PERSPECTIVES ON THE OPERATION OF THE RENT APPEAL ACT 1973

In this paper Grant Allan discusses the results of a pilot survey he undertook in 1976 to discover the extent to which provisions of the Rent Appeal Act 1973 were understood and used by landlords and tenants. The results support his initial hypothesis that in this field of the law there had been a major change in the rules but no corresponding change at the social level.

I. Introduction

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 property but the rights, privileges, powers and immunities that groups of individuals can utilize to promote or protect their interests. In practice, legislative redistribution of this latter kind of property involves an interference by the State in a personal relationship (be it contractual or otherwise) between two or more parties by altering qualitatively or quantitatively the resources that those parties can use in playing out that relationship. Examples of this interference are to be found in such varied fields as consumer protection,[1] racial discrimination[2] and matrimonial property[3].

The legislature's assumption is that a change in legal status will be parallelled 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 everyday patterns of practice . . . ".[4] That is, for such redistributive legislation to be effective, the symbolic change 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".[5]

Briefly, the Rent Appeal Act 1973 makes five rule changes which affect the status of landlords and tenants. First, and principally, it creates a right of appeal for both parties in respect of rents.[6] This right is exercised by making application to a Rent Appeal Board[7]

1. E.g. Layby Sales Act 1971.
2. E.g. Race Relations Act 1971.
3. E.g. Matrimonial Property Act 1976.
4. Galanter, "Why the 'haves' come out ahead: speculations on the limits of legal change" (1974) 9 Law & Society Review 95, 149.
5. Ibid. 97.
6. Rent Appeal Act 1973, s. 86(1).
7. Ibid. s. 4.

which has the power to assess an equitable rent.[8] This assessment runs with the property and not the parties.[9] It usually applies for a twelve month period,[10] and it is an offence to give a tenant notice or to try and evict a tenant for making an application.[11] Despite the fact that both parties can apply, this right of appeal is principally a legislative gain for tenants. This accords with the political history of the Act which indicates that tenants were intended to be its principal beneficiaries,[12] because previously, most tenants of private dwellings had no legal means of challenging their rent. Secondly, section 21 of the Act places a limit on rent in advance and on bonds. Thirdly, section 22 prohibits the demand of premiums and other payments by landlords which might undermine the effects of section 21. Fourthly, by virtue of section 23 landlords are required to provide a receipt containing specified details; this receipt becomes the property of the tenant.[13] Fifthly, a refusal to let a dwellinghouse to an applicant for the reason that children will live in the property is prohibited by section 24 of the Act.

This paper looks at two areas which, in the writer's opinion, are crucial to the successful translation of the rule changes effected by the Rent Appeal Act 1973 into 'everyday patterns of practice'.[14] They are (1) the knowledge or legal literacy[15] tenants, landlords and letting agents (the primary parties) have of the legislative changes; and (2) the institutional response of the principal agencies which administer and enforce the Act, namely, the Labour Department and the Rent Appeal Boards (the secondary parties). Data concerning these areas are drawn mainly from three sources: a pilot survey conducted among the primary parties,[16] the writer's involvement with a tenants' organization,[17] and statistics provided by the Labour Department.[18]

The primary objective of the pilot survey was to determine the knowledge of the primary parties of the Rent Appeal Act 1973. Some questions were also directed at trying to ascertain whether knowledge of the Act had been incorporated into the set of information used by the parties in their role as tenants, landlords or letting agents.[19] In addition an attempt was made to uncover the incidence of breaches of the Act.[20]

8. Ibid. s. 6(1).
9. Ibid. s. 6(1).
10. Ibid. s. 9(1).
11. Ibid. s. 20(1).
12. See N.Z. Parliamentary debates Vol. 382, 1973: 912-915.
13. Rent Appeal Act 1973, s.23(2).
14. Galanter, op. cit., 149.
15. This expression is used by J. Levine and E. Preston in "Community Resource Orientation among Law Income Groups" (1970) Winconsin L.R. 80, 112-113. It is used by them to incorporate both the quantitative and qualitative aspects of knowledge of laws.
16. See Appendix I for tables of questions and responses.
17. Wellington Tenants' Union (previously known as the Wellington Tenants' Protection Association).
18. See Appendix II.
19. E.g. questions 1, 2 and 3 of the tenant survey; question 2 of the landlord/letting agent survey.
20. Questions 6, 8 and 11 of the tenant survey.

