 12, Sub-section (a), in line 35, alter: 'year' to 'month'.

13. On page 7, Section 12. Sub-section (b), in line 38, alter: 'year' to 'month'.

14. On page 8, Section 12, Sub-section (c), in line 3, alter: 'year' to 'month'.

15. On page 8, Section 12, in proviso in line 6, alter: 'year' to 'month'.

16. On page 8, Section 12, in proviso after line 8, add: 'but in no case for more than one year, in any manner or at any stage of dispute'.

17. On page 8, Section 14, Sub-section (b), Sub-clause (i), in line 35, alter: 'let out' to 'so dealt'.

18. On page 9, Section 14, Sub-section (b), Sub-clause (ii), line 1, alter: 'let' to 'so dealt'.

19. On page 9. Section 14, Sub-section (c), Sub-clause (i), in line 5, alter: 'let' to 'so used'.

20. On page 9, Section 14, Sub-section (c), Sub-clause (ii), in line 8, alter: 'let' to 'so used'.

21. On page 9, Section 14, Sub-section (e), in line 16, delete: 'a residence'.

22. On page 9. Section 14, Sub-section (e), in line 20, delete: 'explanation.....purposes'.

23. On page 9. Section 14, Sub-section (h), in line 35, alter: 'residence' to 'accommodation'.

24. On page 10, Section 14, Sub-section (2), in proviso in line 23, add: 'or three times'.

25. On page 10, Section 14, Sub-section (4), line 30, delete this entire Sub-section.

26. On page 11, Section 14, Sub-section (5), in line 11, delete: 'and no order.....the landlord'.

27. On page 13, Section 17, Sub-section (3), in line 35, delete: "whether with or'.

28. On page 15, Section 20, in line 11, delete: 'as a residence'.

29. On page 15, Section 21, Sub-section (d), in line 39, delete: 'by the public institution'.

30. On page 29, Section 49, delete: Sub-clauses (2) and (3).

31. On page 30, Section 54, Sub-section 2, in line 25, delete: 'provided that in any ..... provisions of this Act'.

32. On page 31, The Second Schedule, Clause 1, in line 19, alter: '1944' to '1947'.

33. On page 31, The Second Schedule, Clause 2, Sub-clause (b), item (ii), in line 33, alter: '1944' to '1947'.

34. On page 32, The Second Schedule, Clause 3, Sub-clause (d), in line 12, alter: 'for' to 'per'.

35. On page 32, The Second Schedule, Clause 4, in line 14, alter: 'whether' to 'where'.

IV

MEMORANDUM

OF

DELHI HOUSEOWNERS' FEDERATION, NEW DELHI

Part One

The Delhi Houseowners' Federation have carefully considered the Delhi Rent Control Bill 1958, not merely from the houseowners' point of view but primarily as an economic and social measure. We find that the provisions of the Bill are completely divorced from reality. If the Bill is passed in its present form, it will do great harm to the interests of tenants and owners alike, apart from aggravating the housing problem which is already in a very unsatisfactory state.

This is borne out by the following analysis of the implications of the main provisions of the Bill:—

1. On the rents of old buildings, an increase of 10% is allowed over 1939 basis rents. This increase is intended to cover rise in cost of building materials and labour for repairs and maintenance of the premises, which is supposed to be in addition to the return on the market value of the property.

This is extremely unrealistic. The cost of materials having gone up anywhere between 400 to 800 per cent. over the 1939 price levels, the rent is absolutely inadequate for proper maintenance, let alone any profit on the market value of the property.

2. In the case of buildings that are new or future construction after the passage of the present Bill, rents have been pegged to 8½% on the actual cost at the time of construction. The return is so low that hardly any profit will remain after paying the high Government and Corporation taxes, and the high cost of maintenance.

Once a low rate of return is fixed, it means the value of the property is kept down at a low artificial level without the requisite flexibility to adjust to high taxes and high cost of maintenance at a later date. The net result of this would be that new property, like the old, will fall into disrepair for want of economic rent, since fixed rents cannot adjust to market fluctuations.

It is of highest importance that the fixation of rent must be made less rigid and more flexible so as to permit the natural adjustment of the value of the property to the prevailing economic conditions.

3. While sub-letting has been prohibited in principle, the provisions of the Bill are so framed as not merely to legalise it, but also to make it profitable for the tenant.

4. Reconstruction, replacement and development of old property, in other words improvement of old buildings, has been made impossible by the severely restrictive provisions of the Bill. The Bill provides that the construction of new buildings in the place of old ones should be done for the same purpose for which the old ones were being used—a new stable in place of the old one, or a new potter's kiln in place of the old.

5. The provisions of the Bill virtually make it impossible for the owner of a property to get it back from the tenant for his personal use or for use of his family. While the tenant enjoys all advantages of protection from eviction, the interests of the houseowner are callously disregarded.

6 The tenants who have constructed their own buildings and let them out at fabulous rents, and commercial and industrial establishments who are making enormous profits, enjoy protection of Law to continue in possession of old premises at pre-war basis rents. It does not merely mean denial of rightful and legitimate increase over pre-war rent to the owner of old property, but it is also denial of social justice to him.

7. There are hardly any restrictions on the use of property and sub-letting by tenants. This results in unchecked over crowding, thereby converting the property into a slum area and rendering it liable to acquisition on payment of three years' 1939 rent as (token) compensation under the Slum Clearance Law.

8. Instead of simplifying the owner-tenant relationship, the Bill introduces complicated provisions that are bound to lead to interminable legal disputes. Apart from providing the penalty of imprisonment and heavy fines for the houseowner, the Bill also provides the payment of the fine realised to the tenant—thereby making it profitable for him to indulge in litigation. These are

new features which did not exist in previous Rent Control Laws, and seem to have been provided with a view to gain popularity with the tenant rather than to achieve harmony between the tenant and house-owner through sensible legislation.

9. The Bill takes away the age-old administration of justice under the Rent Control Law from the Judiciary and transfers it to the Executive. No one with progressive outlook can ever approve of this retrogade step, for the Executive in democracy—particularly in the East, if it is still there—is often used and abused for political purposes. And, there could not be a more vulnerable aspect of peoples' existence for political favouratism for Executive pressure than the tenant-houseowner disputes, where a small minority of houseowners are concerned as compared to a vast majority of tenants.

Part Two

We have to consider whether a measure like the 1958 Bill is going to solve the housing problem. Whatever has been said by the Federation in the past, has been brushed aside as the view of an interested party, which we maintain is incorrect and uncharitable.

The Federation records with satisfaction that the stand taken by it has been vindicated by the "Report of the Selected Buildings Projects Team on Slum Clearance" submitted by the Leader of the Team on 26-4-1958 (Shri S. K. Patil) to the Chairman of the Committee on Plan Projects (Shri Govind Ballabh Pant, Minister responsible for the Delhi Rent Control Bill, 1958).

The Federation wishes to quote extensively from this report which disapproves of the out-moded Rent Laws without any reservation and presents the magnitude of the housing problem. The Report says:—

"Rent Control Acts were promulgated by the various States soon after the War, after taking into consideration the housing situation prevailing at that time. Other countries which had enacted similar Rent Control Acts have revised them gradually with a view to ensure adequate maintenance of the buildings so far neglected due to the high cost of maintenance and the low rental value realised by the landlords. We recommend that the Rent Control Acts of different States be examined with a

view to exempt from its application buildings which have finished their useful life, old buildings which are in a bad state of repair. and buildings which are sub-standard but which can be improved for rehabilitation at reasonable cost".

