

COMMON CAUSE

VOICE OF "COMMON CAUSE"

WE SALUTE YOU

We do not have words enough to convey our gratitude to persons like Mr. S. N. Bhasin, of Shanti Niketan New Delhi. He retired from a middle rung, over 20 year ago, is now 82 year, occasionally pray to the inevitable ailments of age but always ready to render help for good causes. Immediately on reading our appeal for building fund for COMMON CAUSE he forthwith sent a cheque of Rs 1000, with merely his name and without even a letter. He had, on his own, previously gone from house to house in his locality to secure life-memberships for the organisation. These are the type of persons who constitute the muscles, in fact life breath, of voluntary organisations.

We have had similar generous responses from many others who have benefitted from the efforts of COMMON CAUSE as well as from those who have felt this voluntary, dedicated effort deserves to be supported. These include, for instance, Dr. N. Jungalwalla of Delhi (Rs. 1000), Mr. M. P. Patel of, Ahmedabad (Rs 1000), Mr. R. Sardana from Vienna (Rs. 1000), Mr. James Miranda of Bombay (Rs. 1000), Lt. Col. K. C. Manchanda of New Delhi (Rs 675), Mr. Rajeshwar Dayal, a previous Foreign Secretary (Rs 500), Maj. Gen U. C. Dubey (Rs. 611), Lt. Col. S. N. Chakravarti (Rs 500) and many others. Our Special thanks are due to the pensioners' organisations like those of P&T Pensioners Association of Mayuram (Rs 2000), P&T Pensioners Association of Madurai (500), Pensioners Association of Dehu Road (Rs 600) and Indian Ex-Services League of Meerut (Rs. 500). There are a large number of others who have sent us contributions, ranging from Rs. 21 to Rs. 475 and more, mainly comprising the equivalent to restoration of their pension commutation, and contributions from widows of pensioners who have derived the benefit of family pension. To each one of them we owe deep gratitude.

In these donations, and particularly in relation to the restoration of pension commutation, there is one feature which is particularly noticeable and we cannot help remarking on it. By and large, the munificence which has been in evidence in this matter from the defence pensioners is not in evidence to the same extent from civil pensioners as well as from the large number of other civilians who have benefitted from the efforts of COMMON CAUSE such as in the way of saving in House Tax etc. This is a matter of concern. Ostensibly, the civilians in general apparently do not feel it as their personal responsibility to participate in such selfless endeavours to the same extent as the defence pensioners readily assume it as their duty and direct responsibility.

While we salute all of you for lending us your support and for participating in our programmes, we would exhort those who have not hitherto sufficiently responded to our appeal for the building fund, or to help spreading the membership of the organisation, to do some heart-searching to see whether their conscience does not feel guilty in denying to this organisation the support that they are in a position to lend, particularly in the context of the advantages that have accrued to them as a result of its efforts. We would be content with the response of their conscience.

Death on the Roads.
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Electricity Bills
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DEATH ON THE ROADS

Mounting accidents on the roads are posing a serious problem to the people. Much continues to be said and written about this problem but the toll goes on increasing and a general feeling permeates that nothing adequate is being done by the concerned departments and Ministries, of the Centre as well as the States, to curb the menace. The agony of a family, caused by the death or serious injury to a person, is not describeable, and no solace can suffice. However, the compensation aspect of the accidents is a matter of paramount importance for the family, and it is nothing short of unadulterated cruelty and disgrace that the payment of compensation has got involved in such procedures and documentation that for years the family does not receive the compensation that the law has prescribed. The poor widows, who have lost their breadwinners, knock about in the courts and remain at the mercy of the lawyers. The poor incapacitated victims of accidents wait long for the support and succour.

In this context we reproduce below the extracts from a UNI Report and an article which has appeared in the well-known fortnightly INDIA TODAY in which the problem of death on the roads has been highlighted.

Sudden and gruesome death on the road has become a chilling phenomenon in an increasingly motorised Indian society. Last year alone, 40,000 people were killed in road accidents, up from 24,600 in 1980.

It's not death alone that is worrying. The number of people injured in road accidents has almost doubled in the past six years, touching 1.75 Lakh last year. A tenth of these cases involve serious injuries varying from cracked skulls to severed limbs, leaving people physically and mentally handicapped for life.

India has one of the highest accident rates in the world. One out of every 42 vehicles in the country met with an accident last year. In the United States and Europe, the average is one in every 100 vehicles. Worse, India has a fatality rate 20 times higher than the developed countries.

Road fatalities now lead the list of accidental deaths in the country, way ahead of death by drowning, fire and railway accidents. Studies done by the WHO show that road accidents account for 2.5 per cent of the total deaths recorded in developing countries like India. But in the 5-44 age group it is as high as 10 per cent, and is among the six leading causes of death.

Statistics don't reflect the appalling conditions of emergency units in government hospitals for treating accidents victims. Or the shocking fact that someone could have an accident right in front of a private hospital but would not be treated there (for fear of ensuing medico-legal problems). Indeed, there is not one fully equipped specialised trauma care hospital in the country.

The bare figures don't indicate how driving licences can be bought, almost as easily as cinema tickets. Even Union minister of states for surface transport admits that "you can date a licence from Pune while sitting in Delhi". Neither do they give an idea of a police force totally ill-equipped to cope with the galloping rate of accidents, and being reduced to—as one officer put it—"crash fighting." Or of municipal corporations who abet tragedies with their engineered death traps like pot-holes and badly lit roads.

The price of road accidents is paid not only by the victims and their relatives, but by the country as a whole. The insurance companies paid out as much as Rs 266 crore towards accident claims in 1985 alone. International traffic experts estimate that in developing countries the loss of production and

hospital expenses caused by accidents would be 1 percent of the gross national product. In India that is over Rs. 2000 crore every year—enough money to make the roads much safer.

Spurring the death rattle is an unprecedented vehicle explosion, with a quadrupling of numbers in the last decade, to over 10 million now. Vulnerable two wheelers alone number six million—one million in 1975—while trucks and buses, which cause the most damage, number one million (1975:0.3 million). Cars number another 1.5 million. The result of having all these contraptions on the roads is anarchy.

Yet complacent traffic planners point to the fact that the accident rate per 1,000 vehicle has declined from 33.9 in 1980 to 25.5 now. What this argument ignores is the fact that all over the world the growth of accidents never keeps pace with vehicle population. In fact, the rate of decrease in Indian accidents is much slower than that recorded in developed countries and many other third world nations.

Death rides the city roads. Over a third of the accidents occur in the 12 Indian metropolises alone. Delhi, with its broad avenues and sweeping boulevards, leads the death list. Every day four people are killed and 18 others injured on the capital's roads. The numbers have doubled in the last decade.

Ironically, the problem seems to be that Delhi has such good roads. Virtually every other city has clogged traffic inching through crowded lanes, with the average speed a fraction of what exists in Delhi. The number of accidents too is much lower than the capital's.

In Bombay, where a collision occurs every 20 minutes, deaths are down from 657 in 1985 to 555 last year (though those seriously injured rose from 805 to 946). In Bangalore and Madras too, traffic deaths show signs of having peaked at around 400 deaths a year after rising steeply for a while. And Calcutta of course is the safest city of them all, with slightly fewer deaths than even Bangalore—probably because the city's traffic moves slowest of all.

Meanwhile, much of the increase in the national toll has come from smaller cities. In Kanpur, for

instance over 200 people were killed last year. In Nagpur, road deaths have more than doubled to 132 since 1981. In Lucknow, the annual toll is 150—three times the figure five years ago. And in bustling Pune the toll has crossed the 250 mark.

If the cities are dangerous, so are the highways, where a third of the fatalities occur, and where there is neither prompt medical aid nor police help. In the cities themselves, a third of the people killed are pedestrians. Oddly enough, as a study by the Indian Institute of Technology says, 75 percent of these pedestrians were killed on straight roads, and not at intersections as is widely believed. In fact, zebra crossings are death-traps: 20 per cent of the pedestrians were killed on the markings.

After pedestrians, two-wheeler riders are the most vulnerable group, with a risk level five times higher than car drivers. And, of course, the big killers in the cities are buses. The Delhi Transport Corporation—with just 5,000 buses—kills more people than all the drivers of Calcutta put together. In Madras, the Pallavan Transport Corporation is involved in so many fatal accidents that road users had nicknamed it Pallavan Kollavan (Tamil for the Pallavan killers).

The Transport Ministry likes to list the causes of accidents simply, as 'Bad drivers, bad vehicles and bad roads'. Of these, studies have shown that bad drivers and human error are responsible for around 80 per cent of the accidents. In a country that is notorious for its slackness at work, everyone on the road seems to drive as if there is no tomorrow.

A Central Road Research Institute survey of 1200 people found that half of those who had driving licences had no knowledge of the traffic rules. Only 20 per cent of them knew how to overtake correctly. A third had no knowledge of road signs. And—in a rare display of honesty—63 per cent admitted that they did not observe rules on the road.

Fuelling the anarchy on the roads is the corrupt licensing system. In Bombay, touts arrange for a licence without a test at the Road Transport Office, for Rs 250. In Bangalore the going rate is Rs. 150. In Calcutta and Delhi it is Rs. 300. In Delhi there is

only one vehicle inspector to deal with 500 cases—testing new drivers and certifying vehicle fitness—every day. Driving tests, naturally, are cursory.

The lack of a national registry has complicated matters. If a driver's licence is cancelled in Delhi he can drive down to neighbouring Gurgaon in Haryana and get another without anyone being the wiser. Vehicle fitness tests are a farce. In most countries bi-annual vehicle fitness tests are mandatory. But in India the fitness tests for private vehicles are needed only after 15 years. Though trucks are to be checked annually, system to execute this simply does not exist. And, of course, this means more corruption.

