

COMMITTEE ON SUBORDINATE LEGISLATION

(SIXTH LOK SABHA)

TWENTIETH REPORT

ON

**Laying of Rules Framed by State Governments
Under Central Acts Before State Legislatures/
Parliament**

(Presented on the 27-4-1979)



**LOK SABHA SECRETARIAT
NEW DELHI**

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Corrigendum to the Twentieth Report
of the Committee on Subordinate
Legislation (Sixth Lok Sabha)
(Presented on 27th April, 1979)

<u>Page</u>	<u>Line</u>	<u>For</u>	<u>Read</u>
8	28-29	legislation	legislatures
16	24	paragraph 7	paragraph
30	-	-	add foot note "*See Annexure"
35	26 under heading "Reply"	ise	is
37	1 -do-	Finally	Final
	7 -do-	Rules	Rules of
	8 -do-	etc.1 must	etc. must be
	9 -do-	-	After "can" insert "be scrutinised by the Committee"
51	12	Does arise	Does not arise
	34	include	included
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55	3	name of State/Legisla- tive Council/ Assemblies etc. whv	names of State Legislative Councils/Assemb- lies etc. who
65	11	Shri Santo Shrao Gode	Shri Santoshrao Gode
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COMPOSITION OF THE COMMITTEE ON SUBORDINATE
LEGISLATION

(1978-79)

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SECRETARIAT

Shri Y. Sahai—*Chief Legislative Committee Officer.*

6. The Committee after taking into consideration the comments received from the State Legislatures etc. considered and adopted this Report at their sitting held on the 19th April, 1979. The relevant Minutes of the sittings which form part of the Report are appended to it.

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

**LAYING OF RULES FRAMED BY STATE GOVERNMENTS .
UNDER CENTRAL ACTS BEFORE STATE LEGISLATURES|
PARLIAMENT**

8. A large number of Central Acts falling under the 'Concurrent List' as well as under the 'Union List' in the Seventh Schedule to the Constitution of India delegates rule making power to State Governments. The propriety of providing for laying of rules framed thereunder by a State Government on the Table of the State Legislature or Parliament was first discussed in the House during the Second Lok Sabha.

9. Shri T. N. Viswanatha Reddy, a member of the then Committee on Subordinate Legislation, raised this issue during clause by clause consideration of the Poisons (Amendment) Bill, 1958. He had moved an amendment to the effect that the principal Act be amended to provide for laying of rules made thereunder by the State Governments, before the State Legislatures for 30 days and should be subject to modification by the respective legislatures. A doubt was expressed in respect of this amendment whether such a provision as far as State Legislatures were concerned could be made in a Central Act. The then Minister of Home Affairs opposed this amendment saying that such a provision could not be made in a Central Act. The amendment, however, was not pressed.

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

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

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

13. The Committee on Subordinate Legislation (Second Lok Sabha) went in depth into the question of laying of rules framed by State Governments under Central Acts before State Legislatures and considered the following arguments that could be advanced against this view:—

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

the rules may be made by the State Legislature would be contrary to the Constitution. Parliament and the State Legislatures are within their respective Legislative spheres paramount.

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

14. The Committee also considered the desirability of the second course, viz., the laying of rules framed by the State Governments under a Central Act before Parliament and came to the conclusion that this course could not be a practical proposition in view of the following considerations:—

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

15. The recommendation of the Committee on the subject contained in para 40 of the Fifth Report (Second Lok Sabha) was discussed by the Chairman of the Committee with the then Deputy

Minister of Law (Shri Hajarnavis). After taking note of the above mentioned difficulties, they felt as under:—

“.....the better course would be to request the State Governments to have laws enacted by their Legislatures to provide or laying of the rules framed by them (either under a Central Act or State Act) before the State Legislatures and for their modification, if any, by the respective Legislatures.”

After considering the matter, the Committee endorsed the above conclusion.

16. According to the action-taken note dated the 1st May, 1961, received from the Ministry of Law (Legislative Department), the above recommendation of the Committee was brought by them to the notice of the State Governments for necessary action in 1961.

17. Till the end of 1973, the Ministry of Law had no information as to how many State Governments had enacted laws to provide for the laying of rules framed by them under a Central Act before the State Legislatures and their modification, if any, by the respective Legislatures. The Committee in para 99 of their Tenth Report (Fifth Lok Sabha) presented to Lok Sabha on the 3rd April, 1974, observed as under:—

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

the Committee. The Committee desire that the Ministry should now pursue the matter with State Governments in right earnestness and inform them at the earliest as to how many States have enacted laws providing for laying of rules framed by them under Central Acts."

18. The question regarding laying of rules framed by State Governments under Central Acts before State Legislatures was also considered by the Conference of Chairman of Committee on Subordinate Legislation held from the 14th to 16th March, 1975. During the course of discussion, a doubt was raised whether a State Legislature could make a law providing for laying and modification of rules framed by a State Government under a Central Act dealing with matters falling in List I—Union List of the Seventh Schedule to the Constitution. The Conference desired that the matter might be referred to the Ministry of Law, Justice and Company Affairs for their opinion.

The Committee on Subordinate Legislation considered the matter at their sitting held on the 28th April, 1975 and decided that, as desired by the Conference of the Chairman of Committees on Subordinate Legislation, opinion of the Ministry of Law, Justice and Company Affairs might be obtained.

20. The Ministry of Law, Justice and Company Affairs (Legislative Department), with whom the above matter was taken up, have replied as under:—

"The undersigned is directed to refer to the Lok Sabha Secretariat O.M.....regarding the question whether State Legislature could make a law providing for laying on the Table of the State Legislature rules framed by the State Government under a Central Act dealing with matters falling in List I—Union List of the Seventh Schedule to the Constitution.

The above question has been carefully examined. If legislative supervision of rules framed by a State Government under a Central Act dealing with matters falling in the Union List is necessary, such supervision should be done by the body which has enacted the parent law. It is the responsibility of the body enacting the substantive

law to ensure that its executive delegate has not transgressed the power of framing rules granted to it. If a body is competent to enact a law under which the power to frame rules has been delegated, that body alone is competent to exercise the power of legislative supervision. Consequently, in the absence of a specific authority, the State Legislature will not be competent to enact a law providing that the rules framed by it under a Central enactment shall be laid before it.

On the other hand, if the Central Legislation provides that the rules made thereunder by the State Legislature should be placed before Parliament, the following difficulties would arise, namely:—

- (a) No particular Central Minister will be responsible for having framed them or for laying them since the rules would not have been framed by an authority subordinate to, or under the control of, any Central Minister.
- (b) Rules framed by State Government would be based on local conditions, material facts within its knowledge and unless all those are made known to Parliament, the discussion would not be comprehensive.
- (c) If such rules are discussed in Parliament for amending them, it would be impossible to draw a line and stop criticism of the State Government or of its officers either directly or indirectly.

Having regard to the position, as explained above, it is felt that the better course would be to request the State Governments to have laws enacted by their legislation to provide for laying of the rules framed by them under a Central Act before the State Legislature and for their modification, if any, by their legislatures. Certain State Governments have expressed their willingness to undertake such legislation, but the assent of the President will have to be obtained in respect of such an enactment. The question whether such legislation should be undertaken or not rests with State Governments."

21. The Committee (1976-77) considered the above reply of the Ministry of Law at their sitting held on the 5th August 1976 and decided to hear oral evidence of the representatives of the Ministry of

Law, Justice and Company Affairs (Legislative Department) in the matter. Issues involved in the case were formulated and sent to the Law Ministry for comments before taking their evidence.

22. The issues forwarded to the Ministry of Law and their comments thereon are given in Appendix II.

23. A gist of the replies of the Ministry of Law is given below:—

I. Central Acts falling under the Union List

- (i) In respect of a Central Acts falling within the Union List (like the Central Sales Tax Act, 1956 and Coffee Act, 1942), where Parliament has delegated the power to the State Government to frame rules for giving effect to the provisions of such Act, Parliament alone is competent to exercise the power of legislative supervision. The State Legislature is not competent to enact legislation providing that rules framed thereunder by the State Government shall be laid before it.
- (ii) As under the Constitution, Parliament alone is competent to enact a law falling within the Union List, Parliament cannot authorise the State Legislature to make a law for laying or for modification of rules framed by a State Government under a Central Act falling within the Union List.
- (iii) The Committee on Subordinate Legislation of Parliament can scrutinize the rules framed by the State Governments under Central Acts falling within the Union List and report thereon to the respective Houses of Parliament. The Reports may be discussed by the Houses of Parliament.
- (iv) If the Committee on Subordinate Legislation is of the opinion that in framing a particular set of rules a State Government has transgressed the power of framing of rules granted to it or the power granted to it has not been properly exercised, this may be brought to the notice of the concerned State Government through the Central Government.
- (v) Having delegated the power to State Governments, it will not be in order for Parliament to modify or annul a rule framed by a State Government under a Central Act falling within the Union List.

II. *Central Acts falling under the Concurrent List*

- (i) In regard to Central Acts falling within the Concurrent List which empower the State Government to make rules, the State Legislature can provide for laying of rules made under such Acts before the State Legislature and the Committee on Subordinate Legislation of Parliament need not examine such rules.
- (ii) No specific authority of Parliament is necessary for enabling a State Legislature to make a law for laying before and modification by it of rules framed by a State Government under a Central Act falling under the Concurrent List.
- (iii) There seems to be no legal hitch if a State Legislature makes a provision in its Rules of Procedure or, alternatively, the Speaker of a State Legislature issues a direction empowering the Committee on Subordinate Legislation of the State Legislature to examine the rules framed by the State Government under a Central Act falling within the Concurrent List, whether such rules are laid before the State Legislature or not.

24. One of the difficulties for not laying the rules framed by the State Government under a Central Act before Parliament is that no particular Central Minister will be responsible for having framed those rules or for laying them before Parliament. The Ministry of Law were asked whether the Central Minister concerned with the subject-matter of the Act could not lay such rules before Parliament. In their reply, the Ministry of Law have stated as follows:—

“A Central Minister concerned with subject matter of a Central Act falling within the concurrent List can lay before Parliament the rules framed thereunder by a State Government. But a discussion on such rules will not be complete unless the local conditions, material facts, etc., prevailing in the State concerned are fully placed before Parliament. Further, this might affect Central-State relations. The difficulties in such a procedure (enumerated in paragraph 91 of the Tenth Report of the Committee on Subordinate Legislation of the Fifth Lok Sabha) will still remain.”

25. With a view to finding out the latest position in regard to the action taken by State Governments on the recommendations of the

Committee on the subject, Lok Sabha Secretariat wrote to the State Governments, requesting them to state:—

- (a) whether the State Legislature had passed any enactment to provide for laying of rules framed by the State Government under a Central Act before the State Legislature;
- (b) if not, whether they proposed to bring in any legislation in the State Legislature in that regard; and
- (c) in case no such legislation had either been passed or was proposed to be brought forward before the Legislature the views of the State Governments in the matter.

Simultaneously, Lok Sabha Secretariat also wrote to the State Legislature Secretariats requesting them to state—

- (a) whether it was necessary under the Rules of Procedure| Directions by the Speaker that the Rules framed by the State Government must be laid before the State Legislature before they could be scrutinized by the Committee on Subordinate Legislation, and
- (b) if not, whether State Committee on Subordinate Legislation was scrutinizing the rules framed by the State Government under a Central enactment.

26. Eighteen State Governments and Twenty-Seven State Legislature Secretariats have so far sent their replies. Gist of the replies sent by State Governments is given in Appendix III and that sent by State Legislature Secretariats is given in Appendix IV. The reply sent by the Tamil Nadu Legislative Assembly Department is given in extenso in Appendix V.

27. It has been observed from the replies received that in as many as sixteen State Legislatures, it is not necessary that the rules must be laid on the Table before the State Committee could scrutinize them. The State Committees of these legislatures also examine/have examined rules framed by the State Governments under Central Acts. As regards special legislation in this regard by State Governments, only Orissa and Uttar Pradesh Governments have so far amended the Orissa General Clauses Act and the U.P. General Clauses Act to provide that the rules made by the State Government under Central enactments shall be laid before each House of the State Legislature.

