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COMMON CAUSE

VOICE OF "COMMON CAUSE"

OUR FIGHT IS AGAINST INEQUITIES

Our fight throughout has been, and will continue, against inequities, anomalies, discriminations, aberrations and distortions where they are caused to the citizens due to the transgressions. malfunctioning and disregard on the part of the administration and its various wings, whether they are the government departments, or organisations, or public sector monopolistic services, municipal authorities, or unscrupulous manufacturers and traders

We resist, struggle against, and challenge the harassments that are caused to the citizens by the omissions and commissions of those who wield power and exercise authority against the interests of the citizens.

We take up the matters with concerned departments or organisations or companies, and also to the legislatures, seeking redress against the inequities. Because our action is based entirely on objectivity and reasoned justification, quite often the references emanating from COMMON CAUSE evoke consideration an. response. Where we feel that the authority is not willing to rectify the problem we take the matter to court. We have had the privilege of taking to the Supreme Court and the High Courts matters of generel and wide importance which have resulted in amelioration and mitigation of the problems of hundred of thousands. These problems have ranged over very wide fields; discriminations in pensions; rostoration of pension commutation; discriminations in family pension benefits; house tax aberrations; inequities in charges relating to electric supply; problems of housing development.

Source of great satisfaction to COMMON CAUSE is that more and more individuals and organisations are now taking up cases for redressal of the wrongs of administration and local bodies. Large number of writ petitions on public interest causes are being submitted to the High Courts and the Supreme Court All sorts of important issues are being thus highlighted and agitated. Some outstanding members of the bar have been gracious enough to lend their helping hand, without remuneration, to take up these issues.

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Amendment of Delhi Rent Control Act

Urban scene of the country today is of virtual chaos. Many factors have contributed to the chaos.

Real estate prices have escalated beyond measure. Rentals have, as an inevitable consequence, skyrocketed. Escalation of real estate prices is a major root cause of the problems and anguish citizens face, of the degradation of the quality of iife, mushrooming of unauthorised colonies, the slums, out-of-hand prices, wide prevalence of black money, the mess all round.

The government machinery has bungled in all these spheres. Bunglings of the respective housing and urban development ministries over the last many years have brought about this chaos. Perpetrations of the nature of Urban Land Ceilings Act and the continuance of the outmoded and archaic provisions of rent control law have led to the present situation

Rent Control Law

A major area of bungling is the mishandlIng of rent control law. Its mishandling is a major scandal; this has alienated the people from the administration and shaken their faith in the legislators. Consequences of this mishandling are writ large on the urban centres of the country :

- The small houseowners and tenants suffer; the rich owners and tenants flourish.
- It has become impossible for any average prospective tenant to find accommodation anywhere; the accommodation is available only for the rich tenants (foreigners and embassies most preferred). The prospects of future and potential tenants have been completely jeopardised by the vested interests of existing tenants and their lobbies.
- Owners prefer to keep their premises vacant rather than lose them on renting.
- While the affluent tenants live merrily in protection on frozen rentals and have built their own houses from which they derive rental income, the smaller tenants constantly face threat of evictions consequent upon exploitation of scarce available accommodation. The affluent tenants also create sub-tenancies which lead to more underhand dealings and black money.
- Rentals have become abominably high, putting the entire administrative machinery to shame for utter failure to allow them to get so totally out-of-hand.
- Owners are no longer interested in matntaining premises in state of repairs; they pray instead for them to crumble, for releasing valuable land underneath. Total housing stock, thereby, terribly suffers; enormous amounts are belng appropriated by the state for the effort of maintaining the premises.
- No new construction is undertaken for renting (except, of course, to the embassies and foreigners and multinationals). Owners also cannot renovate or re-build houses, with the result that obsolescence, which is sought to be removed in industry, is throttling the housing situation, deprlving the houses from the processes of improvement and modernisation.
- Courts are clogged with cases of rent control; tenants as well as small house-owners knock about for years for redressal, with no end in sight.
- There are numerous instances of rentals in Delhi having reached the vulgar figures of Rs. 50,000 a month and beyond. Rents, even by multinationals and embassies, are being paid through separate deeds, generating black money.
- Realtions between owners and tenants have deteriorated alarmingly, leading to law and order problems.
- Morality has suffered so abysmally that demands of enormous "pugrees" are involved in the transactions of vacating tenanted premises. There

are known demands of shops in Connaught Place, New Delhi, demanding "pugrees" ranging upto Rs. 2 crores.

- There are instances galore, evidencing the problems. A retired high court chief justice has been knocking about in Delhi looking for accommodation he cannot find for rental; judges, legislators and governors are keeping their premises vacant rather than letting, for fear of losing them. Income Tax Department itself has not been able to auction tenanted premises; pathetic cases have been highlighted of known personalities being disabled from getting possession of their houses even in dire circumstances.
- Frozen rents have very badly affected the revenues of municipal bodies which rely primarily on the property tax which, in turn, is related to rentals.

In the present system of rent control the tenants are subsidised by the owners. It is most unfortunate that the legislators have in general shied away from taking up the measures for reform of this antiquated law, and have evidenced electoral cowardice; the parties refrain from showing the political will for pursuing a logical policy of rent control.

It is against these depredations of the Rent Control Law that the provisions of newly enacted **DELHI RENT CONTROL (AMENDMENT) ACT OF 1988** need to be considered. Let us focus on the irrationalities and illogic of some of these amendments :—

The Rs. 3500 Limit

An important, in fact a major, amendment is embodied in clause 2(ii) which aims at exempting from the Rent Control Law those premises, residential & non-residential, whose monthly rent exceeds Rs.3,500. The ostensible reason is to free all such premises from the control and retain this control only on those premises where the rent is less than Rs.3500 This implies that in the case of residential premises a tenant who is paying rent below Rs. 3500 continues to need protection. A person who pays rent of, say, Rs. 3,000 has obviously monthly income of not less than about Rs. 12,000/ 15,000 an annual income of Rs. 1,50,000 and more; he pays income tax of about Rs. 40,000/50,000. He, according to the framers of this Amendment, needs protection. We have been talking of protecting the interests of weaker sections. Here is a situation wherein, under the garb of protecting the interests of the weaker sections of tenants, the framers of the amendment have extended protection in fact to the vested interests who have over the years been utilising smugly the rented accommodation, who may be otherwise well-off, affluent, including company executives, depriving the house-owners, who gave their premises on rental years ago, to get them back and who are being subjected to the realm of frozen rents under the rigours of this law. Out of about 6,00,000 houses in Delhi not more than about 4,000 are on rental of more than Rs 3,500 Therefore, over 99 percent of owners and tenants remain where they are.

The Jha Commission, which had gone into this entire matter, head recommended that this limit should be fixed at Rs. 1500. Even this limit was very high. It appears that the policy framers have somehow been able to manipulate the figure of Rs. 1500 to be increased to Rs. 3500 on the basis of argument of inflation since the period when Rs. 1500 limit was proposed. They forget that the tenants who were paying less than Rs 1500 at that time are still paying the same rent, by the protection afforded through frozen rents Therefore, this argument cannot hold.

Ten Year Rent Holiday

Second important provision, which is being flaunted as a big concession to the owners, is provided in clause 2 (ii) (d) of the Amendment Act, that new constructions will remain free from the operations of the Act for ten years. Hereto there has been provision that for the first five years the owner could charge whatever rent was agreed upon between him and the tenant. This concession itself has not been helpful in stimulating housing construction.

The fact is that amidst the enormous escalation of land values and construction cost, and with the steep increase of property tax and imposition of wealth tax and income tax, the return on capital investment in housing is now much lower than the return available on fixed deposits in banks. The people are no longer interested in construction for rental (except for the fabulous rents and the under-hand payments available from the multinationals and embassies). Therefore, the rent holiday increase from five years to ten years is not going to help in stimulating the construction activity.

