The other amendment is about the addition of seven persons from a particular category of persons. The Indian Medical Council will function only till the new Council comes into existence. If unhappily a vacancy arises—God bless everybody, let there be no vacancy during this period....

Mr. Deputy-Speaker: Does it not occur by resignation?

Shri Karmarkar: Even that, God forbid. That is what I was saying. It may be any type of vacancy, by retirement, by resignation and so on. We do not want these vacancies to be created and the Government is not anxious to fill these vacancies. But if some vacancies arise, somebody has to be vested with power to nominate. Therefore, the Government which is naturally the representative of the people is the relevant body. If he really understands his amendment more than he appears to have understood it, he would not press that because he appears to place a little discretion in the hands of the executive council of the Indian Medical Council. We do not want to be clogged in the matter. We would like the Government which is responsible to this House to be vested with the power of nomination in respect of the vacancies. I think that what I have said is appreciated by him. In any case, it does not appeal to us and so I oppose them.

Mr. Deputy-Speaker: Does the hon. Member press his amendment?

Shri Karmarkar: I do not think he presses it.

Shri Halder: I do not press it.

Mr. Deputy-Speaker: So, amendments 1 and 2 are not pressed. Have the hon. Members leave of the House to withdraw those amendments?

The amendments were, by leave, withdrawn.

Mr. Deputy-Speaker: I shall now put the Government amendment to the vote of the House. The question is:

Page 1, line 15,—

after "1933" *insert*—

" , with the addition of seven members nominated thereto by the Central Government from among persons enrolled on any of the State Medical Registers who possess the medical qualifications included in Part I of the Third Schedule to this Act."

The amendment was adopted.

Mr. Deputy-Speaker: The question is:

"That Clause 2, as amended, stand part of the Bill."

The motion was adopted.

Clause 2, as amended, was added to the Bill.

Mr. Deputy-Speaker: The question is:

"Clause 1, Enacting Formula and the Title stand part of the Bill".

The motion was adopted.

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

Shri Karmarkar: I beg to move:

"That the Bill, as amended, be passed."

Mr. Deputy-Speaker: The question is:

"That the Bill, as amended, be passed."

The motion was adopted.

13.46 hrs.

DELHI RENT CONTROL BILL

The Minister of State in the Ministry of Home Affairs (Shri Datar): I beg to move:

"That 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, be referred to a Joint Committee of the Houses consisting of 15 members; 30 from this House, namely Shri Radha Raman; Choudhry Brahm Perkash; Shri C. Krishnan Nair; Shri Naval Prabhakar; Shrimati Sucheta Kri-

[Shri Datar]

palani; Shrimati Subhadra Joshi; Shri N. R. Ghosh; Shri Vatukuru Rami Reddy; Dr. P. Subbrayan; Shri Kanhaiyalal Bharulal Malvia; Shri Krishna Chandra; Shri Kanhaiya Lal Balmiki; Shri Umrao Singh; Shri Kalika Singh; Shri T. R. Neswi; Shri Shivram Rango Rane; Shri Chandra Shankar; Shri Bhola Raut; Shri Phani Gopal Sen; Sardar Iqbal Singh; Shri C. R. Basappa; Shri B. N. Datar; Shri V. P. Nayar; Shri Shamrao Vishnu Parulekar; Shri Khushwaqt Rai; Shri Ram Garib; Shri G. K. Manay; Shri Uttamrao L. Patil; Shri Subiman Ghose; Shri Banamali Kumbhar and 15 members from Rajya Sabha;

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

that the Committee shall make a report to this House by the first day of the next session;

that in other respects the Rules of Procedure of this House relating to Parliamentary Committees will apply with such variations and modifications as the Speaker may make; and

that this House recommends to Rajya Sabha that Rajya Sabha do join the said Joint Committee and communicate to this House the names of members to be appointed by Rajya Sabha to the Joint Committee".

Sir, as you are aware, the question of control of the rent has been before the Government and the public as a result of the commencement of the fatal World War. Two actions were taken when it was found that the rent was rising beyond proper and due proportions. In 1939, immediately after the starting of the Second War, an order was issued known as the Order of 1939. Thereby rent control was introduced, first in New Delhi and the standard rent fixed was the one in force on, or twelve months before, 1-1-1939. It was laid down that the landlord was not to charge a higher rent. Thereafter in 1944, the Delhi Rent Ordinance was issued and the rent control was applied to the whole of the Old Delhi areas and there also the standard rent was the same as in the earlier year, 1939. For non-residential purposes, it was stated that a slight increase should be allowed for those premises the rent on which was not less than Rs. 15 per month. For structural and additional improvements a certain percentage of increase was allowed. The House may note that the increase that was allowed was 6¼ per cent of the cost of improvement. Thereafter, an Act was passed in 1947 known as the Delhi-Ajmer-Merwara Rent Control Act, 1947. What was done then was, as I have pointed out, under the orders of 1939 and 1944 a certain rent was fixed which, in terms of the present Bill, would be what can be called the 'original rent'. Then it was felt that there ought to be some further increase in view of the conditions then obtaining, in view of the cost of materials and a number of other circumstances. Therefore, for the first time, when this Act of 1947 was passed, a certain percentage was increased, and the percentage also has been given here in the present Bill, which might be generally called the 'basic rent'.

