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COMMITTEE ON SUBORDINATE LEGISLATION

(SEVENTH LOK SABHA)

NINETEENTH REPORT

Action taken by Government on Out standing Recommendations of the Committee

(Presented on the 10 May, 1983)

LOK SABHA SECRETARIAT
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Corrigenda to the Nineteenth Report of the Committee on Subordinate Legislation (Seventh Lok Sabha)

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COMPOSITION OF THE COMMITTEE ON SUBORDINATE LEGISLATION (1982-83)

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3. Shri Xavier Arakal
*4. Shri N. E. Horo
5. Shri Ashfaq Husain
6. Shri Dalbir Singh (Madhya Pradesh)
7. Shri B. Devarajan
8. Shri C. D. Patel
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13. Shri M. S. K. Sathiyendran
14. Shri Satish Prasad Singh
15. Shri R. S. Sparrow

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.*

**Nominated *w.e.f.* 13-10-1982.
*Nominated *w.e.f.* 12-7-1982.

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 Nineteenth Report on implementation of recommendations remaining outstanding.

2. Though the recommendations of all Parliamentary Committees are recommendatory in nature and not mandatory, by convention, and because a Parliamentary Committee is a microcosm of the House, the recommendations are generally accepted by Government and implemented. Under Direction 108(1) the Ministries are required to intimate to the Committee on Subordinate Legislation, the action taken on the recommendations and the same is reported by the Committee to the House through their reports. Ministries have been, from time to time, intimating to the Committee the action taken on various recommendations and the Committee have also been reporting to the House the satisfactory implementation of such recommendations. Where Ministries gave cogent reasons for non-implementation, the Committee have reconsidered all such cases and, through their reports, either reiterated the recommendation or agreed with the Ministries and not pursued the recommendation further. The Committee have often given opportunity to the Ministries to explain once again through evidence before them why it was not possible to implement and after considering all aspects reported their final observations to the House.

3. During the scrutiny of such implementation cases this year (1982-83), the Committee came across a large number of recommendations which had remained unimplemented for several years or if implemented, no intimation to that effect had been sent. The Committee, therefore, decided at their sitting held on 2-12-1982 to examine in detail the recommendations outstanding for a period of more than one year. The scrutiny revealed that some of the cases related to as old a period as nine years. The Committee were not only seized of the delay aspect but also tried to take into consideration the difficulties and view points, if any, put forth by Government. The analysis revealed that the replies could be grouped under the following five categories:—

(i) Cases of recommendations where Government have failed to send intimation of action taken to the Committee.

(ii) Cases of recommendations where only interim replies have been received.

II

CASES OF RECOMMENDATIONS WHERE ONLY INTERIM REPLIES HAVE BEEN RECEIVED

11. The implementation of recommendations made by the Committee on Subordinate Legislation in its various Reports is pursued with the Ministries till these have been actually implemented by them. In a number of cases though the Ministries concerned accept, in principle, the recommendations made by the Committee yet in actual practice such recommendations remain unimplemented on one pretext or the other. The Committee feel that it would be better to report such cases to Lok Sabha rather than keep them under correspondence indefinately.

12. In this connection, unimplemented recommendations which are old and in respect of which only interim replies have been received from the Ministries/Departments, are given below:

(i) *The Monopolies and Restrictive Trade Practices (Classification of Goods) Rules,* 1977 (*G.S.R.* 1033 *of* 1977).

13. Rule 2(1) of the Monopolies and Restrictive Trade Practices (Classification of Goods) Rules, 1977 provided that the goods shall be classified in the manner specified in the Schedule to the Rules. As there was no provision for affording an opportunity of representation to the aggrieved parties against such classification, the Committee after considering the reply of the Ministry of Law, Justice and Company Affairs (Department of Company Affairs) in the matter, in paragraph 40 of their Eleventh Report (Fifth Lok Sabha) presented to the House on 9-5-1974 made the following recommendation—

> "The Committee are not satisfied with the indirect availability of the right of appeal against the classification of goods under section 55 of the Monopolies and Restrictive Trade Practices Act. They are of the view that there should be a specific provision in the Rules for affording an opportunity against classification. They desire the Ministry to amend the Rules suitably."

14. The Ministry did not accept the Committee's recommendation for making specific provision for appeal against the classifica-

(iii) Cases of recommendations pending introduction of Comprehensive Bills for amendment of relevant Acts.

(iv) Cases of recommendations where Government have expressed their inability to implement.

(v) Cases of recommendations to which replies have been considered unsatisfactory by the Committee.

4. This is not to belittle the fact that a large number of recommendations have been satisfactorily implemented. The Committee have already reported on them in their Tenth and Nineteenth Reports, (Fifth Lok Sabha). Eighth Reports (Sixth Lok Sabha) and Second, Fourth, Ninth, Tenth, Twelfth, Fifteenth, Sixteenth and Seventeenth Reports (Seventh Lok Sabha) and some have been included in this Report also. But the Committee do like to observe that even in such cases, there has been avoidable delay in implementation in most of the cases.

5. As it was not possible to cover all outstanding cases in one Report, the Committee decided to present three Reports.

6. In this special report on implementation, the Committee have dealt with cases falling under categories at (ii), (iii), (iv) and (v) mentioned above.

7. The matters covered in this Report were considered by the Committee on Subordinate Legislation (1982-83) at their sittings held on 3, 30 and 31 March, 1983.

8. The Committee considered and adopted this Report at their sitting held on 5 May, 1983.

9. The Minutes of the sittings which form part of the Report are appended to it.

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

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14. The Ministry did not accept the Committee's recommendation for making specific provision for appeal against the classifica-

tion and suggested, *vide* their O.M. dated 4-5-1976, the adoption of procedure of notifying the proposed revised classification Rules or any future amendment to the existing rules in draft in the official gazette and inviting comments of the persons/parties interested in the matter within a specified time-limit after which they could be notified and brought into force.

15. The Committee considered the above reply of the Ministry at their sitting held on 4-8-1977 and decided as follows:—

> "The Ministry of Law, Justice and Company Affairs (Department of Company Affairs) might be asked to state whether the new rules had since been framed and if so to send a copy of the draft rules for the perusal of the Committee to see whether the purpose of their recommendation had been fulfilled."

16. The decision of the Committee was communicated to the Ministry on 16-8-1977. In their reply dated 1-6-1978, the Ministry informed—

> "The draft of the MRTP (Classification of Goods) Rules, 1971 has been finalised in consultation with the Director General of Technical Development recently. The draft amendment rules are being processed further and will be shown to Legislative Department for vetting of the final draft before the same could be notified in the Gazette. A copy of the draft rules will be sent to the Lok Sabha Secretariat as soon as the same has been vetted by the Legislative Department."

17. In their further communication dated 23-7-1980, the Ministry enclosed a copy of the draft of the MRTP (Classification of Goods) Amendment Rules, 1978 and informed—

> ". . . The draft Rules are still under finalisation with the Department of Industrial Development and D.G.T. and copies of the said Rules would be sent to the Lok Sabha Secretariat as soon as these are notified in the Gazette of India."

18. When reminded by a D.O. letter on 23-12-1982, the Ministry, in their reply dated 1-2-1983, informed—

> "This Department, after having had several consultation with the Department of Industrial Development had almost finalised the draft rules but in the meanwhile the MRTP

Act had been amended by the Amendment Act, 1982 which came into force in August, 1982.

* * * * *

The whole matter is being taken up with the Department of Industrial Development with a view to decide how far the amendment to the MRTP (Classification of Goods) Rules, 1971 is required to be made in view of the amendment of the MRTP Act in 1982."

19. The Committee observe that the draft amendment Rules which were published in the Gazette of India dated 15-7-1978 were made available to them on 23-7-1980 after the Ministry was reminded in this regard. The Committee cannot help but to express their unhappiness on the way their communications were being ignored.

20. The Committee further observe that a period of sixty days given for sending objections/suggestions from the date of publication of the draft rules expired on 14-9-1978. Since then nearly four and a half years have passed but final rules have not yet been published. The Ministry owe an explanation to the Committee for not publishing the final Amendment Rules so far. Now that the Monopolies and Restrictive Trade Practices Act has been amended, the Committee stress early implementation of their recommendation.

(ii) *The Cinematograph (Second Amendment) Bill,* 1973.

21. The Cinematograph (Second Amendment) Bill, 1973 did not contain any provision for amendment of the parent Act of 1952 so as to provide for laying on Table of Rules made under Section 16 of the Act as recommended by the Committee on Subordinate Legislation in paragraph 37 of their Third Report (First Lok Sabha), presented to the House on 3-5-1955, that in all future Bills which might seek to amend earlier Acts giving power to make rules, regulations etc. laying provision should be included therein.

22. It was noticed that after the presentation of the above Report, the Cinematograph Act was amended four times in 1957, 1959 1960 and 1973 but no laying provision was inserted in the parent Act through these amending Bills in respect of rules framed under Section 16.

23. After considering the reply of the Ministry of Information and Broadcasting to a reference made to them to state the special reasons, if any, for not providing the laying provision originally in Section 16 and also for not, complying with the recommendation of

the Committee (First Lok Sabha), the Committee in paragraphs 128-129 of their Eighteenth Report (Fifth Lok Sabha), presented to the House on 12 January, 1976, made the following recommendations:—

> "The Committee note the assurance given by the Ministry of Information and Broadcasting that necessary amendment for laying of the rules under section 16 before Parliament will be proposed when the Cinematograph Act comes up for amendment next. The Committee desire that this should be done at the first available opportunity.
>
> The Committee are surprised to note that in the Union Territory of Arunachal Pradesh, no rules have been made so far and the exhibition of cinematograph is being regulated through executive orders issued in August, 1970. The Committee are not happy about it. They feel that the existing state of affairs could have been avoided, had the statutory requirement of framing the rules under section 16 by the Central Government been complied with in the same way as had been done in the case of rules made under section 8 of the Act. The Committee recommend that the Ministry of Information and Broadcasting should frame rules under Section 16 of the Act at an early date for making them applicable uniformly to all the Union Territories; or in the alternative, they should come forward for getting the Act amended suitably, so as to empower the Administrators of Union Territories to make their own rules."

24. The recommendation of the Committee made in respect of laying the Rules under Section 16 before Parliament has been implemented by making amendment in the Cinematograph Act, 1952, *vide* Section 19 of the Cinematograph (Amendment) Act, 1981 (No. 49 of 1981). In regard to framing of Rules under Section 16 of the Act for making them applicable uniformly to all the Union Territories, the Ministry of Information and Broadcasting, in their reply dated 24-2-1983, informed as follows:—

> "Some of the Union Territories have already framed their own rules under the powers delegated to them by the Central Government in pursuance of Article 239(1) of the Constitution. Since, with the commencement of the Cinematograph (Amendment) Act, 1981, it will be obligatory to lay the rules framed under Section 16(1) of the Cinematograph Act, 1952 before Parliament, the

Central Government have decided to frame a uniform set of rules under Section 16(1) *ibid* and place the same before Parliament as early as possible thereafter."

25. The Committee note with concern that even after a period of seven years, the Ministry of Information and Broadcasting have partly implemented their recommendations. The exhibition of the cinematographs in the Union Territory of Arunachal Pradesh is still being regulated unauthorisedly through executive instructions.

26. The Committee desire that pending framing of uniform set of rules under Section 16(1), the rules for regulation of exhibitions by means of cinematographs for the Union Territory of Arunachal Pradesh be published at an early date.

(iii) *The Delhi Municipal Corporation (Preparation of Electoral Rolls) Rules*, 1975 (*Notification No. F.* 2/30/73-*LSG dated* 19-3-1975)

27. Rules 10, 12 and 18 of the Delhi Municipal Corporation (Preparation of Electoral Rolls) Rules, 1975 provided as follows:—

"10. *Period for lodging claims and objections*: Every claim for the inclusion of a name in the roll and every objection to an entry therein shall be lodged within a period of 30 days from the date of publication of the roll in draft under rule 9 or such shorter period as may be fixed by the Director in this behalf:

Provided that the Director may; by notification in the Official Gazette, extend the period in respect of the Ward as a whole or in respect of any part thereof.

* * * * *

12. *Manner of lodging claims and objections*: Every claim or objection shall—

(a) either be presented to the registration officer or to such other officer as may be designated by him in this behalf; and

(b) be sent by post to the registration officer.

* * * * *

18. *Inquiry into claims and objections*: The registration officer shall hold a summary inquiry into every claim or objection in respect of which notice has been given under rule 17 and shall record his decision therein."

28. It was felt that Rule 10 gave discretion to the Director to reduce the period of 30 days laid down for lodging claim for the

inclusion of a name in the roll. Rule 12 did not contain any provision for acknowledging receipt of claims and objections so that there was no dispute in this regard later and there was no provision in Rule 18 for recording of reasons by the Registration Officer in case of rejection of the claims/objections.

29. The Committee, after considering the reply of the Ministry of Home Affairs with whom the above matters were taken up, made the following recommendations in paragraphs 17, 21 and 24 of their Fourth Report (Sixth Lok Sabha), presented to the House on 22-12-1977:—

"17. The Committee are not satisfied with the reply of the Ministry of Home Affairs in regard to the provision of Rule 10 of the Delhi Municipal Corporation (Preparation of Electoral Rolls) Rules, 1975. The Committee observe that in case of a similar provision in Rule 112 of the Registration of Electors Rules, 1960, where the Committee had found that the period allowed for lodging claims and objections had been reduced to just one day in one case, the Committee had desired that the reduced period should not be so short as to deprive the electors of a fair opportunity of filing claims and objections. On the matter being pursued, the Committee have been assured by the Ministry of Law that in no case of an ordinary revision, a period of less than 15 days will be fixed by the Election Commission for lodging a claim for inclusion of a name in the electoral roll or lodging an objection to an entry therein *vide* para 109 of their Twentieth Report (Fifth Lok Sabha). The Committee have urged that even in case of special revisions, the period allowed should not be less than 7 days. Like-wise the Committee desire the Ministry of Home Affairs to amend Rule 10 of the Delhi Municipal Corporation (Preparation of Electoral Rolls) Rules, 1975 so as to provide a minimum period of 15 days to the public for submitting their objection/suggestions on the draft rolls in case of ordinary revisions and not less than 7 days in case of special revisions.

* * * * *

21. The Committee note from the reply of the Ministry of Home Affairs that there is no prohibition in giving acknowledgement to claims/objections. The Committee

desire the Ministry of Home Affairs to amend Rule 12 of the Delhi Municipal Corporation (Preparation of Electoral Rolls) Rules, 1975 so as to make a statutory provision for giving of acknowledgement.

* * * *

24. The Committee note that, on being pointed out, the Ministry of Home Affairs have agreed to amend Rule 18 of the Delhi Municipal Corporation (Preparation of Electoral Rolls) Rules, 1975 so as to provide for recording of reasons in writing in case of rejection of claims/objections. The Committee desire the Ministry to amend the Rule accordingly at an early date and inform them as and when the rule is so amended."

30. In their communication dated 30-1-1979, the Ministry of Home Affairs after consulting the Director of Municipal Elections, Delhi accepted the recommendations made in respect of amendment of Rules 10 and 18. In regard to amendment of Rule 12, the Ministry accepted the recommendation with the modification that acknowledgement be issued in cases where those were asked for without making any statutory provision in the Rules.

31. As no further intimation was received from the Ministry regarding actual amendments made in the Rules, the matter was taken up with the Secretary, Ministry of Home Affairs, *vide* D.O. letter dated 24-8-1982. The Ministry, in their reply dated 6-9-1982, informed that the requisite information was still awaited from the Delhi Administration and they were pursuing the matter with them vigorously.

32. The Committee observe that after conveying the acceptance of their recommendations on 30-1-1979, the Ministry of Home Affairs have failed to take necessary steps for their implementation. The Ministry do not appear to realise that they owe a responsibility to the Committee for actual implementation of the recommendations. They woke up when they were reminded in the matter on 3-4-1982 and 24-8-1982; this time by a D.O. letter to the Secretary of the Ministry. The Committee regret that infirmities in the rules have been allowed to remain for more than four years despite acceptance of their recommendations. No sense of urgency has been shown even in view of elections to the Corporation held in 1983.

33. The Committee deprecate carelessness and utter disregard shown by the Ministry in implementing their recommendations and

desire the Ministry to fix responsibility for such default. The Committee also desire that the recommendations made by them in this regard should be implemented without any further delay.

(iv) (a) *The Paper (Control of Production) Order, 1974* (S.O. *465-E of 1974); and*

(b) *The Paper (Control of Production) Amendment Order, 1974 (S.O. 172 of 1975).*

34. The Paper (Control of Production) Amendment Order, 1974 was given retrospective effect from the 18-8-1974 without an express authorisation to that effect in the parent Act, *viz.* the Essential Commodities Act, 1955.

35. The Committee, after considering the reply of the Ministry of Industry in the matter, recommended in paragraph 15 of their Fifth Report (Sixth Lok Sabha), presented to the House on 3-3-1978, that the Ministry should either give effect to the Order from the date of its publication in the Official Gazette, or alternatively, approach Parliament for incorporating provision in the Essential Commodities Act empowering Government to give retrospective effect to the Orders issued thereunder. The Report was forwarded to the Ministry on 3-3-1978.

36. Arising out of the examination of the above Orders, the Committee also in paragraph 18 of their Fifth Report (Sixth Lok Sabha) made the following recommendation:—

"The Committee note with satisfaction that, on being pointed out, the Ministry of Industry have agreed to notify in future all Orders issued under Clause 6* of the Paper (Control of Production) Order, 1974, and also to amend the said Order to provide for recording of reasons in writing while granting exemption. The Committee desire the Ministry to issue the proposed amendment at an early date."

37. The Ministry in their action taken note dated 6-4-1978 intimated that the Paper (Control of Production) Order, 1974 had been repealed by the Paper (Regulation of Production) Order, 1978 and there was now no need to amend the former Order as recommended by the Committee. The Action Taken Statement on the implementation of the Committee's recommendation was incorporated in the Fourth Report (Seventh Lok Sabha).

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*Numbered as clause 9 of the Paper (Regulation of Production) Order, 1978.

38. In regard to the recommendation made in paragraph 18, the Ministry informed that steps were being taken to amend paragraph 9 of the new Order to implement Committee's recommendation. Subsequently, Clause 9 of the 1978 Order was amended by the Paper (Regulation of Production) Amendment Order, 1979 (S.O. 583-E of 1979) but the Ministry failed to incorporate in it the amendment desired by the Committee. The matter was taken up with the Ministry who, in their reply dated 6-10-1982, informed as follows:—

> "The Paper (Control of Production) Order, 1974 was substituted by the Paper (Regulation of Production) Order, 1978. No exemption has been granted to any of the mills under clause 9 of the order. In fact, only a couple of mills, which are on the verge of closure, strictly qualified for grant of exemption, took stay orders from Courts of law. The Order has, therefore, become ineffective. While no formal exemption order has been granted practically all the Mills are defaulting to some extent. In the circumstances, the Committee's suggestion for incorporating an amendment in clause 9 of the Order to provide for recording of reasons in writing while granting exemption could not be implemented. However, in view of the observations of the Committee, it is proposed to amend the Paper (Regulation of Production) Order, 1978 by inserting the words "for reasons to be recorded in writing" after the words "by order, exempt" in sub-clause (i) of clause 9 of the said order. The necessary amendment Order is being issued shortly."

39. The Committee are not convinced by the reasons advanced by the Ministry of Industry (Department of Industrial Development) for not implementing the recommendation. The Committee feel that it is not material whether the Order becomes ineffective due to stay order having been granted by the courts. As long as the Order remains on the statute book, any infirmity therein has to be rectified. In fact, when the Ministry had issued the Paper (Regulation of Production) Order, 1978, the amendment suggested by the Committee in this regard should have been incorporated in Clause 9. The Ministry have failed to do that. The Ministry have again failed to implement the recommendation of the Committee when they substituted Clause 9 by a new Clause in 1979.

40. The Committee cannot help but deplore the sheer negligence on the part of the Ministry to implement the Committee's recommendation which was accepted by them as far back as 6-4-1978 and desire them to implement it now without any further delay.

(v) The Central Industrial Security Force (First Amendment) Rules, 1976 (G.S.R. 262 of 1976).

41. Rule 18(1) of the Central Industrial Security Force Rules, 1969, as substituted by the Central Industrial Security Force (First Amendment) Rules, 1976 (G.S.R. 262 of 1976), empowered the Inspector-General of Central Industrial Security Force to lay down the procedure in regard to selection for promotion from one rank to another or from one grade to another in the force. It was felt that empowering the Inspector-General for laying down the procedure in that regard was tantamount to sub-delegation of legislative powers.

42. When pointed out, the Ministry of Home Affairs deleted Rule 18(1) of the Central Industrial Security Force Rules, 1969. The Committee, however, in paragraph 49 of their Fifth Report (Sixth Lok Sabha) presented to the House on 3-3-1978, desired the Ministry of Home Affairs to take early action to formulate and incorporate in the Rules, the requisite procedure for promotion in the Central Industrial Security Force.

43. In an interim reply dated 7-6-1978 the Ministry of Home Affairs stated as under:—

> ". . . with regard to the rank of Assistant Commandant (a supervisory post), the procedure for promotion has already been incorporated in the Rules. As regards the other supervisory posts of the CISF, such procedure has been included in the Draft Recruitment Rules which are actively under consideration with the Department of Personnel and Administrative Reforms.
>
> In respect of a similar provision in the Recruitment Rules of the various Junior posts in the Force, necessary action has been taken up in hand for suitably amending the Recruitment Rules and it is expected that the desired provisions will be incorporated in the Rules in the near future."

44. In their subsequent reply dated 18 December, 1980, the Ministry of Home Affairs stated as under:—

> ". . . the recruitment rules, for the posts of Supervisory Officers (other than Assistant Commandant) in the CISF are still being processed in consultation with UPSC. The question of bringing out a training manual prescribing the promotion courses to be undergone by the personnel

becoming eligible for promotion to the various higher ranks in the Force is presently under active consideration of the Director General, Central Industrial Security Force. As soon as the training manual is finalised, further action that may be necessary for the amendment of the CISF Rules would be taken."

45. After receipt of the above communication, two reminders were issued to the Ministry—one on 13-9-1982 and another D.O. reminder to the Secretary of the Ministry on 24-11-1982 but these communications remained unanswered.

46. The Committee note with concern the utter disregard shown by the Ministry of Home Affairs to the communications received from a Parliamentary Committee. The Ministry, on its own, is required to keep the Committee informed about the progress being made by them in the matter of implementation of their recommendations. They, however, close to remain silent and did not respond view in the matter.

47. The Committee desire the Ministry of Home Affairs to fix responsibility for failure to communicate further progress. The Committee also urge that a final reply be submitted within one month of the presentation of the Report to enable them to take a view in he matter.

(vi) The Commissions of Inquiry (Central) (Amendment) Rules, 1974 (GSR 987 of 1974).

48. Sub-rule (6) of rule 5 and sub-rule (d) of rule 6 of the Commissions of Inquiry (Central) Rules, 1972, as substituted by the Commissions of Inquiry (Central) (Amendment) Rules, 1974, provided for payment of T.A.|D.A. to the witnesses and assessors without specific provisions therefor in the Commissions of Inquiry Act, 1952.

49. The Committee, after considering the reply to a reference made to the Ministry of Home Affairs seeking to know the specific provisions of the parent Act, i.e. the Commissions of Inquiry Act. which empowers the Commission to pay the travelling and other expenses to witnesses, assessors etc., in paragraph 89 of their Ninth Report (Sixth Lok Sabha), presented to the House on 11-5-1978 recommended as under:—

"The Committee note that the Ministry of Home Affairs propose to undertake amendment of the Commissions of

Inquiry Act, 1952 for making a specific provision for appointment of assessors and payment of T.A.|D.A. to the witnesses and assessors. The Committee desire the Ministry to take necessary action for amending the Commissions of Inquiry Act to this effect at an early date because the payment of T.A.|D.A. and other expenses without a specific authorisation in the Act is apparently without due legal authority."

50. The Ministry of Home Affairs in their action taken note dated 27-6-1978, informed that the recommendations of the Committee had been duly noted for necessary action as early as possible.

