

**COMMITTEE
ON
SUBORDINATE LEGISLATION**

(FIFTH LOK SABHA)

THIRTEENTH REPORT

(Presented on the 12th August, 1974)



**LOK SABHA SECRETARIAT
NEW DELHI**

August, 1974/Sravana, 1896 (Saka)

Price : Rs. 2.75 paise

LOK SABHA SECRETARIAT

Corrigenda to the Thirteenth Report of the
Committee on Subordinate Legislation (Fifth
Lok Sabha)

<u>Page</u>	<u>Line</u>	<u>for</u>	<u>read</u>
12	2 from bottom	of status	status
15	18	Low	Law
21	1	They	The
	6	originating	originating
	21	later	latter
25	1 from bottom	explained	explained
26	1	Willful	Wilful
28	4	matter	the matter
30	16	requiring	requiring
44	17	action	action taken
	8 from bottom	suspension	suspension
55	12 from bottom	laign	laying
56	17 from bottom	the prompt	prompt

C O N T E N T S

	PARA Nos.	PAGE Nos.
COMPOSITION OF COMMITTEE		(iii)
REPORT :		
I. Introduction	1—6	1
✓ II. Non-framing/Delay in framing of Statutory Recruitment Rules by Ministries/Departments in respect of Services/posts under their control	7—79	2
III. Delay in laying of 'Orders' on the Table of Lok Sabha due to delay in getting the Hindi version of the 'Order' from the Ministry of Law, Justice and Company Affairs (Legislative Department)	80—94	24
IV. The Indian Post Office (Eleventh Amendment) Rules, 1971 . (S. O.3656 of 1971)	95—105	27
V. The Central Excise (Fourth Amendment) Rules, 1973 (G. S. R. 432 of 1973)	106—115	30
VI. The Inter-Zonal Wheat and Wheat Products (Movement Control) Order, 1973 (G. S. R. 187-E of 1973)	116—124	34
VII. (i) The I.A.S. (Appointment by Competitive Examination) Regulations, 1955 (S.R.O. 1215 of 1955).		
(ii) The I.P.S. (Appointment by Competitive Examination) Regulations, 1955 (S.R.O. 1218 of 1955)	125—135	37
VIII. The Petroleum (Second Amendment) Rules, 1970 (G.S.R. 619 of 1970)	136—139	41
IX. Delay in laying of 'Orders' on the Table of the House	140—144	42
X. Implementation of recommendations contained in paras 74 and 75 of the Sixth Report of the Committee on Subordinate Legislation (Fifth Lok Sabha) regarding the Explosives (Amendment) Rules, 1971 (G.S.R. 1077 of 1971)	145—151	43
XI. Action taken by Government on the recommendations made by, and assurances given to, the Committee on Subordinate Legislation	152	46

APPENDICES

I. Summary of main Recommendations/Observations made by the Committee		49
II. Statement showing number of Services/posts in various Ministries/Departments in respect of which Recruitment Rules had not been framed as on 1-4-1973		62
III. Orders in respect of which delay in laying was attributed to non-availability of Hindi version in time		73

	PARA Nos.	PAGE No.
IV. Note explaining the delay in supplying Hindi version of the Emergency Risks (Goods) Insurance (Amendment) Scheme, 1972 and the Emergency Risks (Undertakings) Insurance (Amendment) Scheme, 1972		78
V. Note explaining the reasons for delay in supplying Hindi version of the Employees Family Pension (Second Amendment) Scheme, 1973		79
VI. Note regarding instructions issued by the Legislative Department of the Ministry of Law, Justice and Company Affairs to the Official Language (Legislative) Commission for avoidance of delays in supplying the Hindi version of rules, etc.		80
VII. Statement showing 'Orders' in respect of which there has been delay in laying them on the Table of the House (Ninth Session—Fifth Lok Sabha) but not accompanied by Statements showing reasons for delay		82
VIII. Statement showing action taken by Government on the recommendations made by, and assurances given to, the Committee on Subordinate Legislation		85
IX. Minutes of the Twenty-ninth, Thirty-first, Thirty-eighth, Forty-third, Forty-sixth, Forty-eighth, Fifty-third to Fifty-sixth and Fifty-ninth to Sixty-first sittings of the Committee		93

**COMPOSITION OF THE COMMITTEE ON SUBORDINATE
LEGISLATION (1974-75)**

1. Dr. Kailas—*Chairman*
2. Shri T. Balakrishnaiah
3. Shri K. Chikkalingaiah
4. Shrimati Premalabai Dajisaheb Chavan
5. Shri Khemchandbhai Chavda
6. Shri Md. Jamilurrahman
7. Shri Dinesh Joardar
8. Shri Kamala Prasad
9. Shri Zulfiquar Ali Khan
10. Shri Mohan Swarup
11. Shri Paokai Haokip
12. Shri M. S. Sanjeevi Rao
13. Shri Ebrahim Sulaiman Sait
14. Shri R. R. Sharma
15. Shri Tayyab Hussain

SECRETARIAT

Shri P. K. Patnaik—*Joint Secretary.*

Shri H. G. Paranjpe—*Deputy Secretary.*

REPORT

I

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 their Thirteenth Report.

2. The Committee have held seven sittings on the 25th, 27th to 29th May, 24th July and @5th August, 1974. At their sitting held on the 25th May, 1974, the Committee *heard oral evidence of the representatives of the Ministries of Communications and Law, Justice and Company Affairs (Legislative Department) in regard to (i) the Indian Post Office (Eleventh Amendment) Rules, 1971 and (ii) delay in laying 'Orders' on the Table of Lok Sabha due to delay in getting their Hindi version from the Ministry of Law, Justice and Company Affairs.

3. At their sittings held from the 27th to 29th May, 1974, the Committee took evidence of the Ministries of Finance, Shipping and Transport, Defence, Health and Family Planning, Tourism and Civil Aviation, Labour, Works and Housing, Planning Commission Cabinet Secretariat (Department of Personnel and Administrative Reforms) and the Department of Social Welfare regarding the non-framing/delay in framing of statutory Recruitment Rules in respect of services/posts under their control. They also heard the representatives of the Department of Personnel in regard to the Indian Administrative Service/Indian Police Service (Appointment by Competitive Examination) Regulations, 1955.

4. The Indian Administrative Service (Appointment by Competitive Examination) Regulations, 1955 and the Indian Police Service (Appointment by Competitive Examination) Regulations, 1955 referred to above are out of 49 Regulations which were made prior to 1-7-1967, under or in pursuance of the rules framed under the All India Services Act, 1951 and had not been laid on the Table of the House. The Committee scrutinised these Regulations after they were circulated to Members of Lok Sabha by the Department of Personnel and Administrative Reforms (Cabinet Secretariat) consequent upon the debate in the House on the All India Services Regulations (Indemnity) Bill, 1972. The comments of the Com-

@ Two sittings were held on 5-8-1974.

*The Committee considered some Memoranda also before evidence.

mittee on four such Regulations were included in their Sixth and Seventh Reports presented to Lok Sabha on the 7th May and 25th July, 1973 respectively. Their comments on the Regulations mentioned in para 3 above are contained in paras 125 to 135 of this Report.

5. The Committee considered and adopted this Report at their sittings held on the 5th August, 1974. The Minutes of the sittings which form part of the Report are appended to it.

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

II

NON-FRAMING/DELAY IN FRAMING OF STATUTORY RECRUITMENT RULES BY MINISTRIES/DEPARTMENTS IN RESPECT OF SERVICES/POSTS UNDER THEIR CONTROL.

A—Extent of non-framing or delay in framing statutory Recruitment Rules

7. Article 309 of the Constitution envisages regulation of the recruitment and conditions of service of persons appointed to public services or posts in connection with the affairs of the Union or of any State by an Act of the appropriate Legislature. The proviso to the Article empowers the Executive to make rules having the force of law on the above matters, until the appropriate Legislature legislates on the subject. Prior to the coming into force of the Constitution, the Government of India Act, 1935, and earlier to that, the Government of India Act, 1919, contained provisions empowering the Executive to frame rules regulating service matters.

8. With a view to find out the position regarding framing of statutory recruitment rules for services/posts under the Ministries/Departments of Government of India, the Committee at their sitting held on the 16th April, 1973, decided to obtain information from them on the number of services/posts under them for which statutory Recruitment Rules had not been framed, and the reasons therefor. The Ministries/Departments were requested on 28-4-1973 to send the requisite information giving the position as on 1-4-1973.

9. A statement prepared on the basis of information received from all the Ministries showing the total number of categories of Services|posts as on 1-4-1973, in respect of which statutory recruitment rules had not been framed is given in Appendix II.

10. It will be seen from the statement that as on 1-4-1973, there were 3403 categories of Services/posts in respect of which recruitment rules had not been notified under the Proviso to Article 309 of the Constitution. The actual number of persons affected by the non-framing of recruitment rules is 1,08,873 (one lakh eight thousand eight hundred and seventy three).

11. The Ministry-wise break-up of the pending statutory recruitment rules is as under:—

Sl. No.	Name of the Ministry	No. of categories of Services/posts for which statutory recruitment rules are pending
1	2	3
1	<i>Ministry of Agriculture</i>	
	(i) Department of Agriculture	162
	(ii) Department of Food	35
2	<i>Ministry of Commerce</i>	95
3	<i>Ministry of Communications</i>	25
4	<i>Ministry of Defence</i>	666
5	<i>Ministry of Education and Social Welfare</i>	
	(i) Department of Education	62
	(ii) Department of Social Welfare	37
	(iii) Department of Culture	60
6	<i>Ministry of External Affairs</i>	21
7	<i>Ministry of Finance</i> !	
	(i) Department of Economic Affairs	123
	(ii) Department of Banking	5
	(iii) Department of Expenditure	3
	(iv) Department of Revenue and Insurance	55
8	<i>Ministry of Health and Family Planning</i>	211
9	<i>Ministry of Home Affairs</i>	207
10	<i>Ministry of Information and Broadcasting</i>	80
11	<i>Ministry of Industrial Development</i>	119

1	2	3
12	<i>Ministry of Irrigation and Power</i>	171
13	<i>Ministry of Labour</i>	
	(i) Department of Labour and Employment	115
	(ii) Department of Rehabilitation	181
14	<i>Ministry of Law, Justice and Company Affairs</i>	25
15	<i>Ministry of Petroleum and Chemicals</i>	9
16	<i>Ministry of Planning</i>	35
17	<i>Planning Commission</i>	48
18	<i>Ministry of Railways</i>	39
19	<i>Ministry of Shipping and Transport</i>	108
20	<i>Ministry of Steel and Mines</i>	
	(i) Department of Steel	5
	(ii) Department of Mines	
21	<i>Ministry of Tourism and Civil Aviation</i>	182
22	<i>Ministry of Works and Housing</i>	310
23	<i>Cabinet Secretariat (Department of Personnel and Administrative Reforms)</i>	49
24	<i>Department of Science and Technology</i>	98
25	<i>Department of Supply</i>	18
	TOTAL	3403

12. As the number of Services|posts for which statutory recruitment rules were not framed was abnormally large, the Committee decided to give opportunity to the Ministries/Departments to explain the difficulties and latest position. At their sittings held on 27th to 29th May, 1974, the Committee heard oral evidence of the representatives of six Ministries/Departments in whose cases the framing of statutory rules had been pending for more than 5 years and 4 Ministries/Departments which had failed to supply information in that regard. During their evidence, the witnesses explained the reasons for delay in framing recruitment rules and also apprised the Committee of the latest progress. The Committee have carefully considered their submissions during oral evidence as also those submitted in writing later.

13. During evidence before Committee, the representative of the Ministry of Tourism and Civil Aviation stated that they had report-

ed 182 cases to the Committee where recruitment rules had not been framed. During the last 10 days they had taken special steps to clear the arrears. After holding a series of meetings between the officers of the Ministry and the Directorate General, Civil Aviation on the one hand and the Department of Personnel on the other recruitment rules for bulk of categories of posts had been finalised and sent for notification after getting them vetted by the Ministry of Law and translated by the Official Language (Legislative) Commission. Thus, they had cleared 163 out of 182 cases.

14. In written information furnished subsequent to the evidence, the Ministry of Tourism and Civil Aviation have stated that only 12 categories were left for which recruitment rules had to be framed. One of these categories of posts viz. Driver Foreman (Crash Tender) had been transferred to International Airport Authority of India. It was also a dying cadre. One more category, namely, Teleprinter Operator was a dying cadre. In case of two categories, UPSC had advised that framing of recruitment rules might be deferred till more posts were created in lower cadre from which promotion was to be made. In one case the matter was sub-judice and in another Department of Personnel had advised that finalisation of Rules should be deferred. Recruitment Rules for the remaining six categories were being processed on a priority basis.

15. The representative of the Planning Commission stated during evidence that till 1967, not a single recruitment rule had been framed. Since then rules had been framed in respect of all posts numbering 2047 barring 139 cases (48 categories) reported to the Committee earlier. Out of these 139 cases, they had been left with 18 only and the rest had since been finalised and were in the process of finalisation.

16. In written information furnished subsequent to the evidence, the Ministry of Defence have stated that out of a total of 243 categories of posts in the Armed Forces Headquarters and Inter-Service Organisations, recruitment rules in respect of all but 19 categories had already been framed. Recruitment rules for most of these 19 categories were nearing finalisation and it was expected to finalise them by December, 1974. As regards over 300 categories of posts in the Lower Formations of Armed Forces, Recruitment Rules in respect of them were in various stages of consideration. Many of them were nearing finalisation and awaiting publication. In the Ministry of Defence Secretariat, out of 17 categories of posts for which Recruitment Rules had not been framed, one had been finalised. Action had already been taken to frame recruitment rules in respect of 3 categories while in respect of another 3 categories,

action was being taken to frame the rules. In respect of one category action to frame recruitment rules would be pursued as soon as clearance was received from the Department of Personnel and Administrative Reforms. In case of another category action was pending receipt of Model Recruitment Rules from the Department of Personnel. In regard to the remaining 8 categories the necessity for framing Recruitment Rules was being examined. In the Defence Research and Development Organisation, out of 37 categories of posts comprising of over 2000 individuals posts, action had already been taken to frame recruitment rules in respect of 13 categories while 3 categories had been abolished. Action had been taken on priority basis to issue formal Recruitment Rules in respect of the remaining 21 categories.

17. The representative of the Ministry of Labour stated during evidence that there had been some progress in framing recruitment rules since the statement showing pending cases was sent to the Committee about 8 months back. In their subsequent written information they have stated that recruitment rules for all the nine units under the Directorate General Employment and Training excepting the cadre of Assistant Training officers and Office Superintendents in R.D.T. As Offices had since been finalised and sent to the Government of India Press for publication. In the Directorate General, Factory Advice Service and Labour Institutes, Bombay, recruitment rules had been gazetted in respect of 7 categories of posts.

18. *The Ministry of Finance (Deptt. of Rev. & Ins.)** in written information have stated that recruitment rules had been drafted in respect of 23 posts in the Central Excise Department, 22 posts in the Customs Department, 14 posts in the Directorate of Inspection, 20 posts in the Directorate of Statistics and Intelligence and 17 posts in the Central Revenue Control Laboratory. There were 48 isolated posts in the Customs and Central Excise Departments and 57 posts in the Narcotics Department recruitment to which was governed by executive instructions.

19. According to written information furnished by the Ministry of Works and Housing subsequent to their evidence, recruitment rules had been notified for Reading Branch, Photo Litho Wing and Process Section under the Directorate of Printing for one press each and action was in hand to notify rules for other Presses in the three sections on the lines of the rules already notified. In the Office of the Land and Development Officer, recruitment rules had

*Board of Indirect Taxes.

been notified for the posts of Deputy Land and Development Officer and Assistant Settlement Commissioner. The Ministry have also stated that all pending recruitment rules were expected to be notified by the end of December, 1974.

20. The Committee are alarmed at the very large number of categories of posts for which recruitment rules had not been framed till 1-4-1973. The Constitutional provision regarding framing of statutory recruitment rules came into operation in 1950. It is shocking that inspite of nearly 25 years having elapsed, recruitment rules in respect of 3403 categories of Services/posts covering one lakh eight thousand eight hundred and seventy three persons as on 1-4-73 remain to be notified. The position regarding framing of statutory recruitment rules in the attached/subordinate offices is much worse than in the Secretariat itself. It appears that the Administrative Ministries/Departments have failed to emphasise upon the attached and subordinate offices the need for urgent framing of statutory recruitment rules.

21. The Committee had called for evidence only 10 out of 25 Ministries/Departments. But the progress reported by these Ministries is a fair indication of the total progress achieved in the matter after 1-4-1973. The Committee regret to note that except in the case of Ministry of Tourism and Civil Aviation, the progress made has been painfully slow and halting.

(B) *Reasons for delay in framing statutory recruitment rules*

22. A statement showing the period-wise break-up of Services| posts referred to in para 10 in respect of which Recruitment Rules have not yet been framed is given below:—

Period for which Recruitment Rules are pending	No. of categories of services/posts
Less than one year	637
1-2 years	291
2-3 years	216
3-4 years	124
4-5 years	54
Above 5 years	2081
TOTAL	3403 (affecting 1,08,873 persons)

23. During evidence before the Committee, the representative of the Ministry of Finance (Deptt. of R & I)* admitted that there was delay in framing of statutory recruitment rules for various posts under the Central Board of Excise and Customs. But he added that most of the cases were regulated either by draft rules or executive instructions. Some of the draft rules had also been referred to the Department of Personnel. Since 1966, the Board was pursuing the matter actively.

24. Giving the history of framing of recruitment rules for Income-tax Service Class I, the representative of the Ministry of Finance (Deptt. of Rev. & Ins.)@ stated that that Service was constituted on 1-10-44 and executive orders were issued to regulate its strength, promotion and other matters. Draft rules were framed in 1964. Consultations were held with the Department of Personnel and the U.P.S.C. But owing to litigation between the promotee officers and the direct recruits on the question of quota of recruitment and seniority they could not make much progress. When the draft rules were approved by U.P.S.C. in 1967, Supreme Court judgement necessitated their amendment. The amended rules were sent to the Department of Personnel in 1968 who returned them in 1969, suggesting further amendment and clarification. The Supreme Courts final verdict came in April, 1974. He assured the Committee that the rules would be finalised as soon as the Government's decision on Pay Commission's findings were received by them.

25. When the Committee enquired as to what should be the maximum period allowed for recruitment to be regulated through departmental instructions without the statutory backing, the representative of the Ministry stated that the normal period should be about one year.

26. In written answers furnished to the Committee after the evidence replying to specific cases of delay, the Ministry of Finance (Deptt. of Revenue & Insurance)* have explained that although posts of Superintendent of Central Excise had been in existence from 1943, draft recruitment rules were framed for the first time in 1969. In the meantime the Board of Indirect Taxes received representations from various Unions/Associations pointing out that the introduction of direct recruitment in this grade will increase strength in the cadre of inspectors. The Self-Removal Procedure Review Committee had gone into the question in detail and the rules would now be taken up for further processing in the light of the decision of the said Committee.

*Board of Indirect Taxes.

@Board of Direct Taxes.

27. In respect of Indian Customs and Central Excise Service Class I which was created in 1959, the Deptt. of Rev. & Ins.* have explained that as per Government resolution dated 25th June, 1952, there was to be a Class I Indian Revenue Service consisting of Class I officers of Customs, Income Tax and Central Excise Departments. In 1964, after the creation of a separate Board of Indirect Taxes it was decided to frame separate rules for Customs and Central Excise Officers. The draft rules were prepared in 1964. This draft has, however, yet to be referred to Deptt. of Personnel and U.P.S.C. It could not be referred earlier due to dispute about seniority and allocation of vacancies between Customs and Excise Cadres. The matter had been further held up because Government had filed a special Leave Petition in the Court.

28. So far as the Customs Preventive Service Class II created in 1952 was concerned, the Department of Rev. & Insurance* have explained that the question whether element of direct recruitment should be introduced in the grade has been under Government's consideration for quite some time and decision is likely to be taken shortly.

29. Explaining the reasons for delay in framing recruitment rules the representative of the Planning Commission during his evidence admitted that till 1967 not a single rule had been framed. After receipt of Home Ministry's instructions they started framing rules. In 1968, they were able to frame 72 rules. He attributed the delay to consultation with the U.P.S.C.

30. In reply to a question as to what should be the maximum period allowed for the recruitment to be regulated through departmental instructions without statutory backing, he said that normally one year should be the maximum period.

31. The representative of the Ministry of Shipping and Transport admitted during evidence that there had been delay in framing Recruitment Rules. As to the reasons for delay, he said that a number of authorities had to be consulted before Recruitment Rules were finalised. In case of queries from any authority, the case had again to be referred to all the authorities. In the meanwhile transfers took place, pay scales or qualifications were changed, which resulted in further delay. He admitted that in respect of certain posts which had been in existence for a long time, there was delay in initiating action towards framing recruitment rules.

*Board of Indirect Taxes.

32. When the specific attention of the representative of the Ministry was drawn to the statement furnished by them according to which Recruitment Rules for 6 posts in the office of the Government Director and one post in the Directorate General of Shipping which were created in 1951 to 1965 and 1968 respectively, had yet to be framed, he admitted that there was delay in these cases. Similarly, in relation to several posts in the Mercantile Marine Department Bombay, Calcutta, and Madras which were created in 1929 and at Jamnagar, Goa, Cochin, Vishakhapatnam and Regional Office Sails Bombay during the year 1949-64, he admitted that those were cases of bad delays.

33. In written information furnished subsequent to the evidence, the Ministry of Shipping and Transport have stated that decision to frame recruitment rules for the posts under the Government Directorate on the Board of Directors of Indian Shipping Companies was taken by Government in January, 1971. The draft of the Recruitment Rules was received from the office of the Government Director in the Ministry in February, 1972. The matter was thereafter lost sight of and consequently suffered delay.

34. Giving reasons in a general way for delays in framing rules, the Ministry of Shipping and Transport have attributed the delays to the following additional factors:

- (1) Subordinate offices in the field are vested with the powers to create certain posts. Such posts are created by them according to their requirements. There have at times been delays on the part of the Subordinate offices in the matter of initiating action for finalisation of recruitment rules.
- (2) Certain posts have been in existence for a long time in the past. The need for recruitment rules arose in respect of them in 1950. There was delay in initiating action for framing recruitment rules for such posts.
- (3) For framing recruitment rules for a newly created post, information on a number of points relating to the qualifications to be prescribed for the post, the mode of recruitment (viz., promotion, deputation, transfer or direct recruitment etc.) is necessary which has to be ascertained from organisations where similar posts are in existence. Specific decisions on these points, took time.
- (4) Even when draft recruitment rules had been prepared, before final notification, these required approval of the

Head of Office, the Administrative Ministry, the Department of Personnel, the Union Public Service Commission, (in respect of posts coming within the purview of the Commission) and the Ministry of Law. Observance of this procedure is time-consuming. There have been delays due to oversight also. The same are regretted."

35. The attention of the Ministry of Defence was drawn during the evidence to the fact that they had attributed the delay in framing rules in respect of several teaching posts created from 1944 to 1962 under the Directorate General Ordnance Factory to anticipated change in the light of the Third Pay Commission's report. The representative of the Ministry admitted that it was a mistake and that the rules should have been framed even before the appointment of the Third Pay Commission.

36. In answer to another question the representative of the Ministry said that in his opinion statutory recruitment rules should be finalised for any post within 2 years.

37. While explaining delays in framing recruitment rules, the representative of the Department of Social Welfare stated that there were certain specialised posts in the Department. If the recruitment rules in respect of them were framed at the very beginning they would become rigid and if people with those qualifications did not turn up, amendment of rules would become necessary. He, however, admitted that it was a mistake not to have framed recruitment rules in respect of posts which were not specialised in nature. He hoped that they would be able to clear the arrears by the end of August, 1974.

38. In the written information furnished subsequent to the evidence, the Department of Social Welfare, giving reasons for delay of over 10 years (i.e., from 1963-64) in making recruitment Rules in five Regional Pre-vocational Training Centres has stated that these Centres were started in 1964 to train the staff for pre-vocational centres in the various States. These were experimental programmes and a study team was appointed in 1967 to evaluate their performance and suggest improvements. The study team recommended that two of them should be converted into ordinary pre-vocational training centres and three of them should be reorganised to provide leadership in thought and practice. After examining the recommendations of the study team, framing of recruitment rules was undertaken in 1969. They could not, however, be finalised because of the uncertainty about the future of the programme. In

1972, it was decided not to include this scheme in the Fifth Plan. The Pre-vocational Training Centres have since been transferred to the respective States from 1-4-1974.

39. In regard to the 14 posts of Class III and IV created during the years 1962—65 for Training Centre for Adult Deaf, Hyderabad, the Department have stated that draft Rules were sent to the Department of Personnel in February, 1974 and the same have since been notified.

40. As to the normal period required for framing statutory Recruitment Rules, the Department of Social Welfare have stated in the written note that in respect of technical posts requiring specialised knowledge period of five years may be allowed.

41. The representative of the Ministry of Health and Family Planning explained during the evidence that Recruitment Rules in majority of cases were in an advance stage of processing. They were required to be referred to the Department of Personnel, U.P.S.C. and then to the Ministry of Law. This process took some time. He, however, said that the framing of Recruitment Rules should not normally take more than one year. He also agreed that in no case posts should be filled up without following the statutory recruitment rules. He hoped to finalise all pending recruitment rules within the next six months.

42. When his attention was drawn to the specific case of delay in regard to the 15 posts of General Central Service Class III at the All India Institute of Hygiene and Public Health, Calcutta, which were created between 1950 to 1962, the representative of the Ministry admitted that it was a case of inordinate delay.

43. In a written reply furnished after the evidence the Ministry have stated that the proposal for framing the recruitment rules for the posts of Assistant Professor of Biochemistry and Nutrition, Biophysics (Physiological) and Industrial Hygiene which were stated to be old posts are under consideration since May, 1971. It is also seen from the note that in respect of various categories of posts in the Mental Hospital Ranchi, which were created in 1966, draft rules were originally received in the Ministry in July, 1969, and have since been under consideration.

44. During evidence the representative of the Ministry of Tourism and Civil Aviation attributed the delay in framing recruitment rules for the post of Director General, Tourism which had been created in 1966 to various factors. Firstly since the post carried an ex-officio of status of Joint Secretary it was felt that no separate recruitment rules were necessary. In 1969 the question was raised,

but again till 1971 no urgency was felt. In March 1972, the Ministry framed fresh proposals which again led to prolonged discussions and now the matter had been referred to U.P.S.C. The witness admitted that there has been unconscionable delay in this case.

45. Giving the reasons for delay in framing of recruitment rules in the Directorate General, Civil Aviation, the Ministry of Tourism and Civil Aviation have stated in written information furnished subsequent to the evidence, that draft recruitment rules for various categories of non-gazetted posts in the Civil Aviation Department were referred for approval to the Ministry by the D.G.C.A. in February, 1958. After protracted discussions and references between the Ministry and the D.G.C.A. on the one hand and the Ministry of Law on the other, the draft recruitment rules were finalised in consultation with the Ministry of Law in November, 1963. The draft rules did not appear to have been referred to the Department of Personnel at any stage during that period.

