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COMMON CAUSE

VOICE OF "COMMON CAUSE"

DELHI RENT ACT

Our Letter to the Prime Minister

On the subject of the Delhi Rent Act which has become a matter of controversy and has brought about agitation of bandhs by traders in Delhi, we have written a letter to the Prime Minister to apprise him of the relevant background. The subject of Rent Control has All-India importance because of the problems being encountered in practically all urban centres of the country. We are reproducing this letter below. We do not expect a reply to the letter but hope that the facts communicated in it will receive appropriate consideration.

Dear Mr. Gujral,

Through this letter I am submitting to you the specific reasons why Delhi Rent Act should be forthwith notified for enforcement and how any amendments of the Act before notification, which the Ministry of Urban Affairs seems to be proposing, will be an inappropriate and illegal step, I am mentioning in this letter dates of all connected important events.

The Act was passed by Rajya Sabha on 29-5-95 and by Lok Sabha on 3-6-95, unanimously in both Houses. It was based on the Delhi Rent Bill which had been formulated from the Model Rent Bill endorsed by all State Governments. The Model Bill had arisen from the National Housing Policy formulated by Government in consultation with all States in 1992. The National Housing Policy had arisen because of serious depredations made in the availability of rental housing in all urban centres of the country and the problems of owner-tenant relationships which had seriously worsened over the decade of operation of Rent Control laws passed in 50's as postwar measure.

Before Bill of this Act was passed by Lok Sabha, it had been referred to the Joint Parliamentary Committee. The Committee took views of all sections including those of shop-keepers spearheading the present agitation. The views of the committee were taken into consideration by Lok Sabha before passing the Bill. After the Bill had thus been passed by Rajya Sabha and Lok Sabha, an agitation was suddenly launched by some traders, particularly of Connaught Place of Delhi, who had been occupying the shops as tenants on small rentals for past decades. They succeeded in persuading some political parties of Delhi to form All Parties Committee. The committee published its Report, resisting certain provisions of the Bill. This was in July, 1995.

The Bill received the assent of President on 23-08-95. It naturally can be presumed that Government had considered all aspects of the agitation, including the Report of this All Parties Committee, and it was then that the President gave his assent. The Bill assumed the status of statute and became Act. Its clause 1(3) provides, as is normal in all enactments, that the Act "shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint". The words "shall" and "may" in this clause have obvious important connotations. The Government has no alternative excepting to notify the Act for enforcement; the only option given to the Government is to choose the date, ostensibly to make any preparatory arrangements which may be necessary for putting the statute into effect. It is also evident that the Government at this stage has no other option except to notify it for enforcement; any attempt to amend the Act at this stage before notification will be unlawful and will be challengeable in Court. If any amendments have to be made, these can be made by putting them before the Parliament after notification.

The Joint Parliamentary Committee on Urban Affairs, consisting of 43 members belonging to different parties, in the Report submitted on 22-4-97, noted with concern that 20 months had elapsed since the Act was assented by the President and the Government had not yet notified it for implementation, and expressed dissatisfaction at the way the matter was being dealt with by the government. The Committee recommended that the Act "Should be notified without any further delay".

On 7-5-97 the Writ Petition filed by me from the platform of COMMON CAUSE came up before Delhi High Court. The Court expressed dissatisfaction that the government had apparently been dilly-dallying and had used the words "soon" and "shortly" in making statements in other pending petitions on the same subject in this Court. Report directed that the Government should come forth clearly with what they proposed doing with the Act. Another bout of agitation was launched by traders from 10-5-97 onwards, apparently to even pressurise the Court.

The Government of India submitted an Affidavit dated 14-5-97 which came up before the Court on 21-5-97. In the Affidavit it was clearly mentioned, which was specifically noted by the Court, that in the month of March, 1997 Minister of Urban Affairs

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and Minister of Home Affairs, in discussing the matter of notification of the Act "agreed that no amendments were required because all such issues were already considered by Parliament.

In spite of the clear direction of the two Ministers, who had taken note of all issues raised by the agitationists, the matter apparently continued to be taken up by the Secretariat succumbing to the pressure of the agitationists, and the entire matter appears to have been reopened, as is clear from the Government Affidavit of 14-5-97. The proposal which emanated from this further effort of the Secretariat envisages the effecting of amendment of the Act, most strangely, in respect of as many as five issues, namely, (i) Deemed Rent (ii) Registration of tenancies (iii) Increase of rent (iv) inheritability and (v) Eviction. These were the main demands of the agitationists, and from the affidavit it appears that the agitationists, had succeeded in pressurising the officials and the then Minister to effect amendments.

With amendments of these basic issues there will be hardly anything left in the Act and it will stand totally mutilated.

It is also stated in the Government Affidavit that the entire matter, including a draft Note by the Cabinet, was submitted on 6-5-97 to the Minister of Urban Affairs who is also the P.M. The case was again taken up by the Court on 28-5-97 and the Government counsel was directed to bring the relevant files for perusal by the Court. This was done on 30-5-97. The Judges went through the files and clearly mentioned in the Court that no finality appears to have been reached by the Government on the issue relating to notification or effecting amendments. As the Court was closing for vacation, the case was adjourned to 28-7-97 asking the counsel to state positively on that date what was proposed to be done by the Government.

It has been argued before the Court by the counsel appearing on behalf of traders that the Court does not have jurisdiction to direct the Government to notify the Act. A ruling of the Supreme Court has been cited in this context. It has been brought to the notice of the Court by me that this ruling stands modified by another more recent ruling of the Supreme Court.

It will be obvious from the above recount that :

(i) The Act aims at correcting the serious problems created over the past decades by operation of the Rent Control laws.

(ii) The Act has had endorsement of all States, in the shape of development of National Housing Policy and emergence of Model Rent Bill. There was also a specific previous direction from the Supreme Court, in a case of 1987 which stressed the need of revamping the laws regulating relations between landlords and tenants and to formulate a National Housing Policy.

(iii) The Bill was passed by both Houses of Parliament unanimously after it was examined by joint Parliamentary Committee to which it had been referred. It envisaged that it would bring about desired balance between interests of landlords and tenants.

(iv) The Bill became Act on the assent accorded by the President on 23-8-95 after the traders had launched agitation and after the All Parties Committee had submitted its Report.

(v) The two Ministers, Urban Affairs and Home Affairs, had categorically decided in March, 97 that the Act should be notified without effecting any amendments.

(vi) The matter was again reopened by the Secretariat in 1996 leading to the proposal to effect amendments in respect of the above mentioned areas of the Act. This speaks poorly of the way of functioning of the Government.

(vii) On 22-4-97 a Joint Parliamentary Committee of 43 members recommended that the Act should be "notified forthwith".

(viii) Delhi High Court has expressed strongly in open Court that the Government does not appear to have made up its mind even after the lapse of 20 months since the assent was accorded by the President on 23-8-95.

(ix) One obvious fact is that the agitation is by a few shopkeepers, the commercial tenants, not more than about 5000 out of about 1,00,000 traders of Delhi and has received unmerited importance. It is also particularly noteworthy that not one houseowner out of a million houseowners of Delhi has raised any voice against any provision of the Bill.

(x) Halting implementation of this Act, and attempting its amendment at the stage before enforcement, will be nothing short of subversion of democracy and gross contemptuous disregard of the Parliament which has unanimously passed the Bill two years ago and of the President who has accorded his assent to it 20 months ago.

Every word of this letter is based on facts and documents. These facts are relevant for your worthy consideration.

We earnestly hope that you will kindly give appropriate and suitable direction to the Ministry of Urban Affairs in the matter for effecting notification of the Act without any further delay.

The letter has unavoidably become long as a number of facts have had to be enumerated in it.

Kind regards,

Yours sincerely,
(H.D. Shourie)
Director.

PS: I have considered it appropriate to send copy of this letter to the Secretary of Urban Affairs Ministry.

Copy to Mr. N.P. Singh, Secretary, Government of India, Ministry of Urban Affairs and Employment, Department of Urban Affairs, Nirman Bhawan, Maulana Azad Road, New Delhi - 110001.

Gone with wife

Office boy : "Sorry, madam, but the boss has gone to lunch with his wife."
Wife : "O well ..... telll him his stenographer called.

RENT LAW

Reproduced below is an article which was recently written by the Director of Common Cause and which appeared in the "Hindustan Times" of Delhi on the important subject of Rent Laws. It contains analysis of the important facets of Delhi Rent Act which is facing opposition from the traders' lobby in the capital.

Rent Control Law

Some traders of Delhi have decided to again launch agitation against the Rent Control measure. They give vent to their campaign through closing down the shops, and they also threaten to again enter the streets to demonstrate. This latest ventilation of their grouse is obviously related to the case which has been placed before the Delhi High Court and in which the Court has asked the Government of India to unambiguously clarify their position regarding promulgation of the enacted law. The step taken by these traders is very unfortunate indeed. It is necessary that the people should know all the facts. I present these facts in this article.

For years it has been proclaimed from every platform that the Rent Control law has been one major cause of urban mess-up which is in evidence everywhere in the country. The other unfortunate legislation, responsible for the chaos, is the Urban Land Ceiling Law. Rent Control measures were adopted four decades ago for protecting the interests of tenants in the belief that they comprise the weaker section of society. These measures aimed at preventing them from unjustifiable eviction.

Over these decades, the Rent Control measures have brought about such conditions that rental housing has dried up. People no longer build houses for renting, not for the weaker sections in any case. Tens and thousands of premises in every city are kept locked rather than risking their being lost by giving them on rent. Owners have been driven to desperate measures of launching Court proceedings, for eviction of tenants where their need of premises was inescapable. The court proceedings are inevitably long and tiresome. Most serious development has been the disappearance of rental houses. It was in this context that the country decided to have a National Housing Policy. After prolonged deliberations, the National Housing Policy was evolved in 1992. It envisaged the need of modification of the prevailing Rent Control laws. A model Rent Control Bill was prepared after intensive work and deliberations. This was circulated by Government of India to all States and received their endorsement. A meeting of Chief Ministers of States was held. It approved the proposed measure. The model law was given shape initially in formulating Rent Bill for Delhi, to be later followed up in other States. An important step was taken at this stage by the Parliament unanimously passing an amendment of the Constitution for enabling a provision to be incorporated in the model Rent Bill for constituting Rental Tribunals, the decision of which would not be challengeable in High Courts, so that over-all purpose of the proposed law may not be defeated.

Delhi Rent Bill was placed before the Rajya Sabha in August, 1994 and was unanimously passed. It went to the Lok Sabha which constituted a Parliamentary Committee for examining all its aspects. The Committee ascertained the views of all sections of society by calling representatives of various interests. I had the privilege of appearing before the Committee. On the same day President of New Delhi Traders Association, which has now been in the forefront of the agitation against this measure, had also deposed before the Parliamentary Committee. The Report of the Parliamentary Committee went before the Lok Sabha and eventually the Bill was unanimously passed in June, 1995.

