

**COMMITTEE ON SUBORDINATE
LEGISLATION**

SEVENTH REPORT

(SECOND LOK SABHA)

Presented on the 22nd December, 1959)



**LOK SABHA SECRETARIAT
NEW DELHI**

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CONTENTS

	Page Nos.	Para No.
COMPOSITION OF THE COMMITTEE	(iii)
REPORT—		
I. Introduction	1—3	1
II. The Khadi and Village Industries Commission Regulations 1958 (G.S.R. 801 of 1958)	4—10	1
III. Amendment in the Fundamental Rules 89—91 (G.S.R. 272 of 1959)	11—13	2
IV. The Minimum Wages (Central) Rules, 1950	14—18	3
V. The Motor Cars (Distribution and Sales) Control Order, 1959 (S.O. 994 of 1959)	19—26	4
VI. Mode of Appointment and Term of Office of M.Ps. on the Indian Lic Cess Committee constituted under section 4 of the Indian Lic Cess Act, 1930	27—29	5
VII. The Mechanical Engineering and Transportation (Power) Department of the Superior Revenue Establishment of Indian Railways Recruitment Rules, (G.S.R. 30 of 1959) and Amendments to the Andaman and Nicobar Islands Police Regulations (S.O. 1321 of 1959)	30—32	5
VIII. Amendment to the Central Fisheries Inland and Marine Research Stations (Recruitment to Class III and IV Posts) Rules, 1959 (G.S.R. 1045 of 1959) and Amendment to the Recruitment Rules (S.Os. 1649 and 1652 of 1959)—Omi- ssion to give adequate References to Principal Rules	33—35	6
IX. The News Services Division, All India Radio, New Delhi Recruitment Rules, 1959 (S.O. 1125 of 1959)—The Case of Missing Schedule	36—38	6
X. Non-framing of Regulations for Metalliferous Mines under Sec. 57 of the Mines Act, 1952	39—41	6
XI. Model Clause in Bills Relating to Laying of Rules etc. before Parliament	42—45	7
XII. Laying of Rules Framed by State Governments under Central Acts before State Legislatures/Parliament	46—52	8
XIII. Delay in Laying of Orders on the Table	53—56	11
XIV. Action Taken or Proposed to be taken by Government on Various Recommendations of and Assurances given to the Committee on Subordinate Legislation	57—58	11
SUMMARY OF RECOMMENDATIONS		12
APPENDICES—		
Appendix I—Statement of 'Orders' in respect of which there has been delay in laying them on the Table		15
Appendix II—Recommendations of and Assurances given to the Committee that have been accepted, implemented by Government . . . . .	..	19
Appendix III—Minutes . . . . .	..	25
1543 (Aii) LS—1.		

**COMPOSITION OF THE COMMITTEE ON SUBORDINATE
LEGISLATION (1959—60)**

1. Sardar Hukam Singh—*Chairman*
2. Shri J. M. Mohamed Imam
3. Shri K. S. Ramaswamy
4. Shri Sinhasan Singh
5. Shri Bahadur Singh
6. Shri T. N. Viswanatha Reddy.
7. Shri Aurobindo Ghosal
8. Shri Ghanshyamlal Oza
9. Shri Kanhaiyalal Bherulal Malvia
10. Shri T. C. N. Menon
11. Shri N. R. Ghosh
12. Dr. A. Krishnaswami
13. Shri Ajit Singh Sarhadi
14. Shri L. Achaw Singh
15. Shri Satyendra Narayan Sinha.

SECRETARIAT

- Shri S. L. Shakti—*Joint Secretary*
- Shri A. L. Rai—*Deputy Secretary.*

I

INTRODUCTION

1. The Chairman of the Committee on Subordinate Legislation having been authorised by the Committee to present the report on their behalf, present this their Seventh Report.

2. Subsequent to the presentation of the Sixth Report the Committee have held three sittings and considered 130 new 'Orders'. The Committee also considered the 'Orders' that were pending final disposal at the time of presentation of the Sixth Report. At the sitting held on the 21st December, 1959, the Committee considered and passed this Report.

3. Observations of the Committee on matters of special interests made during the course of their examination of the 'Orders', matters which required to be brought to the notice of the House as well as the recommendations of the Committee have been included in this Report.

II

THE KHADI AND VILLAGE INDUSTRIES COMMISSION REGULATIONS, 1958 (G.S.R. 801 OF 1958)

4. The above Regulations were made under Section 27 of the Khadi and Village Industries Commission Act, 1956.

Regulation 6:

5. This regulation which pertains to the termination of the services of the Khadi and Village Industries Commission's employees does not provide for appeal in case services of a temporary employee are terminated as a disciplinary measure.

6. On being pointed out the Ministry of Commerce and Industry have assured that the procedure regarding appeal etc. laid down in the Conduct, Discipline and Appeal Regulations as approved by the Central Government would also be followed in removing the temporary employees, from the service of the Commission as a disciplinary measure.

7. The Committee note the assurance given by the Ministry.

Regulation 17(2):

8. This regulation provided that if there was no quorum at a meeting of the Commission the Chairman or any other person presiding at such a meeting shall adjourn the meeting to another date and it shall thereupon be lawful to dispose of the business at such an adjourned meeting irrespective of the number of members attending that meeting.

9. It was felt that in such cases a provision ought to be made that a meeting would be called at a date not less than seven days later and all the members of the Commission whether present or absent from the last meeting would be informed about the date, time and place of the adjourned meeting.

10. The Committee note that on a reference being made to the Ministry of Commerce and Industry the rule in question has been amended accordingly (See G.S.R. 58 of 1959).

III

AMENDMENT IN THE FUNDAMENTAL RULES 89-91 (G.S.R. 272 OF 1959)

11. Rules 89-91 of the Fundamental Rules relate to the drawing of leave salary by a Government servant. These rules were amended by G.S.R. 272 of 1959 to provide for the withdrawal of the concession of payment of leave salaries in sterling to Government servants, other than Government servants of non-Asiatic domicile. The amendments were published in the Gazette of India, dated the 27th March, 1959 and were given retrospective effect from the 12th July, 1956.

12. On being enquired as to the reasons for giving retrospective effect to the said rules the Ministry of Finance have stated that the instructions withdrawing the concession of payment of leave salaries in sterling to the Government Servants, other than the Government servants of non-Asiatic domicile were issued by the Ministry of Home Affairs under their letter No. 24|11|56-AIS(II), dated the 12th July, 1956. Accordingly all leave salaries in respect of the leave or extension of leave granted to the Government servants other than the Government servants of non-Asiatic domicile, from the 12th July, 1956 were being paid in rupees in India. The Ministry have further stated that it was specifically mentioned in paragraph 4 of the said letter of the Ministry of Home Affairs that the necessary amendments to the Fundamental Rules would issue in due course. Therefore, the amendments to Fundamental Rules, 89-91 were given effect from the date of the letter viz. the 12th July, 1956. Explaining the delay in formally issuing the amendments in question the Ministry stated that in view of the complexity of the subject matter it took long time to issue the necessary amendments in consultation with the Ministries of Home Affairs and Law and the Comptroller and Auditor General.

13. The Committee have considered the Ministry's reply and regret to note that even if the officers concerned are not adversely affected by the retroaction of the amendments, a long period of more than two and a half years has been taken to notify formally a decision of the Government which was already being carried out.

IV.

THE MINIMUM WAGES (CENTRAL) RULES, 1950

14. The Minimum Wages (Central) Rules, 1950, were framed under section 30 of the Minimum Wages Act, 1948. Rule 32 thereof provides that these rules shall not apply in relation to any employment mentioned in the schedule to the Minimum Wages Act, 1948 in so far as there are in force rules applicable to such employment which in the opinion of the Central Government make equally satisfactory provisions for the matters dealt with by the Minimum Wages (Central) Rules and such opinion shall be final.

