

**PUBLIC ACCOUNTS COMMITTEE
(1969-70)**

(FOURTH LOK SABHA)

HUNDRED AND TWENTIETH REPORT

**[Audit Report (Commercial), 1968—Section XVII
relating to Films Division and Paragraph 33 of
Audit Report (Civil), 1969 relating to the
Ministry of Information and Broadcasting.]**



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LOK SABHA SECRETARIAT
NEW DELHI

April, 1970/Valsakha, 1892 (S)

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CORRIGENDA TO THE HUNDRED AND TWENTIETH REPORT
OF THE PUBLIC ACCOUNTS COMMITTEE (1969-70)
PRESENTED TO LOK SABHA ON 30.4.1970.

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*Not printed. (One cyclostyled copy laid on the Table of the House and five copies placed in the Parliament Library).

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PUBLIC ACCOUNTS COMMITTEE (1969-70)

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Shri A. L. Rai—*Deputy Secretary.*

Shri K. Seshadri—*Under Secretary.*

*Ceased to be a Member of the Committee w.e.f. 3rd April, 1970.

INTRODUCTION

I, the Chairman of the Public Accounts Committee, as authorised by the Committee, do present on their behalf this Hundred and Twentieth Report (Fourth Lok Sabha) on Section XVII of Audit Report (Commercial), 1968 relating to Films Division and Paragraph 33 of Audit Report (Civil), 1969 relating to the Ministry of Information and Broadcasting.

2. The Audit Report (Commercial), 1968 and Audit Report (Civil), 1969 were laid on the Table of the House on the 10th May, 1968 and the 18th April, 1969 respectively. The Committee examined the Paragraphs pertaining to Films Division and Ministry of Information and Broadcasting at their sitting held on the 21st January, 1970 (F.N.). The Committee considered and finalised this Report at their sitting held on the 29th April, 1970 (A.N.). Minutes of these sittings form part II* of the Report.

3. A statement showing the summary of the main conclusions/recommendations of the Committee is appended to the Report (Appendix II). For facility of reference these have been printed in thick type in the body of the Report.

4. The Committee place on record their appreciation of the assistance rendered to them in the examination of this case by the Comptroller and Auditor General of India.

5. The Committee would also like to express their thanks to the officers of the Ministry of Information and Broadcasting for the co-operation extended by them in giving information to the Committee.

6. The Committee would also like to express their thanks to the officers of the Ministry of Information and Broadcasting for the cooperation extended by them in giving information to the Committee.

ATAL BIHARI VAJPAYEE,

Chairman,

Public Accounts Committee.

NEW DELHI:

April 29, 1970.

Vaisakha 9, 1892 (S).

*Not printed. (One cyclostyled copy laid on the Table of the House and five copies placed in Parliament Library).

MINISTRY OF INFORMATION AND BROADCASTING
FILMS DIVISION

I

TARGETS AND ACHIEVEMENTS

Audit Paragraph

Introduction

1.1. The Films Division was set up in 1948 in Bombay with the object of producing and distributing newsreels, documentaries and other films required by Government for purpose of information, education and training. About 25 per cent of the total production of the documentaries is assigned to approved private producers.

1.2. Films are distributed to State Governments, Five Year Plan publicity units, development commissions, educational institutions, etc. for free exhibition.

Targets and achievements

1.3. The targets and achievements of Films production during the three years ending March, 1967 are given below:—

	Targets			Achievements		
	1964-65	1965-66	1966-67	1964-65	1965-66	1966-67
Newsreels .	52	52	53	62	60	59
Overseas editions .	12	12	12	8	6	..
Documentaries :						
(a) Production through private producers .	24	24	24	24	18	9
(b) Films Division production .	82	82	66	73	110	77
TOTAL .	170	170	155	167	194	145

1.4. The production of 194 films in 1965-66 included 43 short films (equivalent to 11 films) and 2 released versions of films completed earlier. The effective number of films produced during 1965-66, therefore, came to 160 as against the target of 170. The short-fall in production during 1965-66 has been attributed by the Management to shortage of directorial staff and that during 1966-67 to stoppage of production of overseas editions and reduction in director-wise quota of films with a view to laying greater emphasis on the quality of production.

[Paragraphs 1 and 2 (Section XVII) of
Audit Report (Commercial), 1968].

1.5. The Committee enquired what targets were prescribed for the production of different categories of films by both the Films Division and private producers for the years 1967-68 and 1968-69 and whether these targets were achieved. The information furnished by the Ministry in this regard is reproduced below:

<i>I. Targets</i>		
<i>Category</i>	1967-68	1968-69
Newsreels	52	52
Other departmental films	66	66
Outside Productions	24	24
	<u>142</u>	<u>142</u>
 <i>II. Achievements</i>		
Weekly Newsreels	52	52
Other departmental productions	67	72
Outside Productions	23	25
	<u>142</u>	<u>149</u>

1.6. The basis on which targets for the production of different kinds of films were fixed has been explained as under*:

"The Films Division was set up to produce and distribute films of informative and educational in character and the target was fixed as 52 documentaries and 52 newsreels, so that one documentary and one newsreel could be released every week. Due to non-availability of adequate funds, the target was reduced to 42 documentaries and 52 newsreels. However, when the Five Year Plans were taken up, the need for other types of films such as teaching and instructional films, export publicity films external publicity films, tourist publicity films T.V. films, etc. was felt and the target for the various plan periods were fixed taking into account:

- (a) the existing targets;
- (b) need for additional films;
- (c) capacity for expansion of the Films Division;
- (d) funds that could be allocated by the Planning Commission/Ministry of Finance for production, dubbing and distribution of additional films.

For the Third Five Year Plan the target was fixed at 106 films per year in respect of documentary films, but due to reduction in the quota of films to be produced by each Director from 4 to 3 films per year, the target

*Note submitted to Study Group 'A' of Public Accounts Committee which visited the Films Division in September, 1969.

was revised to 90 films from the year 1966-67. About 25 per cent of the annual target of films is earmarked for outside producers. Out of the annual quota of 90 films, 24 films are to be produced by outside producers."

1.7. The Committee drew attention to the shortfall in production in 1964-65, 1965-66 and 1966-67. They were given to understand* that this was caused by the following factors:

- (i) Reduction and ultimately abandonment of the overseas editions of Newsreels.
- (ii) Shortfall in the completion of films by the outside producers.
- (iii) Reduction in the annual quota of films to be completed by each Director in 1966-67 from 4 films to 3 films in order to improve the quality of films, which had been the target of criticism.
- (iv) Vacancies in the posts of Producers and Directors.

1.8. During evidence, the Committee enquired about the reasons for the reduction of the Directors' quota from 4 to 3. The Secretary, Ministry of Information and Broadcasting stated in this connection: "We got an expert on documentaries to advise us and he said that the number of films we expect from a Director casts much too heavy a burden on him, with the result the quality of the films was affected. On his advice, the target was reduced." The original annual quota of films to be produced by a Director was 4 and this was reduced to 3 in April, 1966, taking into account the time required for the following stages of production*:

- "(a) Study of the background material and research on the subject on which the film is to be produced.
- (b) On the spot study of the conditions etc. at locations which are to be covered for the film.
- (c) Preparation of treatment/script and its finalisation including obtaining of approval from the subject specialist.
- (d) Arrangements for shooting at places to be covered including obtaining of permissions etc.
- (e) Shootings at the locations.
- (f) Assembling of the material shot, editing and preparation of rough-cut including its approval by subject specialist.
- (g) Time required for writing of the commentary and revision till its approval by the subject specialist.

*Note submitted to Study Group 'A' of PAC during their visit to Films Division in September, 1969.

- (h) Supervision of the remaining stages such as recording of commentary, music and effects, re-recording, preparation of opticals, titles etc.
- (i) Getting approval of the film from the Film Advisory Board and obtain censor certificate."

1.9. The Committee enquired whether as a result of the reduction in quota, there was any perceptible improvement in the quality of films. The witness stated: "We find that the number of awards which our films have been winning since, 1966, both nationally and internationally, have risen very sharply. For instance, from 1962 to 1966, the trophies, medals cash prizes won abroad were three whereas in 1966 alone the number was three, in 1967 three, in 1968 five and in 1969 four, making a total of 15 in four years against three in the earlier four year period. So, there has been some international recognition of these. There has been national recognition also. We won 10 prizes during this time whereas earlier the number was only 5."

1.10. Noting that the shortfall in production during 1965-66 occurred due to shortage of directorial staff, the Committee asked whether due allowance was not made for vacancies in this grade of staff while fixing the targets. The Secretary, Ministry of Information and Broadcasting replied: "Normally we expect a certain number of vacancies but in 1965-66 and 1966-67, there was an unforeseen number of vacancies. There were five or six vacancies as against the normal one or two." Explaining the reasons for the vacancies in the directorial staff, one of the witnesses stated: "A number of our films directors have gone over to the Film Institute of India as professors; some of them have joined other Government Departments, for example, the Ministry of Defence; one of them went away to the United Nations; one of them decided to make feature films. Off and on these things happen." The other reasons for the shortage in the directorial staff were promotion of Director to the grade of Producer and resignation/retirement of Director/Deputy Director.

1.11. The Committee enquired whether one of the reasons for the shortage in the directorial staff could be the difficulty in finding people with the right type of experience and knowledge. The Secretary, Ministry of Information and Broadcasting, replied: "... it is quite likely that we may have to offer better terms to Directors. ... But this is one of those things about which I am myself not very satisfied—idle man-hours resulting from directorial shortage. It might be worthwhile to institute some method by which we can keep our directors with us instead of losing them so rapidly. Perhaps, we can pay them more; in the long run, it would be a saving."

1.12. At the instance of the Committee, the Ministry furnished the details regarding the sanctioned strength of the directorial staff during the period 1963-64 to 1967-68 and the number of posts that remained vacant from time to time during this period. The Committee observe therefrom that the shortage of directorial staff during the period in question worked out as under :

<u>Year</u>	<u>Shortage (in terms of man- days)</u>
1953-64	849
1964-65	61
1955-65	881
1955-67	1,008
1957-58	1,634

1.13. Explaining the steps taken to meet the shortage in the directorial staff, the Ministry of Information and Broadcasting have stated in a note:

"The Recruitment Rules for the post of Director prescribed 80 per cent by direct recruitment and 20 per cent by promotion from among Deputy Directors who have put in 6 years service in the grade of Deputy Director, The post of Deputy Director is, however, filled by 100 per cent direct recruitment through Union Public Service Commission. It takes about 6 months to fill a vacancy through the Union Public Service Commission since these posts have to be advertised, interviews held, a select list prepared and verification of character and antecedents and medical examination of the successful candidates completed before any appointment can be made. To meet such shortages, Films Divisions engages Directors on *ad hoc* fee basis for individual films. Such Directors are, however, not always easily available. This made up only a part of the shortfall in the targets caused by the shortage of Directorial staff."

1.14. The number of Directors engaged on *ad hoc* fee basis from time to time during the period 1963-64 to 1968-69 is given below:

<u>1963-64</u>	<u>1964-65</u>	<u>1965-66</u>	<u>1966-67</u>	<u>1967-68</u>	<u>1968-69</u>
6	3	1	6	3	6

1.15. The Committee asked why 25 per cent of the annual quota of films was assigned to private producers, when it was being claimed the films produced by the Films Division were better in quality than those produced by the private producers. The witness replied: "Because our capacity for producing films is limited. As you see, our pictures are more expensive. Sometimes, it is not necessary to produce pictures of absolutely the highest quality on all possible topics. We have also to support people in the private sector, producers, artistes, etc., who do their best in an atmosphere of

freedom. We cannot get the best out of them always by taking them on as Government servants."

1.16. The Committee asked why against the target of 24 films each year to be produced by these private producers, only 18 films were produced in 1965-66 and 9 in 1966-67. The Committee enquired whether there was any default on the part of the private producers. In a note, the Ministry of Information and Broadcasting have stated: "The extent of shortfall largely attributed to the delay on the part of Producers, was as under:

1965-66	..	6 films
1966-67	..	5 films"

1.17. The Ministry have further stated that the performance of each producer is taken into account while annually reviewing the panel of the outside producers. Before fresh assignments were made, considerable thought was given by the Films Division and those films which were required urgently were not assigned to these Producers.

1.18. The Ministry have also enumerated the following factors which also contributed to the shortfall in the production of films by private producers:

- (i) difficult nature of some of the subjects due to which many revisions were necessary at the script stage;
- (ii) lack of facilities or delay in receipt of permissions from the concerned authorities for shooting;
- (iii) seasonal nature of subjects;
- (iv) occasional shortage of raw-stock;
- (v) delay on the part of sponsoring authorities in giving comments/ approval of script and rough-cuts;
- (vi) change in thinking on the part of sponsors during the course of production necessitating changes in the treatment of the subject of the film;
- (vii) illness of some of the producers; and
- (viii) submission of economically low quotations with the result that the producers try to cut corners in order to keep the expenditure as low as possible so as to avoid loss to them.

1.19. The Committee enquired whether any action was taken against the producers for the default on their part in producing the films. In a note, the Ministry of Information and Broadcasting have indicated that the names of 6 producers were deleted from the panel during the period 1965-66 to 1966-67 because their performance was unsatisfactory. When the

Committee enquired during evidence whether the penal clause in the contract was enforce against the producers for default, the witness stated: "We can hardly recover anything from them."

1.20. The Committee enquired how it was that the shortfall in production by private producers occurred only in years 1965-66 and 1966-67. The witness replied: "One reason was shortage of staff. Then, it also depends on the nature of the subjects included in the programme. Certain subjects like those connected with defence etc. cannot be given to private producers." The witness added that "now their performance has improved." Against the target of 24 films for each year, "in 1967-68 the number of films produced was 23 and in 1968-69, it was 25."

1.21. The Committee pointed out that production of newsreels was much higher than the targets set during the period 1964-65 to 1966-67. They wanted to know how this was achieved and how funds became available for the production of extra newsreels. In reply it was stated: "Normally there is one newsreel every week; therefore, the target is 52 newsreels but in certain years there are special occasions which demand the production of special newsreels and those are done in addition to these 52. The staff meant for producing documentary films is used to make them. When some significant event takes place, requiring production of a special newsreel, it is done. . . . We give priority to newsreel production over documentary production."

1.22. As for funds for producing the extra newsreels, the witness stated: "We produce fewer documentaries in that year. All these are a tentative guide rather than rigid things." It was pointed out by the Committee that during 1965-66, 110 documentaries were produced while the target was only 82. Asked to explain this wide divergence in the target and achievement, the witness replied: "We made some special films of very short duration. We have explained that in the footnote which says that 43 of these were very short films which were equivalent to 11 regular films. . . ."

1.23. The Committee wanted to know how subjects for newsreels and documentaries were being selected. The Committee were told: "In regard to newsreels, we have the Newsreel Officers posted in different States. Unfortunately, all the States are not covered but we propose to gradually cover all the States by having at least one Newsreel Officer in each State. The Newsreel Officer covers all important functions which should form part of the newsreels. Then, after taking the shots from various places they send the exposed material to Bombay. There, the final selection is made as to what should go into the newsreel which is put out through the cinemas and our field publicity vans." The final selection rested with the Producer of Newsreels who, in case of doubt, consulted others also. As regards documentaries, it was stated that the Ministry of Information and Broadcasting

received various suggestions for the production of documentary films. The suggestions were also normally invited from various Ministries. Each year, a meeting was held in the Ministry of Information and Broadcasting to consider all those suggestions in consultation with the representatives of the Ministries. Then, a final list of the subjects for films was drawn up.

