

LOK SABHA

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COMMITTEE ON SUBORDINATE  
LEGISLATION

THIRD REPORT

(Together with Minutes and Appendices)



सत्यमेव जयते

LOK SABHA SECRETARIAT  
NEW DELHI  
May, 1955

L O K S A B H A

CORRIGENDA

to the

Third Report of the Committee  
on Subordinate Legislation

...

1. At 'Contents' page, against item V 'Customs Duties Drawback Rules under the Sea Customs Act, 1878', for " -5" , read "3-5".
2. At page 2, line 8 from bottom, for "1A", read "4A".
3. At page 11, in column 3 -
  - (a) against serial No. 1, line 2, for "substantiv", read "substantive".
  - (b) against serial No. 2, line 1, for the last letter "a", read "as".
  - (c) against serial No. 3,
    - (i) line 1, for "Indian Tariff Act, 193n" read "Indian Tariff Act, 1934".
    - (ii) line 2, for "Secony", read "Second".
    - (iii) line 3, for "taxatioe", read "taxation".
    - (iv) line 4, for the last letter "b", read "by".
    - (v) line 5, for the last letter "b", read "be".
  - (d) against serial No. 5, line 2, for "no", read "not"
4. At page 19, line 23, for "provision", read "provisions".
5. At page 20, against last item, in column 1, insert "3".
6. At page 21, against serial Nos. 7-11, in column 3, for "Indan", read "Indian"
7. At page 37, line 2 from bottom , for "appraised", read "apprised".
8. At page 39, line 14, for "Ministry", read "Ministers".
9. At page 42, line 9 from bottom, for "1710", read "1701".

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## **Composition of the Committee on Subordinate Legislation**

1. \*Shri M. Ananthasayanam Ayyangar—*Chairman.*
2. Shri S. V. Ramaswamy
3. Shri N. M. Lingam.
4. Shri Diwan Chand Sharma
5. Shri A. Ibrahim.
6. Shri M. S. Gurupadaswamy
7. Shri N. C. Chatterjee
8. Shri Hirendra Nath Mukerjee
9. Shri Tulsidas Kilachand
10. Shri Hanamantrao Ganeshrao Vaishnav
11. Shri Tek Chand.
12. Shri Ganpati Ram
13. Shri Nandlal Joshi
14. Shri S. Sinha
15. Dr. A. Krishnaswami

### **SECRETARIAT**

Shri S. L. Shikdher—*Joint Secretary.*  
Shri N. N. Mallya—*Deputy Secretary.*  
Shri P. K. Patnaik—*Under Secretary.*

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\*With effect from 22nd December, 1954 vice Shri Hari Vinayak Pataskar, resigned.

## I

### INTRODUCTION

**O**N behalf of the Committee on Subordinate Legislation, I, having been authorised by the Committee, present this, their Third Report.

2. Subsequent to the presentation of the Second Report, the Committee held seven sittings to examine, among other things, 'orders' totalling 131 in number laid during the period January 1954 to March 1955 and the 'orders' which were pending final disposal at the time of the presentation of the Second Report. In the case of some of the 'orders' the Committee have not yet finalised their conclusions and, if necessary, they will be brought to the notice of the House in a subsequent Report. At a sitting held on the 30th April, 1955, the Committee considered this Report and passed it.

3. The Committee have reconsidered their recommendations made in para. 11 of their First Report relating to the incorporation of certain provisions in the Bills delegating legislative powers, as it was understood, that there was some difficulty in following them. The Committee have also examined Bills pending before the House to see how far the above recommendations have been embodied in these Bills.

4. The Committee have also considered the question of widening the scope of their functions. They have also considered certain general matters relating to the 'orders' in order to bring about some important improvements in regard thereto.

5. The Committee was addressed by the Speaker on the 7th December, 1954, on the role of the Committee in a Parliamentary democracy and the lines on which the Committee should proceed in order to achieve the best results. A copy of the address of the Speaker to the Committee is reproduced in Appendix I.

6. The Report contains matters of special interest which were observed by the Committee during the course of their examination of the 'orders', Bills and other general matters referred to in the preceding paragraphs and which require to be brought to the notice of the House. Wherever remedial measures are necessary, the recommendations of the Committee have been indicated in the Report.

## II

### S.R.O. 491 OF 1954 RE: ESTATE DUTY (CONTROLLED COMPANIES) RULES.

7. S.R.O. 491 of 1954 containing the Estate Duty (Controlled Companies) Rules, 1953, which was made under section 20 of the Estate Duty Act, 1953, was examined by the Committee. They felt that, before any final conclusions could be reached about the rules, certain points relating thereto needed clarification. Shri A. K. Roy, Senior Member of the Central Board of Revenue, was, therefore,

examined on the 21st September, 1954. A summary of the clarifications given by him is at Appendix II. The Committee re-examined the rules in the light of the clarification.

8. The Committee feel that Rules 2(2), 2(7), 5, 7, 9, 11 and 15 of these rules make provisions of a substantive character which are calculated to impose taxation and are beyond the scope of the delegated power. The Committee wish to refer to Article 265 of the Constitution in this connection which lays down that no tax shall be levied or collected except by authority of law and wish to point out that if any taxation is sought to be imposed, it should be done in the Act itself and not by rules. The Committee are accordingly of the opinion that provisions of the aforementioned rules should have been, if necessary, included in the Act.

9. The Committee also feel that the language used in the rules is complicated and difficult for the general public, to understand. It was explained to them that it was so because the language was copied verbatim from the U.K. Act. The Committee were of the view that in such cases the criterion should be whether the public in this country would be able to understand the language couched in such complexity. They were further of the opinion that attempts should be made by Government to keep as far as possible the language in the rules simple so that it could be followed without much difficulty. The Committee wish to draw attention to the following observation of the Lord Chancellor of the U.K. made by him in *St. Aubyn's case* with reference to some provisions of similar nature and desire that it should be borne in mind while drafting rules etc:—

“..that they are of unrivalled complexity and difficulty and couched in language so tortuous that I am tempted to reject them as meaningless.”

### III

#### S.R.O. 1904 OF 1953 RE: AMENDMENT IN THE SECOND SCHEDULE OF THE INDIAN TARIFF ACT, 1934.

10. Section 4A(1) of the Indian Tariff Act, 1934, empowers the Government to amend by notification in the Gazette the Second Schedule to the Act for increasing the export duty on an article included therein or for levying export duty on any article not included therein. Sub-section (2) of Section 4A requires the amendment made under sub-section (1) to be laid before and to be approved by Parliament within a specified period. Parliament has the right to modify or annul the amendment.

11. S.R.O. 1904 of 1953 was issued under sub-section (1) of Section 4A and laid before and approved by Parliament under sub-section (2) within the specified time. The Committee have nothing to say about this particular 'order' or about similar other 'orders' laid before Parliament during the period under report.

12. The Committee, however, wish to express their views about the extraordinary power given in Section 4A (1) of the Act to the Government to increase or levy export duty on any article whether included in the Second Schedule or not. They are of the view that

power to levy a duty on an article not included in the Second Schedule, being of the nature of a power to levy taxation on anything, should not be vested in Government by delegated authority. The Committee are of the opinion that such an extraordinary power of taxation should be given to the Government only in regard to specific articles, which should be exhaustively stated in the Schedule to the Act.

13. The Committee also wish to draw attention to sub-section (3) of Section 4A, which provides that the Government may at any time rescind any notification approved by Parliament, with or without modification, under sub-section (2). The Committee feel that it is but proper that if a notification approved by Parliament under sub-section (2) is sought to be rescinded, the rescinding notification should also be placed on the Table of the House for the approval of Parliament in the same manner as provided in sub-section (2) for a notification issued under sub-section (1).

#### IV

#### RULES UNDER THE SALARIES AND ALLOWANCES OF MINISTERS ACT, 1952.

14. The following 'orders' were issued by the Ministry of Home Affairs making or amending certain rules relating to the Ministers under the Salaries and Allowances of Ministers Act, 1952:—

- (1) S.R.O. 2263 of 1953 making rule regarding the grant of sumptuary allowance to Minister for Information and Broadcasting.
- (2) S.R.O.s 239 and 901 of 1954 making amendments in rules relating to the travelling allowances of Ministers.

15. The Committee wish to draw in this connection the attention of the Ministry to the following recommendations which were made by the Committee in para. 15 of their Second Report after considering similar rules:—

“But in order to avoid uninformed or misinformed criticism and as such matters are essentially money and financial matters, it will be desirable if, in accordance with democratic principles and in larger public interests, such powers are exercised by the House itself. In cases where it is considered necessary by the House to delegate the power to make rules to a subordinate authority in order to save the time of Parliament, the Committee recommend that it should be provided that rules made by a subordinate authority should in such cases become operative only after an affirmative vote of the House has been obtained.”

#### V

#### CUSTOMS DUTIES DRAWBACK RULES UNDER THE SEA CUSTOMS ACT, 1878.

16. The following 'orders' issued by the Ministry of Finance under Section 43B (3) of the Sea Customs Act, 1878, were examined by the Committee.

- (1) S.R.O. 1701 of 1954 *re*: the Customs Duties Drawback (Embroidered Goods) Rules, 1954.
- (2) S.R.O. 1795 of 1954 *re*: the Customs Duties Drawback (Artificial Silk) Rules, 1954.
- (3) S.R.O. 3086 of 1954 *re*: Customs Duties Drawback (Motor Vehicles) Rules, 1954.
- (4) S.R.O. 2345 of 1954 *re*: the Customs Duties Drawback (Dry Radio Batteries) Rules, 1954.

17. Rule 4 of all these rules provides that drawback shall be admissible for the period during which the notification in respect of the goods is in force under sub-section (1) of section 43B of the Act. In other words, drawback will not be available in cases where goods are acquired while the notification under Section 43B (1) is in force but it is revoked before the claim to the drawback accrues. The Committee felt that such a provision was likely to cause hardship to persons who made imports in anticipation of earning drawbacks.

