

TWELFTH REPORT

STANDING COMMITTEE ON ENERGY (1995-96)

(TENTH LOK SABHA)

REPORT ON THE COAL INDIA (REGULATION OF
TRANSFERS AND VALIDATION) BILL, 1995

MINISTRY OF COAL

Presented to Lok Sabha on _____
Laid in Rajya Sabha on 7 MAR 1996



५५
LOK SABHA SECRETARIAT
NEW DELHI

February, 1996/Phalgun, 1917 (Saka)

**CORRIGENDA TO THE TWELFTH REPORT OF THE
STANDING COMMITTEE ON ENERGY (1995-96)**

<i>Page</i>	<i>Para No.</i>	<i>Line</i>	<i>For</i>	<i>Read</i>
2	5	6	amalgamations	amalgamation
2	7	29	context	contest
3	8	2	Governments,	Governments.
3	9	4	the lessee	the deemed lessee
3	9	5	Government Subsequently	Government. Subsequently,
3	9	6	become lessee	become deemed lessee
3	10	9	Transfer	transfer
4	12	2	Governments Some	Government. Some
4	12	3	Governments	Government.
4	12	6	vested already exist	already vested
4	12	6	Governments	Government.
4	13	6	Assam	of Assam
5	14	16	mine have	mine that have
6	19	9-10	To insert the following line after the words 'vest in the' : "Government Company on the terms and condition as may be"	
9	29	9	is	by

CONTENTS

	PAGE No.
COMPOSITION OF THE COMMITTEE	(iii)
INTRODUCTION	(v)
PART - A	
Background Analysis	1
PART - B	
Recommendation of the Committee	11
APPENDICES	
I The Coal India (Regulation of Transfers and Validation) Bill, 1995	12
II Minutes of the Fifth Sitting of the Committee held on 5.5.95	17
III Minutes of the Eighth Sitting of the Committee held on 5.12.95	19
IV Extracts of Minutes of the Eleventh Sitting of the Committee held on 24.1.1996	21
V Extracts of Minutes of the Twelfth Sitting of the Committee held on 26.2.1996	23

COMPOSITION OF THE STANDING COMMITTEE ON
ENERGY (1995-96)

Shri Jaswant Singh — *Chairman*

MEMBERS

Lok Sabha

2. Shri Bhawani Lal Verma
3. Shri Murli Deora
4. Shri Motilal Singh
5. Shri Khelsai Singh
6. Shri Khelan Ram Jangde
7. Shri Parasram Bhardwaj
8. Shri S. Thota Subba Rao
9. Shri K.P. Reddaiah Yadav
10. Shri Shiv Charan Mathur
- *11. Dr. Krupasindhu Bhoi
12. Shri Dalbir Singh
- *13. Shri Vilas Muttemwar
14. Shri P.C. Chacko
15. Shri Arjun Singh Yadav
16. Shri Virender Singh
17. Shri Laxminarain Tripathi
18. Prof. Rita Verma
19. Shri Shankersinh Vaghela
20. Shri Haradhan Roy
21. Shri Anil Basu
22. Shri Keshari Lal

* Ceased to be a Member of the Committee consequent upon his appointment as Minister in the Union Council of Ministers w.e.f. 13.9.1995.

(iv)

23. Shri Rajesh Kumar
24. Shri Vijay Kumar Yadav
25. Dr. Venkateswara D. Rao
26. Shri Chitta Basu
27. Shri Mohan Singh (Ferozpur)
28. Shrimati Dil Kumari Bhandari
29. Shrimati Lovely Anand
30. Shri B. Shankaranand

Rajya Sabha

31. Shri Parmeshwar Kumar Agarwalla
32. Shri M.M. Hashim
33. Shri Bhubaneswar Kalita
34. Shri Dipankar Mukherjee
- *35. Shri M. Rajasekara Murthy
36. Shrimati Ila Panda
- **37. Shri J.S. Raju
38. Shri T. Venkatram Reddy
39. Shri Rajni Ranjan Sahu
40. Shri Viren J. Shah
41. Dr. Naunihal Singh
42. Smt. Kamla Sinha
43. Shri Joy Nadukkara

SECRETARIAT

1. Smt. Roli Srivastava — *Joint Secretary*
2. Shri G.R. Juneja — *Deputy Secretary*
3. Shri A. Louis Martin — *Under Secretary*

* Ceased to be a Member of the Committee consequent upon his appointment as Minister in the Union Council of Ministers w.e.f. 13.9.1995.

** Ceased to be a Member of the Committee consequent on his retirement from Rajya Sabha w.e.f. 24.7.1995.

INTRODUCTION

1. the Chairman, Standing Committee on Energy, having been authorised by the Committee to present the report on their behalf, present this 12th report on Coal India (Regulation of Transfers and Validation) Bill, 1995.

2. The Coal India (Regulation of Transfers and Validation) Bill, 1995 was introduced in Rajya Sabha on 4th February, 1995 and was referred to the Committee by the Speaker on 10th March, 1995 under Rule 331 (E) of the Rules of Procedure and Conduct of Business in Lok Sabha to make a report thereon.

3. The Committee took oral evidence of the representatives of the Ministry of Coal and Ministry of Law and Justice (Department of Legal Affairs) on 5th May, 1995. The Committee again took evidence of the Ministry of Coal on 5th December, 1995.

