

COMMON CAUSE

VOICE OF "COMMON CAUSE"

REQUESTING IMMEDIATE ACTION

To all our readers, and particularly to all pensioners, we convey a request for immediate action. We earnestly hope that you will kindly take this action for demonstrating to the Government total solidarity of the pensioners on problems which closely affect them.

(Before writing on this matter let us inform everybody that the office address of COMMON CAUSE has been altered. It is now C-381 Defence Colony, New Delhi-110024 (Telephone No. 615064). All are requested to note this change and correspond only at this address in future as well as send your subscriptions and contributions to this new address).

The request for action relates to the pre-1973 pensioners. A judgement was given by the Central Administrative Tribunal on 5th August 1986. This judgement was in favour of the pensioners, The Tribunal gave three months to the government to implement the decision. The government took no steps to implement it; instead, on the last day of three months period, an application was made by the government to the Supreme Court for submitting an appeal. The grounds for appeal were submitted much later. The appeal remained pending in the Supreme Court and was decided only on 14 January '88, practically 16 months after the pronouncement of the judgement by the Tribunal.

We have given on page 24 of this issue details of this unhappy episode. These appear in our letter addressed to the Minister incharge of pensions, It will be evident from these details how the government has chosen to deal with this matter whereby the pre-1973 pensioners feel cheated and which gives them the feeling that the government has been dishonest in dealing with this entire matter.

These pre-1973 pensioners are now mostly in their late 70's; in any case none of them is less than 73 years. They continue to remain deprived of the benefits which are their lagitimata due, for the period from 1-1-1973 to 31-3-1979. Financial implications of this decision are meagre yet the government has chosen to disregard this claim of the pensioners, despite the judgement of the Tribunal.

We suggest that each one of our readers should, after reading the details appearing on page 24, take up this cause and write letters, briefly expressed in their own words, conveying to the government how incensed they feel at the volte-face of the government. The letters should be addressed to Mr. P. Chidambaram, Minister of Personnel, Public Grievances & Pensions (Addressed: Ministry of Home Affairs, North Block, New Delhi-110001). Let ten thousand letters soon reach the Minister on the subject. It is not necessary to send typed letters. You are welcome to write in hand. Kindly send us a copy if possible.

You must show solidarity on this cause of the old pensioners. We earnestly hope you will write.

Consumers' Voice

High Interest Frauds

Bureau of Indian Standards

Miscellaneous

For Pensioners

All are welcome to reproduce any material from this Publication. This publication is not monthly. It presently issues once a quarter. There is no subscription. It goes free to members of COMMON CAUSE.

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CONSUMERS' VOICE

Consumers are coming into their own. They were waking up to their rights. They will soon start asserting these rights when the infrastructure and the legal framework for the redressal of their grievances comes into shape.

In this context we consider it necessary that there should be wide dissemination of information on the existing armoury of legislations and the new statutes, the Consumers Protection Act, so that the consumers and activists become fully cognizant of the position in regard thereto, for taking full advantage of the law to protect their rights against infringement by the manufacturers, wholesalers, distributors and traders.

Given below is a list of the more important enactments which should be of interest to the consumers. Some of these Acts are of general nature whereas the others deal with specific subjects :

Essential Commodities Act 1955
 Prevention of Food Adulteration Act, 1954
 Drugs and Cosmetics Act 1940
 Dangerous Drugs Act
 Agriculture Products (Grading & Marking) Act
 Drugs and Magic Remedies (Objectionable Advertisements) Act 1954
 Standards of Weights & Measures Act 1956
 Prevention of Black-marketing & Maintenance of Supplies of Essential Commodities Act
 Indian Standards Institution (Certification of Marks) Act 1952. (Replaced by Bureau of Indian Standards Act 1986)
 Monopolies & Restrictive Trade Practices Act 1969
 Packaged Commodities Regulation Order 1975
 Household Electrical Appliances (Quality Control) Fruits Products Order 1955

Other Acts of general application

Sale of Goods Act 1930
 Hire Purchase Act 1972
 Trade and Merchandise Marks Act 1958
 Indian Contract Act 1972
 Emblems and Names (Prevention of Improper Use) Act
 Patents and Designs Act
 Specific Relief Act
 Air Prevention & Control of Pollution Act
 Water Prevention & Control of Pollution Act
 Relevant provisions of Indian Penal Code
 Article 39 (b) and (c) of the Constitution of India (prescribing that ownership and material resources of the State should be distributed for the common good and operation of the economic system should not result in concentration of wealth and means of production)

These self-contained following articles dealing with the existing statutes are presented in this issue of our periodical. These have been written by the Director of COMMON CAUSE with the objective of enabling their reproduction in the form of a series by the journals, magazines and newsletters which are being published by various consumers organisations in the country. They are welcome to use these articles, giving the appropriate credit.

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Consumers' Voice-I

If you wish to launch court proceedings against a trader or manufacturer for pawning off to you a product of inferior quality, or to claim compensation

for the loss or injury caused to you, you can't, despite the big armoury of laws which have existed for decades on the statute book in this country for protecting your interests as consumer. This has been the position till now.

This position is altering now. With the passing of the Consumers Protection Act a year ago the consumer has started coming into his own. Till now the consumer felt helpless, knowing that manufacturers, wholesalers and traders had ganged up against him, exploiting him right and left. They beguiled him by proclaiming that customer was king, but actually took shelter behind the slogan "Buyer Beware". This new Act enables the consumer to now raise the counter slogan "Seller Beware". From the present indications the consumer is all set for making the seller pay for any default.

A great lot will of course depend on proper and expeditious implementation of this Act, and on the muscle power and organisational strength that the consumers can muster. Both these factors are at present quite a question mark on the Indian scene.

The consumers have had a raw deal. Whatever was produced, of whatever quality, and at whatever price, has generally been thrust down on them, amidst the conditions of scarcity, black marketing and hoarding. The climate of controls, licenses quotas and permits operated to the advantage of manufacturers, traders and correspondingly to the disadvantage of consumers. Competition in the market place, which alone could put choice of selection in the hands of consumers, was practically non-existent.

SELLERS BEWARE

Things have begun to change. The processes of de-control and liberalisation have helped to alter the market place. The consumers for once have started feeling that they can no longer be disregarded. They can now call the shots and tell the manufacturers and traders where they get off. The odd organisations of consumers, in various towns spread all over the country, have raised the banner "Sellers Beware" and the slogan has started gathering momentum.

Consumers Protection Act has paved the way to this development. Certain important provisions of this enactment are momentous innovations, the impact of which will start being felt in the coming months. Some of these innovations are of such far reaching

importance that even the foremost protagonists of consumerism in the country had not anticipated their being incorporated in it. It was, for instance never conceived that the government could be prepared to allow the "services", which are largely in the public sector, such as banking, insurance, transport, electricity distribution, communications, etc. to be brought within the purview of a statute which render them vulnerable to adjudication through complaints presented to a redressal machinery. But, this is what has exactly happened. The government has clubbed the "services" along with "Products" which can be arraigned by the consumers in courts set up under this statute. A consumer dissatisfied with any particular act, say, of a nationalised bank, or life insurance corporation or a transport corporation, can launch action against it and claim compensation.

REDRESSAL MACHINERY

For the first time special courts will be set up for taking cognizance of the complaints of consumers against the manufacturers and traders. They can complain about quality as well as price, and also about an unfair trade practice which has caused any loss, and about any "deficiency in any respect in a service". The complaints before these courts can be lodged by any consumers, or by an organisation of consumers who may like to take up cudgels on behalf of the consumers. Consumers in this context have been defined to be those who buy goods or use the goods thus bought, & also those who buy goods or use the goods thus bought, & also those who hire any services on payment. The courts set up under this Act have been named Consumers Grievances Redressal Forums, ostensibly to distinguish them from regular courts, though they have been given the same authority and powers and civil courts in relation to the procedures they can adopt and the orders they can issue. These Redressal Forums can order payment of compensation for any loss or injury suffered by the complainant consumer. The orders issued by these courts will have the same authority as the decrees of a civil court for enforcement.

Provisions have been made for appeals against the decisions and orders of these Forums. Appeals

will lie to the State Redressal Commission, and thereafter to the Central Redressal Commission. From the latter the appeals will lie to the Supreme Court. Status of the Redressal Forum, consisting of three members, will be practically that of the court of District Judge. State Commission will be presided over by a person of the status of High Court Judge, and the Central Commission by a person of the status of Supreme Court judge. Judgements given by the State Commission and Central Commission will also be enforceable as decrees of regular courts.

It is envisaged in the Act that each of 430 odd districts of the country will have its own Commission. Steps are now being taken by the State Governments to set up the district forums. State Commission have been set up by a number of State Governments, and the Government of India has set up the National Commission. When the chain is complete it will undoubtedly become a very formidable infrastructure for providing avenues to the consumers and their organisations to complain against the defaults of manufacturers, traders and service organisations and to seek effective remedy for such defaults.

