

LOK SABHA

COMMITTEE ON SUBORDINATE LEGISLATION

SECOND REPORT

(Together with Minutes and Appendices)



सत्यमेव जयते

**LOK SABHA SECRETARIAT
NEW DELHI**
September, 1954

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Composition of the Committee on Subordinate Legislation

1. Shri Hari Vinayak Pataskar—*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. Shakhder—*Joint Secretary.*

Shri M. Sundar Raj—*Deputy Secretary.*

Shri A. L. Rai—*Under Secretary.*

INTRODUCTION

I, the Chairman of the Committee on Subordinate Legislation, having been authorised by the Committee to present the report on their behalf, present this Second Report of the Committee.

2. Subsequent to the presentation of their First Report to the House on the 17th March, 1954 the Committee have held four sittings on the 17th and 25th March, and 6th and 11th May, 1954 at which the Statutory Orders, numbering 90 in all (*vide* Appendix I) laid by Government on the Table of the House during the year 1953, were examined. In the case of some of these 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. A sitting was held on the 20th September, 1954 to finalise this Report.

3. The Committee also examined Bills pending in the House which contained proposals for delegation of legislative powers, to see how far the recommendations contained in para. 11 of their First Report in regard to delegation of such powers had been embodied in these Bills.

4. The Committee have also made an examination of the Rubber (Marketing and Production) Rules, 1947 in so far as disciplinary matters relating to the staff of the Indian Rubber Board are concerned, and the provision in the Coffee Marketing Expansion Act, 1942, for delegation of powers for levy of duties to the Central Government.

5. This Report contains matters of special interest which were observed by the Committee during the course of their examination of the "orders" and Bills 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. 85 OF 1953 MAKING AMENDMENT IN THE CINEMATOGRAPH (CENSORSHIP) RULES, 1951

6. The following new Rule 6A has been inserted in the Cinematograph (Censorship) Rules, 1951 by S.R.O. 85 of 1953:—

“6A. *Saving clause.*—No act or proceeding of the Board shall be called in question on the ground merely of the existence of any vacancy in, or defect in the constitution of the Board.”

7. The Committee feel that this is a substantive provision of law pertaining to the jurisdiction of the Courts and should more appropriately be provided in the Act itself. Further, the wording of the rule is so wide that it may lead to abuse of exercise of power in the constitution of the Board. The Committee have given some considerable thought to this matter and have come to the conclusion that it is not in keeping with the structure of our Constitution to curtail or limit the powers of Courts by rules made by a subordinate authority. It is the fundamental duty of the Courts to see that the law and the rules made thereunder are being followed by the competent authorities in a proper manner. In case it is necessary to oust the jurisdiction of Courts with regard to some technical defects or routine matters there should be a clear authority from Parliament itself to that effect. It is, therefore, necessary that such proposals should be brought before the House and included in the appropriate Acts after full opportunities have been given to the House to discuss the matter and to arrive at a considered decision. It will be beyond the limits of authority of the rule-making powers to oust the jurisdiction of the Courts by inserting such provisions in the rules. If this were allowed, there would be transgression of the limits of the rule-making power of the executive authority without any check by the Courts of Law. The Committee would like that this is borne in mind by the rule-making authorities when making rules.

8. As regards the particular rule referred to in para. 6 above the Ministry of Information and Broadcasting, who were apprised of the views of the Committee, have stated that Government would bring forward an amending legislation. The Committee would like that this is done early so that the position is rectified.

III

S.R.O. 359 OF 1953 MAKING THE DEVELOPMENT COUNCILS (PROCEDURAL) RULES, 1952

9. S.R.O. 359 of 1953 contains the Development Councils (Procedural) Rules, 1952 which have been framed by the Ministry

of Commerce and Industry in accordance with the provisions of the Industries (Development and Regulation) Act, 1951. Rule 4(1) of the Rules provides that, after the appointment of the first Chairman of the Development Council by the Central Government the subsequent Chairman shall be either nominated by the Central Government or elected by members of the Council as the Government may decide.

10. It is not usual to provide for alternative methods of appointment of Chairman of Bodies created under rules. The Ministry of Commerce and Industry to whom the matter was referred for elucidation stated as follows:—

- “(i) That rule 4(1) was based on the recommendation of the Central Advisory Council of the Industries (Development and Regulation) Act, 1951. The Council was of the view that the first Chairman should be nominated by the Central Government and the question of subsequent appointments should be considered by the Government in the light of the working of the Development Councils.
- (ii) That the idea of establishment of Development Councils was borrowed from the U.K., where they had a chequered career. The Government of India, therefore, wanted to proceed carefully in introducing this new type of organisation in this country.
- (iii) That the success of these Councils would depend on the personality of the Chairman. The Government thought it advisable to accept the advice of the representatives of industries when they themselves desired that the Chairman should be nominated initially and the whole question should be considered at a later stage.”

11. The Committee have considered the views of the Ministry and feel that whatever justification there may have been in the beginning to adopt this method it is time that the rules are amended to provide for a definite method of appointment of Chairman. The Committee are not concerned whether ultimately it is by nomination by the Central Government or by election by members of the Council; but the point is that the system should not be such as to be uncertain and indefinite. The Ministry must have gained sufficient experience from the working of the Development Councils as to come to a definite conclusion and the Committee recommend that the rule should be amended suitably.

12. The Committee have given due consideration to the arguments put forward by the Ministry of Commerce and Industry but are not convinced that such an unusual provision is necessary. The Committee are of the opinion that there should be only one system of

appointing the Chairman, either that of election or of nomination, and that the rule should be modified accordingly.

IV

RULES UNDER THE SALARIES AND ALLOWANCES OF MINISTERS ACT, 1952

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

- (i) S.R.O. 32 of 1953, making amendment in the Ministers (Advance for Motor-Car) Rules, 1952.
- (ii) S.R.O. 117 of 1953 making rule regarding re-imbusement to Ministers of deductions made by an Air Transport Company on cancellation of the air passage due to official reasons.
- (iii) S.R.O. 1073 of 1952 making rule regarding grant of Sumptuary Allowances to Minister for Defence Organisation.

14. The Committee observe that the following issues are involved in considering these orders:—

(i) Whether such a power, viz., that Government should frame rules for granting allowances or conditions under which such allowances are admissible to the Ministers should be given to the Government and whether it is not desirable that Parliament itself should provide for such matters by an Act; and

(ii) Whether even if the rule-making power is delegated to the Government, the rules so framed should be placed before Parliament seeking its approval thereto by a resolution to be brought by the Government within a specified period after the date on which the rules are laid before the Houses of Parliament.

15. It will be observed from Section 11 of the Salaries and Allowances of Ministers Act that it is very widely worded and full powers have been given to the Government to frame rules to carry out the purposes of the Act.

At the outset the Committee wish to make it clear that they have not found any reason to comment adversely on the use of these wide powers by Government. The Committee also wish to make it clear that they have no doubt that Government will continue to be extremely cautious in framing such rules and take every care that principles and propriety are observed meticulously. 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. It may be stated in this connection that such a procedure is less rigid and less cumbersome than the ordinary process of legislation and it should be noted that such a procedure while retaining the power of Parliament gives at the same time larger powers to a subordinate authority to make rules and it takes less time in seeking the approval of the House.

V

S.R.O. 416 OF 1953 MAKING AMENDMENT IN THE CENTRAL EXCISE RULES, 1944

16. S.R.O. 416 of 1953 amends Rule 147 of the Central Excise Rules, 1944, framed under the Central Excises and Salt Act, 1944. Prior to this amendment the Central Excise Rules, 1944 empowered the Collector to remit duty on warehouse goods lost or destroyed by unavoidable accident. This amendment placed a limitation on these powers by providing that if the goods were lost by theft, the duty would not be remitted.

17. As the S.R.O. made a very important change in the Rules which had been in existence for some time, the Committee desired to know the reasons that necessitated the amendment.

18. The Ministry of Finance (Revenue Division) have explained the position as follows:

“Rule 147, as it stood prior to the amendment, authorised the Collector in his discretion to remit the duty on goods lodged in a warehouse which were lost or destroyed by ‘unavoidable accident’.