The reasons for that statement are not far to seek and are given in the Report itself:—

"An estimate by the National Buildings Organisation places the expenditure required to demolish and rebuild slums in India at Rs. 10—20 thousand crores. Even if the definition of slums, taken for the purpose of this estimate, is diluted considerably, the task of clearance of slums will still remain a huge one having regard to the present resources of the country.....". (Para 2 of the letter dated April 26, 1956).

That was an observation about Slum Clearance alone; it would be interesting to know from the Report what the country needs in the way of new housing:—

"The number of houses required to be constructed during 1951-61 to meet the quantitative shortage in housing is estimated at 8.9 million which takes into account the shortage of 2·5 million houses in 1951, houses required for an increased population of about 33 per cent. during 1951-61 and replacement of existing houses which are over-aged. On the other hand, it is anticipated that during the same period only about three million dwelling units would be constructed in urban areas both by the public authorities and private agencies. Thus, the shortage in housing by 1961 is likely to be twice the figure in 1951". (Para 2.6—page 12).

Having made these observations, the Report proceeds to analyse the Government contribution towards the solution of the problem and says:—

"The housing programmes are themselves dispersed over a number of Ministries and Departments. Not only is there lack of coordination but it seems that under the present system there is a virtual denial of the opportunity to coordinate except by an expenditure of time and effort which would affect the pace of progress appreciably both in the short and the long runs...," (Para 1:3—page 1).

The Team has commented on the 'popular' notions of straightening out the mess in which the housing is, and in the commentary itself, the question has been answered:—

> ".....demolition and redevelopment alone will never get rid of slums; rehabilitation of any number of sub-standard buildings worth saving, will also not solve the slum problem unless millions of new dwellings are constructed (a) to meet the demands of urban growth, (b) to wipe out the present shortage and (c) to make up for the houses demolished. New housing construction, slum clearance and rehabilitation of sub-standard buildings must, therefore, go hand in hand". (Para 2.4—page 12).

And what the Team proceeds to say is a cry of depair, but without giving up the job as past all hope, they make realistic suggestions, try to draw the attention of those—who refuse to see—what other countries have done. Thereafter, they point out what has not been done in spite of the fact the authorities knew what should have been done and then wind up by recording the popular excuse, which is rather LAME in the present context:—

> "Financial difficulties, the disproportionately high cost of repairing very old buildings, and excessive wear and tear due to overcrowding are the main factors which have contributed to bring many old buildings to their present state of disrepair. The salvage of a proportion of these buildings does not now appear practicable and they will have to be demolished. Other buildings, although regarded as unfit for human habitation as judged from present standards could be rendered fit by improvements, as their structural conditions is relatively satisfactory. An all-round effort must be made to retrieve them as far as possible....". (Para. 5—page 68).

> "...Low interest bearing loans are also made available for the purpose (of improvement of Sub-standard Buildings) in Belgium, Finland, France, Western Germany and Sweden. In the United Kingdom financial assistance is being given under the new Repairs and Rents Bill of 1954 for the improvement and reconditioning of sub-standard housing". (Para. 4,4—Page 22).

> "During our visit to various cities we found that the problem of sub-standard housing has not been tackled at all

though the authorities everywhere were of unanimous opinion that it deserved immediate attention. The difficulty in tackling the problem, we were told, was the non-availability of funds..". (Para. 4.4.3—Page 22).

The Team deserves to be congratulated for recording their views about overcrowding, citing a solution adopted in Bombay and recommending a remedy:—

"...It is feared that the newly constructed houses built under the Industrial Housing and Slum Clearance Schemes will also relapse into slums in course of time if overcrowding is allowed. The Housing Board in Bombay has framed certain rules for preventing subletting and overcrowding of new houses. Similar rules may be framed and followed in other cities to guard against the decay of new tenements due to over-crowding". (Para. 3.4.3—Page 19).

After analysing the housing problem facing the country and after suggesting remedies for the specific problems arising out of that analysis, the Team made the most important recommendation for the overall solution of the problem:—

"We feel that full measure of success will not be achieved in the National Housing Scheme if private enterprise is not induced to take a sizeable share therein. However much the State and Union Government may do in the way of supplementing the housing stock in the country, there will still remain a gap which is hard to fill. It is suggested in certain quarters that private enterprise would be able to take up the construction of houses for the low income group if sufficient incentive is given to them by way of tax remissions and loans, if necessary. The private enterprise can build houses not only for the low income group but also for the upper middle class people, who will be in a position to pay the economic rent". (Para. 6.9.4 (i)—Page 32).

But the views of the Team (which in a very great measure are the same as those of the Delhi House-Owners' Federation) seem to have been no less unceremoniously ignored than the views of the Federation. If that were not so the Minister Incharge for the Bill, to whom the Report was sent on 26-4-1958 could not have sponsored the Bill on 23-8-1958 which is diametrically opposed to the recommendations of the Team.

Part Three

DETAILED AMENDMENTS TO THE MAIN BILL

The following amendments are proposed in order to remove the defects in the main features of the Bill pointed out in the preceding paragraphs. The amendments are in complete conformity with the suggestions made by the Team on the Plan Projects.

Clause 3: The clause as it stands be deleted.

The role of the public sector is steadily expanding in all directions—management of public finance, industry and foreign trade. Just as the Government has become the largest employer in the country, it has also become the largest house-owner.

As the largest employer the Government has been making conscious and deliberate efforts to promote cordial relations between Labour and Managements of State-owned Industries. This principle applies with equal force and justification to the maintenance of good relationship between the State as the house-owner and its tenants. Naturally private owners have every reason to look up to the Government to set the pace in regulating the relationship between a private house-owner and his tenant.

But it is a matter of concern and considerable regret to find that while the Government has a different standard for fixing rents for State-owned property, it follows an entirely another set of rules for fixing rents for privately owned property.

Government property has been excluded from the purview of the Rent Control Act. The reasons given for this action are not based on any principles, and if at all any principles are involved, they are not very laudable.

A brief survey of rents charged by the Government for its own property and the rents fixed by the Government for private property of comparable floor space in the same area shows not only a glaring disparity in rents but that the principles applied in determining Government rents are at complete variance with those that determine rents of private property.

The case of the Fruit and Vegetable Merchants Union.... *Vs*..... The Delhi Improvement Trust (A.I.R. 1957, S.C. 344) illustrates the point.

The Delhi Improvement Trust which owns the Vegetable and Fruit Market, Sabzi Mandi, Delhi, demands exemption from the pur-

view of the Rent Control Act on the ground that they control and manage the market as Government property.

The Improvement Trust charged an annual rent of Rs. 35,000|- for the entire property in 1942. Now they have raised the annual rent to Rs. 2,50,000|- for the same property.

A private house-owner would have been entitled to only a token increase in rent over the 1942 level, whereas the Improvement Trust has raised the rent by as much as *seven* times.