RIGHTS OF CONSUMERS

It is also for the first time that certain specific rights of the consumers, namely, the right to be informed, right to be heard, right to seek redressal, right to consumer education, etc. have been spelt out in a statute. For protecting these rights Provision has been additionally made of setting up Consumers Protection Councils at the level of each State and at the Centre. The Central Council has already been established and the Councils have also been established in some states. There is justification in the complaint that these Councils are unduly large bodies, and at most they will be deliberative bodies, without any teeth in them, but the fact remains that they can help to lay down the guidelines and policies for operation of executive functions.

Very important, in this context, is the stringent nature of the provisions that have been made in this

new enactment for imposing penalty on the defaulting manufacturers and traders. It has been provided that where a trader or person against whom complaint has been made fails to comply with any order made by the District Forum, the State Commission, or the National Commission, "such trader or person shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to three years, or with fine which shall not be less than two thousand rupees and which may extend to ten thousand rupees, or with both". Jurisdiction in terms of value, of the District Forums, will extend to Rs. one lakh, of State Commission from Rs. one lakh to Rs. ten lakhs, and the National Commission will be able to take cognizance of cases where the value of goods or services and compensation, if claimed, exceeds Rs. ten lakhs.

The armoury of the Consumers Protection Act is, thus, very formidable. It is claimed by government circles that this Statute is more comprehensive and powerful than any similar statute anywhere else, and it is likely that this claim may be true. There already exists quite a repertoire of statutes in India for protecting the interests of consumers. These include : Essential Commodities Act, Prevention of Food Adulteration Act, Standards of Weights & Measures Act, Drugs Control Act, Drug & Cosmetic Act, Monopolies & Restrictive Trade Practices Act, and many others. These statutes, in their respective spheres, have failed to provide adequate protection to the consumers, excepting that the MRTP Commission has of late started coming to their rescue. The new Consumers Protection Act has added to this armoury. The government has taken time to set up the infrastructure envisaged under it, but this was inevitable because this machinery is being set up from scratch. One can hope that in the coming months the chain of District Redressal Forums will start developing. That will be the testing time, to see whether the consumers and their organisations will pick up the challenge for deriving full advantage of the provisions of this new law and not to allow it to sink into ineffectiveness along with the other many statutes enacted for protecting their interests.

CONSUMERS' VOICE (II)

You and I and everybody else are consumers. One may be a manufacturer or wholesaler or trader or providing services, but all of us are consumers of the vast number of goods and services, excepting perhaps for the product or service which one may be manufacturing or marketing. Therefore, we are all concerned about the problems which are inflicted on the consumers by the manufacture and traders, and which over the years have gone on aggravating instead of being mitigated despite the array of statutes enacted by the government.

There is a virtual jungle of laws which have been passed from time to time for protecting the interests of consumers. In spite of this imposing repertoire of the laws the consumers have always felt exploited. The laws have not effectively served the purpose for which they were enacted. To the long list of the existing laws has now been added the latest, the Consumers Protection Act; the consumers in general have been sceptical whether this will achieve its claimed objectives. The answer to this scepticism is of course in the hands of consumers themselves, in that they need to strengthen themselves and their organisations for deriving the maximum benefit from this law. In this context it will be interesting to have a glimpse at the array of existing laws, some of which have recently been modified to enable the individual consumers also to initiate action for defaults by the manufacturers and traders.

EXISTING LAWS

The various existing laws, which have a direct relationship to the problems faced by the consumers, make quite a formidable list. These are: Agricultural produce Grading & Marketing Act, Essential Commodities Act, Prevention of Black Marketing & Maintenance of Essential Supplies Act, Prevention of Food Aulteration Act, Standards of Weights & Measu-

res Act, Standards Institution Certification of Marks Act, Drugs & Magic Remedies Act, Poisonous Substances Act, Monopolies & Restrictive Trade Practices Act, Emblems & Names (Prevention of improper use) Act, Household Electrical Appliances Quality Control Order, Packaged Commodities Order, Fruit products Order, Trade Marks Act, Patents and Design Act, Indian Merchandize Mark Act. etc.

Besides these there are Acts of general application like Specific Relief Act, Sales of Goods Act, Contracts Act, Carriers Act, Hire Purchase Act, Air Prevention & Control of Pollution Act, and specific provisions in the general enactments like Indian Penal Code and the rights of citizens arising from Article 39(b) and(c) of the Consitution of India which place the obligation on the State to ensure that the ownership and control of material resources of the community are distributed for the common good and the operation of the economic system does not result in the concentration of wealth and the means of production.

Certain provisions of some of these Acts are real eye openers. For instance, hardly any people know that life imprisonment is provided for in certain States for the offences of manufacture and sales of spurious drugs, and that now, under a recent amendment, every consumer has been empowered to launch prosecution against a defaulter. Every medicine shop is under obligation of the law to give a cash memo where the purchase is above the amount of Rs. five. Every shop is under obligation to prominently display in its premises the local taxes that are leviable on the products sold therein, and every consumer has now the powers to launch prosecution against the shop-owner for this default. If any food product is found to be adulterated, and the adulteration is of a nature which can cause grievous injury or death, the manufacturer and sellers of the product can be punished with imprisonment for life, and every consumer has

the right to go to the police and register a case against the defaulter. Every purchaser has the right to get a product analysed from a designated public analyst for initiating proceedings against a defaulter. Where an offence is committed by a company or a firm or an association or body of person, every director, manager, secretary, agent or other officer, unless he proves to the contrary, become liable for the default and is deemed to be guilty. In certain enactments, like the Essential commodities Act and the Prevention of food Adulteration Act, if an offence is found to have been committed, the punishment of imprisonment has been made mandatory i. e. the trying magistrate has no option except to punish the defaulter by awarding him imprisonment, the minimum for which has been specified as three months for certain offences under the Essential Commodities Act, and even as much as three years under the Prevention of food Adulteration Act.

While the armoury of laws is thus so wide and big, and while the punishments prescribed for the defaulters and offences are so stringent the question naturally arises why the manufacturers and traders continue to have their way and the consumers continue to suffer at their hands. The reason is obvious. Firstly, there is abysmal ignorance of the existence of these laws and their provisions. There is, moreover, the unfortunate apathy on the part of consumers, their instinctive urge not to get involved in the processes of prosecution because of the dread of courts and their procedures. There is also the fear that the manufacturers and traders, with their resources, will defeat the prosecutions through adoption of various strategies. And lastly, there is unfortunate absence of cohesive and collective action on the part of consumers to take up cudgels where their interests are being jeopardized.

ESSENTIAL COMMODITIES ACT

As an example, let us look at the provisions of some of the more important legislations which have been in the statute book for decades. Essential Commodities Act has been in existence for nearly four decades. It was passed for overcoming the difficulties caused by sections of trade and middlemen getting round and

rendering ineffectual the legal and administrative measures devised for maintenance of supplies essential for the community. It covers a variety and number of commodities which have been from time to time declared "essential". These now include cement, soap matches, coal, edible oils and seeds, petroleum and products, cotton, cotton & woollen textiles, iron & steel, paper, drugs, automobile parts, bicycles etc. This Act has been amended seven times during the last twenty years for further strengthening it

Interesting are the words used in the 'Objects and Reasons' when this Act was amended in 1976. These said: The hoarders, blackmarketeers are playing hell with the lives of millions of people in the country by violating the provisions of this Act. These man-eaters are too cunning and always escape through the lacunae in the law. Even in cases where they are caught red-handed they get immediate bail even from the police officer and try to tamper with the evidence and foil the process of investigation. So the administration of justice is reduced to a farce. These undesirable and anti-social elements should be sternly dealt with".

Under this Act the government exercise the power to regulate and prohibit the production, supply and distribution of any of the commodities specified as essential. It lays down the procedure for regulating by licences, permits or otherwise the production of manufacture of the commodity, for controlling its price, for regulating the storage, transport, distribution disposal, acquisition, use or consumption of any essential commodity and for prohibiting its hoarding etc. It is under this Act that the entire public distribution system, comprising of the fair price shops, in the urban and rural areas of the country, is organised and regulated.

The offences under the Essential Commodities Act have been made cognizable and non-bailable i. e. the police can take cognizance of the offence committed under it & the magistrate can refuse to grant bail. The goods regarding which an offence has been committed can be confiscated and sold by the government through the public distribution system. Previously the

prosecution under Act this could be launched only upon a complaint submitted by a government servant specifically authorised for the purpose. This provision was amended last year, and now every consumer and consumers organisation can initiate the proceedings and file a complaint for default.

Penalties under this law are really stringent. If the offence committed is under any of the major provisions of this Act the manufacturer can be sentenced upto seven years imprisonment and with fine, and the property relating to the offence "shall" be forfeited by the government. And, if the direction given to a person on conviction is disregarded, it is provided that he shall be punished with imprisonment which shall not be less than three months and can extend to seven years, besides being punished with fine.