28. In their reply (Appendix V) the Tamil Nadu Legislative Assembly Department have referred to the opinion of the Advocate General of Tamil Nadu that under Article 258(2) of the Constitution, 'Parliament may in any enactment in which it authorises the State Government to make rules at the same time provide for its being laid before the State Legislature and also provide that the State Legislature may modify the rules'. Points raised in the reply were referred for comments to the Ministry of Law, Justice and Company Affairs (Legislative Department). The points raised and comments thereon of the Ministry of Law, Justice and Company Affairs are given in Appendix VI.

29. The issue also came up before the Conference of Presiding Officers of Legislative bodies in India held at Bhubaneswar on 20th January, 1978. The Chairman of the Conference observed that the State Committees should examine the rules framed under Central Acts in so far as the subjects in the Concurrent List were concerned. He suggested that the Speakers could issue a direction on the lines of the directions issued by the Speaker of Lok Sabha in the matter.

30. In respect of rules framed by State Governments under Central Act on matters falling in the Union List, the Chairman observed that a suitable procedure for the scrutiny of such rules would have to be evolved and the Ministry of Law would be asked to suggest how the difficulty could be resolved.

31. At their sitting held on the 30th March, 1978, the Committee heard oral evidence of the representatives of the Ministry of Law, Justice and Company Affairs (Legislative Department) in the matter.

32. The following points emerged out of discussion with the representatives of the Ministry and subsequent clarifications received from them:—

A. Rules framed by State Governments under Central Acts falling under the Concurrent List

- (i) The executive power including rule-making power is invariably vested in State Governments as they are the administering authority and are aware of local conditions.
- (ii) Sometimes, Central Government have framed model rules especially in respect of laws falling under the labour field and forwarded them to the State Governments to ensure some measure of uniformity in the matter.

- (iii) Earlier under the Government of India Act and later under the Constitution, the rules were simply required to be laid before the State Legislature without any further provision as now made in the model clause for scrutiny, modification or rejection of Rules. Only in the Motor Vehicles Act, and the Bidi and Cigar Workers (Conditions of Employment) Act, provision had been made for laying of rules before the State Legislatures for a specific period and they were subject to modification, if any by the State Legislatures. These two Acts, however, could not serve as a model.
- (iv) As to the incorporation of the usual provision for laying and modification in Acts, the snag is that the rules that are laid can be modified within a specified period. Such a provision will amount to a curb on the State Legislature which is free in its sphere of framing its Rules of Procedure and will be repugnant to the Constitutional provision in Article 208.
- (v) The only solution would be that the State Legislature may be permitted to make an amendment for the purpose in the relevant law. The amending Act may provide that the rules framed by the State Government shall be laid before the State Legislature and shall be subject to modification, if any, and it shall get the assent of the President also. Such an Act framed by the State Legislature would not impinge upon the Constitutional provisions.

B. Rules framed by State Government under Central Acts falling in the Union List

- (i) The State Legislature is not competent to Legislate in respect of a matter in the Union List. Delegated legislative powers have been given to the State Government for the sake of convenience.
- (ii) There is a Constitutional impropriety if the rules framed by State Governments under Central Acts on subjects included in the Union List are laid on the Table of the State Legislature. The object of laying is that it should be subject to scrutiny by an appropriate forum.
- (iii) Laying involves first the action on the part of the rule-making authority to lay the rules and secondly, the State Legislature has to allow the rules to be laid. First aspect

can be covered by Article 258(1) but not the second part viz., permission of the State Legislature to lay.

- (iv) Article 258(2) cannot be relied upon for the purpose of making rules.
- (v) There should be no provision in a Central Act falling under the Union List for laying of rules framed under it by the State Government before State Legislature.
- (vi) The number of Acts on Union Subjects delegating rule-making power to State Governments is negligible.
- (vii) There can be a provision in a Central Act on Union Subject that the rules framed by the State Government will be laid on the Table of each House of Parliament for a specific period and will be subject to such modifications as the House may choose to make. There can also be a provision for framing of rules 'with the approval of Central Government' as has been done in the Probation of Offenders Act. It can also be provided that the rules shall be 'subject to scrutiny by Parliament.'
- (viii) If a provision is made for a State Legislature to act in an advisory capacity if it felt that a rule framed by the State Government was not proper, this will amount to 'recognition of jurisdiction, creation of jurisdiction'. But if on the other hand they voluntarily tendered advice on their own, it stood slightly on a different footing.
- (ix) If a State Committee on Subordinate Legislation on its own scrutinises the rules on subjects in the Union List, they may be exceeding their jurisdiction in doing so but it cannot be questioned.
- (x) There is a difference between the State Legislature or the Speaker asking the Committee on Subordinate Legislation to scrutinise rules on subjects in the Union List and the Committee on its own examining them. If the advice is voluntary, it stands on a different footing.
- (xi) Any rule in the Rules of Procedure of a State Legislature or a direction by the Presiding Officer of a State Legislature empowering the Committee on Subordinate Legislation of that legislature to examine the Rules made by the State Government on a Union Subject does not appear to be *intra vires* Article 208. Rules made under Article 208 can be only in respect of procedure of the House and the con-

duct of procedure of the House and the conduct of its business and the business of a State Legislature can be only with reference to matter which can be considered by the State Legislature under the Constitution.

33. In their letter dated the 29th April, 1978 the Ministry of Law, Justice and Company Affairs (Legislative Department) have pointed out that the following Central Acts on subjects included in the Union List contain a provision for empowering the State Governments to make rules:—

- (i) The Coffee Act, 1942 (7 of 1942) (Section 15).
- (ii) The Mines and Minerals (Regulation & Development) Act, 1957 (67 of 1957) (Section 15).
- (iii) The Central Sales-tax Act, 1956 (74 of 1956) Section 13(4).
- (iv) The Cardamom Act, 1965 (42 of 1965) Section 12.

34. None of the above Acts contains a provision for laying of the rules made by the State Governments before the State Legislature or their being subject to any modification as the State Legislature may make.

35. The Ministry of Law who were requested to suggest a feasible arrangement whereby rules framed by a State Government on a Union subject do not remain unscrutinised have stated as under:—

“One solution may be to provide—

- (a) that the State Government shall forward the rules made by it to the Central Government;
- (b) that the Central Government shall lay them before Parliament; and
- (c) that the rules may be annulled or modified by Parliament under the general formula relating to laying of rules applicable in the case of Central Government.

It may also be submitted that the provisions of rule 317 of the Rules of Procedure and Conduct of Business in Lok Sabha are sufficiently wide to enable the Committee on Subordinate Legislation to scrutinise any regulations, rules, sub-rules, bye-laws, etc. made in exercise of powers delegated by Parliament. The rule covers all delegates and there is no restriction with regard to rules made by State Governments as delegates. In order to exercise the power

under the said rule 317, it is submitted that the Committee would have the necessary ancillary powers of calling for copies of the rules. In pursuance of said rule 317, the Committee may also consider whether the object which it has in view can be achieved by issuing suitable instructions. The question whether any more efficacious alternative arrangements are feasible will be further considered and a reply in this respect will be sent in due course if we are able to devise a better alternative.

As there are quite a number of Central enactments under which State Governments have powers to make rules, the approach suggested above will mean the scrutiny of as many as 22 sets of rules (one set for each State) with respect to each enactment. The number of sets will be more if the Union territories are also to be taken into account. This will also involve additional work by way of correspondence with State Governments, preparation of Hindi Translation of the rules, securing time for the parliamentary business for the laying of rules and informing the State Governments about the reactions of Parliament/Committee on Subordinate Legislation. Before a decision is taken, the practical implications of these will also have to be taken into consideration. If the powers under rule 317 referred to in above paragraph 7 are invoked on a selective basis, the procedure will be less informal."

36. The Committee note that a number of Central Acts dealing with matters enumerated in the Concurrent List as well as in the Union List contained in the Seventh Schedule to the Constitution delegates rule making power to State Governments. There is no provision in these Acts excepting a few for laying of the rules framed thereunder by State Governments on the Table either of the State Legislatures or Parliament with the result that these rules escape legislative scrutiny. The Committee have always been of the opinion that rules framed by the Executive should not escape such scrutiny and there must be some legislative machinery to ensure that the delegated powers are exercised properly and within such delegation.

37. The Committee on Subordinate Legislation (Second Lok Sabha), after considering the pros and cons of adopting either of the two courses i.e. laying the rules framed by State Governments under the Central Acts before State Legislatures or Parliament, had come to the conclusion that the better course would be to request the State Governments to have laws enacted by their Legislatures to provide

for laying of the rules framed by them under a Central Act or State Act before the State Legislatures and for their modification, if any, by the respective Legislatures. (V de paras 46—52 of Seventh Report—Second Lok Sabha). The Committee note that but for Orissa and U.P. Governments no other State Government have enacted such a law so far.

38. The Committee are of the opinion that in so far as rules framed by State Governments under Central Acts on Concurrent subjects are concerned, there is no bar, legal or otherwise, in their scrutiny by the State Committees on Subordinate Legislation. In this connection, the Committee note the opinion of the Ministry of Law that a State Legislature could make a law providing for laying before it and subject to modification by it of rules framed by the State Government under a Central Act in respect of matters enumerated in the Concurrent List. No specific authority of Parliament is necessary for enabling a State Legislature to make such a law. There is also no legal bar if a State Legislature makes a provision in its Rules of Procedure or alternatively the Presiding Officer issues a direction, empowering the Committee on Subordinate Legislation of the State Legislature to examine the rules framed by State Government under a Central Act on a Concurrent subject, whether such rules are laid before the State Legislature or not. During the course of evidence before the Committee, the representatives of the Ministry of Law have also conceded that a provision could be made in the Central Acts on Concurrent subjects requiring the State Government to simply lay the rules framed thereunder by them before the State Legislature. The Committee note in this connection that a provision on these lines has in fact been made in the Industrial Relations Bill, 1978.

39. The Committee, therefore, recommend the Ministry of Law, Justice and Company Affairs (Legislative Department) to incorporate such a provision in all Central Acts on Concurrent subjects which delegate rule-making power to State Governments.

40. The Committee note the following difficulties which would arise if the rules framed by State Governments under Central Acts on Union subjects are required to be laid before Parliament:—

- (i) No particular Central Minister would be responsible for having framed them or for laying them since the rules would not be framed by an authority subordinate to or under the control of any Central Minister;

- (ii) Rules framed by State Governments would be based on local conditions and material facts within their knowledge and unless all these are made known to Parliament, the discussion would not be comprehensive; and
- (iii) If such rules were discussed in Parliament it would be impossible to draw a line to stop criticism of State Government concerned or their officers either directly or indirectly. Such a discussion was likely to be misunderstood by the State Government and affect Centre-State relations. Moreover the Central Minister will have no material to reply to such criticism.

41. In view of the above practical difficulties and the federal character of the Constitution, the Committee feel that it will be more appropriate if such rules are also scrutinised by some State Legislative machinery. For this purpose, a procedure could be devised whereby even in the absence of a statutory provision, these rules are taken up for scrutiny by the Committee on Subordinate Legislation of the State Legislatures.

42. The Committee are of the opinion that there would be no Constitutional impropriety if the rules framed by a State Government under a Central Act on a Union subject are laid before the State Legislature for the information of Members. In this connection, the Committee are not inclined to agree with the opinion of the Ministry of Law that a State Legislature by permitting these rules to be laid before it would be impinging upon the jurisdiction of Parliament. The Committee feel that in reaching that opinion the Ministry of Law had acted with over-caution and taken too legalistic a view of the problem. The Committee note that the Ministry of Law have agreed that a recommendation by the Committee on Subordinate Legislation of a State Legislature on a rule framed under a Central Act relating to Union List is not equivalent to a law made by the State Legislature on a 'Union subject'. The Committee are, therefore, of the view that a State Committee on Subordinate Legislation would not be exceeding their jurisdiction if they scrutinise the rules framed by State Government on a Union subject and send their suggestions to the State Government. However, in such an arrangement the State Legislature will have as such no power to modify the rules.

43. The Committee also see no Constitutional inhibition if the Speaker of a State Legislature issued a direction empowering the State Committee on Subordinate Legislation to examine such rules

even if they are not laid on the Table. The Committee do not agree with the opinion of the Ministry of Law that such a direction does not appear to be intra-vires Article 208 of the Constitution.

44. The Committee also desire that such State Legislatures as do not have Committee on Subordinate Legislation should be requested to constitute these Committees.

