

COMMITTEE
ON
SUBORDINATE LEGISLATION

(FIFTH LOK SABHA)

TENTH REPORT

**(Action taken by Government on outstanding
recommendations of the Committee)**

(Presented on the 3rd April, 1974)



LOK SABHA SECRETARIAT
NEW DELHI

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Corrigenda to the Tenth Report of Committee on Subordinate Legislation (Fifth Lok Sabha)

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COMPOSITION OF THE COMMITTEE ON SUBORDINATE LEGISLATION

(1973-74)

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15. Shri Tulmohan Ram

SECRETARIAT ..

Shri P. K. Patnaik—*Joint Secretary*.

Shri H. G. Paranjpe—*Deputy Secretary*.

REPORT

I

INTRODUCTION

I, the Chairman of the Committee on Subordinate Legislation, having been authorised by the Committee to present the Report on their behalf, present this their Tenth Report. This Report deals exclusively with the outstanding recommendations of the Committee made during First to Fourth Lok Sabha.

2. The Committee considered the replies furnished by the Ministries/Departments on these outstanding recommendations at their sittings held on the 3rd, *26th October, 5th December, 1973, 25th, 28th, 29th January, 11th, 12th February and 28th March, 1974. At their sitting held on the 12th February, 1974, the Committee took evidence of the representatives of the following Ministries/Departments on the subjects mentioned against them:—

S. No.	Ministry/Department	Subject
		Implementation of outstanding recommendations made in—
1	Defence	(i) para 43 of Third Report (Second Lok Sabha) regarding delay in amending the National Cadet Corps Act, 1948; and (ii) para 26 of Fourth Report (Third Lok Sabha) regarding supervision charges for regulation of supply and use of water in Belgaum Cantonment.
2	Law, Justice and Company Affairs (Legislative Department)	paras 51-52 of Third Report (Second Lok Sabha) regarding delay in printing and publication of Compilation containing General Statutory Rules and Orders.
3	Industrial Development	para 7 of Ninth Report (Second Lok Sabha) regarding delay in amending the Indian Boilers Act, 1923.
4	Agriculture (Department of Agriculture)	para 50 of Sixth Report (Fourth Lok Sabha) regarding absence of safeguards in the Seeds Rules, 1968, to protect the farmer against supply of defective seeds.

* Minutes included in the Ninth Report (Fifth Lok Sabha), presented on 19-11-1973.

3. The Committee considered and adopted this Report at their sitting held on the 28th March, 1974. The relevant Minutes of the sittings which form part of the Report are appended to it.

4. A statement showing the summary of recommendations/observations of the Committee is also appended to the Report (Appendix I).

II

DELAY IN IMPLEMENTATION OF RECOMMENDATIONS MADE BY, AND ASSURANCES GIVEN TO, THE COMMITTEE ON SUBORDINATE LEGISLATION DURING FIRST TO FOURTH LOK SABHA

5. Under Direction 108(1) of the Directions by the Speaker, the Ministries/Departments are required to intimate action taken or proposed to be taken by them on the recommendations of, and assurances given to, the Committee on Subordinate Legislation. On the basis of the information received from Government, statements showing implementation of recommendations/progress of action taken on the recommendations of the Committee are appended to the Reports and presented to the House from time to time.

6. On a perusal of these statements contained in the Reports of the Committee, it was noticed that 48 recommendations made by the Committee from First to Fourth Lok Sabha had remained unimplemented by Government. In four cases, Government had sent interim replies containing assurances to implement the recommendations, which were reported to the House through various Reports (Vide Appendix II). The Ministries/Departments concerned were asked to indicate the final action taken by them in all such cases. The Ministries/Departments which had not sent any reply were asked to indicate whether the recommendations had been implemented or not.

7. The Committee are glad to report that as a result of their pursuance action on 28 recommendations has been taken by Government to their satisfaction. A statement showing final action taken by Government on 15 outstanding assurances/recommendations was included in the Ninth Report of the Committee—presented on 19th November, 1973—vide para 123, Appendix IX to that Report. A similar statement containing final replies received from Government on 13 more outstanding assurances/recommendations has been included in this Report—vide para 149, Appendix V.

8. Although necessary action in 28 cases has been taken by Government, the Committee are constrained to observe that the delay involved in implementation/intimation of action taken on these cases was unjustifiable. In some cases, the Ministries had taken action long back but they failed to inform the Committee. The Committee

would like to stress that Direction 108(1) casts a duty on Government to inform them the action taken or proposed to be taken on the recommendations of, and assurances given to, the Committee. They, expect that in future the Ministries will abide by this Direction.

9. Out of 20 remaining cases of non/unsatisfactory implementation, the Committee note that while in 12 cases, the Ministries/Departments concerned sent interim/final replies disagreeing with the recommendations of the Committee, in 8 cases no reply whatsoever was received. At their sitting held on the 21st May, 1973, the Committee noted that in the aforesaid 8 cases (*vide* Appendix III), the Ministries/Departments concerned had not indicated the action taken by them, even though a period of more than 14 years (barring one case in which it was more than 5 years) had elapsed. The Committee noted that in two of these cases, final action had not yet been intimated by the Ministry concerned—Ministry of Defence—even though they had promised* to implement the recommendations as far back as 1958 and 1961. The Committee decided to convey their displeasure to the concerned Ministries/Departments. After protracted correspondence with the Ministries/Departments concerned, replies on all the remaining 20 cases have now been received. The Committee have commented upon each case separately in the succeeding Chapter of the Report.

10. The Committee are distressed that Government should not have taken any action to implement the recommendations of the Committee even after lapse of several years in most cases. The error is particularly regrettable in cases, where after giving assurances to the Committee, the Ministries concerned did not move in the matter till the matter was again taken up with them in 1972. The error is also regrettable because it is observed that Government in five** cases had difference of opinion with the Committee. In such cases, they should have placed their view point before the Committee, instead of merely keeping quiet. The Committee stress upon all the Ministries/Departments to be prompt in future in implementing their recommendations and sending action taken statements thereon within a period of six months from the presentation of the Report. In case, any Ministry/Department are not in a position to implement, or feel any difficulty in giving effect to, a recommendation made by the Committee, the Ministry/Department should place their views before the Committee rather than keep silent for years.

11. The Committee desire the Department of Parliamentary

* See S. No. 16 of Appendix II to Fourth Report (Second Lok Sabha)—presented on 19-12-1958 and S. No. 1 of Appendix II to Eleventh Report (Second Lok Sabha)—presented on 4-5-1961.

**See Chapter III (i), (ii), (iii), (vi), and (xv).

Affairs to bring the above observations of the Committee to the notice of all Ministries/Departments for strict compliance in future.

III

IMPLEMENTATION OF OUTSTANDING RECOMMENDATIONS

(i) *Rules framed under the Salaries and Allowances of Ministers Act, 1952 (Para 15 of Second Report—First Lok Sabha).*

12. The Committee on Subordinate Legislation (First Lok Sabha) considered 3* sets of rules framed under the Salaries and Allowances of Ministers' Act, 1952 and recommended in para 15 of their Second Report (presented to the House on 29th September, 1954) as follows:—

"It will be observed from Section 11 of the Salaries and Allowances of Ministers Act that it is very widely worded and full powers have been given to the Government to frame rules to carry out the purposes of the Act.

At the outset the Committee wish to make it clear that they have not found any reason to comment adversely on the use of these wide powers by Government. The Committee also wish to make it clear that they have no doubt that Government will continue to be extremely cautious in framing such rules and take every care that principles and propriety are observed meticulously. But in order to avoid uninformed or misinformed criticism and as such matters are essentially money and financial matters, it will be desirable if, in accordance with democratic principles and in larger public interests, such powers are exercised by the House itself. In cases where it is considered necessary by the House to delegate the power to make rules to a subordinate authority in order to save the time of Parliament, the Committee recommend that it should be provided that rules made by a subordinate authority should in such cases become operative only after an affirmative vote of the House has been obtained. It may be stated in this connection that such a procedure is less rigid and less cumbersome than the ordinary process of legislation and it should be noted that such a procedure while retaining the power of Parliament gives at the same time larger powers to a subordinate authority to make rules and it takes less time in seeking the approval of the House."

* (1) Amendment to the Ministers (Advance for Motor-car) Rules, 1952 (SRO 32 of 1953). (2) Rule regarding re-imbursement to Ministers of deductions made by an Air Transport Company on cancellation of the airpassage due to official reasons (SRO 117 of 1953). (3) Rules regarding Grant of Sumptuary Allowances to Minister of Defence Organisation (SRO 1073 of 1953).

After considering* three similar sets of rules, the Committee had reiterated the above recommendation in para 15 of their Third Report (First Lok Sabha), presented to the House on 3rd May, 1955.

13. No reply to the above recommendation having been received, the Ministry of Home Affairs were asked on 24th November, 1972 to indicate the action taken thereon by them. At their sitting held on the 21st May, 1973, the Committee took a serious note of the inordinate delay (18 years in this case) in implementation of their above recommendation and desired that the Ministry should be asked to send their final reply without any further delay. After the displeasure of the Committee was communicated on 25th May, 1973, the Ministry of Home Affairs, while regretting the delay that had taken place in sending Government's views in the matter, replied on 14th June, 1973 as under:

"Government have now given careful thought to the recommendation of the Committee and they are of the view that there is a strong case for continuing the present arrangement under which Rules framed by the Government are laid before both Houses of Parliament in accordance with the provisions of Section 11(2) of the Salaries and Allowances of Ministers' Act, 1952. This view is based on the following considerations:—

- (i) The Act itself stipulates the salaries of Ministers and provides for the allotment of furnished residences to them free of rent and maintenance charges. It also fixes the amount of Sumptuary Allowance. The Ministers are also entitled under the Act to Travelling Allowances, Daily Allowances, medical treatment and advances for the purchase of motor cars. The rule-making powers, therefore, mainly deal with the matters of detail or of a procedural nature and cannot be considered to give very wide financial powers to the Government.
- (ii) Rules framed by the Government from time to time under their Rule making powers have been reviewed by the Committee on Subordinate Legislation and they had no occasion to find fault either with the Rules or the use of the rule-making powers by the Government from the point of view of financial propriety or otherwise. Since there has been no complaint in this regard in the

(1) Rule regarding Grant of Sumptuary Allowance to Minister for Information and Broadcasting (SRO 2263 of 1953). (2) Amendments in Rules relating to the Travelling Allowances of Ministers (SRO 239 of 1954). (3) Amendments in Rules relating to the Travelling Allowances of Ministers (SRO 901 of 1954).

last eighteen years, there is a strong case for continuing the present arrangement.

- (iii) It is open to any Member of the House at any time to give notice of any amendments that he thinks, should be made in the Rules framed by the Central Government, for consideration of the House.
- (iv) There are similar rule-making provisions in other Acts like the Salaries and Allowances of Officers of Parliament Act, 1953, and the High Court Judges (Conditions of Service) Act, 1954. A special provision with regard to rules made under the Salaries and Allowances of Ministers' Act may appear to be invidious.

It is requested that the Committee on Subordinate Legislation may kindly be requested to reconsider their recommendation in the light of what has been stated above. The view expressed above has the approval of the Minister of Home Affairs."

14. In this connection, the Committee also noted that during the years 1971 and 1972, the Ministry of Home Affairs had issued the following amendments to the Ministers' (Allowances, Medical Treatment and other Privileges) Rules, 1957:—

<i>S. No.</i>	<i>Short Title</i>	<i>Reference to Gazette</i>
1.	The Ministers' (Allowances, Medical Treatment and other Privileges) Amendment Rules, 1971.	G.S.R. 1109A of 1971 dated 30-7-1971.
2.	The Ministers' (Allowances, Medical Treatment and other Privileges) Second Amendment Rules, 1971).	G.S.R. 1912 of 1971 dt. 20-12-1971.
3.	The Ministers' (Allowances, Medical Treatment and other Privileges) Amendment Rules, 1972.	G.S.R. 68-E of 1972, dated 2-2-1972.

15. The Ministry were asked to state whether in the light of the aforesaid recommendation of the Committee on Subordinate Legislation made in para 15 of their Second Report (First Lok Sabha), an affirmative vote of the House had been obtained. The Ministry have stated that no affirmative vote was obtained and have drawn attention to their communication dated 14th June, 1973.

16. The Committee regret to note that though the original recommendation was made by the Committee as far back as in September, 1954 and reiterated in May, 1955, the Ministry of Home Affairs had not cared to send any reply till the matter was taken up afresh with:

them in November, 1972. The Committee cannot help deploring the casual manner in which the Ministry had treated the recommendation of the Committee.

17. The Committee have carefully considered the Government's reply in all its aspects. They feel that, as matters relating to salaries and allowances of Ministers are essentially financial matters, it will be desirable that, in accordance with democratic principles and in larger public interests, such powers are exercised by the House itself. In cases where it is considered necessary by the House to delegate the power to make rules to a subordinate authority in order to save the time of Parliament, the Committee reiterate their earlier view that the rules made by a subordinate authority should in such cases become operative only after an affirmative vote of the House has been obtained. The Committee need hardly point out that such a course is also necessary to obviate uninformed or misinformed criticism. They further recommend that, if considered necessary for the purpose, the Ministry of Home Affairs should take early steps to amend the Salaries and Allowances of Ministers' Act, 1952, to this effect.

(ii) *The Reserve and Auxiliary Air Forces Act Rules, 1953 (S.R.O. 6-E of 1954) (Para 24 of Fourth Report—First Lok Sabha)*

18. Rule 35A(10) of the Reserve and Auxiliary Air Forces Act Rules, 1953, as amended by S.R.O. 6-E of 1954, provides that the quorum of each of the Advisory Committee or Sub-Committees thereof shall be as nearly as may be one-fourth of the total strength of the Committee or Sub-Committee, as the case may be.

19. The Committee on Subordinate Legislation (First Lok Sabha) had observed in para 24 of their Fourth Report (presented to the House on 14th May, 1956) that the quorum provision was unusual. They recommended that the quorum fixed for these Committees should be raised.

20. In an interim reply dated 11th October, 1956, the Ministry of Defence informed the Committee on Subordinate Legislation that the rule would be amended accordingly. This information was included in the Second Report of the Committee on Subordinate Legislation (Second Lok Sabha) at S. No. 6 of Appendix I (presented to the House on 21st December, 1957).

21. No further communication on the above assurance having been received, the Ministry of Defence were asked to state on 28th November, 1972, whether rule 35A(10), *ibid.*, had been amended accord-

ingly. In their reply dated 10/16th April, 1973, the Ministry have stated as under:—

“...the previous papers on the subject are not readily traceable. Incidentally it may be mentioned that Auxiliary Air Force Squadrons are not functioning at present nor is there any proposal to resuscitate them in the foreseeable future. As such, no useful purpose will be served by taking up this matter afresh at this stage.”

22. The Committee are not satisfied with the above reply of the Ministry of Defence. They are surprised that after assuring the Committee in October, 1956, that the rule in question would be amended as per the recommendation of the Committee, the Ministry should now—after a lapse of 17 years—come with the plea that no useful purpose would be served by amending the rule at this stage.

23. The Committee desire the Ministry of Defence to take early steps to amend sub-rule (10) of rule 35-A of the Rules on the lines suggested by them.

24. The Committee also desire them to make consequential amendment to sub-rule (3) of rule 35A, as the categorisation of States into Part A or Part B or Part C States has long been done away with.

(iii) *The Coal Mines Conservation and Safety Rules, 1954 (Para 12 of Sixth Report—First Lok Sabha)*

25. The Committee on Subordinate Legislation had recommended in para 12 of their Sixth Report (First Lok Sabha), presented to the House on 22nd December, 1956, as follows:—

“The rules framed or the principles formulated under rule 41 of the Coal Mines Conservation and Safety Rules, 1954, should be subject to the conditions of previous publication and should also be laid before Parliament.”

26. No reply to the above recommendation having been received, the Ministry of Steel and Mines (Department of Mines) were asked on 29th November, 1972 to indicate the action taken by them. When no reply was forthcoming from the Ministry, the Committee at their sitting held on 21st May, 1973, took a serious note of the inordinate delay (16 years in this case) in implementation of their recommendation or sending no final reply by the Ministry and desired that they should be asked to send their final reply without any further delay.

27. After the displeasure of the Committee was conveyed to the Ministry of Steel and Mines (Department of Mines), they have stated in their reply dated 20th August, 1973, as follows:—

“...under rule 41 of the Coal Mines (Conservation and Safety) Rules, 1954 the following principles have been laid down for governing the acquisition and disposal of land surface rights by Coal Board *vide* the late Ministry of Mines and Fuel letter No. C5-5(13)/59 dated the 8th February, 1962 and C5-5(13)/59-II dated 7th February, 1963, respectively:—

- 1(a) In the case of lands where the surface rights or rights to remove sand are held on lease from the State Government, the Board may obtain such rights by obtaining a sub-lease from the lessee, if the latter is agreeable.
- (b) Where the land belongs to the State Government and is not held on lease by third parties etc., then the Board may take it on lease from the State Government or purchase it, if the State Government is willing.
- (c) In case where the lands or rights there on are owned by private individuals the Board may purchase or take on lease such land or rights from the owners thereof.
2. The Board may not ordinarily obtain rights over an area which is held on lease by any colliery operating schemes of stowing approved by the Board, provided the entire area is considered to be genuinely required by the lessee.
3. The Board may not obtain an area in excess of that required for use in the near future unless a larger area is considered more economical in the long run or there are other valid reasons.
4. The Board will have the option, with the consent of the State Government from which rights are obtained by it, to sub-lease its rights for removal of sand to collieries or group of collieries who require sand for purposes of stowing and to terminate such sub-lease at any time after giving notice for an agreed period.
5. The obtaining of any right in respect of land or removal of sand will be in conformity with the terms and conditions normally prescribed in this behalf by the State Government.

6. The Board will have the right to dispose of its lease-hold rights to the owner of the colliery for the purpose of furtherance of the objects of the Coal Mines (Conservation and Safety) Act, 1952. When the continued possession of any rights is not essential for the furtherance of the objectives of the Act, the rights will be surrendered to the State Government.

With regard to the action taken on the recommendation of the Committee on Subordinate Legislation the position is that sub-section (1) read with sub-section (4) of section 17 of the Coal Mines (Conservation, Safety and Development) Act, 1952, there is a condition of previous publication and of laying before each House of Parliament with respect only to rules framed under the said Act. The principles specified by the Coal Board under rule 41 of the Coal Mines (Conservation and Safety) Rules, 1954 cannot, however, be deemed to be rules framed under the Act. In the absence of a specific provision under Rule 41 of the Coal Mines (Conservation and Safety) Rules, 1954, laying down a condition as to previous publication of the said principles and with respect of laying down the said principles before Parliament, previous publication or laying the said principles before the Parliament does not seem obligatory.

Incidentally, it may be mentioned here that with nationalisation of the Coal Industry the entire context has changed and the said Act and the Rules framed thereunder may soon undergo radical changes."

28. In a further communication, dated 9th November, 1973, while forwarding copies of two letters dated 8th February, 1962 and 7th February, 1963, containing the principles for governing the acquisition and disposal of land surface rights by the Coal Board, the Ministry have stated that consequent upon the nationalisation of the Coal Industry and setting up of the Bharat Coking Coal Ltd., and the Coal Mines Authority Ltd., a proposal for the transfer of Coal Boards functions to the production organisations and abolition of the Coal Board is under the active consideration of the Government.

29. The Committee are not satisfied with the reply of the Ministry of Steel and Mines (Department of Mines) that in the absence of a provision in the rules under which the principles have been made, they do not consider it obligatory to pre-publish and lay them before Parliament. The Committee note, in this connection, that having regard to the observations of the Supreme Court in *Naren-

drakumar vs. Union of India, the Ministry of Law had advised the Ministry of Home Affairs (who were not laying the Regulations before Parliament) that the Regulations framed under the All-India Services Rules made under the All-India Services Act, 1951, should be taken to form an integral part of the Rules, and as such they are also required to be laid before Parliament. Accordingly, Government have now been laying the Regulations also before Parliament. The Committee, therefore, feel that the principles made under rule 41 should not be considered on a separate footing than the Rules. When the Rules are required to be pre-published and laid, the principles made thereunder should also be subject to the same conditions as laid down in the parent Act. The Committee desire the Ministry to either incorporate the principles issued by them in the Rules or pre-publish them in the Gazette and lay them before Parliament also as is being done in the case of Rules.

30. The Committee regret to note that the Ministry did not care to send any reply for the last 16 years till the matter was again taken up with them in November, 1972 and final reply was received from them only after the displeasure of the Committee was conveyed in May, 1973. The Committee will like the Ministry to send prompt replies to them in future.

