LXAL ALLAN, G.J. Some perspectives on the operation of the Rent Appeal Act 1973.

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'SOME PERSPECTIVES ON THE OPERATION OF THE RENT APPEAL ACT 1973'

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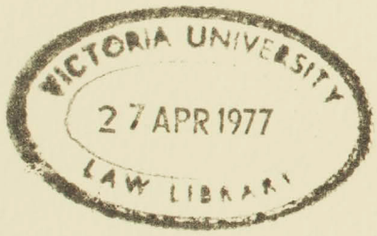

The Rent Appeal Act 1973 is an example of what might be called 'Robin Hood' legislation. However, the subject of its redistributive objective is not economic wealth but moral property. Moral property consists of the rights, privileges, powers and immunities[1] that groups or individuals can utilize to promote and/or protect its or their interests. In practice, legislative redistribution of moral property involves an interference by the State in a personal relationship (be it contractual or otherwise) between two or more parties by altering qualitatively and/or quantitively the moral property resources that those parties can use in playing out that relationship. Examples of the interference are to be found in such varied fields as consumer protection[2], racial discrimination[3], and matrimonial law.[4]

The legislature's assumption is that a change in legal status will be paralleled by a change in the 'power' status within the affected relationship. However as Galanter points out.....

"The system has the capacity to change a great deal at the level of rules without corresponding changes in every-day patterns of practice....." [5]

That is, for such redistributive legislation to be effective, the symbolic changes it makes must be translated by the legislative 'winners' into tangible advantages. Galanter calls this process the "penetration" of rule changes at the "field level".[6]

It is the basic submission of this paper that the Rent Appeal Act 1973 has largely failed to penetrate in this way. Given that it is a basic operational premise of modern government that "stateways can change folkways"[7], it is asserted that it is important to analyse the anatomy of this failure. An attempt at such an analysis of some reasons for this failure is the primary objective of this paper. This will be concluded with a brief discussion of some ways in which some of the deficiencies revealed by the analysis might be overcome or avoided.

Briefly, the Act makes five changes to the legal status of landlords and tenants. First, and principally, it creates a right of appeal for both parties in respect of rents.[8] This right is exercised by making application to a Rent Appeal Board[9] which has the power to assess an equitable rent.[10] This assessment runs with the property and not the parties.[11] It usually applies for a twelve month period[12] and it is an offence to give a tenant notice or to try and evict a tenant for making application.[13] Despite the fact that both parties can apply, this right of appeal is principally a legislative gain for tenants. This is asserted on the grounds that previously, most tenants of private dwellings had no legal means of challenging their rent. and that the political history of the Act indicates that tenants were intended to be its principal beneficiaries.[14] Secondly, S.21 of the Act places a limit on rent in advance and bonds. Thirdly, S22 prohibits the demand for premiums and other payments by landlords which might undermine the effects of S.21. Fourthly, by virtue of S.23 landlords are required to provide a receipt containing specified details. This receipt becomes the property of the tenant.[15] Fifthly, a refusal to let a dwellinghouse to an applicant for the reason that children will live in the property is prohibited by S.24 of the Act.

Tenants legislative gains, in Hohfeldian terms, can be summarized as being represented by a right of rent appeal coupled with an immunity against landlord retaliation,[16] an immunity against the demand for certain payments by landlords,[17] an immunity against being refused accomodation because of their or other persons' children intended occupation,[18] and a right to obtain and possess a proper receipt.[19]

It is submitted that the failure of these legislative gains to "penetrate at the field level"[20] is mainly attributable to deficiencies in two areas. Broadly these areas can be stated as being:-

> The <u>knowledge</u> or "<u>legal literacy</u>"[21] of the primary parties (here tenants, landlords and their agents.)

> The institutional response of the agencies which administer and enforce the legislative changes (collectively these agencies will be called the secondary parties).

Data concerning these areas is drawn mainly from three sources; pilot surveys conducted amongst the primary parties,[22] the writer's involvement with a tenants organization[23] and some statistics provided by the Labour Department which administers the Act.[24]

KNOWLEDGE

It has been said above that redistributive legislative changes in the field of moral property are intended to alter the dynamics of the affected relationship. When the task of monitoring and/or mobilizing such changes falls on the primary parties (as it principally does with the Rent Appeal 1973) their knowledge or 'legal literacy'[25] becomes vital. This is because, for penetration of these changes to occur at the field level they must become incorporated into the set of possible behavioural responses from which actual behaviour is selected by the primary parties.