As mentioned above, if the offence is committed by a company then any person who is director, manager seller or an officer of the company will be deemed to be guilty of the offence, and the onus will be on him to prove to the contrary. The company will also be punishable for the offence. In addition, the government can publicise the name and place of business of the company, the nature of contravention committed, and the punishment awarded to the company, at the expense of the company, through the newspapers and other media of the choice of the court awarding the punishment.

These provisions imply that where a default in respect of price and supply of any specified commodity comes to the notice of any consumer or a consumers organisation, the proceeding can be launched by them by filing a complaint with the police and urging action under the Essential Commodities Act. One can only hope, in the interests of further expansion and strengthening of the consumers movement in the country, that resort to these measures will not be taken for lodging frivolous complaints or for setting any personal scores.

the Prevention of Food Adulteration Act attracts special attention. It was enacted as long ago as 1954 and has been amended four times for further strengthening and tightening it up. Following words spell out the objects and Reasons of the amendment that was last effected in 1976 :

"Adulteration of food articles is rampant in the country and has become a grave menace to the health and well-being of the community. It makes a heavy dent on the already low nutritional standards and the benefits of many public health programmes on which large sums of money are spent, are insiduously undermined. A major offensive against this field is overdue. Keeping in view the gravity of the problem and the growing danger which it poses to the health of the nation, it has become necessary to amend the Prevention of Food Adulteration Act so as to plug the loopholes and to provide for more and effective measures with a view to curb the menace."

Though this measure has been on the statute book for more than three decades, and its provisions are very strong for curbing the menace, the adulteration of food articles has in no way been effectively checked. This is primarily due to the apathy on the part of consumers and their dependence on the food inspectors of the government to do the needful rather than to exercise their own vigilance.

There is now reason to hope that things will change. Through an amendment effected some months ago by the government in the Act consumers as well as the organisations of consumers have been empowered to launch proceedings against the defaulters. Previously, this authority was exercisable only by the food inspectors, and it was generally believed that these officials could not be depended upon for straight deals because of the temptation that were placed before them by the unscrupulous manufacturers and

CONSUMERS' VOICE (III)

While looking at the armoury of statutes which have been enacted for protecting the interests of consumers

traders and those who provide services of the nature of restaurants etc.

It is without question that a determined and concerted onslaught on the anti-social practices of adulteration will have to be launched by the consumers and their organisations for deriving advantage of this statute. Adulteration made culpable under this law is not only the one caused by using adulterants but includes also any such food articles which have been prepared or are sold under insanitary conditions whereby they get contaminated and are injurious to health, or where they consist wholly or partially of any filthy, putrid, rotten, decomposed or diseased substance or is insect infected or unfit for human consumption, or contains any colouring matter other than that prescribed, or contains any prohibited preservative, or where the quality or purity of the article falls below the prescribed standard. Besides adulterated articles, any food articles which are misbranded i. e. which are imitations or falsely claimed to be products other than what they are, also come within the purview of this law. Samples of adulterated and misbranded articles are sent for analysis to the laboratories designated for the purpose.

Stringent penalties have been provided in the Act for the defaulters. On conviction for an offence of manufacturing and selling an article of adulterated food, which also includes drink, the punishment provided is mandatory imprisonment which shall not be less than six months and may extend to three years, and fine which shall not be less than Rs. one thousand. Under certain provisions of the Act, which deal with more serious defaults, the mandatory punishment of imprisonment has been prescribed to not less than one year and fine or not less than Rs. two thousand. and if the consumption of adulterated food is likely to cause death or grievous hurt the imprisonment shall not less than three years and may extend to life imprisonment. Where the offence is committed by a company, then the director, manager, secretary or the officer are made subject to this punishment. The offences under the Act have been made cognizant by police and are not bailable. Provision has also been made for summary trial of the offenses wherein imprisonment upto one year can be awarded.

OTHER ACTS

Let us now have a quick glance at the provisions of some of the other enactments which are on the statute book for protecting the interests of consumers. There is the Prevention of Black Marketing and Maintenance of Essential Supplies Act. This measure has been on the statute book since 1980 & was enacted for apprehending persons who may be indulging in blackmarketing and hoarding. It empowers certain designated officers of the Central and State Governments to order detention of persons for preventing them from acting in a manner prejudicial to the maintenance of essential supplies from coming to the market, or relating to the production, supply or distribution of any commodity declared essential under the Essential Commodities Act. Procedures for causing detention and reporting detention to the Advisory Boards established for the purpose have been incorporated in the Act.

Drugs Control Act, enacted since 1956, is another important major legislation in this context. It regulates and controls the sale, supply and distribution of drugs and medicines. It prescribes punishment for selling drugs at prices above those fixed, and lays down that where any sale of medicines worth more than Rs. five is made, the dealer is under obligation to give to the purchaser the cash memo whether it is asked for not. Punishment for offence committed under the Act extends to three years imprisonment or fine or both, besides confiscation of the stocks of concerned drug. Where the offence is committed by a company the concerned officers are deemed guilty of it besides the company itself.

Connected with the Drugs Control Act is another Act, the Drugs and Cosmetics Act which seeks to ensure that adulterated and misbranded drugs and cosmetics are not sold to the unwary customers and to also ensure that nothing is used in the manufacturing of cosmetics which can have deleterious effect on the health. Improperly prepared cosmetics of the nature of deoderants, pomades, lipsticks, and nail polishes can lead to contact dermatitis, and certain

synthetic dyes used in the manufacture of lipsticks can lead to cumulative toxicity. It is well known that quite a few small manufacturers do not even have the elementary testing facilities nor do they take the elementary precautions in the manufacture of such cosmetics. In the field of drugs, the unani and ayurvedic system of medicines have also been brought within the purview of the regulation and control. Import and manufacture of any drugs and cosmetics, which are adulterated or misbranded have been prohibited under this Act. Inspectors appointed under the Act by the Central and State Government were alone previously authorised to launch proceedings for defaults, but by the recent amendment, effected a few months ago every consumer and an organisation of consumers has been authorised to take the necessary steps of getting the samples analysed & to launch prosecution of the defaulters. Severe penalties have been provided under this Act. If a person is found to be manufacturing or selling any adulterated, misbranded or spurious drug, he is punishable with imprisonment which shall not be less than five years and may extend to ten years and is also liable to fine besides confiscation of the product. Where a person is found manufacturing or selling a misbranded and spurious cosmetic, he is punishable with imprisonment which shall not be less than one year and be also liable to fine and confiscation. In Uttar Pradesh and West Bengal the offences under this Act have been made even more stringent, taking the maximum sentence to life imprisonment. In the case of defaults relating to ayurvedic and unani medicines the punishment under the Act is upto three months.

There is another Act relating to drugs which contains interesting provisions. This is the Drugs and Magic Remedies (Objectionable Advertisements Use) Act. The enactment of this legislation has been necessitated by the great increase in the number of objectionable advertisements related to alleged cures for venereal diseases and sexual stimulants and alleged cures of ailments peculiar to women, which

tend to cause the unwary to resort to self-medication with harmful drugs or to resort to quacks. This measure seeks to prohibit the advertisements of magic remedies of the nature of talisman, mentra, kavacha of any other kind which are alleged to possess miraculous powers for the cure, diagnosis, mitigation, treatment and prevention of any such ailments. Where any person or company is found to be resorting to any such advertisements the offence is punishable with imprisonment upto six months or both. Certain gazetted officers specifically authorised under the Act are empowered to start proceedings relating to such offences.

In passing we may also take note of the provisions of another important Act, the Agricultural Products Grading & Marking Act. This statute has been in force for about fifty years, having been passed in the pre-independence period. It empowers the government to make rules, fixing the grade, designations of articles of agricultural produce and specifying the quality indicated by the respective grade, designations. The agricultural products for which the grade designations can be made are notified from time to time and cover practically all the important agricultural products including tobacco, dairy products, oil seeds, coffee, eggs, atta etc. Penalties have been provided for unauthorised making of the grades.

Besides the above there are other legislations which in their own spheres aim at providing the needed protection to the consumers. One major enactment is the Monopolies and Restrictive Trade Practices (MRTP) Act under which the recently notified unfair trade practices constitute a very important landmark. While we will deal with the provisions of MRTP Act in another column in the series, it is obviously of paramount importance to observe that the existence of this enormous armoury can prove useful only if the consumers and the organisations of consumers bestir themselves for taking full advantage of these measures.

BUREAU OF INDIAN STANDARDS

Their Work for Consumers

Bureau of Indian Standards (address: 9, Bahadur Shah Zafar Marg, New Delhi-110002) came into existence in 1987 in substitution of Indian Standards Institution which did pioneering and important work in laying down standards of products etc. The Bureau has been established as a statutory body whereas the Indian Standards Institution was a registered organisation. Through the Bureau certification of selected products can now be made mandatory on the direction of the government, compelling the manufacturers to abide by such certification. In the following notes the Bureau has furnished information about the activities which are undertaken by it in the interest of consumers and about standards established for certain important products which are of interest to the consumers.