NEW DELHI;
The 19th April, 1979.

SOMNATH CHATTERJEE,
Chairman,
Committee on Subordinate Legislation.

APPENDICES

APPENDIX I

(Vide para 7 of the Report)

Summary of main Recommendations/Observations made by the Committee

S. No.	Para No.	Summary
(1)	(2)	(3)
1(i)	33	The Committee note that a number of Central Acts dealing with matters enumerated in the Concurrent List as well as in the Union List contained in the Seventh Schedule to the Constitution delegates rule-making power to State Governments. There is no provision in these Acts excepting a few for laying of the rules framed thereunder by State Governments on the Table either of the State Legislatures or Parliament with the result that these rules escape legislative scrutiny. The Committee have always been of the opinion that rules framed by the Executive should not escape such scrutiny and there must be some legislative machinery to ensure that the delegated powers are exercised properly and within such delegation.
1(ii)	34	The Committee on Subordinate Legislation (Second Lok Sabha), after considering the pros and cons of adopting either of the two courses i.e. laying the rules framed by State Governments under the Central Acts before State Legislatures or Parliament, had come to the conclusion that the better course would be to request the State Governments to have laws enacted by their Legislatures to provide for laying of the rules framed by them under a Central Act or State Act before the State Legislatures and for their modification, if any, by the respective Legislatures. (Vide paras 46—52 of Seventh Report—Second Lok Sabha). The Committee

(1)	(2)	(3)
		note that but for Orissa and U.P. Governments no other State Government have enacted such a law so far.
1 (iii)	35	<p>The Committee are of the opinion that in so far as rules framed by State Governments under Central Acts on Concurrent subjects are concerned, there is no bar, legal or otherwise, in their scrutiny by the State Committees on Subordinate Legislation. In this connection, the Committee note the opinion of the Ministry of Law that a State Legislature could make a law providing for laying before it and subject to modification by it of rules framed by the State Government under a Central Act in respect of matters enumerated in the Concurrent List. No specific authority of Parliament is necessary for enabling a State Legislature to make such a law. There is also no legal bar if a State Legislature makes a provision in its Rules of Procedure or alternatively the Presiding Officer issues a direction, empowering the Committee on Subordinate Legislation of the State Legislature to examine the rules framed by State Government under a Central Act on a Concurrent subject, whether such rules are laid before the State Legislature or not. During the course of evidence before the Committee, the representatives of the Ministry of Law have also conceded that a provision could be made in the Central Acts on Concurrent subjects requiring the State Government to simply lay the rules framed thereunder by them before the State Legislature. The Committee note in this connection that a provision on these lines has in fact been made in the Industrial Relations Bill, 1978.</p>
1 (iv)	36	<p>The Committee, therefore, recommend the Ministry of Law, Justice and Company Affairs (Legislative Department) to incorporate such a provision in all Central Acts on Concurrent sub-</p>

(1)	(2)	(3)
		jects which delegate rule-making power to State Governments.
1(v)	37	<p>The Committee note the following difficulties which would arise if the rules framed by State Governments under Central Acts on Union subjects are required to be laid before Parliament:—</p> <ul style="list-style-type: none"> (i) No particular Central Minister would be responsible for having framed them or for laying them since the rules would not be framed by an authority subordinate to or under the control of any Central Minister; (ii) Rules framed by State Governments would be based on local conditions and material facts within their knowledge and unless all these are made known to Parliament, the discussion would not be comprehensive; and (iii) If such rules were discussed in Parliament, it would be impossible to draw a line to stop criticism of State Government concerned or their officers either directly or indirectly. Such a discussion was likely to be misunderstood by the State Government and affect Centre-State relations. Moreover the Central Minister will have no material to reply to such criticism.
1(vi)	38	<p>In view of the above practical difficulties and the federal character of the Constitution, the Committee feel that it will be more appropriate if such rules are also scrutinised by some State Legislative machinery. For this purpose, a procedure could be devised whereby even in the absence of a statutory provision, these rules are taken up for scrutiny by the Committee on Subordinate Legislation of the State Legislatures.</p>
1(vii)	39	<p>The Committee are of the opinion that there would be no Constitutional impropriety if the</p>

(1)	(2)	(3)
		<p>rules framed by a State Government under a Central Act on a Union subject are laid before the State Legislature for the information of Members. In this connection, the Committee are not inclined to agree with the opinion of the Ministry of Law that a State Legislature by permitting these rules to be laid before it would be impinging upon the jurisdiction of Parliament. The Committee feel that in reaching that opinion the Ministry of Law had acted with over-caution and taken too legalistic a view of the problem. The Committee note that the Ministry of Law have agreed that a recommendation by the Committee on Subordinate Legislation of a State Legislature on a rule framed under a Central Act relating to Union List is not equivalent to a law made by the State Legislature on a 'Union subject'. The Committee are, therefore, of the view that a State Committee on Subordinate Legislation would not be exceeding their jurisdiction if they scrutinise the rules framed by State Government on a Union subject and send their suggestions to the State Government. However, in such an arrangement the State Legislature will have as such no power to modify the rules.</p>
1(viii)	40	<p>The Committee also see no Constitutional inhibition if the Speaker of a State Committee on Subordinate Legislation issue a direction empowering the State Subordinate Committee on Legislation to examine such rules even if they are not laid on the Table. The Committee do not agree with the opinion of the Ministry of Law that such a direction does not appear to be intra-vires Article 208 of the Constitution.</p>
1(ix)	41	<p>The Committee also desire that such State Legislatures as do not have Committee on Subordinate Legislation should be requested to constitute these Committees.</p>

APPENDIX II

(Vide para 22 of the Report)

Replies from the Ministry of Law to the points sent to them in regard to laying of rules framed by State Governments under Central Acts before State Legislatures|Parliament.

Point No. 1:

The Committee had desired to know the opinion of the Ministry of Law on the question whether a State Legislature could make a law providing for laying and modification of rules framed by a State Government under a Central Act dealing with matters falling in the Union List—List I of the Seventh Schedule to the Constitution.

In para 2 of their O.M. No. 4(9)/72-L.I., dated 6-5-76* the Ministry of law have *inter alia* stated that 'in the absence of a specific authority, the State Legislature will not be competent to enact a law providing that the rules framed by it under a Central enactment shall be laid before it'. However, in para 4 of their O.M., the Ministry of Law had opined that 'the better course would be to request the State Governments to have laws enacted by their Legislatures to provide for laying of the rules framed by them under a Central Act before the State Legislature and for their modification, if any, by their Legislatures'.

Please reconcile the opinion given in para 2 of the Ministry's O.M. with that given in para 4 of the O.M.

Reply:

Paragraph 2 of the *O.M. of this Ministry No. 4(9)/72-L.I., dated the 6th May, 1976 relates to Central Acts falling within the Union List and paragraph 4 thereof to Central Acts falling within Concurrent List. It is regretted that this has not been made clear in paragraph 4.

In respect of a Central Act falling within the Union List, where Parliament has delegated the power to the State Government to frame rules for giving effect to the provisions of such Act, Parlia-

*See Annexure.

ment alone is competent to exercise the power of legislative supervision (*vide* section 13(3) of the Central Sales Tax Act, 1956 and Section 15(1) of the Coffee Act, 1942 falling within this category). In respect of Acts falling within the Union List the State Legislature is not competent to enact legislation providing that the rules framed thereunder shall be laid before it.

As regards Central Acts falling within the Concurrent List which empower the State Government to make rules, the State Legislature can provide for laying of rules made under such Acts before the State Legislature as the subject matter of the Act relates to matters with respect to which the State Legislature also has power to make laws.

In this view, there is no conflict between paragraphs 2 and 4.

Point No. 2:

- (a) Please state whether, having regard to the existing scheme of the Constitution under which the Union Parliament has exclusive legislative jurisdiction in respect of matters falling in the Union List, the Union Parliament can authorise a State Legislature to make a law for laying and modification of rules framed by the State Government under delegated authority in respect of matters falling in the Union List.
- (b) (i) If the reply to (a) above be in the affirmative, please state in what manner Parliament may confer a specific authority on a State Legislature to make such a law.
- (ii) The Ministry have stated in their O.M. that the assent of the President will have to be obtained in respect of State enactments providing for laying of rules framed by them under a Central Act.

Please state whether the assent of the President is tantamount to a specific authority of Parliament.

- (c) If the reply to (a) above be in the negative, whether an amendment to the Constitution is necessary for enabling the Union Parliament to authorise State Legislatures to make such laws.

Reply:

(a) As under the Constitution, Parliament alone is competent to enact a law falling within the Union List, Parliament cannot authorise the State Legislature to make a law for laying or for modification of rules framed by a State Government under delegated authority. In fact, the State Government of Madhya Pradesh has expressed this view.

(b) (i) In view of the reply to (a) above, this does not arise.

(b) (ii) The assent of the President is required as the law sought to be amended will be a law falling in the Concurrent List—Vide article 254(2).

(c) As explained earlier, the State Legislature will be competent to amend laws falling within the Concurrent List but not laws falling within the Union List. In view of this position which flows from the distribution of Legislative powers under the Constitution, no amendment of the Constitution is called for.

Point No. 3:

(a) Please state whether a State Legislature can make a law providing for laying and modification of rules framed by a State Government under a Central Act in respect of matters enumerated in the Concurrent List.

(b) If the reply to (a) above be in the affirmative, please state whether a specific authority of Parliament is necessary for enabling a State Legislature to make such a law.

Reply:

A State Legislature can make a law providing for laying and modification of rules framed by a State Government under a Central Act in respect of matters enumerated in the Concurrent List. No specific authority of Parliament is necessary for enabling a State Legislature to make such a law.

Point No. 4:

Under the Rules of Procedure and Conduct of Business in Lok Sabha and Directions issued by the Speaker, the Committee on Subordinate Legislation of Lok Sabha can examine all rules framed by the Central Government whether laid before Parliament or not.

Is there any legal hitch if a State Legislature makes a provision in its Rules of Procedure, or, alternatively the Speaker of a State Legislature issues a Direction empowering the Committee on Subordinate Legislation of the State Legislature to examine the rules framed by a State Government under a Central Act, even though not laid before the State Legislature.

Reply:

There seems to be no legal hitch if a State Legislature makes a provision in its Rules of Procedure or, alternatively, the Speaker of a State Legislature issues a direction, empowering the Committee on Subordinate Legislation of the State Legislature to examine the rules framed by the State Government under a Central Act which falls within the Concurrent List, whether such rules are laid before the State Legislature or not. The Government of Haryana has stated that the Committee on Subordinate Legislation of the Haryana Vidhan Sabha have been examining rules, whether made under the provisions of the State Acts or Central Acts (evidently in the concurrent field) and after their scrutiny, suggestions made by that Committee are taken into consideration and are generally accepted, if otherwise legally tenable. It is not known whether the Committee on Subordinate Legislation of other State Legislatures are following any such procedure.

Point No. 5:

In para 2 of their O.M.*, the Ministry of Law have *inter alia* stated that "it is the responsibility of the body enacting the substantive law to ensure that its executive delegate has not transgressed the power of framing rules granted to it."

(a) Please state whether the Committees on Subordinate Legislation of Parliament can scrutinise the rules framed by State Governments under Central Acts, and report thereon to the respective Houses of Parliament.

(b) if the reply to (a) above is in the affirmative—

(i) can the reports of the Committee on Subordinate Legislation of the Union Parliament be discussed by the respective Houses;

(ii) What remedy is available if the Committee on Subordinate Legislation of the Union Parliament are of the opinion that in framing a particular set of rules the

State Government has transgressed the power of framing rules granted to it or the power granted to it has not been properly exercised?

- (iii) Can the Union Parliament modify or annul a rule framed by a State Government under a Central Act?

Reply:

It is presumed that this paragraph applies to rules made a State Government under a Central Act falling within the Union List. The Committee on Subordinate Legislation of Parliament can scrutinise the rules framed by State Government under Central Acts falling within the Union List and report thereon to the respective Houses of Parliament. In the light of the scrutiny of rules made by the Committee on Subordinate Legislation of Parliament in respect of Central Acts falling within the Union List, the reports may be discussed by the Houses of Parliament. If the Committee on Subordinate Legislation is of the opinion that in framing a particular set of rules the State Government has transgressed the power of framing rules granted to it or the power granted to it has not been properly exercised, this may be brought to the notice of the concerned State Government through the Central Government. Having delegated the power to the State Government, it will not be in order for Parliament to modify or annul a rule framed by a State Government under a Central Act falling within the Union List.