4. The draft Report was first considered by the Committee at their sitting held on 24th January, 1996 and the Committee decided to collect further information from the Ministry of Coal on certain points. In the light of additional information received from the Ministry, the Committee considered the revised draft Report at their sitting held on 26th February, 1996 and adopted the same.

5. The Committee wish to express their thanks to the Ministry of Coal, the Ministry of Law & Justice (Department of Legal Affairs), for placing before them the material and information they wanted in connection with the Examination of the Bill. The Committee also express their thanks to the Government of Assam and Government of Bihar for furnishing their views on the Bill. The Committee also wish to thank in particular the representatives of the Ministry of Coal and the Ministry of Law & Justice (Department of Legal Affairs) who appeared before the Committee for oral evidence and placed their considered views before them.

NEW DELHI;
26th February, 1996
Phalguna 7, 1917 (Saka)

JASWANT SINGH,
Chairman,
Standing Committee on Energy.

REPORT

PART-A

BACKGROUND ANALYSIS

1. The Coal India (Regulation of Transfers and Validation) Bill, 1995 was introduced in the Rajya Sabha on 14th February, 1995 (Appendix I). The Bill was referred to the Standing Committee on Energy on 10th March, 1995 by the Speaker of Lok Sabha under rule 331 E(b) of the Rules of Procedure and Conduct of Business in Lok Sabha for making a report thereon.

2. The Bill aims to empower the Central Government to direct the transfer of the land or of the right, title and interest in relation to a coal mine, coking coal mine or coke oven plant, vested in the Coal India Limited or in subsidiary company to any subsidiary company of Coal India Limited or any other subsidiary company and to validate certain transfers of such land or rights.

3. The coal industry was nationalised in two phases, that is, in 1972 and 1973. After nationalisation, the coking and non-coking coal mines in the Jharia coal fields in Bihar and a few mines in Barakar and Mugma regions were directed to be vested in the Bharat Coking Coal Limited, Dhanbad. Most of the other coal mines in the States of Assam, Bihar, West Bengal, Orissa, Madhya Pradesh and Maharashtra were directed to be vested in the Coal Mines Authority Limited. Subsequently, a holding company namely, the Coal India Limited was set up with effect from the 1st November, 1975, initially with five subsidiaries. Later three more subsidiaries were created by delinking certain collieries from other subsidiaries.

4. Ever since the nationalisation of the coal industry, though the land or rights in or over such land acquired under various Acts and the right, title interest in relation to a coal mine or a coke oven plant were directed to be vested in the Coal India Limited or its predecessor in title, its subsidiary companies were *defacto* managing such land, coal mines or plants.

5. According to the statement of objects and reasons of the Bill, the absence of a formal legal title to the land or rights in or over such land or the right, title and interest in relation to a coal mine or coke oven plant, in the subsidiary companies has exposed them to litigation and other legal

infirmities. While the Companies Act, 1956 contains provisions for reconstruction and amalgamations, such reconstruction or amalgamation could be given effect to prospectively only under that Act.

6. The Ministry of Coal informed that all the transfers and distribution of the coal mines to various subsidiaries of CIL were made by administrative orders and therefore the subsidiaries have been enjoying only the *defacto* possession over them. The title over these mines/properties have not passed on to the subsidiary companies of CIL till now and in the eyes of law CIL is still holding title over these mines.

7. Enquired about the details of the litigations at present and other legal infirmities which have arisen so far the Ministry of Coal stated in a written reply as under:

“In August 1990, the Supreme Court decided in a matter in which the BCCL was the appelland and Government of Bihar and others were the respondents. The subject matter of BCCL appeal was the legality of grant of mining lease by Government of Bihar to remove slurry from Sudamdih and Moonidih washeries of BCCL and deposited on the land forming part of the land in sudamdih and Moonidih group of mines which was acquired under the Coal Bearing Areas (Acquisition and Development) Act, 1957 in 1961. The land was transferred to NCDC in 1962. The Central Government subsequently directed transfer of Sudamdih and Moonidih group of mines to BCCL and advised CIL to take necessary steps. When the Sudamdih and Moonidih group of mines were transferred to BCCL on 1.4.75, legal formalities of transfer could not be completed. In this appeal the major issues to be decided were (a) whether slurry is coal and (b) whether BCCL has the right to challenge the lease granted to private parties by the State Government. It was anticipated that the BCCL's case might suffer from a serious infirmity owing to the absence of formal transfer deeds of Sudamdih and Moonidih group of mines from CIL. To cure this infirmity, former Attorney General (Shri Lal Narayan Sinha) had suggested taking recourse to an appropriate legislation. The Supreme Court held that (i) slurry is coal and (ii) the BCCL is free to dispose it. However, the question of *dejure* possession of the properties of coal companies and the rights and liabilities that go with it have remain unsettled until they can be cured by a legislation.

The CIL have, however, informed that there has been no court case where context by the subsidiary in its own name has been challenged on the ground of lack of title. However, there are a number of cases pending which are filed either by or against the subsidiaries having

defacto possession in various courts and they always carry the risk of being challenged on the ground of lack of title. Such infirmity has necessarily to be taken care of to avoid any embarrassment before a court of law.”