(iv) *Bye-laws of the Secunderabad Cantonment Board (S.R.O. 154 of 1957) (Paras 128-129 of First Report—Second Lok Sabha)*

31. In paras 128-129 of their First Report (Second Lok Sabha), presented to the House on 12-9-1957, the Committee on Subordinate Legislation had noted the assurance given by the Ministry of Defence that necessary action would be taken to omit Clause 8 (levy of ground rent) of the Bye-laws for the control and supervision of places where sale of fire works was carried on within the limits of Secunderabad Cantonment Section 282 (17) of the Cantonment Act, 1924, under which the said bye-laws were made, did not authorise the Board to levy such a charge.

32. No further communication on the above assurance having been received, the Ministry of Defence were asked on 28-9-72 to indicate the action taken thereon by them. When no reply was forthcoming even after several reminders sent to the Ministry, the Committee at their sitting held on 21-5-73, took serious note of the inordinate delay (15 years in this case) in not fulfilling the assurance given to them or sending no final reply by the Ministry and desired that they should be asked to send their final reply without any further delay.

33. After the displeasure of the Committee was conveyed to the Ministry, they have stated in their reply, dated 23-10-73, as follows:—

"It appears that the Cantonment Board Secunderabad submitted the necessary proposals to the GOC-in-C Southern Command. The latter has, however, stated that the proposals were not received by them and consequently no further action could be taken for obtaining Central Government's approval and confirmation of the bye-laws and their publication in the official gazette. The Board have since re-initiated the proposal and a notification has been locally published inviting objections/suggestions from the public for deletion of Clause 8 of the Bye-laws. A period of 60 days has been given to the public to lodge their objections and suggestions. Consideration of these will take a little time and after the Cantonment Board have formulated their views the matter will be referred to the Command HQrs., the ML&C Dte. and ultimately to the Ministry of Defence who will in turn consult the Ministry of Law. It is expected that it should be possible to publish the necessary amendments by the end of this year. The ML&C Dte. are now keeping a track of the proposal with a view to ensuring that there is no undue delay at any stage."

34. The Committee are unhappy to note the circumstances under which delay has occurred in amending the Bye-laws of the Secunderabad Cantonment Board in pursuance of the assurance given by the Ministry of Defence to the Committee on Subordinate Legislation (Second Lok Sabha), although that assurance was given as far back as in September, 1957. They deplore the carelessness on the part of the Secunderabad Cantonment Board who, after submitting the proposals in this behalf to the GOC-in-C, Southern Command, did not bother to follow it up for 15 long years till the matter was taken up afresh with the Ministry in September, 1972. The Committee note that the Ministry have now sent the reply only after their displeasure was conveyed to them in May, 1973. The Committee desire the Ministry to amend the Bye-laws without any further delay.

(v) *Representation of Lok Sabha on the Employees' State Insurance Corporation constituted under Section 3 of the Employees' State Insurance Corporation Act, 1948 (Para 151 of First Report—Second Lok Sabha).*

35. In para 151 of their First Report (Second Lok Sabha), presented to the House on 12-9-1957, the Committee on Subordinate

Legislation (1957-78) had recommended as follows:—

“The Employees’ State Insurance Corporation Act, 1948 should be suitably amended to provide (i) that a representative of the Lok Sabha should cease to be a member of the Corporation on his ceasing to be a member of the Lok Sabha; and (ii) that Parliament should be represented by three members on the Corporation, two from Lok Sabha and one from Rajya Sabha.”

36. In an interim reply, the then Ministry of Labour and Employment, *vide* their O.M. No. 1(27) 62-HI, dated 19-6-1962, had informed the Committee that the recommendations had been included in the proposed amendments to the Act. This information was reported to the House on 7-5-1963, through Second Report of the Committee on Subordinate Legislation (Third Lok Sabha), *vide* S. No. 1 of the Appendix to that Report.

37. It was in 1966 that the above recommendations were implemented by amending Sections 4(i) and 12(3) of the Employees’ State Insurance Corporation Act, 1948, by Act No. 44 of 1966.

38. At their sitting held on* 6-10-1972, the Committee took serious note of the fact that Government had taken 9 years in implementing their recommendations and desired that the Ministry might be asked to explain the reasons for this inordinate delay in amending the Act.

39. The Ministry of Labour and Rehabilitation (Department of Labour and Employment), with whom the matter was taken up, have stated in their reply dated 16-4-1973, as under:—

“.....Both the recommendations made by the Committee on Subordinate Legislation in their First Report (Second Lok Sabha) involved amendment of the Employees’ State Insurance Act, 1948. These recommendations were brought to the notice of the Employees’ State Insurance Corporation and they were included in the batch of amendments which were already under consideration at that time. The proposed amendments, numbering seventy-two were approved by the Corporation in August, 1961 and referred to this Ministry in September, 1961 for further processing.

The proposed amendments were examined in this Ministry. This took a considerable time because of the large number of amendments involved. A draft summary for the

*See Minutes of Twenty-first sitting of the Committee appended to Fifth Report (Fifth Lok Sabha), pp. 86-87.

Cabinet was prepared thereafter and circulated to the concerned Ministries in March, 1963 for concurrence. The final summary was sent to the Cabinet Secretariat in December, 1964. The chronological development of the case thereafter was as follows:—

- | | |
|---|-------------|
| (i) The proposal approved by the Cabinet. | 18-1-1965. |
| (ii) Bill introduced in Lok Sabha. | 18-8-1965. |
| (iii) Passed by Lok Sabha. | 15-11-1966. |
| (iv) Passed by Rajya Sabha. | 24-11-1966. |
| (v) Assented to by the President. | 11-12-1966. |

The Employees State Insurance (Amendment) Act, 1966 incorporated the following two amendments which were carried out in pursuance of the recommendations of the Committee on Subordinate Legislation:—

Section 4(i) was revised to read as under:—

“Three Members of Parliament of whom two shall be members of the House of People (Lok Sabha) and one shall be a member of the Council of States (Rajya Sabha) elected respectively by the members of the House of People and the members of the Council of States.”

Section 12(3) reading as under was added:—

“A person referred to in clause (i) of Section 4 shall cease to be a member of the Corporation when he ceases to be a member of Parliament.”

The amendment made *vide* Employees' State Insurance Corporation (Central) Third Amendment Rules, 1968 was consequential to the amendment of Section 4(i) of the Employees' State Insurance Corporation Act, 1948. It will be observed from the position stated above that the main reasons for the delay in amendment of Employees' State Insurance Act in pursuance of the recommendations of the Committee on Subordinate Legislation was the processing of the proposed amendments with a large number of other amendments which were already under consideration. It is requested that the position stated above may kindly be suitably communicated to the Committee on Subordinate Legislation.”

40. The Committee are glad to note that the Employees' State Insurance Corporation Act, 1948, has since been amended as per their recommendations. They, however regret to note the delay in implementation. The Ministry circulated draft summary for the

Cabinet to the concerned Ministries for their concurrence in March, 1963, which was after five and half years of the presentation of their First Report to the House on 12-9-1957. It took them another year and nine months for sending the final summary to the Cabinet for its approval in December, 1964. The Committee impress upon Government to avoid such delays in future.

(vi) *Representation of Lok Sabha on the Samsad (Court of Visva-Bharati) constituted under Section 18 and 19 of the Visva-Bharati Act, 1951 (Para 162 of First Report— Second Lok Sabha)*

41. Clause 11(12) of the said Statutes governing the termination of membership of the Samsad (Court of Visva Bharati) reads as follows:—

“No member elected, nominated or appointed to the Samsad (Court) in his capacity as a member of a particular body or as the holder of a particular post shall hold office for a period longer than three months after he ceases to hold that post, unless in the meantime he again becomes a member of that body or is re-appointed to that post.”

42. There was no specific provision in the First Statutes of the University (Visva-Bharati) that a representative of Lok Sabha on the Samsad (Court) should cease to be member thereof, if he ceased to be a member of the Lok Sabha.

43. The effect of the above clause appeared to be that members of the Lok Sabha on the Samsad will continue to represent the Lok Sabha even after dissolution of the Lok Sabha which elected them, if they are again elected to the Lok Sabha within three months, without their being re-elected by the new Lok Sabha to serve on the Samsad.

44. The matter was taken up by the Committee on Subordinate Legislation (Second Lok Sabha) with the Ministry of Education, who had then replied as under:—

“The Ministry of Law who have been consulted in the matter have confirmed that interpretation.* That Ministry have also observed that if it was intended that members of old Lok Sabha on the Samsad (Court) should not continue to be members of the Samsad after the dissolution of the Lok Sabha and that the new Lok Sabha should elect its own representatives on the Samsad, it would be necessary to amend the Statutes suitably.”

*Referred to in para 43 above.

45. The other point that was referred to the Ministry was that on the Samsad, which consisted of 45 members, Parliament was represented by two members, one from Lok Sabha and one from Rajya Sabha. The representation of the two Houses was not in the ratio of 2:1 as recommended by the Committee earlier.

46. In this connection, the Ministry had replied as under:

".....an amendment of clause (5) of Statute 10 of the First Statutes of Visva Bharati would be necessary in order to give effect to the recommendations of the Committee on Subordinate Legislation. Till such amendment is made the present provision on the Statutes will remain in force."

47. After considering the Ministry's reply to the above points, the Committee on Subordinate Legislation had recommended in para 162 of their First Report (Second Lok Sabha), presented to the House on 12-9-57, as follows:—

"The Committee recommend that First Statutes of the University (Visva-Bharati) should be suitably amended to provide (i) that a representative of the Lok Sabha should cease to be a member of the Samsad on his ceasing to be a member of the Lok Sabha; and (ii) that Parliament should be represented by three members on the Samsad, two from Lok Sabha and one from Rajya Sabha."

48. No reply having been received on the above recommendations, the Ministry of Education and Social Welfare (Department of Education) were asked on 28-9-72 to indicate the action taken thereon. While forwarding a copy of the †Visva-Bharati (Amendment) Act, 1971 (57 of 1971), the Ministry have stated in their reply dated 9-11-1972, as follows:—

"According to the composition provided in Section 19 of the Visva-Bharati Act, as amended, the Court (Samsad) shall *inter alia* consist of 3 representatives of Parliament of which two will be nominated by the Speaker of the Lok Sabha from among the members thereof and one to be nominated by the Chairman of the Rajya Sabha from among the members thereof. As the relevant clause specifically provides that there shall be 3 representatives of

* See paras 26-27 (Third Report— 1 LS), paras 9 and 32 (Fourth Report— 1 LS).

† Section 19 (1)(f) as now amended reads—

"(f) three representatives of Parliament, of which two to be nominated by the Speaker of the Lok Sabha from among the members thereof and one to be nominated by the Chairman of the Rajya Sabha from among the members thereof."

Parliament, persons concerned will cease to be members of the court (Samsad) of the University as soon as they cease to be the Members of the Parliament. It is, therefore, felt that provision for the purpose as recommended by the Committee on Subordinate Legislation in para 162 of their first report (Second Lok Sabha), already exists in the Act of the Viswa-Bharati and no further action is necessary for implementing the said recommendations of the Committee on Subordinate Legislation."

49. The Committee regret to note that the Ministry of Education have taken 14 years to amend the Visva-Bharati Act, 1951, in implementation of second part of their recommendation made in para 162 of First Report (Second Lok Sabha) that Parliament should be represented on the Samsad of the Visva-Bharati by three Members, two from Lok Sabha and one from Rajya Sabha.

50. As regards the first part of the recommendation that the statutes of the University should be amended to provide that a representative of Lok Sabha should cease to be a member of the Samsad on his ceasing to be a Member of Lok Sabha, the Committee are surprised to note that the Ministry have still not amended the Statutes in spite of the opinion given by the Law Ministry to them as far back as in 1957 regarding the necessity of amending the Statutes suitably. The Committee are not convinced by the reply of the Ministry that as Section 19(1)(f) of the Visva-Bharati Act specifically provides that there shall be three representatives of Parliament, persons concerned shall cease to be members of the Samsad as soon as they cease to be Members of Parliament. They desire the Ministry to make specific provision in this regard by carrying out a suitable amendment to the Statutes, without any further delay.

(vii) *Bye-laws for the regulation of hearing of animals and their registration in the Allahabad Cantonment (S.R.O. 458 of 1956) Paras 38—40 of Second Report—Second Lok Sabha).*

51. Bye-law 2 of the above Bye-laws levies a fee of Rs. 1.50 to Rs. 2.00 on persons owning or keeping animals within the Allahabad Cantonment. Similarly, Bye-law 9 imposes a fee of Re. 1.00 for every permit issued for using any premises as a stable, cowhouse, etc.

52. Section 282(11) and (37) of the Cantonments Act, 1924, under which the said Bye-laws have been made, do not provide for the levy of such fees. The Committee had observed in para 38 of their Second Report (Second Lok Sabha), presented on 21-12-57 that in the absence of any specific statutory authority the imposition of

abnve-mentioned fees went beyond the bye-law making power of the Cantonment Board.

53. In paras 39-40 of the said Report, the Committee had noted the following assurance given by the Ministry of Defence on the advice of the Ministry of Law:

“Ministry will have to amend the bye-laws in respect of Allahabad Cantonment and all the bye-laws which have a similar provision. Necessary action in this respect is being taken separately.”

54. No further communication on the above assurance having been received, the Ministry of Defence were asked on 28-9-72 to indicate the action taken thereon by them. When no reply was forthcoming even after several reminders sent to the Ministry, the Committee at their sitting held on 21-5-73, took serious note of the inordinate delay (15 years in this case) in not fulfilling the assurance given to them or sending no final reply by the Ministry and desired that they should be asked to send their final reply without any further delay.

55. After the displeasure of the Committee was conveyed to the Ministry, they have stated in their reply, dated 23-10-73, as follows:

“The Cantonment Board submitted the necessary proposals to the Government but it was found that more than one year had elapsed between initial publication of the proposal locally inviting objections and its submission to Government for final publication. The proposal had accordingly to be published by the Cantonment Board *de-novo*. The draft bye-laws were received by the Ministry of Defence some time ago and have also been vetted by the Ministry of Law who have raised certain points. These are being sorted out and it is expected that it should be possible to publish the bye-laws before the end of the current year.”

56. The Committee are distressed at the lackadaisical manner in which both the Ministry of Defence and the Allahabad Cantonment Board have acted in this case. It appears strange to the Committee that a period of more than 16 years should have been allowed to elapse before initiating action to amend the Bye-laws in pursuance of the assurance given by the Ministry. They deplore the carelessness on the part of the Ministry, who did not take any action to implement the assurance, till the matter was again taken up with

them in September, 1972. The Committee note that the Ministry have now sent a reply only after their displeasure was conveyed to them in May, 1973. The Committee desire the Ministry to amend the Bye-laws without any further delay.

(viii) *Representation of Lok Sabha on the Central Advisory Committee constituted under the National Cadet Corps Act, 1948 (Para 43 of Third Report—Second Lok Sabha).*

57. Clause (i) of Section 12(1) of the National Cadet Corps Act, 1948, provides the term of office of members elected by Parliament on the Central Advisory Committee as one year. There is no provision either in the above Act or the rules made thereunder that if within the said period of one year, the representatives of Parliament cease to be members of the House by which they are elected, they shall cease to be members of the Advisory Committee.

58. The Committee on Subordinate Legislation (Second Lok Sabha), after considering the reply of the Ministry of Defence, had recommended in para 43 of their Third Report that the National Cadet Corps Act, 1948, should be suitably amended to provide that the representatives of Parliament on the Central Advisory Committee would cease to be members thereof, if they ceased to be members of the House by which they were elected. This Report was presented to the House on 2-5-1958.

59. In an interim reply, dated the 21st November, 1958, the Department of Parliamentary Affairs had informed the Committee on Subordinate Legislation that the recommendation was accepted in principle and appropriate amendment to the National Cadet Corps Act, 1948, would be made in due course when other major amendments to the said Act became necessary. / This information was included in the Fourth Report of the Committee on Subordinate Legislation (Second Lok Sabha) at S. No. 16 of Appendix II, which was presented to the House on 19-12-1958. ✓

60. No further communication on the above assurance having been received, the Ministry of Defence were asked on 28-9-1972 to state whether the N.C.C. Act, 1948, had been amended accordingly. In spite of several reminders, when no reply was forthcoming from the Ministry, the Committee at their sitting held on 21-5-1973, took serious note of the inordinate delay (more than 15 years in this case) in implementation of their recommendation or sending no final reply by the Ministry of Defence and desired that they should be asked to send their final reply without any further delay.

61. After the displeasure of the Committee was conveyed to the Ministry of Defence, they have stated in their reply dated 6-6-73, as follows:—

“.....The present position in this regard is that no amendment has been made to the N.C.C. Act, 1948 since 1958. Nevertheless, the recommendation of the Committee has been accepted and is being implemented in practice. As soon as a Member of the Parliament who is elected on the Central Advisory Committee of the NCC ceases to be a member of Parliament, action is initiated to have another Member of Parliament elected in his place. Necessary amendment in the NCC Act, 1948 would be made in due course when other major amendments to the said Act become necessary.”

62. Reply of the Ministry not being satisfactory, the Committee examined the representative of the Ministry of Defence at their sitting held on the 12th February, 1974. Explaining the causes for delay in implementation of the above recommendation of the Committee, the representative of the Ministry stated that they had accepted the recommendation in principle but decided that in order to bring forth a viable Bill, a few other amendments were also necessary which might come up in course of time. This had taken a long time and even till that day, other amendments had not yet been formulated. He further informed that Government had set up a high level Committee in 1972, called the Mahajani Committee to go into the entire N.C.C. scheme. The Report was submitted to Government about a fortnight back and a number of amendments arising out of that Report might have to be made in the Act. He, however, assured the Committee that even if there were no other amendments, the amending Bill would be introduced in Parliament in the Monsoon Session, 1974, for implementing the recommendation of the Committee.

63. The Committee are surprised that the Ministry of Defence have repeated the same reply which they had sent more than 15 years ago in November, 1958. It appears strange to the Committee that the Ministry should have continuously waited all these years for other major amendments to the Act, which were no where in sight. The Committee cannot help deploring the casual manner in which the Ministry have treated their recommendation. They feel that if they had not taken up the matter afresh, the Ministry would have continued to sleep over it for many years to come. The Committee desire the Ministry to initiate action in the matter in right earnest

now so that the Bill to amend the N.C.C. Act, 1948, in implementation of their recommendation is actually introduced in the Monsoon Session of 1974.

(ix) *Printing and Publication of Compilation containing General Statutory Rules and Orders (Paras 51-52 of Third Report—Second Lok Sabha).*

64. The Committee on Subordinate Legislation had noted the assurance given by the Ministry of Law that an up-to-date publication of the General Statutory Rules and Orders in force, on the lines of the U.K.'s annual publication of Statutory Instruments, for the convenience of the public would be brought out as soon as all the volumes of India Code were published (*vide* paras 51-52 of Third Report—Second Lok Sabha—presented on 2-5-1958).

65. To know the progress made in the printing and publication of the above Compilation, the Ministry of Law and Justice (Legislative Department) were asked on 3-10-1972 to furnish information on the points as indicated in col. (2) below. The information received from them on 6-12-1972 is shown in col. (3) below:—

S. No.	Points referred	Reply of the Ministry
(1)	(2)	(3)
1	Progress made in the publication of the General Statutory Rules and Orders.	*19 Volumes of the main publication and 49 Volumes of the Supplement to the General Statutory Rules and Orders have been finally printed and placed on sale (<i>Vide</i> statement at Appendix IV). Volume XX and XXI are in the Press. Preparation of manuscript of Volume XXII has been taken in hand.
2	Total number of Volumes to be brought out.	Approximately 30.
3	Number of Volumes already printed.	Please see reply as in (1) above.
4	Target date when all the Volumes would be published and put on sale to the public.	By the end of 1977.

66. The representative of the Ministry of Law, Justice and Company Affairs (Legislative Department), who was examined by the Committee, at their sitting held on the 12th February, 1974, regarding delay in printing and publication of the compilation containing

*Another Volume—Vol. XX—has since been published and put on sale.

General Statutory Rules and Orders, explained the difficulties in early completion of the job, viz., (i) inadequacy of staff; and (ii) non-availability of qualified persons. He added that if the strength was increased, it would help to a certain extent and rapid progress could be made. Asked to state the original strength of staff, he stated that there was one Superintendent and four Assistants. But, at present there were one Superintendent and two Assistants and one clerk. Out of the two Assistants, one was Legal Assistant and the other belonged to the Central Secretariat Service.

67. As for the remaining volumes, the representative stated that G.S.R.Os. issued under the laws of Taxation, Merchant Shipping, Transfer of Property, Essential Commodities, Weights and Measures, etc., were still to be published.

