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COMMON CAUSE

VOICE OF "COMMON CAUSE"

ISLANDS OF HOPE

COMMON CAUSE had set before itself the task of ventilating common problems of the people and to strive to find solutions for them. We have throughout bent our energies to this end, and have derived satisfaction from having accomplished quite a few of the tasks.

Our greatest satisfaction is that people have bestirred themselves for finding solutions to their problems. Numerous organisations, associations and groups have merged which, in their respective spheres, are carrying the torch and fighting their battles against inequities, discriminations and bureaucratic aberrations. They take up the matters with the concerned government departments or municipal authorities etc, and where necessary, take these to courts and institutions like MRTP Commission.

The consumers' organisations are waking up to their responsibilities of fighting for the rights and interests of consumers. Challenges to them have grown manifold in the past few months, fanned by spiralling prices and malpractices of the vested interests of manufacturers and traders as well as by the exasperating delays in the implementation of the tasks envisaged under the Consumers Protection Act which was ushered in with such fanfare many months ago. **COMMON CAUSE** is devoting its energies to their problems and in the interrugnum, till an effective common platform of the consumers' organisations appears on the scene, it is meeting this requirement of providing them the requisite guidance and taking up the important issues on their behalf.

The pensioners' associations have become quite a source of strength for vigorously taking up their various problems and issues, following up on what **COMMON CAUSE** has, in its humble way, been able to achieve for them. They have been pursuing the various other issues and individual problems with the concerned government departments, and have also taken the matter to the High Court and Central Administrative Tribunal.

Numerous other organisations and associations, including rate-payers' associations, citizens' councils, residents' welfare organisations, houseowners' asssociations, tenants' associations, and such like, are increasingly involving themselves in the common problems of the people. All these are the eyes and ears and arms of the people, for excercising constent vigilance and taking up cudgels for rederssal of their grievances and the injustices heaped on them.

All these are our inslands of hope. We are gratified by their development and expansion.

This publication is not monthly. It presently issues once a quarter. There is no subscription. It goes free to members of **COMMON CAUSE**.

THE MERCHANTS OF DEATH

Under the above heading MERCHANTS OF DEATH the fortnightly magazine INDIA TODAY has, in a recent issue, brought out the sordid story of how the Foods & Drugs Administration (FDA) of Maharashtra Government, which is charged with the responsibility of protecting the interests of users of medicines and patients in hospitals, has manifestly been operating as the handmaiden and co-conspirator of the killers who are producing sub-standard and spurious medicines and formulations. The Commissions and commissions of the FDA and of the dignitaries among politicians who ran the affairs of the State have been the subject of an enquiry by a Commission comprising a well-known judge of the Bombay High Court. The findings, as they have been highlighted in this report of the fortnightly, are a matter of gravest concern to the consumers all over the country. These assume significance against the background of the policies hitherto followed by the Government of India in the matter of drug control and also particularly in the context of the control on the prices etc of bulk drugs and formulations which has been announced recently by the Government of India.

A report on the work of this Commission has also been brought out in THE LAW MAGAZINE (LEX ET JURIS). Basic essentials of the two reports, that of INDIA TODAY and LEX ET JURIS, are reproduced hereunder.

REPORT OF "INDIA TODAY"

For more than a year now, an extraordinary legal drama is being enacted in courtroom number 37 on the first floor of the imposing high court building in Bombay. A stream of doctors, politicians, businessmen and bureaucrtas has testified here to the cavalier and criminal manner in which persons in authority have allowed dangerous or substandard medicines to be sold openly in the market.

From health ministers to bureaucrats, there has been a shocking conspiracy to flout every conceiveable regulation aimed at protecting people from unscrupulous drug manufacutrers. The message to businessmen from the Maharashtra Health Department has been clear-make money in any way possible: the problems of public health can wait.

At the centre of this rotten state of affairs is the Food and Drugs Administration (FDA), the main licensing and regualatory body. And just one offical, the Joint Commissioner, who enjoyed the patronage of a succession of health ministers, contributed greatly to reduce the FDA--once regarded as the best in India-to a den of intrigue and corruption. He has "caused a reign of terror amongst subordinates and kept his superiors in his pocket", said former FDA commissioner N.C. Venkatachalam.

COMMISSION. Justice Bakthawar Lentin Commission was appointed on February 21, 1986--and began proceedings four months later--to inquire into the spate of deaths at the government-run J.J. Hospital in Bombay. In January and February 1986, 14 people died in the hospital after being given glycerin (or glycerol), a routine anti-oedema drug used to combat swellings. The glycerine had contained diethylene glycol, a chemical which kills quickly by attacking the kidneys. The fate of seven other patients, discharged after similar treatment, is not known. The commission's terms of reference cover not just the purchase and handling of drugs at the hosptial but also the workings of the government drug control machinery.

Lentin, 60, an astute judge known for his trenchant observations, has ruled in many crucial cases. He has turned the inquiry into an exceptional investigation into the sabotage of the public health system by the very people appointed to safeguard it.

But the commission--which has received five extensions--has faced several obstacles: from barefaced lies and convenient memory lapses by politicians and bureaucrats, to bomb scare, threatening letters to the counsel, missing files, a privileges notice in the Assembly and reported attempts by Health Minister to oppose the commission's extension in cabinet meetings earlier this year.

In fact, when minister was faced with evidence of his own complicity in the FDA's collapse, he angrily proclaimed from the witness box that the Government did not intend it as "an inquiry against ministers". Lentin's response was memorable."If you think this commission of inquiry does not include ministers, you have missed its whole purpose," he told the powerful minister, adding: "This is not merely an inquiry into the deaths of those unfortunate 14 people at the

J.J. Hospital. This inquiry is looking into the probity of public office and administration in high places. Sit down minister!"

Besides two health ministers, five former ministers, including the redoubtable Shalini Patel and ex-chief minister Shivajirao Patil-Nilangekar appeared before Lentin to answer for their patronage and their interference in FDA functioning. The commission, assisted by counsel Navint Shah and J.P. Devadhar has finally finished recording nearly 4,000 pages of evidence from 120 witnesses. Often the drama was electrifying, receiving detailed media coverage and packing the courtroom to capacity day after day. It was clear that though the glycerine deaths occured in Bombay, impact of the FDA's criminal negligence could extend beyond Maharashtra as the state accounts for 40 per cent of the country's annual bulk drug production of Rs.2,139 crore and more than 50 per cent of formulations worth Rs.458 crore.

The FDA violated seven rules under the Drugs and Cosmetics Act to grant a licence in record time to Alpana Pharma Pack, the Nanded-based company which supplied the killer glycerine to J.J. Hosptial. Alpana exercises clout with the FDA since behind its small-time owner lurked a well-connected businessman. Large sums of money had even been deposited by Aarti Chem. Karwa's Pune firm, in a bank account operated by R.D. Kulkarni, head of J.J.'s Pharmacology Department and a member of the drug selection committee.

Alpana Pharma had repacked the glycerine to be used medically form drums clearly arked "IW" (industrial white) and "not for medicinal use". Glycerine, a byproduct in soap manufacture, must be 98 per cent pure for medicinal use. But the drums contained just 12 per cent glycerine the rest was sorbitol and the deadly di-ethylene glycol, used as a drying producer. Alpana disregarded the warning on the drums as it is routinely stamped by manufacturers even on pure glycerine containers to avoid stringent Drugs and Cosmetics Act laws. Alpana also had the glycerine certified from Chem. Med, an FDA- approved analytical laboratory.

The drums had come to Alpana Pharma through three intermediate suppliers, none of whom has been prosecuted. One supplier admitted that he felt no shock when he heard of the deaths, provoking Lentin to complain: "Profiteers who dealt in death in czarist Russia were sent to Siberia. Or were shot. We are too civilised. We only hold inquiries."

The commission's investigations have uncovered the horrifying spectacle of a watchdog health agency totally surendering to the manipulations of people like the Joint Commissioner. As a result of his political patronage he has managed to remain posted in Bombay for the last 20 years; normally officials get postings for just three years. And the FDA has continued its lawless reign even after agenices from other states like Gujarat and Tamil Nadu complained about the quality of drugs emanating from FDA's fieldom.

Some of the more amazing facts uncovered by the Lentin Commission are:

Besides Alpana Pharma, 250 other drug units in Maharashtra operate without analytical laboratories. A health secretary forced the FDA to issue notices after the hospital tragedy. But the units continue to manufacture, regardless. An FDA commissioner admitted in court that the agency's inaction was illegal but justified it as a "policy decision".

Between January and September 1986, the FDA found 582 formulations sold in the market were substandard, including 119 life-saving drugs. No action has been taken against manufacturers and the formulations continue to be sold in Maharashtra. Some of the guilty are reputed pharmaceutical firms, including multinationals.

Though 300 formulations were found substandard between February and July 1987, no action has followed. Nearly a quarter of the 5,000 formulations found substandard are still sold.

Blank licence renewal forms for manufacturing drugs, signed by the Joint Comissioner, were produced in court.

In rare instances where the FDA did enforce the law, ministers stepped in to save manufacturers. The Bombay-based Cyma Pharma was charged with making substandard drugs- chloramphenicol used for treating tyhoid, and cymastrep for diarrhoea. Two show-casue notices to the firm, followed by the cancellation of its licence were simply ignored. Later, the FDA mysteriously qualified its orders, prohibiting Cyma Pharma from manufacturing only the two substandard drugs. But after the firm appealed to Sawant, even this order was cancelled, as the firm had "suffered enough punishment".

An FDA assistant commissioner alleged that the agency's officials were forced by the Joint Commissioner to collect donations for the Rural Upliftment Organisation, a trust with which Sawant is associated.

Another assistant commissioner earned the wrath of Govind Sarnayak- health minister in the '70's- and was transferred four times in one year for pursuing two manufacturers who violated the law. In one case, oxtetracycline vials meant for animals were passed off for human use by changing the labels, while in the other, suprio-

us Novalgin tablets and terial drug--were supplied. Confronted with evidence,Sarnayak's standard respone was: "I remember nothing."