Both these much heralded concessions, of exemption to premises fetching rent of over Rs. 3,500 and according the exemption for ten years for new constructions, are expected to encounter very severe problems of their being violative of the provisions of the Constitution. It can be envisaged that both these will be challenged in the courts as being violative of Article 14 of the Constitution which prescribes that all are equal before the laws. There cannot be any justification as to why a person who is deriving rent of, say, Rs. 3,400 per month, should remain subject to the rigors of the rent control whereas a person who receives rent of Rs 3,600 should be exempt. Likewise one can envisage that there will be people challenging the provisions that those who construct premises after a certain date, i.e. the date of promulgation of the Amendment, should be exempt from the rigors of the Act whereas a person who constructs the premises a few days before its promulgation will remain subject to its operations. In fact, we suggest that persons directly affected by the clause relating to the rental of Rs. 3,500 should take legal opinion and launch proceedings challenging how this smendment is violative of the provisions of Article 14 of the Constitution.

More For Tenants

In clause 8 of the Amendment Act a very strange provlsion has been incorporated. In the principal Act Section 14 lays down the various grounds on which a tenant can be evicted. Among these there is a clause providing for the eviction of a tenant where "the tenant has, whether before or after the commencement of this Act, built, acquired, vacant possession of, or being allotted, a residence". The intention of this clause is obvious. Where a tenant has another premises he should vacate the premises he is occupying in respect of which he is enjoying the protection of this Act. Now, the framers of the Amendment have excluded the word "built" from this provision, i.e. where a tenant has built his own premises he will continue to receive the protection of this Act though the tenants who have "acquired vacant possession of, or being allotted, a residence", will not be entitled to this protection. One fails to see the logic and justification of the exclusion of the word "built", and one feels as though this has been done specially to suit somebody. In any case, where a tenant has built his own residence, where is the justification for allowing him the protection for ten years, which has been done under the new clause (hh) of clause 8 of the Amendment Act ? Surely, this type of arbitrariness is violative of the provision of the Constitution and this matter should be examined in consultation with legal experts.

Armed Forces etc.

Another important provision of the Amendment Act which is being heralded is that contained in clause 9. Special consideration is being shown to the personnel of Armed Forces including Police personnel and the personnel of Central Government and Delhi Administration. They will be entitled to get their residences vacated in certain prescribed circumstances. Questions will immediately be raised as to how discrimination can be caused in favour of, say, the government personnel. The provision in respect of such personnel will be challengeable in courts as being discriminatory in one important aspect. Let us examine this.

Firstly, how can the government justify that government personnel will be given this benefit & not those who are not of this category ? For instance, how can it be justified that the employees of, say. the

municipal bodies, organisations of trade and industry such as FICCI , or even private industry, should be deprived of this benefit ? This provision will certainly be challengeable in court.

Secondly, it is provided in the clause relating to armed forces and government personnel that the benefit will be available to the persons who have retired or the dependents of a person who was killed in action, but its availability will be restricted only to those who have retired not more more than, say, a year before the promulgation of the Amendment. This will obviously make it discriminatory because there cannot be any justification for depriving those who have retired, say, a while earlier or been killed a while earlier. The words "whichever is later" in this context will be challengeable in court. This clause too should be examined in consultation with legal opinion for challenging this restrictive provision in court.

Other Provisions

Another very strange provision made in the Amendment Act is contained in clause 12 which has reference to the provisions contained in Section 22 of the principal Act. Section 22 of the principal Act provides for cases wherein the premises can be recovered from the tenancy under circumstances where the premises are owned by certain public institutions, These have been defined as the public institutions such as educational institution, library, hospital and charitable dispensary. Now, in the Amendment Act, under clause 12, institutions which are "set up by private trust" have been excluded. One cannot understand the logic of this exclusion except that perhaps it is being incorporated as it will be made to suit some particular requirment. For instance, if a hospital is being run by a private trust, why should this benefit be not available to this institution ? One can understand as to why this benefit should not be available to private trusts run for the benefit of family members, but where a private trust is running, say, a hospital or an educational institution, how can it be justified to deprive it of the benefits which will be available to other institutions run by organisation other than private trusts ? This provision in the Amendment Act too needs to be examined for being challenged in court.

Still another provision incorporated in the Amendment Act which appears odd, is that contained in clause 16 wherein it is laid down that appeal can be preferred against the decision of Rent Controller only on the "question of law". It is obvious that there can be errors of judgement also on the question of fact, and it is inappropriate that there should be provision that there will be no appeal entertainable except where the question of law is involved. Appeal should be entertainable on the question of fact as well as law. This is necessary particularly in view of the fact that by virtue of clause 17 of the Amendment Act, provision for second appeal has been done away with, which is a welcome provision.

Besides the above anomalies and inappropriate provisions there are other provisions of the Amendment Act which are obviously unjustifiable. Some of these are mentioned below :

(i) By virtue of clause 3 (a) (i) (a) and (b) the figure $7\frac{1}{2}/8\frac{1}{4}$ percent has been subsitituted by 10 percent in the matter of return on the price of land and cost of construction in calculating the standard rent of premises, and the word "reasonable" has been substituted by the word "actual" in the matter of cost of construction etc. In the circumstances of inflation as it has come about, the increase from $7\frac{1}{2}/8\frac{1}{4}$ percent to 10 percent is totally inadequate, and obviously the calculation of standard rent on this basis will continue to present the problems which are presently encountered. The ratio of of $7\frac{1}{2}$ percent was prescribed when the value of rupee was near 100 paise, the prescription of 10 percent in the context of the present value of rupee at less then 13 paise, is obviously wrong and unworkable. Secondly, the substitution of word "reasonable" by "actual" in this

context will lead only to harassment of the small owners who do not normally maintain detailed accounts of construction costs, and they will be placed at the mercy of the inspectors.

(ii) In clause 4 of the Amendment Act provision has been made that the rent will be allowed to be increased by 10 percent every three years. In the context of present day prices and inflation this provision sounds only ridiculous, particularly when one considers that largely the frozen rents are generally of the quantum of Rs. 100, Rs. 200 Rs. 500, etc. To provide for the increase of rent by Rs. 10, Rs. 20, Rs. 50, respectively every three years, is obviously a matter of inviting ridicule, where the cost of repairs and maintenance itself has gone beyond the total frozen rent which is being paid by a protected tenant.

The singularly unfortunate aspect of the entire exercise of effecting these amendments that in the Delhi Rent Control Act has been that in both houses of Parliament, the Rajya Sabha and the Lok Sabha, practically all the speakers, including those of the ruling party too, spoke against the amendments which had been proposed in the Bill. Notices had been given for amending various amendments, but when it came to voting these amendments were passed and they became the Act. The record of Parliament debates on the Bill embodying their amendments will be useful material for placement before the court when any of these amendments are eventully chellenged.

JUDICIARY FACING COLLAPSE

The former Chief Justice of India, Mr. Justice P.N. Bhagwati, had said : "Our judiciary is on the verge of collapse". Let us look at the scene. How far are we away from the collapse ? Can we avoid it ?

The matter is of serious concern to the entire country. Having lost faith in quite a few of the institutions, on which we have relied for maintaining our polity and stability, we have hitherto been pinning our hopes on the judiciary. Amidst all the problems and difficulties we still have the urge to look to the judiciary for succor. Collapse of the judiciary, therefore, is obviously the gravest disaster that can overtake the country.

Let us look at the figures of backlog of arrears in courts, because on this alone depends the access to justice for redressal. Mere access to the portals of justice, which we take pride in proclaiming, is meaningless if on entering the portals one is lost in the quagmire.

Arrears in Courts

I have before me the latest Annual Report of the Ministry of Law & Justice of the Government of India. The latest figures of the pending cases in the district courts in India available even to the Government of India, are only for year 1984. More recent figures are just not available. In 1984 the total number of cases pending in the district courts was the frightening figure of eight million criminal cases and three million civil cases. In the courts of district judges the pending civil appeals were 2.5 lakh. The institution of civil as well as criminal cases, and the institution of civil and criminal appeals, has been outpacing the disposal by 10 to 20 percent, and it can be surmised, therefore that, the accumulated arrears in the courts are presently of the order of 15 million criminal and civil cases. Add to this figure the cases in revenue courts, in tehsils, talukas and districts, and the cases before various tribunals and tax authorities.