Plainly, this incorporation is conditional upon the primary parties knowing about the changes. The pilot surveys indicate that many of the primary parties do not know of these changes.[26] The tenant survey[27] disclosed the following information about tenants' knowledge of the Act. Most tenants have heard of the Rent Appeal Boards (60/78) but only a few (19/78) claimed to have any idea of knowing how to apply to them. This latter result is not unimportant since the appeal process is intended to be a simple one and available to parties without the necessity of engaging a lawyer.[28] Only two (2/78) respondents had made an application.

Twenty-nine (29/75) respondents knew of the prohibition relating to landlord refusal to let a dwellinghouse because of their or other persons' children intended occupation. About half (40/76) the tenants interviewed indicated that they knew they had an enforceable right to a 'proper' receipt. Forty-one

(41/78) also knew that there is some limit on rent in advance and bonds. However, only four (4/78) knew the exact nature of the limitation while another twenty-five (25/78) had an idea of the limitation which fell within the Act's requirements. There were twenty-one (21/78) respondents who thought that a government department was involved in some way with landlord-tenant problems or relations. Only ten (10/78) respondents specifically mentioned the Labour Department.

All landlords interviewed[29] had heard of the Rent Appeal Board. Asignificant number of these (17/26) indicated that they viewed the Boards primarily as tribunals for the protection of tenants from high rents. No landlord respondents had applied to the Board and only two (2/26) had had a tenant of theirs apply. Eight (8/24) respondents knew that an assessment by the Board usually applied for twelve (12) months. Thirteen (13/24) landlords thought that the assessment applied to the property and not the parties, while six (6/24) thought the contrary and five (5/24) said they did not know. Only ten (10/25) respondents knew of the prohibition relating to the refusal to let a dwellinghouse to an applicant tenant with children. Most landlords interviewed (18/26) were aware that it is an offence not to give a proper receipt. Most of them (19/25) also knew that there is a limit on bonds but only seven (7/25) knew the exact nature of the limitation with another eight (8/25) having some idea. Only four (4/26) respondents knew of the involvement of the Labour Department with the Act.

All letting agents[30] interviewed were aware of the Rent Appeal Boards. Eleven (11/21) respondents have had tenants apply to the Board. Twelve (12/21) of them knew the usual assessment period and eleven (11/20) knew the assessment applied to the relevant property and not the parties. Most agents (18/21) knew of the prohibition relating to the refusal under S.24. All agents knew that there was some limitation on bonds but only twelve (12/21) knew the exact limitation. All agents knew that they are required to give a proper receipt. Only nine(9/21) of them knew of the involvement of the Labour Department in this area.

Generally, less than half the tenants interviewed demonstrated

that they knew of the legislative gains contained for them in the Rent Appeal Act 1973. Even fewer of them showed that they knew of the changes in such a way as to be able to mobilize the secondary parties. The landlord respondents appeared to know more than the tenant respondents about the Act. However, many landlords appear to be unaware of the various duties and disabilities cast upon them by the Act. As expected, the knowledge of letting agents proved to be superior to that of either landlords or tenants, yet it was far from satisfactory. For example, the fact that nearly half the agents interviewed did not know the exact limitation set by the Act on bonds and rent in advance is surely cause for alarm for a group which is seeking to promote an image of professionalism.[31]

This generally poor knowledge of the primary parties of the Rent Appeal Act 1973 is reflected in the difference between the number of potential breaches of the Act indicated by the tenant survey and the number of complaints alleging breaches received by the Labour Department.[32] For example, seven (7/70) tenants thought they had been refused a flat in the last two years because of their or other persons' children intended occupation. Of these seven (7) respondents, five (5) had small children. Only six of the other respondents (6/63) had small children. These results suggest that potential breaches of S.24 Rent Appeal Act 1973 on a national scale[33] runs into hundreds. However, up to the 31.3.76, the Department has only ever received five (5) complaints under this section, of which only one (1) resulted in court action.[34] Similarly, the tenant survey revealed that the number of complaints to the Department in respect of bonds and receipts gives a false perspective of what happens in practice. Thirty-nine (39/78) respondents paid a bond. Inquiries into thirty-seven (37) of these showed that seven (7) of them did not comply with the Act. Again this suggests that there are many more potential offences than those alleged to the Department (up to the 31.3.76 -115 offences). Twelve (12/72) tenants did not get a receipt and one (1) other respondent was found to get an inadequate receipt. The labour Department (up to 31.3.76) has only ever received four (4) complaints about receipts! The differences between the official complaints and