STANDARDS FORMULATION

Bureau of Indian Standards (BIS) has formulated more than 13,700 standards covering aspects like glossary of terms, product specifications, methods of test, codes of practices, sampling etc. Out of these about 8000 are product specifications. Of the 8000 product specifications more than 1000 may be classified as standards of direct relevance to consumers. However, many standards on glossary of terms, methods of test are also of interest to the consumers. In fact, Indian Standards have been formulated for most of the consumers products.

The standards are formulated through all the Division Councils of BIS, and in fact a separate Division Council namely Consumers Products and Medical Instruments Division Council (CMID) has been created for formulating Indian Standards on consumers products. In these Division Councils, which lay down the overall policy relating to formulation of standards and also approve the subjects to be taken up for formulation of standards, representation has been given to consumers associations. BIS is also involving representatives of consumers associations and organized consumers like Railways, Defence, DGS & D etc in the technical committee entrusted with the task of formulating standards.

CERTIFICATION MARKS SCHEME

BIS Certification Marks Scheme enables the consumers to identify the products produced in conformity with the standards through the familiar ISI mark appearing on these products. Under the voluntary certification marking scheme, many common consumers items have come under certification scheme, for example : safety matches, razor blades, pressure cookers, soaps, biscuits, etc. The Government has also made use of BIS Certification mechanism for the control of quality of items of mass consumption as well as those connected with the safety and health aspects of the consumer, by making certification mandatory for these products, for example : LPG cylinders, cement, vanaspati, food colours, dry cells, GLS lamps, oil pressure stoves, immersion heaters, electric radiators, electric irons, etc.

PUBLICITY TO EDUCATE CONSUMERS

To build up awareness among consumers regarding Indian Standards and BIS Certification Marking Scheme, BIS is carrying out publicity through advertisements in Newspapers, Radio, Television etc to the extent possible. Popularisation of BIS Certification Scheme with the assistance of BIS licensees is also being carried out.

BIS is also bringing out a special feature entitled 'Consumer News' in the Standards India, a monthly magazine of BIS. The reprints of this special feature are distributed to about 280 consumer organizations all over India so that the message reaches the largest sections of the consumers.

SEMINARS : BIS is participating in Seminars organized by Consumer Associations and other organizations like PFA, Agmark etc.

EXHIBITIONS : BIS is also participating in exhibitions connected with quality of products.

TECHNICAL ASSISTANCE TO CONSUMER ASSOCIATIONS : The Consumers Guidance Society of India, Bombay, has been carrying out, on a limited Scale, comparative testing of some consumers products and for this purpose the Society has a 'Testing Sub committee' in which BIS's representative provides technical guidance.

ORGANIZING OF AWARENESS PROGRAMMES FOR CONSUMERS ORGANISATIONS : BIS is organizing training programmes for the representatives of the consumer organisations to educate them about Standardization and Quality Control.

BROCHURES/SPECIAL LISTS/GUIDES : BIS has brought out a special list on : a) Indian Standards on Common Consumer Goods. b) सामान्य उपभोक्ता वस्तुओं सम्बन्धी भारतीय मानक ।

A bilingual brochure on 'The ISI Mark, the many ways it touches your life' has been brought out by BIS. It has also brought out a Buyers Guide for Consumers. This Guide gives the names of manufacturers their address and the brand name of the product which carry the BIS Standard Mark.

FUTURE PLANS : It is proposed to bring out the brochure 'Standard Mark, The many ways it touches your life' in regional languages like Marathi, Bengali and Tamil etc apart from Hindi and English. In order to educate the consumer about contents of Indian Standards a brochure on LPG Cooking Gas Cylinders, and Domestic Electrical Appliances is being brought out. A booklet in simple language on contents of Indian Standards on 'Safety & Health' is also being brought out.

Free Legal Aid for Consumers

The Consumers' Free Legal Aid Cell, set up in the Directorate General of Investigation and Registration of MRTP Commission (address : Travancore House, Kasturba Gandhi Marg, New Delhi) provides encouragement to individual consumer-complaints to come before the Monopolies and Restrictive Trade Practices (MRTP) Commission with their grievances. The need for a free legal aid service has been felt for quite some time because of the geographical distance involved for the consumers to pursue their cases with the Commission at New Delhi and the cost of hiring a lawyer.

Until recently, the consumer had no right to become a direct complainant under the Monopolies and Restrictive Trade Practices (MRTP) Act; instead, the

Directorate General of Investigation and Registration in the Department of Company Affairs could take up cases on behalf of consumers before the Commission. But with amendment to the MRTP Act in December, 1986 consumers or their associations can directly file a complaint with the Commission and present their viewpoint before it.

An important contribution of the Cell would be with regard to awarding of compensation to consumers under Section 12B of the MRTP Act, which provides for grant of monetary compensation for any loss or injury sustained by an individual consumer-complainant as a result of any objectionable trade practice falling within the ambit of the amended MRTP Act. It would take up such claims on behalf of individual consumer complainants and present and pursue them before the MRTP Commission. The

availability of free legal aid for consumers, it is hoped would popularize the provisions of Section 12B of the MRTP Act among the general consuming public and consumers even at far-flung places would be encouraged to seek compensation for any damages caused.

The Consumers' Free legal Aid Cell has as its members professionals drawn from among lawyers, chartered accountants, cost accountants and company secretaries (presently 20). To assure the consumer that his interests are safe in the hands of the legal aid personnel, the latter have been prevented from taking up any case on behalf of the respondent companies or to contest against advocates of the Directorate General of Investigation and Registration before the Commission.

To cater to the requirements of consumers living away from Delhi, Consumers' Free Legal Aid Cells have also been set up in Bangalore, Tiruchirappalli, Kottayam and Cochin. These cells outside Delhi would act as chapters of the apex body in Delhi and remain in close touch with it.

QUALITY CONTROL OF DOMESTIC ELECTRICAL APPLIANCES

The Electrical Appliances (Quality Control) Order, 1987 Issued by the Union Ministry of Industry last April will go down as a landmark in the production and supply of safe electrical appliances in the country. The Order makes coverage of seven electrical appliances and accessories of everyday use compulsory under the Certification Marks Scheme of the Bureau of Indian standards. Compulsory BIS certification in respect of four household electrical appliances, namely, electric irons, electric immersion water heaters; electric radiators and electric stoves came into force with effect from 1 October 1987 while electrical wiring accessories like switches for domestic and similar purposes and 3-pin plugs and socket

outlets will have to carry the BIS Standard Mark on a mandatory basis with effect from 1 December 1987. The presence of the Standard Mark on a product conveys the assurance that it has been produced to comply with the requirements of the relevant Indian Standard under a well-defined system of inspection, testing and quality control which is devised and supervised by BIS and operated by the producer. Products with the Standard Mark are also continuously checked by BIS for conformity to the relevant standards as a further safeguard. This not only ensures the quality of a product covered under BIS certification but also testifies to its being safe and reliable while in use.

Under the BIS Certification Marks Scheme, the manufacturing units to be licensed are required to have complete testing facilities for exercising quality control in their production units. However, in view of the appreciable cost involved in the installation of complete testing facilities for domestic electrical appliances, the Bureau has agreed in principle that their manufacturers would be required to instal only routine and acceptance test facilities at their premises and would be permitted to get type testing done from outside laboratories at the prescribed frequency.

Realizing that the testing facilities available for domestic electrical appliances in the country may not be adequate to meet the needs of the entire industry in the adoption of the BIS Certification Marks Scheme, the Bureau is augmenting those available with it at New Delhi, Bombay, Chandigarh, Calcutta and Madras. Besides, a number of laboratories set up by the State Directorates of Industries Development Commissioner, Small Scale Industries; and other Government organizations at different places provide facilities to the industrial units in getting their products tested against the requirements of related Indian Standards. Some of these laboratories could also be used by the manufacturers for getting their type tests done at the prescribed frequency as specified in the relevant scheme of Testing and Inspection.

The Certification Marks Scheme of BIS is a comprehensive means of ensuring compliance of electrical appliances with the prescribed Indian Standards. Some manufacturers may like to opt for the Certification Scheme of BIS even for items not covered in the Electrical Appliances (Quality Control) Order, 1987 to take advantage of the in-built system of quality control available through it. Such an action would, in fact, be in the interest of the industry itself as the Government may in time decide to make the BIS Standard Mark compulsory for additional items.

The implementation of the Electrical Appliances (Quality Control) Order 1987 has, however, been postponed by the Government of India on the representations by the small scale manufacturers on the ground that they do not have the testing facilities. The postponement has been made till June 1988 and one only hopes that the Government does not surrender to the pressures for any further postponement because unscrupulous and ill-equipped among the small scale industries are the real culprits in this matter, and the safety of users should not be jeopardised to serve the interests of such elements among the manufacturers.

MANDATORY CERTIFICATION FOR ELECTRIC LAMPS

An electric lamp consists of many parts, such as filament, glass shell and cap. All these determine the quality of the lamp. To guide the industry in the manufacture of reliable electric lamps, the Bureau of Indian Standards brought out an Indian Standard (IS: 418) on tungsten filament general service electric lamps way back in 1953 covering its mechanical, physical, marking, life and other requirements. It was subsequently revised in 1957 and 1963. A third revision to this standard was brought out in 1978.