18. The Ministry concerned, to whom a reference was made, appreciated that sudden withdrawal of any scheme of drawback would cause hardship to the public. They assured that they would take into account such possible difficulties and where necessary, would give sufficient notice when they proposed to withdraw any scheme of drawback. The Ministry had, in fact, shown somewhat similar considerations in the past while withdrawing another scheme of drawback.

19. The Committee while appreciating the assurance given by the Ministry are of the view that there should be a rule expressly providing for a reasonable period of notice being given before any scheme of drawback is revoked. The Ministry may, if necessary, assume power to provide for exceptional cases in the rule itself.

20. *Omission of a usual provision.*—The Committee noted that the following provision which was found in all other 'orders' was omitted from S.R.O. 2345 of 1954 relating to the Dry Radio Batteries:—

“Where the Customs Collector is satisfied that a claim for the drawback is established under the rules such drawback shall be paid at the rate indicated in rule.....”.

21. The Committee were informed by the Ministry that the omission was inadvertent and not deliberate and that it was not even of much consequence. In any case, the Ministry stated, they were taking steps to insert the omitted provision in the 'order'. The Committee are pleased to record that it has since been done.

22. *Section 43B (3) of the Act.*—While considering these 'orders' the Committee also considered sub-section (3) of Section 43B of the Sea Customs Act, 1878, under which these were issued. Clause (d) of sub-section (3) of Section 43B authorises the Government to make rules to “provide for the admissibility of drawback for any specific period or without any limit of period”. The Committee feel that the clause is worded in a very wide language. They are of the view that there should be a definite time limit fixed, or the



maximum period stated in such cases and that it is not desirable to delegate such wide powers as has been done in this clause.

## VI

### S.R.O. 1026 OF 1954 RE: THE TEA RULES, 1954

23. S.R.O. 1026 of 1954 containing the Tea Rules, 1954, was issued under Section 49 of the Tea Act, 1953, which authorises the Government to make rules for carrying out the purposes of the Act.

24. *Rule 4.*—Clause (b) of sub-rule (1) of this rule allocates one seat on the Tea Board to each of the two Houses of Parliament. Usually the ratio between the members of the Lok Sabha and the Rajya Sabha on such bodies is 2 : 1. The Ministry of Commerce and Industry explained the allocation of one seat to each House as follows:—

“This Ministry was not aware of the ratio in vogue while allocating the number of seats for Parliament on the Tea Board. The defunct Central Tea Board Act, 1949 (XIII of 1949) provided *inter alia* for representation of 2 persons to be elected by members of the Central Legislature from among themselves. The same quantum of representation has been retained but the seats have been distributed to the Council of States and the House of the People. Now that the constitution of the Tea Board has been finalised and the Tea Rules have been promulgated, it will be appreciated that no alteration in the quantum of representation already provided is possible, unless the rules are amended. It will be difficult now to amend the rules for this, since the total number of seats is limited by the Act and all the seats have been distributed among the various interests.”

25. The Committee are unable to appreciate why the precedent of the defunct Central Tea Board Act, 1949 should have been followed when it was out of context in the present circumstances. The legislature was then unicameral and 2 seats then were all right. It is now bicameral and the number of members have also greatly increased and the Ministry, therefore, should have re-assessed the position.

26. The Committee recommend that Rule 4 should be amended to provide for the representation of the Lok Sabha and the Rajya Sabha in the ratio of 2:1.

27. The Committee also wish to state that if Parliament is to be represented on any body to be constituted by Government, the ratio between the members of the Lok Sabha and the Rajya Sabha should be 2 : 1.

28. *Rule 6.*—Under this rule a member of the Board or a Committee can resign by writing under his hand to the Chairman or the Secretary but, under the proviso to this rule, he will not vacate office until his resignation is accepted. There is nothing in the rules to direct the Chairman or the Secretary to accept the resignation

in a reasonable time. The Committee felt that the provision in the proviso to the rule could prove harsh to a member in certain circumstances. Explaining this the Ministry stated that "there is no specific intention behind the proviso. This is just a matter of procedure to be observed by the member of the Board".

29. The Committee are of the view that there should be no such limitation on a member when he wants to resign. The Committee recommend that the resignation should be effective either from the date of submission, or from the date from which the member wants it to be effective or after the completion of certain notice period (to be fixed by Government) after the date of submission and a specific provision to this effect should be made in the rule.

30. *Conditions of service of Secretary and other officers.*—Clause (d) of sub-section (2) of Section 49 of the Tea Act, 1953, envisages that the conditions of service etc. of Secretary and other officers to be appointed by Central Government may be provided in the rules, but the rules are silent on the subject. While explaining this aspect, the Ministry stated as under:—

"As regards the conditions of service of the staff of the Board attention is invited to section 51(3) of the Tea Act, 1953. The terms and conditions of appointment of Secretary and other officers appointed by Government under section 9 of the Act are determined by Government and included in the appointment letter issued in individual cases."

31. The Committee are of the view that when the parent Act envisages such provisions to be included in the rules, they should be included in the rules rather than in individual appointment letters. The Committee, therefore, recommend that provisions regarding the conditions of service etc. of Secretary and other officers appointed by the Central Government should be included in the rules.

## VII

### S.R.O. 2148 OF 1953 RE: AMENDMENTS IN INDIAN AIRCRAFT RULES, 1937

32. S.R.O. 2148 inserted a new rule (Rule 130B) in the Indian Aircraft Rules, 1937, providing that Government might by notification, direct that in relation to, and to the persons on, aircraft registered in India but engaged in air transport service operating wholly outside India the provisions of these rules shall apply subject to such restrictions and modifications as may be specified in the notification. The Government are already vested with power to make rules under section 5 of the Indian Aircraft Act, 1934, for any aircraft or a class of aircraft. Rules under this section apply to, and to persons on, aircrafts registered in India wherever they may be. It was not clear as to what was the necessity for the Government for taking further powers under a rule for making modifications in the rules for aircraft operating wholly outside India. It was felt that the provision was of an unusual character.

33. The Ministry of Communications, to whom a reference was made, accepted the above contention and stated that they were taking action to cancel the rule. The Committee have noted the Ministry's assurance.

### VIII

#### BILLS OR ACTS DELEGATING LEGISLATIVE POWERS TO SUBORDINATE AUTHORITIES

34. The Committee had earlier examined the various types of provisions in the Acts for laying the rules on the Table and had felt that in order to have proper scrutiny over the delegated legislation, it was imperative that there should be uniformity in the Acts about such provisions. With a view to achieving this, the Committee had in para. 11 of their First Report made three recommendations to the effect (i) that all rules etc. should be laid on the Table, (ii) that the rules should be laid for 30 days before their final publication and (iii) that they should be subject to modifications by the House.

35. The committee have noted that the Government are finding it difficult to comply in all cases with the recommendation at (ii) above. The Committee appreciate that cases may arise when the rules may have to be implemented immediately on their being made public and the provision at (ii) above may hamper the operation of such rules.

36. The Committee have since reconsidered the matter and have decided to modify the original recommendations. The Committee now make the following three recommendations in substitution of the original recommendations made in para. 11 of their First Report:—

“(1) That in future the Acts containing provisions for making rules etc., shall lay down that such rules shall be laid on the Table as soon as possible;

(2) that all these rules shall be laid on the Table for a uniform and total period of 30 days before the date of their final publications:

Provided that where it is not deemed expedient to lay any rule on the Table before the date of publication, such rule may be laid as soon as possible after publication. An explanatory note should, however, accompany such rules at the time they are so laid explaining why it was not deemed expedient to lay these rules on the Table of the House before they were published; and

(3) that in future the Acts authorising delegation of rule-making power shall contain express provisions that the rules made thereunder shall be subject to such modifications as the House may like to make.”

37. The Committee now hope that the modified recommendations will not present any difficulty to the Government. The Committee wish to emphasize that in all future Bills which may seek to delegate power to make rules, regulations etc., or which may seek to amend earlier Acts giving power to make rules, regulations etc., suitable provisions should be included in accordance with these recommendations.

38. The Committee also draw attention to the following Bills which are pending before the House and which seek to delegate power to make rules etc., but which do not contain provisions for laying the rules etc., on the Table:—

- (1) The Spirituous Preparations (Inter-State Trade and Commerce) Control Bill, 1955—(Clause 3).
- (2) The Manipur State Hill Peoples (Administration) Regulation (Amendment) Bill, 1954—(Clause 4).
- (3) The University Grants Commission Bill, 1954—(Clauses 26 & 27).

39. The Committee recommend that in these Bills and in other similar pending Bills—new or amending—necessary clauses on the abovementioned lines should be inserted before these Bills are passed.

## IX

### SCOPE OF THE FUNCTIONING OF THE COMMITTEE ON SUBORDINATE LEGISLATION

40. At present only such rules come within the purview of examination of the Committee as are laid on the Table of the House. There are a large number of rules etc. which are made under delegated power of legislation but are not laid on the Table because there is no such provision for their laying in the relevant Acts. Whether or not any rule etc. is required to be laid before the House, the Committee feel that it will be desirable for the Committee to scrutinise the whole range of subordinate legislation.

## X

### METHODS OF GIVING PUBLICITY TO STATUTORY RULES AND ORDERS

41. The Committee feel that it is very essential to give publicity to statutory rules and orders all over India in such a way that the public is aware of them and understands them properly. From the following reply of the Ministry of Law, to whom a reference was made on the subject, the Committee note that there is no systematic procedure or machinery to give such publicity:—

“.....statutory rules and orders made by the Ministry of Law are generally published in the Gazette of India and copies thereof sent to the State Governments who according to the importance and intent of applicability of the rules and orders make arrangements, in their discretion, to give publicity to them or translate them for the use of the public.

The Ministry have no ready information.....in respect of rules and orders issued by other Ministries.”

42. In order to place this important matter on a systematic basis, the Committee make the following recommendations:—

- (i) While making each rule and order and before its publication, the Central Government should decide whether it is of concern or importance to the general public.