The dimension of the problem, in the district and lower courts, is thus mind boggling. Almost about 20 million persons on one side, and nearabout the same number on the other, are involved in these cases. If you count the families, nearly 20 percent of the entire population of the country is in one way or another involved in the pending backlog of cases.

In looking at the scene of judicial administration the tendency generally is to consider the backlog of cases accumulated in the Supreme Court and the High Courts only. Remedies are sought in securing expansion of posts of judges in these higher courts. Not much is ever heard of the effort that needs to be made to remedy the situation at the grass-roots level, in the talukas and tehsils and districts.

Higher Courts

Image of the judiciary is no doubt projected primarily by the operations of Supreme Court and the High Courts even though the functioning or clogging of lower courts is of fundamental importance. Let us see the figures of accumulated arrears of these higher courts. Parliament was recently informed through a question that there are 1,85,950 cases pending before the Supreme Court, of which 39,936 cases are for regular hearing and 1,46,014 are admission matters. The Supreme Court has presently 17 judges functioning (against 26 authorised strength), holding eight courts, taking into account the benches of two and more judges. On the average each court has before it each day 5 to 8 cases of regular hearing and 10/15 admission matters: on Mondays the admission matters aggregate upto 40/50 in each court. Institution in the Supreme Court presently outpaces disposal by about 30 percent, with the result that every year the arrears keep steeply mounting. There are 3540 cases which have been pending for over ten years; 16,277 cases pending for more than five years; 26,233 cases pending for over three years.

The High Courts of the country present an equally bleak picture. Figures available for High Courts in the Annual Report of the Ministry of Law & Justice are only upto the year 1986. These show that the cases pending in the High Courts were over 1.5 million, the institution outpacing the disposal by about 15 to 20 percent. Sanctioned strength of judges of High Courts is 443, out of which 15 percent posts always remain to be filled consequent upon retirement etc.

The strength of Supreme Court judges was increased from 18 to 26 in May 1986 by an Act of Parliament. Since then, in over two years, not one judge has been added, and in fact the strength has gone down to 17, by a retirement. Even with the full strength operative, and with 12 to 14 benches functioning, the maximum one can expect is that the existing backlog itself will take at least three years to complete for the admission and six to seven years for the matters of regular hearing. During this period the fresh institution will have accumulated to a figure at least double the present backlog. In the High Courts, taking the average disposal of one judge in a year to be 150, the existing backlog will itself take at least five years to clear; in the meanwhile the fresh institutions, at the average of 7 lakhs a year, will have accumulated to the impossible figure of 35 lakhs.

Procedures

Sum total of the exercise of looking at the figures of arrears in the courts of the country is that the matter is of most serious dimension and, in the present system of administration of justice, it has already gone beyond the limit of being remedied. The system is not merely at the verge of collapse; it is fast irretrievably collapsing. No palliatives, of increasing the strength of the courts and the court-rooms, and of increasing the strength and expediting recruitment of the judges, will work; these will only postpone the event of utter chaos and total loss of faith in the judiciary which already stands greatly eroded.

The entire system of judicial administration itself needs to be closely examined. The Law Commission has over the years examined its various aspects and suggested remedies. The fact is that the reports of

Law Commission have only been gathering dust in various corridors of the government. The present Chairman of the Law Commission completed his term of three years at the end of September'88 In all the three years even the remaining members of the Commission were not appointed by the government. He single-handedly produced over a dozen reports on matters of far-reaching importance for the reform and restructuring of the judicial administration. He claims that the implementation of the recommendations embodied in these reports can bring down the arrears by at least 50 percent, and pave the way for saving the judicial system from collapse. Government's action on these reports has yet to take shape.

The remedy does not lie in finding short-cuts and palliatives. The solution does not lie in demanding, as is often done, that the cases in courts should not be given adjournments and that they should be heard from day to day as prescibed in the Criminal Procedure Code and Civil Procedure Code. The file of each district court now ranges from 3000 to 5000 cases, with the result that it is totally impossible to observe the provisions of the Procedure Codes of daily hearings without having to give dates of long years to individual cases. There are cases which have been pending in these courts for three to seven years and which will lie for more years in the appellate courts.

Collapse of the judicial system of the country can be devastating. The malady has grown from within the system and its procedures. We have failed to nail down the real and basic causes of the malady. Proliferation of the laws has made the confusion more confounding. Nobody can now have count of the number of laws that exist, enacted by the centre and the states. The instruments and sinews for the implementation of these laws have weakened to an alarming extent.

FRIGHTENING FACTS ON HOUSING

Some facts of the national scene are frightening. Housing figures, in keeping with the increase in population, are particularly so.

The total population in the 3,000 odd urban settlements of the country was 70 million in 1951. Now it is 200 million, a three-fold increase. It will at the present rate of growth, become 380 million by the end of the century, in the next 12 years. Thus, the increase itself will be more than double the total urban population 30 years ago. Delhi's population of 8 million is expected to rise to over 13 million in that period. The question is whether the increase can be frozen at 11 million.

Migrants

Every year there is an addition of 70,000 migrants to the Capital's population. It can be estimated that nearly half the increase during the past three decades is due to migration from the rural to urban centres, the remaining half being due to urban growth. There is an inevitable shift from rural to non-agricultural activities. It is a moot point whether the migration from the rural areas is on account of poverty alone, because it is contended that there has been such a shift also in the areas of rural prosperity such as in Punjab, Haryana and western U.P.

The expansion of towns has brought about a degradation in the quality of living. The essential infrastructure of cities has reached the verge of collapse. Housing, water supply, sewerage, drainage, transport, employment and availability of land, have suffered. Tension and violence are manifestations of the degradation.

Seventy percent of Delhi's population lives in sub-standard conditions. Jahangirpuri, the sprawling housing complex for the weaker section is cited as an example. It has 12 blocks of 2,000 houses each but there is not a single sewer line, and the community

lavatories its residents are forced to use do not have provision of running water.

Slums and squatters' colonies have multiplied manifold, They are symptomatic of the decay, poverty and squalor in which the weaker sections are condemned to live. The squatter population in Bombay was 400,000 two decades ago. It has now multiplied to 10 times this size (4 million) comprising 38% of its total population. In Delhi, the slum population is over three million ; in Calcutta nearly four million. The situation is no better in eight other cities : Bangalore, Hyderabad, Ahmedabad, Kanpur, Pune, Nagpur, Lucknow and Jaipur. The total population of slums and squatters' colonies is 30 million; it will increase to 80 million by the end of the century.One-third to half the population of individual urban centres lives only in makeshift shelters and slums.

The rural scene is no better. It is compounded by poverty and inadequacy of everything connected with decent living. Talking of housing alone, it is estimated that the shortage in rural areas is of the order of 30 million units. This figure is obviously on the low side but it forms the base of formulation of the National Housing Policy announced in Parliament some time ago.

In the rural areas the problem has at least not been vitiated by imposition of the Urban Land Ceiling Act and the rent control law. The Land Ceiling Act has only led to delays in the use of land, corruption on a high scale, and frustration among genuine builders. The objective of the Act was to identify land which was surplus on the basis of the maximum prescribed for a housing unit and to acquire it for constructing houses far the weaker sections. Laudable indeed, but in the two decades that it has operated the scheme has failed miserably. In all 166,000 hectares in the urban areas were declared surplus, a mere 3,500 hectares of this have been acquired and a pittance of of 660 hectares utilized. The figure for Delhi is a mere two hectares. The measures taken to secure the land have led to serious shortages, resulting in skyrocketing of land prices in all the towns. Rent Control measures, operating in the States have created their own problems. Owners now prefer to keep their premises vacant rather than risk giving them on rent; the housing stock has suffered on account of frozen rents, the urban scene is marred by proliferation of disputes between the owners and tenants and the construction activity has suffered a set-back.

It is against this scenario that the National Housing Policy needs to be viewed. The policy of course glibly talks of the objectives—to encourage investment in housing, to promote "vernacular architecture" suited to the environment and traditions, to lay special emphasis on accessibility to institutional finance for housing construction for the rural as well as urban population, particular steps for upgradation, expansion and renewal of existing housing stock, research in and development of building materials based on local resources, provision of a potable water supply, promotion of smokeless chullahs, built-in latrines, renewable sources of energy and other measures.

