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COMMON CAUSE

VOICE OF "COMMON CAUSE"

HORIZONS

This issue of "COMMON CAUSE" again examplifies the wide variety and range of our interests as well as of our activities and programmes. In a previous issue we reproduced the Writ Petition which had been submitted by us to the Supreme Court on the question whether there should be any discretionary allotments of Maruti Cars when over a hundred thousand applicants were standing in the queue. In the present issue we reproduce the Writ Petition which has been submitted to the Supreme Court on the vexed problem of malfunctioning and inefficiency of the telephone system in the country. The primary purpose of disseminating information on these subjects is to make the people conscious of their rights in relation to matters of this nature, to make then feel that they cannot be taken for granted.

In this issue we have introduced another subject of great importance: Blood Donation. Importance of this subject is self-evident. It is most unfortunate that there are still certain misconceptions attached to this subject in our country. These need to be assiduously removed. The areas of voluntary blood donations must be expanded and correspondingly the operation ef professionals in this field should be discouraged. We earnestly hope that the members of COMMON CAUSE will carry these messages far and wide.

On the vexed problem of pension revision of pre-1970 defence pensioners, arising from the implementation of Supreme Court judgement, we reproduce a comprehensive representation which has been submitted by us to the Government of India. This matter is under study for further action in the event the representation fails to evoke response. In the matter of pensions we yet await the fixing of dates of hearing of Writ Petitions on Restoration of Pension Commutation and the Discriminations in Family Pension in the Supreme Court.

The publication is not a monthly. It is at present issued once a quarter. There is no subscription. It goes free to Members of COMMON CAUSE.

THE TELEPHONES ARE A SHAMBLES

"The telephone system in India is in a shambles. It has become synonymous with gross inefficiency and a source of extreme exasperation and harassment to the subscribers. Operating in the conditions of a total monopoly service, the telephone system is one of the worst public utilities that the people of this country are burdened with. Out of every two million and a half subscribers of the telephones, hardly any person in the country has the satisfaction of securing the full value of the payment which is being made for the provision of this service. In the present day advancement of technology in the areas connected with tele-communications and electronics and amidst the rapidly advancing requirements of communications, it is a matter of great concern that the people of India are saddled with such inefficient system and do not have any option to change it."

These words are from the Writ Petition which has been submitted to the Supreme Court by COMMON CAUSE along with the association of eight persons including two journalists, one lawyer, one medical practitioner, one Doctor-in-charge of Nursing Home, one Director of an institution, a public man and the Director of COMMON CAUSE. They symbolize the exasperation of the telephone subscribers all over the country.

The Writ Petition came up for preliminary hearing on the 4th May'84 and the Supreme Court has directed the issue of notice to the Govt. of India. This Petition has roused interest all over the country and requests for its copies have been received by COMMON CAUSE which it has not been possible to comply. It is obviously necessary that the people should know the basic essentials which have been urged in this Petition. The present write-up aims at meeting this need.

It is urged in the Petition that whereas the Telephone system is riddled with such gross inefficiency, it is practically the most profitable public sector enterprise in the country. It is making huge profits through its mal - functioning, earning revenues out of wrong calls, failures and defaults of the system. Levy of rates and charges is patently arbitrary which the subscribers have no option but to pay. It is contended in the Petition that profits made by the department are not being fully utilised for expansion and improvement of the system, which calls for investment; instead, substantial part of the profits continues to be diverted every year for subsidisation of another service. It is also urged in the Petition that even though the system is already making large profits, the department has through notifications every year been increasing the rates of calls and other h arges, bringing about such increase a few days before the annual budget. The Indian Telegraph Rules of 1951 incorporate a statutory obligation, in rule 412, that the department will instal and maintain in good order the equipment and apparatus provided to the subscriber. The Writ submits that the department is not carrying out this statutory obligation. It is also submitted in the Petition that it is inherently unfair to charge a person for sarvices and fail to render them, and that the acts and ommissions on the part of the department are patently unreasonable and arbitrary and that these are viclative of the Article 14 of the Constitution. It has been inter alia prayed in the writ that the enhancements in rates and charges made by the notifications of 1982-83 be declared as unconstitutional and illegal, the department should be directed to desist from enhancing the rates and it should also be directed not to divert any portion of the surplus to any other department and to utilise the surplus for the specific purpose of maintenance, improvement and expansion of telephone service. Other prayers incorporated in the Petition include one that the department should instal meters or provide for measures to enable ascertainment of the correct recording of calls and their verification, and to deal with various other complaints against the telephone system.

The Petition submits that a public authority of thc nature of a monopoly service of telephones must act fairly and reasonably and carry out its obligations to the consumers and payers of the service offered by the authority. The primary and prominent obligation of the telephone department, indeed its raisen detre, is to provide and ensure workable and efficient system of telephones. This obllgation is greater when the department enjoys a monopoly in the matter of such public utility.

Details of the complaints, failures and defaults relating to the functioning of telephone system have been mentioned extensively in the writ Petition. These have largely been quoted from published reports of the Estimates Committee of the Lok Sabha and other such reports. The excess and faulty billing feature among the complaints. In one year alone, there were as many as 1.3 lakh complaints of wrong oilling ; out of these 40,000 were found correct. The subscribers are asked to pay in advance and get the matter settled later. Telephone are disconnected arbitrarily on non-payment of bills. 5,000 telephones were disconnected in Delhi alone in a year after a mere oral telephonic notice.

The STD facility, it is contended in the Petition, is proving to be a bane instead of a facility to the subscribers. Percentage of failures of STD is reporred to be very high ranging upto as much as 92 in Calcutta, 80 in Bombay and 75 in Delhi ; subscribers get inflated bills even when the telephones are reported to be not in use and kept locked ; there are complaints of collusion between miscreants and the telephone staff. In sheer desperation, large number of subscribers resort to get their STD facility disconnected in order to avoid its misuse through the collusion of telephone staff'. The number of subscribers who have got the STD facility disconnected run into lakhs.

