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John W. Willis

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# A SHORT HISTORY OF RENT CONTROL LAWS

John W. Willis\*

Rent control is generally thought of as a fairly recent innovation, and so indeed it is in most countries. Housing shortages, however, are not new, and it should not be surprising therefore to find that modern attempts to intervene in the relationship between landlord and tenant find precedents going back hundreds of years.<sup>1</sup> What may surprise the reader is the extent to which rent control has become a world-wide phenomenon. While in the years following World War I the idea had spread to most of the European countries and to a good many other parts of the globe, World War II and its aftermath saw the regulation of rents and evictions become a commonplace in almost every part of the civilized world, and some parts not so civilized.<sup>2</sup>

This article will treat, first, the various factors giving rise to rent control legislation; next, the history of rent control in former centuries and in modern times; and finally, some of the criticisms and vituperations which have been directed at the idea of controlling rents.

## I. REASONS FOR RENT CONTROL

A character in one of Plato's dialogues remarks that laws "are not made by human beings but by accidents or misfortunes—war, epidemics, famine, or a succession of bad seasons".<sup>3</sup> So it is with rent control laws. In few if any cases has rent control been adopted because of an abstract idea that state regulation would bring better results than the operation of the laws of economics. Rather, in almost every instance the hand of the legislator has been forced by some calamitous event or situation which has upset the normal state of affairs—war, depression, earthquake, fire, plague, or some other vagary of history which either destroys the balance of supply and demand, thereby creating a housing shortage, or makes it impossible for tenants to continue to pay their contractual rents.

War, that prolific parent of legislation, has spawned more rent regulation than any other cause. The first effect of war is probably a reduction

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\* See Contributors' Section, Masthead, page 96, for biographical data.

<sup>1</sup> Macaulay said somewhere that the more one examines the history of the past, the more one realizes how much those persons are deceived who imagine that our epoch has given birth to new social miseries. With true Nineteenth Century optimism he added that in truth such miseries are ancient, and that which is new is the intelligence which discovers them and the humanity which alleviates them. Quoted by Grasilier, *La Question des Loyers aux Temps de la Ligue et de la Fronde*, 22 NOUVELLE REVUE 161 (4th ser., 1916).

<sup>2</sup> See the list at the end of this article.

<sup>3</sup> Carr, 27 J. COMP. LEG. & INT'L LAW xxviii (1945).

in demand for housing as wives of servicemen "double up" or go home to their parents, the number of marriages and new households drops off and foreigners return to their own countries. This condition, however, is only temporary. As war production gets under way new workers crowd into areas housing war plants, shipyards, aircraft factories and military establishments, and service wives seek accommodations in towns and cities near training camps. Families who had "doubled up" during hard times take up separate residence as war employment swells their income, and other tenants "filter up" into higher-priced accommodations. In war zones and countries within range of enemy bombers, destruction of houses throws the scales further off balance and evacuation of the cities leads to congestion in the country towns. Neutral or distant countries too receive an influx of refugees. And all the while that demand is increasing, new construction is slowed down or at a standstill because of wartime priorities, high costs, and shortages of materials and manpower; even to the extent that construction is possible, private enterprise usually will not meet the demand because of its possible temporary nature and because of better investment opportunities in other fields.

Nor does the return of peace automatically put things back to rights; rather, it accentuates the difficulties. The housing shortage which followed World War II is not yet over, and a similar situation existed in the years after 1918; in many countries the housing shortage did not reach its peak until several years after the end of the war. The normal growth in population, coupled with the war-time cessation of home building, would have been enough to cause a shortage in many areas; the loss of population through war deaths did not appreciably reduce the pressure, since the number of households was not proportionately reduced. In addition, there was a sharp rise in marriages, as is true after every war, and the return of soldiers and prisoners of war increased the number of persons seeking homes. Changes in boundaries brought many shifts in population; the dismemberment of Austria and Hungary, for instance, saw thousands of citizens of the old Empire flocking to Vienna and Budapest from the ceded territories, until in the Hungarian capital many of them had to live in railroad cars. The Red Revolution added its quota of refugees to those seeking shelter in western Europe, and newly-rich from the country moved to the more opulent life of the cities. On the other hand, the war workers who had left the farm for urban employment were in no hurry to return, and many country boys who while in service had lost the "habitude de la campagne" joined them in the cities after demobilization. Refugees, too, were slow in returning to the devastated areas. New construction—the only thing that

could effectively end the housing shortage—did get under way again, but in many cases it was delayed or insufficient even to palliate the situation for some time to come; indeed, in some countries the situation never did get back to normal, the longed for prosperity never came and the outbreak of a new war found rent controls dating back to the last one still in effect.

But war, while it is the greatest single cause of the dislocations which lead to the need for rent regulation, is of course not the sole cause. Many another misfortune has played its part in the history of rent control. Some of the earliest rent legislation was inspired by the plight of the Jews of sixteenth-century Rome, who, confined to the Ghetto by Papal decree, found themselves at the mercy of their Christian landlords. A century later the Lisbon earthquake called forth a royal order from the Portuguese monarch, imposing drastic penalties on anyone guilty of increasing rents. The Government of Paris repeatedly during the sixteenth and seventeenth centuries found it necessary to grant reductions and delays to tenants who—because of the stagnation of commerce caused by plague or civil strife—were unable to pay their quarterly rents. In more modern times we find the Hong Kong legislation of the early twenties made necessary by an influx of Chinese into the colony, the Greek laws of a few years later occasioned by two unrelated factors—the Salonika fire and the exodus of hundreds of thousands of Hellenes from Asia Minor to Greece. A flood in the Campagna in 1923 made necessary special provisions for rents in Rome. Hitler's persecutions played their part even before the outbreak of war; Cuba enacted a rent control law in March of 1939, largely because of the large number of refugees who had poured into the island hoping eventually to reach the United States. Almost simultaneously the Portuguese colony of Macao was forced to act because of the influx of refugees from the Chinese war. Mexico City, though far removed from the war zone, experienced a severe housing shortage because of the ingress of workers, European refugees, people sitting out the war, and others. A war-time apartment shortage in Rome was blamed, not so much on the immediate fact of war as on the desire of American officers to spend "even a short leave from the front at a city which [had not] been destroyed by bombs". Monetary problems have also had their repercussions on rent legislation: the Swiss froze rents in 1936, for example, because of the devaluation in the gold-bloc countries; the British Military Administration in Eritrea was forced to take similar action as a result of the devaluation of the lira and even the King of Saudi Arabia issued a decree early in 1946 to protect tenants against depreciation of the riyal in terms of gold.

But this is only half the picture; these are only the bare physical facts. Granted that housing shortages may occur, may even become chronic, or that tenants may find themselves without resources to pay their full rent, what concern is that of the state? Why has almost every civilized community on the earth found rent control advisable if not unavoidable?

To answer this question, it is necessary to consider the nature of rent in relation to other expenses of living. Most elements of the ordinary family's budget have some element of flexibility. If food costs go up, the family can usually exist on less food, or on cheaper foodstuffs. If clothing costs rise, old clothes can be made to do. If the family budget no longer balances—either because costs have gone up or because the family income has gone down—economies can be made in various ways. But rent is an inflexible charge. If it goes up, the tenant has little choice but to pay more or to move to a less expensive lodging, and in times of housing shortages the latter alternative is an illusory one. The result is a monopoly situation in which the state has to intervene—just as it will intervene in other cases where monopolistic control of some element of the economy in which there is an intense public interest makes oppression probable.<sup>4</sup>

The Argentine Supreme Court ably described the situation in a decision handed down twenty-five years ago. The unilateral liberty of contract resulting from housing shortages, the Court said, places the majority of the population in a situation of intransquillity, "a state of anguish in which rent and the prospect of an increase in rent constitutes an obsession; in which all resources are insufficient to pay this unavoidable cost; and in which it is necessary to submit in whatever manner to the exigencies of the landlord because no other dwelling can be found, and if it could be it would be just as dear. . . . Housing is at once a prime necessity and a most formidable instrument of oppression."<sup>5</sup> In a similar vein, a judge of the Egyptian Mixed Court has pointed out that

Housing shortages and high rents have a particularly acute effect because the irreducible necessities of material installation are complicated by delicate exigencies imposed by the dignity of the social situation. The possibility of work may be compromised by the distance between home and shop; discouragement is mixed with the irritating humiliation of unquiet, painful search condemned in advance to fail or to succeed only by vexatious transactions with the needs and resources of the interested parties. Finally,

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<sup>4</sup> See REPORT OF THE TOWN TENANTS TRIBUNAL 82-83 (Dublin, 1941) (theory of rent control is that monopoly conditions give the landlord a chance to get an unearned increment at the expense of tenants, and that the state is entitled in effect to tax that unearned increment).

<sup>5</sup> Ercolano v. Lanteri, 136 S.C.N. 161 (1922). See p. 75 *infra*.

these sacrifices are not something which can be supported in the hope that they will cease on the morrow; they have a continuity determined by the terms of the contractual engagement and weigh on the future. In other matters one can pretend not to buy or buy tomorrow instead of today; but one cannot put off having a place to live.<sup>6</sup>

Commercial establishments, too, may find themselves at the mercy of their landlords in times of a building shortage; moving is always undesirable for a store or restaurant which has built up a name in a particular neighborhood, or for an industry with special installations and facilities, and in times of war or acute scarcity of accommodations it may be impossible. Even if other space is found, material and labor to make necessary alterations may not be available and war-time restrictions may in fact prohibit such work; it was even difficult to obtain telephones during the war. And any undue interruption in production may result in serious losses and in cancellation of war contracts.

These considerations should be enough to prompt the state to act in many cases. But in addition, the monopolistic control of housing and of commercial accommodations has other undesirable effects. Many tenants may have to pay higher rents without recourse; but industrial wage earners, particularly those who are well organized, will attempt to pass the increase on to their employers by demands for wage increases, thus unsettling labor relations and putting pressure on price ceilings. High rents have a bad effect on war production; labor is less apt to migrate into an area where rents are out of line, and landlord troubles cause absenteeism and decrease efficiency, as well as create class feeling. As to commercial rents, unrestrained increases while prices are controlled cause the small merchant and manufacturer to be "squeezed" by price ceilings, thus encouraging black market dealings, forcing lower-priced establishments out of business and permitting beer parlors to supplant more legitimate businesses. From the economist's point of view, rent control in a time of generally rising prices has been justified by the argument that otherwise rents would go up and stay up even after other prices had dropped back—although, as will be seen, the result of rent control

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<sup>6</sup> Messina, *La Crise des Habitations en Egypte et la Loi de 21 Février 1920*, 11 L'EGYPTE CONTEMPORAINE 582 (1920).

See also Wechsler, *Next Steps in Rent Control*, 5 THE RECORD 126, 127 (1950): "... Now and, no doubt, tomorrow the removal of control would give to ownership the power of monopoly in fixing prices; and this within a field in which there is not even competition of desires—since everyone must have a home.

"Power of this sort has never had a standing in our law or policy; it must be broken or controlled. Those who deem this an affront to property or to its status and protection in our system have, I think, succumbed to the temptation that we all confront to turn our private hopes into a credo for the public."

may be the converse, with rents held below the level which they would normally occupy with relation to other prices.<sup>7</sup>

Indeed, government action may be necessary to avoid actual violence and bloodshed. As will be seen in the historical account below, rent troubles and tenants' strikes have plagued governments from seventeenth-century Paris to Latin America of the 1920's.

Inevitable as rent control may have been at times, it cannot be denied that it has often been unfair to landlords, even to the point of confiscation. Cynics have attributed this to the fact that there are many more tenants than landlords, and there is something in this. It has been pointed out also that housing is not like other commodities; it cannot disappear from the market if the price is too low. If the landlord attempts to remove his property from the residential rental market by selling it or converting it to commercial use, he is usually frustrated by provisions in the legislation restricting him or prohibiting from exercising these rights. About all he can do is refuse to build new housing. Some invasion of the rights of the landlord is of course implicit in the idea of rent control;<sup>8</sup> balancing the interests of landlords and tenants is a delicate matter.

## II. RENT CONTROL BEFORE THE TWENTIETH CENTURY

### (a) *Ancient Rome*

It has been said that rent controls were known even in ancient Rome, but the writer has been unable to verify these statements in spite of considerable research.<sup>9</sup> A feature story in the *New York Times* for May 27, 1923, reported that in 150 B.C. a Roman Senator appealed to the courts against his landlord, who had doubled his rent. One Crassus was said to have made much money by building houses and renting them, but to have run into court trouble when he attempted to make a "Conscript Father" pay 15,000 sesterces for a bachelor apartment. According to the report, Caesar promulgated a law according to which landlords could never exact over 2000 sesterces (\$100 a year) for villas in Rome or 500

<sup>7</sup> It has been suggested that rent increases due to a scarcity of housing should be distinguished from those due to an increase in the amount of money in circulation, and that only in the former case is control desirable. Ordinarily, rents tend to lag behind the general price level and the cost of living. HARDY, *WARTIME CONTROL OF PRICES* 204 (1940).

<sup>8</sup> See the statement of Mr. Lewisohn, of the Burma Council of Government, in answer to the argument that landlords must charge higher rents because the cost of living had gone up, that "landlords and other people have got to face the fact that, owing to the war and the consequent disturbance of economic conditions, they have got to be content with a lower scale of wealth than that which they enjoyed before the war." *Burma Gazette*, Pt. III, p. 21 (1920).