It has been incorporated in the policy that legal hurdles which inhibit housing activities, and the entire gamut of legal provisions would be renewed. The policy will lay emphasis on effecting amendments to laws relating to land tenure acquisition and ceiling including municipal regulations relating to house building, apartment ownership and other connected laws.

These again are laudable objectives. It is apparently easy to spell them out in a document. It is also easy to claim that the country's millions would all be provided houses by the year 2000, the quality of houses in the rural and urban areas upgraded, the minimum basic services provided, the quality of life improved and inadequacies overcome.

Blundering

But people are sceptic about the attainment of these objectives and the sincerity of the effort. They naturally measure these high sounding objectives on the yard-stick of the performance of the past many years. Even as the National Housing Policy was announced, practically the same day, the blundering of the Government was evident in the half hearted and politically motivated amendments proposed in the rent control law, contradicting the very claim of the policy that the laws would be reviewed for creating an environment for the utilization of existing housing stock and for its expansion.

The question everybody asks is : will the Government be able to attain the objectives of the National Housing Policy ? A daily aptly remarked : "If only wishes were houses".

CONSUMERS AWAIT PROTECTION

Consumers are getting restive. I have been receiving a large number of letters from them as well as their organizations all over the country complaining of delay in the establishment of forums for the redressal of grievances, promised over a year ago.

The Consumers' Protection Act came into being about 1½ years ago and had raised hopes because it contained features which were unique. Consumer activists felt that for once the Government had outpaced them and put into the Act more than they expected.

One very important feature incorporated in the Act was that it enabled consumers to initiate proceedings not only in respect of products sold to them but also for services like banking, insurance, electricity and transport. We had never expected the Government to expose the public sector services to the quasi-judicial processes contemplated in the Act for the removal of public grievances.

Important Features

Other prominent features of the Act were the establishment of a Central Consumers' Protection Council and its counterparts, the consumer protection councils in the States, establishment of the National Commission for redressal of grievances and the State Commissions. The Central Consumers' Protection Council, a deliberative and advisory body, was to be responsible for protecting consumers against the sale of hazardous products, upholding their rights to be informed of the quality and quantity of goods, and for protecting them against unfair trade practices and exploitation. The State Councils were to deal with the problem in the States and to provide focal points for prescribing guidelines and determining procedures for assertion of the rights of consumers.

The National Commission is to constitute the highest authority in the country for looking into complaints, of consumers where compensation of more thanRs.10 lakhs may be involved & dealing with appeals emanating from decisions of the State Commisions. The latter are expected to deal with complaints where the value of claims may be more than Rs. 1 lakh and up to Rs. 10 lakhs.

The most important operative part of this infrastructures was the establishment of quasi-judicial grievances redressal forums in all the districts. It was contemplated that each district would have its forum for taking account of the complaints, enquiring into them and giving their verdict, including compensation. The district forums were to be the foundation of the whole edifice. Each of them was to be presided over by an officer of the rank of district judge, with two other persons, one of whom was to be a woman social worker. They were to constitute the focal authority at the local level for redressing grievances. There are 440 districts in the country, and it was felt that an array of district redressal forums would be a formidable instrument available to consumers to seek redress against errant manufacturers, wholesellers and retailers.

This kingpin of the infrastructure has yet to take shape. Only in Patna has the first district forum been established. The forum at Delhi has now been established after long delay of notification.

The other places where notifications have been issued for the establishment of redressal forums are the Andaman and Nicobar Islands, Daman and Diu.

Tha States have their own problems. They recounted these at the recent meeting of the Central Consumers' Protection Council. Taking account of their difficulties there were suggestions, which were approved, that where necessary,one forum should be set up for two or three districts, or even one forum

could suffice for the requirements of all the districts of a commissioner's division. It naturally causes great concern that the States cannot find the personnel or the wherewithal for setting up even one forum in each district. To this extent any modification of the original proposal of setting up the forums in each of the 440 districts would bring about great dilution of the programme which was initiated with such fanfare.

The establishment of advisory and deliberative councils will not in itself provide any solution to the problems of consumers, except that they will secure publicity for their meetings and resolutions. I have had the privilege of attending meetings of the Central Council and the Delhi Council which have been held so far. The formidable size of these deliberative bodies, running into a couple of hundred in the case of Central Council and three score for the Delhi Council, does not lead to any fruitful action.

We have been repeatedly told by the concerned Ministers that the enactment of the Consumers' Protection Act was at the personal initiative of the Prime Minister. There are 270 consumers' organizations in various cities. Most of these are weak, with meagre resources. They need to be strengthened and multiplied to spread consumer awareness. The Government has been disinclined to give them any financial help because, we are told, the Prime Minister wants organizations to come up purely as a voluntary effort. This is a laudable goal but the fact is that the consumers movement in the country needs to be fostered, encouraged and expanded, and for doing that the assistance to consumers organizations is indispensable.

P.M.'s inititative

In the country there are now 345,000 fair price shops. Enormous funds have gone into the setting up of these outlets for providing essential commodities to the people. In this context it is surprising that the State Governments are finding difficulty in setting up the 400-odd forums for redressal of consumers' grievances. Or, is it due to the fact that the multiplication of fair price shops provides the clout to politicians for gathering votes whereas the district forums will merely provide inducement to the people to ventilate their grievances ?

The 'Maximum Price' Syndrome

For over 10 years consumers have been defrauded in the matter of prices by a very clever use of the world "maximum" in an apparently innocuous but vital provision of a statute. Whoever in the Government coined this word for being annexed to the provision has played the game of the manufacturers and traders.

Virtual Revolution

The Standards of Weights and Measures Act lays down the standards which govern the kilograms, quintals, centimetres, metres, kilometres etc., to which the country changed over some years ago from the centuries old seers, maunds, inches, feet, yards. Through this legislation a virtual revolution has been brought about in publicizing the new standards based on the decimal system.

Under the Act the Government in 1977 inter alia promulgated the Packaged Commodities Rules. There are certain provisions of the rules which are of primary importance to consumers.

In india practically 85% of the products are sold in packaged form. The Packaged Commodities Rules, among other things, make it obligatory that every package must contain certain information printed on it or on a label securely affixed. The information must contain the name and address of the manufacturer, name of the product, net quantity, the month and year in which the product has been packaged, sale price and in the case of medicines, expiry date. In the case of sale price of packages exemption has been made for certain commodities like uncanned vegetables, fruit, cream, chesse, butter and bottles containing milk,

beverages and liquor. Questions are being raised as to why exemptions have been granted in respect of bottles containing milk, soft drinks and particularly liquor but that is a separate matter.

At the moment, I want every consumer to know about the fraud being perpetrated through the printing of sale price on the packages. The mischief has been done in the definitions provided in the rules. Ths following clauses are relevant.

"Retail Sale Price means the maximum price at which the commodity in packaged form may be sold to the ultimate consumer, inclusive of all the taxes, transport charges and other dues;

"Sale Price in relation to any commodity in packaged form means any one of the following prices:

(i) Price inclusive of freight and exclusive of local taxes and where such price is mentioned on the package there shall be printed on the package the words "Maximum Price—Local Taxes Extra".

(ii) Retail sale price, and where such price is mentioned in the package there shall be on the package the words "Maximum Retail Price".

For the purpose of these clauses the "local taxes" include sales tax, octroi and central sales tax where leviable".

Another very important obligation is that "every dealer or other person who makes retail of any commodity in packaged form shall, where local taxes have to be added to the price indicated on such package by the manufacturer or the packer, display prominently at a conspicuous place of the premises in which he carries on his retail sale the rates at which local taxes are leviable in respect of the commodities sold in packaged form".

Now let us see the implications of these rules. First, not one shop anywhere, in Delhi or elseswhere, is exhibiting the rates of the above mentioned local taxes. Very often the payment of sales tax is avoided by not issuing a receipt. The buyer is never certain what local taxes are. He pays the price which he is told is inclusive of the local taxes but can never be sure. Thereby both the buyer and the Government are duped. You should know that non-display of the rates of local taxes by the shopkeeper is an offence and that a recent amendment made in the Weights and Measures Act has conferred the right on every consumer to complain against the shopkeeper and take him to court.

