

COMMON CAUSE

VOICE OF "COMMON CAUSE"

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This issue of COMMON CAUSE presents information on a number of matters which are of concern to the middle classes. These types of problems are encountered in every urban area of the country, and local solutions to the problems have to be found by the people. The information provided in these columns will, we hope, enable the solutions of local problems to be facilitated.

The major problem of pensioners is now over. We are happy that COMMON CAUSE has been instrumental in winning this case for eleven lakh central government pensioners involving the payment of arrears to them of the amount of more than Rs. 200 crores in the current year with future annual liability of about Rs. 50 crores on the Government. The orders have issued; excepting that order from the Defence Ministry relating to Defence pensioners have yet to issue which we hope will not be much delayed. In a separate section of this issue we have dealt with various issues relating to this problem.

We have previously stated, and would like to repeat, that this periodical is not a monthly issue. It is at present issued as and when possible. It is supplemented, however, by a large number of circulars which on respective subject continue to be issued from time to time for disseminating information on important problems or present position of specific subjects. We continue receiving hundreds of letters, and our endeavour has been to send individual replies or circulars conveying the desired information. We offer apology that during the latter half of November there has been delay in disposal of correspondence because of prolonged illness of Director H. D. Shourie. The material of this issue had been prepared by him but as he has not been able to check it, we convey our regrets for any mistakes, omissions or printing errors.

In these columns members will find information about the next Annual General Meeting which is now scheduled to be held at Delhi on Sunday, 5th February, 1984 at 10.30 A.M. in the Constitution Club, Rafi Marg, New Delhi-1. Notice and Agenda of the meeting, as well as the Annual Report for the previous year, are incorporated in these papers.

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GENERAL TAXATION MATTERS

COMMON CAUSE has taken up certain matters in the areas of personal taxation. Particulars of these appear in the paragraphs that follow.

(i) Deduction of Tax at Source : We have pointed out to the Ministry of Finance and the Central Board of Direct Taxes the anomaly that exists in the matter of tax deduction at source in relation to dividends on shares and the interest on deposits. Where a deduction is normally not being statutorily made from the interest paid on deposits, such deduction is invariably made in the case of dividend accruing on shares. These deductions pose a problem particularly in the case of those persons who are not income tax assesseees, and although procedure has been devised by which non-asseeseees can intimate to the companies in advance and thereby avoid deduction at source, numerous non-asseeseees suffer the loss of deducted tax because of their omission to submit the requisite forms in advance to the companies and the inability to subsequently follow up by submitting Returns for claiming the deducted tax. We have represented that this entire matter of tax deduction at source should be re-examined and rationalised by the Government.

(ii) Income Tax Aberrations : In the absence any legislation whereby the flats in multi-storeyed buildings in Delhi can yet be registered in the names of owners, on the lines of legislation existing in Maharashtra, a difficulty has arisen for the owners inasmuch as the Income Tax Officers are not allowing the income from such flats as "income from property" which entitles deduction for repairs etc, and instead are treating this income as "income from other sources". Some owners have taken the matter to Income Tax Tribunals where it has been held that income from such flats should be treated as "income from property". It is unfortunate that despite these rulings of the Tribunals, the Income Tax Department apparently encourages its officers to hold on to the view that the income from such flats is "income from other sources", thereby compelling the owners to go up in appeals. We have brought this to the notice of the Finance Ministry and have urged them to issue specific

instructions instead of allowing the officers to continue causing harassment to the owners.

(iii) Standard Deduction : In the matter of "Standard Deduction", likewise, even though the Department has itself liberalised and extended this concession to pensions, it is unfortunate that in respect of cases prior to the issue of this liberalisation, the Income Tax Officers are forcing the pensioners to go up in appeals instead of permitting them, where assessments have not yet been finalised, to derive the benefit of Standard Deduction. In another similar matter the Punjab & Haryana High Court has held that the house rent allowance is deductible from income for purpose of tax assessment, but the Income Tax Department has not issued general instructions based on this decision, on the ground which is obviously unfortunate, that this decision would be applicable only in the areas of jurisdiction of Punjab & Haryana High Court. We have represented to the Finance Ministry to see reason in matters of this nature and not to hold on to a position which has been adjudicated to be wrong and where matters can only lead to multiplication of litigations in appeals and consequent disaffection against the government functioning

(iv) National Rural Development Bonds : We have represented to the Government of India that they should examine and remove the existing anomalies in the matter of National Rural Development Bonds. Previously the position was that these Bonds would remain in effect for seven years i. e. the money invested in the Bonds, for avoidance of tax on capital gains; was to remain in these Bonds for a period of seven years, carrying annual interest of 7½ percent. From the current financial year the duration of the Bonds has been reduced to three years. It is obviously anomalous that a person who had invested the money in such Bonds in the previous years, has needed to wait for seven years, whereas a person who is investing in these Bonds has to keep the money for three years. This anomaly obviously needs to be rectified.

(Concl)

TAX PLANNING FOR INDIVIDUALS

For the middle class tax payer it is of paramount importance that he should be aware of the ways and means by which he can reduce the burden of taxes. Through the utilisation of legitimate ways and means, particularly in effecting savings through the opportunities provided under various government regulations, he can save on taxes and at the same time derive the benefit of savings. These measures are known by the name of Tax Planning; these lead to tax avoidance which is totally different and distinguishable from the illegal modes of tax evasion. In this note we present for our readers in brief and simple words the information which can help them to do Tax Planning for themselves.

Let us first consider how much income an individual can have without having to pay any income tax, before we consider the pros and cons of various types of investments.

1. Salaried individuals (including pensioners) get the benefit of standard deduction of 25% on such income subject to a maximum of Rs. 6000/- per year (p.y.). Govt. servants, in addition, can also claim 10% of their salary income as entertainment allowance for tax purposes.
2. Contributions upto Rs. 6000/- p.y. to provident fund (PF) and/or to Life Insurance, and (from current year) deposits in National Savings Certificates (NSC) Series VI & VII are deductible from the total income for tax purposes. A further contribution to the above three avenues of upto Rs. 6000/- is deductible to the extent of 50%, and any sum beyond Rs. 12,000/- upto Rs. 40,000/- is deductible @ 40% from the total income. Thus an individual depositing Rs. 12,000/- towards PF, LIC, NSC (Series VI or VII) can deduct Rs. 9,000/- from his total income, and a depositor of Rs. 40,000/- can deduct Rs. 20,200/- from his total income for tax purposes.
3. An income of Rs. 7,000/- p.y. derived from share dividends, bank interest on fixed deposits, post office (PO) fixed deposits and UTI (Unit Trust) is exempt from income tax.
4. In addition to above, a further Rs. 3000/- income derived from UTI exclusively is also exempt from income tax.
5. Interest income from post office Savings Bank (POSB) for balances not exceeding Rs. 25,000/- i.e. interest theoretically upto Rs. 1375/- but practically upto Rs. 1250/- (p.y.) is exempt from income tax.
6. It is not generally known that reasonable cost of collection of interest on FDR's and dividends is a deductible expense for income tax purposes, as it is for collection of rent.
7. The first Rs. 15,000/- of income, besides taking advantage of the above exemptions, is free of income tax.