actual landlord behaviour highlighted by these examples confirms the obvious point that parties who do not know of new legal norms cannot complain of breaches of them or conform to them.

So far under this heading of Knowledge, the issue has been how much tenants and landlords/agents know about the changes made by the Rent Appeal Act 1973 to their legal status. Some of the results of the tenant survey[35] illustrate that the question of how the parties perceive such changes (even if they are aware of them) is equally important. For instance, it is stated above that most tenants (60/78) had heard of the Rent Appeal Boards, yet in three previous questions which all gave the tenant respondents an opportunity to mention the Rent Appeal Boards no more than eighteen (18/78) gave that response.[36] It was apparent to the writer, who interviewed the majority of the tenants, that going to the Rent Appeal Board just did not occur to most of them as an available response in the event of a rent rise. That is, only a few of the respondents who knew of the Rent Appeal Boards had adopted that knowledge into the behavioural possibilities for their role as tenant. This suggests that for the knowledge of the changes to be embodied into the fabric of the tenant-landlord/agent relationship that knowledge needs to be personalized as 'tenant-landlord/agent' knowledge. This suggestion is consistent withthe perspective of the legislative changes as being bits of moral property. That is, inherent in the word property is the concept of ownership. Few of the tenant respondents, as 'owners' of the right to rent appeal, could identify it as belonging to them.

This latter point highlights the need for feedback from the secondary parties. Feedback tends to identify the legislative changes as belonging to the primary parties. This is simply because such feedback shows other legislative winners realizing their symbolic gains and other legislative losers suffering from actual losses. By such examples the legislative changes are transformed from lifeless bits of information into real, possible behavioural responses that can be employed in the relationship. The potency of such feedback was revealed to the writer when conducting the landlord/ surveys. Nearly all the respondents in these surveys when asked about 'proper receipts'[37]

referred to a recent newspaper account of a landlord who had been prosecuted and convicted for failing to give such a receipt[38]. Further, the absence of feedback generated by the activities of the secondary parties tends to create a 'knowledge deprivation cycle';[39] that is, a low volume of feedback perpetuates a low level of awareness which in turn limits the number of parties with thepotential to monitor the rule changes and mobilize the secondary parties in the event of a breach of the new rules and so forth. The data set out above suggests that this kind of cycle is operating in respect of the Rent Appeal Act 1973.[40]

The steps taken to publicize the Act have been limited. Official advertising to date amounts to an explanatory brochure on the rent appeal process published and distributed by the Labour Department nearly two years after the Act came into operation. Several tenants organizations[41] have criticized both the content and distribution of this brochure as being inadequate to effect any substantial improvement in tenants' knowledge. The results of the tenant survey tend to confirm the validity of this criticism.[42] The volume of information produced by the mediahas also been small, consisting mainly of reports on infrequent court actions arising from prosecutions made under the Act[43] and occasional reports of Rent Appeal Board hearings. The main source of publicity for the Act has been the various tenants organizations. However, they are quick to point out the inadequacy of their attempts at publicity when they are handicapped by the usual lack of funds and the administrative difficulties experienced by voluntary organizations. In view of the fact that no comprehensive attempt has ever been made to inform the primary parties of the contents and the significanceof the Rent Appeal Act 1973, it is not surprising that many of them do not know about it or do not appreciate the consequences it has for their role as either a tenant or a landlord.

INSTITUTIONAL RESPONSE

Institutional response is significant for the penetration of rule changes at the field level in two ways. First, it determines in what circumstances individual legislative winners can get endorsement of their symbolic gains. This is because...

