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COMMON CAUSE

VOICE OF "COMMON CAUSE"

WE WANT LESS GOVT.

It is necessary that each one of us should now examine the areas of everyday living where government is too much with us. Politics, economics and industry apart, there are other numerous areas of interaction of average citizens with the government's various manifestations and functionaries. Time has come in this country to tell the government to get off our backs. Our dependence on the government should be reduced, minimised.

At present, carrying the legacy of the feudal past and the colonial era, in almost every phase of our existence, we are enveloped by government's reach. Of course, in everyday existence there are problems of prices, electricity, telephones, water supply, roads, street lighting, insanitation, various facets of consumerism, and numerous such, where presently the government's intermediacy, direct or indirect, is inescapable, but there are other areas of everyday existence where government's functioning needs to be minimised. There are irritations which may sound to be minor but cause extreme annoyance, delays, agony and alienation.

We would like to collect instances of these areas of irritation and would be grateful if the readers could kindly apply their mind to help in the collection of these instances, for setting in motion a continuing effort of identifying such areas, and get them rooted out of our lives.

Let me explain. Take the example of the requirement of "attestation by gazetted officer" which so very often appears on all sorts of forms and is prescribed in rules and regulations relating to various applications. This requirrement causes endless exasperation to the people and leads to considerable lot of corruption at lower levels and even at the level of those who are expected to append their attesting signatures. Take another example. The convoluted procedures prescribed in relation to procurement of ration cards, issue of duplicate of ration card, transfer of ration card on change of residence, including prescription of requirement of affidavits and affixation of attested photograph of head of family. And, the procurement of gas connection and certification relating to issue of regulator for the gas cylinder. Procedures prescribed for the procurement of driving licence, transfer of registration certificate of a vehicle. Procedure prescribed for the procurement of birth certificates and death certificates, and for securing copies of these. The requirement of securing fitness certificate and issue of licences for rickshaws, animal driven vehicles, carts. Formalities relating to admission of medico legal accident cases in hospitals, neglecting provision of immediate attention to victims of accidents. Requirement of affixation of non-judicial stamps for various purposes; the requirement of affixation of special revenue stamps for purposes of "receipts"; difficulties of securing judicial and non-judicial stamps. Systems and methodology of issue of bills and for making payments of municipal taxes and charges. Procedures relating to municipal sanctions of construction and issue of completion certificates.

These are merely indicative of the nuts and bolts of present day existence. It will be worthwhile to collect on a wider basis information about these, for determining the measures that need to be devised for rooting them out, in line with the objective of minimising the areas of interaction of citizens with the government and getting it off our backs. Kindly write to COMMON CAUSE, bringing to our notice instances of this nature, illustrating such exasperations and irritations encountered by the people.

H.D. SHOURIE, DIRECTOR

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REQUESTING YOU

We have some requests. We would be grateful for your kindly keeping these in view.

1. We are loaded with enormous lot of correspondence, on all conceivable problems and grievances. We feel greatly indebted to you for reposing faith in our services, but we request your indulgence; please write only when you must.

2. It is impossible for any one organisation to deal with problems of individuals. We can at most try to tackle common problems, policy matters, and common grievances which need to be highlighted and resolved. Please donot send us individual complaints. These should be addressed to the heads of concerned departments, or to the Department of Public Grievances, Ministry of Personnel, Public Grievances & Pensions, Government of India (Address: Sardar Patel Bhawan, Parliament Street, New Delhi—110 001).

3. We sometimes receive complaints of non-receipt of this periodical. Often such complaints come repeatedly from same members which cause doubts, because we invariably send fresh copy of periodical on receiving the complaint. We forthwith rectify the changes of addresses when they are intimated. If you have doubt about accuracy of your address in our records, or have changed address, send us the correct address, complete with pin code etc.

4. Often we receive detailed problems relating to rules and regulations dealing with pensions. Kindly keep in view the fact that we are not operating as a pensioners organisation; our coverage is very wide, dealing with the various problems which are ancountered by all the middle classes. We are not in a position to deal with the detailed problems of pensions. These should be addressed to the pensions organisations. Queries relating to rules and decisions on pension should preferably be addressed to pension journals such as Pensioners Advocate (address: Pensioners Advocate, H-115/3, 33rd Cross St., Madras - 600090) and National Pensioners (address: National Pensioner, B-30, Sarvodya Nagar, Kanpur—208 002).

5. We can take legitimate pride in having shown to the people that problems and grievances can be resolved. These have to be diligently pursued, by knocking at the appropriate doors of the executive, and failing that, by taking these to the courts. It is very heartening that people have now risen, for taking recourse to finding solutions to their problems, fighting for their rights, in courts where necessary. A very large number of writ petitions are now filed all over the country, in High Courts and in the Supreme Court, for redressal of the grievances invoking their fundamental rights. We feel happy that people have now got into the habit of fighting their own battles. Whatever little contribution to this development has been made by COMMON CAUSE gives us very great satisfaction indeed.

6. One more request. Would you like to make a resolve with yourself togetat least five more members for COMMON CAUSE ! If you really believe it is doing good public service, then it is up to you to provide greater support to it.

RATIONALISATION OF PROPERTY TAX

Present Distortions

The aberrations, distortions, discriminations and anomalies inherent in the existing system of Property Tax must be removed.

These are:

(i) The Property Tax (PT) on two adjacent houses, constructed on the plots of exactly same size and consisting of exactly same built area on each floor, can differ to such an extent that one may have to pay 50 times the tax paid by the other. For instance, take two adjacent plots of 500 sq yds each, in a good housing colony of south Delhi. They were laid out in the colony 30 years ago. Price of land at that time was about Rs 30 per sq yd. One house, of the total built area of 5,000 sq ft (2500 sq ft on ground floor, 2500 sq ftt on first floor) was built 30 years ago when the cost of construction was about Rs 40 per sq ft. The price of land and the cost of construction of that house came to Rs 15000 + Rs 2,00,000 = Rs 2,15,000. For selt-occupied house on the basis of existing levy of PT, the Rateable Value (RV) will come to about Rs 17000 and the PT will be Rs 2400 + Rs 680, the latter for scavenging tax, fire tax and education cess. The adjacent plot remained unconstructed. It was now purchased by a new owner, on payment of the price of Rs 30 lakhs (Rs 6000 per sq yd, which is the official prescribed price for certain localities) and has now been constructed. Cost of construction of this house of 5000 sq ft will be Rs 12.50 lakhs, @ Rs 250 per sq ft. The RV of this house, on self-occupation basis, will be of the order of Rs 3,20,000. Its PT will be about Rs 1,00,000 + Rs 4000, the latter for fire tax etc. Both houses are self-occupied; one pays about 50 times the PT of the other; and in any case, for any person to have to pay about Rs 9000 a month only towards PT, for self-occupied house, is obviously an impossible situation.

(ii) Let us assume that the previousl6y constructed house was given on rent 20 years ago for a period of five years. The rent at that time was Rs 2000 a month. After the period of five years renting it reverted to self-occupation and is now again given on rent, fetching rent of Rs 10,000 per month. Its RV will continue to be the same as calculated above i.e. Rs 17000, and its PT will be the same, namely, Rs 2400 + Rs 680. The factum of its present rental, according to the existing law, will not affect the RV. The adjacent newly constructed house, remaining in selfoccupation, will pay PT of Rs 1,04,000 for the year, whereas the previously constructed house, fetching the rent of Rs 10,000 a month, will pay the PT of only Rs 2400 + Rs 680.

(iii) Now, let us take the case of a retired person who buys a residential flat in one of the newly constructed buildings, for self-occupation. He pays the price of Rs 10 lakhs for the flat. The PT on it will be based on the cost i.e. the RV will be about Rs 80,000 and its PT will be of the order of Rs 25,000, entailing a payment of over Rs 2000 a month, which will obviously make things impossible for him.

(iv) A DDA flat purchased 15 years ago will carry RV of only about Rs 5000 and PT of only about Rs 500 whereas the DDA flat of same size now purchased in an adjacent colony will carry RV of Rs 25,000 and PT of Rs 4000.

(v) Those who perforce have to construct their premises in stages faced a serious problem of PT escalation relating to the new construction in comparison to the previous construction on the same plot because the PT calculation, in the present system, is related to the cost. On adjacent plots one owner who constructed the entire premises 30 years ago will pay a fraction of the PT than the other owner who constructed only a small portion at that time and has now constructed the remaining additional accommodation.

(vi) These distortions are also evident in cases where adjacent identical premises are on old rental and new rental. The old rent is controlled under the Rent Control law and may be a fraction of the rent which is fetched by the adjcent newly rented premises. In both cases if rental presently constitutes the basis of calculation of RV and PT the premises on old rental will yield to MCD only a small fraction of the PT than the premises at new rental will give. There are enormous number of premises, particularly in the older areas of Delhi city, which are on old small rentals, though their present values have escalated beyond measure. They are not yielding anything to the revenues of MCD because of general dispensation by which the MCD has exempted from PT all premises where RV is less than Rs 1000.

(vii) These distortions apply also to commercial premises. The highly escalated costs of the premises and the enormously high rentals, add to the severity of the problem, but because the commercial premises ultimately pass on the impact of high taxes to the consumers of their goods and services, they donot consider it necessary to raise hue and cry about these distortions and the consumers have to ultimately bear the brunt.

Background Facts

Against these samples of distortions and anomalies set us look at some basic facts of the problem of Property Tax.

These are:

(i) It is a matter of fundamental importance that while efforts are made to devise ways and means to overcome the anomalies and distortions, it is most essential that the revenues of MCD should not be allowed to suffer and that in fact the revenues should continue to be enhanced so that MCD remains equipped to provide the services on expanding scale and to give greater satisfaction to the people.

(ii) Out of the above eight lakh properties in Delhi, the PT bills are issued by MCD to only about four lakh properties. Out of the remaining, about 2.5 lakh properties are in resettlement colonies, which are not assessed to PT because their RV is contended to be less than Rs 1000. They of course get the municipal services and the values of these properties have now substantially escalated even though on very small plots. Likewise, nearly two lakh properties inside walled area of the city and in Shahdara, Kalkaji and certain older areas of Karol Bagh, are not assessed to PT on the plea that their RV is less than Rs 1000. These properties include also those the rentals of which are low as being controlled by the Rent Control law.