All these surveys were conducted in the form of oral questionnaires within the Wellington district during May and June 1976. Respondents for the tenant survey were obtained by canvassing dwellinghouses in five Wellington city suburbs[21] where the density of flats is known to be fairly high, and then by determining from an occupant whether or not it was a rental property. If the property was tenanted, it was explained that a survey relating to landlords and tenants was being undertaken and that the interviewer would like to ask some questions of the main tenant. A 'main tenant' was defined as a tenant who had dealings[22] with the landlord or his agent or had obtained the lease of the flat. If this person was not available, an attempt was made to interview another tenant of the flat who had some tenant experience of a nature similar to that required of a main tenant. Most of the respondents were in fact main tenants. Only one tenant from each flat was interviewed and of the eighty-four tenants approached only six refused to be questioned. Interviewing was conducted outside normal working hours. The flats approached ranged from those of luxury standard to those in a very poor condition; most were one or two bedroom unfurnished flats of a reasonable standard.

The main defects of the tenant survey are that no polynesian tenants were interviewed[23] and that the survey contains many leading questions. It is speculated that these last two points could mean that tenants generally know less than the survey results indicate.

The landlord survey was conducted by phone outside normal working hours. Respondents were selected by taking all the telephone numbers from the "To Let" columns on three publishing dates from two daily newspapers. From this list of telephone numbers every third number was dialled. Most live calls resulted in a response. All the landlords interviewed were actively involved in the management of their properties. A main defect of this survey also, was the use of leading questions.

The letting agent survey was also conducted by telephone. Respondents were contacted by phoning real estate firms and asking for their letting agent. Nearly all the agents contacted agreed to participate. It was first established that all the respondents were to some extent actively involved in letting properties on behalf of landlords. Letting agents were then asked the same questions as landlords.

While it is to be stressed that the investigation was only a pilot survey, it is suggested that most of the results are clear cut and a full survey would produce substantially the same results. Indeed it is suggested that a survey of a more subtle design would probably reveal

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21. Karori, Aro Valley, Kelburn, Mount Victoria and Brooklyn.
22. Defined as including transactions like paying the rent, requesting repairs to be effected, or negotiating the terms of the lease.
23. This was done deliberately as the writer's attempts to interview such tenants had to be abandoned due to his inability to communicate with some Polynesian groups.

that the level of knowledge of the Rent Appeal Act 1973 among the primary parties is even less than that revealed in this pilot study.

The writer's involvement in a tenant's organization included advising tenants of their rights under the Rent Appeal Act 1973, negotiating for and representing tenants in their dealing with landlords, letting agents, the Labour Department and the Wellington Rent Appeal Board. This involvement occurred over a six month period in late 1975 and early 1976.

The data supplied by the Labour Department consisted of statistics relating to complaints[24] and some information about departmental procedures.

II. KNOWLEDGE

It has been said above that redistributive legislative changes in the field of 'legal' property are intended to alter the dynamics of the affected relationship. When the task of monitoring or mobilizing such changes falls on the primary parties, as it principally does with the Rent Appeal Act 1973, their knowledge or legal literacy becomes vital. This is simply because, for penetration of these changes to occur at the field level the changes must be 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 survey's results indicate that many of the primary parties do not know of these changes.

The tenant survey disclosed the following information about tenants' knowledge of the Act. Most tenants (60/78)[25] had heard of the Rent Appeal Boards 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.[26] Only two (2/78) respondents had ever made an application.

Twenty-nine (29/75) respondents knew of the prohibition relating to landlord refusal to let a dwellinghouse because the tenant's or some other person's children would occupy it. About half (40/76) the tenants interviewed indicated that they knew they had an enforceable right to a proper receipt.[27] Forty-one (41/78) also knew that there is some limit on rent in advance and bonds. However, only four (4/78) knew

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24. Appendix II.
25. All results in the text are presented with the number of relevant responses as against the total number of responses to that question in the form of a fraction.
26. Rent Appeal Act 1973, Second Sch. cl 5(2).
27. This result might be explained by the fact that getting a receipt is a common practice in our society, rather than by positive knowledge of the provision in the Rent Appeal Act 1973.

