

चाहता हूँ कि हमारी सरकार की यह आदत पड़ती जा रही है कि अगर हिन्दुओं के विपरीत कोई बात कही जाती है तो उसको अल्पसंख्यकों के संरक्षण और अल्पसंख्यक जाति को सुविधा देने के नाम पर तुरन्त स्वीकार कर लिया जाता है, लेकिन अगर कोई बात इस विशाल साम्प्रदायिक संरक्षण की आती है तो उसको साम्प्रदायिक और देश के अन्दर खराब वातावरण पैदा करने वाली कह कर पीछे डाल दिया जाता है। लेकिन मैं निवेदन करना चाहता हूँ कि इस देश की जनता अब इसको ज्यादा देर तक सहन नहीं कर सकेगी इसलिए मेरा बहुत नम्रता के साथ अनुरोध है कि जो विधेयक मैं न उपस्थित किया है यह बहुत न्यायसंगत विधेयक है इसको स्वीकार किया जाय। इसमें मैं न किसी धर्म विशेष के लिए यह नहीं चाहता कि उसको कोई विशेष सुविधा दी जाए। मैंने उस समय कहा था कि अगर मुसलमानों की कुछ मस्जिदें हिन्दुओं के कब्जे में हैं तो वे उनको वापिस दे दी जाएँ और इसी तरह से ईसाईयों के कुछ धर्म-स्थान दूसरों के अधिकार में चले गए हों, तो वे भी उनको वापिस कर दिये जायें। यही बात मैं दूसरे धर्मों के बारे में कही थी। जब मैं उनके लिए मांग कर सकता हूँ तो मैं इसके लिए भी दृढ़तापूर्वक मांग कर सकता हूँ कि हिन्दुओं के कोई धर्म-स्थान अगर दूसरों के अधिकार में हैं जिससे उस धर्म के अनुयायियों को चोट लगती है, तो वे भी वापिस कर दिये जायें। यह बड़ा संगत विधेयक है और और मैं समझता हूँ कि सरकार इसको स्वीकार कर लेगी।

इन शब्दों के साथ मैं बलपूर्वक कहना चाहता हूँ कि इस विधेयक को स्वीकार कर लिया जाए।

**Mr. Chairman:** The question is:

"That the Bill to provide for the restoration of places of religious worship in the possession of

certain persons or communities to the original rightful owners thereof be taken into consideration."

*The motion was negatived.*

15.11 hrs.

# DELHI RENT CONTROL (AMENDMENT) BILL

(AMENDMENT OF SECTION 14) BY  
 SHRI TANGAMANI

**Mr. Chairman:** The House will now take up the consideration of the Delhi Rent Control (Amendment) Bill.

**Shri Tangamani (Madurai):** Mr. Chairman, I beg to move:

"That the Bill to amend the Delhi Rent Control Act, 1958, be taken into consideration."

In the Statement of Objects and Reasons I have briefly explained the purpose for which I have brought forward this Bill. It reads:

"Under the existing instructions relating to the allotment of Government accommodation, a Government servant, who has been allotted Government quarter, is liable to eviction or in default to pay the maximum penal rent as soon as he becomes the owner of the house. On the other hand, under the Delhi Rent Control Act, 1958 (No. 59 of 1958) a landlord who has acquired a house by transfer and requires it for his *bona fide* residence, cannot file an application for the eviction of a tenant unless a period of 5 years has elapsed from the date of acquiring the house. This anomalous position of law has resulted in hardship in a number of cases. Hence this amending Bill."

The purpose is a very limited one. I wanted to find out the exact position from the hon. Minister of Home

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**Affairs.** On the 1st of September 1960, in reply to my Unstarred Question No. 1937 the answer that was given to me prompted me to come to this House and give notice of a Bill of this nature on the 4th of November. My question was:

- “(a) whether it is a fact that under the Delhi Rent Control Act a person acquiring a house on transfer cannot evict a tenant for a period of five years even though he requires it for his own *bona fide* residence;
- (b) whether it is also a fact that a Government servant is not entitled to retain a Government accommodation as soon as he becomes the owner of a house whether by transfer or otherwise; and
- (c) if so, how the Government propose to reconcile the anomalous position resulting from the above-mentioned provisions in respect of Government servants?”

The late Shri G. B. Pant was pleased to say in reply that no tenant would be evicted for a period of five years if the landlord comes into possession after the tenancy has been given over to the tenant. In reply to part (b) of my question he answered:

“A Government servant can be allotted or re-allotted Government accommodation in case he is unable to obtain vacant possession of the house acquired by him, his wife, parents or children.”