Prosecution of a manufacturer for selling substandard tetracycline and zinc oxide powder was withdrawn after Ministers'intervention. A trust run by the Ministers who was at different times both health and prohibition minister, received donations from beer bars, liquor vendors, distilleries and many drug companies, including multinationals.

The Directorate of Revenue intelligence found an FDA inspector involved in making and smuggling °Mandrax, a banned drug.The inspector was close to a minister- he has only been suspended.

Chemists of Apex Laboratories, a government-approved unit, complained to the FDA that the public analytical laboratory issued reports without testing drugs. Investigations by the assistant commissioner in charge of the state's 30 analytical laboratories revealed that Apex had given "false, incomplete, misleading and imaginary reports" relating to 23 drugs. But the offical sheepishly told the court that Apex had not been prosecuted since "there was no precedence (for prosecution) even in cased of serious offences endangering lives."

Before the tragedy, Chem Med,the laboratory which had passed the deadly glycerine, had been warned five times for false analysis. In two instances where it passed life-saving drugs, complaints were received from government analysts in Calcutta, Madras, Srinagar. Yet Chem Med remained on the approved list, with the owner confessing he kept FDA officials happy by "inviting them for dinner parties or by giving them presents".

Joint Commissioner approved drugs firms and gave approvals to make new drugs. But the Government was not informed as required. While his daughter was made a partner in Ferrico Laboratories, Panvel in 1979, his father became a partner in Ferrico Pharmaceuticals, Bombay, in 1970. This share was inherited by another daughter in 1984. The unlimited powers of patronage he enjoyed in the FDA provoked Lentin to dub the agnecy the "Father Dolas Administration".

No less scandalous has been the state Government's lackadaiscal response to the plethora of charges. Sawant continues as health minister. And though following protests, he transferred the officer, it was to an equally powerful post, as the joint commissioner (food).

That the FDA hasn't reformed its ways was brought out dramatically when Lentin visited its offices and laboratory last fortnight. He found that scores of companies, including habitual offenders, are allowed to sell substandard drugs. Cyma Pharma's name appeared again in the FDA's register--described by Lentin as the "murder book"--for substandard products. As late as July'87, streptomycin samples were found to be sub-therapeutic, and a risk to patients lives. Another habitual offender, Deen Pharmaceuticals, was registered in the FDA's book for supplying intravenous glucose and eye drops containing visible suspended matter.

"What the devil is the Government doing? What is the FDA up to? How is Cyma Pharma still in business? This whole commission of inquiry is a waste of time", remarked a despairing Lentin.

"We do not know how many have died, how may hundreds are crippled for life. We are just playing with pople's lives." Shockingly, in spite of Lentin's dogged pursuit. It has begun to seem that the merchants of death will remain free to play their diabolical games.

REPORT OF "THE LAW MAGAZINE"

ON JULY 24, 1987, the recording of evidence before the Lentin Commission enquiring into 14 deaths at J.J. Hospital, came to an end.

In the action-packed inquiry, extending over more than one year in which 120 witnesses were examined-- several top functionaries grilled and hauled over the coals--devasting facts of maladministration, corruption and human fallibility have been uncovered. Justice Lentin was driven during the proceedings to file perjury complaints aginst a total of five witnesses--the cream of the executive and bureaucracy--after hearing all the "lies, damned lies" that witnesses unashamedly poured out before the Commission.

Notwithstanding surprising and sudden losses of memory of most witnesses, and frantic cover-ups, the Lentin Commission has arrived at the macabre truth about the administration (or lack of it) of the Food and Drugs Administration with the administration of J.J Hospital thrown in for good measure. Presistent queires from Justice Lentin and the Commission's counsel Mr. Navnit Shah, managed to bring down the bastions of tight lipped witnesses ranging from ministers to lay officials, petty businessmen and others who constitute the hotch-potch.

In fact the last leg of recording evidence, more facts about the nonchalance and/or corruption that permeates a branch of government so intimately affecting the citizens very life, came to light. The depositions of partner of Alpana Pharma Pack, which supplied the contaminated glycerol to J.J. Hospital, revealed that he had written falsely to the FDA that he would

set up a quality control laboratory. The undertaking was given only because "the FDA required it to give him a license for repacking, but he had no intention of setting up a laboratory, further deposed that the drugs inspector FDA knew about this and that he was not overly concerned about giving a false undertaking, as he knew of several drug manufacturers who had given false undertaking without facing prosecution or action of any sort.

The evidence of the drug suppliers reveals that the FDA is not particular about checking the antecedents of the suppliers. Corruption and indifference is rife at all rungs of the administrative ladder. The supplier of the killer drug, and other suppliers of possibly lethal or harmful drugs told the FDA that they "would" have a quality control laboratory at some point of time, and the FDA, taking their words as gospel, freely doled out licences for repacking.

Coming to the internal working of the J.J. Hosptial itself, the evidence of Dr. R.D. Kulkarni, the former head and professor of pharmacology at the J.J. Hosiptal, revealed that, to the knowledge of the persons, substandard drugs mostly found their way into government hospitals The drugs selection committee at the hospital had no set-up of their own to ascertain the quality of the drugs and drugs were selected on the basis of opinions of the FDA officials. The FDA, Dr. Kulkarni said, was solly responsible for determining the reliability of the manufacturer. Looking back, He said, the information provided by the FDA was often not correct. He also admitted that the committee awarded tenders to several 'wrong' manufacturers as there were many complaints in the J.J. Hospital alone in 1985-86 of drug reactions and non-efficacy of drugs.

In the chain of causation, thus, the FDA advised the drugs selection committee; the FDA in turn was advised (sic) by "certain minister" as to which manufacturers should be awarded contracts for supply of drugs. The committee, moreover, was also given to enhancing rates without any reasonable basis or increase.

The investigative part of the inquiry concluded with Justice Lentin's visit to the den of diaster- the drug control laboratories of the FDA. He went, he saw and he was horrifed. Nearly 20 per cent of the drug samples drawn by FDA inspectors for testing were found to be substandard. However, there were only a few instances where there had been followup action by way of show-cause notices to the concerned manufacturers. Some of the manufacturers have consistently been supplying sub-standard drugs, yet there was no check on them and their drugs were in free circulation. As Justice Lentin remarked, there must be so many instances of deaths or permanent disabilities caused by the use of these drugs, which have not come to light.

The sample register of the FDA, appropriately dubbed as the "murder book" by Justice Lentin, showed the apathy and bungling rampant at the crucial stage of drug-testing. The register was not maintained reglarly and entries had been struck off or arbitrarily deleted. The registers contained a column which was found to have not been filled in at all at some places. At others, the result had been changed unscrupulously, to read 'standard' by striking off the 'sub' in an early entry of 'sub-standard'. The commission discovered that the FDA was not keeping tabs on the performance of the drug manufacturers-- as to whether there was any improvement or further falling of standards of their supplies. The FDA Commissioner told Justice Lentin, that these lacunaes were due to under-staffing--thereby contradicting the statement of the health Commission that the FDA was adequately staffed.

Justice Lentin's visit to the FDA laboratory, though marked with his usual grim humour, put the lid on the now irrebuttable facts of the sordid state of affairs of the government, of the departments, and --sad to say--of the national character at all levels of functioning.

At the start off arguments on July 27, 1987, Justice Lentin remarked that he would "hang anyone", given the evidence. Government Counsel, while bidding to defend the government's actions on various points, has admitted that the FDA needs a complete overhauling and cleansing out. Meanwhile, several weeks after the Commission's directions and return of files to the FDA, no action by way of issuing show cause notices, have been taken on any of the errant firms which were found to be manufacturing and supplying sub-standard drugs.

An overview of the facts which have come to light during the Commission proceedings has shown that in the FDA, typical of a government department, often the left hand does not know what the right hand is doing. That a great number of human lives are held in these unreliable hands, is the disquieting fact which one faces.

The Lentin Commission's efforts so far may or may not show results immediately. It will only be after the submission of the report that heads will start to roll, as the government counsel has assured the Commission that the government will abide by the Commission's decision.

PROPERTY TAX
HOW TO RATIONALISE IT

Problems relating to assessment of Property Tax have assumed obvious importance. Almost everybody who owns a residential or commercial property, in any town or metropolitan area, has to face these problems.

The present structure of law and the procedure relating to the subject are riddled with all sorts of anomalies, irritations and distortions which cause exasperations to the assessees. It is in the interest of everybody that these structure and procedures are modified and improved so that the municipal bodies should be able to augment their revenues from Property Tax which is the mainstay of their revenues, and the citizens do not feel harassed and aggrieved by their operations.

For these purposes this material has been prepared by me for wider deissemination to members all over the country through this periodical. Additionally, we will publish this material in a separate booklet for informing the legislators and members of municipal bodies so that they become acquainted with the ramification of these problems. Meanwhile, we would be happy to receive from the members their views and suggestions on the points contained in it.

H.D. SHOURIE

There are two basic facts relating to Property Tax, popularly termed as House Tax, which need to be borne in mind in any serious consideration of the pros and cons of its structure and administration in the Indian context. These are: (1) Property Tax is the mainstay of municipal revenues, and if we are asking for the provision of satisfactory civic services we should be willing to pay this tax and not crib about it; and (ii) the present administration of this tax is riddled with anomalies, aberrations and disortions, and it should be the responsibility of everybody with knowldege and experience to help the municipal authorities to remove these for rationalising its levy, assessment and collection. There is no reason why the municipal authorities should not be willing to accept reasonable and appropriate suggestions which help to minimise the aberrations in assessments, opportunities of corruption by the staff, and harrassment to the citizens, at the same time enhancing the yield from the tax. Let us examine the entire question from these viewpoints.