Now, the market comprises of 145 shops and 25 godowns. The valuation for the purpose of fixing the rent for the godowns is less than that for the shops. However, for the sake of convenience and for emphasizing our argument, we are assuming a uniform rent for all the shops and godowns. Basing our calculation on this assumption, we find that for the property valued at Rs. 35,000|- in 1942, the annual rent for one shop works out to Rs. 205|- or about Rs. 17|- per month.

On the basis of the steeply raised rent for the whole market at Rs. 2,50,000/- in 1958, the rent for one shop works out approximately to Rs. 1,490/- per year, or about Rs. 124/- per month. The area of an average shop in the market measures about 200 sq. ft.

A comparative survey of rents payable to privately-owned shops in the same Subzi Mandi area, which are better constructed at vantage points, throws interesting light on the glaring disparity.

A shop owned by Shri Gowardhan, bearing Municipal No. 29, Ward No. 12, floor area 207 sq. ft., fetches a controlled rent of Rs. 11/- per month. Another adjoining shop bearing Municipal No. 30, floor area 453 sq. ft., has a controlled rent of Rs. 30/- per month.

There is yet a third example to show how the moment a private premises passes into Government's hands, the rents are put up at once almost arbitrarily without any relation to the rent that was paid to the private owner.

This is about the property donated by the late Shri Raghunandan Saran to the Government towards the cost of construction of Kalavati Memorial Ward for Children in the Lady Hardinge Medical College, New Delhi. The premises, known as the Peareylal Building, is situated in Ram Nagar, Qutub Road, Delhi. Following is the statement of rents paid by the tenants to the private owner and the

rents recently demanded by the Government after acquiring the property:—

Rent charged by the owners of the Peareylal Building	Rent demanded by the Government
(a) Shops :	
Rs. 9/62 nP. per month .	Rs. 191/- per month
Rs. 16/50 nP. per month	Rs. 280/- per month
(b) Flats :	
Rs. 17/- per month	. Rs. 397/- per month
Rs. 21/- per month	. Rs. 479/- per month
Rs. 41/16 nP. per month . . .	Rs. 829/- per month

It is important to appreciate the fact that at no time in the past had the private owners of property rack-rented any tenant in the manner the Government proposed to do in the case of the above premises. As good citizens, all that the private house-owners demand is that the Government should stop this sort of arbitrary exploitation of the needy tenants and should charge fair rents based on fair and realistic calculations—the principles that should be applied in determining rents of privately owned property.

Amended Clause 3: Clause 3 of the Bill be amended as follows:

"Nothing in this Act shall apply—

(a) to any premises not let out for purposes of residence only."

Since business and industry is run essentially on a competitive basis, we do not see any justification for providing protection in the matter of rent etc. to such a tenant. If the turnover and returns of business and industry have gone up by four times over the 1939 level, it is only but fair to expect that the rents also should be revised so as to bring them in line with the prevailing current prices. There is no reason to fear that such a step would lead to eviction of tenants for the simple reason that once the rents are regulated in accordance with fluctuating market conditions, no landlord will find it profitable to evict a tenant.

Much of the present conflict between the landlord and the tenant arises because rents continue to be pegged to old pre-war levels without the slightest relation to the present economic conditions. A large number of examples can be furnished of prominent business houses, hotels, cinemas, built before the War continue to pay 1939

level rents. Messrs Spencer & Co. Ltd., 2—Irwin Road, New Delhi, pay for their premises Rs. 105|- per month as controlled rent on 1939 basis, whereas their turn-over in recent years for this branch is about Rs. 2,00,000|- a month and one of the most important factors for this large sale is the location of premises. Even if their margin of profit is 10%, they make about Rs. 20,000|- per month. This is in sharp contrast to new premises built alongside the old ones but fetching a rent ranging between 400 to 800 per cent. over the pre-war levels. It is true that rents in both instances are according to law but it is of no consolation to the owner of a pre-war built premises; and he is subjected to hardships and is deprived of his legitimate dues. This naturally leads to mounting dissatisfaction among the house-owners.

(b) "to premises occupied by a person owning his own property."

This amendment is considered essential to rectify the gross anomaly existing at present. There are a large number of tenants residing in pre-war built or other old buildings. In the course of the past few years these tenants have built or acquired property which they have rented out at very high rents while they continue to pay low rents to their landlords.

Numerous examples can be furnished of tenants residing in old houses but making exorbitant profits on their newly acquired or constructed houses. There is the example of a tenant paying just Rs. 200|- rent for an old type bungalow near Connaught Place while his newly constructed house in one of the modern colonies fetches him a rent of Rs. 1,800|- a month. The area of the old house is in fact much larger than the new house built by the tenant.

Another tenant living in the city paying a rent of Rs. 10|- per month gets a rent of Rs. 300|- for a new premises built by him.

Giving protection to such tenants who live on low rent in the old structures and who make enormous profits on their new buildings is the height of social injustice and ought not to be permitted in a progressive legislation such as the present Bill.

The suggested amendment follows the principle laid down for Government property. A Government servant, who has built his own house, is not entitled to get or retain his Government allotment. When the Government takes such an attitude in respect of its buildings, it is but natural to expect that the same principle is applied in respect of tenants occupying old private premises also.

If after building a house, a Government servant continues in Government allotted house, then he is called upon to pay *ECONOMIC RENT* which is anywhere between three to five times the usual rent. Whereas a private owner in similar circumstances is required to accept uneconomically low rent fixed by the Government.

Clause 6: The Federation is firmly opposed to the fixation of standard rents on artificial and unrealistic basis without taking into consideration high cost of living, high cost of maintenance and high income tax and corporation taxes. The Federation demands that rent be fixed in relation to the prevailing market value of the property. In order to achieve this objective, we suggest that Clause 6 be amended as follows:—

"Standard rent of any premises means:—

Twelve per cent. per annum of the aggregate amount of the cost of construction calculated according to the prevailing C.P.W.D. Schedule of Rates and the market price of the land comprising the premises on the date of the application for fixation of standard rent: PROVIDED that in case of premises on rent at the commencement of this Act, the rent paid by the tenant shall not be increased for a period of three months, and during this period, the landlords shall serve the tenant with notice, in writing, claiming standard rent calculated according to the above mentioned rates."

The reasons for demanding twelve per cent. on the market value of the property are set forth as follows:—

The 1939 level rent being a small fraction of the present day price level, it has become impossible to maintain the premises for the convenience of the tenants or to preserve them for the good of the community at the high cost of 600 to 800 per cent. over the 1939 level in terms of materials and labour.

Consequently the buildings are fast deteriorating, and the middle class owners, especially those who served the community by building houses with their life's savings, are being driven to proverty. Particularly hard hit by this are—widows, minors and retired people, who own one house, live in a part of it and let out the rest in order to provide for their existence. Houses of this category of owners should be exempted from the operation of Rent Laws. Out of the low rent income provision has to be made for payment of income-tax.

wealth tax, death duty, etc. These taxes are difficult to pay out of the meagre 1939 rent income which is acting as a great deterrent in the expansion of private building activity.

It will be seen from the following analysis made on the basis of twelve per cent. return on the market value of property that the net return is slightly over three per cent.