".....What people get from government is what administrators do about their problems rather than the promises of statutes, constitutions, or oratory."[44]

Secondly, as already indicated[45] the volume and the character of the feedback generated by the responses of the administrative and enforcement agencies has a strong influence on how much the primary parties know and on their appreciation of the consequences that information has for the dynamics of their relationship. These two aspects will be discussed in respect of the the two principal institutions that are involved with the Rent appeal Act 1973, namely the Labour Department and the Rent Appeal Boards.

The first evidence of the institutional response of the Labour Department in respect of the Act is drawn from the Department's own statistics; that is, most complaints are "settled by the Department."[46] In the first complaint'year' (i.e. 1.2.74 to 31.3.75) of the eighty-seven (87) complaints lodged, sixty-four (64) complaints were dealt with in this way while the balance (23) resulted in court action. In the second complaint year (31.3.75 to 31.3.76) ninety-two (92) complaints were made of which only four (4) resulted in court action.

These statistics pose a question; 'Why is it that so few complaints result in prosecutions by the Department?"
It is asserted that this result is principally explained by the method the Department deals with the complaints. This method is stated by a Department Officer as being.....

"..... On receiving a complaint under the Rent Appeal Act 1973, the complaint is investigated by the District Office of the Department of Labour where it was received. If it appears a breach has occurred a recommendation for prosecution is sent

to the Department's Head Office where it is referred to the Department's Legal Division."[47]

It is the writer's experience from his involvement with a tenants organization that the District Offices often take an extremely cautious approach when dealing with alleged breaches of the Act.[48] This cautiousness manifests itself in administrative delays in dealing with complaints.[49] Confronted with this situation complainant tenants often lose the momentum they have at the time they lodge the complaint and, as a consequence, they do not pursue the matter. Such momentum is needed to play the "long-run strategies"[50] that are often required to bring about the realization of symbolic gains. Further, the pilot survey results reveal that most tenants, unlike most landlords, would probably not enlist the aid of personnel who are equipped to play "long-run strategies".[51] Only fifteen (15/78) tenants said they would get assistance from a lawyer in the event of some problem or argument with their landlord while seventeen (17/26) landlords gave that response to a similar question. A further thirty (30/78) tenants said they would go to a tenants organization. However, the writer's experience revealed that these organizations also often lack the resources to conduct "long-run strategies" to secure implementation of the rule changes. The writer's experience in this field also suggests that unless complainants can overcome the Department's 'inertia' in dealing with the complaint then the Department, like the tenant, will probably not pursue the matter. Consequently, no recommendation for prosecution is put forward to trigger the involvement of Head Office which is better equipped to further investigate the complaint by virtue of its Legal Division.

For tenants then, as the legislative winners, the character of the response of the Labour Department towards complaints set out above suggests that it is not easy for them to invoke and mobilize the sanctioning power of that Department against recalcitrant landlords or letting agents. The Department's own statistics tend to support this view.[52] For instance, in the second year of the Act's operation (i.e. 31.3.75 to 31.3.76) sixty-two (62) complaints were made in respect of S.21. Only

one (1) of these complaints resulted in a prosecution by the Department. In the light of the character of the breaches of S.21 that were uncovered by the tenant survey, the writer finds it very difficult to accept that none of the other sixty-one (61) complaints warranted court action. This kind of response also takes the substance out of the legislative gain as an aid to bargaining and negotiating with landlords because the threat to complain to the Labour Department usually ends up being a rather empty one. The fact that most complaints are "settled by the Department" also had the effect of further restricting the volume of feedback to the primary parties. That is, the fallout of information created by the complaint which might be absorbed by other primary parties is isolated and contained within the Department. Because neither private tenants nor landlords are in any way a homogeneous group[53] the possibility of distribution of this information by word of mouthis remote. The only feedback produced by the Labour Department available to tenants in the second year of the Act's operation probably consists of four local newspaper reports of the court actions the Department undertook in that time. This would hardly be sufficient to cause the substantial improvement in the 'legal literacy' of the primary parties that was shown as being required by the pilot surveys. Overall, it seems that the institutional response of the Labour Department impedes rather than facilitates individual tenants in their attempts to utilize their symbolic legislative gains with the additional result that very little feedback of information to the primary parties is produced.