15. In this connection clarification was sought from the concerned Ministry of Labour and Employment on the following two points:—

- (i) In the absence of any specific authorisation by the parent Act in that behalf the saving provisions of the said rule 32 appeared to go beyond the rule making power of the Government. If certain rules were made in pursuance of an Act, they should be made applicable, unless otherwise directed by the Act, uniformly to all cases which satisfied the prescribed conditions.
- (ii) It was also not clear as to what were the cases contemplated by the said rule 32 where some other rules containing "equally satisfactory provisions for the matters dealt with in these rules" would be in operation.

16. The Ministry have stated that there are certain kinds of staff in the Port Trust such as the marine staff etc. in whose case the duty is of a peculiar or intermittent nature. Such staff also happens to come within the purview of the Minimum Wages Act and the Minimum Wages (Central) Rules, as the Act applies to all employments under Port Trust which come within the category of 'local authorities', but the nature of their work in certain cases precludes the rigid application to them of the provisions of rules 23, 24, 24A and 25 relating to weekly holidays, hours of work, night shifts and extra wages for overtime. They are governed by special sets of rules framed under the respective Port Trust Acts which contain equally satisfactory provisions for these matters. In the absence of an express provision in the Minimum Wages Act, the rules framed under the Port Trust Acts cannot be repealed by the rules framed under the Minimum Wages Act. Therefore, the said rule 32 was framed in order to avoid overlapping or conflict with the rules already in force under other Acts.

17. As regards the second point mentioned above, the Ministry have stated that the cases contemplated by rule 32 are those governed by the rules made under other enactments like the Factories Act, the Payment of Wages Act, the Mines Act, etc. Those rules are applicable to certain classes of employees in some of the scheduled employments and provide for the maintenance of records and registers, submission of returns, etc. as in the Minimum Wages (Central) Rules.

18. The Committee note the Ministry's reply.

THE MOTOR CARS (DISTRIBUTION AND SALE) CONTROL ORDER, 1959 (S.O. 994 OF 1959)

19. The Motor Cars (Distribution and Sale) Control Order, 1959, intended to secure the equitable distribution and availability at fair prices of motor cars, was issued under section 18G of the Industries (Development and Regulation) Act, 1951.

20. Clause 4 of the said 'Order' provides that no manufacturer shall sell or otherwise dispose of any description of motor cars manufactured by him except in accordance with the order made by the Controller. Similarly, clause 8 provides that no person shall, before the expiry of two years from the date when motor car is first purchased as a new motor car, sell it except under and in accordance with the terms and conditions of a permit in writing from the Controller.

21. It was felt that there ought to have been some provision for an appeal by an aggrieved party, if any, against the orders of the Controller under the said clauses 4 and 8.

22. The concerned Ministry of Commerce and Industry have explained that the manufacturers of cars are the only party affected by the operation of clause 4 of the said 'Order'. It was issued after the question of equitable distribution had been discussed with them.

23. Since the object of the Motor Car Control Order is to secure as equitable distribution of motor cars as possible, the Controller has to fix the quotas for distribution of cars in the various regions consistently with the circumstances prevailing in each region. These are essentially matters of administrative nature which only the Controller could be expected to decide.

24. As regards clause 8, the main purpose of the provision regulating the re-sale of motor cars is to prevent speculative purchases after the scarcity of motor cars developed. As it is not the intention to impose restrictions on persons who have obtained cars under normal conditions, the State Governments have already been advised that permission to re-sell cars which were registered for the first time prior to 1st June, 1958, (when the scarcity may be said to have developed) might be freely granted.

25. Further, the principles on which a permit for the re-sale of a car may be granted or refused are stated in the Control Order itself viz., in clause 8(2). It lays down that in granting or refusing a permit for re-sale the Controller or other officer shall have regard to the circumstances relating to the proposed transaction and to the purposes to be served by the Control Order.

26. In view of the clarification given by the Ministry the Committee do not consider any further action necessary.

VI

MODE OF APPOINTMENT AND TERM OF OFFICE OF M.Ps. ON THE INDIAN LAC CESS COMMITTEE CONSTITUTED UNDER SECTION 4 OF THE INDIAN LAC CESS ACT, 1930.

27. Parliament is represented on the Indian Lac Cess Committee constituted under section 4 of the Indian Lac Cess Act, 1930 by three members, two from Lok Sabha and one from Rajya Sabha.

28. Rule 4 of the Indian Lac Cess Rules pertaining to the term of office of members of the Committee did not lay down any specific term of office in respect of representatives of Parliament nor did it provide that they shall cease to be members of the Committee on their ceasing to be members of the House by which they were elected. Such a provision was necessary in view of the fact that Members of Parliament on the Committee were not there in their individual capacity but because of being Members of Parliament they had been elected by the respective Houses.

29. The Committee note that the concerned Ministry of Food and Agriculture to whom the point was referred have rectified the omission by amending the rules by S.O. 1868 of 1959.

VII

THE MECHANICAL ENGINEERING AND TRANSPORTATION (POWER) DEPARTMENT OF THE SUPERIOR REVENUE ESTABLISHMENT OF INDIAN RAILWAYS RECRUITMENT RULES (G.S.R. 30 OF 1959) AND AMENDMENTS TO THE ANDAMAN AND NICOBAR ISLANDS POLICE REGULA- TIONS (S.O. 1321 OF 1959).

30. The Mechanical Engineering and Transportation (Power) Department of the Superior Revenue Establishment of Indian Railways Recruitment Rules did not cite any statutory authority under which the same were made while the amendments to the Andaman and Nicobar Islands Police Regulations did not cite the exact section of the parent Act (Police Act, 1861).

31. On a reference being made the concerned Ministries of Railways and Home Affairs have informed that the said rules were issued under proviso to Article 309 of the Constitution and Sections 12 and 46(2) of the Police Act, 1861, respectively.

32. The Committee desire the Ministries concerned to issue corrigenda to the said rules giving the exact statutory authority under which the rules in question were made.

VIII

AMENDMENT TO THE CENTRAL FISHERIES INLAND AND MARINE RESEARCH STATIONS (RECRUITMENT TO CLASS III AND IV POSTS) RULES, 1959 (G.S.R. 1045 OF 1959) AND AMENDMENT TO THE RECRUITMENT RULES (S.Os. 1649 AND 1652 OF 1959)—OMISSION TO GIVE ADEQUATE REFERENCES TO PRINCIPAL RULES.

33. The above amending 'Orders' did not give adequate references to the principal rules *i.e.* the G.S.R. number with year or the date, part and page number of the Gazette in which the original rules were published. In the absence of these particulars it was not possible for the public to locate the original rules easily and link the amendments.

34. On being pointed out the Ministry of Works, Housing and Supply who were concerned with the S.Os. 1649 and 1652 have issued a necessary corrigendum to S.O. 1649 only setting out the references to the principal rules.

35. The Committee, however, desire the Ministry of Works, Housing and Supply and the Ministry of Food and Agriculture to issue necessary corrigenda to the said S.O. 1652 and G.S.R. 1045 respectively.

IX

THE NEWS SERVICES DIVISION, ALL INDIA RADIO, NEW DELHI RECRUITMENT RULES, 1959 (S.O. 1125 OF 1959)—THE CASE OF MISSING SCHEDULE.

36. The rules noted above which were made under proviso to Article 309 of the Constitution, provided that the recruitment to the post of Administrative Officer shall be made in accordance with the provisions contained in the schedule but no schedule was appended to the rules.

37. On being pointed out the concerned Ministry of Information and Broadcasting, expressing their regret for the inadvertent omission, have assured to issue a revised notification.