46. After the recruitment rules had been finalised the D.G.C.A. had suggested a number of amendments at different stages to the draft rules as vetted by the Ministry of Law. Since about 170 categories of posts were involved some amendments or the other remained under consideration of the Ministry and the D.G.C.A. In 1967 it was suggested that the categories of posts might be split up into 8 or 10 convenient groups and each group might be dealt with separately. A number of discussions were held between the officers of the Ministry and the D.G.C.A. and the recruitment rules for some categories of posts were finalised. However, the work being voluminous and as the recruitment rules had to be drawn up on the revised proforma prescribed by the Ministry of Home Affairs in August, 1967, the progress in finalising the recruitment rules could not be maintained. "Admittedly, there had been delay in attending to this work." Present position was that recruitment rules for bulk of the categories had been sent for notification. Only a few categories of posts remained to be notified and the matter was being actively pursued.

47. The representative of the Department of Personnel and Administrative Reforms stated during evidence that in most of the cases with which they were concerned recruitment rules had been framed. The representative of Department of Personnel was of the opinion that a time limit of six months should be enough for finalising statutory Recruitment Rules.

48. Giving reasons for delay in framing Recruitment Rules the representative of the Ministry of Works and Housing explained during evidence that the procedure for framing recruitment rules was rather long drawn. Consultations had to be held with the

Department of Personnel, U.P.S.C., Ministry of Finance and Ministry of Law. Therefore, there had been a certain amount of delay in finalising the recruitment rules.

49. When his attention was drawn to a large number of posts in the Printing and Stationery Department remaining without recruitment rules since 1941, the representative of the Ministry stated that these rules were under revision and till such time they were revised, the old rules were being followed. Further, since each Press was a separate entity, rules had to be published separately. The delay also took place because of transfer of posts from one Ministry to another. He, however, admitted that in certain cases, the delay could have been avoided.

50. On his attention being drawn to existence of 270 posts belonging to Class IV in the Headquarters as well as Regional Offices of the Directorate of Estate, without recruitment rules, representative of the Ministry admitted that it was wrongly thought of by them that because normal standards were being followed there was no necessity of rules for these posts. However, when it was pointed out to them in 1973 that Service Rules were necessary for this category also, they had taken appropriate steps.

51. In a note furnished to the Committee subsequent to the evidence, the Ministry of Works and Housing have stated that in respect of Department of Printing, the question of revision of extent Rules of 1945 was taken up from time to time. The draft rules were prepared for the first time in 1957-58. Later in 1962, on the basis of new pay scales adopted on the basis of the recommendations of the Second Pay Commission revised draft rules were prepared. But this could not be processed further till 1967 due to the appointment of Categorisation Committee. In 1968, the staff side raised question of Recruitment Rules. In 1972 after discussions with the staff side, the draft rules were prepared. But in the meantime Second Categorisation Committee was appointed and it was considered desirable to await the recommendation of the Categorisation Committee. Later on the Ministry of Finance suggested postponement of the consideration of their recommendations. Under the circumstances it has now been decided to go ahead with the issue of statutory rules on the basis of existing cadre... structure.

52. In a written statement furnished after the evidence the Ministry of Labour have stated that Recruitment Rules in respect of 190 posts of Assistant Training Officers/Surveyors and more than 500 other posts created during 1948 to 1972 could not be framed because the Vocational Training Scheme had to be modified from time to time suiting the technological changes. Later on a suggestion from the Home Ministry it was considered appropriate to provide in the rules for posts under the newly set up Institute of Central Staff Training and Research, Advance Training Institute and Foreman

Training Institute. Later that Ministry again suggested that since under the Directorate of Training, 8 units had been set up each unit should be treated separately for framing the rules. The Ministry, have, however, admitted that there has been delay and they have regretted the same.

53. It is clear from the evidence of certain selected Ministries tendered before the Committee as also from the material subsequently furnished by them that in most cases the delay in framing recruitment rules occurred because of initial inaction on their part. The Ministries/Departments have been depending too much on the initiation of proposals by the subordinate/attached offices, which the latter were slow to submit.

54. The Committee decried the tendency of postponing finalisation of rules every time there was slightest change in circumstances in the hope of their making a perfect rule. Proviso to Article 309 does not bar amendments to statutory recruitment rules if situations warrant. In most of the cases referred to above the Committee are of the opinion that the Ministries/Departments should have finalised recruitment rules by now. As observed earlier, the representatives of the Ministries/Departments who appeared before the Committee themselves admitted that the delay could have been avoided in most cases.

55. Barring the cases where the further processing of the rules had to be shelved on account of the matters going to the court (as for example in the case of the Income-tax Service Class I and the Hindi Officers) in other cases the Committee are not convinced of the reasons advanced by the Ministries/Departments for delay in framing of recruitment rules.

56. In the opinion of the Committee too much time was allowed for consultations to be made with the U.P.S.C., Department of Personnel and Low Ministry, etc. The Committee are far less convinced of some of the other explanations given by some of the Ministries while forwarding statistics of pending rules as on 1-4-1973 such as *(i) awaiting Model Recruitment Rules & (ii) work studies being carried out by the Staff Inspection Unit % (iii) the posts lying vacant £ (iv) anticipated changes in the light of the Pay Commission's Report @ (v) ever since the appointment of persons to the post no

*For instance in the case of Junior Analyst in the Personnel Wing of the Department of Personnel and Administrative Reforms existing since 1971.

&For example in the case of post of Computer Investigator under the DGET (Ministry of Labour) existing since 1968.

%For example the post of Chief Compilation Officer (Hindi) under the Armed Forces Hqs. and Inter Service Organisation created in September, 1971.

£For example in the case of Class III and IV posts in the Government of India Stationery Office at Calcutta existing prior to 1947.

@For example in the case of post of Senior Gestetner Operator in the Planning Commission created in 1954.

vacancy arose ******(vi) lapse of a Bill in Lok Sabha due to dissolution and *******(vii) the Ordnance Factory to which the posts are related has been in project stage.

57. The Constitution of India came into operation in 1950. Nearly 25 years have elapsed since then. This is sufficiently a long period to frame Statutory recruitment rules under proviso to article 309 in most cases. The Committee are constrained to observe that sufficient attention was not paid to the scheme of article 309 and the proviso thereto. The Committee would stress upon all Ministries/Departments to bear in mind the scheme of article 309 and the proviso thereto and until such time as Parliament enacts laws for various Services/posts frame recruitment rules under the proviso where they have not been framed so far and if drafts have already been prepared to finalise them at an early date.

58. Almost all the representatives who appeared before the Committee agreed that the period of finalisation of recruitment rules should not normally be more than one year. The Ministry of Tourism and Civil Aviation have shown that with drive the rules pending for many years could be finalised and notified in about a fortnight. The Committee would like all the Ministries/Departments to finalise the rules pending with them within six months as proposed by the Department of Personnel.

C. Non-observance of instructions on the subject

59. The need for framing the recruitment rules for all Services/posts under the Central Government was emphasised by the late Home Department, vide O.M. No. 12/6/46-Ests., dated the 16th August, 1946. Subsequently, after the Constitution of India came into force, instructions were issued, vide Ministry of Home Affairs (now the Department of Personnel and Administrative Reforms) O.M. No. 156/52/Ests., dated 19-9-52 enjoining upon the Ministries/Departments of the Government of India to frame statutory recruitment rules for all Services/posts with which they were concerned, under the proviso to Article 309 of the Constitution and have them published invariably in the appropriate sections of the Gazette of India. In order to ensure that the recruitment rules are framed for all Services/posts in time, the Ministry of Home Affairs prescribed a quarterly return to be furnished at the end of each quarter by each Ministry/Department indicating the steps taken to frame the recruitment rules and the reasons for delay, if any, vide Ministry of Home Affairs O.M. No. 20/2/21-66-Ests. (D) dated 6-3-1967. Thereafter, revised instructions were issued to Ministries/Departments of the Gov-

******For instance in the case of post of Vaid Superintendent in the Coal Mines Welfare Fund Dhanbad existing since 1966. Bill to make the Fund a body corporate lapsed with the dissolution of Third Lok Sabha.

*******Several posts in the A.F.D. Factory, Hazratpur (Tundla) under the Department of Defence Production existing since 1966.

ernment of India, *vide* Ministry of Home Affairs (now Department of Personnel and A.R.) O.M. No. 20/3/67-Ests. dated the 11th August, 1967 with a view to reduce the time taken in framing of statutory recruitment rules. These instructions clearly laid down that the Administrative Ministry|Department should send within a period of one month from the date of creation of the service|post a self-contained proposal together with (i) the draft recruitment rules in the prescribed proforma and (ii) the particulars of the posts in another proforma prescribed for the purpose.

60. Attention of the representatives of the Ministries|Departments who appeared before the Committee was drawn to the above circulars and it was enquired whether they were following the instructions laid down therein. Most of the representatives were either not aware of the circulars or did not know if the quarterly returns regarding framing of Recruitment Rules were being regularly submitted to the Department of Personnel.

61. In their subsequent replies to points arising out of the evidence the Ministry of Defence have stated that in respect of the Secretariat, returns were sent regularly upto the quarter ending 31-8-72, but thereafter, due to oversight they were not sent. In the case of Lower Formations of the Armed Forces Headquarters and the Defence Research and Development Organisation, they have regretted that instructions were lost of sight and were not complied with. The Ministries of Tourism and Civil Aviation and Health and Family Planning have stated that they had submitted quarterly returns to the Department of Personnel for sometime but these were discontinued later on. They have also stated that instructions had been issued to send such returns regularly in future.

62. During evidence the representative of the Department of Personnel stated that the returns merely gave number of posts and not detailed information and as such they were not serving much practical purpose so far as finalisation of rules was concerned.

63. The Committee are surprised to note that the representatives of most of the Ministries|Departments who appeared before them were not aware of the general circulars issued by the Ministry of Home Affairs to all Ministries|Departments from time to time, wherein they had emphasised the necessity of framing of Recruitment Rules for all Services|Posts under the Proviso to article 309 of the Constitution and also prescribed a quarterly return to be furnished to them by each Ministry|Department indicating the progress made in the framing of recruitment rules and reasons for delay, if any. The Committee are also surprised at the observation of the Department of Personnel that they did not find the returns much useful.

64. The object of the return was to keep a watch on the progress of framing recruitment rules. It could not be the instrument of vetting the rules. It is obvious that the Department of Personnel have not attached due importance to their own instructions and failed in rigorously pursuing them. The Committee desire that the Department of Personnel should review the contents of those circulars in order to make them more purposeful and once again bring them to the notice of the Departments|Ministries and emphasise on them the necessity of complying with the same so that watch is kept on undue delay in framing recruitment rules.

D. Sanctity of Statutory Rules

65. During the course of the evidence, the representatives of some of the Ministries had contended that even though statutory recruitment rules had not been framed, recruitment to posts was being regulated either by draft recruitment rules or the departmental instructions or the posts were being filled on an *ad-hoc* basis and there was no possibility of discrimination against any one in matters of recruitment. In reply to a question, the representative of the Ministry of Defence, however, admitted that the procedure that they followed for recruitment in the absence of statutory recruitment rules had no force of law. Recruitment rules framed under the authority of the proviso to article 309 being subordinate legislation had the force of law. The representative of the Ministry of Tourism and Civil Aviation also admitted that if anyone was appointed to a post recruitment to which was not governed by statutory recruitment rules, he did not feel secure in his post and to that extent it would affect his morale or even his interest in work; so it was better to have statutory Recruitment Rules. In reply to a question whether there was some possibility of discrimination being made in the case of recruitment without statutory rules, the representative of the Department of Personnel also stated that the possibility could not be ruled out because sometimes rules were made to fit a particular person. He further said that while vetting the recruitment rules, they tried to see that they did not fit one person but a large number of persons.

66. The Committee are not convinced by the argument advanced by the representatives of some of the Ministries that even though there were no statutory recruitment rules, each of the posts was being regulated by draft recruitment rules or executive instructions. The Committee need hardly stress that draft recruitment rules or executive instructions are no substitute for statutory recruitment

rules framed under proviso to article 309 of the Constitution as unlike statutory rules they are not published in the Gazette and do not come to the notice of the public at large. The Committee are also unable to examine draft recruitment rules or executive instructions with a view to see whether any provision therein can be so used by the executive as to favour or discriminate against an individual. The absence of statutory rules may also lead to discontentment among the persons who may be or are likely to be adversely affected as a result of such absence.

67. The representative of the Ministry of Finance while arguing that since detailed instructions in the matter of Recruitment existed, had during the evidence, referred to the Supreme Court decision in the case of S.G. Jaisinghani Vs. Union India and others, according to which even if there were no statutory rules governing conditions of service, executive Instructions/Orders issued under the power derived from article 309 had the force of law and were binding on the Government. The Planning Commission also drew attention to the Supreme Court decision in Nag Rajan Vs. State of Mysore where it was held by the Court that "it is not obligatory under proviso to article 309 to make rules of recruitment before service can be constituted or post created or filled." The Committee would like to make it clear that it is not their contention that recruitment to a Government service/post cannot be validly made through departmental instructions. Even if it is legally permissible to regulate recruitment to a Service/post through departmental instructions, the Committee desire that for the reasons given in para 66 above, recruitment to Government service/posts should be regulated either through Acts of Parliaments or through statutory rules.

E. Procedure for expeditious finalisation of Rules.

68. Under the procedure for framing recruitment rules as per instructions circulated by the Ministry of Home Affairs *vide* their O.M. No. 20/3/67-Estt. dated the 11th August, 1967, as soon as a decision is taken to create a new service/post including a Class I/Class II Service/Post, action is to be taken immediately by the administrative Ministry/Department concerned to frame a draft of the recruitment rules. An officer not lower in rank than an Under Secretary is to personally frame a draft of the recruitment rules. Recruitment Rules for all Services/posts, as drafted by the Administrative Ministry/Department are, thereafter, to be referred to the Ministry of Home Affairs (now Department of Personnel and A.R.). The Administrative Ministry/Department concerned is required to send a self-contained proposal together with (i) the draft recruitment

rules (for posts other than those in established Services) in the prescribed proforma with the particulars of the posts in another proforma prescribed for the purpose. The Department of Personnel are required to scrutinise the Rules and return them within one month. In case they do not agree with something, they refer them back to the Ministry concerned. Whenever references become too frequent, these are to be resolved by discussions which are held very frequently.

69. After the draft recruitment rules have been cleared by the Department of Personnel and Administrative Reforms they are to be returned to the Ministries|Departments. Where the post in question is within the purview of the Union Public Service Commission, the Ministry|Department is required to make a reference to the Union Public Service Commission, requesting their concurrence in the draft recruitment rules. A period of 6 weeks is prescribed for them. If there is a delay, there is provision for discussion. If the rules as approved by the Department of Personnel are changed by UPSC, they have to be referred back to that Department. After the concurrence has been obtained, the draft Recruitment Rules are referred to the Ministry of Law (Legislative Department) for formal vetting and thereafter issued by the Ministry|Department concerned and published in the Gazette of India. In case the post|posts are not within the purview of the Commission, the Ministry|Department concerned, after getting the clearance of the Department of Personnel and A.R. is supposed to issue the recruitment rules and publish them in the Gazette of India, after getting the rules vetted by the Ministry of Law (Legislative Deptt.).

70. One of the reasons for delay in framing Recruitment Rules advanced by the representatives of almost all the Ministries was that the procedure of consultation with the Department of Personnel, Ministry of Law, etc. was long drawn, particularly in case of Ministries having their organisations spread all over country like the Ministry of Defence and the Ministry of Shipping and Transport. It had also been stated by them that the delay in framing of rules was also due to the fact that the matter remained pending with the Department of Personnel. In this connection, the representatives of the Department of Personnel stated before the Committee during evidence that recruitment rules were no doubt to be vetted by them. "But we are not a super Ministry keeping watch over other Departments. It is for the Ministry itself to report to UPSC. Ours is the coordinating function. No recruitment rules can be framed without being seen by us. We see to it that these are disposed off quickly." In written information furnished subsequent to the evidence, the Department of Personnel have stated that every effort is made by

them to clear the proposals within a reasonable time. They delay generally occurred as the Ministries instead of sending self-contained proposals sent their files, with the result that they had to be gone through before they could offer their comments. In certain cases the information was not complete or the draft rules were not in the prescribed proforma. Such cases were generally returned to the originating Ministry/Department. In certain cases discussions became necessary which also resulted in delay. According to a review conducted in the last week of May, 1974, the number of cases of R/Rules which were referred to the Department of Personnel for concurrence and pending with them were 270, out of which 115 were less than one month old, 155 were pending between 1 and 3 months and none was over three months old.

71. The Committee regret to note that the Ministries/Departments are not following strictly the instructions laid down by the Department of Personnel for framing of Recruitment Rules, which necessitated to and for references. The Committee desire that they should strictly follow the instructions of the Department of Personnel. The Ministry of Law and UPSC should also issue suitable instructions to various Ministries about the manner in which the later had to submit proposals so that frequent cases of references complained of by Ministries/Departments could be avoided.

72. The Committee note with satisfaction that with a view to reduce the time taken in inter-Ministerial consultations, the Department of Personnel have under consideration, in consultation with the UPSC, a suggestion for constituting a committee consisting of the representatives of the Ministries/Departments concerned and those of the Department of Personnel and Administrative Reforms, Ministry of Law, and the UPSC which could meet periodically and finalise the Recruitment Rules in one or more sitting. The Committee desire that such committees should be constituted for all Ministries/Departments.

73. The Committee also endorse the suggestion of the Ministry of Defence that within each Ministry there should be a cell to process the proposals emanating from subordinate/attached offices and to deal with inter-ministerial consultations. The Ministry of Defence are stated to hold weekly meeting of Secretary with Joint Secretaries to review the progress made in finalisation of recruitment rules. The Ministry of Health and Family Planning and Works and Housing have proposed that hereafter finalisation of the Recruitment Rules would receive the personal attention of Joint Secretary in-charge of the administration who would review the situation once in every month and additional Secretary would also keep a watch

from time to time. These examples should be emulated by other Ministries|Departments according to their requirements.

74. While all Ministries have accepted the suggestion that a time-limit should be laid down for processing statutory recruitment rules under the proviso to article 309, the Ministry of Finance (Department of Revenue and Insurance)* whose representative during the evidence earlier had agreed that the normal time-limit for finalisation of recruitment rules should be one year have in written information submitted after evidence, stated as follows: "need for time-limit would really be necessary only where appointments are made on purely ad-hoc basis without laying down clear-cut method and where such method is laid down there may not be any need to fix a time-limit. It is, however, admitted that Statutory Rules should be framed as soon as possible and accorded high priority." The Committee do not agree with the view of the Department of Revenue and Insurance* regarding time-limit. The Committee have already pointed out that departmental instructions, however, detailed cannot be a substitute for statutory rules. The Committee, therefore, recommend that Department of Personnel should fix a time-limit from the date of creation of post within which recruitment rules should be framed under the proviso to Article 309. If in exceptional cases it is not possible to stick to this limit, the case should be put up before the Head of the Ministry|Department who should personally see that the bottlenecks, if any, are removed and the rules are finalised without unnecessary delay.

F. Delay in furnishing information to the Committee

75. The Committee had decided to call for information regarding non-framing of statutory Recruitment Rules from all Ministries on 16-4-73 and they were addressed on 28-4-73. Despite reminders, information from only 19 Ministries|Departments had been received till 22nd January, 1974. The Committee, therefore decided to call for oral evidence of the representatives of the following Ministries out of seven who had not furnished information:—

- (i) Ministry of Defence.
- (ii) Ministry of Health and Family Planning.
- (iii) Ministry of Tourism and Civil Aviation
- (iv) Department of Social Welfare.

The requisite information from the above Ministries was received only after their representatives had been summoned for evidence.

*Board of In Direct Taxes.

76. During evidence the representatives of the Ministry of Defence stated that immediately after receipt of the communications from the Committee, a circular was sent to all Sections asking them to give information. Part of the information was received on 24-7-73. Some more information including that from the Department of Defence Production was received in May, 1974. The officers concerned had been taken to task for not sending in July, 1973 the information which had been received by that time.

77. The representative of the Ministry of Health and Family Planning apologised for delay in furnishing information to the Committee which had to be collected not only from the Ministry proper but also from the attached|subordinate offices of both the Departments. There were 55 subordinate offices under the Directorate General of Health Services and 17 under the Department of Family Planning. In subsequent written information the Ministry have stated that the information from these offices which were spread all over the country was received piecemeal and in most of the cases back references had to be made to them for obtaining relevant and upto date information. The information received was thereafter scrutinised by the various administrative sections in the Department which itself was a time consuming process. It has been further stated that the matter in the Ministry was dealt with at the usual level of dealing Asstt.|Section Officer|Branch Officer. It was, however, considered that the failure to send an interim reply to the communications from the Committee which was purely on account of oversight was serious and the concerned officials had been cautioned to be careful in future while handling the communications received from the Committee.

78. The representative of the Ministry of Tourism and Civil Aviation also apologised for the lapse in the Ministry in not sending any reply to the communications received from the Committee.

79. The Committee regret to note that there has been undue delay on the part of the Ministries/Departments mentioned in para 75 above in furnishing information regarding non-framing of Recruitment Rules. The information was sent by them only after their representatives had been called for evidence. The Committee are not convinced with the reasons given by them for the delay. The Committee feel that if the matter had been looked into at a higher level in the Ministry, the delay could have been avoided. The Committee strongly desire all Ministries|Departments to be careful in future and send prompt replies to the communications from the Committee.

III

DELAY IN LAYING OF 'ORDERS' ON THE TABLE OF LOK SABHA DUE TO DELAY IN GETTING THE HINDI VERSION OF THE 'ORDERS' FROM THE MINISTRY OF LAW.

20. It was noticed that out of 238 cases of delay in laying Orders on the Table of the House during the Fourth to Eighth Sessions, in ten cases of delay, the Ministries concerned had attributed the delay to non-availability of Hindi version of the 'Orders' in time from the Ministry of Law, Justice and Company Affairs (Legislative Department) as shown in column 6 of Appendix III.

81. The Ministry of Law, Justice and Company Affairs (Legislative Department) who were requested to state the circumstances in which the supply of Hindi version of the Notifications was delayed replied as shown in column 7 of the statement against each Notification..

82. From the replies of the Ministry of Law, Justice and Company Affairs (Legislative Department) it was noticed that while in 6 cases i.e., S. No. 5—10 of Appendix III, that Ministry had admitted delay on their part, in 4 cases i.e., S. No. 1 to 4 of the Appendix, they had denied it. At their sitting held on the 11th February, 1974 the Committee decided to hear oral evidence of the representatives of the Ministry of Law, Justice and Company Affairs (Legislative Department) in this regard.

83. During oral evidence before the Committee, the representative of the Ministry of Law, Justice and Company Affairs explained how the Official Language (Legislative) Commission came to deal with the question. He said that under the amendment made to the Official Languages Act in 1967, both Hindi and English languages were required to be used for resolutions, general orders, rules, notifications, etc. issued by the Central Government. It also became necessary after the amendment that Hindi version of an Order should be placed simultaneously before the House alongwith the English version. This resulted in delay in laying of 'Orders' on the Table as the English version of the published notifications had to be translated so that both the versions were laid on the Table simultaneously. To avoid this delay in laying, the Ministry of Home Affairs issued in 1970 instructions to all Administrative Ministries that Rules, Orders, etc. which were sent to the Press for publication should be accompanied by Hindi version as well.

84. As a result of the amendment of the Act and the directive of the Ministry of Home Affairs, the Official Languages (Legislative)

Commission was flooded with lot of work. There were very few Draftsmen hence they were not in a position to deliver the goods quickly. So there were difficulties in implementing the decisions upto 1970. The procedure could be streamlined by 1971-72. Since then, the delay had been minimised even at the stage of publication in both Hindi and English versions.

85. Explaining the cases included in the Appendix III, the representative of the Ministry stated that the two amendments made in 1971 to the Emergency Risks (Goods) Insurance Scheme and the Emergency Risks (Undertakings) Insurance Scheme were received in the Commission in January, 1972 and their translation was done in the course of 13 days. Other set of two amendments was received on 22nd March, 1972 and the translation was given on the 25th March.

86. When his attention was drawn to the contention of the Ministry of Finance (Deptt. of Revenue & Insurance) that the delay in laying the Notifications on the Table was due to considerable time taken by the Ministry of Law, Justice and Company Affairs (Legislative Deptt.) in supplying their Hindi version, he stated that he would consult the Deptt. of Rev. & Ins. and send a combined note to the Committee.

87. With regard to the Employees Family Pension (Second Amendment) Scheme, 1973 which was received by the Commission on the 9th April, 1973 but the Hindi version could be finalised only on the 2nd May, 1973, the representative of the Ministry explained that the English version of the Scheme had been already notified and the officer concerned was busy with other work which was required to be placed on the Table of the House.

88. When it was pointed out to the representative of the Ministry that the delay ranged from 15 days to over 2 years in respect of cases shown in the Appendix, he regretted and stated that the delay could not be explained very satisfactorily. In two cases, the delay was due to mis-placement as they were dealing with a number of cases. In the case of Merchant Shipping Rules also there were not sufficient reasons for the delay.

89. With regard to the steps to be taken for avoiding these delays he stated that he would issue written instructions to get fortnightly or weekly reports in writing so that responsibility could be fixed in pending cases.

90. When inquired about the action taken against the officer for the delay, he explained that action could not be taken unless it

was willful. He, however, promised to warn orally the persons concerned to be careful in future.

91. In their written replies to points arising out of evidence, the Ministry of Law, Justice and Company Affairs (Legislative Department), have sent notes (*vide* Appendices IV&V) explaining the delay in supplying Hindi version of the Emergency Risks (Goods) Insurance (Amendment) Scheme, 1972, and the Emergency Risks (Undertaking) Insurance (Amendment) Scheme, 1972 and the Employees Family Pension (Second Amendment) Scheme, 1973. According to these notes while the Ministry of Law, Justice and Company Affairs (Leg. Deptt.) took seven days in supplying Hindi version of the amendments to the Emergency Risks Insurance Schemes, subsequent delay in laying them on the Table occurred in the Ministry of Finance (Deptt. of Rev. & Ins.). In regard to the Employees' Family Pension (Second Amendment) Scheme, 1973, the Ministry of Law, Justice and Company Affairs (Legislative Department) have admitted the delay of about a fortnight in getting the translation tallied and getting fair copies made thereafter.

92. The Ministry of Law, Justice and Company Affairs have also forwarded a note (Appendix VI), regarding instructions issued by them to the Official Language (Legislative) Commission for the avoidance of delays in supplying Hindi version of rules, Orders etc. to be laid on the Table.

93. The Committee regret to note that delay should have occurred in laying Notifications on the Table of the House on account of delay in receipt of their Hindi version from the Official Language (Legislative) Commission. The Committee feel that in most cases it could have been avoided if proper judgement had been exercised in according priority to the translation work in the Commission. The Committee trust that with the new instructions issued to the officers and staff of the Commission, such cases of delay will not occur in future and sufficient precaution will be taken to get the translation in Hindi in time to avoid such delay on this account.