In the course of certain discussions during 1952, we were advised by the Ministry of Law that if the goods are lost by theft in such circumstances that the loss could not be avoided by reasonable care and precaution, it would be a loss by “unavoidable accident” under rule 147 of the Central Excise Rules. This interpretation of the Ministry of Law went far beyond the intentions of the Ministry of Finance with regard to the scope of rule 147. A distinction has to be drawn between goods stolen and goods otherwise lost and destroyed for the purposes of

Central Excise Duty. In the latter case, the possibility of consumption is completely excluded, but in the former case, that possibility is very much there, irrespective of the fact whether the theft took place in the absence of reasonable care and precaution or in spite of it. If goods were to go into consumption, there is absolutely no case for remission of duty. To grant remission in respect of stolen goods would be to put a premium on unauthorised removals.

On practical considerations also, this Ministry held the view that remission of duty would be uncalled for in cases of this kind. Theft and pilferage are normal trade risks, and are outside the scope of the Central Excises and Salt Act, 1944. The licensees can cover themselves, as they generally do, against such losses by insurance. If the goods pass into illegal consumption the State should not be deprived of the revenue legitimately due to it merely because the particular licensee failed to make appropriate arrangements in respect of his goods."

19. The Ministry, however, have not explained to what extent the insurance of stolen goods is a general practice. The Committee are not convinced that in all such cases the owners of goods are protected by insurance especially in the conditions of trading practices in the country today. The Committee consider that where such goods have not been insured, the levy of duty on the goods which have been lost would not be fair and that the rule should, therefore, provide for the foregoing of duty in such cases. The Committee are, therefore, of the view that this rule should be further amended by Government on these lines.

VI

S.R.O. 1172 OF 1953 MAKING AMENDMENT IN THE DELHI ROAD TRANSPORT AUTHORITY (FUNCTIONS AND DUTIES OF THE GENERAL MANAGER AND CHIEF ACCOUNTS OFFICER) RULES, 1952.

20. S.R.O. 1172 of 1953 introduces an amendment to rule 4 of the Delhi Road Transport Authority (Functions and Duties of the General Manager and Chief Accounts Officer) Rules, 1952 framed under Section 52(a) of the Delhi Road Transport Authority Act, 1950. The amendment provides *inter alia*, that the views of the Chief Accounts Officer on new proposals going before the General Manager shall not be overruled except with the permission of the Authority or the Chairman of the Authority. In other words, the Chairman has been given the powers to overrule the views of the Chief Accounts Officer on new proposals. The Committee consider

that this amendment comes into conflict with the provisions of Section 16(3) of the parent Act.

21. Section 16(3) of the Act lays down that the Chief Accounts Officer shall have the right to record his views on every proposal involving expenditure from the funds of the Authority prior to the consideration of such proposal by the Authority. Impliedly, only the Authority can overrule the Chief Accounts Officer.

22. The Committee are of the view, therefore, that the amendment to Rules contained in this S.R.O. is beyond the powers of the rule-making authority.

VII

S.R.O. 1681 OF 1951 AMENDING THE MINERAL CONCESSION RULES, 1949

23. S.R.O. 1681 of 1951 was issued under the powers delegated to Government by Section 5 of the Mines and Minerals (Regulation and Development) Act 1948, for the purpose of making certain amendments in the Mineral Concession Rules, 1949. The Committee examined new rules 55 and 56 which were introduced in the Mineral Concession Rules 1949 by the S.R.O. under reference. These rules read as follows:—

“55. No court shall take cognizance of any offence punishable under these Rules, unless upon complaint made in writing by an officer empowered by the State Government in this behalf, within six months of the date on which the said offence is alleged to have been committed.

56. No court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence punishable under these Rules.”

24. The Committee have examined the scope of these rules with reference to Section 5 of the parent Act under which these rules have been framed. The Committee observe that whereas this Section purported to delegate powers to the Government to make rules for regulating the grant of leases or for prohibiting such leases in respect of any mineral in any area, rules 55 and 56 of the Mines and Minerals Concession Rules 1949 as now introduced make provisions for cognizance of offences under these rules by Courts etc. The Committee feel that the provision as to which Court should take cognizance of the offences under the Act, and the period upto which it could take such cognizance are not matters to be provided in the Rules and should more properly be dealt with in an Act of Parliament.

VIII

THE RUBBER (PRODUCTION AND MARKETING) RULES, 1947

25. During the Sixth Session of the House Shri C. P. Mathew gave notice of a question asking Government to give reasons for not having made provision in the Rubber (Production and Marketing) Rules, 1947, against arbitrary degrading, suspension or dismissal of staff of the Indian Rubber Board without regular proceedings, as in the case of rules of certain other statutory commodity bodies under the Ministry of Commerce and Industry. The Speaker referred this matter to the Committee for examination.

26. The Committee have examined the matter and find that the Rules in question do not provide for prohibition against arbitrary suspension, dismissal etc., of the staff without regular proceedings.

27. As it appeared to the Committee that the absence of such provisions was unusual, the attention of the Ministry of Commerce and Industry was invited to this matter. The Ministry have stated that the absence of such a provision did not mean that disciplinary action could be taken against the staff arbitrarily, and that since the inception of the Board in 1948, no cases of arbitrary action by the Board had occurred. The Committee feel that the absence of such cases so far is no guarantee that cases of this nature would not occur in the future. The Committee see no reason why the Rules for the Indian Rubber Board should not be framed on the same lines as for other statutory bodies of this nature. The Committee accordingly recommend that detailed procedure in this regard should be provided in the Rules.

IX

PENDING BILLS CONTAINING PROPOSALS FOR DELEGATION OF LEGISLATIVE POWERS

28. The Committee have examined the Bills pending before the House on the 2nd September, 1954, to see how far the recommendations made in para. 11 of their First Report have been implemented. A list of such Bills is appended to this Report (Appendix II).

29. The Committee notice that the relevant provisions in these Bills delegating legislative powers to the executive have not been framed on the lines recommended by the Committee in their First Report. The Committee recommend that before these Bills are enacted, necessary amendments should be made in the relevant clauses and in the amending Bills which do not touch the rule-making sections of the principal Acts, new clauses making the necessary provisions should be inserted.

POWERS TO LEVY DUTIES DELEGATED TO THE CENTRAL GOVERNMENT IN THE COFFEE MARKET EXPANSION ACT, 1942

30. While examining the Coffee Market Expansion Act, 1942 in regard to its provisions delegating to the Central Government powers to levy duties, the Committee notice that under Sections 11 and 12 of the Act, the rate of customs or excise duty, as the case may be, on Coffee has been laid down at Re. 1 per cwt. but the Government have the powers under these Sections to reduce this rate of duty. It has not been provided in this Act that notifications issued by Government regarding changes in the levy of duties should be laid on the Table of the House. The Committee consider that it is desirable that these notifications should be invariably laid on the Table of the House and while doing so, Government should specify the nature of change together with the reasons therefor so that the House may, if necessary, raise a discussion on it.

XI

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

31. One disquieting feature observed by the Committee in regard to the issue of the Statutory Orders by Government was the enormous delay in most of the cases in placing them on the Table of the House. A statement of 'orders' showing the dates of the publication in the Gazette and the dates when they were laid on the Table is given in Appendix I.

32. It is surprising to note that it should require so much time—which in some cases, has been over a year—for Government to place these 'orders' on the Table. It should not ordinarily be necessary for Government to take more than 7 days after the publication of the rules in the Gazette to lay them on the Table.

H. V. PATASKAR,

*Chairman,
Committee on Subordinate Legislation.*

NEW DELHI;

The 29th September, 1954.