1.24. Taking up the question of overseas editions, the Committee pointed out that as against the target of 12 per year, 8 editions were produced in 1964-65 and 6 in 1965-66. In the subsequent year the production of the overseas editions was completely stopped. The Committee asked for what reasons the overseas editors were suspended. The witness replied: "These films were made at the request of the Ministry of External Affairs, who were making use of them. After utilising them for some years they felt that it was not necessary to have overseas editions and, therefore, they were discontinued." The Committee enquired whether the overseas editions were unpopular and hence were discontinued. The witness stated: "That is the inference that we have to draw. Because if they wanted a different type of film, they would have said so. Perhaps they feel that the documentary is not a good medium of publicity, but TV which has almost totally replaced documentaries. As soon as we make TV films perhaps they will utilise them."

1.25. The Committee enquired how far the stoppage of production of overseas editions had affected the country's publicity overseas and whether the Ministry of Information and Broadcasting depended upon the assessment of the Ministry of External Affairs in this regard. The witness stated: "It is totally under their control. They have an external unit."

1.26. The Committee note that there was a substantial shortfall in production of documentaries by the Films Division during the years 1965-66 and 1966-67. In the subsequent years, the position improved but this was not due to any increase in output, but a reduction in the targets.

1.27. Apart from other factors, the main reason for the shortfall in production was shortage in directorial staff. The data furnished to the Committee shows that this is a persisting phenomenon and that the position in this regard has deteriorated. The shortage of Directors has resulted in other resources of the Films Division, by way of men and material being kept idle. The Committee would like Government to consider steps to bring about a permanent improvement in the position. Recruitment procedures should be streamlined and conditions of service and work made congenial enough to attract and retain real talent. There is a Film Institute at Poona which trains people in this line. Competent staff from that Institute should be drafted, if necessary, and trainees, who show promise, should be induced to join the services of the Films Division.

1.28. The Committee consider it essential that utmost stress should be laid on the quality of films, produced by the Films Division. Government have claimed that the quality has recently improved and that this is reflected in the increasing number of awards won, but an objective assessment on this point is called for by experts in the fields. The fact that overseas editions of newsreels previously produced by the Films Division had not proved popular and were, therefore, discontinued from 1966-67 would appear to suggest that there is ample room for improvement.

1.29. The Committee observe that 25 per cent of the documentaries to be produced by the Films Division every year are earmarked for production by outside producers. Though, since 1967-68, these producers have been fulfilling their obligations, in earlier years they had failed to produce the allotted quota. In some cases this was no doubt due to default on their part but the information furnished by Government shows that procedural delays in Government Departments held up production of films on occasions. Later in this Report, the Committee have reviewed a case, where due to delay on the part of Government in approving scripts and rough-cuts and according facilities that had been agreed upon, production of an important documentary was held up, resulting in arbitration proceedings which cost Government an extra expenditure of over Rs. 2.79 lakhs. The Committee would like Government to take precautions against recurrence of such situations in their dealings with outside producers.

1.30. The Films Division is stated to be maintaining a panel of outside producers to whom production is farmed out. This panel should be periodically reviewed, taking competent professional advice, so that the Division does not deal with any-one except recognised producers. There should also be some system of gradation in the panel, according to the merits of producers and a reasonably uniform practice in the matter of award of rates, provision of facilities etc. to producers of comparable merit.

II

WORKING RESULTS, COSTING AND IDLE TIME

Audit Paragraphs

Working results

1.31. The main source of revenue is the rental for the supply of films to cinema licensees which is assessed at 1 per cent of their gross collections (excluding entertainment tax) subject to a minimum of Rs. 2.50 per week; the rates were fixed in February, 1958.

1.32. The following table indicates the working results of the Division for the three years ending March, 1967 :—

	(Rupees in lakhs)		
	1964-65	1965-66	1966-67
(a) Government capital at the close of the year	9.40	16.85	17.94
(b) Revenue			
(i) Rental	59.64	64.17	66.64
(ii) Sale of prints	16.94	15.94	14.55
(iii) Miscellaneous	19.44	8.97	8.89
TOTAL	96.02	89.08	90.08
(c) Expenditure	128.57	110.79	122.43
(d) Excess of expenditure over income	32.55	21.71	32.35
(e) National revenue from films released for free exhibition	61.91	50.16	64.72
(f) Surplus after taking into account the national value at (e) above	29.36	28.45	32.37

Costing

1.33. (a) *System*.—A simplified system of costing was introduced in June, 1957. This system does not envisage the comparison of the overheads recovered at predetermined rates with the actuals and the maintenance of log sheets for utilisation of machines and equipment. At the time of introduction of the system it was envisaged that it would be reviewed after one year. No such review has been conducted so far (October, 1967).

1.34. (b) *Cost of production.*—A comparative statement of the average cost of production of documentary films produced departmentally and of those assigned to the private producers during the three years ending March, 1967 is given below:—

	Cost of production per metre		
	1964-65	1965-66	1966-67
	Rs.	Rs.	Rs.
Films Division	68.50	70.21	105.97
*Private producers	61.72	55.14	61.30

1.35. In para 155 of their 23rd Report (1963-64), the Public Accounts Committee had recommended that efforts should be made by the Division to effect possible economies in the production and distribution of such films so as to make them self-supporting.

1.36. It will, however, be seen that the cost of documentary films produced by the Division was much higher than that of the private producers during all the three years and that the cost of films produced by the Division during 1966-67 rose by 50 per cent over the figure for 1965-66. According to the Management, the higher cost of production was due to (i) engagement of highly paid and skilled staff who are not employed on a regular basis by the private producers and (ii) adoption of certain principles and procedures laid down on administrative considerations which affected the cost of production.

1.37. As regards the sharp increase of 50 per cent. in the cost of production of films in 1966-67 over that of 1965-66, the Management have stated the following reasons:—

- (i) Fall in production consequent upon the reduction in the director-wise quota of films with a view to laying greater emphasis on the quality of production.
- (ii) The effect of devaluation which worked out to Rs. 4.33 per metre.
- (iii) The increase in processing rates and establishment charges by Rs. 0.43 and Rs. 4.71 per metre respectively.

*NOTE.—The cost of production of private producers includes overhead charges (Rs. 3.10 per metre for the years 1964-65 and 1965-66 and Rs. 5 per metre for the year 1966-67) of the Division.

Idle time

1.38. The table below indicates the number of idle man-days (after setting off the time allowed for practising music, to be recorded, at the rate of half an hour per day) for the Films Division and the value thereof during the last three years:—

	1964-65	1965-66	1966-67
Idle man-days	5,846	6,146	5,080
Value of idle man-days in lakhs of rupees	2.47	2.59	2.01

[Paragraphs 3, 4 and 5 (Section XVII) of Audit Report (Commercial), 1968].

1.39. The Committee were given* the following figures of revenue and expenditure for 1967-68 and 1968-69:

	Revenue	Notional Revenue	Expenditure
(Rupees in lakhs)			
1967-68	115.38	84.52	154.5
1968-69	120.00	118.84	155.43

*Note furnished to Study Group 'A' of PAC which visited the Films Division in September, 1969.

According to Audit, the figures of revenue and expenditure for 1967-68 and 1968-69 and the break-up of the revenue are as follows:—

	Revenue	Notional Revenue	Expenditure
(Rupees in lakhs)			
1967-68	115.38	84.52	149.22
1968-69	120.41	118.84	169.49

Break-up of revenue

	1967-68	1968-69
(Rupees in lakhs)		
Rentals	75.95	97.57
Sale of prints	19.50	13.20
Royalty	0.35	0.16
Other Receipts	19.58	9.48
	115.38	120.41

1.40. The break-up of the revenue for the years 1967-68 and 1968-69 (proforma figures) was indicated* as follows :

	1967-68	1968-69
(Rupees in lakhs)		
Rentals	75.95	93.60
Sale of prints	19.50	13.20
Royalty	0.35	0.10
Other Receipts	19.58	5.04
	115.38	115.94

1.41. The Committee wanted to know how the revenue from compulsory exhibition of the films compared with the expenses. The witness explained that the receipts for the year 1966-67 were Rs. 66.64 lakhs, which together with the amounts realised on sales of prints (Rs. 14.55 lakhs) and on miscellaneous revenue (Rs. 8.89 lakhs) came to Rs. 90.08 lakhs, against the expenditure of Rs. 122 lakhs. "But to this we add a notional revenue for the films produced for free exhibition by DAVP. So we end up with a small surplus."

1.42. The Committee desired to know the rationale underlying the practice of taking credit for 'notional revenue'. This was explained to the Committee thus: "These films are supplied free through Publicity Organisation in the State Governments. If they had been sold, they would have fetched us some prices. There are prices fixed for the sale of prints. That is the notional value."

1.43. Government have in a note furnished the following particulars of organisation (other than cinema houses) to whom prints of the films are being supplied free of charge and the number of prints being supplied :

Name of Organisation	No. of prints supplied	
	GPP films	IPP films
1. State Governments and Union Territories	60	187
2. Social Education Organisers' Training Centres	5
3. Directorate of Field Publicity of the Central Government	174	174
Exhibition Division	4	16
5. Branch Offices of the Films Division and its libraries	14	15

Name of Organisation	No. of prints supplied	
	GPP films	IPP films
6. Ministry of Community Development	..	1
7. Ministry of Railways	8	8
8. Ministry of Education	1	1
	261	407

1.44. The Committee asked for details of miscellaneous revenue. The witness stated: "‘Miscellaneous’ consists of sale of stock of old stores and sale of junk films. After having their runs, the films are sold. It consists of projection charges and the service charges of our staff and equipment to outsiders. Money coming from this source also goes into ‘Miscellaneous’."

1.45. The Committee posed the question whether Government was satisfied with the picture of working results as reflected in the revenue figures. The witness said: "No, we are not satisfied. I cannot claim that it is a very happy state of affairs."

1.46. The Committee enquired why the rental for the films had not been raised so that the higher expenditure could be offset. The witness stated: "It is a very ticklish problem. We are, more or less, at the mercy of State Governments in this respect. It is done with their concurrence and under their orders. Now, if we raise the rental or try to raise the rental, there will be a reaction from the State Governments. They will not like it. It may have a number of undesirable consequences." In a note* it has been stated: "In the feature film industry, different practices are prevalent and ordinarily the cinema exhibitors do not pay rentals to the distributors in respect of the feature films shown in the cinema. There has been an increase in the rates of admission charged by the cinema from the public. As the Films Division charges rental on the basis of percentage of the net collection of the cinemas, an increase in the gate collection automatically results in the increase of revenue of the Films Division."

1.47. The Committee asked whether, in view of the fact that an increase in the rentals was not considered desirable or feasible, the question of increasing the revenue by taking more prints of the films had been considered. The witness replied: "As far as the theatrical distribution is concerned, the increase in the films would not make any difference to the rentals because all the cinema houses in the country are covered and

*Submitted to Study Group 'A' of PAC which visited films Division in September, 1969.

all of them are paying. But we do try to sell our films and the sales sometimes go up and sometimes they go down. These are the purchases of our films by the educational institutions." However, it was stated by the witness that this aspect also would be looked into by the outside consultants proposed to be appointed by Government to look into the working of the Films Division.

1.48. The Committee enquired what agency was available for distribution of the films to cinema house. The witness explained to the Committee: "We have our own distribution machinery the headquarters being at Bombay and branches being in six places Calcutta, Madras, Hyderabad, Bombay, Nagpur and Lucknow. And it is through these distribution branches that we see that the prints reach the cinema house. We get a report about that from the cinema houses. They are supposed to send the returns."

1.49. To a question whether it was possible for a cinema house not to exhibit these films, the witness replied: "It is against the law if they are not showing them. . . . There is a statutory requirement in this regard. Our inspection staff makes a surprise visit to the cinema houses to ensure that they are being shown in the cinema houses."

1.50. The Committee were informed during evidence that 300 to 500 prints are being made of each film "of which 142 are meant for release in the cinema houses and the rest are meant for others." The number of prints supplied to "others" depended upon the types of films. The number of cinema houses "is in the neighbourhood of 6,800 or thereabout. And it is increasing at the rate of 400 every year." For a film to cover the whole of the country, it would take "about 25 weeks of run plus the transit time." Normally a print would run for about 200 to 250 shows.

1.51. The Committee enquired whether 142 prints of a film were sufficient for its being exhibited in the theatres all over the country within a reasonable time of its production. The Ministry have stated in a note:

"142 prints of each film taken out for theatrical exhibition through the cinema houses throughout the country are not adequate. In view of this, each film released by the Films Division—whether it is a documentary or a newsreel remains in circulation for about 9 months, *i.e.*, 24 weeks in exhibition in the cinema and 12 weeks in transit. It would be ideal to complete the circulation of newsreels in not more than a month from the date of its release and documentaries particularly those which are topical in nature, in about 3 to 4 months. Due to inadequacy of funds, it has not yet been possible to achieve this idea."

1.52. The Committee enquired whether it was being ensured that the films released for free exhibition were utilised to the maximum extent. The witness replied: "On an average the units of the Central Directorate of Field Publicity which are about 166 in number all over the country show these films to an estimated audience of 50 million a year. On an average each of my units tour for 20-22 days a month where a film is shown at least once a day. More often than not 2 or 3 shows are held, the additional shows being during the day in schools. Evening shows are invariably held in villages, small towns and also in the backward underdeveloped mohallas of the cities also. In addition the State Government units also show these films on the non-commercial circuit." The Committee asked whether there was any supervising agency to ensure proper exhibition of these films, the witness stated: "Each unit is headed by a Field Publicity Officer. He is assisted by projectionist who is called Field Publicity Assistant. For each State there are 7 or 8 units. There is a Regional Officer in the State who goes through the programme and also inspects the units and he occasionally makes surprise visits. Then the whole country is supervised by the Directorate here. I have also an Inspection and Evaluation unit. It goes out periodically and makes its own assessment."

1.53. The Committee asked whether, pursuant to the recommendations made by them in para 155 of their 23rd Report (1963-64), efforts were made for effecting economy in the production and distribution of films by the Films Division so as to make them self-supporting and if so, with what result. The Ministry in a note replied thus:

"In pursuance of the recommendations of the Public Accounts Committee, the following measures of economy were adopted in the Films Division:

1. Reduction in the length of films (both documentaries and newsreels) resulting in saving of raw-stock on prints for commercial as well as non-commercial distribution.
2. Commercial shows at Tarabai Hall, Bombay were discontinued as they proved uneconomical.
3. Change in the terms of agreement with the private producers. In the past payment was made by the Films Division on the basis of the final length of the film at a pre-fixed rate per metre. Now a provision has been made in the contract for a length varying within a particular range enabling Films Division to insist in economy in the length of the films without effecting the payment to be made to the Producer. This ensures saving in the raw-stock where a large number of prints are made for theatrical and non-theatrical release.

4. Utilisation of left over pieces of negative films for exposing censor certificates.
5. Direct positive recording of commentaries resulting in saving of raw-stock and processing charges.
6. Production of films in 16mm, where the prints are required only in 16 mm.

All these savings, however, were offset by:

- (i) reduction in the annual production quota per Director from 4 films to 3;
- (ii) Liberalisation of negative for shooting of films by Directors;
- (iii) recording of fresh music in preference to stock music;
- (iv) employment of outsiders for script writing, music etc. to a greater extent than before and experimentation in technique;
- (v) increase in the Central and State levies and taxes such as Customs Duty, Excise Duty, Octroi duty etc.;
- (vi) devaluation of rupee resulting in increase in cost of raw-stock, cinematographic equipment and all imported stores;
- (vii) general rise in the price level in the country;
- (viii) increase in the cost of living index leading to higher payment of allowances to staff.