94. The Committee are unhappy to note that the Ministry of Finance (Deptt. of Rev. & Ins.) did not ascertain the facts regarding the delay in laying of the Emergency Risks (Goods) Insurance (Amendment) Scheme, 1972 and the Emergency Risks (Undertakings) Insurance (Amendment) Scheme, 1972 on the Table of the House and attributed it to the delay in preparation of Hindi versions. The fact is that Hindi versions of these Notifications had been made available to the Ministry on the 25th March, 1972 whereas they were laid on the Table on the 26th April, 1972. In their explanatory statement for delay in laying the notifications, that Ministry should have explained the subsequent delay of one month, after the receipt of Hindi version

from the Law Ministry. The Committee desire the Ministry of Finance (Deptt. of Rev. & Ins.) to be careful about these matters in future. The Committee also desire the Department of Parliamentary Affairs to issue instructions to all Ministries in this regard.

IV

The Indian Post Office (Eleventh Amendment) Rules, 1971 (S.O. 3656 of 1971).

95. Sub-rule (3) of Rule 61 of the Indian Post Office Rules, 1933, substituted by above amending Rules reads as follows:

“No article, intended for registration, shall be accepted at any post office at any one time from an individual or firm unless the number of articles intended for registration is limited to such number as may be fixed by the Postmaster General in this behalf.”

96. The Ministry of Communications (P & T Board), who were asked to state the genesis of amendment, stated as under:

“In 1969 one of the Postmaster Generals reported that considerable dislocation of work was caused by the presentation of a large number of registered articles for booking under the special journal system near about the closing hours in the night post offices.

With a view to ascertain the position prevailing in other circles, a reference was made to the Heads of Circles. Reports received indicated that the problem existed in 9 out of 16 Circles in varying degrees and that too was limited to a few night post offices only.

Some Heads of Circles had already taken various steps to meet the situation as detailed below:

1. Posting of additional staff;
2. opening of special counters;
3. allotting different timings to different parties for the presentation of articles;
4. reinforcing the regular counter with staff from other branches;
5. persuading the senders to present articles earlier;
6. adjustment of duty hours of staff; and
7. booking allowed upto a particular hour.

The Heads of Circles had also made recommendations for tackling the situation. These recommendations included:—

- (i) fixation of specific hour for registration prior to closure of post office;
- (ii) restriction in the number of articles for booking;
- (iii) liaison with big mailers;
- (iv) increasing the number of counters for registration;
- (v) closure of the counter at exact time and leaving the remaining articles to be booked the following day;
- (vi) levy of surcharge during the last hour;
- (vii) registration of such articles during normal working hours of post offices; and
- (viii) provision of additional staff for coping with the rush of work.

After considering the *pros* and *cons* of the various suggestions made by the Heads of Circles, it was decided, in consultation with the Ministry of Law and Justice, that Heads of Circles should be authorised to fix the number of articles that can be presented for registration at any post office at any one time by an individual or a firm and to limit the registration to the authorised maximum number of articles. Accordingly, a notification inserting a new sub-rule (3) in Rule 61 of Indian Post Office Rules, 1933 was issued as the Indian Post Office (Eleventh Amendment) Rules, 1971. In the administrative instructions issued to the Heads of Circles, it was enjoined upon them that action should be taken by them under the new sub-rule after taking into consideration public convenience, available staff strength, local conditions etc. This was done with a view to act as a sufficient deterrent in dissuading the presentation of articles in bulk for registration towards the closing hours of the post office."

97. At their sitting held on the 5th December, 1973, the Committee considered the reply of the Ministry of Communications and decided to hear oral evidence of the representatives of the Ministry in matter.

98. Giving background of the amendment the representative of the Ministry stated that night post offices had been opened for the facility of people who were engaged in their business during the day

and hardly got any time to go to the post offices during the day. It was seen that a large number of business houses made use of this facility and they brought a large number of articles for registration etc. under the Special Journal System. The result was that it took a long time to clear a single person and the rest of the people in the queue had to wait for a long time. It was, therefore, decided to restrict the number of articles and the amendment to the Rules was issued in consultation with the Ministry of Law, Justice and Company Affairs (Legislative Deptt.).

99. In reply to a query, the representative of the Ministry stated that the purpose of the amendment was to provide more satisfactory service at the Post Office counter and not to harass the people.

100. With regard to the suggestion for employing additional staff to meet the situation, he stated that it was not always possible to have additional counters as the night Post Offices worked with a limited staff. Administrative instructions had been issued to all Heads of Circles to exploit all other means before restricting the number of articles for registration. The restriction had been imposed in Delhi G.P.O. where there is a tremendous rush of people and also in case of Mobile Post Offices. Under the restriction, a person can present 3 articles at a time and he can again go to the queue and present 3 articles again. The intention was that the queue should move faster.

101. When it was pointed out that while the rush was generally experienced in night post offices, the amendment was of a general nature and could be made use of in the day post offices also, the representative of the Ministry stated that while implementing the amendment, they had issued a letter to all Post Master Generals that taking into consideration public convenience, available staff strength and local conditions etc. under the powers given by the amendment, maximum number of articles should be fixed. He agreed to consider the suggestion of the Committee to have the restriction only in night post offices and also to have a Board in the Post Offices indicating the timings during which the restrictions would apply.

102. In a written reply sent after the evidence, the Ministry have sent a copy of the draft instructions proposed to be issued to the Heads of Circles in the matter of restricting the number of registered articles that could be tendered by a single sender at the post office. According to these instructions, no restrictions would be placed on the booking of registered articles in post offices other than Night Post Offices and Mobile Post Offices. Even in the case of Night Post

Offices, as far as possible, additional work would be managed by opening of extra counters and such curbs kept to the minimum. Where the curbs are unavoidable, a Notice would be displayed at such Post Offices clearly indicating the hours during which such curbs will be imposed.

103. In regard to the mobile post offices which function normally for half an hour at a point, the Ministry have pointed out that it may not be possible to make any relaxation of the existing orders and the restrictions imposed, if any, will be for the full period during which the mobile post office functions.

104. The Committee are glad to note that the Ministry of Communications (P&T Board) have agreed to their suggestion for excluding day post offices from restrictions on accepting registered articles.

105. The Committee have gone through the revised administrative instructions proposed to be issued requiring the Heads of Circles to apply the restrictions only in night post offices and mobile post offices. While the Committee have no objection to the contents of these instructions, they desire that they should be put on statutory footing by incorporating them in the Post Office Rules, so as to mitigate the effect of S.O. 3656 of 1971 referred to earlier.

V

THE CENTRAL EXCISE (FOURTH AMENDMENT) RULES, 1973 (G. S. R. 432 OF 1973)

(A)

106. First proviso to sub-rule (1) of rule 49 of the Central Excise Rules as substituted by the above Amendment Rules provided that the manufacturer shall on demand pay the duty leviable on any goods which are not accounted for in the manner provided in the Rules or which are not shown to the satisfaction of the proper officer to have been lost or destroyed by natural causes or by unavoidable accident during handling or storage in store room or other approved premises.

107. The Committee which examined the above Rules at their sitting held on the 2nd July, 1973 decided to enquire from the Ministry whether they had any objection to exemption from payment of duty being granted to such excisable goods also as are shown to the satisfaction of the proper officer to have been damaged by natural causes or by unavoidable accident during handling or storage in approved premises.

108. The Ministry of Finance (Department of Revenue and Insurance) with whom the matter was taken up have replied as under:—

“Under Central Excise Law the charge to duty is raised as soon as goods are produced. Actual payment of duty, however, is postponed under rule 49 till the time the goods are about to be removed from the factory. If the damage to goods is such as to render goods unfit for marketing or consumption, duty may not be demanded under 1st proviso to sub-rule (1) of rule 49 existing at present. The manufacturer can, therefore, claim immunity from duty in case he proves that damage to the goods has rendered them unfit for consumption or marketing. In certain circumstances, however, mere damage to the goods may not render these goods unfit for consumption or marketing and the manufacturer may be able to sell these goods. Since all goods which are removed from the factory for consumption are required to pay duty no exemption from duty can be given even if goods are damaged but are fit for consumption or marketing.”

109. The Committee are satisfied to note that under the first proviso to sub-rule (1) of rule 49, a manufacturer can claim immunity from duty if he proves that the damage to the goods had rendered them unfit for consumption or marketing.

(B)

110. Sub-rule (2) of rule 49 provided that “excisable goods” may be removed from the factory in which they are made to any warehouse licensed under rule 140 for the storage of such goods subject to such exemptions, limitations and conditions as may from time to time be specified in this behalf by Central Government.

111. The Committee decided to enquire from the Ministry whether they had any objection to the exemptions, limitations and conditions being specified in the Rules.

112. The Ministry of Finance (Department of Revenue and Insurance) with whom the matter was taken up have replied as under:—

“In regard to suggestion for specifying exemptions, limitations and conditions subject to which excisable goods may be removed from the factory to any warehouse it may be stated that at present this facility has been extended to very few commodities like tobacco and mineral oils. This concession is given on the basis of exceptional circumstances obtaining and, therefore, it may not be possible to specify the circumstances in advance.”

113. The Ministry were further requested to state the circumstances under which the facility of removing goods from the factory to any warehouse had been extended to tobacco and mineral oils and whether these circumstances would differ from commodity to commodity.

114. In their reply, the Ministry have stated as under:

“The circumstances and conditions under which the facility of removing goods from the factory to any warehouse has been extended to tobacco and mineral oils are given below:—

Unmanufactured Tobacco:

Chapter VII of the Central Excise Rules, 1944, contains provisions relating to in-bond movement and warehousing of excisable goods to which these provisions have been specifically extended by issue of notification. The provisions of this Chapter were extended to unmanufactured tobacco by the Central Government under F.D. (C.R.) Notification No. VII-DCEz., dated the 28th February, 1944 (p. 163 of the Central Excise Rules, 1944, refers). The main considerations leading to the grant of warehousing facility to unmanufactured tobacco is grown and cured by lakhs of growers and curers throughout the country who are generally small people. Duty on unmanufactured tobacco becomes chargeable immediately after it is cured. However, all unmanufactured tobacco does not go into consumption in the form in which it is cleared from the curer's premises; it has to be further processed for different purposes before it can be used in the manufacture of cigarettes, biris or cigars. Even for chewing purposes, it may have to be processed. If the duty were to be charged at the stage where unmanufactured tobacco is cleared from the curer's premises, apparently it would act very harshly on the small curers and even that quantity of tobacco which is per force lost because of further processing, would have to pay duty. Therefore, with a view not to leave the small curers at the mercy of big dealers to whom the small curers may have to sell unmanufactured tobacco under pressure and avoiding disruption of practices followed by trade, it was considered advisable to extend warehousing facility to unmanufactured tobacco so that duty could be collected at a stage where it was administratively most convenient.

An extract from the Finance Member's speech at the time of moving the Tobacco (Excise Duty) Bill in the Council of State in 1943 is reproduced below which will make the matter clear:

"The basic principle on which it '(the system of collecting excise duty)' proceeds is that the tax should be charged on the raw tobacco but that its levy and collection should be postponed until the tobacco is about to go into use and provision is accordingly made for official supervision and control of the commodity from the stage of its production until it is finally marketed. In framing the system regard has been paid to the practical conditions of the industry with a view to reducing the inconvenience to a minimum and to ensuring that official operations fit in with the requirements of the trade. If the curer or the purchaser so desires, the duty may be paid immediately the tobacco has been cured and made fit for sale but for the general convenience of the trade and in particular to allow remission of duty to be claimed in respect of losses incurred during storage and of refuse tobacco unsuitable for manufacture and in order also to postpone payment until the tax can be transmitted to the consumer with the least possible delay, the wholesale dealer is permitted to warehouse his goods under bond and to pay the duty when they are ultimately despatched to the manufacturer or retail dealer; and in order to facilitate the disposal of tobacco the ultimate market for which is situated at a considerable distance from the original place of production, provision is made for transport under bond from one warehouse to another."

Mineral Oils:

The provisions of Chapter VII of the Central Excise Rules, 1944, relating to warehousing and in bond movement of excisable goods were extended to mineral oils vide Government of India Notification No. CER-139(1)/56 and No. 139(2) and 49(1)/56, dated 9th June, 1956. The main considerations leading to the extension of warehousing facility to mineral oils were—

- (a) before the refineries started operating in India, mineral oils were being imported from foreign countries and were permitted to be stored in the installations at the ports in bond;

(b) if the facility of in-bond movement was not granted to the mineral oils indigenously produced, the manufacturers would have to pay duty on them at the time of clearance from the refinery itself thereby putting the indigenous production at a disadvantage vis-a-vis the imported oils;

(c) it was the Government's policy that the oil companies should maintain stocks at port installations and upcountry depots to the maximum capacity possible while in the absence of in-bond facility, the companies were inclined to operate main port tankages at the lowest level.

The decision was taken in an inter-Ministerial meeting of the representatives of the Ministries of Finance, Transport, Railways, Works, Housing and Supply and Production.

The conditions subject to which the movements of unmanufactured tobacco or mineral oils can take place are incorporated in Chapter VII and Chapter IV of the Central Excise Rules, 1944. Supplementary instructions have also been issued from time to time and are incorporated in the Departmental Manuals.

From the above it will be seen that the circumstances, conditions and justification for extending the warehousing facility to excisable commodities would differ from commodity to commodity and these are the reasons why this facility has been extended to very few commodities so far."

115. The Committee are satisfied with the reply of the Ministry of Finance (Department of Revenue & Insurance) that it is not possible to specify in the Rules the exemptions, limitations and conditions subject to which excisable goods might be removed from the factory to any warehouse, as the facility had been extended to very few commodities like tobacco and mineral oil on the basis of exceptional circumstances obtaining in relation thereto.

VI

INTER-ZONAL WHEAT AND WHEAT PRODUCTS (MOVEMENT CONTROL) ORDER 1973 (G.S.R. 187-E OF 1973)

(A)

116. Under the proviso to sub-para (2) of paragraph 3 of the Inter-zonal Wheat and Wheat Products (Movement Control) Order, 1973, the provisions of sub-paras (1) and (2) prohibiting the export

and import of wheat and wheat products shall not apply to the export or import of wheat or any wheat product not exceeding five kilograms in weight in aggregate by a *bona fide* traveller as part of his luggage.

117. The Committee decided to inquire from the Ministry whether they had any objection if a *bona fide* traveller was permitted to carry ten kilograms of wheat or wheat product for personal use instead of 5 kilograms as at present.

118. The Ministry of Agriculture (Department of Food) in their reply have stated as under:—

“... amendment suggested by the Committee is that a *bona fide* traveller should be permitted to carry 10 kilograms of wheat or wheat products for personal use as against 5 kilograms of wheat/wheat products allowed at present. The Department of Food are of the view that if the limit of 5 kilograms is increased to 10 kilograms it will have an adverse effect on procurement efforts in the surplus areas. Any such increase will act as a loophole for unauthorised movement of wheat. It will as such be necessary to consult all the State Governments before any such increase could be made.”

119. The Committee are not convinced with the reply of the Ministry of Agriculture that any increase in the limit of 5 kilograms of wheat or wheat products which a *bona fide* traveller is permitted to carry for personal use would have an adverse effect on procurement efforts in surplus States. The Committee desire the Ministry of Agriculture to amend the Rules so as to increase the limit from 5 kilograms to 10 kilograms.

(B)

120. Paragraph 7(i) of the Inter-zonal Wheat and Wheat Products (Movement Control) Order, 1973 empowered any police officer not below the rank of Assistant Sub-Inspector or ‘any other officer’ authorised by the Central Government or the State Government concerned to enter, examine, search and seize etc. with a view to securing compliance with the Order, or to satisfying himself that the Order had been complied with.

121. Attention of the Ministry was invited to the recommendation of the Committee on Subordinate Legislation made in para 15 of the Fifth Report (Third Lok Sabha) and reiterated in subsequent reports wherein they had urged upon the Government to specifically state in ‘Order’ that a government servant not below the specified

rank or equivalent officer might be authorised to conduct searches and seizures, etc. It should not be left worded in a manner, which would give the executive the power to authorise any and every government servant to exercise the power of conducting searches and seizures.

122. The Ministry of Agriculture (Department of Food) have replied as under:

"The... amendment suggested by the Committee is that the minimum rank of officers competent to exercise the power of entry, examination, search and seizure should be specified in clause 7(1) of the Order itself. In pursuance of the provisions of clause 7(1) of the Order the State Governments normally specify by a notification in the official gazette the officers who are competent to exercise the powers conferred by that clause. There is no arbitrariness at all in exercise of the powers conferred by clause 7 of the Order. It may, therefore, not be necessary to amend clause 7 of the Order as suggested by the Committee, if, however, the Committee still feel that clause 7 should be amended then it will be necessary to consult all the State Governments/Administrations in the matter as the Inter Zonal Wheat and Wheat Products (Movement Control) Order, 1973 covers all States and Union territories."

123. The Committee are not satisfied with the reply of the Ministry that, in pursuance of the provisions of clause 7(1) of the Order, the State Governments normally specify by a notification in the Official Gazette the officers who are competent to exercise the powers conferred by that clause and as such there is no arbitrariness at all in exercise of the powers conferred by the clause.

124. The Committee had first stressed the need for specifying in the Order the minimum rank of the persons to be authorised to conduct searches and seizures in para 15 of their Fifth Report (Third Lok Sabha). This recommendation was reiterated in their subsequent reports. The Committee are distressed to note that the Ministry of Agriculture have not kept the above recommendation in view while issuing the Inter-Zonal Wheat and Wheat Products (Movement Control) Order, 1973. The Committee desire the Ministry to amend the Order so as to specify therein the minimum rank of the officers to be authorised to conduct searches/seizures.

VII

- * (i) THE I.A.S. (APPOINTMENT BY COMPETITIVE EXAMINATION) REGULATIONS, 1955 (S.R.O. 1215 OF 1955).
- * (ii) THE I.P.S. (APPOINTMENT BY COMPETITIVE EXAMINATION) REGULATIONS, 1955 (S.R.O. 1218 OF 1955).

125. Regulation 13 of the above Regulations provides as follows:—

“The inclusion of a candidates’ name in the list confers no right to appointment unless the Central Government is satisfied, after such enquiry as may be considered necessary, that the candidate is suitable in all respects for appointment to the Service.”

The above regulation appeared to give too wide a discretionary power to Government in the matter of appointment and a candidate who might have attained quite a meritorious position in the list might not be appointed.

126. The Department of Personnel were asked to state the considerations for making this provision in the Regulations and also to indicate the nature of enquiries which might be conducted by Central Government. They were also asked to state whether, with a view to clearly indicating to the candidates the grounds on which they might not be selected under this regulation, they had any objection to making the regulation in question self-explicit.

127. In their reply, the Department of Personnel and Administrative Reforms stated as under:—

“Similar provisions have been made in the rules regulating recruitment to a Central Service, made by the President in exercise of the power conferred by the proviso to Article 309 of the Constitution. By way of illustration, a reference may be made to sub-regulation (1) of Regulation 8 of the Central Secretariat Service Section Officers’ Grade (Competitive Examination) Regulations, 1964, which is extracted below for facility of reference:

“Success in the examination confers no right to appointment to the Section Officers’ Grade of the Service unless Government are satisfied, after such enquiry as may be

*These Regulations are out of 49 Regulations which were scrutinised by the Committee after they were circulated to Members of Lok Sabha consequent upon the debate in the House on the All India Services Regulations (Indemnity) Bill, 1972.

considered necessary, that the candidate is suitable in all respects for appointment to the public service."

This provision enables the Government to satisfy itself in each case about the suitability of a candidate for appointment to the Indian Administrative Service. The conditions of eligibility for competing at the examination having been specified in Regulation 4, suitability on merits of the candidate having been determined by the Union Public Service Commission under Regulation 7 and provision for disqualification for appointment on medical grounds having been made in Regulation 12, suitability in all respects for appointment to the Service referred to in Regulation 13 could only relate to the character and antecedent of the candidate.

In order to ensure that persons in Government service are loyal, upright and impartial, it is necessary for Government to exercise discretion in the matter of appointment with a view to ensuring that persons who are likely to abuse the confidence placed in them are not appointed in the public services. For this purpose, the following are considered undesirable for employment under the Central Government (including appointment as a member of the Indian Administrative Services):—

- (a) those who are, or have been members of, or associated with, any body or association declared unlawful after it was so declared; or
- (b) those who have participated in, or associated with, any activity or programme:—
 - (i) aimed at the subversion of the Constitution;
 - (ii) aimed at the organised breach or defiance of the law involving violence;
 - (iii) prejudicially to the interests of sovereignty and integrity of India or the security of the State; or
 - (iv) which promotes on grounds of religion, race, language, caste or community, feelings of enmity or hatred between different sections of the people.

In this connection, the attention....is invited to the rulings and the observations of the Kerala High Court in the cases of *K. Georga Vs. State of Kerala* (AIR 1964 Kerala 238) and *V. Dasan Vs. State of Kerala* (AIR 1965 Kerala 63) and of the Mysore High Court in the case *R. Agnihotri*

Vs the State of Mysore (AIR-1967-Mysore-65). It has been held that the responsibility of ensuring that only persons with satisfactory character and antecedents are appointed to Government service is primarily that of the State, that its discretion by its very nature will have to be large and untrammelled and that what exactly are the elements that will evidence and ensure that the character and antecedents of a candidate for Government appointment are suitable and satisfactory is the privilege and the duty of the appointing authority to decide. It has further been held that having regard to the variety of circumstances pertaining to the character and antecedents of a candidate for Government appointment, which may render him unsuitable in the opinion of Government for such appointment it is necessary that wide discretion in this matter should be vested in Government.

Having regard to the position explained above, this Department is of the tentative view that, to make the scope of Regulation 13 clear, the following may be substituted for it, namely:

"The inclusion of a candidate's name in the list confers no right to appointment unless the Central Government is satisfied, after such inquiry as may be considered, *having regard to his character and antecedents in all respects*, is suitable for appointment to the service."

This Department is further of the view that, having regard to the rulings of the Kerala High Court and the Madras High Court cited above, it is unnecessary to specify, in the regulation, the nature of inquiries to be made, in detail.

A final decision in the matter will be taken after the views of the Committee on Subordinate Legislation are made available and after consulting the State Governments and the Union Public Service Commission as necessary.

The comments given above apply *mutatis mutandis* to the provisions of the Indian Police Service (Appointment by Competitive Examination) Regulations, 1955 also.

This Office Memorandum issues with the approval of the Minister of State in the Department of Personnel and Administrative Reforms."

128. The Committee at their sitting held on the 21st May, 1973, considered the matter and decided to hear oral evidence of the repre-

representatives of the Department of Personnel and Administrative Reforms in the matter.

129. During evidence the representative of the Department explained that the object of regulation 13 was that the persons in government service should be loyal. This was to be judged by his character and antecedents. They had also suggested an amendment of the Regulation to make it clear. There were several judicial decisions which said that it was the State responsibility to ensure that only persons with satisfactory character and antecedents were appointed to Government service.

180. He further said that political opinions were not taken into consideration while rejecting a particular person. Out of 2139 candidates selected to the I.A.S. since 1947, no one had been rejected on this account and out of 1487 I.P.S. candidates selected since 1947 only one successful candidate had not been taken on this account.

131. As to the machinery for checking loyalty of a person, he said that they wrote to the District Magistrate who got certain inquiries conducted through the police. The report was routed through District Magistrate and Superintendent of Police. The enquiry conformed whether he had been convicted of an offence etc.

132. As to the action to be taken against an I.A.S./I.P.S. officer who becomes indifferent to his duties after approval, he stated that the I.A.S./I.P.S. cadres were state based. It was for the State Government to take action. If he did something while serving at the Centre, the Central Government took action.

133. When asked whether it was possible to do the screening of the candidates before the examination, the representative of the Department stated that the number of candidates was so large that it would mean futile labour to a large extent. They had started doing verification of character and antecedents after the examination but before the interview.

134. In their letter dated the 19th June, 1974, the Department of Personnel and Administrative Reforms have stated that they proposed to amend regulation 13 as under:

"13. Inclusion in List confers no right to appointment.—The inclusion of a candidate's name in the list confers no right to appointment unless the Central Government is satisfied, after such inquiry as may be considered necessary, that the candidate, having regard to his character and antecedents in all respects, is suitable for appointment to the Service."

135. The Committee note with satisfaction that regulation 13 as proposed to be amended makes clear the scope of inquiry to be made thereunder. The Committee desire the Department of Personnel and Administrative Reforms to issue the amendment at an early date.

VIII

THE PETROLEUM (SECOND AMENDMENT) RULES, 1970 (G.S.R. 619 OF 1970)

136. Rule 121(1) of the Petroleum Rules, 1937 as substituted by the Petroleum (Second Amendment) Rules, 1970 provided that "every licence granted under these rules shall be liable to be suspended or cancelled by order of the licensing authority for any contravention of the Act or of any rule thereunder, or of any condition contained in such licence." Rule 121(2) further provided that "notwithstanding anything contained in sub-rule (1) the Central Government may suspend or cancel any licence granted under these rules if it is satisfied that there are sufficient grounds for doing so."

137. There was, however, no mention in the rule that before a licence is suspended or cancelled, the aggrieved party would be given a reasonable opportunity of being heard.

138. The Ministry of Industrial Development to whom the matter was referred have amended the rule (*vide* G.S.R. 170-E, dated 14-3-1973) by adding following proviso to rule 121(1) and substituting 121(2) as under:

"Provided that before suspending or cancelling a licence under this rule, the holder of such licence shall be given an opportunity of being heard.

Provided further that no such opportunity shall be given in cases,

- (a) where the licence is being suspended for violation of any of the provisions of the Act or these rules, or of any condition contained in such licence and in the opinion of the licensing authority such violation is likely to cause danger to the public; or
- (b) where the licence is suspended or cancelled by the Central Government, if that Government considers that in the public interest or in the interest of the security of the State, such opportunity should not be given".

For sub-rule (2), the following sub-rule has been substituted—

"(2) A Licensing authority or the Central Government suspending or cancelling a licence under sub-rule (1), shall record its reasons for so doing in writing."

139. The Committee are not satisfied with the amendments to rule 121, *ibid.*, made by the Ministry of Industrial Development. They feel that in cases mentioned in the provisos to rule 121(1) *ibid.*, the Licensing Authority or the Central Government should first suspend a licence for a fixed period, thereafter give an opportunity of being heard to the licensee and cancel the licence if so considered appropriate. The Committee desire the Ministry to amend the rules accordingly.

IX

DELAY IN LAYING OF ORDERS ON THE TABLE OF THE HOUSE

140. It was noticed that out of 151 'orders' laid on the Table of the House during the Ninth Session, 68 Orders were laid on the Table after the prescribed limit of 15 days from the date of their publication in the Gazette. The period of delay ranged from over 15 days to over 2 years.