(iii) The provision of exemption from PT is contained in clause 2(2) of Section 114 of MCD Act which authorises the Corporation to "exempt from general tax lands and buildings of which the Rateable Value does not exceed hundred rupees". About four years ago the MCD enhanced this limit to Rs 1000, thereby through a blanket concession it deprived itself of the PT assessable on almost four lakh properties, in addition to jhuggies and jhonparies, aggregating to 2.7 lakhs, housing about 20 lakh population, which in any case could not be assessable to any taxes whatever be their drain on the resources of MCD for provision of services to them.

(iv) Government properties all over the city pay only a small service charge. These number about one lakh. People living in these government properties are not paying any taxes to the municipal authority although they partake of all the municipal services. It also needs to be kept in view that about five lakh persons come to Delhi every day for work. They donot pay any taxes to the municipal authority although they too derive benefits of municipal services.

(v) The factum of these exemptions and the non-payment of any tax to the municipal authority by government employees living in government property as well as by the large number of people who come to Delhi for work every day, are important from the viewpoint of the burden of PT having to all more heavily on those who are within its net.

(vi) Proceeds from PT in the case of MCD constitute practically 50% of its total revenues. The yield from PT to MCD is of the order of Rs 100 crores. Only about ten years ago the yield from PT was roughly 25% of the total revenue, and in comparison to that the increase in recoveries by theconcerned department has undoubtedly been creditable. Out of the aggregate recovery of Rs 100 crores the recovery from residential properties is about Rs 35 crores and from commercial properties about Rs 65 crores. Recovery against recurring demand is Rs 70 crores, the balance being made up of the recovery of arrears.

(vii) Number of residential and commercial properties presently assessed to PT, in the respective categories is as under:

(Rs)

Rateable Value	Residential	Commercial
Upto Rs 10,000	2,46,200	67,528
Rs 10000 - Rs 20000	43,800	12,900
Rs 20000 - Rs 50000	12,660	6,200
Rs 50000 - Rs 1 lakh	1,450	2,100
Rs 1 lakh - Rs 2 lakh	20	450
Rs 2 lakh - Rs 5 lakh	105	590

The schedule of PT rates, presently prevailing, is given below.

Rateable Value (Rs)	Rate (Percentage)
1000	Nil
1000 - 2000	10
2000 - 5000	10
5000 - 10000	10
10000 - 15000	20
15000 - 20000	20
20000 - 25000	20
Above 25000	30

The rates on commercial properties are:

Rateable Value (Rs)	Rate (Percentage)
Upto Rs 10000	15
10000 - 20000	25
Above 20000	30

(viii) The above figures show that residential properties above the RV of Rs 25000 (which attracts the maximum tax rate of 30%) number only about 14000 out of the total of 2.5 lakh residential properties presently assessed to tax. This fact is important from the viewpoint of determining the justification of the levy of maximum rate of 30% on residential properties. Commercial properties attracting the rate of 30% PT total about 9000 out of the aggregate number of about 68000.

(ix) As distinct from this schedule of PT operative in the area of MCD, the PT in the area of NDMC is levied at the flat rate of 12-1/2% of the RV. This disparity has been a sore point with the assessees in the area of MCD because there are places where on one side of the street the PT is 12-1/2% as operative in NDMC,and in the opposite row of houses the rate of PT ranges upto 30%, leading to charges of serious discrimination. It is generally contended that although the rates of PT in MCD area are much more than the rates operating in NDMC the services of MCD are distinctly and comparatively of inferior quality. On this matter a Writ Petition submitted by COMMON CAUSE is already pending in the Supreme Court.

MAIN CONCLUSIONS

Keeping in view these various facts, following conclusions inescapably emerge:

(i) There is no justification why the rates in the areas of MCD and NDMC and Cantonment Board, which are contiguous to each other, and wherein the NDMC is in fact an island within the area of MCD, there should be any diversity of rates of Property Tax. In fact, it is of paramount importance that there should be uniformity in this tax.

(ii) The maximum rate of 30% on residential properties tends to prove extortionate. It is generally contended that the maximum rate should not be more than 20% in any case.

(iii) Serious doubts are expressed about the wisdom of general exemption which has been given by MCD to all properties of RV less than Rs 1000. In fact, the National Commission on Urbanisation has deplored this tendency on the part of municipalities in the context of the need of supplementation of their revenues for provision of better services. This matter obviously needs to be considered outside the scope of the argument that weaker sections live in such premises and that they constitute vote banks for the elections.

(iv) There is no reason why there should be any discrimination in favour of government buildings. The law in this matter needs to be amended. At most, for maintaining a distinction the government properties can be subjected to a levy of PT at about 95% of the rate levied on other premises.

(v) Over and above the PT there are other taxes which come within the purview of Property Tax. These are scavanging tax, fire tax and education cess. These, respectively, are at present 1% and 1% for residential properties and 5% 2% and 1% on commercial properties. Increases effected in these taxes in the recent years have also contributed to the increases in overall yield.

(vi) Rebate of 25% is being allowed on self-occupied properties. Rebate of 15% is allowed in the case of partly occupied and partly tenanted properties. In all the other cases rebate of 5% is being allowed for prompt payment. Newly constructed premises, completed after 1.4.1985, are being allowed a general rebate of 25% Concession has been given to the assessees that if they pay up in lumpsum the cumulative tax of ten years they will remain exempt from its future payment. This particular concession is being disputed in certain particulars.

(vii) System of PT needs to be devised in such manner that there is no discretion left in the hands of subordinate staff so that the opportunities of corruption are minimisded.

(viii) Following provisions in the law relating to PT need to be suitably modified:

(a) There is a pernicious and tyrannical provision in Section 170 (b) which lays down that no appeal against the assessment shall be heard by the Court unless "the amount, if any, in dispute in the appeal has been deposited by the Appellant in the office of the Corporation". This provision has proved a very serious deterrent to the submission and entertainment of appeals against assessments made by MCD officers. Under the Income Tax Act, Wealth Tax Act, Delhi Sales Tax Act, Central Excise & Salt Act and Customs Act etc the right of appeal is conferred without such restrictively absolute condition imposed on the assessee. The provision in the other Acts are generally to the effect that the appellate authority shall entertain the appeal if it is satisfied that such amount of tax has been paid as the appellant may admit to be due from him.

(b) There should be provision for first appeal to be heard within the Department as in the case of Income Tax. Second appeal should preferably be before a Tribunal relating to municipal and allied taxes, so that there should be possibility of expeditious disposal by officers who are experienced in relation thereto, instead of burdening the regular appellate courts with the appeals as at present, where the appeals languish for years, imposing a severe burden on the municipal finances and causing frustrations to the assessees.

(c) Some specific consideration should be applicable only to such Trusts and Societies, including schools, which are operating on no profit basis, but these should not be made totally exempt from PT because they too are utilising the municipal services.

(d) The present law necessitating the notification of assessments on annual basis, inviting objections, receiving and deciding objections, needs to be modified, making it five-year assessments. Enormous lot of energy is meaninglessly spent on inviting and deciding objections every year, making the citizens unnecessarily run to the municipal zonal offices every year for submission of their objections, awaiting the decisions, and making appeals against the assessments. The assessments once made should hold good for five years unless any alterations are effected in the property, in respect of which the responsibility should be on the owner to inform the municipal authority.

(e) The law and procedures need to be so devised that the owners are placed under obligation to submit their Returns of Property Tax on annual basis on the lines of Income Tax. They should pay the taxes on the basis of Returns submitted. On default in submitting the Returns and paying the self-determined and admitted taxes they should face the penalties on the lines of Income Tax. A procedure of this nature will yield enormous benefits to the municipal authority; it will enable the revenues to be collected without the hassles of annual assessments, receipt of objections, disposal of objections, fighting the appeals in courts etc. There should be provision which gives to the assessee the discretion to revise his assessment within at most two years, and if the municipal authority has not raised any objection to the assessment within two years it should automatically become final and the municipal authority should be barred from subsequently increasing the demand. If any alteration comes about in the property it will automatically get reflected in the Return submitted by the assessee.

BASIS OF ASSESSMENT OF PROPERTY TAX

The most important problem is that of determining the bhasis of PT. its linkage with the Rent Control law has been the main cause of the distortions, aberrations and anomalies which have been pointed out. The mention of Delhi and Ajmer Rent Control Act in the proviso to Section 116 of MCD Act, and the words "reasonable cost of construction and the market price of land comprised in the premises on the date of the commencemnt of the construction" in Section 3(1)(A)(2)(6) of the Delhi Rent Control Act are the root cause of all the malaise. It is a matter

of very great regret that in spite of the hue and cry in the past many years and of tens of thousands of cases, about the difficulties caused by the incorporation of these words in the two statutes, nobody has yet taken the trouble to rectify the matter.

The entire problem has arisen from the wording of Section 116 of the MCD Act as it stands at present. It is prescribed in this Section that the "Rateable Value of any land or building assessable to Property Taxes, shall be the annual rent at which such land or building might reasonably to expected to be let from year to year". This basis, the annual letting value, could undoubtedly constitute a proper measure for the levy of PT, because the size and condition of the property would determine the annual rent it can fetch, and the municipal authority could legitimately claim to levy tax on the property because in essence its value is enhanced o r reduced by the quality and quantity of the services it renders. Unfortunately, however, the incorporation of above mentioned proviso in the S. 116 has brought about the complications.

The incorporation of this provision, and its present repercssions, arise from two factors: (a) In the case of those properties which remain outside the purview of Rent Control law the determination of annual rental value can be made without any encumbrances and constraints of the Rent Control law, and (b) in the case of properties which are subject to the Rent Control law the annual letting value cannot be more than "the standard rent" being calculated as a percentage of the price of land and the cost of consruction "on the date of commencemnt of the construction".