68. Asked as to when the remaining ten volumes were likely to be completed, he stated that there were many contingencies about which no fairly accurate estimate could be made. There were also bottlenecks in the Press. He, however, assured the Committee that the work would be completed by the target date, i.e., 1977, as indicated in the written note submitted by the Ministry.

69. Regarding publication of Supplements, the representative of the Ministry stated that these were taken up side by side with the main compilation so that earlier volumes were kept up-to-date as far as possible. Otherwise, when the Supplementary volumes were completed, earlier volumes would become completely out-of-date and there would be a double process.

70. While the Committee are glad to note that 2/3rd of the main Compilation of General Statutory Rules and Orders and four Supplements thereto have been brought out by the Ministry of Law, Justice and Company Affairs (Legislative Department), they cannot help observing that whereas during the first five years (1960 to 1964), as many as nine volumes were printed and released for sale, during the latter nine years (1965 to 1973), only eleven volumes of the main publication and four Supplements could be printed and released. The Committee regret the slackening of the pace with the passage of time. In the opinion of the Committee, too long a period (more than 15 years) has been taken by the Ministry in publishing twenty volumes and four Supplements. The Ministry of Law should have at least periodically informed the Committee of the progress in the matter. They feel that if the Ministry had taken little more care, at least the main Compilation would have been published by now.

71. One of the difficulties in early completion of the work as put forth by the representative of the Ministry during evidence was lack of adequate technical staff. If so, the Committee fail to understand why the Ministry should have reduced the strength of the staff deployed on the job from 4 Assistants to 2 Assistants (one of which is a non-technical hand) and now express the difficulty in raising the staff strength. The Committee feel that the work would have been completed, if it had not been neglected in this manner. They desire the Ministry to restore the original staff strength and if needed to further increase staff strength, so that the work does not suffer for want of technical personnel who are competent to do it.

72. The Committee need hardly emphasise the usefulness of this Compilation, which when completed, would make the whole subordinate legislation available at one place (in approximately 30 volumes). The Committee would, in this connection, like to point out that it is not only the Executive Authorities but also the public at large, especially the Advocates as well as the Courts, who are concerned with the rules and orders, as cases arise under the rules and orders, in the form of writ petitions, etc. It is indeed difficult, if not impossible, for an ordinary citizen to lay hands upon all the amendments to a given set of rules that might have been issued by the Executive from time to time. The said Compilation would go a long way in obviating the difficulty and inconvenience caused to the public in location and referencing.

73. The Committee trust that the main Compilation will be Compilation, which when completed, would make the whole sub-sixed by the Ministry. They also desire that simultaneous action should be taken to bring out all the necessary Supplements to earlier volumes of the main Compilation so that they are kept up-to-date as far as possible.

74. The Committee would further like to be furnished with a yearly progress report regarding the publication of the main Compilation as well as of the Supplements at the end of each year, to keep them abreast of the latest position.

(x) *The Displaced Persons (Compensation and Rehabilitation) Rules, 1955 (Paras 79 of Fifth Report—Second Lok Sabha)*

75. In paras 7 to 10 of their Fifth Report (Second Lok Sabha), presented to the House on the 5th May, 1959, the Committee on Subordinate Legislation had observed/recommended as follows:—

“The Committee are of the view that a fee could not be levied by rules without any specific power being given in that behalf by the parent Act.

The Committee are also of the opinion that mere laying of rules on the Table of the House for a specified period does not amount to their approval which could only be achieved by bringing forth an affirmative motion in the House in that behalf.

If the Government consider it necessary to levy fees as has been done by rule 122 of the Displaced Persons (Compensation and Rehabilitation) Rules, 1955 specific authority of Parliament in that behalf should be obtained and the displaced Persons (Compensation and Rehabilitation) Act, 1954, amended accordingly."

76. No reply to the above recommendation having been received, the Ministry of Labour and Rehabilitation (Department of Rehabilitation) were asked on 4-10-1972 to indicate the action taken thereon by them. When no reply was forthcoming even after several reminders issued to the Ministry, the Committee at their sitting held on 21-5-1973, took serious note of the inordinate delay (14 years in this case) in implementation of their recommendation or sending no final reply by the Ministry and desired that they should be asked to send their final reply without any further delay.

77. After the displeasure of the Committee was conveyed to the Ministry, they have stated in their reply, dated 6/8-6-1973, as follows:—

"So far as the authority for the levy is concerned, by virtue of section 42(2)(nn) added by the amending Act 2 of 1960 in the Displaced Persons (Compensation and Rehabilitation) Act, 1954, rule 122 of the Displaced Persons (Compensation and Rehabilitation) Rules, 1955, stood validated from the date of the said amending Act came into force. Levies imposed under the said rule prior thereto stood validated by section 11(1) of the said amending Act.

So far as the second point, that mere laying of Rules on the Table of the House for a specified period does not amount to the approval of the Parliament, is concerned, attention is invited to Section 40(3) of the Displaced Persons (Compensation and Rehabilitation) Act, 1954, whereby Government is required to lay these Rules before each House of Parliament while it is in session for a period of 30 days. From a perusal of this Section, it does not appear that the Rules require any affirmative vote to make it effective."

78. The Committee are glad to note that in so far as the levying of fee without due legal authority is concerned, Government had

implemented their recommendation by amending the parent Act suitably, vide Act 2 of 1960.

79. The Committee are, however, not convinced with the reply of the Ministry in regard to laying of rules and their approval by Parliament. While it is true that under Section 40(3) of the Displaced Persons (Compensation and Rehabilitation) Act, 1954, no affirmative vote is required before the Rules come into force, it is also not correct to contend that Parliament are deemed to have approved the rules, when they are laid before both the Houses for a period of 30 days. The Committee, therefore, reiterate their earlier observation made in a similar case relating to the Ministry of Commerce, in para 59 of Seventh Report (Fifth Lok Sabha) that the presumption made by that Ministry that rules had been approved by the House is not correct. The Ministry of Labour should note it for their future guidance.

(xi) *Bye-laws for rendering necessary the licences for the use of premises within the Saugor Cantonment as stables, cattle sheds, etc., for profit (Paras 12-13 of Fifth Report—Second Lok Sabha).*

80. In paras 12-13 of their Fifth Report (Second Lok Sabha), presented to the House on 5-5-1959, the Committee noted the assurance given by the Ministry of Defence that the preamble to the above bye-laws would be amended and besides quoting the authority of clause (37) of Section 282, the authority of Section 210 and Clause (16) of Section 282 of the Cantonments Act would be cited.

81. No further communication on the above assurance having been received, the Ministry of Defence were asked on 28-9-72 to indicate the action taken thereon by them. When no reply was forthcoming even after several reminders sent to the Ministry, the Committee, at their sitting held on 21-5-73, took serious note of the inordinate delay (14 years in this case) in not fulfilling the assurance given to the Committee or sending no final reply by the Ministry and desired that they should be asked to send their final reply without any further delay.

82. After the displeasure of the Committee was conveyed to the Ministry, they have stated in their reply, dated 23-10-73, as follows:—

“The Cantonment Board had framed bye-laws under Section 282(37) of the Cantonments Act, 1924 for regulating the use of premises as stables, cattle sheds, etc. These bye-laws *inter alia*, provide for the grant of licence and for the levy of fee therefor.

The Cantonment Board had been recovering a licence fee separately in all such cases independent of the authority of the bye-laws under Section 210 read with Section 282 (16) of the Cantonments Act, 1924.

The bye-laws were amended so as to delete therefrom the provision of levy for grazing fee. This amendment, however, provides for imposing such conditions as the Board may consider fit for the grant or renewal of the licence. It has separately come to notice that the Committee on Subordinate Legislation do not wish the local authorities to have unfettered discretion and 'such conditions as the Board may think fit to impose' would give the Board such a discretion. It is, therefore, proposed to ask the Cantonment Board, Saugor to re-cast the bye-laws."

83. The Committee are glad to note that the Saugor Cantonment Board have since amended the Bye-laws to delete therefrom the provision for levy of grazing fee. They are further glad to note that as this Committee do not wish the local authorities to have unfettered discretion, the Ministry of Defence propose to ask the Saugor Cantonment Board to recast the Bye-laws so as to omit therefrom the words "such conditions as the Board may think fit to impose". The Committee desire that the Bye-laws should be amended to this effect at an early date.

84. The Committee cannot, however, help observing that the Ministry had explained the position only after displeasure of the Committee had been conveyed to them in May, 1973. The Committee will like the Ministry of Defence to take care to give prompt replies to the Committee in future.

(xi) *Laying of Rules framed by State Governments under Central Acts before State Legislatures/Parliament (Paras 51-52 of Seventh Report—Second Lok Sabha).*

85. A large number of Central Acts delegate rule-making power to State Governments. The propriety of providing for laying of rules framed thereunder by a State Government on the Table of the State Legislature or Parliament has been discussed in the House also.

86. The question of making a provision in the Central Acts, which empower the State Governments to frame rules thereunder to lay them before respective Legislatures/Parliament was first raised in the House by Shri T. N. Viswanatha Reddy, a member of the Committee on Subordinate Legislation, during clause by clause consider-

ration of the Poisons (Amendment) Bill, 1958. He had moved an amendment to the effect that the principal Act be amended to provide for laying of rules made thereunder by the State Governments, before the State Legislatures for 30 days and should be subject to modification by the respective legislatures. A doubt was expressed in respect of this amendment whether such a provision as far as State Legislatures were concerned could be made in a Central Act. The then 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.

87. The matter was also considered by the Committee on Subordinate Legislation (Second Lok Sabha) and they had noted that several existing Central Acts on the subject falling under "Concurrent List" provided for laying of the rules framed thereunder by State Governments before the respective State Legislatures, viz., the Motor Vehicles Act, 1939, the Industrial Disputes Act, 1947, the Hindu Marriage Act, 1955, the Suppression of Immoral Traffic in Women and Girls Act, 1956 and the Probation of Offenders Act, 1958.

88. The Committee were of the opinion that Central Acts could provide for laying the rules framed thereunder by the State Governments, before the respective State Legislatures (*vide* para 40 of Fifth Report—2 L.S.).

89. The matter was again raised in the House during Eighth Session of Second Lok Sabha, when Shri Ajit Singh Sarhadi, M.P., tabled an amendment to the Wakfs (Amendment) Bill, 1959, 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.

90. In the light of the above two instances the Committee on Subordinate Legislation (Second Lok Sabha) subsequently went in depth into the matter and considered the following arguments that 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 Par-

liament. 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 Legislatures, 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 (Article 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.

91. They also considered the desirability of the second course, viz., the laying of rules framed by the State Governments under a Central Act before Parliament and came to the conclusion that this course could not 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.

92. The recommendation of the Committee on the subject referred to in para 40 of Fifth Report (Second Lok Sabha) was also discussed by the Chairman of the Committee with the then Deputy Minister of Law (Shri Hajarnavis). After noting the aforementioned difficulties, the Committee felt as follows:—

“...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.”

[Para 51, Seventh Report—Second Lok Sabha—presented on 22-12-1959].

93. In their action taken note dated the 1st May, 1961, the Ministry of Law (Legislative Department) had informed as follows:—

“The recommendations of the Committee on Subordinate Legislation...have been brought to the notice of State Governments for necessary action. The question of replacing the General Clauses Act, 1897, is being examined by the Law Commission. It will, however, be some time before the Commission submits its Report on this Act.”

94. With a view to find out the latest position in regard to the General Clauses Act, the Ministry of Law and Justice (Legislative

Department) were asked on 3-10-1972 to state (i) whether the question of replacing this Act had been examined by the Law Commission; and if so, what was its recommendation; and (ii) whether Government had accepted the recommendation of the Commission made in this behalf.

95. In their O.M. dated 6-12-1972, the Ministry have stated that "as to the revision of the General Clauses Act, the Law Commission prepared a Draft Report some time ago. The Draft Report has not yet been finalised by the Commission." In reply to a D.O. reminder of 4-4-1973, the Ministry have informed that the Report on the General Clauses Act has not been finalised by the Law Commission and is not likely to be finalised at an early date.

96. The Ministry of Law was also asked on 27-8-1973 to state how many State Governments had enacted laws 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. In their reply dated 12-11-1973 they have informed that they have no information. On the matter being pursued further, the Ministry have now issued a reminder on 12-2-1974 to the State Governments in the matter.

97. It is common knowledge that several important 'Orders' affecting the day to day life of citizens in this country are issued by State Governments under Central enactments; as for example under the Essential Commodities Act, 1955. The list of such enactments could be multiplied*.

98. With a view to seeing that the subordinate legislation to be framed by State Governments in pursuance of the powers conferred by Central enactments, did not escape scrutiny, the Committee had endorsed the conclusion arrived at between the then Chairman of the Committee on Subordinate Legislation and the then Deputy Minister of Law that State Governments should be requested to have laws enacted by their Legislatures to provide for laying of the rules framed by them under Central Acts, before the State Legislatures and for their modification, if any, by the respective Legislatures. The Committee had expected the Ministry of Law to pursue the matter with the State Governments.

99. The Committee, however, note with regret that the Ministry of Law, Justice and Company Affairs (Legislative Department),

* A few illustrations are:— the Indian Ports Act, 1908, the Poisons Act, 1919, the Industries (Development and Regulation) Act, 1951, the Wakf Act, 1954, the Central Sales Tax Act, 1956, the Insecticides Act, 1968, the Registration of Births and Deaths Act, 1969, the Contract Labour (Regulation and Abolition) Act, 1970, the Medical Termination of Pregnancy Act, 1971 and the Wild Life (Protection) Act, 1972.

after bringing the observations of the Committee made in paras 51-52 of their Seventh Report (Second Lok Sabha) to the notice of the State Governments in 1961 have not pursued the matter for all these years and have not cared to find out whether any State Government has taken any action to enact a law to provide for laying of Rules framed by them under a Central Act before the State Legislature. In the opinion of the Committee, this has resulted in the subordinate legislation made by State Governments under Central Acts remaining without legislative supervision either at the level of Parliament or at the level of State Legislatures. The Committee note that at their instance the Ministry have now—on 12-2-1974, i.e., after 13 years—sent a reminder to all the State Governments in the matter. They cannot help regretting the casual manner in which the Ministry of Law had dealt with an important recommendation of the Committee. The Committee desire that the Ministry should now pursue the matter with State Governments in right earnest and inform them at the earliest as to how many States have enacted laws providing for laying of rules framed by them under Central Acts.

100. As regards amendment to the General Clauses Act to provide for laying of rules made by Central Government under Central Acts before Parliament, the Committee note that the Law Commission has not yet finalised its Report on the revision of the General Clauses Act. The Committee desire that the Ministry should get it expedited.

(xiii) *The Delhi Development (Grant of Allowances to Non-official Members of the Advisory Council) Rules, 1959 (Para 8 of Eighth Report—Second Lok Sabha).*

101. In para 8 of their Eighth Report (Second Lok Sabha), presented to the House on 29-4-1960, the Committee on Subordinate Legislation had recommended as follows:—

“The Committee recommend that an express provision authorising the rule-making authority to provide for regulation and payment of daily and mileage allowances to non-official members of the Advisory Council by means of rules be made in the Delhi Development Act, 1957, when the Act is amended next.”

102. It was noticed that the above recommendation of the Committee had not been implemented by Government even though the Delhi Development Act, 1957, had been amended thrice (in 1963, 1964 and 1966), subsequent to the presentation of the above Report to

the House. The Ministry of Works and Housing were, therefore, asked on 4-10-1972 to state the reasons for not amending the Act in pursuance of the said recommendation.

103. In their reply, dated the 7th March, 1973, the Ministry stated as under:

"The recommendations of the Committee on Subordinate Legislation that an express provision may be made authorising the rule making Authority to provide for regulation and payment of daily and mileage allowance to non-official members of the Advisory Council of the Delhi Development Authority do not appear to have been received in this Ministry earlier. However, the matter is being examined *ab-initio* and action taken in the matter will be intimated to the Lok Sabha Secretariat in due course."

104. In a further communication dated 17-9-1973, the Ministry have stated as follows:—

"The Ministry of Law have since vetted the draft Note for the Cabinet. However, they have advised that the Bill should be placed before the Metropolitan Council of Delhi and their views should also be obtained. Accordingly, the Bill has been referred to the Delhi Administration. It is expected to be discussed in the next meeting of the Council. Developments on this subject will be intimated to you in due course."

105. In their latest communication dated 14-11-1973, the Ministry have stated that the Metropolitan Council of Delhi has not yet discussed the matter.

106. The Committee note that the reason given by the Ministry of Works and Housing for delay in implementing the recommendation of the Committee in regard to amendment of the Delhi Development Act, 1957, was that they had not received the recommendation of the Committee earlier (vide para 103 above). The Committee are unable to accept this explanation. They feel that it is the duty of each Ministry/Department to keep themselves informed of the recommendations of the Committee and to take early action thereon, as the Reports become public on presentation to the House.

107. The Committee desire the Ministry of Works and Housing to expedite amendment to the Delhi Development Act, 1957, in implementation of their recommendation made in 1960 and complete the

necessary action within six months. They further desire the Ministry to report the compliance to them.

(xiv) *The Andaman and Nicobar Islands Economiser Rules, 1959 made under the Indian Boilers Act, 1923 (Para 7 of Ninth Report—Second Lok Sabha).*

108. In para 7 of their Ninth Report (presented on 9-9-1960), the Committee on Subordinate Legislation (Second Lok Sabha) recommended as under:—

“A provision for appointment of assessors and payment of fees and travelling expenses to them ought to have been made in the Indian Boilers Act, 1923, and not in the rules as has been done under rules 32 and 33 of the Andaman and Nicobar Islands Economiser Rules, 1959.”

109. While accepting the above recommendation of the Committee to get the Indian Boilers Act, 1923, amended, was being taken by (*vide* O.M. No. 34/13/61-ANL, dated 17-3-1962) that necessary action to get the Indian Boilers Act, 1923, amended, was being taken by the Ministry of Works, Housing and Rehabilitation. This was reported to the House by the Committee on Subordinate Legislation (Third Lok Sabha) *vide* S. No. 3 of Appendix to their Second Report.

110. No further communication on the above assurance having been received, the Ministry of Industrial Development (who are presently concerned with the subject), were asked on 5-10-1972 to state the latest position in the matter. In their O.M. dated 4-11-1972, they have stated as follows:—

“.... In pursuance of the recommendation of the Central Boilers Board a High-powered Committee has been set up by the Government of India *vide* Resolution No. 5(1)/70-Boilers, dated the 8th June, 1972, for a comprehensive review of laws on boilers and unfired pressure vessels and to make recommendations. This Committee has been asked to submit its report within a period of one year.

It has also been decided that instead of going in for piece-meal amendments to the Indian Boilers Act, 1923 (5 of 1923) all the proposals received for amendment to the Indian Boilers Act should be referred to the above mentioned high-powered Committee. Accordingly, this proposal has also been referred to the high-powered Committee.”

111. The Committee examined the representative of the Ministry of Industrial Development, at their sitting held on the 12th February, 1974. During the course of his evidence, the representative admitted delay on their part in implementation of the

recommendation of the Committee and explained that the main reasons for delay was that the Ministry did not want to go in for piecemeal amendments to the Act. Another reason for delay was transfer of the subject from one Ministry to another. The third reason was that the file was held up with one or two officers for a period of one year for which they had expressed their regrets. He further stated that at the time of processing the recommendation, a point was raised whether Section 29 which enabled the State Governments to make rules empowered the Government to appoint assessors and pay their fees, etc. When the Committee pointed out that it did not cover and a specific provision was necessary in the Act, the Ministry accepted it and restarted the processing of recommendation.

112. The representative of the Ministry also agreed that in the absence of the amendment being made to the Act during the last 13 years, the lacuna pointed out by the Committee still continued to be in operation.

113. As regards the High Power Committee set up by Government for a comprehensive review of laws on boilers, he stated that its report was expected by March, 1974, and immediately thereafter the case would be processed for necessary action.

114. The Committee are not satisfied with the reply of the Ministry of Industrial Development. In their opinion, Government have unduly delayed implementation of their recommendation which had been accepted by them as far back as in March, 1962. The Committee desire the Ministry to expedite amendment to the Indian Boilers Act and report its compliance to them.

(xv) *Rule 416 of the Indian Telegraph Rules, 1951, as inserted by S.O. 627 of 1960—due notice to the subscriber before withdrawal of telephone (Para 7 of Twelfth Report—Second Lok Sabha).*

115. The Committee on Subordinate Legislation had recommended in para 7 of their Twelfth Report (Second Lok Sabha), presented to the House on 4-9-1961, as follows:—

“Withdrawal of a telephone or a similar service in exercise of power under rule 416 of the Indian Telegraph Rules, 1951, should be effected after giving due notice to the subscriber. The reasons for withdrawal should also be recorded in writing and communicated to the subscriber preferably before, if practicable, otherwise within a period of seven days after the withdrawal has been effected. These requirements should, therefore, be incorporated in the existing rule 416 itself.”