At this stage, after the Bill had been passed, some elements of traders, comprising, mainly the shopkeepers of Connaught Place, chose to start opposing the measure. They launched agitation demanding that the President should not give his assent to the Bill which was necessary for giving it the status of an Act. Accordingly assent by the President got held up, but eventually it was accorded, and the Bill became an Act on 23rd August, 1995.

A further step for enforcement of this law is the requirement embodied in the relevant section of the Act that it shall become operative from the date of its enforcement by the Government of India. Since August, 1995 for the last 20 months the Government of India has been dithering in effecting its enforcement, influenced ostensibly by the agitation launched by these traders.

Meanwhile a Committee of representatives of some political parties put forth a document that certain provisions of the Act need to be modified before it is enforced. This has apparently deterred the political leadership of the Government

of India from effecting the enforcement.

For an objective analysis of the situation, it is desirable to have a look at the measures incorporated in this Act, and particularly at those which the traders are objecting to. A provision has been made in it to enable the rent to be reasonably enhanced, keeping in view the impact of inflation over the past decades. The provision is that the rent will be freshly calculated, on the basis of enhancement of 4% during 60's, 6% during 70's, 7% during 80's and 10% during the subsequent period. Of course, if by this calculation the rent goes beyond Rs. 3,500/- p.m., the premises go outside the purview of Rent Control law. The matter has necessarily to be taken by the owner to Civil Court if he wishes to launch any proceedings against the tenant. Traders are objecting to the very concept of this enhancement, evincing resentment against the word "deemed rent", the phrase which has been used in the Act in this context. Up till now it has never been made clear as to what specifically is their objection in relation to this provision, whether they have objection to the very concept of enhancement even though everybody admits that rupee value has gone down 50 to 60 times and this enhancement means only a fraction of this inflation, and there cannot be any argument against reasonable enhancement of the rent.

Another objection raised by the traders relates to the provision of inheritability incorporated in the Act. It is provided that whereas in the case of residential premises heirs of a tenant continue in tenancy for 10 years; inheritability is limited to only one year in case of commercial property. This provision needs to be considered in the light of the fact that inheritability in case of a firm or a company is allowed to continue till dissolution of firm or company which may be after many years of demise of the original tenant; it is only in case of individual tenant that the period of one year in the inheritability clause has been provided. In any case, this measure can be taken up for suitable modification if considered essential. A third general argument put forward by the traders is that according to the provisions of the Act the tenant can be evicted merely on the filing of an affidavit by the owner that the premises are required for his own use. This argument is obviously fallacious, and the traders know it that affirmation made in Affidavit filed by the owner will be challengeable by the tenant, and the Court will have to give a judicial verdict.

I in my capacity as an individual deeply interested in seeking redress of the problems of the people. took the initiative of inviting the President of New Delhi Traders Association to a discussion. The discussion took place. I placed these viewpoints before him. There was unfortunately no response, in spite of my offer that I would be prepared to work out details of the required modification with the representatives of owners. I subsequently wrote to him; there was no response. Thereafter, I placed the entire matter in a comprehensive writ petition before the Delhi high Court. Government of India, Delhi Government, House Owners Association and the Traders Association were cited as Respondents. The writ petition first came up before the Court on 8th April. Four previously pending writ petitions on the same subject were called up by the Court. Respondents were directed to file replies and the case was fixed for 7th May.

When the case was taken up on the 7th May, it was found that no replies had been filed by any of the Respondents. Representative of the Government of India asked for some more time. Representative of House Owners Association urged the Court to direct the Government to notify the Act without delay. Representative of Traders Association did not raise any points on merit of the case, and instead agreed that the court did not have any authority to direct the Government of India on the point of effecting notification of the Act and that it was the prerogative of the government to determine as to when to enforce the law. I submitted to the Court that non-notification of the Act, which has already become Law on its signing by the president, amounts to contemptuous and utter disregard of the Bill of the Parliament and the decision of the President thereby jeopardising the functioning of democracy. The Court has fixed the next date, expressing that the government of India must come forth with a positive statement as to what they propose doing about enforcement of this Act.

This is where the matter rests at present. It is singularly unfortunate that in the heat of agitation launched by the traders the broad merit of requirement of Rent Control law, for improving the condition of urban areas of the country, has got submerged. Attention of the politicians of various political parties has got attracted only to what the agitationists have been able to loudly proclaim without caring to know whether there is any reasonableness and legitimacy in their demand and what would be the appropriate solution to the problem.

(H.D. Shourie)

Notice in a Rome laundry : "Ladies, leave your clothes here and spend the afternoon having a good time."

OUR WRIT PETITION ON DELHI RENT ACT

We reproduce below the substance of the Writ Petition which has been filed in Delhi High Court on the vexed matter of Rent Control. The subject is of All India importance as the operation of Rent Control laws in the urban centres of the country have brought about serious problem of disappearance of rental housing, reluctance of landlords to give premises on rent, their preference to keep the premises locked rather than facing risk of losing them through rental, and in general the worsening of relationship between landlords and tenants. These Rent Control measures were introduced in 50's as post-war measure but have unfortunately got perpetuated leading to unfortunate conditions.

Against this general background, and in the context of special problems encountered in recent years in Delhi, we have filed the writ petition in Delhi High Court, making the Union of India, Delhi Administration, the Traders Association and Housing Owners Forum as Respondents in the case. Notices have been issued by the Court to the Respondents and the case has had some hearings. Gist of these appears in the letter addressed on the subject to the Prime Minister which has been reproduced elsewhere in this issue.

LIST OF DATES AND SYNOPSIS

1992	The National Housing Policy considered and adopted by Parliament.
	Model Rent Control Bill formulated by the Government of India with the approval of the representatives of State Governments. Model Bill sent to all States and Union Territories and laid on the table of the Parliament.
05-02-1994	To meet the directions/observations made by the Hon'ble Supreme Court of India the Constitution (Seventy First Amendment) Act, 1994, passed and assent given thereto by the President of India enabling State Governments to set up State level Rent Tribunals for speedy disposal of rent cases. excluding the jurisdiction of all Courts in rent matters except the Supreme Court of India.
26-08-1994	The Delhi Rent Bill, 1994, introduced in the Rajya Sabha.
29-05-1995	The Delhi Rent Bill, 1994, passed unanimously by the Rajya Sabha
03-06-1995	The Delhi Rent Bill, 1994, passed unanimously by the Lok Sabha.
23-08-1995	The President of India gave his assent to the Delhi Rent Bill, 1994 and the same became an Act.
03-03-1997	Petitioner Society wrote to Respondent No. 5 regarding Delhi Rent Act, 1995
05-03--1997	Petitioner Society writes to other Respondents Nos 1 and 3 regarding the Delhi Rent Act, 1995
	The Delhi Rent Act, 1995 has not been notified, hence this Writ Petition.

IN THE HIGH COURT OF DELHI AT NEW DELHI
EXTRAORDINARY CIVIL JURISDICTION CIVIL WRIT PETITION NO. 1495 OF 1997

COMMON CAUSE
through its Director Shri H.D. Shourie .....Petitioner

Versus

The Union of India
Ministry of Urban Affairs & Employment

The Union of India
Ministry of Law, Justice & Company Affairs

The Lieutenant Governor of Delhi

The Delhi House Owners' Forum

The New Delhi Traders Association .....Respondents

PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF A WRIT OF OR IN THE NATURE OF MANDAMUS OR ANY OTHER APPROPRIATE WRIT, ORDER OR DIRECTION, DIRECTING RESPONDENT NO 2 TO FORTHWITH NOTIFY AND BRING INTO FORCE ACT NO. 33 OF 1995 CALLED THE DELHI RENT ACT, 1995 AS PER THE MANDATE OF PARLIAMENT CONTAINED IN SECTION 1(3) OF THE ACT SINCE DELAY IN ISSUANCE OF A NOTIFICATION TO THAT EFFECT IS ARBITRARY, ILLEGAL AND THEREFORE UNCONSTITUTIONAL.

To,

Hon'ble The Chief Justice and His Lordship's Companion Justices of the Delhi High Court

The Humble Petition of the Petitioner above named.

Most Respectfully Sheweth:

1. That the Petitioner is a society duly registered under the Societies Registration Act, 1860 and is engaged in taking up various common problems of the people for securing redressal thereof. The Petitioner society has also brought to Court various constitutional problems. The Petitioner has an established locus standi in its capacity as a bona fide public interest organisation for taking up matters of general public importance.

2. That Respondent No. 1 is the Ministry of Urban Affairs & Employment of the Government of India and is responsible inter alia for implementation of legislation relating to rent control. Respondent No. 2 is the Ministry of Law, Justice & Company Affairs of the Government of India which is responsible inter alia for notifying the various legislating passed by Parliament for bringing them into force. Respondent No. 3 is the Lieutenant Governor of the National Capital Territory of Delhi who is overall incharge of administration in Delhi and with the present set-up, whereby Delhi has been granted partial statehood, is the authority that coordinates affairs between the Central Government and the Delhi Government. Respondents Nos 1, 2 and 3 are all "State" within the meaning of Article 12 of the Constitution of India.

3. That Respondent No 4 is an organisation representing a substantial number of house-owners in Dehi while Respondent No 5 is an association representing traders in and around the Connaught Place area of New Delhi. Both Respondents Nos. 4 and 5 represent parties affected by the passing of the Delhi Rent Act, 1995 (hereinafter "the said Act") and have been actively canvassing their respective causes, which have been largely the cause for the delay in notification and implementation of the said Act by Respondents Nos 1 and 2. No relief is being claimed by the Petitioner against Respondents Nos 4 and 5 but their presence before this Hon'ble Court is necessary and proper in order to understand their respective view point while adjudicating the matters at issue in the present petition.

4. That by way of the present petition the Petitioner impugns the acts and omissions of Respondents No. 1 and 2 whereby they have failed to give effect to and implement the mandate of the Parliament of our country by not notifying the said Act, which was passed by both Houses of Parliament and thereafter received the assent of the President of India as far back as on 23-08-1995. It is the contention of the Petitioner that the non-notification of the said Act is an omission on the part of Respondents Nos 1 and 2 that negates and subverts the constitutional process and the machinery provided therefore under our system of governance. Such omission is illegal and unconstitutional as hereinafter detailed.

5. That the Hon'ble Supreme Court of India in the case titled "Prabharakan Nair & others Vs. State of Tamil Nadu" reported as 1987 SCC 238 commented about the rent laws prevailing in the different states of our country and suggested amendments therein, observing that the laws relating to landlords and tenants must be made rational, humane, certain and capable of being quickly implemented. It was observed by the hon'ble Supreme Court in that decision that the country very vitally and urgently requires a National Housing Policy if a major breakdown of law and order and gradual disillusionment of people is to be prevented. It was the opinion of the Hon'ble Supreme Court that litigation must come to an end quickly and that such new Housing Policy must comprehend the present and anticipate the future.