The implications of both these provisions have now to be considered also in the light of the amendments that have recently been made in the Rent Control law. For instance, MCD is claiming that where any building fetches more than Rs 3500 per month rental, it automatically becomes outside the purview of Rent Control law, and its Rv and PT will be determinable on the basis of actual rent, regardless of the "standard rent" limitation, that where any portion of the building is fetching more than Rs 3500 rental the rental value of entire building, even though the remaining portion is self-occupied, will be adjudged on the basis of the portion of rent, and that even the amendment of 10% of the price of land and cost of construction, provided for in the amended Rent Control law in place of 8-1/4%, now becomes applicable to all buildings, etc. These matters, related to the recent amendments of the Rent Control law are creating enormous problems for the MCD as well as the assessees, and its on account of these that the matter has had to be entrusted for comprehensive and detailed consideration by a Committee constituted by the Delhi Administration. It will be seen, thus, that whereas the matter relating to assessment of RV and PT were already considerably complicated because of the linkage of Rent Control law with the relevant provisions of MCD Act, the recent amendment of Rent Control law has further compounded the complications. It has been suggested that one method of basing the assessment of RV/PT would be that of relating it to the valuation of the property, Relating it to the valuation will be justifiable, but the process would be rendered impossible if the impact of continuing escalation of values of the properties is disregarded. In this context it has been suggested that the valuation should be related to the year 1971-72 after which the values of properties have experienced unprecedented escalation. Where the properties were constructed prior to 1971-72 their values should also be based as of that year. These will take care of the escalation that came about during the period prior to 1971-72, giving the benefit of this escalation to the revenues of the municipality. Where the construction has taken place after 1971-72 the cost of construction and the price of land relating thereto should should be as they would have operated in 1971-72. This will take care of the unprecedented escalation which has taken place since then. It should not be very difficult to lay down the criteria on the basis of which valuation can be effected as of the year 1971-72.

The other, and more easily workable criterian, for the assessment of RV/PT is to base these on the (a) area of plot and (b) built area of the premises, which in fact are the factors relevant to the quantum of municipal services provided to the premises. It is but appropriate that a larger building, constructed on a bigger sized plot, should pay more than a smaller building on a smaller sized plot. The justification for this is obvious, because the bigger plot takes more services of drainage, swerage, road space, street lighting etc, and the bigger sized building take more services of the nature of sewerage, water supply, electricity supply etc. There is need and justification, therefore,

of relating to RV/PT the area of plot and built area of the building, excepting that consideration needs to be given to the quality and quantum of services in relation to different zones of the city. In certain zones the quality and quantum of services may be different from those of others. Therefore, for a fair and just assessment of RV/PT there should be a factor based on the concessions which should be applicable to the area of plot and built area of the premises. Formula needs to be evolved on this basis for more equitable assessment of RV/PT

Advantages of basing RV/PT on the area of plot and built area of premises are obvious. The area of plot and the built area of premises would be readily available from the records of MCD. The owners should be placed under obligation to supply these, and MCD could verify these where necessary. The calculation, on the basis of a determined factor for a particular zone, will be easy. Scope and possibility of any discretion in the matter of assessment of RV/PT will thereby be totally eliminated. There will be practical elimination of appeals which at present clog the courts and hold up the recovery of enormous revenues of MCD; work of MCD as well as of the assessees will be simplified.

Annual rental, as presently provided for in Section 116 of MCD Act, cannot be a satisfactory criterion for determination of RV/PT because there can always be possibility of deliberate misleading on rentals by collusion between the owner and the tenant, and also because of the element of subjectivity and discretion which will inevitably involve scope for corruption. Where, however, a building is on rent an additional advantage relating to the rental should accrue to MCD on the PT charged thereon i.e. for rented premises additional levy should be payable by the owner which is related to the quantum of rental. The assessment and levy of PT on rented building should be simple; a multiplier, say, 10% of rental after deduction of 1/6 th for repairs etc, should constituete the additional Rental RV. Where the premises is not on rent there will be no such additional Rental RV.

There are a few problems in relation to this proposal of the basis of assessment which need to be examined:

(a) One problem is that of assessment of a building which may have a number of flats, including a multi-flats building and four-flats building, such as constructed by DDA. The assessment of such a building will take into account the total area on which the building is situated and it will also take account of the built area of each flat. This process of assessment will eliminate the present anomalies and distortions which are inevitable when the assessment is based on the cost of the flat considering that the cost of flats even in contiguous buildings have increased manifold during the last few years.

(b) Second problem is that of commercial premises. Obviously, the suggested mode and basis of assessment may not be easily applicable to the commercial premises because quite a few of these may be small shops. We feel that for commercial premises a yardstick will need to be evolved relating to the built area of premises, and for different zones a multiplier will need to be determined in relation to the built area, without regard to the area of land underneath. The valuation on such basis will obviate the anomalies which exist at present, such of very low assessments of shops in Connaught Place merely because of their original cost of construction or of the very low rentals resulting from the constraints of Rent Control law. Uniform application of the multiplier in the individual zone will yield higher PT to the MCD and will eliminate the distortions.

(c) Third problem relates to the quality of construction. It can be reasonably contended that for purposes of assessment of PT the premises of lower quality construction should not be equated with those of higher quality construction. By and large all constructions are now of cement-concrete. However, to meet the requirements relating to quality of construction it can be prescribed that two grades of qualities will be recognised for the purpose, namely, cement-concrete construction and all others. Multipliers can be prescribed for these two grades of construction. In the matter of determining whether any premises is of first quality or second quality it is suggested that no discretion should be exercisable by any subordinate official and that a premises should be given the gradation of second qualit only by a Committee of two officers of suitable rank.

(vi)

(d) Still another problem is that of industrial premises. In any logical development of the system of PT its application to the industrial premises, which often have large vacant areas for storage etc, cannot be on the same basis as applicable to commercial and residential premises. In fact, it is necessary that there should be a separate category of premises called industrial premises. The basis of assessments in their case should be fundamentally the same, except that the multiplier will need to be so determined that the assessment is equitable. The multiplier will of course take into account the area of plot and the built area.

(e) In the present dispensation of categorisation of properties a great deal of scope exists for discretion in the hands of staff to categorise properties "residential" or "commercial". The premises of self-employed professionals such as doctors, architects and consultants etc are being categorised as "commercial", leading to grievances and problems. We are of the view that where a part of the premises, comprising not more than, say, 1/30th of total built area, is being used for the work of self-employed professionals the premises should not be treated as "commercial", and where the area used for professional work exceeds such limit, the area specifically used for the professional work alone should be taxed on the basis of commercial premises.

(f) Another problem, which is substantially important, is that a large number of assessees have by now adjusted themselves to the assessments based on the existing procedure i.e. on the basis of existing linkage of Rent Control law and on cost basis of existing linkage of Rent Control law and on cost basis for the premises which wre previously on rent and are now self-occupied. It is contended that these assessees would not like to be disturbed. The fact is that assessments in such cases are basically unfair to the MCD because these are based on low rentals or on low costs and on the application of well-known Supreme Court judegment in the case of Dr Balbir Singh & others VS M.C.D. which in fact is based on exposition of the existing law. It is obvious, therefore, that this argument is not tenable and that, if at all necessary, it can be laid down that where any assessees feel that their assessments should not be disturbed they can be allowed to retain the present assessments for a period of not more than five years where after they must come over to the new method. This concession should, however, be made applicable only to the assessees of residential properties.

It is obvious that the matter of RV/Pt assessment has continued to cause serious problems to the MCD as well as assessees for a number of years. Revenues of MCD inevitably suffer. Courts are loaded with cases arising from the assessments challenged by the assessees. The time and energy of large number of municipal staff is unnecessarily wasted on preparation of assessment lists. inviting assessments, disposing of objections and fighting cases in courts. A simple, workable method and basis of assessment needs to be evolved to meet the present changed circumstances, and to scrap the provisions which might have been suitable when they were enacted but which have now become totally outdated and are proving a source of great dissatisfaction and loss of revenues.

Taking account of the various problems, issues and suggestions incorporated in the above paragraphs it has been considered appropriate to attempt a recast of the relevant statutory provisions of MCD Act. In the accompanying annexure attempt has been made to put forth the specific provisions as they need to be enacted for meeting these various objections and requirements.

ANNEXURE

AMMENDMENTS PROPOSED IN THE DELHI MUNICIPAL CORPORATION ACT

1. Add two new definitions in Section 2 as follows.

Section 2 (68) "Zones means the areas with the boundaries described and specified in the Fourteenth Schedule". Section 2 (69). "Zonal Rates means the rates at which, for the purposes of assessment of Property taxes provided for in Chapter VIII, the Corporation may fix from time to time factors for levy of the taxes on per unit of area of land and per unit area of building."

2. Add Section 114 (3).

Section 114(3). The general tax shall be payable in advance in such number of instalments and in such manner as may be determined by the Byelaws in this behalf." (Consequential amendment may be made in Byelaw no: 5 of the Property Tax Byelaws 1952 to provide that the Property tax may be paid in reasonable instalments if the tax assessment of a premises has taken more than a year. This will mitigate any hardship.)

3. Add two new following Sections after Section 114, giving them the numbers Section 114A and Section 114B:

Section 114A.

I. For the purposes of levy of general tax on land and building, in terms of S. 114 (I) (d) of the Act, Delhi shall be devided into zones.

II. Central Government shall by order published in the official gazette determine
(a) the number of zones;
(b) the extent and boundaries of each zone, and the same shall be specified in the Fourteenth Schedule."

Section 114B.

For the purpose of levy and assessment of general tax on land and buildings in Delhi the Central Government shall fix, from time to time and after inviting objections, rates applicable per unit of area of land and per unit of built area on the land comprised in each zone and notify these in the gazette.

4. Amend Section 116 as follow:

"The Rateable Value of any land and building assessable to Property Taxes shall be the sum total of the amount calculated on the basis of zonal rates fixed in relation to the land, and the building thereon if it exists, and such rateable value shall have effect from the date of construction of the building presen tly existing on the land excepting where the Corporation may give option to the owner to continue on existing assessment, in which case the new system of calculation of rateable value provided herein will come into effect from the date five years after the date of this amendment.