Also, unlike the rest of the world, drivers are not subjected to medical check-ups before licences are issued. When the National Transportation Planning and Research Centre in Trivandrum checked 173 truck drivers on the Quilon Highway, it found that 90 per cent of them had defective eyesight. In Delhi, when the police did a similar check on bus drivers, a large majority were discovered to have bad eyesight. Helpfully, the police provided them with free spectacles.

The truth is that despite their Bharatnatyam antics at the crossroads, Traffic police all over the country are a beaten lot. Hamstrung by a lack of staff and overwhelmed by the growth of vehicles on the road, the police have become mere spectators to the chaos on the roads. "What the hell do you expect my constable to do?" asks Bangalore's Ajay Kumar. "We are not consulted on any developments at all. Bus shelters and buildings sprout up without our knowledge. And then we are expected to regulate traffic."

In fact, poor traffic engineering is a major cause of accidents and the police rarely have a say improving matters. "We are the most visible symbols of authority on the roads when in reality the role we play is limited," says Hasan Gaffoor, Bombay's traffic chief. They are rarely consulted by the municipal corporation over development plans. Only a few cities have started traffic engineering cells, and only now is traffic flow taken into account while

sanctioning buildings or developing new areas. But even then most of these regulations are observed in the breach.

Nowhere in the country has the number of traffic policemen kept pace with vehicles. In Delhi, only a quarter of the intersections are manned. In Bombay, the police asked to double the staff, and got a quarter of what they had asked for. In Bangalore, the traffic police strength hasn't increased since 1976. And in Khanpur manned intersections are unheard of.

The irony is that the penalty for violating traffic rules is nominal. In Bombay, the maximum fine levied for violations is a laughable Rs. 50. On most occasions people can get away by paying the constable less. In the courts, the penalty for killing a person on the road is a maximum of two years' imprisonment, or fine, or both. And as P. N. Parashar, Kanpur's chief metropolitan magistrate, admits: "We are able to convict in hardly 5 to 10 percent of the cases. The rest are acquitted or fined around Rs. 2000". As one police officer says: "If you want to murder someone just run over him." Indeed, if the accused pleads guilty he is usually let off with a maximum fine of Rs. 5000. But if he contests the case and loses, the penalty is imprisonment. Under the law, it is better to plead guilty.

The investigation of traffic deaths is usually done in a cursory manner by the police, motor vehicle inspectors and doctors. Few eyewitnesses come forward to give evidence because of the dreaded prospect of repeatedly going to court. The police usually make street offenders, unconnected with case, testify and their evidence is easily demolished by defence lawyers.

Other malpractices abound. Postmortem and first information reports often have to be paid for under the table in order to avoid delays, and in order to get them tutored. In many cases the police have to be 'kept happy' to stand as witnesses during trial. A Bangalore lawyer complains: "You have to grease everyone's palm: clerk, constable or doctor."

The past six years have seen accident claims doubling before tribunals, but without any propor-

tionate increase in their staff. The Bombay Motor Accident Tribunal is located on the fourth floor of a dilapidated building. It is supposed to have four courts but, because of lack of space, makes do with three. Of the 2,000 claims that are filed every, only half are settled. Currently there are over 5,000 claims to be disposed of, some dating back to 1977.

The situation is no better in Calcutta, where at the Alipur Tribunal files of claimants are stacked higgledy-piggledy around the court room because there is no storage space. The number of cases filed before the tribunal has shot up from 498 in 1980 to 1,278 in 1986. There is now a back log of around 5,000 cases and a magistrate complains; "It's like a tank with two taps for filling water and only one for draining it."

Waking up to the problem, the Government declared two years ago that, irrespective of who was at fault, an accident victim's family would get Rs. 15,000 if he died and Rs. 7,500 in case he was permanently disabled. This was to help the victim till the compensation case was decided in court, and was to be paid within 45 days of filing the claim. But documents like the postmortem report or insurance certificate, which the court requires, are never available in time. And the court takes a year to award the claim, negating the very purpose of the new provision.

The backlog of cases has now resulted in ambulance-chasing lawyers cropping up in every city. They get police stations to supply them with details of the day's accidents and rush to the hospital to bag the victim's case. Malpractices abound. Since half the victims are illiterate, lawyers skim off as much as 30 per cent of the compensation that is paid.

Shockingly enough, while insurance companies cough up the money even after prolonged delays, the big defaulters are public transport corporations. These are supposed to maintain a revolving fund to pay up claims but the Calcutta State Transport Corporation for one doesn't bother. A Calcutta lawyer, Dipak Mukherjee, has over 50 cases where the corporation has not bothered to pay despite court orders. Oddly enough, the court can take no punitive action against the defaulter. It can only direct the district collector

to recover the dues using "revenue methods." In most cases the collector is too busy to bother about accident victims' claims.

Accident victims should be taken to hospital as early as possible, within what doctors call the 'golden hour.' But most cities are not equipped with proper ambulance facilities to rush patients across. A study in Delhi showed that only 4 per cent of accident cases were brought to hospitals in ambulances. And police brought only 20 per cent of the victims. The rest were bundled into auto-rickshaws or taxis, often causing severe secondary injuries. Dr. P. N. Tandon, head of the neurosurgery unit at the capital's All India Institute of Medical Sciences "In transit, reparable lesions become irreparable. Twenty per cent of the deaths can be prevented if there is on-the-spot first aid."

The public hospitals are overburdened because private nursing homes will have nothing to do with accident cases. A doctor at a large, swank private hospital in New Delhi explains; "The moment we take a case, it becomes a medico-legal problem. We are forced to attend courts to give evidence, and we just have no time for it. Moreover, they argue setting up a trauma care unit is expensive, as is the treatment

Government doctors stress the need to set up fully-equipped trauma care hospitals-something that is being planned in Bangalore and Delhi. Almost a third of road accident victims suffer head injuries and need specialised care. But in Kanpur, for instance, such patients have to be rushed to Lucknow, about 80 km away, because there is no neurosurgeon in this city of about two million. Says Dr S Arumugham, dean of Madras General Hospital; "We must also have wireless equipped ambulances that can administer first aid and treat patients even before they reach the hospital."

Twenty-five per cent of all accident victims are two-wheeler riders. And most of them die because they either don't wear helmets, or don't wear them properly. A Delhi study found that while only 24 per cent of helmeted riders sustained critical injuries, the figure was as high as 56 per cent for unhelmeted riders. In 30 per cent of the cases the helmet had

come off before impact.

The Government is finally waking up to the tragedy on the roads. "We are extremely concerned by the rising death toll," says Pilot. Recently his ministry formed a National Road Safety Council to chalk out remedial measures. The minister is also piloting through Parliament a bill that seeks radical changes in the out-dated Motor Vehicles Act. And Pilot promises to end the corruption in the road transport offices. "We will make licences as difficult as getting a bail order," he says.

Drivers will be asked to go through tests again if they meet with accident and a medical fitness test for commercial vehicle drivers is to be introduced. Independent agencies are to be set up to conduct fitness tests for commercial vehicles. And the long-awaited national registry for licences is to be started. On all major highways, the ministry plans to introduce mobile patrols equipped with first aid facilities to attend to accident victims speedily.

But all this is not enough. Vehicles have to be made safer too. Making seat belts compulsory for cars—India is one of the few countries where this is not yet mandatory—will reduce the severity of injury and save lives, as studies abroad have repeatedly shown. Safer windshields that shatter into small pieces under impact should be a feature in all cars. For two-wheelers, both the rider and the pillion need to wear helmets since almost half of those who suffer head injuries are pillion-riders. Studies show that bicycles painted yellow or orange, instead of the traditional black, are more easily visible at night and could avert numerous accidents.

Traffic experts believe that the death toll could be reduced if cities develop a more effective mass transportation system. In crowded Calcutta, Amiva Bandopadhyaya, chief traffic planner Transport Department, says; "What we need is a greater use of railways to ease congestion."

But improving mass transportation systems is easier said than done. All over the country bus services run at a loss, totalling Rs. 1,5000 crore in 1985 alone. The seventh plan document suggested introdu-

cing electrically powered public transport systems, but the costs are prohibitive. For instance, Bangalore's planned electrified suburban network of trains, spanning 125 km, would cost around Rs 650 crore or Rs. 50 lakh per kilometre. The underground transit system is a costly but effective way out. Calcutta's Metro now costs Rs. 50 crore for each kilometre. If Delhi invests in a 40 km underground system, the cost could be around Rs 3,000 crore.

But faced with the mounting loss caused by road accidents, and the prospect of utter chaos on the roads, there may ultimately be no option other than the relatively safer mass transit systems. And it wouldn't kill any one if the Government speeded up its road safety plans.

ROAD ACCIDENT RATE (UNI)

More than 40,000 people are killed every year in road accidents in the country, according to latest statistics.

The experts group meeting on accident prevention and trauma care management, which concluded here recently, said that at present, an accident occurred every fourth minute. At this rate, there would be one accident every minute by 2000 AD.

The country's accident rate per 10,000 vehicles was over three times higher and fatality rate nearly 15 times higher compared to rate of accidents in developed countries.

India, with one per cent of the total number of vehicles in the world, accounted for nearly six percent of the road accidents.

The number of accidents rose to 200,000 in 1986 from 15,000 in 1980 and fatality to 40,000 from 24,600.

The country's loss due to accidents was Rs. 250 crores a year. This was in addition to thousands of economically productive people becoming inactive and dependent, the meeting said.

Pointing out that 70 to 80 per cent of the accidents were due to the fault of drivers, the meeting called for systematic and scientific training

to future drivers and a thorough change in the system for providing driving licences.

It said that hardly eight to 10 per cent of the drivers got training from professional driving instructors and this explained why so many drivers did not follow basic rules of safe and good conduct at the wheels. Also, it was easy in India to get a driving licence unlike in western countries where a person had to be a perfect driver.

Some of the notable facts provided during the meeting were that the young and old drivers caused more accidents and male drivers contributed to more accidents than female drivers. The least accident-prone drivers were in the age group 40-50 years.

It said the accident risk of age group 17-19 years was nearly nine times higher than those in the age group 40-50.