For the sake of convenience, the market value of a property at the current level of prices, owned by a typical middle class family may be taken as Rs. 1,00,000|- and the cost of building at Rs. 80,000|-. On this, the gross return at twelve per cent. works out to Rs. 12,000|- per year. Out of this gross return of Rs. 12,000|-, the owner will have to meet the following expenses:—

	Rs.
1. Ground rent on Rs. 20,000/- (being the cost of land) at 3% (initial 3% and periodical adjustment going upto 100% on each revisionary period)	600
2. Cost of annual repairs, being one month's rent, to keep the property in tenantable condition	1,000
3. Repairs other than annual repairs for preservation of property in the interest of structural safety and for enhancing the useful life of the building and also to carry out such additions/alterations that may be either prescribed by the local authorities from time to time or required for improvement of the property—average one month's rent	1,000
4. Taking 50 years as the useful life of the building to give economic return, annual depreciation cost of building on Rs. 80,000/-	1,600
5. Insurance at an average rate of 0·50% on total cost of property	500
6. Collection charges at 5% of the gross rental income	600
7. Vacancies and bad debts, being on average 15 days rent per year	500
8. Legal expenses relating to income tax, dealing with local authorities and tenants at 5%	600
9. Expenses for maintaining cordial relations with the administration and expediting business at different administrative levels (at 2½% of the gross annual rental)	300

	Rs.
10. Assuming that taxable annual income from all sources, including property, is Rs. 20,000/- of a houseowner, a portion of income from the property may be taken as Rs. 8,000/- and tax on the same at 20 nP. .	1,600
11. Assuming that after construction of the building or after inheriting it, the owner lives for twenty years, other assets apart from property being Rs. 50,000/- the gross value of assets at the time of death would be Rs. 1,50,000/-. If the deceased is a member of the Joint Hindu family, the annual provision for amount of death duty payable for over 20 years would be	325
TOTAL EXPENSES	8,625

It will be seen from the above analysis that out of Rs. 12,000|- gross rental income, Rs. 8,625|- have to be spent, leaving a net return of Rs. 3,375|- on Rs. 1,00,000|- worth of building, that is 3·37% per annum.

The rent charged at the rate of 8¼% on the cost of construction is economicallly low even in cases where capital has been raised on reasonable interest. If the interest charged by the Life Insurance Corporation can be considered as reasonable, examples can be furnished to show how 8¼% per cent. rent on the cost of construction falls below the economic return.

Prior to the nationalization of the Insurance, Shri Surat Singh, P.C.S. (Retired), raised a loan from the Laxmi Insurance Company against the security of his property.—Shiv Sahai Building, 733, Church Mission Road, Delhi. The Life Insurance Corporation is charging him 8 per cent. interest, with half-yearly payments, which actually works out to about 10% per annum. If a borrower has to pay 8 to 10 per cent to the Life Insurance Corporation, it is obvious that the low return on the new construction is barely adequate to meet the future cost of maintenance and high tax demands.

Under these circumstances, any rent less than 12% per annum on the market value of the property will be uneconomic and would positively discourage any further house building activity.

As in the case of lopsided rents charged by the Government for its property and for the privately owned property, an expenditure analysis shows that what the Government charges is much higher than what a private owner does. A Government building costing

Rs. 1,00,000/- would be subject to the following charges under Rule 45(b):—

	Rs.
(*a*) 6% interest on Rs. 1,00,000/- . .	6,000
(*b*) 17½% of 6% as departmental charges	1,050
(*c*) 13% of Rs. 85,000/- (cost of building as maintenance charges) . .	1,487
(*d*) 8% of Rs. 15,000/- cost of sanitary and electric fittings as maintenance charges	1,200
TOTAL .	9,737

Whereas the Government takes a return of 10% of rent as actual expenses on a no-profit-no-loss basis, the private houseowners are able to get only 8½% according to the above analysis.

The present position is that rents are pegged to 1939 level or to first letting out value. We can understand such arbitrary freezing of rents to artificial price levels in times of national emergencies. But to apply that rigid principle in normal times and in a fast developing economy would be most harmful because it not only hits grievously a large section of property owning class but it also stunts the natural growth of an important segment of economy—the house building programme.

It is the established policy of the Government that all sectors of national economy should be permitted to develop evenly. And it needs to be repeatedly emphasized that undue restrictions on one aspect—the house-building aspect—is bound to have its repercussions on other aspects also.

We are, therefore, firmly opposed to the imposition of a rigid and restrictive control as a permanent measure both in the larger interests of helping the development of economy but also in the somewhat narrower interests of private house-owners and the house-building activity.

It is, therefore, absolutely necessary to make the Law flexible by relating the rent directly to the fluctuating market conditions. This will help in eliminating the existing disparities of pitiably low rent for an old house and a high rent for a new house. This will also help in satisfying a large proportion of owners of old houses who are suffering under terrible financial strain and frustration born out of it. Continuation of old restrictions will only add to already prevailing discontent and intensify the conflict between the landlord and the tenant and lead to endless litigation.

The mere fact that one property was built earlier and the other one later ought not to make much difference in rents chargeable provided both houses are located in the same area and having same floor space. Even a cursory round of the city will prove the existence of the glaring rent disparity acting as great disadvantage to the owner of an old house. Here is an example:—

Shri Ram Bihari Lal, owner of a pre-war built property No. 9, Faiz Bazar, Darya Ganj, Delhi, gets a rent of Rs. 50/- for the entire ground floor area of his shop which is occupied by Messrs. Rajendra Nath Mehra and Darbari Lal Bhasin. A little distance away from Shri Ram Behari Lal's property on the main Faiz Bazar Road is the property of Shri Kapur, which is in occupation of the Oriental Bank of Commerce, Daryaganj, Delhi, paying Rs. 1,200/- per month as rent. Both the shops are situated on the same road having the same commercial value but the rents are so divergent that it is hard to justify them.

CLAUSE 7(1): This Clause provides for increasing the standard rent by 8½% to cover the cost of improvements, additions or alterations made by an owner in his building. Our demand is that this should be raised to 12% for the same reasons as explained in Clause 6.

CLAUSE 7(2): The Clause, as it stands in the Bill places restrictions on a landlord realising charges for electricity and water and rates and taxes. Since we have not accounted for these expenses in our analysis of 12% gross, as given in Clause 6 above. the Clause should be amended as follows:—

> "Where a landlord pays in respect of the premises any charge for electricity or water consumed in the premises or any other charge or tax levied by a local authority having jurisdiction in the area, he may, notwithstanding any previous contracts, recover from the tenant the amount so paid by the landlord."

Various taxes and charges levied on a building such as the house tax, conservancy tax, fire tax, water and electricity charges are exactly similar to the municipal facilities extended to the residents of an any locality such as supply of water and electricity, street lighting, provision of roads, sanitary services, drainage etc. It is the resident of the premises who actually gets the benefit of all these facilities and amenities and not the houseowner. These charges, therefore, should be legitimately borne by the tenant who resides within the jurisdiction of the local authority who provides all these services, and not by the landlord.

There is also another aspect to this question of recovering from the tenant the legitimate expenses incurred by the landlord. In a large number of old tenancies, the rent includes the house tax, and sometimes water and electricity charges also.

Now, the position is this: The rates of local taxes have gone up by many times and the members of the tenant's family have also increased over a period of time. Because of scarcity of accommodation, the tenant also takes in some relatives and paying guests. All this have resulted in larger consumption of water and electricity.