Taking Delhi Municipal Corporation (hereinafter referred to as MCD) as an example it is worth notice that the proceeds from Property Tax presently constitute as mush as 47% of its total revenues. Out of total budget for 1986-87 of Rs.207 crores the yield from the Property Tax has been Rs.100.32 crores. The total budget in 1978-79 was Rs.65 crores, and the yield from Property Tax at that time was only Rs.17.88 crores, constituting about 25 percent of the total. The present yield of Rs.100.32 crores comprises practically half the total budget, and this performance of the Assessment & Collection Department of the MCD is undoubtedly creditable.

The break-down of recovery from Property Tax of MCD is as follows. Rs.25 crores out of it is from the tax on residential properties; as much as Rs.49 crores from commercial properties including the bigger commerical properties (which yield Rs.37 crores) and those which have rateable value of less than Rs.1 lakh (Rs.12 crores); Rs.11 crores from yields of transfer duty and Rs.14 crores from service charges levied on government properties in the areaof MCD. The service charge levied on government properties is at the uniform rate of $12\frac{1}{2}\%$ percent.

Total number of properties in the MCD area is of the order of 4.64 lakhs.Out of these nearly 4 lakhs are residential and 64,000 are commerical. Out of the residential premises nearly 2 lakhs are such whose

rateable value is less than Rs.1000. There are only about 10,000 house which have rateable value of more than Rs.20,000. Likewise, among the commerical premises those with less than rateable value of Rs.1,000 are about Rs.20,000, and those with rateable value of more than Rs.20,000 are only about 6,000. Among the residential premises those of small rateable value are mostly within the walled areas of old city and those with higher rateable value are in the new residential colonies. This also largely applies to the commerical premises.

For understanding the entire problem, and in order to determine ways and means for rationalising the structure and administration of this tax, it is necessary to assess as to what factors in the MCD administration of this tax have been responsible for the increase in its yield. Following have been the main steps as ascertained from the concerned department:-

(i) The schedule of rates has been rationalised, leading to a general over-all decrease of rates. The rates of residential properties previously prevailling and those now operating since 1985-86, are given below:-

Rateable Value	Pre - 1985-86 rates (percentage)	Present rates (percentage)
1000	10	Nil
1000 - 2000	11½	10
2000 - 5000	12½	
5000 - 10,000	15	
10,000 - 15,000	18	20
15,000 - 20,000	20	
20,000 - 25,000	25	
Above 25,000	30	30

(ii) The rates on commercial properties now operating are given below.

Rateable Value	Precentage Rate
Upto Rs .10,000	15
10,000 to 20,000	25
Above 20,000	30

(iii) The other taxes coming within the purview of Property Tax charged by MCD are - Scavenging Tax, Fire Tax and Education Cess. These are presently 2%, 1% and 1% respectively for residential properties and 5%, 2% and 1% on commercial properties. Increases effected in these taxes in the recent years have also contributed to the increases in over-all yield.

(iv) Rebate of 25 percent is being allowed on self-occupied properties. Rebate of 15 percent is being allowed in the case of partly occupied and partly tenanted properties. In all the other cases rebate of 5% is being allowed for prompt payment. Newly constructed premises, completed after 1.4.1985, are being allowed a general rebate of 25 percent. These rebates are being allowed only where no arrears are outstanding. The attitude of MCD in this context is that the assessees disputing any assessment should pay up the disputed arrears and then they will be entitled to the rebates. It is claimed that a large number of pending disputes have been settled through this arrangement.

(v) Connecssion has been given to the assesses that if they pay up in lumpsum the cumulative tax of ten years they will remain exempt from its future payment. It is gathered that the amount received by MCD from this concession is Rs.3 crores.

(vi) Out of 2.17 lakhs assessments which were pending for some years the department has been able to complete as many as 98,000. This has substantially reduced the burden of backlog and enabled attention to be focussed on other measures for expansion of revenues from the tax.

(vii) In 1986 the department issued as many as 2.5 lakhs bills on residential properties and 93,000 on commercial properties. Out of the 2.5 lakhs bills of residential properties 66,000 related to self-occupied properties.

Against this over-all pictures of the impact and extent of the Propery Tax of Delhi Municipal Corporation it would now be worthwhile examining the problems on which attention needs to be focussed for removing the difficulties, anomalies and aberrations which are encountered by the citizens, keeping in view at the same time the paramount requirement of augmenting the revenues of the local authority. In dealing with these problems it would obviously be appropriate to deal only with the major issues and not get lost in details and irritations of the nature of delays in issue of bills, mistakes in calculations, non-reconciliation of payment of arrears etc. The major issues are dealt with in the paragraphs that follow.

MAJOR ISSUES

One major issue is the unfortunate linkage that exists between the relevant provision of MCD Act dealing with assessment of rateable value for levy of Property Tax and the provisions of Rent Control Law. Under 5.116 of the MCD Act it is laid down that the rateable value of any land or building "shall not exceed the annual amount of the standard rent" fixed under the Rent Control Act. The "standard rent" is defined under the Rent Control Law. It is frozen for properties which were rented out long ago. For properties constructed in recent years the standard rent is described as a percentage of the "cost of constrcution and the price of land on the date of commencement of constrcution". Everybody recognises that the Rent Control Law has become hopelssly outdated. The problems between owners and tenants have become accentuated in the recent years because of the continued operation of this law, but this is a separate matter. The linkage between enabling provisions of Property Tax and Rent Control Law came about 30 years ago at the time of enactment of MCD Act. It could not have been anticipated at that time thát the problems of Property Tax assessment will get entangled, as they are at present, with the problems of determination of "standard rent' which came into being for protecting the interests of tenants, a necessity which had arisen because of the paucity of accommodation arising from the war years. It is of paramount importance that Property Tax assessment should now get delinked from the concept of standard rent relating to Rent Control Law, so that the anomalies and aberrations brought by this linkage should be overcome, but the politicians have not yet been able to make up their minds as to how to amend the Rent Control Law, which fact continues to perpetuate the problems for the citizens as well as the municipal authorities.

Aberrations and anomalies caused by the linkage will be evident by taking some obvious illustrations. Let us take the case of two plots, both of 400 sq mtrs each, adjacent to each other, in the lay out of a good colony of New Delhi. The colony was, say, laid out 20 years ago when the price paid for each of the two plots was Rs.12,000. It is immaterial for the purposes of this illustration whether the colony is free-hold or lease-hold. The house on one plot was constructed at the time when it was allotted. If its construction cost was Rs.1.lakh, the rateable value of this house, on the cost criteria, will be 8 1/4 of Rs.1.12 lakh i.e. about Rs.9,000 and the House Tax will be about Rs.1,000. Suppose the owner of adjacent plot could not construct on it at that time due to family circumstances and otherwise, and constructed the house in 1986, of same dimensions as the adjacent house. The new cost of constuction is of the order of Rs.3 lakhs. The price ofland has escalated to Rs.8 lakhs, based on the price of Rs.2,000 per sq.mtr notified by the government. According to the cost criteria the rateable value of this house will be 8 1/4 of Rs.11 lakh i.e. about Rs.90,000 and its House Tax will be above Rs.24,000. Thus, the House Tax of two adjacent houses, on plots of the same size and same dimensions, will differ to such

an enormous extent, one paying 25 times the other. It is possible that the house constructed 20 years ago is on rent and is yielding a hefty rent to the owner. The house constructed in 1986 may, on the other hand, be self-occupied. The anomaly thus magnifies manifold. The house which is yielding the presently prevailing high rent has to pay House Tax only a fraction of the House Tax which has to be paid by the self-occupied owner of the adjacent house who could not build it earlier. This would be obviously an impossible position for self-occupant owner. The occupants of both houses breathe the same air, use the same road, have the same failicities of drainage, scavenging, water supply and street lighting.

PRACTICAL DIFFICULTIES

Practical difficulties arising from this anomaly are legion. These difficulties are experienced by numerous people in the housing colonies. In the older housing colonies the anomaly manifests itself when a house is now constructed on plot which had been purchased long ago. Owners in newer housing colonies are suffering as they feel discriminated against vis-a-vis the older colonies, because they now buy the plots at highly escalated prices and also incur heavy expenditure on construction. This problem also emerges in the housing colonies created, say, by the Delhi Development Authority which has over the past decades constructed tens of thousands of flats in these colonies. Prices of flats have escalated over the years; for the same or similar accommodation the buyer now pays at least 3 or 4 times, and even more, what the buyers of previous flats paid. On account of the escalated prices they are burdened with higher Property Tax because it is assessed on the price paid which is claimed to constitute the cost of construction and the proportionate price of land relating to the flat. Similar serious problem is being encountered by the buyers of residential flats in new multi-storied buildings which are coming up at various places. The prices of these flats are very high, ranging from Rs.5 to 8 lakhs and more. The position ostensibly becomes impossible for an average person if the Property Tax is assessed on the price of the flat. An extension of this problems has, for instance, been also encountered in the Property Tax assessment of some industrial sheds constucted in Delhi by the Delhi Authority. Nearly 300 industrial sheds in one Industrial Estate were constructed at one and the same time about ten years ago. They are all of the same size, in three respective categories. They have been allotted in different years, through system of tendering and auction. The Property Tax assessment on these sheds varies vastly, the MCD insisting that it has to be based on auction/tender price whereas the owners contend that the assessment should be on original cost basis as provided under the law. These anomalies are illustrative of the complexity and size of the problem, leading to enormous number of assesses feeling aggrieved by the assessments. The very fact that as many as about 2½lakh objectins have been made by the owners shows the size of the problem which arises primarily because of the anomalies of the law.

Generally, a counter argument is being advanced on behalf of municipal authorities that where a person is in a position to spend for the highly escalated prices of land and cost of construction, or at the auction of a flat or industrial shed etc. he makes the investment and consequently the municipal authority would be justified in levying a higher Property Tax on the premises acquired by him at the higher price. This argument is obviously faulty. Property Tax should have relationship to the provision of services by the municipal body and it should not be related to the amount that the owner has had to invest in securing or building the premises. At best the Property Tax can be related to the value of the property, so that the municipal authority should be able to derive the benefit of the escalation of values of the property, but in doing this there should be no cause for grievance of any discriminations and anomalies as they exist at present.