141. Out of 68 'Orders' which had been laid after the prescribed period of 15 days, 38 'Orders' had been laid on the Table pursuant to the observations made by the Committee on Subordinate Legislation in para 13 of their Ninth Report (Fifth Lok Sabha) in connection with non-compliance with the statutory requirement of laying Orders before Parliament. In the case of 19 'Orders' (*vide* Appendix VII) out of the remaining 30 Orders, statements showing reasons for delay were not laid on the Table alongwith the Order, as required by the recommendation of the Committee made in para 143 of their First Report (Second Lok Sabha) and reiterated in their subsequent Reports.

142. The Ministries/Departments concerned with these 19 Orders were requested to state the reasons for delay in laying them on the Table of the House and the reasons for not laying a statement giving reasons for the delay. Most of the Ministries/Departments who have sent their replies have attributed the delay to late receipt of Gazette copies or particulars of publication of the Notification from the Government of India Press. While some of the Ministries have regretted their failure to lay a statement indicating reasons for delay alongwith the Order, others have contended that they did not lay the statements as action had been taken by them promptly after receipt of copies of the Gazette.

143. The Committee are not satisfied with the reasons advanced for delay in laying 'Orders' on the Table within the prescribed period

of 15 days from the date of their publication in the Gazette. In para 35 of their Ninth Report (5th Lok Sabha), the Committee had drawn attention to the new procedure introduced by the Controller of Printing and Stationery for supply of G.S.R. Number etc. vide his O.M. No. H. 11013/172-P dt. 9-2-72 addressed to all Ministries/Departments. The new procedure, inter alia provides that the Ministries/Departments should not wait for supply of spare copies of the Notifications by the Press for laying them on the Table of House. They should obtain the G.S.R. or S.O. number of the notification by making a request in writing in duplicate one day after the date of publication of the notification in the case of Extraordinary issues and on Mondays, in the case of Notifications published in the weekly Gazette. The Committee desire the Department of Parliamentary Affairs also to bring the new procedure to the notice of all Ministries/Departments and emphasise upon them the necessity of adhering to the time-limit of 15 days in laying Notifications on the Table.

144. The Committee are distressed to note that in 19 cases out of 30, the Ministries have not laid the statements showing reasons of delay alongwith the Order. The Committee wish to re-emphasise that statements showing reasons for delay should be laid on the Table alongwith the Orders in all cases where it has not been possible to adhere to the time-limit of 15 days due to any reason whatsoever. The Committee desire all Ministries/Departments to strictly comply with the recommendation of the Committee in this regard.

X

IMPLEMENTATION OF RECOMMENDATIONS CONTAINED IN PARAS 74 AND 75 OF THE SIXTH REPORT OF THE COMMITTEE ON SUBORDINATE LEGISLATION (FIFTH LOK SABHA) RE- GARDIN THE EXPLOSIVES (AMENDMENT) RULES, 1971

(G.S.R. 1077 OF 1971)

145. Rule 93 of the Explosives Rules, 1940, as amended by the Explosives (Amendment) Rules, 1971 (G.S.R. 1077 of 1971) provided as under:—

“...before suspending or cancelling a licence, the licensing authority shall give to the licence-holder an opportunity of being heard. However, no such opportunity shall be given in cases,—

- (i) where the licence is being suspended for violation of any of the provisions of the Act or the rules, or of any condition contained in such licence and in the opinion of the

licensing authority, such violation is likely to cause danger to the public; or

- (ii) where the licence is suspended or cancelled by the Central Government, if that Government considered that in the public interest or in the interests of the security of the State, such opportunity should not be given."

146. The Committee on Subordinate Legislation (1972-73) which considered the above Rules, observed in para 51 of their Fourth Report (Fifth Lok Sabha) as follows:—

"...the Committee feel that while the authority concerned might not give an opportunity of being heard to a licence-holder...in case of suspension a reasonable opportunity of being heard must be given to a licence-holder before his licence is cancelled. They also feel that the maximum period for which a licence could be suspended by the competent authority should also be laid down in the Rules."

147. The Ministry of Industrial Development in their action note stated as under:—

"...As the amended rule 93 now stands, the Central Government may exercise powers given thereunder to suspend a licence when it has good and sufficient reasons to suspect that continuance of the licence is objectionable. If it has conclusive evidence to the effect that continuance of any licence is objectionable, it will be a case of cancellation and not suspension and therefore the question of confirming the suspension order will not arise. Thus suspension of a licence by the Central Government will be an 'interim measure' (and not a confirmed order) to enable it to investigate the matter further and come to a positive decision regarding continuance|discontinuance of the licence. It should satisfy the Committee on Subordinate Legislation if Rule 93 is further amended to prescribe the maximum duration of a suspension order and to ensure that suspension does not deprive the licensee of his right to have the licence renewed. In the case of suspension by a licensing authority without giving the licensee an opportunity of being heard, the order of suspension should be confirmed after giving such an opportunity.

As regards cancellation of a licence, the Committee on Subordinate Legislation want that a reasonable opportunity of

being heard must be given by the Central Government to a licence holder before his licence is cancelled.

It will be seen from the remarks in the preceding paragraph that the Central Government will be required to cancel a licence only when it has conclusive evidence to the effect that continuance of the licence is objectionable in public interest or in the interest of the security of the State. In such circumstance, the offender will be able to continue his objectionable activities for some more time, if he is to be given an opportunity of being heard before his licence is cancelled. The Committee may be requested to please reconsider their recommendation in the light of the position stated above."

148. After considering the above reply of the Ministry, the Committee recommended as follows in paras 74-75 of their Sixth Report (Fifth Lok Sabha):—

"The Committee, after having considered the matter carefully, are not convinced by the argument advanced by the Ministry of Industrial Development that the Central Government will be required to cancel a licence under the Explosives Rules, 1940, only when it has 'conclusive evidence' to the effect that continuance of the licence is objectionable in public interest or in the interest of the security of the State, and in such circumstances, the offender will be able to continue his objectionable activities for some more time, if he is to be given an opportunity of being heard before his licence is cancelled. The Committee are firmly of the view that if the Central Government have 'conclusive evidence' regarding the objectionable activities of the party concerned, they could suspend the licence, give an opportunity of being heard to the licensee, and thereafter, if so considered appropriate, cancel the licence.

The Committee, therefore, desire that the Ministry of Industrial Development should amend the Explosive Rules accordingly."

149. The Ministry of Industrial Development in their reply, stated as below:—

"... a copy of the extract of paragraphs 127 to 132 taken from Fourteenth Report of Committee on Subordinate Legislation of Rajya Sabha is also enclosed. Lok Sabha Secretariat are requested that the matter may please be brought before the Committee on Subordinate Legislation of the

Lok Sabha and it may be confirmed whether the proposed amendment as extracted in paragraph 131 of the Fourteenth Report of the Rajya Sabha Committee on Subordinate Legislation would be acceptable to the Lok Sabha Committee."

150. The Committee on Subordinate Legislation of Rajya Sabha in their Fourteenth Report has agreed with the amendment to Rule 93 of the Explosive Rules, 1940 as suggested by the Ministry.

151. The Committee have carefully considered the matter. They are not satisfied with the amendment proposed to be issued to Rule 93 of the Explosives Rules which retains the power of the Central Government to suspend or cancel the licence without giving an opportunity of being heard to the holder of the Licence. The Committee reiterate their earlier recommendation made in paras 74-75 of the Sixth Report (Fifth Lok Sabha).

XI

ACTION TAKEN BY GOVERNMENT ON THE RECOMMENDATIONS MADE BY, AND ASSURANCES GIVEN TO, THE COMMITTEE ON SUBORDINATE LEGISLATION

152. The Committee note with satisfaction the action taken by Government on their earlier recommendations as indicated in Appendix VIII.

NEW DELHI;
The 5th August, 1974

DR. KAILAS
Chairman,
Committee on Subordinate
Legislation.

APPENDICES

APPENDIX I

(Vide para 6 of the Report)

Summary of main Recommendations|Observations made by the Committee

S. No.	Para No.	Summary
(1)	(2)	(3)
1	20	The Committee are alarmed at the very large number of categories of posts for which Recruitment Rules had not been framed till 1-4-1973. The Constitutional provision regarding framing of statutory Rules came into operation in 1950. It is shocking that inspite of nearly 25 years having elapsed, recruitment rules in respect of 3403 categories of services|posts covering one lakh eight thousand eight hundred and seventy three persons as on 1-4-73 remain to be notified. The position regarding framing of statutory Recruitment Rules in the attached|subordinate offices is much worse than in the Secretariat itself. It appears that the Administrative Ministries|Departments have failed to emphasise upon the attached and subordinate offices the need for urgent framing of statutory Recruitment Rules.
	21	The Committee had called for evidence only 10 out of 25 Ministries|Departments. But the progress reported by these Ministries is a fair indication of the total progress achieved in the matter after 1-4-1973. The Committee regret to note that except in the case of Ministry of Tourism and Civil Aviation the progress made has been painfully slow and halting.

(1)

(2)

(3)

- 53 It is clear from the evidence of certain selected Ministries tendered before the Committee as also from the material subsequently furnished by them that in most cases the delay in framing Recruitment Rules occurred because of initial inaction on their part. The Ministries|Departments have been depending too much on the initiation of proposals by the subordinate|attached offices, which the latter were slow to submit.
- 54 The Committee decrie the tendency of postponing finalisation of rules every time there was slightest change in circumstances in the hope of their making a perfect rule. Proviso to Article 309 does not bar amendments to Statutory Recruitment Rules if situation warrants. In most of the cases referred to above the Committee are of the opinion that the Ministries|Departments should have finalised Recruitment Rules by now. As observed earlier the representatives of the Ministries|Departments who appeared before the Committee themselves admitted that the delay could have been avoided in most cases.
- 55 Barring the cases where the further processing of the rules had to be shelved on account of the matters going to the court (as for example in the case of the Income-tax service Class I and the Hindi Officer) in other cases the Committee are not convinced of the reasons advanced by the Ministries|Departments for delay in framing of Recruitment Rules.
- 56 In the opinion of the Committee too much time was allowed for consultations to be made with the U.P.S.C., Department of Personnel and Law Ministry, etc. The Committee are far less convinced of some of the other explanations given by some of the Ministries while forwarding statistics of pending rules as on 1-4-1973

(1)

(2)

(3)

such as * (i) awaiting Model Recruitment Rules; † (ii) work studies being carried out by the Staff Inspection Unit; % (iii) the posts lying vacant; £ (iv) anticipated changes in the light of the Pay Commission's Report; @ (v) ever since the appointment of persons to the post no vacancy arose ** (vi) lapse of a Bill in Lok Sabha due to dissolution and *** (vii) the Ordnance Factory to which the posts are related has been in project stage.

57

The Constitution of India came into operation in 1950. Nearly 25 years have elapsed since then. This is sufficiently a long period to frame Statutory Recruitment Rules under proviso to article 309 in most cases. The Committee are constrained to observe that sufficient attention was not paid to the scheme of article 309 and the proviso thereto. The Committee would stress upon all Ministries/Departments to bear in mind the scheme of article 309 and the proviso thereto and until such time as Parliament enacts laws for various services/posts, frame Recruitment Rules under the proviso where they have not been framed so far and if drafts have already been prepared, to finalise them at an early date.

*For instance in the case of Junior Analyst in the Personnel Wing of the Department of Personnel and Administrative Reforms existing since 1971.

†For example in the case of post of Computer Investigator under the DGET (Ministry of Labour) existing since 1968.

%For example the post of Chief Compilation Officer (Hindi) under the Armed Forces Hqs. and Inter Service Organisation created in September, 1971.

£For example in the case of Class III and IV posts in the Government of India Stationery Office at Calcutta existing prior to 1947.

@For example in the case of post of Senior Gestetner Operator in the Planning Commission created in 1954.

**For instance in the case of post of Vaid Superintendent in the Coal Mines Welfare Fund Dhanbad existing since 1966. Bill to make the Fund a body corporate lapsed with the dissolution of Third Lok Sabha.

***Several posts in the A.F.D. Factory, Hazratpur (Tundla) under the Department of Defence Production existing since 1966.

(1)

(2)

(3)

59

Almost all the representatives who appeared before the Committee agreed that the period of finalisation of Recruitment Rules should not normally be more than one year. The Ministry of Tourism and Civil Aviation have shown that with drive the rules pending for many years could be finalised and notified in about a fortnight. The Committee would like all the Ministries|Departments to finalise the rules pending with them within six months as proposed by the Department of Personnel.

63

The Committee are surprised to note that the representatives of most of the Ministries|Departments who appeared before them were not aware of the general circular issued by the Ministry of Home Affairs to all Ministries|Departments from time to time, wherein they had emphasised the necessity of framing of Recruitment Rules for all Services|Posts under the proviso to Article 309 of the Constitution and also prescribed a quarterly return to be furnished to them by each Ministry|Department indicating the progress made in the framing of recruitment rules and the reasons for delay, if any. The Committee are also surprised at the observation of the Department of Personnel that they did not find the returns much useful.

64

The object of the return was to keep a watch on the progress of framing Recruitment Rules. It could not be the instrument of vetting the Rules. It is obvious that the Department of Personnel have not attached due importance to their own instructions and failed in rigorously pursuing them. The Committee desire that the Department of Personnel should review the contents of those circulars in order to make them more purposeful and once again bring them to the notice of the Departments|Ministries and emphasise on them the necessity of

(1)

(2)

(3)

complying with the same so that watch is kept on undue delay in framing recruitment rules.

66

The Committee are not convinced by the argument advanced by the representatives of some of the Ministries that even though there were no statutory recruitment rules each of the posts was being regulated by draft recruitment rules or executive instructions. The Committee need hardly stress that draft recruitment rules or executive instructions are no substitute for statutory recruitment rules framed under proviso to article 309 of the Constitution as unlike statutory rules they are not published in the Gazette and do not come to the notice of the public at large. The Committee are also unable to examine draft Recruitment Rules or executive instructions with a view to see whether any provision therein can be so used by the executive as to favour or discriminate against an individual. The absence of statutory rules may also lead to discontentment among the persons who may be or are likely to be adversely affected as a result of such absence.

67

The representative of the Ministry of Finance while arguing that since detailed instructions in the matter of Recruitment existed had during the evidence, referred to the Supreme Court decision in the case of *S. G. Jaisinghani Vs. Union of India and others*, according to which even if there were no statutory rules governing conditions of service, executive instructions/Orders issued under the power derived from article 309 had the force of law and were binding on the Government. The Planning Commission also drew attention to the Supreme Court decision in *Nagrajan Vs. State of Mysore* where it was held by the Court that "it is not obligatory under proviso to article 309 to make rules of recruitment before service can be constituted or post created or filled." The Com-

(1)

(2)

(3)

mittee would like to make it clear that it is not their contention that recruitment to a Government service|post cannot be validly made through Departmental instructions. Even if it is legally permissible to regulate recruitment to a service|post through departmental instructions, the Committee desire that for the reasons given in para 66 above, recruitment to Government services|posts should be regulated either through Acts of Parliament or through statutory rules.

71 The Committee regret to note that the Ministries|Departments are not following strictly the instructions laid down by the Department of Personnel for framing of Recruitment Rules, which necessitated to and fro references. The Committee desire that they should strictly follow the instructions of the Department of Personnel. The Ministry of Law and UPSC should also issue suitable instructions to various Ministries about the manner in which the latter had to submit proposals, so that frequent cases of references complained of by Ministries|Departments could be avoided.

72 The Committee note with satisfaction that with a view to reduce the time taken in inter-Ministerial consultations, the Department of Personnel have under consideration, in consultation with the UPSC, a suggestion for constituting a committee consisting of the representatives of the Ministries|Departments concerned and those of the Department of Personnel and Administrative Reforms, Ministry of Law, and the UPSC which could meet periodically and finalise the Recruitment Rules in one or more sittings. The Committee desire that such committees should be constituted for all Ministries|Departments.

73 The Committee also endorse the suggestion of the Ministry of Defence that within each

(1)

(2)

(3)

Ministry there should be a cell to process the proposals emanating from subordinate|attached offices and to deal with inter-Ministerial consultations. The Ministry of Defence are stated to hold weekly meeting of Secretary with Joint Secretaries to review the progress made in finalisation of recruitment rules. The Ministries of Health and Family Planning and Works and Housing have proposed that hereafter finalisation of the Recruitment Rules would receive the personal attention of Joint Secretary in-charge of the administration who would review the situation once in every month and additional Secretary would also keep a watch from time to time. These examples should be emulated by other Ministries|Departments according to their requirements.

74

While all Ministries have accepted the suggestion that a time limit should be laid down for processing Statutory Rules under the proviso to article 309, the Ministry of Finance *(Deptt. of Rev. and Ins.) whose representative during the evidence earlier had agreed that the normal time-limit for finalisation of recruitment rules should be one year have in written information submitted after evidence, stated as follows "need for time limit would really be necessary only where appointments are made on purely *ad-hoc* basis without laing down clear-cut method and where such method is laid down there may not be any need to fix a time limit. It is, however admitted that Statutory Rules should be framed as soon as possible and accorded high priority." The Committee do not agree with the view of the Department of Revenue and Insurance regarding time limit. The Committee have already pointed out that Departmental Instructions, however, detailed cannot be a substitute

(1)

(2)

(3)

for statutory rules. The Committee, therefore, recommend that Department of Personnel should fix a time-limit from the date of creation of post within which recruitment rules should be framed under the proviso to article 309. If in exceptional cases it is not possible to stick to this limit, the case should be put up before the Head of the Ministry|Deptt. who should personally see that the bottlenecks, if any, are removed and the rules are finalised without unnecessary delay.

79

The Committee regret to note that there has been undue delay on the part of the Ministries|Departments mentioned in para 75 of the Report in furnishing information regarding non-framing of Recruitment Rules. The information was sent by them only after their representatives had been called for evidence. The Committee are not convinced with the reasons given by them for the delay. The Committee feel that if the matter had been looked into at a higher level in the Ministry, the delay could have been avoided. The Committee strongly desire all Ministries|Departments to be careful in future and send the prompt replies to the communications from the Committee.

93

The Committee regret to note that delay should have occurred in laying Notifications on the Table of the House on account of delay in receipt of their Hindi version from the Official Language (Legislative) Commission. The Committee feel that in most cases it could have been avoided if proper judgement had been exercised in according priority to the translation work in the Commission. The Committee trust that with the new instructions issued to the officers and staff of the Commission, such cases of delay will not occur in future and sufficient precaution will be taken to get the translation in Hindi in time to avoid such delay on this account.

(1)	(2)	(3)
94	<p>The Committee are unhappy to note that the Ministry of Finance (Deptt. of Rev. & Ins.) did not ascertain the facts regarding the delay in laying of the Emergency Risks (Goods) Insurance (Amendment) Scheme, 1972 and the Emergency Risks (Undertakings) Insurance (Amendment) Scheme, 1972 on the Table of the House and attributed it to the delay in preparation of Hindi versions. The fact is that Hindi versions of these Notifications had been made available to the Ministry on the 25th March, 1972 where as they were laid on the Table on the 26th April, 1972. In their explanatory statement for delay in laying the Notifications, the Ministry should have explained the subsequent delay of one month, after the receipt of Hindi versions from the Law Ministry. The Committee desire the Ministry of Finance (Deptt. of Rev. & Ins.) to be careful about these matters in future. The Committee also desire the Department of Parliamentary Affairs to issue instructions to all Ministries in this regard.</p>	
3	104	<p>The Committee are glad to note that the Ministry of Communications (P. & T. Board) have agreed to their suggestion for excluding day post offices from restrictions on accepting registered articles.</p>
	105	<p>The Committee have gone through the revised administrative instructions proposed to be issued requiring the Heads of Circles to apply the restrictions only in night post offices and mobile post offices. While the Committee have no objection to the contents of these instructions, they desire that they should be put on statutory footing by incorporating them in the Post Office Rules, so as to mitigate the effect of S.O. 3656 of 1971.</p>
4	109	<p>The Committee are satisfied to note that under the first proviso to sub-rule (1) of rule</p>

(1)

(2)

(3)

49 of the Central Excise (Fourth Amendment) Rules, 1973, a manufacturer can claim immunity from duty if he proves that the damage to the goods had rendered them unfit for consumption or marketing.

115 The Committee are satisfied with the reply of the Ministry of Finance (Deptt. of Rev. & Ins.) that it is not possible to specify in the Central Excise Rules the exemptions, limitations and conditions subject to which excisable goods might be removed from the factory to any warehouse, as the facility had been extended to very few commodities like tobacco and mineral oil on the basis of exceptional circumstances obtaining in relation thereto.

5

119 The Committee are not convinced with the reply of the Ministry of Agriculture that any increase in the limit of 5 kilograms of wheat or wheat products which a *bona fide* traveller is permitted to carry for personal use under the Inter-zonal Wheat and Wheat Products (Movement Control) Order, 1973 (G.S.R. 187-E of 1973) would have an adverse effect on procurement efforts in surplus States. The Committee desire the Ministry of Agriculture to amend the Rules so as to increase the limit from 5 kilograms to 10 kilograms.

123 The Committee are not satisfied with the reply of the Ministry that, in pursuance of the provisions of clause 7(1) of the Inter-zonal Wheat and Wheat Products (Movement Control) Order, 1973, the State Governments normally specify by a notification in the Official Gazette the officers who are competent to exercise the powers conferred by that clause and as such there is no arbitrariness at all in exercise of the powers conferred by the clause.

124 The Committee had first stressed the need for specifying in the Order the minimum rank

(1)

(2)

(3)

of the persons to be authorised to conduct searches and seizures in para 15 of their Fifth Report (Third Lok Sabha). This recommendation was reiterated in their subsequent reports. The Committee are distressed to note that Ministry of Agriculture have not kept the above recommendation in view while issuing the Inter-Zonal Wheat and Wheat Products (Movement Control) Order, 1973. The Committee desire the Ministry to amend the Order so as to specify therein the minimum rank of the officers to be authorised to conduct searches|seizures.

6

135

The Committee note with satisfaction that Regulation 13 of the I.A.S.|I.P.S. (Appointment by Competitive Examination) Regulations, 1955 as proposed to be amended makes clear the scope of inquiry to be made thereunder. The Committee desire the Department of Personnel and Administrative Reforms to issue the amendment at an early date.

7

139

The Committee are not satisfied with the amendments to rule 121 of the Petroleum Rules, 1937, made by the Ministry of Industrial Development. They feel that in cases mentioned in the provisos to rule 121(1), *ibid.*, the Licensing Authority or the Central Government should first suspend a licence for a fixed period, thereafter give an opportunity of being heard to the licensee and cancel the licence if so considered appropriate. The Committee desire the Ministry to amend the rules accordingly.

8

143

The Committee are not satisfied with the reasons advanced for delay in laying 'Orders' on the Table within the prescribed period of 15 days from the date of their publication in the Gazette. In para 35 of their Ninth Report (5th Lok Sabha), the Committee had drawn attention to the new procedure introduced by the Controller of Printing and Stationery for supply of

(1)

(2)

(3)

G.S.R. Number etc. vide his O.M. No. H. 11013; 1/72-P dt. 9-2-72 addressed to all Ministries|Departments. The new procedure *inter alia* provides that the Ministries|Departments should not wait for supply of spare copies of the Notifications by the Press for laying them on the Table of the House. They should obtain the G.S.R. or S.O. number of the notification by making request in writing in duplicate one day after the date of publication of the Notification in the case of Extraordinary issues and on Mondays, in the case of Notifications published in the weekly Gazette. The Committee desire the Department of Parliamentary Affairs also to bring the new procedure to the notice of all Ministries|Departments and emphasise upon them the necessity of adhering to the time-limit of 15 days in laying Notifications on the Table.

144

The Committee are distressed to note that in 19 cases out of 30, the Ministries have not laid the statements showing reasons of delay along with the Order. The Committee wish to re-emphasise that statements showing reasons for delay should be laid on the Table alongwith the Orders in all cases where it has not been possible to adhere to the time-limit of 15 days due to any reasons whatsoever. The Committee desire all Ministries|Departments to strictly comply with the recommendation of the Committee in this regard.

9

151

The Committee have carefully considered the matter. They are not satisfied with the amendment proposed to be issued to Rule 93 of the Explosives Rules which retains the power of the Central Government to suspend or cancel the licence without giving an opportunity of being heard to the holder of the Licence. The Committee reiterate their earlier recommenda-

(1)	(2)	(3)
10	152	tion made in para 74-75 of the Sixth Report (Fifth Lok Sabha). The Committee note with satisfaction the action taken by Government on their earlier recommendations as indicated in Appendix VIII of the Report.

APPENDIX II

(vide para 9 of the Report)

Statements showing number of Services/Posts in various Ministries/Departments in respect of which Recruitment Rules have not been framed so far as on 1-4-1973.