51. The implementation of the Committee's recommendation was pursued and the Ministry, in their replies dated 10-8-1978, 15-9-1979, 15-3-1980, 3-10-1980 and 16-4-1981, had explained the position as to when the Bill to amend the Act would be introduced.

52. In their latest reply dated 3-9-1982, the Ministry informed:—

"......The recommendations made by the Committee on Subordinate Legislation are under examination in consultation with all the State Governments, who are vitally concerned in the matter. Replies from some of the State Governments are yet to be received despite repeated reminders. As soon as their views in the matter are received, further action will be taken and we will apprise you of the position."

53. The Committee note with concern that even after four years, their recommendation remains to be implemented. The Committee fail to understand as to how the payments of T.A.|D.A. to the witnesses|assessors have been made since 11-5-1978 without the authority of law.

54. The Committee, therefore, desire the Ministry to expedite the amendment of the Commissions of Inquiry Act, 1952 at an early date so that the payments being made by them in this regard should have the sanction of Law.

(*vii*) *The Coal Mines (Conservation and Development) Rules*, 1975 (*GSR* 184-*E of* 1975).

(i) *Rule* 6.

55. Rule 6 of the Coal Mines (Conservation and Development) Rules, 1975 provided that the Central Government might recover from the owner, agent or manager of a coal mine either wholly or partly the cost of such measures or operations as were undertaken by it under Section 4 of the Coal Mines (Conservation and Development) Act, 1974, if it was satisfied on consideration of all facts and circumstances that such recovery of cost was justified.

56. Section 4 of the Coal Mines (Conservation of Development) Act, 1974 did not appear to empower the Central Government to recover such cost from the owners etc. of mines.

57. The Ministry of Energy (Department of Coal), with whom the matter was taken up, in their reply dated 1-12-1975 stated that the provision in the rule was based on Section 70 of the Contract Act, 1872, which provided that where a person lawfully did anything for another person or delivered anything to him not intending to do so gratuitously, and such other person enjoyed the benefits thereof, the latter was bound to make compensation to the former in respect of, or to restore, the thing so done or delivered.

58. As a quesion of interpretation of law was involved in the above matter, it was referred to the Ministry of Law, Justice and Company Affairs (Legislative Department) on the 10th September, 1976 for their opinion on the following points:—

> "(i) Whether an express provision is necessary in the Coal Mines (Conservation and Development) Act, 1974 to empower the Central Government to recover the cost of operations; and
>
> (ii) Whether the contention of the Ministry of Energy is correct that Rule 6 being based on a well-known provision of a substantive law, it is not necessary to have the provisions in the Act itself."

59. After considering the reply dated 22-1-1977 from the Ministry of Law, Justice and Company Affairs (Legislative Department), the Committee, in paragraph 16 of their Tenth Report (Sixth Lok Sabha), presented to the House on 25-7-1978, made the following recommendation:—

> "16. The Committee note from the reply of the Ministry of Energy (Department of Coal) that the provisions of rule 6 of the Coal Mines (Conservation and Development) Rules, 1975 can be justified on the basis of the provisions of Section 70 of the Contract Act, 1872. Similarly, the Ministry of Law, Justice and Company Affairs have opined that even in the absence of a separate independent provision in the Coal Mines (Conservation and Development) Act, 1974, in regard to the reimbursement of the cost incurred for the measures or operations undertaken by the Central Government for the benefit of the coal mine owners, it will be permissible for the Central Government to invoke the provisions of section 70 of the

Indian Contract Act, which is a general law. The Committee, however, feel that the power to recover the cost of operations undertaken by Government for the benefit of coal mine owners should flow from an express provision in the Coal Mines (Conservation and Development) Act, 1974 itself and not the rules framed thereunder. The Committee in this connection note from the reply of the Ministry of Law that a provision enabling the framing of such a rule could be included in the Coal Mines (Conservation and Development) Act when it is next amended. The Committee, therefore, desire the Ministry of Energy (Department of Coal) to bring the necessary amending legislation for the purpose at an early date."

60. Sub-rule (11) of Rule 8 of the Coal Mines (Conservation and Development) Rules, 1975 provided that any dues of excise duty remaining unpaid after the date specified by the Coal Controller shall be recovered from the owner of the Coal Mines as an arrear of land revenue and shall be credited to the Central Government.

61. As the power to recover dues of excise duty, as arrears of land revenue was a substantive provision, the Committee, after considering the reply of the Ministry of Energy in that regard, in paragraph 20 of their above-mentioned Report made the following recommendation:—

> "20. The Committee note from the reply of the Ministry of Energy (Department of Coal) that sub-rule (11) of rule 8 of the Coal Mines (Conservation and Development) Rules, 1975 is relatable to Section 8 of the Coal Mines (Conservation and Development) Act, 1974, which provides that the duties of excise shall be collected by such agencies and in such manner, as may be prescribed. The Committee, however, feel that the provision to recover dues of excise duty as arrears of land revenue, being in the nature of an extreme remedy, is a substantive provision for which a specific authorisation must be made in the Act itself rather than in the rules framed thereunder. The Committee, therefore, desire the Ministry to delete sub-rule (11) of rule 8 of the rules *ibid* and incorporate its provision in the parent Act by amending the same suitably at an early date."

62. The Report of the Committee was forwarded to the Ministry of Energy (Department of Coal) on 25-7-1978.

63. When implementation of Committee's recommendation was pursued the Ministry in their communication dated 3-4-1980, stated that they had not received Lok Sabha Secretariat O.M. dated 25-7-1978 forwarding the report of the Committee to the Ministry. Another copy of the report was sent to the Ministry on 7-8-1980. On getting no reply, the matter was again pursued with the Ministry by issuing d.o. letters dated 20-8-1982 and 8-11-1982 to the Secretary of the Ministry.

64. The Secretary of the Ministry, in his reply dated 27-11-1982, have informed:—

> "From the old papers in the office I find that a reference was made from this Department on 18th August, 1980 requesting that a copy of the Tenth Report of the Committee on Subordinate Legislation (Sixth Lok Sabha) which was not available with us may be furnished to the Department so enable us to take further action in the matter. A copy of the letter is enclosed. This letter, however, has not been referred to by you. This has also not been followed up by my office. After receipt of your present letter, we have obtained a copy of the report of the Committee on Subordinate Legislation. The matter has already been examined in the office and a reference is being made to the Ministry of Law for necessary amendment of the Act as suggested. As soon as the draft is finalised and approved a Bill will be presented in the Parliament."

65. The Committee note from the correspondence with the Ministry that their Committee's Report was forwarded to them on 25-7-1978. When implementation of Committee's recommendation was pursued, the Ministry in their communication dated 3-4-1980 stated that they had not received the Lok Sabha Secretariat O.M. dated 25-7-1978 forwarding the Report of the Committee to that Ministry. Another copy of the Committee's Report was sent to the Ministry on 7-8-1980. On getting no reply, the matter was again pursued with the Ministry and two d.o. letters dated 20-8-1982 and 8-11-1982 were issued to the Secretary of the Ministry. The Ministry had ignored the first d.o. reminder. They had replied only to the second d. o. reminder in which the Secretary of the Ministry was informed that he might have to explain personally the reasons for delay to the Chairman, if reply was not received by 30-11-1982.

66. The Committee observe that the Ministry have not shown any enthusiasm to implement their recommendations. A copy of

the Report which they have obtained on receipt of second d.o. reminder, could have been obtained by them as well when it was stated not to have been received by them alongwith the O.M. dated 7-8-1980 or when the first d.o. reminder dated 20-8-1982 was received by them. In short, the action appears to have been initiated by the Ministry after four years of the presentation of the Report by the Committee to the House which to say the least is very unfortunate. The Committee urge the Ministry to initiate steps to implement their recommendations expeditiously.

(*viii*) (*a*) *The Central Engineering Service (Roads) Group 'A' of the Ministry of Shipping and Transport (Roads Wing) Rules,* 1976 (*GSR* 310 *of* 1976); and

(*b*) *The Central Engineering Pool Group 'A' of the Ministry of Shipping and Transport (Roads Wing) Rules,* 1976 (*GSR* 309 *of* 1976).

(i) Rules 20

67. Rule 20 of the Central Engineering Service (Roads) Group 'A' of the Ministry of Shipping and Transport (Roads Wing) Rules, 1976, did not provide for the qualifications and other conditions for direct recruits by selection. It was felt that these should be mentioned in the Rules in order to make them self-contained.

68. The Committee, after considering the reply of the Ministry of Shipping and Transport (Roads Wing), in paragraph 34 of their Fifth Report (Sixth Lok Sabha), presented to the House on 3-3-1978, recommended as under:—

> "34. The Committee are not satisfied with the explanation of the Ministry of Shipping and Transport (Roads Wing) that Rule 20 of the Central Engineering Service (Roads) Group 'A' of the Ministry of Shipping and Transport (Roads Wing) Rules, 1976, has been provided to enable the Government to meet special contingencies. In the opinion of the Committee, educational qualifications and other conditions of eligibility, being of basic nature, should be laid down in the Rules, rather than be left to be determined by the administration. The Committee need hardly point out that if at any time Government consider it necessary to relax a particular provision of rules to meet any special contingency, they can do so by invoking the relaxation provision contained in Rule 25 *ibid*. The Committee, therefore, desire that early action should be taken by the Ministry to omit Rule 20 *ibid*."

(ii) Rule 27

69. Rule 27 of the Central Engineering Service (Roads) Group 'A' of the Ministry of Shipping and Transport (Roads Wing) Rules, 1976 and Rule 15 of the Central Engineering Pool Group 'A' of the Ministry of Shipping and Transport (Roads Wing) Rules, 1976 provided that in all matters not specially provided for in the above rules, officers appointed to the service shall be governed by such rules or orders as may be issued by the Government from time to time. It was felt that matters not provided for in the Rules should also be governed by rules whether by way of an amendment in the present Rules or by framing fresh rules and not by issue of administrative orders which unlike rules are not published in the Gazette.

70. After considering the reply of the Ministry, the Committee, in paragraph 37 of their above-mentioned Report, recommended as under:—

> "The Committee are not satisfied with the explanation of the Ministry of Shipping and Transport in regard to the need for Rule 27 of the Central Engineering Service (Roads) Group 'A' of the Ministry of Shipping and Transport (Roads Wing) Rules, 1976 and Rule 15 of the Central Engineering Pool Group 'A' of the Ministry of Shipping and Transport (Roads Wing) Rules, 1976. The Committee are of the view that all matters not specifically provided for in the rules for appointment of officers to the services should also be governed only by rules, whether by way of an amendment to the present rules or alternatively by framing new rules, rather than by issue of administrative orders. It is hardly necessary for the Committee to point out that, unlike rules, administrative orders are not published in the Official Gazette and thereby do not come to the notice of the Committee on Subordinate Legislation. As such, the Committee are unable to examine whether they contain any provision which is apt to be abused. The Committee will, therefore, like the Ministry of Shipping and Transport (Roads Wing) to omit the rules in question at an early date."

71. No action was taken by the Ministry of Shipping and Transport on the Committee's recommendations till reminded on 24-7-1980 though the Report was forwarded to them on 3 March, 1978. In their reply dated 4-8-1980, the Ministry informed that action was being taken, in consultation with the Department of Personnel and

Administrative Reforms and Union Public Service Commission and further communication would be sent shortly.

72. On getting no reply to a reminder issued on 6-10-1980, the matter was taken up with the Secretary of the Ministry by issuing a D.O. letter on 6-9-1982. In their reply dated 17-12-1982, the Ministry informed as follows:—

> "We are still awaiting a reply from the UPSC to the reference made to them in November, 1981, in spite of several demi-official reminders. The matter is now being pursued at personal level. It is hoped that the recommendations of the Commission would be available in the course of the next few days, and we shall be able to submit the action taken notes soon thereafter."

73. A further communication dated 31-3-1983 from the Ministry indicated that the matter was still awaiting clearance from the Union Public Service Commission.

74. The Committee note with concern the casual manner in which the Ministry of Shipping and Transport (Roads Wing) have treated the communications sent to them by a Parliamentary Committee. The Report of the Committee was sent to the Ministry on 3-3-1978. After sending an interim reply on 4-8-1980, they remained silent for another two years. The reply of the Ministry came only when the matter was taken up with the Secretary on 6-9-1982 and that too was an interim one. The matter is still at interim reply stage. The Committee, therefore, desire the Ministry to finalise the matter and amend the Central Engineering Service (Roads) Group 'A' of the Ministry of Shipping and Transport (Roads Wing) Rules, 1976 and the Central Engineering Pool Group 'A' of the Ministry of Shipping and Transport (Roads Wing) Rules, 1976 suitably without any further delay, as already recommended by them and publish the same in the Gazette of India at an early date.

(ix) *The General Insurance (Rationalisation of Pay Scales and other Conditions of Service of Officers) Scheme, 1975 (S.O. 521 of 1975).*

75. Arising out of examination of paragraphs 10(6) and 14 of the General Insurance (Rationalisation of Pay Scales and other Conditions of Service of Officers) Scheme, 1975, the Committee on Subordinate Legislation (Fifth Lok Sabha) at their sitting held on 23-2-1976, desired to call for the comments of the Ministry of Finance on the following points:—

(i) *Paragraph 10(6)*:

Whether the Ministry have any objection to providing for giving a reasonable opportunity of being heard to the

person concerned before action is taken against him under this sub-paragraph.

(ii) Paragraph 14:

The paragraph, as worded, gives an impression that it seeks to bar the jurisdiction of courts in regard to the interpretation of the scheme. Whether the Ministry have any objection to amending the paragraph so as not to convey such an impression.

76. After considering the reply received from the Ministry, the Committee, in paragraph 61 of their Ninth Report (Sixth Lok Sabha), presented to the House on 11-5-1978, recommended that in the case of forfeiture of gratuity under clause (b) of paragraph 10(6) of the Scheme, a reasonable opportunity to show cause against the proposed forfeiture should be afforded to the persons concerned, before such forfeiture was actually made. The Committee desired the Ministry of Finance (Department of Economic Affairs—Insurance Wing) to take early steps to amend clause (b) of paragraph 10(6) of the Scheme to that effect.

77. The Ministry of Finance, in their latest communication dated 7-9-1982, informed—

"3. As regards recommendation contained in para 61 of the Report, the recommendation was being examined in consultation with the General Insurance Corporation of India, the Department of Personnel and Administrative Reforms and the Ministry of Law. In the meantime, the employees of the GTC challenged amendments* to the Nationalisation Schemes in the Supreme Court on the ground *inter alia* that the power vested in the Central Government under Section 16 of the General Insurance Business (Nationalisation) Act, 1972 is a one-time power and once the Schemes have been framed the Central Government does not have power to amend them. The case is still *sub-judice*.

4. Since the very power in terms of which the Scheme is to be amended is under challenge, we are of the considered view that further action should be taken only after the Supreme Court has decided the case."

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*In fact, these amendments are in no way related to the amendments recommended by Committee on Subordinate Legislation in their Ninth and Twelfth Reports (Sixth Lok Sabha).

78. The recommendations made by the Committee for the amendment of the following Schemes framed under Section 16 of the General Insurance Business (Nationalisation) Act, 1972 also remained unimplemented for the above reasons as stated by the Ministry during the course of correspondence with them:—

(a) The General Insurance (Rationalisation of Pay Scales and Other Conditions of Service of Development Staff) Scheme, 1976 (S.O. 327-E of 1976).

79. Paragraph 11 of the General Insurance (Rationalisation of Pay Scales and Other Conditions of Service Development Staff) Scheme, 1976 did not provide for giving a reasonable opportunity of being heard to a person before affecting a reduction in his emoluments or termination of his services. The Committee noted that such a provision existed in the proviso to paragraph 6 of the Scheme in respect of the decisions on categorisation of the staff.

80. After considering the reply of the Ministry of Finance (Department of Economic Affairs) to a reference made to them in the matter, the Committee, in paragraphs 8 and 9 of their Twelfh Report (Sixth Lok Sabha), presented to the House on 22-11-1978, recommended—

> The Committee are not convinced with the reply of the Ministry of Finance that the use of word 'liable' in para 11(3) of the General Insurance (Rationalisation of Pay Scales and Other Conditions of Service of Development Staff) Scheme, 1976 will by itself imply that before termination of service, some sort of show-cause notice may be served on such Development Staff. The Committee feel that the reply of the Ministry is vague as it does not specifically state that a show-cause notice is required to be served on the person concerned under the Scheme. The Committee would like the Ministry to be specific and categorical while sending their comments to the Committee instead of using vague expressions which do not serve any useful purpose and which disclose non-application of mind.

> The Committee feel that giving a reasonable opportunity of being heard to a person before effecting a reduction in one's emoluments or termination of one's services, is one of the basic requirements of natural justice. The Committee, therefore, desire the Ministry of Finance (Department of Economic Affairs) to amend the General Insurance (Rationalisation of Pay Scales and Other Conditions of Service of Development Staff) Scheme, 1976 at an early

date so as to provide therein for right of representation to a person before reduction is effected in his emoluments under para 11(2) or his services are terminated under para 11(3) of the Scheme."

81. Sub-para 5 of paragraph 17 of the General Insurance (Rationalisation of Pay Scales and Other Conditions of Service of Development Staff) Scheme, 1976 like sub-para 6 of paragraph 10 of the General Insurance (Rationalisation of Pay Scales and Other Conditions of Service of Officers) Scheme, 1975 did not provide for giving a reasonable opportunity of being heard to the person concerned against the proposed forfeiture of gratuity.

82. The Committee, in paragraphs 13 and 14 of their Twelfth Report (Sixth Lok Sabha), desired that on the analogy of their observation made in paragraph 61 of their Ninth Report (Sixth Lok Sabha) in respect of paragraph 10(5) of the General Insurance (Rationalisation of Pay Scales and Other Conditions of Service of Development Staff) Scheme, 1976 for giving a reasonable opportunity of being heard to the person concerned, clause (b) of sub-para (5) of paragraph 17 of the Scheme should be also amended.

(b) *The General Insurance (Termination, Superannuation and Retirement of Officers and Development Staff) Scheme,* 1976 *(S.O.* 627 *of* 1976).

83. Under paragraph 4 of the General Insurance (Termination, Superannuation and Retirement of Officers and Development Staff) Scheme, 1976, the age of retirement in respect of pre-nationalisation officers was 60 years and of others it was 58 years. Sub-paragraph (3) of paragraph 4 *ibid*, empowered the Central Government, Board of the Corporation of the Board of Company to determine the service of an officer who had attained the age of 55 or 50 years, as the case might be, after giving him three months notice or salary in lieu thereof.

84 The Committee, after considering the reply of the Ministry of Finance (Department of Economic Affairs) to a reference made to them as to whether any checks had been evolved to ensure against the possible abuse of the above provision particularly to see that those were not resorted to as a short cut to the disciplinary proceedings as also whether they had any objection to provide for giving

the person concerned an opportunity for representing against such orders, made the following recommendations in paragraphs 38 and 39 of their Twelfth Report (Sixth Lok Sabha):—

"38. The Committee note that the provisions in the General Insurance (Termination, Super-annuation and Retirement of Officers and Development Staff) Scheme, 1976 for prematurely retiring an officer or a person of the Development Staff on attaining the age of 55 or 50 years, as the case may be, are on the lines of similar provisions contained in F.R. 56(J) in respect of the Central Government employees. According to the Ministry of Finance (Department of Economic Affairs), the power to retire prematurely has been deliberately centralised in the Central Government, Board of the Corporation or the Board of Company to ensure against any possible misuse of such power as such high power bodies while taking decisions, are expected to decide the cases properly on merit. The Committee, however, desire that Government or the Board should record the reasons in writing while determining the service of an officer or a person of the Development Staff under paragraph 4(3) and a provision to this effect should be made in the Rules.

39. The Committee note with satisfaction that, on being pointed out, the Ministry have agreed to amend the General Insurance (Termination, Superannuation and Retirement of Officers and Development Staff) Scheme, 1976 so as to provide therein for giving an opportunity to the person concerned to make a representation to the Central Government, Board of the Corporation or the Board of a Company, as the case may be, against an order of premature retirement. In this regard, the Committee consider it necessary that the person concerned should be apprised of the reasons for his premature retirement before he is able to make a representation against such an order. The Committee desire the Ministry to amend the Scheme to the necessary effect at an early date."

85. On perusal of the note from the Ministry in regard to the Supreme Court case, the Committee found that the employees had challenged the amendment to the Scheme on 24-10-1980, i.e., 2½ years and 2 years after the Committee made the recommendations in their Ninth Report and Twelfth Report (Sixth Lok Sabha), respectively.

86. The Committee observe that their Ninth and Twelfth Reports were presented to the House on 11-5-1978 and 22-11-1978 respectively. The petition in the Supreme Court was filed on 24-10-1980. A period of 2½ years and 2 years was available to the Ministry to implement their recommendations in this regard. This period could not be said to be inadequate had the Ministry taken prompt action on the recommendations.

87. The Committee desire that the Ministry of Finance pending final decision of the Supreme Court, should keep in view the spirit of the recommendations of the Committee whenever action is taken under Clause (b) of paragraph 10(6) of the General Insurance (Rationalisation of Pay Scales and Other Conditions of Service of Officers) Scheme, 1975 or sub-para (5) of paragraph 17 of the General Insurance (Rationalisation of Pay Scales and Other Conditions of Service of Development Staff) Scheme, 1976 or under paragraph 4 of the General Insurance (Termination, Superannuation and Retirement of Officers and Development Staff) Scheme, 1976.

(x) *The Shipping Development Fund Committee (Employees Contributory Provident Fund) Rules*, 1976, (*G.S.R.* 93 *of* 1977).

(i) *Sub-rule* 5

88. Sub-rule (5) of the Rule 13 of the Shipping Development Fund Committee (Employees Contributory Provident Fund) Rules, 1976 provided that if an advance had been granted to a subscriber and drawn by him and the advance was subsequently disallowed, the subscriber shall forthwith repay with interest the whole or the balance of the amount withdrawn and on his default the amount shall be recovered by deduction from his emoluments in a lump-sum or in monthly instalments.

89. After considering the reply of the Ministry of Shipping and Transport (Transport Wing) to a reference made to them to indicate the circumstances in which the advance already sanctioned to an individual and withdrawn by him, could subsequently be disallowed, the Committee, in paragraphs 8 and 9 of their Eleventh Report (Sixth Lok Sabha), presented to the House on 24-8-1978, made the following recommendations:—

> "8. The Committee note that Rule 13(5) of the Shipping Development Fund Committee (Employees Contributory Provident Fund) Rules, 1976 has been framed to cover irregular sanction of advance e.g. When the sanction is accorded by an authority not competent to do so or when

it is in excess of 3 months' pay or half the amount of the balance in the account or when a sanction involving a relaxation of rules has been issued without concurrence of the Ministry of Finance.

9. The Committee are, however, not convinced with the reply of the Ministry of Shipping and Transport (Transport Wing) that the subscriber is supposed to know the rules and therefore, he is also responsible for drawing an amount only in an authorised and proper manner under valid sanction and as such giving an opportunity of being heard before recovery of wrong payment is not necessary. The Committee are of the view that if a mistake takes place on the part of the sanctioning authority, they only should be held responsible for it. The Committee feel that where an advance has been sanctioned to a subscriber and drawn by him under an irregular sanction, the effort should be to regularise it by issue of a valid sanction without forcing the subscriber to repay the amount. However, if a recovery becomes unavoidable, the subscriber should be given a reasonable opportunity of being heard before ordering recovery of the amount. The Committee desire the Ministry of Shipping and Transport (Transport Wing) that a provision to this effect should be made in the rules at an early date."

(ii) *Sub-rule* 7

90. Sub-rule 7 of Rule 13 of the Shipping Development Fund Committee (Employees Contributory Provident Fund) Rules, 1976 provided for repayment of the amount by the subscriber if money drawn as an advance from the Fund had been utilised for the purpose other than that for which sanction was given to the drawal of the money without giving a reasonable opportunity of being heard before the subscriber was asked to repay. A similar provision was made in sub-rule (2) of Rule 15 in regard to withdrawal.