We have three terms which have to be understood for a proper appreciation of the provisions of this Bill. One is the 'original rent' covered by these two orders of 1939 and 1944. The second one is what is now called the 'basic rent'. These terms were not used then, but in order to appreciate the provisions that we have in the present Bill it would be better to understand what it was, or what constituted a 'basic rent

This term 'basic rent' has been referred to in the Second Schedule attached to this Bill. There in paragraph 2 the term 'original rent' has been defined,

and that 'original rent' naturally was in respect of premises let out before 2nd June, 1944. Then, after taking into account the 'original rent' what was done was, the 'basic rent' had to be fixed up, and that has been referred to in paragraph 3 of this Schedule. There you will find that a certain percentage of increase has been allowed. It is stated there:

> "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 certain percentage is given—there is a graded increase so that those poor tenants should not be hit hard. This is for residential and for certain useful purposes when the premises are let out. Then, for premises other than those mentioned in paragraph 3, the basic rent of the premises shall be the original rent increased by twice the amount of this percentage. That was, as I pointed out, the basic rent which was allowed under the provisions of the 1947 Delhi-Ajmer-Merwara Rent Control Act. That continued until 1952.

In 1952 we had an Act which is still in force. Under that Act, you will find that so far as the rent structure is concerned that was not increased as such, but certain two provisions were made. One was that a point was laid down, a point or what ought to be the interest or the return that a landlord should expect whenever he lets out his premises to other persons. It was laid down under the Act of 1952 that in respect of those premises which were let out after 2nd June, 1944, rent should be such that it should not exceed 7½ per cent. Another provision was, with a view to see that houses were constructed. some impetus was necessary to be given to landlords to induce them to construct houses and, therefore, in those respects a departure was made and exemption was granted according to which houses constructed between 2nd June, 1944 up to 2nd June 1951 were to continue on the rent agreed upon between the parties without any change for seven years and thereafter, naturally, a proper percentage should be followed; because it was expected that while, on the one hand, the tenant ought to pay a proper or a fair rent, on the other hand, it is also necessary that the other question should be taken into account, namely, that there ought to be some impetus to the landlord to carry on construction work Therefore, for constructions between 2nd June, 1944 and 2nd June 1951 a seven years' period was allowed during which they would be exempted from any control so far as rent control Act were concerned.

This Act is now in force. There are a number of difficulties that have been found, and the purpose of the Act of 1952 is not fully served. Therefore, Government considered it necessary to have a new Act replacing the old one to the extent that it is necessary, and so as to bring it in conformity with the modern conditions. That is why certain objectives have been placed before the people for the purpose of framing a new Act as per the Bill that we have now before us.

Three objectives have been pointed out in the Statement of Objects and Reasons. Firstly, that there ought to be a rent which is fair, which it not unconscionable. So far as the tenant is concerned, he has to pay some rent, but it should not be unfair, it should not be unconscionable. That is the first objective. The second objective is that the house also should remain in good repairs. As a result of the houses having been let out to tenants, the maintenance of houses. Therefore, ces, the landlords began to take less and less interest in the upkeep or in the maintenance of houses. Therefore,

[Shri Datar]

what happened was that, when there was no proper repair, when maintenance was not properly looked after, some of the houses began to suffer from want of repairs. That object also has, therefore, to be taken into account and some increase has to be allowed in the rent on the ground that there ought to be some incentive to the landlords to keep the houses in good order, to maintain them properly, and not allow them to go to rack and ruin. That is the reason why this second objective was kept in view.

Then, as you are aware, the population of Delhi is increasing really by leaps and bounds, and we have also a large refugee population here. A considerable difficulty has, therefore, been felt so far as housing is concerned by numerous classes and categories of residents of Delhi. For that purpose, Government are doing whatever is possible but, in addition to this, in the private sector some encouragement has to be given, some proper and legitimate inducement has to be held out before the landlords or those who are in a position to construct houses. That is the third objective that has been kept in view, that incentive ought to be offered to those prospective builders so that they may further invest their money in the construction of new houses. This is a matter which is of great interest to those who are staying in India, to those who are residing in India and, therefore, it became necessary to give some further inducement so far as this question is concerned.

Lastly, under earlier Acts some protection was given to tenants in respect of wrong or wrongful evictions. It became necessary that under the present Act a larger measure of protection ought to be given so far as the tenants who had been or who have been in possession of the premises are concerned.

14 hrs.

So, these are four objectives that we kept in view, There were also certain reasons or grounds for having a new Act so that other difficulties which were often felt could also disappear. For example, you will find from the Act of 1952, what was done was that whenever fair rent had to be fixed or whenever the landlord wanted eviction, the disputes between the landlords and the tenants, and the fixation of fair, standard rents were matters which were to be settled by the civil courts. So far as the civil courts machinery is concerned naturally, it is liable to delays, and there are a number of reasons where matters could not be disposed of early. That is the reason why it was felt that instead of having the usual judicial machinery of the civil courts, it would be better and would conduce to the speedy disposal of proper cases regarding standard rents and proper and expeditious adjudication of points between landlords and tenants, if a new machinery was evolved. Accordingly, a new machinery under the present Bill has been evolved. It is known as the machinery of the rent controllers.

There is a separate chapter in this Bill, dealing with the appointment of rent controllers. Their qualifications have been so fixed that they would be in a position to decide the cases in a fairly judicial manner. Therefore, the rent controllers have to be appointed in Delhi for certain zones into which the areas covered by this Bill or Act would be divided, and in that case, it will be open to the rent controllers to follow the usual methods laid down so far as the ordinary procedure is concerned. So far as the principles of justice are concerned, after hearing the parties, the rent controllers will fix the rent properly and fix the increase properly and will allow evictions only in proper cases according to the provisions of the Bill and otherwise pass orders that have to be passed in respect of the relations which are sometimes strained between landlords and tenants. These are the various matters which were being

considered and adjudicated upon by the civil courts, but it was found that it was a costly machinery and that it was a machinery which was liable to delays. There were a number of suits which are still pending for a number of years. That is the reason why it was considered that speedy procedure should be followed.