Another serious anomaly was for many years in evidence in relation to the premises which were constructed in stages. A person may have purchased a plot 20 years ago. He built the ground floor of the house at that time, and subsequently added the first floor to it, or additional accommodation on the ground floor, say, in the last year. The MCD had evolved a pernicious principle of taking the estalated price of land on pro-rate basis for the new construction where the relevant words of the statute were clear i.e. "the price of land on the date of commencement of construction". Our contention throughout was that the price of land should be only that which was the price on the date when the original construction was commenced. The Supreme Court, in its well known judgement of December'84, on the main writ petition submitted by COMMON CAUSE, had specifically pronounced that the price of land cannot be taken twice over, yet the MCD was violating this pronouncement. This matter has recently been settled by the Supreme Court.

It has been re-iterated that the price cannot be taken twice over, and the price of land at the commencementof original construction will be the relevant factor. This matter was leading to enromous problems for the owners, and to serious anomalies in the administration of Property Tax, and it is very satisying that it has now been resolved in favour of the owners. Tens of thousands of owners, who were aggrieved on this account, have breathed a sigh of relief, and it is now well recognised that this matter will no longer stand as a hurdle in the construction of additional accommodation in the premises already constructed.

One other vary important problem in connection with the Property Tax assessements by MCD is the general exemption that was recently accorded, obviously as a political expediency, to all premises of rateable value upto Rs.1,000. This measure may sound to be very appropriate and healthy, for benefiting the weaker sections among the citizens. But, the fact is that by this one measure the Delhi Municipal Corporation has deprived itself of a big chunk of the revenues which it could legitimately raise from those who can afford to pay. As stated above, out of total of Rs.4 lakh residential premises in the area of MCD,as many as two lakhs are those which have rateable value of less than Rs.1,000. Out of the 64,000 commercial properties those with rateable value of less than Rs.1,000 are about 20,000. Now, with one fiat the local authority has exempted all these premises of rateable value of less than Rs.1,000 from payment of Property Taxes, including the house tax, scavenging tax, fire tax and education cess. Most of these properties are those the rents of which stand frozen under the Rent Control laws, with the result that even though their real value is many times more, they come within the category of exempted premises because of their low rentals. There are instances where the properties, residential as well as commerical, change hands at fabulous amounts; enormous pugrees prevail and underhand transactions are extant, but the fiction continues being enacted that they have to remain on frozen rents and consequently of low values. In some recently developed colonies too, which have come up for weaker sections, this fiction continues to prevail, though the fact remains that the hutments which were allotted at the price of Rs.8,000 to Rs.10,000 now command prices of Rs.1 to 2 lakhs. For the purposes of Property Tax assessment, however, their rateable value remains below Rs.1,000 and they consequently continue to enjoy the exemption from all these taxes. On any sane consideration this meaningless sweeping exemption from these taxes, which is so deleterious to the MCD revenues needs to be immediately scrapped, to be substituted by appropriately planned system under which the citizens are placedunder obligation to defray their responsbility of paying the propery taxes in reasonable relation to the values of the property and only those are exempted who donot have the capacity to pay. Procedures need also to be devised by wich the owners of small properties donot have to knock about or be at the mercy of the inspectorate in the matter of assessments and re-assessments of the taxes, and that they are given "pass-books" somewhat of the nature of ration cards, on the basis of which they can make deposits of their taxes without the hassles of receving the bills and waiting for the receipts.

Iner-connected with this matter is the fact that on account of the operation of existing Rent Control laws, whereunder the rents are frozen, the municipal bodies are not in a position to participate in the benefits arising from the escalation of values of the property. In accordance with the series of judicial pronouncements, particularly of the Supreme Court, intitially in the 1979 case of Dewan Daulat Rai Kapur & Others Vs MCD and subsequently of the 1984 judgement in the case known as Dr. Balbir Singh & Others Vs MCD, the assessments have to be made on cost basis and not on rental basis, but the assessments previously made on basis of frozen rents cannot now be altered without cause, with the result that the rateable values of most of the previously cnstructed properties remain very low as compared to what they would be on any reasonable basis of present valuation.

Another matter which has been causing severe complaints is that of the enormous differential of Property Taxes that prevail in the areas of MCD and the New Delhi Municipal Committee. The NDMC area is in fact an island within the enveloping area of MCD. Standards of municipal servies are generally felt to be better in the area of NDMC than in MCD. Yet, the rate of Property Tax in NDMC area is flat rate of 12% percent of the rateable value whereas in the area of MCD the rate goes upto 30 percent for premises of higher rateable value. There are certain roads, on one side of which lies the area of NDMC and on the other the area of MCD. Consequently, across the road in such areas the rate of Property Tax jumps from 12½ percent to 30 percent of the rateable value for similar properties, and the differential greatly irks the citizens. On this matter a writ petition was filed by COMMON CAUSE before the Supreme Court, and it is still pending.

SUGGESTIONS FOR RATIONALISATION

Against the background of these various problems and the aberrations and distortions of the present procedures and assessments of Property Tax, let us now consider what can best be done to pave the way to rationalise the structures and procedures of this tax on which depends whether the towns and cities are in a position to give greater satisfaction of services to the citizens. Suggestions arising from the examination of the various relevant factors are given below:-

(i) First and foremost requirement is of de-linking the Property Tax assessment from the concept of "standard rent". The problem of effecting amendment of Rent Control laws is a separate problem. serious in dimensions and its facets; but in asfar as the concept of "standard rent", related to Rent Control laws, has got interlinked with the definition of assessment of Property Tax, it needs to be immediately de-linked. The de-linking can surely be done in such a way that the interests of tenants, vis-a-vis the Rent Control laws, are in no way affected, and therefore there cannot be any reason for delay in breaking this unfortunate linkage. The Central Ministry of Law should urgently examine this matter and provide guidance on it to the State Governments for enactment of requisite amendments in the laws relating to municipal bodies.

(ii) Law and the procedures should be re-vamped in such a way that no discretion in the matter of assessment is left in the hands of the staff and that the assessment should get based only on factual ascertainable data. The discretion available in the hands particularly of the field inspectorate has been responsible for the ccorruption that has been associated with the assessments.

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

(iv) The law and procedures should be so devised that the owners are placed under obligation to submit their Returns of Property Tax on annual basis on the lines of Income Tax. They should pay the taxes on the basis of Returns submitted. On defalut in submitting the Returns and paying the self-determined and admitted taxes they should face the penalties on the lines of Income Tax. A procedure of this nature will yield enromous benefits to the municipal authority; it will enable the revenues to be collected without the hassles of annual assessments, receipt of objections, disposal of objections, fighting the appeals in courts etc. It will obviate the accumulation of objections and there will be no pending assessments as they stand at present for the last many years, in fact, since about 1971. There should be provision which gives to the assesses the discretion to revise his assessment within at most two years, and if the municipal authority has not raised any objection to the assessment within two years it should become automatically final and the municipal authoirty should be barred from subsequently increasing the demand. If any alteration comes about in the property it will automatically get reflected in the Return submitted by the assessee.

(v) The major question is as to what should be the basis of assessment of Property Tax. Should it be based on the cost of construction and price of land? Or, should it be based on the rent assessable on it? Or, should it be related to its assessed valuation? Or, should it be related to the space the premises occupyy i.e. the volume, taking into account its area and height etc? Or, is there any other method by which the assessments of properties can be made equitably and expeditiously? In each of these methods there will be some problems, some scope for discretion to the staff and consequently scope for corruption as well as grievances. The cost basis, including the cost of construction and the price of land would have been a reasonable method,

but the unprecedented escalation of the construction cost and land price has made this method unworkable because of the inequities and anomalies that it will continue to involve. The rent assessment method is a feasable solution. This method was being used by the municipalities till the 1979 judgement of Supreme Court in the case of Diwan Daulat Rai Kapur & Others Vs MCD made it inoperative. This pronouncement was further re-iterated in the 1984 case known as Dr. Balbir Singh & Others Vs MCD in which the pronouncements of Supreme Court in regard to various categories of properties were based on the submissions made in the writ petition of COMMON CAUSE. The rental method can be workable if the linkage between the municipal laws and Rent Control laws is removed, but with the enromous mess which has been made of the rentals because of the Rent Control laws, wherein rentals now operating are oppressively excessive, it will be difficult in the present circumstances to base the assessments of Property Tax on the present rentals. The only method that can be equitably used is that of relating the assessment of Property Tax to the valuation of the property. Relating it to the valuation will be justifiable, but the process would be rendered impossible if the impact of continuing escalation of values of the properties is disregarded. Instead, we have for long been advocating that the valuation should be related to the year 1971-72 after which the values of properties have experienced unprecedented escalation. Where the properties were constructed prior to 1971-72 their valuation should be based as of that year. These will take care of the escalation that came about prior to 1971-72, giving the benefit of this ecscalation to the revenues of the municipality. Where the construction has taken place after 1971-72 the cost of construction and the price of land relating thereto should be taken as they would have operated in 1971-72. This will take care of the unprecedented escalation which has taken place since then. It is surely not difficult to lay down the criteria on the basis of which valuation can be effected as of the year 1971-72. The valuation reports made by approved valuers on such basis can be adopted for the purposes of assessment of Property Tax.

(vi) It is of fundamental importance that the rate of tax should be reasonably low. In this context, it is obviously not justifiable to accord sweeping exemption of the nature which has been given to all properties of rateable value less than Rs.1,000. This exemption leads to vast loss of revenue, making it impossible for the municipal authority to recover anything also for the sevices of the natures of scavenging, fire and education. The levy of tax on the properties of low values should be such that it is possible for the owners to pay, and the procedures for their assessments and payments etc should be so devised that they operate on automatic basis and the owners donot have to face the hassles of assessments etc. While effecting the reduction of the rate of tax for bringing larger number of owners into the net it would be appropriate to also remove the present anomaly that exists bewteen the rates applicable in the areas of MCD and NDMC as desribed above.

