

**COMMITTEE ON SUBORDINATE
LEGISLATION**

(SEVENTH LOK SABHA)

FOURTEENTH REPORT

(Presented on 4 November, 1982)



**LOK SABHA SECRETARIAT
NEW DELHI**

November, 1982/Kartika, 1904 (Saka)

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of the Committee on Subordinate
Legislation (Seventh Lok Sabha)

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5	-	7 (from bottom)	recommended	recommend
6	-	5	Act para 217	Act-para 217
19	72	3	self-contained for	self-contained and for
22	83	11	"outstanding"	"outstanding"
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COMPOSITION OF THE COMMITTEE ON SUBORDINATE
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*Nominated *w.e.f.* 12-7-1982

**Nominated *w.e.f.* 13-10-1982

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 Fourteenth Report.

2. The matters covered by this Report were considered by the Committee at their sittings held on 29 July, 26 and 30 August and 13 September, 1982.

3. At their sittings held on 26 August and 13 September, 1982, the Committee took evidence of the representatives of the (i) Ministry of Railways (Railway Board) regarding implementation of recommendations contained in paragraphs 16-19 of their Fourteenth Report. (Fifth Lok Sabha) in respect of the Railway Protection Force (Amendment) Rules, 1973; and (ii) Ministry of Shipping and Transport (Ports Wing) regarding provision for laying of Regulations framed under the Major Port Trusts Act, 1963 before each House of Parliament. The Committee wish to express their thanks to the officers of the Ministries for appearing before the Committee and furnishing the information desired by them.

4. The Committee considered and adopted this Report at their sitting held on 2 November, 1982. The Minutes of the sittings which form part of the Report are appended to it.

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

II

THE DIRECTORATE OF PLANT PROTECTION, QUARANTINE AND STORAGE SENIOR LIBRARIAN (INSECTICIDES) RECRUITMENT RULES, 1979 (G.S.R. 995 OF 1979)

6. During the examination of the Directorate of Plant Protection, Quarantine and Storage Senior Librarian (Insecticides) Recruitment Rules, 1979, it was noticed that Column 13 of the Schedule appended to the Rules provided that consultation with the Union Public Service Commission would be necessary while making direct recruitment and appointing an officer on deputation/contract. Neither rule 5 regarding power to relax indicated that the Union Public Service Commission would be consulted while relaxing any of the provisions of

the Rules nor was any provision to that effect made in Column 13 of the aforesaid Schedule.

7. The Ministry of Agriculture (Department of Agriculture and Cooperation), with whom the matter was taken up, amended rule 5 *vide* G.S.R. No. 15 of 1981, as under:

“5 *Power to relax*.—Where the Central Government is of the opinion that it is necessary or expedient so to do, it may, by order, for reasons to be recorded in writing and in consultation with the Union Public Service Commission relax any of the provisions of these rules with respect to any class or category of persons.”

8. The Committee note with satisfaction that, on being pointed out by them, the Ministry of Agriculture (Department of Agriculture and Cooperation) have amended rule 5 of the Directorate of Plant Protection, Quarantine and Storage Senior Librarian (Insecticides) Recruitment Rules, 1979, to indicate therein that the Union Public Service Commission would be consulted while relaxing any provision of these Rules.

III

THE MILITARY LANDS AND CANTONMENTS SERVICE (CLASS I AND CLASS II) AMENDMENT RULES, 1978 (S.R.O. No. 44 OF 1978)

9. The draft of the Rules further to amend the Military Lands and Cantonments Service (Class I and Class II) Rules, 1951 was published in the Gazette of India, Part II, Section 4 dated 19 June, 1976 inviting objections and suggestions from persons likely to be affected thereby within a period of sixty days from the date of publication of the said notification in the Gazette. Copies of the Gazette were made available to the public on 19 June, 1976.

10. The final Rules were published under S.R.O. No. 44 in the Gazette of India, Part II, Section 4 dated 28 January, 1978, *i.e.* nearly one and half year after the notification of the draft Rules.

11. The Ministry of Defence when asked to explain the reasons for such inordinate delay in notifying the final Rules, explained the position *vide* their reply dated 13 October, 1978, as follows:—

“.....there has been no avoidable delay in notifying finally the amendment to the recruitment rules under reference. The attached statement *gives, in chronological order with dates, the steps taken in the process.”

12. The Committee are not convinced with the reasons advanced by the Ministry of Defence for a delay of one and half years in notifying the Military Lands and Cantonments Service (Class I and Class II) Amendment Rules, 1978, in final form after their notification in draft form. The Committee observe that the Ministry took a period of about 5 months in deciding about the shape in which the Rules were to be notified. They further note that a period of 7 months was consumed in inter-Ministry/Departmental consultations. The Committee feel that the Ministry of Defence have not paid to this matter the attention it deserved. Had the Ministry of Defence pursued this matter with other Ministries/Departments vigorously the delay could have been avoided.

13. The Committee recommend that, in cases where the Rules/Regulations/Bye-laws are published in the draft form for inviting comments/suggestions from the public, these should be finalised and notified in final form within a period of 3 months after the receipt of comments/suggestions thereon. The Committee would also like the Department of Parliamentary Affairs to bring this recommendation to the notice of all the Ministries/Departments for compliance.

IV

IMPLEMENTATION OF RECOMMENDATIONS CONTAINED IN PARAGRAPHS 16 TO 19 OF THE FOURTEENTH REPORT OF COMMITTEE ON SUBORDINATE LEGISLATION (FIFTH LOK SABHA) RE: THE RAILWAY PROTECTION FORCE (AMENDMENT) RULES, 1973 (G.S.R. 448-E OF 1973)

14. Sub-rule (7) of Rule 21 of the Railway Protection Force Rules, 1959, inserted by G.S.R. 448-E of 1973, provides as under:

“(7) The age limit, length of service and other matters relating to promotion and the procedure for determining the seniority on appointment or promotion shall be such as may be prescribed by regulations.”

15. Rule 32 of the above Rules which empowers the Inspector-General to frame Regulations, provides as follows:

“*Powers of Inspector-General to frame regulations:—*The Inspector-General may from time to time, for the proper administration of the Force frame and issue regulations with the approval of the Central Government and superior officers and members of the Force shall, as a condition of

their service, be governed by such regulations in the discharge of their duties. Such regulations as are in force on the date of commencement of the Act shall continue to remain in force unless repealed or modified.”

16. The Railway Protection Force Act, 1957, under which the above Rules had been framed, neither provides for the making of Regulations by the Central Government nor authorises them to further sub-delegate the power of legislation to any subordinate authority. Section 21 of Act empowers the Central Government only to *make Rules* for carrying out the purposes of this Act and lay them before Parliament.

17. The matter was accordingly taken up with the Ministry of Railways (Railway Board). Not being satisfied with the reply of the Ministry of Railways (Railway Board), the Committee, in paragraphs 16 to 19 of their Fourteenth Report (Fifth Lok Sabha), presented to the House on 20 December, 1974, observed as under:—

“The Committee note that while on the one hand the Ministry of Railways (Railway Board) have conceded that there is no provision in the parent Act which confers power on the Inspector-General to frame Regulations, on the other hand they have averred that rule 32 confers no new power on the Inspector-General but merely makes express what is implicit in Section 8 of the Railway Protection Force Act, 1957. The Committee can hardly accept this explanation. As they observe, Section 8, *ibid.*, simply requires the Inspector-General to carry on the administration of the Force in accordance with the provisions of the Act and the rules made thereunder. It nowhere confers any power upon the Inspector-General to frame regulations for the purpose. The rules making power section in the Act, *viz*, Section 21, empowers the Central Government and not the Inspector-General to make rules carrying out the purposes of the Act. The Committee are, therefore, of the opinion that the authorisation of the Inspector-General to frame regulations under rule 32 is tantamount to sub-delegation of legislative power without due statutory authority.

The Committee note that in a similar case relating to the Central Industrial Security Force Rules, 1969, where sub-delegation of legislative power to the Inspector-General was not authorised by the parent Act, they had desired the Ministry of Home Affairs to delete the relevant rule (*vide*

paragraph 64 of Seventh Report—Fifth Lok Sabha). The Committee desire that in this case also the Ministry of Railways should delete sub-rule (7) of rule 21 and rule 32 of the Railway Protection Force Rules, 1959, as the Parliament have not authorised them to further sub-delegate the power of legislation to the Inspector-General to make regulations. However, if the Ministry want to have the regulations (Presently unauthorisedly framed under rule 32), they should take steps to amend the Railway Protection Force Act, so as to empower the Central Government/Inspector-General to make regulations, or, in the alternative, they should issue a separate set of rules, incorporating therein the said regulations, in exercise of the powers conferred by Section 21 of the parent Act. They should cite this authority in the preamble, in case they choose to follow the latter course.

The Committee are not at all convinced with the reply of the Ministry regarding non-publication of the regulations in the Gazette and their not being laid before Parliament. The Committee are of the opinion that the regulations made under rule 32 should not be considered on a separate footing than the rules in so far as their publication and laying is concerned. When the rules are required to be published and laid before Parliament, the regulations should also be subject to the same conditions as are laid down in the parent Act. The Committee note that in the case of regulations framed under the Rules made under the All India Services Act, 1951, relying on the judgement of the Supreme Court in **Narendrakumar vs. Union of India*, the Ministry of Law had advised the Ministry of Home Affairs that the regulations made by the Central Government should be taken to form an integral part of the rules made under section 3(1) of the All-India Services Act, and as such they were required to be laid before Parliament.

The Committee, therefore, recommended that till a separate set of rules, incorporating therein the regulations now framed under rule 32, is issued, or in the alternative, the Railway Protection Force Act is amended suitably to have an express authority from Parliament to make regulations, the Ministry of Railways should take immediate steps to publish the regulations in the Gazette and lay them before

Parliament as has been agreed to by them in the case of rules and regulations framed by them in exercise of the rule making power under sections 22, 47, 71E and 84 of the Railways Act without waiting for statutory requirement to that effect being made in that Act para 217 of Twelfth Report (Fifth Lok Sabha).”

18. A copy of the aforesaid Report was forwarded to the Ministry of Railways (Railway Board) on 30 December, 1974 for implementing the recommendations of the Committee. As the final reply of the Ministry was not received, the Committee, in paragraph 54 of their Eighth Report (Sixth Lok Sabha), presented to the House on 26 April, 1978, desired the Ministry, *inter alia*, to furnish their final reply to the said recommendations of the Committee within a period of three months. In the meantime the Ministry, in their reply dated 25 April, 1978, stated as under:—

“.....the recommendations contained in paras 16—19 of the Fourteenth Report of Committee on Subordinate Legislation (Fifth Lok Sabha) have been examined in the Ministry of Railways and it has been decided to do away with the Railway Protection Force Regulations, 1966 and to issue a separate set of Railway Protection Force Regulations therein. The rules 21(7) and 32 of Railway Protection Force Rules, 1959 shall be deleted. An Officer on Special Duty is being appointed to undertake the job.”

19. In their communication dated 23 April, 1981, the Ministry stated, *inter alia*, that the Railway Protection Force Rules/Regulations, 1973, were still under their consideration.

20. At their sitting held on 29 July, 1982, the Committee considered the matter again and decided to hear the representatives of the Ministry of Railways (Railway Board). The Committee heard the evidence of the representatives of the Ministry of Railways (Railway Board) on 26 August and 13 September, 1982 on undue delay on the part of the Ministry in implementing the recommendations of the Committee.

21. On being asked the procedure to deal with the references sent by a Parliamentary Committee, the representative of the Ministry stated that these were first received by the Secretary, Railway Board, who passed them on to the Directorate concerned for dealing them in detail.

22. When it was pointed out that the Committee had made their recommendation in 1974, and after the lapse of 8 years, the matter

was still under consideration of the Ministry of Railways, the representative of the Ministry stated that a large scale revision of the Regulations was required which was in progress. He further stated that there might be further delay because they had to convert all the Regulations into Rules so that they were covered by the Act.

23. Explaining the progress made in that regard, he stated that the first stage of the revision was over and the review of the revision had been undertaken at the highest level. It would take another six months, before the entire review of all the Regulations was completed. Thereafter these had to be scrutinised by the legal cell of the Ministry of Railways and then submitted to the Ministry of Law. After clearance by the Ministry of Law, they would be able to place these Rules on the Table of the House.

24. On being asked when the Ministry decided to convert Regulations into Rules, the representative of the Ministry stated that the decision was taken on 6 January, 1978. He further stated that no separate staff or cell was set up for the revision of these Rules and that the work had been distributed among the existing officers.

25. When enquired as to why inordinate delay had taken place in revising the Rules which showed scant regard to the recommendation of the Committee, the representative of the Ministry admitted that such a long delay could not be justified on any ground. He further stated that of the 34 chapters that had been revised, 17 had been vetted and the other 17 remained to be vetted.

26. On being asked about the latest position of the implementation of the recommendation of the Committee made in 1974, the representative of the Ministry of Railways (Railway Board) stated that the recommendation made by the Committee had been accepted by the Ministry and in 1978 they decided to convert the Regulations into Rules. The work of conversion of about 3,000 Regulations into Rules was nearing completion. He further stated that it would be possible to complete that work by November, 1982 and thereafter these Rules would be sent to the Ministry of Law for vetting and then for their Hindi translation. Therefore, it would take some more time to complete the work.

