

HUNDRED AND EIGHTY-FIFTH REPORT

PUBLIC ACCOUNTS COMMITTEE (1983-84)

(SEVENTH LOK SABHA)

RECEIPTS OF UNION TERRITORY OF DELHI—STAMPS DUTIES AND REGISTRATION FEES—EVASION/ AVOIDANCE OF HIGHER RATES OF STAMP DUTY

MINISTRY OF HOME AFFAIRS

[Action Taken on 150th Report 7th Lok Sabha]



Presented in Lok Sabha on.....

Laid in Rajya Sabha on.....

LOK SABHA SECRETARIAT
NEW DELHI

February, 1984/Phalguna, 1905 (Saka)

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Corrigenda to Hundred and Eighty-Fifth Report of
the Public Accounts Committee (Seventh Lok Sabha)

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38	-	Foot note	<u>Add</u> "II" after I	
41	-	3	both way	both ways
41	-	6-7	in by	in. By
42	-	25	<u>Add</u> "of" after	"consideration"
43	-	15	<u>Add</u> coma after	"permissible."

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PUBLIC ACCOUNTS COMMITTEE

(1983-84)

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Shri Sunil Maitra

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1. Shri T. R. Krishnamachari—*Joint Secretary*
2. Shri H. S. Kohli—*Chief Financial Committee Officer*
3. Shri K. K. Sharma—*Senior Financial Committee Officer*

INTRODUCTION

I, the Chairman of Public Accounts Committee, as authorised by the Committee, do present on their behalf this Hundred and Eighty-fifth Report on action taken by Government on the recommendations of the Public Accounts Committee contained in their Hundred and Fiftieth Report (Seventh Lok Sabha) on Receipts of Union Territory of Delhi—Stamps Duties and Registration Fees Evasion/avoidance of higher rates of stamp duty.

2. In their 150th Report, the Committee had observed that the circumvention of the transfer restrictions imposed by the Delhi Lands (Restriction on Transfer) Act, 1972 and the consequential loss of stamp duty because of the restriction on transfers were fairly widespread. They had expressed distress at the indifferent attitude of the concerned authorities to the harassment caused to owners of land in having to engage in illegal transfers and at the fact that no attempt had been made so far to remedy the situation by amending the provisions of 1972 Act suitably. In this Report, the Committee have observed that even after a period of six months of the presentation of their Report, the question of amendment to the Law is still at the 'consideration' stage only. In the opinion of the Committee, this is symptomatic of the indifferent and callous attitude of the authorities towards a public problem demanding urgent attention with utmost priority. While expressing their severe displeasure over this, the Committee have desired that within a period of six months conclusive steps should be taken by Government to plug loopholes in the law in order to check transfer of land not legally permissible, administrative action taken to avoid harassment caused to people in genuine transfers as also measures taken to protect revenue.

3. In this Report, the Committee have also noted that in pursuance of their recommendation, the Ministry of Home Affairs have decided to set up a Task Force to look into the working of Land and Building Department of Delhi Administration. As the problems highlighted by the Committee are of urgent nature and their solution brooks no delay, the Committee have recommended that the Task Force should be appointed without any further loss of time with instructions to complete its task within a specific time-limit so that steps to streamline the Administration and also to ensure orderly growth of Delhi can be taken at the earliest.

(vi)

4. The Committee considered and adopted this Report at their sitting held on 13 February, 1984. Minutes of the sitting form Part II of the Report.

5. For facility of reference and convenience, the recommendations and observations of the Committee have been printed in thick type in the body of the Report, and have also been reproduced in a consolidated form in the Appendix to the Report.

6. The Committee place on record their appreciation of the assistance rendered to them in the matter by the Office of the Comptroller and Auditor General of India.

NEW DELHI ;

22 February, 1984

3 Phalguna, 1905 (S)

SUNIL MAITRA

Chairman,

Public Accounts Committee.

CHAPTER I

REPORT

1.1 This Report of the Committee deals with the action taken by Government on the recommendations/observations of the Committee contained in their Hundred and fiftieth Report (Seventh Lok Sabha) on paragraph 3.20 of the Report of the Comptroller and Auditor General of India for the year 1980-81, Union Government (Civil), Revenue Receipts, Volume I, Indirect Taxes relating to Receipts of Union Territory of Delhi—Stamps duties and registration fees—Evasion/avoidance of higher rates of stamp duty.

1.2 The 150th Report of the Committee was presented to Lok Sabha on 29 April, 1983 and contained 24 recommendations/observations. Action Taken Notes have been received in respect of all the recommendations/observations. The Action Taken Notes received from the Government have been broadly categorised as follows :—

- (i) *Recommendations and observations that have been accepted by Government :*
Sl. Nos. 1 to 6, 13 to 15, 17, 18 and 21 to 24.
- (ii) *Recommendations and observations which the Committee do not desire to pursue in the light of the replies received from Government :*
Sl. Nos. 7, 16, 19 and 20.
- (iii) *Recommendations and observations replies to which have not been accepted by the Committee and which require reiteration :*
Sl. Nos. 8 to 12
- (iv) *Recommendations and observations in respect of which Government have furnished interim replies :*

—Nil—

1.3 The Committee will now deal with the action taken by Government on some of their recommendations/observations.

Irregularities in land transfers in Delhi (S. Nos. 8, 11 and 12—Paras 1.93, 1.96 and 1.97)

1.4 In their 150th Report (Seventh Lok Sabha), the Committee had highlighted widespread circumvention of the transfer restrictions imposed by the Delhi Lands (Restrictions on Transfer) Act, 1972 and the consequential loss of stamp duty. The Report had revealed that in 134 cases, the owners of lands etc., instead of executing regular transfer deeds, had taken recourse to the execution of general powers of attorney in favour of the would-be purchasers of the immovable properties and authorising them to sell the properties, but without mentioning the sale price or the consideration to be received. On cross verification with the receipts registered simultaneously it was observed that a total sum of Rs. 51.13 lakhs was received by the executants of the powers of attorney in these 134 cases from close relatives and friends of the would-be purchasers but without mentioning the details of the properties or the considerations on the receipts. The Committee had noted that the Audit Reports for the years 1976-77 and 1978-79 had also revealed 48 and 561 similar cases respectively. On a perusal of the details of the total number of transfer deeds and instruments of powers of attorney registered in Delhi since 1972, the Committee had observed that, in the year 1973, i. e. after the introduction of the Delhi Lands (Restrictions on Transfer) Act, 1972, the total number of transfer deeds registered came down from 47,995 in 1972 to 30,486 whereas the total number of instruments of general powers of attorney registered increased from 8,398 in 1972 to 26,605. This trend was repeated in the subsequent year 1974 when the number of transfer deeds stood at 33,357 while the number of instruments of general powers of attorney registered went to 29,410. But for the short spell of two years in 1975 and 1976 when the total number of both, transfer deeds and instruments of powers of attorney, had come down, the total number of registrations of general powers of attorney had been showing an increasing trend *vis-a-vis* the total number of registrations.

1.5 According to the Committee, this clearly indicated that after the enactment of the Delhi Lands (Restrictions on Transfer) Act, 1972, people were increasingly resorting to transfer of property through the instruments of general powers of attorneys instead of executing regular transfer deeds. Further, the result of the test checks conducted by the organisation of the C & AG in respect of documents registered reinforced the Committee's conclusion that the circumvention of the transfer restrictions imposed by the Delhi Lands (Restriction on Transfer) Act, 1972 and the consequential loss of stamp duty because of the restrictions on transfers were fairly widespread.

1.6 The Ministry of Home Affairs had explained to the Committee that in the type of cases pointed out by Audit, the purchasers got no title to the property. The Committee had expressed surprise that the Delhi Administration

had not made any serious effort to give adequate publicity to this fact in order to check manipulation of gullible citizens by unscrupulous dealers in land. The Committee had found that as far back as 1975, Government were fully aware of the *modus operandi* adopted by people in order to circumvent the restrictions on transfer and, yet, no further administrative instructions were issued to registrars that they should look for evidence indicating the full and true particulars of the real transactions and question the simple receipts being advanced for registration alleging that they were really sale receipts relating to illegal sales in violation of the 1972 Act. The Committee had in this connection observed in para 1.93 of the Report :—

“.....In the view of the Committee the 1972 Act created a contradictory state of affairs whereby sale was prohibited. But such prohibited sale was indulged in. By denying registration to such sale and by going along with an artificial set of documents and registering them, the department was giving reality to fiction and losing stamp duty in the bargain by its own action of registering such artificial documents. Far from curbing illegal transfers which have not only made a mockery of the relevant provision made in the legislation of 1972, the blind legal view that was taken helped in promoting illegal transfers. It is not that insistence on higher stamp duty, would have curbed such illegal transfers. Law could not stop the urges to effect transfer. The substantial loss of stamp duty is only an unfortunate side-effect of the prohibition in the 1972 Act. The Committee cannot but express their distress at the indifferent attitude of the concerned authorities to the real harassment caused to owners of land in having to engage in illegal transfers and at the fact that no attempt was made to effect the right cure by amending the provisions in 1972 Act suitably. Also administratively more sympathetic reception to application of transfers under 1972 Act by the competent authorities alongside suitably advising the registrars to block fictitious transfers through the mediums of general powers of attorney were actions which were clearly warranted.”

1.7 The Committee had further observed in paras 1.96 and 1.97 :—

“What is all the more shocking is that a proposal was mooted as far back as in August 1976, to amend the Delhi Lands (Restrictions on Transfer) Act 1972 (and in such amendment lay right solution to the problem). The question of amendment has been shuttling between various departments of the Government of India for a period of about 7 years without any concrete result. An amendment proposed by the Ministry of Works and Housing in August 1976 was approved by the Executive Council of the Delhi Administration for being

placed before the Metropolitan Council. The Delhi Administration *vide* its letter dated 9 September 1977 finally suggested certain further amendments. However, the meeting of the officials of the various Ministries including Law called to discuss the issue was held only about 5 years later, on 10 May, 1982, after the irregularities had been highlighted in the Audit Paragraph under examination. According to the Ministry of Home Affairs during the interim period, 'the matter was followed up with the Ministry of Works and Housing, Government of India, constantly'. It is distressing to note that a vital issue involving substantial harassment to people (not to mention loss of revenue to the Government) was allowed to remain unresolved for such a long period of time. The Committee cannot but express their severe displeasure at this.