(vii) The above suggestions related to properties in the cateogries both residential as well as those which are commercial, or which might better be termed as "other than residential". In this context, it is appropriate to also define very clearly as to what should be the criteria to categorise a property as "other than residential". In the present dispensation a great lot of scope exists for discretion in the hands of staff to categories properties "residential" or "commercial". The premises of self-employed professonals such as doctors, architects and consultants etc are being categorised as "commercial", leading to grievances and problems. We are of the view that where a part of the premsises, comprising not more than, say, 1/30th of the total built up area is being used for the work of self-employed professional, the premsises should not be treated as "commercial", and where the area used for the professional work exceeds such limit, the area used for the professional work alone should be taxed on basis of commcerical premises.

Time has come when bold initiatives need to be taken at the political and administrative levels for finding satisfactory solutions of the problem of assessments of premises for the purposes of Property Tax in such a manner that while the revenues of municipal bodies should be enlarged for enabling them to adequately meet the constantly rising demands for better and more servies, the inequities, anomalies and discretions that hound the assessees in the present frame-work of the law and procedures, are done away with. This matter deserves careful attention of all citizens. They should consider the suqqestions which have been made above and give expression to their views through their respective citizens associations and other organisations. The associations and organisations of the citizens are welcome to send their views and suggestions to COMMON CAUSE to enable us to convey these to the concerned governmental authorites.

MORE ON HOUSE TAX

In this issue of the periodical we have dealt at length on Property Tax, highlighting the variousanomalies aberrations casued by its present structure and administration. In this separate write-up we would like to inform the owners about their rights arising from the Supreme Court judgement in relation to House Tax assessments.

In particular, we wish to place before them the position arising from the recent additional decision of the Supreme Court in relation to the premises constructed in stages. Which the outstanding presentation of Mr. Harish Salve Advocate has won for us. Tens of thousands of assessees were facing the problems casued by the demand of MCD that the price of land on pro-rata basis could be taken into account for the subsequent construction. We continued to contend that according to the law, as it stands at present, the price of land could be taken only as it stood on the "date of commencement of construction", and this date was the one when the original construction was undertaken. The Supreme Court judgement of December 1984 explicity stated that the price of land could not be taken twice over. In the face of this attitude of MCD we had filed an application to seek clarification on the relevent portion of the judgement of December 1984. Somehow the decision on our application got delayed, and eventually, on the re-iteration of this decision in a judgement of the Delhi High Court, we decided to withdraw the application. MCD thereupon decided to submit an application to the Supreme Court to seek the clarification. The Supreme Court dismissed the claim of MCD, upholding that the position had already been clearly stated in the December 1984 judgement. This decision of the Supreme Court has been very widely welcomed. It has helped to restore confidence of the owners that they can go in for additional construction without the inhibition of being burdened with highly escalated and disproportionate imposition of House Tax.

We still keep hearing about the cases where the MCD officers are not acting according to this direction of the Supreme Court. It is very unfortunate if this is so. There would obviously be no alternative for the owners in such cases except to file contempt of court proceedings against the concerned officers. We suggest that the assessees should examine in detail whether in any case, which is now being decided, the MCD officers are taking a position which is violative of this direction of the Supreme Court. It is not enough to go merely by generalisation. It must be made sure that what is alleged in any particular case is absolutely correct. Thereafter, the owner should issue a notice to the concenred officers(s) of MCD as to why contempt of court proceedings should not be initiated. If any owner may wish to get the draft of such notice of contempt-of-court proceedings he is welcome to write to COMMON CAUSE for it.

NATIONAL URBANISATION POLICY

A Seminar was recently organised at Delhi on the important subject of the National Urbanisatin Policy, for determining what direction needs to be given to the future urban expansion and development in the country besides taking care of the enormous expansion that has already taken place in the last few decades. The Seminar was sponsored by the Laslie Sawhny Programme of Bombay. It was organised with the help rendered personally by the Director of COMMON CAUSE.

The participants in the Seminar, numbering 55, comprised a very select gathering of a specialists, experts and representatives practically from all the important organisations and institutions which have interest in the problems of urban development and urbanisation in the country. The institutions and organisations included, for instance, the Ministry of Urban Development of the Government of India, National Buildings Organisation, National Institute of Urban Affairs, Town and Country planning Organisation, Insitute of Town Planning of India, Planning Commission (Urban Development Wing), School of Planning & Architecture, Urban Arts Commission, Delhi Develpment Authority, Centre for Urban Studies of the Indian Institute of Public Administration, Indian Council of Social Science Research, Institute of

Economic Growth, Urban Development Centre of council for Social Development, Department of Regional Studies of J.N. University, and prominent persons from among representatives of industry, business and builders. For discussing the problems of urban development there obviously could not be a more representative gathering.

A brief note embodying the basic features of the problem and highlighting the points to ponder in the Seminar, which had been circulated to the participants besides other background material, is reproduced hereunder. This note is followed by a brief Report on the Seminar which has already been sent to the Ministry of Urban Development.

POINTS TO PONDER

3245 urban settlements in India. 538 out of these are medium and small sized, of population less than 5 lakh.

Total population in urban centres was about 70 million in 1951. It is now about 200 million, and is expected to grow to 340 million by the end of the century. Increase in 13 years will be 180 million, more than twice the total urban population 30 years ago.

If it is estimated that half the increase in urban settlements is due to rural-urban migration, 90 million potential rural migranents will have to be accommodated and provided for in urban settlements.

There is an inevitable shift from rural to non-agricultural activities. Migration from rural areas to urban settlements is not necessarily on account of rural poverty; rural prosperity generates as much migration to urban areas as does rural poverty, as is evidenced in areas of Punjab, Haryana and West Utter Pradesh.

Most of our large cities are showing signs of serious overstress. Under pressure of population growth, the essential infrastructure of the cities has reached the verge of collapse. Housing, water supply and drainage, city transport, local employment and the availability of land on which to locate city activity have all suffered grievously because the city management systems have not been able to react adequately to the problems of growth.

There has been failure to identify priority action areas, invest in continuous upgradation of the infrastructure, eliminate inefficiency in management and administration and remedy the defects in the legel system.

There has been failure to continually review the urban development systems and the effort has hitherto been restricted to meeting crisis situations in ad hoc manner only.

Distortions have consequently appeared in the urban system. These mani- fest themselves in myriad ways; broadly speaking these are:

i. Distortions arising from lopsided investments.
ii. Distortions arising from wrong priorities.
iii. Distortions arising from overstressing the urban systems in certain cities where localised pressures have built up to explosive proportions.
iv. Distortions arising from inadequacy of infrastructure.
v. Distortions arising from inefficiencies of management and defects in legal systems.

Proliferation of slums and other visible signs of urban decay and poverty. Squatter colonies have come about due to the failure in three crucial areas: (i) supply of urban land (i.e. land with access to jobs, public transport, urban infractruc- ture etc), (ii) absence of adequate housing finance and (iii) failure to anticipate the scale of demand in our towns and cities. The failure in the matter of urban population has increased two-fold from 1961 to 1981 the squatter population in Bombay, for instance, has increased from 400,000 to 4 million, a tenfold increase. The total squatter population in our cities is now of the order of 30 million, and is expected to increase to 80 million in the next 15 years. Degradation of quality of life; growth of urban tensions and violence; apalling conditions of congestion and population; these are all manifestations of these failures. Upto 50 percent of the population of our large cities lives in squatter colonies in conditions which are not only substandard but inhuman.

There has been failure to provide adequate funds for housing which ranks in priority next only to food and clothing. Actual allocation for housing in the 7th Plan is only 1.3% of the total Plan; central government's share out of this being only the fraction 0.16% of the whole plan.

Urban Land Ceiling Act. This Act has failed in attaining its objectives. Land which has hitherto been declared surplus order of 1,66,000 hectares; out of it the area which has so far been taken into possession by the government machine-

ry is only about 3800 hectares; and out of this the area which has been used by the government for housing construction is only about 600 hectares. The performance has been extremely poor. In Delhi, for instance, the area taken over and utilised is only 2 hectares. As against this the land exempted under section 20 of the Act is of the order of 40,400 hectares. Applications received for the exemption were about 100,000 and the energies of the government machinery were utilised primarily in disposing of these exemption applications.

Rent Control Laws. The operation of Rent Control laws has resulted in numerous problems. These include: (i) deterioration in the condition of old buildings and the consequent deterioration of available housing stock; (ii) very substantial reduction in resdential construction for rent; (iii) flats and houses are kept vacant due to the fear of losing them to tenants; (iv) rents have sky-rocketed and it has become practically impossible for any new arrival in a city to get accommodation on rent; (v) only company leases and foreign embassies etc. are favoured for tenancy; (vi) cases in courts have mounted to tens of thousands, leading to tensions and law & order problems; (vii) the impact of these laws on the municipal revenues has been extremely harmful because the rateable values are pegged to the frozen rents.

REPORT ON THE SEMINAR

Discussions in the Seminar were set off by the eminent architect Mr. Charles Correa, who is Chairman of the National Urbanisation Commission set up by the Government of India. His presentation was followed by that of Mr Mahesh Buch, Vice Chairman of the commission. In the absence of Mr Minoo Masani, who could not be at Delhi because of cataract operation, the Seminar was presided over by Director of COMMON CAUSE.

Mr Correa in his presentation amphasized the paramount importance of maintaining a balanced approach to the requirements of urban development. He stated that if adequate attention was not paid to proper growth of the urban settlements they could lead to national degradation instead of leading to national wealth which should be the objective of their development. The present open-ended migration from the rural areas to the towns could become a nightmare if the opportunity of expansion of the towns is not appropriately utilised. He felt that it is more likely that in 30/40 years the further expansion of towns may reach a zero growth stage and that the present position should not necessarily be considered from the alarmish viewpoint. There is obvious constraint on the resources, he stated, and there is need of proper measures for more rationalised use of land. These problems have to be effectively tackled.