Almost every telephone connection all over the country is stated to develop faults leading to complaints. The published reports show that there are as many as 50-60 registered complaints per 100 telephones per month, figures reaching as high as twice in some cities. Average duration of a fault is 6-7 hours, in some cities reaching many times this figure, 20 hours in Bombay, 54 hours in Calcutta; these figures being based on the analysis made by tne department itself. Infact, the number of faults and complaints are many times more than the figures given by the department. which obviously have been under-played. Department has throughout been reluctant to associate any outsiders with it for conducting survey of the faults. It is the general experience that often the subscriber has to dial many times before he succeeds in getting the desired connection. Almost one in every ten telephones is out of order at any time of the day. Every subscriber has experience of the exasperation in trying to secure a telephone connection; disconnections come about in the midst of a talk; the "engaged" tone continues to confront the subscriber; cross connections during the course of telephone conversation often come about.

Certain special numbers of the telephones are hardly every promptly availabe for service. They can at best be reached only after repeated efforts. It is often difficult even to get connections to Fire Brigade or an Ambulance. The special number generally not avaiable include : 180-Trunk booking; 181-Trunk assistance; 183-Trunk information; 188 Delay enquiry; 184-185 Phonogram service; 197-Directory enquiry; 198-Fault repair; and 199-Assistance.

There is extensive failure rate in the calls made by the subscribers. The published figures show that percentage failure of calls in a month in any local net-work ranges upto 17 in Delhi and 24 in Calcutta; the actual figures are likely to be much higher. The department does not appear to be bothered about failure rates of calls because it appears to be flourishing on the constantly growing number of wrong calls and infructuous calls. Wrong calls phenomenon is even more harrassing and hurtful because the subscribers have to pay for every wrong call made. The department's estimate is that only about 20% of the telephones register complaints. Perhaps it would be more correct to say that there is hardly any telephone connection in the country which does not register complaints of failure of calls or infructuous calls. The department stated before the Estimates Committee of the

Parliament that revenue of Rs. 25 lacs was earned by it from wrong calls in one year. This is a gross under-estimate because this would imply failure of only one call per telephone in one year considering that there are 2.5 million telephones in the country. The correct figure would be about 100/200 times more.

Trunk booking service, in the exprience of every subscriber, is stated to be an exercise in exasperation. It is extremely difficult to get the trunk booking number; it is impossible to know how much time it would take for the trunk call to materialise; the time indicated is never maintained; there is no system to call the subscriber to inform him about the additional time it would take; if the trunk call has to be cancelled, it is equally difficult to do so. The general yardstick used by the department is that lightning calls should be available within 15 minutes, urgent calls within one hour; ordinary calls within two hours. It is impossible to conceive that a subscriber can get the ordinary call in two hours; therefore most often the subscribers book "urgent calls" which fail to materialise even after many hours. The calls are charged for the higher category in which they are booked, even through they materialise in the lower category. Even according to the surveys of the department itself, the trunk call delays range upto 4-6 hours in various cities. There are mal-practices galore in the trunk call service, certain persons operate a racket, getting special out-of-turn calls for the parties and booking them against other subscribers who are subsequently billed for them. There is in fact "free" trunk call service which is availed of by some subscribers who strike an understanding in this regard with the telephone operators.

The demand for telephone connections has been multiplying manifold during the past few years. The sum total of the working connections and registered waiting list has escalated from about one lakh four decades ago to over three million telephones connections. Waiting list has increased from about 2.5 lakhs in 1975 to about 7 lakhs now and is expected to cross the million mark in another couple of years, and 7 million by 1990 Even now, with 7 lakhs persons on the waiting list, for every three existing telephones there is one person on the waiting list. The average waiting period ranges from 5 to 7 years. The waiting list goes on mounting inspite of hefty deposits which have now to be made for registering applications, without any commitment on the part of the department as to when the connection would be provided.

This in brief outline is the content of the Writ Petition submitted to the Supreme Court. The petitioners will not wait for the reply of the Government to the Petition. Thereafter, they will have the opportunity to submit their rejoinder to the Government's reply, before the Writ Petition comes up for final hearing.

PENSIONS OF DEFENCE PENSIONERS

The implementation of Supreme Court judgement has brought about serious discriminations and anomalies against the pre-1973 defence pensioners, particularly the pre-1970 defence pensioners. The ready reckoners forming part of the orders of the Ministry of Defence issued on 22-11-83 explicitly show that the pre-1970 defence pensioners, with the exception only of the senior-most ranks equivalent to Major Generals and above, donot gain anything at all from the application of the terms of 1979 liberalisation and that the gain to the pensioners of 1970-73 period is only marginal.

This matter has been analysed by the COMMON CAUSE in detail. A comprehensive note on the subject has been sent to the Prime Minister,

Finance Minister, Defence Minister, Service Chiefs and other senior - most functionaries of the Government of India. We await further developments in this regard, and meanwhile preparations have been made for taking this matter to the Supreme Court. We reproduce below the memorandum which has been submitted to the Government for redressal of this wrong.

There have been wide-spread and serious complaints from individuals as well as organisations of defence pensioners that the orders issued by the Ministry of Defence vide No : 1 (4)/82/D (Pensions/ Services) of 22.11.1983 and No : 1 (4)/82/I/D (Pensions/Services) dated 3.12.1983 have caused discrimination against the defence pensioners, that the pre-1970 Pensioners do not gain from the liberlisation, that 1970-1973 pensioners gain only marginally, that the officers class among the pensioners have been favoured and the interests of other ranks have been disregarded, and that these orders have in fact created classes among the defence pensioners. There is a general feeling among the defence pensioners that civilian bureaucracy has been responsible for these adverse decisions which they contend are contrary to the spirit of Supreme Court judgement. The contention is that the Supreme Court judgement explicitly stated that pensioners constitute one class and they cannot be put into different categories on the basis of the dates of retirement for the purpose of determining benefits of liberalisation, and that all pensioners should be made entitled to the liberalisation benefits irrespective of the dates of their retiremant. The defence pensioners are also complaining that COMMON CAUSE which had initiated the entire matter and taken it to the Supreme Court, has shown inadequate interest in following up the case of defence pensioners and has limited its interest to securing benefits for the civil pensioners.

