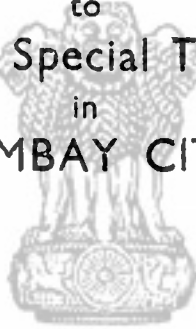




GOVERNMENT OF MAHARASHTRA

REPORT
OF THE COMMITTEE
Appointed by Government for assessing
the probable effects of legislation relating
to
Inams and Special Tenures
in
BOMBAY CITY



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CHAPTER I

INTRODUCTORY

1.1. *Appointment of the Committee.*—The present Committee was appointed under Government Resolution, Revenue and Forests Department, No. PLA-1064/26421-L., dated 19th July 1967, and within ten days of its appointment the Committee started functioning.

1.2. *Changes in the Composition of the Committee.*—Subsequent to its appointment, three changes in the composition of the Committee occurred. The original Committee was to have a representative of the Reserve Bank of India. But as the Reserve Bank of India declined to nominate a representative, Shri N. K. Petigara was appointed as a member of the Committee in his capacity as the representation of the Indian Banks' Association. Similarly, Shri V. Sundaram, Deputy Secretary to Government, Revenue and Forests Department, was appointed as the Joint Secretary of the Committee, vide Government Resolution, Revenue and Forests Department, No. PIA-1064/26421-L., dated 14th August 1967. The Committee however could not avail itself of the services of Shri Sundaram as he was on leave from 16th August 1967 to 4th September 1967 and was, thereafter, far too much preoccupied with his normal work.

Before the Committee could finish its work, it was deprived of the valuable assistance it was getting from Shri N. K. Petigara, who was snatched away from amongst us by the icy hand of Death on 31st December 1967. The following resolution passed by the Committee on the 18th January 1968 sums up Shri Petigara's contribution to the work of the Committee :—

“This Committee has been most unfortunate in being deprived of the services of Shri N. K. Petigara due to his sad and sudden death. Shri Petigara was an active member of the Committee and was taking very keen interest in its work and making very valuable contribution to the Committee's deliberations. This Committee places on record its appreciation of the services rendered by Shri Petigara and of the valuable and sound advice based on thorough knowledge of law and special tenures in Bombay City which it received from him from time to time. This Committee requests the Chairman to convey to the members of Shri Petigara's family its heartfelt condolences and deep sorrow in the irreparable loss they have suffered in his untimely death.”

On the recommendation of the Indian Banks' Association, Shri Petigara's place was filled up by Shri N. K. Suntook, his learned and versatile partner in Mulla and Mulla and Craigie Blunt and Caroe. Shri Suntook was

appointed as a member of the Committee under Government Resolution, Revenue and Forests Department, No. PIA, 1064/26421-L dated 20th January 1968 and he assisted the Committee till the end.

1.3. *Rules of procedure and appointment of sub-committees*—On 29th July, 1967, when the Committee met for the first time, it laid down for itself rules of procedure to be followed by it for carrying out its enquiries. It also got itself generally acquainted with the history of the proposed legislation, the circumstances which had led to its appointment, the terms of reference it had to examine and the data and information collected before. At the first meeting it was obvious to the Committee that the matters it had to examine were of vital importance and complicated and that they required a very close and careful study. In order to facilitate this, the Committee decided to work in sub-committees and each sub-committee was entrusted with the detailed study of specific terms of reference to be considered by the Committee. Three sub-committees were first formed, but when it became apparent that the matters entrusted to sub-committees I and II were co-related, both these sub-committees had joint study meetings. Although sub-committees were formed for making a detailed and thorough study of each matter, the meetings of the sub-committees were kept open to all members so that any member could attend any meeting and make his contribution to the deliberations of the sub-committees. The sub-committees also sought freely the assistance of officers conversant with the matters under study. Details of sub-committees, their members and the terms of reference which were specifically entrusted to them for study are given in appendix I.

1.4. *Meetings held*—After the first meeting of the Committee, sub-committee I met on 17th August 1967 and thereafter held five sessions jointly with sub-committee II on the following dates. 25th August 1967, 31st August 1967, 14th September 1967, 5th October 1967 and 26th October 1967.

Sub-committee III was entrusted with the study of the eighth term of reference. It met on 21st October 1967 and with the assistance of the Charity Commissioner, and the Joint Charity Commissioner examined fully the matter entrusted to it for study.

After the sub-committees had completed their study, the Committee met on the following dates and considered the various matters : 20th November 1967, 5th December 1967, 5th January 1968, 18th January 1968, 1st February 1968 and 10th February 1968.

The meetings of sub-committees I and II and all meetings of the Committee were presided over by the chairman and attended to by the secretary of the committee, viz., the Collector of Bombay. The deliberations of the sub-committee III were presided over by Shri S. B. Palekar.

Thanks to the chairman and the keen interest evinced by the members there was quite free and useful discussion at all these meetings. The assistance and the co-operation that the Committee received from the officers, persons who attended the various meetings was also very valuable.

Details of the meetings held and members and Officers, who attended them are given in appendix II.

1.5. *Action for inviting suggestion and objections*—In order to enable the Committee to ascertain the views of the members of the public in regard to its terms of reference it had requested the secretary to issue a notice in the local newspapers mentioning the appointment of the present Committee and stating that the Committee would be glad to receive from the members of the public such suggestions and representations as they may have to make in regard to matters under its consideration. Accordingly, the secretary had issued notices in the following newspapers and they appeared in the issues of these papers on the dates shown against their names :—

	Date
(1) Jame-E-Jamshed ...	19th August 1967
(2) New Bharat Times ...	19th August 1967
(3) The Hindustan Dailyy ...	19th August 1967
(4) Bombay Samachar ...	19th August 1967
(5) The Indian Express ...	20th August 1967
(6) The Times of India ...	19th August 1967
(7) The Loksatta ...	21st August 1967
(8) The Maharashtra Times ...	21st August 1967
(9) The Inquilab Daily ...	21st August 1967

Government had also addressed associations, bodies and institutions which had submitted representations in the matter to Government in 1963. The Directorate of Publicity of the Government had also issued press notes both in English and Marathi for publicity in the press. As a result, representations were received from the following associations :—

- (1) The Bombay Chamber of Commerce and Industry,
- (2) The Property Owners' Association,
- (3) The Indian Banks' Association,
- (4) The Mill Owners' Association,
- (5) The Indian Insurance Companies Association,
- (6) The Indian Merchants' Chamber, and
- (7) The Standing Committee of Public Trusts of Bombay.

1.6. *Representations received*—In their representation the Bombay Industries Association, Bombay, had requested that they might be examined by the Committee before the Committee formed its views in the matter. For want of time it was not however possible for the Committee to examine any persons or representatives of the associations in the matter. The members of the Committee have however considered various facts urged in the written representations. The non-official members of the Committee have also ascertained and placed before the Committee the views of the members of the public in general and in particular of the bodies or associations they represented.

1.7. *Terms of reference*—In the Government Resolution sanctioning the appointment of the Committee it has been made clear that Government had decided to proceed with the proposed legislation and that the Committee has to give its advice only on the following matters :—

- (1) Extension of the scope of the Bill to the leasehold land ;
- (2) Probable adverse effects of the Bill on the industry in the city in general ;
- (3) Probable adverse effects of the proposed legislation on the financial position of the industry and the individual establishments holding inami and special tenure land and the need for a change in the provisions in regard to the recovery of assessment of these lands in a gradual manner ;
- (4) Possibility of the proposed legislation leading to a depreciation in the value of the land in the city and consequent slump in business in the city ;
- (5) Possibility of rents of residential tenements increasing unreasonably in consequence of the abolition of inami and special tenures and of the ordinary citizen being affected thereby ;
- (6) Desirability of passing on the liability for the assessment to be imposed on inami and special tenure lands from the land holders to the tenants and its probable effect ;
- (7) Provisions in regard to compensation ; and
- (8) Desirability of making wide and satisfactory concessions to religious, charitable and educational institutions and public trusts provided for in the Bill.

1.8. *Constitutional and legal objections to the proposed legislation*—In the course of the discussions that took place at the meetings, non-official

members expressed their concern about the legality of the proposed legislation. They felt that in view of the recent decision of the Supreme Court to the effect that Parliament cannot amend the Constitution in such a way as to affect adversely the fundamental rights guaranteed under Part III of the Constitution, a legislation which would involve abolition of rights of citizens in the inami and special tenure lands without payment of full and adequate compensation would be *ultra vires*. It was explained to these members that the Committee is precluded from considering this question and that if any of the members have anything to urge in matter they could submit it separately so that Government would give it its due consideration.

1.9. *Precedence to study of impact of the legislation on industry and others*—Of the eight terms referred to the Committee, five involve finding out the impact of the proposed legislation on industry, industrial establishments, property-owners and tenants. The Committee agreed that such an impact was unavoidable because the proposed legislation involved levy of assessment on lands which for the past two hundred years and more have been practically free of assessment and the amounts of assessment payable in respect of these lands were bound to be substantial. The Bill does not contain any special provision in regard to the quantum of assessment to be imposed on these lands and the manner in which it is to be imposed. The land revenue law gives the Collector full discretion to levy assessment at any rate subject to the orders of Government. According to the Government orders at present in force, land assessment on 'toka' lands which are liable to pay full assessment is levied at $6\frac{1}{2}$ % of the market value.

The rate is high and so would also be the market value if determined in the usual manner.

Apart from this, most of the inami and tenure lands are built up and appropriated lands and owing to difficulty in deducing the value of the land from the value of the property standing thereon, values of the lands were likely to be overestimated and this might lead to the levy of a high and unbearable assessment thereon. In the representations received by the Committee one common grievance urged was that the assessment on these lands would be very high. The representation submitted by the Mill Owners' Association stated that the financial burden of assessment will be fantastically high. Amounts such as Rs. 45,000 or Rs. 1,12,000 may have to be paid by way of land revenue. The representation of the Property Owners' Association complained that the assessment would be very high, that in many cases it would be 500 or 600 times the present figures and that there was no guarantee how high the rate of assessment might be taken by Government in future. The Indian Banks' Association felt that the lands in the city are owned by several thousands of individuals generally of moderate means and the legislation would be disastrous to these people and consequently

to the economy and welfare of the City. The Indian Merchants' Chamber also felt that the imposition of full assessment as proposed in the Bill on the inami and tenure lands would result in an enormous burden upon the various industries situated in the city. In view of this general apprehension in regard to the quantum of assessment, the Committee thought that it would be useful if precise provisions in regard to the quantum of assessment and the manner of its levy are contained in the Bill. The Committee, therefore, devoted its considerable time to the study of the existing rate of assessment and the manner in which it is imposed on the 'TOKA' and other assessed land and considered these and various alternatives in this respect for adoption for the inami and special tenure land after the abolition of the inami and special tenures. The Committee found this essential because without the quantum of assessment and the manner of its levy being precisely defined it would have been impossible for it to attempt to assess precisely the impact of the proposed legislation on the industry, property owners and others and make its suggestions for softening its blow and making it bearable.

The Committee's present report, therefore, contains one independent chapter mentioning the various rates and methods for the levy of assessment considered by the Committee and finally recommended by it to Government for adoption and incorporation in the proposed legislation. The report also gives in brief the history of the proposed legislation and the procedure at present followed for the levy of assessment on lands in the city.

Owing to their complicated nature and inadequacy of the available data, the Committee could not examine thoroughly some of the matters and arrive at some agreed recommendations in regard to the same. The Committee however considered that in these matters, which are not purely administrative, it would not be desirable to disregard the views expressed by any of its members. Therefore on matters on which no recommendations are made by it, the Committee has tried to give in this report a brief summary of the divergent views held by its members and would request that Government would have all of them examined thoroughly and carefully before taking its decisions in regard to the same.

CHAPTER 2

THE PROPOSED LEGISLATION AND ITS HISTORY

2.1. *Abolition of inami and special tenures*—The Bill under consideration provides for the resumption of the right in limitation of the right of Government to assess the lands, which the holders of inami lands of inam grants I and III and tenure lands of the following categories enjoy :—

- (1) Pension and Tax.
- (2) Quit and Ground rent,
- (3) Foras and
- (4) Sanadi.

It also provides for the abolition of the right of the holders of inam grant II to receive land revenue in respect of the inami lands forming part of the inam grant.

The inami lands except those of inam grant II and special tenure lands are to be assessed fully and the holders of these lands are to be recognised as their superior holders. In the case of inam grant II, although the grant is of land revenue only, the inamdars receive the land revenue of the lands of this inam direct from the persons in their possession and are treated as the superior holders of these inami lands. On the abolition of the inams, the inamdars will cease to have any interest in the lands and persons in the possession of the inami lands and paying rent or assessment to the inamdars will become the superior holders of the lands paying land revenue to Government. The lands are already liable to pay full assessment and the question of extinguishing any right in limitation of the right of Government to assess them does not exist in respect of these inami lands.

2.2. *Abolition of the right of redemption*—Some of the holders of special tenure lands have redeemed payment of the small amount of land tax they were required to make to Government and are now holding these lands without making any annual payment to Government by way of land revenue.

On the Bill becoming law, the holders of these lands will have to pay full land revenue in respect of their lands and will in consequence lose the right of redemption of the payment of certain amounts to Government which they have acquired in the past on payment of full consideration in accordance with section 12 of the Bombay City Land Revenue Act, 1876.

2.3. *Three inam grants*—The following table gives details in regard to the three inam grants :—

TABLE
showing information about inam grants

	1st inam grant	2nd inam grant	3rd inam grant
Year in which it was made	1783	.. 1821	.. 1884
Grantor	.. East India Company	East India Company	Government
Grantee	.. Manecji Wadia & Bomanji Lavaji Wadia	Navroji and his Bros	Jamshedji Wadia family
Reasons for Grant	.. Services rendered to the Company as Master Builders	Services as Master Builders	Valuable services rendered to Government
Area of the inam grant still existing	5.90 lakh Sq. Metres	4.72 lakh Sq. Metres	8.72 lakh Sq. Metres
Localities in which the inami lands are situated	Parel	.. Naigaum	.. Sion, Salt Pan and Mahim

2.4. *Special Tenures*—The total area of the land held under the special tenures is 117.45 lakh sq. metres, inclusive of the area of about 69.83 lakh sq. metres, the annual payments, which the holders were required to make in respect of which have been redeemed in the past.

The following table gives the areas of redeemed and non-redeemed lands belonging to each special tenure and the revenue that they at present bring to Government :

TABLE
showing information in regard to lands of special tenure

Tenure	Areas in lakhs of sq. metres		Annual land revenue received at present by Government (in lakhs of rupees)
	Non-redeemed land	Redeemed land	
1	2	3	4
Pension and Tax	24.32	38.23	0.15
Quit and Ground rent	6.73	3.15	0.28
Foras	15.94	28.45	0.02
Sanadi	0.63	....	0.02
Total	47.62	69.83	0.47

Appendix II gives the break up of the above area figures for the various revenue divisions of the city.

2.5. *1957 Bill*—It was on 2nd December 1957 that a bill for the abolition of the inam grants and special tenures in the city was first prepared and published by the then Government of Bombay in Part V of the *Bombay Government Gazette*, of that date. The Bill was not however placed before the State Legislature as Government found some further examination of the same to be necessary.

2.6. *1959 Bill*—After further examination a more comprehensive Bill was prepared and published in the *Bombay Government Gazette*, on 24th July 1959. The scope of the Bill extended to the three inams and the four special tenures and it ensured that after the Bill became law, nobody would have a right in limitation of the right of Government to assess his land fully. There was also one improvement over the 1957 Bill. It provided for the recovery of land revenue in a gradual manner and for the recovery of the full amount only after the expiry of the period of fifty years from the date of its imposition. Partly due to the 1960 States re-organisation, which soon followed and partly to the representations and protests which the Bill provoked, no further action in regard to the Bill was taken till 1963.

2.7. *1963 Bill*—On 27th June 1963 the present Bill No. L. A. Bill XXVIII of 1963, which is under consideration, was prepared and published in Part V of the *Maharashtra Government Gazette* Extraordinary, dated 27th August 1963. The present Bill is the same as the earlier Bill of 1959

with only one change, namely while the 1959 Bill had adopted the period of 50 years for the graduated levy of assessment on the inami and special tenure lands, the 1963 Bill has reduced this period to 20 years and has also made consequential changes in regard to the percentages of land revenue to be recovered during this period.

2.7. *Appointment of the Committee*—After the publication of the Bill, Government received a large number of representations complaining about its effect. There was also much criticism in the press about it. That held up further action in regard to the Bill and has ultimately resulted in the appointment of the present Committee.

2.8. *Chequered course of the proposed legislation and its effects*--The proposed legislation has a chequered course and the Committee found that this has given rise to the misgiving that there is something inherently wrong with the Bill and that the present is an attempt to revive a measure, which Government itself has buried twice in the past because of its probable disastrous effects. The Committee has, therefore, considered it necessary to recommend to Government incorporation in the Bill of provisions which should go a long way in removing, or, at least allaying the general misgiving in the minds of the people in regard to the proposed legislation.

2.9. *Absence of specific provision in regard to rate and procedure for assessment*—Like its two predecessors the 1963 Bill also contemplates levy of assessment on inami and special tenure lands in the same manner in which Toka Lands, Newly Assessed and lease-hold land is assessed by the Collector under section 8 of the Bombay City Land Revenue Act—now section 262 of the Maharashtra Land Revenue Code, 1966. The Committee has found that this has been a cause of genuine grievance, because although the history of the inams and social tenures may not justify continuance of the right to exemption from the payment of land revenue in the changed context of administrative, social and economic structure and the consequential loss of revenue to the public exchequer it was bound to lead to unnecessary and avoidable hardship if the fact that none of the inami and special tenure lands are virgin lands capable of further development for building and other activities and having their building potentiality completely intact and many of the present holders are not descendants of the original grantees or holders and have acquired the benefits attached to the lands on payment of full consideration, on the assumption that these benefits would continue for ever is lost sight of and no special precaution is taken to ensure that the assessment to be imposed on these lands is pitched at a reasonable level so as to avoid any undue hardship being caused to the holders of these lands and the blow of the sudden impact which the imposition of the assessment would involve is softened.

CHAPTER 3

ASSESSMENT TO LAND REVENUE OF LAND IN THE CITY

3.1. *Lands liable to pay full assessment*—At present the following categories of lands in the city are liable to pay full assessment or ground rent and assessment of these lands is determined by the Collector in accordance with section 262 of the Maharashtra Land Revenue Code, 1966—section 8 of the Bombay City Land Revenue Act, subject to the orders of Government :

Leasehold lands, Toka, Toka-Foras and Newly Assessed lands.

The following table gives the extent of these lands and the amounts of revenue they fetch to Government :—

TABLE

giving information in regard to Toka and other assessed land in the city

Tenure		Area in lakhs of sq. metres.	Land Revenue in lakhs of rupees.
Toka and Toka Foras	...	10.69	2.97
L.N.A.	...	7.03	1.88
Lease-hold	...	21.15	22.75

3.2. *Revenue Divisions*—For the purpose of land revenue administration the city has been divided into 19 revenue divisions. Details of these revenue divisions and of the areas and land revenue of the lands comprised in them are given in appendix IV. These divisions have been in existence since 1915 and for the purpose of valuation of land, building development and activity each division may be considered to be fairly homogenous.

3.3. *Unit of assessment*—The lands have been surveyed and formed into city survey nos. In cases in which the survey numbers are sub-divided sub-divisions are also recognised as separate units assessment is fixed separately for each unit of land in the city and it is generally a certain percentage of the market value of the land.

3.4. *Rate of Assessment*—The percentage of the market value at which lands in the city were assessed was 4 per cent. from 1899 to 1920, 6 per cent. from 1920 to 1926, 5 per cent. from 1926 to 1964 and $6\frac{1}{2}$ per cent. from 1964 onwards. These percentages are prescribed by Government by executive orders issued from time to time and represent the maximum assessment leviable on the lands. In cases in which this is necessary, assessment is fixed at a lower level by the Collector after obtaining Government's approval. The orders at present in force in the matter of assessment of lands in the City are contained in G.R., R.D., No. 3759/51, dated 18th April 1952, and are reproduced here for facility of reference :—

“2. In any individual case, however, such as specified below, the Collector may submit proposals to Government for the reduction of the rate and the guarantee period :—

(a) Where there is a condition in the lease that the property should not be used for a profitable purpose, but only for a charitable, educational or religious purpose ;

(b) Where the property is so underdeveloped that it cannot bear the full rate of assessment and the underdevelopment is due to factors beyond the control of the occupant such as restrictions placed by Government or any Local authority which prevent the full development of the land.

3. In case of type (b) above, the rate of ground rent of assessment to be levied may bear the same proportion to the full rate as the development permissible would bear to the full economic development of the land.

4. The rate of assessment in cases of types (a) and (b) above should be for a short period not exceeding 10 years. The order contained in Government Resolution, Revenue Department, No. 1859/29, dated 14th April 1931 regarding graduated assessment should stand.