6. That in the year 1992 the National Housing Policy was tabled before both Houses of Parliament. The said policy was subsequently considered and adopted by Parliament.

7. That consequent thereupon a Model Rent Control Bill was formulated by the Government of India with the approval of representatives of the State Governments. The Model Bill was later circulated to all the States and Union Territories and was laid before Parliament.

8. That on 05-02-1994 the President of India gave his assent to the Constitution (Seventy First Amendment) Act, 1994 to enable State Governments to set-up State level Rent Tribunals for speedy disposal of rent cases, thereby excluding the jurisdiction of all Courts over rent matters except the Supreme Court of India.

9. That on the basis of the Model Rent Control Bill, the Delhi Rent Bill, 1994 (Bill No LXVIII of 1994) (hereinafter "the said Bill") was prepared proposing to repeal and replace the Delhi Rent Control Act, 1958. The said Bill was referred to the Standing Committee of Parliament on Urban and Rural Development. The Committee took account of the fact that Delhi Rent Control Act, 1958, which is presently in operation had been amended in 1960, 1963, 1976, 1984 and 1988. The Committee expressed the view that the said Bill was comprehensive and elaborate. It suggested certain amendments after hearing the representatives of various interests including the house owners and the tenants.

10. That the Dehi Rent Bill, 1994 was introduced in the Rajya Sabha on 26-08-1994 and the same was passed by that House on 29-05-1995. Thereafter the said Bill was passed by the Lok Sabha on 03-06-1995 and the President of India gave his assent thereto on 23-08-195, on which date the said Bill became an Act of Parliament.

11. That in the Statement of Objects and Reasons of the said Bill it has been mentioned that on enactment, the said Bill would minimise distortion in the rental housing market and encourage the supply of rental housing both from the existing housing stock and from new housing stock. The said Bill was intended to balance the interests of the landlords and tenants in the matter of eviction in specified circumstances and to provide for a simpler and speedier system of disposal of rent cases.

12. That however Respondent No. 2 has in the last almost 20 months after the said Act received assent of the President of India, failed to notify the said Act, thereby depriving the citizens of the country of benefits of this legislation duly passed by their elected representatives.

13. That it must be mentioned that after the said Act was passed by Parliament, a section of shopkeepers and traders of Dehi started agitating against the provisions of the said Act relating, in particular, to heritability of tenancy and the re-determination of rent of commercial premises on the basis as provided therein. In nutshell the demand of this section of traders and shopkeepers is that they should be entitled to an almost perpetual tenancy and that too at rents which were fixed decades ago. Respondent No. 5 is a representative body of such protesting trader-tenants. It must be mentioned that even the traders and shopkeepers who are protesting comprise a very small section of tenants, mainly those in old commercial areas of Delhi, and no serious protest has been forthcoming from traders in newer markets. Thus the section of persons protesting against the said Act comprise a small minority.

14. That associations of persons representing other interests, including the Delhi House Owners Forum - Respondent No 4 herein - have made repeated representationes for enforcing the Act.

15. That in view of the agitation among the aforesaid sections of people, an initiative was taken by the Delhi Government, notably by Respondent No. 3, to form an all-party committee to review the said Act. This committee in its report expressed the view that certain new provisions of the said Act would have such far-reaching consequences that they required closer scrutiny by the elected representatives of the people in the Legislative Assembly of Delhi.

16. That Section 1 (3) of the Act reads as follows :

> **"1. Short title, extent and commencement.**
> (1) .....
> (2) .....
> (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint."

It is the contention of the Petitioners that the wording of the above provision makes it clear that it is not the intention,

much less the mandate of the legislature, that the legislation enacted by them should become dead letter merely because they have given to the Central Government the liberty or discretion of deciding the date on which the said Act should be brought into force.

17. That provisions such as Section 1(3) of the said Act are often incorporated in acts passed by the legislature and the intention in such cases is only to give to the government a limited discretion so that an act or select provisions thereof are brought into force without causing problems in their implementation, but not with a view to granting to the government a carte blanche to either implement the act or to just ignore it, according as it pleases.

18. That however inspite of the lapse of more than a year and a half from the date of receiving Presidential assent, Respondent No. 2 has failed to perform its duty under Section 1(3) of the said Delhi Rent Act, 1995, namely that of notifying the date of coming into force of the said Act.

19. That there is no justifiable reason for Respondent No. 1 to be reconsidering any aspect of the said Act or for Respondent No. 2 not notifying the said date. It is submitted that Respondents Nos. 1 and 2 appear to be delaying the said notification in order only to appease a particular influential lobby, namely the trader-tenants, a number of whom are represented by Respondent No. 5 and who are stated to have given substantial funds to political parties.

20. That it is submitted that once the Parliament, in its wisdom, passes an enactment and the same also receives assent of the President of India, the one and only path available to Respondents Nos. 1 and 2, as the 'executive, is to execute the wishes of Parliament by implementing its mandate, regardless of whether the legislation is palatable or otherwise to any particular section of persons. It is not the Constitutional scheme that the Executive can frustrate the exercise conducted by the Legislature by merely neglecting or omitting to notify the date on which an enactment is to come into force. Respondent No. 2 is bound to perform its Constitutional duty, immediately and without any delay. Respondents Nos. 1 and 2 cannot hold-back notification of a statute duly passed by Parliament for any extraneous considerations, such as an attempt not to annoy a lobby of rich trader-tenants.

21. That the inaction of Respondents Nos. 1 and 2 in not performing their Constitutional duty due to extraneous considerations is arbitrary, illegal and unconstitutional. Respondents Nos. 1 and 2 are misusing their discretionary powers.

22. That the Petitioner Society has held discussions with representatives of Respondents Nos. 4 and 5, who represent the two major rival groups that have been lobbying respectively for the enforcement and the stalling of the said Act in order to resolve the tangle. The Petitioner also addressed a letter dated 03.03.1997 to Respondent No 5 suggesting possible solutions to end the stalemate that the members of the said Respondent have managed to achieve. A copy of letter dated 03.03.1997 addressed to Respondent No. 5 is attached hereto as Annexure - A.

23. That the Petitioner wrote a letter dated 05.03.1997 to Respondent No. 1 in this regard. In view of the fact that certain sections of tenants have been threatening the government that implementation of the said Act would lead to law and order problems, the Petitioner also wrote a letter dated 05.03.1997 to Respondent No. 2 calling upon him to use his good offices to expeditiously find a solution to the problem.

24. That it is unfortunate that certain forces are attempting to stall the enforcement of the said Act which aims at creating conditions which would increase the availability of rental housing, particularly for the weaker sections of people who cannot afford to pay high rents and which aims to establish a balance between the rights and interests of landlords and tenants. Before enactment of the said Act views of all concerned were taken into account; the Model Rent Bill was formulated with the approval of representatives of all States; the Delhi Rent Bill, 1994 was prepared on the basis of the Model Rent Bill; the Delhi Rent Bill was deliberated upon by the Parliamentary Committee on Urban & Rural Development which heard and considered the view of various section of people likely to be affected by it; the said Bill was examined and unanimously passed by both Houses of Parliament and thereafter duly received the assent of the President of India. At the end of such an elaborate exercise, the enforcement of the said Act is being held-up upon protestations of a section of persons whose number is a small fraction of the total number of over one million owners of premises in Delhi.

25. That the Petitioner impugns the acts and omissions of Respondents Nos. 1 and 2 inter alia on the following:

GROUNDS

A) Because the Delhi Rent Act, 1995 having been drafted after detailed consultation with various interested parties,

on the basis of observations made by the Hon'ble Supreme Court of India and having been unanimously passed by both Houses of Parliament and having duly received the assent of the President of India as far back as on 23-08-1995, it is the constitutional duty of Respondents Nos 1 and 2, being the Executive, to issue a notification as contemplated under Section 1(3) of the said Act within a reasonable time bringing the said Act into force:

B) Because Respondents Nos 1 and 2 have failed to fulfil their Constitutional obligations by failing to notify the said Act for implementation, apparently upon extraneous considerations, in order not to annoy an influential lobby of tenants of commercial buildings, which body of persons was inter alia consulted by / represented in the Standing Committee of then Ministry for Urban and Rural Development on the recommendations of which the said Act is based;

C) Because Respondents Nos 1 and 2 cannot by mere omission keep the said act in a state of suspended animation for an indeterminate length of time since that would amount to negating the Will and the Wisdom of the highest legislative body in the country;

D) Because the inordinate / undue delay of more than one and a half year in notification/implementation of the said Act indicates that the Executive is trying to overreach the Parliament and the President of India, thereby subverting the Constitutional scheme of governance in the country;

E) Because every single day's delay in enforcement of the said Act results in irreparable loss and damage to several lacs of house-owners and denial of their legitimate right as conferred by statute duly passed by Parliament;

F) Because in order merely to appease certain quarters and protect certain vested interests, inter alia the interests of those who are tenants in commercial properties for decades/generations at nominal rents inspite of the otherwise galloping inflation, Respondents Nos. 1 and 2 are illegally withholding notification of the said Act;

G) Because it is no answer to say that amendments are being suggested to the said Act by certain segments of people and for that reason implementation of the said Act should be withheld, since the said Act has been duly and unanimously passed by both Houses of Parliament and has also received the assent of the President of India, thereby fulfilling all requirements for implementation of an enactment and there is no Constitutionally justifiable reason for Respondents Nos 1 and 2 to withhold notification thereof. Any change or amendment in or to the said. Act can be made by Parliament in its Wisdom by moving an amendment bill in that regard wherever deemed necessary;

H) Because the non-notification of the said Act is an omission on the part of Respondent No 2 that is subversive of the scheme of the Constitution of India and detrimental to the Rule of Law;

26. That the above grounds are being taken without prejudice to one another and the Petitioner craves leave to add to or amend the above grounds.

27. That the present petition is being preferred bonafide, in the interests of justice and in public interest.

28. That no other writ petition or proceeding has been initiated by the Petitioner in any other High Court or in the Supreme Court of India on the subject matter of the present petition.

29. That the Petitioner has no alternative equally efficacious remedy in law for the cause of action being agitated herein.

PRAYER

In the above premises it is prayed that this Hon'ble Court be pleased:

(a) to issue a writ of or in the nature of mandamus and/or any other appropriate writ, direction or Order, directing Respondent Nos 1 and 2 to forthwith and without delay issue a notification in the Official Gazette as contemplated under Section 1(3) of the Delhi Rent Act, 1995 notifying the date on which the said Act shall come into force in its present form;

(b) to pass such other and further Orders as this Hon'ble Court may deem necessary and proper on the facts and in the circumstances of the case.

For which Act of Kindness, the petitioner Shall As In Duty Bound, Ever Pray.