Secondly, the word "Maximum" in the legend printed on the package enables the retailer, obviously in collusion with the wholesaler and manufacturer, to juggle with the price, Sometimes one finds the retailer getting generous and charging you less than the "maximum retail price" printed on the package. I was intrigued when a Delhi retailer recently charged me Rs, 250 for a four litre tin of house paint white acrylic emulsion of a reputed brand, whereas the "maximum price" printed on the label pasted on the tin was Rs. 390.60, charging me a price 40% less than he could have. It was so incredible that I asked whether the price, printed and quoted, were correct. The shopkeeper confirmed. He gave the reason which, to me is unconvincing. He said he could afford to give that much margin because his turnover was large; a shopkeeper with a small turnover or a retailer in a remote town would charge the printed price. This was the basis on which according to him the manufacturer printed the price. I had a similar experience when I bought the waterbody of a car radiator. The price marked on the package was Rs. 150, but the shopkeeper charged Rs. 138.

These instances show the seriousness of the problem. You should look out for similar instances. It will be good to raise your voice loud enough for the Government to hear it. I raised the issue at the Delhi Consumers Protection Council meeting and also in the Central Consumers Protection Council. I have suggested the convening of a highlevel working group to go into the problem. A group has been set up under the Delhi Council but nothing has yet happened at the Central level and my communications to the Minister and the Secretary of the Department of Civil Supplies have merely been acknowledged for being "looked into".

Enormous Leverage

There cannot be any doubt that the wording of "Maximum Price" and "Maximum Retail Price" have given the manufacturers and traders an enormous leverage for price manipulation. Tne word 'maximum' defeats every purpose of protecting the interests of consumers. It should be possible for the Government to prescribe the margin percentages that should obtain between the manufacturer and wholesaler and retailer, for determination of the retail price and to keep a check on the production cost. This is within the realm of being feasible. Functionaries at various levels in the Government agree that the matter needs to be rectified but nobody has yet started belling the cat. Is it because the pressure of manufacturers and traders, which got the word "maximum" introduced into the provision, is yet too strong for the voice of consumers to be heard ?

Leasehold and Freehold

The Capital is astir, among other things, with the problem of conversion of leasehold land into freehold. Large areas of developed Delhi is on leasehold land. Freehold land is only in the walled area and in the few colonies which developed soon after the influx into Delhi after independence. The new colonies, spread round Delhi and New Delhi, are on leasehold land. Therefore a vast number of houseowners are agitated.

Leaked Report

A news item, ostensibly leaked to a newspaper some months ago, aroused speculation. The report stated that a decision had been taken by the Government to convert leasehold land into freehold where the building plots were of not more than 500 sq yards. On the day the item appeared, a retired Brigadier telephoned me. He said his plot was of 503 sq yards, what would happen to him ? He felt that he would be left out in the race to get the plot converted into freehold. The president of the New Friends Colony Welfare Association suggested that the limit should be fixed at 500 sq metres and not 500 sq yards, obviously because a number of plots had been laid out in the colony in metres not yards.

I immediately wrote to the Secretary of the Ministry of Urban Development pointing out that the prescription of any arbitrary limit would involve serious discrimination and that it would be challenged in court under Article 14 of the Constitution, which prescribes that all are equal before the law. Two months have passed but I have still not received a reply to the letter, not even an acknowledgement.

There have been reports in the Press once again, obviously inspired, that the Government has put off the decision of converting leasehold plots into freehold. It is stated that the notification for ordering the conversion had been prepared and was ready but that the matter had been put off on the instructions from the Prime Minister's office. It is also stated that the Cabinet will examine afresh whether the limit should be fixed at 150 sq. meters.

The proposal of converting leasehold plots to freehold is not being considered purely on merits. The main consideration, everybody says, is the vote catching potential of the decision. Politicians have for long been promising the people that they will get the leasehold land converted into freehold. People have been clamouring that leasehold ties them down to the requirement of seeking approval before effecting transfer, that it involves annual payment of ground rent, and that, most importantly, the owner has to give 50% of the unearned increase to DDA on the transfer. Land prices have escalated 100 to 300 times in the past 20 years. In some areas the prices are up to Rs. 10,000 and more per sq metre whereas the price originally paid was only about Rs. 30 to Rs. 50. A plot of 500 sq metres is now valued at Rs. 50 lakhs and consequently the 50% unearned increase amounts to figures in lakhs, payable to DDA.

Owners and purchasers are unwilling to part with this chunk, hence their clamour for conversion to freehold, so that transfers can take place without sharing the gains with the government agency.

The 500 sq metres limit is stated to have been determined on the premise that the same limit applies under the Urban Land Ceiling Act, and its prescription could be thus justified It is however, clear that the limit of 500 sq. metres in the Ceiling Act had a separate reasoning, enabling the Government to declare additional land of any owner as surplus and acquiring it for providing housing for the weaker sections. That reasoning has no application whatsoever to the question of converting leasehold to freehold.

Nobody yet knows what the terms of the contemplated conversion are likely to be. Speculation is afloat, some saying that the conversion will be effected on payment of ground rent of 20 to 25 years, others claiming that the calculation factor will be linked to the area and the aggregate amount subject to a maximum of Rs. 25,000. It sounds difficult to believe that DDA, which is entitled to recover 50% of the unearned income, can rest content with paltry amounts. Linkage with ground rent alone also appears to be difficult because there are colonies, such as those developed in the 1950s for rehabilitating refugees, like Patel Nagar, where the ground rent is a mere Re 1 per 100 sq metres, compared with the newer colonies where it varies from Rs. 10 to Rs 40. per 100 sq metres.

People are eager to get the leasehold abolished. They feel restricted by the various sanctions which have to be taken—for construction, additions and alterations and transfer by sale or gift. Besides, builders are lobbying for raising many storeys on the plots and selling the flats. Transactions are being carried out on masse en power of attorney basis, side tracking the restrictions on sale. It is argued that the recently enacted Delhi Apartments Ownership Act will yield no results if the owners continue to be restricted in the sale of land.

There is a feeling that the abolition of these restrictions and the attendant irritants will help to generate larger availability of housing and even to lower the land prices and rents. These hopes sound more like a dream.

Resistance to the move comes largely from the Government agencies including DDA. Concern is expressed by the agencies that removal of restrictions will lead to unplanned and uncontrolled growth adding to congestion and the problems of the civic services and that prices will in fact increase instead of decreasing. Resistance cannot ostensibly be based on the revenue collected by way of ground rent and the share of unearned increase, because the collection of a small amount of ground rent is apparently a costry affair. The DDA is not inclined to give the figures of the expenditure incurred on the collection, and the potential of earning from the unearned increase is side-tracked by the stratagem of power of attorney. The total revenue collection from these sources was the meagre amount of Rs. 1.61 crores in 1982-83.

Vote potential

There is widespread scepticism about the avowed intentions relating to the decisions to loosen the restrictions on leasehold land. The belief prevails that the decision would be taken only on the consideration of its potential for votes and not on its merits, that it would be suitably timed to synchronize with the elections, even the by-elections in the South Delhi constituency. Consideration of the matter will, more likely, be on the same grounds as prevail in regard to the amendments to the Delhi Rent Control Act, putting forth the facade of working for the weaker sections and knowing where the vote banks lie. The politicians have apparently not yet grasped the fact that the awakened citizenry will put up a fight when its rights are trampled upon.

Ownership of Flats in Delhi

Nearly 80,000 apartments, commercial and residental, have been constructed in Delhi in recent years by promoters, builders and the DDA. But the ownership rights of the apartments have remained in the dold rums, as they are neither recognized by any taxation authority nor are they heritable or transferable.

