

Clause 2 was added to the Bill.

MR. CHAIRMAN : The question is

"That clause 1, the enacting formula, and the long title stand part of the Bill".

The motion was adopted.

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

KUMARI SELJA : Sir, I beg to move :

"That the Bill be passed".

MR. CHAIRMAN : The question is :

"That the Bill be passed."

The motion was adopted.

15.59 hrs.

DELHI RENT BILL

As Passed by Rajya Sabha

MR. CHAIRMAN : Now, we shall take up item no. 14 of the agenda.

I would request Shrimati Sheila Kaul to move the Bill.

THE MINISTER OF URBAN AFFAIRS AND EMPLOYMENT (SHRIMATI SHEILA KAUL) : Sir, I beg to move :"

"That the Bill to provide for the regulation of rents, repairs and maintenance and evictions relating to premises and of rates of hotels and lodging houses in the National Capital Territory of Delhi, as passed by Rajya Sabha, be taken into consideration."

Mr. Chairman, Sir, and distinguished Members, the Delhi Rent Bill was adopted by the Rajya Sabha on 29.5.1995. Earlier, the Bill had been introduced in that House on 26.8.1994. The Standing Committee on Urban and Rural Development to whom this Bill was referred, submitted its report to the Parliament on 15th March, 1995. I am sure that the hon. Members have taken note of the report.

There have been numerous representations from groups of tenants and landlords and others for further amendments to the Delhi Rent Control Act, 1958 which was extensively revised in 1988.

16.00 hrs.

This demand received fresh impetus with the tabling of the National Housing Policy in both Houses of Parliament in July, 1992. The Policy has since been adopted by Parliament. One of its major concerns is to remove legal impediments to the growth of housing in general and rental housing in particular.

The Supreme Court of India has also suggested changes in rent control laws by making it rational, humane, certain and capable of being quickly implemented. In this context, a Model Rent Control Legislation was formulated by the Central Government and sent to the States to enable

them to carry out necessary amendments to the prevailing rent control laws. The Model Rent by the Central Government and sent to the States to enable them to carry out necessary amendments to the prevailing rent control laws. The Model Rent Control Legislation has taken into consideration the recommendations of the Economic Administration Reforms Commission and the National Commission on Urbanisation.

The present Bill seeks to provide mainly for the following :—

- Exemption of certain categories of premises and tenancies from the purview of the proposed legislation;
- creation of tenancy by agreement and its compulsory registration;
- limited inheritability of residential tenancy by the successors in the event of the death of a tenant;
- rent to be increased in a specified manner;
- where there is no agreed rent, standard rent to be fixed based on the cost of construction and market price of land;
- tenant to pay proportionate amount as maintenance charges or property tax, in addition to the standard rent;
- revision of standard rent for improvements carried out on the premises;
- landlord to serve notice for increasing rent;
- rent authority to fix the standard rent;
- landlords and tenants to keep the premises in good habitable conditions;
- both landlord and tenant will not to cut off or withhold essential supply or service without just and sufficient cause;
- Rent Authority may make order for recovery of possession of the premises on grounds such as non-payment of rent/arrears of rent, subletting part/whole of the tenanted property without the consent of the landlord etc.;
- re-entry of a tenant and payment of compensation to him in case landlord fails to abide by the conditions under which recovery of possession of premises was granted to him;
- recovery of possession for repairs and/or rebuilding and re-entry of the tenant;
- right to recover immediate possession of premises by a landlord who is in occupation of an accommodation allotted to him by the Government or any local authority and he is to vacate it in pursuance of any general or special order of Government/local authority.

— right to recover immediate possession of premises for self residential use to accrue to members of armed forces released/retired from service or to dependent of a member of any armed force who had been killed in action, or a member of the armed forces having less than one year service preceding the date of retirement from the forces;

right to recover immediate possession of premises for self residential use to accrue to a Central or State Government employee who has retired or is due to retire in less than one year;

immediate recovery of possession of premises to widows, handicapped persons and aged persons for residential or non-residential use for self or his/her family or for any one ordinarily living with him/her;

limited period tenancies and recovery of possession on termination of the period thereof; also provides for damages in case possession is not handed over on termination of tenancy;

order of recovery of possession to have binding effect;

enhanced penalties for violation of the provisions of the Act either by the tenant or the landlord.

There is a certain feeling, arising out of inadequate information, that the Bill is pro-landlord. In fact, this is not so. The Bill is a beneficial piece of legislation which basically protects the tenant from unjust evictions and harsh exactions. At the same time, we realize that there is a basic need to increase the housing stock. This can only come about if the house-owner is assured of a fair return. Ultimately, it is this which will increase the availability of the houses and reduce the mismatch between demand and supply. Consequently, the rents will come down in comparison with other commodities. The grounds on which a tenant can be evicted have been made very specific and easily verifiable. To prevent misuse, various safeguards have been built in. As for example, if a premises is handed over to the landlord for doing repairs, reconstruction or such works, the actual possession would be given to him only after all approvals have been taken by him. Similarly, the procedure by which the tenant is to be put back into possession on completion of such works has been made very simple.

As the hon. Members are aware, rent litigation under the existing Delhi Rent Control Act, is a very time consuming affair. Thousands of cases are piled up in different judicial forums. We propose to tackle this in two fold manner. First, with the setting up of the Delhi Rent Tribunal and its Benches, barring the jurisdiction of all courts except the Supreme Court, to deal with rent matters. The second is by making the relationship between landlord and tenant crystal clear, by defining their rights and duties. For example, day to day repairs and replacements are to be done by the tenant whilst anything structural is the responsibility the landlord. Similarly, the method of fixing standard rent as

also of working out enhancement has been made simple and rational. As far as possible criteria laid down are objective so that there is little scope for misunderstanding or misinterpretation. With this transparency, it is expected that there would be less litigation than in the past.

I would like to reiterate the fact that a lot of time and effort has gone into building this consensus. Widespread opportunity has been given to experts and interested groups in presenting their viewpoints. It is my suggestion that we give this Bill a fair trial. Its actual working can be reviewed in due course of time so that a based on our experience, whatever change is required can be effected. Hon. Members may be aware that in the case of previous Act which was passed in 1958, amendments were done in 1960, 1963, 1976, 1984 and 1988.