In reply to my question what Government propose to do to reconcile this anomalous position, the reply was:

“Does not arise”.

I wanted to find out whether Government servants are evicted by this kind of anomalous position. I

approached the Research and Reference Section to find out as to the number of Government servants who were allotted houses but who had acquired a house subsequent to that date and who were asked to pay penal rent. They could not provide me with those figures. I hope the hon. Minister will be in a position to tell as the number of such persons who have been brought under the penal provisions.

We were told that the accommodation now available and allotted is 28,420 and the total demand is 69,773. So, the shortage will be nearly 41,000. There are two aspects here, namely, the protection of tenants and secondly, protection of *bona fide* Government employees. These two cannot be conflicting issues. One should be subordinating or supplementing the other. That is the real purpose of this Bill.

I will crave your indulgence to go through some of the provisions of the Delhi Rent Control Act, 1958. Chapter III of this Act deals with the control of eviction of tenants. Section 14(1) deals elaborately with the powers to evict, exemptions which can be sought for and given etc. Referring to the grounds on which possession of the premises can be sought by the landlord, clause (1)(e) of section 14 gives the ground:

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

Then the Explanation says:

“For the purposes of this clause, ‘premises let for residential purposes’ include any premises which having been let for use as a residence are, without the consent

of the landlord, used incidentally for commercial or other purposes;"

That is not very material here. There is a proviso to sub-section (2) of section 14 which reads:

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

This deals with payment. Then sub-section (6) says:

"Where a landlord has acquired any premises by transfer, no application for the recovery of possession of such premises shall lie under sub-section (1) on the ground specified in clause (e)".

Clause (e) relates to possession for his own *bona fide* residential use.

".... in clause (e) of the proviso thereto, unless a period of five years has elapsed from the date of the acquisition."

So, from sub-section (6) of section 14 the powers of a landlord who acquires a new property for his own residential use are very clear. That is to say, for a period of five years he does not get the right to move the Controller for the eviction of the tenant although the premises is required for his *bona fide* residence under section 14(1) (e).

15 18 hrs.

[MR. DEPUTY-SPEAKER *in the Chair*]

This is the reason why I wanted a new sub-section to be introduced in the place of the existing sub-section (6) in order to give a right to a Government servant who has acquired a new house for residential purposes to approach the Controller to evict his

tenant. Therefore, I have suggested a new sub-section (6) as follows:

"Except in the case of a Government servant who has been allotted a Government accommodation and is liable to eviction under the rules governing such allotment, where a landlord has acquired any premises by transfer, no application for the recovery of possession of such premises shall lie under sub-section (1) on the ground specified in clause (e) of the proviso thereto, unless a period of five years has elapsed from the date of the acquisition."

The object of this amendment is very clear. If Government are not going to alter the rules, then protection must be given to the Government servants. That protection can come by way of amendment to this particular Act. Now there is a blanket order which says that no tenant can be evicted for a period of five years although the house is required for a *bona fide* purpose. The position is very clear if you read sections 15(1) (e) and 15(6) of the Delhi Rent Control Act.

I want to find out from the hon. Minister whether a Government servant who has been allotted Government accommodation and who has since acquired a house in New Delhi or old Delhi will be allowed to retain the house which has been allotted to him for five years. If that is the position, I will really be out of court and this amendment will be superfluous. But if after acquiring the house of which he will not be able to get vacant possession the Government servant is asked to pay enhanced rent, naturally either this amendment will have to be accepted or the rules governing the allotment of accommodation to Government servants will have to be modified.

In reply to the question to which I made a reference a little earlier and which was answered on the 1st Sep-

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tember, 1960 by the late Shri Govind Ballabh Pant he said:—

“A Government servant can be allotted or re-allotted Government accommodation in case he is unable to obtain vacant possession of the house acquired by him, his wife, parents or children.”

These are the four persons who will bring this disqualification. A Government servant is allotted a quarter. Now if after some time either he or his wife or his parents or his children acquire a house, as soon as this is brought to the notice of the Government certain things will follow. It may be asking him to quit. According to the Delhi Rent Control Act, 1958 he will not be able to take vacant possession of that particular property which is now being owned either by himself or by his wife, parents or children and will not be able to get eviction of that tenant for a period of five years. That is very clear from section 14(6) of the Act. But does this Government servant get a blanket order of no eviction from the Government of India under these rules? My humble submission is that it is not so.