No definite title

The allottees or buyers have had no definite title to the land on which the building stands nor could they get the ownership registered, therefore, they could not sell or transfer the apartments, nor could there be a rightful devolvement of ownership on the death of the original buyer. The purchaser could not establish his ownership before any financial institution for purposes of taking loan. The income-Tax Department refused to recognize the ownership and treated the income of rent as income from other property and not from the apartment for purposes of maintenance deducation. In the case of colonies such as those of the DDA or group housing the superstrutctures alone were given to the allottees. The land was conveyed jointly to a registered agency and the allottees, which besides separating the ownership of land and of superstructures led to the difficulties of management of common areas, besides problems of non-transferability.

Things, thus, were in a mess in Delhi for almost about 20 years since the apartments first started coming up. People had to find some way out to meet the essentials of effecting transfers; property dealers found the way for them. They evolved the techniques of power - of - attorney which enabled transfers to take place with the least possible risk. The fact to be emphasized is that as a result of the mess some property dealers proudly proclaim that nearly 90% of the recent development in Delhi is perched on the power of attorney pedestal. Real estate business has mushroomed, properties have changed hands. Black money has ruled the roost and the government deprived of the revenues from registration and stamp fee and share in the unearned income.

The Government has been fully aware of this mess. But no effort was made to effectively check it. For years there was talk of introducing legiglation on the lines of the Maharashtra Act for giving ownership rights to the purchasers and allottees. The Maharashtra Apartments Ownership Act came into force in 1973. The pattern was followed by West Bengal, Gujrat, Karnataka and U.P. among others but Delhi dilly-dallied ostensibly swayed by the powerful builders. The Delhi Aparments Ownership Act was passed in 1986 and it was only in November, 1987 that the rules under it were promulgated.

Thus it took the Government about two decades to do something to stem the rot but the pity is that the rot still persists. Truly a late of incompetence.

The objective of the Delhi Apartments Qwnership Act is to make the ownership rights in flats and apartments heritable and transferable and to remove the difficulties being encountered by the purchasers and allottees vis-a-vis the various taxation and registration authorities. The Act will enable the purchasers and allottees to secure the ownersship of their flats & apartments residential as well as commercial in multi-storeyed buildings, group housing schemes and DDA colonies where the minimum number of flats in a building is four, and even where the number is two or three subject to certain formalities and approval. The owners will be entitled to the percentage share of the

common areas and facilities such as corridors, lobbies, staircases, roofs, parking areas, lifts, pumps and installations connected with power, gas and lights.

They will be given apartment deeds and the ownership will be registered in their names. Along with the flats and apartments they will have the authority to transfer by sale or gift the percentage share of the areas and facilities. Rules have been framed under which the owners of a building will form themselves into an association which will deal with all matters pertaining to the maintenance of common areas and facilities.

The Act has been there for two years and the rules for nine months. It was made mandatory in the Act that deeds of apartments and flats bought before the commencement of the Act (1986) must be registered within three month and those built after the commencement of the Act registered within three months of giving possession thereof. Yet, not one flat or apartment, commercial or residential, has until now been able to derive the benefits of the statute. No deed of apartment, no ownership rights, no association.

It is frightening to see the paralysis that has gripped the concerned Government departments. Under the Act a competent authority had to be designated to perform the functions described in it. The competent authority is envisaged to be the focal point to ensure that proper apartment deeds are filed and the necessary entries made in the deeds when transfers take place. The competent authority has yet to be designated. Zones are proposed to be established for the DDA colonies, the MCD area, and the NDMC Land and Development Office and the Cantonment area. None of the zones has yet been brought into existence. No machinery has been set up. No office has yet been designated or established to which documents can be submitted for approval of the deeds.

Meanwhile, things go on as before. The power-of-attorney business flourishes. Builders are hurriedly constructing buildings on plots of every size, greasing palms and not bothering to wait for completion certificates and quite often setting up unauthorized structures. They sell the flats and apartments; leaving the buyers to sort out the problems.

Numerous questions

There are numerous questions people are asking. The interest of hundreds of thousands is involved. The buyers are asking the builders to give them the deeds;the builders say they cannot because their problems are yet to be resolved by the Government. The plot buyers are forming their associations but nobody is taking the responsibility of approving them. There are complaints that the builders have sold parts of the common areas and facilities, including parking places parts of staircases,corridors and rooftops,which have become the property of the apartment owners. The builders claim that whatever rights were created by them prior to February 28, 1986 cannot be challenged i.e., whatever portions of the common facilities and areas were sold are no longer the property of apartment owners. The builders, lobby, according to apartment owners, was able to prevail upon the Government to incorporate a clause to this effect in the Act.

A major cause of inflation and spread of black money in the country has been the mismanagement in handling real estate problems, the bungling in relation to rent control laws and the Urban Land Ceiling Act. The Delhi Apartments Ownership Act is now bogged down in this mismanagement.

City Transport Privatisation

There has not been a day, since the breaking up of the DTC strike some months ago, when there has not been some serious complaint against the 1,000 private buses supplementing the 4,000 strong DTC fleet in Delhi,

These private buses have become the eyesore of the public. "They are dangerous; they pollute; they kill and have become a law unto themselves", says a daily. They race each other on the roads,for picking up more commuters, and they carry musclesmen who humiliate the jampacked passengers.

Their record on the road has been very bad according to traffic statistics. In April, when private buses were allowed to operate on their own, without the control of DTC supervisors, there were 2,257 prosecutions as against 174 prosecutions of DTC buses. In May there were 3,239 prosecutions of private buses, and 341 of DTC buses. In June the figures were identical. These prosecutions were for traffic violations. One day when the drive against pollution was intensified, 252 private buses were found guilty against 52 DTC buses.

I have not recorded these facts for making out a case against privatization. Nor have I recorded them for praising DTC. I hold strong views about the mismanagement, inadequacies, lack of motivation and wastages in the public sector, and the DTC is no exception.

Privatization

Po tical compulsions, considerations and constraints are apparently operating and forcing the imposition of private buses on the DTC fleet. The ostensible justification is stated to be the need for bringing about competition between private and DTC buses, for providing a better service to the people. Views are being expressed that behind this ostensible justification there are political compulsions, the next elections and the need for collecting funds.

In dealing with the hard realities of the traffic on Delhi roads, the convenience of commuters, and dangers and problems they encounter it would be wrong to get lost in an ideological battle of privatization vis-a-vis the public sector. In theory, privatization can well be a justifiable act of faith, in general it can also be asserted that a civil servant, in the present circumstances of political interference, cannot be trusted to be efficient and that the public sector is synoymous with inefficiency.

In the present case it is not the question of privatization in the normal sense of the word. There are 1,000 private buses, owned by almost 650 or 700 individual owners who have their own divrse interests. Their interests are pitted against the DTC which they want to outdo. For a certain period, in order to break the DTC strike which threatened to paralyse Delhi roads, they were given the freedhm of "cash and carry" scheme in which they could charge what they pleased and behave in any manner that suited them. They want to cash in on the help that they rendered then.

DTC has in the battle against the political imposition of privatization, come out with advertisements in the newspapers in which have been enumerated various plus points of the organisation. It is claimed that DTC fares are the lowest in the country, it has the lowest accident rate, it has recognizable organizational effectiveness, its orientation is solely towards service to the commuters, and it has certain constraints, including lack of equity capital base and compulsion to provide the service at uneconomic fare rate. These advertisements have made me examine the basis of the claims. Here are the facts ascertained by me.

The DTC fleet is of 4,400 buses. It puts 3,900 buses on the road in the morning shift of eight hours, beginning at 5-30 a.m. and 3,000 buses for eight hours in the afternoon shift from 3 p.m, These buses travel 800,000 km in the day, equal to the

distance to the moon and back. They provide 5.5 million trips, to average 1.6 to 2 million commuters daily. The estimate is that for meeting the present requirements, the fleet needs to have 7,500 buses. This is why commuters are often hanging on to the footboards. The total earning of the DTC fleet is about Rs. 40 lakhs a day. It employs 40,000 people, including 10,000 drivers, for running the buses in shifts, 5,000 mechanics to tend to the maintenance requirements of all the buses during the night (in its 30 depots spread all over the city). In all, 90 per cent of the buses are always on the road,

DTC is running at a loss and claims that this loss is not due to its inadequacies and inefficiency. It is imposed on the organization by the Central Government which controls its operations including the fare structure. It loses Rs. 60 crores annually, about Rs. 15 lakhs a day. Its charges are 50 paise for a distance up to 6 km. Re. 1 up to 10 km. and Rs, 1 50 for longer distance. For students it provides monthly passes at Rs. 12.50 for unlimited use; for the weaker sections it issues special passes at Rs. 25 a month, also for unlimited use. DTC's losses have been accumulating over the years. It did not revise its fares until 1986. It has continued to subsist on loans from the Centre and is disabled by the fare structure from augmenting its income. Because of this DTC is unable to repay the loans; that brings about on it the imposition of penal interest, which add their own burden.