An individual receiving salary or pension can therefore get away with a tax free income of Rs. 6000/- under (1) if his salary/income is more than Rs. 24,000/- p.y.; Rs. 6000/- under (2); Rs. 7,000/- under (3); Rs. 3,000/- under (4); Rs. 1,250/- under (5); and Rs. 15,000/- under (7) i.e. a total of Rs. 38,250/-. A Govt. servant can, in addition, claim 10% of his salary income as tax free entertainment allowance. A non-salaried person will be unable to get the benefit under (1) above; thus his tax free income would be less by Rs. 6000/- i.e. Rs. 32,250/-. The tax free income is further increased by additional savings under (2) above.

Tax Planning for an individual would mean getting the maximum benefit from the above so as to lower the income tax bracket.

There is no single investment scheme which would suit all individuals as each person's requirements differ depending upon the age group, family liabilities, tax bracket, source of income, investible funds etc. The pros and cons of various investments are discussed below.

- (a) **Life Insurance** : If an individual is young and has family liabilities it is safer to take out life insurance, but as an investment it is argued that there is nothing worse than life insurance. Even if an endowment insurance with profits runs its

full course of 20-30 years, at the end the annual return is barely 2-3%, when the current inflation rate is running into double digits. Therefore, as an individual's family liabilities get reduced by efflux of time it may not be a bad proposition to get the insurance policies paid-up, and switch over to other investments. There is a difference between getting the policy paid-up and claiming its surrender value. When a policy is paid-up in the event of death or maturity one is entitled to receive all the premium paid plus the accumulated profit upto the date the policy becomes paid-up. The surrender value is considerably less depending upon the number of years still to go for its maturity but one can get cash immediately. If an individual's liabilities continue for an extended period, in some cases it might be advantageous to get an earlier policy paid-up and take fresh policy for the same amount. The premium undoubtedly goes up but the risk cover is increased by the amount in the paid up policy. The profits earned on the insurance policy are free of income tax and the accumulations are free from wealth tax till these are actually in one's hands after maturity.

- (b) **Provident Fund** : With interest rate around 9% which is free of income tax, and accumulations free from wealth tax, this investment whether in recognised provident fund or public provident fund is an attractive proposition. The public provident fund, however, is attractive for those who expect to live for atleast 15 years to be able to collect their full accumulations unlike govt. or companies' P.F. which one collects at retirement time.
- (c) **Bank Deposits** : A fixed deposit for five years earns 11% interest. After the Rs. 7,000/- tax free limit under (3) above is exhausted the interest is taxable. A major advantage of fixed deposits with banks is that one can borrow upto 75% of the amount of the deposit by paying 2% additional interest i.e. 13% interest + approx. $\frac{1}{2}$ % govt. tax. If one expects to borrow to cover for exigencies a bank deposit is useful.
- (d) **National Savings Certificates (NSC) Series VI & VII** : This is the best risk-free investment available at present, particularly for retired individuals

who have gone beyond the age of insurance and do not expect to collect public provident fund during their life time (15 years' duration). The deposit is for 6 years at annual interest of 12%, payable/calculable at 6 monthly intervals. Under series VI, it is payable at the end of 6 years; under series VII it is paid every six months with provision to automatically credit your P.O. savings bank account if it is in the same P.O. Apart from the advantage of collective interest upto Rs. 7,000/- being free from income tax under (3) above, the amount of deposit is tax deductible in the year of deposit under (2) above. The principal, however, is not free from wealth tax. National savings certificates are encashable after 3 years. The penalty reduces the effective interest rate from 12% to about 9%. In some cases where the income tax bracket is rather high it might be advantageous to encash these after 3 years and re-invest in NSC to claim again the benefit under (2) above. Retired persons who have collected their retirement benefits can arrange to rotate their investment year after year. In the case of Series VII one can claim long term capital loss and set it off against long term capital gains if any, thereby getting additional tax benefit.

- (e) **Post Office Savings Bank** : Maximum deposit permissible is Rs. 25,000/-. Interest @ $5\frac{1}{2}$ % is tax free. If somebody needs liquidity upto Rs. 25,000/- this is readily available. In some post offices chequeing facility is also available. One can hand in P.O. cheque for credit into one's neighbourhood S.B. account and draw the required amount.
- (f) **Company Fixed Deposits** : The maximum rate of interest for Public Limited Company has been fixed by the Govt. at 15% p.y. for 3 year period. Govt. companies pay 1% less. For periods less than 3 years the interest rate is less. The deposits are normally unsecured. Although good companies are known to pay the interest on due date, some good companies are also known to dilly-dally at the time of repayment of principal. The not-so-good companies are known not to pay even the interest.
- (g) **Company Debentures** : This is a comparatively new form of investment. The debentures are

issued by companies of standing and are secured; the rate of interest is upto 15% p.y. payable half-yearly; at the time of maturity (seven years) 5% 5% additional amount is repayable alongwith the principal. Some of the companies have agreed to buy-back the debentures after 12 months (they have made standby arrangements with U.T.I., L.I.C. etc. to re-sell these debentures to them). This buy-back arrangement is much too new to comment as to whether it is promptly honoured.

- (h) **Company Shares** : For the purchase of shares in new companies the Govt. gives an incentive of 50% deduction of the amount so invested from total income for tax purposes, upto a limit of Rs. 5,000/- (i.e. Rs. 10,000 investment). The snag is that for the first 5 - 7 years new companies do not generally declare any dividends. This is sometimes claimed to be a risky investment; some shares are known to have improved more than 50 times in value in less than 20 years; others are known to have gone down to zero value in under 5 years. So it depends upon whether one has capital which one can risk and can wait for return, and has aptitude as also luck to indulge in this type of investment.
- (i) **Capital Investment Bonds** : If an individual is in 50% tax bracket (which works out to over

56% after 12½% surcharge) and he is also a wealth tax payer, it would be advantageous for him to invest in the Treasury (Reserve Bank) Capital Investment Bonds for 10 years at 7% tax-free interest, as against 15% company deposits which are taxable. The amount invested is also free from wealth tax, and per individual investor it is also free from gift tax for gifts upto Rs. 10 lakhs. The interest is paid annually.

- (j) **Unit Trust of India** : This year UTI declared a dividend of 13.5%. However, as the units were being sold in July at Rs. 12.60 per unit, it means a yield of a little over 10.6%. If one is a tax payer, one might invest enough in UTI to get the exclusive income-tax benefit of Rs. 3000/- under (4) above (also exclusive benefit from wealth tax of Rs. 30,000/-). The other main attraction is the liquidity of the investment although there is a loss of about 7 - 8% when the units are sold to U.T.I.

We are grateful to member Dr. M. P. Khera (address : D1/46 Vasant Vihar, New Delhi-57) for compiling the above information for us, and also to Col. Ratan Arjun (address : C-43 Defence Colony, New Delhi-24) who has offered to help by providing advice in the matter of general investment of savings.

RENT CONTROL LEGISLATION

A major problem in the urban areas these days is the worsening relationship between landlords and tenants. This worsening relationship is manifested by the enormous increase of litigation in this matter, and occasional problem of law and order arising from it. It has over the years hampered expansion of construction activity and continues to bring about deterioration of the housing stock because of the disinclination of the houseowners and landlords to undertake repairs. We have again taken up this matter with the Govt. of India and written also to the office of the Prime Minister for bringing to her notice that the people in general complain that the Government lacks the political will to deal with this important problem. Indications have been given by the respective Housing Ministers of the Government of India that they would soon bring forth legislation for amending the present

enactments, but these indications have not materialised.