Some representations have been received and just to show the hardship. I would only take the case of some Upper Division Clerk who is drawing, say, about Rs. 250 *per mensem*. He is allotted a ‘F’ type quarter and the normal rent payable will be about Rs. 25. If he or his wife, parents or children come into possession of a house in New Delhi or old Delhi and he is not able to get vacant possession of the house because he will not be able to get the eviction of that tenant for five years under the Act, is he asked to pay enhanced rent? That is the simple question that I want to pose. I am told that certain Government employees are paying Rs. 128 as rent whereas they were paying only Rs. 25 because their mothers or fathers have acquired a particular house. The employee who is drawing Rs. 250 is made to pay Rs. 128 as rent.

If that is the case, the rules require drastic amendment. The rules must be so amended that protection is extended to that employee for a period of five years.

I have got the rules in full, but I will only make a reference to the number of that rule. It reads:

“In pursuance of the provisions of Rule 45 of the Fundamental Rules the President hereby makes the following further amendments in the Supplementary Rules published with the Government of India in the late Finance Department letter, . . . . .” etc.

This is the latest amendment which was published in the Gazette of India. It says:

“No officer shall be eligible for allotment of Government accommodation under these rules or if he is already in occupation of such accommodation, to its continued retention if—

“he owns, or has, since the allotment of Government accommodation, become the owner in full or in part whether in his own name or in the name of any other person of, a house in Delhi or New Delhi which is located within six miles of the place of his duty and in which he can, in the opinion of the Central Government reside consistently with his official position;”

The reply that was given to me by the then hon. Home Minister was that this will extend in cases where the house has been allotted to his wife or parents or children.

The rules provide further:—

“his wife or any dependent child owns, or has, since the allotment of Government accommodation, become the owner, in full or in part, of a house in Delhi or

New Delhi which is located within six miles of the place of his duty....."

The rules also extend the same thing to his father, mother or any other dependent relation who is likely to be the owner of a house. As soon as a Government employee is provided with accommodation and after he has occupied that house, or where he is allotted but is not able to occupy the house, or where the application is pending, restriction is also imposed on him.

For the sake of simplicity I would only take the case of a Government employee who has been allotted a quarter. As soon as anyone of these persons comes into occupation of a house through transfer or otherwise he is to state that such and such a thing has happened. This he has to do within seven days. If it is proved to the satisfaction of the Central Government that such a house was given out on lease before acquisition by him, his wife or any dependent child, or father or mother or any other dependent relation, the Government may consider this and allot or re-allot a quarter to him. He will have to pay standard rent under Fundamental Rule 45-B or standard rent under F.R. 45-A plus 33.1/3 per cent. thereof or pooled standard rent under F.R. 45-A plus 33.1/3 per cent thereof where the rents have been pooled or ten per cent of his emoluments, whichever is the highest, for so long as he or his wife or any dependent child or his father or mother for any other dependent relation, as the case may be, is unable to obtain vacant possession of the house. This, I submit, is a hardship. The fact that they have purchased a house is no fault of theirs. Is the Government in a position to get vacant possession of that house for this employee? Merely because some relation of his has purchased a particular house, the benefit that he has been enjoying all along should not be taken away. The rule seems to me to be very clear. Even though he is not able to obtain vacant possession, this plus 33.1/3 per cent etc. follows.

1544 (Ai) LSD-7.

Then the rule says:

"If at any time it appears to the Central Government that no efforts have been made to obtain vacant possession of the house it shall be open to the Government to give suitable directions as to the steps to be taken to obtain vacant possession of the house, and if such directions are not complied with, to cancel the allotment and to require the allottee to vacate the Government accommodation forthwith or to charge rent for Government accommodation under Government of India decision (2) below Fundamental Rule 45-B or twice the standard rent under F.R. 45-A or twice the pooled standard rent under F.R. 45-A where rents have been pooled or 15% of his emoluments, whichever is the highest."