<sup>9</sup> Including a search by the Library Research Service of the *Encyclopedia Britannica*, 1946.

sesterces in the rest of the country.<sup>10</sup> Diocletian is said to have included rent ceilings in his famous attempt to stabilize prices by edict,<sup>11</sup> but the accuracy of this statement is doubtful.<sup>12</sup>

(b) *Rome, 1470-1900*

Undoubtedly the most interesting chapter in the history of rent control has to do with the attempts of the Popes to prevent exploitation of the Jews of Rome by their Christian landlords.

During the Middle Ages, we are told,<sup>13</sup> the Jews found no haven more secure than the States of the Church, where the "immense prohibitions" of the old Papal Decretals and Constitutions were a dead letter, and where they were able to own real and personal property, exercise all the liberal arts, engage in every type of commerce, and dwell side by side with the Christians—in spite of the fact that the papal legislation in theory deprived them of many of these rights. This era came to an end with the promulgation by the unpopular Paul IV, less than a month and a half after his election in 1555, of the bull *Cum Nimis Absurdum*, with which he sought to put back in force all the prohibitions of the old laws against the Jews. The unfortunate Hebrews were forbidden to have Christian servants or nurses, to own real property (a short period being allowed during which they could sell their holdings to Christians), or to exercise any art, profession or commerce other than that of rag-picker. Above all, the Jews were forbidden to live among the Christians, and to this end it was ordered that in each city the authorities should select a quarter to be walled about, to which the Jews should be confined. This was the origin of the ghetto.

The buildings in the ghetto of course were owned by Christians, as the Hebrews could not own them, and since the latter had no place else to go they were easy prey for their landlords, who took advantage of the situation by raising beyond measure the rents of the houses which the Jews were forced to occupy. On the death of Paul IV, the Jews sought relief from his successor Pius IV, who taking pity on them issued the brief *Dudum* of February 27, 1562, in which he lifted many of the Pauline prohibitions, conceding to the Jews the right to exercise certain arts and trades and to possess property up to the value of 1500 Roman scudi. Seek-

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<sup>10</sup> New York Times, May 27, 1923, § 8, p. 13, col. 3. Source of this information is not known.

<sup>11</sup> HIRSCH, PRICE CONTROL IN THE WAR ECONOMY 5 (1943); Speech of Rep. Cox of Georgia, 90 CONG. REC. 7409 (1944).

<sup>12</sup> See n. 9, *supra*. Translations and discussions of the Edict of Diocletian contain no reference to rents.

<sup>13</sup> DEZI, GENESI E NATURA DEL DIRITTO DI GAZAGA 8 (Rome 1872).

ing at the same time to put a limit on the exactions of the landlords, he ordered that the Papal Chamberlain should stabilize the rents and that they could not thereafter be increased.<sup>14</sup>

The breathing spell granted by Pius IV lasted only a short time, for his successor Pius V reestablished the Pauline Constitution in full force, abrogating with his brief *Romanus Pontifex* of April 19, 1566<sup>15</sup> all the privileges and concessions accorded by Pius IV. Three years later, in the *Hebraeorum* of March 9, 1569, Pius V banished the Jews from the States of the Church, except the cities of Rome, Ancona and Avignon. This banishment, however, was never actually put into effect, and Sixtus V in the bull *Christiana Pietas* of October 22, 1586<sup>16</sup> revoked it and not only permitted the Hebrews to remain in the Papal States but also granted them greater concessions than had Pius IV. This bull again imposed on landlords the duty of renting houses to the Jews at reasonable rents, and reaffirmed that portion of the bull of Pius IV which prohibited any increases in rentals.<sup>17</sup>

Under the pontificate of Clement VIII the pendulum again swung back, all the benefits conceded by Sixtus V were withdrawn and the harsh principles of Paul IV and Pius V reestablished. The brief *Coeca et Obdurata* of February 25, 1593<sup>18</sup> commanded all Jews living in the Papal States, on pain of confiscation of their goods and of condemnation to the triremes, to leave the pontifical domains within three months, only Rome, Ancona and Avignon being excepted.<sup>19</sup> Naturally, most of them preferred to come to Rome and Ancona rather than seek their fortune in some strange place, with the result that the ghettos of those cities were soon filled to overflowing. Rents rose to levels out of all proportion with those in other quarters of the city; landlords constantly sought to evict their tenants in order to rent to someone else at a still higher rent. The situation was an intolerable one, but it was not until June of 1604 that Clement VIII finally took pity on the unfortunate Hebrews and issued the bull *Viam Veritatis* which once and for all deprived the owners of the houses in the ghetto of the right to increase the rent or to evict the tenants, who

<sup>14</sup> "Et ne ob certi loci intra quem habitare debeatis assignationem, et intra illum domos conducenci necessitatem ab illarum dominis ultra debitum modum praegravemini, ut domorum domini in locis praedictis illas vobis pro iusto precio per Camerarium praefatum declarandum locare teneantus, neque illud quovis modo augere vel alterare valeant."

<sup>15</sup> 7 BULLARIUM ROMANUM 438.

<sup>16</sup> 8 *id.* at 786.

<sup>17</sup> "... li affitti nel principio siano onesti secondo il solito, ne mai piu se possino accrescere o alterare, conforme anco alle lettere de Pio IV." § 3.

<sup>18</sup> 10 BULLARIUM ROMANUM 22.

<sup>19</sup> These cities were excepted in order that the Jews could continue to carry on commerce with the Orient. See also the brief "Ex Apostolicae" of March 5, 1593.

from then on had the right to possession *in perpetuo*. Only when the owner had made improvements to the property which were substantial and not necessary, could he increase the rent. If the owner refused to make useful improvements, the tenant could undertake them himself, without incurring any increase in rent; but if the tenant thereafter voluntarily abandoned the house he was not entitled to any compensation for the improvements he had made.

The new principle of law laid down in the bull *Viam Veritatis*, while it gave the Jewish tenants the right to possession of the property in perpetuity, imposed no corresponding duty on them; the tenant could return the property to the landlord at his pleasure, and at the end of the term specified in the original lease the tenant was free of any obligation other than that of paying the rent, while the landlord was bound forever. This novel and anomalous juridical right, the *ius gazaga*,<sup>20</sup> was the sole type of interest in real property which the laws permitted the Jews to possess, and it soon became an object of commerce, being made the object of sale, mortgage, dower, and every other type of transaction, and having high monetary value.<sup>21</sup>

These transactions ultimately made it difficult for the owners to collect their rents. At the same time the Jewish community, in an attempt to force rents down, would leave houses untenanted for years at a time by virtue of a *tekanah*—said to date back to the Tenth Century—prohibiting a Jew from renting a house abandoned by another, without the consent of the latter.<sup>22</sup> In 1658 Alexander VII issued the bull *Ad Ea Quae Per*<sup>23</sup> in which he sought to balance the burden of the perpetual lease on the part of the landlord with a right to a perpetual return, while retaining the liberty of the tenant to abandon the house at the termination of the lease. In order to achieve this, the Jewish community as a whole was required to pay the rent of all houses in the ghetto as long as they remained untenanted.

The *ius gazaga* was not an unmixed blessing to the Hebrews. By the end of the Seventeenth Century the rents of houses in Rome had fallen considerably, but the "frozen" rents of the ghetto remained unaltered.

<sup>20</sup> As to the origin of the word, see *infra*.

<sup>21</sup> Dezi, *supra* n. 13; see also Baccelli, *Brevi note intorno al carattere del "Jus di Gazaga" in Rome*, LA LEGGE 1892-I. 712; Pistolesi, *Gazaga (Diritto di)*, 12 DIGESTO ITALIANO 90 (1900); Visconti, 6 ENCIC. GIURIDICA 896 (1916). See Menasci c. Scapatucci, LA LEGGE 1892-I, 187 (Cass. Rome 1891) (*ius di gazaga* constitutes a *diritto reale immobiliare*, alienable and transmissible to heirs and successors; it was thus the only *diritto reale immobiliare* which the Jews could enjoy prior to their emancipation). And see other cases cited in Note, p. 188.

<sup>22</sup> ABRAHAM, JEWISH LIFE IN THE MIDDLE AGES 68 (1911).

<sup>23</sup> 16 BULLARIUM ROMANUM 407.

Pope Innocent XII with a Chirograph of November 15, 1698 corrected this situation to some extent by reducing the rents paid by the Jews by 12%. The final papal document on the subject is the bull *Alias a Felici* of Clement XIV, dated March 29, 1773,<sup>24</sup> in which was declared null and void the renunciation of the right in favor of the landlord, both for the past and the future.

The origin of the *ius gazaga* has been traced back to a series of *tekanoth* drawn up at Ferrara on June 21, 1554 by delegates of the congregations of Rome, Ferrara, Mantua, Romagna, Bologna, Reggio, Modena and Venice, Article V of which provided that the sale of a house did not destroy the Jewish tenant's right of *chazaka* or possession; the tenant could retain possession and any Jew who ousted him was guilty of disobedience of the *tekanah*.<sup>25</sup> The word *gazaga* is an Italianization of the Hebrew *hazakah* or *casaca* which in old Jewish law was a form of prescription or adverse possession.<sup>26</sup>

One commentator reports that the right of *gazaga* was introduced in Piedmont by an Edict of the Regent Maria Giovanna in 1679 and in Florence at the time of Cosimo I.<sup>27</sup> Another remarks that if this is true, the right must not have developed so highly in these other cities, since the writers limit themselves to Rome.<sup>28</sup>

With the emancipation of the Italian Jews in 1870 the *ius gazaga* gradually lost its importance, although it is said that at a comparatively late date the University of Modena possessed a *ius gazaga* among its other properties.<sup>29</sup>

It should not be thought that the Popes were concerned with protecting only the Jews against exorbitant rents. The Roman landlords apparently

<sup>24</sup> 4 BULLARII ROMANI 553.

<sup>25</sup> Abrahams, *supra* note 22. See also 6 UNI. JEWISH ENCYC. 280.

<sup>26</sup> See 5 UNI. JEWISH ENCYC. 259; 6 JEWISH ENCYC. 280.

<sup>27</sup> Pistolesi, *Gazaga (Diritto di)*, 12 DIGESTO ITALIANO 90, 92n. See also DUBOINE & AMATO, RACCOLTA DI LEGGI, EDIZIONI ETC. DELLA R. CASA DI SAVOIA, Tit. II, p. 575 (Duke of Savoy to Jews of Alessandria) ("Mediante il pagamento di ragionevoli fitti avuto riguardo alla comune dei fitti soliti a ricavarli dalle case ed appartamenti di esse in essa città anche da Christiani, non possono i padroni delle case esistenti in essa città ricusare da affittarle a detti ebrei, massime le case comprese nel circuito delle habitazione già in essa città tenute da detti ebrei.")

<sup>28</sup> Visconti, 6 ENCIC. GIURIDICA 896 (1916).

<sup>29</sup> ENCICLOPEDIA ITALIANA 468.

The old Papal bulls, together with the Irish land laws, were cited to the New York Court of Appeals and the United States Supreme Court in the debates on the constitutionality of the New York rent laws of the 1920's. Cohen, *Rent Control After World War I—Recollections*, 21 N. Y. U. L. Q. REV. 267, 278-280 (1946). Justice McKenna did not think much of this line of argument. *Ibid.* Further as to Justice McKenna's attitude, see *infra*, 88.

were just as ready to mulct their fellow-Christians, Romans and pilgrims alike, and as early as 1470 Pope Paul II issued an edict, entirely modern in its terms, forbidding eviction of tenants except where the landlord in good faith sought the premises for his own occupation, or for non-payment of rent.<sup>30</sup> Further restrictions were imposed by Julius XII in 1510, and his decree was confirmed by Leo X in 1513. In April, 1549, Pope Paul III issued a decree entitled *In favorem inquilinorum et sub-inquilinorum Urbis* which prohibited rent increases during the Jubilee Year of 1550 and penalized eviction of tenants by false use of the pretext that the landlord required the house for his own use. New measures were edicted by Gregory XIII in 1573, but apparently they were not entirely successful in preventing abusive practices; the Papal Chamberlain to Alexander III recommended further restrictions, including a provision that landlords who kept their apartments vacant for three months or more should not be allowed to increase the rent. Apparently no action was taken at this time, but additional measures may be found as late as 1826.

(c) *Medieval France*

In France,<sup>31</sup> rent troubles arose at the time of the Ligue (1592), the Plague (1619) and the Fronde (1652) because the paralysis of commerce and industry by war, revolt or pestilence made it impossible for tenants to pay their rents. The French Court on December 20, 1591 granted the merchants and bourgeois of Paris a temporary moratorium on rent payments, and on January 8, 1592, the Parliament of Paris on their request decreed that in the case of leases made prior to April 15, 1589, the tenant would not have to pay more than one-fourth of the rent stipulated in the lease; for leases made between April 15, 1589, and August 31, 1590, the amount was one-half; for those made since the siege was lifted, two-thirds. At the time of the Plague, the Court again wished to take some action to help the people, but since it was felt that a general reduction of rents would have caused abuse to the prejudice of proprietors, the Lieutenant Civil was commissioned to grant reductions and moratoria in individual cases, acting on principles of equity.<sup>32</sup> In 1649

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<sup>30</sup> The information in this paragraph is derived from an article by Edward D. Kleinlerer, *The Popes and Rent Control*, AMERICA, Oct. 28, 1944, p. 69. The article was paraphrased in a pamphlet, *ACROSS THE BOARD*, prepared by the San Francisco Regional Office of the Office of Rent Control, Nov. 1, 1947, which drew considerable criticism from Congress. See Remarks of Senator Cain, 94 CONG. REC. 1455 ff. (1948).