I may here give some figures showing the number of ejectment cases pending in civil courts at Delhi in November, 1957, under each of the sub-sections of section 13(1) of the Delhi Ajmer Rent Control Act of 1952. The total number of cases is 5,327. The largest number of cases came under non-payment of rent, and *bona fide* requirements. Under non-payment of rent, it is 38; sub-letting and non-payment of rent, 841; *bona fide* requirements and non-payment of rent, 852; rebuilding, 382; nuisance, 432; damages, 385; repairs, 220. There are also some minor cases referred to. But I would point out that this is a fairly large number; it is taxing both to the landlord and the tenant. After all, if a litigation is there, it gives a considerable amount of inconvenience to both the parties and at least there is a sense of suspense which is not good either for the landlord or for the tenant. That is the reason why so far as this Bill is concerned, a new machinery has been evolved and that machinery is the machinery of the rent controllers. After an order has been passed by the rent controllers, it is subject to an appeal in the first instance to a tribunal. That tribunal will be there as an appellate authority. The tribunal will deal with all the cases in respect of which appeals have been filed by the aggrieved parties, and then you will be pleased to find that a second appeal also has been allowed so far as the question of law is concerned. In other words, you will agree that we have followed in substance the very principles that have been laid down in the Code of Civil Procedure, namely, that there should be a first appeal in respect of all questions, both of fact and law, and thereafter a second appeal to the high court itself so far as the decisions on questions of law are concerned. These are the points that have been taken into account.

There are a number of matters which have to be mentioned. I would go very briefly through the summary of this particular Bill. You will find that the provisions have been so devised as to be salutary both to the landlords as also to the tenants. When this Bill was introduced in this House a few days ago, we had press comments and also the views of correspondents. If they are properly analyzed, we will find that both the landlord section as also the tenant section have complained against the provisions of the Bill. That is a matter which might perhaps show that we are in the right, because we wanted to hold the scales even. I can understand the tenants complaining that this is a pro-landlord Bill, but if landlords also complain that this is a pro-tenants Bill, then, it is some indication or measure to show that this Bill has tried to hold the scales even between the legitimate claims of the tenants and also of the landlords.

Shrimati Subhadra Joshi (Ambala): Not a socialistic Bill.

Shri Datar: Under these circumstances, you will find if you go through the Bill that we have tried to make it as useful to all classes of society as possible, while keeping in view, as I have stated, certain broad features.

With your permission, I shall very briefly go through the provisions of the Bill in as brief a manner as possible. As I have pointed out, I shall first deal with the original rent, that is, the basic rent, which is also known as the standard rent. In this respect may I point out that houses exempt from the provisions of the 1952 Act

[Shri Datar]

were those constructed between 2nd June, 1951 and 8th June, 1955. These were exempted for a period of seven years from the date of their completion. That was done by way of an incentive.

I would request the hon. House to go through clause 6 which deals with the fixation of standard rent as also Schedule II. The second schedule is a Preliminary or an introductory schedule. What is a standard rent, how it has to be fixed, and to what extent it has been increased—all these have been pointed out in clause 6. The underlying principle is that the basic rent a ten per cent increase has to be taken into account, and to the basic rent a ten-per cent increase has to be allowed. You are likely to ask why this has been allowed. You will find that this has been allowed in the year 1958 on account of the circumstances that the costs of construction of houses have also increased to a very large extent. They have increased to more than 300 per cent. I have got figure according to which the costs of construction have increased in such a way that something has to be done in order to enable the builders of houses to give some relief. If the building cost index in Delhi based on the Central P.W.D. rates is taken as 100 in 1939, it has increased to 325 in 1958. That means it has been trebled—more than 300 per cent. Under those circumstances, I suggest that the framers of the Bill were right in allowing some increase. That is why clause 6 has provided for standard rent in respect of buildings let out at any time before 2nd June, 1944. Clause 6 says that in respect of such premises, standard rent means the basic rent of such premises as determined under the provisions of the Second Schedule together with 10 per cent of such basic rent. Over the basic rent, we have allowed an increase of only 10 per cent of the basic rent. That is a point which I would request hon. Members to note carefully. Sometimes we are criticised; but, I want to point out that we have not given a very large increase at all; because it is only 10 per cent. increase over the basic rent which was fixed some years ago.

In the case of premises which were constructed before 2nd June, 1951 and let out at any time on or after the 2nd June, 1944. there also this 10 per cent. increase has been allowed. In any other case, where the rent has been fixed under the Acts of 1947 and 1952, then an increase has to be allowed on the basis of a certain principle, namely, that the rent shall be calculated on the basis of annual payment of an amount equal to eight and one-fourth per cent, per annum. This is the criterion of the interest or return that the landlord is entitled to have. This is the maximum that we allow in view of the present conditions. This principle has been followed for the purpose of fixing the standard rent.

Certain other points have been made clear in clause 6.

The proviso may kindly be studied by hon. Members. It says:

> "(a) in the case of any premises constructed on or after the 2nd day of June, 1951, but before the 9th day of June, 1955, the rent at which the premises were let for the month of March, 1958 or, if they were not so let, 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."

That has been laid down by way of concession.

Pandit Thakur Das Bhargava (Hissar): This is not a concession; this is taking away a concession.

Shri Datar: The hon. Member is entitled to have his own views. Proviso (a) deals with the premises constructed after 2nd June, 1951, but

before 9th June, 1955. Proviso (b) deals with the cases built after the 9th June 1955 including those which are built after the commencement of the Act that will follow if this Bill is passed. In that case, 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. These are the two provisos which have been introduced in this Bill for the purpose of giving some protection so far as the parties are concerned.

It has been made clear in clause 7 that certain charges ordinarily will have to be paid by the tenant or the landlord as the case may be. So far as charges for consumption of electricity and water are concerned, if in the absence of any agreements to the contrary, they are paid by the landlord or recovered from the landlord, the landlord can recover them from the tenants. So far as the taxes on the building and land are concerned, naturally it is a liability to be borne by the landlord. That also has been made clear.