In comparison, the institutional response of the Rent Appeal Boards has been much more conducive to the 'penetration' of the right to rent appeal for individual tenants and landlords. On the basis of the writer's involvement with the Wellington Board[54] it is argued that this response can be principally explained by the fact that after application, the Boards, unlike the Department , assume an active role. The application sets in motion a procedure [55] which tends to carry the parties along with it. Indeed, the Wellington Board(under the chairmanship of Hon. W.A. Fox[56]) often exercised its discretion to hear

applications where the applicant did not appear at the hearing.[57] This particular Board also assisted parties in exercising their rights by cultivating an informal atmosphere which, in particular, had the effect of both giving unrepresented parties confidence to promote their claims and minimizing any disadvantage inherent in not having representation.

However, despite these kind of features of the response of the Boards, the 'drop-out' rate of applicants is very high. Since, with the exception of the Christchurch Board,[58] most applications are made by tenants (about 90%), it is concluded that most lapsed or withdrawn applications are tenant applications. Of the one thousand and one (1,001) applications made between the 1.2.74 and the 31.3.75, six hundred and forty-one (641) lapsed or were withdrawn prior to a hearing by the relevant Board.[59] One explanation for this might be that the parties negotiated their own 'assessment'. In the writer's experience this is unlikely. This view is supported by some answers in the landlord/agent surveys where only four (4/23) landlords and three (3/21) agents said that they would negotiate in the event of a rent appeal application by one of their tenants. A more probable explanantion is that the delay experienced in getting a hearing is the cause for the large number of lapsed or withdrawn applications. It takes about six (6) weeks and often longer from the time of application before a hearing by the Board is held. This may not appear a very long time to wait. However, the act of making an application by a tenant usually creates stresses in what is often already a strained relationship which tests the endurance of the parties. The inherent strength of the landlord's status[60] and his strategic advantages[61] often proves too much for tenants who respond by withdrawing from the relationship. Further, many tenants leave before the procedure of the Rent Appeal Boards get under way so that the momentum of the rent appeal process referred to above[62] has nothing to act upon. Again it seems that administrative delay works against the interests of legislative winners and for the interests of the legislative losers.

Most applications to the Boards result in a reduction in rent or in a proposed rent increase (the usual reason for making

application). However, transmission of this and other feedback about the response parties can expect from the Boards is almost entirely limited to word of mouth reports by individual participants in the rent appeal process. This perhaps explains the small number of tenant respondents who thought of the Rent Appeal Boards as a means of challenging a rent rise. This highlights the need for an active interplay between the primary and secondary parties. The absence of such interplay tends to starve each party of the material need to stimulate the involvement of the other party.

CONCLUSION

The basic working hypothesis of this paper has been that for redistributive legislative changes to be anything more than token gestures to the legislative winners, they must be able to transform those changes into tangible rewards. In the case of the Rent Appeal Act 1973 that means things like getting an assessment from the Rent Appeal Boards, getting a proper receipt, not being refused a flat because of one's children and not being required to pay certain payments to landlords. It also means being able to force compliance from recalcitrant landlords. Yet, data set out in this paper shows that frequently neither of these events occur.[63] This paper sets out and discusses the two main reasons why this happens. Obviously the next question is, 'How can the factors which prevent tenants getting the benefit of the legislative changes be overcome?'

The solution to the poor knowledge of tenants and landlords/agents of the Act is plainly to tell them about it. Provision for informing the primary parties ought to have been provided for by the legislature in the first place. It seems shortsighted not to do so when the tasks of monitoring the legislative changes and mobilizing the secondary parties are cast upon the primary parties. Such provision could take the form of a statutory duty being cast on the secondary parties to inform the primary parties. It is asserted that this would be the major step to improve the impact the legislation has on the relationship of the affected parties.