Here again, with a fixed rental, the landlord has, actually to pay much more to the local authority by way of water and electricity charges than he recovers from the tenant on the basis of rent fixed many years ago, as he has no right to increase the rent proportionate to the increased expenditure. Thus in a great majority of cases the landlord winds up with a loss rather than a profit.

The analysis of expenditure out of the rent returns shown under Clause 6 above clearly emphasizes the point that the local taxes and water and electricity charges should be excluded from the rent if it is to remain at 12% of the market value. Also it may be mentioned that there is every possibility of the Corporation tax going upto 25% for which a provision is being made in the Corporation Act.

CLAUSE 7(3) (*a*) (*i*) *and* (*ii*): In Sub-Clause 7(3) (b), the Bill permits a tenant to charge from his sub-tenant 25% increase over the standard rent in case of residential premises and 50% increase for other premises, whereas Sub-Clause 7(3) (a) allows a landlord to charge 12½% increase over the standard rent for residential premises and 25% on others. This make the sub-letting almost a lucrative business because the tenant makes a 100% profit on the increase of rent. What this amounts to is putting a high premium on subletting, and this practice should be sternly discouraged. While the landlord is reduced to the status of a silent spectator, it is the tenant who becomes powerful and exploits the premises at his disposal.

We, therefore, suggest that this Clause is so amended as to curb the sub-letting on the one hand and to ensure that the amount realized by the tenant is paid in full to the landlord.

CLAUSE 9(6): The Sub-Clause may be substituted by the following:—

"The standard rent fixed under this section shall have effect 3 months after the commencement of this Act or date of the order as the case may be."

CLAUSE 12: The proviso to sub-clause (c) of Clause 12 should be deleted as no extension is desirable for filing an application for standard rent after the expiry of one year.

CLAUSE 14(1) (b): This specifies the ground for eviction of a tenant in the event of sub-letting the premises. In Sub-Clause (b), the following be added at the end:

"Without obtaining, in writing, the consent of the landlord".

This amendment is suggested in order to prevent any allegation of sub-letting from becoming a long drawn out subject of litigation.

CLAUSE 14(1) (*b*) (*i*) *and* (*ii*): This clause becomes redundant and be deleted in view of the amendment suggested above.

CLAUSE 14(1) (c): This provision relates to the eviction of a tenant who uses the premises for a purpose other than for which they were let. At the end of the sub-clause, the words "without obtaining the consent, in writing, of the landlord" be added so that there is no dispute about a verbal consent having been given for change for the user.

CLAUSE 14(1) (c) (*i*) *and* (*ii*): This clause be deleted in view of the amendment of clause 14(1) (c).

CLAUSE 14(1) (d): Since our demand is that business premises should be placed outside the purview of the Rent Control Act, the sub-clause be amended as follows:—

"that neither the tenant nor any member of his family has been residing in the premises for a period of 6 months immediately before the date of the filing of the application for the recovery of possession thereof."

CLAUSE 14(1) (*e*): This provision entitles a landlord to evict a tenant from residential premises if the premises are required *bona fide* by him for himself, or for any person for whose benefit the premises are held.

The scope of this provision has been made very restricted in the present Bill compared with the provision in the 1952 Act. The present provision prohibits the owner from getting his premises vacated even if they are required for one of his family members. Also it does not allow eviction from the premises if used for purposes other than residential. The combined effect of the provision reduces the landlord to virtual helplessness. After all a landlord who invests his life's savings in property ought to have a right to regain possession of his premises for his use in *bona fide* cases. In order to afford this measure of protection to the landlord, the sub-clause be amended as follows:—

> "that the premises are required *bona fide* by the landlord for occupation, either for himself or members of his family or for any person and his family for whose benefit the premises are held and that such persons has no other suitable accommodation."

EXPLANATION: "For the purpose of Clause 14(1) (*e*), a member of the family means, in the case of an undivided Hindu family, any member of such family and in the case of any other family, the husband, wife, son, daughter, father, mother, brother, sister or any other person dependent upon him."

It may be pointed out in this connection that the above explanation has been adopted in proviso to Clause 5(4) (*b*) where the tenant is concerned.

The time factor constitutes an important element in assessing the genuine needs of a landlord. When a landlord lets out his premises on rent at first, his needs might be limited, his family small. But with the passage of time, his family expands requiring more accommodation. And so he naturally tries to recover the possession of the premises to meet his growing needs instead of reducing himself or his family to the status of tenant searching for accommodation elsewhere.

Furthermore, under the Law of Inheritance, the daughter is also entitled to a share in her father's property.

If before or after daughter's marriage, the property is needed for her use, the law must provide for the eviction of the tenant. Otherwise, the law has no meaning in providing the daughter with a share.

Numerous examples can be furnished in support of the above contention. But it would suffice to give one instance to emphasize how serious has become the difficulties of a landlord with the passage of time. There is the instance of a landlord who rented out the building when his children were young. He has one daughter and three sons of whom one is married. The grown up members of the family are now living in extreme discomfort, and the two sons have not married for want of accommodation, and the daughter who has become a doctor is unable to open a clinic because the accommodation is not available.

Our point is that if great care is being taken to enforce the legitimate interests of a tenant, equal care must be taken to protect the interests of a landlord who has also his own personal and family problems. It is not justifiable to proceed on the assumption and then to make law on the same assumption that while the tenant needs protection, the landlord be left to take care of himself. It is, therefore, necessary to give some thought to the genuine difficulties under which a landlord is suffering at present and allow him to exercise his legitimate right to recover his premises in genuine cases.

CLAUSE 14(1)(*g*): This Clause provides for the eviction of a tenant in the event of the premises being required by the landlord for building or rebuilding or making substantial additions or alterations. But the provision in the present Bill restricts the scope for development because it does not allow eviction if the premises are required for "replacement by other buildings" which was allowed in the 1952 Act.

The Clause, therefore, be amended as follows:—

> "that the premises are required *bona fide* by the landlord for the purpose of building or rebuilding or making thereto any substantial additions or alterations or for the replacement of the premises by any building and that such building or rebuilding or addition or alterations or replacement cannot be carried out without the premises being vacated."

This is perhaps one of the most important provisions in the Bill, and if it is not carefully worded, may lead to disastrous consequences. The clause as it stands virtually makes it impossible to carry out substantial alterations. This restriction must be viewed against the background that over 90% of the accommodation in the city are in a terrible state of disrepair and collapse. This is borne out by

the fact that a large number of houses collapsed completely in this year's monsoon. It is a sort of collapse that does not permit mere additions and alterations or strengthening the structure but requires to be rebuilt entirely.

We realize that this problem bristles with complexities, but we also would like the Government to appreciate the fact that unless radical alterations are carried out urgently, more buildings may collapse in the next rains and more lives will be lost. So this question will have to be looked into not from the narrow point of view of protecting the interest of tenant but in the larger interest of the community and general welfare.