So far as the question of sub-letting is concerned, it is a fairly complicated matter, but often times, we have to deal with sub-letting. Two points have been made clear here. One is normally sub-letting should not be allowed, because if a man takes a particular house or premises, ordinarily he ought to be in possession of the premises so long as the relationship of landlord and tenant continues. But there might be certain circumstances where there has been a sub-tenancy which has been more or less condoned or acquiesced in by the landlord. There are a number of such cases.

There are other cases where the landlord sub-leases a particular tenancy and then goes and lives in another house. Such cases were fairly large. So, it was laid down that there ought to be a regularisation of some cases of sub-tenancy; not all. A principle also has been laid down. One of the aspects from which the question of rent is approached, so far as sub-tenancy is concerned, may be found in clause 7(3). Clause 7 deals with lawful increase of standard rent in certain cases. After the fixation of standard rent, if there have been some additions, any improvements, and if that circumstance has not been taken into account in fixing the standard rent, a further proper increase ought to be allowed. That has been made clear in sub-clause (1) which says:

> "Where a landlord has at any time, whether before or after the commencement of this Act, incurred expenditure for any improvement, addition or structural alteration in the premises....."

The words following this have to be noted:

> "....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 premises, the landlord may lawfully increase the standard rent per year by an amount not exceeding eight and one-fourth per cent. of such cost."

That is the criterion laid down so far as the legitimate expectations on the part of the tenant are concerned.

I have already dealt with sub-clause (2). Sub-clause (3) says:

> "(3) Where a part of the premises let for use to a tenant has been sub-let by him—
>
> (a) the landlord may lawfully increase the rent payable by the tenant—
>
> (i) in the case of any premises let for residential purposes, by an amount not exceeding twelve and one-half per cent. of the standard rent of the part sub-let;

[Shri Datar]

(ii) in the case of any premises let for other purposes, by an amount not exceeding twenty-five per cent. of the standard rent of the part sub-let."

This is what is called regularisation of increase of rent.

Then, clause 8 deals with notice of increase of rent which has to be given by the landlord to the tenant. This will arise where the standard rent has not been fixed at all. There it is open to the parties to approach the Rent Controller, and the procedure to be adopted by the Rent Controller is dealt within clause (9), where it is stated:

"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."

Then, in sub-clause (2) it is stated:

"In fixing the standard rent of any premises of 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."

Then, in sub-clause (3) the same point has been made further clear. Where it becomes difficult to assess the exact rental capacity, it is open to the Controller to fix it after having due regard to the situation, locality and condition of the premises and the amenities provided therein. So, he has to take into account the locality and the rent of the premises in the neighbourhood and then he can fix it properly.

I need not deal with the other points dealt with in clause (9). I will now come to the fixation of interim rent. Often times what happens is that suits are filed by the landlords for eviction on the ground of non-payment of rent. In such cases, if the tenant finds that the rent is not fair or is unconscionable, it would be open to the tenant to approach the Rent Controller and to have interim rent fixed, and after it is so fixed, he can go on paying it, and if he goes on paying it properly, there would be no penalty of eviction. That is the principle of equity which has been embodied in this Bill. The clause says:

"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....."

In fact, we expect all the proceeding before the Rent Controller will be expeditious.

"....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."

Then, nothing more than the standard rent, plus increase where it is allowed, is to be charged. That is laid down in clause (11). Then we have a period of limitation. Formerly, it was six months. Now it is one year.

Then you will find that Government have tried to be fair with the tenants, to a larger extent than even with the landlords. If in any particular case something more has been recovered, something which ought not to have been recovered has been recovered,

that will have to be refunded, and that has been provided for in clause 13.

Then, Chapter III is a very important one from a number of points of view. It deals with the question of eviction. It lays down that eviction can be only on certain grounds, and the grounds have been specified in clause (b). The first point is non-payment of rent. The second point is sub-letting and assigning or otherwise parting with possession. In that case, two conditions have been laid down. If the premises have been let out after the 15th day of April 1952 without obtaining the consent in writing of the landlord, then it can be done. Then, consent in writing is necessary in respect of all houses let out after the 15th day of April, 1952, that is the date on which the last Act came into force. If the premises have been let out before the same date without obtaining his consent, writing or oral of whatever it is, then this will apply. Then, if the tenant has used the premises for a purpose other than for which it was let out, this will apply. Here again some conditions have been laid down. The condition is 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. Now, the tenancy has been for the purpose of residence, for the purpose of proper use. If for example, it is not in occupation for a period of six months, then he is naturally entitled to eviction. The next condition is that the premises let for residential purposes are required *bona fide* by the landlord for occupation as a residence either for himself, if he is the owner thereof, or for any person for whose benefit the premises are held. Here you will find that the rule has been relaxed so far as such *bona fide* purposes are concerned. Under the earlier Act, it was open to the landlord to ask for possession of premises let out to a tenant for his own use or for the use of his family. The word "family" is comprehensive enough to include all relatives, near or distant. So, the word "family" has been purposely removed. Here we have stated that it has to be for himself or, if he is the guardian of some other person, for that person. Otherwise, he cannot ask for possession of the property on the ground of his requirement, his *bona fide* requirement. An explanation has also been given in this respect.

Then I come to sub-clause (f). This refers to premises which have become unsafe or unfit for human habitation and is required by the landlord for carrying out repairs. There are a large number of buildings which are in possession of the tenants. In such houses, the landlords, on account of certain difficulties, are not willing to have proper repairs effected. Therefore, what happens is that the houses are not in a good condition at all Sometimes, they are in unsafe conditions. Therefore, it has been stated that where they are required for repairs, which cannot be carried out without the premises being vacated, it can be done. This also is made clear because if repairs can be carried out when the tenant is in possession, then they should be so carried out. But when they require serious repairs, more costly repairs, then naturally the houses will have to be vacated by the tenants.