How can he take suitable action when the law provides that no action can be taken against the tenant for five years, unless either the employee is ignorant or the tenant is ignorant of section 14(6) of the Act? It says, "Thou shalt not take any action against the tenant merely because you have taken this house through transfer or otherwise". And you say that he has not taken suitable steps for evicting that particular tenant? I was understand if through persuasion he is able to get the eviction of the tenant because, naturally, if a person has purchased a house he would like to move to that House. Nobody wants to remain in a rented house. A situation may arise when he is able to get enhanced rent from the tenant when he is paying only a nominal rent to the Government. The rules framed by the Government of India make it very clear that as soon as notice is received by them, enhanced rent is collected. If the Government is satisfied that no steps have been taken by him, double the enhanced rent is collected. It seems to be a very novel state of affairs which needs

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radical change. Ultimately, I find the latest rule will be:

"Where after the cancellation of an allotment under any of these rules other than S.R. 317 B-7, the residence remains or has remained in the occupation of an officer to whom it was allotted or of any one claiming through him, the full standard rent of the residence under Fundamental Rule 45-B or twice the standard rent under Fundamental Rule 45-A or twice the pooled rent standard rent under Fundamental Rule 45-A, if the rent has been pooled, or fifteen percent of the emoluments of the officer, whichever is the highest, may be charged for the period of such occupation."

I have quoted this in *extenso* just to show that it will be impossible for a *bona fide* government employee to move to a house although he has purchased that house so long as this Act is in force. This anomaly is there. Even the reply of the hon. Home Minister did not clarify the position. I took pains to go through the rules and I had to come forward with this particular amendment. Even if the amendment in this form is not acceptable, I daresay the purpose for which I have brought it is a noble purpose; it is a correct purpose. The patent anomaly which exists has got to be rectified. I will be satisfied if the hon. Minister gave me an assurance that for a period of five years, there will be no question of enhancing the rent which is already being paid by the government employee or there is no question of failure to provide him with accommodation merely because such a thing happened. On the basis of his priority, he should be allotted a house. If he is already in possession of the house, the penal provisions of Fundamental Rules 45-A or 45-B should not apply.

With these words, I submit that the Bill is only seeking to remove a certain anomaly which exists, particularly to the government employees living in

Delhi—the Rules also specify a particular area—within which area the Delhi Rent Control Act is at present in force. With these words, I commend this Bill.

**Mr. Deputy-Speaker:** Motion moved:

"That the Bill to amend the Delhi Rent Control Act, 1958, be taken into consideration."

**Shri Bal Raj Madhok** (New Delhi):  
Mr. Deputy-Speaker, I rise to support the Bill which has been moved by hon. friend Shri Tangamani. The Bill aims at removing a glaring anomaly and injustice to a large number of government employees in Delhi. It also has a bearing on the wider question of housing problem in Delhi, not only for the government employees, but for the general public as well.

As we all know, Delhi is a growing metropolis in which shortage of housing is so glaring. According to the master-plan, we need about 31,000 houses every year in Delhi if the shortage in housing is to be overcome. But, actually, as a result of the housing and land policy of the Government, not even 1000 houses are being built every year. The result is, that this problem instead of getting solved is becoming more and more acute every day. Many people, therefore, to avoid this problem, are taking recourse to building *jhuggis*, unauthorised constructions, thereby creating so many new problems, new slums. In a way, I feel we are encouraging the people to take the law into their own hands and make the city dirty. Keeping in mind that wider question, I would appeal to the Government to review the housing and land policy in Delhi. Coming to the government servants for whom this Bill is meant, we find that in Delhi, governmental activities are increasing and the number of employees is also increasing. They also require accommodation. According to Government figures, the total accommodation needed for government employees is 69,773, out of which accommodation available so far is only

28,420, that is, there is a shortage of 41,353 houses for government employees. When they do not get any Government built accommodation they have to live outside. We must encourage even those who have got government accommodation to build houses independently because after retirement, they will need them. For that, so many schemes have been made: the low income housing schemes, etc. When some enterprising government servant saves from his meagre salary and builds a house or acquires a small house, then, according to the rules made by the Government, he cannot remain in the house that has been given to him by the Government. Or, if he continues to live there, he has to pay penal rent, which sometimes goes up to three times the ordinary rent, and sometimes comes to half of his salary. One set of rules made by the Government puts a penal rent on him because he has a house. By another set of rules or laws made by the same Government, he cannot get that house. If you want him to quit because he has got a house, you must also provide that he gets that house to live in. According to the Delhi Rent Control Act, he cannot go to that house for 5 years. Therefore, that poor man is beaten from both sides as they say in Hindi:

मरे को मारे शाह मदार

The poor man is being subjected to all kinds of hardships, price, etc. In fact, the problems of a clerk, a small man working in the Government offices in Delhi are innumerable. The Government, instead of trying to solve his problems, is trying to add to his problems. That, I say, is unfair and unjust. Therefore, the Bill that has been moved is very fair and just. It says, either you amend the Rent Control Act so that, if he acquires a house, he can go into that house, or if you cannot amend that Act—in fact, that Act should be amended for other reasons also—at least do not charge penal rent from the man who is living in a government accommodation, even though he has got a house of his own.