1.54. The Committee drew attention of the Ministry to the appreciable disparity between the cost at which documentaries were being produced by the Films Division and the cost of their production by private producers during the three years 1964-65 to 1966-67 and wanted to know the position in this regard during the subsequent two years 1967-68 and 1968-69. The figures furnished by the Ministry are reproduced below:

	1967-68 Rs. per metre	1968-69 Rs. per metre
Films Division	118.00	*126.35
Private Producers	67.25	88.70

1.55. The Committee asked whether the large gap between the cost of production by the Films Division and that of the private production

*According to Audit, this figure should be Rs. 136.75 per metre.

was inevitable. In a note, the Ministry have replied in the affirmative, giving the following reasons:

- “1. Films Division has to maintain a large establishment with a system of checks and balances at several stages, *e.g.*, incurring of expenditure on stores and materials, employment of staff in accordance with recruitment rules, entering into agreements which results in increase of the overhead charges.
2. Films Division is called upon to produce various types of films and hence it should be equipped and kept in readiness to handle all types of jobs. Consequently certain departments *viz.* Studio, Setting etc. have to be maintained with full complement of staff and equipments even though such services may not be utilised fully throughout the year.
3. Generally, the Films Division takes up such subjects which involve shooting at a number of places which are of difficult nature, requiring special handling. Such films cost more than the ordinary films which are normally assigned to the outside producers.
4. Films Division produces every year some films for the Defence Organisation which cost more than the other general publicity films.
5. Films Division also produces interview type films which cost more than the ordinary films assigned to outside producers.
6. The outside producers who only produce a few films a year, do not maintain regular establishments and generally engage men on job basis and hire equipment whenever necessary. Very often, due to unsettled condition in the industry, they are able to obtain the services and equipment at low rates.
7. In order to obtain better quality of films produced departmentally, economy has sometimes to be sacrificed, which results in an increase in the cost of production. As far as possible, the use of stock shots is being avoided and more attention is being paid to script, music, commentary etc.
8. In order to secure contracts, the producers compete with each other and very often quote rates which may be uneconomical. Besides, many of the producers treat it as a prestige issue and are even prepared to suffer a loss, as they are able to secure contracts from State Governments, Public Undertakings, Corporations, etc. on the ground that they are on the panel of Films Division.”

1.56. Drawing attention to the observations in the Audit paragraph about the overheads having been arbitrarily pre-determined, without

reference to actuals, the Committee wanted to know how far the cost worked out by the Films Division was accurate. In a note submitted to the Committee, the Ministry of Information and Broadcasting stated as follows:

“To what extent the cost accounting in the Films Division is accurate has not been reviewed by the Films Division. In the absence of the review it would be difficult to say that the costs as worked out by the Films Division are very accurate.”

“No attempt has so far been made to ascertain either the appropriateness or the correctness of the pre-determined rates of overheads and how these compare with the actual expenditure.”

1.57. During evidence the Secretary to the Ministry of Information and Broadcasting expressed Government's dissatisfaction over the situation regarding the high cost of production by the Films Division. He said: “We are going to call an outside consultant to advise. The consultants will be contacted almost immediately. They will take some time to give their report.”

1.58. To a question when the Films Division's cost of production would be brought on par with the production cost of private sector, the witness replied: “I do not know whether that can be on par with the private sector. We feel our films are better than those produced in the private sector. We shall certainly look into the question of costs. The other point is, private producers in many cases under-quote because they like to be known as producers for the Films Division, as it adds to their prestige. They also get some publicity which helps them to get other business, if they are on our panel.”

1.59. The Committee asked whether it would not be more economical to engage certain category of staff like commentators, cameramen, musicians, etc., on contract basis as and when required instead of having them on permanent basis. The witness stated: “We have gone into this question and the answer given to the Ministry is that it would be more expensive to have people on contract basis. It is cheaper to have them on permanent basis even though we would have some idle time. This is one of the questions which we would like outside consultants to look into.”

1.60. The Committee drew attention to the observations in the Audit paragraph regarding idle time in 1964-65, 1965-66 and 1966-67. The following information about idle time in the subsequent two years was given by the Films Division:

	<i>Idle time</i>	<i>Value</i>
1967-68	3211 man-days	Rs. 83,047
1968-69	2600 man-days	Rs. 76,855

1.61. The break-up of idle man-hours amongst the various categories of staff in the Production Department was also furnished to the Committee as shown below:

Serial No.	Section	1964-65			1965-66			1966-67		
		Purchase hours	Idle hours	%	Purchase Hours	Idle hours	%	Purchase hours	Idle hours	%
1	Camera (Doc.)	62111	8657	13.9	58468	9695	16.4	62111	8360	13.4
2	Directorial	34237 *(--)	2684	..	34934 *(--)	3032	..
3	Studio	46074	771	1.7	249734	1460	3.5	43240	1036	2.4
4	Recording	33136	4670	14.1	29846	4908	16.4	30223	1788	5.9
5	Projection	27043	5228	19.3	26514	4297	16.2	26899	3563	13.2
6	Music	28591	9077	35.4	25662	10864	42.3	24521	8621	35.1
7	Cartoon Film Unit	61586	4372	7.1	58541	1919	3.3	60557	1567	2.6
8	I.C.A.R.	9835	3127	32.8	9966	2094	21.05	10009	1323	13.2
9	Commentary	44929	6583	14.8	45462	9199	20.2	46879	8669	18.5
10	Editing (Doc.)	123071	161	0.13	124005	515	0.04	121293	2045	1.7

*Excess

1.62. The Committee wanted to know the reasons for idle man-days. In reply, the Ministry explained as under:

"In evaluating the extent to which the manpower in Films Division is engaged, one has to keep in mind the fact that it is not comparable to any industry which produces consumer goods where every employee is expected to give a fixed output during the entire time he is employed within the factory. For example, in a factory manufacturing plastic toys, the entire time during which an employee works in the factory is utilised for turning out a given number of toys. In the Films Division, the same norms or standards of evaluating the jobs cannot hold good. A different yardstick will have to be applied in assessing the utilisation of manpower in film industry. For example, a Newsreel Officer posted at a station to cover news events cannot obviously be engaged all the hours of the day, though he is required to be on the alert so that he is ever ready to cover news items. Similarly, a musician employed for giving music for a particular sequence in a film, can be effectively engaged on giving that music or rendering a particular piece of music for a short while. What is true of Newsreel Officers and Musicians is also true of Commentary Speakers etc. In assessing, therefore, the extent of utilisation, one can perhaps treat employees in some sections of the Films Division as akin to firemen who are always on the alert but most of the time 'apparently idling'. While every effort is made to keep the several units engaged all the time, a certain amount of apparent idleness is inevitable. As long as a technician, whether he is a Newsreel Officer, a Musician, or a Commentary Speaker, has done his share of the job, on a particular day or during a particular month, it should be regarded as complete utilisation. Applying this standard, there is no avoidable idleness on non-utilisation of manpower.

A typical example of this 'apparent' idleness may be seen in the case of Commentary Section where the apparently idle hours are comparatively more. The Division has on its strength one Writer and one Speaker for each language the exception in Hindi, where they have one Writer and two Speakers. It is obvious that for an organisation like the Films Division which is required to produce and release one newsreel every week plus about 90 documentaries every year in practically all the languages of the country, the irreducible minimum requirement is one writer and one speaker for each language. However, even with this irreducible minimum staff a certain amount of apparent idleness is inescapable for several reasons. The Commentary Writers and Speakers are expected to write and speak a certain number of commentaries every month. The output of the Films Division is generally less than this number. Therefore, if in any given month the Writer or Speaker does not fulfil this quota, it is only because in that particular month the Division did not complete as many films for writing and recording commentaries. The alternative of engaging Writers and Speakers on *ad-hoc* piece work basis for individual

films as and when required, would be uneconomical apart from being inconvenient compared to the expenditure now incurred on employing them on regular basis."

1.63. The Committee enquired whether any attempt had been made to reduce the idle man-hours by reference to the practice obtaining in private units. The Ministry, in reply, have stated that "no information is available about idle man-days in the establishments of private short film producers. In fact, there is no film production organisation of the size and type comparable to the Films Division in the Private Sector. Most of the Private producers are very small establishments who produce films by engaging technicians, studios, recording theatres, editing rooms etc. on hire for very short periods as and when needed. There is no private producer who engages on regular monthly basis staff like Musicians, Commentators, Title Artists, Film Librarians, Research Assistant etc.; nor do private producers produce newsreels as the Films Division does. Hence no attempt has been made or is possible to compare idle hours with such private establishments."

1.64. During evidence the representative of the Ministry of Information and Broadcasting stated that the idle man-hours are only in respect of Cameramen and Commentators. "We have one Commentator for each language and when the amount of work for him is not sufficient he is idle. This applies to Cameramen. But in the detailed breakdown, there are no idle man-hours for Directors." He, however, informed the Committee that the Government themselves were not satisfied with the question of man-hours, the high cost of production and various other points mentioned in the Audit para and they have decided to call in an outside consultant either from the Hyderabad Administrative Staff College or from the Institute of Management in Calcutta or Bombay to advise them as to how best they could cut down costs and idle man-hours.

1.65. The Committee enquired how the old prints of films were disposed of. They were told that after their normal run these films would be in a tattered and unusable condition. After periodical accumulation of such prints, tenders would be invited and the films sold to the highest bidder.

1.66. The Committee enquired whether there were any standing instructions about the periodicity within which accumulations of old prints should be reviewed and whether these instructions were being followed. The witness replied: "We cannot go on accumulating them for want of space. The force of circumstances makes us implement those orders and dispose them of."

1.67. Asked about the arrangements for the proper storage of films, the witness explained for lack of "proper storage" the old unusable prints

“are just dumped into the store room till they are picked up by bidders.” For master-materials, air-conditioning facilities were now available. “Some of the prints” were being kept in boxes “in other rooms” due to lack of enough air-condition facilities.

1.68. The Committee are not satisfied with the working results of the Films Division. The accounts no doubt show a surplus every year, but this surplus is illusory, as it has been worked out after taking credit for “notional revenue” every year in respect of films released for free exhibition. The quantum of such “notional revenue”, which varied from about 56 per cent to 73 per cent of the actual revenue realised during the period 1964-65 to 1967-68, shot up in 1968-69, when it was virtually equal to actual revenue.

1.69. Considering that it is obligatory for cinema houses under the law to screen all documentaries produced by the Films Division (of 2,000 ft. or less), the Committee cannot help feeling that the Films Division has not given a good account of itself. The representative of the Ministry of Information and Broadcasting himself admitted during evidence that he could not claim that the state of affairs was a very happy one.

1.70. Certain aspects of the working of the Film Division call for specific comments:

- (i) The cost of films produced by the Division is at present exorbitant. During the three years ending 1968-69, the cost of production was 54 per cent to 76 per cent higher than the cost at which films were produced by private producers on behalf of the Films Division. Even making allowance for factors mentioned by Government like the type of film generally taken up for departmental production, the need to keep the Division equipped for undertaking all kinds of jobs, difficult shooting locations etc., the Committee feel that the cost differential is wide.
- (ii) The system of costing followed by the Films Division is itself defective. The costs as now derived are not accurate indicators of actual costs. Overheads included in the costs as now computed are determined on the basis of certain pre-determined rates, the correctness of which has not been verified with reference to figures of actual expenditure.
- (iii) Man-power resources in the Division would appear to some extent to be idling. In the music section, for instance, the percentage of idle hours to the total number of hours has been 35 per cent or more during the period 1964-65 to 1966-67. The Committee are aware that in the field of creative arts, accounting or arithmetical concepts have to be applied with

caution. Still the large disparity between the cost of production of films by the Films Division and by private producers leave the Committee with the impression that the optimum use is not being made of the talent recruited by the Department.

1.71. The Committee note that Government are themselves not satisfied with these and other aspects of the working of the Films Division and propose to call in outside consultants to advise them how this unit could be made to work better. The Committee would like this to be done early and remedial action also to be quickly taken thereafter. In particular the following points would need detailed investigation:

- (a) How the Films Division could make better use of its existing manpower and material resources.
- (b) Whether the number of prints released for free exhibition could with advantage be curtailed.
- (c) Whether the footage of films produced could be generally reduced without detriment to quality or presentation.
- (d) Whether existing arrangements for inventory control could be improved and there is scope for economy in the purchase of costly stores and equipment.
- (e) What devices the unit should adopt to control costs at several stages so as to be able to produce films economically.
- (f) What safeguards should be adopted to protect Government's interests in their dealings with private producers to whom part of the production is farmed out and how better returns could be ensured.

III

DELAY IN THE PRODUCTION OF FILMS

Audit Paragraph

1.72. (A) (i) Government entered into a contract, after negotiations, with a private producer on 18th January, 1963 for the production of a film "India's case on China" of a length not exceeding 3,500 feet at the rate of Rs. 35 per foot as against the then prevailing rates of Rs. 11 to Rs. 24 per foot.

1.73. The producer submitted a complete rough cut (measuring more than 9,000 feet) in April, 1964 as against the stipulated date of 15th July, 1963. After many previews Government instructed the producer in September, 1964 to reduce the length of the picture to 6,000 feet. The final length of the picture delivered to and accepted by Government in November, 1964, however, came to 6,174 feet.

1.74. A dispute arose in the settlement of the producer's claim and the matter was referred to an arbitrator in April, 1966. The producer submitted to the arbitrator a total claim of Rs. 9.30 lakhs. Soon after the commencement of the arbitration proceedings, the arbitrator was transferred and a new arbitrator was appointed in March, 1967 by Government. The award of the arbitrator is awaited (January, 1968).

1.75. (ii) The above contract contains the following unusual features which deviated from the standard form of contracts executed by the Division:—

- (a) Provision for compensation to be paid by Government to the producer for deleted footages in excess of 5 per cent of the finally approved length of the picture. The producer submitted a total claim of Rs. 91,480 on this account. The Division has, however, admitted the claim for Rs. 58,205 only.
- (b) Advance payment to the extent of 80 per cent of the estimated cost of production as against the usual advance of 40 per cent.
- (c) Non-inclusion of clause for the deposit of security for the fulfilment of the contract.
- (d) Although the rate of Rs. 35 per foot was all-inclusive, the following assistance was rendered to the producer outside the scope of the contract:—

- (1) Facilities for shooting in forward areas for which the Ministry of Defence normally charge Rs. 50,000. In:

order to expedite the production of the film, the Ministry of Information and Broadcasting had to pay a sum of Rs. 40,000 to the Ministry of Defence.

- (2) Supply of film material/stock shots at concessional rates (Rs. 1,86,020).

1.76. (B) On 10th July, 1963 Government entered into another contract with the same producer for the production of a film titled 'Case on Indo-China Border No. 2' of length not exceeding 3,500 feet at the rate of Rs. 50 per foot. According to the agreement, 'on account' payments aggregating Rs. 1.20 lakhs were to be made to the producer in five instalments and the last instalment of Rs. 30,000 was to be paid on final approval of the rough cut of the picture with commentary which was to be delivered within 90 days from the date of agreement. The final materials were to be delivered within 30 days of the date of the approval of the rough cut with commentary.

1.77. The last instalment of 'on account' payment of Rs. 30,000 was, however, released without getting the delivery of the rough cut from the producer on 6th May, 1966 after obtaining a written assurance from him that he would carry out the changes desired by the Division within 45 days of the date of assurance. Upon the producer's failure to honour his assurance, the Division served upon him a notice on 20th April, 1967 to deliver the final materials within 45 days of the receipt of notice failing which the contract would be cancelled at his risk and cost. The notice period has already expired but neither has the Government cancelled the contract nor has the producer delivered the final materials so far (March, 1968).