5. Amend Section 119:

This Section needs to be amended in the light of the requirement that properties of Central Government or of Delhi Administration or of any public sector enterprises, excepting those which are exempted under specific notification, are subjected to the levy of Property Taxes at rates which may be specified as distinct from the rates applicable to all other properties. The provisions relating to the delivery of property to displaced persons etc (also in proviso of Section 120) needs to be recast in the light of present changed circumstances.

6. Sections 124 and 127.

These Sections donot specifically lay down that the lists of assessments should be prepared and notified every year and objections be invited every year. It is unfortunate that the procedure of annual assessments is being followed, causing unnecessary wastage of energy and time of the staff of MCD and problems to the assessees. It should be specifically provided that the preparation of lists, notification relating thereto, and objections thereon, should be done by the Corporation once every five years and the lists thus finalised should remain operative for this period.

7. Section 170 (b).

Clause (b) of Section 170 needs to be amended by deleting it and substituting it by the following:
"Such amount of tax as the appellant may deem to be due from him has been deposited by him in the office of the Corporation or in the court. Provided that on application made by the appellant in this behalf the appellate court may for any good and sufficient reasons to be recorded in writing waive or relax the requirement of deposit on such terms as it deems fit."

(vi)

CONSUMERS PROTECTION ACT STILL SUFFERS FROM POOR IMPLEMENTATION

The Consumers Protection Act, passed amidst great applause and approbation in December 1986, which in fact constitutes a panacea for the consumers, still languishes in implementation. It has been hailed by the consumers as an important welfare measure which for the first time makes even the public sector enterprises accountable to the people in the matter of their products and services. The quasijudicial machinery contemplated under this Act can undoubtedly go a long way to redress the grievances of the consumers in the matter of price, quality, delivery etc of the products and services to them.For the first time this statute also has spelt out the various rights of consumers.

It is a matter of great regret and serious concern to the consumers, therefore, that the implementation of this important statute has not been satisfactory and in fact has been quite poor. Considering the importance of this matter COMMON CAUSE took it to the Supreme Court through a Writ Petition wherein the Government of India and all the States and Union Territories of the country were impleaded as Respondents. The Supreme Court took serious note of the omissions on the part of the States and Union Territories and directed that the quasi-judicial machinery provided for in the Act should be forthwith established and report submitted within a period of six weeks. This was in September '89. When the case came up again for hearing in November '89 it was felt that the implementation continued to be inadequate. Another direction was issued to the Chief Secretaries asking them to report progress within a further period of six weeks. These directions of the Supreme Court did help to stir up the State Governments and Union Territories with the result that reports started being submitted by them about the steps taken towards implementation of the provisions of this statute. When the case again came up in January'90 the position still continued to be largely unsatisfactory. When the case once again came up for hearing in March '90 the Supreme Court felt constrained to issue contempt notices to three Chief Secretaries who had defaulted in submitting reports. The hearing of the cause now stands adjourned to 10th July '90.

Meanwhile, Supreme Court had asked Mr.Justice V.B. Eradi, President of the National Consumers Disputes Redressal Commission, to visit the State and furnish information about the stage of implementation of this statute. Justice Eradi visited ten States during March and April. These States were Andhra Pradesh, Tamil Nadu, Kerala, Karnataka, Rajasthan, Maharashtra, West Bengal, Orissa, Himachal Pradesh and Madhya Pradesh. Some of the points brought out by Justice Eradi in his reports are very revealing and it would be worthwhile reproducing these points for general information. It is very unfortunate that the States in general continue taking the plea of non-availability of funds and difficulties of securing personnal and accomodation in effecting implementation of this important legislation. In this context it is worth noticing that the total expenditure per District Forum is not more than about Rs. 2 to 3 lakhs per annum; for an average State of 15-20 districts the aggregate expenditure on the District Forums and State Commission will in any case be not more than Rs. 1 crore in a year. For an important welfare measure, which aims at providing redressal to all consumers, it surely cannot be contended that the funds to the extent of even Rs. 1 crore a year would not be available to an average sized State.

Andhra Pradesh State is the only one which has taken the initiative of setting up the District Forums in all its 23 districts, giving the requisite powers to one District Judge in each of the districts. The District Judges are setting apart one day in the week to hear the complaints of consumers, and to this extent at least a good beginning has been made in attending to the grievances of consumers. Unfortunately, however, it appears that the two additional

members appointed in each of the District Forums are reported to be not of the standard envisaged in the statute. It is laid down in the Act that the nominees should be persons of eminence in the fields of education, trade or commerce besides the lady social worker. Justice Eradi has pointed out that in several districts of Andhra Pradesh the persons nominated as members of the District Forums are "totally illiterate and hence wholly unable to intelligently follow the proceedings before the Forums". This is obviously unfortunate and one can only hope that the situation will be soon remedied by the State Government.

In Tamil Nadu the situation got complicated because the members nominated for the District Forums by a previous government operating under Governor's rule were found to be unacceptable to the succeeding elected government. The present elected government decided to reconstitute all the redressal agencies with new sets of persons as Presidents and Members. The matter is stated to have since been sorted out on reference to the Government of India. However, even now only six District Forums are proposed to be established, which would be violative of the provisions of the statute which clearly lays down that there should be District Forums in each of the districts.Any attempt to designate Forums to operate from Commissioner's Divisions would obviously defeat the objective of providing redressal to the consumers in the individual districts.

In Kerala the State Government has decided to appoint three retired District Judges as Presidents of the District Forums with three sets of two members each. These three forums are expected to operate for groups of districts ranging from three to five, which, as pointed out above, would not be in accord with the requirements of the statute and would not help to meet the grievances of consumers in individual districts. Staff has been appointed only for operating at the headquarters of the three Forums, which too will operate to the disadvantage of the consumers in the various other districts. It is obviously essential that each district should have an office which would receive the complaints of consumers. It appears from the report of Justice Eradi that the Finance Department of the State has been creating problems in the way of sanction of funds for the purpose of establishing the Forums in each of the districts. It is unfortunate that this tendency continues to be operative practically in all the States.

In Karnataka, likewise, only four Forums have been set up at the headquarters of Divisional Commissioners for operating in the various districts of the State. This would obviously not be an adequate compliance of the directive issued by the Supreme Court and also the imperative requirement embodied in the statute.

Rajasthan has 27 districts. State Commission has been established but it is reported that it has no suitable and adequate accommodation nor staff and even inadequacy of furniture, stationery and equipment such as typewriters etc. These Forums have been established at the Divisional Headquarters and these are expected to operate in 27 districts of the State. Here too, as in the case of many other States, the position is unsatisfactory. It is obviously difficult to envisage that the consumers will be able to travel long distances for going to divisional headquarters towns for lodging and prosecuting their complaints.

In Maharashtra the State Commission has been established but it is reported by Justice Eradi that the building provided to it for locating its office is situated far away from the main city and it is extremely difficult for members of the public to reach there for filing consumer complaints. For the 30 districts of the State only four District Forums have so far been established, each one of them is expected to look after districts ranging in number from five to nine. Even out of the four District Forums only the Forum at Pune is reported to have actually started functioning. Here too it is reported that no post of stenographer has been sanctioned for the Forum, only one clerk has been provided for the office, and there is dearth even of the typewriters.

In West Bengal the State Commission has been recently established but not yet started functioning. For the 17 districts only three Forums have been notified, to operate from the Commissioner's Divisional Headquarters. Even these three Forums have not yet become functional. The excuse put forth by the State Government is, as in the case of other States, the one of funds. Orissa is reported to have set up the Forums in each of the districts

(vi) by authorising District Judges to operate as Presidents of the Forums. It is, however, reported that the District Judges nominated for the purpose are not in a position to devote time enough for the work relating to the redressal of grievances of consumers and that they are holding the sessions of the Forums only once in about 2-3 months. One can only hope that the situation will soon improve in this regard.

Himachal Pradesh has set up the State Commission but accomodation for its operations does not' appear to have been provided with the result that the State Commission has not started functioning. There are 12 districts in the State, and for serving the requirements of all the 12 districts only one District Forum has been created with headquarters at Shimla. This District Forum is expected to travel to all the districts of the State. It appears to be difficult to expect satisfactory implementation of the Act through such an arrangement.

Madhya Pradesh has 45 districts. Only nine Forums have been created, at the divisional headquarters towns, but it is reported that neither the State Commission nor the District Forums have yet started functioning. The main reason being that accommodation for locating their offices and holding their sittings has not been provideed to them.

These facts brought out in the two reports submitted by Mr.Justice Eradi reveal that despite all efforts of the Government of India and the demand of organisations of consumers it has not yet been possible to give enough shake up to the State Governments towards achieving effective implementation of this important enactment. We from COMMON CAUSE have previously suggested to the organisations of consumers that they should take this matter to their respective High Courts and get the further directives issued to the State Governments for immediate implementation of the Act. Unless this is done the State Governments are likely to continue being tardy in the setting up of District Forums and State Commissions for effective operation. We have, in a previous issue of this periodical, already reproduced the Writ Petition which was submitted by us before the Supreme Court. Based on this Writ Petition the consumers oranisations, particularly of the headquarters towns of the respective States, can surely initiate the effort for moving their High Courts, particularly on the strength of the directives issued by the Supreme Court to the Chief Secretaries of the States. Where any consumers organisation may like to secure the copies of the directives issued by the Supreme Court, for the purpose of filing writ Petitions in their High Courts, we would be in a position to supply them the copies.