Some idea of the magnitude of the problem is given in question and answer No. 15 reproduced from the proceedings of the Delhi Municipal Corporation Adjourned September Meeting dated 15th September, 1958:

The proceedings of the Delhi Municipal Corporation follows:—

"Shri Khub Ram Jajoria:

15. Will the Commissioner be pleased to state:

(*a*) The total number of houses demolished by the Corporation during the months of July and Aug. 1958.	(*a*) 389.
(*b*) The total number of notices served on the landlords (including Government and Custodian Department) regarding repair of houses during the months of July and Aug. 1958.	(*b*) Notices in 475 cases have already been served. Notices in other 500 cases are being issued.
(*c*) The total number of houses collapsed during the mohths of July and Aug. 1958 on account of heavy rains and the loss on account of these houses collapsed ?	(*c*) About 400 pucca houses and 600 huttments have collapsed during these months on account of rain. No estimate of loss has been prepared.
(*d*) What relief if any has been given to such affected persons by the Corporation.	(*d*) (*i*) Sirkies distributed. 4,000 (*ii*) Tents and Chholdaries fixed to accommodate people . 336 (*iii*) Articles of food distributed : Atta, pulses and other articles . 70 Mds. (*iv*) The D.D.A. agreed to earmark Jhil-mill quarters for these peoples.

Applications received for 535 families were forwarded to D.D.A. According to information received, 53 quarters have so far been allotted."

The answers to the above question have far greater implications than what meets the eye superficially. It is, for instance, clear that additions and alterations alone are not sufficient to infuse new life into the building. In many cases, complete rebuilding will have to be undertaken if this year's calamity is to be averted in the future.

Considering all these factors, the owner must be given the right to evict a tenant to carry out radical additions and alterations or to rebuild or replace the building with new premises. We think this is absolutely essential and the Government should give a bold lead in this matter. Permitting a limited reconstruction of the old house and for the same purpose for which it was originally intended will not help to solve the problem. On the other hand what this will lead to is a mere replacement of the old slum with a new one.

CLAUSE 14(1) (*l*).—A new Sub-Clause be added to provide for the eviction of tenant whose conduct causes annoyance and nuisance to the residences of the locality. Such a provision existed in the 1952 Act, but for reasons not known, it has been omitted from the present Bill.

We want to stress that the necessity for this new provision has been made all the more urgent because of the enforcement of the Prevention of Immoral Traffic Act. The relevant clause from the 1952 Act should be reinstated which reads as follows:—

"that the landlord requires the premises in order to carry out any building work at the instance of the Government or the Delhi Improvement Trust in pursuance of any improvement scheme or development scheme."

"that the conduct of the tenant is such that it is a nuisance or that it causes annoyance to the occupiers of the neighbouring premises or other occupiers of the same premises."

Clause 14(1) (*m*).—A new sub-clause be added as follows:—

"that the tenant has caused or permitted to be caused over-crowding in the premises let to him."

For purposes of determining what constitutes over-crowding, the minimum area considered necessary for occupation per head shall be 20 sq. yards of the covered area in the tenancy—the covered area shall include living room, bathrooms, kitchen and stores.

This again goes into the expansion of a tenancy over a period of years. It is the accepted custom that when the premises is let out, it will be occupied by a tenant with an average family. In course of time, the family of the tenant himself expands and gradually a combination of circumstances and profit motive influences the tenant to bring in relations and sub-tenants. This has led to terrible over-crowding of accommodation by 12/15 people when it is intended for 2/3 persons.

That is how a slum grows into dangerous proportions and a time comes when there is no other way of eradicating it except by clean sweep adversely affecting the interests of the tenant and the landlord alike.

A landlord, in fact, suffers from a double-edged weapon pointed at him constantly. On the one hand, he cannot evict a tenant even if he starts overcrowding the premises. And on the other when the over-crowding of a premises becomes a real menace to public health, the government has a right to declare it as a slum and then acquire it under the Slum Clearance Act of 1956 on payment of a token compensation of three years' rent. On both counts the real victim is the landlord and not the tenant. Under these circumstances, it will only be fair if we are to demand the right to eject a tenant if the landlord is convinced that the tenant's activities are leading to over-crowding.

Here is an example to highlight this grave problem. A one-room tenement with an area of 10′ × 20′ is in occupation of a tenant since 1933 on a monthly rent of Rs. 3 including the water charges. When he occupied the premises he was all by himself but now there are seven permanent residents and occasionally the number doubles when his married daughter arrives with her children.

The slum clearance has two basic social aspects. While it is essential to clear an area which has grown into a slum, it is equally necessary to take steps as far as practicable to prevent the growth of a slum. It is, therefore, vitally important to bear this twin-aspect of the same problem in drawing up the provisions of this clause under discussion.

Slum clearance has become one of the major problems of the Government and the Corporation. And it is a problem in which the Prime Minister himself has been taking a direct and personal interest. It has thus become necessary to amend the clause in such a manner that will help in generating a new and healthy atmosphere in which the landlords' cooperation can be sought in preventing the future growth of the slum.

Clause 14(5).—This clause provides a safeguard against the eviction of a tenant under Clause 14(1) (c) *i.e.*, using the premises for purposes other than they were let. The service of a notice on a tenant for removing the misuse is made obligatory on the owner with a view to give an opportunity to a tenant to discontinue the misuse. The clause further provides that a tenant cannot be evicted if in the opinion of the Controller misuse is not detrimental to the interests of the owner.

The Federation is of the opinion that if the misuse of premises is not discontinued by the tenant, he should be evicted and no discretion should be left with the Controller to judge whether the misuse is against the landlord or not. Apart from giving wide discretionary powers to the Controller to over-ride leases and contracts this will lead to favouritism, nepotism and corruption and to extensive misuse of the clause itself, thereby causing harassment and annoyance to the neighbours and to the houseowner.

The clause should, therefore, be amended accordingly and from words:

"and no order" to the end of the sub-clause be deleted.

Clause 14(6).—This clause provides that in case of eviction of a tenant under Clause 14(1) (e)—that is, for personal need, a tenant shall be given six months' time to vacate the premises. This should be deleted because, after the personal need of the owner has been established, there is no justification for giving another six months' period to the tenant to stay on. Such a long period would obviously put the owner to considerable inconvenience.

Clause 14(7).—This clause provides that no order for eviction shall be passed by the Controller under Clause 14(1) (g) (*i.e.*, for purposes of building, rebuilding etc), if the Controller is not satisfied that the proposed reconstruction will not radically alter the purpose for which the premises were let etc.

The real object of clause 14(7) appears to be to render ineffective clause 14(1) (g). It needs no explanation to understand that if replacement of old and dilapidated building is to be done with a new

one, there is no point in making the building of the same old type because it will mean no real improvement in the pattern of living of the area. If, for instance, some old buildings are used as sheds or stables in a locality which with passage of time has become predominantly residential or commercial area, there is no meaning in restricting the owner to replace his old building with sheds and stables.

If this sub-Clause is allowed to stand, it will stop all improvement and development. It is, therefore, proposed that this sub-clause be deleted.

Clause 15(7).—This clause provides for the striking off of the defence against eviction of a tenant if he fails to deposit arrears within one month in compliance with Court's order. It further provides that after striking off of the defence, the Court shall proceed with the hearing of the application.

After the defence has been struck off, we fail to understand why the hearing of the application should be proceeded with. We suggest that it should be clearly and unambiguously provided that after the defence has been struck off, the Controller shall, "proceed to pass an order for the eviction of the tenant". These words should be substituted in the place of: "proceed with the hearing of the application" as given in the Bill.