1.78. The Ministry stated (October, 1967) that the producer requested in January, 1967 that he should be allowed to hand over the final materials of the film 45 days after the finalisation of the arbitration proceedings in respect of the film referred to in sub-para (A) above. In this connection, the Ministry have stated (March, 1968) as follows:—

“Government have since decided to allow the Producer without prejudice, to deliver film No. 2 on 'Our Case on India-China Border' within 45 days from the date the Arbitrator makes his award in the case of film No. 1, viz., 'The Great Betrayal', even though the delay rests with the Producer. The award is expected to be made by 22nd instant”.

[Paragraph 6, Section XVII of Audit Report (Commercial), 1968].

Production of Film

(A) *"India's Case on China"*

1.79. The Committee were informed that the arbitrator had given his award in this case. The following account of the case emerged in the course of evidence on this case and from the arbitrator's Report.

1.80. On 22nd October, 1962, this producer alongwith certain other film producers sent a telegram to Prime Minister and Defence Minister, offering to produce a film on the India-China Border dispute. The Secretary to the Ministry of Information and Broadcasting had a preliminary discussion with this producer and another leading producer on 31st October, 1962 but no final decision was taken as to the terms on which the film was to be made. The producer (with whom the contract was executed) submitted a synopsis on 11th November, 1962 which was scrutinised by the Ministry of External Affairs on 28th November, 1962 and on 30th November, 1962. Government thereafter decided to enter into an agreement with him for the production of a film, not exceeding 3,500 ft. in length at Rs. 35 per foot. A formal contract was executed on 18th January, 1963.

1.81. According to the terms of the contract, the producer was to submit the final script for Government's approval on or before 31st January, 1963. In case of disapproval of the script by Government, the producer was required to submit revised scripts in accordance with Government's instructions, within a period of 15 days. The rough-cut of the film was to be delivered by the producer within a period of 90 days from the date of the approval of the final script.

1.82. The final script was submitted by the producer on 22nd January, 1963 which was approved by Government on 15th April, 1963 and the rough-cut measuring about 8,000 ft. was delivered on 20th September, 1963. The rough-cut was, however, revised seven times at the instance of Government during the course of which the length of the rough-cut was increased from 8,000 ft. to 9,000 ft., then reduced to 7,400 ft. and again reduced to 6,000 ft. before the final print of the film measuring 6,174 ft. was delivered to Government on 11th November, 1964.

1.83. A dispute arose over the settlement of the producer's claim for payment of compensation for the deleted footages. The producer claimed a sum of Rs. 91,480 on account of compensation for the deleted footages, but Government admitted the claim only to the extent of Rs. 58,205. The matter was referred to arbitration and the producer submitted a total claim of Rs. 9.30 lakhs before the arbitrator, bringing in some further issues. The arbitrator held Government responsible for the delay at the various stages in the completion of the film and for the increase in the length of the film and accepted the claim of the producer to the extent of Rs. 6.29 lakhs, including the 'on account' payment already made to him by Government

1.84. The arbitrator accepted the producer's claim to the extent of Rs. 6.29 lakhs as under:

- (1) Rs. 2,16,090.00 on account of cost and profits for producing a film of the length of 6,174 ft. @ Rs. 35/- per foot.

- (2) Rs. 94,577.50 on account of cost of production and profits of the deleted portions.
- (3) Rs. 93,048.00 on account of the probable earnings of the producer for a period of 12 months when he was unable on account of his preoccupation in connection with this film to undertake any other work.
- (4) Rs. 1,85,485.08 on account of the expenses of staff, office, equipment, travelling and other expenses etc., for the said period of 12 months.
- (5) Rs. 39,697.00 Fee of the producer's Counsels, equivalent to the remuneration paid by the Union of India to their own counsel in connection with the arbitration.
- (6) Interest @ 6% per annum in respect of items Nos. 1 to 4 above, with effect from 11th November, 1964, and
@ 6% per annum as item No. 5 with effect from 1st June, 1968 till date of payment in each case.

1.85. Relevants extracts from the arbitrator's award are reproduced at Appendix I to this Report.

1.86. The Committee enquired why tenders were not invited for production of the film and the contract for production of it was entered into a particular producer by negotiation. The Secretary to the Ministry of Information & Broadcasting replied, "It is a film of a difficult character. We wanted to be sure that it will be of high quality and there was shortage of time. So, we chose a producer of known reputation and we negotiated with him". The witness further stated that tenders were not called in every case and there were exceptional cases when they were not called for. In this particular case it was felt that the person who was awarded the contract was the right person. He further stated: "Non-inviting of tenders is resorted to in order to save time. Probably in this case, the intention was to get the film produced as quickly as possible." The witness further stated that the signatories to the telegram sent to the Prime Minister who were documentary makers were called for discussion with the officers of the Ministry. During the discussion it emerged that this particular producer was the best person to do the job. It was added that.....he had made a political film of that nature earlier for the Ministry. That was the "Kashmir Story" and that brought him a good name".

1.87. The Committee note that the arbitrator gave the following findings in regard to this producer's competence:

- (1) That the Claimant had come to attain a position of eminence in the world of films in consequence of his work as a Writer-Producer-Director of films.
- (2) That he was commissioned to produce a number of pictures for the Union of India or corporations owned or controlled by the Union of India.
- (3) That the then Minister of Information & Broadcasting entertained a high opinion about the Claimant's ability to produce pictures of this kind.

1.88. The Committee drew the attention of the witness to the inclusion in the contract of certain unusual features which deviated from the standard form of contracts executed by the Films Division. The Committee wanted to know the reasons for granting these concessions. The witness stated: "The reason was to get the film produced as quickly as possible. Therefore, we showed him all leniency".

1.89. As regards inclusion in the contract of the provision for payment of compensation for the deleted footage, the Ministry have explained in a note that "the subject of the film being of political nature it was considered necessary to insert this clause in order to cover the contingency where, owing to a change of situation or change of Government Policy, footage shot in accordance with the original script may have to be deleted. It will, thus, be seen that this provision was included in lieu of certain rights Government reserved to themselves." It was observed that according to the terms of the contract, the decision of the Controller of the Films Division as to whether any deletion was made in view of alterations or omission of any of the sequences mentioned in the script as finally approved by Government would be treated as final and binding on the producer.

1.90. As for advance payment to the extent of 80 per cent of the estimated cost of production of film against usual advance of 40 per cent, the Ministry have stated:

"The Controller of the Films Division has been delegated the power to allow a total of 40 per cent of the amount payable to private producers as 'on account' advance in two stages of 20 per cent each. Beyond this, the concurrence of the Ministry of Finance is obtained in exceptional cases. In this case the producer insisted on getting larger advances. It may be mentioned that this producer's is not the solitary case where advances amounting to more than 40 per cent have been allowed with the concurrence of the Ministry of Finance."

1.91. Explaining the reasons for non-inclusion of a clause for deposit of security, during evidence the Secretary to the Ministry of Information and Broadcasting told the Committee, "The Security deposit was only Rs. 500. So, we thought at that time this was too small a sum of money to quarrel over. Normally, in agreements signed between a private producer and the Government, there is a clause enjoining the producer to deposit to the Government an amount of Rs. 500 as security deposit, but in this case, where it was a big film and Government was advancing money to the extent of Rs. 1 lakh, it was not considered necessary to insist that the producer should make a small deposit of Rs. 500. Therefore the clause was agreed to be omitted."

1.92. Taking up the question of the rate fixed for the film, the Committee wanted to know the consideration on which the rate was fixed at Rs. 35 per foot against the then prevailing rates of Rs. 11 to Rs. 24 per foot. The Ministry replied as under:

"The rate of payment varies from film to film and depends on many factors such as the nature of the subject-matter of the film, number of locations where shooting is to be done, availability of textual and visual material on the subject, research work involved, standing of the producer in the industry, etc. Considering all the factors, the rate of Rs. 35/- per foot was considered to be reasonable in this case. It may be added that in other cases two comparable and even higher rates had been paid in the past, for example, for the production of five documentary films on the subject of untouchability, Shri. . . had been paid the rate of Rs. 30/- per foot much earlier. In another case, Shri. . . had been paid at the rate of Rs. 50/- per foot for the production of the documentary film on Swami Vivekananda."

1.93. The Committee pointed out that having fixed the rate at Rs. 35 per foot which was all inclusive, the Ministry of Information and Broadcasting paid a sum of Rs. 40,000 to the Ministry of Defence towards the charge for the facilities extended to the producer for shooting in forward areas. Besides, film material/stock shots were supplied to him at concessional rates. The Committee enquired why these concessions which were outside the scope of the contract were extended to the producer. The Ministry of Information and Broadcasting replied in a note as under:

"As regards concessions to the producer for shooting in forward areas, it may be stated that the Defence authorities said that they would provide facilities, if any, for shooting in forward areas only on payment. But the producer represented to the then Prime Minister that this film was not a commercial film but a Government film and shooting facilities in forward areas should be afforded to him free of charge, as had been done

in the case of another film produced by him earlier for Government. The Prime Minister minuted: "I think we should help him to make this film and treat it as a Government film."

"The producer's representation was considered in the Ministry of Information and Broadcasting and besides the Prime Minister's direction, it was considered equitable to render the assistance to the producer. The producer could hardly be expected to make his own arrangements for filming the required scenes in forward areas. In the circumstances, Ministry of Information and Broadcasting agreed to bear the cost of assistance (not exceeding Rs. 40,000) rendered by the Ministry of Defence.

"It may incidentally be pointed out that the actual cost as debited by the Ministry of Defence to the Ministry of Information and Broadcasting came to Rs. 30,419.12."

"As regards concessions to the producer in supply of stock shots, it may be stated that during the course of the negotiations, before the signing of the agreement, the producer had requested Government to agree to supply him stock shots at concessional rates. In the first instance this request was not agreed to. However, on the insistence of the producer and keeping in view the special nature of the film, it was later agreed, with the concurrence of the Ministry of Finance, to supply stock shots to the producer on non-commercial rates (instead of commercial rates which were higher) applicable to private persons, business concerns, etc. But this concession was limited to a total length of 1,500 feet included in both the films. Over and above this limit, he was required to pay at commercial rates. Government did not suffer any actual loss in the supply as even the non-commercial rates were higher than the cost price."

1.94. The Committee enquired whether the advice of the Ministry of Law was sought before agreeing to refer the dispute to arbitration. A representative of the Ministry of Information and Broadcasting replied: "The producer had submitted a film of about 9,000 ft. and the Government had accepted 6,174 ft. By that time, certain payments had been made to him in advance. We asked the Ministry of Law whether the producer had any more claim in respect of the remaining 3,000 ft. which we had not accepted. The Ministry of Law, positively, advised us that in view of the fact that we had accepted a large portion of the film, the producer had no claim for any additional amount in respect of the remaining footage of the film. Therefore, this dispute arose." The Committee enquired whether the other points which were subsequently raised by the producer before the Arbitrator were also included in the reference to Law Ministry, the witness replied "As I submitted, the Ministry of Law definitely advised us that the producer had no claim beyond the payment which had been made to him. At that time, the producer did not make a claim that

he would have to put the unit at standstill. The question of keeping his unit at standstill did not arise because the film was in the process of making and it took about 6 to 8 months to go to the arbitration and the arbitrator was pleased to ask the Government to pay for the staff which he had to maintain in the unit. At that time this could not have arisen." The Secretary to the Ministry of Information and Broadcasting, however, added "A thought occurs to me that if we had shown a little more leniency to him, perhaps, the Government might have been saved several lakhs of rupees if he had not gone to arbitration. . . . I am told, he had put in a claim for Rs. 40,000 to Rs. 50,000. Had this amount been paid him, possibly, the case would not have gone for arbitration."

1.95. During evidence the Committee drew the attention of the representatives of the Ministry of Information and Broadcasting to the unconscionably long time taken for the completion of the film. The contract for the film was executed on 18th January, 1963 and it was only in November, 1964 i.e., after about 1 year 10 months, that the film was completed and delivered to Government. The Prime Minister had desired that the film should be treated as a Government film and all difficulties blocking the way of the production should be removed. The Committee asked why, inspite of all this considerable delay took place in the completion of this film. The Secretary to the Ministry of Information and Broadcasting stated: "There were two main reasons for the delay. One was the delicate nature of the film and a number of Ministries having to be consulted. The other is the difficult nature of the terrain and the difficulties for getting there on account of the climate and certain military reasons." He further explained that "large number of changes had to be made to the film because of the views of different Ministries and there was delay in shooting because of bad weather."

1.96. The Committee pointed out that there was delay on the part of Government in giving their approval to the final script. The producer submitted the script to the Ministry of Information and Broadcasting on 22nd January, 1963. A synopsis had in fact already been scrutinised by the Ministry of External Affairs in November, 1962. Yet, it took about 3 months for the Ministry of Information and Broadcasting to give their approval which they did on 15th April, 1963. The arbitrator had observed that this delay was not justified, when the producer was given only 13 day's time to prepare the script. The Committee wanted to know why it took such a long time for Government to give their approval of the script. The Ministry of Information and Broadcasting explained the position in a note as under:

"There is great difference between a synopsis and a script. Synopsis is only a brief sketch of the subject matter whereas script contains full description of the visuals as well as commentary and shooting is done on the basis of the script.

What the producer delivered on 22nd January, 1963 was a draft script for Government approval and not final script. This draft script was received by this Ministry through the Controller on 25th January, 1963 and was referred the same to the Ministry of External Affairs. . . . The Foreign Secretary sent his and the China Division (Ministry of External Affairs)'s comments on the script to the producer on 9th February, 1963. The Controller sent the Films Division's comments on the script to this Ministry on 31st January, 1963. Comments of the External Publicity Division of the Ministry of External Affairs were received by us on 19th February, 1963. These were examined in the Ministry upto 22nd February, 1963. Some comments of the Historical Division of the Ministry of External Affairs were separately received on 23rd February, 1963.

All the comments of different authorities were consolidated and sent to the producer on 4th March, 1963. He was also told that the script did not give an adequate description of the visuals to support the commentary, and that a complete script, showing the visuals as well as the sound portion in full, would, therefore, have to be prepared by him for approval.

A revised script was received from the producer on 30th March, 1963. It was examined in great detail. It was found that the producer had not carried out several of the modifications suggested. The matter was referred to the Ministry of External Affairs on 6th April, 1963.

Their comments were received on 11th April, 1963. We could have asked the producer to carry out the modifications and again submit the revised script for Government approval. But as the matter was urgent, we conveyed approval to the script subject to the producer carrying out the modifications which were pointed out to him in our letter dated 15th April, 1963."

1.97. The Committee note that the arbitrator gave *inter alia* the following findings in this regard :

"(i) The Claimant's script of 11th November, 1962 was scrutinised with care by an officer of the Ministry of External Affairs and formed part of the contract. This very script was sent by the Claimant on 22nd January, 1963 for approval of Government. As the script was in the possession of Government since 11th November, 1962, there was no reasonable justification for the delay which was occasioned in according approval thereto.

(ii) Comments offered by the China Division and the Foreign Secretary was recorded on 9th February, 1963 but were not

sent to the Ministry till the 19th February, 1963. Similarly comments offered by the External Publicity Division were recorded on the 14th February, but were despatched to the Ministry on 19th February, 1963.