8. Under Entry 18, List II of the Seventh Schedule, the Constitution confers rights over land on the State Governments, Union Government's power to make laws for regulation of mines and minerals development is traceable to article 246 read with Entry 54 of the Union List in the Seventh Schedule to the Constitution.

9. Section 3 of the Coal Mines (Nationalisation) Act, 1973 provides for vesting of right, title, interest in respect of the land ownership of which was vested in the erstwhile owner. Therefore, Central Government had been placed in the position of the erstwhile owner and became the lessee under the State Government Subsequently in view of the provisions of Section 5(2) of the said Act, CIL has become lessee in respect of the leases vested in the Central Government.

10. When pointed out that Rule 37 of Mineral Concession Rules lays down that transfer of lease has to be with the written permission of the State Government, the Coal Ministry stated in a written reply as under:

“Rule 37 of the Mineral Concession Rules provides that the Lessee shall not without the previous consent in writing of the State Government and in the case of mine lease in respect of the mineral specified in the first schedule to the Mines and Minerals (Regulation and Development) Act, 1957 without the previous approval of the Central Government, Transfer the mining lease. Coal has been specified in the first schedule of MMRD Act and as such permission of the Central Government and not of State Government is required.”

11. The Committee pointed out that approval of this Bill would mean taking away the rights of State Governments given to them by Rules made under the MMRD Act. Reacting to this observation, the Ministry of Coal stated:

“The leases, in question, arising out of the Coal Mines (Nationalisation) Act, 1973 are "deemed" or "statutory leases" and as such they are not governed by the Mines and Mineral (Regulation & Development) Act, 1957 and the Mineral Concession Rules, 1960 framed thereunder. Since transfer of such deemed/statutory leases is not governed by the provisions of MMRD Act and Rules framed thereunder in as much as the right of the Central Government to transfer such mining leases was conferred by the provision of Section 5(1) of the Coal Mines (Nationalisation) Act, 1973, the question of taking away the rights of

the States Governments does not arise. It is submitted that coal mines in the country were nationalised and vested with the Government under the provisions of Section 3 of the Coal Mines (Nationalisation) Act, 1973. Further, under Section 5 of the Act, the Central Government was empowered to vest the rights so acquired in any other Government company. Further, under Section 4 of the Act the Central Government or the company in which rights have been vested under Section 5 would be deemed to have become a lessee of the State Government.”

12. To a query whether the State Governments were consulted about the proposed legislation, the Additional Secretary, Department of Legal Affairs stated during evidence:

“We have not discussed with the State Governments, because it does not affect the interests of the State Governments. Some property is already with the Governments. It is proposed to be given to from one Deptt. to another. Probably, the word "land" as it appeared has created a confusion. It refers to only those properties and land which have vested already exist with the Central Governments under the Coal Mines (Nationalisation) Act, 1973.”

13. During the oral evidence of the Ministry of Coal and Deptt. of Legal Affairs held on 5th May, 1995, the Committee directed the Coal Ministry to collect within a month the views of the State Governments concerned on the proposed legislation and furnish the same along with the comments of the Ministry. Views of only two State Governments viz. the Government Assam and Bihar were received. These are dealt with in the subsequent paragraphs.

14. According to the Government of Assam the lessee shall execute a Mining Lease Deed with the State Government concerned in respect of the coal mine in accordance with the Mineral Concession Rules, 1960 and the State Government shall have the right to determine the mining lease in respect of such coal mine, if the lease deed is not executed within the specified period due to any default on the part of the lessee. Reacting to this view the Ministry of coal have stated that the lands, titles, etc. are vested in Coal Mines Authority Ltd./Coal India Ltd., following nationalisation of Coal Mines in 1973 which provided for deemed lease requiring no formal execution of mining lease under Mines and Minerals (Regulation & Development) Act, 1957 and Mineral Concessions Rules, 1960. This has been provided in Section 5(2) of the Coal Mines (Nationalisation) Act, 1973 stipulating that where the land, etc. vest in a subsidiary company under Sub-section (1) of Section 5 of the same Act, such subsidiary company shall on and from the date of such vesting, be deemed to have

become the lessee in relation to such coal mine or coking coal mine have been granted to it under the Mineral Concessions Rule, 1960. In view of this, the Coal Ministry have stated that the view of the State Government is not sustainable.

15. The Assam State Government have felt that on expiry of the term of a lease, if Coal India or its subsidiary company, as the case may be, is not interested in any further renewal of the mining lease, the lessee shall hand over the land, right, title and interest of the mining lease to the State Government. The Coal Ministry have stated in their comment that the lands, titles, etc. are vested in Coal India Limited following the nationalisation of coal mines in 1973 and deemed lease is created by law (commonly called as statutory lease) unlike a contractual lease granted under the Mines and Minerals (Regulation & Development) Act, 1957 by execution of regular deed.

16. Asked about the term of a lease under statutory lease, the Coal Ministry stated in a written reply that as per the provisions of Sections 4 and 5(2) of the Coal Mines (Nationalisation) Act, 1973 the period of deemed leases on all statutory leases continues for the maximum period for which the leases could have been granted under MCR, 1960. The MCR, 1960 have been framed u/s 13 of the MMRD Act, 1957. Sec. 8(1) of the MMRD Act, 1957 provides 30 years as the maximum period of mining leases. So the term of statutory leases is also 30 years.