27. When enquired how it was that at one stage the relevant file was misplaced for several months, and why no action had been taken against the officer concerned, the representative stated that there had been system lapse in the matter and much time had been lost but it was an intricate matter and they had to seek the advice from Legal Adviser and others and in that process much time had been lost.

28. When specifically asked that the recommendation of the Committee was made in 1974 and in 1978 the Ministry decided to convert the Regulations into Rules, then why that work could not be completed in even four years, the representative stated that it was a major effort and the methodology they adopted took time.

29. When enquired who was dealing with the file, the representative of the Ministry replied that it was dealt with by the Legal Adviser of the rank of the Joint Secretary. He further stated that in 1978, a senior Section Officer was entrusted with the job. Thereafter, the work was distributed among various officers and they had prepared the drafts. A Committee of senior officers were going through these drafts and one-third of the work would be completed by the end of November, 1982.

30. When asked whether any particular officer was accountable for the job, the representative of the Ministry stated that it was the Directorate of Railway Protection Force which had considered the recommendations of the Committee. Nobody was appointed exclusively for that job. All was being done by the officers in addition to their regular work.

31. When pointed out that in their reply dated 15 April, 1978, the Ministry had stated that officer on special duty was being appointed to undertake the job of conversion of Regulations and why that officer had not been appointed, the representative stated that they had a proposal for appointing an officer for 6 months but due to financial constraints that officer could not be appointed. He further stated that it would have been better to entrust it to one officer but there was doubt whether one person could do the job. It was thought that better course would be to distribute the work among the various officers.

32. The Committee are distressed to observe that the Ministry of Railways (Railway Board) had failed to take seriously the recommendations of the Committee contained in paragraphs 16-19 of their Fourteenth Report (Fifth Lok Sabha), presented on 20 December, 1974. The Committee had desired that, till a separate set of Rules incorporating therein the Regulations framed under rule 32 was issued, or in the alternative the Railway Protection Force Act was amended to have an express authority from Parliament to make the Regulations, the Ministry of Railways should take immediate steps to publish the Regulations in the Gazette and lay them before Parliament. Instead of implementing that recommendation, the Ministry

decided to convert the Railway Protection Force Regulations into Rules and the alternative recommendation of the Committee for publication of the Regulations in the Gazette and laying them before Parliament, has been lost sight of.

33. The Committee note with concern that the Ministry of Railways (Railway Board) have taken a period of 4 years to decide their course of action, i.e. to convert the Railway Protection Force Regulations, which were unauthorisedly framed into the Rules. The most distressing part is that even after deciding in January, 1978 to convert these Regulations into Rules, the Ministry are yet to complete this work. The Committee cannot help expressing their deep concern over the casual manner in which the Ministry of Railways (Railway Board) have proceeded in implementing their recommendations which affect thousands of employees of a Force.

34. While the Committee agree with the contention of the Ministry that the conversion of about 3000 Regulations into Rules is a major effort but they feel that a period of 8 years for this job is equally too long. The Committee note that after deciding in 1978 to convert these Regulations into Rules, the Ministry took a period of more than 3 years to decide to appoint suitable officers for this work. They first decided to appoint an Officer on Special Duty but due to financial constraints it could not be done and thereafter they entrusted this job to a number of officers in addition to their normal work. The Committee observe that the Ministry have not shown the urgency, the matter deserved and the matter which should have been dealt at sufficient higher level in the Ministry has not been attended to at that level.

35. The Committee further note that the Ministry have conceded during evidence that the work of conversion of Regulations into Rules would be completed by November, 1982. The Committee stress that all efforts should be made by the Ministry to notify the newly framed Railway Protection Force Rules in the Gazette of India within a period of 6 months, i.e. by the end of May, 1983.

36. The Committee also expect the Ministry of Railways (Railway Board) to be prompt in sending replies to the communications sent on behalf of a Parliamentary Committee. In case any matter/recommendation referred by the Committee is likely to take more time, the Committee should be contemporaneously informed about the progress of the case by the Ministry suo moto without waiting for a reminder from the Committee in this regard.

V

THE MADRAS PORT (HARBOUR CRAFT) RULES, 1980
(G.S.R. 631 OF 1980)

(A)

37. Rule 5(3)(c) of the Madras Port (Harbour Craft) Rules, 1980 reads as under:—

“The Licensing Officer may, on such conditions as he thinks fit, exempt or permit deeper loading from the provisions contained in Appendix A on being satisfied that the special nature and conditions of service and constructions are such as to make it unreasonable or impracticable to apply such load lines.”

38. It was felt that above rule, as worded, gave too wide discretionary power to the Licensing Officer and some guidelines therefore, should be provided in the rule itself.

39. The Ministry of Shipping and Transport (Ports Wing), with whom the matter was taken up, in their reply dated 3 March, 1981, stated as under:—

“As there was never an occasion on which an exemption was granted or a boat was permitted to be deeploaded, it is felt that there is no need for the existence of such a provision in the rule and it is now proposed to delete the sub-rule 5(3)(c).”

40. The Committee are happy to note that, on being pointed out by them, the Ministry of Shipping and Transport (Ports Wing) have proposed to delete Rule 5(3)(c) of the Madras Port (Harbour Craft) Rules, 1980, which provided too wide discretionary power to the Licensing Officer. The Committee desire the Ministry to notify this amendment in the Gazette at an early date.

(B)

41. Rule 5(4) of the Madras Port (Harbour Craft) Rules, 1980 provides as under:—

“All harbour crafts shall be measured in accordance with the relevant rules relating to the measurement as framed by the Government from time to time.”

42. It was felt that as far as possible the Rules should be self-contained and specific.

43. The Ministry of Shipping and Transport (Ports Wing), with whom the matter was taken up, in their reply dated 3 March, 1981, stated as under:—

“As desired by the Committee, this Ministry agrees to substitute the rules as under:

‘All harbour crafts shall be measured in accordance with the G.O. No. 384, Marine, dated 3-5-1899 issued by the then Government of Madras as amended from time to time. A copy of this Order as amended to date is reproduced after the rules as supplement to these rules.’ ”

44. The Committee note with satisfaction that, on being pointed out by them, the Ministry of Shipping and Transport (Ports Wing) have agreed to substitute Rule 5(4) of the Madras Port (Harbour Craft) Rules, 1980 by a new Rule which is self explicit. The Committee approve the proposed amendment and desire the Ministry to notify it in the Gazette at an early date.

(C)

45. Rule 14(4) of the Madras Port (Harbour Craft) Rules, 1980, reads as under:—

“The owner of the licensed harbour craft shall also meet any possible claim for the value of the goods that have been loaded in the licensed harbour craft and which have sustained loss or damage, if any, in full or in part unless such loss or damage sustained by the cargo loaded in the licensed harbour craft is proved to be beyond all reasonable limits and controls of the Syrang or Sukhany or Tindal who have manned the said harbour craft.”

46. The phrase ‘reasonable limits and controls’ used in above rule appeared to be vague. It was also felt that some guidelines for the Syrang or Sukhany or Tindal should be provided in the rule itself as a check on arbitrary use of powers by them.

47. The Ministry of Shipping and Transport (Ports Wing) with whom the matter was taken up, in their reply dated 3 March, 1981, stated as under:—

“As desired by the Committee, this Ministry agrees to amend the rule 14(4) as under to provide check on arbitrary use of powers:

‘14(4). The owner of the licensed harbour craft shall also meet any possible claim for the value of the goods that:

have been loaded in the licensed harbour craft and which have sustained loss or damage, if any, in full or **in part** unless such loss or damage sustained by the cargo loaded in the licensed harbour craft is proved to have taken place due to the circumstances beyond the control of the Syrang or Sukhany or Tindal who have MANNED THE SAID HARBOUR CRAFT BASED ON an enquiry conducted on this behalf by the Registering Officer or any officer authorised by him.' ”

48. The Committee are happy to note that, on being pointed out by them, the Ministry of Shipping and Transport (Ports Wing) have proposed to amend Rule 14(4) of the Madras Port (Harbour Craft) Rules, 1980 to make it more intelligible and to provide check on arbitrary use of powers. The Committee approve the proposed amendment and desire the Ministry to notify this amendment in the Gazette at an early date.

(D)

49. Rules 34 and 35 of the Madras Port (Harbour Craft) Rules, 1980 provides as under:—

“34. *Qualifications of officers on steam Vessels.*—Every boat which is a steam vessel shall, when in use, whether plying for hire or not, have on board a Master as well as an Engineer possessing certificate of competency to act as Master or Engineer, as the case may be, of such a boat granted in accordance with the relevant rules.....”

35. *Qualifications of officers on motor Vessels.*—Every boat having on board any engine driven by electricity, oil or petrol, shall, when in use whether plying for hire or not, have on board a Master as well as an Engineer possessing certificates of competency to act as Master or Engineer, as the case may be, of such a boat granted in accordance with the relevant rules.....”

50. It was felt that the words ‘relevant rules’ used in above rules should be spelt out in these rules to make them self-explanatory.

51. The Ministry of Shipping and Transport (Ports Wing), with whom the matter was taken up, in their reply dated 3 March, 1981, stated that they agreed to amend the rules so as to replace the words ‘relevant rules’ by ‘these rules’.

52. The Committee note with satisfaction that, on being pointed out by them, the Ministry of Shipping and Transport (Ports Wing)

have agreed to amend Rules 34 and 35 of the Madras Port (Harbour Craft) Rules, 1980 to make them self-explanatory. The Committee approve the proposed amendment and desire the Ministry to notify the amendment in the Gazette at an early date.

(E)

53. Note (2) below rule 35 of the Madras Port (Harbour Craft) Rules, 1980 reads as under:—

“A motor vessel of not more than 50 b.p.h. may have as an Engineer a person holding a permit granted by the Central Government under such conditions as they may specify.”

54. It was felt that the conditions for grant of permit to an Engineer should be spelt out in the rule itself to make it self-contained.

55. The Ministry of Shipping and Transport (Ports Wing), to whom the matter was referred for comments, in their reply dated 3 March, 1981, stated as under:—

“It is proposed to delete the Note as a permit was never issued to any person so far according to available information, and it is not considered necessary to keep such inoperative provision in the Rules.”

56. The Committee note from the reply of the Ministry of Shipping and Transport (Ports Wing) that they propose to delete Note (2) below rule 35 of the Madras Port (Harbour Craft) Rules, 1980, being an inoperative provision as no permit has been issued to any person thereunder so far. The Committee desire the Ministry to notify the requisite amendment in this regard in the Gazette at an early date.

VI

THE BOMBAY PORT TRUSTS CLASS I AND CLASS II EMPLOYEES (OPTIONAL MARATHI LANGUAGE EXAMINATION) REGULATIONS, 1977 (G.S.R. 1557 OF 1977)

57. The Bombay Port Trust Class I and Class II Employees (Optional Marathi Language Examination) Regulations, 1977, were framed under the Major Port Trusts Act, 1963. The Act did not provide for laying of Regulations like Rules framed thereunder before each House of Parliament.

58. The matter of incorporation of the provision regarding laying of Rules and Regulations framed under various Acts has been considered by the Committee on several occasions. In the case of the State Bank Laws (Amendment) Bill, 1973, the Committee, while noting the 2593 LS—2.

assurance given by the Ministry of Finance to initiate a comprehensive legislation for incorporating the provisions regarding laying of Rules and Regulations framed under the State Bank of India Act, 1955 and the State Bank of India (Subsidiary Banks) Act, 1959 as also other Acts administered by them before Parliament in consultation with Ministry of Law, Justice and Company Affairs, in paragraphs 46 and 47 of their Ninth Report (Fifth Lok Sabha), presented on 19 November, 1973, desired the Ministry of Finance to complete necessary action in this regard within the next six months. The Committee reiterated this recommendation in paragraph 87 of their Second Report (Sixth Lok Sabha), presented to the House on 18 November, 1977, and again in paragraphs 25 and 26 of their Seventh Report (Sixth Lok Sabha), presented to the House on 4 April, 1978.

59. The Ministry of Shipping and Transport (Transport Wing), whose attention was drawn to the above recommendations of the Committee, were asked to state whether they had any objection to amending the Major Port Trusts Act, 1963 so as to make a provision therein for laying of Regulations framed thereunder before Parliament, stated in their reply dated 24 June, 1980 as under:—

“.....paras 24-26 of the Seventh Report of the Committee on Subordinate Legislation (6th Lok Sabha) in which the Committee have dealt with their recommendation that Regulations like rules should also be laid on the Table of the House of Parliament and the relevant Act should contain a provision to this effect, and to say that the recommendation of the Committee has been examined with reference to the provisions regarding framing of regulations by the Major Port Trusts contained in section 123 of the Major Port Trusts Act, 1963 (38 of 1963). A detailed and careful consideration of the subject has brought out that agreeing to the recommendation under reference, would give rise to the following difficulties:—

- (i) Amendment to the Act to place the regulations also on the Table of the Houses of Parliament, if carried out, will necessitate publication of all regulations including amendments to them both in Hindi and English in the Gazette of the various maritime State Governments in which the major ports are situated. At present Port Trusts are publishing their notifications, including regulations etc., made by them only in English. In view of the fact that most of the major ports administered under the Act are located in the non-Hindi speaking areas, they do

not have the necessary facilities for translation of English version of regulations etc. into Hindi.