These complaints and grievances of the defence pensioners cannot be brushed aside or disregarded. It was envisaged by COMMON CAUSE soon after issue of the above-mentioned memorandum of 22.11.1983 that these grievances would emerge, and if disregarded will crystallise into a bigger problem. This is what has happened. Numerous representations from individuals and organisations of pensioners and ex-services leagues have beeu addressed to the Prime Minister, Finance Minister and Defence Minister. At some places demands have emanated that the defence pensioners should return to the Government their decorations and medals; there have beed suggestions of hunger strike and marches; the defence pensioners in general feel let down by the Government. They felt happy on the announcement of Supreme Court judgement and the dismissal of Revision Petition filed by the Government, anticipating that their demands would be redressed; they now feel sorely dis-appointed.

In their representations the defence pensioners point to the serious anomalies embodied in the ready reckoners and the tables appended with the above mentioned communications of 22.11.1983 and 3.12.1983. It is apparent that in some cases pensioners actually stand to lose on their existing pensions by the applications of liberalisation. They can not understand the complexities of rules which eventu ate in such a situation, whereas it is to their knowledge that the ready reckoners worked out for the civilian pensionss yield distinct benefits to them practically all along the line. These facts were surely known to the government when the communications of 22. 11. 83 and 3. 12. 83 were being issued; the least that was necessary to do at that time was to explain in detail the reasons which, in the Government's opinion, yield such unfortunate results.

It is necessary to re-examine the entire matter. Disregard of these grievances will be perilous. The disappointment caused to the defence pensioners, particularly to the lagre body of lower paid pensioners, has the potential of further crystallising into agitations which will be most unfortunate.

The present note attempts to put forth the points on which this re-examination is necessary. Before

elaborating these points, however it is essential to remove some mis-understandings which have crept into this entire matter and which are at present causing embitterment to the defence pensioners and clouding the issues.

First and foremost point which needs to be borne in mind is that it would be wrong to draw the inference from the Supreme Court judgement that it prescribes that same quantum of pension should be given for same rank or position held by the pensioners at the time of retirment. During the hearing of arguments on our Write Petition in the Supreme Court we had been specifically asked whether we were asking for the same pensions for the same posts; our answer was no; our demand was for application of same formula for the pre-1979 pensioners which had been granted in the liberalisation for post—1979 pensioners. It would have been wrong for us to demand that while salary scales of posts had over the years increased, and the incumebents retiring after 1979 retired on salaries much higher than those who retired from same posts earlier, the pensions, which are inevitably linked to the element of retirment salary, should be the same This position obtains to the same extent in the defence as in the civil, though recognisably the pattern of actual pension determination differs in the two. While the Government is urged to re-consider the entire matter on the basis of grounds appearing hereinafter, it is absolutely necessary to bear in mind this indispensable factor of the linkage of retirement salary to the determination of pension. It has been urged in the representations submitted on behalf of the defence pensioners that when the pensions are based on rank the pensions of persons retiring from the same rank should be the same, irrespective of the date of retirement. It is represented, for instance, that a Subedar Major who retired in 1960 should be placed at par in the matter of pension with the Subedar Major who has retired in 1980, and similar position should obtain for personnel of all ranks. This reasoning disregards the fact that the pension is inevitably linked to remuneration besides being linked to the length of qualifying service.

Now, against the background of above facts let us examine issues which have obviously been ignored by the Government in computation of pensions in implementing the supreme Court judgment and which have consequently brought about the anomalies and distortions and led to the disapointments and complaints. There are two major factors which need to be kept in view

DEATH CUM RETIREMENT GRATUITY (DCRG)

The discrimination between pre-1970 and post-1973 defence pensioners has arisen primarily beacause of the date of introduction of DCRG. (In the case of all civil personnel the DCRG was introduced in 1950; pre-1950 civil pensioners stand on the same footing of disadvantage as the pre-1970 defence pensioners, and the arguments appearing in behalf of pre-1970 defence pensioners will stand to apply equally to pre-1950 civil pensioners,) It may be worthwhile to keep in view the fact that when DCRG was introduced in 1950 for the civil personnel the defence had refused to accept it at that time; and this facility was eventually accepted by defece only from 1970. The DCRG in the case of defence personnel was introduced from 10. 9. 70; it was made applicable to persons who retired after that date. For persons retiring after 10. 9. 70 the pension was reduced, and a lumpsum payment in the form of DCRG was made. The DCRG thus implied :

a) Reduction in the rate of pension;

b) Payment of lumpsum amount in the shape of DCRG whicn amount was in lieu of reduction in the rate of monthly pension. On introduction of DGRG from 10.9.70 an option was given to the defence personnel for a certain period, but the fact to be kept in view is that there was no such option exerciseable after 1. 1. 73 when everybody was brought under DCRG. The availability of option during the interim period of 10.9.70 and 1.1.73 explains the, differential that is evident among the defence pensioners of the interim period.

'DCRG brougt about a reduction of 11% of pension in the case of other ranks and 16% of pension in the case of officers, and equivalent of these

reductions was paid in lumpsum, as DCRG. In the case of civil pensioners, the reduction of pension was much greater i. e. 25% ; the lumpsum of gratuily was fixed accordingly, and the subsequent pension was proportionately lesser than in the case of defence pensioners. Pensionary benefits in the case of Defence pensioners after introduction of DCRG, therefore, comprised two elements : firstly, of the pension quantum left over after deduction of DCRG element (let us call it 'X'), and secondly, the DCRG element (let us call it 'Y'). X+Y was the total pension computed on the basis of remuneration and qualifying service; X out of it was given as monthly pension; Y out of it was computed and given as DCRG. For post-DCRG pensioners, liberalisation of 1979 has enhanced the pension element X to X + A and the total pensionery benefit becomes (X+A)+Y. For pre-DCRG pensioners too the pension element X should likewise be enhanced to X+A and the element of Y should be calculated and added to it. Unfortunately, the Defence Ministry, in issuing the orders of 22. 11. 83 and 3. 12. 83 have disregarded the element of Y in the case of pre-DCRG pensioners. The result of this wrong computation is that the pension of pre-DCRG pensioners gets reduced by the application of liberlisation formula. Rectification of this calculation will yield the rightful benefit to all pre-1970 pensioners and will comprise the appropriate implementation of the Supreme Court judgement, of extending the benefits of 1979 liberlisation also to pre-DCRG (pre-1970) pensioners which have been given to post-1970 (and particularly to post-1973) defence pensioners, the absence of which is causing the anomaly of deprivation to pre-1970 pensioners. The quantum of X (i. e. pension without the element of DCRG) will need to be substituted by the pension computed under the liberalised formula and thereafter the DCRG element will need to be added to it, in the case of pre-1970 pensioners. It will be seen that unless this rectification is done, the pre-1970 pensioners will remain deprived; they neitheir get the DCRG (because it did not exist when they retired) nor do they get any benefit of the liberalised formula. This rectification will take care of the abberration which has ben caused by ignoring the element of DCRG in the computation.