- (ii) Advance copies of all rules and orders which are of concern or importance to the general public should be sent to the State Governments concerned for arranging wide publicity in their States in the following manner:—
- (a) By publishing the rules and orders in the State Gazettes; and
  - (b) by publishing the translations of rules and orders in the recognised languages of the States in the State Gazettes.
- (iii) The publication of such rules and orders should preferably be simultaneous at the Centre and in the States.
- (iv) Press-communicques should be issued by the Government to give publicity to the general purport and effect of the rules and orders.

## XI

### MAKING AND PUBLISHING OF RULES AND AMENDMENTS IN RULES

43. In the course of the examination of 'orders' the Committee felt that the system of making and publishing of rules and amendments needed some improvement in order that they be referred to conveniently, located easily and understood by public.

44. *Giving of titles to rules and amendments.*—The Committee noted that not all 'orders' bore short titles; the titles, if they were there, were not conspicuous and the amendments *never* bore any short title. The Committee recommend the following steps in this connection:—

- (i) All rules should be given short titles.
- (ii) All amendments in rules should be given short titles. For example, amendments in the Estate Duty Rules, 1953, should be entitled as "The Estate Duty (First Amendment) Rules, 1954", "The Estate Duty (Second Amendment) Rules, 1954", and so on. The title should show the serial number of the amendment and the year of making.
- (iii) All titles, besides being given in the body, should be given at the top also.

45. *Reference to earlier amendments.*—The Committee felt that it was very difficult to trace back the amendments made in rules in the past. On finding out an amendment, one could not know when the last amendment was made and when was it published. In order to remove this difficulty the Committee recommend that whenever any amendment in the rules is made, the S.R.O. numbers of the previous amendments or the original rules should be cited in a footnote. If the number of previous amendments is large, reference in

the footnote may be given only to the last amendment. A specimen of such referencing is given below:—

“In exercise of the powers.....the following further amendments are made in the Estate Duty Rules, 1953 (a), as amended (b) namely:—

(a) S.R.O. 556 of 1954

(b) S.R.Os.....of 1954, .....of 1954

OR

(b) Last amended by S.R.O.....of 1954

46. *Explanatory Notes to rules and amendments.*—The rules, like Acts, are expressed in technical language which, the Committee feel, is not easily understood by the public. The Committee noted that in the U.K., explanatory notes were appended to all such rules and amendments. The Committee are of the view that the need for appending such explanatory notes is all the greater in our country. The Committee, therefore, recommend that explanatory notes, which should not form part of rules or amendments should be appended to all rules and amendments in order to explain their general purport. The explanatory note, which should be given separately at the end of the rules etc. may be styled as follows:—

#### EXPLANATORY NOTES

[This note is not part of the rules or amendments but is intended to indicate their general purport.]

#### XII

#### DELAY IN LAYING 'ORDERS' ON THE TABLE OF THE HOUSE

47. The Committee had recommended in para. 32 of their Second Report that it should not be necessary for the Government ordinarily to take more than 7 days after the publication of the rules in the Gazette to lay them on the Table of the House. The Committee find that, though there has been some improvement in this direction, still a good number of 'orders' were laid on the Table of the House after considerable delay which was not explained. A statement of 'orders' the laying of which on the Table was delayed for more than 7 days is given in Appendix III.

48. The Committee are unable to understand why such a simple act of laying the 'orders' on the Table should take more than 7 days. In fact in majority of the cases reported in the statement it has taken more than one month. The Committee wish to emphasise that the Ministries should take steps to ensure that the 'orders' are laid on the Table within 7 days after their publication in the Gazette, if the House is then in session; if it is not then in session, the Ministries should ensure that the 'orders' are laid on the Table as soon as possible (but within 7 days) after the commencement of the following session.

NEW DELHI:

S. V. RAMASWAMY.

The 2nd May, 1955.

**SUMMARY OF RECOMMENDATIONS MADE IN THE THIRD REPORT  
OF THE COMMITTEE ON SUBORDINATE LEGISLATION**

Serial No.	Reference to para No. in the Report	Summary of Recommendations
1	2	3
1	8	Rules 2(2), 2(7), 5, 7, 9, 11 and 15 of the Estate Duties (Controlled Companies) Rules, 1953, make provisions of substantive character which are calculated to impose taxation and, therefore, should have been, if necessary included in the Act.
2	9	Attempts should be made by Government to avoid as far as possible the use of complicated language in the rules.
3	12	Power given in Section 4A(1) of the Indian Tariff Act, 1934 <sup>a</sup> to levy export duty on an article not included in the Second Schedule to the Act is of the nature of power to levy taxation on anything which should not be vested in Government by delegated authority. Such a power of taxation should be given only in regard to specific articles exhaustively stated in the Schedule to the Act.
4	13	The notification issued under sub-section (3) of Section 4A of the Indian Tariff Act, 1934, rescinding the notification approved by Parliament under Sub-section (2) should also be placed on the Table for the approval of Parliament in the same manner as provided in sub-section (2) for a notification under sub-section (1).
5	15	In regard to matters affecting the Ministers of Government the powers for making rules under any relevant Act should not be delegated to Government. In case where it is considered necessary by the House to delegate power to make such rules, the rules should be operative after the affirmative vote of the House has been obtained.
6	19	In the Customs Duties Drawback Rules relating to each commodity, there should be a rule expressly providing for a reasonable period of notice being given before any scheme of drawback is revoked. The Ministry may, if necessary, assume power to provide for exceptional cases in the rule itself.
7	22	Section 43B (3)(d) authorises the Government to make rules to provide for the admissibility of drawback for any specific period or without any limit of period. In such cases there should be a definite time limit fixed, or the maximum period stated. It is not desirable to delegate such wide powers as has been done in this case.
8	26	Rule 4 of the Tea Rules should be amended to provide for the representation of the Lok Sabha and Rajya Sabha in the ratio of 2 : 1.
9	27	If Parliament is to be represented on any body to be constituted by Government, the ratio between the members of the Lok Sabha and the Rajya Sabha should be 2 : 1.

1	2	3
10	29	A specific provision should be made in the Rule 6 of the Tea Rules, 1953, that the resignation would be effective either from the date of its submission or from the date from which the member wants it to be effective or after the completion of certain notice period (to be fixed by Government) after the date of submission.
11	31	Provision regarding the conditions of service etc. of Secretary and other officers to be appointed by Central Government on the Board should be included in the Tea Rules, 1953, as envisaged in Section 49(2) (d) of the Tea Act, 1953.
12	37	Suitable provisions on the following lines should be included in the future Bills which may seek to delegate power to make rules etc. or which may seek to amend earlier Acts giving power to make rules etc.:— (i) that all rules shall be laid on the Table ; (ii) that the rules shall be laid for 30 days before their final publication. But if it is not expedient to lay them on the Table before their publication, they may be laid as soon as possible after their publication together with an explanatory note stating the reasons therefor ; and (iii) the Acts shall provide that the rules shall be subject to modifications by the House.
13	39	The provisions in accordance with the above recommendation should be inserted in the pending Bills also before they are passed.
14	40	Whether or not any rule etc. is required to be laid before the House, the Committee will scrutinise the whole range of subordinate legislation.
15	43	All statutory rules and orders of concern or importance to the general public should be published at the centre as well as in the States, preferably simultaneously. The translations of these rules and orders in the recognised languages of the States should also be published along with them in the respective State Gazettes. Press communiques should also be issued to explain the general purport and effect of the rules etc.
16	44	All rules and amendments in rules should be given short titles both in the body and at the top.
17	45	S.R.O. Nos. of previous amendments and the original rules or at least S.R.O. number of the last amendment should be cited in a foot-note whenever any amendment is sought to be made in any rule.
18	46	Explanatory notes explaining the general purport should be appended to all the rules and amendments.
19	48	The Ministries should ensure that their 'orders' are laid on the Table within seven days after their publication in the Gazette, if the House is then in session. If it is not then in session, they should be laid on the Table within seven days after the commencement of the following session.



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**APPENDICES TO THE REPORT**

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## APPENDIX I

[See para. 5]

### ADDRESS MADE BY THE SPEAKER TO THE MEMBERS OF THE COMMITTEE ON SUBORDINATE LEGISLATION ON THE 7TH DECEMBER, 1954.

Friends,

It gives me pleasure to meet you today in our common effort to advance the efficient functioning of parliamentary democracy and to work for necessary parliamentary supervision and control on the exercise of the rule-making powers given to Government by Parliament through various enactments.

2. The Committee was constituted by me on 1st December, 1953 and it is but proper that we meet to review the work done by us and examine how far our work requires further implementing and changes in our approach to the problems and our methods. I welcome you all to this meeting.

3. You are aware that Parliamentary democracy is a young plant in our country and it requires very careful handling and nourishment, if it is to grow to its full stature for the benefit of our people.

4. Parliament is undoubtedly representative of the people and it is assumed to work for the benefit of the people. This implies a very close collaboration between the people and their representatives, who have to fulfil a number of duties as such representatives in our country, the role of a legislator is two-fold: he has not only to represent the public view in the legislature but he has to educate the electorate by conveying to them the intentions of Parliament and its objectives in the various measures, legislative or otherwise, which Parliament is taking from time to time. In doing so, the legislator has also to know and study not only the views of a particular question, but more important than that, he has to see how far the administration set up for giving effect to the laws and policies of Parliament prove really beneficial to the people, in what respects they become a source of inconvenience or harassment and therefore require a change. The administration functions within the walls of the Secretariat and though it may consist of men of good-will, intelligence and learning, they cannot be fully alive to the popular reactions as also to the inconveniences and hardships which the people feel in the course of the administration of laws. It is therefore the legislator who has to act as a liaison and mould the administration to the best advantage, convenience and good of the people.

5. These days, when the nature of Government has changed and is fast changing, the duties of Parliament are also getting manifold and onerous. In our conception of the State, as a welfare State, the administration pervades every walk and aspect of a citizen's life and naturally, therefore, the scope of legislation is very wide, and the number of laws that are required to be enacted is quite large.  
251L.S.