5. Whenever the Collector recommends a rate at less than five per cent. of the market value of the land he should invariably give full facts of the case as well reasons for his recommendation, so that Government may be in a position to scrutinise them. The value of the land should be determined in consultation with the Consulting Surveyor or his Assistant if so authorised by the former, and where the Collector demurs from the Consulting Surveyor's estimate he should give full reasons supported by data for doing so.”

3.5. *Market value*—The market value is estimated by the Collector on the basis of instances of sales and leases of other comparable land in the locality.

3.6. *Toka and Foras Toka Lands*—The Toka land and Foras Toka lands were assessed long time back. The first revision of this assessment took place in 1879. The second revision has taken place in 1929 and in respect of some lands held by mills in 1950 with effect from 1st April 1950, vide G.R., R.D., No. LBA. 1455/18495-G of 2nd July 1957. As the period for which the revised assessment has been guaranteed is of 50 years, the next revision of assessment would not be due till 1979.

3.7. *Land Newly Assessed*—Land Newly Assessed is Government land adjoining inami or special tenure land which had been encroached upon and had subsequently been granted to the encroacher on payment of full land revenue. The assessment imposed on these lands was guaranteed for 30 years in some cases and for 50 years in others.

3.8. *Leasehold land*—Leasehold lands are held according to the terms contained in the leases. The position in respect of these lands has been discussed in Chapter 11. In respect of these lands also there is no uniform period and no revision of assessment in many cases at the time of the renewal of the leases.

3.9. *Assessment of land used partly for religious and partly for remunerative purposes*—Lands used partly for religious and partly for remunerative purposes and not assessed for many years in the past are charged concessionary assessment of 1 per cent. of the market value of the area used for remunerative purposes and the assessment is guaranteed for ten years. On the expiry of the ten years' guarantee, the assessment is levied at higher percentage of the original market value and this is done at the end of each decade of guarantee till the property is sufficiently developed to bear the full percentage of the assessment, vide G.R., R.D., No. 1933/45, dated 6th May 1946.

3.10. *Settlement of assessment with superior holder*—The settlement of assessment of each land is made with the superior holder of the land in accordance with section 263 of the Maharashtra Land Revenue Code, 1966 (section 9 of the B.C.L.R. Act, 1876). On each settlement or revision, a notice is sent to the superior holder. It specifies the amount of land revenue, the period for which it is guaranteed and the date each year on which it becomes due for payment.

3.11. *Land Revenue years*—The dates on which the land revenue becomes due for payment are different for lands of different categories. In the case of the fully assessed lands, they are :—

Toka	...	...	1st November
Land Newly assessed	...	...	1st January
			1st April
			1st May
			1st September

Leasehold lands as mentioned in the lease.

In the case of special tenure land, the following are the dates for the commencement of the new revenue year for the payment of revised assessment :—

Pension and Tax	...	...	10th June
Quit and Ground rent	...	...	1st May
			10th June
			or 26th June
Foras	...	...	9th October
Sanadi	...	...	1st May
			1st November
			or 1st January

3.12. *Imposition of revised assessment in a gradual manner*—In order to obviate any sudden rise in the amount of land revenue payable by the holder and consequent hardship to him when the assessment is revised, when the revised assessment is more than 12 times the assessment, it is levied and recovered in the following manner :—

“When the revised assessment is more than 12 times but less than 50 times the original assessment, amount equal to 13 times the original assessment, is recovered each year during the first ten years, that equal to 26 times the assessment is recovered each year during the next ten years and the recovery of the full revised assessment is made with effect from the 21st year.”

In cases in which the revised assessment happens to be more than 50 times the original assessment, one-fourth of it is recovered each year during the first ten years, one-half each year during the next ten years and the full amount of the revised assessment is recovered with effect from the 21st year,

CHAPTER 4

PROPOSALS FOR THE ASSESSMENT OF INAMI AND SPECIAL TENURE LAND

4.1. *Rate of assessment*—As has been indicated earlier, the most important question in regard to the assessment of the inami or special tenure land is the rate at which it should be levied. The rate at which assessment on Toka, LNA or leasehold land is levied at present is 6½ per cent. of the market value of the land. It has been pointed out before that if the assessment is levied on the inami or special tenure land at this rate, it is bound to cause hardship because the value of the land is at present high and in the absence of any prescribed criteria for determining the present market value of the land under a building, there was every possibility of even a built-up land being valued at the same rate as the unbuilt land and assessed on the basis of this valuation. Apart from this, the percentage, which would be reasonable for assessing an unbuilt plot which has full building potentiality will not be suitable for assessing a built up land which will have no building potentiality for a number of years. The rate of 6½ per cent. has been fixed only in 1964 and has been applied only in the following cases of revision of assessment of Toka and LNA lands, which have since then occurred :—

Year	No. of cases		
1964	2
1965	4
1967	1

The position in regard to leasehold lands is different. They belong to Government and Government is entitled to recover something more than assessment in respect of these lands. There is also another factor to be taken into account in respect of the inami/special tenure lands. These lands are being assessed for the first time after they have enjoyed almost full immunity from the payment of land revenue for over 200 years. Although it would not be correct to compare the amounts of assessment with the small negligible payments that the holders of these lands are at present required to make, the amounts of land revenue in most cases would be substantial and not quite insignificant. Apart from this, the difficulty in having the land value determined from the value of the property might also lead to some inflated valuations and consequently inflated assessment. The President, Property Owners' Association submitted that the assessment of the inami/special tenure land should be at the flat rate of one paise per sq. yd. and no more. Taking into consideration all these facts, the Committee has come to the conclusion that the rate at which inami and tenure lands should be assessed for the first time after the abolition of inams and special tenures should not exceed 5 per cent. of the market value i.e. the rate which had been in force from 1926 till 1964.

4.2. *Assessment to be on the basis of market value and not the full market value of the land*—The Committee was told that assessment is levied at 6½ per cent. of the market value of an assessed land and that if the land were held free of assessment, its value as a freehold land i.e. its full market value is determined and assessment is charged on the basis of the full market value at one-half of the normal percentage. The concept of full market value is explained as under by Anderson in his comments on the Land Revenue Rules :

“There are two distinct elements in the term of the value of the land from the Government point of view :—

(a) The value of the occupation or possession when vested in the Land Revenue Department, termed sometimes by the Government of India the “Proprietary right” though most of the sales and transfers contemplated by the Code are not transfers of the ultimate property but only of the occupation. In other words, the value of the net rent after deducting the revenue tax from gross rent.

(b) The value of land revenue, even if only partial, assessed upon it.

* * * *

The expression “Revenue free value” is used in the rules as a compendious term for the value of both these elements, the price which the land would fetch if sold subject to the liability to pay land revenue together with the capitalised value of the revenue which it might bear.” Para. 74, p. 50—Land Revenue Rules, 1921-1964 edition. The revenue free value referred to in the above extract is described as the full market value of the land. The same concept in regard to the full market value of the land is expressed in section 108 of the M. L. R. Code, which runs as under :

“108, In this chapter, unless the context requires otherwise, “full market value” in relation to any land means an amount equal to the market value of that land plus the amount representing the capitalised assessment for the time being in force”.

The position in regard to inami and special tenure lands in the city is that the former bears no assessment while the assessment paid in respect of the special tenure land is only nominal. The full assessment leviable on these lands is for the time being an unknown factor. The full market value of the lands would be determined on the basis of sale statistics pertaining to freehold lands, but in many cases sufficient sale statistics pertaining to sales of freehold lands may not be available. In the case of assessed lands such as Toka and LNA lands, their freehold value could be determined by adding to their market value, which would be reflected by the sale statistics, the capitalised value of assessment payable in respect of the lands. This would be a somewhat circuitous way and should

become unnecessary if assessment is determined on the basis of the market value of the land. The market value of an inami or tenure land could be determined on the basis of sale or rental statistics pertaining to assessed land. The Committee, therefore, considers that assessment to be levied on the inami or special tenure lands should be on the basis of its market value and it should be unnecessary to find out the so called full market value of the lands.

4.3. *Standard rates of assessment for inami/special tenure land*—The inami/special tenure lands constitute about 80 per cent. of the assessable land in the city. The number of persons holding these lands, who would become liable to pay land revenue in respect of these lands could not become available to the Committee. Assessment of all these lands in the usual manner would be a huge task and would take a long time even if a special staff is appointed for the purpose. By the time the demand notices are prepared and served on individual landholders, the amounts that the landholders would be required to pay would be large because of accrued arrears. Apart from this assessment of each individual plot would be a difficult and complicated task. The Committee, therefore, considers that instead of assessing each individual plot separately, the Collector should fix separately for each revenue division of the city a standard rate of assessment for inami/special tenure land in the same manner in which standard rates of non-agricultural assessment are fixed by the Collector for the urban areas other than the city of Bombay in accordance with the provisions of sections 111 to 113 of the M. L. R. Code. The assessment of each individual plot should be done by the Collector on the basis of this standard rate and the assessable area. If in any case, the landholder contends that his land suffers from such special disadvantages as would make the application of the standard rate unfair and demands determination of the market value of his land on the relevant date and assessment of the land on the basis of this market value, the Collector should on the land-holder depositing with him the amount of land revenue for 3 years that would be recoverable in respect of the land on the basis of the standard rate and the assessable area of his plot decide the market value of the land to be adopted for the purpose of assessment and determine assessment liable on the land on the basis of this market value.

4.4. *Procedure for determining standard rates of assessment*—The Committee suggests that the following procedure should be followed for determining the standard rate of assessment of inami/special tenure lands :

“The standard rate of assessment of inami/special tenure lands for a revenue division shall be the rate at which an average unbuilt plot in the

division shall be liable to be assessed at 5 per cent. of its market value on the relevant date, viz. 2nd December 1957. The market value of an un-built average plot shall be determined on the basis of instances of sales or acquisition of similar lands in the division, that might have occurred during the period of 15 years immediately preceding the relevant date. Within one month of the appointed date, the Director, Town Planning or any officer authorised by him in this behalf shall after examining the available sale and other statistics for the relevant period determine what according to him should be the standard rate of assessment of inami/special tenure land for each division. He shall notify these rates in the prescribed manner for inviting petitions of objections and suggestions in regard to the same within two months from the date of the notification. If any petitions of suggestions or objections are received within two months from the date of the notification, he shall enquire into them and in the course of enquiry, give the petitioners full opportunity to have their say and to produce their evidence in the matter. After the petitions of suggestions and objections are enquired into and decided, he shall submit to Government through the Collector or the Commissioner his final recommendations in regard to the standard rates of non-agricultural assessment for inami/special tenure land that may be finally notified by Government.

The final recommendations made by the Director of Town Planning shall be published by him in the Government Gazette for the information of the members of the public.

If any person feels aggrieved by the final recommendations of the Director of Town Planning he may within one month from the date of the Director of Town Planning's notification apply to the State Government for reference to the M. R. Tribunal. On such a reference being made, both the State Government and the Maharashtra Revenue Tribunal shall follow the procedure prescribed under section 99 of the Maharashtra Land Revenue Code for dealing with an application for referring to the Maharashtra Revenue Tribunal a settlement report published by the Collector under section 97 of the Code.

The recommendations of the Director of Town Planning together with the petitions of objections or suggestions, if any, received and the opinion of the Maharashtra Revenue Tribunal on a reference, if any, made to it, shall be considered by the State Government and the State Government shall notify in the Government Gazette its final decision in regard to the standard rate of assessment of the inami/special tenure land to be adopted for each revenue division for assessing inami/special tenure land with effect from the appointed date."

4.5. *Market Value*.—The expression “Market Value” is not defined in the land revenue law, nor in the present Bill. It is considered to have the usual connotation expressed in the following definition of this term given by Anderson in “the Manual of Land Acquisition for the State of Bombay”.

“Market value in Indian law is the price, which the land for such uses as a prudent owner would make fetch in open auction (or free bargain at arm’s length) the day before the notification, if seller and buyer are under no illusions or coercion and know all about the land except the impending acquisition.”.

Usually it is determined on the basis of statistics pertaining to similar lands in the locality. Determination of market value especially of land which has been built upon is difficult and is also oftentimes a matter of dispute, which takes a long time for its settlement. According to the Deputy Director of Town Planning land values in the city started increasing since 1956, since 1958 there has been a continuous increase in them and the increase since 1963 has been very steep. Therefore, while under the rent restriction law, the rents on lands and buildings have been frozen since 1940 the land value have become several times what they were in that year. The Committee, therefore, considers it necessary to lay down in the Bill the precise manner for the determination of the land value for the purpose of its assessment.

The Committee considered the following suggestions for the determination of market value of inami or special tenure land to be taken as a basis for assessment :—

- (1) The rate of market value should be the average rate of sale of land in the locality for the period of ten or fifteen years preceding the date with reference to which it is to be determined.
- (2) It should be the average of the rates awarded in compensation cases in respect of lands acquired during the past ten years.
- (3) Owing to abnormal increase in the land value during the past ten years, sale transactions for the past ten years may be discarded and market value should be determined on the basis of sale statistics for the ten years preceding this period.
- (4) The market value should be as in 1950 and it should be determined on the basis of sale and other statistics, for a period of ten years preceding this year.
- (5) It should be determined on the basis of the net rental income of the land and property.

After careful consideration of all the relevant factors, the Committee feels that —

(a) The market value of the land as on 2nd December 1957 should be the basis of assessment of the inami/special tenure land.

(b) This market value should be determined after considering instances of sales of similar lands in the same locality that might have occurred during the period of fifteen years preceding 2nd December 1957.

(c) In the absence of sufficient instances of sales of similar lands in the neighbourhood, instances of acquisition of land in the locality that might have occurred during the preceding fifteen years might be considered.

(d) In the absence of sufficient instances of sale or acquisition, market value as on 2nd December 1957 may be determined on the basis of the data pertaining to the net rental income.

It was pointed out to the Committee that in 1957 assessment on Toka land held by Textile Mills in the City was revised with effect from November 1950 on the basis of valuation which had been agreed to in the High Court between the Collector and the management of the Mills. Some of the Mills hold inami and special tenure land adjoining their Toka lands and in the case of these inami and tenure lands, they should be valued at the same rate at which the adjoining Toka lands were valued. It was urged that acceptance of the agreed valuation should be made obligatory on the Collector under the Act. The Committee considers that action as proposed would not be proper in view of its recommendation to adopt the 1957 value as the basis for assessment for the purpose of determining the market value. Instances of agreed valuation of the adjoining Toka lands will have to be given due consideration by the valuing officer but it would not be fair and correct to tie him to this valuation irrespective of all other factors especially elements of convenience and adjustment that are bound to be present in the agreed valuation.

4.6. *Area to be assessed*—The question of excluding the area of a plot which is open to sky from assessment was considered as it was urged that under the Town Planning Scheme and Municipal building regulations large portions of building plots are required to be kept open to the sky and that it would not be proper to assess this open space. In fact, Government Resolution No. 3759/51 dated 18th April 1952 clearly lays down that where the property is so underdeveloped that it cannot bear the full rate of assessment and the underdevelopment is due to factors beyond the control of the occupant such as restrictions placed by Government or any local authority which prevent the full development of the land, the rate of

assessment to be levied should bear the same proportion to the full rate as the development permissible would bear to the full economic development of the land.

The Committee, therefore, recommends that in cases where land is partly built and partly unbuilt, only that portion of the land, which bears the same ratio as the built up area bears to the floor space index should be deemed to be the assessable area of the land. Where in respect of a land any portion is required to be reserved under the Development Control Rules or other similar rules such as amenity space, recreational space, means of access, parking and loading and unloading space, etc., such portion should be excluded in the computation of the assessable area.

4.7. *Open space*—It was pointed out to the Committee that Mills or other industrial establishments holding inami or special tenure lands have kept large areas for playgrounds or recreational purposes. They are not using these lands for any profitable purpose. In such cases the Mill or establishment concerned would be put to hardship if the lands are not left free of assessment. The Committee considers it would be desirable not to levy any assessment on these lands or to levy it at a nominal rate. The Committee would, therefore, suggest that the law should give the Collector power to leave such open spaces unassessed so long as they are used as playgrounds or for recreational purposes or any welfare activity. The law should provide that on application from the landholder concerned, the Collector may decide after holding such enquiry as he may find necessary whether there was a proper case for giving the concession asked for. The Collector should have also similar power in respect of land belonging to Co-operative Housing Societies, subsidised housing schemes and lands of institutions or individuals not forming part of any public trust, registered under the Bombay Public Trusts Act, which are used for the purposes of education, religion, medical relief or any philanthropic object.

4.8. *Full land revenue payable not to exceed a certain percentage of aggregate of Municipal Taxes*—The Committee was conscious of the fact that a substantial section of the land now proposed to be covered by legislation is already fully developed and burdened with various structures, which were erected prior to 1940 and any assessment on such lands related to the methods enunciated above would still cause undue hardship in view of the rentals having been frozen at the 1940 level.

The Committee, therefore, thought that the land revenue assessment worked out by the methods indicated above should in no case exceed $\frac{1}{4}$ th

of the aggregate amount of Municipal taxes (excluding education cess or any other cess that may be imposed by the Municipality hereafter) paid or payable at the time of determination of land revenue assessment in respect of the land and property standing thereon by the property owner to the municipality. In other words, the full land revenue assessment payable by the property owner should be the figure worked out on the basis of the standard rate of assessment and the market value of the land, or 25 per cent. of the municipal taxes as explained above, whichever is lower. Suppose the full land revenue assessment payable in respect of a particular property on the basis of the standard rate and the market value is Rs. 2,000 and by applying 25 per cent. of the Municipal taxes, it works out to Rs. 1,500. The full land revenue assessment on the land should be Rs. 1,500 and not Rs. 2,000.

4.9. *Betterment charges*—Some of the lands under the Town Planning Scheme are subjected to a betterment charge and it was urged by the President, Property Owners' Association, that the full assessment leviable on the land should be the amount as worked out in the manner that will be finally prescribed for the purpose as reduced by the betterment charges in cases in which such charges are imposed on the land. The Committee considered that in view of the low rate of assessment, the ceiling of one-fourth of the municipal taxes, the proposed gradual manner of levying assessment and the sharing of the liability for new assessment between the landlord and the tenant, the further concession as asked for by the President, Property Owners' Association, would not be justified.

4.10. *Period of Guarantee*—Full assessment on inami or special tenure land levied in the manner that may be provided for in the Bill should be guaranteed for a period of fifty years and this should be provided for in the Bill.

4.11. *Submission of returns by the assesseees*—In order to expedite assessment of the inami/special tenure land and to ensure against accumulation of accrued arrears, the Committee suggests that the land-holder should be called upon to submit to the Collector a return giving information in regard to the inami/special tenure land and to deposit with him a sum, which will be equal to 2½ per cent of the aggregate of the following Municipal taxes levied on his land during the year :—

(1) General tax including fire tax,

(2) Water tax

and (3) Halalkhor tax.

The return may be furnished by the landholder himself or any person authorised or entitled to act on his behalf. The assessee who would be required to submit the necessary return may be defined to mean :—

“Person who is under section 8 (1) of this act primarily liable to pay to Government with effect from the appointed day land revenue in respect of an inami land or special tenure land, and includes any person lawfully authorised or entitled to act in this respect on his behalf :—
Provided that—

(a) in the case of a person physically or mentally disabled from attending to his affairs, his lawful guardian,

(b) in the case of an undivided family, the manager of the family or if he be away from India, the adult member of the family attending to the affairs of the family,

(c) in the case of a Company, the principal Officer of the Company,

(d) in the case of a firm, the partner of the firm entitled to act on behalf of the firm, and

(e) in the case of an association or society or a body, its principal Officer, or any other officer or a member of the association or society or body duly authorised in this behalf by the association or society or body shall be regarded as the assessee in respect of the land.

The return should contain the following particulars :—

- (1) Full name and address of the person submitting the return ;
- (2) Capacity in which and the authority under which the return is sent ;
- (3) Details of inami or special tenure land ;
- (4) Estimate in regard to market value and evidence in support of the estimate ;
- (5) Details of built up areas and constructions, if any ;
- (6) Amounts of the following Municipal taxes which are payable by the holder during the year in respect of the land and the property standing on it ;

(1) General Tax including fire Tax,

(2) Water Tax

and (3) Halalkhor Tax.

The return should be accompanied by a remittance, which will be $\frac{1}{4}$ th of the aggregate of the above taxes.

The landholder may be made liable to pay a fine not exceeding Rs. 50 if he does not wilfully submit the prescribed return and/or deposit the prescribed amount within the prescribed period or fails to submit the return and deposit the necessary amount without any lawful excuse. The fine should be imposed by the Collector after holding an enquiry in a formal manner provided for in sections 234 and 236 of the Maharashtra Land Revenue Code, 1966.