The Committee find that the Delhi Administration have now reconsidered the earlier amendment. But their revised amendment proposed on 24 September, 1982 in the light of the comments given by the Ministry of Works and Housing on the basis of their discussion held on 10 May, 1982 is some what ill advised. The proposed amendment seeks to deem transfer of land through execution of a power of attorney as a sale unless the person executing the power of attorney has obtained prior approval from the Competent Authority under the 1979 Act and fulfills the necessary requirements. The Committee cannot but observe that such a proposal striking at the very root of time established concepts underlying the Transfer of Property Act is a case of barking up the wrong tree, when the real mischief to be cured is in the 1972 Act."

1.8 In para 1.98 the Committee had also *inter-alia* noted :—

"During evidence, the Home Secretary admitted that there had been many clandestine transactions of land in Delhi. He was also forthright in observing that, 'some unscrupulous colonisers and even individuals have adopted clandestine methods for transfer of land'. Recalling his personal experience as Chief Secretary in Delhi, he stated that such practices had been prevailing in Delhi and the administrative efforts through warnings, cautions or directions to the sub-registrars did not work either because there was some collusion or some legal difficulties were pointed out by the Delhi Administration. He pertinently observed, "because of these malpractices and clandestine practices, public interest has suffered ; while the genuine seller is put to a lot of difficulties, the colonisers have taken advantage of it." According to him in order to check loss of revenue in the type of cases dealt with in the present Audit Paragraph, amendments in 1972 Act, Transfer of Property Act and Registration Act were very necessary to bring some kind of harmony and consonance".....

1.9 The Ministry of Home Affairs have in their action taken note dated 30 November, 1983 *inter alia* stated as under :—

“In pursuance of observations of the Public Accounts Committee, the Lands & Building Department of Delhi Administration have already moved for an amendment in the Delhi Land (Restrictions on Transfer) Act, 1972 in which it has been proposed that the Power of Attorney pertaining to transfer of property should also be brought under the provisions of Delhi Land (Restrictions on Transfer) Act, 1972. By this amendment such Power of Attorney which purports to transfer the property will not be registered by the Sub-Registrars. This amendment is under consideration of the Ministry of Works and Housing. It may be stated here that powers of Attorney which are registered in book No. IV as private documents do not create any rights in the immovable property in accordance with the legal provisions of the Registration Act, 1908. However, the Delhi Administration has been asked to examine in consultation with their Law Department if any further amendment can be made in the Registration and Stamp Acts in order to check the registration of such documents.

The Delhi Administration has stated that care has been taken to ensure that no harassment is caused to genuine transferees/transferees by providing for a competent authority to grant permission for transfer of property in genuine cases. In pursuance of the observations made by the P. A. C., the Delhi Administration has already moved the Ministry of Works and Housing for amending the Delhi Land (Restriction on Transfer) Act, 1972. The Ministry of Works and Housing has also confirmed that they are examining this matter for amending this Act.

The Administration has further stated that the delay in the acquisition does tantamount to harassment of the land owner and is not at all desirable. Because of this reason, a provision has already been made in the Land Acquisition (Amendment & Validation) Act, 1967 making it mandatory that the notification under section 6 of the Land Acquisition Act must be made within a period of 3 years from the date of the notification u/s 4. The Government is further considering to propose a time ceiling between the issue of notification u/s 4 and the final award. The Ministry of Rural Development who are seized of the problem introduced the Bill in Parliament, which among other things, lays down that awards u/s 11 ordinarily should be made within a period of three years from the date of notification u/s 4.

The relevant provisions of the Bill are reproduced below :—

6. In section 6 of the Principal Act—

(ii) published after the commencement of the Land Acquisition (Amendment) Act, 1982 shall be made after the expiry of one year from the date of publication of such notification ;

11 (1) The Collector shall make an award u/s 11 within a period of two years from the date of the publication of the declaration ;

Provided that the Collector may, with previous approval of the appropriate Government and for reasons to be recorded in writing, make his award after the expiry of the said period of two years.”

Loss of Revenue Due to Avoidance/Evasion of Higher Rates of Stamp Duty (S. Nos. 9 and 10 — Paras 1.94 and 1.95)

1.10 The cases pointed in the preceding paragraphs also involved loss of stamp duty. Under the Indian Registration Act, 1908 a power of attorney to sell immovable property for consideration is required to be registered. Under the Indian Stamp Act, 1899 (as applicable to the Union Territory of Delhi), a power of attorney to sell any immovable property is liable to stamp duty at the rate of 3 per cent of the amount of consideration. A general power of attorney, when given without consideration is chargeable with a fixed stamp duty of Rs. 10 only. The Act also lays down that the consideration and all other facts and circumstances affecting the chargeability of any instrument with duty or the amount of duty with which it is chargeable shall be fully and truly set forth therein. Failure to do so renders the executant or any person employed or concerned in or about the preparation of the instrument liable to a fine under the Act, which may extend upto Rs. 5,000. Dealing with the loss of revenue, the Committee in paragraphs 1.94 and 1.95 of their 150th Report (Seventh Lok Sabha) had observed :—

“During evidence, the representative of the Delhi Administration stated that in the 48 cases pointed out in the Audit Report in 1976-77, it was possible to link up the power of attorney with the receipt as both the documents had been executed by the same parties and the considerations had been received by the executor from the executant who have been given *inter alia* the power to sell the property. However, subsequently people become wiser. So, the

person who executes the power of attorney does not himself sign the receipt or issue it, it is done by his friend or relation". In the 561 cases pointed out in Audit Report for 1978-79 and 134 cases indicated in the present Audit Report the general power of attorney did not refer to any consideration though it authorised the attorney to sell immovable property. The receipt also did not refer to any transaction whatsoever between the executor of the general power of attorney and the attorney. It only acknowledged receipt of money by a near relation of the purchaser from the executant. No purpose whatsoever for which the money has been paid is indicated on the receipt. The Registration authorities are not competent to compel the executants to indicate the purpose for which the receipt was being executed. However, the Committee find that on 13 December 1982, the Chief Controlling Revenue Authority of the Delhi Administration referred a case to the Delhi High Court under the Advisory jurisdiction which lies with them under Section 57 (1) of the Indian Stamp Act 1899 seeking the opinion of the High Court on the question whether the General Power of Attorney and the Receipt in question can be clubbed and stamp duty charged under Article 48 (f) of Schedule 1—A of the Indian Stamp Act and also whether it would make any difference if such General Power of Attorney and Receipt indicate that the consideration mentioned in a Separate receipt flows directly from the power of attorney. The Committee are surprised that the reference seeking advisory opinion does not make any reference to get confirmation of the inherent power of registrar to controvert the plea of the executant, when *prima facie* evidence is available with him or can easily be collected by him that executant has not set forth the real transaction fully and truly and charge the correct amount of stamp duty.

The real issue for reference to the High Court, is not merely whether duty would be chargeable under Article 48 (f) of Schedule 1—A in such cases but how i.e. whether it is open to the registrar to so confront the executant with *prima facie* evidence that the real transaction is not being fully and truly set forth in the document sought to be registered and that the simple money receipt in fact does not give the full and true facts relating to a real sale.

The Committee recommend that such a supplementary reference be made to the High Court accordingly (to be made part of the original reference). Considering the fact that the audit objections in respect of 561 cases were pointed out to the department as far back as in October 1977, the Committee find no justification whatsoever for the delay on the part of the registrars of the Delhi Administration

in calling for full facts from executants on such cases after October 1977. This is indicative of the indifferent and callous attitude of the authorities towards a situation which involved substantial loss of stamp duties in addition to manipulation of gullible citizens by unscrupulous dealers in land.'

1.11 The Ministry of Home affairs have in their action taken note dated 30 November, 1983 stated as under :—

“In view of the observations of the P.A.C. the Delhi Administration has intimated that the Government Counsel through whom a reference has been made in the High Court of Delhi has again been asked to make supplementary/fresh reference in the High Court of Delhi.”

1.12 In their earlier Report, the Committee had drawn attention to the widespread circumventions of the transfer restrictions imposed by the Delhi Lands (Restrictions on Transfer) Act, 1972 and the consequential loss of stamp duty. The Committee had observed that after the enactment of the Delhi Lands (Restrictions on Transfer) Act, 1972 people were increasingly resorting to transfer of property through the instruments of general powers of attorney instead of executing regular transfer deeds. While a general power of attorney, when given without consideration, was chargeable with a fixed stamp duty of Rs. 10 only, a power of attorney to sell any immovable property was liable to stamp duty at the rate of three per cent of the amount of consideration. From the cases reported by Audit the Committee had observed that the owners of land etc. had taken recourse to execution of general powers of attorney in favour of the would-be purchasers and authorising them to sell the properties, but without mentioning the sale price or the consideration to be received. On cross verification with the Receipts simultaneously registered, it was, however, found that the executants of the powers of attorney had received money from close relatives and friends of the would-be purchasers, but, without mentioning the details of the properties, or the fact of the consideration having passed both ways on the receipts. In the view of the Committee, although the 1972 Act created a state of affairs whereby sale was prohibited, such prohibited sale was indulged in by denying registration to such sale and by going along with an artificial set of documents and registering them, the department was giving reality to fiction and losing stamp duty in the bargain by its own action of registering such artificial documents. The Committee had observed, 'Far from curbing illegal transfers, which have not only made a mockery of the relevant provision made in the legislation of 1972, the blind legal view that was taken helped in promoting illegal transfers. It is not that insistence on higher stamp duty would have curbed such illegal transfers. Law could not stop the urges to effect the transfers. The substantial loss of stamp duty is only an unfortunate side effect of the prohibition in 1972 Act.' While expressing their distress at the indifferent attitude of the concerned authorities to the real harassment caused to

owners of land in having to engage in illegal transfers, the Committee had observed that as far back as 1975, Government were fully aware of the *modus operandi* adopted by people in circumventing the transfer restrictions, and yet no attempt was made to effect the right cure by amending the provision in 1972 Act suitably. Also, the Committee had further observed that, administratively more sympathetic reception to applications of transfer under the 1972 Act by the competent authorities alongside suitably advising the registrars to block fictitious transfers through the medium of general powers of attorney were actions which were clearly warranted.