91. After considering the reply of the Ministry of Shipping and Transport (Transport Wing) to a reference made to them in that regard, the Committee in paragraph 13 of their above Report, made the following recommendation:—

"13. The Committee note from the reply of the Ministry of Shipping and Transport (Transport Wing) that before

reaching a conclusion that the advance or withdrawal sanctioned has been utilised for a purpose other than that for which sanction was given the employee will be asked to state his case in writing and make such submissions as may be necessary. This is however not clear from the rules as worded at present. The Committee feel that if a practice is already in vogue to give the employee an opportunity of being heard and submit his representation before he is actually required to repay the whole or the balance amount of an advance/withdrawal under sub-rule (7) of rule 13 and sub-rule (2) of rule 15, the Ministry should have no objection to placing it on a statutory footing by suitably amending the rules. The Committee desire the Ministry to issue the necessary amendment at an early date."

92. The Report of the Committee was forwarded to the Ministry of Shipping and Transport (Transport Wing) on 24-8-1978.

93. In their action taken note dated 1-12-1978, the Ministry stated that the above Rules of the Shipping Development Fund Committee (Employees Contributory Provident Fund) Rules were based on similar Rules framed by the Government of India in respect of its employees *viz.* the Contributory Provident Fund Rules (India) 1962 and requested that the present provision in the rules might be allowed to be continued.

94. The Ministry of Home Affairs (Department of Personnel and Administrative Reforms), with whom the question of amendment of the relevant rules of the Contributory Provident Fund Rules (India) 1962 on the lines recommended by the Committee was taken up, informed *vide* their O.M. dated 17-10-1979, that it had been decided to accept the recommendation of the Committee and necessary amendments were being initiated immediately. They also informed that once the Contributory Provident Fund Rules had been amended, all other similar rules which were based on the Contributory Provident Fund Rules (India) 1962, would be amended by the Ministries concerned.

95. The Ministry of Home Affairs amended the above Rules *vide* S.O. 1716 published in the Gazette of India Part II Section 3(ii) dated 28-6-1980 and the Ministry of Shipping and Transport were informed about it on 5-8-1980.

96. The Amendment of the Shipping Development Fund Committee (Employees Contributory Provident Fund) Rules, 1976, was

pursued with the Ministry of Shipping and Transport (Transport Wing) and reminders were issued on 15-4-1981 and 24-8-1982.

97. The Ministry of Shipping and Transport in their latest reply dated 2-9-1982, informed:—

> "We regret very much the delay in the implementation of the said recommendations. The draft amendment rules were referred to the Legislative Department of the Law Ministry. Before vetting the draft, that Department has required a discussion with the Ministry. We hope that very shortly we will be able to sort out the matter. We can assure you of action at the earliest in the matter."

98. The reply on the same lines was received from the Ministry earlier on 29-4-1981, *i.e.* one year and 4 months before.

99. The Committee observe that their recommendation has been dealt with by the Ministry of Shipping and Transport in a most casual way. The Committee are of the view that after the amendment made by the Ministry of Home Affairs in the Contributory Provident Fund Rules (India) 1962 had been brought to the notice of Ministry of Shipping and Transport, there is no justification whatsoever for taking such a long time to implement their recommendation. The Committee deplore the delay and desire that Ministry to amend the Shipping Development Fund Committee (Employees Contributory Provident Fund) Rules, 1976 as recommended by them without further loss of time.

(xi) *The General Provident Fund (Central Services) Fourth Amendment Rules*, 1976 (*S.O.* 1026 *of* 1976)

100. While examining the General Provident Fund (Central Services) Fourth Amendment, Rules, 1976, it was noticed that the original rules, i.e. the General Provident Fund (Central Services) Rules had been extensively amended since their issue in 1960 and therefore, these required to be reprinted.

101. After considering the reply of the Ministry of Finance to a reference made to them in that regard, the Committee, in paragraphs 58 and 60 of their Eleventh Report (Sixth Lok Sabha), presented to the House on 24-8-1978, made the following recommendations:—

> "58. The Committee note that on being pointed out, the Ministry of Finance (Department of Expenditure) have agreed to reprint for the present, only English version

of the General Provident Fund (Central Services) Rules 1960 as these have been extensively amended since their issue. The Committee desire the Ministry to print the rules at an early date and also to expedite the work relating to the printing of Hindi version of the Rules.

59. Reprinting of rules with all amendments incorporated therein is necessary to facilitate easy reference. The Committee, therefore, desire all Ministries/Departments of Government to examine the rules/regulations/orders etc. with which they are administratively concerned and take immediate steps for reprinting of those rules etc. in which extensive amendments have been made since their last publication.

60. The Committee further desire that the Ministries/Departments should initiate action *suo motu* for reprinting of the rules, etc. wherever it becomes necessary rather than leaving it to the Committee to point out such cases. Normally, it should be endeavour of the Ministries/Deptts. to see that the rules are reprinted both in English and Hindi versions simultaneously. However, in cases where there is any likelihood of delay in finalisation of Hindi version, English version thereof may be reprinted first and Hindi version reprinted later at the earliest possible time."

102. The Report of the Committee was forwarded to the Ministry of Finance on 24-8-1978.

103. The Ministry of Finance, in their interim reply dated 16-9-1978, informed that action on paragraph 58 was being taken by them and extracts of paragraphs 59 and 60 had been forwarded by them to the Ministry of Home Affairs for necessary action.

104. Thereafter, the implementation of Committee's recommendation was pursued with the Ministry of Home Affairs.

105. In their reply dated 17-11-1982, the Ministry of Home Affairs have informed—

"You have mentioned that Eleventh Report was presented to the Lok Sabha on 24th August, 1978. It was only after that the English version of the GPF(CS) Rules corrected upto 30-11-1978 was printed and is also in circulation. The Hindi version of the Rules corrected upto 31-3-1980 was also notified by the Official Language (Legislative

Wing) of the Ministry of Law, Justice and Company Affairs in the Gazette of India (Part II Section 3A) dated 23-9-1980. In other words both the English and Hindi versions duly corrected upto certain dates are already available. Thus the recommendation of the Committee for bringing out the English and Hindi versions of the rules already stands implemented.

In view of the foregoing you may kindly treat the recommendation as having been implemented. It is a different matter that we have under consideration certain amendments and would also like to bring out a new diglot edition."

106. The Committee note that the Ministry of Home Affairs have reprinted the English version of the General Provident Fund Rules amended upto 30-11-1978 and the Hindi version thereof as amended upto 31-3-1980. The Committee further note that the Minisry propose to bring out a diglot edition of the Rules. The Committee desire that the proposed edition should be brought out without any further delay.

107. The Committee regret to note that the Ministry of Home Affairs have failed to bring the recommendations of the Committee, contained in paragraphs 59 and 60 of their Report, to the notice of all Ministries/Departments for compliance. The Committee desire that these recommendations should immediately be circulated to all Ministries/Departments for their information and necessary action.

(xii) *The Institutes of Technology Act,* 1961

108. It was noticed during the scrutiny of the Council (Institutes of Technology) Amendment Rules, 1977 which were framed under Section 35 of the Institutes of Technology Act, 1961 that there was no provision in the Act requiring the laying of rules framed thereunder before Parliament.

109. After considering the reply of the Ministry of Education and Social Welfare (Department of Education) to a reference made to them, the Committee in paragraphs 87-88 of their Eleventh Report (Sixth Lok Sabha), presented to the House on 24-8-1978, made the following recommendations:—

"In para 11 of their Fourteenth Report (Fifth Lok Sabha) the Committee had desired all Ministries/Departments to undertake examination of all Acts with which they were

administratively concerned to find out which of them did not contain a provision for laying of rules before Parliament and to incorporate such a provision in the Acts at their earliest. The intention underlying their recommendation is that the provision for laying of rules on the Table, when incorporated in the relevant Act, should have prospective and not retrospective effect, so that any rules, whether original or amending, framed thereafter be laid before Parliament. The Committee, therefore, desire the Ministry of Education and Social Welfare (Department of Education) to bring suitable legislation to amend the Institutes of Technology Act, 1961 with a view to provide for laying of rules hereafter.

The Committee also desire the Department of Parliamentary Affairs to bring the above clarification to the notice of all Ministries/Departments of Government of India for removal of doubts, if any, in this regard."

110. The Implementation of Committee's recommendation was pursued with the Ministry and reminders were issued on 24-8-1979, 4-3-1980, 29-4-1981 and 24-8-1982. The Ministry, in their latest reply dated 9-2-1983 to a D.O. letter dated 13-1-1983, informed—

"......since the implementation of the recommendations made by the Committee on Subordinate Legislation has been considerably delayed we intend to move a legislation through the Ministry of Law in the next session of Parliament for incorporating a provision in the Institutes of Technology Act for laying of rules, framed thereunder, before Parliament. I am sorry that your earlier communications could not be replied to immediately as we were consulting the Ministry of Law on various issues connected with the amendment of Institutes of Technology Act, 1961."

111. The Committee note that in pursuance to their insistence for implementation of their recommendation contained in paragraph 11 of their Fourteenth Report (Fifth Lok Sabha), the Ministry of Law, Justice and Company Affairs have introduced the Delegated Legislation (Amendment) Bill, 1982 in the Rajya Sabha on 25-10-1982 which provides for laying provision in respect of fifty Acts. The amendment to the Institutes of Technology Act, 1961 has, however, not been included in the said Bill.

112. The Committee recommend that a Bill to amend the Institutes of Technology Act, 1961, should be introduced specifically for

the purpose of implementing their recommendation or the amendment of that Act be included in the second Delegated Legislation Provisions (Amendment) Bill proposed to be brought forward by the Ministry of Law for making laying provision in the remaining Acts.

113. The Committee also note that the Department of Parliamentary Affairis have not circulated their recommendations to all Ministries/Departments that the provision for laying of rules on the Table when incorporated in the relevant Act, should have prospective effect and not retrospective effect, so that any rules whether original or amending, framed thereafter be laid before Parliament. The Committee desire the Department of Parliamentary Affairs that their recommendation in this regard should now be circulated to all Ministries/Departments.

(xiii) *The Indian Foreign Service Branch 'B' (Recruitment, Cadre Seniority and Promotion) (Second Amendment) Rules,* 1974 (*G.S.R.* 1083 *of* 1974)

114. Sub-rule (2) of Rule 2 of the Indian Foreign Service, Branch 'B' (Recruitment, Cadre, Seniority and Promotion) (Second Amendment) Rules, 1974 provided that the seniority of persons appointed under sub-rule (1-A) of rule 16 shall be such as might be determined by Government.

115. As the principles of determining seniority are the basic ingredients of the recruitment rules, it was felt that these should be mentioned in the rules rather than be left to be determined by Government.

116. The Committee after considering the reply of the Ministry of External Affairs to a reference made to them in this regard, made the following recommendations in paragraphs 17 and 18 of their Fifteenth Report (Sixth Lok Sabha) presented to the House on 21-12-1978:

> "In the opinion of the Committee the principle of determining seniority is a basic feature of any service rules. The rules governing seniority should, therefore, more appropriately be included in the relevant service rules for the information of persons concerned as also to avoid any scope for discrimination. The Committee note that the Department of Personnel and Administrative Reforms have issued administrative instructions to determine the manner in which the. seniority of Telephone

Operators on their induction into the LDC's grade of Central Secretariat Clerical Service may be fixed. The Committee, therefore, feel that the Ministry of External Affairs should have no difficulty in incorporating these instructions in the recruitment rules. Moreover, administrative instructions are no substitute for statutory rules because such instructions are not published in the Gazette and as such they do not come to the notice of the Committee to judge their fairness or otherwise.

In a similar case regarding vacancies of stenographers in the Indian Foreign Service, Branch 'B' (Recruitment, Cadre, Seniority and Promotion) Amendment Rules, 1974 (G.S.R. 819 of 1974), the Committee in para 95 of their Sixth Report (Sixth Lok Sabha) have observed that priniciples of determining seniority should be incorporated in the recruitment rules. The Committee, therefore, desire the Ministry to amend the rules suitably at an early date."

117. The implementation of Committee's recommendation contained in paragraph 95 of Sixth Report (Sixth Lok Sabha) has been reported to the House in the Seventeenth Report (Seventh Lok Sabha) Item No. 26—of Appendix III.

118. Despite the two reminders sent to the Ministry on 25-9-1980 and 15-6-1981 requesting them to furnish the action taken note on Committee's recommendation, no reply was received from them thereto.

119. The Ministry of External Affairs, in their reply dated 1-9-1982 to a d.o. letter sent on 25-8-1982, had informed that the requisite Action Taken Note regarding paragraphs 15 and 18 of the Report would be sent shortly.

120. On getting no further communication even after waiting for six months, the Foreign Secretary was informed by a d.o. letter dated 4-3-1983 that the Chairman of the Committee on Subordinate Legislation had expressed his concern over the scant regard being shown to the references from a Parliamentary Committee and called for the requisite information by 18-4-1983 failing which he might have to personally explain the reasons for delay to the Chairman. A reply dated 4-4-1983 received from the Ministry in this regard is reproduced below:—

"....necessary action is being taken to amend the relevant rule as per the recommendations of the Committee on

Subordinate Legislation in consultation with the Department of Personnel and Administrative Reforms. While we are pursuing the matter vigorously, we cannot give a dateline for its implementation. A formal amendment to the rules may take some more time and as soon as the relevant rules are amended, we will inform you accordingly."

121. The Committee observe that for four years and 3 months after the presentation of their Report on 21-12-1978, the Ministry of External Affairs have virtually not initiated any action on their recommendation. The Committee's recommendation was based on their earlier recommendation in respect of the Indian Foreign Service Branch 'B' (Recruitment, Cadre, Seniority and Promotion) Rules, 1974 which had been implemented by the Ministry of External Affairs vide their O.M. No. Q|GP|792|1|80-CAD dated 6-10-1982. With this precedent before them, the Committee hardly find any reasons for the Ministry for taking such a long time to implemtnt their recommendation. The Committee find the Ministry's reply sent on 4-4-1982 was hasty and superficial.

122. The Committee desire the Ministry of External Affairs to fix responsibility on the persons concerned for their failure to take timely action on their recommendation.

(xiv) *Rules for a limited departmental competitive examination for inclusion in the select list for the integrated grades II and III of the General Cadres of the Indian Foreign Service, Branch 'B' to be held by the Union Public Service Commission in* 1975 (*GSR* 672 *of* 1974).

123. Part II, below Appendix to the Limited Departmental Competitive Examination for inclusion in the Select List for the integrated Grades II and III of the General Cadre of the Indian Foreign Service, Branch 'B', Rules, 1974 provided for the evaluation of record of service of such candidates as might be decided by the Union Public Service Commission in their discretion.

124. As the above provision gave an impression that a candidate could be ignored even if he had done well in the written test, the Committee after considering the reply of the Ministry of External Affairs in the matter, in paragraph 30 of their Fifteenth Report (Sixth Lok Sabha), presented to the House on 21-12-1978, made the following recommendation:—

"The Committee are not convinced with the reply of the Ministry of External Affairs. On a reference to para 29 of

their Third Report (Fifth Lok Sabha), the Committee find that as per their recommendation in a similar case regarding the Central Engineering Services, the concerned Ministry of Works and Housing have amended the rules to provide that all candidates who obtain the minimum qualifying marks in the written examination, fixed by the Commission shall be called for an interview. The Committee desire that similar amendment may be made in the Rules for a limited Departmental Competitive Examination for inclusion in the Select List for the integrated Grades II and III of the General Cadre of the Indian Foreign Service Branch 'B' to be held by the Union Public Service Commission, in future."

125. The implementation of Committee's recommendation was pursued with the Ministry by issuing reminders on 24-9-1980, 16-6-1981 and 25-8-1982. In their latest reply dated 30-9-1982, the Ministry informed:—

"....The Ministry of External Affairs have since procured a copy of the Central Engineering Service Rules, and studied the issued *de novo* in consultation with the Department of Personnel and Administrative Reforms. I am glad to inform you that it has been decided to accept in principle the recommendation of the Committee and amend the Rules under question suitably. However, before the rules are actively amended, we are required to obtain the consent of the UPSC (whom the matter is now being referred to) and the trial clearance from the Ministry of Law.

As you would appreciate, the process of amending a rule is quite long and time-consuming. We shall, therefore, require some more time for issuing the required notification. Meanwhile, may I request you to bring the facts to the notice of the Committee, if and when it proposes to review the case under reference."

126. The Committee feel distressed at the inordinate delay of four years by the Ministry of External Affairs in conveying their acceptance of the recommendation of the Committee to amend the Rules for limited Departmental Competitive Examination for inclusion in the Select List for the integrated Grades II and III of the General Cadre of the Indian Foreign Service Branch 'B' Rules, 1974 This delay could have been avoided if the Ministry had initiated action to procure a copy of the Central Engineering Service Rules

soon after receiving the Committee's Report which was presented to the House on 21-12-1978. The Committee desire the Ministry of External Affairs to issue the amending notification without any further delay.

(xv) *Laying Rules framed by State Governments under Central Acts before State Legislatures|Parliament*

127. The question of legislative scrutiny of the rules framed by a State Government under rule making power delegated to it under a Central Act dealing with matters enumerated in the Concurrent List as well as in the Union List has been engaging the attention of the Committee on Subordinate Legislation of Lok Sabha for long time. It was first raised in Lok Sabha on two occasions during the consideration of the Poison (Amendment) Bill, 1958 and Wakfs (Amendment) Bill, 1959. The Committee on Subordinate Legislation of Second Lok Sabha went in depth into the question and made their recommendations in paragraph 40 of the Fifth Report (Second Lok Sabha). Later on the Action Taken Note received from the Ministry of Law, Justice and Company Affairs on the above recommendations, the Committee made their observations in paragraph 99 of Tenth Report (Fifth Lok Sabha). The question was also considered by the Conference of Chairmen, Committee on Subordinate Legislation in 1975. It also came up before the Conference of Presiding Officers of Legislative Bodies in India held at Bhuvaneshwar in 1978.

128. In the light of above the Committee on Subordinate Legislation again took up this issue at their sitting held on 30-3-1978. The Committee heard oral evidence of the representatives of the Ministry of Law, Justice and Company Affairs (Legislative Department) in the matter. The Committee then made the following observations in paragraphs 38 to 43 of their Twentieth Report (Sixth Lok Sabha) presented to the House on 27-4-1979:

> "38. The Committee are of the opinion that in so far as rules framed by State Governments under Central Acts on Concurrent subjects are concerned, there is no bar, legal or otherwise, in their scrutiny by the State Committees on Subordinate Legislation. In this connection the Committee note the opinion of the Ministry of Law that a State Legislature could make a law providing for laying before it and subject to modification by it of rules framed by the State Government under a Central Act in respect of matters enumerated in the Concurrent List. No specific authority of Parliament is necessary for enabling a State Legislature to make such a law. There is also no legal

bar if a State Legislature makes a provision in its Rules of Procedure or alternatively the Presiding Officer issues a direction, empowering the Committee on Subordinate Legislature of the State Legislature to examine the rules framed by State Government under a Central Act on a Concurrent subject, whether such rules are laid before the State Legislature or not. During the course of evidence before the Committee, the representatives of the Ministry of Law have also conceded that a provision could be made in the Central Acts on concurrent subjects requiring the State Government to simply lay the rules framed thereunder by them before the State Legislature. The Committee note in this connection that a provision on these lines has in fact been made in the Industrial Relations Bill, 1978.

39. The Committee, therefore, recommend the Ministry of Law, Justice and Company Affairs (Legislative Department) to incorporate such a provision in all Central Acts on Concurrent Subjects which delegate rule-making power to State Governments.

40. The Committee note the following difficulties which would arise if the rules framed by State Governments under Central Acts on Union subjects are required to be laid before Parliament:—

(i) No particular Central Minister would be responsible for having framed them or for laying them since the rules would not be framed by an authority subordinate to or under the control of any Central Minister:

(ii) Rules framed by State Governments would be based on local conditions and material facts within their knowledge and unless all these are made known to Parliament, the discussion would not be comprehensive; and

(iii) If such rules were discussed in Parliament it would be impossible to draw a line to stop criticism of State Government concerned or their officers either directly or indirectly. Such a discussion was likely to be misunderstood by State Government and affect Centre-State relations. Moreover, the Central Minister will have no material to reply to such criticism.

41. In view of the above practical difficulties and the federal character of the Constitution, the Committee feel that it will be more appropriate if such rules are also scrutinised by some State Legislative machinery. For this purpose,

a procedure could be devised whereby even in the absence of a statutory provision, these rules are taken up for scrutiny by the Committee on Subordinate Legislation of the State Legislatures.

42. The Committee are of the opinion that there would be no Constitutional impropriety if the rules framed by a State Government under a Central Act on a Union subject are laid before State Legislature for the information of Members. In this connection, the Committee are not inclined to agree with the opinion of the Ministry of Law that a State Legislature by permitting these rules to be laid before it would be impunging upon the jurisdiction of Parliament. The Committee feel that in reaching that opinion the Ministry of Law had acted with over-caution and taken too legalistic a view of the problem. The Committee note that the Ministry of Law have agreed that a recommendation by the Committee on Subordinate Legislation of a State Legislature on a rule framed under a Central Act relating to Union List is not equivalent to a law made by the State Legislature on a 'Union subject'. The Committee are, therefore, of the view that a State Committee on Subordinate Legislation would not be exceeding their jurisdiction if they scrutinise the rules framed by State Government on a Union subject and send their suggestions to the State Government. However, in such an arrangement the State Legislature will have as such no power to modify the rules.

43. The Committee also see no Constitutional inhibition if a State Legislature issued a direction empowering the State Committee on Subordinate Legislation to examine such rules even if they are not laid on the Table. The Committee do not agree with the opinion of the Ministry of Law that such a direction does not appear to be *intra-vires* Article 208 of the Constitution."

129. The Ministry of Law, Justice and Company Affairs forwarded the recommendations of the Committee to the Law Secretaries of all State to Union Territory Governments on 9-7-1979 and requested them to intimate as early as possible the action proposed to be taken by their Governments on the various recommendations made by the Committee.

130. As intimated by the Ministry of Law in their latest communication dated 21-4-1981, the final replies have yet to be received

from the thirteen State Governments *viz.*, Andhra Pradesh, Assam, Gujarat, Himachal Pradesh, Kerala, Manipur, Maharashtra, Meghalaya, Rajasthan, Sikkim, Tamil Nadu, Tripura, West Bengal and five Union Territory Governments *viz.*, Arunachal Pradesh, Chandigarh, Delhi, Goa, Daman and Diu and Pondicherry. The Ministry had also informed that the State|Union Territory Governments which did not intimate as to the action taken by them in the matter, had been reminded again to expedite their reply.

131. **The Committee note that this matter was first considered by them in paragraphs 46 to 52 of their Seventh Report (Second Lok Sabha), presented to the House on 22-12-1959. It again came up before the Committee in 1979 when the Committee presented their Report exclusively on this subject i.e. Twentieth Report, Sixth Lok Sabha). Thus, the Ministry have been aware of the Committee's thinking in regard to this matter since 1959. Four years have elapsed since the presentation of their Twentieth Report but final replies from the thirteen State Governments and five Union Territory Administrations are yet to be received. The Commitee also note that the Ministry of Law have not intimated further progress in the matter. The Committee desire the Ministry to pursue this case vigorously with the State|Union Territory Governments concerned and report the progress made in this regard to the Committee within a period of three months.**

III

CASES OF RECOMMENDATIONS PENDING INTRODUCTION OF COMPREHENSIVE BILLS FOR AMENDMENT OF RELEVANT ACTS

132. During the course of the examination of subordinate legislation, the Committee have, from time to time, observed that provisions of substantial nature were sought to be made in the Rules instead of in the statutes. The Committee have in such cases recommended that Acts should be amended. Amendment of Acts no doubt takes some time. But the following cases indicated that the introduction of amendment Bills have taken inordinately long time and consequently the impropriety of continuing such provisions in the Rules continued.

(i) *Amendments in the State Bank of India Act, 1955, The State Bank of India (Subsidiary Banks) Act, 1959 and other Acts administered by the Ministry of Finance (Department of Banking).*

133. In paragraphs 46-47 of their Ninth Report (Fifth Lok Sabha), presented to the House on 19 November, 1973, the Committee had made the following recommendations:—

> "46. The Committee note the assurance given by the Ministry of Finance (Department of Banking) that appropriate action to initiate a comprehensive legislation for incorporating the provision regarding laying of rules and regulations before the Parliament in the State Bank of India Act, 1955 and the State Bank of India (Subsidiary Banks) Act, 1959, as also the other Acts administered by them will be taken in due course in consultation with the Ministry of Law, Justice and Company Affairs.
>
> 47. The Committee desire the Ministry to complete the necessary action in this regard within the next 6 months."