With these introductory remarks I beg to move :

"That the Bill to provide for the regulation of rents, repairs and maintenance and evictions relating to premises and of rates of hotels and lodging houses in the National Capital Territory of Delhi, as passed by Rajya Sabha, be taken into consideration."

MR. CHAIRMAN : Motion moved :

"That the Bill to provide for the regulation of rents, repairs and maintenance and evictions relating to premises and of rates of hotels and lodging houses in the National Capital Territory of Delhi, as passed by Rajya Sabha, be taken into consideration."

14.03 hrs.

SHRI KALKA DAS (Karol Bagh) : Today Delhi Rent Control Amendment Bill which is supposed to replace the Rent Control Act of 1958 is before us for discussion, which had been amended several times.

Hon. Chairman, Sir, as stated by the Minister, thousand of cases involving disputes between landlords and tenants, are lying pending in courts, hence it is clear that the Delhi Rent Control needs amendments. This Bill was placed before Rajya Sabha two days back and in reaction thereof markets in Delhi are closed today in protest against the Bill because it favours landlords against tenants who number in lakhs in Delhi, the passage of this Bill will give no relief to lakhs of tenants where as it will provide right to the landlord to get his house vacated by giving a small affidavit. Delhi is the Capital of the country and has many markets where some people are running their shops for quite a long period on tenancy basis. This Bill provides that if some firm is in partnership and anyone of its partner dies his ownership would soon be vacated. I treat it a lopsided provision. Old houses in Delhi are lakhs in number, and on the death of the main tenants of such houses their dependents get occupancy right. But in the case of partnership and shop, on the death of a partner the landlord by submitting one small affidavit will get his house vacated.

This Bill, therefore is creating more complications. It concerns Delhi and its residents living as tenants and therefore better if it is referred to its Government and the State Assembly for discussion and consideration. hon. Minister just now stated that before bringing forward this Bill here opinions of all parties were taken. But after going through the report of the Standing Committee it is clear that association of house owners was called for tendering evidence before the committee, but it is nowhere seen that association of tenants was also called for giving evidence before the committee. Therefore, apparently the Government is pro house owners and no heed has been paid to the problems of the tenants in Delhi. Minister herself has been living in Delhi for a long period. She knows that tenants in old Delhi have many difficulties to face. Poor people pay 10 or 20 rupees per month as rent and live there since long. Now through this Bill you are going to raise the rent substantially, *i.e.*, in one year for a house built on 25 square yards area the rent will be raised by 25% and rent of shops will be enhanced by 100% for which there is no limit of area, if any tenant refuses to pay the enhanced rent or he does not pay enhanced rent for three months, clause 5 of this Bill will come in operation and the landlord will issue a notice to the tenant and get house or shop vacated and throw him out of house or shop. It shows we are not living in a welfare state, but in a country where only muscle power prevails. This Bill, therefore, needs a careful study and before its passage it should be referred to Delhi Assembly and Delhi Government having representatives of people of Delhi, who are responsible to the people of Delhi. It can be examined there by people's representatives and whatever recommendations are made by them may come for consideration here later on. That is the better way of dealing with this Bill.

This Bill is very defective and needs overall changes, as one or two amendments in it will not suffice. I wonder as to on what basis it has been framed. It apparently seems to me that it has been drafted to benefit big landlords and house owners. The headlines of the newspapers read "Delhi Rent Bill tilts scales in favour of landlords". Poor man's problems have been ignored and that is the reason behind closure of shops in Delhi today. On the day of its introduction in Lok Sabha, the markets in Delhi were closed, which shows people are opposed to it. Had it been in favour of the people of Delhi they would have been waiting for the hon. Minister outside for garlanding her for bringing forward a Bill for their welfare. The closure of markets is indicative of the people's anguish and concern over it.

SHRIMATI SHEILA KAUL : People are coming to my house.

SHRI KALKA DAS : Landlords only, in whose favour this Bill makes provision, might be going to your house. This Bill is against the interests of the majority of the people. You are going to enhance rent of small shop paying Rs. 20 or 25 per month as rent and harming a goodwill earned by them over long years and by spending lakhs of rupees. You

will increase the rent by 100%. If some one does not pay rent for 2 months you will cause its eviction by issue of a notice by the landlord. Again you have provided two different provision for residential and commercial tenancies. It will result in closure of entire trade in Delhi. Outsiders living in Delhi on rent will find it impossible to live here. It will create chaos everywhere among the poor and middle class tenants. I therefore, strongly oppose this Bill.

Through you I urge upon the hon. Minister to reconsider the Bill keeping in view the condition of Delhi and bring it in the next session after properly examining its provisions. Opinion of Delhi Assembly should invariably be obtained on this Bill as its members are directly responsible to the people of Delhi, I do not say that M.Ps of all other places are not aware of problems of Delhi and its populace but legislators of Delhi elected by people of Delhi must be consulted in regard to problems and legislation relating to people of Delhi. If this cannot be done, the opinion of M.Ps of Delhi should be accepted. At least they should be consulted in this regard.

Mr. Chairman, Sir, it is related to not only lakhs of people, but all the residents of Delhi. It will cause panic among them. The Bill provides for its application retrospectively. All owners of shops will get their shops vacated from tenants by evicting them therefrom. Goodwill is made by spending lakhs of rupees and by making lot of efforts over a long period. That will be destroyed by this Bill due to eviction of shops from tenants by shops owners. I feel that the Central Government has brought forward this Bill in retaliation because Congress party was rejected here in Assembly election. A Government which claims that its a welfare State, should not act in vengeance. Government should have in mind welfare of the people and Bills containing welfare measures should be brought here. Such provisions should made in this Bill will see all tenants thrown out by shop owners. Some times owner ask tenants to pay rent next to next month. In that way under the Bill the tenant will be ousted from house or shop if he does not make the payment of rent for two months. As such this Bill should be withdrawn in people's interest.