17. It is observed from the information furnished by the Coal Ministry that as per the assessment done in April, 1994 by CIL, a total area of 2200.418 hectares is available as surplus land.

18. Enquired whether there is any justification for the lessee to hold such lands which are no longer required by the lessee for mining purposes, the Coal Ministry replied as under:

“The Coal companies are acquiring minimum land required for coal projects under the Land Acquisition Act and C.B.A. Act, etc. However, sometimes a portion of such land is not utilised for mining purposes due to certain unforeseen reasons like technical problems such as non-viability of mining operations or revision of mining plans. Besides, there are lands where the coal mining has ceased.

The matter regarding use of such lands has been examined by Coal India Limited in consultation with its subsidiary companies. Their views are that although there may be different purposes for which the surplus lands can be put to use namely, environmental protection, to various public purposes, plantations, etc. the first priority should be for compensatory afforestation.”

19. When the Committee expressed a view that any surplus land or land not utilised for mining purposes or lands where coal mining has ceased should appropriately be handed over to the respective State Government the Ministry stated in a written reply as follows:—

“On the publication of the declaration under Section 9 of Coal Bearing Areas (Acquisition & Development) Act, 1957 the land or the rights in or over the land vest absolutely in the Central Government. In terms of Section 11 of the said Act such land or the rights in or over the land shall instead of vesting in the Central Government continue to vest in the contained in the declaration issued in this behalf by the Central Government.

There is no provision in the said Coal Bearing Areas (Acquisition & Development) Act, 1957 prescribing and/or requiring to denotify of any land after its absolute vesting in the Central Government or the Government, as the case may be. Therefore, the question of moving towards denotification of the land acquired under the Coal Bearing Areas (Acquisition & Development) Act, 1957 does not arise.”

20. The Assam Government have stated that Coal India or its subsidiary company, as the case may be, shall handover all the isolated small pocket deposits of coal to the State Government if the former has not plans for operating such deposits in near future. The Coal Ministry have however observed that the proviso under Section 3 (3) (c) of Coal Mines (Nationalisation) Act, 1973 provides for subleasing of isolated small pockets to the State Government undertaking or any person subject to the fulfillment of the following conditions:—

- (i) the reserves of coal in the area are in isolated small pockets or are not sufficient for scientific and economical development in a co-ordinated and integrated manner, and
- (ii) the coal produced by the sub-lease will not be required to be transported by rail.

21. The Coal Ministry have informed in a written reply that the exercises to identify the isolated small pockets are undertaken on specific requests from the concerned State Governments expressing willingness to mine such areas through their own undertakings.

22. The Bihar Government have stated that the very preamble of the Bill stating that "the transfer of the land or the rights in or over land" without the permission of the State Government or without getting it transferred under the Transfer of Properties Act harms the interest of the State Government. The Government of Bihar, however, have not clarified as to how the Bill harms the interest of the State Government. According

to Coal Ministry the Bill, in no way, affects the right of the State Government to receive royalty on coal. The Transferee subsidiary, as a result of acquiring the status of the deemed/statutory lessee, will continue to pay royalty to the State Government on coal. The Coal Ministry have stated that the question of bypassing the transfer of property Act does not arise.

23. The Committee expressed an opinion that if the right of the grant or transfer of Lease is given to the Central Government, instead of being an approving authority, then non-undertaking of mining operations on surplus lands would deprive the State Governments of royalty which could otherwise accrue from such areas and that with the enactment of Law based on this Bill, the State Governments will have no control over development of coal bearing areas and cannot ensure maximum extraction of coal from extractable coal reserves. The Ministry of Coal stated in a written reply as under:

“The Bill in no way affects the rights of the State Governments to receive the royalty on coal. The Bill takes care of the situation by giving the status of the deemed/statutory lessee to the transferee subsidiary—a status which had been enjoyed by the Central Government and continues to be enjoyed by Coal India Limited. By virtue of relevant provisions contained in the Coal Mines (Nationalisation) Act, 1973 the transferee subsidiary as a result of acquiring the status of the deemed/statutory lessee, will continue to pay royalty to the State Governments on coal.

In view of the restrictions imposed by virtue of Section 3 (3) of the Coal Mines (Nationalisation) Act, 1973 in regard to coal mining operation by any person other than the person specified therein, the question of undertaking mining operation on surplus land to earn more royalty cannot arise in as much as the mining lease and/or the land proposed to be transferred by virtue of the bill has absolutely vested in the Government Company in terms of the provisions of Coal Mines (Nationalisation) Act, 1973.”

24. The Committee observed that there will be no protection to the rights of State Governments as owners of minerals, granted to them by the Constitution in terms of entry 50 of List II of the Seventh Schedule. Reacting to this observation, the Coal Ministry stated:

“Entry 50 of List II of 7th Schedule to the Constitution relates to power of the State Governments in regard to the taxes on mineral rights subject to any limitation imposed by the Parliament by law relating to Mineral Development. By virtue of the proposed bill and the

consequent action in regard to the revalidation of transfer of mining lease. the right to the States in regard to getting the royalties on the minerals will not be affected in any way. At present under the laws of the land the rate of royalty on coal is fixed by the Central Government and on that basis royalties are paid to concerned State Governments. The rights of the State Governments as owners of minerals is recognised by payment of royalty being made to them from time to time. The States have been getting and will continue to get the royalty on minerals including coal and as such there is no apprehension of non-protection of the rights of the State Governments as owners of minerals."