Compulsions

DTC claims that its staff-bus ratio is 9, i.e. the total number of staff members divided by the total number of buses, and that this ratio is 11.7 in Bombay and 8,8 in Madras. But it is stated that Madras subcontracts the tasks of cleaning and maintenance. DTC's fuel cost ratio (KMPL) is stated to be 3.78 compared to 3 5 of Bombay and 3.6 of Madras, i.e. it claims to be utilizing the fuel more efficiently.

These claims of DTC should be verifiable. It should certainly be possible for the Centre to determine how the claims stand scrutiny vis-a-vis State transport in other metropolitan cities. If the claims are correct, then it is necessary that people should know so that a proper image of DTC is projected rather than a warped one based only on complaints of accidents and the buses not halting at the stops or starting too soon. People should be given the facts about the magnitude of the operations, how the driver who brings out the bus from the depot at 5-30 a m. has to get up at 3-30 or 4 a. m. in his distant home, possibly in a village on the outskirts of Delhi, of how he comes to the depot and complies with the formalities.

If privatization is likely to cause greater problems for the people they must explicitly tell the politicians that this must be checked and the process, which was set in motion by the DTC strike, put in reverse gear.

For Consumers and Organisations

We reproduce below four letters which were addressed to Mr. Sukh Ram, Minister of Food & Civil Supplies, soon after the 2nd meeting of the Central Consumers Protection Council held on the 28th April, 1988. These letters are self-explanatory and deal with important matters. It is singularly unfortunate that these letters were not even acknowledged by the Minister or the Secretariat. No indication was given whether the points contained in them were given consideration.

This point, of non-acknowledgement of these letters, was raised on behalf of COMMON CAUSE by the Director in the 3rd meeting of the Council held on the 6th September. The Minister explained that he normally receives 30/40 letters a day from various parts of the country and therefore the non-receipt

of acknowledgement of letters should be examined in this light. A letter has since been written to the new Secretary of the Department of Civil Supplies bringing to her notice this matter and suggesting that letters containing important issues need to be acknowledged by the Secretariat.

The purpose of reproducing these letters is primarily to bring to the notice of the consumers and and their organisations the importance of the issues contained in them.

Reproduced hereunder is also the report of the Working Group set up by the Delhi Consumers Protection Council on the suggestion of Director of COMMON CAUSE and under his convenorship. This brief Report has since been submitted to the Secretariat of the Delhi Consumers Protection Council and is likely to come up for consideration of the Council in the next meeting. Meanwhile, we would be grateful for consideration of the matter, relating to Printing of Price etc. on the Packages, by the organisations of consumers. They are welcome to send to COMMON CAUSE their views and suggestions. The impottance of this matter is self-evident.

Letter dated 30th April 1988 to the Minister of Food & Civil Supplies, Govt. of India

In the meeting of Central Consumers Protection Council held on the 28th April you had shown evidence of appropriate flexibility in the matter of establishment of the Grievances Redressal Forums in the States. This is very wecome indeed.

There was, however, an inescapable feeling in the Council that the Forums, which are obviously the fulcrum of implementation of Consumers Protection Act, have got considerably delayed in establishment and that the hopes roused in the enactment of this bold legislation are not being fulfilled. I am sure your Ministry must be feeling concerned aboul the delay, and must be taking appropriate steps to expedite this matter.

There are, however, certain points on which we feel it necessary to convey our comments and suggestions relating to the establishment of the Forums. These appear below :

(i) Funds are obviously the basic problem holding up the establishment or the Forums. Ways and means have to be found for meeting this requirement, and it was indicated in the meeting that you had already taken up this matter with the Planning Commission. We feel that the urgency and importance of this matter necessitates your calling the Secretaries of the State Departments of Civil Supplies, preferably in groups of two's and three's, for detailed discussion of how they can expeditiously deal with this problem of finances, and to lay down specifically the dates by which, during the next three months, they will be able to establish the Forums and at which places.

(ii) There is danger that the States may now find the easier way out by establishing the Forums only at the headquaters or the Divisional Commissioners. If this comes about, the entire implementaiion of the Act will be in jeopardy because these few Forums will enable merely a claim to be made out that Forums have been established, without actually the benefit penetrating to the consumers to any recognisable extent.

(iii) Flexibility in the matter of selection of District judges, their ages etc, will be necessay, and it is nenessary that this should be communicated to the States.

(iv) It is necessary that the States should be told not to establish these Forums in the areas of the district courts. We must try to avoid these Forums being taken over by the lawyers, because if this is allowed to happen the entire objective of the Act will be jeopardised. It may perhaps be difficult to avoid the appearance of lawyers in the cases coming up before the States Commissions and the National Commission, but we stronly feel that lawyers must

be prevented from appearing before the Dist. rict Forums, excepting possibly where the Chairman of the Forum may consider it necessary in relation to a matter of law involved in the case.

There will obviously be other points connected with establishment of Forums, but we have considered it necessary to communicate the above views on some of the important points."

Another letter dated 30th April 1988 to the Minister of Food & Civil Supplies, G.O.I.

In the meeting of the Central Consumers Protection Council held on the 28th April you had inter alia emphasized the importance of establishing organisations of consumers in the rural and urban areas. At present consumers organisations are concentrated only in the urban areas and there is hardly any organisation which is looking after the rural areas. The total number of existing organisations is less than 300.

Most of the existing organisations are very small and weak. Some time ago I had secured information by writing to all the organisation, about their membership, finances, membership subscription, etc. The information received from them was very revealing. A large number of them have small membership, of not more than even about 100. Most of them have membership subscriptions of less than Rs. 10 per annum, some having subscription of only Rs. 2 or Rs. 5 per annum.

Everybody keeps emphasizing that more organisations should be established, that they should become strong, that thay should not depend for their finances on anybody except their own resources, etc. But, the real facts are ignored. In the absence of facing these real facts the exhortations relating to establishment of more organisations and expecting them to be strong bodies, can remain mere pious hopes.

We have throughout maintained that it must be recognised by the Central Government and the State Governments that at this nascent stage it is absolutely essential that positive support of administrative assistance and financial help should come from the Government for providing the required stimulus to the consumers organisations. I had often raised this point with your predecessor. He had expressed that P.M. was of the view that the consumers organisations should stand on their own and should not depend on the financial support of the Government This requiremet is alright in theory, but in practical terms, and in the context of the conditions presently operating in the country and the general apathy of the consumers, the disinclination of the Government to come forth with positive support to the consumers organisations would only lead to their not coming up and also being smothered wherever they have come up.

We request the Government to kindly re-consider this matter very seriously. We are of the view that the Government should declare that where an organisation has been registered, under the appropriate provisions of the law, the State Government would provide matching funds to it equal to the funds raised by it from its own resources of membership subscriptions plus donations and that these funds would be provided on six-monthly basis (and not merely at the end of financial year). This will not require big funds, but will be of great help. The State Governments should be able to find these funds from their own resources, or the Central Government can give them the requisite support. Guidelines should be laid down only to the extent as to what items of expenditure should not be met from the Government grants (such as travels). Procedures for submission of the claims for grants should be very simple, and not of the nature which have been presently in operation and which have smothered all initiatives of the consumers organisations.

We earnestly hope that the Government will give serious and urgent consideration to these suggestions.

Anether letter dated 30th April 1988 to the Minister of Food & Civil Supplies G.O.I.