While we continue pursuing this matter with the Govt. of India for effecting amendments of the rent control legislation we reproduce below the contents of a small booklet recently brought out by the Citizens Advice Bureau of Delhi (address : Community Hall, East Patel Nagar, New Delhi-8) in which a useful summary has been presented of the salient features of existing rent control legislation of Delhi. As the rent control legislation in the various states is practically of uniform pattern this summary will generally prove useful to the readers. In this summary the rights and obligations of the landlords and tenants have been presented as well as the procedures provided for eviction of tenants, etc.

I. Obligations of the Landlords

The Delhi Rent Control Act, 1958 not only protects a tenants from unjustified eviction from a premises (residential or commercial) but also imposes inter-alia the following obligations on the landlords in the interest of tenants :-

- a) To keep the premises in good repair (S. 44)
- b) To issue receipt of rent paid by tenant (S.26)
- c) To keep the essential supplies or services such as electricity, water etc. (S. 45)
- d) To refrain from changing excess of the fair rent (S. 33) and not to increase the rent or claim pugree, advance/security etc. (S. 5).

II. Obligations of the Tenants

The tenants also have obligations under law.

Most of these are :-

- a) To pay the rent regularly and arrears, if any, within two months of the demand.
- b) To refrain from using the premises for purposes other than for which it is let out and/or against the terms of the lease.
- c) To refrain from causing any damage to the property or carrying out any additions or alterations.
- d) To refrain from sub-letting or parting with possession.
- e) In case of fixed tenancy i. e. tenancy of a residential house for fixed period with the permission of the Rent Controller under Section 21, to vacate the same after the expiry of the period.

III. Grounds of Eviction of the Tenants :

The landlord once having let his premises, has the following grounds open to him for eviction of the tenants as per section 14 of the Delhi Rent Control Act.

- a) If the tenant has failed to pay the arrears of Rent after notice of demand, within two months.
- b) If the tenant has sublet or otherwise parted with possession of the premises.
- c) If the tenant has used the premises for a purpose other than that for which it was let out.
- d) If neither the tenant nor any member of his family has been residing in the premises for a period of six months immediately before the date of filing the petition.

- e) The premises let out for residential purposes are required bonafide by the landlord as residence for himself or for any member of his family dependent on him, if he is the owner thereof, or for any person for whose benefit the premises are held and that the landlord or such person has no other reasonably suitable residential accommodation.
- f) That premises have become unsafe or unfit for human habitation and are required bonafide by the landlord for carrying out repairs, building or rebuilding, substantial additions or alterations.
- g) The tenant has built, acquired vacant possession of or been allotted a residence.
- h) That the premises were let out to the tenant by reason of being in the service or employment of the landlord and that the tenant has ceased to be in such service or employment
- i) The tenant has caused or permitted to cause substantial damage to the premises.
- j) That the tenant has used or dealt with the premises in a manner contrary to any conditions tenant imposed on the landlord by the Govt./DDA/MCD while giving him lease of the land on which the premises are situated.
- k) If the landlord being a Govt. servant, is required to vacate such residential accommodation allotted to him.

There are, however, some limitations on this power of the landlord. They are :-

- a) No order of recovery of possession can be passed on the ground for non-payment of rent if he makes payment or deposits the rent within one month from the date of the order.
- b) The landlord must give proper notice for requiring the tenant to stop the misuse of the premises.
- c) The landlord, if has acquired premises by transfer, cannot file eviction petition on the ground of bonafide requirement unless a period of five years has elapsed from the date of acquisition.
- d) When the premises are situated in the slum

area, the landlord must obtain a prior permission under the Slum Clearance Act from a Competent Authority to file the eviction petition.

- e) If the tenant complies with the conditions imposed on the landlord and/or pay to the authority concerned such amount by way of compensation as the Controller may decide.

IV. Protection of Rights of Tenants

In order to secure the just interest of tenants, the act provides for certain rights which tenants command. Thus :-

- 1) The landlord may serve a prior notice under Transfer of Property Act giving at least 15 days time to terminate the tenancy of the tenant or for the period prescribed in the lease-deed.
- 2) In case of residential premises the Controller must give at least six months period for vacating the premises in case of passing an order of eviction.
- 3) The tenant being charged excessive rent can within a period of two years from the date of tenancy apply for fixation of the Standard rent.
- 4) The tenant can apply for permission to make repairs if the landlord neglects or fails to make repairs after a notice in writing.

V. Power of the Controller

A Controller is generally appointed from amongst Sub-Judges/Metropolitan Magistrates. While functioning as such he exercises powers of a Civil Court as well as that of Magistrate.

VI. Penalties against Erring Landlords and Tenants

Section 48 envisages imprisonment for a term up to three months or a fine upto Rs. 1000/- in case any unlawful amount is received by the landlord in excess of Standard Rent as per Section 5, or cuts the essential supply of tenant.

The imprisonment may extend to a period of six months and fine upto Rs. 5000/- if the landlord receives any puggree etc.

Similarly if tenant sublets or parts with the premises, he can be fined upto Rs. 1000/-.

VII. Appeal

An appeal lies to Rent Control Tribunal within 30

days of the order passed by the Rent Controller and second appeal lies to the High Court from an order of Tribunal within sixty days of the order. A Special Leave to appeal petition under Article 136 of the Constitution lies to the Supreme Court of India.

VIII. Extra-Ordinary Jurisdiction of High Court

The High Court has an extraordinary jurisdiction under Articles 226 and 227 of the Constitution against any illegality, and Revisional Powers under Section 115 of Civil Procedure Code read with Section 25B(8) of Delhi Rent Control Act where the Controller in a case of bonafide requirement does not grant permission to a tenant to contest an eviction petition.

IX. Special Procedure for Recovery of Possession u/s 25 (B)

- a) The Controller shall issue summons in relation to every petition by a landlord for recovery of possession on the ground of bonafide requirement under Section 14(1)(e) or under Section 14A in the specified forms and if so desired by the landlord direct also to serve the summons by registered post and by way of direct publication in the Newspaper.
- b) The tenant must within 15 days of the receipt of summons, file an affidavit stating the grounds on which he seeks to contest the application for eviction and obtain leave from the Controller.
- c) If leave is granted the case should be expedited under law.
- d) In case of leave being refused, the Controller shall grant an order of eviction on the ground stated in the petition filed by the landlord without recording any evidence and grant a period of two months to vacate the premises.

X. Re-entry by Tenants

- a) A tenant if evicted from a residential premises in pursuance of an order made on the ground of bonafide requirement and the landlord does not occupy the same within a period of two months and/or re-lets the same premises within 3 years from the date of obtaining such possession, the tenant can re-enter the premises with a permission from the Controller which must be obtained within six months

from the date on which the cause of action for re-entry arises (Section 19).

- b) Where a tenant has been evicted on the ground that premises are required for repairs or building or rebuilding, the landlord on completion of the work, must place the tenant in occupation of the premises.
- c) If the landlord fails to carry out the work within a reasonable time then the Controller may allow the tenant re-entry or claim compensation. Reasonable time depends on facts and circumstances of each case.

XI. Petitions

Under the Delhi Rent Control Act all Petitions should be made on the prescribed forms with a court fee of Rs. 13/-.