<sup>31</sup> Most of the following information is derived from Grasilier, *La Question des Loyers aux Temps de la Ligue et de la Fronde*, 22 NOUVELLE REVUE 161, 279, 23 NOUVELLE REVUE 45 (4e Ser. 1916).

<sup>32</sup> Sentences donnees par M. le Lieutenant Civil pour le rabais des loyers des maisons, 2

the merchants of Paris presented a request to Parliament to be exempted from paying the quarter's rent due at Easter. On April 10 the Court discharged half of the debt and four days later the whole of it.<sup>33</sup> On May 19 Parliament passed a new decree relieving certain merchants not covered by the prior decrees. Again in April, 1652, a decree was issued relieving a large number of tenants from the Easter quarter's rent and also the rent for the succeeding quarter. This was done after great public disturbances; further gatherings were prohibited, but in September tumult again arose, as a result of which numerous tenants were discharged from paying the rent for the Easter term. As to the St. John term they were relegated to the courts to contest the question in separate proceedings. Tenants were again prohibited from organizing and meeting to agitate the discharge of rents. Reductions and moratoria on agricultural rents were also granted at this time.

(d) *France, 1870-1871*

Intervention of the state in landlord and tenant matters was again made necessary in France by the Franco-Prussian war, the Siege of Paris and the Commune.<sup>34</sup> A decree of September 7, 1870 allowed the courts to grant delays in the payment of rents and to suspend execution on judgments for rent. Another decree of September 30 granted Paris tenants a three-month delay in paying rents then due, if needed. These decrees were clarified by another of October 9, which also delayed evictions for a term unless the accommodations had already been re-let. On January 3, 1871, another three-month delay was granted unless the landlord could show that the tenant could pay. A definitive law was adopted on April 21, 1871, and promulgated on April 9. It set up "rent juries" composed of a justice of the peace, two landlords and two tenants, the latter being drawn from a list and serving for three-day sessions. The "juries" were empowered to grant reductions of rent for the three terms between October 1, 1870, and April 1, 1871, proportionate to the time the tenant had been deprived of the use of all or part of the property or of the industrial or commercial use contemplated by the parties, and to grant delays in payment up to two years.

(e) *Spain, 1499-1842*

The Spanish Court in its heyday was also plagued with housing short-

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ARCHIVES CURIEUSES DE L'HISTOIRE DE FRANCE 57-9 (2e Ser., Paris 1837). Grasilier states that the reductions were granted by the magistrates.

<sup>33</sup> These decrees were limited by a decree of April 27.

<sup>34</sup> For an interesting account of the events of these times see DURAND-MORIMBEAU, *SOUVENIRS DE 1870-1871, LA PROPRIÉTÉ PENDANT LE SIÈGE ET LA COMMUNE* (Paris, 1898).

ages; it was forced to take measures to restrict the resulting rental abuses. In 1499 it was ordained that persons who rented lodgings at the Court should not receive gifts as a condition of letting; if they did so they were liable to lose their rights and be subjected to heavy penalties.<sup>35</sup> In 1564, four years after Madrid had been made the capital and "only court", was instituted the "tasa" or appraisal of rented accommodations at the Court; an *auto acordado* of October 27 provided that the *alcaldes* should appraise (*tasar*) all the rented accommodations at the Court, even though the parties did not request it.<sup>36</sup> This did not prevent the charging of excessive rents. Thus, in 1601 a permanent commission, with revolving membership, was set up to handle the *tasa* on an annual basis.<sup>37</sup> Paying or receiving rents higher than those fixed was forbidden and strict sanctions provided. The tenant had the right to request a reappraisal after he had lived in the house for four years.

A series of later laws set up a system of priorities in the renting of houses at the Court: the military and certain public functionaries enjoyed a right of preference in renting vacant houses,<sup>38</sup> and this was extended to doctors and *catedráticos* of the University of Salamanca by a decree of 1771,<sup>39</sup> to officials of the public funds by an order of 1790 and finally to all public officials living in Madrid by another royal order of the same year.<sup>40</sup> These priorities of course were tied in with the *tasa* and gave rise to considerable litigation. In 1792 all these preferences were wiped out except for *alcaldes*.<sup>41</sup> The same law gave the landlord a right to demand the *tasa* after ten years of occupancy by the same tenant. Sub-lettings and other practices were restricted.

During the same period various decrees had been issued regulating the rents of agricultural land.<sup>42</sup> In 1813 all rights of preference and *tasa* in

<sup>35</sup> NOVISIMA RECOPIACION, Lib. 3, Tit. XIV, Ley I (May 2, 1499). Violators would be required to repay such premiums sevenfold, the informer to take part and the state part.

<sup>36</sup> AUTOS ACORDADOS Lib. 3, Tit. 6, Auto 5 (1777): "Los alcaldes hagan tasar todas las casas alquiladas en la Corte, aunque los partes no lo pidan." This was amplified by autos of Feb. 25, 1569 and June 15, 1576. See NOVISIMA RECOPIACION, Lib. III, Tit. XIV, Ley XXII.

<sup>37</sup> *Id.*, Ley XXIII. See also Ley XXIV (May 8, 1610).

<sup>38</sup> *Id.*, Lib. X, Tit. X, Leyes VI and VII.

<sup>39</sup> *Id.*, Note 6. *Catedráticos* were to be preferred to mere doctors, maestros and licenciados; between themselves, Theology and Law should be preferred to Medicine and Arts by reason of their antiquity, and so on.

<sup>40</sup> *Id.*, Note 7 to Ley VIII.

<sup>41</sup> *Auto acordado* of July 31, 1792, *id.*, Ley VIII.

<sup>42</sup> A Real pragmática of 1680 reduced prices of pasture lands to the 1633 level. An *auto acordado* of 1702 restricted rents of pasturelands to 1692 levels, and the privilege of the *tasa* was extended to stockmen and proprietors. These provisions were extended to *tierras de labor* (farmlands) in 1708, but this was cancelled in 1754. See also the Real cedula of

rural lands were abolished.<sup>43</sup> This gave impetus to the demands for removal of restrictions on rental of urban accommodations, but it was not until April 9, 1842, that controls were ended. Twenty years later the King requested the Royal Academy of Moral and Political Sciences to advise him on whether restrictions should again be imposed, and if so, in what manner; but their report was not favorable to control;<sup>44</sup> apparently nothing was done.

(f) *Portugal, 1755*

The great Lisbon earthquake occurred on November 1, 1755. A large part of the city was destroyed. On December 3, King Jose,

Being informed that certain Proprietors, and Possessors of Houses, or Lots, assume to rent them to the grave damage of third persons in the present calamity, extorting exorbitant rents, and excessive board for Houses, or Lodgings, which have been saved from the Earthquake, or less ruined by it, and for the leasing of small spaces of land on which Cabins or Houses of wood are erected; And using my Paternal, and Royal Providence to prevent this iniquity for the benefit of my afflicted People; . . .

ordered that rents should be frozen at the rates prevailing in October and that increased rents paid since the earthquake should be refunded. For land, the maximum rent was what the land would have produced if the earthquake had not intervened. The Duque Regedor da Casa da Supplicação was directed to name ministers to settle questions arising under the law, and severe penalties were provided for violation of its terms.<sup>45</sup> The decree represents also an early attempt at city planning; "to prevent indiscreet building in localities distant from the limits of the City, which being already disformed in its extension, should not be permitted to dilate itself with grave inconvenience of communication, which should be facilitated between its Inhabitants," construction of new buildings outside of specified limits was prohibited until further order.

### III. RENT CONTROL IN MODERN TIMES

The modern history of rent control can fairly be said to have begun in Australia in 1910. About that year the Labor Party began agitating for a "fair rents" law. The bill passed the Legislative Assembly of New South Wales in 1913 but was killed in the upper house. After the out-

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May 26, 1770, Nov. RECOP. Lib. X, Tit. X, Ley III and the Real cedula of Sept. 8, 1794, *id.*, Ley IV.

<sup>43</sup> Decree of the Cortes of Cadiz, June 8, 1813.

<sup>44</sup> INFORME DE LA REAL ACADEMIA DE CIENCIAS MORALES Y POLITICAS SOBRE LA REFORMA DE LAS LEYES DE INQUILINATO Y LOS MEDIOS DE CONTENER EL AUMENTO DESPROPORCIONADO DE LOS ALQUILERES DE EDIFICIOS (Madrid, 1863). (Copy in the Library of Congress.)

<sup>45</sup> See Willis, *Some Oddities in the Law of Rent Control*, 11 U. PITTS. L. REV. 609 (1950).

break of the war, the bill did become law in the Fair Rents Act of 1915;<sup>46</sup> but before that, European countries had adopted the first of what was to be a long series of rent control measures.

(a) *World War I and After*

The earliest legislation to be enacted after the start of the World War provided for a rent moratorium. This was the French decree of August 14, 1914, instituting a three months' moratorium. The moratorium was extended, quarter by quarter, until March 31, 1918, when it was superseded by a more comprehensive law. A moratorium was granted to tenants who had been mobilized, tenants in the war zone of northern and eastern France, and tenants of "small dwellings" throughout France, if the tenant was not able to pay. Evictions of course were prohibited. A more limited moratorium was adopted in Italy in 1915, and Greece took similar action in 1916.

The first comprehensive rent control law in Europe was the British Act of December 23, 1915, although Portugal had anticipated the British by a year with a more rudimentary decree.<sup>47</sup> A decree of the Moscow Prefect of Police, issued August 25, 1915, froze rents of certain accommodations, and this was copied in other Russian cities. A rent control law applying to the entire Russian Empire was promulgated on August 27, 1916. In the same year, 1916, rent restriction laws were adopted in Denmark, Norway, Rumania, Hungary, Croatia and Slavonia, and in the following year Austria, Italy, the Netherlands, Switzerland, Sweden and Germany joined the list. With the end of the war additional countries fell into line. Poland adopted a moratorium in December, 1918, and a rent law in 1919. Spain took action in 1919 and 1920. The new nations—Czechoslovakia, Finland, Yugoslavia—continued controls effective under their former rulers; Belgium, free of the German occupation, enacted legislation, as did Luxembourg. The early 1920's saw rent control laws enacted in Esthonia and Latvia.

Outside of Europe, controls were imposed by legislation in many of the British colonies—the Straits Settlements in 1917, the Federated

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<sup>46</sup> See Evatt, *A "Fair Rent" Experiment in New South Wales*, 2 J. COMP. LEGIS. & INT. LAW 10 (1920).

<sup>47</sup> Decree No. 1079 (Nov. 23, 1914), while rudimentary in form, is apparently the first modern rent control law. It provided that in renewing leases of urban properties whose rent fell within a certain range, the landlord might not increase the rent without the tenant's consent; that an increased rent might not be charged a new tenant, and that the landlord could not refuse to rent to a new tenant when the property became unoccupied, except in the case of urgent improvements to be made to the building.

Malay States and Bombay in 1918, others in 1920-1922.<sup>48</sup> South Africa enacted a rent law in 1920 and Queensland passed a "Fair Rent Act" in the same year. New Zealand as early as 1916 had enacted the first of a long series of rent laws. Of the British Dominions, Canada alone took no action at all; a bill was introduced in the Quebec legislature in 1921 but failed to pass. The French had imposed controls in West Africa in 1918; one of the first steps of the British conquerors of Egypt was the proclamation of rent restrictions, and rents were also regulated in Lebanon, Syria and Palestine while those areas were still occupied territories. In Latin America, Argentina, Brazil and Uruguay adopted rent control in 1921; Peru had preceded them by a year; Chile and Costa Rica took action later. The subject was mooted in Cuba but no legislation took shape. The states of Vera Cruz and Yucatan in Mexico passed rent laws in 1921 and 1922. Japan too enacted legislation in the latter year. The Italian territories of Libya and Tripolitania came under control in 1924. Agricultural rents were regulated in a number of countries along with commercial and residential rents.

In the United States, rent control came late and largely on a non-legislative basis. Bills to regulate rents were introduced in 1918, but no action was taken on them.<sup>49</sup> Except for legislation in a few states, cities and the District of Columbia, what controls were imposed were voluntary and based mainly on public opinion. The action "lacked comprehensive and well-thought-out plans and principles."<sup>50</sup> "Fair Rent" committees were set up in some 82 cities under the auspices of the Bureau of Industrial Housing and Transportation—later the United States Housing Corporation—and in other cities existing agencies handled complaints. The committees were composed of representatives of landlords, tenants, organized labor, and the general public, and they ranged in number from three to 45.<sup>51</sup> For the most part they had no legal powers and acted through arbitration, conciliation and the use of publicity; but profiteering landlords were also threatened with tax increases, expulsion from real estate boards, enforcement of health and building laws, and even with shutting off of fuel supplies in one city.<sup>52</sup> In spite of their limited powers the com-

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<sup>48</sup> Burma, Calcutta, Gibraltar, Nigeria, Mauritius, Trinidad in 1920; Hong Kong in 1921 and British Guiana, Gambia and Zanzibar in 1922.