In respect of Central Acts falling with the Concurrent List, the State Legislature is competent to enact the necessary legislation in this behalf and the Committee on Subordinate Legislation of Parliament need not examine the rules.

Point No. 6:

One of the arguments advanced for not laying of rules framed by a State Government under a Central Act before Parliament is that no particular Central Ministry will be responsible for having framed those rules or for laying them before Parliament.

It is felt that the Central Minister concerned with the subject matter of the Act can lay the rules framed thereunder by State Governments before Parliament. What is your opinion in this regard?

Reply:

A Central Minister concerned with the subject matter of a Central Act falling within the concurrent List can lay before Parliament

the rules framed thereunder by a State Government. But a discussion on such rules will not be complete unless the local conditions, material facts, etc. prevailing in the State concerned are fully placed before Parliament. Further, this might affect Central-State relations. The difficulties in such a procedure (enumerated in paragraph 91 of the Extracts from the Tenth Report of the Committee on Subordinate Legislation of the Fifth Lok Sabha) will still remain.

Point No. 7:

Please state—

- (a) the number of States which have made laws for laying and modification of rules framed by State Governments under Central Acts; and
- (b) The number of States which have indicated their willingness to make such laws.

Reply:

As regards item (a) above, the Orissa Government has amended the Orissa General Clauses Act, 1973 by Orissa Act 12 of 1976, to provide for laying of rules under a Central Act in force in, or applicable to, the State and relating to matters with respect to which the State Legislature has power to make laws for the State. The Government of Meghalaya introduced a Bill in 1975 for a similar purpose and it not known whether it has become an Act.

As regards item (b) above, the Governments of Andhra Pradesh and Madhya Pradesh have expressed their willingness to undertake legislation in this behalf.

ANNEXURE

Copy of Office Memorandum No. 4(9)/72-LI, dated 6th May, 1976 from the Ministry of Law, Justice and Company Affairs (Legislative Department) regarding laying of rules framed by State Governments under Central Acts before the State Legislatures/Parliament.

The undersigned is directed to refer to the Lok Sabha Secretariat O.M. No. 59/C1I/75, dated the 22nd May, 1975 regarding the question whether a State Legislature could make a law providing for laying on the Table of the State Legislature rules framed by the State Government under a Central Act dealing with matters falling in List I—Union List of the Seventh Schedule to the Constitution.

2. The above question has been carefully examined. If Legislative supervision of rules framed by a State Government under a Central Act dealing with matters falling in the Union List is necessary, such supervision should be done by the body which has enacted the parent law. It is the responsibility of the body enacting the substantive law to ensure that its executive delegate has not transgressed the power of framing rules granted to it. If a body is competent to enact a law under which the power to frame rules has been delegated, that body alone is competent to exercise the power of legislative supervision. Consequently, in the absence of a specific authority, the State Legislature will not be competent to enact a law providing that the rules framed by it under a Central enactment shall be laid before it.

3. On the other hand, if the Central Legislation provides that the rules made thereunder by the State Legislature should be placed before Parliament, the following difficulties would arise, namely:—

- (a) No particular Central Minister will be responsible for having framed them or for laying them since the rules would not have been framed by an authority subordinate to, or under the control of, any Central Minister:
- (b) Rules framed by State Government would be based on local conditions, material facts within its knowledge and unless all those are made known to Parliament, the discussion would not be comprehensive.
- (c) If such rules are discussed in Parliament for amending them, it would be impossible to draw a line and stop criticism of the State Government or of its officers either directly or indirectly.

4. Having regard to the position, as explained above, it is felt that the better course would be to request the State Governments to have laws enacted by their legislatures to provide for laying of the rules framed by them under a Central Act before the State Legislature and for their modification, if any, by their legislatures. Certain State Governments have expressed their willingness to undertake such legislation, but the assent of the President will have to be obtained in respect of such an enactment. The question whether such legislation should be undertaken or not rests with State Governments.

APPENDIX III

(Vide para 26 of the Report)

Gift of Replies received from State Governments

State Government	Reply
1. Assam . . .	Final reply awaited.
2. Delhi Administration . . .	Does not have State Legislature.
3. Goa, Daman & Diu . . .	(i) No enactment has so far been passed. (ii) No immediate proposal of bringing legislation in this regard. (iii) The Government has accepted the proposal in principle of enacting legislation and the matter is under consideration.
4. Andhra Pradesh . . .	Rules made by the State Governments under Central enactments are being laid before the State Legislature in cases where there is provision for it in the Act. Where there is no such provision, the Central Government may have to take action to provide for laying of Rules before the State Legislature. In view of this there seems to be no necessity for the State Governments to undertake special legislation for the purpose.
5. Bihar . . .	No such enactment appears to have been passed by the State Legislature.
6. Haryana . . .	(i) No enactment has so far been passed. (ii) Provision for laying is generally made in the Act under which Rules are framed.
7. Karnataka . . .	Final reply awaited.
8. Kerala . . .	(a) No such enactment passed (b) No such proposal pending. (c) Views of the State Government in the matter will be communicated to the Secretariate. (Reply awaited).
9. Himachal Pradesh . . .	No such enactment has been passed or being contemplated.
10. Madhya Pradesh . . .	Final reply awaited.

State Government	Reply
11. Maharashtra	No such enactment has been passed or is proposed to be brought forth. In individual cases as and when any Department desires to make a provision for laying o. rules framed by the State Government under a Central Act administered by it, the question of making provision in the relevant Act is considered by Government.
12. Meghalaya	Draft Bill to amend section 40 of the Meghalaya Interpretation and General Clause Act was submitted to Government of India for their views in 1974. The views of the Central Government are awaited.
13. Punjab	(i) No such enactment has been passed or being contemplated. (ii) The provision with regard to laying rules before the House of the State Legislature is now being incorporated in all the new enactments as also the relevant provisions of the Central Acts under which the State Rules are framed, requiring that such rules should be placed before the State Vidhan Sabha.
14. Sikkim	No such enactment has been passed.
15. Tamil Nadu	No such enactment has been passed nor is there any proposal for such legislation. Matter is under correspondence with the Ministry of Law (Legislative Department).
16. Tri pura	No such enactment has been passed. There is a proposal for legislation of an Act providing for laying of rules made under the Central Act in near future.
17. Uttar Pradesh	U.P. General Clauses Act was amended in 1975 to provide that the rules made by the State Government under Central enactments shall be laid before each House of the State Legislature.
18. West Bengal	No such enactment has been passed. The matter is under consideration of Government.

APPENDIX IV

(Vide para 26 of the Report)

Replies received from State Legislatures

State Legislature	Reply
1. Andhra Pradesh Legislature Department	(i) It is not necessary under the Rules of Procedure that the rules framed by the State Government should be laid before the Legislature before they are scrutinised by the committee. (ii) The Committee has been examining the rules framed by the State Government under Central enactments.
2. Arunachal Pradesh Legislative Assembly Secretariat.	The Committee on Subordinate Legislation has not yet been constituted in the Assembly.
3. Assam Legislative Assembly Secretariat.	(i) There is no Direction by the Speaker that the rules must be laid on the Table before they can be scrutinised by the Committee. (ii) The Committee has been examining the labour Rules framed by the State Government under a Central Government.
4. Bihar Vidhan Sabha Secretariat	(i) The rules are required to be laid on the Table before their examination. (ii) The Committee at present is not examining the rules made under the Central Act but it had examined such rules in the past.
5. Bihar Vidhan Parishad Sachivalaya	(i) It is not necessary that the rules etc. must be laid on the Table before they can be examined by the Committee. (ii) The Committee scrutinises the rules framed by the State Government under Central enactments.
6. Delhi Metropolitan Council	The Metropolitan Council does not have rule-making power.
7. Goa, Daman, Diu Legislature	(i) It is not necessary that the rules framed by the Government must be laid before they can be scrutinised by the Committee on Subordinate Legislation. (ii) The Committee is scrutinising the rules framed by the State Government under Central enactment.

State Legislature	Reply
8. Gujarat Legislature Secretariat.	Finally reply awaited.
10. Haryana Legislative Assembly Secretariat.	(i) The Committee has scrutinised rules framed by State Government under Central Acts namely, the Motor Vehicles Act, 1939 and the opium Act, 1878.
9. Himachal Pradesh Vidhan Sabha Secretariat.	(i) It is not necessary under the Rules Procedure that the rules etc. must be laid on the Table before they can (ii) The Committee scrutinised rules framed by the State Government under a Central Act.
11. Jammu & Kashmir Legislative Assembly Secretariat.	(i) It is not necessary under the Rules of Procedure that the rules etc. must be laid on the Table before they can be scrutinised by the Committee. (ii) The Committee scrutinised rules framed by the State Government under Central Act.
12. Kerala Legislature Secretariat	(i) It is not mandatory that the rules framed by State Government must be laid on the Table before they can be scrutinised by the Committee. (ii) The Committee also scrutinises the rules framed by State Government under Central enactments.
13. Madhya Pradesh Vidhan Sabha Secretariat.	(i) The Committee scrutinises only those rules which are laid on the Table. (ii) There is no restriction for the Committee to examine rules framed by State Government under Central Act even if they have not been laid on the Table.
14. Manipur Legislative Assembly Secretariat	There is no Act regarding placing of rules etc. framed by State Government under Central Acts before the Assembly. Such a provision should be made in the Acts passed by Parliament.
15. Meghalaya Legislative Assembly Secretariat.	(i) The Rules of Procedure do not specifically provide for examination by Committee of such rules which have not been placed before the House. (ii) The Committee has not so far examined any rules framed by States Governments under a Central Act.

State Legislature	Reply
16. Mizoram Legislative Assembly	(i) On occasions the Committee has examined Rules after publication in the Gazettee but before they were laid on the Table. (ii) The Committee has examined rules framed by State Government under Central enactments.
17. Nagaland Legislative Assembly Secretariat.	The Committee scrutinises rules only after they are laid on the Table.
18. Orissa Legislative Assembly Secretariat	The Committee scrutinises only those rules which are laid on the Table.
19. Punjab Vidhan Sabha Secretariat	(i) The Committee is competent to examine all Rules/Regulations irrespective of the fact whether these have been laid on the Table of Vidhan Sabha or not. (ii) The Committee has examined a number of rules framed under Central Acts.
20. Rajasthan Legislative Assembly Secretariat.	(i) The Committee examines all rules whether laid on the Table or not. (ii) The Committee also scrutinises rules framed by State Government under a Central Act.
21. Sikkim Legislative Assembly Secretariat.	Committee on Subordinate Legislation has not so far been constituted in Sikkim Legislative Assembly.
22. Tamil Nadu Legislative Council Department.	There is no separate Committee on Subordinate Legislation in the Council.
23. Tripura Legislative Assembly Secretariat	The Committee may scrutinises the rules framed by the State Government under a Central Act even though they might not have been laid on the Table.
24. U.P. Vidhan Sabha Secretariat	(i) It is not necessary that the rules must be laid before they could be scrutinised by the Committee. (ii) The Committee has been scrutinising rules framed by State Government under Central Acts.
25. U.P. Vidhan Parishad Secretariat	There is no Committee on Subordinate Legislation.
26. West Bengal Legislative Assembly Secretariat.	(i) It is not necessary that the rules must be laid on the Table before they can be scrutinised by the Committee.

State Legislature

Reply

27. TamilNadu Legislative Assembly
Department.

(ii) The Committee is competent to scrutinise Rules framed by State Government under Central Acts.

(i) Under the Rules of Procedure the Committee can scrutinise the rules etc. whether they are laid on the Table of the House or published in the Gazette.

(ii) The Rules of Procedure also provide for the State Committee to scrutinise the rules made by the State Government under Central enactments.

How for these are legally possible is a matter to be examined.

APPENDIX V

(Vide paras 26 and 28 of the Report)

Letter from Secretary, Legislative Assembly, Madras.