1.13 The Committee had further noted that a proposal mooted as far back as in August, 1976 to amend the Delhi Lands (Restrictions on Transfer) Act, 1972 had been shutting between various departments of the Government of India for a period of 7 years without any concrete result. It was only after the irregularities had been highlighted in the Audit Paragraph that the authorities took further action. The Committee had noted that the Delhi Administration had proposed a revised amendment on 24 September, 1982 seeking to deem transfer of land through execution of a power of attorney as a sale unless the person executing the power of attorney had obtained prior approval from the competent authority under the 1972 Act and fulfilled the necessary requirements. The Committee had observed that such a proposal striking at the very root of time-established concepts underlying the Transfer of Property Act was a case of barking up the wrong tree, when the real mischief to be cured was in the 1972 Act.

1.14 The Ministry of Home Affairs have in their action taken note *inter alia* stated that the Delhi Administration have already moved for an amendment in the Delhi Lands (Restrictions on Transfer) Act, 1972 in which it has been proposed that the power of attorney pertaining to transfer of property should also be brought under the provisions of the Delhi Land (Restrictions on Transfer) Act, 1972. By this amendment which is under the consideration of the Ministry of works and Housing, such powers of attorney which purport to transfer the property will not be registered by the sub-registrars. According to the Ministry, powers of attorney do not create any rights in the immovable property in accordance with the legal provisions of the Registration Act, 1908. The Ministry have also stated that the Delhi Administration has been asked to examine in consultation with their Law Department if any further amendment can be made in the Registration and Stamp Acts in order to check the registration of such documents.

1.15 The Committee are greatly distressed to note that even after a period of six months of the presentation of the Committee's Report, the matter is still at the 'consideration' stage. All that the Ministry of Home Affairs have done is to repeat their earlier statements already made to the Committee. The action taken note is silent on the action taken by the Ministry, if any, on the Committee's proposals for amendment of the 1972 Act in the light of the observations made by

the Committee. The Committee are constrained to observe that this is symptomatic of the indifferent and callous attitude of the authorities towards a public problem demanding urgent attention with utmost priority. They cannot but express their severe displeasure at this. The Committee would like to be informed of the conclusive steps taken by Government to plug loopholes in the law in order to check transfers of land not legally permissible administrative action taken to avoid harassment caused to people in genuine transfers and the results thereof as also measures taken to protect revenue, within a period of six months.

1.16 In their earlier Report, the Committee had also observed that the Delhi Administration had on 13 December, 1982 sought the opinion of the Delhi High Court whether the General Power of Attorney and the Receipt registered separately in the type of cases dealt with in the Audit Paragraph can be clubbed and stamp duty charged and also whether it would make any difference if such General Power of Attorney and Receipt indicate that the consideration mentioned in a separate receipt flows directly from the power of attorney. The Committee had pointed out that the registrars were empowered to take recourse to the penal provisions of the Indian Stamp Act, 1899 against the executants on the ground that the non-transfer documents registered did not set out the full and true facts. The real issue for reference to the High Court was, therefore, not merely whether duty would be chargeable but also whether it was not open to the registrar to controvert the plea of the executant when *prima facie* evidence was available with him or could easily be collected by him that the executant has not set forth the real transaction fully and truly and charge the correct amount of stamp duty. The Committee had desired that such a supplementary reference should also be made to the High Court. They had also pointed out that the Audit objections in respect of 561 such cases were brought to the notice of the department as far back as in October, 1977 and there was no justification whatsoever for the delay on the part of the Registrars of the Delhi Administration in calling for full facts from the executants on such cases after October, 1977. The Ministry of Home Affairs in their action taken note have stated that in pursuance of the recommendation of the Committee the Delhi Administration have now requested the Government Counsel, through whom a reference has been made, to make a supplementary/fresh reference to the High Court of Delhi on the point whether it was not open to the Registrar to controvert the plea of the executant when *prima facie* evidence was available with him that the executant had not set forth the real transaction fully and truly. However, the action taken note is silent on the point whether any administrative instructions have been issued to the Registrars in regard to calling for full facts from the executants and the impact of such instructions. The Committee feel that though the Administration have sought confirmation of their inherent power to collect stamp duty under the law, it should not have precluded them from directing the registrars to call for full facts from the executants in such cases and act upon accordingly in order to protect revenue as also to check illegal transfers. The Committee would like to be informed of the number of cases wherein the registrars had initiated action on this score after the

presentation of the Report of the Committee. They would also like to be apprised of the opinion given by the High Court on the points referred to them.

*Need for streamlining land acquisition and utilisation procedures in Delhi
(S. Nos. 18, 21 and 24—Paras 1.103, 1.106 and 1.109)*

1.17 Emphasising the need for revamping and streamlining the working of the Land and Building Department of the Delhi Administration in the light of the shortcomings observed in land acquisition and utilisation in Delhi, the Committee in paragraph 1.103 of their 150th Report (Seventh Lok Sabha) had recommended :—

“The Committee are surprised to note in this connection that the Delhi Administration does not maintain any record of utilisation of land after the same has been acquired and possession handed over to the Department/organisation concerned. This is an appalling situation. The Committee consider that the working of the Land and Building Department of the Delhi Administration needs to be thoroughly revamped and streamlined for the administration to ensure orderly growth of the city. The Committee would urge the Ministry of Home Affairs to set up a Task Force to go thoroughly into the working of the Department with a view to taking necessary remedial measures. The Committee would like to be apprised of the action taken in this regard within six months.”

1.18 In their action taken note dated 30 November, 1983, the Ministry of Home Affairs have stated :—

“The recommendation of the Committee has been accepted and the Delhi Administration is being instructed to set up a Task Force.

1.19 Commenting on the implementation of the Urban Land (Ceiling and Regulation) Act, 1976 in the Union Territory of Delhi, the Committee in para 1.106 of their 150th Report (Seventh Lok Sabha) had recommended :—

“The Committee note that the Urban Land (Ceiling and Regulation) Act, 1976 is administered in Delhi by the Ministry of Works and Housing. The Committee were informed that no cases of circumvention of the Urban Land Ceiling Act by transfer through execution of power of attorney had come to the notice of Delhi Administration. As regards implementation of the Act, the Committee were informed that as on 31 December 1982, 18.95 lakh sq. metres of vacant land in excess of the ceiling limit has been determined. Out of this, notifications for acquisition of vacant lands have been issued in respect of as few as 2.34 lakhs sq. mts. of lands. Even out of these, further action had been stayed by the Court in respect of 2.12 lakh sq. mts

of land. The total area of land acquired/disposed of is nil. No surprise, the Act has had hardly any impact on land prices. The Committee recommends that the Task Force recommended above should also look into the reasons for the tardy implementation of the Act which again is the responsibility of the Land and Building Department.”

1.20 The Ministry of Home Affairs have in their action taken note dated 30 November, 1983 stated as under :—

“The question of Task Force being entrusted with this work could be considered along with the proposals under consideration.”

1.21 Referring to the multiplicity of authorities in the administration of land acquisition and utilisation in Delhi, the Committee in para 1.109 of their 150th Report (Seventh Lok Sabha) had recommended :—

“The Committee find that the role of Delhi Administration in the development of Delhi is unenviable. While the Development Authority works out the schemes, the role of Administration is confined only to the issue of land acquisition notices. The DDA does not function under the Delhi Administration, but under the Ministry of Works and Housing. The result is that the Delhi Administration is not in a position to satisfy itself while issuing acquisition notices that the land is actually required for the development of Delhi. Similarly, after the acquisition of land, the Administration is not aware if the land has been actually utilised or not. In this connection the Committee endorse the view expressed by the Home Secretary that ‘Delhi needs intensive and integrated administration instead of parallel authorities which result in wastefulness and also harassment to the citizens.’² As the Ministry of Home Affairs is itself finally responsible for the administration of the Capital City, the Committee expect that concrete steps would be taken without loss of time to provide a unified and integrated set up for the metropolis to fulfil the long cherished dream of the common man who has to run from pillar to post for getting odd jobs done for him. The Committee would be interested in knowing the action proposed to be taken by the Ministry of Home Affairs on this score.”

1.22 In their note dated 30 November, 1983 indicating the action taken on the above recommendation the Ministry of Home Affairs have stated :—

“The question of having an integrated set up for land acquisition and land utilisation, will be gone into by the Task Force which is proposed to be set up in pursuance of the recommendation as contained in para 1.103.”

1.23 In their earlier Report, the Committee had drawn attention to the various irregularities/shortcomings in land acquisition and utilisation procedures in Delhi. The Committee had *inter alia* pointed out that no vacant land had been acquired/disposed of in Delhi under the Urban Land (Ceiling and Regulation) Act, 1976. In this connection, the Committee had expressed the view that the working of the Land and Building Department of the Delhi Administration needed to be thoroughly revamped and streamlined in order to ensure orderly growth of Delhi. They had, therefore, recommended that the Ministry of Home Affairs should set up a Task Force to go thoroughly into the working of the Land and Building Department including the tardy implementation of the Urban Land (Ceiling and Regulation) Act. Further, while commenting on the multiplicity of authorities in Delhi in the land acquisition and utilisation procedures, the Committee had endorsed the view expressed by the Home Secretary that "Delhi needs intensive and integrated Administration, instead of parallel authorities which result in wastefulness and also harassment to citizens." The Committee had desired that as the final authority responsible for the administration of the Capital City, the Ministry of Home Affairs should take concrete steps for providing a unified and integrated set-up for the metropolis.

1.24 The Committee note that in pursuance of their recommendation, the Ministry of Home Affairs have decided to set up a Task Force to look into the working of Land and Building Department of Delhi Administration. According to the Ministry, the tardy implementation of the Urban Land (Ceiling and Regulation) Act, 1976 and also the question of having an integrated set-up for land acquisition and land utilisation will be gone into by the Task Force. As the problems highlighted by the Committee are of urgent nature and their solution brooks no delay, the Committee recommend that the Task Force should be appointed without any further loss of time with instructions to complete its task within a specific time-limit so that steps to streamline the Administration and also to ensure orderly growth of Delhi can be taken at the earliest. They would like to be informed of the conclusive action taken in this regard.

CHAPTER II

RECOMMENDATIONS OR OBSERVATIONS THAT HAVE BEEN ACCEPTED BY GOVERNMENT

Recommendation

Under the Delhi Lands (Restriction on Transfer) Act, 1972, no person shall, except with the specific permission in writing of the competent authority, transfer or purport to transfer by sale, mortgage, gift, lease or otherwise, any land or part thereof situated in the Union Territory of Delhi which is proposed to be acquired for public purpose under the Land Acquisition Act, 1894. The Act also prohibits registration of any document of transfer by sale, etc. of such land under the Indian Registration Act, 1908 unless the transfer or produces before the Registering Officer, permission in writing of the competent authority for such transfer.