- (iii) If reasonable diligence had been shown, the Ministry of I & B could have secured the expedition and integration of these comments and the final script could have been approved by the Ministry of I & B by a day or two after the 9th February, 1963, at the latest. Nothing had to be done to the script prepared by the Historical Division, for the Claimant was allowed the discretion to use such parts as were not covered by his own.
- (iv) The Ministry of I & B, however, spent a number of days in meetings and discussions and finalized its proposals on 16th March, 1963.
- (v) On 19th March, 1963 (G/9) the Claimant was asked to incorporate the decisions which had been taken between 8th March, 1963 and 16th March, 1963 in the final draft and to resubmit the final draft for approval. The revised draft was received from the Claimant on 28th March, 1963 (C/9).
- (vi) It took the Ministry another 18 days to accord its final approval to the Script, which was approved on 15th April, 1963, (C/18).
- (vii) The contract required the Claimant to submit his final script for approval within a period of 13 days from the signing of the contract, and it may be assumed that a much shorter period was required by Government for according its approval.
- (viii) The delay that has occurred in the approval of the script affords an illustration of a lack of sense of urgency in dealing with matters relating to this picture.
- (ix) If a consultant had been appointed and if reasonable diligence had been exercised by him, I am of the opinion that Ministry of I & B could have recorded approval to the script long before the expiry of 21 calendar days excluding the time which was allowed to the Claimant under the contract for incorporating the changes in the final script."

1.98. The Committee pointed out that the first rough-cut was submitted by the producer for Government's approval on 20th September, 1963 and the final approved print was delivered after 14th months, on 11th November, 1964. Meanwhile the rough-cut was revised at the instance of the Government as many as 7 times. During this process of revisions, the length of the film was increased twice and reduced as many times. The Committee asked why so many revisions were found necessary and whether the process of additions/ deletions could not have been

completed in a shorter time. The Committee pointed out that arbitrator had held Government responsible for the increase in the length of the film on account of which he has awarded a sum of Rs. 94,577.50 to the producer. The Committee also pointed out that the arbitrator had observed that a number of contradictory orders were passed and a considerable amount of time and money were spent in the execution of these orders. The witness replied "There were some changes in the film which were necessitated by the changing political climate. . . . I think the first rough-cut was in September, 1963. The External Affairs Ministry suggested some changes—more shots from forward areas and some changes for political emphasis. . . . The normal reason is the changing political situation or certain matters mentioned in the script not being fully brought out." The Committee enquired why contradictory orders were issued by Government. The witness replied "I would not say contradictory orders. They were changed from time to time because, after all, the film itself is made more or less on behalf of the Ministry of Defence and External Affairs. So, they must have the last say on the contents of the film. Of course, we have the last say on the production side." The Ministry furnished a note to the Committee subsequently, giving an account of the changes made in the film and the reasons therefor. The note is reproduced below :

"The rough-cut and commentary of the film were due to be delivered by the producer by 1st August, 1963. These were actually delivered by him on 20th September, 1963. . . . Government was. . . . to give suggestions regarding revisions. After a series of meetings by representatives of different Ministries with the producer, the suggestions for revisions were given to him on 2nd October, 1963.

After doing some shooting in forward areas with the help of the Ministry of Defence in the Second week of February, 1964, the producer submitted a revised rough-cut on 24th April, 1964. The producer explained in his letter dated 2nd April, 1964 that the delay was owing to non-availability of one or the other of his three commentary narrators and the sound recording theatre. Since the rough-cut was proposed to be shown for preview to Ministries of External Affairs (different Divisions), Defence, Home Affairs, and also to some M.Ps., journalists and the Chairman, Central Citizens Council, the preview could be held only on 19th May 1964, subject to convenience of all concerned. Further previews, at which the producer was also present, were held on 22nd May, 1964 and 23rd May, 1964 by representatives of Ministries of External Affairs, Defence and Information and Broadcasting. Consolidated comments for further revision of the rough-cut were sent to the producer on 6th June, 1964.

The producer brought the revised rough-cut on 27th June, 1964, it was previewed on 29th June, 1964. It was found that he had not carried out most of the changes conveyed to him. The Ministry of External Affairs fully explained to him the changes to be carried out. They followed this up with a written communication dated 1st July, 1964 to the producer. The producer again brought a revised rough-cut on 30th July, 1964 and it was previewed the same day. It was observed that he had still not carried out all the changes suggested and that the film did not have a proper ending. These things were explained to him and he was asked to carry out the changes. Ministry of External Affairs communicated the changes to him in writing also on 3rd August, 1964.

Again, another revised rough-cut sent by the producer was previewed on 8th September, 1964 and 10th September, 1964 jointly by Ministries of External Affairs and Information and Broadcasting. The matter was discussed with the producer on 16th September, 1964. On the same day a letter was also addressed to him explaining the changes to be made besides suggesting some reduction in the length of the film.

The producer brought another revised rough-cut on 8th October, 1964. It was previewed on 9th October, 1964. It was noticed that the producer had deleted two sequences on his own. Restoration of the sequence was considered necessary by the Ministry of External Affairs. In our letter dated 16th October, 1964, we asked the producer to restore the sequence and to hand over the film and other required materials to the Controller of Bombay. After reminders, the producer delivered to the Films Division only a 35mm positive print of the film on 11th November, 1964. Thereafter, in his letter dated 17th November, 1964, the Controller asked the producer to deliver the other materials (negatives, etc.) also. In his letter dated 4th December, 1964, the Controller informed this Ministry that the producer had delivered all other materials also."

1.99. The Committee drew attention to the delay that occurred in the shooting of the battle scenes. The producer approached the Ministry of Defence on 3rd August, 1963 for necessary assistance in the shooting of battle scenes, giving the details of his requirements. The Army authorities required only a fortnight's notice to make necessary arrangements. The Prime Minister had also given orders on 4th October, 1963 that this film should be treated as a Government film. Yet in spite of all this, the actual film shooting in the forward area could be done only in second week of

February, 1964, *i.e.* six months after the producer sought necessary facilities in this regard. The arbitrator had ascribed the delay in rendering necessary assistance to the producer for shooting to delayed implementation of the Prime Minister's orders for which he held the Ministry of Information & Broadcasting responsible. On his attention being drawn to this, the witness stated: "He. (arbitrator) has blamed the Ministry. But in the subsequent portion, he says the order itself was all right, but its implementation took a long time. He says that there were unnecessary meetings, discussions, notings and so on which caused delay. There was delay in the latter (implementation) stage; that we admit." The witness, however, added that the Ministry of Defence advised the Ministry of Information and Broadcasting in October-November, 1963 that it would not be possible to do shooting in forward areas till February, 1964 due to "excessive and successive rains in the border areas and snowfall".

1.100. The Committee asked why, in view of the urgent nature of the film, the Ministry of Information and Broadcasting did not take action earlier than October-November, 1963 for the necessary army facilities being provided to the producer for shooting in forward areas, so that the shooting of battle scenes could be completed in 1963 itself before the weather became unfavourable. In a note, the Ministry of Information & Broadcasting have stated as under:

"The producer directly wrote to the Ministry of Defence on 3rd August, 1963 requesting them to provide him facilities for shooting in forward areas. The facilities were afforded to him in January, 1964, but were postponed at his instance and he did the shooting in the second week of February, 1964."

The Ministry of External Affairs apprised simultaneously both the Ministries of Defence and Information and Broadcasting of the Prime Minister's direction on 4th October, 1963. The Prime Minister's direction was: "I think we should help him to make this film and treat it as a Government film". It was no doubt a Government film and the producer was doing it for Government on contract. The Defence Ministry's view also was that the case had not been correctly presented to the Prime Minister by the producer. It depended on weather conditions and the Defence Ministry's contention was that shooting would not be possible from November, 1963, onwards because of snow in the forward hill areas where the producer wanted to do the shooting. Moreover, the demand of the producer was that the Defence facilities should be provided to him free of charge. The Defence Ministry were not prepared to provide facilities free of charge. As a special case, the Ministry of Information and Broadcasting ultimately agreed to pay to the Ministry of Defence. . . . It naturally took some time to take a decision that the payment to the Defence Ministry be made by the Information and Broadcasting Ministry, instead of by

the producers, as this meant deviation from the financial terms and conditions as embodied in the contract.

To examine the question of delay in provision of Defence facilities to the producer, we may state the chronological order in which events took place. The producer directly wrote a letter to the Ministry of Defence on 3rd August, 1963 asking for facilities for shooting in forward areas. The Defence Ministry convened a meeting on 21st August, 1963 in which besides Defence Ministry, Ministries of Information and Broadcasting, External Affairs and Finance, and Army and Air Headquarters were represented. Without awaiting minutes of the meeting from the Defence Ministry, the I&B Ministry informed the producer on 23rd August, 1963 *inter alia* that the Military authorities were generally reluctant to allow shooting facilities in forward areas and since the film had already suffered considerable delay, he might rely more on stock shots. He was also informed that facilities, if provided by the Army authorities, would be charged for at the normal rates. He was further requested that for expediting completion of the film, he should intimate final list of things required so that, if necessary, a meeting with different Ministries might be arranged to meet those requirements. Instead of sending any reply to the Ministry of I&B, the producer wrote to the Prime Minister on 3rd October, 1963 on which the Prime Minister gave the direction quoted above. The I & B Ministry sent a telegram to the producer on 9th October, 1963 asking him to come for a meeting on 14th October, 1963 and bring detailed information regarding all his requirements. He could, however, come only on 17th October, 1963. A meeting was held on 17th October, 1963 where besides the producer, representatives of Ministries of I&B and External Affairs and Army Headquarters were present. It was impressed upon the producer to make as much use of stock shots already available as possible and to reduce his requirements of Defence facilities for fresh shooting to the minimum. He was further asked to get into touch, with the Armed Forces Information office to arrive at the minimum-most requirements. After such consultations, the producer handed over to Defence authorities a note of his requirements and went back to Bombay. From there he wrote to Ministry of Information and Broadcasting letter dated 2nd November, 1963 where from it was understood that he had suggested 7th November, 1963 to the Defence authorities as the deadline for starting the shooting but that he was told by the Defence authorities on trunk telephone that it was not possible for them to make arrangements for 7th November, 1963. He suggested 14th November, 1963 as the final date.

A meeting was held in the Defence Ministry on 8th November, 1963 where Ministry of Information and Broadcasting was also represented. The Defence Ministry's representative observed that in the absence of the producer, it was rather difficult to know the specific and exact assistance and to draw up the shooting programme. He suggested that the producer

might be asked to come to Delhi about 14th November, 1963. He also promised that the Defence Ministry would make available a costed statement of assistance by 11st November, 1963. It was also said that it would take the Defence authorities at least two weeks to provide assistance after the orders were issued. The producer came to Delhi on 13th November, 1963, discussed the matter with Defence and went back to Bombay on 18th November, 1963. Another meeting was held in the Defence Ministry on 21st December, 1963. It was explained by Defence that a hurdle was the Chinese Military personnel uniforms which the producer required. It was at this meeting that Defence gave the estimate of Rs. 40,000/- for the facilities. The producer had to come to Delhi once more for the following purposes:—

- (i) Acceptance to the payment of the amount towards the cost of facilities.
- (ii) To decide finally whether shooting of aircraft flights was necessary or whether stock shots available would do.
- (iii) Whether the producer would be able to get uniforms on the pattern of the Chinese Military personnel stitched on his own.
- (iv) Dates of shooting.
- (v) Supply of information regarding his film party for purposes of clearance through intelligence Bureau.

The producer, accordingly came to Delhi on 2nd January, 1964 and discussed the matter with Information and Broadcasting, Secretary. Again a meeting was held on 3rd January, 1964 where the producer and representatives of Defence were present. It was decided that the shooting would start on 21st January, 1964. As already stated, the shooting was postponed at the instance of the producer and he did the shooting in the second week of February, 1964."

1.101. Referring to the delay that occurred on the grant of permission to the producer for shooting of film in forward areas, the arbitrator made the following observations:

"Although the production of this picture was regarded by all concerned as a most urgent assignment and although the Prime Minister had declared in clear terms that it should be treated as a Government film and that all difficulties which were blocking the way of the Claimant should be removed it is unfortunate that the Ministry of I. & B. did not care to implement these orders....Implementation of this order resulted in unnecessary meetings, unnecessary discussions, unnecessary notes, unnecessary delays and unnecessary and repeated cancellations of shooting dates."

1.102. The Committee pointed out that a delay of about 2 months and 10 days was caused by the time taken by the Joint Chief Controller of Imports and Exports in issuing permit for raw films for the production of this picture and asked why raw films for this picture could not be supplied expeditiously. The witness replied "Our Reports say that this permit is issued by the Chief Controller of Exports and Imports. We in the I. & B. Ministry have possibly to recommend. When we recommend it will actually take some time and the Chief Controller also takes into consideration the availability of raw material. This is an imported stuff and unless it is available, the Chief Controller would not be able to issue the permit because once it is issued and if it is not honoured, there will be great difficulty."

1.103. The position in this regard was further explained by the Ministry of Information and Broadcasting as below in a note furnished to the Committee subsequently:

"In all cases where private producers produce films for Government on contract, it is the producers who procure raw film on their own. Same was the position in this particular case also and the agreement nowhere states that Government will help the producer to get the raw film. Apart from this legal position, it may be pointed out that the producer applied for raw film as late as 25th March, 1963. He should have made an application in October-November, 1962, when it was quite clear to him that he was going to produce the film. At the latest, he should have applied on 18th January, 1963, when a formal agreement for the production of the film was executed with him by Government, or immediately thereafter. Being a regular producer of films and well aware of the acute shortage of raw film in the country, he should have taken steps in time to procure the material. However, special efforts were made by the Films Division to assist the producer by writing to the Joint Chief Controller of Imports and Exports to release permit for the raw film. The Controller of the Films Division was even asked by Information and Broadcasting Secretary to loan a few rolls of raw film to the producer from the meagre stock of the Films Division, if necessary. But meanwhile, release permits were issued by the Import Export authorities and the producer got supplies of the raw film."

1.104. The Committee enquired whether, in view of its delayed production, the film had not lost its topicality. The Secretary to the Ministry of Information and Broadcasting replied that "it has been shown to certain invited audiences". Asked when the film was shown, another witness replied: "Immediately after the film was completed. It was a long one

which could not have been shown under the compulsory exhibition scheme. Its length was more than the maximum laid down for compulsory exhibition. We were giving it to those who wanted to show it. We also supplied copies to the mobile vans. This was done immediately after the film was produced."

1.105. In a note the Ministry furnished further information regarding showings of the film. The note is reproduced below:

"The length of film No. 1 (titled "The Great Betrayal") was over 6,000 feet and that of film No. 2 (titled "Shadow across the East") was nearly 3,500 feet. Under the compulsory exhibition scheme, cinema exhibitors could be asked to show only those documentary films along with the main programme of feature films, the length of which did not exceed 2,000 feet each. Therefore, under the law, the exhibitors could not be asked to screen these films. However, the film "The Great Betrayal" was split into two parts and screened in some cinema houses with the voluntary cooperation of the exhibitors. Besides, the film was also exhibited by Indian Missions in foreign countries to invited audiences. It was also shown by Field Publicity Units of the Directorate of Field Publicity to audiences in rural areas in India. The Films Division Branches also screened the film to audiences in auditorium at different places. Similarly, the other film, viz., "Shadow across the East", was also screened on a limited scale."

1.106. At the instance of the Committee, the Ministry also furnished statements giving details regarding distribution of this film to different organisations and also its showings within the country. The information contained in these statements is given below in a summarised form:—

Name of Parties	Total No. of Prints supplied in India and abroad	
	35 MM	16 MM
1. I. P. P. Recipients	6	173
2. Indian Missions abroad including E... Ministry	..	25
3. Branches	6	..
4. F.D.A. New Delhi	1	..
5. F.D.L., Bombay	1	..
	14	198

Details of Prints supplied on Sale Bases.