It said 90-97 per cent of heavy vehicle drivers were found to have defective eyesight but they were not wearing spectacles, resulting in many accidents.

The number of vehicles were increasing at a very fast rate and one vehicle sold in the market generated on an average about five learning licences and three motor driving licences.

In India, two-wheelers constituted more than 50 per cent of the vehicles population and this percentage was increasing rapidly. Considering the fact that an increasing number of teenagers were driving vehicles, accident risk of this vulnerable age group was no the increase.

CONSUMERS MUST AWAKEN

The fraud practised for decades on consumers by the unscrupulous manufacturers and traders has rightly started attracting significant attention. It is now for the consumers to bestir themselves and make affective use of the rights which have been spelt out for them in the new law 'Consumers Protection Act'.

In this context we reproduce hereunder three contributions on the subject. First is an article of Mt. Rajinder Sachar, former Chief Justice of Delhi, who made a distinct and important contribution as Chairman of the Commission on MRTP Act, which has appeared in the 'Financial Express'. Second is an article of Mr. S. Joshi which has appeared in the 'Statesman', and third is a press release of 'UNI'. These highlight the importance of the new developments for safeguarding the interests of consumers.

The implementation of 'Consumers Protection Act' apparently got impeded on the ground of funds, because it was not quite clear as to where the funds for the operation of District Redressal Forums, State Commissions and National Commission would be forthcoming. This matter has now been satisfactorily resolved. The Planning Commission has agreed that the funds for implementation of the various provisions of the Act would be available from the central plan provisions. The States will no longer have any excuse for delay or tardy implementation of the Act. Reproduced hereinafter is the news item which has appeared in this connection in the Financial Express.

CONSUMER & MRTP ACT

—Rajinder Sachar

When the MRTP Act was passed in 1969, the idea was to prevent concentration of economic power

in a few hands, as per the Directive Principles of state policy in the constitution.

Then, it dealt with expansion of industries, and to some extent, restrictive trade practices as well.

But there was nothing concrete in it on safeguards to the consumer. What is now called consumer protection, as such, was not available in the MRTP Act originally.

It was only in 1978 that a high powered committee of which I was the Chairman, recommended the incorporation of a separate chapter on consumer protection in the MRTP act. It is unfortunate that it took the Government almost six years to frame legislation incorporating the recommendations of the committee. Now, I must say, fairly detailed provisions have been made for consumer protection.

The law presently permits individual consumers through the Director General of investigation in the MRTP commission to complain to the commission (MRTP) that a certain unfair trade practice has been resorted to. The Commission has the authority to issue even an interim injunction (previously, while the matter of a restrictive trade practice was being examined, the practice used to continue). The commission has used this power increasingly in the recent past. Not only that this legislation is now at par with the most modern laws in other countries, the commission is also authorised to award costs if any unfair trade practice has resulted in damage to the consumer. Another important recommendation of our panel has also been implemented. This seeks to cope with the fact that the individual consumer being a very small entity compared to most business houses or corporate bodies shirks tardy litigation involvement. There is now legislation empowering and authorising the Commission to pass orders on complaints from either individual consumers or representative consumer associations.

Thus, even those consumers who have not gone before the Commission, can claim damages, if the latter so rules. This is a very big step, making the consumer more powerful.

I will explain why this is a great step forward. Previously, in all cases of, say adulteration or unfair pricing, the state had to proceed against the

party concerned in either the sessions court or higher courts (in case of large-scale deception) and consumers generally avoided getting involved in lengthy legal proceedings. Now the Commission's remedy is quick and cheap and effective.

The only drawback is that the MRTP Act does not cover the public sector and the co-operatives. An anomalous situation has been created with Parliament recently adopting consumer protection law providing for action against public sector and co-operatives in case of consumer grievances, while the MRTP Commission which is a far more effective forum cannot still be appealed to in such cases.

I have no doubt that for some time to come, the MRTP Act will remain the more effective remedy, because it has the experience and the expertise and it is also an established agency.

Although the consumer protection act has been passed, nothing concrete has been done yet. Neither the national level council nor the state district level councils have been constituted till now. The Act is merely a piece of legislation, without any teeth and we are still to see its practical worth.

Now as far as the consumer movement is concerned, there is hardly any powerful movement in India possibly because we are a very individualistic and lazy people. There are strong localised movements only in the metropolitan cities and very good work is being done by a few consumer organisations. But a co-operative consumer movement is yet to take shape in India, on a scale comparable to other countries even in Asia-like say, Malaysia.

On the question of overlap between MRTP act and consumer protection Act, of course, there is a duplication. But a separate consumer act is the culmination of efforts during the last 8-10 years to widen the original 'monopoly' focus of the MRTP Act to cover trade and business-related malpractices also. Of course, once the consumer protection act is implemented, there could be a division of labour, on the basis of say, complaints area-wise, and also the size of the claim with those above a certain limit (i.e. sizable monetary involvements or those in-

volving a national level industry) being dealt with by the MRTP Commission. But all this will become clearer once the Act begins to be enforced. For, once the movement becomes stronger, the MRTP Commission may find itself unable to cope with the complaints coming in. For this, supplementing its work by the Consumer Protection Act will be good thing.

But there is a flaw. The constitution does not still give proper representation to consumers. There is still over emphasis on bureaucracy and officialdom. I feel that Government funding to various voluntary consumer organisations and agencies should be a liberalised.

The argument by certain big industries or representative bodies that consumerism is a drag on a developing economy like ours is a total perversion of facts. This legislation is in force in countries like Malaysia, Singapore and Hong Kong and in smaller countries as well. Antimonopoly or anti-trust laws were there since the 1890s in the U.S.A, and other developed countries.

What is not too widely known is that the law specifies no limit on the amount of damages the Commission can award. Even 'trouble' damages can be awarded, if the Commission finds it appropriate. There is no longer, a lacuna in law. There is now room for criminal prosecution on false trade declarations advertisements. If there are still any shortcomings now these will be at the stage of implementation.

Overlap with other laws cannot be avoided. What is important in the MRTP and consumer protection Act is the focus on a fairer market place.

One area where there is room for improvements is that the Commission should be given more funds and personnel, so that it can look after the interests of the consumer better.

RIGHTS OF CONSUMERS

—S. Joshi

Although the Central Government has enacted the Consumer Protection Act, 1986, with a view to providing better protection of the consumers' inter-

ests covering a wide range of complaints regarding unfair trade practices, defective goods, deficient services and excess prices, the successful implementation of the Act depends upon a powerful consumer movement, without which the consumer will keep suffering on account of various unfair trade practices adopted by traders, such as supply of defective, spurious, adulterated and sub-standard goods, charging of excess prices as also on account of deficient services.

In fact, almost all the sections of the Act are laudable, but if the rules thereunder (which are yet to be framed) are not framed in the interests of the individual consumer enabling him to fight his day-to-day battles free of cost or at nominal cost, the implementation of the Act shall remain confined to big parties alone and the individual being cheated for petty amounts by the trader will never be able to dream of fighting his case under the Act.

Every now and then we hear or read the news of deaths of innocent people due to food poisoning or consumption of spurious liquor. We also observe many a consumer grumbling over excess prices of any goods charged by the trader or supply of a packet of shaving blades containing all the five blunt edged blades. We also helplessly observe that when any duty on any item is proposed to be increased in the Central Budget, the retailers begin to charge increased prices of that particular item right from the announcement of Budget proposals in Parliament even before the vibrations of broadcaster's voice disappear. But contrary to it, if duty on any item is considerably reduced, the retailers never bother to reduce the prices of that particular item. But except for a few voices in the wilderness of the market-place, no voice is raised collectively, though we have about 237 consumer organisations.

The question is where does the benefit go? Apparently to the manufacturer, to the middleman and to the trader but not to the consumer. If you insist on a cash-memo for the item you purchase, the trader does not give you the cash-memo and instead asks you to go away. How would you prove without cash-memo that the trader has charged excess prices?

How would you produce evidence before the District Forum?

SPURIOUS GOODS

Our market is flooded with spurious products. Most of the consumers have to do only with spurious products. A few consumers manage to get genuine products. The Consumer Protection Act, 1986 provides for the establishment of a Consumer Disputes Redressal Forum (district forum) which a consumer can approach for the redressal of all such complaints.

Since the district forum state commission and national commission under the Act are all as good as courts of law, individual consumer would avoid moving these forums foreseeing the legal complexities of fighting a case, for petty matters such as charging of excess prices by trader and supply of sub-standard goods and providing of deficient services etc. He would continue to be victimized.

The Central Consumer Protection Council (Central council) has six praise worthy objects and in order to achieve these objects it will have to ensure that the benefit of reduction in excise duty and customs duty on any item must reach the consumer and the consumer must get genuine goods. It will have to use its good offices for asking retailers to give cash-memo to those who insist on it and also ask them to maintain and display day-to-day price-list. Also, it will have to educate the consumer to differentiate between a spurious item and a genuine one. It will have to extend all help to individual consumers who have to fight against public organization, otherwise they will not be able to fight against these big institutions.

It has been observed that in small villages and towns only genuine items are available in markets because of the close relations between the trader and the consumer with no chances of duping the consumer. The malaise of spurious items is plaguing the big cities and metropolises only. Residents of colonies in these cities mostly have their welfare associations. These welfare associations may come forward in shouldering one more responsibility of getting them-

selves registered under the Companies Act, 1956 as consumer associations also for protecting consumers' interests in fighting cases collectively. They can play a vital role in pressing the traders to supply goods of right quality to the consumer at the right prices, thus giving birth to a powerful consumer movement which may result in successful implementation of the Consumer Protection Act as well.

FRAUD ON CONSUMERS

The Indian consumer is a much exploited lot---taxed by the Government, fleeced by the manufacturer and conned by the retailer. A recent study indicated that Indian consumers are cheated to the tune of Rs. 2,000 crores a year. There is no Ralph Nader around to look to for succour.