WEIGHTAGE IN TERMS OF YEARS

The other important factor which has caused deprivation to the defence pensioners is the element of qualifying service. This element is one of two determining factors of pension, namely, quantum of emoluments and the quantum of service. In the case of civilians, the qualifying service has been made subject to the ceiing of 33 years. In the Armed Forces, the personnel, at all levels, put in much less length of service and they retire well before attaining the age of 58 Years. For compensating the defence personnel, the element of weightage in terms of specified numbers of years, was introduced with effect from 1 1.73, arising from the recomendations of 3rd Pay Commission. In the case of personnel below officers rank, the wightage accorded was 5 years, and in the case of officers the weightage fixed was 3 to 7 years depending on the rank. Thus, in the case of a person below the officers level, a period of five years was added to the service of, say 20 years, for determination of his pension.

This weightage constitutes an assential element of the liberlisation which was effected from 1. 4. 79. Whereas, thus, the persons who retired after 1.1.73 get the benefit of this element of weightage (officers as well as other ranks) this is deprived to all who retired before 1. 1. 73 Those who retired before 1. 1. 73 have doubly suffered; they were under the salary structure which was prescribed after 1. 1. 73; secondly, they have been deprived of element of weightage which is now an integral part of the pension computation. It is clear that the Supreme Court judgement envisages the extension of same formula to all pensioners. It is singularly unfortunate that the pre-1973 pensioners remained deprived of the element of weightage on its introduction with effect from 1. 1. 73; this anomoly, which causes a very substantial deprivation to them should now be rectified, so that all the defence pensioners are placed at par in this matter of weightage. The arrears in respect of the weightage are not being asked for from 1. 1. 73 to 1. 4. 79; the entitlement of arrears should be from 1. 4. 79 when the liberlisation was effected and they remained deprived of it because the element of weightage was not made applicably to them. This rectification will be practically at par with the benefits which have been extended to the pre-1972 civil pensioners who remained deprived of these from the date of earlier liberlisation of 1972 until the further iiberlisation of 1. 4. 79.

In substance, therefore this representation urges the following :—

a) The element of DCRG should be excluded from the recalculation of pension on the basis of liberlisation of 1. 4.79, and the DCRG element thereafter be added, to arrive at the revised pension;

b) The weightage in terms of years of service, which was introduced from 1. 1. 73 for all ranks, should be taken into account for the pre-1973 pensioners and they should be given its benefit in calculation of the revised pension.

The re-calculation of pension of the defence personnel on this basis will be the appropriate implementation of the Supreme Court judgement; the disregard of these elements constitute violation of the letter and spirit of the Supreme Court judgement. Our belief is that when the total financial implication of implementation of the Supereme Court jugement was worked out by the Government and the requisite provision was made in the 1983-84 Budget, these instructions had been kept in view. It would be unfortunate if the impression now prevails that at the stage of actual implementation these essential requiremets of re-calculation have been disregarded even though funds exist for meeting the envisaged expenditure.

BLOOD DONATION
Bleed for Those You Care

Blood is the life-line. Therefore, it came as a rude shock when Government declared recently in the Parliament that "there is no proposal to ban private blood banks". Commercialisation of blood is the bane of blood supply for saving lives in hospitals. There can be no guarantee that blood taken from professional donors is not diseased, carring dread infection of hepatitis, malaria and venereal and viral diseases. The poor professionals feel compelled to give their blood against money; the traders in human misery trade in blood bought cheaply; there being no method of eliminating infections, the tainted blood endangers life which needs life-giving blood.

There is need of disseminating knowledge about various facets of the movement of blood donation - of voluntary healthy blood donors as against professionally hazardous donors; impossibility of eliminating infections from professionally donated blood; recouping of blood by the system within 24 hours of the donation, etc. There is need of greater awareness on the part of everybody regarding blood donation. There is need of stimulating organised effort at all places in the country to facilitate blood donation. You can play an important part in this effort. We approach you to take the initiative.

Blood Donation a Community Responsibility

In a tradition bound country like ours where new ideas take time to get rooted and where it is difficult to arouse the social instinct of people the main source of blood unfortunately continues to be the professional blood sellers. In view of the countless malpractices prevalent in obtaining blood from professional sellers commercialisation in blood-banking cannot provide blood of the desired quality. This belief became the guiding principle of the voluntary blood donation programme. It has been emphasised all the world over that the quality of blood should never be compromised with and to achieve this objective the answer is the establishment of a powerful voluntary blood donation movement.

During the last three decades a switchover has been made in most countries from the exploited system of commercialization to a progressive pattern of voluntary donations. Such a change involved policy decisions by administrations and untiring work by workers in moulding the community's thinking.

Blood transfusion based on voluntary blood donation in India is of recent origin. This movement is still in its infancy and has struck roots only in a few cities, Though there is every potentiality of developing it, the movement so far has essentially demonstrated a spontaneous character. Thisf becomes clear from the fact that during times of national emergency or abnormal conditions, the response for voluntary donations becomes most impressive. But when conditions get normalised the mass response too slackens. This in itself underlines the fact that some organisational structure, on a permanent basis, needs to be evolved to put this movement on a firm track.

Quite apart from this respect, there is a general apathy among the administrators, the medical experts and the social workers towards this movement. As a consequence the main reliance for blood still continues to be on the so-called professional blood sellers, a practice which results in grave hazards for the patients who receive blood. This indifference at various levels cannot be corrected through initiative at a local level. A concerted all - India effort has to be made to overcome it.