38. In view of the Ministry's reply the Committee do not consider any further action necessary.

X

NON-FRAMING OF REGULATIONS FOR METALLIFEROUS MINES UNDER SECTION 57 OF THE MINES ACT, 1952

39. On the 4th March, 1959, Shri T. B. Vittal Rao, M.P. addressed a letter to the Chairman of the Committee alleging that although the Mines Act, 1952 was enforced on 1st July, 1952 in all the States and under section 57 of the Act, the Central Government was empowered to make regulations for the safe working of the mines, the regulations for metalliferous mines had not been framed. Emphasising that the

regulations in question should be promulgated at an early date the Member referred to an accident in the Barytes Mine at Ragupalli Village, Cuddapah District, Andhra Pradesh in which 11 persons were killed on 27th September, 1957 and the prosecution case instituted against the owner of the mine for violation of the regulations framed under the repealed Mines Act of 1923 was dismissed on the ground that the new Regulations had not been promulgated after the enactment of Mines Act, 1952.

40. The Ministry of Labour and Employment to whom the matter was referred, have stated that an appeal against acquittal in the said case is pending before the Supreme Court since February, 1957. In this connection, the Ministry have also invited the attention of the Committee to the answer given by the Parliamentary Secretary to the Minister of Labour and Employment in the Lok Sabha on the 3rd March, 1959 in reply to a Starred Question of Shri Vittal Rao that the Metalliferous Mines Regulations under the Mines Act, 1952 would be promulgated in about three months.

41. The Committee note with regret that the Regulations in question have not yet been promulgated even though a period of more than 9 months has elapsed since the assurance was given in the House and feel that the Regulations ought to be issued without any further delay.

XI

MODEL CLAUSE IN BILLS RELATING TO LAYING OF RULES ETC. BEFORE PARLIAMENT

42. In pursuance of an earlier recommendation of the Committee on Subordinate Legislation all Bills which involved delegation of legislative power, used to incorporate a clause on the following lines:—

“All rules made under this section shall be laid for not less than thirty days before both Houses of Parliament as soon as possible after they are made and shall be subject to such modifications as Parliament may make during the session in which they are so laid or the session immediately following.”

43. Subsequently the Government proposed to revise the clause to make the following points clear:—

- (i) That the rules shall be laid before the Houses of Parliament for a period of 30 days which may be completed in one or more sessions;
- (ii) that Parliament can modify the rules within the period of 30 days during which the rules remain on the Table of the Houses;
- (iii) that if any modification is made in the rules by Parliament such modification shall not affect the previous operation thereof;

- (iv) that if the rules are laid before the Houses of Parliament on different dates, the period of 30 days shall run from the later date;
- (v) that the rules shall take effect immediately.

44. After considering the matter the Committee had reported that they had no objection to the changes being made in the clause as proposed by Government except to the change being made in the existing condition *viz.*, rules shall be subject to such modifications as Parliament "*may make during the session in which they are so laid or the session immediately following*" so that the Members might have adequate time to study the rules and give notices of amendments to the rules.

45. The Committee note that the Ministry of Law have now drafted and also circulated to the Law Secretaries to the Governments of all States for their guidance the following model clause which incorporates the above suggestion of the Committee:—

"Every rule made under this section shall be laid as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule."

XII

LAYING OF RULES FRAMED BY STATE GOVERNMENTS UNDER CENTRAL ACTS BEFORE STATE LEGISLATURES/ PARLIAMENT

46. A large number of Central Acts falling under the 'Concurrent List' as well as under the 'Union List' delegate rule making power to State Governments. Propriety of providing for laying of rules framed thereunder by a State Government on the Table of a State Legislature or Parliament has been questioned in the House sometimes.

47. When the Poisons (Amendment) Bill, 1958, was being considered in the House during the Seventh Session of Second Lok Sabha, an amendment was tabled by Shri T. N. Viswanatha Reddy, M.P., to the effect that the rules made by the State Governments under the principal Act should be laid before the State Legislature. The Minister of Home Affairs opposed this amendment saying that such a provision could not be made in a Central Act. The amendment, however, was not pressed. The Committee on Subordinate Legislation

subsequently considered this matter and reported to the House that Central Acts can provide for laying of rules framed thereunder by the State Governments before the respective State Legislatures. [Para 40, Fifth Report of Committee on Subordinate Legislation, Second Lok Sabha].

48. During the Eighth Session of Second Lok Sabha when the Wakfs (Amendment) Bill, 1959 was being considered by the House, an amendment was tabled by Shri Ajit Singh Sarhadi, M.P., to the effect that the rules made by a State Government should be laid before Parliament. The amendment was opposed by the Minister-in-charge of the Bill again on the ground that such a provision could not be made in a Central Act. Thereupon the amendment was not pressed.

49. The following arguments could be advanced against the view that rules framed by the State Governments under a Central Act should be laid before the respective State Legislatures:—

- (i) While making rules under a Central Act the State Governments act as the delegate of Parliament and not as the delegate of the State Legislatures. Therefore, it would not be correct to require the rules made by the State Government to be laid before the State Legislature as the power of over-seeing the rules should properly and legally belong to the fountain source, namely Parliament. It is only Parliament which should reserve to itself the control of seeing how far the delegate is exercising its power within the orbit of its delegated authority. In making the rules, the State Government is not responsible to the State Legislature and if the rules are laid before the State Legislature, that body in effect could criticise Parliament through the State Government.
- (ii) Such a provision would appear to confer a power or impose a duty on the State Legislatures—a power which is not available to Parliament. Parliament can no doubt confer powers or impose duties on the State or officers or authorities of the State but a State Legislature is obviously not an authority of the State for this purpose (Art. 258). Here the word 'State' means the 'State Government' as reference to clause (3) of Article 258 and the same word used in Articles 256 and 257 will make it clear. However, a Central Law can validly authorise the State Government to make rules.
- (iii) The State Legislature has, subject to the provisions of the Constitution, full power to regulate its procedure and the conduct of business (Article 208). Therefore, a provision which restricts the period during which modifications in the rules may be made by the State Legislature would be contrary to the Constitution.

Parliament and the State Legislatures are within their respective Legislative spheres paramount.

- (iv) The State Legislature might like to frame its own laws and rules of procedure with respect to the conduct of business before it and such a law or rule may very well have the effect of running counter to a Central provision on the subject.

50. A second course viz., the laying of rules framed by the State Governments under a Central Act before Parliament would not appear to be a practical proposition in view of the following considerations:—

- (i) The rules framed by the State will have to be physically laid on the Table of the House. No particular Central Minister will be responsible for having framed them or for laying them since the rules would not have been framed by an authority subordinate to, or under the control of, any Central Minister. Thus there will be the problem of physically laying them on the Table.
- (ii) Rules framed by State Governments would be based on local conditions, material facts within its knowledge and unless all those are made known to Parliament the discussion would not be comprehensive.
- (iii) Further if such rules are discussed in Parliament for amending them, it would be impossible to draw a line and stop criticism of the State Government or of its officers either directly or indirectly. Such a discussion would appear injudicious and might even be infructuous and liable to irritate the State Government. The Central Minister will also have no material for a reply or responsibility for replying to such a criticism.

51. The recommendation of the Committee on the subject referred to in para 47 above was discussed by the Chairman of the Committee with the Deputy Minister of Law (Shri Hajarnavis). After noting the above mentioned difficulties it was felt that the better course would be to request the State Governments to have laws enacted by their Legislatures to provide for laying of the rules framed by them (either under a Central Act or State Act) before the State Legislatures and for their modification, if any, by the respective Legislatures. The Deputy Minister of Law also informed the Chairman that a provision of a similar nature requiring the Central Government to lay rules framed by them before Parliament and for their modification, if any, would be made in the General Clauses Act which would obviate the necessity of providing for the same in every Act which delegated rule making power.