Over four decades of legislation the Government has spawned law after law, 30 in all, promising fair play to the consumer. The Indian market has however conveniently dodged them all. A seller's market knows but a few curbs.

The level of adulteration in items like vegetable oil flour, spices and toothpaste is staggering. Distilled water phials have been found to be nothing but plain tap water. The vast Indian market, particularly the semi-urban and rural, remains flooded with copies of virtually all the famous brand names in soap, battery cells, pens, utensils and hosiery.

The consumer protection societies, operating mainly from metropolitan centres have remained ineffective in the face of the octopus-like hold of the trader in tandem with the law-enforcing arm of the government. However, they have been successful in enlisting the support of large newspapers. In recent years, their voice has at least reached the informed section of the people and the enormity of this social crime is often the topic of heated debate in middle-class homes.

The Government took note of the debate when it proposed to set-up a National Commission for Consumer Protection last year. Recently Parliament passed the Consumer Protection Act which, properly implemented, will plug most of the lacunae in the earlier laws.

It is not that Indian consumers had no legislative protection against the supply of shoddy goods. The Drugs Act (1950), the Essential Commodities Act (1955) and the Monopolies and Restrictive Trade Practice Act (1969) provide the State with enough handle to deal with the offenders. Most of them have, however, existed only on paper and their violations are the rule rather than the exceptions.

However, the new Act comes with more teeth. One of the weaknesses of earlier legislations was the confusion regarding the burden of proof. They never made it sufficiently clear whether the onus of proof rested with the manufacturer, the trader or the consumer.

The Act establishes a landmark in that, for the first time, the onus has been shifted to the manufacturer and the seller. A consumer's complaint is now enough to drag them to court to prove with the evidence that they are innocent.

Three-tier tribunals, operating from district, state and national head-quarters, will entertain consumer complaints and will have the authority to impose unlimited damage claims on the culprit. The idea is to make unfair trade an unprofitable proposition.

The Act provides the consumer the right to the quality, quantity and price of the commodity.

The Act has not come a day too soon. With the increasing monetisation of the rural economy in the last few decades, the consumer market is now one of the largest in the world providing an unlim- ited scope for some products.

For instance, the market for durable consumer goods like television sets, refrigerators, scooters, motorcycles and washing machines has grown at the rate of 20 to 25 per cent per year. The demand for soft drinks has risen at the rate of 15 per cent per year.

The vast Indian countryside, until the fifties an area of collective reciprocity or barter, now lies open to the impersonal, individual, competitive, and merit-oriented open market of the modern age. Economic relations, earlier religion-based, have been overtaken by the ethics and the imperatives of the modern

market where only the exchange opportunity is functionally real and not the other human beings.

This essentially western concept of the modern market has, however, developed atrocious distortions in the Indian setting. For, if the buyer-seller relationship in this concept is not one of co-operation, neither is it one of unlimited exploitation. The Indian version of the concept knows no such restraint. In practice, it is making hay while the sun shines. With the result that the Indian market is today one of the most exploitative in the world.

It is the unbridled greed for profit which prompted a businessman some time back to market thousands of tonnes of animal fat in the name of vegetable oil. Spurious life saving drugs have been found lining the shelves of chemist shops.

One of the fastest growing sectors of the Indian economy is instant and frozen foods which have stipulated shelf life. However, it is not uncommon to find food cans with only the date of manufacture illegibly stamped on them. The sleight-of-hands is both to conform to the rule and hoodwink the buyer. Although the notification on packaged commodity rules makes it mandatory for traders to prominently display all local taxes, the rule is observed only in its breach.

The very scale of the malpractice as it exists in India makes it impossible to let the situation ride much longer. A recent nationwide survey showed that consumer groups were already in operation, although not all of them were either active or effective. Some voluntary organisations, led mostly by women, are the most active and, operating from Bombay, the bastion of consumerism have made themselves a force to reckon with in Bombay and Ahmedabad.

One instance that the Government means business this time was provided when the Monopolies and Restrictive Trade Practices (MRTP) Commission was invested with wide powers last year to deal with unscrupulous practices in trade.

Many interim injunctions were issued by the Commission addressed to prestigious firms. For the first time, the corporate world woke up to the existence of a watchdog body in right earnest.

The runaway success of some consumer products, coming to the market with coltish freshness and straight away lodging in the buyer's heart, tell the oft-repeated story to the might of the mystical, fetishistic character of commodities in modern world. India's modernity is still too fragile to repulse the lure and tinsel of a well-packaged but spurious item. The policing of the commodity market has only just begun.

PLANNING COMMISSION DECISION

The Union Government has decided that all national state-level and district-level fora, to be set-up under the Consumer Protection Act (CPA), 1986 will be provided Plan funds from the Central kitty for their constitution, maintenance and operation.

The Planning Commission has agreed to provide for Plan funds to finance such bodies under CPA. It is officially learnt.

The decision removes all doubts over the implementation of the provisions of CPA, which mainly includes the setting up of a Central Consumer Protection Council, State Consumer Protection Councils, district fora, state commissions and a National Disputes Redressal Commission.

The doubts had arisen as CPA which, though a Central Act, had to be largely implemented by the states. It was felt in some circles that the states may not have the inclination or the adequate resources to set up such councils, fora and commissions under this latest legislation to protect consumers in the market place.

This issue was raised at a recent inter-departmental meeting in Delhi. It was estimated that the expenditure to be incurred on the formation of these councils would not be more than Rs. 20 crores, assuming that a consumer forum was to be set up in each of the 430 districts in the country. In view of this, it was decided that Plan allocation would be made for setting up these bodies and the Planning Commission would take necessary action in this regard.

As regards the inclination of the states to implement CPA the Union Government's feed back from the various states is that all of them are keen on setting

up the stipulated district fora and state commissions for redressal of consumer grievances, besides the state consumer protection council.

About two months back, a meeting was held in Delhi. Representatives from all the states took part and conveyed their keen desire to implement the Act. With the availability of plan finances, the implementation at the state level is now expected to be faster.

According to official sources, decks have now been cleared for setting up the Central Consumer Protection Council. It is expected that it would start functioning by the end of the next month.

The Union Government has also notified the Consumer Protection Rules 1987, which will have to be followed to implement CPA. The states will also be issuing separate guidelines on the lines of the Consumer Protection Rules, following which the district fora, state consumer disputes redressal commissions and the state consumer protection councils will function and implement the provisions of CPA.

CPA was enforced in December 1986 with a view to providing for better protection of the interests of consumers and, for that purpose, making provision for the establishment of consumer councils and other authorities for the settlement of consumers' disputes and for matters connected therewith.

According to the Act and the Rules, there will be three-tier consumer grievances redressal machinery, with district fora at the districts, state commissions at the state head quarters and the national commission at the Centre. Cases involving less than Rs. 1 lakh will be settled by district fora, those involving over Rs. 1 lakh and less than Rs. 10 lakhs by state commissions, and over Rs. 10 lakhs by the National Commission.

Similarly, the Central Consumer Protection Council and the state consumer protection council will be set up under CPA and will promote and protect the consumers' rights against marketing of goods which are hazardous to life and property, the rights to be informed about quality, quantity, potency, purity, standard and price of goods, so as to protect the consumer against unfair trade practices, the right to

be assured access to a variety of goods at competitive prices, the right to be heard and to be assured that consumers' interest would receive due consideration, the right to seek redressal against unfair trade practices and the right to consumer education.

The law is unique in that it can haul up even traders selling defective goods or indulging in unfair trade practices. Time-bound decisions would be delivered by the commissions and punishment would be awarded only on violation of order for compensation etc.

QUALITY — A WAY OF LIFE

Quality of a product or service is of paramount importance. It must be built into the product and service. The customer should cultivate quality awareness; the manufacturers and traders should imbibe and introduce quality discipline. Quality culture should prevail. For building quality into the products and service there is need of coordinated endeavour of everybody, of the management and workers, of public sector and private sector, of small and large industry, of traders and manufacturers, and of the government and the people.

We reproduce below extracts from an article of the well-known economist and administrator Mr. L K Jha which appeared in the 'TIMES OF INDIA', a communique issued to all its members by the Punjab, Haryana and Delhi Chamber of Commerce emphasizing the importance of giving quality assurance to the consumers, and a note on the 'ISI' Quality Marking Scheme of the 'Bureau of Indian Standards'.

QUALITY & GROWTH

L. K. JHA

In the absence of competition, there was precious little pressure on firms to improve the quality of their productions and reduce costs through product innovations, better managerial practices, technological upgradation and improved understanding of the changing tastes and preferences of the consumers. As consumers did not have any alternative nor could they effectively voice their grievances, producers could afford to dump their products of indifferent quality in the market with the confidence that they will be sold. The only area in which competition could not be avoided was exports. However given the continental size of the economy and the expanding and captive markets internally, as peoples incomes were rising, producers had no compulsion to seek export outlets. At a time of rapid change and innovation, when new and better products with consumer appeal were being churned out by so many countries including developing countries, the poor quality of our products became a major hurdle in the way of government's efforts to step up exports and narrow the balance of trade gap.

In effect consumer's overignty, a hallmark of efficient market economies, was totally replaced by producer's supremacy. What made matters worse was the absence of an enlightened and vigilant consumer movement in the country. The individual consumer always found himself at the receiving end because in comparison with an industrial enterprise or a trading organisation, his bargaining power, resources, knowledge and familiarity with his legal rights were very very weak.

Fortunately, a new chapter is now opening. The liberalisation of the economy which has been launched by the Government has its main emphasis on creating competitive conditions, subjecting industry and trade to greater competition, both internal and external. Some people have been critical of liberalisation on the ground that by removing controls the producers are given undue freedom to exploit the consumer. In actual fact liberalisation is helping not the producer but the consumer. Producers are already complaining against liberalisation. Those who were used to a long queue

of customers awaiting delivery of their products are now looking for buyers. The fact of competition is presenting a new challenge to industry.