Petitioner
Through

H D Shourie
Director, Common Cause

LETTER TO PRESIDENT OF NEW DELHI TRADERS ASSOCIATION

3 March 1997

Dear Mr Agarwal,

It was very kind of you to come over on my request for a discussion of the problems relating to DELHI RENT ACT to enable us to see whether we can hammer out a solution which would be acceptable to all and would enable this important legislation to come into effect. It is unfortunate that no understanding could be arrived at in this session of the discussion.

You expressed objection, as I could gather, and as has been manifested in the newspapers on behalf of the tenants of commercial properties, particularly in respect of two matters namely, the `deemed rent' and inheritance clause. Perhaps, if the discussion had not terminated, as it unfortunately did, you might also have raised some other points, including the clause relating to `affidavit' which has often been condemned as arbitrary.

I tried to put forth the analysis regarding the concept of `deemed rent'. Let me again try to elaborate it. The words `deemed rent' appear in clause 3(c) of Explanation of Section 3. Your objection was to the introduction of the very concept of 'deemed rent'. I tried to explain that the expression has to be in the Act because there is need to distinguish it from the concept of 'standard rent' which is defined in clause 2(m) and Section 7 and in order to provide for calculation of rent on the basis of past period of tenancy where the tenancy has been continuing for a long period and rent has to be fixed by the rental authority on the basis of calculation given in Tables I and II of Schedule-I of the Act.

I could not understand the basis of your objection to the concept of `deemed rent', nor did you explain it. Where a shop remains within the purview of Rent Act the owner will have to submit his prayer for eviction under the Act, and the tenant will have full authority to contest it. If, for instance, the rent of shop in 1950 was Rs 100/- the present rent, as calculated according to the provisions of the Act, will be below Rs 3,500/- and tenant will have the right to contest the application under this Act. If the rent, on calculation, goes beyond Rs. 3,500/- the owner has necessarily to take recourse to the normal Civil Law. It cannot surely be agreed that the owner should be denied this right of going to Civil Court for seeking redressal. It also cannot be contested that there should be no increase whatsoever in the rent for the past 30 years and more. Value of the rupee has gone down 60 to 70 times since 1950; the goods and services sold in shops have gone up correspondingly over this period. Can there be any justification for not allowing a reasonable increase in the rent over this period? The formula incorporated in the Act actually helps to increase the rent for the past period by almost 1/3rd of the loss in the value of rupee.

It will be really worthwhile for you to kindly calculate the increase in rent on the basis of provided formula and to see whether there is another better alternative which can be put forth and which will protect the interests of both the tenant and the owner.

If the owner chooses to cause eviction of the tenant from the shop under the `Rent Act', he has to make out a case and establish his legitimacy under the provisions of Chapter-IV of Rent Act which, as you know, is entitled "PROTECTION OF TENANTS AGAINST EVICTION". It has often been proclaimed that the tenant can be evicted merely on filing of affidavit by the landlord. You know that this is not correct. Every conceivable right has been incorporated in the Act to protect the interests of tenants against any arbitrary eviction. The owner has to give specific grounds which are prescribed u/s 22(2) and on which alone he can base his case. He is debarred from resorting to any other grounds. Tenant has the right to contest such affidavit which is filed by the owner. He will lead evidence. Only then the `Rental Authority' will give the verdict which is a judicial pronouncement. It is totally wrong to say that any arbitrary powers can be exercised by the owner to cause eviction of the tenant. Where the owner files an application for eviction on the ground of his personal requirement he has to establish legitimacy of such ground. Exemption provided under the relevant clause of Section 22(r) `explanation' does not imply that automatically the affidavit filed by the owner will be accepted. It will be challengeable and surely the tenant, if he has a good case, cannot be evicted and the Court will give him the protection that is the purpose of this whole Charter.

Another clause which has come under fire from representatives of tenants, is the one relating to inheritance. Section 5 provides for transfer of inheritance. Surely, you will recognise that in relation to commercial properties the sub-

clauses (ii), (iii) and (iv) as they stand, can make it virtually impossible for ownership of the premises to be inherited. Dissolution of a firm may not come about; winding up of the Company and dissolution of corporate body is practically unthinkable in normal circumstances. Therefore, there cannot be any legitimate grievance on the part of a tenant in respect of these sub-clauses. The clause relating to `individual' makes inheritance possible in one year. This period can be contended to be short. I am personally of the view that a joint memorandum should be submitted, on behalf of the tenants and owners representatives, to get this clause modified to provide for a period of three years. The period of three years should be adequate for the tenant to make alternative arrangements. After all, it must be kept in view that tenant is not the owner and that the deceased owner's widow or son might need the premises for their own sustenance. It must also be kept in view that the tenant has reaped commercial benefit all these years.

It is being said that inheritance Right has been made ten years in the case of residential premises whereas provision for non-residential premises is one year in the case of individual. If this period of ten years is considered too long in the case of residential premises, I am willing to suggest to the representatives of owners that this period will be reduced to seven years.

My purpose in writing to you is to suggest that representatives of owners and tenants need to sit together to hammer out these issues. It is no use prolonging the agony of hundreds of thousands of people who are looking forward to the enforcement of this Act for solving their various problems as owners and tenants. They have to act in the spirit of give and take for solving this tangle. I do earnestly hope that you will kindly consider these points and express your willingness to agree to resolve the issues.

I look forward to your response.

With regards,

Yours sincerely,

H D Shourie
Director.

Wedding Anniversary

To celebrate his wedding anniversary, a sentimental husband decided to take his wife to the same restaurant where he had proposed to her 10 years earlier. His wife was elated over the plan. Thinking that she had lost all feeling for him, he asked, "Doesn't that mean any thing to you ? Don't you remember that I proposed to you there ?"

"Yes, I do," she replied. And then she sighed, "Look, Suraj I've been meaning to tell you this for years, but I haven't had the heart. When you proposed, the orchestra was playing, and I was nodding my head to the music. I certainly wasn't agreeing to get married!".

•••

Hair Tonic

"What is this small parcel for, dear ?" said the husband while leaving for office.
"A bottle of hair tonic."
"Thanks, dear."
"It's for your typist. Her hair shows up badly on your coat!"

•••

Cause & effect

Little Munni : "Auntie, why do you put that powder on your face ?" Auntie : To make myself look pretty." "Then why doesn't it ?"

•••

Correspondence

"Please tell me the best medium," asked one businessman of his advertising expert, "of reaching my goods to every married woman of this town".

"It's very easy," said the expert. "Please address all your letters to the husbands and mark the envelopes `Private & Confidential."

"FREEDOM OF INFORMATION"

Director of COMMON CAUSE has had the privilege of having been appointed Chairman of the Working Group established by the Government of India on the subject of Right to Information and Promotion of Open and Transparent Government. Other Members included the known legal luminary Mr. Soli Sorabjee and senior Officers representing the Ministry of Home Affairs, Ministry of Law and Justice, Ministry of Information and Broadcasting, Ministry of Railways, Ministry of Communication, Ministry of Telecommunication and Ministry of Personnel.

The Working Group had a series of meetings and has submitted its Report to the Government of India. In this Report the Group has inter alia submitted Drafts of the Bill entitled Freedom of Information Bill and the proposal of amendment of Section 5 of Official Secrets Act, the proposed drafts for amendment of Sections 123 and 124 of Indian Evidence Act, and proposals regarding changes in Government Servants Conduct Rules and the methodology of classification of documents.

We give below substance of the Report and the proposed Drafts for amendment of Section 5 of Official Secrets Act, relevant Sections of Indian Evidence Act and the Government Servants Conduct Rules.

SUBSTANCE OF REPORT

It is now widely recognised that openness and accessibility of people to information about the government's functioning is a vital component of democracy. In all free societies, the veil of secrecy that has traditionally shrouded activities of governments is being progressively lifted and this has had a salutary effect on the functioning of governments. In most democratic countries, the right of people to know is now a well established right created under law. It is a right that has evolved with the maturing of the democratic form of governance. Democracy is no longer perceived as a form of government where the participation of people is restricted merely to periodical exercise of the right of franchise, with the citizens retiring into passivity between elections. It has now a more positive and dynamic content with people having a say in how and by what rules they would be governed. Meaningful participation of people in major issues affecting their lives is now a vital component of the democratic governance and such participation can hardly be effective unless people have information about the way government business is transacted. Democracy means choice and a sound and informed choice is possible only on the basis of knowledge.

Modern democracy embraces a wider and more direct concept of accountability - a concept that goes beyond the traditionally well established principle of accountability of the Executive to the Legislature in a parliamentary democracy. Increasingly, the trend is towards accountability, in terms of standards of performance and service delivery, of public agencies to the citizen groups they are required to serve. Such accountability is possible only when public have access to information relating to the functioning of these agencies.

Finally, transparency and openness in functioning have a cleansing effect on the operations of public agencies. As has aptly been said, sunlight is the best disinfectant.

It bears mention that it is not only the developed countries that have enacted freedom of information legislation. Similar trends have appeared in the developing countries as well. In our neighbourhood, Pakistan recently promulgated a Freedom of Information Ordinance. The new South African Constitution specifically provides the right to information in its Bill of Rights - thus giving it an explicit constitutional status. Malaysia operates an on-line data base system, known as Civil Service Link, through which a person can access information regarding functioning of the public administration. There is thus a broad sweep of change towards openness and transparency across the world.

In our own country, we have not been immune to these winds of change. There have long been demands for greater openness and transparency in administration which have gained momentum in the recent past and a consensus has evolved among the political parties on the need to legislate the right to freedom of information. The Common Minimum Programme of the present Government specifically mentions its commitment to introducing a Bill on Freedom of Information. In their 38th Report on demands for grants of the Ministry of Personnel, Public Grievances and Pensions, the Parliamentary Standing Committee on Home Affairs has strongly recommended that the Ministry may take up the matter urgently to facilitate early enactment of a Right to Information Act. The Government of Tamil Nadu has recently passed an Act for Right to Information. Some other state governments have also taken

administrative steps to make information available to public. The Governments of Gujarat, Rajasthan and Madhya Pradesh may be mentioned in this context.

The Courts too have, in a series of judgements, declared that the right to know is a facet of the fundamental right to freedom of speech and expression enshrined in Art. 19(1) of the Constitution - a landmark judgement on the subject being the judgement of the Supreme Court in S.P. Gupta V/s. Union of India (AIR 1982 SC 149).

In the bureaucracy also there has been an increasing awareness of the importance of openness and transparency. A consensus emerged in the Conference of Chief Secretaries, held in November, 1996, on the need of an early enactment of a law on Right to Information. We also note with satisfaction the various steps taken by the Government such as the issue of instructions on transparency to all Ministries / Departments of the Central Government and a request for similar action to the State Governments, the incorporation of a specific provision relating to transparency in the draft Code of Ethics for the Civil Services and the initiative to formulate Citizens' Charters in various organisations under the Government.

Freedom of Information Bill

Even though the need for right to information has thus been widely recognised in the country, and the right has also received judicial recognition, there is no specific law which assures the public access to information. In many quarters, apprehensions are expressed about the possible impact of such a law and the costs it might impose on public agencies in terms of time and money.