To educate the general public that blood donation is a social responsibility of the entire society, and that it creates no hazards for the health of donors, the entire mass media in the country needs to be mobilised. The press, Radio, T.V. and films need to be pressed into service. Unless this programme is taken up by various public organisations, an awareness for people's participation in this movement cannot be created.

Two considerations have weighed with the blood transfusion workers : firstly to acquire blood in sufficient quantity to meet the requirements of the community; secondly to acquire blood of the desired quality. The problem is international in nature for contingencies necessitating the transfusion of blood arise everywhere. The situation in our country, however, is somewhat different. Whereas most of the Western countries and some in the Eastern hemisphere have succeeded in ensuring un-interrupted supplies of life-saving blood, we seem to have touched only the fringe of the problem. We get blood neither in sufficient quantity nor of the desired quality.

The most formidable obstacle in impeding the growth of the blood donation movement is the existence of vested interests and the profesional blood-sellers. Theyhave done incalculable harm to this programme. Apart from the moral considerations involved in the situation, it is a sad commentary that for supplies of blood we should turn to anaemic, drug-addicted and disease-ridden blood sellers who give blood far more frequently than is safe.

The aim of the commercial blood banks and the professional blood - sellers is oniy to make money. They are not aware of any obligations to society. They create a psychological climate in which our dependence upon them grows, They stifle altruism thereby elbowing out the voluntary giving of blood. Who is not aware of the last minute, desperate efforts of relatives and friends, to buy blood while the patients is hanging between life and death? The idea of saving the patient by

donating themselves just does not occur to them. We have accepted this situation for so long indeed, that we have forgotten even to raise our eyebrows at the malpractices assoociated with the commercialisation in blood.

There can be no two opinions about the superiority of the voluntary donor over the professional blood seller; the former gives blood of good quality without expecting any return, the latter is motivated by greed for money. It has been established beyond doubt that the use of volunteer blood alone reduces the danger of post-transfusion complication.

Blood given by profesional donors is most dangerous as it carries the risk of transmitting diseases like hepatitis. There is also no readily avilable method of detecting in advance whether such blood is free from infection or not. This is clear from the fact that even in the USA where advanced and sophisticated techniques are availabe about 17000 cases of hepatitis occured in one year because of blood obtained from professional sellers. With this in view the W.H.O., the International Society of Blood Transfusion, the League of Red Cross Societies and many other international agencies have warned against the use of professional blood and strongly advocated the establishment of non-remunerated, voluntary blood donor services.

In order to achieve the objective of a 100% voluntary programme it is essentlal to remove the apprehensions and superstitions of people about blood donation. People donot participate in the programme because they fear that giving of blood may affect their health adversely. Such misconceptions regarding blood/donation can be removed if enlightened citizens take upon themselves the responsibility of highlighting the following facts :

a) That there is no substitute for human blood and that requirements of blood can be met only by healthy men and women.

b) That every healthy person within the age group of 18-60 years, can donate blood without any harm regularly every 3 months.

c) That blood is not only required for the wounded during wars but routinely by all hospitals for saving the lives of millions of patients.

d) That thousands of persons suffer for want of blood and if it is made available a sizable number of them can be saved.

e) That safe blood of the desired quality can only be procured from voluntary sources.

f) That blood obtained from professional blood sellers is positively dangerous.

To educate the community about blood donation the Cenetral and State Governments should put to better use the already existing special agencies of mass media. Wrlters, journalists, artists, film directors should help to spread the massage. Information about the different aspects of blood donation should be included in school books so that by the time a student leaves school he begins to regard blood donation as a norma! part of civic life. The involvement of educational institutions can be achieved by arranging blood donation camps at their premises and by initiating the formation of blood donor clubs. The involvement of youth can yield good dividends because once convinced about the imortance of this programme they will make blood donation a way of life.

Government of India should adopt the voluntary system as a matter of national policy and provide it energetic support. Commercialism is rife with malpractices like adulteration and dilution of blood and exploits the economicaliy weak professional sellers as well as the patients. Strong official measures are essential to overcome the vested interests of commercialism.

The source of blood supplies can only be the public. Everyone who can donate blood should do so regularly and motivate others to become donors. That donating blood is absolutely safe is the message to be carried to the public.

Voluntary Versus Professional Blood

There are few persons who entertain any doubt as to the vital role blood transfusion plays in saving countless lives. Thousands upon thousands of victims of accidents; patients with serious diseases calling for surgery; mothers involved in complicated cases of delivery; new born babies requiring exchange of their entire blood supply; all of them live only because blood is transfured into them and without it they would have little chance of survival. Those wounded in war or in natural calamities too can be saved by blood. People also know that no artificial substitute for blood has yet been discovered by science and whatever supply is needed can come from human donors alone. And yet in our country at any rate there is not merely indifference but very widespread reluctance to donate blood and hospitals suffer from a chronic shortage of supplies. It has been estimated that only 1/4th of the amount of blood required in the country is being collected. Why does this situation obtain and how can the difficulty be overcome?

There appear to be two considerations which figure very prominently in our thinking. One is the ingrained idea that donating blood causes irreparable weakness and endangers health. Blood gives strength and life to the patient and therefore the donor who "loses" the precious fluid must be exposing himself to serious ill effects

The second point, which in effect is a corollary of the first, is that unlimited supplies can be obtained from professional blood sellers and all the needs should be met from them. It is felt that the poor blood sellers are not well off financially and should be helped to earn whatever they can in this manner. It is conceded that the professional sellers may have blood which carries infection or is un-wholesome because of drug addiction etc., but it is argued that blood should be tested before being transfused. That would ensure that the patient would receive only disease free and wholesome blood, and thus the twin problem of inadequate supplies and of sub-standard quality would both be solved satisfactorily.