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

Sl. No.	Reference to para. No. in the Report	Summary of Recommendations
1	2	3
1	7	A substantive provision of law pertaining to the jurisdiction of the courts should more appropriately be provided in an Act of the Legislature and should not be introduced through a rule made by Government under powers delegated to it.
2	8	The provision regarding the curtailment of the jurisdiction of the courts as provided for in Rule 6A of the Cinematograph (Censorship) Rules, 1951, (S.R.O. 85 of 1953) should more appropriately have been provided in the relevant Act.
3	12	Rules made by Government should be specific and definite. Rule 4(i) of the Development Councils (Procedural) Rules, 1952, (S.R.O. 359 of 1953) should be amended to provide for only one system by which Chairman of the Development Council is to be appointed.
4	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.
5	19	Rules should not be so framed as to cause an injustice. The Committee have made this recommendation in connection with an amendment to rule 147 of the Central Excise Rules, 1944 (S.R.O. 416 of 1953) which provide for the levy of duty on goods in the custody of warehouse of Government even though such goods may be lost by theft before delivery had been taken of them by the owners. The Committee have recommended that in the case of goods having been lost in such circumstance without having been insured by the owners the duty should be foregone.
6	20—22	Rules should not be made so as to contravene the provisions of the parent Act. The provision of rule 4(3) of the Delhi Transport Authority (Functions and Duties of the General Manager and Chief Accounts Officer) Rules, 1952 (S.R.O. 1172 of 1953), providing for the Chairman being vested with powers to overrule the Chief Accounts Officer has been held by the Committee to conflict with the provisions of Section 16(3) of the parent Act.
7	24	Rules should not be framed to include matters which should more appropriately be dealt with in an Act of Parliament. Thus provisions regarding the cognizability of certain offences and the restriction of powers of certain courts to try specified cases, as laid down in rules 51 and 56 of the Mines and Minerals Concession Rules, 1949 (S.R.O. 1681 of 1951) have been held by the Committee to be matters which are not to be provided in the rules but should more appropriately be dealt with in an Act of Parliament.

APPENDICES TO THE REPORT

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APPENDIX I

[See Paras. 2 and 31]

STATEMENT OF ORDERS SHOWING THE DATES OF THEIR PUBLICATION IN THE GAZETTE AND THE DATES OF THEIR LAYING ON THE TABLE OF THE HOUSE

S. 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	Remarks	
1	2	3	4	5	6	7	
1	S.R.O. 85 of 1953	Amendments to the Cinematograph (Censorship) Rules, 1951.	10-1-53	3-3-53	20 days	The inter-session periods have not been counted for delay in the case of these orders which were published when the House was not in session and were laid on the Table during the session following their publication in the Gazette.	
2	S.R.O. 143 of 1953		17-1-53	3-3-53	20 days		
3	S.R.O. 309 of 1953		14-2-53	3-3-53	16 days		
4	S.R.O. 176 of 1953		24-1-53	24-3-53	Over 1 month		
5	S.R.O. 177 of 1953		24-1-53	24-3-53	Over 1 month		
6	S.R.O. 256 of 1953		7-2-53	24-3-53	Over 1 month		
7	S.R.O. 365 of 1953		28-2-53	14-4-53	Over 1 month		
8	S.R.O. 416 of 1953		7-3-53	15-5-53	Over 1 month		
9	S.R.O. 689 of 1953		Amendments to the Central Excise Rules, 1944.	15-4-53	15-5-53		29 days
10	S.R.O. 705 of 1953			18-4-53	15-5-53		26 days
11	S.R.O. 691 of 1953			15-4-53	15-5-53		29 days
12	S.R.O. 1149 of 1953			26-6-53	22-8-53		19 days
13	S.R.O. 1520 of 1953			8-8-53	22-8-53		13 days.
14	S.R.O. 1521 of 1953			8-8-53	22-8-53		13 days.
15	S.R.O. 1555 of 1953			15-8-53	22-8-53		6 days.

1	2	3	4	5	6	7
16	S.R.O. 1672 of 1953	Amendments to the Central Exercise Rules, 1944.	12-9-53	4-12-53	Over 2 months	
17	S.R.O. 1715 of 1953		19-9-53	4-12-53	18 days	
18	S.R.O. 1917-18 of 1953		17-10-53	4-12-53	18 days	
19	S.R.O. 1955 of 1953		24-10-53	4-12-53	18 days	
20	S.R.O. 2006 of 1953		31-10-53	4-12-53	18 days	
21	S.R.O. 2005 of 1953		31-10-53	4-12-53	18 days	
22	No. TA (AD) 25/78/52, dated 18-7-52 & No. TA (AD) 25/140/51, dated 6-7-51.	Bilaspur Motor Vehicles Rules, 1951.	26-7-52	4-3-53	Over 7 months	
23	S.R.O. 359	The Development Councils (Procedural) Rules, 1952.	19-2-53	25-3-53	Over 1 month	
24	S.R.O. 270 of 1953	Amendments to the Employees' Provident Funds Scheme, 1952.	7-2-53	20-4-53	Over 2 months	
25	S.R.O. 449 of 1953		7-3-53	20-4-53	Over 1 month	
26	S.R.O. 500 of 1953		14-3-53	20-4-53	Over 1 month	
27	S.R.O. 501 of 1953		14-3-53	20-4-53	Over 1 month	
28	S.R.O. 502 of 1953		14-3-53	20-4-53	Over 1 month	
29	S.R.O. 2035 of 1953	The Reserve and Auxiliary Air Forces Act Rules, 1953.	31-10-53	30-11-53	14 days	
30	S.R.O. 175 of 1953		25-4-53	29-4-53	3 days	
31	S.R.O. 98 of 1953		Amendment to the Coal Mines Rescue Rules, 1939.	10-1-53	1-5-53	Over 2 months

32	S.R.O. 948 of 1953	The Requisitioning and Acquisition of Immovable Property Rules, 1953.	23-5-53	4-8-53	1 day
33	S.R.O. 669 of 1953	Amendment to the Delhi Road Transport Authority (Advisory Council) Rules, 1951.	11-4-53	20-4-53	7 days
34	S.R.O. 1172 of 1953	Amendment to the Delhi Road Transport Authority (Functions and Duties of the General Manager and Chief Accounts Officer) Rules, 1952.	20-6-53	12-8-53	9 days
35	S.R.O. 1264 of 1953	Amendment to the Delhi Road Transport Authority (Motor Vehicles Insurance Fund) Rules, 1950.	27-6-53	12-8-53	9 days
36	S.R.O. 1336 of 1953	Amendment to the Delhi Road Transport Authority (Audit) Rules, 1951.	8-8-53	17-8-53	8 days
37	S.R.O. 1729 of 1953	Amendment to the Delhi Road Transport Authority (Advisory Council) Rules, 1952.	19-9-53	30-11-53	14 days
38	No. 5/53, dated 30-3-53	Amendment to the General Regulations of the Industrial Finance Corporation of India.	11-4-53	15-5-53	Over 1 month
39	S.R.O. 295 of 1953	Amendments to the Insurance Rules, 1939.	14-2-53	5-8-53	Over 5 months
40	S.R.O. 1567 of 1953	Amendments to the Indian Aircraft Rules, 1937.	13-9-52	17-11-53	Over 1 year
41	S.R.O. 1904 of 1953	Amendment in the Second Schedule to the Indian Tariff Act, 1934.	10-10-53	19-11-53	3 days

1	2	3	4	5	6	7
42	S.R.O. 32 of 1953	Amendment to the Ministers (Advance for Motor-Car) Rules, 1952.	2-1-53	21-4-53	Over 2 months	
43	S.R.O. 117 of 1953	Rule re: the re-imbursments to Ministers of the deductions by Air companies on cancellation of reservation due to official reasons.	14-1-53	21-4-53	Over 2 months	
44	S.R.O. 1073 of 1953	Rule re: Sumptuary allowance for Minister of Defence Organisation.	10-6-53	5-8-53	2 days	
45	S.R.O. 1419 of 1953	Delimitation Commission, Final Order No. 1.	17-7-53	18-8-53	15 days	
46	S.R.O. 1701 of 1953	Delimitation Commission, Final Order No. 2.	15-9-53	18-11-53	*Over 2 months	Fourth Session terminated on the 18th September, 1953 and the 5th Session commencing on 16th November, 1953.
47	S.R.O. 2117 of 1953	Delimitation Commission, Final Order No. 3.	13-11-53	1-12-53	15 days	
48	S.R.O. 2235 of 1953	Delimitation Commission, Final Order No. 4.	7-12-53	22-12-53	14 days	*Excluding the inter-session period, this comes to only 5 days.
49	Reserve Bank Notification No. 22, dated 29-10-53	Amendments to the Reserve Bank of India (Note Refund) Rules, 1935.	7-11-53	14-12-53	28 days	
50	S.R.O. 1787 of 1953	Mysore Gold Mines Rules, 1952	26-9-53	24-12-53	Over 1 month	
51	S.R.O. 1788 of 1953	Mysore Gold Mines Regulations, 1952.	26-9-53	24-12-53	Over 1 month	