Then, if 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, the tenant can be evicted. Another condition is that the tenant has, before or after the commencement of this Act, built, acquired vacant possession of, or been allotted, a suitable residence. This is a very reasonable ground for eviction. For example, a tenant was residing in a particular house. If he has another house which he can use, it would be absolutely wrong, especially when there is such a great pressure on housing, to permit him to use both houses. It is quite likely that he has rented out the other house for some

[Shri Datar]

advantage. In such a case he is liable to eviction.

Another condition is 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. That is a term of the employment. When the landlord, as master, allows his tenant, as servant, to remain in possession of a house, when the service comes to an end, naturally the tenancy also must come to an end.

Then there is a provision with respect to damages. Sometimes the tenants do not take proper care of the house and sometimes positive damage is also caused. That has been provided for in sub-clause (j), which reads:

> "that the tenant has, whether before or after the commencement of this Act, caused or permitted to be caused substantial damage to the premises, or notwithstanding previous notice, has used or dealt with the premises in a manner contrary to any condition imposed on the landlord by the Government....."

Then, if the landlord requires the premises in order to carry out building work at the instance of Government or local authority, these orders have to be passed.

So, in these respects it is open to a landlord to ask for eviction. Then a notice has to be given which has been provided for.

Then I need not go into all other cases which have been dealt with so far as this particular point is concerned. Now I come to the circumstances when a tenant can get the benefit of protection against eviction. If for example, a suit has been filed for eviction on the ground of non-payment of rent, then we have got a provision in the Transfer of property Act also. A similar or a more substantial provision has been introduced in clause 15 where it has been stated:

> "In every proceeding for the recovery of possession of any premises....., the Controller shall, after giving the parties an opportunity of being heard....."

The House will kindly note the expressions which occur in the Code of Civil procedure and in similar Acts where the matter has to be heard judicially. Therefore it has been stated here:

> ".....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....."

If that is done, naturally no further proceedings so far as this remedy is concerned can go on. An interim order has to be passed, otherwise oftentimes what happened was that suits were filed for eviction on the ground that rent was not paid but the rent was not one that was proper or that was duly fixed. Under these circumstances, it ought to be open to the Rent Controller to fix the rent. It may be noted that if that rent which has been fixed as an interim measure is paid by the tenant, no future adverse consequences could arise against him.

Then, so far as the sub-tenancy is concerned, clause 16 provides:

> "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, ... within one month from the date of such sub-letting notify the termination of such sub-tenancy within one month of such termination."

I need not go into all those cases. So far as the sub-tenant is concerned, a provision has been made according to which direct relationship or a direct privity can be established between a sub-tenant, where it has been allowed, and a direct tenant. He has to give a notice and then 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.

Then, one more point which is of a fairly stern nature may kindly be noted. When a landlord files a suit for possession and when he recovers possession of the property or the tenant is evicted, then sometimes the object is not *bona fide*. It is far from *bona fide*. Then if he gets back possession and he lets it out to others, that would constitute a *mala fide* purpose on his part. Therefore a penalty has been laid down and clause 18 is very important. It says:

> "Where a landlord recovers possession of any premises from the tenant in pursuance of an order....."

A reference has been made to certain order here.

> "....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....."

So, for three years he has to continue in possession. For three years he is not to let it out because you will find that it is a very stern measure against the landlord. It is very salutary, otherwise what will happen is that he will remove a particular tenant and then let it out to another tenant, possibly on higher rent. That would be entirely wrong. Therefore this three years period has been laid down during which it will not be open to him to re-let the premises to another tenant.

When a landlord recovers possession of any premises as aforesaid and the premises are not occupied or are re-let, then you will find that the Controller may, on an application made by him in this behalf, direct the landlord to put the first tenant into possession. That means that restitution is allowed under proper circumstances. When, for example, the whole action is *mala fide* on the part of the landlord, when he recovers possession through the court or otherwise and when he re-lets it to some other person, then that constitutes a great inconvenience to the first tenant and therefore in such a case it is open to the Rent Controller, after going through the facts of the case and after hearing the parties, to allow what can be called a restitution or to allow restoration of the possession to the original tenant.

Shri Braj Raj Singh: What is the penalty?

Shri Datar: If you will wait for some time, you will understand the penalty. There is also criminal liability. Then hon. Member will understand that. In addition to what has been done here, he will get back possession. That is the first thing. The second thing is that he will get back what is recovered from him, more than what is due. Then I would point out how in addition to these ordinary measures of a civil character between the landlord and the tenant, a provision has been made in this Act. So, to that extent you will agree that this is also a penal Act. I would invite the hon. Member's attention to a clause where it is said that if any provisions are not complied with or are violated, then he renders himself liable to penal provisions, *i.e.*, he can be awarded punishment also. To that I shall come very soon.

Recovery of possession for repairs and rebuilding and re-entry has also been provided for. Then, I would not go into other matters of details and would pass on to Chapter IV, where it is open to a tenant to pay

[Shri Datar]

the money directly to the landlord. But sometimes these landlords are not prepared to take money. They evade the receipt of money. Now, two rules have been laid down. One is that when rent is offered then he ought to pass a receipt also. When it is found that the landlord is evading the receipt by certain subterfuges, it is open to the tenant to deposit this money wih the Rent Controller and the payment to the Rent Controller constitutes in law and the payment to the landlord concerned. That has been provided for in Chapter IV.

Shri C. R. Pattabhi Raman (Kumbakonam): Is there a fund?