Name of party	Date of Supply	No. of prints supplied	
		35 MM	16 MM
Ministry of Defence, New Delhi	14-5-65	1	..
Do.	6-8-65	1	..
Do.	23-7-65	..	1
Publicity Officer, Directorate General of Security, New Delhi	15-5-68	..	3
Director of Information and Publicity, Government of Nagaland, Kohima	15-5-68	..	4
Do.	30-7-68	..	7
		2	15

Showings in the Country (in two parts)

Name of agency	No. of shows	Period when shown
Regional Office Bombay Branch	2	22/23-11-68
Regional Office Calcutta Branch	1	16-11-68
Private cinemas (34 theatres)	..	6-1-65 to 18-7-68
Directorate of field publicity (533 units)	673	25-5-65 to 25-1-69.

1.107. The Committee enquired whether efforts were made to ascertain or to assess the reaction of audiences to the film. The witness replied:

"We do not have any report of audience reaction. . . . Uptill recently there was no regular machinery for ascertaining audience reaction. Only last month it has been set up. Now we can go ahead with ascertaining the reaction of the audience."

1.108. The Committee wanted to know whether any investigation was carried out by Government analysing the reasons for the delay at the various stages pointed out by the arbitrator. The witness replied: "We have not carried out any investigation." The Committee asked whether the delay which has cost the country not only a great deal of money but also a great deal of political disadvantage did not merit any enquiry to fix responsibility for the delay and also in order to avoid such delays in future. The witness replied: "This was an exceptional film. Because of the exceptional nature of the film and the exceptionally difficult circumstances in which it had been shot. . . . some delay was inherent in the

decision." The witness added that "the Chinese film on the same subject underwent some delay even though they have more favourable conditions." In a note subsequently furnished in this regard, the Ministry of Information and Broadcasting stated that "there was hardly any avoidable delay on the part of any Government officials at any of the stages warranting such investigation."

1.109. The Committee desired to have a copy of the opinion of the Ministry of Law on the award of the Arbitrator. This has been furnished by the Ministry of Information and Broadcasting. The opinion expressed at one level was that the Arbitrator gave "double damages to the producer for a period of 12 months in the form of (i) loss of earnings and establishment expenses, as if he was idle during this period and (ii) Rs. 2,00,000 on account of extra film of 6,000 ft. at the contract rate of Rs. 35 per foot. . . . In calculating the actual loss the profits earned by him out of that transaction have to be taken into account. This the Arbitrator has not done and, therefore, there is a clear error apparent on the face of the award. The Arbitrator has also awarded at the rate of 6 per cent per annum which is not legally payable on damages until they are quantified. Similarly, he was awarded full cost of Rs. 40,000 even though he has partially succeeded in his claim to the extent of Rs. 7,00,000 as against Rs. 11,00,000 claimed by him. We may, however, ignore these small points but we can successfully challenge the award on the ground of double damages paid for the period of delay of 12 months. . . ." This opinion was also endorsed at a higher level where it was recorded:

"I agree that the award of the Arbitrator may be challenged on the ground of error of law apparent on the face of the award in so far as the Arbitrator has awarded damages by way of double payment under item. In the absence of any usage or contract, express or implied, or of any provision of law to justify the award of interest, no interest can be allowed by way of damages. In view thereof the award may also be challenged in so far as the Arbitrator has allowed interest on damages in respect of items. . . . In view of the above, I share the view that the award of the Arbitrator may be challenged in so far as the Arbitrator has awarded damages under item. It is understood that in the present case the Arbitrator has caused the award to be filed in the Delhi High Court on April 22, 1968. (This may be checked up by the Ministry of Information and Broadcasting). If it is so, the application by the Government for setting aside the award will have to be made within 30 days from the said date."

1.110. The above opinions were, however, over-ruled on the ground that "an error which has to be established by long drawn process of

reasoning on points where there may be conceivably two opinions cannot be said to be an error apparent on the face of the records.”

1.111. The Committee asked whether enquiries were made to verify the income of the producer in connection with the claim of the producer for compensation. The Ministry of Information and Broadcasting in a note stated that necessary enquiries were made in this regard from the Income-tax Commissioner, Bombay City-1, during the arbitration proceedings and furnished copies of the Income-tax assessment statements in respect of the producer for the years 1959-60 to 1964-65. The following position emerges from these statements:

Assessment Year	Income declared by the producer	Income actually assessed	Income-tax levied	Arrears of Income tax, if any
1959-60	Loss Rs. 11,796	Loss Rs. 11,796	Nil	Nil
1960-61	2,946	2,946	Nil	Nil
1961-62	4,871	5,082	Nil	Nil
1962-63	793	729	Nil	Nil
1963-64	Loss Rs. 13,061	Loss Rs. 12,961	Nil	Nil
1964-65	Loss Rs. 13,297	Loss Rs. 12,133	Nil	Nil

1.112. The Committee cannot help feeling that Government showed no sense of urgency at all in dealing with matters relating to this picture. i.e., “India’s case on China” the production of which was considered urgent from the point of view of the country’s external publicity.

1.113. The production of this picture was undertaken to project the country’s case in its border dispute with China. In an understandable anxiety to have the film completed very early, the contract was given to the producer without calling for tenders. There was a rigid time-table laid down for the completion of each stage of the picture, but yet Government itself by its actions rendered its implementation difficult.

1.114. The contract, signed on 18th January, 1963, gave the producer thirteen days for the submission of a final script. It was, therefore, reasonable to expect that Government would need a much shorter period for approving the script: more so, because, as pointed out by an arbitrator who adjudicated on this case, it had been “scrutinised with care” by the Ministry of External Affairs before the contract was placed. Yet the script submitted by the producer on 22nd January, 1963, was not finally

approved till 15th April, 1963, due to the time spent on meetings and discussions. As pointed out by the arbitrator, Government failed to exercise "reasonable diligence" in the matter.

1.115. The contract gave the producer 90 days for the production of the rough-cut. The rough-cut, submitted by the producer on 20th September, 1963, underwent revision as many as seven times, in the course of which the length of the film was increased twice and reduced as many times. The arbitrator drew the inference that this was due to "contradictory orders" passed by Government, in implementing which "considerable amount of time and money must have been spent." The length of the film finally approved on 11th November, 1964, was about 6,300 ft., against the length of 3,500 ft. that Government had initially considered adequate for the proper exposition and correct treatment of the theme.

1.116. Government had agreed that the shooting of the film should be considered an urgent assignment and necessary facilities given to the producer for this purpose. Yet, they took over 2 months to issue permits for raw films and an even longer time to provide facilities for shooting the film in forward areas. There were, as the arbitrator put it, "unnecessary meetings, unnecessary discussions, unnecessary notes and unnecessary and repeated cancellations of shooting dates."

1.117. The overall result of delays at all these stages was that the production of the film took about 23 months as against 10 months 25 days envisaged in the contract. Its topicality was also lost by the time it was ready. The arbitrator held Government responsible for the delays and awarded the producer Rs. 2.79 lakhs as damages on this account, besides costs, interest on certain portions of the claim and a sum of Rs. 0.95 lakh for deleted portions of the picture.

1.118. The Committee consider it extremely regrettable that Government should have by delaying action at every stage defeated the very purpose for which the production of the picture was undertaken. What is harder still to accept is that they landed themselves in this situation after extending substantial concessions to the producer (e.g., by way of supply of films at concessional rates, free shooting facilities in border areas, waiver of security deposit). The Committee can only hope that there will not be a repetition of a case of this kind.

1.119. There is one point arising out of this case which calls for careful examination. An analysis of the arbitrator's award indicates that, against Rs. 35 per foot allowed to the producer, his cost of production, excluding overheads, was Rs. 16.17 per foot. A question, therefore, arises whether the margin allowed to the producer was not high. The Committee would like Government to examine this and a few other typical cases, with a view to ascertaining whether there is any rational basis

for determination of rates contracted for with outside producers. The Committee recognise that producers will have to be paid according to their merit and standing and that the rates offered will have to be reasonably attractive, but the impression that the Committee get is that the rates are fixed in an ad hoc manner. The findings in a later section of this Report lend substance to this belief. The Committee would like Government to examine whether the producer in this regard could not be systematised.

1.120. There is another aspect of this case arising out of the arbitrator's award, where the Committee feel that Government took a decision which was contrary to its interests. The Arbitrator had awarded to the producer amounts totalling Rs. 7.51 lakhs. The award included, inter alia, payment of a sum of Rs. 93,048 to the producer on account of his probable earning and Rs. 1.85 lakhs towards office expenses for a period of 12 months when, according to the Arbitrator, the producer was unable to undertake any other work on account of his pre-occupation in connection with this film. This was computed on the basis that his monthly earnings were of the order of Rs. 7,754. When the award was examined in the Ministry of Law, it was pointed out that on the question of compensation payable to the producer, the arbitrator "had clearly erred" and p.id "double damages". The arbitrator had reckoned the period of delay caused by Government as 12 months, on the basis that the film should have been produced in 10 months 25 days (as against which it actually took 22 months 25 days). It had, however, been overlooked by him that the period of 10 months and 25 days was related to the length of the film which had been stipulated in the contract as 3,500 ft. As actually the finally approved film was 6,174 ft., it would have taken more than the time stipulated in the contract: the arbitrator should have made an allowance for this extra length, which he did not do. For these reasons it was suggested that the award should be challenged, but this was overruled on the ground that "an error which has to be established by long drawn process of reasoning on points where there may conceivably be two opinions cannot be said to be an error apparent on the face of the records."

1.121. There is another glaring fact that also suggests that the arbitrator's award on the question of income of the producer was not correct. Government had obtained from the Income Tax Commissioner, Bombay City-1, the Income-tax assessment statements in respect of the producer for the years 1959-60 to 1964-65. These showed the declared and assessed income of the producer for the years 1962-63 as Rs. 793 and Rs. 729; for the subsequent two years, 1963-64 and 1964-65, the returns showed a minus income (loss) of Rs. 13,061 and Rs. 12,961 and Rs. 13,297 and Rs. 12,133 respectively. In view of this, it should have been evident to anyone that the award of a sum of Rs. 93,048 to the producer on account of his probable earning for 12 months during the period in question was

not tenable and the award should have been challenged in a Court of Law. The Committee are at a loss to understand how this point was overlooked or lost sight of and Government failed to go to court of law to safeguard its interests.

1.122. The Committee note that the time limit for filing of application in the court for setting aside the award has lapsed. The Committee would, however, like Government to look into this case to find out how the aforementioned points were overlooked and take necessary steps to ensure that such serious lapses do not recur in future.

1.123. The Committee would like it to be investigated whether the producer has included the amount received by him as a result of the arbitrator's award in his Income-tax Return for the assessment year concerned. They would like to be apprised of the results of such an investigation.

(B) Production of Film 'Case on Indo-China Border No. 2'.

1.124. The Committee were informed by the Ministry of Information and Broadcasting in reply to their question that no tender was invited for production of this film and the contract was concluded with the producer by negotiation, as was done in the case of the earlier film. The Committee asked what were the considerations which weighed with Government in awarding a second contract to the same producer by negotiation, particularly when he had not delivered the rough-cut of the first film. The Ministry have furnished the following explanation on this point:

"It may be stated that like film No. 1, the subject-matter of film No. 2 was also the Indo-China border dispute. As the entire subject-matter could not be compressed into one film, it was decided at the instance of the Ministry of External Affairs to have two films instead of one. In fact, the draft script which the producer had submitted in January, 1963, covered the entire subject-matter. For the sake of convenience, it was subsequently decided that sequences I to VIII of the script might form the subject-matter of film No. 1 and sequence IX, with suitable expansion and dressing up, might form the subject-matter of film No. 2. Since the production of film No. 1 had already been assigned to this producer who had done considerable research on the whole subject-matter, it was considered appropriate to assign the production of film No. 2 also to the same producer and the question of inviting a tender did not, therefore, arise. The formal contract for film No. 2 was entered into with the producer on 10th July, 1963 and at that time delivery of not even of the rough-cut of the film No. 1 was due."

1.125. The Committee asked why the rate for this film was fixed at Rs. 50 per foot as against Rs. 35 agreed to in the case of the earlier film. The witness stated that "the amount of Rs. 35 per foot for the

first film possibly seemed to be on the low side both according to the arbitrator and according to the Ministry. We paid him some extra sums over and above Rs. 35 per foot." He added: "Payment of Rs. 50 a foot is not unusual for outstanding producers for instance.....him on Lord Budha was paid that much." In a note subsequently furnished, the Ministry informed the Committee that they wrote to the producer that "Government were prepared to assign to him the production of film No. 2 and that payment would be made him at Rs. 35 per foot (i.e. same rate as for film No. 1) *mutatis mutandis* on the same terms and conditions as for film No. 1. But the producer did not accept the terms for film No. 2. . . . he said that the rate of Rs. 35 per foot for film No. 1 had been accepted by him at the time of the China invasion and was a big concession to Government. . . . The producer demanded higher rate without mentioning any figure. He subsequently came to Delhi and discussed the matter with the then Information and Broadcasting Secretary on 4th June, 1963 and 6th June, 1963 and ultimately the rate of Rs. 50 per foot was agreed to. . (His) demand, as observed by the Secretary was 'like (that) of a surgeon who put forward a demand for a higher fee after the patient had been put on an operation table and opened up.' Considering the importance of the subject there was no alternative but to accept it."

1.126. However, from the information supplied by the Ministry regarding the minimum and maximum rates paid to private producers during the period 1963-64 to 1969-70, it has been observed that the maximum rate paid to private producers in 1963-64 when the contract for this film was concluded was Rs. 31.19 only. The information furnished by the Ministry in this regard is reproduced below :

Serial No.	Year	Minimum Rate per foot (Rs.)	Maximum rate per foot (Rs.)
1	1963-64	10.75	31.19
2	1964-65	9.90	50.00
3	1965-66	10.10	45.00
4	1966-67	11.83	15.22
5	1967-68	11.44	35.08
6	1968-69	11.90	92.32
7	1969-70	12.20	63.25

1.127. The Committee enquired whether the facilities and concessions shown in the matter of shooting and procurement of raw film for the production of the earlier picture were extended in this case also. The Ministry replied that the producer did not need assistance of Defence authorities for this film and as such there was no question of payment to Defence authorities. As regards stock shots supplied by the Films Division to the producer, these were supplied at non-commercial rates for both film No. 1 and film No. 2 subject to a total length of 1,500 ft. for both the films together.

1.128. Taking up the question of release of the last instalment of 'on account' payment of Rs. 30,000 by Government on 6th May, 1966, without getting delivery of the rough-cut from the producer, the Committee asked why Government made prior payment. The witness replied: "It is not unusual in the case of well-known producers who have a certain reputation. We know that they will give us the rough-cut." However, in a note submitted on this point, the Ministry stated as under:

"In this connection, it may be stated that under clause 12(a) of the agreement with the producer, the last instalment of a sum not exceeding Rs. 30,000 was payable to the producer on 'final approval of the rough-cut of the picture with commentary' and not on 'delivery of the rough-cut'. The last instalment of Rs. 30,000 was released after the rough-cut of the picture with commentary was finally approved subject to certain changes being carried out by the producer in it. In order to ensure that the producer carried out the required changes in the film with a reasonable time, a written undertaking was obtained from him that he accepted the payment on the specific understanding that he would, within 45 days from 6th May 1966, carry out the changes communicated to him in the rough-cut and commentary."