52	No. MII-155 (24)-2	12-11-49	11-9-53	Nearly 4 years
53	No. MII-155 (24)	19-11-49	11-9-53	Nearly 4 years
54	No. MII-155(56)	17-12-49	11-9-53	Nearly 4 years
55	No. MII-155 (89)	8-4-50	11-9-53	Over 3 years
56	No. MII-155(92)	13-5-50	11-9-53	Over 3 years
57	S.R.O. 132 of 50	10-6-50	11-9-53	Over 3 years
58	S.R.O. 898 of 50	11-11-50	11-9-53	Over 2 years
59	S.R.O. 1018 of 50	9-12-50	11-9-53	Over 2 years
60	S.R.O. 443 of 51	31-3-51	11-9-53	Over 2 years
61	S.R.O. 550 of 51	21-4-51	11-9-53	Over 2 years
62	S.R.O. 784 of 51	26-5-51	11-9-53	Over 2 years
63	S.R.O. 879 of 51	9-6-51	11-9-53	Over 2 years
64	S.R.O. 1217 of 51	11-8-51	11-9-53	Over 2 years
65	S.R.O. 1455 of 51	22-9-51	11-9-53	Over 1 year
66	S.R.O. 1681 of 51	3-11-51	11-9-53	Over 1 year
67	S.R.O. 1721 of 51	10-11-51	11-9-53	Over 1 year
68	S.R.O. 1768 of 51	17-11-51	11-9-53	Over 1 year
69	S.R.O. 2042 of 51	22-12-51	11-9-53	Over 1 year
70	S.R.O. 234 of 52	9-2-52	11-9-53	Over 1 year
71	S.R.O. 271 of 52	16-2-52	11-9-53	Over 1 year
72	S.R.O. 416 of 52	8-3-52	11-9-53	Over 1 year

Amendments to Mineral Concession Rules, 1949.

1	2	3	4	5	6	7
73	S.R.O. 612 of 53 . . .	Amendments to the Mineral Con- cession Rules, 1949.	5-4-52	11-9-53	Over 1 year	
74	S.R.O. 1103 of 53 . . .		21-6-52	11-9-53	Over 1 year	
75	S.R.O. 1256 of 52 . . .		19-7-52	11-9-53	Over 1 year	
76	S.R.O. 1803 of 52 . . .		1-11-52	11-9-53	Over 10 months	
77	S.R.O. 445 of 53 . . .		7-3-53	11-9-53	Over 6 months	
78	S.R.O. 446 of 53 . . .		7-3-53	11-9-53	Over 6 months	
79	S.R.O. 715 of 53 . . .		18-4-53	11-9-53	Over 4 months	
80	S.R.O. 1265 of 53 . . .		27-6-53	11-9-53	Over 1 month	
81	S.R.O. 1410 of 53 . . .		18-7-53	11-9-53	Over 1 month	
82	S.R.O. 1501 of 53 . . .		1-8-53	11-9-53	Over 1 month	
83	S.R.O. 1502 of 53 . . .		1-8-53	11-9-53	Over 1 month	
84	S.R.O. 2025 of 53 . . .		31-10-53	23-12-53	Over 1 month	
85	S.R.O. 2190 of 53 . . .		28-11-53	23-12-53	24 days	
86	S.R.O. 2367 of 53 . . .		26-12-53	23-12-53	..	Laid on the Table before publication in the Gazette.
87	S.R.O. 133 of 50 . . .	Amendments to Petroleum Concession Rules, 1949.	10-6-50	23-12-53	Over 3 years	
88	S.R.O. 235 of 1952 . . .		9-2-52	23-12-53	Over 1 year	
89	S.R.O. 1856 of 1953 . . .		1-10-53	2-12-53	16 days	

The Estate Duty (Controlled Companies) Rules, 1953.

13-2-54

4-12-53

It was required to be laid on the Table before its publication in the Gazette.

APPENDIX II

[See Para. 28]

LIST OF PENDING BILLS CONTAINING PROPOSALS FOR DELEGATION OF LEGISLATIVE POWER

Sl. No.	Name of the Bill	Relevant Clause No.	Remarks
1	The Coffee Market Expansion (Amendment) Bill, 1954	19	
2	The Rubber (Production and Marketing) Amendment Bill, 1952	13	
3	The Indian Railways (Amendment) Bill, 1953	2	
4	The Patents Bill, 1953	113(1)	
5	The Prisoners (Attendance in Courts) Bill, 1953	9(1)	
6	The Companies Bill, 1953	592, 594 & 596	
7	The Government Premises (Eviction) Amendment Bill, 1954	6	
8	The Territorial Army (Amendment) Bill, 1954	5	
9	The Auxiliary Territorial Force Bill, 1954	11	
10	The Industrial Disputes (Amendment) Bill, 1954.	..	New clause to amend Section 38 of the principal Act recommended to be inserted.
11	The Drugs (Amendment) Bill, 1954	7 & 15	
12	The Dentists (Amendment) Bill, 1954		New clauses to amend Sections 20 and 55 of the principal Act recommended to be inserted.

MINUTES

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.

* * * * *

II

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.

* * * * *

* * * * *

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

- (i) S.R.O. 85 of 1953 making amendments to the Cinematograph (Censorship) Rules, 1951 which was laid on the Table on the 3rd March, 1953.
- (ii) S.R.O. 359 of 1953 regarding the Development Councils (Procedural) Rules, 1952 which was laid on the Table on the 25th March, 1953.
- (iii) S.R.O. 32 of 1953 regarding amendment to the Ministers (Advance for Motor-Car) Rules, 1952 which was laid on the Table on 21st April, 1953.

- (iv) S.R.O. 117 of 1953 regarding Rule under Sec. 11 of the Salaries and Allowances of Ministers Act, 1952, which was laid on the Table on 21st April, 1953.
- (v) S.R.O. 1073 of 1953 regarding Rule for Sumptuary Allowance for Minister of Defence Organisation, which was laid on the Table on 5th August, 1953.
- (vi) S.R.O. 175 of 1953 regarding the Reserve and Auxiliary Air Forces Act Rules, 1953, which was laid on the Table on 29th April, 1953.
- (vii) S.R.O. 416 of 1953 regarding Amendments to the Central Excise Rules, 1944, which was laid on the Table on 15th May, 1953.

5. As regards S.R.O. 85 of 1953, the Committee felt that it was very widely worded. The last clause "Defect in the constitution of the Board" was considered to be an omnibus clause. Further, it was considered that this new Rule was a substantive provision of law by which jurisdiction of the Courts was being curtailed and that it could more appropriately be provided in the Act itself. Before a decision was taken, the Committee desired that the Ministry of **Information** and Broadcasting should be asked to submit a memorandum on these points.

6. As regards S.R.O. 359 of 1953, it was felt that the provisions of Rule 4(1) were rather unusual. It was considered that there should be one method for the appointment of Chairman either by election or by nomination. The Committee desired that the Ministry of Commerce and Industry should be asked to submit a memorandum stating the necessity for this unusual procedure.