116. No reply to the above recommendation having been received, Ministry of Communications (D.G.P.&T.) were asked on 30-9-1972, to indicate the action taken thereon for the information of the Committee on Subordinate Legislation. After protracted correspondence, the Directorate General of Posts and Telegraphs, in their letter dated 21-1-1974, have now stated as under:—

“The matter has again been examined in detail. The recommendations required Rule 416 of Indian Telegraph Rules, 1951, to be modified to give due notice indicating reasons for disconnection to a subscriber before withdrawing service under these Rules. As the position stands, we have never made use of Rules 416 of Indian Telegraph Rules for withdrawal of Telephone service except on one isolated occasion in which the Ministry of Law was also consulted. In that case on advice of the Ministry of Law, a notice was issued to the party concerned and ultimately the telephone was not withdrawn. The power under this rule is vested only with the Director General, Posts & Telegraphs (Telegraph Authority) and it has not been delegated to any Subordinate authority. Under the circumstances there need not be any fear of arbitrary misuse of Rule 416 of Indian Telegraph Rules and in view of the position explained above, it may be submitted to the Committee that no amendment to Indian Telegraph Rule 416 appears to be necessitated.”

117. The Committee regret to note that Ministry have neither implemented the recommendations made in 1961, nor cared to inform the Committee as to the difficulty in doing so during the last 13 years. They deplore the delay on the part of the Ministry in not implementing the recommendations of the Committee.

118. The Committee are also not satisfied with the above reply of the Ministry of Communications (D.G.P.&T) now received. They are of the opinion that if the provision contained in rule 416 has never been made use of, it does not take away the basic need of requiring the P & T Department to give due notice to the subscriber before his telephone or similar service is withdrawn. The Committee reiterate their earlier recommendations made in para 7 of Twelfth Report (Second Lok Sabha) and desire the Ministry to amend rule 416 accordingly, without any further delay.

(xvi) *Bye-laws for the regulation of supply and use of water including the collection and recovery of charges therefor in Belgaum Cantonment (Para 26 of Fourth Report—Third Lok Sabha).*

119. Bye-laws 10 and 11, read with bye-law 8 of the Bye-laws for the regulation of supply and use of water including the collection

and recovery of charges therefor in Belgaum Cantonment provided that where the work regarding water connection or alteration in water connection was carried out by the Cantonment Board, the applicant had to pay the estimated cost of expenditure inclusive of road cutting and reinstatement charges, and, in addition, had to pay 24½ per cent. of actual cost of work to cover supervision charges. It was felt that charging of 24½ per cent. of actual cost of work to cover supervision charges was excessive, considering the prevailing rate of such charges in other Cantonment like the Saugor Cantonment where the supervisory charges were 6 per cent.

120. The Ministry of Defence, on being pointed out, had reduced the supervision charges from 24½ per cent. to 20 per cent. (*vide* S.R.O. 411 of 1964). In this connection, the Committee on Subordinate Legislation had observed in para 26 of their Fourth Report (Third Lok Sabha) presented to the House on 4th May, 1965, that although the supervision charges had been reduced from 24½ per cent. to 20 per cent., these charges still appeared to be excessive.

121. No reply to the above observation having been received, the Ministry of Defence were asked on 1st June, 1972, to indicate whether the bye-laws in question were further amended. The Ministry have forwarded on 23rd October, 1972, a copy of their O.M. dated 28th April, 1966 (addressed to the Department of Parliamentary Affairs), wherein they had stated as follows:—

".....Headquarters, Southern Command, Poona, have intimated that the observation made in para 26 of the Committee on Subordinate Legislation report has been fully considered by the Cantonment Board, Belgaum, and they are of the view that 20 per cent. of the departmental charges are reasonable and there is no scope for any further revision."

122. In a written statement, the Ministry have stated that because of the existing supervision charges and other taxation prevailing in Cantonment Board Belgaum that Cantonment is self-sufficient till to-date. If further reduction is stressed upon, it is just possible that this Board will also come forward for grant-in-aid and thereby be a burden on the exchequer.

123. The Committee took oral evidence of the representative of the Ministry of Defence at their sitting held on the 12th February, 1974, to know why it was not possible to reduce the supervision charges in Belgaum Cantonment. During his evidence, the representative stated that the supervision charges which were reduced

from 24½ per cent. to 20 per cent. in Belgaum Cantonment on the recommendation of the Committee on Subordinate Legislation could not be reduced further. There were 62 Cantonments where the rate was 20 per cent. In some Cantonments, they charged departmental as well as supervision charges while in other, they called it connection fee. The rates in Ambala Cantonment were 25 per cent. supervision charges plus 2 per cent. estimating fee. The supervision charges for giving water connection in Aurangabad Cantonment were 24½ per cent., Deolali 24½ per cent., Jabalpur 25 per cent., Kasauli 20 per cent. and in Khas Yol and Willington it was 24½ per cent. He further informed that no objection had been received when the notification was published in the Gazette.

124. On being asked whether any investigation had been made regarding the charges being high, the representative stated that these charges were fixed by the Boards. Government were, however, thinking of setting up a Committee to go into these matters. The proposal had been postponed for the time being as they proposed to first amend the Cantonments Act, 1924. He assured that when such a Committee was set up, it would go into all these matters.

125. While the Committee are in agreement with the reply of the Ministry dated 23rd October, 1972 that it is not possible to further reduce supervision charges in Belgaum Cantonment, they note the assurance given by the Ministry of Defence that they propose to set up a Committee to go into these matters. They desire that the Committee to be appointed should be directed to go into the question of rationalisation of supervision charges in all the Cantonments.

126. In this case also, the Committee regret a delay of 7 years in forwarding information to them. The Committee will like the Ministry of Defence to take care to give prompt replies to the Committee in future.

(xvii) *Grievances of cooks and water-carriers in Defence establishments (Para 67 of First Report—Fourth Lok Sabha)*

127. In para 67 of their First Report (presented on 5th March, 1968), the Committee on Subordinate Legislation (Fourth Lok Sabha) had observed regarding grievances of cooks and water carriers in Defence establishments as follows:—

“The Committee...trust that the Ministry of Defence would ensure that the service rules applicable to the various categories of Defence personnel are so administered as to afford adequate redress to the grievances of the Defence personnel, who came within the category of non-combatants.”

128. No reply to the above recommendation having been received, the Ministry of Defence were asked on 6th April, 1972 to indicate the action taken thereon by them. When no reply was forthcoming even after several reminders issued to the Ministry, the Committee on Subordinate Legislation at their sitting held on 21st May, 1973, took a serious note of the inordinate delay and desired that the Ministry should be asked to send their final reply without any further delay.

129. After the displeasure of the Committee was communicated on 25th May, 1973, the Ministry of Defence have replied on 22nd June, 1973 as follows:—

"The recommendation of the Committee has been examined particularly with reference to the method of redressal of the grievances of the Defence personnel who are categorised as non-Combatants. In the Defence organisation, there are three categories of non-combatants, combatants (Enrolled), Non-Combatants (unenrolled) and other civilians paid from Defence Services Estimates. The non-combatants (Enrolled) are governed by the Rules and Regulations applicable to other Service Personnel (Combatants). The rules applicable to this category provide for adequate protection to ventilate their grievances and also specify the authority who is competent to afford the redress. Army Act Sections 26, 27, 164 and para 361 of the Regulations for the Army, 1962 are relevant in this connection.....In so far as the other two categories of non-Combatants are concerned, they are governed by the relevant Civil Rules regulating their service conditions, viz., the CCS(CCA) Rules, 1965, CCS(TS) Rules, 1965, the CCS (Conduct) Rules, 1964 and other Civil Service Regulations. The CCS(CCA) Rules, 1965 and the CCS(TS) Rules, 1965 provide for adequate opportunity for Appeals and Review Petitions in case of individuals proceeded against on disciplinary grounds or whose services are terminated by giving one month's notice.

...the grievances of the employees serving in areas or units where the normal trade union activity is not being permitted, are considered through the Welfare Committees which are required to be constituted. Even though the orders had been issued earlier in 1959 for providing this facility, fresh instructions have again been issued by the Army Headquarters to constitute these Committees wherever it was not being done. In places where the normal trade union activity is permitted the grievances of the

employees are considered by the administration in the Works Committees constituted under the Industrial Disputes Act, 1947 and the Joint Councils constituted at various levels under the Joint Consultation and Compulsory Arbitration Scheme. Joint Councils for this purpose under the Ministry of Defence have been constituted at the levels of the Ministry, the Services Headquarters and the Units.

It would, therefore, be seen that adequate provisions exist in this Ministry for redressal of grievances of all the three categories of non-combatants."

130. While the Committee are satisfied with the above reply of the Ministry of Defence, they cannot help observing that the Ministry had not bothered to explain the position for more than 5 years, till the displeasure of the Committee was conveyed to them in May, 1973.

(xviii) *Absence of safeguards in the Seeds Rules, 1968 (G.S.R. 1632 of 1968) to protect the farmer against supply of defective seeds (Para 50 of Sixth Report—Fourth Lok Sabha).*

131. During the course of examination of the Seeds Rules, 1968 (G.S.R. 1632 of 1968), it was noticed that no remedy had been provided for dealing with persons who sold or supplied seeds which did not conform to the minimum limits of germination and purity, as specified by the Central Government under Section 6 of the Seeds Act, 1966. It was felt that the absence of such a penal provision might increase activities of such persons and thus lead to the devastation of crops of farmers. There was also no provision for dealing with the persons conniving with Seed Inspectors or other officers for securing false certificates regarding marking or labelling of seeds.

132. After examining the matter in detail and recording evidence of the representative of the Department of Agriculture, the Committee on Subordinate Legislation in para 50 of their Sixth Report (Fourth Lok Sabha) presented on 3rd September, 1970 recommended as follows:—

"While the Committee agrees that failure of a crop cannot be attributed only to the quality of seeds as it could be due to many other reasons, nevertheless, it considers that Government should take all possible measures to ensure that a farmer is not supplied with defective seeds and some safeguard to this effect should be made in the Seeds Rules, 1968."

133. In their action taken note the Ministry of Agriculture (Department of Agriculture) have stated as follows:—

"...a label to be affixed on the container under Seeds Rules, 1968 includes the following particulars in regard to seeds:

- (a) Kind
- (b) Variety
- (c) Lot Number
- (d) Date of testing
- (e) Germination percentage
- (f) Purity percentage
- (g) Other crop seed
- (h) Inert matter percentage
- (i) Net content
- (j) Seller's name, and
- (k) Address

It would be seen from the above that the lot number is like the batch number in case of drugs and pharmaceuticals. The label also indicates the name and address of the person who is responsible for putting the information on the label. It is felt that the above detailed information on the label, required under Section 6(b), would be sufficient to trace out the origin and the total quantity of the particular lot.

Hence no change in the Seeds Rules, 1968 appears to be necessary at present."

134. The representative of the Ministry of Agriculture (Department of Agriculture), who was examined by the Committee on the 12th February, 1974, stated that seeds were required to be sold largely as certified seeds after certification by the certifying agencies or truthfully labelled seeds on the responsibility of the seed producer. Seed processing machinery had been set up in a large number of States. Seed Inspectors had been appointed for drawing up of samples as well as getting the samples analysed at the State Seed Testing Laboratory. Farm Certificates issued by the National Seeds Corporation, State Farms Corporation of India Ltd. and other recognised seed processing and distributing agencies gave the lot number of the seed, date of its test and the period for which the certificate would be valid. If anybody prevented a Seed Inspector from taking samples or wished to destroy a particular lot of seeds found defective or wished to have it withdrawn from sale, he was liable to punish-

ment. He further stated that they had received no information so far about any prosecution being launched by Seed Inspectors. As to the role of Seed Inspectors, the representative stated that their duty was to take samples and test them.

135. On being pointed out that under sub-rule (d) of Rule 23, *ibid.*, the Inspector had, *inter alia*, to deal with any complaint made to him in respect of any contravention of the provisions of the principal Act or the Rules, but it was not specified therein that in what way he would do it, the representative of the Ministry agreed to lay down detailed procedure about the action to be taken by the Inspector. The representative was asked to furnish a copy of the draft amendments to the Seeds Rules as agreed to by him for their consideration.

136. On 21st March, 1974, the Ministry of Agriculture (Department of Agriculture) have furnished the following draft amendments to the Seeds Rules, 1968:—

“23A. Action to be taken by the Seed Inspector if a complaint is lodged with him—

- (1) If farmer has lodged a complaint in writing that the failure of the crop is due to the defective quality of any seeds of any notified kind or variety supplied to him, the Seed Inspector shall take in his possession the marks or labels, the seed containers and a sample of unused seeds to the extent possible from the complainant for establishing the source of supply of seeds and shall investigate the causes of the failure of the crop. The Seed Inspector shall send samples of unused seeds of the same lot to the Seed Analyst for detailed analysis at the State Seed Testing Laboratory. He shall thereupon submit the report of his findings as soon as possible to the competent authority.
- (2) In case, the Seed Inspector comes to the conclusion that the failure of the crop is due to the quality of seeds supplied to the farmer being less than the minimum standards notified by the Central Government, the competent authority shall launch proceedings against the supplier for contravention of the provisions of the Act or these Rules.”

137. The Committee are satisfied with the above proposed amendments and desire the Ministry to take early action to incorporate them in the Seeds Rules, 1968.

(xix) The Indian Standards Institution (Certification Marks) Amendment Regulations, 1968 (Para 18 of Seventh Report—Fourth Lok Sabha).

138. Section 20 of the Indian Standards Institution (Certification Marks) Act, 1952 empowers the Central Government to make rules to carry out the purposes of the Act. Under Clause (e) of sub-section (2) of this section, the Rules may provide for the levy of fees for the grant or renewal of any licence. Under sub-section (4) of the section, the Rules to be framed by the Central Government are to be laid before Parliament.

139. Section 21 (1) empowers the Institution to make regulations, not inconsistent with the provisions of the Act and the rules made thereunder. Sub-section (2) of that section lays down the particular matters in respect of which regulations may be made by the Institution. This sub-section does not make any mention of matters specified in clause (e) of sub-section (2) of section 20, i.e., those relating to levy of fees. Unlike the Rules, the Regulations are not required to be laid before Parliament.

140. It was noticed that fees for grant/renewal of licences, etc., had been prescribed in Regulation 7 framed by the Institution, and not in the Rules framed by the Central Government. The then Department of Industrial Development, who were asked whether the relevant Regulation—Regulation 7—was not inconsistent with the provision of the parent Act, *inter alia*, stated as follows in their reply:—

“.....Keeping in view the advice given by the Ministry of Law in the matter, it is considered that there is no inconsistency in the operation of regulation 7 of the Indian Standards Institution (Certification Marks) Regulations.”

141. Commenting upon the above reply of the Department of Industrial Development, the Committee observed as follows in para 18 of their Seventh Report (Fourth Lok Sabha) presented on 16th December, 1970:—

“It feels that, even though, as held by the Ministry of Law, the Institution is not precluded from making regulations for prescribing fees, such Regulations are not in consonance with the spirit and scheme of section 21 of the principal Act. Even otherwise, the Committee feels that fees for grant of licences which have the effect of imposing a financial burden should be regulated through Rules, which are laid on the Table of the House rather than Re-

gulations, which are not so laid. The Committee, therefore, desires that Government should consider the matter in the light of its foregoing observation."

142. In their action taken note on the above observation, the Ministry of Industrial Development have stated on 7-3-72 as follows:

"Under Section 3(d) of the ISI (Certification Marks) Act, 1952, the legislature has particularly assigned to the Institution power to 'levy such fees for grant or renewal of any licence as may be prescribed'. Under section 2(h) 'prescribed' means prescribed by Rules or Regulations. The Institution thus has powers to levy fees in accordance with the duties assigned to it under the Act.

It is submitted that in construing the provisions of section 21, one should not adopt a construction which would make section 3(d) of the Act ineffective. The Parliament has given a right to the Institution under Section 3(d) which should not be held to have been destroyed under Section 21 of the same Act.

This Institution has, however, no objection if the ISI (Certification Marks) Regulations framed by the Institution are required to be laid on the Tables of the Parliament as the Rules."

143. The Committee are happy to note that the Ministry of Industrial Development have agreed to the Regulations made under Section 21(1) of the Indian Standards Institution (Certification Marks) Act, 1952, being laid before Parliament. They desire the Ministry to take early action to amend the Act for incorporating therein the laying clause as approved by them, vide paras 33-34 of Second Report (Fifth Lok Sabha).

(xx) *Disparities in Cantonment Board Bye-laws (Para 55 of Seventh Report—Fourth Lok Sabha).*

144. The Committee on Subordinate Legislation had recommended in para 55 of their Seventh Report (Fourth Lok Sabha) which was presented to the House on the 16th December, 1970, as follows:—

"The Committee observes that the question of review of the existing bye-laws of the various Cantonment Boards in the country, some of which were framed more than half a century back, is long overdue. The Committee desires that Model Cantonment Board Bye-laws, on the lines indicated by the Ministry, should now be drawn up and placed

before the Committee at an early date for its consideration."

145. After protracted correspondence, the Ministry of Defence have stated in their reply dt. 18-5-1973, as follows:—

"The work of framing the model bye-laws involves:

- (a) close examination of the existing bye-laws of the 62 Cantonment Boards;
- (b) study of the corresponding bye-laws framed by the adjoining municipalities/State Governments;
- (c) drafting of suitable model bye-laws to deal with the requirements of all Cantonment Boards in consultation with the Ministry of Law;
- (d) discussion of the draft bye-laws with the Committee on Subordinate Legislation prior to their finalisation;
- (e) forwarding model bye-laws approved by the Committee to the Cantonment Boards for adoption;
- (f) watching the receipt of proposals from Cantonment Boards; and
- (g) getting them vetted by the Ministry of Law and possibly by the Committee on Subordinate Legislation before publication in the official Gazette.

"The work of framing model bye-laws needs whole time and undivided attention, as also liaison with the Ministry of Law and familiarity with the bye-laws of the local bodies like Municipalities and Corporations. In order to achieve this work, it is proposed to set up a cell in the Directorate of Military Lands and Cantonments for which a case will be submitted to the Cabinet for creation of the requisite posts in relaxation of the existing ban. Thereafter the work will be taken in hand.

The matter has however been kept in abeyance so far because a Task Force has been set up by the Government of India (in December, 1972) to, *inter alia*, suggest amendments to the Cantonments Act, 1924. Since the bye-laws are framed under the powers conferred by the Act, it is considered advisable to see what shape the new Act proposed to be brought before Parliament will take after the result of the deliberations of the Task Force is known.

The position may kindly be explained to the Committee on Subordinate Legislation suitably."

146. In a further communication dated 31-12-1973, the Ministry of Defence have stated as follows:—

“The matter has been considered by us in consultation with the ML&C Directorate and the Ministry of Finance (Defence), but it could not be finalised. In the meantime, we have since decided to undertake comprehensive amendments to various sections of the Cantonments Act, 1924, including those under which the various bye-laws are framed. It would, therefore, be appreciated that it may not be appropriate for this Ministry to embark on any standardisation of the bye-laws based on the Sections of the Cantonments Act, 1924, which is to be revised.

I shall be grateful, if you bring the above position to the notice of the Committee on Subordinate Legislation and obtain its agreement to the postponement of drawing up of the model Bye-laws till the amendments to the Cantonments Act 1924 are passed by the Parliament.”

147. In reply to another communication, the Ministry of Defence have stated that the Task Force has since submitted the report and they expect to be able to introduce the draft Bill in the Budget Session of Parliament.

148. The Committee, after considering the matter in all its aspects, are of the view that the Ministry of Defence may postpone framing of the Model Cantonment Board Bye-laws till the proposed Bill for amending the Cantonments Act, 1924, is passed by Parliament. They trust that the Bill would be introduced in the Budget Session of 1974, as stated by the Ministry. The Committee desire that after the Act is suitably amended, top priority should be given to the framing of Model Bye-laws.

IV

ACTION TAKEN BY GOVERNMENT ON OLD RECOMMENDATIONS OF, AND ASSURANCES GIVEN TO, THE COMMITTEE ON SUBORDINATE LEGISLATION DURING FIRST TO FOURTH LOK SABHA.

149. The Committee note with satisfaction the action taken by Government on their old recommendations made during First to Fourth Lok Sabha, as indicated in Appendix V.

VIKRAM MAHAJAN,

NEW DELHI,
The 28th March, 1974.

Chairman,
Committee on Subordinate Legislation.