Delhi Rent Control Act of 1958 is detrimental to the interests of the people of Delhi. It needs amendment. The amendment Bill presented now is also defective one as it does not suit to the present requirements and it is against the democratic system. In a democratic system it should have been first of all been discussed in people's elected Assembly of Delhi and its opinion should be respected and quoted in the House here and decision should be taken on the basis of Delhi Assembly's verdict. That is the only proper course of action. Inheritability right should have been provided in the Rent Control Bill. But it is not provided therein. Secondly the Bill should not be made applicable retrospectively. It is ridiculous that you pass it today and apply it from an earlier date

SHRIMATI SHEILA KAUL : It does not provide as such, but has been reported by newspapers.

SHRI KALKA DAS : Not by newspapers. It has been stated in the memorandum of the Government.

[English]

A copy is here for ready reference. It reads "The inheritability right as granted by the Supreme Court should be protected". (Interruptions)

SHRIMATI SHEILA KAUL : That is protected. I will let you know that.

[Translation]

SHRI KALKA DAS : Where is it in it ? If son sits on the shop of his father after his father's death, he will be ousted from the shop. If a firm runs in partnership, on the death of partner, house or shop will be got vacated from the other partner. All this is against the natural law also. Suppose a house owner files an affidavit. (Interruptions)

[English]

MR. CHAIRMAN (Shri Tara Singh) : Please do not repeat the points.

SHRI KALKA DAS : I am not repeating them. My submission is that it violates his constitutional right.

[Translation]

Everybody has the right to defend himself. First of all listen to the person from whom shop or house is to be got vacated. Ask him to plead his side. If you do not provide him proper opportunity and decide the case then it is violation of natural law as well as of the law of the land. Such a provision should be deleted from the Bill. Such a Bill should be drafted which does not smack of spirit of political revenge. I have such a feeling about this Bill. This Bill is more defective than the Act of 1958. You could not form your party's Government in Delhi so you have brought such a nasty Bill to take revenge from the people of Delhi.

MR. CHAIRMAN : You have said so twice or thrice.

SHRI KALKA DAS : This Bill is containing many shortcomings and defects. My demand is that this Bill should be referred to Delhi Assembly which is representative body of the people of Delhi. After their decision it should come here. You have given small powers and rights. Assembly and M.L.As are not asked. If you take the decision here about Delhites, it is not at all a democratic process. It is violation of the rights of the people of Delhi. Even a good thing gets spoiled in haste.

It should be sent to Delhi Assembly so that it may become a good piece of legislation. Better bring it a bit late than harm the people. Provide security to them and they may praise you. Let it be late by 10 days but it should be a good piece of legislation. I don't know why you want to pass it in a hurried manner. First of all you refer it to Delhi Assembly.

SHRIMATI SHEILA KAUL : You do not know that many people came to me including old, ladies, retired, handicapped etc. After hearing them I felt pained and therefore I have brought forward this Bill. I am not taking it politically but you are certainly taking it politically.

SHRI KALKA DAS : I did not say that the people did not come to you. They might have come to you, but only those who did not go through this Bill. Had they read it, they would not have come. I am a representative of Delhi and the Bill relates to denizens of Delhi. That is why I demand that it should be examined. (Interruptions)

MR. CHAIRMAN : You have repeated this point a number of times and you have expressed your sentiments. If you have a new point, say that.

SHRI KALKA DAS : This Bill needs to be amended. Several clauses be deleted. It needs to be made popular and the top most requirement is that you think over it and send it to Delhi Assembly and ask for its comments, otherwise it would be a one sided game.

With these words, I thank the Chair for giving me time to speak.

SHRI DAU DAYAL JOSHI (Kota) : When Delhi Government has been set up, what is the need of bringing it here.

MR. CHAIRMAN : You will also be given time to speak.

[English]

SHRI HANNAN MOLLAH (Uluberia) : Mr. Chairman, Sir, the hon. Minister has moved this Delhi Rent Bill for consideration. You know, this relates to one of the basic problems faced by our people, i.e. the problem of housing. You know, the people of our country are fighting for long with the demand that housing right should be made as a fundamental right. Like food, cloth and medicine, shelter is also essential and this distinguishes between animal and human being. It is such a vital thing. But unfortunately in our country, crores of people are deprived of many of the fundamental rights like the one here. On this also, the people are deprived of their right to live in a proper accommodation. Sir, you know the construction of house is not according to the growth of the population and in the cities like Delhi and other metropolis, people from all over the country are coming for their service and for different reasons and they need more accommodation. But the rate of the construction of the house does not commensurate with the rate of the entry of the population in such cities. It is a serious problem. By the turn of the century, we will need about 41 million houses in the country. But by that time, I think, a large number of people will be forced to live without houses considering the way and the rate at which the Government is already progressing in this sector.

Delhi being the capital of the country, all sorts of people come here. The Government itself has a large number of

employees, police personnel, army personnel and others. Fifty per cent of the Government employees and others living in Delhi have no accommodation. They are forced to live in private accommodations. Getting accommodation in Delhi is so difficult and it is so costly that people cannot afford to get it, particularly the Class III and Class IV employees of the Government. Many persons might be coming to you and pleading for accommodation and you may usually be recommending their cases to Sheila Ji or Thungon Ji, but these recommendations are just thrown into the waste paper basket. This is the experience of every one. So, this is a serious situation. Though the Minister has said that the laws for the landlords and tenants must be made rational, humane and capable of being quickly implemented, yet the Government's attitude towards housing is not humane at all. Sometimes we feel it is only inhumane. People are living under the sun. They have no accommodation. If you visit the slums and the unauthorised colonies, you can see the conditions of the poor people living there. Even when some people are given lands, some black-marketeers give them more money and purchase their lands. These sharks come and eat away everything. Whatever you give to the poor people, these sharks are taking back. Then they are forced to go to the slums and the unauthorised colonies. There is no protection for them. The Government has failed to protect the common people, the poor people, the slum dwellers and the Class IV employees. It is not taking care of this problem of housing which is one of the most acute problems, especially of the poor people, the middle class people, the lower middle-class people and the slum dwellers.