25. Further, the Bihar Government have opposed the Coal India Bill on the following grounds :—

- (i) Similarly in section 3 (1) of the proposed bill the words "The transfer of the land or rights in or over such land or the right, title and interest in relation to a Coal Mine, Coking Coal Mine" is violative of the provisions of the Indian Registration Act, Bihar Tenancy Act, Chhotanagpur Tenancy Act, Santhal Parganas Tenancy Act, Mines and Minerals (Regulation and Development) Act and Mineral Concession Rules, 1960.
- (ii) Sub-section 2 of Section 3 of the said bill usurps the rights of the State Government to grant the Transfer of Mining leases under Mines and Minerals (Regulation and Development) Act and Mineral Concession Rules, 1960. The approval of the State Government as lessor of the mineral rights must be obtained by the Coal India or any of its subsidiaries Company before transferring a mining lease to one of its subsidiary Company or another subsidiary Company.
- (iii) The Coal India or its subsidiary company, who becomes the transferee under the proposed bill can not be termed as a new lessee. This will be a case of substitution by operation of law, and this deprives the State Government from exercising its rights to grant/renew the Coal Mining lease.
- (iv) The State Government will have no objection if the right, title and interest in relation to a Coal Mine, Coking Coal Mine or Coke Oven Plant is transferred from Coal India, or its subsidiary to any of its other subsidiary as envisaged under the Companies Act but it cannot agree to such provision which infringes its right under the Mines and Minerals (Regulation and Development) Act and Mineral Concession Rules. 1960.

26. The Ministry of Coal in their comments on the above points have stated that the Bill flows from the Coal Mines (Nationalisation) Act. Section 28 of the Act has an over-riding provision stipulating that the Nationalisation Act shall have effect notwithstanding anything inconsistent therewith in any other law for the time being in force. The proposed enactment, therefore, over-rides the Acts of State Legislature mentioned above.

27. When pointed out that section 28 is applicable only if there is "anything inconsistent" with other Acts and that the Ministry have neither cited nor clarified any inconsistencies to prove their point, the Ministry stated in a written reply as under :

"The Mining leases, in question, are deemed/statutory leases which is the product of a special Act of Parliament *i.e.* the Coal Mines (Nationalisation) Act, 1973 and as such they are not governed by other Acts like MMRD Act, etc. Therefore, the transfer of such deemed/statutory leases cannot be effected by provisions of other laws."

28. As regards the point of violation of the provisions of the Mines and Mineral (Regulation and Development) Act, 1957 (MMRD Act) and Mineral Concession Rules, 1960 (MCR, 1960), the Coal Ministry clarified that the acquisition of mines by the Central Government under the Nationalisation Act is not as result of actual grant by the State Government as done under MCR, 1960 framed under MMRD Act, 1957 but by a legal fiction. The legal fictions have their limitations. In the matter of grant of mining lease by the State, the MMRD Act and the MCR contemplated a particular area dimensions in respect of different mineral within which, in its discretion, the State is to grant lease. Quite clearly such provision in the matter of an actual grant could not be applied in the case of Nationalisation by a legal fiction, as provided in the Act.

29. The Ministry have further clarified that u/s 4 of the Coal Mines (Nationalisation) Act, 1973, the Central Government became deemed lessee of the State Government. Similarly, after the nationalised mines were transferred to the CIL u/s 5(1) of the Coal Mines (Nationalisation) Act, 1973, the CIL became the deemed lessee as per Sec. 5(2) of the same Act. The deemed leases are not contractual leases granted under MMRD Act, 1957 read with the MCR, 1960. The deemed leases are created by a fiction of law. Sec. 3 (2) of the Bill, intends to make the subsidiary the deemed lessee of the State Government after the rights, etc. are transferred to it is CIL or another subsidiary. Since the deemed leases have already been created by a fiction of law u/s 5(2) of the Coal Mines (Nationalisation) Act, 1973, there is no scope of discretion with the State Government to grant or renew the same coal mining leases.

30. The Bihar Government also stated that the Bill will deprive the State Government of their revenue by way of fee on transfer of mining lease and stamp duty for its registration. The Coal Ministry in their reply have stated that there is no question of depriving the State Government from their earnings or the Stamp Duty and Registration charges for transfer of coal mines etc. inasmuch as even title deed cannot validate the transfer with retrospective effect *i.e.* from the date the company or the subsidiaries have been enjoying the *de facto* possession over them which were given to them in the past by an administrative order.

31. The Committee enquired whether the proposed transfer of land or of the rights will increase the assets of the transferee company. In reply the Ministry furnished the views of the auditors of Coal India as follows :—

“The effect of any increase in value of assets of transferee company does not arise presently as the effect of financial implication was taken into consideration at the time of *de facto* transfer of rights including assets to the transferee company.”

32. To query about the list of properties to be transferred under this Bill, the Ministry stated as below :—

“All the movable and immovable assets namely, lands, buildings, adits, levels, plant and machinery, Railways, Workshops, etc. as defined under the expression "Mine" in Section 2 (b) of the Coal Mines (Nationalisation) Act, 1973 including the leasehold rights of the Coal Mines as indicated in the Schedule to the Coking Coal Mines Nationalisation Act, 1972 and Coal Mines Nationalisation Act, 1973 are the areas the transfer of which is sought to be validated by the proposed Bill.”