134. After the presentation of the above Report, requests for extension of time were received from the Ministry of Finance, from time to time, but the fact remained that the recommendations of the Committee were not implemented. The Committee, therefore, reiterated their recommendations in paragraphs 85—87 of

their Second Report (Sixth Lok Sabha), presented to the House on 18 November, 1977, as follows:—

"The Committee in their Ninth Report, presented to the House on 19-11-1973, had given 6 months' time to the Ministry of Finance (Department of Banking) for initiating a comprehensive legislation for incorporating provision for laying of rules and regulations framed under the various Acts administered by the Department of Banking. The Committee are unhappy to note that necessary provision for laying of regulations has been made in case of only one Act, *viz.*, the Reserve Bank of India Act, 1934. Necessary legislation in respect of other Acts has not yet been introduced in Parliament even though a period of over three years has since elapsed.

The Committee observe that the Ministry of Finance which had originally agreed to introduce a comprehensive legislation for laying of rules and regulations framed under the various Acts administered by the Department of Banking, have now advanced the plea that since regulations, which are generally framed by the undertakings, are not of general public interest and mainly relate to the day-to-day administration of the undertakings concerned, these need not be laid before Parliament. The Committee are not convinced by this argument. They need hardly point out that the body which delegates the power has a right to see that the power delegated by it is properly exercised, and the delegate does not transgress the limits laid down by it. Whether the delegate is the Central Government or a body subordinate to it, is not very material.

Nor do the Committee see any force in the argument that the laying of regulations relating to an undertaking before Parliament might impinge its autonomy or result in day-to-day interference with its affairs. As the Committee observe, even now the Committee on Subordinate Legislation can, and does, scrutinise the regulations framed by subordinate bodies. Laying of the regulations before Parliament would result in no more interference in the affairs of these bodies than their scrutiny by the Committee on Subordinate Legislation. The Committee, therefore, desire the Ministry of Finance (Department of Banking) to bring forward without any further delay necessary legislation for laying of regulations framed

under the remaining Acts administered by the Department of Banking, as has been done in the case of Regulations, framed under the Reserve Bank of India Act, 1934."

135. The report was forwarded to the Ministry of Finance (Department of Banking) on 21-11-1977 for implementation of the above recommendations of the Committee.

136. In reply to the inquiry dated 6-8-1979, the Ministry of Finance in their Action Taken Note dated 17-8-1979 informed—

"The Government have decided to lay before Parliament copies of the regulations also in addition to the rules and amendments thereto framed under various Acts with which the Banking Division is administratively concerned, as recommended by the Committee on Subordinate Legislation. Accordingly provisions to this effect have already been included in the Banking Laws (Amendment) Bill, 1978 which is pending with the Lok Sabha for consideration."

137. In their further note dated 11-3-1980, in reply to the inquiry dated 25-2-1980, the Ministry informed—

"The Banking Laws (Amendment) Bill which was introduced in the Lok Sabha on 21 December, 1978 could not be considered in Parliament before the Lok Sabha was dissolved in 1979. Action is now being taken to introduce it afresh as early as possible. Further extension till June, 1980 may kindly be granted to this division for implementation of the recommendations of the Committee on Subordinate Legislation."

138. Thereafter, the Ministry have been asking for further extensions of time for the introduction of the Biill. The dates upto which the extensions have been asked and the reasons given for asking such extension are given below:—

Date upto which extension was asked for	Reasons given
(i) Till 31-12-1980	The Banking Laws (Amendment) Bill is being considered afresh in consultation with the Reserve Bank of India. It will take some more time before it is finalised forthe introduction in the Lok Sabha. (*vide* Ministry's note dated 16-8-1980).

Date upto which extension was asked for	Reasons given
(2) Till 30-9-1981	The Bill has not yet been finalised. The approval of the Cabinet will be taken before the Bill can be introduced in the next session of Lok Sabha. (*Vide* Ministry' note dated 6-4-1981).
(3) Till 31-1-1982	The Bill is under examination in the Ministry of Law. It will take some more time to finalise the Bill (*Vide* Ministry's note dated 11-9-1981).
(4) Till 30-6-1982	The draft relating to the Banking Laws (Amendment) Bill is still under examination in consultation with the Reserve Bank of India and Ministry of Law, Justice and Company Affairs and it will take some time to finalsise the Bill (*Vide* Ministry's note dated 14-1-1982).
(5) Till 31-8-1982	The draft relating to the Banking Laws (Amendment) Bill is now being, examined by the Ministry of Law, Justice and Company Affairs and it will take some more time to finalise the Bill. (*Vide* Ministry's note dated 15-6-1982).
(6) Till 28-2-1983	The draft relating to the Banking Laws (Amendment) Bill is now being examined by the Ministry of Law and it will take some time to finalise the Bill. (*Vide* Ministry's note dated 17-8-1982).
(7) Till 30-4-1983	The draft Bill is in the final stage and is likely to be introduced in the current session of the Parliament. (*Vide* Ministry's note dated 21-2-1983).
(8) Till the end of Monsoon Session, 1983.	Notice for introductn of Bill has been given but if due to other pressing business, the Bills not actually considered and passed in the current session, then it is likely to be considered and passed in the Monsoon Session, 1983 (*Vide* Ministry's not dated 19-4-1983).

139. The Committee note that the Ministry of Finance had introduced the Banking Laws (Amendment) Bill in the Lok Sabha on 21 December, 1978 to give effect to the recommendations of the Committee but the said Amendment Bill lapsed on dissolution of

the Lok Sabha in 1979. The Committee further note that the Government intends to introduce a fresh Bill in the Parliament but it has been seeking extension of time for introduction of the Bill on one pretext or the other. The Committee observe in this connection that the General Elections were held in 1980 and the First Session of the Seventh Lok Sabha was convened from 25 January, 1980. Thereafter, a period of more than three years was available to the Government to reintroduce the Bill. The Committee deprecate the delay on the part of the Government in this regard and light-hearted manner in which it is processing the question of reintroducing the Amendment Bill.

(ii) *Framing of Statutory Regulations for Army and Air Force.*

140. During the course of examination of the Navy (Discipline and Miscellaneous Provisions) Amendment Regulations, 1974 and the Naval Ceremonial, Conditions of Service and Miscellaneous (Amendment) Regulations, 1974, it was noticed that though the main Regulations for the Navy had been framed and issued in 1964 and 1965, similar sets of Regulations for Army and Air Force had not been framed.

141. The Ministry of Defence with whom the matter was taken up, stated that "after Independence, the various regulations for the Army, Navy and Air Force which were in vogue before Independence, were adopted *en bloc*. These are all of a non-statutory nature. As and when necessity arose, action was initiated to review the Acts suitably to conform to the changed constitutional position and to formulate statutory Rules/Regulations thereunder. In the case of Navy, this work has already been completed and statutory Regulations published. However, in the case of the Army and Air Force which involved much more complicated and voluminous work, necessitating consultation with the law experts on the one side and the Service HQs on the other, action to formulate statutory rules|regulations could not be taken simultaneously. However, meanwhile it was decided to enact a Unified Code for the three services (Army, Navy and Air Force). This is expected to cover the Army and Air Force Acts, 1950, in their entirety. However, it is a time consuming process and despite the best of efforts, it has not been possible to complete this work so far."

142. After considering reply of the Ministry, the Committee, in paragraph 59 of their First Report (Sixth Lok Sabha), presented to the House on 16 July, 1977, made the following recommendations:—

"The Committee note that the Ministry of Defence have now decided to have a Unified Code for all the three

Services and the first reference in this connection was made to the Law Ministry in 1969. The Committee are not happy about the progress so far made in this direction for, as they observe, only 1/3rd of the work was completed upto 1974. The Committee desire the Ministry of Defence to accelerate their pace of work so that the whole work relating to Unified Code and the framing of statutory rules/regulations for the Army and Air Force is completed within the shortest possible time. The Committee need hardly point out that undue delay in this regard may defeat the very purpose of having a Unified Code by making it outdated."

143. Intimating the progress made in bringing out the Unified Code for the three Services, the Ministry of Defence, in their Office Memorandum dated 6-10-1981, intimated—

"The Armed Forces Unified Code Committee, which was set up to draft a Unified Code for the three Services, had completed its task in the last week of December, 1977 and submitted copies of the draft "Code of Armed Forces Bill, 1977" on 5th January, 1978 for Government's approval and its passage in Parliament. This was considered in the meeting of the Principal Personnel Officers and then in a meeting of the Chiefs of Staff Committee. The latter were of the view that the draft Code is not really 'unified' and is more in the nature of compendium than a really unified version of the three Acts, that it does not take into account the progressive features of the Codes of certain advanced democratic countries, that it will take many years to really bring into force the draft Code and the amended statutory rules and regulations for each Service. They, therefore, recommended that the three Acts should be first made uptodate keeping in view the directions of the Cabinet given in 1955 and decision on further progressing the draft Code should be taken after the Acts are amended and made uptodate. The matter was examined in this Ministry in great detail and finally placed before the then Deputy Prime Minister (Defence) who approved the recommendations of the Chiefs of Staff Committee on 16th March, 1979. Services HQrs were informed accordingly on 22nd May, 1979 to proceed with the work of amending the existing Acts to make them more rational and progressive. Judge Advocate General's Deptt. of Army HQrs. have now stated that the provi-

sions relating to restrictions on fundamental rights and all the penal provisions except for a few sections, have been drafted by them and would be submitted to the Ministry for Government's approval shortly."

144. The Committee observe that the work with regard to bringing out the Unified Code for all the three Services was initiated by the Ministry of Defence as early as in 1969. It has, however, taken fourteen years for the Ministry to realise that this is a stupendous task which has not made any appreciable progress. The work involves updating of the existing Acts to include all amendments which have been made or suggested from time to time and thereafter amalgamation of the three Acts into a Unified Code.

145. Keeping in view the pace at which the progress is being made by the Ministry of Defence in this regard, the Committee feel that putting the Unified Code on the Statute Book is a distant reality. The Committee, therefore, recommend that pending finalisation of Unified Code for all the three Services, the Regulations for the Army and the Air Force should be framed and issued on the lines of the Regulations made for the Indian Navy in 1964 and 1965.

(iii) *Amendment in the Delhi Sikh Gurdwara Act,* 1971

146. In paragraphs 9-10 of their Second Report (Sixth Lok Sabha), presented to the House on 18 November, 1977, the Committee on Subordinate Legislation made the following recommendations:—

"The Committee are not satisfied with the reply of the Ministry of Home Affairs that under clause (s) of sub-section (2) of Section 39 of the Delhi Sikh Gurdwara Act, 1971, which empowers the Central Government to make rules regarding matters in respect of which the Act makes no provision or makes insufficient provision Government can define 'corrupt practices' by rules. The Committee would like to make it clear that the question involved is not so much of legality as of propriety. As they feel, it is only matter of procedure and details which should be spelt out through subordinate legislation, substantial matters should more appropriately be dealt with in the Act itself.

In the opinion of the Committee, definition of 'corrupt practices' is a substantial matter and of basic importance in a law dealing with elections, and it should more appropriately, be dealt with in the Act itself. In this

connection, the Committee note that in respect of elections to Lok Sabha and State Legislative Assemblies. 'corrupt practices' have been specified in the Representation of the People Act, 1951 and not in the rules framed thereunder. The Committee, therefore, desire the Ministry of Home Affairs, to delete rule 63 of Delhi Sikh Gurdwara Management Committee (Co-option of Members) Rules, 1974 and Rule 112 of the Delhi Sikh Gurdwara Management Committee (Election of Members) Rules, 1974 and incorporate their provisions in the parent Act."

147. The Report was forwarded to the Ministry of Home Affairs on 21 November, 1977 for implementation of the above recommendations of the Committee within a period of six months.

148. The interim replies dated 17-12-1977, 30-12-1977 and 13-2-1978 from the Ministry of Home Affairs indicated that they referred the matter to the Delhi Administration (Secretary, Law and Judicial) for taking appropriate action and asked from them the compliance of recommendation contained in the Report.

149. In their reply dated 18-10-1978, the Ministry of Home Affairs informed—

> "......this matter was taken up with the Delhi Administration for implementation as per recommendations made by the Committee on Subordinate Legislation in its Second Report. The Delhi Administration has now proposed the amendment of the Delhi Sikh Gurdwaras Act, 1971 by insertion of a new Section 31A relating to 'corrupt practices.' This proposal is under consideration."

150. In reply to an inquiry from the Lok Sabha Secretariat dated 6-11-1978 as to the approximate time by which the Delhi Sikh Gurdwara Act would be amended, the Ministry of Home Affairs, in their reply dated 15-11-1978, informed—

> "The matter is still under examination in consultation with the Ministry of Law."

151. In their further communication dated 21-9-1979, in response to the inquiry dated 7-8-1979, the Ministry of Home Affairs informed—

> "......the Ministry of Law has now advised that the Ministry of Home Affairs may like to consult the Metropolitan

Council and to take approval of the Cabinet for the proposal before the draft amendment Bill is settled. That Ministry has retained copies of various documents to enable them to draft the amendment Bill. We have also communicated the Central Government's approval to the Delhi Administration under Rule 40 of the Delhi Administration (Business) Rules, 1966 to the proposed draft Bill being placed before the Metropolitan Council. On receipt of the recommendations of the Metropolitan Council draft note for the Cabinet seeking its approval for initiating legislation will be prepared."

152. To a further inquiry dated 26-2-1980, the Ministry of Home Affairs, in their reply dated 13-3-1980 informed—

"The Delhi Administration has now informed that the amendment bill has been approved by the Metropolitan Council in their sitting on 14-2-1980 and in accordance with the provisions of sub-section (2) of Section 22 of Delhi Administration Act, 1966, the bill has been sent to the Executive Council for their approval forwarding the same to the Govt. of India. The undersigned is further to say that on receipt of the said bill further action will be taken."

153. Thereafter, in their communication dated 6-2-1981, the Ministry of Home Affairs informed the Lok Sabha Secretariat as follows—

"This Ministry had initiated a proposal to introduce a Bill containing recommendations of the Committee on Subordinate Legislation but in the meantime certain more amendments to the Delhi Sikh Gurdwaras Act, 1971 have been received which are also being examined simultaneously. A consolidated Bill will be introduced in the Parliament during the ensuing budget session of the Parliament (*i.e.* the Budget Session of 1981)."

154. In their further communication dated 25-4-1981, the Ministry stated—

"......the proposal to initiate legislation for inserting Section 31-A in the Delhi Sikh Gurdwaras Act, 1971 by prescribing the provision of 'corrupt practices' in the main Act, was submitted to the Cabinet for its approval. Prime Minister directed that the leaders of the Sikh Religious Community should be consulted on this provision before

bringing up this matter to the Cabinet, if this has not already been done. Accordingly, a reference was made to the Delhi Administration for consulting the Delhi Sikh Gurdwaras Management Committee and conveying its approval to the proposed amendment. In the meanwhile, more proposals including some received by Delhi Administration for amending certain provisions of the Delhi Sikh Gurdwaras Act, 1971 are under consideration.

It has been decided to ascertain through the Lt. Governor, Delhi the views of the Delhi Sikh Religious Bodies on all the proposed amendments to the Delhi Sikh Gurdwaras Act, 1971. On receipt of their views, proposal for amending the Delhi Sikh Gurdwaras Act, 1971 will be considered including the proposal for inserting the additional Section 31-A in Delhi Sikh Gurdwaras Act, 1971."

155. In their communication dated 25-11-1981, the Ministry of Home Affairs informed—

"......the proposal to initiate legislation for inserting Section 31-A in the Delhi Sikh Gurdwaras Act, 1971 by prescribing provision of 'corrupt practices' in the main Act, was, submitted to the Cabinet for approval. Prime Minister directed that the leaders of the Sikh religious community should be consulted on this provision before bringing up this matter to the Cabinet, if this has not already been done. Accordingly, a reference was made to the Delhi Administration for consulting the Delhi Sikh Gurdwara Management Committee and Sikh Religious Bodies and conveying its approval to the proposed amendment. In the meanwhile, more proposals including some received by the Delhi Administration for amending certain provisions of the Delhi Sikh Gurdwaras Act, 1971 were received and were under consideration. A decision was taken to ascertain through the Lt. Governor, Delhi the views of the Delhi Sikh Religious Bodies on all the proposed amendments to the Delhi Sikh Gurdwaras Act, 1971. The Delhi Administartion is being reminded to expedite the views of the Sikh Religious bodies. In their latest communication dated 10th November, 1981, the Directorate of Gurdwara Elections, Delhi Administartion has intimated that only 7 Singh Sabhas have so far responded to the letters seeking their views on the proposed amendments. Replies from other Singh Sabhas are still awaited.

On receipt of their views, proposal for amending the Delhi Sikh Gurdwaras Act, 1971 will be considered including the proposal for inserting the additional Section 31-A in the Delhi Sikh Gurdwaras Act, 1971.

In the light of the present position, the undersigned is directed to request that these facts may be submitted before the Committee and their approval be obtained for extending the period for implementation of their recommendations for another six months because the legislation has to be initiated through the Parliament."

156. In their further reply dated 28-1-1983 to the two d.o. letters dated 11-8-1982 and 22-11-1982 to the Secretary Ministry of Home Affairs, the Ministry informed—

"......the Lt. Governor, Delhi was requested to take appropriate steps to consult the leaders of the Sikh religious bodies including office bearers .of the Delhi Sikh Gurdwara Management and the Presidents of the Registered Singh Sabhas on the other proposals. Since there was no response from the Singh Sabhas for amending the other sections of the Act in spite of repeated circulars/reminders issued to them by the Director, Gurdwara Elections, it was decided to de-link the other proposals for incorporating the definition of 'corrupt practices' in the parent Act as recommended by the Committee on Subordinate Legistion.

The views of the Singh Sabha were accordingly sought on this proposal only. In their letter of 2nd July, 1982, the Delhi Administartion intimated this Ministry that the Delhi Singh Sabhas Confederation is strongly opposed to the incorporation of new Section in the Act defining 'corrupt practices.' In the light of the reply received from the Confederation, the matter has been submitted for consideration of the Cabinet........"

157. The Committee observe that the Ministry of Home Affairs had taken about three years to complete various formalities connected with the amendment of the Delhi Sikh Gurdwara Act, 1971 so as to implement the recommendations made by the Committee but held over the introduction of the Amendment Bill in the Parliament as some more suggestions for the amendment of the Act had been received by the Ministry. Thereafter, two more years have passed but there does not seem to be any definite hope that Government will either effect a specific amendment to the Delhi Sikh

Gurdwara Act, 1971 so as to include therein the definition of the corrupt practices' or bring before Parliament a comprehensive Amendment Bill to cover all intended amendments in the Act in the near future. The Committee regret to note that the specific recommendations made by them in such vital matters remain unimplemented.

(iv) *Amendment to the Central Excises and Salt Act,* 1944

158. Rule 185(2), as substituted by Rule 173-O(1) of the Central Excise Rules, providied for collection of fees for examination of excisable goods intended for export where the exporter so desires. This provision appeared to be beyond the scope of section 37(2) (xii) of the Central Excises and Salt Act, 1944. The Committee, in paragraph 97 of their Second Report (Sixth Lok Sabha), presented to the House on 18 November, 1977, made the following recommendation:—

> "The Committee note that, in pursuance of recommendation of the Committee, the Ministry of Law have examined three Central Acts,— (i) the Stamp Act, 1899; (ii) the Mines Act, 1952; and (iii) the Central Excises and Salt Act, 1944. They, note that in so far as the Stamp Act, 1899 is concerned, provision authorising the Government to grant remission etc. from stamp duty exists in the Act. Likewise, authority empowering the Government to charge fees in respect of examinations and grant and renewal of certificates exists in the Mines Act, 1952. In the case of the Central Excises and Salt Act, 1944, however. there is no authority at present for collection of fees for examination of excisable goods intended for export as laid down in Rule 173-O(1) of the Central Excise Rules. The Committee note in this connection that the Ministry of Finance propose to bring a new Bill to replace the existing Act which would contaain a specific provision for charging of fees where thought necessary. The Committee desire the Ministry of Finance to bring the proposed legislation before Parliament at an early date."

159. The Report was forwarded to the Ministry of Finance on 21 November, 1977 for implementation of the above recommendation.

160. In their Action Taken Note dated 15-3-1980, sent in reply to the enquiry made on 26-2-1980, the Ministry informed—

"The Committee's recommendation has been noted. The proposed new Bill which will be a comprehensive one for Central Excise will be introduced in Parliament in due course."

161. To further enquiries made on 13-4-1981 and 11-8-1982, the Ministry, in their reply dated 30-8-1982, informed—

"We have duly included a provision for charging overtime fees for examination of excisable goods to be exported, in the draft Central Excise Bill. In view of the very comprehensive nature of the Bill and important issues which were raised in the course of examination, it could not be introduced so far. We are trying to finalise the draft and introduce the Bill as early as possible. If the Bill is referred to a Select Committee, as is possible, its actual enactment is likely to take an appreciable amount of time.

In the circumstances, your suggestion to examine whether an appropriate provision in the Central Excise Rules can be made even without amendment of the law seems to offer a possible solution. We are pursuing this aspect in consultation with the Law Ministry and shall apprise you of the result."

162. The Ministry, in their reply dated 22-1-1983 to a d.o. letter dated 14-10-1982, addressed to the Chairman, Central Board of Excise & Customs about the final decision taken by the Government informed—

"The matter has been examined further in consultation with the Ministry of Law. It now emerges that there is no way out but to amend the existing Act for taking the enabling power to levy fees in respect of examination of export consignments. It is proposed to carry out the amendment in the Act at the next appropriate opportunity."

163. The Committee regret to note that the implementation of their recommendation in this regard is pending for over five years.

164. The Committee observe that the Action Taken Note intimating that a new comprehensive Bill for Central Excise would be

introduced in Parliament was sent by the Ministry of Finance on 15 March, 1980, i.e. after 28 months of the presentation of their Second Report (Sixth Lok Sabha) on 18 November, 1977. Thereafter, nearly three years have passed but the said Bill has not been introduced. Even if the Bill is introduced in the near future, there is very little hope of its coming on the Statute Book during the remaining term of the present Lok Sabha as the Ministry themselves have expressed the doubt that its actual enactment is likely to take an appreciable amount of time in case the Bill is referred to a Select Committee. In the circumstances, the Committee feel that the Ministry should, without further delay, bring forward an amendment Bill exclusively for the purpose of implementing the Committee's recommendation in this regard.

(v) *Amendment in the Air Force Act,* 1950

165. Sub-rule (j) of Rule 137A of the Indian Air Force Act Rules, as introduced by the Indian Air Force Act (Amendment) Rules, 1970, provided that a copy of the proceedings of the Court of Inquiry shall be furnished to the party concerned on payment. As there was no provision in the Air Force Act, 1950 which would vest powers in the Chief of the Air Staff to charge fees for the supply of copies of the proceedings of the court of inquiry, the Committee, in paragraph 22 of their Eleventh Report (Fifth Lok Sabha), presented to the House on 9-5-1974, had recommended as under:—

> "The Committee also desire the Ministry of Defence to make an express provision in the Indian Air Force Act, 1950, providing for charging of fee for supply of copies of the proceedings of the court of inquiry."

166. The Committee reiterated the above recommendation in paragraph 98 of their Second Report (Sixth Lok Sabha), presented to the House on 18 November, 1977, as follows:—

> "The Committee had also desired the Ministry of Defence to make an express provision in the Air Force Act, 1950 providing for charging of fee for supply of copies of the proceedings of the Court of Inquiry. The Committee note from the reply of the Ministry of Defence that they propose to bring several amendments to the Air Force Act in due course which will include a provision for charging of fees for supply of copies of the proceedings of the Court of Inquiry. The Committee desire the Ministry of Defence also to bring the proposed legislation before Parliament at an early date."

167. The Report was forwarded to the Ministry of Defence on 21-11-1977 for implementation of the above recommendation of the Committee within a period of six months.