APPENDICES

APPENDIX I

(Vide para 4 of the Report)

Summary of main Recommendations|Observations made by the Committee

S.No	Para No.	Summary
(1)	(2)	(3)
1	7	The Committee are glad to report that as a result of their pursuance, action on 28 recommendations has been taken by Government to their satisfaction. A statement showing final action taken by Government on 15 outstanding assurances recommendations was included in the Ninth Report of the Committee—presented on 19th November, 1973— <i>vide</i> para 123, Appendix IX to that Report. A similar statement containing final replies received from Government on 13 more outstanding assurances recommendations has been included in this Report— <i>vide</i> para 149, Appendix V.
	8	Although necessary action in 28 cases has been taken by Government, the Committee are constrained to observe that the delay involved in implementation intimation of action taken on these cases was unjustifiable. In some cases, the Ministries had taken action long back but they failed to inform the Committee. The Committee would like to stress that Direction 108(1) casts a duty on Government to inform them the action taken or proposed to be taken on the recommendations of, and assurances given to, the Committee. They expect that in future the Ministries will abide by this Direction.
	10	The Committee are distressed that Government should not have taken any action to implement

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the recommendations of the Committee even after lapse of several years in most cases. The error is particularly regrettable in cases, where after giving assurances to the Committee, the Ministries concerned did not move in the matter till the matter was again taken up with them in 1972. The error is also regrettable because it is observed that Government in five cases [*vide* Chapter III-(i), (ii), (iii), (vi) and (xv)] had difference of opinion with the Committee. In such cases, they should have placed their view-point before the Committee, instead of merely keeping quiet. The Committee stress upon all the Ministries|Departments to be prompt in future in implementing their recommendations and sending action taken statements thereon within a period of six months from the presentation of the Report. In case, any Ministry|Department are not in a position to implement, or feel any difficulty in giving effect to, a recommendation made by the Committee, the Ministry|Department should place their views before the Committee rather than keep silent for years.

11 The Committee desire the Department of Parliamentary Affairs to bring the above observations of the Committee to the notice of all Ministries|Departments for strict compliance in future.

2 16 The Committee regret to note that though the original recommendation was made by the Committee as far back as in September, 1954 and reiterated in May, 1955, the Ministry of Home Affairs had not cared to send any reply till the matter was taken up afresh with them in November, 1972. The Committee cannot help deploring the casual manner in which the Ministry had treated the recommendation of the Committee.

17 The Committee have carefully considered the Government's reply in all its aspects. They feel

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that, as matters relating to salaries and allowances of Ministers are essentially financial matters, it will be desirable that, in accordance with democratic principles and in larger public interests, such powers are exercised by the House itself. In cases where it is considered necessary by the House to delegate the power to make rules to a subordinate authority in order to save the time of Parliament, the Committee reiterate their earlier view that the rules made by a subordinate authority should in such cases become operative only after an affirmative vote of the House has been obtained. The Committee need hardly point out that such a course is also necessary to obviate uninformed or misinformed criticism. They further recommend that, if considered necessary for the purpose, the Ministry of Home Affairs should take early steps to amend the Salaries and Allowances of Ministers' Act, 1952 to this effect.

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The Committee are not satisfied with the reply of the Ministry of Defence. They are surprised that after assuring the Committee in October, 1956, that the rule in question would be amended as per the recommendation of the Committee, the Ministry should now—after a lapse of 17 years—came with the plea that no useful purpose would be served by amending the rule at this stage.

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The Committee desire the Ministry of Defence to take early steps to amend sub-rule (10) of rule 35-A of the Reserve and Auxiliary Air Forces Act Rules, 1953, on the lines suggested by them.

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The Committee also desire them to make consequential amendment to sub-rule (3) of rule 35-A, *ibid*, as the categorisation of States into Part A or Part B or Part C States has long been done away with.

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The Committee are not satisfied with the reply of the Ministry of Steel and Mines (De-

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partment of Mines) that in the absence of a provision in the rules under which the principles have been made, they do not consider it obligatory to pre-publish and lay them before Parliament. The Committee note, in this connection, that having regard to the observations of the Supreme Court in *Narendrakumar Vs. Union of India*, the Ministry of Law had advised the Ministry of Home Affairs (who were not laying the Regulations before Parliament) that the Regulations framed under the All-India Services Rules made under the All-India Services Act, 1951, *should be taken to form an integral part of the Rules*, and as much they are also required to be laid before Parliament. Accordingly, Government have now been laying the Regulations also before Parliament. The Committee, therefore, feel that the principles made under rule 41 of the Coal Mines Conservation and Safety Rules, 1954, should not be considered on a separate footing than the Rules. When the Rules are required to be pre-published and laid, the principles made thereunder should also be subject to the same conditions as laid down in the parent Act. The Committee desire the Ministry to either incorporate the principles issued by them in the Rules or pre-published them in the Gazette and lay them before Parliament also as is being done in the case of Rules.

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The Committee regret to note that the Ministry did not care to send any reply for the last 16 years till the matter was again taken up with them in November, 1972, and final reply was received from them only after the displeasure of the Committee was conveyed in May, 1973. The Committee will like the Ministry to send prompt replies to them in future.

(1)	(2)	(3)	(3)
5	34	<p>The Committee are unhappy to note the circumstances under which delay has occurred in amending the Bye-laws of the Secunderabad Cantonment Board in pursuance of the assurance given by the Ministry of Defence to the Committee on Subordinate Legislation (Second Lok Sabha), although that assurance was given as far back as in September, 1957. They deplore the carelessness on the part of the Secunderabad Cantonment Board, who, after submitting the proposals in this behalf to the GOC-in-C, Southern Command, did not bother to follow it up for 15 long years, till the matter was taken up afresh with the Ministry in September, 1972. The Committee note that the Ministry have now sent the reply only after their displeasure was conveyed to them in May, 1973. The Committee desire the Ministry to amend the Bye-laws without any further delay.</p>	
6	40	<p>The Committee are glad to note that the Employees' State Insurance Corporation Act, 1948, has since been amended as per their recommendations. They, however, regret to note the delay in implementation. The Ministry circulated draft summary for the Cabinet to the concerned Ministries for their concurrence in March, 1963, which was after five and half years of the presentation of their First Report to the House on 12th September, 1957. It took them another year and nine months for sending the final summary to the Cabinet for its approval in December, 1964. The Committee impress upon Government to avoid such delays in future.</p>	
7	49	<p>The Committee regret to note that the Ministry of Education have taken 14 years to amend the Visva-Bharati Act, 1951, in implementation of second part of their recommendation made in para 162 of First Report (Second Lok Sabha) that Parliament should be represented on the Samsad of the Visva-Bharati by three Members, two from Lok Sabha and one from Rajya Sabha.</p>	

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As regards the first part of the recommendation that the statutes of the University should be amended to provide that a representative of Lok Sabha should cease to be a member of the Samsad on his ceasing to be a Member of Lok Sabha, the Committee are surprised to note that the Ministry have still not amended the Statutes in spite of the opinion given by the Law Ministry to them as far back as in 1957 regarding the necessity of amending the Statutes suitably. The Committee are not convinced by the reply of the Ministry that as Section 19(1) (f) of the Visva-Bharati Act specifically provides that there shall be three representatives of Parliament, persons concerned shall cease to be members of the Samsad as soon as they cease to be Members of Parliament. They desire the Ministry to make specific provision in this regard by carrying out a suitable amendment to the Statutes, without any further delay.

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The Committee are distressed at the lackadaisical manner in which both the Ministry of Defence and the Allahabad Cantonment Board have acted in this case. It appears strange to the Committee that a period of more than 16 years should have been allowed to elapse before initiating action to amend the Bye-laws for the regulation of herding of animals and their registration in the Allahabad Cantonment, in pursuance of the assurance given by the Ministry. They deplore the carelessness on the part of the Ministry, who did not take any action to implement the assurance, till the matter was again taken up with them in September, 1972. The Committee note that the Ministry have now sent a reply only after their displeasure was conveyed to them in May, 1973. The Committee desire the Ministry to amend the Bye-laws without any further delay.

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The Committee are surprised that the Ministry of Defence have repeated the same reply which they had sent more than 15 years ago in

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November, 1958. It appears strange to the Committee that the Ministry should have continuously waited all these years for other major amendments to the National Cadet Corps Act, which were nowhere in sight. The Committee cannot help deploring the casual manner in which the Ministry have treated their recommendation. They feel that if they had not taken up the matter afresh, the Ministry would have continued to sleep over it for many years to come. The Committee desire the Ministry to initiate action in the matter in right earnest now so that the Bill to amend the N.C.C. Act, 1948, in implementation of their recommendation is actually introduced in the Monsoon Session of 1974.

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While the Committee are glad to note that 2|3rd of the main compilation of General Statutory Rules and Orders and four Supplements thereto have been brought out by the Ministry of Law, Justice and Company Affairs (Legislative Department), they cannot help observing that whereas during the first five years (1960 to 1964), as many as nine volumes were printed and released for sale, during the latter nine years (1965 to 1973), only eleven volumes of the main publication and four Supplements could be printed and released. The Committee regret the slackening of the pace with the passage of time. In the opinion of the Committee too long a period (more than 15 years) has been taken by the Ministry in publishing twenty volumes and four Supplements. The Ministry of Law should have at least periodically informed the Committee of the progress in the matter. They feel that if the Ministry had taken little more care, at least the main Compilation would have been published by now.

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One of the difficulties in early completion of the work as put forth by the representative of the Ministry during evidence was lack of ade-

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quate technical staff. If so, the Committee fail to understand why the Ministry should have reduced the strength of the staff deployed on the job from 4 Assistants to 2 Assistants (one of which is a non-technical hand) and now express the difficulty in raising the staff strength. The Committee feel that the work would have been completed, if it had not been neglected in this manner. They desire the Ministry to restore the original staff strength and if needed to further increase staff strength, so that the work does not suffer for want of technical personnel who are competent to do it.

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The Committee need hardly emphasise the usefulness of this compilation, which when completed, would make the whole subordinate legislation available at one place (in approximately 30 volumes). The Committee would in this connection, like to point out that it is not only the Executive Authorities but also the public at large, especially the Advocates as well as the Courts, who are concerned with the rules and orders, as cases arise under the rules and orders in the form of writ petitions, etc. It is indeed difficult, if not impossible, for an ordinary citizen to lay hands upon all the amendments to a given set of rules that might have been issued by the Executive from time to time. The said Compilation would go a long way in obviating the difficulty and inconvenience caused to the public in location and referencing.

73

The Committee trust that the main Compilation will be completed and released for sale by the end of 1977—the target date fixed by the Ministry. They also desire that simultaneous action should be taken to bring out all the necessary Supplements to earlier volumes of the main Compilation, so that they are kept up-to-date as far as possible.

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The Committee would further like to be fur-

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11	78	<p>nished with a yearly progress report regarding the publication of the main Compilation as well as of the Supplements, at the end of each year, to keep them abreast of the latest position.</p> <p>The Committee are glad to note that in so far as the levying of fee without due legal authority is concerned, Government had implemented their recommendation by amending the Displaced Persons (Compensation and Rehabilitation) Act, 1954, suitably, <i>vide</i> Act 2 of 1960.</p>
	79	<p>The Committee are, however, not convinced with the reply of the Ministry in regard to laying of rules and their approval by Parliament. While it is true that under Section 40(3) of the Displaced Persons (Compensation and Rehabilitation) Act, 1954, no affirmative vote is required before the Rules come into force, it is also not correct to contend that Parliament are deemed to have approved the rules, when they are laid before both the Houses for a period of 30 days. The Committee, therefore, reiterate their earlier observation made in a similar case relating to the Ministry of Commerce, in para 59 of Seventh Report (Fifth Lok Sabha) that the presumption made by that Ministry that rules had been approved by the House is not correct. The Ministry of Labour should note it for their future guidance.</p>
12	83	<p>The Committee are glad to note that the Saugor Cantonment Board have since amended the Bye-laws for rendering necessary the licences for the use of premises within the Saugor Cantonment as stables, cattle sheds, etc., for profit, to delete therefrom the provision for levy of grazing fee. They are further glad to note that as this Committee do not wish the local authorities to have unfettered discretion, the Ministry of Defence propose to ask the Saugor Cantonment Board to recast the Bye-laws so as to omit therefrom the words "such conditions as the Board may think fit to impose". The Committee desire</p>

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		that the Bye-laws should be amended to this effect at an early date.
84		The Committee cannot, however, help observing that the Ministry had explained the position only after displeasure of the Committee had been conveyed to them in May, 1973. The Committee will like the Ministry of Defence to take care to give prompt replies to the Committee in future.
13	97	It is common knowledge that several important 'Orders' affecting the day to day life of citizens in this country are issued by State Governments under Central enactments; as for example under the Essential Commodities Act, 1955. The list of such enactments could be multiplied.
	98	With a view to seeing that the subordinate legislation to be framed by State Governments in pursuance of the powers conferred by Central enactments, did not escape scrutiny, the Committee had endorsed the conclusion arrived at between the then Chairman of the Committee on Subordinate Legislation and the then Deputy Minister of Law that State Governments should be requested to have laws enacted by their Legislatures to provide for laying of the rules framed by them under Central Acts, before the State Legislatures and for their modification, if any by the respective Legislatures. The Committee had expected the Ministry of Law to pursue the matter with the State Governments.
	99	The Committee, however, note with regret that the Ministry of Law, Justice and Company Affairs (Legislative Department), after bringing the observations of the Committee made in paras 51-52 of their Seventh Report (Second Lok Sabha) to the notice of the State Governments in 1961, have not pursued the matter for all these years and have not cared to find out whether any State Government has taken any action to enact a law to provide for laying of Rules framed by them under a Central Act before the

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State Legislature. In the opinion of the Committee, this has resulted in the subordinate legislation made by State Governments under Central Acts remaining without legislative supervision either at the level of Parliament or at the level of State Legislatures. The Committee note that at their instance the Ministry have now—on 12th February, 1974, i.e., after 13 years—sent a reminder to all the State Governments in the matter. They cannot help regretting the casual manner in which the Ministry of Law had dealt with an important recommendation of the Committee. The Committee desire that the Ministry should now pursue the matter with State Governments in right earnest and inform them at the earliest as to how many States have enacted laws providing for laying of rules framed by them under Central Acts.

100

As regards amendment to the General Clauses Act to provide for laying of rules made by Central Government under Central Acts before Parliament, the Committee note that the Law Commission has not yet finalised its Report on the revision of the General Clauses Act. The Committee desire that the Ministry should get it expedited.

106

The Committee note that the reason given by the Ministry of Works and Housing for delay in implementing the recommendation of the Committee in regard to amendment of the Delhi Development Act, 1957, was that they had not received the recommendation of the Committee earlier (*vide* Para 103 of the Report). The Committee are unable to accept this explanation. They feel that it is the duty of each Ministry/Department to keep themselves informed of the recommendations of the Committee and to take early action thereon, as the Reports become public on presentation to the House.

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107	<p>The Committee desire the Ministry of Works and Housing to expedite amendment to the Delhi Development Act, 1957, in implementation of their recommendation made in 1960 and complete the necessary action within six months. They further desire the Ministry to report the compliance to them.</p>	
15	114	<p>The Committee are not satisfied with the reply of the Ministry of Industrial Development. In their opinion, Government have unduly delayed implementation of their recommendation which had been accepted by them as far back as in March, 1962. The Committee desire the Ministry to expedite amendment to the Indian Boilers Act, 1923, and report its compliance to them.</p>
16	117	<p>The Committee regret to note that the Ministry of Communications (D.G. P. & T.) have neither implemented the recommendations made in 1961, nor cared to inform the Committee as to the difficulty in doing so during the last 13 years. They deplore the delay on the part of the Ministry in not implementing the recommendations of the Committee.</p>
	118	<p>The Committee are also not satisfied with the reply of the Ministry of Communications (D.G. P & T) now received (vide Para 116 of the Report). They are of the opinion that if the provision contained in rule 416 of the Indian Telegraph Rules, 1951, has never been made use of, it does not take away the basic need of requiring the P. & T. Department to give due notice to the subscriber before his telephone or similar service is withdrawn. The Committee reiterate their earlier recommendations made in para 7 of Twelfth Report (Second Lok Sabha) and desire the Ministry to amend rule 416 accordingly, without any further delay.</p>

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17	125	While the Committee are in agreement with the reply of the Ministry dated 23rd October, 1972 that it is not possible to further reduce supervision charges in Belgaum Cantonment, they note the assurance given by the Ministry of Defence that they propose to set up a Committee to go into these matters. They desire that the Committee to be appointed should be directed to go into the question of rationalisation of supervision charges in all the Cantonments.
	126	In this case also, the Committee regret a delay of 7 years in forwarding information to them. The Committee will like the Ministry of Defence to take care to give prompt replies to the Committee in future.
18	130	While the Committee are satisfied with the reply of the Ministry of Defence contained in para 129 of the Report, they cannot help observing that the Ministry had not bothered to explain the position for more than 5 years, till the displeasure of the Committee was conveyed to them in May, 1973.
19	137	The Committee are satisfied with the proposed amendments and desire the Ministry of Agriculture (Department of Agriculture) to take early action to incorporate them in the Seeds Rules, 1968.
20	143	The Committee are happy to note that the Ministry of Industrial Development have agreed to the Regulations made under Section 21(1) of the Indian Standards Institution (Certification Marks) Act, 1952, being laid before Parliament. They desire the Ministry to take early action to amend the Act for incorporating therein the laying clause as approved by them, vide paras 33-34 of Second Report (Fifth Lok Sabha).
21	148	The Committee, after considering the matter in all its aspects, are of the view that the Ministry of Defence may postpone framing of the

(1)	(2)	(3)
		Model Cantonment Board Bye-laws till the proposed Bill for amending the Cantonments Act, 1924, is passed by Parliament. They trust that the Bill would be introduced in the Budget Session of 1974, as stated by the Ministry. The Committee desire that after the Act is suitably amended, top priority should be given to the framing of Model Bye-laws.
22	149	The Committee note with satisfaction the action taken by Government on their old recommendations made during First to Fourth Lok Sabha, as indicated in Appendix V.

APPENDIX II

(Vide para 6 of the Report)

Statement of Cases in which Interim replies giving assurances were received but Recommendations remained unimplemented till the matter was again taken up by the Committee in 1972

S. No.	Reference to report and para number	Summary of recommendations	Interim reply of the Ministry	Date on which reported to the House
	Date of presentation			
(1)	(2)	(3)	(4)	(5)
1	Fourth Report (ILS) 14-5-56	24 According to Rule 35A(10) of the Reserve and Auxiliary Air Forces Act Rules, 1953, the quorum of State and Unit Advisory Committees which consists of 9 and 5 members respectively will be only 2 and 1. Therefore the quorum of these Committees should be raised.	The rule will be amended accordingly. (Ministry of Defence O.M. No. F. 113-PB/Misc./XII/7325/56, dated the 11th October 1956).	21-12-57 (vide S. No. 6 of Appendix I to Second Report—2 LS).
2	First Report (2LS) 13 12-9-57	The power to impose fees by rules or bye-laws should expressly be given in the parent Act. In order to enable the levy of grazing fee by the Nasirabad Cantonment Board	Necessary instructions have been issued by the Military Land and Cantonment Directorate to the local authorities directing them to take necessary action to delete	4-5-61 (vide S. No. 1 of Appendix II to Eleventh Report—2LS)

(1)	(2)	(3)	(4)	(5)
		the Cantonments Act, 1924 ought to be suitably amended.	<p>from their bye-laws the provisions for levy of grazing fee.</p> <p>Necessary action is also being taken to amend the Cantonments Act, 1924 suitably as recommended by the Committee.</p> <p>[D.P.A. O.M. No. SR-I (9-13) CB/57-dated 18-1-61.]</p>	19-12-58 (<i>vide</i> S. No. 16 of Appendix II to Fourth Report—2 LS).
3.	Third Report (2 LS) 43 2-5-58	The National Cadet Corps Act, 1948 should be suitably amended to provide that the representatives of Parliament on the Central Advisory Committee would cease to be members thereof if they cease to be members of the House by which they are elected.	<p>Accepted in principle. Appropriate amendment to the N.C.C. Act 1948 would be made in due course when other major amendments to the said Act become necessary.</p> <p>[D.P.A. O.M. No. SR III(CB)/58-P.A. dt. 21-11-1958.]</p>	
4.	Ninth Report (2 LS) 7 9-9-60	A provision for appointment of assessors and payment of fees and travelling expenses to them ought to have been made in the Indian Boilers Act, 1923 and not in the rules as has been done under rules 32 and 33 of the Andaman and Nicobar Islands Economiser Rules, 1950.	<p>Necessary action to get the Indian Boilers Act, 1923, amended is being taken by the Ministry of Works, Housing and Rehabilitation, Ministry of Home Affairs O.M. No. 34/13/61-ANL, dated the 17th March, 1962.</p>	7-5-63 (<i>vide</i> S. No. 3 of Appendix to Second Report—3 L.S.).