S. No.	Name of the Ministry/Department	Total No. of categories of Services/posts	No. of Services/Posts for which Recruitment Rules are pending for					Total	Remarks.	
			1-2 yrs.	2-3 yrs.	3-4 yrs.	4-5 yrs.	More than 5 yrs.			
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	
I AGRICULTURE										
	<i>Deptt. of Agriculture</i>	162								
	Secretariat		8	2	2	2	..	..	12
	<i>Attached/Sub. Offices.</i>									
	(i) Dte. of Marketing & Inspection.								1	Pending since 1964.
	(ii) Central Ground Water Board.			1					1	
	(iii) Dte. of Milllets Development.							4	4	
	(iv) Central Institute of Fisheries Education Organisation, Bombay			3					..	3

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
(v)	Deep Sea Fishing Station, Bombay.		9	..	..	..	..	9	
(vi)	Pre-Investment Survey of Forest Resources.		..	..	2	..	..	2	
(vii)	FRI and Colleges, Dehradun.		4	2	..	3	9		
(viii)	Dte. of Plant Protection Quarantine & Storage, Faridabad.			7	..	..	7		
(ix)	Dte. of Economics and Statistics.		3	2	..	1	6		
(x)	Dte. of Rice Development.			3	..	..	3		
(xi)	Dte. of Sugarcane Development.		..	..	..	2	2		
(xii)	D.M.S.		2	1	1	40	44		
(xiii)	Dte. of Agricultural Aviation.		1	8	..	2	..	11	
	<i>Department of Food</i>	35	1	2	4	1	12	20	
	2. MINISTRY OF COMMERCE	95							
	<i>Secretariat</i>		2	1	4	..	..	7	
	<i>Attached/Subordinate offices.</i>								
	(i) Tariff Commission, Bombay.		1	..	..	..	..	1	
	(ii) Textile Commissioner, Bombay		..	..	..	56	56	56	
	(iii) All India Handicrafts Board.		..	1	..	..	6	7	

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
	(iv) Chief Controller of Imports and Export.		..	2	6	..	2	10	
	(v) India International Trade Fair.		4	..	..	..	..	4	
3	MINISTRY OF COMMUNICATIONS	25	2	1	..	1	17	21	
4	MINISTRY OF DEFENCE	666	24	45	7	8	579	663	
5	MINISTRY OF EDUCATION AND SOCIAL WELFARE								
	(a) Deptt. of Education	62	2	6	..	..	..	8	
	(b) Deptt. of Social welfare	37	4	..	13	..	16	33	
	(c) Deptt. of Culture	60	20	2	..	3	26	51	
6	MINISTRY OF EXTERNAL AFFAIRS	21	2	4			10	16	
7	MINISTRY OF FINANCE								
	(a) Deptt. of Economic Affairs	123	..	..	2	13	..	15	
	(b) Deptt. of Banking	5		1		..	2	3	
	(c) Deptt. of Expenditure	3				..	..	..
	(d) Deptt. of Revenue and Insurance.	55							
	(1) Income-tax Deptt.		..	..	..	..	2	2	1232 posts of Income tax-Service Class I pending since 1944.
	(ii) Dte. of Inspection.		..	2	..	..	..	1	

(iii) Customs and Central Excise—
Department

14 Pending since 1959
in respect of 666
posts of Indian Customs
and Central
Excise Class I.

- (iv) Central Excise Deptt.
- (v) Customs Department
- (vi) Narcotics Deptt.
- (vii) Dte. of Inspection
- (viii) S. & I. Branch—Central Excise.
- (ix) Central Revenue Control
Laboratory

(x) Hqs Establishment 2

8. MINISTRY OF HEALTH & FAMILY
PLANNING 211

- (i) D.G.H.S. 1
- (ii) All India Institute of Hygiene
and Public Health, Calcutta. 1
- (ii) All India Institute of Physical
Medicine and Rehabilitation 1
- (iv) Mental Hospital, Ranchi
- (v) Jawaharlal Institute, Pondicherry
- (vi) National Institute of Commu-
nicable Diseases, etc., 4

14 3 3 3 3 3 3 3 3 3 2 29 3 69 20

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
	(vii) Seeliejang Hospital . . . . .		..	1	..	..	..	1	
	(viii) Pharmacopoeia Lab. Ghazialbad		2	..	..	..	..	2	
	(ix) Kasmji Institute.		9	..	..	..	..	9	
	(x) Drug Control Organisation . . . . .		..	..	..	..	12	12	
	(xi) Serologist Department, Calcutta		..	2	..	..	..	2	
	(xii) Medical Stores.		1	..	..	..	9	10	
	<i>Department of Family Planning</i>		3	2	5	2	5	17	
9	MINISTRY OF HOME AFFAIRS	207							
	(i) Indo Tibetan Border Police.		1	3	2	2	23	31	
	(ii) Commissioner for Linguistic Minorities. . . . .		..	..	1	..	..	1	
	(iii) Registrar General of India		5	7	2	..	..	14	
	(iv) Dte. of Census Operations. . . . .		..	..	..	..	11	11	
	(v) Dte. of Co-ordination (Police Wireless). . . . .		..	3	3	2	7	15	
	(vi) C.R.P. Force		1	1	..	..	..	2	
	(vii) National Police Academy . . . . .		..	..	1	..	..	1	
	(viii) Intelligence. . . . .		..	..	..	..	94	94	
10	MINISTRY OF INFORMATION AND BROADCASTING	80							
	(i) Main Secretariat . . . . .		..	..	1	..	1	1	2

(iv) D.G., AIR	..	2	1	..	1	4
(iii) Civil Construction Wing, A.I.R.	12	..	..	..	..	12
(iv) Vigilance Section, A.I.R.	..	4	..	..	5	9
(v) Publication Division	..	..	..	..	1	1
(vi) Dtc. of Advertising and Visual Publicity	..	..	7	..	..	7
(vii) Registrar of Newspapers for India	..	..	2	..	..	2
(viii) Films Division	2	..	..	..	..	2
(ix) F. & T.I., Poona	23	..	..	..	..	23
(x) Photo Division	1	1	1	..	1	4
(xi) Dtc. of Field Publicity	..	1	..	..	..	1
(xii) Research & Reference Div.	..	1	..	..	..	1
(xiii) Song & Drama Division	..	..	2	1	3	6
11. MINISTRY OF INDUSTRIAL DEVELOPMENT	119	34	21	1	1	52
12. MINISTRY OF IRRIGATION AND POWER	171	7	2	..	1	131
13. MINISTRY OF LABOUR						141
(a) Departt. of Labour and Employment	115					
(i) Main Secretariat	2	1	1	..	..	4
(ii) D.G. Employment and Training	..	2	3	1	1	7

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	10
(iii)	D.G. E.T. (Training Institute)		..	..	..	..	48	48	
(iv)	D.G., FASLI		..	..	..	..	4	4	
(v)	D.G. Mines Safety, Dhanbad.		..	..	..	..	1	1	
(vi)	Coal Mines Welfare Fund, Dhanbad.		1	1	2	..	10	14	
(vii)	Mica Mines Labour Welfare Fund, Rajasthan.		..	2	..	..	1	3	
(viii)	Mica Mines Labour Welfare Fund, Andhra Pradesh.		..	..	..	..	11	11	
(ix)	Mica Mines Labour Welfare Fund, Bihar.		1	1	..	..	5	7	
(b)	Dept. of Rehabilitation	181							
(i)	Min. Secretariat		..	..	..	1	1	2	
(ii)	Chief Development-cum-Rehabilitation Commissioner.		..	..	14	..	..	14	
(iii)	Dandakaranaya Dev. Authority		1	7	3	..	143	154	
14	MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS		1	5	..	2	3	11	
15	MINISTRY OF PETROLEUM AND CHEMICALS		1	4	..	..	..	5	
16	MINISTRY OF PLANNING	35	..	5	2	..	..	7	
17	PLANNING COMMISSION	48	1	3	..	..	37	41	

18 MINISTRY OF RAILWAYS

19 MINISTRY OF SHIPPING AND
TRANSPORT

	39	1	1	13	15
(i) Government Director on the Board of Shipping, Bombay.	..	1	3	5	9
(ii) Dte. General of Shipping.	1	1	2	2	5
(iii) Mercantile Marine Department, Bombay.				18	18 Pending since 1929.
(iv) Mercantile Marine Deptt., Jammagar.				4	4
(v) Mercantile Marine Deptt., Goa.				4	4
(vi) Mercantile Marine Deptt., Calcutta.				20	20
(vii) Mercantile Marine Deptt., Madras.				6	6 Pending since 1921.
(viii) Mercantile Marine Deptt., Cochin.	..	..	..	4	4
(ix) Mercantile Marine Deptt. Vishakhapatnam.				4	4
(x) Regional Office (Sail) Bombay		..	..	3	3
(xi) Do Tuticorin.			..	3	3
(xii) Do Calicut.	..	..	..	3	3
(xiii) Do Jammagar.	..	..	..	3	3
(xiv) D. M. E. T. Calcutta/Bombay	..	..	..	1	1

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
(xv)	Inland Water Transport Directorate.		..	..	..	..	1	1	
(xvi)	Shipping & Transport (T.W.)		..	4	..	..	..	4	
(xvii)	Chief Engineer Andaman- Laccadive Harbour Works		..	..	1	..	..	1	
(xviii)	Senior Marine Surveyor, Minor Ports Survey Orga- nisation, Bombay.		1	1	..	..	..	1	
(xix)	Border Roads Development Board.		..	..	..	..	4	4	
20. MINISTRY OF STEEL & MINES									
(a)	Deptt. of Steel	5	1	2	1	..	..	4	
(b)	Deptt. of Mines	44							
(i)	Geological Survey of India.		31	4	..	..	..	35	
(ii)	Indian Bureau of Mines.		2	..	..	..	3	5	
21. MINISTRY OF TOURISM AND CIVIL AVIATION									
		182	2	2	8	..	160	172	
22. MINISTRY OF WORKS & HOUSING									
	Secretary	310	..	2	..	..	5	7	
	(i) C.P.W.D.		2	..	..	..	..	2	
	(ii) Dte. of Printing.		1	..	..	..	153	154	
	(iii) Dte. of Estates.		..	..	..	..	24	24	

(iv) Land & Development Office.	..	4	1	1	8	14
(v) Town & Country Planning Organisation.	..	..	..	..	1	1
(vi) Deptt. of Publication.	..	..	..	..	44	44
23. CABINET SECRETARIAT (Department of Personnel and Administrative Reforms)	49					
(i) Personnel Wing.	6	4	..	..	..	10
(ii) Administrative Reforms Wing	..	..	1	..	..	1
(iii) Deptt. of Cabinet Affairs	1	..	..	..	..	1
(iv) Enforcement Dte.	..	..	..	..	1	1 Pending since 1962.
(v) C.B.I.	..	2	7	..	3	12
(vi) Dte. of Revenue and Intelligence.	..	..	..	..	16	16 Pending since 1956.

71

24 DEPARTMENT OF SCIENCE AND TECHNOLOGY 98

(i) Main Department :	16	..	..	..	..	16
(ii) Botanical Survey of India	24	..	..	..	..	24
(iii) National Committee on Science and Technology	..	..	1	4	2	7
(iv) Survey of India.	..	1	..	1	..	2

25. DEPARTMENT OF SUPPLY 18

(i) National Test House, Calcutta.	..	3	..	..	1	4
(ii) C.P.A. & O.	..	..	..	..	7	7 Pending since 1955.
(iii) D.G.S. & D.	..	..	2	..	1	3

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
(iv)	Regional offices of D.G.S. & D.			..	I		..	I	
(v)	Dye. of Inspection (M. E. T.), Jamshedpur.			..	..	..	I	I	Pending since 1955.
TOTAL :		3403	291	216	124	54	2081	2766	

APPENDIX III

Orders in respect of which delay in laying was attributed to non-availability of Hindi version in time

(Vide para 80 of the Report)

Serial No.	No. of 'Order'	Description of 'Order'	Ministry	Laid on Table/Explanation of Ministry for period of delay	Comments of the Ministry of Law
(1)	(2)	(3)	(4)	(5)	(6)
1	S. O. 5571 of 1971 23-12-1971	The Emergency Risks (Goods) Insurance (Amdt.) Scheme, 1971	Finance (Deptt. of R&I)	28-4-1972 over 1 month	The delay in complying with the requirements for laying on the Table of the House the Hindi and English versions of the above notifications is due to the fact that considerable time was taken in the preparation of the Hindi versions. The delay is regretted.
2	S.O. 5572 of 1971 23-12-71	The Emergency Risks (Undertakings) Insurance (Amdt.) Scheme, 1971	Do	Do	Both these Orders were received in the Commission for translation on 10-1-72 and the Hindi translations were supplied to the concerned Ministry on 22-1-72. As such, there was not much delay in the supply of the translations.
3	S.O. 208 of 1972	The Emergency Risks (Goods) Insurance (Amendment) Scheme, 1972.	Do	Do	These two Orders were received in the Commission on 6th June, 1972 and the Hindi versions were supplied to the concerned Ministry on the same day. There was no delay.
4	S.O. 209 of 1972 18-3-1972	The Emergency Risks (Undertakings) Insurance (Amdt.) Scheme, 1972.	Do	Do	
5	S.O. 5593 of 1971 30-12-1971	The Fruit Products (Amdt.) Order, 1971 (English Version)	Agriculture (Deptt. of Food)	28-8-72 over 5 months	The Fruit Products Order, 1955 has been issued under Sec. 3 of the Essential Commodities Act, 1955 (10 of 1955). Accordingly only in English on

(1)	(2)	(3)	(4)	(5)	(6)	(7)	
6	S.O.5993 of 1971 17-9-1972	The Fruit products (Amdt.) Order, 1971 (Hindi version).	Agriculture (Deptt. of Food)	28-8-72 over 15 days	<p>ding to subsection (6) of section 3 of the said Act, copies of Orders issued in exercise of the powers under the Act are to be placed on the Tables of both the Houses of Parliament. An order amending the Fruit Products Order was issued in English on 30-12-71 and for its translation into Hindi, the Official Language (Legislative) Commission wanted time. The Hindi version of this notification, after translation, was issued only in June 1972. Therefore, Copies of this notification could not be laid on the Table of the House earlier. The Second amending order was to be placed after or alongwith the first amending order of 1971. Copies of both the orders amending the Fruit Product Order, 1955 are now placed on the Table of the House.</p>	<p>30-12-71 without being referred to the commission for translation in Hindi. The Commission received this order for translation on 13-1-72. It ran in to 18 pages and was of a technical nature. Since the English version had already been notified it was considered by the commission that the Hindi version was required to be published only under Sec-5(1) (b) of the Official Languages Act, 1963 and as such no priority was given to the translation of this Order. The second amending Order was to be placed after or along with the first amending order of 1971.</p>	<p>These two rules were of amending nature and were received in the Commission on 12th May, 1970. Both the rules were of highly technical nature and being amending rules, it was necessary to look into the main rules and translate the portions in which amendments were being made. The Ministry of Shipping and Transport were requested to supply the main rules, which were received in this Commission on 17th De ember, 1970,</p>
7	G.S.R.751 of 1970 9-5-1970	The Merchant Shipping (Registration of Indian Ships) Amdt. Rules, 1969.	Shipping & Transport	27-11-72 2 years and 4 months.	<p>The English version of Merchant Shipping (Registration of Indian Ships) Amdt. Rules, 1970, was published in the Gazette of India, dated the 9th May, 1970 under G.S.R. No. 751. The publication of</p>	<p>of 1971. These two rules were of amending nature and were received in the Commission on 12th May, 1970. Both the rules were of highly technical nature and being amending rules, it was necessary to look into the main rules and translate the portions in which amendments were being made. The Ministry of Shipping and Transport were requested to supply the main rules, which were received in this Commission on 17th De ember, 1970,</p>	

the Hindi version of Rules, however, took some time and it was published in the Gazette of India only on the 29th April, 1972. The undue delay in laying the document on the Table of the House is, therefore, due to the non-publication of the Hindi version of the Rules in the Gazette of India. The delay in laying the document on the Table of the House in time is regretted.

Hindi versions were supplied on 6-1-71. Another factor which delayed the translation was that the Ministry of Shipping and Transport had to depute an officer concerned with the rules to the commission to explain to the officer of the Commission the various technical terms and expressions occurring in the said rule. An officer of the Ministry of Shipping and Transport had to come from Bombay to the Commission in September 1970 to explain the rules and thereafter the Hindi version was prepared in the Commission. The delay which occurred in these cases is regretted. It is, however, not known to this Ministry why the Hindi version of these Rules finalised by the Commission on 6th January, 1971 could be published in the Gazette by the Ministry of Shipping and Transport only on 29-4-72.

G.S.R. 897 of 1970	The Merchant Shipping (Tonnage Measurement of Ships) Amdt. Rules, 1970.	Shipping and Transport.	27-11-72	The English version of Merchant Shipping (Tonnage Measurement of Ships) Amdt. Rules, 1970, was published in the Gazette of India dated the 6th June, 1970 under GSR No. 897. The Publication of the Hindi version of the Rules however, took some time and it was
6-6-70			2 years and 4 months.	Do.

(7)

(6)

(5)

(4)

(3)

(2)

(1)

published in the Gazette of India only on the 29th April, 1972. The undue delay in laying the document on the Table of the House is, therefore, due to the non-publication of the Hindi version of the rules in the Gazette of India. The delay in laying the document on the Table of the House in time is regretted.

9 S.O.301-E of 1972 2-5-73 Industrial development. 2-5-73
20-4-72 over one year.

On 31st January, 1972, only draft rules were received in the Commission. Another draft was received on 6th March, 1972 and the final draft was sent to the Commission with certain amendments on 5th May, 1972. Hindi version was supplied to the Ministry on 6-3-1972, at the first stage. Hindi translation of the final draft was supplied on 25-7-72.

As the Government was very anxious to bring the Patents Act, 1970 into force with the least possible delay, as soon as the comprehensive Patents Rules were finalised by the Ministry of Law and Justice, the Act and the rules were brought into force without waiting for the preparation of the Hindi version of the Patents Rules by the Official Language (Legislative) Commission. Exemption from simultaneous publication of the Hindi version of Patents Rules was duly obtained from the Ministry of Home Affairs.

Immediately after promulgation of the Patents Act and the Rules thereunder, steps were taken for translation of the Rules into Hindi by the Official Language (Legislative) Commission on an immediate date schedules (50 in number). Again certain modifications were communicated to this Commission on 3rd August, 1972 and the Hindi translation of the same was supplied on the same day. Again up-to-date schedules (50 in number)

basis. The Rules contained 126 Rules, technical forms and 3 schedules comprising in all about 300 typed pages. The job involved was thus laborious, besides being highly technical. In view of the complexity and technical nature of the enactment, the preparation of the Hindi version of the patents Rules was complicated and took considerable time, involving close and careful examination both by the Official language (Legislative) commission and by the patent Office, Calcutta. The Hindi version of the Rules, as finally approved, was received by the Ministry of Industrial development on 13-12-72. Since then no time was lost in getting the Hindi version of the Rules published in the Gazette of India and placing both the English and Hindi versions of the Patents Rules on the Table of both the Houses of Parliament.

10. G.S.R. 186E of 1973 The Employees Family Pension (2nd Amdt.) Scheme, 1973. Lab. & Rehabilitation (Deptt. of Labour and Employment) over 4 months.

Notification No. GSR 186E dated 31st March, 1973 was published in part II Sec. 3 Sub-Sec. (i) of the Gazette of India dt. 31-3-73, but the Hindi version of the Notification was received late. The notification could not, therefore, be placed earlier before the Parliament.

of the rules were sent to the Commission on 14-9-72 and the translation was supplied on 16th September, 1972. These rules which are highly technical in nature were about 300 typed pages. Hence translation also took some time. The delay, is however, regretted.

It was received on 9th April, 1973 by the Commission. Translation was prepared by 13th April, 1973 but it could be finalised after scrutiny by the Officer concerned only by 2nd of May, 1973 as he was very busy with other immediate work received from other Ministries. The translation was actually supplied on 3rd May, 1973. The delay of about a month is regretted.

APPENDIX IV

(vide para 91 of the Report)

Note explaining the delay in supplying Hindi version of the Emergency Risks (Goods) Insurance (Amendment) Scheme, 1972 and the Emergency Risks (Undertakings) Insurance (Amendment) Scheme, 1972.

The Emergency Risks (Goods) Insurance (Amendment) Scheme, 1972 (S.O. 208 of 1972, dated 18-3-1972) and the Emergency Risks (Undertakings) Insurance (Amendment) Scheme, 1972 (S.O. 209 of 1972, dated 18-3-1972) were received in the Official Language (Legislative) Commission for preparation of the Hindi version on 18-3-1972. The Hindi translation of these two notifications was made available to the Ministry of Finance on 25-3-1972. There was, accordingly, no delay on the part of the Commission in furnishing Hindi version of these orders.

2. The Hindi version of these notifications was sent by the Ministry of Finance to the Government of India Press on the 30th March, 1972, for being published in the Gazette. As printed copies were not received even by the 10th April, 1972, cyclostyled copies were made and sent to the Lok Sabha|Rajya Sabha Secretariats on the 26th April, 1972. The explanation furnished by the Ministry of Finance regarding the delay in the preparation of Hindi versions applied generally to all the remaining notifications which were sent together for being laid before the House of Parliament.

3. This note is furnished in consultation with the Ministry of Finance and with their concurrence.

APPENDIX V

(vide para 91 of the Report)

MINISTRY OF LAW JUSTICE AND COMPANY AFFAIRS (VIDHI, NYAYA AUR KAMPANY KARYA MANTRALAYA) LEGISLA- TIVE DEPARTMENT (VIDHAYI VIBHAG)

*Note explaining reasons for delay in supplying Hindi version of the
Employees Family Pension (Second Amendment) Scheme, 1973
(GSR 196-E of 1973)*

The Employees' Family Pension (Second Amendment) Scheme, 1973 (GSR 196-E of 1973) was received in the Rules Unit of the Official Language (Legislative) Commission on 9-4-73 for translation into Hindi.

2. At that time, three Draftsman were allotted to the Rules Unit. Out of these, two were allotted for the work pertaining to translation of papers to be laid on the Table of either House of Parliament. One of these officers had suddenly taken ill during the first week of April, 1973 and was not able to attend office for the rest of the month. It was also not possible to assign any officer from other Units in place of the Draftsman who had fallen sick. Thus, the Rules Unit was left with only one Draftsman for translation of papers to be laid before either House of Parliament during April, 73. On account of larger number of closed holidays during April, 1973 the actual number of working days was also comparatively less. The notification mentioned in paragraph 1 was translated on 13-4-73. Owing to some inadvertance, sufficient high priority does not seem to have been allotted for this notification for tallying, typing fair copies and comparison. In the circumstances, typed fair copies were ready only by 30-4-73. It was finally approved and sent to the Ministry of Labour and Employment on 2nd May, 1973.

3. The only officer who was available in the Rules Unit for this work during the major part of April, 1973, was busy in the translation of notifications most of which were expected to be laid before either House of Parliament. During that month, the Unit translated as many as 150 notifications running into about 200 pages. A list containing the names of these notifications is *attached. As already stated, the delay of about fortnight occurred in this case in getting the translation tallied and getting fair copies made thereafter. The matter was also not brought to the notice of the concerned officer who, as already stated, was busy and doing his best to cope up with the work load single handed. The staff concerned have been verbally warned to be careful in such cases and also to seek orders from higher officers regarding priority wherever they have any doubt. The delay was inadvertant and is very much regretted.

*Not printed in the Report.

APPENDIX VI

(vide para 92 of the Report)

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (LEGISLATIVE DEPARTMENT)

Note Regarding Instructions issued by the Legislative Department of the Ministry of Law, Justice and Company Affairs to the Official Language (Legislative) Commission for the Avoidance of Delays in Supplying Hindi version of Rules, Orders, etc. to be laid on the table of Lok Sabha|Rajya Sabha.

Since 1973, the Rules Unit of the Official Language (Legislative) Commission was placed under the charge of a full-time Member (Hindi) who was a Draftsman before his appointment as Member. The object of placing that Unit under him was that the Draftsmen working in that Unit should have the benefit of his guidance and experience. At that time, there were three Draftsmen working in the Unit. Out of these, two were allotted the work pertaining to translations of papers to be laid before either House of Parliament. As there were only two Draftsmen and as the Member was in a position directly to supervise their work, he did not consider it necessary to issue instructions in writing to them. He used to go through the diary register himself frequently in order to ensure that there was no delay in disposals. The strength of Draftsmen in the Rules Unit of the O.L. (L) C. has been augmented by one in May, 1974. Formal instructions have also been issued for the avoidance of delays in supplying Hindi versions of rules, orders, etc., to be laid on the Table of either House of Parliament. A copy of the instructions is enclosed.

No. F. 2(1)/73-O.L.

GOVERNMENT OF INDIA|BHARAT SARKAR

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS VIDHI,
NYAYA AUR KAMPANY KARYA MANTRALAYA LEGISLA-
TIVE DEPARTMENT| VIDHAYE VIBHAG

New Delhi, the 10th June, 1974

20th Jyaistha, 1896 (Saka).

SUBJECT: *Avoidance of delay in the translation of statutory rules, orders, etc. to be laid on the Table of Lok Sabha|Rajya Sabha.*

The following instructions are issued for the avoidance of delay in the translation by the Rules Unit of the Official Language (Legis-

lative) Commission of statutory rules, orders, etc., to be laid on the Table of Lok Sabha|Rajya Sabha. These instructions may be noted carefully and may also be circulated to all the officers and members of the staff concerned in the Official Language (Legislative) Commission.

(1) All Parliamentary work is to be accorded top priority.

(2) Draftsmen should take extra care to ensure that those papers which are to be laid on the Table of the House under section 3(3) of the Official Languages Act, 1963, are not delayed in any case.

(3) Whenever a file is received by the officer he will note on the top of it in a conspicuous manner the date on which it is proposed to be laid or published and would see to it that it reaches the appropriate Ministry|Department in due time.

(4) In case due to heavy rush of work in the Rules Unit, a Draftsman considers that it would not be possible for him to dispose of the file in time, he should immediately take steps to get the work transferred to another officer who may be in a position to deal with the file expeditiously.

(5) Wherever necessary, the required number of Stenographers, typists or translators may be detained on overtime duty after obtaining the orders of the competent authority.

(6) In case all the Draftsmen in the Unit are busy, the matter may be brought to the notice of the Chairman so that he may entrust the work to suitable officer in any other Unit, with a view to avoid any delay.

(7) Weekly reports indicating the date of the receipt of the paper, the date of the final disposal of the paper and pending papers, if any, shall be submitted on every Saturday by the Draftsman concerned through the Officer-in-charge of the Rules Unit to the Member of the Commission in charge of the Unit.

(8) The Member-in-charge of the Rules Unit will closely and carefully scrutinise the reports of the Draftsmen and ensure that no delay occurs in any case.

Sd/- K. K. SUNDARAM

Secretary to the Government of India

10th June, 1974.

Official Language (Legislative) Commission.

APPENDIX VII

(See para 108 of the Report)

Statement of 'Orders' in respect of which there has been delay in laying them on the Table of the House (Ninth Session Fifth Lok Sabha) but not accompanied by Statements showing reasons for delay.

Sl No ^s	Description of 'Order' Nos of 'Order'	Date of Publication in this Gazette	Date of laying on the Table	Approximate delay	Reasons for delay in laying
1	2	3	4	5	6
1	The Investigation of Industrial Undertakings owned by Companies in liquidation (Procedure) Rules, 1973. (G.S.R. 915 of 1973)—(Miny. of Industrial Development)	25-8-73	14-11-73	Over 2 months	Late receipt of copies of the Gazette from Government of India Press.
2	The Merchant Shipping (Bharatnagar) of Engine Drivers of Sea-going Ships) Rules, 1973. (G.S.R. 1175 of 1973)—(Miny. of Shipping and Transport).	27-10-73	3-12-73	Over 15 days	Late receipt of particulars about the Gazette from the Government of India Press.
3	The Seamen's Provident Fund (Amend.) Scheme, 1973 (GSR 1533 of 1973)—(M/o Shipping and Transport).	13-10-73	3-12-73	Do.	Late receipt of copies of the Gazette from the Government of India Press.
4	The Antiquities and Art Treasures Rules, 1973 (GSR 405E of 1973)—(M/o Education & Social Welfare).	31-8-73	3-12-73	Do.	There were a large number of printing mistakes and corrigendum was issued on 15-11-73.