52. After considering the matter the Committee endorse the conclusion arrived at by the Chairman of the Committee and the Deputy Minister of Law.

XIII

2/2 DELAY IN LAYING OF 'ORDERS' ON THE TABLE

53. S.R.Os. 197, 298, 2244, 2245 and 2551 of 1957 amending the Coal Mines (Conservation and Safety) Rules, 1954 were laid on the Table of Lok Sabha after two years of their issue.

54. On being enquired as to the reasons for laying the 'Orders' after an inordinate delay, the concerned Ministry of Steel, Mines and Fuel stated that the amending 'Orders' in question had not been laid on the Table of Lok Sabha earlier because of an incorrect understanding of the provisions of sub-section (4) of Section 17 of the Coal Mines (Conservation and Safety) Act, 1952 which provided that 'all rules made under the provisions of this Act shall be laid, as soon as may be, before Parliament'. Accordingly, the original rules, published in the Gazette of India with S.R.O. 3146, dated the 25th September, 1954 had been laid on the Table of Lok Sabha. The fact that the expression 'all rules' would include all subsequent amendments to the original rules also, was however, overlooked until very recently, due to a misapprehension, with the result that copies of the amending 'Orders' were not laid on the Table of Lok Sabha.

55. The Committee note the clarification given by the Ministry. Lest a similar misunderstanding prevails in other Ministries, the Committee desire the Ministry of Law to impress upon all the Ministries that where rules are required to be laid before the Houses of Parliament, the amendments thereto should also be so laid.

56. 'Orders' that have been laid on the Table after considerable delay are given at Appendix I.

The 'Orders' marked with asterisks have been laid after the omission to lay them before the House was brought to the notice of the Ministries concerned.

XIV

ACTION TAKEN OR PROPOSED TO BE TAKEN BY GOVERNMENT ON VARIOUS RECOMMENDATIONS OF AND ASSURANCES GIVEN TO THE COMMITTEE ON SUBORDINATE LEGISLATION

57. The Committee have considered the replies sent by the Government in respect of the action taken or proposed to be taken by the Government on various recommendations of and assurances given to the Committee.

58. The Committee note the replies given by the Government (*See Appendix II*).

HUKAM SINGH,

Chairman,

Committee on Subordinate Legislation.

NEW DELHI,

21st December, 1959.

Agrahayana 30, 1881(S)

**SUMMARY OF RECOMMENDATIONS MADE IN THE SEVENTH
REPORT OF COMMITTEE ON SUBORDINATE LEGISLATION
(SECOND LOK SABHA)**

Serial No.	Reference to para number of the Report	Summary of Recommendations
1	32	The Committee desire the Ministry of Railways and the Ministry of Home Affairs to issue corrigenda to G.S.R. 30 of 1959 and S.O. 1321 of 1959 respectively giving the exact statutory authority under which the Mechanical Engineering and Transportation (Power) Department of the Superior Revenue Establishment of Indian Railways Recruitment Rules and the admendments to the Andaman and Nicobar Islands Police Regulations were made:
2	35	The Committee desire the Ministry of Works, Housing and Supply and the Ministry of Food and Agriculture to issue necessary corrigenda to S.O. 1652 of 1959 and G.S.R. 1045 of 1959 respectively setting out adequate references to the principal rules.
3	41	The Committee feel that the Metalliferous Mines Regulations under The Mines Act, 1952 ought to be issued without any further delay.
4	51	The State Governments be requested to have laws enacted by their Legislatures to provide for laying of the rules framed by them under a Central Act before the State Legislatures and for their modification, if any, by the respective Legislatures.

APPENDICES TO THE REPORT

1543(Aii) LS-3.

APPENDIX I

(See para 56)

Statement of 'Orders' in respect of which there has been delay in laying them on the Table

Sl. No.	No. of 'Order'	Description of 'Order'	Date of publication in the Gazette	Date of laying on the Table	†Delay		Name of the Ministry concerned	
					Approximately Years	Months Days		
1	2	3	4	5	6	7	8	9
1	*S.R.O. 1369 of 1957	Registration of Foreigners (Exemption) Order, 1957.	4-5-57	23-11-57	2	6	13	
2	*G.S.R. 825 of 1958	Amendments to the Registration of Foreigners (Exemption) Order, 1957	20-9-58	23-11-59	1	2	3	
3	*G.S.R. 74 of 1959	Amendment to the Registration of Foreigners (Exemption) Order, 1957.	24-1-59	23-11-59		9	14	

†See foot note at page 18.

1 2 3 4 5 6 7 8 9

4	*G.S.R. 75 of 1959	Amendment to the Foreigners (Exemption) Order, 1957.	24-1-59	23-11-59	..	9	14
5	*S.O. 872 of 1958	Amendment to the Citizenship Rules, 1956	24-5-58	23-11-59	1	3	12
6	*G.S.R. 1117 of 1958	Amendment to the Citizenship Rules, 1956.	29-11-58	23-11-59	..	11	24
7	*G.S.R. 145 of 1959	Amendment to the Citizenship Rules, 1956.	7-2-59	23-11-59	..	9	14
8	G.S.R. 844 of 1959	The Supreme Court Judges (Travelling Allowance) Rules, 1959.	25-7-59	31-8-59	..	..	28
9	G.S.R. 913 of 1959	The Bombay Secondary School Certificate Examination Board (Re-constitution) Order, 1959	8-8-59	[31-8-59	..	..	23
10	*G.S.R. 207 of 1958	Amendment to the Central Excise Rules, 1944.	1-4-58	1-12-59	1	8	..
11	G.S.R. 937 of 1959	Amendment to the Public Debt Rules, 1946.	15-8-59	3-9-59	..	..	18

Home Affairs.

Finance.

12	*S.R.O. 1005 of 1957	Amendment to the Cotton Control Order, 1955.	29-3-57	16-11-59	2	6	6	
13	*S.R.O. 1386 of 1957	Amendment to the Cotton Textile (Export Control) Order, 1949.	4-5-57	16-11-59	2	6	6	
14	*S.R.O. 1788 of 1957	Amendment to the Cotton Control Order, 1955.	1-6-57	16-11-59	2	4	} Commerce and Industry.	
15	*S.R.O. 3334 of 1957	Amendment to the Cotton Textile (Control) Order 1948.	19-10-57	16-11-59	2	..		5
16	*S.O. 337 of 1958	Amendment to the Cotton Control Order, 1955.	29-3-58	16-11-59	1	7		17
17	*G.S.R.800 of 1958	Amendment to the Cotton Control Order, 1955.	13-9-58	16-11-59	1	2		2
18	*S.R.O.1493 of 1957	Amendments in the Delhi (Control of Building Operations) Regulations, 1955.	11-5-57	20-11-59	2	6		9	Health.
19	*S.R.O. 3543 of 1957	Amendment to the Sugarcane (Control) Order, 1955.	9-11-57	25-11-59	2		14	} Food & Agriculture
20	*S.R.O. 213 of 1959	Amendment to the Sugarcane (Control) Order, 1955.	18-1-58	25-11-59	1	9	15	

1	2	3	4	5	6	7	9	9
21	*G.S.R. 50 of 1958	Amendment to the Sugar-cane (Control) Order, 1955.	22-2-58	25-11-59	1	9	3	Food and Agriculture
22	*G.S.R. 459 of 1958	Amendment to the Sugar-cane (Control) Order, 1955.	7-6-58	25-11-59	1	3	14	
23	*G.S.R. 884 of 1958	Amendments to the Sugar-cane (Control) Order, 1955.	4-10-58	3-12-59	1	1	29	
24	*G.S.R. 1081 of 1958	Amendment to the Wheat Roller Flour Mills (Licensing and Control) Order, 1957.	15-11-58	30-11-59	1	..	15	

†The inter-session periods have not been counted for delay in the case of those 'Orders' which were published when the house was not in session and were laid on the Table during the session immediately following their publication in the Gazette.