As you know, Sir, Old Delhi is like a hell. If you walk through the lanes of Old Delhi, you will know how the poor people are living there. This is one of the major problems in the capital city of Delhi where we have heaven for the rich and hell for the poor. So, there are two 'Delhi's'. One is for the rich, which is heaven, and the other is for the poor, which is hell. Anybody who visits Delhi, can see these two Delhi's.

Anyway, this is one of the major problems which we are dealing with. We thought that the Government, after listening to all sections of the people, will bring forward a comprehensive Bill which will have the weightage in favour of the poorer. But this Bill is heavily loaded in favour of the rich, in favour of the landlords. Anybody who goes through this Bill will find that it is heavily loaded in favour of landlords. We know that there are many bad landlords. There are some bad tenants also. We do not say that all the tenants are good. Everywhere there are some bad people also. But the landlords are trying to make money like anything. The Bill provides that there will be registration of agreements and also a limited period of tenancy. This limited period of tenancy is the most dangerous thing. People who are coming to Delhi for service, whether Government service or private service, will work here for ten, fifteen or twenty years and go away. But every one or two years they will have to renew the agreement, and for renewal of the agreement,

the power is in the hands of the landlord. At that time the landlord will increase the rent. He will also put whatever conditions he wants to put and if those conditions are not fulfilled, they will be evicted.

SHRIMATI SHEILA KAUL : No, it is not like that. You have not read the Bill properly.

SHRI HANNAN MOLLAH : The agreement will have to be renewed every time and...(*Interruptions*). You will face the music when it is passed and implemented.

When it pinches the people, then they will see you and will say, they are suffering and you will have to face them.

As we understand, at the expiry of every agreement period that is at the time of renewal of agreement the rent will be increased. They have taken care of protecting the landlords from all costs. But no adequate protection for the tenants is provided as we have seen in this Bill.

Secondly, we are afraid that at the time of renovation of the house, the landlord can force the tenant to vacate the place.

SHRIMATI SHEILA KAUL : No they cannot do it. You may first study the Bill.

[*Translation*]

SHRI HANNAN MOLLAH : I have seen it. You can force the tenant and for it he will have to go out. There is no provision to see to his inconvenience. It may take 2-4 months.

[*English*]

If he wants to set the tenant vacated at that time, then the landlord will have a bigger say in this affair as it appears from here.

Thirdly, as I have said, at the time of renewal of agreement the landlord will try to keep the tenant under his control. If there are any difficulties and if the landlord wants to remove the tenant, that tenant will be removed at the time of renewal of agreement. This is our apprehension. What protection are you going to give to those tenants that they cannot be removed at the sweet will of the landlords?

Fourthly, the tenants can go to the rent authority and then to the Supreme Court. The Supreme Court is in Delhi only and is nearby. It takes only 70 paise to go by bus to the Supreme Court. But one has to pay Rs. 700 or Rs. 7,000 to fight each case. There are other sharks there to eat out the savings of the poor people. We are sending them from Rent Control Court to the Supreme Court. It is no small court either. So, such problems will also be there. They also have to be looked into.

We are afraid that this thing will happen. Whatever may be the rosy picture that is painted in the House while making the law, it is always the reverse that happens as in

the case of earlier laws. You always say that they will not be misused. Whenever you have made a draconian law in this House in the last 50 years, you have always said that it will not be misused but it has always been misused. This is the experience of life for fifty years. There is the case of TADA and there are so many other cases. You say that it will not be misused but it is made for misuse and not in the interest of the people.

MR. CHAIRMAN : Please conclude. The time allotted for this Bill is one hour only.

SHRI HANNAN MOLLAH : Yes Sir. I am concluding.

Nextly, I would request the Minister to have a distinction between the commercial and residential use which should be made more clear. It is there. But it should be clarified better. The distinction in the use of the house should be clarified. The house is taken by the poor people for residential purpose. But if it is taken for business purpose, they earn out of it. So, a clear distinction should be made in favour of the people who are using it for residential purpose because most of the people come under this category. They want accommodation in this capital city.

Shortage of accommodation will actually provide root cause for the common people to be victimised. If you have large number of dwelling units, people can go from one place to the other. But if there is less accommodation then for one house twenty people will run to take it on rent. Then always the landlord will try to evict one person who is paying Rs. 500 as rent to give it to another who offers Rs. 700. Next year he will evict this person also and give it to another who offers to pay Rs. 1,000 as rent. This is happening here. It is the experience of the people of Delhi.

They come to us and complain to us. There is no protection for them also in this Bill.

Finally, Sir, I would request the hon. Minister to take care of these weaknesses in this Bill. In this Bill, the clause which provides for 10 per cent increase in the rent every year or every two years should be reconsidered, because it will be too high for the common people, the middle class people. During the renewal, you have to see that the landlord does not evict the tenant at his sweet will. At the same time, the Government has to see that more houses are provided in order that the landlords do not make use of this measure to make huge black money. I hope that the hon. Minister would take note of all these aspects. As I have already stated, this Bill is heavily loaded in favour of the landlords. This should be changed and the bias should go in favour of the tenants. That should be the main focus of the Government in a welfare State. Then only the promises made by this Government to serve the common people can be fulfilled. With these words, I conclude.

[Translation]

SHRI MOHAN SINGH (Deoria) : Mr. Chairman, Sir, the Delhi Rent Control Bill brought forward here contain many

shortcomings. This is an important subject being discussed in the Parliament of India. As the matter mainly pertains to Delhi residents and local representatives are more abreast with local conditions and problems, they can better consider over this issue. My predecessor has also suggested this view. I, therefore, support the suggestion that this Bill should be sent to Delhi Assembly and their comments should be invited before taking it up here for consideration.

Sir, in a welfare State, the best position is that every needy person should be owner of this residence. Some owners and some tenants, cannot be the position of an ideal State. Unfortunately, in the department looked after by the Hon. Minister, it is not the position. We cannot expect from this Government that every needy person will be owner of his residential unit. Therefore, the need of a Bill was felt to maintain a balance between the owners and the tenants.

This is the Bill of 1958. In it, amendments were carried out in 1959, 1960, 1963, 1976, 1984 and 1988 and again amendments are being sought to be made now. Several amendments have been carried out, but with every amendment, the trouble increased and became complicated. I, therefore, demand that a comprehensive Bill is needed instead of resorting to amendments after amendments.