Mr Mahesh Buch also deprecated the tendency to talk in terms of alarmish view of the present expansion of towns and metropolitan areas, though he emphasized the need of tackling the problems of squatters' colonies. He expressed the view that the present local bodies and civic authorities are not exploiting the full potential of raising the resources and there was considerable package of the resources. He stressed that the objective should be to make the cities self - financing. For appropriate and effective development he expressed that institutions should be built up, with resources of about Rs. 1000 crores to each one of them, (i) for looking after the development of national cities (i.e. Bombay, Calcutta, Madras and Delhi), (ii)for metropolitan development and (iii) urban dvelopment. Organisations and institutions should be trained to prepare feasible schemes for implementation. Local bodies should be forced to improve their resources. Ways and means should be devised to raise the contribution of the community for the provision of services provided to them.

A large number of participants joined in the discussions. From the chair Mr Shourie placed before the Seminar salient facts: continuing migration from rural to urban settlements, the expansion of slums and squatters' tolonies and the degradation of human living in them, the inadequacy of allotted resources, and the depredations caused by the rent control laws. He put fourth specific issues for expression of views by the Seminar. These included: Should there by an urban nationalisation policy and what should be its content?, should we be alarmed about the rural migration to towns?, are slums and squatters' colonies insvitable?, should there be separate treatment for national cities?, why is delay coming about in the amendment of urban land ceiling act and in the rent control laws?, how the municipal revenues can be augmented? and how to ensure that political will for these changes should be generated?

Discussions ensuing on these presentations focussed on these various issues. Following points were made in the discussions:-

i. Developments in technology should be utilised on a larger scale for overcoming the major problems connected with

urbanisation; for instance, utilising the means of transport for generating and fostering greater development of satellite towns and neighbourhood areas.

ii. The requirements of national cities should be balanced with the requirements of general appropriate development of urban areas.

iii. Attention should also be focussed, where necessary, on the development of new cities.

iv. In evolving the urbanisation policy it should be borne in mind that it is "affordable". It may not be possible to secure funds for specific projects only on the basis of the payment for them by the users.

v. Position of migration to urban settlements need not be considered alarming but appropriate and affective measures should be taken to ensure that these donot go to add to the expansion of slums and squatters' colonies.

vi. Private initiative should be utilised to a greater extent in proper utilisation of resources of land and for provision of housing. New urban agglomerations should be fostered and encouraged.

vii. There should be greater effort of utilising private innovative effort and development of public policies.

viii. The requirement of regional development, and peculiarities of growth of towns in different regions, must not be lost sight of.

ix. It needs to be kept in view that we are living amidst hard realities and requirements of hard regulating measures but also amidst soft state situation. The broad urban development principles will need to be considered in the light of the requirements of short term development plans.

x. The urban situation is constantly and repidly changing. This dynamic flux of the urban situation will have to be kept in view while finding long-term and short-term solutions.

xi. It is necessary to specifically identify the items of infrastructure and the resources which can be mobilised for meeting the needs.

xii. It should be recognised that the urban administration, as it has emerged over the decades, is inefficient, ineffective and corrupt. No effort has been made to see what substitute can be found to the present system of urban administration.

xiii. There has been lack of systemetic thinking on the problems of decentralisation, relating particularly to local urban administration.

xiv. There has been a failure to anticipate the developments and problems in the areas of urban development, including the size and rate of influx and distress migration from the rural areas to the towns.

xv. There is a general feeling that the urban dwellers are a pampered lot in the matter of payment for the services. They have become accustomed to their services being heavily subsidised. They need to recognise the indispensability of selffinancing of services to the maximum extent.

xvi. Urban Land Ceiling Act has failed to achieve its objectives. It has been described as an unmitigated disaster because of its failures in implementation though its objectives were laudable. Sooner it is shorn of its undesirable features the better, it will be for the future of urban development, though obviously it may be difficult to undo the serious damage it has already done in the way of creating scarcities of land availability and escalation of land prices.

xvii. Likewise, in the matter of rent control laws the present situation is very unsatisfactory. These laws have become totally outdated and have led to numerous problems of high escalation of rents, nonavailability of accommodation, stoppage of construction for renting, deterioration of existing housing stock, and multiplication of cases in courts. There is primary and urgent need of amendment of rent control laws, taking into account the recommendations made by Jha Commission and in the interim report of Urbanisation Commission. The Seminar inter alia favoured the suggestion that the cases under the rent control laws should go before a quasijudicial tribunal and there should be only one appeal.

WHAT CONSUMERS MUST KNOW

Amidst the general applause that has been in evidence in the last few months about the enactment of the far-reaching law in the shape of Consumers Protection Act it is now becoming clear that unless the consumers exercise consant vigilance the provisions of this new law can in actual practice become inoperative and can also get diluted. Already there has been enormous delay in putting its essential infractructure on the ground. Only the central Consumers Protection Advisory Council has been notified; the Councils at the level of individual States have yet to start taking shape. These Councils will at most be deliberative bodies; in fact, the size of these Councils (the Central Council comprising 150 members) will make them more of decorative bodies than constituting effective instruments for attaining quick results in the control of prices, ensuring availability of goods and services, and ensuring their quality for providing satisfaction to the consumers.

Out of the other elements of the infrastructure of this new law the most important is that of the District Forums for redressal of grievances. It is envisaged that each district will have its forum, consisting of three persons who will have the powers to redress the grievances of the consumers. Till now not even one forum has been set up, eight months already having passed since the enactment of this law. The apparatus at the appeallate level and higher original level, comprising the State Commissions and the National Commission, can take some more time in being established, but the grassroots requirement is of the establishment of Forums in the individual districts and of their giving confidence to the consumers that they will take up their grievances and effect expenditious and effective redressal.

In the context of establishment and operation of the District Forums, and later of the State Commissions and National Commission, there are certain points which now need to be highlighted so that the consumers and the organisations of consumers become conscious of these with a view to safauarding their interests and also for enabling them to take up each of these matters for sending strong representations to the Government of India.

Prices. It is of paramount importance to notice that in the definition under sub-clause (iv) of clause 2(c) of the Consumers Protection Act it is laid down that a "complaint" mean an allegation in writing made by the complainent that inter alia "a trader has charged for the goods mentioned in the complaint a price in excess of the price fixed by or under any law for the time being in force or displayed on the goods or any package containiing such goods, with a view to obtaining any relief provided by or under this Act". There is a very important catch in this definition. It may tend to make this Act, in the matter of safeguarding the interests of consumers on price front, totally ineffectual. It will be observed that "complaint" can be filed only where the price has been, for instance, fixed under any law. The fact is that there are only a few products in respect of which prices have been fixed under a statue. It would be no exaggeration to say that 95 percent, and more, of the products in the market, donot have price fixed under a statute. Therefore, all these products, in resepect of which the prices have not been fixed under any spacific law, cannot form subject of complaint if the trader charges a price which the consumer may feel to be excessive. Where the price charged is more than the price displayed on the package action can be initiated and complaint lodged, but it is worth consideration in this connection that the law prescribes only the display of "maximum retail price" on the package. Now, this strategy of displaying the maximum retail price is actually a literal fraud being practiced on the consumers. The actual and reasonable retail price may be, say, Rs.5; the manufacturer will print Rs 9 on the package stating this is the "maximum retail price", or, if he wants to show special "generosity" to the consumer, he will charge Rs 8, or evan Rs 7.50. The consumer does not know what the actual and reasonable price of the product should be; he is thereby beguiled to pay much more by the device of printing on the package the "maximum retail price". In fact, often the "maximum retail price" is not printed on the package; a small, printed label is affixed to the package on which is written the "maximum retail price", and the label can be altered and replaced by another label to suit the manufac turer and wholesaler and retailer, thereby totally defeating the purpose of the statutory order. These facts will all become evident if a consumer goes, for instance, to a shop selling paints. He will in all likelihood get a "concessional" price, compared to the "maximum retail price", and he

will notice that the price is displayed on a small label affixed on the tin of the paint. By this strategy adopted by the manufacturer and trader he will be fleeced, and there is nothing that he will be able to do in taking the matter to the Grievances Redressal Forum because (i) the price is not fixed under any statute and (ii) the retailer will not be charging him more than the price displayed in the package.

There is no remedy against these problems unless the consumer's organisations bring pressure on the Government to make up its mind to catagorically direct that the price marked on a product should be the actual price which is fixed on the basis of cost factors and not merely the "maximum retail price". Till then this type of price marking will be only a mockery and a fraud on the consumers.

Secondly, in the matter of price the other strategy of printing the words "local taxes extra" comprises another method of duping the consumers besides defrauding the government. Local taxes generally comprise mainly the sales tax. It is unfortunately true that there is no uniformity in the levy of sales tax by the States. The manufacturers and traders take the full benefit of this position in not printing the actual price on the product, and recording the statement of "local taxes extra". Mostly, the consumers donot ask for the receipts. They pay the amount which is stated to be inclusive of local taxes extra, and the latter amount is also pocketed by the trader. There is thus an enormous leakage of the local taxes.

Thirdly, it is very important that information should be printed on the package about the "expiry date", besides the "date of manufacture", particularly in relation to the products which have limited shelf life particularly food products. It is absolutely necessary that consumers should not be exposed to the hazards of outdated and shelf spoilt products. Pressures must be built up by the consumers organisations to compel the Government of India and the State Governments to ensure that the "expiry date" should feature on the package. The Government of India should be compelled to suitably alter the Packaging Rules for giving effect to this requirement.