APPENDIX II

(See para 58)

Recommendations/Assurances that have been accepted/implemented by Government

Serial No.	Reference to para No. of the Report	Summary of recommendation/assurances	Gist of Govt's reply
1	2	3	4
1	<p>SECOND REPORT (First Lok Sabha) 27</p>	<p>In the case of the Rubber (Production and Marketing) Rules, 1947 detailed procedure in regard to the disciplinary matters relating to the staff of the Indian Rubber Board should be provided in the Rules as in the case of the rules framed for other statutory bodies of a similar nature.</p>	<p>Action has already been initiated by the Ministry of Commerce and Industry to frame elaborate rules regarding disciplinary matters for the staff of the Rubber Board.</p>
2	<p>SIXTH REPORT (First Lok Sabha) 49</p>	<p>The Committee noted the assurance given by the then Ministry of Production that sub-rules made under section 13 of the Central Silk Board Act, 1948 would also be laid before Parliament.</p>	<p>[D.P.A. O.M. No. S (11)-L-VIII/57-PA dated the 17th August, 1959]</p> <p>All such rules are laid before Parliament.</p> <p>[D.P.A. O.M. No. S (6)XVI(50) L-57/PA, dated 26th October, 1959].</p>

2

SECOND REPORT

(Second Lok Sabha)

54

Either the old rule 8 (3) of the Indian Central Coconut Committee Provident Fund Rules which enabled an employee of the Committee to become a subscriber to the Fund upon confirmation with retrospective effect from the date of commencement of his probation and to get the Coconut Committee's share of contribution from that date, should be restored or the new rule 8(3) which provided that an employee could get Committee's contribution from the date he completes three years of his service should be made applicable only to new entrants.

The Rule is being amended to provide that Committee's share of contribution could be available to the subscriber to his Provident Fund with retrospective effect from the date of his appointment provided he completes three years of service under the Committee.

[D.P.A. O.M. No. SRII(49-54)/CB/57, dated the 20th March 1959.]

3

THIRD REPORT

(Second Lok Sabha)

17-20

Chapter IIA of the Delhi (Control of Building Operation Regulations) 1955 as substituted by S.R.O. 3063 of 1957 provided that the Delhi Development Provisional Authority shall, in the matters of applications for the erection or re-erection of buildings, be generally guided by the principles of the building bye-

Section 13 of the Delhi Development Act, 1957 describes the procedure to be followed in dealing with applications for permission. Regulations that have been framed in connection with this section are contained in S.O. 513 of 1959. The Delhi (Control of Building Operation) Regulations are no more operative.

4

laws of the Delhi Improvement Trust and bye-laws of the Delhi Municipal Committee.

[D.P.A. O.M. No. SR-III(20) CB/59
dated 26th October, 1952].

Clause (3) of that chapter further provided that such of the bye-laws which prescribe any limitation within which sanctions shall be granted or refused etc. shall have no effect. The Committee objected to this clause on the ground that if applications for sanctions etc., were not disposed for indefinite periods, it was likely to cause hardship and loss to the owners of plots and thereby impede the building and development activity in Delhi. The Ministry of Health assured that this point would be kept in view when new regulations on the subject under section 57 of the Delhi Development Act, 1957 which had replaced the parent Act of the existing regulations (Delhi Control of Building Operation Act, 1956) were made.

When the Government bring forward a Bill amending the Industrial Finance Corporation Act, 1948, they ought to incorporate suitable pro-

Section 42 of the Industrial Finance Corporation Act, 1948 will be amended accordingly when the amending Bill is brought forward. Rules

visions in the Bill to amend section 42 of the principle Act to provide that:

- (i) the rules framed by Government thereunder shall b: published in the Official Gazette; and
- (ii) the rules shall be laid before Parliament for 30 days and shall be subject to modification by Parliament.

Pending the amendment to the Act the rules framed by the Central Government under section 42 there-ought to b: published in the official Gazette and laid before both Houses of Parliament.

6 SIXTH REPORT

(Second Lok Sabha)
6

framed under this Section have now been published in the Official Gazette under G.S.R. 962 dated the 22nd August, 1959. The rules were laid before R.-jya Sabha and Lok Sabha on 28th March, 1957 and 5th March, 1959, respectively.

[D.P.A. O.M. No. SRV(30-31)-59/CB dated the 27th October, 1959].

All such appointments are made on the recommendations of *ad hoc* Departmental Selection Committees.

[Ministry of Health O.M. No. F-5(IV) 85158-HII, dated the 19th November, 1959].

APPENDIX III

Minutes

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I

TWENTY-FIRST SITTING

Parliament House, New Delhi: Monday, the 30th November, 1959

The Committee met from 16.00 hours to 16.35 hours.

PRESENT

- Sardar Hukam Singh—*Chairman*.
2. Shri J. M. Mohamed Imam
3. Shri Sinhasan Singh
4. Shri Bahadur Singh
5. Shri T. N. Viswanatha Reddy
6. Shri Ghanshyamlal Oza
7. Shri L. Achaw Singh

SECRETARIAT

Shri A. L. Rai—*Deputy Secretary*.

2. The Committee considered and took decisions on memoranda prepared by the Secretariat on the following subjects and 'Orders':—

- (1) The Khadi and Village Industries Commission Regulations, 1958 (G.S.R. 801 of 1958). (Memorandum No. 144).
- (2) Amendments in the Fundamental Rules 89—91 (G.S.R. 272 of 1959). (Memorandum No. 145).
- (3) The Mechanical Engineering and Transportation (Power) Department of the Superior Revenue Establishment of Indian Railways Recruitment Rules (G.S.R. 30 of 1959). (Memorandum No. 146).
- (4) The Minimum Wages (Central) Rules, 1950. (Memorandum No. 147).
- (5) The Motor Cars (Distribution and Sale) Control Order, 1959 (S.O. 994 of 1959). (Memorandum No. 148).
- (6) Model Clause in Bills relating to laying of Rules etc. before Parliament. (Memorandum No. 149).
- (7) The News Services Division, All India Radio, New Delhi, Recruitment Rules, 1959 (S.O. 1125 of 1959). (Memorandum No. 150).
- (8) Amendment to the Andaman and Nicobar Islands Police Regulations (S.O. 1321 of 1959) Non-citation of exact Statutory authority in the preamble. (Memorandum No. 151).
- (9) * * * * *

*Omitted portions of the Minutes are not covered by the Seventh Report.

**The Khadi and Village Industries Commission Regulations, 1958
(G.S.R. 801 of 1958)**

Regulation 6:

3. Regulation 6 of the above Regulations pertaining to the termination of services of Commission's employees does not provide for appeal in case services of a temporary employee are terminated as a disciplinary measure.

4. On being pointed out the Ministry of Commerce and Industry assured that the elaborate procedure laid down in the Conduct, Discipline and Appeal Regulations would be followed in removing the temporary employees, whether on probation or after the completion of the period of probation, from the service of the Commission as a disciplinary measure.

The Committee noted the assurance given by the Ministry.

Regulation 17(2):

5. This regulation provided that if there was no quorum at a meeting of the Commission the Chairman or any other person presiding at such a meeting shall adjourn the meeting to another date and it shall thereupon be lawful to dispose of the business at such an adjourned meeting irrespective of the number of members attending the adjourned meeting.