In addition, the defaulting landholder may be estopped from disputing action that the Collector might take after the date notified for the submission of the return for determining the market value of the land and the assessment leviable on the land.



CHAPTER 5

GRADUATED LEVY

5.1. *Absence of provisions for graduated levy in the 1957 Bill*—The scope of the 1957 Bill extended to 3 inam grants and the Bill did not provide for recovering land revenue to be imposed on the inam land in a gradual manner.

5.2. *Provisions in regard to graduated levy in the 1959 Bill*—The scope of the 1959 Bill was also extended to the special tenure lands, the total area of which is about 177.45 lakh sq. meters, to the area of 14.62 lakh sq. meters of lands of inam grants I and III. The Bill also, provided for the recovery of assessment of the inami and special tenure land in a gradual manner. It required that the amount of assessment to be recovered each year during the first 50 years should be as under :—

(1)	During the first 10 years	...	15 per cent. of the full L.R. leviable.		
(2)	" "	second decade	...	30 per cent.	" "
(3)	" "	third decade	...	45 per cent.	" "
(4)	" "	fourth decade	...	60 per cent.	" "
(5)	" "	fifth decade	...	75 per cent.	" "

5.3. *Period for graduated levy prescribed in the 1963 Bill*—The 1963 Bill has reduced the period of graduated levy to 20 years and has also changed the slab, which had been prescribed for its recovery.

5.4. *Pros and cons in respect of the suggestion to increase the period of graduated levy*—It was strongly urged to the Committee that it would be desirable to revert to the 1959 provisions in view of the heavy assessment that would be imposed on the inami and special tenure lands. It was argued that inspite of the Committee's recommendation for softening the blow, the impact of assessment would be severe and very heavy especially in the case of small investors in properties who had acquired inami or special tenure land on payment of full consideration for the right to exemption from the payment of land revenue attached to it and it would spell ruin for them unless the recovery of assessment is made in a gradual manner and the land holder is called upon to pay full assessment after a sufficiently long period.

As against this there are the following facts :—

(i) The period adopted for the graduated levy of revised assessment on Toka and other assessed lands is of 20 years and it would be desirable to adopt this normal period even in the case of inami and special tenure lands.

(ii) It is proposed that the period of guarantee for the new assessment should be 50 years. In that case, if the period of graduated levy is fixed at 50 years, the assessment will become due for revision without its becoming due for recovery at the full rate and this would in turn affect imposition of revised rate of assessment and its recovery.

5.5. *Committee's recommendation and reasons for the same*—The Committee has given careful consideration to these facts and feels that as the case of inami and special tenure lands is distinguishable from the case of Toka and other assessed lands in the city, the proposed legislation is primarily a land reforms legislation and not a fiscal measure and the policy of Government in the matter of land reforms has all along been that of introducing them in a smooth, gradual and imperceptible manner without causing any serious dislocation in the social and economic structure and without putting too much strain on the administrative agency, there would be no objection to allow for the imposition of full assessment after a period of 40 years on the inami and tenure lands. It does not consider any change in the slab proposed in the 1963 Bill to be necessary. In effect its recommendation is that the amount of the land revenue to be recovered from the landholder during the 40 years from the date of its imposition should be the following percentages of the full amount of land revenue that would have been levied on the inami or special tenure land :

Each year during the first decade—10 per cent. of the amount of land revenue.

Each year during the second decade—25 per cent. of the amount of land revenue.

Each year during the third decade—50 per cent. of the amount of land revenue.

Each year during the fourth decade—75 per cent. of the amount of land revenue.

In making the above recommendation, the Committee has also been impressed by the fact that by prescribing 50 years period for the graduated levy, Government had given cause to feel that such a long period for graduated levy was essentially required and the reduction of this period to 20 years without any apparent justification had quite naturally given

rise to justifiable misgivings in the minds of the public that inspite of all assertions to the contrary the Bill is a fiscal legislation and not a land reform measure.

5.6. *Graduated levy no relief for the property owner*—According to Shri Rele, the recovery of full land revenue in a gradual manner as proposed would not give relief to the property owner. Expressed in terms of the initial burden of assessment, the proposals for graduated levy provide for raising the burden of assessment to $2\frac{1}{2}$ times from the 11th year, to five times from the 21st year, $7\frac{1}{2}$ times from the 31st year and 10 times from the 41st year. This rise in the burden is steep while there will hardly be any increase in the net profits of the land accruing to the property owner. According to Shri Rele, the land revenue to be recovered from the landholder should be related to his net income from the land. It should be conceded that a property owner is a responsible citizen who should have his budget and in imposing the graduated levy, it would be the responsibility of Government to consider whether and to what extent his income would correspondingly increase to bear the burden.



CHAPTER 6

FAZANDARS AND FAZANDARI TENANTS

6.1. *Fazandars and their grievances*—In 1959 after the publication of L. A. Bill No. LIV of 1959 it was represented to Government that the Fazandars in the city would be hit hard by the proposed legislation because being the superior holders of their lands, they would be required to pay land revenue that would be levied on their tenure lands, while they would be precluded from recovering from their tenants anything more than the customary low rents. It appears that in 1959 Government felt it unnecessary to provide in the Bill anything in regard to Fazandars or Fazandari tenants because they considered that Fazandari was a sub-tenure and the question of passing on the liability for the payment of land revenue to the Fazandari tenant by amending the Rent Control Act could be considered after the abolition act came into force and its effects were fully realised. It was also considered that in view of the provision for the graduated levy the amount of land revenue that the Fazandars would have to pay during the first ten years would be small. The question in regard to Fazandars was however raised before the Committee and it was pointed out that it was essential to provide for the passing on of the liability for new assessment to the Fazandari tenant immediately because the amount of rent that the Fazandars are getting from these tenants are ridiculously low and in spite of the proposed graduated levy the amounts of assessment they would have to pay would be considerably large even during first five or ten years.

6.2. *History of the Fazandari tenures*—The history of the Fazandari tenure is given on pages 101 to 103 of Bombay City Land Revenue Act, 1876, annotated by Vaidya and Gupte. It shows that Fazandar is the landlord of the district or part in which his land is situated but is only entitled to get a fixed yearly rent from his tenant and has practically lost all his other rights in the land. The Fazandari tenant has assignable and transferable interest in the land and neither he nor his assignees or transferees can be evicted from the land. The word "fazandari" occurring in an agreement has been held by the courts to mean (*Rehimtulla v. Husanalli Mohamed*, Bombay Law Reporter XXV, 1192) "an indefeasible right to hold in perpetuity on payment of a small quit or ground rent". It was pointed out to the Committee by Shri Petigara that a Church in Mahim had Fazandar's rights in respect of about half of the area of Mahim but is getting an income of rupee one per thousand sq. yard per year.

6.3. *Fazandari tenant and not Fazandar to be superior holder of Fazandari land*—Fazandari is no doubt a sub-tenure and the Fazandar's right to

receive rent from the Fazandari tenant would not be abolished by the proposed legislation. But at present Fazandar is recognised as the superior holder of the Fazandari land and even after the abolition Bill becomes law and comes into force, he will continue to be the superior holder of the land and will be liable to pay a large sum as land revenue of the land as against the small amount of pension and Tax he has been paying. Obviously it will not be possible for the Fazandar to pay the large amount of land revenue from out of the low amount of rent which he is getting from his tenant nor will it be permissible for him to pass on the liability to pay land revenue in respect of the land to the tenant unless a specific provision for the purpose is made in the proposed legislation. His position would materially be different from that of the other landlords who are getting sufficiently large sums from their tenants by way of rent for their lands. The Committee, therefore, considers that instead of linking this question with the question of passing on the landlord's liability to the tenant, it should be dealt with independently, and the best way of doing it would be to declare the fazandari tenant as the superior holder of his land and thus make him liable to pay land revenue in respect of the fazandari land. This would not absolve him from his liability to pay fazandari rent to the fazandar, because the Bill does not provide for the abolition of the Fazandari rights. The Committee, therefore, recommends that the expressions 'Fazandars' and 'Fazandari tenants' may be defined in the proposed legislation as under and the definition of superior holder given in (xiii) of sub-clause (i) of clause 2 may be so amended as to provide for the Fazandari tenant being recognised as the superior holder of the Fazandari land :—

“Fazandar” means the holder holding special tenure land from Government, who has prior to 1782 let out his land under a formal agreement or without any such agreement to a tenant, hereinafter called the Fazandari tenant, perpetually on payment of a fixed annual rent.”

The earliest record about the Fazandari tenure is to be found in the Collector's office in a report of the Vereadors of the 14th December 1782. No new fazandari rights seem to have been secured subsequent to this date.

6.4. *Continuance of the Fazandar's rights*—In the absence of any provision in the Bill for the abolition of the Fazandari right, the right will continue and even after the abolition law comes into force, the Fazandar will be getting his fixed annual rent from the Fazandari tenant. The position of the Fazandari tenant would be exactly similar to that of the holder of a special tenure land holding his land on payment of a very small rent and on the abolition legislation coming into force, like the holders of other pension and Tax land, the Fazandari tenant will be required to pay to Government land revenue in respect of the fazandari land in addition to the

rent that he is paying to the fazandari landlord. In areas in which Town Planning Schemes have come into force, the Fazandari tenure has already been abolished. In the other areas it will be abolished as and when Town Planning scheme are introduced under the Town Planning Act. Therefore, even if this tenure is left undisturbed by the abolition legislation it will not mean its perpetuation.

6.5. *Landlords other than Fazandars*—Shri Rele pointed out to the Committee that there were several landlords who had let out their lands permanently on low rents and that their cases would be exactly similar to those of the Fazandars. In his opinion in the case of these landlords, liability for the payment of assessment should be on the tenants and not on the landlords. Sarvashri Gheewala and Vijaynagar are in agreement with this suggestion. No instances or data in regard to such cases were however furnished to the Committee. The Committee is not, therefore, in a position to endorse the view expressed by Shri Rele, and agreed to by Sarvashri Vijaynagar and Gheewala.



CHAPTER 7

IMPACT ON INDUSTRY

7.1. *Probable effects of proposed Legislation on industry*—Since the publication of the 1957 Bill, grave fears are expressed in regard to the probable effects of the proposed legislation on the industry in general and the Textile industry in particular in the city. It is urged :

(1) The effect of the imposition of full land revenue on the inami and special tenure land, which constitutes about 80 per cent. of the total assessable land in the city will have the disastrous consequence of :—

(a) a crash in the land value,

(b) contraction of credit, and

(c) demand by the mortgages or financing agencies for greater securities from the mortgagors of inami land/special tenure land.

(2) The industry is already heavily taxed. It has to pay excise duty, sales tax, income-tax, super tax, wealth tax, electricity duty, municipal taxes, etc. It will not be in a position to bear the new land revenue burden, which will be fantastically high.

(3) The industrial concerns in the City have schemes for the housing of the workers on payment of rent within their means. It is because of the inami and special tenure lands that these concerns are able to meet and manage these schemes, and if these lands are subjected to the payment of full assessment, it will not be possible for these concerns to meet these schemes without the workers being required to pay high rent.

(4) The impact of the proposed legislation on the rent index or the cost of living index will be heavy. If the liability for new levy is passed on to the tenant, there will be a consequential increase in the quantum of dearness allowance to the workers to the extent of about four and a half lakhs of rupees and this will have a very adverse effect on the cost structure of the society.

(5) The contribution at present made by the industry to the Municipal and the State revenue is high and it would not be fair to call upon the industry to make any further contribution, which it would not be in a position to make with ease.

(6) The industry in general and the Textile industry in particular is passing through a critical time due to the cost inflation and demand deflation and is not in a position to bear the additional burden.

7.2. *Case of industry*—The case of the industry has been very ably placed before the Committee by Sarvashri Petigara and Vijayanagar and it will not be out of place to give here some excerpts from the valuable and useful note which they have jointly prepared and submitted to the Committee ;

Excerpts from the joint note submitted by Sarvashri Petigara and Vijayanagar :

“(9) The table below sets out the position :—

Serial No.	Area	Tenure	Area of the land in sq. yds.	Land rates Rs. per s. yd.	Revised assessment	Gross Annual rent	Municipal taxes.	Total of Municipal taxes and land revenue	Retained rent
1	2	3	4	5	6	7	8	9	10
				Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
1	Fort	.. Q & G	104	320	1,082	2,562	782	1,864	698
2	Fort	.. P & T	80	320	832	2,586	808	1,640	946
3	Lower Parel	.. P & T	292	40	380	2,760	855	1,235	1,525
4	Mahim	.. P & T	199	60	388	17,100	4,418	4,805	12,294
5	Byculla	.. Foras ..	46,637	50	76,000	3,07,280	90,485	1,66,485	1,40,795
6	Byculla	.. Foras ..	43,718	50	71,400	3,27,564	97,870	1,70,270	1,57,294
7	Byculla	.. Foras ..	71,628	50	1,03,600	2,63,958	79,346	1,82,946	81,01

We do not accept the above table as typical. We believe that in actual fact it will be found that in a large number of cases especially when the rents are stationary by law, there would be very many cases of genuine hardship. However, a study of the above table raises the following amongst other issues :—

(a) Whether rents retained after the payment of municipal taxes and the proposed land revenue assessment, represent a reasonable return on the amount invested in the property ;

(b) If the retained rents do not give adequate return, what would be the impact on the credit-worthiness of properties ;

(c) Whether inadequacy of return would deflate the market value of landed properties ;

(d) Where properties have been mortgaged whether the mortgagee would refrain from calling for additional security from the mortgagors due to fall in the market values of properties ; and

(e) Where the mortgagors are not in a position to give additional securities, would not the properties be exposed to the risk of distress sales ;

In the case of items (d) and (e), it must be noted that Banks, financial institutions (most of them Government institutions) and business money-lenders have lent and advanced crores of rupees and that a fall in values of land is bound to diminish the required margin and the required security will be impaired all of a sudden."

* * * * *

"(12) So far as the industry is concerned the position is that the land and buildings themselves do not show any return because of enormous outgoings such as municipal taxes, maintenance, sinking fund, insurance, etc. and that the profits of a factory are mainly from production which pays to Government millions of rupees by way of taxes such as customs duty, excise duty, income-tax, dividend tax, sur-tax to the Central Government, sales tax, electricity duty, tax on goods carried by road, etc. to the State Government, octroi and terminal taxes to the local authorities. The City mill industry contributes not less than Rs. 45 crores to the National Exchequer by way of excise duty, customs duty, income-tax etc. So far as the State taxes are concerned, its contribution is more than Rs. 5.50 crores per annum made up of Rs. 4.55 crores as sales tax on goods and electricity and Rs. 0.95 crores by way of electricity duty, stamp duty, tax on goods carried by road and education cess. The industry provides the Municipal Exchequer taxes to the tune of Rs. 2.40 crores made up of Rs. 1.60 crores by way of property taxes including water tax and Rs. 0.80 crores by way of octroi duties. This aspect of the matter is very vital in any consideration to impose land revenue assessment on lands held by the industry.

"(13) Paragraph 9 above refers to the industry so far as land and buildings are concerned, and particular reference is made to the Mill industry which is the large single industry in the City of Bombay. But it must be remembered that apart from industry there is a very large, in fact much larger, area where private buildings mainly private residential buildings are concerned. We believe that by far the larger portion of the areas under the special tenures would be occupied by private owners of single buildings and out of such buildings areas by far the larger number (excepting those who have come up during the last five to ten years) would be old buildings where the rents are frozen. The impact on those owners of the intended legislation is going to be extremely severe and in a large number of cases the owners will not be able to bear the burden and most, if not all, will not be able to maintain the buildings which they own. Even now the impact of the Rent Act is such that maintenance and repairs are not properly carried out for economic reasons. Any additional taxation not passed on to the tenants or occupants will be disastrous to the owners. We believe that the majority of the owners will be citizens of Bombay and a large number of them will be of Maharashtrian origin.

“(14) The problem of land revenue assessment should not be approached from the angle of what percentage it constitutes in the various taxes paid by the property owners. There have been too many taxes causing no end of misery to the common man. While each tax by itself may be a small proportion of the total taxes paid cumulatively the taxes may impose, as they do an unconscionably heavy burden. The higher totality of the tax burden the lower is the percentage of the individual taxes to the total tax burden.”

7.3. *Relevant figures*—The Committee has given very careful and close consideration to the above objections to the proposed legislation. In order to enable it to examine these objections the Committee had at its first meeting found it necessary to have information on the following points :—

(a) kinds of industrial establishments in the city who hold any inami or special tenure land and their number ;

(b) the number of industrial establishments in the city which do not have any inami or tenure land ;

(c) the extent of the inami and special tenure land held by the industrial establishments in the city and its proportion to the non-tenure and non-inami lands held by them ;

(d) the total amount of various taxes or other payments to Government, the industrial establishments in the city are required to make, probable increase in this amount on the imposition of full assessment amount on the inami and special tenure land and its percentage ;

(e) ratio of income and expenditure of the various kinds of industrial establishment in the city (i) holding inami and special tenure land, and

(ii) not holding any inami and/or special tenure land and the probable effect on this ratio on the imposition of full amount on the inami and special tenure land in the graduated manner as proposed in the legislation.

A statement showing the various categories of industries in Greater Bombay that exist and the number of the industrial establishments of each category compiled from the Directory of Industrial Establishments is given in appendix V. It was not however possible for the Committee to get more precise and detailed information in this respect. The statement shows that the major industry in the city is the Textile industry and thanks to the information which the Bombay Mill Owners' Association and its members had furnished to Government, the Committee got some data pertaining to the Textile Mills in the city.

In 1963, out of the 38 Mills in the city, 31 Mills held inami/special tenure land to the extent of 32.42 lakh sq. yards, i.e., 27.11 lakh sq. metres of land. Of this area, 28.03 lakh square yards (23.44 lakh sq. metres) was used, for factory or Mills buildings, 34,475 yards (28,728.18 square metres) for workers' chawls and 683 sq. yards (569.08 sq. metres) for other purposes. Information in regard to the total area of non-inami and non-tenure land held by the Mills and the total land revenue paid by them in respect of this land could not become available. In regard to the other industrial or commercial establishments in the city, only the following meagre information could become available to Government in 1963 or to the Committee :—

Four of the industrial concerns, who are members of the Indian Merchants' Chamber held about 21,646.44 square yards of inami/and special tenure land on payment of a sum of Rs. 22.84 to Government annually.

Ten Mills and establishments, who were members of the Bombay Chamber of Commerce, held 97,347 square yards of inami/tenure land and 5,70,650.11 square yards of non-inami and non-tenure land assessed at about Rs. 1,04,373.29. Seven Banks in the city held 18,827.55 square yards of inami/special tenure land and 7,24,095 square yards of non-inami/non-tenure land assessed to about Rs. 1.91,987.38.

7.4. *Inadequacy of statistics*—The above statistics were the only statistics that the Committee was able to procure. They are meagre and have not enabled the Committee to arrive at some agreed conclusions on the question of the precise impact of the proposed legislation on the industry in the City in general and the Textile industry in particular.

7.5. *Views of representatives of industry*—According to the representatives of the industry on the Committee the Bill will have a very disastrous effect on the industry in the city and it would, therefore, be just and proper for Government to drop the idea of proceeding further with it.

In the words of Sarvashri Gheewala and Vijaynagar, the position would be as follows :—

“ In spite of our suggesting measures for softening the impact of assessment, we are aware that the apprehensions of depreciation in land values caused by the land revenue burden and the consequent effect of the same on the credit-worthiness of the inami/special tenure lands, cannot be ruled out. For instance, a mortgagee may demand either the return of the loan or demand a higher rate of interest in view of the depreciated value of

the land consequent upon the imposition of land revenue. In order to obviate cases of extreme hardship, we recommend that a provision should be incorporated in the law exempting from revenue assessment properties where the existing income remaining with the owners provides a return equivalent to or less than the rate of return granted by the Rent Act. In other words, the Collector, with the previous sanction of the Government should be empowered to fix rates of land revenue assessment in such a manner as to leave to the owner a return on investment at least equal to what is laid down in the Rent Act”.

Sarvashri Vijaynagar and Gheewala also urge that an examination be made for finding out what would be the impact of the proposed land revenue assessment on the rent index and the cost of living index if the liability to new assessment is passed on to the tenant. According to them, the rent index and the cost of living index would go up and this should lead to the payment of an additional dearness allowance of about 4·8 lakh workers and would consequently effect very adversely the cost structure of the industry.

It is further urged that at present the cost is going up and there is a deflation in the demand for the products of the industry especially the textile industry, and that this would not, therefore, be an appropriate time for any action which would impose any additional burden on the industry. The total taxation burden of the industry is already heavy and any further addition, howsoever small, is bound to break the back of the industry. These members, therefore, consider that this matter should be examined by Government, as the Committee was unable to do it for want of relevant statistics.

