



GOVERNMENT OF MAHARASHTRA

REPORT
OF THE
RENT ACTS ENQUIRY
COMMITTEE

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COMMITTEE**

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REPORT OF THE RENT ACTS ENQUIRY COMMITTEE

CHAPTER I

APPOINTMENT OF COMMITTEE

The Government of Maharashtra in the Urban Development, Public Health and Housing Department by Resolution No. BRA-2174/9011/75-E, dated 20th February 1975 as amended by Resolution No. BRA. 2174/9011-D-37, dated 6th August 1975 appointed a Committee consisting of following Members to consider unification and/or amendments to the existing rent control laws in the State :—

- | | | |
|---|----|-------------------|
| 1. Shri V. K. Tembe, M.L.A. | .. | Chairman. |
| 2. Shri Sharad Dighe, M.L.A. | .. | Member. |
| 3. Shri Jagesh Desai, M.L.A. | .. | Member. |
| 4. Shri R. K. Mhalgi, M.L.A. | .. | Member. |
| 5. Smt. Mrinal Gore, M.L.A. | .. | Member. |
| 6. Shri T. S. Karkhanis, M.L.A. | .. | Member. |
| 7. Shri A. T. Patil, M.L.A. | .. | Member. |
| 8. Shri Manohar Joshi, M.L.C. | .. | Member. |
| 9. Shri Appasaheb Jadhav, M.L.C. | .. | Member. |
| 10. Shri Nivrutti Ugale, M.L.C. | .. | Member. |
| 11. Shri Gajanan Loke, M.L.A. | .. | Member. |
| 12. Shri N. G. Toksia, M.L.A. | .. | Member. |
| 13. Shri M. P. Lentin, President, Property Owners' Association, Bombay. | .. | Member. |
| 14. Shri Chunilal Mehta | .. | Member. |
| 15. Shri Shridhar Gopal | .. | Member. |
| 16. Shri Jawaharlal Darda, M.L.C. | .. | Member. |
| 17. Shri Ishwar Shinde | .. | Member. |
| 18. Shri B. M. Katke, M.L.A. | .. | Member. |
| 19. Shri C. J. Sukhdeo | .. | Member. |
| 20. Shri S. V. Chakradeo, Deputy Secretary | .. | Member-Secretary. |

1.2. Shri Jagesh Desai, M.L.A., resigned the membership of the Committee on his appointment as Minister of State in Maharashtra Cabinet in February 1975. Shri R. K. Mhalgi, M.L.A. and Smt. Mrinal Gore, M.L.A., are under detention. The Committee could not, therefore, get the benefit of the views of these members.

1.3. Shri S. V. Chakradeo, Deputy Secretary to Government, took over as Member-Secretary of the Committee with effect from 1st July 1975. Till that time Shri V. S. Mathkar, Under Secretary, Urban Development, Public Health and Housing Department, looked after the work in the initial stage, in addition to his own duties.

1.4. The terms of reference of the Committee were as follows :—

- (1) To examine whether in place of the three different rent control laws in force in Western Maharashtra, Vidarbha and Marathwada regions, it would be desirable and feasible to have a comprehensive unified law for the entire State.
- (2) To prepare a draft outline and frame work of a unified legislation if such unified legislation is considered desirable and feasible.
- (3) If a common unified law for the entire State is not considered desirable and feasible, to suggest modifications in the existing three legislations in order to make them simpler and less cumbersome and to achieve maximum possible uniformity.
- (4) To examine the provisions relating to (i) machinery for implementation, (ii) exemptions, (iii) standard rents and permitted increases, (iv) repairs to premises, (v) recovery of possession, (vi) leave and licence, (vii) control on hotels and lodging houses, (viii) regulation of letting of accommodation, (ix) life of the Act and to propose amendments for improving the provisions of the three existing legislations having regard to the interests of all sections of the population affected by the legislations.
- (5) To suggest guidelines for extending the provisions of the whole or any part of the Acts to any place or area.
- (6) To study the adverse effects of Rent Control Acts on the assessment of properties.
- (7) To make recommendations on such other matters as may be germane to the above.

1.5. The Committee was required to submit its report within four months, i.e., before the end of June 1975. Although the Committee was

appointed by the Government on 20th February 1975, a full time Member-Secretary of the rank of Deputy Secretary with a staff of one Stenographer, one Assistant and one Peon was sanctioned and made available for the work of the Committee only in the beginning of July 1975. Accommodation for the office of the Committee was made available from 5th September 1975. The work of the Committee could not be started on a regular basis before July 1975 for want of staff and accommodation. Hence on a request made by the Committee, Government in the Public Works and Housing Department extended the time for submitting the report first upto 31st December 1975 and then upto 31st March 1976.

1.6. The Committee decided not to issue any questionnaire for eliciting the views from the public. It, however, decided to issue a general press-note for inviting objections and suggestions. A press-note was accordingly issued on 3rd April 1975 which read as follows :—

“Suggestions in respect of terms of reference of the Committee appointed by the Government of Maharashtra to consider unification and/or amendments to the existing Rent Control Acts in force in the State have been invited from the members of Bar Associations, Tenant Associations, Property Owners' Association, House Builders Associations and also individuals before April 30, 1975.

This decision was taken in a meeting of the Committee recently held at Sachivalaya under the Chairmanship of Shri V. K. Tembe, M.L.A., Chembur, Bombay-400 071.

Such suggestions will be received by the Under Secretary (Housing), Urban Development, Public Health and Housing Department, Sachivalaya, Bombay-400 032 or any other member of the Committee before April 30, 1975.”

1.7. The Committee received in all 369 memoranda from various institutions, associations and individuals. The region-wise break-up of these memoranda was as follows :—

(1) Greater Bombay	..	214
(2) Western Maharashtra	..	101
(3) Vidarbha	.. ..	50
(4) Marathwada	.. ..	4

1.8. The Committee held sittings at the following places to collect evidence and to assess public opinion on the subject of rent control.—

<i>Place</i>	<i>Date of visit</i>
Nagpur ..	7th, 8th, and 9th July 1975.
Aurangabad ..	25th and 26th July 1975.
Poona ..	28th, 29th and 30th August 1975.
Bombay ..	20th to 25th October 1975.
Sholapur ..	19th and 20th November 1975.

The Committee interviewed in all 147 associations, institutions, officials and individuals at various places. Their names are given in Appendix 'A'.

1.9. The Committee held four preliminary meetings in Bombay on 4th and 25th March, 15th April and 13th June 1975 to discuss its procedure, to chalk out its programme for hearing of evidence and to decide other relevant matters. After hearing evidence at various places, the Committee met at Nagpur from 28th to 30th November 1975, in Bombay from 21st to 23rd January 1976 and in Mahabaleshwar from 4th to 7th February 1976 to formulate its conclusions.

1.10. In the meeting held at Mahabaleshwar on 5th February 1976, the Committee decided to submit an interim report to Government on certain matters and unanimously authorised the Chairman and the Member-Secretary to sign the report on its behalf. An interim report was accordingly submitted to Government on 12th February 1976, which is attached hereto as Appendix 'C'.

1.11. As desired by Government, a draft of a Bill to unify the existing three rent legislations in the State, has been prepared on the basis of the decisions of the Committee and is attached hereto as Appendix 'D'. In preparing the Bill, the Bombay Rent Act, 1947, has been taken as basis and to facilitate easy reference, the serial number of the existing sections of the Act have not been disturbed. Modifications have been made and new sections have been added, wherever necessary, by giving intermediate serial numbers. While drafting the final Bill, new numbers to the various sections should be given in serial order.

The Committee has not incorporated in its draft Bill, provisions relating to its recommendations contained in (1) paragraph 8.7.5 about recovery of possession of premises by Central Government servants and (2) paragraph 9.2 about regularising the sub-tenants and making them the direct

tenants of the landlord and not of the original tenants. The Committee has already made these recommendations in its interim report. Government may make suitable provisions on these points in the Bill when it takes decisions on the various recommendations of the Committee.

1.12. The Committee had received some suggestions which are not covered by its report. Some of them do not survive in view of certain recommendations made by the Committee. The Committee feels that except for the recommendations made by it, the provisions of the Rent Acts should not be disturbed any further for the present.

Acknowledgements

1.13. The Committee is grateful to the associations, institutions and individuals who sent written memoranda and also to those who appeared before it as witnesses to give evidence.

1.14. The Committee desires to place on record its appreciation of the splendid work done by the Member-Secretary, Shri S. V. Chakradeo in all aspects of its work.

The staff of the Committee carried out its duties competently under the able supervision of Shri Chakradeo. The Committee also records its thanks to all members of the staff.

CHAPTER II

RENT CONTROL LEGISLATION IN MAHARASHTRA AND UNIFICATION THEREOF

There are at present three separate rent control legislations in force in different regions of Maharashtra State as shown below :—

<i>Name of legislation</i>	<i>Area in which in force</i>
The Bombay Rents, Hotel and Lodging House Rates Control Act, 1947.	Western Maharashtra.
The Central Provinces and Berar Letting of Houses and Rent Control Order, 1949.	Vidarbha.
The Hyderabad Houses (Rent, Eviction and Lease) Control Act, 1954.	Marathwada.

2.2. [The earliest legislation on rent control in India was enacted in Bombay in 1918. It was known as the Bombay Rent (War Restrictions) Act, 1918 (II of 1918) which was passed on 10th April 1918.] This was followed by similar legislation for Calcutta and Rangoon in 1920. [The Bombay Act was based on the legislation enacted in Britain three years earlier known as "The Increase of Rent and Mortgage Interest (War Restrictions) Act, 1915."] The Bombay Act (II of 1918) was initially applied to the City of Bombay and Salsette Taluka of Thana District. Another Act viz. the Bombay Rent (War Restrictions No. 2) Act, 1918 (VII of 1918) was also passed to [restrict the increase of rents of small premises. The Act provided for the appointment of a Controller to decide which premises were to be termed as small premises and to fix the standard rent of such premises.] This Act was applied in the first instance to the City of Bombay, Salsette Taluka of Thana District and Cantonment of Poona. Both these Acts were amended from time to time and continued to be in force till 31st December 1928.

2.3. In 1938, the Government of Bombay, General Department, by its resolution Nos. 2173/33, dated the 25th April 1938, appointed a Committee, under the Chairmanship of {Shri Mathooradas Tricamjee, to advise Government on the question of rentals of premises occupied by the working and the middle classes in the cities of Bombay, Ahmedabad and Sholapur. The Committee submitted a detailed report in 1939. In the meantime, the Government of Bombay passed the Bombay Rent Restriction Act, 1939 (Bombay Act No. XVI of 1939) to restrict, in consequence of the urban immovable property tax, the increase in rents of premises, the rent of which on 1st January 1939 did not exceed Rs. 80 per month. This Act came into force from 19th June 1939. There was thus no rent control during the period of ten years from 1929 to 1938.]

2.4. {Soon after the enactment of the Bombay Rent Restriction Act of 1939, the Second World War broke out resulting in influx of population in Bombay and other industrial towns.} Therefore, the Government of Bombay, in pursuance of the provisions of rule 81 of the Defence of India Rules, 1939, made three orders called the "Bombay Rent Restriction Order, 1942", the "Bombay Storage of Accommodation Rent Restriction Order, 1942" and the "Hotels and Lodging Houses Control Order, 1942", [in order to stabilise the supply of accommodation at reasonable rates.] These orders provided for an officer called "the Controller" to administer certain incidental disputes subject to an appeal to the Collector. The provisions of the Bombay Rent Restriction Order, 1942, were challenged in the Bombay High Court in the case of **Haveliram Shetty v. Maharaja of Morvi* and therein the Full Bench of the Bombay High Court held that clauses 8 and 9 and clause 12, so far as it operated in regard to clauses 8 and 9, were in contravention of section 14 of the Defence of India Act, 1939. The clauses which were struck down enabled the Controller and the Collector to decide certain disputes finally without the intervention of Courts. As the same consideration would apply to the other two Orders also, a self-contained Act called the Bombay Rents, Hotel Rates and Lodging House Rates (Control) Act, 1944 (Act VII of 1944) was passed by the Governor of Bombay on 12th May 1944 in exercise of the powers vested in him by virtue of the Proclamation, dated 4th November 1939, issued by him under section 93 of the Government of India Act, 1935. This Act had retrospective operation.

2.5. Thus there were two statutes in operation side by side—the Act XVI of 1939 and the Act VII of 1944. [The former protected the premises the standard rent of which did not exceed Rs. 80 per month and the latter above the limit of Rs. 80 per month.] The former was to lapse on 31st March 1948 and the latter in April 1948. However, as the scarcity of accommodation still continued to be acute and as the existing two enactments needed several modifications, a consolidated law known as the Bombay Rents Hotel and Lodging House Rates Control Act, 1947 (Bom. Act LVII of 1947) was passed. [It came into force from 13th February 1948.]

2.6. In 1952, the Government of Bombay, Labour and Housing Department, by its resolution No. 906/48, dated the 9th August 1952, appointed a Committee under the Chairmanship of Shri R. D. Shinde, Retired District and Sessions Judge, to inquire into the working of the provisions of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 and in particular the provisions relating to (i) duration of the Act, (ii) exemptions, (iii) standard rent, (iv) permitted increases, (v) repairs to premises, (vi) recovery of rents and possession of premises and (vii) unlawful charges by tenants, etc. The Committee made a study of these matters and submitted a detailed report on 7th January 1953. Certain amendments recommended by the Committee and accepted by Government were made in the Act. [The original Act of 1947 has undergone nearly 30 amendments since its inception.]

2.7. [The history of the rent legislations shows that, except during the period of ten years from 1929 to 1938, rent control measures have been in operation in some form or other in Greater Bombay, the principal city of Maharashtra State, since 1918. The present legislation which is commonly known as the Bombay Rent Act, 1947, is divided in four parts. The provisions of Parts I and IV extend to the Bombay area of Maharashtra State which area is commonly known as Western Maharashtra. Part II of the Act contains provisions for fixation of standard rent, permitted increases, repairs to premises, recovery of rent and recovery of possession of premises. Any disputes in these matters are decided by courts. The provisions of Part II have been extended from time to time to various places according to needs and circumstances of each case. Part III of the Act deals with fixation of fair rates of hotels and lodging houses. These matters are decided by executive officers called Controllers appointed by Government in the areas

in which Part III of the Act is in operation. The Bombay Rent Act is a temporary legislation and its life has been extended from time to time upto 31st March 1977.

2.8. The Central Provinces and Berar Letting of Houses and Rent Control Order, 1949, which is in force in the eight districts of the Vidarbha area of Maharashtra State since 26th July 1949, was framed under section 2 of the Central Provinces and Berar Regulation of Letting of Accommodation Act, 1946 (Act No. XI of 1946). Although this Act is of a permanent nature, sub-section (3) of section 1 thereof provides that it shall cease to operate on such date as the State Government may, by notification, appoint in this behalf. Chapter II of the Rent Control Order framed under the Act contains provisions for fixation of fair rent, recovery of possession, etc. These matters are decided by executive officers called Controllers appointed by Government. There is also Chapter III for regulation of letting of accommodation. There is no provision in this Order for fixation of fair rates of hotels and lodging houses.

The State Government has granted a general exemption from the provisions of this Rent Control Order to (i) premises constructed on or after 1st January 1951 and used for residential purposes and (ii) premises constructed on or after 1st January 1967 and used for non-residential purposes. Except in the eight districts in Vidarbha area, such general exemption has not been granted in any other part of Maharashtra State under the other rent control legislations.

2.9. The Hyderabad Houses (Rent, Eviction and Lease) Control Act, 1954 (Act XX of 1954) was enacted by the then Government of Hyderabad State repealing the earlier Hyderabad Rent Control Order, 1353 Fasli (1944 A.D.). The Act came into force from 12th June 1954 and continued to be in force in the Marathwada area of Maharashtra State since then. The Act is of a permanent nature. It contains provisions for regulation of letting of accommodation, fixation of fair rents, recovery of possession, etc. These matters, as in the Vidarbha area, are decided by executive officers called Controllers appointed by Government. This Act also does not contain any provisions for fixation of rates of hotels and lodging houses.

2.10. The structure of the three rent control legislations currently in force in Maharashtra State basically differs in some respects. For instance, in the Bombay Rent Act the standard rent is determined by Courts, while

in the other two Acts, an executive officer called Controller fixes the fair rent. There is no control on rates of hotels and lodging houses under the laws in force in Vidarbha and Marathwada areas, while such control exists in Western Maharashtra since long under the Bombay Act. Similarly, while there are special provisions for letting of accomodation in the Vidarbha and Marathwada Acts, no corresponding provisions exist in the Bombay Act. The fixation of standard rent is also related to different dates in the three Acts. Under the Bombay Act, the rent at which the premises were let on 1st September 1940 becomes the standard rent. In the Hyderabad Act, the rent prevailing in the locality during the 12 months before 5th April 1944 is treated as the fair rent. In Vidarbha, the method of fixing rent is different for houses constructed before 1st April 1940 and those constructed after that date. Besides, there is no question of fixing fair rents for residential premises constructed after 1st January 1951 and non-residential premises constructed after 1st January 1967, such premises having been granted general exemption from the Rent Control Order in Vidarbha area.

2.11. The Committee has been asked to consider whether it would be desirable and feasible to have a common rent control law for the whole State. From the memoranda received by the Committee from the Vidarbha area, it is observed that the West Nagpur Property Owners' Association is not in favour of unification of the three Acts. It is of the view that separate legislations should continue, as at present, with suitable modifications suggested by it, as the local conditions in Vidarbha, Marathwada and Western Maharashtra differ very widely. The Tenants' Association, Akola, is on the other hand of the view that the Bombay Rent Act should be made applicable to Vidarbha area. In Marathwada, the representatives of the Bar Association, who gave evidence before the Committee, expressed the view that the functions of the Controllers, except those relating to allotment of accommodation, should be entrusted to the Civil Courts, as is done under the Bombay Rent Act. Having considered all the views, the Committee has come to the conclusion that it is necessary and desirable to have a common rent control law for the whole State. The Committee has been asked to consider the *feasibility* of having a common law, possibly because of the structural differences in the three existing laws. The Committee has considered this aspect and is of the view that there would be no difficulty in unifying the three laws. The specific differences in the three laws have been dealt with in the subsequent chapters and

suggestions about the manner in which uniformity should be achieved have been made at appropriate places. The Committee is, therefore, of the definite view that it is both desirable and feasible to have a common rent control law for the whole State.

2.12. The Bombay Rent Act is a temporary Act while the other two Acts seem to be permanent. Rent control has been in existence for over thirty years now and there seems no prospect that the housing situation would ease in the foreseeable future to such an extent as would justify its abolition. The Committee is, therefore, of the view that the new unified rent legislation should be of a permanent nature.

CHAPTER III

RENT CONTROL AND HOUSING

Rent Control is a means to curb through legislative measures the abnormal rise in rents due to imbalance between supply and demand of accommodation. It is a welfare measure primarily intended to give social relief to the economically weaker sections of the community from exploitation and to afford reasonable protection against eviction. The rent legislation which has been in existence for over 30 years now has no doubt served these basic objectives. However, the continued shortage of accommodation, pressure of changing economic conditions and the imperfections of the law have given cause to certain undesirable, though unintended, effects which need to be noted in framing the policy relating to rent control and housing.

3.2. The Rent Acts enjoin the landlords to charge standard rent or fair rent to the tenants for the accommodation let. These rents are very much less than the market rents or some times even less than the economic rents. An anomalous position has consequently arisen in that even the average rents of subsidised houses provided through the agency of the Housing Board in Bombay and elsewhere are more than those charged for similar rent controlled accommodation constructed prior to 1940. As a result, houses, the rents of which have been pegged down to the level of 1940, are very much in demand. The same is the case with similar premises let for shops and other non-residential purposes. This has given rise to the "pugree" system of illicit payments by tenant to the landlord and by sub-tenant to the primary tenant. Although the Rent Acts generally prohibit the acceptance of unlawful charges by the landlord and the tenant, the "pugree" system is widely prevalent particularly in big cities where accommodation is difficult to get. These illicit payments escape Income Tax and Wealth Tax and keep black money in circulation.

3.3. In order to escape from the rent control which does not allow the property owner what he considers to be an "adequate return", new systems of tenure have come into existence. One is the "ownership flat" system and the other is the "leave and licence" system. Builders of new construction offer flats to the prospective purchasers on payment of full

cost either in one lump sum or in instalments. This system also provides considerable opportunities for tax evasion and proliferation of unaccounted money, as receipts are given for payments made to the extent of the declared price. No receipts are usually passed for the payments made towards the difference between the declared price and the sale price. Under the leave and licence system, the house-owner or the flat owner or the tenant provides accommodation on a licence basis for a period of 11 months in the first instance and charges licence fee. This so called licence fee more or less reflects the market rent, which is very much more than the standard rent, which the licensor would have received had the accommodation been rented out. In rent controlled premises, while the tenant pays standard rent to the landlord, he recovers the market rent from the licensee. Although efforts have been made to curb these systems through legislative measures, the acute scarcity of housing accommodation in big cities like Bombay and the tendency of both the landlords and the tenants to exploit the situation to their advantage to the maximum extent are likely to create more and more complications. Now-a-days accommodations are being advertised under new garbs such as paying guest or care-taker basis. The result of all this has been that the supply of rental housing in the market is gradually shrinking. Except in the public sector, houses are not available on rental basis. Even in the public sector, the growing tendency is to dispose of houses on ownership or hire-purchase basis. Rental housing has, therefore, almost come to a halt in cities like Bombay. This has adversely affected the interests of the economically weaker sections of the community.

3.4. Neglect of repairs to houses is often attributed to rent control. The cost of repairs has gone up considerably due to increase in the prices of building materials and the wages of labour and it has become difficult to meet this cost from the rents of old properties. Inadequate maintenance of old buildings leading to their demolition in the end means not only loss of national wealth but also waste of national resources. However, some landlords are found to have neglected the repairs in order that they may get good price for the land once the building standing thereon collapses or is demolished. As the problem of dilapidated buildings assumed serious proportions, Government had to set up the **Bombay Building Repairs and Reconstruction Board** for executing works of repairs in the interest of the large number of tenants who would have otherwise been dishoused. This Board also acquires old buildings, which are beyond economical

repairs, and undertakes construction of buildings on the same sites for rehousing of the tenants of old buildings. No such agency exists outside Bombay city.

3.5. Persons who are badly hit by the rent control are the small property owners. These persons with limited means invested their life time savings in building houses primarily for their own residence and partly for letting portions thereof in order to assure a steady income in their later period of life. Some of these persons had even rented out their own accommodation while they were in service in the hope that they would get it back after retirement for their own occupation. To their disappointment, they found it impossible to get back possession of their houses even after spending on litigation and had to seek accommodation elsewhere at high rents. Apart from this, the income they derived in the form of rent of their own houses was grossly inadequate for bare subsistence after retirement. Some sob stories of this kind were narrated before the Committee.

3.6. In bigger cities like Bombay and Poona, individuals who had secured flats in co-operative housing societies after investing their life time savings find themselves in the same predicament as the small property owners. These persons who had given their flats on leave and licence basis find that it is not possible to get back possession except through long drawn litigation, because of the protection given to the licensees by the Amendment Act XVII of 1973.

3.7. There are also tenants who have built their own houses or secured flats in co-operative housing societies. They are found to have given their own houses or flats on high rents or licence fees and continued to occupy their rent-controlled premises because of the low rents.

3.8. The tenant-landlord relations have gradually deteriorated because of rent control. The landlord who receives standard rent often grudges even small amenities and concessions to the tenants which possibly he would have otherwise given. Such amenities include fixation of radio aerial or T.V. antenna, allowing scooters or bicycles to be kept in the compound of the house, etc. The tenant, who has complete protection, on the other hand, expects the landlord to provide more and more amenities and concessions without any extra payment. This gives rise to tensions and each party expects the other to establish its rights through litigation.

3.9. Some times the landlords are found harassing the tenants by not accepting rents with the object of filing suits for recovery of possession on the ground of non-payment of rent. In some cases even when rents are paid, receipts are either not given to the tenants or the amount shown in the receipt is less than what is actually paid.

3.10. The voluminous litigation, which drags on for years because of rent control is enough to give cause for anxiety. Large books have been written by commentators on rent control bringing out the case law. Some times the litigation has gone right upto the Supreme Court. The amount of money spent on litigation would no doubt run into colossal figures. Had the same money been utilised to construct more houses, the housing situation would have eased to a considerable extent.

3.11. Rent Control has affected the yield of revenue of the local bodies. This aspect is dealt with in Chapter XIII of this report.

3.12. Total abolition of the rent control laws, as is advocated by some, is unthinkable as long as a fair balance between demand and supply is not reached in the housing market. The housing problem cannot be solved without a substantial increase in the production of houses. In India, while the private sector could build about 2* lakhs housing units per year, the social housing schemes of the Government of India barely provided 4* lakhs housing units during the first three five-year plans. The various other Ministries of the Government of India, State Governments, Public Undertaking and local bodies, etc., may have also built about 4 lakh housing units during the first three plans. The overall rate of construction was estimated at 2* houses per 1000 persons annually—3·5 units in urban areas and 0·44 units in rural areas. Against this, an expert body of the United Nations has recommended construction of 10 houses per year per 1000 persons. The following annual rates of construction of houses per 1000 persons of the population achieved by certain developed countries are illustrative of the trend :—

1. *U. S. S. R.	..	10·3
2. West Germany	..	10·2
3. Sweden	..	10·0
4. Finland	..	8·7

* Report of the Working Group on Housing for Fourth Five-Year Plan (September 1968), Government of India, Ministry of Works, Housing and Supply (Department of Works and Housing).

5. Australia	..	8.4
6. Denmark	..	7.6
7. France	...	7.3
8. Japan	..	7.2
9. Hong Kong	..	6.8
10. U. S. A.	..	6.5

It would not be easy to achieve the rate of 10 houses per year for 1000 persons even in the urban areas in India unless the policy relating to rent control and housing is based on a long term view of the problem.

3.13. Rent Control policies adopted in West European† countries have been re-oriented on the realisation of the various points discussed above. There has been a continuous liberalisation of rent policy and allowing of rent increases leading to virtual abolition of rent control. For example in Denmark, Finland, the Federal Republic of Germany, France, Greece, Sweden, Switzerland and the United Kingdom, rents of old houses have been progressively increased, the scope of rent control reduced and the upward revision of old rents has been regarded as inevitable. In the U. S. A., public policy is generally opposed to rent control for insulating it from any interference it may generate on free market mechanism. Nevertheless, in the State of New York, there continues to be a limited rent control. In Japan,‡ the buildings not used for dwelling and sites thereof were exempted from rent control in July 1950. Newly built dwellings are also now free from rent regulations.

3.14. In India, some of the States have attempted relaxation of rent control to a limited extent. The West Bengal Premises Tenancy Act, 1956, which came into force from 31st March 1956, provided for a total exemption of premises constructed after the commencement of the Act. In the case of such new buildings the rent agreed to between the landlord and the tenant when the premises were first let is deemed to be the standard rent. The exemption is for a period of 8 years from the date of

† " Rent Control and Housing in India " Paper prepared by Shri S. N. Narang, Deputy Director (SE) National Building Organisation.

‡ Paper entitled " Brief notes on various aspects of housing finance (with special reference to Japan) " by Shri Hozo Kashio, Deputy Chief Minami Kanto Branch Office, Housing Loan Corporation, Tokyo, presented at the Symposium on Housing Finance held in New Delhi in February 1965.

commencement of the Act. The Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 (18 of 1960), as amended by Act No. 23 of 1973, exempts new buildings for a period of five years from the date on which the construction is completed and notified to the local authority. It also exempts residential building or part thereof occupied by any one tenant, if the monthly rent paid by him in respect of that building or a part thereof exceeds Rs. 400. It further exempts any lease of a building under which the object of the tenant is to run the business or industry with the fixtures, machinery, furniture or other articles belonging to the landlord and situated in such building. The Delhi Rent Control Act, 1958, gives a rent holiday for a period of five years to buildings constructed on or after 9th June 1955, for residential or other purposes. In the case of such buildings the rent agreed to between the landlord and tenant is deemed to be the standard rent for a period of five years. The Madhya Pradesh Accommodation Control Act, 1961 (41 of 1961) also grants a rent holiday for a period of five years to new buildings from the date on which the completion of construction is notified to the local authority. The East Punjab Urban Rent Restriction Act, 1949 (III of 1949) gives general powers to the State Government to direct that all or any of the provisions of the Act shall not apply to any particular building or rented land or any class of buildings or rented lands. By virtue of these powers, the State Government has issued notifications from time to time granting exemption for a period of five years to all buildings constructed during the years from 1951 to 1965. The Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 (13 of 1972) exempts all new buildings for a period of ten years from the date on which the construction is completed. This Act also exempts buildings used as factory buildings built and held by a University, any other statutory corporation, a society registered under the Societies Registration Act, 1860, a co-operative society, company or firm and intended solely for its own occupation or for the occupation of any of its officers or servants, whether on rent or free of rent or as a guest house.

3.15. While in other States some relaxation of rent control has been attempted, no efforts in this direction seem to have been made in Western Maharashtra and Marathwada areas of Maharashtra under the respective Rent Control Acts. It is only in Vidarbha area that general exemption was granted to residential premises constructed after 1st January 1951 and non-residential premises constructed after 1st January 1967.

3.16. The Study Group on Housing constituted by the Nagpur Metropolitan Regional Planning Board makes the following observation in its report prepared in 1971 :—

“ Out of 93,651 buildings in Nagpur City, 8 per cent buildings are found to have been constructed before the year 1900. Most of these buildings are located in the older part of the City. About 30 per cent of the buildings are found to have been constructed during the period 1901 to 1930. While about 23 per cent of the buildings have been constructed during the period 1931 to 1950, about 39 per cent of the buildings are found to have been constructed from 1951 onwards i.e. during the period of five year plans. It can thus be seen that building activity has been quite vigorous in Nagpur City since 1951 most of which is found to be in Babulkheda-Sakkardara, Dharam Peth-Ramdas Peth, Jattarodi-Siras Peth and Khamla Ward groups.”

The Study Group on Housing constituted by the Poona Metropolitan Regional Planning Board observes in Chapter VII of its Report (1969) that “ the freezing of rents under the prevailing Rent Act though favourable to the old occupants has considerably discouraged the investment of housing in the private sector.” It advocates grant of exemption to new residential constructions from the operation of the Rent Act for some initial period, as such exemption granted in Vidarbha area has helped in boosting the housing in the private sector. The Bombay Metropolitan Regional Planning Board also makes more or less similar observations in Chapter V of its Report in which it suggests some incentives for augmenting the flow of private capital into housing activity.

3.17. From the foregoing account, it is apparent that a rethinking of the policy of rent control is necessary keeping in view the long term objective of providing shelter to the population. Buildings already constructed in the private sector are decaying fast for want of proper and timely maintenance and repairs. Even the Housing Boards, which receive economic rents for their tenements, are finding it difficult to carry out repairs within the amount provided for the purpose in their rent formula, because of the increase in the cost of building materials and wages of labour. The creation of Repairs Board may have solved the problem of repairs to private buildings in Bombay city proper but there is no such agency at other places. With old buildings decaying fast and new residential buildings not coming up to the required extent, the problem of housing is becoming more and more acute. The rent law which was enacted for

the benefit of the tenants is thus operating to the detriment of their interest in that the flow of rental housing is gradually shrinking. There is, therefore, considerable pressure on the available stock of rental housing. This has given rise to all sorts of malpractices, overcrowding, creation of sub-tenancies and voluminous litigation. The yield of revenue of the local bodies is depressed by the fact that the tax liability of rent controlled property is calculated on the basis of legal but fictional rent of the dwellings. All these aspects need to be given due consideration.

3.18. Rent control has always proved to be a delicate and complex problem. There has been extreme polarisation of views due to the opposite interests of the landlords and tenants and bringing about a compromise between these interests is a difficult task. However, keeping both these interests in view, the Committee has made its suggestions at appropriate places in this Report.

CHAPTER IV

MACHINERY FOR IMPLEMENTATION

The powers to grant exemption from all or any of the provisions of the Rent Acts to certain types of premises and to extend the provisions of the Acts to any areas vest in the State Government under all the three existing rent control laws. Adjudication of disputes between landlords and tenants about standard rent, permitted increases, etc., is done by Courts under the Bombay Rent Act and by executive officers called Controllers under the other two Acts. Suits for recovery of possession are required to be filed in Courts under the Bombay Rent Act. In Vidarbha, no suit for recovery of possession can be filed unless the permission of the Controller to give notice to the tenant determining the lease is obtained by the landlord. In Marathwada, these matters are decided by the Controllers who can execute their orders as a decree of a Civil Court as provided in section 35 of the Hyderabad Act of 1954.

4.2. The Committee received complaints almost everywhere about the delay in deciding cases under the Rent Acts. In Vidarbha and Marathwada, it was represented before the Committee that the Deputy Collectors, who are appointed as Controllers, are not in a position to devote sufficient time to attend to their functions as Controllers because of their multifarious duties. The general view in these two regions is that the functions of the Controllers, except those relating to allotment of accommodation, should be entrusted to the Civil Courts as in Western Maharashtra. The Committee has considered the matter and is of the view that the disputes about standard rent and permitted increases, the suits for recovery of possession, etc., should go to the Courts instead of to the Executive Officers under the new unified Act.

4.3. The Committee has received suggestions for constitution of special Tribunals to facilitate speedy recovery of possession of their premises by the Defence personnel and Central Government employees. The Committee is not in favour of such special Tribunals for the reasons explained in detail in Chapter VIII dealing with recovery of possession. In that Chapter it has, however, made certain suggestions to expedite such proceedings.

4.4. The Aggrieved Licensors' Association, Bombay has also suggested the appointment of special Tribunals to grant speedy relief, by adopting summary procedure, to persons who are members of only one co-operative housing society and have only one flat in such society and who desire to recover possession of the flats from the licensees for self occupation. The same difficulty is also experienced by small property owners all over the State who want to recover possession of premises for self-occupation. As stated in the preceding paragraph, the committee is not in favour of constituting special Tribunals. It feels that the proper course to expedite the disposal of suits under the Rent Act would be to appoint additional judges in the Small Causes Court in Bombay and at other places, wherever necessary, and it accordingly recommends this course for the consideration of Government. The judges may work in shifts, if necessary, if there is any difficulty in securing accommodation for the additional Courts.