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 had heard of the Rent Appeal Board. A significant 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 months. Thirteen (13/24) landlords thought that the assessment applied to the property and not to 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 and most (19/25) also knew that there is a limit on bonds, though 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 interviewed were aware of the Rent Appeal Boards. Eleven (11/21) respondents had 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 to the parties. Most agents (18/21) knew of the prohibition relating to the refusal under section 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, but only nine (9/21) of them knew of the involvement of the Labour Department in this area.

Generally, fewer than half the tenants interviewed demonstrated that they knew of the legislative gains by them contained in the Rent Appeal Act 1973. Even fewer showed that they had a sufficient knowledge of the changes to be able to invoke the assistance of the secondary parties. The landlord respondents appeared to know more than the tenant respondents about the Act. However, many landlords appeared 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 both landlords and tenants, though it too was far from satisfactory. 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.[28]

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

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.[29] For example, seven (7/70) tenants thought they had been refused a flat in the last two years because of intended occupation by their own or other persons' children. Of these seven respondents, five had small children. Only six of the other respondents (6/63) had small children. These results suggest that potential breaches of section 24 Rent Appeal Act 1973 on a national scale runs into hundreds.[30] However, up till 31 March 1976, the Department had only received five complaints under this section, and only one of those complaints resulted in court action. 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 of these showed that seven of them did not comply with the Act. Again this suggests that there are many more potential offences than those referred to the Department.[31] Twelve (12/72) tenants did not get a receipt and one other respondent was found to have received an inadequate receipt. The Labour Department had till 31 March 1976 only received four 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, the issue has been to what extent tenants, landlords and landlords' agents know about the changes made by by the Rent Appeal Act 1973 to their legal status. Some of the results of the tenant survey illustrate that the question of how the parties perceive such changes (even if they are aware of them) is equally important.[32] For instance, though it has been stated that most tenants (60/78) had heard of the Rent Appeal Boards, yet in early questions which gave the tenant respondents an opportunity to mention the Rent Appeal Boards no more than eighteen (18/78) did mention them. It was apparent from the interview that the idea of going to the Rent Appeal Board just did not occur to most respondents 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 highlights the need for feedback from the secondary parties. Feedback would tend to identify the legislative changes as belonging

29. See Appendix II.
30. There are about 900,000 dwellinghouses in New Zealand. Approximately 25% of these are rented properties. On the basis of the 1971 Census figures, the Rent Appeal Act 1973 applies to at least half of this number.
31. 115 offences up to 31 March 1976.
32. In particular the responses to questions 1,2, and 3 of the tenant survey.
33. Response to question 3b of the tenant survey.
34. Question 6 of the landlord survey.

to the primary parties because it would show other legislative winners realizing their symbolic gains and other legislative losers suffering from actual losses. By such examples the legislative changes would be 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 survey. Nearly all the respondents in these surveys when asked about proper receipts referred to a recent newspaper account of a landlord who had been prosecuted and convicted for failing to give such a receipt.[35] Further, the absence of feedback generated by the activities of the secondary parties tends to create a 'knowledge deprivation cycle'.[36] That is, a low volume of feedback perpetuates a low level of awareness which in turn limits the number of parties with the potential 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.[37]

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.[38] Several tenants organizations 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.[39] The volume of information produced by the media has also been small, consisting mainly of reports on the infrequent court actions arising from prosecutions made under the Act 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 lack of funds and the administrative problems usually 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 significance of 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.

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35. The relevant account consisted of several columns on the inside pages of the local morning and evening newspapers.
36. The analogy intended here is with the expression "poverty cycle" used in the field of social welfare.
37. For instance, compare the number of prosecutions undertaken by the Labour Department set out in Appendix II and the knowledge tenant respondents revealed they had of the provisions on which the prosecutions are based.
38. However the brochure was published in English and Polynesian languages.
39. In particular, the answers to questions 3a, 3b and 4b of the tenant survey.