You said that you got inspiration for this Bill from new housing policy of the Government. If so, some new things should have been in this Bill. However, no initiative has been taken in that direction.

This Bill has several parts. I oppose some of them and support the rest. What is provided in Section 9-10 is just reverse to Section 11. Suppose a house owner wants to increase rent of the premises under section 9, he will give a notice of it to the tenant. It is further stated that if he effects improvement in the premises anywhere he will have to fix rent according to the cost incurred on improvement. If this principle is accepted, any house/shop owner can build it anew or renovate it and determine its rent in accordance with the expenditure incurred by him on reconstruction or renovation.

I think it is putting the tenant in great trouble and difficulty. Charging rent on the basis of repairs carried out is a fun with the tenant and it goes against the idea of providing house on easy terms. It has provided scope for both parties to enter into litigation against each other. There should be a personal understanding between a tenant and a owner in India and both should go by that understanding. You have provided in the Bill for issue of notices by the tenant and the owner to each other on every point, which will make their lives hell. Tenant will be deprived of the benefit or pleasure of living in a house without making investment thereon. Then you have provided for the tenant to pay rent within 15 days after it becomes due and obtain a receipt therefor and if no receipt is given, he can file a suit. You have provided a 3-4 page para in the Bill for litigation, and provided a fine upto Rs. 1000/- and imprisonment upto 2 months. Thus, they will continue fighting

against each other. Pending cases in courts are not being cleared, 1¹/₂ to 2 lakhs cases are pending in High Courts/Supreme Court. Now you are going to add to number of cases in courts substantially by initiating legal battle between tenants and owners. I, therefore, strongly oppose this Bill and urge upon the Government to reconsider it.

Under clause 24, it is provided that if a person retired or retrenched from Armed Forces or retired from Central Government or State Government Service or a handicapped person or widow, in such a situation want to retain his house, it is a human consideration. I welcome this sentiment and thank you for it. But, with it... (*Interruptions*)

SHRIMATI SHEILA KAUL : Provision has also been made for persons above 65 years of age.

SHRI MOHAN SINGH : It is alright. At least, you have taken care of the persons of your age.

SHRIMATI SHEILA KAUL : I have a house... (*Interruptions*)

SHRI MOHAN SINGH (Deoria) : Ever since I came to this House, this is the first time I have to thank her for this clause. I also congratulate you for making a provision in regard to hotels. People build houses and utilise them as hotels or for marriages and parties or for renting to travellers. There is no criteria for fixation of rents in Delhi. An ordinary person coming to Delhi has no place to live in. Under compulsion and helplessness, he gets a room on rent of Rs. 1000 to Rs. 1500 through an agent, which should in fact fetch a rent of Rs. 50 to Rs. 150 only.

SHRI KALKA DAS : Is this rent only for 24 hours and not for a month ?

SHRI MOHAN SINGH (Deoria) : This is right. They have brought that also in its ambit. The intention reflected in the Bill is a welcome sign. You are also going to appoint an authority which will determine the rent. The Central Government, through a notification, can appoint any number of officers. What will be the criteria of their powers and procedure of their appointment ? Whether Central Government wants to retain it with itself or want to entrust it to Delhi Government ? It will be better to give it to Delhi Government. While chalking out a criteria, you are going to give powers of delegated legislation to a new kind of bureaucracy which is inefficient and corrupt. For this purpose, proper kind of atmosphere is required to be created. I welcome setting up of a judicial authority.

Saying this much, I welcome and support certain provisions of this Bill and strongly oppose some of its provisions. I want that it should be referred to Standing Parliamentary Committee on Housing or to a Select Committee for consideration and preparation of a complete Bill on the subject and draft a clear and beautiful policy in this regard to do away with the litigation between house owners and tenants.

[English]

SHRI SRIBALLAV PANIGRAHI (Deogarh) : Mr. Chairman, I rise to support this Delhi Rent Bill, 1994.

Sir, as you know, this Bill will replace the existing Delhi Rent Act which is in vogue, in practice from 1958. Since 1958 more than three decades time has passed meanwhile, and this is a period of great changes in the field of economic development and so many other things. People are coming over to cities in large numbers. And the situation is such today, particularly in Delhi city, that a large number of people, a large percentage of people are living in slums. Some say that they constitute around 90 per cent though I do not believe that it is so much. But a minimum of one-third of the total populations—it may be more: I cannot say in definite terms or with reference to Census figures—is living in all metropolitan cities, in the slums. So, Sir, much has got to be done by the State, by the administration to provide shelter to the poor people. The basic need is the requirement of foodstuff. And for that also the mere availability of foodstuff is not enough unless minimum purchasing power is there in the hands of those people. Anyway, housing is also a basic need. And that way, we have a housing policy which was welcomed by all; from all sides, it has been appreciated. There are several good clauses, provisions in our National Housing Policy. But there is an urgent need to increase this housing facility in the towns.

The existing rent laws etc., are definitely proving to be obstacles in this area. Private investors are not coming forward to invest their money on housing. Some hon. Members are opposing the Bill just for the sake of opposing. That has been the unfortunate trend. Certain provisions are welcome. Certain provisions are opposed. Some hon. Members give full support to the entire Bill and some give partial support. But the fact is that this Bill is already cleared by the Rajya Sabha. We know the constitution of the other House, its numerical strength. Many Bills are held up. Criminal Amendment Law and Patents Bill are held up in the other House. But that this Bill has been passed goes to show that this is a good Bill.

MR. CHAIRMAN : They will support you. You tell them.

SHRI SRIBALLAV PANIGRAHI : We have to look at the strength sometimes to get support from them and to convince the other side. I know the Bill is such that they will also support unanimously. Only for the sake of opposition, sometimes some opposition has to be voiced here.

Anyway, this housing industry is such that with the present laws, the investors were not encouraged to put in their investment and to build up houses and for renting houses and that has got to be looked into. Again, the Supreme Court decision also has been there advising the Government to rationalise the housing law. That is another thing. Again, this Bill has been the outcome of prolonged deliberations and consultations in different forums, with different groups etc. The concerned Standing Committees have examined this Bill in detail.