4.5. A suggestion has been made to the Committee by the Bar Council of Maharashtra that in suits wherein the valuation exceeds Rs. 5,000, appeals against the decisions of the Small Causes Courts in Bombay should be to the High Court. A Bill (L. C. Bill No. XXI of 1975) to amend the Presidency Small Causes Courts Act, 1882, was passed by the State Legislature in its Session held at Nagpur in November-December 1975 which will become an Act very soon. According to this amendment all suits or proceedings between a licensor and licensee relating to recovery of possession or licence fee will be instituted in the Court of Small Causes in Bombay and no other Court, irrespective of the value of the subject matter and any appeal will lie to the Bench of two Judges of the Small Causes Court. The suggestion made by the Bar Council would make the litigation under the Rent Act more costly, apart from the fact that it would take more time. The Committee is, therefore, not in favour of any change in the provisions of sections 28 to 31 of the Bombay Rent Act. These provisions should be embodied in the unified Act and made applicable throughout the State.

4.6. The Rent Act is a social legislation. It is, therefore, necessary that there should be a periodic assessment of the effects of rent control in order that the rent control policy can be modified from time to time taking into consideration the socio-economic aspects. The department administering the Rent Act should have up-to-date knowledge and information about the various developments in rent control policies not only

in other States in India but also in other countries. There should be a regular study of the important judgments delivered by the Supreme Court and High Courts in Rent Act cases all over India. The administrative department should have in its library up-to-date copies of Rent Acts and rules in force in other States in India and also books and publications having a bearing on the subject of rent control. The department should also collect information about actual incidence of municipal and other taxes on properties and keep it up-dated from time to time. For all these purposes, the Committee suggests that the Administrative department should create a regular cell under an officer of appropriate rank with adequate staff for exclusively dealing with various matters connected with the Rent Act.

4.7. Suggestions regarding machinery for control of hotels and lodging houses have been made in Chapter X.

CHAPTER V

EXEMPTION FROM RENT CONTROL

The Bombay Rent Act does not apply to premises belonging to Government or a local authority or apply as against the Government to any tenancy, licence or other like relationship created by a grant from or licence given by the Government in respect of premises requisitioned or taken on lease or on licence by the Government. It, however, applies in respect of premises let or given on licence, to the Government or a local authority or taken on behalf of Government on such basis.

5.2. Special provisions have been made in section 3-A of the Bombay Housing Board Act, 1948, exempting the premises of the Maharashtra Housing Board and in the Schedule to section 159-A of the Maharashtra Regional and Town Planning Act, 1966, exempting the premises of a New Town Development Authority and a Special Planning Authority referred to in section 40 of the Act. It would be desirable to incorporate in the Rent Act itself the provision relating to exemption to these authorities, instead of making special provisions in the different Acts, so that the Rent Act will indicate at one place the various bodies which are exempted. At present there is no provision in the Madhya Pradesh Housing Board Act, 1950, under which the Vidarbha Housing Board is constituted, exempting the premises of this Board from the Rent Act. This is possibly because in Vidarbha all residential premises constructed after 1st January 1951 are exempted from the Rent Control Order. While unifying the Rent Acts, it will be necessary to provide for exemption to premises constructed by any Housing Board.

5.3. The Committee has received representations to the effect that the blanket exemption granted to premises belonging to Government, the local authorities and the Housing Board, should be withdrawn. It is stated that there is no sound and rational reason why tenants occupying the premises of these authorities, other than their employees, should be treated differently from the other tenants under the Rent Act. The Bombay Tenants' Association says "it has serious apprehensions that in the years to come the private landlords would be liquidated and that Government landlordism would replace such landlords to enjoy the immunities from

such rent control laws which are denied to the private landlords. This is both socially untenable and legally unjustifiable." The other arguments advanced are that the Government would realise the rigours of rent control once its premises are brought within the purview of the Act and that the Government, Housing Boards and local authorities will then not be able to act arbitrarily in evicting their tenants. All these views have been considered by the Committee. Government, the local authorities and the Housing Boards are impersonal landlords and have entered the field of housing, without any profit motive, to provide social housing and they cannot be compared with private landlords. The Committee, therefore, sees no reason for withdrawing the exemption already granted.

5.4. The Maharashtra State Road Transport Corporation has, it is understood, made a representation to Government requesting grant of exemption to its premises from the Rent Act. The Corporation gives its premises for running canteens, etc., at bus stations at various places in the State for specific periods. It is experiencing difficulty in recovering possession of such premises. The Committee has considered the case and recommends that, as in the case of local authorities and housing boards, exemption should also be given to the premises of the Maharashtra State Road Transport Corporation.

5.5. There is a provision in section 4-A of the Bombay Rent Act empowering Government to prescribe terms and conditions either generally or for special reasons in any particular case in respect of the exemption granted to the premises of a local authority. There is, however, no provision enabling Government to withdraw the exemption if a local authority fails to observe and perform the terms and conditions. Such a provision is necessary and should be made by adding a new sub-section in section 4-A. The Committee also recommends that the provisions of section 4-A which are restricted to the premises of a local authority should also be widened to cover the premises of the Housing Boards, the New Town Development Authority, a Special Planning Authority and the Maharashtra State Road Transport Corporation.

5.6. A separate provision exists in section 4(2) of the Bombay Rent Act empowering the State Government to direct that all or any of the provisions of the Act shall not, subject to such conditions and terms, as it may specify, apply generally—

- (i) to premises used for a public purpose of a charitable nature or to any class of premises used for such purpose ;

- (ii) to premises held by a public trust for a religious or charitable purpose and let or given on licence, at a nominal or concessional rent or licence fee or charge ; or
- (iii) to premises held by a public trust for a religious or charitable purpose and administered by a local authority.

The Hyderabad Houses Rent Control Act, 1954, lays down in clauses (b) and (c) of sub-section (1) of section 31 that the Act shall not apply, among other things, to :—

- (b) (v) any house belonging to any ward of the Court of Wards, and
- (c) any person whom or institution which the Government may by general or special order exempt.

Further sub-section (2) of section 31 of that Act lays down that the Government may, by general or special order, direct that all or any of the provisions of the Act shall not apply, subject to such conditions and terms, if any, as it may specify in the order, to any house or houses used—

- (i) for any public purpose of a charitable nature ;
- (ii) as a hostel ;
- (iii) as a public institution.

In Vidarbha, clause 30 of the Rent Control Order empowers the Government to exempt, by a notification, any house or class of houses or any person or class of persons from all or any of the provisions of that Order.

The Committee feels that the provisions contained in the Rent Control Order in Vidarbha and clause (c) of section 31(1) in the Hyderabad Houses Rent Control Act are too wide. Besides, it is not in favour of the general exemption granted to “any house belonging to any ward of the Court of Wards” under clause (b) of section 31(1) of the Hyderabad Act. This exemption, it feels, should be included in the discretionary powers of the State Government. The Committee also feels that the State Government should be given the discretion to exempt all or any of the premises of a statutory Corporation or body established by or controlled by Government and any premises used as sanatorium, dharmashala, home for widows or orphans or like premises from all or any of the provisions of the Act on such terms and conditions as the Government may prescribe. The Committee would accordingly suggest that the new sub-section in the unified Act should read as follows :

“The State Government may, for special reasons to be recorded in writing, direct that all or any of the provisions of this Act shall, subject to such terms and conditions as it may specify, not apply—

- (a) to all or any premises used for a public purpose of a charitable nature ;
- (b) to all or any premises held by a public trust for a religious or charitable purpose and let or given on licence, at a nominal or concessional rent or licence fee or charge ;
- (c) to all or any premises held by a public trust for a religious or charitable purpose and administered by a local authority ;
- (d) to all or any premises held by a statutory Corporation or a Company established by or controlled by the State Government ;
- (e) to any premises used as sanatorium, dharmashala, home for widows or orphans or for like purposes.
- (f) to any premises belonging to any ward of the Court of Wards.”

While making provision as indicated above, a new provision should also be made to enable Government to withdraw the exemption, if the terms and conditions on which exemption is granted are not satisfied.

5.7. The State Government has specific powers under sub-section (3) of section 4 of the Bombay Rent Act to grant exemption from the provisions of Part III of the said Act. In the rent legislations in Vidarbha and Marathwada areas there are no provisions corresponding to Part III. The provisions of sub-section (3) of section 4 may be retained in the unified Act.

5.8. The Committee has so far made suggestions in regard to exemption with reference to the existing provisions of the three rent control legislations. It has, however, received or come across several other suggestions for exemption. Such of them as are found worth considering are discussed here.

5.9. The Housing Study Groups set up by the Metropolitan Regional Planning Boards for Bombay and Poona have both recommended that in order to encourage house building activity in the private sector, exemption should be granted to new buildings which would be constructed hereafter in the respective metropolitan regions, as was done in the Vidarbha area. The Housing Study Group of the Nagpur Metropolitan Regional Planning

Board has pointed out that 39 per cent of the existing buildings in Nagpur city were found to have been constructed from 1951 onwards i.e. after general exemption to new constructions was granted by Government.

It is an admitted fact that the number of houses constructed by various agencies in the public sector and by co-operative and private sectors falls very much short of requirements. For instance, during the period of ten years from 1956-57 to 1965-66, the total number of tenements estimated to have been constructed in Greater Bombay by all sectors was 1,75,715* of which 96,729 were by private and co-operative sectors. The average annual performance in house building was thus about 17,600 tenements as against the development target of 33,000 tenements per year by all agencies. With this rate of performance, the gap between availability and demand will go on increasing progressively as the population increases and old tenements are demolished or become unserviceable. If the housing problem in Bombay and other important cities and towns in the State is to be solved even partially, it will be necessary to step up considerably the construction of houses in the public sector and to encourage the co-operative and private sectors. In view of the high cost of construction at present, the public sector will have to provide rental housing to persons in the low income groups for some years to come, while houses built by co-operative sector and the private sector will meet the requirements of those who can afford to invest their savings or to pay high rents.

The suggestion to do away with rent control in respect of new constructions has to be considered in the light of the foregoing facts. A question often asked is whether such relaxation can be justified unless there is a reasonable prospect that it would have the effect of adding to the stock of private rented accommodation. As it is, the position is that rental housing in private sector has virtually come to a halt, particularly in Bombay. Almost all new residential flats are being built for sale. The low income groups are no longer interested in new houses built in the private sector and hence they would be least affected whether new constructions in the private sector are kept under rent control or otherwise. On the other hand, there is a possibility that removal of rent control might well induce some investors to offer their newly built houses on rental basis, if not in Bombay at least at other places, as has happened in Nagpur. In other countries, the experiment of gradual decontrol has yielded good

* Chapter II of Report of Study Group on Housing constituted by the Bombay Metropolitan Regional Planning Board.

results. In India, some States have given a rent holiday in respect of new constructions for a specified period. The Committee feels that there is no point in relaxing control in such half hearted manner by giving rent holiday for a limited period of five years or so. An investor who knows that he will have to submit to rent control after a specified period would try to exploit the situation during the limited holiday allowed to him and charge fantastically high rents during that period. Hence instead of giving a rent holiday for a limited period, as has been done in some other States, the Committee would recommend total exemption from Rent Act in respect of all new constructions made after say 1st January 1976, whether residential or non-residential, as was done in the Vidarbha area. With this relaxation, the Committee feels that one of the disincentives to investment in real estate would be removed and encouragement would be given to the construction of new houses in the private sector on rental basis, although such houses would for some initial period mostly meet the housing needs of persons in higher income groups.

5.10. In the Vidarbha area, general exemption from the Rent Control Order was granted to residential premises constructed after 1st January 1951 and non-residential premises constructed after 1st January 1967. The West Nagpur Property Owners' Association is of the view that rent control should not be made applicable to houses constructed after 1st January 1951 as the house building activity increased considerably after the exemption. The Nagpur Tenants' Association on the other hand points out that, as a result of the exemption, the tenants are facing hardship of frequent increases in rent and have to face eviction at any point of time. It, therefore, wants that both residential and non-residential premises which have been exempted in Vidarbha should be brought under rent control. The Committee has considered the arguments of both the sides. It feels that in the process of unification it would be desirable that the new Rent Act should apply uniformly to all areas in the State. The Committee has recommended in the preceding paragraph the exemption of new constructions made after 1st January 1976 throughout the State. As a corollary, it would recommend that residential and non-residential buildings constructed in Vidarbha area before that date should be brought within the purview of the new unified rent control legislation.

5.11. Rent control at present operates in respect of both residential and non-residential buildings. It has been stated that rent control adversely affects the yield of revenue of the local bodies and gives rise to the "pugree"

system of illicit payments, thereby keeping black money in circulation. As a measure to reduce the evil of pugree system, the Direct Taxes Enquiry Committee has recommended* that “the present legislative control on rent which operates in respect of both residential and non-residential premises be amended so as to restrict its operation to residential premises only”. The Municipal Finance Commission appointed by the Government of Maharashtra has also observed† that “ where there is a great problem for the local bodies to balance their budget, there could be no justification whatsoever for pegging down the rateable values of properties commercial and other non-residential to the low level obtaining few decades ago”. According to section 6 of the Bombay Rent Act, the non-residential premises to which the Act is applicable are those let or given on licence for education, business, trade or storage. The Committee considers that it would not be desirable to relax rent control in respect of premises let for education. Similarly, it would be necessary to protect the interests of small traders, shop-keepers and like persons. Therefore, while agreeing in substance with the recommendation made by the Direct Taxes Enquiry Committee and the Municipal Finance Commission, Maharashtra State, this Committee recommends that existing premises having a floor area of more than 65 sq. metres and let for business, trade or storage may be exempted from the Rent Act. As regards residential premises, it is brought to the notice of the Committee that under the Maharashtra Tax on Residential Premises Act, 1974 (XIX of 1974), a tax is levied on residential premises having a floor area of more than 125 sq. metres in Bombay and more than 150 sq. metres within the limits of other municipal corporations. These are big residential premises occupied by persons in high income groups. The Committee is of the view that such premises need not be subject to rent control and it accordingly recommends that existing residential premises having a floor area of more than 125 sq. metres should be exempted from the Rent Act.

5.12. Some of the Trusts like the Tulsidas Gopalji Charitable and Dhakleshwar Temple Trust, the Association of the Muslim Trusts, etc., have requested for exemption of the Trust properties from the Rent Act. The Trustees of the Parsi Panchayat Funds and Properties have represented that persons with high incomes who are in occupation of their properties refuse to quit even though they have purchased their flats elsewhere or

* Para. 2.204 of the Report of the Direct Taxes Enquiry Committee (Wanchoo Committee) Final Report, December 1971.

† Para. 7.7.7 Report of the Municipal Finance Commission, Maharashtra State, March 1974.
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even when the Trustees have offered alternative accommodation to them in newly constructed building. The result is that the Trustees are unable to get such flats vacated for allotment to low income group persons. They have, therefore, suggested that the Rent Act should be amended in such a manner that its provisions will not apply to a tenant or occupant of the Trust properties whose family income exceeds Rs. 24,000 a year. The Committee has suggested earlier in this Chapter a new sub-section so that the State Government would have the discretion to exempt all or any premises held by a Public Trust for charitable purpose on such terms and conditions as the Government may specify. This will enable the Government to consider the requests from such Trusts on merits. No further amendment in the Rent Act is necessary for the purpose.

5.13. The representatives of the Life Insurance Corporation of India, who appeared before the Committee requested exemption of the premises of the Corporation, particularly in Greater Bombay, from the provisions of the Rent Act. The Corporation has property worth about Rs. 11 crores in Bombay. Most of the premises have been let out for commercial purposes. The difficulties of the Corporation are the same as those of private landlords. The Committee has recommended the exemption of residential and non-residential premises above a certain floor area from the provisions of the Rent Act. This would meet the request of the Corporation to a great extent. The Committee is not in favour of general exemption being granted to all premises of the Life Insurance Corporation.

5.14. The East India Cotton Association Ltd., Bombay has allotted rooms in its buildings in Bombay to its members as a facility for conducting their business in cotton. The Association is experiencing difficulty in recovering possession of its premises from persons who have ceased to be its members. The Association has, therefore, requested exemption of its premises from the Rent Act. If this is not possible, it has suggested that a special tenancy called "Member Tenancy" may be created in the Act to cover such cases and reasonable increase in rents and ejection on termination of membership for any reason be permitted. The Committee is of the view that it would not be possible to single out this Association for exemption or for making any special provisions. The Association will have to take recourse to the normal provisions of the Rent Act for recovery of possession.

5.15. The Committee's recommendations in regard to exemption of certain hotels and lodging houses from the Rent Act are contained in Chapter X.

CHAPTER VI

STANDARD RENT AND PERMITTED INCREASES

The rent fixed between the landlord and the tenant at the inception of the tenancy either by negotiations is known as contractual rent, while standard rent is the rent permitted to be charged to the tenant under the rent control law. In some Rent Acts the term used is "fair rent" instead of standard rent. The standard rent or fair rent may be less than the market rent and in some cases even less than the economic rent. This is because rent control is essentially a welfare measure primarily intended to give relief to low income group persons against exploitation in a scarce housing market.

6.2. The Bombay Rent Act, 1947, defines standard rent in relation to any premises as follows :—

(a) Where the standard rent is fixed by the Court and the Controller respectively under the Bombay Rent Restriction Act, 1939, or the Bombay Rents, Hotel and Lodging House Rates (Control) Act, 1944, such standard rent ; or

(b) where the standard rent is not so fixed—
subject to the provisions of section 11,

(i) the rent at which the premises were let on the first day of September 1940, or

(ii) where they were not let on the first day of September 1940 the rent at which they were last let before that day ; or

(iii) where they were first let after the first day of September 1940, the rent at which they were first let ; or

(iv) in any of the cases specified in section 11, the rent fixed by the Court.

The last sub-clause covers cases in which the Court is satisfied that there is no sufficient evidence to ascertain the rent at which the premises were let in any one of the cases mentioned in sub-clauses (i) to (iii), the cases of premises first let after 1st September 1940, if the rent at which they are let is in the opinion of the Court excessive and some other

cases. The standard rent is fixed in relation to premises and not in relation to persons occupying them. Hence rents of premises cannot be increased when old tenants go away and are replaced by new tenants.

In Vidarbha area, clauses (5) to (7) in Chapter II of the Rent Control Order of 1949 provide for fixation of fair rent by the Controllers. The method of fixing fair rent for houses constructed before and after the 1st April 1940 is different. There are also separate provisions for fixing the fair rents of residential and non-residential premises. In respect of premises constructed before the 1st April 1940, the Controller, after determining the fair rent, is permitted to allow an increase of 12½ per cent in the case of residential premises and 50 per cent in the case of non-residential premises, with the exception that the increase to be allowed in the case of premises let for educational purposes should not exceed 12½ per cent. In determining rents of residential and non-residential premises constructed after the 1st April 1940, the Controller has to take into account the prevailing rate of rent for the same or similar houses in similar circumstances and used for similar purposes and also any general increase in the cost of sites and building construction. No increase is allowed after determining the rent in this manner. Residential premises constructed after 1st January 1951 and non-residential premises constructed after 1st January 1967 have been exempted from the provisions of the Rent Control Order and there is no question of fixing fair rents by the Controller in respect of such premises.

In Marathwada area, the provision for fixation of fair rent is contained in section 9 of the Hyderabad Act of 1954. The Controller has to take into consideration the following aspects in determining the fair rent of a house let to a tenant, after holding summary enquiry :

- (a) the prevailing rates of rent in the locality for the same or similar accommodation in similar circumstances during the twelve months prior to the 5th April 1944 ;
- (b) the rental value as entered in the property tax assessment book of the local body relating to the period mentioned in (a) above ; and
- (c) the circumstances of the case including any amount paid by the tenant by way of premium or any other like sum in addition to rent after the 5th April 1944.

In fixing the fair rent of a house constructed or let out for the first time after 5th April 1944, the Act provides that the Controller may take into consideration the rental value of the premises as entered in the property tax assessment book of the municipal body for the year in which the house was constructed and, where no such record is available, the capital value of the premises.

The Controller in fixing the fair rent is permitted to allow an increase ranging from $8\frac{1}{2}$ to 20 per cent, according to slab, over the rate of rent or rental value mentioned in (a) and (b) in the case of residential premises. In the case of non-residential premises, he is permitted to allow an increase not exceeding 50 per cent, if the rate of rent or rental value does not exceed Rs. 100 per month, and an increase not exceeding 100 per cent, if the rate of rent or rental value exceeds Rs. 100 per month.

6.3. There is thus a wide difference in the method of fixation of standard rent or fair rent provided in the three rent control laws in force in Maharashtra. The property owners in the different regions have been continuously contending that by pegging down the rents to a date nearly 30 years back, they have been deprived of a reasonable return on their properties commensurate with the increase in the cost of living and the cost of building materials. Various suggestions have been made from their side for revision of the concept of standard rent. They have pointed out that Government has itself increased the Railway and State Transport fares, rates of electricity, telephone, postage and telegram charges, prices of milk and various municipal and other taxes. The prices of other commodities including foodgrains have also increased considerably during all these years and no item of consumer good is available at the price level prevailing in 1940. If the property owner who has to maintain his family cannot buy any item in the market at 1940 price, how is it, they ask, he is expected to let out his accommodation at 1940 rate and to maintain the property in reasonable state of repairs from the meagre rents received by him. They have, therefore, suggested different rates ranging from 50 per cent to 300 per cent for increase in the standard rents or fair rents. Some have suggested that the property owner should at least get a net return of 10 per cent on his investment, which he would otherwise get if he puts the money in fixed deposit in the Bank. Some have advocated that the standard rent should be calculated by allowing net return at 2 per cent more than the current Bank rate of interest on fixed deposits and the market value of the building should be taken into account for such calcula-

tion. If this is done, they say that the standard rent will increase or decrease according to the interest rate allowed by the Bank on fixed deposits. Then there are those who have suggested that the standard rent should be linked with the cost of living index or purchasing power of the rupee or the index of the cost of building materials. The Tenants Associations on the other hand are opposed to any increase in the standard rents.

6.4. The arguments adduced for increasing the rents are valid upto a point. However, if the method or formula for fixing the standard rent is changed now, there would be a fresh wave of litigation for getting the standard rents refixed. This contingency will have to be avoided at any rate. The Committee is, therefore, of the view that, as far as possible, the existing standard rents or fair rents in the three different regions should be left undisturbed and some general increase in rents should be allowed as was done in 1954 under section 10C of the Bombay Rent Act.

6.5. The standard rents already fixed by courts in Western Maharashtra under the Bombay Act and the fair rents fixed by the Controllers in Vidarbha and Marathwada areas under the respective Rent Control Acts will have to be left undisturbed. Similarly, any increase in rent made in accordance with the respective Acts in the standard rents or fair rents already fixed by the Courts or Controllers will have to be allowed.

As already stated, the standard rent or fair rent is at present related to three different dates in the three rent control laws in the State. In Vidarbha area, there is no question of fixing fair rent in respect of residential premises constructed after 1st January 1951 and non-residential premises constructed after 1st January 1967, because of the general exemption granted to such premises under the Rent Control Order. The Committee has recommended in Chapter V that this general exemption should be withdrawn. While unifying the three Acts, it would be advisable to advance the three different dates to which the standard rent or fair rent is related at present to some common recent date. The Committee has considered this aspect and is of the view that for the purposes of standard rent, the date should be 1st May 1960. It accordingly recommends that the definition of the "standard rent" in the unified Act should be as follows :—

“ Standard rent in relation to any premises means :—

(a) Where the standard rent is fixed or deemed to be fixed by a Court under the Bombay Rents, Hotel and Lodging House Rates

Control Act, 1947, or where the fair rent is fixed by a Controller under the Central Provinces and Berar, Regulation of Letting of Accommodation Act, 1946, or the Hyderabad Houses (Rent, Eviction and Lease) Control Act, 1954, such rent together with any increases made therein in accordance with the provisions of these Acts.

(b) Where the standard rent or fair rent is not so fixed—
subject to the provisions of section 11,

(i) the rent including any increases permitted by law at which the premises were let on the first day of May 1960, or

(ii) where the premises were not let on the first day of May 1960, the rent including any increases permitted by law at which they were last let before that day, or

(iii) where the premises were first let after the first day of May 1960, the rent including any increases permitted by law at which they were first let,

(iv) in any of the cases specified in section 11, the rent fixed by the Court.”

6.6. The provisions of section 7 of the Bombay Rent Act which prohibit the charging of rent or licence fee in excess of the standard rent of the premises and the provisions of section 8 should be incorporated in the unified Act with suitable modification in sub-section (1) of section 7 to allow the recovery of any increase in rent made in accordance with the provisions of the existing three Rent Acts. The Committee's views in regard to provisions of section 9 of the Bombay Act have been expressed in Chapter VII relating to “repairs and maintenance”.

6.7. The existing section 10 of the Bombay Rent Act provides that where a landlord is required to pay to local authority in respect of any premises, any rate, cess or tax imposed or levied for the purposes of such authority he shall be entitled to make an increase in the rent of premises by an amount not exceeding the increase paid by him. Corresponding provisions are contained in clauses 10 and 11 of the Rent Control Order in Vidarbha and section 11 of the Hyderabad Act. These provisions need to be made more comprehensive to cover the taxes payable to Government also. Similarly, where the rent is inclusive of electricity and water charges and such charges are increased, it is necessary

to permit corresponding increase in rent. The Committee would, therefore, recommend the following provision in the unified Act in place of the existing provisions of the three Acts :—

“ 10. (1) Where, after the first day of May 1960, but before the date of coming into force of this Act, a landlord is required to pay to a local authority or Government, in respect of any premises, any increase in rate, cess, charges, tax, assessment on land, ground rent of land or any other levy, he shall be entitled to make an increase in the rent of premises by an amount not exceeding the amount permitted to be recovered by him under the law in respect of such premises.

(2) Where, after the commencement of this Act, a landlord is required to pay to a local authority or Government, in respect of any premises, any increase in or any new rate, cess, charges, tax, assessment on land, ground rent of land or any other levy, he shall be entitled to make an increase in the rent of premises by an amount not exceeding the additional amount payable by him in respect of such premises.

(3) Where the rent is inclusive of charges for electricity and water and the landlord is required to pay any increase in these charges in respect of any premises, he shall be entitled to make an increase in the rent of such premises by an amount not exceeding the additional amount payable by him in respect of such premises.

(4) The amount of the increase in rent recoverable from each tenant under sub-sections (1), (2), and (3) shall be calculated in the same proportion as the rent payable by him in respect of his premises bears to the total amount of the rent recoverable for the whole premises, if let.

(5) Any increase in rent under sub-sections (1), (2) and (3) shall not be deemed to be an increase for the purpose of section 7.”

6.8. In view of the modified definition of “standard rent” and the revised section 10 proposed by the Committee, the provisions of sections 10-A, 10-AA, 10-AAA, 10-C, 10-F and 10-G are not necessary in the unified Act. The provisions of section 10-B of the Bombay Act seem to be applicable only to Greater Bombay. These are special provisions for recovery of proportionate riot tax from the tenants. The provisions have not been used for a number of years and hence the Committee feels that they need not be incorporated in the unified Act.

6.9. The general increases in rent allowed in the past under the existing three Rent Acts differ widely from area to area. In Western Maharashtra, the general increase allowed in 1954 under section 10-C for residential premises let on or before the 1st September 1940 is 5 per cent for premises with rent upto Rs. 20 per month, 7½ per cent for premises with rent between Rs. 20 and 80 per month and 10 per cent for premises with a rent of more than Rs. 80 per month. The increase allowed for similar non-residential premises is 7½ per cent for premises with rent upto Rs. 50 per month and 12½ per cent for premises with a rent of more than Rs. 50 per month. In Vidarbha, the general increase allowed under the Rent Control Order of 1949 in respect of premises constructed before the 1st April 1940 is 12½ per cent for all residential premises, and 50 per cent in respect of non-residential premises, except that the increase allowed in the case of premises let for educational purposes is 12½ per cent. This increase is allowed irrespective of the quantum of rent. In Maharashtra, the increase allowed under Hyderabad Act of 1954 in respect of residential premises is 8½ per cent for premises with rent upto Rs. 25 per month, 12½ per cent for premises with rent from Rs. 26 to Rs. 50 per month, 20 per cent for premises with rent from Rs. 51 to Rs. 100 per month and 25 per cent for premises with a rent of more than Rs. 100 per month. The increase allowed for non-residential premises is 50 per cent for premises with rent upto Rs. 100 per month and 100 per cent for premises with rent above Rs. 100 per month. A comparative picture of these increases is given in Appendix 'B' for easy reference.

6.10. The case for a general increase in rent has been discussed earlier in paragraphs 6.3 and 6.4 of this chapter. There are several small property owners all over the State who have invested their life time savings in building houses partly for their residence and partly for being let out in order to assure a steady income in old age. As a result of rent control, the return they get is inadequate even for subsistence because of steep increase in cost of living. They are not, therefore, in a position to make even current repairs to their property in the interest of tenants. Having regard to the general increase in cost of living, the Committee is of the view that there is a case for some general increase, although not to the extent claimed by the property owners, as a period of more than 20 years has elapsed since the last increase was allowed. At the same time, the paying capacity of the tenants has also to be taken into account. Considering all these factors and the general increases allowed under the

existing Acts, the Committee would suggest the following general increase in the standard rents :—

For premises let before 1st September 1940

Monthly rent of premises	Western Maharashtra (per cent)	Vidarbha (per cent)	Marathwada (per cent)
Residential premises with a floor area of 125 sq. metres or less—			
Upto Rs. 25	10	2½	6⅔
Rs. 26 to Rs. 100	15	10	7½
Above Rs. 100	20	17½	5
Non-residential premises with a floor area of 65 sq. metres or less—			
Upto Rs. 100	50	10	10
Above Rs. 100	50	12½	Nil

For premises let from 1st September 1940 to 30th April 1960

Monthly rent of premises	Western Maharashtra per cent	Vidarbha per cent	Marathwada per cent
Residential premises with a floor area of 125 sq. metres or less—			
Upto Rs. 25	10	10	2
Rs. 26 to 100	15	15	Nil
Above Rs. 100	20	20	Nil
Non-residential premises with a floor area of 65 sq. metres or less—			
Upto Rs. 100	25	25	Nil
Above Rs. 100	25	25	Nil

6.11.1. The general increase proposed in the preceding para. will not be applicable to residential premises with a floor area of more than 125 square metres and non-residential premises with a floor area of more than 65 square metres, as the Committee has recommended in Chapter V that these types of premises should be exempted from the Rent Act. The Committee is also of the view that the general increase should not be allowed in Bombay City where repairs cess is being levied.

6.11.2. The Committee has recommended general increase in rents for buildings constructed prior to 1st May 1960. The Committee does not consider that any increase in rents is necessary in respect of buildings constructed and let out on or after 1st May 1960, because the standard rents of these buildings were fixed after taking into account the increased cost of construction and also because the Committee has recommended that the date to which the standard rent should be related in the new Act should be advanced to 1st May 1960. For the purpose of allowing general increase in rents, the Committee has, therefore, divided the buildings in two classes viz. those let prior to 1st September 1940 and those let from 1st September 1940 to 30th April 1960. The residential buildings are further divided in three classes and non-residential buildings in two classes according to their rents. The Committee has suggested general increases in rents at different rates for the three areas in such a way as to equalise, as far as possible, the incidence in the three areas after taking into account the increases already allowed under the respective Rent Acts in force in those areas. A new section will have to be added in the unified Act providing for the general increases in standard rents proposed by the Committee.

6.12. Applications for fixation of standard rent are at present made to Courts in Western Maharashtra and to Controllers in Vidarbha and Marathwada areas. The Committee has already suggested that the work of fixing the standard rent should be entrusted to the Courts under the unified Act, as is done at present in Western Maharashtra. The provisions of section 11 of the Bombay Act with suitable modifications should be incorporated in the new Act. There is no provision in sub-section (1)(d) of section 11 of the Bombay Rent Act for making application for fixation of standard rent when the premises are let at concessional rent. The Committee suggests that such a provision should be made.

6.13. At present there is no time-limit within which an application for standard rent should be made. The result is that such applications are being made even ten years after the tenancy is created. Most of these applications are made as a part of the defence, when a suit is filed by the landlord for recovery of possession under section 12 of the Bombay Act on the ground of arrears of rent. The Committee has suggested in Chapter VIII relating to "recovery of possession" that a tenant should not be evicted if he pays the arrears of rent on the first day of hearing of the suit in the Court. There is, therefore, no need to allow an indefinite

time for making application for fixation of standard rent or permitted increase. The Committee suggests that such applications should be permitted within three years from the date on which the premises were let or the cause of action for any increase arose or within three years from the date of commencement of the unified Act, whichever period is later. A new section should be inserted to this effect. The provisions of section 11A of the Bombay Act should be incorporated in the unified Act.

CHAPTER VII

REPAIRS AND MAINTENANCE

Preservation of existing buildings in habitable condition is as much important as construction of new ones. Neglect of repairs to houses is often attributed to rent control. The non-availability of building materials in sufficient quantities at reasonable prices is also another factor which influences repairs as well as new constructions. Building materials particularly cement and steel started becoming scarce after the second world war and their prices have been ever on the increase. The wages of labour have also increased appreciably. The landlords, therefore, find it economically difficult to execute adequate repairs within the low rents allowed under the Rent Act. The rents of old buildings are pegged down to 1940 level under the Bombay Rent Act. A general increase in these rents ranging from 5 to 10 per cent was allowed for residential premises in 1954. A part of this increase is absorbed in the municipal taxes which are calculated on the correspondingly increased rateable value. According to Shri Roshan H. Namavati, an Architect, Engineer, Surveyor and Registered Valuer from Bombay, who gave evidence before the Committee, the landlord's share in the increment allowed in 1954 comes to Rs. 0·60 for premises with a rent of Rs. 20 per month, Rs. 3·60 for premises with a rent of Rs. 80 per month and Rs. 6 for premises with a rent of Rs. 100 per month. The increase allowed was thus quite inadequate to induce repairs, the cost of which had gone up nearly four times by then due to the increase in the cost of building materials and wages of labour. The combined result of all these factors has been the stoppage of even minor repairs which serve as a stitch in time.