III. 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 the gains symbolically conferred on them by the statute. This is because " . . . What people get from government is what administrators do about their problems rather than the promises of statutes, constitutions, or oratory."[40] Secondly, as already indicated 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 their relationship. These two aspects will be discussed in respect of 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".[41] In the first complaint year,[42] of the eighty-seven complaints lodged, sixty-four complaints were dealt with in this way while the balance, twenty-three, resulted in court action. In the second complaint year[43] ninety-two complaints were made, of which only four resulted in court action.

These statistics pose the question why it is that so few complaints result in prosecutions by the Department. It is suggested that this result is principally explained by the method the Department uses to deal with the complaints. "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."[44]

It is the writer's experience that the District Offices often take an extremely cautious approach when dealing with alleged breaches of the Act.[45] This cautiousness partly manifests itself in administrative delays in dealing with complaints, and confronted with this situation complainant tenants often lose the momentum they have at the time they lodge the complaint. As a consequence, they do not pursue the matter.

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40. Edelman, *The Symbolic Uses of Politics* (Urbana, 1964).
41. The phrase used by the Labour Department.
42. 1 February to 31 March 1975.
43. 1 April 1975 to 31 March 1976.
44. Cited from a letter 22 July 1976 from the Labour Department to the author.
45. E.g. the Wellington Tenants' Union has handled a number of cases for tenants where there has been, in the writer's opinion, a prima facie case of a breach of the Act. The Wellington District Office of the Department has refused to act until (usually after a protracted correspondence) a watertight case for prosecution is established.

Such momentum is needed to play the "long-run strategies"[46] that are often required to bring about the realization of the gains for tenants symbolically represented by the Act. 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". 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 but these organizations often lack the resources necessary to be of full assistance in securing 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 complaints then the Department, like the tenant, will probaby not pursue the matter. Consequently, no recommendation for prosecution will be put forward to trigger the involvement of Head Office which by virtue of its Legal Division is better equipped to further investigate the complaint.

For tenants as the legislative winners then, the character of the response of the Labour Department towards complaints as set out above suggests that it is not easy for them to invoke the sanctioning power of the Department against recalcitrant landlords or letting agents. The Department's own statistics tend to support this view.[47] For instance, in the second year of the Act's operation[48] sixty-two complaints were made in respect of section 21. Only one of these complaints resulted in a prosecution by the Department. In the light of the character of the breaches of section 21 that were uncovered by the tenant survey, the writer finds it very difficult to accept that none of the other sixty-one complaints warranted court acion. This kind of response also takes the substance out of the tenant's legislative gain as an aid to bargaining and negotiating with landlords because the threat of a complaint to the Labour Department ends up being a rather empty one. The fact that most complaints are "settled by the Department" also has the effect of further restricting the volume of feedback to the primary parties. Information on the settlement which might have been of assistance to other primary parties in the future is isolated and contained within the Department. Because neither private tenants nor landlords are in any way a homogeneous group the possibility of distribution of this information by word of mouth is remote.[49] 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

46. Galanter, op. cit., 141.
47. See Appendix II.
48. 1 April 1975 to 31 March 1976.
49. In fact the only universal characteristics for these parties as groups is that tenants pay rent and landlords/letting agents receive it.

shown as being required by the pilot survey. 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 spread of knowledge of the right of appeal by individual tenants and landlords. On the basis of the writer's involvement with the Wellington Board[50] it is asserted that this response can be principally explained by the fact that after application, the Boards, unlike the Department, assume a more active role. The application sets in motion a procedure which tends to carry the parties along with it.[51] Indeed, the Wellington Board under the chairmanship of Hon. W. A. Fox[52] often exercised its discretion to hear applications where the applicant did not appear at the hearing.[53] This 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 features of the response of the Boards, the drop-out rate of applicants is very high. Since, with the exception of the Christchurch Board,[54] about ninety per cent of applications are made by tenants, it is concluded that most lapsed or withdrawn applications are tenant applications. Of the 1,001 applications made between 1 February 1974 and 31 March 1975, 641 lapsed or were withdrawn prior to a hearing by the relevant Board.[55] One explanation for this might be that the parties negotiated their own assessment, though this is felt unlikely; this view is supported by the answers to some questions in the landlord/agent survey where for instance 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 explanation is that the delay experienced in getting a hearing is the cause for the large number of lapsed or withdrawn applications. It usually takes at least four weeks from the time of application till a hearing by the Board. This may not appear a very long time to wait, but the very act of making an application by a tenant usually creates stresses in what is often already a strained relationship and this limits the endurance of the parties. The inherent strength of the landlord's