G. M. ALAGARSWAMI, B.A., M.L.,

Secretary to Government Legislative Assembly Department

D.O. No. 13756/77—4TNLA(DL)

Fort St. George

Madras—600009

Dated: 13-12-1977

14-12-1977

Dear Sri Sahai,

Sub: Laying of Rules framed by State Governments under Central enactments before Parliament|State Legislatures and their scrutiny by the Committee on Subordinate Legislation.

Ref: Your letter No. 59/C. II/76, dated September 15, 1977.

Kindly refer to your circular letter dated September 15, 1977. As your letter demanded a thorough examination of the matter, reply could not be sent within the date prescribed by you. I thought, that a reply beyond the date line fixed, may not make much difference in view of the complexity of the matter involved and the pendency of the matter for a long time.

The matter came before the Presiding Officers' Conference held in Madras in 1956 and in the note circulated by the Lok Sabha, it was mentioned as follows:—

"7. An Act of Parliament while delegating rule making power to a State Government may, however, not have made any specific provision in the Act for laying the rules framed thereunder by the State Government on the Table of the State Legislatures. Even in such cases the Committee on Subordinate Legislation of a State Legislature is competent to scrutinise the rules framed by the State Government in case the rules of procedure of State Legislature so authorise. A State Government is res-

possible to its State Legislature for all its activities including rule-making. The Committee on Subordinate Legislation of the State Legislature can therefore be said to be competent to scrutinise all rules etc., made by the State Government, including rules made under the authority of Central Acts."

Thereafter the matter was considered again by the Committee on Subordinate Legislation of the Lok Sabha in its Fifth Report and again in its Seventh Report of the Second Lok Sabha. The matter was also considered by the Subordinate Legislation Committee and also by the Rules Committee of the State. Originally, Rule 195 of the Rules of Procedure of the Tamil Nadu Legislative Assembly provided as follows:

"195. Subject to the provisions of these rules, a Committee on Subordinate Legislation may be constituted to scrutinise and report to the House whether the powers delegated by the Legislature have been properly exercised within the frame-work of the statute delegating such powers."

This rule was amended in 1957 enabling the State Subordinate Legislation Committee to scrutinise the rules, sub-rules, by-laws, etc., made by the State Government in pursuance of the Constitution of India or in pursuance of enactments by the Parliament or State Legislature. The rule as amended is as follows:—

"195. Subject to the provisions of these rules, a Committee on Subordinate Legislation may be constituted to scrutinise and report to the House whether the powers to make regulations, rules, sub-rules, by-laws, etc., conferred by the Constitution or delegated by Parliament or the State Legislature are being properly exercised within such delegation."

(Present Rule 200)

Rule 207 of the Tamil Nadu Legislative Assembly Rules also empowers the Committee to scrutinise the rules etc., made in pursuance of the provisions of the Constitution or in exercise of the powers delegated by the Parliament or the State Legislature, *whether they are laid on the Table of the House or published in the Gazette.*

As far as the rules position is concerned, the rules of procedure provide for the State Subordinate Legislation Committee to

scrutinise the rules made by the State Government in pursuance of the powers conferred on it under Central enactments also. But, how far this is legally possible is a matter that has to be examined and a solution arrived at.

This was examined by the Law Department of this (Tamil Nadu) Government in consultation with the Advocate-General. The Advocate-General of Tamil Nadu opined as follows:—

“There are three stages in the matter under consideration:—

- (a) Laying rules made by State Government on the Table of the House,
- (b) Modification thereof by resolution of the House, and
- (c) whether Parliament is to give the directions in respect of (a) or (b) or whether the State Legislature may by law provide for this.

2. We are considering laws made by Parliament falling under List 1—(Union List)—or List 3—(Concurrent List) of the VII Schedule. In this connection, the provisions of Article 258 of the Constitution (which are on the same lines as in section 124 of the Government of India Act, 1935) are relevant. Clause (1) of the Article deals with delegation of the executive power by the President to the State Government. This would not include the power to make rules. But Clause (2) which relates to delegating by Parliament by Law would include rule making power and it may be noted that the delegate under that clause is the State or Officers and authorities thereof. This is in contrast to the Government or its officers in clause (1). Therefore it is open to Parliament by any law made by it to confer powers and duties on the States. On a proper reading the State here would include the Legislature of the State. Clause (2) would apply to laws falling under List 1 as well as List 3. Therefore Parliament may in any enactment in which it authorises the State Government to make rules at the same time provide for its being laid before the State Legislature and also provide that the State Legislature may modify the rules.

3. This is exactly what Parliament has done by Section 133(3) of the Motor Vehicles Act, 1939. That section refers to modifications by State Legislature, whereas in most of the State enactments we provide modifications by the Legislative Assembly only; see for example Section 19(6) of the Madras General Sales Tax Act, 1939. However, that may be, it is clear that in the case of laws made by

Parliament, whether falling under List 1 or List 3, Parliament can properly provide for all these matters. If that is done, it will be the duty of the Committee on Subordinate Legislation to scrutinise the rules and report thereon.

4. On the question whether the State Legislature can make a law directing the Government to lay on the Table of the House rules made by the Government under the Central enactments and further make provision for modification thereof by the State Legislature, the position may properly be considered different as between laws falling under List 1 or laws falling under List 3. With regard to laws falling under List 1, the Government would be making the rules by direct delegation by Parliament. Since the subject matter, being Union Laws, would be beyond the competence of the State Legislature, the State Legislature cannot, by a law made by it, control the rule making power. A convention, however, by which such rules are placed on the Table of the House (without any question of modification by the Legislature) would not be open to any objection.

5. As regards laws falling under List 3 (Concurrent List) the delegation by Parliament is still under Article 258(2). It is true that matters in the Concurrent List are matters in respect of which the State Legislature may make laws, but any rule making power of the Government is still only as delegate of Parliament and my view is that the State Legislature cannot by its laws provide for modification of the rules by resolution. This would really be controlling the rule making power exercised by the Government as delegate of Parliament. The doctrine is that when Parliament delegates a rule making power, it still retains control over the delegate. Modification of such rules by resolution of the State Legislature is not really comparable to a law enacted by the State Legislature on the same subject matter either supplementary to and consistent with the Central Law or with the assent of the President modifying the Central Law in its application to the State. That would be valid exercise of the Legislative power of the State. In this view, I consider that even in the case of laws under the Concurrent List, any power to the State Legislature to modify the rules must be derived from Parliament by provision in the Central enactment."

To a doubt raised by the Law Department as to whether Parliament can validly provide in a Central Act that rules made by a State Government under authority of that Act shall be placed:

before the appropriate State Legislature, the Advocate-General of Tamil Nadu opine as follows:—

“The passage quoted from 1951 S.C.R. 747 at 941 relates to creation of a legislative authority, which the British Parliament can do but the Indian Parliament cannot. On 942 it is pointed out that transfer of power is valid to the extent allowed by the Constitution or to the extent that it has already been recognised under the designation ‘conditional Legislation’ or ‘rule making power.’ We are here dealing with rule-making power. When Parliament confers rule making power on a State Government, it can make it subject to controls or consent; e.g., previous consent of Central Government.

2. The presumed control which Parliament retains over the State Government’s rule-making power is what saves such delegation from the vice of abdication. Such control continues none the less where the rules are placed before the State Legislature under authority of the Parliamentary law.

3. It remains to consider two points mentioned in the Seventh Report (Second Lok Sabha) of the Committee on Subordinate Legislation:—

- (a) In paragraph 49 (ii) it is said that ‘State’ in Article 258, (referring to clause 2) is the State Government.
- (b) In paragraph 48 and 49 certain statements of Ministers are quoted against a provision to place rules before a State Legislature.

Firstly, there is difference in language between Clause (1) and clause (2) of Article 258 which corresponds to section 124 of the Act of 1935. In Clause (1) the reference is ‘the Government of a State’, and then to the Government or its officers. In contrast, clause (2) refers to ‘7th State or officers or *authorities* thereof’. Clause (3) mentions payment to the State in respect of duties imposed upon a State or officers or authorities, combining the delegates of clauses (1) and (2).

4. Secondly, previous Parliamentary practice does not appear to have been noted. Apart from Section 133 of the Motor Vehicles Act, 1939, the following enactments may be referred to:—

- (1) The Cotton Cess Act 7 of 1948, Sections 7 and 8.
- (2) The Collection of Statistics Act 32 of 1953, Sec. 14.

- (3) The Prevention of Adulteration Act 37 of 1954, Sec. 24
- (4) The Hindu Marriage Act 25 of 1955, Sec. 8.
- (5) The Suppression of Immoral Traffic Act 104 of 1956, Sec. 23.
- (6) The Probation of Offenders Act, 20 of 1958, Section 17.

5. In my opinion, Parliament can provide in a law made by it that rules made by a State Government under its authority shall be placed before the State Legislature. But a State Legislature cannot make a law that rules made by the State Government under authority of Parliament in a law made by Parliament should be placed before the State Legislature."

The point was again examined at the Second All India Legal Draftsmen's Conference which after taking into consideration the views of the Governments of Kerala and Madhya Pradesh and also the opinion of the Advocate-General of Tamil Nadu, came to the conclusion that further action in the matter may be taken after obtaining an official communication from the Government of Tamil Nadu. Accordingly, the Tamil Nadu Government forwarded the opinion of the Advocate General expressing the view that this Government agreed with the opinion of the Advocate-General. The Government of India, Ministry of Law, in their letter No. F.4(1)| 61-L.I dated 15-12-1962, stated that as the Central Committee on Subordinate Legislation have expressed their views on the matter it may be left to the State Government to take such action as it may consider necessary. However, in view of the conflicting opinions expressed by the various authorities, this Government considered that it would be desirable to have the matter discussed with the officers of the Law Ministry at New Delhi at a meeting in which the Law Secretaries of the other State Governments may also be present as the question at issue is of importance to all the States and, if necessary, the question of suitably amending the Constitution may also be considered at the discussion.

The subject matter in question was also discussed at the Conference of the Chairmen of Committees on Sub-ordinate Legislation held in 1960 and 1975.

Certain Central enactments, such as sub-section(4) of Section 44 of the Beedi and Cigar Workers (Conditions of Employment) Act, 1966 (Central Act 32 of 1966), provides for the laying of the rules made by the State Governments under the Central Acts before the House or Houses of the State Legislatures and that the

Legislatures can agree in making any modification in the rule or the Legislatures can agree that the rule should not be made. So also in the matter of Motor Vehicles Act of 1939 and Indian Registration Act of 1908 in which provisions have been made for the State Legislature to scrutinise and amend the rules made by the State Government.

The Subordinate Legislation Committee of the Tamil Nadu Legislature has on its Second Report during 1957-58 recommended that wherever draft notifications are to be published before confirming them as rules, they should send them to the Subordinate Legislation Committee for its opinion. The State Government in pursuance of this recommendation has been sending the draft notifications to the Committee for its scrutiny before issue and other rules also after issue. They have been doing so even with reference to the Motor Vehicles Act and the Electricity Supply Act of 1948, the Industrial Disputes Act of 1947, Workman's Compensation Act and various other Central Acts noted below:—

1. The Motor Vehicles Act, 1939.
2. The Electricity (Supply) Act, 1948.
3. The Industrial Disputes Act, 1947.
4. The Workmen's Compensation Act, 1923.
5. The Trade Union Act, 1926.
6. The Prevention of Food Adulteration Act, 1954.
7. The Partnership Act, 1932.
8. The Minimum Wages Act, 1948.
9. The Payment of Wages Act, 1936.
10. The Prevention of Cruelty to Animals Act, 1890.
11. The Factories Act, 1948.
12. The Employees' State Insurance Act, 1948.
13. The Motor Transport Workers' Act, 1961.
14. The Mines and Minerals (Regulation and Development) Act, 1957.
15. The Defence of India Act, 1962.
16. The Indian Registration Act, 1908.

17. The Collection of Statistics Act, 1953.
18. The Suppression of Immoral Traffic on Women and Girls Act, 1956.
19. The Plantations Labour Act, 1951.
20. The Criminal Procedure Code, 1898.

In the following Central Acts, there is provision for placing the rules made by the State Government in pursuance of the said Acts on the Table of the State Legislature. But there is no power for the State Legislature to amend these rules.