168. In their Action Taken Note dated 14-3-1978, the Ministry informed—

> "Section 233 (4) (d) of the Armed Forces Unified Code provides the manner and the circumstances in which a person may obtain a copy of the evidence of a Board of Inquiry. Further, Section 239 (2) (m) *ibid* contemplates making a statutory regulations which would provide the procedure for obtaining a copy of the Board of Inquiry. While drafting the statutory regulations in this regard, the question of the fees to be charged would be taken care of."

169. In their further note dated 20-8-1979, the Ministry informed—

> "......The task of amending the Air Force Act, 1950 is now in hand. The amendment referred to in this Ministry's O.M. No. 40(61)|74|393|DOIIB|D(Air-III), dated the 14th March, 1978 regarding a statutory provision for charging of fees for the supply of a copy of Board|Court of Inquiry, proceedings is also proposed to be incorporated while finalising other amendments to the Air Force Act, 1950. Completion of this task is, however, likely to take some time keeping in view the magnitude of the work involved in amending the Act pursuant to the above recommendation of the Chief of Staff Committee as approved by the Deputy Prime Minister (Defence). Nevertheless, every care will be taken to eliminate avoidable delay in accomplishing this task."

170. In reply to a querry made on 26-2-1980, the Ministry in their note dated 15-3-1980 informed—

> "..........the task of drafting and recommending appropriate amendments to the three Services Acts is in the hand of the Committee of the Judge Advocates General Attached to Army|Naval|Air Headquarters. A stearing Committee has also been formed at Air Hqrs. for policy guidance on Air Force Amendments. Completion of this task is likely to take time keeping in view the magnitude of the work involved. However, every effort is being made to accomplish this work expeditiously."

171. In reply to further enquiry, the Ministry in their note dated 28-8-1980 informed—

> "........the task of drafting and recommending amendments to the three Services Acts which is presently in the hand of a Committee of three J.As.G. is being vigorously pursued. A large number of sections on offences have already been drafted. In view, however, of the magnitude of the work involved, it is difficult to indicate any specific date by which it is likely to be completed. However, every endeavour is being made to eschew delay and accomplish the task as early as possible. Further progress in the matter will be intimated to the Lok Sabha Sectt. in due course."

172. Reporting further progress in the matter, the Ministry informed on 28-10-1980 and 20-4-1981 as under:—

(i) "........the task of drafting and recommending amendments to the three Services Acts with a view to making them more progressive and as uniform as possible, is being actively looked after by a Committee of Judge Advocates General of the three Services. The Committee mets once in a week. The J.As.G. have already finalised the drafts for general restrictions on Fundamental Rights and for 28 sections pertaining to offences. The remaining sections on offences and drafts for other matters have yet to be considered. Needless to say, the task is time consuming. However, all possible steps are being taken to finalise the proposed amendments at the earliest." (*Vide* Ministry's note dated 28 October, 1980).

(ii) "........the task of drafting and recommending amendments to the Three Services Acts with a view to making them more progressive and as uniform as possible is being actively looked after by a Committee of Judges Advocates General of the three Services who meet once in a week for the purpose. The Committee have so far finalised drafts for 41 sections for offences apart from the section relating to restrictions on fundamental rights. As the task is quite time consuming, some more time is likely to be taken for its completion. However, every endeavour is being made to finalise the task as quickly as possible. The Lok Sabha Sectt. would be

kept informed of the developments from time to time." (*Vide* Ministry's note dated 20-4-1981).

173. In reply to a d.o. letter dated 11-8-1982, the Defence Secretary, in his letter dated 18-9-1982, informed—

"......We have accepted the need to amend the Air Force Act to provide for charging of fee for supply of copies of the proceedings of the Court of Inquiry. We felt that instead of troubling the Parliament for a single amendment, we could include this in a more comprehensive review that we are undertaking to bring about a measure of uniformity in the Acts governing the three Services. The idea was to bring out a unified code applicable to the three Services. This, as you will appreciate, is a stupendous task. It first involves up-dating the present Acts to include all amendments as may have been made or suggested from time to time and, secondly, requires an amalgamation of the three Acts into a Unified Code. No doubt, a lot of time has already elapsed. We have requested the Army Headquarters, who are coordinating the matter, to expedite action in this regard. They had earlier prepared a draft which was considered unacceptable and has therefore to be revised. I am hopeful that they will be able to finalise the draft soon."

174. The Committee observe that the implementation of their recommendations in the present case is pending over since these were made vide **paragraphs 19—22 of their Eleventh Report (Fifth Lok Sabha), presented to the House on 9 May, 1974. As early as 21 June, 1976, the Ministry of Defence agreed to amend the Air Force Act, 1950** vide **paragraph 94 of Second Report (Sixth Lok Sabha) put preferred to incorporate the proposed amendment in the Unified Code which was stated as being drafted then and would be applicable to the three Services. In his letter dated 18 September, 1982, the Defence Secretary, while narrating the difficulties, has admitted that there is no possibility of the revised Unified Code being brought before the House in the near future. The Committee are of the opinion that, in the given circumstances, the Ministry of Defence should have brought before the House an Amendment Bill exclusively to implement the recommendations of the Committee. The argument given by the Ministry that Parliament should not be troubled for a single amendment, is not tenable because there are several instances when Government have introduced Bills to amend a single provision of an Act. The Committee is microcosm**

of the House and functions on behalf of Parliament. Hence it should have been easy for Government to implement the recommendations of the Committee by introducing the amendments to the Act instead of delaying the matter till the finalisation of the Unified Code. The Committee desire that if the Unified Code is going to take more than one year, even now the Government should introduce the specific amendment.

(vi) *Amendment in the Representation of the People Act,* 1951.

175. Sub-rule (8) of Rule 39A of the Conduct of Elections Rules, 1961 provides that vote recorded by an elector on a ballot paper which has been taken back from him under sub-rule (5) for not observing the prescribed procedure for recording his vote shall not be counted

176. It was felt that cancellation of a ballot paper taken back from a voter amounted to penalty for which authority should flow from the parent Act, *i.e.* the Representation of the People Act, 1951. Accordingly, the Committee, in paragraph 8 of their Twentieth Report (Fifth Lok Sabha) presented to the House on 3-11-1976, desired that Government should take early steps for the amendment of the Representation of the People Act, 1951 to include a provision therein for cancellation of a ballot paper when the voter failed to observe the prescribed procedure for recording his vote.

177. Thereafter, the Committee, in paragraph 45 of their Eighth Report (Sixth Lok Sabha), presented to the House on 26-4-1978, made the following recommendations:—

> "The Committee note that in pursuance of the recommendation of the Committee made in para 8 of their Twentieth Report (Fifth Lok Sabha), Government promulgated on the 2nd February, 1977, the Representation of the People (Amendment) Ordinance, 1977, inserting a new Section 132-A in the Representation of the People Act, 1951 providing for the cancellation of the vote of an elector who failed to observe the prescribed procedure for recording his vote. In the opinion of the Committee, after having promulgated the Ordinance, the next logical step for the Ministry was to bring the Bill before the House for the replacement of the Ordinance. This unfortunately was not done by the Ministry who have now informed the Committee that a decision has been taken by them not to replace the above Ordinance by an Act of Parliament.

The Ministry have, however, assured that the recommendation of the Committee will be implemented as and when the Act is next taken up for amendment in due course. The Committee observe that with the lapse of the Ordinance, the amendment inserted in the Act has ceased to be in effect and the position is where it was before the promulgation of the Ordinance. The Committee feel that the implementation of their recommendation in such an important matter ought not to be postponed for an indefinite period, and that early steps should be taken by Government for the amendment of the Act to the necessary end."

178. The Report was forwarded to the Ministry of Law, Justice and Company Affairs on 28 April, 1978.

179. In their Action Taken Note dated 23 June, 1978, the Ministry informed—

"With a view to implementing the recommendations of the Committee on Subordinate Legislation mentioned above, a new section 132A inserted in the Representation of the People Act, 1951 by section 7 of the Representation of the People (Amendment) Ordinance, 1977 (1 of 1977). However, Government later on decided that the aforesaid Ordinance need not be replaced by an Act of Parliament, and accordingly the Ordinance was allowed to lapse. Though a subsequent Bill entitled the Election Laws (Amendment) Bill, 1977, was introduced in the Lok Sabha on 22-12-1977, the provisions of section 7 of the lapsed Ordinance were not included in it, as that Bill was specifically intended to omit certain amendments made in the Representation of the People Act, 1951 by the Representation of the People (Amendment) Act, 1974 (58 of 1974) and the Election Laws (Amendment) Act, 1975 (40 of 1975). The inclusion of the Ordinance in that Bill would not have been in conformity with the scheme of the Bill.

The Government has under consideration various proposals for amendment of the election law and a comprehensive Bill in that behalf is proposed to be introduced in Parliament as soon as the examination of the various proposals is completed and decisions thereon have been taken by the Government. Necessary provision will be

made in that Bill to implement the recommendation of the Committee on Subordinate Legislation.

This issues with the approval of the Ministry of Law, Justice and Company Affairs."

180. To an enquiry made on 24-8-1982 about the implementation of the recommendations made by the Committee, the Secretary, Ministry of Law, Justice and Company Affairs (Legislative Department), in his reply dated 25-8-1982, informed—

"I have carefully gone through the relevant papers. I find that in our reply dated 23rd June, 1978 (quoted above), we gave the assurance that the necessary provision for implementing the recommendation of the Committee will be included in the comprehensive Bill for giving effect to various proposals for amendment of election law. You are no doubt aware that the comprehensive proposals relating to electoral reforms are still under consideration. Hence the delay.

I may also mention that the provision to which the Committee had taken exception to is in a sense implied in section 59 of the Representation of the People Act, 1951, because section 59 of the Representation of the People Act states clearly that at every election where a poll is taken, votes shall be given by ballot in such manner as may be prescribed........By implication it would follow that a vote which is not given in the manner prescribed would not be a valid vote. So far as I have been able to verify the position, the rule in question has not been challenged. In view of what has been stated, suitable provision........................for giving effect to the recommendation of the Committee will be included in the Bill for giving effect to the comprehensive proposals for Electoral Reforms now under consideration. If an occasion for amending the Representation of the People Act, 1951 for any other purpose arises earlier, we will avail of that opportunity to give effect to the recommendation of the Committee."

181. The Committee observe that in trying to give effect to the recommendation of the Committee, the Government promulgated an Ordinance on 2 February, 1977 inserting a new Section 132-A in the Representation of the People Act, 1951. The Committee feel that their recommendation after having been once accepted and implemented by Government by promulgating an Ordinance,

there should not have been any difficulty in bringing forward a Bill to amend the Representation of the People Act exclusively for the purpose. The linking up of the amendment with other amendments contemplated in the Act has resulted in a delay of five years and there are still no prospects of a comprehensive Bill being brought before the Parliament in the foreseeable future. In the circumstances, the Committee desire that the Government should bring forward immediately an amendment Bill exclusively for the purpose of implementing the Committee's recommendations.

(vii) *Amendment to the Employees Provident Funds and Miscellaneous Provisions Act, 1952.*

182. The Employees Provident Funds and Miscellaneous Provisions Act, 1952, did not contain a provision for laying of Schemes framed under the Act by the Central Government before Parliament.

182A. The Committee, after considering the reply dated 9-11-1976 of the Ministry of Labour to a reference made to them in this regard, made the following recommendation in paragraph 13 of their Thirteenth Report (Sixth Lok Sabha) presented to the House on 29-11-1978—

> "The Committee note that, on being pointed out, the Ministry of Labour have agreed to make suitable provision in the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 for laying of Schemes framed thereunder, before Parliament when the Act is next amended. The Committee, however, feel that the matter should not be kept pending indefinitely and desire the Ministry to bring the amending legislation to the necessary effect before Parliament at an early date but not later than three months after the date of presentation of this Report to the House."

183. The Ministry of Labour, in their Action Taken Note dated 1-2-1979, informed as follows:—

> "......certain proposals to amend the Employees Provident Fund and Miscellaneous Provisions Act, 1952, are being processed and these include amendment of Section 7(2) to provide for laying before the Parliament the Schemes framed under the Act. The proposals for amendment of the Act are being processed, as usual in a batch in consultation with the Ministries|Departments and after these

are approved by the Cabinet, an amending Bill will be brought up before the Parliament. An Amendment of Section 7 (2) of the Act within the stipulated time of three months expiring in February, 1979, may not, therefore, be feasible. This Ministry would, however, continue efforts for expeditious amendment of the above section alongwith other sections of the Act."

184. Thereafter, the matter was pursued with the Ministry, who in their reply dated 16-10-1980, informed as under:—

"......various proposals for amendment of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, including a proposal for amendment of Section 7 of the Act are being processed and they may be introduced in the next or the following session of the Parliament."

185. The matter was further pursued with the Ministry. In their latest reply dated 3-2-1983, the Ministry has informed—

"........We have already included the proposals in the batch of amendments under consideration. The proposals for amendment are now at an advance stage. We hope that the proposals will be cleared soon and a suitable amending bill will be brought forward before the Parliament in the ensuing session (Budget Session)."

186. The Committee note that as early as 19 November, 1976 i.e. two years before the Committee made their recommendation in paragraph 13 of their Thirteenth Report (Sixth Lok Sabha), the Ministry of Labour whose comments were invited had agreed to the proposed amendment. Unfortunately, the Ministry linked the proposed amendment of the Act with other proposals in order to introduce a comprehensive amendment Bill in the House. Neither the comprehensive amendment Bill has been introduced nor a specific Bill for the purpose of implementing the recommendation of the Committee has been brought up as yet. More than four years has since been allowed to pass in bringing forward a simple amendment to the Act to provide for laying of the schemes framed under the Act before Parliament. The Committee deplore the delay on the part of the Ministry in this regard and recommend introduction of an amendment Bill for this specific purpose at an early date.

(viii) *Amendment to the Companies Act, 1956*

187. Paragraph 6 of the Balmer Lawrie and Company Limited and Industrial Containers Limited Amalgamation Order, 1978,

provided for saving of legal proceedings pending against transferor company to be continued against the transferee company after the scheme of amalgamation was approved. Similar provision existed in pargraph 6 of the Balmer Lawrie and Company Limited and Steel Containers Limited Amalgamation Order, 1976.

188. It was felt that the provisions contained in the above paragraphs were substantive in nature for which express authority should flow from the parent Act, *viz.* the Companies Act, 1956. The matter was accordingly referred to the Ministry of Law, Justice and Company Affairs (Department of Company Affairs) for their reaction.

189. The Committee after considering the reply of the Ministry, made the following recommendations in paragraph 46 of their Thirteenth Report (Sixth Lok Sabha) presented to the House on 29-11-1978—

> "The Committee are not satisfied with the reply of the Ministry of Law, Justice and Company Affairs (Department of Company Affairs) that the powers of a High Court under Section 394 of the Companies Act and the power of the Central Government under Section 396 thereof are analogous and the Central Government follows the same procedure as followed by courts in approving the scheme of amalgamation. Section 394 relates to the power of the High Court to approve amalgamation schemes and Section 396 empowers the Central Government to issue amalgamation Orders. Whereas Clause (iii) of sub-section (1) of Section 394 empowers the High Court to make suitable provisions in the amalgamation scheme regarding legal proceedings pending against the transferee company after the Scheme of amalgamation is approved, there is no such provision in Section 396. As the provision regarding saving of legal proceedings is of substantial nature, the Committee desire it necessary that there must be specific authority available in the Act empowering the Government to make such provisions in the Amalgamation Orders. The Committee, therefore, desire the Ministry to bring suitable legislation for amending the Companies Act in this regard at an early date."

190. The Report was forwarded to the Ministry on 29-11-1978 for implementation of the above recommendation.

191. The Ministry, in their Action Taken Note dated 29-8-1979. informed that the recommendations of the Committee had been

noted and steps were being taken to bring a suitable legislation for amending the provisions of Section 396 of the Companies Act, 1956.

192. The matter was further pursued with the Ministry. In their reply dated 27-5-1980, the Minstry informed—

> "...With regard to the bringing of the Legislation for amending the provisions of section 396 of the Companies Act, 1956, it may be stated that the necessary amending provisions relating to section 396 of the said Act would be included, in the comprehensive amendment bill to give effect to the recommendations of the High-powered Expert Committee on Companies Act and MRTP Act. Necessary legislation will be introduced in Parliament in the near future subject to the approval of the Cabinet."

193. The Ministry restated the same position in their replies dated 8-9-1980 and 4-11-1982. In their latest reply dated 10-2-1983, the Ministry have informed:—

> "We have already informed your Deartment that we have decided in consultation with the Department of Legal Affairs, to amend Section 396 of the Companies Act to give effect to the recommendations of the Committee on Subordinate Legislation. It will, however be appreciated that amendment of the Act cannot, realistically speaking, be done in piece-meal and as such we have not been able to give effect to these recommendations as yet and for the same reason it is difficult for us to give any precise date about enatcment of this small legislation. We, however, propose to bring a comprehensive legislation to amend the Companies Act on the basis of the recommendations of Sachar Committee in the near future and the Department is actively working on it. The suggested amendment to Section 396 of the Companies Act will also be made alongwith other amendments. We hope to introduce the legislation in Parliament soon."

194. The Committee note that the Ministry of Law, Justice and Company Affairs conveyed their acceptance of the Committee's recommendations in this regard and has, in fact also started taking steps to bring a suitable legislation for amending the provisions of Section 396 of the Companies Act, 1956. Thereafter, the Ministry have changed their mind and linked the issue with the comprehensive amendments to the Bill to be brought before Parliament in the near future. Had the Ministry stick to their original decision

to bring legislation for the specific purpose of implementing the Committee's recommendation, the amending Bill could have been brought on the Statute Book long back. More than four years have since elapsed but there does not seem to be much hope of a comprehensive Bill being brought before Parliament much less of its enactment in the near future. The Committee desire that even at such a late stage, a Bill exclusively for the purpose of amendment of Section 396 of the Companies Act, on the lines suggested by the Committee, should be brought before the House at an early date.

IV

CASES OF RECOMMENDATIONS WHERE GOVERNMENT HAVE EXPRESSED THEIR INABILITY TO IMPLEMENT

195. The Committee have made a number of recommendations in their various Reports presented to the House during Fifth, Sixth and Seventh Lok Sabha and have subsequently pursued with the Ministries|Departments concerned the implementation of their recommendations. In respect of the following recommendations the Ministries in their Action Taken Notes on these recommendations have expressed their inability to implement them.

(i) *The Fertilizer (Control) Third Amendment Order, 1972 (G.S.R. 417-E of 1972)*

196. Clause 13B of the Fertilizer Control Order, 1957 as amended by the Third Amendment Order of 1972, provided as under:—

"13B. *Disposal of non-standard fertilizer.*—Notwithstanding anything contained in the order, a person may sell, offer for sale, stock or exhibit for sale or distribute, any fertilizer not conforming to the prescribed standard (hereinafter in this Order referred to as non-standard fertilizer) subject to the conditions that—

(a) the container of such non-standard fertilizer is conspicuously superscribed with the words 'non-standard' and also with the sign 'X' both in red colour; and

(b) an application for the disposal of non-standard fertilizers in Form 'F' is submitted to the registering authority to grant certificate of registration for sale of such fertilizers and a certificate of authorisation with regard to their disposal and price is obtained in Form 'G'.

Provided that the price per unit of the non-standard fertilizer shall be fined by such registering authority after satisfying itself that the sample taken is a representative one, and after considering the nutrient content in the sample determined on the basis of a chemical analysis of the non-standard fertilizer:

*Provided further that the Central Government may by notification in the official gazette exempt such agencies

*This Proviso inserted by the Fertiliser (Control) Third Amendment Order, 1972.

as distributed fertilizers on behalf of the Central Government, from complying with the conditions laid down in sub-clauses (a) and (b) of this clause."

197. The Ministry of Agriculture (Department of Agriculture) were requested to state (a) whether any criteria had been laid down for exercise of the power of exemption available to Government under the second proviso for exempting certain agencies from the conditions laid down in sub-clauses (a) and (b) of Clause 13B; (b) whether they had any objection to incorporating those criteria in the Order; and (c) whether reasons were recorded in writing before an agency was exempted under the second proviso.

198. In their reply, the Ministry of Agriculture stated as under:—

"....no criteria have been specifically laid down because the restrictions imposed by the amendment in question on the freedom to grant exemption were considered sufficient and because the present policy of Government to entrust distribution/handling of pool (imported) fertilizers through public agencies like the Food Corporation of India, Central Warehousing Corporations, etc. is not likely to be changed. Moreover, according to the present policy the sub-standard fertilizers are to be issued only to the Cooperative|Government granulating or mixing units. The undersigned is further directed to say that since no criteria have been laid down, the question of incorporating them in the Order will not arise.....no notification of exemption under the amended clause has been issued so far. However, reasons will be recorded in writing before any agency is granted exemption."

199. In their further communication, the Ministry elucidated their above reply as under:—

"The power given to the Central Government for exempting an agency from complying with the conditions laid down under Clause 13B of the Fertilizer (Control) Order is restricted by the proviso itself. The proviso lays down that the power of exemption is confined to 'such agencies as distribute fertilizers on behalf of the Central Government.' Therefore, once an agency satisfied this essential requirement contained in the proviso *i.e.* that it is an organisation which distributes fertilizers on behalf of the Central Government it will be competent for the Government to grant exemption to that organisation. No further reason appears to be necessary for considering whether such organisation is to be exempted or not.

The provision has been inserted in this clause in the context that the Central Government deals with all the imported fertilizers in the country. These fertilizers are purchased in bulk and are then bagged in Indian Ports. Bagged fertilizers also are bound to have some wastes and sweepings through spillage etc. which are to be sold and disposed of. To take care of such a situation which is inherent in the functioning, such a proviso is very necessary. Moreover, as pointed out earlier a restriction has been placed on the FCI, CWC and SWCs that the sub-standard fertilizers are to be issued only to cooperative|Government granulating or mixing units who will granulate these again before passing them on to the cultivator. These mixtures are in turn required to fulfil certain prescribed standards. It is hoped that this elucidation meets the purpose."

200. At their sitting held on 27 January, 1975, the Committee heard oral evidence of the representatives of the then Ministry of Agriculture and Irrigation (Department of Agriculture).

201. Explaining the reasons for empowering the Central Government to grant exemption to certain agencies from the conditions laid down in sub-clauses (a) and (b) of clause 13B of the above-mentioned Order, the representative of the then Ministry of Agriculture and Irrigation stated that the Central Government was mainly concerned with the import of fertilizers, which were unloaded at 17 mojor and minor ports by the Food Corporation of India as an agent of the Central Government; and at the receiving end in different States and, at different places, these fertilizers were handled by the Central Warehousing Corporation or by the State Warehousing Corporations as agents to the Government of India. The fertilizers were received either in bulk in which case they had to be put into bags at the port, or they were received in bags which were unloaded with the help of hooks which made holes in the bags. A certain quantity of fertilizers got thrown about at the port. It had to be collected, cleaned and removed before the next ship was unloaded. The same thing happended at the receiving end both at the railway stations and in the godowns. The movement was so rapid and continuous that it was not possible to comply with the rigid conditions which were prescribed for sale in extraordinary circumstances of non-standard fertilizers to farmers. The representative of the Ministry further added that these three Central agencies did not make sale of non-standard fertilizers to farmers. They made sale of non-standard fertilizers under the directions of the Central Government only to cooperative granulating units or cooperative mixing units which

were not given this exemption at all. They had to conform to these standards.

202. While clarifying the position further, the representative of the Ministry stated that these were not bad fertilizers, but only dust got mixed up. No doubt, it became sub-standard, but it would still be possible to give it to granulating agencies, who added some other fertilizer material for making out the 'grade'. Again, these grades were subject to the specifications laid down in the Fertilizer Control Order and then only they were sold to farmers. The granulating units did not get any exemption from the conditions prescribed in the Fertilizer Control Order.

203. In reply to a question, the witness stated that the sale of spilled-over fertilizers by the F.C.I. to private traders had been completely stopped in 1972, after some complaints were received. Thereafter, such sales were confined to only those granulating and mixing units, which were in the cooperative sector. The witness assured the Committee that very severe action would be taken against any official of the F.C.I. selling such fertilizers to private traders.

204. In a written reply, the Department of Agriculture stated that "this exemption will not affect the interest of the cultivators because as per policy of the Government, these non-standard pool fertilizers are allotted only to cooperatives|Government granulation and mixing units for preparation of fertilizers mixtures which have to conform to the prescribed standard. They further stated that no exemption has so far been granted to any agency. However, when such an exemption is granted, this will cover all the three agencies, *viz.*, the Food Corporation of India, the Central Warehousing Corporation and the State Warehousing Corporations."