We are of the view that the fears expressed in this regard are often exaggerated. It needs to be remembered that bulk of the information that may have to be supplied under the proposed enactment would already be getting compiled in the public agencies. Secondly, a substantial portion of the costs involved could be recovered in the form of fees to be charged for supply of information. With improved management of information and through adoption of appropriate information technology, no public agency should face insurmountable difficulties arising from demands for information.

We are, therefore, convinced that a legislation for freedom of information is not only feasible but is also vitally necessary.

We are also of the view that the legislation should be enacted by the Parliament in order to ensure uniformity of its application throughout the country. The question whether Parliament has the legislative competence to enact the proposed Freedom of Information Bill was examined by us. We find that the subject does not fall under ambit of any of the entries in the State List (List II) in the Seventh Schedule of the Constitution. It would, therefore, be covered by entry 97 in the Union List (List I) of the Seventh Schedule - it being the settled legal position that the only limitation on the legislative competence of the Union is that the subject matter of the legislation should not be within the exclusive competence of the State Legislature in terms of List II of the Seventh Schedule.

Having elaborated on the importance of openness in Government, it is also necessary to recognise that there would always be certain kinds of information which has of necessity to be kept secret in public interest. In deciding what to disclose and what to withhold from the public, one has to balance the public interest in disclosure with public interest in secrecy on the one hand and public interest in disclosure with legitimate private interest in secrecy on the other. This has been the approach of the countries having legislation on freedom of information.

In this background, we decided that our approach to the proposed legislation should be governed by the following broad principles :

(a) **disclosure of information should be the rule and secrecy the exception;**
(b) **the exceptions should be clearly defined; and**
(c) **there should be an independent mechanism for adjudication of disputes between the citizens and public authorities.**

With this approach in mind, we undertook a detailed study of the relevant material made available to us and suggestions received from various quarters. We also studied the legislation in certain other countries. Notably, the laws studied included the Freedom of Information Act, 1966 of the United States of America, Freedom of Information Act, 1982 of Australia, Access to Information Act, 1980 of Canada, the Official Information Act, 1982 of New Zealand and the

Code of Practice on Access to Government Information (1997 edition) of the United Kingdom.

After a detailed study of these documents, we have finalised a draft Freedom of Information Bill, 1997 which is annexed to this report.

A few remarks may be made about some of the important features of the Bill.

At the outset, we decided that the most appropriate title for the Bill would be "Freedom of Information Bill". The right to information has already received judicial recognition as a part of the fundamental right to free speech and expression and the purpose in enacting the Freedom of Information Act is mainly to provide a statutory framework for this right. Therefore, in our opinion, the expression "freedom of information" fully reflects the spirit and intent in the proposed legislation. **We accordingly decided that the Bill may be called Freedom of Information Bill.**

We believe that there are certain kinds of information that public authorities should, suo motu, make available to public. This includes information relating to functions and responsibilities of the concerned organisation, a description of its decision making processes and the statutory / administrative framework within which it performs its assigned tasks etc. In order to facilitate access of public to their records, the concerned organisations should also be required to maintain such records in a proper manner. Similarly, there should be a duty to give reasons for decisions and, in respect of major policy announcement, to disclose to public the relevant facts and analyses. **The Bill accordingly seeks to cast such obligation on public authorities. We may clarify that, in respect of the obligation as regards maintenance of records, the provision only refers to records that are operationally required and does not seek to impose an obligation to create new records, solely for the purposes of the Act, that are not required for normal operations.**

In view of the wide diversity of conditions of life of our people, we recognised the need to specifically provide for a facilitative function for the officers responsible for providing access to information. **Accordingly, the Public Information Officer is enjoined to render reasonable assistance to persons requesting for information. Similarly, where a person is unable to make a written request, the Public Information Officer may either accept an oral request or assist such person to make a written request.**

We also considered it necessary to define clearly the areas of information that should remain exempted from disclosure under the proposed Bill. In drafting the relevant provisions for this purpose, we have kept in view the overriding importance of public interest. (Clause 9)

We have also kept in view the possible adverse effect of an overload of demand on administration and provided that requests for information can be refused on certain grounds such as their being too general or causing a disproportionate diversion of the resources of a public authority. **However, a duty has been cast on the Public Information Officer to help the requester, as far as possible, to reframe his request in such a manner as would facilitate compliance with it, where it is being refused as being too general (Clause 10). (It is desirable to reproduce here the provisions of Section 9 and Section 10 which have been incorporated in the draft bill. These are reproduced below :)**

Section 9. Exemption from disclosure of Information :

Information covered by any of the following categories shall be exempted from disclosure under the provisions of this Act :

(i) information disclosure of which would prejudicially affect the sovereignty and integrity of India, security of the State, conduct of international relations, including information received in confidence from foreign Governments, their agencies or international organisations;

(ii) information disclosure of which would prejudicially affect the conduct of Centre-State relations, including information exchanged in confidence between the Central and State Governments or any of their authorities / agencies;

(iii) information in the nature of Cabinet papers, including papers prepared for submission to Cabinet or submitted to Cabinet, other than the documents whereby such decisions are published;

(iv) information in the nature of internal working papers such as inter-departmental / intra-departmental notes and correspondence, papers containing advice, opinions, recommendations or minutes for the purposes of deliberative processes in a public authority;

Provided that this exemption shall not apply to reports of scientific or technical experts, including their opinion on scientific or technical matters or information that is factual.

(v) information disclosure of which would prejudicially affect the enforcement of any law including detection, prevention, investigation or suppression of crime or contravention of any law; or would lead to incitement to an offence; or would prejudicially affect the operations of any intelligence organizations to be specified by the appropriate Government; or would prejudicially affect public safety or the safety of an individual; or would prejudicially affect fair trail or adjudication of a pending case; or would reveal the existence or identity of a confidential record or source of information; or would prejudice future supply of information relating to violation or contravention of any law;

(vi) information the disclosure of which would prejudicially affect the Government's ability to manage the economy or would prejudicially affect the legitimate economic and commercial interests of a public authority; or would cause unfair gain or loss to any individual or organization;
Without prejudice to the generality of this provision, such information may include premature disclosure of proposals relating to

(a) taxes, including duties of Customs and Excise;

(b) currency, exchange or interest rates;

(c) regulation or supervision of financial institutions.

(vii) information the disclosure of which would prejudicially affect the management of services under, and operations of, public authorities;

(viii) information in the nature of trade or commercial secrets or any information having a commercial value which is likely to be prejudicially affected by such disclosure, or information the disclosure of which is likely to prejudicially affect the competitive position of a third party;
Provided that, excepting in the case of trade or commercial secrets protected by law, disclosure may be allowed if public interest in such disclosure outweighs in importance any possible harm or injury to the interests of any such third party;

(ix) information the disclosure of which would not subserve any public interest;

(x) information which would cause unwarranted invasion of the privacy of an individual;

(xi) information the disclosure of which may result in the breach of Parliamentary privileges or would amount to violation of an order of a competent Court.

Section 10. Grounds for Refusal of Access in certain cases :

Without prejudice to the provisions of Section 9, a Public Information Officer may refuse access to information where :

(i) the request is too general or is of such a nature that, having regard to the volume of information required to be retrieved or processed for fulfilling it, it would involve disproportionate diversion of the resources of a public authority or would adversely interfere with the functioning of such authority.
Provided that, where access is being refused on the ground that the request is too general, it would be the duty of the Public Information Officer to render help as far as possible, to the requester to reframe his request in such a manner as may facilitate compliance with it;

(ii) the request relates to information that is required by law or convention to be published at a particular time; or

(iii) the request relates to information that is contained in published material available for sale.

While we have provided for charging of fees for access to information, we have also made a provision for waiver of fees where the disclosure of information is in the public interest in order that an individual may not have to bear the cost where the community at large benefits from disclosure.

While setting out the grounds for exemption from disclosure, **we have also incorporated the principle of severability in the Bill.** This would ensure that access would be given to non-exempted information contained in a document, which also contains exempted information, if such information can reasonably be segregated.

of the training inputs that it provides for its employees. The experience in other countries which have enacted freedom of information legislation suggests that this is a specialised field and officers need to be properly trained to exercise sound judgement in interpreting the provisions of the relevant legislation while taking decisions relating to disclosure of information. Special skills and aptitudes would need to be developed among officers to ensure that the provisions of Freedom of Information Act are implemented in their true intent and spirit and without jeopardising public interest. It would, therefore, be essential for the Government to develop special training modules for this purpose.

Conclusion

We thank the Government for having given us the opportunity to devote ourselves to such an important task. The Freedom of Information Bill, when passed, will without doubt be one of the most significant milestones in the history of our country. We are confident that the Government will take all necessary steps to bring forward the draft legislation before the Parliament as soon as possible and appropriately during the fiftieth year of our independence. Any measure of this nature requires the widest possible consultation and debate in the community. **We, therefore, suggest for the consideration of the Government that they may give wide publicity to our Report and invite reactions from all sections of society.**

PROPOSED AMENDMENT OF SECTION 5 OF THE OFFICIAL SECRETS ACT, 1923

5(1) If any person, having in his possession or control any official secret which has come into his possession or control by virtue of :

(a) his holding or having held an office with or under government, or
(b) a contract with the government, or
(c) it being entrusted to him in confidence by another person holding or having held an office under or with government, or in any other manner.
(i) communicates, without due authority such official secret to another person or uses it for a purpose other than a purpose for which he is permitted to use it under any law for the time being in force; or
(ii) fails to take reasonable care of, or so conducts himself as to endanger the safety of the official secret; or
(iii) wilfully fails to return the official secret when it is his duty to return it,
shall be guilty of an offence under this Section.

(2) Any person voluntarily receiving any official secret knowing or having reasonable ground to believe, at the time he receives it, that the official secret is communicated in contravention of this Act, he shall be guilty of an offence under this Section.

(3) A person guilty of an offence under this Section shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

Explanation : For the purpose of this Section, 'Official Secret' means any information the disclosure of which is likely to prejudicially effect the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, economic, commercial, scientific and technological matters relating to national security and includes : Any secret code, pass word, sketch, plan, model, article, note or document in relation to a prohibited place.

DRAFT OF PROPOSED REVISION IN SECTIONS 123 AND 124 OF THE INDIAN EVIDENCE ACT, 1872 AND THE PROPOSED PROVISION TO BE INSERTED AT THE APPROPRIATE PLACE IN THE CODE OF CIVIL PROCEDURE, 1908 AND THE CODE OF CRIMINAL PROCEDure, 1973

(1) Proposed Sections 123 & 124, Indian Evidence Act.

"123.(1) Subject to the provisions of this section, no one shall be permitted to give any evidence derived from unpublished official records relating to any affairs of State, unless the officer at the head of the department concerned has given permission for giving such evidence.