Simply opposing this Bill will not help. For long 30 to 40 years, there has not been any revision of rent on some plea or the other. Legal lacuna are there which go against revision. All the landlords are not wealthy people. Let us admit it. All the landlords, all the house-owners, who are renting out buildings, are not very wealthy people. Some of them also have the house as their source of income for livelihood. There are many poor people who construct a house, stay in one room and rent out the other room and also live on that paltry amount that they receive by way of rent from that earning. This is also the situation. But instances are there that the importance of the area goes up. Changes take place rapidly but still the old rent continues and that is also a hardship to the landlord.

17.00 hrs.

That way, this is all obstacle in the sector of housing. Therefore, while opposing the Bill, Members should not say that this is loaded in favour of the house-owners. Again, people during their service period, whatever be their saving, construct houses. They are moving here and there serving the Government in different capacities with the hope that on retirement they will come back, get their houses vacated and stay on there. There are a large number of cases where, in spite of their best of efforts, they are not able to persuade their tenants to vacate the houses for their own occupation. This is happening with everybody. Just to criticise that it is in favour of the landlords is not correct. It is not the case. That way, it is a balanced Bill and protects the interests of both the house-owners and the tenants also. In the absence of the tenancy agreement etc., a lot of difficulties arise. So, it is a compulsory provision which is there which makes this thing compulsory. There will be some written agreement etc.

About pendency of cases, you know, the delay defeats the purpose. Justice delayed is justice denied. This is a very popular phrase in Judiciary etc. We know that according to our present judicial system with a limited number of courts functioning, the number of cases multiply everywhere. Thousands and thousands of cases are there which are kept in arrears. Whenever there is urgency, there is a demand from all sides of the House that there should be special courts and something like that. Here, that aspect has been taken care of. The Rent Authority is being created with a Rent Tribunal etc. at different levels with the provision of appeal before the Supreme Court. This is also a welcome provision. There will be a one-channel Rent Authority. It will be available exclusively to this purpose.

Sir, I would not like to take much of your time. I would like to say one thing. In spite of these things, the problems will not be solved. The housing problem will still remain unresolved unless the Government also comes forward in a new way to construct houses through the cooperatives and different agencies. Let them construct houses and make the houses available to the poor people, to the middle-class people, especially particularly in metropolitan cities like Delhi etc. Fortunately, the hon. Finance Minister is here. He is an

economist of world repute. I believe that the construction of houses is an area where the blackmoney is used. It is a heaven for those who are possessing blackmoney. I just give one instance. I construct a house myself by taking even a loan of Rs. three lakhs. I spend that amount on the construction of a two-bed-room house. Today, it will cost further. It is very difficult to complete even a small dwelling unit with this money. But if I rent out that building, how much do I get. I spend rupees three lakhs by taking loans from banks, financial institutions, Life Insurance Corporation etc. What is the interest that I have to pay besides the loan amount? It is about Rs. 15,000 per annum. If I rent out the whole house, what is the return I will be getting? The rent would not be sufficient even to make repair or to clear the interest portion, leave aside the principal amount.

This is a black money arena. Those who have got black money, it is their paradise. This is the reality. There is a parallel economy going on. We sometimes trouble the hon. Finance Minister by asking him a question about the amount of black money available. He has also replied as to how he could assess that as there is a parallel economy going on.

MR. CHAIRMAN : You are going beyond the jurisdiction of this Bill.

SHRI SRIBALLAV PANIGRAHI : I am exactly within the jurisdiction.

MR. CHAIRMAN : This Bill does not concern with black money.

SHRI SRIBALLAV PANIGRAHI : This is a very welcome Bill. It is going to replace an out-dated Act. There are many provisions. I say that by only passing a Bill of this nature, it is not going to solve the problem fully. What should be done in a capital city like Delhi? People say that there are 90 per cent slum-dwellers. But I say that one-third of the people live in slums. We have to do something for them also. We have to encourage the construction companies to come forward in this regard. While giving land to them, we may tell them to set apart one portion of that land or they should build for the poor people also as one uniform approach is not going to solve the problem fully. That is why, we go in for mixed economy, we go in for PDS, for open market. A bit of such thing has got to be introduced in this sector.

This is a new Bill. We have also to see its implementation. Of course, the hon. Minister, in her preliminary remarks while introducing the Bill, has assured us that they would review the implementation of it after some time. There are very good provisions. We will have to see how it affects, how it works and whether it is causing hardships to the poor tenants. We have genuine tenants also. We have to see that landlords do not harass the poor tenants. At the same time, in many cases, landlords also have a problem. That is why, I say this is a balanced Bill. We have to implement it carefully. It has to be reviewed after some time. The hon. Finance Minister is here. It is time for us to address ourselves to this problem of poor

people, middle class people who are not having housing facilities etc., particularly in urban areas including Delhi.

With this, I support the Bill. I thank you for giving me time to participate in this discussion.

SHRI SYED SHAHABUDDIN (Kishanganj) : Mr. Chairman, Sir, I generally support the Bill. But I have some questions on which I would like to have some clarification from the hon. Minister.

First, a question has been raised whether the Delhi Government have been consulted. I think, it is a very serious matter. It is just a constitutional incident that land still happens to be under the jurisdiction of the Central Government. It could well have been transferred to the State Government. In other parts of the country, land comes under the State Government.

Therefore, this matter should not have been debated at all in Parliament. But because of the existing constitutional frame, it is still coming to us. But, I think it is absolutely correct to find out whether the Delhi Administration have been consulted in framing the Bill because obviously they must also been receiving the same number of complaints and grievances like the Members of Parliament or like the hon. Minister.

The second point is with regard to the Standing Committee. I would like to know whether the recommendations of the Standing Committee which went into the Bill at great length were accepted *in toto* or whether any recommendations have not been accepted and if they have not been accepted, then what are the reasons therefor.