205. After taking into consideration all the foregoing facts, the Committee on Subordinate Legislation, in paragraphs 25—27 of their Fifteenth Report (Fifth Lok Sabha), presented on 15 April, 1975, observed as under:—

> "25. The Committee note from the wording of the second proviso to clause 13B of the Fertilizer (Control) Order, 1957, inserted in 1972, that it gives a wide power to the Central Government to exempt such agencies as distribute fertilizers on their behalf from complying with the conditions laid down in sub-clauses (a) and (b) thereof. The Committee are surprised to note that although the proviso was inserted in 1972, no notification of exemption has so far been issued, which means that, either the necessity for

invoking this proviso has not been felt during the last 2½ years or that the non-standard fertilizers are being distributed by the above-mentioned three agencies to the mixing and granulation units without complying with the conditions laid down in sub-clauses (a) and (b) of clause 13B, *ibid*.

26. The Ministry of Agriculture and Irrigation (Department of Agriculture) have assured the Committee that the exemption will not affect the interest of cultivators because as per policy of Government, these non-standard pool fertilizers are allotted only to cooperative|Government granulation and mixing units for preparation of fertilizers mixtures which have to conform to the prescribed standard. The Committee take note of the assurance given by the Ministry, but to guard against any possibility of the abuse of the power of exemption conferred by the second proviso, the Committee recommended that the proviso in question should be amended specifically to provide that the non-standard pool fertilizers to be exempted thereunder will be allotted only to cooperative|Government granulation and mixing units whose end-products shall invariably conform to the prescribed standards.

27. The Committee also feel that exemption may be granted from the operation of sub-clause (b) only and not from sub-clause (a) thereof, which simply required conspicuous superscription of the words 'nonstandard' and sign 'X' in red colour. The Committee desire that necessary amendments to the Fertilizer (Control) Order, 1957, on the above lines, should be made at an early date."

206. In their action-taken note dated 18 November, 1976, the then Ministry of Agriculture and Irrigation (Department of Agriculture) stated as under:—

"....the Committee on Subordinate Legislation, in their Fifteenth Report (Paras 25—27) have made the following recommendations:—

(i) It should be specifically provided in the 2nd proviso to clause 13B of the Fertilizer Control Order, 1957 that the non-standard Pool Fertilizer exempted thereunder will be allotted only to farmers Cooperative|Government Granulation and mixing units whose end-products shall invariably conform to the prescribed standards.

(ii) Exemption, as provided in 2nd proviso to clause 13B of the F.C.O. to the agencies to distribute fertilizers on behalf of the Central Government may be granted from the operation of sub-clause (b) of clause 13B and not from sub-clause (a) thereof which simply requires conspicuous superscription of the words 'non-standard' and sign 'X' is red colour.

* * * * *

As for the recommendation indicated at (i), it may be stated that during the course of evidence rendered before the Committee in January, 1975, the Secretary (Agriculture) had pointed out that the sale of non-standard fertilizers by the Food Corporation of India to private dealers had been completely stopped in 1972 after some complaints were received and thereafter such sales were confined to only those granulating and mixing units, which were in the Government and cooperative sector. The situation in this regard at present is entirely different from that obtaining in January, 1975. At that time there was an acute shortage of fertilizers in the country and it was possible to restrict the supply of non-standard fertlizers only to Cooperative/Government Granulation Units. Owing to extremely easy availability of standard fertilizers all over the country, the Cooperative/Government Granulation Units do not have at present much incentive in lifting non-standard fertilizers. Apart from this, owing to the very good availability of straight fertilizers and complex fertilizers, the demand for mixtures has come down and, as such, mixing units are not coming forward in lifting non-standard fertilizers. Non-lifting of stocks of non-standard fertilizer by mixing units sometimes results in a situation where the Central Fertilizer Pool is saddled with large stocks of these fertilizers occupying valuable storage in the ports and in the Warehouses/godowns. There are times when there is no space or storage of standard fertilizers because non-standard fertilizers are occupying the space available for fertilizers. Moreover, long storage of non-standadd fertilizer results in its deterioration which in turn results in loss in nutrient contents and reduction in value. In order to overcome this difficulty, the matter has been examined and the following procedure has been evolved in consultation with the Ministry of Finance for the disposal of substandard fertilizers:

(i) Request would first be made to the granulation and mixing units in Government, Cooperative or Public

Institutionalised sectors to lift the stocks after the necessary analysis regarding chemical contents is made.

(ii) If the above parties do not lift the stocks within a month or so, general sealed tenders offering to lift the stocks would be invited.

(iii) If this procedure does not evoke any response or does not evoke adequate response, the stocks or the remaining stocks, as the case may be, will be sold in open auction. In the auction also, Government, Cooperative and Public Sector institutions engaged in granulation and mixing will be allowed to participate.

(iv) In order to avoid undue loss to Government, minimum price to be charged in open auction or in tenders to be invited will not be allowed to go below 50 per cent of the value proportionate to the nutrient content in relation to the nutrient content in sound fertilizers.

A copy of the guidelines/instructions issued to Food Corporation of India in May, 1976 for following the above procedure in disposal of non-standard fertilizer is enclosed at Appendix-II. It would be observed therefrom that the non-standard fertilizer would first be offered to the Granulation and mixing units in Government Cooperative or Public institutionalised sectors. If the above parties do not lift the stocks within a month or so, general sealed tenders offering to lift the stocks would be invited. Even if this procedure does not evoke any response or adequate response, the stocks would be sold in open auction in which the Granulation and mixing units in Government Cooperative and Public institutionalised sector can also participate. Thus all efforts will be made to dispose of the non-standard stocks to the Granulation and mixing units in Government, Co-operative and Public institutionalised sectors. If however, any party lifts the non-standard stocks for re-selling in neat and straight form, the purchaser will have to comply with the requirements of clause 13B of the Fertilizer (Control) Order, 1957 and any non-compliance thereof will be liable to such legal action by the State Government concerned against the purchaser as may be warranted. Moreover, this condition will be included in the delivery order to be handed over to the purchaser and the State Government concerned will be informed simultaneously of the

release of the material for information and necessary action. Even when the non-standard fertilizer will be released to mixing units for preparation of the mixtures, this would be mentioned in the release orders. However, these guidelines will be reviewed as and when the availability position of fertilizer changes. It may also be mentioned here that there guidelines cannot be incorporated in the statutory rules as they will be reviewed from time to time. In the circumstances, the recommendations of the Committee to allot non-standard fertilizers to farmers Cooperative, Government Granulation and mixing units will be difficult to implement.

Regarding the recommendation of the Committee indicated at (ii), it may be stated that the Central Fertilizer Pool has been importing a few *million tonnes* of fertilizers every year. During unloading, handling, transit and storage, some quantities of fertilizers are bound to become non-standard. For example, during the unloading and handling of each vessel, certain quantity of fertilizer is spilled out on the wharf and in the transit shed. They are to be swept and bagged separately. These sweepings contain foreign materials and treated as non-standard fertilizers. Sometimes fertiliser is received in caked condition and there is some loss in nutrient contents of such fertilizers. They are also to be treated as non-standard fertilizers. All these non-standard fertilizers are put into bags and stored pending disposal. Major percentage of bags are slack and torn. Sometimes non-standard fertilizers remain in slushy condition. These non-standard fertilizers are sold on 'as is where is basis'. In other words, if non-standard fertilizer is to be bagged, the same is done by those who lift the stocks. To insist that all the slack and torn bags should be rebagged with marking on them as provided in sub-clause (a) of clause 13B of Fertilizer (Control) Order would entail a lot of additional expenditure which would raise the price on non-standard fertilizer and make even more difficult to sell them, particularly during these days of easy availability of standard fertilizer. Moreover, any such distinctive marking is unlikely to serve any purpose, as in the case of non-standard ferti-

lizer lifted by the Granulation/mixing units, it will not be sold in the straight form in the market. In case it is lifted by the private parties and sold in the market in straight form, the private units will have to re-pack it and comply with the conditions indicated in sub-clause (a) of clause 13B of Fertilizer (Control) Order. The State Governments are also informed of such sales to private units and they are expected to keep a watch over these agencies....."

207. The Committee had recommended that Second Proviso to Clause 13B of the Fertilizer Control Order should provide for allotment of non-standard Pool Fertilizer to farmers Co-operative/Government Granulation and mixing units with end-products conforming to the prescribed standards. The Committee note the detailed procedure have been evolved by the Ministry of Agriculture for disposal of sub-standard fertilizers as also the guidelines/instructions issued to the Food Corporation of India in May, 1976 for observing this procedure. Only in cases of reselling in neat and straight form, the seller would be contravening the provisions of the order and legal action may be instituted by the State Government. The Committee observe that sufficient safeguards have been provided and guidelines have also been laid down. In view of this the Committee do not press for the amendment of the order.

208. In regard to the second amendment proposed by them, the Committee are satisfied with the position explained by the Ministry that it would entail additional expenditure resulting in pushing up the price of non-standard fertilizer making its sale difficult in the sellers market. In the circumstances, the Committee do not like to press the amendment proposed by them in this regard.

(ii) *The Sugarcane (Control) Amendment Order,* 1978
(*G.S.R.* 62-*E of* 1978)

209. Sub-clause 3A of clause 3 of the Sugarcane (Control) Order, 1966 as inserted by the Sugarcane (Control) Amendment Order. 1978 reads as under:—

"Where a producer of sugar or his agent fails to make payment for the sugarcane purchased within 14 days of the date of delivery, he shall pay interest on the amount due at the rate of 15 per cent per annum for the period of such delay beyond 14 days. Where payment of interest on delayed payment is made to a cane growers' society, the society shall pass on the interest to the cane growers concerned after deducting administrative charges, if any, permitted by the rules of the said society."

210. It was felt that the payment of interest by a producer of sugar or his agent where payment for sugarcane purchased was delayed beyond 14 days, by way of penalty was a substantive provision and, therefore, its authority should flow from the parent Act.

211. After considering the reply of the Ministry of Agriculture (Department of Food), and the opinion tendered by the Ministry of Law, Justice and Company Affairs (Department of Legal Affairs) and the oral evidence of the representatives of the Department of Food, the Committee in paragraph 33 of their Sixth Report (Seventh Lok Sabha), presented on 21-4-1981, observed as under:—

> "After considering the whole matter in depth the Committee agree with the opinion tendered by the Ministry of Law, Justice and Company Affairs (Department of Legal Affairs) that the levy of interest under sub-clause 3A of clause 3 of the Sugarcane (Control) Order is compensatory and not in the nature of penalty. However, the Committee note that in the case of instance of Income Tax, as equated by the Ministry, the provision for levy of interest is provided for in the Income-tax Act and not through Rules made thereunder. The Committee, therefore, feel that with the object of giving a still better hold to the cane-growers, it would be in the fitness of things to include the provision of levy of interest in the enabling Act, *viz.*, the Essential Commodities Act, 1955."

212. In regard to the implementation of Committee's above recommendation, the Minister of Agriculture in his D.O. letter dated 12-7-1982 to the Chairman, Committee on Subordinate Legislation pleaded, as follows, for reconsideration by the Committee of their recommendations:—

> "The recommendation of the Committee has been examined by us in consultation with the Ministry of Law. The matter has also been discussed in an inter-Ministerial meeting and it is felt that it would not be appropriate to include the interest clause in the Essential Commodities Act, 1955. While making the recommendation, the Committee has observed that in the case of Income Tax the provision for levy of interest is provided for in the Income Tax Act and not through Rules made thereunder. After consideration of the matter carefully, the Government feel that it is not necessary to draw an analogy for

the levy of interest on delayed payment of sugarcane dues, from the provision made in the Income-tax law for levy of interest on delayed payment of income tax dues to the Government. This is because the former is compensatory rather than penal in nature and this fact has been accepted by the Committee itself. You will appreciate that the powers vested in the Government under section 3 of the Essential Commodities Act are very wide and the same enable the Government to take various measures, even though they are not specifically provided in the Act, with a view to regulating production, supply distribution etc. of the essential commodities. In addition to the provision for charging of interest, the Sugarcane (Control) Order deals with certain aspects which are not specifically provided for in the Essential Commodities Act. If the Act is amended to provide for levy of interest, it may be argued that specific provisions in regard to a considerable number of other measures, made not only in the Sugarcane (Control) Order but also under other Orders issued by various Ministries/Departments are also not sanctioned by the Act. We may thus be putting into jeopardy a wide range of powers which have been exercised under the Act for the past many years and throwing into doubt the validity of what has all along been accepted as valid. I consider that the proposed amendment will involve a great risk.

Further, similar suggestion was made by the Committee on Subordinate Legislation of the Rajya Sabha. The position was explained to that Committee on the lines indicated above and thereupon the Committee observed that the amendment in the Sugarcane (Control) Order providing for charging of interest on delayed payment was eminently reasonable and an incidental provision, as it was only for compensating the person what he would be otherwise losing by not getting the payment of his produce in time. The Committee accepted the amendment to be in order. Paragraphs 45 to 48 of the 31st Report of the Rajya Sabha Committee on Subordinate Legislation.

In view of the position explained above and in view of the fact that the Lok Sabha Committee on Subordinate Legislation has agreed with the opinion of the Ministry of Law, Justice and Company Affairs (Department of

Legal Affairs) that the levy of interest under clause 3A of the Sugarcane (Control) Order is compensatory and not in the nature of penalty, I request you to please reconsider the matter."

213. The Committee have considered the matter in all its aspects. The Committee would not like to press their recommendation in view of the reasons advanced by the Minister of Agriculture.

214. The Committee appreciate that as desired by them in paragraph 64 of their Seventh Report (Sixth Lok Sabha), presented to the House on 4-4-1978, in the case of the above recommendation which is not acceptable to the Ministry, a reply has come from the Minister himself.

(iii) *Recommendation contained in paragraph* 21 *of the Eighth Report (Seventh Lok Sabha) regarding the Indian Naval Armament Service (Group 'A') Recruitment Rules,* 1977 *(S.R.O.* 71 *of* 1977).

215. Sub-rule (3) of Rule 8 of the Indian Naval Armament Service (Group 'A') Recruitment Rules, 1977 provided that "if on the expiration of the period of probation referred to in sub-rule (1) or any extension thereof, as the case may be, the Government are of the opinion that a candidate is not fit for permanent appointment or if, at an any time during such period of probation or extension, they are satisfied that he will not be fit for permanent appointment on the expiration of such period of probation or extension, they may discharge or revert him to his substantive post or pass such orders as they think fit."

216. The Ministry of Defence who were asked to elucidate the phrase 'pass such orders as they think fit', in their reply dated 3 April, 1979 stated as under:—

"The phrase 'pass such orders as they think fit' implies that the appointing authority can pass an order for extending or curtailing the probation period."

217. After considering the above reply of the Ministry, the Committee in paragraph 21 of their Eighth Report (Seventh Lok Sabha) presented to the House on 18 September 1981. felt that in that case the Ministry should not have only difficulty in placing the same on a statutory footing. The Committee, accordingly desired the Ministry to amend Rule 8(3) of the Rules *ibid* by substituting the words

'pass an order for extending or curtailing the probation period' for the existing words at an early date.

218. The Ministry of Defence in their Action Taken Note dated 12 November, 1981 informed the Committee as follows:—

> "The Ministry agrees to the views of the Committee. Action is accordingly being taken to issue an amendment to the recruitment rules with a view to substituting the words 'pass an order for extending or curtailing the probation period' for the existing phrase "pass such orders as they think fit" occurring in rule 8(3), of the recruitment rules *ibid.*"

219. Reporting further progress, the Ministry in their communication dated 3 April, 1982 informed that the draft amendment rule 8(3) had already been concurred in by the Department of Personnel and Administrative Reforms and was at present under consideration of the UPSC. The Commission was being reminded to expedite the disposal of the case.

220. The Ministry in their latest communication dated 24 February, 1983 about the amendment notified by them have intimated as under:—

> "The words "or pass such orders as they think fit" appearing in sub-rule 3 of rule 8 of Indian Naval Armament Service (Group 'A') Recruitment Rules, 1977 are being deleted by a Notification which will be published in the official gazette on 5th March, 1983."

221. The Committee observe that the Ministry first agreed to amend sub-rule (3) of Rule 8 of the Indian Naval Armament Service (Group 'A') Recruitment Rules, 1977 on the lines recommended by the Committee. The amendment was also concurred in by the Department of Personnel and Administrative Reforms and it was only awaiting clearance from the U.P.S.C. Instead of making amendments on the lines desired by the Committee, the Ministry have omitted the words which were subject of comments by them without offering any reasons for the consideration of the Committee.

222. The Committee feel that whenever the Ministry change their stand in regard to a recommendation of the Committee already accepted by them, they should take the Committee into confidence instead of keeping them in the dark.

(iv) *The Port of New Mangalore (Regulation of the use of Landin*[illegible] *Places) Rules, 1977 (G.S.R. 467 of 1977)*

223. The Indian Ports Act, 1908 under which the above rule[illegible] were framed did not contain the usual provision for laying of rule[illegible] before Parliament and for their being subject to modification amendment, annulment, etc.

224. In this connection attention of the Ministry of Shipping an[illegible] Transport (Transport Wing) was invited to the Committee's recom- mendation contained in paragraph 11 of their Fourteenth Repor[illegible] (Fifth Lok Sabha) wherein the Committee had earnestly desire[illegible] all Ministries|Departments to undertake examination of all Act[illegible] with which they were administratively concerned in order to fin[illegible] out which of them did not contain a provision for laying of rule[illegible] before Parliament and to incorporate that provision in the Acts a[illegible] their earliest.

225. The Ministry who were asked to state the action taken by them in regard to incorporating the provision for laying of rules be- fore Parliament in the Indian Ports Acts, in their reply dated 20 January, 1978, stated as under:

> "It is true that the Indian Ports Act, 1908 does not contain a provision for laying the rules framed thereunder on the Table of Parliament. This Ministry has already finalised an amendment to the Indian Ports Act, 1908 in consul- tation with the Law Ministry, so as to make such a provision in the Act. As there are various other amend- ments also presently under consideration of the Ministry on the same Act, the necessary provision will be incorpo- rated in the Act at the time of amendment....."

226. After considering the reply of the Ministry, the Committee, in paragraph 26 of their Fourteenth Report (Sixth Lok Sabha) presented to the House on 15 December, 1978, observed as under:

> "The Committee note with satisfaction that, on being pointed out, the Ministry of Shipping and Transport (Transport Wing) have ageed to incorporate a provision in the Indian Ports Act, 1908 for laying of rules framed there- under before Parliament. The Committee desire the

Ministry to bring forward necessary legislation for the purpose at an early date. The Committee, however, stress that in case other amendments to the Act presently under the consideration of the Ministry are not expected to be finalised early, the Ministry should take necessary steps for amending the parent Act for the purpose of incorporating therein the laying provision without any further delay."

227. In their Action Taken Note dated 15 April, 1980, the Ministry of Shipping and Transport (Transport Wing) stated as under:

"As advised by the Committee, this Ministry had earlier agreed to amend the Indian Ports Act, 1908 so as to provide for laying of rules framed under the Act on the Table of each House of Parliament. On further examination of the matter, it is seen that there may be some problems if the Indian Ports Act, 1908 is amended because apart from being applicable to all the Major Ports which are under the administrative control of this Ministry, it also governs all the intermediate and minor ports which are approximately 250 in number and are administered by the respective maritime State Governments in which they are located. In case the Act is amended on the lines recommended by the Committee, the requirement of laying the rules framed under this Act will have to be met not only by this Ministry when the rules pertain to the ten Major Ports, but by the respective maritime State Government also in all cases where the rules pertain to the intermediate and minor ports. While this Ministry can ensure that the requirement in the case of rules framed for the Major Ports is met, it will not be possible for this Ministry to ensure the laying of such rules framed for the intermediate and minor ports on the table of the Assemblies of the respective meritime States. It is, therefore, requested that this point may be placed before the Committee for their consideration and advice."

228. The Committee note that the Ministry of Shipping and Transport have pointed out some problems if the Indian Ports Act. 1908 is amended because apart from being applicable to all the Major Ports which are under the control of the Ministry of Shipping and Transport, the Act also governs all the intermediate and minor

ports which are approximately 250 in number and are administered by the respective maritime State Governments. The Ministry have, therefore, requested for advice from the Committee. The Committee express their surprise over ignorance of the Ministry about the procedure for dealing with such matters. The Committee in their Twentieth Report (Sixth Lok Sabha), presented to the House on 27 April, 1979, have already laid down the detailed procedure in this connection. According to the recommendation made by the Committee in this behalf, a provision could be made in the Central Acts on concurrent subjects requiring the State Governments to lay the rules framed thereunder by them before the State Legislatures.

229. It seems that the Ministry of Shipping and Transport have perhaps not consulted the Ministry of Law, Justice and Company Affairs in the matter. Had they done so, there was no need for making a reference to the Committee in this regard.

230. The fact of the matter is that the Ministry of Law, Justice and Company Affairs have already included amendment of Section 6 of the Indian Ports Act, 1908 in the Delegated Legislation (Amendment) Bill, 1982, introduced in Rajya Sabha on 5-11-1982 and the Committee's recommendation will stand implemented when that Bill becomes an Act. The Ministry should have kept themselves informed about the latest developments. They should have also informed the Committee about the latest position in the matter in continuation of their earlier note of 15 April, 1980 so that the Committee could have treated this case as a satisfactory implementation of their recommendation.

(v) *The Coir Board Services (Classification, Control and Appeal) Bye-laws*, 1969 (*S.O.* 200 *of* 1969).

2.31. Bye-law 16(ii), *ibid*, provides that not withstanding anything contained in bye-laws 11 to 15 relating to the normal disciplinary procedure, where the disciplinary authority is satisfied for reasons to be recorded in writing that it is not reasonably practicable to hold an enquiry in the manner provided in the bye-laws, the disciplinary authority may consider the circumstances of the case and make such orders thereon as it may deem fit.

232. Principles of natural justice demanded that before a penalty was imposed upon a person, an inquiry into the charges against him should be held and he should be given a reasonable opportunity of being heard. In case, it was considered necessary to dispense

with the requirements in certain circumstances, it was felt that there should be a specific authorisation therefor in the parent law.

233. The matter was taken up with the then Ministry of Industry and Civil Supplies (Department of Industry) who replied as under:

> "Bye-law 16(ii) of the CBS(CCA) Bye-laws, 1969 is based on rule 19(ii) of the CCS(CCA) Rules, 1965, which in turn is based on the proviso (b) to article 311(2) of the Constitution. This Bye-law [No. 16(ii)] is not invalid and does not offend the principles of natural justice. The reasons being that it deals with an extra-ordinary situation and allows the dispensing with of the usual procedure of inquiry only when the disciplinary authority is satisfied that the adherence to the normal procedure is not reasonably practicable. Precaution has been taken to lay down that the disciplinary authority will have to record its reasons in writing before dispensing with the usual procedure. The reasons can be tested in a Court of Law. It is, therefore, not necessary that there should be any specific provision in the parent Act on the lines of proviso (b) of Clause 2 of the Article 311 of the Constitution for the purpose of framing this bye-law.".

234. After considering the reply of the Ministry, the Committee, in paragraph 52 of their Fifteenth Report (Fifth Lok Sabha), presented to the House on 15 April, 1975, recommended as follows:—

> "The Committee are not satisfied with the argument advanced by the Ministry that bye-law 16(ii) of the Coir Board Services (Classification, Control and Appeal) Bye-laws, 1969, is based on rule 19(ii) of the Central Civil Services (Classification Control and Appeal) Rules. They would in this connection, like to point out that in the case of the Central Civil Services, the authority to dispense with the normal disciplinary procedure flows from part (b) of the proviso to Article 311(2) of the Constitution. The Coir Industry Act, 1953, under which these bye-laws have been framed, does not authorise dispensing with the normal procedure in the case of the Coir Board Services. The Committee, therefore desire that the Ministry of Industry and Civil Supplies (Department of Industrial Development) should take early action either to delete bye-law 16(ii) of the above bye-laws, or in the alternative, they should come before Parliament for the amendment of the Coir Industry Act, so as to make a specific

provision therein on the lines of part (b)@ of the proviso to Article 311(2) of the Constitution."