7.2. The problem of repairs to old houses assumed serious proportions particularly in Bombay. Many buildings in need of special and heavy repairs had to be saved from collapse. The provisions of section 10-D, which was inserted in the Bombay Rent Act by Bombay Act 61 of 1953 and which came into force from 31st March 1954, allowed the landlord to increase the rent by an amount not exceeding five per cent per annum of the expenditure incurred even in respect of "special or heavy repairs". This increase was found to be inadequate. Hence section 10-D was amended and a new section 10-E was inserted by Maharashtra Act 13 of

1964 which came into force on 21st March 1964. The object of these amendments was explained in the Statement of Objects and Reasons to the Bill (L. A. Bill No. III of 1964) as follows :

“ The landlords have been found to neglect repairs to their buildings for various reasons, one of them being that the quantum of increase in rent allowed under section 10-D of the Rent Act after special or heavy repairs are carried out is not adequate as compared to the cost thereof. In order to give an opportunity to tenants of such buildings as may be willing to pay some increased rent towards meeting the expenditure of the repairs to save the buildings they reside in from further deterioration and perhaps collapse, it is proposed to enable the landlord to increase the rent subject to the following conditions : (i) at least two thirds of the tenants agree to the increase in rent ; (ii) the Municipal Commissioner (or other prescribed authority) certifies the necessity and costs of repairs ; (iii) the Housing Commissioner (or other prescribed authority) certifies that the repairs have been carried out according to the requirements of the Municipal Commissioner (or other prescribed authority). However, at present under the Rent Act even if the tenants are willing they cannot be charged any additional rent for repairs. This is, therefore, an enabling (section). The increase in rent will not be more than 25 per cent of the standard rent and will not be a permanent addition to the existing rent, but will be recovered only till the cost of repairs is realised, with interest at the rate of 6 per cent per annum.”

7.3. The new amendment was not very effective because the restriction contained in section 10-E about prior consent of at least two-third tenants was in practice difficult to fulfil. Ultimately in order to save the old buildings in Bombay city, Government enacted the Bombay Building Repairs and Reconstruction Board Act, 1969 and established a statutory Board to carry out repairs to the private buildings. The main source of finance for the Board is the Bombay Building Repairs and Reconstruction Cess which is being levied on all buildings in Bombay city, except those which are exempted under the Act since 1st January 1970. The rate of cess was enhanced from 1st April 1974. The classification of buildings and the extent of cess levied at present including 10 per cent share of the landlord are given below :

<i>Class of building.</i>	<i>Rate of Cess.</i>
‘ A ’ Class.	
(constructed before 1st September 1940).	34 per cent of rateable value.

<i>Class of building.</i>	<i>Rate of Cess.</i>
<p>'B' Class. (constructed between 1st September 1940 and 31st December 1969).</p>	26 per cent of rateable value.
<p>'C' Class. (constructed between 1st January 1951 and 31st December 1969).</p>	18 per cent of rateable value.

After a building is structurally repaired or is deemed to be so repaired by the Board, the rate of cess required to be paid by the tenant from 1st April 1974 is 48 per cent of rateable value for 'A' class buildings, 32 per cent for 'B' class buildings and 16 per cent for 'C' class buildings, after excluding 10 per cent share of the landlord. A tenant of 'A' class building, who was not willing to give his consent under section 10-E of the Bombay Rent Act to special and heavy repairs being carried out by the landlord on the ground that he would be required to pay to the landlord 25 per cent additional rent after such repairs, is now required to pay a cess to the extent of 48 per cent of the rateable value, after the repairs are carried out by the Board. Be it as it may, the establishment of the Repairs and Reconstruction Board is expected to solve the problem of repairs of old buildings in Bombay city proper to some extent. The problem at other places still remains.

7.4. In areas outside Bombay city proper, the provisions of section 10-E of the Bombay Rent Act, relating to special and heavy repairs, are applicable. In Vidarbha area, the relevant provisions for repairs are contained in sub-clauses (1)(vii) and (7) of clause 13 of the Rent Control Order. In Marathwada area, sections 10 and 20 of the Hyderabad Act are relevant. On a comparison of all these provisions, it is found that the provisions of sections 9, 10-D, 10-E and 23 of the Bombay Rent Act are more detailed and comprehensive and they should be taken as basis for the provisions to be made in the unified Act.

7.5. The Committee has examined the provisions of section 9, 10-D, 10-E and 23 of the Bombay Rent Act. The Committee considers that section 9 is not necessary and should be deleted and consequential amendment should be made in section 10-D.

According to section 10-D, as it stands at present, a landlord is allowed to increase the rent of premises by an amount not exceeding five per cent per annum of the expenses incurred on account of special additions to

premises or special alterations made therein or additional amenities provided for the premises or on account of improvements or structural alterations. Before making such increase, he is required to obtain a certificate from the local authority that the additions, alterations, etc., have been completed in conformity with its requirements or to obtain the consent of the tenant or of majority of tenants occupying the premises in the building. If a landlord, when required by the local authority, fails to carry out the work of additions, alterations, etc., the tenants are permitted to execute the work with the approval of the local authority and to deduct the expenses thereof from the rent payable to the landlord. The Committee is of the view that the increase of rent by five per cent allowed to the landlord is low considering the cost of building materials and labour and difficulty in securing finance at low rate of interest. The Committee is also of the view that when the tenants carry out the additions, alterations, etc., they should be allowed to recover interest on the expenses incurred by them. The Committee accordingly recommends that when the landlord carries out the work of additions, alterations, etc., he should be allowed to increase the rent by ten per cent per annum and when the work is carried out by the tenants they should be allowed to recover simple interest at ten per cent per annum on the expenses incurred by them.

In the matter of additions, alterations or special and heavy repairs to a building, the important consideration should be to strengthen the life of the building and to save the tenants from becoming victims of house collapse. Informed tenants generally give their consent to the execution of such works by the landlord or come forward to undertake the work themselves, in case of failure on the part of the landlord to do so. However, some tenants withhold their consent on account of the apprehension that there would be increase in the rent. The more important consideration that they would in the long run be saved from being dishoused is apparently overlooked. Since improvements, structural repairs, etc., to a building must be encouraged and carried out in time, the Committee recommends that the condition regarding the consent of a majority of the tenants laid down in section 10-D and of two-third tenants laid down in section 10-E should be deleted.

For carrying out additions, alterations, etc., the landlord or the tenants are required to obtain a certificate or approval of the local authority. The Committee recommends that in cities having Municipal Corporations, this power should be exercised by an officer not below the rank of City Engineer as may be authorised by the Municipal Commissioner and elsewhere by

the Executive Engineer of the Public Works and Housing Department having jurisdiction in the area in which the premises are situated.

7.6. Apropos of section 10-E of the Bombay Rent Act, the Committee has already suggested in the preceding paragraph that the condition regarding consent of two-third tenants should be deleted. This section allows the landlord to make temporary increase in rent at a rate not exceeding 25 per cent from the date of completion of the special and heavy repairs till the amount of expenditure for such repairs together with simple interest at six per cent per annum is recovered from the tenants. Having regard to the difficulty in getting funds at low rate of interest, the Committee recommends that the interest rate should be increased to ten per cent per annum.

The increase in rent allowed under section 10-E is for a temporary period till the cost of special and heavy repairs is recovered from the tenants. Having regard to this fact, the Committee recommends that, as in the case of the Repairs Cess, this increase should not be allowed to be taken into account for increasing the rateable value of the building for computing municipal taxes.

At present the landlord is required to obtain a certificate from the Municipal Commissioner or the prescribed authority about the necessity and cost of special and heavy repairs before the repairs are carried out and another certificate from the Housing Commissioner or the prescribed authority to the effect that the repairs have been carried out according to requirements. This procedure of obtaining certificates from two different authorities is not only cumbersome but also dilatory and hence needs to be simplified. The Committee, therefore, recommends that both the certificates should be obtained from one and the same authority which should be an officer not below the rank of City Engineer as may be authorised by the Municipal Commissioner in municipal corporation areas and elsewhere the Executive Engineer of the Public Works and Housing Department having jurisdiction in the area in which the premises are situated.

7.7. The provision about tenantable repairs is contained in section 23 of the Bombay Rent Act. It has been represented on behalf of the tenants that due to the increase in the cost of building materials and wages of labour, they are not in a position to carry out such repairs, when the landlord fails to do so, within the amount of two months rent, which they are permitted to recover from the landlord towards the cost of such repairs. The Committee has considered this aspect and recommends that the present limit of two months' rent should be increased to three months' rent.

CHAPTER VIII

RECOVERY OF POSSESSION

The provisions relating to recovery of possession are contained in sections 12, 13, 13-A, 13-A1, 16, 17, 17-A, 17-B and 17-C of the Bombay Rent Act in force in Western Maharashtra, clause 13 of the Rent Control Order in Vidarbha and sections 15 and 27 of the Hyderabad Act in Marathwada area.

8.2. Arrears of rent is one of the ground for recovery of possession. The period of non-payment of rent varies in the three Acts. Section 12 of the Bombay Rents Act precludes a landlord from recovery of possession of any premises so long as the tenant pays or is ready and willing to pay the amount of standard rent and permitted increases. Sub-section (3) of that section allows a decree for eviction to be passed by the Court, where the rent is in arrears for six months or more and the tenant neglects to make payment until the expiration of period of one month after a notice of demand is served on the tenant in the manner provided in section 106 of the Transfer of Property Act, 1882. In Vidarbha, a tenant who is in arrears of rent for any aggregate period of three months is liable for eviction. He is also liable for eviction if he is habitually in arrears of rent. In Marathwada, the period of arrears of rent allowed under the Hyderabad Act is one month.

8.3. The Bedekar Commission which inquired into the causes of house collapses in Bombay, has *observed that " the protection given by the Rents Control Act against eviction should be denied to a tenant who fails to pay rent of the accommodation either to the landlord or into a court for three successive months. We understand that in case of non-payment, landlords are practically helpless and almost at the mercy of the tenants. Non-payment of rent would mean neglect and rapid deterioration of the building." The public housing authorities like the Housing Boards, Repairs Board, etc., generally start eviction proceedings if a tenant is in arrears of rent for three months. Small property-owners outside Bombay are particularly hit very hard, if the tenants fall in arrears, as they have not only to depend on their livelihood on the rents but have also to pay the various

* Para 6-18 of the Report of the Commission of Inquiry, appointed by the Government of Maharashtra, to enquire into the causes of collapse of houses in Bombay, 1965.

taxes. Even in Bombay City, a number of properties are put to auction by the Municipal Corporation on account of non-payment of taxes by the property-owners, who incidentally are required to pay the municipal taxes six monthly in advance, whether they receive the rent or not. The argument, therefore, is that when Government and the public housing authorities are themselves not prepared to allow arrears of rent for more than three months in respect of their own properties, when they are financially much better than a private landlord, there is no reason why the tenants in private properties should be allowed to fall in arrears of rent for a period of as much as six months as laid down under the Bombay Act. In the rent legislations in force in Delhi and Calcutta, the period laid down is two months, while in Madras it is one month. Notwithstanding these facts and arguments, the Committee feels that the need for giving protection to the tenants who remain in arrears on account of humble circumstances or other genuine difficulties should not be overlooked. It is of the view that any tenant who is in arrears of rent should be allowed to pay the arrears of rent and permitted increases in the Court on the first day of the hearing of the suit together with interest on the amount of arrears and compensatory cost of the suit and, if he does so, he should not be evicted. At the same time he should not be allowed to raise the question of standard rent in any such suit or proceedings but only by an independent application to the Court. In this way a lot of litigation about standard rent and permitted increases would be eliminated. The Committee accordingly recommends that the existing section 12 of the Bombay Rent Act should be taken as basis for the unified Act and sub-section (3) thereof should be replaced by the following provision :—

“ (3) No decree for eviction shall be passed by the Court in the suit for recovery of possession instituted by a landlord against a tenant on the ground of non-payment of standard rent and permitted increases due, if, on the first day of hearing of the suit or on or before such other date as the Court may fix, the tenant pays to the landlord or tenders in Court the standard rent and permitted increases then due and thereafter continues to pay or tender in Court regularly every month such rent and permitted increases till the suit is finally decided and also pays interest at six per cent per annum on the arrears of standard rent and permitted increases and costs of the suit as directed by the Court. In any subsequent suit instituted on the same ground against the same tenant, the rate of interest shall be enhanced to nine per cent per annum on the arrears of standard rent and permitted increases ”.

8.4. Individual tenants and their Associations have pointed out that some times there is a dispute as to who is the landlord and in some cases the whereabouts of the landlord are not known to the tenants. Consequently the tenants cannot pay the rent and they are at a later date treated as being in arrears. They have, therefore, suggested that some arrangements should be made for the tenants to deposit the rents in such cases. The Committee has accepted the suggestion and would recommend the insertion of the following new section in the unified Rent Act :

“(1) Where the address of the landlord or his authorised agent is not known to the tenant, he may deposit the rent lawfully payable to the landlord in respect of the premises in the Court of Small Causes, wherever such Court exists and elsewhere in the Court of the Civil Judge (Junior Division), having jurisdiction in the area in which the premises are situate and continue to deposit any rent which may subsequently become due in respect of the premises until the address of the landlord or his authorised agent becomes known to the tenant.

(2) Where any *bona fide* doubt or dispute arises as to the person who is entitled to receive the rent in respect of any premises, the tenant may deposit the rent lawfully payable to the landlord in respect of the premises in the Court of Small Causes, wherever such Court exists and elsewhere in the Court of the Civil Judge (Junior Division), having jurisdiction in the area in which the premises are situate and continue to deposit any rent which may subsequently become due until the doubt is removed or the dispute is settled by the decision of a competent court or by a settlement between the parties.

(3) Where the landlord refuses to accept the rent when tendered or remitted by money order, the tenant may deposit the rent lawfully payable to the landlord in respect of the premises in the Court of Small Causes, where such Court exists and elsewhere in the Court of the Civil Judge (Junior Division) having jurisdiction in the area which the premises are situate and continue to deposit any rent which may subsequently become due.

(4) The Court may, on an application from the landlord, if it is satisfied that he is the person entitled to receive the rent, order the payment of the amount of rent deposited by the tenant.

Provided that while making payment to the landlord under subsection (3), the Court shall deduct an amount by way of compensatory cost and pay it to the respective tenants”.

8.5. The various grounds for eviction are laid down in section 13 of the Bombay Rent Act, clause 13 of the Rent Control Order in Vidarbha and sections 15 and 27 of the Hyderabad Act in Marathwada. On a comparison of these provisions, the Committee feels that the provisions in section 13 of the Bombay Rent Act are quite comprehensive and should form the basis for the provisions to be made in the unified Act.

8.6. Some Tenants' Association have suggested that a suitable explanation should be added to sub-section (1) (b) of section 13 of the Bombay Rent Act that provision of standing platform in the kitchen, wooden partitions, bathroom, lattice work, etc., provided by the tenant at his cost should not be treated as erection of permanent structures for the purpose of the said sub-section. The Committee has accepted the suggestion and recommends the insertion of the following explanation to the sub-section:---

Explanation.—For the purpose of this clause, no permanent structure shall be deemed to be erected in any premises merely by reason of construction of a wooden partition, provision of a standing cooking platform in the kitchen, door, loft, lattice work or such other additions and alterations of a like nature which can be removed without serious damage to the premises”.

8.7.1. A landlord is entitled to recover possession of premises, under sub-section (1) (g) of section 13 if the premises are reasonably and *bona fide* required, by the landlord for occupation by himself or by any person for whose benefit the premises are held. This provision is subject to the provision of sub-section (2) of that section. Many property-owners have complained that even though their needs were quite genuine they were not able to secure possession of their premises because the criteria of greater hardship laid down in sub-section (2) of section 13 was often weighed in favour of the tenants. The Aggrieved Licensors' Association, Bombay, whose members are stated to have only one flat in one co-operative housing society, has also represented to this Committee that its members are finding it difficult to get back possession of their premises which they had given temporarily on leave and licence basis. This Association has, therefore, requested that a special Tribunal should be constituted in Greater Bombay to deal with cases of recovery of possession and such Tribunal should decide the cases of one flat owners in one co-operative housing society by adopting summary procedure. A similar difficulty was being experienced by members of the armed forces and a special provision was made by insertion of a new section 13-A-1 in the Bombay Rent Act. This section

entitles a member or retired member of the armed forces of the Union or the widow of such member, who dies while in service or within five years of his retirement, to regain possession of their premises, when *bona fide* required for occupation by them or members of their families. They are required to produce a certificate from the Head of Service about the *bona fide* requirement of the premises and the new section provides that such certificate shall be deemed to be conclusive evidence of the facts stated therein and the Court shall pass a decree for eviction at the hearing of the suit.

8.7.2. The new amendment mentioned above provides for a summary procedure. Even then, it is apprehended by some that it would take long time for the Courts to dispose of such matters in the ordinary course. A suggestion has, therefore, been made for the appointment of special Tribunals to decide such cases. The Committee has considered the suggestion but feels that the appointment of such special Tribunals under the Rent Act is not likely to solve the problem but would create more problems and complications. It is the experience that wherever any work has been entrusted to Tribunals having limited jurisdiction there has been a spate of writ petitions in the High Court. It will, therefore, be necessary to provide for an appeal against the order of the Tribunal. On the administrative side, the difficulty would be to ensure a continuous flow of qualified persons to preside over the Tribunals. The Tribunal will have to organise its own office more or less on the lines of the Small Causes Court in Bombay. Ultimately the Tribunal will function practically as a Court. It is, therefore, difficult to see what advantage a Tribunal would have over a Court, when it will have to follow the same summary procedure as would be followed by a Court under the new section 13-A-1 of the Bombay Rent Act. The proper course would be to appoint additional judges in the Small Causes Court in Bombay and at other places, wherever necessary. The Committee accordingly recommends this course for the consideration of Government. The judges may work, if necessary in shifts, if there is any difficulty in securing accommodation for the additional Courts.

In order, however, to minimise the apprehended delay in the Courts, the Committee recommends that a further provision may be made by adding a new clause (c) in section 13-A-1 to the following effect :—

“(c) The Court shall dispose of the suits under this section within three months from the date of service of the summons on the defendant.”

8.7.3. The Government of India, Ministry of Works and Housing issued orders on 9th September 1975 that the Central Government servants, who have already built houses at the place of their posting or who own houses either in their own name or in the names of any members of their families, shall be required to vacate Government accommodation allotted to them within three months from 1st October 1975. If they do not vacate the Government accommodation after that period, they would be charged licence fee at the market rates. The Western Railway Mazdoor Sangh, the Western Railway Class II Officers Association and several individual employees of the Central Government have represented to this Committee that the Central Government employees have given their own houses or flats in Bombay temporarily on leave and licence basis and elected to occupy Government accommodation during the period of their posting, as their services are transferable and they would require their own accommodation at the time of retirement. In view of the orders issued by the Government of India, they will have to secure vacant possession of their own accommodation but they would not be in a position to do so in short time because of the provisions of the Rent Act. They have, therefore, requested that just as a special provision has been made by the State Government for Defence personnel by inserting section 13-A-1 in the Bombay Rent Act, a similar special provision may also be made to enable civilian employees of Government to recover possession of their premises speedily.

8.7.4. To facilitate speedy recovery of possession by the Central Government employees in the Union Territory of Delhi, the Government of India has amended the Delhi Rent Control Act, 1958, by the Delhi Rent Control (Amendment), Ordinance, 1975 (No. 24 of 1975). According to new section 14-A inserted by the Ordinance, a Central Government servant owning accommodation in the Union territory of Delhi, who is required to vacate the residential premises allotted to him by the Central Government or any other authority, is given the right to recover immediate possession of any premises let out by him. When such a Central Government servant approaches the Controller appointed under the Delhi Rent Control Act for recovery of possession, the Controller is required to issue a summons for service on the tenant under section 25-B in the prescribed form. The tenant is prohibited from contesting the prayer for eviction from the premises, unless he files an affidavit stating the grounds on which he seeks to contest the application for eviction.

If he does not file any affidavit, the tenant is liable to an order of eviction. If the Controller grants leave to the tenant to contest the application, he is required to commence the hearing of the application as early as practicable and pass the order. No appeal or second appeal lies against the order of the Controller. These special provisions which are contained in the new Chapter III-A inserted in the Delhi Rent Control Act by the Ordinance No. 24 of 1975 are not necessarily meant only for the benefit of the Central Government employees but are meant for any landlord who wants to recover possession of the premises for his own *bona fide* use.

8.7.5. The Committee is not in favour of making general provisions in the unified Rent Act on the lines of Chapter III-A of the Delhi Rent Control (Amendment) Ordinance of 1975. The Committee has, however, no objection to a provision being made for the benefit of the Central Government employees on the lines of the provision made in section 13-A-1 of the Bombay Rent Act for members of the armed forces, although this would mean a special discrimination in favour of the Central Government employees. It would accordingly make the following suggestions :—

(a) Where a Central Government employee has been called upon by the Central Government to surrender his quarters and to occupy his own house or in the alternative to pay market rent for the quarters allotted to him he should be given the right to recover possession of his own house from his tenant or licensee on production of a certificate from the Head of Department to that effect.

(b) The certificate granted by the Head of Department shall be conclusive evidence of the facts stated therein and shall not be challenged by the tenant, licensee, etc., as the case may be.

(c) On receipt of an application together with the certificate the Court shall decide the suit within three months from the date of service of summons on the defendant.

(d) Where the Central Government employee possesses more than one house in his name or in the name of his spouse in the same city or town, he shall be entitled to recover possession of only one such house.

(e) Special provisions as indicated above should apply to the existing houses of the Central Government employees and not to those which they may acquire or build in future.

8.7.6. The Committee feels that it would be neither desirable nor proper to treat others on par with members of the armed forces in the

matter of recovery of possession of premises. It has recommended similar provisions for Central Government employees because of their difficulties. However, if more and more relaxations are made, the security of possession given to the tenants and licensees by the Rent Act will have no meaning. The committee, therefore, does not consider that any further modification or exception need be made in the unified Act with reference to the provisions of sub-section 1(g) of section 13 of the Bombay Rent Act.

8.8. The Bar Council of Maharashtra has pointed out that the word "immediate" used in clauses (hh) and (hhh) of section 13(1) becomes meaningless, since the landlord is compelled to go to the Court of law and spend a number of years before he can get possession. The Committee agrees that the word "immediate" should be omitted from the two clauses.

8.9. It has been represented before the Committee that many a time a tenants, who builds his house or purchases a flat in a co-operative housing society, gives his house or flat on high rent or licence fee but continues to occupy his rent controlled premises. It has been suggested that such persons should not be allowed to continue in the rent controlled premises. A similar view seems to have been taken by the Government of India which has decided that its employees should vacate government accommodation, if they own houses either in their own name or in the name of any member of their family at the place of posting. The condition laid down in the Tenancy Agreement of the Maharashtra Housing Board also requires the tenant to vacate the tenement allotted to him by the Board, if such tenant or his or her spouse secures accommodation elsewhere. The Committee, therefore, suggests that clause (l) of sub-section (1) of section 13 should be modified as follows in the unified Act:—

"(l) that the tenant or his or her spouse has, whether before or after the commencement of this Act, built, acquired vacant possession of or been allotted a suitable residence."

8.10.1. At present under clause (hh) of section 13(1) of the Bombay Rent Act, a landlord who wants to secure vacant possession of the premises consisting of not more than two floors for the purpose of demolition and eradication of a new building on the same site has to first obtain a certificate from the Tribunal constituted under sub-section (3-B) of section 13 to the effect that the plans and estimates for the new building have been properly prepared and that necessary funds for the purpose of erection of the new building are available with the landlord. He has

to produce the certificate and give an undertaking under sub-section (3-A) to the Court that (1) the new building shall, subject to the provisions of any rules, by-laws or regulations made by a local authority, contain not less than two times the number of residential tenements and not less than two times the floor area, (2) the work of demolition shall be commenced by him not later than one month and completed not later than three months from the date of possession of the entire premises and (3) the work of erection of the new building shall be completed not later than 15 months. The Court has been given discretion under sub-section (3A) to extend the period.

8.10.2. The Committee is of the view that the requirement of obtaining a certificate of the Tribunal should be dispensed with, as it only leads to more delay and instead the matter should go directly to the Court. The provisions of sub-section (3B) should be deleted in the unified Act and consequential amendments made where necessary.

8.10.3. The Committee is also of the view that the provision relating to construction of twice the number of tenements and twice the floor area contained in sub-section (3A) of section 13 and in sub-section (2) of section 13A should be deleted as it creates complications. The two sub-section in question should be modified accordingly.

8.10.4. Some Tenants Associations and the City Engineer, Bombay Municipal Corporation, have suggested that the plans for the new building to be erected should contain residential tenements equivalent in carpet area to the residential tenements in the existing building sought to be demolished, with a permissible variation of 5 per cent. Where the carpet area of the existing tenement is less than that required by the prevailing rules of the local authority, the tenements in the new building should be provided with the minimum area specified under the rules of the local authority. Consent of the tenants should be obtained if larger tenements than those sought to be demolished are to be provided. The Committee has accepted the suggestion and recommends that sub-section (3A) should be amended accordingly.

8.10.5. The Committee has recommended earlier in Chapter V that all new constructions made after 1st January 1976 should be exempted from the Rent Act. This exemption should not, however, apply to new buildings erected on the sites of the demolished buildings, the possession of which

was obtained under clause (hh) of sub-section (1) of section 13. The Committee recommends that this position should be made clear in the unified Act.

8.11. Some times when a landlord wants to construct additional structure or floor over a building which or part of which is let to one or more tenants, the tenants do not co-operate and allow the landlord to construct the additional structure. The suggestion, therefore, is that with the permission of the Court the landlord should be allowed to execute the work without any obstruction. The Committee has accepted the suggestion and recommends that a new section should be inserted in the unified Act to cover such cases.

8.12. Some more suggestions have also been made in regard to the provisions relating to recovery of possession. The Committee feels that, except for the suggestions made in this Chapter, the existing provisions should not be disturbed. The provisions of sections 12, 13, 13-A, 13-A-I, 16, 17, 17-A, 17-B and 17-C of the Bombay Rent Act, with the modifications suggested by the Committee, should be embodied in the unified Act.

CHAPTER IX

SUB-TENANCIES AND LEAVE AND LICENCE

The Bombay Rents, Hotel and Lodging House Rates Control Act, 1947, originally provided that after the coming into operation of that Act i.e. after 13th February 1948 it was not lawful for a tenant to sub-let the premises let to him, save as permitted by the proviso to section 15, and if he did so both the tenant and sub-tenant were liable to eviction. Later on, when Government announced its policy to discontinue requisitioning of residential premises from June 1958, a large number of landlords filed suits in the Courts to evict tenants, who had unlawfully sub-let their premises, and their sub-tenants. Such large scale eviction by landlords would have caused great hardship to a large number of people due to acute shortage of accommodation. Hence in response to public demand, Government promulgated an Ordinance on 21st May 1959 to remove the bar against sub-letting, assigning, etc., contained in section 15 or in any contract, with retrospective effect, in the case of sub-tenants who had entered into possession despite the bar and had continued in possession of the premises till the date of the Ordinance viz. 21st May 1959. Under section 14, the sub-tenants upto the year of the Act i.e. upto 13th February 1948, had already been made regular tenants of their landlords (i.e. original tenants) because their possession was already lawful under the operation of section 10 of the Bombay Rents, Hotel Rates and Lodging House Rates Control Act, 1944 (Act VII of 1944). The sub-tenants who came in occupation of their premises during the period from 13th February 1948 to 21st May 1959 were, therefore, made the regular tenants of their landlords (i.e. original tenants) by the Ordinance of 1959. The Ordinance was later on replaced by the Bombay Act XLIX of 1959 which was published on 21st September 1959. Any sub-tenancies created after 21st May 1959 were declared unlawful.

9.2. It is reported to the Committee that again after a lapse of nearly 16 years, there have been several cases in the Small Causes Courts in Bombay, in which a large number of sub-tenants, who are unlawful under the Bombay Rent Act, are facing eviction. In view of the continued scarcity of accommodation, it is necessary to protect such large number of so called unlawful sub-tenants. Government has thought it fit to give

protection to the licensees who were in occupation on 1st February 1973. The Committee feels that an anomolous position has been created in law in that certain licensees occupying till 1st February 1973 are protected from eviction, while sub-tenants in occupation of the premises on that date have to face eviction. Non-official Bills on this subject were moved in the Assembly by Shri Umar Kazi (L. A. Bill No. XXXV of 1972) and by Shri Sharad Dighe (L. A. Bill No. LV of 1974). When Shri Sharad Dighe's Bill was discussed in the Budget Session of the Assembly in 1975, the Minister of State for Housing in his reply said that the provisions proposed in the Bill would be referred for consideration to the Rent Acts Enquiry Committee which had since been appointed by Government. He also said that, if the Committee made an interim report, its suggestions on this subject would be considered by Government. The Committee has examined this problem and is of the view that sub-tenants upto 1st February 1973 also need to be given protection. In doing so, they should be made the direct tenants of the landlord and not of the original tenants. Since the sub-tenancy is being made lawful and the sub-tenants are to be made the direct tenants of the landlord and not of the original tenant, they should pay to the landlord additional rent to the extent of 25 per cent of the standard rent in respect of the premises occupied by them. The Committee accordingly makes the following proposals :—

(a) Sub-tenants who have been in occupation from 21st May 1959 but before 1st February 1973 may be recognised as lawful sub-tenants.

(b) All sub-tenants upto 1st February 1973, including those who came in occupation prior to 21st May 1959, should be made the direct tenants of the landlord and not of the original tenants, as at present, in respect of the premises occupied by them.

(c) The landlord should be allowed to charge increase in rent to the extent of 25 per cent of the standard rent to such sub-tenants on their becoming his direct tenants.

(d) If the premises have been wholly sub-let the sub-tenant should become the direct tenant of the landlord (and not of the original tenant) in respect of the whole premises and he should pay additional rent equal to 25 per cent of the standard rent.

(e) In case a part of the premises has been sub-let, the rent of the whole of the premises should be allowed to be increased by 25 per cent. The sub-tenant should become the direct tenant of the landlord (and not

of the original tenant) in respect of the premises occupied by him. He should pay monthly rent direct to the landlord in proportion to the area occupied by him, after considering the other amenities enjoyed by him. The tenant should continue to be tenant in respect of the remaining premises in his occupation and should pay the proportionate rent in respect of his premises.

9.3. Apropos of the leave and licence system, it has been represented that one of the effects of the Maharashtra Act XVII of 1973 is that persons are now reluctant to give their flats on leave and licence basis. Consequently, Foreign Consulates, business houses, etc., are not in a position to secure premises for their offices and for providing accommodation for their officers and staff. Similarly, persons who are prepared or are in a position to pay are also not able to secure premises for their residence. The Committee feels that it would be too early to consider any revision of the provisions made by the Maharashtra Act XVII of 1973. In Chapter V, the Committee has recommended exemption from the Rent Act of all new constructions made after 1st January 1976 and also existing residential premises with a floor area of more than 125 sq. metres and non-residential premises with a floor area of more than 65 sq. metres. The Committee feels that this would solve the problem faced by the Foreign Consulates, business houses, etc.

9.4. The Committee was informed that the problem of leave and licence does not exist in Vidarbha and Marathwada areas and hence there are no provisions in the Rent Acts in force in those areas. The problem mainly exists in the cities of Greater Bombay, Pune and Thane. The provisions relating to leave and licence are mainly contained in sections 5(4-A), 7(2), 14, 15 and 15-A of the Bombay Rent Act with consequential amendments in other sections. These provisions should be embodied in the new unified Act.

CHAPTER X

CONTROL ON HOTELS AND LODGING HOUSES

Control over rates of hotels and lodging houses and eviction of lodgers is exercised through the special provisions contained in Part III of the Bombay Rent Act, 1947. There are no corresponding provisions in the rent laws in Vidarbha and Marathwada areas. The provisions of this Part should be retained in the new Act. In India, the other States in which control is exercised are Gujarat, West Bengal and Karnataka and the Union territory of Delhi.

10.2. Under the Bombay Rent Act "hotel and lodging house" means a building or a part of a building where lodging with or without board or other service is provided for monetary consideration. The Act is not applicable to eating houses and restaurants. The State Government appoints a Controller under section 32 who is of the rank of Deputy Collector. He is not a full time officer but attends to the duties of the Controller in addition to his normal duties. The Controller is required to fix "fair rates" for lodging, board or other services, the number of lodgers to be accommodated and the percentage of accommodation for daily and monthly lodgers in a hotel or lodging house. Managers of hotels and owners of lodging houses have to obtain the necessary certificate from the Controller for recovering possession of accommodation from a lodger.

10.3. The previous Rent Enquiry Committee appointed by Government in 1952 had recommended* that control over hotels and lodging houses in Greater Bombay may not apply to those hotels and lodging houses which are run in what is called the western style. It appears that the recommendation was not accepted at that time. A period of 22 years has elapsed since then and several new hotels have come up in Greater Bombay which are run in western style. These hotels mostly cater to the needs of foreign tourists and persons belonging to very high income groups. The Department of Tourism, Government of India, which looks after promotion of tourism, exercises certain control on the rates of hotels approved by it

* Chapter VIII Report of the Committee appointed to inquire into the working of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947, Report, published in 1953.

all over India except Bombay. For the purpose of fixing the rates of approved hotels, the Department of Tourism has adopted a formula called "Hubbart Formula" which is reproduced below :—

"A. Operating expenses under all headings and a reasonable return on the present fair value of the property, namely, a return of 6 per cent on land and buildings except where leased, unless the lease, as in Delhi, approximates the sale price of existing hotels and a return of 10 per cent on the capital employed in hotel keeping should be allowed in the calculations. In the case of new hotels (i.e. hotels built after 1955) the return on land and buildings may be allowed at 8 per cent with the same exception.

The return in both cases should be net return after allowing for taxation, insurance and depreciation.

B. Less : Income from other sources such as store rentals, food and beverages and miscellaneous income.

C. Balance : The balance comes to the amount to be realised from room income.

D. Compute : Number of guest rooms multiplied by 365 days and reduced by giving an allowance for average vacancies. (The room occupancy ratio to be postulated for arriving at this return should be 60 per cent. In the case of hotels in hill stations and sea side resort occupancy ratio should be the actual average annual room occupancy or 60 per cent whichever is lower should be the basis.)