7. As regards S.R.Os. 32, 117 and 1073 of 1953, the Committee felt that it was not desirable to give powers to the Government to frame rules for granting allowances or conditions under which such allowances were admissible to the Ministers, as in effect it would mean that Ministers were legislating for themselves. The Committee also examined Section 11 of the Act and felt that it was very widely worded in as much full power had been given to the Government to frame rules to carry out the purposes of the Act which was to grant salary and allowances to Ministers. The Committee thought that it was unwise for the House to give blank cheque to the Ministers to do what they liked in the matter of their salary and allowances which were essentially money and financial matters without the positive vote of the House. The Committee wished to make it clear that they had no doubt that Government would be extremely cautious in framing such rules and take every care that principles and proprieties were observed meticulously, but in order to win

public confidence and to avoid uninformed criticism it would be desirable that whenever such powers were delegated to the Government, the rules framed by them were subject to the affirmative vote of the House, and as regards the present Act a convention should be established that rules should not come into force until a resolution for approving them was brought before the House and members given an opportunity to discuss the rules before they came into force.

8. As regards S.R.O. 416 of 1953, the Committee felt that the procedure for getting compensation under rule 148 was not clear and that the necessity for the new amendment to rule 147 was not understood. It was, therefore, decided that the Ministry of Finance should be requested to submit a memorandum on these points. Further, the Ministry should also be requested to clarify whether the owner was compensated for the theft and if so, whether the compensation was the value of the articles stolen minus the duty on such losses.

9. The Committee then adjourned at 6-20 P.M. to meet again on the 1st April, 1954 at 5 P.M.

III

Fifth Sitting

Parliament House, New Delhi: Thursday, the 6th May, 1954.

The Committee met at 11 A.M.

2. The following were present:

MEMBERS

Shri S V. Ramaswamy
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.*

A. L. Rai—*Under Secretary.*

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

4. The Committee considered the reply from the Ministry of Information and Broadcasting in regard to new rule 6A made under S.R.O. 85 of 1953, making amendment to the Cinematograph (Censorship) Rules, 1951, which was referred to them under the direction of the Committee for submitting a memorandum on certain aspects of this rule. The Committee noted with satisfaction that the Government had accepted their recommendations in this regard and desired that a copy of the proposed amendment to the Cinematograph Act, 1952 should be placed before the Committee in advance of its being brought before the House so that they may consider it and make suggestions if necessary.

5. The Committee also considered memorandum No. 18 (Appendix I) on S.R.O. No. 359 of 1953 regarding the Development Councils

(Procedural) Rules, 1952. The Committee at their meeting held on the 25th March, 1956 had considered this S.R.O. and felt that the provisions of rule 4(1) of these Rules regarding the method of appointment of a Chairman were unusual. They had directed that the Ministry should be requested to submit a memorandum on it. The salient points of the reply received from the Ministry of Commerce and Industry, were considered but the Committee were not convinced by the arguments adduced therein. They felt that there should be only one system of appointing Chairman, either by election or by nomination.

6. The Committee then considered memorandum No. 19 (Appendix II) on S.R.O. 416 of 1953 amending the Central Excise Rules, 1944. The Committee at their meeting held on the 25th March had considered this S.R.O. and had directed that the views of the Ministry of Finance should be ascertained on the necessity of amendment to rule 147 and the procedure for obtaining compensation under rule 148 of the Central Excise Rules, 1944. The reply of the Ministry of Finance in regard to this point, as contained in Memorandum No. 19 (Appendix II), were considered by the Committee and they felt that the interpretation of the Law Ministry regarding "unavoidable accident" with reference to the goods lost by theft was correct and was similar to the views held by the Committee. They therefore recommended that the rules should be amended so as to bring them in accord with this interpretation.

7. The Committee considered Memorandum No. 6 (Appendix III) on S.R.O. No. 1172 amending the Delhi Road Transport Authority (Functions and Duties of the General Manager and Chief Accounts Officer) Rules, 1952 and felt that the amendment made to these Rules under this S.R.O. was not in conformity with sub-section (3) of Section 16 of the Delhi Road Transport Authority Act, 1950 and should be amended.

8. * * * * *

9. In their First Report the Committee had brought to the notice of the House the delay in laying on the Table the rules framed under the Estate Duty Act. A communication had been received from the Deputy Minister of Finance, Shri M. C. Shah, explaining the delay in laying on the Table of the House the rules framed under the Act which was placed before the Committee. The Deputy Minister had stated that on account of the delay in the Press in regard to the printing of the Rules, there was a corresponding delay in laying the rules on the Table of the House and that there was no delay on the part of the Central Board of Revenue. The Com-

mittee accepted the explanation furnished by the Deputy Minister, but felt that such excuses were untenable and should be avoided in future.

10. The Committee tentatively decided that they would meet a few days before the commencement of the next session of the House to consider the rules framed under the Estate Duty Act and other outstanding matters.

11. The Committee then adjourned at 11-55 A.M. to meet again on Tuesday, the 11th May, 1954 at 5 P.M. to consider the memoranda on the remaining S.R.Os. circulated to members of the Committee.

IV

Sixth Sitting

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

The Committee met at 5 P.M.

2. 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. Shakhder—*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) | * | * | * | * | * |
| (2) | * | * | * | * | * |
| (3) | S.R.O. 1681 of 1951 amending the Mineral Concession Rules, 1949. | | | | |
| (4) | * | * | * | * | * |
| (5) | S.R.O. 235 of 1952 amending the Petroleum Concession Rules, 1949. | | | | |
| (6) | S.R.O. 133 of 1950 amending the Petroleum Concession Rules, 1949. | | | | |

(7) Notifications Nos. TA(AD)/25/78/52 and TA(AD)/25/140/51 of 1952 regarding the Bilaspur Motor Vehicles Rules, 1951.

(8) S.R.O. 295 of 1953 amending the Insurance Rules, 1939.

(9) * * * * *

(10) * * * * *

(11) The Rubber (Production and Marketing) Rules, 1947. (Memorandum No. 20).

(12) Pending Bills containing proposals for delegation of legislative powers. (Memorandum No. 21).

(13) Powers regarding levy of duties delegated to the Central Government in the Coffee Market Expansion Act, 1942. (Memorandum No. 22).

5. * * * * *

6. As regards the question of delay in laying the S.R.O. on the Table of the House the Committee considered that a list of delays in regard to all S.R.Os. should be prepared and incorporated in the next Report of the Committee with a recommendation that such delays were undesirable and should not occur.

7. * * * * *

8. S. R. O. 1681 of 1951.—The Committee felt that powers given to the Central Government under the rules were repugnant to the Mines and Minerals (Regulation and Development) Act, 1948. They felt that the provision as to which court should take cognizance of the offence under the Act, and the period up to which it could take such cognizance were not matters to be provided in the rules and they desired that the Ministry should take action to provide for these matters in the Act itself.

9. * * * * *

10. S.R.Os. 235 of 1952 and 133 of 1950, Notifications Nos. TA(AD)/25/78/52 and TA(AD)/25/140/51 of 1952 and S.R.O. 295 of 1953.—The Committee took note of the delays in laying on the Table of the House of these orders and desired that these cases might also be included in the list referred to in para. 6 above for reporting to the House.

11. * * * * *

12. * * * * *

13. Memorandum No. 20 (Appendix IV) regarding the Rubber (Production and Marketing) Rules, 1947—The Committee felt that there was a lacuna in the rules as regards laying down of a definite

procedure regarding conditions of service of and disciplinary action against officers and staff of the Board and recommended that a definite procedure should be provided in the rules itself as was the case in the rules of other statutory commodity bodies under the same Ministry. They considered it all the more anomalous that while the same Ministry had provided for rules in regard to the conditions of service of the staff of various other statutory bodies but they had not provided for any specific procedure in regard to the Rubber Board.

14. The Committee desired that the Ministry should be asked to furnish a list of statutory commodity bodies which had framed rules in regard to the conditions of service of and disciplinary action against their staff together with the relevant rules.

15. *Memorandum No. 21 (Appendix V) regarding Pending Bills containing proposals for delegation of legislative powers.*—The Committee recommended that all Bills containing proposals for delegation of legislative powers should conform to the recommendations made by the Committee in their First Report regarding the laying of the rules on the Table of the House and that suitable amendments should be made in the pending Bills at an appropriate time.