- (ii) The Ports located in the non-Hindi speaking areas have so far been depending on services of Hindi translators from New Delhi and have not succeeded in acquiring for themselves the requisite facilities for translations. However, they can be requested to recruit the requisite number of translators for doing the job. But it is apprehended that the State Government presses publishing the State Gazettes may not be having the required facilities to print the material in Hindi. Requesting the State Governments to provide for such facilities could lead to administrative and even political problem.
- (iii) As a natural corollary to the requirement of publishing the port regulations etc. in Hindi in the maritime State Gazettes, the State Governments may demand publication of all notifications/regulations of the major ports in the official language of the State also in addition to English and Hindi. Publishing the notifications in three languages simultaneously would contribute substantially to delay and avoidable proliferation of work.
- (iv) Since under the present procedure prescribed by Parliament laying of rules/regulations etc. has to be done within a period of 15 days from the date of their publication in the Gazette, Government will find it almost impossible to adhere to this provision since it will not be possible to arrange for the copies of the notifications from the various State Government presses and forwarding them to the Parliament within the short period of 15 days of their publications.
- (v) Though, normally for all documents to be laid before Parliament, the Ministry will be responsible to vouchsafe their correctness etc., it will be difficult to assure this responsibility in respect of the regulations made by Port Trusts and published in the State Government Gazettes, particularly in regard to their translations into the State language.
- (vi) As and when there is an amendment/correction in a regulation, the entire exercise of its being published twice in the State Gazette and the publication of the approval thereto in the Gazette of India, including sending of copies to the Parliament Secretariat for, laying on the

Table of the Houses within the stipulated period, will have to be gone through. This will not be an easy task. As the occasions for such amendments etc. will be too many every year, the quantum of work devolving on all concerned will be tremendous.

- (vii) Since the regulations are made by the Port Trusts for regulating their day-to-day working and relate to matters of no great significance, it will not be desirable to draw upon the precious time of the Parliament for scrutiny of such references. Besides, the Regulations are being examined by the Committee on Subordinate Legislation of the Lok Sabha and Rajya Sabha. This examination would ensure that the Regulations are properly made.
- (viii) Finally the proliferation of work all round, including that in the Ministry, will necessitate creation of additional posts to attend to the increased work. This will be contrary to the orders of the Government imposing a ban on creation of new additional posts. Certainly creation of new work will necessitate creation of new posts and the relaxation of the ban on creation of new posts may not be appreciated by the Parliament itself.

In view of the above considerations, this Ministry feels that agreeing to the recommendations of the Committee contained in paras 24-26 of its Seventh Report (Sixth Lok Sabha) would not be practicable and hopes that the Committee would kindly reconsider its recommendation.

This position may be brought to the notice of the Committee on Subordinate Legislation.

Minister of Shipping and Transport has approved the above view."

60. At their sitting held on 29 July, 1982, the Committee considered the reply of the Ministry of Shipping and Transport (Ports Wing) and decided to hear evidence of the representatives of the Ministry.

61. When the decision of the Committee to hear evidence of the representatives of the Ministry was communicated to them on 7 August, 1982, the Ministry in their reply dated 11 August, 1982 stated that the Major Port Trusts Act had already been amended *vide* the Major Port Trust (Amendment) Act, 1982, by making a provision for laying of Regulations framed thereunder before Parliament that is to say the Ministry had withdrawn their earlier stand taken on 24th June, 1980.

62. At their sitting held on 26 August, 1982, the Committee heard evidence of the representatives of the Ministry of Shipping and Transport.

63. During their evidence, explaining the background of the case, the representative of the Ministry stated that on receipt of suggestion from the Committee in 1978, the Ministry, in their O.M. dated 24 June, 1980 explained their administrative difficulties in accepting the suggestion of the Committee for making a provision of laying regulations framed under the Major Port Trusts Act. The matter was further considered and the Act was amended.

64. When asked whether before sending a reply dated 24 June, 1980 they had consulted Ministry of Law, the representative of the Ministry stated that they had consulted that Ministry who suggested that in case they had any difficulty in accepting the suggestion of the Committee, they should approach the Committee direct. He further stated that their reply dated 24 June, 1980 was not vetted by the Ministry of Law.

65. When pointed out that the Committee had repeatedly emphasised the need for laying of rules and regulations before Parliament and the Ministry of Law had also brought the observation to the notice of all Ministries/Departments for compliance *vide* their O.M. dated 16-8-1978, the representative of the Ministry stated that they were aware of the recommendations of the Committee as well as the circular of the Ministry of Law about laying of rules/regulations. He further stated that they had certain administrative difficulties. The Ministry of Law had advised them that those difficulties should be explained to the Committee.

66. When enquired why, amendment of the Major Port Trusts Act, was not intimated to the Committee, the representative of the Ministry admitted the mistake in not having informed the Committee about the decision to amend the Act.

67. When specifically asked how the administrative difficulties enumerated in the Ministry's O.M. of June, 1980, were overcome when they decided to amend the Act, the representative of the Ministry stated that the same matter was also taken up by the Committee of the Rajya Sabha and the Secretary of the Ministry had appeared before that Committee in April, 1981. The Rajya Sabha Committee did not accept the suggestion of the Ministry. Thereafter, the amendments to the Act were considered on comprehensive basis and given effect to.

68. When it was pointedly asked why the Ministry's decision regarding amendment of the Act was not communicated to the Committee, and whether they had fixed the responsibility on the officer concerned, the representative of the Ministry apologised to the Committee for the oversight in not communicating the fact of the amendment made in the Act, to the Committee.

69. The Committee note that, on being pointed out by them, the Ministry of Shipping and Transport have amended the Major Port Trusts Act, 1963 by providing therein for laying of the Regulations framed thereunder. The Committee are, however, surprised at the manner in which the Ministry have handled this matter. When the suggestion for amending the Act was first referred to the Ministry, they advanced certain administrative difficulties in amending the Act but later on they amended it without intimating the Committee to that effect. The Committee are constrained to observe that, had the Ministry informed them correct facts about the amendment of the Act earlier, the Committee would not have decided to hear the oral evidence of the representatives of the Ministry.

70. The Committee would exhort on the Ministry of Shipping and Transport that whenever any communication is sent on behalf of a Parliamentary Committee, it is the duty of the Ministry to inform the Committee about the action taken thereon. Otherwise the Committee remain in the dark about the outcome of their suggestion/recommendation. The Committee, therefore, desire the Ministry of Shipping and Transport to devise some procedure in the Ministry so that references made by a Parliamentary Committee are attended to by the senior responsible officers and the Committee are intimated about the action taken by the Ministry on their suggestion/recommendation suo moto without waiting for a reminder from the Committee.

VI

THE CALCUTTA PORT (AMENDMENT) RULES, 1980 (G.S.R. 969 OF 1980)

71. Proviso to sub-rule (3) of Rule 100A of the Calcutta Port Rules, 1944, as substituted by the Calcutta Port (Amendment) Rules, 1980, provided that the Director, Marine Department, could relax the quantities that might be brought for discharge or shipment at the docks and jetties at the Port of Calcutta upto a maximum as specified below subject to such conditions as might be laid down by him:

- (a) Petroleum Class 'A' or other substances having a flash point below 23°C (or 73°F) upto 20 tonnes;

- (b) in the case of manufactured products such as paints and varnishes having a flash point below 23°C (or 73°F) upto 20 tonnes;
- (c) Petroleum Class 'B' or other substances having a flash point below 65°C (or 150°F) upto 100 tonnes;
- (d) in the case of manufactured products such as paints and varnishes having a flash point above 23°C (or 73°F), but below 65°C (or 150°F) upto 150 tonnes.

72. It was felt that the 'conditions' instead of being laid down by the Director, Marine Department, should better be laid down in the Rule itself so as to make it self-contained for the information of all concerned.

73. The matter was taken up with the Ministry of Shipping and Transport (Ports Wing), who in their reply dated 4 May, 1981, stated that they have already amended the Rule as suggested by the Committee. The Rule as amended and proposed to be notified by the Ministry is reproduced in Appendix III.

74. The Committee note with satisfaction that, on being pointed out by them, the Ministry of Shipping and Transport (Ports Wing) have proposed to amend Rule 100 A(3) of the Calcutta Port Rules, 1944 by providing therein the conditions subject to which the Director, Marine Department could relax the quantities that may be brought for discharge or shipment at the Port of Calcutta, in order to make the Rules self-contained and for the information of all concerned. The Committee approve the proposed amendment and desire the Ministry to notify it in the Gazette at an early date.

VIII

IMPLEMENTATION OF RECOMMENDATION CONTAINED IN PARAGRAPH 44 OF THE NINETEENTH REPORT OF THE COMMITTEE ON SUBORDINATE LEGISLATION (FIFTH LOK SABHA) REGARDING THE MERCHANT SHIPPING (CREW ACCOMMODATION) AMENDMENT RULES, 1974 (G.S.R. 1390 OF 1974)

75. Provisos to Rules 5(2), 12(3) and (4), 16(3) (f), 21(7), 23(4), 31(7) and 38(2) (ii) of the Merchant Shipping (Crew Accommodation) Rules, 1960, as substituted by the Merchant Shipping (Crew Accommodation) Amendment Rules, 1974 empowered the Central Government to grant exemption to any ship from compliance with the provisions of these Rules.

76. The Committee on Subordinate Legislation, which examined the above Rules at their sitting held on 16 May, 1975, desired to know (i) the reasons for empowering the Central Government to grant exemption in the above cases; and (ii) if the Government felt that the above exemption provisions were absolutely necessary, whether they had any objection to providing in the Rules that such reasons should be recorded in writing before exemption was granted.

77. The Ministry of Shipping and Transport (Transport Wing), with whom the matter was taken up, replied as under:—

“.....is directed to forward herewith a statement containing the detailed particulars called for. It is also mentioned that generally the amendment rules tend to improve the existing standards of amenities and facilities for the benefit of crew. In providing these facilities, allowance has to be made for practical considerations such as size of the ship, its intended service, duration of voyage, number of crew required to be accommodated on board permanently etc. with a view to enabling Government to make such allowance in deserving cases the powers of exemption have been taken in individual rules, where necessary, the exercise of these powers is made dependent on prior consultation with shipowners and seafarers.”

78. The Committee, after considering the aforesaid reply, observed in paragraph 44 of their Nineteenth Report (Fifth Lok Sabha) as follows:—

“44. The Committee note from the statement forwarded by the Ministry that reasons for granting exemption from the provisions of the Rules were recorded in the office records. In view of this, the Committee feel that the Ministry should have no difficulty in giving statutory shape to the existing procedure by making a provision in the Rules. The Committee desire the Ministry to amend the Rules accordingly at an early date.”

79. In their action-taken note dated 26 August, 1981 the Ministry of Shipping and Transport (Transport Wing) stated:—

“ **

It would be seen from the enclosed draft amendment that the proviso to the above rules are proposed to be so amended as to incorporate in the proviso itself the circumstances under which the power of giving exemption under these rules could be exercised.

In view of this it is not considered necessary to provide for recording the reasons for giving such exemption in writing, as this would only be superfluous. A copy of the proposed draft amendment is enclosed.* If the Committee on Subordinate Legislation have no objection to the above proposal the draft would be published as such."

80. The Committee note with satisfaction that, on being pointed out by them, the Ministry of Shipping and Transport (Transport Wing) have proposed to amend provisos to Rules 5(2), 12(3) and (4), 16(3) (f), 21(7), 23(4), 31 (7) and 38(2) (ii) of the Merchant Shipping (Crew Accommodation) Rules, 1960 by specifying therein the circumstances under which the Central Government could exercise power for giving exemption to any ship from compliance with the provisions of these Rules. The Committee after perusing the proposed amendment observe that since the circumstances under which exemptions could be given have been provided for in the proposed amendment, there is no need to provide for recording of reasons in writing for granting such exemptions. The Committee approve the proposed amendment and desire the Ministry to notify it in the Gazette at an early date.

IX

IMPLEMENTATION OF RECOMMENDATION CONTAINED IN PARAGRAPH 45 OF THE ELEVENTH REPORT OF COMMITTEE ON SUBORDINATE LEGISLATION (SIXTH LOK SABHA) REGARDING THE INDIAN CIVIL ACCOUNTS SERVICE (GROUP 'A') RECRUITMENT RULES, 1977 (G.S.R. 537 OF 1977)

81. During the examination of the Indian Civil Accounts Service (Group 'A') Recruitment Rules, 1977, it was observed that those Rules provide, *inter alia*, for promotion by selection of officers on merit.

82. The Ministry of Finance (Department of Expenditure) were requested to state whether any guidelines had been laid down to determine the relative merit of different candidates in each grade.

83. The Ministry of Finance (Department of Expenditure) in their reply dated 10 January, 1978 stated as under:—

"Promotion by selection of officers on merit:—The guidelines for selection on merit are those laid down by the Govern-

*Appendix IV.

ment of India (Relevant extract of D.P. & A.R. dated 30-12-1976 is given below).