(2) Such officer shall not without such permission, unless he is reasonably satisfied that the giving of such evidence would be injurious to the public interest; and where he withholds such permission, he shall make an affidavit containing a statement to that effect and setting forth his reasons therefore :
"Provided that where the Court is of opinion that the affidavit so made does not state the facts or the reasons

fully, the Court may require such officer or, in appropriate cases, the Minister concerned with the subject, to make a further affidavit on the subject.

(3) Where such officer has withheld permission for the giving of such evidence, the Court, after considering the affidavit or further affidavit, and if it so thinks fit, after examining such officer or, in appropriate cases, the Minister, orally :

(a) shall issue a summons for the production of the unpublished official records concerned, if such summons has not already been issued.

(b) shall inspect the records in chambers; and

(c) shall determine the question whether the giving of such evidence would or would not be injurious to public interest, recording its reasons therefore.

(4) Where, under sub-section (3), the Court decides that the giving of such evidence would not be injurious to public interest, the provisions of subsection (1) shall not apply to such evidence.

"124.(1) No public officer shall be compelled to disclose communications made to him in official confidence, when the Court considers that the public interests would suffer by the disclosure.

(2) Where a public officer who is a witness is asked a question which might require the disclosure of any such communication, and he objects to answering, the question on the ground that the public interests would suffer by its disclosure, the Court shall, before adjudicating upon his objection, ascertain from him, in chambers, the nature of his objection and reasons therefor.

(3) Nothing in this section applies to communications contained in unpublished official records relating to any affairs of State, which shall be dealt with under Section 123".

Draft of proposed provision to be inserted at the appropriate place in the Code of Civil Procedure, 1908 and the Code of Criminal Procedure, 1973.

"Any person aggrieved by the decision of any Court subordinate to the High Court rejecting a claim for privilege made under Section 123 and 124 of Indian Evidence Act, 1872 shall have a right of appeal to the High Court against such decision, and such appeal may be filed notwithstanding the fact that the proceeding in which the decision was pronounced by the court is still pending".

Proposed amendment to Rule 11 of CCS (Conduct) Rules, 1964

Existing Rule

11. Unauthorised Communication of Information

No Government servant shall, except in accordance with any general or special order of the Government or in the performance in good faith of the duties assigned to him, communicate, directly or indirectly, any official document or any part thereof or information to any Government servant or any other person to whom he is not authorised to communicate such document or information.

Explanation - Quotation by a Government servant (in his representation to the Head of Office, or Head of Department or President) of or from any letter, circular or office memorandum or from the notes on any file, to which he is not authorised to have access, or which he is authorised to keep in his personal custody or for personal purposes, shall amount to unauthorised communication of information within the meaning of this rule.

Proposed Rule

11. Communication of Official Information :

Subject to the provisions of any law for the time being in force, every Government servant shall, provide full and accurate information to a member of public or any organisation, while performing his duties in good faith, excepting classified information, information which is in the nature of commercial secrets or information the disclosure of which will infringe an individual's privacy.

Explanation - Nothing in this rule shall be construed as permitting communication of classified information in an unauthorised manner or for improper gains to a Government servant or others.

INDIA'S JUDICIAL SYSTEM

RECOMMENDATIONS FOR REFORM :

The Judicial System which we have inherited from the British was suitable well enough in the initial years after Independence. It is now found wanting in many respects. There is enormous accumulation of cases in the Courts, estimated to be about two crore Civil cases and one crore Criminal cases, besides development of backlog in the various Tribunals and other Judicial authorities created under different laws. The rules, regulations and procedures emanating from the laws are bane of administrative system which inevitably causes numerous harassments to citizens and involve bribes and "speed money" to keep the System moving. It is unfortunate that no concrete and systematic effort has been made to overcome these serious problems.

In recent years the subject of Reform of Judicial System has attracted attention of various organisations and institutions. We have come across two Reports which have arisen from studies undertaken by concerned organisations. One is the Report of a "Task Force" set up by the Confederation of Indian Industry (CII) on the subject of Judicial Reform. The other is a Report arising from Symposium organised by Suriya Foundation (B-3/330 Paschim Vihar, New Delhi - 110 063). The participants of the Symposium included former Justice of Punjab and Haryana High Court Mr. Justice N. Rama Jois, former Justice of Orissa High Court Mr. Justice V.A. Mohta and former Judge Mr. Justice D.V. Sehgal of Punjab and Haryana Court.

We give below summary of the two Reports :

SUMMARY OF RECOMMENDATIONS OF CII TASK FORCE.

SUMMARY OF RECOMMENDATIONS

India's legal and Judicial system though well founded has not kept pace with changing needs arising from increase in population, increase in the number of laws, increase in industrial activity and other changes resulting in inordinate delays in disposal of cases.

Delays in disposal of cases manifests itself in :

(a) Inability of Courts to dispose of as many cases as are being filed.
(b) Carry forward of backlog and further build-up of arrears.
(c) Denial of timely justice to the litigant.
(d) Enormous costs.
(e) Economic and Industrial activity is impeded.

To overcome delays, corrective action has to be multipronged.

Increase in the "availability of Judges" in the Courts for disposing of cases and to this end :

Filling-up of vacancies in time. Selection of new Judge to be made before retirement by National Judicial Service Commission, an independent body to be created. Transparency in the process of appointment of Judges. Increase in the number of Judges to be consistent with increased volume of work - numbers to be reviewed periodically; Ad-hoc / temporary Judges to be appointed initially; more Judges to function during holidays as vacation benches to dispose of urgent cases. Increase in retirement age of High Court Judges from 62 years to 65 years. Observing of Court timings and rationalization of holidays / vacations in Courts.

Increase in "productivity" of Courts and to this end :

Streamlined and time bound procedures concerning different stages of the trial. Cases seeking ad-interim injunctive relief to fall under expeditious process. Ex-parte relief to be granted in extremely rare cases.

Specific Courts to handle ad-interim relief. Applications to be disposed of within limited time frame. The party seeking ad-interim relief to make good to other affected parties the loss suffered by the other party if it fails to make

out a case in final adjudication. Plaintiff may be permitted to apply for summary judgement if it can satisfy the Court that it has a prima facie case and there is no merit in defence. Settlement conference in which Plaintiff and Defendant can make their offers to settle. If the offers are not accepted by the other side and the trial proceeds, the party refusing the initial offer upheld by the Court to bear costs on full indemnity basis. To reduce burden on Court, recording of evidence by evidence commissions on video and audio equipment. Short written brief of arguments. Use of modern Information technology. Single judge benches except in certain types of cases. Judgements to be delivered generally within 1 month. Assistance of Law Clerks to Judges. Specialized benches for specialized subjects. Execution of decree to be carried out in the same proceedings as the trial.

To reduce the existing work load and backlog to manageable limit, "decentralization" of forums for dispensation of justice and to this end :

More administrative and quasi Judicial tribunals be created. Arbitration, New Arbitration Bill is welcome. Where one arbitrator can not be agreed, three arbitrators may hear the case from beginning of proceedings to avoid de-novo hearing. Alternative Dispute Resolution (ADR) forums be used more extensively. Jurisdiction of the High Courts to be reviewed and provisions of second appeal (except when special leave is granted by Supreme Court) and revision to be deleted.

To reduce inflow, frivolous and wasteful litigation, rationalization of certain "systems and practices" be introduced:

Government cases to be filed only after being certified fit for filing by Screening Committee.

Awarding of costs to be rationalized and made realistic. In appropriate case where counsel encouraged frivolous case, counsel also to be penalized.

Court fees to be rationalized and made realistic.

Adjournment / stay to be granted very sparingly. In all cases ex-parte stay to be vacated if not extended after appearance of other side. Such matters to be compulsorily decided within 15 days. If a stay is obtained in which a matter is finally lost, penal cost to be paid for loss suffered by other party because of stay.

Accountability of Executive Officers particularly those related to revenue.

Review and rationalize provisions for prosecution penalty, imprisonment, arrest for economic offences including for procedural lapses. Where justified, compounding to be permitted.

To improve the quality of Judges, "HRD" measures are necessary and to this end :

Improve salaries and service condition of Judges to attract good talent.

Academies and institutions to be established for organizing orientation and refresher courses and seminars etc. for Judges. System to be so designed as Judges are encouraged to participate.

Accountability of Judges. Present impeachment procedure is ineffective. National Judicial Commission to have authority to remove Judges for incompetence, corruption, incapacity, disability etc.

Training and orientation of lawyers who interface between the society and the judicial system and play an important role in upholding the Rule of Law, justice and fair play.

RECOMMENDATIONS OF SURYA FOUNDATION SYMPOSIUM

1. Appointment of Judges - Proper Selection the Crying Need

The law's delay is so long that the Judicial system is groaning under the weight of its own arrears. It is a truism that justice delayed is justice denied and the patient and uncertain wait for years to get justice demoralises the justice seekers and erodes their faith and confidence in the system itself. The delay permits the dishonest to avoid their legal obligations and denies the honest litigants the fruits of justice. There are many reasons for the delay in disposal of cases and the consequent accumulation of arrears. To mention a few :

- Increase in number of cases
- Delay in and unsatisfactory Judicial appointments

- Dilatory tactics of advocates
- Failure to make full use of legal provisions to expedite disposal.

Speedy and satisfactory disposal of cases depends on competence and personality of Judges. This can be achieved only if recruitment is done through high powered selection committee for different levels of judicial appointments free from executive interference. The judges selected should be men of character and integrity, well versed in law and jurisprudence.

Supreme Court Judges

The Committee for selection of the Supreme Court judges should comprise of Chief Justice of India, two Senior most judges of Supreme Court, Chairman of Rajya Sabha, Speaker of Lok Sabha, Union Minister of Law and Justice and leader of opposition. This committee would consider recommendations made by Chief Justice of India for final recommendation. Only a person recommended by this committee should be appointed as a judge of the Supreme Court.

High Court Judges

Likewise for Selection of Judges of High Court there should be a selection committee comprising of Chief Justice of India, Chief Justice of High Court of state concerned, Speaker of State Legislative Assembly, Minister of law of the state concerned, and Leader of opposition of the concerned state legislative assembly. The committee would consider recommendations made by the Chief Justice of the High Court of state concerned for final recommendation. Only a person recommended by the committee should be appointed as Judge of the High Court.

Steps for making appointment should be initiated and final recommendations made sufficiently in advance for appointment to be made before the vacancy arises.

District Judges

The appointment of District Judges should be made on the basis of recommendations of the High Court concerned which would be solely on the basis of performance in viva voce conducted by full court or by a committee of judges constituted by full court of the concerned High Court in respect of direct recruitment from the bar. In the case of promotion, it should be made from amongst the persons in the cadre of Civil Judge on the recommendations of the High Court.

Lower Judiciary

The appointment for lower judiciary should be made by direct recruitment based on competitive examination comprising of written test and viva voce from those with minimum qualification of a law degree and minimum three years experience as an advocate or teacher in recognised law college. The selection should be made by High Court through a committee of judges constituted by full court.