6. In such a state of things, it is impossible for any body of legislators to deliberate upon, discuss and approve every little rule or regulation, which may be essential for the purpose of administering the various laws, schemes etc., which Government may sponsor. There is also the limitation of time on account of the various duties and obligations that Parliament has to perform: it has to keep a general supervision and watch over the executive; it has to exercise control over finances; it has to lay down general policies for the guidance of the executive and many other things. Parliament can, therefore lay down, even in the matter of legislation, only broad aspects of a measure and leave the details to be worked out by the executive to give effect in the desired manner to the wishes as expressed by the legislature in an enactment.

7. This has necessitated the delegation of parliamentary power of legislation to the executive within the scope and limits that the legislation may impose. Experience has shown that the work of Government has to be carried on more by the rules made by the executive than by the few principles which are laid down for the Government by Parliament. The rule-making power thus vested in the executive by legislation, has given rise to a kind of "new despotism" as experienced parliamentarians in the U.K. would say. It is for the purposes of keeping this new despotism under control within due limits and on proper lines that Parliament functions through this Committee. You, as Members of the Committee, are therefore in a sense the custodians of the duties of Parliament to watch as to how the power given by Parliament is being exercised in action and to keep the administration within the bounds intended by Parliament.

8. Obviously, therefore, from the point of view of the benefits and convenience of people, yours is a very important, nay a vital, Committee of Parliament. You are the only protectors of the people against the "new despotism" getting aggressive and you have to direct the rule-making power in proper channels.

9. It is to be conceded that delegation of power is both a necessity and a risk. We have therefore to do what we can to minimize the inherent risks in the wrong or bad exercise of the rule-making power.

10. I need not dwell upon the duties that your Committee has to discharge. They are broadly laid down in the Rules of Procedure, but I may here say that the Rules of Procedure should not be taken as the final word. As we are new, we are trying to shape our functions and we shall be guided by our experience and make such changes in our Rules of Procedure as we may find necessary from time to time, to achieve the objective of having the best parliamentary democracy. In other words, I may say that the Rules, though a guide are mere statements of what our experience has shown us; and from that point of view, there will always remain a scope for improvement of our rules. Your duties therefore are not necessarily limited to what is stated in the Rules. Though the rules will be a substantial guide in the matter, you have to bear in mind the objective and consider the matter before you, in the perspective of the objectives before us. In course of time, we shall be able to stabilise the scope and duties of a Committee like yours. We have to proceed moderately and cautiously.

11. It will therefore, be clear that the Committee is not conceived in any sense as an opposition to the Executive Government or to the administration. It is conceived as a body of persons who are in touch with the people and not being concerned in the actual administration are capable of taking independent and detached views. They are the collaborators, the cooperators and the friends of the administration and they approach the examination of the rules and regulations in that spirit. The Committee have to examine the questions before them in a non-partisan manner, as they are discharging a duty on behalf of the entire House and not on behalf of a party or section. Once a decision is taken even though by majority, it becomes the decision of the House and every Member of the Committee is bound to work on the basis that the laws enacted and the policies laid down have emanated from the entire House; and therefore examination of the implementation of those laws through rules, admits of no party considerations.

12. I am glad to find that your Committee has worked very well indeed, during the first year of its existence. It has taken great pains in examining large mass of rules and orders and done splendid work involving an amount of labour. I am glad that the work of the Committee is appreciated by all and Government have considered it fit to accept some of its recommendations on vital points. The usefulness of the Committee and its prestige can be established only as time goes on and as the Committee functions dispassionately with a judicial mind and moderation and on non-party lines. The two reports which your Committee have brought out are sufficient earnest for the future and I wish all success to the Committee.

## APPENDIX II

[See para 7]

LOK SABHA SECRETARIAT

### COMMITTEE ON SUBORDINATE LEGISLATION MEMORANDUM NO. 38.

**SUBJECT:—***The Estate Duty (Controlled Companies) Rules, 1953—Clarification by Shri A. K. Roy, Senior Member of the Central Board of Revenue.*

The Committee on Subordinate Legislation at one of their meetings had desired that Shri A. K. Roy, Senior Member of the Central Board of Revenue, be invited to appear before the Committee to clarify the following points regarding the Estate Duty (Controlled Companies) Rules, 1953:—

- (i) The language of some of the Rules, e.g. Rules 3(2), 10(1), 11(1)(a), 11(5), 11(8), 16 etc. is rather complicated;
- (ii) too many definitions have been introduced in the rules;
- (iii) whether some of these rules could not have been more appropriately incorporated in the Act itself as they contained substantive provisions;
- (iv) whether it is not possible to give certain illustrations to explain the scope of the rules;
- (v) the necessity of these rules; and
- (vi) whether some of the rules, e.g. Rule 5(1)(c), do not give retrospective effect even before the 15th October, 1953.

2. Shri Roy appeared before the Committee on the 21st September, 1954, and explained the position in regard to these points as follows:—

(1) As regards the complicatedness of the language of the rules, Shri Roy stated that the language has been carried from the U.K. Finance Act, 1940, as our law has been framed entirely on the basis of that Act. The language has not been changed because of the fear that thereby some other meaning may be attached to those provisions. He informed the Committee that these rules are not intended for laymen and they would not effect more than 2000 persons in the whole of India in the next 10 years or so and those persons, being associated with controlled companies, would be able to take the assistance of lawyers and Solicitors.

(2) Regarding the number of definitions in the rules, Shri Roy observed that all those definitions have been given in order to make the position clear to the assesseees and to remove any doubt about their meanings. They have not defined in the rules a single word

which is not contained in the Act itself. Moreover, these definitions have been given in accordance with the spirit of the Act. For example, 'assets' have been defined to include goodwill and this definition is in conformity with the provisions of the Act, *vide* section 36. Moreover this definition of 'assets' is the same as understood in commercial circles. None of these definitions enlarge the scope of taxation that can be levied under the Act. As regards the right to give all these definitions in the rules Shri Roy submitted that the right has been derived from Sub-section 1(h) of Section 20 of the Act which gives wide powers to the Government to make rules generally for the purposes of checking the avoidance of estate duty.

(3) The question of including the provisions of the rules in the Act was considered by the Government but it was decided on the advice of the late Shri B. N. Rau that these provisions, should more appropriately be relegated to rules. In the U.K. provisions of this nature have been revised from time to time to meet the new situations. In fact, they have revised the provisions relating to the Controlled Companies 5 times in the past 12 years. In the light of their experience, it was decided to keep these provisions flexible in India which could be done only by keeping them out of the Act and including them in the rules.

The provision of the U.K. Act are not rigid from their point of view because there they can modify the Act by administrative practice as the Act gives power of exemption to the executive. There is no corresponding provision here and in order to avoid the rigidity of these provisions these have not here been included in the Act.

(4) Shri Roy submitted that it was not possible to give hypothetical illustrations covering complicated cases to explain the scope of the rules. And if they give simple illustrations, they will be misleading.

(5) Replying to the question whether Rule 5(1)(c) relating to the benefits accruing to deceased from a company has a retrospective effect even from before the 15th October, 1953 (the date of coming into force of the Act), Shri Roy stated that the rule has retrospective effect and it is consistent with the provisions of the Act as contained in Section 17. Same is the case with the provision relating to the gifts. If a person died on the 16th October, 1953, the gifts given two years before the death would be chargeable under the Act. There is, thus, nothing objectionable in the retrospective nature of the provision of Rule 5(1)(c).

3. Shri Roy had no answer to the fact that according to Beattie Section 46 of the Finance Act, corresponding to section 17 of the Estate Duty Act, was widely drawn and gave excessive powers of taxation.

4. Throughout the examination of Shri Roy, the members showed concern over the fact that the provisions, which in the U.K. have been made by an Act of Parliament, should have been made in India by rules.

### APPENDIX III

[See para 47]

#### STATEMENT OF 'ORDERS' IN RESPECT OF WHICH THERE HAS BEEN DELAY IN LAYING ON THE TABLE

Serial No.	No. of 'order'	Description of 'order'	Date of Publication in Gazette	Date of laying on the Table	Period which elapsed between the two dates	Name of the Ministry concerned	Remarks
1	2	3	4	5	6	7	8

1	S.R.O. 2263 of 1953	Rule for the grant of sumptuary allowance to the Ministry of Information and Broadcasting.	10-12-53	23-2-54	2 months	} Home	
2.	S.R.O. 239 of 1954	Amendments in the rules relating to the travelling allowances of Ministers.	23-1-54	11-9-54	7 months		
	S.R.O. 901 of 1954		20-3-54	11-9-54	7 months		

The inter-session periods have not been counted for delay in the case of those orders which were published when the House was not in session and were laid on the Table during the session immediately following their publication in the Gazette;

4.	Industrial Finance Corporation Notification No. 18/53, dated 16-11-53.	Amendments in the General Regulations of the Industrial Finance Corporation.	12-12-53	30-4-54	4 months	Finance
5.	S.R.O. 1275 of 1954 .	Rules for medical attendance and treatment of officers of Parliament.	24-4-54	25-8-54	4 months	
6.	S.R.O. 2345 of 1954 .	The Customs Duties Drawback (dry radio batteries) Rules, 1954.	17-7-54	18-9-54	1 1/2 months	Finance
7.	S.R.O. 1836 of 1953		3-10-53	3-9-54	11 months	
8.	S.R.O. 139 of 1954 .		9-1-54	3-9-54	8 months	Communications
9.	S.R.O. 1823 of 1954 .	Amendments in the Indian Aircraft Rules, 1937.	5-6-54	3-9-54	11 days	
10.	S.R.O. 2426 of 1954 .		24-7-54	3-9-54	11 days	Communications
11.	S.R.O. 2148 of 1953 .		21-11-53	3-7-54	10 months	
12.	S.R.O. 2403 of 1954 .	The Mines (posting up of Abstracts) Rules, 1954.	17-7-54	3-9-54	11 days	Labour.
13.	S.R.O. 1113 of 1954 .	Delimitation Commission, Final Order No. 10.	5-4-54	4-5-54	1 month	Law.
14.	S.R.O. 2672 of 1954 .	Delimitation Commission, Final Order No. 14.	17-8-54	2-9-54	15 days	
15.	S.R.O. 2738 of 1954	Delimitation Commission, Final Order No. 15.	24-8-54	7-9-54	13 days	Law.
16.	S.R.O. 2827 of 1954 .	Delimitation Commission, Final Order No. 16.	30-8-54	20-9-54	20 days	
17.	Government of Ajmer Notification No. 7/53-Rev., dated 7-10-53.	Rules for the General Conduct of Business and Procedure in Revenue Courts, Ajmer.	24-10-54	10-9-54	11 months	Food and Agriculture.