[S. No. 1 Appendix I Para 1.86 of 150th Report of Public Accounts Committee (Seventh Lok Sabha)]

Action Taken

No comments as it is a statement of fact based on the provisions of the Act.

[Ministry of Home Affairs O. M. No. U. 16016/2/83—Delhi Dated : 30
November, 83.]

Recommendation

Under the Indian Registration Act, 1908 a Power of attorney to sell immovable property for consideration is required to be registered. Under the Indian Stamp Act, 1899 (as applicable to the Union Territory of Delhi), a Power of attorney to sell any immovable property is liable to stamp duty at the rate of 3 per cent of the amount of consideration. A general power of attorney, when given without consideration is chargeable with a fixed stamp duty of Rs. 10 only. The Act also lays down that the consideration and all other facts and circumstances affecting the chargeability of any instrument with duty or the amount of duty with it is chargeable, shall be fully and truly

set forth therein. Failure to do so, renders the executant or any person employed or concerned in or about the preparation of the instrument, liable to a fine under the Act, which may extend upto Rs. Rs. 5,000/-.

[S. No. 2 Appendix I Para 1.87 of 150th Report of Public Accounts Committee (Seventh Lok Sabha)]

Action Taken

No comments as it is a statement of fact based on the provisions of the Act.

[Ministry of Home Affairs O. M. No. U. 16016/2/83—Delhi Dated : 30 November, 83.]

Recommendation

The Committee find that a test check of the documents registered in four sub-registries in Delhi during the year 1978-79 and 1979-80 by Audit had revealed that in 134 cases, the owners of lands etc. instead of executing regular transfer deeds, had taken recourse to the execution of general power of attorney in favour of the would be purchasers of the immovable properties and authorising them to sell the properties, but without mentioning the sale price or the consideration to be received. On cross verification with the receipts registered simultaneously it was observed by Audit that a total sum of Rs. 51.13 lakhs was received by the executants of the powers of attorney in these 134 cases from close relatives and friend of the would be purchasers but without mentioning the details of the properties or the fact, of the amount being the consideration, on the receipts. The Committee note that the Audit Report for the year 1978-79 had revealed 561 similar cases of execution of power of attorney during the year 1972-1973 to 1977-78 involving a total consideration of Rs. 99.54 lakhs. The Audit Report for the year 1976-77 also dealt with 48 cases of similar circumvention of transfer restrictions by executing general power of attorney and consequential loss of stamp duties.

[S. No. 3 Annexure I para 1.88 of the 150th Report of Public Accounts Committee (Seventh Lok Sabha)]

Action Taken

In pursuance of the observations of the Public Accounts Committee, the Land & Building Department of Delhi Administration have already moved for an amendment in the Delhi Land (Restrictions on Transfer) Act, 1972 in which it has been proposed that the Power of Attorney pertaining to transfer of property should also be brought under the provisions of Delhi Land (Restrictions on Transfer) Act, 1972. By this amendment such Power of Attorney which purport to transfer the property will not be registered by the Sub-Registrars.

This amendment is under consideration of the Ministry of Works & Housing. It may be stated here that powers of Attorney which are registered in book No. IV as private documents do not create any rights in the immoveable property in accordance with the legal provisions of the Registration Act, 1908. However, the Delhi Administration has been asked to examine in consultation with their Law Department if any further amendment can be made in the Registration and Stamp Acts in order to check the registration of such documents.

[Ministry of Home Affairs O. M. No. U. 16016/2/83—Delhi Dated 30 November, 1983.]

Recommendation

The details of the total number of transfer deeds and powers of attorney registered in Delhi since 1972 furnished by the Ministry of Home Affairs, revealed that in the year 1973, *i.e.* after the introduction of the Delhi Lands (Restriction on Transfer) Act, 1972, the total number of transfer deeds registered came down from 47,995 in 1972 to 30,486 whereas the total number of General Power of Attorney registered increased from 8,398 in 1972 to 26,605. This trend was repeated in the subsequent year 1974 when the number of transfer deeds stood at 33,357 while the number of general powers of attorney registered went up 29,410. But for the short spell of two years in 1975 and 1976 when the total number of both, transfer deeds and power of attorneys had come down, the total number of registrations of General Powers of Attorneys had been showing an increasing trend *vis-a-vis* the total number of registrations. In view of the Committee this clearly indicates that after the enactment of the Delhi Lands (Restriction on Transfer, Act, 1972, people are increasingly resorting to transfer of property through the instruments of general power of attorney instead of executing regular transfer deeds. Further, the result of the test checks conducted by the organisation of the C & Ar. G. in respect of documents registered reinforce the Committee's conclusion that the circumvention of the transfer restrictions imposed by the Delhi Lands (Restriction on Transfer) Act, 1972 and the consequential loss of stamp duty because of the restriction on transfers are fairly widespread.

[S. No. 4 Annexure I para 1.89 of 150th Report of Public Accounts Committee (Seventh Lok Sabha)]

Action Taken

In pursuance of the observations of the Public Accounts Committee, the Land & Building Department of Delhi Administration have already moved for an amendment in the Delhi Land (Restrictions on Transfer) Act, 1972 in which it has been proposed that the Power of Attorney pertaining to transfer of property should also be brought under the provisions of Delhi Land (Restrictions

on Transfer) Act, 1972. By this amendment such Power of Attorney which purport to transfer the property will not be registered by the Sub-Registrars. This amendment is under consideration of the Ministry of Works & Housing. It may be stated here that powers of Attorney which are registered in book No. IV as private documents do not create any rights in the immoveable property in accordance with the legal provisions of the Registration Act, 1908. However, the Delhi Administration has been asked to examine in consultation with their Law Department if any further amendment can be made in the Registration and Stamp Acts in order to check the registration of such documents.

[Ministry of Home Affairs O. M. No. U. 16016/2/83-Delhi Dated 30 November, 1983.]

Recommendation

The Committee note that the following modus-operandi was generally adopted, in the cases reported in the Audit Paragraph in order to circumvent the restrictions against transfer of immoveable properties which led also to consequential loss of stamp duty :

- (i) the would be Vendor (seller) executes an irrevocable general power of attorney in favour of the vendee without mentioning the fact of sale or the consideration received, because transfers are prohibited.
- (ii) the receipt for an amount as consideration for sale is from the friends or relations of the would be purchaser (this is received sometimes before the sub-registrar) but without mentioning the details of property or the purpose of the payment on the receipt.
- (iii) the would be Vendor and Vendee reportedly execute an agreement to sell which is not produced before the Sub-Registrar for registration and no mention of this agreement to sell is made either in the power of attorney or in the receipt; the agreement is however reportedly registered in some cases separately by the registrar.
- (iv) in addition a 'will is also executed by the would be vendor in favour of the would be vendee by which the former bequeaths his property in favour of the latter after his death.

[S. No. 5 Annexure I Para 1.90 of 150th Report of Public Accounts Committee (Seventh Lok Sabha)]

Action Taken

The Delhi Administration has intimated that in pursuance of the observations of the Public Accounts Committee, the Administration would examine the

Registration Act & the Indian Stamp Act in consultation with their Law Department with a view to preventing circumvention of the restrictions on the transfer of immoveable properties by making suitable amendments in the existing Acts.

[Ministry of Home Affairs O. M. No. U. 16016/2/83-Delhi Dated 30 November, 1983].

Recommendation

The Ministry of Home Affairs have explained that the General Power of Attorney, the Receipt, the Agreement to sell and the will do not confer any rights on the would be vendee. There is no sale or transfer of title effected by the above in modus operandi. According to the Ministry, a Power of Attorney only empowers the holder of the power to act on behalf of the executant. The receipt without reference to property gives no title. Agreements to sell gives no title and any will can be revoked at any time and has no effect till after death of the testator provided it has not been revoked before the testator's death. Registration of will does not protect it from being revoked by testator at any time before his death. In the type of cases mentioned in the Audit Paragraph, no title to the property passes. The Committee are surprised to note that the Delhi Administration has not any serious effect to give adequate publicity to this fact. The explanation of the Ministry that a public notice was displayed outside the offices of sub-Registries in Delhi, which merely stated "a general Power of Attorney, authorising a person to sell land/property belonging to the Principal, even if it is for a consideration does not confer any property rights on the person so authorised" was certainly not adequate. Keeping in view the large number of such transactions and the astronomical rise in the prices of land over the years and the racketeering in purchase and sale of land in Delhi by unscrupulous colonisers, the Committee are of the view that notices of such vital public importance ought to have been given wider and more elaborate publicity and repeated at frequent intervals.

[S. No. 6 Annexure I Para 1.91 of 150th Report of Public Accounts Committee (Seventh Lok Sabha)]

Action Taken

In addition to the notice displayed before the offices of Sub-Registrars about the consequences of GPA the registering authorities also inform the executants of the documents that GPA receipt etc. do not confer any right and such documents should not be registered. But some people despite that insist that the documents should be registered and as per law registration cannot be refused, Sub-Registrars have to register these documents. However, as desired wider and more elaborate publicity will be given at frequent intervals.

In the light of the observations made by the P. A. C., the Delhi Administration are also examining the Registration Act and the Indian Stamp Act in

consultation with their Law Department with a view to preventing circumvention of the restrictions on the transfer of immoveable properties by making suitable amendments in the existing Acts.

[Ministry of Home Affairs O. M. No. U. 16016/2/83-Delhi Dated 30
November, 1983.]

Recommendation

During the evidence, the Home Secretary admitted that there had been many clandestine transactions of land in Delhi. He was also forthright in observing that "some unscrupulous colonisers and even individuals have adopted clandestine methods for transfer of land". Recalling his personal experience as Chief Secretary in Delhi, he stated that such practices had been prevailing in Delhi and the administrative efforts through warnings cautions or directions to the sub-registrars did not work either because there was some collusion or some legal difficulties were pointed out by the Delhi Administration. He pertinently observed."..... because of these malpractices and clandestine practices, public interest has suffered; while the genuine seller is put to a lot of difficulties, the colonisers have taken advantage of it". According to him in order to check loss of revenue in the type of cases dealt with in the present Audit Paragraph, amendments in 1972 Act, Transfer of Property Act and Registration Act were very necessary to bring some kind of harmony and consonance. As stated earlier, under the Delhi Lands (Restriction on Transfer) Act, 1972 restriction on transfer etc. are imposed on such land situated in the Union Territory of Delhi as are proposed to be acquired under the Land Acquisition Act, 1894. According to the present system of acquisition of land under the Land Acquisition Act, 1894, whenever it appears to the Government that land in any locality is needed or likely to be needed, a notification to that effect is issued under Section 4 of that Act. When the Government is satisfied that under Section 4 is required for a public purpose, a further notification is issued under Section 6 of the Land Acquisition Act, 1894. In other words, Section 4 notification is a proposal for acquisition whereas Section 6 notification is the declaration that the land is required for public purpose. Prior to 1967, there was no time limit for notifying the land under Section 6 after it was frozen under Section 4 of the Land Acquisition Act, 1894. By an amendment of the Law in 1967 it has been provided that if notification under Section 6 is not issued within a period of 3 years from the date of freezing the land by notification under Section 4, the latter notification lapses. The Delhi Lands (Restriction on Transfer) Act, 1972 imposes restriction on transfer of such lands only which are notified for acquisition under Section 6 of the Land Acquisition Act and not under Section 4.