'Where promotions are to be made by selection method as prescribed in the Recruitment Rules, the field of choice *viz.*, the number of officers to be considered should ordinarily extend to 5 or 6 times the number of vacancies expected to be filled within a year. The officers in the field of selection, excluding those considered unfit for promotion by Departmental Promotion Committee, should be classified by the Departmental Promotion Committee as "outstanding" 'Very Good' on the basis of their merit, as assessed by the DPC after examination of their respective records of service. In other words, it is entirely left to the DPC to make its own classification of the officers being considered by them for.....' promotion to selection posts, irrespective of the grading that may be shown in the C.Rs. The panel should, therefore, be drawn up to the extent necessary by placing the names of the 'Outstanding Officers' first, followed by the officers categorised, as 'Very Good' and followed by the officers categorised as 'Good'. The inter-seniority of officers belonging to any one category would be the same as their seniority in the lower grade, Seniority is given due consideration while making promotions by selection on merit.' "

84. The Ministry were, then asked to state whether they had any objection to incorporating those guidelines in the rules. In their reply dated 10 March, 1978, the Ministry stated as follows:—

"It is considered that the recruitment rules and the guidelines for promotion are two different things and it would not be appropriate to include them in the recruitment rules. The DPAR who have a co-ordinating role to play in the formalisation of recruitment rules for the various services are also in agreement with the above views. Since this is in consonance with the practice followed generally in this regard, the recruitment rules may be allowed to stand as they are in this respect."

85. After considering the above reply of the Ministry, the Committee in paragraph 45 of their Eleventh Report (Sixth Lok Sabha)

observed as under:—

“The Committee agree with the contention of the Ministry of Finance (Department of Expenditure) that recruitment rules and guidelines for promotion are two different things and it would not be appropriate to include the guidelines in the recruitment rules. The Committee, therefore, do not insist upon incorporating the guidelines regarding promotion and selection of officers on merit in the Civil Accounts Service (Group ‘A’) Recruitment Rules, 1977. The Committee, however, desire that if any change is effected in these guidelines, the Department of Personnel and Administrative Reforms should bring them immediately to the notice of the Committee.”

86. In their action-taken note dated 4 May, 1981, the Department of Personnel and Administrative Reforms stated as under:—

“.....the recommendation contained in para 45..... requires the Government to intimate the Committee about any changes that take place in the guidelines for promotion to selection posts. This question had been under consideration for quite some time and till December, 1980, there had been no change in the guidelines issued by this Department on 30th December, 1976. Certain changes have been brought into effect only in this Department's O.M. No. 22011/3/76-Estt(D) dated 24-12-80, copy of which is *enclosed for information.....These do not supersede the previous instruction but only modify them in certain specific respects. This may kindly be brought into the notice of the Committee.”

87. The Committee note from the reply of the Department of Personnel and Administrative Reforms that there has been no change in the guidelines for promotion to selection posts, issued by that Department on 30 December, 1976. The Committee further note that certain modifications have been brought into effect vide the Department of Personnel and Administrative Reforms O.M. No. 22011/3/76-Estt(D) dated 24 December, 1980, which do not supersede the previous instructions. The Committee hope and trust that these instructions would be followed by all the Ministries/Departments in letter and spirit.

*Appendix V.

..

**ASSIGNING OF SHORT TITLES TO THE RULES PERTAINING
TO THE COMMEMORATIVE COINS TO BE ISSUED IN CON-
NECTION WITH IXTH ASIAN GAMES AND
UNICEF-IYC PROGRAMMES**

88. In their communication dated 21 July, 1982, the Ministry of Finance (Department of Economic Affairs) stated as under:—

“It may be recalled that the Committee on Subordinate Legislation in their (Twelfth Report) (Fifth Lok Sabha) has concurred with the suggestion of this Department..... that the rules issued under section 7 of the Coinage Act might conveniently be distinguished by making a reference in the short titles thereof to the denomination and metallic composition of the coins involved apart from the year of issue and that this recommendation has been reiterated in the subsequent reports of the Committee. The matter has been considered in consultation with the Ministry of Law, Justice and Company Affairs whose advice is given in the enclosed copy* of their note dated 2-7-1982.

Lok Sabha Secretariat may kindly examine and convey their comments, if any, urgently as the rules relating to the coins on IXth Asian Games are required to be issued in August, 1982. In addition, a notification has to be issued in respect of the UNICEF-IYC coins which are to be released shortly. The case may, therefore, be treated as most immediate.”

89. In their note* dated 2 July, 1982, the Ministry of Law have pointed out that the present rules propose to specify four commemorative coins which have different metallic compositions. It would be difficult and cumbersome to include all the denominations and the metallic compositions of all the coins in the short title. The Ministry have, therefore, suggested that the short title might be drafted in such a way as to indicate the denominations of all the coins and the occasion in respect of which these coins are being issued without indicating the detailed metallic composition of all the coins. They have also justified it in view of the fact that the rules in

*Appendix VI.

question do not specifically provide for the metallic composition of these coins. The composition is, in fact, determined under section 6 of the Coinage Act. The short title may, therefore, read as under:—

“The Coinage (Standard Weight and Remedy of the Commemorative Coins of One Hundred Rupees, and Ten Rupees and Twenty-five Paise and Ten Paise for IXth Asian Games, Delhi 1982) Rules, 1982.”

90. Commenting upon the Indian Coinage Rules, 1971 (S.O. Nos. 169 and 172 of 1972), the Committee on Subordinate Legislation, in paragraph 206 of their Twelfth Report (Fifth Lok Sabha), presented to the House on 10 May, 1974, observed as under:—

“The Committee are glad to note that the Ministry of Finance have agreed to distinguish various Notifications fixing standard weights of coins and remedy allowed by making a reference in their short titles to the denomination and metallic composition of the coins involved apart from the year of issue.”

91. The original suggestion to make a reference to the denomination and metallic composition of the coins in the short titles of the rules was, in fact, made by the Ministry of Law and Justice and agreed to by the administrative Ministry and the Committee on Subordinate Legislation. The Committee subsequently viewed the lapse on the part of the Ministry seriously in their Seventeenth Report (Sixth Lok Sabha) and Tenth Report (Seventh Lok Sabha).

92. After considering the matter from all aspects, the Committee are inclined to accept the suggestion of the Ministry of Finance (Department of Economic Affairs) that the short titles to the Commemorative Coins pertaining to the IXth Asian Games and UNICEF IYC programmes may indicate the denominations of all the coins and the occasion in respect of which these coins are being issued without indicating the detailed metallic composition of all the coins. However, the Committee are of the view that reference to denomination and metallic composition must be given in other Coinage Rules so that the various notifications are clearly and conveniently distinguishable.

XI

- (i) **THE EXPORT INSPECTION COUNCIL, DEATH-CUM-RETIREMENT GRATUITY RULES, 1981 (S.O. 1607 OF 1981)**
- (ii) **THE EXPORT INSPECTION AGENCY DEATH-CUM-RETIREMENT GRATUITY RULES, 1981 (S.O. 1608 OF 1981)**

(A)

93. Clause (j) of Rule 2 of each of (i) the Export Inspection Council Death-cum-Retirement Gratuity Rules, 1981 and (ii) the Export Inspection Agency Death-Cum-Retirement Gratuity Rules, 1981 read as under:—

“(J) ‘Permanent total disability’ means disability resulting from any disease/injury which in the opinion of the Council makes the employees concerned totally incapable of rendering service to the Council/Agency.”

94. It was felt that the words ‘which in the opinion of the Council’ rendered the Rules vague and there ought to be certain guidelines in the Rules to decide such matters.

95. The Ministry of Commerce, with whom the matter was taken up, agreed with the suggestion and amended the Rules vide S.O. 2140 and 2141 dated 12 June, 1982, so as to add the following explanation to Rule 2(j) in each of the above Rules:—

“Explanation:

For the purpose of this rule, total disablement means such disablement as incapacitates an employee for the work which he was capable of performing before the accident or disease either bodily or mental infirmity resulting in such disablement;

Provided that such requests for considering an employee to be declared as permanently disabled should be made in writing to the Head of Office or Department together with a medical certificate from the Medical Board in the case of officers whose maximum scale of pay of the post is Rs. 900 and above and in other cases Civil Surgeon or District Medical Board or Medical Officer of equivalent rank and in case of female employees, a lady doctor shall be included as a member of the Medical Board.”

96. The Committee note with satisfaction that, on being pointed out by them, the Ministry of Commerce have amended clause (j) of rule 2 of (i) the Export Inspection Council Death-cum-Retirement

Gratuity Rules, 1981 and (ii) the Export Inspection Agency Death-cum-Retirement Gratuity Rules, 1981 by adding an "Explanation" thereunder setting out procedural details for considering an employee to be declared as permanently disabled.

(B)

97. Rule 14 of (i) the Export Inspection Council Death-cum-Retirement Gratuity Rules, 1981 and (ii) the Export Inspection Agency Death-cum-Retirement Gratuity Rules, 1981 read as under:—

"14. Interpretation:

If any question arises relating to the interpretation of these rules, it shall be referred to the Export Inspection Council who shall decide the same."

98. It was felt that there ought to be provision for appeal against the decision of the Export Inspection Council Agency in the Rules.

99. The Ministry of Commerce, with whom the matter was taken up, agreed with the suggestion and amended the Rules *vide* S.O. 2140 and 2141 dated 12 June, 1982, so as to add the following Provisos to rule 14:

- (i) "Provided that the Council employee may appeal against matters relating to the interpretation of these rules to the Central Government whose decision shall be final."
- (ii) "Provided that the Agency employee may appeal against matters relating to the interpretation of these rules to the Central Government whose decision shall be final."

100. The Committee note with satisfaction that, on being pointed out by them, the Ministry of Commerce have amended rule 14 of (i) the Export Inspection Council Death-cum Retirement Gratuity Rules, 1981; and (ii) the Export Inspection Agency Death-cum-Retirement Gratuity Rules, 1981, by adding therein a proviso giving a right of appeal to the employees against the decision of the Export Inspection Council in respect of matters relating to the interpretation of Rules, to the Central Government.

MOOL CHAND DAGA,

NEW DELHI;

Chairman,

November 2, 1982

Committee on Subordinate Legislation

Kartika 11, 1904 (Saka)

APPENDICES

2593 LS-3.

APPENDIX I

(Vide paragraph 5 of the Report)

Summary of Recommendations/Observations made by the Committee

S. No.	paragraph	Summary
1	2	3
1	8	The Committee note with satisfaction that on being pointed out by them, the Ministry of Agriculture (Department of Agriculture and Cooperation) have amended rule 5 of the Directorate of Plant Protection, Quarantine and Storage Senior Librarian (Insecticides) Recruitment Rules, 1979, to indicate therein that the Union Public Service Commission would be consulted while relaxing any provision of these Rules.
2(i)	12	The Committee are not convinced with the reasons advanced by the Ministry of Defence for a delay of one and half years in notifying the Military Lands and Cantonments Service (Class I and Class II) Amendment Rules, 1978, in final form after their notification in draft form. The Committee observe that the Ministry took a period of about 5 months in deciding about the shape in which the Rules were to be notified. They further note that a period of 7 months was consumed in inter-Ministry/Departmental consultations. The Committee feel that the Ministry of Defence have not paid to this matter the attention it deserved. Had the Ministry of Defence pursued this matter with other Ministries/Departments vigorously the delay could have been avoided.
2(ii)	13	The Committee recommend that, in cases where the Rules/Regulations/bye-laws are published in the draft form for inviting comments/suggestions from the public, these should be finalised and notified in final form within a period of 3 months after the receipt of comments/suggestions thereon. The Committee would also like the Department of Parliamentary Affairs to bring this recommendation to the notice of all the Ministries/Departments for compliance.
3(i)	32	The Committee are distressed to observe that the Ministry of Railways (Railway Board) had failed to take seriously the recommendations of the Committee contained in paragraphs 16-19 of their Fourteenth Report (Fifth Lok Sabha), presented on 20 December 1974. The Committee had desired that, till a separate set of Rules incorporating therein the Regulations framed under rule 32 of the Railway protection

Force Rules, 1959 was issued or in the alternative the Railway Protection Force Act was amended to have an express authority from Parliament to make the Regulations the Ministry of Railways should take immediate steps to publish the Regulations in the Gazette and lay them before Parliament. Instead of implementing that recommendation, the Ministry decided to convert the Railway Protection Force Regulations into Rules and the alternative recommendation of the Committee for publication of the Regulations in the Gazette and laying them before Parliament, has been lost sight of.