APPENDIX III

(Vide para 9 of the Report)

Statement of old implementation cases in respect of which no replies were received from Ministries/Departments till 21-5-1973

S.No.	Subject	Ministry/ Department	Date of pre- sentation of Report	Period of delay
1	2	3	4	5
1.	Implementation of recommendation contained in para 15 of Second and para 15 of Third Reports of Committee on Subordinate Legislation (First Lok Sabha) re : Rules framed under the Salaries and Allowances of Ministers Act, 1952.	Home Affairs	Sept. 1954 and May, 1955	18 yrs.
2.	Implementation of recommendation contained in para 13 of First Report of Committee on Subordinate Legislation (Second Lok Sabha) re : levy of grazing fee under the Nasirabad Cantonment Board Bye laws.	*Defence	Sept. 1957	15 yrs.
3.	Implementation of recommendation contained in paras 128-129 of First Report of Committee on Subordinate Legislation (Second Lok Sabha) re : levy of ground rent under the Secunderabad Cantonment Board Bye-laws.	Defence	Sept. 1957	15 yrs.
4.	Implementation of recommendation contained in paras 38-40 of Second Report of Committee on Subordinate Legislation (Second Lok Sabha) re : levy of fees under the Allahabad Cantonment Board Bye-laws.	Defence	Dec. 1957	15 yrs.
5.	Implementation of recommendation contained in para 43 of Third Report of Committee on Subordinate Legislation (Second Lok Sabha) re : amendment of the National Cadet Corps Act, 1948.	†Defence	May, 1958	15 yrs.

*Interim reply reported at S.No. 1 of Appendix II to Eleventh Report (Second Lok Sabha), presented on 4-5-1961.

†Interim reply reported at S.No. 16 of Appendix II to Fourth Report (Second Lok Sabha), presented on 19-12-1958.

1	2	3	4	5
6.	Implementation of recommendation contained in Paras 7-9 of Fifth Report of Committee on Subordinate Legislation (Second Lok Sabha) re: amendment to the Displaced Persons (Compensation and Rehabilitation) Rules, 1955.	Labour & Rehabilitation (Deptt. of Rehabilitation)	May, 1959	14 yrs.
7.	Implementation of recommendation contained in paras 12-13 of Fifth Report of Committee on Subordinate Legislation (Second Lok Sabha) re: amendment of the preamble to the Saugor Cantonment Board Bye-laws.	Defence	May, 1959	14 yrs.
8.	Implementation of recommendation contained in para 67 of First Report of Committee on Subordinate Legislation (Fourth Lok Sabha) re: Grievances of cooks and water-carriers in defence establishments.	Defence	March, 1968	5 yrs.

APPENDIX IV

(Vide para 65 of the Report)

STATEMENT SHOWING PROGRESS OF WORK RELATING TO THE VOLUMES OF G.S.R.O. COMPILATION

PART I

G.S.R.O. Volumes already published

Volume No.	Subject Heading included in the Volume	Date of modification	Year of release of Volume
1	2	3	4
G.S.R.O. Vol.I	"Accountants" to "Agriculture"	1st March, 1960	1960
G.S.R.O. Vol.II	"Air Navigation" to "Armed Forces upto and including Act 40 of 1950."	1st November, 1960	1961
G.S.R.O. Vol.III	"Armed forces from Act 46 of 1950" to "Arms and Explosives"	1st May, 1961	1962
G.S.R.O. Vol.IV	"Atomic Energy" to "Civil Procedure"	1st January, 1962	1962
G.S.R.O. Vol.V	"Companies"	1st January, 1962	1963
G.S.R.O. Vol. VI	"Constitution"	1st December, 1963	1964
G.S.R.O. Vol.VII	"Contract" to "Displaced persons"	1st December, 1963	1964
G.S.R.O. Vol.VIII	"Documents" to "Extradition"	1st December, 1963	1964
G.S.R.O. Vol. IX	"Factories" to "Infants and Minors"	1st February, 1964	1964
G.S.R.O. Vol. X	"Inflammable Substances" to "International Relations"	1st January, 1965	1965
G.S.R.O. Vol.XI	"Labour upto and including Act 9 of 1948"	1st November, 1965	1966
G.S.R.O. Vol. XII	"Labour from Act 11 of 1948 to Act 69 of 1951"	1st November, 1965	1967

1	2	3	4
G.S.R.O. Vol.XIII	"Labour from Act 49 of 1952 onwards"	1st December, 1965	1966
G.S.R.O. Vol. XIV	"Legal profession" to "Mines and Minerals upto and including Act 35 of 1952"	1st November, 1966	1968
G.S.R.O. Vol.XV	"Mines and Minerals from Act 20 of 1957 onwards" to "Parliament"	1st September, 1967	1968
G.S.R.O.Vol.XVI	"Partnership" to "Private Property"	1st January, 1968	1970
G.S.R.O. Vol.XVII	"Public Debt" to "Public services"	1st July, 1968	1969
G.S.R.O. Vol.XVIII	"Railway" and "Transport"	1st October, 1968	1971
G.S.R.O.Vol. XIX	"Revenue upto and including Act 12 of 1953"	1st August, 1971	1972

PART II

Supplement to G.S.R.O. Volumes Already Published

Suppl. to G.S.R.O.Vol.I	"Accountants" to "Arbitration"	1st September, 1967	1970
Suppl. to G.S.R.O.Vol.II	"Armed Forces upto and including Act 62 of 1957, section 184 (Partly)"	1st January, 1968	1971
Suppl. to G.S.R.O.Vol.III	"Armed Forces from Act 62 of 1957, section 184 onwards."	1st January, 1968	1970
Suppl. to G.S.R.O.Vol.IV	"Arms and Explosives" to "Companies".	1st March, 1971	1972

PART—III

*Volumes of the G.S.R.O.**Compilation under Print or Preparation*

S. No.	Volume No.	Subject-headings	Date of modification	Present position
1	G.S.R.O. Volume XX	"Revenue upto and including the Sugar (Special Excise Duty) Act, 1959"	1-1-1972	*The copies of the volume are under binding. As per information received from Press, these are likely to be released soon.

*Volume XX has since been published and put on sale.

1	2	3	4
2 G.S.R.O. Volume XXI	"Revenue (notifications under the Income-tax Act, 1961)"	Yet to be decided according to the date upto which notification will be included in the Addenda.	The page-proofs relating to this Volume are pending in the Printing Section for scrutiny. The same will have to be finalised in this Section before sending them to the Press for final printing. The Mss. of the Addenda etc. will be sent to the Press on receipt of information regarding commencement of final printing.
3 G.S.R.O. Volume XXII	"Revenue (mainly notifications under the Customs Act, 1962)".	—	Preparation of Mss. has been undertaken and the same is likely to be completed within the next six months.

APPENDIX V

Statement showing action taken on old recommendations of, and assurances given to, the Committee on Subordinate Legislation during First to Fourth Lok Sabha

(vide para 149 of the Report)

Sl. No.	Reference to para No. of Report	Summary of recommendations/assurances	Interim reply, if received	Gist of Government's reply
(1)	(2)	(3)	(4)	(5)
1	Second Report (1 LS) 27	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.	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. [D.P.A. O.M. No. S(II)-L-VIII/57-PA dated the 17th August, 1959.]	The needful has since been done vide S.O. 1242 of 1961. (Ministry of Commerce D.O. No. 21(2) Plant (B)/73 dt. 3-11-73.
2	Third Report (1 LS) 45	S. R. O. Nos. of previous Amendments and the original rules or at least S.R.O. number of the last amendment should be cited in a footnote whenever any	Brought to the notice of the Committee vide S. No. 1 of App. II to Seventh Report (2 L.S.) No interim reply received.	Every effort is being made to evolve a system of numbering amending notifications in such a way as to include a reference to the

imendment is sought to be made in any rule.

3 First Report (2 LS) 13

The power to impose fees by rules or bye-laws should expressly be given in the parent Act. In order to enable the levy of grazing fee by the Nasirabad Cantonment Board, the Cantonments Act, 1924 ought to be suitably amended.

Necessary instructions have been issued by the Military Land and Cantonment Directorate to the local authorities directing them to take necessary action to delete from their bye-laws the provision for levy of grazing fee.

Necessary action is also being taken to amend the Cantonments Act, 1924, suitably as recommended by the Committee [D.P.A. O.M. No SR-1 (9—13) CB/57, dt. 18-1-61].

[Brought to the notice of the Committee, vide S. No. 1 of Appendix II to Eleventh Report (2) LS)].

main S.R.O. (1). M/o Law O.M. No. F. 24(2)/56-L dt. 20-8-56 (2). D.P.A. O.M. No. F. 32-10-72-R & C dt. 24-2-73.]

The provision regarding levy of grazing fees by the Cantonment Board has since been omitted, vide S.R.O. 367 of 1973 [Ministry of Defence-O.M. No. 12/CSL/IBD/C/L & C/72/3379-C/D (O & C.) dt. 29-12-73.]

For various reasons it has not been possible to undertake any amendment since 1954. However, Government had set up a Task Force in December, 1972 to recommend *inter alia*, the comprehensive amendments to the Cantonments Act, 1924. The Task Force have since submitted the report and in the draft bill new Section-282A has been proposed providing for the levy of grazing fee for every licence or written permission granted by the Board. We expect to be able to introduce the draft Bill in the Budget Session of Parliament. [Ministry of Defence D.O. No. 10/43/72/D (Q C) dt. 23-10-73].

4 Third Report (2 LS) 57

Revised edition of Fundamental Rules might be printed as soon as new rules relating to pay, leave, T.A., compensatory allowance, etc., are finalised.

*P & T Compilation of F.R. and S.R., Vol. I (Sec. III F.R.) has since been revised and the same will be sent to the Press as soon as a reply to the suggestions re-

(1)	(2)	(3)	(4)	(5)
5. Fifth Report (2LS) 19-20	In cases of goods thrown overboard, or lost or damaged but not salvaged, the landing fee should be refunded under the Port of Cochin (Landing and Shipping Fees and Wharfage) Rules, 1958 as no services are rendered by the Port Authorities. However, in cases where the goods are salvaged and landed within Port limits, the landing fees may be charged <i>Pro rata</i> .		No interim reply received.	
6. Seventh Report (2LS) 55	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.		No interim reply received.	
				<p>garding certain charges in the Fundamental Rules is received. Further, Vol. I (Sec. IV-S.R.) relating to leave, T.A., etc. is also under revision and is expected to be finalised shortly, in consultation with the Miny. of Fin- nance/C.A.G./D.G. P. & T., No. C.R.-16/221-57-IV(KW), dt. 7-12-73.]</p>
				<p>Rule 6(2) of 1965 Rules has since been amended suitably vide Cochin Port Trust notification No. B/309/72, published in the Kerala Gazette, dated 27-11-73. (M/o Shipping & Transport (Transport Wing) D.O. No. 6-PCA(43)/72, dt. 31-12-73).</p>
				<p>(i) Noted in the Legislative Department and also circulated to all the officers in that Department concerned with the scrutiny and vetting of statutory rules and orders (vide Ministry of Law & Justice (Legislative Department) O.M. No. F. 4(9)/72-L.1, dated 6-12-1973); and</p>

(ii) brought to the notice of all Ministerial/Departments of Government of India for compliance [vide Ministry of Law and Justice (Legislative Department) O.M. No. F4(9)/72-L.I. dated 8-1-1973.]

No interim reply received.

The Committee note the assurance given by the Ministry of Steel and Fuel (Department of Mines and Fuel) to amend or cancel sub-rules (1) and (2) of Rule 11 and sub-rule (3) of Rule 24 of the Mineral Concession Rules, 1960 (G.S.R. 1968 of 1960) in such a manner that there might be no prescribed period for disposal of applications and the State Government be in a position to pass Orders or them at any time. At the same time the explanation appended to rule 54 would be so amplified that if the application for grant of prospecting licence or mining lease or renewal of such licence or lease is not disposed of within the period of 9 months and 90 days respectively, the applicant might file a review application with the Central Government so that the State Government could be pressed for taking early decision on such applications.

No interim reply received

The Committee note the assurance given by the Ministry of Steel, Mines and Fuel (Department of Mines and Fuel) that to safeguard the interest of the lessee in few exceptional cases where the State

This is has been done, vide Notification No. 1(2)/68-MII, dt. 23-2-1968 (Ministry of Steel and Mines—Department of Mines O.M. No. 1/48/72-MVI, dt. 7-4-73).

This has since been done, vide Notification No. MII-169 (44)/61-, dt. 6-5-1963. (Ministry of Steel and Mines —Department of Mines O.M. No. 1/48/72-MVI, dt. 7-4-1973).

7 Thirteenth Report (2LS)

11

8 Thirteenth Report (2LS)

15

(1)	(2)	(3)	(4)	(5)
	9 First Report (31.5) 14	<p>Government might delay the disposal of application for renewal of prospecting licence or mining leases, they would incorporate a suitable clause in the Mineral Concession Rules, 1960 to the effect, that in case an application for renewal is not disposed of by the State Government by the date the original lease expires, the lease will automatically get extended till such date on which the State Government finally passes orders on the renewal application. By making such a provision in the Mineral Concession Rules, the lessee will continue to be in occupation of the area and to work it. When the lease hold continues to be in possession of the lessee and he continues to work it, the lessee should be made liable to pay dead rent as well as surface rent for the intervening period between the date on which the lease expires and the date on which renewal is actually granted or refused by the State Government.</p>	No interim reply received.	The system of recovery of provisional rent (now called licence fee) was abolished with effect from 4th June, 1968 with the introduction of new sub-clause (e) of Clause IV of each of FR 45A and FR 45B. With the introduction of revised method of fixation of rent pending
		<p>With reference to rules 45A and 45B of the Fundamental Rules the standard rent should be determined as early as possible and if any case within 2 years of the completion of the building. If the provisional rent realised is in excess of the standard rent by more than 10% the</p>		

amount so realised should be re-limited to the allottee. If the standard rent exceeds the realised provisional rent more than 10% the recovery of cess rent from the allottee should be limited to a period of two years prior to the date of sanction of the standard rent.

determination of standard rent, the question of excess or lower recovery does not arise now as the standard rent ultimately fixed is given effect from the date it is specified.

[Ministry of Finance (Dypt. of Expenditure) O.M. No. 5(9)/63-Estates, dated 24-5-72.]

After considering the above reply of the Ministry on 29-1-74 the Committee decided not to pursue the matter further.

10 First Report (4LS) 34

The Committee are of the opinion that charges like the one levied for cancellation of unused Railway Tickets should not be levied or collected without any specific authorisation by an Act of Parliament. So far as Section 47 of the Indian Railways Act, 1890 is concerned, there is nothing which authorised the Railway Administrations to levy cancellation charges on unused Railway Tickets.

The Bill (No. 27 of 1970) seeking amendment to Section 47 of the Indian Railways Act, 1890 has been introduced in the Lok Sabha on 24-3-1970 by the Minister of Railways and to validate the levy and collection of cancellation charges made before the amended Section 47 becomes effective. Brought to the notice of the Committee *vide* para 55 of Sixth Report (4LS).

The Indian Railways (Amendment) Bill, 1973 has since been passed [see Sec. 2(2) of Act No. 45 of 1973].

11 First Report (4LS) 35

The Committee deplore the delay on the part of the Ministry of Railways (Railway Board) in supplying a copy of the Rules made under the Indian Railways Act, 1890 which under Section 47(6) thereof

No interim reply received.

Action had already been taken by the Ministry of Railways (Rly. Board) *Vide* their O.M. No. 72 Safety (A&R)/89/19, dt. 18-9-72.

were required to be kept at every Railway Station and made available to any person for inspection free of charge at all reasonable times. If the Ministry of Railways, who are the rule-making authority, do not themselves possess up-to-date copies of the Rules, the Committee fail to understand how they can ensure compliance of the statutory requirement of Section 47(6) by the Railway Administrations.

12. Fifth Report (4 L.S.) 14

The Committee desires that Government should take early steps to amend the Representation of the People Act, 1950, as recommended by the Election Commission, so that the Registration of Electors Rules, 1960, could also be amended suitably to enable the Indian Merchant Navy Officers and Crew to exercise the right to vote.

Consolidated proposals for amendment of Election Laws are under consideration and steps will be taken to include necessary amendment to the Representation of the People Act, 1950, as recommended by the Election Commission. [Ministry of Law (Legislative Deptt.) O.M. No. F. 7(37)/68-Leg. II, dated 2-6-70].

Brought to the notice of the Committee, *vide* S. No. 14 of Appendix I to Seventh Report (4 L.S.).

13. Seventh Report (4 L.S.)

24-25

The Committee notes that, as conceded by the Ministry of Education and Youth Services, strictly speaking the so-called "comprehensive" rules for the custody and handling of exhibits in the "Salar Jung Museum and Library" are not rules, but form part of the steps taken

The amendment has since been done by inserting clause (e) in sub-section (8) of Section 20 of the Representation of the People Act, 1950, *vide* Clause 8 of the Representation of the People (Amendment) Bill, 1973 (Bill No. 100 of 1973) as introduced in Lok Sabha on 20-12-1973.

The Salar Jung Museum Board Regulations, 1973 have since been made and published in the Gazette of India, Part II, Section 4, dated 17-2-72 at pages 401-402 [*vide* Deptt. of Culture O.M. No. F. 6-80/70-CA] (5), dated 16-4-73].

by the Director in accordance with and under Regulation 32 of the Salar Jung Museum Regulations, 1962. The Committee, therefore, feels that naming of these "steps" as "Rules" is inappropriate, particularly as Section 27 of the principal Act provides for framing of Rules by the Central Government in consultation with the Board in respect of certain other matters.

Apart from the question of inappropriate expression, there is a more basic aspect of the matter involved. By specifying the "steps for the preservation of books, etc." in the directions (termed as "Comprehensive Rules"), instead of in the Regulations, as envisaged in Section 28(2)(i), the Salar Jung Museum Board had not only circumvented the condition of prior approval of the Central Government but also done away with the statutory requirement of their publication in the Gazette of India. The Committee, therefore, desires that the matters specified in clause (i) of sub-section (2) of Section 28 of the Salar Jung Museum Act, 1961, should be regulated through Regulations rather than be left to be regulated by the Board or the Director through directions.

MINUTES

APPENDIX VI

XXXI

MINUTES OF THE THIRTY-FIRST SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (FIFTH LOK SABHA) (1972-73)

The Committee met on Monday, the 21st May, 1973 from 15.00 to 16.30 hours.

PRESENT

Shri Vikram Mahajan—*Chairman*

MEMBERS

2. Shri M. C. Daga
3. Shri Dharnidhar Das
4. Shri T. H. Gavit
5. Shri Dinesh Joarder
6. Shri S. A. Kader
7. Shri P. Narasimha Reddy

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary.*

2-20

Delay in implementation of recommendations

21. The Committee noted that in respect of 10 cases (as set out in the Annexure) Ministries/Departments concerned had not intimated the final action taken by them on the observations/recommendations made by the Committee on Subordinate Legislation from time to time during the First to Fourth Lok Sabha, even though a period of more than 5 to 18 years had elapsed. The Committee also noted that in respect of 2 cases, interim replies were received from Ministries/Departments concerned which were brought to the notice of the House through Reports of the Committee on Subordinate Legislation. In these two cases, Government gave an assurance to implement the recommendations, but no final replies had been received so far.

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

22. The Committee took serious note of the inordinate delay in implementation of their recommendations or sending no final replies by the Ministries/Departments concerned and desired that they should be asked to send their final replies without any further delay.

ANNEXURE

(vide para 21 of the Minutes)

Statement of old implementation cases in respect of which final replies are still awaited from Ministries/Departments

S.No.	Subject	Ministry/Department	Date of presentation of Report	Period of delay
1	2	3	4	5
1.	Implementation of recommendation contained in para 15 of Second and para 15 of Third Reports of Committee on Subordinate Legislation (First Lok Sabha) re : Rules framed under the Salaries and Allowances of Ministers Act, 1952.	Home Affairs	September, 1954 and May, 1955	18 yrs.
2.	Implementation of recommendations contained in paras 12-13 of Sixth Report of Committee on Subordinate Legislation (First Lok Sabha) re : the Coal Mines Conservation and Safety Rules, 1954.	Steel & Mines (Deptt. of Mines)	December, 1956	16 yrs.
3.	Implementation of recommendation contained in para 13 of First Report of Committee on Subordinate Legislation (Second Lok Sabha) re : levy of grazing fee under the Nairabad Cantonment Board bye-laws.	*Defence	September 1957	15 yrs.
4.	Implementation of recommendation contained in paras 128-129 of First Report of Committee on Subordinate Legislation (Second Lok Sabha) re : levy of ground rent under the Secunderabad Cantonment Board Bye-laws.	Defence	September, 1957	15 yrs.
5.	Implementation of recommendation contained in paras 38-40 of Second Report of Committee on Subordinate Legislation (Second Lok Sabha) re : levy of fees under the Allahabad Cantonment Board Bye-laws.	Defence	December, 1957	15 yrs.

*Interim reply reported at S.No.1 of Appendix II to Eleventh Report (Second Lok Sabha).

1	2	3	4	5
6.	Implementation of recommendation contained in para 43 of Third Report of Committee on Subordinate Legislation (Second Lok Sabha) re : amendment of the National Cadet Corps Act, 1948.	*Defence	May, 1958	15 yrs.
7.	Implementation of recommendation contained in paras 7-9 of Fifth Report of Committee on Subordinate Legislation (Second Lok Sabha) re : amendment to the Displaced Persons (Compensation and Rehabilitation) Rules, 1955.	Labour & Rehabilitation (Deptt. of Rehabilitation)	May, 1959	14 yrs.
8.	Implementation of recommendation contained in paras 12-13 of Fifth Report of Committee on Subordinate Legislation (Second Lok Sabha) re : amendment of the preamble to the Saugor Cantonment Board Bye-laws.	Defence	May, 1959	14 yrs.
9.	Implementation of recommendation contained in paras 19-20 of Fifth Report of Committee on Subordinate Legislation (Second Lok Sabha) re : the Port of Cochin (Landing and Shipping Fees and Wharfage) Rules 1958.	Shipping & Transport	May, 1959	14 yrs.
10.	Implementation of recommendation contained in para 67 of First Report of Committee on Subordinate Legislation (Fourth Lok Sabha) re : Grievances of cooks and water-carriers in defence establishments.	Defence	March, 1968	5 yrs.

*Interim reply reported at S.No. 16 of Appendix II to Fourth Report (Second Lok Sabha).

XXXVIII

MINUTES OF THE THIRTY-EIGHTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (FIFTH LOK SABHA) (1973-74)

The Committee met on Wednesday, the 3rd October, 1973 from 15.00 to 16.30 hours.

PRESENT

Shri Vikram Mahajan—Chairman

MEMBERS

2. Shri T. Balakrishnaiah

6. Shri M. C. Daga

4. Shri T. H. Gavit
5. Shri S. A. Kader
6. Shri K. Lakkappa
7. Shri Murasoli Maran
8. Shri S. N. Misra
9. Shri Mohan Swarup
10. Shri Tulmohan Ram

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary.*

2. The Committee considered Memoranda Nos. 136 to 138 and 142 to 145 on the following subjects:

S.No.	Memo. No.	Subject
1	2	3
1-6	136-138 and 142-144	* * *
7.	145	Implementation of recommendation contained in para 50 of Sixth Report (Fourth Lok Sabha)—Seeds Rules, 1968 (G.S.R. 1632 of 1968).
3-10	*	* *

(vii) Implementation of recommendation contained in para 50 of Sixth Report (Fourth Lok Sabha)—Seeds Rules, 1968 (G.S.R. 1632 of 1968)—(Memorandum No. 145)

11. The Committee considered above Memorandum and decided to hear the representatives of the Ministry of Agriculture regarding provision of safeguards in the Rules or Act to protect the farmers against the supply of defective seeds.

XLIII

MINUTES OF THE FORTY-THIRD SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (FIFTH LOK SABHA) (1973-74)

The Committee met on Wednesday, the 5th December, 1973 from 16.30 to 17.15 hours.

PRESENT

Shri Vikram Mahajan—*Chairman*

MEMBERS

2. Shri M. C. Daga
3. Shri T. H. Gavit

*Omitted portions of the Minutes are not covered by this report.

4. Shri S. A. Kader

5. Shri Y. S. Mahajan

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary.*

2. The Committee considered Memoranda Nos. 155, 160 to 163, 165 to 167 on the following subjects:—

S.No.	Memo No.	Subject
(1)	(2)	(3)
(i)–(vi) 155, 160–163 and 165	*	*
(vii) 166	Implementation of outstanding recommendation made in para 15 of Second Report of Committee on Subordinate Legislation (First Lok Sabha) re : Rules framed under the Salaries and Allowances of Ministers Act, 1952.	
(viii) 167	Implementation of outstanding recommendation made in paras 51-52 of Third report of Committee on Subordinate Legislation (Second Lok Sabha) re : printing and publication of statutory Rules and Orders.	

3—14. * * * * *

(vii) *Implementation of outstanding recommendation made in para 15 of Second Report of the Committee on Subordinate Legislation (First Lok Sabha) regarding Rules framed under the Salaries and Allowances of Ministers Act, 1952 (Memorandum No. 166)*

15. The Committee considered above Memorandum and decided to hold it over for further detailed study.

(viii) *Implementation of outstanding recommendation made in paras 51-52 of Third Report of the Committee on Subordinate Legislation (Second Lok Sabha) regarding printing and publication of Statutory Rules and Orders (Memorandum No. 167)*

16. The Committee considered the above Memorandum for some time and decided to hear the representatives of the Ministry of Law, Justice and Company Affairs (Legislative Department) in the matter.

17. The Committee decided to meet on 24th, 25th, 28th and 29th January, 1974 for consideration of other memoranda.

The Committee then adjourned to meet again on Thursday, the 24th January, 1974.

MINUTES OF THE FORTY-FIFTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (FIFTH LOK SABHA) (1973-74)

The Committee met on Friday, the 25th January, 1974 from 15.00 to 17.00 hours.

PRESENT

Shri Vikram Mahajan—*Chairman*

MEMBERS

2. Shri M. C. Daga
3. Shri T. H. Gavitt
4. Shri Samar Guha
5. Shri S. A. Kader
6. Shri K. Lakkappa
7. Shri S. N. Misra
8. Shri Mohan Swarup

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary.*

2. The Committee considered Memoranda Nos. 159, 164, 166, 168-169, 172, 176 to 181, 193 and 194 on the following subjects:—

S.No.	Memo. No.	Subject
(1)	(2)	(3)
1—2	159 & 164	• • • • •
3	166	Implementation of outstanding recommendation made in para 14 of Second Report of Committee on Subordinate Legislation (First Lok Sabha) re : Rules framed under the Salaries and Allowances of Ministers Act, 1952.
4	168	• • • • •
5	169	Implementation of outstanding recommendations made in para 162 of First Report of Committee on Subordinate Legislation (Second Lok Sabha) re : the Samad (Court of Visva-Bharati) constituted under Sections 18 and 19 of the Visva-Bharati Act, 1951.
— 12	172 and 176—181	• • • • •

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

(1)	(2)	(3)
13	193	Implementation of old recommendation made in para 24 of Fourth Report of Committee on Subordinate Legislation (First Lok Sabha) Amendment to the Reserve and Auxiliary Air Forces Act Rules, 1953 (S.R.O. 6B of 1954).
14	194	Implementation of outstanding recommendation of Committee on Subordinate Legislation made in para 151 of First Report (Second Lok Sabha) regarding representation of Lok Sabha on the Employees' State Insurance Corporation constituted under Section 3 of the Employees' State Insurance Corporation Act, 1948.

3-4

(iii) *Implementation of outstanding recommendation made in para 15 of Second Report of Committee on Subordinate Legislation (First Lok Sabha) re. Rules framed under the Salaries and Allowances of Ministers Act, 1952 (Memo No. 166)*

5. The Committee considered the above Memorandum and reiterated their earlier recommendation made in para 15 of their Second Report (First Lok Sabha) that the Rules framed under the Salaries and Allowances of Ministers' Act, 1952 should become operative only after an affirmative vote of the House has been obtained. In this connection, the Committee also desired the Ministry of Home Affairs to amend the Act if considered necessary, to provide that the Rules would become operative only after affirmative vote of the House.

6.

(v) *Implementation of outstanding recommendations made in para 162 of First Report of Committee on Subordinate Legislation (Second Lok Sabha) regarding the Samsad (Court of Visva-Bharati) constituted under Sections 18 and 19 of the Visva-Bharati Act, 1951—(Memo. No. 169)*

7. The Committee considered the above Memorandum and noted that the Ministry of Education had taken 14 years to amend Visva-Bharati Act in implementation of second part of the recommendation made in para 162 of their First Report (Second Lok Sabha) that Parliament should be represented on the Samsad of the Visva-Bharati by three Members, two from Lok Sabha and one from Rajya Sabha. As regards the first part of the recommendation that the statutes of the University should be amended to provide that a re-

representative of the Lok Sabha should cease to be a member of the Samsad on his ceasing to be a Member of the Lok Sabha, the Committee were surprised to note that the Ministry of Education had not amended the statutes inspite of the opinion of the Law Ministry as far back as in 1957 regarding the necessity of amendment in this regard. The Committee were not convinced by the reply of the Ministry that as Clause 19(1) (f) of the Visva-Bharati Act specifically provides that there shall be three representatives of Parliament, persons concerned shall cease to be members of the Samsad as soon as they cease to be Members of Parliament. The Committee desired the Ministry to make specific provision in this regard by suitable amendment of the statutes.

8-14

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(xiii) *Implementation of old recommendation made in para 24 of Fourth Report of Committee on Subordinate Legislation (First Lok Sabha) Amendment to the Reserve and Auxiliary Air Forces Act Rules, 1963 (SRO 6E of 1954) (Memo No. 193)*

15. The Committee considered the above Memorandum and were not satisfied with the reply of the Ministry of Defence that the Auxiliary Air Force Squadrons were not functioning and there was no proposal to resuscitate them in the foreseeable future. The Committee felt that as the Rules were still in force, the provisions contained therein could be applied as and when it was felt necessary to do so. The Committee, therefore, desired the Ministry of Defence to amend Rule 35A(10) *ibid* in implementation of their recommendation under in para 24 of Fourth Report (First Lok Sabha). The Committee also desired the Ministry to make amendment in sub-rule (3) of Rule 35A consequent upon doing away with the categorisation of States as Part A, Part B or Part C States.

(xiv) *Implementation of outstanding recommendation of Committee on Subordinate Legislation made in para 151 of First Report (Second Lok Sabha) regarding representation of Lok Sabha on the Employees' State Insurance Corporation constituted under Section 3 of the Employees' State Insurance Corporation Act, 1948—*

(Memo No. 194)

16. The Committee considered the above Memorandum and took a serious view of the delay on the part of the Ministry of Labour and Employment in implementing their recommendation made in para 151 of First Report (Second Lok Sabha) regarding representation of Lok Sabha on the Employees State Insurance Corporation. The Committee impressed upon all Ministries/Departments the need for early implementation of their recommendations in future. The Committee then adjourned to meet again on the 28th January, 1974 at 14.30 hours.

XLVI**MINUTES OF THE FORTY-SIXTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (FIFTH LOK SABHA) (1973-74)**

The Committee met on Monday, the 28th January, 1974, from 14.30 to 17.00 hours.

PRESENT

Shri Vikram Mahajan—*Chairman*

MEMBERS

2. Shri T. Balakrishnaiah
3. Shri M. C. Daga
4. Shri T. H. Gavitt
5. Shri S. A. Kader
6. Shri S. N. Misra
7. Shri Mohan Swarup

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary.*

2. The Committee considered Memoranda Nos. 170, 182 to 192, 193A and 195 on the following subjects:—

S.No.	Memo. No.	Subject
(1)	(2)	(3)
1—12	170 and 182—192	* * *
13	193A	Implementation of outstanding recommendation made in para 12 of Sixth Report of Committee on Subordinate Legislation (First Lok Sabha) regarding the Coal Mines Conservation and Safety Rules, 1954.
14	195	Implementation of old recommendation made in para 43 of Third Report of Committee on Subordinate Legislation (Second Lok Sabha) regarding Central Advisory Committee of the National Cadet Corps constituted under the National Cadet Corps Act, 1948.

*Omitte : portions of the Minutes are not covered by this Report.

(xiii) *Implementation of outstanding recommendation made in para 12 of Sixth Report of Committee on Subordinate Legislation (First Lok Sabha) re. the Coal Mines Conservation and Safety Rules, 1954*
 (Memorandum No. 193A)

23. The Committee considered the above Memorandum and were not satisfied with reply given by the Ministry of Steel and Mines (Department of Mines) for not implementing their recommendation made in paras 12-13 of Sixth Report (First Lok Sabha) regarding the necessity of previous publication of Principles framed under Rule 41 of the Coal Mines Conservation and Safety Rules, 1954 and their laying before Parliament. The Committee were of the opinion that the principles made under Rule 41 should not be considered on a separate footing than the Rules. When the Rules are required to be pre-published and laid, the principles made thereunder should also be subject to the same conditions as laid down in the parent Act. In this connection, the Committee noted that in view of the observations of the Supreme Court in *Narendrakumar vs. Union of India*, the Ministry of Law had advised the Ministry of Home Affairs that the Regulations made by the Central Government under the All India Services Rules should be taken to form an integral part of the Rules and as such they were also required to be laid before Parliament. The Committee, therefore, desired the Ministry of Steel and Mines to either incorporate principles issued by them in the Rules or pre-publish them and lay them before Parliament as in the case of Rules.

(xiv) *Implementation of old recommendation made in para 43 of Third Report of Committee on Subordinate Legislation (Second Lok Sabha) re. Central Advisory Committee of the National Cadet Corps constituted under the National Cadet Corps Act, 1948 (Memorandum No. 195)*

24. The Committee considered the above Memorandum and were not satisfied with the reply of the Ministry of Defence in not taking any action so far for amending the N.C.C. Act in implementation of their recommendation made more than 15 years back. The Committee decided to hear the representatives of the Ministry of Defence in the matter.

The Committee then adjourned to meet again on Tuesday, the 29th January, 1974 at 14.30 hours.

XLVII
MINUTES OF THE FORTY-SEVENTH SITTING OF COMMITTEE
ON SUBORDINATE LEGISLATION
(FIFTH LOK SABHA) (1973-74)

The Committee met on Tuesday, the 29th January, 1974 from 14.30 to 16.00 hours.

PRESENT

Shri Vikram Mahajan—*Chairman*

MEMBERS

2. Shri T. Balakrishnaiah
3. Shri M. C. Daga
4. Shri T. H. Gavit
5. Shri S. A. Kader
6. Shri K. Lakkappa
7. Shri S. N. Misra
8. Shri Mohan Swarup
9. Shri Tulmohan Ram

SECRETARIAT

Shri H. C. Paranjpe—*Deputy Secretary.*

2. The Committee considered Memorandum Nos. 196 to 209 and 216 on the following subjects:—

S.No.	Memo.No.	Subject
(1)	(2)	(3)
1	196	Implementation of outstanding recommendation made in paras 7-9 of Fifth Report of Committee on Subordinate Legislation (Second Lok Sabha) regarding amendment to the Displaced Persons (Compensation and Rehabilitation) Rules, 1955 (G.S.R. 780 of 1958) .
2	197	Implementation of recommendation contained in para 7 of Ninth Report of Committee on Subordinate Legislation (Second Lok Sabha) <i>re</i> : the Andaman and Nicobar Islands Economiser Rules, 1959 (G.S.R. 175 of 1960).
3	198	Implementation of outstanding recommendation made in para 14 of First Report of Committee on Subordinate Legislation (Third Lok Sabha) regarding assessment of rent etc. under F.Rs. 45A and 45B (S.O. 2922 of 1961).
4	199	Implementation of outstanding recommendation made in para 26 of Fourth Report of Committee on Subordinate Legislation (Third Lok Sabha) regarding Bye-laws for the regulation of supply and use of water including the collection and recovery of charges therefor in Belgaum Cantonment.

(1)	(2)	(3)
5	200	Implementation of outstanding recommendation made in para 67 of First Report of Committee on Subordinate Legislation (Fourth Lok Sabha) regarding grievances of Cooks and Water carriers in Defence establishments.
6.	201	Implementation of recommendation of the Committee on Subordinate Legislation-para 18 of the 7th Report (Fourth Lok Sabha) re : The Indian Standards Institution Certification Marks) Amendment Regulations, 1968.
7.	202	Action taken by Government on old recommendations of, and assurances given to, the Committee on Subordinate Legislation.
8—15	203—209 & 216	* * * *

(i) *Implementation of outstanding recommendation made in paras 7—9 of Fifth Report of Committee on Subordinate Legislation (Second Lok Sabha) re. amendment to the Displaced Persons (Compensation and Rehabilitation) Rules, 1955 (G.S.R. 780 of 1958) (Memo No. 196).*

3. The Committee considered the above Memorandum and noted that in so far as the levying of fee without due legal authority was concerned, the Ministry of Labour and Rehabilitation (Department of Rehabilitation) had implemented their recommendation by inserting clause (nn) in Section 40(2) of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (*vide* amending Act 2 of 1960). The Committee were, however, not convinced by the reply of the Ministry in regard to laying of rules before Parliament. While it was true that under Section 40(3), *ibid.*, no affirmative vote was required before the Rules came into force, it was not correct to contend that Parliament was deemed to have approved the Rules when they were laid before the Houses for a period of 30 days. In a similar case, the Committee while drawing the attention of the Ministry of Commerce to para 8 of their Fifth Report (Second Lok Sabha) had observed in para 59 of Seventh Report (Fifth Lok Sabha) that the presumption made by that Ministry that rules had been approved by the House was not correct. The Committee desired the above observation to be brought to the notice of all Ministries/Department so that a wrong impression in this behalf was not carried by them.

(ii) *Implementation of recommendation contained in para 7 of Ninth Report of Committee on Subordinate Legislation (Second Lok Sabha) re. the Andaman and Nicobar Islands Economiser Rules, 1959 (G.S.R. 175 of 1960) (Memo No. 197)*

4. The Committee considered the above Memorandum and were not satisfied with the explanation given by the Ministry of Industrial

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

Development for not implementing their recommendation made in para 7 of Ninth Report (Second Lok Sabha) regarding amendment of the Indian Boilers Act, 1923. The Committee decided to hear the representatives of the Ministry of Industrial Development in the matter.

(iii) *Implementation of outstanding recommendation made in para 14 of First Report of Committee on Subordinate Legislation (Third Lok Sabha) re. assessment of rent etc. under F.Rs. 45A and 45B (S.O. 2922 of 1961) (Memo. No. 198)*

5. The Committee considered the above Memorandum and noted that the system of recovery of provisional rent had been abolished from 4th June, 1963 after the introduction of new sub-clause (e) of Clause IV of F.R. 45A and F.R. 45. Under sub-clause (f) of Clause IV, in case rent on any basis had been charged from the allottees prior to 4th June, 1963 and standard rent for that residence had not been determined, the rent actually charged shall be deemed to be the rent recoverable under the Rules. Thus, even though the recommendation of the Committee made in para 14 of First Report (Third Lok Sabha) had not been accepted *in toto*, the Committee presuming that cases of excess charge and short levy would neutralise, decided not to pursue the matter further.

(iv) *Implementation of outstanding recommendation made in para 26 of Fourth Report of Committee on Subordinate Legislation (Third Lok Sabha) regarding Bye-laws for the regulation of supply and use of water including the collection and recovery of charges therefor in Belgaum Cantonment. (Memo. No. 199).*

6. The Committee considered the above Memorandum and were not satisfied with the reply furnished by the Ministry of Defence. The Committee decided to hear the representatives of the Ministry of Defence in the matter. The Committee also desired that information might be obtained from the Ministry regarding supervision charges in other Cantonments and the basis for charging 20 per cent of the cost of work as supervision charges in the Belgaum Cantonment.

(v) *Implementation of outstanding recommendation made in para 67 of First Report of Committee on Subordinate Legislation (Fourth Lok Sabha) re. grievances of Cooks and Water carriers in Defence establishments—(Memo. No. 200).*

7. The Committee considered the above Memorandum and felt satisfied with the reply of the Ministry of Defence that adequate

provision already existed for redressal of grievances of non-combatant Defence Personnel.

(vi) *Implementation of recommendations of the Committee on Subordinate Legislation—para 18 of the 7th Report (Fourth Lok Sabha) re. the Indian Standards Institution (Certification Marks) Amendment Regulations, 1968 (Memo. No. 201).*

8. The Committee considered the above Memorandum and noted with satisfaction that the Ministry of Industrial Development had agreed to the Regulations framed under Section 21(1) of the Indian Standards Institution (Certification Marks) Act, 1952 being laid on the Table. The Committee desired the Ministry to make necessary amendments in the Act at any early date.

(vii) *Action taken by Government on old recommendations of, and assurances given to, the Committee on Subordinate Legislation—(Memo. No. 202).*

9. The Committee noted with satisfaction the action taken by Government on the old recommendations and assurances given to, the Committee on Subordinate Legislation. *vide* *Appendix.

10—21.

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The Committee then adjourned to meet again on the 11th and 12th February, 1974.

XLVIII

MINUTES OF THE FORTY-EIGHTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (FIFTH LOK SABHA) (1973-74)

The Committee met on Monday, the 11th February, 1974 from 15.00 to 16.30 hours.

PRESENT

Shri S. N. Misra—*In the Chair.*

MEMBERS

2. Shri M. C. Daga
3. Shri T. H. Gavitt
4. Shri S. A. Kader
5. Shri K. Lakkappa

*See Appendix V to the Report.

**Omitted portions of the Minutes are not covered by this Report

6. Shri Y. S. Mahajan
7. Shri Tulmohan Ram.

SECRETARIAT

Shri H. C. Paranjpe—*Deputy Secretary.*

2. In the absence of the Chairman, Shri S. N. Misra was chosen to act as Chairman for the sitting in terms of Rule 258(3) of the Rules of Procedure and Conduct of Business in Lok Sabha.

3. The Committee considered Memoranda Nos. 211, 215, 217 to 222 and 226 on the following subjects:—

S.No.	Memo. No.	Subject
(1)	(2)	(3)
1	211	* * * *
2	215	Implementation of outstanding recommendation made in para 55 of Seventh Report of Committee on Subordinate Legislation (Fourth Lok Sabha) <i>re</i> : disparities in Cantonment Board Bye-laws.
3	217	Implementation of outstanding recommendation made in paras 51-52 of Seventh Report of Committee on Subordinate Legislation (Second Lok Sabha) <i>re</i> : laying of Rules framed by State Governments under Central Acts before State Legislatures/Parliament.
4	218	Assurances given to the Committee on Subordinate Legislation (Second Lok Sabha) <i>re</i> : Secunderabad, Allahabad and Saugor Cantonments Board Bye-laws framed under the Cantonments Act, 1924.
5	219	Implementation of outstanding recommendation made in para 7 of Twelfth Report of Committee on Subordinate Legislation (Second Lok Sabha) on rule 416 of the Indian Telegraph Rules, 1951, as inserted by S.O. 627 of 1960 (Due notice to the subscriber before withdrawal of telephone or a similar service).
6	220	Implementation of outstanding recommendation made in para 8 of the Eighth Report of Committee on Subordinate Legislation (Second Lok Sabha) <i>re</i> : the Delhi Development (Grant of Allowances to Non-official Members of the Advisory Council) Rules, 1959 (express provision in the principal Act be made authorising the rule-making authority to provide for payment of allowances to non-official members of the Council.
7—9	221—222 and 226	* * * *

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

4-5.

(ii) *Implementation of outstanding recommendation made in para 55 of Seventh Report of Committee on Subordinate Legislation (Fourth Lok Sabha) re. disparities in Cantonment Board Bye-laws. (Memorandum No. 215)*

6. The Committee considered the above Memorandum and decided that in view of the position explained by the Ministry of Defence, framing of the Model Cantonment Board Bye-laws might be postponed till the proposed Bill for amending the Cantonments Act, 1924 was passed by Parliament. The Committee hoped that the Bill would be introduced soon and Model Bye-laws would be framed within the shortest possible time after the passing of the Act.

(iii) *Implementation of outstanding recommendation made in paras 51-52 of Seventh Report of Committee on Subordinate Legislation (Second Lok Sabha) re. laying of Rules framed by State Governments under Central Acts before State Legislatures|Parliament. (Memorandum No. 217).*

7. The Committee considered the above Memorandum and noted with regret that the Ministry of Law (Legislative Department) after bringing the observations of the Committee made in para 51 of their Seventh Report (Second Lok Sabha) to the notice of the State Governments in 1961 had not pursued the matter for all these years and had not cared to find out whether any State Government had taken any action to enact a law to provide for laying of the Rules framed by them under a Central Act before the State Legislature. This had resulted in the subordinate legislation made by State Governments under Central Acts remaining without Legislative supervision both at the level of Parliament as well as State Legislatures. The Committee desired the Ministry of Law to revive the matter and inform them as to how many State Governments had taken action in this regard.

As regards the amendment of the General Clauses Act to provide for laying of Rules framed under Central Acts by Central Government before Parliament, the Committee noted that the Law Commission had not yet finalised its Report on the revision of the General Clauses Act. The Committee decided to await the Report of the Law Commission and desired the Ministry of Law to get it expedited.

(iv) *Assurances given to the Committee on Subordinate Legislation (Second Lok Sabha) re. Secunderabad, Allahabad and Saugor Cantonments Board Bye-laws framed under the Cantonments Act, 1924. (Memorandum No. 218).*

8. The Committee considered the above Memorandum and noted the circumstances under which the relevant Bye-laws framed by the Secunderabad, Allahabad and Saugor Cantonments had not been amended in implementation of the assurances given by the Ministry of Defence to the Committee on Subordinate Legislation (Second Lok Sabha). The Committee, however, regretted that even after a period of 3 months asked for by the Ministry to do the needful had passed, no communication had been received from the Ministry whether the three sets of Bye-laws had been amended. The Committee stressed upon the Ministry to expedite the requisite amendments to the Bye-laws.

(v) *Implementation of outstanding recommendation made in para 7 of Twelfth Report of Committee on Subordinate Legislation (Second Lok Sabha) on rule 416 of the Indian Telegraph Rules, 1951, as inserted by S.O. 627 of 1960 (Due notice to the Subscriber before withdrawal of telephone or a similar service). (Memorandum No. 219).*

9. The Committee considered the above Memorandum and were not satisfied with the reply of the P & T Department that no amendment to Rule 416 of the Indian Telegraph Rules was necessary as the provision contained in it had never been made use of by them except once. The Committee regretted to note that the D.G.P. & T had neither implemented the recommendation made in 1961 in para 7 of their Twelfth Report (Second Lok Sabha) nor cared to inform the Committee as to the difficulty in doing so during the last 13 years. The Committee decided to reiterate their earlier recommendation and desired the D.G.P. & T. to implement it without any further delay.

(vi) *Implementation of outstanding recommendation made in para 8 of the Eighth Report of the Committee on Subordinate Legislation (Second Lok Sabha) re. the Delhi Development (Grant of Allowances to Non-official Members of the Advisory Council) Rules, 1959 (express provision in the principal Act be made authorising the rule-making authority to provide for payment of allowances to non-official members of the Council. (Memorandum No. 220).*

10. The Committee considered the above Memorandum and desired the Ministry of Works and Housing to expedite amendment to the Delhi Development Act, 1957 to incorporate therein and express

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

IV. REPRESENTATIVES OF THE MINISTRY OF DEFENCE

1. Shri M. L. Dave—*Joint Secretary.*
2. Shri L. Dayal—*Joint Secretary.*
3. Shri K. N. Sinha—*Director (M.L. & C.).*

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary.*

2. In the absence of the Chairman, Shri S. A. Kader was chosen to act as Chairman for the sitting in terms of Rule 258(3) of the Rules of Procedure and Conduct of Business in Lok Sabha.

3. The Committee heard oral evidence of the representative of the Ministry of Agriculture regarding the delay in implementation of the recommendation of the Committee made in para 50 of Sixth Report (Fourth Lok Sabha) for providing safeguards in Seeds Rules against supply of defective seeds to farmers.

4. At the outset, the representative of the Ministry stated the main problem faced by the Government today was that of inadequacy of production and supply of good quality of seeds rather than sale of seeds under fake certification. However, seed processing machinery had been set up in a large number of States. Seeds Inspectors had been appointed for drawing up as well as rejecting the preparation of samples. Farm Certificates issued by the National Seeds Corporation, S.F.C.I. and other recognised Seeds processing and distributing agencies gave the lot number of the seed, date of its test and the period for which the certificate would be valid. Ministry of Agriculture had been emphasising upon all the States who have not yet done so to appoint Seeds Inspectors. He placed before the Committee a statement (Annexure) giving information about enforcement of Seeds Law in the various States and Union Territories. He pointed out that rejections had been 10 per cent. to 25 per cent. of the Seeds Samples drawn.

5. He admitted that there was no provision in the Seeds Act or the Rules either for compensation to the farmer for any loss he suffered due to defective seeds or penalty to Government functionary or a trader for supplying bad seeds. When asked whether provision could be made in the Seeds Act for payment of compensation to farmers who suffer losses due to defective seeds out of the fine imposed on a person convicted under section 19 the representative of the Ministry stated that that was a reasonable suggestion.

6. As to the measures taken to ensure that a farmer did not suffer due to supply of defective seeds, he stated that seeds were required to be sold largely as certified seeds after certification by the certifying agencies or truthfully labelled seeds on the responsibility of the seed producer. If anybody prevented a Seed Inspector from taking samples or wished to destroy a particular lot of seeds found defective or wished to have it withdrawn from sale, he was liable to punishment. He further stated that they had received no information so far about any prosecution being launched by Seed Inspectors.

7. When pointed out that officers of the Department of Agriculture also distributed seeds which were found to be defective, the representative of the Ministry stated that everybody including officers of the Agriculture Department was subject to the laws of the land and liable to civil or criminal proceedings. As to any instance when any officer was prosecuted after the law was brought into force, he said that the Act had been in force for four years and the machinery for implementation of the Act was still in the process of being set up. Seed Law had not been enforced in two States and one Union Territory, while there was no report from one State.

8. Giving the procedure for production of certified seeds, the representative of the Ministry stated that the National Seeds Corporation, the State Seeds Corporations or Agriculture Departments of the States could enter into a contract with progressive farmers for the production of certified seeds provided the farmer concerned was willing to follow the prescribed drill, i.e., he will use only the foundation seeds supplied by the National Seeds Corporation or the Department of Agriculture (ii) will allow the seed to be inspected twice during the growth of the plant and will comply with all directions given by the Inspector and also with prescribed conditions regarding harvesting and storage. There was the germination test also. If the seed was found out to be below standard, it was upto the National Seeds Corporation to refuse to take it, certify it or buy it.

9. As to the role of Seeds Inspectors, the representative of the Ministry stated that their duty was to take samples and test them. The number of these checks had been increasing from year to year in some States. Regarding the suggestion for sale of certified seeds only through the agency of National Seeds Corporation and the State Seeds Corporations, he stated that the Corporations would not find it possible to meet the full requirement of the farmers all over the country. The National Seeds Corporation was entrusted with the specific responsibility of providing foundation Seeds which should be multiplied in the States.

10. The Committee pointed out that under sub-rule (d) of Rules 23 of the Inspector had *inter alia* to deal with any complaint made to him in respect of any contravention of the provisions of the Act or the Rules. But it was not specified in what way he would do it. The representative of the Ministry agreed to lay down detailed procedure about the action to be taken by the Inspector. The Committee desired the Ministry of Agriculture to furnish a copy of the draft amendments to the Seeds Rules by the 1st Marct, 1974 for their consideration.

(The witness then withdrew).

11. The Committee then heard oral evidence of the representatives of the Ministry of Industrial Development in regard to non-implementation of the recommendation of the Committee made in para 7 of their Ninth Report (Second Lok Sabha), according to which provision for appointment of assessors and payment of fees and travelling expenses to them should be made in the Indian Boilers Act, 1923 and not in Rules as had been done in Rules 32 and 33 of the Andaman and Nicobar Islands Economisers Rules, 1959. The Ministry accepted this recommendation in 1962 but had not yet implemented it.

12. The representative of the Ministry admitted delay on their part in implementation of the recommendation of the Committee. He explained that the main reason for delay was that the Ministry did not want to go in for piecemeal amendments of the Act. Another reason for delay was transfer of the subject from one Ministry to another. The third reason was that the file was held up with one or two officers for a period of one year for which they had expressed their regrets. At the time of processing of the recommendation, a point was raised whether Section 29 which enabled the State Governments to make rules empowered the Government to appoint assessors and pay their fees etc. When the Committee pointed out that it did not cover and a specific provision was necessary in the Act, the Ministry accepted it and restarted the processing of recommendation.

13. The representative of the Ministry agreed that in the absence of the amendment being made to the Act during the last 13 years, the lacuna pointed out by the Committee still continued to be in operation.

14. As regards the High Power Committee set up by Government for a comprehensive review of laws on boilers, the representative of the Ministry stated that its report was expected by March, 1974 and immediately thereafter the case would be processed for necessary action.

15. As to the steps taken to avoid delay in future, the representative of the Ministry stated that henceforth all references would be handled at the highest level of the Joint Secretary who would be responsible from the very beginning.

(The witnesses then withdrew)

16. The Committee next heard oral evidence of the representative of the Ministry of Law, Justice and Company Affairs (Legislative Department) regarding delay in printing and publication of General Statutory Rules and Orders. The representative of the Ministry explained that they were attending to the work with the staff at their disposal on a top priority basis. This work took considerable time as during the period from 1946 to 1960, the notifications were not kept up-to-date. As a result, if a Notification is to be finalised for inclusion in G.S.Rs. Volumes, they had to go back to the compilation of Notifications under the General Clauses Act and those issued under the repealed Acts etc.

17. When the Committee wanted to know the time they would take to complete the work and what extra facilities they needed to get it done early, the representative of the Ministry pointed out that they had covered the first six volumes of the eight volumes of the India Code. They had done half of the Seventh Volume. They hoped to finish the whole work by 1977 with the present staff position.

18. Explaining the difficulties in early completion of the work, the representative of the Ministry stated that one was about the increase of staff strength and the other was about the availability of personnel who could handle this type of work which was purely technical and required a particular type of expertise. However, if the strength was increased, it would help to a certain extent and rapid progress on the job could be made. He further said that there was a ban on creation of posts. The original strength of staff was one Superintendent and four Assistants. At present there were one Superintendent and two Assistants and one clerk. Out of the two Assistants one was legal Assistant and the other was C.S.S. Officer.

19. The representative of the Ministry said that the ten volumes which remain to be published were in regard to Taxation, Merchant's shipping, Transfer of property, Essential Commodities Act, Weights and Measures, etc. In the case of Taxation, the administrative Departments concerned had got their own Manuals. So the

public was not put to the same difficulty as in the case of other enactments. Moreover, publications were also available in the case of Essential Commodities Act and Taxation Laws.

20. When asked as to when the remaining 10 volumes were likely to be completed, he said that there were many contingencies about which one could not make a fairly accurate estimate. There were also bottlenecks in the press. They, however, hoped to complete the work by 1977.

21. In reply to a question he stated that there would be no compilation of the Recruitment Rules which change very often and were mainly in the interest of particular Departments. It would be more appropriate for the administrative Ministries concerned to maintain their volumes on recruitment rules.

(The witness then withdrew)

22. The Committee last heard oral evidence of the representatives of the Ministry of Defence in regard to non-implementation of recommendation of the Committee on the following matters:—

- (a) Supervision charges for regulation of supply and use of water in Belgaum Cantonment; (Para 26 of Fourth Report—3rd Lok Sabha).
- (b) Representation of Parliament in the Central Advisory Committee of the National Cadet Corps. (Para 43 of Third Report —2nd Lok Sabha).

23. The representative of the Ministry explained that the Cantonment Board of Belgaum had reduced supervision charges from 24½ per cent to 20 per cent on the recommendation of the Committee. This percentage could not be reduced further. There were 62 Cantonments where the rate was 20 per cent. In some Cantonments they charged departmental as well as supervision charges while in others, they called it connection fee. The rates in Ambala Cantonment are 25 per cent supervision charges plus 2 per cent estimating fee. The supervision charges for giving water connection in Aurangabad Cantonment are 24½ per cent, Deolali 24½ per cent, Jabalpur 25 per cent, Kasauli 20 per cent and in Khas Yol and Willington it is 24½ per cent.

24. As to the basis of supervision charges, the representative of the Ministry explained that it was 17 per cent for establishment benefit, ½ per cent for retirement benefits, 1½ per cent for tool and plant and 1 per cent for audit and account. For M.E.S. the establishment charges were 18½ per cent, retirement benefit 2 per cent,

tool and plant charges were $1\frac{1}{2}$ per cent and audit and account $1\frac{1}{2}$ per cent and leave charges 1 per cent.

25. In reply to a question, he stated that no objection had been received on the Notification which was published in the Gazette.

26. When the Committee enquired whether any investigation had been made regarding the charges being high, the representative of the Ministry said that these charges were fixed by the Board. They were thinking of setting up a Committee to go into these matters. This had, however, been postponed as they now proposed to first amend the Cantonments Act. When the Committee was set up, it would go into all these matters.

27. The representative of the Ministry further explained that out of 62 Cantonments, 12 were self-sufficient. Belgaum was one of them. The remaining Cantonments were getting grant-in-aid from the Government. In respect of Belgaum, the income in 1972-73 was Rs. 11,13,000 and the expenditure Rs. 9,90,000.

28. The Committee desired the Ministry of Defence to provide further information on the following points:—

- (i) Supply of a copy of the Gazette Notification inviting objections from the public in regard to the levy of supervision charges for supply and use of water in Belgaum Cantonment.
- (ii) Nature of places where the above notification was displayed; and
- (iii) The time limit given to the public to file their objections.

29. Explaining the delay in implementation of the recommendation of the Committee regarding representation of Parliament in the Central Advisory Committee of the National Cadet Corps, the representative of the Ministry of Defence explained that they had accepted the recommendation in principle but decided that in order to bring forth a viable Bill, a few other amendments were also necessary which might come up in course of time. This had taken a long time and even till today, other amendments had not yet been formulated. In 1972 the Government had set up a high level Committee called the Mahajani Committee to go into the entire N.C.C. Scheme. The Report had been submitted to the Government about a fortnight back and arising out of that Report a number of amendments might have to be made in the Act. Irrespective of whether

any new amendments arise out of the Report or not, the amending Bill would come up before Parliament in Winter Session.

30. When asked to explain how the recommendation of the Committee was being implemented in practice, the representative of the Ministry gave an instance. When Mr. Akbar Ali Khan ceased to be a Member of Rajya Sabha, they drew the attention of the Rajya Sabha Secretariat to suggest somebody else. No rules as such had been framed regarding this. Rules would be framed after the Act was amended.

31. When the Committee suggested that the amending Bill be brought forward in the Monsoon Session, the representative of the Ministry agreed and said that even if there were no other amendments, they would put through the amendment recommended by the Committee.

(The witnesses then withdrew)

The Committee then adjourned.

ANNEXURE

(Vide para 4 of the Minutes)

Information Regarding Seed law Enforcement in various States/U. T.

S. No.	State/U.T.	No. of Inspectors appointed	Seeds Samples drawn During		Numbers of Samples Rejected During		Present State of Seed Law Enforcement		
			1969-70	1970-71	1971-72	1972-73		1969-70	1970-71
(1)	(2)	(3)	(4)		(5)		(6)		
1	Andhra Pradesh	21	—	—	32	7	—	—	—
2	Assam	Seed Law not being enforced.							
3	Bihar								
4	Gujarat	66	1951	3225	4152	—	90	1473	624
5	Jammu & Kashmir	8	6257	4506	5326	—	551	617	591
6	Kerala	10	1500	1631	1400	—	317	165	322
7	Maharashtra	84	—	—	250	624	—	—	6
8	Madhya Pradesh.	21	—	23	464	268	—	6	187
9	Mysore.	14	—	2607	1217	—	—	107	429
10	Tamil Nadu.	7	—	—	29	—	—	—	2
11	Orissa	Seed Law Enforcement has not been practically operative in the State							

		Seed Law Enforcement has not been practically operative in the State.					
		185	200	198	11	36	27
12 Punjab }							
13 Haryana }							
14 Rajasthan .	10	185	200	198	11	36	27
15 Uttar Pradesh	54						
16 West Bengal. . .							
17 Arunachal . . .							
18 Himachal Pradesh	4						
19 Tripura							
20 Manipur							
21 Nagaland	Nil report						
22 Pondicherry . . .	—						
23 Goa, Daman & Diu .	6						
24 Andaman & Nicobar .							
25 Dadra & Nagar Haveli	1	..	8	6	—	—	—
26 Laccadevi . . .		(No Seed Dealer in the U. T.)					
27 Meghalaya . . .		Seed Law not Enforced, only Coconut Production in the U. T.					
28 Delhi Admn.	1						
29 Chandigarh Admn.	1						

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**MINUTES OF THE FIFTIETH SITTING OF THE COMMITTEE
ON SUBORDINATE LEGISLATION (FIFTH LOK SABHA)
(1973-74)**

The Committee met on Thursday, the 28th March, 1973 from 16.00 to 17.00 hours.

PRESENT

Shri Vikram Mahajan—*Chairman*

MEMBERS

2. Shri T. H. Gavit
3. Shri Samar Guha
4. Shri Y. S. Mahajan
5. Shri S. N. Misra

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary.*

2. The Committee considered their draft Tenth Report and adopted it.

3. The Committee authorised the Chairman and in his absence, Shri Y. S. Mahajan, M.P. to present the Report to the House on their behalf on the 3rd April, 1974.

4—21. * * * *