What industry must realise is that competition also gives it a new opportunity to excel and expand not on the strength of licences and permits but by serving the consumers better products & better service. Such an effort can be financially rewarding. Within the country & outside there are innumerable examples of industries thriving and growing bigger because their products are liked, and the customer is sure of their quality. With their reputation, their products command a premium, a better price than their competitors which the customer happily pays. The improvement of quality of the products calls not for massive new investment but upgradation of human involvement which can be readily undertaken and be very remunerative. It is this realisation in Britain more than a century ago that gave birth to the maxim honesty is the best policy. Those who subscribed to it in practice reaped a handsome reward.

Quality consciousness can be specially beneficial to the small scale industries. So far they have relied mainly on producer by the restrictions imposed on the latter's entry into certain fields or by differential excise duties. Yet in many instances the consumer hesitates to buy the products of small scale industry because he is not sure of their quality and indeed he suspects adulteration and supply of substandard goods. In some instances, a large scale trading agency starts marketing their products taking care to select products of standard quality. The reputation of the selling agency gives confidence to the buyer and the former gets a good profit in consequence.

While such an arrangement does serve a useful purpose, would it not be better if the small producers themselves could take steps to build confidence in the quality of their products and thus get a better price for whatever they produce. This is where the intervention of agencies like the ISI or Agmark assumes a special significance. By getting the quality of their products tested and certified by competent agencies, even small producers can gain the confidence of the consumer. They can then avail the services of a variety of selling outlets, small

shops or big shops, according to convenience.

The trade also can help in the drive for popularising quality products. It is not easy for individual consumers to inspect and identify the products of different manufacturers to distinguish between those which are up to the standard and those which are not.

Shops which make a point to sell only quality goods can build a reputation for themselves and benefit both their consumers and make money for themselves in the process.

Unfortunately, in our country, there seems to be an impression that maintaining quality is a costly affair which small and poor producers cannot afford. This is a misconception which must be removed. Studies in several western countries reveal that companies which had quality-improvement as one of the explicitly stated objectives could capture a larger share of the market, achieve economies of scale, reduce the per unit overhead expense and fixed costs and thus improved quality products at lower prices.

In his context, it is to be remembered that the question is not just of supplying a product which has no defects. The customers have specific preferences and tastes. Producers who can identify them can reap a rich reward; in the case of many products the availability of spare parts and after-sales service are the important elements in giving consumer satisfaction. The efficient utilisation of human resources in the industrial organisation thus becomes a very important element in bringing about improvement in the quality of products and after-sales service. This necessitates a free and frank exchange of ideas both ways between the management and the employees, the manufacturers and the salesmen, the industry and trade. Quality and improvement should thus be viewed not as an imposition by Government through legal measures and punitive devices but as a vehicle of growth and prosperity for productive enterprises as well as for traders and merchants.

Having said this, it has to be recognised that the State has a certain responsibility to protect its citizens from exploitation. In respect of certain products,

poor quality may pose a hazard to life and health as well as to property. Food and drugs, if adulterated or below standard, can be dangerous. So can electrical devices if their insulation is faulty. Even garments which readily catch fire can play havoc. Poor quality fireworks used on festival occasions like Diwali can lead to a conflagration. Laws are, therefore, needed to protect consumers, and they have to be enforced rigorously.

Many laws are in existence already. However, enforcement is lax. The view is sometime taken that small producers would be put to a loss if the standards were strictly enforced and the drugs or equipment which they manufacture are condemned of being poor quality. Such laxity is not in the interests of the small producers as a class. It gives them a bad name. Those who do take care of the quality of their products get tarred with the same brush as those who do not. The legal framework must be strengthened.

In such an endeavour the consumer should be given rights whose enforcement he can seek on his own, without having to rely on the prosecuting agencies of the Government alone. Consumer protection will never be complete unless the consumers themselves are given the right of action.

However, to act effectively, consumers must get organised. It is not easy for individuals to take cudgels on behalf of the community. No doubt, those who are subject to a severe loss can lodge complaints. Others blame their bad luck and try to go to a different supplier. But if consumers organise themselves not only to take action in the event of damage or injury but also to test and evaluate the quality of diverse products and publish their findings objectively without fear and favour, a new kind of discipline would begin to work in the economy.

QUALITY ASSURANCE

Quality assurance means to assure quality in a product so that a customer can buy it with confidence and use it for a considerable length of time with confidence and satisfaction.

To be able to buy with confidence a customer must have a sense of trust in a particular product from a particular company that has a record of having ship-

ped reliable products for a long time. This kind of trust can not be built over night, and can only be obtained through the company's long-term efforts for quality assurance. "It takes ten years to build confidence in your products, but that confidence can be lost overnight." This point must be fully recognized by everyone who deals with products.

The next point is customer satisfaction. Of course, the product sold must not be flawed or defective but this alone is not sufficient. It is necessary to ensure quality of design, making certain that the product is fully functional in the way the consumer expects it. In other words, the product must have true quality characteristics. Quality assurance is almost like a contract entered into by the producer and his customer. In this producer-customer "CONTRACT", the way the product is being advertised must be taken into consideration. Exaggerated claims are not desirable. Entries in the catalogue, the contents of the brochure, the way sales personnel handle the product and explain it to customers, and the language they select all have a bearing on customer satisfaction.

When a customer expects to be able to use a product for a considerable length of time, it means that the product must be sold under the premise of having the necessary durability. If it should break down unexpectedly, however, parts should be supplied expeditiously anywhere in the world. Technically competent and efficient after-sales service is always a must. Companies should adopt the policy that "As long as our products are being used, we will supply parts." It is not good to stop supplying parts five or ten years after production of the product has been terminated.

In order to provide true quality assurance, top executives must establish firm policies that will encompass all of the following divisions: research, planning, design, manufacturing, sales, and service. These policies must also reach subcontractors who supply parts to the company and reach the company's various distribution systems. Full quality assurance can not be effected unless everyone is involved, including all employees, subcontractors and distributors.

The responsibility for quality assurance rests with the manufacturer. He must satisfy his customers with

quality in his products. If a product is made through a cooperative effort, the supplier assumes responsibility for quality assurance.

Within a company, the responsibility for quality assurance rests with the divisions of design and manufacturing and not within the division of inspection. The latter merely inspects products from the standpoint of consumers and does not assume responsibility for quality assurance.

ISI MARK—A THIRD PARTY GUARANTEE

Today more and more quality conscious consumers look for the ISI Mark before making a purchase. This is because they know that it means one thing, loud and clear: quality.

The procedure for obtaining a licence to use ISI Mark involves certain in-built quality control measures. On receipt of an application for the grant of a licence the institution organizes an inspection of manufacturer's works to make an appraisal of the controls exercised during production and the facilities available for carrying out tests on raw materials at the in-process stages of production and on the final product. Only after the institution has satisfied itself that the manufacturer is capable of producing goods in accordance with relevant Indian Standard(s) on a continued basis is he given a licence to apply ISI Mark on his products. Every licence includes a well-defined scheme of testing and inspection (STI) which the licensee has to follow strictly. This STI prescribes specific tests and the frequency of conducting them.

The supervisory control exercised by ISI does not, however end with the first batch. It is an on-going process and continues as long as the ISI Mark is imprinted on a manufacturer's goods. This includes regular and surprise inspection of the licensee's works and testing of random samples in ISI and other independent laboratories, and checking of the records of carried out by the licensee in accordance with the testing and inspection scheme drawn up by the institution. Goods bearing the ISI Mark are also purchased from the market and tested for their conformity to the relevant standards. And, in spite of all these efforts, wherever complaints from consumers about the quality of such products are found to be genuine, free of cost replacement is arranged in respect of substandard goods

BUREAU OF INDIAN STANDARDS

Indian Standards Institution (ISI) which made such significant mark in the field of quality of products has recently been converted by a central statute into Bureau of Indian Standards (BIS). Arising from the deliberations of this newly constituted body we have sent the following specific suggestions to the Minister of Food & Civil Supplies under whose Ministry the BIS has now been placed.

The ISI certification mark has been in existence for about 30 years. It has made noticeable impact. It is hoped that this insignia and mark will not for the time being be altered, merely for making it "BIS". This can, through appropriate publicity, be adopted by BIS as the Bureau's mark.

It is of fundamental importance that BIS should effect close collaborative relationship with the various institutions and organisations which, in one way or the other, are interested in "quality" and "standards". These include, for instance, National Productivity Council and its Regional Directorates and net work of Local Productivity Councils all over the country; Indian Institutes of Technology, Indian Institutes of Management, Institute of packing, Institution of Engineers, Export Promotion Councils, etc. Relationship should also be established with public sector enterprises and selected private enterprises which have got quality control departments. There is lot of professional expertise available in these institutions, organisations and enterprises. With the help of this expertise, continuing and effective training programmes should be organised for the different levels of quality control departments in the enterprises and the work of development and maintenance of standards should be let up in the industrial enterprises including particularly the medium and small industries which at present default in quality.

Likewise, BIS should develop relationship with the various laboratories of institutions, universities, enterprises etc. so that the help of all these laboratories becomes available in the task of prescribing and observing the standards.

Emphasis in all these efforts should be to utilise the available expertise of other institutions and enterprises to the maximum advantage by BIS playing the pivotal role in the matter of quality enhancement and standards determination and propagation."

RENT LAWS YET UNCHANGED

For some years there has been mounting criticism of the Government about its vacillations in amending the Rent Control laws. Relations between the tenants and houseowners have continued to embitter; cases in courts have gone on piling; construction activity has been impeded; people prefer to keep their houses and flats vacant rather than lose them on renting; rents have rocketed skyhigh and it has become impossible for any person of modest means to secure accommodation. In every session of the Parliament it has been indicated that the amending legislation may be brought forward but nothing has emerged hitherto.

In this context we reproduce below an article of Mr Rajeev Kshetrapal on the subject which has appeared in the Hindustan Times of Delhi.