In your opening speech in the meeting of Central Consumers Protection Council on the 28th April you made reference to the important matter of creating "Consumer awareness" and indicated that you were contemplating constituting a small committee of consumers activists who will look into the ways and means for generating publicity to this end.

This step would be very welcome to the consumers. We have for long felt that it is of paramount importance that the use of media, particularly the radio and T.V should be widely explored for generating consumer consciousness, to reach the message to the masses as to how the interests of consumers are sought to be protected, and to create in the consumers the urge to form their organisations in rural and urban areas to protect their interests. Enormous lot of information can be disseminated through the media. Most essential, in this context, would be the need of proper selection of the subjects and modes of presentation so that these help to rouse the interests of consumers and cause useful information to be disseminated.

In this connection, I had written to your predecessor, I forward a copy of the April issue of our periodical "COMMON CAUSE"! in which, on page 18 the copy of my letter has been reproduced. The point I particularly emphasized in this letter was that the Department of Civil Supplies should examine as to how the TV shots on subjects such as family planning, inocculations of children against polio,protection of railway property, etc, are being put across on TV, for minimising the expenses on use of this medium for disseminating information relating to consumers problems.

This is obviousiy a matter of great importance and urgency, and we hope that you will kindly soon set up the Committee for detailed examination of this entire matter.

Incidently, in the enclosed periodical "COMMON CAUSE" you will notice that we are using this vehicle for wide dissemination of information relating to matters which are of interest to the consumers. In the April issue you will notice that we have given three articles explaining the provisions of the various enactments which have significance from the point of view of protecting the interests of consumers. I have made study of practically all the Acts which have relevance in this connection and which find mention on page 2 of the periodical.

Letter dated 1st May 1988 to the Minister of Food & Civil Supplies, G O.I.

"In the meeting of the Central Consumers Protection Council held on the 28th April I made the point regarding the need of setting up a Working Group for detailed study of the problem relating to prices in the context particularly of the provisions made in the Packaged Commodities Rules notified under the Standards of Weights & Measures Act. I feel there is urgent need of modification of the provision relating to "Maximum Retail Price" in the Packaged Commodities Order, and to stipulate that the "Retail Price" should be printed on the package. Use of the word"Maximum"has been playing serious mischief, to the detriment of the interests of consumers. Often, the price actually charged for the products is less than the price marked on it, which shows that there is price manipulation by the manufacturer, obviously in collusion with the distributor and the retailer. I can provide a number of examples to show that this is how the prices are being manipulated.

For printing the "retail price" there will be need of fixing the margins between the manufacturer and wholesaler, and between the wholesaler and retailer. We are aware that on this matter there will be hue and cry from the industry and trade, but if the Government does really want to protect the interests of the consumers, there is no alternative except to resort to this measure, because without doing this

the prices will continue getting out of hand. If these marrgins can be fixed under the Durgs & Cosmetics Act, as has already been done, there is no reason why this cannot be done in relation to the products in general.

Importance of this matter is self-evident. Now practically, 85 to 90 per cent of the products are sold in packaged form. It is most essential that the intermediacy of the packaged Commodities Order should be explored for getting some grip on the prices.

I urge you to kindly examine this matter and to agree to set up a Working Group under the auspices of the Council, or to otherwise get this matter studied in an inte-ministerial committee. The inter-ministerial committee should provide a small group of the representatives of consumers to present their views

I wrote on this matter to your predecessor as long ago as 1st October' 87. No final decision has yet been taken on it. I enclose copy of my letter for ready reference."

Report of the Working Group set up by the Delhi Consumers Protection Council under the Convenorship of the Director of COMMON CAUSE on the subject of Price Printing on Packages

The Working Group on "Price Marking on Packaged Commodities" constituted by the Delhi Consumers Protection Council has considered the matter in detail about the price marking on packaged commodities in the context of the relevent Rules known as Packaged Commodities Rules promulgated under the Standards of Weights and Measures Act, It was felt by the Working Groupthat the use of the word "Maximum Price"/ "Maximum Retail Price" as well as the words "Local Taxes Extra", prescribed in the Rules, have the potential of being greatly misused, to the detriment of the interests of consumers

The products and commodities sold in the markets in India are presently about 85 per cent in packaged form. The importance of manipulation of prices of the products to the detriment of interests of consumers through the misuse of these words is therefore self-evident. It has been experienced that often the prices printed on the packages are so manipulated that there is substantial difference between the maximum price printed and the actual lower price which the shopkeeper is willing to accept. In relation to the words "Local Taxes Extra" the consumer is never sure whether the local taxes which the shopkeeper charges him, over and above the maximum price printed on the package, will be passed on to the Government, particularly when the receipt/cash memo is not asked for or issued for the sale.

This matter is of paramount importance to the consumers as well as to the Government. The Working Group strongly feels that ways and means should be determined by the Government for overcoming the problems and the scope of tax evasion and the price manipulation inherent in the use of these words prescribed in the Rules. Following specific suggestions are made by the Working Group to deal with this problem: -

(i) Every possible effort must be madc by the Government to ensure that the local taxes should be collected at the first point. It is recognised that the States and local authorities have their different schedules for levy of sales tax, central sales tax and octroi In the interest of consumers, however, it is necessary that ways and means must be devised for making the collection of local taxes mandatory at the first point in the case of all commodities.

(ii) On this being done, it will be possible to print on the package the words "Inclusive of All Taxes", as is being presently done in the case of some products, including those which are

made within a State as well as those which come from outside the State. On tha printing of the words "Inclusive of All Taxes" the loopholes for evasion of taxes and duping the consumers will be obviated.

(iii) In the matter of printing the words "Maximum Price"/ "Maximum Retail Price" the Working Group is of the view that scope and possibility of prescribing the maximum of margins between the manufacturers and wholesalers as well as between the wholesalers and retailers should be explored by the Government. If this is done it will become possible to print the words "Retail Price" on the packages, deleting the word "Maximum", as is being done in the more advanced countries.

(iv) In the Rules there is a mandatory provision that every shopkeeper must prominently display in the premises the local taxes payable on the products sold by him. The Government must enforce this provision. The consumers and their organisations should also make efforts to ensure compliance with this mandatory provision. For enabling the strict observance of this requirement the default in this respect should be made cognisable so that the consumers can register their complainfs about its non-observance.

(Continued from Page 1)

In the area of consumerism the matters have yet to crystallise. People had hoped that redressal machinery envisaged in the Consumers Protection Act would soon be established and would provide the means for enabling them to fight their battles against the wrongful acts of the manufactures and traders. This has not come about; in fact this Act, which was flaunted with so much acclaim. is turning out to be a damp squib. Anyhow, the people are poised for taking advantage of the machinery when it starts operating, to the extent that it does.

In this issue of the periodical we reproduce some of the articles which the Director of COMMON CAUSE has contributed on important problems. We would be happy to receive material on similar common, problems from the members, for initiating action and rousing public opinion.

We would like to mention an important development in our organioational set-up. Brig R.I.N. Luthra who has had close association with the Governing Council of COMMON CAUSE from the very beginning, has now taken over as Secretary, in place of Mr. P. D. Tayal who has had to relinquish on account of persona matter. We have already informed the members about the change in address to : C-381, Defence Colony, New Delhi-110024 (Tele : 615064).

"COMMON CAUSE"

Society for ventilating common problems of the people.
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Governing Council of COMMON CAUSE includes persons of eminence such as a former Auditor General of India, Governor, Chief Secretary, Member of Central Board of Revenue, Director General Indian Institute of Foreign Trade, Major General Area Commander, Brigadier, Senior Advocate etc.

Its achievements include : Supreme Court verdicts regarding extension of pensionary liberalisation benefits to all pre-1979 pensioners, family pension benefits to all pre-1974 pensioners and restoration of pension commutation to all pensioners, these various benefits reaching over two million pensioners; straightening out the excruciating problems of property tax through Supreme Court Judgement; developing conditions for abolition of estate duty; smoothening out the areas of income tax, wealth tax and gift tax through representations to the Finance Ministry; Delhi High Court verdict relating to excessive electricity charges based on defective and stopped meters; bringing about conditions which necessitsted bifurcation of telephone department and postal department etc.

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

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