1	2	3	4	5	6	7	8
18.	S.R.O. 141 of 1954 .	Amendments in the Mineral Concession Rules, 1949.	9-1-54	21-5-54	3 months	Natural Resources and Scientific Research.	
19.	S.R.O. 916 of 1954 .	Amendments in the Mineral Concession Rules, 1949	20-3-54	21-5-54	2 months	Natural Resources and Scientific Research.	
20.	S.R.O. 1350 of 1954 .		17-4-54	21-5-54	1 month		
21.	S.R.O. 1400 of 1954 .		1-5-54	29-9-54	5 months		
22.	S.R.O. 1637 of 1954 .		22-5-54	29-9-54	1 month		
23.	S.R.O. 1638 of 1954 .		22-5-54	29-9-54	1 month		
24.	S.R.O. 1720 of 1954 .		29-5-54	29-5-54	1 month		
25.	S.R.O. 2630 of 1954 .	Tea Rules, 1954 .	14-8-54	29-9-54	1 month	Commerce and Industry.	
26.	S.R.O. 1026 of 1954 .		27-3-54	5-5-54	1 month		

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**APPENDIX IV**

**MINUTES**

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# I

## \*Second Sitting

Parliament House, New Delhi: Friday, the 12th March, 1954.

The Committee met at 4-30 P.M.

2. The following were present:

Shri Hari Vinayak Pataskar—*Chairman*.

### MEMBERS

Shri N. M. Lingam

Shri Diwan Chand Sharma

Shri A. Ibrahim

Shri M. S. Gurupadaswamy

Shri N. C. Chatterjee

Shri Hirendra Nath Mukerjee

Shri Tulsidas Kilachand

Shri Hanamantrao Ganeshrao Vaishnav.

### SECRETARIAT

Shri S. L. Shakhder—*Joint Secretary*.

Shri K. G. Bijlani—*Under Secretary*.

\* \* \*

8. The Committee then took up for consideration the memorandum regarding the Estate Duty (Controlled Companies) Rules, 1953. At this stage a note by Shri Tulsidas Kilachand on these rules was circulated to members at the Committee. Shri Tulsidas Kilachand stated that he was preparing another detailed memorandum on these rules which might be placed before the Committee. The Committee postponed further consideration of this matter until the detailed note by Shri Tulsidas was circulated to them.

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\*Omitted portions of the minutes have already been published in First Report.

## II

### Third Sitting

Parliament House, New Delhi: Wednesday, the 17th March, 1954.

The Committee met at 5 P.M.

2. The following were present:

Shri Hari Vinayak Pataskar—*Chairman*.

#### MEMBERS

Shri S. V. Ramaswamy  
Shri N. M. Lingam  
Shri Diwan Chand Sharma  
Shri A. Ibrahim  
Shri N. C. Chatterjee  
Shri Hirendra Nath Mukerjee  
Shri Tulsidas Kilachand  
Shri Hanamantrao Ganeshrao Vaishnav.

#### SECRETARIAT

Shri S. L. Shakhder—*Joint Secretary*.

Shri K. G. Bijlani—*Under Secretary*.

3. The Committee took up further consideration of the Estate Duty (Controlled Companies) Rules, 1953. In this connection, copies of a note prepared by Shri N. C. Chatterjee on these Rules were circulated to Members at the Committee.

4. The Committee examined the provisions made in the Rules and found that most of these Rules were reproduced from the Finance Act, 1940 of the U. K. with necessary modifications. They took note that while in the U. K. these provisions found a place in the Finance Act, 1940, in India similar provisions were made through rules framed by the Central Government. The Committee made a comparative study of rules and observed that some of them, namely rules 5, 9 and 11 were even wider in scope than the relevant sections of U. K.

5. The Committee thought that some of these rules made provisions of substantive character and introduced definitions of new terms in the Rules, and sought to impose burden or taxation. As such, these provisions should have been made in the Estate Duty Act, or Government should have brought forward a supplementary Bill to give effect to these provisions.

6. The Committee also felt that the language of the Rules was complicated and was not easily understandable.

7. The Committee decided that Shri A. K. Roy, Senior Member of the Central Board of Revenue, should be invited to be present at the meeting of the Committee to be held on the 7th April, 1954 at 5 P.M. to explain the various provisions of these Rules before the Committee made their recommendations in this regard.

8. The Committee were of the opinion that the exercise of rule-making powers delegated by Parliament to subordinate authorities should be limited only to the carrying out of the purposes of the Act and such authorities should not exceed their powers as delegated to them.

9. The Committee decided to meet again on the 25th March, 1954 at 5 P.M. to consider the memoranda prepared by the Secretariat on other "orders".

The Committee then adjourned at 5-55-P.M. .

### III

#### \*Fourth Sitting

Parliament House, New Delhi: Thursday, the 25th March, 1954.

The Committee met at 5 P.M.

2. The following were present:

Shri Hari Vinayak Pataskar—*Chairman*.

#### MEMBERS

Shri A. Ibrahim

Shri N. C. Chatterjee

Shri Hanamantrao Ganeshrao Vaishnav.

#### SECRETARIAT

Shri S. L. Shakhder—*Joint Secretary*.

Shri K. G. Bijlani—*Under Secretary*.

3. At the outset the Chairman placed before the Committee letter No. 10(19)-ED/54, dated the 25th March, 1954, received from Shri A. K. Roy, Senior Member of the Central Board of Revenue, who had been requested to attend the meeting of the Committee to be held on the 7th April, 1954 in connection with the consideration of the Estate Duty (Controlled Companies) Rules. The Committee desired that a list of points be prepared and sent to Shri Roy as requested by him.

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\*Omitted portions of the minutes have already been published in Second Report.

## IV

### \*Sixth Sitting

Parliament House, New Delhi: Tuesday, the 11th May, 1954.

The Committee met at 5 P.M.

4. The following were present:

#### MEMBERS

Shri S. V. Ramaswamy  
Shri Diwan Chand Sharma  
Shri A. Ibrahim  
Shri N. C. Chatterjee  
Shri Tulsidas Kilachand  
Shri Hanamantrao Ganeshrao Vaishnav.

#### SECRETARIAT

Shri S. L. Shakdher—*Joint Secretary.*

Shri A. L. Rai—*Under Secretary.*

3. In the absence of the Chairman, Shri Hari Vinayak Pataskar, Shri N. C. Chatterjee was elected to act as the Chairman for the meeting.

4. The Committee considered the following 'orders' and other matters together with the memoranda prepared by the Secretariat thereon:—

(1) S.R.O. 1567 of 1952 amending the Indian Aircraft Rules, 1937.

\* \* \* \* \*

(9) S.R.O. 1856 of 1953 amending the Registration and Licensing of Industrial Undertakings Rules, 1952.

(10) S.R.O. 449 of 1953 amending the Employees' Provident Funds Scheme, 1952.

\* \* \* \* \*

5. S.R.O. 1567 of 1952.—The Committee considered the S.R.O. and desired that the Ministry concerned should be asked to state whether the rules conformed to the international standards or there was any deviation in comparison with the international standards. The Committee also wanted to know whether experts had been consulted on this subject before drafting the rules.

\* \* \* \* \*

11. S.R.O. 1856 of 1953.—The Committee felt that the Ministry concerned should be asked whether the forms provided in this:

S.R.O. were complicated and called for unnecessary details and whether the forms could be simplified.

12. S.R.O. 449 of 1953.—In this connection the Chairman referred to a Supreme Court Judgment (A.I.R. 1954 S.C. page 224) regarding the Coal Control Order in which the Supreme Court had enunciated certain principles about delegation of powers by Central Government to its subordinate authority and had held that a law or an order which conferred arbitrary and uncontrolled power upon the executive to make exemptions without any check over it and without a way of redress, was *prima facie* unreasonable.

The Committee desired that the attention of the Ministry might be invited to the judgment of the Supreme Court for obtaining their reaction in this regard and for being placed before the Committee.

Committee also noted that forms 1, 2, 3 and 4 annexed to the Employees' Provident Funds Scheme, 1952 (S.R.O. 1509 of 1952) require details of 'sex', 'religion' and 'caste'. As under the Constitution, no one has to suffer or gain any benefit on account of 'sex', 'religion' or 'caste', the Committee desired that the Ministry of Labour should be asked whether submission of such details was necessary and if so what was the purpose for which such information was required.

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V

**Eighth Sitting**

*Parliament House, New Delhi: Tuesday, the 21st September, 1954.*

The Committee met at 5-10 P.M.

2. The following were present:

Shri Hari Vinayak Pataskar—*Chairman.*

**MEMBERS**

Shri S. V. Ramaswamy

Shri N. M. Lingam

Shri Diwan Chand Sharma

Shri A. Ibrahim

Shri N. C. Chatterjee

Shri Hirendra Nath Mukerjee

Shri Tulsidas Kilachand

Shri Hanamantrao Ganeshrao Vaishnav

Shri Ganpati Ram

Shri Nandlal Joshi.

**REPRESENTATIVE OF THE MINISTRY**

Shri A. K. Roy, *Senior Member of Central Board of Revenue*  
(By invitation).