2. Unanimous or Majority Decision instead of Several

The present practice of delivering separate and concurring judgements by benches of more than two judges entails avoidable debate, time and delay in ascertaining the opinion of majority. Article 145 of the Constitution should be amended as also the statutes regulating exercise of power of High Courts to ensure that there shall be unanimous or one majority judgement in each case. This will save considerable time of the courts.

3. Colonial Hang Up

Relics of the past

It is a matter of shame that even after 50 years of independence, the constitution, organisation and general jurisdiction of many High Courts are regulated by charters issued by the British Crown in the year 1861-62. Even in Jurisdiction there are differences among High Courts. While some enjoy original and civil jurisdiction, others do not. This calls for immediate rectification. We should have a common High Court Act without delay.

Amusing intra court appeals

The prevalent practice of intra court appeals in High Courts from the decision of one judge to a bench of two judges

is improper. An appeal connotes an approach to a superior court against the decision of a lower court. Division bench of the High Court cannot be considered a superior court merely on the ground of increase in number of judges. This practice should be put to an end.

High Court to be empowered to entertain appeals against the order of Tribunals within its Jurisprudence

High Courts are to be empowered to entertain appeals against the order of Tribunals within its jurisprudence. Presently citizens aggrieved by the orders of Administrative Tribunals are required to approach Supreme Court under article 136 for redressal. This is costly and the Court is remote to litigants. An appeal to a bench of High Court over the orders of tribunals within its territorial jurisdiction on question of law would mitigate hardship and render justice easily.

4. Increase in Working Days - Long Vacations Anachronic

The long vacation traditionally enjoyed by courts from the days of British rule when the judges went on long furlough to England by ship is a relic of the past and incompatible with the prevalent conditions of India. Further there is disparity in the working days prescribed for judges of Supreme Court, High Court and Lower Courts. Besides, the heavy arrears in courts alone warrant an increase in the number of working days to atleast 220 days against existing 180 days in a year.

Even after obtaining freedom from British rule we hold on to the Anglo-Saxon jurisprudence. English laws, practices and court procedures without attempting to evolve one that suits us, our culture and tradition. Even in matters of court dress and language we ape the British. It is high time we give up our allegiance to alien practices.

5. Government - The Major Litigant

In majority of cases filed in the courts, government is a party to the litigation either filed by it or against it. Considerable time of the court and public money is spent on filing or defending cases which are weak or bereft of case for the government. The suggestion is for formation of high powered committee of experts at state level.

(a) to examine the merits of cases proposed to be filed by the government and advise against it where there is no justification.

(b) to consider all pending cases filed against the government in the light of decisions of Supreme Court or High Court already given and if so to move the court for disposal in terms of such decision without waiting for the hearing of the cases in their turn.

(c) To examine carefully whether appeals are warranted against decisions given and tender proper advice.

The proposal provides for payment of compensatory cost to litigants where the court finds the order passed by government or its officer is patently illegal and also for recovery of the cost so awarded from the officer where he had passed an illegal order knowing it to be so with malafide intention.

Appointment of Government Advocates – Merit Should be the only Criterion

With the government being the biggest litigant with cases filed against it or by it, appointment of competent advocates to represent it assumes vital importance. Where case is lost by the government due to poor and improper representation by its advocate, it is the public interest that suffers. Appointment of government advocates therefore should be solely on merit and competence totally divorced from other considerations of patronage, caste or political affiliation. The selection should be by proper selecting authority duly constituted. Selection through a National Ability Test in law can be considered on the lines of Civil Services for Administration, Police Service for Police and National Defence Academy for defence. This will ensure that we choose the right and the competent persons for appointment as Government advocates and in lower judiciary. This will in turn reflect on the quality of judiciary in general eventually.

6. Civil Proceedings

Non-utilisation of provisions of amended Civil Procedure Code for speedier disposal

The Civil Procedure Code has been amended in 1976 to secure the object of speedy disposal of cases. These amended provisions are not fully employed particularly with regard to requirement of filing of documents along with pleadings

and provision regarding summary disposal. The provisions relating to taking evidence by affidavits and rejection of plaint without cause of action also remain unused.

Appointment of retired Judges as Provided in Code of Criminal Procedure

Similar to provision in section 13 of code of Criminal procedure, suitable provision should be made in civil proceedure code or civil courts Act for making appointments on fixed tenure basis of retired judicial officers who are fit and suitable on the basis of recommendation of high Court to dispose of pending cases to be allotted by Principal District Judge.

Dispensation of Separate Application for Execution of Decree

Even after securing decree in their favour, litigants find its execution very difficult. The code of Civil Procedure should be amended to provide for the court passing the decree to post the case for execution after the expiry of period fixed for filing appeal. If no appeal is filed or no stay order is received from the Appellate Court, the court should proceed to execute the decree.

Service of Notice - Wanton Delays

Notices often remain unserved on the opposite parties or witnesses for months and years for variety of reasons enabling the party having the benefit of interim orders enjoy the advantages thereof. This is more pronounced in government cases and no attempt is made to apply for vacating the stay. There should be an independent agency/ officer at each level. i.e., the criminal courts, civil courts, High Courts and Supreme Court to be held responsible and accountable in the matter of service of notices.

7. Rural Litigation - Easy Access to Justice

There is a pressing need to amend and make special provisions in the Civil Procedure Code for rural litigation with the twin object of

(a) providing a forum for speedy disposal;
(b) reducing the burden on regular courts;
(c) avoiding inconvenience and expenses to poor rural litigants.

Advocates after 25 years of practice but who are not in active practice can be selected to act as arbiters and assist the court in speedy disposal of rural cases.

8. Suo Motu Power to Grant Relief

Another important proposal has been made for conferring suo motu Powers on the District Judge or the Principal District Judge to grant relief to the victims belonging to weaker section of the society who have been subjected to grave injustice in whatever manner it comes to the notice of the court after giving an opportunity of hearing to the person against whom any order is to be passed.

9. Location of alternative Forums

The alternative fora established for deciding special category of cases should be at several district headquarters instead of only one which causes hardship to litigants residing in distant parts of the state.

10. Computerisation

The courts should be provided with computers with softwares in the languages used in the court proceedings for speeding up the writing of judgements. To start with, this facility with trained staff should be provided to District Courts and the courts authorised to decide compensation in land acquisition and Motor vehicle accident claims. This should be extended gradually to all courts. The cost would not be more than Rs. 15 crores to cover all districts.

11. Criminal cases

Appointment of Additional Magistrate

The Provisions of Section 13 of the Criminal Procedure Code for appointment of special Judicial Magistrates to deal

with various types of criminal cases is not being utilised despite the mounting arrears and the need for speedy disposal of criminal cases. As many Special Magistrates as are required should be appointed for disposal of cases within six months.

Appointment of Retired Judges

Although Section 13 of Criminal Procedure Code permits appointment of any government servant or ex-government servant as Additional magistrate, the appointment should be made only from among the retired judges of lower courts as recommended by High Court as experience in judicial work and knowledge of law is essential for exercising judicial powers.

Closing of Criminal Cases

Petty cases attracting punishment upto three months imprisonment with or without fine should be closed after expiry of two years if not disposed of within that period. This will save unnecessary harassment to accused and decrease the workload of the courts. Jails are crowded with undertrial prisoners due to heavy arrears and limited judicial magistrates. They languish in jails for long awaiting their trial.

Recording of evidence at pre-summoning stage in respect of private complaints to be done away with providing for accepting affidavits of complainants.

Appearance of complainant and accused on every date of hearing can be dispensed with where they are represented by their lawyers unless there is a specific direction by the court for personal appearance.

Compensation to Victims

The provision in Section 357 of the Criminal Procedure Code for payment of compensation to the victim from out of fine imposed on the guilty should be enforced in all cases. Provisions of section 357 on payment of compensation should also be enlarged to cover cases where fines are not imposed or recovered. The order awarding the amount should be made executable as a decree of civil court. Where the compensation is beyond the pecuniary jurisdiction of the trial judge, the order should be submitted to the appropriate court for confirmation of the order and after confirmation it should be made executable.

These steps would help in securing relief to victims and avoid multiplicity of cases.

12. Role of Advocates

Advocates are an important component in the administration of justice and the entire structure of impartiality, fairness and justice according to law depends upon the manner the case is conducted by them. Fairness, ability, honesty are essential qualities of advocates. The bar is the source of recruitment to the judiciary and the quality of judiciary rests on the source.

The standards of legal education should be raised. The Bar Council has a big role to play in this regard. It should also organise training and/or refresher courses for advocates to improve their efficiency and to imbibe ethnical values and service mindedness.

Apprenticeship for one year before enrolment as an advocate cannot be done away with. But the apprentices may be permitted to practice in lower courts and certain tribunals. This will give them an opportunity to learn the work in trial courts besides some earning.

Expectation

"Darling....." began a young wife, hesitatingly.
"Yes dear ?" said her husband. "I hardly know how to tell you."
"Tell me what ?"
"Th-that soon there will be a third sharing our little home."
"Sweet heart! Are you sure ?"
"Positive, dear. I had a letter from my mother this evening saying that she would be here next Friday."

•••

Seven ages

A woman has seven ages : Baby, Child, Girl, Young Woman, Young Woman, Young Woman and Young Woman.

MISTRANSLATIONS THAT CAUSE LAUGHTER

Outside a Paris dress shop : "Dresses for street walking."

In a tailor's shop on Rhodes : "Order your summer suit. If there is big rush we will execute customers in strict rotation."

In a Tokyo hotel : "Is forbidden to steal hotel towels please. If you are not a person to do such thing is please not to read notice."

In a Paris hotel elevator : "Please leave your values at the front desk."

On the menu of a Polish hotel : "Limpid red beet soup with cheesy dumplings in the form of a finger; roasted duck let loose; beef rashers beaten up in the country people's fashion."

Outside a Hong Kong tailor's shop : "Ladies may have a fit upstairs."

In a Bucharest hotel lobby : "The lift is being fixed for the next day. During that time we regret that you will be unbearable."

A sign posted in Germany's Black Forest : "It is strictly forbidden on our Black Forest camping site that people of different sex, for instance, men and women, live together in one tent unless they are married with each other for that purpose."

In a Czechoslovakian tourist agency : "Take one of our horse-driven city tours. We guarantee no miscarriages."

In a Japanese hotel : "You are invited to take advantage of our chambermaid."

In an advertisement by a Hong Kong dentist : "Teeth extracted by the latest Methodists."

In a Copenhagen British Airways ticket office : "We take your bags and send them in all directions."

On the door of a Moscow hotel room : "If this is your first visit to the USSR, you are welcome to it."

In a Norwegian cocktail lounge : "Ladies are requested not to have children in the bar."

In a Zurich hotel : "Because of the impropriety of entertaining guests of the opposite sex in the bedroom, it is suggested that the lobby be used for this purpose."