PART-B

RECOMMENDATION OF THE COMMITTEE

The Coal India (Regulation of Transfers and Validation) Bill, 1995 aims to empower the Central Government to direct the transfer of land, or the rights in or over land or of the right, title and interest in relation to a Coal Mine, Coking Coal Mine or Coke Oven Plant, vested in Coal India Limited or in a subsidiary Company to any subsidiary Company and to validate certain transfers of such land or rights. The Committee obtained State Governments' views on the Bill and examined them in detail. There continues to remain an apprehension that the proposed Act may take over the rights of State Governments with regard to mining leases. The Bill has also been questioned on the ground of being violative of the provisions of Mines and Mineral (Regulation and Development) Act, 1957, Mineral Concession Rules, 1960 and certain other State Acts. The Government on the other hand, have, clarified that the Bill flows from the Coal Mines (Nationalisation) Act, 1973. Section 28 of the Act has an over-riding provision stipulating that the Nationalisation Act shall have effect notwithstanding anything inconsistent with any other law for the time being in force. The Committee after detailed examination and discussion are inclined to the view that the proposed Bill, apparently serves no other purpose than to safeguard against the possibility of being challenged on grounds of lack of title to the subsidiary companies of Coal India Ltd. The Committee, therefore, hold that what is required presently is to have a fresh look at the Coal Mines (Nationalisation) Act, 1973, and to eliminate such shortcomings, if any, as exist in its effective implementation. The Committee therefore, are unable to recommend the Coal India (Regulation of Transfers and Validation) Bill, 1995 to the Parliament for adoption.

NEW DELHI;
26 February, 1996

7 Phalgun, 1917 (Saka)

JASWANT SINGH,
Chairman,
Standing Committee on Energy.

APPENDIX I

AS INTRODUCED IN THE RAJYA SABHA 14 FEB., 1995

BILL NO. 1 OF 1995

THE COAL INDIA (REGULATION OF TRANSFERS AND VALIDATION) BILL, 1995

A

BILL

to empower the Central Government to direct the transfer of the land, or of the rights in or over land or of the Right, title and interest in relation to a coal mine, coking coal mine or coke oven plant, vested in the Coal India Limited or in a subsidiary company to any subsidiary company of Coal India Limited or any other subsidiary company and to validate certain transfers of such land or rights.

BE it enacted by Parliament in the Forty-sixth Year of the Republic of India as follows :—

Short
title

1. This Act may be called Coal India (Regulation of Transfers and Validation) Act, 1995.

Definitions.

2. In this Act, unless the context other wise requires,—

(a) "Coal India" means the Coal India Limited, a Government company incorporated under the Companies Act, 1956 having its registered office at Calcutta and includes its predecessor Government company, namely, the Coal Mines Authority Limited;

1 of 1956

(b) "subsidiary company" means the following subsidiary companies of Coal India namely:—

(i) the Central Coal Fields Limited, Ranchi and includes its predecessor Government company, namely, the National Coal Development Corporation Limited, Ranchi;

(ii) the Bharat Coking Coal Limited, Dhanbad;

(iii) the Western Coal Fields Limited, Nagpur;

- (iv) the Eastern Coal Fields Limited, Sanctoria;
- (v) the Central Mine Planning and Design Institute Limited, Ranchi;
- (vi) the South-Eastern Coal Fields Limited, Bilaspur;
- (vii) the Northern Coal Fields Limited, Singrauli;
- (viii) the Mahanadi Coal Fields Limited, Sambalpur,

1 of 1956 and includes such other subsidiary company of Coal India as may be incorporated under the Companies Act, 1956 from time to time;

36 of 1972. 26 of 1973. (c) words and expressions used herein and not defined but defined in the Coking Coal Mines (Nationalisation) Act, 1972 or the Coal Mines (Nationalisation) Act, 1973, shall have the meanings, respectively, assigned to them in those Acts.

3. (1) Notwithstanding anything contained in any other law for the time being in force, the Central Government may, if it is satisfied that a subsidiary company is willing to comply, or has complied, with such terms and conditions as that Government may think fit to impose, direct, by notification in the Official Gazette, that the land or rights in or over such land or the right, title and interest in relation to a coal mine, coking coal mine or a coke oven plant vested in the Coal India shall, instead of continuing to vest in the Coal India, vest in that subsidiary company or, where such land or right, title or interest vests in a subsidiary company, in another subsidiary company.

Power of Central Government to direct transfer of land, rights, title or interest.

(2) Where the land or rights in or over such land or the right, title and interest in relation to a coal mine, coking coal mine or a coke oven plant vest in a subsidiary company under sub-section (1), such subsidiary company shall, on and from the date of such vesting, be deemed to have become the lessee in relation to such coal mine or coking coal mine as if a fresh mining lease in relation to

such coal mine or coking coal mine had been granted to it under the Mineral Concession Rules, 1960 made under section 13 of the Mines and Minerals (Regulation and Development) Act, 1957 for the maximum period for which such lease could have been granted under those rules, and all the rights and liabilities of Coal India or, as the case may be, the subsidiary company in relation to such coal mine or coking coal mine shall, on and from the date of such vesting, be deemed to have become the rights and liabilities, respectively, of subsidiary company first-mentioned.