The Standards requires the lamp to be so designed and constructed that its performance is reliable in normal and accepted use and does not endanger the user or the surroundings. It also specifies that the glass used shall be free from defects detrimental to service and should comply with the requirements laid

down in 'IS: 1112-1963 Specification for glass shells for general lighting service lamp. The caps shall be so constructed or attached to the bulb that they are able to withstand a specified torque. The dimensions of the cap on the completed lamp shall meet those given in 'IS: 9206-1979 Dimensions of caps for tungsten filament general service electric lamps'. The Standard specifies that the initial watts of individual lamps shall not exceed 104 percent ± 0.5 W and the lumen (unit or intensity of light) shall not be less than the rated lumens. It also requires the average life obtained to be 960 hours when the number of lamps tested is 20. However, an individual lamp shall not have a life less than 700 hours.

For the various tests-mechanical, physical, initial rating and life-the number of lamps to be tested and criteria of acceptance have also been specified.

To ensure the quality of general service electric lamps manufactured in the country, the Government of India has made Standard Mark of the Bureau of Indian Standards mandatory for lamps up to 100W with effect from 1 June 1987 under the *Essential Commodities Act* 1955. Under the *General Service Electric Lamps (Quality Control Order)*, 1986 issued for the purpose, nobody can manufacture or store or sell or distribute any general service electric lamp which does not conform to the specified standards (IS: 418-1978) and does not carry the Bureau's Certification Mark. The substandard or defective general service electric lamps or raw material or components which do not conform to the specified standard shall be deformed, beyond use and disposed of as scrap.

OIL PRESSURE STOVES UNDER MANDATORY CERTIFICATION

In India, a majority of the homes, both in urban and rural areas, use either wood, coal or kerosene as the fuel for cooking. However, the use of kerosene stoves has gained popularity over wood and coal because of the ease in use. Thus, it becomes quite essential that stoves of optimum quality are produced. To guide the manufacturers and industry in the manufacture of quality stoves, the Bureau of Indian

Standards has published four Indian Standards.

To ensure that the requirements stipulated in these Indian Standards are followed by manufacturers so that quality oil pressure stoves reach the consumers, the Union Ministry of Industry has, in exercise of powers conferred on it by the Essential Commodities Act 1955, made compulsory, with effect from 1 October 1987, use of the Standard Mark of the Bureau on oil pressure stoves and burners, intended for domestic and commercial use.

Under the Oil Pressure Stoves (Quality Control) Order, 1987, no person can himself or on behalf of any person, manufacture, store for sale, distribute any oil pressure stove which does not conform to the specified standards and does not carry the Bureau's Standard Mark.

PLASTICS FOR FOOD PACKAGING

Packaging of foodstuffs is a universally accepted method for avoidance of contamination, maintenance of hygienic conditions and ease of transport, handling and sale of foodstuffs. Since there is always a possibility of transfer of a part of the packaging material to the contents of the packed material due to their intimate contact, it is essential that the formulation of the package be so selected as to ensure that any such transfer is at a minimum and substances which do migrate from the package to the packed material are within limits and cause no toxic hazards, when consumed.

Use of plastics for food packaging is increasing both in quantum and variety. A number of plastics raw materials are consequently available in various forms for food packaging, such as foils, sheets, bottles, jars, jerrycans, sachets and containers in all shapes and sizes. These are normally based on single plastics materials. For special applications, more than one plastics raw material may be used. Coextruded films, sheets, bottles, etc, based on two or more plastics raw materials, extruded together, are examples of such types. These are specialized food packaging materials in which the inner layer is in contact with

the food while the outer layer serves other functional requirements. Composite materials provided by plastics coated substrates in which the substrates may be either plastics or non-plastics, for example, and aluminium foil, are also in vogue. Laminations are also finding wide applications for food packaging.

Realizing the versatility of plastic packaging, which has prompted its wide usage in food packaging in the country, the Bureau of Indian Standards has formulated an Indian Standard guide on suitability of plastics for food packaging.

All plastics included in this guide are required to conform to the relevant Indian Standards for food contact plastics. The Standard, however, does not purport to provide guidance on the actual design of the food packaging system nor does it cover the shelf-life requirements for various food products. With regard to storage of particular food products, the guide states that it shall be the responsibility of the manufacturers/packers of the food product to conduct the necessary shelf-life/keeping property tests so as to determine the correct choice of the thermo-plastics system.

BIS-CERTIFIED INFANT FORMULA

Infant formula manufactured in accordance with 'IS: 11156-1985 Specification for infant formulae' has now been covered under the Certification Marks Scheme of the Bureau of Indian Standards. This will ensure the availability of wholesome milk formula for consumption by needy children not more than 12 months of age.

Breast feeding is universally regarded as the most appropriate form of nourishing infants. Human milk ideally fulfils the entire requirements for infant growth and also provides unique bioimmune factors for protecting their health. However, when breast feeding is not possible, one has to rely upon alternate sources or nutrients for infant feeding. Infant formulae are intended for the partial or total replacement of breast milk. To safeguard the health of infants, it is imperative that infant formulae be properly formulated so that nutritional requirements for optimal growth are adequately met and that there is

minimum of physiological stress on the developing organ/enzymic system of the infant. It is equally important to promote correct feeding practices so that appropriate use of the infant food could be made for

protecting the health of the infant. To prescribe the requirements of infant formulae and their methods of sampling and test, the Bureau of Indian Standards has formulated the Indian Standard IS : 11156-1985.

HIGH INTEREST FRAUDS

The spate of complaints which keep coming to us from various parts of the country against fly-by-night finance and investment companies necessitates the highlighting of this problem so that investors donot continue to be made gullible victims of the frauds practised by many such companies. We reproduce below an article of Ms Pushpa Girimaji on this subject which has appeared in the Indian Express and an editorial of The Statesman which expressed strongly on this subject.

Thirty six per cent interest on fixed deposits may simply sound too good to be true, but that this is an irresistible bait to dangle before prospective investors is all too well known to financial companies. If the choice is between a nationalised bank paying 10-13 per cent interest and a private company offering 36 per cent, the balance invariably tips in favour of the latter, especially if the depositor is made to believe that his money is perfectly safe - in fact, "as secure as with any nationalised bank". To people disenchanted with bank-with their poor customer service and unimaginative deposit scheme-these companies seem like lucrative alternatives-till suddenly one day the company shuts its doors & investors are suddenly left clutching useless I. O. U. cards.

Such companies have justifiably earned the title of "blade companies". Hardly anyone who has had dealings with them, has come out unscathed. But the depositors undeterred, recklessly risk their life savings lured by irresistible and highly convincing media compaigns these companies launch. The success of such schemes can be seen in their rapid, mushroom-like growth all over the country. Many of them have as many as 8-10 branches in different parts of India. Allegedly patronised by politicians and high ranking civil servants, these companies are also reportedly used to convert black money into white.

With a canny understanding of the market, these companies concentrate on the middle class, especially the lower middle class in their deposit mobilisation drives. Government servants on the verge of retirement attract their special attention given the fact that such people are looking for a profitable investment for their soon to be collected pension, gratuity and provident fund. A look at the list of depositors of some of these companies confirms this. And when the company suddenly crashes or the owners decamp with the loot, most investors are left to cope with the reality-that they have lost whatever financial support they had painstakingly accumulated for their old age.

Even though the history of these financial institutions is littered with harrowing tales of depositors left in the lurch, surprisingly, state governments make few efforts at controlling or monitoring them, or protecting the interests of this highly vulnerable group of depositors. Even in Kerala, where as many as 1600 such blade companies are said to operate, it is only now that the state government has promulgated an ordinance to keep a tight reign over them.

While most state governments expect the Reserve Bank of India (RBI) to curb the growth of these institutions, the RBI says it has no powers to do so and it is the responsibility of state governments to enact a suitable law. Under section 3 C of the Reserve Bank of

India Act an individual cannot accept more than 250 deposits. However, there is no ceiling either on the amount collected or the rate of interest offered. The RBI, therefore, says it can only take cognisance of such companies that exceed the limit on number of deposits set by the RBI, and take them to court. But to circumvent this little restriction, each of these companies operates in the name of ten other similar companies. A depositor of Orient Finance, for example, is given a receipt in the name of Orient Finance and Exchange company, or the Oriental Exchange and Mutual Fund, and so on.