7.6. *Views of the other members*—The views mentioned in the preceding paragraphs are endorsed by Shri R. C. Rele.

The marginally noted members of the Committee do not however

(1) Shri R. C. Joshi,	subscribe to the views held by
(2) Shri S. B. Palekar,	Sarvashri Gheewala and Vijay-
(3) Shri J. H. Patwardhan,	nagar. They consider that the
(4) Shri B. T. Talim,	apprehension that the land
(5) Shri S. N. A. Razvi, and	revenue on inami/tenure lands
(6) The Housing Commissioner	would be fantastically high is
	not justified. The main basis

for this apprehension is that as the quantum of assessment and the manner of its levy and recovery are not defined in the present Bill, nor in Maharashtra Land Revenue Code, 1966 the authorities concerned are bound to use their discretion indiscriminately with a view to securing more land

revenue to Government. However, the Committee has made suggestions for defining these matters precisely and for incorporating them in the proposed legislation. The Committee has also suggested that the rate for the assessment of the inami/special tenure land for the first time after it loses its inami/special tenure character should be lower than the rate prescribed by Government for the assessment of Toka, L. N. A. or leasehold land. Besides the burden will fall only on those industrial establishments which hold inami/special tenure land. One would not be justified in saying that this burden will be unbearable for these establishments, when there are establishments, who are paying full land revenue in respect of Toka, L. N. A. or leasehold land held by them.

7.7. *Depreciation in land value*—They also consider that the apprehension that on the imposition of full assessment on the inami/special tenure land, there will be a general fall in the value of the land in the city is not well founded. The value of the inami/special tenure land will no doubt go down because the holder of this land will have the additional liability of the payment of land revenue imposed on him. But this should have the effect of removing the existing disparity between the value of the inami/special tenure land and the other land. It is not clear why the proposed legislation should affect the value of the land, which is already fully assessed. The land values do not depend mainly on the rate of their assessment to land revenue. There are several other factors which influence them. Therefore, if there happens to be any fluctuations in regard to the same, they cannot be held to be wholly due to the levy of full assessment on land which has till now been paying no or very little land revenue to Government. Depreciation in the value of the inami/tenure land should not affect adversely the industry as a whole. It will have some effect on the industrial establishments, holding inami/special tenure lands. In the absence of data in regard to the area of the inami/special tenure land and the ratio it bears to the non-inami and non-tenure land held by them, their financial position and its comparison with the financial position of industrial establishments not holding any inami/tenure land, it is not possible to define precisely what the effect is likely to be ; but on the basis of the information available the Committee considers that there is no just ground for the apprehension entertained by some of the industrial establishments or concerns in this respect.

7.8. *Creditworthiness*—Depreciation in the value of the inami/tenure lands will no doubt affect this creditworthiness but this should have adverse effect only in cases in which this creditworthiness is still required to be utilised for raising funds or finance. The apprehension that in cases in which the inami/special tenure lands have been mortgaged on the basis

of their old valuation, the mortgagees might be called upon to furnish additional security to compensate for the decrease in the value of the land does not also seem to be genuine. In most of these cases, if the mortgage transactions have taken place more than five years back, a little depreciation in the present value will not have the effect of reducing the value to a lower level than what might have been prevailing at the time the mortgage transactions might have taken place because the land value has been going up since 1957 and during the past four years it has risen very steeply. Apart from this, the question would be whether the creditworthiness of the inami/special tenure lands would be lower than the creditworthiness of similar non-inami and non-tenure land, and the answer to it should be in the negative. No specific instances in regard to mortgage transactions in regard to inami/special tenure lands in which creditworthiness of the lands would be affected and in which there would be a consequent call for further security and on failure distress sales causing a great hardship to the mortgagor were furnished.

7.9. *Housing Scheme for workers*—Similarly in the absence of detailed information in regard to housing schemes for workers which are founded on the profits that the industrial institutions get because of their being exempt from the payment of land revenue it is not possible to say to what extent this grievance of the industrial establishments is genuine. It is however believed that industrial establishments, which do not own any inami/tenure lands also have housing schemes for industrial workers and if they are in a position to operate them satisfactorily there is no reason why industrial establishments holding inami/special tenure land should not be in a position to do it even if their right to hold the land exempt from the payment of full land revenue is taken away.

Apart from this the extent of inami/special tenure land used for workers' chawls does not seem to be large. In 1963, about 34,475 sq. yds. of land was used for this purpose by the Textile Mills. As against this the Century Spinning and Manufacturing Co. Ltd. has an area of 48,850 sq. yds. of acquired and assessed land under the Mill Workers' Chawl.

7.10. *Rise in the rent and the cost of living index*—To examine the impact of the proposed land revenue assessment on the rent index and the cost of living index if the liability to new assessment is passed on to the tenant would be difficult. No relevant data are available, nor are they likely to become available in a reasonable time.

The apprehension is too general. The Committee has not proposed that the entire liability for the future assessment should be passed on to the tenant. Only liability for 50 per cent. of the assessment is to be passed on to

the tenant and that too in a gradual manner. It should, therefore, not influence to any appreciable extent the rent index or the cost structure of the Society.

7.11. *Cost inflation and demand deflation*—In regard to the contention that as the cost is at present going up and there is a deflation in the demands of the products of the industry, especially the Textile Industry, this would not be an appropriate time for any action which would impose any additional burden on the industry it is sufficient to observe that it is not that all industrial establishments in the city hold inami and special tenure land. Several Industrial establishments, which do not hold any inami/special tenure, will remain unaffected by the proposed legislation. The proposed legislation does not involve taxing the industry as a whole. It proposes to recover land revenue from lands which have only by fortuitous circumstances remained exempt from the payment of land revenue till now. The industrial establishments holding inami and special tenure must have till now realised enormous benefits from the inami or special tenure rights during the past 200 years and more and the question is whether there is any justification in considering that these establishments stand on a different footing from those, who hold Toka or other land and pay to Government full land revenue in respect of the same.



CHAPTER 8

IMPACT ON PROPERTY HOLDERS AND TENANTS

8.1. *Main grievance of the Property Owners*—Although the exact figure in regard to the area of inami and special tenure land belonging to individual property owners is not available it is estimated that it would be about 60 per cent. of the total area of the inami and special tenure land. The grievance is that most of these property owners are genuine investors who will be put to a great hardship if the lands are made liable to pay full land revenue. The financial position of the property owners in general is unsatisfactory. Due to rent control his income has become frozen from 1940 and almost the whole of it is appropriated by the several taxes he has to pay and the provisions he has to make. Shri Rele, the President of the Property Owners' Association in Bombay, brought to the notice of the Committee the following information in regard to normal outgoings from income from immoveable property in Greater Bombay, published in the Bulletin of the Property Owners' Association, dated 15th June 1965 :—

TABLE
*showing normal outgoings from income from immoveable property in
Greater Bombay.*

Municipal property Taxes.				Total.
General Tax	...	...	...	24 $\frac{1}{4}$ %
Water Tax	...	...	...	4 $\frac{1}{2}$ %
Halalkhore Tax	...	...	...	3 $\frac{1}{2}$ %
Municipal Education Cess	...	...	...	2 $\frac{1}{2}$ %
State Education Cess	...	...	...	2 %
				37 $\frac{1}{4}$ %
Insurance	...	...	...	$\frac{1}{4}$ %
Collection Charges	...	...	...	6 %
Passage lights etc.	...	...	...	2 %
Sweeper	...	...	...	4 %
Lift man and pump man	...	...	...	5 %
Electric charges for lift and pump	...	...	...	2 %
				19 $\frac{1}{4}$ %
Repairs	...	...	...	15 %
Income Tax	...	...	...	12 $\frac{1}{2}$ %

Municipal property Taxes.			Total
Wealth Tax	...	...	...
Rent Rs. 600	.....	...	...
Value of property Rs. 1,50,000	...	...	3½ %
Tax on Rs. 50,000 at ½ %	...	...	...
Arrears and Legal Charges	...	...	...
Ground Rent, Stationery	...	...	12½ %
Printing, Revenue Stamps and incidental Charges.			
			<hr/> 100 % <hr/>

Note—Owing to the increase in the educational cess, the total taxes which the property owner is at present required to pay is 37½ per cent.

Shri Rele has been at great pains to point out to the Committee that inspite of the proposed low levy of assessment and its recovery in a gradual manner, it would not be possible for the property owner to bear the burden of new assessment and that it was absolutely essential to pass on this entire burden to the tenants. For the property owner, the burden will be too heavy because it will involve payment of an amount which would be several hundred times the amount at present paid.

8.2. *Views of Shri Rele*—The arguments advanced by Shri Rele are those given in the Property Owners' Representation submitted to Government on 18th September 1963 reproduced in appendix VI.

In order to strengthen these arguments and to put up the case of the Property Owners before the Committee, Shri Rele submitted a further detailed note, which is reproduced in appendix VII, while the drafting of the Report of the Committee was in progress. Sarvashri Gheewala and Vijaynagar have expressed their entire agreement with the views expressed in this note.

8.3. *Views of other members and reasons for the same*—The marginally

(1) Shri R. C. Joshi, noted members of the Committee have not however been able to agree with Shri Rele.

(2) Shri S. B. Palekar,

(3) Shri J. H. Patwardhan.

(4) Shri B. T. Talim,

(5) Shri S. N. A. Razvi and

(6) The Housing Commissioner :

They consider that action as proposed would be unjust and improper to the tenant and feel that the property owners would

have adequate relief if 50% liability for new assessment is allowed to be passed on to the tenant. The reasons advanced by these members in support of their views are briefly as under :—

The figures given in paragraph 8.1 include payment of income tax, wealth tax, etc. but how far it would be correct to debit them to the income from

the land is a question. The property owner's expenditure includes service charges amounting to about 11 per cent. and the provision for arrears of rent, ground rent, etc., also seems to be liberal. It is a question how many of the property owners are spending about 15 per cent. of the gross rent on repairs.

The Municipal Property Taxes are undisputed a legitimate and unavoidable charge on the income of the property owner but in regard to provision for repairs, insurance, etc., the Committee could not arrive at any agreed figures.

Several property owners are paying full land revenue in respect of Toka, L. N. A. or Lease-hold lands on which their properties stand and if they can do so with ease, there is no reason why the property owners holding inami and special tenure lands should not be in a position to do it, if care is taken to ensure levy of assessment at a reasonably low rate and its recovery in a gradual manner.

In its representation, the Property Owners' Association stated that the rents charged for lease of plots and for premises built on lands taken on lease are on the basis of old rates under special tenures. But no specific instances were furnished to the Committee to show that rents of tenements in the buildings on inami or tenure land were lower than the rents of tenements of similar buildings on assessed land let out at the same point of time.

If rents charged on buildings on inami/tenure land and on Toka and other fully assessed land are the same, the only effect of the levy of full assessment on inami/tenure land would be to take away the unearned profits of the property owner of an inami/tenure land. There is of course one fact to be taken into account. In the case of an old building let out before 1940, rents must have been fixed after taking the normal rate of assessment then prevailing and as this rate has gone up and the land value has also increased, the assessment now levied would be considerably higher than what it would have been if it had been fixed before 1940. To this extent the property owner having his property on an inami or tenure land would be at a disadvantage. And the Committee feels that this needs to be given consideration.

8.4. *Other grievances*—The other grievances urged by the property owners are :—

- (1) Assessment that would now be levied will be several hundred times the amount of pension and tax or quit and ground rent, etc., at present paid ;
- (2) There will be a shaking of the present atmosphere of confidence ;

(3) The Bill militates against the policy of Government to ensure and encourage building activities ;

(4) With tremendous rise in cess and revenue rates :—

(a) land values will crash down,

(b) security of mortgaged properties will fall down immediately and

(c) there will be a shaking of the credit structure.

In regard to (1), comparison of the new rates of assessment with the paltry sums at present paid would be inapt and not useful.

In regard to (2), with the changing of times, ideas and systems of administration, some such changes are inevitable. Their evil effects have to be avoided by ensuring that the changes are brought into effect gradually and in a manner which would cause the least possible dislocation in the social and economic structure.

In regard to (3), only a small area of the inami or special tenure land would be unbuilt and capable of building development. Most of the land to be assessed would be built or appropriated and there need not, therefore, be any apprehension of the construction activity being affected by the assessment of this land.

The last argument is the same as that advanced by the associations of industrial establishments and others and has been examined in the preceding chapter.

8.5. *Tenants*—The position of the tenants would no doubt be affected if the liability in respect of the new assessment is passed on to them in full or in part. The number of tenants would however be large and most of them must have been paying controlled rents. A little addition to these rents need not cause any hardship to the tenants. The argument that the proposed levy would affect the tenant very badly is too general and not supported by any statistical data.

8.6. *Recommendation*—Taking into consideration all these facts the Committee feels that there would be no hardship to the landlord and the tenants if both of them are permitted to share the liability of assessment on inami and special tenure land on a 50 : 50 basis. The Committee, therefore, recommends to Government to permit the landholder of an inami or tenure land to pass on one-half of his new liability in respect of the land to the tenants of the building or property on it by providing for the same in the proposed legislation for the abolition of inami and special tenures or in the rent Control Act as would be found necessary and convenient after having the legal aspects of the question thoroughly examined.

CHAPTER 9

PUBLIC TRUSTS AND THE PROPOSED LEGISLATION

9.1. *Public Trusts and the proposed legislation*—In paragraph (a) of sub-clause (2) of clause 3, provision is made for continuing existing concessions in the matter of payment of land revenue in respect of inami and tenure lands which are the properties of public trusts created for :—

- (a) the charitable purpose of education, or
- (b) the charitable purpose of medical relief, or
- (c) any other purpose provided the trust is not communal in character.

According to the figures which have been collected in 1963, there are 801 public trusts holding inami and special tenure lands having an area of 16.63 lakh sq. metres in the aggregate. The break up of the above figures, according to the sections of the people is as shown in the following table :—

Section	No. of trusts	Area of inami or tenure land held (sq. Metres in lakhs).
1. Hindus	342	7.46
2. Muslims	251	1.88
3. Parsis	67	4.29
4. Members of other religions.	45	0.94
5. Non-religious bodies ...	53	1.68
6. Societies	43	0.43
Total	801	16.68

If the trusts are classified according to the purposes for which they are created, the position would be as under :—

Object of the trust.	No.	Area of inami or spl. tenure lands. (in sq. metres in lakhs).
Educational purpose ...	42	1.25
Medical relief	29	0.20
Religious purpose	177	1.94
Other objects	553	13.29
Total	801	16.68

According to the present provisions, concession of continuance of the existing exemption would be available to 177 trusts in respect of 1.94 lakh sq. metres of lands held by them. It will not be available to as many as 624 public trusts and the area of the inami and special tenure lands held by them is 14.74 lakhs sq. metres.

9.2. *Present concession of a halting nature*—The Committee considers that the present concession is of a halting nature and is inadequate. In the mofussil, all religious and charitable institutions have been left undisturbed by the Inam and Tenure Abolition laws and there is no justification for distinguishing religious and public trusts in Bombay from those in the mofussil. The extent of the inami and special tenure lands held by the public trusts in the city is not large and continuance of the existing exemption in respect of all these lands would not entail any substantial loss of revenue to Government. The religious trusts are of necessity communal in character and it would not be fair and equitable to take away from them the existing concession.

9.3. *Committee's recommendation*—The Committee is, therefore, of the view that it is absolutely essential to enlarge the scope of para. (a) of sub-clause (2) of clause 3 of the Bill and to permit continuance of the existing concession in regard to all inami and tenure lands, so long as they continue to be the property of public trusts. The Committee recommends continuance of this concession even in respect of land used for a remunerative purpose because the profit realised from it ultimately benefits the trust and its denial would have an adverse effect on the financial position of the trust and consequently on the achievement of its object.

9.4. Sarvashri Vijayanagar and Gheewala have a further concession to suggest. They feel that the existing exemption should continue in respect of land belonging to charitable trust which provides for housing. The Committee has not been able to get any statistics in the matter and, therefore, refrains from making any observations in regard to this suggestion.

CHAPTER 10

COMPENSATION

10.1. *Provision in regard to compensation contained in the Bill*—One of the main and important objection urged consistently against the proposed legislation is that it does not provide for adequate and proper compensation for the rights it proposes to take away.

The Bill contains the following provisions in regard to compensation :—

“ *Clause 4.*—In the case of inami land held under the Second Inam grant, a sum equal to thrice the amount of the land revenue proved to have been received by the inamdar for the year immediately preceding the appointed day shall be paid to the inamdar as compensation for the extinguishment under clause (b) of sub-section (1) of section 3 of his rights in such land.

“ *Clause 5 (1).*—In the case of a redeemed land, in respect of which the redemption of cess, assessment or rent, as the case may be, has taken place within a period of thirty years immediately before the appointed day, there shall be paid to the superior holder by way of compensation, a sum equal to the difference between—

(i) The commuted amount paid for such redemption, and

(ii) the case or assessment or rent that would have been leviable in respect of the land from the date of redemption upto the appointed day.

(2) In the case of a redeemed land to which sub-section (1) does not apply, no compensation shall be payable.

“ *Clause 7 (1).*—If any person is aggrieved by the provisions of this Act as abolishing, extinguishing or modifying any of his rights to, or interest in property and if compensation for such abolition, extinguishment or modification has not been provided for in the foregoing provisions of this Act, such persons may apply in the prescribed form and within the prescribed period to the Collector for compensation.

(2) The Collector shall, after holding enquiry in the prescribed manner, make an award determining the compensation in the manner and according to the method provided for in sub-section (1) of section 23 and section 24 of the Land Acquisition Act, 1894.

(3) Nothing in this section shall entitle any person to compensation on the ground that any land which was wholly or partially exempt from payment of land revenue or was held in limitation of the right of the State Government to assess it to land revenue at all or beyond a specific limit has been under the provisions of this Act, made subject to the payment of full assessment in accordance with the provisions of the Land Revenue Act."

Clause 5 provides for the payment of compensation to the holders of redeemed lands, who have acquired their right of redemption during the past 30 years. No compensation is payable to the holders of redeemed lands who have obtained their right of redemption more than thirty years back.

Clause 4 provides for the payment of compensation to the holders of the second inam grant.

Clause 7(1) is a residuary clause entitling any person aggrieved by the provisions of the abolition Act as extinguishing or modifying any of his rights to or interest in any property.

There is no specific embargo on the payment of compensation to the holders of the first and the third grant, and holders of special tenure lands but as the main and perhaps the only right they would be losing under the proposed legislation, would be the right to hold their land exempt from payment of land revenue in full or in part, they would not be entitled to get any compensation because of sub-clause (3) of clause 7.

10.2. *Objections*—The main objections taken in regard to the provisions for compensation are :—

(a) Compensation proposed to be paid to the holders of redeemed lands and the holders of the second inam grant is inadequate and unsatisfactory, and

(b) no compensation is proposed to be given to the other inamdars for (i) depreciation in the value of their land : (ii) contraction of credit ; (iii) loss of revenue due to the abolition of the right to exemption from the payment of land revenue.

10.3. *Abolition of the right to exemption from the payment of land revenue*—It was brought to the notice of the Committee that sub-clause (3) of clause 7 is on the lines of similar provisions contained in all other tenure

abolition laws in force in the Bombay area of the State and that the principle underlying is that it is the inherent right of Government to assess any land and that in making inami and special tenure land liable to pay full land revenue, Government is only asserting this right and consequently the holder of the land would not be entitled to claim compensation for the indirect consequences of this action as compensation under the abolition Act is to be given for losses of revenue and abolition and extinguishment of any right which result directly from any of the provisions of abolition law. Sub-clause (3) of clause 7 is of a clarifactory nature and does not prohibit payment of compensation in cases in which it is legally permissible.

The claim for payment of compensation for the depreciation in the value of the inami and special tenure land, which would result on the land being made liable to pay full land revenue would be a claim for compensation for the abolition of the right to exemption from the payment of land revenue and would not be tenable.

If in addition to the abolition of the right to hold any land exempt from the payment of land revenue the holder of any inami or tenure land loses any other right, except the right of redemption held in respect of a redeemed land, it would be permissible for him to claim compensation under sub-clause (1) of clause 7 and if the claim is found tenable the holder will have to be awarded compensation which will be full and adequate.

The Committee considers that if no compensation would be legally permissible for taking away from the holders of inami and tenure lands their right to hold their land exempt from the payment of land revenue in full or in part, it would not be correct to ask for payment of compensation in such cases. The Committee would however recommend to Government that the question should be legally examined in the light of the recent decision of the Supreme Court in regard to the fundamental rights of the Citizens and unless there is any embargo, Government may provide for the payment of adequate compensation to the holders of inami and special tenure lands for the loss of revenue they would sustain in consequence of the imposition of full land revenue on their inami and special tenure lands.