**SECRETARIAT**

Shri M. Sundar Raj—*Deputy Secretary.*

Shri A. L. Rai—*Under Secretary.*

3. The Committee examined Shri A. K. Roy, Senior Member of the Central Board of Revenue, on the various aspects of the Estate-Duty (Controlled Companies) Rules, 1953.

4. The Committee adjourned at 6-32 P.M. to meet again at 5-5 P.M. on Tuesday, the 28th September, 1954.

## VI

### Ninth Sitting

Parliament House, New Delhi. Tuesday, the 16th November, 1954

The Committee met from 5-5 P.M. to 5-50 P.M.

#### PRESENT

Shri Hari Vinayak Pataskar—*Chairman*.

#### MEMBERS

Shri N. M. Lingam

Shri A. Ibrahim

Shri N. C. Chatterjee

Shri Tulsidas Kilachand

Shri Hanamantrao Ganeshrao Vaishnav

Shri Tek Chand

Shri Ganpati Ram

Dr. A. Krishnaswami.

#### SECRETARIAT

Shri S. L. Shakhder—*Joint Secretary*.

Shri M. Sundar Raj—*Deputy Secretary*.

Shri P. K. Patnaik—*Under Secretary*.

2. The Committee resumed consideration of the Estate Duty (Controlled Companies) Rules, 1953, in the light of the memorandum prepared by the Secretariat, notes by Shri Tulsidas Kilachand and Shri N. C. Chatterjee and the clarifications made by Shri A. K. Roy, Senior Member, Central Board of Revenue, when he appeared before the Committee on 21st September, 1954 as contained in Memorandum No. 38. (Appendix II)

3. The Committee felt that Rules 2(2), 2(7), 5, 7, 9, 11 and 15 of these Rules made provisions of a substantive character which were calculated to impose burden or taxation. They went beyond the scope of the delegated power under which the rules had been made. The Committee referred to Article 265 of the Constitution which lays down that no tax shall be levied or collected except by authority of law and were of the view that if any taxation or burden was sought to be imposed, it should be done in the Act itself and not by rules. The Committee were of the opinion that the provisions of the aforementioned rules should have been, if necessary, included in the Act.

4. The Committee also felt that the language used in the rules was complicated and difficult to understand for the general public.

It was explained to them that it was so because the language was copied verbatim from the U.K. Act. The Committee were of the view that in such cases the criterion should be whether the public in this country would be able to understand language couched in such complexity. They were of the opinion that attempts should be made by Government to avoid as far as possible the use of complicated language in the rules so that they can be followed without much difficulty. The Committee observed that while drafting rules etc., the following observation of the Lord Chancellor of the U.K. made by him in St. Aubyn case with reference to some provisions of similar nature, should be borne in mind:—

“that they are of unrivalled complexity and difficulty and couched in language so tortuous that I am tempted to reject them as meaningless”.

5. The Committee adjourned to meet again at 5-5 p.m. on Thursday, the 18th November, 1954.

## VII

### Tenth Sitting

Parliament House, New Delhi: Thursday, the 18th November, 1954.

The Committee met from 5-5 P.M. to 5-35 P.M.

#### PRESENT

Shri Hari Vinayak Pataskar—*Chairman*.

#### MEMBERS

Shri A. Ibrahim

Shri N. C. Chatterjee

Shri Tulsidas Kilachand

Shri Hanamantrao Ganeshrao Vaishnav

Shri Ganpati Ram.

#### SECRETARIAT

Shri S. L. Shakhder—*Joint Secretary*.

Shri M. Sundar Raj—*Deputy Secretary*.

Shri P. K. Patnaik—*Under Secretary*.

2. The Committee considered the following memoranda prepared by the Secretariat:—

(1) Memorandum No. 23 on S.R.O. 948 of 1953 making the Requisitioning and Acquisition of Immovable Property Rules, 1953.

(2) Memorandum No. 24 on S.R.O. 1904 of 1953 making amendment in the Second Schedule of the Indian Tariff Act, 1934.

3. The Committee noted that Section 4A(1) of the Indian Tariff Act, 1934, under which S.R.O. 1904 was issued, gave extraordinary powers to the Government for varying or imposing export duty on any article whether included in the Second Schedule of the Act or not. The Committee were of the view that the power to impose a duty on an article not included in the Second Schedule, being of the nature of a power to levy taxation on anything should not be vested in Government by delegated authority.

The Committee were of the opinion that such an extraordinary power of taxation should be given to the Government only in regard to specific articles, which should be exhaustively stated in the Schedule to the Act.

4. The Committee also noted that Section 4A(3) of the Act provides that the Central Government can at any time rescind any

notification approved by Parliament under Section 4A(2), with or without modification. The Committee felt that it was but proper that if a notification approved by Parliament under Section 4A(2) of the Act was sought to be rescinded, the rescinding notification should also be placed on the Table of the House for the approval of Parliament in the same manner as provided in Section 4A(2) for a notification issued under Section 4A(1).

5. The Committee then adjourned *sine die*.

## VIII

### Eleventh Sitting

Parliament House, New Delhi: Tuesday, the 7th December, 1954.

The Committee met from 4-30 P.M. to 5-30 P.M.

#### PRESENT

Shri G. V. Mavalankar—*Speaker*  
Shri H. V. Pataskar  
Shri S. V. Ramaswamy  
Shri Diwan Chand Sharma  
Shri A. Ibrahim.  
Shri M. S. Gurupadaswamy  
Shri N. C. Chatterjee.  
Shri Hirendra Nath Mukerjee  
Shri Hanamantrao Ganeshrao Vaishnav.  
Dr. A. Krishnaswami.

#### SECRETARIAT

Shri M. N. Kaul—*Secretary*.  
Shri S. L. Shakhder—*Joint Secretary*.

2. The Speaker addressed the members of the Committee. A copy of the speech is at Appendix I.

3. A discussion on the various aspects of the functions of the Committee and the manner in which the members could help in the discharge of these duties then ensued. The Speaker observed that whenever Bills, which seek to delegate legislative powers to subordinate authorities, are being debated upon in the House, members should see that proper elucidations of the full implications of the rule making powers and the manner in which Government will use them are given during the debates. For this purpose a satisfactory way of working would be for the Committee to decide before the Bills come up for debate as to which member of the Committee should concentrate on this aspect of the question in his speech and some sort of allocation of work amongst the members should be made. Thus the principle of division of labour could be usefully adopted.

4. In the criticism of the rules, it is the spirit in which they are made that should be carefully examined and the examination should proceed judiciously and cautiously. As far as possible the aim should be to prevent needless litigation arising subsequently from badly framed rules.

5. During the course of the discussion, Secretary observed that it was not for a Parliamentary Committee to make it public that a particular rule was *ultra vires*.

6. Secretary also described how, while drafting the Bills in India, certain provisions which should find place in the Acts were left out of Bills and later provided in the rules. He stated that the Committee would ultimately have to evolve and lay down certain principles as to what should be dealt with in the Act and what provisions in the rules, so that Parliament could be fully appraised of such matters.

## IX

### \*Twelfth Sitting

Parliament House, New Delhi: Wednesday, the 30th March, 1955.

The Committee met from 4 P.M. to 4-55 P.M.

#### PRESENT

Shri N. C. Chatterjee—(in the Chair)  
Shri S. V. Ramaswamy  
Shri Diwan Chand Sharma  
Shri A. Ibrahim  
Shri Hirendra Nath Mukerjee  
Shri Hanamantrao Ganeshrao Vaishnav  
Shri Ganapati Ram  
Dr. A. Krishnaswami.

#### SECRETARIAT

Shri S. L. Shakhder—*Joint Secretary*  
Shri P. K. Patnaik—*Under Secretary*

2. In the absence of the Chairman, Shri N. C. Chatterjee was elected by the Committee to act as the Chairman for the meeting.

3. The Committee considered memoranda on the following 'orders' prepared by the Secretariat:—

- (1) S.R.O. 2263 of 1953 and S.R.O. 239 and 901 of 1954 re: rules under the Salaries and Allowances of Ministers Act, 1953 (Memos Nos. 25 and 46).  
\* \* \* \*
- (3) S.R.O. 1856 of 1953 re: amendments in the Registration and Licensing or Industrial Undertaking Rules, 1952 (Memo. No. 27).
- (4) S.R.Os. 1787 and 1788 of 1953 re: Mysore Gold Mines Rules and Regulations, 1953 (Memo. No. 28).  
\* \* \* \*
- (6) Industrial Finance Corporation Notification No. 18/53, dated 16th November 1953, re: amendments in the General Regulations of the Corporation (Memo. No. 30).
- (7) S.R.O. 1567 of 1952 re: amendments in the Indian Aircraft Rules, 1937 (Memo. No. 31).

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\*Omitted portions of the minutes will be published in a later Report.



- (8) S.R.Os. 1275 and 1871 of 1954 *re*: rules under the Salaries and Allowances of Officers of Parliament Act, 1953 (Memo. No. 32).
- (9) S.R.Os. 1113 and 2672 of 1954 *re*: Delimitation Commission Final Orders Nos. 10 and 14 (Memo. No. 33).
- (10) S.R.O. 449 of 1953 *re*: amendments in the Employees Provident Funds Scheme, 1952 (Memo. No. 34).
- (11) Memo. No. 36 *re*: modification in the recommendation of the Committee made in the first Report relating to laying of rules on the Table.

4. S.R.Os. 2263 of 1953 and 239 and 901 of 1954 *re*: rules under the Salaries and Allowances of Ministers Act, 1952.—The Committee noted that in regard to similar rules made under the Salaries and Allowances of Ministry Act, 1952, they had already made the following recommendation in para. 15 of their Second Report:

“But in order to avoid uninformed or misinformed criticism and as such matters are essentially money and financial matters, it will be desirable if, in accordance with democratic principles and in larger public interests, such powers are exercised by the House itself. In cases where it is considered necessary by the House to delegate the power to make rules to a subordinate authority in order to save the time of Parliament, the Committee recommend that it should be provided that rules made by a subordinate authority should in such cases become operative only after an affirmative vote of the House has been obtained.”