The position however is that both these ideas- that donating blood can harm health and that screening of blood can detect all diseases are based in gross error. It can be stated without fear of contradiction that there are no readily available means of detecting whether or not any blood carries hepatitis or any other infection. The necessary tests are so laborious and time-consuming as to be without value. In fact, that is the resson why in many other countries e. g. Australia, Japan, Philippiness, the purchase and sale of human blood is banned under the law and the transfusion service is 100% voluntary. In the U.S.A too the increase in the incidence of hepatitis cases as a result of blood transfusion from paid donors has been so pronounced-17,000 cases in one year - that recently a non-remunerated system of donations has been accepted as the national policy and a switchover is under way. In other words the use of blood from the professional seller, who is not interested in disclosing whatever infection he might be carrying and who has no hesitation in giving blood more frequently than is appropriate, namely once in three months, involves a high degree of hazard which science has no means of checking in advance. If any one seeks to rely on them he is unwittingly asking for highly dangerous infection to be transmitted to the recipient instead of life-giving blood.

As to the strongly held belief that donating blood must be avoided because it leads to weakness and ill health that is an equally groundless canard. It is doubtless correct that blood gives life to the patient and also that excessive loss of blood can be hazardous but the quantity taken from a donor is regulated with the utmost care and a very high level safety factor is observed. Donated blood is replaced by the human body within 24 hours and there is no danger or risk to the donor. There is no discomfort or weakness either and donors are able to resume their normal routine of work after giving their donation. It is because of this that there are people who donate blood regularly every three months year after year, and the total number of individual donations in some instances touch 200.

The clear conclusion, which hardly admits of any difference of opinion, is that the adoption of a 100% voluntary-blood-donor principle is a must, if safe and reliable supplies of blood are to be provided and if the intire purpose of a transfusion service is not to be defeated. This is not a utopian ideal but is capable of practical realisation. Apart from the fact that many other countries are working the 100% voluntary system satisfactorily, a similar achievement has already been possible in our country also, although only in a few centres. There is no reason why given the necessary will and the effort the system cannot be extended to other areas.

Affairs to Settle Before One Dies

Death has to come; it is inevitable; it is an event about the happening of which one can be absolutely certain. This an unpleasant thought, but amidst multiplying complications of present day living it is desirable that one should face this fact and plan and straighten out the matters well in anticipation of this inevitability so that the successors may be saved the further pangs which the taxman and others are bound to cause.

In the present write-up we seek to present various facets of the problems which are likely to arise on the demise of persons, suggesting steps which should be taken to ward off the difficulties and and problems that can be envisaged.

One important area in this context is that of drawing up the 'WILL', what to include in it and what to exclude from it, how it should be signed and witnessed, whether it should be registered or not, and whether the format can be suggested for enabling an average person to draw up his 'WILL'. Closely allied with this matter is that of securing succession certificate/probate by the successor on the demise of the person. This entire area of drawing up of 'WILL' and the procedure and problems connected with procurement of succession certificate and probate have been dealt with by us in an article in a previous issue of COMMON CAUSE. Another important area is of the Estate Duty which comes into play on the passing away of the person holding some property. This area too is covered in the present issue in a separate article. Certain other matters of importance which a prudent person should take care of, and the affairs he should put in order while he still has a chance, are dealt with in the present write-up.

BANK ACCOUNTS

It is necessary to know the nature of Bank Accounts which are available to individuals, in orders to decide as to which type of Bank Account should be maintained for minimising the difficulties arising after one's demise.

It is of fundamental importance that the Bank Account should never be kept in the name of one single individual and it should preferably be maintained in such a manner that it has facility of being operated also by another person so that the other person can deal with it in the event of serious illness or demise of the main account holder. We give below information about the different types of accounts, which would be useful in this context. This information will apply to any form of account, whether it is a current account or savings account; and in large measure it applies also to fixed deposit accounts.

One important type of joint account is the "Either or Survivor" account. It can be operated any time by either of the two persons named in the account. and on demise of one of the persons it can be operated by the survivor. On the passing away of one, the survivor has only to inform the Bank about this fact and to produce the death certificate; on this the bank will authorise the survivor to operate this account.

There can be cases where for personal reasons the main account holder may not desire that the second person should have authority to operate the joint account, In such a case the joint account can be made in the form of "Former or Survivor". Such account can be operated only by the

main account holder i. e. the "former", and it can be operated by the survivor only after the demise of the "former". In this case too the production of death certificate will enable the survivor to start operating the account.

In each of the above two types of accounts it is feasible to name more than one survivor, but it will need to be clearly spelt out as to what authority will vest, in which survivor, for operating the account on demise of the main account holder. Unless family circumstances necessitate resort to the prescription of more than one survivor it is desirable to avoid complicating this matter and to name only one survivor. In the event of any dispute between the survivors, if more than one survivor have been named, the bank will obviously have to await decision by the appropriate court.

In the case of "Former or Survivor" accounts some difficulty can arise where the main account holder i. e. the 'former', may meet with an accident or fall seriously ill which disables him from operating the account. In such an event the bank would normally depute an official to ascertain the wishes of the 'former' but difficulties may arise when he is not capable of even expressing his wishes.

Another form of joint account is such which is operated by two persons jointly i. e. in accordance with instructions given to the bank, both persons nave to sign every cheque before it can be encashed. In the event of demise of one of them the bank will not be able to authorise the other person to operate the account and will ask for decision by the appropriate court.

Retired persons maintain pension account in the banks. The pension is deposited by the pension disbursing authority in this account, which may be current or savings account. The banks do not allow the pension account to be operated jointly with association of another person with the pensioner. For enabling the pensioner and his family to continue to benefit from the pension during his life time, even if he falls seriously ill, it is desirable that standing instruction should be issued to the bank that a specified amount should each month be transferred to another account preferably " Either or Survivor " joint account leaving a small amount of Rs.50/100 in the pension account.

Another matter worth noting in this connection is that of HUF account. Where such an account exists the Karta of HUF operates on it. Elder-most male member of the HUF becomes the Karta on demise of original Karta. It is desirable that all members of the HUF should be named in the bank records in relation to the HUF account, stating as to which member will be the Karta on demise of main Karta.

FIXED DEPOSITS

As in the case of bank accounts it is obviously important that in respect of Fixed Deposits the main deposit holder should take steps to put the deposits in similar position so that difficulties do not arise about withdrawal of the amounts on his demise. In respect of Fixed Deposits the position in fact is the same as in the case of bank account. The deposits can be maintained on "Either or Survivor" or "Former or Survivor" basis, or on joint basis which latter would necessitate the signatures of both the persons and will thereby necessitate the succession certificate by court for enabling the survivor to claim payments.