Amendments Required

The operation of Consumers Protection Act, at the level of National Commission as well as State Commissions and District Forums, has by now thrown up certain problems which necessitate amendments of the Act in respect of certain essentials. It is obviously necessary that all consumers organisations should be fully acquainted with the requirements of these amendments and that they should write on this subject to the Minister incharge (Mr Nathu Ram Mirdha) of the Civil Supplies Department of the Ministry of Food & Civil Supplies of the Government of India (address: Mr. Nathu Ram Mirdha, Minister of Food & Civil Supplies, Government of India, Krishi Bhawan, Rafi Marg, New Delhi - 110 001). It is of paramount importance that views of the consumers should be effectively carried to the Government of India in this matter so that the required amendments of the Consumers Protection Act are expeditiously carried out. We give here under some of the basic issues which necessitate the amendments:

(i) There is at present no provision under the Act which can enable the National Commission, State Commission or a District Forum to issue "seize and desist" orders or to grant appropriate interim relief. Even if, for instance, a product sold in the market is found to be extremely hazardous to life, and the matter is brought before any of these elements of the quasi-judicial machinery, the "Court" does not have the powers to direct the manufacturer, distributor, importer or retailer to comply with the safety provisions or to withdraw the product from the market and to effect replacement of defective products or to take steps to remove deficiency of the services.

(ii) It has been provided in the definition of the "consumer" that the consumer does not include a person who obtains goods for resale or for commercial purposes. The National Commission has interpreted this clause to imply that the "commercial purpose" would be a purpose where the goods are used for business purposes in any manner whatsoever. It has been argued thus, for instance, that if a widow buys a sewing machine for sewing clothes of the customer or if a person buys a vehicle for use as rickshaw, the purpose would be commercial and such persons would be disabled from making complaint under this Act. This would obviously be totally violative of the spirit of this welfare measure. It is necessary that the expression "not for commercial purpose" in the relevant Section of the Act should be re-considered and deleted.

(iii) Problems have arisen in relation to the expression "hires any service" used in Section 2(i)d(ii). The interpretation by the National Commission in a hospital case has caused considerable dismay to consumer activists. When a patient goes to a government hospital, where the service to him may be argued to be "free", he should not be disabled from complaining against inadequacy of the service of the hospital. Sich limitation would totally defeat the objective of the Act in relation to the accountability of public sector services. It has been suggested that the relevant words in the Sections would be "availing of any services" instead of the words "hires and services".

(iv) There is a general impression that the National Commission has been declining, without ascribing any reasons, to take action on certain complaints submitted to it and that the complainant is informed by the office that the proceedings do not lie under the Act. It is obviously necessary that the complainant should have an opportunity of being heard by the Commission before such a decision is taken, and the decision should be recorded in appropriate detail for enabling the matter to be taken up in appeal to the Supreme Court if necessary.

(v) It has been generally felt that the opeations of the quasijudicial courts established under the Consumers Protection Act are increasingly tending to take the shape of judicialisation by resorting to adjournments and accepting demands of advocates which would inevitably lead to prolongation of disputes. There is increasing feeling among the consumers and the organisations of consumers that the Government of India must incorporate it in the Act for generally disallowing the appearance by advocates, like the provisions made in Family Courts, Labour Courts and Industrial Tribunals and to allow the representation by advocates only with the consent of the "Court" and with the consent of the Other Party. In particular, if the complainant is not represented by a counsel, the Other Party should not be allowed to be represented by advocate excepting where the "Court" may consider it absolutely necessary in the interest of fair play and justice.

(vi) The Act provides that decisions on the disputes should be taken within a period of 90 days. The procedures presently operating in the Forums and Commissions disable the attainment of this objective. In fact, increasingly, the argument is being developed that the period of 90 days in fact should start only from the date of issue of notice and the date of issue of notice is prolonged in such manner that the objective of expenditious disposal gets totally frustrated.

(vii) It has been generally felt that due to the absence of any one Member of the Forum or Commission the work of the "Court" can be completely disrupted and held up. For certain inevitable reasons it may not be possible for a Member to attend the "Court" on a particular day or it may not be possible for the Member to sign the order which is signed by the President and other Member(s). For avoidance of difficulties and contingencies arising from such situations it is necessary to prescribe that any hearing and orders passed by the Forum or State Commission, where two Members are present, would not be open to the charge of any illegality and would be considered as totally legal. Likewise, in the case of the National Commission it would be desirable to lay down that any hearing or orders passed by three Members of the Commission would meet the requirements of the law.

(vi)

(viii) Mention has been made above that there are complaints of certain Members of the District Forums of Andhra Pradesh being illiterate and totally unable to follow the proceedings. It would be desirable to lay down that no Member should be appointed to the Forums or Commissions who do not fulfil the specific requirements laid down in the Act and Rules. In the case of the Commissions the maximum age of 70 years has been prescribed for the President; the age prescribed for the President of District Forum is 65 years. There have been reports that this limitation of the prescription of 65 years. There have been reports that this limitation of the prescription of 65 years has disabled the finding of qualified retired District Judges who can be utilised for being appointed to the District Forums. It is suggested that this age limit should be increased to 70 years as in the case of the Commissions.

(ix) At present the National Commission does not have any administrative control over the State Commissions andu District Forums. It does not in fact have any authority even to ask the State Governments anything about a District Forum or a State Commission in relation to establishment or operations thereof. It is obviously necessary that the Act and Rules should specifically give such authority to the National Commission. Likewise, the Presidents of State Commissions and the District Forums should be declared "Heads of Departments" so that they are in a position to deal with various administrative problems. At present they are completely dependent upon Civil Supplies Departments of the States even in matters such as of procurement of stationery and typewriters etc.

(x) The metropolitan cities like Delhi, Bombay, Madras, Calcutta and Bangalore etc cannot obviously be satisfied in the matter of consumers disputes redressal, by the establishment of one District Forum each. For instance, the District Forum presently operating in Delhi has already received more than 3,000 complaints, with the result that the first hearing dates are being given two to three months from the date of complaint. This is obviously a very unsatisfactory state of affairs.It is of dundamental importance that in Delhi at least three Forums should be immediately set up and this matter should be taken up by the Government of India with Delhi Administration. Likewise, provisions will need to be made for the establishment of appropriate number of Forums in other metropolitan cities.

ON WINNING THE BATTLE OF LOCAL TAXES EXTRA

The demolition of the wall of "Local Taxes Extra" has been nothing short of winning a real battle. We are grateful to all who have helped us win it. In particular we are indebted to Mr. Nathu Ram Mirdha, the Union Minister of Food & Civil Supplies who, on being convinced, took no time in issuing the orders. The Government notification has since followed and is given at the end of this write-up.

Let us recapitulate. The Packaged Commodities Rules, promulgated under the Standards of Weights & Measures Act, lay down certain strict obligations on the manufacturers and packers of goods and products. Inter alia, these rules prescribe that there must be printed on the package the name and address of the manufacturer, the contents of the package, its quantity and the particulars relating to it. It must also have on it the printing, or affixation of a label, of the price.

Four Options

In the matter of price the Rules originally had as many as four options. The manufacturer could exercise any

of the these options. He could either print the price exclusive of freight, central sales tax and local taxes in the words "Maximum Price.... Local Taxes, CST, and Freight extra"; or he could print the price inclusive of freight but exclusive of central sales tax and local taxes in the words "Maximum Price.... Taxes Extra"; or he could print the price inclusive of freight and central sales tax but exclusive of local taxes and use the words "Maximum Price.... Local Taxes Extra"; and, lastly, he could exercise the option of printing the retail sale price and use the words "Maximum Retail Price...." in which case the price had to be inclusive of all taxes. It was specified in relation to these options that each of these prices was to be inclusive of all taxes other than those specified above and was to be also inclusive of commissions payable to wholesale dealer and retail dealer and all other charges inclusive of advertisement, delivery, packing, forwarding and the like.

One can see how these options were tilted to meet all eventualities in favour of the manufacturers and the trade. The consumers apparently did not count. This multiplicity of the options could only cause utter confusion in the markets but they well served the purposes of the manufacturers. Later, apparently wisom dawned on the concerned functionaries of the government and the first two options were withdrawn four years ago, leaving only the two latter options to the manufacturers, but among these options the manufacturers obviously relished using only the option of "Local Taxes Extra" which enabled them to manipulate the prices and which enabled the trade to play with the local taxes, causing plentiful leakage before these reached the exchequer. It suited the retailers, and unfortunately also the customers, not to issue any receipts of sale, facilitating the leakage. In no shop in the entire country was there ever any display of the levy of local taxes on products sold in the shop which was an obligation incorporated in the Packaged Commodities Rules.

Withdraw "Local Taxes Extra"

We launched, therefore, the campaign that out of these two options the former option of Local Taxes Extra should be withdrawn. All efforts continued to be thwarted. All sorts of excuses and reasons were trotted out. In particular it was argued that local taxes, particularly the sales tax as well as octroi, differed from State to STate, the octroi from city to another. Apprehensions were expressed that the manufacturers would resort to using the highest sales tax in their calculations of the retail price, and thereby the interests of consumers would suffer. It went on being argued, within the government too, that even the averaging out of the sales tax would not be in favour the consumers. We refused to be convinced because we were aware that some manufacturers of all-India sales of their products had already adopted the second alternative and their products sold everywhere without any problems. They had adopted the weighted averages of local taxes on the basis of detailed, scientific analysis of their sales in the respective States.

Lame Excuses

The argument that a manufacturer would adopt the maximum sales tax of a State and base his retail price thereon was obviously a lame excuse. Any manufacturer adopting such a procedure would obviously be committing *hara kiri*. In the competitive market which is developing in the country the product of such manufacturer would be wiped out; and the consumers organisations have now assumed enough strength to give a call for boycott of the products of any such manufacturer. In this context it would be of interest to the manufacturers that recently the consumers organisations of Kerala have proclaimed that they would launch boycott of the products which carry the price printing on the basis of Local Taxes Extra.

It is against this background that the logic of this campaign, and its present successful outcome, has to be viewed. The manufacturers now have no option except to mark the retail sale price which is inclusive of all taxes and is also inclusive of all other costs, namely, the freight, the margins of wholesales and retailers, advertisements etc. We ourselves suggested, and the government agreed, that a period of six months should be given for the changeover, so that the products already marked on the basis of Local Taxes Extra should get absorbed while the manufacturers start printing the price on the basis of new orders. This provision has been incorporated in the notification.