RENT CONTROL LAW AMMENDMENT

—Rajeev Kshetrapal

The Delhi Rent Control Act has been a matter of discussions now for a very long time. Much has been written about amending the same; but no final decision has been taken by the Government. Taking advantage of the legal system in the country and of the protection by the Act guaranteed to the tenants, today the landlord is the exploited of the two parties viz. landlord and the tenant. The Act received the assent of the president of India on 31st December, 1958 and was published in the Gazette of India Extraordinary. The document was introduced with the basic objective of safeguarding the interest of the tenants.

The landlords were then considered the exploiters belonging to the rich class, turning out tenants from the leased accommodation after expiry of each term of the lease, so as to extort higher rent from a new tenant. Perhaps 28 years back, it may have been a very correct decision to regulate the landlord-tenant relationship and prevent injustice of the weaker section of the society. That objective no more holds good. The result is the exploitation by the tenants of the provisions, and of the painfully slow procedures of the landlord-tenant dispute.

There are thousands of cases pending in the District courts regarding landlord-tenant disputes. There are cases where the tenants neither pay rent nor vacate the premises even if they are required bonafide by the landlords. Widows are troubled and abused by their tenants who want them to sell off the property at

throw away price to them. A number of widows, retired Government servants, who put in all their savings in construction of a dwelling and are dependent for survival on the rent from premises, are hard pressed, since the tenants take advantage of the court procedures and the obsolete provisions of the Delhi Rent Control Act. Then, there are cases where the premises both residential and commercial have been leased out several years ago in posh localities and excellent commercial areas on paltry tenancy and till date continue to draw the same rents.

The existing provisions of law provide no scope for asking for an increase of rent in such case. These are cases of clear exploitation of the landlord by the rich tenants occupying such commercial premises & making tonnes of money. The Delhi Rent Control Act provides full protection to such rich tenants who refuse to share their profits by revising the rents suitably. Besides giant companies who hire residential accommodations for their executives invariably refuse to vacate the premises. They have teams of legal experts and can hire the best available legal advice and ensure that eviction proceedings are delayed.

The courts are meant for dispensing quick justice, but on account of inherent defect in the procedures, corruption and loopholes, an eviction suit takes a minimum of five years for a decision from the Rent Controller. Invariably there are appeals to the Tribunals which take another three years for a decision. Thus where eviction is sought even on bonafide grounds a decision in lower courts alone would not be forthcoming before eight years. Then writ petitions and special

leave petitions can always be filed in High Court and Supreme Court which if admitted means the matter would take another eight years for a decision. Even if the landlord is lucky to get a favourable decision in his favour after 16 years the justice is already denied on account of delay.

The painful story of the long drawn legal battles for eviction is fraught with insurmountable problem right from stage one. Service of the court summons on the defendant is a herculean task in itself. Avoiding service of summons is not difficult either through post or bailiffs etc. Even if notice is served, dates are often sought for filing of written statements on flimsy grounds which takes at least six months. The next stage would be replication, framing of issues. One would be lucky if all these steps are completed within six months of filing of the plaint. Then one gets the date for evidence which is normally a date six months from the date of framing of the issues. After six months one is not sure if evidence, would be recorded on that date, either the presiding officer is on leave, or advocates are busy in the High Courts or the clients produce medical certificate of their illness. The result is, case postponed for evidence date extended by another three months. Thus a period of one and a half year has already elapsed without the case having made much headway.

One can imagine the frustration of the landlord, who is in urgent need of the house for his own use. The tenants are aware of the difficulty. Landlords would face in seeking eviction orders, as both the law and the courts are in their favour. They resort to various methods of further harassing the landlord, monthly rents are not paid, the property is damaged and if one is living on the first floor as a tenant, one could always damage the walls and pour water into them, so as to cause seepage on the ground floor. Obtaining orders from the court for permission to enter the first floor for repairs would be an independent case in itself. If after five years, decision for eviction is given, the tenants leave the premises without paying the rent which may run into thousands. A separate civil suit is then to be filed for recovery of the rent, for which the landlord has to invest money from his

pocket for the court fees, lawyers fees etc.

The decision of a recovery suit may take a decade. If one has a decree for recovery against the tenant, the next problem is that of execution. Invariably property sought to be attached is not in the name of the tenant. The worst situation for a tenant if he fails to pay despite the decree is simple imprisonment six months under the civil procedure code. That is not a bad proposition if one has saved a lakh of rupees by not paying the rent and has enjoyed privilege of having lived for five years in a posh colony. These are real problems the landlords have to face based on information collected from the people who have roughed out in the courts. One realises the correctness of the proverb "Fools build houses and wise men live in them". Where is the incentive for construction to tide over the housing problem?

The Delhi Rent Control Act is a document of law which assists the wrongdoer in its objective. It is time the Government looks into the matter and takes urgent steps to suitably amend the law, so as to strike a balance. A proposal was put up in 1984-85 with suitable amendments, but the suggestion died and the bill is perhaps collecting dust like many other proposals of the Government. The powerful lobby of tenants who definitely out-number that of the landlords raised a hue and cry to the discomfort of the Government and the latter had failed to play its neutral role of a moderator to see its proposal to a logical end.

The Government has to take a bold decision and pass the amendments in such a manner that does justice to both the landlords and the tenants. It is not being suggested that balance be tilted in favour of the landlords. The interests and rights of both should be protected so that neither is able to exploit the other and take undue advantage of the court procedures for which there appears to be no solution in sight at present. The steps to cover the following in the Delhi Rent Control Act need to be taken immediately.

Linking the rent with inflation or cost of construction for the premises both residential and commercial drawing paltry rents. Particularly for commercial building rents in such cases should be suitably revised

depending on the area where they are located and on the basis of the current rents in the vicinity. The landlord should have equal rights to share in the profits being made by the rich tenants doing business by selling their goods at the current rates. The business man does not sell his goods or services at the same rate today than he did at the time the premises was rented. On this logic alone there is a strong case for such linkage and automatic revision of rents. This is true even for residential accommodation.

Vacation of residential accommodation for personal bonafide use within three months of service of the notice on the tenants through the Rent Controller. In the event the landlord does not use the premises himself after such eviction penal provisions could be provided in the Delhi Rent Control Act prescribing one year's rigorous imprisonment and right of the last tenant to reoccupy the premises.

Compulsory vacation of the leased residential accommodation after a lapse of five years of the lease deed. Just as any other businessman who has a right to revise the price of goods or to deal with them in such a manner as he desires, the landlord should also have a right to deal with his property in the manner he deems fit. The period of five years is a term more than reasonable for a tenant to have enjoyed the property, without making the massive investment and going through the hassle of construction, dealing with the labour and the contractors etc.

Landlord wanting to make further construction in the properties will have the right to do so by service of three months of notice on the tenant.

Vacation of residential accommodation by service

of two months notice when premises is required by the widows, retired Government servants etc. Failure on part of the tenants to vacate the premises should invite imprisonment and police intervention for evicting the occupants.

The cases of deliberate damage by the tenants of the properties, imprisonment of the delinquent and fines to make up the loss should be provided for in the Act.

Where the tenants do not pay the rents, immediate eviction should be ordered. Tenancy should not be restored if after filing of the suit the tenant chooses to deposit the rent. The tenants in order to harass the landlords resort to this very frequently. They are aware that there is no question of eviction even if they stop the rent, since the court will give them the opportunity to deposit the rent in the court. In the process the landlord has to run from pillar to post. For getting payment of the rent deposited in the court the landlords have to satisfy the demands of the court clerks involved and has to spend a whole day in the court. The tenants are aware of the difficulties that would be faced by the landlords; they, therefore, indulge in stopping payment of rents with impunity. To prevent this, the Rent Act should have provision for immediate eviction in cases of default in paying the rent due.

In fact based on actual problems only the Ministry of urban development had suggested suitable amendments in the Delhi Rent Control Act but the bill has become yet another sordid story of neglect and inaction by the Government to correct the wronged. It is high time the Government goes ahead with the passing of the bill with suitable amendments.

ELECTRICITY BILLS

Arising the Writ Petitions decided recently by the Delhi High Court in our favour on the question of validity of demand of electricity supply undertaking where the meter is reported to have stopped or become defective, we have received numerous enquiries from electricity consumers who have made payments based on such demands. For facility we issued a circular. We reproduce below the contents of the circular so that it may provide guidance to others.

Arising from a recent publicised decision of the Delhi High Court on a writ petition of COMMON CAUSE (No : 409 of 1985) and another writ petition previously filed by the Director (No : 2004 of 1983), a number of electricity consumers are making enquiries as to what they should do where inflated electricity bills, related to alleged faulty meter, are involved. We have considered it necessary to provide the requisite information and advice through this circular

Decision of the Delhi High Court is to the effect that where a bill has been sent by DESU on the basis of an alleged faulty or stopped meter, without following the procedure laid down in Section 26 (6) of the Indian Electricity Act 1910 (which procedure DESU apparently has till now not followed in any case), the demand made for the payment is illegal. Where, therefore, such illegal demand has been made they have no authority to cause disconnection of electricity. Where any payment has been secured from the consumer on the strength of such illegal demand, the payment has been wrongly secured and is refundable. Delhi High Court has ordered refund in the specific cases brought before it in the writ petition, along with interest of 12%. Where the payment has not been made, it cannot be enforced on the basis of the illegal bill.

We accordingly suggest that the consumers should take the following steps where they have received any bill presently or in the past, based on alleged faulty or stopped meter :

- (i) Letter should be sent, registered and acknowledgement due, to the General Manager, DESU (address: Shakti Sadan, Kotla Marg, New Delhi-110002), citing the Delhi High Court judgement. For this purpose it will be better to enclose following copy of the report from the "Indian Express" of 2nd April 1987.
- (ii) Where demand has been received and payment has not been made, it should be stated in the letter to the General Manager that based on this judgement of Delhi High Court it is clear that the demand is illegal, and if it is enforced by threatening or causing disconnection of electricity DESU will be responsible for the consequences.
- (iii) Where payment has been fully or partly made, it should be pointed out that the demand was illegal and that payment was made under coercive threat of electricity disconnection : the payment should therefore be refunded, with interest of 12% as ordered by the

Delhi High Court; and where the remaining payment is still being demanded the demand should be cancelled. (iv) Copy of the letter should be endorsed to COMMON CAUSE. The endorsement should appear also on the original letter addressed to the General Manager of DESU.