- 3(ii) 33 The Committee note with concern that the Ministry of Railways (Railway Board) have taken a period of 4 years to decide their course of action, i.e. to convert the Railway Protection Force Regulations, which were unauthorisedly framed into the Rules. The most distressing part is that even after deciding in January, 1978 to convert these Regulations into Rules, the Ministry are yet to complete this work. The Committee cannot help expressing their deep concern over the casual manner in which the Ministry of Railways (Railway Board) have proceeded in implementing their recommendations which affect thousands of employees of a Force.
- 3(iii) 34 While the Committee agree with the contention of the Ministry that the conversion of about 3000 Regulations into Rules is a major effort but they feel that a period of 8 years for this job is equally too long. The Committee note that after deciding in 1978 to convert these Regulations into Rules, the Ministry took a period of more than 3 years to decide to appoint suitable officers for this work. They first decided to appoint an Officer on Special Duty but due to financial constraints it could not be done and thereafter they entrusted this job to a number of officers in addition to their normal work. The Committee observe that the Ministry have not shown the urgency the matter deserved and the matter which should have been dealt at sufficient higher level in the Ministry has not been attended to at that level.
- 3(iv) 35 The Committee further note that the Ministry have conceded during evidence that the work of conversion of Regulations into Rules would be completed by November, 1982. The Committee stress that all efforts should be made by the Ministry to notify the newly framed Railway Protection Force Rules in the Gazette of India within a period of 6 months, i.e. by the end of May, 1983.
- 3(v) 36 The Committee also expect the Ministry of Railways (Railway Board) to be prompt in sending replies to the communications sent on behalf of a Parliamentary Committee. In case any matter/recommendation referred by the Committee is likely to take more time, the Committee should be contemporaneously

(1)	(2)	(3)
		informed about the progress of the case by the Ministry <i>suo moto</i> without waiting for a reminder from the Committee in this regard.
4(i)	40	The Committee are happy to note that, on being pointed out by them, the Ministry of Shipping and Transport (Ports Wing) have proposed to delete Rule 5(3)(c) of the Madras Port (Harbour Craft) Rules, 1980, which provided too wide discretionary power to the Licensing Officer. The Committee desire the Ministry to notify this amendment in the Gazette at an early date.
4(ii)	44	The Committee note with satisfaction that, on being pointed out by them, the Ministry of Shipping and Transport (Ports Wing) have agreed to substitute Rule 5(4) of the Madras Port (Harbour Craft) Rules, 1980 by a new Rule which is self explicit. The Committee approve the proposed amendment and desire the Ministry to notify it in the Gazette at an early date.
4(iii)	48	The Committee are happy to note that, on being pointed out by them, the Ministry of Shipping and Transport (Ports Wing) have proposed to amend Rule 14(4) of the Madras Port (Harbour Craft) Rules, 1980 to make it more intelligible and to provide check on arbitrary use of powers. The Committee approve the proposed amendment and desire the Ministry to notify this amendment in the Gazette at an early date.
4(iv)	52	The Committee note with satisfaction that, on being pointed out by them, the Ministry of Shipping and Transport (Ports Wing) have agreed to amend Rules 34 and 35 of the Madras Port (Harbour Craft) Rules, 1980 to make them self-explanatory. The Committee approve the proposed amendment and desire the Ministry to notify the amendment in the Gazette at an early date.
4(v)	56	The Committee note from the reply of the Ministry of Shipping and Transport (Ports Wing) that they propose to delete Note (2) below rule 35 of the Madras Port (Harbour Craft) Rules, 1980, being an inoperative provision as no permit has been issued to any person thereunder so far. The Committee desire the Ministry to notify the requisite amendment in this regard in the Gazette at an early date.
5(i)	69	The Committee note that, on being pointed out by them, the Ministry of Shipping and Transport have amended the Major Port Trusts Act, 1963 by providing therein for laying of the Regulations framed thereunder. The Committee are, however, surprised at the manner in which the Ministry have handled this matter. When the suggestion for amending the Act was first referred to the Ministry, they advanced certain administrative difficulties in amending the Act but latter on they amended it without intimating the Committee to

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that effect. The Committee are constrained to observe that, had the Ministry informed them correct facts about the amendment of the Act, earlier, the Committee would not have decided to hear the oral evidence of the representatives of the Ministry.

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The Committee would exhort the Ministry of Shipping and Transport that whenever any communication is sent on behalf of a Parliamentary Committee, it is the duty of the Ministry to inform the Committee about the action taken thereon. Otherwise the Committee remain in the dark about the outcome of their suggestion/recommendation. The Committee, therefore, desire the Ministry of Shipping and Transport to devise some procedure in the Ministry so that a references made by a Parliamentary Committee are attended to by the senior responsible officers and the Committee are intimated about the action taken by the Ministry on their suggestion/recommendation *suo moto* without waiting for reminder from the Committee.

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The Committee note with satisfaction that, on being pointed out by them, the Ministry of Shipping and Transport (Ports Wing) have proposed to amend Rule 100A(3) of the Calcutta Port Rules, 1944 by providing therein the conditions subject to which the Director, Marine Department could relax the quantities that may be brought for discharge or Shipment at the Port of Calcutta, in order to make the Rules self-contained and for the information of all concerned. The Committee approve the proposed amendment and desire the Ministry to notify it in the Gazette at an early date.

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The Committee note with satisfaction that, on being pointed out by them, the Ministry of Shipping and Transport (Transport Wing) have proposed to amend provisos to Rules 5(2), 12(3), and (4), 16(3) (f), 21(7), 23(4), 31(7) and 38(2)(ii) of the Merchant Shipping (Crew Accommodation) Rules, 1960 by specifying therein the circumstances under which the Central Government could exercise power for giving exemption to any ship from compliance with the provisions of these Rules. The Committee after perusing the proposed amendment observe that since the circumstances under which exemptions could be given have been provided for in the proposed amendment, there is no need to provide for recording of reasons in writing for granting such exemptions. The Committee approve the proposed amendment and desire the Ministry to notify it in the Gazette at an early date.

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The Committee note from the reply of the Department of Personnel and Administrative Reforms that there has been no change in the guidelines for promotion to selection posts, issued by that Department on 30 December, 1976. The Committee further note that certain modifications have been brought into effect ~~side~~ the Department of Personnel and Administrative Reforms O.M. No. 22011/3/76-Estt (D) dated 24

December, 1980, which do not supersede the previous instructions. The Committee hope and trust that these instructions would be followed by all the Ministries/Departments in letter and spirit.

- 9 92 After considering the matter from all aspects, the Committee are inclined to accept the suggestion of the Ministry of Finance (Department of Economic Affairs) that the short titles to the Commemorative Coins pertaining to the IX Asian Games and UNICEF-IYC programmes may indicate the denominations of all the coins and the occasion in respect of which these coins are being issued without indicating the detailed metallic composition of all the coins. However, the Committee are of the view that reference to denomination and metallic composition must be given in other coinage Rules so that the various notifications are clearly and conveniently distinguishable.
- 10(i) 96 The Committee note with satisfaction that, on being pointed out by them, the Ministry of Commerce have amended clause (j) of rule 2 of (i) the Export Inspection Council Death-cum-Retirement Gratuity Rules, 1981 and (ii) the Export Inspection Agency Death-cum-Retirement Gratuity Rules, 1981 by adding an "Explanation" thereunder setting out procedural details for considering an employees to be declared as permanently disabled.
- 10(ii) 100 The Committee note with satisfaction that, on being pointed out by them, the Ministry of Commerce have amended rule 14 of (i) the Export Inspection Council Death-cum-Retirement Gratuity Rules, 1981, and (ii) the Export Inspection Agency Death-cum-Retirement Gratuity Rules, 1981, by adding therein a proviso giving a right of appeal to the employees against the decision of the Export Inspection Council in respect of matters relating to the interpretation of Rules, to the Central Government.

APPENDIX II

(Vide paragraph 11 of the Report)

Statement indicating the Chronological Order of the events leading to the Promulgation of S.R.O. 44 of 1978

Date	Stage of Progress	Remarks
1	2	3
19-6-76	The draft amendment is made available to the public for comments.	
25-1-77	The DGDL&C forwards, the papers to the Ministry with the comments of the public and a DGN for the final notification of the draft amendment.	After the period of sixty days elapsed, the comments received from the members of the public had to be tabulated, and conclusions drawn therefrom. On the basis of the data thus collected, some more time was taken to draft a suitable gazette notification.
		Further, the DGDL&C pointed out, the case was kept pending in anticipation of a final decision of the stoppage of direct recruitment to Group 'B' posts in the ML&C Service, as this aspect had a direct bearing on the draft amendment.
15/17-2-77	The file is returned to the DGDL&C for re-examination of the case.	It was considered appropriate that the notification of the draft amendment may be kept pending till the Cadre Review Committee arrived at final decision on the stoppage of direct recruitment to Grade 'B' Posts.

8-2-77 DGD&C returned the file stating the draft amendment may be notified, partly.

17-3-77 The file is referred to the DGD&C to consider whether it will be proper to notify the draft amendment in parts.

1-4-77 The file is received back from the DGD&C. It is stated by his office that while there can be no objection to the notification of sub-rule 5(a), it will be more appropriate to notify sub-rules 5(a) and (b) together.

6-6-77 The file is referred to the Ministry of Law for vetting the draft amendment as originally proposed.

27-7-77 The file is received back from the Ministry of Law, who vetted the D.G.N., subject to some clarifications relating to the particular notifications referred to in the preamble to the draft gazette notification etc., as also the date on which the draft amendment was made available to the public.

9-8-77 The file is sent back to the DGD&C after the particulars of the earlier gazette notifications referred to in the preamble to the DGN have been checked. The office of DGD&C are advised to confirm from the office of the Manager Govt. printing Press whether or not the draft was made available to the public on the date of its notification in the gazette.

19-9-77 The file is received back from the DGD&C with the requisite information.

S.R.O. 44 of 1978 relates to amendment of Rule 5(a) and (b) of the ML&C Rules. It was pointed out only Rule 5(b) may be affected by a decision of the Cadre Review Committee and as such, amendment to this sub-rule may be held in abeyance, and the other sub-rule i.e. Rule 5(a) may be notified in the gazette.

The advisability of notifying partly the draft amendment was examined at length. It was pointed out that the notification of sub-rule 5(a) only would mean that the case would have to be referred against to the Department of Personnel & A.R. & the U.P.S.C. etc. Then after the Cadre Review Committee had communicated their decision affecting sub-rule 5(b), the same process of consultation with the Dept of Per. & A.R. would be required to be followed against considering all the aspects of the case, it was finally decided that the draft amendment may be notified in the shape it was made available to the public and without awaiting the decision of the Cadre Review Committee.

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- 23-9-77 The file is submitted for the approval of the competent authority in the Ministry.
- 30-9-77 Approval of the competent authority in the Ministry is obtained to the D.G.N. and the file is referred to the Official Languages Legislative Commission (OLLC) for Hindi translation of the draft.
- 1-10-77
- 24-11-77 The file received back from the OLLC with the Hindi version of the draft.
- 10/12-1-78 Draft gazette notification is authenticated by the DGDL&C after further correspondence with him.
- 18-1-78 The draft gazette notification is finally approved for promulgation in the official Gazette.

APPENDIX III

(Vide paragraph 73 of the Report)

Existing Rule 100A(3) as published in the Gazette of India Part II, Sec. 3(i) dated 20-9-1980

Proposed revision of the existing Rule 100A(3) to make it self contained.

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100A

(3) The master of the ship shall be responsible for compliance with all relevant rules, regulations and instructions issued from time to time:—

Provided that when circumstances warrant, the Director, Marine Department, may relax the quantities that may be brought for discharge or shipment at the docks and jetties at the Port of Calcutta upto a maximum as specified below, subject to such conditions as may be laid down by him:—

- (a) Petroleum Class 'A' or other substances having a flash point below 23° C (or 73° F) 20 tonnes;
- (b) In the case of manufactured products such as paints and varnishes having a flash point below 23° C (or 73° F) upto 20 tonnes;
- (c) Petroleum Class 'B' or other substances having a flash point below 65°C (or 150°F) upto 100 tonnes;
- (d) In the case of manufactured products such as paints and varnishes having a flash point above 23°F (or 73°F), But below 65°C (or 150°F) upto 150 tonnes.

The Master of the ship shall be responsible for compliance with all relevant rules, regulations and instructions issued from time to time:—

Provided that when circumstances warrant, the Director, Marine Department may relax the quantities that may be brought for discharge or shipment at the docks and jetties at the port of Calcutta upto a maximum as specified in clauses (a), (b), (c) and (d) below subject to the compliance of conditions that —

- (i) Vessel cannot be taken in Buj Buj Moorings for the duration of Bore Tides.
- (ii) Cargo is to be delivered direct from the vessel to the consignee or to be removed to the Trustees Hazardous Godown immediately on arrival of the vessel, or in case of shipment the cargo should be loaded only one day or two days prior to the sailing of the vessel.
- (iii) The above operation will be carried out in day-light hours only.
- (iv) "No smoking" should be strictly observed and strict precautions against outbreak of fire during the time of loading/unloading should be taken.
- (v) In case of inflammable liquid having flash point below 23°C/73°F, not more than 5 tons of such cargo to be handled at a time in quayline and the same should be removed immediately from the port premises.
- (vi) Port Fire Service personnel should be present at the time of unloading

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and loading of the cargo and the ships fire fighting appliances should also be kept in readiness near the storage area of the cargo.