The Committee were of the opinion that the attention of the Ministry concerned should be drawn to the above recommendation.

The Committee also decided that the delay of about 2 months in laying S.R.O. 2263 on the Table and of 6/7 months in laying the other two 'orders' on the Table may be brought to their notice.

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7. *Industrial Finance Corporation Notification No. 18/53, dated the 16th November, 1953.*—The Committee decided that the delay in laying this 'order' on the Table be reported to the House.

8. S.R.O. 1275 of 1954 *re*: *Rules for medical attendance and treatment of officers of Parliament.*—The Committee decided that the delay in laying this 'Order' on the Table be reported to the House.

9. S.R.Os. 1113 and 2672 of 1954 *re*: *the Delimitation Commission Final Orders Nos. 10 and 14.*—The Committee decided that the delay in laying these 'orders' on the Table be reported to the House.

✓ 10. Memo. No. 36 *re*: *modification of the recommendation of the Committee in the First Report relating to laying of rules on the*

**Table.**—The Committee noted that the Government were finding it difficult to comply with their recommendation made in para. 11(ii) of their First Report, namely, that all rules shall be laid on the Table for a uniform and total period of 30 days *before* the date of their final publication. The Committee appreciated that cases might arise when the rules might have to be implemented immediately on their being made public and the provision recommended in para. 11(ii) might therefore hamper the operation of such rules.

The Committee, therefore, decided that their recommendation made in para. 11(ii) of the First Report might be modified by the insertion of the following proviso:—

“Provided that where it is not deemed expedient to lay any rule on the Table before the date of publication, such rule may be laid as soon as possible after publication. An explanatory note should, however, accompany such rules at the time they are so laid explaining why it was not deemed expedient to lay these rules on the Table of the House before they were published.”

11. The Committee then adjourned to meet again at 4 P.M. on Wednesday, the 6th April, 1955.

## X

### \*Thirteenth Sitting

Parliament House, New Delhi: Wednesday, the 6th April, 1955.

The Committee met from 4 P.M. to 4-55 P.M.

#### PRESENT

Shri N. C. Chatterjee—(in the Chair).  
Shri S. V. Ramaswamy.  
Shri Diwan Chand Sharma.  
Shri A. Ibrahim.  
Shri M. S. Gurupadaswamy.  
Shri Hirendra Nath Mukerjee.

#### SECRETARIAT

Shri S. L. Shakhder—*Joint Secretary.*  
Shri N. N. Mallya—*Deputy Secretary.*  
Shri P. K. Patnaik—*Under Secretary.*

2. In the absence of the Chairman, Shri N. C. Chatterjee was proposed and took the Chair.

3. The Committee considered the memoranda prepared by the Secretariat on the following 'orders':—

- (1) S.R.O. 1836 of 1953 and S.R.Os. 139, 1823, and 2426 of 1954 re: amendments in the Indian Aircraft Rules, 1937, (Memo. No. 37).
- (2) S.R.O. 2403 of 1954 re: the Mines (Posting up of Abstracts) Rules, 1954. (Memo. No. 39).
- (3) Government of Ajmer Notification No. 7/7/53-Rev., dated 7th October, 1953, re: rules for the General Conduct of Business and Procedure in Revenue Courts, Ajmer, (Memo. No. 40).
- (4) S.R.Os. 1701 and 1795 of 1954 re: Customs Duties Drawback Rules in respect of embroidered goods and artificial silk (Memo. No. 41).
- (5) S.R.O. 3086 of 1954, re: the Customs Duties Drawback (Motor Vehicles) Rules, 1954. (Memo. No. 51).

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\*Omitted portions of the minutes will be published in a later Report.

(6) S.R.O. 2345 of 1954 *re*: the Customs Duties Drawback (Dry Radio Batteries) Rules, 1954. (Memo. No. 55).

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(8) S.R.Os. 2738 and 2827 of 1954 *re*: Delimitation Commission, Final Orders Nos. 15 and 16 (Memo. No. 43).

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4. *Delay in laying the 'orders' on the Table.*—The Committee decided that the delay in laying the following 'orders' on the Table be reported to the House:—

No. of orders	delay
(1) S. R. O. 1836 of 1953	11 months
S. R. O. 139 of 1954	8 months
S. R. O. 1823 of 1954	11 days
S. R. O. 2426 of 1954	11 days
<i>re</i> : amendments in the Indian Aircrafts Rules, 1937.	
(2) S. R. O. 2403 of 1954 <i>re</i> : the Mines (posting up of abstracts) Rules, 1954.	11 days
(3) S. R. O. 2738 of 1954	13 days
S. R. O. 2827 of 1954	20 days
<i>re</i> : Delimitation Commission, Final Orders Nos. 15 and 16.	
(4) Government of Ajmer Notification No. 7/7/53—Rev., dated 7-10-53, <i>re</i> : rules for the General Conduct of Business and Procedure in Revenue Courts, Ajmer.	11 months
(5) S. R. O. 2345 of 1954 <i>re</i> : the Customs Duties Drawback (dry radio batteries) Rules, 1954	1½ months

5. *Customs Duties Drawback Rules in respect of embroidered goods, artificial silk, motor vehicles and dry radio batteries.*—Rule 4 of these 'orders' S.R.Os. 1710, 1795, 3086 and 2345 of 1954 provide that drawback shall be admissible for the period during which a notification in respect of the goods is in force under sub-section (1) of section 43B of the Sea Customs Act, 1878. In other words, drawback would not be available in cases where goods were acquired while the notification under section 43B(1) was in force but it was revoked before the claim to the drawback accrued. Such a provision was likely to cause hardship to persons who made imports in anticipation of earning drawbacks.

The Committee were apprised of the assurance given by the Ministry of Finance that they would take into account such possible difficulties and where necessary give sufficient notice before they withdrew any scheme of drawback.

The Committee while appreciating the assurance given by the Ministry were of the view that there should be a rule expressly providing for a reasonable period of notice being given before any scheme of drawback was revoked. The Ministry might, if necessary, assume power to provide for exceptional cases in the rule itself.

6. While considering the rules the Committee also considered the provision in clause (d) or sub-section (3) of section 43B of the Act. The clause authorised the Government to make rules to "provide for the admissibility of drawback for any specific period or without any limit of period". The Committee felt that the clause was worded in very wide language and were of the view that there should be a definite time limit fixed, or the maximum period stated, in such cases.

The Committee decided to draw the attention of the House to the undesirability of giving such wide powers in a statute as is given by clause (d) of sub-section (3) of section 43B of the Act.

7. The Committee noted that the following provision, which was found in all other 'drawback' rules, was omitted from the rules relating to the dry radio batteries:—

"Where the Customs Collector is satisfied that a claim for the drawback is established under the rules such drawback shall be paid at the rate indicated in rule ....."

The Committee were informed by the Ministry that the omission was inadvertent and not deliberate and that they were taking steps to insert the provision separately.

The Committee hoped that steps would promptly be taken to insert the omitted provision.

\* \* \* \*

10. The Committee then adjourned *sine die*

## XI

### Fourteenth Sitting

Parliament House, New Delhi: Wednesday, the 20th April, 1955.

The Committee met from 4 P.M. to 4-55 P.M.

#### PRESENT

Shri N. C. Chatterjee—(in the Chair).  
Shri N. M. Lingam.  
Shri Diwan Chand Sharma.  
Shri Hirendra Nath Mukerjee.  
Shri Tulsidas Kilachand.

#### SECRETARIAT

Shri S. L. Shakdher—*Joint Secretary.*  
Shri P. K. Patnaik—*Under Secretary.*

2. In the absence of the Chairman, Shri N. C. Chatterjee was proposed and took the Chair.

3. At the outset the Committee considered a note prepared by the Lok Sabha Secretariat in respect of the Spirituous etc. Bill.

In the said note it had been pointed out that there was no provision in the Bill for laying the rules made under it before Parliament.

The Committee discussed this matter and authorised Shri D. C. Sharma to table an amendment to bring the Bill in conformity with the recommendation of the Committee in the 1st Report.

4. The Committee then considered the memoranda prepared by the Secretariat on the following 'orders':

- (1) S.R.Os. 141, 916 and 1250 of 1954 *re*: amendments in the Mineral Concession Rules, 1949 (Memo. No. 45).
- (2) S.R.Os. 1400, 1637, 1638, 1720 and 2630 of 1954 *re*: amendments in the Mineral Concession Rules, 1949 (Memo. No. 47).
- (3) Methods of giving publicity to statutory rules and orders issued by the Central Government (Memo. No. 48).
- (4) S.R.O. 1026 of 1954 *re*: the Tea Rules, 1954 (Memo. No. 49).
- (5) System of making and publishing rules and amendments in rules (Memo. No. 50).

- (6) S.R.O. 2148 of 1953 *re*: amendments in the Indian Aircraft Rules, 1937 (Memo. No. 52).
- (7) Pending Bills containing proposals for delegation of legislative powers (Memo. No. 53).
- (8) Scope of functioning of Committee on Subordinate Legislation (Memo. No. 54).

*Delay in laying the 'order' on the Table*

5. The Committee decided that delay in laying the following 'orders' on the Table be reported to the House:—

No. of order		delay	
S.R.O. 141	...	3 months	
S.R.O. 916	...	2 months	
S.R.O. 1250	...	1 month	
S.R.O. 1400	} of 1954 <i>re</i> : amendments in the Mineral Concession Rules.	5 months	
S.R.O. 1637		1 month	
S.R.O. 1638		1 month	
S.R.O. 1720		1 month	
S.R.O. 2630		1 month	
S. R. O. 1026 of 1954: <i>re</i> : Tea Rules, 1954.		...	1 month
S. R. O. 2148 of 1953: <i>re</i> : amendments in the Indian Aircraft Rules.			10 months

*Methods of giving publicity to statutory rules and orders*

6. The Committee felt that it was very essential to give publicity to statutory rules and orders all over India in such a way that the public was aware of them and understood them properly. The Committee noted from a reply of the Ministry of Law on the subject that there was no procedure or machinery to give such publicity. The relevant reply stated:

"..... statutory rules and orders made by the Ministry of Law are generally published in the Gazette of India and copies thereof sent to the State Governments who according to the importance and intent of applicability of the rules and orders make arrangements, in their discretion, to give publicity to them or translate them for the use of the public.