E. Results : $\frac{C}{D}$ Average room rates."

The Committee is given to understand that the Controller of Hotels and Lodging Houses, Bombay, takes into consideration the working of this formula in deciding the applications for fixation or revision of fair rates for higher class western style hotels in Greater Bombay. A question which arises is whether these types of hotels really need to be brought within the purview of the Rent Act. The Committee understands that the Government of India has requested the Government of Maharashtra that western style hotels may be exempted from the operation of the Rent Act. The difficulty, however, would be to define in the Act the term "western style hotel". Under the West Bengal Premises Tenancy Act, 1956, exemption has been granted to hotels or lodging houses included in the list of hotels

or lodging houses approved by the Department of Tourism of the Government of India. A better way would be to classify such hotels on the basis of the rates charged. It has been brought to the notice of the Committee that under the Maharashtra Tax on Luxuries (in Hotels and Lodging Houses) Act, 1974 (Maharashtra Act No. XXI of 1974), a luxury tax is levied on persons residing at a hotel at the following rates :—

- | | |
|---|-------------------------------|
| (a) Where the charge for residence is fifty rupees or more but does not exceed one hundred rupees per day, per person. | 3 per centum of such charge ; |
| (b) Where the charge for residence exceeds one hundred rupees but does not exceed one hundred and fifty rupees per day, per person. | 5 per centum of such charge ; |
| (c) Where the charge for residence exceeds one hundred and fifty rupees per day, per person. | 7 per centum of such charge. |

The Committee is of the view that no control under the Rent Act is necessary in respect of these types of hotels and lodging houses. It accordingly recommends that hotels and lodging houses which charge Rs. 50 or more per day, per person, for lodging should be exempted from the provisions of the Rent Act. In addition, a provision should also be made in the new Act empowering Government to exempt any other hotels and lodging houses or class of such hotels and lodging houses on such terms and conditions as it may specify in this behalf.

10.4. The Hotel and Restaurant Association (Western India) has proposed an amendment to section 38 of the Bombay Rent Act. It has suggested deletion of the words "ready and willing to pay" from the section on the ground that the hoteliers cannot evict a lodger who is "ready and willing to pay" but in practice does not pay the hotel bills and stays free of charge for years.

In section 34 of the Delhi Rent Control Act it is provided that the manager of a hotel or owner of a lodging house shall be entitled to recover possession of the accommodation provided by him to a lodger on obtaining a certificate from the Controller certifying, among other things, that the lodger has failed to pay the rent due from him. The wording of section 38 of the Bombay Rent Act is more or less based on

section 12 of that Act. The Committee is of the view that it is quite necessary that the management should be able to evict a lodger who may be ready and willing to pay but actually does not pay. One of the grounds for eviction provided in section 39 is that "the lodger is habitually irregular or has made default for three months in making payment of the charges for board, lodging or other services provided in the hotel or lodging house." This provision is adequate. The Committee, therefore, recommends that the existing section 38 should be amended by deleting the words "ready and willing to pay".

10.5. The Bombay Rent Act provides for an appeal to the State Government against any order passed by the Controller under Part III, including an order granting or refusing a certificate under section 39. Thereafter the Manager of a hotel or owner of a lodging house is required to file a suit, if necessary, against the lodger for recovery of charges or possession. This is a time consuming process. The Committee suggests that in these matters the appeal should lie to the Chief Judge, Small Causes Court, wherever such court is established and at other places to the District Judge, instead of to the State Government. Section 42 of the Act should be modified accordingly. There need be no further provision for filing a suit in Court and section 43 should be deleted. Instead a provision on the following lines should be made in the unified Act :—

"An order made by the Controller or where an appeal is made an order passed on such appeal under the provisions of this Part shall be executed as if it is a decree of a Civil Court.

Every order made by the Controller or where an appeal is made an order passed on such appeal under the provisions of this Part shall be final and shall not be called in question in any original suit, application or execution proceeding".

10.6. The Committee understands that no guide lines have been laid down by Government for the fixation of fair rates of hotels and lodging houses by the Controller. It is understood from the Controller of hotels and lodging houses, Bombay, that in fixing the fair rates he assumes the occupancy rate at 80 to 90 per cent, subject to facts and figures produced by the management, allows a margin or profit at 20 per cent on the operating expenses *plus* 10 per cent return on the capital investment, wherever necessary. According to him this formula has worked well. The Committee would, therefore, suggest that Government should issue

executive instructions for the guidance of all Controllers of hotels and lodging houses that they should adopt the formula followed by the Controller in Greater Bombay in fixing the fair rates.

10.7. The Committee's recommendation about places to which provisions relating to control on hotels and lodging houses should be made applicable is contained in Chapter XII of this report.

CHAPTER XI

REGULATION OF LETTING OF ACCOMMODATION

Provision for regulation of letting of accommodation by private landlords is contained in the rent control laws in force in Vidarbha and Marathwada areas. No corresponding provision exists in the Bombay Rent Act which is in force in Western Maharashtra.

11.2. In Vidarbha area, under Chapter III of the Central Provinces and Berar Letting of Houses and Rent Control Order, 1949, the landlord is required to report a vacancy in his house to the Collector or any other officer specified by the Collector. On receipt of such intimation, the Collector is empowered to order the landlord to let the vacant house to any person holding an office of profit under the Union or State Government or to any person holding a post in the Electricity Board or to a displaced person or to an evicted person. The landlord is then required to put such person in possession of the house. The Collector can permit the landlord to occupy the house if, on a representation made by the landlord, he is satisfied that the need is genuine. If no order is passed by the Collector within 15 days from the date of receipt of intimation from the landlord about the vacancy, the landlord is free to let the vacant house to any person of his choice. Government servants to whom houses are allotted under Chapter III by the Collector are required to vacate them on transfer, retirement, etc.

11.3. In Marathwada area, sections 3 to 8 of the Hyderabad Houses (Rent, Eviction and Lease) Control Act, 1954, regulate the letting of accommodation. Section 3 of the Act lays down that if any house situated in any area specified by the Government by notification in the *official gazette* is vacant on the date of such notification or becomes vacant after such date the landlord of such house shall give intimation thereof in the prescribed form to the Controller. The Rent Controllers in Marathwada area who appeared before the Committee stated that the State Government has not issued any notification under section 3 in respect of any area in Marathwada. It is not, therefore, obligatory on the landlords in any area in Marathwada to report a vacancy to the Controller. The Controllers are, however, empowered under section 4 to direct the landlord,

whether intimation of vacancy has been given or not, to allot a vacant house for a 'public purpose'. The expression "public purpose" has been defined in section 2(f) of the Act and means any purpose connected with the Government including provision of accommodation for the offices and employees of Government. Before passing final order under section 4, the Controller is required to give a show cause notice to the landlord and consider his reply thereto. The fair rent of the accommodation given by the landlord for public purpose under these provisions is fixed by the Controller. Section 8 of the Act provides that a person to whom the house is directed to be leased shall be deemed to be the tenant of the landlord and be liable to pay to the landlord the fair rent as fixed by the Controller.

11.4. In Western Maharashtra, there is no control on regulation of letting of accommodation under the Bombay Rent Act, 1947. There is a separate Act known as the Bombay Land Requisition Act, 1948, under which the landlords are required to give intimation to an officer authorised by Government of any vacancy in any premises situated in an area specified by the State Government under section 6 by notification in the *official Gazette*. The State Government is empowered to requisition such premises for any public purpose. Whether such intimation is given or not, the State Government can, after holding an inquiry, also requisition any vacant premises for a public purpose. The State Government had made an announcement in December 1957* that it had decided to discontinue the requisitioning of residential premises in future. However, this policy has been revised* since 16th July 1975 and it has now been decided to requisition residential accommodation in the area falling within the jurisdiction of the Municipal Corporation of Greater Bombay. The provisions of the Bombay Land Requisition Act, 1948, have been extended to Vidarbha and Marathwada areas in the State since* 21st May 1959.

11.5. The provisions of the Bombay Land Requisition Act and those contained in Chapter III of the Central Provinces and Berar Letting of Houses and Rent Control Order, 1949 and sections 3 to 8 of the Hyderabad Houses (Rent, Eviction and Lease) Control Act, 1954, are practically identical. Since the provisions of the Bombay Land Requisition Act, 1948, have already been extended to Vidarbha and Marathwada areas, there is no need to have similar provisions in the Rent Control Act, also.

* Information supplied by the Controller of Accommodation.

The Committee, therefore, suggests that the provisions relating to regulation of letting of accommodation contained in the rent control Acts in Vidarbha and Marathwada areas should be excluded from the proposed unified Act. The Committee would also suggest that without waiting for the unification of the Rent Acts, Government may issue instructions to the Collectors in Vidarbha and Marathwada areas that they should take recourse to the provisions of the Bombay Land Requisition Act, 1948, for the purpose of allotment of accommodation to Government servants in preference to the provisions of the rent control legislation in force in their areas. If any notification is required to be issued for the purpose in each district, the Collectors may be asked to do so.

CHAPTER XII

APPLICATION OF PROVISIONS OF THE RENT ACT

The provisions of Parts I and IV of the Bombay Rent Act are applicable throughout Western Maharashtra. Parts II and III have been applied to various places from time to time. In Vidarbha, Chapter I of the Rent Control Order is applicable to entire Vidarbha area, Chapters II and IV have been made applicable to all municipal areas, while the provisions of Chapter III relating to regulation of letting of accommodation have been extended only to certain municipal areas specified in the Notification No. 3731-3140-II, issued by the Government of Central Provinces and Berar on 26th July 1949. In the Hyderabad Act of 1954 there are no separate chapters or parts and the entire Act becomes applicable whenever its provisions are extended to a particular place.

12.2. In the unified Act, there will be a separate part relating to control of rates of hotels and lodging houses. The Committee suggests that to begin with the provisions of this part should be extended to Greater Bombay, Poona, Nagpur and Aurangabad only. There is no need to apply **these provisions to any other city unless at a later date the extension of these provisions becomes necessary on account of abnormal increase in the rates of hotels and lodging houses at any particular place.**

12.3. The provisions relating to fixation of standard rent, recovery of possession, repairs, exemptions, etc., would be covered in one part of the new unified Act. At present whenever any request is received for application of Part II of the Bombay Rent Act to any particular place, Government calls for a report from the Collector of the concerned district about the number of houses in the particular town or village used for residential and non-residential purposes, number of houses vacant, extent of increase in rent during the preceding 10 years, names of other places in the vicinity to which Part II of the Rent Act has already been applied, whether the local body has passed a resolution for application of Part II of the Act and finally the circumstances that deserve consideration for application of Part II to the particular place. Besides forwarding this information, the Collector is required to make his own recommendation about the specific purposes viz. residence, business, trade or storage for which Part II of the

Rent Act should be made applicable. A decision is then taken by Government on merits according to the circumstances of each case. It is, however, noticed that there have been several instances in which provisions of Part II of the Act have been made applicable to small towns and villages.

12.4. The Committee has received very few suggestions on the subject of application of the Rent Act. Those received are summarised below :—

(i) Rent Act should be made applicable to all taluka places and municipal towns.

(ii) Rent Act should be made applicable to towns with a population of 5,000 and above.

(iii) In the case of new industrial areas or estates coming up in a new area, the provisions of Rent Act should be applied to all places within a radius of 6 miles from such area or estate.

(iv) Rent Act should be applied to rural areas also where there are Post-masters, school teachers, employees of the Agricultural department, Electricity Board, etc.

12.5. At present the municipal areas have been classified by the State Government in three classes under section 4 of the Maharashtra Municipalities Act, 1965 (Maharashtra Act No. XL of 1965). 'A' class municipal area has a population of more than 75,000, 'B' class has a population between 30,000 and 75,000 and 'C' class has a population of 30,000 or less. Section 3(1) of the same Act lays down that the State Government may declare, by notification in the official gazette, any local area of which the population is not less than 15,000 to be a municipal area. This would mean that a 'C' class municipal area would have a population between 15,000 and 30,000. However, there are as many as 91 towns with a population of less than 15,000 where municipal councils already existed before the Maharashtra Municipalities Act, 1965, came into operation and they are still in existence.

12.6. The need for rent control arises where due to acute scarcity of housing accommodation and rise in population, the rents of residential and non-residential premises shoot up beyond reasonable limits. Elsewhere the rents may be rising due to the general increase in prices. The rents of newly constructed buildings everywhere, whether Rent Act is applicable or not, appear very much higher than those of old buildings because the cost

of new construction is high. Hence for the purpose of deciding whether Rent Act should be made applicable to a particular place or not, the test should be whether there is acute scarcity of accommodation coupled with substantial increase in population. The Committee would suggest that to begin with Part II of the new unified Act should be made applicable to cities and towns with a population of more than 10,000 and to Taluka places even **if the population of such places is less than 10,000. Requests will continue to be received by Government for application of the Rent Act to other places but such requests should be granted only if the test suggested above is satisfied.**

12.7. In order to relieve the pressure on Greater Bombay, a new Bombay area is being developed by the City and Industrial Development Corporation (CIDCO). The Committee is of the view that the provisions of the Rent Act should not be made applicable to any part of the area which is being developed by the CIDCO.

12.8. Hill Stations have their own problems because of the seasonal influx of population. The Committee is of the view that the provisions of the Rent Act, whether in Part II or Part III, should not be made applicable to places which are declared as Hill Stations by the Government.

CHAPTER XIII

EFFECTS OF RENT CONTROL ACTS ON ASSESSMENT OF PROPERTIES

It is said that rent control has affected the yield of revenue of the Municipal Corporations and other local bodies. A study was conducted by the *All India Institute of Local Self-Government, Bombay, to examine the various factors that offer serious impediments to the proper and full assessment and fixation of rateable values of properties in Greater Bombay, used for different purposes such as residences, shops, offices and factories. The findings revealed that on account of the enforcement of the Bombay Rent Act, 1947, in respect of the properties and on account of the rulings and directions of the Courts to the effect that standard rent alone can be the fair and reasonable rent as basis for assessment of property, the Bombay Municipal Corporation is deprived of a sizeable revenue of Rs. 18.45 crores annually. Apart from this loss, the Corporation is also indirectly losing by way of services it renders to the landlords. Since the rents in the old buildings are pegged down by the Rent Act, the rateable values worked out on the basis of these rents are rendered static. The cost of providing services by the Municipal Corporation has gone up while its revenue has not increased.

13.2. According to the Municipal Commissioner, Bombay, who gave evidence before the Committee, the Bombay Municipal Corporation is suffering a loss in the neighbourhood of Rs. 22 crores per annum for the city area and about Rs. 10 crores for the suburban area. This is because the Corporation recovers less amount of tax in respect of old buildings which are under rent control, although it has to incur more expenditure on the cost of services. The Municipal Commissioners of Poona, Nagpur and Sholapur also expressed the same difficulties.

13.3. The Municipal Finance Commission appointed by the Government of Maharashtra in 1973 has already gone into the whole question of adverse effects of rent control on municipal finances. The Commission

* A study of the Adverse Effects of Rent Control Act on the Assessment of Properties in Bombay, 1973.

has recommended* that "it is necessary to establish beyond doubt that the power resting in the urban local bodies to revise periodically the assessment of properties should not be fettered by the provisions of the Rent Act. Likewise it should be clear in law that increase in the amount of municipal tax or cess whether by way of upward revision beyond the controlled rent or by way of revision of rateable value or imposition of a new tax or cess should be made payable by the actual beneficiary namely the tenant occupant".

13.4. The recommendation made by the Municipal Finance Commission contains an implicit suggestion that the tenant occupier should be compelled to pay enhanced taxes through an amendment in the municipal legislation. The suggestion really cuts across the basic purpose of rent control. As long as the rateable value of a building is related to rent, the municipal taxes will have to be based on the standard rent and not on notional rent of premises governed by the Rent Act. Otherwise the standard rent will go on changing every time there is a revision of the rateable value and for all purposes it will cease to be a standard rent. This Committee, therefore, does not agree with the recommendation made by the Municipal Finance Commission.

13.5. A point which needs to be noted is that while the basic rent which the landlord gets for rent controlled premises, has remained more or less static for a period of over 35 years (with the exception of the general increase allowed in 1954 in Western Maharashtra), the municipal taxes have not remained so. Because of the operation of the theory of "Tax upon Tax", as upheld by the Supreme Court in the case of the *Bombay† Municipal Corporation v. Life Insurance Corporation, Bombay*, there has been a cycle of increment in the rateable value from year to year and consequent increase in municipal taxes. In order to understand the position in this respect, the Committee has got the incidence of taxes worked out in respect of a typical tenement in Bombay city, the gross rent of which was Rs. 40 per month on 1st April 1940. At that time, the municipal taxes were 18.25 per cent of the rateable value and the Urban Immovable Property Tax was 10 per cent. The rateable value of this tenement was 415 and accordingly the total tax incidence in a rent of Rs. 40

* Para 7.10.1. Chapter VII of the Report of the Municipal Finance Commission, Maharashtra State, March 1974.

† *Bombay Municipality v/s. Life Insurance Corporation, Bombay, A.I.R. 1970 S.C. 1584* reversing *L.I.C. v/s. Bombay Municipal Corporation 67 Bom. L.R. 202.*

per month was Rs. 9·77, of which Rs. 6·31 was on account of municipal taxes and Rs. 3·46 on account of the Urban Immovable Property Tax. For the same tenement, the municipal taxes payable on 1st April 1975 come to 44·25 per cent, the repairs cess at 34 per cent and the State Education Cess at 6 per cent. The rateable value of the tenement has increased from 415 to 475 and the gross rent payable on 1st April 1975 comes to Rs. 62·14. The incidence of municipal taxes in this rent comes to Rs. 17·51 and that on account of repairs cess and State education cess comes to Rs. 15·83. Allowing some margin of error in these calculations, it is clear that the municipal taxes have increased more than two and half times of what they were on 1st April 1940, while the basic rent which the landlord gets, has more or less remained the same.

13.6. It is reported that the municipal taxes in Bombay are the highest in comparison with those in other big cities in India. A stage may come when even a rent controlled accommodation would be a luxury for an average citizen in Bombay. However, keeping in view the difficulties of the municipal corporation and other local bodies, the Committee has recommended that new constructions should be totally exempted from the Rent Act. It has also recommended, in Chapter V, selective exemption of existing residential and non-residential premises having a floor area above a certain limit and has also suggested general increase in rent of other existing premises. These measures will give some relief to the municipal corporations and local bodies. The Committee considers that nothing more needs to be done under the Rent Act.

CHAPTER XIV

TAKE-OVER OF OLD BUILDINGS

The Committee has observed earlier in Chapter VII how the repairs and maintenance of buildings has been seriously neglected all these years. The cost of repairs and maintenance has gone up appreciably due to the increase in the cost of building materials and wages of labour and it has become difficult to meet this cost from the rents of old properties. Some landlords are found to have neglected the repairs in the hope that they would be able to sell the site at an inflated price, once the building standing thereon, collapses or is demolished. As observed by the Committee earlier in Chapter III, inadequate maintenance of old buildings leading to their demolition in the end means not only loss of national wealth but also waste of national resources. The tenant has at present no stake in the property. Although technically he is only a bird of passage, there has not been much migration of the tenants, because of the difficulty in securing another accommodation elsewhere in big cities. Consequently, the accommodation, which was taken on rent when free market mechanism was in operation, has continued to be in occupation of many tenants for more than one generation. Suggestions were made to the Committee that such tenants should be given the ownership of the houses occupied by them so that they would be able to look after the maintenance and management of the property because of their collective interest. Even some landlords have also given evidence to the effect that they are prepared to hand over their old properties to the tenants.

14.2. The housing stock is by far the largest single capital asset of the country and its efficient management and maintenance is necessary in order to ensure the preservation of this valuable asset. The problem of carrying out special and heavy repairs has assumed serious proportion. Due to the collapse of old buildings, several lives have been lost and damage caused to personal properties of the victims. The Government has set up the Bombay Building Repairs and Reconstruction Board to execute the work of repairs to old buildings in Bombay city, when it is economical to do so. Where a building is found to be beyond repairs, the Board acquires the property on payment of the amount of acquisition at a rate equal to 100 times the net average monthly income derived from such

property calculated in the manner laid down in the Bombay Building Repairs and Reconstruction Board Act, 1969. Thereafter the Board reconstructs a building on the same site for re-housing the residents of the old property. In this way, the property owner is prevented from profiteering in land and at the same time the problem of re-housing the residents of the property is solved. The same principle for acquisition of property at a determined amount has been accepted in the Bombay Metropolitan Regional Development Authority Act, 1974. Apart from these measures, in order to exercise social control over the scarce resource of urban land and to ensure its equitable distribution amongst the various sections of the society, the Parliament has passed the Urban Land (Ceiling and Regulation) Act, 1976. This new legislation is intended, among other things, to prevent concentration of urban property in the hands of a few persons and speculation and profiteering therein and to discourage construction of luxury housing. It provides for acquisition, by the State Government, of excess vacant land on the basis of the principles for determination of the net average annual income, as incorporated in Schedule II to the said Act. The Act empowers the State Government to dispose of such vacant land, after its acquisition, to subserve the common good. In the light of these changes in the socio-economic outlook, the Committee feels that the question of old buildings in Bombay and elsewhere needs to be considered. After anxious consideration of the problem, the Committee has come to the conclusion that old buildings should be taken over or acquired by Government at a pre-determined amount and transferred to the co-operative housing societies or associations of apartment owners formed by the tenants or residents of such buildings.

14.3. The Committee is of the view that the scheme of conferring ownership should apply to buildings where there are at least 5 tenants and a majority of them, i.e., 51 per cent is willing to take over the property by forming a co-operative housing society or an association of apartment owners, as the case may be. The scheme should not apply to buildings which are used for non-residential purposes but it should apply to buildings which are predominantly residential i.e. where 51 per cent or more tenements are used for residential purposes. Where the owner is living in the same building he should be made to join the co-operative housing society or the association of apartment owners, as the case may be.

14.4. Where a majority of the tenants are willing to take ownership by forming a co-operative housing society or an association of apartment

owners, as mentioned in the preceding paragraph, the property should be taken over by Government and then transferred to the society or association, as the case may be. The amount to be paid to the owner of the property should be a multiple of the net average monthly income derived from such property which income should be calculated in the manner laid down in the Bombay Building Repairs and Reconstruction Act, 1969. The Committee is of the view that the amount for acquisition to be paid to the property owner should be determined according to the period of construction in the following manner :—

Period of construction of the building	Amount to be paid
(1) Upto 31st December 1920 ..	60 times the net average monthly income.
(2) Between 1st January 1921 and 31st December 1930.	70 times the net average monthly income.
(3) Between 1st January 1931 and 31st December 1940.	80 times the net average monthly income.
(4) Between 1st January 1941 and 31st December 1950.	100 times the net average monthly income.
(5) Between 1st January 1951 and 31st December 1960.	125 times the net average monthly income.

14.5. Where 51 per cent of the tenants have formed a co-operative housing society or an association of apartment owners, the remaining tenants should be called upon compulsorily to join such society or association. The proportionate cost of the tenement should be recovered from such tenants with initial 25 per cent cost as down payment and the balance in instalments spread over a period of 15 years with interest at 5 per cent per annum and then paid to the property owner. The stamp duty and registration charges, if any, should be borne by the proposed co-operative housing society or the association of apartment owners.

14.6. The Committee, therefore, recommends to Government to bring in an appropriate legislation to implement the scheme.

CHAPTER XV

OTHER PROVISIONS AND SUGGESTIONS

The Committee has examined so far the provisions of the three Rent Acts which were covered by the " terms of reference " and made suggestions in the relevant chapters of this Report. It is now proposed to deal with those provisions of the Rent Acts which have not been specifically covered so far.

15.2. Section 6 of the Bombay Rent Act relates to application of the Act. The Committee feels that this section, except sub-section (3) thereof which is not now necessary, should be adopted in the unified Act but included in Part I instead of Part II.

15.3. On a comparison of the definitions given in the three Acts, it is found that the definitions given in the Bombay Rent Act are quite comprehensive. Hence the definitions given in section 5 of the Bombay Rent Act should be adopted in the unified Act, except those relating to " standard rent " and " tenant ". The Committee has already suggested in Chapter VI a revised definition of " standard rent ". The definition of " tenant " given in sub-section (II) of section 5 needs modification. Clause (a) of this sub-section should be modified to read " such sub-tenants and other persons as have derived title under a tenant under any law before the commencement of or under this Act." A suggestion has also been made that clause (c) of the existing definition of the tenant should be modified to make it clear that in relation to premises let for business, trade or storage, any member of the tenant's family carrying on business with the tenant in the said premises at the time of the death of the tenant, as may continue after his death to carry on the business in the said premises, should also be deemed to be a tenant. At present this protection is available in respect of residential premises only. It has been pointed out to the Committee that the Government of Gujarat has modified the definition of " tenant " in this manner. The Committee has accepted the suggestion and recommends that the definition of the tenant be modified accordingly.

15.4. Provision relating to claiming or receiving unlawful charges by landlords and tenants are contained in sections 18 and 19 of the Bombay

Rent Act. Section 20 of the same Act further provides for recovery of any payments made which are not in accordance with the provisions of the Act. Corresponding provision is contained in clause 8 of the Rent Control Order in Vidarbha and section 12 of the Hyderabad Act in Marathwada. The provisions of sections 18, 19 and 20 of the Bombay Rent Act are quite comprehensive and the Committee recommends that those should be incorporated in the unified Act except that for words "before first day of September 1940" in sub-section (3) of section 18, the words "before the commencement of this Act" should be substituted.

15.5. Sections 21 and 22 of the Bombay Rent Act require the landlord and the tenant to furnish certain particulars. These provisions should be incorporated in the unified Act.

15.6. Section 23-A which entitles the tenant to put up radio or television aerial at his own cost was recently inserted in the Bombay Rent Act by Maharashtra Act No. LI of 1975. It should be incorporated in the unified Act.

15.7. Section 24 of the Bombay Rent Act prohibits the landlord from cutting or withholding without just or sufficient cause, any essential supply or service enjoyed by the tenant in respect of premises let to him. If the landlord contravenes these provisions, the tenant is required to make an application to the Court under sub-section (2) thereof for a direction to restore the supply or service. As a decision on such application takes time in the normal course, a suggestion has been made that the Court should be empowered to grant interim relief to the tenants by directing the landlord to restore or to give the essential supply or service pending decision on the application made by the tenant under sub-section (2). The Committee has accepted the suggestion and recommends that section 24 of the Bombay Rent Act should be modified accordingly by adding a proviso to sub-section (3) thereof and incorporated in the unified Act.

15.8. The present provisions of section 25 of the Bombay Rent Act lay down that the landlord shall not use or permit to be used for a non-residential purpose any premises which on the date of the coming into operation of the Act (i.e. 13th February 1948) were used for a residential purpose. This section, it would appear, does not prohibit the conversion of residential premises constructed after 13th February 1948 to non-residential premises. The Committee understands that the provisions of section 25 are not much enforced in practice. Residential premises are

being converted into non-residential premises in large number both by the tenants and the landlords. It is necessary that there should be a check on such conversion in order that the stock of residential premises does not get depleted. The Committee, therefore, suggests that after the commencement of the new Act conversion of residential premises into non-residential ones either by the landlord or by the tenant should not be allowed, except with the permission of the municipal corporation, municipal council or village panchayat, as the case may be. A revised section should be incorporated in the unified Act accordingly in place of section 25 of the Bombay Rent Act.

15.9. Section 26 of the Bombay Rent Act provides that the landlord shall give a written receipt to the tenant for any amount received by him in such manner and in such form as may be prescribed. The Form of receipt is prescribed under Rule 3 of the Bombay Rents, Hotel and Lodging House Rates Control Rules, 1948. The Committee suggests that the Form of receipt should be amended in such a way that it gives the amounts received towards the rent and permitted increases separately. The provisions of section 26 do not need any modification and should be incorporated in the unified Act.

15.10. Section 27(1) of the Bombay Rent Act and section 12(5) of the Hyderabad Rent Act provide that the rent payable by the month or year or portion of a year shall be recovered according to the British calendar. In the Bombay Rent Act, there is, however, a further provision in sub-section (2) of section 27 that the State Government may prescribe the manner in which rent recoverable according to any other calendar before the coming into operation of the Act (i.e. before the 13th February 1948), shall be calculated and charged in terms of the British calendar. The manner of calculation was prescribed in Rule 4 of the Bombay Rents, Hotel and Lodging House Rates Control Rules, 1948. This rule explains how the rent chargeable according to a calendar other than the British calendar should be adjusted till the date of the Act (i.e. 13th February 1948) and further lays down that thereafter the rent should be recovered according to the British calendar. A period of 27 years has elapsed since then and there is no need to have any provision in the unified Act corresponding to sub-section (2) of section 27. The Committee, therefore, suggests that in the unified Act, only the provision of sub-section (1) of section 27 should be incorporated.

15.11. The provisions of sections 47, 48, 49 and 51 of the Bombay Rent Act should be incorporated in the unified Act. In place of section 50, the Committee recommends that a revised section should be framed in the unified Act to provide :

- (a) that the existing three Rent Acts shall be repealed but the repeal shall not affect the previous operation of any law so repealed ;
- (b) that all applications, suits and other proceedings under any law so repealed which were pending at the commencement of the unified Act before any Controller, Court, Tribunal or other officer or authority shall be continued and disposed of in accordance with the provisions of the said law, as if the said law had continued in force and the unified Act had not been passed ;
- (c) that the provisions for appeal under the repealed Acts shall continue in force in respect of applications, suits and other proceedings disposed of thereunder ;
- (d) that anything done or any action taken (including any appointment made, notification, order or direction issued, rule framed, certificate obtained or permission granted) under the repealed Acts shall, so far as it is not inconsistent with the provisions of the unified Act continue in force unless and until superseded by anything done or action taken under the unified Act.

15.12. In a case from *West Bengal, viz., Indu Bhushan Bose versus Ram Sundari Devi*, 1969(2) S.C.C. 289, decided on 29th April 1969, the Supreme Court has held that the relationship of landlord and tenant in respect of house accommodation situated in cantonment areas falls exclusively within the legislative competence of the Parliament under entry 3 in List I in the Seventh Schedule to the Constitution. The State rent control laws do not, therefore, apply to the cantonment areas situated within the State. Therefore, the Government of India under the powers conferred by section 3 of the Cantonments (Extension of Rent Control Laws) Act, 1957 (46 of 1957) extended with certain modifications the Bombay Rent Act to the cantonments of *Poona, Kirkee, Dehu Road, Ahmednagar and Deolali, the Central Provinces and Berar Regulation of

* Government of India, Ministry of Defence, Notification, No. S.R.O. 8/E, dated the 27th December 1969.

Letting of Accommodation Act, 1946, to the cantonment of Kamptee† and the Hyderabad Houses (Rent, Eviction and Lease) Control Act, 1954 to the cantonment at Aurangabad.§

It is proposed in Chapter VIII that the provisions of section 13 of the Bombay Rent Act should be adopted in the unified Act with certain modifications. A new sub-section (2-A) was inserted in the said section 13 by Maharashtra Act 31 of 1961 to provide that the landlord shall not be entitled to recover possession of any premises under clause (g) of section 13(1), if the premises are let to the Central Government in a cantonment area and such premises are being used for residence by members of the armed forces of the Union, or their families. The Committee would suggest that the Government should examine in consultation with the Law and Judiciary Department whether sub-section (2-A) should be retained in the proposed unified Act in view of the Supreme Court judgment.

15.13. The State Government has announced with effect from 16th July 1975 the revival of requisitioning of residential premises in Greater Bombay under the Bombay Land Requisition Act, 1948. The Committee would suggest that the requisitioning policy may be modelled in such a way that it does not work as a disincentive to new house building activity on rental basis.

15.14. The Committee is unhappy to note that the allocation in the Five-Year Plans for the "housing sector" is being made on a diminishing scale. The physical achievement in terms of dwelling units is also on the decline due to the increase in the cost of construction. The Committee feels that the programme of housing in the public sector, particularly for economically weaker sections needs to be stepped up considerably. It also feels that the policy followed by the Housing Boards of offering their tenements on out-right sale or hire-purchase basis should be reviewed and stress should be laid on providing rental housing to economically weaker sections and low income group persons.

† Government of India, Ministry of Defence, Notification, No. S.R.O. 2/E, dated the 28th February 1970.

§ Government of India, Ministry of Defence, Notification No. S.R.O. 16/E, dated the 9th August 1973.

15.15. The main difficulty of the co-operative housing societies is to get suitable lands in cities like Greater Bombay, Poona, etc. The Maharashtra Housing Board has, it is understood, vacant land to the extent of 500 acres in Greater Bombay. Besides, with the coming into operation of the Urban Land (Ceiling and Regulation) Act, 1976, extensive pieces of vacant land will vest in Government in the various urban agglomerations mentioned in Schedule I to the said Act. The Committee feels that Government should develop this surplus land through its various agencies by providing necessary amenities and services and make plots available to the community on the basis of "sites and services". Such developed plots should be allotted to co-operative housing societies for the purpose of constructing buildings according to schemes to be approved hereafter by Government. This will encourage housing for middle, lower middle and the working classes through co-operative efforts and thereby help to solve to a great extent the problem of housing of these people in Greater Bombay as well as in other urban agglomerations.

15.16. The Committee has suggested earlier that new constructions made after 1st January 1976 should be completely exempted from the Rent Act. This would be sufficient incentive for new constructions on rental basis.

15.17. A suggestion has been made by the Sawantwadi Municipal Council and some others that, in determining the rateable value of a building for the purpose of levying property tax, a deduction of 25 per cent instead of 10 per cent as at present may be allowed for repairs. The suggestion has apparently been made in order that the landlord should have more amount with him for spending on repairs, as the present deduction of 10 per cent is considered inadequate due to the increase in the cost of building materials and labour. As this will affect the revenue of the municipal corporations and other local bodies, the Committee is unable to accept the suggestion.

15.18. Whenever there is a house collapse in Bombay city, there is loss of life and of personal property. The Committee would suggest that a scheme may be worked out for insurance of lives and property of occupants of buildings which are taken up or proposed to be taken up for repairs by the Bombay Building Repairs and Reconstruction Board. Such insurance

would help those, who are adversely affected, as they or their families would get at least some compensation for the loss suffered by them.

15.19. Many of the small property owners are unable to undertake improvements or repairs to their properties for want of finance. The Committee would, therefore, suggest that the Government of Maharashtra should create a fund from which loans on easy terms can be given for the purpose. The loans should carry interest not exceeding 6 per cent per annum and should be repayable within a period of 20 years or, at the option of the borrower, within a shorter period. There was a provision under the old Slum Improvement Scheme to give loan and subsidy assistance for improvement of sub-standard dwellings in *pucca* built slum buildings consisting of following items :—

(a) Providing water closets, bath rooms and water taps inside or near the dwellings.

(b) Electrification of the dwellings and the premises.

(c) Conversion from the privy to the water borne system and connecting to main drainage.

(d) Providing smokeless chullahs and nahani sinks in kitchens.