In the case of Fixed Deposits it may be desirable that while deposit is kept in the form of " Either or Survivor ', as the circumstances of the family may justify, stipulation should be made that interest accruing should be deposited in another account which is perferably operated on " Either or Survivor " basis. This will obiviate difficulty arising about the use of accrued interest on demise of the depositor or till maturity of deposits.

Where Fixed Deposits have been taken in the name of one person and it is desired by him that it should be encashable even before maturity on his demise the only recourse would be for him to sign the discharge certificate on reverse of the deposit-receipt and keep it in a safe place so that it can be presented for encashment by the survivor. This measure obviously involves risk of the discharged receipt falling in wrong hands and the best alternative obviously is to maintain

deposit in joint names in "Either or Survivour" or any other form described above.

Similar position holds in respect of company deposits, company shares, etc. in which the name of a nominee in each case is normally given. Even though the nominee is given in case of deposits and shares in companies it is more probable in the case of companies that they will ask for succession certificate to be produced before the payment is made to the nominee.

POSTAL ACCOUNTS

The post offices also extend facilities of maintenance of accounts and deposits. These include Postal Saving Account, clamulative Time Deposits, Fixed Deposits (Time Deposits) and National Savings Certificates. In the case of these postal facilities the position is practically the same as in the accounts and deposits with banks. It ia obviously desirable that in the case of these accounts and deposits too, the appropriate action, preferably of maintaining the accounts and the deposits on "Either or Surviovor" basis, should be taken so that difficulties are obiviated on the passing away of the main account holder or depositor. It is understood that in the case of postal deposits and national savings certificates etc. the postal authorities make payment to the nominee without the requirement of any succession certificate and merely on varification of nominee.

INSURANCE POLICIES

We hope to deal separately with the problems of insurance in another write-up, but here we would like to mention that as in the case of bank accounts and deposits as well as the postal accounts and deposits, it is of primary importance to ensure that in the case of insurance policies the nominee has been clearly and unambiguously recorded in each policy along with description and relationship with the insured and the age of nominee etc. Normally where the nominee has been nominated in the insurance policy, the insurance company will make payment to the nominee without the problem of procurement of succession certificate.

CENTRAL POWER OF ATTORNEY

Amidst multiplicity of problems which can arise during life-time of a person, particularly if he is struck down by accident or serious infirmity which disables him from transacting any business, it is desirable that a general power of attorney should be given to a trustee, preferably a younger member of family, authorising him or her to deal with all matters of property including submission of returns of income-tax./wealth-tax, collection of rent, operation of bank account, conducting or contesting law suits, etc. The authority may be given in such manner that it is operative without projudicing rights of other heirs of the property and in the event of serious incapacity or infirmity of the person concerned.

ESTATE DUTY
An Unmitigated Curse

Estate Duty has over the years become an umtitigated curse. It has increasingly become a noose round the necks of the people. It is necessary that people must wake up to its depredations and raise a loud voice against it.

Its tentacles reach out and spread vastly; with the artificial escalation of prices of the property in the recent years more people continue coming into its net than ever before. Irrationalities, anomalies and absurdities are galore in this legislation. Government does not appear to be concerned about these. Its continuing unconcern in relation to this legislation shows its increasing insensitivity to public opinion.

Nobody in fact escapes the clutches of Estate Duty. On any death, if a succession certificate or probate is required, which has now become inescapable for various requirements, the Estate Duty clearance certificate has first to be procured, which bring the heirs to an encounter with the rigmarole of exasperating procedures and attendant corruption.

If there is any piece of tax legislation affecting middle classes, which deserves to be scrapped, Estate Duty is the one. The imposition was brought about in the package of taxation measures which were devised in the 50s on advice of foreign experts, in the youthful flush of independence; its, ill-effects at that time were not foreseen or examined. It is unfortunate that even now the plea continues to be trotted out in favour of its maintenance that this measure is necessary for avoidance of accumulation of wealth in a few hands. It is a moot point whether this purpose has at all been served. On the contrary, this legislation has become a nightmare and a source of harassment to the bereaved families.

The aggregate yield from this tax over the years has been not even a flea-bite. Despite the present day escalation of property values its yield does not go beyond Rs20 crores a year which constitutes a mere .1 per cent of the aggregate tax revenues of the Govt of India and an even insignificant smaller fraction if one takes the aggregate taxation revenue of the Centre and the States, the latter because the collections from estate duty are eventually distributed to the States. The expenditure involved in collecting this petty amount of about Rs 20 crores is about Rs 2 crores.

Shares allocated to the States from the collections of Estate Duty show a ludicrous position which

unthinkingly is carried on from year to year. For instance, in the new Budget of 1984-85 the shares proposed to be allocated to the States from estate duty collections are : Himachal Pradesh Rs 3 lakhs ; Orissa Rs 12; lakhs Haryana Rs 13 lakhs ; Rajasthan Rs 24 lakhs ; Bihar Rs 74 lakhs ; U. P. Rs 100 lakhs ; Gujarat Rs 117 lakhs ; Andhra Pradesh Rs 192 lakhs ; Maharashtra Rs 119 lakhs ; and so on. It is a matter of great regret that neither the Central Government nor the States Governments have woken up to the tremendous travails which this imposition causes the people as compared to the meagre amount that it yields. In the new Budget the allocations to the States amount in all to Rs 16.47 crores.

Consider now the number of assessees of estate duty and the frustrating problems connected with the meagre collections. There is always a heavy pendency regarding its assessments The pendency relating particularly to higher bracket of assessment is inordinately high. The total number of cases coming up for assessment during a year range only upto 35,000 in the entire country. Compared to this total as many as 35,862 cases were pending at the end of 1980-81 against 32,607 completed in the year, and 37,578 cases were pending at the end of 1981-82 as against 32,428 disposed of during the year. Cases involving larger estate duty remain pending for longer periods. For each case involving assessment of over Rs 20 lakhs disposed of during 1981-82 as many as three cases were pending ; for each case involving assessment between Rs 10 lakhs and Rs 20 lakhs disposed of in 1981-82 as many as five cases were pending. In assessments below Rs 5 lakhs as many as 31,517 cases were pending at the end of 1981-82. This state of affairs should be a matter of grave concern to any administration, more so because the imposition of this texation measure yields so little, at such large expense, and with such pangs to the bereaved families.