50. This consisted in helping tenants make applications, attending inspections made by the Board, and making representations to the Board on behalf of tenants.
51. Rent Appeal Act 1973, Second Sch.
52. Mr Fox resigned in 1976.
53. Rent Appeal Act 1973, Second Sch. cl 5(3).
54. For some reason the Christchurch Board has received almost equal numbers of applications from landlords and tenants.
55. See Table 15 of the Report of the Department of Labour, for the year ending 31 March 1975.
56. In particular the landlord's ability to determine the tenancy.

status[56] and his strategic advantages[57] often prove too much for tenants who respond by withdrawing from the relationship. Further, many tenants leave the relevant premises before the procedure of the Rent Appeal Boards gets under way so that the rent appeal process has nothing to act upon. Again it seems that administrative delay works against the interests of legislative winners and in the interests of the legislative losers.

Most applications to the Boards result in a reduction in rent, or in a proposed rent increase.[58] 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 also 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 needed to stimulate the involvement of the other.

IV. 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 make 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 none of these events occur. Two reasons why this happens have been considered. The next enquiry 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 have done so when the tasks of monitoring the legislative changes and mobilizing the secondary parties are in fact cast upon these primary parties. Provision should be made in the form of a statutory duty on the secondary parties to inform the primary parties of their rights. This would be the major step towards improving the impact of the legislation 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

57. Mainly the fact that most landlords engage a lawyer.
58. Appeal against proposed rent increases is the usual reason for a tenant's application to a Rent Appeal Board.

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 to capitalizing on the initial momentum the complainant or applicant tenant has at the time the relevant institution is first approached; this would reduce the tenant application drop-out rate. On the part of 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 too. It seems that the present procedure adopted by the Rent Appeal Boards in dealing with applications may to some extent have this effect but a reduction in the time lapse between the lodging of an application and the hearing is advocated. It is speculated that changes of this kind would result in more prosecutions by the Department and more assessments by the Rent Appeal Boards and so more tenants would benefit from the advantages the Act represents for them. A further consequence would be more feedback to inform other tenants and landlords/agents about the legislative changes.

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."[59] The importance of this can be appreciated when it is realized that it is a basic operational premise of modern government that legislation can change behaviour or that "stateways can change folkways". Though fundamental validity of this premise is not challenged here, it is claimed that this analysis of aspects of the operation of the Rent Appeal Act 1973 does establish that the validity of the premise is conditional on legislators recognizing that rule changes " . . . do not penetrate automatically and costlessly to other levels of the system."[61]

G. J. ALLAN.

APPENDIX I

PILOT SURVEY — QUESTIONS AND RESPONSES

A. Tenant Survey

Q. No.	Question	Response		Total No. of Respondents[62]
1	If your landlord raised your rent $2 per week, what would you do?	Rent appeal.	9	
		Tenants organization.	4	
		Leave.	8	
		Accept.	42	
		Complain.	16	
		Negotiate.	5	
		Other.	2	
		Don't know.	4	78

59. Galanter, op. cit., 149.
60. The converse proposition that "stateways cannot change folkways" was put forward by W.G. Sumner, *Folkways* (Boston, 1906) early this century.
61. Galanter, op. cit., 137-138.
62. It will be noted that the total number of respondents for some questions varies. This is mainly because the interviews were conducted in the form of an informal conversation and the interviewer sometimes omitted to ask some questions, and sometimes respondents did not answer a question.