(vi)

Issues To Be Resolved

There are certain issues which need sorting out for ensuring further and continuing success of this measure. One is the question of the levy of excise. The manufacturers can lefitimately complain that excise duty should not be levied on the basis of new notification. This end price is not in fact the actual ex-factory cost. It includes all other elements which have relationship to ex-factory travel of the product, in particular the sales tax, central sales tax and octroi, besides the cost of freight, margins to wholesalers and retailers, advertisement costs, etc. . This demand of the manufacturers needs to be considered by the government. We have taken up this matter with the Ministry of Finance. Obviously, if this is not acceded to by the government the manufacturers will load this levy on to the consumers whose interests will inevitably thereby suffer.

The Word "Maxiumm'

Second issue is that of the word "Maximum". In the rule which will now be operative this word will still continue to be operative. It is well known that under the garb of this word all sorts of manipulations are done in pricing the product for sale. We have come across a number of products on which the price printed is altogether different from that which is actually charged by the retailers. Our members from various parts of the country have also brought to our notice a number of such products; in these the actual price asked for by the retailer is substantially lower than the price printed, creating the impression as though a special favour is being done to the customer bu[illegible]ct duping him to pay a price which may have no relationship with the real price. This malaise will need to be remedied. Our next step will be to campaign for deletion of the word "Maximum" in the printing of price. This word does not feature in the printing of price in the more sophisticated markets. There is no reason why it should be allowed to permit the manipulations which are inevitably involved in it.

The consumers will not now allow the manufacturers to play with their interests. Where it is felt that the price printed on any particular product is not justifiable the consumers will demand that the government should refer tne matter for detailed analysis by the Bureau of Industrial Costs and Prices of the Government of India. We will demand that the government must enlarge the scope of the work of this Bureau for enabling it to deal with the complaints of this nature. The other handle available with the consumers will be that of launching campaign for boycotting products of such unscrupulous manufacturers who disregard the interests of consumers.

Uniform Salex Tax

Voice now needs to be raised by the consumers and the consumers' organisations that it is against their interests to allow the prepetration of the differential in sales tax. Time has come when the demand must emanate from the consumers that sales tax in all the States should be uniform. It is for the Government of India and the States to devise ways and means to attain this goal; our demand should be that we will not compromise on this issue. This matter has gone on interminably and in the meanwhile our interests have suffered. The State Governments must be pressed by the consumers' organisations of those States to launch move for attainment of this essential requirement of uniformity. It is also necessary that detailed consideration be given to the problems relating to the levy of octroi by the municipal authorities so that the interests of the consumers are not allowed to in any way suffer.

Unit Price Deletion

Here, we may mention another matter which has been sorted out by this government notification. There O was in the Rules a provision that retail price of a package is printed on it there should also be mention of unit price of its contents. For instance, if the package contained 250 gms of biscuits and the retail price of the package is printed, then the price per gm should also be printed on the package. This was an absurb requirement. It was contended by the manufacturers that this requirement was in fact proving a deterrent to their printing the retail price. We continued pursuing with the government that this unnecessary and absurb requirement should be done away with, and we note with gratification that this requirement has now been suitably modified.

Our attempt will be to reach out to the manufacturers, directly as well as through their chambers, federations and associations, to persuade them to adopt the procedures which are not contrary to the interests of consu mers. We have faith that they will adopt such procedures. We will support their demands which are legitimate in relation to the price printing such as of the excise levy mentioned above. But, one thing should be clear to the manufacturers : the interests of consumers come first, in the matter of price as much as of quality, and that the consumers and their organisations will continue to carry their campaign for safeguarding their interests. The consumers must now demand the next two steps : deletion of the word "Maximum", making it the clear responsibility of the manufacturers, as in the more sophisticated countries, to correctly calculate the actual retail price and print it on the package, and secondly, to demand adoption of uniform sales tax in all the States pending further consideration of what needs to be done about octroi.

The battle is on for safeguarding the interests of consumers. The first round in the matter of price printing on packages has been won. It will be now for the consumers and consumers' organisations to carry the battle to its logical conclusion.

NOTIFICATION

PUBLISHED IN THE GAZETTE OF INDIA EXTRAORDINARY PART II—Section 3— Sub-Section (i) MINISTRY OF FOOD & CIVIL SUPPLIES (DEPARTMENT OF CIVIL SUPPLIES)
New Delhi, the 25 May, 1990

GSR No. 511 (E) In exercise of the powers conferred by section 83 of the Standards of Weights and Measures Act, 1976 (60 of 1976), the Central Government hereby makes the following rules further to amend the Standards of Weights and Measures (Packaged Commodities) Rules, 1977, namely :

1. (1) These rules may be called the Standards of Weights and Measures (Packaged Commodities) Amendment Rules, 1990.
   (2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Standards of Weights and Measures (Packaged Commodities) Rules, 1977 (hereinafter referred to as the said rules), for the words "sale price" wherever they occur, the words "retail sale price" shall be substituted.

3. In rule 2 of the said rules:
   (i) for clause (r), the following clause shall be substituted, namely:
   '(r) "retail sale price" means the maximum price at which the commodity in packaged form may be sold to the ultimate consumer and where such price is mentioned on the package, there shall be printed on the packages the words "Maximum retail price .... inclusive of all taxes".

Explanation : For the purpose of the clause "maximum price" in relation to any commodity in packaged form shall include all taxes local or other wise, freight, transport charges, commission payable to dealers, and all charges towards advertisement, delivery, packing, forwarding and the like as the case may be be;

   (ii) clause (s) shall be omitted.

4. In rule 6 of the said rules:
   (i) in sub-rule (1), for clause (e), the following clause shall be substituted, namely :
   "(e) the Unit sale price of the commodity contained in the package:

(vi) Provided that this declaration is not necessary in the case of packages packed in the standard quantities specified in the Third Schedule and the Sixth Schedule of these rules:
Provided further that such declaration shall not be necessary in the case of packages of those commodities which are not specified in the Third Schedule but are packed in quantities of 100g, 200g, 500g, ikg, 2kg, 5kg or in multiple of 5kg or in 100 ml, 200 ml, 500 ml, 1 litre, 2 litre, 5 litre and in multiples of 5 litre,";

5. In rule 23 of the said rules, in sub-rule (6), for the words "sale price or the retail sale price,", the words "retail sale price" shall be substituted.

Note: Where any commodity is in packaged form for sale, the requirement of printing the price in the forms indicated in subclauses (i) and (ii) of clause (s) of rule 2 of the said rules which was in existence immediately before the commencement of the Standards of Weights and Measures (Packaged Commodities) Amendment Rules, 1990, may continue for a period of six months but in no case shall continue on and after the 30th November, 1990.

BUILDING BYELAWS IMBROGLIO

The metropolis of Delhi is presently passing through a very strange experience in the matter of control over building operations. This experience will be of interest to other towns and metropolis in the country and we have therefore considered it necessary to recount this experience.

Every municipal authority has its building byelaws for regulating the control of construction activity so that the interests of its citizens are not adversely affected by any persons who may get tempted to overstep their rights and obligations. These building byelaws prescribe various restrictions in all relevant matters, and the building plans of prospective constructions are sanctioned after taking into account whether the proposed construction will contravene any instructions.

Unfortunately, during the last few years, tendency has developed in all the towns and cities to somehow devise ways and means for contravening the restrictions of building byelaws. According as the price of urban land has gone on escalating there has been an inevitable desire on the part of owners to utilise the land to the maximum extent even by exceeding the prescribed limitations of space coverage etc. Builders have, over the recent years, got into the arena. They are buying chunks of land, demolishing the previous structures and raising tall buildings containing multiple flats and also converting residential areas for commercial use. There have been a large number of instances where the builders have hurriedly constructed the buildings, throwing to the winds the restrictions of building byelaws, somehow manipulating the issue of completion certificates by the municipal authorities and thereafter disappearing from the scene, leaving the purchasers of flats to meet the various problems arising from their defaults. Enormous number of unauthorised constructions and deviations from the building byelaws are being reported practically from all towns and cities of the country.

In Delhi the unauthorised constructions and contraventions of the building byelaws are stated to be running into tens of thousands, some of the deviations being of very serious nature. There have been serious allegations of corruption prevailing at various levels of the municipal authority which has enabled the constructions to take place unhindered whereafter the completion certificates are issed. Pressures had been developing for some time for regularisation of such unauthorised constructions and deviations. There has been also tacit political support to the demands for the regularisation of such deviations.

The Delhi Municipal Corporation has been under suspension for some months and the Chief Secretary of Delhi Administration is functioning as the Administrator of the Corporation besides the Commissioner being directly incharge of the Corporation. On 25th March 1990 a Public Notice was issued under the authority of the Commissioner of MCO stating that "Appendix Q" of the building byelaws is proposed to be amended for authorising the designated officers to effect regularisation where required. This public notice had been inconspicuously placed in a newspaper. Ten days' notice was given in the public notice inviting objections against the proposal.

This public notice would normally have escaped notice of anybody but the Women Association of Kailash Colony in the MCD area brought it to the notice of COMMON CAUSE, highlighting also the fact that certain buildings had been constructed in the Kailash Colony which embodied serious contraventions of the building byelaws. Objection to the proposed amendment was forthwith filed by COMMON CAUSE and circular was issued to all the organisations and associations of houseowners and residential colonies of Delhi, bringing to their notice the issue of public notice and the objection filed against it, requesting them to take immediate steps to file objections. Simultaneously, a Writ Petition was prepared and filed by COMMON CAUSE in the High Court of Delhi, whereupon notice was forthwith issued to MCD not to effect amendment of the byelaws till the nxt date of hearing, which was fixed for 15th May'90. It must be said to the credit of the organisations and associations of houseowners that immediate action was taken by all of them to file objections against the proposed amendment, highlighting the unacceptable proposals of the amendment. In particular, it was stated in the objections that Appendix Q of the building byelaws enumerates certain basic fundamentals of building byelaws, the deviations from which had been very emphatically declared to be non-compoundable, and that the authorisation to any officers to effect compounding of deviations in relation to these basic fundamentals would be tantamount to degradation of the quality of living in the neighbourhood of such constructions. The basic fundamentals included items such as Set Back, Coverage, F.A.R. (Floor Area Ratio), Open Spaces, Total Height of the Building, Number of Floors, Number of Dwelling Units and Density, Parking Norms, Light & Ventilation, and Use.