Clause 16(3).—This clause has been designed to afford protection to the sub-tenant who claims to be there on the basis of verbal consent of the landlord but has no consent in writing. Further, the Controller is authorised to entertain the complaint of the sub-tenant.

Our attitude to this matter is that we are opposed to all sublettings without the consent of the owner in writing. Therefore, we suggest the deletion of this sub-clause.

Clause 17(2).—This clause protects a sub-tenant from eviction even if he does not possess the consent of the landlord in writing, but claims to be in the premises prior to the commencement of the 1958 Act. As we have opposed all sub-letting without the consent of the landlord in writing, and since there can be no sub-letting without the consent of the landlord under the 1952 Act, which is still in force, there is no justification for giving protection to a sub-tenant. Therefore, the sub-clause should be deleted, because its existence will legalise a false claim.

Clause 17(3).—Like the clause 17(2), this clause also seeks to legalise sub-tenancy without the consent of the landlord in writing. The only difference is that a sub-tenancy covered by this sub-clause

is in respect of a premises where the original tenant is not in possession of the premises and the entire premises are in the possession of the sub-tenant. This clause should also be deleted for the same reasons given for sub-clause 17(2).

Clause 19.—Sub-clause (1) in this clause provides that if the tenant has been evicted, under sub-clause 14(1) (f) or (g), the Controller shall ascertain whether the tenant elects to come back to the repaired or reconstructd premises. Further, the Controller shall pass an order specifying the date when the tenant should vacate the premises.

Sub-clause (2) lays down that if the tenant vacates by the date specified by the Controller in his order under sub-clause (1), the tenant shall be placed in possession of the repaired or reconstructed premises.

Sub-Clause (3) lays down that if the landlord fails to commence the work of repairs or rebuilding within one month of the specified date or fails to complete the work within reasonable time, or does not put the tenant back in the repaired or reconstructed premises, he may order the landlord to place the tenant in occupation of the premises on the original terms and conditions or to pay to the tenant compensation.

Clause 19, taken as a whole is harsh and unreasonable, particularly relating to the reconstructed premises, because if the premises are reconstructed for a different purpose than for which they were let before, there will be no point in taking back the tenant.

The clause subjects the landlord to severe penalties on many, what may be called, imponderable factors. If he fails to start reconstruction work within one month or fails to complete the work within a reasonable time (reasonable according to the tenant) for reasons beyond his control such as non-availability of building materials, steel, or Municipal or Government action, he will still be subject to severe penalties.

The clause also contemplates putting back the tenant in reconstructed premises "on the original terms and conditions"—this is highly unjust to the landlord because he would have spent considerably higher proportion of money for carrying out reconstruction work on the basis of present price levels.

Viewed from legal, moral and economic and social aspects, Clause 19 places the landlord at a disadvantageous position, and, therefore, this whole clause should be deleted.

Clause 25 (2).—This clause makes it obligatory on the owner or his agent to give a signed receipt to the tenant. The sub-clause 3 further imposes a penalty on the landlord for the failure to furnish a receipt to the tenant. This provision should, therefore, be made reciprocal. The sub-clause will have to be amended accordingly. The amendment should make it the responsibility of the tenant to make rent payment at an appointed place by the landlord and should also sign the counterfoil of the receipt as a token of having received the receipt. In the light of the above explanation, we suggest the addition of the following at the end of sub-clause 25 (2):

> "provided such tenant makes payment of the rent at the place appointed by the landlord and signs the counterfoil of the receipt."

Clause 25 (4).—This is a new sub-clause which should be included with a view to ensuring the signing of the counterfoil by the tenant and providing penalty for his failure to do so. The sub-clause should read as follows:—

> "If the tenant refuses to sign the counterfoil of the receipt, the Controller may on application made to him in this behalf by the landlord within two months from the date of receipt and after hearing the tenant, direct him to pay to the landlord by way of damages such sum not exceeding the amount of the rent paid and the cost of application."

If the tenant is to be given a receipt for the rent, the landlord has an equal and reciprocal right to insist that the tenant acknowledges in writing that he has received the receipt. The failure to comply with the provisions by either party must be subject to damages and should not be one-sided applicable to the landlord alone. It is in light of this explanation that we have suggested the inclusion of the above new clause.

Clauses 34 *to* 42.—These clauses relate to the appointment of Controllers and their powers and functions etc. Since these provisions invest the executive with very wide powers that would have far-reaching effect on the administration of justice in the regulation of rent control, they deserve special attention.

In the past and under the existing Act, all cases under the rent law have been tried and decided by the Judiciary, under the direct control of the High Court, and without any interference from the Executive.

The 1958 Bill envisages the appointment of Rent Controllers and Rent Control Tribunals by the Central Government. This amounts

to placing the rent control administration under the Government instead of under the judiciary as in the past. It is true that the Bill provides that the officials shall have certain length of service in the Judiciary. But this is nothing more than a camouflage to hide the hands of the executive in the execution of the Act.

The mere fact of the officials having judicial service does not make any difference, because their authority under the present Act will not be under the High Court but the executive. An ingenious explanation has been offered in support of transferring the administration from the judiciary to the executive. The explanation is that the creation of a new machinery by the Central Government would help in speedy disposal of cases.

Speedy disposal of cases arising out of any legislation ought to be the principal objective of the Government. What we would like to ask is whether it is not possible to achieve this objective in the case of the present legislation through the judiciary instead of the executive? After all, it must be realized that the fact that the judiciary is administering a certain legislation is bound to create greater sense of confidence and comfort among the interested parties and among the people than the executive.

There is no use getting away from the fact that the executive is controlled by the party in power. With the best of intentions on the part of the Ministers, we do not believe that the executive can remain uninfluenced by the political cross-currents and vested interests.

As regards delay in the disposal of cases, it is admitted that prolonged delays have been one of the worst features of the rent law administration. But the delay does not lay entirely with judiciary because the disputes, barring a few exceptions, have always been tried as regular suits in addition to other work that the judges have in their courts.

Our principal contention is that the administration of the present Act should be left under the control of the judiciary and the judiciary might be asked to create its own machinery of Rent Control Sub-Judges called "Controllers", like the Commercial Sub-Judges in Delhi, for speedy disposal of disputes. We consider the control of judiciary to be of the highest importance; because in a legislation of this type, more especially political considerations and pressures are bound to play an important part if the Executive is responsible for the administration of justice.

In the light of the foregoing explanation, we are strongly opposed to the appointment of Rent Controllers by the Central Government and suggest the following changes in the relevant provisions:

Clause 34(1).—In sub-clause (1), after the words, "Official Gazette", and before the word "define", the following be deleted:—

"appoint as many Controllers as it thinks fit".

Clause 34(2).—This clause may be deleted. A new sub-clause be added to clause 34 as follows:

"The Central Government shall ask the High Court of Punjab for appointment of Controllers and Additional Controllers as may be required and the High Court shall appoint such Controllers and Additional Controllers satisfying the qualifications laid down in Clause 34(3)."

Clause 37(1).—After the words "by the" and before the words "by notification," the words "Central Government" be deleted and substituted by the following:

"High Court on a request from the Central Government."

Clause 49(5).—Add the following new clause:

"If the landlord applies for delivery of possession with the Police aid, the Court shall pass an order to that effect at the time of issue of warrants of possession or at any other stage of execution."