1. The Agriculture Produce (Development and Warehousing) Corporations Act, 1956.
2. The Suppression of Immoral Traffic in Women and Girls Act, 1956.
3. The Probation of Offenders Act, 1958.
4. The Orphanages and other Charitable Homes (Supervision and Control) Act, 1960.
5. The Collection of Statistics Act, 1953.
6. The Industrial Disputes Act, 1947.
7. The Prevention of Food Adulteration Act, 1954.

Though the State Subordinate Legislation Committee has been scrutinising the rules made by the State Government under some of the Central Acts, have been considered by the Subordinate Legislation Committee.

Thus, it would be seen that the Tamil Nadu Rules of Procedure of the Assembly provides for the State Sub-subordinate Legislation Committee to scrutinise all the rules made by the State Government framed in pursuance of the powers conferred by the Central Acts irrespective of the fact whether they were placed on the Table of the House or not. However, this position would not be satisfactory if the Department refuses to implement the recommendations of the Committee or even when the State Legislature proposes any amendments to the rules placed before them. In view of this, if a thorough check has to be exercised on the powers delegated by the Central Acts on the State Government, there should be specific provision in the Central Acts for laying them before the State Legislatures as well as subject them for

amendment by them. In respect of the enactments already on the statute book, a general legislation should be passed by the Parliament compelling the respective State Governments to place the rules so made and published in pursuance of the delegated powers before the State Legislatures.

I hope the detailed reply given above answers the point raised by you in your letter cited.

I am also suggesting that this may be included in the Agenda for the Conference of Secretaries to be held in January, 1978 at Bhubaneswar. This point has also been included in another form in the Agenda for the Conference of Presiding Officers as item No. 13. This is for your information.

APPENDIX-VI

(Vide para 28 of the Report)

Replies from the Ministry of Law to points arising out of the letter from Tamil Nadu Legislative Assembly Secretariat.

According to the opinion of the Advocate General of Tamil Nadu, clause (1) of Article 258 deals with delegation of the executive power by the President to the State Government. This would not include the power to make rules. But clause (2) which relates to delegation by Parliament by law would include rule making power and it may be noted that the delegate under that clause is the State or officers and authorities thereof. This is in contrast to the Government or its Officers in clause (1). Therefore, it is open to Parliament by any law made by it to confer powers and duties on the States. On a proper reading the State here would include the Legislature of the State. Clause (2) would apply to laws falling under List 1 as well as List 3. Therefore, Parliament may in any enactment in which it authorises the State Government to make rules at the same time provide for its being laid before the State Legislature and also provide that the State Legislature may modify the rules.

Point 1. (a) What are the views of the Ministry of Law on the above opinion of the Advocate General of Tamil Nadu?

(b) In particular, please state whether the Ministry of Law agree with the opinion of the Advocate General of Tamil Nadu that the expression "State of officers and authorities thereof" used in article 258 (2) of the Constitution would include "the Legislature of the State."

It is true that different expressions have been used in clauses (1) and (2) of article 258 of the Constitution. On this ground alone, it cannot be said that the expression "State" occurring in clause (2) of the said article will include State Legislature. Though the expression "State" will include the three constituents of a State, namely, executive, legislative and judiciary, if the intention had been to include State Legislatures with the expression "State" a specific provision would have been included as in the case of article

12 in respect of Part III, and article 36 in respect of Part IV, of the Constitution. In the absence of such a provision, it is felt that "State" will not include the State Legislature. Under the scheme of distribution of legislative powers in the Constitution, Parliament and State Legislatures are plenary authorities. Hence if two interpretations are possible, the interpretation which is in harmony with the position of the State Legislature as a plenary authority would have to be adopted. It may be relevant in this connection to notice that the legislative practice so far shows that this interpretation had been accepted as in none of the Central Acts in the Union List and in the Concurrent List, other than the Motor Vehicles Act, 1939 and the Beedi and Cigar Workers (Conditions of Employment) Act, 1966, in which power has been given to the State Government to make rules, a provision for laying before and for modification by, a State Legislature, has been provided. The Hindu Marriage Act, 1955, however provides only for the laying of the rules before the State Legislature [See Section 2(3)]. Even in respect of the Motor Vehicles Act, the said provision was perhaps included, in view of the fact that the provisions relating to federation in the Government of India Act, 1935, were not brought into force. In respect of the Beedi and Cigar Workers (Conditions of Employment) Act, 1966, the power to lay and to modify were not included in the Bill as introduced and as passed by the Rajya Sabha. Only in the Lok Sabha, an amendment to this effect by a private member had to be accepted on the floor of the House (*Vide Lok Sabha Debates*). It is felt that these provisions cannot be taken to be authority for the proposition that Parliament can provide for rules being laid in the State Legislature and for their modification. In view of the above discussion, the answers to (a) and (b) of this point will be as follows:—

- (a) We find it difficult to agree with the opinion of the Advocate-General of Tamil Nadu.
- (b) The expression "State or officers and authorities thereof" does not appear to include the Legislature of the State.

Point 2. Under article 258(2), "a law made by Parliament which applies in any State may, notwithstanding that it relates to a matter with respect to which the Legislature of the State has no power to make laws, confer powers and impose duties, or authorise the conferring of powers and the imposition of duties, upon the State or officers and authorities thereof."

Plases state whether under article 258(2) of the Constitution, Parliament can in an enactment in which it authorises the State Government to make rules on a Union subject also provides for

such rules being laid before the State Legislature and being subject to such modification, as the State Legislature may make.

Point 3. Whether, under article 258 (2) of the Constitution, Parliament can by law confer power on State Legislatures to make laws for laying and modification of rules made by State Governments under Central Laws on Union subjects?

In view of our answer to point 1, the answers to these points are in the negative.

Point 4. If the reply to points 2 and 3 above be in the affirmative, please state which of the two courses would be preferable, from the point of view of feasibility and practical convenience?

Does arise.

Point 5. Section 133(3) of the Motor Vehicles Act, 1939, reads as under:

“(3) All rules made under this Act by any State Government shall be laid for not less than 14 days before the State Legislature, as soon as possible after they are made, and shall be subject to such modification as the State Legislature may make during the session in which they are so laid.”

An argument that has been advanced against a provision on the lines of Section 133(3) of the Motor Vehicles Act is that under article 208 of the Constitution, subject to the provisions of the Constitution, the State Legislature has full power to regulate its procedure and conduct of business. Therefore, a provision which restricts the period during which modification in the rules may be made by the State Legislature would be contrary to the spirit of article 208.

Question: Please state:—

- (a) Whether the Ministry of Law agree with the above view;
- (b) if so, whether the provision for laying and modification include in a Central Act, as, for instance, section 133(3) of the Motor Vehicles Act, 1939, can be so worded that the power of the State Legislature to regulate its procedure and conduct of business is not impinged. (for instance the period of laying and modification may be made subject to the Rules, of Procedure of the State Legislature, or any law made by it).

(a) We agree so far as the implications of article 208 are concerned.

(b) As has been mentioned above, it is not only the powers of the State Legislature under article 208 of the Constitution that have been impinged by the inclusion of a provision for laying of rules before the State Legislature or for their modification. Such a provision affects the position of the State Legislature as a plenary authority. As suggested by the officers of this Department in their evidence before the Committee, in respect of matters in the Concurrent List, the only course would be for the State Legislature to pass, in accordance with clause (2) of article 254 of the Constitution a law amending the Central enactment so as to provide for the laying of the rules made by the State Government before the State Legislature. Regarding the matters in the Union List, as mentioned above, it would seem that no provision can be made by Parliament or a State Legislature for laying before, or modification by the State Legislature.

Point 6. As regards rules made by a State Government under a Central Law on a Concurrent subject, the Advocate General of Tamil Nadu has observed as follows:

"It is true that matters on the Concurrent List are matters in respect of which the State Legislature may make laws **but any rule making power of the Government is still only as delegate of Parliament** and my view is that the State Legislature cannot by its laws provide for modification of the rules by resolution. This would really be controlling the rule making power exercised by the Government as delegate of Parliament. The doctrine is that when Parliament delegates a rule making power, it still retains control over the delegate. Modification of such rules by resolution of the State Legislature is not really comparable to a law enacted by the State Legislature on the same subject matter either supplementary to and consistent with the Central law or with the assent of the President modifying the Central law in its application to the State. That would be valid exercise of the Legislative power of the State. In this views, I consider that even in the case of laws under the Concurrent List, any power to the State Legislature to modify the rules must be derived from Parliament by provision in the Central enactment."

What are the views of the Ministry of Law on the above opinion of the Advocate-General of Tamil Nadu?

Our answer to point No. 5 (b) above applies to this also.

Point 7. In reply to Point No. 4 sent with this Secretariat O.M. dated 11.8.1976, the Ministry of Law have *inter alia* stated that

"there seems to be no legal hitch if a State Legislature makes a provision in its Rules of Procedure or, alternatively the Speaker of a State Legislature issues a direction, empowering the Committee on Subordinate Legislation of the State Legislature to examine the rules framed by the State Government under a Central Act which falls in the *Concurrent List*: whether such rules are laid before the State Legislature or not.

Question (a) Please state whether the Ministry of Law agrees with the view that a recommendation by the Committee on Subordination Legislation of a State Legislature on a rule relating to a Union subject is not equivalent to a law made by the State Legislature on a Union subject;

(b) if so, please state if there is any legal hitch if a State Legislature makes a provision in its Rules of Procedure, or alternatively, the Presiding Officer of a State Legislature, issues a Direction empowering the Committee on Subordinate Legislation of the State Legislature to examine the rules made by the State Government on a 'Union subject'.

(a) We agree that a recommendation by the Committee on Subordinate Legislation of a State Legislature on a rule relating to a Union List is not equivalent to a law made by the State Legislature on a Union subject.

(b) Any rule or direction for the purpose mentioned does not appear to be *intra vires* article 208 and any rule or direction relating to procedure of the Legislature and its Committees has to be justified with reference to that article. Article 212 of the Constitution does not have the effect of barring the jurisdiction of courts with regard to any question as to the Constitutional validity of a rule of procedure adopted by a State Legislature.

In elucidation of the above reply to point No. 7(b), the Ministry of Law have in their O.M. dated 15.6.78 stated that it is based on the following premises:—

- (i) The Committee on Subordinate Legislation of a State Legislature derives its existence from rules made under article 208;
- (ii) the powers and functions of the Committee on Subordinate Legislation of a State Legislature must be such only as rules made under article 208 can provide;
- (iii) rules made under article 208 can be only in respect of procedure of the House and the conduct of its business and for the present purposes we are only concerned with connotation of the expression "conduct of its business"; and

- (iv) the business of a State Legislature can be only with reference to matters which can be considered by the State Legislature under the Constitution.

For example, the business of a State Legislature does not include anything which forms part of the executive power of the Union or the legislative powers of Parliament.

It is precisely for this reason that the conditions as to admissibility of questions, motions, resolutions etc., provided in the rules of procedure of different State Legislatures made a specific provision that the question, motion, resolution etc., should not deal with any matter which is not primarily the concern of the Government of the State. Converse provisions occur in the Rules of Procedure of Lok Sabha itself. For example, rule 41(2) (vii) relating to conditions of admissibility of questions provides that a question shall not relate to a matter which is not primarily the concern of the Government of India. The object of provisions like this is to ensure that the Legislature does not deal with matters which do not form part of its business.

2. If Legislature or a Committee of the Legislature deals with matters which do not form part of its business according to the scheme of the Constitution, it would be exceeding its jurisdiction. Any rule or direction which is intended to enable a Legislature or a Committee of the Legislature to deal with matters which do not fall within its business according to the scheme of the Constitution would not be *intra vires* the relevant power relating to the making of rules or directions.

3. The power to make rules or issue directions in respect of a Committee of a State Legislature has to be derived from article 208.

4. Since scrutiny of a law relating to a Central matter, including rules made under such law, is not a part of the business of a State Legislature according to the scheme of the Constitution, any rule or direction enabling the Committee on Subordinate Legislation of a State Legislature to attempt to make such scrutiny would not be *intra vires* article 208.

5. In conclusion, it may be stated that when a State Government makes rules under a provision of a Central Act relating to a matter in the Union List, it really acts as a delegate and it would seem that in strict theory it would stand on the same footing as any other agency, Central or State, which may be entrusted with a like function.