The features of the institutional response of the Labour Department and the Rent Appeal Boards which make it more difficult for tenants to take advantage of their legislative gains are not as simple to overcome. However, it is apparent from the analysis that any possible solutions ought to be directed at capitalizing on the initial momentum the complainant or applicant tenant has at the time the relevant institution is first approached so as to reduce the tenant 'drop-out' rate. For the Labour Department, a more aggressive attitude when dealing with complaints and an earlier involvement of the Legal Division of Head Office would probably have this effect. It seems that the present procedure adopted by the Rent Appeal Boards in dealing with applications to some extent already have this effect but it is suggested that the reduction of the time between the application is lodged and when it is the subject of a hearing. It is speculated that these kind of changes to the response of these two institutions would result in more prosecutions by the Department and more assessments by the Rent Appeal Boards. Consequently, more individual tenants would get tangible rewards for pursuing their symbolic advantages. This would also generate more feedback which informs other tenants and landlords/agents about the legislative changes. It is in these two ways that the institutional response of the secondary parties "is the crucial determinant of what sort of impact a legal norm will have."[64]

Finally,it is concluded that the analysis which was attempted in this paper supports the view that.....

".....a change at the level of substantive rules is not likely in itself to be determinative of redistributive outcomes."[65]

This is not to deny the fundamental validity of the operational premise that 'stateways can change folkways'. However, it is asserted that the analysis does establish that the validity of this premise is conditional on legislators recognizing that rule changes .....
".....do not penetrate automatically and costlessly to other levels of the system..."[66]

FOOTNOTES.

1. W. N.Hohfeld, Fundemental Legal Conceptions as Applied to
2. e.g. Layby Sales Act 1971. Legal Reasoning, edited by W.W.Cook.
3. e.g. Race Relations Act 1971
4. e.g. Matrimonial Property Act 1963.
5. M.Galanter, 'Why the 'haves' come out ahead: speculations on the limits of legal change', 9 Law & Society Review 95,149.
6. Ibid p.97
7. The converse proposition was put forward by W.G. Sumner, 'Folkways' early this century. More recent jurists like S.F. Kechekyan ('Social progress and law', Transactions of the Tird World Congress of Sociology 6,42) have advanced the proposition which appears in this paper.
8. S.6 (1) Rent Appeal Act 1973.
9. S.4.
10. S.6 (1).
11. S. 6 (1).
12. S.9 (1).
13. S.20 (1).
14. Refer N.Z.P.D. 1973 vol.382, p.912-915.
15. S.23 (2).
16. SS.6 & 20
17. SS.21 &22
18. S.24
19. S.23
20. Op. cit. 6
21. This expression is used by J.Levine and E. Preston, 'Community Resource Orientation Among Low Income Groups', 1970 Wisconsin Law Review 80, pp 112-113. It is used by them to incorporate both the quantative and qualitative aspects of knowledge.
22. See Appendix A.

23. The Wellington Tenants Union.
The involvement included advising tenants of their rights under the Rent Appeal Act 1973, negotiating for and representing tenants in their dealings with landlords, letting agents, the Labour Department and the Wellington Rent Appeal Board.

24. See Appendix B.

25. Op. Cit. 21.

26. See results of surveys Appendix A.

27. Appendix A, A1 - A3

28. Second schedule cl.5 (2).

29. See Appendix A, A3 -A5

30. See Appendix A, A3 -A5

31. All the letting agents interviewed were subject to licensing by the Real Estate Institute.

32. See Appendix B.

33. There are about 900,000 dwellinghouses in N.Z.Approx. 25% of these are rented properties.The Rent Appeal Act applies to at least half of this number.See 1971 Census.

34. See Appendix B.

35. In particular the respondents answers to questions 1,2, & 3. Appendix A. Tenant Survey.

36. Tenant Survey Appendix A, Response to Q.3b.

37. See Landlord Survey, Appendix A, Q.7

38. The relevant account consisted of several columns on the inside pages of the local morning and evening newspapers.

39. The analogy intended here is with the 'poverty cycle' referred to by those in the field of welfare programs.

40. For instance, compare the number of prosecutions undertaken by the Labour Department (see Appendix B) and the knowledge of tenants of the provisions which gave rise to those prosecutions.

41. Particularly Wellington Tenants Union and Christchurch Tenants Protection Association.

42. In particular, refer to the answers to Qs 4b & 4b, Tenants Survey, Appendix A.

43. In the period 31.3.75 to 31.3.76 four (4) such prosecutions were undertaken by the Labour Department, AppendixB

44. M. Edelman, The Symbolic Use of Politics, p.193.
45. Refer to p. 6 & 7 of this paper.
46. This is the expression used by the Labour Department in its annual report. See 1975 Annual Report (Sig 15.)