235. While not accepting the above recommendation of the Committee, the Ministry stated in their reply as under:

"Bye-law No. 16(ii) is based on Rule 19(ii) of CCS(CCA). Rules, 1965, and has been provided for in the Coir Board Services (Classification, Control and Appeal) Bye-laws, 1969, to deal with a very *rare* type of situation, *viz.* when the employee after committing any grave misconduct absconds and cannot be traced for a reasonable period of time despite the best efforts of the disciplinary authority. For example, a cashier or a Stores Keeper runs away after embezzling public money/stores and even police fails to arrest him for quite some time. Only in such a case the disciplinary authority can make use of this bye-law. When the delinquent employee is physically available (barring insanity) it is always 'reasonably practicable' to hold the enquiry even if it is to be an *exparte* enquiry, the provisions cannot therefore be used against an employee violating the principles of natural justice. The second principle is "Audit Alteram Partem", or hear both parties. The accused obviously cannot be heard if he cannot be traced out—hence the need for this provision.

As regards the legal validity of this provision, it is felt that it is not necessary to amend the Act. The reason is that the "Doctrine of Pleasure" enshrined in Article 310 of the Constitution is applicable to All India/Central State Services only and does not extend to the services under the Statutory bodies like Coir Board. Article 311(2) is a sequal to the provisions of Article 310. Since Article 310 is not applicable in this case, there is no need to have any provision comparable to Art. 311(2) in Coir Act."

236. When the matter was placed before the then Chairman, Committee on Subordinate Legislation he pointed out that the Ministry of Railways (Railway Board) had issued certain guidelines

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@(b) Where the authority empowered to dismiss or remove a person or to reduce him in rank is satisfied that for some reason, to be recorded by that authority in writing, it is not reasonably practicable to hold such inquiry.

in regard to the Railway Servants (Discipline and Appeal) Rules, 1968 a copy of which might be obtained from them and thereafter the Ministry of Industry be suggested to lay down similar guidelines under bye-law 16(ii) of the Coir Board (Classification, Control and Appeal) Bye-laws, 1969. Accordingly, the Ministry of Railways were asked on 15 April, 1981 to furnish a copy of the guidelines issued by them in that regard. The Railway Board *vide* their O.M. dated 30 April, 1981 forwarded the same marked 'confidential'. The circumstances under which the Railway Board had issued these guidelines are contained in para 2 thereof, which reads as under:

> "Rule 14(ii), corresponding to proviso (b) of Article 311(2) specially empowers the disciplinary authority to dispense with the elaborate procedure. This is a very wide power given to the disciplinary authority. As some cases resulted in court proceedings, there has been hesitation on the part of disciplinary authority for invoking these provisions even in deserving cases. Broad guidelines for application of Rule 14(ii) based on the judgement of various High Courts and Supreme Court are given below."

237. The Committee note from the reply of the Ministry of Industry (Department of Industry) that the disciplinary authorities make use of the said by-law in dealing with an extra-ordinary situation and usual dispense with the procedure of inquiry only when they are satisfied that the adherence to the normal procedure is not reasonably practicable. In the light of the above views, the Committee do not press for the amendment. In this connection, the Committee, however, find that the Ministry of Railways (Railway Board) have issued certain guidelines (Appendix III) in regard to application of rule 14(ii) of the Railway Servants (Discipline and Appeal (Rules, 1968 in similar situation. The Committee desire the Ministry of Industry to lay down similar guidelines for dealing with matters under bye-law 16(ii) of the Coir Board Services (Classification, Control and Appeal) Bye-laws 1969.

CASES OF RECOMMENDATIONS TO WHICH REPLIES HAVE BEEN CONSIDERED UNSATISFACTORY BY THE COMMITTEE

238. After presentation of the Reports of the Committee on Subordinate Legislation to the House, copies thereof are made available to the Ministries|Departments for implementing the recommendations of the Committee, and the Ministries|Departments are requested to furnish for the information of the Committee Action Taken Notes on various recommendations made by them. In following cases, action taken by the Ministries|Departments in implementation of the recommendations of the Committee has not been found satisfactory:—

(i) Bye-laws for regulating the collection and recovery of tax on Cycles and Tricycles in the Jullundur Cantonments (S.R.O. 319 of 1969).

239. On scrutiny, certain lacunae were found in bye-laws 1, 9 and 12 of the bye-laws for regulating the collection and recovery of tax on cycles and tricycles in the Jullundur Cantonments and accordingly, the Committee on Subordinate legislation made the following recommendation in paragraph 85 of their Eighth Report (Fifth Lok Sabha) presented to the House on 30-8-1973:—

> "The Committee note with satisfaction that the Ministry of Defence have accepted the suggestions of the Committee and have agreed to amend the Bye-laws so as to provide therein the rate of tax and the charges for issuing duplicate plate and also to specify the designations of official(s) to be authorised to seize the bicycles|tricycles. The Committee desire the Ministry to amend bye-laws at an early date. They further desire the Ministry to examine such bye-laws of other Cantonments and to make amendments in cases where provisions on the above lines do not exist."

240. The Report was forwarded to the Ministry on 7-9-1973.

241. The Ministry of Defence amended the Jullunder Cantonment (Tax on Cycles and Tricycles) Bye-laws as desired by the Committee *vide* S.R.O. 13 dated 5-1-1974 and also intimated action for checking similar bye-laws and removal of like discrepancies in the bye-laws of other Cantonment Boards, *vide* Ministry's notes dated 24-10-1973 and 14-1-1974.

242. In their note dated 7-5-1974, which was in reply to the enquiry dated 10-4-1974, the Ministry further intimated that the bye-laws regarding the recovery of tax on cycles and tricycles in respect of 52 Cantonment Boards out of 62 had been examined and it was found that the bye-laws of some Cantonments Boards *viz.* Ambala Allahabad, Agra, Badamibagh, Jhansi, Dehradun, Faizabad, Meerut and Ramgarh require amendments so as to comply with the reocmmendations of the Committee. The local authorities were being periodically reminded for submission of proposals for the amendment to the bye-laws of these nine Cantonments and also to complete the examination of the bye-laws of the remaining ten Cantonment Boards.

243. Intimating further progress, the Ministry in their reply dated 31-8-1976 to the query dated 18-5-1976 intimated that a further review of the bye-laws of the various Cantonments had revealed that the bye-laws of Agra, Badamibagh and Faizabad did not require amendments. The bye-laws of ten Cantonment Boards, namely, Ambala, Meerut, Dehradun, Jhansi, Rambagh, Bareilly, Allahabad, Kamptee, Delhi and Amritsar would require amendment.

244. The final position as indicated in the Ministry's note dated 7-6-1982, shows that out of ten Cantonments, the bye-laws of the eight Cantonments have since been amended and published in the Gazette. The bye-laws of the remaining two Cantonments, namely, Kamptee and Amritsar are still in the process of being finalised.

245. The Committee observe that the manner in which the implementation of their recommendation has been handled is far from satisfactory. More than ten years have elapsed since the Committee had made recommendation in this regard in August, 1973 but the bye-laws of two cantonments out of ten cantonments are still to be amended. The most depressing part of it is that the Ministry of Defence has failed to intimate on their own, the progress of action taken on the Committee's recommendation. The Ministry has to be reminded as many as six times in order to ascertain the fate of the recommendation. The Committee desire the Ministry of Defence to fix responsibility for the casual way the Committee's recommendation was treated by the persons concerned and inform the Committee about the action taken in the matter.

(ii) *The Army Medical Corps (Civilian) Class III Posts Recruitment Rules*, 1968

246. The Army Medical Corps (Civilian) Class III Posts Recruitment Rules, 1968 (S.R.O. 400 of 1968) had the same short title* as S. R. O. 9 of 1968, though the latter concerned different Class III

*The Army Medical Corps (Civilian) Class III Posts Recruitment Rules, 1968.

Posts. Since it was likely to cause confusion at the time of reference or tracing, the matter was taken up with the Ministry of Defence.

247. After considering the reply of the Ministry, the Committee, in paragraph 70 of their Sixth Report (Fifth Lok Sabha), presented to the House on 7 May, 1973, observed as under:

> "The Committee note with satisfaction that the Ministry of Defence have agreed to consolidate the two sets of Rules and also given an assurance to be careful so that such situation do not arise in future. The Committee desire the Ministry of Defence to do the needful at an early date."

248. The implementation of the above recommendation of the Committee was pursued with the Ministry and reminders were issued on 24-4-1974, 17-5-1976, 29-4-1977 and 5-7-1977 in that regard.

249. The Ministry of Defence in their interim reply dated 16-8-1977, informed—

> "Initially it was intended to publish a consolidated set of recuitment rules covering all Group 'C' (Class III) Civilian posts in the AMC. But, subsequently, it was thought that, as the para-medical categories comprise a distinct group and combining this group with the other unconnected categories may lead to some confusion, the publication of a single consolidated set of recruitment rules for all Group 'C' posts in the AMC under a common title would not be advisable.
>
> On the other hand it was considered more appropriate to publish two sets of recruitment rules—one for Group 'C' Paramedical categories and the other for Group 'C' general categories."

250. Publication of the revised set of recruitment rules in respect of Group 'C' para-medical posts in the AMC in supersession of those published in SROs 381 of 1967 and 9 of 1968 (NOT 9 of 1966) is now in the final stages. These rules, which will be published shortly with the title "Army Medical Corps (Para-medical posts) Recruitment Rules, 1977", Contain large number of amendments relating to classification of posts, scales of pay, a 'saving clause', concessions for scheduled castes and scheduled tribes, age limits, educational qualifications and composition of the D.P.Cs.

251. Now that the recruitment rules for the para-medical posts have almost been finalised, revision of the recruitment rules in

respect of the Group C general categories and publication thereof in a separate set of rules is being taken up by Medical Directorate, Army Hqrs."

252. In their further reply dated 4-1-1979, the Ministry informed—

"SRO 9 of 1968, having the short Title 'The Army Medical Corps (Civilian) Class III Posts Recruitment Rules, 1968' has since been superseded, along with another set of rules (*viz.* SRO 381 of 1967), by SRO 381 of 1977 having the short Title "The Army Medical Corps Civilian (Group 'C') Para-Medical Posts Recruitment Rules, 1977". As for the other recruitment rules (for non-para-medical posts) referred to in para 67 of the Sixth Report of the Committee (Fifth Lok Sabha) (*viz.* SRO 400 of 1968), it is to be stated that action to revise these rules suitably, is in hand. It is, therefore, to be stated that the recommendation of the C.S.L. under reference stands implemented by the promulgation of SRO of 1977, by virtue of which any chance of confusion, because of similar titles, between the two sets of recruitment rules, as observed by the Committee, has been removed."

253. The matter was again pursued with the Ministry and reminders were issued on 21-5-1980, 17-9-1980, 20-3-1982 and 22-4-1982.

254. The Ministry in their reply dated 2-6-1982, informed—

"As regards framing of revised recruitment rules for the non-para-medical posts in supersession of SRO 400 of 1968, it is stated that a consolidated set of revised recruitment rules for all non-paramedical posts in the AMC is proposed to be promulgated in supersession of the existing recruitment rules. A copy of draft revised recruitment rules will be furnished to Lok Sabha Secretariat as and when published in the Official Gazette."

255. The Committee deplore the lackadaisical manner in which the Ministry of Defence have dealt with the whole case. The Ministry first stated that they had no objection to consolidating the two sets of recruitment rules for Class III on the basis of which the Committee made their above recommendation. After the Committee's Report was presented to Lok Sabha, the Ministry changed their stand and decided to issue two separate sets of Rules—one for Paramedical Posts and the other for Non-Para-Medical Posts—instead of issuing a consolidated set of Rules for all Group C Posts. Obviously, the Ministry had not sent their considered opinion to the Committee in the first instance. The Committee further notice that so far only one set of Rules have actually been issued even though the Ministry had taken the decision in the matter as far back as on

16 August, 1977. The Committee exhort the Ministry to process the left-over work without further delay.

(iii) *The Andaman and Nicobar Islands Economiser Rules,* 1959

256. Rules 32 and 33 of the Andaman and Nicobar Islands Economiser Rules, 1959, framed under section 29 of the Indian Boilers Act, 1923, provided for appointment of panel of assessors to assist the appellate authority constituted under section 20 of the Act and for payment of fees and travelling expenses to them while assisting the appellate authority.

257. As there was no provision in the Indian Boilers Act, 1923, authorising the Government to provide for appointment of assessors and payment of fees and travelling expenses to them, the Committee, after considering the comments of the Ministry of Home Affairs on a reference made to them in this regard, made the following recommendation in paragraph 7 of their Ninth Report (Second Lok Sabha), presented to the House on 9-9-1960:

> "A provision for appointment of assessors and payment of fees and travelling expenses to them ought to have been made in the Indian Boilers Act, 1923, and not in the rules as has been done under rules 32 and 33 of the Andaman and Nicobar Islands Economiser Rules, 1959."

258. While accepting the above recommendation of the Committee, the Ministry of Home Affairs had stated in their interim reply (*vide* O.M. No. 34|13|61-ANL, dated 17 March, 1962), that necessary action to amend the Indian Boilers Act, 1923, was being taken by the Ministry of Works and Housing. That was reported to the House by the Committee on Subordinate Legislation (Third Lok Sabha) *vide* S. No. 3 of Appendix to their Second Report presented to the House on 7 May, 1963.

259. On finding that the recommendation of the Committee had not been implemented, the Committee, after hearing the representatives of the Ministry of Industrial Development at their sitting held on 12-2-1974, made the following recommendation in paragraph 114 of their Tenth Report (Fifth Lok Sabha), presented to the House on 3-4-1974:

> "The Committee are not satisfied with the reply of the Ministry of Industrial Development. In their opinion, Government have unduly delayed implementation of their recommendation which had been accepted by them as far

back as in March 1962. The Committee desire the Ministry to expedite amendment to the Indian Boilers Act and report its compliance to them."

260. The implementation of the recommendation of the Committee was pursued with the Ministry and interim replies dated 18-5-1974, 14-8-1975, 24-11-1975 and 29-3-1978, stating the progress being made in matter, were received from the Ministry.

261. In their latest reply dated 16-4-1982, the Ministry of Industry (Department of Industrial Development) informed:—

"....a draft summary for the Cabinet has been prepared in accordance with the decision of this Department on recommendations of the high-powered Committee set up by the Government of India for a comprehensive review of laws on boilers and unfired pressure vessels. As intimated to the Lok Sabha Secretariat earlier a provision has also been suggested in the draft summary for the Cabinet and the draft Bill prepared by this Department for appointment of assessors and also for payment of fees and travelling expenses to them.

The draft Summary for the Cabinet which has been prepared by this Department for amendment of the Indian Boilers Act, 1923, is now under consideration of the Ministry of Law (Department of Legal Affairs)."

262. The Committee observe that the implementation of their recommendation has been pending for the last over 22 years. In spite of the fact that the Committee, after hearing the representatives of the Ministry of Industrial Development, have reiterated their recommendation in 1974, the progress made regarding action taken by the Ministry is not a satisfactory at all. Considering the time that is usually taken in putting a Bill on the Statute Book, after its introduction in Parliament, there does not seem to be any hope of implementing the recommendation in the foreseable future. The Committee do not consider the reply of the Ministry as satisfactory and strongly deplore the indifferent manner in which the Government have dealt with their recommendation. The Committee recommend that a provision for appointment of assessors and payment of fees and travelling expenses to them ought to have been made in the Indian Boilers Act, 1923, and not in the rules as has been done under rules 32 and 33 of the Andaman and Nicobar Islands Economiser Rules, 1959.

(iv) *The Cement Control (Second Amendment) Order,* 1973

263. The Cement Control (Second Amendment) Order, 1973 (S.O. 246-E of 1973) was given retrospective effect. It was published in the Gazette dated 25-4-1973 but was deemed to have come into force from 15-12-1972.

264. The Industries (Development and Regulation) Act, 1951, under which the above Order was issued, did not contain any provision for giving retrospective effect to Orders issued thereunder. As the retrospective effect already given was without any legal authority in the absence of express provision in the Act empowering the Government to give retrospective effect, the Committee on Subordinate Legislation after considering the Action Taken Note dated 25-7-1977 of the Ministry of Industry (Department of Industrial Development), on Committee's recommendation first made on the subject in paragraphs 65-66 of their Twentieth Report (Fifth Lok Sabha) presented to the House on 3-11-1976, made the following recommendation in paragraphs 115—118 of their Eleventh Report (Sixth Lok Sabha), presented to the House on 24-8-1978:

"115. The Committee note from the reply of the Ministry of Industry (Department of Industrial Development) that the Cement Control (Second Amendment) Order, 1973 relating to the fixation of ex-works price for cement was issued in accordance with the recommendations of the Tariff Commission and retrospective operation of the Order had not affected anyone adversely because there was no revision of the f.o.r. destination price consequent upon the above amendment.

116. The Committee further note that the Ministry have regretted their omission in not explaining this position by addition of a suitable foot-note to the rules.

117. The Committee desire to point out in this regard that the Cement Control (Second Amendment) Order. 1973, was issued under the Industries (Development and Regulation) Act, 1951 which does not contain any provision for giving retrospective effect to Orders issued thereunder. In the absence of such a provision in the Act, retrospective effect given to the above Order would not have become valid even if an explanatory note regarding the same might have been appended thereto. The Committee had clarified this position in para 8 of their Nineteenth

Report (Fifth Lok Sabha) which had been brought to the notice of all Ministries/Departments of Government by the Depatrment of Parliamentary Affairs. The Committee desire the Ministries/Departments to keep the observations of the Committee in view while giving retrospective effect to Orders.

118. The Ministry have also stated in their reply that retrospective effect is not being given subsequently. The Committee desire to point out in this regard that the retrospective effect already given was without due legal authority in the absence of a specific provision in the Act, empowering the Government to give retrospective effect. The Committee, therefore, desire the Ministry of Industry (Department of Industrial Development) to bring necessary amendment to the Industries (Development and Regulation) Act, 1951 for the purpose of validating the retrospective effect already given to the above order.

265. The implementation of the above recommendation of the Committee was pursued with the Ministry and reminders were issued on 24.8.1979, 6.3.1980, 29.4.1981, 24.8.1982 and 1.10.1982.

266. The Ministry in their final reply dated 14-10-1982, informed as under:—

"The Circumstances under which the Cement Central (2nd Amendment) Order, 1973 dated 24-4-1973 was issued, were explained to the Lok Sabha Secretariat *vide* this Ministry's letter of even number of 25-7-1977 a copy of which has been reproduced in the Report referred to above. The Committee considered this Ministry's explanation and had observed that Department of Industrial Development may bring out necessary amendment to the I(D&R) Act, 1951 for purpose of validating the retrospective effect already given to the above order. As stated in this Department's letter of 25-7-1977, the amendment to the Cement Control. Order was issued to allow higher retention price to the Sewree Unit of Messrs Shree Digvijaya Cement Company Limited in accordance with the recommendations of the Report of the Tariff Commission, 1961. As it is not legally in order to give retrospective effect to the orders issued under the Cement Control Order, it is now proposed to regularise the payment through issue of an administrative sanction.

It may also be pointed out in this connection that on the basis of the Cement Control (Amendment) Order of 24-4-1973 and the Presidential sanction dated 14-10-1982, the Cement company's account has been settled. Further, by issue of the administrative sanction (Appendix IV) the legal lacuna has also been rectified. Thus, no further action is pending in respect of amendment which was introduced in April, 1973. It may also be pointed out that no further amendments to the Cement Control Order have been issued giving retrospective effect.

In the circumstances, enactment of a legislation only to validate the solitary instance where retrospective effect was given to an order issued under the Cement Control Order, 1967 for the purpose may not be commensurate with the results likely to be achieved. In the circumstances, Lok Sabha Secretariat are requested kindly to explain the position to the Committee on Subordinate legislation with the request that, if they have no objection, the matter may kindly be treated as closed."

267. The Committee observe that their recommendation on the Cement Control (Second Amendment) Order, 1973 for making provision in the relevant Act empowering Government to give retrospective effect was first made in paragraphs 65-66 of their Twentieth Report (Fifth Lok Sabha) presented to the House on 3-11-1976. The Committee reiterated the recommendation in paragraph 118 of their Eleventh Report (Sixth Lok Sabha) presented to the House on 24-8-1978.

268. This is a well considered recommendation of the Committee based on its earlier recommendation contained in paragraph 19 of the Seventh Report (Fourth Lok Sabha) in which the Attorney General had also been consulted. There is, thus, no scope for deviation in implementing the recommendation. The Ministry have, however, regularised the illegility by issuing a Presidential sanction on 14-12-1982.

269. In the opinion of the Committee, the better course would have been if the Ministry had taken recourse to amend the Industries (Development and Regulations) Act, 1951 instead of issuing an executive sanction for validating the retrospective effect given to the Orders. Even the Law Ministry had suggested the former course of action to them.

270. The Committee feel that the presidential sanction cannot be a substitute for law. However, it will be too late now for the Ministry of Industry to introduce a validating Bill in this regard.

(v) *The Central Excise (Fifteenth Amendment) Rules*, 1977.

271. Rules 96-MMMM of the Central Excise Rules, 1944, as inserted by the Central Excise (Fifteenth Amendment) Rules, 1977 (GSR 511E of 1977), conferred discretionary power on the Collectors of Central Excise to condone failure on the part of a manufacturer to avail himself of the special procedure, or to comply with any condition, laid down in that section (Section E-III, Cotton Fabrics produced in power-looms-Special Procedure), within the prescribed time-limit.

272. The Ministry of Finance, to whom a reference was made in that regard, in their reply dated 15-5-1978, stated a follows:—

> "The suggestion to lay down guidelines for the Collectors to exercise discretion under Rule 96 MMMMM is acceptable. However, the necessary study in this regard is being made and the guidelines will be laid down in due course. While issuing the guidelines the Collectors will be instructed to record reasons in writing while exercising the discretion under this rule."

273. After considering the above reply of the Ministry the Committee, in paragraphs 18 and 19 of their Twelfth Report (Sixth Lok Sabha), presented to the House on 22-11-1978, made the following recommendations:—

> "The Committee note with satisfaction that, on being pointed out, the Ministry of Finance (Department of Revenue) have agreed to lay down guidelines for the Collectors to exercise discretion under rule 96-MMMM of the Central Excise Rules, in due course after making necessary study for the purpose. The Committee desire the Ministry to expedite the proposed study and lay down the requisite guidelines at an early date.

> The Committee note that while issuing the guidelines, the Ministry intend to instruct the Collectors to record reasons in writing before exercising their discretion. The Committee feel that the provision for recording reasons in writing should be made in the rules themselves by amending them suitably instead of laying it down in the

guidelines. The Committee desire the Ministry to amend the rules accordingly at an early date."

2.74. In their Action Taken Note dated 20-12-1978 on the above recommendations, the Ministry of Finance informed:—

"As reported in this Ministry's O.M. of even number dated the 15th May, 1978, a study was conducted in regard to laying down guidelines for the Collectors of Central Excise when exercising the discretionary powers vested in them under Rule 96-MMMMM.

The intention of inserting rule 96-MMMMM in the Central Excise Rules, 1944 was to enable Collectors of Central Excise to condone lapses or delays in genuine cases (i) where there had been no attempt on the part of the manufacturer to evade payment of duty or (ii) where collection of duty on square yardage basis would cause hardship. Guidelines to this effect were issued to the Collectors *vide* Board's letter F. No. 2|40|57-CX. III (Circular letter No. CF21|1958) dated the 28th May, 1958.

The study has shown that no case of abuse of the discretionary powers by the Collectors has come to light in the last two decades that the rule has been in existence. Further, it has also been observed that the circumstances which would justify the exercise of the discretionary powers may vary widely e.g. financial difficulties, labour problems, market fluctuations, ignorance of law, illiteracy etc. All that is necessary is that the Collectors while using their discretion should be guided by the fact that the circumstances for lapse or failure on the part of the manufacturer to apply for the special procedure or to comply with any conditions was *genuinely* beyond their control.

In view of the fact that these guidelines already exist in the matter, it is felt that it may not be necessary to prescribe any fresh guidelines or incorporate them in the rule as such.