16. *Memorandum No. 22 (Appendix VI) regarding powers for levy of duties delegated to the Central Government in the Coffee Market Expansion Act, 1942.*—The Committee felt that all the notifications regarding changes made in regard to levy of duties issued under the Coffee Market Expansion Act, 1942 should invariably be laid on the Table of the House and while laying such notifications on the Table, reasons ought to be given as to the necessity and the nature of changes made in the levy of duties, in order to enable the House to raise a discussion if it so desired.

17. The Committee also decided that the next Report of the Committee containing their recommendations in regard to all the matters discussed so far after the presentation of the First Report might be presented to the House in the beginning of the next session.

18. The Committee then adjourned at 6-30 P.M.

V

Seventh Sitting

Parliament House, New Delhi: Monday, the 20th 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 M. S. Gurupadaswamy

Shri N. C. Chatterjee

Shri Tulsidas Kilachand

Shri Hanamantrao Ganeshrao Vaishnav.

Shri Nandlal Joshi.

Dr. A. Krishnaswami.

SECRETARIAT

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

Shri M. Sundar Raj—*Deputy Secretary.*

Shri A. L. Rai—*Under Secretary.*

3. The Committee took up consideration of the draft Second Report, copies of which had already been circulated to members and adopted the Report subject to the additions etc., mentioned in para. 4.

4. The Committee also considered Memorandum No. 35 (Appendix VII) prepared by the Lok Sabha Secretariat regarding the pending Bills containing proposals for delegation of legislative powers and decided that the Bills referred to therein be added to Appendix II of the Report with necessary remarks. Consequently,

Appendix II of the Report was revised and paras. 28 and 29 were amended as follows:—

Para. 28.—In lines 2-3, for “at the termination of the Sixth Session”, substitute “on the 2nd September, 1954”.

Para. 29.—At the end, add the following:—

“and in the amending Bills which do not touch the rule-making sections of the Principal Acts, new clauses making the necessary provisions should be inserted.”

6. The Committee adjourned at 5-5 P.M. to meet again at 5-5 P.M. on Tuesday, the 21st September, 1954.

APPENDICES TO THE MINUTES

APPENDIX I

(Vide para. 5 of Minutes of Fifth Sitting)

LOK SABHA SECRETARIAT

Committee on Subordinate Legislation

MEMORANDUM No. 18

SUBJECT:—S.R.O. 359 regarding Development Councils (Procedural) Rules, 1952.

1. Rule 4(1) of the Development Councils (Procedural) Rules, 1952 (S.R.O. 359 of 1953) provides that after the appointment of the first Chairman of the Council, the subsequent Chairman shall be either nominated by the Central Government or elected by members of the Council as may be decided by the Central Government on each occasion.

2. The Committee on Subordinate Legislation, at its meeting held on the 25th March, 1954, considered this S.R.O. and felt that the provisions of Rule 4(1) of these Rules were unusual and that there should be one method for appointment of Chairman, either by election or by nomination.

3. In pursuance of the direction of the Committee, the Ministry of Commerce and Industry were requested to submit a memorandum stating the necessity for the procedure.

4. The Ministry of Commerce and Industry have stated the following points in their reply:—

- (i) That Rule 4(1) of the Development Councils (Procedural) Rules, 1952 is based on the recommendation of the Central Advisory Council of Industries (Development and Regulation) Act, 1951.
- (ii) That the Central Advisory Council expressed the opinion that the first Chairman of the Development Council should be nominated by the Central Government and that the question whether the subsequent Chairman should be elected or nominated should be considered by Government in the light of the working of the Development Councils.
- (iii) That the idea of establishing Development Councils for industries has been borrowed from U.K.
- (iv) That the Development Councils which were established in U.K. have had a chequered career in that country.

- (v) That the Government of India naturally, therefore, want to go carefully in introducing this new type of organisation in this country.
- (vi) That the Government consider that the success of these Councils would depend on the personality of the Chairman.
- (vii) That the Government thought it advisable to accept the advice of the representatives of industries when they themselves desired that the Chairman should be nominated initially and that the whole question should be considered at a later stage.

5. If the intention of the Government had been to consider the question of subsequent appointment or election of Chairman in the light of experience gained by the working of these Development Councils, this should have been brought out in Rule 4(1) of the Development Councils (Procedural) Rules, 1952. It is, therefore, for the consideration of the Committee whether the attention of the Government should be invited to this aspect of the matter in order that they may take steps to amend the rules suitably to bring out this intention.

APPENDIX II

(Vide para. 6 of Minutes of Fifth Sitting)

LOK SABHA SECRETARIAT

Committee on Subordinate Legislation

MEMORANDUM No. 19

SUBJECT:—S.R.O. 416 regarding Amendment to the Central Excise Rules, 1944.

Under Rule 147 of the Central Excise Rules, 1944, prior to its amendment, the Collector had the power to remit duty on lost goods. By S.R.O. 416 of 1953, this restriction is sought to be fettered by addition of a new Proviso that if goods are lost by theft, duty shall be chargeable on all such losses.

2. At its meeting held on the 25th March, 1954, the Committee on Subordinate Legislation considered this S.R.O. and directed that the views of the Ministry of Finance should be ascertained on the following points:—

(i) The necessity for the amendment to Rule 147.

(ii) The procedure for getting compensation under Rule 148.

3. The matter was referred to the Ministry of Finance who have, in their reply, put forward the following points:—

(a) *Regarding Amendment to Rule 147.*—(i) The Ministry of Finance have drawn a distinction between goods stolen and goods otherwise lost or destroyed for the purpose of duty. It was held by the Ministry of Law that if the goods were lost by theft in such circumstances that the loss could not be avoided by reasonable care and precaution, it would be a loss by "Unavoidable accident". This interpretation of the Ministry of Law went far beyond the intentions of the Ministry of Finance in respect of goods stolen, as there is possibility of consumption of goods and thus there is no case for remission of duty and that granting remission in respect of stolen goods would be to a premium on unauthorised removals.

(ii) The Ministry of Finance have further stated that theft and pilferage are normal trade risks and the licensees

can cover themselves, as they generally do, against such losses by insurance and the state should not be deprived of the revenue legitimately due to it. The original rule has, therefore, been amended thereby providing specifically that duty shall be chargeable on all such losses.

- (b) *Regarding Compensation under Rule 148.*—With regard to the compensation payable for loss or damage in a warehouse, the Ministry of Finance have stated that no specific procedure has been laid down. The person claiming compensation will have to seek redress in a Court of Law. They have also stated that compensation under the rule must necessarily be limited to the value of goods excluding the duty thereon.

4. As regards the amendment to Rule 147 it may be mentioned that it will mean double hardship to the owner of goods in as much as the owner will have to bear the loss and to pay the duty on the goods stolen. The Committee may, therefore, consider whether duty should be charged on the owner of the goods because the goods stolen have a possibility of consumption and also because the licensees are expected to bear the normal trade risks. The Committee may also consider whether the Government be requested to frame detailed procedure for recovery of compensation under Rule 148.

APPENDIX III

(Vide para. 7 of minutes of Fifth Sitting)

MEMORANDUM No. 6

6. Memorandum on S.R.O. 1172 of 1953 making amendments to the Delhi Road Transport Authority (Functions and Duties of the General Manager and Chief Accounts Officer) Rules, 1952

S. N.	S.R.O. No. as published in the Gazette of India, Part II—Sec. 3 & 4	Name or description of the order	Authority under which laid on the Table	Whether subject to modifications by the House	Period for which required to be laid on the Table	Date on which laid on the Table	Date up-to which laid on the Table	Date on which notified in the Gazette	Remarks
1	2	3	4	5	6	7	8	9	10
1	S.R.O. 1172	Amdt. to the Delhi Road Transport Authority (Functions and Duties of the General Manager and Chief Accounts Officer) Rules, 1952.	Sec. 52 (3) of the Delhi Road Transport Authority Act, 1950.	Yes.	Not less than 14 days.	12-8-53	26-8-53	20-6-53	This amendment provides that the views of the Chief Accounts Officer can be over-ruled with the permission of the Chairman even before the proposal goes to the Authority. It is for consideration whether this provision is in conflict with Sec. 16(3) of the Act.