[S. No. 13 Annexure I Para 1.98 of 150th Report of Public Accounts
Committee (Seventh Lok Sabha)]

Action Taken

No comments as it is statement of fact based on the provisions of the Act.

[Ministry of Home Affairs O. M. No. U. 16016/2/83-Delhi/Dated 30 November, 83.]

Recommendation

It is no secret that there has been widespread corruption and large scale racketeering in land in Delhi. Instances have come to notice where owners whose lands were notified under Section 4 were approached by anti-social elements and unscrupulous colonisers and told that their lands were going to be acquired. The poor land owners were induced to part with their land at throw away prices. Such lands were then sold by these anti-social elements at very exorbitant prices. During evidence, the Chief Secretary, Delhi Administration admitted that such cases had come to notice. The Ministry of Home Affairs have stated that all vacant lands required for implementation of Master Plan of Delhi were notified under Section 4 during the years 1957 to 1961. Such lands (about 23,000 acres) have also been notified under Section 6. During 1980-81, 16,455 acres lying outside the urbanizable limits of Master Plan of Delhi were notified under Section 6, however, Courts have stayed further proceeding in respect of 15,405 acres.

[S. No. 14, Annexure—I Para 199 of 150th Report of Public Accounts Committee (Seventh Lok Sabha)]

Action Taken

The thrust of the observations made by the Committee is that the delay in issuing notification under section 6 of the Land Acquisition Act, 1894 in respect of the lands which already stand notified under section 4 of the Act, has been a source of exploitation of the poor land owners by the unscrupulous colonisers and land-racketeers. The Administration is ensuring that notifications under section 6 in respect of the lands already notified under section 4 are issued speedily except in cases where courts have stayed further proceedings.

[Ministry of Home Affairs, O. M. No. U. 16016/2/83-Delhi/Dated 30 November, 1983.]

Recommendation

The Committee are constrained to observe that it was the responsibility of the the Delhi Administration to educate the owners of land particularly the poor cultivators, as to the correct and precise implications of the notification under Section 4 so as to protect them from falling a prey to the unscrupulous coloni-

sers and colluding officials. The Committee are pained to note that the representatives of the Delhi Administration sought to undermine the necessity of giving such wide publicity by stating that the cultivators in Delhi are "quite awake" and "follow each and every notification". They recommend that in respect of lands not notified under Section 6 of the Land Acquisition Act, 1894 and in respect of which a notification has been issued only under Section 4 and that notification has lapsed publicity be given to the lapsing and the owners of such lands be advised of the lapse of notification immediately. Wide publicity should be given through advertisement in newspaper and also by endorsing such notices to the gram panchayats and other local authorities about transferability of lands where only Section 4 notification have issued so that the owners are not exploited by anti-social elements in and outside the Administration, where Section 4 notifications have not lapsed but Section 6 notification has not issued, the Committee recommend that within one year, such land as is required for public utility purpose under the approved development plan alone be notified under Section 6 for acquisition and acquired within one year and all other such lands be wholly denotified and their transfers under normal commercial practices be not restricted in any way.

[S. No. 15, Annexure—I Para 1.100 of 150th Report of Public Accounts Committee (Seventh Lok Sabha)]

Action Taken

The observations of the Committee have been noted for future guidance.

[Ministry of Home Affairs, O. M. No. U. 16016/2/83-Delhi/Dated 30 November, 1983.]

Recommendation

The Committee understand that some of the land acquired by the Delhi Administration more than 22-25 years back is still lying unutilised. The Committee do not find any justification in the acquisition of any land when the authorities concerned are not able to develop and utilise it within a reasonable period of time. The Committee recommended that before issuing notifications for acquisition of land Government should carefully assess the requirements with much more care than is evidence over a foreseeable future so as to curb speculative activities and growth of unauthorised colonies.

[S. No. 17, Annexure— I Para 1.102 of 150th Report of Public Accounts Committee (Seventh Lok Sabha)]

Action Taken

The observations of the Committee have been noted by the Delhi Administration for future guidance.

[Ministry of Home Affairs, O. M. No. U. 16016/2/83—Delhi/Dated
30 November, 1983.]

Recommendation

The Committee are surprised to note in this connection that the Delhi Administration does not maintain any record of utilisation of land after the same has been acquired and possession handed over to the Department/organisation concerned. This is an appalling situation. The Committee consider that the working of the Land and Building Department of the Delhi Administration needs to be thoroughly revamped and streamlined for the Administration to ensure orderly growth of the city. The Committee would urge the Ministry of Home Affairs to set up a Task Force to go thoroughly into the working of this Department with a view to taking necessary remedial measures. The Committee would like to be apprised of the action taken in this regard within six months.

[S. No. 18, Annexure—1 Para 1.103 of 150th Report of Public Accounts
Committee (Seventh Lok Sabha)]

Action Taken

The recommendation of the Committee has been accepted and the Delhi Administration is being instructed to set up a Task Force.

[Ministry of Home Affairs, O. M. No. U. 16016/2/83—Delhi/Dated
30 November, 1983.]

Recommendation

The Committee note that the Urban Land (Ceiling and Regulation) Act, 1976 is administered in Delhi by the Ministry of Works and Housing. The Committee were informed that no cases of circumvention of the Urban Land Ceiling Act by transfer through execution of power of Attorney had come to the notice of Delhi Administration. As regards implementation of the Act, the Committee were informed that as on 31 December, 1982, 18.95 lakh sq. mts. of vacant land in excess of the ceiling limit has been determined. Out of this, notifications for acquisition of vacant lands have been issued in respect of as few as 2.34 lakh sq. mts of lands. Even out of these, further action has been stayed by the Court in respect of 2.12 lakh sq. mts. of land. The total area of land acquired/disposed of is nil. No surprise, the Act has had hardly any impact on land prices. The Committee recommend that the Task Force recommended

above should also look into the reasons for the tardy implementation of the Act which again is the responsibility of the Land and Building Department.

[S. No. 21, Annexure—I Para 1.106 of 150th Report of Public Accounts Committee (Seventh Lok Sabha)].

Action Taken

The question of Task Force being entrusted with this work, could be considered alongwith the proposals under consideration.

[Ministry of Home Affairs, O. M. No. U. 16016/2/83—Delhi Dated 30 November, 1983.]

Recommendation

In this connection the Committee note that the Delhi Administration had suggested certain amendments to the guidelines issued by the Ministry of Works and Housing for the implementation of the Urban Land Ceiling Act. The Committee were informed that some of these suggestions have been accepted by the Ministry of Works and Housing while certain others have been sent back to the Delhi Administration for re-consideration. The Committee desire that all the pending issues be sorted out expeditiously so as to facilitate better implementation of the Urban Land Ceiling Act.

[S. No. 22, Annexure—I Para 1.07 of 150th Report of Public Accounts Committee (Seventh Lok Sabha)].

Action Taken

The Delhi Administration has since returned all the suggestions referred to it by the Ministry of Works & Housing after giving their considered views. Thereafter the Working Group set up by the Ministry of Works & Housing to review the Urban Land (Ceiling and Regulation) Act, 1976 made its final recommendations about the guidelines. The recommendations have been further processed by an inter-Ministerial Group and are now under consideration of the Government.

[Ministry of Home Affairs, O. M. No. U. 16016/2/83—Delhi, Dated 30 November, 1983.]

Recommendation

The Committee were informed that Delhi Administration has proposed certain amendments to the Stamp Act whereby the rates of duty are proposed to be enhanced so as to bring them at par with the neighbouring States. The proposed rates are expected to generate additional revenue to the extent of Rs. 1.80 crores per year. In the context of the examination of the present Audit

paragraph, the Committee were informed that under the amendments to the Stamp Act effected in many States by way of a new Section 470 the Collector can *suo motu* call for the documents to satisfy himself about the duty paid thereon but such a provision does not exist in the Stamp Act of Delhi. The Committee recommend that the Ministry of Home Affairs should also examine the feasibility of incorporating a similar provision in the proposed Delhi Stamp (Amendment) Bill.

[S. No. 23 Annexure—I Para 1.108 of 150th Report of Public Accounts Committee (Seventh Lok Sabha)].

Action Taken

The proposal regarding amending the Indian Stamp Act to enhance the rates of Stamp duty and also incorporating a new section 47A is being examined by Delhi Administration.

[Ministry of Home Affairs O. M. No. U. 16016/2/83—Delhi Dated : 30 November, 1983]

Recommendation

The Committee find that the role of Delhi Administration in the development of Delhi is unenviable. While the Delhi Development authority works out the Schemes, the role of Administration is confined only to the issue of land acquisition notices. The DDA does not function under the Delhi Administration, but under the Ministry of Works and Housing. The result is that the Delhi Administration is not in a position to satisfy itself while issuing acquisition notices that the land is actually required for the development of Delhi. Similarly, after the acquisition of land, the Administration is not aware if the land has been actually utilised or not. In this connection, the Committee endorse, the view expressed by the Home Secretary that "Delhi needs intensive and integrated Administration instead of parallel authorities which result in wastefulness and also harassment to the citizens". As the Ministry of Home Affairs is itself finally responsible for the administration of the Capital City, the Committee expect that concrete steps would be taken without loss of time to provide an unified and integrated set up for the metropolis fulfil the long cherished dream of the common man who has to run from pillar to post for getting odd jobs done for him. The Committee would be interested in knowing the action proposed to be taken by the Ministry of Home Affairs on this score.

[S. No. 24 Annexure—I Para 1.109 of 150th Report of Public Accounts Committee (Seventh Lok Sabha)].