	15-9-73	6-12-73	Over 15 days	Administrative	Reasons.
5 The Mineral Concession (4th Admt.) Rule 1973. (GSR 1010 of 1973)—(M/o Steel and Mines).	15-9-73	6-12-73	Do.	Do.	
6 The Mineral Concession (5th Admt.) Rules, 1973. (GSR 1011 of 1973)—(M/o Steel and Mines).	31-10-73	6-12-73	Do.		
7 The Coking Coal (Intimation regarding Mortgage, Charge, Lien or other interests) Rules, 1972 (GSR 480 of 1973)—(M/o Steel and Mines).	3-11-73	6-12-73	Do.		Late receipt of information about publication of the Rules.
8 The Employees' State Insurance Corporation (General Provident Fund) Rules, 1973. (GSR 1204 of 1973)—(M/o Labour—Deptt. of Labour & Employment).	8-9-73	17-12-73	Do.		
9 The Textile (Production by knitting, Embroidery, Lace making and Printing Machines) Control Admt. Order 1973. (S.O. 2533 of 1973)—(Ministry of Commerce).	13-10-73	7-12-73	Do.		No statement was laid as the delay was only marginal.
10 The Rubber Board (Service) Admt. Rules, 1973 (GSR 1122 of 1973)—(Ministry of Commerce).	15-9-73	11-12-73	Over one month		Late receipt of intimation by Government of India Press about publication of the Gazette.
11 The Companies (Public Trustees) Rules, 1973 (GSR 263 of 1973)—(M/o Law, Justice & C.A.).	22-10-73	17-12-73	Do.		Late receipt of copies of the Gazette from Delhi Administration.
12 The Delhi Motor Vehicles (4th Admt.) Rules, 1973. (Notification No. F. 3(19)/73—Tpt. of 73)—(M/o Shipping and Transport).	8-9-73	19-12-73	Over one month		Delay in getting statutory Order number & date of issue of the Gazette.
13 The Sales Class (Amendment) Rules, 1973. (SO 2543 of 1973)—(M/o Industrial Development).	16-3-73	20-12-73	Over 9 months		Late supply of Hindi version running into 225 pages.
14 The Delhi Cooperative Societies Rules, 1973. (Notif. No. F. 7(5)5-73(Co-9/3614 of 1973)—(Min. of Agriculture).	27-10-73	21-12-73	Over one month		Delay in communication from Government of India Press regarding publication of the Gazette.
15 The National Cooperative Development Corporation (Admt.) Rules, 1973. (GSR 1167 of 1973) (M/o Agriculture).					

	2	3	4	5	6
16	The Report of Pesticides and their Formulations (Inspection) and Amdt. Rules, 1973. (SO 3322 of 1973)—(Ministry of Commerce).	1-12-73	21-12-73	Over 15 days	
17	The Mining Leases (Modification of Terms) (2nd Admt.) Rules, 1973. (GSR 1195 of 1973)—(Ministry of Steel and Mines).	3-11-73	21-12-73	Over one month	Administrative Reasons.
18	The Mineral Concession (6th Admt.) Rules, 1973. (GSR 1196 of 1973)—(M/o Steel and Mines).	3-11-73	21-12-73	Do.	Do.
19	The Sanction Telegraph) 3rd Admt.) Rules, 1973. (GSR 1322 of 1973)—(Ministry of Communications).	1-12-73	21-12-73	Over 15 days	Delay in getting G.S.R. No. from Press.

APPENDIX VIII

(vide para 152 of the Report)

Statement showing action taken by Government on the recommendations made by, and assurances given to, the Committee on Subordinate Legislation.

Sl. No.	Reference to para No. of Report.	Summary/of recommendations/ assurances	Gist of Government's reply.
(1)	(2)	(3)	(4)
1	First Report (5LS) 42	The Committee are not satisfied with the Government's explanation contained in para 41. They observe that even though the intention of Government is that only those junior officers should be promoted in supersession of their seniors who have passed the prescribed departmental examination or examinations, no stipulation to this effect has been made even in the revised rule. The Committee desire that, to avoid any scope for doubt, the rule should be amended to specifically provide that only those junior officers would be promoted in supersession of their seniors who have passed the prescribed departmental examination or examinations.	Rule 6A(2)(a) of the Indian Forest Service (Recruitment) Rules 1966, has since been amended (see G.S.R. 302-E of 1974, dated 8-7-74). I.A.S./I.P.S. (Recruitment) Rules, 1954, have also been amended accordingly (see G.S.Rs. 301-E and 303-E of 1974, dt. 8-7-74).
2	Fourth Report (5LS) 27	The Committee note that while age concessions relating to the Scheduled Castes and Scheduled Tribes were published in the Gazette in 1955, those relating to 'other special categories of persons' were not published. The Committee desire that age concessions in respect of these categories should also be published in the Gazette. They further desire that wide publicity in newspapers, etc., should be given to all such order, so that the persons belonging to these categories could take full benefit of the age concessions allowed by Government.	The needful has since been done, vide Deptt. of Personnel & A.K. Notification No. 2/101/72-Estt. (D), dated 7-3-1974 and Press Note sent to P.I.B. in May, 1974, for giving wide publicity.
3	Sixth Report (5LS) 52	The Committee note with satisfaction the reply of the Department of Culture. They desire that note below rule 5(6) of the Victoria Memorial Hall (General Provident Fund) Rules, 1972 should be deleted at an early date.	This has since been done (see G.S.R. 897 of 1973, dt. 18-8-1973).

(1)	(2)	(3)	(4)
4 Sixth Report (5LS) 56	The Committee note with satisfaction the reply of the Department of Culture and desire that they should take early steps to amend the note below rule 14 of the Victoria Memorial Hall (G.P.F.) Rules, 1972, to bring them in line with the G.P.F. (Central Services) Rules, 1960.	This has since been done, (see G.S.R. 897 of 1973, dt. 18-8-1973).	
5 Seventh Report (5LS) 33	The Committee note with satisfaction that the Ministry of Defence to whom the matter was referred have accepted the suggestion of making the Dinapore Cantonment Bye-laws for collection and recovery of Cycle-tax self-contained by specifying the rate of cycle tax therein and towards this end draft amendments to the bye-laws have been published locally by the Dinapore Cantonment Board for inviting objections and suggestions from the members of the public. The Committee desire the Ministry of Defence to take further necessary action in the matter at an early date.	This has since been done (see S.R.O. 210 of 1974, dt. 29-6-74).	
6 Seventh Report (5LS) 36	The Committee note with satisfaction that the Ministry of Defence to whom the matter was referred have agreed to incorporate in the Dinapore Cantonment Bye-laws for collection and recovery of cycle-tax, the amount payable for issue of duplicate tokens and towards this end, draft amendments to the Bye-laws have been published locally by the Cantonment Board. The Committee desire the Ministry to take further necessary action in the matter at an early date.	This has since been done (see S.R.O. 210 of 1974, dt. 29-6-74).	
7 Seventh Report (5LS) 52	According to the information furnished by the Ministry of Petroleum and Chemicals, the Committee observe that no searches/seizures had so far been carried out under the Synthetic Rubber (Price Control) Order, 1969 in any State/Union Territory, while in their earlier reply the Ministry had stated that the Controller and the few officers authorised in each State were not sufficient in number to carry out the necessary checks and raids without the help of other available persons. The Committee, therefore, desire the Ministry to amend	The needful has since been done (see S.O 464 of 1974, dated 16-2-74).	

(1)

(2)

(3)

(4)

the Order so as to specify the minimum rank of the person to be authorised to carry out searches/seizures. The Committee further desire the Ministry to provide in the Order suitable safeguards like presence of witnesses, preparation of inventories of seized goods and giving a copy thereof to the persons concerned at the time of carrying out the search/seizure.

8 Seventh Report
(5LS)
59

The Committee do not agree with the contention of the Ministry of Commerce that since the Export Inspection Council Contributory Provident Fund Rules, 1969 had been laid on the Table, it might be taken for granted that they were approved by both the Houses with retrospective effect. The Export Inspection Council Provident Fund Rules, 1969 were laid on the Table for a period of 30 days as required by Section 17(3) of the Export (Quality Control and Inspection) Act, 1963. In para 8 of their Fifth Report (Second Lok Sabha) the Committee on Subordinate Legislation had observed that mere laying of Rules on the Table of the House for a specified period did not amount to their approval which could only be achieved by bringing forth an affirmative motion in the House in that behalf. Therefore, the presumption made by the Ministry of Commerce that the Rules had been approved by the House is not correct. The Committee desire that necessary instructions should be issued to all Ministries/Departments of Government to make it clear to them that mere laying of Rules on the Table for a specified period does not amount to their approval by the House.

Brought to the notice of all Ministries/Departments for their information necessary action, vide D.P.A. O.M. No. 32(51)/73-R&C, dt. 9-11-73.

9 Eighth Report
(5LS)
86

The Committee note with satisfaction that Ministry of Tourism and Civil Aviation have accepted the suggestion of affording a reasonable opportunity of being heard to the concerned allottee before action is taken against him under S.R. 317-XXVI-W-22 of the India Meteorological Department (Allotment of Residences) Rules, 1969. The Committee desire the Ministry to amend the Rules at an early date.

This has since been done (see G.S.R. 1202 of 1973, dt. 3-11-73).

(1)	(2)	(3)	(4)
10 Eighth Report (5LS) 119-120	As regards (i) Indian Railways Traffic Service Recruitment Rules, 1968 (G.S.R. 2204 of 1968); (ii) Roorkee Cantonment (Control and Supervision of Mills) Bye-laws, 1970 (S.R.O. 206 of 1970); (iii) the Coir Board Services (Classification, Control and Appeal) Bye-laws, 1969 (S.O. 200 of 1969); and (iv) the Aircraft (Second Amendment) Rules, 1972 (G.S.R. 324 of 1972), the Committee note that while the Ministry of Tourism and Civil Aviation and Railways have since sent their final reply and regretted the delay in sending the same, the Ministries of Industrial Development, and Defence have yet to send their final replies.	(i) After the sub-matter was transferred to them sometime in March-April, 1973, vigorous efforts were made to finalise the replies as quickly as possible and ultimately these could be sent to Lok Sabha Secretariat on 11-4-74 after consulting the Coir Board, the Ministry's Vigilance Division, the Deptt. of Personnel and the Ministry of Law. The delay in sending the final reply is very much regretted.	

The Committee take a serious note of the delay on the part of the Ministries of Industrial Development and Defence in sending replies to some clarifications sought from them with regard to "The Coir Board Services" (Classification, Control and Appeal) Bye-laws, 1969 and the Roorkee Cantonment (Control and Supervision of Mills) Bye-laws, 1970, respectively. They stress upon all the Ministries/Departments of Government to be more vigilant in future in sending replies to the communications and observations of the Committee.

All possible efforts are being made to ensure that replies to the communications and observations of the Committee will be sent expeditiously in future. All concerned are again benignly impressed upon to be more vigilant in future (*vide* Ministry of Industrial Development O.M. No. 14/1/73-C&S, dt. 28-5-74).

- (ii) Necessary instructions have been issued from time to time to Deputy Director Military Lands and Cantonments, all Commands, to deal with the references from the Committee promptly and to ensure that the requisite information/documents are submitted expeditiously, *vide* D.O. No. 12/13/C/L&C/73, dt. 22-10-73, dt. 23-5-74 and No. 126/1/ADM/L&C, dt. 22-5-74.

(1)	(2)	(3)	(4)
-----	-----	-----	-----

Considerable time is involved in consulting various authorities before a recommendation is finally implemented and final replies sent to the Committee. It is however, ensured that no avoidable delay takes place at any stage [vide Ministry of Defence O.M. Nos. 10/57/71/1712-C/D (Q&C), dt. 24-6-74 and 10(67)/71/2037-C/D(Q & C), dt. 20-7-74]

(iii) Brought to the notice of all Ministries/Departments for their information and appropriate action, vide D.P.A. O.M. No. F.32 (57)/73-R & C, dt. 22-9-73.

XI Tenth Report
(5LS) 7-8 and
10-11

The Committee re glad to report that as a result of their pursuance, action on 28 recommendations has been taken by Government to their satisfaction. A statement showing final action taken by Government on 15 outstanding assurances/recommendations was included in the Ninth Report of the Committee—presented on 19th November, 1973—vide para 123, Appendix IX to that Report. A similar statement containing final replies received from Government on 13 more outstanding assurances/recommendations has been included in this Report—vide para 149, Appendix V.

Brought to the notice of all Ministries/Departments for information and compliance in future, vide D.P.A. O.M.-No. F. 32(3)/74 R&C dt.18-4-74.

Although necessary action in 28 cases has been taken by Government, the Committee are constrained to observe that the delay involved in implementation/Intimation of action taken on these cases was unjustifiable. In some cases, the Ministries had taken action long back but they failed to inform the Committee. The Committee would like to stress that Direction 108(1) casts a duty on Government to inform them the action taken or proposed to be

(1)

(2)

(3)

(4)

taken on the recommendations of, and assurances given to, the Committee. They expect that in future the Ministries will abide by this Direction.

The Committee are distressed that Government should not have taken any action to implement the recommendations of the Committee even after lapse of several years in most cases. The error is particularly regrettable in cases, where after giving assurances to the Committee, the Ministries concerned did not move in the matter till the matter was again taken up with them in 1972. The error is also regrettable because it is observed that Government in five cases (*vide* Chapter III-(i)(ii), (iii), (vi) and (xv) had difference of opinion with the Committee. In such cases, they should have placed their view-point before the Committee instead of merely keeping quiet. The Committee stress upon all the Ministries/Departments to be prompt in future in implementing their recommendations and sending action taken statements thereon within a period of six months from the presentation of the Report. In case, any Ministry/Department are not in a position to implement, or feel any difficulty in giving effect to, a recommendation made by the Committee, the Ministry/Department should place their view before the Committee rather than keep silent for years.

The Committee desire the Department of Parliamentary Affairs to bring the above observations of the Committee to the notice of all Ministries/Departments for strict compliance in future.

12 Tenth Report
(SLS) 34

The Committee are unhappy to note the circumstances under which delay has occurred in amending the By-Laws of the Secretariat Cantonment Board in pursuance

The needful has since been done (*see* S.R.O 169 of 1974 dt. 4-5-1974).

(1)

(2)

(3)

(4)

of the assurance given by the Ministry of Defence to the Committee on Subordinate Legislation (Second Lok Sabha), although that assurance was given as far back as in September, 1957. They deplore the carelessness on the part of the Secunderabad Cantonment Board, who, after submitting the proposals in this behalf to the GOC-in-C, Southern Command, did not bother to follow it up for 15 long years, till the matter was taken up afresh with the Ministry in September, 1972. The Committee note that the Ministry have now sent the reply only after their displeasure was conveyed to them in May, 1973. The Committee desire the Ministry to amend the Bye-laws without any further delay.

13 Tenth Report
(5 LS)
40

The Committee are glad to note that the Employees' State Insurance Corporation Act, 1948, has since been amended as per their recommendations. They, however, regret to note the delay in implementation. The Ministry circulated draft summary for the Cabinet to the concerned Ministries for their concurrence in March, 1963, which was after five and half years of the presentation of their First Report to the House on 12th September, 1957. It took them another year and nine months for sending the final summary to the Cabinet for its approval in December, 1964. The Committee impress upon Government to avoid such delays in future.

Noted. [vide Ministry of Labour O.M. No. U-23017(2)/74-HI, dt. 4-5-74].

14 Eleventh Report
(5 LS)
75

The Committee agree that in the circumstances explained by the Ministry of Science and Technology they had no other option but to give retrospective effect to the Survey of India (Recruitment from the Corps of Engineer Officers) Amendment Rules, 1971. They, however, strongly deprecate the delay of 12 years on the part of the Ministry of Science and Technology in finalising the amendments to the Rules.

Noted. The Department would endeavour that such delays do not occur in future (vide Deptt. of Science and Technology O.M. No. 16-48/73-Sur.I., dt 5-6-74).

(1)	(2)	(3)	(4)
15 Twelfth Report (5 LS) o	As directed by the Speaker, the Committee have examined the procedure for laying of notifications issued under the Customs and Central Excises Acts, as proposed by the Ministry of Finance. The Committee approve, the procedure except that if a sensitive notification is sent to the Press for issue in the Gazette Extraordinary after 6 P.M., it should be formally laid on the Table of both Houses of Parliament on their next sitting instead of within seven days.	General instructions issued to all concerned for laying sensitive and other than sensitive notifications before Parliament <i>vide</i> Ministry of Finance (Department of Revenue and Insurance) O.M. No. 3/2/74-Parl. dt. 25-6-74.	

APPENDIX IX

(Vide para 5 of the Report)

XXIX

MINUTES OF THE TWENTY-NINTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (FIFTH LOK SABHA) (1972-73)

The Committee met on Monday, the 16th April, 1973 from 15.30 to 16.30 hours.

PRESENT

Shri Vikram Mahajan—*Chairman*

MEMBERS

2. Shri M. C. Daga
3. Shri T. H. Gavit
4. Shri P. Narasimha Reddy
5. Shri Dinesh Joarder
6. Shri G. Y. Krishnan
7. Shri Y. S. Mahajan
8. Shri S. N. Misra

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary.*

2. The Committee considered Memoranda Nos. 82,83 and 85, 86 on the following subjects and 'Orders':—

S. No.	Memo No.	Subject
1 to 4	82—83 and 85—86	* * * *
3 to 6	*	* * * *

Framing of Recruitment Rules for services|post under the Government

7. It was brought to the notice of the Committee that a statement furnished by the Posts & Telegraphs Department indicating the progress made in framing of Recruitment Rules in respect of services|posts in that Department showed that no statutory recruitment rules had been framed in respect of certain posts which had been created long back. Recruitment to those posts was being regulated through administrative instructions.

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

8. The Committee decided that in order to find out that the position in this regard in other Ministries|Departments, information might be obtained from all Ministries|Departments of Governments of India if there were any services|posts under them for which statutory Recruitment Rules had not been framed and if so, the reasons therefor.

The Committee adjourned to meet again at 15.30 hours on Thursday, the 3rd May, 1973.

XXXI

**MINUTES OF THE THIRTY-FIRST SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (FIFTH LOK SABHA)
(1972-73)**

The Committee met on Monday, the 21st May, 1973 from 15.00 to 16.30 hours.

PRESENT

Shri Vikram Mahajan—*Chairman*

MEMBERS

2. Shri M. C. Daga
3. Shri Dharmidhar Das
4. Shri T. H. Gavit
5. Shri Dinesh Joarder
6. Shri S. A. Kader
7. Shri P. Narasimha Reddy

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary.*

2. The Committee considered Memoranda Nos. 87 to 97 on the following subjects and 'Orders':

S. No.	Memo No.	Subject
(i)	(2)	-(3)
(i) to (iv)	87 to 90	* * * * *
(v)	91	The Indian Administrative Service/Indian Police Service (Appointment by Competitive Examination) Regulations, 1955 (S. R. O. 1215/1218 of 1955).
(vi) to (xi)	92 to 97	* * * * *

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

3 to 7 * * * * *

(v) I. The Indian Administrative Service (Appointment by Competitive Examination) Regulations, 1955, (S.R.O. 1215 of 1955)

II. The Indian Police Service (Appointment by Competitive Examination) Regulations, 1955 (S.R.O. 1218 of 1955) (Memorandum No. 91).

I

8 to 9 * * * * *

II

10. The Committee considered the provision contained in Regulation 13 of the above Regulations and the reply furnished by the Department of Personnel at length and after some discussion decided to hear the representatives of the Department of Personnel in the matter.

11 to 22 * * * * *

The Committee then adjourned to meet again on Tuesday, the 22nd May, 1973.

XXXVIII

MINUTES OF THE THIRTY-EIGHTH SITTING OF THE
COMMITTEE ON SUBORDINATE LEGISLATION
(FIFTH LOK SABHA) (1973-74)

The Committee met on Wednesday, the 3rd October, 1973 from 15.00 to 16.30 hours.

PRESENT

Shri Vikram Mahajan—*Chairman*

MEMBERS

2. Shri T. Balakrishnaiah
3. Shri M. C. Daga
4. Shri T. H. Gavit
5. Shri S..A. Kader
6. Shri K. Lakkappa
7. Shri Murasoli Maran

8. Shri S. N. Misra
 9. Shri Mohan Swarup
 10. Shri Tulmohan Ram

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary*

2. The Committee considered Memoranda Nos. 136 to 138 and 142 to 145 on the following subjects:

S. No.	Memo No.	Subject
(1)	(2)	(3)
(i) to (iii)	136 to 138	* * *
(iv)	142	Fee Petroleum (Second Amendment) Rules, 1970.
(v) to (vii)	143 to 145	* * *
3 to 5.	*	* * *

(iv) *The Petroleum (Second Amendment) Rules, 1970 (G.S.R. 619 of 1970)—(Memorandum No. 142).*

I

6. * * *

II

7. The Committee considered the amendment to Rule 121(1) that before suspending or cancelling a licence, the holder of such licence shall be given an opportunity of being heard provided that no such opportunity shall be given in cases (i) where the licence was suspended for violation of any of the provisions of the Act or rules, or of any condition contained in such licence and in the opinion of the licensing authority such violation was likely to cause danger to the public or (ii) where the licence is suspended or cancelled by the Central Government, if that Government considered that in the public interest or in the interest of the security of the State. The Committee desired that in cases mentioned in the proviso, the Licensing Authority or the Central Government may first suspend a licence for a fixed period, thereafter give an opportunity of being heard to the licensee and cancel the licence if so considered appropriate. The Committee desired the Ministry to amend the Rules accordingly.

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

8 to 11. * * * * *

The Committee then adjourned to meet again on Thursday, the 4th October, 1973.

MINUTES OF THE FORTY-THIRD SITTING OF THE
COMMITTEE ON SUBORDINATE LEGISLATION
(FIFTH LOK SABHA) (1973-74)

The Committee met on Wednesday, the 5th December, 1973 from 16.30 to 17.15 hours.

PRESENT

Shri Vikram Mahajan—*Chairman*

MEMBERS

2. Shri M. C. Daga
3. Shri T. H. Gavit
4. Shri S. A. Kader
5. Shri Y. S. Mahajan

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary*.

2. The Committee considered Memoranda Nos. 155, 160 to 163, 165 to 167 on the following subjects:—

S. No.	Memo. No.	Subject
(1)	(2)	(3)
(i) to (iii)	155, 160 and 161	* * * * *
(iv)	162	The Indian Post Office (Eleventh Amendment) Rules, 1971 (S. O. 3656 of 1971).
(v) to (viii)	163 and 165 to 167	* * * * *

3 to 7. * * * * *

(iv) *The Indian Post Office (Eleventh Amendment) Rules, 1971 (S. O. 3656 of 1971) (Memorandum No. 162)*

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

8. The Committee considered the above Memorandum for some time and decided to hear the representatives of the Ministry of Communications (P & T Board) in the matter.

9 to 17. * * * * *

The Committee then adjourned to meet again on Thursday, the 24th January, 1974.

XLVI

MINUTES OF THE FORTY-SIXTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (FIFTH LOK SABHA) (1973-74)

The Committee met on Monday, the 28th January, 1974, from 14.30 to 17.00 hours.

PRESENT

Shri Vikram Mahajan—*Chairman*

MEMBERS

2. Shri T. Balakrishnaiah
3. Shri M. C. Daga
4. Shri T. H. Gavit
5. Shri S. A. Kader
6. Shri S. N. Misra
7. Shri Mohan Swarup

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary.*

2. The Committee considered Memoranda Nos. 170, 182 to 192, 193A and 195 on the following subjects:—

S. No.	Memo. No.	Subject
(1)	(2)	(3)
1 to 9	170 and 182 to 189	* * * *
10	190	Non-framing of statutory recruitment rules in respect of Services/Posts under the Government.
11 to 14		
11 to 14	194—192 and 193A and 195	* * * *

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

3 to 19 * * * * *

(x) *Non-framing of statutory Recruitment Rules in respect of Services|posts under the Government.—*
(Memorandum No. 190)

20. The Committee considered the above Memorandum and took a serious view of the failure on the part of the various Ministries/Departments to frame statutory Recruitment Rules for more than a thousand services/posts, some of which were created long back. The Committee decided to hear oral evidence of the representatives of those Ministries/Departments where the framing of Recruitment Rules had been pending for more than five years. The Committee also expressed its displeasure in certain Ministries/Departments not having sent the information about non-framing of the Recruitment Rules and decided to call them for oral evidence.

21 to 24. * * * * *

The Committee then adjourned to meet again on Tuesday, the 29th January, 1974 at 14.30 hours.

XLVIII

MINUTES OF THE FORTY-EIGHTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (FIFTH LOK SABHA) (1973-74)

The Committee met on Monday, the 11th February, 1974 from 15.00 to 16.30 hours.

PRESENT

Shri S. N. Misra—*In the Chair.*

MEMBERS

2. Shri M. C. Daga
3. Shri T. H. Gavit
4. Shri S. A. Kader
5. Shri K. Lakkappa
6. Shri Y. S. Mahajan
7. Shri Tulmohan Ram

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary.*

2. In the absence of the Chairman, Shri S. N. Misra was chosen to act as Chairman for the sitting in terms of Rule 258(3) of the Rules of Procedure and Conduct of Business in Lok Sabha.

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

3. The Committee considered Memoranda Nos. 211, 215, 217 to 222 and 226 on the following subjects:—

S. No.	Memo. No.	Subject
(1)	(2)	(3)
(i) to (vi)	211, 215 and 217 to 220	* * * *
(vii)	221	Delay in laying of 'Orders' on the Table of Lok Sabha due to delay in getting the Hindi version of the 'Orders' from the Ministry of Law.
(viii) and (ix)	222 and 226	* * * *
4 to 10.	* * * *	* * * *

(vii) *Delay in laying of 'Orders' on the Table of Lok Sabha due to delay in getting the Hindi version of the 'Orders' from the Ministry of Law.—(Memorandum No. 221)*

11. The Committee considered the above Memorandum for some time and decided to hear oral evidence of the representatives of the Ministry of Law and Official Languages (Legislative) Commission.

12-13 * * * *

The Committee then adjourned to meet again on Tuesday, the 12th February, 1974 at 11.30 hours.

LIII

MINUTES OF THE FIFTY-THIRD SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (FIFTH LOK SABHA) 1973-74

The Committee met on Saturday, the 25th May, 1974 from 11.00 to 13.30 hours.

PRESENT

Shri Vikram Mahajan—*Chairman*

MEMBERS

2. Shri T. Balakrishnaiah

3. Shri M. C. Daga

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

4. Shri T. H. Gavit
5. Shri S. A. Kader
6. Shri K. Lakkappa

I. REPRESENTATIVES OF THE MINISTRY OF COMMUNICATIONS (P & T BOARD)

1. Shri N. V. Shenoi—*Secretary*.
2. Shri G. S. Bhatia—*Member (PD & AF), P & T Board*.

II. REPRESENTATIVES OF THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (LEGISLATIVE DEPARTMENT)

1. Shri K. K. Sundaram—*Secretary*.
2. Shri B. K. Sharma—*Addl. Draftsman of Official Language (Legislative) Commission*.

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary*.

2. The Committee first considered Memoranda Nos. 227, 238, 247 and 248 on the following subjects:—

S. No.	Memo No.	Subject
(1)	(2)	(3)
1. 227	.	Implementation of recommendations contained in paras 74 and 75 of the Sixth Report of the Committee on Subordinate Legislation (Fifth Lok Sabha) regarding the Explosives (Amendment) Rules 1971 (G.S.R. 1077 of 1971).
2. 238	.	Delay in laying of 'Orders' on the Table of the House.
3. 247	.	The Central Excise (Fourth Amendment) Rules, 1973 (G.S.R. 432 of 1973).
4. 248	.	Inter-zonal Wheat and Wheat Products (Movement Control) Order, 1973 (G.S.R. 187-E of 1973).