- (vii) The unloading and loading operations are to be carried out under direct supervision of nominated responsible persons from the Steamer Agents and the consignee and they shall be answerable for any mishap—
- (a) Petroleum Class 'A' or other substances having a flash point below 23°C or (73°F)—20 tonnes;
 - (b) In the case of manufactured products such as paints and varnishes having a flash point below 23°C (or 73°F) upto 20 tonnes;
 - (c) Petroleum Class 'B' or other substances having a flash point below 65°C (or 150°F) upto 100 tonnes;
 - (d) In the case of manufactured products such as paints and varnishes having a flash point above 23°C (or 73°F), but below 65°C (or 150°F) upto 150 tonnes.
-

APPENDIX IV

(Vide paragraph 79 of the Report)

(TO BE PUBLISHED IN PART II, SECTION 3, SUB-SECTION (i)
OF THE GAZETTE OF INDIA

GOVERNMENT OF INDIA

MINISTRY OF SHIPPING & TRANSPORT

(SHIPPING WING)

NOTIFICATION

(Merchant Shipping)

G.S.R. The following draft of certain rules which the Central Government proposed to make in exercise of powers conferred by section 175 read with section 457 of the Merchant Shipping Act, 1958 (44 of 1958) further to amend the Merchant Shipping (Crew Accommodation) Rules, 1960, is hereby published as required by sub-section (1) of Section 175 of that said Act, for the information of all persons likely to be affected thereby and notice is hereby given that the said draft will be taken into consideration on or after the expiry of a period of 45 days from the date of publication of this notification in the Official Gazette.

Any objection or suggestion which may be received from any person with respect to the said draft before the period so specified will be taken into consideration by the Central Government—

DRAFT

1. *Short title and commencement*—(i) These rules may be called the Merchant Shipping (Crew Accommodation) First Amendment Rules, 1981.

(ii) They shall come into force on the date of their publication in the Official Gazette.

2. In the Merchant Shipping (Crew Accommodation) Rules, 1960 (hereinafter referred to as the said rules), for proviso to sub-rule (2) of rule 5, the following proviso shall be *substituted*, namely:—

“Provided that the Central Government may, if satisfied that the design or any other constructional feature of any ship

renders compliance of this requirement unreasonable or impracticable, exempt, such ship from the said requirement in full or to such extent as it may deem necessary."

3. From rule 12 of the said rule, provisos to sub-rules (2) and (4) shall be *omitted*.

4. In the said rules, for proviso to clause (f) of sub-rule (3) of rule 16, the following proviso shall be *substituted*, namely:—

"Provided that the Central Government may, if it is satisfied after consultation with the owner of the ship or with such organisation or organisations in India as it may consider to be most representative of employers of seamen and of seamen that peculiar constructional features of any ship renders full compliance of this requirement unreasonable or impracticable permit upto 4 persons to be accommodated in a cabin in any specified part of crew accommodation of a cargo ship and upto 8 persons in a cabin in any such accommodation of a passenger ship."

5. In the said rules, for proviso to sub-rule (7) of rule 21, the following proviso shall be substituted, namely:—

"Provided that the Central Government may, if satisfied that the design or any other constructional feature of any ship renders compliance of this requirement unreasonable or impracticable, exempt such ship from the said requirement in full or to such extent as it deems necessary."

6. In the said rules, for proviso to sub-rule (4) of rule 23, the following proviso shall be *substituted* namely:—

"Provided that the Central Government may, if satisfied that limitations imposed by design or any other constructional feature of any ship being—

- (a) a passenger ship engaged solely on voyages which are normally of less than 24 hours duration; or
- (b) a cargo ship in which the number of members of crew are more than 100, render full compliance of this requirement unreasonable or impracticable exempt such ship from the requirement in full or to such extent as it deems necessary."

7. In the said rules, for proviso to sub-rule (7) of rule 31, the following proviso shall be substituted namely:—

“Provided that the Central Government may, if satisfied that the design or any other constructional feature of any ship renders compliance of this requirement unreasonable or impracticable exempt such ship from the said requirement in full or to such extent as it deems necessary.”

8. In the said rules, for clause (ii) of sub-rule (2) of rule 38, the following clause shall be substituted, namely:—

“(ii) exempt any ship being—

- (a) a sea-going ferry of Leadership which is not continuously manned with permanent crew; or
- (b) a sea-going ship when it temporarily carries repairs personnel on board in addition to ships crew; or
- (c) a sea-going ship engaged on short voyages when members of crew are allowed to go ashore for some part of the day;

from any of the requirements of these rules, if satisfied that the service in which such ship is engaged is such that compliance with the said requirements is unreasonable or impracticable.”

(NP.SW/MTP(4)/81-M.T.)

U.S(MA)

To

The Manager,
Government of India Press,
Maya Puri,
Ring Road,
New Delhi.

APPENDIX V

(Vide paragraph 86 of the Report)

No. 22011/3/76-Estt(D)

GOVERNMENT OF INDIA

MINISTRY OF HOME AFFAIRS,

DEPARTMENT OF PERSONNEL & A.R.

New Delhi, the 24th December, 1980.

OFFICE MEMORANDUM

SUBJECT.—Principles for promotion to 'Selection' posts.

Large number of clarifications are being sought by the various Ministries/Departments on various aspects while preparing a panel for posts to be filled on the basis of Selection. The various points raised are as below:—

- (1) The absence of clearly defined limits in the matter of fixation of the zone of consideration has led to lack of uniformity of practice between the various DPCs;
- (2) In a number of cases the meetings of the DPCs are not held annually as required even though there were vacancies resulting in the bunching of vacancies which in turn enlarged the field of choice and upset the relative seniority position in the higher grade on account of supersession.
- (3) In a number of cases some of the senior officers even though included in the panel for promotion do not get promotion due to their being away from the parent department and at the same time are also not eligible for pro-forma promotion under the NBR due to the application of the one to one correspondence due to the fact that they are being the junior most in the panel there is no junior in the panel below them and this has resulted in their reconsideration by the next DPC thereby resulting in loss of seniority to them;
- (4) In certain cases Recruitment Rules are amended when a panel already prepared is valid in operation and therefore whether the panel can still be operated after the amendment.

2. All the above aspects have been carefully considered and the following instructions are issued for the guidance of all Ministries.

3. Zone of consideration for promotion to posts filled by selection.

Reference is invited to the Ministry of Home Affairs (now Department of Personnel & A.R.) O.M. No. 1/4-55-RPS dated 16-5-57 laying down certain principles for promotion. In the operation of these principles it has been observed that the absence of clearly defined limits on the extent of the field of choice has led to lack of uniformity in the practices being followed by the DPCs. Similarly it is felt that a large field of choice might result in excessive supersessions. Again, despite repeated instructions of the Government to hold DPCs annually there have been quite a few cases of delays resulting in vacancies being bunched. This would enlarge the field of choice and upset the relative seniority positions in the higher post with reference to the positions which would not have resulted had the DPCs met at the appropriate time. In view of these considerations it has been decided in consultation with the UPSC as under in supersession of this Department's O.M. No. 1/4/55-RPS dated 16-5-57 and all other memoranda having any bearing on the matter herein dealt with.

(a) The Departmental Promotion Committee (DPC) shall for the purpose of determining the number of officers who should be considered from out of those eligible officers in the feeder grade(s) restrict the field of choice as under, with reference to the number of clear regular vacancies proposed to be filled in the year.

No. of vacancies	No. of officers to be considered
(1)	(2)
1	5
2	8
3	10
4 or more	three times the number of vacancies.

(b) Where, however, the number of eligible officers in the feeder grade(s) is less than the number in Col. (2) above, all the officers so eligible should be considered.

(c) Where adequate number of SC/ST candidates are not available within the normal field of choice as above, the field of choice may be extended to 5 times the number of vacancies and the SC/ST candidates (and not any other) coming within the extended field of choice, should also be considered against the vacancies reserved for them.

Officers belonging to SC/ST selected for promotion against vacancies reserved for them from out of the extended field of choice under sub-para (c) above, would, however be placed enbloc below all the other officers selected from within the normal field of choice;

- (a) Preparation of year-wise panels by DPC where they have not met for a number of years. Instructions already exist that DPC's should meet at regular annual intervals for the preparation of select lists and where no such meeting is held in any year the appointing authority should record a certificate that there were no vacancies to be filled during the year. Administrative Ministries should obtain periodical information/certificates on the regular holding of DPC's.
- (b) where, however, for reasons beyond control, DPC could not be held in any year(s) even though the vacancies arise during that year (or years), the first DPC that meets thereafter should follow the following procedure:
 - (i) Determine the actual number of regular vacancies that arose in each of the previous year/years immediately preceding and the actual number of regular vacancies proposed to be filled in the current year separately.
 - (ii) Consider in respect of each of the years those Officers only who would be within the field of choice with reference to the vacancies of each year starting with the earliest year onwards.
 - (iii) Prepare a 'select list' for each of the years starting with the earliest year onwards.
 - (iv) Prepare a consolidated 'select list' by placing the select list of the earlier year above the one for the next and so on.

Illustration: DPC meets in 1980. Number of vacancies in the year 1978 and 1979 were 8 and 7 respectively. It is proposed to fill also 9 more vacancies during 1980. There are 100 eligible officers.

Panel for 1978

No. of vacancies.....8

Field of choice.....24

Take officers.....1 to 24

DPC classified Sl. No. 20 as 'outstanding' and Sl. Nos. 7 and, 15 not fit and rest Very Good.

Panel list will be....Sl. Nos 20, 1, 2, 3, 4, 5, 6, 8.

Panel for 1979

No. of vacancies 7—Field of choice 21. This comprises officer Nos. 7, 9 to 19, 21 to 29 (total 21). The DPC classified No. 7 as not yet fit and rest Very Good. Panel will comprise of S. Nos. 9 to 15.

Panel for 1980

No. of vacancies 9—Field of choice 27. This will comprise Nos. 7, 16 to 19, 21 to 42.

No. 40 is graded Very Good and the rest as 'Good'.

Consolidated select list Sl. Nos. 1 to 6, 8, 9 to 15, 40, 72, 16 to 19, 21 to 23.

- (c) For the purpose of evaluating the merit of the officers, the record of service of the officers for the purpose of considering for inclusion in the panel relevant to any of the earlier years as contemplated in clause (b) above should be limited to the record that would have been available had the DPC met at the appropriate time; for instance, for preparing the panel relating to the vacancies of 1978, records of service of the officers only upto 1978 should be taken into account and not the subsequent ones. However, if on the date of actual DPC (1980 in the illustration) Departmental proceedings are in progress and under the existing instructions sealed cover procedure is to be followed, such procedure should be observed even if no such proceedings were in existence in the year to which the vacancy related (e.g. if in the illustration, in respect of officer No. 6 empanelled against a 1978 vacancy even though the disciplinary proceedings were started only in 1980 (prior to DPC meeting), his name to be kept in the sealed cover till the proceedings are finalised.)

- (d) While promotions will be made in the order of the consolidated select list, such promotion will have only prospective effect, even in cases where the vacancy relates to an earlier year.

5. Consideration of the cases of officers who are away on deputation by the DPC where they have been empanelled by the earlier DPC but not eligible for benefits under the N.B.R.

Under this Department's O.M. No. 1/4/55-ROS dated 16 May, 1957, the select list prepared for the purpose of promotion should be periodically reviewed and the names of those officers who have already been promoted (otherwise than a local or purely temporary basis) and continue to officiate should be removed from the list as having been promoted and rest of the names alongwith others who may now be included in the field of choice should be considered for the select list for the subsequent period. Again, in this Department's O.M. No 1/25/65-Estt(D) dated 11-10-1966, it has been laid-down that select list drawn by the DPC should normally be operative only for one year and in any case it would cease to be in force after 18 months or when the fresh list is prepared which-ever is earlier.

The effect of these circulars would be that every officer included in the panel who at the time of expiry of the validity of the earlier panel or at the time of the fresh DPC does not hold a regular promotion post needs to be reconsidered and every officer who holds such a regular post on these crucial dates need not be so considered by the DPC.

In this Department's O.M. No. 22011/6/75-Estt(D) dated 30-12-1976 (Para V (5)), it has been laid down that DPC should consider the claims of all officers who are on deputation or on foreign service in public interest or on their own volition. Thus their names would be considered for inclusion in the panel based on their records of service alongwith others holding posts within the Department concerned. However, in para X(4) of the circular dated 30-12-76 referred to above, it has been envisaged that such officers who had gone on deputation/foreign service in the public interest should be protected to enable them to re-gain their temporarily lost seniority in their higher grades on return to his cadre. In the case of others who have taken up ex-cadre posts on their own volition, such protection is not available and they could be considered for promotion only after they return to their parent cadre.

The application of this Department O.M. dated 11th October, 1966 and 16th May, 1967, referred to above has caused certain anomalies in the case of persons proceeding on deputation or foreign service etc. in public interest, in the matter of protecting their seniority in the higher grade. In respect of such officers who while on deputation/foreign service are given proforma promotion under the NBR with reference to the date of promotion of their juniors no problem of maintaining their panel seniority would arise. In other cases where, the number of officers out-side the line exceeds the number of juniors who are promoted within the cadre, proforma promotion under NBR could not be given all such seniors in view of the condition of one-to-one correspondence under the guiding principles of NBR.

The effect of this would be that those of the officers higher in the panel and on deputation who could not be given NBR will continue to be shown as working in the lower posts while junior officers within the department would continue to be shown against higher posts. In a case where this position continues after the validity period of panel or at the time of a fresh DPC the juniors would not be required to be considered by the fresh DPC while the senior who is shown against the lower post and not actually officiating against a higher post even under NBR may have to be considered by the DPC.