<sup>49</sup> H.R. 12443, 12533 (65th Cong., 1918).

<sup>50</sup> NATIONAL DEFENSE ADVISORY COMMISSION BULLETIN No. 7, p. 3 (1941).

<sup>51</sup> REPORT OF THE U. S. HOUSING CORP. 109 (1920). For a full discussion of the work of these committees see this Report, *passim*, and Schaub, *Regulation of Rentals During the War Period*, 28 J. POLITICAL ECON. 1, 6 (1920).

<sup>52</sup> DRELLICH AND EMERY, RENT CONTROL IN WAR AND PEACE 16-20 (Nat. Muni. League, 1939).

mittees did valuable work during the war. It was hoped by some that they would be continued in the post-war era,<sup>53</sup> but most of them vanished soon after the Armistice.

The only significant legislation was that in New York and the District of Columbia.<sup>54</sup> While it has been said that there was no absolute housing shortage in New York but only a relative shortage of particular types of housing,<sup>55</sup> it is clear that there was insufficient housing; rents skyrocketed, complaints of profiteering multiplied, tenants were evicted wholesale. A dangerous condition of unrest developed, a general strike being threatened and at least one tenants' strike eventuating. A series of emergency rent laws for New York City were passed, to become effective in April, 1920, but they were inadequate. As the traditional October 1 "moving day" approached, riots and bloodshed were feared. Governor Smith called a special session of the legislature to strengthen the laws. They were further amended in 1921 and later extended to Albany, Troy, Schenectady, and some other cities. While they were not particularly well conceived,<sup>56</sup> the New York laws at least alleviated a bad situation.

The war, of course, was responsible for the housing shortage in Washington. A bill was introduced in 1918 which would have levied a 100% tax on income from real estate in the District in excess of the average rent in the year prior to September 1916, increased by 10%, or 10% of

<sup>53</sup> The Housing Bureau suggested that the Fair Rent Committees should be called Landlord and Tenant Committees and authorized to settle various disputes between landlords and tenants, but this was not done. Report, *supra* n. 51, at 106. See also Report, 109 (a New London newspaper suggested that there was every prospect that the idea of securing even-handed justice in the matter of rents by a committee of citizens would be expanded "perhaps to a degree that will eventually make it one of the most valuable adjuncts of American community life.")

<sup>54</sup> A Wisconsin law (Wis. Laws, 1920, c. 16) was held unconstitutional in *State ex rel. Milwaukee Sales & Investment Co. v. Railroad Commission*, 174 Wis. 458, 183 N. W. 687 (1921) because it applied only in Milwaukee.

A Los Angeles ordinance was also held unconstitutional. Ordinance No. 41,266 (New Series) (1921). See Drellich and Emery, *supra* note 52, at 42.

A Municipal Rent Commission was set up by ordinance in Denver. Ordinance No. 55 (1921).

New Jersey and Massachusetts passed laws similar to the New York laws. N. J. Laws of 1924, c. 69; Mass. Acts of 1920, c. 578.

See also ME. REV. STAT., c. 124, § 41 (1944).

<sup>55</sup> Whitman, *The Public Control of House Rents*, 1 J. LAND & PUB. UTIL. ECON. 343, 357 (1925).

<sup>56</sup> See Report of the Commission on Housing and Regional Planning, N. Y. LEG. DOC. No. 91, pp. 19, 27 (1925); In the Matter of 900 Michigan Avenue North Corp., 1 OPA Op. & Dec. 1402 (OPA, 1943, *aff'd sub nom.* Wilson v. Brown, 137 F.2d 348 (Em. C. A. 1943); Linowitz, *State Rent Control after Two World Wars*, 19 N. Y. STATE BAR ASSN. BULL. 10 (1947).

the assessed value of the property if it was not rented during that period.<sup>57</sup> The bill was not passed, but the Saulsbury Resolution, enacted on May 31, 1918,<sup>58</sup> froze existing tenancies. It was continued by further action on July 11, 1919. On December 1, 1919 the Resolution was held unconstitutional;<sup>59</sup> but in the meantime the Ball Rent Act<sup>60</sup> had been passed on October 22. The Act set up a commission to fix "fair and reasonable" rents and regulated evictions. It too was declared unconstitutional in the lower court, but the Supreme Court reversed this holding.<sup>61</sup>

If the history of rent control teaches any lesson, it is that once such controls have been imposed they are difficult to remove.<sup>62</sup> Country after country found this to be true in the 1920's. Rent control in almost every instance had been adopted as an avowedly temporary measure,<sup>63</sup> under laws of short duration, but in few cases did the legislators find it possible to dispense with controls as early as had been hoped.

The difficulty in dispensing with rent controls was not due solely to political considerations, although the political power of the tenant and working class did have much to do with it.

Tenant protection, which began as a war emergency measure, became of the first importance as an instrument of social welfare with which the countries shattered by war could not dispense after the conclusion of peace. This development was the outcome of its far-reaching effects on the standard of living of the wage earning classes.<sup>64</sup>

The control of rents resulted in a breakdown of the "normal", i.e., the pre-war price-rent relationship, so that to have "valorized" rents after

<sup>57</sup> H.R. 9248, 65th Cong. (1918).

<sup>58</sup> 40 STAT. 593 (1918).

<sup>59</sup> Willson v. McDonnell, 265 Fed. 432 (D. C. Cir., 1919), *error dismissed*, 257 U. S. 665 (1921).

<sup>60</sup> 41 STAT. 298 (1919).

<sup>61</sup> Block v. Hirsh, 256 U. S. 135 (1921), *reversing* Hirsh v. Block, 267 Fed. 614 (D. C. Cir., 1920).

<sup>62</sup> For a similar observation see HIRSCH, PRICE CONTROL IN THE WAR ECONOMY 257 (1942). See also the comment on the New Zealand fair rent act in 13 J. COMP. LEGIS. & INTL. LAW Pt. III, 95 (1931) that although the Act was then limited in its applicability, any attempt to repeal it met with "vigorous opposition from the champions in Parliament of the poorer classes of the community."

<sup>63</sup> The various English committees studying rent control have always gone on the principle that "control must come to an end some day" but this was questioned by dissenting members of the Ridley Committee (Sir Kingsley Wood and Mr. Walter E. Elliott, M.P.), who did not "accept the implication that control is, of itself, an evil the ending of which should be a sort of ideal of all right-thinking people. Frankly, we consider that control of some kind is desirable as a permanent feature of the housing service." Report of the Inter-Departmental Committee on the Rent Restrictions Acts, CMD. No. 5621 at 55 (1937).

<sup>64</sup> EUROPEAN HOUSING PROBLEMS 26 (I.L.O., 1923).

the end of the war would have put an intolerable burden on wage earners, whereas to have reduced wages by the difference between the valorized rent and the real rent would have reduced the general price level.<sup>65</sup> The longer the restrictions remained in force, the more difficult it became to abolish them.<sup>66</sup> As a result, about all that most countries could do was to follow a gradual "valorization" program allowing modest increases from time to time, while cutting down the scope of control by various decontrol devices—decontrol of geographical areas, of particular types of housing, of housing within specified rental ranges, of housing occupied by specified classes of tenants; or, as in England and Ireland, piecemeal decontrol of individual accommodations as the tenants vacated and new leases were made.

The speed with which and the extent to which rent controls could be relaxed depended largely on the general economic conditions in the country.<sup>67</sup> In those European countries which did not suffer badly from inflation, such as Great Britain, The Netherlands, Sweden, Denmark and Norway, controls were relaxed at a fairly early date, although even there some time had to be allowed to let rents get back into a more normal relationship with other prices. In Sweden the bill to continue rent control after October 1, 1923, was rejected by the Upper Chamber by a majority of one vote after prolonged debate, and controls ceased, although some provisions protecting tenants remained in force. In The Netherlands rents soon returned to normal and after 1923 controls were generally relaxed, on a geographical basis, until in 1927 all restrictions were removed. The period of decontrol was longer in Denmark. The Act of 1923 set up a complicated time schedule, based upon control by the local authorities and looking toward abolition of all restrictions by May 1, 1925 (May 1, 1926 in Copenhagen). However, these dates were subsequently extended and restrictions remained in effect in Copenhagen until 1931; a permanent law on rent profiteering was also kept in effect. In Norway controls were removed in many localities at an early date, and the existing restrictions were relaxed in various respects from time to time; in Oslo, however, controls were never entirely removed but a provisional restriction act, passed in 1935, was prolonged from year to year until the German occupation. Great Britain, while permitting certain increases, relied for a decade on the piecemeal system of decontrol

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<sup>65</sup> Pribram, *Financing of House Building in Countries with Rent Restriction Legislation*, 18 INT. LABOR REV. 360, 363, 370 (1928).

<sup>66</sup> Wright, *Housing Policy in Wartime*, 41 INT. LABOR REV. 3, 27 (1940).

<sup>67</sup> The following discussion is based chiefly on HOUSING POLICY IN EUROPE 9-15 (I.L.O. 1930).

of individual accommodations whenever the landlord obtained possession, introduced by the 1923 Act; in 1933 this was limited in application and the upper limits of control reduced drastically.<sup>68</sup>

Countries where inflation was fairly serious found a return to normal relationships more difficult. This was particularly true in Italy. A 1920 decree provided for gradual decontrol and rent increases over a three-year period, but it had to be rescinded, and leases were extended successively until July 1, 1922, 1923 and 1924. The decree of October 23, 1922, flatly stated that all rent restrictions would end on July 1, 1924, although extensions of leases in particular cases until June 30, 1926, might be ordered. When the Fascists came to power they advanced the date to July 1, 1923, but retained the provision for individual extensions, and even permitted extensions until 1928 in certain cases. Some controls actually remained in effect until the middle of 1930. France and Belgium retained controls indefinitely, although permitting certain increases and decontrolling some accommodations. Czechoslovakia, however, was able to relax controls to a considerable extent and to decontrol various classes of housing. Finland ended all restrictions by the beginning of 1924.

In Germany, Austria and Poland, where inflation reached astronomical heights, rents fell to purely nominal figures, so low in proportion to other prices as to be meaningless. Austria indeed gave up all hope of "valorizing" rents and permanently assumed the responsibility for providing housing;<sup>69</sup> the Austrian rent laws survived the Republican, authoritarian and Nazi periods and still flourish under the quadripartite administration. Some people credit the fall of Austria to the deadlock between the Socialists and the Conservatives over rents, housing and taxes.

In Bulgaria the rent laws were abrogated as of August 1, 1925, and while there was a great public clamor rents actually did not go up unduly.<sup>70</sup> Yugoslavia gradually cut down the scope of the law by decontrolling all but the larger cities, decontrolling various classes of accommodations and limiting protection to tenants who fell within certain categories. In Rumania control was gradually reduced until by 1930 only public functionaries, state agencies and poorer tenants were protected. Switzerland abolished all controls in 1925; Portugal planned to do so, but did not, although new construction was exempted and increases were allowed when there was a change in tenancy. In Spain, however, the rent laws were retained in force without

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<sup>68</sup> From £105 to £45 in London, £90 to £45 in Scotland and £78 to £35 elsewhere.

<sup>69</sup> Pribram, *Financing of House Building in Countries with Rent Restriction Legislation*, 18 INT. LABOR REV. 360 (1928).

<sup>70</sup> DANAILOV, LES EFFETS DE LA GUERRE EN BULGARIE 586 (1932).

much relaxation through the 1920's. Moreover, the Republican Government, "with its socialistic tendencies", made the laws permanent on December 29, 1931 "and increased their rigor to the point of veritable confiscation in some cases."<sup>71</sup>

Outside of Europe, also, controls lasted until the mid-twenties in many places—Bombay, Calcutta, Burma, Egypt, to name only a few. In Hong Kong the Government stated that controls would not be extended beyond 1923;<sup>72</sup> but they were extended. New Zealand and New South Wales kept their "fair rents" laws on a permanent basis, though with some relaxation;<sup>73</sup> South Africa also made its legislation permanent in 1924, although its actual application was limited. In Brazil, restrictions lingered in Rio de Janeiro until 1928.

In New York State the rent laws began to be narrowed down in 1926.<sup>74</sup> The extension of that year limited the applicability of the laws to Albany, Buffalo, Yonkers and New York City, and to apartments renting for less than \$20 per room per month in New York and \$15 in the other cities. The next year Albany and Yonkers were decontrolled and new leases exempted from regulation. The final extension, made in 1928, cut down the limits of control to apartments renting for \$10 or less per room per month in New York City and \$7 in Buffalo. After the laws expired in June, 1929, New York City attempted to continue controls by local ordinance, but this was held unconstitutional.<sup>75</sup>

The District of Columbia law had a more stormy history. The original Ball Rent Act of 1919, after having been held constitutional in *Block v. Hirsh*,<sup>76</sup> was extended and amended in 1921 and 1922, although not without a filibuster in the latter year which held up extension until the very day the Act was due to expire. In December 1923, bills were introduced to continue the Rent Commission indefinitely, and a bill to extend the Act to August, 1926, was reported out in April, 1924. In the same month, however, the Supreme Court in *Chastleton Corporation v. Sin-*

<sup>71</sup> 6 ENCL. UNIV. ILLUSTRADA (Appendix) 1250 (1932).

The history of rent control in the Soviet Union is an interesting story, but it will not be gone into here. See EUROPEAN HOUSING PROBLEMS 448-484 (I.L.O. 1923); HAZARD, SOVIET HOUSING LAW (1939).