If Government finds that legally it would not be correct to take away the right to exemption from the payment of land revenue without paying full compensation to the inamdar or tenure holder for the loss of income sustained by him, Government should delete sub-clause (3) of clause 7 of the Bill so that the inamdars and tenure holders would get full and adequate compensation for the loss sustained by them.

10.4. *Redeemed land*—In the case of the redeemed land, the holder has two sets of rights :—

(a) the right to hold the land exempt from the payment of land revenue in excess of the amount of pension, quit-rent, ground rent, etc.

and

(b) the right to immunity from the payment of pension, quit or ground rent, etc. obtained on redemption.

As in the case of holders of other special tenure lands, no compensation is provided for the abolition of the right to exemption.

In regard to (b), compensation provided for in the Bill in the case of persons who have acquired their right of redemption during the past thirty years, is on an *ad hoc* basis and would be justified on the ground that the amounts in respect of which redemption of payment has been secured were small. In the case of the other holders of redeemed lands the amount for securing the right of redemption paid by them would be small and the holders must have by now secured more than full pecuniary return for the amounts paid.

The Committee has given full consideration to this matter. The Committee considers that the right of redemption enjoyed by the holders of redeemed lands may be kept undisturbed so that the question of payment of compensation for the abolition of the right of redemption does not arise. The right of redemption would, however, be in respect of the annual payment which the holder was required to make before he had obtained this right and cannot extend to the entire amount of land revenue that would be leviable on the land after the Bill becomes law.

Sarvashri Vijaynagar and Gheewala consider that the scope of the Bill should not be extended to redeemed lands and besides the right of redemption, the right in limitation of the right of Government to assess their lands which these holders have should also be left undisturbed.

10.5. *Compensation holders of the second inam grant*—In the case of the holders of the second inam grant, the Bill provides for the payment of compensation equal to three times the annual revenue. The Committee feels that the compensation is rather low and should be at least seven times the amount of the annual land revenue. The compensation paid to the holders of cash grants under the other abolition laws is seven times the amount of the cash grants and it would not be desirable to pay compensation to the holders of the second inam grant at a lower rate.

CHAPTER 11

LEASE-HOLD LAND

11.1. *Extent of Lease-hold land.*—About 21·15 lakh sq. metres of land is held under leases and is fetching an annual ground rent of Rs. 22·75 lakhs. Some of the leases are, however, for 999 years and some for 99 years. Even in the case of leases for shorter periods, although the leases are renewable in many cases the rent is fixed because the terms of the leases required renewal of the leases on payment of rent as originally fixed. The lessees do not have any right in limitation of the right of Government to assess the land. Nevertheless in many cases the rents paid by the lessees are far too low and in so far as the land revenue assessment is concerned the position in respect of these lands is similar to that of the inami or tenure lands. This has been the reason for reference to the Committee of the question whether the scope of the proposed legislation may not be extended to leasehold lands.

11.2. *Categories of Leases*—The Committee finds that the question in regard to leasehold lands is complicated. There are leases for :—

- (1) 21 years, which are renewable on payment of the same rent with small fines,
- (2) 21 years, which are renewable on payment of revised rents.
- (3) 50 years, renewable on payment of revised rents at the end of each 50 years period,
- (4) 50 years, renewable for only one further period of 50 years.
- (5) 99 years, which are not renewable,
- (6) 99 years, which are renewable once only.
- (7) 999 years, which are not renewable,
- (8) Other periods and on terms provided for in the agreements.

11.3. *Questions for consideration*—In the case of land covered by leases held on payment of ground rent which are renewable on payment of revised rents, the lands stand on the same footing as Toka, L.N.A. lands and there is no question of extending the provisions of the abolition law to them. The question is whether in the case of leases which are renewable on payment of rent fixed at the time of their leasing should not at the time of renewal of the leases be made liable to pay full ground rents or assessment that would then be leviable. Similarly, in the case of non-renewable leases for such long periods as 99 years or 999 years, in which rents fixed on the

basis of the conditions which were then prevailing, are ridiculously low, power should not be taken by Government to revise these rents and make them conform to the rents that are at present leviable.

11.4. *Committee's Recommendations*—The question to be considered depends on the terms of the leases, the circumstances in which leasehold rights were granted and the original rents were determined and payments of premium, if any, made at the time of grant of the leases. During the time that was available to it, the Committee could not get full details in regard to leases and leasehold lands. Apart from this the Committee considered that it would not be appropriate to extend legislation providing for the abolition of inam and special tenures to leasehold lands held under contract or agreements, which had been entered into voluntarily by both Government and the lessees and that if any legislative action in this respect is considered necessary it should be considered separately after having considered fully the legal and equitable aspects of this question. In view of this, the Committee has refrained from examining this term, and recommends to Government that it should be examined separately and independently and should not be linked with the question of the abolition of inams and special tenures. The Committee would also like to observe that in view of the apprehensions that the proposed legislation in regard to the inami and special tenures had given rise to, it would be appropriate to postpone consideration of this question till the inam abolition legislation becomes law and its actual effects become clear and perceptible.



CHAPTER 12

RECOMMENDATIONS OF THE COMMITTEE

12.1. *Leasehold land*—To sum up the Committee's recommendations in regard to the eight terms of reference are briefly as under :—

1st term.—The Committee considers that the leasehold lands stand on a materially different footing from the inami/special tenure land and the legal aspects involved in the abolition of any leasehold rights are also distinct from those involved in the abolition of any inam or special tenure. The Committee has, therefore, refrained from examining this term and recommends to Government that the question of the leasehold lands should be examined separately and independently and not linked with the question of abolition of inams and special tenures. The Committee also considers that in view of the apprehension that the proposed legislation in regard to inami/special tenures had given rise to, it would be appropriate to postpone consideration of this question till the inams abolition legislation becomes law and its actual effects become clear and perceptible.

12.2. *Probable adverse effects on industry in general*—For want of adequate data and contradictory inferences drawn by the members of the Committee from the available data the Committee is not in a position to say whether the proposed legislation will have any adverse effect on the industry in the city as a whole. The Committee however considers that the apprehensions entertained in this respect are rather exaggerated and that the industry in the city as a whole need not be affected, if Government ensures that the levy of assessment on the inami tenure land would be at a reasonable rate and in a reasonable manner and provides for the liberalization of the scale of graduated levy that is proposed in the 1963 Bill.

12.3. *Probable adverse effects on industrial establishments*—The Committee has also tried to examine very carefully and closely the question whether the proposed legislation will have any severe adverse effects on the financial position of industrial establishments in the city. The Committee considers that while legislation, which involves imposition of assessment on inami/special tenures, is bound to have some effect on the financial position of the landholders, the blow will not be unbearable or oppressive if the Committee's recommendation in regard to the rate and manner of levy of assessment on inami/special tenure land and the concession to be given in regard to unbuilt areas and open spaces are accepted by Government. The Committee considers that the period and the scale of graduated levy should be as under :—

Amount to be recovered each year during the 1st decade should be 10 per cent. of the full land revenue, that to be recovered each year during the

2nd decade should be 25 per cent. of the full land revenue, that to be recovered each year of the third decade should be 50 per cent. of the full land revenue and that to be recovered each year during the fourth decade should be 75 per cent. of the full land revenue.

The full land revenue should be recovered with effect from the 41st year.

12.4. *Probable depreciation in the value of the land in the City*—The matter had been discussed exhaustively in Chapter 7 of the Report. The members of the Committee held divergent views in this respect. There will, no doubt, be a depreciation in the value of the inami/special tenure but there is no reason why it should be disproportionate to the assessment levied on the land and why it should extend to land other than the inami/special tenure land which will not in any way be affected by the proposed legislation.

12.5. *Adverse effect on tenant and ordinary citizens*—No specific instances were furnished to the Committee to show that rents of tenements in the buildings on inami or tenure land were fixed at a lower level than the rents of tenements of similar buildings on assessed land let out at the same point of time. There would, therefore, be hardly any justification for increase in the rent of tenements on the ground that the land under them is an inami/special tenure land which has now become liable to assessment.

12.6. *Sharing of liability in regard to new levy*—In view of the fact that in the case of an old building let out before 1940 rents must have been fixed after taking the normal rate of assessment then prevailing and as this rate has gone up and the land value has also increased, the property owner having his property on an inami/special tenure land would be at a disadvantage, the Committee feels that there should be a sharing of the new liability between the landlord and the tenant on a 50 : 50 basis. The Committee, therefore, recommends to Government to permit the landlord of an inami/special tenure land to pass on one-half of his new liability to the tenants of the building or property on his land by providing for the same in the proposed legislation for the abolition of inami and special tenures and/or in the Rent Control Act as would be found necessary and convenient after having the legal aspects of the question thoroughly examined.

12.7. *Compensation*—The holders of inam grants I and III and of special tenure lands (other than the redeemed lands) may not get any compensation under the proposed legislation because of sub-clause (3) of 7 of the Bill. This sub-clause is based on the assumption that no compensation is legally payable to any person for taking away his right to hold his land exempt from assessment in full or in part. The Committee however

recommends to Government that this assumption should be got legally re-examined in the light of the recent decision of the Supreme Court in regard to the fundamental rights of citizens and that unless there is any embargo, Government may provide for the payment of adequate compensation to the holders of inami/special tenure land by deleting sub-clause (3) of clause 7 of the Bill.

In regard to the redeemed land, the Committee considers that the right of redemption enjoyed by the holders of redeemed lands should be left undisturbed so that the question of paying any compensation for the abolition of this right should not arise. The right of redemption would however be in respect of the annual payment which the holder was required to make before he had obtained his right and cannot extend to the entire amount of land revenue that would be leviable on the land after the Bill becomes law.

In regard to the second inam grant, the Committee considers that compensation to be given to the inamdars should be at seven, and not at three times as proposed in the Bill, of the annual revenue they have been getting from their inam lands.

12.8. *Lands held by charitable Trusts*.—The Committee is of the view that it is absolutely essential to enlarge the scope of para. (4) of sub-clause (2) of clause 3 of the Bill and to permit continuance of the existing concession in regard to all inam and tenure lands so long as they continue to be the property of public trusts. The Committee recommends continuance of this concession even in respect of land used for a remunerative purpose by any trust.

12.9. *Recommendation in regard to rate of assessment and the manner of its impositions*.—In the course of its examination of the terms of reference the Committee found that one common grievance in regard to the proposed legislation was that the assessment that would be imposed on the inami/special tenure land would be very high and that in order to remove this grievance it is necessary to ensure that the assessment levied on the inami/special tenure land would be reasonable and not beyond the means of the land-holder. The Committee, therefore, examined the present procedure of levying or revising assessment on Toka and other assessed land and studied whether it would be desirable to follow the same procedure or to make some changes in it for the purpose of assessment of inami/special tenure land for the first time after they lose their inam/special character. After detailed examination of the whole matter, the Committee considers that it is desirable to make some departure from the usual procedure followed in accordance with the provisions of the Maharashtra Land Revenue Code.

1966 and the Government orders issued from time to time. It, therefore, proposes adoption of the following procedure for the assessment of inami/special tenure and recommends that in order to allay apprehensions of the members of the public in this respect the procedure should be prescribed in the proposed legislation and not left to be determined by Government by the issue of executive orders.

The Committee considers :—

(1) Assessment on inami/special tenure land should be on the basis of its market value and not on the basis of its full market value, as on 2nd December 1957, the date of the publication of the first Bill for the abolition of the inam grants in the city, and that it should be at 5 per cent. of the market value.

(2) The market value should be determined after considering instances of sales or acquisition of similar lands that might have occurred during the period of fifteen years preceding the relevant date, viz., 2nd December 1957. In the absence of sufficient instances of sales or acquisition, the market value may be determined on the basis of the data pertaining to the net rental income.

(3) In order to ensure quick assessment of the inam/special tenure land, a standard rate of assessment should be determined for each revenue division in the manner suggested in paragraph 4.4. of the report.

(4) In any case in which the land holder feels that the assessment of his land at the standard rate would be high, he should apply to the Collector for the determination of assessment leviable on his land on the basis of its market value. In that case the applicant should be required to deposit with the Collector the amount of land revenue recoverable for 3 years in respect of his land on the basis of the standard rate and the assessable area of his land.

(5) In cases in which $\frac{1}{4}$ th of the aggregate of the following municipal taxes payable during the year in respect of the land and the property standing thereon happens to be less than the land revenue leviable at the standard rate of assessment or at 5 per cent. of the market value, the full land revenue on the land should be 25 per cent. of the aggregate of the following municipal taxes :—

- (1) General tax including fire tax,
- (2) Water tax, and
- (3) Halalkhore tax.

(6) In cases where the land is partly built and partly unbuilt only that portion of the land which bears the same ratio as the built up area bears to the floor space index should be the assessable area of the land.

(7) The Committee considers that areas kept open for playgrounds or recreational purposes should be exempt from assessment or should be liable to pay assessment at a nominal rate.

The Collector should, therefore, be given power to leave such open spaces unassessed so long as they are used as playgrounds or for recreational purpose or for any welfare activity.

The Collector should have similar power in respect of land belonging to the Co-operative Housing Societies, subsidised housing schemes and lands of institutions or individuals not forming part of any public trust, registered under the Bombay Public Trusts Act, which are used for the purpose of education, religion, medical relief or any philanthropic object.

(8) The full land revenue levied on the land should be guaranteed for a period of fifty years from the date of its imposition and this should be provided for in the law.

(9) The land holder should be required to submit a return to the Collector in the manner indicated in para. 4-11 and to deposit with him an amount equal to $2\frac{1}{2}$ % of the aggregate of the following municipal taxes he is liable to pay for the land and the property thereon :—

- (1) General Tax including fire tax,
- (2) Water Tax, and
- (3) Halalkhore Tax.

The defaulting land-holder should be liable to pay a fine not exceeding Rs. 50 and may be estopped from disputing action that the Collector might take after the notified date for determining the market value of the land and the assessment leviable on the land.

12.10. *Conclusion*—The task of the Committee was complicated. Conflicting views were held not without apparently cogent reasons in regard to matters which the Committee was called upon to examine. Statistical data pertaining to these matters was meagre and the time at its disposal was limited. Originally, the Committee was called upon to examine the various terms of reference and to submit its recommendations within 3 months of its appointment. Although the time was extended from time to time, the total time that the Committee could have for studying the various matters and for submitting its report was of about seven months. It was not, therefore, possible for the Committee to examine any instances and to try to ascertain directly from the members of the public their views

in regard to the matters under consideration. The Committee however feels that its recommendations are based on a fairly adequate and detailed study of the various matters. On matters on which the Committee was not in a position to make any recommendations, the views held by the members of the Committee have been given in the report so that Government may examine the various views and take its decisions. As the matter to be examined was complicated and controversial it was not possible for the Committee to arrive at unanimous decisions even in regard to specific recommendations made in the report. The dissenting members have however expressed their views in regard to these matters in the minutes of dissent appended by them to the report. The Committee would request Government to give careful consideration to these minutes of dissent as well.

Lastly, the Committee would like to place on record its appreciation of the spade work done by Shri V. R. Ranade, Officer on Special Duty in the Revenue and Forests Department in placing the necessary data and other statistics at the disposal of the Committee. But for his devotion to duty and invaluable assistance the work of the Committee would have become even more difficult.

Bombay, 16th April 1968.

(Sd.),

(R. C. JOSHI),
Chairman.

(Sd.),

(J. H. PATWARDHAN),

(Sd.),

(S. B. PALEKAR)

Subject to our joint minute of dissent—appendix VIII.

(Sd.),

28th March 1968.

(R. L. N. VIJAYNAGAR)

Subject to our joint minute of dissent—appendix VIII.

(Sd.),

2nd April 1968.

(C. L. GHEEWALA)

Subject to the minute of dissent reproduced in appendix IX.

(Sd.)

28th March 1968.

(N. K. SUNTOOK)

I still adhere to the views expressed in my note—appendix VII
as my minute of dissent.

(Sd.)

29th March 1968.

(R. C. RELE)

Subject to my minute of dissent—appendix X.

(Sd.)

28th March 1968.

(N. R. MULLA)

(Sd.)

15th April 1968.

(F. K. DAVER)

(Sd.)

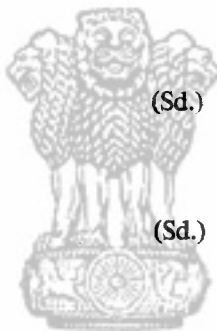
27th March 1968.

(B. T. TALIM)

सत्यमेव जयते (Sd.)

25th March 1968.

(S. N. A. RAZVI),
Secretary.



APPENDIX I

(Vide para. 1.3)

Statement giving details of Sub-Committees, their members and the terms of reference entrusted to the Sub-Committees for study :

Sub-Committee	Name of Member	Terms of reference in para. 1.7 which were to be studied by the Sub-Committee
	(1) Secretary to Government, Revenue and Forests Department, and Chairman of the Committee, (2) Municipal Commissioner, Bombay, (3) Secretary, Mill Owners' Associations, Bombay, (4) Secretary, Indian Merchants' Chamber, Bombay	S. Nos. (1) to (4).
	(5) Representative of the Reserve Bank of India, Bombay, (6) The President Property Owners' Association, Bombay, (7) Director of Town Planning, M. S., Poona.	
II	(1) Secretary to Government, Revenue and Forests Department, and Chairman of the Committee. (2) Shri S. B. Palekar, Additional Secretary to Government, Law and Judiciary Department, (3) Director of Town Planning, M. S. Poona, (4) Secretary, Mill Owners' Association, Bombay, (5) Secretary, Indian Merchants' Chamber, Bombay, (6) Representative of the Reserve Bank of India, Bombay, (7) The President, Property Owners' Association, Bombay.	S. Nos. (5) to (7).
III	(1) Additional Secretary to Government, Law and Judiciary Department, (2) Collector of Bombay and Secretary of the Committee, (3) Chairman of the Standing Committee of the Public Trusts in Bombay, (4) Municipal Commissioner, Bombay, (5) The President, Property Owners' Association, Bombay.	S. No. 8.

Secretary, to Government Revenue and Forests Department was the convenor of the meetings of the first and the second Committee and the Collector was the convenor of the meetings of the third Sub-Committee.

For assisting them in their deliberations the Sub-Committees were at liberty to invite any officials and non-officials to attend their meetings and to explain to the members of the Sub-Committees their views in regard to matters under study. The members of the Sub-Committees were also to obtain from sources accessible to them relevant statistical data and other information and place them before the Sub-Committees.

APPENDIX II

(Vide para. 1.4)

Statement giving details of meetings of the Committee and the Sub-Committees and the names of persons, who attended them.

Date	Names of persons present	
	Members	Others
1	2	3
29th July 1967— (1st Meeting of the Committee).	Shri R. C. Joshi, Shri V. R. Chitnis, (Under Secretary, Law and Judiciary Department on behalf of Shri S. B. Palekar). Shri R. L. N. Vijaynagar, Shri C. L. Gheewala, Shri R. C. Rele, Shri N. D. Ranadive (Ex. Engineer, Housing Board on behalf of the Housing Commissioner, Bombay), Sarvashri S. P. Desai and H. D. Banaji, on behalf of the Chairman of the Standing Committee Public Trusts, Bombay, and Shri S. N. A. Razvi.	Shri V. Sundaram, Shri V. R. Ranade, and Shri V. K. Mulgaonkar.
17th August 1967— (Meeting of Sub-Committee I).	Shri R. C. Joshi, Shri R. L. N. Vijaynagar, Shri C. L. Gheewala, Shri R. C. Rele, Shri N. K. Petigara, Shri K. S. Keshwani (on behalf of the Director of Town Planning), Shri M. R. Natarajan (Deputy Municipal Commissioner on behalf of the Municipal Commissioner, Bombay), and Shri S. N. A. Razvi.	Shri V. R. Ranade, and Shri V. K. Mulgaonkar.
24th August 1967— (Joint Meeting of the Sub-Committees I and II).	Shri R. C. Joshi, Shri S. B. Palckar, Shri R. L. N. Vijaynagar, Shri N. K. Petigara, Shri R. C. Rele, Shri M. R. Natarajan, (Deputy Municipal Commissioner on behalf of the Municipal Commissioner, Bombay), Shri S. N. A. Razvi, and Shri K. S. Keshwani (on behalf of the Director of Town Planning).	Shri S. W. Dhurandhar, Shri N. P. Rege, Shri V. R. Ranade, Shri R. J. Sethna, Shri V. K. Mulgaonkar, and Shri Nariman.