INDIAN EXPRESS REPORT

The Delhi High Court in a far reaching ruling quashed on 24.1.1987 the bills which the Delhi Electric Supply Undertaking (DESU) has been sending from time to time to consumers on the plea that electricity meters on their premises had stopped or were defective. The DESU bills computed the consumption on the averages subsequent to the replacement of the meter.

The judgment was delivered by Justice B. N Kirpal on a writ petition filed by the public interest organisation Common Cause, in which specific cases had been cited of certain consumers who had received heavy bills of amounts ranging from Rs 20,000 to Rs 38,000.

In the case of a brigadier, who is serving in the forward area, the electricity connection was cut off. In some other cases the consumers made payments under threat of disconnection

In another writ petition, which was separately decided by Justice Kirpal, the director of Common Cause had challenged the legality of such a demand received personally by him.

The judgements in the two cases have enunciated the law that under Section 26(6) of the Indian electricity Act the electricity inspector appointed under the Act by the government is the only authority competent to determine whether a meter is defective. He alone can compute the amount due on account of the defect in meter.

In any case the computation of the amount due cannot exceed consumption of more than six months.

In the light of these factors, the court held that the bills issued by DESU without following the procedures laid down in the Act and based on computation made by them without the authority of the electricity inspector were illegal. Consequently the bills were quashed.

Justice Kirpal ordered DESU to repay the amounts already paid under these bills with 12 per cent interest. Common Cause was represented by counsel, Mr D. R. Thadani, while DESU was represented by Mr. V. P. Singh. (Judgements have since been reproduced in Delhi Law Times 32 (1987) pages 27, 73).

LOCAL CHAPTERS OF COMMON CAUSE

We have from time to time been receiving demands from certain cities for the establishment of local chapters of COMMON CAUSE. They feel that the good work being done by this organisation should be more widely spread through its local chapters.

We have prepared tentative guidelines on this subject. These draft guidelines have yet to be examined and decided upon by the Governing Council of the organisation. Meanwhile, we reproduce below these draft guidelines for securing comments and suggestions from members who would naturally be anxious that the reputation and the high standards of dedication and service of this organisation are maintained and do not face possibility of being adversely affected.

Demands have emanated from quite a few places for the setting up of local chapters of COMMON CAUSE. We have generally been hitherto maintaining that instead of branches or local chapters of COMMON CAUSE being established it would be more appropriate that local problems and requirements should be picked up and dealt with by the various associations and organisations which have already been established. These organisations include those like citizens welfare associations, homeowners organisations, taxpayers associations, pensioners organisations, consumers organisations, and many such. These local organisations, in their respective areas and spheres, are making their contributions to solving the local problems. Where necessary, they are affiliated to the central or regional organisations of the respective specialisations and derive the requisite support and guidance from them. A large number of these organisations and associations including practically all the pensioners organisations (numbering over 350) and consumers organisations (numbering about 230) are in close touch with COMMON CAUSE. We on our part have throughout been exhorting that pensioners organisations, for instance, should try to widen their area of interest and should take up problems of the citizens and should not remain content only with tackling the problems of pensions. This effort on our part will continue. We feel that the organisations of homeowners, the citizens welfare associations, pensioners organisations and consumers organisations constitute important focii. They need to equip themselves to handle the larger problems of

the citizens, for finding redress by knocking at the doors of the executive or the legislature, or failing that, to take resort to the courts. They should enlist the voluntary help of professionals and experts, particularly from among the recently retired personnel, for studying specific subjects. They should particularly make efforts to enlist the help of competent lawyers to help them in taking matters to court. It is not conceivable that these organisations will be able to afford payment of the fees to eminent lawyers; they will need to be approached for taking up the public causes without payment of fees. The miscellaneous expenditure on typing, cyclostyling, photocopying, court fee etc can of course be incurred. Our experience has been that where a cause pertains to large number of people and is not related to an individual or a group, public spirited lawyers are generally willing to take up the cases without payment of fees. To help them in the task it is of course important that the matter should be studied in minute detail by some expert and draft petition should be prepared. It cannot be expected of eminent lawyers to also do the spade work while agreeing to take up public causes without payment of fees.

While, thus, we have tried to present the modus operandi which COMMON CAUSE has generally been adopting and which it has been advocating to all the various organisations and associations, we have now considered it necessary to examine in detail the demands and requirements which have been received for setting up local chapters or branches of COMMON CAUSE. Following are the broad guidelines that have

emerged from this examination :—

(i) The initiative for the setting up of local chapter of COMMON CAUSE should emanate only from the area where it is proposed to be established. It would obviously be inappropriate that the establishment of any local chapter should be foisted by or from the headquarters because such central initiative would rob it of the spontaneity and local character which are fundamental for the effort to succeed. As a consequence, we do not favour the naming of any local chapter as a "Branch" and would prefer that the name of the organisation at the local level should be called for instance, "COMMON CAUSE, DEHRADUN CHAPTER", the latter two words in small print appearing below the first two words which should be preferably of the same design as the name on our letter-head.

(ii) The local chapter would enlist members. The Membership Application form, which is being used for enlistment of members of the central organisation has been suitably modified for use by the local chapter. It can be locally printed/cyclostyled. The members enlisted by the local chapter will automatically become also the members of the central organisation and thereby they will be members of the larger family of COMMON CAUSE. They will receive the periodical and circulars of the central organisation besides receiving any periodical or circulars of the local chapter. In the interest of maintaining the reputations of the central organisation and the local organisation it is appropriate that the schedule of membership fees should be the same as adopted by the central organisation. For enabling the local chapter to effectively function it is appropriate that out of the membership fees collected by it a major portion should be kept for local operations. For the following types of membership the shares to be retained by the local organisation and to be remitted to the central organisation are given below :

	Annual Membership	Life Membership	Association Membership
Fee	25	150	100
Local Share	15	100	100
Central Share	10	50	Nil

(iii) We have been very particular about regular and thorough audit of the central organisation. It is appropriate that for maintaining the high reputation of COMMON CAUSE as voluntary organisation for selfless and dedicated service, similar effort of thorough maintenance of accounts and proper audit should be made at the local level. This can best be done only if the local organisation is registered under the Societies Registration Act. Without such registration there will inevitably be difficulties of proper accounting, for instance, of donations, if any are secured at the local levels, particularly from the viewpoint of income tax. We would, therefore, insist that any local chapter which wishes to give it the name of COMMON CAUSE should register itself with the concerned registering authority. For facilitating the registration we will forward the draft constitution where required.

(iv) Audit of accounts should be conducted every year. For this purpose it should be possible to secure the help of some local public spirited auditor on voluntary basis or on the payment of a small fee. We would like to receive copies of Audit Reports of all local chapters of COMMON CAUSE.

(v) In the central organisation no executive functionary is paid any salary or remuneration. Service is rendered by them on voluntary and dedicated basis. Such service has its own rewards. It is not conceivable that, likewise, the local chapters will be able to afford payment of any salaries or remuneration to the executive functionaries. Of course, for the work of typing, stenography, accounts, despatch etc. the requisite help will need to be secured. It should be possible to secure part-time help. One part-time typist, preferably a stenographer, will be amply able to meet the requirements of the local organisation, including also the maintenance of files and accounts. The office will obviously have to operate from the residence/office of the executive functionary because it is not conceivable that it will be possible for the local chapter to afford any funds for hiring accommodation. The executive functionary will need to be re-imbursed the expenses which he incurs on the work relating to the organisation, including for instance the expenses on transport and use of telephone, and for this purpose

an appropriate monthly round sum can be fixed by the Governing Body of the local organisation. It will be appropriate that office of executive functionary, who should preferably be termed the Executive Secretary, should not be open to election every year because this tends to disrupt the effective functioning of the organisation & would avoid frequent change of address. While the offices of President/Vice President and the members of the Governing Body should be open for periodical election, the offices of Executive Secretary and Treasurer should be of continuing nature, and they should be appointed by the Governing Body and remain in office during the pleasure of the Governing Body, though they will also be members of the Governing Body.

Provisions to this effect have been made in the model constitution which has been prepared for the local chapters. For providing continuity to the functioning of the local organisation it would also be appropriate that instead of all the members of Governing Body having to be elected at every election the provision should be for a portion, say one-third, of the members to retire every year and be replaced through the processes of election

(vi) The most important matter, in relation to the functioning of local chapter, will of course be that of picking up and dealing with the problems. It is of fundamental importance that the local chapter should not get reduced to a platform for redressal of individual grievances. The individual grievances have, of course, their importance to the individuals, but if an organisation like COMMON CAUSE at the local level, gets involved in dealing with individual problems it will not be able to focus attention on the wider issues which are of common interest to larger number of people. It will face the danger of getting lost in individual grievances and cases, may these be matters of pension or service or anything else. Where, however, the personal grievance is such which has wider ramification and common interest, it should be examined from that viewpoint, for securing redressal, not necessarily of that individual grievance, but of ameliorating the problem faced by people in

same situation. Where the matter is pure and simple individual grievance the best is for the organisation to send it to the Public Grievances Cell of the Ministry of Personnel, Public Grievances and Pensions (address Sardar Patel Bhawan, Parliament Street, New Delhi-110001).

(vii) Where the problem has been identified, it will need to be studied in depth by some person who possesses the specialisation, aptitude and competence for making the study. All factual data, background material etc will need to be collected from all available sources, including government publications, municipal reports, libraries etc. On the basis of such study a detailed and comprehensive note should be prepared, for enabling the matter to be taken up with the concerned department or Institution. Such a note will prove invaluable also for the preparation of the draft of a writ petition in case it is eventually decided to take the matter to court. All this effort and initiative will need to be taken at the local level.