67 of 1957

Validation
of certain
transfers.

4. A subsidiary company which was operating, or was in control of, any coal mine, coking coal mine or coke oven plant which was vested in the Coal India or any other subsidiary company immediately before the commencement of this Act, shall be deemed to have been vested with the land or rights in or over such land or the right, title and interest in relation to such coal mine, coking coal mine or coke oven plant and such vesting shall be deemed to have been valid and effective at all material times as if a direction had been made by the Central Government under sub-section (1) of section 3 and accordingly no suit or other proceeding shall be instituted, maintained or continued in any court on the ground that such subsidiary company was not competent to operate or control such coal mine, coking coal mine or coke oven plant.

STATEMENT OF OBJECTS AND REASONS

The coal industry was nationalised in two phases, that is, in 1972 and 1973. After nationalisation, the coking and non-coking coal mines in the Jharia Coalfields in Bihar and a few mines in Barakar and Mugma regions were directed to be vested in the Bharat Coking Coal Limited, Dhanbad. Most of the other coal mines in the States of Assam, Bihar, West Bengal, Orissa, Madhya Pradesh and Maharashtra were directed to be vested in the Coal Mines Authority Limited. Subsequently, a holding company, namely, the Coal India Limited was set up with effect from the 1st November, 1975, initially with five subsidiaries. Later three more subsidiaries were created by delinking certain collieries from other subsidiaries.

2. Ever since the nationalisation of the coal industry, though the land or rights in or over such land acquired under various Acts and the right, title and interest in relation to a coal mine or a coke oven plant were directed to be vested in the Coal India Limited or its predecessor in title, its subsidiary companies were *de facto* managing such land, coal mines or plants.

3. The absence of a formal legal title to the land or rights in or over such land or the right, title and interest in relation to a coal mine or coke oven plant, in the subsidiary companies has exposed them to litigation and other legal infirmities. While the Companies Act, 1956 contains provisions for reconstruction and amalgamations, such reconstruction or amalgamation could be given effect to prospectively only under that Act.

4. It has, therefore, been considered necessary to empower the Central Government to direct the transfer of land or the rights in or over such land or the right, title or interest in relation to a coal mine or coke oven plant vested in the Coal India Limited to a subsidiary company, or where such land or mine are vested in a subsidiary company, to another subsidiary company. It has also been considered necessary to validate all purported transfers of the land or rights in or over such land or the right, title and interest in relation to a coal mine or coke oven plant from the Coal India Limited to a subsidiary company and from one subsidiary company to another subsidiary company before the commencement of the proposed legislation.

5. The Bill seeks to achieve the above objects.

NEW DELHI;
The 8th February, 1995.

AJIT KUMAR PANJA.

RAJYA SABHA

—

**A
BILL**

to empower the Central Government to direct the transfer of the land, or of the rights in or over land or of the right, title and interest in relation to a coal mine, coking coal mine or coke oven plant, vested in the Coal India Limited or in a subsidiary company to any subsidiary company of Coal India Limited or any other subsidiary company and to validate certain transfers of such land or rights.

—

(Shri Ajit Kumar Panja, Minister of State in the Ministry of Coal)

APPENDIX II

MINUTES OF THE 5TH SITTING OF THE STANDING COMMITTEE ON ENERGY HELD ON 5TH MAY, 1995.

The Committee sat from 1530 hrs. to 1700 hrs.

PRESENT

Shri Jaswant Singh — *Chairman*

MEMBERS

2. Smt. Lovely Anand
3. Smt. Dil Kumari Bhandari
4. Shri Dalbir Singh
5. Shri Murli Deora
6. Shri Khelan Ram Jangde
7. Shri Shiv Charan Mathur
8. Shri Haradhan Roy
9. Shri Khelsai Singh
10. Shri Laxminarain Tripathi
11. Shri Bhawani Lal Verma
12. Prof. Rita Verma
13. Shri Virender Singh
14. Shri Parmeshwar Kumar Agarwalla
15. Shri Dipankar Mukherjee
16. Smt. Ila Panda
17. Shri Rajni Ranjan Sahu

SECRETARIAT

1. Shri G.R. Juneja — *Deputy Secretary*
2. Shri A. Louis Martin — *Under Secretary*

WITNESSES

Representatives of the Ministry of Coal

1. Shri M.P. Modi, Secretary

2. Shri B. N. Makhija, Additional Secretary
3. Shri K. K. Mishra, Joint Secretary .

**Representatives of the Ministry of Law
(Department of Legal Affairs)**

4. Shri V.K. Agarwal, Additional Secretary
5. Shri C. Achuthan, Joint Secretary

The Committee took oral evidence of the representatives of Ministry of Coal and the Ministry of Law (Department of Legal Affairs) in connection with the examination of Coal India (Regulation of Transfers and Validation) Bill, 1995.

The important points that were discussed with the witnesses are indicated below :

- (i) the need to bring the proposed Bill; and
- (ii) Constitutional & Statutory provisions enabling the Parliament to enact the proposed legislation.

2. The Committee also directed the Ministry of Coal to collect within a month the views of the State Governments concerned and furnish the same along with the comments of the Ministry.

4. A copy of the verbatim proceedings of the Committee has been kept on record.

The Committee then adjourned.