1	2	3
31st August 1967— (Joint meeting of Sub-Committees I & II).	Shri R. C. Joshi, Shri S. B. Palekar, Shri R. L. N. Vijaynagar, Shri C. L. Gheewala, Shri R. C. Rele, Shri S. N. A. Razvi, Shri N. K. Natarajan (Deputy Municipal Commissioner, on behalf of the Municipal Commissioner, Bombay) and Shri K. S. Keshwani (on behalf of the Director of Town Planning).	Shri Nariman, Shri S. W. Dhurandhar, Shri N. P. Rege, Shri V. R. Ranade, and Shri V. K. Mulgaonkar.
14th September 1967— (Joint meeting of Sub-Committees I & II).	Shri R. C. Joshi, Shri S. B. Palekar, Shri R. L. N. Vijaynagar, Shri R. C. Rele, Shri C. L. Gheewala, Shri B. T. Talim, Shri N. K. Petigara, and Shri S. N. A. Razvi.	Shri S. W. Dhurandhar, Shri K. S. Keshwani, Shri V. R. Ranade, Shri Nariman, and Shri V. K. Mulgaonkar.
5th October 1967— (Joint meeting of Sub-Committees I & II).	Shri R. C. Joshi, Shri R. L. N. Vijaynagar, Shri R. C. Rele, Shri C. L. Gheewala, Shri B. T. Talim, and Shri S. N. A. Razvi.	Shri J. B. Bowman, Shri S. W. Dhurandhar, Shri Nariman, Shri N. P. Rege, Shri V. R. Ranade, and Shri P. S. Joshi.
21st October 1967— (Joint meeting of Sub-Committee III).	Shri S. B. Palekar, Shri R. C. Rele, Sarvashri H. B. Kapadia and Manek Pheroze Mistry (on behalf of the Chairman of the Standing Committee of the Public Trusts, Bombay), and Shri V. K. Mulgaonkar (on behalf of the Collector).	Shri C. P. Godse, Charity Commissioner, Shri M. K. Trilokekar, Jt. Charity Commis- sioner, Bombay, Shri S. W. Dhurandhar, Shri N. P. Rege, Shri V. R. Ranade, and Shri P. S. Joshi.
26th October 1967— (Joint meeting of Sub-Committees I & II).	Shri R. C. Joshi, Shri S. B. Palekar, Shri R. L. N. Vijaynagar, Shri R. C. Rele, Shri C. L. Gheewala, Shri K. S. Keshwani (on behalf of the Director of Town Planning), and Shri S. N. A. Razvi.	Shri S. W. Dhurandhar, Shri N. P. Rege, Shri Nariman, Shri V. R. Ranade, Shri V. K. Mulgaonkar, and Shri P. S. Joshi.

1	2	3
20th November 1967— (2nd meeting of the Committee).	Shri R. C. Joshi, Shri S. B. Palekar, Shri B. T. Talim, Shri R. L. N. Vijaynagar, Shri R. C. Rele, Shri K. S. Keshwani, Shri M. R. Natarajan (Dy. Municipal Commissioner, on behalf of the Municipal Commissioner, Bombay), Shri S. F. Desai, (on behalf of the Chairman of the Standing Committee of the Public Trusts, Bombay), and Shri S. N. A. Razvi.	.. Shri N. P. Rege, Shri V. R. Ranade, Shri P. S. Joshi, and Shri V. K. Mulgaonkar.
5th December 1967— (3rd meeting of the Committee).	Shri R. C. Joshi, Shri S. B. Palekar, Shri R. L. N. Vijaynagar, Shri R. C. Rele, Shri K. S. Keshwani (on behalf of the Director of Town Planning), Shri M. R. Natarajan (Dy. Municipal Commissioner, on behalf of the Municipal Commissioner, Bombay), and Shri S. N. A. Razvi.	.. Shri S. W. Dhurandhar, Shri N. P. Rege, Shri V. R. Ranade, Shri P. S. Joshi and Shri V. K. Mulgaonkar.
18th January 1968— (4th meeting of the Committee).	Shri R. C. Joshi, Shri S. B. Palekar, Shri R. L. N. Vijaynagar, Shri C. L. Gheewala, Shri R. C. Rele, Shri K. S. Keshwani (on behalf of the Director of Town Planning), and Shri S. N. A. Razvi.	.. Shri S. W. Dhurandhar, Shri N. P. Rege, Shri V. R. Ranade, Shri P. S. Joshi, and Shri V. K. Mulgaonkar.
1st February 1968— (5th meeting of the Committee).	Shri R. C. Joshi, Shri S. B. Palekar, Shri R. L. N. Vijaynagar, Shri R. C. Rele, Shri K. S. Keshwani, on behalf of the Director of Town Planning), Shri N. K. Santook, and Shri S. N. A. Razvi.	.. Shri N. P. Rege, Shri Nariman, Shri V. R. Ranade, Shri P. S. Joshi, and Shri V. K. Mulgaonkar.
10th February 1968— (6th meeting of the Committee).	Shri R. C. Joshi, Shri S. B. Palekar, Shri B. T. Talim, Shri R. L. N. Vijaynagar, Shri C. L. Gheewala, Shri R. C. Rele, Shri N. D. Ranadive (Ex. Engineer, Housing Board, on behalf of the Housing Commissioner, Bombay), and Shri S. N. A. Razvi.	Shri S. W. Dhurandhar, Shri N. P. Rege, Shri K. S. Keshwani, Shri Nariman, Shri V. R. Ranade, Shri V. K. Mulgaonkar, Shri J. T. Chitnis, and Shri P. S. Joshi.



APPENDIX III

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APPENDIX

(Vide

Table showing dispersal of the special tenure lands including the redeemed lands.

Serial No.	Revenue Division	Area of land under						
		Pension and Tax Tenure			Quit and ground rent tenure			
		Redeemed	Others	Total	Redeemed	Others	Total	
1	2	3	4	5	6	7	8	
1	Colaba	..	0.03	0.08	0.11	0.03	0.06	0.09
2	Fort	..	0.13	0.02	0.15	0.48	1.06	1.54
3	Bhuleshwar	..	1.81	1.90	3.71	0.51	1.40	1.91
4	Girgaum	..	2.51	1.85	4.36	0.43	0.43	0.86
5	Mandvi	..	0.69	1.06	1.75	0.55	0.93	1.48
6	Princess Docks	..	Nil	Nil	Nil	Nil	Nil	Nil
7	Tardeo	..	Nil	Nil	Nil	Nil	Nil	Nil
8	Byculla	..	0.17	Nil	0.17	0.54	1.38	1.92
9	Mazgaon	..	0.31	0.05	0.36	0.49	0.48	0.97
10	Dadar-Naigaum	..	0.05	0.04	0.09	Nil	Nil	Nil
11	Lower-Parel	..	3.70	5.15	8.85	Nil	Nil	Nil
12	Mahim	..	4.26	12.20	16.46	0.0017	0.71	0.7117
13	Matunga	..	0.13	Nil	0.13	Nil	Nil	Nil
14	Parel-Sewri	..	0.11	0.06	0.17	Nil	Nil	Nil
15	Malabar and Cumballa Hill.	..	23.98	1.61	25.59	0.11	0.18	0.29
16	Salt Pans	..	Nil	Nil	Nil	Nil	Nil	Nil
17	Sion	..	Nil	0.30	0.30	Nil	Nil	Nil
18	Worli	..	Nil	Nil	Nil	Nil	Nil	Nil
19	Dharavi	..	0.35	Nil	0.35	Nil	0.08	0.08
Grand Total		....	38.23	24.32	62.55	3.1417	6.71	9.8517

III

para. 2-4)

(Areas are in lakhs of Sq. Mtrs.)

Foras tenure			Sanadi tenure			Area of land held under special tenure		
Redeemed	Other	Total	Redeemed	Other	Total	Redeemed	Other	Total
9	10	11	12	13	14	15	16	17
Nil	Nil	Nil	Nil	0.03	0.3	0.06	0.17	0.23
Nil	Nil	Nil	Nil	Nil	Nil	0.61	1.08	1.69
Nil	Nil	Nil	Nil	0.11	0.11	2.32	3.41	5.73
1.96	0.15	2.11	Nil	0.01	0.01	4.90	2.44	7.34
Nil	Nil	Nil	Nil	0.0002	0.0002	1.24	1.9902	3.2302
Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil
6.00	1.95	7.95	Nil	Nil	Nil	6.00	1.95	7.95
4.82	3.73	8.55	Nil	0.15	0.15	5.53	5.26	10.79
2.05	0.84	2.89	Nil	0.01	0.01	2.85	1.38	4.23
1.07	0.51	1.58	Nil	Nil	Nil	1.12	0.55	1.67
10.23	5.38	15.61	Nil	Nil	Nil	13.93	10.53	24.46
0.33	0.18	0.51	Nil	0.01	0.01	4.59	13.10	17.69
0.59	1.09	1.68	Nil	Nil	Nil	0.72	1.09	1.81
0.79	1.41	2.20	Nil	0.15	0.15	0.90	1.62	2.52
0.10	Nil	0.10	Nil	0.17	0.17	24.19	1.96	26.15
Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil
Nil	Nil	Nil	Nil	Nil	Nil	Nil	0.30	0.30
Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil
0.51	0.71	1.22	Nil	Nil	Nil	0.86	0.79	1.65
28.45	15.95	44.41	Nil	0.6402	0.6402	69.8317	47.62	117.45

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APPENDIX IV

(Vide para. 3.2)

Table giving information in regard to revenue divisions of the City, areas of lands included in them and the revenue at present derived by Government from these lands.

Serial No.	Revenue Division	Total area in lakhs of sq. metres.	Land Revenue derived by Government
1	2	3	4
			Rs.
1	Colaba	54·34	44,877·97
2	Fort	52·37	17,30,133·19
3	Bhuleshwar	17·79	33,777·31
4	Girgaum	17·01	33,923·84
5	Mandvi	10·20	20,255·63
6	Princess Dock	11·12	1,13,285·00
7	Tardeo	18·26	44,058·69
8	Byculla	26·60	94,361·85
9	Mazgaon	40·03	1,50,724·50
10	Dadar-Naigaon	34·46	65,979·63
11	Lower Parel	75·61	42,749·31
12	Mahim	28·91	13,162·94
13	Matunga	23·20	72,665·56
14	Parel Shewri	66·71	2,45,827·82
15	Malabar and Cumballa Hills	44·47	85,925·98
16	Salt Pans	62·27	2,690·26
17	Sion	21·13	4,313·19
18	Worli	26·68	....
19	Dharavi	27·78	10,330·92
Total		658·94	28,09,043·59

APPENDIX V

(Vide para 7.3)

Table showing information in regard to the industries in the City and the number of establishments belonging to each industry.

Industry	Large scale	Small scale		Total
		Registered under the Factories Act.	Not registered	
1	2	3(a)	3(b)	4
1. Mining and Quarrying	1	Nil	Nil	1
2. Manufacture of dairy products ..	5	3	13	21
3. Canning and preserving of fruits and vegetables.	5	4	1	10
4. Canning and preserving of fish and other sea foods.	1	Nil	Nil	1
5. Manufacture of Grain Mill Products ..	6	52	4	62
6. Manufacture of Bakery Products ..	4	132	1	137
7. Manufacture of miscellaneous preparations.	57	47	55	159
8. Manufacture of cocoa, chocolate and sugar confectionery.	Nil	17	14	31
9. Manufacture of Textiles ..	313	390	109	812
10. Knitting Mills ..	14	42	81	137
11. Cordage, Rope and Twine Industries ..	5	18	9	32
12. Manufacture of Textiles not elsewhere classified.	7	46	37	90
13. Manufacture of Footwear, other Waring Apparel and made up textile goods. Manufacture of footwear.	3	Nil	Nil	3
14. Manufacture of wearing apparel (except footwear).	9	49	53	111
15. Manufacture of Wood and Cork except manufacture of furniture.	..	—	10	10
16. Saw mills Planning and other Wood Mills.	3	33	7	43
17. Manufacture of Cork and Wood Products not elsewhere classified.	5	13	15	33
18. Manufacture of furniture and fixtures.	3	62	62	127
19. Manufacture of Pulp, Paper and Paper Board.	49	140	65	254
20. Printing and Publishing and Allied Industries.	77	414	224	715
21. Tanneries and Leather Finishing Plants.	4	12	7	23
22. Manufacture of leather product except footwear and other wearing apparel.	Nil	7	13	20
23. Manufacture of Rubber Products.	41	26	43	110
24. Manufacture of Chemicals and Chemical Products.	83	57	102	242
25. Vegetable and Animal Oils and Fats (except Edible Oils.)	20	8	4	32

Industry	Large scale	Small scale		Total
		Registered under the Factories Act.	Not registered	
1	2	3(a)	3(b)	4
26. Manufacture of Paints, Varnishes and Lacquers.	25	17	72	114
27. Manufacture of miscellaneous chemical products.	155	227	294	676
28. Manufacture of Products of Petroleum and Coal.	17	2	5	24
29. Manufacture of miscellaneous production of petroleum and coal.	3	..	..	3
30. Manufacture of non-metallic mineral products except products of petroleum and coal.	..	..	1	1
31. Manufacture of structural clay products.	38	20	18	76
32. Manufacture of glass and glass products.	34	25	45	104
33. Manufacture of pottery, china and earthen ware.	7	1	1	9
34. Manufacture of non-metallic mineral products not elsewhere classified.	31	44	32	107
35. Basic Metal Industries ..	171	152	74	397
36. Non-ferrous metal Basic industries ..	126	64	74	254
37. Manufacture of Metal Products except Machinery and Transport Equipment.	..	657	776	1,433
38. Manufacture of machinery except electrical Machinery.	189	209	115	513
39. Manufacture of Electrical Machinery, Apparatus, Appliances and Supplies.	191	223	215	629
40. Manufacture of Transport Equipment ..	20	..	..	20
41. Manufacture of Rail and Road Equipment ..	24	7	..	31
42. Manufacture of Motor Vehicles ..	11	30	7	48
43. Repairs of Motor Vehicles ..	41	33	..	74
44. Manufacture of Motor Cycles and Bicycles.	9	6	1	16
45. Manufacture of Transport equipment not elsewhere classified.	64	23	80	167
46. Miscellaneous Manufacturing Industries	16	19	32	67
47. Manufacture of professional, scientific measures and controlling instruments.	16	..	..	16
48. Manufacture of Photographic and Optical Goods.	30	33	16	79
49. Manufacture of Industries not elsewhere classified.	138	358	234	730
50. Electric light and Power (generation transmission and distribution of electric energy).	6	6	..	12
51. Gas manufacturing and distribution ..	6	..	..	6
52. Manufacture of musical instruments ..	..	1	..	1

APPENDIX VI

(Vide paragraph 8-2)

THE PROPERTY OWNER'S ASSOCIATION

Representation submitted to Government on 18th September 1963 by the Property Owners' Association, Bombay.

Phone : 2 5 2 5 1 4

Bansilal Mansion,
11, Bruce Street,
Bombay-1.

Ref : 321/9/63.

18th September 1963.

To

The Honourable Shri V. P. Naik,
Minister for Revenue,
Government of Maharashtra,
Sachivalaya, Bombay-32.

Sir,

Ref :—Bill No. XXXVIII of 1963 to abolish the Inami Tenure and certain Other Special Land Tenures in the City of Bombay.

On behalf of my Association I have to place the following points for your careful consideration in respect of the above Bill which has been published in the Government Gazette and which is likely to come before the Legislature :—

1. Bills on the lines mentioned in the above Bill were brought before the Legislature in 1957 and 1959 but consideration of the same was deferred or they were shelved due to public agitation. In view of the past experience, the Association is of the opinion that circumstances have in no way now changed so as to warrant the introduction of the Bill in the Legislature at this juncture specially when we are in the midst of National Emergency.

2. The Statement of objects and reasons annexed to the above Bill states that it is introduced in pursuance of Government's policy of the abolition of inams and non-rayatwari tenures in the State. It is submitted that inams and tenures in the rural area stand absolutely on a different footing than in the Urban areas and the application of such a principle or policy to different sets of circumstances would not be proper. In the rural areas we are mainly concerned with agricultural lands or produce thereon which is not the case with urban lands where in respect of the same land different interests are involved and set of persons affected are numerous and in a more serious way.

3. The Council of the Association has studied the present Bill very carefully and is of the view that it is more stringent and harsh than the two previous ones. Although the Bill purports to abolish Inami and other Special Tenures in the City of Bombay its implications and repercussions would be complex, far-reaching and disastrous.

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4. The Bill affects practically the whole of the old city of Bombay as it is an all-embracing piece of legislation effecting all types of special tenures particularly the following :—

- (a) First Inami Grant
- (b) Second Inam Grant
- (c) Third Inam Grant
- (d) Pension and Tax Tenure
- (e) Quit and Ground Rent Tenure
- (f) Foras Tenure and
- (g) Sanadi Tenure.

The drastic provisions of the Bill would very adversely and severely affect a large number of property owners, whether as original superior holders or as lessees of the plots of land. Properties have been built, interests in them have been transferred from time to time, by way of mortgage, sale or gift, etc., rents have been fixed, all this on the basis of the assured basis of assessment of plots under the special tenures. The very basis of all such transfers or contracts would be violently shaken by the suddenness and the magnitude of the proposed impost of extraordinarily high assessment. It is feared that in most cases fresh assessment would be over 500 to 600 times of present figures (*vide* Appendix A).

5. The position is indeed worse than it appears. Perhaps, it may be argued that the present Government may not propose to take the assessment rate too high. However, the Bill empowers Government to increase assessment and there is no guarantee as to how high the rate might be taken by Government in future. Once the finality about the assessment which was insured by special tenures and enjoyed so long is disturbed, property owners would be thrown to the tender mercies of taxing authorities in future. Surely we cannot believe that it is Government's intention to create such a situation.

6. The present Bill includes in its categories of Inami and Special Tenures even lands which have been redeemed by payment of 25 or 30 years assessment by the holders concerned and that too under orders of Government. For all purposes the holders of such lands deemed them to be free-hold and transactions of sale or purchase or mortgage were entered into by different parties at different times and varied interests were naturally created. By the present legislation the atmosphere of confidence which was created has been rudely shaken and if it is passed will spell ruin to many which cannot be the intention of Government.

7. All Governments observe the terms of contracts entered into by previous Government. Without this normal and stable life would not be possible. To repudiate contractual obligations unilaterally does not behave Government as much in the international sphere as at home. It shakes public morale and their faith in Government and in stable order of things. The special tenures and Inams were created in appreciation of services rendered in old days to Government. To change these, is to put it modestly to make gratitude subject to the Law of Limitation. Does efflux of time wash away memories of good things done? Example is better than precept.

8. The rents charged for lease of plots and for premises built on such lands taken on lease, are on the basis of old rates under special tenures. These rates are naturally low and hence the income derived from these is also low. If now exorbitantly high rate of new assessment burden is placed on these owners, it will certainly mean unjustified hardship and in many cases will be beyond their capacity to pay.

9. The Bill militates against the policy of Government to ensure and encourage new construction. When today there is an urgent need to construct buildings to relieve the present housing shortage, this Bill will act as a great damper. We fear this will happen because the values of properties would depreciate very rapidly and thus properties will yield uneconomical returns and in many cases will become liabilities in the hands of the owners, who are after all investors, whom society can ill afford to scare away for a variety of reasons.

10. The compensation proposed to be paid to Inamdars and Superior holders in terms of clauses 4, 5 and 7 of the Bill is so meagre as to be quite illusory. It is proposed to pay compensation at three times the old cess; on the other hand assessment will be revised on the basis of 5 per cent. of fifty per cent. of the present market values. Consistency is an old virtue and does not wear itself thin by use or practice. The Government cannot pay compensation on more than a century old basis of cess and at the same time revise the assessment on the basis of present market rates only for consideration of securing more revenue irrespective of the consequences.

11. There will be many other far reaching effects of the Bill, too difficult even, even to envisage eg., (a) With tremendous rise in cess and revenue rates, land values would crash down. Many properties and plots are mortgaged. The value of these as securities will fall down heavily. In all such cases, additional security will be insisted upon by banks or in default, loans will be called back. This will shake up the credit structure a good deal. The Bill if passed will do more harm than good.

(b) Charitable trusts, co-operative Societies, and people of average means who have invested their life's earnings in properties would to say the least be hard hit.

12. In the past it has been the policy of the Government not to tax lands at source but to allow these lands to be developed to the fullest extent and then levy tax on such developed properties. We see no reasons why this policy should be deviated from and that too when there is acute housing shortage and need of new constructions. This also ensures on the one hand sufficient encouragement to the development of the lands and on the other hand higher revenue to the Government.

13. It is not understood why exemption has not been granted to public trusts which are communal in nature. It is common knowledge that majority of such trusts are communal in nature meant for the poor and needy and to deny them exemption would be unjust. It must not be forgotten that these trusts were created decades ago and now cannot be changed only to suit the present policy. The Association does not feel

that there is anything wrong with such trusts as long as they are governed under the law of the land and to deny them the benefit of exemption would be discriminatory. The Government is earnestly requested to study this aspect of the problem and revise its proposal having regard to the fact that it is from such trusts that our Country has been able to produce leaders of national and international fame and in different fields of life.