While most state governments & the Reserve Bank of India have turned a blind eye to the runaway growth of these companies, the Monopolies and Restrictive Trade Practices Commission (MRTPC) decided to step in on behalf of the depositors. It all began with a complaint from a Hyderabad-based consumer organisation-Akhil Bharatiya Grahak Panchayat. "Please investigate," said the complaint "Is this company financially sound? Thousands of innocent consumers are investing their hardearned savings in the company." The complaint referred to the Madras-based Oriental Finance and Exchange company. Following an investigation, the MRTPC took objection to certain tall claims made by the company which while offering 28-35 percent interest on fixed deposits, guaranteed complete security. The MRTPC said the company had no arrangements for earning such high a rate of return on the deposits collected. Further, the company did not utilise the funds from the public, but only acted as a conduit for the Sai group of companies in Kerala, which in turn invested the money in hotels or the film business. While the former is not highly profitable, the latter is highly speculative and fraught with risk. While granting an ex-parte interim injunction against the company for its campaigns designed to lure the gullible public, the MRTPC noted: "There has been a mushroom growth of private bodies, particularly unincorporated concerns accepting deposits, which constitute a devious parallel banking system, subsisting on the promise of alluringly high rates of interest, which adversely affect the efforts of

nationalised and other recognised financial institutions to mobilise deposits for investment in productive channels."

While making this remark, probably even the Commission did not realise the role it was soon to play in bringing many such institutions to book. Soon after the Commission's order was published in print media, the company was reportedly besieged with depositors demanding their money back. At the same time, fresh investments dried up. Sajan Verghese, proprietor of the firm, which also had branches in Delhi, Bombay, Bangalore, Trichur and Calicut, absconded, to be eventually arrested by the police in Madras. The company's debt to the depositors is said to be to the tune of Rs. 4 crores.

Even as the regular enquiry against Orient continued, the MRTPC brought three more companies under its dragnet: the Bombay based Travancore Finance and Exchange company, the Mangalore Bankers and Financial Corporation, and the Kalaimagal Sabha of Tamil Nadu.

Meanwhile, the MRTPC was flooded with letters from depositors all over the country. Not only those who had lost their money with Oriental Finance, but many others, who had invested in more than two dozen blade companies-National Financiers, La Bella Financiers, Mukkudan Financiers, Auditya Finance and Investment (India), Southern Financiers, Amanical Traders and Financiers, Laxmi Finance, Samarias Finance...the names may differ, but the complaints were more or less the same. Each letter spoke of hardships undergone to save the money and of the effect of losing this money on the family.

Going by the investigations conducted into some of these companies by the MRTPC so far, most of them offer very high rates of interest to woo depositors, but without any means of paying back such sums. In the beginning, to instil confidence in the depositors, they regularly pay the monthly interest. But sooner or later, the company throws up its hands and expresses its inability to do so. By the time complaints are lodged and the police decide to act, the owner would

have decamped with whatever loot he would have collected. Or sometimes, as happened following MRTTP ruling—the companies crash sooner than expected, because of sudden withdrawals. Even then, only lucky few get back their deposit, before the company declares itself insolvent.

Under the present laws, what is the remedy open to such depositors? The Reserve Bank of India's letter to Mr. Kirit Bhatt, President of Consumer Protection Education and Centre, Bhavnagar, on a similar query makes interesting reading. 'These companies are not covered by the regulatory measures of the RBI's directives applicable to non-banking financial companies'...the letter goes on to say that except for restrictions on the total number of deposits, there is no restriction on either the quantum of deposit or the rate of interest paid by these companies. It concluded thus: 'Further, mere compliance with the provisions of Chapter 3 C by a firm does not ensure the financial soundness and the depositor cannot look forward to the RBI for repayment of his deposit. Acceptance of deposits and refund thereof are matters of contract between the firm and the depositor and in case of breach, the remedy open to depositors is to enforce his rights through a court of law.'

The MRTTPC has to some extent come to the rescue of depositors. On the basis of complaints received from investors of Orient Finance, the Commission has passed an order decreeing that the claims made for repayment of deposits be fully honoured. It has also stayed the company or its owners from alienating any property owned by them. Some depositors in the meanwhile have also reportedly taken the case to the sub-judge's court. Kottayam and the Madras High Court.

Incidentally, the MRTTPC says all those who want to file an application before the Commission for compensation or repayment of deposit, should address relevant information, accompanied by an affidavit, to the MRTTP Commission at Travancore House, Kasturba Gandhi Marg, New Delhi.

Meanwhile, the Consumers' Education Trust of Mangalore, Karnataka, has demanded from the State

Government, a stringent law to keep a tight control over such companies. The law should make it obligatory for such companies to 1) keep at least one per cent of its total deposits in nationalised banks: 2) send details of assets owned by the company directors or owners to the government regularly. Besides, the government should have the power to enter the premises of such companies and scrutinise their accounts. The consumer organisation has also suggested that these companies should not be allowed to pay more than 2-4 per cent above what the nationalised banks are paying as interest. And these companies should be approved by a relevant authority, before they start their "deposit mobilisation schemes."

The recently promulgated ordinance by the Kerala Government to lend more teeth to Kerala Money Lenders Act is also more or less on similar lines. In addition, the ordinance has made auditing of accounts and periodical returns of accounts to the concerned authority compulsory. Besides, companies have to deposit securities with the government in accordance with a slab system. Violations have been made cognisable and invite imprisonment upto three years. The ordinance has also redefined the term money lenders to include those who accept deposits as well; a law worth emulation by other states. What is also needed is the political will to strictly enforce the law. Till then many people made gullible through need will continue to suffer.

NOT SO FIXED DEPOSITS

On the subject of defaults of companies on repayment of deposits the STATESMAN wrote a strong editorial which we reproduce below.

From time to time newspapers publish complaints from the public that companies which have accepted fixed deposits have defaulted in paying interest or refunding the deposit amount at the end of the contractual period. Either they do not reply at all, or give evasive answers to requests and reminders by depositors. Since such deposits are unsecured, there is no way in which a company can be compelled to

honour its obligations except through publicity for its default which may tarnish its image. Even so, Mr. Vengala Rao's disclosure in Parliament that as many as 89 companies, including some very well known names in the corporate sector, have defaulted was disturbing to most depositors who have been attracted by the higher rates of interest and short periods of maturity of up to three years. The total amount involved has not been stated and some of the companies mentioned have since denied such defaults but the problem is a real one. Since the deposits with over 5,000 companies now amount to more than Rs. 4,000 crores, any erosion of confidence in the integrity of company managements can affect the substantial flow of resources to companies at rates that are much lower than those charged for bank credit and without any of the restrictions imposed by the banks.

These advantages should normally have persuaded companies to promote confidence in their integrity and retain their access to cheaper funds from the public, but farsightedness is not a virtue of all managements. There is a danger that the less scrupulous ones will impair the faith of unsuspecting depositors in the same way as the recent speculative boom in the stock market has demoralized new investors in shares. The Government has at last taken cognizance of this problem and has sought to introduce remedial mea-

asures in the recently published Companies Amendment Bill which, however, seems to fall far short of the steps required to give effective protection against defaulting companies. It is not sufficient to make a categorical declaration in the Bill that every deposit be repaid unless renewed in accordance with the rules and the terms and conditions of such deposit. If the deposits are not repaid, the depositor can take the matter to the Company Law Board and the latter can make an order for repayment and anyone failing to comply with its order is liable to imprisonment for up to three years and a fine of Rs. 50 for every day of non-compliance.

However, the Board is also empowered to grant extension of time for repayment either on the basis of its own judgement or on the application of 10 more depositors or of those holding 10 per cent or more of deposits to the effect that it is necessary to extend the time to safeguard the interests of the company or in the public interest. Such provision can defeat the purpose of the measure since it only makes many company promoters or managements ensure that their associates or others amenable to their influence hold the required percentage of deposits to counter the demands of the other depositors for fulfilment of the terms. This is obviously unsatisfactory and inadequate but there is time to consider other ways of safeguarding depositors interests.

MISCELLANEOUS

T. V. SHOTS

We have written the following letter to the Minister of Food & Civil Supplies of the Government of India emphasising the need of stimulating consumer awareness through TV "shots":

"There is obvious need of utilising the medium of TV for creating awareness and disseminating information on problems of consumers. When the infrastructure under the Consumers Protection Act

starts coming into being there will be increasing opportunities of informing the people about matters which would be of interest to them as consumers. Even at present a number of areas of public interest have in the past few months opened up by the activities of MRTP. Based on the decisions of MRTP Commission a good many examples, without even mentioning the names, of unfair trade practices, can be cited which would stimulate the interest of the public. Likewise, many matters from the activities of Bureau

of Indian Standards can be disseminated to great advantage.

We strongly suggest that energetic efforts should be made by your Ministry to explore the avenues of utilising the medium of TV for these purposes. "Shorts" are being frequently put across on the TV on subjects which have relevance, for instance, to matters of i) public health, in relation to preventive vaccinations, ii) family planning spacing the children, iii) railway systems. iv) preservation, of environment (e.g. parks etc), (v) national obligation of payment of taxes etc. Surely, the problems of consumers, in the matter of prices, quality, availability, adulteration, weights & measures, and such like, are of equal, if not greater, importance and your Ministry should devise ways and means for putting these across in a series of "shorts" or TV spots.