I go a step further. Not only do government servants who are in service, have acquired a house, need some protection. There are a number of government servants who have retired. They were serving somewhere and they had government accommodation. They come back to Delhi to which place they belong or they would like to settle here. They have a house and that house is rented out. They are not able to get back the house. The worst part of the thing is, many people who have rented a house, have built their own houses. There are not hundreds, but thousands of cases where a tenant is paying a rent of Rs. 100, and he is having his own house for which he is getting a rent of Rs. 500 or Rs. 1000. He does not want to go to his own house because the rent that he is paying is little and for the new house that he has built, there is the rent holiday and he can charge any amount of rent for five years. Here is a man who is living in a house on a small rent while he is getting a higher rent elsewhere. He cannot be evicted. If you look into the case, you will find it is a glaring injustice. It is neither equitable nor just. Therefore, not only in the interests of persons who have acquired a house, but in the interests of others, persons who have retired or even those people who have got a particular house on rent and who have built their own house, the Delhi Rent Control Act needs to be amended.

There is another aspect of this problem. In respect of allotment of the houses that the Government have built, a lot of difficulties have been created. As I said, there is a lot of shortage. There are government servants who have applied for government accommodation and there are waiting for years. Whenever a new Government colony is built and applications are invited, for allotment, we find that as many as 50 per cent of the houses are reserved for out of turn allotment. One can understand, there may be special circumstances where there is a man who is ill or something has happened and he applies on this ground that he should be given out of

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turn allotment and it may be taken as a special case. But when you begin to allot 50 per cent out of turn,—generally those who get out of turn allotments are people who have some kind of a pull—people who have no pull may be waiting for 10 years or 15 years. There are hundreds of such cases and they cannot get accommodation.

So, here is a problem which needs to be looked into not purely from the legalistic point of view or from the point of view of the rules that have been framed but from the human point of view. If he looks at the problem from that angle, then I am sure the hon. Minister will find it quite easy to accept the Bill that has been moved. I would request him not only to accept this Bill but to go through the entire Delhi Rent Control Act and amend it in the light of the suggestions that I have made.

**Shri S. M. Banerjee (Kanpur):** I rise to support this amending Bill moved by my hon. friend Shri Tangamani. I would like to take this opportunity to place before the House certain difficulties experienced by the Government servants in general in Delhi in regard to housing. After all, why have these difficulties arisen? If all Government servants are assured a quarter in Delhi when they come from outside or they are appointed here in Delhi itself, then this question will not arise. But this difficulty is experienced by nearly 50 per cent or more of the office clerks or other who are working in the Central Government undertakings, because they have not yet been given any houses. In reply to many of my questions, I have been told that houses are coming up in Delhi, and that new colonies are being built up. That is true. All the same, the difficulty is also there. There is difficulty about conveyance, there is difficulty about accommodation and so on.

After all, an employee in this country has to care for his old mother, father, and sometimes unmarried sisters and dependent brothers. So, the accommodation given to him must be at least two-roomed or three-roomed. Otherwise, it is impossible for him to keep the entire family consisting of his wife and his mother and other members of his family. In a joint Hindu family, it is not possible for the employee to ask his mother to remain separately.

There is also another question to be considered. Supposing a particular Government employee resides in a locality which has no Government accommodation but which has rented accommodation for him, and in the meantime, he gets a quarter, he loses financially: I shall give an illustration to point out how much he loses. Supposing the rent for the particular house where he was living before is Rs. 40. The moment he leaves that house and gets government quarter in a particular colony, either in Moti Bagh or in Vinaynagar or in any other new government colony, then he loses his house rent forthwith. He was getting Rs. 15 as house rent allowance previously, and with the upgrading of Delhi as a class A city, he perhaps gets Rs. 20 or Rs. 22 as house rent allowance; the moment he gets a government quarter, he loses that house rent allowance. So, there is a double deduction. Not only is 10 per cent of his salary cut, but he also loses his house rent allowance. So, the man loses about Rs. 40. Supposing I am getting Rs. 200 as my basic pay—I am talking of the position after the merger of the dearness allowance, because this, I am told, is the Pay Commission formula—then 10 per cent or 12½ per cent is deducted from my salary as rent of the particular quarter; there also, I have to pay about Rs. 40. Later on, when I am evicted or my family members are evicted from that locality, I shall be charged a penal rent, which according to the information avail-



ble with my hon. friend Shri Tangamani goes up to Rs. 120. So, there is a double deduction here. So, when we are discussing this particular Bill, I have before me a clear picture of the difficulties experienced by the Central Government employees. I submit that this double deduction must come to an end. If I have to pay ten per cent or 12½ per cent as house rent why should I lose my house rent allowance? If I am paying house rent, and it is deducted from salary, why should I lose my house rent allowance? I am quite confident that if somebody were to take this question to a court of law, under the Payment of Wages Act, this will be considered to be a wrong or illegal deduction. This is a matter which the hon. Minister has to take note of.