Shri Datar: The deposit of the rent with the Rent Controller constitutes in law the payment of the landlord. It would be open to the landlord to take the money from the Rent Controller.

Shri C. R. Pattabhi Raman: I was more concerned about the Rent Controller in whose custody this money is going to be. Because of the few words that fell from the hon. Minister, I submit with respect that some provision should be made for the Rent Controller to hold that money in some fund, otherwise it cannot be in mid-air.

Shri Datar: That question might be examined. In any case, here what we are concerned with is not the possible return or income in respect of that money, but that the amount is to be paid. In the first place, the tenant has got to pay and the landlord has got to receive and pass a receipt. If he does not do so wrongly or wrongfully then the tenant's liability has to be put an end to because if it is not put an end to, several consequences of a serious nature will follow. Therefore, it has been laid down that payment to the Rent Controller constitutes in law the payment to the landlord. The landlord might recover it from the Rent Controller.

Then Chapter V is a chapter which deals with hotels and lodging houses and where certain provisions have been laid down according to which it is the duty of the manager or the proprietor to charge only reasonable charges and not excessive charges. In a proper case, under clause 30 if there is a written complaint before the Controller or otherwise and if he believes that the charges made for any board or lodging or any other service provided in the hotel are of an excessive character, he may fix a fair rate. That also has been provided for. This rate which has been fixed may be revised by him in proper cases. Charges in excess of the fair rent are not recoverable if they charge. Then, there is provision for recovery of possession by manager of a hotel. That is so far as the grievances of the managers are concerned. The lodgers or boarders have to use the premises for a proper purpose and not make themselves a nuisance or cause annoyance to others. This is the usual priniciple.

Then, we come to Chapter VI dealing with Appointment of Controllers. So far as this is concerned, I have already pointed out what has been done. I shall briefly make reference only to a few provisions. One is:

> "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."

That would make it clear that he ought to have inculcated in him not only service, but the judicial spirit as well. That is the reason why civil courts have been barred from taking cognizance of these cases and they have been entrusted to those who are judicial officers in the fullest sense of the term.

Shri C. R. Pattabhi Raman: Not a lawyer?

Shri Datar: No.

Shri C. R. Pattabhi Raman: I find, you cannot appoint a lawyer. As the definition now stands, he must have held a judicial office.

Shri Datar: A lawyer, after becoming a judicial officer, elsewhere can qualify himself. A lawyer by himself is not to be appointed.

Mr. Deputy-Speaker: Does Shri C. R. Pattabhi Raman refer to the appearance of lawyers or to the appointment of lawyers?

Shri Datar: Appointment of lawyer: not appearance.

Shri C. R. Pattabhi Raman: Appearance is protected, fortunately. The Supreme Court says that they can appear, that first a notice should be given and there has to be a hearing and all that. Only a lawyer cannot be directly appointed as a Controller.

Shri Datar: What he possibly means is that it is not open to a lawyer to be appointed. As I said, a lawyer can first become a judicial officer elsewhere. For five years let him serve and then, he will be eligible. Then, Sir.

> "The Controller shall have the same powers as are vested in a civil court....."

This may be noted.

> "under the Code of Civil Procedue, 1908, when trying a suit, in respect of the following matters,....."

It has to be treated as a judicial proceeding. Some other provisions have been laid down. Then, comes the procedure to be followed by the Controller. This is a principle of civil jurisprudence which has been laid down.

> "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."

You will find that he has got all the powers and he has to follow the same procedure as a regular civil court. The procedure that has to be followed should be the proceduce of the court of small causes. Otherwise, if a lengthy procedure is there, lengthy cross-examinations are carried on, there will be no end of the case at all. Therefore it has been laid down that the procedure should be the one followed by the court of small causes. He can also award costs in proper cases

Provision has been made:

> "An appeal shall lie from every order of the Controller made under this Act to the Rent Control Tribunal....."

Here, the qualifications that have been noted are,—in sub-clause 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."

Shri C. R. Pattabhi Raman: Another thing struck me in respect of drafting. It is said, 'An appeal shall lie'.

Shri P. S. Daulta (Jhajjar): What is this? The hon. Member can speak after the hon. Minister finishes. This is a cross-examination.

Mr. Deputy-Speaker: If something prompts him just now, there is no harm in that. I may point out to the hon. Minister that he shall have to answer the criticisms that would be made during the discussion. He has already taken one hour. He shall have to reply again.

Shri Datar: May I point out, Sir, without committing myself at this stage, that there is some force in what he says? If we use the words that an appeal shall be preferred, we cannot compel a private person to file an appeal in every case.

Shri C. R. Pattabhi Raman: The usual wording is, 'There shall be an appeal'.

Shri Datar: That is why I said, there is some force.

Shri C. R. Pattabhi Raman: This is best known to the draftsmen.

Shri Datar: That question may be considered.

Mr. Deputy-Speaker: It is going to the Joint Committee and they will consider.

Pandit Thakur Das Bhargava: An appeal shall lie to a Tribunal consisting of one person—not in every case an appeal shall be made.

Shri Datar: In sub-clause (1), "An appeal shall lie...."; in sub-clause (2), it is said, "An appeal under sub-section (1) shall be preferred within.....". If both are taken together, they make a consistent case.

Mr. Deputy-Speaker: First it is said that an appeal shall lie and then that it shall be preferred.

Shri Datar: I think both should go together.

Under what circumstances will an appeal lie to the High Court? It has been made clear in sub-clause (2) of clause 38 that:

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

The word 'substantial' has been put in purposely in order to avoid unsubstantial or technical questions.

There are provisions for amendment of orders. The Controller is to exercise the powers of a magistrate for recovery of fine. The Controller is to exercise the powers of a civil court for execution of orders. Then, comes the provision regarding finality of the order. Then, there are provisions regarding special obligations of landlords and tenants. What they have to carry out, has been made clear. Certain things, they should not do. I need not detail all that.