- (i) Implementation of recommendations contained in paras 74 and 75 of the Sixth Report of the Committee on Subordinate Legislation (Fifth Lok Sabha) regarding the explosives (Amendment) Rules, 1971 (G. S. R. 1077 of 1971) (Memo. No. 227).

3. The Committee considered the Memorandum and were not satisfied with the amendment proposed to be issued to Rule 93 which:

retained the power of the Central Government to suspend or cancel the licence without giving an opportunity of being heard to the holder of the Licence. They reiterated their earlier recommendation made in paras 74-75 of their Sixth Report (Fifth Lok Sabha)

(ii) Delay in laying of 'Orders' on the Table of the House
(Memo. No. 238)

4. The Committee considered the above Memorandum and decided that the cases in which statements showing reasons for delay in laying had not been laid on the Table should be reported to the House. They further desired that Ministries/Departments concerned with these cases should be asked to furnish their explanations for not complying with the recommendation of the Committee in this regard.

(iii) The Central Excise (Fourth Amendment) Rules, 1973 (G.S.R. 432 of 1973) (Memo. No. 247)

(A)

5. The Committee considered the Memorandum and were satisfied with the reply of the Ministry of Finance that the manufacturer could claim immunity from duty in case he proved that damage to the goods had rendered them unfit for consumption or marketing.

(B)

6. The Committee considered the Memorandum and were satisfied with the reply of Ministry of Finance that it was not possible to specify in the Rules the exemptions, limitations and conditions subject to which excisable goods might be removed from the factory to any warehouse as the facility had been extended to very few commodities like tobacco and mineral oils.

(iv) Inter-zonal wheat and wheat-products (Movement Control) Order, 1973 (G. S. R. 187-E of 1973) (Memorandum No. 248).

7.

(B)

8. The Committee did not agree with the explanation of the Ministry of Agriculture (Department of Food) that increase in the limit of 5 kilograms of wheat or wheat products which a *bona fide* traveller could carry for personal use would have an adverse effect on procurement efforts in surplus States. The Committee desired the Ministry to increase the limit from 5 kgs. to 10 kgs.

(C)

9. The Committee considered the Memorandum and were not satisfied with the reply of the Ministry. They desired the Ministry to specify in the Order the minimum rank of officers competent to exercise the powers of entry, examination, search and seizure.

Indian Post Office (Eleventh Amendment) Rules, 1971 (S.O. 3656 of 1971).

10. The Committee heard oral evidence of the representatives of the Ministry of Communications (P&T Board) regarding sub-rule (3) of Rule 61 of the Indian Post Office Rules, 1933, as inserted by the above amendment Rules, which empowers the Postmaster General to limit the number of articles to be accepted for registration from an individual.

11. Giving background of the amendment, the representative of the Ministry stated that night post offices had been opened for the facility of people who were engaged in their business during the day and hardly got any time to go to the post offices during the day. It was seen that a large number of business houses made use of this facility and they brought a large number of articles for registration etc. under the Special Journal System. The result was that it took a long time to clear a single person and the rest of the people in the queue had to wait for a long time. It was, therefore decided to restrict the number of articles and the amendment to the Rules was issued in consultation with the Ministry of Law.

12. In reply to a query, the representative of the Ministry stated that the purpose of the amendment was to provide more satisfactory service at the Post Office counter and not to harass the people.

13. With regard to the suggestion for employing additional staff to meet the situation he stated that it was not always possible to have additional counters as the night Post Offices worked with a limited staff. Administrative instructions had, however, been issued to all Heads of circles to exploit all other means before restricting the number of articles for registration. The restriction had been imposed in Delhi P. O. where there is a tremendous rush of people and also in case of Mobile Post Offices. Under the restriction, a person can present 3 articles at a time and he can again go to the queue and present 3 articles again. The intention is that the queue should move faster.

14. When it was pointed out that while the rush was generally experienced in night post offices the amendment was of a general nature and could be made use of in the day post offices also, the rep-

representative of the Ministry stated that while implementing the amendment, they had issued a letter to all Post Master Generals that taking into consideration public convenience, available staff strength and local conditions etc. maximum number of articles should be fixed under the powers given by the amendment. He agreed to consider the suggestion of the Committee to have the restriction only in night post offices, and also to have a board in the Post Offices indicating the timings during which the restrictions would apply. He promised to send the draft rules in this regard for consideration by the Committee.

(The witnesses then withdrew)

Delay in laying 'Orders' on the Table of Lok Sabha due to delay in getting their Hindi version from the Ministry of Law (Legislative Department.)

15. The Committee thereafter heard the representatives of the Ministry of Law, Justice and Company Affairs (Legislative Department) in regard to the delay in laying of Orders on the Table of the House due to delay in getting their Hindi version from the Official Language (Legislative) Commission, particularly in regard to the 'Orders' given in the Annexure.

16. Explaining how the official Language (Legislative) Commission came to deal with the question, the representative of the Ministry stated that under the amendment made to the Official Languages Act in 1967, both Hindi and English languages are required to be used for resolutions, general orders, rules, notifications, etc. issued by the Central Government. Further, it became necessary after the amendment that Hindi version of an Order should be placed simultaneously before the House alongwith the English version. This resulted in delay in laying of 'Orders' on the Table as the English version of the published notifications had to be translated so that both the versions were laid on the Table simultaneously. To avoid this delay in laying, the Ministry of Home Affairs issued in 1970 instructions to all Administrative Ministries that Rules, Orders, etc. which are sent to the Press for publication should be accompanied by Hindi version as well. As a result of the amendment of the Act and the directive of the Ministry of Home Affairs, the Official Language (Legislative) Commission was flooded with lot of work. There were very few Draftsmen who were not in a position to deliver the goods quickly. So, there were difficulties in implementing the decisions upto 1970 and there were cases of delay in supplying Hindi version. After the issue of the Home Ministry's directive, the delay had been minimised even at the stage of publication in both Hindi and English versions.

17. Explaining the cases included in the Annexure, the representative of the Ministry stated that the two amendments made in 1971 to the Emergency Risks (Goods) Insurance Scheme and the Emergency Risks (Undertakings) Insurance Scheme were received in the Commission in January, 1972 and their translation was done in the course of 13 days. Other set of two amendments was received on 22nd March, 1972 and the translation was given on the 25th March.

18. When his attention was drawn to the contention of the Ministry of Finance that the delay in laying the Notifications on the Table was due to considerable time taken by the Ministry of Law in supplying their Hindi version, he stated that he would consult the Ministry of Finance and send a combined note to the Committee.

19. With regard to the Employees Family Pension (Second Amendment) Scheme, 1973 which was received by the Commission on the 9th April, 1973 but the Hindi version could be finalised only on the 2nd May, 1973 as the officer concerned was busy with other immediate work, the representative of the Ministry explained that the English version of the Scheme had been already notified and the officer concerned was busy with other work which was required to be placed on the Table of the House.

20. When it was pointed out to the representative of the Ministry that the delay ranged from 15 days to over 2 years in respect of cases shown in the Annexure, he apologised and stated that the delay could not be explained very satisfactorily. In two cases, the delay was due to mis-placement as they were dealing with a number of cases. In the case of Merchant Shipping Rules also there were not sufficient reasons for the delay.

21. With regard to the steps to be taken for avoiding these delays, he stated that he would issue written instructions to get fortnightly or weekly reports in writing so that responsibility could be fixed in pending cases.

22. When inquired about the action taken against the officers for the delay, he explained that action could not be taken unless it was wilful. He, however, promised to warn orally the persons concerned to be careful in future.

23. Giving the staff position in the Commission the representative of the Ministry stated that at present they had one member to supervise generally, one additional Draftsman of the rank of Senior Deputy Secretary and a few Translators. Their difficulty was that they were not able to get suitable candidates even after advertisement. They adopted two methods for recruitment—first

by taking persons on deputation from Hindi knowing States or by recruitment through U.P.S.C. The minimum quota fixed was 7 and a half pages for Assistant Draftsman, 10 pages for Deputy Draftsman and 20—25 pages for Additional Draftsman.

24. The Committee desired the Ministry of Law, Justice and Company Affairs (Legislative Department) to furnish information on the following points arising out of the evidence:—

1. Copy of letter addressed to the Hindi knowing States in connection with recruitment to the posts of Hindi Translators in the Official Language (Legislative) Commission.
2. Note explaining the reasons for delay in supplying Hindi version of the Employees Family Pension (2nd Amendment) Scheme, 1973 (G. S.R. 186-E of 1973), particularly the nature of work with which the officer concerned was busy as a result of which the delay occurred and whether the officer gave in writing about the nature of work with which he was busy.
3. Instructions issued by the Ministry to avoid delays in supplying Hindi version by the Commission.
4. A Joint note in consultation with the Ministry of Finance stating the exact position regarding the delay in supplying Hindi version of the Emergency Risks (Goods) Insurance (Amendment) Scheme, 1972 and the Emergency Risks (Undertakings) Insurance (Amendment) Scheme, 1972. The Ministry of Finance had contended in a statement laid on the Table of the House alongwith the above 'Order' that the delay in laying these Orders on the Table was due to the fact that considerable time was taken in preparation of Hindi version.

(The witnesses then withdrew)

The Committee then adjourned to meet again on Monday the 27th May, 1974.

LIV

MINUTES OF THE FIFTY-FOURTH SITTING OF THE
COMMITTEE ON SUBORDINATE LEGISLATION
(FIFTH LOK SABHA)

1973-74

The Committee met on Monday, the 27th May, 1974 from 10.00
to 13.30 hours.

PRESENT

Shri S. A. Kader—*In the Chair*

MEMBERS

2. Shri T. Balakrishnaiah
3. Shri M. C. Daga
4. Shri T. H. Gavit
5. Shri Samar Guha
6. Shri K. Lakkappa
7. Shri Murasoli Maran
8. Shri D. K. Panda
9. Shri Tulmohan Ram

I. REPRESENTATIVES OF THE MINISTRY OF FINANCE (DEPARTMENT OF
REVENUE & INSURANCE)

1. Shri Jasjit Singh—*Chairman, Central Board of Excise and
Customs.*
2. Shri S. R. Mehta—*Chairman, Central Board of Direct
Taxes.*

II. REPRESENTATIVE OF THE PLANNING COMMISSION

Shri R. K. Trivedi—*Additional Secretary.*

III. REPRESENTATIVES OF THE MINISTRY OF SHIPPING AND TRANSPORT

1. Shri M. G. Pimputkar—*Secretary,*
2. Shri J. S. Bali—*Secretary—Border Roads Development
Board.*
3. Shri K. Sivaraj—*Joint Secretary.*
4. Shri S. S. Gill—*Joint Secretary.*

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary.*

2. In the absence of the Chairman, Shri S. A. Kader was chosen to act as Chairman for the sitting in terms of Rule 258(3) of the Rules of Procedure and Conduct of Business in Lok Sabha.

3. The Committee heard oral evidence of the representatives of the Ministry of Finance (Department of Revenue and Insurance) regarding delay in framing statutory recruitment rules in respect of certain services/posts shown in the statement furnished by the Ministry.

4. At the outset, the representative of the Ministry confessed that there had been delay in the framing of statutory recruitment rules for various posts under the Central Board of Excise and Customs. In many cases, the Rules had actually been drafted and were in draft form. A few of the Rules had been referred to the Department of Personnel. Each of the posts was however, regulated by well defined executive instructions—both for direct recruitment as well as promotion posts and there was no question of any loophole whereby there could be any sort of arbitrary exercise of discretionary power in regard to recruitment.

5. Giving the procedure for framing recruitment rules, the representative of the Ministry stated that framing of recruitment rules is supposed to be taken up in hand as soon as a service is constituted. Various Heads of Departments who were Recruitment Officers for various posts are consulted. After the Board has approved them, they are sent to the Department of Personnel for concurrence. Sometimes, they raise queries which are answered. Some queries are also raised by the Ministry of Law. Thereafter in the case of Class I and Class II Gazetted Posts, the Draft Rules are also referred to U.P.S.C. who have to finally agree with them. Then they are notified after being vetting by the Ministry of Law.

6. The representative of the Ministry admitted that since their executive instructions were detailed and precise, the question of having statutory Rules was not thought of. Since 1968, however, they were pursuing this matter actively.

7. In reply to a query, he said that the framing of recruitment rules took one to two years. Giving an example of a case in which recruitment rules had been framed and referred to the Department of Personnel, he said that draft recruitment rules relating to Senior Grade Inspectors and other Class II and Class IV posts were referred to the Department of Personnel on 10-6-68 and again on 2-7-68, 27-1-69, 3-3-69 and 10-4-69. Each time they were received back with certain queries and suggestions. They were referred to the Directorate of Inspection, Central Excise and Customs on 24-4-69 and received back on 7-6-69. They were examined further and referred again to Department of personnel on 29.8.69 and 4.12.69. The matter was discussed with that Department and the file was referred back to them on 3.9.70. It was referred to Law Ministry on 7.12.70 and received back on 6.1.71. The points raised by the Ministry of Law were examined and the case referred back to the Ministry of Home Affairs on 16.2.71 and again on 16.5.71. The Draft Recruitment Rules were submitted for approval by the Board in June, 1971. They were sent to the Ministry of Law for Hindi translation on 20.10.71 and received back on 14.1.72. In the meanwhile certain developments took place and the rules were re-ex-

amined and submitted again in May, 1972.

8. Giving the history of the framing of recruitment rules for Income Tax Service Class I, the representative of the Ministry said that the service was constituted on 1-10-1944 and executive orders were issued to regulate its strength, promotion and other matters. Draft Rules were framed in 1964. There had been consultations with the Department of Personnel and U.P.S.C. but there was litigation between the promotee officers and the direct recruits in regard to the quota of recruitment. The rule in regard to seniority was also the subject matter of litigation and dispute. When the draft rules were approved by U.P.S.C. in 1967, the Supreme Court Judgement came, necessitating their amendment. The amended Rules were sent to the Department of Personnel in 1968 who returned them in 1969 suggesting further amendment and clarification. The Supreme Court had finally decided the case in April this year and the Pay Commission had also made certain recommendations. He assured the Committee that the rules would be finalised as soon as the Pay Commission's final findings were received by them.

9. In reply to a query from the Chair whether the recruitment takes place first or the draft rules come first, the representative of the Ministry stated that the draft rules should come first. Although they had not been framed there were well-regulated instructions. The Supreme Court had ruled that under Article 309 in the absence of statutory rules, the executive instructions would have the same force as statutory rules.

10. When asked about the suggestions for avoiding delay in framing statutory recruitment rules, the representative of the Ministry stated that there should be a cell for this purpose in every Department with which representatives of the Personnel Department and the Law Ministry should be associated. This will eliminate piecemeal raising of queries. There should also be a time limit for framing of these rules.

11. In reply to a question he said that no set criteria could be laid down for recruitment to all types of posts. The criteria depended upon the strength, nature and quality of the post and differed from post to post. In the case of field executive posts, the direct recruitment quota would be much higher because they wanted young blood all the time. For the ministerial posts, people could be promoted for the higher posts.

12. When the Committee enquired as to what should be the maximum period during which recruitment to a post may remain regulated though departmental instructions without the statutory backing, the

representative of the Ministry said that the normal period should be about one year.

13. * * *

14. The Committee desired the Ministry to furnish information on the following points arising out of the evidence:—

1. Number of persons appointed and the number of posts created in the Ministry without statutory Recruitment Rules after the coming into force of the Constitution.
2. Detailed note giving implications of the Supreme Court Judgement on the finalisation of Recruitment Rules in respect of Income Tax Service Class I and the consequential orders issued by the Ministry.
3. (a) Copies of Executive Instructions on the basis of which Recruitment is made in the Ministry before the framing of Statutory Recruitment Rules.
(b) Supreme Court Order according to which executive instructions will be treated statutory in the absence of Statutory Recruitment Rules.
4. Total number of recruitments made for Income Tax Service Class I and Class II separately (a) before the framing of the Recruitment Rules and (b) after the framing of the Recruitment Rules.
5. * * *
6. Written answers to questions entered in the list supplied to the Ministry at the time of evidence which were not discussed during the evidence.

(The witnesses then withdrew)

15. The Committee then heard oral evidence of the representative of the Planning Commission regarding delay in framing of statutory recruitment rules in respect of certain posts/services in the Commission. The representative of the Planning Commission stated that out of 139 posts shown in the statement about which recruitment rules had to be framed, only 18 posts were now left. Recruitment rules about the rest had been finalised or were in process of finalisation. Action to frame recruitment rules in respect of the 18 posts could not be taken earlier because most of them had been created as a result of the Re-organisation Committee's Report.

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

16. Explaining the reasons for delay in framing Recruitment Rules, he explained that till 1967 not a single rule had been framed. There were 2047 posts out of which recruitment rules had since been framed in respect of all barring 139 cases reported to the Committee earlier.

17. In reply to a question from the Chair what in his opinion should be the maximum period for which recruitment to a post may remain regulated through department instructions without statutory backing, he said that normally one year should be the maximum period. In reply to a further question, he said that they started framing recruitment rules after receipt of the Ministry of Home Affairs circular on the subject in 1968.

18. In regard to the post of Senior Gestetner Operator created in February, 1964, he stated that they had since decided to notify the recruitment rules. He also said that the recruitment rules for the post of Adviser, Power were with the U.P.S.C. since 23-4-1974. So far as the post of Librarian was concerned, that had been given up. The post had been created in 1951 and the incumbent to the post was appointed through the agency of the U.P.S.C.

19. The Committee desired the Planning Commission to furnish written information on the following points arising out of the evidence:

1. Year-wise details about framing of Recruitment Rules in the Planning Commission after 1967.
2. Procedure followed in the Planning Commission till 1967 for making appointments, in the absence of any Recruitment Rules inspite of instructions of the Ministry of Home Affairs to frame Recruitment Rules for all posts under the proviso to Article 309 of the Constitution.
3. Detailed note about appointment of Librarian in the Commission.
4. Statement giving latest position about finalisation/Notification of Recruitment Rules for services/posts in the Commission.
5. Written answers to questions entered in the List supplied to the Commission at the time of evidence which had not been discussed during evidence.

(The witnesses then withdrew)

20. The Committee then heard the representatives of the Ministry of Shipping and Transport regarding delay in framing of statutory recruitment rules in respect of certain services/posts in the Ministry.

21. The representative of the Ministry explained that the number of services posts for which recruitment rules had not been framed as compared with the number of posts for which rules had been framed was very small. As to reasons for delay in framing recruitment rules, he said that a number of authorities had to be consulted before recruitment rules for a post were finalised. In case of queries from any authority, the case had again to be referred to all the authorities. In the meanwhile, transfers may take place, Pay Scales or qualifications may change which result in further delay. Things got stock up due to such reasons. He, however, stated that whenever posts had been filled; they had been filled according to draft recruitment rules available at the time.

22. When asked as to what in his opinion should be the maximum period for which recruitment to a post may remain regulated through departmental instructions without one statutory backing, he said that it might take anything upto one year.

23. Explaining the position about framing of recruitment rules in the office of the Government—Director on the Board of Shipping Companies, he stated that the rules had already been notified. He regretted the delay in framing recruitment rules for the posts of Dy. Sub-Director, Cost Accounts Officer and non-gazetted posts. Recruitment had been made according to draft rules. He admitted that the position in the Mercantile Marine Department was very bad. There was no explanation for the delay in framing recruitment rules in that Department.

24. When the attention of the representative of the Ministry was drawn to the post of Telex Operator which should be filled up by direct recruitment, he stated that direct recruitment was not possible unless the rules came into force. So the man already working in the office was appointed by promotion.

25. In reply to a question as to how the pension and other benefits were governed in respect of persons appointed on the basis of draft rules, the representative of the Ministry stated that they checked up whether the sanctioned post was permanent or not. Even officiating service for more than six years was counted in full for pension.

26. * * * *

27. In reply to a query, he stated that the draft recruitment rules had been submitted to the U.P.S.C. and after they had given their approval, the advertisements were notified. Concurrence of the

Ministry of Law was received later and hence the retrospective effect was given.

28. The Committee desired the Ministry of Shipping and Transport to furnish information on the following points arising out of the evidence:

1. Total number of persons appointed in the Ministry without Recruitment Rules as on 1-4-1974.
2. Detailed note about the progress made in finalising Recruitment Rules in the Mercantile Marine Department, Bombay, giving dates about movement of files from one Ministry to another.
3. Note about the promotion procedure for persons recruited on *ad hoc* basis.
4. Detailed note showing steps taken in the Ministry during 1960 to 1974 towards framing of Recruitment Rules under the proviso to Article 309 of the Constitution.
5. Written replies to questions given in the list supplied to the Ministry at the time of evidence which had not been discussed during evidence.

(The witnesses then withdrew)

29. The Committee adjourned to meet again on Tuesday, the 28th May, 1974.

LV

MINUTES OF THE FIFTY-FIFTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (FIFTH LOK SABHA) (1973-74)

The Committee met on Tuesday, the 28th May, 1974 from 10.00 to 14.20 hours.

PRESENT

Shri Vikram Mahajan—*Chairman*

MEMBERS

2. Shri T. Balakrishnaiah
3. Shri M. C. Daga
4. Shri T. H. Gavit
5. Shri Samar Guha
6. Shri S. A. Kader

7. Shri K. Lakkappa
8. Shri Murasoli Maran
9. Shri Tulmohan Ram

I. REPRESENTATIVES OF THE MINISTRY OF DEFENCE

1. Shri P. Krishnamurthi—*Additional Secretary.*
2. Shri J. P. Kacker—*Additional Secretary.*

II. REPRESENTATIVE OF THE DEPARTMENT OF SOCIAL WELFARE

1. Shri K. R. Ramachandran—*Joint Secretary.*

III. REPRESENTATIVE OF THE MINISTRY OF HEALTH AND FAMILY PLANNING

1. Shri Kartar Singh—*Additional Secretary.*

IV. REPRESENTATIVES OF THE MINISTRY OF TOURISM AND CIVIL AVIATION

1. Shri N. Sehgal—*Secretary.*
2. Dr. A. Mazoomdar—*Director General of Tourism.*
3. Shri S. Ramamritham—*Director General of Civil Aviation.*

V. REPRESENTATIVES OF THE DEPARTMENT OF PERSONNEL AND ADMINISTRATIVE REFORMS

1. Shri B. P. Bagchi—*Secretary.*
2. Shri S. P. Mukerji—*Joint Secretary.*
3. Shri P. S. Mahadevan—*Joint Secretary.*
4. Shri R. N. Haldipur—*Joint Secretary.*

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary*

2. The Committee first heard oral evidence of the representative of the Ministry of Defence about delay in supply of information relating to non-framing of recruitment rules for certain services posts in the Ministry. The representative of the Ministry regretted the delay and explained that the Defence Department was a vast organisation spread out through-out the country and it took time to gather information from such a vast net-work. He stated that immediately after receipt of communication from the Lok Sabha Secretariat in April, 1973, a circular was sent to all Departments asking them to give the information. Part of the information was received on 26-5-73 and 24-7-73 and from the Department of Defence Production on 15-5-74. The officer concerned was taken to task for not sending the information received upto July, 1973. The information received upto 15-5-74 had not been sent. They had still to send information about the lower formations of the Armed Forces Head-

quarters. Information had to be received in respect of 1200 categories. Roughly speaking there were about 1200 categories of posts under the Defence Ministry. He hoped to send the requisite information by the end of next month.

3. Explaining the procedure for making recruitment rules, he stated that the rules were framed either in the Department of Defence or of Defence Production. Then they were sent to the Department of Personnel for vetting who took about 6 months. If there were certain queries, they had to be resolved. Then the rules were sent to the Ministry of Law who took another 6 months to clear them. After getting Law Ministry's clearance and the Minister's sanction, the rules were promulgated.

4. In regard to appointments on *ad hoc* basis in the absence of recruitment rules, he said that they obtained the Minister's orders to appoint the senior most persons on *ad hoc* basis. It was very rare that somebody from the open market was taken. *Ad hoc* appointments could be made upto 11 months. Beyond that, they had to go to UPSC for clearance.

5. The representative of the Ministry admitted that it was a mistake that there had been no recruitment rules since January, 1944 in respect of posts of *primary teachers* in the Directorate General, Ordnance Factories Organisation. The rules would now be promulgated quickly. He, however, pointed out that inspite of the absence of recruitment rules, they had been following a procedure by which the posts were filled in the best possible manner.

6. On his attention being drawn to Article 309 of the Constitution relating to framing of recruitment rules, the representative of the Ministry stated that they were making a vigorous drive to clear the arrears as early as possible. The issue was discussed at weekly meetings of Joint Secretaries which were being held since 1970.

7. In answer to another question he said that in his opinion a post may remain regulated by Departmental instructions for a period of two years.

8. When it was suggested that there should be a Committee or Cell to consider the framing of recruitment rules, the representative of the Ministry said that weekly meetings of Joint Secretaries were held but in his opinion a Committee sitting in Delhi could do nothing as the Heads of Departments were spread all over India. He promised to consider the system of having branches of the proposed Cell under various commands.

9.

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

10. The Committee desired the Ministry to furnish information on the following points arising out of the evidence:

1. Since when weekly meetings of Joint Secretaries in the Ministry are being held to examine the progress in framing statutory Recruitment Rules.
2. Detailed note regarding action taken on the circulars issued by the Ministry of Home Affairs to all Ministries/Departments of Government (O.M. No. 12/6/46-Ests. dated 16th August, 1946, O.M. No. 156/52-Ests. dated 19th September, 1962 and O.M. No. 20/21/66-Ests. (D), dated 2nd March, 1967) emphasising the necessity of framing Recruitment Rules under the proviso to Article 309 and submitting quarterly returns to that Ministry showing the progress made in that regard.
3. Note regarding the suggestion for creation of special cells in various organisations for clearing the arrears in regard to the framing of statutory Recruitment Rules.
4. Short explanatory notes in regard to cases of retrospective effect which could not be discussed at the time of evidence.
5. Written replies to questions indicated in the list furnished to the Ministry at the time of evidence which were not discussed during the evidence.

(The witnesses then withdrew)

11. The Committee then heard oral evidence of the representative of the Department of Social Welfare regarding non-framing of recruitment rules in respect of certain services/posts in that Department. He explained that certain posts for which recruitment rules had not been framed were instituted for the Special Nutrition Programme which was taken up during the Fourth Plan as a Central Scheme but was transferred to the State Sector in the Fifth Plan period. Now they had launched another Central Scheme called Integrated Children Development Sources Scheme which was yet to be cleared by the Ministry of Finance. Pending clearance, the recruitment rules could not be notified as they did not know how many posts would be required. Recruitment rules in respect of a few posts on the Research side were pending with the UPSC.

12. Explaining the reasons for delay in framing recruitment rules in respect of certain posts in the regional prevocational Centres, the representative of the Department stated that five centres had been started as a pilot project with a view to give training in trade to those children who did not do well after primary school education. Immediate action was taken to frame recruitment rules

but then a study team suggested that out of five centres, two should be handed over to the States. Later on there was rethinking on the subject and a final decision had now been taken to handover all the Centres to the State Governments. The result was that the framing of recruitment rules for these Centres had not been pursued further.