The Ministry have no ready information ..... in respect of rules and orders issued by other Ministries."

7. In order to place this important matter on a systematic basis, the Committee decided to recommend the following steps:—

- (i) While making each rule and order and before its publication, the Central Government should decide whether it is of concern or importance to the general public.
- (ii) Advance copies of all rules and orders which are of concern or importance to the general public should be sent to the State Governments concerned for arranging wide publicity in their States in the following manner:—
  - (a) by publishing the rules and orders in the State Gazettes; and
  - (b) by publishing the translations of rules and orders in the recognised languages of the States in the State Gazettes.
- (iii) The publication of such rules and orders should preferably be simultaneous at the Centre and in the States.
- (iv) Press *communiqués* should be issued by the Government to give publicity to the general purport and effect of the rules and orders.

S.R.O. 1026 of 1954 re: *the Tea Rules, 1954*

8. *Rule 4.*—The Committee noted that Rule 4(1) (b) allocated one seat on the Tea Board to each of the two Houses of Parliament while the usual ratio between the members of the Lok Sabha and the Rajya Sabha on such bodies was 2:1. The Committee considered the following explanation of the Ministry in this regard:—

“This Ministry was not aware of the ratio in vogue while allocating the number of seats for Parliament on the Tea Board. The defunct Central Tea Board Act, 1949 (XIII of 1949) provided *inter alia* for representation of 2 persons to be elected by members of the Central Legislature from among themselves. The same quantum of representation has been retained but the seats have been distributed to the Council of States and the House of the People. Now that the constitution of the Tea Board has been finalised and the Tea Rules have been promulgated, it will be appreciated that no alteration in the quantum of representation already provided is possible, unless the rules are amended. It will be difficult now to amend the rules for this, since the total number of seats is limited by the Act and all the seats have been distributed among the various interests.”

9. The Committee considered the reply of the Ministry but could not appreciate why the precedent of the defunct Central Tea Board Act, 1949, was followed when it was out of context in the present circumstances. The Legislature was then unicameral and 2 seats



then were all right. It was now bi-cameral and the number of membership had also greatly increased and the Ministry should have re-assessed the position.

10. The Committee decided to recommend that Rule 4 should be amended to provide for the representation of the Lok Sabha and the Rajya Sabha in the ratio of 2:1.

11. The Committee also decided that if Parliament is to be represented on any body to be constituted by Government, the ratio between the members of the Lok Sabha and the Rajya Sabha should be 2:1.

12. *Rule 6.*—The Committee noted that under this rule a member of the Board or the Committee could resign by writing under his hand to the Chairman or the Secretary but, under the proviso to the rule, he would not vacate office until his resignation was accepted. The Committee also noted that there was nothing in the rules to direct the Chairman or the Secretary to accept the resignation in a reasonable time. The Committee felt that the provision in the proviso to the rule could prove harsh to a member in certain circumstances. Explaining this provision the Ministry concerned had stated that “there is no specific intention behind the Proviso. This is just a matter of procedure to be observed by the member of the Board.”

13. The Committee were of the view that there should be no such limitation on a member when he wanted to resign. The Committee recommended that the resignation should be effective either from the date of submission, or from the date from which the member wanted it to be effective or from a certain notice period (to be fixed by Government) after the date of submission. A specific provision to this effect should be made in the rule.

14. *Conditions of service of Secretary and other officers.*—The Committee noted that, whereas Section 49(2) (d) envisaged that the conditions of service etc. of Secretary and other officers to be appointed by Central Government might be provided in the rules, the rules were silent on the subject. While explaining this aspect, the Ministry had replied as under:—

“As regards the conditions of service of the staff of the Board, attention is invited to section 51(3) of the Tea Act, 1953. The terms and conditions of appointment of Secretary and other officers appointed by Government under section 9 of the Act are determined by Government and included in the appointment letter issued in individual cases.”

15. The Committee were of the view that when the parent Act envisaged such provisions to be included in the rules, they should be included in the rules rather than being included in individual appointment letters. The Committee decided to recommend that the provisions regarding the conditions of service etc. of Secretary and other officers appointed by the Central Government should be included in the rules.

*Making and publishing of rules and amendments in rules*

16. In the course of the examination of 'orders' the Committee had felt that the system of making and publishing of rules and amendments needed some improvement in order that they be referred to conveniently, located easily and understood by public.

17. *Giving of titles to rules and amendments.*—The Committee had noted that not all the orders bore short titles, the titles, if they were there, were not conspicuous and the amendments never bore any short title. The Committee decided to recommend the following steps in this regard:—

- (1) All rules should be given short titles.
- (2) All amendments in rules should be given short titles. For example, amendments in the Estate Duty Rules, 1953, should be entitled as "The Estate Duty (First Amendment) Rules, 1954", "The Estate Duty (Second Amendment) Rules, 1954" and so on. The title should show the serial number of the amendment and the year of making.
- (3) All titles, besides being given in the body, should be given at the top also.

18. *Reference to earlier amendments etc.*—The Committee felt that it was very difficult to trace back the amendments made in rules in the past. On finding out an amendment, one could not know when the last amendment was made and when it was published. In order to remove this difficulty the Committee decided to recommend that whenever any amendment in the rules was made, the S.R.O. numbers of the previous amendments or the original rules should be cited in a footnote. If the number of previous amendments was large, reference in the footnote might be given only to the last amendment. A specimen of such referencing is given below:—

"In exercise of the powers ..... the following further amendments are made in the Estate Duty Rules, 1953  
(a) as amended (b) namely....."

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(a) S.R.O: 556 of 1953.

(b) S.R.Os. .... of 1954..... of 1955.....

OR

b) Last amended by S.R.O..... of 1954.

19. *Explanatory Notes to rules and amendments.*—The rules, like Acts, were expressed in technical language which, the Committee felt, was not easily understood by the public. The Committee noted that in the U.K., explanatory notes were appended to all such rules and amendments. The Committee were of the view that the need for appending such explanatory notes was all the greater in our coun-

try. The Committee, therefore, decided to recommend that explanatory notes, which should not form part of the rules or amendments, should be appended to all rules and amendments in order to explain their general purport. The explanatory note, which should be given separately at the end of the rules etc. might be styled as follows:—

### EXPLANATORY NOTE

[This note is not part of the rules or amendments but is intended to indicate their general purport].

#### *S.R.O. 2148 of 1953 regarding amendments in the Indian Aircraft Rules, 1937*

20. S.R.O. 2148 inserted a new rule (Rule 130B) in the Indian Aircraft Rules, 1937, providing that Government might by notification, direct that in relation to, and to the persons on, aircraft registered in India but engaged in air transport service operating wholly outside India the provisions of these rules shall apply subject to such restrictions and modifications as may be specified in the notification. The Government is already vested with power to make rules under Section 5 of the Indian Aircraft Act, 1934, for any aircraft or a class of aircraft. Rules under this Section apply to, and to persons on, aircrafts registered in India wherever they may be. It was not clear as to what was the necessity for the Government for taking further powers under a rule for making modifications in the rules for aircraft operating wholly outside India. It was felt that the provision was of an unusual character.

21. The Ministry, to whom the case was referred, had accepted the above contention and had stated that they were taking action to cancel the new rule. The Ministry's reply was as follows:—

“Steps are being taken to cancel rule 130B of the Indian Aircraft Rules, 1937, and a further communication will follow when this has been done.”

The Committee noted the Ministry's assurance.

#### *Pending Bills containing proposals for delegation of legislative powers*

22. The Committee examined the following Bills, which were pending in the Lok Sabha and which sought to delegate legislative powers, in order to see how far the recommendations of the Committee made in para. 11 of their First Report were carried out:—

- (1) Manipur State Hill Peoples (Administration) Regulation (Amendment) Bill, 1954, (Clause 4).
- (2) University Grants Commission Bill, 1954 (Clauses 26 and 27).

23. The Committee decided to recommend that suitable provisions, requiring that the rules etc. be laid before Parliament in accordance with the recommendations of the Committee on the subject, should be inserted in the Bills before they are passed.

*Scope of the functioning of the Committee on Subordinate Legislation*

24. The Committee noted that at the present moment only such rules came within their purview of examination as were laid on the Table of the House. There were a large number of rules etc. which were made under delegated power of legislation but were not laid on the Table because there was no such provision for their laying in the relevant Acts. Whether or not any rule was required to be laid before the House, the Committee felt that it would be desirable for the Committee to scrutinise the whole range of subordinate legislation.

25. The Committee decided that their next Report containing recommendations in regard to matters discussed after the presentation of the Second Report might be presented to the House in the current session.

26. The Committee then adjourned *sine die*.

## XII

### Fifteenth Sitting

Parliament House, New Delhi: Saturday, the 30th April, 1955.

The Committee met from 4 P.M. to 4-20 P.M.

2. The following were present:

#### MEMBERS

Shri S. V. Ramaswamy—(*in the Chair*).  
Shri N. M. Lingam.  
Shri A. Ibrahim.  
Shri Hanamantrao Ganeshrao Vaishnav.  
Shri Tek Chand.

#### SECRETARIAT

Shri S. L. Shakhder—*Joint Secretary*.  
Shri N. N. Mallya—*Deputy Secretary*.  
Shri P. K. Patnaik—*Under Secretary*.

3. In the absence of the Chairman, Shri S. V. Ramaswamy was proposed and took the Chair.

4. The Committee considered the draft of the Third Report and adopted the same.

5. The Committee authorised Shri S. V. Ramaswamy to sign the report on behalf of the Committee.

6. The Committee further decided that the Third Report should be presented to the House on the 3rd May, 1955, and authorised Shri S. V. Ramaswamy to present the Report on their behalf.

7. The Committee then adjourned.