In order to avoid such an anomalous situation, it has been decided that Para X(4) of this department O.M. No. 22011/6/75-Estt(D) dated 30th December, 1976 may be amended as under:

- "4. If the panel contains the name of a person who has gone on deputation or on foreign service in the public interest including the person who has gone on study leave, provision should be made for his re-gaining the temporary lost seniority in the higher grade on his return to the cadre. Therefore, notwithstanding the provision of Sub Para 3 above as well as the provision of Para XII below, such officers need not be reconsidered by a fresh DPC if any, subsequently held, while they continue to be on deputation foreign service/study leave so long as any officer junior to him in the panel is not required to be so considered by a fresh DPC irrespective of the fact whether he might or might not have got the benefit of proforma promotion under the NBR. The same treatment will be given to an officer included in the panel who could have been promoted within the currency of the panel but for his being away on deputation."

In the case the officer has gone on ex-cadre post on his own volition by applying in response to advertisements, he should be required to revert to his parent cadre immediately when due for promotion, failing which his name shall be removed from the panel. On his reverting to the parent cadre after the period of two years or the extended period, if any, he will have no claim for promotion to the higher grade on the basis of that panel. He should be considered in the normal course along with other eligible officers when the next panel is prepared and he should be promoted to the higher grade according to his position in the fresh panel. His seniority, in that event shall be determined on the basis of the position assigned to him in the fresh panel with reference to which he is promoted to the higher grade. (If the panel contains the name of an officer on study leave, he should be promoted to the higher post on return from the study leave. He should also be given seniority according to his position in the panel and not on the basis of the date of promotion).

Hindi version will follow.

Authorised for issue

(K. R. Gopal Rao)

Desk Officer

To

Sd/—

(J. K. SARMA)

Director

All Ministries/Departments including PM's Office,
Cabinet Secretariat, Planning Commission.

2. UPSC with 10 spare copies.
3. C&AG, Election Commission, Central Vigilance Commission
4. All attached and subordinate offices of MHA and DPAR
5. All Sections of MHA/DP&AR
6. All National Council Staff Side Members.
7. Secretary, National Council Staff Side, Asoka Road, New Delhi.

APPENDIX VI

(Vide paragraph 88 and 89 of the Report)

Ministry of Law, Justice and Company Affairs
Legislative Department
(Legislative Section)

This file deals with the issue of notifications, under the Coinage Act, 1908 (3 of 1906) in respect of commemorative coins under the UNICEF-IYC Coin Programme and IXth Asian Games.

2. Since the notification under section 6 of the Coinage Act in respect of UNICEF-IYC coin programme has not been placed in the file, the rules relating to the said programme have not been seen. The rules may be referred along with the notification under section 6 of the Coinage Act.

3. Regarding the IXth Asian Games, two draft notifications have been placed in the file by the administrative Ministry. The short title of the rules made under the Coinage Act was considered by the Committee on Subordinate Legislation. They have recommended that the short title of such rules should contain reference to denomination and metallic composition of the coins covered by the rules. To give effect to the said recommendation, short title of the Rules has been modified by the administrative Ministry. The two drafts in respect of the IXth Asian Games, as slightly amended in pencil, are in order. Before the file is returned to the administrative Ministry, JS&LC may kindly see the short title in the light of the recommendation of the Committee on Subordinate Legislation, vide paragraphs 44 to 49 of the 10th Report of the Committee on Subordinate Legislation (Seventh Lok Sabha).

Sd/—

(C. RAMAN MENON)
Additional Legislative Counsel

28-6-1982

Jt. Secy. & Leg. Counsel (Shri S. Ramaiah)

It is true that the Committee on Subordinate Legislation in their Twelfth Report (Fifth Lok Sabha) has recommended that the rules issued under section 7 of the Coinage Act might conveniently be

distinguished by making a reference in the short title thereof to the denomination and metallic composition of the coins involved apart from the year of issue and which have been reiterated in the subsequent reports. But it would be convenient to follow this recommendation if one set of rules is issued for one denomination of coins and the composition of such coin does not contain a mixture of so many metals. The present rules propose to specify four commemorative coins which have different metallic compositions. It would, therefore, be difficult and cumbersome to include all the denominations and the metallic compositions of all the coins in the short title. It is, therefore, suggested that as the intention behind the recommendation of the Committee on Subordinate Legislation is only to distinguish various notifications fixing standard weights of coins and remedies allowed, the short title may be drafted in such a way as to indicate the denominations of all the coins and the occasion in respect of which these coins are being issued without indicating the detailed metallic compositions of all the coins. In fact, the non-indication of the metallic composition may also be justified in view of the fact that the rules in question do not specifically provide for the metallic composition of these coins. The composition of the coins is in fact determined under section 6 of the Act. In this view of the matter the short title may read as:

“The Coinage (Standard Weight and Remedy of the Commemorative Coins of One Hundred Rupees, and Ten Rupees and Twenty-five Paise and Ten Paise for IXth Asian Games, Delhi 1982) Rules, 1982.”

2. As the Committee on Subordinate Legislation had more than once in their subsequent reports taken a serious view of the Ministry of Finance not following their recommendation, this suggested change of short title may be intimated to the Committee along with the reasons mentioned above before issuing the rules. But if the rules are required to be issued urgently, the Committee may be informed simultaneously with the issue of the rules. This may avoid the Committee pointing out the lapse and referring it in their reports.

(S. Ramaiah)

Joint Secretary and Legislative Counsel
2-7-1982

Ministry of Finance (DEA) (C.G, Pathrose, U.S.)

MINUTES

APPENDIX VII

MINUTES OF THE FORTY-SIXTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (SEVENTH LOK SABHA) (1982-83)

The Committee met on Thursday, 29 July, 1982 from 15.00 to 16.30 hours.

PRESENT

Shri Mool Chand Daga—*Chairman*

MEMBERS

2. Shri Mohammad Asrar Ahmad
3. Shri Xavier Arakal
4. Shri N. E. Horo
5. Shri Ashfaq Husain
6. Shri Dalbir Singh (Madhya Pradesh)
7. Shri Chandrabhan Athare Patil
8. Shri M. Ramanna Rai
9. Shri R. S. Sparrow

SECRETARIAT

1. Shri S. D. Kaura—*Chief Legislative Committee Officer*
2. Shri T. E. Jagannathan—*Senior Legislative Committee Officer*
2. * * * * *

3. The Committee then considered Memoranda Nos. 112 to 124 on the following subjects:—

(i) to (iii)

4 to 6 * * * * *

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

- (iv) *The Directorate of Plant Protection, Quarantine and Storage Senior Librarian (Insecticides) Recruitment Rules, 1979 (GSR 995 of 1979)—(Memorandum No. 115).*

7. The Committee noted that on being pointed out by them, the Ministry of Agriculture (Department of Agriculture & Cooperation) had amended Rule 5 of the Directorate of Plant Protection, Quarantine and Storage Senior Librarian (Insecticides) Recruitment Rules, 1979 *vide* G.S.R. 15 of 1981, to indicate that Union Public Service Commission would be consulted while relaxing any provision of those Rules.

- (v) *Implementation of recommendations contained in paragraphs 16 to 19 of the Fourteenth Report of Committee on Subordinate Legislation (Fifth Lok Sabha) re: the Railway Protection Force (Amendment) Rules, 1973 (G.S.R. 448-E of 1973)—(Memorandum No. 116).*

8. After considering the Memorandum, the Committee noted that even, after the lapse of 6 years and more after the presentation of their Fourteenth Report (Fifth Lok Sabha) on 20 December, 1974, the Ministry of Railways (Railway Board) had not framed the Railway Protection Force Rules. The Committee desired to hear oral evidence of the representatives of the Ministry of Railways (Railway Board) in the matter.

(vi) and (vii)

9 to 13 * * * *

- (viii) *The Military Lands and Cantonments Service (Class I and Class II) Amendment Rules, 1978 (SRO 44 of 1978)—Memorandum No. 119)*

14. The Committee were not convinced by the reasons advanced by the Ministry of Defence for notifying the Military Lands and Cantonments Service (Class I and Class II) Amendment Rules, 1978, in final form with a delay of one and half years after their notification in draft form. The Committee had in paragraph 58 of their Seventh Report (Sixth Lok Sabha) recommended ways and means to cut short the period of time-consuming process of the inter-Ministry/Departmental consultations. Had the Ministry of Defence followed that procedure, there would not have been such delay in the finalisation of Rules. The Committee desired that, in cases where the Rules/Regulations/Bve-laws were published in the draft form for inviting comments/suggestions from the public, those should be

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

finalised and notified in final form within the period of 6 months after the receipt of comments/suggestions.

(ix) *The Bombay Port Trusts Class I and Class II Employees (Optional Marathi Language Examination) Regulations, 1977 (GSR 1557 of 1977)—(Memorandum No. 120)*

15. The Committee were not convinced by the practical difficulties enumerated by the Ministry of Shipping and Transport (Transport Wing) for not laying the Regulations framed under the Major Port Trusts Act, 1963 before each House of Parliament. The Committee, therefore, decided to hear oral evidence of the representatives of the Ministry in the matter.

(x) *The Madras Port Harbour Craft Rules, 1980 (GSR 631 of 1980) —Memorandum No. 121)*

(A)

16. The Committee noted with satisfaction that, on being pointed out by them, the Ministry of Shipping and Transport (Ports Wing) had proposed to delete Rule 5(3)(c) of the Madras Port Harbour Craft Rules, 1980, which provided too wide discretionary power to the Licensing Officer. The Committee desired the Ministry to notify that amendment at an early date.

(B)

17. The Committee noted that, on being pointed out by them, the Ministry of Shipping and Transport (Ports Wing) had agreed to substitute Rule 5 (4) of the Madras Port Harbour Craft Rules, 1980 as under:

“All harbour crafts shall be measured in accordance with the G.O. No. 384, Marine, dated 3-5-1899 issued by the then Government of Madras as amended from time to time. A copy of this Order as amended to date is reproduced after the rules as supplement to these rules.”

18. The Committee desired the Ministry to notify above amendment to the Rules at an early date.

(C)

19. The Committee approved the proposed amendment to Rule 14(4) of the Madras Port Harbour Craft Rules, 1980, and desired the Ministry of Shipping and Transport (Ports Wing) to notify that amendment at an early date.

(D)

20. The Committee approved the proposed amendment to Rules 34 and 35 of the Madras Port Harbour Craft Rules, 1980 and desired the Ministry of Shipping and Transport (Ports Wing) to notify that amendment at an early date.

(E)

21. The Committee noted that on being pointed out by them that Note (2) under Rule 35 of the Rules *ibid* was vaguely worded that that conditions for granting a permit should be specified in the Rules itself, the Ministry of Shipping and Transport (Ports Wing) had proposed to delete the said Note as it was inoperative and there was no occasion to issue such a permit to any person so far and it was not considered necessary to have such inoperative provision in the Rules. The Committee desired the Ministry to notify that amendment at an early date.

(xi) *The Calcutta Port (Amendment) Rules, 1980 (G.S.R. 969 of 1980)—Memorandum No. 122)*

22. The Committee noted that, on being pointed out by them, the Ministry of Shipping and Transport (Ports Wing) had proposed to amend Rule 100 A(3) of the Calcutta Port Rules, 1944, in order to make them self-contained. The Committee desired the Ministry to notify that amendment at an early date.

(xii) *Implementation of recommendation contained in paragraph 44 of the Nineteenth Report of the Committee on Subordinate Legislation (Fifth Lok Sabha) regarding the Merchant Shipping (Crew Accommodation) Amendment Rules, 1974 G.S.R. 1390 of 1974)—(Memorandum No. 123)*

23. The Committee, after considering the Memorandum, noted that the Ministry of Shipping and Transport (Transport Wing) had proposed to amend provisos to Rules 5(2), 12(3) and (4), 16(3) (f), 21(7), 23(4), 31(7) and 38 (2) (ii) of the Merchant Shipping

(Crew Accommodation) Rules, 1960 by specifying therein the circumstances under which the Central Government could exercise power for giving exemption to any ship from compliance with the provisions of those Rules. The Committee observed that since the circumstances under which exemptions could be given had been provided for in the proposed amendment, there was no need to insist for providing for reasons to be recorded in writing. The Committee desired the Ministry to notify these amendments at an early date.

- (xiii) *Implementation of recommendation contained in paragraph 45 of the Eleventh Report of Committee on Subordinate Legislation (Sixth Lok Sabha) re: The Indian Civil Accounts Service (Group 'A') Recruitment Rules, 1977 (G.S.R. 537 of 1977)— (Memorandum No. 124)*

24. The Committee noted from the reply of the Department of Personnel and Administrative Reforms that there had been no change in the guidelines for promotion to selection posts, issued by that Department on 30 December, 1976. The Committee further noted that certain modifications had been brought into effect *vide* their O.M. No. 22011/3/76-Estt.(D) dated 24 December, 1980 which did not supersede the previous instructions.

The Committee then adjourned to meet again on 26 and 27 August, 1982.

MINUTES OF THE FORTY-SEVENTH SITTING OF THE
COMMITTEE ON SUBORDINATE LEGISLATION (SEVENTH
LOK SABHA) (1982-83)

The Committee met on Thursday, 6 August, 1982 from 15.00 to
17.30 hours.