47. This statement of the complaint procedure was set out in a letter to the author by an officer of the Labour Department.
48. e.g. Wellington Tenants Union has handled a number of cases for tenants where their has been, in the writer's opinion, a clear prima facie case of a breach of the Rent Appeal Act 1973. The Wellington District Office has refused to act until (usually by way of a protracted correspondence) a'watertight' case for prosecution is established.
49. Op. cit. 48.
50. M. Galanter (supra) at p. 141.
51. Op. cit.50.
52. See Appendix B.
53. In fact the only universal characteristic for these parties as groups; is that the former pay rent and the latter receive it. Neither tenants nor landlords are physically or socially proximate.
54. This consisted of helping tenants make application, attending inspections made by the Board and making representations to the Board on behalf of applicant tenants.
55. See second schedule Rent Appeal Act 1973.
56. Mr. Fox resigned in mid 1976.
57. See second schedule cl. 5 (3).
58. For same reason this Board receives almost equal numbers of applications from landlords and tenants.
59. See Report of Department of Labour (Table 15) for the year ending 31 March 1975.
60. In particular the landlords ability to determine the tenancy.
61. Mainly the fact that most landlords have a lawyer.
62. At p.10 of this paper & Op. Cit.55.

63. See Tenant Survey, Responses to Qs. 6,8,11 , Appendix A and prosecutions by the Labour Department Appendix B. This data discussed at p.5 of this paper.

64. S.L Grossman and M.H. Grossman, Law and Change in Modern America. 1971, p7.

65. M. Galanter (supra) p.149.

66. Ibid. p.137,138.

APPENDIX A: PILOT SURVEYS

METHODOLOGY & BACKGROUND

(1) Tenant Survey

This survey was conducted during May-June 1976 within the boundaries of Wellington City. Respondents were drawn from five(5) suburbs in approx. equal numbers. Respondents from all kinds of flats were approached. Only one(1) tenant from each flat was interviewed. Flats were visited outside normal working hours. The main defects of the survey are that;

(a) No polynesian respondents, many of whom are tenants in the survey area, were included.

(b) Many of the questions are of a leading nature.

It is speculated that these last two points probably mean that tenants know less than the survey indicates.

Nb. The number of respondents varies for some questions.

(2) Landlord Survey

This survey was conducted by phone in June 1976. Respondents were selected by taking telephone numbers from the 'To Let' columns of two newspapers. Three publishing dates of each newspaper were used. Most 'live' calls resulted in a response. All landlords interviewed managed their properties themselves. All interviewing was completed outside working hours. The main defect of this survey was the leading nature of the questions.

Nb. The number of respondents varies for some questions.

(3) Letting Agent Survey

This survey was also conducted by phone in June 1976. Respondents were contacted by phoning real estate firms and asking for their 'letting agent'. Most agents contacted agreed to participate. It was established that all the respondents were actively involved in letting properties on behalf of landlords.

Letting Agents were asked the same questions as landlords. Their responses appear in the brackets after landlord responses.

TENANT SURVEY: Questions and Responses

Q.NO.	QUESTION	RESPONSE		TOTAL NO. OF RESPONDENTS
1	If your landlord raised your rent $2 per week, what would you do? * N.B. Some respondents gave more than one response.	Rent Appeal Tenants organization. Leave. Accept. Complain. Negotiate. Other. Don't know.	9 4 8 42 16 5 2 4	78
2	If your lanlord raised your rent $10 per wk. what would you do? *N.B. Some respondents gave more than one response.	Rent appeal. Tenants Org. Leave. Accept. Complain. Negotiate. Lawyer. Other. Don't know.	11 12 28 8 12 4 4 2 4	78
3a	Do you know of any way that you might be able to get your rent reduced?	Yes. No.	27 51	78
3b	(If yes to 3a) What is that way?	Rent Appeal. Other.	18 9	27
4a	Have you ever heard of the Rent Appeal Board?	Yes. No.	60 18	78
4b	(If yes to 4a) Do you know how to apply to it?	Yes. No.	19 41	60
5	Is it against the Law to refuse to rent a flat to someone because children will live in the flat?	Yes. No. Don't know.	29 17 29	75
6	In the last two years do you think you have been refused a flat because your or other persons children would live in the flat.	Yes. No.	7 63	70