It is really an odd situation that when a landlord legally takes possession of his premises, he should lose his life in the process. But that is what has been happening and this is a matter that deserves to be looked into and rectified.

There are numerous cases of tenants indulging in crimes of violence against the landlords, possibly on account of misleading and mischievous propaganda carried on at the time of the landlord taking possession of his premises by legally evicting a tenant.

We give below a few incidents in support of our contention: On 12th July, 1956, Shri Raghunandan Lal, owner of House No. 1380, in Kucha Ustad Hamid, Dariba Kalan, Delhi, went to take possession of the said house in execution of a Court Decree with the aid of a Court Bailiff. The tenant pushed him to street from the second floor of the house and the owner died on the spot. The tenant got away for this dastardly crime with a punishment of three months' imprisonment.

In another house in Paharganj, a tenant tried to shoot the landlord, but the Bailiff was hit in the leg, and the tenant got away with an acquittal by the merciful Court.

It is our suggestion that Police protection be given if asked for by a landlord, in order to protect his interest, his life, to prevent violence and to maintain law and order.

Clause 52.—This clause lays down that the provisions in the Bill will not affect (1) the Delhi Tenants' (Temporary Protection) Act, 1956, Slum Areas (Improvement & Clearance) Act, 1956 and Administration of Evacuee Property Act, 1950.

At the moment over ninety per cent. of old Delhi has been declared slum and no decrees passed under Rent Act can be executed without permission of Slum Act authorities, which permission is never granted as a rule. The main reason for this is that if the landlord makes improvements after evicting the tenant, the Government may have to pay higher compensation, in case the property is required under the Slum Laws—rather a dog in the manger policy.

When the 1958 Bill becomes law, what is the point in keeping in force the Delhi Tenants (Temporary Protection) Act 1956, which was intended to be purely an *interim* measure before a new Act (*i.e.*, the present Bill) was passed. If it is not repealed, all decrees under Rent Laws will remain in abeyance without any justification whatsoever.

In view of the above, it is suggested that in Clause 52 words from: "or the Slum Areas" to the end of the Clause, be deleted.

Part Four

Conclusions

Housing for the people has lagged behind in this rapidly expanding city. Slum clearance has become a formidable problem confronting the Government. While concerted attempts are being made to clear the slums and build new townships for shifting the population, more slums have grown in the past eleven years since Delhi became the seat of the National Government eleven years ago.

The magnitude of the problem is so big requiring enormous capital and drive that the Government alone cannot cope with the situation. The private enterprise has a significant role to play in filling the gap. Given the goodwill, understanding and the necessary incentives, there is no doubt that the private enterprise will rise to the occasion.

The majority of houses in the city require substantial alterations and rebuilding. The bad state of disrepair in which the houses have fallen was demonstrated during the last monsoon when hundreds of them collapsed and became a real danger to the lives of the people. The reason for this state of affair is that the owners of pre-war built property found it impossible to carry out repairs because the very low 1939 level rents could not provide the requisite finance to meet the high cost of repairs.

We regret to point out that the Government has not taken a lesson from what has happened. It has placed in the Bill far too many restrictions on the reconstruction and rebuilding aspects of the housing question. While the tenant needs to be protected against eviction, there is equally an urgent need to make a clean sweep of the large number of existing houses that are in disrepair and state of collapse. Under the restrictive provisions of the present Bill, it would be impossible to carry out the much desired reform. The Federation feels that this aspect of the problem as dealt with in the present Bill will have to be reconsidered carefully with a view to making the provisions more flexible and realistic in the context of the existing conditions in the city.

We like to point out further that on the question of administering the rent laws, the landlord has not been treated fairly in majority of cases. The following figures have been tabulated on the basis of statement furnished to the Parliament in May, 1958 in reply to the unstarred question No. 1608 by Pandit Thakur Das Bhargava proves the above contention:

Suits Filed during six years (1952-1957)

1. Suits filed for non-payment of rent	..	7,811
2. Suits filed for sub-letting	..	4,233
3. Suits filed for *bona fide* personal requirement.	..	4,278
4. On other grounds	..	3,392
TOTAL SUITS FILED FOR SIX YEARS	..	19,714
Out of the above total, *the total number of evictions carried out,* (decrees executed by the Courts) *in six years*:		2,270

Surely nobody would regard that number of suits and ejectments, spread over a period of about six years, large enough for a population of 20 lakhs, particularly when the overwhelming majority of disputes were for non-payment of rent and sub-letting.

We want to emphasize that local politicians have played havoc with Rent Control Laws and Housing. It is amazing that responsible men and women in public affairs should make highly exaggerated statements relating to ejectment of tenants that have no foundation in reality. The statements, coming as they do, from such leaders have done a great dis-service all round—to the landlords, the tenants and to the cause of housing in general.

We also want to emphasise the glaring contrast in what the Government does as a property-owner and what the private owner is allowed to do. This is an exceedingly important point to bear in mind. After all it is the same market and the same conditions under which the Government operates. But it follows a different standard in charging rent which is far higher than a private owner is permitted to charge for a similar accommodation, in the same locality and under the same market conditions.

The Government is expected to give a correct lead in such matters but it is highly disappointing to see the discriminatory policy pursued in the matter of housing and charging rent.

Coming to the question of providing incentives, we strongly feel that a mere exemption from fixing the 8½ per cent. rent for the first five years in the case of new properties is just illusory. The reason is that the Government and the Local Authority take away the lion's share out of it in the form of taxes.

In order to make the incentive really worthwhile, the rent returns from the newly constructed buildings should be exempted from the income-tax and a large part of other local taxes for a period of five years. It may be pointed out in this connection that property built upto end of March, 1956 was exempted from income-tax for a period of two years.

The restrictive policy of the Government has made investment in housing to be least attractive. In the first place the complex and cumbersome regulations tend to make prospective investor hesitant and he turns away in other directions of safe and less troublesome forms of investments.

Raising funds in the capital market against the security of building property has become virtually impossible. We find that the Reserve Bank has advised all Scheduled Banks not to make advances against the security of building property. The Life Insurance Corporation also is following the example of the Reserve Bank.

The Insurance Companies before nationalisation were major sources of capital for building projects. But after nationalisation this source has dried up.

Encouraging large flow of investment in the house building programme, highly essential as it is, represents only one aspect of the picture. But there is other side to the whole question of regulating the rent control that has social and moral implications directly affecting the tenants and the house-owners.

In a city like Delhi, almost ninety per cent. of the housing property is owned by middle and lower middle class people. And it is they who provide accommodation to the average tenant.

This class of property owners are of average means. They have built the small houses by investing all their limited resources as social security for the family. Moral and social justice demand that this class of house-owners are given a fair return under the rent control law in order to supplement their income from other sources.

A Law that does not give a fair return and subjects this class of owners to continuous harassments will not only affect the legitimate interests of the owners but also the interests of the tenants.

This important section of the investing middle class, which provides the accommodation to the largest proportion of the city's population deserves considerate treatment in the context of high cost of living and high cost of construction.

Anything less than a fair and sympathetic treatment would cause considerable hardship both to the house-owners and to the average tenants and might lead to the disappearance of the small house-owners.

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