<sup>72</sup> 6 JOURNAL OF COMP. LEGISL. & INTL. LAW 148 (1924).

<sup>73</sup> See Willis, "Fair Rents" Systems, 16 GEO. WASH. L. REV. 104 (1947).

<sup>74</sup> Villages in the County of Monroe were exempted by Laws of 1924, c. 6, Rochester already being exempt.

<sup>75</sup> *Gennis v. Milano*, 135 Misc. 209, 237 N. Y. Supp. 432 (Sup. Ct. App. Term, 1st Dept. 1929). As to decontrol in New York see also Havlik, *Recent History of the Control of House Rents*, 6 J. LAND & PUB. UTIL. ECON. 96, 100 (1930).

<sup>76</sup> See note 61 *supra*.

*clair*,<sup>77</sup> on the basis of its own knowledge of conditions in the District of Columbia, expressed doubt as to whether the emergency still existed, and remanded the case to the district court to determine whether, as a matter of fact, the emergency had ceased to exist *on the date of entry of the judgment appealed from*. Twenty-six days later, on May 17, 1924, Congress adopted a joint resolution extending the law until May 22, 1925, and declaring that the emergency still existed.<sup>78</sup> In spite of this Congressional declaration, the District of Columbia Supreme Court issued injunctions against the Rent Commission in numerous cases and finally, on November 3, 1924, in *Peck v. Fink*,<sup>79</sup> the Court of Appeals held that the Supreme Court in its decision in the *Chastleton* case had held that the emergency was at an end *as of the date of the Chastleton decision*. Certiorari was later denied. President Coolidge in December requested the chairman of the Rent Commission to draw a bill to continue rent control, and a bill to create a permanent commission was introduced and hearings held in January, 1925, but the attorney for the National Association of Real Estate Boards took so much time arguing the unconstitutionality of the bill that it was not reported out in time.<sup>80</sup> A bill was reported out in February to continue controls until May 22, 1927, but it was caught in the legislative log-jam prior to March 4 causing the law to officially expire on May 22, 1925.

It is interesting to note that the Argentine laws had an almost identical history. In its first decision, the Argentine Supreme Court held that the 1921 law was constitutional.<sup>81</sup> The court emphasized the temporary nature of the law. Three years later, however, the court struck down the law, saying that the regulation of rents had been tolerated by the courts solely because of the extreme economic oppression of tenants due to the absence of competition in housing and as a transitory measure, and that it could not be justified as a permanent thing, especially when the circumstances had changed. The court found as a matter of fact that the emergency conditions referred to in its earlier decision no longer existed and concluded that the law was no longer reasonable.<sup>82</sup> To make the parallel complete, the court cited the *Chastleton* case in support of its decision.

No survey of the 1920's would be complete without reference to some

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<sup>77</sup> 264 U.S. 543 (1924).

<sup>78</sup> 43 STAT. 120 (1924).

<sup>79</sup> 2 F.2d 912 (D. C. Cir. 1924), *cert. denied*, 266 U.S. 631 (1925).

<sup>80</sup> According to the REPORT OF THE DISTRICT OF COLUMBIA RENT COMMISSION, 34-35 (1925).

<sup>81</sup> *Ercolano v. Lanteri*, 136 S. C. N. 161 (1922).

<sup>82</sup> *Mango v. Traba*, 144 S. C. N. 219 (1925).

of the more sanguinary and riotous episodes of the period. In Vera Cruz the communistic Union of Revolutionary Tenants, under the leadership of a local agitator with the picturesque name of Herón Proal, declared a revolution against high rents and took over the city government, no rents being paid for fifteen months or more.<sup>83</sup> The Tenants Union in 1922 held a demonstration in Mexico City, asking a 75% reduction in rents. A tenants' strike was called in Panama City in 1925, riots resulted and United States troops came in to restore order, after which a commission was set up to adjust differences between landlords and tenants. Riots and strikes again broke out in 1932 and American intervention was almost necessary; this time a law was enacted. In Jerusalem in 1925 merchants closed their shops for a day in protest against high rents; ten years later they did it again because of the refusal of the Municipal Council to pass a rent ordinance such as had been enacted in Tel Aviv and Haifa. In Greece in 1927 the shopkeepers went on strike against a government proposal to raise rent ceilings and some people were killed.

It should not be thought that the 1920's were entirely a period of relaxation and abolition of rent restrictions. Controls were introduced in Malta in 1925, in Madagascar in 1927, in Karachi in 1929. San Luis Potosi, in Mexico, also enacted a law in 1925, as did Chile. However, these were isolated cases.

(b) *The 1930's: Depression and Prelude to War*

The depression gave rent control a new lease on life. Now the question was not one of preventing rent increases as much as of reducing rents. In 1931 and 1932 Germany reduced rents 10% and allowed tenants to break leases unless the landlord would agree to reduce the rent 20% below the legal maximum, with certain exceptions. Bulgaria in 1933 reduced commercial, industrial and professional rents 30% below 1929 levels; later this was made 40% and rents of new buildings reduced 20 or 30%. Mussolini in 1934 reduced residential rents 12% and rents of shops, offices, hotels, etc., 15%. The Laval government in France the following year reduced rents 10% in a move which has been termed "demagogic".<sup>84</sup> Poland also reduced rents in 1935. The Uruguay law of 1931 reduced rents 10% below August, 1931, levels; the Panama law of 1932 granted tenants in Panama City and Colon a moratorium of 15% to

<sup>83</sup> See a long story in the *New York Times*, July 8, 1923, § 7, p. 3, col. 4. Herón Proal died around 1942, abandoned and indigent. Information from Lic. Cesar Hernández Cardenas of Monterrey, N. L., Mexico.

<sup>84</sup> FRANCK, *FRENCH PRICE CONTROL* 12 (Brookings Institution 1942).

35%, depending on the amount of the rent, unless the landlord granted an outright reduction of 10% to 30%. Reductions in individual cases were provided for in laws enacted in Monaco, France and Belgium, applicable to commercial leases; similar laws were adopted in Australia and New Zealand.<sup>85</sup> The Tel Aviv Municipal Council initiated control of business and commercial rents in 1934. Devaluation in the gold bloc countries led the Swiss to reestablish controls in 1936.

The onset of World War II made itself felt at an early date. Germany in 1936 undertook to freeze rents. During the Civil War in Spain landlord and tenant relationships were frozen and rents of 201 pesetas a month or less were cut in two. The Chaco War necessitated rent restrictions in both Bolivia and Paraguay. The Fascist conquerors of Ethiopia lost no time in setting up local price control committees with power to revise rents of urban and rural buildings in order to "eliminate the hateful speculation which existed".<sup>86</sup>

In the less war-like, but nevertheless turbulent atmosphere of Washington, D. C., agitation for a revival of rent controls began as early as 1932.<sup>87</sup> Complaints were made that rents were not coming down rapidly enough at a time when government employees' pay was being cut. A Senate subcommittee investigated the situation and recommended some sort of action, although not a rent control law.<sup>88</sup> In 1934 the Public Utilities Commission made a report to Congress stating that rents in the District had declined less than almost anywhere in the country and were 20% above the United States average and too high.<sup>89</sup> The influx of new government employees and job-seekers made conditions worse than ever in 1935 and 1936.<sup>90</sup> A bill introduced in 1935 would have frozen tenancies for a two-year period with certain exceptions, but no action was taken on it.<sup>91</sup> In 1936 a bill to set up a rent commission was reported out, although it had been disapproved by the Budget Bureau and the District Commissioners. It was defeated in the House.<sup>92</sup>

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<sup>85</sup> See Willis, *Rent Reduction Laws*, 22 So. CAL. L. REV. 16 (1948).

<sup>86</sup> Decree della Governatore Generale No. 142 (1936).

<sup>87</sup> The agitation was pushed mostly by labor and employees of New Deal agencies, according to Lusk, *REAL ESTATE RECORD*, Feb. 15, 1936, p. 45.

<sup>88</sup> See SEN. RES. No. 248, 75 CONG. REC. 14003 (1932); Speech by Senator Capper, 77 CONG. REC. 1174-1177 (1933).

<sup>89</sup> SEN. DOC. No. 125, 73d Cong., 2d Sess. 19-21 (1934). The Commission had mediated some disputes between landlords and tenants under authority of a Senate Resolution. *Ibid.*, 30-31.

<sup>90</sup> H. R. No. 2137, 74th Cong., 2d Sess. 2, 3 (1936); see speech by Rep. Ellenbogen, 79 CONG. REC. 7686 (1935).

<sup>91</sup> H. J. RES. 150, 74th Cong., 1st Sess. (1935), introduced by Rep. Dirksen.

<sup>92</sup> H. R. 11563, 74th Cong., 2d Sess. (1936); see H. R. REP. No. 2137, 74th Cong., 2d Sess. 1-9 (1936); 80 CONG. REC. 5651 (1936).

*(c) World War II*

When World War II finally broke out most European countries were prepared for it as far as rent control was concerned. A good many of them already had controls in effect; these were strengthened. In Great Britain, for instance, the law of September 1, 1939, froze practically all residential rents, whether or not the particular accommodations had ever been subject to regulation under previous laws or had been de-controlled. Outside of Europe, Australia, Costa Rica and Nicaragua took action in September, 1939. Even before the war began, Cuba had enacted a rent control law in March, 1939; on the other side of the world, the Portuguese colony of Macao restricted rents in the same month; Hong Kong had imposed limited controls in 1938. South Africa revived and amended its laws in 1940; Canada began to regulate rents in 1941. The Japanese laws dated from 1939 or earlier.

In the United States, rent control came gradually. In New York City a housing shortage had begun to appear as early as 1936,<sup>93</sup> and a rent restriction bill was introduced in the New York legislature in March 1940.<sup>94</sup> However, it did not draw support. The National Defense Advisory Commission early recognized the relationship of rents to the defense program, but it did not recommend a general policy of rent control, saying that

Rent control is recognized as undesirable from the point of view of both landlord and tenant and should therefore be resorted to only when new construction is not sufficiently rapid and extensive to meet the need and where local communities can find no other means to check a disastrous rise in rents.<sup>95</sup>

The Commission specifically did not recommend direct intervention by the federal government, stating that rent problems were chiefly local and should be the immediate concern of the states and municipalities,<sup>96</sup> and it published a draft of a model state rent control law.<sup>97</sup> On both these points the federal government's thinking soon suffered a sea change, however; before long rent control was regarded as essential and federal regulation as the only adequate method of control.

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<sup>93</sup> REPORT OF THE JOINT LEGISLATIVE COMMITTEE TO RECODIFY THE MULTIPLE DWELLING LAW (1946). The shortage, which was attributed to a ten-year decline in construction beginning in 1930, was concealed by doubling up of families during the depression.

<sup>94</sup> S. I. 2111; see also A. I. 355, 356. The bill is discussed in Note, 50 YALE L. J. 176 (1940). It was drafted by the Citizens Housing Council of New York and the bill as introduced was a verbatim reproduction of the draft even to the inclusion of a footnote referring to a "preliminary statement".

<sup>95</sup> N. D. A. C. CONSUMER DIVISION BULLETIN No. 7, pp. 1, 2 (Jan. 7, 1941).

<sup>96</sup> *Ibid.*, at 9, 10.

<sup>97</sup> N. D. A. C. CONSUMER DIVISION BULLETIN No. 10 (March 15, 1941).

In April, 1941, President Roosevelt directed the Office of Price Administration and Civilian Supply (OPACS) to "develop programs with the object of stabilizing rents",<sup>98</sup> and that body immediately set about organizing local voluntary "fair rent" committees similar to those in existence after World War I.<sup>99</sup> Statutory authority for federal control was soon sought, however, and on July 30 the President sent a message to Congress proposing a price- and rent-control statute, saying that

. . . we are already confronted with rent increases ominously reminiscent of those which prevailed during the World War. This is a development that must be arrested before rent profiteering can develop to increase the cost of living and to damage the civilian morale.

Separate legislation for the District of Columbia was also proposed, and hearings dragged on during the summer and fall of 1941. In the meantime fair rent committees were formed in some 210 communities, but while they did accomplish something, the lack of statutory authority to prevent evictions hampered them.<sup>100</sup> The hoped-for state and local action simply did not materialize; only Virginia passed a law, and it was never brought into effect. The District of Columbia statute was enacted on December 2, 1941. After Pearl Harbor national price control could no longer be delayed; the Emergency Price Control Act became law in January, 1942, and the first steps to control rents on a federal basis were taken in March, when a large number of "defense-rental areas" were designated for possible federal control if adequate local action was not taken within the statutory sixty-day period. Federal regulation became an actuality in July, 1942, and spread rapidly; while three areas were decontrolled in 1943, this fact was of little consequence compared to the extension of control. By January, 1945, Scranton, Pennsylvania, was the only city of more than 100,000 population not under control, and there were only six cities of more than 50,000 population; as of March 31, 1945, areas with a population (1940 census) of 93,000,000 were under control. The entire country had been designated for potential control in October, 1942,<sup>101</sup> although some sections were never brought under the regulations.

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<sup>98</sup> Exec. Order No. 8734, § 2(g), 6 FED. REG. 1917 (1941).