XII. Public Premises

Where the premises belong to the State/Centre/Local Govt. Corporation or any authority, body or ins-

titution like Life Insurance Corporation of India the provisions of Delhi Rent Control Act do not apply. The Estate Officer concerned has the jurisdiction to pass any order like recovery of arrears of rent, electricity, use and occupation charges or possession. The appeal lies to the District Judge from such an order of the Estate Officer passed under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971.

XIII. Related Laws

The landlord/tenants in Delhi are governed by the following enactments :-

1. The Delhi Rent Control Act, 1958 applies only to built up premises and not to land or vacant plots in Delhi.
2. The Transfer of Property Act, 1882.
3. The Slum Areas Act, 1964.
4. The Public Premises (Eviction of Unauthorised Occupants) Act, 1971.
5. Registration Act.

FOR PENSIONERS

The major problem of the pensioners in the matter of removal of discriminations caused by the Pension Liberalisation Rules of 1979 has been solved. The process of implementation of the Supreme Court judgement has begun. Government's decision has been announced. Instructions have issued to the pension disbursing authorities and accounts officers. All pensioners will now be aware of what they have to do to derive the benefits arising from the Supreme Court judgement and from application of Pension Liberalisation Rules of 1979. Arrears will be paid to each pensioner with effect from 1.4.79 and future payments of pensions will be re-calculated in accordance with the 1979 Rules. In the case of those who have died after 1.4.79, the arrears upto the date of demise will be claimable by the heirs.

The efforts of COMMON CAUSE have borne fruit. When COMMON CAUSE decided to file the Writ Petition in the Supreme Court by associating with it two pensioners, one from among civil pensioners (Mr. D. S. Nakra) and one from defence pensioners (Rear Admiral Satynder Singh), all sorts of doubts and misgivings were expressed by various associations and

individuals, stating that we would be "annoying the government" by any such move and whatever results might be achievable by petitioning the government, would be jeopardised. In retrospect everybody now agrees that the course adopted by COMMON CAUSE was the only appropriate course open, and that the government would otherwise not have yielded to any petitions or deputations or representations, which is evident from the fact that the government went even to the extent of filing a "Review Petition" against the Supreme Court judgement which was summarily dismissed.

We had clearly enunciated from the very day of the Supreme Court judgement that it will apply also to the pre-1972 pensioners, that it will cover the railway pensioners and the pensioners of all-India services, that the arrears will have to be paid from 1.4.79 and that the arrears will also be claimable for those who have passed away since 1.4.79. All sorts of doubts had been expressed by pensioners and the associations of pensioners. Various misgivings were expressed, different types of rumours were set afloat.

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NOTICE

ALL MEMBERS OF COMMON CAUSE

The Annual General Meeting of COMMON CAUSE Society will be held on Sunday the 5th February, 1984 at Constitution Club Rafi Marg, New Delhi, at 10.30 A. M. Members are welcome to this meeting. Agenda will be as follows :

- i) Consideration of the Annual Report and adoption of Annual accounts along with Auditors Report for the year 1982-1983.
- ii) Appointment of auditors for the year 1983-1984
- iii) Activities and programmes,
- iv) Election

It may kindly be noted that in accordance with Rule 15 of the Rules & Regulations of the Society if within half an hour of the beginning of the meeting the quorum is not present, the meeting shall stand adjourned for the same day and be held after another half hour, and the members present in the adjourned meeting shall form the quorum of that meeting.

P. D. TYAL
SECRETARY
COMMON CAUSE

Annual Report for 1982-83

The steady progress of expansion of activities and programmes of COMMON CAUSE has continued apace. The organisation has continued to receive support and help of the people as well as various organisations and associations in different parts of the country. They have continued to express satisfaction over the services which the organisation has launched for taking up the common problems and grievances of the people.

The base of membership of COMMON CAUSE has continued to expand. We are deeply grateful to those members who in their areas have voluntarily taken upon themselves the task of enrolling more members. They periodically keep sending to us the membership forms and subscriptions of new members. The active interest of number of members in the activities and programmes has also been very welcome and helpful.

Among the activities and programmes undertaken during the period of review the following are particularly worth mention.

PENSIONS : The unremitting efforts put in by COMMON CAUSE have been crowned with success in providing relief to about 1.1 million central government pensioners all over the country. The discriminations caused by the pension liberalisation rules of 1979, whereunder all pre-1979 pensioners were deprived of the benefits of these rules, had been taken

to the Supreme Court by COMMON CAUSE, along with two co-petitioners, in a Write Petition. The Division Bench of the Supreme Court, which originally heard the Petition, decided to refer it to the Constitution bench because of the importance of issues involved. The Constitution Bench of five judges, presided over by the Chief Justice of India, heard the cause. The judgement was announced on 17.12.82. In a historic and land-mark judgement the Supreme Court has upheld the contentions of COMMON CAUSE. The effect of the judgement is that all pre-1979 pensioners have become entitled to the benefits of pension increases under the pension liberalisation rules of 1979. This judgement is expected to lead to conferring of similar benefits to the pensioners of State Governments. It is unfortunate that the Government of India decided to file a Review Petition against this judgement. This was summarily dismissed by the Supreme Court. The matter continued to be pursued by COMMON CAUSE with the Government of India for expeditious implementation of judgement. Taking account of the numerous problems and complications involved in the recalculations of pensions, the government set up a group of high-level officers for going into the entire matter. Arising from the recommendations of this group of officers and after further deliberations the Govt of India has issued the orders in respect of civilian pensioners

and it is hoped that the Ministry of Defence will soon issue the orders regarding the defence pensioners.

COMMON CAUSE has also been pursuing the other two important matters relating to pension, namely, removal of discriminations in relation to family pensions, and restoration of pension commutation. After having failed to evoke satisfactory response from the Government of India on these two matters, Writ Petitions on these subjects have been submitted by COMMON CAUSE to the Supreme Court. The Writ Petition on restoration of pension commutation has already been admitted by Supreme Court and is expected to be heard in the near future. The other petition, on family pensions will soon come up for preliminary hearing.

We are desirous that the organisations and associations of Pensioners should be strengthened so that they can function more effectively and the experience and knowledge of the Pensioners is utilised to larger advantage of the society.

HOUSE TAX : The problem of Delhi House Tax is one of the other major areas in which COMMON CAUSE has continued to take initiatives. Recognising that the Delhi Municipal Corporation was unresponsive to the suggestions for removal of anomalies, distortions and aberrations which are being experienced by the house-owners of Delhi in the matter of levy of House Tax, COMMON CAUSE has filed three Writ Petitions before the Supreme Court. One of these covers the subject comprehensively, dealing with various problems in relation to self-occupied premises, rented premises, partly-self-occupied and partly-rented premises, previously constructed and recently constructed premises, and lease-hold and free-hold lands. The second Writ Petition deals with the mala fide delay on the part of MCD in relation to over 80,000 objections filed by the house-owners against notices issued under Section 126 of MCD Act revising the assessments. Third Writ Petition deals with the differential of House Tax levy between the contiguous areas of NDMC and MCD which are parts of one integrated metropolis. Arguments have been heard, judgement reserved and we eagerly wait for it. The third Writ Petition has been admitted and notice issued to the Government. On the matter of the third Petition we had earlier appear-

ed before the Parliamentary Committee on Petitions arising from a petition which we had submitted to the Committee.