APPENDIX VII

(Vide para 5 of the Report)

Statement showing name of State/Legislative Council/Assemblies etc. who have sent their comments on the draft Report on laying of Rules framed by State Governments under Central Acts before State Legislatures/Parliament

S.N.	Name of Council/Assembly	Comments
1	2	3
1	Legislative Assembly, Assam	The Speaker, Deputy Speaker and Chairman, Subordinate Legislation Committee, Assam Legislative Assembly concur in the recommendations containing in the draft Report.
2	Legislative Council, Bihar	Deputy Chairman is of the view that all Rules framed by State Government under Central Acts should be scrutinised by the Subordinate Legislation Committee of the State whether such rules are laid on the Table of the House or not.
3	Karnataka Legislature, Bangalore	Chairman, Subordinate Legislation Committee agrees with the views expressed in paras 38-39 and 40 of the draft Report. The Committee has taken a decision to consider the Rules, Notifications, etc. which are not laid on the Table of the House also. Hence, this Secretariat agrees with the draft Report under reference proposed to be presented to Lok Sabha.
4	Legislative Assembly, Madhya Pradesh	The Committee on Subordinate Legislation, Madhya Pradesh, and the Speaker Madhya Pradesh Assembly fully agree with the draft Report.
5	Legislative Assembly, Orissa	Provision has already been made by law by the Legislative Assembly, Orissa providing for laying of Rules framed by the State Government under the Central Act (under Concurrent List) like rules framed under the State Act.

It is requested that the last sentence of paragraph 34 of the draft Report may be suitably amended.

Speaker agrees with the recommendations made in the draft Report.

Views of the Chairman, Committee on Subordinate Legislation, Orissa Assembly

Lok Sabha will not be able to amend the rules (relating to matters enumerated in the Union List) as they are not laid before them. The Report suggests that the State Legislatures will have no power to modify the Rules. In the result, the rules framed by a State Government under a Central Act by delegated authority on a Union Subject, will be immune from legislative correction or amendments at any stage.

6 Legislative Assembly, Rajasthan

The Committee on Subordinate Legislation, Rajasthan Legislative Assembly concur in the recommendations made in the draft Report. The following suggestions have also been made:

(i) A model Bill containing provisions that rules framed by State Government under Central Acts before State Legislatures may be drafted by Central Government and circulated to States. Lok Sabha Secretariat should circulate a model draft of the Direction to be issued by the presiding officer of the State Legislatures.

(ii) Draft Bill and Direction should be attached as Annexures to the Report.

7 Legislative Assembly, Sikkim

There is no provision in their Rules of the Sikkim Legislative Assembly for the constitution of a Subordinate Legislation Committee.

8 Legislative Assembly, Tamil Nadu

State Government have not agreed to placing the rules framed under the Central Acts on the Table of the Assembly but only send those Rules to Committee on Subordinate Legislation for scrutiny. On the same analogy, it is open to the Government to disregard any recommendations made by the Committee with reference to any rule. In such cases it would be futile for the Committee to examine those rules as their recommendations are not accepted.

A direction may be issued that whenever the State Government does not agree with the Committee, the State Government should bring the matter to the notice of the Union Government who should in turn bring the matter before the Committee on Subordinate Legislation of Lok Sabha.

Instead of a direction there should be a rule in the Rules of Procedure of each State Assembly empowering the State Committees on Delegated Legislation to examine rules framed under Central Acts by the State Governments in spite of the fact that they are not laid before the State Legislatures.

Thiru C. Subramaniam, the then Law Minister and also a Member of the Committee on Subordinate Legislation of the Tamil Nadu Legislative Assembly (1955-56) was of the view that it was not proper for their Committee to go into the regulations framed by the State Government in pursuance of the powers conferred by the Constitution because it was a power given by the Constitution to the Government and not by any Legislative enactment.

As regards other recommendations, the Chairman has no remarks to make.

9. Legislative Assembly, U.P. . . . Chairman, Delegated Legislation Committee has not expressed any opinion on the draft Report.

Deputy Speaker, who is discharging the duties of the Speaker has expressed his agreement with the recommendations made in the Draft Report.

10. Legislative Assembly, West Bengal . . . The Speaker and the Chairman, Subordinate Legislation Committee fully agree with the recommendations proposed in the draft Report.

11. Legislative Assembly, Mizoram . . . Assembly dissolved. Comments will be sent after elections.

12. Legislative Assembly, Pondicherry . . . Speaker concurs with the views expressed in the draft Report.

13. Chairman, Committee on Subordinate Legislation, Raja Sabha . . . Raja Sabha Committee discussed a somewhat similar matter with the Nagaland Committee on Subordinate Legislation on the 29th January, 1979.

(The remaining State Legislative Councils/Assemblies etc. have not furnished any comments on the Draft Report).

MINUTES

APPENDIX VIII

(Vide para 6 of the Report)

MINUTES OF THE SEVENTY-FIFTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (FIFTH LOK SABHA) (1974-75)

The Committee met on Monday, the 28th April, 1975 from 15.30 to 16.30 hours.

PRESENT

Dr. Kailas—*Chairman*

MEMBERS

2. Shri T. Balakrishnaiah
3. Shrimati Premalabai Dajisaheb Chavan
4. Shri Md. Jamilurrahman
5. Shri Kamala Prasad
6. Shri M. S. Sanjeevi Rao

SECRETARIAT

Shri H. G. Paranjpe—*Chief Financial Committee Officer.*

The Committee considered Memoranda Nos. 296 to 310 on the following subjects:

S. No.	Memo No.	Subject
(1)	(2)	(3)
1	296	Laying of Rules framed by State Governments under Central Acts.
2 to 15	297 to 310	* * * * *

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

(1) *Laying of Rules framed by State Governments under Central Acts. (Memorandum No. 296).*

3. The Committee considered the above Memorandum and decided that, as desired by the Conference of Chairman of Committees on Subordinate Legislation, opinion of the Ministry of Law, Justice and Company Affairs (Department of Legal Affairs) might be obtained on the question whether a State Legislature could make a law providing for laying and modification of rules framed by a State Government under a Central Act dealing with matters falling in List I—Union List of the Seventh Schedule to the Constitution.

(ii) to (xv)	*	*	*
4 to 29	*	*	*

The Committee then adjourned to meet again on Tuesday, the 6th May, 1975 at 10.30 hours.

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

**MINUTES OF THE NINETY-NINTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION
(FIFTH LOK SABHA)
(1976-77)**

The Committee met on Thursday, the 5th August, 1976 from 15.00 to 16.00 hours.

PRESENT

Shri C. M. Stephen—*Chairman*

MEMBERS

2. Shri R. N. Barman
3. Shri Ram Singh Bhai
4. Shri Dinesh Joarder
5. Shri I. H. Khan
6. Shri Jagannath Mishra
7. Shri H. M. Patel
8. Ch. Ram Prakash
9. Shri P. Ganga Reddy
10. Shri P. Ranganath Shenoy
11. Shri Satyendra Narayan Sinha
12. Shri Karan Singh Yadav.

SECRETARIAT

Shri Y. Sahai—*Chief Legislative Committee Officer.*

2. The Committee considered Memo. Nos. 371—373 on the following subjects:

S. No.	Memo. No.	Subject
1	371	Laying of Rules framed by State Governments under Central Acts.
2 and 3	372 & 373	* * * *

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

(i) Laying of Rules framed by State Governments under Central Acts. (Memorandum No. 37¹)

3. The Committee considered the above Memorandum at some length and decided to hear the representatives of the Ministry of Law (Legislative Department) in regard to the competence of State Legislatures to make laws providing for laying before and modification by the State Legislatures of rules framed by State Governments under Central Acts.

(ii) and (iii)	*	*	*	*
3 to 11	*	*	*	*

The Committee then adjourned *sine die*.

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

MINUTES OF THE FIFTEENTH SITTING OF THE COMMITTEE
ON SUBORDINATE LEGISLATION
(SIXTH LOK SABHA)
(1977-78)

The Committee met on Thursday, the 30th March, 1978 from 15.30 to 17.00 hours.

PRESENT

Shri Somnath Chatterjee—*Chairman*

MEMBERS

2. Shri Durga Chand
3. Shri Santo Shrao Gode
4. Chaudhary Hari Ram Makkasar Godara
5. Shri Trepan Singh Negi
6. Kumari Maniben Vallabhbhai Patel

Representatives of the Ministry of Law, Justice and Company Affairs (Legislative Department)

1. Shri K. K. Sundaram—*Secretary*
2. Shri R.V.S. Peri-Sastri—*Joint Secretary*
3. Shri S. Ramaiah—*Joint Secretary*

SECRETARIAT

Shri Y. Sahai—*Chief Legislative Committee Officer.*

2-3. * * * *

4. The Committee next heard oral evidence of the representatives of the Ministry of Law, Justice and Company Affairs (Legislative Department) in regard to laying of rules framed by State Governments.

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

under Central Acts before the State Legislature/Parliament. The representative of the Ministry explained that as regards Central Acts in respect of subjects in the Concurrent List, the executive power including rule-making power was invariably vested in State Governments as they were the administering authority and were aware of local conditions. Sometimes, the Central Government framed model rules especially in respect of laws falling under the labour field and forwarded them to the State Governments to ensure some measure of uniformity in the matter.

5. The representative of the Ministry further stated that earlier under the Government of India Act and later, under the Constitution, the rules were simply required to be laid before the State Legislature without any further provision as now made in the model provision, for scrutiny, modification or rejection of the Rules. Only in the Motor Vehicles Act, under Section 133, the rules framed by State Governments are required to be laid before the State Legislature and are subject to modification that the legislature may make. But, in his view Section 133 of the Motor Vehicles Act need not necessarily lay down an authority or serve as a model.

6. When it was pointed out that in another recent post-Constitution Act, namely, the Bidi and Cigar Workers (Conditions of employment) Act, 1966, provision had been made for laying the Rules before the State Legislatures for a specified period and they were subject to modification, if any, made by the State Legislature, the representative of the Ministry said that he would see whether the provision had been suggested in the original Bill or it was incorporated at the time of consideration by Parliament.

7. In regard to the question how the rules framed by State Governments under a Central Act on a subject in the Concurrent List could be laid on the Table of the State Legislature for modification, if necessary, the representative of the Ministry stated that this could be done in two ways. One of the ways was that the rule-making provision in the Central Act be amended so as to include the usual provision for laying before the State Legislature and modification etc. The only snag in this suggestion is that the provision will be that the rules that are laid can be modified only within a specified period. Such a provision will amount to a curb on the State Legislature which is free in its sphere of framing its Rules of Procedure and will be repugnant to the Constitutional provision in Article 208. Elucidating his view, he added "There is no harm

for Parliament to enact a law where in provision is made that the rules will be subject to the approval of the State Legislature but to have a further provision that it shall be placed before the State Legislature for a limited period may not be in order.

8. In his view, the only solution would be that the State Legislature may be permitted to make an amendment for the purpose in the relevant law. The amending Act may be made to the effect that the rules framed by the State Government shall be laid before the State Legislature and shall be subject to modification, if any, and that it shall get the assent of the President also.

9. In reply to a question, the representative of the Ministry stated that such an Act framed by the State Legislature would not impinge upon the Constitutional provisions.

10. In regard to the provision for delegating rule-making powers to State Governments under Central Act on Union subjects, the representative of the Ministry said that the State was incompetent to legislate in respect of a matter in the Union List. Delegated legislative powers had been given to State Governments for the sake of convenience.

11. In reply to a question whether there was any Constitutional bar in laying of the said rules before the State Legislatures, the representative of the Ministry said that the physical act of laying is more in the nature of an executive rather than legislative function. When the State Government performs this executive function, it performs an executive function of the Union. There is, therefore, a Constitutional impropriety. Further, the object of laying is that it should be subject to scrutiny by an appropriate forum.

12. Further clarifying the Constitutional position in regard to laying, the representative of the Ministry stated that laying involves two aspects. Laying involves first the action on the part of the rule-making authority to lay the rules and secondly, the State Legislature has to allow the rules to be laid. Government will not be able to lay the rules unless the State Legislature has permitted to lay them. First aspect of laying can be covered by Article 258(1), but not the second aspect, viz. permission of the State Legislature to lay.

13. In regard to the opinion of the Advocate-General of Tamil Nadu that Article 258(2) covers the State Legislature, the representative of the Ministry said that Article 258(2) cannot be relied on for the purpose of making rules.