Then, there is also the difficulty due to transport. Take, for instance, the service afforded by the DTU buses. Suppose a man comes from a far-off place like Moti Bagh II or some such area, and suppose he is working in the Central Board of Revenue or the Comptroller and Auditor-General's office, he has to wait in a queue for the bus, and it is impossible for him to reach his office in time unless he gets up in the early morning and he is at the bus stop at about 8:30 A.M. As regards how the DTU functions, sometimes, I feel that its name should have been not 'Delhi Transport Undertaking', but 'Don't-Trust-Us.' You can never trust the DTU. You do not know whether the bus will come at 1 P.M. or at 1:30 P.M. Those people who are travelling in these buses can bear me out when I say that it is really working as 'Don't-Trust-Us', with the result that it has become a difficulty for anyone to travel.

So, I see a good point in this Bill, and I feel that this should be accepted at least by the hon. Minister, and the interests of the employee's family consisting of his mother etc. should be safeguarded.

There is another difficulty in regard to the housing problem in Delhi. I am glad that a letter has been issued by the Works, Housing and Supply Ministry in this connection. Previously, all those employees who came from Allahabad, Calcutta, Bombay or other places on transfer to Delhi offices, were considered to be juniormost in regard to allotment of Government accommodation, because their total service was not taken into account. But I am happy that I have received a letter from the Works, Housing and Supply Ministry, which clearly says:

"Revised allotment rules on the basis of the recommendation of the committee are likely to be enforced from 1st January, 1962. Rules are proposed to be revised in such a manner that the priority date of an officer in relation to a class of residence to which he is entitled would mean the earliest date from which he has been drawing the emoluments of a particular class or higher class in a post under the Central Government anywhere in India or abroad. Annual applications for allotment of general pool accommodation during the next allotment year commencing from 1st January, 1962 have also been called for by the Director of Estates, New Delhi, on the above-mentioned basis."

If this is implemented, I am sure the difficulty will be solved. Take, for instance, the case of a particular Government employee coming from Calcutta. When he comes from Calcutta and joins the External Affairs Ministry or the Home Ministry or some other Ministry here, he used to become juniormost in Delhi for allotment of Government accommodation; because only seniority in the station used to be taken into account, his name used to come last, and he would not be entitled to Government accommodation. But with the taking into account of the total service whether in India or abroad, he

[Shri S. M. Banerjee]

will be considered senior enough. If, under the old rules, his order of priority was 25,000 or so in a particular category, say, E, O or B or anything else, under the revised rules, his order of priority will be 150 or 200, and he would be considered as the seniormost for the purpose. I congratulate the hon. Minister of Works, Housing and Supply on the issue of this letter, but, I would say that it should be implemented. Unless it is implemented, I would be ready to withdraw my congratulations.

In view of these difficulties experienced by the Government servants in Delhi, I feel that if this amending Bill is accepted, it will surely do good to those whose family members are here in Delhi and who cannot be accommodated in one room only. I would request the hon. Minister to kindly visit some of the areas like Sewanagar etc. of the class IV employees. You cannot have any privacy in those quarters. In a single room, the old mother is there, the old father is there, and sometimes, the young sister is also there, and besides the man has also to lead a conjugal life. He cannot have any privacy there; he cannot have any private life unless during the summer he requests his old mother or father to sleep outside. This is what is happening in these colonies. So, the minimum accommodation must be a two-roomed tenement. One-roomed tenement is absolutely out of the question now. I am glad that this has been accepted in principle, but I do not know when it is going to be translated into action.

With these words, I would request the hon. Minister to kindly accept this Bill, the object of which has been made amply clear in the Statement of Objects and Reasons. I congratulate my hon. friend Shri Tangamani, who, though coming from the south, has realised as a citizen of the country, the difficulties of the Delhi people. I am really thankful to him, and the entire people from the north will be thankful to him because he is a person

coming from the south, and still, he has moved this Bill which is going to benefit most people, not only North Indians, but anyone coming from Calcutta, Bombay or such places, to Delhi, which is the capital of this country, and which is going to become a cosmopolitan city.