1983 BUDGET. COMMON CAUSE, as in previous two years, sent its detailed recommendations to the Finance Minister of the Govt. of India on selected aspects of the direct taxes and personal taxation. These cover the areas of income tax, wealth tax, gift tax, capital gains tax and estate duty. On Estate Duty the Government has after all responded to the demand of valuing one residential house for estate duty purposes on wealth tax basis, and the requisite amendment in the Act has been effected. We continue pursuing other problems relating to and exemption limits provided in the Estate duty Act. Voice needs to be raised for persuading the Government of India to abolish the Estate duty in view of its meagre yield and the distressing problems it creates.

OTHER MATTERS. Various other matters continue being pursued by COMMON CAUSE. Among these are; the problems of urban housing and rent control; problems of lease-hold lands; ground rent provisions vis-a-vis the expiry of stipulated period of 30 years; municipal action on deviations in sanctioned building plans and unjustifiable linkage of penalties with present day escalated prices of land; problems of general civic administration; public utilities; bills and deposits relating to electricity; operation of telephones; various aspects of functioning of Post and Telegraphs; public transport; environmental pollution; noise pollution; medical and health facilities; banking facilities; problems of standardisation of stoves; problems of gas cylinders; and many others such.

Numerous letters from all over the country continue being received by the organisation. Replies are invariably sent to these letters. The publication of our periodical "COMMON CAUSE" continues. It disseminates information about important activities of the organisation and detailed review of some of the major problems taken up by us. Demand for this periodicals continues growing. It is supplied free to all members and carries no separate subscription. It is not at present possible to bring out every month; it is published as and when necessary.

COMMON CAUSE

(Registered under the Societies Registration Act 1860)

BALANCE SHEET AS AT 31ST MARCH 1983

| LIABILITIES | Rs. | ASSETS | Rs. |
|--|----------------------|---|----------------------|
| CAPITAL FUND ACCOUNT | | CASH AT BANK | |
| Life Membership Subscription | | In S.B. A/C with Scheduled Bank | 21,154.56 |
| Opening Balance 1.4.1982 | 37,230.00 | STAMPS IN HAND | |
| | | FIXED DE OSITS | 364.95 |
| Add :- Subscriptions received during the year. | 17,035.00 | with Indian Bank, Shanti Niketan, New Delhi. | 40,000.00 |
| | <u>54,265.00</u> | INTREST ACCRUED BUT NOT DUE | 2,829.34 |
| Reserve Account | | FURNITURE | |
| Opening Balance 1.4.1982 | 12,000.00 | Cost | 723.00 |
| | | Less : Depreciation | 73.00 |
| | 66,265.00 | ADVANCE FOR EXPENSES DEFICIT ACCOUNT | 650.00 |
| LIABILITIES FOR EXPENSES | | Excess of Expenditures Over Income per Annexed Income & Expenditure Account | 9,280.97 |
| | | Less :- | |
| | | Balance in Surplus Account on 1.4.82 | 7,245.60 |
| | | TOTAL | <u>2,035.37</u> |
| | <u>Rs. 67,265.00</u> | | <u>Rs. 67,265.00</u> |

AS PER OUR REPORT OF EVEN DATE

PLACCE : New Delhi

A. S. R. GOPAL RAO
GOPAL RAO & CO.,
CHARTERED ACCOUNTANT

S. RANGANATHAN
PRESIDENT

H. D. SHOURIE
DIRECTOR

P. D. TAYAL
SECRETARY

U. C. DUBEY
TREASURER

COMMON CAUSE

(Registered Under the Societies Registration Act, 1860)

Income and Expenditure Account for the Year Ended 31st March, 1983

| <u>EXPENDITURE</u> | <u>Rs.</u> | <u>INCOME</u> | <u>Rs.</u> |
|--|------------------|--|----------------------|
| Printing & Stationery (including printing of periodicals) | 10,346.70 | Subscription from Members | |
| Duplicating charges | 3,442.75 | Ordinary ... | Rs. 10,456.00 |
| Postage and Telephones | 5,101.45 | Associate ... | 3,700.00 |
| Part-time staff | 11,100.00 | Corporate ... | <u>5,000.00</u> |
| Other Establishment Expenses | 1,200.00 | Donations received | 3,755.00 |
| Conveyance Expenses | 3,459.30 | Interest Received | |
| Hire of Auditorium | 250.00 | From Saving Bank | Rs. 774.06 |
| Legal Expenses | 1,128.00 | From Fixed Deposits with Bank | 2,500.00 |
| Honorarium to Auditors | 500.00 | Interest accrued but not due | |
| Subscriptions, Books & Periodicals | 109.95 | Excess of Expenditure over Income Transferred to Balance Sheet | 9,280.97 |
| Repairs & Maintenance | 115.90 | | |
| Bank Charges | 119.35 | | |
| Sundry Expenses | 196.00 | | |
| Depreciation on Furniture | 73.00 | | |
| TOTAL | 37,142.40 | TOTAL | Rs. 37,142.40 |

NOTE — Subscription from Members have been accounted on a cash basis.

AS PER OUR REPORT OF EVEN DATE

S. Ranganathan
President

H. D. Shourie
Director

A. S. R. Gopal Rao
GOPAL RAO & CO.
Chartered Accountants

Place : NEW DELHI

P. D. Tayal
Secretary

U. C. Dubey
Treasurer

(Contd. from Page 8)

We counselled patience. We mentioned that the matter was quite a complicated one for the government to sort out. The complicated nature of the problem will now be evident from the details which were examined and sorted out by the group of officers headed by Mr. R. Venkataraman, Controller General of Defence Accounts and the detailed instructions which have been issued by the Ministry of Finance. To this group of officers goes the credit of having evolved the concept of ready reckoners and the formula of using one increment as the basis of approximation for converting the average of 36 months' to 10 months' average and obviating the necessity of referring to service records for the bulk number of pensioners. It is inconceivable that this problem would otherwise have been resolved in the foreseeable future. We have conveyed our grateful thanks to all those officers of the government who had helped to sort out this problem.

Instructions regarding all civil pensioners have been issued, vide Finance Ministry, Memorandum No. F 1(3)-EV/83 dated 22.10.1983. These relate also to the railway pensioners and all-India service pensioners. In these instructions it is stated that instructions regarding defence pensioners will separately issue from the Ministry of Defence. This is the normal practice. Defence pensioners comprise larger number out of 11 lakh pensioners who stand to benefit from the Supreme Court judgement, and we earnestly hope that the instructions will soon issue from the Ministry of Defence.

We did not consider it necessary to circulate copies of the Finance Ministry's Memorandum No. F1(3)-EV/83 dated 22.10.83 where by instructions were communicated to pension disbursing authorities etc. because, as stated above, we were aware that the requisite details will be published in the newspapers. Action will be taken by the pensioners on the basis of the instructions published in the newspapers.

We have following observations and suggestions to offer to the pensioners for further action by them :

(i) Pensioners whose remuneration was more than Rs. 1000/- on retirement should take early steps to submit their (a) Applications, and (b) Options in the prescribed forms, namely, Application Form and Form of Option. These forms can be typed, cyclostyled or printed and widely distributed by the associations and organisations of the pensioners.

Even the forms appearing in the newspapers can be utilised for the purpose. These should be carefully filled in and transmitted in accordance with the instructions.