(viii) Quite a few people and organisations send their local as well as individual problems to the central organisation. Where the problem is purely individual, say grievance against assessment of house tax, non-refund of deposit by a company, and such like, it can at best be forwarded for disposal to the Public Grievances Cell. Quite often we are asked to file writ petitions in the Supreme Court. It is obvious that the writers of such letters do not recognise the labour involved in preparing a case and submitting writ petition. The local chapters must avoid the temptation of suggesting to the central organisation the examination of a case and its submission to court or to the legislature or a department. Where the matter relates to a local problem, such as the failure on the part of the local municipality, the matter must be dealt with only at the local level and if a writ petition has to be filed, this should be done in the High Court of the state. Where the matter has wider dimension, being of national importance, the local chapter should prepare a self-contained and comprehensive note with references of all memoranda etc, which should facilitate the examination of the matter in the central

organisation. This can be sent to the central organisation for examination and action.

While we have laid out these guidelines in regard to the general proposal of establishment of local chapters of COMMON CAUSE we feel that it will be much better in the initial stages for existing local organisations such as the citizens welfare associations, citizen action groups, consumers organisations, homeowners associations, retpayers associations and pensioners' organisations etc to widen the area of their activities and start taking up the general issues of common local importance for finding redress on the

lines which COMMON CAUSE has been taking up. Where any such organisation might consider widening its activities in the suggested manner, and it has taken Association Membership of COMMON CAUSE, it would be welcome to use the words "AFFILIATED TO COMMON CAUSE" below the name of the organisation, on its letter-head, as is being done by some organisations which are already thus affiliated to COMMON CAUSE.

HOUSE TAX ASSESSMENT

We have recently issued a circular on the important subject of assessment of rateable value in the case of premises which have been constructed in stages. As this matter is of paramount importance to the homeowners in general we reproduce below this circular so that it may provide guidance to those tens of thousands who are facing this problem.

A large number of homeowners are greatly perturbed at the manifest violation of the Supreme Court decision by MCD in the matter of assessment of rateable value of premises constructed in stages. The Supreme Court (in case of Dr. Balbir Singh & others Vs MCD) has clearly laid down that the price of land cannot be taken twice over, but MCD has been adopting the tactics of taking the price of land on the proportionate portion of second or subsequent construction, thereby causing serious problem which is accentuated because of the enormous escalation of prices of land during the recent years.

We have explained the position at some length in the April '87 issue of our periodical COMMON CAUSE. Subsequent thereto there have been certain developments and we are issuing this circular so that the homeowners organisations and citizens welfare associations etc are in a position to inform the homeowners with a view to equipping them to challenge the demand where it is based on incorrect interpretation of the law or in violation of the Supreme Court and High Court judgements.

(i) We have already intimated through our periodical

that the judgement of Mr Justice B. N. Kirpal of the Delhi High Court (in civil Writ no : 1150 of 1986) has on 2.2.87 re-affirmed and re-iterated the relevant pronouncement of Supreme Court judgement that in the case of construction in stages the price of land cannot be taken twice over. On the pronouncement of this judgement COMMON CAUSE decided to withdraw the Application which had been submitted in the Supreme Court to seek clarification on certain points in relation to this pronouncement. Subsequently

Mr. Justice Kirpal has again affirmed this pronouncement in another judgement (Civil Writ no : 683 of 1986).

(ii) We came to know that MCD had filed an appeal before the Division Bench of the Delhi High Court against the single court judgement of Mr Justice B. N. Kirpal of 2.2.87. Its admission was argued before the Division Bench on 26th and 27th May '87. We were told that MCD was keen to secure a stay order of this judgement, which could be used for deciding the assessments on the lines which are being already adopted and which we feel are violative of the Supreme Court judgement. Consequently, in the

hearing of 27th May the Director of COMMON CAUSE himself represented before the court that if the stay in the presented appeal is used by MCD to continue the practice of acting in violation of the Supreme Court pronouncement, it would be most unfortunate, and that tens of thousands of homeowners are already being made to run from pillar to post and harassed on this account. It was represented that if any stay is to be granted then its application should be restricted only to the specific case in which appeal has been submitted and it should not be allowed to have generality of application. This representation was accepted by the court.

(iii) The present position, therefore, is that the law on this question is clearly laid down in the above-mentioned Supreme Court judgement, and it is re-affirmed and re-iterated in the judgements of Mr Justice B. N. Kirpal. These latter judgements of Delhi High Court have direct application to the area within the jurisdiction of Delhi High Court, which includes MCD. Till any of these judgements are upset or modified, they lay down the law, and MCD is bound to observe this law. We have already written to the Assessor & Collector of MCD that it is wrong on the part of his officers to say that the "matter is pending before the Supreme Court/High Court". As far as we are concerned, there is nothing pending before either

of these courts in which any stay has been granted. The mere fact that an appeal has been preferred against the judgement of Mr Justice Kirpal of 2.2.87, or some other application has been submitted by MCD before the Supreme Court, does not establish that the law pronounced by the Supreme Court and re-affirmed by the Delhi High Court has in any way been modified.

(iv) Accordingly, we would suggest to all assesses that where they encounter any statement of this nature, that "the matter is pending before the Supreme Court/High Court," they should write under registered cover to the concerned officer, citing the date and time when he made this observation and contradict it by stating that mere pendency of any appeal against the judgement of Mr Justice Kirpal or of any application by MCD before the Supreme Court, does not entitle the MCD to flout the law which has been very clearly laid down in the judgement of the Supreme Court and re-affirmed by the Delhi High Court. It should be stated that the flouting of this law is violative of the clear pronouncements of these courts and that this would constitute contempt of court. Thereafter, the individual assesses should kindly take legal opinion and proceed to file applications for initiation of contempt proceedings. COMMON CAUSE may be kept informed about the action thus initiated.

FOR PENSIONERS

The present stage in the matter of Pensions is primarily of the implementation of the orders regarding restoration of pension commutation and of the orders arising from the acceptance of recommendations of the IVth pay Commission by the Government. In the matter of restoration of pension commutation the orders are being implemented by the branches of the Banks. Some delays are inevitable, but by and large the orders are being complied with and we are receiving the blessings from the pensioners for having been instrumental in rendering them this additional humble service. Instances have come to notice, and

we have taken up with the Government, where some branches of the Banks have made absurd interpretation of the direction about the restoration of commuted portion of the pension after 15 year have expired on 1.4.1985 from the date of retirement. The interpretation given by these branches is that where more than 15 year have expired, the restoration cannot be effected. This is manifestly silly and the concerned branches need to be taken to task for depriving restoration to old pensioners in whose cases more than 15 year have lapsed since retirement.

On the question of implementation of the orders

relating to acceptance of IVth pay Commission recommendations we have yet to receive the comments and suggestions from the pensioners. Of course, we are fully aware that old pensioners have in general a feeling that they should be made eligible to same quantum of pension which is being given under the new dispensation to those who have retired after 1. 4. 1985 and who are retiring now. We do not propose initiating any action on this matter at present.

Connected with this is also the demand of the defence pensioners who have been demanding that there should be "equal pension for equal rank". The problem of application of Supreme Court judgement of 1982 to the pre-1972 defence pensioners has been taken up quite often from various sources with the Government. This problem is not merely of application of this judgement; the elements of gratuity and weightage are involved in it. Taking all the factors into account the Government gave some ex-gratia increases to the various ranks, but these have merely caused disappointment to the defence

pensioners. The fact remains that the Government has at no stage explained it appropriately to the defence pensioners why on account of the elements of weightage and gratuity they could not get straight benefits of the Supreme Court judgement. This is very unfortunate indeed.

Aggrieved by this apparent discrimination the cases on behalf of defence pensioners have been taken to the Supreme Court in writ petitions filed by Indian Ex-Services League and others. There is no knowing yet whether and when any favourable decision will at all be forthcoming on these

We informed the pensioners in the previous issue that the Central Administrative Tribunal has decided in favour of the per-1973 pensioners in the matter of application of 1973 liberalisation to the pre-1973 pensioners who had remained deprived of it. The government has filed an appeal against this decision in the Supreme Court. We can only hope that this appeal is decided without delay.

MISCELLANEOUS

Numerous problems of wide variety, keep coming to us, from all parts of the country. On the average, twenty to thirty letters reach us every day. A large number of them relate to different aspects and problems of pensions including computation, commutation restoration, family pension, delays in settlement of claims, demand for restoration of commutation even in the case of cent percent commutation, and also on various matters relating to service seniority, disciplinary action etc. The various other matters cover problems such as of house tax, rent control, banking services, non-refund of deposits by companies or in respect of booking of specific appliances, defects and shortcomings of products, unfair trade practices, delays in settlement of claims for compensation in relation to accidents, etc. Replies are invariably sent, and it is estimated that during the seven years of the existence of this organisation the letters issued, other than circulars and periodicals, would total not less than 25,000.

We reproduce below a letter which was written on 17. 6. 87 to Mr. S. Varadan, Secretary to the President of India. The letter will be of interest to consumers' organisations.

"In yesterday's 9.30 p. m. TV English news there was an item showing the President giving away awards to 13 persons for "protecting the rights of consumers". We have made enquiries. It appears that neither the Department of Civil Supplies of the Ministry of Food & Civil Supplies, which looks after the problems of consumers, nor the concerned department of Delhi Administration, have any knowledge of this award giving ceremony or of the selection of persons for such awards. COMMON CAUSE is directly in touch with all matters connected with the interests of consumers, and has close relationship with the consumers organisations in the country. We are not aware of any selection of persons for such awards.

I requested you on telephone today to ascertain how these awards were sponsored, who made the selections and under whose auspices was this award giving function organised. You told me that you would ask for the information from the Private Secretary's office. We would be very interested in receiving this information".

No reply to this letter has been received

H. D. SHOURIE
Director