Rather than the Govt. of India should continue to remain in the rut of the hollow argument that this measure is required for curbing the concentration of wealth, it is time it should ask itself, and also seek the advice of economic and taxation experts, whether some alternative suitable and effective steps can not be adopted for seeking this objective. While the necessity of retaining this taxation measure on the statute book is re-examined with the help of experts it is necessary that the anomalies, irrationalities and absurdities in the present legislation should be re-examined for their removal. These anomalies have assumed the present form because no comprehensive effort has been made for the last three decades, and in any case during the last few years, to see that its provisions keep pace with the present day realities and the legislation keeps in step with the amendents that continue to be made in other connected taxation measures including wealth tax. It is necessary to expose these anomalies for finding remedies for them.

The fundamental anomaly that needs to be highlighted ralates to general exemption provision that has been made in the new Budget in relation to the Wealth Tax. The general exemption limit for purposes of Wealth Tax, in respect of specified assets including deposits with the banks and shares in companies, had previously been raised to Rs 1.65 lakhs. This has now been further increased in the new Budget to Rs 2.65 lakhs, and with the additional Unit Trusts exemption limit of Rs. 35,000, making a total of Rs 3 lakhs. In the case of Estate Duty the general exemption limit was raised in 1982 from Rs 50,000 to Rs. 1,50,000 The differential between the two exemption limits i.e. Rs. 3 lakhs for Wealth Tax and Rs 1.5 lakhs for Estate Duty purposes, is ostensibly wrong and unjustifiable on any ground. If the exemption limit of Rs 3 lakhs is justifiable during the life time of a person in curbing the concentration of wealth as is contended, there is no reason why a lower exemption limit of Rs. 1.5 lakhs should prevail on his passing away. As it stands at present, the estate of a deceased is allowed an exemption of Rs 1.5 lakhs and duty is imposed on the balance Rs. 1.5 lakhs out of the exemption now provided for the Wealth Tax. Obviously this anomaly has arisen because care has not been taken to keep Estate Duty in step with the latest developments in other areas of taxation. In any case, the exemption limit of Rs. 1.5 lakhs introduced by the amendment act of 1982 in the Estate Duty Act is much too inadequate in the context of present property values and there has been general public demand that this should be raised to at least Rs. 5 lakhs which should also be exemption limit for the Wealth Tax purposes.

One other important amendment which was made last year in thc Estate Duty Act on persistent public outcry and demand relates to valuation of residential house property of the deceased. Prior to the amendment the house was valued on the basis of market price, which was nothing short of being an obnoxious and confiscatory measure in view of the enormous escalation of prices of property which has taken place during the last few years. The public continued raising outcry against this because it was felt that practially all houses in any sizeable urban area would have to be auctioned for paying the death duty. It is good that the Government eventually brought forth the amendment which provided that the valuation of residential house would be made on Wealth Tax basis and not on market price. This undoubtedly provides a breather because the Wealth Tax base of valuation, which itself had become confiscatory, was amanded in 1979 and is proving satisfactory.

But, the amendment made in this respect in the Estate Duty Act, is halting and inadequate. While the basis of valuation of residential house has been amended, the basic provision remains the same i.e. the exemption limit remains pegged to the amount of Rs. 1 lakh in respect of residential house and it is also provided that the house must be "exclusively used" by deceased at the time of demise. The provision of "exclusive use" by the deceased at the time of his demise still subsists, which is unfortunate. There is another anamaly vis-a- vis Wealth Tax. In the Wealth Tax the exemption limit of the house under the new Budget has been proposed to be raised from Rs. 1 lakh to Rs. 2 lakhs, whereas in the Estate Duty Act the exemption limit in this regard remains Rs. 1 lakh as stated above. It does not stand to reason that, as in the case of general exeption limit, whereas during the life time the residential house upto the value of Rs. 2 lakhs should remain exampted from Wealth Tax, the exemption limit should get lessened to Rs 1 lakh. This is a serious anomaly in relation to the avowed objective of avoidance of concentration of wealth.

The following exemptions limits, which appear under Section 33 (1) of the Act are also hopelessly out-dated and require to be drastically modified :

a) Funeral expenses including all other ceremonies and even shrad and barsi remain exempted up to the aggregate of only Rs. 1000.

b) Exemption provided for gifts for public charitable purposes, made within six months before demise, is only up to Rs. 2500.

c) Other gifts made within two years before demise are exemted only upto Ro. 1500.

d) Monies provided for marriage of daughter are exampted only up to limit of Rs. 10,000.

e) Insurance policies even for payment of Estate Duty assigned to Government for the purpose, are exempted only to the limit of Rs. 50,000 and insurance policies on the deceased's life are exempted up to Rs. 5000.

f) Exemption in respect of house-hold goods, including tools and implements which were necessary for the deceased to enable him to earn his livelihood, is only to the limit of Rs. 2500.

g) Provision in respect of gifts made by the decased to the spouse, son, daughter, brother or sister is that exemption applies only where the gifts were made beyond the period of five years and gift tax was paid thereon. Even though gift tax may have been paid the value of such gifts made within a period of five years before death would still be liable to estate duty though rebate would be allowed for estate duty paid.

In making the suggestion for effecting amendments in the relevant clauses of the Estate Duty Act it is nacessary to point out that the provisions of clause 33 (2) of the Act confer powers on the Central Government to "make any exemption, reductions in rate or other modification in respect of any class of property or whole or any part of the property of any class of persons" where it is of the opinion that circumstances are such that some relief' in addition to the relief provided in sub clause (1)' should be given. Such an act of the Government will require notification in the official gazette and the notification will need to be placed before both the Houses of Parliament.

The Governmet of India has authority to make requisite alterations in the exemptions and rates etc. incorporated in the Act and its clauses. It is not necessary for it to seek concurrence of the State Governments for effecting these amendmente as has generally been contended. Only the Government has to have the political will to undo a wrong which was perpetrated thirty years ago.

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