(e) Enlarging the sizes of the rooms or the dwellings to adequate standards.

(f) Increasing the area of windows to provide adequate light and ventilation.

(g) Providing adequate open spaces for the lighting and ventilation of rooms and the opening up of chowks.

(h) Paving of courtyards and drainage of the premises.

(i) Works carried out for removing fundamental defects in planning, such as inadequate ceiling height for rooms, narrow and steep staircases, etc.

(j) Works carried out for removing fundamental defects in the structure, such as dampness, dilapidation, etc.

The formulation of such a scheme would be of great help to the small property owners to carry out repairs and improvements of their sub-standard buildings.

CHAPTER XVI

SUMMARY OF RECOMMENDATIONS

A summary of the recommendations made by the Committee is given below :—

CHAPTER II—*Rent control legislation in Maharashtra and unification thereof.*

16.1. It is both desirable and feasible to have a common rent control law for the whole State in place of the existing three rent legislations. (Para. 2.11).

16.2. Rent Control has been in existence for over thirty years and there is no prospect that the housing situation would ease in the foreseeable future to such an extent as would justify its abolition. The new unified rent control law should, therefore, be of a permanent nature and not of temporary duration like the Bombay Rent Act, 1947. (Para. 2.12).

CHAPTER IV—*Machinery for implementation*

16.3. Disputes between the landlords and tenants about standard rent and permitted increases, suits for recovery of possession, etc., should be decided by the Courts, as under the Bombay Rent Act, instead of by Executive Officers or Tribunals. (Paras. 4.2 and 4.3).

16.4. In order to expedite the disposal of suits under the Rent Act, the proper course would be to appoint additional Judges in the Small Causes Court in Bombay and at other places, wherever necessary. (Para. 4.4).

16.5. There is no need to provide for an appeal to the High Court against the decision of the Small Causes Court as thereby the litigation would be more costly apart from the fact that it would take more time. The appeal should continue with the Bench of two Judges of the Small Causes Court. (Para. 4.5).

16.6. The Administrative Department of Sachivalaya dealing with rent control should have a regular cell under an officer of appropriate rank with necessary staff to undertake collection of information about various

developments in rent control policies not only in other States in India but also in other countries, to make a regular study of various judgements delivered by the Supreme Court and High Courts in Rent Act cases in India and to deal with other matters suggested by the Committee. (Para. 4.6).

CHAPTER V—*Exemption from Rent Control*

16.7. Premises of the Maharashtra Housing Board and of a New Town Development Authority and Special Planning Authority have been exempted from the provisions of the Rent Act by virtue of the provisions made in the Bombay Housing Board Act, 1948 and the Maharashtra Regional and Town Planning Act, 1966. All such exemptions should be incorporated in the Rent Act itself instead of making special provisions in the different Acts, so that the Rent Act will show at one place the various bodies which are exempted. Moreover while unifying the Rent Acts exemption should be granted to the premises belonging to any housing board, so that the premises of the Vidarbha Housing Board will stand exempted. (Para. 5.2).

16.8. The exemption granted to the premises belonging to Government, local authorities and Housing Boards should be continued and in addition the premises belonging to the Maharashtra State Road Transport Corporation should also be exempted. (Paras. 5.3 and 5.4).

16.9. The provisions of section 4-A of the Bombay Rent Act under which the Government can prescribe terms and conditions in respect of the exemption granted to the premises of a local authority should be extended in the unified Act to the premises belonging to the Housing Boards, New Town Development Authority, Special Planning Authority and the Maharashtra State Road Transport Corporation. Provision should also be made to empower Government to withdraw the exemption granted to these authorities, if they fail to observe and perform the terms and conditions prescribed by Government. (Para. 5.5).

16.10. In the unified Act, the State Government should be empowered to grant exemption, on such terms and conditions as it may specify:—

- (1) to all or any premises used for public purpose of a charitable nature,
- (2) to all or any premises held by a public trust for religious or charitable purposes and let or given on licence at a nominal or concessional rent or licence fee or charge,

- (3) to all or any premises held by a public trust for religious or charitable purpose and administered by a local authority,
- (4) to all or any premises held by a statutory corporation or company established by or controlled by the State Government,
- (5) to any premises used as sanitorium, dharmshala, home for widows or orphans or for like purposes,
- (6) to any premises belonging to any ward of the Court of Wards.

At the same time, provision should also be made to empower Government to withdraw the exemption, if any of these institutions fail to observe the terms and conditions on which exemption is granted. (Para. 5.6).

16.11. In order to encourage construction of houses on rental basis in the private sector, all new constructions made after 1st January 1976 throughout the State should be completely exempted from the unified Rent Act. (Para. 5.9).

16.12. Residential constructions made after 1st January 1951 and non-residential constructions made after 1st January 1967 have been completely exempted from the Rent Control Order in Vidarbha area. All new constructions are to be exempted throughout the State after 1st January 1976. Hence in the process of unification, all constructions made in Vidarbha area prior to 1st January 1976 should be brought within the purview of the unified Rent Act. (Para. 5.10).

16.13. Existing residential premises having a floor area of more than 125 sq. metres and non-residential premises having a floor area of more than 65 sq. metres let for the purposes of business, trade or storage should be completely exempted from the unified Rent Act. (Para. 5.11).

CHAPTER VI—*Standard rent and permitted increases*

16.14. Standard rents already fixed by the Courts in Western Maharashtra and by Controllers in Vidarbha and Marathwada areas should not be disturbed but any increases permitted therein by law should be allowed. There are three different dates to which the standard rent or fair rent is related at present in the three existing rent legislations. These dates should be advanced to one common date viz. 1st May 1960. A revised definition of "standard rent" as suggested by the Committee should be incorporated in the unified Act. (Para. 6.5).

16.15. The provisions of section 7 of the Bombay Rent Act which prohibit the charging of rent or licence fee in excess of the standard rent and the provisions of section 8 should be incorporated in the unified Act with suitable modification in sub-section (1) of section 7 to allow the recovery of any increase in rent made in accordance with the provisions of the existing rent control legislations. (Para. 6.6).

16.16. Provision should be made to permit the landlord to recover from the tenant any increases by a local authority or Government in any rate, cess, charges, tax, assessment on land, ground rent of land or any other levy. Similarly, where the rents are inclusive of charges for electricity and water and when these charges are increased it should be possible for the landlord to recover the increase from the tenant. A revised section in place of the existing section 10 of the Bombay Rent Act, as suggested by the Committee, should be incorporated in the unified Act. (Para. 6.7).

16.17. In view of the modified definition of "standard rent" and the provisions of revised section 10 suggested by the Committee, the provisions of sections 10A, 10-AA, 10-AAA, 10-C, 10-F and 10-G of the Bombay Rent Act need not be incorporated in the unified Act. The provisions of section 10-B relating to recovery of riot tax from the tenants is also not necessary in the unified Act as they are meant only for Greater Bombay and have not been used for many years. (Para. 6.8).

16.18. A general increase in rent, as suggested by the Committee, should be allowed except in Bombay city where the repairs cess has been levied. A new section should be incorporated in the unified Act for the purpose. (Paras. 6.10 and 6.11.1).

16.19. At present a landlord can make an application under section 11 of the Bombay Rent Act for fixation of standard rent, where any premises are let rent-free or at a nominal rent. While unifying the Rent Acts, provision should also be made for making such application, where the premises are let at a concessional rent. (Para. 6.12).

16.20. There is no time limit at present within which disputes about standard rent or permitted increases should be referred to Courts. A time limit of three years should be prescribed for the purpose in the unified Act on the lines suggested by the Committee. (Para. 6.13).

CHAPTER VII—*Repairs and maintenance*

16.21. The provisions of section 9 of the Bombay Rent Act should not be incorporated in the unified Act. (Para. 7.5).

16.22. When any special additions, alterations, etc., are carried out by the landlord, he should be allowed to increase the rent by addition to the rent of an amount not exceeding 10 per cent per annum of the expenses incurred. When the tenants carry out the work, they should be allowed to recover from the landlord the cost of repairs together with simple interest at 10 per cent per annum thereon. (Para. 7.5).

16.23. The condition requiring the landlord to obtain the consent of a majority of tenants before carrying out any work of additions, alterations, etc., and of two-third tenants before carrying out the work of special and heavy repairs which is at present laid down in sections 10-D and 10-E of the Bombay Rent Act should be dispensed with in the unified Act, as repairs to properties must be encouraged and carried out in time. (Para. 7.5).

16.24. When special and heavy repairs are carried out to a property, the landlord should be allowed to increase the rent temporarily by 25 per cent of the standard rent till the cost of such repairs together with simple interest at 10 per cent per annum, instead of at 6 per cent per annum as allowed at present, is recovered from the tenants. Since this is a temporary increase, it should not be treated as an increase, as in the case of the repairs cess, for increasing the rateable value of the building for recovery of municipal taxes. (Para. 7.6).

16.25. The procedure for obtaining a certificate laid down under sections 10-D and 10-E of the Bombay Rent Act should be simplified. The appropriate authority whose certificate should be obtained in such cases should be an officer not below the rank of the City Engineer as may be authorised by the Municipal Commissioner in corporation areas and elsewhere the Executive Engineer of the Public Works and Housing Department. (Paras. 7.5 and 7.6).

16.26. When tenantable repairs are carried out by the tenants, they are at present allowed under section 23 of the Bombay Rent Act to recover the cost thereof to the extent of two months' rent in a year. In view of the increase in the cost of building materials and labour, this limit should be raised to three months' rent in a year. (Para. 7.7).

CHAPTER VIII—*Recovery of possession*

16.27. A tenant against whom a suit for recovery of possession is filed on the ground of non-payment of rent, should not be evicted, if he pays in the Court on the first day of the hearing or on such date as may be directed by the Court, the amount of standard rent and permitted increases then due and continues to pay such amount every month till the suit is decided. He should also pay the cost of the suit and interest at 6 per cent per annum on the amount in arrears. In any subsequent suit against him on the same ground, the rate of interest should be enhanced to 9 per cent per annum. In place of the provisions of section 12 of the Bombay Rent Act, a revised section as suggested by the Committee should be incorporated in the unified Act. (Para. 8.3).

16.28. Where there is a dispute as to who is the landlord or when the whereabouts of the landlord are not known or when the landlord refuses to accept rent, the tenants are not able to pay the rent and at a later date they are treated as being in arrears. Provision should, therefore, be made to facilitate the tenant to deposit the rent in the Court in such circumstances. A new section as suggested by the Committee should be incorporated in the unified Act. (Para. 8.4).

16.29. At present, a tenant is liable to eviction, if he erects any permanent structure on the premises without a written consent from the landlord. However, the construction of a wooden partition, the provision of a standing cooking platform in the kitchen, door, loft, lattice work or such other addition and alteration which can be removed without serious damage to the premises should not be treated as a permanent structure and permission of the landlord need not be necessary for such work. The necessary explanation, as suggested by the Committee, should be incorporated in the unified Act. (Para. 8.6).

16.30. In order to facilitate speedy recovery of their premises by members of the armed forces of the Union, an additional provision should be made in the existing section 13-A-1 of the Bombay Rent Act that the Court shall dispose of the suits in their cases within three months from the date of service of the summons on the defendant. The existing provision with this amendment should be incorporated in the unified Act. There would be no advantage in constituting special Tribunals to expedite the disposal of such cases and the proper course would be to appoint additional Judges, wherever necessary. (Para. 8.7.2).

16.31. A provision on the lines suggested by the Committee should be made in the unified Act to facilitate speedy recovery of their premises by the Central Government employees, in view of the difficulties faced by them, although this would mean a special discrimination in their favour. (Para. 8.7.5).

16.32. There is no justification to make any other relaxation in the provisions relating to recovery of possession, as otherwise the protection given to the tenants and licensees by the Rent Act will have no meaning. (Para. 8.7.6).

16.33. The word "immediate" used in clause (hh) and (hhh) of sub-section (1) of section 13 of the Bombay Rent Act should be omitted while making these provisions in the unified Act. (Para. 8.8).

16.34. In place of the provisions of clause (1) of sub-section (1) of section 13 of the Bombay Rent Act it should be provided in the unified Act that where a tenant or his or her spouse has acquired, built or been allotted a suitable residence such tenant shall be liable to eviction. A revised provision, as suggested by the Committee, should be incorporated in the unified Act. (Para. 8.9).

16.35. A landlord is at present required to obtain a certificate from the Tribunal before filing a suit in the Court for recovery of possession of premises for the purpose of demolition and erection of a new building. The requirement of obtaining a certificate from the Tribunal should be dispensed with as it only leads to more delay and instead the matter should go directly to the Court. (Para. 8.10.2).

16.36. When the landlord wants to erect a new building by demolishing the existing one, there is a condition that he should build twice the number of tenements and twice the floor area of the building to be demolished, subject to the rules and regulations of the municipal corporation or other local body. This condition should be deleted as it creates complications. Instead, it should be provided in the unified Act that the landlord should provide in the new building tenements of the same floor area as in the existing building or the minimum floor area as prescribed in the municipal rules, whichever area is more. When a bigger tenement is to be provided to a tenant, the landlord should obtain the consent of such tenant that he is prepared to accept the bigger tenement. A provision on these lines should be made in the unified Act. (Paras. 8.10.3 and 8.10.4).

16.37. The exemption proposed for new constructions made after 1st January 1976, should not apply to buildings erected after that date on premises, the possession of which was obtained through Court for the purpose of demolition and re-erection. (Para. 8.10.5).

16.38. Provision should be made in the unified Act to allow the landlord, with the permission of the Court, to construct additional floor or structure on the existing building without obstruction by any tenant. (Para. 8.11).

16.39. Subject to the modifications suggested by the Committee, and consequential amendments that would be necessary, the provisions of sections 12, 13, 13-A, 13-A 1, 16, 17, 17-A, 17-B and 17-C of the Bombay Rent Act should be incorporated in the unified Act. (Para. 8.12).

CHAPTER IX—*Sub-tenancies and leave and licence*

16.40. All sub-tenants upto 1st February 1973 including those who came in occupation prior to 21st May 1959 should be regularised and made the direct tenants of the landlord and not of the original tenant, provided they pay to the landlord increase in rent to the extent of 25 per cent of the standard rent in respect of the premises in their occupation. Provision on the lines suggested by the Committee should be made in the unified Act. (Para. 9.2).

16.41. Provision relating to leave and licence contained in the Bombay Rent Act should be incorporated in the unified Act, although this problem does not exist in Vidarbha and Marathwada areas. (Para. 9.4).

CHAPTER X—*Control of hotels and lodging houses*

16.42. Provisions of Part III of the Bombay Rent Act relating to hotels and lodging houses should be incorporated in the unified Rent Act. (Para. 10.1).

16.43. Hotels and lodging houses which charge Rs. 50 or more, per day, per person, for lodging should be exempted from the provisions of the Rent Act. A provision should also be made to empower Government to exempt any other hotels and lodging houses or class of hotels and lodging houses on such terms and conditions as Government may specify. (Para. 10.3).

16.44. The expression "ready and willing to pay" contained in section 38 of the Bombay Rent Act should be deleted while incorporating the provisions of that section in the unified Act. (Para. 10.4).

16.45. An appeal against any order passed by the Controller of Hotels and Lodging Houses should be provided to the Chief Judge, Small Causes Court in Bombay and to the District Judge elsewhere, instead of to the State Government. (Para. 10.5).

16.46. The order passed by the Controller of Hotels and Lodging Houses or, where an appeal is made, an order passed in such appeal, should be executed as if it is a decree of a Civil Court and such order should be treated as final and not called in question in any original suit, application or proceeding. (Para. 10.5).

16.47. Government may issue executive instructions for the guidance of all Controllers of Hotels and Lodging Houses that they should adopt the formula followed by the Controller in Greater Bombay in fixing the fair rates of hotels and lodging houses. (Para. 10.6).

CHAPTER XI—*Regulation of letting of accommodation*

16.48. The provisions contained in Chapter III of the Rent Control Order in Vidarbha and sections 3 to 8 of the Hyderabad Rent Act in Marathwada are similar to those contained in the Bombay Land Requisition Act, 1948. Since the provisions of Bombay Land Requisition Act have been extended to Vidarbha and Marathwada from 21st May 1959, there is no need to make any provisions in the unified Rent Act for regulation of letting of accommodation. Even without waiting for the unification of the Rent Acts, Government may issue executive instructions to the Collectors in Vidarbha and Marathwada areas that they should take recourse to the provisions of the Bombay Land Requisition Act in preference to the provisions of the Rent Acts in force in those areas. If any notification is required to be issued for the purpose, the Collectors may be asked to do so. (Para. 11.5).

CHAPTER XII—*Application of provisions of the Rent Act*

16.49. Part III of the unified Rent Act, relating to control of hotels and lodging houses should be made applicable initially to Greater Bombay, Pune, Nagpur and Aurangabad only. (Para. 12.2).

16.50. To begin with, Part II of the unified Rent Act should be made Applicable to places with a population of more than 10,000 and to all Taluka Places, even if the population of such places is less than 10,000. (Para. 12.6).

16.51. Provisions of Parts II and III of the unified Rent Act should not be made applicable to the new Bombay area which is being developed by the City and Industrial Development Corporation (CIDCO) and to places which are declared as Hill Stations by Government. (Paras. 12.7 and 12.8).

CHAPTER XIII—*Effects of rent Control on assessment of properties*

16.52. The Committee does not agree with the recommendation made by the Municipal Finance Commission that the powers vesting in local bodies to revise periodically the assessment of properties should not be fettered by the Rent Act. (Para. 13.4).

16.53. Complete exemption of new constructions made after 1st January 1976, selective exemption of the existing residential and non-residential premises and the general increase in rent of other premises proposed by the Committee would give some relief to the urban local bodies. Nothing more needs to be done so far as Rent Act is concerned. (Para. 13.6).

CHAPTER XIV—*Take-over of old building*

16.54. In the light of the changed socio-economic outlook as reflected in the provisions of the Bombay Building Repairs and Reconstruction Act, 1969, the Bombay Metropolitan Regional Development Authority Act, 1974, and the Urban Land (Ceiling and Regulation) Act, 1976, relating to acquisition of property, it would be desirable to take over or acquire old buildings at a pre-determined amount and to transfer them to the co-operative housing societies or associations of apartment owners formed by the tenants or residents, so that they would be able to look after the maintenance and management of the property in a better way in their collective interest. (Paras. 14.1 and 14.2).

16.55. The scheme of conferring ownership should apply to buildings where there are atleast 5 tenants and a majority of them. i.e. 51 per-cent is willing to take over the property by forming a co-operative housing society or an association of apartment owners. The scheme should not apply to non-residential buildings but only to those buildings which are

predominantly residential i.e. where 51 per cent or more tenements are used for residential purposes. Where the owner is living in the same building, he should be made to join the co-operative housing society or association of apartment owners. (Para. 14.3).

16.56. The amount of acquisition to be paid for the property should be a multiple of the net average annual income derived from the property which income should be calculated in the manner laid down in the Bombay Building Repairs and Reconstruction Act, 1969. The multiple should be as suggested by the Committee, according to the period of construction of the property. (Para. 14.4).

16.57. Where 51 per cent of the tenants have formed a co-operative society or association of apartment owners, the remaining tenants should be called upon compulsorily to join the society or association. The proportionate cost should be recovered from such tenants with initial 25 per cent cost as down payment and the balance in instalments spread over a period of 15 years with interest at 5 per cent per annum. The stamp duty and registration charges, if any, should be borne by the society or association. (Para. 14.5.).

CHAPTER XV—*Other provisions and suggestions*

16.58. The provisions of section 6 of the Bombay Rent Act, which relate to application of the Act should be incorporated in Part I of the unified Act, except the provisions of sub-section (3) which are not necessary. (Para. 15.2).

16.59. The definition of "tenant" given in Bombay Rent Act should be modified to make it clear that in relation to premises let for business, trade or storage, any member of the tenants' family carrying on business with him in the premises at the time of his death, as may continue to carry on business in the said premises after his death, should also be deemed to be a tenant. The definition so modified should be incorporated in the unified Act. (Para, 15.3).

16.60. In the event of discontinuance of essential supply and service, the Court should be empowered to grant interim relief to the tenant by directing the landlord to restore the supply or service, pending decision on the application made by the tenant. The provisions of section 24 of the Bombay Rent Act should be modified accordingly and incorporated in the unified Act. (Para. 15.7).

16.61. It should be provided that any person, whether landlord or tenant, shall not use or permit to be used any residential premises for non-residential purposes, except with the permission of the municipal corporation, municipal council or village panchayat. The existing section 25 of the Bombay Rent Act should be modified accordingly and incorporated in the unified Act. (Para. 15.8).

16.62. A new section should be incorporated in the unified Act, repealing the existing three Rent Acts and saving certain suits, actions, etc., as suggested by the Committee. (Para. 15.11).

16.63. Government may examine in consultation with the Law and Judiciary Department, whether the provisions of sub-section (2-A) of section 13 of the Bombay Rent Act should be retained in the unified Act, since it is held that the State Legislature is not competent to legislate for cantonment areas. (Para. 15.12).

16.64. The requisitioning policy of Government be modelled in such a way that it does not work as a disincentive to construction of new houses on rental basis. (Para. 15.13).

16.65. The programme of housing in the public sector, particularly for economically weaker sections, needs to be stepped up considerably. The policy followed by the Housing Boards to give their houses on outright sale or hire purchase basis should be reviewed and stress should be laid on providing rental housing for economically weaker sections and low income groups. (Para. 15.14.).

16.66. The vacant land available with the Maharashtra Housing Board and the surplus land that would become available as a result of the Urban Land (Ceiling and Regulation) Act, 1976, should be developed by Government through its various agencies and made available to the co-operative housing societies on the basis of "sites and services". This will encourage housing in the co-operative sector in Bombay and elsewhere and help to solve the problem of housing middle class, lower middle class and the working class. (Para. 15.15).

16.67. In computing the rateable value a deduction of 10 per cent in rent is at present allowed for repairs. There is no need to increase this limit to 25 per cent. as it will affect the revenue of the local bodies. (Para. 15.17).

16.68. A scheme of insurance should be formulated so that victims of house collapse or their families would get some compensation for the loss suffered by them. (Para. 15.18).

16.69. Government should create a fund to give soft loans to small property owners, who come forward to carry out repairs and improvement of their sub-standard buildings. (Para. 15.19).

(Signed) V. K. Tembe,
Chairman.

(Signed) Sharad Dighe,
Member.

(Signed) T. S. Karkhanis,
Member.

(Signed) A. T. Patil,
Member.

(Signed) Manohar G. Joshi,
Member.

(Signed) Appasaheb R. Jadhav,
Member.

(Signed) N. V. Ugale,
Member.

(Signed) Gajanan S. Loke,
Member.

(Signed) N. G. Toksia,
Member.

*(Signed) M. P. Lentin,
Member.

*Subject to minute of dissent.

(Signed) Chunilal Mehta,
Member.

(Signed) Shridhar Gopal,
Member.

(Signed) Jawaharlal Darda,
Member.

(Signed) Ishwar R. Shinde,
Member.

(Signed) B. M. Katke,
Member.

(Signed) C. J. Sukhdeo,
Member.

(Signed) S. V. Chakradeo,
Member-Secretary.

Bombay, dated 25th March 1976.

APPENDIX ' A '
LIST OF ASSOCIATIONS AND INDIVIDUALS INTERVIEWED BY THE
COMMITTEE

AT NAGPUR

(Monday, 7th July 1975)

1. Shri K. B. Mandlekar,
Commissioner, Nagpur Division, Nagpur.
2. Shri P. M. Lavale,
Collector of Nagpur.
3. Shri M. D. Bodhankar,
Additional District Magistrate, Nagpur and Rent Controllers of Amravati,
Chandrapur, Akola, Yeotmal and Bhandara.
4. Shri R. Lanjewar,
Chairman, Vidarbha Housing Board, Nagpur.
5. Shri M. A. Chavan,
Housing Commissioner, Vidarbha Housing Board, Nagpur.
6. Shri H. C. Thacker,
Municipal Commissioner, Nagpur.
7. Shri K. S. Kshirsagar,
Lecturer, St. Francis College, Nagpur.
8. Shri P. D. Sathe,
Advocate, High Court, Nagpur.
9. Shri V. D. Kekre (Retired),
Additional District Magistrate, Nagpur.
10. Shri T. D. Gan,
Member, West Nagpur House Owners' Association, Nagpur.

(Tuesday, the 8th July 1975)

11. Shri Bhayyaji Walake, Saoner, Nagpur.
12. Shri B. G. Ghate,
Chairman, Nagpur Improvement Trust, Nagpur.
13. Shri D. L. Pampattiwar, Ghatanji, District Yeotmal.
14. Shri M. P. Kale, Advocate, Khangaon.
15. Tenants' Association, Akola.
16. Shri V. M. Golwalkar, Advocate, Nagpur.
17. Shri Laxminarayan Jayanarayan Bajaj, Yeotmal.
18. Shri P. K. Hatgaonkar, Yeotmal.
19. Smt. Charushila Uchandekar, Nagpur.
20. Shri R. K. Chitnis, Lino Operator, Government Press, Nagpur.
21. Shri M. G. Mahulkar, M.L.A.,
Warud, Taluka Morshi, District Amravati.
22. Shri G. D. Bhopale, Nagpur.
23. Shri K. V. Umre, Advocate, Ashok Nagar, Nagpur.
24. Shri K. R. Rushiya, Advocate,
225, New Shukrawari, Nagpur.
25. Shri V. N. Khirwadkar,
Deputy Collector, Nagpur.

(Wednesday, the 9th July 1975)

26. The West Nagpur House Owners' Association, Nagpur.
27. Shri M. C. Deshpande,
Head Surveyor, Land Records,
Nagajibhai Town, Sitaburdi, Nagpur.
28. Shri Y. S. Athalye, Advocate, Nagpur.
29. Shri Shesh Karan Surana, Sadar Bazar, Nagpur.
30. Shri M. D. Sathe, Dhantoli, Nagpur.
31. Shri Y. B. Phadnis, Advocate,
President Tenants' Association, Nagpur.
32. Shri S. N. Khare, Indira Mahal, Nagpur-12.
33. Shri S. G. Kate,
Resident Deputy Collector, Nagpur.

AT AURANGABAD

(Friday, the 25th July 1975)

34. Shri D. N. Capoor,
Commissioner, Aurangabad Division, Aurangabad.
35. Shri G. N. Bhagwat,
Collector of Aurangabad.
36. The Rent Controllers of
Aurangabad, Hingoli, Latur, Jalna,
Nanded and Bhir.
37. The Bar Association, Aurangabad.
38. The Bar Association, Jalna.
39. Shri B. S. Bharaswadkar and Shri C. S. Chandras from Lokmanya Tilak Law Institute,
Aurangabad.

(Saturday, the 26th July 1975)

40. Shri Ganeshlal Govindlal Tetwar, Aurangabad.
41. Shri Bansilal G. Kothari, Aurangabad.
42. Dr. Shivlal S. Ratanlal, Aurangabad.
43. Shri Manohar P. Taksal, Aurangabad.
44. Shri Khemchand R. Dayani, Aurangabad.
45. Shri Asakaranji C. Chandaliya, Aurangabad.
46. The Bar Association, Parbhani.

AT PUNE

(Thursday, the 28th August 1975)

47. The Ghar Malak Sangh, Pune.
48. Shri H. D. Khater Pune.
49. Shri J. G. Thakur, Pune.
50. Shri D. G. Tamhankar, Pune.
51. The Pune Ghar Bhadekaru Sangh.
52. The Bhadekar Panchayat, Chinchwad-Pimpri.
53. The Pune Bar Association.
54. Shri P. B. Shinde, Pune.

(Friday, the 29th August 1975)

55. Shri R. G. Gupte,
Municipal Commissioner,
Pune Municipal Corporation, Pune.
56. Shri N. G. Chimbalkar, Saswad.
- 56-A. Shri B. M. Zende, Saswad.
57. Shri H. M. Gadre of Pune Bank Users Association.
58. Shri Sahebrao B. Sawant, Baramati.
59. Shri K. Bhatia and Miss R. Dhoot of
Progressive Tenants' Association, Pune.
60. Shri R. M. Karandikar, Pune.
61. Shri R. S. Upasane,
Sub-Divisional Magistrate and
Controller of Hotels and Lodging Houses, Pune.
62. Shri Anant N. Sathe and Shri Charudatta N. Sarpotdar of Khadya Peya Vikreta
Sangh, Pune.

(Saturday, the 30th August 1975)

63. Shri V. S. Bhawe, Pune.
64. Shri M. W. Desai, Pune.
65. Shri A. A. Sathe, Pune.
66. Shri M. R. Kokil, Pune.
67. Shri K. A. Poonawala, Advocate, Pune.
68. Shri B. M. Dholey, Pune.
69. The Ahmednagar Sahakari Ghar Malak Sangh, Ahmednagar.
70. Shri V. G. Shaligram, Pune.
71. Shri Shantaram B. Thorat, Pune.
72. Shri M. C. Jadhav, Pune.
73. Shri K. N. Singh, Pune.
74. Shri L. C. Kripalani, Pune.
75. Smt. G. E. Nangpal, Pune.

AT BOMBAY

(Monday, the 20th October 1975)

76. The Property Owners' Association, Bombay.
77. Shri R. S. Thacker, 'Janmabhumi', Bombay.
78. The Aggrieved Licensors' Association, Bombay.
79. The Chairman, Bombay Licensees' Association.
80. The Hon. Secretary, Licensors' Association of Maharashtra (Non-residential).
81. The Dadar Departmental Stores Merchant's Association, Bombay.

(Tuesday, the 21st October 1975)

82. The Bombay Tenants' Association, Bombay.
83. The Mumbai Bhadekar Sangh, Bombay.
84. Representatives of the Life Insurance Corporation of India, Bombay.
85. Shri B. P. Adarkar, Bombay.
86. The Estate Agents' Association of India, Bombay.

(Wednesday, the 22nd October 1975)

87. Shri B. G. Deshmukh,
Municipal Commissioner,
Bombay Municipal Corporation, Bombay.
88. Shri S. S. Tinaikar,
Chief Executive Officer,
Bombay Building Repairs & Reconstruction Board, Bombay.
89. Shri P. G. Kher,
Chairman, Maharashtra Housing Board, Bombay.
90. Shri V. D. Kirpekar,
Housing Commissioner,
Maharashtra Housing Board, Bombay.
91. Shri Roshan H. Namavati,
Architect, Engineer, Surveyor and Registered Valuer, Bombay.
92. Shri Tanaji G. Desai and others of . .
Desai Chawl, Derasar Lane, Ghatkopar, Bombay.

(Thursday, the 23rd October 1975)

93. The Bruhan Mumbai Bhadekaru Parishad, Bombay.
94. Shri S. D. Samant, Solicitor, Bombay.
95. The Bar Council of Maharashtra, Bombay.
96. Representatives of Parsi Panchayat Funds and Properties, Bombay.
97. The Manager,
Tulsidas Gopalji Charitable and Dhakleshwar Temple Trust, Bombay.
98. The Association of Muslim Trusts, Bombay.

(Friday, the 24th October 1975)

99. The Federation of Tenants' Associations, Bombay Central, Bombay.
100. Shri Y. R. Ingle, Advocate, Bombay.
101. The Bombay Advocates' Association, Bombay.
102. Smt. Kanta Sachdeo, Bombay.
103. The East India Cotton Association, Bombay.

(Saturday, the 25th October 1975)

104. The Borivali District Congress Committee, Bombay.
105. The Bombay Municipal Employees Tenants' Association for Greater Bombay
106. Shri L. P. Pujari, M.L.C., Bombay.
107. Shri S. P. Nayak, Goregaon, Bombay.
108. The All India Democratic Socialist Lawyers Association, Bombay.
109. The Indian Merchants Chamber, Bombay.
110. Dr. Waman S. Matkar, M.L.A., Bombay.
111. Shri D. L. Amore, M.L.A., Bombay.

AT SHOLAPUR

(Wednesday, the 19th November 1975)

112. Shri D. B. Bhagvat, Gold Pinch Peth, Sholapur.
113. Shri V. K. Hundekari, South Kasaba, Sholapur.
114. Dr. S. R. Chougale, South Kasaba, Sholapur.
115. Shri Shiva Malu Harale, Laxmi Peth, Sholapur.
116. Shri B. G. Umbrajkar, North Kasaba, Sholapur.
117. Shri Nagnath Dattoba Honkombde, Bhawani Peth, Sholapur.
118. The Bar Association, Sholapur.
119. Smt. Budevibai Gangaram Dontulwar, Sadar Bazar, Sholapur.
120. Shri D. T. Wadekar, New Paccha Peth, Sholapur.

(Thursday, the 20th November 1975)

121. Shri P. S. A. Sundaram,
Municipal Commissioner,
Sholapur Municipal Corporation, Sholapur.
122. Shri Babulal Ranglal Dayama, North Kasaba, Sholapur.
123. Shri Allaudin Shahib Tamboli, Siddheshwar Peth, Sholapur.
124. Shri S. B. Ningshetti, Sholapur.
125. Shri Shinde, Advocate, Sholapur.
126. Shri S. C. Sonkamble and Shri N. E. Sukhase, Sholapur.
127. Shri Mohammed Kasim Bujurung, Shaniwar Peth, Sholapur.
128. Shri K. S. Sidhu,
Collector of Sholapur.
129. The Super Market Vyapani Mandal, Sholapur.
130. Shri B. N. Joshi, Office Secretary,
State District Labour Union, Sholapur.
131. Shri Chandram Magappa Vadtile, Sholapur.
132. Shri Pandurang Rama Solake, Sholapur.
133. Shri Ningaset Appa Malank, Siddeshwar Peth, Sholapur.
134. The Tenants' Association, Murarji Peth, Sholapur.
135. Shri P. D. Diwekar, Teacher, Sholapur.
136. Shri M. N. Karbhase, Advocate, Sholapur.
137. Shri P. R. Mehta, Advocate, Madha.
138. Shri Bhalchandra C. Hongundi Sangappa and
Shri Sangappa Basappa Shirshi.
139. Ramlal Chawl Tenants' Association, Sholapur.
140. Shri V. V. Amberkar, North Sadar Bazar, Sholapur.
141. Shri P. S. Shah, Railway Lines, Gandhi Colony, Sholapur.
142. Shri R. M. Shete, Sholapur.
143. Shri Laxminarayan, Phulchand Bhattad and Sons, Pandharpur.
144. Dr. Kalyani, Sholapur.
145. Shri N. V. Shah, Shukrawar Peth, Sholapur.
146. The Secretary and other tenants of Jambvir Samaj Seva Sangh, Konapure Chawl,
Sholapur.
147. Shri Krisnaji Mahadeo of Barsi.