6. It was felt that in such cases provision ought to be made that where a meeting was adjourned for lack of quorum, the next meeting should be called at a date not less than seven days later and the members present or absent ought to be informed about the date, time and place of the adjourned meeting.

7. The Committee noted that on a reference being made to the Ministry of Commerce and Industry the rule in question had been amended accordingly. (See G.S.R. 58 of 1959).

Amendments in the Fundamental Rules 89—91 (G.S.R. 272 of 1959)

8. Rules 89—91 of the Fundamental Rules relate to the drawing of leave salary by a Government servant. These rules were amended by G.S.R. 272 of 1959 to provide for the withdrawal of the concession of payment of leave salaries in sterling to Government servants, other than Government servants of non-Asiatic domicile. The amendments were published in the Gazette of India, dated the 27th March, 1959 and were given retrospective effect from the 12th July, 1956.

9. On being asked as to the reasons for giving retrospective effect to the said rules the Ministry of Finance stated that the instructions withdrawing the concession of payment of leave salaries in sterling to the Government servants, other than the Government servants of non-Asiatic domicile, had been issued by the Ministry of Home Affairs under their letter No. 24/11/56-AIS(II), dated the 12th July, 1956. Accordingly all leave salaries in respect of the leave or extension of leave granted to the Government servants, other than the Government servants of non-Asiatic domiciles, from the 12th July, 1956, were being paid in Rupees in India. The Ministry further stated that it

had been specifically mentioned in paragraph 4 of the said Ministry of Home Affairs letter, that the necessary amendments to the Fundamental Rules would issue in due course. Therefore, the amendments to Fundamental Rules 89—91 were given effect from the 12th July, 1956. Explaining the delay in formally issuing the amendments in question the Ministry stated that although the matter had been taken up immediately after the issue of the said letter of the Ministry of Home Affairs, in view of the complexity of the amendments it took long time to issue necessary amendments in consultation with the Ministries of Home Affairs, Law and the Comptroller and Auditor-General.

10. The Committee considered the Ministry's reply and felt that even if the officers concerned were not adversely affected by the retraction of the amendments, a long period of more than two and a half years should not have been taken to notify formally a decision of the Government which was already being carried out.

The Mechanical Engineering and Transportation (Power) Department of the Superior Revenue Establishment of Indian Railways Recruitment Rules (G.S.R. 30 of 1959) and Amendments to the Andaman and Nicobar Islands Police Regulations (S.O. 1321 of 1959)

11. The Mechanical Engineering and Transportation (Power) Department of the Superior Revenue Establishment of Indian Railways Recruitment Rules did not cite any statutory authority under which the same were made while the amendments to the Andaman and Nicobar Islands Police Regulations did not cite the exact section of the parent Act (Police Act, 1861).

12. On a reference being made the concerned Ministries of Railways and Home Affairs informed that the said rules were issued under proviso to Article 309 of the Constitution and Sections 12 and 46(2) of the Police Act, 1861, respectively.

13. The Committee desired that corrigenda should be issued giving the exact statutory authority under which the rules in question were issued.

The Minimum Wages (Central) Rules, 1950

14. Rule 32 of the Minimum Wages (Central) Rules 1950, provides that these rules shall not apply in relation to any employment mentioned in the schedule to the Minimum Wages Act, 1948 in so far as there are in force rules applicable to such employment which in the opinion of the Central Government make equally satisfactory provisions for the matters dealt with by these rules and such opinion shall be final.

15. The concerned Ministry of Labour and Employment were requested to clarify the following two points:—

- (i) In the absence of any specific authorisation by the parent Act in that behalf the saving provisions of the said rule 32 appeared to go beyond the rule-making power of the Government. If certain rules were made in pursuance

of an Act, they should be made applicable, unless otherwise directed by the Act, uniformly, to all cases which satisfied the prescribed conditions.

- (ii) It was also not clear as to what were the cases contemplated by the said rule 32 where some other rules containing, "equally satisfactory provisions for the matters dealt with in these rules" would be in operation.

16. The Ministry had stated that there were certain kinds of staff in the Port Trusts such as the marine staff etc. in whose case the duty was of a peculiar or intermittent nature. Such staff also happened to come within the purview of the Minimum Wages Act and the Minimum Wages (Central) Rules, as the Act applied to all employment under Port Trusts which came within the category of 'local authorities', but the nature of their work in certain cases precluded the rigid application to them of the provisions of rules 23, 24, 24A and 25 relating to weekly holidays, hours of work, night shifts and extra wages for overtime. They were governed by special sets of rules framed under the respective Port Trusts Acts which made equally satisfactory provisions for these matters. In the absence of an express provision in the Minimum Wages Act, the rules framed under the Port Trust Acts could not be repealed by the rules framed under the Minimum Wages Act. Besides, as the difficulty felt was real and substantial, it was considered that the best course in such circumstances was to avoid overlapping or conflict with the rules already in force and rule 32 was accordingly framed.

17. As regards the second point mentioned above, the Ministry had stated that the cases contemplated by rule 32 were those governed by rules made under other enactments like the Factories Act, the Payment of Wages Act, the Mines Act, etc. Those rules were applicable to certain classes of employees in some of the scheduled employments and provided for the maintenance of records and registers, submission of returns, etc. as in the Minimum Wages (Central) Rules.

The Committee noted the reply given by the Ministry.

The Motor Cars (Distribution and Sale) Control Order, 1959 (S.O. 994 of 1959)

18. The Motor Cars (Distribution and Sale) Control Order, 1959, intended to secure the equitable distribution and availability at fair prices of motor cars, was issued under section 18G of the Industries (Development and Regulation) Act, 1951.

19. Clause 4 of the said 'Order' provided that no manufacturer shall sell or otherwise dispose of any description of motor cars manufactured by him except in accordance with the order made by the Controller.

20. Similarly, clause 8 provided that no person shall, before the expiry of two years from the date when a motor car was first purchased as a new motor car, sell it except under and in accordance with the terms and conditions of a permit in writing from the Controller.

21. It was felt that there ought to have been some provision for appeal by the aggrieved party against the orders of the Controller under said clauses 4 and 8.

22. The concerned Ministry of Commerce and Industry had explained that the manufacturers of cars were the only party affected by the operation of clause 4 of the said 'Order'. It was issued after the question of equitable distribution had been discussed with them.

23. Since the object of the Motor Car Control Order was to secure as equitable distribution of motor cars as possible, the Controller had to fix the quotas for distribution of cars in the various regions consistently with the circumstances prevailing in each region. These were essentially matters of administrative nature which only the Controller and not the manufacturer could be expected to decide.

24. As regards clause 8, the main purpose of the provision regulating the re-sale of motor cars was to prevent speculative purchases after the scarcity of motor cars developed. As it was not the intention to impose restrictions on persons who had obtained cars under normal conditions, the State Governments had already been advised that permission to re-sell cars which were registered for the first time prior to 1st June, 1958 (when the scarcity may be said to have developed) might be freely granted.

25. Further, the principles on which a permit for the re-sale of a car may be granted or refused were stated in the Control Order itself viz., in clause 8(2). It laid down that in granting or refusing a permit for re-sale the Controller or other officer shall have regard to the circumstances relating to the proposed transaction and to the purposes to be served by this Order.