It may be argued that these TV shorts and spots will be expensive, particularly in the matter of telecasting charges. It would need to be ascertained in this context whether the Ministries of Health, Railways, Environment, Finance etc are paying for the shorts which are being telecast by them. If they are incurring the expense the Ministry of Food & Civil Supplies should also set apart the funds for this purpose. If they are not, then there is all the greater reason that your Ministry must secure the slots in TV programmes.

We are aware that a couple of programmes have been telecast in the past few months on subjects of consumerism. These were very inadequate. They failed to strongly carry the message. What we are suggesting is the type of shorts which are being frequently telecast on subjects related to family planning and vaccinations for health.

For this purpose it would be desirable to set up a committee which should examine this entire matter and devise subjects on which excellent "shorts" and "spots" should be got prepared from competent experts. The committee should have on it the representatives of the concerned Ministries as well as from among consumers activities.

We earnestly hope that you will kindly give appropriate consideration to this suggestion. We would be interested to know the decision taken on this suggestion."

TOO MANY HOLIDAYS

In the recent weeks there has been considerable criticism on frequent holidays and mourning days declared in India. In this context, we have addressed a letter to Embassies and High Commissions of various countries in India. Information sought from these countries has started coming in and will be of obvious interest. The letter addressed to them is self explanatory :

"As a public interest organisation we are making a study of the problems of holidays and public mourning closures adopted in various countries and would be grateful if you could kindly send us information on the following points. This information would be surely available within your office in India and may not need to be procured from your country. We request for the information which may be readily available, and to the extent it is urgently available in the office in India

In seeking this information we presume that one day in the week is in any case observed as an off day in your country. In most of the countries Sunday is observed as the weekly off day, whereas in some the weekly off day is Friday. In quite a few countries two days in the week, Saturday and Sunday, are observed as off days. Information on this point will also be useful.

We seek information on the following point :

(i) Is one day observed as weekly off day in your country or are two days observed as weekly off days? Which ones? It is presumed that on the weekly off day (s) the government offices and public offices including those of banks, post offices; etc remain closed. If this is not so, the necessary information may kindly be given.

(ii) In addition to the weekly off days, how many national holidays are observed in your country in the

year, i. e. when government offices and public offices including banks, post offices etc remain closed. Presumably the national holidays are also observed by the industrial enterprises for the workers.

(iii) Besides the weekly off days and the national holidays, what types of other days and how many days are observed as holidays or closed days during the year on the national basis or on local basis. It is not necessary for us to secure specific information about the actual days which are observed as closed days, it will be enough to indicate the type of days which may be thus observed at the national level or local level, such as for some specific festival or events.

(iv) Over and above the weekly off days, the national holidays and any specific national or local off days what is the entitlement of an official of government or any official or workers of business or industrial enterprise, in relation to the leave, if any, which he can utilise during the year on full pay as well as half pay, and without pay?

(v) In the course of year how many days are in general utilised on duty, excluding the weekly off days, national holidays, any local off days, and the leave entitlement of the official / worker?

(vi) In the year how many days are generally utilised for actual services in the case of national legislatures, local legislatures and local municipal authorities? Very rough information will be enough if readily available.

(vii) What are the rules and procedures generally adopted on the passing away of any important personality or leader? Does the government declares the day of demise (or the day of funeral etc) as a closed day? Is legislature or a local authority session adjourned without transacting any business on any such occasion? Or is there a general practice of passing a condolence resolution and observing silence for a few minutes, without any session having to be adjourned? What generally are the rules for declaring days of mourning? Ostensibly the number of days of mourning would depend upon the eminence of the dignitary who has passed away, but we would like to

know as to what procedures are observed during the period of mourning. Flags are obviously flown at-half mast during the days of mourning, but over and above the half mast flying of the national flag, are there any formalities observed during the period of mourning in the matter, for instance, in relation to state formalities or receptions, or programmes on the radio and TV, etc.

We earnestly hope that you will be kind enough to send us the above information at the earliest for the study which has been undertaken, and to the extent it may be readily available in your office in India."

PRICES OF FILMS

Following two letters have been addressed on problems relating to the price fixation and quality of photographic films and photo printing paper. One letter relating to the price of imported film, has been addressed to the Indian photographic Company Limited (KODAK) (address : 222, Dr. Dadabhoy Naoroji Road, Bombay-1) and the other to the Hindustan Photo Film Manufacturing Company Limited (Public Sector concern) (Udhagamandalam-643005) These letters are self-explanatory. Taking into account the spreading interest of the use of photographic films and photo printing paper these letters assume obvious importance. No reply has yet been received from the companies. Matter will be followed up with them.

"We request you to kindly let us know immediately the retail price of 'KODACOLOR' Gold-100, 36 exposures, 35 mm film. In particular, we would like to know the retail price at which this film is being sold in Delhi and Bombay.

In this connection, we would in particular also like to know as to why the retail price has not been printed on the packets containing the film. You would be aware that under the "Packaged Commodities Rules" promulgated under the "Standards of Weights & Measures Act" it is obligatory for all packages containing any products to prominently display the "Maximum

Retail Price" and the words "Local Taxes etc." on the packages. It will be observed that these words are prominently printed on all packages which are presently sold in the shops all over the country. This requirement is in compliance with the above mentioned "Packaged Commodities Rules".

If the Retail Price on the packages containing the KODACOLOR film is not being printed we would like know as to why this is not being done and whether any exemption has been secured to this effect from the Government of India.

As this matter is of very wide ramifications we request you to kindly examine it immediately and let us have a reply within at most ten days.

A copy of this letter is being sent to your Delhi office.

P. S. Incidentally, it might be mentioned that for checking purposes we have purchased the KODACOLOR Gold-100, 36 exposures film of 35mm, today in Delhi at Rs. 70/- from a retail photographic goods depot.

Following two important matters relating to the photographic films and bromide paper manufactured by your company have come to our notice and we are referring these to you for urgent examination :

- (i) It has been reported that the INDU Roll Film, 120 size, Panchro — 125 ASA is being sold at prices ranging upto Rs. 30 per film whereas the packet containing the film has the "Maximum price of Rs. 15.80" printed on it. The cardboard package of the film is enclosed for ready reference. It has been brought to our notice that the retail price is being manipulated in Delhi through creation of shortages and also jacking up the price.
- (ii) Enclosed herewith are some Bromide Papers which are stated to have been manufactured by your company. It will be noticed that all these, with the exception of one, do not have any emulsion on the paper. The paper without emulsion was dipped in developer, and it shows no darkening. One sheet containing

the emulsion is enclosed for providing the contrast. A large number of sheets without emulsion have been brought to our notice. These are stated to be contained in many cardboard boxes which have been received in such condition of being without emulsion. To avoid unnecessary expenditure on postage, we are not forwarding the cardboard boxes, and are enclosing herewith only a few samples of the Bromide Paper sheets. It might be mentioned that one such Cardboard box carries emulsion no : 202417.

As these matters are of very serious nature, relating to important public sector concern, we request you to kindly examine these problems immediately and to inform us about the position and circumstances relating thereto. We earnestly hope that we will receive the reply within about ten days."

EXEMPTION UNDER INCOME TAX ACT

The following letter has been sent to the Ministry of Finance, Government of India, relating to the provision of exemption on the instalment repaid in relation to loan taken towards cost of purchase or construction of new building. The letter is self-explanatory. Reply has not been received and the matter will continue to be followed up with the government.

"Under the Finance Act of 1987 a provision has been made in Section 30 that any repayments or refund of instalments of house building advance, to the extent of Rs. 10,000 per annum, by the tax payer to the government, LIC or any specified agency, towards the cost of purchase or construction of new housing property, will qualify for deduction under S. 80C (i) of the Income Tax Act 1961, provided the construction or transfer or purchase of the said property is completed after the 31st March 1987. This exemption is stipulated to be within the existing limit of Rs. 40,000. The stamp duty, registration fees and other expenses incurred in connection with the transfer or purchase of the new housing property after 31st March '87 are also covered under this Section.

The provision of 31st March '87 as the "cut-off date" in this connection is obviously inequitable and will be challengeable in court. This cut-off date deprives all those persons who constructed or purchased new housing property before 31st March 1987, from the above-mentioned benefits even though they may still be repaying the loan. The Government of India would be aware that discrimination against all such cut-off date has been held by the Supreme Court to be violative of the provisions of Article 14 of the Constitution of India.

We, therefore, suggest that the Ministry of Finance should re-examine this matter and effect rectification at the earliest possible date under advice to this organisation. If this benefit cannot be given retrospectively it should at least be made available with effect from 31st March 1987 to all persons who will be deemed to qualify for the deduction"

ANOTHER INCOME TAX EXEMPTION MATTER

Exemption is provided towards repairs and maintenance cost of flats and apartments in multi-storeyed buildings, but the Income Tax authorities have not been allowing the exemption in the case of multi-storeyed buildings in a city like Delhi on the plea that ownership rights have not vested in the purchasers of the flats and apartments. The contention of assesseees has been that there was no enabling statutory provision for the transfer of ownership to the purchasers. On this matter a self contained letter has been addressed to the Prime Minister, Minister of Finance and the Chairman of Central Board of Direct Taxes. Copy of the letter is reproduced below for general information. Matter will continue to be followed up.