Action Taken

The question of having an integrated set up for land acquisition and land utilisation, will be gone into by the Task Force which is proposed to be set up in pursuance of the recommendation as contained in para 1.103.

[Ministry of Home Affairs O. M. No. U. 16016/2/83—Delhi Daled : 30
November, 1983.]

CHAPTER III

RECOMMENDATIONS OR OBSERVATIONS WHICH THE COMMITTEE DO NOT DESIRE TO PURSUE IN THE LIGHT OF THE REPLIES RECEIVED FROM GOVERNMENT

Recommendation

The Committee find that as far back as 1975 the Government were fully aware of the *modus operandi* adopted by people in order to circumvent the restrictions on transfer. On 14 April, 1975 the Inspector General of Registration had drawn the attention of all the registering authorities of Delhi to the fact that "certain unscrupulous persons have, instead of executing regular transfer deeds, taken recourse to the execution of general power of attorney in favour of the purchaser with a view to avoid compliance with the provisions of Delhi Lands (Restriction on Transfer) Act, 1972. The registering authorities were further advised to "call upon the parties concerned to comply with the requirement of the 1972 Act before registering document" what is shocking is the admission of the Ministry of Home Affairs, that the underlying idea of these instructions was to discourage registration of such general powers of attorney, even though the Ministry now contends that if some parties insisted upon registration of documents as per *modus operandi* indicated above, the registrars could not refuse to effect the registrations. It is also surprising that the department is now taking the stand that there is no evidence to dispute the plea of the executants that the instruments to be registered do not refer to any transfer. On enquiry by the Committee, the Department has stated that mutations had been carried out in the municipal records in 30 cases and transfer duty was charged by municipal corporations in 3 cases and without reference to any general power of attorney (which cannot effect a transfer). If there was legally no transfer in any of these cases, as the department alleges, it is surprising that change of ownership in the municipal records was brought about. Such change is evidence for all including the registrars who can taken recourse to the penal provisions of Stamp Duty Act on the ground that the non-transfer documents registered did not set out the full and true facts. The Committee are distress over the indecision in

the department as to whether action should be taken to block registration (as was the view in 1975) by actually collecting and using evidence pointing at the reality of the fact of sale or transfer, or whether the department should adopt an approach of legally closing its eyes to real facts as in fact its present stand typifies.

[S. No. 7 Annexure I Para 1.92 of 150th Report of Public Accounts Committee (Seventh Lok Sabha)]

Action Taken

The statement of G. P. A. (General Power of Attorneys) registered during the year 1972-81 indicates that Power of Attorneys registered in 1973 and 1974 were 26605 and 29410 respectively. After the issue of the administrative instructions in 1975, the number of Power of Attorneys registered came down to about 9000 in 1975 and 6000 in 1976 and similarly less than 10000 in the following years except for the year 1979 in which the registration of general power of attorney was 11809. This shows that due to administrative instructions the number of registration of G. P. A. had been considerably checked. Since some G. P. As can be genuine and legally cannot be refused the registration of G. P. As cannot be total barred.

2. While steps have already been initiated or are being initiated to amend the concerned Acts, the Competent Authority (i. e. Inspector General of Registration) has since advised the Registering Authorities to exercise utmost care and caution while registering power of attorneys.

[Ministry of Home Affairs O. M. NO. U. 16016/2/83-Delhi Dated : 30 November, 1983].

Recommendation

What has perturbed the Committee is that as result of the restrictions imposed by the Delhi Lands (Restriction on Transfer) Act, 1972 and the alleged refusal of the authorities to allow registration of transfer of such lands which were notified only under Section 4, a large number of unauthorised colonies came up in Delhi and they were subsequently regularised by Delhi Administration. The Committee cannot but conclude that the Delhi Administration by its present policy has been a party to the growth of unauthorised colonies in Delhi. This is a deplorable state of affairs and must be remedied without delay.

[S. No. 16 Annexure I Para 1.101 of the 150th Report of the Public Accounts Committee]

Action Taken

The growth of unauthorised colonies is more a socio-economic problem

than a consequence of legal restrictions on transfer of lands or their notification for acquisition.

A large number of unauthorised colonies, over 600, had come up in Delhi from time to time involving a population of about 10 lakh persons. Confronted with the problem, a Committee was appointed by the Govt. under the chairmanship of the then Secretary, Works & Housing on 26.8. 74 to study the problem. The Committee submitted its report on 26.2. 75. After examining the Committee's report it was decided by the Govt. on 16.2. 77 that various unauthorised colonies which come up in Delhi including those around villages as also the unauthorised extensions of approved colonies from time to time will be regularised by the DDA & MCD on certain terms and conditions. The Govt. orders provide that residential and commercial structures in the unauthorised colonies will be regularised after fitting them in a lay out plan and after keeping clear space for roads and other community facilities. At the same time, it was also emphasised that Govt. will not countenance any activity or action on the part of any individual or body to put up fresh structures whether in the existing unauthorised colonies or in any other areas within or outside the urbanisable limits of Delhi and that any attempt in this direction will be viewed seriously and the defaulters will be dealt with severely. Subsequently the Municipal Corporation of Delhi passed a resolution on 10.10. 77 recommending to the Govt. that cut off date for regularisation of unauthorised residential structures built on the unauthorised colonies may be extended upto 30.6. 77. Since there was a difference of only about three months between the earlier cut off date of 16.2. 77, and the new cut off date suggested by the MCD, the recommendations of the MCD was accepted by the Government and orders were issued on 6.12. 78 that the earlier orders for regularisation of unauthorised colonies issued by the Govt. on 16.2. 77 will cover residential structures which had been constructed by 30.6. 77 but that extension or date upto 30.6. 77 would not apply to commercial structures. The unauthorised colonies beyond the cut off date of 30.6. 77 for residential structures and 16.2. 77 for commercial structures would not be regularised.

As a further step to check unauthorised construction in Delhi the Govt. has already introduced bills in Parliament to amend the relevant Acts to declare unauthorised construction and encroachments in Delhi cognisable offences and also to tighten the law in certain other respects for dealing more effectively with this problem.

[Ministry of Home Affairs O. M. No. U. 16016/2/83—Delhi Dated 30 November, 1983].

Recommendation

The Committee understand that in certain areas in Delhi, very low compensation was paid to the cultivators towards the cost of their land. The

Chief Secretary, Delhi Administration assured the Committee in evidence that after the introduction of certain amendments to the Land Acquisition Act (now before the Parliament) the position would improve. In para 5.29 of their 18th Report (Seventh Lok Sabha), the Committee had drawn attention to the exorbitant rates at which plots were sold by DDA after acquiring the land at very low rates. In para 1.39 of their 104th Report on action taken by Government on the 18th Report, the Committee have made some further recommendations for consideration by Government, while amending the Land Acquisition Act 1894. The Committee expect that the matter would be gone into in all its aspects and it would be ensured that the poor land owners get at least some share of the overall profits of the DDA.

[S. No. 19 Annexure—I Para 1.04 of 150th Report of Public Accounts Committee (Seventh Lok Sabha)].

Action Taken

Compensation to the cultivators, whose lands are acquired by the Administration, is being paid in accordance with the provisions of the Land Acquisition Act. A proposal to enhance the existing rate of interest and solatium is already under consideration.

It may be mentioned that 95% to 96% plots carved out of acquired land, are being disposed of by the Delhi Development Authority on predetermined rates. These rates are on the basis of 'no-profit no-loss'. Only a marginal percentage of plots (about 4% to 5%) are being disposed of by public auction. These are generally taken by the affluent sections of society who can afford to participate in the auction. Profit derived from auction of such plots is partly utilised for providing subsidy weighed in favour of weaker sections.

It may be further mentioned that for rehabilitating and providing a constant source of livelihood to the cultivators whose lands have been acquired, D. D. A. has reserved for them 10% of its shops in certain commercial areas. Further, alternative plots of limited size are being provided to them at predetermined rates.

[Ministry of Home Affairs O. M. No. U. 16016/2/83—Delhi Dated 30 November, 83.]

Recommendation

The Committee note that on acquisition of land from an agricultural family, it is stipulated that the family would be provided 250 sq. metre of land. The Committee regret to find that as on 1.1.1983 as many as 1961 applications were pending with Delhi Administration for being forwarded to D. D. A. for providing alternative plots. What is still more shocking is that 23 cases were

pending for periods prior to 1979 and 90 since 1979. It is a common knowledge that the delays generale corruption. The Committee would like that reasons for such prolonged delays in forwarding the applications to DDA should be thoroughly investigated and punishment awarded to those found guilty. Urgent steps should also be taken to complete all the formalities and forwards these applications to DDA within a stipulated period.

[S. No. 20 Annexure—I Para 1.105 of 150th Report of Public Accounts Committee (Seventh Lok Sabha)].

Action Taken

In keeping with the observations of the Committee as contained in the above para, disposal of applications for allotment of alternative plots does not involve the more forwarding of such applications to the Delhi Development Authority. The disposal depends upon the production of certain documents by the applicant providing his entitlement for allotment of a plot in lieu of his land having been acquired. Efforts are being made to expedite finalisation of the pending cases. Moreover, allotment of plots is lieu of lands acquired/ being acquired is a continuous on-going process and some pendency is always bound to be there. Out of 23 cases mentioned in the above para, prior to 1979, 14 have already been disposed of. The remaining 9 cases are likely to be finalised by December 1983. Reasons for non disposal of the 23 cases was gone into and it was found that the delay could not be attributable to any wilful or malafide delay on the part of the officials dealing with these cases.

[Ministry of Home Affairs O. M. No. U. 16016/2/83—Delhi Dated 30 November, 1983.]

CHAPTER IV

RECOMMENDATIONS OR OBSERVATIONS REPLIES TO WHICH HAVE NOT BEEN ACCEPTED BY COMMITTEE AND WHICH REQUIRE REITERATION

Recommendation

It is ironical that while the Act and the instructions issued thereunder were intended to curb transfer of property, the illegal transfer through the medium of the general power of attorney were in fact taking place and no further administrative instructions were issued to registrars that they should look for evidence indicating the full and true particulars of the real transactions and question the simple receipts being advanced for registration alleging that they were really sale receipts relating to illegal sales in violation of the 1972 Act. In view of the Committee the 1972 Act. created a contradictory state of affairs whereby sale was prohibited. But such prohibited sale was indulged in by denying registration to such sale and by going along with an artificial set of documents and registering them, the department was giving reality to fiction and losing stamp duty in the bargain by its own action of registering such artificial documents. Far from curbing illegal transfers, which have not only made a mockery of the relevant provision made in the legislation of 1972, the blind legal view that was taken helped in promoting illegal transfers. It is not that insistence on higher stamp duty would have curbed such illegal transfers. Law could not stop the urges to effect the transfers. The substantial loss of stamp duty is only an unfortunate side effect of the Prohibition in the 1972 Act. The Committee cannot but express their distress at the indifferent attitude of the concerned authorities to the real harassment caused to owners of land in having to engage in illegal transfers and at the fact that no attempt was made to effect the right cure by amending the provision in 1972 Act suitably. Also administratively more sympathetic reception to application of transfer under 1972 Act by the competent authorities alongside suitably advising the registrars to block fictitious transfers through the medium of general powers of attorney were actions which were clearly warranted.