On the two points relating to price COMMON CAUSE has addressed a letter to Mr. H.K.L. Bhagat, Food & Civil Supplies Minister of the Government of India. This letter is reproduced hereunder. We strongly suggest that on similar lines all consumers' organisations should write letters to the Food & Civil Supplies Minister (address: Krishi Bhawan, Rafi Marg, New Delhi - 110001). Pressure should be built up by the consumers organisations for these matters to be remedied. The Government must gear up its costs and prices machinary to prescribe norms for the calculation of actual sale price of the product, as on the date of its manufacture, and compel the manufacturers to print the actual sale price and not the "maximum retail price" on the package. Severe action must be taken for any defaults. At the same time the Government should, in consultation with the States, sort out the problem of local taxes to be printed on the package, as on the date of manufacture, for giving confidence of fair play to the consumer and for assuring that the collections go to the exchequer of the Government.

Unless these steps are taken by the Government the effectiveness of the Consumers Protection Act, in the matter of prices which is obviously of primary importance, will be seriously jeopardised and the consumers will not be able to take the benefit of this Act for redressal of their grievances in this regard.

Services. Another matter of grave importance to the consumers is that of "services". The consumers and their organisations had enthusiastically welcomed the step taken by the Government in including the "services" along with "products" in the Consumers Protection Act and bringing these within the purview of the complaints that can be filed before the Grievances Redrassal Forums. The "services" have been defined as those including transport, electric supply, banking, financing, insurance etc. It was felt that the inclusion of "services" in the Act was a revolutionary decision, and particularly because these services included those which were in the public sector. In this context the consumers' organisations need to bear in mind that within this Act there is a provision under clause (4) of section I which says that "Save as otherwise expressly provided by the Central Government by notification, this act shall apply to all goods and services". The word "services" has been defined in clause(o) of Section-1. Now, if the Government at any stage considers that it cannot afford to expose any particular public sector service, say banking, to complaints by the consumers and drag the banks before the Grievances Redrassal Forums it has merely to notify that the service of banking will be excluded from the purview of the Act. It is necessary for the consumers' organisations to know this. They must remain totally watchful and not allow the Government at any stage and in any circumstances to exclude any of the services

which stand included within the purview of the Act as it has been passed. If a stage comes when the Government decides to exclude any services from the purview of the Act all possible measures should be explored to compel the Government not to do so.

PROCEDURE

One other very important feature of the Act which needs to be borne in mind by the consumers organisations is that of the procedure which will be adopted by the Grievances Redressal forums for deciding upon a complaint submitted by the consumers' organisations or by the consumers. As things stand at present the prescription is that the procedure adopted by the Forums will be that as under the provisions of Civil Procedure Code. There will be danger of excruciating delays, and if the lawyers are allowed to represent the parties then the matters can drag on, with the result that no consumer or even the consumers' organisation will be able to take the strain, particularly when the Forums donot have the powers to award compensation to the complainants. The demand of consumers' organisations in this context should be that where the complainant is not represented by a lawyer the opposite party should also not be allowed to be represented by a lawyer. The trial by Forums should be more in the nature of summary trail if they aim at providing confidence to the consumers that they have been set up for protecting their interests.

Reproduced below is the letter which has been addressed from COMMON CAUSE to Mr. H.K.L. Bhagat, Central Food & Civil Supplies Minister on the matter of printing requirement of "maximum retail price" and "local taxes extra" on the packages of products and commodities under the Packaged Commodities Rules. The organisations of consumers may kindly see what additional material needs to be highlighted by them, from among the points elaborated above, in their writing to the Minister for raising a strong voice for making the desired changes for providing proper protection to the interests of consumers.

Dear Mr Bhagat,

On the packaged commodities the manufacturers inter alia print the words Maximum Retail price Rs....." and "Local Taxes Extra". Through these words printed on the packages they and the traders and retailers are thoroughly swindling the consumers. This fact is within the knowledge of the Government and it is a matter of great concern that no steps have hitherto been taken by the concerned departments to safeguard the interests of consumers in this regard. This matter ostensibly needs to be sorted out in consultation with the State Governments because the local taxes are lavied by them, but appropriate and effective steps donot appear to have been taken to this end and the consumers feel embittered on this account.

Everybody is aware that the marking of "maximum retail price" is a sheer hoax. There are instances where, for instance, the "maximum retail price" of Rs. 68 is marked on a tin of one litre acrylic paint, but the retailer actually charges Rs 59, showing as though he is doing a special favour to the customer, whereas possibly the real retail price of that litre of paint may not be more then Rs 45. No customer can be sure as to what the real and justifiable price of the packaged product should be because the information printed on the package gives only the "maximum retail price" which can be arbitrarily fixed by the manufacturer in order to give undue benefit to himself as well as the wholesaler and retailer. There is no reason why decision cannot be taken by the Government to widen the scope of the price fixation of essential products and compel the manufacturers to print the sale price of the packaged product instead of printing the beguiling information of the "maximum retail price". In the present circumstances of spiralling prices it is of utmost importance that the Government should make it obligatory on the manufacturers to print the actual sale price, based on the costing and pricing factors which can be checked by the Government where necessity may arise.

In this context it is very important to bear in mind that unless price of a product is fixed, no charge against the dealer will be sustainable under the Consumers Protection Act and no case will be entertainable by the Redressal Forums on the ground of charge of excessive price. To this extent the Consumers Protection Act will become a dead letter from the very start.

Secondly, on the matter of "Local taxes extra" it is clear to everybody, and should be clear also to the Government, that this startegy adopted by the manufacturers and traders enables them to derive the full benefit of the invitable leakage of the local taxes that takes place. It is seldom that any customer

asks for a "receipt". The retailer invariably includes the "taxes" in the sale price and the customer has no option except to pay it. For instance, not even one percent of the customers at any medicines shop ever ask for the receipt, but invariably the price charged by the retailer includes the local taxes. The local taxes are pocketed by the retailer, and with the connivance of the officials of the concerned local taxes department a general lump-sum payment of the local taxes is deposited. This way the customer is charged extra, but the matter of serious concern is that the taxes donot fully go to the exchequer. This malady can be remedised if the price printed on the packaged product is inclusive of the local taxes Surely, it should be possible for the Government of India to find an appropriate solution to this problem in consultation with the State Governments. Inability to solve this problem concerning the Centre and States, which causes such serious concern and irritation to the consumers, inevitably opens the Government of India to the charge of not taking the steps necessary to protect the interests of the consumers and to pander to the lobbies of manufacturers and traders.

We earnestly hope that the Government of India will give serious consideration to these comments and suggestions. We would be grateful for information about the action taken.

Mr. H.K.L. Bhagat
Minister of Food & Civil Supplies

Yours sincerely,
(H.D. SHOURIE)
Director

FOR PENSIONERS

We continue to derive satisfaction from the fact that large numbers of pensioners all over the country, who had completed more than 15 years after retirement, have by now received benefit of restoration of full peension and are not any longer subject to the cut of commuted portion of the pension. Numerous letters keep coming to us conveying blessings for the effort COMMON CAUSE had made to achieve this result. We are gratified for this recognition of the effort by them.

In connection with the pension commutation restoration it would be necessary to mention that quite a number of old pensioners feel aggrieved that the restoration has not been effected from the date when they completed the 15 years from the date of retirement, particularly where the retirement took place long ago, say, in 1940's or 1950's. According to them, they should be given the arrears from the date when they completed the 15 years i.e. a person retired in 1950 should be given the arrears from 1965. This is not the correct way of looking at the decision of the Supreme Court. It has been decided by the Supreme Court that the restoration will take effect from 1.4.1985, i.e. where the 15 years period had been completed before that(say, in 1950) the arrears will be payable only from 1.4.1985. In our wirt petition we had suggested that the restoration should be effected from the date of submission of the writ petition, in 1983. The Supreme Court decided to give effect to the restoration from 1.4.1985. It would have been impossible for us to win this case if we had pitched the demand for restoration on completion of the "years of purchase" or some such factor relating to commutation tables. We receive a number of letters from pensioners who feel aggrieved on this account. We feel that such grievance is misplaced.

In the matter of family pension too we have been receiving information from various parts of the country about the benefit which widows have suddenly received in the way of arrears from 1977 and the family pension which they had never expected. It is with great satisfaction that we receive the news of such benefits in the cases of very old and indigent widows. Some hard cases, where the widows have not been able to secure the sanctions due to certain reasons, keep coming to us and we have been taking them up with the concerned authorities.

Pre-1973 Pensioners. The judgement which was given by the Central Administrative Tribunal in favour of the pre-1973 pensioners, entitling them to the benefits of the pension liberalisation which was effected from 1.1.1973 (mainly raising the maximum limit of pension from Rs 675 to Rs 1000, and raising the gratuity limit from Rs 24000 to Rs 30000), has been appealed against by the Government of India. The matter is now before the Supreme Court. It is likely that this appeal may come up for hearing in the latter part of this year. The decision on it will oste-

nsibly get reflected in the newspapers when it is annouced. Therefore, it is not necassary for the pensioners to keep enquiring about the result.

Defence Pensioners. The case of defence pensioners is still in the Supreme Court. It has been contended on behalf of petitioners contempt of court has been committed by the concerned officers, namely, the Secretary of the Ministry of Defence, Secretary of the Ministry of Personnel & Pensions, and Secretary of the Ministry of Finance, in not having correctly implemented the judgement on our main writ petition which was decided in December 1982. An application for contempt of court has accordingly been submitted in the Supreme Court, and it appears that the matter will be referred to a five-judges bench of the Supreme Court because the decision of December 1982 was given by a five-judges Bench. It cannot at this stage be envisaged as to when the five-judges bench will hear this case. When the decision on it is taken by the Supreme Court it will obviously get published in the newspapers, and accordingly we request the pensioners not keep writing to us on this matter.