I would, then, bring to the attention of Shri Braj Raj Singh clause 47. Clause 47 is the last clause in this Chapter. It says that if any person contravenes any of the provisions of section 5, he shall be punishable with imprisonment for three months or fine, in the case of contravention of the provisions of sub-section (2), etc. three months imprisonment or fine. You will find that a number of offences have been created. If a landlord fails to comply with the provisions of section 45, he shall be punishable with fine which may extend to Rs. 100.

Under clause 48, no court inferior to that of a magistrate of the first class shall take cognizance of any offence punishable under this Act, or hold trials. A larger power has been allowed in the case of fine:

> "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 section 47."

You will kindly note the expression "exceeding two thousand rupees". Rupees two thousand is the limit that has been laid down so far as ordinary powers of first class magistrates are concerned. It would be open to him to pass a sentence of fine exceeding Rs. 2,000. The highest amount is not mentioned. That means he can impose

any amount of fine after taking into account all the circumstances of the case.

Then, we have the last Chapter which is the Miscellaneous Chapter. Clause 49 bars the civil courts. So far as the suits that are already going on are concerned, the provision is that they shall continue where they are, namely in the civil court.

Pandit Thakur Das Bhargava: The redeeming feature is that suits for title are saved. It is said in sub-clause (4) that a suit in respect of title is saved. That is the most important thing.

Shri Datar: That provision is also there. It says:

> "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."

That is, question about title pure and simple. Naturally, that has been left to the civil court.

I would invite your attention to clause 52 according to which certain other Acts have been saved.

> "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."

This Act will continue in force till February 1959. This Act itself is of an interim nature. Now it has been allowed to remain.

Then there is the clause relating to power to make rules as usual. Then the earlier Act of 1952 has been repealed because this Act deals with all the provisions, makes changes therein and adds certain provisions therein also.

Thus you will find that if all these circumstances are taken into account, there has been considerable improvement on the last Act of 1952. The provisions that have been introduced in the Bill are of such a nature as to be of a salutary help to both the tenants and the landlords, and as I have pointed out, we have given greater attention to the legitimate claims of the tenants, and in some cases we have to take into account the realities of the situation. The realities are that there ought to be proper repairs of the houses, that the houses ought to be maintained properly; and secondly, there ought to be an incentive to the landlords or to those who are in a position to build, of a fair return provided they build properly. That is the reason why certain benefits have been promised to them, the object being that there ought to be a larger number of houses so as to cope with the pressure that at present is found. Therefore, I commend this motion to the acceptance of the House.

Mr. Deputy-Speaker: Motion moved:

> "That 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, be referred to a Joint Committee of the Houses consisting of 45 members; 30 from this House, namely:
>
> Shri Radha Raman, Choudhry Brahm Perkash, Shri C. Krishnan Nair, Shri Naval Prabhakar, Shrimati Sucheta Kripalani, Shrimati Subhadra Joshi, Shri N. R. Ghosh, Shri Rami Reddy, Dr. P. Subbarayan, Shri Kanhaiyalal Bherulal Malvia, Shri Krishna Chandra, Shri Kanhaiya Lal Balmiki, Shri Umrao Singh, Shri Kalika Singh, Shri T. R. Neswi, Shri Shiv Ram Rango Rane, Shri Chandra Shekhar, Shri Bhola Raut, Shri Phani Gopal Sen, Sardar Iqbal Singh, Shri C. R. Basappa, Shri B. N. Datar, Shri V. P. Nayar, Shri Shamrao Vishnu Parulekar,

[Mr. Deputy Speaker]

Shri Khushwaqt Rai, Shri Ram Garib, Shri G. K. Manay, Shri Uttamrao L. Patil, Shri Subiman Ghose, Shri Banamali Kumbhar and 15 members from Rajya Sabha;

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

that the committee shall make a report to this House by the first day of the next session;

that in other respects the Rules of Procedure of this House relating to Parliamentary Committees will apply with such variations and modifications as the Speaker may make; and

that this House recommends to Rajya Sabha that Rajya Sabha do join the said Joint Committee and communicate to this House the names of members to be appointed by Rajya Sabha to the Joint Committee."

There are five hours allotted for this Bill.

Shri Braj Raj Singh: Five hours only? There should be at least ten hours.

Mr. Deputy-Speaker: But the hon. Member should have taken objection to it when the recommendation of the Business Advisory Committee was put before the House. No, this has not been put. The Committee is considering it, and the representative of his party also must be there. This is a question that can be put there, and then it will come before the House. Then it can be considered. I need not at this stage.....

Shri Naushir Bharucha (East Khandesh): So far as I know today at 4 O'Clock the Business Advisory Committee will consider the Bill for which it is only proposed by the Government to devote five hours. We shall consider that.

Mr. Deputy-Speaker: This is exactly what I was saying now.

Shri Naushir Bharucha: This is not the final thing. The Business Advisory Committee may change the Government proposal.

Mr. Deputy-Speaker: This is what I am saying, that the Committee would consider the allotment today, and there the representatives of the different parties can press that point. And again that recommendation has to come before the House. Even at that time any hon. Member who wishes to take it up can take it up. Now I call Shri Daulta, if he wants to speak, because at 3 O'Clock there will be other business.

Shri P. S. Daulta: I listened to the hon. Minister with great attention and I read the provisions of this Bill more than once. The more I read it, the greater is my belief that this Bill which has been brought forward in the name of giving relief to the tenants, is a landlords' Bill.