The initiative taken by COMMON CAUSE, which led to the issue of Stay by the Delhi High Court, served a very useful purpose. MCD was thereby compelled to cancel the previous public notice and issued a new one, wherein it was explained that MCD's purpose was to effect compounding only in relation to certain percentages of additional Coverage and small areas of Set Back, and that it was not proposed to give any authorisation for compounding of the deviations in relation to any other major items. Therefore, objections were invited by MCD to the proposed modification. COMMON CAUSE took further initiative and filed objection, specifically stating that it would be necessary for MCD to examine whether the proposed modifications/amendments in the byelaws in relation to any of the mandatory requirements of Coverage, F.A.R.etc, can be effected without violating the provisions of Master Plan of Delhi. It was also pointed out that the building byelaws were being violated by the Delhi Development Authority and NDMC besides by MCD, and it would be necessary to consider whether any modifications of the byelaws can be effected without the concurrence of DDA and NDMC. Assurance from MCD was sought on these matters and on the general question whether the proposed modifications relating to Coverage and Set Back would not seriously affect the problems of population density which would create continuous and disruptive burden on the services of the nature of sewerage, water supply, electricity supply and other connected civic services. The proposals of amendment were examined in detail and it was emphasised that the schedule of compounding fees should be formulated and announced so that everybody is aware of them, and in any circumstances, no reduction be allowed by any level of officers in the payment of fees. It was also emphasized that the schedule of compounding fees should be such that it proves a deterrent against any deviations from the building byelaws. Once again, the objections made by COMMON CAUSE were circulated to the organisations and associations of houseowners and the housing colonies, and they have in turn submitted equally strongly worded objections to the MCD in relation to the revised public notice.

By thus reacting to the MCD proposal of amending the building byelaws in relation to basic fundamentals COMMON CAUSE and the organisations and associations of houseowners and the housing colonies of Delhi demonstrated the strength of collective action for safeguarding the interests of the citizens and avoiding perpetrations which may affect the quality of living in the city. There is obvious need of watchfulness on the part of the citizens to be able to effectively deal with problems of such nature which may arise in other towns and cities.

TELEPHONES
THEIR FUNCTIONING AND TARIFF

Telephones everywhere in the country are the bete noire of the subscribers. Almost everybody has complaints about their performance and the charges that are levied for the service. In the matter of these complaints the telephones in fact stand at par with electricity supply. There is hardly any consumer who does not have a tale of woe in relation to these services.

On telephones COMMON CAUSE had filed a writ petition before the Supreme Court five years ago. We had complained of their unsatisfactory performance. We had quoted the Parliamentary Committee proceedings which inter alia highlighted the problem of "wrong" calls. We had particularly brought out the fact that the then Department of Posts & Telegraphs, which also operrated the telephones, was passing on to the Postal Department a subsidy from the revenues collected from the telephone subscribers for the service of telephones rendered to them. This thrust of our Writ Petition woke up the Department and they forthwith bifurcated the Telephone Department from the Postal Department; thereby the funds given by the telephones subscribers were saved from being transferred as subsidy to the Postal Department. The Writ Petition in the Supreme Court has unfortunately languished.

Since then quite a few changes have come about. Telephone Nigams have been established. The Ministry of Telecommunications has assumed the over-all charge of the Telephones. Progress in certain fronts of the functioning of telephones is claimed. Figures are often trotted out of the expansion of telephone connections and the introduction of electronic exchanges. The faults of operations are heaped on the outdated and old systems and exchanges, and it is promised that these faults will disappear when the old exchanges are replaced.

While the people wait for replacemednt of old exchanges, which will take some long years to come about, there are complaints galore, about the mal-functioning of the telephones, great many "wrong" calls which lead to unmerited gains to the revenues of Telephone Nigams, disturbances, disconnections, "dead" phones, non-attendance on essential numbers, long delays in redressal, inflated bills, and arbitrary and unjustified increase in the tariff. On most of these points the subscribers are now frequently taking the telephones operational and supervisory staff to task before the quasi-judicial machinery established under the consumers Protection Act. A large number of cases before the District Forums, wherever these have been established, relate to the malfunctioning of the Telephones Department. The Telephone Department tried to wriggle out of the purview of this Act, but its manoeuvres to this effect have been checkmated by COMMON CAUSE complaining before the National Commission established under the Consumers Protection Act as well as by taking it up with the executive head of Telecommunications Ministry.

Meanwhile, COMMON CAUSE has taken another initiative. We have issued 500 printed postcards. These were sent to telephone subscribers selected at random, mostly to Delhi subscribers and some to other cities. These self-addressed cards, complete with stamps affixed thereon, were sent in envelops, requesting the addressed consumers to send replies to the following questions:

Telephone No: City:

1. What roughly is the percentage of "Wrong" calls which you encounter on dialling and receiving per month?
   "Wrong" calls on dialling : _____ percent
   "Wrong" calls on receiving : _____ percent

2. In last six months roughly how many times has your telephone become inoperative/dead and for what average duration?

_____ Times telephone was inoperative/dead.
_____ Hours/days, average duration.

3. In last six months how often you received any inflated telephone bills, which you had to get corrected?
_____ Times

4. In last six months roughly how often have encountered noises/disturbances/engaged signal on your Telephones?
_____ Times

5. In last six months how often, if any, have you encountered problems with 197, 198, 199? Please briefly specify.

6. What is your view, in brief, about the new tariff for the telephone service? (Two monthly: rent Rs.330, increased from Rs. 200; reduction of free calls from 275 to 150, and calls above 150 now made chargeable at paise 80 per call.)

7. Any other problem encountered regarding this telephone?

Dated:

Subscriber
(Signature, if no objection)

The replies received from telephone subscribers are very revealing. These will constitute the basis of further action which we now purpose initiating.

We donot wish to pre-judge the replies so far received. *We would be grateful if all readers of this periodical could kindly send us replies to these questions. You will be strenthening our hands because we want to indicate how subscribers spread all over the country feel on these matters relating to the telephone service.*

Do kindly copy out these questions on separate paper (hand written will also suffice) and give your replies, making them brief. We would be grateful for immediate action. Send the replies to : COMMON CAUSE, C-381 Defence Colony, New Delhi-110024, we will not quot any individual telephone numbers in making overall assessment of the problems for securing redress.

CONTAMINATION OF INTRAVENOUS FLUIDS

It came to our notice some time ago that certain stocks of intravenous fluids procured by a stockist from a manufacturing concern in the south had developed fungus in spite of the fact that many months were yet to go before the expiry date printed on the bottles. As there had been certain reports of serious problems and fatalities arising from the administration of contaminated IV Fluids in some hospitals, COMMON CAUSE took immediate action and filed a complain before the National Commission established under the Consumers Projection Act highlighting the dangers inherent in the use of contaminated IV Fluids. In the complaint Union of India, Drug Controller of India as well as Drug Controllers of all the States were impleaded. Notices were issued by the National Commission to all

the respondents. Reports were submitted by the Union of India, Drug Controller of India and also by some of the State Drug Controllers. The deficiencies in the administrative setup of the Drug Controller of Inda as well as of the Drug Controllers of the States were brought to the notice of the National Commission during the hearing of the case. Eventually, assurances were held out by the Union of India that effective measures would be taken to obviate the chances of contamination of IV Fluids and that rigorous inspection of the production units as well as production processes would be undertaken.

In this context, we would like to specifically mention the initiative taken by the Union of India whereby a special meeting was called in the Ministry of Health to effectively deal with this problem. Certain important decisions were taken in the meeting in which the requirement of amending the relevant Drugs and Cosmetics Rules was noted and it was also decided that no manufacture of IV Fluids should be permitted on "loan licence" basis and the manufacture of IV Fluids should be granted only after inspection by a group of experts. It was also decided in the meeting that when a batch of IV Fluids is declared not of standard quality on account of particulate matter the concerned State Drug Controller must direct the manufacturer to recall the batch. It was agreed in the meeting that once the batch is declared not of standard quality on account of particulate matter by the government analyst the batch should be withdrawn by the manufacturer and destroyed. The meeting has decided that if majority of samples tested of a manufacturer repeatedly fail in respect of particulate matter this is sufficient ground to suspect that the appropriate manufacturing practices have not been adopted by the manufacturer.In such cases stringent action including suspension of licence should be taken to ensure that the manufacturer reforms its testing and manufacturing facilities, provides adequate air filteration techniques and better quality of containers and closures. Other various important decisions were taken in the meeting and the faulty practices presently obtaining were highlighted for the purpose of ensuring that they are not allowed to be continued.

On the basis of the assurances held out by the Union of India and the decisions taken in the meeting, the complaint filed by COMMON CAUSE before the National Commission was allowed to be disposed of without further action.

COMPANY DEPOSITS

On the matter of company deposits we had in our last issue of the periodical reproduced information from the "Financial Express" about the notification issued by the Company Law Board relating to the action proposed for defaults of companies in refunding the deposits on maturity. Application can be submitted by the aggrieved depositors to the C.L.B. in Form II prescribed for the purpose, along with fee of Rs.50.

In this connection we have received a note from Mr.Naresh Kumar, F.C.S. of Delhi in which he has analysed the problems and the relevant provisions of S. 58 of the Companies Amendment Act, highlghting the need of plugging the lacunae in the provisions of this amendment. We reproduce the note hereunder.

"The twin regulations governing the company deposits are: the Companies Act, 1956, and, the Companies (Acceptance of Deposits) Rules, 1975. The former is administered by the Company Law Board (CLB) and the latter by the Reserve Bank of India (RBI). However, as far as the protection of depositors is concerned, none of the authorities provide an effective remedy. Even the recently amended provisions of sub-section (9) of section 58A suffered from lacunae, which need to be plugged at the earliest.