**The Minister of State in the Ministry of Home Affairs (Shri Datar):** My hon. friend, the Mover, has sponsored this Bill on the supposition that there are certain inconveniences or hardships so far as government servants are concerned. In the first place, it is not necessary for me to define the original section 14 (6) which laid down that even if a man were to acquire a certain property by transfer, he would not be entitled to actual possession for a period of five years. You are aware that when that Bill was passed by Parliament, there was considerable discussion over this particular point. The period of five years was laid down for the purpose of protecting tenants who are in possession of the property, so that a man should not take possession of it from him merely because there is a transfer. So it is based on sound principles, in the interest of *bona fide* tenants who ought not to be evicted immediately.

My hon. friend has pointed that this is likely to cause some hardship to government servants. In the first place, if a government servant takes a house by transfer and if he gets possession of the House, there is no difficulty at all. But my hon. friend believes that in view of the very clear position laid down in section 14(6), he may not be able to take possession. That is perfectly correct. Merely because there is a transfer to a government servant of a house, it would not be proper for him to have possession in spite of that rule. This is a very clear position. I can understand his point provided he has a certain hardship so far as housing accommodation which has been allotted to him is concerned. But may I point out very

clearly to my hon. friend, that there are rules made by the Government of India to meet this situation? I believe most of these have been placed on the Table of the House also. According to these rules, merely because a government servant takes a transfer—either purchases or otherwise gets a property transferred to him—he does not lose his allotment. This should be understood very clearly. My hon. friend's Bill is on the assumption that whenever he gets a transfer, whenever a government servant purchases a property—I am putting it in a general way—he loses his right of allotment and there is a liability on his part to vacate the government quarter he is occupying. This not the correct position.

In this respect, I would like to invite your attention to two rules. Rule 7(3) (iii) of the Special Accommodation Rules, 1950 says:

“Notwithstanding anything contained in sub-clause (i) or (ii) above, the Central Government may allot or re-allot government accommodation to an officer if”—

I would read read sub-clause (b)—

“it is proved to the satisfaction of the Central Government that such house was given out on lease (i) before the posting of the officer to Delhi or New Delhi, (ii) before the acquisition of such house by him, his wife, and dependent child, by his father . . . . (iii) before the 24th December, 1955 or (iv) with the express approval of the Government of India, and the Central Government is satisfied that it is not possible for the lessor”—

he becomes a lessor on transfer—

“for reasons beyond his control to obtain vacant possession of the House”.

So far as this is concerned, the position is quite clear.

Then there are also supplementary rules made in this respect. Rule 317(b) (6) (3) (iii) says:

“Notwithstanding anything contained in (i) and (ii) above, the Central Government may allot or reallot government accommodation to an officer if—

(b) it is proved to the satisfaction of the Central Government that such house was given out on lease (i) before the posting of the officer to Delhi or New Delhi, (ii) before the acquisition of such house by him . . . (iii) before the 24th December 1955 or (iv) with the express approval of the Government of India, and the Central Government is satisfied that it is not possible for the lessor for reasons beyond his control to obtain vacant possession of the house”.

Under these circumstances, there will not be any hardship at all. Assuming that a government servant purchases a house, merely because he purchases a house or solely on account of the fact of his having taken this transfer, he does not render himself liable to eviction from his government accommodation. On the other hand, under this rule he is likely to continue to occupy the housing accommodation allotted to him.

**Shri Tangamani:** Will he pay the same rent or enhanced rent?

**Shri Datar:** Let me answer one point first and then I will come to the next.

So far as the first point is concerned, in this particular case my hon. friend's supposition is entirely wrong. The government servant is not liable to eviction simply because he purchases a property. He is likely to be evicted when after purchase, he gets possession of the property. After getting possession of the property, if he

[Shri Datar]

still wants to continue in possession of the government allotment with a view to have some profit—oftentimes when a property is purchased, it can be leased on a higher amount and the officer is likely to prefer to remain in the government allotment—that will not be permitted.

I can understand the difficulty felt by the hon. Member, but in such a case, the rule is very clear. Unless the man gets possession of the House—here also there are other rules with which I need not bother the House—he will not be affected. Assuming, for example, that he purchases a very small house and even if he were to obtain possession of it, it would not be proper for him or convenient for him to go there, he is entitled to remain in the house allotted to him under the rules. Only when he purchases a house and it is good for him to live in and he has obtained possession of it but does not want to go there, will penal rent be charged. Penal rent is not charged merely because he has purchased a house.