[S. No. 8 Annexure I Para 1.93 of 150th Report of Public Accounts Committee (Seventh Lok Sabha]

Action Taken

The Delhi Administration has stated that care has been taken to ensure that no harassment is caused to genuine transferees/transferees by providing for a competent authority to grant permission for transfer of property in genuine cases. In pursuance of the observations made by the P. A. C., the Delhi Admn. has already moved the Ministry of Works & Housing for amending the Delhi Land (Restriction on Transfer) Act, 1972. The Ministry of Works & Housing has also confirmed that they are examining this matter for amending this Act.

The Administration has further stated that the delay in the acquisition does tantamount to harassment of the land owner and is not at all desirable. Because of this reason, a provision has already been made in the Land Acquisition (Amendment & Validation) Act, 1967 making it mandatory that the notification under section 6 of the Land Acquisition Act must be made within a period of 3 years from the date of the notification u/s 4. The Government is further considering to propose a time ceiling between the issue of notification u/s 4 and the final award. The Ministry of Rural Development who are seized of the problem introduced the Bill in the Parliament, which among other things, lays down that awards u/s 11 ordinarily should be made within a period of three years from the date of notification u/s 4.

The relevant provisions of the Bill are reproduced below :—

6. In section 6 of the Principal Act—

(ii) published after the commencement of the Land Acquisition (Amendment) Act, 1982 shall be made after the expiry of one year from the date of the publication of such notification ;

11(1) The Collector shall make an award u/s 11 within a period of two years from the date of the publication of the declaration ;

Provided that the Collector may, with previous approval of the appropriate Govt. and for reasons to be recorded in writing, make his award after the expiry of the said period of two years.

[Ministry of Home Affairs O.M. No. U. 16016/2/83-Delhi dated 30 November, 1983.]

Recommendation

During evidence, the representative of the Delhi Administration stated that in the 48 cases pointed out in the Audit Report in 1976-77, it was possible to

link up the power of attorney with the receipt as both the documents had been executed by the same parties and the considerations had been received by the executor from the executant who have been given *inter alia* the power to sell the property. However, subsequently people became wiser. So, the person who executes the power of attorney does not himself sign the receipt or issue it, it is done by his friend or relation. In the 561 cases pointed out in the Audit Report for 1978-79 and 134 cases indicated in the present Audit Report the general power of attorney did not refer to any consideration though it authorised the attorney to sell immovable property. The receipt also did not refer to any transaction whatsoever between the executor of the general power of attorney and the attorney. It only acknowledged receipt of money by a near relation of the purchaser from the executant. No purpose whatsoever, for which the money has been paid is indicated on the receipt. The Registration authorities are not competent to compel the executants to indicate the purpose for which the receipt was being executed. However, the Committee find that on 13 December 1982, the Chief Controlling Revenue Authority of the Delhi Administration referred a case to the Delhi High Court under the Advisory jurisdiction which lies with them under Section 57 (1) of the India Stamp Act 1899 seeking the opinion of the High Court on the question whether the General Power of Attorney and the Receipt in question can be clubbed and stamp duty charged under Article 48 (f) of Schedule A-A of the Indian Stamp Act and also whether it would make any difference if such General Power of Attorney and Receipt indicate that the consideration mentioned in a separate receipt flows directly from the power of attorney. The Committee are surprised that the reference seeking advisory opinion does not make any reference to get confirmation of the inherent power of registrar to controvert the plea of the executant, when *prima facie* evidence is available with him or can be easily collected by him that executant has not set forth the real transaction fully and truly and charge the correct amount of stamp duty. The real issue for reference to the High Court is not merely whether duty would be chargeable under Article 48 (f) of Schedule 1—A in such cases but how i. e. whether it is open to the registrar to so confront the executant with *prima facie* evidence that the real transaction is not being fully and truly set forth in the document sought to be registered and that the simple money receipt in fact does not give the full and true facts relating to a real sale.

[S. No. 9 Annexure-I Para 1.94 of 150th Report of Public Accounts Committee (Seventh Lok Sabha)]

Action Taken

In view of the observations of the P. A. C., the Delhi Administration has intimated that the Government Counsel through whom a reference has been made in the High Court of Delhi has again been asked to make supplementary/fresh reference in the High Court of Delhi.

[Ministry of Home Affairs O. M. No. U. 16016/2/83-Delhi dated 30 November, 1983.]

Recommendation

The Committee recommended that such a supplementary reference be made to the High Court accordingly (to be made part of the original reference). Considering the fact that the audit objections in respect of 516 cases were pointed out to the department as far as in October 1977, the Committee find no justification whatsoever for the delay on the part of the registrars of the Delhi Administration in calling for full facts from the executants on such cases after October 1977. This is indicative of the indifferent and callous attitude of the authorities towards a situation which involved substantial loss of stamp duties in addition to manipulation of guillible citizens by unscrupulous dealers in land.

[S. No. 10 Annexure—I Para 1.95 of 150th Report of Public Accounts
Committee (Seventh Lok Sabha)]

Action Taken

In view of the observations of the P. A. C., the Delhi Administration has intimated that the Government Counsel through whom a reference has been made in the High Court of Delhi has again been asked to make supplementary/fresh reference in the High Court of Delhi.

[Ministry of Home Affairs O. M.No. U. 16016/2/13-Delhi dated
30 November, 1983.]

Recommendation

What is all the more shocking is that a proposal was mooted as far back as in August 1976, to amend the Delhi Lands (Restriction on Transfer) Act 1972 (and in such amendment lay the right solution to the problem). The question of amendment has been shuttling between various departments of the Government of India for a period of about 7 years without any concrete result. An amendment proposed by the Ministry of Works and Housing in August 1976 was approved by the Executive Council of the Delhi Administration for being placed before the Metropolitan Council. The Delhi Administration vide its letter dated 9 September, 1977 finally suggested certain further amendments. However, the meeting of the officials of the various Ministries including Law called to discuss the issue was held only about 5 years later, on 10 May 1982, after the irregularities had been highlighted in the Audit Paragraph under examination. According to the Ministry of Home Affairs during the interim period, 'the matter was followed up with the Ministry of Works and Housing, Government of India, constantly'. It is distressing to note that a vital issue involving substantial harassment to people (not to mention loss of revenue to

the Government) was allowed to remain unresolved for such a long period of time. The Committee cannot but express their severe displeasure at this.

[S. No. 11 Annexure-I Para 1.96 of 150th Report of Public Accounts Committee (Seventh Lok Sabha)]

Action Taken

In pursuance of the observations made by the P. A. C., the Delhi Administration has already moved the Ministry of Works & Housing for expediting amendment of the Delhi Land (Restriction on Transfer) Act, 1972. The Ministry of Works & Housing have confirmed that they are examining the matter for amending this Act.

[Ministry of Home Affairs O. M. No. U. 16016/2/83-Delhi dated 30 November, 1983.]

Recommendation

The Committee find that the Delhi Administration have now reconsidered the earlier amendment. But their revised amendment proposed on 24 September, 1982 in the light of the comments given by the Ministry of Works and Housing on the basis of their discussion held on 10 May 1982 is somewhat ill advised. The proposed amendment seeks to deem transfer of land through execution of a power of attorney as a sale unless the person executing the power of attorney has obtained prior approval from the Competent Authority under the 1972 Act and fulfills the necessary requirements. The Committee cannot but observe that such a proposal striking at the very root of time established concepts underlying the Transfer of Property Act is a case of barking up the wrong tree, when the real mischief to be cured is in the 1972 Act.

[S. No. 12 Annexure I Para 1.97 of 150th Report of Public Accounts Committee (Seventh Lok Sabha)]

Action Taken

In pursuance of the observations made by the P. A. C. the Delhi Administration has already moved the Ministry of Works & Housing for expediting amendment of the Delhi Land (Restriction on Transfer) Act, 1972. The Ministry of Works & Housing have confirmed that they are examining the matter for amending this Act.

[Ministry of Home Affairs O. M. No. U. 16016/2/83-Delhi dated 30 November, 1983.]

CHAPTER V

**RECOMMENDATIONS IN RESPECT OF WHICH FINAL REPLIES
OF GOVERNMENT ARE STILL AWAITED**

—NIL—

NEW DELHI ;
22, February 1984

3 Phalguna, 1905 (Sak.)

SUNIL MAITRA
Chairman,
Public Accounts Committee.

PART II

MINUTES OF THE 60TH SITTING OF PUBLIC ACCOUNTS COMMITTEE HELD ON 13 FEBRUARY, 1984

The Public Accounts Committee sat from 1500 hrs. to 1730 hrs. in Committee Room 'D', Parliament House Annexe, New Delhi.

PRESENT

Shri Bhiku Ram Jain—*in the Chair*

2. Smt. Vidyavati Chaturvedi
3. Shri G. L. Dogra
4. Shri Satyanarayan Jatiya
5. Shri Mahavir Prasad
6. Shri Jamilur Rahman
7. Dr. Sankata Prasad
8. Dr. Harekrushna Mallick
9. Shri Nirmal Chatterjee
10. Shri Kalyan Roy

SECRETARIAT

1. Shri H. S. Kohli—*Chief Financial Committee Officer.*
2. Shri K. K. Sharma—*Senior Financial Committee Officer.*
3. Shri Krishnapal Singh—*Senior Financial Committee Officer.*

REPRESENTATIVES OF THE OFFICE OF THE C&AG OF INDIA

1. Shri N. Sivasubramanian—*Director of Receipt Audit*
2. Shri R. Balasubramanian—*Joint Director (C&CX)*
3. Shri S. K. Gupta—*Joint Director (DT)*
4. Shri S. R. Sapra—*Joint Director (SR)*

2. In the absence of the Chairman, Shri Bhiku Ram Jain was chosen to act as Chairman of the sitting under Rule 258(2) of the Rules of the Procedure and Conduct of Business in Lok Sabha.