The hon. Minister was pleased to state that even landlords cry against this Bill. Tenants cry because it pinches them. Their cry is genuine. But landlords cry because they are shrewd enough to understand psychology. They believe that for the safeguarding of their economic interests it is always better to cry, not to keep mum. They remember Allama Iqbal:

"चमनजारे सयासत में खामोशी मौत है बुलबुल"

that is, Oh! Nightingale, go on crying, because they see that politics is nothing but clash of economic interests, and if they keep mum at this juncture they are going to suffer. So, the landlords' crying may not be compared with the tenants' crying, and this Bill cannot be justified by saying that both sides cry, that is why this Bill.

The point is that the lot of the tenant of this capital is very poor to begin with. He does not find any accommodation to suit his requirements. If he finds one, he is asked to pay a very high rate for that. And even if he pays, there is no security of his tenure. Whether it is the fixing of the rent, or settling the conditions of the tenure or the termination of the tenure, it is always the land lord who wins because of two reasons. Firstly there is the law of demand and supply. Demand is far greater than supply, and because of the unequal relationship between the landlord and the tenant, it is always the landlord who gets the upper hand in his relations with the tenant. Therefor, the various organisations of the tenants in Delhi tried to change their lot. They explored all democratic means they could, they shouted from platforms, they agitated through the press, and they organised deputations and waited upon our Prime Minister and our Home Minister—I do not know about Shri Datar—and I am given to understand by these organisations that they were given very promising promises that a Bill would be brought forward giving them relief.

One thing more. The Delhi tenant is an educated man. He reads the newspapers. In the newspapers he reads that in the rural side landlords have been liquidated, that a ceiling to their property has been fixed. In the rural sides not far off from here, just five or six miles, there is a slogan going on:

"खेत उस का जो उसे बोये"

An so he asks himself: The field is to the man who cultivate, but the house is not mine when I am living in it. He is not an economist to distinguish that the one is the means of production while the other is property simply for consumption. These insights of economics he cannot understand. Psychologically he entertained very high hopes because of the promises these gentlemen made, and secondly because of this change which is going on in rural India—after all, they cannot be away from that—he expected that a very good law was coming for him. The tenants waited for long and waited with very high hopes, and now what is their reaction when this Bill has come? A big disappointment.

In this part of India there goes a saying to express the feelings of one who puts great effort, entertains very high hopes but the return is very poor:

"खोदा पहाड़ निकली चुहिया"

Even this saying does not express the feelings of the Delhi tenants today. They say they moved mountains only to get a snake, not even a mouse. They mean that this Bill is not only short of their expectations, it is not only contrary to their demands, this does not only fall short of their expectations created by the promises given by the higer authorities, it goes positively against their interests.

The very Statement of Objects and Reasons makes it clear that it is a Bill for the landlords, and they have cogent reasons for believing it, because whatever law you may bring here, if houses are not built, if new houses are not there, if quite a large number of houses are not available, no law can bring down the rent. This is a hard fact. And Government realises it. But this Government, because of its peculiar type of welfare State, does not take responsibility for providing houses to its citizens. That apart, they contributed to the situation. I do not mean the partition of 1947 to which they agreed. I do not mean even the refusing of plans creating a situation in which so many houses have been built without any permission. We say simply this: the State has been expanding, but they are not able to provide houses even for their own personnel. They have been contributing to the problem. So, before the Government the position is this. They realise that rent cannot

[Shri P. S. Daulta]

be lowered without new premises being built, and they can be built either by themselves or by the Government of the people as they have done in China and neighbouring countries; or the third, alternative is to bow before the landlords, to bow before men with money, to give them incentive to invest in this so-called industry. They have adopted the third course. This Bill is a standing invitation to the men with money, 'Gentlemen, come along, invest here, and I shall make it profitable for you' Let me tell them that it is already very profitable. If somebody wants to build a house in Rohtak or Hissar or Ghaziabad, a person from Delhi, even an ordinary clerk, would say, 'Why are you building there? Why do you not build it in Delhi, live in it and let out a part of it and have a nice income out of it?'. It is already a very profitable trade, I may tell you, and these people are going to extend this invitation to them to build houses here. And they have declared it in the Statement of Objects and Reasons. I would not refer to it in detail because my hon. friend the Minister of State in the Ministry of Home Affairs has referred to it already. But I would just draw your attention to the following:

> "(a) to devise a suitable machinery for expeditious adjudication of proceedings between landlords and tenants;".

And what are these proceedings? Out of hundred per cent proceedings between landlord and tenant, 95 per cent would be ejectment proceedings, and the other five per cent would be for realisation of arrears. Now, there will be another sort of litigation, because with this boon that they are getting they will go to the courts, that is, the controllers, to whom they will apply for an increase in the rent, and they are going to get it.

So, the first object of theirs is to give these landlords a machinery through which they can eject and can realise their arrears and can get the rents increased as expeditiously as possible.

Mr. Deputy-Speaker: Would the hon. Member like to continue his speech?

Shri P. S. Daulta: Yes.

Mr. Deputy-Speaker: This would be taken up tomorrow. we shall now proceed to the next business.

15-02. hrs.

DISCUSSION *RE*: REHABILITATION OF DISPLACED PERSONS FROM EAST PAKISTAN

Shri Panigrahi (Puri): I beg to move:

> "That the important policy decisions taken at the high level conference held on the 4th July, 1958 at Calcutta regarding rehabilitation of displaced persons from East Pakistan, be taken into consideration.".

While moving this motion for consideration, I would like to submit to the House that in Calcutta, in July last, important decisions have been taken with regard to the rehabilitation of displaced persons from East Pakistan. I share the anxiety of the Minister. He is very anxious to see that the displaced persons from East Pakistan no longer wait in the camps and they are provided with re-settlement colonies. Therefore, such a conference was held in Calcutta, and very important decisions were taken. These decisions which are important in their nature have set a time-limit by which the entire refugee population living in camps in West Bengal should be rehabilitated.