APPENDIX 'B'

WESTERN MAHARASHTRA

Premises let on or before 1st September 1940

Rent of premises	Increase permitted section 10-C
------------------	---------------------------------

RESIDENTIAL

- | | | |
|---------------------------|----|-----------------------|
| (1) Rs. 20 p.m. and less | .. | 5% of standard rent |
| (2) Rs. 21 to Rs. 80 p.m. | .. | 7½% of standard rent. |
| (3) Above Rs. 80 p.m. | .. | 10% of standard rent. |

NON-RESIDENTIAL

- | | | |
|---------------------------------------|----|-----------------------|
| (1) Rs. 50 p.m. and less | .. | 7½% of standard rent |
| (2) Above Rs. 50 p.m. | .. | 12½% of standard rent |
| (3) Premises transferred on goodwill, | | 25% of standard rent |
| (4) Cinema Houses | .. | 50% of standard rent. |

VIDARBHA

Premises constructed before 1st April 1940

Rent of premises	Increase permitted clauses 6 and 7
------------------	------------------------------------

RESIDENTIAL

For all premises irrespective of rents.	12½%
---	------

NON-RESIDENTIAL

- | | |
|--|------|
| For premises let for educational purposes irrespective of rents. | 12½% |
| For other non-residential premises irrespective of rents. | 50% |

MARATHWADA

Premises constructed or let out before or after 5th April 1944

Rent of premises	Increase permitted section 9
------------------	------------------------------

RESIDENTIAL

- | | |
|----------------------------|------|
| (1) Rs. 25 p.m. and less | 8½% |
| (2) Rs. 26 to Rs. 50 p.m. | 12½% |
| (3) Rs. 51 to Rs. 100 p.m. | 20% |
| (4) Above Rs. 100 p.m. | 25% |

NON-RESIDENTIAL

- | | |
|---------------------------|------|
| (1) Rs. 100 p.m. and less | 50% |
| (2) Above Rs. 100 p.m. | 100% |

APPENDIX ' C '

INTERIM REPORT OF THE RENT ACTS ENQUIRY COMMITTEE

The Government of Maharashtra in the Urban Development, Public Health and Housing Department by Resolution No. BRA. 2174/9011/75-E, dated 20th February 1975, as amended by Resolution No. BRA. 2174/9011/D-37, dated 6th August 1975, appointed a Committee consisting of the following Members to consider unification and/or amendments to the existing rent control laws in the State :—

1. Shri V. K. Tembe, M.L.A.	..	..	..	Chairman
2. Shri Sharad Dighe, M.L.A.	..	..	..	Member
3. Shri Jagesh Desai, M.L.A.	..	..	..	Member
4. Shri R. K. Mhalgi, M.L.A.	..	..	..	Member
5. Smt. Mrinal Gore, M.L.A.	..	..	..	Member
6. Shri T. S. Karkhanis, M.L.A.	..	..	..	Member
7. Shri A. T. Patil, M.L.A.	..	..	..	Member
8. Shri Manohar Joshi, M.L.C.	..	..	..	Member
9. Shri Appasaheb Jadhav, M.L.C.	..	..	..	Member
10. Shri Nivritti Ugale, M.L.C.	..	..	..	Member
11. Shri Gajanan Loke, M.L.A.	..	..	..	Member
12. Shri N. G. Toksia, M.L.A.	..	..	..	Member
13. Shri M. P. Lentin, President, Property Owners' Association, Bombay.				Member
14. Shri Chunilal Mehta	..	..	..	Member
15. Shri Shridhar Gopal	..	..	..	Member
16. Shri Jawaharlal Darda, M.L.C.				Member
17. Shri Ishwar Shinde				Member
18. Shri B. M. Katke, M.L.A.				Member
19. Shri C. J. Sukhdeo	..	..	..	Member
20. Shri S. V. Chakradeo, Deputy Secretary	..	..	..	Member-Secretary

2. Shri Jagesh Desai, M.L.A., resigned the membership of the Committee on his appointment as Minister of State in Maharashtra Cabinet in February 1975. Shri R. K. Mhalgi, M.L.A. and Smt. Mrinal Gore, M.L.A., are under detention. The Committee could not, therefore, get the benefit of the views of these members. The terms of reference of the Committee are given in Annexure ' A '.

3. The Committee held sittings to collect evidence at Nagpur, Aurangabad, Poona, Bombay and Sholapur during the period from July to November 1975. The Committee has completed its deliberations and would submit its final report shortly. There are, however, some urgent problems and hence the Committee submits this interim report for the consideration of Government.

Recovery of possession of premises by members of Armed Forces and Central Government servants

4. The Bombay Rents, Hotel and Lodging House Rates Control Act, 1947, was amended by Maharashtra Act LII of 1975 and a new section 13-A-1 was inserted. This section entitles a member or retired member of the armed forces of the Union or the widow of such member,

who dies while in service or who dies within five years of his retirement, to regain possession of their premises when *bona fide* required for occupation by them or members of their families. They are required to produce a certificate from the Head of Service about the *bona fide* requirement of the premises. The section also provides that such certificate shall be deemed to be conclusive evidence of the facts stated therein and the Court shall pass a decree for eviction at the hearing of the suit.

The new amendment mentioned above provides for a summary procedure. Even then, it is apprehended by some that it would take a long time for the Courts to dispose of such matters in ordinary course. A suggestion has, therefore, been made for the appointment of special Tribunals to decide such cases. The Committee has considered the suggestion but feels that the appointment of such special Tribunals under the Rent Act is not likely to solve the problem but would create more problems and complications. It is the experience that wherever any work has been entrusted to Tribunals having limited jurisdiction there has been a spate of writ petitions in the High Court. It will, therefore, be necessary to provide for an appeal against the order of the Tribunal. On the administrative side, the difficulty would be to ensure a continuous flow of qualified persons to preside over the Tribunals. The Tribunal will have to organise its own office more or less on the lines of the Small Causes Court in Bombay. Ultimately, the Tribunal will function practically as a Court. It is, therefore, difficult to see what advantage a Tribunal would have over a Court, when it will have to follow the same summary procedure as would be followed by a Court under the new section 13-A-1 of the Bombay Rent Act. The proper course would be to appoint additional judges in the Small Causes Court in Bombay and at other places, wherever necessary. The Committee accordingly recommends this course for the consideration of Government. The judges may work, if necessary in shifts, if there is any difficulty in securing accommodation for the additional Courts.

In order, however, to minimise the apprehended delay in the Courts, the Committee recommends that a further provision may be made by adding a new clause (c) in section 13-A-1 to the following effect :—

“(c) The Court shall dispose of the suits under this section within three months from the date of service of the summons on the defendant.”

5. The Government of India, Ministry of Works and Housing issued orders on 9th September 1975 that those Central Government servants, who have already built houses at the place of their posting or who own houses either in their own names or in the names of any members of their families, shall be required to vacate Government accommodation allotted to them within three months from 1st October 1975. If they do not vacate the Government accommodation after that period, they would be charged licence fee at the market rates. The Western Railway Mazdoor Sangh, the Western Railway Class II Officers' Association and several individual employees of the Central Government have represented to this Committee that the Central Government employees have given their own houses or flats in Bombay temporarily on leave and licence basis and elected to occupy Government accommodation during the period of their posting, as their services are transferrable and they would require their own accommodation at the time of retirement. In view of the orders issued by the Government of India, they will have to secure vacant possession of their own accommodation but they would not be in a position to do so in short time because of the provisions of the Rent Act. They have, therefore, requested that just as a special provision has been made by the State Government for Defence personnel by inserting section 13-A-1

in the Bombay Rent Act, a similar special provision may also be made to enable civilian employees of Government to recover possession of their premises speedily.

6. To facilitate speedy recovery of possession by the Central Government employees in the Union Territory of Delhi, the Government of India has amended the Delhi Rent Control Act, 1958, by the Delhi Rent Control (Amendment) Ordinance, 1975 (No. 24 of 1975). According to new section 14A inserted by the Ordinance, a Central Government servant owing accommodation in the Union territory of Delhi, who is required to vacate the residential premises allotted to him by the Central Government or any other authority, is given the right to recover immediate possession of any premises let out by him. When such a Central Government servant approaches the Controller appointed under the Delhi Rent Control Act for recovery of possession, the Controller is required to issue a summons for service on the tenant under section 25-B in the prescribed form. The tenant is prohibited from contesting the prayer for eviction from the premises, unless he files an affidavit stating the grounds on which he seeks to contest the application for eviction. If he does not file any affidavit, the tenant is liable to an order of eviction. If the Controller grants leave to the tenant to contest the application, he is required to commence the hearing of the application as early as practicable and pass the order. No appeal or second appeal lies against the order of the Controller. These special provisions which are contained in the new Chapter III-A, inserted in the Delhi Rent Control Act by the Ordinance No. 24 of 1975, are not necessarily meant only for the benefit of the Central Government employees but are meant for any landlord who wants to recover possession of the premises for his own *bona fide* use.

7. The Committee is not in favour of making general provisions in the Rent Acts in Maharashtra on the lines of Chapter III-A of the Delhi Rent Control (Amendment) Ordinance of 1975. The Committee has, however, no objection to a provision being made for the benefit of the Central Government employees on the lines of the provision made in section 13-A-I of the Bombay Rent Act for members of the armed forces, although this would mean a special discrimination in favour of the Central Government employees. It would accordingly make the following suggestions :—

(a) Where a Central Government employee has been called upon by the Central Government to surrender his quarters and to occupy his own house or in the alternative to pay market rent for the quarters allotted to him, he should be given the right to recover possession of his own house from his tenant or licensee on production of a certificate from the Head of Department to that effect.

(b) The certificate granted by the Head of Department shall be conclusive evidence of the facts stated therein and shall not be challenged by the tenant, licensee, etc., as the case may be.

(c) On receipt of an application together with the certificate, the Court shall decide the suit within three months from the date of service of summons on the defendant.

(d) Where the Central Government employee possesses more than one house in his name or in the name of his spouse in the same city or town, he shall be entitled to recover possession of only one such house.

(e) Special provisions as indicated above should apply to the existing houses of the Central Government employees and not to those which they may acquire or build in future.

Regularisation of sub-tenancies

8. The Bombay Rents, Hotel and Lodging House Rates Control Act, 1947, originally provided that after the coming into operation of that Act i.e. after 13th February 1948 it was not lawful for a tenant to sub-let the premises let to him, save as permitted by the proviso to section 15, and if he did so both the tenant and sub-tenant were liable to eviction. Later on, when Government announced its policy to discontinue requisitioning of residential premises from June 1958, a large number of landlords filed suits in the Courts to evict tenants, who had unlawfully sub-let their premises, and their sub-tenants. Such large scale eviction by landlords would have caused great hardship to a large number of people due to acute shortage of accommodation. Hence in response to public demand, Government promulgated an Ordinance on 21st May 1959 to remove the bar against sub-letting, assigning, etc., contained in section 15 or in any contract, with retrospective effect in the case of sub-tenants who had entered into possession despite the bar and had continued in possession of the premises till the date of the Ordinance viz. 21st May 1959. Under section 14, the sub-tenants upto the year of the Act i.e. upto 13th February 1948, had already been made regular tenants of their landlords (i.e. original tenants) because their possession was already lawful under the operation of section 10 of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1944 (Act VII of 1944). The sub-tenants who came in occupation of their premises between the period from 13th February 1948 to 21st May 1959 were, therefore, made the regular tenants of their landlords (i.e. original tenants) by the Ordinance of 1959. The Ordinance was later on replaced by the Bombay Act XLIX of 1959 which was published on 21st September 1959. Any sub-tenancies created after 21st May 1959 were declared unlawful.

9. It is reported to the Committee that again after a lapse of nearly 16 years, there have been several cases in the Small Causes Courts in Bombay, in which a large number of sub-tenants, who are unlawful under the Bombay Rent Act, are facing eviction. In view of the continued scarcity of accommodation, it is necessary to protect such large number of so called unlawful sub-tenants. Government has thought it fit to give protection to the licensees who were in occupation on 1st February 1973. The Committee feels that an anomolous position has been created in law in that certain licensees occupying till 1st February 1973 are protected from eviction, while sub-tenants in occupation of the premises on that date have to face eviction. Non-official Bills on this subject were moved in the Assembly by Shri Umar Kazi (L. A. Bill No. XXXV of 1972) and by Shri Sharad Dighe (L. A. Bill No. LV of 1974). When Shri Sharad Dighe's Bill was discussed in the Budget Session of the Assembly in 1975, the Minister of State for Housing in his reply said that the provisions proposed in the Bill would be referred for consideration to the Rent Acts Enquiry Committee which had since been appointed by Government. He also said that, if the Committee made an interim report, its suggestions on this subject would be considered by Government. The Committee has examined this problem because of its urgency and would urge Government to bring in a suitable legislation on the following lines :—

(a) Sub-tenants who have been in occupation from 21st May 1959 but before 1st February 1973 may be recognised as lawful sub-tenants.

(b) All sub-tenants upto 1st February 1973, including those who came in occupation prior to 21st May 1959, should be made the direct tenants of the landlord and not of the original tenant, as at presnet, in respect of the premises occupied by them.

(c) The landlord should be allowed to charge increase in rent to the extent of 25 per cent of the standard rent to such sub-tenants on their becoming his direct tenants.

(d) If the premises have been wholly sub-let, the sub-tenant should become the direct tenant of the landlord (and not of the original tenant) in respect of the whole premises and he should pay additional rent equal to 25 per cent of the standard rent.

(e) In case a part of the premises has been sub-let, the rent of the whole of the premises should be allowed to be increased by 25 per cent. The sub-tenant should become the direct tenant of the landlord (and not of the original tenant) in respect of the premises occupied by him. He should pay monthly rent direct to the landlord in proportion to the area occupied by him, after considering the other amenities enjoyed by him. The tenant should continue to be tenant in respect of the remaining premises in his occupation and should pay the proportionate rent in respect of his premises.

Selective exemption to existing residential and non-residential Premises

10. Rent control at present operates in respect of both residential and non-residential buildings. It has been stated that rent control adversely affects the yield of revenue of the local bodies and gives rise to the "pugree" system of illicit payments, thereby keeping black money in circulation. As a measure to reduce the evil of pugree system, the Direct Taxes Enquiry Committee has recommended that "the present legislative control on rent which operates in respect of both residential and non-residential premises be amended so as to restrict its operation to residential premises only." The Municipal Finance Commission appointed by the Government of Maharashtra has also £ observed that "..... where there is a great problem for the local bodies to balance their budget, there could be no justification whatsoever for pegging down the rateable values of properties commercial and other non-residential to the low level obtaining few decades ago". According to section 6 of the Bombay Rent Act, the non-residential premises to which the Act is applicable are those let or given on licence for education, business, trade or storage. The Committee considers that it would not be desirable to relax rent control in respect of premises let for education. Similarly, it would be necessary to protect the interests of small traders, shop keepers and like persons. Therefore, while agreeing in substance with the recommendation made by the Direct Taxes Enquiry Committee and the Municipal Finance Commission, Maharashtra State, this Committee recommends that existing premises having an area of more than 65 sq. metres and let for business, trade or storage may be exempted from the Rent Act. As regards residential premises, it is brought to the notice of the Committee that under the Maharashtra Tax on Residential Premises Act, 1974 (XIX of 1974), a tax is levied on residential premises having a floor area of more than 125 sq. metres in Bombay and more than 150 sq. metres within the limits of other municipal corporations. These are big residential premises occupied by persons in high income groups. The Committee is of the view that such premises need not be subject to rent control and it accordingly recommends that existing residential premises having a floor area of more than 125 sq. metres should be exempted from the Rent Act.

* Para. 2.204 of the Report of the Direct Taxes Enquiry Committee (Wanchoo Committee) Final Report, December 1971.

£ Para. 7.7.7. Report of the Municipal Finance Commission, Maharashtra State, March 1974.

Exemption to new constructions

11. The Housing Study Groups set up by the Metropolitan Regional Planning Boards for Bombay and Poona have recommended that in order to encourage house building activity in the private sector, exemption should be granted to new buildings which would be constructed hereafter in the respective metropolitan regions, as was done in the Vidarbha area. The Housing Study Group of the Nagpur Metropolitan Regional Planning Board has pointed out that 39 per cent of the existing buildings in Nagpur City were found to have been constructed from 1951 onwards i.e. after general exemption to new constructions was granted by Government.

It is an admitted fact that the number of houses constructed by various agencies in the public sector and by cooperative and private sectors falls very much short of requirements. For instance, during the period of ten years from 1956-57 to 1965-66, the total number of tenements estimated to have been constructed in Greater Bombay by all sectors was *175,715 of which 96,729 were by private and co-operative sectors. The average annual performance in house building was thus about 176,000 tenements as against the development target of 3,300 tenements per year by all agencies. With this rate of performance, the gap between availability and demand will go on increasing progressively as the population increases and old tenements are demolished or become unserviceable. If the housing problem in Bombay and other important cities and towns in the State is to be solved even partially, it will be necessary to step up considerably the construction of houses in the public sector and to encourage the cooperative and private sectors. In view of the high cost of construction at present, the public sector will have to provide rental housing to persons in the low income groups for some years to come, while houses built by cooperative sector and the private sector will meet the requirements of those who can afford to invest their savings or to pay high rents.

The suggestion to do away with rent control in respect of new constructions has to be considered in the light of the foregoing facts. A question often asked is whether such relaxation can be justified unless there is a reasonable prospect that it would have the effect of adding to the stock of privately rented accommodation. As it is, the position is that rental housing in private sector has virtually come to a halt, particularly in Bombay. Almost all new residential flats are being built for sale. The low income groups are no longer interested in new houses built in the private sector and hence they would be least affected whether new constructions in the private sector are kept under rent control or otherwise. On the other hand, there is a possibility that removal of rent control might well induce some investors to offer their newly built houses on rental basis, if not in Bombay at least at other places, as has happened in Nagpur. In other countries the experiment of gradual decontrol has yielded good results. In India, some States have given a rent holiday for a specified period. The Committee feels that there is no point in relaxing control in such half hearted manner by giving rent holiday for a limited period of five years or so. An investor who knows that he will have to submit to rent control after a specified period would try to exploit the situation during the limited holiday allowed to him and charge fantastically high rents during that period. Hence, instead of giving a rent holiday for a limited period, as has been done in some other States, the Committee would recommend total exemption from Rent Acts of all new constructions made after say 1st January 1976, whether residential or non-residential, as was done in Vidarbha area. With this relaxation, the Committee feels that one of the

* Chapter II of Report of Study Group on Housing constituted by the Bombay Metropolitan Regional Planning Board.

disincentives to investment in real estate would be removed and it would encourage the construction of new houses in the private sector on rental basis, although such houses would for some initial period mostly meet the housing needs of persons in higher income groups.

12. This Committee, in its meeting held on 5th February 1976 at Mahableshwar, unanimously decided to submit an interim report and authorised the Chairman and the Member-Secretary to sign the report on its behalf. The present report is submitted accordingly.

V. K. TEMBE,
Chairman.

S. V. CHAKRADEO,
Member-Secretary

BOMBAY,

Dated 12th February 1976

ANNEXURE 'A'

TERMS OF REFERENCE

1. To examine whether in place of the three different rent control laws in force in Western Maharashtra, Vidarbha and Marathwada regions, it would be desirable and feasible to have a comprehensive unified law for the entire State.
2. To prepare a draft outline and frame work of a unified legislation if such unified legislation is considered desirable and feasible.
3. If a common unified law for the entire State is not considered desirable and feasible, to suggest modifications in the existing three legislations in order to make them simpler and less cumbersome and to achieve maximum possible uniformity.
4. To examine the provisions relating to (i) machinery for implementation, (ii) exemptions, (iii) standard rents and permitted increases, (iv) repairs to premises, (v) recovery of possession, (vi) leave and licence, (vii) control on hotels and lodging houses, (viii) regulation of letting of accommodation, (ix) life of the Act and to propose amendments for improving the provisions of the three existing legislations having regard to the interests of all sections of the population affected by the Legislations.
5. To suggest guide lines for extending the provisions of the whole or any part of the Acts to any place or area.
6. To study the adverse affects of Rent Acts on the assessment of properties.
7. To make recommendations on such other matters as may be germane to the above.

APPENDIX ' D '

DRAFT BILL FOR UNIFICATION OF RENT ACTS

L.A. BILL No. OF 1976

A BILL

An Act to consolidate the laws relating to control of rents, charges for licence of premises, rates of hotels and lodging houses and repairs to premises and recovery of possession, etc.

WHEREAS it is expedient and necessary to consolidate the laws relating to control of rents, charges for licence of premises, rates of hotels and lodging houses, repairs to premises and recovery of possession, etc.;

It is hereby enacted in the Twenty-sixth year of the Republic of India as follows :

PART I

PRELIMINARY

1. *Short title and commencement.*—(1) This Act may be called the Maharashtra Rent Control Act, 1976.

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

2. *Extent.*—(1) Parts I and IV of this Act shall extend to the whole of the State of Maharashtra.

(2) Parts II and III shall extend to the areas specified in Schedules I and II respectively and shall continue to extend to any such area notwithstanding that the area ceases to be of the description specified therein.

(3) The State Government may, by notification in the *Official Gazette* extend to any other area any or all of the provisions of Part II or Part III or both.

(4) The State Government may, at any time by like notification, direct that any or all the provisions of Part II or Part III or of both, as the case may be, shall cease to extend to such area and on such date as may be specified in the notification; and on that date the said provisions shall cease to be in force in such area.

3. *Application.*—(1) In areas specified in Schedule I, Part II shall apply to premises let or given on licence for residence, education, business, trade or storage:

Provided that the State Government may by notification in the *Official Gazette*, direct that in any of the said areas, Part II shall cease to apply to premises let or given on licence for any of the said purposes :

Provided further that the State Government may by like notification direct that in any of the said areas Part II shall re-apply to premises let or given on licence for such of the aforesaid purposes as may be specified in the notification.

(1A) The State Government may, by notification in the *Official Gazette*, direct that in any of the said areas Part II shall apply to premises let or given on licence for any other purpose.

(2) In areas to which Part II is extended under sub-section (3) of section 2, it shall apply to premises let or given on licence for such of the purposes referred to in sub-section (1) or notified under sub-section (1A) or let for such standard rent as the State Government may, by notification in the *Official Gazette*, specify.

(3) Deleted.

4. *Exemptions*.—(1) This Act shall not apply :—

(a) to any premises belonging to the Government, a local authority, a housing board, the Maharashtra State Road Transport Corporation, or a new town development authority and a special planning authority, constituted under the Maharashtra Regional and Town Planning Act, 1966;

(b) as against the Government to any tenancy, licence or other like relationship created by a grant from or licence given by the Government in respect of premises requisitioned or taken on lease or on licence by the Government, including any premises taken on behalf of the Government on the basis of tenancy or of licence or other like relationship by, or in the name of any officer subordinate to the Government authorised in this behalf;

but it shall apply in respect of premises let, or given on licence, to the Government or any other authority, corporation or board mentioned in clause (a) or taken on behalf of the Government on such basis by, or in the name of such officer.

(1-A) This Act shall also not apply :—

(a) to any premises first constructed and let or given on licence after the first day of January 1976;

(b) to any existing premises with a floor area of more than 125 sq. metres and let or given on licence for purposes of residence before or after the commencement of this Act;

(c) to any existing premises with a floor area of more than 65 sq. metres and let or given on licence for purposes of business, trade or storage before or after the commencement of this Act;

but it shall apply, subject to the provisions of clauses (b) and (c), to a building erected after the first day of January 1976 on premises, the possession of which was obtained under clause (hh) of sub-section (1) of section 13 for the purpose of demolition.

(2) The State Government may, for special reasons to be recorded in writing, direct that all or any of the provisions of this Act shall, subject to such terms and conditions as it may specify, not apply—

(a) to all or any premises used for a public purpose of a charitable nature;

(b) to all or any premises held by a public trust for a religious or charitable purpose and let or given on licence, at a nominal or concessional rent or licence fee or charge;

(c) to all or any premises held by a public trust for a religious or charitable purpose and administered by a local authority;

(d) to all or any premises held by a statutory corporation or a Company established by or controlled by the State Government;

(e) to any premises used as sanatorium, *dharmashala*, home for widows or orphans or for like purposes;

(f) to any premises belonging to any ward of the Court of wards.

(2-A) (a) The provisions of Part III shall not apply to hotels and lodging houses where the rate charged for lodging is rupees fifty or more per day per person.

(b) The State Government may also by order direct that the provisions of Part III shall not apply to such hotels or lodging houses or such class of hotels or lodging houses subject to such terms and conditions, if any, as may be specified in the order.

(3) The State Government may also by order direct that all or any of the provisions of Part III shall not apply to such hostel or institution or such class of hostels or institutions subject to such terms and conditions, if any, as may be specified in the order.

(3-A) If the terms and conditions under which exemption is granted under sub-sections (2) and (3) and clause (b) of sub-section (2-A) are in the opinion of the State Government not satisfied in any particular case, the State Government may by order direct that the exemption granted in such case shall stand cancelled from such date as may be specified in the order.

Provided that no such order shall be made unless the concerned institutions has been given a reasonable opportunity of showing cause against the order to be made against it.

(4) (a) The expression "premises belonging to the Government or a local authority" in sub-section (1) shall notwithstanding anything contained in the said sub-section or in any judgement, decree or order of a court, not include a building erected on any land held by and person from the Government or a local authority under an agreement, lease, licence or other grant, although having regard to the provisions of such agreement, lease, licence or grant the building so erected may belong or continue to belong to the Government or the local authority as the case may be; and

(b) notwithstanding anything contained in section 15 such person shall be entitled to create a tenancy in respect of such building or a part thereof, whether before or after the commencement of this Act.

5. *Power of State Government to prescribe conditions for exemption to premises of local authority and other bodies.*—(1) Notwithstanding anything contained in this Act, the State Government may from time to time by a general or special order direct that the exemption granted to any authority, corporation or board under sub-section(1) of section 4 shall be subject to such terms and conditions as it may specify either generally or for special reasons in any particular case and such terms and conditions shall be applicable to the premises belonging to the authority, corporation or board with effect from such date either before or after the commencement of this Act as the State Government may in its discretion determine.

(2) If any authority, corporation or board fails to comply with, or contravenes, any of the terms or conditions specified under sub-section (1) in respect of any premises belonging to that authority, corporation or board, the State Government may by order direct that the exemption granted to such authority, corporation or board under sub-section(1) of section 4 shall stand cancelled from such date as may be specified in the order and thereupon the relevant provisions of this Act shall apply to the premises belonging to such authority, corporation or board :

Provided that no such order shall be made, until the authority, corporation or the board has been given a reasonable opportunity of showing cause against the order to be made against it.

6. *Definitions.*—In this Act unless there is anything repugnant to the subject or context—

(1) "fair rate" means the rate fixed under section 33 and includes the rates as revised under section 34;

(2) "hotel or lodging house" means a building or a part of a building where lodging with or without board or other service is by way of business provided for a monetary consideration ;

(3) "landlord" means any person who is for the time being, receiving, or entitled to receive, rent in respect of any premises whether on his own account or on account, or on behalf, or for the benefit of any other person or as a trustee, guardian, or receiver for any other person or who would so receive the rent or be entitled to receive the rent if the premises were let to a tenant ; and includes any person not being a tenant who from time to time derives title under a landlord ; and further includes in respect of his sub-tenant, a tenant who has sub-let any premises ; and also includes in respect of a licensee deemed to be a tenant by section 15-A, the licensor who has given such licence ;

(4) "legal representative" means a legal representative as defined in the Code of Civil Procedure, 1908, and includes also, in the case of joint family property, the joint family of which the deceased person was a member ;

(4-A) "licensee", in respect of any premises or any part thereof, means the person who is in occupation of the premises or such part, as the case may be, under a subsisting agreement for licence given for a licence fee or charge ; and includes any person in such occupation of any premises or part thereof in a building vesting in or leased to a cooperative housing society registered or deemed to be registered under the Maharashtra Cooperative Societies Act, 1960 ; but does not include a paying guest, a member of a family residing together, a person in the service or employment of the licensor, or a person conducting a running business belonging to the licensor, or a person having any accommodation in a hotel, lodging house, hostel, guest house, club, nursing home, hospital, sanatorium, *dharmashala*, home for widows, orphans or like premises, marriage or public hall or like premises, or in a place of amusement or entertainment or like institution, or in any premises belonging to or held by an employee or his spouse who on account of the exigencies of service or provision of a residence attached to his or her post or office is temporarily not occupying the premises, provided that he or she charges licence fee or charge for such premises of the employee or spouse not exceeding the standard rent and permitted increases for such premises, and any additional sum for services supplied with such premises, or a person having accommodation in any premises or part thereof for conducting a canteen, creche, dispensary or other services as amenities by any undertaking or institution ; and the expressions "licence", "licensor" and "premises given on licence" shall be construed accordingly ;

(5) "manager of a hotel" includes any person in charge of the management of a hotel ;

(6) "owner of a lodging house" includes any person who receives or is entitled to receive, whether on his own account, or on behalf of himself and others or as an agent or trustee, any monetary consideration from any person on account of board, lodging or other service ;

(6-A) "paying guest" means a person, not being a member of the family, who is given a part of the premises, in which the licensor resides, on licence ;

(7) "permitted increase" means an increase in rent permitted under the provisions of this Act ;

(8) "premises" means—

(a) any land not being used for agricultural purposes,

(b) any building or part of a building let or given on licence separately (other than a farm building) including—

(i) the garden, grounds, garages and out houses, if any, appurtenant to such building or part of a building,

(ii) any furniture supplied by the landlord for use in such building or part of a building,

(iii) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof,

but does not include a room or other accommodation in a hotel or lodging house ;

(9) "prescribe" means prescribed by rules and prescribed shall be construed accordingly ;

(10) "standard rent" in relating to any premises means:—

(a) Where the standard rent is fixed or deemed to be fixed by a Court under the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947, or where the fair rent is fixed by a Controller under the Central Provinces and Berar, Regulation of Letting of Accommodation Act, 1946, or the Hyderabad Houses (Rent, Eviction and Lease) Control Act, 1954, such rent together with any increases made therein in accordance with the provisions of these Acts.

(b) Where the standard rent or fair rent is not so fixed—

subject to the provisions of section 11,

(i) the rent including any increases permitted by law at which the premises were let on the first day of May 1960, or

(ii) where the premises were not let on the first day of May 1960, the rent including any increases permitted by law at which they were last let before that day, or

(iii) where the premises were first let after the first day of May 1960, the rent including any increases permitted by law at which they were first let, or

(iv) in any of the cases specified in section 11, the rent fixed by the Court;

(11) "tenant" means any person by whom or on whose account rent is payable for any premises and includes :—

(a) such sub-tenants and other persons as have derived title under a tenant under any law before the commencement of or under this Act;

(aa) any person to whom interest in premises has been assigned or transferred as permitted, or deemed to be permitted, under section 15;

(b) any person remaining, after determination of the lease, in possession, with or without the assent of the landlord, of the premises leased to such person or his predecessor who has derived title before the commencement of or under this Act;

(bb) such licensees as are deemed to be tenants for the purposes of this Act by section 15-A;

(c) (i) in relation to premises let for residence, any member of the tenant's family residing with him at the time of his death as may be decided in default of agreement by the Court,

(ii) in relation to premises let for business, trade or storage, any member of the tenant's family carrying on business, trade or storage with the tenant in the said premises at the time of the death of the tenant as may continue, after his death, to carry on the business, trade or storage, as the case may be, in the said premises and as may be decided in default of agreement by the Court.

(12) "Tenement" means a room or group of rooms rented or offered for rent as unit.

PART II

RESIDENTIAL AND OTHER PREMISES

7. *Rent for licence fee or charge in excess of standard rent illegal.*—(1) Except where the rent is liable to periodical increment by virtue of an agreement entered into before the date of commencement of this Act, it shall not be lawful to claim or receive on account of rent for any premises any increase above the standard rent, unless the landlord was, before the said date, entitled to recover such increase under the provisions of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947, the Central Provinces and Berar Regulation of Letting of Accommodation Act, 1946 and the Hyderabad Houses (Rent, Eviction and Lease) Control Act, 1954.

(2) (a) No person shall claim or receive on account of any licence fee or charge for any premises or any part thereof, anything in excess of the standard rent and permitted increases (or, as the case may be, a proportionate part thereof), for such premises if they had been let, and such additional sum as is reasonable consideration for any amenities or other services supplied with the premises.

(b) All the provisions of this Act in respect of the standard rent and permitted increases in relation to any premises let, or if let, to a tenant, shall *mutatis mutandis* apply in respect of any licence fee or charge and permitted increases in relation to the premises given on licence; and accordingly, the licensee or licensor may apply to the Court for the fixation of the licence fee or charge and permitted increases and the additional sum mentioned above.

8. *Cases where rent or licence fee or charge to be deemed and not to be deemed to be increased.*—(1) Where, as the result of any alteration of the terms of the tenancy or of the agreement for licence, the terms on which any premises are held are on the whole less favourable to the tenant or to the licensee than the previous terms, the rent or licence fee or charge shall be deemed to be increased for the purposes of this Part whether the sum payable as rent or licence fee or charge is increased or not.

(2) Where, as the result of any alteration of the terms of the tenancy or of the agreement for licence, the terms on which any premises are held are not on the whole less favourable to the tenant or to the licensee than the previous terms, the rent or licence fee or charge shall not be deemed to be increased for the purposes of this Part whether the sum payable as rent or licence fee or charge is increased or not.

9. Deleted.

10. *Increase in rent on account of payment of rates, etc., excepted.*—(1) Where, after the first day of May 1960, but before the date of coming into force of this Act, a landlord is required to pay to a local authority or Government, in respect of any premises, any increase in rate, cess, charges, tax, assessment on land, ground rent of land or any other levy, he shall be entitled to make an increase in the rent of premises by an amount not exceeding the amount permitted to be recovered by him under the law in respect of such premises.

(2) Where, after the commencement of this Act, a landlord is required to pay to a local authority or Government, in respect of any premises, any increase in or any new rate, cess, charges, tax, assessment on land, ground rent of land or any other levy, he shall be entitled to make an increase in the rent of premises by an amount not exceeding the additional amount payable by him in respect of such premises.