If under the law there is a statutory bar preventing him from getting possession of the House, it would not be proper to charge him penal rent. Penal rent is charged only under certain circumstances, when he has purchased the house, got possession of it, it is good for him to live in but still he does not want to occupy it. Under these circumstances, both the objections of the hon. Member are not valid.

Lastly, I should also point out to my hon. friend that what he has done in his desire to represent government servants is perfectly understood. But can we make such a distinction only so far as government servants are concerned? My point is a constitutional one. According to the provisions of the Constitution, is it open to us to make any discrimination in favour of only Government servants? The hon. Member desires to put in certain expressions in sub-clause of section 14:

“Except in the case of a Government servant who has been allotted a Government accommodation and is liable to eviction under the rules governing such allotment.....”

I invite his attention and the attention of the House to article 14 of the Constitution:

“The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.”

I have no desire to impute motives either to the Government servant or anybody else. Let us proceed on the footing that the whole thing is done in a legitimate, *bona fide*, manner. Assuming that I purchase property, will it not mean that if I happen to be somebody other than a Government servant, I cannot take possession for five years, but if I happen to be a Government servant, I can take possession immediately. This point should be understood. Government servants are citizens of India. They are entitled to certain concessions as Government servants which we are giving to them.

16 hrs.

My hon. friend Shri Banerjee raised certain general questions which have no direct bearing upon this Bill. If there are any grievances or real hardships, the Government Servants' associations are entitled to approach the Government, and may I promise this House that in all cases of real grievances or hardships, Government will try to see that they are removed to the extent possible.

As I said, so far as the present Bill is concerned, three points were raised. One is on the basis that there is an immediate liability or susceptibility to eviction. That is not there. Then, the feeling was that penal rent would be charged as a matter of course. That also I have answered. The third point is the constitutional difficulty of mak-

ing the Government servants a class by themselves.

It is also quite likely that if any such favoured treatment is allowed, apart from the constitutional objection it may be abused by some Government servants. Merely because he is a Government servant, he has been saved from sub-clause 6. Therefore, the tendency would be for transfer of property to a Government servant either under the feeling that he is exempted, or even otherwise also. I do not like to deal with this particular aspect of the question, but let us not do anything that is either unconstitutional or likely to be abused.

So, I request my hon. friend not to press this Bill.

**Shri Tangamani:** I am grateful to the hon. Minister for the explanation that he has given and for the assurance that the Central Government employees will not meet with hardship, but my real fear is that most of the rules to which he made reference are rules relating to 1955, and there is a specific reference that the lands or houses acquired by them should be before 1955, but the Act to which I referred is the Act of 1958. At least I hope the rules will be so modified that there is no question of evicting these people for five years. The rule says:

"If it appears to the Central Government that no efforts have been made to obtain vacant possession...."

How can he take any steps for getting vacant possession when the Act definitely bars him from moving the Controller for getting vacant possession? That was my point.

I am aware of the Constitutional provision, but I have only mentioned that if a certain class of people are otherwise debarred, that disqualification will have to be counterbalanced and they may be given certain facilities. It is not trying to give extra benefit to a certain group of people.

Here are certain people who are under certain disadvantages according to the rules. If the rules regarding allotment are clear, this question will not arise at all. Only where the Government servant can prove that the rules really debar him from continuing in the place which was allotted, this provision can be invoked. So, I was rather surprised why article 14 was brought in with reference to such an innocuous legislation.

Anyway, in an indirect way he has promised that there will not be any hardship.

**Shri Datar:** These rules were made only in 1960.

**Shri Tangamani:** Mostly they refer to occupation prior to 1955. They are all amendments to these rules. My grievance is that the amendments do not go far enough. They have not taken into consideration the Act of 1958, that is my point.

In view of what he has said, I am not pressing the Bill as I wanted to. I only hope the Government will see to it that the rules are modified, and that those who are now under any disqualification or have to pay enhanced rent where the five year period has not lapsed, will be repaid the arrears.

**Mr. Deputy-Speaker:** Has the hon. Member the permission of the House to withdraw the Bill?

**Hon. Members:** Yes.

*The Bill was, by leave, withdrawn.*

16.07 hrs.

# CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL

(Amendment of Section 488) by  
Shri Ajit Singh Sarhadi

**Shri Ajit Singh Sarhadi** (Ludhiana): I beg to move: