

COMMITTEE ON SUBORDINATE LEGISLATION

(SEVENTH LOK SABHA)

SIXTH REPORT

(Presented on 21 April, 1981)



LOK SABHA SECRETARIAT
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LOK SABHA SECRETARIAT

Corrigenda to the Sixth Report of the
Committee on Subordinate Legislation
(Seventh Lok Sabha)--(Presented on 21
April, 1982)

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**COMPOSITION OF THE COMMITTEE ON SUBORDINATE
LEGISLATION (1980-81)**

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3. **Shri T. V. Chandrashekharappa**
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15. **Shri Xavier Arakal**

SECRETARIAT

Shri S. D. Kaura—*Senior Legislative Committee Officer*

REPORT

I

INTRODUCTION

1. 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 Sixth Report.

2. The matters covered by this Report were considered by the Committee at their sittings held on 27 July, 1979, 27 August, 8 and 22 September, 1980, 5 and 6 January, 1981.

3. The Committee took evidence of the representatives of (i) the Ministry of Shipping and Transport (Transport Wing) on 6 September, 1980, (ii) the Ministry of Defence on 13 October, 1980, (iii) the Ministry of Agriculture (Department of Food) on 10 November, 1980, (iv) Ministries of Railways (Railway Board) and Works and Housing on 10 and 11 November, 1980, (v) Ministries of Education and Culture (Department of Education) and Law, Justice and Company Affairs (Legislative Department) on 23 January, 1981, and (vi) Ministries of Railways (Railway Board) and Law, Justice and Company Affairs (Legislative Department) on 24 January, 1981. The Committee wish to express their thanks to the officers of the Ministries for appearing before the Committee and furnishing the information desired by them.

4. The Committee considered and adopted this Report at their sitting held on 15 April, 1981.

5. The Minutes of the sittings, which form part of the Report, are appended to it.

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

II

THE SEAWARD ARTILLERY PRACTICE RULES, 1978 (S.R.O. 26 OF 1978)

7. Preamble to the Seaward Artillery Practice Rules, 1978 (S.R.O. 26 of 1978) reads as under :—

"In exercise of the powers conferred by section 9 of the Seaward Artillery Practice Act, 1949 (8 of 1949), and in supersession of all the previous rules on the subject, the Central Government hereby makes the following rules, namely :—"

8. The Ministry of Defence were requested to state if they had any objection to mention in the Preamble the names of previous rules which had been superseded by the aforesaid rules. In their reply dated 23 September, 1978, the Ministry stated as under :—

".....this Ministry have no objection to the mentioning of the previous rules which are superseded, in the Preamble.

In exercise of the powers conferred by Section 9 of the Seaward Artillery Practice Act, 1949 rules were framed by the then Coastal States of Andaman and Nicobar Islands, Madras, West Bengal and Bombay. Other Maritime States may or may not have framed such rules under the above Act. The details are not available in this Ministry, and it is not possible to specify the rules so superseded in the present S.R.O. No. rules were framed by the Ministry of Defence under the said Act, earlier."

9. As the Ministry were not in possession of the full facts, they were requested to collect the information for remaining Maritime States also in order that full facts could be available to the Committee. In their reply dated 5 March, 1980, the Ministry stated as follows:—

".....the requisite information has not been received from all the Maritime States. According to information already received, rules had been framed by the Coastal States of Bombay, Madras, West Bengal and Andaman and Nicobar Islands. No information is as yet available regarding to framing of Rules by other States.

In this context it may please be noted that even a mention of the rules framed by Bombay, Madras, West Bengal and Andaman and Nicobar Islands is likely to make the Preamble to the Seaward Artillery Practice Rules, 1978 somewhat clumsy and long winded. We are, therefore, of the view that while we have no objection to mentioning the superseded rules in the Preamble, such specific mention may not be necessary and may be avoided."

10. At their sitting held on 22 September, 1980, the Committee considered the matter and decided to hear oral evidence of the representatives of the Ministry of Defence over delay of about five years in framing the Seaward Artillery Practice Rules, 1978 after the coming into force of the enabling Act as also for not enumerating in the Preamble to the Rules the previous rules that had been superseded.

11. Accordingly, at their sitting held on 13 October, 1980, the Committee examined the representatives of the Ministry of Defence.

12. As regards the arrangements existing in the Ministry of Defence to attend to the communications sent by the Lok Sabha Secretariat, the representatives of the Ministry stated that there was no separate section for the purpose excepting the Cell for co-ordinating Parliamentary Questions. Explaining the reasons for delay in sending replies to the references in the instant case, the representatives stated that they had to collect the requisite information from as many as 13 maritime States. The Ministry initiated the matter in November, 1978 and subsequently followed by reminders. Four or five States furnished the information and rest sought clarifications. In this connection, the representatives admitted that it would have been quite appropriate if they had approached the Committee for extension of time for furnishing their final comments. The representatives promised to furnish copies of the communications addressed by them to the different maritime States to elicit the information.

13. On their attention being drawn to the fact that the Committee made their first reference in August, 1978 and the Ministry of Defence wrote to the State Governments in November, 1978 after a delay of three months, the representatives explained that first of all an attempt was made by the Ministry to find out the necessary information from the existing records. Naval Headquarters were also consulted. As the information was not available, circular letter was then issued to the State Governments in November, 1978.

14. When asked about the reasons for the inordinate delay of nearly 5 years in framing of the Rules in 1978 when the Seaward Artillery Practice (Amendment) Act was enacted in 1973, and how the matters were regulated during the intervening period, *i.e.* between 1973 and 1978, the representatives of the Ministry explained that resort had been made to the provisions of the Defence of India, Rules, 1971. The representatives further contended that the provisions of the Defence of India Rules were even better than those envisaged in the Seaward Artillery Practice Act.

They further clarified that the 1973 Act had been brought into force with effect from 21 January, 1978.

15. When suggested that for the sake of clarification, a foot-note should have been added to the Rules indicating that 1973 Act had come

into force from 21 January, 1978, the representatives stated that necessary action would be taken after consulting the Ministry of Law, Justice and Company Affairs (Legislative Department).

16. On 24 October, 1980, the Ministry of Defence furnished copies of the letters sent by them to various Maritime States for collecting the necessary information regarding the Seaward Artillery Practice Rules, together with a written note on the points raised during the evidence. The note reads as under :—

“.....Regarding delay in framing the rules, it was submitted that there was no delay whatsoever in making the Seaward Artillery Practice Rules, 1978.

Although the amending Act was passed in the year 1973, it was decided not to bring the amending Act into force so long as the provisions of Rule 61 of the Defence and Internal Security of India Rules, 1971 were available. With this in view, it was provided in section 1(2) of the Seaward Artillery Practice (Amendment) Act, 1973, that the said Act shall come into force on such date as the Central Government may by notification in the official gazette appoint. As per SRO 25, the Seaward Artillery Practice (Amendment) Act 1973 came into force with effect from 21 January 1978 and as per SRO 26, the Seaward Artillery Practice Rules, 1978, also came into force on the same date i.e. 21 January, 1978 and as such there was no delay at all.

The position explained above could not, unfortunately, be clarified to the Committee earlier, as it was for the first time that the Committee had raised the question of delay in making the rules in their Office Memorandum dated 23 September, 1980.....

.....the Committee on Subordinate Legislation had desired to know whether the Ministry of Defence had any objection to mentioning in the preamble the names of the previous rules which had been superseded by the present rules. Soon after the receipt of the said Office Memorandum, the Committee was informed by the Ministry of Defence.....that the Ministry had no objection to mentioning the previous rules which had been superseded.....

As the details of the rules framed by the various Coastal States were not available, the Ministry of Defence had been repeatedly writing to the Coastal States seeking the necessary information.

.....the Ministry of Defence had sought information from all the Coastal States as to the particulars of rules which had been notified by them separately and deemed to have been superseded by the 1978 rules. The Ministry of Defence got clear

replies from some States while others raised queries or sought clarifications. Some of the States stated that they did not have the 1949 Act in their Libraries or that they did not have the particulars SRO with them and so on. Only some of them were able to say a final 'yes' or 'no'. Some of the replies received from the Governments of Orissa, Pondicherry, Tamil Nadu, West Bengal and Gujarat were narrated before the Committee on 13 October, 1980.

Finding that the required information had not been sent by all the maritime States, the Ministry of Defence issued the..... reminders to the State Governments to expedite the required information.....

Rules had been framed under section 9 of the 1949 Act by the States of Bombay, Madras, West Bengal and the Union Territory of Andaman and Nicobar Islands, but no rules had been framed by the State of Kerala and the Union Territories of Goa, Daman and Diu, Lakshadweep and Pondicherry. The remaining maritime States and Union Territories sent no intimation at all to the Ministry of Defence about framing of rules under the 1949 Act. In spite of the best of efforts made by the Ministry of Defence, full details could not be obtained from all the maritime States and it was, therefore, not possible to specify the rules so superseded even though the Ministry had no objection to the proposal of the Committee.

The Ministry of Defence, therefore, felt that it might not be advisable to make a mention of the superseding rules partly known, at the risk of omission of the rules not known to the Ministry.

In the circumstances, it was not possible to recite the superseded rules made by the different States in this behalf in the Preamble of the 1978 rules, which came into force in January, 1978 and extended to all the maritime States and Union Territories."

17. The Committee are happy to note that there was virtually no time-lag between the framing of the Seaward Artillery Practice Rules, 1978 and the coming into force of the provisions of the enabling Act of 1973. The Seaward Artillery Practice (Amendment) Act, 1973 as well as the Seaward Artillery Practice Rules, 1978 came into force on the same day. i.e. 21 January, 1978. The Committee, however, desire the Ministry of Defence to examine the feasibility of inserting a foot-note to the Rules by way of clarification that the 1973 Act came into force from 21 January, 1978, for the convenience of the general public.

18. The Committee note with satisfaction that the Ministry have no objection to mentioning in the Preamble the previous rules which have been superseded by the Seaward Artillery Practice Rules, 1978. If the number of

superseded rules is large enough to render the Preamble clumsy and long-winded, the Committee do not see any objection to listing out such rules in the form of an Annexure.

19. The Committee, however, regret to observe that the administrative Ministry, who have framed the Rules, are not in possession of the full facts about the rules which stand superseded by issue of the Central Rules. The Committee note that even after protracted correspondence prolonging over two years between the Ministry and the Coastal States, the Ministry have not received any information from a number of maritime States and Union Territories. The Committee feel that in case the requisite information is not forthcoming for so long a period, the Ministry should not be content with the routine correspondence and instead they should take up the matter at the highest level through the Minister concerned.

III

THE SUGARCANE (CONTROL) AMENDMENT ORDER, 1978 (G.S.R. 62-E of 1978)

20. Sub-clause (3A) of Clause 3 of the Sugarcane (Control) Order, 1966 as inserted by the Sugarcane (Control) Amendment Order, 1978 reads as under :—

“Where a producer of sugar or his agent fails to make payment for the sugarcane purchased within 14 days of the date of delivery, he shall pay interest on the amount due at the rate of 15 per cent per annum for the period of such delay beyond 14 days. Where payment of interest on delayed payment is made to a cane growers’ society, the society shall pass on the interest to the cane growers concerned after deducting administrative charges, if any, permitted by the rules of the said society.”

21. It was felt that the payment of interest by a producer of sugar or his agent where payment for sugarcane purchased was delayed beyond 14 days, by way of penalty, was a substantive provision, therefore, its authority should flow from the parent Act.

22. The Ministry of Agriculture (Department of Food) to whom the matter was referred, in their reply dated—7th December, 1978 stated as under :—

“.....this Department’s Order published in the Gazette of India Part II Section 3(i) dated the 2nd February, 1978 was issued in exercise of the provisions made in Essential Commodities Act, 1955 *vide* Section 3, Sub-section 2(b), which provides that Government may regulate by order in certain cases including, ‘and for otherwise maintaining or increasing cultivation of the food crops generally or of specified food crops’. Here our intention is that cane grower should not be prevented from maintaining cultivation of their crop by factors like not getting their dues in time. This achieves the dual purpose of ensuring that the growers are not prevented from maintaining their normal cultivation due to non-receipt in time of the price dues for their crop and of giving them an incentive urging them to try to increase their crop in the next season.”

23. The Committee at their sitting held on 27 July, 1979 considered the matter in depth and decided to elicit opinion of the Ministry of Law,

Justice and Company Affairs (Department of Legal Affairs) on the following points :—

- (i) whether the provision for charge of interest under sub-clause (3A) of clause 3 was penal in nature; and
- (ii) whether Government could levy such an interest without an express authority to that effect in the enabling Act viz., the Essential Commodities Act, 1955.

24. The Ministry of Law, Justice and Company Affairs (Department of Legal Affairs) in their reply dated 5 September, 1979 stated as under :—

“.....The power to levy interest is only incidental. The interest levied under clause (3A) of the Sugarcane (Control) Amendment Order is also compensatory in nature.

In this context it may be relevant to note the following observations made in (The Queen v. Tyler and the International Commercial Company Ltd. 1891 2 Q B p. 588) :—

‘And that this does not belong to the class of cases in which the statute does not intend the breach of its provisions to be an offence, but merely to be a condition precedent to the recovery of a particular pecuniary compensation.’

It is thus clear that the intention of the legislature by levying interest under clause 3A of the Sugarcane (Control) Amendment Order is to compensate the grower who was not paid the price of the Sugarcane supplied by him in time by the producer.

Incidentally, we may also recall the provisions of section 139(8) of the Income Tax Act which empowers the Income Tax Authority to levy a simple interest at 12 per cent per annum in case there is a failure on the part of the assessee to file the return in time. This provision has been interpreted by Andhra Pradesh and Gujarat High Courts as compensatory and not penal (93 I.T.R. P. 297). The relevant observation is extracted below :—

‘The purpose and object of clause 3 of the proviso to sub-section (1) to section 139 of the Income Tax Act is to provide for levy of interest on the amount of tax payable by the assessee for his failure to furnish the return of his income as provided in section 139. Such interest can, under no stretch of reasoning, be held to be a penalty or penal interest as the same is being charged because the State could or would have earned so much of amount, profit or interest on the amount of tax payable by the assessee if the return was filed as required under section 139 and tax paid thereon as per the provisions of Section 140A.’

The Gujarat High Court also took the same view.

In view of the above, it appears to us that the levy of interest under clause (3A) of the Sugarcane Control Amendment Order is not in the nature of penalty and is only compensatory. That being so, the other question that it should be provided by the parent Act does not appear to arise."

25. At their sitting held on 8 September, 1980, the Committee considered the matter and decided to hear evidence of the representatives of the Ministry of Agriculture (Department of Food) in regard to implementation of the Sugarcane (Control) Order.

26. At their sitting held on 10 November, 1980, the Committee heard evidence of the representatives of the Ministry of Agriculture (Department of Food) on the subject.

27. During evidence when asked whether it was permissible to charge interest at the rate of 15 per cent per annum from the producer of sugar or his agent, if he failed to make payment for the sugarcane purchased within 14 days of the date of delivery, without any specific provision in the Essential Commodities Act, 1955, the representative of the Ministry stated that the matter was to be considered in the background of the entire Sugarcane (Control) Order. The payment of sugarcane price and interest thereon were not contractual in nature. The minimum cane price was statutorily notified which every producer of sugar was obliged to pay. Once a minimum price was fixed, the Government would be failing in its duty if it did not provide for interest to be paid. He further stated that they had the clearance from the Ministry of Law. He explained that if the Mill owner failed to pay the price to the cane grower within 14 days, he would be keeping the money with him and earn interest thereon. It was the growers money and it should go to the growers alongwith interest.

28. When asked whether the provision regarding charging of interest had been challenged in the court of law the representative of the Ministry replied in the negative. In reply to a question, whether any Mill owner had been prosecuted for non-payment of price money, the representative of the Ministry stated that cases were going on in the courts and no case had been finalised so far.

29. In reply to another question whether the State Governments could frame rules for prosecuting the Mill owners for non-payment of dues, the representative of the Ministry stated that before the above Order was passed, the State Governments followed different practices. Every major sugar producing State had an Act regarding supply of sugarcane. They were empowered to fix interest rate for delayed payment. The rate of interest varied from 6 per cent to 15 per cent. The present amendment was made in order to have a uniform policy in the matter.

30. When asked how the Order was being enforced, the representative stated that payment to the canegrowers was to be made within 14 days and in case there was deliberate delay in payment, the Mill owners could be prosecuted but it was the State Government who had to implement the Order. He further stated that payment of interest was not penalty but prosecution for delayed payment was a penalty.

31. When it was suggested that the provisions of the Order should be made foolproof and made known to the canegrowers through wide publicity and some machinery should be devised to see that Order was properly implemented the representative of the Ministry agreed and stated that they would try to act accordingly. He was asked to furnish a copy of the letter addressed by them to the Sugar producing States regarding implementation and wide publicity to be given to the Order.

32. In their O.M. dated 10 November, 1980, the Ministry have furnished a copy of *D.O. No. 4/6/79-SPY(DII) dated 23/30 April, 1979 addressed to the Agriculture secretaries of all sugar producing State Governments/Union Territories urging them to issue suitable instructions to the concerned State Government authorities for urgent implementation of the provisions contained in the Sugarcane (Control) Order.

33. After considering the whole matter in depth, the Committee agree with the opinion tendered by the Ministry of Law, Justice and Company Affairs (Department of Legal Affairs) that the levy of interest under sub-clause (3A) of Clause 3 of the Sugarcane (Control) Order is compensatory and not in the nature of penalty. However, the Committee note that in the case of instance of Income Tax, as equated by the Ministry, the provision for levy of interest is provided for in the Income-tax Act and not through Rules made thereunder. The Committee, therefore, feel that with the object of giving a still better hold to the canegrowers, it would be in the fitness of things to include the provision of levy of interest in the enabling Act viz., the Essential Commodities Act, 1955.

* See Appendix II

IV

THE RECRUITMENT OF MAINTENANCE AND MEETING OFFICER (MINISTRY OF SHIPPING AND TRANSPORT) RECRUITMENT RULES, 1978 (G.S.R. 560 of 1978)

34. Sub-rule (1) of Rule 1 of the G.S.R.560, published in Gazette of India, Part II, Section 3(i), dated the 29th April, 1978, reads as follows :—

“(1) These rules may be called the Recruitment of Maintenance and Meeting Officer (Ministry of Shipping and Transport) Recruitment Rules, 1978.”

35. In the preamble to the rules, it is stated that the rules are further to amend the Recruitment of Caretaker Rules, 1968. Thus, the short title assigned to the amending rules was substantially different from that of the original rules sought to be amended thereby. The Ministry of Shipping and Transport (Transport Wing) were, therefore, requested to clarify if the above discrepancy was the result of some printing error. In their reply dated 6 April, 1979, the Ministry stated as under :—

“.....the post of Caretaker in the Ministry of Shipping and Transport has been redesignated as Maintenance and Meeting officer w.e.f. 17-12-77. It was in view of this that an amendment was issued by way this notification. There is no other substantial amendment to the Caretaker (Ministry of Shipping and Transport) Recruitment Rules, 1968. In other words, all the provisions mentioned in the earlier recruitment rules relating to the post of Caretaker remains the name for the post of Maintenance and Meeting Officer (Ministry of Shipping and Transport).”

36. At their sitting held on 27 August, 1980, the Committee considered the reply of the Ministry and decided to hear oral evidence of the representatives of the Ministry of Shipping and Transport regarding re-designation of the post of Caretaker as Maintenance and Meeting Officer without effecting an amendment in the relevant rules.

37. At their sitting held on 6 September, 1980, the Committee examined the representatives of the Ministry of Shipping and Transport (Transport Wing) in connection with the Recruitment of Maintenance and Meeting Officer (Ministry of Shipping and Transport) Recruitment Rules, 1978.

38. During evidence, the representatives of the Ministry informed that an administrative order had been issued on 17 December, 1977 whereby sanction was accorded to re-designate the post of Caretaker as 'Maintenance and Meeting Officer' in the Ministry. This order was not laid on the Table

46. The Committee cannot ignore the fact that without amending the original Rules, the Ministry have started paying Rs. 50/- per month to the incumbent, for which there is no provision in the Rules. In this matter, the Ministry have transgressed the powers delegated to them. This payment of special pay has no legal sanction. The Committee do not desire to put the employee concerned to financial loss because of an illegal act of the Ministry.

47. The Committee recommend that the original Rules should be amended immediately to provide for the payment of special pay to the employee concerned. The Committee do expect the Ministry to be more careful in future and not to effect any change in the Statutory Rules etc. through administrative or executive orders.

V

- (i) THE RAILWAYS RED TARIFF (SECOND AMENDMENT) RULES, 1978 (G.S.R. 347 OF 1978); AND
- (ii) THE RAILWAYS RED TARIFF (FIRST AMENDMENT) RULES, 1978 (G.S.R. 348 OF 1978).

48. It was observed that the amendment numbers assigned to the First and Second Amendments of 1978 to the Railways Red Tariff Rules were not in the proper sequence. The notification published under G.S.R. 347 has been indicated as Second Amendment whereas the subsequent notification published under G.S.R. 348 has been indicated as First Amendment.

49. The Ministry of Railways (Railway Board), with whom the matter was taken up, stated as under in their reply dated 2 May, 1980 :—

“... the Government of India Press, Mayapuri, New Delhi who had been referred to in the matter have advised that the jobs received in the Press are normally taken for execution as and when received in hand unless these are sent in a particular order with detailed instructions to be followed for undertaking printing thereof. As far the Notifications in question, these were sent for printing to the Press simultaneously on 25th Feb., 1978 and 26th Feb., 1978 without striking that in the absence of any instructions otherwise, it would lead to complications of the nature as pointed out by the Lok Sabha Sectt. This lapse is very much regretted. In future it will be ensured that such mistakes do not take place. As will be appreciated by the Lok Sabha Secretariat, any amendment to the G.S.R. number at this stage would cause alround difficulty to the trade and others and as such it is desirable to maintain this *status quo*.”

50. At their sitting held on 22 September, 1980, the Committee considered the matter and decided to hear the evidence of the representatives of the Ministries of Railways and Works and Housing on the giving of inverted G.S.R. numbers to the First and Second Amendments to the Railways Red Tariff Rules, 1978.

51. On 10 November, 1980, the Committee heard the evidence of the representatives of the Ministries of Railways (Railway Board) and Works and Housing. The representative of the Ministry of Railways stated that G.S.R. 348 was sent to the Press for publication on the 26 February, 1978 and G.S.R. 347 i.e., the Second Amendment was sent on 25 February, 1978. The Rules were sent to the Press alongwith covering letters. The representative of the Ministry of Works and Housing (Government of India Press

informed the Committee that both the letters were received by them on 1 March, 1978.

52. Explaining the procedure for notifying the rules in the Gazette of India, the representative of the Ministry of Works and Housing stated that on receipt of the notifications in the Press, these were arranged Ministry-wise and date-wise. He also observed that it was not humanly possible for the staff of the Press to go through the contents of the notifications.

53. The representative of the Ministry of Railways submitted that they had taken some fool proof measures to avoid such failures in future. They had opened a register and when an amendment was to be issued it would be processed and put up to the officers concerned and number would be given just before it was sent for cyclostyling and not more than one amendment would be sent to the Press at a time. In future, all amendments would be sent to the press alongwith covering letters.

54. The representative of the Ministry of Works and Housing also informed the Committee that certain general guidelines were being issued to all the Ministries/Departments regarding publication of rules, etc. in the Gazette.

55. Explaining the reasons for delay of 14 months in furnishing reply to the communication from the Committee, the representative of the Ministry of Railways stated that the matter was referred to the Government of India Press and reminders were also sent. The representative of the Ministry of Works and Housing stated that he would check up as there was no copy of the reminders available in the file with him.

56. The representatives of both the Ministries were then asked to appear again on 11 November, 1980 with their outward and inward registers as also messenger book.

57. Accordingly, on 11 November, 1980, the Committee heard further evidence of the representatives of the Ministries of Railways (Railway Board) and Works and Housing. When called to produce the messenger book through which notifications were sent by them to the Government of India Press, the representative of the Ministry of Railways stated that they had tried to locate it but it was not available. They could, however, show office copies of the letters forwarding the manuscripts of the Amendments to the Government of India Press for publication in the Gazette.

58. The representative of the Ministry of Works and Housing (Government of India Press) showed the inward register and also confirmed that both the First and Second Amendments sent by the Ministry of Railways were received by them on 1 March, 1978. Explaining the procedure laid down for publication of notifications in the Gazette, the representative of the Ministry of Works and Housing stated that there was no procedure as such but the convention was that they went by the date and time of re-

receipt of notifications. In case two notifications were received together, they put them in the Gazette according to the file numbers.

59. On being pointed out that the Ministry of Railways could not send their final reply to the Committee for 14 months for want of necessary information from the Government of India Press in spite of four reminders, the representative of the Ministry of Works and Housing accepted the responsibility for not attending to the communications and expressed his regret that his Office did not appreciate the importance thereof.

60. The representative of the Ministry of Railways assured the Committee that such delays in sending replies would not occur in future and also agreed to issue corrigenda to correct the sequence of G.S.R. numbers under reference.

61. The Committee note with satisfaction that, on being pointed out, the Ministry of Railways have agreed to issue corrigenda to correct the sequence of G.S.R. numbers allotted to the First and Second Amendments of 1978 to the Railways Red Tariff Rules. The Committee desire the Ministry to issue the same at an early date if not already done so.

62. The Committee further note that the Ministry of Railways have since taken certain foolproof measures to avoid recurrence of such lapses in future. The measures include maintenance of a register of amendments, giving of amendment number just before the notification is sent for cyclostyling, sending of not more than one amendment to the Government of India Press at a time, and all amendments to the Press to go under separate covering letters, etc. The Committee hope that the Ministry will take care to watch that the new procedure works satisfactorily.

63. During evidence before the Committee, the representative of the Ministry of Works and Housing (Government of India Press) has accepted the responsibility for not giving due attention to the communications from the Ministry of Railways seeking information on points raised by the Committee. The Committee desire them to be more careful in future as such delays, besides holding up the schedule of work of the Committee, result in unnecessary prolongation of infirmities in the rules.

VI

THE EXPLOSIVES (SECOND AMENDMENT RULES, 1977 (G.S.R. 990 OF 1977))

64. While examining the Explosives (Second Amendment) Rules, 1977, it was observed that the Indian Explosives Act, 1884 under which the above Rules were framed did not contain a provision for laying of Rules before Parliament.

65. The matter was taken up with the Ministry of Industry inviting their attention to the following recommendation of the Committee on Subordinate Legislation made in para 11 of their Fourteenth Report (Fifth Lok Sabha) :

“The Committee earnestly desire all Ministries/Departments to undertake examination of all Acts with which they are administratively concerned in order to find out which of them do not contain a provision for laying of Rules before Parliament and to incorporate this provision in the Acts at their earliest.”

66. In their reply dated 25 February, 1980, the Ministry intimated that a provision had been made in Section 19 of the Indian Explosives (Amendment) Act, 1978 (No. 32 of 1978) for laying of Rules before Parliament.

67. The Committee note with satisfaction that, on being pointed out, the Ministry of Industry (Department of Industrial Development) have since amended the Indian Explosives Act, 1884 to provide for laying of Rules framed thereunder before Parliament.

VII

IMPLEMENTATION OF RECOMMENDATIONS

(i) PRINTING AND PUBLICATION OF COMPILATIONS CONTAINING GENERAL STATUTORY RULES AND ORDERS [IMPLEMENTATION OF RECOMMENDATIONS CONTAINED IN PARAS 20 TO 27 OF THE SIXTH REPORT OF THE COMMITTEE ON SUBORDINATE LEGISLATION (SIXTH LOK SABHA)]

68. In paras 47-49 of their Third Report (Second Lok Sabha), presented to the House on 2 May, 1958, the Committee on Subordinate Legislation had observed as follows :—

“47. On important subjects the Ministries bring out manuals which contain all the relevant Acts and the rules made thereunder, e.g. Income-tax Manual, Election Manual, Central Excise Manual etc., but very often these Manuals do not give upto-date information about the ‘Orders’.

48. Apart from this there is no other official publication which makes readily available the following information regarding statutory rules and orders to the public:

- (i) What amendments are made from time to time in the Schedules to various Acts;
- (ii) Whether a particular rule is still in operation, if so, whether it has been amended subsequently and if so, where such amendments could be found;
- (iii) Whether any rules have been framed at all under an Act.

49. It was, therefore, felt that there should be some publication of statutory rules and orders on the lines of the U.K.’s annual publication of Statutory Instruments for the convenience of the public.”

69. In para 51 of the said Report, the Committee on Subordinate Legislation 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.

70. To know the progress made in the printing and publication of the above Compilation, the Ministry of Law, Justice and Company Affairs (Legislative Department) were asked on 3 October, 1972 to furnish the relevant information as to the total number of volumes already printed, the

number of remaining volumes to be brought out and the target date by which all the volumes would be published and put on sale to the public. After processing the information supplied by the Ministry, the Committee in paras 70-74 of their Tenth Report (Fifth Lok Sabha) observed, *inter-alia* as follows :—

“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—1964), as many as nine volumes were printed and released for sale, during the later nine years (1965—73), only 11 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.

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 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.

74. The Committee would further like to be furnished with a yearly progress reports 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.”

71. After considering the progress report for the year 1974, submitted by the Ministry of Law, Justice and Company Affairs (Legislative Department), the Committee were not satisfied with the slow progress made

in this regard. The Committee in paras 139-140 of their Eighteenth Report (Fifth Lok Sabha), presented to the House on 12 January, 1976, reiterated their earlier recommendation made in para 73 of Tenth Report (Fifth Lok Sabha) that simultaneous action should be taken to bring out all the necessary Supplements to earlier volumes of the main Compilation, so that they were kept up-to-date as far as possible.

72. After considering the progress report for the year 1975, the Committee in paras 103 and 104 of their Twentieth Report (Fifth Lok Sabha), presented to the House on 3 November, 1976, observed as under :—

“103. The Committee are concerned over the slow progress in the publication of the remaining volumes of the Compilation containing General Statutory Rules and Orders. They note that as against the total of 30 Volumes proposed to be brought out by the Ministry of Law, Justice and Company Affairs (Legislative Department) by the end of 1977, the Ministry had published only 21 Volumes by the end of 1974. During the year 1975, not a single complete Volume could be brought out; only part of the work in respect of three Volumes—Nos. XXII-XXIV—was done. The Committee have no doubt that the Ministry will have to speed up their pace of work considerably if they are to adhere to the target date of December 31, 1977. The Committee urge the Ministry to make all-out efforts to ensure that the remaining work is completed by the target date.

104. The Committee also re-urge 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.”

73. After considering the progress report of the Ministry of Law, Justice and Company Affairs (Legislative Department) regarding printing and publication of Compilation containing General Statutory Rules and Orders upto 23 January, 1978, and hearing oral evidence of the Ministry on 28 January, 1978, the Committee in paras 20 to 27 of their Sixth Report (Sixth Lok Sabha) observed as under :—

“20. In para 49 of their Third Report (Second Lok Sabha), presented to the House on the 2nd May, 1958, the Committee on Subordinate Legislation had desired Government to bring out some publication of Statutory Rules and Orders, on the lines of U.K.'s annual publication of Statutory Instruments for the convenience of the public. Pursuant to this, Government assured the Committee to bring out an up-to-date publication of the General Statutory Rules and Orders in force as soon as all the Volumes of the India Code were published. The Ministry of Law brought out the first Volume of the Compilation of General Statutory Rules and Orders in July, 1960,

and according to their programme, the whole work comprising 30 Volumes was to be completed by the end of 1977. During the first five years, 1960 to 1964, 9 Volumes were printed and released. But thereafter the pace of work slackened. During the period 1966 to 1973, 11 more volumes were printed. In 1974, only one volume was released, and during the years 1975 and 1976 not a single complete volume was brought out. In September, 1977, Volume XXII was printed, leaving a balance of 8 volumes to be published. Thus, more than 17 years after the first volume was published in July, 1960, over one-fourth of the work still remains to be done. The Committee are constrained to observe that the work was not done with the vigour seriousness and urgency it deserved. The Committee are particularly unhappy that instead of accelerating the pace of work as repeatedly urged by the Committee, the pace of work had gradually slackened; the fall-down being particularly steep after 1973.

21. Apart from the fact that there is still a long way for the Compilation to be completed, its utility has been further impaired by the fact that the bulk of the work has already become out of date. Out of the 22 Volumes so far published, 18 were published during the period 1960 to 1969. To keep these volumes up-to-date, the Ministry issued 4 Supplements during the period August, 1968 to October, 1971. Thereafter, the work of issuing Supplements was discontinued. To day no person referring to the Compilation can say with certainty whether a particular rule or set of rules contained therein is still in force, whether in original or amended form. The Committee need hardly point out that a book of reference has value only if it can be relied upon. The Committee have no hesitation in observing that the purpose with which they had asked Government to bring out the Compilation, has not yet been served.

22. The Ministry of Law have requested the Committee for the extension of the target date for the completion of the main Compilation upto the end of 1980. They have also made a request for dispensing with the requirement of publication of Supplements on the ground that consultation of the main volume and its addenda and then of the Supplement and the addenda thereto would be inconvenient to the public. The Ministry have instead proposed to bring out revised editions of the G.S.R.O. Compilation after the work of the main Compilation has been completed. While the Committee agree with the Ministry's view that the revised editions of the Compilation will be more convenient to the public, they feel that the period of three years for the Ministry to take up this work is too long. The Committee will like the Ministry to make earnest efforts to complete the main Compilation well ahead of the new target

date suggested by them. They will also like the Ministry to go ahead, without any further loss of time, with the issue of the revised editions of the Volumes already published. In view thereof, the Committee do not insist on the publication of Supplements.

23. A major constraint in the way of the expeditious completion of the Compilation has been stated to be the paucity of staff. The Committee will draw the attention of the Ministry to para 71 of their Tenth Report (Fifth Lok Sabha) wherein they had desired the Ministry to restore the original staff strength so that the work did not suffer for want of technical personnel who were competent to do it. The Committee will like to emphasise that they have asked the Ministry to bring out the Compilation with a purpose. Government should not hesitate to increasing the staff strength as such a course is considered necessary for the achievement of the end in view.

24. According to the Ministry of Law, another constraint in the way of expeditious completion of the work is the difficulty in getting the material from the agencies issuing the rules. Under the Allocation of Business Rules, administrative Ministries are responsible for making and publishing the rules under the enactments administered by them. While the rules made by the Ministries/Departments of Central Government are sent to the Law Ministry for scrutiny, those made by other agencies like Corporations etc., are not sent to the Law Ministry for scrutiny. The Committee have been given to understand that in the United States, there is a separate office—the Federal Registry—specially, for this purpose and all federal agencies are required to send copies of their rules and regulations to the Federal Registry for registration. The Committee will like the Ministry of Law to examine whether some similar system cannot be introduced here. In the meanwhile, instructions should be issued to the administrative Ministries/Departments for expeditious supply of material for inclusion in the Compilation, as it is one of the factors responsible for delay in the publication of the Compilation.

25. Another difficulty, according to the Ministry of Law, arises by reason of section 24 of the General Clauses Act, 1897 under which rules made under a repealed enactment can continue indefinitely under the new enactment. As a result of this, there has been a lot of difficulty in compiling the G.S.R.O. Volumes. For ensuring the accuracy of the Compilation, they have to go through all the records since the framing of the original rules under the repealed Acts. To overcome this difficulty, the Committee will like the Ministry of Law to examine the feasibility of amending section 24 of the General

Clauses Act so that the rules under the repealed Acts are not allowed to continue for more than a certain period after the commencement of the new Acts.

26. Another snag in the expeditious publication of the Compilation is delay in printing. The Committee will like the Ministry of Works and Housing to issue instructions to the Government of India Press to accord priority to the printing of the Compilation.

27. In view of the large volume of Subordinate Legislation that has to be issued, the Committee feel that even after the issue of the revised editions of the Compilation, it may be difficult to keep the entire gamut of Subordinate Legislation up-to-date. To supplement the Compilation, and to help in its preparation, the Committee desire that—

- (i) Steps should be taken to publish Monthly or Quarterly Compilation of Rules (including amending Rules) issued during the preceding six months as also Rules currently published.**
- (ii) An Index to the Rules (including amending Rules) issued by Government under various enactments should be published every year.**
- (iii) In case of amending Rules published in the Gazette, references by means of footnotes should be given to all the earlier relevant rules published in the Gazette.**

The Committee desire the Ministry of Law to take appropriate decision with regard to above as soon as possible."

74. In their action taken note dated 26 March, 1980, on the above recommendations of the Committee, the Ministry of Law (Legislative Department) stated as under :—

".....G.S.R.O. Volumes XXVII and XXVIII have since been released for sale. Volumes XXVI and XXIX are likely to be released by the end of March, 1980. Page proofs of G.S.R.O. Volume XXX have been returned to the Press for final printing. Work on the revised edition of G.S.R.O. Volumes I to III is in process.

Paragraph 23.

Proposals to augment the strength of the Staff are under consideration in consultation with the Ministry of Finance.

Paragraph 24.

The suggestion to have in India a system similar to the one in U.S.A. (Federal Registry) has been considered in this Department.

It has had to be dropped in view of the following practical difficulties :—

- (i) The idea besides being rather ambitious required special legislation and creation of a fullfledged Department manned by expert technical and legal staff.
- (ii) It also involves creation of special cells in all the Ministries for the purpose.
- (iii) The idea may not be cost effective in the Indian context and the purpose could be achieved quite effectively if administrative Ministries compile/maintain separate folders on subordinate legislation issued under each enactment administered by them, duly up-to-dated, for quick retrieval. The information available with the administrative Ministries could then be passed on to the Ministry for compilation.

The administrative Ministries have been addressed suitably in the matter and the suggestions have been generally favourably received.

Paragraph 25.

The recommendation regarding replacing the subordinate legislation surviving by virtue of General Clauses Act, 1897 by fresh legislation has been communicated to all the administrative Ministries/Departments concerned and they are expected to do the needful in the course of time. The Ministry of Railways, however, are of the opinion that any such amendment may lead to various practical difficulties since in their view it may not always be possible to notify/re-notify Rules under a certain Act within the stipulated time.

Paragraph 27.

(i) Efforts are being made to implement the recommendation concerning monthly/quarterly compilation of Rules including the amending Rules issued during preceding six months as also rules currently published. Some Departments, for example, the Department of Company Affairs, are of the opinion that it may not be practicable to bring out such a compilation on monthly/quarterly basis instead they propose to bring it out on an annual basis.

(ii) In regard to the publication of index to the Rules including the amending Rules, it may be mentioned that this Department has suggested the same to all the administrative Ministries/Departments so that they maintain folders and appropriate registers which would facilitate such a publication. The Ministries/Departments generally maintain such records.

(iii) The recommendation for giving foot-notes to Rules including amending Rules while publishing the same in the Official Gazette has been generally accepted by the Ministries/Departments; in fact some of them have already started giving foot-notes on the suggested pattern."

75. At their sitting held on 5 January, 1981, the Committee considered the matter at some length. The Committee, *inter alia*, decided to hear evidence of the representatives of the Ministry of Railways alongwith the representatives of the Ministry of Law regarding amendment of Section 24 of the General Clauses Act, 1897 under which rules framed under a repealed and re-enacted Act can continue to be operative indefinitely under the new enactment. Accordingly, on 24 January, 1981, the Committee examined the representatives of the Ministries of Railways (Railway Board) and Law, Justice and Company Affairs (Legislative Department).

76. When asked as to what difficulties the Ministry of Railways anticipated if Section 24 of the General Clauses Act was amended, the Law Secretary explained the background as follows :—

".....This was on the basis of the recommendation made by the Committee, earlier, on the basis of the evidence which I gave before the Committee. We are trying to devise ways and means to improve the position. You will kindly recall, some suggestions were made by me. The Committee accepted those suggestions. It is a question of evolving the pattern by the administrative Ministry and so on. We could look into the old Acts and Regulations. We could see whether anything is called for, and come to positive conclusions about it, to conclude whether such and such amendment is to be made or not. We can re-issue old rules. The Committee may like to give more time for it. I think we may wait for two years or so, before we come up with amendments."

77. On being further asked whether a time-limit could be fixed for keeping operative the Rules/Regulations framed under a repealed and re-enacted Act under Section 24 of the General Clauses Act, the Law Secretary agreed that some time-limit should be fixed. He stated that practical view of the matter had to be taken. This was a system which was the legacy of the past 100 years. The system historically had been continuing from 1879 onwards. The Draftsmen used the same language in individual Acts. Section 20 of the Jurisdiction Act of 1879 was one of the earliest instances of this type of Section. In 1879, this type of generalisation was made in Section 24 of the General Clauses Act. There were a number of old enactments. These had gone into the field of 'State List'.

78. When asked to be specific in giving his suggestion, the Law Secretary observed that the law to amend Section 24 of the General Clauses Act

might be brought forward after a year or so. The period for which the Rules/Regulations framed under a repealed and re-enacted Act could survive it, should be 5 years in the first instance. This period could progressively be reduced to 3 years and then to 1 year subsequently.

79. To a proposal that the Ministries should be asked to repeal the rules which had been notified under the repealed Acts and to make new rules in supersession thereof, the Law Secretary stated that would be good. All those rules under repealed enactments which were continuing by virtue of Section 24 of the General Clauses Act should be identified and replaced by new rules within a limited time. But again they would come to the Legislative Department for that. The Committee should, therefore, give them about a year's time for this purpose.

80. Elaborating the position further, the Law Secretary stated that there had been no difference of opinion about the need for putting a time-limit for survival of the rules framed under a repealed and re-enacted Act. However, there would be quite a few cases where elaborate research and looking back would be necessary particularly because most Departments did not maintain lists of subordinate legislation under the enactments with which they were administratively concerned. Therefore, if a practice like that was to start now, there was a risk of a situation of a void being created. The old rules had been amended. But a situation might arise in which some provisions similar to the old rules, which had arisen earlier, might become necessary. So it was only this practical aspect that had to be taken into account in coming to a conclusion as to what time should be given.

81. As regards the printing and publication of Compilations containing General Statutory Rules and Orders, the Law Secretary stated that they had completed the work within the target date. All the 30 volumes had been published. During 1978-80, they had published volumes 23 to 30, i.e., 8 volumes. The first 22 volumes were published from 1960 to 1978.

82. When the question of printing and publication of General Statutory Rules and Orders was taken up with the representatives of the Ministry of Railways, they stated that they had been publishing the rules in the Gazette but they had not compiled them in the form of a single Manual. When desired by the Committee that all the rules should be compiled in the form of Manuals, the representatives of the Ministry of Railways stated that they had identified two or three areas initially in which compilation of Manuals could be undertaken and assured the Committee that the work would be completed by the end of the year 1981. The Committee desired that thereafter Manuals containing Rules/Regulations in all the remaining areas be taken up by the Ministry and the entire work completed at the earliest.

83. The Committee note that all the 30 Volumes of General Statutory Rules and Orders have since been brought out for sale. But the utility of the

Compilation is greatly marred by the fact that bulk of the work has already become out of date. Same is the case with 4 Supplements issued by the Ministry of Law during the period August, 1968 to October, 1971. The Committee, therefore, urge upon the Ministry of Law to accelerate the pace of work regarding publication of the revised editions of the Compilation because without the latest revised editions, the whole lot of Compilation is nothing but an obsolete document.

84. The Committee note the practical difficulties, as pointed out by the Ministry of Law, in the way of introduction of a system similar to the one in U.S.A. (i.e. Federal Registry) with a view to getting the material from the agencies issuing the rules for inclusion in the Compilation. The Committee recall that the suggestion was made by them at the instance of the Ministry itself. If the Ministry find it difficult to adopt the system gainfully, the Committee do not insist on its introduction.

85. The Committee also note that the Ministry of Law have requested the Ministry of Works and Housing to issue necessary instructions to the Government of India Press to accord priority to the work relating to the printing of General Statutory Rules and Orders Volumes. The Committee feel that there should be adequate arrangements for printing of the revised editions of the Compilation as and when brought out.

86. The Committee agree with the suggestion of the Ministry of Law for bringing out compilations of Rules including amending Rules on an annual basis instead of monthly or quarterly basis.

87. The Committee are unhappy to note that their recommendation regarding giving of foot-notes to the amending Rules indicating the particulars of earlier amendments had not been uniformly followed in all cases. The Committee desire the Ministry of Law (Legislative Department) that while vetting the Rules, they should also see that the practice is followed by all Ministries/Departments in letter and spirit.

88. The Committee gave a careful thought to the question of specifying a time-limit in Section 24 of the General Clauses Act, 1897 so that the rules under the repealed and re-enacted Acts are not allowed to continue for more than a certain period after the coming into force of the superseding Acts. The Committee agree to the suggestion of the Ministry of Law that the necessary legislation to amend Section 24 of the General Clauses Act might be brought forward within a year. The period for which Rules/Orders framed under a repealed and re-enacted Act could survive it, should be fixed at 5 years initially and then reduced to 3 years and 1 year progressively. During the period so fixed, the concerned Ministries should notify fresh Rules replacing the earlier ones.

(ii) **IMPLEMENTATION OF RECOMMENDATIONS CONTAINED IN PARAS 23-26 OF THE SEVENTH REPORT OF THE COMMITTEE ON SUBORDINATE LEGISLATION (SIXTH LOK SABHA) REGARDING LAYING OF REGULATIONS FRAMED UNDER CENTRAL ACTS BEFORE PARLIAMENT**

89. Central Acts containing provisions for delegation of legislative powers to subordinate authorities usually provide for rule-making by the Central and State Governments. A number of Central Acts, in addition to rules, provide for framing of regulations.

90. Normally, Acts contain provisions for laying of rules framed thereunder before Parliament but do not provide for laying of regulations before Parliament.

91. The Committee on Subordinate Legislation (1977-78) considered this matter in all its aspects and observed in paras 23 to 26 of their Seventh Report (Sixth Lok Sabha) as under :—

“23. The Committee observe that as far back as May, 1955, the Committee on Subordinate Legislation in para 37 of their Third Report (First Lok Sabha) had emphasised on Government to make a suitable provision for laying and modification in all future Bills which may seek to delegate power to make rules, regulations, etc. or which may seek to amend earlier Acts giving power to make rules, regulations, etc. This recommendation was accepted by Government *vide* paras 78-79 of their Sixth Report (First Lok Sabha). The Committee note that, while in the case of rules, Government have by and large been complying with the above recommendation of the Committee, they have failed to comply with the said recommendation in so far as regulations are concerned. Of the 19 Acts enumerated in Appendix II, 15 were passed by Parliament after the Committee made the above recommendation. Only in two of these, where the regulation-making power has been conferred on the Central Government, a provision has been made for the laying of regulations before Parliament. In none of the remaining 13 Acts, where regulation-making power has been conferred on the subordinate bodies, such as Corporations, Boards, Councils, etc., a provision has been made for laying of regulations framed thereunder before Parliament. The Committee are surprised that, after having accepted the above recommendation of the Committee, Government should have paid so scant a regard to it so far as regulations are concerned.

24. The main reasons now given by the Ministries/Departments for not incorporating a provision for laying of Regulations in Acts Bills are :

- (i) the regulations are generally framed by autonomous bodies with regard to their internal working, and are, therefore, not of general public interest; and
- (ii) a provision for their laying before Parliament would not be consistent with the autonomous character of such bodies.

25. The Committee note that similar arguments were given by the Ministry of Finance for not incorporating a provision for laying of Regulations framed under the State Bank Laws Amendment Bill, 1973. The Committee which had gone into the matter in depth had seen no force in these arguments. As observed by the Committee in paras 86-87 of their Second Report (Sixth Lok Sabha), the body which delegates the power has a right to see that the power delegated by it does not transgress the limits laid down by it. Whether the delegate is the Central Government or a body subordinate to it is not very material. Nor did the Committee see any force in the argument that the laying of regulations relating to an autonomous body before Parliament might impinge its autonomy or result in day-to-day interference with its affairs. As observed by the Committee, even now the Committee on Subordinate Legislation can, and does, scrutinise the regulations framed by subordinate bodies under delegated powers. Laying of such regulations before Parliament would result in no more interference in the affairs of these bodies than their scrutiny by the Committee on Subordinate Legislation. So as not to leave any room for doubt, the Committee will like to make it clear that their whole purpose in asking Government to lay the regulations framed under delegated powers before Parliament is to enable Parliament to see that the regulations framed under such powers are within the limits laid down by it and do not contain any unreasonable or inequitable provision not intended by Parliament.

26. The Committee reiterate their earlier recommendations on the subject and desire that like rules, regulations should also be laid before Parliament and there should be a provision to this effect in the relevant statutes. Likewise, there should invariably be a provision in the relevant statutes for publication of regulations to be framed thereunder. With this end in view, the Committee desire the Ministries/Departments of Government of India to examine all Acts delegating power to make regulations, with which they are administratively concerned, and to incorporate suitable provisions for publication and laying of regulations in those Acts which do not contain such provisions. "The Committee desire the Ministry of Law/Department of Parliamentary Affairs to issue necessary instructions to all Ministries/Departments of the Government of India to this effect."

‘A’

92. In pursuance of the above observations of the Committee, the erstwhile Ministry of Agriculture and Irrigation (Department of Irrigation) in their O.M. dated 24 November, 1978 explained their position as under :—

“The River Boards Act, 1956, with which this Department is administratively concerned, provides for the establishment of River Boards. Regulation-making powers of the Board are given in Section 29 of the aforesaid Act which is reproduced below :

‘29. The Board may, with the previous approval of the Central Government, by notification in the Gazette of India, make regulations, not inconsistent with the Act or the rules made thereunder—

- (a) regulating the meetings of the Board and the procedure for conducting business thereat;
- (b) regulating the manner in which, and the purpose for which, advisory committees may be appointed;
- (c) regulating the manner in which and the purpose for which persons may be associated with the Board under section-11;
- (d) determining the terms and conditions of service of the members of advisory committees, of persons associated with the Board under section 11 and of all officers appointed by the Board.’

Whereas the Act, thus, already provides for notification of the regulations made by the Board, it does not provide for laying them before Parliament. In accordance with the recommendations of the Committee mentioned in the preceding paragraph, the River Boards Act, 1956, therefore, may need to be amended to provide for the laying of regulations made thereunder before the Parliament.

In this connection, it may be stated that the River Boards Act, 1956 came into force with effect from 15th May, 1957. When the question of constituting the River Boards under this Act was thereafter taken up with the States, several States either did not agree to the establishment of the River Boards or expressed reservations which could not be accepted by the Central Government. As a result, no River Board has been framed under this Act so far nor is there any proposal to establish one in the near future. On the other hand, the question of evolving appropriate institutional arrangements and necessary legislation for evolving a National Water Policy in consultation with the State Government to ensure proper management and optimum utilisation of the river water is at present under the consideration of the Government, but final decision in the

matters is likely to take sometime. These proposals are likely to involve repeal of the River Boards Act, 1956.

In view of what is explained in the preceding paragraphs, this Department is of the view that amendment of the River Boards Act 1956 at this stage for the limited purpose of providing for laying of regulations made thereunder before the Houses of Parliament, may not be desirable. In case, however, the Act is not eventually repealed and, in the meantime, any proposal to constitute the River Boards materialises, action could be initiated to amend the Act to provide for the regulations of the Board being laid before the Parliament, as recommended by the Committee. Ministry of Law, Justice & C.A. (Legislative Deptt.) to whom the position was explained, while agreeing to this line of approach, desired that the Committee on Subordinate Legislation be also apprised about the matter."

93. In their further communication dated 13 March, 1980, the Ministry of Energy and Irrigation (Department of Irrigation) stated as under :—

".....the question of formulating a National Water Policy for optimum utilisation of river waters and enacting suitable Legislation by the Centre is still under consideration of the Government. Also no River Board under the River Boards Act, 1956 has been set up so far nor is there any proposal to set up one in the near future. There is, thus, no change in the position as intimated in this Department's O.M. of 24th November, 1978.

In the above circumstances, this Department is of the view that amendment of the River Boards Act, 1956, at this stage, for the limited purpose of providing for laying of regulations made thereunder before the Houses of Parliament may not be desirable. In case, however, the Act is not eventually repealed and in the meantime any proposal to constitute the River Boards materialises, action could be initiated to amend the Act to provide for the regulations of the Board being laid before the Parliament as recommended by the Committee....."

94. The Committee tentatively agree to the suggestion of the Ministry of Irrigation that the River Boards Act, 1956 be not amended to incorporate therein provisions for laying of Regulations framed thereunder before Parliament as the Act has not been enforced nor the River Boards are intended to be constituted thereunder. The Committee, however, desire that in case the River Boards Act is not eventually repealed and the River Boards are constituted, the Ministry shall have to amend the Act at the earliest opportunity with a view to provide for laying of regulations framed thereunder before Parliament.

'B'

95. Similarly, the Ministry of Education and Social Welfare (Department of Education), in their communication dated 16 February, 1979, stated as under :—

"(1) University Grants Commission Act, 1956 :

Section 26 of the UGC Act, 1956 empowers the Commission to make Regulations in respect of such matters as procedure for conducting business at the meetings of the Commission, terms and conditions of service of the employees, institutions or class of institutions which may be recognised by the Commission under section 2(f) etc., specified in clauses (a) to (g) of sub-section (1) of section 26. Some of these Regulations are to be made by the Commission with the previous approval of the Central Government.

Section 27 of the Act also empowers the Commission to make regulations with the previous approval of the Central Government for delegation of powers to Chairman, Vice-Chairman or any of the officers of the Commission. There is at present no provision in the said Act either for notification of these Regulations in the Official Gazette or for laying them before Parliament. This Ministry will make necessary provision in the Act for publication of the Regulations in the Gazette of India as also for their laying before Parliament, at the earliest opportunity when the Act is next amended. It is not considered worthwhile to amend the Act just for this purpose only. The time and labour involved will not be commensurate with the purpose in view.

(2) Central Universities Acts :

There is provision in these Acts to the effect that the authorities concerned of the respective University may make Regulations consistent with the Act, the Statutes and the Ordinances for the conduct of their own business and that of the Committees appointed by them. Having regard to the autonomous character of the Universities and the scheme of their Acts of incorporation, it is felt that it will serve no useful purpose if these regulations and their amendments are placed before Parliament. It will only increase work and expenditure. Thus, it will not be possible to implement the recommendation of the Committee on Subordinate Legislation, in so far as the regulations of the Central Universities are concerned. As already stated the regulations contain very insignificant matters like regulations of procedure of meetings of the various authorities of the University which are hardly of any importance."

96. At their sitting held on 6 January, 1981, the Committee considered the matter and decided to hear evidence of the representatives of the Ministry of Education and Culture (Department of Education) in regard to

laying of Regulations framed under the Central Universities Acts before Parliament. The Committee also decided to hear the views of the Ministry of Law, Justice and Company Affairs (Legislative Department) in that regard.

97. The Committee, at their sitting held on 23 January, 1981, accordingly heard oral evidence of the representatives of the Ministry of Education and Culture (Department of Education) and Ministry of Law, Justice and Company Affairs (Legislative Department) on the subject.

98. At the outset, the Committee desired to know whether the Ministry of Education and Culture had any objection to the laying of regulations framed under the Central Universities Acts and their amendments before Parliament. The representative of the Ministry of Education and Culture (Department of Education) stated that the present practice was that the statutes, ordinances and regulations issued under the Universities Acts, were not being laid before Parliament as some of them pertained to day-to-day matters. He further added that if all those regulations were placed before Parliament, it would increase the work both of the Government as well as of Parliament and that it would not be economical also. He also stated that in some respects, it might even be wasteful.

99. The Committee while referring to Rule 234(1) of the Rules of Procedure and Conduct of Business in Lok Sabha, pointed out that there were certain sections in certain Universities Acts which empowered the Universities to frame regulations for carrying out the functions of the Universities. If those regulations were not laid on the Table of the House, how could Parliament ensure that the regulations framed under delegated powers were within the limits laid down by it. The Committee also drew attention of the representative of the Ministry to the fact that non-laying of regulations before Parliament and non-publication thereof deprived the Members of their statutory right to move amendments for modification or annulment thereof. Moreover, Parliament and its Committee should have the right to examine whether the rules and regulations framed under powers delegated by it were in consonance with the provisions of the Act and to ensure that they were not against natural justice. The Committee also did not agree with the arguments put forward by the representatives of the Ministry of Education and Culture that laying of regulations would be uneconomical and burdensome. The Committee reiterated their earlier recommendation contained in paras 36-37 of their Third Report (First Lok Sabha) wherein it was emphasised on Government to make a suitable provision for laying and modification in all future Bills which might seek to delegate powers to make rules, regulations etc., or which might seek to amend earlier Acts giving power to make rules, regulations etc. That recommendation was also accepted by Government *vide* paras 78-79 of their Sixth Report (First Lok Sabha).

100. The representative of the Ministry of Education and Culture (Department of Education) conceded that the Government had accepted the recommendation of the Committee and there was no question of deviating from it. The Ministry only wanted to seek clarification from the Committee as to whether all the regulations should be laid on the Table in view of the practical difficulties like time consuming process and some wasteful expenditure.

101. On being asked again as to how Parliament would ensure that the regulations framed under the various Acts did not go beyond the powers delegated thereunder, the representative of the Ministry observed that the Ministry would abide by the decision of the Committee.

102. On the question of laying of Regulations etc., framed in pursuance of the powers delegated under the Central Universities Acts, before Parliament, the Committee also heard the views of the representative of the Ministry of Law, Justice and Company Affairs (Legislative Department). The representative of the Ministry of Law stated *inter alia* that there could not be two opinions regarding the need for scrutiny of regulations by Parliament. He added that the various University enactments contemplated three forms of subordinate legislation in the following order of importance :

(1) Statutes ; (2) Ordinances; and (3) Regulations.

103. He further explained that the Regulations dealt with unimportant matters of details. Statutes and Ordinances which stood on a higher footing dealt with more important policy matters than the regulations. On principle, there was no objection in laying regulations etc. on the Table of the House. During the last session itself, Parliament had amended a few enactments to include relevant provisions relating to laying of regulations on the Table of the House.

104. The Committee then desired the representative of the Ministry of Law, Justice and Company Affairs (Legislative Department) to ensure that in all Acts provision for laying of regulations framed thereunder be incorporated invariably to which the representative agreed. When pointed out that the matter had been pending since 1955, the representative explained that whenever the relevant Act came up for amendment for any other purpose, the Ministry of Law had been incorporating the relevant provisions relating to laying of regulations etc. on the Table of the House. The Committee then asked the representative of the Ministry of Law, Justice and Company Affairs to issue another circular to all the Ministries impressing upon them to examine urgently all Acts which delegated power to make regulations and to incorporate suitable provisions in those Acts for laying of the regulations framed thereunder before Parliament.

105. The Committee note that the Ministry of Education and Culture (Department of Education) have no objection to amend the University Grants

Commission Act, 1956, for making provision for publication of the Regulations in the Gazette as also for their laying before Parliament. The Committee desire the Ministry to amend the Act in this regard by the end of Autumn Session, 1981.

106. The Committee are not convinced with the arguments put forward by the representative of the Ministry of Education and Culture (Department of Education) that in case all statutes, ordinances and regulations issued under the Universities Acts and which pertain to day-to-day matters are laid before Parliament, it will increase the work of the Government as well as of Parliament and that it will not be economical also and in some respects it may even be wasteful. The Committee feel that in the absence of the provisions for laying of regulations which are framed under the Central Universities Acts to carry out the functions of the Universities, how could Parliament ensure that the regulations so framed under the delegated powers are within the limits laid down by it.

107. The Committee, therefore, reiterate their earlier recommendation contained in paras 36-37 of their Third Report (First Lok Sabha) wherein it has been impressed upon Government to incorporate suitable provisions in all Bills for laying before and modification by Parliament of all rules, regulations etc. framed under the power delegated thereunder.

108. The Committee desire the Ministry of Law also to ensure that in all Acts provision for laying of regulations etc. framed thereunder is incorporated invariably. The Committee also desire the Ministry of Law to issue another circular to all Ministries/Departments of the Government of India impressing upon them to examine all Acts to this effect and to initiate early steps in this regard.

VIII

THE RAILWAY PROTECTION FORCE (AMENDMENT) RULES, 1977 (G.S.R. 32 AND 33 OF 1978)

109. While examining the two Railway Protection Force (Amendment) Rules, 1977, published in the Gazette of India as G.S.R. Nos. 32 and 33, it was noticed that distinctive amendment numbers had not been given in the Short Titles to those Rules.

110. The Ministry of Railways (Railway Board) were asked to state the reasons for not indicating the precise amendment numbers to the above Rules.

111. In their reply dated 24 July, 1978 the Ministry of Railways (Railway Board) stated as under :—

“.....the Notifications amending R.P.F. Rules, 1959 as finally approved by Legal Adviser of Railway Ministry and Ministry of Law and Justice were published in the Gazette of India and copies thereof were placed in Parliament. The amendment numbers were not given due to an oversight as the amendments were processed in different files at different times. The amendment numbers of the Rules published under G.S.R. 32 and 33 are R.P.F. (2nd Amendment) Rules, 1977 and R.P.F. (3rd Amendment) Rules, 1977 respectively.

The R.P.F. Rules, 1959 are being *amended for giving precise amendment numbers.”

112. The Committee considered the matter at their sitting held on 5 January, 1981 and decided to hear evidence of the representatives of the Ministry of Railways (Railway Board) for not following the instructions issued by the Ministry of Law in 1960, as also the recommendations made by the Committee in regard to giving of distinctive amendment numbers to the Orders, which were circulated by the Department of Parliamentary Affairs in 1972 to all Ministries/Departments of the Government of India.

113. At their sitting held on 24 January, 1981, the Committee heard evidence of the representatives of the Ministry of Railways (Railway Board) and Ministry of Law in the matter.

114. On being asked whether the instructions issued by the Ministry of Law in the year 1960 regarding giving of serial numbers to Amendments

*Corrigenda since published as G.S.R. Nos. 1172 and 1173 in the Gazette of India, Part II, Section 3(i) dated 23 September, 1978.

and the extracts of the recommendations made by the Committee on Subordinate Legislation in that regard, which were circulated by the Department of Parliamentary Affairs in March, 1972, were in the knowledge of the Ministry, the representative could not commit with certainty but admitted that those general instructions must have been received but missed by an oversight.

115. On being asked as to how it could have happened that amendment to the Rules issued on 15 December, 1977 had been serially numbered as "Third Amendment" whereas the Amendment issued on 17 December, 1977 was numbered as "Second Amendment", the Law Secretary explained that the interval between the two notifications was only two days. What might have happened was that the Ministry must have sent these notifications to the press for publication and, sometimes, the papers got mixed up. The earlier thing was thus published later.

116. To a further question as to how such a mix up of dates could be averted, the Law Secretary stated that that situation could be avoided by the administrative Ministry by taking additional precautions. The Ministry should indicate to the Press, the order in which the notifications should appear in the Gazette. When asked whether any such instructions were given to the Press, the representative of the Ministry of Railways promised to clarify the position in that regard after looking into the records. The Committee also directed that a copy of the instructions issued by the Ministry to the Press in that regard might be submitted to them.

117. When asked whether there was any system in the Ministry of Railways for attending to the Parliamentary references, the representative of the Ministry stated that they had a Parliament Branch. That Section received all the communications and channelled them to the various Directorates. They had ten Directorates who made detailed study and commented upon the issues. Where issues involved consultation with the Legal side, the Directorates were expected to make consultations and hold discussions with the Legal Adviser before projecting the view point of the Ministry.

118. In their communication dated 24 March, 1981 the Ministry of Railways (Railway Board) further clarified the position as under :—

".....the discrepancy pointed out by the Committee on Subordinate Legislation has been brought to the notice of the Manager, Government of India Press, New Delhi, who are primarily concerned with allotment of serial numbers to the Government Notifications. They have also been requested to take specific steps to ensure that such anomalies do not recur in future.

Simultaneously, suitable instructions have also been issued to all Officers in Board's office for taking great care while sending two

or more amendments to the same set of rules at about the same time to the press for publication in the Official Gazette so as to avoid the possibility of wrong sequence in the numbering of amendments to statutory rules/regulations. A copy of the instructions* issued is also attached....."

119. The Committee note with satisfaction that, on being pointed out, the Ministry of Railways have issued corrigenda to correct amendment numbers to the Railway Protection Force (Amendment) Rules, 1977 (G S.R. Nos. 32 and 33 of 1978). However, the Committee observe that they have time and again emphasised that for easy referencing sets of amendments to any Order, issued from time to time during the course of the same year, should be serially numbered and the short title to each such amending Order should clearly show the serial number of the amendment. The Committee note in this connection that the Ministry of Law, Justice and Company Affairs (Legislative Department) had issued detailed instructions to all Ministries/Departments vide their O.M. No. F. 4(7)/58 LI dated 25 November, 1960. The Department of Parliamentary Affairs had also circulated the extracts from the recommendations made by the Committee in this behalf to all the Ministries/Departments for their guidance vide their O.M. No. F-32-3/72-R and C dated 4 March, 1972.

120. The Committee are unhappy to note that the Ministry of Railways not only failed to follow these instructions but are not even aware of them. The Committee, therefore, recommend that instructions issued by the Ministry of Law, Justice and Company Affairs/Department of Parliamentary Affairs should be brought to the notice of all concerned in the Ministry for compliance in future.

121. The Committee further note that the Ministry of Railways have brought the instant case to the notice of the Government of India Press as also to all Officers in the Railway Board so that such mistakes do not recur. The Committee feel that the Ministry of Railways in their instructions to all Officers of the Railway Board have not evolved any fool-proof measure to avoid recurrence of such lapses. The Committee are of the view that giving of correct amendment numbers to the Rules sent to the Press for publication is the responsibility of the Ministries/Departments concerned. The Committee, therefore, recommend that fool-proof measures like maintenance of a register of amendments, giving of correct amendment number just before a notification is sent for cyclostyling, sending of not more than one amendment to the Government of India Press at a time and all amendments to the Press to go under separate covering letters etc. as has been agreed to by the Ministry of Railways in the case of the Railway Red Tariff Rules should be followed in true spirit.

NEW DELHI;

April 15, 1981

Chaitra 25, 1903 (Saka)

MOOL CHAND DAGA

Chairman,

Committee on Subordinate Legislation

*See Appendix III.

APPENDIX I

(Vide Para 6 of the Report)

Summary of main Recommendations/Observations made by the Committee

S. No.	Para No.	Summary
(1)	(2)	(3)
1(i)	17	The Committee are happy to note that there was virtually no time-lag between the framing of the Seaward Artillery Practice Rules, 1978 and the coming into force of the provisions of the enabling Act of 1973. The Seaward Artillery Practice (Amendment) Act, 1973, as well as the Seaward Artillery Practice Rules, 1978 came into force on the same day i.e. 21 January, 1978. The Committee, however, desire the Ministry of Defence to examine the feasibility of inserting a foot-note to the Rules by way of clarification that the 1973 Act came into force from 21 January, 1978, for the convenience of the general public.
1(ii)	18	The Committee note with satisfaction that the Ministry have no objection to mentioning in the Preamble the previous rules which have been superseded by the Seaward Artillery Practice Rules, 1978. If the number of superseded rules is large enough to render the Preamble clumsy and long-winded, the Committee do not see any objection to listing out such rules in the form of an Annexure.
1(iii)	19	The Committee, however, regret to observe that the administrative Ministry, who have framed the Rules, are not in possession of the full facts about the rules which stand superseded by issue of the Central Rules. The Committee note that even after protracted correspondence prolonging over two years between the Ministry and the Coastal States, the Ministry have not received any information from a number of maritime States and Union Territories. The Committee feel that in case the requisite information is not forthcoming for so long a period, the Ministry should not be content with the routine correspondence and instead they should take up the matter at the highest level through the Minister concerned.
2	33	After considering the whole matter in depth, the Committee agree with the opinion tendered by the Ministry of Law, Justice and Company Affairs (Department of Legal Affairs) that the levy of interest under sub-clause (3A) of Clause 3 of the Sugarcane (Control) Order is compensatory and not in the nature of penalty. However, the Committee note that in the case of instance of Income-tax, as equated by the Ministry, the provision for levy of interest is provided for in the Income-tax Act and not through Rules made thereunder. The Committee, therefore, feel that with the

(1)	(2)	(3)
		object of giving a still better hold to the canegrowers, it would be in the fitness of things to include the provision of levy of interest in the enabling Act viz., the Essential Commodities Act, 1955.
3(i)	44	<p>The Committee note from the reply of the Ministry of Shipping and Transport (Transport Wing) that the post of the Caretaker in the Ministry was redesignated as 'Maintenance and Meeting Officer' with effect from 17 December, 1977 under an administrative order. However, the amendment to the Recruitment of Caretaker (Ministry of Transport and Shipping) Recruitment Rules, 1968, to give effect to the change in nomenclature of the post, could be notified in the official Gazette on the 29 April, 1978, that is, after a lapse of over four months. The Committee are unable to accept the plea of the Ministry that the administrative order in question was of no consequence or effect inasmuch as the incumbent in office had continued to be the same. The Committee cannot but emphasise that executive orders are no substitute to statutory rules and that no statutory rules can be amended by executive orders. The Committee in this connection note the assurance given by the Ministry that such a slip will not be allowed to occur in future.</p>
3(ii)	45	<p>The Committee observe that the Recruitment of Maintenance and Meeting Officer (Ministry of Shipping and Transport) Recruitment Rules, 1978 consist of a single Rule—assigning a short title and indicating the date of its coming into force. Excepting for a mention in the Preamble that the rules being framed are intended to amend the Recruitment of Caretaker (Ministry of Transport and Shipping) Recruitment Rules, 1968, the rules, as they stand, convey very little meaning. The Committee cannot ignore the careless and thoughtless manner in which the present piece of subordinate legislation has been drafted by the Ministry. It appears that the Rules were not vetted by the Ministry of Law. At least that Ministry could have put the Rule in the proper form.</p>
3(iii)	46	<p>The Committee cannot ignore the fact that without amending the original Rules, the Ministry have started paying Rs. 50/- per month to the incumbent, for which there is no provision in the Rules. In this matter, the Ministry have transgressed the powers delegated to them. This payment of special pay has no legal sanction. The Committee do not desire to put the employee concerned to financial loss because of an illegal act of the Ministry.</p>
3(iv)	47	<p>The Committee recommend that the original Rules should be amended immediately to provide for the payment of special pay to the employee concerned. The Committee do expect the Ministry to be more careful in future and not to effect any change in the Statutory Rules etc. through administrative or executive orders.</p>

(1)	(2)	(3)
4(i)	61	The Committee note with satisfaction that, on being pointed out, the Ministry of Railways have agreed to issue corrigenda to correct the sequence of G.S.R. numbers allotted to the First and Second Amendment of 1978 to the Railways Red Tariff Rules. The Committee desire the Ministry to issue the same at an early date if not already done so.
4(ii)	62	The Committee further note that the Ministry of Railways have since taken certain foolproof measures to avoid recurrence of such lapses in future. The measures include maintenance of a register of amendments, giving of amendment number just before the notification is sent for cyclo-styling, sending of not more than one amendment to the Government of India Press at a time, and all amendments to the Press to go under separate covering letters, etc. The Committee hope that the Ministry will take care to watch that the new procedure works satisfactorily.
4(iii)	63	During evidence before the Committee, the representative of the Ministry of Works and Housing (Government of India Press) has accepted the responsibility for not giving due attention to the communications from the Ministry of Railways seeking information on points raised by the Committee. The Committee desire them to be more careful in future as such delays, besides holding up the schedule of work of the Committee, result in unnecessary prolongation of infirmities in the rules.
5	67	The Committee note with satisfaction that, on being pointed out, the Ministry of Industry (Department of Industrial Development) have since amended the Indian Explosives Act, 1884 to provide for laying of Rules framed thereunder before Parliament.
6(i)	83	The Committee note that all the 30 Volumes of General Statutory Rules and Orders have since been brought out for sale. But the utility of the Compilation is greatly marred by the fact that bulk of the work has already become out of date. Same is the case with 4 Supplements issued by the Ministry of Law during the period August, 1968 to October, 1971. The Committee, therefore, urge upon the Ministry of Law to accelerate the pace of work regarding publication of the revised editions of the Compilation because without the latest revised editions, the whole lot of Compilation is nothing but an obsolete document.
6(ii)	84	The Committee note the practical difficulties, as pointed out by the Ministry of Law, in the way of introduction of a system similar to the one in U.S.A. (i.e. Federal Registry) with a view to getting the material from the agencies issuing the rules for inclusion in the Compilation. The Committee recall that the suggestion was made by them at the instance

(1)	(2)	(3)
		of the Ministry itself. If the Ministry find it difficult to adopt the system gainfully, the Committee do not insist on its introduction.
6(iii)	85	The Committee also note that the Ministry of Law have requested the Ministry of Works and Housing to issue necessary instructions to the Government of India Press to accord priority to the work relating to the printing of General Statutory Rules and Orders Volumes. The Committee feel that there should be adequate arrangements for printing of the revised editions of the Compilation as and when brought out.
6(iv)	86	The Committee agree with the suggestion of the Ministry of Law for bringing out compilations of Rules including amending Rules on an annual basis instead of monthly or quarterly basis.
6(v)	87	The Committee are unhappy to note that their recommendation regarding giving of foot-notes to the amending Rules indicating the particulars of earlier amendments had not been uniformly followed in all cases. The Committee desire the Ministry of Law (Legislative Department) that while vetting the Rules, they should also see that the practice is followed by all Ministries/Departments in letter and spirit.
6(vi)	88	The Committee gave a careful thought to the question of specifying a time-limit in Section 24 of the General Clauses Act, 1897 so that the rules under the repealed and re-enacted Acts are not allowed to continue for more than a certain period after the coming into force of the superseding Acts. The Committee agree to the suggestion of the Ministry of Law that the necessary legislation to amend Section 24 of the General Clauses Act might be brought forward within a year. The period for which Rules/Orders framed under a repealed and re-enacted Act could survive it, should be fixed at 5 years initially and then reduced to 3 years and 1 year progressively. During the period so fixed, the concerned Ministries should notify fresh Rules replacing the earlier ones.
7	94	The Committee tentatively agree to the suggestion of the Ministry of Irrigation that the River Boards Act, 1956 be not amended to incorporate therein Provisions for laying of Regulations framed thereunder before Parliament as the Act has not been enforced nor the River Boards are intended to be constituted thereunder. The Committee, however, desire that in case the River Boards Act is not eventually repealed and the River Boards are constituted, the Ministry shall have to amend the Act at the earliest opportunity with a view to provide for laying of regulations framed thereunder before Parliament.

(1)	(2)	(3)
8(i)	105	<p>The Committee note that the Ministry of Education and Culture (Department of Education) have no objection to amend the University Grants Commission Act, 1956, for making provision for publication of the Regulations in the Gazette as also for their laying before Parliament. The Committee desire the Ministry to amend the Act in this regard by the end of Autumn Session, 1981.</p>
8(ii)	106	<p>The Committee are not convinced with the arguments put forward by the representative of the Ministry of Education and Culture (Department of Education) that in case all statutes, ordinances and regulations issued under the Universities Acts and which pertain to day-to-day matters are laid before Parliament, it will increase the work of the Government as well as of Parliament and that it will not be economical also and in some respects it may even be wasteful. The Committee feel that in the absence of the provisions for laying of regulations which are framed under the Central Universities Acts to carry out the functions of the Universities, how could Parliament ensure that the regulations so framed under the delegated powers are within the limits laid down by it.</p>
8(iii)	107	<p>The Committee, therefore, reiterate their earlier recommendation contained in paras 36-37 of their Third Report (First Lok Sabha) wherein it has been impressed upon Government to incorporate suitable provisions in all Bills for laying before and modification by Parliament of all rules, regulations etc. framed under the power delegated thereunder.</p>
8(iv)	108	<p>The Committee desire the Ministry of Law also to ensure that in all Acts provision for laying of regulations etc. framed thereunder is incorporated invariably. The Committee also desire the Ministry of Law to issue another circular to all Ministries/Departments of the Government of India impressing upon them to examine all Acts to this effect and to initiate early steps in this regard.</p>
9(i)	119	<p>The Committee note with satisfaction that, on being pointed out, the Ministry of Railways have issued corrigenda to correct amendment numbers to the Railway Protection Force (Amendment) Rules, 1977 (G.S.R. Nos. 32 and 33 of 1978). However, the Committee observe that they have time and again emphasised that for easy referencing sets of amendments to any Order, issued from time to time during the course of the same year, should be serially numbered and the short title to each such amending Order should clearly show the serial number of the amendment. The Committee note in this connection that the Ministry of Law, Justice and Company Affairs (Legislative Department) had</p>

(1)	(2)	(3)
		issued detailed instructions to all Ministries/Departments <i>vide</i> their O.M. No. F. 4(7)/58-LI dated 25 November, 1960. The Department of Parliamentary Affairs and also circulated the extracts from the recommendations made by the Committee in this behalf to all the Ministries/Departments for their guidance <i>vide</i> their O.M. No. F-32-3/72-R&C dated 4 March, 1972.
9(ii)	120	The Committee are unhappy to note that the Ministry of Railways not only failed to follow these instructions but are not even aware of them. The Committee, therefore, recommend that instructions issued by the Ministry of Law, Justice and Company Affairs/Department of Parliamentary Affairs should be brought to the notice of all concerned in the Ministry for compliance in future.
9(iii)	121	The Committee further note that the Ministry of Railways have brought the instant case to the notice of the Government of India Press as also to all Officers in the Railway Board so that such mistakes do not recur. The Committee feel that the Ministry of Railways in their instructions to all Officers of the Railway Board have not evolved any fool-proof measure to avoid recurrence of such lapses. The Committee are of the view that giving of correct amendment numbers to the Rules sent to the Press for publication is the responsibility of the Ministries/Departments concerned. The Committee, therefore, recommend that fool-proof measures like maintenance of a register of amendments, giving of correct amendment number just before a notification is sent for cyclostyling, sending of not more than one amendment to the Government of India Press at a time and all amendments to the Press to go under separate covering letters etc., as has been agreed to by the Ministry of Railways in the case of the Railway Red Tariff Rules should be followed in true spirit.

APPENDIX-II

(Vide Para 32 of the Report)

A. Bharath,
Deputy Secretary.
Tel. No. 382709
D.O. No. 4/6/79-SPY (DII)

Government of India,
Ministry of Agriculture
and Irrigation,
Department of Food
New Delhi, the 23rd/30th April, 1979

Dear Shri

| As you are already aware an amendment was made in the Sugarcane (Control) Order, 1956 on 2nd February 1978 to provide for payment of interest at the rate of 15 per cent by the sugar factories to the sugarcane suppliers in respect of cane price payment delayed beyond the prescribed period of 14 days from the date of delivery and also for deposit of the unclaimed cane dues with the Collectors within 3 months of the close of the sugar year. The amendment in question also provided for crediting of all cane dues remaining unclaimed with the Collectors for a period of 3 years, to the Consolidated Fund of the concerned State for utilisation by the State Government, as far as possible for cane development.

2. The position regarding implementation of the above provisions of the Sugarcane (Control) Order was recently reviewed. Although the State Governments were expected to take up vigorously with the sugar mills for implementation of these provisions, the progress so far made in this direction is not reported to be satisfactory. The information received from the State Governments indicates that the factories have not yet started paying interest on delayed payments of cane price nor have they deposited the unclaimed cane dues in respect of the preceding season 1977-78 with the Collectors although they were statutorily required to do so within 3 months of the close of the season i.e. by the end of December, 1978.

3. You will appreciate that the provision regarding payment of interest has been made with the object of safeguarding the interest of the poor cane suppliers who have to suffer a lot on account of undue delay in payment of their dues by the sugar mills. The urgent need for enforcement of this provision by the State Government cannot therefore be over emphasised.

4. It has also recently come to the notice of the Government that some of the State Governments do not appear to have given adequate publicity to these new provisions with the result that even the Collectors and other district authorities who are actually required to play an important role in the enforcement of these decisions have not been properly informed of the specific

action they are expected to initiate for effective implementation of these provisions. It is, therefore, imperative for the State Governments to issue suitable instructions to the Collectors and other district authorities along with detailed procedure which they are expected to follow in this regard for instance in handling the deposits received from the sugar factories and other such formalities.

5. I shall be grateful if suitable instructions are issued to concerned officers for urgent implementation of the above mentioned provisions of the Sugarcane (Control) Order. Action taken may also please be intimated to us at an early date.

Yours sincerely

Sd/-

(A. Bharath)

The Secretaries, Agriculture Departments, of all sugar producing State Governments/U.Ts.

APPENDIX-III

(Vide para 118 of the Report)

**Government of India (Bharat Sarkar)
Ministry of Railways (Rail Mantralaya)
Railway Board**

Sub : *Issue of Amendments to Rules.*

On 24-1-1981, the Committee on Subordinate Legislation took up for consideration the Railway Protection Force (Amendment) Rules, 1977 (GSR Nos. 32 and 33 of 1977). The Committee was critical about the fact that both the notifications, though sent together to the Press, the notification dated 15-12-1977 was numbered as G.S.R. 33 and the one dated 17-12-1977 was numbered as 32. In other words, the amendment bearing an earlier date should have been given a number preceding the one bearing a subsequent date. While issuing a corrigendum on 11-9-1978, G.S.R. 32 dated 17-12-1977 was amended by inserting the words "(Second Amendment) Rules, 1977" and G.S.R. 33 dated 15-12-1977 was amended by inserting the words "(Third Amendment) Rules 1977" in place of the words "Amendment Rules 1977" occurring in both the notification.

2. Thus an anomaly arose because the two notifications pertaining to the same set of rules and sent to the press at the same time for publication in the Gazette had not been numbered in the proper sequence. This instance highlights the need to exercise great care while sending two or more amendments to the same set of rules at about the same time to the Press for publication in the Official Gazette; otherwise, the possibility of wrong sequence occurring in the numbering of amendments to statutory rules/regulations cannot be ruled out.

3. All Officers and branches in Board's office are, therefore, requested to note the observations of the Committee on Subordinate Legislation as referred to in para 1 above and take adequate precautionary steps to ensure that such lapses do not recur in future.

(Case No. 78/parl/21
dated 23-3-1981 .

Sd/-
Dy. Secretary (Parliament)
Railway Board

To

All Officers and branches in Board's office.

MINUTES

49-50

APPENDIX-IV

KLI

MINUTES OF THE FORTY-FIRST SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (SIXTH LOK SABHA) (1979-80)

The Committee met on Friday, the 27th July, 1979 from 15.30 to 16.45 hours.

PRESENT

1. Shri K. Mallanna

Chairman

MEMBERS

2. Shri Yashwant Barole
3. Shri Tarun Gogoi
4. Shri Sarat Kar
5. Shri Lalu Prasad
6. Shri George Mathew
7. Shri Govind Ram Miri
8. Shri K. S. Narayana
9. Shri Charan Narzary
10. Shri Ram Murti
11. Dr. Bhagwan Dass Rathor
12. Shri Madhav Prasad Tripathi
13. Shri Chandradeo Prasad Verma
14. Shri Ramji Lal Yadav

SECRETARIAT

1. Shri Y. Sahai

Chief Legislative Committee Officer

2. Shri S. N. Khanna

Senior Legislative Committee Officer

* * * * *

4. The Committee then considered Memoranda Nos. 245-247 and 251-252 on the following subjects: —

S. No.	Memo. No.	Subject
(i)	245	The Sugarcane (Control) Amendment Order, 1978 (G.S.R 62-E published in the Gazette of India Extraordinary Part II Section 3(i) dated the 2nd February, 1978).
*	*	* * *

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

(i) The Sugarcane (Control) Amendment Order, 1978 (G.S.R. 62-E of 1978)—(Memorandum No. 245).

5. The Committee considered the above Memorandum in some detail and decided to elicit the opinion of the Ministry of Law on the following points :—

- (a) whether the provisions for charge of interest under sub-clause 3-A of clause 3 was penal in nature; and
- (b) whether Government could levy such an interest without an express authority to that effect in the enabling Act viz., the Essential Commodities Act, 1955.

* * * * *

The Committee then adjourned.

III

MINUTES OF THE THIRD SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (SEVENTH LOK SABHA) (1980-81)

The Committee met on Wednesday, the 27th August 1980 from 15-00 to 17-00 hours.

PRESENT

1. Shri Mool Chand Daga—*Chairman*

MEMBERS

2. Shri M. Ankineedu
3. Shri Eduardo Falciro
4. Shri Harish Kumar Gangwar
5. Shri Jaipal Singh Kashyap
6. Shri K. Lakkappa
7. Shri T. Nagaratnam
8. Shri Balasaheb Vikhe Patil
9. Shri Ratansinh Rajda
10. Shri Ajit Pratap Singh
11. Shri Chandra Shekhar Singh
12. Shri R. S. Sparrow

SECRETARIAT

Shri H. L. Malhotra—*Senior Legislative Committee Officer*

2. The Committee considered Memoranda Nos. 1—8 on the following subjects :—

S. No.	Memorandum No.	Subject
(1)	(2)	(3)
	*	*
(ii)	3	The Recruitment of Maintenance and Meeting Officer (Ministry of Shipping and Transport) Recruitment Rules, 1978 (G.S.R. 560 published in the Gazette of India, Part II, Section 3(i) dated the 29th April, 1978)
	*	*

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

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(iii) The Recruitment of Maintenance and Meeting Officer (Ministry of Shipping Transport, Recruitment Rules, 1978 (G. S. R.) 560 published in the Gazette of India, Part II, Section 3(i) dated the 29th April, 1978)—(Memorandum No. 3).

9. The Committee considered the above Memorandum and decided to hear oral evidence of the representatives of the Ministry of Shipping and Transport regarding redesignation of the post of Caretaker as Maintenance and Meeting Officer without effecting an amendment in the relevant rules.

* * * *

The Committee then adjourned.

**MINUTES OF THE FIFTH SITTING OF THE COMMITTEE ON
SUBORDINATE LEGISLATION (SEVENTH LOK SABHA) (1980-81)**

The Committee met on Saturday, the 6th September, 1980 from 11.00 to 12.45 hours.

PRESENT

1. Shri Mool Chand Daga—*Chairman*

MEMBERS

2. Shri M. Ankineedu
3. Shri Harish Kumar Gangwar
4. Shri Jaipal Singh Kashyap
5. Shri K. Lakkappa
6. Shri T. Nagaratnam
7. Shri M. Ramanna Rai
8. Shri Ratansinh Rajda
9. Shri Chandra Shekhar Singh
10. Shri R. S. Sparrow

Representatives of the Ministry of Shipping and Transport (Transport Wing)

1. Shri J. S. Marya Director General (Road Development and Additional Secretary).
2. Shri S. Vasudev, Deputy Secretary.

* * * *

SECRETARIAT

Shri H. L. Malhotra—*Senior Legislative Committee Officer.*

2. The Committee first heard oral evidence of the representatives of the Ministry of Shipping and Transport (Transport Wing) regarding the Recruitment of Maintenance and Meeting Officer (Ministry of Shipping and Transport) Recruitment Rules 1978 (G. S. R. 560 of 1978).

3. The representatives of the Ministry stated that an administrative order was issued on the 17th December, 1977 whereby sanction was accorded to re-designation of the post of Caretaker as 'Maintenance and Meeting Officer' in the Ministry. On being asked if the administrative order was laid on the Table of the House, the representative of the Ministry replied in the negative.

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

4. The representative of the Ministry explained that the administrative order issued on the 17th December had no implication because the person employed was the same. Actually there was no effect of the issue of that particular administrative order. Neither the person had been changed, nor any new person had been recruited under the new rules.

5. When asked as to the necessity for the change in the nomenclature of the post, the representative stated that that was an isolated post and the concerned person had no further avenues for any advancement and promotion. Had he been on the normal strength of the organisation, he would have been promoted in his own line. Thus it was a case of a new man being drafted for a single-man post. Hence, the designation was made more attractive.

6. When asked as to who made a move for amending the designation, the representative of the Ministry stated that an application dated the 7th February 1977 was made by the employee concerned *inter alia* requesting for re-designation of the post and for grant of special pay on merit grounds. The then Secretary of the Ministry ordered for the change of the designation and for grant of special allowance. The special allowance was paid for one year from 1st November 1977. When enquired about the validity of paying special pay with retrospective effect i.e. the 1st November 1977 the representative stated that it did not form part of the recruitment rules which were always the guideline for recruitment of any officer. It was an order issued by the administration in the name of the President granting a special pay of Rs. 50/- p.m. The representative however conceded that they should have issued the amendment before giving effect to any change.

7. When informed that the action of the Ministry was not within the powers delegated to them i.e. that no statutory rule could be amended by executive instructions the representative stated that it would have been proper prudent and according to legal procedure and according to the Committee's fiat if the amendment had been done first and then followed by administrative order.

8. When enquired if the Ministry of Law was consulted by them, the representative of the Ministry replied in the negative.

9. On being pointed out that the preamble of the rules under reference refers to the Ministry's nomenclature as 'Transport and Shipping' instead of the 'Shipping and Transport' the representative explained that in the year 1968 when the old rules were framed, the nomenclature went as 'Transport and Shipping' and that was why it was so stated.

10. The representatives agreed to submit a written note explaining the position in full.

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The Committee then adjourned.

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

VI

MINUTES OF THE SIXTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (SEVENTH LOK SABHA) (1980-81)

The Committee met on Monday, the 8th September, 1980 from 15.00 to 16.45 hours.

PRESENT

1. Shri Mool Chand Daga—*Chairman*

MEMBERS

2. Shri T. V. Chandrashekharaappa
3. Shri Eduardo Faleiro
4. Shri Harish Kumar Gangwar
5. Shri Jaipal Singh Kashyap
6. Shri T. Nagaratnam
7. Shri Balasaheb Vikhe Patil
8. Shri M. Ramanna Rai
9. Shri Ratansinh Rajda
10. Shri Chandra Shekhar Singh
11. Shri R. S. Sparrow

SECRETARIAT

Shri H. L. Malhotra

Senior Legislative Committee Officer

2. The Committee considered Memoranda Nos. 14 to 24 on the following subjects :—

S. No.	Memorandum No.	Subject
1	2	3
•	•	•
(viii)	21	The Sugarcane (Control) Amendment Order, 1978 G.S.R. 62-E of 1978).
•	•	•
•	•	•

(viii) The Sugarcane (Control) Amendment Order, 1978 (G.S.R. 62-E of 1978)—(Memorandum No. 21).

15. The Committee considered the above Memorandum and decided not to pursue the matter further in view of the opinion expressed by the Ministry of Law that the levy of interest under the Sugarcane Control Order

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

was compensatory and not in the nature of penalty. The Committee, however, noted that in the two instances quoted by the Ministry, the provisions of levy of interest were provided for in the enabling Acts and not through rules made thereunder. The Committee felt that with the object of giving a still better hold to the cane-growers, it would be in the fitness of things to include the said provisions in the enabling Act.

16. The Committee further decided to have informal discussions with the representatives of the Ministry of Agriculture as to the manner in which the above Order was implemented. The Committee wanted to know whether the Order was a paper tiger only or was given teeth also. They felt interested inter alia to know how did this Order help the growers to get their dues expeditiously and also statewise break up of interest paid by the Sugar Mills direct to growers and through Co-operatives.

* * *

The Committee then adjourned.

VIII

MINUTES OF THE EIGHTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (SEVENTH LOK SABHA) (1980-81)

The Committee met on Monday, the 22nd September, 1980 from 15.00 to 16.40 hours.

PRESENT

1. Shri Mool Chand Daga *Chairman*

MEMBERS

2. Shri M. Ankineedu
3. Shri Eduardo Faleiro
4. Shri Harish Kumar Gangwar
5. Shri Jaipal Singh Kashyap
6. Shri K. Lakkappa
7. Shri T. Nagaratnam
8. Shri M. Ramanna Rai
9. Shri Ratansinh Rajda
10. Shri Ajit Pratap Singh
11. Shri Chandra Shekhar Singh
12. Shri R. S. Sparrow

SECRETARIAT

Shri H. L. Malhotra

Senior Legislative Committee Officer

2. The Committee considered Memoranda Nos. 25 to 34 on the following subjects :—

S. No.	Memorandum No.	Subject
(1)	(2)	(3)
(i)	25	The Seaward Artillery Practice Rules, 1978 (S.R.O. 26 of 1978).
(ii)	26	(a) The Railways Red Tariff (Second Amendment) Rules, 1978 (G.S.R. 347 of 1978); and (b) The Railways Red Tariff (First Amendment) Rules, 1978 (G.S.R. 348 of 1978).
	*	* * *

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

**(I) The Seaward Artillery Practice Rules, 1978 (S. R. O. 26 of 1978)—
(Memorandum No. 25)**

3. The Committee considered the above Memorandum at some length and then decided to hear oral evidence of the representatives of the Ministry of Defence regarding delay of about 5 years in framing the Seaward Artillery Practice Rules, 1978 and to not mentioning in the preamble the names of all the previous rules that have been superseded by these rules.

- (ii) (a) The Railways Red Tariff (Second Amendment) Rules, 1978 (G.S.R. 347 of 1978); and
- (b) The Railways Red Tariff (First Amendment) Rules, 1978 (G.S.R. 348 of 1978)—(Memorandum No. 26).

4. The Committee considered the above Memorandum and decided to call the representatives of the Ministries of Railways and Works and Housing for oral evidence regarding wrong sequencing of the First and Second Amendments to the Railways Red Tariff Rules, 1978 (G.S.R. Nos. 347 and 348 of 1978).

* * * *

The Committee then adjourned.

IX

MINUTES OF THE NINTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (SEVENTH LOK SABHA) (1980-81)

The Committee met on Monday, the 13th October, 1980 from 11-00 hours to 12-30 hours.

PRESENT

Shri Mool Chand Daga—*Chairman*

MEMBERS

2. Shri M. Ankineedu
3. Shri T. V. Chandrashekharappa
4. Shri Harish Kumar Gangwar
5. Shri Jaipal Singh Kashyap
6. Shri K. Lakkappa
7. Shri Balasaheb Vikhe Patil
8. Shri M. Ramanna Rai
9. Shri Ratansinh Rajda
10. Shri Ajit Pratap Singh
11. Shri Chandra Shekhar Singh

Representatives of the Ministry of Defence

1. Shri S. K. Bhatnagar, Additional Secretary.
2. Shri P. L. Sharma, Senior Judge Advocate of the Naval Headquarters.

Representatives of the Ministry of Railways (Railway Board)

1. Shri Y. B. Mathur, Director, Traffic Commercial.
2. Shri B. B. Srivastava, Joint Director, Traffic Commercial (General).

SECRETARIAT

Shri H. L. Malhotra—*Senior Legislative Committee Officer*

2. The Committee first heard evidence of the representatives of the Ministry of Defence regarding the Seaward Artillery Practices Rules, 1978 (S.R.O. 26 of 1978).

3. In reply to a question as to whether there was a separate cell in the Ministry to attend to the communications sent by the Lok Sabha Secretariat, the representative of the Ministry stated that there was no separate section as such except the cell for coordinating Parliamentary Questions.

4. When asked to explain the reasons for delay in sending reply to the reference regarding instant case, the representative of the Ministry stated that they had to collect necessary information from as many as 13 maritime States. He further stated that they referred the matter to those States in November, 1978, followed by reminders. Four or five States replied and the rest sought clarifications. The representatives of the Ministry admitted that it would have been more appropriate if they had asked for extension in time from the Committee for furnishing their final reply. The representative of the Ministry was then asked to furnish a copy each of the letters and the reminders which they had addressed to the different maritime States to elicit necessary information.

5. When the attention of the representative was drawn to the fact that a reference from Lok Sabha Secretariat was made in August, 1978 and the Ministry wrote to the State Governments in November, 1978, after a delay of three months, he stated that first of all an attempt was made by the Ministry to find out the necessary information from the existing records. Naval Headquarters were also consulted. When that information was not available, then a circular letter was then sent to the State Governments in November, 1978.

6. When asked to state how the matters were governed between the period 1973, when the Seaward Artillery Practice Act was amended, and 1978, the representative of the Ministry explained that they had the facility of Defence of India Rules, 1971. He further explained that these rules contained provisions which were even better than what was envisaged in the Act.

7. When suggested that for the sake of clarification a foot-note should have been added in the Act to the effect that it came into force from 21st January, 1978, the representative of the Ministry replied that they would consult the Ministry of Law, Justice and Company Affairs (Legislative Department) in order to take necessary action in the matter.

(The witnesses then withdrew)

8. The representatives of the Ministries of Railways (Railway Board) and Works and Housing were then called with regard to the Railway Red Tariff (Second/First Amendment) Rules, 1978 (G.S.R. 347 and 348 of 1978). As the Member of Railway Board was not available, the Committee decided to postpone the evidence.

(The witnesses then withdrew)

9. *The Committee then adjourned.*

X
MINUTES OF THE TENTH SITTING OF THE COMMITTEE ON
SUBORDINATE LEGISLATION (SEVENTH LOK SABHA)
(1980-81)

The Committee met on Monday, 10 November, 1980 from 11-00 to 13-15 hours.

PRESENT

Shri Mool Chand Daga—*Chairman*

MEMBERS

2. Shri Harish Kumar Gangwar
3. Shri Jaipal Singh Kashyap
4. Shri K. Lakkappa
5. Shri T. Nagaratnam
6. Shri M. Ramanna Rai
7. Shri Ratansinh Rajda
8. Shri Chadra Shekhar Singh

I. REPRESENTATIVES OF THE MINISTRY OF AGRICULTURE (DEPARTMENT OF FOOD)

1. Shri B. C. Gangopadhyay, Secretary (Food)
2. Shri C. N. Raghavan, Joint Secretary (Sugar)
3. Shri A. Bharath, Deputy Secretary (Sugar)

II. REPRESENTATIVES OF THE MINISTRY OF RAILWAYS

1. Shri S. N. Sachdev, Member Traffic, Railway Board and Ex. Officio Secretary to the Government of India.
2. Shri B. B. Srivastava, Joint Director, Traffic Commercial (General II, Railway Board).

III. REPRESENTATIVES OF THE MINISTRY OF WORKS AND HOUSING

1. Shri M. J. Singh, Officer on Special Duty
2. Shri S. K. Verma, Manager, Government of India Press, Ring Road, New Delhi.

SECRETARIAT

Shri S. S. Chawla—*Senior Legislative Committee Officer*

2. The Committee first heard evidence of the representatives of the Ministry of Agriculture (Department of Food) regarding the Sugarcane (Control) Amendment Order, 1978 (G.S.R. 62-E of 1978).

3. To a query whether it was permissible to charge interest at the rate of 15 per cent per annum from the producer of sugar or his agent, if he failed to make payment for the sugarcane purchased within 14 days of the date of delivery, without any specific provision in the Essential Commodities Act, 1955, the representative of the Ministry stated that the matter was to be considered in the background of the entire Sugarcane (Control) Order. The payment of sugarcane price and interest thereon were not contractual in nature. The minimum cane price was statutorily notified which every producer of sugar was obliged to pay. Once a minimum price was fixed, the Government would be failing in its duty if it did not provide for interest to be paid. He further stated that they had the clearance from the Ministry of Law. He explained that if the Mill owner failed to pay the price to the cane grower within 14 days, he would be keeping the money with him and earn interest thereon. It was the growers money and it should go to the growers alongwith interest.

4. When asked whether the provision regarding charging of interest had been challenged in the court of law, the representative of the Ministry replied in the negative.

5. In reply to a question, whether any Mill owner had been prosecuted for non-payment of price money, the representative of the Ministry stated that cases were going on in the courts and no case had been finalised so far.

6. In reply to another question whether State Governments could frame rules for prosecuting the Mill owners for non-payment of dues, the representative of the Ministry stated that before the above Order was passed, the State Governments followed different practices. Every major sugar producing States had an Act regarding supply of sugarcane. They were empowered to fix interest rate for delayed payment. The rate of interest varied from 6 per cent to 15 per cent. The present amendment was made in order to have a uniform policy in the matter.

7. When enquired whether any Mill owner had deposited the unclaimed amount with the Collector as had been provided in the 'Order' the representative of the Ministry stated that in Tamil Nadu there were two types of Mills—Cooperative Mills and Private Mills. In case of Cooperative Mills there were no arrears outstanding except in one case which was not paid due to court attachment and other disputes. The representative when asked if they had sent letters and reminders to various State Governments after the receipt of reference from Lok Sabha Secretariat, stated that they had sent letters to State Governments.

8. When asked how the Order was being enforced, the representative stated that payment to the cane growers was to be made within 14 days and in case there was deliberate delay in payment, the Mill owners could be prosecuted but it was the State Government who had to implement the Order.

He further stated that payment of interest was not penalty but prosecution for delayed payment was a penalty.

9. When asked whether they got periodic reports from the Mills indicating the payment due, payments made, interest paid, etc., the representative stated that they got figures showing how many cases were there etc. every fortnight in general and not state-wise or Mill-wise. The representative was then asked to furnish written information indicating how far the Sugarcane (Control) Order had been implemented, State-wise, (a) how many cane growers got their dues from Mills within statutory time limit (b) how many cane growers had complained about late receipt of their dues; (c) how many cane growers were able to recover the interest on late payments; and (d) how many Mills had been prosecuted for not paying the amount/interest to the growers.

10. When it was suggested that the provisions of the Order should be made fool proof and made known to the cane growers through wide publicity and some machinery should be devised to see that Order was properly implemented, the representative of the Ministry agreed and stated that they would try to act accordingly. He was asked to furnish a copy of the letter addressed by them to the Sugar producing States regarding implementation and wide publicity to be given to the Order.

(The witnesses then withdrew)

11. The Committee then heard evidence of the representatives of the Ministries of Railways (Railway Board) and Works and Housing regarding Railways Red Tariff (First and Second Amendment) Rules, 1978 (G.S.R. 348 and 347 of 1978).

12. When asked to explain when the G.S.R.s were sent to Press for publication, the representative of the Ministry of Railways stated that G.S.R. No. 348 was sent on 26-2-78 and G.S.R. 347 i.e. the second amendment was sent on 25-2-78. He further stated that those rules were sent to the Press alongwith covering letters.

13. The representative of the Ministry of Works and Housing Government of India Press informed the Committee that both the letters addressed to them were received on 1-3-78.

14. Explaining the procedure for notifying the rules received from Ministries in the Gazette of India, the representative of the Government of India Press stated that after the notifications were received in the Press these were arranged Ministry-wise and date-wise. He further stated that it was not humanly possible for the staff of Press to go through the contents of the notifications.

15. The representative of the Ministry of Railways submitted that they had taken some foolproof measures to avoid such failures in future. They had opened a register and when an amendment was to be issued it would be processed and put up to the officers concerned and number would be given just before it was sent for cyclostyling and not more than one amendment would be sent to the Press at a time. He further stated that in future amendments would be sent to the Press alongwith covering letters.

16. The representative of the Government of India Press also informed the Committee that they were issuing general guide lines to all the Ministries/ Departments regarding publication of rules, etc. in the Gazette.

17. When asked to explain the reasons for taking 14 months to furnish reply to the communication from the Committee, the representative of the Ministry of Railways stated that on receipt of communication they had to make reference to the Press. They sent reminders also.

18. When the representative of the Government of India Press was asked to state how many reminders they had received from the Ministry of Railways, he stated that he would check up as there was no copy of the reminders available in the file.

19. The representatives of both the Ministries were then asked to appear again before the Committee on 11 November, 1980 with their outward and inward registers as also messenger book.

(The witnesses then withdrew)

The Committee then adjourned.

XI

MINUTES OF THE ELEVENTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (SEVENTH LOK SABHA) (1980-81)

The Committee met on Tuesday, the 11th November, 1980 from 11-00 hours to 12-30 hours.

PRESENT

Shri Mool Chand Daga— *Chairman*

MEMBERS

2. Shri Harish Kumar Gangwar
3. Shri Jaipal Singh Kashyap
4. Shri K. Lakkappa
5. Shri T. Nagaratnam
6. Shri Ratansinh Rajda

I. REPRESENTATIVES OF THE MINISTRY OF RAILWAYS

1. Shri S. N. Sachdev, Member Traffic,
Railway Board and Ex-Officio Secretary
to the Government of India.
2. Shri B. B. Srivastava, Joint Director,
Traffic Commercial (General) II, Railway Board.

II. REPRESENTATIVES OF THE MINISTRY OF WORKS & HOUSING

1. Shri M. J. Singh, Officer on Special Duty
2. Shri S. K. Verma, Manager,
Government of India Press, Ring Road, New Delhi.

SECRETARIAT

Shri S. S. Chawla

Senior Legislative Committee Officer

* * * * *

4. The Committee then heard further evidence of the representatives of the Ministries of Railways (Railway Board) and Works and Housing (which was not concluded on 10 November, 1980) regarding Railway Red Tariff (First and Second Amendments) Rules, 1978 (G.S.Rs. 348 and 347 of 1978).

5. When asked to produce the messenger book through which notifications were sent by them to the Government of India Press, the representative of the Ministry of Railways stated that they had tried to locate it

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

but it was not available. The representative of the Ministry of Railways, however, showed office copies of the letters forwarding the manuscript of the Amendments to the Government of India Press for publication in the Gazette.

6. The representative of the Ministry of Works and Housing (Government of India Press) was then asked to show the inward register which he did and also confirmed that both the First and Second Amendments sent by the Ministry of Railways were received by them on 1 March.

7. When asked whether any procedure had been laid down for publication of notifications in the Gazette, the representative of the Government of India Press stated that there was no procedure as such but the convention was that they went by the date and time of receipt of the notifications. In case two notifications were received together, they put them in the Gazette according to the file numbers.

8. When it was pointed out to the representative of the Government of India Press that the Ministry of Railways could not send their final reply to the Committee for 14 months for want of necessary information from the Government of India Press inspite of four reminders, the representative of the Government of India Press accepted the responsibility for not attending to the communications to the Ministry of Railways. He expressed his regret that his office did not appreciate the importance of those communications of the Ministry of Railways.

9. The representative of the Ministry of Railways assured the Committee that such delay in sending replies to the Committee would not occur in future and also agreed to issue corrigendum to correct the sequence of G.S.R. Nos. under reference.

(The witnesses then withdrew)

The Committee then adjourned.

XIII

MINUTES OF THE THIRTEENTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (SEVENTH LOK SABHA) (1980-81)

The Committee met on Monday, the 5th January, 1981 from 11.30 to 13.35 hours.

PRESENT

Shri Mool Chand Daga—*Chairman*

MEMBERS

2. Shri M. Ankincedu
3. Shri Eduardo Falcão
4. Shri Harish Kumar Gangwar
5. Shri K. Lakkappa
6. Shri T. Nagarathnam
7. Shri M. Ramanna Rai
8. Shri Ratansinh Rajda
9. Shri Ajit Pratap Singh

SECRETARIAT

1. Shri S. D. Kaura *Senior Legislative Committee Officer*
2. Shri S. S. Chawla *Senior Legislative Committee Officer*

* * * *

3. The Committee then considered Memoranda Nos. 38 to 50 on the following subjects:—

* * * *

(ii) **The Railway Protection Force (Amendment) Rules, 1977 (G.S.R. Nos. 32 and 33 of 1978)—(Memorandum No. 39)**

5. The Committee considered the above Memorandum and decided to hear evidence of the representative of the Ministry of Railways (Railway Board) for not following the instructions issued by the Ministry of Law in 1960, as also the guidelines issued by the Department of Parliamentary Affairs in 1972, in connection with giving of amendment numbers to the amending Orders.

* * * *

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

(vii) Printing and Publication of Compilation containing General Statutory Rules and Orders [Implementation of recommendations contained in paras 20 to 27 of the Sixth Report of the Committee on Subordinate Legislation (Sixth Lok Sabha)—(Memorandum No. 44)].

10. The Committee considered the above Memorandum and noted that all the 30 volumes of General Statutory Rules and Orders had been brought out for sale. The Committee desired the Ministry of Law (Legislative Department) to accelerate the pace of work regarding publication of revised editions of the compilation because without revised editions the compilation would be an out-dated document.

11. The Committee further noted the practical difficulties pointed out by the Ministry regarding introduction of system similar to the one in U.S.A. (Federal Registry) in connection with getting material from the agencies issuing the Rules for inclusion in the compilation of General Statutory Rules and Orders. The Committee had made that suggestion at the instance of the Ministry itself. If the Ministry felt that purpose could be served by issuing instructions to all Ministries/Department in this regard, then the Committee would not insist on introduction of that system.

12. The Committee further noted that all Ministries/Departments, except the Ministry of Railways, had agreed to replace the subordinate legislation surviving by virtue of General Clauses Act, 1897, by fresh legislation. The Committee, therefore, decided to hear evidence of the representatives of the Ministry of Railways (Railway Board) on this aspect alongwith the representatives of the Ministry of Law (Legislative Department).

13. The Committee also noted that the Ministry of Law had requested the Ministry of Works and Housing to issue necessary instructions to the Government Press to accord priority to the work relating to the printing of General Statutory Rules and Orders Volumes.

14. The Committee approved the suggestion for bringing out a compilation of Rules, including amending Rules issued during preceeding six months as also rules currently published, on annual basis instead of monthly/quarterly basis.

15. The Committee was unhappy to note that there recommendation regarding giving of foot-notes to the Rules including amending Rules was not uniformly being followed. The Committee desired the Ministry of Law (Legislative Department) that while vetting the Rules they should see that the practice was followed by all Ministries/Departments in letter and spirit.

* * * *

The Committee then adjourned.

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

XIV

MINUTES OF THE FOURTEENTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (SEVENTH LOK SABHA) (1980-81)

The Committee met on Tuesday, the 6th January, 1981 from 11-30 to 13-30 hours.

PRESENT

Shri Mool Chand Daga—*Chairman*

MEMBERS

2. Shri Eduardo Faleiro
3. Shri Harish Kumar Gangwar
4. Shri Jaipal Singh Kashyap
5. Shri M. Ramanna Rai
6. Shri Ratansinh Rajda
7. Shri Ajit Pratap Singh
8. Shri Chandra Shekhar Singh
9. Shri Xavier Arakal

SECRETARIAT

1. Shri S. D. Kaura *Senior Legislative Committee Officer*
2. Shri S. S. Chawla *Senior Legislative Committee Officer*

2. The Committee considered the following Memoranda (Memoranda Nos. 51 to 63) :—

* * *

- (ii) Implementation of recommendation contained in paras 23-26 of the Seventh Report of the Committee on Subordinate Legislation (Sixth Lok Sabha) regarding laying of Regulations framed under Central Acts before Parliament—(Memorandum No. 52)

5. The Committee considered the above Memorandum and agreed with the reasons given by the Ministry of Irrigation (Department of Irrigation) for not amending the River Boards Act, 1956 for making a provision regarding laying of regulations as it was not yet decided whether the River Boards would be constituted. The Committee, however, desired that in case the Act was

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

not repealed and the River Boards were constituted subsequently, the Ministry should amend the River Boards Act at the earliest opportunity with a view to provide for laying of regulations, framed thereunder, before Parliament.

6. As regards the University Grants Commission Act, 1956, the Committee noted that the Ministry of Education and Culture (Department of Education) had no objection to amending the Act for making provision for publication of the Regulations in the Gazette as also for their laying before Parliament. The Committee, however, desired that the Act should be amended in this regard by the end of Autumn Session, 1981.

7. The Committee were not convinced with the reasons advanced by the Ministry of Education and Culture (Department of Education) for not amending the Central Universities Acts so as to provide for the laying of Regulations framed thereunder before Parliament. The Committee decided to hear evidence of the representatives of the Ministry of Education and Culture (Department of Education) in the matter. The Committee also desired to hear the views of the Ministry of Law, Justice and Company Affairs (Legislative Department) in this regard.

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(xii) The Explosives (Second Amendment) Rules, 1977 (G.S.R. 990 of 1977)—(Memorandum No. 62).

18. The Committee considered the above memorandum and noted that, on being pointed out, the Ministry of Industry (Department of Industrial Development) had since amended the Indian Explosive Act, 1884 to provide for laying of rules before Parliament.

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The Committee then adjourned.

XV

MINUTES OF THE FIFTEENTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (SEVENTH LOK SABHA) (1980-81)

The Committee met on Friday, the 23rd January, 1981 from 11.30 hours to 13.30 hours.

PRESENT

Shri Mool Chand Daga—*Chairman*

MEMBERS

2. Shri M. Ankineedu
3. Shri Eduardo Faleiro
4. Shri K. Lakkappa
5. Shri M. Ramanna Raj
6. Shri Ratansinh Rajda
7. Shri Chandra Shekhar Singh
8. Shri Xavier Arakal

REPRESENTATIVES OF THE MINISTRY OF EDUCATION & CULTURE (DEPARTMENT OF EDUCATION)

1. Shri Kireet Joshi, Educational Adviser
2. Shri M. R. Kolhatkar, Joint Secretary

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REPRESENTATIVES OF THE MINISTRY OF LAW, JUSTICE & COMPANY AFFAIRS (LEGISLATIVE DEPARTMENT)

1. Shri R. V. S. Peri Sastri, Secretary
2. Shri S. Ramaiah, Joint Secretary & Legislative Counsel.

SECRETARIAT

Shri S. D. Kaura

Senior Legislative Committee Officer

**IMPLEMENTATION OF RECOMMENDATIONS CONTAINED IN
PARAS 23-26 OF THE SEVENTH REPORT OF THE COMMITTEE
ON SUBORDINATE LEGISLATION (SIXTH LOK SABHA) REGARD-
ING LAYING OF REGULATIONS FRAMED UNDER CENTRAL
ACTS BEFORE PARLIAMENT.**

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

2. The Committee heard oral evidence of the representatives of the Ministry of Education and Culture (Department of Education) and the Ministry of Law, Justice and Company Affairs (Legislative Department) in regard to laying of Regulations framed under Central Acts before Parliament.

3. The Committee desired to know whether the Ministry of Education and Culture had any objection to the laying of regulations framed under the Central Universities Acts and their amendments before Parliament. The representatives of the Ministry of Education and Culture (Department of Education) stated that the present practice was that the statutes, ordinances and regulations issued under the Universities Acts were not being laid before Parliament as some of them pertained to day-to-day matters. He further added that if all those regulations were placed before Parliament, it would increase the work both of the Government as well as of Parliament and that it would not be economical also. He also stated that in some respects, it might even be wasteful.

4. The Committee while referring to Rule 234(1) of the Rules of Procedure and Conduct of Business in Lok Sabha, pointed out that there were certain sections in the certain Universities Acts which empowered the Universities to frame regulations for carrying out the functions of the Universities. If those regulations were not laid on the Table of the House, how could Parliament ensure that the regulations framed under delegated powers were within the limits laid down by it. The Committee also drew attention of the representative of the Ministry to the fact that non-laying of regulations before Parliament and non-publication thereof deprived the Members of their statutory right to move amendments for modifying or annulment thereof. Moreover, Parliament and its Committees should have the right to examine whether the rules and regulations so framed were in consonance with the provisions of the Act and to ensure that they were not against natural justice. The Committee also did not agree with the arguments put forward by the representatives of the Ministry of Education and Culture that laying of regulations would be uneconomical and burdensome. The Committee then reiterated their earlier recommendation contained in paras 36-37 of their Third Report (First Lok Sabha) wherein it was emphasised on Government to make a suitable provision for laying and modification in all future Bills which might seek to delegate power to make rules, regulations etc. or which might seek to amend earlier Acts giving power to make rules, regulations etc. That recommendation was also accepted by Government *vide* paras 78-79 of the Committee's Sixth Report (First Lok Sabha).

In reply, the representative of the Ministry of Education and Culture (Department of Education) conceded that the Government had accepted the

recommendation of the Committee and there was no question of deviating from it. The Ministry only wanted to seek clarification from the Committee as to whether all the regulations should be laid on the Table in view of the practical difficulties like time consuming process and some wasteful expenditure.

5. When the Committee again reiterated that how otherwise Parliament would know whether the regulations surpassed the scope of the section of the Act giving delegated powers and also enquired as to why the Committee were not informed earlier about the practical difficulties, if any faced by the Ministry in laying the regulations, the representative of the Ministry apologized for the lapse and added that they would abide by the decision of the Committee.

6. The Committee then asked the representative of the Ministry of Law Justice and Company Affairs to express his views in regard to laying of Regulations etc. framed under the delegated powers, before Parliament, who stated that there could not be two opinions regarding the need for scrutiny of regulations by Parliament. He added that the various University enactments contemplated three forms of subordinate legislations in the following order of importance :

- (1) Statutes; (2) Ordinances; and (3) Regulations.

He further explained that the Regulations dealt with unimportant matters of details. Statutes and Ordinances which stood on a higher footing dealt with more important policy matters than the regulations. On principle, there was no objection in laying regulations etc. on the Table of the House. During the last session itself, Parliament had amended a few enactments to include relevant provisions relating to laying of regulations on the Table of the House.

7. The Committee then desired the representative of the Ministry of Law to ensure that in all Acts provision for laying of regulations framed thereunder was incorporated invariably to which the representative agreed. When pointed out that the matter had been pending since 1955, the representative explained that whenever the relevant Act came up for amendment for any other purpose, the Ministry of Law had been incorporating the relevant provisions relating to laying of regulations etc. on the Table of the House. The Committee then asked the representative of the Ministry of Law, Justice and Company Affairs to issue another circular to all the Ministries impressing upon them to examine urgently all Acts which delegate power to make regulations and to incorporate suitable provisions in these Acts for laying of the regulations framed thereunder.

(The witnesses then withdrew)

The Committee then adjourned.

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

XVI

MINUTES OF THE SIXTEENTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (SEVENTH LOK SABHA) (1980-81)

The Committee met on Saturday, the 24th January, 1981 from 11.30 hours to 13.40 hours.

PRESENT

Shri Mool Chand Daga—*Chairman*

MEMBERS

2. Shri T. V. Chandrashekharappa
3. Shri Eduardo Faleiro
4. Shri Jaipal Singh Kashyap
5. Shri K. Lakkappa
6. Shri T. Nagaratnam
7. Shri M. Ramanna Rai
8. Shri Chandra Shekhar Singh
9. Shri Xavier Arakal

REPRESENTATIVES OF THE MINISTRY OF RAILWAYS (RAILWAY BOARD)

1. Shri K. P. Jayaram, Member Staff & Ex-Officio Secretary.
2. Shri C. Ramakrishna Rao, Legal Adviser
3. Shri Radhey Shyam, Deputy Secretary
4. Shri M. C. Misra, Director, Security
5. Shri R. K. Kharbanda, Additional Director (Security)
6. Shri V. Ganesh, Joint Director.

REPRESENTATIVES OF THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (LEGISLATIVE DEPARTMENT)

1. Shri R. V. S. Peri Sastri, Secretary
2. Shrimati V. S. Rama Devi, Joint Secretary Legislative Counsel

SECRETARIAT

1. Shri Gian Chand *Additional Secretary*
2. Shri S. D. Kaura *Senior Legislative Committee Officer*

2. The Committee heard evidence of the representatives of the Ministry of Railways (Railway Board) and the Ministry of Law on the following matters :—

(i) The Railway Protection Force (Amendment) Rules, 1977 published under G.S.R. Nos. 32 and 33.

3. To a query whether in the case of two or more Amendments to the Rules framed under the Railway Protection Force Act and issued together during the same year, did the Ministry not see that the serial numbers to those Amendments, such as First Amendment, Second Amendment and so on, were given to them, the representative of the Ministry of Railways stated that the serial numbers were not given due to an 'oversight.' He added that the two Amendment Rules in question had since been assigned Amendment numbers as Second Amendment and Third Amendment respectively through corrigenda published under G. S.R. Nos. 1172 and 1173 in the Gazette of India, Part II, Section 3(i) dated the 23rd September, 1978.

4. On being asked whether the instructions issued by the Ministry of Law in the year 1960 in this regard (for giving of serial numbers to Amendments etc. and the extracts of the recommendations made by the Committee on Subordinate Legislation in that regard, which were circulated by the Department of Parliamentary Affairs in March, 1972, were in the knowledge of the Ministry, the representative could not lay his hands on those papers but he admitted that these general instructions must have been missed by an oversight by the Ministry.

5. On being further asked as to how it happened that Amendment to the Rules issued on the 15th December, 1977 had been serially numbered as "Third Amendment" whereas the Amendment issued on the 17th December, 1977 was numbered as "Second Amendment", the Law Secretary explained that in that case the interval between the two notifications was only two days. What happened was that these people sent it to the press for publication and, sometimes, the papers got mixed up. The earlier thing was thus published later.

6. To a further question as to how there could be mix-up of dates, the Law Secretary stated that 'this sort of situation could be avoided by the administrative Ministry by taking additional precautions. When they send the second one, they should say. We have already sent to you one earlier. Please take care to see that this is published subsequent to that.'

The representative of the Ministry of Railways promised to clarify the position in that regard after looking into their records.

7. The Committee, however, desired the Ministry to fix responsibility on the officer concerned in so far as the present case was concerned so that

this kind of mistake did not take place again. The Committee also directed that a copy of the instructions issued by the Ministry in that regard might be submitted to the Committee.

8. When asked whether there was any system in the Ministry of Railways for attending to the Parliamentary references made to them, the representative of the Ministry stated that they had a Parliament Branch in the Secretary's Section. They received all the communications and channelled them to their various Directorates. They had ten Directorates. They made detailed study and commented upon the issues. Where consultation with the Legal side was involved, the Directorates were expected to make consultations, discussions and frame points in consultation with the Legal Adviser.

The representative of the Ministry promised to send Organisation Chart later in support of his above statement.

(II) Implementation of recommendation made by the Committee on Subordinate Legislation in para 25 of the Sixth Report (Sixth Lok Sabha) Re : Amendment of Clause 24 of the General Clauses Act in connection with printing and publication of compilation containing General Statutory Rules and Orders.

9. When the Committee asked whether the rules made by Ministry of Railways under various Acts had been published in the Gazette and compiled in a Manual or Book form, the representative stated that the rules had been published in the Gazette but they had not been compiled as a single Manual. When the Committee desired that these should be compiled in one Manual and wanted to know when that work of compilation of Manual would be completed the representative stated that they had indentified two or three areas in which compilation Manuals could be undertaken and assured the Committee that the work would be completed by the end of year 1981.

10. On being asked whether the Ministry of Railways wanted to amend Clause 24 of the General Clauses Act or not, the Law Secretary explained the background as follows :—

“..... This was on the basis of the recommendation made by the Committee earlier, on the basis of the evidence which I gave before the Committee. We are trying to devise ways and means to improve the position. You will kindly recall, some suggestions were made by me. The Committee accepted those suggestions. It is a question of evolving the pattern by the administrative Ministry and so on. We could look into the old Acts and Regulations, we could see whether anything is called for, and come to positive conclusions about it, to conclude whether such and such amendment is to be made or not. We can re-issue old rules. The Committee may like to give more time for it. I think we may wait for 2 years or so, before we come up with amendments.”

11. On being further asked about fixing of time-limit for the purpose, the Law Secretary stated that he did agree that some time-limit should be fixed. They had to take a practical view of the matter. This was a system which had been passed on to them for the past 100 years. That system historically had been continuing with them from 1879 onwards. The Draftsmen used the same language in individual Acts. Section 20 of the Jurisdiction Act of 1879 was one of the earliest instances of this type of Section. In the 1879 Act, this type of generalisation was made in Section 24. There were a number of old enactments. These had gone into the field of 'State list'. He pointed out that there was 'State Lists' also. Actually what he felt was, they should give some more time and in the meanwhile, they should pressurise the administrative Ministries.

12. When asked as to the time-limit for compilation of all volumes of the Rules, the Law Secretary stated that so far as compilation was concerned, he was happy to say that they had completed the work within the target date. All the 30 volumes had been published. During 1978—80, they had published volumes 23 to 30, i.e. 8 volumes. The earlier volumes 22 were published from 1960 to 1978. Formerly, this was done in the Section. They were a small Department having 10 draftsmen and the Committee knew the pace of legislation. Explaining the practical difficulties in amending Clause 24 of the General Clauses Act and the necessity of a time-limit of five years or more, the Law Secretary stated :—

“As I submitted earlier, and in 1978 also, there is no difference of opinion about the need for putting a time-limit. It is only a question of value judgement as to when we should act. In arriving at that value judgement we have to take into account the fact that for normally one hundred years, the Departments and other rule-making authorities have been acting on the basis of this position, available under Section 24. There would be quite a few cases where elaborate research and looking back will be necessary particularly because—I am sorry to say—most Departments do not maintain lists of Subordinate Legislation under the enactments with which they are administratively concerned. Therefore, if we start a practice like this, there is a risk of a situation of a void being created. The old rules were amended. But a situation may arise in which some provisions similar to the old rules, which had arisen earlier may become necessary. So, it is only this practical aspect that has to be taken into account in coming to a conclusion as to what time should be given.”

13. When the Committee desired that the Ministries should be asked to repeal the rules which had been enacted under the repealed enactments and to make new rules in replacement of the old rules, the Law Secretary stated that that would be good. All those rules under repealed enactments which were continuing by virtue of section 24 of the General Clauses Act should be identified and replaced by new rules within a limited time. But again they would come to the Legislative Department for that. The Committee should give them about a year's time.

(The representative of the Ministry of Law then withdrew)

The Committee then adjourned.

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

XVIII

MINUTES OF THE EIGHTEENTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (SEVENTH LOK SABHA) (1980-81)

The Committee met on Wednesday, the 15th April, 1981 from 15.30 to 16.00 hours.

PRESENT

Shri Mool Chand Daga *Chairman*

MEMBERS

2. **Shri Harish Kumar Gangwar**
3. **Shri Jaipal Singh Kashyap**
4. **Shri M. Ramanna Rai**
5. **Shri Ratansinh Rajda**
6. **Shri Chandra Shekhar Singh**

SECRETARIAT

Shri S. D. Kaura *Senior Legislative Committee Officer.*

2. The Committee considered their draft Sixth Report and adopted it.
3. The Committee authorised the Chairman, and in his absence, Shri Chandra Shekhar Singh to present the Sixth Report to the House on their behalf on the 21st April, 1981.

The Committee then adjourned.