26. Referring to the observations of the Supreme Court in a case reported in 1959 S.C. 627 (632) the Ministry of Commerce and Industry in consultation with the Ministry of Law justified the clause in question. In that case the legality of an 'Order' issued under Sugar (Control) Order, 1955, fixing the ex-factory sugar price was questioned *inter alia* on the ground that the Sugar (Control) Order did not provide reasonable safeguard against the abuse of power and that no provision for a check by way of appeal was made. Clause 5 of the Sugar Control Order, 1955, laid down the circumstances which might be taken into consideration before the Government could fix prices of sugar for sale. The Supreme Court observed:—

“So long as the Central Government exercises its power to fix prices in the manner provided by the Act and the Order, and this is what it appears to have done—it cannot be said that any further safeguard is necessary in the form of an appeal or otherwise. The safeguards are to be found in clause 5 itself, namely, that the Central Government must give consideration to the relevant factors mentioned therein before fixing the price and thus these factors are a check on the power of the Central Government if it is ever minded to abuse the power”.

27. In view of the clarification given by the Ministry the Committee did not consider any further action necessary.

Model Clause in Bills relating to laying of Rules etc. before Parliament

28. In pursuance of an earlier recommendation of the Committee on Subordinate Legislation all Bills which involved delegation of legislative power used to incorporate a clause on the following lines:—

“All rules made under this section shall be laid for not less than thirty days before both Houses of Parliament as soon as possible after they are made and shall be subject to such modifications as Parliament may make during the session in which they are so laid or the session immediately following.”

29. Subsequently the Government proposed to revise the clause to make the following points clear:

- (i) that the rules shall be laid before the Houses of Parliament for a period of 30 days which may be completed in one or more session;
- (ii) that Parliament can modify the rules within the period of 30 days during which the rules remain on the Table of the Houses;
- (iii) that if any modification is made in the rules by Parliament such modification shall not affect the previous operation thereof;
- (iv) that if the rules are laid before the Houses of Parliament on different dates, the period of 30 days shall run from the later date;
- (v) that the rules shall take effect immediately.

30. After considering the matter the Committee had reported that they had no objection to the changes being made in the clause as proposed by Government except to the change being made in the existing condition, viz., rules shall be subject to such modifications as Parliament “may make during the session in which they are so laid or the session immediately following” so that Members might have adequate time to study the rules and give notices of amendments to the rules.

31. The Ministry of Law drafted the following model clause incorporating the above suggestion of the Committee:—

“Every rule made under this section shall be laid as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”

32. The Committee noted that this model clause had also been circulated to the Law Secretaries to the Governments of all States.

The News Services Division, All India Radio, New Delhi, Recruitment Rules, 1959 (S.O. 1125 of 1959)

33. The above-noted rules which were made under proviso to Article 309 of the Constitution, provided that the recruitment to the post of Administrative Officer shall be made in accordance with the provisions contained in the schedule but no schedule was appended to the rules.

34. On being pointed out the concerned Ministry of Information and Broadcasting, expressing their regret for the inadvertent omission, assured to issue a revised notification.

The Committee did not consider any further action necessary.

35. *	*	*	*	*
36. *	*	*	*	*
37. *	*	*	*	*
38. *	*	*	*	*
39. *	*	*	*	*

40. The Committee then adjourned *sine die*.

II

TWENTY-SECOND SITTING

Parliament House, New Delhi: Tuesday, the 15th December, 1959

The Committee met from 16:00 hours to 16:25 hours.

PRESENT

Sardar Hukam Singh—*Chairman.*

2. Shri T. N. Viswanath Reddy
3. Shri Aurobindo Ghosal
4. Shri Ghanshyamlal Oza
5. Shri T. C. N. Menon
6. Shri N. R. Ghosh
7. Dr. A. Krishnaswami
8. Shri Ajit Singh Sarhadi
9. Shri L. Achaw Singh.

SECRETARIAT

Shri A. L. Rai—*Deputy Secretary.*

2. The Committee considered and took decisions on memoranda prepared by the Secretariat on the following subjects and 'Orders':—

- (1) Non-framing of regulations for metalliferous mines under Section 57 of the Mines Act, 1952 (Memorandum No. 153).
- (2) The term of office of M.Ps. on the Indian Lac Cess Committee constituted under section 4 of the Indian Lac Cess Act, 1930. (Memorandum No. 154).
- (3) Delay in laying of certain 'Orders' amending the Coal Mines (Conservation and Safety) Rules, 1954 on the Table (Memorandum No. 155).
- (4) Amendment to the Central Fisheries Inland and Marine Research Stations (Recruitment to Class III and IV Posts) Rules, 1959. (G.S.R. 1045 of 1959)—Omission to give adequate references to the original rules. (Memorandum No. 156).
- (5) Amendment to the Recruitment Rules (S.Os. 1649 and 1652 of 1959)—Omission to give adequate references to the original rules (Memorandum No. 157).
- (6) Laying of Rules framed by State Governments under Central Acts before State Legislatures/Parliament. (Memorandum No. 158).

- (7) Action taken or proposed to be taken by Government on various recommendations of and assurances given to the Committee on Subordinate Legislation. (Memorandum No. 159).

Non-Framing of Regulations for Metalliferous Mines under Section 57 of the Mines Act, 1952.

3. On the 4th March, 1959, Shri T. B. Vittal Rao, M.P. addressed a letter to the Chairman of the Committee alleging that although the Mines Act, 1952 was enforced on 1st July, 1952 in all the States and under Section 57 of the Act, the Central Government was empowered to make regulations for the safe working of the mines, the regulations for metalliferous mines had not been framed. Emphasising that the regulations in question should be promulgated at an early date, the member referred to an accident in the Barytes Mine at Ragupalli Village, Cuddapah District, Andhra Pradesh in which 11 persons were killed on 27th September, 1957. The prosecution case instituted against the owner of the mine for violation of the regulations framed under the repealed Mines Act of 1923 was dismissed on the ground that the new Regulations had not been promulgated after the enactment of Mines Act, 1952.

4. The Ministry of Labour and Employment to whom the matter was referred stated that an appeal against acquittal in the said case was pending before the Supreme Court since February, 1957. In this connection, the Ministry had invited the attention of the Committee to the answer given by the Parliamentary Secretary to the Minister of Labour and Employment in the Lok Sabha on the 3rd March, 1959 in reply to a Starred Question of Shri Vittal Rao that the Metalliferous Mines Regulations under the Mines Act, 1952 would be promulgated in about three months.

5. The Committee noted with regret that the Regulations in question had not been promulgated even though a period of more than 9 months had elapsed since the assurance was given in the House and felt that these ought to be issued without any further delay.

Mode of appointment and term of office of M.Ps. on the Indian Lac Cess Committee constituted under Section 4 of the Indian Lac Cess Act, 1930.

6. Parliament is represented on the Indian Lac Cess Committee constituted under Section 4 of the Indian Lac Cess Act, 1930 by three members, two from Lok Sabha and one from Rajya Sabha.

7. Rule 4 of the Indian Lac Cess Rules pertaining to the term of office of members of the Committee did not lay down any specific term of office in respect of representatives of Parliament nor did it provide that they shall cease to be members of the Committee on their ceasing to be members of the House by which they were elected. Such a provision was necessary in view of the fact that Members of Parliament on the Committee were not there in their individual capacity but because they were members of Parliament.

8. The Committee noted that the concerned Ministry of Food and Agriculture to whom the point was referred had rectified the omission by amending the rules. (S.O. 1868 of 1959).

Delay in Laying of certain 'Orders' amending the Coal Mines (Conservation and Safety) Rules, 1954 on the Table.

9. S.R.Os. 197, 298, 2244, 2245 and 2551 of 1957 amending the Coal Mines (Conservation and Safety) Rules, 1954 were laid on the Table of Lok Sabha after two years of their issue.