<sup>99</sup> See OPACS CONSUMER DIVISION, ORGANIZATION OF A FAIR RENT COMMITTEE (May 1941); OPACS PRICE DIVISION, ORGANIZATION OF A FAIR RENT COMMITTEE (1941); OPA PRICE DIVISION, RENT SECTION, FAIR RENT BULLETIN No. 1 (Oct. 1941).

There was apparently a struggle for power over rents between the Consumer Division and the Price Division of OPACS, with the latter winning out.

<sup>100</sup> OPA, FIRST QUARTERLY REPORT 50 (1942); Borders, *Emergency Rent Control*, 9 LAW & CONTEMP. PROB. 107 (1942); Winnett, *Rent Control—The Philadelphia Experiment*, 14 PA. B. A. Q. 74 (1942).

<sup>101</sup> This was done pursuant to a letter addressed by the President to Leon Henderson on

A few localities passed rent control ordinances after enactment of the Emergency Price Control Act, but except for the case of Flint, Michigan, these were all superseded eventually by OPA regulation. Honolulu, however, maintained local control throughout the war and post-war period under an ordinance enacted just after Pearl Harbor. A number of states later passed stand-by laws to go into effect in the event of termination of federal controls,<sup>102</sup> but except in the case of Wisconsin, Puerto Rico, and the New York City local laws there was no attempt to supplement federal control. Some cities attempted to control hotel rents after federal decontrol in 1947; the Chicago ordinance was held to be void.<sup>103</sup>

Commercial rents were never controlled in the United States except by state legislation in New York and by territorial action in Puerto Rico and Hawaii. A bill to give the President power over commercial rents was introduced in October, 1942,<sup>104</sup> passed the House, but died in the Senate. Commercial rent regulation was later urged by several successive Price Administrators, was advocated by some members of Congress, and was studied by a number of Congressional committees, but no legislation ever developed. Proposals to freeze commercial rents in the District of Columbia similarly made no progress.

The subsequent history of rent control in the United States is well known and needs no further discussion here.<sup>105</sup>

In Canada also, rent regulation began modestly with fifteen areas being brought under control in October, 1940. Other areas were added later and in November, 1941, with the adoption of a general price ceiling, controls were extended to the entire Dominion. Both residential and commercial rents were regulated, as well as hotel rates. Australia at first attempted to leave rent control to the states, but after the change of

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October 3, 1942, upon the signing of the Stabilization Act of 1942, in which he said, "That part of the nation which has not yet been designated within defense rental areas should now be so treated. We should make no distinction between city and country residents as to their participation in the total war effort . . . our rural population equally deserves to have its rents stabilized. I wish you would immediately issue appropriate orders to prevent rent increases on urban and rural dwellings. . . ."

<sup>102</sup> See Willis, *The Virginia Emergency Fair Rent Act of 1947*, 33 VA. L. REV. 395 (1947); Willis, *State Rent-Control Legislation, 1946-1947*, 57 YALE L.J. 351 (1948).

<sup>103</sup> *Ambassador East, Inc. v. City of Chicago*, 399 Ill. 359, 77 N. E. 2d 803 (1948).

<sup>104</sup> H.R. 7695, 77th Cong., 2d Sess. (1942), H. R. REP. 2568, 77th Cong., 2d Sess. (1942).

The hearing before the House Banking and Currency Committee in connection with H.R. 7695 was completed in a single morning. Only the newly-appointed Director of Economic Stabilization, James F. Byrnes, testified, and no one present was aware that OPA had authority to control hotel rates under existing legislation and was in fact controlling them.

<sup>105</sup> See Willis, *The Federal Housing and Rent Act of 1947*, 47 COL. L. REV. 1118 (1947).

government in 1941, federal control of evictions was brought into effect in all states and control of rents in all but two states.

As the war progressed, rent control spread to almost every corner of the globe. The all-pervading effects of World War II are clearly apparent in the way belligerents and neutrals alike found it necessary to restrict rents and evictions. While rent control after World War I was limited in its application, by 1946 legislation had been adopted in every country of Europe, from the great powers down to Liechtenstein and San Marino; in most parts of Asia Minor as well as in India, Japan, Siam and parts of China; in every nation of Latin America save only Honduras;<sup>106</sup> and even in such remote places as British Baluchistan, Borneo, Sarawak, Uganda, and Nyasaland.<sup>107</sup> For the most part of course this was done by legislation or governmental fiat, but in one instance the courts assumed the authority to limit rent increases. When Franco's troops occupied the International Zone of Tangier in 1940 and the Legislative Assembly was dissolved, the Mixed Tribunal determined to hold rent increases down to 25%, and fixed an exchange rate for conversion from francs to pesetas. A statute was finally passed in 1946. The little Channel Island of Guernsey passed a rent ordinance under the German occupation; rents in Manila were controlled by the puppet government under the Japanese.

With the ending of hostilities and the return to a somewhat more normal existence, some relaxation of controls has been possible in other countries as in the United States, although as far as the writer knows no country has yet terminated controls entirely. Canada has perhaps gone as far as any major country in allowing rent increases and decontrolling particular classes of accommodations. France has had a particularly difficult time because of the fairly rigid rent control which it had maintained ever since World War I. The French experience has been held up as a horrible example by opponents of rent control.<sup>108</sup> While the relevance of that experience to conditions in this country may be questioned, the basic facts cannot be, because they have been affirmed in an official report of the French government. The report noted that

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<sup>106</sup> El Salvador, in 1946, was the last. Mexico did not adopt national controls, but rents were regulated in the Federal District and territories and several states passed their own laws.

Colombia attempted to drop rent controls in 1945, when all price controls were abandoned on the death of the price administrator, but was forced to reinstate them a few months later.

<sup>107</sup> See the list at the end of this article.

<sup>108</sup> See *NO VACANCIES* by Bertrand de Jouvenel, an attractively printed brochure published by the Foundation for Economic Education in October, 1948, and reprinted in *Reader's Digest* and in various real estate journals (including *PROPIEDAD*, official organ of the *Camara de Propietarios de Bienes Raices del Estado de Nuevo Leon (Mexico)*).

. . . pressed by developments, the legislator has not had the time to orient himself toward new solutions and has had to limit himself to employing the easiest and most rapid method, consisting of maintaining the tenants in their holdings and regulating the rent. This system, destined to protect tenants against the difficulties resulting from the first World War, the economic crisis and the war of 1939, has not ceased to increase the dis-equilibrium between charges and services.

Taking 1914 as 100, rents in March, 1948, had reached the figure 680, but maintenance costs were up to 10,584!

Whatever may be the value of the principle of taxation, one can say that the legislator here has made an abusive application of it in maintaining such a disproportion. Disproportion which has implanted itself in the customs of the French, who now have the habit of employing only a feeble part of their revenues for lodging. . . .

—hardly 2%, compared to 15% or 20% in 1914.<sup>109</sup> In the law of September, 1948, the French attempted an entirely new system of fixing rents. The system is incredibly complicated,<sup>110</sup> and how well it will work is yet to be seen.

England and Ireland also experienced difficulty because of hit-and-miss nature of their legislation. The piecemeal decontrol of housing during the 'twenties and 'thirties, the recontrol of decontrolled housing and the imposition of ceilings at the outbreak of World II on rents which had never been controlled, and particularly the continued attempt to fix rents by reference to rents on a date far back in the past—August 3, 1914—led to impossible anomalies. Ireland has started over again with a new act, legalistic and difficult to comprehend, but Britain as yet has made only a token revision of its legislation.

The countries ravaged by the war, of course, have also had troubles. In Greece, during the Axis occupation, rents were held down until they represented only the value of a few packages of cigarettes in 1944. The authorities delayed readjustment because it was felt that owners were better able to face the effects of inflation than small salary- and wage-earners. Rumania in stabilizing rents in 1946 provided for multiplying the preceding year's rent by two, three, five, fifteen or twenty, depending upon the use of the property and the nature of the tenant. Even before the end of the war, allowable increases in the Near East—Egypt, Syria and Lebanon—ranged from 50% to 200%, while in Nanking and Shanghai the maximum rent in 1946 was sixty times the pre-war rent, and fantastic premiums or "key money" were charged.<sup>111</sup>

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<sup>109</sup> *La Crise du Logement et la Legislation des Loyers*, NOTES DOCUMENTAIRES ET ETUDES, No. 1028, p. 4 (Direction de la Documentation, Paris, December 1, 1948).

<sup>110</sup> See Willis, *Some Miscellaneous Methods of Fixing Rents* (to appear in another law review).

<sup>111</sup> See Willis, *Some Oddities in the Law of Rent Control*, 11 U. PITTS. L. REV. 609 (1950).

Special problems have arisen in countries operating under a federal system. The United States Congress twice decided against letting individual states take over residential controls;<sup>112</sup> eventually it did make provision for this,<sup>113</sup> but aside from New York and Wisconsin no state undertook the burden of maintaining rent ceilings, although some of them, and a good many subdivisions, terminated controls entirely under the "local option" provisions of the Act. The Supreme Court in 1948 and again in 1949 upheld the constitutionality of continued federal control.<sup>114</sup> The Canadian Government in 1948 offered to turn over rent control to any province which wished to enact its own legislation, even to make available to the province the staff administering rent control within the province and to recommend to Parliament that it finance the operation of the controls for a year, but not until 1950 did any province accept this offer,<sup>115</sup> and then only one, Saskatchewan. The continued control of rents by the Dominion government was held valid by the Supreme Court in an advisory opinion handed down March 1, 1950.<sup>116</sup> Australia, which had at first left rent control to the states and later federalized it, in 1946 decided to continue control on a basis of Commonwealth and complementary state legislation. Such legislation was enacted in all states, but its continuance was doubtful, as was the constitutionality of future Commonwealth rent control. A referendum was therefore held, in May 1948, on the question whether the Constitution should be amended to give the Commonwealth government permanent powers over rents and prices, but the proposal lost in every state, nearly 58% voting against it. Commonwealth control was terminated shortly thereafter and the matter thrown back in the laps of the states. In Mexico, rent control laws enacted in the states of Tamaulipas and Nuevo León and by the National Congress in its capacity as the local legislature of the Federal District were

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<sup>112</sup> See Willis, *The Federal Housing and Rent Act of 1947*, 47 *COL. L. REV.* 1118, 1158-9 (1947).

States, of course, were free to adopt ceilings on commercial rents (see text accompanying n. 104, *supra*) but New York was the only state to do so, along with Hawaii and Puerto Rico. The argument that the New York laws were unconstitutional because the matter was properly one for the federal government, and because the laws constituted a burden on interstate commerce, was rejected. *Kuperschmid v. Globe Brief Case Corp.*, 185 *Misc.* 748, 58 *N. Y. S. 2d* 71 (Sup. Ct., App. Term, 1st Dept. 1945).

<sup>113</sup> *Housing and Rent Act of 1947*, § 204(j) as added by *Housing and Rent Act of 1949*. *Pub. L. No. 171*, 81st Cong., 1st Sess. c. 338 (1949).

<sup>114</sup> *Woods v. Cloyd B. Miller Co.*, 333 *U.S.* 138 (1948); *United States v. Shoreline Coop. Apts.*, 338 *U.S.* 897 (1949) (per curiam).

<sup>115</sup> Newfoundland, on becoming a province of Canada, had retained its own statute.

<sup>116</sup> In the matter of a Reference as to the Validity of the Wartime Leasehold Regulations, *P. L. 9029*, (1950) *S. C. R.* 124-167.

held unconstitutional because under Article 27 of the Mexican Constitution only the federal government may impose restrictions on private property;<sup>117</sup> but because of the peculiar Mexican system of judicial review these decisions did not have general effect but applied only to the parties to the proceedings.<sup>118</sup>

The nature of the various rent control laws of course cannot be gone into in this article.<sup>119</sup> It should be pointed out, however, that "rent control" as used herein, comprehends control of evictions as well.<sup>120</sup>

#### IV. CRITICISMS OF RENT CONTROL

Rent control has been subjected to as much criticism, vilification and abuse as almost any type of social legislation. Some of the criticism is valid; some of it is pure claptrap. The writer does not propose to attempt to assay the merits and demerits of the various arguments,<sup>121</sup> but merely to set them forth here in rather summary form, followed by quotations of some of the more colorful attacks upon the idea. The arguments in favor of rent control have been outlined in the first part of this article.

Probably the most persistent argument against control is that it stifles new construction.<sup>122</sup> If returns from rental property are held below the

<sup>117</sup> Decision of the Supreme Court of Justice, Dec. 12, 1938; *id.*, March 11, 1946; Decision of the Juzgado Primero de Distrito del Distrito Federal en Materia Administrativa, Amparo No. 269/48 (1948). The first two decisions were based on other grounds as well.

<sup>118</sup> Under the Mexican Law of *Amparo*, a decision holding a law unconstitutional is binding only on the parties. Five successive decisions to the same effect constitute *jurisprudencia*, binding on lower courts, if concurred in by at least eleven justices of the Supreme Court, or four justices in the case of decisions by a division (*sala*) of the Court. Nueva Ley de Amparo, Arts. 76, 192-194; Constitution, Arts. 103, 107; TENA RAMIREZ, DERECHO CONSTITUCIONAL MEXICANO, 418, 433 (1949).

<sup>119</sup> In 1923 it was said that "the vast complexity of the restrictions, authorizations, regulations, etc. . . . make any brief and comprehensible survey impossible". EUROPEAN HOUSING PROBLEMS 25 (I.L.O. 1923). This statement referred to the legislation to that date in some seventeen European countries. Since then the mass of "raw material" on the subject has increased a thousandfold or more.