(3) Where the rent is inclusive of charges for electricity and water and the landlord is required to pay any increase in these charges in respect of any premises, he shall be entitled to make an increase in the rent of such premises by an amount not exceeding the additional amount payable by him in respect of such premises.

(4) The amount of the increase in rent recoverable from each tenant under sub-sections (1), (2) and (3) shall be calculated in the same proportion as the rent payable by him in respect of his premises bears to the total amount of the rent recoverable for the whole premises, if let.

(5) Any increase in rent under sub-sections (1), (2) and (3) shall not be deemed to be an increase for the purposes of section 7.

10-A. Deleted.

10-AA. Deleted.

10-AAA. Deleted.

10-B. Deleted.

10-C. Deleted.

10-D. *Increase in rent on account of special additions, etc., excepted.*—(1) Subject to the provisions of sub-sections (2) and (5), a landlord shall further be entitled to make an increase in the rent of premises by an addition to the rent, in the manner prescribed of an amount not exceeding ten per cent per annum of the expenses incurred on account of special additions to premises or special alterations made therein or additional amenities provided for the premises or on account of improvements or structural alterations.

(2) Before making any increase under sub-section (1), the landlord shall obtain a certificate from the appropriate authority that he was required by it to make or to provide such additions, alterations, improvements or amenities and has completed them in conformity with its requirements.

(3) any increase under sub-section (1) shall not be deemed to be an increase for the purposes of section 7.

(4) If a landlord, when required by the appropriate authority to execute the work of any such additions, improvements, alterations or amenities, fails to do so, the tenant or the tenants interested in such work may seek the approval of the appropriate authority for executing such

work. The appropriate authority shall grant the approval unless other measures are taken by it to execute the said work. While granting the approval, the appropriate authority shall specify the nature of the work and the estimated cost thereof which shall for all purposes be binding on the landlord. Upon such approval being granted, the tenants shall be entitled to execute the said work and to deduct the amount of the expenses thereof from the rent which from time to time becomes due by them to the landlord or otherwise recover such amount from him :

Provided that where such work is jointly executed by the tenants the amount to be deducted or recovered by each tenant shall bear the same proportion as the rent payable by him in respect of his premises bears to the total amount of the expenses incurred for such work :

Provided further that the total amount so deducted or recoverable shall not exceed the estimated cost specified by the appropriate authority together with simple interest at ten per cent per annum on such amount.

(5) In respect of any work executed by the tenants under sub-section (4) the landlord shall not be entitled to make the increase permitted under sub-section (1).

Explanation I.—For the purposes of this section the expression “appropriate authority” shall mean an officer not below the rank of the City Engineer, as may be authorised by the Municipal Commissioner in cities having a municipal corporation and elsewhere an officer of the rank of Executive Engineer of the Public Works and Housing Department having jurisdiction in the area in which the premises are situate.

Explanation II.—In this section improvement and alterations do not include repairs which the landlord is bound to make under sub-section (1) of section 23.

10-E. *Increase in rent on account of special or heavy repairs excepted.*—(1) A landlord shall further be entitled to make, on account of special or heavy repairs made in accordance with the provisions of this section, a temporary increase in the rent of premises by an addition to the rent, in the manner prescribed, at a rate not exceeding twenty-five per cent of the standard rent; and increase of rent shall be payable from the date of completion of the repairs till the amount of the expenditure for such repairs together with simple interest at ten per cent per annum on such amount is recovered from the tenant.

(2) Before making any increase under sub-section (1), the landlord shall obtain a declaration from the appropriate authority asserting that it is necessary to undertake such repairs and specifying the nature and extent of repairs required and the estimated cost thereof and after the repairs are carried out a certificate from the said authority confirming that the repairs were carried out in accordance with the declaration and fixing the date of completion of the repairs and the actual expenses incurred therefor.

(3) The declaration indicating the estimated cost and the certificate indicating the date of completion and the amount of actual expenses incurred shall be conclusive proof of the facts stated therein.

(4) The increase in rent under sub-section (1) shall be recoverable from all tenants occupying premises in the building on the basis of the actual expenses incurred or the estimated cost specified in the declaration aforesaid, whichever is less, and the amount to be recovered from each tenant shall bear the same proportion as the rent payable by him in respect of his premises bears to the total amount of expenses recoverable for such repairs.

(5) Any increase under sub-section (1) shall not be deemed to be an increase for the purposes of section 7 or for the purposes of the Bombay Municipal Corporation Act, 1888, the City of Nagpur Corporation Act, 1948, the Bombay Provincial Municipal Corporation Act, 1949, the Maharashtra Municipalities Act, 1965 and the Bombay Village Panchayats Act, 1958.

Explanation.—For the purposes of this section the expression “appropriate authority” shall have the same meaning as in Explanation I to section 10-D.

10F. Deleted.

10—G. Deleted.

10-H. (1) A landlord shall be entitled to make an increase in the rent of premises by an addition to the rent in the following manner :

(A) For residential premises having a floor area of 125 sq. metres or less which were let before the first day of September 1940.

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|---|--|
| (a) Premises the rent of which does not exceed Rs. 25 per month. | By an amount not exceeding 10 per cent of the standard rent in Bombay area, 2½ per cent of the standard rent in Vidarbha area and 6½ per cent of the standard rent in Marathwada area. |
| (b) Premises the rent of which is more than Rs. 25 per month but does not exceed Rs. 100 per month. | By an amount not exceeding 15 per cent of the standard rent in Bombay area, 10 per cent of the standard rent in Vidarbha area and 7½ per cent of the standard rent in Marathwada area. |
| (c) Premises the rent of which exceeds Rs. 100 per month. | By an amount not exceeding 20 per cent of the standard rent in Bombay area, 17½ per cent of the standard rent in Vidarbha area and 5 per cent of the standard rent in Marathwada area. |

(B) For non residential premises having a floor area of 65 sq. metres or less which were let before the first day of September 1940.

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|---|---|
| (a) Premises the rent of which does not exceed Rs. 100 per month. | By an amount not exceeding 50 per cent of the standard rent in Bombay area and 10 per cent of the standard rent in Vidarbha and Marathwada areas. |
| (b) Premises the rent of which exceeds Rs. 100 per month. | By an amount not exceeding 50 per cent of the standard rent in Bombay area and 12½ per cent of the standard rent in Vidarbha area. |

(C) For residential premises having a floor area of 125 sq. metres or less which were let on or after the first day of September 1940 but before the first day of May 1960.

- | | |
|--|--|
| (a) Premises the rent of which does not exceed Rs. 25 per month. | By an amount not exceeding 10 per cent of the standard rent in Bombay and Vidarbha areas and 2 per cent of the standard rent in Marathwada area. |
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- (b) Premises the rent of which is more than Rs. 25 per month but does not exceed Rs. 100 per month. By an amount not exceeding 15 per cent of the standard rent in Bombay and Vidarbha areas.
- (c) Premises the rent of which exceeds Rs. 100 per month. By an amount not exceeding 20 per cent of the standard rent in Bombay and Vidarbha areas.

(D) For non residential premises having a floor area of 65 sq. metres or less which were let on or after the first day of September 1940 but before the first day of May 1960.

- (a) Premises the rent of which does not exceed Rs. 100 per month. By an amount not exceeding 25 per cent of the standard rent in Bombay and Vidarbha areas.
- (b) Premises the rent of which exceeds Rs. 100 per month. By an amount not exceeding 25 per cent of the standard rent in Bombay and Vidarbha areas.

Provided that no such increase shall be made in respect of premises within the limits of Bombay City on which a cess has been levied under the Bombay Building Repairs and Reconstruction Board Act, 1969.

(2) Any increase under sub-section (1) shall not be deemed to be an increase for the purposes of section 7.

Explanation.—For the purpose of sub-section (1), the expression “Premises” shall have the same meaning as is assigned to it in sub-clause (b) of clause (8) of section 5.

11. *Court may fix standard rent and permitted increases in certain cases.*—(1) Subject to the provisions of sections 11-A and 11-B, in any of the following cases the Court may, upon an application made to it for that purposes, or in any suit or proceeding, fix the standard rent at such amount as, having regard to the provisions of this Act and the circumstances of the case, the Court deems just—

(a) where any premises are first let after the first day of May, 1960 and the rent at which they are so let is in the opinion of the Court excessive; or

(b) where the Court is satisfied that there is no sufficient evidence to ascertain the rent at which the premises were let in any one of the cases mentioned in sub-clauses (i) to (iii) of clause (b) of sub-section (10) of section 5; or

(c) where by reason of the premises having been let at one time as a whole or in parts, and at another time in parts or as a whole, or for any other reasons, any difficulty arises in giving effect to this Part; or

(d) where any premises have been or are let rent-free, or at a nominal or concessional rent, or for some consideration in addition to rent; or

(e) where there is any dispute between the landlord and the tenant regarding the amount of standard rent.

(2) If there is any dispute between the landlord and the tenant regarding the amount of any increases in rent permitted by this Act or under any other law in force before the date of commencement of this Act, the Court may determine such amount.

(3) If any application for fixing the standard rent or for determining the permitted increases is made by a tenant who has received a notice from his landlord under sub-section-(2) of section 12, the Court shall forthwith specify the amount of rent or permitted increases which are to be deposited in Court by the tenant, and make an order directing the tenant to deposit such amount in Court or at the option of the tenant make an order to pay to the landlord such amount thereof as the Court may specify, pending the final decision of the application. A copy of the order shall be served upon the landlord. Out of any amount deposited in Court, the Court may make an order for payment of such reasonable sum to the landlord towards payment of rent or increases due to him as it thinks fit. If the tenant fails to deposit such amount or, as the case may be, to pay such amount thereof to the landlord, his application shall be dismissed.

(4) Where at any stage of a suit for recovery of rent, whether with or without a claim for possession of the premises, the Court is satisfied that the tenant is withholding the rent on the ground that the rent is excessive and standard rent should be fixed, the Court shall, and in any other case if it appears to the Court that it is just and proper to make such an order the Court may make an order directing the tenant to deposit in Court forthwith such amount of the rent as the Court considers to be reasonably due to the landlord, or at the option of the tenant an order directing him to pay to the landlord such amount thereof as the Court may specify. The Court may further make an order directing the tenant to deposit in Court periodically, such amount as it considers proper as interim standard rent, or at the option of the tenant an order to pay to the landlord such amount thereof as the Court may specify during the pendency of the suit. The Court may also direct that if the tenant fails to comply with any order made as aforesaid, within such time as may be allowed by it, he shall not be entitled to appear in or defend the suit except with leave of the Court, which leave may be granted subject to such terms and conditions as the Court may specify.

(5) No appeal shall lie from any order of the Court under sub-section (3) or (4).

(6) An application under this section may be made jointly by all or any of the tenants interested in respect of the premises situated in the same building.

11-A. No new application for standard rent etc. to be entertained if already duly fixed by a competent Court at the instance of other parties.—No Court shall upon an application or in any suit or proceeding fix the standard rent of any premises under section 11, or entertain any plea that the rent or increases are excessive, if the standard rent or the permitted increases in respect of the same premises have been duly fixed by a competent Court or Controller on the merits of the case, without any fraud or collusion or an error of the facts, and there has been no structural alterations or change in the amenities or in respect of any other factors which are relevant to the fixation of the standard rent, or change in such increases thereafter in the premises.

11-B. Limitation for application for fixing standard rent or permitted increases.—The landlord or tenant may make an application under section 11 for fixing the standard rent or for determining the amount of any increase allowed by law in respect of any premises in any area, whether let before or after the date of commencement of this Act, within three years from the date on which the premises were let or the cause of action for any increase arose or within three years from the date of commencement of this Act, whichever period is more.

12. No ejection ordinarily to be made if tenant pays or is ready and willing to pay standard rent and permitted increases.—(1) A landlord shall not be entitled to the recovery of possession of any premises so long as the tenant pays, or is ready and willing to pay, the amount of the standard rent and permitted increases, if any, and observes and performs the other conditions of the tenancy, in so far as they are consistent with the provisions of this Act.

(2) No suit for recovery of possession shall be instituted by a landlord against tenant on the ground of non-payment of the standard rent or permitted increases due, until the expiration of one month next after notice in writing of the demand of the standard rent or permitted increases has been served upon the tenant in the manner provided in section 106 of the Transfer of Property Act, 1882.

(3) No decree for eviction shall be passed by the Court in the suit for recovery of possession instituted by a landlord against a tenant on the ground of non-payment of standard rent and permitted increases due, if, on the first day of hearing of the suit or on or before such other date as the Court may fix, the tenant pays to the landlord or tenders in Court the standard rent and permitted increases then due and thereafter continues to pay or tender in Court regularly every month such rent and permitted increases till the suit is finally decided and also pays interest at six percent per annum on the arrears of standard rent and permitted increases and costs of the suit as directed by the Court. In any subsequent suit instituted on the same ground against the same tenant the rate of interest shall be enhanced to nine per cent per annum on the arrears of standard rent and permitted increases.

(4) Pending the disposal of any such suit, the Court may out of any amount paid or tendered by the tenant pay to the landlord such amount towards payment of rent or permitted increases due to him as the Court thinks fit.

Explanation I .. Deleted

Explanation II .. Deleted

12-A. Deposit of rent in Court.—(1) Where the address of the landlord or his authorised agent is not known to the tenant, he may deposit the rent lawfully payable to the landlord in respect of the premises in the Court of Small Causes, wherever such court exists and elsewhere in the Court of the Civil Judge (Junior Division), having jurisdiction in the area in which the premises are situate and continue to deposit any rent which may subsequently become due in respect of the premises until the address of the landlord or his authorised agent becomes known to the tenant.

(2) Where any *bona fide* doubt or dispute arises as to the person who is entitled to receive the rent in respect of any premises, the tenant may deposit the rent lawfully payable to the landlord in respect of the premises in the Court of Small Causes, wherever such Court exists and elsewhere in the Court of the Civil Judge (Junior Division), having jurisdiction in the area in which the premises are situate and continue to deposit any rent which may subsequently become due until the doubt is removed or the dispute is settled by the decision of a competent court or by a settlement between the parties.

(3) Where the landlord refuses to accept the rent when tendered or remitted by money order, the tenant may deposit the rent lawfully payable to the landlord in respect of the premises in the Court of Small Causes, where such Court exists and elsewhere in the Court of the Civil Judge (Junior Division), having jurisdiction in the area in which the premises are situate and continue to deposit any rent which may subsequently become due.

(4) The Court may, on an application from the landlord, if it is satisfied that he is the person entitled to receive the rent, order the payment of the amount of rent deposited by the tenant.

Provided that while making payment to the landlord under sub-section (4), the Court shall deduct an amount by way of compensatory cost and pay it to the respective tenants.

13. *When landlord may recover possession.*—(1) Notwithstanding anything contained in this Act but subject to the provisions of sections 15 and 15-A, a landlord shall be entitled to recover possession of any premises if the Court is satisfied.—

(a) that the tenant has committed any act contrary to the provisions of clause (o) of section 108 of the Transfer of Property Act, 1882 ; or

(b) that the tenant has, without the landlord's consent given in writing, erected on the premises any permanent structure; or

Explanation.—For the purpose of this clause, no permanent structure shall be deemed to be erected in any premises merely by reason of construction of a wooden partition, standing cooking platform in the kitchen, door, loft, lattice work or such other addition and alteration of a like nature which can be removed without serious damage to the premises.

(c) that the tenant or any person residing with the tenant has been guilty of conduct which is a nuisance or annoyance to the adjoining or neighbouring occupiers, or has been convicted of using the premises or allowing the premises to be used for immoral or illegal purposes ; or that the tenant has in respect of the premises been convicted of an offence of contravention of any provisions of clause (a) sub-section (1) of section 394 or of section 394-A of the Bombay Municipal Corporation Act, 1888 or of sub-section (1) of section 376 or of section 376-A of the Bombay Provincial Municipal Corporation Act, 1949 or of section 229 of the City of Nagpur Corporation Act, 1948 or of section 280 of the Maharashtra Municipalities Act, 1965.

(d) that the tenant has given notice to quit and in consequence of that notice the landlord has contracted to sell or let the premises or has taken any other steps, as a result of which he would, in the opinion of the Court, be seriously prejudiced if he could not obtain possession of the premises ; or

(e) that the tenant has unlawfully sub-let or given on licence, the whole or part of the premises or assigned or transferred in any other manner his interest therein ; or

(f) that the premises were let to the tenant for use as a residence by reasons of his being in the service or employment of the landlord, and that the tenant has ceased, whether before or after the coming into operation of this Act, to be in such service or employment ; or

(g) that the premises are reasonably and *bona fide* required by the landlord for occupation by himself or by any person for whose benefit the premises are held or where the landlord is a trustee of a public charitable trust that the premises are required for occupation for the purposes of the trust ; or

(h) that the premises are reasonably and *bona fide* required by the landlord for carrying out repairs which cannot be carried out without the premises being vacated or;

(hh) that the premises consist of not more than two floors and are reasonably and *bona fide* required by the landlord for the purpose of demolishing them and such demolition is to be made for the purpose of erecting new building on the premises sought to be demolished; or

Explanation.—For the purposes of this clause, premises shall not be deemed to consist of more than two floors by reason that on the terrace of a building there are one or more of the following structures that is to say, tower-rooms, sitting-out-rooms, ornamental structures, architectural features, landings, attics or one or more rooms of whatsoever description (such room or rooms, being in the aggregate of an area of not more than one-sixth of the total area of the terrace).

(hhh) that the premises are required for the purpose of demolition ordered by any local authority or other competent authority; or

(i) that where the premises are land, such land is reasonably and *bona fide* required by the landlord for the erection of a new building; or

(ii) that where the premises are land in the nature of garden or grounds appurtenant to a building or part of a building, such land is required by the landlord for the erection of a new residential building which a local authority has approved or permitted him to build thereon;

(j) that the rent charged by the tenant for the premises or any part thereof which are sub-let before the commencement of the Bombay Rents, Hotel and Lodging House Rates Control (Amendment) Ordinance, 1959 is in excess of the standard rent and permitted increases in respect of such premises or part or that the tenant has received any fine, premium other like sum or consideration in respect of such premises or part; or

(k) that the premises have not been used without reasonable cause for the purpose for which they were let for a continuous period of six months immediately preceding the date of the suit; or

(1) that the tenant or his or her spouse has, whether before or after the commencement of this Act, built, acquired vacant possession of or been allotted a suitable residence.

(2) No decree for eviction shall be passed on the ground specified in clause (g) of subsection (1) if the Court is satisfied that, having regard to all the circumstances of the case including the question whether other reasonable accommodation is available for the landlord or the tenant, greater hardship would be caused by passing the decree than by refusing to pass it.

Where the Court is satisfied that no hardship would be caused either to the tenant or to the landlord by passing the decree in respect of a part of the premises, the Court shall pass the decree in respect of such part only.

Explanation.—For the purposes of clause (g) of sub-section (1)—

(a) the expression "landlord" shall not include a rent farmer or rent collector or estate manager.

(2-A) A landlord shall not be entitled to recover possession of any premises under the provisions of clause (g) of sub-section (1), if the premises are let to the Central Government in a cantonment area, and such premises are being used for residence by members of the armed forces of the Union, or their families.

(3) The Court may pass the decree on the ground specified in clause (h) or (i) of sub-section (1) only in respect of a part of the premises which in its opinion it is necessary to vacate for carrying out the work of repairs or erection.

(3-A) No decree for eviction shall be passed on the ground specified in clause (hh) of sub-section (1), unless the Court is satisfied that necessary funds for the purpose of erection of the new building are available with the landlord and the landlord gives an undertaking—

(a) *Deleted.*

(aa) that the plans and estimates of the new building provide for residential tenements with a carpet area equivalent to that of the tenements in the building sought to be demolished, subject to a variation of five per cent or equivalent to the minimum carpet area required according to the rules, by-laws or regulations made by a local authority, whichever area is more;

(ab) that where the carpet area of the residential tenements in the new building is more than that mentioned in clause (b), he will obtain the consent of the concerned tenants to accept the tenements with larger area.

(b) that the work of demolishing the premises shall be commenced by him not later than one month, and shall be completed not later than three months, from the date he recovers possession of the entire premises; and

(c) that the work of erection of the new building shall be completed by him not later than fifteen months from the said date :

Provided that, where the Court is satisfied that the work of demolishing the premises could not be commenced or completed, or the work of erection, of the new buildings could not be completed, within time for reasons beyond the control of the landlord, the Court may by order for reasons to be recorded extend the periods by such further periods, not exceeding three months at a time as may, from time to time, be specified by it, so however that the extended period shall in each case not exceed twelve months in the aggregate.

(3-B) *Deleted.*

(4) For the purposes of clause (j) of sub-section (1) the standard rent or permitted increases in respect of the part sub-let shall be the amounts bearing such proportion to the

standard rent or permitted increases in respect of the premises as may be reasonable having regard to the extent of the part sub-let and other relevant considerations.

(5) Notwithstanding anything contained in this Act, where the premises let to any person include,—

(i) the terrace or part thereof, or

(ii) any one or more of the following structures that is to say, tower-rooms, sitting-out-rooms, ornamental structures, architectural features, landing, attics, on the terrace of a building, or one or more rooms of whatsoever description on such terrace (such room or rooms being in the aggregate of an area not more than one-sixth of the total area of the terrace), or

(iii) the terrace or part thereof and any such structures,

and the Court is satisfied that the terrace or structures or terrace including structures as aforesaid, are required by the landlord for the purpose of demolitions and erection or raising of a floor or floors on such terrace, the landlord shall be entitled to recover possession of the terrace including such tower rooms, sitting-out-rooms, ornamental structures, architectural features, landings, attics or rooms. The Court may make such reduction (if any) in the rent as it may deem just.

13-A. *Landlord entitled to recover possession of terrace and structures for raising floor or floors.*—(1) Notwithstanding anything contained in this Act, a landlord shall be entitled to recover possession of any premises, if the Court is satisfied that the premises let consist of a tenement or tenements on the terrace of a building such tenement or tenements being not more than two-fifths of the total area of the terrace, and that the premises or any part thereof are required by the landlord for the purpose of the demolition thereof and erection or raising of a floor or floors on such terrace.

Explanation.—If the premises let include the terrace or part thereof, or garages, servants' quarters or out-houses (which are not on the terrace), or all or any one or more of them, this section shall never-the-less apply.

(2) No decree for eviction shall be passed on the ground specified aforesaid, unless the Court is satisfied that necessary funds for the purpose of the erection of or raising of the new floor or floors are available with the landlord and the landlord gives an undertaking—

(a) *Deleted.*

(aa) that the plans and estimates of the new floor or floors provide for residential tenements with a carpet area equivalent to that of the tenements in the building sought to be demolished, subject to a variation of five per cent or equivalent to the minimum carpet area required according to the rules, by-laws or regulations made by a local authority whichever area is more;

(ab) that where the carpet area of the residential tenements in the new floor or floors is more than that mentioned in clause (b), he will obtain the consent of the concerned tenants to accept the tenements with larger area.

(b) that the work of demolition shall be commenced by him not later than one month and shall be completed not later than three months, from the date he recovers possession of the entire premises; and

(c) that the work of erection of the new floor or floors shall be completed not later than twelve months from the said date :

Provided that, where the Court is satisfied that the work of demolishing the premises could not be commenced or completed, or the work of erection of the new floor or floors could not be completed, within time for reasons beyond the control of the landlord, the Court may by order for reasons to be recorded, extend the period by such further periods, not exceeding three months at a time as may, from time to time, be specified by it, so however that the extended period shall in each case not exceed twelve months in the aggregate.

(3) Where a decree for eviction has been passed by the Court on the ground aforementioned, the provisions of sections 17-A, 17-B and 17-C shall *mutatis mutandis* apply to the erection or raising of the floor or floors, as they apply to the ground of eviction specified in clause (hh) of sub-section (1) of section 13.

(4) *deleted.*

13-A1. *Member of armed forces of Union and their widows entitled to recover possession of premises required for their occupation.*—Notwithstanding anything contained in this Act,—

(a) a landlord, who is a member of the armed forces of the Union, or who was such member and is duly retired (which term shall include premature retirement), shall be entitled to recover possession of any premises, on the ground that the premises are *bona fide* required by him for occupation by himself or any member of his family (which term shall include a parent or other relation ordinarily residing with him and dependent on him); and the Court shall pass a decree for eviction on such ground if the landlord, at the hearing of the suit, produces a certificate signed by the Head of his service or his Commanding Officer to the effect that—

(i) he is presently a member of the armed forces of the Union or he was such member and is now a retired ex-serviceman;

(ii) he does not possess any other suitable residence in the local area where he or the members of his family can reside;

(b) where a member of the armed forces of the Union dies while in service or such member is duly retired as stated above and dies within five years of his retirement, his widow, who is or becomes a landlord of any premises, shall be entitled to recover possession of such premises, on the ground that the premises are *bona fide* required by her for occupation by herself or any member of her family (which term shall include her or her husband's parent or other relation ordinarily residing with her), and the Court shall pass a decree for eviction on such ground, if such widow, at the hearing of the suit, produces a certificate signed by the Area or Sub-Area Commander within whose jurisdiction the premises are situated to the effect that—

(i) she is a widow of a deceased member of the armed forces as aforesaid;

(ii) she does not possess any other suitable residence in the local area where she or the members of her family can reside.

Explanation I.—For the purposes of clause (a) of this section, the expression “the Head of his Service”, in the case of officers retired from the Indian Army includes the Area Commander, in the case of officers retired from the Indian Navy includes the Flag Officer Commanding-in-Chief, Western Naval Command, and in the case of officers retired from the Indian Air Force includes the Station Commander.

Explanation.—II For the purposes of this section, any certificate granted thereunder shall be conclusive evidence of the facts stated therein.

(c) The Court shall dispose of the suits under this section within three months from the date of service of the summons on the defendant.

13-A2. *Permission to construct additional structure.*—Where the landlord proposes to construct any additional structure on any building which (or part of which) has been let to a tenant, and the tenant refuses to allow the landlord to construct such additional structure, if the Court, on an application made to it in this behalf by the landlord, is satisfied that the landlord is ready and willing to commence the work and that such work will not cause any undue hardship to the tenant, the Court may permit the landlord to do such work, and may make such other order as it thinks fit in the circumstances of the case.

14. *Certain sub-tenants and licensees to become tenant on determination of tenancy.*—

(1) When the interest of a tenant of any premises is determined for any reason, any sub-tenant to whom the premises or any part thereof have been lawfully sub-let before the commencement of the Bombay Rents, Hotel and Lodging House Rates Control (Amendment) Ordinance, 1959 shall, subject to the provisions of this Act, be deemed to become the tenant of the landlord on the same terms and conditions as he would have held from the tenant if the tenancy had continued.

(2) Where the interest of a licensor, who is a tenant of any premises, is determined for any reason, the licensee, who by section 15-A is deemed to be a tenant, shall subject to the provisions of this Act, be deemed to become the tenant of the landlord, on the terms and conditions of the agreement consistent with the provisions of this Act.

15. *In absence of contract to the contrary tenant not to sub-let or transfer or to give on licence*

(1) Notwithstanding anything contained in any law but subject to any contract to the contrary it shall not be lawful after the coming into operation of this Act for any tenant to sub-let the whole or any part of the premises let to him or to assign or transfer in any other manner his interest therein and after the date of commencement of the Bombay Rents, Hotel and Lodging House Rates Control (Amendment) Act, 1973, for any tenant to give on licence the whole or part of such premises :

Provided that the State Government may by notification in the *Official Gazette* permit in any area the transfer of interest in premises held under such leases or class of leases or the giving on licence any premises or class of premises and to such extent as may be specified in the notification.

(2) The prohibition against the sub-letting of the whole or any part of the premises which have been let to any tenant, and against the assignment or transfer in any other manner of the interest of the tenant therein, contained in sub-section (1), shall, subject to the provisions of

this sub-section, be deemed to have had no effect before the commencement of the Bombay Rents, Hotel and Lodging House Rates Control (Amendment) Ordinance, 1959 in any area in which this Act was in operation before such commencement; and accordingly, notwithstanding anything contained in any contract or in the judgement, decree or order of a Court, any such sub-lease, assignment or transfer or any such purported sub-lease, assignment or transfer in favour of any person who has entered into possession, despite the prohibition in sub-section (1), as a purported sub-lease, assignee or transferee and has continued in a possession at the commencement of the said Ordinance, shall be deemed to be valid and effectual for all purposes, and any tenant who has sub-let any premises or part thereof, assigned or transferred any interest therein, shall not be liable to eviction under clause (e) of sub-section (1) of section 13.

The provisions aforesaid of this sub-section shall not affect in any manner the operation of sub-section (1) after the commencement of the Ordinance aforementioned.

15-A. Certain licensees in occupation on 1st February 1973 to become tenants.—(1) Notwithstanding anything contained elsewhere in this Act or anything contrary in any other law for the time being in force, or in any contract, where any person is on the 1st day of February 1973 in occupation of any premises, or any part thereof which is not less than a room, as a licensee he shall on that date be deemed to have become, for the purposes of this Act, the tenant of the landlord, in respect of the premises or part thereof, in his occupation.

(2) The provisions of sub-section (1) shall not affect in any manner the operation of sub-section (1) of section 15 after the date aforesaid.

16. Recovery of possession for repairs and re-entry.—(1) The Court shall when passing a decree on the ground specified in clause (h) of sub-section (1) of section 13 ascertain from the tenant whether he elects to be placed in occupation of the premises or part thereof from which he is to be evicted and, if the tenant so elects, shall record the fact of the election, in the decree and specify in the decree the date on or before which he shall deliver possession so as to enable the landlord to commence the work of repairs.

(2) If the tenant delivers possession on or before the date specified in the decree the landlord shall, two months before the date on which the work of repairs is likely to be completed, give notice to the tenant of the date on which the said work shall be completed. Within fifteen days from the date of receipt of such notice, the tenant, shall intimate to the landlord his acceptance of the accommodation offered and deposit with the landlord rent for one month. If the tenant gives such intimation and makes the deposit, the landlord shall on completion of the work of repairs, place the tenant in occupation of the premises or part thereof on the original terms and conditions. If the tenant fails to give such intimation and to make the deposit, the tenant's right to occupy the premises shall terminate.

(3) If, after the tenant has delivered possession on or before the date specified in the decree, the landlord fails to commence the work of repairs within one month of the specified date or fails to complete the work within a reasonable time or having completed the work fails to place the tenant in occupation of the premises in accordance with sub-section (2), the Court may on the application of the tenant made within one year of the specified date, order the landlord to place him in occupation of the premises or part thereof on the original terms and conditions; and on such order being made the landlord and any person who may be in occupation shall give vacant possession to the tenant of the premises or part thereof.

(4) Any landlord who, when the tenant has vacated by the date specified in the decree, without reasonable excuse fails to commence the work of repairs and any landlord or other person in occupation of the premises who fails to comply with the order made by the Court under sub-section (3), shall, on conviction, be punishable with imprisonment for a term which may extend to three months or with fine or with both.

17. *Recovery of possession for occupation, etc., and re-entry.*—(1) Where a decree for eviction has been passed by the Court on the ground specified in clause (g) or (i) of sub-section (1) of section 13 and the premises are not occupied or the work of erection is not commenced within a period of one month from the date the landlord recovers possession or the premises are re-let within one year of the said date to any person other than the original tenant, the Court may, on the application of the original tenant made within thirteen months of such date, order the landlord to place him in occupation of the premises, on the original terms and conditions, and, on such order being made, the landlord and any person who may be in occupation of the premises shall give vacant possession to the original tenant.

(2) Any landlord who recovers possession on the ground specified in clause (g) or (i) of sub-section (1) of section 13 and keeps the premises unoccupied or does not commence the work of erection without reasonable excuse within the period of one month from the date he recovered possession and any landlord or other person in occupation of the premises who fails to comply with the order of the Court under sub-section (1) shall, on conviction, be punishable with imprisonment for a term which may extend to three months or with fine or with both.

17-A. *Recovery of possession for demolishing building.*—(1) Where a decree for eviction has been passed by the Court on the ground specified in clause (hh) of sub-section (1) of section 13 and the work of demolishing the premises has not been commenced by the landlord within the period specified in clause (b) of sub-section (3-A) of the said section, the tenant may give the landlord a notice of his intention to occupy the premises from which he has been evicted and if the landlord does not forthwith deliver to him the vacant possession of the premises on the same terms and conditions on which he occupied them immediately before the eviction, the tenant may make an application to the Court within six weeks of the date on which he delivered vacant possession of the premises to the landlord.

(2) If the Court is satisfied that the landlord has not substantially commenced the work of demolishing the premises within the period of one month in accordance with his undertaking the Court shall order the landlord to deliver to the tenant vacant possession of the premises on the terms and conditions on which he occupied them immediately before the eviction. On such order being made the landlord shall forthwith deliver vacant possession of the premises to the tenant. Such order shall be deemed to be an order within the meaning of clause (14) of section 2 of the Code of Civil Procedure, 1908.

(3) Any landlord who recovers possession on the ground specified in clause (hh) of sub-section (1) of section 13, and fails to carry out any undertaking referred to in clause (aa), (ab), (b) or (c) of sub-section (3-A) of the said section without any reasonable excuse or fails to comply with the order of the Court under sub-section (1) shall, without prejudice to his liability in execution of the order under sub-section (2), on conviction be punishable with imprisonment for a term which may extend to three months or with fine or with both.

17-B. Tenants right to give notice to landlord of his intention to occupy tenement in new building.—Where a decree for eviction has been passed by the Court on the ground specified in clause (hh) of sub-section (1) of section 13 and the work of demolishing the premises and of the erection of a new building has been commenced by the landlord, the tenant may, within six months from the date on which he delivered vacant possession of the premises to the landlord, give notice to the landlord of his intention to occupy a tenement in the new building on its completion on the following conditions, namely :—

(a) that he shall pay to the landlord the standard rent in respect of the tenements :

Provided that, in respect of a residential tenement, the tenant concerned shall not be required to pay rent in relation to the area at more than double the rate at which he paid rent for his former premises, immediately before his eviction under the decree unless the landlord obtains an order of the Court fixing the standard rent in respect of the tenement at a higher rate ;

(b) that his occupation of the tenement shall, save as provided in condition (a) above, be on the same terms and conditions as the terms and conditions on which he occupied the premises immediately before the eviction.

17-C. Landlord to intimate to tenant date of completion and tenant's right to occupy tenement in new building.—(1) On receipt of notice from the tenant under section 17-B, the landlord shall, not less than three months before the date on which the erection of the new building is likely to be completed, intimate to the tenant the date on which the said erection shall be completed and the tenement assigned to him in accordance with the provisions of clauses (aa) and (ab) of sub-section (3-A) of section 13. On the said date the tenant shall be entitled to occupy the said tenement.