- (ii) Pensioners whose remuneration was more than Rs. 1000/- at retirement should submit their Applications in the prescribed form (Form of Application). They are not expected to submit the option form. It should be noted that all pensioners including those whose remuneration was less or more than Rs. 1000/- on retirement, are expected to submit the Application Form scoring out portions which are not applicable to them.
- (iii) In the case of pensioners of remuneration not more than Rs. 1000/-, the revised pension will be straight away calculated by reference to the ready reckoners and it should be possible to expect this to be quickly done by the pension disbursing authorities, banks etc. We feel that in the interest of avoiding any delays, these pensioners should give option to get the pension fixed as per ad-hoc formula in full and final settlement. The ad-hoc formula will obviously lead to the recalculation of pension on the basis of ready reckoners. The recalculation on the basis of service records may bring about, if at all, an alteration of half or one percent, but it will be much better to secure quick results and ask for recalculation to be done on the basis of ready reckoners.
- (iv) It is possible that some pensioners who have specialised knowledge of pensions may find some deficiencies in the instructions which have been issued by the government. The associations and organisations of pensioners are welcome to write their views on these matters direct to the Government of India.
- (v) It would be desirable that organisations and associations of pensioners should provide assistance and service to the elderly pensioners in getting their forms filled and transmitted to the prescribed authorities, and also particularly to help the heirs of pensioners who have died after 1.4.79 to file their claims.
- (vi) To those pensioners who are income-tax assesses, and to those who will come within the income-tax bracket of income above Rs. 15,000/- on receiving the arrears of pensioners from 1.4.79,

we would like to convey the following suggestions :

- a) We had already intimated that anticipating the problem, we had written to the Government of India requesting them to exempt the pension arrears from income-tax as a special case in the present circumstances. The Government of India has not agreed to this and have written back to say that the pensioners can take the benefit of Section 89 of Income Tax Act i.e. they can spread the arrears over the relevant years from 1.4.79 so that the impact of arrears will be on each respective year instead of falling only on the current year's income. This procedure may sound alright but we envisage that it will present problems. It will necessitate the preparation and submission of fresh Returns for the four Assessment Years. This will involve expense, and where the assessments may already have been finalised, it will present problems of re-opening the assessments. Anyhow, where any pensioners would prefer to undertake this task and would stand to derive corresponding benefit, they should do so.
- b) Another alternative which we suggest to the pensioners is to consider placing the excess amount in a suitable deposit which will enable them to derive the benefit of exemption available under Section 80(C) of Income Tax Act. The benefits available under this provision include the placement of deposits inter-alia in statutory provident fund, public provident fund, insurance policies, contributions towards Post Office Savings Bank Accumulated Time Deposit Schemes, and National Savings Certificates Series VI and VII. If the deposit is made in the National Savings Certificates, for six years period, the pensioners will earn the interest of 12 percent which, on an amount of say Rs. 10,000/- will yield Rs. 1200/- annual interest. This can be considered as an increase of another Rs. 100/- per mensem in pension, though the interest will accrue six-monthly. If the deposit is made in National Savings Certificates Series VII of accumulated deposits, the deposit will double in six years. In either case, the Certificates can be encashed after three years. In this way the impact of income-tax can be avoided/reduced, and the amount can at the same

time be made to yield recurring income. We have approached the government to accord exemption to deposits made from the present one-time payment of pension arrears under Section 80(C) of the Income Tax Act, which would help the government to draw substantial amounts of deposits from the arrears paid to the pensioners, help as a counterinflationary measure, and help the pensioners to overcome the problem of higher impact of income-tax.

- (vii) Another point relates to the contribution that the pensioners would make to COMMON CAUSE. There has been a promise by the pensioners of contributing one month's increase of pension to COMMON CAUSE, for enabling this voluntary organisation to strengthen the organisations of pensioners for more effective functioning. We would like to mention for the benefit of those pensioners who are income-tax assesseees that the remission of one month's increase of pension by them can be taken as donation. They are entitled to the exemption benefits from Income-Tax under Section 80-G on any donations made to COMMON CAUSE. For this purpose COMMON CAUSE has been given special certification by the Income Tax Department. The certification has been accorded vide letter No. CIT-VI/TE(58)/80/1928 dated 1.9.1983, issued by the Income-Tax Commissioner Delhi VI. For taking the benefit of exemption available under Section 80-G of the Income-Tax Act in respect of such donation, we will give certification which can be presented at the time of submission of next Income-Tax Return, and half the amount of donation will be deductible from the income for assessment of income-tax. Meanwhile, the above-mentioned certification of Income Tax Department can be quoted by the pensioners where necessary and we will on request send photocopy of the letter containing this certification. We have already circulated that the contributions made to COMMON CAUSE will automatically entitle the donors to Life Membership where the amount is more than Rs. 150/- and will be counted towards annual membership of Rs. 25/- for the appropriate number of years where the amount is less than Rs. 150/-. Of course, the present Life Members and other member will be gracious enough to make their contributions

without regard to the existing membership facility.

(viii) Our Writs Petitions on (a) Restoration of Pension Commutation, and (b) Discriminations in the matter of Family Pensions, are yet pending in the Supreme Court. The Writ Petition relating to Pension Commutation is likely to come up for hearing in early December. Reply of the Government to our Writ Petition was received some time ago, and a strong rejoinder has already been submitted by us. On the Family Pensions the Writ Petition is also likely to come up in early December for consideration of the question of its admission. We would be in a position to give further news in our circulars to the organisations and associations of pensioners.

(ix) Now that the Government of India has issued the orders to effect implementation of the Supreme Court judgement, we hope that the matter can now be further pursued with the State Governments. We have already suggested that the pensioners should consider the possibility of filing Writ Petitions in the respective High Courts where State Governments may not be willing to go along with the decision of the Government of India. For this purpose we recently circulated to organisations and associations of pensioners copy of a Writ Petition filed in the Madhya Pradesh High Court by two pensioners. This Petition can be utilised as a sample.

(x) Some time ago the Government of India issued instructions for simplifying the procedure to make payment of pensions of freedom fighters automatically, on the demise of the pensioner, in order to remove hardship faced by widows and other members of the families. It was stated that under the new procedure the names of the wife and unmarried daughters are being indicated in the new sanction of pensions with instructions to authorise the payment of family pensions at the admissible rates. We promptly wrote to the Ministry of Home Affairs, Department of Personnel, requesting that similar procedure should be prescribed by the Government of India in respect of Central Government pensioners so that the difficulties encountered by their relatives on demise of the pensioners, are mitigated. The Government of India was also requested to issue similar instructions to the State Governments in relation to their pensioners. We

have not hither to received any reply to this request.

(xi) We have conveyed a request to the Government of India, Ministry of Home Affairs, Department of Personnel, that the Government should utilise the services of retired Gazetted Officers for attestation of certificates etc. which need such attestation by a "gazetted officer". It will greatly facilitate the task of securing such attestation if the retired officers are authorised to attest such certificates. Considering that requirements of such certifications are expected to continue increasing, as for the purpose of ration cards, driving licences etc., it would be desirable to make use of the services of retired gazetted officers for this purpose. This small measure will save considerable bother to the serving officers and facilitate the procurement of such attestation as well as provide a sense of status and usefulness to the retired officers. We have sent copies of our letter also to the Chief Secretaries of State Governments.