For discussion of some of the aspects of rent control see Willis, "Fair Rents" Systems, 16 G. WASH. L. REV. 104 (1947); *Rent Reduction Laws*, 22 SO. CAL. L. REV. 16 (1948); *Maximum Rents—The Percentage Method*, 23 TEMP. L.Q. 122 (1949); *Rent Control—The Maximum Rent Date Method*, 98 U. PA. L. REV. 654 (1950); *Some Oddities in the Law of Rent Control*, 11 U. PITTS. L. REV. 609 (1950); *Some Miscellaneous Methods of Fixing Rents* (to appear in another law review).

<sup>120</sup> A few countries and localities have attempted to control rents without controlling evictions, but almost all have found it impossible.

<sup>121</sup> Cf. THIRIOREAU LA LÉGISLATION MAROCAINE DES LOYERS 27 (1944) (" . . . nous nous garderons bien de descendre dans l'arène ou même le pèlerin de la paix y recevrait des coups!")

<sup>122</sup> See, e.g., EUROPEAN HOUSING PROBLEMS 34 (I.L.O., 1923); HOUSING POLICY IN EUROPE 8 (I.L.O., 1930); Pribram, *supra* note 69; Wright, *supra* note 66; *La Crise du*

return from comparable investments, capital for new building—at least for rentals—is not likely to be forthcoming. The exemption of new construction from regulation does not meet this objection.<sup>123</sup> Some say this is because builders fear that the exemption may be withdrawn at a later date,<sup>124</sup> as indeed it may be,<sup>125</sup> but this argument is too simple;<sup>126</sup> the fact is that, at least where rents are strictly controlled in relation to other elements of the economy, the relationship between the average tenant's income and his expenditure on rent varies radically from the previous norm, so that such an average tenant, subject to a wage scale based on the demands of a majority of the working class, cannot afford to pay the rent which the builder must charge to recoup his investment.<sup>127</sup>

Another argument of course is that rent control drives housing off the rental market.<sup>128</sup>

These two objections give rise to a third: that rent control leads to large public housing programs.<sup>129</sup> Whether this is a matter for criticism or not depends on the point of view of the reader.

Another telling criticism, put forward by disinterested observers<sup>130</sup> as well as by the real estate interests,<sup>131</sup> is that rent and eviction control

*Logement et la Législation des Loyers*, NOTES DOCUMENTAIRES ET ETUDES, No. 1028, p. 5 (Direction de la Documentation, 1948); SENATE SMALL BUSINESS COMMITTEE, SUB-COMMITTEE PRINT No. 15, 79th Cong., 2d Sess. (1946). *But cf.* Report of the Inter-Departmental Committee on the Rent Restrictions Acts, CMD. No. 3911 at 52 (1931), with which *cf.* Report of the Inter-Departmental Committee on Rent Control, CMD. No. 6621 at 9-10 (1945).

"The policy of the statute is a matter for Parliament and not for me, but those who ask for and pass such legislation should not be surprised if, as one of the effects, existing houses are not let but only offered for sale, and no fresh houses are built by private enterprise." *Remon v. City of London Real Property Co.*, 1 K. B. 49, 59 (C. A. 1921).

<sup>123</sup> In both England and Ireland most construction between World Wars I and II was for sale and not for rental. Report, CMD. No. 3911 at 24 (1931); REPORT OF THE TOWN TENANTS TRIBUNAL (Separate Report of Mr. Herlihy) 148 (Dublin, 1941).

<sup>124</sup> Herlihy, *supra* note 123, at 160-61.

<sup>125</sup> Post-World War I construction was brought under control in England and Ireland with the outbreak of World War II.

<sup>126</sup> Mr. Justice Black, REPORT OF THE TOWN TENANTS TRIBUNAL, *supra* note 123, at 97-98.

<sup>127</sup> EUROPEAN HOUSING PROBLEMS 34 (I. L. O., 1923); HOUSING POLICY IN EUROPE 8 (I. L. O., 1930).

<sup>128</sup> *E.g.*, Weimer, BARRON'S, p. 20 (Sept. 22, 1941); NAT. REAL ESTATE JOURNAL 9 (August 1941).

<sup>129</sup> WILL UNITED STATES RENT CONTROL FOLLOW EUROPEAN PATTERN? (pamphlet issued by Building Products Institute, Washington, D. C., 1947).

<sup>130</sup> EUROPEAN HOUSING PROBLEMS 38-39 (I. L. O. 1923); Wright, *The Place of Housing Policy in War Economy*, STUDIES IN WAR ECONOMICS 130 (I. L. O. 1941); Wright, *supra* note 66 at 16 (1940); Wright, *Housing Policy in Wartime Construction*, 45 INT. LABOUR REV. 245, 255 (1942); *La Crise du Logement et la Législation des Loyers*, *supra* note 122.

<sup>131</sup> Washington Post, April 14, 1946, p. 5R. This argument, in its cruder form, was harshly criticized in an editorial in the Washington Daily News.

interfere with the natural processes of adjustment of the use of housing to the income and needs of the tenant.

The compulsion to which every individual is subject, in normal economic conditions, to bring his consumption into relation with prices and income no longer applies to housing, because it costs the occupier comparatively little, and sometimes almost nothing at all, while any change of dwelling or removal involves extra expenditure.<sup>132</sup>

Tenants therefore continue to occupy apartments larger than they need after their families have decreased in number; this results in a form of hoarding of space, which in many countries brought forth further government intervention in the nature of rationing or requisitioning of housing.<sup>133</sup> This freezing of the tenant population, which the French have termed "the incrustation of tenants", also has undesirable results in hindering the free movement of population as employment and other conditions change, and may induce people to stay in congested areas who otherwise would move out.<sup>134</sup> And while rent and eviction control may benefit those who have a place to live, it is of less assistance and may even be a hindrance, for the reasons just stated, to those who do not.<sup>135</sup>

By throwing out of balance the relationship between rents and other items of the budget, rent control is also said to hinder the increase of nominal wages, thus working a discrimination against young working-class families without their own homes.<sup>136</sup> More specious is the contention that

The Rent Acts tend to foster disregard of the binding nature of a contract, in that they encourage a tenant to obtain possession by promising payment of a higher rent, and then immediately to repudiate his word and claim the benefit of the Acts in a way in which few gamblers would plead the Gaming Acts.<sup>137</sup>

or the proposition that for the state to abrogate the principle that no one shall use a house without the owner's consent, where a merely private interest is involved,<sup>138</sup> violates the commandment "Thou shalt not

<sup>132</sup> EUROPEAN HOUSING PROBLEMS 38 (I. L. O. 1923).

<sup>133</sup> *Id.* at 38 *et seq.*

<sup>134</sup> HARDY, WARTIME CONTROL OF PRICES 206-207 (1940); Pribram, *supra* note 69 at 361.

<sup>135</sup> Wright, *supra* note 66.

<sup>136</sup> Wright, *The Place of Housing Policy in War Economy*, STUDIES IN WAR ECONOMICS 130 (1941).

<sup>137</sup> Council of the Law Society, Memorandum submitted to the Inter-Departmental Committee on Rent Control, p. 1 (1944). Mr. Justice Black cannot agree with this argument. REPORT OF THE TOWN TENANTS TRIBUNAL 79-80 (Dublin, 1941).

<sup>138</sup> Of course, it is not a matter of mere private interest, as Justice Black points out, *id.* at 95-96 ("... one of the strangest ideas that found vent in the discussion of this subject

steal."<sup>139</sup> Both arguments, however, have been advanced by respectable authorities.

Rent control has been blamed for the Fall of France, the fall of the democratic government of Austria, the decrease in birth rate,<sup>140</sup> and a good many other things.<sup>141</sup> Many of the charges generate more heat than light, such as "that the people who favor rent control are all Communists or Socialists at heart";<sup>142</sup> a few quotations will give the flavor.<sup>143</sup>

. . . rent control was one of the first stepping stones used by nations of the world now experiencing state socialism . . . rent control is one of the salient planks of the Communist Party here in America. . . .<sup>144</sup>

#### WHY RENT CONTROL SHOULD END

1. Because it is unchristian, un-American, and unconstitutional.
2. Because it is against God and the Bible.
3. Because it is atheist and Communist in origin.
4. Because it is unfair, unjust and discriminatory.
5. Because it is arbitrary and unprincipled and unbusinesslike.
6. Because it is dictatorial and tyrannical.
7. Because it is basically and fundamentally wrong. It makes orphans out of the tenants and slaves out of owner.
8. Because control has failed in England, France and Russia and everywhere else that it has been tried.
9. Because it destroys the incentive for industry and sacrifice to save.

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was the theory that rent control is a mere matter of the private interest of the individual as distinct from being a matter of public interest. . . . If the imposition of rents, which might cause serious hardship to scores of thousands of families living in controlled houses, would not raise a question of public, as distinct from merely private, interest, it is hard to imagine what a question of public interest can mean at all.")

<sup>139</sup> Separate Report of Mr. Herlihy, *Id.*, 145-151. Mr. Herlihy relied heavily on the Catechism. One may wonder what he would think of the Papal laws on rent control, discussed *supra*, Part II.

<sup>140</sup> Wright, *supra* note 66 at 17.

<sup>141</sup> Rent control causes subleasing, evasions and need for policing, bribery of officials, reduction of services by landlords, etc. Weimer, *BARRON'S*, Sept. 22, 1941, p. 20; *NAT. REAL ESTATE JOURNAL*, August, 1941, p. 9.

<sup>142</sup> This charge has been made, in print, and in earnest. Cf. a dispatch from Rome by Arnaldo Cortesi, *New York Times*, July 17, 1927, § 2, p. 6, col. 6 (Italian decrees "arbitrarily" fixing a limit on rents and forbidding evictions are in agreement with the Fascist idea of private property, *i.e.* that people hold their property on behalf of the state; of course, rent control in Italy antedated Fascism, and the Fascist government relaxed controls.)

<sup>143</sup> Quotations from the Congressional Record could be multiplied; they have been mostly omitted here because of their proliferation if for no other reason.

*Cf.* Hilley, *Rent Control—A Menace to Freedom!* 12 GA. B. J. 153 (1949).

Rent control is an emotional subject but the prize for going far afield probably belongs to the Spanish Minister of Justice, whose discourse introducing the new Spanish law in 1946 turned into a panegyric of the Franco movement and an attack on "international combinations" with the members of the Cortes rising and shouting "Viva Franco!"

<sup>144</sup> Memorial of the Utah Legislature, 95 CONG. REC. 1525 (1949).

10. Because it makes demagogues out of politicians and parasites out of the tenants.

11. Because it encourages the spendthrift spirit and destroys individual initiative.

12. Because it puts control in the hands of the politicians and destroys American statesmanship and high principles.

13. Because control destroys the American way of life to gain for which our forefathers fought and died.

14. Because it discourages the tenant from standing on his own feet in meeting life's issues on the square.

15. Because it gives more money to the tenant to buy whiskey, to gamble, and to throw to the wind.

16. Because it makes an object of charity out of the tenant when the landlord is forced to pay part of his rent.

17. If the poor people need help let's take it out of all the tax-payer's pocket, and not force the property owner to shoulder the whole load.

18. Finally because there is no need for rent control as there are many houses and apartments vacant and without tenants.<sup>145</sup>

This proposed measure [to continue rent control] is drawn with devilish cunning and had its origin in the minds of men who hate our free institutions. It is shrewdly drafted and designed to give the Government power over the property of our citizens, and thereby give it power over the lives of our people. . . . The act is more Russian than it is American. . . . It is un-American. It is everlastingly wrong.<sup>146</sup>

No words can adequately portray the serious damage which rent control is causing to our economy, or the injustices which this socialistic device has wrought upon our people . . . . It cannot be too strongly emphasized that rent control is a purely socialistic device. It definitely confiscates private property. . . . Mark well the crucial fact that rent control expropriates the fruits of the labor of one class of our citizens ostensibly for the benefits of another class, which follows the Marxian formula for destroying freedom and the right of every person to enjoy the fruit of his own labor, and substituting therefor total socialism—that is, unlimited plunder by the political authority of the producing element of the population. . . .<sup>147</sup>

Have conditions come not only to the District of Columbia, embarrassing the federal government, but to the world as well, that are not amenable to passing palliatives, and that socialism, or some form of socialism, is the only permanent corrective or accommodation?<sup>148</sup>

. . . at their most divergent points the differences of the Republican and Democrat members of the Committee [New York State Joint Legislative Committee on Rents] represent the principles of free enterprise upon which the success of our governmental system rests and the theory of collectivism advocated by the disciples of Karl Marx.<sup>149</sup>

<sup>145</sup> Statement by the Property Owners Council, Nashville, Tenn., inserted in the Congressional Record (95 CONG. REC. A1469 (1949)) by Rep. Rich of Pennsylvania.

<sup>146</sup> Speech of Rep. Jennings of Tennessee, 95 CONG. REC. 2310-2311 (1949).

<sup>147</sup> Rep. Smith of Ohio, Minority Views to accompany H. R. 1731, H. R. REP. NO. 215, Pt. 2, 81st Cong., 1st Sess. 1, 2 (1949).

<sup>148</sup> McKenna, J., in *Block v. Hirsh*, 256 U.S. 135, 162 (1921).