In a Budapest zoo : "Please do not feed the animals. If you have any suitable food, give it to the guard on duty."

In the office of a Roman doctor : "Specialist in women and other diseases."

IN AN up-scale pet-supply store, a customer wanted to buy a red sweater for her dog. The salesman suggested that she bring her dog in for a proper fit.

"I can't do that" she said. "The sweater is going to be a surprise"

• • •

AT A pharmacy, a woman asked to use the infant scale to weight the baby she held in her arms. The clerk explained that the device was out for repairs, but said she would estimate the infant's size by weighing the woman and baby together on the adult scale, then weighing the mother along and subtracting the second amount from the first.

"It won't work," countered the woman. "I'm not the mother, I'm not the mother, I'm the grandmother."

• • •

I SHUT my eyes in order to see.

THE GUEST speaker oncluded a long boring speech and the Committee Chairman handed him a Cheque. "No, No" said the speaker, "I wouldn't think of charging you, please contribute my honorarium to some worthy cause."

"Would you mind if we put it in our club's special fund ?" asked the Chairman.

"Of course not, what is the fund for ?"

"To help us to get better speakers."

• • •

"OUR NEIGHBOUR'S cat was run over by a car, and the mother quickly disposed of the remains before her four-year-old son Billy found out about it. After a few days, though, Billy finally asked about the cat.

"Billy, the cat died," his mother explained. "But it's all right. He's up in heaven with God."

The boy asked, "What in the world would God want with a dead cat ?"

• • •

THE DIFFERENCE between a helping hand and an outstretched palm is a twist of the wrist.

IF A window of opportunity appears, don't pull down the shade.

THE SILVER lining is easier to find in someone else's cloud.

WE WERE gloomy lot gathered around my husband's bed on the evening before his heart-bypass operation. In an effort to cheer him up, our daughter reminded him of an acquintance who fathered two sons after bypass surgery.

FROM BUSYBEE COLUMN OF "AFTERNOON" OF BOMBAY

An American friend is visiting India for the first time and is staying with me. I went to receiving him at Sahar airport in the early hours of this morning and bring him home.

"Gee, I am sorry to drag you out of your bed at this hour. You must have worked hard yesterday and been looking forward to some sleep," he said.

"Don't worry," I told him, "Yesterday was a holiday."

"But Yesterday was Monday - a holiday! Oh, I see, just as the Arabs have Friday as their holiday, instead of Sunday, you have Monday."

"Not every Monday," I said "No, we don't have every Monday as holiday, though most Mondays, we do. We also have Sunday as holiday."

"That's awful nice," said the American. "Today, I am going to sleep off my jet lag, so you don't have to worry. And tomorrow, please don't put yourself out for me. I understand you have to work, I'll take care of myself."

"Tomorrow's a holiday," I said to him.

"Tomorrow! But that's Wednesday!" said the American, looking surprised. "Ah like the Jews, as they have holiday on Saturday, you have on Wednesday."

"We have holiday on Saturdays also and it has got nothing to do with the Jews. First, it was second Saturday of the month for government servants, now all Saturdays for everybody. Wednesday is an extra holiday."

"You have an extra holiday in the middle of the week, that's very sensible," the American said. "Wish we could have it also, but we cannot afford it, especially in these time of the recession. The Congress would throw a fit. Your economy must be very healthy to have a general holiday right in the middle of the working week."

"No the economy is not healthy, but the opposition would throw a fit if the government did not declare a holiday tomorrow. Actually, the opposition is the government now, so that, perhaps, may it apply. I will clarify things to you later, I do not want to send you home with wrong information.

"I am here to learn," the American said. "Then I take it, besides tomorrow, which is also a holiday, you will be free for the weekend, Saturday - Sunday."

"It is going to be a long weekend, Friday, Saturday and Sunday", I said.

"They have long weekends here?"

"Not always, but most of the time," I said. "So that top executives can go away to their bungalows in the hills, and lesser executives for three days and two nights in Goa, package holidays. The poor, of course, stay at home and enjoy, waiting for banks, shops, cooking gas supply agents, law courts to open on Monday so that they can resume their normal life."

:It seems a lovely country to live in," said the American. "So you are off to work this morning".

"No, I have taken casual leave", I said. "I get 15 days C.L. and 15 days S.L. and I am not allowed to accumulate them..*

This morning, at the Raymond tailoring shop for gents, I met Mr. Mulayam Singh Yadav.

"Namaste, Mulayamji, what brings you here?" I asked, very polite, but not touching his feet or anything like that.

"I am getting myself a suit stitched," Mr. Yadav said. "Should I have the trousers with the turnovers or not, and should I have one hip pocket or two?"

"I think, turnovers are in fashion now, but I am not very sure," I said. "Why are you getting a suit stitched?"

"Why not!" he said. "When Rajiv Gandhi became prime minister and went about with a shawl around his shoulders, all his ministers and MPs started wearing a shawl, so when Mr. Gujral is PM, why should we all not wear suits."

"True, true," I said. "I never thought of that. And I am sure you will all look very nice in suits, I can visualise Mr. Ram Vilas Paswan in a suit."

"Yes, he is across the street at the Vimal shop," Mr. Yadav said. "I told him to come here, but I think he has got some arrangement with the Ambanis."

"Does Mr. Gujral know you are dressing like him?" I asked.

"Not yet, but we thought we should try and dress like him, it is only fair. When Mr. Gowda was premier, we were all looking like him, except that I was wearing a dhoti instead of a lungi."

The tailor asked him if he would like a double-breast or single.

"What kind of a question is that," Mr. Yadav said, losing his temper a little. "Just make a suit like Mr. Gujral's, don't ask me all these questions."

"I am glad you chose a dark colour, it looks nice on you," I said.

"Yes, it is Mr. Gujral's favourite colour. I also want to get a tie, one of those things the prime minister wears. Would you help me to select one and show me how to tie it."

"It would be my pleasure", I said, "though I am not very good at ties. You should go to some expert."

"I don't have the time," Mr. Yadav said. "I have also got to get shoes, socks, all the rest of it. Dressing like the prime minister is difficult, let me tell you. It would have been so much easier if Mr. Laloo Prasad Yadav was the prime minister. But then we can't have everything."

"No, we can't," I said.

"I also want a gala bandh, would you instruct the tailor about it," he said.

"You mean a Nehru jacket," I said.

"Not a Nehru jacket, a Gujral jacket," Mr. Yadav said. "Nehru jacket was worn by Nehru's ministers, we dress like our prime minister."

"Are people in the opposition also dressing like Mr. Gujral?" I asked.

"Yes, they have to, if they want to amount to anything," Mr. Yadav said. "These days, all politicians follow the prime minister's style."

Just then Mr. Atal Behari Vajpayee entered the shop. He was not wearing a suit, but he had a little goatee on his chin.

OUR ACTIVITIES AND PROGRAMMES

COMMON CAUSE as a public interest organisation has reached out extensively in ever-widening spheres for taking up causes of the people for securing redressal.

Its activities have given benefits to very large number of people, in fact to innumerable persons, spread all over the country. Almost four million pensioners have benefited from the three important decisions the organisation secured from the Supreme Court, in relation to extension of liberalisation of pension, restoration of commutation of pension, and extension of the scheme of family pension. The case relating to Delhi Municipal Corporation Property Tax, decided at its instance by the Supreme Court, helped to straighten out problems of the levy and assessment of this tax. Various manifestations of this matter have continued to be pursued by the organisation of securing proper restructuring and rationalisation of the tax. Various issues relating to Rent Control laws and their distortions have continued to be taken up for being sorted out. We have maintained close relationship with various associations of houseowners, tenants, ratepayers, welfare organisation etc.

OUR GRATEFUL THANKS

We have the privilege of receiving assistance from the well known Friedrich-Naumann-Stiftung of the Federal Republic of Germany, the Foundation which is supporting various projects and activities connected interalia with consumer awareness, entrepreneurship development, economic and civic education, environment protection, legal services, income generation and rural development. The Foundation is named after the known socio-liberal statesman Friedrich Naumann and works towards his ideals and the vision of Liberal society. In India the Foundation operates from USO House, 6, Special Institutional Area, New Delhi-110067 We are also grateful to Kumari L.A. Meera Memorial Trust, Kerala, for providing us financial assistance for our activities.

A large number of public causes of importance have been taken up from the platform of COMMON CAUSE for redressal. Quite a few writ petitions have been filed in the Supreme Court. These include, for instance, disruption of the work of courts by lawyers' strikes, problem of accumulated backlog of cases in courts all over the country, malfunctioning of blood banks and the requirement of appropriate collection and testing of blood for transfusion purposes, challenging the pensions being given to Members of Parliament, inadequacies in the implementation of Consumer Protection Act, and failure of the government machinery in fulfilling the constitutional requirements of spreading free and compulsory education for the children in the country. Likewise, a number of issues of public importance have been taken to the Delhi High Court. These include the problems of conversion of leasehold properties to freehold, non-implementation of Apartments Ownership Act, problems connected with building bye-laws and unauthorised constructions which have widely proliferated, and such like. A Writ Petition filed against Delhi Electricity Supply Undertaking resulted in a beneficial verdict relating to bills based on defective meters. From time to time matters have been taken up for straightening out problems related to income tax, wealth tax, gift tax, capital gains tax, for avoidance of aberrations, discriminations and harassments.

Increasingly the organisation has also been taking up various problems of the consumers, with a view primarily to give them the feel that they too can fight their battles in relation to the products and services provided to them. A major achievement of the organisation has been to secure amendment by the Government of the relevant rules prescribing the mode of price printing on packages with the result that now the price, inclusive of all local taxes, is being printed on packages, all over the country. Matters relating to various areas of inefficiency of the public sector functioning, as of electricity supply, telephone services, airlines, etc., have been taken up for redressal of the grievances of consumers. Cases were filed by the organisation for setting right the inadequacies of quality control in manufacture of sensitive items such as intravenous fluids, and removal of distortions in strict observance of the orders for supply and sale of iodized salt.

Recent noteworthy activities of the organisation include the securing of orders of the Supreme Court leading to establishment of Consumer "Courts" in all districts of the country, issue of notices to Government of India and Election Commission by Supreme Court on writ petition regarding non-maintenance and non-audit of accounts of political parties and non-establishment of Lokpal institution as well as strengthening of anti-corruption machinery at the centre and in the States.

Membership of the organisation is open to all. Membership fees are Rs 100 for annual membership for individuals, Rs 500 for life membership and Rs 200 for annual membership of organisations and associations. Quarterly Periodical COMMON CAUSE goes free to all members; it has no separate subscription. Donations to COMMON CAUSE are eligible for exemption available under Section 80G of Income Tax Act. Everybody can take membership of the organization. No form is required. Send your name & address, written in capital letters, along with cheque/DD, drawn in favour of COMMON CAUSE.

H.D. SHOURIE, Director

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