10. The concerned Ministry of Steel, Mines and Fuel on being asked as to the reasons for laying the 'Orders' after an inordinate delay stated that the amending 'Orders' in question had not been laid on the Table of Lok Sabha earlier because of an incorrect understanding of the provisions of sub-section (4) of Section 17 of the Coal Mines (Conservation and Safety) Act, 1952 which provided that 'all rules made under the provisions of this Act shall be laid, as soon as may be, before Parliament'. Accordingly, the original rules, published in the Gazette of India with S.R.O. 3146, dated the 25th September, 1954 had been laid on the Table of Lok Sabha. The fact that the expression 'all rules' would include all subsequent amendments to the original rules also, was, however, overlooked until very recently, due to a misapprehension, with the result that copies of the amending 'Orders' were not laid on the Table of Lok Sabha.

11. The Committee noted the clarification given by the Ministry and observed that the Ministry of Law might impress upon all the Ministries that where rules were required to be laid before the Houses of Parliament, the amendments thereto should also be so laid.

Amendment to the Central Fisheries Inland and Marine Research Stations (Recruitment to Class III and IV Posts) Rules, 1959 (G.S.R. 1045 of 1959) and amendment to the Recruitment Rules (S.Os. 1649 and 1652 of 1959)—Omission to give adequate References to the Principal Rules.

12. The above amending 'Orders' did not give adequate references to the principal rules viz. the G.S.R. number with year or the date, part and page number of the Gazette in which the original rules were published. In the absence of these particulars it was not possible for the public to locate the original rules easily and link the amendments. This was not in accord with an earlier recommendation of the Committee on Subordinate Legislation that whenever any amendment in the rules was made a reference to the original rules should be indicated therein so that the rule could be located easily.

13. On being pointed out the Ministry of Works, Housing and Supply who were concerned with the said S.Os. 1649 and 1652 had issued necessary corrigenda to S.O. 1649 only setting out the references to the principal rules.

14. The Committee, however, desired the Ministry of Works, Housing and Supply and the Ministry of Food and Agriculture to issue necessary corrigenda to the said S.O. 1652 and G.S.R. 1045 respectively.

Laying of rules framed by State Governments under Central Acts before State Legislatures/Parliament.

15. A large number of Central Acts falling under the 'Concurrent List' as well as under the 'Union List' delegate rule making power to State Governments. Propriety of providing for laying of rules framed thereunder by a State Government on the Table of a State Legislature or Parliament had been questioned in the House sometimes.

16. When the Poisons (Amendment) Bill, 1958, was being considered in the House during the Seventh Session of Second Lok Sabha, an amendment was tabled by Shri T. N. Viswanatha Reddy, M.P. to the effect that the rules made by the State Government under the principal Act should be laid before the State Legislature. The Minister of Home Affairs opposed this amendment saying that such a provision could not be made in a Central Act. The amendment, however, was not pressed. The Committee on Subordinate Legislation subsequently considered this matter and reported to the House that Central Acts can provide for laying of rules framed thereunder by the State Governments before the respective State Legislatures. (Para. 40, Fifth Report of Committee on Subordinate Legislation, Second Lok Sabha).

17. During the Eighth Session of Second Lok Sabha when the Wakfs (Amendment) Bill, 1959 was being considered by the House an amendment was tabled by Shri Ajit Singh Sarhadi, M.P. to the effect that the rules made by a State Government should be laid before Parliament. The amendment was opposed by the Minister-in-charge of the Bill again on the ground that such a provision could not be made in a Central Act. Thereupon the amendment was not pressed.

18. The following arguments could be advanced against the view that rules framed by the State Governments under Central Acts should be laid before the respective State Legislatures:—

- (i) While making rules under a Central Act the State Governments act as the delegate of Parliament and not as the delegate of the State Legislature. Therefore, it would not be correct to require the rules made by the State Government to be laid before the State Legislature as the power of overseeing the rules should properly and legally belong to the fountain source, namely Parliament. It is only Parliament which should reserve to itself the control of seeing how far the delegate is exercising its power within the orbit of its delegated authority. In making the rules, the State Government is not responsible to the State Legislature and if the

rules are laid before the State Legislature, that body in effect could criticise Parliament through the State Government.

- (ii) Such a provision would appear to confer a power or impose a duty on the State Legislatures—a power which is not available to Parliament. Parliament can no doubt confer powers or impose duties on the State or officers or authorities of the State but a State Legislature is obviously not an authority of the State for this purpose (Art. 258). Here the word 'State' means the 'State Government' as reference to clause (3) of Article 258 and the same word used in Article 256 and 257 will make it clear. However, a Central Law can validly authorise the State Government to make rules.
- (iii) The State Legislature has, subject to the provisions of the Constitution, full power to regulate its procedure and the conduct of business (Article 208). Therefore, a provision which restricts the period during which modifications in the rules may be made by the State Legislature would be contrary to the Constitution. Parliament and the State Legislatures are within their respective Legislative spheres paramount.
- (iv) The State Legislature might like to frame its own laws and rules of procedure with respect to the conduct of business before it and such a law or rule may very well have the effect of running counter to a Central Provision on the subject.

19. A second course *viz.* the laying of rules framed by the State Governments under a Central Act before Parliament would not appear to be a practical proposition in view of the the following considerations:—

- (i) The rules framed by the State will have to be physically laid on the Table of the House. No particular Central Minister will be responsible for having framed them or for laying them since the rules would not have been framed by an authority subordinate or under the control of any Central Minister. Thus there will be the problem of physically laying them on the Table.
- (ii) Rules framed by State Governments would be based on local conditions, material facts, within its knowledge and unless all those are made known to Parliament the discussion would not be comprehensive.
- (iii) Further if such rules are discussed in Parliament, for amending them, it would be impossible to draw a line and stop criticism of the State Government or of its officers either directly or indirectly. Such a discussion would appear injudicious and might even be infructuous and liable to irritate the State Government. The Central Minister will also have no material for a reply or responsibility for replying to such a criticism.

20. The recommendation of the Committee on the subject contained in their Fifth Report (Second Lok Sabha) was discussed by the Chairman of the Committee with the Deputy Minister of Law (Shri Hajarnavis). After noting the above mentioned difficulties it was felt that the better course would be to request the State Governments to have laws enacted by their Legislatures to provide for laying of the rules framed by them (either under a Central Act or State Act) before the State Legislatures and for their modification, if any, by the respective Legislatures. The Deputy Minister of Law had also informed the Chairman that a provision of a similar nature requiring the Central Government to lay rules framed by them before Parliament and for their modification if any, would be made in the General Clauses Act which would obviate the necessity of providing for the same in every Act which delegated rule making power.

21. After considering the matter the Committee endorsed the conclusion arrived at by the Chairman of the Committee and the Deputy Minister of Law.

Action taken or proposed to be taken by Government on various Recommendations of and Assurances given to the Committee on Subordinate Legislation.

22. The Committee considered the replies sent by the Government in respect of the action taken or proposed to be taken by the Government on various recommendations of or assurances given to the Committee (See Appendix II at page 19 ante).

The Committee note the replies given by the Government.

23. The Committee then adjourned *sine die*.

III

TWENTY-THIRD SITTING

Parliament House, New Delhi: Monday, the 21st December, 1959

The Committee met from 15.00 hours to 15.15 hours.

PRESIDENT

Sardar Hukam Singh—*Chairman.*

2. Shri J. M. Mohamed Imam
3. Shri K. S. Ramaswamy
4. Shri Sinhasan Singh
5. Shri Bahadur Singh
6. Shri Aurobindo Ghosal
7. Shri Ghanshyamlal Oza
8. Shri T. C. N. Menon
9. Shri N. R. Ghosh.

SECRETARIAT

Shri A. L. Rai—*Deputy Secretary.*

2. The Committee considered the draft Seventh Report and adopted the same.
3. The Committee authorised the Chairman and in his absence Shri Sinhasan Singh to present the Report to the House.
4. The Committee then adjourned *sine die.*