<sup>149</sup> N. Y. LEGIS. DOC. NO. 55 at 17 (1947). Compare Mr. Joseph H. Choate's argument that the income tax law was "communistic in its purposes and tendencies" and was defended

Rent control laws have also been criticized on purely juridical grounds. Mr. Justice McKenna complained that the Ball Rent Law was "contrary to every conception of leases that the world has ever entertained, and of the reciprocal rights and obligations of lessor and lessee."<sup>150</sup> Along the same line, the Belgian Minister of Justice said in 1922 that "In its entirety, from one end to the other, the statute overthrows the rules of law."<sup>151</sup>

Rent control laws have come in for a good deal of further criticism from judges, not on their merits but because of their draftsmanship. Laws of this sort should be written with particular clarity, since they are intended to protect people who cannot afford lawyers,<sup>152</sup> and also because they affect many small landlords who are in no better a position. Unfortunately, this precept is frequently not heeded. Rent control laws are often drafted in haste and without opportunity for careful study.<sup>153</sup> Then, since they are regarded as temporary, they are left in a make-shift state even though, as things turn out, it may be years before controls are lifted.

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upon principles "as communistic, socialistic—what shall I call them—populistic as ever have been addressed to any political assembly in the world." *Pollock v. Farmers' Loan & Trust Co.*, 157 U. S. 532 (1895).

<sup>150</sup> *Supra* note 153, at 159.

<sup>151</sup> "Tout entière, d'un bout à l'autre, la loi houleverse les règles du droit." Speech of July 5, 1922, quoted in *Haenen-Ghys v. C. Schweitzer*, PAS. BELGE 1925 I 197 (Cass. April 2, 1925).

*Cf.* Patrascanu, Rumanian Minister of Justice, Statement of Reasons for Law No. 330 (1946) ("The regulation of relations between owners and tenants is included among the greatest social problems of the present. For this reason, the necessary solutions given inevitably depart from the ordinary principles of private law. Decrees must necessarily be adopted which will govern the existence of our society.") Translation from State Department.

<sup>152</sup> "It is most unfortunate, in a matter touching closely the daily lives of many thousands in the community, that their legal rights and liabilities, instead of being clearly defined by the statute that has so materially altered the common law, should be left to be ascertained by costly litigation; especially when it is considered that the Act is expressly designed to apply to people of a class to whom the cost of living is often prohibitive." *Guest v. Ravesi*, 27 N.S.W.S.R. 449, 458 (1927). See also Messina, *La Crise des Habitations en Egypte et la Loi de Février 21, 1920*, 11 L'EGYPTE CONTEMPORAINE 582, 615 (1920).

<sup>153</sup> "Il faut reconnaître que, dominé par les circonstances, le législateur a fait en matière de loyers des lois hâtives, peu étudiées et livrées pour leur rédaction définitive aux hasards des discussions parlementaires." *Jooris c. Eriksson*, PAS. BELGE 1921 III 131 (Trib. Civ. de Gand, 1921). See also DRELLICH & EMERY, RENT CONTROL IN WAR AND PEACE, 9, 93 (1939).

The new Irish Act, however (No. 4 of 1946), while drafted with skill and care, is nevertheless an extremely complicated and labyrinthine document, abounding in such terms as "standard rent", "basic rent", "lawful rent", "notional rent", "existing rent", "net rent", "operative date", "critical date", "relevant date", etc. The new Spanish Act is also very long and detailed—almost 50 pages, but covering other matters besides rent and eviction control.

Surprisingly enough, the British acts offer perhaps the prime example of confusion in legislation. One of the favorite sports of the English judiciary is to complain of the obscurities and ambiguities of the statutes.

This is yet another almost insoluble problem arising from that welter of chaotic verbiage which may be cited together as the Rent and Mortgage Interest Restriction Acts, 1920 to 1939 . . . this obscure mass of words. . . . It seems to me that the judge was wrong, very venially wrong because anybody may be forgiven for making a mistake about this series of acts. Per MacKinnon, L. J.<sup>154</sup>

He must be a bold, if not a conceited, man who can feel confidence in forming, or expressing, an opinion as to any one of the innumerable problems which arise out of . . . the Rent and Mortgage Interest Restriction Acts . . . that chaos of verbal darkness. . . . Per MacKinnon, L. J.<sup>155</sup>

Whatever confidence I may have in my own judgment in other branches of the law I never give a decision upon the Rent Restriction Acts with any confidence. Per Scrutton, L. J.<sup>156</sup>

This case, like all the cases in my experience under the Rent Restriction Acts, is of a most bewildering character. Per Scrutton, L. J.<sup>157</sup>

These Acts are as difficult and complicated as any on the statute book. Per Goddard, L. J.<sup>158</sup>

This Act, in conceivable circumstances, may lead to very strange results, but that arises from the terms in which it is drafted. Per MacKinnon, L. J.<sup>159</sup>

Consolidation and revision of the British acts—which now constitute ten statutes, the later ones amending and supplementing the earlier, passed over a period of thirty years—was recommended by Interdepartmental Committees in 1931 and 1937, but no action was taken. The latest committee, which reported in 1945, based all of its recommendations on the premise that “the present chaos of overlapping statutes should be replaced by a single comprehensive Act in which the whole law relating to rent control should be clearly set out.”<sup>160</sup>

Probably all of the blame should not be placed on Parliament; the courts have done their share by technical and involved construction of the acts, although Lord Greene has attempted to justify this by saying that

<sup>154</sup> *Vaughan v. Shaw*, 2 All E.R. 52 (1945).

<sup>155</sup> *Winchester Court, Ltd. v. Miller*, 60 T.L.R. 498 (C.A. 1944).

<sup>156</sup> *Dunbar v. Smith*, 1 K.B. 360 (1926).

<sup>157</sup> *Haskins v. Lewis*, 2 K.B. 1, 9 (1931).

<sup>158</sup> *Gover v. Field* 1 K.B. 200 (C.A. 1944). See also Goddard, L.J. in *Davies v. Warwick*, 1 K.B. 329, 335-6 (1943).

<sup>159</sup> *Engvall v. Ideal Flats, Ltd.*, 1 All E.R. 230 (C.A. 1945).

<sup>160</sup> REPORT OF THE INTERDEPARTMENTAL COMMITTEE ON RENT CONTROL 12 (1945). This recommendation has been disregarded.

Although one must construe the Rent Restriction Acts in as popular a way as one can, when an act of that description, which is really of a rather make-shift nature, comes to be applied to the highly technical and highly variegated relationship of landlord and tenant and the various different forms which are to be found in different types of leases, it is almost inevitable that fine distinctions will be found to prevail.<sup>161</sup>

A sensible point of view was expressed by Denning, L.J. in a recent case in which he said:

Whenever a statute comes up for consideration it must be remembered that it is not within human powers to foresee the manifold sets of facts which may arise, and, even if it were, it is not possible to provide for them in terms free from all ambiguity. The English language is not an instrument of mathematical precision. Our literature would be much the poorer if it were. This is where the draftsmen of Acts of Parliament have often been unfairly criticized. . . . It would certainly save the judges trouble if Acts of Parliament were drafted with divine prescience and perfect clarity. In the absence of it, when a defect appears a judge cannot simply fold his hands and blame the draftsman. . . .<sup>162</sup>

The American courts did not have too much difficulty in interpreting the federal rent regulations, despite an occasional cavil against their "lawyer-like" phraseology.<sup>163</sup> The 1947-50 Acts of Congress, however, raise some problems of statutory interpretation.<sup>164</sup> In a very recent case, defendants contended that the 1949 Act if interpreted to reconrol certain housing previously decontrolled was too obscure to be understood. The court rejected this argument, Chief Judge Learned Hand saying:

The proper understanding of the language does demand a somewhat exacting scrutiny; like so many regulatory statutes, it is full of verbal thickets which must be penetrated and are impenetrable without considerable labor. However, such verbal labyrinths are often the only protection which the individual has against what without them would be the fiat of minor officials. The case at bar is nothing like as baffling as cases which again and again came up under the statutes and regulations fixing prices during the war. . . . the meaning is indeed obscure without a good deal of effort, but that arises from the complicated intermeshing of the provisions, not from any uncertainty in the standard to be applied.<sup>165</sup>

Rent and eviction control has been attacked on almost every conceivable constitutional ground, including the contentions that it violates the Thirteenth Amendment by compelling the landlord to furnish services to

<sup>161</sup> *Oxley v. Regional Properties, Ltd.*, 60 T.L.R. 519 (C.A. 1944).

<sup>162</sup> *Seaford Court Estates Ltd. v. Archer*, 2 K.B. 481 (1949), quoted in 66 L.Q. REV. 19 (1950).

<sup>163</sup> *Cf. Porter v. McRae*, 155 F. 2d 213 (10th Cir. 1946).

<sup>164</sup> See Siegel, *Recent Decisions Construing Federal Rent Control Legislation*, 1 SYR. L. REV. 207 (1949).

<sup>165</sup> *United States v. Porhownik*, 182 F. 2d 829 (2d Cir.), *cert. denied*, 19 U. S. L. WEEK 3097 (U. S. Oct. 10, 1950).

an unwanted tenant<sup>166</sup> and that the restrictions on eviction "effect a situation analogous to quartering of troops in private homes".<sup>167</sup> Discussion of constitutionality, however, is beyond the scope of this article.

All in all, perhaps the wisest words on the subject are those attributed to some obscure French rent commission "de province":<sup>168</sup>

Attendu que le propriétaire est de nos temps un être malheureux et à plaindre;

Qu'il ne sait comment faire pour satisfaire a ses obligations;

Que d'autre part le locataire est aussi malheureux;

Que propriétaires et locataires ont toujours été en lutte comme jadis les Guelfes et les Gibelins, comme les Whigs et les Tories, comme les patriciens et les plébéiens;

Que ces discordes qui ont commencé avec le monde finiront avec lui;

Qu'il est difficile de rapprocher des entités aussi divergentes et opposables. . . .

Whereas the landlord in our times is an unfortunate and pitiable being;

He does not know what to do to meet his obligations;

On the other hand, the tenant too is unfortunate;

Whereas, landlords and tenants have always been in conflict as in other times the Guelphs and the Ghibellines, the Whigs and the Tories, the patricians and the plebeians;

These discords which commenced with the world will finish with it;

Whereas, it is difficult to bring together such divergent and opposing entities. . . .

<sup>166</sup> *Marcus Brown Holding Co. v. Feldman*, 256 U.S. 170 (1921); *Taylor v. Bowles* 147 F.2d 824 (9th Cir. 1945). The contention was rejected.

<sup>167</sup> This argument was advanced in *Matter of Ray E. White*, 2 PIKE & FISCHER O.P.A. OPIN. & DEC. 3207 (1945).

<sup>168</sup> Quoted in Pupikofor, *Le Droit de "Gazaga" ou la Loi sur les Loyers sous les Papes*, 10 GAZ. DES TRIBS. MIXTES D'EGYPTE 81 (1920).

## APPENDIX

List of jurisdictions which have adopted rent control legislation.

*Europe*

Albania	Luxembourg
Austria	Latvia
Belgium	Lithuania
Bulgaria	Monaco
Czechoslovakia	Netherlands
Danzig	Norway
Denmark	Poland
Esthonia	Portugal
Finland	Rumania
Fiume	Saar
France	San Marino
Germany	Spain
Greece	Sweden
Hungary	Switzerland
Iceland	USSR
Italy	Yugoslavia
Liechtenstein	

*The Americas*

Argentina	Guatemala
Bolivia	Haiti
Brazil	Mexico (Federal District and various states)
Canada	Nicaragua
Chile	Panama
Colombia	Paraguay
Costa Rica	Peru
Cuba	Surinam
Curaçao	Uruguay
Dominican Republic	Venezuela
Ecuador	

*Asia*

India	Macao
Iran	Philippines
Iraq	Syria
Japan	Thailand
Jordan	Turkey
Lebanon	

*Africa*

Angola	Sudan
Egypt	Tunisia
Morocco	Union of South Africa
Belgian Congo	Tangier
Liberia	Ethiopia (Italian)

*Australia*

Commonwealth	Tasmania
New South Wales	Victoria
Queensland	Western Australia
South Australia	

*New Zealand*

*British Empire*

Aden	North Borneo
Antigua	Northern Ireland
British Guiana	Northern Rhodesia
Burma	Nyasaland
Ceylon	Pakistan
Cyprus	Punjab
Dominica	Sind, etc.
Eire	Palestine
Fiji	Sarawak
Gambia	St. Lucia
Gibraltar	St. Christopher & Nevis
Gold Coast	St. Vincent
Guernsey	Seychelles
Hong Kong	Sierra Leone
Isle of Man	Southern Rhodesia
Jamaica	Straits Settlements
Kenya	Tanganyika
Malta	Transjordan
Mauritius	Trinidad & Tobago
Newfoundland	Uganda
Nigeria	Zanzibar

*India*

Assam	Madras
Bihar	Orissa
Bombay	New Delhi
Calcutta	Simla
Central Provinces and Berar	United Provinces
Delhi and Ajmer-Merwara	Etc.
Karachi	

*French Colonies*

Madagascar	Guadaloupe
New Caledonia	Martinique
Reunion	Indo-China
Togo	French Equatorial Africa
French West Africa	Guiana
French Somaliland	Cameroun

*Italian Colonies*

Eritrea	Libya
Aegean Islands	Italian Somaliland