14. In reply to another question he said that in respect of a law falling under the Union List, there should be no provision for laying of rules framed under it by the State Government. He further said that if a Member of Parliament found some State rule was not proper, he could raise it on the floor of the House.

15. In reply to a further question, the representative of the Ministry stated that the number of Acts on Union subjects delegating rule-making power to State Government was negligible.

16. When asked what would happen if the Committee on Subordinate Legislation of Parliament on Scrutiny suggested alteration of a rule framed by a State Government, on a Union subject, the representative of the Ministry stated that in an extreme situation it was open to Parliament to amend the Act. So far as Union List matters were concerned, the executive power was with the Union only, and it was only for reasons of convenience that the delegation had been made to State Governments.

17. Referring to the various ways in which the Union could keep control over the rule-making power exercised by State Governments on Union subjects, the representative of the Ministry stated that in the relevant Central Act, there could be a provision that the rules will be laid on the Table of the House for a specific period and will be subject to such modifications as the House may choose to make. The provision could also be made for framing of rules "with the approval of Central Government" as had been done in the Probation of offenders Act. It could also be provided that the rules shall be "subject to scrutiny by Parliament."

In reply to a question whether it will be in keeping with the federal structure, the representative of the Ministry stated that the principal authority had always the power to control.

18. When asked as to how the Subordinate Legislation framed under Central Acts on Union subjects could be scrutinised, the representative of the Ministry stated that the rule-making power might be conferred on the Central Government and a provision empowering them to delegate that power to State Governments could also be incorporated. The Central Government in that case will have the final control with regard to the rules. But he conceded, this was a "very round about" method.

19. The Committee desired to know whether a State Committee on Subordinate Legislation can on its own scrutinize the rules on

subjects in the Union List and make a report, the representative of the Ministry stated that with regard to matters in the Union List, there may be an objection. He added that they "cannot ask the Committee to exceed its jurisdiction but if a Committee exceeds it, it cannot be questioned."

20. Asked whether the State Legislature or the Speaker could ask their Committee on Subordinate Legislation to scrutinize the rules, the witness stated that there was a difference between acting voluntarily and imposition of a function. If the advice was voluntary, it was on a different footing.

21. The Committee then enquired whether a State Legislature could not act in an advisory capacity if it felt that a rule framed by the State Government was not proper. The representative of the Ministry stated that if provision was made that the Legislature could tender advice, it was "recognition of jurisdiction, creation of jurisdiction". But if, on the other hand, they voluntarily tendered advice on their own, it stood slightly on a different footing. He further explained that the State Government which made rules with respect to, and under a law relating to, a matter under the Union List, really, acted in the capacity of a representative or a delegate.

22. The Committee then asked if a provision could be made in a Central Act that the rules framed thereunder pertaining to the Union List may be laid before the Legislature and the 'Members of the Legislature' may express their views thereon because this would affect neither the Legislative nor the Executive power of the Union. The representative of the Ministry remarked that it will be different if instead of "Members of the Legislature", it was the 'Legislature' which were empowered to express their views.

23. In reply to a question as to which State Legislature had made laws for laying and modification of rules made by State Governments under Central laws, the witness stated that the Orissa Government had amended the Orissa General Clauses Act, 1973 by Orissa Act 12 of 1976, to provide for laying of rules under a Central Act in force in or applicable to the State and relating to matters with respect to which the State Legislature has power to make laws for that State i.e. in respect of matters in the Concurrent List the rules made by State Governments are to be laid before State Legislatures. But there was no further provision for scrutiny and modification, Andhra

Pradesh and Madhya Pradesh had expressed their willingness to undertake legislation in this regard.

(The representatives of the Ministry then withdrew).

The Committee then adjourned to meet again on the 31st March, 1978.

**MINUTES OF THE TWENTY-FIFTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION
(SIXTH LOK SABHA)
(1978-79)**

The Committee met on Saturday, the 23rd September, 1978 from 11.00 to 12.30 hours.

PRESENT

Shri Somnath Chatterjee—*Chairman*

MEMBERS

2. Shri Durga Chand
3. Chaudhary Hari Ram Makkasar Godara
4. Shri Ram Sewak Hazari
5. Shri B. K. Nair
6. Shri T. S. Negi
7. Kumari Maniben Vallabhbhai Patel
8. Shri G. S. Reddi
9. Shri Saeed Murtaza
10. Shri P. A. Sangma
11. Shri Madan Lal Shukla
12. Shri Sachindralal Singha
13. Shri Krishnarao Thakur
14. Shri C. N. Visvanathan

SECRETARIAT

Shri Y. Sahai—*Chief Legislative Committee Officer.*

2. The Committee considered Memoranda Nos. 139 and 154 to 163 on the following subjects:

S. No.	Memo No.	Subject
(i)	139	Laying of Rules framed by State Governments under Central Acts before State Legislatures Parliament.
(ii)	154 to 163.	* * *

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

- (i) Laying of Rules framed by State Governments under Central Acts before State Legislatures/Parliament—(Memorandum No. 139).

3. The Committee considered the above Memorandum and noted that a large number of Central Acts falling under the Concurrent List as well as under the Union List delegated rule-making power to State Governments. There was no provision in these Acts for laying of the rules framed thereunder by State Governments on the Table of either the State Legislature or Parliament with the result that these rules remained unscrutinised. The Committee felt that whatever rules were framed by the Executive should not go unscrutinised and there must be some legislative machinery to ensure that the delegated powers were exercised properly and within such delegation.

4. The Committee noted that the matter had been considered by the Committee on Subordinate Legislation (Second Lok Sabha). After considering the pros and cons of adopting either of the two courses—laying the rules before State Legislatures or Parliament—they had come to the conclusion that the better course would be to request the State Governments to have laws enacted by their Legislatures to provide for laying of the rules framed by them (either under a Central Act or State Act) before the State Legislatures and for their modification, if any, by the respective Legislatures (*vide* paras 46—52 of Seventh Report—Second Lok Sabha). Except for one or two States, no State Government had enacted such a law so far.

5. In so far as rules framed by State Governments under Central Acts on Concurrent subjects were concerned, the Committee were of the opinion that there was no difficulty, legal or otherwise, in scrutiny of these rules by the State Committees on Subordinate Legislation. In this connection, the Committee noted the opinion of the Ministry of Law that a State Legislature could make a law providing for laying and modification of rules framed by the State Governments under a Central Act in respect of matters enumerated in the Concurrent List. No specific authority of Parliament was necessary for enabling a State Legislature to make such a law. There was also no legal bar if a State Legislature made a provision in its Rules of Procedure or alternatively the Speaker of a State Legislature issued a direction, empowering the Committee on Subordinate Legislation of the State Legislature to examine the rules framed by State Government under a Central Act on a Concurrent subject, whether such rules were laid before the State Legislature or not.

During the course of evidence before the Committee, the representatives of the Ministry of Law had also stated that a provision could be made in the Central Acts on Concurrent subjects requiring the State Government to simply lay the rules framed thereunder by them before the State Legislature. The Committee noted in this connection that a provision on these lines had in fact been made in the Industrial Relations Bill, 1978. The Committee desired the Ministry of Law, Justice and Company Affairs (Legislative Department) to incorporate such a provision in all Central Acts on concurrent subjects which delegated rule-making power to State Governments.

6. In regard to rules framed by State Governments under Central Acts on Union subjects, the Committee noted that the following difficulties would arise if such rules were required to be laid before Parliament:—

- (i) No particular Central Minister would be responsible for having framed them or for laying them since the rules would not have been framed by an authority subordinate to or under the control of any Central Minister;
- (ii) Rules framed by State Government would be based on local conditions and material facts within their knowledge; and
- (iii) If such rules were discussed in Parliament, it would be impossible to draw a line to stop criticism of State Government concerned or their officers either directly or indirectly. Such a discussion was likely to be misunderstood by the State Government and affect Centre-State relations.

7. In view of the above difficulties and the federal character of the Constitution, the Committee felt that it would be more appropriate if such rules were also scrutinised by some State Legislative machinery. For this purpose, a procedure could be devised whereby even in the absence of statutory provision, these rules were taken up for scrutiny by their respective Committees on Subordinate Legislation.

8. The Committee were of the view that there would be no Constitutional impropriety if the rules framed by a State Government under a Central Act on a Union subject were laid before the State Legislature for the information of members. In this connection, the Committee were not inclined to agree with the opinion of the Ministry of Law that the State Legislature by permitting these

rules to be laid would be impinging on the Union List. The Committee felt that in reaching that opinion the Ministry of Law had acted with over-caution and taken too legalistic a view of the problem.

9. The Committee noted that the Ministry of Law had agreed that a recommendation by the Committee on Subordinate Legislation of a State Legislature on a rule relating to a Union List was not equivalent to a law made by the State Legislature on a 'Union subject'. The Committee were, therefore, of the view that a State Committee on Subordinate Legislation would not be exceeding its jurisdiction if it scrutinised the rules framed by State Government on a Union subject and sent their suggestions to the State Government. In such an arrangement the State Legislature will have as such no power to modify the rules.

10. The Committee also saw no Constitutional inhibition if the Speaker of a State Legislature issued a direction empowering the State Committee on Subordinate Legislation to examine such rules even if they were not laid on the Table. The Committee did not agree with the opinion of the Ministry of Law that such a direction did not appear to be *intra-vires* Article 208 of the Constitution.

11. In view of the fact that the subject matter under consideration had implications on Centre-State relations and also as the matter had been raised at the last Presiding Officer's Conference, the Committee authorised the Chairman to discuss the draft Report of the Committee on the subject with the Hon'ble Speaker, Lok Sabha before it was finalised by the Committee.

12. The Committee also decided that such State Legislatures as did not have Committees on Subordinate Legislation should be requested to constitute these Committees.

(ii) to (xi)

13—32.

The Committee then adjourned.

MINUTES OF THE THIRTIETH SITTING OF THE COMMITTEE
ON SUBORDINATE LEGISLATION
(SIXTH LOK SABHA) (1978-79)

The Committee met on Wednesday, the 20th December, 1978 :
from 15.30 to 16.00 hours.

PRESENT

Shri Somnath Chatterjee—*Chairman*

MEMBERS

2. Shri Durga Chand
3. Chaudhary Hari Ram Makkasar Bodara
4. Shri Ram Sewak Hazari
5. Shri B. K. Nair
6. Shri T. S. Negi
7. Kumari Maniben Vallabhbhai Patel
8. Shri G. S. Reddi
9. Shri Sachindralal Singha
10. Shri Krishnarao Thakur

SECRETARIAT

Shri Y. Sahai—*Chief Legislative Committee Officer.*

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4. The Chairman informed the Committee that as desired by the Committee at their sitting held on the 8th December, 1978, he discussed the draft Report regarding laying of rules framed by State Governments under Central enactments before Parliament| Speakers|Chairmen as well as Chairmen, Committee on Subordinate Legislation, with the Hon'ble Speaker. The Speaker-

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desired that the draft Report might be circulated to all State Legislative Assemblies|Councils for being placed before their respective Speaker|Chairmen as well as Chairmen, Committee on Subordinate Legislation of State Legislatures for their views. It was accordingly decided that the draft Report be sent to the State Legislatures.

The Committee then adjourned.

MINUTES OF THE THIRTY-SIXTH SITTING OF THE
COMMITTEE ON SUBORDINATE LEGISLATION
(SIXTH LOK SABHA) (1978-79)

The Committee met on Thursday, the 19th April, 1979 from 15.30 to 16 00 hours.

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PRESENT

Shri Somnath Chatterjee—*Chairman*

MEMBERS

3. Chaudhary Hari Ram Makkasar Godara
3. Kumari Maniben Vallabhbbhai Patel
4. Shri P. A. Sangma
5. Shri Sachindralal Singha
6. Shri Krishnarao Thakur

SECRETARIAT

Shri Y. Sahai—*Chief Legislative Committee Officer.*

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3. The Committee then considered their draft * * * and Twentieth Reports and adopted them.

4. The Committee authorised the Chairman and, in his absence * * * Shri Krishnarao Thakur to present their * * * and Twentieth Reports on their behalf to the House on the * * * and 27th April, 1979, respectively.

5—13. * * * * *

The Committee then adjourned.

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