Q.NO.	QUESTION	RESPONSE		TOTAL NO.OF RESPONDENTS
7	Can a landlord be prosecuted for not giving a proper receipt or keeping a proper rent book?	Yes. No. Don't know.	40 4 32	76
8	Does your landlord give you a receipt or sign a rent book which you keep?	Yes. No. Cheque Bk.	53 12 7	72
9a	Is there any limit on how much bond a landlord can ask for?	Yes. No. Don't know.	41 4 33	78
9b	(If yes to 9a) What is the limit-ation?	Knew. Approx. Incorrect.	4 25 12	41
10	Can a landlord be prosecuted for charging too large a bond?	Yes. No. Don't know.	34 5 39	78
11	Do you pay a bond? * 37 of these were checked for compli-ance.	Yes. Non compli-ance.	39 7	78
12	If you had a problem or arguement with your landlord and you wanted some help with that situation who would you go to? * Some respondents gave more than one response.	Lawyer. Tenants org. Legal Advice Bureau. Govt, Dept Family/friend Agent. Don't know. Other.	15 30 1 7 6 8 14 2	78
13a	Are there any Govt. Depts. that deal in any way with land-lord/tenant problems or relations?	Yes. No. Don't know.	21 9 48	78
13b	If yes which Dept/s	Lab. Dept. Other Don't know	10 7 4	21

LANDLORD & LETTING AGENT SURVEY: Questions and Responses
(Agent responses in brackets)

Q.NO.	QUESTION	RESPONSE		TOTAL NO.OF RESPONDENTS
1	Have you ever heard of the Rent Appeal Board?	Yes.	26(21)	26(21)
2	What does the Rent Appeal Bd. do? *Some respondents gave more than one response.	Control rents. Protects tenants re high rents. Investigates rents. Assesses rents.	9(5) 17(9) 5(2) 12(8)	
3.	For how long does an assessment by the Rent Ap. Bd. apply?	knew didn't know	8(12) 16(9)	24(21)
4	Does the rent assessment apply to the parties or the property?	Property Parties Don't know	12(11) 6(5) 5(4)	23(20)
5a	Are you entitled to refuse a flat to a person because children will live in it?	Yes. No. Don't know	10(3) 13(18) 2(-)	25(21)
5b	Is there any Law to prevent you refusing someone on those grounds?	Yes. No. Don't know	11(14) 9(3) 6(4)	26(21)
6	Could you be prosecuted for not giving a tenant a proper receipt?	Yes. No. Don't know.	18(21) 3(-) 5(-)	26(21)

Q.NO.	QUESTION	RESPONSE		TOTAL NO.OF RESPONDENTS
7a	Is there any limit on how much bond you can ask for?	Yes. No. Don't know.	19(21) 2(-) 5(-)	26(21)
7b	If yes to above what is the limitation	Knew. Don't know.	7(12) 12(9)	19(21)
8	If you had a problem or arguement with one of your tenants & you wanted some help who would you go to? *Only landlords asked. **Three respondents gave more than one response.	Lawyer... Police. Govt.Dept. Landlords Org. Legal Advice Bureau. No-one. Other Don't know.	17 2 1 1 2 3 1 2	26
9a	Are there any Govt. Depts. that deal in any way with landlord -tenant problems or relations?	Yes. No. Don't know.	13(13) 2(3) 11(5)	26(21)
9b	If yes to above which Dept./s ?	Lab. Dept. Other.	4(9) 9(4)	13(13)

APPENDIX B.

LABOUR DEPARTMENT STATISTICS.

COMPLAINTS RELATING TO RENT APPEAL ACT

Section	Settled by Court Action	Settled by the Dept.
	For the year ended 31.3.75	
S.20	6	7
S.21	17	36
S.22	-	10
S.23	-	2
S.24	-	1
Other	-	8
	For the year ended 31.3.76	
S.20	2	15
S.21	1	61
S.22	-	1
S.23	-	2
S.24	1	3
Other	-	6

LXAL ALLAN, G.J. Some perspectives on the operation of the Rent Appeal Act 1973.