APPENDIX IV

(Vide para. 13 of minutes of Sixth Sitting)

LOK SABHA SECRETARIAT

Committee on Subordinate Legislation

MEMORANDUM No. 20

SUBJECT:—Rubber (Marketing and Production) Rules, 1947.

The Indian Rubber Board is a statutory body constituted under the Rubber (Production and Marketing) Act, 1947. Section 25 of the Act provides that the Central Government may by notification in the official gazette make rules *inter alia* regarding pay, allowances, leave and conditions of service of officers and servants of the Board. The Rubber (Production and Marketing) Rules, 1947, were accordingly framed in pursuance of this section. The conditions of service of the officers and servants of the Board are governed by Rule 17 of the Rules, which is reproduced below:—

- (i) "Subject to the provisions of the Act and of the foregoing sub-rules and save in regard to Government servants who are on deputation to the Board, the Chairman shall have power to appoint, dismiss, grant leave, fine, suspend or reduce any person in the service of the Board.

Provided that no person be appointed to, or dismissed from, an office the salary of which is Rs. 100 p.m. and upwards without the sanction of the Board.

- (ii) The authority competent to dismiss, suspend, promote or degrade shall be the authority empowered to appoint such officer or servant.
- (iii) The Board may by resolution delegate to the Vice-Chairman, any Committee, or any officer of the Board such of its powers under this rule, as it deems fit."

2. Shri Mathew gave notice of an unstarred question on 31st March, 1954 asking for the reasons for not having made provision in the Rubber (Production and Marketing) Rules of the Rubber Board against arbitrary degrading, suspension or dismissals of staff without regular proceedings, written charges and explanations in writing as already provided in the rules of other statutory commodity bodies under the same Ministry. The subject matter of the

question has been referred by the Speaker to the Committee for examination.

3. The Ministry of Commerce and Industry to whom the matter was referred, have stated that the absence of detailed provision regarding the procedure to be followed in such cases does not mean that disciplinary action can be taken arbitrarily. They have also stated that the Board has been functioning since 1948, and as far as Government are aware, there has been no occasion for the Board to take disciplinary action involving degrading, suspension or dismissal of any member of the staff.

4. The fact that there has been no occasion since 1948 for the Board to take disciplinary action seems to give no guarantee that in future also disciplinary action will not be taken against the officers and staff of the Board. Although the Act does not make obligatory on the Central Government to frame detailed rules on the subject, yet it seems necessary to lay down a uniform procedure for deciding such cases and to afford fair opportunity to all concerned. The Committee may consider whether the Central Government should be asked to consider the desirability of framing rules in this regard.

APPENDIX V

(Vide para. 15 of minutes of Sixth Sitting)

LOK SABHA SECRETARIAT

Committee on Subordinate Legislation.

MEMORANDUM No. 21.

SUBJECT:—*Pending Bills containing proposals for delegation of Legislative Powers*

The following recommendations regarding the provisions in Bills containing proposals for delegation of legislative powers to subordinate authorities, were made by the Committee on Subordinate Legislation in its First Report which was presented to the House on the 17th March, 1954:—

- “(i) That in future the Acts containing provision for making rules etc. shall lay down that such rules shall be laid on the Table as soon as possible;
- (ii) 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 publication; and
- (iii) That in future the Acts authorizing delegation of rule-making power shall contain express provision that the rules made thereunder shall be subject to such modifications as the House may like to make.”

2. Certain Bills which seek to delegate rule-making powers are pending before the House, but none of them conforms *in toto* to the recommendations made by the Committee. The Committee may like to recommend to the House that the relevant clauses in these Bills should be so amended as to carry into effect the 3 recommendations made by the Committee in their First Report, when these Bills are taken up for consideration in the House.

3. These Bills together with the relevant clauses are mentioned below:—

I. *The Food Adulteration Bill, 1952*

4. Clause 23 of this Bill empowers the Central Government to make rules, and clause 24 empowers the State Government to make rules, but neither of these clauses contain the 3 provisions mentioned in para. 1 above.

5. It may also be mentioned that the powers given under clauses 23 and 24 are very wide.

II. *The Coffee Market Expansion (Amendment) Bill, 1952*

6. Clause 19 of the Bill seeks to amend section 48 of the Coffee Market Expansion Act, 1942, which delegates rule-making powers to the Central Government. There is no provision either in the original Act or in this amending Bill to implement the 3 recommendations of the Committee mentioned above.

III. *The Rubber (Production and Marketing) Amendment Bill, 1952*

7. Clause 13 of the Bill proposes an amendment to section 25 of the Rubber (Production and Marketing) Act, 1947. In the proposed amendment the matters on which the Central Government can frame rules have been explained in greater details. Neither in the provisions of section 25 of the principal Act nor in this amending Bill is there any provision that the rules made by the Central Government shall be laid on the Table of the House.

IV. *The Indian Railways (Amendment) Bill, 1953*

8. Clause 2 of the Bill proposes amendment to section 71E of the Indian Railways Act, 1890 regarding power to make rules. There is no provision in the original Act as also in the amending Bill that these rules shall be laid on the Table of the House

V. *The Patents Bill, 1953*

9. Clause 113(1) of the Bill empowers the Central Government to make rules for carrying out the purposes of the Act. None of the 3 recommendations contained in the First Report of the Committee has been complied with in this clause of the Bill.

10. The Government have now forwarded a memorandum (Annexure I) under rule 88 of the Rules of Procedure, in respect of clause 113 of the Patents Bill.

VI. *The Prisoners (Attendance in Courts) Bill, 1953*

11. Clause 9(1) of the Bill empowers the State Governments to make rules to carry out the purposes of the Act. None of the 3 recommendations of the Committee has been incorporated in this clause.

VII. *The Companies Bill, 1953*

12. Clause 592 of the Bill provides that the Central Government may, by notification in the official Gazette, delegate any of its powers or functions under the Act to such authority or persons and subject

to such conditions, restrictions and limitations as may be specified in the notification. The attention of the Committee may be invited to this aspect.

13. Clause 594 of the Bill provides that the Central Government may, by notification in the official Gazette, alter or add to any of the regulations, rules, tables, forms and other provisions contained in any of the Schedules of the Act except Schedules XI and XII. The clause does not provide that such notifications shall be laid before the House.

14. Clause 596 seeks to give powers to the Central Government to make rules but it does not provide that a copy of the rules shall be laid on the Table.

15. In accordance with the recommendation made by the Committee in para. 6(ii) of their First Report, the Government has now forwarded a memorandum (Annexure II) on clause 592 of the Bill. In fact the memorandum should have included clauses 594 and 596 also.

16. The memorandum on clause 592 seeks to show that it is necessary that the Central Government be given powers to delegate its powers to Central Organization which will control the working of all Companies. The memorandum also indicates that it is likely that the Central Government may delegate its powers to the State Governments as well. It is considered that these provisions should have been made in the Bill itself.

VIII. *The Government Premises (Eviction) Amendment Bill, 1953*

17. Section 10 of the Government Premises (Eviction) Act, 1950 empowers the Central Government to make rules. Clause 2 of the amending Bill, which is pending before the House, makes a verbal change by introducing the words "public premises" for the words "Government premises" referred to in that section.

Now that Section 10 of the principal Act is sought to be amended, the Committee may like to recommend that the entire Section 10 may be so amended as to comply with the three recommendations of the Committee.

ANNEXURE I

(Vide para. 10 of Appendix V)

Explanatory memorandum to the Patents Bill, 1953 regarding proposals for subordinate legislation

Clause 113 of the Patents Bill, 1953, confers upon the Central Government power to make rules for carrying out the purposes of the Act. The provision is of a normal character and the rule making power is mainly confined to matters of procedure only, such as form of application for patents, the manner in which an application may be filed in the Patent Office, etc.