2	If your landlord raised your rent $10 per week, what would you do?	Rent appeal.	11	
		Tenant organization.	12	
		Leave.	28	
		Accept.	8	
		Complain.	12	
		Negotiate.	4	
		Lawyer.	4	
		Other.	2	
		Don't know.	4	78
3a	Do you know of any way that you might be able to get your rent reduced?	Yes.	27	
		No.	51	78
3b	(If yes to 3a) What is that way?	Rent appeal.	18	
		Other.	9	27
4a	Have you ever heard of the Rent Appeal Board?	Yes.	60	
		No.	18	78
4b	(If yes to 4a) Do you know how to apply to it?	Yes.	19	
		No.	41	60
5	Is it against the law to refuse to rent a flat to someone because children will live in the flat?	Yes.	29	
		No.	17	
		Don't know.	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.	7	
		No.	63	70
7	Can a landlord be prosecuted for not giving a proper receipt or keeping a proper rent book?	Yes.	40	
		No.	4	
		Don't know.	32	76
8	Does your landlord give you a receipt or sign a rent book which you keep?	Yes.	53	
		No.	12	
		Cheque book.	7	72
9a	Is there any limit on how much bond a landlord can ask for?	Yes.	41	
		No.	4	
		Don't know.	33	78
9b	(If yes to 9a) What is the limit?	Knew.	4	
		Approx. correct.	25	
		Incorrect.	12	41
10	Can a landlord be prosecuted for charging too large a bond?	Yes.	34	
		No.	5	
		Don't know.	39	78
11	Do you pay a bond? * 37 of these were checked for compliance with the law.	Yes.	39	
		Non compliance.	7	78
12	If you had a problem or argument with your landlord and you wanted some help with that situation who would you go to?	Lawyer.	15	
		Tenants organization.	30	
		Legal Advice Bureau.	1	
		Govt. Dept.	7	
		Family/friend.	6	
		Agent.	8	
		Don't know.	14	
		Other.	2	78

13a	Are there any Govt. Depts. that deal in any way with landlord/tenant problems or relations?	Yes.	21	
		No.	9	
		Don't know.	48	78
13b	If yes ,which Depts?	Lab. Dept.	10	
		Other.	7	
		Don't know.	4	21

B. & C. Landlord and Letting Agent Survey
(Agent responses in brackets)

Q. No.	Question	Response		Total No. of Respondents[as]
1	Have you ever heard of the Rent Appeal Board?	Yes.	26(21)	26(21)
2	What does the Rent Appeal Board do?	Control rents.	9(5)	
		Protects tenants re high rents.	17(9)	
		Investigates rents.	5(2)	
		Assesses rents.	12(8)	
3	For how long does an assessment by the Rent Appeal Board apply?	Knew.	8(12)	
		Didn't know.	16(9)	24(21)
4	Does the rent assessment apply to the parties or the property?	Property.	12(11)	
		Parties.	6(5)	
		Don't know.	5(4)	23(20)
5a	Are you entitled to refuse a flat to a person because children will live in it?	Yes.	10(3)	
		No.	13(18)	
		Don't know.	2(–)	25(21)
5b	Is there any law to prevent you refusing someone on those grounds?	Yes.	11(14)	
		No.	9(3)	
		Don't know.	6(4)	26(21)
6	Could you be prosecuted for not giving a tenant a proper receipt?	Yes.	18(21)	
		No.	3(–)	
		Don't know.	5(–)	26(21)
7a	Is there any limit on how much bond you can ask for?	Yes.	19(21)	
		No.	2(–)	
		Don't know.	5(–)	26(21)
7b	If yes to above, what is the limitation?	Knew.	7(12)	
		Don't know.	12(9)	19(21)
8	If you had a problem or argument with one of your tenants and you wanted some help who would you go to? (Only landlords asked.)	Lawyer.	17	
		Police.	2	
		Govt. Dept.	1	
		Landlords' org.	1	
		Legal Advice Bureau.	2	
		No-one.	3	
		Other.	1	
		Don't know.	2	26
9a	Are there any Govt. Depts. that deal in any way with landlord/tenant problems or relations?	Yes.	13(13)	
		No.	2(3)	
		Don't know.	11(5)	26(21)
9b	If yes to above, which Depts?	Lab. Dept.	4(9)	
		Other.	9(4)	13(13)

APPENDIX II

Labour Department Statistics

Complaints Relating to Rent Appeal Act 1973

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