Company deposits are unsecured debts. There is no hypothecation or charge on the assets of the company in respect of deposits accepted by it from the public. Further, company deposits lack liquidity, capital appreciation and tax benefit. Deposite all these negative factors, public has been attracted towards company deposits because of the comparatively high rate of interest and simple procedure. The amount of deposits has increased from about Rs.1,400 crores at the end of 1981 to almost Rs. 4,500 crores at the end of 1989. The number of depositors have also increased from 15 lakhs 1981 to almost 55 lakhs in 1989, with an average deposit of Rs. 7000. Unfortunately, with the steep rise in the deposits, the number of defaults have also increased.

There are two main reasons attributable for the increasing defaults in payment of interest/principal by companies. First, when companies become sick/potentially sick, they take pretext under the Sick Idustrial Companies (Special Provisions) Act, 1985. Section 22 of the Sick Industrial Companies Act provides for the suspension of all legal proceedings, contracts, etc. in respect of sick industrial companies. Some companies deliberately acquire the status of relief undertakings from the Board of Industrial Finance and Reconstruction (BIFR) under the Sick Industrial Companies Act to circumvent repayment of deposits when due. Second , some unscrupuluos managements of companies dupe gullible depositors with imaginary deposit schemes— high rates of interest as much as 30 per cent and doubling of principal within three years. These companies have been ordered by Monopolies and Restrictive Trade Practices Commission (MRTP) to stop their misleading claims, but they just change their names and continue same unfair trade practices.

As a measure of protecting the interest of depositors, section 58A of the Companies Act, 1956 was amended by the Companies (Amendment) Act, 1988, to provide for compulsory repayment of deposits, unless renewed in accordance with the prescribed rules. The amended provisions of sub-section (9) of section 58A empowered the CLB to take cognizance of any case of non-repayment of deposits on maturity and to direct the company to make repayment of such deposits as per the terms and conditions of its order.

The non-compliance of the orders of the CLB attracts penalty by way of imprisonment, which may extend to three years and fine of not less than Rs.50 for every day till such non-compliance continues.The amended provisions have come into force with effect from September 1, 1989. The aggrieved depositors are required to make an application in triplicate, to the CLB in the prescribed form, with an application fee of Rs. 50 at the following addresses of CLB benches:

Registeed Office of the Company	CLB Bench's jurisdiction
Delhi, Haryana, U.P., Punjab, Rajasthan, Himachal Pradesh and Jammu & Kashmir.	CLB Northern Region Bench Shastri Bhawan, New Delhi—1
West Bengal, Orissa, Bihar, Assam, Meghalaya, Tripura, Manipur and Nagaland.	CLB Eastern Region Bench 9, Old Post Office Street Calcutta—700 001.
Tamil Nadu, Karnataka, Andhra Pradesh, Kerala and Union Territory of Pondichery.	CLB Southern Region Bench Block I, Shastri Bhawan 26, Haddows Road,
Madras 600 001.	
Maharashtra, Gujarat, Madhya Pradesh, Goa, Daman & Diu.	CLB Western Region Bench NTC House, 16, N.M.Marg, Ballard Estate Bombay—400 038.

Under sub-section (9) of section 58A of the Companies (Amendment) Act, 1988, the CLB before making order, may give reasonable opportunity of being heard to the company and the other persons interested in the matter.

The procedures are long and the defaulting companies take every opportunity to prolong the procedures. Certain companies even prefer to pay a fine of Rs. 50 per day rather than repay all the deposits alongwith interest to the depositors, unless threatened with imprisonment. In fact, the fine of Rs. 50 is too small considering the total amount of deposits held by the company and interest accruing thereon. It is suggested that the amount of fine should be increased to at least a minimum of Rs. 500 per day.

The wording that a defaulting company has to repay deposits "within such time and subject to such conditions,

as may be specified in the order" is vague. It is suggested that a maximum period of six months should be fixed for the repayment of the amount due to the depositors.

The defaulting companies have a right to appeal to a High Court against the orders of the CLB within a period of sixty days. It is suggested that the company should be ordered to repay the amount of deposits before allowing these to appeal before the High Court.

The amended provisions have come into-force with effect from September 1, 1989. Till December, 1989, not much success has been achieved due to prolonged procedures. In a number of cases, the CLB Bench has instructed the poor depositor to appear in person. Imagine the difficulty that can be caused to a person living in Shimla, instructed by the CLB Madras Bench to appear before it in person in connection with his unpaid deposit only because the registered office of the company happens to be in Tamil Nadu. It is suggested that most of the cases of clear defaults should be decided in a summary manner, without requiring the parsonal presence of the depositor. In cases where personal presence of the depositor. In cases where personal presence of the depositor is considered necessary, the defaulting company should be ordered to reimburse the expenses incurred by the depositor on travel, lodging and boarding.

The procedure of filling the form is combursome and the amount of Rs.50 as fee is high, considering the fact that most of the depositors are retired persons, widows and small savers, who find it difficult to go to obtain forms, photo compies of fixed deposit receipts, correspondence etc. for no fault of their own. It is suggested that the thrust should be on making justice simpler and cheaper in case of small depositors. It is further suggested that the CLB should take necessary action "on its own motion" and ask the defaulting companies to submit before it a statement of all depositors who have not been paid their dues.

Finally, the amount involved in case of defaulting companiess is hundreds of crores of rupees and the number of depositors are in terms of thousands, including the backlog of cases. Considering the limits on the manpower available at the offices of the CLB in various regions, it may take years to settle the pending cases. Delay in justice will amount to denial of justice to the needed depositors.

The most urgent need is to stop companies, which are already in default, from accepting fresh deposits."

A Victory For The Consumer

"Drink Limca— the safe choice", contains no BVO' proclaims one hoarding while the second says "Sprint— never ever contained BVO, Rush now with a new orange taste without BVO". These are not all. Practically every soft drink ad now proclaims the absence of BVO in its drink.

These ads are an acknowledgement by producers of the consumer's awareness of his rights. The controversy, which was raised following the disclosure of the use of brominated vegetable oil in soft drinks which may be carcinogenic and hence harmful to the human body, has now been settled in the public's favour.

The victory is largely the result of a vigorous drive by a consumer rights forum which forced the Monopolies and Restrictive Trade Practices Commission to take quick steps to ban the drinks with BVOs and now to consider penal action against sustained defaulters.

The issue is simply one among many but the point to be noted is the tremendous interest it aroused in the public. The press too kept the issue alive by repeatedly reporting the latest on the controversy and kept up the public's interest in it.

BVO VICTORY: The BVO victory was for the consumer whose concern at knowing that he was being fed a

harmful substance by the producers ensured his fight against this practice. The public's interest in the issue shows that today a consumer will not only take not of malpractices against him but also ensure that action is taken against defaulters. This issue shows that the relative new-found awareness of the consumer of his rights has come of age.

An aware consumer is a sign of a healthy society. This means that the citizen knows he is free to choose what he wants and also that he can bring to book those who try to cheat him of this right.

The fight for consumers' rights began relatively late in India with the actual growth being only in the last few years.From a passive taker to an active militant is a transition, which is not yet complete. While many consumers are willing to challenge erring producers who deliver faulty goods or do not fulfil the obligations undertaken at the time of the sale, there is still a sizeable component of society which would rather let the matter be and suffer in silence rather than make an issue of it.

Consumer activists have been fighting against trade malpractices for some time now. They lashed out at the soft drink industry which did not conform to the Food Products Order which stipulated that they advertise that no fruit juices or fruit pulp has been used and that the drink is artificially flavoured.

The BVOs controversy has been yet another consumer drive against the same industry. Besides these for a, the on us of fighting for consumer rights is on the individuals. Until and unless the individuals stir themselves up and protest violations of specifications or adulterations, the movement cannot become very successful.

A fillip was given to awareness of consumer rights by the television serial "Rajani". This portrayed a militant woman protesting when she was cheated by petty traders such as fruit and vegetable sellers, "Kabadi" dealers and fair price shopkeepers. They even gave tips on how to detect petty fraud and whom to contact in these cases. Women are increasingly being involved in consumer fora as they are really the target of trade malpractices at various levels. With the responsibility of running the house on her shoulders, the woman interacts more with different kinds of traders and hence the chance of being cheated at several places.

But now increasingly women are resisting these unfair practices and at several places have arranged for Kendriya Bhandar and Super Bazar vans to tour the colonies and supply fruits, vegetables and grocery with no risk of being cheated.

As bazzar rates of common grocery are announced on television as well as in newspapers, the consumer can readily detect overcharging on unfair pricing.

INCREASING ADULTERATION: Increasing adulteration of food products, particularly the "masalas" used in most households, and a consequent protection against these have led to the setting up of adulteration checking units in key market places such as INA in South Delhi where a vigilant customer can get the purchased product tested at the source itself and get the offenders held on the spot.

Producers have now begun to take note of the consumers' awareness and to conform as far as possible to specifications. The soft drink advertisements proclaiming the safety of the drink is one example. The producers here have bowed to public pressure to eliminate the harmful products.

One very powerful medium to highlight the customer's woes and to make known trade malpractices is the press. Here too a remarkable change in attitude is apparent.

Almost all newspapers publish bazar rates which serve as a guide to the public. In addition, many leading dailies publish consumer colums where any one aspect of trade malpractice is highlighted. (Times of India).

"COMMON CAUSE"

Society for ventilating common problems of the people

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HELP "COMMON CAUSE" TO HELP YOU. THIS IS A NON-PROFIT, NON-POLITICAL & VOLUNTARY ORGANISATION AND IS AT THE SERVICE OF THE PEOPLE FOR VENTILATING AND TAKING UP THEIR PROBLEMS. ASK FOR A COPY OF ITS PERIODICAL.

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(IN CAPITAL LETTERS)

ADDRESS.....
(including Telephone)

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3. Kindly give full address, also at bottom of Money Order if fee is forwarded through M.O. Quote Membership number while remitting renewal fee. Membership takes effect from the date of enrolment.

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