(xii) We have written to the Ministry of Finance and Ministry of Home Affairs, Department of Personnel, representing the pension problems of retired ICS officers and KCIOS (King's Commissions Indian Officers). The pensions in respect of these officers were settled on the basis of a certain quantum long ago. The relevant position in this behalf now requires to be revised in the light of Supreme Court judgement and we hope that this too will be rectified by the Government of India.

(xiii) It has been brought to our notice that there is blatant discrimination against Local Commissioned Officers of the Military Nursing Service vis-a-vis Regular MNS Commissioned Officers. The standards prescribed for entry into service in the matter of professional qualifications, age, physical standard etc. are same for Local MNS Officers as for the Regular MNS Officers. Despite this there are glaring disparities between the two services. The avenues of promotion for Regular Civil Nurses are denied to Local MNS Commissioned Officers, who, it is stated, do not get any promotion whatsoever even after the service span of 20/30 years. We have referred this matter to the Ministry of Defence as well as the Ministry of Home Affairs, Department of Personnel.

(Contd. on page 20)

- (xiv) Representations keep coming to us from individuals and organisations of pensioners asking for the intervention of COMMON CAUSE for seeking redress from the Government, or taking matters to the Supreme Court, in relation to various demands and grievances of the pensioners. We have been conveying in reply that it is impossible for this organisation to deal with all the various problems and grievances of pensioners. Our organisation is dealing with a large number of common problems of the people and is not confining itself only to the redressal of the grievances of the pensioners. Accordingly, we reiterate the request that various other problems of the pensioners should continue to be taken up by the organisations of pensioners etc.
- (xv) A large number of letters keep coming to us making frequent changes of addresses. This imposes a very heavy burden on our office resources. We again request that the organisations and ass-

ociations of pensioners, as well as individual pensioners, should give us only one address which should not normally be altered.

- (xvi) Another matter on which we wish to convey suggestion to the pensioners relates to the Rules for Nomination which have been recently framed. These Rules are called the "Payment of Arrears of Pension (Nomination) Rules, 1983". We reproduce below the main essentials of these Rules and the two Forms 'A' and 'B' prescribed under these Rules. We suggest that every pensioner should take immediate action of sending the nomination in accordance with these Rules. This will obviate difficulty arising in the recovery of any arrears by the heirs on the demise of any pensioner. The Forms 'A' and 'B', reproduced below, have been condensed in the interest of saving space. These can be appropriately typed out for submission.



GAZETTE NOTIFICATION

FOR PENSION NOMINATIONS

No. 26(3)-Pension Unit/82

Govt. of India/Bharat Sarkar, Min. of Home Affairs/
Grih Mantralaya Dept. of Personnel & Admn. Reforms,
New Delhi, the 26 August 1983.

NOTIFICATION

In exercise of the powers conferred by Sec. 15 of the Pension Act, 1871 (23 of 1871), the Central Govt. hereby makes the following rules, namely :

- 1.....
- 2.....
- 3.....

Nominee of Pensioner to Receive arrears of Pension : 4. Any pensioner to whom any pension is payable by the Govt. out of the Consolidated Fund of India may nominate any other person (hereinafter referred to as the nominee) in accordance with the provisions of rule 5 who shall receive, after the death of pensioner all moneys payable to the pensioner on account of such pension, before or after the date of such nomination and which remain unpaid immediately before the death of the pensioner.

Nominations : 5. (1) Every pensioner who has retired on or before the date of commencement of these rules shall within six months nominate any person for purpose of rule 4 in Form 'A' and submit it, in triplicate by personal service after taking receipt or by sending through Regd. Post acknowledgement due to the respective Pension Disbursing Authority through which pension is drawn.

(2) Within thirty days of the receipt of nomination in Form 'A' as referred to in sub-rule (1), the Pension Disbursing Authority shall get particulars of the pensioner, as mentioned in Form 'A' verify with reference to available records & return to the Pensioner, after obtaining a receipt thereof, the duplicate copy of the nomination in Form 'A' duly attested by him or an officer authorised by him in this behalf. The triplicate copy shall be sent to the Accounts Officer of the Dept. from where the pensioner had retired while the original copy of nomination shall be recorded.

- 3
- 4.....

(Contd. on Page 18)

FORMS BELOW SHOULD BE COPIED ON VERTICAL BASIS. THESE HAVE BEEN REPRODUCED BELOW ON HORIZONTAL BASIS FOR SAVING SPACE.

FORM A (SEE RULE 5)

Pension Disbursing Authority/Head of Office (Name of Bank/Treasury/P.O./Accounts Officer etc.) _____ Place _____
 I hereby nominate the person named below under rule 5 of the payment of arrears of pension (Nomination) Rules, 1983.

| | | | | | | | |
|-------------------------------|-----------------------------|---------------|--|-----------------------------|---|--|---|
| Name & Address of the nominee | Relationship with pensioner | Date of Birth | Name & Address of other nominee in case Col. 1 predeceases the pensioner | Relationship with pensioner | Date of birth if the other nominee is minor | Name & Address of person who may receive pension during the nominee's minority | Contingency on happening of which nomination shall become invalid |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
| 9 | | | | | | | |

PLACE : DATE : WITNESS : SIGNATURE : (NAME & ADDRESS) SIGNATURE OR THUMB IMPRESSION
 SIGNATURE OF PENSION DISBURSING AUTHORITY/HEAD OF OFFICE.
 IF ILLITERATE AND NAME OF PENSIONER AND ADDRESS.

Acknowledgement to be sent by the Pension Disbursing Authority/Head of Office.
 Certified that application/nomination has been received from..... Name of Pensioner whose address is.....
 PLACE : DATE : SIGNATURE OF PENSION DISBURSING AUTHORITY/BANK/TREASURY/P.O./ACCOUNT OFFICER/HEAD OF OFFICE.....
 FULL ADDRESS.....

FORM B (SEE RULE 5)

The Pension Disbursing Authority/Head of Office; (Name of Bank/Treasury/P.O./Accounts Officer etc.) _____ Place _____
 I hereby make the following (Name of pensioner) alternative nomination in cancellation of the previous nomination made on under Rule 5 of the Payment of Arrears of Pension (Nomination) Rules 1983.

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 |
|---|---|---|---|---|---|---|---|---|

(COLUMNS ARE THE SAME AS IN FORM A (RULE 5) ABOVE.
 PLACE : DATE : WITNESS : SIGNATURE : (NAME & ADDRESS) SIGNATURE OR THUMB IMPRESSION
 SIGNATURE OF PENSION DISBURSING AUTHORITY/HEAD OF OFFICE.
 IF ILLITERATE AND NAME OF PENSIONER AND ADDRESS.

Certified that application/nomination (Form B) has been received from..... (Name of the pensioner) whose address is Form A has been cancelled and returned to him.
 PLACE : DATE : SIGNATURE OF PENSION DISBURSING AUTHORITY/BANK/TREASURY/P.O./ACCOUNT OFFICER/HEAD OF OFFICE.....
 FULL ADDRESS.....

(Contd. from page 16)

5. A notice of modification of nomination including cases where a nominee pre-deceases the pensioner shall be submitted in triplicate in Form 'B' to the Pension Disbursing Authority, in the manner prescribed in sub-rule (1) and there after the provisions of sub-rule (2) shall apply **mutatis-mutandis** with modifications as if it were made under sub-rule (1).

6. A nomination or a fresh nomination or a notice of modification of nomination shall be signed by the pensioner or, if he is illiterate, shall bear his thumb impression given in the presence of two witnesses who shall also sign a declaration to that effect in the nomination, fresh nomination or notice of modification of nomination, as the case may be.