In general, we have been exhorting that the pensioners should kindly bear in mind that COMMON CAUSE is dealing with a large number of matters, as they must have observed from our communications and periodical. We are not dealing only with the problems of penisoners. Accordingly, we have been requesting that they should not convey to us all the various problems of pensioners, which are legion (including the problems of teachers, dock workers, railway retires, P&T pensioners, State Governments pensioners, non-inclusion of DA etc etc.). The pensioners organisations all over the country have now gained considerable strenth. They must explore ways and means of representaing the girevance of Pensioners and follow them up by taking the matters to the local High Court where necessary. We earnestly hope that the pensioners will help to further strengthen their organisations and associations for enabling them to effectively continue grappling with their various problems.

OUR OTHER ACTIVITIES

The range of interests and activities of COMMON CAUSE is very wide. All the various types of problems, particularly those which are these days encountred by the middle classes liritin to in the towns, keep writing to us and we do our little bit to take them up with the concerned government departments and the institutions and organisations. It is impossible to mention all the various communications which come to us from all over the country conveying the problems encountered. Each one of these is attended to, and invariably we send replies to the persons who write and also initiate appropriate action to the extent possible.

We give below a few specimens of the recent communications which have been sent by us to the concerned goverment departments etc. Each communication is self- explanatory. These communications do have their impact though it may not be possible in all cases to succeed in achieving the objective, and the cases are followed up wherever possible

1.To Mr. Bhaskar Ghosh, Director General of Doordarshan.

"Quite a few people have severely complained about the abysmally poor quality of sub-titling of the regional languages feature films which are telecast on Sunday afternoons.

The sub-titling of some recent films, telecast on the Sunday afternoons, is so poor that it is a matter of sheer disgrace for Doordarshan. The sub-titles are mostly unreadable, they are often unsynchronised, each following seconds after the concerned dialogue; and mostly each sub-title stays only for fraction of a second, rendering it impossible for anybody to read it.

This is how Doordarshan earns a bad name. It should certainly be possible to at least ensure good quality sub-titling. This does not require extra-ordinary technology. Shoddy handling of this essential requirement shows how Doordarshan has developed the tendency of taking people for granted.

We earnestly hope you will do something about it. I would be happy to receive an assurance that this matter will be remedied"

(Since this letter was issued there has been some distinct improvement in the quality of sub-titling of the regional languages feature films telecast on Sunday afternoons).

To :

THE SECRETARY TO THE GOVERNMENT OF INDIA, MINISTRY OF TELE-COMMUNICATIONS, WITH COPY TO THE GENERAL MANAGER, MAHANAGAR TELEPHONE NIGAM LTD:

"It does not need to be emphasized that the telephones services in the country leave much to be desired in the way of giving satisfaction to the consumers. In this letter we draw your attention to a specific smalll problem which is quite an irritant to the users.

The directory enquiry number 197 is at present stated to be operating on the basis of metered calls. It is obviously the obligation of the department to supply complete and satisfactory directories of telephones, and if a user makes enquiry about a number from the exchange it should be assumed that he has not been able to find the number, or the correct number, in the directory. Accordingly, there is no justification for the 197 calls to operate on the basis of metered calls.

We strongly suggest that this matter should be considered by the Government and suitable instructions be issued to the Mahanagar Telephone Nigam Ltd., and other exchanges. We are sending a copy of this letter to Mahanagar Telephone Nigam Ltd. We may kindly be informed about the action taken on this suggestion."

TO:

THE CABINET SECRETARY, FINANCE SECRETARY COMMUNICATIONS SECRETARY, CHAIRMAN TELE-COMMUNICATIONS BOARD, ETC.

Sub : PUBLIC CALL TELEPHONES

"There are reports that the Government of India in the Department of Telecommunications has invited tenders for the import of 15000 public call telephone instruments of highly sophisticated technology based on the system of operation with "cards" instead of insertion of coins. It is stated that the f.o.b. cost of each instrument is expected to be of the order of about Rs.40/50,000 and that after payment of customs duty etc the cost per instrument on installation will be of the order of Rs.one lakh. For these 15000 public call instruments the total expenditure will be of the order of Rs.100 to Rs.150 crores.

Public call telephones are being indigenously manufactured. Even though there are deficiencies in the present indigenous instruments, we cannot see why such heavy expenditure should have to be incurred in importing the instuments of high sophistication and technology when indigenously manufactured insturments can meet the present requirments to the extent that they have till now been doing.

There are reports that the tenders for the import of sophisticated public call instruments are to be finalised on the 8th September 1987. We are not concerned whether and which parties are participating in these tenders, but if the reports are correct about the proposal of import of these sohphisticated technology instruments there is obviously a distortion of priorities in the matter of utilisation of available resurces. As a public interest organisation we urge that this distortion should be corrected, no public call instruments of such sophisticated technology at this stage should be allowed to be imported, and if the requirement can be fulfilled with the indigenously manufactured instruments the effort should be directed to that end. We are sending this note to the Prime Minister's Secretariat, Ministry of Communications and others concerned."

TO:

THE CABINET SECRETARY TO THE GOVERNMENT OF INDIA

"It is recognised all over the world that smoking is injurious to health. Smoking by officials in meeting sets a bad precedent and gives the impression of meeting being sloppy and indisciplined.

We suggest that as an initial step the Government of India should decide to ban smoking in all meetings, held within the Secretariat or in Departments or in places like Vigyan Bhawan etc. Suggestion should also be communicated to all State Governments to likewise ban smoking in all meetings organised by the State Governments or their departments.

We would be grateful for being informed about the action taken on this suggestion."

TO:

THE CHIEF EXECUTIVE COUNCILLOR, DELHI.

I write this with reference to the recent advertisment inserted in newspapers reproducing the following resolution adopted by Delhi Metropolitan Council on 22nd July '87:-

> "This House resolves that purchases, sales and other transfer of interest in land or property that have been done through General Power of Attorney prior to this Resoultion be treated as valid sale, purchases or transfer of interest for practicable purposes. Appropriate amendments be carried out in law for achieving the object of this Resoultion."

You have been kind enough to invite suggestions on this subject. We have secured opinions from various people. Based on these opinions and our examination on this matter we convey hereunder our considered views:-

(i) Any such decision, fixing a cut-off date, will be open to the charge of being arbitrary, depriving the people subsequent to the cut-off date from the benefits which are being accorded to the others. This type of arbitrariness will be distinctly violative of Article 14 of the Constitution of India which prescribes: "The State shall not deny to any person equality before the Law or the equal protection of the laws." This decision will be challenged in courts and there are numerous authoritative pronouncements to support this view.

(ii) We strongly feel that the Power of Attorney system is wrong and has led to many abuses. But, the emergence of this system is attributable directly to the wrong policies of the Government in asmuch as the Government disabled the straight forward transactions of real estate through unnecessary and impractical restrictions. It should have been recognised by the Government long ago that consequent on the scarcity of building plots and the connected escalation of prices (which are related to the failures on various fronts including those of Urban Land Ceiling Act and rent control laws) strategies of the nature of Power of Attorney had become inevitable. There were people who were in need of building-plots and built accommodation; there were others who had these and wanted to derive the benefit therefrom. They had to find the ways and means of overcoming the artificial and meaningless hurdles created by the Government. Now that this system has been operating for many years and has solved the problems for those who want to purchase and those who want sell, it would be foolish on the part of Government to abolish the system without creating proper substitutes to it. Its abolition will create enoromous problems and lead to multiplication of challenges to the Government in courts as well as outside. Already, because of the fears that this system is being abolished all sorts of clandestins transactions are being conducted within Delhi and by effecting registration outside the jurisdiction of Delhi.

(iii) We strongly feel, therefore, that the appropriate thing to do for the Government is to find suitable substitute to this prevailing system. In fact, we feel that time has come for the Government to re-consider its policies in regard to transactions of real estate properties. The prices have sky-rocekted. Controls will only raise them further. If, on the other hand, the Government were to allow the transactions to take place and encounter the market forces, the situation might improve. If any persons receive allotments of plots in the developed or developing cooperative housing societies, or if any persons receive allotments of DDA flats, etc, they should be allowed to sell these openly. This will lead to lowering of the prices, raise the revenues of Government from registeration charges, and reduce the requirements of under-hand deals which have so manifestely eroded the moral fibre of the society.

We earnestly hope that you will give serious consideration to these suggestions, not put into operation the Resoultion passed by the Metropolitan Executive Council, and request the Council to reconsider the entire matter."

TO:

THE CABINET SECRETARY, FINANCE SECRETARY AND PRINCIPAL SECRETARY TO THE PRIME MINISTER.

"Government of India in the Ministry of Finance has issued very clear instructions, repeated vide the circular dated 19th March 1987, prescribing the maximum expenditure that can be incurred on the stay of any officer in a hotel while on tour. The upper limit fixed is Rs.175 for officer drawings pay of Rs.5100 and above, and Rs.150 for officers drawing pay of Rs.2800 to Rs.5100.

There were reports in a Delhi newspaper that the Secretary, Department of Civil Aviation, and the Special Assistant of the Department, stayed in Oberoi Towers Hotel at Bombay, for attending the meeting of Indian Arilines Board, on about 26th to 28th June 1987. The expenditure relating to their stay in this Hotel was obviously far more than the upper limits prescribed by the Govt. of India. It is obviously immaterial whether the payment of the bill has been made by the Indian Airlines because this public sector organisation cannot claim any privilege of contravening the Government of India instructions, and it would also be immaterial that the payment of the Hotel bill has not hitherto been made if it is so.

As a public interest organisation we feel greatly concerned about the wastage of Government funds and contravention of the specific instructions issued by the Government. We wrote letters on this subject inter alia to the Secretary and Special Assistant of the Department of Aviation, and also to the India Airlines Bombay and the Oberoi Towers Hotel, Bombay, asking for information about the bills relating to this stay in the Hotel, but have not received any reply. The cause of this silence is obvious because the admission regarding the payment or the requirement thereof would demonstrate the contravention of the instructions issued by the Government of India.

We would like to be assured by the Government of India that the instructions issued by it in this behalf will be strictly observed by its officers and what action is proposed to be taken where these instructions are contravened."

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