1.129. According to the contract, the rough-cut of the picture with commentary was to be given within 90 days from the date of the agreement and the final material within 30 days of the approval of the rough-cut. The Committee enquired when the rough-cut and the final material were delivered. The Ministry have stated in a note that the rough-cut of the film was delivered by the producer on 19th January, 1966 for approval and the final completed film and other connected materials were delivered by the producer on 26th July, 1968.

1.130. The Committee enquired whether any compensation/damages were claimed from the producer for the delay in the production of the film. The Ministry replied in a note: "No compensation/damages was claimed from the producer for delay in the production of the film. From time to time, the producer had been asking for extension of time for submission of rough-cut and delivery of the final film and such extensions had been granted by Government."

1.131. As regards showings of the film, the Ministry informed the Committee as under :

“The length of film No. 1 (titled ‘The Great Betrayal’) was over 6,000 ft. and that of film No. 2 (titled ‘Shadow Across the East’) was nearly 3,500 ft. Under compulsory exhibition scheme, Cinema Exhibitors could be asked to show only those documentary films alongwith the main programme of feature films, the length of which did not exceed 2,000 ft. each. Therefore, under the law, the exhibitors could not be asked to screen these films...Similarly, the other film viz. ‘Shadow Across the East’ was also screened on a limited scale.”

1.132. The Ministry furnished the details regarding supply of prints and their showings, from which it has been observed that the film was supplied to the Regional Officers at Chandigarh, Lucknow, Calcutta, Hyderabad, Bangalore, Madras and Assistant Programme Officer, New Delhi (35 MM.) and the Assistant Regional Officers at Lucknow, Patna, Madras and New Delhi (16 MM.). The film was shown through the above agencies in 6 places, the total number of shows being 17.

1.133. This is an even more glaring instance of delay in production of a documentary which defeated the very purpose for which its production was undertaken.

1.134. The documentary, like the one examined by the Committee in an earlier section of this Report, was intended to present India's case in its border dispute with China. According to the contract which was executed on 10th July, 1963, the rough-cut of the documentary with commentary was to be given by the producer to Government for approval within 90 days of the agreement (i.e. by 7th October, 1963). The rough-cut was, however, delivered by the producer for approval only on 19th January, 1966. The delivery of the final film was further delayed by the producer till July, 1968 on the ground that arbitration proceedings were in progress in respect of claims relating to production of the other film allotted to him (dealt with in the previous section of this Report).

1.135. The Committee are at a loss to understand how Government acquiesced in the delay that occurred at various stages, particularly in a film the timely production of which was of great importance from the point of view of the country's external publicity. It is also strange that, after having made full payment for the film, they should have allowed the producer to hold up delivery of the final film pending outcome of arbitration proceedings which were entirely unconnected with this case. The Committee would like an investigation to be made to ascertain why the delay occurred and whether there was any justification for condoning this delay.

1.136. The Committee would like to mention one other point. The rate per foot agreed for this film, i.e., Rs. 50 was even higher than the

rate agreed upon in the previous case, i.e., Rs. 35 per foot. Government themselves were aware that this rate was unconscionably high but were compelled to accept it in the circumstances that then obtained. In fact, the Secretary to the Ministry of Information and Broadcasting placed it on record that the producer's demand for higher rate was like that of a surgeon demanding a higher fee "after the patient had been put on the operation table and opened up." The Committee would like Government to consider whether in view of this experience it is desirable for Government to have further dealings with this producer.

IV ABANDONMENT OF FILMS

Audit Paragraph

1.137 In July, 1966 the Ministry of Information and Broadcasting, in consultation with other Ministries, deleted 48 films assigned to the Division for production so that the production programme of the Division could be manageable and the Division could produce effective motivational films. Out of these films, 19 had already been under production and a total expenditure of Rs. 1.64 lakhs had been incurred thereon at the time of abandonment.

1.138. In respect of 6 of these films on which an expenditure of Rs. 1.46 lakhs had been incurred, the Management stated (December, 1966) that other films had been made out of the materials used on these films and that accordingly the expenditure could not be considered infructuous.

[Paragraph 7 (Section XVII) of Audit Report (Commercial), 1968].

1.139. The Committee were informed by the Ministry of Information and Broadcasting in a note that the normal capacity of the Films Division is 90 films per year (documentaries). Out of this, 24 films are given to outside producers borne on the approved list of the Films Division. In addition, the Films Division produce 52 newsreels in a year.

1.140. The Committee enquired how many films were assigned to the Films Division during 1966-67 when 48 of the assigned films were deleted. They also wanted to know why these 48 films were assigned to the Division initially and production commenced in some cases, without ascertaining whether they could be managed by the Division. In reply, the Ministry of Information and Broadcasting have stated in a note that ".....all the 48 films which were decided to be deleted were not assigned to the Films Division in any single particular year. Most of these films were being carried forward from the previous years' programme". The Ministry have further explained: "While reviewing the production programme of the Films Division for 1966-67, it was found that the programme would include production of 261 films (185 to be carried forward and balance *i.e.* 76 allotted during the year 1966-67). It was felt that with the existing resources and the known capacity of the Films Division the production programme was unwieldy. Accordingly in consultation with other sponsoring Ministries it was decided to delete 48 films from the production programme.....It may be stated that although the target of the films Division is 90 films, we have normally

been keeping about 200 subjects on the annual production programme to ensure that the production units of the Films Division are kept occupied throughout the year even when the work on certain films is held up at various stages of production, certain films being of seasonal nature, some other being on long terms projects”.

1.141. The Committee enquired whether there was any scope for the 13 films (19 films scrapped minus six of them put to use) being put to any use. The Ministry have replied that out of these 13 films, two films viz. “Hindustan Photo Films” and “Naval Ship Building” were re-included in the production programme for the year 1967-68. As regards the material relating to the remaining 11 films it would be made use of if and when films on allied subject(s) were produced. The material could also be used as stock shots for other films.

1.142. The Committee desired to know whether any films were abandoned in the subsequent years. They were informed by the Ministry that in 1967-68 5 films were abandoned after incurring an expenditure of Rs. 4,500/- while 9 films were abandoned in 1968-69 after incurring an expenditure of Rs. 32,000/-.

1.143. The Committee note that the production of 19 films taken up by the Films Division on different dates, was abandoned in July, 1966, after incurring an expenditure of Rs. 1.64 lakhs, as the production programme became unwieldy. The material produced in six of these cases (cost Rs. 1.46 lakhs) is stated to have been subsequently used. The Committee would like steps to be taken to ensure that the material produced in the remaining cases is similarly put to use. Government should also ensure that in future the Films Division does not undertake production of films outside its capacity as determined by availability of men and material.

APPENDIX I

PRODUCTION OF FILM "INDIA'S CASE ON CHINA"

EXTRACTS FROM ARBITRATOR'S AWARD

The following questions and answers will give the information which appears to me to be necessary for assessment of damages:—

Q. 1. What are the principal dates in this contract:

Answer: Date of contract—18th January, 1963.

Claimant submits final draft—22nd January, 1963.

Claimant incorporates changes—19th March, 1963 to 28th March, 1963.

Claimant sends final script—28th March, 1963.

Government accords approval to script—15th April, 1963.

Time taken by the JCCI&E in the supply of raw film—2 month and 10 days (15th May, 1963 to 25th July, 1963).

Claimant delivers rough-cut—20th September, 1963.

Government accords approval to rough-cut—16th October, 1964.

Claimant forwards final print—11th November, 1964.

Q. 2. What are the provisions of the contract regarding time?

Ans: Date of Contract 18th January, 1963, Claimant to deliver final script within 13 days, Claimant to deliver revised script, if necessary, within 15 days, Claimant to deliver rough-cut within 90 days of the date of the receipt of approved script, Claimant to deliver final materials within 30 days of the receipt of approval of rough-cut, Total—148 days, or say five months.

Q. 3. What is the reasonable time in which Government should have performed its part of the Contract?

Ans: Having regard to the urgency of the film and to the fact that the Claimant was required to complete the film from beginning to end within a total period of 5 months, I am of the opinion that a period of 3½ months is quite reasonable

in which Government could have performed its part of the contract.

Q. 4. What is the time within which the parties should have completed their part of the Contract, if no delay was caused?

Ans: Claimant within 5 months; Government within $3\frac{1}{2}$ months.
Total $8\frac{1}{2}$ months.

Q. 5. Was any delay caused by the Union of India acting in its capacity as a Sovereign for which no damages can be claimed?

Ans: Yes, a delay of about two months and ten days was caused by the JCCI&E in issuing permit for raw film.

Q. 6. What is the total period in which the contract should have been completed, including, the delay caused by the JCCI&E?

Ans: $8\frac{1}{2}$ months plus 2 months and 10 days = 10 months and 25 days.

Q. 7. What is the time which was actually taken in completion of this Contract?

Ans: From 18th January, 1963 to 11th November, 1964 = 22 months and 25 days.

Q. 8. What is the period for which damages can be claimed on account of delay?

Ans: Total period 22 months and 24 days minus 10 months and 25 days, say 12 months.

Q. 9. What was the rate per foot to which the claimant was entitled?

Ans: Rs. 35/- per foot.

Q. 10. What is the average cost of production of a black and white film produce for Government by an outside producer?

Ans: Rs. 16.17 per foot (excluding overheads) as per 23rd Report of the Public Accounts Committee (1963) pertaining to the year 1961-62 (I&B File No. 16/35/62-FP Vol : V, p. 150).

Q. 11. What were the Claimant's profits or earnings per foot?

Ans: Rs. 35/- per foot minus Rs. 16.17 per foot = Rs. 18.83 per foot.

Q. 12. What were the probable monthly earnings of the Claimant?

Ans. When the parties entered into this Contract, they must have assumed that the entire picture would be completed in a period of $8\frac{1}{2}$ months, as they could not have anticipated that any delays were likely to be caused in the production of this film which was urgently required by Government.

The Claimant agreed to produce this film, measuring 3,500 ft., @ Rs. 35/- per foot. As his own profit was Rs. 18.83 per foot, (*vide* Q. 11), he would have earned a sum of Rs. 65,905/- in a period of $8\frac{1}{2}$ months. His monthly earnings would thus come to about Rs. 7,754/-.

Q. 13. How much did it cost the Claimant to produce this film?

Ans. The Claimant has submitted his books of accounts, which appear to me to be correct, in which he states that the total expenditure incurred by him in its production aggregates to Rs. 4,17,872.86 nP. As he withdrew a sum of Rs. 88,859.63 for his personal expenses, the cost of the film must be assumed to be Rs. 3,29,013.23 nP.

Q. 14. If the Claimant's cost of production per foot is assumed to be Rs. 16.17 (*vide* Q. 10), what would be cost for producing a film measuring 6,174 feet.

Ans. $6147 \times 16.17 = \text{Rs. } 99,833.58 \text{ nP.}$

Q. 15. If the Claimant's profits per foot is assumed to be Rs. 18.83, what would be the profit for producing a film measuring 6174 ft.

Ans.: $6174 \times 18.83 = \text{Rs. } 1,16,256.42 \text{ nP.}$

Q. 16 If the Claimant is allowed a sum of Rs. 94,577.50 nP. on account of deletions, what portion of this amount represents the profits of the Claimant and what amount represents the cost of production of the items deleted?

Ans. The ratio between the profits of the claimant and the cost of production is 18.83:16.17. The cost of production of the portions deleted would, therefore, come to $94,577 \times 16.17/35$ and profit $94,577 \times 18.83/35$.

Q. 17. If the aggregate cost of producing a film works out to Rs. 3,29,013.23, and if the money spent by him on account of the cost of producing a film of the length of 6174 ft. comes to Rs. 99,833.58 and the cost of production of the portions deleted comes to Rs. 43,694.57 what is the balance?

Ans. Rs. 3,29,013.23—1,43,528 (Rs. 99,833.58 plus Rs. 43,694.57) = Rs. 1,85,485.08 nP.

Q. 18. What is the expenditure on cost of production which was incurred by the Claimant during the period of 12 months, *i.e.*, during the period of delay?

Ans. Rs. 1,85,485.08 (*vide* Answer to Q. No. 17).

Q. 19. What is the amount which the Claimant admits having already received from Government?

Ans. Rs. 2,44,570.06.

Q. 20. Was this contract personal to the Claimant?

Ans. Yes. Clause 7 of the Contract declares that the agreement shall be personal to the Claimant. The predominating factor in this case was the directing individual and physical labour of the claimant and income therefrom can be regarded as earnings even though others with tools and equipment may have aided in the work.

Q. 21. Can the Claimant be regarded as a Professional man.

Ans. Yes. He designated himself as a Producer-Director-Writer of films.

Q. 22. Is the Claimant entitled to compensation for the period of delay?

Ans. Yes.

Q. 23. Is the Claimant entitled also for the services of his employees and equipment etc. etc., during the time of the delay?

Ans. Yes.

Q. 24. Is the Claimant entitled to damages for loss of reputation?

Ans. No, in the first place it is too remote; secondly loss of commercial credit is not estimated as damages for breach of contract.

Q. 25. Are the damages to be measured as of the date of the breach?

Ans. Yes.

Q. 26. Does the law hold a party liable to damages for all the injuries that may follow the breach?

Ans. No. It limits his liabilities to the direct and immediate effects of the breach. A party injured by breach of a contract can recover damages only for such injuries as are the direct, natural and proximate result of the breach, or which in the ordinary course of events would likely to result from

a breach, or those as may fairly and reasonably be supposed to have been within the contemplation of the parties.

After a very careful consideration of all the facts and circumstances of the case, I am of the opinion that the Claimant is entitled to the following amounts by way of compensation namely:—

- (1) A sum of Rs. 2,16,090 on account of cost and profits due to the Claimant for producing a film of the length of 6174 ft. @ Rs. 35 per foot.
- (2) A sum of Rs. 94,577.50 nP. on account of cost of production and profits of the deleted portions. (Q. 16).
- (3) A sum of Rs. 93,048 on account of the probable earnings of the Claimant for a period of 12 months when he was unable on account of his pre-occupation in connection with this film to undertake any other work.
- (4) A sum of Rs. 1,85,485.08 on account of the expenses of staff, office, equipment, travelling and other expenses etc., for the said period of 12 months. (Q. 17 & 18).
- (5) A sum payable to the Claimant on account of the fee of his Counsels, Mr....., Mr..... and Mr..... which shall be equivalent to the remuneration paid by the Union of India to its own Counsel in connection with the arbitration before me.
- (6) The Claimant, in addition will be entitled to the payment of interest @ 6 per cent per annum with effect from 11th November, 1964 in respect of Items Nos. 1 to 4 above, and at 6 per cent per annum as item No. 5 with effect from 1st June, 1968 till date of payment in each case.

The Union of India will be entitled to deduct the following amounts which are due from the Claimant to the Union of India:—

- (1) A sum of Rs. 2,44,570.06 which has been paid by the Union of India to the Claimant (*vide* Counter claim).
- (2) A sum of Rs. 28,480 on account of over payments (*vide* Annexure IV of the Counter claim).
- (3) A sum of Rs. 20,211.78 on account of recoveries for the materials and other services obtained from different departments of Governments for the said film (*vide* Counter claim).

The Union of India will be entitled to charge interest @ 6 per cent per annum to the Claimant as follows:—

- (a) Rs. 2,44,570.06 with effect from 11th November, 1964.

(b) Rs. 2,480,00 with effect from 11th November, 1964.

(c) Rs. 20,211.78 with effect from 11th November, 1964.

(d) Rs. 26,000 (received by the Claimant on 24th February, 1965) with effect from 25th February, 1965.

Shri, who has been working as Stenographer throughout will be paid the remuneration to which he is entitled in pursuance of my orders already passed.