14. Lands held under the Special Tenures and which are proposed for abolition are situated in the industrial and residential areas in the City. The rents in almost all cases have been frozen to pre-war level of 1940 under the Bombay Rent Act. In the case of industrial workers rents in many cases have been subsidised by the industries concerned. The owners of such properties would not be able to increase the rents to meet the additional impost of land revenue, unless the Rent Act is suitably amended, and if it is not done will spell ruin to many property owners. In the case of industrial concerns such as Cotton Mills, etc., it is estimated that where the present assessment is Rs. 25 they will have to pay Rs. 1,12,000 after twenty years. It is certain that industry is not going to bear this impost and will naturally increase the prices of consumer goods which would ultimately fall on the consumers. This will result in a higher cost of living and hard hit the poor classes as well as the middle income group with limited incomes. The Government is earnestly requested to examine this point of view before proceeding with this legislation.

15. Clause 18 of the proposed Bill provides for a graduated increase over twenty years in the land revenue payable. This would make the heavy impost slightly easier to bear, but once it is realised that the increases in land revenue are definite in future, the capital value of land would be inclined immediately.

16. The persons who would be worst affected would be property owners who are a class of genuine investors and who have properties on such lands which are covered by the Bill, as rents were fixed on the basis of old assessment payable decades ago and the rents have now been frozen under the Rent Act, to pre-war level of 1940. Unless a specific provision is made in the present Rent Act enabling the property owners to recover the enhanced land assessment from the tenants in proportion to their rents, property owners would be ruined; as it is property owners are not able to repair old properties from their depleted income and the new legislation abolishing the tenures would be the last straw on the camel's back. There are a number of dilapidated properties in the City which give way, taking a heavy toll of life. Instead of mitigating this evil by making more funds available for repairs and renovation the Bill will worsen the situation, as if we find it difficult to be wiser by experience.

17. To recapitulate, the Association requests the Government—

(a) That the Bill should not be taken in current session of the Legislature and sufficient time should be given to the interests concerned to submit their views so that Government may consider the same carefully and would be able to take stock of the full implication of the proposed Bill.

(b) To provide for compensation payable to Inamdars or Superior holders, which would be full, reasonable and adequate, in tune with present market values in respect of all tenures.

(c) As it has been pointed out the revised assessment as per Bill will be upgraded exorbitantly and in most of the cases they will be over 500 times over the present assessment. The Bill should be withdrawn as it is inequitable and unjust piece of legislation.

(d) To reconsider the situation and to provide in clear and unequivocal terms that the burden of any assessment will be bearable and can be passed on to lessees, sub-lessees and tenants etc., so that the burden may be small and equitably shared by all.

(e) To take into consideration the cases of charity properties and buildings of co-operative housing societies and properties which have fixed rents either at nominal, concessional or no-profit-no-loss basis such as Industrial Housing etc. and not to effect property owners in a discriminatory fashion.

(f) To reconsider the situation in the light of the Rent Control and to see that investors in immoveable property are not singled out for unfair treatment.

18. My Association feels confident that Government will give due and sympathetic consideration to the foregoing requests. It is needless to state that my Association would be happy to place its views in detail or to furnish additional material or information on this point, if necessary.

19. A deputation of the Council of my Association would be pleased to meet you for which an early appointment may please be given.

Yours faithfully,

(Signed) R. C. RELE,
President.

APPENDIX "A"

Examples showing how much the properties would be required to pay if the Inami and Special land tenures are abolished.

1. *Property in Girgaum, Charni Road*—1,500 Square yards paying Rs. 5 as cess per year present value at Rs. 100 per square yard would be Rs. 1,50,000 half of this would be Rs. 75,000; 5 per cent. on this would be Rs. 3,750 per year this is 750 times the present assessment.

2. *Property at Dadar*—2277 Square yards, paying about Rs. 5 per year as cess; present value at Rs. 40 Square yard would be Rs. 91,080; half of this would be Rs. 45,540; 5 per cent. on this would be about Rs. 2,277 and this is 455 times the present assessment.

3. *Property at Lower Mahim*—3,538 Square yards paying about Rs. 5 per year as cess present value at Rs. 35 per Square yard would be Rs. 1,23,830 ; half of this is Rs. 61,915 ; 5 per cent. on this would be about Rs. 3,095 and this is 619 times the present assessment.

4. *Property in Fort Area*—900 Square yards paying about Rs. 10 per year as cess, present value at Rs. 300 per square yard Rs. 2,70,000 ; half of this Rs. 1,35,000. 5 per cent. of this would be Rs. 6,750, which is 670 times the present assessment.



APPENDIX VII

(Vide paragraph 8.2).

Note furnished to the Committee by Shri R. C. Rele, President, Property Owners' Association at his minute of dissent

It is argued that the apprehension that land revenue on inami/tenure land would be fantastically high and beyond the capacity of landholders is not justified. It would not be correct to say that the apprehension is not justified. Apprehension can be justified even if the burden is small but unbearable and beyond the capacity of a landholder. I am of the view that the burden on immoveable property is sufficiently high and its income has been pegged to the level of 1940 by Government. If Government controlled the income from immoveable property to the 1940 price level and do not remove the ceiling, there is no justification for Government stepping in to share the controlled income particularly when the controlled rent is inadequate for maintaining and repairing the properties which have deteriorated and when it is now known that thousands of properties are in dire need of extensive and heavy repairs and for want of which, national wealth in the form of buildings has suffered and precious lives have been lost. In a statement made by Dr. Shanti G. Patel, Leader of Congress Municipal party, at a special meeting of the Bombay Municipal Corporation, as reported in the 'Times of India' of 5th July 1966 at page 7, he has observed: "In the past 10 years there had been 1380 house collapses taking a toll of 92 persons and crippling 510 men and women". He disclosed that between 1960 and 1965 the Corporation had issued 18,000 notices on landlords for repairing buildings. Out of these 6,000 had been complied with. Remaining 12,000 houses were further deteriorating and getting beyond repairs. This is a report of 1966. Much water has since flown under the bridge and the latest figures may be gathered from the Municipal authorities. Having regard to this state of affairs, if the proposed legislation is at all called a social reform, it will do more harm than good to the citizens and ultimately to Government, whose every action is supposed to be in the interest of the citizens, having regard to the special circumstances of the section of the public affected. In regard to the Land revenue burden, the view that the burden of land revenue will not be unbearable, is not correct and the comparison with certain establishments which are paying full land revenue in respect of Toka, LNA or leasehold land, is not proper. The levy of land revenue in respect of Toka, LNA or leasehold land is a matter of agreement based on certain terms and provisions between the parties of which they have been aware and which factor has been taken into consideration already in calculating the returns. This proposed levy on inami and special tenure land is more or less a bolt from the blue, and having regard to the provision for protection of fundamental rights in the Constitution, was not expected particularly when the investors in immoveable properties have been discriminated against in pegging down the rents irrespective of whether the tenant is rich or poor and whether his profits from use of the premises are enormous or normal. An argument has been put forward that because in the past no or very little land revenue was paid to Government, there is justification for levy of land revenue as proposed. Government are only one of the parties making a demand on the income

under the proposed measure. The main point for consideration is whether the current burden is high and needs to be lowered and not that it should be levied irrespective of the other burdens and capacity to bear. Any fresh impost which cannot be easily borne, upsets the budget or calculations of the individual or the party concerned, leading to undesirable results and very often inability to meet commitments leading to disposal of investment or causing depreciation in it. It is not correct to say that there is no just ground for the apprehension entertained by some industrial establishments or concerns. He who wears the shoe knows where and how it pinches. So also in regard to contraction of "Creditworthiness" it would not be correct to say that the apprehension that the mortgagors (sic mortgagees) might be called upon to furnish additional security, does not seem to be genuine. At present a virgin land fetches better price than a land with a building. Instead of asking for additional security, the mortgagee may demand return of the loan or demand a higher rate of interest, and in fact, many mortgagors of immoveable properties are today faced with demand from the mortgagees for higher rate of interest which makes it uneconomic to hold the investment. It would, therefore, not be correct that creditworthiness would not be affected. In the Rent Act, as the rents are pegged down to 1940 level, it is provided that any future burden of taxation from local authority should be passed on to the tenants. There should be no justification for Government in this particular measure if they insist on imposing the levy, to blow hot and cold by the same breath.

In regard to the impact on property holders and tenants, my contention has been that the present measure cannot be deemed substantially as one of agrarian reform as there is hardly any agricultural land in the City, and assuming that it is a measure of social reform, it is unnecessary and would be too high a price payable by the property owners who represent the image of cosmopolitan India. As it is, a great section of the original inhabitants of Bombay had to give up their holdings and are being replaced by a class who normally find it more beneficial to speculate whilst constructing buildings, leaving the purchasers of flats at a great disadvantage both in price and structural soundness of the buildings. The paucity of returns on investment in immoveable property has worsened the housing problem, and it is more desirable for Government to give incentive to investors in lands and buildings than to come out with a measure which by its impost tends to have a contrary effect. As it is, the property owners are denied their legitimate income, a part of which is channelled through tenants for non-housing purposes. The expenses of maintenance of properties have jumped up to fantastic figures by a rise in the costs of building materials and labour since 1940 to which level the rents are pegged. Municipal taxes are at present no less than 37½ per cent. There is no justification for the observation that several property owners who are paying full land revenue in respect of Toka, LNA or leasehold lands on which their properties stand, do so with ease. They do it more in disgust and frustration. No specific instances are needed to show that the rents of tenements in the buildings on Inami/tenure land were fixed at a lower level than that of the rents of similar buildings. This is more a matter of demand and supply and moreover the Rent Act pegging the rent to the level of 1940, the observation that the only effect of the levy of full assessment on Inami/tenure lands would be to take away

the unearned profits of the property owner of an Inami/tenure land, is without any justification, particularly because the property owner is not allowed to take normal rent on his investment having regard to the present increased rate of returns on other investments. That the yields on immovable properties are poor is recognised even by the Reserve Bank of India in its Bulletin where the return is shown to have diminished from 2.3 per cent. in 1950 to 1.6 per cent. in 1956. It cannot be gainsaid that the yield has since diminished considerably.

It may be mentioned that with the changing of times, ideas and systems of administration, some changes are inevitable, but the changes should be for the better and not for worse and not such as would victimise only one minority section of the community who do not go in for agitational approach, gheraos, morchas and other forms of expressions as is witnessed in other parts of the country, and in fact they should not be driven to that extent. The argument advanced that the Bill does not militate against the policy of Government to ensure and encourage building activities is not correct. Building activities can be encouraged both by encouraging new constructions and permitting the investors in present buildings to get reasonable returns, not merely as in other investments but a little more. The Bill will not help in maintaining even the present returns but will diminish the same and by no stretch of imagination can it be said that it does not militate against the policy of encouraging building activities. Normally when any problem is sought to be solved, specific measures to encourage solution of problems are taken and this is done in the shape of giving incentives for the purpose, one of which is a tax holiday, which this measure does not provide, at best it acts to the contrary by imposing a super levy. I entirely disagree with the statement attributed to the Committee that it feels that there would be no hardship to the landlord and the tenants if both of them are permitted to share the liability of assessment on Inami and special tenure land on 50 : 50 basis. It would be a case of sharing of hardship and a partnership in suffering, and in fact the Committee has been appointed because Government were aware that there would be a hardship and the Committee should find way to minimise the same. In my view, there is no scope for imposing any further burden on the property owners who need relief and increase in rents to make it economic. If any levy is proposed it should be passed on to the tenants by a suitable provision either in the proposed measure or in the Rent Act. The Rent Act as applicable to the State of Gujarat should be followed for a suitable provision and which is as follows :—

"Section 10E.—(1) Where a landlord is liable to pay in respect of any premises, any levy of, or increase in, the ground-rent, non-agricultural assessment or any other tax on land imposed by the State Government, he shall be entitled to make an increase in the rent of the premises by an amount not exceeding the increase paid by him by way of such ground-rent, non-agricultural assessment or tax as the case may be. The amount of such increase in rent to be recovered from tenant shall bear the same proportion as the rent payable by him in respect of his premises bears to the total amount of the rent recoverable for the whole of the premises, if let.

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

Finally, I may add, that the levy of any fresh impost can be justified on three grounds only, viz., (1) benefit, (2) ability and (3) maximisation of public welfare. In the present case, the impost, by no stretch of imagination, can be said to 'benefit' the property owner. So far as his 'ability' to bear, it is concerned, there are enough straws on his broken back, without this last (?) or latest one ! Nor can the measure and the consequential impost contribute to welfare ; rather it distributes suffering among all, property owners, tenants, business, industry, etc. The proposal was, very rightly, shelved twice before ; it should go back to the shelf once again, to rest in the limbo of oblivion.



APPENDIX VIII

Minute of dissent by Shri C. L. Gheewala, Secretary, Indian Merchants' Chamber, Bombay, and Shri R. L. N. Vijayanagar, Secretary, Millowners' Association, Bombay.

Though the Committee of Experts are required only to assess the impact of the proposed legislation on the various interests in the City, we have felt it necessary to express the opinion on the question whether or not the Government should proceed with the legislation. In our opinion, the proposed legislation is unjust, uncalled for and unconstitutional and beyond the power of the State Legislature. There is no similarity of object between the abolition of Zamindari and other tenures in the various parts of the country, including the State of Maharashtra and the abolition of the tenures in question obtaining in the City of Bombay which is a very highly industrialised area. There is no question of finding land for the tiller here. This basic difference between the tenures obtaining in the mofussil and the tenures obtaining in the City is so important that, we urge, the Government should reconsider carefully the whole matter from every angle, including the legal and constitutional aspects, before they embark on this legislation.

In 1962-63 the Government of Maharashtra abolished the Urban Immovable Property Tax which stood at 5 per cent. of the ratable values and allowed the Bombay Municipal Corporation to raise its General Property Tax from 19½ per cent. to 24½ per cent. Besides an Education Cess was also imposed on the City population both by the Municipality and the State Government. An attempt to bring the Inami and Special Tenure Lands under Land Revenue Assessment is tantamount to bringing back the Immovable Property Tax.

Chapter 8 of the Report, which relates to the impact on property owners and tenants says that the total area of the Inami and Special Tenures is as large as 60 per cent. of the total assessable area of the land in the City. The proposed legislation will, therefore, affect a substantial section of the City population which is already heavily taxed. This is an added reason why the legislation should not be proceeded with.

In Chapter 2 of the Report which deals with the proposed legislation and its history, it is admitted that none of the Inami or Special Tenure lands are virgin lands capable of further development for building and other activities and that the many of the present holders are not descendants of the original grantees or holders and have acquired the benefits attached to the lands on payment of full consideration on the assumption that these benefits would continue for ever. This aspect of the matter is, in our view, extremely important because the areas have been, in many cases, built up even before the Second World War and as a result of the Rent Act the rents of the properties have been frozen. In view of the rent having been frozen, the property owners have not been able to look after the wear and tear because of the low rentals and high maintenance costs. Most of the properties have also been mortgaged and the redemption has become extremely difficult, if not impossible, due to the deplorably low return to the property owners. This was at the back of our mind when we were discussing the quantum of assess-

ment to be imposed on such lands, if the legislation were to be proceeded with by Government. We therefore repeatedly urged in our discussions in the Committee that a provision should be incorporated in the Bill exempting from land revenue assessment properties where the residual income in the hands of the owner provided a return equivalent to or less than the rate of return granted under the Rent Act. We also urged that powers should be vested in the Collector to fix the rates of land revenue assessment in such a manner, that the owner is left with a return on investment at least equal to what is permissible under the Rent Act. This, in our opinion, is a very important matter which the Government should carefully consider.

We also urged before the Committee of Experts that the impact of the proposed Land Revenue Assessment on the working class cost of living index should also be examined if the liability of new assessment was passed on to the tenant. Our apprehension was that the cost of living index would go up as a result of the imposition of the land revenue assessment and that would lead to the payment to industrial workers a further addition to the Dearness Allowance which was already exorbitantly high due to the continuous rise in the index on account of phenomenal increase in prices. That would consequently affect the industry very adversely as its cost structure had already become highly inflationary.

The Report, we are sorry to say, expresses the opinion that the Land Revenue Assessment would not influence the rent index or the cost structure of the society without collecting any facts and figures from the index compiling authorities. The reasoning advanced in the Report is that only 50 per cent. of the assessment has been recommended to be passed on to the tenant and that too in a gradual manner. We would however like to point out that many mills in Bombay have provided residential accommodation for the workers at subsidised rents. According to "The Report on the Family, Living Survey among the Industrial Workers, 1958/59 for the Bombay Centre", published by the Labour Bureau, Ministry of Labour and Employment, Government of India, in 1964, the rent paid by the working class in Bombay has been placed at Rs. 5.56 per month. If the sample of tenements for which the rentals are collected by the index compiling authorities happen to be situated on lands the tenures of which are going to be abolished, the property owners concerned would pass on the transferable portion of the new assessments to the tenants and consequently, the rentals of the sample tenements would go up. As a result, the cost of living index would also go up. The industry in general and the cotton textile industry in particular, has been passing through critical times and any additional burden, howsoever small it may be, is bound to break the back of the industry and as such, we urge that this matter should be gone into by the Government.

In Chapter 7 dealing with impact on industry, the Report observes that one would not be justified in saying that the burden, as proposed by the Committee of Experts, will be unbearable for the industrial establishments set up on inami/Special Tenure lands where there are establishments which are already paying full land revenue in respect of Toka, L.N.A. (Newly Assessed Lands) or leasehold lands held by them. If a reference is made to Chapter 11, which deals with leasehold lands, it will be found that an observation has been made to the effect that in many cases of leasehold lands, the rents paid by

the lessees are far too low and insofar as the land revenue assessment is concerned, the position in respect of these lands is similar to that of Inami or tenure lands. It is also further stated in that chapter that in the case of non-renewable leases for such periods as 99 years or 999 years the rents are ridiculously low. Notwithstanding this, the Committee of Experts have recommended that the consideration of the question of abolition of the leasehold lands should be postponed. In view of this position, we are of the view that the argument advanced by the Committee of Experts that the burden of assessment as proposed by them, would not be unbearable for the industrial establishments set up on Inami/Special Tenure lands loses all its force. Then the further argument to the effect that the land values would not be deflated and the credit-worthiness will not be affected are equally based on unfounded premises. If the abolition of leasehold lands in whose case the assessment is more or less similar to that of Inami or Special Tenure lands, is to be postponed, there is no reason why the Inami/Special Tenures should be abolished and consequently made liable to assessment.

We refer to the Table appearing on page 63 which shows the gross annual rental and the retained rent in respect of seven sample properties. We would like to point out that the properties referred to in items 5, 6 and 7 are industrial properties and the gross annual rent shown in column 7 is the imputed rents for the purpose of Municipal assessment. They do not represent the rents received by the property owners from the tenants. Consequently the retained rent shown in column 10 do not represent the rent actually retained in the hands of the property owners. It is, therefore, necessary to bear this in view before drawing any inference from this table.

We may also be permitted to correct a distorted picture emerging out of the Table in Appendix V which relates to information regarding industries in the City and the number of establishments belonging to each industry. On page 68 the Committee of Experts have made a statement that the major industry in the City is the Textile Industry. It may be stated that the inference is not warranted in that there are other industrial groups, particularly in the sphere of metal products, competing with the group of textile industry. For example, the industry relating to manufacture of metal products comprises the largest number of units being 1433. In fact, the industries covered by items under 35,36,37 and 38 of Appendix V comprise in all 3,225 units which represent the engineering complex which appears to be largest as against the industry relating to manufacture of textiles referred to a Item No. 9 which comprises 812 units.

(Signed) C. L. GHEEWALA,
Secretary,
Indian Merchants' Chamber.

(Signed) R. L. N. VIJAYANAGAR,
Secretary,
Millowners' Association.

APPENDIX IX

Minute of dissent of Mr. N. K. Suntook, Representing the Indian Banks' Association.

I have read the majority report of the Committee appointed by the Government for considering the provisions of the Bill in respect of the proposed Bombay City (Inami and Special) Tenures Abolition Act, 1963. As I do not agree with some of the recommendations made in the majority report, I have thought fit to put up this minute of dissent against the same.

At the outset I have to state that the proposed legislation is unjust, uncalled for and unconstitutional and beyond the powers of the State Legislature.

Without prejudice to my above contentions, I have to make the following observations.