13. With regard to another institution located in Hyderabad, which had a school for partially deaf children, the representative of the Department said that they had specialised posts and it was difficult to get trained people inspite of advertisements in the papers. Finally they had to get a number of people on deputation from Andhra Pradesh. Recruitment rules had now been issued on 21st May. Recruitment rules regarding posts in the Training Centre for Adult Deaf were expected to be finalised by the end of June, 1974. When it was pointed out that the posts had been created in 1964 and the recruitment rules were sent to the Department of Personnel in 1974, the representative of the Department explained that these were specialised posts. If the Rules were framed in the very beginning, it became rigid and if people with those qualifications did not turn up, amendment of rules would become necessary. With regard to the posts of computer, peon and mess boy which were not specialised posts, the representative of the Department admitted that it was a mistake not to have framed any recruitment rules about them.

14. When asked as to what happened to *ad hoc* appointments which did not fit in with the recruitment rules when framed, the representative of the Department said that in such a case the *ad hoc* appointee went to his substantive post and made room for the regular appointee. The representative of the Department apologised that information about non-framing of rules had been furnished only after the Department had been called to give oral evidence. He assured the Committee that they expected to clear the arrears in regard to framing of recruitment rules by the end of August, 1974.

The Committee desired the Department to send copies of the Rules when framed for their information.

(The witnesses then withdrew)

15. The Committee thereafter heard oral evidence of the representative of the Ministry of Health and Family Planning regarding non-supply of information about delay in framing Recruitment Rules in respect of certain services/posts in the Ministry and also about retrospective effect given to certain 'Orders' issued by the Ministry.

16. The representative of the Ministry apologised for the delay in furnishing the requisite information which had to be collected not only from the Ministry proper but from the attached and subordinate offices of both the Departments in the Ministry. In the Department of Health, there was the office of the D.G.H.S. and 48 subordinate offices. The information that they had furnished showed that the Recruitment Rules in a majority of cases were in an advanced stage of processing. They were required to be referred to the Department of Personnel, U.P.S.C. and then to the Ministry of Law. The process itself took time. He, however, said that the framing of recruitment rules should not normally take more than one year. He also agreed that in no case a post should be filled up without following Recruitment Rules.

17. In reply to a question, the representative of the Ministry stated that recruitment rules had not been framed in respect of 5 posts in the D.G.H.S., and 55 gazetted and 131 non-gazetted posts in the subordinate offices and 23 posts in the Department of Family Planning.

18. He admitted that there had been an inordinate delay in framing recruitment rules for 15 posts of G.E.C. Class III in the All India Institute of Hygiene and Public Health, Calcutta. He, however, said that there was no favouritism shown in making recruitment to these posts as they were made through Employment Exchange or by a Departmental Promotion Committee.

19. The Committee desired the Ministry to furnish information on the following points arising out of the evidence:—

1. Chronological statement regarding action taken for framing of statutory Recruitment Rules for the posts of Associate-Professors in the Ranchi Hospital for Mental Diseases.
2. Detailed note regarding action taken on the circulars issued by the Ministry of Home Affairs to all Ministries/Departments of Government (O.M. Nos. 12|6|46-Ests. dated 16th August, 1946, 156|52|Ests. dated 19th September, 1952 and 20|21|66-Ests(D), dated 2nd March, 1967) emphasising the necessity of framing Recruitment Rules under the proviso to Article 309 and submitting quarterly returns to that Ministry showing the progress made in that regard.
3. Chronological statement regarding action taken for framing of statutory recruitment rules for the post of Assistant Director (NFCP) created on 16th August, 1954.

4. Written replies to questions indicated in the list furnished to the Ministry at the time of evidence which were not discussed during the evidence.

(The witness then withdrew)

20. The Committee then heard oral evidence of the representatives of the Ministry of Tourism and Civil Aviation regarding the delay in framing of recruitment rules in respect of certain services/ posts in the Ministry.

21. The representative of the Ministry said that there were 182 cases in the Ministry about which recruitment rules had not been framed and in the last ten days they had cleared almost all of them. The recruitment rules had been sent to the Press for notification. Out of 182 cases, rules had been sent for publication in respect of 163 categories. Five cases were with the UPSC for approval. Rules were not required in respect of 7 posts as four of them in the Hotel Loan Cell in the Department of Tourism had been abolished and the work transferred to the I.F.C. One post of special officer (Wild Life) in the Department of Tourism will be converted into the post of Deputy Director-General. One post in the Civil Aviation Department fell in the dying category and one had been transferred to the International Airports Authority.

22. In the case of four posts, the Department of personnel had advised to wait pending decision by the Supreme Court. Rules for three other posts were under consideration.

23. He further said that certain posts in the Civil Aviation Department had not been notified to the Committee. Rules in respect of these had been finalised and sent for publication.

24. Forty-three posts in the Gulmarg Winter Sports Project under the Department of Tourism had also not been reported to the Committee. The Department was considering whether the Project should be autonomous or should be transferred to the India Tourism Development Corporation. As the incumbants to the posts in the above cases had been posted either by transfer in the Department or by borrowing from State Governments or Defence Services or through the Employment Exchange, there was hardly any possibility of any malpractice like favouritism in their recruitment.

25. Explaining the position in respect of the Department of Aeronautical (Inspection) Organisation, the representative of the Ministry stated that they were operating on the basis of the draft recruitment rules as agreed upon and approved by the Department

of Personnel. He promised to send information regarding the date of approval by the Department of Personnel.

26. Regarding the post of Director General of Tourism created in 1964 and that of Deputy Director General in 1969, the representative of the Ministry explained that the post of Director General was created in 1958 when the Department itself was created. The first Director General retired in 1966 and it was then for the first time that the question arose as to how the post should be filled up. Since the post was carrying an ex-officio Secretariat status, it was thought that no special recruitment rules were necessary. It was in March, 1972 that firm proposals for draft recruitment rules were prepared. Discussions had been going on and it was now proposed that the post be filled by promotion from within the Department. The Rules were now at the stage of discussion with U.P.S.C.

27. Asked to state the advantage in having statutory recruitment Rules vis a vis departmental instructions, the representative of the Ministry stated that the Rule of Law was naturally of great advantage provided it was treated by everyone with a genuine sense of seriousness and not with a view to promoting litigation.

28. The Committee desired the Ministry of Tourism and Civil Aviation to furnish information on the following points arising out of evidence:—

1. List of Rules which have been finalised/notified after the Ministry was called for evidence before the Committee.
2. List showing services/posts in respect of which statutory recruitment rules are pending.
3. Detailed note showing how services/posts for which recruitment rules are not framed have been filled up.
4. When were the draft recruitment rules in respect of the various categories of posts in D.G.C.A. Hqs. Organisation, Department of Aeronautical (Inspection) Organisation approved by the Department of Personnel—Chronological statement showing further action thereunder.
5. Detailed note regarding action taken on the circulars issued by the Ministry of Home Affairs to all Ministries/Departments of Government (O.M. No. 12/6/46-Ests. dated 16th August, 1946, O.M. No. 156/52-Ests. dated 19th September, 1952 and O.M. No. 20/21/66-Ests(D), dated 2nd March 1967) emphasising the necessity of framing recruitment rules under the proviso to Article 309 of the Constitution and

submitting quarterly returns to that Ministry showing progress made in that regard.

6. Procedure followed in the Ministry for recruitment to Class III and Class IV posts in the absence of statutory recruitment rules for the same.
7. Note regarding safeguarding the interests of candidates belonging to Scheduled Castes and Scheduled Tribes while making *ad hoc* appointments in the Ministry.
8. Written replies to questions indicated in the List supplied to the Ministry at the time of evidence which were not covered during discussion.

(The witnesses then withdrew)

29. The Committee last heard oral evidence of the representatives of the Department of Personnel and Administrative Reforms on the following subjects:—

- (i) Regulation 13 of the I.A.S./I.P.S. (Appointment by Competitive Examination) Regulations.
 - (ii) * * * *
 - (iii) * * * *
 - (iv) Delay in framing statutory Recruitment Rules in respect of certain services/posts in the Department.
- (i) Regulation 13 to the I.A.S./I.P.S. (Appointment by the Competitive Examination) Regulations

30. The representative of the Department explained that the object of Regulation 13 was that the persons in Government service should be loyal. This was to be judged by his character and antecedents. They had also suggested an amendment of the Regulation to make it clear. There were several judicial decisions which said that it was the State responsibility to ensure that only persons with satisfactory character and antecedents were appointed to Government service. He mentioned the following grounds on which the candidates were generally rejected:—

- (i) A person who may have been dismissed by Central or State Government.
- (ii) A person convicted of an offence involving moral turpitude.
- (iii) A person disqualified by the UPSC from appearing at an examination conducted by them.
- (iv) Those who have participated in or associated with any activity, act or programme aimed at (a) the subversion of

the Constitution (b) breach of law involving violence (c) prejudicial to the interests of sovereignty and integrity of India or the security of the State.

31. He further said that political opinions were not taken into consideration while rejecting a particular person. Out of 2139 candidates appointed to the L.A.S. since 1947, no one had been rejected and out of 1487 I.P.S. candidates appointed since 1947 only one successful candidate had not been taken.

32. As to the machinery for checking loyalty of a person, he said that they wrote to the D.M. who got certain enquiries conducted through the police. The report was routed through DM & SP. The enquiry covers whether he had been convicted of an offence etc.

33. As to the action to be taken against an I.A.S./I.P.S. officer who became indifferent to his duties after appointment he stated that the I.A.S./I.P.S. cadres were State-based. It was for the State Government to take action. If he did something while serving at the Centre, the Central Government took action.

34. When asked whether it was possible to do the screening of the candidates before the examination, the representative of the Department stated that the number of candidates was so large that it would mean futile labour to a large extent. They had started doing verification of character and antecedents after the examination but before the interview.

35. Replying to the question whether patriotism for the country, an outlook of development of people and politeness to the public was being inculcated among the new recruits to IAS/IPS, the representative of the Department stated that there had been a lot of change since the British days. There were courses in Indian Constitution, Indian History and Economic Planning. They had also started 'shram dan'. The probationers had also to go to the villages and live and work there for sometime. There was a lot of idealism among the young officers.

36 to 39. * * * *

Non-framing of Statutory Recruitment Rules for certain services/posts in the Department

40. The representatives of the Department explained that in most of the cases with which they were concerned, Recruitment Rules

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

had been framed. Even where no rules had been framed, the posts had been filled up by people on deputation. With regard to the suggestion that a Committee be constituted to see that all pending rules in various Ministries/Departments are drafted and framed within a year, he said that they had issued instructions and the Recruitment Rules were also vetted by them. But they were not a super-Ministry keeping watch over other Departments. Theirs was a co-ordinating function. They had to see that the cases were disposed of quickly.

41. In reply to a question he said that if the Committee so desired, they could pursue the matter with the Ministry where framing of Recruitment Rules had been pending for long.

42. It was pointed out to the representative of the Department that under Article 309 an Act is required to govern conditions of service. He replied that they had consulted the Law Ministry on the subject and they had advised that it would be preferable to have Rules instead of an Act. The reason was that several new types of posts were created for time to time. So a flexibility was required. It was thought that an Act would introduce rigidity whereas with Rules it would be possible to make changes quickly. Provision in Article 309 for framing of Rules was a parallel provision.

43. Explaining the procedure for framing Recruitment Rules, the representative of the Department said that the concerned Ministry filled two proformas, one forming part of the Rules and other giving details of requirements of the post. The Draft Recruitment Rules were sent to the Department of Personnel who scrutinised them and returned within a month. Some-times they did not agree and referred them back to the Ministry. Wherever references became frequent, discussions were held. If the Rules pertained to Class I and II, they were referred to UPSC. A period of 6 weeks was prescribed for them. If there was a delay, there was provision for discussion. If the Rules as approved by the Department of Personnel were changed by UPSC, they are again referred to the Department of Personnel. Thereafter the Rules went to the Law Ministry for vetting. Normally three months time should be sufficient for framing the Rules. On an average they received 300 Rules per month. Cases pending with them were 270. Of these between two to three months—there were 65 cases, one to two months—90 cases and rest for less than a month.

44. As to the steps to be taken to reduce the time taken in consultation with the Ministry of Law, Department of Personnel and UPSC and the Office of C.&A.G., the representative of the Department said that they were considering whether it was possible to have a Committee where technical matters could be settled.

45. With regard to the post of Junior Analyst, he said that this was a new category of post applicable to all the Departments and so they thought model Rules would be helpful. UPSC had stated that the matter was pending in the Supreme Court.

46. When asked whether there was possibility of discrimination being made in case of recruitment without statutory rules, he said that such a possibility could not be ruled out even if there were statutory rules. He also said that they were trying to have model Rules for Class IV posts.

47. In his opinion, a limit of 6 months time should be enough for framing of Recruitment Rules.

48. The Committee desired the Department to furnish information on the following points arising out of the evidence:

- (1) Copy of the amendment proposed to be made to Regulation 13 of the IAS/IPS Competitive Examination Regulations.
- (2) (Number of complaints received from State Governments against IAS/IPS officers for delinquency and action taken thereon.
- (3) Action on the suggestions made by the Committee for making a provision to deal with State-based IAS/IPS officers in cases where the State Government fails to take against them for delinquency.
- (4) & (5) * * * *
- (6) Note regarding the suggestions made by the Committee for issue of a circular letter to all Ministries/Departments for framing recruitment rules under the proviso to Art. 309 in all cases where they do not exist at present.
- (7) Note regarding the procedure for framing of statutory recruitment rules for a service/post.
- (8) Copy of the revised rules regarding reservation of vacancies for candidates belonging to Scheduled Castes/Tribes.
- (9) Note on the suggestions regarding having a Committee with a view to avoiding frequent consultation with UPSC Department of Personnel, Ministry of Law, etc. before finalisation of Recruitment Rules.
- (10) Written replies to Questions indicated in the List furnished to the Department at the time of evidence which could not cover during evidence.

(The witnesses then withdrew)

The Committee then adjourned to meet again on 29th May, 1974.

LVI

MINUTES OF THE FIFTY-SIXTH SITTING OF THE
COMMITTEE ON SUBORDINATE LEGISLATION
(FIFTH LOK SABHA) (1973-74)

The Committee met on Wednesday, the 29th May, 1974 from 15.00 to 16.40 hours.

PRESENT

Shri Vikram Mahajan—*Chairman*

MEMBERS

2. Shri T. Balakrishnaiah
3. Shri M. C. Daga
4. Shri T. H. Gavitt
5. Shri Samar Guha
6. Shri S. A. Kader

I. REPRESENTATIVES OF THE MINISTRY OF WORKS & HOUSING

1. Shri A. N. Banerji—*Secretary*.
2. Shri Mahmood Butt—*Joint Secretary*.
3. Shri N. K. Prasad—*Joint Secretary*.
4. Shri R. Gopaiaswamy—*Joint Secretary*.
5. Shri S. Chaudhuri—*Joint Secretary*.

II. REPRESENTATIVES OF THE MINISTRY OF LABOUR

1. Shri N. P. Dube—*Additional Secretary*.
2. Shri D. S. Nim—*Joint Secretary*.
3. Shri T. S. Sankaran—*Joint Secretary*.

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary*.

2. The Committee first heard oral evidence of the representatives of the Ministry of Works and Housing regarding delay in framing Statutory Recruitment Rules in respect of certain services/posts in the Ministry.

3. The representative of the Ministry explained that the procedure for framing Recruitment Rules was rather longdrawn. Consultations had to be held with the Department of Personnel,

U.P.S.C., Ministry of Finance, Ministry of Law, etc. In respect of Class III and Class IV posts consultations had to take place with the Ministries concerned, particularly in respect of people working in the Department of Printing. Therefore, there had been a certain amount of delay in finalising the recruitment rules. Secondly, it was not a fact that there were no Recruitment rules in all cases. Particularly in the case of Printing, Stationary and Publication Department Recruitment Rules had been framed as early as in 1941. These were covered under Article 313 of the Constitution. The Rules were now under revision and till such time as they were revised the old rules were being followed. The delay also took place because of the transfer of posts from one Ministry to another. He, however, admitted that in certain cases the delay could have been avoided.

4. With a view to avoid the delay in future, he said that it was proposed that the Joint Secretary would review the position about finalisation of Recruitment Rules once a month, while the Secretary would do so once a quarter.

5. On being asked as to the time they would normally require in finalising Recruitment Rules, he said that a fresh case was expected to be completed before two years unless there were some unsurmountable difficulties.

6. In regard to 278 Class IV posts regarding which there were no Recruitment Rules, the representative of the Ministry stated that there were no specific Rules regarding their appointment. General service standards laid down for Class IV non-technical posts were being followed in their appointment also. In June, 1973 reference was made to Department of Personnel enquiring whether any recruitment rules in respect of Class IV posts were considered necessary. They advised that they were necessary and so they were busy at it. Draft Recruitment Rules for the regional offices had been framed and referred to the Department of Personnel on 29th March, 1974. They suggested certain modification. As soon as the draft Rules were revised, they would be shown to the Department of Personnel.

7. The representative of the Ministry further stated that Recruitment Rules for clerical establishment i.e. Class III posts in the Government of India Stationery Office, Calcutta and its Regional Offices at New Delhi, Madras and Bombay were embodied in Chapter 3 of the Handbook of Government Presses, 1941 Ed. These Rules were under revision.

8. The Committee desired the Ministry to furnish written information on the following points arising out of the evidence:

1. (a) Number of persons employed in the Ministry without statutory Recruitment Rules; and
- (b) the number of posts in the Ministry for which Recruitment Rules have not been framed so far.
2. Number of Recruitment Rules framed and pending with the Department of Personnel.
3. Written replies to Questions indicated in the List furnished to the Ministry at the time of evidence, which were not discussed during the evidence.

(The witnesses then withdrew)

Non-framing of statutory Recruitment Rules

9. The Committee next heard oral evidence of the representative of the Ministry of Labour regarding non-framing of statutory Recruitment Rules in regard to certain services/posts in the Ministry.

10. The representative of the Ministry explained the position in the Directorate General, Employment and Training. He stated that since the statement was sent to the Committee about 8 months back, there had been some progress and some of the Recruitment Rules had been notified. The same thing held good in respect of D.G., F.A.S.L. & I. So far as the offices of Mines Safety were concerned, Rules were at various stages so far as mica mines were concerned. As regards coal mines, Rules in respect of six posts were ready for issue. Recruitment Rules had been already notified in respect of the posts of Director (Ind. Psychology), Dy. Director-General and Asstt. Director (Psychology), and Asstt. Director General, Dy. Director (Psychology), Dy. Director (Ind. Psychology) and Training Officers.

11. * * * * *

12. The Committee desired the Ministry to furnish written information on the following points arising out of the evidence:—

- (1) Total number of Class III and Class IV posts for which statutory Recruitment Rules have not been framed so far.

- (2) Detailed note regarding submission of quarterly return to the Department of Personnel in respect of pending Recruitment Rules.
- (3) Written replies to questions indicated in the list furnished to the Ministry at the time of evidence which were not discussed during evidence.

(The witnesses then withdrew)

The Committee adjourned thereafter.

LIX

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

The Committee met on Wednesday, the 24th July, 1974, from 16.00 to 16.50 hours.

PRESENT

Dr. Kailas—*Chairman*

MEMBERS

2. Shri K. Chikkalingaiah
3. Shrimati Premalabai Dajisaheb Chavan
4. Shri Khemchandbhai Chavda
5. Shri Md. Jamilurrahman
6. Shri A. Kamaia Prasad
7. Shri Mohan Swarup
8. Shri Paokai Haokip
9. Shri Ebrahim Sulaiman Sait
10. Shri R. R. Sharma
11. Shri Tayyab Hussain

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary.*

2. The Chairman welcomed the members of the Committee and explained to them broadly the scope and functions of the Committee (Annexure).

3 to 4 * * * * *

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

ANNEXURE

(Vide para 2 of the Minutes)

ADDRESS BY THE CHAIRMAN TO THE MEMBERS OF THE
COMMITTEE ON SUBORDINATE LEGISLATION (1974-75)
(24-7-1974)

Friends,

It gives me great pleasure to welcome you to this first meeting of the newly-constituted Committee on Subordinate Legislation.

2. In a Welfare State like ours, legislation that has to be undertaken by Parliament is so vast and varied that it is practically impossible for Parliament to lay down all the details. Apart from the pressure on Parliamentary time, the technicality of the subject matter, the need to meet unforeseen contingencies, the requirement of flexibility, etc., compel the legislature of a modern Welfare State to leave details to be worked out by the Government.

3. As has been aptly observed, rules and regulations framed by the Executive provide, as it were, flesh and blood to the Statutes. There is, however, a danger that the executive might assume powers and exercise jurisdiction which might not have even been conferred on it. Therefore, there is need for Parliament to provide safeguards against the risks inherent in Subordinate Legislation.

4. Parliamentary control over Subordinate Legislation is exercised in four ways. Firstly, Parliament has an opportunity of examining the power to make such legislation when it appears in a Bill. Secondly, many subordinate laws are required by parent Acts to be laid before Parliament and in certain cases made subject to Parliamentary procedure and Parliamentary sanction. Thirdly, subordinate laws may in other ways be questioned or debated by Parliament. Lastly, Parliament keeps a watch over such legislation through a scrutiny committee which reports to the House whether the powers to make subordinate laws are being properly exercised. The most effective control that Parliament exercises. Over subordinate legislation is through this Committee in which we will have the privilege to work.

5. We shall have to see whether the authority delegated by Parliament in the Statutes has been properly exercised to the extent permissible and in the manner envisaged. We shall be making our reports to Lok Sabha from time to time.

6. The broad principles which are to govern the work of the Committee are enshrined in Rule 320. In addition, the Committee have over the years evolved some further guiding principles. To mention some of these:—

- (i) The Committee not only see that the subordinate legislation does not transgress the limits laid down in the parent law but that it also conforms to the principles of natural justice.
- (ii) Sometimes, in pursuance of a public policy, wide discretionary powers have to be vested in the Executive. It is in such cases that the Committee have to be particularly on the guard against, what Sir Cecil Carr terms as, the "germ of arbitrary administration". The Committee have insisted upon providing for, to the extent possible, built-in-safeguards in rules.
- (iii) It is a well-known maxim that no fee can be levied under a rule unless the parent Act expressly authorised such a levy. However, the Committee have from time to time, come across cases where fees had been levied under the rules without an express authorisation in the parent law.
- (iv) There is another well-known maxim that a delegate cannot sub-delegate his legislative power unless there is an express authorisation to that effect in the parent law.

As we come across new problems, new solutions are to be found and new guidelines evolved; and this is a continuous process.

7. Although as per Directions given by the Speaker, Lok Sabha Secretariat is to examine all 'Orders' and prepare memoranda for consideration by the Committee, it does not preclude the Members from examining the 'Orders' and giving suggestions. For this purpose, copies of all the 'Orders' laid on the Table of the House are circulated to Members.

8. The Committee have also started examination of Bills, which delegate legislative powers to subordinate authorities to make rules, regulations, bye-laws, etc., and laying them before Parliament. The Committee have emphasised upon Government that in all future Bills which might seek to delegate power to make rules, regulations, etc., or which might seek to amend earlier Acts giving power to make rules, regulations, etc., suitable provisions regarding laying them on the Table should be included therein.

9. The Committee have taken a serious view of delays by Ministries/Departments in laying 'Orders' on the Table and have pointed

out that such delays are against the spirit of the relevant provisions in the Act which require that 'Orders' should be laid before Parliament as soon as possible after they are published. The Committee have also urged that in case it is not possible, due to any unavoidable reason, for a Ministry or Department to lay an 'Order' on the Table within the prescribed time limit of 15 days after its publication, a statement showing reasons for delay should also be laid along with the 'Orders'.

10. A number of horizontal studies have been conducted in the Secretariat from time to time. These have yielded useful results. One of such studies revealed that recruitment to a very large number of posts in the Ministries|Departments had not been regulated through Statutory Rules, as envisaged by proviso to Article 309 of the Constitution. Some of the posts had been created by Government decades back. Last month, the previous Committee took evidence of representatives of as many as 10 Ministries in the matter.

11. The Committee have also decided to lay more emphasis on 'Orders' affecting general public, such as, the 'Orders' under the Essential Commodities Act, Taxation Laws, Mines and Mineral Concessions Rules, etc. Memoranda|comments|suggestions have been invited on 29 such 'Orders' from trade associations, Chambers of Commerce, professional bodies, etc. The comments|suggestions of such bodies will be placed before the Committee, when received.

12. As already mentioned, the angles from which rules, regulations, etc., framed by the Executive, are to be examined are broadly given in Rule 320. I feel that, while examining Subordinate Legislation in future, we should particularly bear in mind the following angles laid down in that Rule:

- (i) Whether a rule is in accord with the general objects of the Constitution or the Act pursuant to which it is made;
- (ii) Whether it contains matters which should more appropriately be dealt with in an Act of Parliament.

13. I would like to emphasise that ultimately the purpose of all legislation—plenary as well as subordinate—is the greatest good of the greatest number. With this end in view, I would suggest—

- (i) that the examination of an 'Order' by the Committee should rise above mere legality or technicality of the 'Order' to

its wisdom, public convenience and ends of natural justice;
and

- (ii) that the Committee ought to be alert to public controversies about various measures—as reflected in newspapers or Parliamentary debates—and it ought to give special attention to such ‘Orders’. For this, the Committee need not only confine to the ‘Orders’ issued in the current year but also in the past, if necessary.

14. Before I conclude, I would like to stress that, in discharging our duties, we would not be acting in hostility to the Executive. Our job is the implementation of the will of Parliament, and our efforts would be complementary.

15. It is the tradition of the Committee that all its decisions are arrived at unanimously and party considerations never affect our deliberations. I hope this tradition would be continued by us too.

Thank you.

LX

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

The Committee met on Monday, the 5th August, 1974 from 10.00 to 11.00 hours.

PRESENT

Dr. Kailas—*Chairman*

MEMBERS

2. Shri K. Chikkalingaiah
3. Shrimati Premalabai Dajisaheb Chavan
4. Shri Dinesh Joardar
5. Shri Paokai Haokip
6. Shri Tayyab Hussain

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary*.

2. The Committee considered and approved paras 1—66 of their draft Thirteenth Report and adjourned to meet again at 16.00 hours for further consideration and adoption of the Report.

LXI

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

The Committee met on Monday, the 5th August, 1974 from 16.00 to 17.30 hours.

PRESENT

Dr. Kailas—*Chairman*

MEMBERS

2. Shri K. Chikkalingaiah
3. Shri Khemchandbai Chavda
4. Shri Dinesh Joardar
5. Shri Paokai Haokip
6. Shri Tayyab Hussain

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary*

2. The Committee further considered their draft Thirteenth Report and adopted it.

3. The Committee authorised the Chairman and in his absence, Shri Tayyab Hussain to present the Report to the House on their behalf on the 12th August, 1974.

4. * * * * *

5. The Committee decided to meet on 30th August, 1974 at 10.00 hours.

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