7. Nomination, fresh nomination or notice of modification of nomination shall take effect from date of receipt thereof by the Pension Disbursing Authority/ Head of Office, as the case may be.

Accepted Nomination to be conclusive proof. A nomination made under rule 5 and accepted by the Pension Disbursing Authority or the Head of Office, shall be conclusive proof with regard to the person nominated to receive arrears of pension of the pensioner under these rules.

Mode of Payment of Arrears. 7. The arrears of pension payable under these rules shall be paid in accordance with the provisions of the existing rules governing the mode of payment of pension.

Interpretation : 8. Where any doubt arises as to the interpretation of these rules, the matter shall be referred to the Government of India in the Ministry of Home Affairs (Dept. of Personnel and Administrative Reforms) for decision.

HOUSE TAX

In the matter of House Tax of Delhi Municipal Corporation we yet await the judgement of Supreme Court on our two Writ Petitions which were heard over five months ago and judgement on which was reserved. We hope that problems of the houseowners will be mitigated on the announcement of the judgement. We will await its announcement and then convey our clarifications and suggestions to the houseowners through the various organisations and associations of houseowners, rate-payers etc. of Delhi. Our third Writ Petition, dealing with the differential in the rates of House Tax in the areas of Delhi Municipal Corporation and New Delhi Municipal Committee, which already stands admitted in the Supreme Court, has yet to come up for hearing.

Meanwhile, Delhi Municipal Corporation has already issued Public Notice inviting objections against the assessment made for the year 1984-85. We have advised the houseowners and landlords to file their objections before 30th November 1983. Where any notices have also been received under Section 126 MCD Act, the objections to those also should be filed before this date.

We have strongly represented to Municipal Corporation of Delhi that their procedure relating to authentication of the assessment lists requires to be improved. They must give appropriate publicity to the announcement so that the aggrieved persons should be able to file their appeals against the assessments in time. Secondly, we have written to the MCD regarding their procedure in supplying copies of the assessment orders for ensuring that these are supplied without delay and minimum bother to the assesseees.

In the area of New Delhi Municipal Committee the assessment of House Tax on flats in multi-storied buildings continues to be based on rental which has been held to be unlawful in certain appeals field in the Appellate Courts. We have written to the Administrator of NDMC requesting that he should issue appropriate instructions to the assessment staff that the House Tax in the case of flats in multi-storeyed buildings should be assessed on the basis of the flat which comprises the element of cost of construction and the proportionate price of land, besides the profit of the builder. This would obviate the necessity of the assessee having to go up in appeal, now that the matter has been decided by the Appellate Authority. We have also accordingly informed the houseowners' associations and organisations of Delhi.

□

GROUND RENT

In some of the housing colonies of New Delhi Municipal Committee which were established more than 30 years ago, notices have started being issued to the houseowners informing them that the ground rent of the land will be revised as per terms and conditions of the lease according to which the ground rent will stand to be revised after the period of 30 years. The wording of relevant clause is obviously vague and defective, with the result that L & DO, who is the concerned authority, can relate the ground rent to the present price of the land. This will make the position impossible because the price of land has escalated to an extent which was never previously imaginable. We have taken up this matter with the L & DO and the Ministry of Works & Housing. Meanwhile, we have advised the houseowners that a joint Writ Petition may have to be filed in the Delhi

High Court if the concerned authorities do not listen to reason,

"Damage Charges" On the same lines we have taken up with the L & DO and the Ministry of Works and Housing the question of levy of "Damage Charges", i. e. penalty on any unauthorised constructions which comprised departure from the sanctioned plan. It is a matter of great concern to the houseowners that the "Damage Charges" which were previously very small for minor departures from the sanctioned plans, are now being assessed on the basis of present price of land which enhances the charges manifold. We hope that the Ministry of Works & Housing will favourably consider our request. If this does not come about, there will be no alternative excepting to take this matter also to the Delhi High Court.

ELECTRICITY SUPPLY PROBLEM

In quite a few matters the Delhi Electric Supply Undertaking (DESU) continues to prove totally unresponsive to public complaints and demands. We have taken up various matters with DESU but till now we have never received satisfactory reply or impression of appropriate consideration of the public demand. In the matter of electricity bills there is general complaint that the computerisation of bills continues to involve problems of inclusion of arrears even though payments have been made, delays in the transmission of bills which involve loss to DESU and imposes burden on consumers in making payment of accumulated bills etc.

On a question of law the matter has been taken to Delhi High Court in a Writ Petition whether DESU can make demands of payment where the period of more than three years has elapsed. Section 455 of the Delhi Municipal Corporation Act which obviously governs the activities of DESU in these matters, provides that no demand of payment can be made

after the expiry of three years period from the date when the demand became due. We have advised the electricity consumers that where the demand of DESU is in contravention of this provision of law, they should contest such demand. Meanwhile, the recovery of demand, in the case which has been taken up in Writ Petition, has been stayed by the Delhi High Court till the disposal of the Petition.

On another question of law the matter is at present pending for further action. We considered that non-payment of interest by DESU on deposits taken from hundreds of thousands of domestic consumers of electricity of Delhi, is unlawful as being discriminatory vis - a - vis the commercial consumers who are paid interest which too is only 2½ percent fixed decades ago. DESU was requested to re-examine the policy in this behalf. They have declined to do so, and further action on taking this matter to court is under consideration.

(Contd. page from 2)

(v) **Estate Duty** : In the matter of Estate Duty we have represented to the Finance Ministry that in certain cases, such as whole-life insurance and death gratuity, where the amount does not come into the hands of anybody till the date of demise of the concerned person, such amount should not feature as part of the estate of deceased because it becomes due only on his demise and can be available only to his legatees and heirs. We have requested that instructions should be issued by the Government to the Estate Duty Controllers on this matter,

(Contd. page from 15)

(xiv) In response to our request we have received letter from the Adjutant General's office that a decision has already been taken to the effect that the work of payment of pensions from Post Offices in respect of Defence Pensioners will be taken over by Pension Pay Master under the control of CDA (Pension) who also permit payment through Banks. This will have effect from 1 Jan. 84 in phased manner. Necessary Government Orders in this regard will be issued shortly.

CONSUMERS MOVEMENT

It is unfortunate that the country does not have a strong consumers' movement, with the result that the problems and difficulties of the consumers' do not get adequately highlighted and solutions are neither effectively sought nor secured. This was brought home recently when the Civil Supplies Department of the Government of India announced the establishment and composition of a Consumers Protection Council without even consulting any of the consumers' organisations in the country. COMMON CAUSE has taken up this matter with the Government of India and has also written to various consumers' organisations in the country for eliciting their views about setting up of an effective autonomous central organisation which should provide the sinews for a strong consumers' movement in the country. Mean

while, we are keen that the various pensioners' organisations in different parts of the country, of which we have now about 200 on our rolls, should increasingly turn their attention to problems other than of pensions. Till now they have been involving themselves only in the problems and ramifications of pensions. The members of these organisations are senior citizens and it is just and proper that the benefit of their background, experience and knowledge should be utilised for larger purposes of the community. We hope that some day they will help to take over some problems such as consumers' movements. Meanwhile, we continue to follow-up the problems of consumers in consultation with other organisations concerned with this problem.

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