APPENDIX III

MINUTES OF THE 8TH SITTING OF THE STANDING COMMITTEE ON ENERGY HELD ON 5TH DECEMBER, 1995

The Committee sat from 1500 hrs. to 16.30 hrs.

PRESENT

Shri Rajni Ranjan Sahu — *In the chair*

MEMBERS

2. Shri Bhawani Lal Verma
3. Shri Shiv Charan Mathur
4. Shri Laxminarain Tripathi
5. Shri Anil Basu
6. Shri Keshari Lal
7. Smt. Lovely Anand
8. Shri Parmeshwar Kumar Agarwalla
9. Shri Bhubaneswar Kalita
10. Shri Dipankar Mukherjee
11. Shri Viren J. Shah

SECRETARIAT

1. Shri S.N. Mishra — *Additional Secretary*
2. Shri G.R. Juneja — *Deputy Secretary*
3. Shri A. Louis Martin — *Under Secretary*

REPRESENTATIVES OF MINISTRY OF COAL

1. Shri M.P. Modi, Secretary
2. Shri B.N. Makhija, Additional Secretary
3. Shri J. Harinarayan, Joint Secretary

In the absence of Chairman, the Committee chose Shri Rajni Ranjan Sahu, M.P. to act Chairman for the sitting under Rule 258(3) of the Rules of Procedure and Conduct of Business in Lok Sabha.

2. The Committee, held detailed discussion with the representatives of the Ministry of Coal in connection with examination of Coal India (Regulation of Transfers & Validation) Bill, 1995. The important points that were discussed with the representatives of the Ministry of Coal are indicated below :

- (i) Infringement of rights of State Govts. under India Registration Act, Minerals Concession Rule, 1960 and Mines and Mineral (Regulation and Development) Act, etc;
- (ii) Litigations which necessitated the Bill;
- (iii) Assessment made regarding lands which are no longer required for mining;
- (iv) The term of a lease under statutory lease.

3. A copy of the verbatim proceedings of the Committee has been kept on record.

The Committee then adjourned.

APPENDIX IV

EXTRACTS OF MINUTES OF THE ELEVENTH SITTING OF THE STANDING COMMITTEE ON ENERGY HELD ON 24TH JANUARY, 1996.

The Committee sat from 16.00 hrs. to 16.30 hrs.

PRESENT

Shri Jaswant Singh — *Chairman*

MEMBERS

2. Shri. Khelan Ram Jangde
3. Shri. Parasram Bhardwaj
4. Shri Arjun Singh Yadav
5. Shri Laxminarain Tripathi
6. Shri Anil Basu
7. Shri Keshari Lal
8. Shri Rajesh Kumar
9. Shri Vijay Kumar Yadav
10. Smt. Dil Kumari Bhandari
11. Smt. Lovely Anand
12. Shri Parmeshwar Kumar Agarwalla
13. Shri M.M. Hashim
14. Shri Bhubaneswar Kalita
15. Shri Rajni Ranjan Sahu
16. Smt. Kamla Sinha
17. Shri Joy Nadukkara

SECRETARIAT

1. Smt. Roli Srivastava — *Joint Secretary*
2. Shri G.R. Juneja — *Deputy Secretary*
3. Shri A. Louis Martin — *Under Secretary*

The Committee first took up for consideration the draft Report on the Coal India (Regulation of Transfers and Validation) Bill, 1995. The Committee felt that further information on certain points relating to the Bill

must be collected from the Ministry of Coal before considering the draft Report on the subject.

**

**

**

3. The Committee, thereafter, decided to meet again on the 1st or 2nd day of the forthcoming Session of Lok Sabha.

The Committee then adjourned.

** Para 2 of the Minutes relating to consideration of the Coal Mines Provident Fund and Miscellaneous Provisions (Amendment) Bill, 1995 is not included.

APPENDIX V

EXTRACTS OF MINUTES OF THE 12TH SITTING OF THE STANDING COMMITTEE ON ENERGY HELD ON 26TH FEBRUARY, 1996 IN ROOM NO. '53', PARLIAMENT HOUSE, NEW DELHI.

The Committee sat from 1600 hrs. to 16.45 hrs.

PRESENT

Shri Jaswant Singh — *Chairman*

MEMBERS

2. Shri Bhawani Lal Verma
3. Shri S. Thota Subba Rao
4. Shri Dalbir Singh
5. Shri Laxminarain Tripathi
6. Prof Rita Verma
7. Shri Anil Basu
8. Shri Chitta Basu
9. Shri Parmeshwar Kumar Agarwalla
10. Shri Bhubaneswar Kalita
11. Shri Dipankar Mukherjee
12. Shrimati Ila Panda
13. Shri Rajni Ranjan Sahu
14. Shri Joy Nadukkara

SECRETARIAT

1. Smt. Roli Srivastava — *Joint Secretary*
2. Shri G.R. Juneja — *Deputy Secretary*
3. Shri A. Louis Martin — *Under Secretary*

**

**

**

4. The Committee then took up for consideration the draft Report on the Coal India (Regulation of Transfers and Validation) Bill, 1995 and adopted the same.

5. The Committee authorised the Chairman to finalise the reports adopted by the Committee and present them to the Parliament.

**

**

**

The Committee then adjourned.

** Paras 1, 2, 3, 6, 7, 8 and 9 relating to Consideration of three other Reports, consideration of replies received on another Bill and procedural matters are not included.