A sum of Rs. 150 will be paid by the parties in equal share to the typist, Mr., who had to be engaged for preparing this Award. This payment should be made within seven days from today.

In conclusion, I would like to express my appreciation for the valuable assistance that has been given to me by Shri, Mr. and Shri, Counsels for the Claimant and Shri Counsel for the Union of India. Each of these Counsels conducted the case for his client with conspicuous ability.

APPENDIX II

Summary of main Conclusions/Recommendations (Referred to in para 3 of Introduction)

Sl. No.	Para No. of Report	Ministry/Department Concerned	Conclusions/Recommendations
1	2	3	4
1.	I.26	Ministry of Information and Broadcasting	The Committee note that there was a substantial shortfall in production of documentaries by the Films Division during the years 1965-66 and 1966-67. In the subsequent years, the position improved, but this was not due to any increase in output, but a reduction in the targets.
2.	I.27	-do-	Apart from other factors, the main reason for the shortfall in production was shortage in directorial staff. The data furnished to the Committee shows that this is a persisting phenomenon and that the position in this regard has deteriorated. The shortage of Directors has resulted in other resources of the Films Division, by way of men and material being kept idle. The Committee would like Government to consider steps to bring about a permanent improvement in the position. Recruitment procedures should be streamlined and conditions of service and work made congenial enough to attract and retain real talent. There is a Film Insti-

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tute at Poona which trains people in this line. Competent staff from that Institute should be drafted, if necessary, and trainees, who show promise, should be induced to join the services of the Films Division.

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The Committee consider it essential that utmost stress should be laid on the quality of films produced by the Films Division. Government have claimed that the quality has recently improved and that this is reflected in the increasing number of awards won, but an objective assessment on this point is called for by experts in the field. The fact that overseas editions of newsreels previously produced by the Films Division had not proved popular and were, therefore, discontinued from 1966-67 would appear to suggest that there is ample room for improvement.

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The Committee observe that 25 per cent of the documentaries to be produced by the Films Division every year are earmarked for production by outside producers. Though, since 1967-68, these producers have been fulfilling their obligations, in earlier years they had failed to produce the allotted quota. In some cases this was no doubt due to default on their part, but the information furnished by Government shows that procedural delays in Government Departments held up production of films on occasions. Later in this Report, the Committee have reviewed a case where due to delay on the part of Government in approving scripts and rough-cuts and according to facilities that had been agreed upon, production of an important documentary was held up, resulting in arbitration proceedings.

which cost Government an extra expenditure of over Rs. 2.79 lakhs. The Committee would like Government to take precautions against recurrence of such situations in their dealings with outside producers.

5. 1.30 Ministry of Information and Broadcasting

The Films Division is stated to be maintaining a panel of outside producers to whom production is farmed out. This panel should be periodically reviewed, taking competent professional advice, so that the Division does not deal with any-one except recognised producers. There should also be some system of gradation in the panel, according to the merits of producers and a reasonably uniform practice in the matter of award of rates, provision of facilities etc. to producers of comparable merit.

6. 1.68 -do-

The Committee are not satisfied with the working results of the Films Division. The accounts no doubt show a surplus every year, but this surplus is illusory, as it has been worked out after taking credit for "notional revenue" every year in respect of films released for free exhibition. The quantum of such "notional revenue", which varied from about 56 per cent to 73 per cent of the actual revenue realised during the period 1964-65 to 1967-68, shot up in 1968-69, when it was virtually equal to actual revenue.

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7. 1.69 -do-

Considering that it is obligatory for cinema houses under the law to screen all documentaries produced by the Films Division (of 2,000 ft. or less), the Committee cannot help feeling that the Films Division has not given a good account of itself. The representative of the Ministry of Information and Broadcasting himself admitted during evidence that he could not claim that the state of affairs was a very happy one.

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Certain aspects of the working of the Films Division call for specific comments:

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- (i) The cost of films produced by the Division is at present exorbitant. During the three years ending 1968-69, the cost of production was 54 per cent to 76 per cent higher than the cost at which films were produced by private producers on behalf of the Films Division. Even making allowance for factors mentioned by Government like the type of film generally taken up for departmental production, the need to keep the Division equipped for undertaking all kinds of jobs, difficult shooting locations etc., the Committee feel that the cost differential is wide.
- (ii) The system of costing followed by the Films Division is itself defective. The costs as now derived are not accurate indicators of actual costs. Overheads included in the costs as now computed are determined on the basis of certain pre-determined rates, the correctness of which has not been verified with reference to figures of actual expenditure.
- (iii) Man-power resources in the Division would appear to some extent to be idling. In the music section, for instance, the

percentage of idle hours to the total number of hours has been 35 per cent or more during the period 1964-65 to 1966-67. The Committee are aware that in the field of creative arts, accounting or arithmetical concepts have to be applied with caution. Still the large disparity between the cost of production of films by the Films Division and by private producers leave the Committee with the impression that the optimum use is not being made of the talent recruited by the Department.

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The Committee note that Government are themselves not satisfied with these and other aspects of the working of the Films Division and propose to call in outside consultants to advise them how this unit could be made to work better. The Committee would like this to be done early and remedial action also to be quickly taken thereafter. In particular the following points would need detailed investigation:

- (a) How the Films Division could make better use of its existing manpower and material resources.
- (b) Whether the number of prints released for free exhibition could with advantage be curtailed.
- (c) Whether the footage of films produced could be generally reduced without detriment to quality or presentation.
- (d) Whether existing arrangements for inventory control could be improved and there is scope for economy in the purchase of costly stores and equipment.

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(e) What devices the unit should adopt to control costs at several stages so as to be able to produce films economically.

(f) What safeguards should be adopted to protect Government's interests in their dealings with private producers to whom part of the production is farmed out and how better returns could be ensured.

10.

I · 112

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The Committee cannot help feeling that Government showed no sense of urgency at all in dealing with matters relating to this picture, i.e. "India's Case on China" the production of which was considered urgent from the point of view of the country's external publicity.

11.

I · 113

Ministry of Information and Broadcasting

The production of this picture was undertaken to project the country's case in its border dispute with China. In an understandable anxiety to have the film completed very early, the contract was given to the producer without calling for tenders. There was a rigid time-table laid down for the completion of each stage of the picture, but yet Government itself by its actions rendered its implementation difficult.

12.

I · 114

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The contract, signed on 18th January, 1963, gave the producer thirteen days for the submission of a final script. It was, therefore, reasonable to

expect that Government would need a much shorter period for approving the script more so, because, as pointed out by an arbitrator who adjudicated on this case, if had been "scrutinised with care" by the Ministry of External Affairs before the contract was placed. Yet the script submitted by the producer on 22nd January, 1963, was not finally approved till 15th April, 1963, due to the time spent on meetings and discussions. As pointed out by the arbitrator, Government failed to exercise "reasonable diligence" in the matter.

13. I-115 -do-

The contract gave the producer 90 days for the production of the rough-cut. The rough-cut, submitted by the producer on 20th September, 1963, underwent revision as many as seven times, in the course of which the length of the film was increased twice and reduced as many times. The arbitrator drew the inference that this was due to "contradictory orders" passed by Government, in implementing which "considerable amount of time and money must have been spent." The length of the film finally approved on 11th November, 1964 was about 6,300 ft., against the length of 3,500 ft., that Government had initially considered adequate for the proper exposition and correct treatment of the theme.

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14. I-116 -do-

Government had agreed that the shooting of the film should be considered an urgent assignment and necessary facilities given to the producer for this purpose. Yet, they took over 2 months to issue permits for raw films and an even longer time to provide facilities for shooting the film in forward areas. There were, as the arbitrator put it, "unnecessary meetings, unnecessary discussions, unnecessary notes and unnecessary and repeated cancellations of shooting dates."

1	2	3	4
15.	I·117	-do-	<p>The overall result of delays at all these stages was that the production of the film took about 23 months as against 10 months 25 days envisaged in the contract. Its topicality was also lost by the time it was ready. The arbitrator held Government responsible for the delays and awarded the producer Rs. 2.79 lakhs as damages on this account, besides costs, interest on certain portions of the claim and a sum of Rs. 0.95 lakh for deleted portions of the picture.</p>
16.	I·118	-do-	<p>The Committee consider it extremely regrettable that Government should have by delaying action at every stage defeated the very purpose for which the production of the picture was undertaken. What is harder still to accept is that they landed themselves in this situation after extending substantial concessions to the producer (<i>e.g.</i>, by way of supply of films at concessional rates, free shooting facilities in border areas, waiver of security deposit). The Committee can only hope that there will not be a repetition of a case of this kind.</p>
17.	I·119 Ministry of Information and Broad Casting		<p>There is one point arising out of this case which calls for careful examination. An analysis of the arbitrator's award indicates that, as against Rs. 35 per foot allowed to the producer, his cost of production, excluding overheads, was Rs. 16.17 per foot. A question, therefore, arises whether the margin allowed to the producer was not high. The Committee would like Government to examine this and a few other typical cases, with a</p>

view to ascertaining whether there is any rational basis for determination of rates contracted for with outside producers. The Committee recognise that producers will have to be paid according to their merit and standing and that the rates offered will have to be reasonably attractive, but the impression that the Committee get is that the rates are fixed in an *ad hoc* manner. The findings in a later section of this Report lend substance to this belief. The Committee would like Government to examine whether the procedure in this regard could not be systematised.

18.

I.120

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There is another aspect of this case arising out of the arbitrator's award, where the Committee feel that Government took a decision which was contrary to its interests. The Arbitrator had awarded to the producer amounts totalling Rs. 7.51 lakhs. The award included, *inter alia* payment of a sum of Rs. 93,048 to the producer on account of his probable earning and Rs. 1.85 lakhs towards office expenses for a period of 12 months when, according to the Arbitrator, the producer was unable to undertake any other work on account of his pre-occupation in connection with this film. This was computed on the basis that his monthly earnings were of the order of Rs. 7,754. When the award was examined in the Ministry of Law, it was pointed out that on the question of compensation payable to the producer, the arbitrator "had clearly erred" and paid "double damages". The arbitrator had reckoned the period of delay caused by Government as 12 months, on the basis that the film should have been produced in 10 months 25 days (as against which it actually took 22 months 25 days). It had, however, been overlooked by him that the period of 10 months and 25 days was related to the length of the film which had been stipulated in the contract as 3,500 ft. As actually

the finally approved film was 6,174 ft., it would have taken more than the time stipulated in the contract: the arbitrator should have made an allowance for this extra length, which he did not do. For these reasons it was suggested that the award should be challenged, but this was overruled on the ground that "an error which has to be established by long drawn process of reasoning on points where there may conceivably be two opinions cannot be said to be an error apparent on the face of the records."

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1.121

Ministry of Information and Broad Casting

There is another glaring fact that also suggests that the arbitrator's award on the question of income of the producer was not correct. Government had obtained from the Income-Tax Commissioner, Bombay City-1, the Income-tax assessment statements in respect of the producer for the years 1959-60 to 1964-65. These showed the declared and assessed income of the producer for the years 1962-63 as Rs. 793 and Rs. 729: for the subsequent two years, 1963-64 and 1964-65, the returns showed a minus income (loss of Rs. 13,061 and Rs. 12,961 and Rs. 13,297 and Rs. 12,133 respectively). In view of this, it should have been evident to anyone that the award of a sum of Rs. 93,048 to the producer on account of his probable earning for 12 months during the period in question was not tenable and the award should have been challenged in a Court of Law. The Committee are at a loss to understand how this point was overlooked or lost sight of and Government failed to go to court of law to safeguard its interests.

20. I.122 -do-- The Committee note that the time limit for filing of application in the court for setting aside the award has lapsed. The Committee would, however, like Government to look into this case to find out how the aforementioned points were overlooked and take necessary steps to ensure that such serious lapses do not recur in future.
21. I.123 -do-- The Committee would like it to be investigated whether the producer has included the amount received by him as a result of the Arbitrator's award in his Income-tax Return for the assessment year concerned. They would like to be apprised of the results of such an investigation.
22. I.133 -do-- This is an even more glaring instance of delay in production of a documentary which defeated the very purpose for which its production was undertaken.
23. I.134 -do-- The documentary, like the one examined by the Committee in an earlier section of this Report, was intended to present India's case in its border dispute with China. According to the contract which was executed on 10th July, 1963, the rough-cut of the documentary with commentary was to be given by the producer to Government for approval within 90 days of the date of the agreement (*i.e.* by 7th October, 1963). The rough-cut was, however, delivered by the producer for approval only on 19th January, 1966. The delivery of the final film was further delayed by the producer till July, 1968 on the ground that arbitration proceedings were in progress in respect of claims relating to production of the other film allotted to him (dealt with in the previous section of this Report).

24. I-135 Ministry of Information and Broadcasting. The Committee are at a loss to understand how Government acquiesced in the delay that occurred at various stages, particularly in a film the timely production of which was of great importance from the point of view of the country's external publicity. It is also strange that, after having made full payment for the film, they should have allowed the producer to hold up delivery of the final film pending outcome of arbitration proceedings which were entirely unconnected with this case. The Committee would like an investigation to be made to ascertain why the delay occurred and whether there was any justification for condoning this delay.

25. I-136 -do- The Committee would like to mention one other point. The rate per foot agreed for this film, *i.e.*, Rs. 50 was even higher than the rate agreed upon in the previous case, *i.e.*, Rs. 35 per foot. Government themselves were aware that this rate was unconscionably high but were compelled to accept it in the circumstances that then obtained. In fact, the Secretary to the Ministry of Information and Broadcasting placed it on record that the producer's demand for higher rate was like that of a surgeon demanding a higher fee "after the patient had been put on the operation table and opened up." The Committee would like Government to consider whether in view of this experience it is desirable for Government to have further dealings with this producer.

26.

F-143

-do-

The Committee note that the production of 19 films taken up by the Films Division on different dates, was abandoned in July, 1966, after incurring an expenditure of Rs. 1.64 lakhs, as the production programme became unwieldy. The material produced in six of these cases (cost Rs. 1.46 lakhs) is stated to have been subsequently used. The Committee would like steps to be taken to ensure that the material produced in the remaining cases is similarly put to use. Government should also ensure that in future the Films Division does not undertake production of films outside its capacity as determined by availability of men and material.

27.

F-150

-do-

In the opinion of the Committee, this was a case of bad budgeting. The All India Radio would have known that they had to pay telephone bills for the period from 1948 onwards, if liability registers had been maintained by them as prescribed under the rules. So, regardless of bills not having been received from the Telephone Department before the budget for 1967-68 was framed, they could have made a provision on this account. Likewise, since they had ordered cars and jeeps between May, 1966 and March, 1967, a provision for their cost should have been made in the budget estimates for 1967-68, when deliveries were expected. This they failed to do, and when they sought to provide for these liabilities through a Supplementary Grant, the Ministry of Information and Broadcasting disallowed the provision. The result was that an advance from the Contingency Fund had to be sanctioned to meet these liabilities. Even this proved redundant, as the final accounts showed savings under the grant.

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1	2	3	4
28	1.151	Ministry of Finance	The Committee would like the Ministry of Finance to issue strict instructions to all the Ministries/Departments to ensure that the Contingency Fund is not drawn upon, except for unforeseen emergencies. The fund is not meant to cover known liabilities or liabilities which a Ministry/Department can easily anticipate and provide for, if it conformed to prescribed procedures in the matter of maintenance of liability registers etc.

CORRIGENDA TO THE HUNDRED AND TWENTY-FIRST REPORT OF PAC
(1969-70) PRESENTED TO LOK SABHA ON 30-4-1970.

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