In the majority report it has been observed that "the history of Inams and special tenures may not justify continuance of the right to exemption from the payment of the land revenue in the changed context of administrative, social and economic structure and the consequential loss of revenue to the Public Exchequer". In fact, in the same paragraph of the majority report it is stated that "many of the present holders are not descendants of the original grantees or holders and have acquired the benefits attached to the lands on payment of full consideration on the assumption that these benefits would continue for ever". This statement, by itself, furnishes more than sufficient justification for the continuance of the rights of the existing holders to exemption from the payment of land revenue, which right has been accorded statutory sanction by the provisions of section 8 of the Bombay City Land Revenue Act. Clause 3 of the present Bill, by its very language concedes that the tenures now sought to be abolished and the respective rights of landholders thereunder, have the sanction either of "usage or custom or of a Settlement, Grant or Sanad, Certificate, Deed or other instrument or a Decree or Order of a Court or of laws in force". It is needless to emphasize the inequity and unconstitutionality of any legislation which seeks to abrogate the rights/sanctioned as stated above. If rights so sanctioned are to be extinguished on the grounds of alleged administrative, social and economic needs and for bringing in additional revenue to the Public Exchequer, this would only augment the present crisis of confidence obtaining in the financial and industrial circles in this country.

In the majority report it is stated that the Bill under consideration provides for "resumption of right in limitation of the right of Government to assess the lands". By this I understand that what the majority report means to convey is that the Bill provides for assumption or usurpation by the Government of the right of the existing holders of the land to either enjoy the revenue derived by them therefrom or to hold the same free from any assessment of land revenue thereon or to be exempted from increases in the existing assessments of revenue thereon. Since the above rights are at present vested by law in the existing holders of lands in question in Bombay and not in the Government itself, there could be no question of *resumption* of any rights by the Government.

As to the impact of the proposed legislation, it is observed in the majority report that the view that the proposed levy would be fantastically high, is not justified and that the apprehensions of adverse effect on industry are exaggerated. Having regard to the serious losses and heavy burdens which will be imposed by virtue of the proposed Act, on all holders of lands of Inami and special tenures now sought to be abolished, it would seem difficult to exaggerate the disastrous impact of the Bill upon landholders and industry generally. Dealing, in particular, with member Banks of the Association whom I represent, I may add that they own considerable immovable properties in the City and have advanced crores of rupees on the security of immovable properties in the Bombay City, and the drastic depreciation in the values of land, which would be the certain result of the proposed legislation, would place the recovery of such advances in serious jeopardy in several cases.

In the majority report a view is expressed that "the proposed legislation is primarily a land reforms legislation and not a fiscal measure". Whereas land reform legislation in India, enacted so far, was meant to solve the problems of tenancy, to prevent oppression on tenants and to remedy various other evils, the present Bill cannot claim to be a measure of agrarian or any other reform, considering that there are no such wrongs or evils relating to holding of lands in the City which call for being redressed or remedied by the proposed legislation.

In the majority report it is recommended that the assessment on Inami and special tenure lands should be on the basis of their respective market values and not on the basis of their full market values, as on the 2nd of December 1957, and that the assessment should be at 5 per cent. of any such market value. At the same time, it is therein recommended that the market value should be determined after considering instances of sale and acquisition of similar lands that might have occurred during the period of 15 years preceding the said 2nd day of December 1957. I submit that it should be clearly provided in the proposed Act that the said market value should be determined not as of 2nd December 1957, but on the basis of the value of such lands as determined after ascertaining the average value thereof on the basis of transactions of sale or acquisition affected in respect of similar lands in the locality during the whole of the said period of 15 years proceeding the 2nd of December 1957.

In the majority report it is recommended that the Director of Town Planning should make an assessment of the market value of the lands in question, and that if any landholder feels aggrieved by the final recommendation of the Director of the Town Planning, a reference should be made to the Maharashtra Revenue Tribunal for determining the assessment of the market value, but that the decision of that Tribunal should not be final and binding on the Government. It is recommended by the majority report that the decision of the Maharashtra Revenue Tribunal should merely be considered by the Government, but that the State Government alone should make its final decision in regard to the assessments of the market values of the lands final. This would mean that after the landlords shall have undergone the great trouble and costs of contesting the matter right upto the stage of the Maharashtra Revenue Tribunal, they would be

faced with the arbitrary and overriding decision of the Executive Authorities of the State Government to overrule the decision of the Tribunal. I am, therefore, of the opinion that the decision of the Maharashtra Revenue Tribunal with regard to the assessment of the market value of the lands in question should be final and binding on the Government, and that it should not be left to the discretion of the Government either to accept such decision or to vary or reject the same.

In the majority report it is recommended that in cases where land is partly built and partly unbuilt "only that portion of the land which bears the same ratio as the built up area bears to the floor space index should be the assessable area of the land". Whilst I appreciate the implication of this recommendation and agree with it, I would suggest that the language of this recommendation may be somewhat improved in the following form :— "In cases where the land is partly built and partly unbuilt only that portion of the land which bears to the *total area of the land* the same ratio as the built up area bears to the floor space index, should be the assessable area of the land."

In the majority report it is recommended that such of the areas of the lands of the above tenures as are kept open for play grounds or recreational purposes, should be exempt from assessment or should be liable to pay assessment at a nominal rate. I agree with this recommendation. However, I do not agree with the recommendation made in the majority report to the effect that the Collector should be given power to leave such open spaces unassessed, so long as they are used as playgrounds or for recreational purposes or for any welfare activity. In my opinion, this power should not be left to the Collector himself, but it must be provided by the Act itself that the above open spaces should in any event be exempt from assessment and should be liable to pay assessment at a very nominal rate so long as they are used for the aforesaid purposes.

I have to make the same comment as above regarding the recommendation in the majority report to the effect, that the Collector should have similar power in respect of lands belonging to co-operative housing societies, subsidised housing schemes and lands of institutions or individuals, not forming part of any public trust, which are used for the purpose of education, religion, medical relief or any philanthropic object.

I further suggest that in cases where it is established that after taking into consideration the Municipal and other taxes levied on properties of the above tenures, insurance premia on buildings thereon and other costs of maintenance, as well as recurring costs of repairs, white washing, painting, etc., particularly in case of old buildings, the yield the reform is inadequate, such properties should be completely exempt from assessment of land revenue. The factor of depreciation on buildings at the rate laid under the Indian Income Tax Act, should also be taken into consideration for the above purpose. For the purpose of considering whether or not land revenue should be assessed on such properties, the factor of land revenue, which would otherwise be levied on such properties, should also be taken into consideration. If the Collector is satisfied that after taking into consideration all the above factors, the landholders would not receive even 9 per cent. on the amount of the market value of the property assessed, then the property should be exempt from assessment of property revenue. In

a deserving case, the Collector should be given the power to assess such properties to land revenue at a much lesser rate than the normal standard rates of assessment, in cases where he is satisfied that the yield from the property to the landholders would be barely sufficient for his maintenance and living expenses. If this were not done, great hardship will be caused on persons like retired or unemployed individuals or widows and other persons suffering from disability. My above suggestion of 9 per cent. is based on the fact that for a quite a long time past, a return of 9 per cent. on all kinds of investments in Bombay is being considered as a bare minimum yield on capital assets of all kinds, and even on secured investments like mortgages, charges, pledges, etc., an yield of 12 per cent. per annum has been the normal rate of yield thereon.

In the majority report it is recommended that in order to ensure quick assessment of lands of the above tenures, a standard rate of assessment should be determined for each revenue division in the manner therein suggested. It is further recommended that in any case in which the landholder feels that the assessment of his land at the standard rate would be high, he should apply to the Collector for the determination of assessments leviable on his land on the basis of its market value. It is therein further recommended that the landholder should be required to submit a Return to the Collector in the manner indicated therein and to deposit with him an amount equal to 2½ per cent. of the aggregate of the Municipal taxes therein specified. I submit that the obligation on the landholder to submit the above Return to the Collector should not be cast upon him until after the Collector shall have determined the standard rate of assessment for each revenue division, and until after the objections of the landholder to such determination shall have been finally disposed of by the Collector. Further, in cases where a landholder shall have filed an appeal with the Maharashtra Revenue Tribunal against the decision of the Collector in respect of the determination of the assessment of his land, the landholders should not be obliged to submit his Return, until after the decision of the decision of the Tribunal shall have been given.

Lastly, in the majority report it is observed as follows :—

“The Committee considers that if no compensation would be legally permissible for taking away from the holders of Inami and tenure lands their right to hold their land exempt from the payment of land revenue, in full or in part, it would not be correct to ask for payment of compensation in such cases.” I am unable to see how one can justify the taking away of rights, now recognised by statute and sanctioned, by usage, custom, law, etc., without payment of adequate compensation. I submit that for the extinguishment of Inami and special tenures the quantum of compensation which could at all be considered adequate for the loss occasioned to the landholder, must be the capitalised value, at a fair rate, of the full annual assessment leviable in respect of the lands under the provisions of the Act. Similarly, the adequate amount of compensation for the extinguishment of the right under the Second Inam Grant should be an amount equal to the capitalised value, at a fair rate, of the annual land revenue which the Inamdar was entitled to receive from his tenant immediately prior to the abolition of his rights.

(Signed) N. K. SUNTOOK.

28th March 1968.

APPENDIX X

STANDING COMMITTEE OF PUBLIC TRUSTS OF BOMBAY

Minute of dissent of Mr. Nadirshah Rustamji Mulla, Chairman, Standing Committee of the Public Trusts, Bombay.

209, Dr. Dadabhai Naoroji Road, Fort.
Bombay, 7th March 1968.

Chairman,
Mr. Nadirshah R. Mulla,
Solicitor.

With regard to paragraph 9.4 of Chapter 9 it is not correct to say that 'the Committee has not been able to get any statistics in the matter and, therefore, refrains from making any observations in regard to this suggestion'.

In 1963 when a similar bill was being considered the Standing Committee of Public Trust had collected particulars of lands owned by Public Trusts and they were sent to the then Secretary to the Government of Maharashtra, Revenue Department, Sachivalaya. By his letter, dated 18th November 1963, the Honourable Secretary of the Standing Committee of Public Trusts had sent particulars of 51 trusts and subsequently particulars of 8 more trusts were sent under cover of Honourable Secretary's letter of 30th November 1963. Subsequently 2 more trusts had sent their particulars to the Standing Committee's office and I submit below particulars of lands held by Public Trusts according to the tenures and the assessment amounts therefor :—

Tenure	Land Square yards.	Assessment	
		Rs.	p.
Inami ...	2,86,905	.....
Pension and Tax ...	6,35,163	8,753	70
Quit and Ground Rent ...	36,491	561	84
Foras ...	89,165	1,325	95
Sanadi ...	6,038	1,467	38
Other tenures ...	1,129	206	40
	<hr/> 10,54,891	<hr/> 12,315	<hr/> 27

It can be seen from the above that Public Trusts hold lands of various tenures running into nearly 10,55,000 Square yards.

In his letter, dated 18th November 1963, to the Secretary to the Government of Maharashtra, the Honourable Secretary to the Standing Committee of

Public Trusts of Bombay had clearly stated "I am directed to draw your specific attention to the fact that these replies are only from a small number of trusts. According to the Charity Commissioner's Directory there are over 5,000 trusts but barring cosmopolitan trusts there are over 4,000 other trusts, many of whom may be owning lands. We feel that your office could get data from the Charity Commissioner's office with regard to such trusts and my Committee is of the opinion that it will amount to a tremendous figure".

I am of the opinion that if the Committee had taken the trouble to find these data from the Charity Commissioner it could have easily got the same including lands 'belonging to any charitable trust which provides for housing' as appears to have been suggested by Mr. Vijayanagar and Mr. Gheewala. In view of this I am of the opinion that Messrs. Vijayanagar and Gheewala's suggestion for further concession contained in paragraph 9.4, should be given effect to.

7th March 1968.

(Signed) NADIRSHAH R. MULLA.



APPENDIX XI

Comments of the Director of Town Planning, Maharashtra State, Poona, in regard to a draft of the Report that had been circulated to the members by the Secretary for consideration.

(1) *Para. 4J.*—It is mentioned in the 21st line that percentage which would be reasonable for assessing an unbuilt plot which has full building potentiality will not be suitable for assessing a built up land which will have no building potentiality for a number of years. The term 'building potentiality' has acquired specific meaning both by usage and judgements of Courts. 'Building potentiality' accordingly means future prospects of building development in respect of open lands or lands used at present for agricultural purposes. I would suggest that the sentence be re-worded as follows :—

"Apart from this, the percentage, which would be reasonable for assessing an open or partially built plot which is capable of full or additional development, will not be suitable for assessing a built up land which will not be capable of further development for a number of years."

(2) *Para. 4J.*—It is mentioned at the end of the para that the assessment should not exceed 5 per cent. of the market value, i.e., the rate which had been in force from 1929 to 1964. It appears to me that the term "market value" has also acquired a special meaning both by usage and decisions of Courts under the Land Acquisition Act, 1894. According to the decision of the Bombay High Court, the market value is to be assessed with reference to the transactions of land during a period of not exceeding three years prior to the date of notification under section 4. Since under the proposed Bill it is contemplated to estimate the market value with reference to sales during the preceding 15 years, I would suggest that it would be advisable if the term "market value" is substituted by the term "assessable value" to avoid confusion with the meaning as understood for the purpose of land acquisition. It also appears that the year '1929' is incorrectly typed instead of '1949'.

(3) *Para. 44.*—It is mentioned that "the standard rate of assessment for a revenue division shall be the rate at which on the relevant date, viz., 2nd December 1957." The revenue divisions are very vast in area and comprise lands differing in situation, nature of road frontage, use of land, levels etc. For example, lands on main wide roads will be higher in value than lands on narrow roads or lands in the interior. Similarly, lands used for shopping and commercial purposes will be more valuable than lands used for residential or industrial purposes. Similarly, level lands would be more valuable than low-lying lands. The usual practice adopted so far under the provisions of the Bombay Land Revenue Code was to divide the town into two or more zones or blocks of land approximately of equal value. Apart from the inequity in value that would arise in case all the lands are lumped into a single zone for the entire revenue division, it would appear that a single zone for the entire revenue division would also be extremely unwieldy and unrealistic. I would, therefore, suggest that the following sentence may be added at the beginning of the para.:—

"Each revenue division may be divided into two or more blocks or Zones comprising lands approximately of equal value with due regard to factors like situation, nature of road frontage, land use and levels etc., so that each block or zone is homogeneous from valuation point of view."

It is also mentioned in para. 4-4 that the relevant date for the purpose of assessing the market value is 2nd December 1957. It is pointed out that as per section 113 of the Maharashtra Land Revenue Code, 1966, the full market value shall be estimated on the basis of sales of land during the period of 15 years immediately preceding the year in which the rate of assessment is to be fixed. The relevant date should, therefore, be not very much anterior in the past but reasonably near the date on which the Bill is published or is likely to be brought into effect. During the proceedings of the Committee, the representative of industries suggested that the relevant year should be 1950 on the basis of valuation which has been agreed to in the High Court between the Collector and the management of mills. Even assuming that the agreed valuations in the Court be given consideration, it would be reasonable to take the material year as 1965 so that the sales of previous 15 years would cover the year 1950 also. In case 1957 is adopted as the relevant year, then sales upto 1942 would have to be taken into consideration. But sales for a period going upto 1942 could hardly be considered realistic for the purpose of assessing lands in 1966-67.

It is mentioned in para. 4-4 that the Director of Town Planning or any officer authorised by him in this behalf etc. determine what should be the standard rate of assessment etc. The work of assessment is normally the duty of a revenue officer, which is also recognised under the Maharashtra Land Revenue Code, 1966. Hence the duty of assessing lands under the present Bill should also be cast on the Collector and not on any officer of the Town Planning and Valuation Department. I would, therefore, suggest that instead of the Director of Town Planning, the duty of assessment may be cast on the Collector or any other officer not below the rank of a Class-I Officer as Government may decide. If the Collector so requires, he may request Government to give him the assistance of the services of an experienced officer from the Town Planning and Valuation Department.

Para. 4-4 mentions the procedure for determining the standard rate of assessment. The petitioners are required to be given full opportunity to have their say in respect of the proposed rate of assessment. During the proceedings before the Committee, it was pointed out by the Director of Town Planning that there will be a large number of objections and it would be impossible to give personal hearing to each and every objector, which would result into prolonged delays in finalising the assessment. It was then explained that a personal hearing to the objectors was not contemplated but they would be asked to submit their objection in writing which would be taken into consideration by the Collector. It was also then agreed that the procedure laid down in the Maharashtra Land Revenue Code, 1966 be also followed in respect of the present Bill. Para. 4 may, therefore, be suitably amended.

(4) *Para. 4-5.*—The expression “market value” may be substituted by the term “assessable value” for the reasons stated in item (2) above.

(5) *Para. 4-6.*—The Committee has recommended according to the draft report that in case where land is partly built and partly unbuilt, only that part of the land which bears the same ratio as the built up area bears to the F. S. I. should be taken to be the assessable area of the land. In the city of Bombay, all the land whether built up or open, is ordinarily liable to pay assessment. During the proceedings of the Committee, it was argued that where lands are underdeveloped, that is to say, contain ground or ground and one or two upper floors and thereby do not consume the full F. S. I., considerable hardship may be caused to the owners

of such properties because on account of the existing structures and tenancies they are not able to develop the plot to the full permissible extent according to the F. S. I., while in the case of open lands it is possible for them to utilise the full F. S. I. and thereby develop the land fully. It was, therefore, argued that in respect of under developed lands, some lower rate of assessment should be charged than that chargeable on open lands. This argument has some force and should be taken into consideration by making the distinction between the area of land going with the existing structures in accordance with the development control rules and the area of remaining land. It would, therefore, be necessary to decide the extent of the area going with or appurtenant to the existing buildings. This will be particularly so in the case of under-developed properties where the assessment is proposed to be restricted to $\frac{1}{4}$ of the Municipal taxes. Such area going with or appurtenant to the building will be either the area required for such building with due regard to the permissible F. S. I., or the area necessary for providing adequate open margin on all sides according to the development control rules, whichever is greater. Such area going with or appurtenant to the building should be assessed on the basis of $\frac{1}{4}$ of the Municipal taxes; the rest of the area, which will be available for full development according to the F. S. I. will be assessed at the normal rate, i.e., at 5 per cent. of the market value.

Para. 4-6 as also clause (6) of para. 12-9 may be suitably modified in the light of the above suggestions.

(6) *Para. 4-8.*—It is recommended that the land revenue assessment should in no case exceed $\frac{1}{4}$ of the aggregate amount of Municipal taxes at the time of determination of the land revenue assessment. It appears to me that it is not the intention that the concession of restricting the assessment to $\frac{1}{4}$ of the aggregate Municipal taxes should enure throughout the guarantee assessment period of 50 years. The Municipal assessment may change depending upon the changes in the buildings standing on the land and hence if additional construction is made on the existing building, there is no reason why the landlord should continue to enjoy concession in the payment of assessment during the guarantee period of assessment. Hence it should be provided that the concession should be limited to $\frac{1}{4}$ of the actual aggregate amount of Municipal taxes during the year when the assessment is due for payment. This position also appears to be borne out by clause (5).

(7) *Para. 4-9.*—It is mentioned that the President of the Property Owners' Association urged that betterment charge should be excluded from levy of assessment under the proposed Act. It is also mentioned that the Committee did not accept this proposal for the reasons stated therein. In my opinion, the principle that there should be no tax on development made by the owner at his cost should also apply in the case of assessment proposed to be levied under the new Act. In a town planning scheme, the owner is required to pay betterment contribution to the Municipal authority towards the cost of execution of the scheme. In the case of a land outside the town planning schemes, no such betterment contribution is payable by the owner concerned. It is, therefore, desirable from the point of view of equity as also from the accepted principle of taxation that betterment contribution be exempted from the levy of assessment on land. This was also the position in respect of lands situated in town planning schemes and subject to payment of N. A. assessment under the Bombay Land Revenue Code (vide Government Resolution, Revenue Department, No. 463-B, dated 11th November 1941). Since a sound principle of public finance is involved, it is suggested that the betterment contribution under town planning schemes should be exempted from the levy of assessment under the proposed Act.

(8) *Para. 4-10.*—It is provided that the full assessment should be guaranteed for a period of fifty years. It is suggested that the proposed Bill should also provide for revision of the assessment at the end of the first fifty years and also fix the term for subsequent assessment periods, which under the Maharashtra Land Revenue Code, 1966 is 15 years.

(9) *Para. 5-5.*—It is proposed to recover the assessment in a graduated manner over a period of 40 years. The provision for such graduated levy appears to have been omitted in the recommendations made under Chapter 12. The summary given under para. 12-4 does not quite clearly convey the explanation given under para. 7-7. It may be brought out that the proposed levy has been so much watered down due to the concession proposed to be given and the low rate of assessment and ceiling etc. that it is not likely to make appreciable reduction in the land values.

(10) *Para. 6-5.*—It is mentioned that since a very large number of tenants are paying controlled rents, which are very low, a little addition to the rents on account of the proposed assessment need not cause any hardship to the tenants. Further, the assessment it to be charged 50 : 50 to landlord and tenants. However, the explanation given in para. 12-5 does not properly explain the position given in para. 8-5.

Poona, 12th March 1968.

(Signed) B. T. TALIM,
Director of Town Planning,
Maharashtra State, Poona.