"We have previously represented, and re-iterate, that a serious anomaly and problem continues to be caused to the owners of flats in Delhi in the matter of tax concession relating to the 1/6th amount of rental income for purposes of repairs and maintenance.

Government of India is aware that the Delhi Apartments Ownership Act has been enacted only

recently. Prior to the enactment of this legislation there was no statutory basis available for conferring the rights of ownership of flats, residential as well as commercial, in the multistoreyed buildings, to the persons who purchased them from the builders. Even though the purchasers were to all intents and purposes defacto owners of the flats for number of years, and exercised full privileges of ownership in the matter of renting out and receiving rent etc. in the absence of the title of legal ownership they were not accepted as owners in terms of the provisions of Income Tax Act by the income tax officers, and the income derived from these flats was not allowed to be taken as 'income from property', and was instead taken as "Income from other sources". One result of this anomaly was that these de facto owners continued to be deprived of the benefits of tax concession of 1/6th of the income for purposes of repairs and maintenance.

The Income Tax Officers did not allow this tax concession. In appeals this concession was accepted at the level of the Income Tax Tribunal, but invariably the Department has been submitting "References" to the Income Tax Tribunal for referring the matter to the High Court. The de facto owners assesseees have thus been made to go from pillar to post, knocking at the doors of the Appellate Assistant Commissioners, and thereafter to the Income Tax Tribunal, and later to the High Court, for decision on a matter which was beyond their control because the enabling legislation did not exist for conferring on them the legal ownership rights.

Persons who purchase flats subsequent to the date of enactment of the Delhi Apartments Ownership Act and in whose names the ownership of flats is registered in accordance with this Act, will be automatically entitled to the benefits of the above-mentioned tax concession whereas those who purchased the flats prior to this enactment but have been throughout exercising all the benefits of such ownership de facto have continued to be deprived of this tax concession. Enabling provision was also made in the Finance Act

of 1987 whereunder ownership of Flats has been accepted under item (6) of 5.37 of the Income Tax Act, making the concession available only from the Assessment Year 1988-89.

This anomaly and discrimination is obviously ultra vires of the Constitution. We strongly feel that this matter should be favourably viewed by the Government. We addressed the Finance Ministry on this subject previously and were informed that this matter would be considered after the Delhi Apartments Ownership Act comes into existence. Now that this has come about we request the Government to consider this matter urgently for removing the harassment being caused to a large number of persons who had purchased Flats prior to the enactment of this legislation.

Taking into account the administrative problems which are likely to be involved in giving retrospective

effect to the above-mentioned tax concession we are not suggesting that this concession should be made applicable from the date of purchase of any flat during the period prior to the enactment of this legislation, but that the tax concession should be allowed in all cases which may presently be pending, either at the stage of assessment or in appeal before the Appellate Assistant Commissioners/Appellate Commissioners or in appeals to the Income Tax Tribunal or on reference to the Delhi High Court. These cases will thereby be automatically resolved and the assesseees will be saved from the harassment, and the concerned appellate officers and authorities will be saved the meaningless burden of these pending cases.

We would be grateful for being informed by the Central Board of Direct Taxes the decision taken on this representation".

FOR PENSIONERS

PRE-1973 PENSIONERS

We have written the following letter to Mr. P. Chidambaram, Minister incharge of Pensions. This letter explains the problem faced by pre-1973 pensioners. It is self-explanatory. It shows how deprivation caused to pre-1973 pensioners is not being redressed despite the decision of the Central Administrative Tribunal in their favour:

"Through this letter I am bringing to your notice a matter in which the government is being severely criticised by the older pensioners. They feel cheated and are openly accusing the government of having acted dishonestly in dealing with this matter.

The initiatives taken personally by you have gone a very long way to solve many problems of the pensioners. They have felt that for once there was somebody in the government who had taken into consideration their various problems and deprivations, and has resolved these to their satisfaction. In face of this feeling of general satisfaction the handling of present problem of the older pensioners by the Department of Pensions has given cause for serious complaint.

This problem relates to pre-1973 pensioners. Most of them are now in their late 70's; in any case, all of

them are above the age 73. A measure of pension liberalisation was introduced with effect from 1.1.1973. This liberalisation comprised three elements, namely, the prescription of formula of 33/80 in place of the previous formula of 30/80; the enhancement of ceiling from Rs. 675 to Rs. 1000; and the recalculation and enhancement of gratuity. This liberalisation was made applicable only to those pensioners who retired after 1.1.73. Those who retired prior to this date had remained deprived of the benefits of this liberalisation.

This matter continued to be pursued with the Government of India, and when no positive response was forthcoming, it was taken to the Central Administrative Tribunal. The CAT gave verdict in favour of pensioners, based on the well known Supreme Court decision in Nakra case which had been taken to the court by COMMON CAUSE. The CAT gave verdict that the entire liberalisation of 1973 should be made applicable to the pre-1973 pensioners. There was a general feeling that this decision of CAT would be made applicable to all pre-1973 pensioners even though the matter had been taken to CAT by the All India Services Pensioners Association.

Government chose to challenge this decision and filled appeal against it before the Supreme Court. Increasingly, a feeling has been arising among the pensioners that the very purpose of establishing CAT appears to get defeated when its decisions are not honoured by the government and practically in all important cases the Government chooses to challenge the decisions. In this particular case when the appeal was taken up by the Supreme Court, our lawyer held discussion with the government counsel on the morning of the hearing. It was agreed that the pensioners would give up the demand in respect of gratuity and the government would not contest the claim relating to pension. When the appeal was taken up for hearing, accordingly, there was only a brief argument, in which our counsel himself stated in the court that the gratuity was one-time payment and that we were not contesting the position taken by the government. The Supreme Court then gave a judgement which was widely reported in the newspapers.

In this judgement the following words appear in relation to the problem of pensionary benefits :-

'The Union of India, the appellate herein, has not questioned the order of the Central Administrative Tribunal insofar, as it is liable to pay the pension in accordance with the judgement of the Tribunal is concerned. This appeal by Special Leave is confined only to that part of the order of the Tribunal of which the Union of India is directed to pay gratuity in accordance with the aforesaid notification even to those pensioners of All India Services who had retired prior to 1. 1. 73.'

The opening sentence of this judgement is also relevant in this connection :-

'The short question involved in this case is whether the members of the All India Services who had retired prior to 1. 1. 73 are entitled to payment of gratuity as a part of retirement benefits at the rates specified in the notification no : 33/12/73-AIS (II) dated 24.1.75.'

The concluding lines of the judgement further clarify this position :-

'The judgement of the Tribunal is set aside to the extent indicated above i. e. in relation to gratuity. We make a declaration that the members of the All India Services who had retired prior to 1. 1. 73 are not entitled to claim gratuity on the basis of the notification referred to above. The appeal is allowed to the above extent.'

These portions of the judgement obviously make it clear that the government had given up the plea of challenging the CAT judgement in relation to pension and had confined itself to the problem of gratuity. This was in accordance with the understanding arrived at between the parties outside the court.

It was, therefore, with considerable shock that we learnt of a Review Petition having been filed by the Government of India. The Review Petition featured in the cause list of the Supreme Court for hearing on the 10th March '88. It came up before the same judges who had given judgement on the appeal. The volte face of the government, which was evident in the Review Petition, shocked us no end. It was stated in the court on behalf of the government that "due to misunderstanding and a communication gap the arguments relating to pension in particular could not be put forward before this Hon'ble Court." This was positively a travesty and distortion of facts. The court was left with no alternative excepting to record that the matter of pensions was not argued and that no order accordingly was passed on this matter while disposing of the appeal.

The pre-1973 pensioners, who had won the case before the CAT, have felt cheated by this change in the stand of the government. It is on this ground that they have generally been expressing that the government has been dishonest in filing this Review Petition after having conceded the matter outside the court which resulted in the above mentioned judgement on the appeal.

We have considered it necessary to bring this matter to your personal notice because it is most likely that you may not have been kept informed of these developments. When this matter gets more widely known to the pensioners they will inevitably think very poorly of this decision of the government. You would surely like to re-examine this matter at your personal level to see whether it was worthwhile for the Department of pensions to thus go back on a decision which had been given by the CAT and which had been accepted by the government counsel before hearing of the appeal in the Supreme Court.

As I have said above, the pre-1973 pensioners are now very old, most of them in their late seventies. There would be only a few thousand pensioners who would stand to benefit from the increase of ceiling limit from Rs 675 to Rs. 1000, and this benefit would also be restricted only to the period between 1973 to 1979, because after 1.4.1979 their pensions have already been revised on the basis of Nakra judgement. The lower paid pensioners would stand to benefit only by the increase of pension by 3/80, and this too would apply only to those whose service was of 33 years.

We earnestly hope that you will kindly give personal attention to this matter and see whether it can be resolved, despite the Department having presently taken the above mentioned order on the Review Petition."