(2) (a) If the tenant fails to occupy the tenement within a period of one month from the date on which he is entitled to occupy it under sub-section (1), the tenant's right to occupy the said tenement under the said sub-section shall terminate and the landlord shall be entitled to recover from the tenant a sum equal to three times the amount of the monthly standard rent in respect of the tenement.

(b) If the landlord fails, without reasonable excuse, to comply with the provisions of sub-section (1) or to place the tenant in occupation of the tenement he shall, without prejudice to his liability to place the tenant in vacant possession of the tenement, on conviction, be punishable with imprisonment for a term which may extend to three months or with fine or with both.

18. Unlawful charges by landlord.—(1) If any landlord either himself or through any person acting or purporting to act on his behalf or if any person acting or purporting to act on behalf of the landlord receives any fine, premium or other like sum or deposit or any consideration other than the standard rent or the permitted increases, in respect of the grant, renewal or continuance of a lease of any premises, or for giving his consent to the transfer of a lease by sub-lease or otherwise, such landlord or person shall, on conviction, be punished with imprisonment for a term which may extend to six months and shall also be punished with fine which shall not be less than the amount of the fine, premium or sum or deposit or the value of the consideration received by him, and further where the offence is committed by a landlord in respect of premises which were of his ownership on the date of the offence such premises shall be liable to confiscation.

(2) Where any fine, premium or other like sum or deposit or any consideration referred to in sub-section (1) is paid by any person, the amount or value thereof shall be recoverable by him from the landlord to whom it was paid or on whose behalf it was received or from his legal representative at any time within a period of six months from the date of payment and may, if such person is a tenant, without prejudice to any other remedy for recovery, be deducted by him from any rent payable by him to such landlord.

(3) Nothing in this section shall apply to any payment made under any agreement entered into before the commencement of this Act or to any payment made by any person to a landlord by way of a loan, for the purpose of financing the erection of the whole or part of a building or a residential section of a building on the land held by him as an owner, a lessee or in any other capacity, entitling him to build on such land, under an agreement which shall be in writing and shall, notwithstanding anything contained in the Indian Registration Act, 1908, be registered. Such agreement shall *inter alia* include the following conditions, namely :—

(i) that the landlord is to let to such person the whole or part of the building when completed for the use of such person or any member of his family ;

(ii) that the rate of interest on such loan shall not be less than four per cent per annum ;

(iii) that such loan shall be repayable by the landlord within a period of ten years from the date of the execution of the agreement or within a period of six months from the date of the termination of the tenancy by the landlord, whichever period expires earlier ;

(iv) that the amount of the loan shall be a charge on the entire building and the entire interest of the landlord in the land on which such building is erected :

Provided that if the loan has been advanced by more than one person all such persons shall, notwithstanding anything contained in any law for the time being in force, be entitled to a charge on the entire building and the entire interest of the landlord in such land rateably according to the amount of the loan advanced by each of such person ;

(v) that the landlord shall use the amount of the loan for the purpose of erecting the whole or part, as the case may be, of the residential building and for no other purpose ; and

(vi)(a) that the erection of the building shall be completed within a period of two years from the date of the execution of the agreement or if the agreements executed are more than one from the date of the execution of the first of such agreements :

Provided that the said period of two years may be extended to a further period not exceeding one year with the sanction of the Collector ;

(b) that if the erection of the building is not completed within the period of two years or within the extended period specified in the proviso to clause (a), the loan shall be repayable forthwith to the person advancing the same with interest at the rate of four per cent per annum.

(4) If any landlord who has received a loan under an agreement in accordance with the provisions of sub-section (3), contravenes, without any reasonable excuse, any of the conditions specified in the said sub-section (3), such landlord shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine, or with both.

Explanation I :—For the purposes of sub-section (1)—

- (a) except as provided in sub-section (3) receipt of rent in advance for more than three months in respect of premises let for the purpose of residence, or
- (b) where any furniture or other article is sold by the landlord to the tenant either before or after the creation of tenancy of any premises the excess of the price received over the reasonable price of the furniture or article, shall be deemed to be a fine or premium or consideration.

Explanation II :—For the purposes of sub-section (3), “member of the family” means in the case of an undivided Hindu family any member of such family and in the case of any other family the husband, wife, son, daughter, father, mother, brother, sister or any other relative of the person permanently residing and boarding with him.

19. *Unlawful charges by tenant.*—(1) Save in cases provided for under the proviso to section 15, it shall not be lawful for the tenant or any person acting or purporting to act on behalf of the tenant to claim or receive any sum or any consideration as a condition of the relinquishment, transfer or assignment of his tenancy of any premises.

(2) Any tenant or person who in contravention of the provisions of sub-section (1) receives any sum or consideration shall, on conviction, be punished with imprisonment for a term which may extend to six months and shall also be punished with fine which shall not be less than the sum or the value of the consideration received by him.

20. *Recovery of amounts paid not in accordance with Act.*—(1) Any amount paid on account of rent after the date of the coming into operation of this Act shall, except in so far as payment thereof is in accordance with the provisions of this Act, be recoverable by the tenant from the landlord to whom it was paid or on whose behalf it was received or from his legal representative at any time within a period of six months from the date of payment and may, without prejudice to any other remedy for recovery, be deducted by such tenant from any rent payable by him to such landlord.

(2) Any amount paid on account of any licence fee or charge for a licence on and after the date of commencement of the Bombay Rents, Hotel and Lodging House Rates Control (Amendment) Act, 1973, shall, except in so far as such payment is in accordance with the provisions of this Act, be recoverable by the licensee from the person to whom it was paid or on whose behalf it was received or from his legal representative, at any time within a period of six months from the date of payment, and may, without prejudice to any other remedy for recovery, be deducted by the licensee from any licence fee or charge for the licence payable by him to his licensor.

21. *Landlord to furnish particulars of rent, etc. to tenant.*—(1) Every landlord shall, upon a notice served upon him by the tenant by post or in any other manner, furnish to such tenant within one month of the receipt of such notice a statement giving full particulars of the amount of standard rent of the premises or part thereof let to such tenant and of the permitted increases.

(2) Any landlord who fails to furnish such statement or any landlord or his agent who intentionally furnishes a statement which is false in any material particular shall, on conviction, be punished with fine which may extend to one thousand rupees.

22. *Particulars to be furnished by tenant of tenancy sub-let or transferred before the Bombay Rents, Hotel and Lodging House Rates Control (Amendment) Ordinance, 1959*—(1) Every tenant who, before the commencement of the Bombay Rents, Hotel and Lodging House Rates Control (Amendment) Ordinance, 1959, has, without the consent of the landlord given in writing, sub-let the whole or any part of the premises let to him or assigned or transferred in any other manner his interest therein, and every sub-tenant to whom the premises are so sub-let or the assignment or transfer is so made, shall furnish to the landlord, within a month of the receipt of a notice served upon him by the landlord by post or in any other manner, a statement in writing signed by him giving full particulars of such sub-letting, assignment or transfer including the rent charged or paid by him.

(2) Any tenant or sub-tenant who fails to furnish such statement or intentionally furnishes a statement which is false in any material particular shall, on conviction, be punished with fine which may extend to one thousand rupees.

23. *Landlords duty to keep premises in good repair*.—(1) Notwithstanding anything contained in any law for the time being in force and in the absence of an agreement to the contrary by the tenant, every landlord shall be bound to keep the premises in good and tenantable repair.

(2) If the landlord neglects to make any repairs, which he is bound to make under sub-section (1), within a reasonable time after a notice is served upon him by post or in any other manner by a tenant or jointly by tenants interested in such repairs, such tenant or tenants, may themselves make the same and deduct the expenses of such repairs from the rent or otherwise recover them from the landlord :

Provided that where the repairs are jointly made by the tenants the amount to be deducted or recovered by each tenant shall bear the same proportion as the rent payable by him in respect of his premises bears to the total amount of the expenses incurred for such repairs :

Provided further that the amount so deducted or recoverable in any year shall not exceed one-fourth of the rent payable by the tenant for that year.

(3) For the purpose of calculating the expenses of the repairs made under sub-section (2), the accounts together with the vouchers maintained by the tenants shall be conclusive evidence of such expenditure and shall be binding on the landlord.

23-A. *Tenant entitled to put up radio or television aerial at his own cost*.—(1) Where a tenant for operating a radio or television set in his premises in any building desires to put up and maintain at his own cost a radio or television aerial on the terrace of the building in possession of the landlord, such tenant may apply in writing to the landlord for his consent to do so. Within thirty days from receipt of such application, the landlord shall inform the tenant in writing whether he gives his consent or not. If such consent is not given, the reasons for refusing it shall be stated in the reply. The landlord shall not without just or sufficient cause refuse to give his consent.

(2) Where the landlord fails to give any reply in time or refuses to give his consent, the tenant may make an application to the Court for necessary direction to the landlord. Upon such application, if the Court is satisfied, after giving the landlord a reasonable opportunity of being heard and making such inquiry as it thinks fit, that the landlord has without just or sufficient cause refused or is refusing to give his consent, the Court may by order direct the

landlord to give to the tenant all reasonable facilities to put up and maintain the required aerial, subject to such conditions (if any) including for payment of a reasonable compensation or licence fee to the landlord, as the Court may deem fit to impose. Where any such direction is given, for the purposes of any law for the time being in force, the landlord shall be deemed to have given his consent, and the tenant and the persons acting under his instructions shall not be liable to the landlord for trespass or damages for any action taken or anything done by him or them, from time to time, in accordance with such direction.

24. Landlord not to cut off or withhold essential supply or service.—(1) No landlord either himself or through any person acting or purporting to act on his behalf shall without just or sufficient cause cut off or withhold any essential supply or service enjoyed by the tenant in respect of the premises let to him.

(2) A tenant in occupation of the premises may, if the landlord has contravened the provisions of sub-section (1), make an application to the Court for a direction to restore such supply or service.

(3) If the Court on inquiry finds that the tenant has been in enjoyment of the essential supply or service and that it was cut off or withheld by the landlord, without just or sufficient cause, the Court shall make an order directing the landlord to restore such supply or service before a date to be specified in the order. Any landlord who fails to restore the supply or service before the date so specified shall for each day during which the default continues thereafter be liable upon a further direction by the Court to that effect to fine which may extend to one hundred rupees :

Provided that, pending the decision on the application made under sub-section (2), the Court may after hearing the landlord direct him to restore or to give the essential supply or service to the tenant, subject to such conditions, as the Court may think fit to impose.

(4) Any landlord, who contravenes the provisions of sub-section (1) shall, on conviction, be punishable with imprisonment for a term which may extend to three months or with fine or with both.

Explanation I.—In this section essential supply or service includes supply of water, electricity, lights in passages and on stair cases, lifts and conservancy or sanitary service.

Explanation II.—For the purposes of this section, withholding any essential supply or service shall include acts or omissions attributable to the landlord on account of which the essential supply or service is cut off by the local authority or any other competent authority.

25. Conversion of residential into non-residential premises prohibited.—No person shall use or permit to be used for non-residential purpose any premises, which on the date of the coming into operation of this Act were used for a residential purpose, without the previous permission in writing from the municipal corporation, municipal council or village panchayat within whose jurisdiction the premises are situate.

(2) Any person who contravenes the provisions of sub-section (1) shall, on conviction, be punishable with imprisonment for a term which may extend to three months or with fine or with both.

26. Giving receipt for any amount received compulsory.—(1) Every landlord shall give a written receipt for any amount at the time when such amount is received by him in respect of any premises in such form and in such manner as may be prescribed.

(2) Any landlord or person who fails to give a written receipt for any amount received by him in respect of any premises shall, on conviction, be punishable with fine which may extend to one hundred rupees.

27. *Recovery of rent according to British Calendar.*—Notwithstanding anything contained in any law for the time being in force or any contract, custom or local usage to the contrary, rent payable by the month or year or portion of a year shall be recovered according to the British Calendar.

28. *Jurisdiction of Courts.*—(1) Notwithstanding anything contained in any law and notwithstanding that by reason of the amount of the claim or for any other reason, the suit or proceeding would not, but for this provision, be within its jurisdiction,

(a) in Greater Bombay, the Court of Small Causes, Bombay,

(aa) in any area for which, a Court, of Small Causes is established under the Provincial Small Cause Courts Act, 1887, such Court and

(b) elsewhere, the Court of the Civil Judge (Junior Division) having jurisdiction in the area in which the premises are situate or, if there is no such Civil Judge, the Court of the Civil Judge (Senior Division) having ordinary jurisdiction,

shall have jurisdiction to entertain and try any suit or proceeding between a landlord and a tenant relating to the recovery of rent or possession of any premises to which any of the provisions of this Part apply or between a licensor and a licensee relating to the recovery of the licence fee or charge and to decide any application made under this Act and to deal with any claim or question arising out of this Act or any of its provisions and subject to the provisions of sub-section (2), no other court shall have jurisdiction to entertain any such suit, proceeding or application or to deal with such claim or question.

(2) (a) Notwithstanding anything contained in clause (aa) of sub-section (1), the District Court may at any stage withdraw any such suit, proceeding or application pending in a Court of Small Causes established for any area under the Provincial Small Cause Courts Act, 1887, and transfer the same for trial or disposal to the Court of the Civil Judge (Senior Division) having ordinary jurisdiction in such area.

(b) Where any suit, proceeding or application has been withdrawn under clause (a), the Court of the Civil Judge (Senior Division) which thereafter tries such suit, proceeding or application, as the case may be, may either re-try it or proceed from the stage at which it was withdrawn.

(c) The Court of the Civil Judge trying any suit, proceeding or application withdrawn under clause (a) from the Court of Small Causes, shall, for purposes of such suit, proceeding or application, as the case may be, deemed to be the Court of Small Causes.

Explanation.—In this section “proceeding” does not include an execution proceeding arising out of a decree passed before the coming into operation of this Act.

29. *Appeal.*—(1) Notwithstanding anything contained in any law, an appeal shall lie—

(a) in Greater Bombay, from a decree or order made by the Court of Small Causes, Bombay, exercising jurisdiction under section 28, to a bench of two judges of the said Court which shall not include the Judge who made such decree or order ;

(b) elsewhere, from a decree or order made by a Judge of the Court of Small Causes established under the Provincial Small Cause Courts Act, 1887, or by the Court of the Civil Judge deemed to be the Court of Small Causes under clause (c) of sub-section (2) of section 28 or by a Civil Judge exercising such jurisdiction, to the District Court :

Provided that no such appeal shall lie from—

(I) a decree or order made in any suit or proceeding in respect of which no appeal lies under the Code of Civil Procedure, 1908;

(II) a decree or order made in any suit or proceeding (other than a suit or proceeding relating to possession) in which the plaintiff seeks to recover rent or licence fee or charge for a licence in respect of any premises and the amount or value of the subject matter of which does not exceed—

(i) where such suit or proceeding is instituted in Greater Bombay Rs. 3,000; and

(ii) where such suit or proceeding is instituted elsewhere, the amount up to which the Judge or Court specified in clause (b) is invested with jurisdiction of a Court of Small Causes, under any law for the time being in force ;

(III) an order made upon an application for fixing the standard rent or licence fee or charge for a licence or for determining the permitted increases in respect of any premises except in a suit or proceeding in which an appeal lies ;

(IV) an order made upon an application by a tenant for a direction to restore any essential supply or service in respect of the premises let to him.

(1-A) Every appeal under sub-section (I) shall be made within thirty days from the date of the decree or order, as the case may be :

Provided that in computing the period of limitation prescribed by this sub-section the provisions contained in sections 4, 5 and 12 of the Indian Limitation Act, 1908, shall, so far as may be, apply.

(2) No further appeal shall lie against any decision in appeal under sub-section (I).

(3) Where no appeal lies under this section from a decree or order in any suit or proceeding in Greater Bombay the bench of two judges specified in clause (a) of sub-section (I) and elsewhere the District Court, may for the purpose of satisfying itself that the decree or order made was according to law, call for the case in which such decree or order was made and the bench or Court aforesaid or the District Judge or any Judge to whom the case may be referred by the District Judge, shall pass such order with respect thereto as it or he thinks fit.

29-A. *Saving of suits involving title.*—Nothing contained in section 28 or 29 shall be deemed to bar a party to a suit, proceeding or appeal mentioned therein in which a question of title to premises arises and is determined, from suing in a competent court to establish his title to such premises.

30. *Compensation in respect of proceeding which are not bona fide or are false, frivolous or vexatious.*—If the court finds that any suit, proceeding or application instituted or made before it is not instituted, or made *bona fide* or is false, frivolous or vexatious, the court may, after hearing the plaintiff or applicant and for reasons to be recorded, order that compensation, not exceeding one thousand rupees; be paid by such plaintiff or applicant to the defendant or opponent, as the case may be.

31. *Procedure of courts.*—The courts specified in sections 28 and 29 shall follow the prescribed procedure in trying and hearing suits, proceedings, applications and appeals and in executing orders made by them.

PART III

HOTELS AND LODGING HOUSES

32. *Appointment of Controller.*—The State Government may by notification in the *Official Gazette* appoint any person to be a Controller for any area for the purposes of this Part.

33. *Fixation of fair rates, percentage of accommodation and number of lodgers.*—(1) The Controller may fix a fair rate to be charged for board, lodging or other service provided in a hotel or lodging house at such amount, as having regard to the circumstances of the case, he deems just. The Controller may also fix the percentage of accommodation of daily and monthly lodgers, respectively, in hotel or lodging house.

(2) The Controller may fix a fair rate separately for—

(i) lodging with reference to the nature of the accommodation and the number of lodgers to be accommodated;

(ii) board, partial or full;

(iii) other service.

(3) The Controller may fix fair rates separately for daily and monthly lodgers.

(4) The Controller shall also fix the number of lodgers to be accommodated in each room or specified accommodation in the hotel or lodging house.

Explanation.—For the purposes of this Part, a lodger who agrees to reserve accommodation in a hotel or lodging house for a period of less than a month shall be deemed to be a daily lodger.

34. *Revision of fair rates, percentage of accommodation and number of lodgers.*—The Controller may, from time to time revise the fair rates, the percentage of accommodation or the number of lodgers fixed under section 33.

35. *Continuance of fair rates before coming into operation of this Part.*—Fair rates fixed under the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947, and which were in force immediately before the coming into operation of this Part shall be deemed to have been fixed under this Part, and the provisions of this Part shall apply in respect of such rates

36. *Notice of fair rate, percentage of accommodation and number of lodgers to be displayed.*—Where under section 33 or section 34 the Controller has fixed or revised the fair rate, the percentage of accommodation or the number of lodgers he shall direct the manager of the hotel or the owner of the lodging house, as the case may be, to display a notice of the fair rate, percentage of accommodation, the number of lodgers and all the provisions of this Act relating thereto in a conspicuous manner in the hotel or lodging house and also in the room or accommodation in respect of which the fair rate and the number of lodgers are fixed or revised.

37. *Charges not recoverable in excess of fair rate.*—Notwithstanding any agreement to the contrary, no manager of a hotel or owner of a lodging house shall charge any amount in excess of the fair rate.

(2) When the Controller has fixed the fair rate any agreement for the payment of any charges in excess of such fair rate shall be void in respect of such excess and shall be construed as if it were an agreement for payment of the said fair rate.

(3) Any sum paid by a lodger in excess of the fair rate shall be recoverable by him at any time within a period of six months from the date of payment from the manager of the hotel or the owner of the lodging house or his legal representative and may, without prejudice to any other remedy for recovery, be deducted by such lodger from any amount payable by him to such manager or owner.

38. *No ejectment ordinarily to be made if fair rate paid.*—No manager of a hotel or owner of a lodging house shall evict or refuse board or other service to a lodger so long as he pays the fair rate and observes and performs the other conditions of this agreement in so far as they are consistent, with the provisions of this Act :

Provided that where under section 33 or section 34 the Controller has fixed or revised the percentage of accommodation for daily and monthly lodgers, respectively, the manager of a hotel or owner of a lodging house may refuse accommodation to any daily or monthly lodger, as the case may be, if the accommodation in respect of such class of lodgers is fully occupied.

39. *When manager of a hotel or owner of lodging house may recover possession.*—Notwithstanding anything contained in this Act, a manager of a hotel or owner of a lodging house shall be entitled to recover possession of the accommodation provided by him on obtaining a certificate from the Controller certifying that.—

(a) the lodger has been guilty of conduct which is a nuisance or an annoyance to any adjoining or neighbouring lodger;

(b) the accommodation is reasonably and *bona fide* required by the owner of the hotel or lodging house, as the case may be, either for his own occupation or for the occupation of any person for whose benefit the accommodation is held, or for any other cause which may be deemed satisfactory by the Controller;

(bb) the lodger is habitually irregular or has made a default for three months in making payment of the charges for board, lodging or other service provided in the hotel or lodging house;

(c) the lodger has failed to vacate the accommodation on the termination of the period of the agreement in respect thereof:

Provided that before issuing a certificate under this clause the controller shall take into consideration the vacancies, if any, in the accommodation for daily and monthly lodgers, the percentage of which has been fixed, or revised under section 33 or section 34 and the circumstances under which the lodger did not vacate on the termination of the period of the agreement; or.

(d) the lodger has done any act which is inconsistent with the purpose for which the accommodation is provided to him or which is likely to affect adversely and substantially the owner's interest therein.

40. *Penalties.*—(1) If any manager of a hotel or owner of a lodging house either himself or through any person acting or purporting to act on his behalf or if any person acting or purporting to act on behalf of a manager of a hotel or owner of a lodging house receives any fine, premium or other like sum or deposit or any consideration other than the fair rate, in respect of the grant or continuance of accommodation in the hotel or lodging house, such manager, owner or person shall, on conviction, be punished with imprisonment for a term which may extend to six months and shall also be punished with fine which shall not be less than the amount of the fine, premium or sum or deposit or the value of the consideration received by him.

(2) Any manager of a hotel or owner of a lodging house who charges any amount in excess of the fair rate in contravention of section 37 shall, on conviction, be punishable with imprisonment which may extend to three months or with fine or with both.

(3) Any manager of a hotel or owner of a lodging house who accommodates lodgers or permits lodgers to be accommodated in a room or specified accommodation in excess of the number fixed by the Controller shall, on conviction, be punishable with fine which may extend to one thousand rupees.

(4) Any manager of a hotel or owner of a lodging house who fails to display notice in contravention of the Controller's direction, under section 36 shall, on conviction, be punishable with fine which may extend to five hundred rupees.

(5) Any manager of a hotel or owner of a lodging house, who evicts any lodger in contravention of the provisions of section 38 and without obtaining certificate from the Controller under section 39, shall, on conviction, be punished with imprisonment for a term which may extend to three months, or with fine or with both.

Explanation.—For the purposes of sub-section (1), receipt of charges in advance for more than one month shall be deemed to be a fine or premium or consideration.

41. *Provisions relating to inquiries by Controller.*—(1) No order under this Act shall be made by the Controller except after holding an inquiry.

(2) Every such inquiry shall be made summarily in the prescribed manner.

(3) For the purposes of holding an inquiry under sub-section (1) the Controller shall have the same powers as are vested in Civil Courts in respect of—

(a) proof of facts by affidavits,

(b) summoning and enforcing the attendance of any person and examining him on oath,

(c) compelling the production of documents, and

(d) issuing commissions for the examination of witnesses.

(4) The Controller may himself enter or authorize any person subordinate to him to enter upon any premises, hotel or lodging house or any part thereof to which the inquiry relates.

42. (1) An appeal shall lie from an order passed by the Controller under the provisions of this Part (including an order granting or refusing a certificate under section 39) to the Chief Judge, Small Causes Court in Greater Bombay and to the District Judge of the district in which the hotel or lodging house is situate, or such other judicial officer of not less than ten

years standing as the Chief Judge, Small Causes Court, Bombay or the District Judge may designate in this behalf.

(2) Every such appeal shall be made within fifteen days from the date of communication of the order passed by the Controller:

Provided that the appellate officer may entertain the appeal after the expiry of the said period of fifteen days, if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time but in no case the period shall exceed thirty days.

(3) Every appeal under this section shall be disposed of by the appellate officer as expeditiously as possible.

43. *Execution of order.*—An order made by the Controller or where an appeal is made an order passed on such appeal under the provisions of this Part shall be executed as if it is a decree of a Civil Court.

43-A. *Finality of the order.*—Every order made by the Controller or where an appeal is made an order passed on such appeal under the provisions of this Part shall not be called in question in any original suit, application or execution proceedings.

44. *Controller to be deemed public servant.*—A Controller appointed under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

45. *All proceedings before a Controller to be judicial proceedings.*—All proceedings before a Controller shall be deemed to be judicial proceedings for the purposes of sections 193 and 228 of the Indian Penal Code.

46. *Protection of action taken under this Act.*—No suit, prosecution or other legal proceeding shall lie against a Controller in respect of anything in good faith done or intended to be done under this Act.

PART IV

MISCELLANEOUS

47. *Certain offences to be cognizable.*—(1) Offences under sections 16, 17, 17 A, 17C, 18, 19, sub-section (4) of section 24, section 25 and sub-sections (1), (2) and (5) of section 40 shall be cognizable and shall not be triable by any Court inferior to that of a Metropolitan Magistrate or a Magistrate of the First Class.

(2) Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, it shall be lawful for a Magistrate trying offences under this Act, to pass sentences of fine or to award any punishment under this Act in excess of his powers.

48. *Offence by companies, etc.*—Where a person committing an offence under this Act is a company, or other body corporate, or an association of persons (whether incorporated or not), or a firm, every director, manager, secretary, agent or other officer or person

concerned with the management thereof, and every partner of the firm shall, unless he proves that the offence was committed without his knowledge or consent, be deemed to be guilty of such offence.

49. *Rules.*—(1) The State Government may, by notification in the *Official Gazette* and subject to the condition of previous publication, make rules for the purpose of giving effect to the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers such rules may provide for—

(a) the manner in which addition to the rent shall be made under sub-section (1) of section 10-D—

(i) the form and the manner in which a receipt is to be given under sub-section (1) of section 26;

(ii) *deleted*;

(iii) the procedure to be followed in trying or hearing suits, proceedings (including proceedings for execution of decrees and distress warrants), applications, appeals and execution of orders ;

(iv) the manner in which inquiries shall be made summarily under sub-section (2) of section 41;

(v) levy of court-fees in suits, proceedings and applications instituted before a Court or Controller ;

(vi) any other matter which has to be, or may be prescribed.

(3) Every rule made under this section shall be laid, as soon as may be, after it is made, before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall from the date of publication of a notification in the *Official Gazette* of such decision, have effect only in such modified form or be of no effect, as the case may be, so however that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

50. *Repeal and saving.*—The Bombay Rents, Hotel and Lodging House Rates Control Act, 1947, the Central Provinces and Berar Regulation of Letting of Accommodation Act, 1946 and the Hyderabad Houses (Rent, Eviction and Lease) Control Act, 1954, are hereby repealed :

Provided that, the repeal shall not affect the previous operation of any law so repealed and all applications, suits and other proceedings under any law so repealed pending at the commencement of this Act, before any Controller, Court, Tribunal or other officer or authority shall be continued and disposed of in accordance with the provisions of the said law, as if the said law had continued in force and this Act had not been passed :

Provided further that, the provisions for appeal under the said law shall continue in force in respect of applications, suits and other proceedings disposed of thereunder :

Provided also that, subject to the preceding proviso, anything done or any action taken (including any appointment made, notification, order or direction issued, rule framed,

certificate obtained or permission granted) by or under that law shall, in so far as it is not inconsistent with the provisions of this Act, continue in force unless and until superseded by anything done or any action taken under this Act.

51. *Removal of doubt as regards proceedings under Chapter VII of the Presidency Small Cause Courts Act, 1882.*—For the removal of doubt, it is hereby declared that, unless there is anything repugnant in the subject or context references to suits or proceedings in this Act shall include reference to proceedings under Chapter VII of the Presidency Small Cause Courts Act, 1882, and references to decrees in this Act shall include references to final orders in such proceedings.

SCHEDULE I

[See section 2 (2)]

The department should prepare the schedule indicating the places to which Part II of the Act would be applicable.

SCHEDULE II

[See section 2 (2)]

The department should prepare the schedule indicating the places to which Part III of the Act would be applicable.

MINUTE OF DISSENT BY SHRI M. P. LENTIN

The crying need of the day is houses and more houses. That alone can bring down the rents. The imbalance between supply and demand of accommodation can only be rectified through a massive building programme with the participation of public, private, corporate and cooperative sectors.

The private sector, as it has done for ages past, is capable of playing the most vital role in the field of housing; if only an atmosphere of confidence can be created. The various legislative measures from time to time impinging upon the rights and various restrictive measures under the Rent Control Act, in force since 1940, have scared away genuine investors from investing in properties.

The Rent Act Enquiry Committee has done well in mitigating the rigours of the present Rent Act by its various salutary recommendations. However, when it came to Chapter-XIV of the TAKE-OVER OF OLD BUILDINGS, the apple-cart has been overturned. This will create the largest single factor of providing disincentive to future constructions. Buildings are sought to be taken over right upto the year 1960 and handed over to the tenants to form cooperative societies or partnership apartments. By no means buildings constructed in 1940, 1950 or 1960 can be termed as old buildings. An investor will become wary before he invests his capital in a building in future because at any point of time his building may be taken over for an indiscriminate value before it has seen 20 or 30 years of life.

The greater drawback lies in the quantum of compensation offered to the owners of the residential buildings, intended to be taken over. To start with, buildings constructed up to 31st December 1920 are offered compensation at 60 times the net average monthly income ; between 1st January 1921 and 31st December 1930 at 70 times ; between 1st January 1931 and 31st December 1940 at 80 times ; between 1st January 1941 and 31st December 1950 at 100 times ; and between 1st January 1951 and 31st December 1960 at 125 times the net average monthly rental income. According to my calculation, these are throw-away prices offered to tenants for taking over the apartments in their respective occupation. The reasons are as under :—

(i) In the case of dilapidated buildings the Repairs and Reconstruction Board has determined the compensation payable to owners of properties at 100 times the net average monthly rent or 60 times the gross average monthly rent. It means the Government has capitalised the compensation to be paid to the owners at 12% for dilapidated buildings, fit only to be pulled down. At least the Committee should have maintained this level of compensation for the initial year of take-over, namely 1900 and then worked upwards. Even the Urban Land Ceiling Act, 1976 provides the same basis of compensation for the take-over of productive vacant land in excess of 500 sq. metres. In my humble opinion the initial pattern of compensation should have been maintained, assuming 1900 to be the base year.

(ii) Subsequent to 1900, for the purpose of take-over, the compensation should increase by capitalising at 12% for the year 1900, progressively down to 7% for the year 1960. The compensation payable to owners of properties would be in the following manner :—

1. Buildings upto 31st December 1900. 100 times the net average monthly rent. at 12% capitalisation.
2. Buildings upto 1st January 1901 to 31st December 1920. 110 times the net average monthly rent. at 11% capitalisation.

3. Buildings upto 1st January 1921 to 31st December 1930.	120 times the net average monthly rent.	at 10% capitalisation.
4. Buildings upto 1st January 1931 to 31st December 1940.	134 times the net average monthly rent.	at 9% capitalisation.
5. Buildings upto 1st January 1941 to 31st December 1950.	150 times the net average monthly rent.	at 8% capitalisation.
6. Buildings upto 1st January 1951 to 31st December 1960.	172 times the net average monthly rent.	at 7% capitalisation.

(iii) Many owners in the past have invested their all in buildings under the normal laws of the land. In several posh localities, like Marine Drive, Churchgate area, Pedder Road, Cumballa Hill, Malabar Hill, the rents are as low as Rs. 175 per month (average) for a floor area which may be 160 sq. metres or more. The affluent tenants occupying such flats will stand to benefit at the cost of landlords of such buildings.

(iv) A good number of buildings are mortgaged to financiers, companies or corporations like the L.I.C. at heavy rates of interest. Such owners will find it extremely difficult to repay their mortgaged amounts from the compensation offered to them in the report.

(v) Many properties have changed hands due to 2nd, 3rd or 4th sale. All such transactions have taken place at market values prevailing at the time of purchase after payment of stamp, registration, legal fees, brokerage etc. All such property owners who will be obliged to surrender their properties will face ruination.

(vi) There are buildings which are situated in unique locations. Then there are buildings which have special features of construction, quality of materials, costliness or special extra amenities. The scale of compensation offers or allows no such considerations.

(vii) Without meaning any disrespect to my colleagues on the Committee, I am constrained to say that no norms or any valid basis have been applied in determining the scale of ompensation. Undoubtedly it calls for expert advice and evaluation.

(viii) If the same investment had been made in fixed deposit, the investor would get back the full amount at the end of the term and in addition would have earned fixed interest at specified time without undergoing any troubles of collection, preparing any bills or maintaining his property in repairs as would be necessary in a property investment.

(ix) There are properties where full F.S.I. (Floor Space Index) has not been utilised. Some consideration should be allowed for such properties.

(x) If compensation of slab system is not workable, the owners may be paid on the basis of the value of properties shown for the purpose of Wealth Tax to the assessing authorities.

(xi) I am afraid there will be a spate of litigation because of sub-tenancies, leave and licensees and so forth. Money will be difficult to find and some sort of machinery will have to be set up to implement the take-over of thousands of buildings.

(xii) There is bound to be a crash in the housing activity as no prudent person will come forward to invest in property in spite of the incentives offered for new constructions.

In Chapter VI on RECOVERY OF POSSESSION the words appearing in the report on page 65 " (3), line 14 and in the Draft Bill for Unification of Rent Acts under Section 12 (3) on page 170, line 3, the words " as directed by the Court " should be deleted and substituted by the words " expended by the landlord." I had urged strongly before the honourable members that if one or more tenants remained in arrears of rent and permitted increase, the landlords found it very difficult to pay the municipal taxes and defray other expenses. Because of the lacuna in the present Rent Act some tenants habitually ran into arrears of rent, while property taxes, interest on mortgage amounts and payment to local bodies have to be paid in advance. If the payments of rents are withheld by tenants on an extensive scale, landlords are obliged to face the consequences of notices, distress warrants and at times even auctions of their properties instituted by the Municipal authorities. There would certainly be a wide gap between the actual cost that would be incurred by the landlord, from the one allowed by the Court. The full effect of the revised section would be defeated if the landlord is not to be paid the full costs incurred by him.

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