Thirdly, the hon. Minister recited the tortuous history of legislation on this subject. Even after Independence—between 1958 and until today—the legislation had to be revised and sometimes fresh legislation has to be resorted to a number of times. That shows the very complicity of the subject. Obviously to find an exact, fair and reasonable balance between the interests of the landlord and the tenant, it needs a Solomon and even that Solomon may fail in some cases because every case may have a particular aspect and it is difficult for human intelligence to envisage all possible circumstances.

But, one point my distinguished colleague made just now is that it is wrong to equate the landlord with the rich and the tenants with the poor. I think, in many cases, there are poor landlords and rich tenants. I know, there are tenants here in this town who pay a rent of a lakh of rupee or more per month. Does that tenant need to be protected? I really wonder! There are old-time landlords who have properties in their hands, but are not able to get anything worthwhile out of their properties and so long as we recognised property rights in our society, it is unfair that they should be consigned to perpetual poverty even, if they possess the properties which they have inherited or acquired. Therefore, as I said it, it is very difficult to find a balanced view.

I am in the process of constructing a new house and therefore I cannot say on which side I am. But, since I am constructing it primarily for my own use, I can say that I am not a landlord.... (*Interruptions*)... I recall there was a time when my senior used to tell me that fools build houses and wise men live in them and any economist will tell you that it was absolutely uneconomic to invest in the construction of a house. But, of course, there is a human desire to have a nest of one's own and therefore, at the fag end of my life, I have also gone in for constructing a small house where I can keep my books and my personal belongings in my own way. But, that is a different sort of motivation.

THE MINISTER OF URBAN AFFAIRS AND EMPLOYMENT (SHRIMATI SHEILA KAUL) : You are not a landlord, you are an owner.

SHRI SYED SHAHABUDDIN : Yes, this lone fact stands out and this applies not only to the city of Delhi, not only to the big metropolitan cities like Bombay and Calcutta as well, but to all the towns of North India which are in a state of decay. It is a universal and nation wide phenomenon because there is no proper provision for revision of rents; buildings are decaying, repair and maintenance works are not being carried out and there are chunks of our urban habitat which are likely to crash any day. Now, that would be a national loss. I think the rent law should be such that the landlord is in an economic position to invest some money for proper maintenance of the building apart from getting a fair return on whatever he has invested. At least, he should have the opportunity of keeping his property standing and that is not happening today. For example, here in the Connaught Place, I am told that there are tenancies going back to 50 years or 60 years in which the rent fixed decades ago, continues to rule. I know—I am not taking the name—a former Prime Minister was living in a house at Marine Drive in Bombay.

And the building was in a bad shape. And I asked him why it was in a bad shape. And I was told that all the tenants were paying rent of the order of Rs. 200 or Rs. 300. Now, that is absurd. It is absurd from the economic point of view. It is absurd from the national point of view. After all, every standing unit, every dwelling unit, every commercial unit is also a national asset, which must be maintained and repaired properly. Therefore, the law should give protection for the tenants against eviction and should also fix a fair rent which is indexed to inflation.

Broadly speaking, the value of the rupee is going down and there could be procedure where the rent would be fixed in accordance therewith. I am against fixing any monetary limit because whatever ceiling you may put will become out of date after a few years. There ought to be a provision as exists in many modern economies that in all such cases the rent payable is indexed to inflation. So, automatically, if the value of the money goes down by ten per cent, the rent goes up by ten per cent. That is a sort of perpetual legislation, rather than a piece-meal legislation.

which becomes out of date every few years. I am sorry to state that that has been resorted to even in drafting this Bill.

Now, the third element should be that the rent structure should be such that it should promote investment in housing and construction. I will not dilate on that. The hon. Minister is fully aware of the gap of hundred million dwelling units that we are facing in our country. Therefore, if we do not allow a reasonable rent, what to speak of the black money, even the taxed money, the white money is not going to be invested in the construction of housing units.

Now, I come to the Bill proper. There is a provision here which exempts certain premises from the operation of this Bill. For example first it exempts all Government premises. I do not see why. I think that the Government has a responsibility and a duty in our society to act as a model landlord and as a model tenant. And there is no reason why the Government should be totally exempt from the operation of the law. I do not see any rationale for that. Therefore, I would plead that the hon. Minister should agree to withdraw any exemption in favour of the Government.

Secondly, there is exemption for premises under Clause 3(h), for premises belonging to religious charitable trusts or class of trusts. Now, I am aware of the fact that very valuable properties belonging to Wakfs are rented out at Rs. 2 or Rs. 3 per month, are still occupied. And who is the loser? The losers are the people, the beneficiaries of the Wakfs, the beneficiaries of the charitable endowments. So, unless the rents are revised periodically and indexed to inflation, unless they roughly equal the market rents, it is the interest of these charitable endowments which suffer. And my suggestion is that the protection implicit in this Bill should particularly apply to the properties which are under a religious trust or Wakf. I really wonder how religious these people are, who take over and occupy a religious property! Sometimes even people who profess the same religion continue to deceive themselves and the God they believe in by not paying the proper, reasonable and fair market rent. I do not consider such people religious at all. And, therefore, I plead that such people should not be given any protection. The Government should not be given any protection because the Government must act as a model for the society. These should not be given protection because you are only protecting them against the people, against the potential beneficiaries of these charitable endowments and trusts and wakf.

One more point I have to make. You have suggested a Rent Authority and then a Rent Tribunal and then suddenly you jump to the jurisdiction of the Supreme Court. I am sure that the hon. Minister knows how loaded the Supreme Court is, and I am sure that civil appeals going to the Supreme Court take ages and decades. So, on these cases, I would not like the Supreme Court to be bothered. The Law Commission has suggested many a time that in matters of such type—shall we say ordinary disputes in which there are not many points of law involved—in that case, there should not be more than two appeals. Here you have already

provided a Tribunal. Then in that case, the second forum of resort should be the High Court. Why bother with the Delhi cases and load the Supreme Court with the Delhi cases. The Supreme Court belongs to the entire country and it is loaded unnecessarily by the people who live nearby. I have made a study of it

If you were to make a State-wise analysis of the cases which are pending in the Supreme Court, you will find that a vast portion of them belong to the region just around Delhi or to Delhi itself. That position should not be further aggravated by the provisions of the Bill that goes against the Rent Authority and Tribunal; you straightaway go to the Supreme Court. I think the appeal should lie with the High Court and you should say that, "this is the last chance as you can not have more than two chances in your case and you must accept it."