3. The Committee considered and adopted the following subject to the amendments/modifications as indicated in Annexures* I to V :

- | | | | |
|----|---|---|---|
| 1. | * | * | * |
| 2. | * | * | * |
| 3. | Action Taken Report on 142nd Report (7th Lok Sabha)—Receipts of Union Territory of Delhi—Sales Tax--Falsification of documents by a dealer. | | |
| 4. | * | * | * |
| 5. | * | * | * |

4. The Committee also approved some minor modifications/amendments arising out of factual verification of the draft Reports by Audit.

5. The Committee also authorised the Chairman to finalise the report and present the same to the House.

The Committee then adjourned.

* Annexures I, III, III, and V not printed.

ANNEXURE IV

(vide Part II)

Amendments/Modifications made by the Public Accounts Committee at their Sitting held on 13 February, 1984 (AN) in the Draft Report on Action Taken on 150th Report of the Committee (Seventh Lok Sabha) Relating to receipts of Union Territory of Delhi—Stamp Duties and Registration Fees.—Evasion/Avoidance of Higher Rates

Page	Para	Lines	Amendments/Modifications
16	1.15	8	<i>Delete “illegal”</i>
16	1.15	9	<i>Add “not legally permissible” after “land”</i>
16	1.15	11	<i>Delete “and”</i> <i>Add “and the results thereof as”</i> <i>before “also”</i>

APPENDIX

Conclusion/Recommendations

S. No.	Para No.	Ministry/ Deptt. concerned	Conclusions/Recommendations
1	2	3	4
1.	1.12 to 1.15	Ministry of Home Affairs	In their earlier Report, the Committee had drawn attention to the widespread circumventions of the transfer restrictions imposed by the Delhi Lands (Restrictions on Transfer) Act, 1972 and the consequential loss of stamp duty. The Committee had observed that after the enactment of the Delhi Lands (Restrictions on Transfer) Act, 1972 people were increasingly resorting to transfer of property through the instruments of general powers of attorney instead of executing regular transfer deeds. While a general power of attorney, when given without consideration, was chargeable with a fixed stamp duty of Rs. 10 only, a power of attorney to sell any immovable property was liable to stamp duty at the rate of three per cent of the amount of consideration. From the cases reported by Audit, the Committee had observed that the owners of land etc. had taken recourse to execution of general powers of attorney in favour of the would-be purchasers and authorising them to sell the properties, but without mentioning the sale price or the consideration to be received. On cross verification with the Receipts simultaneously registered, it was, however, found that the executants of the powers of attorney had received money from close

relatives and friends of the would-be purchasers, but, without mentioning the details of the properties, or the fact of the consideration having passed both way on the receipts. In the view of the Committee although the 1972 Act created a state of affairs whereby sale was prohibited, such prohibited sale was indulged in by denying registration to such sale and by going along with an artificial set of documents and registering them, the department was giving reality to fiction and losing stamp duty in the bargain by its own action of registering such artificial documents. The Committee had observed. "Far from curbing illegal transfers, which have not only made a mockery of the relevant provision made in the legislation of 1972, the blind legal view that was taken helped in promoting illegal transfers. It is not that insistence on higher stamp duty would have curbed such illegal transfers. Law could not stop the urges to effect the transfers. The substantial loss of stamp duty is only an unfortunate side effect of the prohibition in 1972 Act". While expressing their distress at the indifferent attitude of the concerned authorities to the real harassment caused to owners of land in having to engage in illegal transfers, the Committee had observed that as far back as 1975, Government were fully aware of the *modus operandi* adopted by people in circumventing the transfer restrictions, and yet no attempt was made to effect the right cure by amending the provision in 1972 Act suitably. Also, the Committee had further observed that, administratively more sympathetic reception to applications of transfer under the 1972 Act by the competent authorities alongside suitably advising the registrars to block fictitious transfers through the medium of general powers of attorney were actions which were clearly warranted.

The Committee had further noted that a proposal mooted as far back as in August, 1976 to amend the Delhi Lands (Restrictions on Transfer) Act, 1972 had been shuttling between various departments of the

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Government of India for a period of 7 years without any concrete result. It was only after the irregularities had been highlighted in the Audit Paragraph that the authorities took further action. The Committee had noted that the Delhi Administration had proposed a revised amendment on 24 September, 1982 seeking to deem transfer of land through execution of a power of attorney as a sale unless the person executing the power of attorney had obtained prior approval from the competent authority under the 1972 Act and fulfilled the necessary requirements. The Committee had observed that such a proposal striking at the very root of time-established concepts underlying the Transfer of Property Act was a case of barking up the wrong tree, when the real mischief to be cured was in the 1972 Act.

The Ministry of Home Affairs have in their action taken note *inter alia* stated that the Delhi Administration have already moved for an amendment in the Delhi Lands (Restrictions on Transfer) Act, 1972 in which it has been proposed that the power of attorney pertaining to transfer of property should also be brought under the provisions of the Delhi Land (Restrictions on Transfer) Act, 1972. By this amendment, which is under the consideration of the Ministry of Works and Housing, such powers of attorney which purport to transfer the property will not be registered by the sub-registrars. According to the Ministry, powers of attorney do not create any rights in the immovable property in accordance with the legal provisions of the Registration Act, 1908. The Ministry have also stated that the Delhi Administration has been asked to examine in consultation with their Law Department if any further amendment can be made in the Registration and Stamp Acts in order to check the registration of such documents.

The Committee are greatly distressed to note that even after a period of six months of the presentation of the Committee's Report, the matter is still at

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the 'consideration' stage. All that the Ministry of Home Affairs have done is to repeat their earlier statements already made to the Committee. The action taken note is silent on the action taken by the Ministry, if any, on the Committee's proposals for amendment of the 1972 Act in the light of the observations made by the Committee. The Committee are constrained to observe that this is symptomatic of the indifferent and callous attitude of the authorities towards a public problem demanding urgent attention with utmost priority. They cannot but express their severe displeasure at this. The Committee would like to be informed of the conclusive steps taken by Government to plug loophole, in the law in order to check transfers of land not legally permissible administrative action taken to avoid harassment caused to people in genuine transfers and the results thereof as also measures taken to protect revenue, within a period of six months.

2. 1.16 Ministry of Home Affairs In their earlier Report, the Committee had also observed that the Delhi Administration had on 13 December 1982 sought the opinion of the Delhi High Court whether the General Power of Attorney and the Receipt registered separately in the type of cases dealt with in the Audit Paragraph can be clubbed and stamp duty charged and also whether it would make any difference if such General Power of Attorney and Receipt indicate that the consideration mentioned in a separate receipt flows directly from the power of attorney. The Committee had pointed out that the registrars were empowered to take recourse to the penal provisions of the Indian Stamp Act, 1899 against the executants on the ground that the non-transfer documents registered did not set out the full and true facts. The real issue for reference to the High Court was, therefore, not merely whether duty would be chargeable but also whether it was not open to the registrar to controvert the plea of the executant when *prima facie* evidence was available with

him or could easily be collected by him that the executant has not set forth the real transaction fully and truly and charge the correct amount of stamp duty. The Committee had desired that such a supplementary reference should also be made to the High Court. They had also pointed out that the Audit objections in respect of 561 such cases were brought to the notice of the department as far back as in October, 1977 and there was no justification whatsoever for the delay on the part of the Registrars of the Delhi Administration in calling for full facts from the executants on such cases after October, 1977. The Ministry of Home Affairs in their action taken note have stated that in pursuance of the recommendation of the Committee the Delhi Administration have now requested the Government Counsel, through whom a reference has been made, to make a supplementary/fresh reference to the High Court of Delhi on the point whether it was not open to the Registrar to controvert the plea of the executant when *prima facie* evidence was available with him that the executant had not set forth the real transaction fully and truly. However, the action taken note is silent on the point whether any administrative instructions have been issued to the Registrars in regard to calling for full facts from the executants and the impact of such instructions. The Committee feel that though the Administration have sought confirmation of their inherent power to collect stamp duty under the law, it should not have precluded them from directing the registrars to call for full facts from the executants in such cases and act upon accordingly in order to protect revenue as also to check illegal transfers. The Committee would like to be informed of the number of cases wherein the registrars had initiated action on this score after the presentation of the Report of the Committee. They would also like to be apprised of the opinion given by the High Court on the points referred to them.

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In their earlier Report, the Committee had drawn attention to the various irregularities/shortcomings in land acquisition and utilisation procedures in Delhi. The Committee had *inter alia* pointed out that no vacant land had been acquired/disposed of in Delhi under the Urban Land (Ceiling and Regulation) Act, 1976. In this connection, the Committee had expressed the view that the working of the Land and Building Department of the Delhi Administration needed to be thoroughly revamped and streamlined in order to ensure orderly growth of Delhi. They had, therefore, recommended that the Ministry of Home Affairs should set up a Task Force to go thoroughly into the working of the Land and Building Department including the tardy implementation of the Urban Land (Ceiling and Regulation) Act. Further, while commenting on the multiplicity of authorities in Delhi in the land acquisition and utilisation procedures, the Committee had endorsed the view expressed by the Home Secretary that 'Delhi needs intensive and integrated Administration, instead of parallel authorities which result in wastefulness and also harassment to citizens.' The Committee had desired that as the final authority responsible for the administration of the Capital City, the Ministry of Home Affairs should take concrete steps for providing a unified and integrated set-up for the metropolis.

The Committee note that in pursuance of their recommendation, the Ministry of Home Affairs have decided to set up a Task Force to look into the working of Land and Building Department of Delhi Administration. According to the Ministry, the tardy implementation of the Urban Land (Ceiling and Regulation) Act, 1976 and also the question of having an integrated set-up for land acquisition and land utilisation will be gone into by the Task Force. As the problems highlighted by the Committee are of urgent nature and their solution brooks no delay, the Committee recommend that the Task Force should

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be appointed without any further loss of time with instructions to complete its task within a specific time limit so that steps to streamline the Administration and also to ensure orderly growth of Delhi can be taken at the earliest. They would like to be informed of the conclusive action taken in this regard.

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TAMIL NADU			
10.	The Manager, M. M. Subscription Agencies, No. 2, 1st Lay Out Sivananda Colony, Coimbatore-641012.		

P.A.C. No. 996

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