PRESENT

Shri Mool Chand Daga—*Chairman*

MEMBERS

2. Shri Mohammad Asrar Ahmad
3. Shri N. E. Horo
4. Shri Ashfaq Husain
5. Shri Dalbir Singh (Madhya Pradesh)
6. Shri B. Devarajan
7. Shri C. D. Patel
8. Shri Chandrabhan Athare Patil
9. Shri M. Ramanna Rai
10. Shri T. Damodar Reddy
11. Shri M. S. K. Sathiyendran
12. Shri Satish Prasad Singh

I. Representatives of the Ministry of Railways (Railway Board)

1. Shri M. S. Gujral, Chairman, Railway Board.
2. Shri M. D. Dikshit, Inspector General, Railway Protection Force.
3. Shri R. K. Kharbanda, Deputy Inspector General/P.F, Railway Board.

II. Representatives of the Ministry of Shipping and Transport

1. Shri S. P. Ambrose, Additional Secretary.
2. Shri D. K. Jain, Joint Secretary.

SECRETARIAT

1. Shri H. G. Paranjpe—*Joint Secretary*.
2. Shri S. D. Kaura—*Chief Legislative Committee Officer*.
3. Shri T. E. Jagannathan—*Senior Legislative Committee Officer*.

2. The Committee first heard evidence of the representatives of the Ministry of Railways (Railway Board) regarding implementation of recommendations contained in paragraphs 16—19 of the Fourteenth Report (Fifth Lok Sabha) in respect of the Railway Protection Force (Amendment) Rules, 1973 (G.S.R. 448-E of 1973).

3. On being asked the procedure to deal with the references sent by a Parliamentary Committee, the representatives of the Ministry stated that these were first received by the Secretary, Railway Board, who passed them on to the Directorate concerned for dealing them in detail.

4. When it was pointed out that the Committee had made their recommendation in 1974, and after the lapse of 8 years, the matter was still under consideration of the Ministry of Railways, the representative of the Ministry stated that a large scale revision of the regulations was required which was in progress. He further stated that there might be further delay because they had to convert all the regulations into rules so that they were covered by the Act. Explaining the progress made in that regard, he stated that the first stage of the revision was over and the review of the revision had been undertaken at the highest level. It would take another six months before the entire review of all the regulations was completed. Thereafter these had to be scrutinised by the legal cell of the Ministry of Railways and then submitted to the Ministry of Law. After clearance by the Ministry of Law, they would be able to place these rules on the Table of the House.

5. When asked about the names and designations of the officers of the Ministry of Railways who took notice of the recommendation of the Committee, the representative stated that they had all retired.

6. On being asked when the Ministry decided to convert regulations into rules, the representative of the Ministry stated that the decision was taken on 6 January, 1978. He further stated that no separate staff or cell was set up for the revision of these rules and that the work had been distributed among the existing officers.

7. When enquired as to why inordinate delay had taken place in revising the rules and thereby scant regard shown to the recommendation of the Committee, the representative of the Ministry admitted that such a long delay could not be justified on any ground. He further stated that of the 34 chapters that had been revised, 17 had been vetted and the other 17 remained to be vetted.

8. The representative of the Ministry was then asked to give the relevant file to the Chairman of the Committee for his perusal. The Committee then desired to examine the representatives of the Ministry again after a period of 15 days.

(The Witnesses then withdrew)

9. The Committee then considered Memorandum No. 125 regarding assigning of short titles to the rules pertaining to the Commemorative Coins to be issued in connection with IXth Asian Games and UNICEF Programmes. The Committee accepted the suggestion of the Ministry of Finance (Department of Economic Affairs) that the short titles to the Commemorative Coins pertaining to the IXth Asian Games and UNICEF-IYC Programmes might indicate the denominations of all the coins and the occasion in respect of which those coins were being issued without indicating the detailed metallic composition of all the coins. However, reference to denomination and metallic composition must be given in other coinage rules so that the various notifications were clearly and conveniently distinguishable.

10. The Committee then heard evidence of the representatives of the Ministry of Shipping and Transport (Ports Wing) regarding laying of regulations framed under the Major Port Trusts Act, 1963 before each House of Parliament—the Bombay Port Trust Class I and Class II Employees (Optional Marathi Language Examination) Regulations, 1977 (G.S.R. 1557 of 1977).

11. Explaining the background of the case, the representative of the Ministry stated that on receipt of suggestion from the Committee in 1978, the Ministry in their O.M. dated 24 June, 1980 explained their administrative difficulties in accepting the suggestion of the Committee for making a provision of laying regulations framed under the Major Port Trusts Act. The matter was further considered and the Act was amended.

12. When asked whether before sending a reply they had consulted Ministry of Law, the representative of the Ministry stated that they had consulted that Ministry who suggested that in case they had any difficulty in accepting the suggestion of the Committee, they should approach the Committee direct. He further stated that their reply dated 24 June, 1980 was not vetted by the Ministry of Law.

13. When asked about the designation of the officer who had drafted their reply dated 24 June, 1980, the representative of the Ministry stated that draft was prepared by the Section Officer. It was seen by the Under Secretary and approved by the Joint Secretary. The representative was then asked to furnish a copy of their draft reply prepared by Section Officer and approved by the higher officers.

14. When pointed out that the Committee had repeatedly emphasised the need for laying of rules and regulations before Parliament and the Ministry of Law had also brought that observation to the notice of all Ministries/Departments for compliance vide their O.M. dated 16-8-1978, the representative of the Ministry stated that they were aware of the recommendations of the Committee as well as the circular of the Ministry of Law about laying of rules/regulations. He further stated that they had certain administrative difficulties. The Ministry of Law had advised them that those difficulties should be explained to the Committee.

15. When enquired why, after repeated reminders, the Ministry quietly amended the Major Port Trusts Act, without even sending any intimation to the Lok Sabha Secretariat, the representative of the Ministry admitted the mistake in not having informed the Committee about the decision to amend the Act.

16. When specifically asked how the administrative difficulties enumerated in the Ministry's O.M. of June, 1980, were overcome when they decided to amend the Act, the representative of the Ministry stated that the same matter was also taken up by the Committee of the Rajya Sabha and the Secretary of the Ministry had appeared before that Committee in April, 1981. The Rajya Sabha Committee did not accept the suggestion of the Ministry. Thereafter, the amendments to the Act were considered on comprehensive basis and given effect to.

17. When it was pointedly asked why the Ministry's decision regarding amendment of the Act was not communicated to the Committee, and whether they were to fix the responsibility on the officer concerned, the representative of the Ministry apologised for the oversight in not communicating the fact of the amendment made in the Act, to the Committee. As regards fixing the responsibility, the representative stated that they would go into it and report to the Committee in about a month's time.

(The Witnesses then withdrew)

The Committee then adjourned.

MINUTES OF THE FORTY-NINTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION
(SEVENTH LOK SABHA) (1982-83)

The Committee met on Monday, 30 August, 1982 from 11.30 to 12.45 hours.

PRESENT

Shri Mool Chand Daga—*Chairman*

MEMBERS

2. Shri Mohammad Asrar Ahmad
3. Shri N. E. Horo
4. Shri Dalbir Singh (Madhya Pradesh)
5. Shri B. Devarajan
6. Shri Chandrabhan Athare Patil
7. Shri T. Damodar Reddy
8. Shri Satish Prasad Singh
9. Shri R. S. Sparrow

SECRETARIAT

Shri T. E. Jagannathan—*Senior Legislative Committee Officer.*

2. The Committee considered Memoranda Nos. 126—129 and 132—136 as follows:—

- (i) * * * * *
3. * * * * *
- * * * * *

(ii) (a) The Export Inspection Council Death-cum-Retirement Gratuity Rules, 1981 (S.O. 1607 of 1981); and

(b) The Export Inspection Agency Death-cum-Retirement Gratuity Rules, 1981 (S.O. 1608 of 1981)—Memorandum No. 127).

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

(A)

4. The Committee noted with satisfaction that, on being pointed out the Ministry of Commerce had amended sub-rule (j) of rule 2 of the Export Inspection Council/Agency Death-cum-Retirement Gratuity Rules, 1981 to the desired effect *vide* S.Os. 2140 2141 dated 12 June, 1982.

(B)

5. The Committee noted with satisfaction that, on being pointed out, the Ministry of Commerce had amended rule 14 of the Export Inspection Council/Agency Death-cum-Retirement Gratuity Rules 1981 to the desired effect *vide* S.Os. 2140 and 2141 dated 12th June, 1982.

(iii) to (ix)	*	*	*	*	*
6 to 12	*	*	*	*	*

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

MINUTES OF THE FIFTIETH SITTING OF THE COMMITTEE
ON SUBORDINATE LEGISLATION (SEVENTH LOK
SABHA) (1982-83)

The Committee met on Monday, 13 September, 1982 from 15.00 to 17.00 hours.

PRESENT

Shri Mool Chand Daga—*Chairman*

MEMBERS

2. Shri Mohammad Asrar Ahmad
3. Shri Xavier Arakal
4. Shri N. E. Horo
5. Shri Ashfaq Husain
6. Shri B. Devarajan
7. Shri C. D. Patel
8. Shri Chandrabhan Athare Patil
9. Shri M. Ramanna Rai
10. Shri T. Damodar Reddy
11. Shri Satish Prasad Singh
12. Shri R. S. Sparrow

REPRESENTATIVES OF THE MINISTRY OF RAILWAYS (RAILWAY BOARD)

1. Shri K. P. Jayaram, Member Staff, Railway Board.
2. Shri M. D. Dikshit, Inspector General, Railway Protection Force.
3. Shri R. K. Kharbanda, DIG. RPF, Railway Board.

SECRETARIAT

1. Shri S. D. Kaura—*Chief Legislative Committee Officer.*
2. Shri T. E. Jagannathan—*Senior Legislative Committee Officer.*

2. The Committee heard further evidence of the representatives of the Ministry of Railways (Railway Board) regarding implementation of recommendations contained in paragraphs 16—19 of the Fourteenth Report of the Committee on Subordinate Legislation (Fifth Lok Sabha) in respect of the Railway Protection Force (Amendment) Rules, 1973 (G.S.R. 448-E of 1973).

3. On being asked about the latest position of the implementation of the recommendation of the Committee made in 1974, the representative of the Ministry of Railways (Railway Board) stated that the recommendation made by the Committee had been accepted by the Ministry and in 1978 they decided to convert the regulations into rules. The work of conversion of about 3,000 regulations into rules was nearing completion. He further stated that it would be possible to complete that work by November, 1982 and thereafter these Rules would be sent to the Ministry of Law for vetting and then for their Hindi translation. Therefore, it would take some more time to complete the work.

4. When enquired that at one stage the relevant file was misplaced for several months, and why no action had been taken against the officer concerned, the representative stated that there had been system lapse in the matter and much time had been lost but it was an intricate matter and they had to seek the advice from Legal Adviser and others and in that process much time had been lost.

5. When specifically asked that the recommendation of the Committee was made in 1974 and in 1978 the Ministry had decided to convert the regulations into rules, then why that work could not be completed in even four years, the representative stated that it was a major effort and the methodology they adopted took time.

6. When enquired who was dealing with the file, the representative of the Ministry replied that it was dealt with by the Legal Adviser of the rank of the Joint Secretary. He further stated that in 1978, a senior Section Officer was entrusted with the job. Thereafter, the work was distributed among various officers and they had prepared the drafts. A Committee of senior officers were going through these drafts and one-third of the work would be completed by the end of November, 1982.

7. When asked whether any particular officer was accountable for the job, the representative of the Ministry stated that it was the Directorate of Railway Protection Force which had considered the recommendations of the Committee. No body was appointed exclusively for that job. All was being done by the officers in addition to their regular work.

8. When enquired whether any of their regulations had been challenged in the Court of Law, and in how many cases these regulations had been upheld, the representative stated that there were three cases. In two cases the decisions were not favourable. The Court had pointed out the same thing which Committee on Subordinate Legislation had pointed out *viz.* the Ministry had no power to frame regulations. One case had been upheld. The representative of the Ministry was asked to furnish a copy each of the judgements which were favourable as also those which were not favourable.

9. When pointed out that in their reply dated 15 April, 1978, the Ministry had stated that an officer on special duty was being appointed to undertake the job of conversion of regulations and why that officer had not been appointed, the representative stated that they had a proposal for appointing an officer for 6 months but due to financial constraints that officer could not be appointed. He further stated that it would have been better to entrust it to one officer but there was doubt whether one person could go into the job. It was thought that better course would be to distribute the work among the various officers.

(The witnesses then withdrew)

The Committee then adjourned.

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

The Committee met on Tuesday, 2 November, 1982 from 15.30 hours to 16.00 hours.

PRESENT

Shri Mool Chand Daga—*Chairman*

MEMBERS

2. Shri Mohammad Asrar Ahmad
3. Shri Ashfaq Husain
4. Shri Dalbir Singh (Madhya Pradesh)
5. Shri B. Devarajan
6. Shri M. Ramanna Rai
7. Shri R. S. Sparrow

SECRETARIAT

Shri T. E. Jagannathan—*Senior Legislative Committee Officer*

2. The Committee considered their draft Fourteenth Report and adopted it.

3. The Committee authorised the Chairman and, in his absence, Shri Dalbir Singh (Madhya Pradesh) to present the Fourteenth Report to the House on their behalf on 4 November, 1982.

The Committee then adjourned.