2. In so far as the fees are concerned sub-Clause (1) of Clause 100 read with the First Schedule mentions the maximum fees and the fees prescribed by the Rules are not to exceed the maximum laid down. As regards the qualifications of Patent Agents-sub-clause (1) of Clause 113, it was not possible to specify such qualifications in the statute, because the intention here is to control the profession by registration on the result of a qualifying examination. The Patents Enquiry Committee, at whose instance this provision has been made, had recommended that the Central Government should be authorised to frame rules laying down the qualifications for admission in the qualifying examination as also the subjects for such examination. The Committee has also suggested the minimum qualifications for eligibility of candidates as also the different subjects to be prescribed.

3. As regards matters in respect of which the Controller shall have the powers of a Civil Court [sub-Clause (k)], it may be stated that in the day to day discharge of his functions the Controller of Patents and Designs has to exercise several quasi-judicial functions and, therefore, for the proper discharge of his functions he has necessarily to be invested with certain powers of a Civil Court (Vide Clause 71) such as:—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) receiving evidence on affidavits;
- (d) issuing commissions for the examination of witnesses.

4. As regards the conditions subject to which any act may be done by a patent agent on behalf of his principal, clause 75 lays

down the nature of the documents which should be signed and verified in the prescribed manner by the applicant for a patent and in the event of his absence away from India, they might be signed and verified on his behalf by a duly authorised patent agent. Rules have, therefore, to be framed for laying down conditions under which a patent agent may be authorised to do certain acts on behalf of his principal.

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ANNEXURE II

(Vide para. 15 of Appendix V)

*Explanatory memorandum to the Companies Bill, 1953 regarding
Proposals for subordinate legislation*

Clause 592 of the Companies Bill, 1953, provides that the Central Government may, by notification in the Official Gazette, delegate any of its powers or functions proposed under the Bill to such authority or person, and subject to such conditions, restrictions and limitations, as may be specified in the notification. As has been indicated in the Notes on Clauses of the Bill the intention of this Clause is to provide for the delegation by the Central Government of the powers and functions that would vest in it when the Bill is passed into law, to a Central authority which may be set up for the administration of the company law and related matters. It may be recalled that the Company Law Committee strongly recommended that the Central Government should resume its responsibility for the administration of Joint Stock Companies and that a competent Central Organisation should be set up at the Centre under the new Act for the administration of company law as well as for the discharge of other related functions, e.g., capital issue control, regulation of stock exchanges, etc. Pursuant to these recommendations the Central Government has already resumed its responsibility for the administration of company law which had been previously delegated to the State Governments and has set up a special Departmental Organisation for this purpose under the administrative control of the Department of Economic Affairs. It is this Central Organisation to which it is proposed to delegate the powers and functions of the Central Government under the new Act except those powers which by their very nature may have to be reserved for the Central Government. Possibly these reserved powers will include the powers conferred on the Central Government by clauses 572 and 594. In some special cases, some of the powers under the new Act may conceivably have to be delegated to State Governments. It would thus appear that the delegation contemplated under clause 592 of the Companies Bill is a normal type of delegation.

APPENDIX VI

(Vide para. 16 of Minutes of Sixth Sitting)

LOK SABHA SECRETARIAT

Committee on Subordinate Legislation

MEMORANDUM No. 22

SUBJECT:—*Powers regarding levy of duties delegated to the Central Government in the Coffee Market Expansion Act, 1942.*

Section 11 of the Coffee Market Expansion Act, 1942 provides that duty of customs shall be levied on all coffee produced in India and exported from India @ Re. 1 per cwt., but the Central Government shall have the power to reduce this duty if they consider it necessary.

2. Similarly, section 12 of the Coffee Market Expansion Act, 1942 provides that a duty of excise shall be levied at the rate not exceeding Re. 1 per cwt., but the Central Government shall have the power to reduce this rate of duty.

3. Under these two sections the Central Government has got power to reduce the duty and not to enhance the duty.

4. Although these two provisions are in the nature of relief measures it is for consideration of the Committee on Subordinate Legislation whether such powers should be given to the Central Government.

APPENDIX VII

(Vide para. 4 of the Minutes of the Seventh Sitting)

LOK SABHA SECRETARIAT

Committee on Subordinate Legislation

MEMORANDUM No. 35

SUBJECT:—*Pending Bills containing proposals for delegation of legislative powers.*

The following recommendations regarding the provisions in Bills containing proposals for delegation of legislative powers to subordinate authorities were made by the Committee on Subordinate Legislation in their First Report:

- “(i) That in future the Acts containing provision for making rules etc., shall lay down that such rules shall be laid on the Table as soon as possible;
- (ii) 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 publication; and
- (iii) 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.”

2. Certain Bills pending in the Lok Sabha which do not contain any provision for the laying of the Rules before Legislatures are brought to the notice of the Committee on Subordinate Legislation. The particulars of the Bills together with the recommendations, are given below:—

I. *The Government Premises (Eviction) Amendment Bill, 1954.*

3. This Bill has been introduced during the Seventh Session after withdrawal of a Bill of the same name introduced in 1953. Section 10 of the Government Premises (Eviction) Act, 1950, empowers the Central Government to make rules for carrying out the purposes of the Act but there is no provision in the Act requiring the rules to be laid before Parliament.

Clause 6 of the Bill seeks to amend section 10 of the Act. The Committee may consider if this opportunity may be taken to recom-

mend the amendment of clause 6 by inserting in section 10, of the parent Act a provision for laying rules before Parliament.

II. *The Territorial Army (Amendment) Bill, 1954*

4. Section 14 of the Territorial Army Act, 1948, empowers the Central Government to make rules for carrying out the purposes of the Act but there is no provision in the Act for laying the rules before Parliament.

Clause 5 of the amending Bill seeks to amend section 14 of the Act for insertion therein of two more items on which rules can be framed by the Central Government. The Committee may recommend that clause 5 should be amended to include a provision for the laying before Parliament rules made under section 14 of the Act.

III. *The Auxiliary Territorial Force Bill, 1954*

5. Clause 11 of the Bill seeks to empower the Central Government to make rules for carrying out the purposes of the Act. There is no provision in the Bill for laying before Parliament the rules made under the Act. The Committee may recommend amendment of this clause at an appropriate time to provide that rules made under the Act should be laid on the Table of the Houses of Parliament.

IV. *The Industrial Disputes (Amendment) Bill, 1954*

(As passed by the Rajya Sabha)

6. Section 38 of the Industrial Disputes Act, 1947, empowers the appropriate Government (Central or State) to make rules. There is no provision requiring that the rules made should be laid either before Parliament or the State Legislatures.

The amending Bill seeks to amend only sections 25A and 25J of the Act. It does not touch the rule-making section.

The Committee may consider if this opportunity may be taken to recommend the inclusion of a new clause in the Bill for amending section 38 of the Act to provide for the laying before Parliament or State Legislatures, as the case may be, the rules made under the section.

V. *The Drugs (Amendment) Bill, 1954*

(As passed by the Rajya Sabha)

7. Sections 12 and 33 of the Drugs Act, 1940, empower the Central and the State Governments respectively to make rules for carrying out the purposes of the Act. There is no provision therein to lay the rules before Parliament or the State Legislatures.

Clause 7 of the Bill seeks to amend section 12 and clause 15 seeks to amend section 33 of the Act. The Committee may like to take this opportunity to recommend that clauses 7 and 15, may be amended to provide for the laying of the rules on the Table of Parliament and the State Legislatures concerned.

VI. *The Dentists (Amendment) Bill, 1954*

(As passed by the Rajya Sabha)

8. Sections 20 and 55 of the Dentists Act, 1948, empower the Central and State Governments respectively to make rules. They do not provide that the rules should be laid before Parliament or the State Legislatures.

The amending Bill does not cover section 20 or 55 of the Act.

The Committee may consider if this opportunity may be taken to recommend the insertion of new clauses in the Bill to provide that rules made under sections 20 and 55 of the Act should be laid on the Table of Parliament and the State Legislatures.

9. If the Committee approve, the recommendations detailed above may be included in paras. 28 and 29 of the draft of the Second Report which contains similar recommendations in regard to other pending Bills.

NEW DELHI;

The 11th September, 1954.