MR. CHAIRMAN : Please conclude.

SHRI SYED SHAHABUDDIN : Sir, half-a-minute more, please. This is all that I have to say is about the Bill. Since I am speaking on the subject I would like to say about the unlawful occupation of land in Delhi. Many cases concerning the unlawful occupation of land are coming before the public. One such case appeared this morning in the Press that VIPs are occupying valuable D.D.A. land and apparently the VIPs are above the law. It should not happen. Poor people are sent out, they are driven out but the rich people get protection. I think it is totally unfair, particularly in a democratic State.

Sir, I find all over Delhi road side walks are dotted with *Mazars* and *Mandirs*. They are absolutely unlawful constructions. They have got no right to exist. Your municipality authority or the city authority simply turn a blind eye saying that 'it concerns the religious sensitivity of the people, do not touch them.' So, these constructions go on growing horizontally and they go on growing vertically till from small structures they turn into big structures. They are a hindrance; they are nuisance and they have got no right to exist.

You have decided some time back on 1976 was a cut off year. But beyond 1976, before our own eyes things have been happening. Things are happening before the eyes of the hon. Minister and she looks the other way. I think that religious property should have a clear legal basis. If a *Mandir* or a *Masjid* or a *Gurdwara* is required, there should be an appropriate provision because we are a religious people. There should be a provision in every habitable area; there should be a provision in every colony for allotment of developed land for the purpose. But if they sprout on sideways—shall we say, after some time, Delhi roads shall become dotted with these things. I do not know whether it shall add to its beauty or ugliness. But surely it will not be a very civilised City.

Therefore, I would suggest to the hon. Minister that in any matters of unlawful occupation of public land, she should be absolutely ruthless. She has just now accused one of

my colleagues of taking a political view of the matter. But I accuse her that her Government takes a political view of the matter whenever it comes to such questions. Therefore, let us act with a sense of responsibility. Our responsibility is to both the landlords as well as tenants...*(Interruptions)*... Yes, Sainik Farm is also one of the examples. There is also another example of R.K. Puram, where some sort of dairy land is occupied which is the public land. I do not know how they come to grow all the time. So, I would suggest that these cases must be looked into. Whether it is in the name of religion or whether it is, by virtue of influence, power, and money, you should be absolutely ruthless in digging them out. After all, we need a space for the millions of our people who are living in Delhi and they should be able to live properly.

Sir, with these words, I generally support this Bill. I hope that the honble, Minister shall be clarifying some of the points that I have made.

[Translation]

SHRI GIRDHARI LAL BHARGAVA (Jaipur) : Mr. Chairman, Sir, I thank you for giving me time at the end. Now, in the Bill presented before the House, the word 'Control' coming after 'Rent' in the Act of 1958 has been deleted. No doubt, it is a good Bill and the Hon. Minister will be remembered throughout the country for this. My submission is that owner and tenant, both do not want to vacate the house after investing a huge amount on it. Whether this problem will be solved or not, only future will tell. You as well as the Chairman of the Committee have laboriously worked over this Bill, invited shopkeepers, tenants and owners and examined their memoranda. Then you decided to include those things in the Bill. Everybody has a problem because one is tenant some where and the other is owner elsewhere.

My feeling is that this Bill definitely needs some more change. It is difficult to say that its passage will provide relief to both tenants and owners.

SHRIMATI SHEILA KAUL : You were not here, I had said that it will have some more pages.

SHRI GIRDHARI LAL BHARGAVA : I was here. I could not listen due to defect in earphone. Thank for this information.

As previous speakers were saying that owners and tenants will give notices, then it will not be a balanced Bill. You deserve congratulations for making provisions in this Bill for old persons, handicapped, widows of ex-servicemen and similar other categories. But you should not make haste in it. After all, it is Lok Sabha whose representatives are elected democratically and we have to take care of the opinions of the ruling and opposition parties. After elections in 1994, Legislative Assembly was constituted in Delhi. It is not a model Act for application in the whole country. I was told that a good Bill is being brought forward. In elections

for Delhi Assembly, 70 members have been elected and it will be most appropriate to sent this Bill to the Delhi Assembly, instead of discussing and passing it here in Lok Sabha.

[English]

MR. CHAIRMAN : Shri Girdhari Lal Bhargava, you may continue next time.

[Translation]

SHRI GIRDHARI LAL BHARGAVA : Thank you. I meant it should be sent to Delhi Legislative Assembly. I will study the Bill and express my view next time.

MR. CHAIRMAN : Bhargavaji, it is 5.30 now.

17.31 hrs.

HALF-AN-HOUR DISCUSSION

Unutilized Foreign Loans

[English]

MR. CHAIRMAN : Now, the House will take up Half-an-Hour discussion. Shri Ram Vilas Paswan.

[Translation]

SHRI RAM VILAS PASWAN (Rosera) : Mr. Chairman, Sir, it is an important issue under discussion here. When Starred Question No. 721 was taken up in the House on 26th May, 1995 on this subject, the hon. Finance Minister was not then present in the House. The members sought information from the junior Minister then present but he could not get the required information. Therefore, the Hon. Speaker decided to have half-an hour discussion on it.

I am shocked to say that the country is going in for plenty of internal and external borrowings. A very dangerous situation has come before us. When one looks at the figures of internal and external debt, one is compelled to think of future.

There was a time when India used to lend money to others. Even when the Britishers left India, there was no foreign debt on India. Today the situation is so grave that our Government is even unaware of the amount of external debt on India. That question was asked by Hon. Members as well as the Chair from the Minister but no reply was given.

In C.A.G.'s Report, it is stated that internal and external debt amounts to Rs. 5,58,421 crore. The report also states that during 1993-94, which was peak period, foreign loan of 214 crore rupees was taken daily which comes to nine crore rupees per hour. In the same report, Rs. 5,58,400 crore have also been mentioned. I do not know whether Government has this information. The Government must