As regards the suggestion for making a provision for recording of the reasons in writing in the rule itself, a provision to this effect will be made in rule 96-MMMMM after the Committee gives its approval to the view contained in para 5 above."

275. The Committee feel that the possibility of arbitrary use of the discretionary powers conferred on the Collector under the Central Excise Rules cannot be ruled out fully even if the Ministry are not aware of any case of such abuse of the discretionary powers during the last two dacades. The Committee have recommended provision of adequate safeguards in the rules so as to minimise the possibility of misuse of the discretionary powers wherever such provision exists in the rules.

276. The Committee reiterate their recommendations that the Central Excise Rules should be amended to the desired effect. The Committee desire the Ministry to effect the requisite amendment to the rules without further loss of time.

VI

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

277. With a view to ensure speedy implementation of their recommendations, the Committee had observed as under in paragraph 93 of their Sixteenth Report (Fifth Lok Sabha) on 9 May, 1975:—

> "......the Committee fix a time-limit of six months within which the Ministries/Departments of Government of India should implement their recommendations. If in any particular case it is not possible for a Ministry/Department to adhere to this time-limit, they should ask for extension of time from the Committee after explaining the difficulties in implementing the recommendations within the prescribed time-limit."

278. The Committee note with satisfaction the action taken by Government on their earlier recommendations as indicated in APPENDIX V

NEW DELHI;
May 5, 1983
Vaisakha 15, 1905 (*Saka*)

MOOL CHAND DAGA,
Chairman,
Committee on Subordinate Legislation.

APPENDIX I

(Vide Paragraph 10 *of the Report)*

SUMMARY OF MAIN RECOMMENDATIONS/OBSERVATIONS MADE BY THE COMMITTEE

Sl. No.	Paragraph No.	Summary
1	2	3
1(i) Law Justice and Company Affairs	19	The Committee observe that the draft amendment Rules which were published in the Gazette of India dated 15-7-1978 were made available to them on 23-7-1980 after the Ministry was reminded in this regard. The Committee cannot help but to express their unhappiness on the way their communications were being ignored.
1(ii)	20	The Committee further observe that a period of sixty days given for sending objections/suggestions from the date of publication of the draft rules expired on 14-9-1978. Since then nearly four and a half years have passed but final rules have not yet been published. The Ministry owe an explanation to the Committee for not publishing the final Amendment Rules so far. Now that the Monopolies and Restrictive Trade Practices Act has been amended, the Committee stress early implementation of their recommendation.
1(iii)	25	The Committee note with concern that even after a period of seven years, the Ministry of Information and Broadcasting have partly implemented their recommendations contained in paragraphs 128-129 of their Eighteenth Report (Fifth Lok Sabha) presented to the House on 12-1-1976. The exhibition of the cinematographs in the Union Territory of

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		Arunachal Pradesh is still being regulated unauthorisedly through executive instructions.
1(iv) Information and Broadcasting	26	The Committee desire that pending framing of uniform set of rules under Section 16(1), the rules for regulation of exhibitions by means of cinematographs for the Union Territory of Arunachal Pradesh be published at an early date.
1(v) Home Affairs	32	The Committee observe that after conveying on 30-1-1979, the acceptance of their recommendations contained in paragraphs 17, 21 and 24 of their Fourth Report (Sixth Lok Sabha), presented to the House on 22-12-1977 the Ministry of Home Affairs have failed to take necessary steps for their implementation. The Ministry do not appear to realise that they owe a responsibility to the Committee for actual implementation of the recomendations. They woke up when they were reminded in the matter on 3-4-1982 and 24-8-1982; this time by a d.o. letter to the Secretary of the Ministry. The Committee regret that infirmities in the rules have been allowed to remain for more than four years despite acceptance of their recommendations. No. sense of urgency has been shown even in view of elections to the Corporation held in 1983.
1(vi)	33	The Committee deprecate carelessness and utter disregard shown by the Ministry in implementing their recommendations and desire the Ministry to fix responsibility for such default. The Committee also desire that the recomendations made by them in this regard should be implemented without any further delay.
1(vi) Industry	39	The Committee are not convinced by the reasons advanced by the Ministry of Industry (Department of Industrial Development) for not implementing the recommendations contained in paragraphs 15 and 18 of their Fifth Report (Sixth Lok Sabha) pre-

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		sented to the House on 3-3-1978. The Committee feel that it is not material whether the Order becomes ineffective due to stay order having been granted by the courts. As long as the Order remains on the statute book, any infirmity therein has to be rectified. In fact, when the Ministry had issued the Paper (Regulation of Production) Order, 1978, the amendment suggested by the Committee in this regard should have been incorporated in Clause 9. The Ministry have failed to do that. The Ministry have again failed to implement the recommendation of the Committee when they substituted Clause 9 by a new Clause in 1979.
1(vii)	40	The Committee cannot help but deplore the sheer negligence on the part of the Ministry to implement the Committee's recommendation which was accepted by them as far back as 6-4-1978 and desire them to implement it now without any further delay.
1(viii) Home Affairs	46	The Committee note with concern the utter disregard shown by the Ministry of Home Affairs to the communications received from Parliamentary Committee. The Ministry, on its own, is required to keep the Committee informed about the progress being made by them in the matter of implementation of their recommendations contained in paragraph 49 of their Fifth Report (Sixth Lok Sabha) presented to the House on 3-3-1978. They. however, chose to remain silent and did not respond even to the reminders.
1(ix)	47	The Committee desire the Ministry of Home Affairs to fix responsibility for failure to communicate further progress. The Committee also urge that a final reply be submitted within one month of the presentation of the Report to enable them to take a view in the matter.
1 (x) Home Affairs	53	The Committee note with concern that even after four years, their recommendation contained in

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		paragraph 89 of their Ninth Report (Sixth Lok Sabha) presented to the House on 11-5-1978 remains to be implemented. The Committee fail to understand as to how the payments of T.A./D.A. to the witnesses/assessors have been made since 11-5-1978 without the authority of law.
1 (xi)	54	The Committee, therefore, desire the Ministry to expedite the amendment of the Commissions of Inquiry Act 1952 at an early date so that the payments being made by them in this regard should have the sanction of Law.
1 (xii) Energy	65	The Committee note from the correspondence with the Ministry that their Committee's Report (Tenth Report—sixth Lok Sabha) was forwarded to them on 25-7-1978. When implementation of Committee's recommendation was pursued, the Ministry in their communication dated 3-4-1980 stated that they had not received the Lok Sabha Secretariat O.M. dated 25.7.1978 forwarding the Report of the Committee to that Ministry. Another copy of the Committee's Report was sent to the Ministry on 7.8.1980. On getting no reply, the matter was again pursued with the Ministry and two d.o. letters dated 20.8.1982 and 8.11.1982 were issued to the Secretary of the Ministry. The Ministry had ignored the first d.o. reminder. They had replied only to the second d.o. reminder in which the Secretary of the Ministry was informed that he might have to explain personally the reasons for delay to the Chairman if reply was not received by 30.11.1982.
1 (xiii)	66	The Committee observed that the Ministry have not shown any enthusiasm to implement their recommendations. A copy of the Report which they have obtained on receipt of second d.o. reminder, could have been obtained by them as well when it was stated not to have been received by them alongwith the O.M. dated 7.8.1980 or when the first d.o. reminder dated 20.8.1982 was received by them. In short the action appears to have been initiated by the

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		Ministry after four years of the presentation of the Report by the Committee to the House which to say the least is very unfortunate. The Committee urge the Ministry to initiate steps to implement their recommendations expeditiously.
1 (xiv) Shipping and Transport	74	The Committee note with concern the casual manner in which the Ministry of Shipping and Transport (Roads Wing) have treated the communications sent to them by a Parliamentary Committee. The Report (Fifth Report—Sixth Lok Sabha) of the Committee was sent to the Ministry on 3-3-1978. After sending an interim reply on 4-8-1980, they remained silent for another two years. The reply of the Ministry came only when the matter was taken up with the Secretary on 6-9-1982 and that too was an interim one. The matter is still at interim reply stage. The Committee, therefore, desire the Ministry to finalise the matter and amend the Central Engineering Service (Roads) Group 'A' of the Ministry of Shipping and Transport (Roads Wing) Rules, 1976 and the Central Engineering Pool Group 'A' of the Ministry of Shipping and Transport (Roads Wing) Rules, 1976 suitably without any further delay, as already recommended by them and publish the same in the Gazette of India at an early date.
1(xv) Finance	85	On perusal of the note from the Ministry in regard to the Supreme Court case the Committee found that the employees had challenged the amendment to the Scheme on 24-10-1980 i.e. 2-½ years and 2 years after the Committee made the recommendations in their Ninth Report and Twelfth Report (Sixth Lok Sabha), respectively.
1(xvi)	86	The Committee observe that their Ninth and Twelfth Reports were presented to the House on 11-5-1978 and 22-11-1978 respectively. The petition in the Supreme Court was filed on 24-10-1980. A period of 2/1-2 years and 2 years was available to the Ministry to implement their recommendations in

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		this regard. This period could not be said to be inadequate had the Ministry taken prompt action on the recommendations.
1 (xvii)	87	The Committee desire that the Ministry of Finance pending final decision of the Supreme Court, should keep in view the spirit of the recommendations of the Committee whenever action is taken under Clause (b) of paragraph 10 (6) of the General Insurance (Rationalisation of Pay Scales and Other Conditions of Service of Officers) Scheme. 1975 or sub-para (5) of paragraph 17 of the General Insurance (Rationalisation of Pay Scales and Other Conditions of Service of Development Staff) Scheme, 1976 or under paragraph 4 of the General Insurance (Termination, Superannuation and Retirement of Officers and Development Staff) Scheme, 1976.
1(xviii) Shipping and Transport	99	The Committee observe that their recommendation contained in paragraphs 8-9 and 13 of their Eleventh Report (sixth Lok Sabha) has been dealt with by the Ministry of Shipping and Transport in a most casual way. The Committee are of the view that after the amendment made by the Ministry of Home Affairs in the Contributory Provident Fund Rules (India) 1962 had been brought to the notice of Ministry of Shipping and Transport there is no justification whatsoever for taking such a long time to implement their recommendation. The Committee deplore the delay and desire that Ministry to amend the Shipping Development Fund Committee (Employees Contributory Provident Fund) Rules, 1976 as recommended by them without further loss of time.
1(xix) Home Affairs	106	The Committee note that the Ministry of Home Affairs have reprinted the English version of the General Provident Fund Rules amended up to 30-11-1978 and the Hindi version thereof as amended up to 31-3-1980. The Committee further note that the Ministry propose to bring out a diglot edition of the Rules. The Committee desire that the

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		proposed edition should be brought out without any further delay.
1(xx)	107	The CVommittee regret to note that the Ministry of Home Affairs have failed to bring the recommendations of the Committee, contained in paragraphs 59 and 60 of their Eleventh Report (Sixth Lok Sabha) to the notice of all Ministries/Departments for compliance. The Committee desire that these recommendations should immediately be circulated to all Ministries/Departments for their information and necessary action.
1(xxi) Law Justice and Company Affairs	111	The Committee note that in pursuance to their insistence for implementation of their recommendation contained in paragraph 11 of their Fourteenth Report (Fifth Lok Sabha), the Ministry of Law, Justice and Company Affairs have introduced the Delegated Legislation (Amendment) Bill, 1982 in the Report (Fifth Lok Sabha), the Ministry of Law, Jusprovision in respect of fifty Acts. The amendment to the Institutes of Technology Act, 1961 has, however, not been included in the said Bill.
1(xxii)	112	The Committee recommend that a Bill to amend the Institutes of Technology Act, 1961, should be introduced specifically for the purpose of implementing their recommendation contained in paragraphs 87-88 of their Eleventh Report (Sixth Lok Sabha) or the amendment of that Act be included in the second Delegated Legislation Provisions (Amendment) Bill proposed to be brought forward by the Ministry of Law for making laying provision in the remaining Acts.
1(xxiii)	113	The Committee also note that the Department of Parliamentary Affairs have not circulated their recommendations to all Ministries/Departments that the provision for laying of rules on the Table when incorporated in the relevant Act, should have prospective effect and not retrospective effect, so that any

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		rules whether original or amending, framed thereafter be laid before Parliament. The Committee desire the Department of Parliamentary Affairs that their recommendation in this regard should now be circulated to all Ministries/Departments.
(1(xxiv) External Affairs	121	The Committee observe that for four years and 3 months after the presentation of their Report on 21-12-1978, the Ministry of External Affairs have virtually not initiated any action on their recommendation. The Committee's recommendation was based on their earlier recommendation in respect of the Indian Foreign Service Branch 'B' (Recruitment, Cadre, Seniority and Promotion) Rules, 1974 which had been implemented by the Ministry of External Affairs *vide* their O.M. No. Q|GP|792|1|80-CAD dated 6-10-1982. With this precedent before them, the Committee hardly find any reasons for the Ministry for taking such a long time to implement their recommendation. The Committee find the Ministry's reply sent on 4-4-1982 was hasty and superficial.
1(xxv)	122	The Committee desire the Ministry of External Affairs to fix responsibility on the persons concerned for their failure to take timely action on their recommendation.
1(xxvi) External Affairs	126	The Committee feel distressed at the inordinate delay of four years by the Ministry of External Affairs in conveying their acceptance of the recommendation contained in paragraph 30 of Fifteenth Report (Sixth Lok Sabha) of the Committee to amend the Rules for limited Departmental Competitive Examination for inclusion in the Select List for the integrated Grades II and III of the General Cadre of the Indian Foreign Service Branch 'B', Rules, 1974. This delay could have been avoided if the Ministry had initiated action to procure a copy of the Central Engineering Service Rules soon after receiving the Committee's Report which was presented to the

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		House on 21-12-1978. The Committee desire the Ministry of External Affairs to issue the amending notification without any further delay.
1(xxvii) Law Justice and Company Affairs	131	The Committee note that this matter was first considered by them in paragraphs 46 to 52 of their Seventh Report (Second Lok Sabha), presented to the House on 22-12-1959. It again came up before the Committee in 1979 when the Committee presented their Report exclusively on this subject (*i.e.* Twentieth Report, Sixth Lok Sabha). Thus, the Ministry have been aware of the Committee's thinking in regard to this matter since 1959. Four years have elapsed since the presentation of their Twentieth Report but final replies from the thirteen State Governments and five Union Territory Administrations are yet to be received. The Committee also note that the Ministry of Law have not intimated further progress in the matter. The Committee desire the Ministry to pursue this case vigorously with the State/Union Territory Governments concerned and report the progress made in this regard to the Committee within a period of three months.
2(i) Finance	139	The Committee note that the Ministry of Finance had introduced the Banking Laws (Amendment) Bill in the Lok Sabha on 21 December, 1978 to give effect to the recommendations of the Committee but the said Amendment Bill lapsed on dissolution of the Lok Sabha in 1979. The Committee further note that the Government intends to introduce a fresh Bill in the Parliament but it has been seeking extension of time for introduction of the Bill on one pretext or the other. The Committee observe in this connection that the General Elections were held in 1980 and the First Session of the Seventh Lok Sabha was convened from 25 January, 1980. Thereafter, a period of more than three years was available to the Government to reintroduce the Bill. The Committee deprecate the delay on the part of the Government in this

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		regard and light-hearted manner in which it is processing the question of re-introducing the Amendment Bill.
2(ii) Defence	144	The Committee observe that the work with regard to bringing out the Unified Code for all the three Services was initiated by the Ministry of Defence as early as in 1969. It, has, however, taken fourteen years for the Ministry to realise that this is a stupendous task which has not made any appreciable progress. The work involves updating of the existing Acts to include all amendments which have been made or suggested from time to time and there after amalgamation of the three Acts into a Unified Code.
2(iii)	145	Keeping in view the pace at which the progress is being made by the Ministry of Defence in this regard, the Committee feel that putting the Unified Code on the Statute Book is a distant reality. The Committee, therefore, recommend that pending finalisation of Unified Code for all the three Services, the Regulations for the Army and the Air Force should be framed and issued on the lines of the Regulations made for the Indian Navy in 1964 and 1965.
2(iv) Home Affairs	157	The Committee observe that the Ministry of Home Affairs had taken about three years to complete various formalities connected with the amendment of the Delhi Sikh Gurdwara Act, 1971 so as to implement the recommendations made by the Committee but held over the introduction of the Amendment Bill in the Parliament as some more suggestions for the amendment of the Act had been received by the Ministry. Thereafter, two more years have passed but there does not seem to be any definite hope that Government will either effect a specific amendment to the Delhi Sikh Gurdwara Act, 1971 so as to include therein the definition of the 'corrupt practices' or bring before Parliament a comprehensive Amendment Bill to cover all intended

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		amendments in the Act in the near future. The Committee regret to note that the specific recommendations made by them in such vital matters remain unimplemented.
2(v) Finance	163	The Committee regret to notet that the implementation of their recommendation contained in paragraph 97 of Second Report (Sixth Lok Sabha) in this regard is pending for over five years.
2(vi)	164	The Committee observe that the Action Taken Note intimating that a new comprehensive Bill for Central Excise would be introduced in Parliament was sent by the Ministry of Finance on 15 March, 1980, *i.e.* after 28 months of the presentation of their Second Report (Sixth Lok Sabha) on 18 November, 1977. Thereafter, nearly three years have passed but the said Bill has not been introduced. Even if the Bill is introduced in the near future, there is very little hope of its coming on the Statute Book during the remaining term of the present Lok Sabha as the Ministry themselves have expressed the doubt that its actual enactment is likely to take an appreciable amount of time in case the Bill is referred to a Select Committee. In the circumstances, the Committee feel that the Ministry should, without further delay, bring forward an amendment Bill exclusively for the purpose of implementing the Committee's recommendation in this regard.
2(vii) Defence	174	The Committee observe that the implementation of their recommendations in the present case is pending ever since these were made *vide* paragraphs 19-22 of their Eleventh Report (Fifth Lok Sabha), presented to the House on 9 May, 1974. As early as 21 June, 1976, the Ministry of Defence agreed to amend the Air Force Act, 1950 *vide* paragraph 94 of Second Report (Sixth Lok Sabha) put preferred to incorporate the proposed amendment in the Unified Code which was stated as being drafted then and would be applicable to the three Services. In his

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		letter dated 18 September, 1982, the Defence Secretary, while narating the difficulties, has admitted that there is no possibility of the revised Unified Code being brought before the House in the near future. The Committee are of the opinion that, in the given circumstances, the Ministry of Defence should have brought before the House an Amendment Bill exclusively to implement the recommendations of the Committee. The argument given by the Ministry that Parliament should not be troubled for a single amendment, is not tenable because there are several instances when Government have introduced Bills to amend a single provision of an Act. The Committee is a microcosm of the House and functions on behalf of Parliament. Hence, it should have been easy for Government to implement the recommendations of the Committee by introducing the amendments to the Act instead of delaying the matter till the finalisation of the Unified Code. The Committee desire that if the Unified Code is going to take more than one year, even now the Government should introduce the specific amendment.
2(viii)	181 Law, Justice and Company Affairs	The Committee observe that in trying to give effect to the recommendation contained in paragraph 45 Eighth Report (Sixth Lok Sabha) of the Committee, the Government promulgated an Ordinance on 2 February, 1977 inserting a new Section 132-A in the Representation of the People Act, 1951. The Committee feel that their recommendation after having been once accepted and implemented by Government by promulgating an Ordinance, there should not have been any difficulty in bringing forward a Bill to amend the Representation of the People Act exclusively for the purpose. The linking up of the amendment with other amendments contemplated in the Act has resulted in a delay of five years and there are still no prospects of a comprehensive Bill being brought before the Parliament in the foreseeable future. In the circumstances, the Committee desire that the Government should bring forward immediately

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		an amendment Bill exclusively for the purpose of implementing the Committee's recommendations.
2(ix) Labour	186	The Committee note that as early as 19 November, 1976, *i.e.* two yearsbefore the ommittee made their recommendation in paragraph 13 of their Thirteenth Report (Sixth Lok Sabha), the Ministry of Labour whose comments were invited had agreed to the proposed amendment. Unfortunately, the Ministry linked the proposed amendment of the Act with other proposals in order to introduce a comprehensive amendment Bill in the House. Neither the comprehensive amendment Bill has been introduced nor a specific Bill for the purpose of implementing the recommendation of the Committee has been brought up as yet. More than four years have since been allowed to pass in bringing forward a simple amendment to the Act to provide for laying of the schemes framed under the Act before Parliament. The Committee deplore the delay on the part of the Ministry in this regard and recommend introduction of an amendment Bill for this specific purpose at an early date.
2(x) Law, Justice and Company Affairs	194	The Committee not that the Ministry of Law, justice and Company Affairs conveyed their acceptance of the Committee's recommendations in this regard and has, in fact, also started taking steps to bring a suitable legislation for amending the provisions of Section 396 of the Companies Act, 1956. Thereafter, the Miinstry have changed their mind and linked the issue with the comprehensive amendments to the Bill to be brought before Parliament in the near future. Had the Ministry stick to their original decision to bring legislation for the specific purpose of implementing the Committee's recomendation, the amending Bill could have been brought on the Statute Book long back. More than four years have since elapsed but there does not seem to be much hope of a comprehensive Bill being brought before Parliament, much less of its enactment in the near future. The Committee desire that even at such a late stage, a Bill

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		exclusively for the purpose of amendment of Section 396 of the Companies Act, on the lines suggested by the Committee, should be brought before the House at an early date.
3(i)	207 Agriculture	The Committee had recommended that Second Proviso to Clause 13B of the Fertilizer Control Order should provide for allotment of non-standard Pool Fertilizer to farmers Co-operative/Government Granulation and mixing units with end-products conforming to the prescribed standards. The Committee note the detailed procedure have been evolved by the Ministry of Agriculture for disposal of sub-standard fertilizers as also the guidelines/instructions issued to the Food Corporation of India in May, 1976 for observing this procedure. Only in cases of reselling in neat and straight form, the seller would be contravening the provisions of the order and legal action may be instituted by the State Government. The Committee observe that sufficient safeguards have been provided and guidelines have also been laid down. In view of this the Committee do not press for the amendment of the order.
3(ii)	208	In regard to the second amendment proposed by them, the Committee are satisfied with the position explained by the Ministry that it would entail additional expenditure resulting in pushing up the price of non-standard fertilizer making its sale difficult in the sellers market. In the circumstances, the Committee do not like to press the amendment proposed by them in this regard.
3(iii)	213	The Committee have considered the matter in all its aspects. The Committee would not like to press their recommendation in view of the reasons advanced by the Minister of Agriculutre.
3(iv)	214	The Committee appreciate that as desired by them in paragraph 64 of their Seventh Report (Sixth Lok Sabha), presented to the House on 4-4-1978, in

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		the case of the above recommendation which is not acceptable to the Ministry, a reply has come from the Minister himself.
3(v) Defence	221	The Committee observe that the Ministry first agreed to amend sub-rule (3) of Rule 8 of the Indian Naval Armament Service (Group 'A') Recruitment Rules, 1977 on the lines recommended by the Committee. The amendment was also concurred in by the Department of personnel and Administrative Reforms and it was only awaiting clearance from the U.P.S.C. Instead of making amendments on the lines desired by the Committee, the Ministry have omitted the words which were subject of comments by them without offering any reasons for the consideration of the Committee.
3(vi)	222	The Committee feel that whenever the Ministry change their stand in regard to a recommendation of the Committee already accepted by them, they should take the Committee into confidence instead of keeping them in the dark.
3(vii) Shipping and Transport	228	The Committee note that the Ministry of Shipping and Transport have pointed out some problems if the Indian Ports Act, 1908 is amended because apart from being applicable to all the Major Ports which are under the control of the Ministry of Shipping and Transport, the Act also governs all the intermediate and minor ports which are approximately 250 in number and are administered by the respective maritime State Governments. The Ministry have, therefore, requested for advice from the Committee. The Committee express their surprise over ignorance of the Ministry about the procedure for dealing with such matters. The Committee, in their Twentieth Report (Sixth Lok Sabha), presented to the House on 27 April, 1979, have already laid down the detailed procedure in this connection. According to the recommendation made by the Committee in this behalf, a provision could be made in the Central Acts

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		on concurrent subjects requiring the State Governments to lay the rules framed thereunder by them before the State Legislatures.
3(viii)	229	It seems that the Ministry of Shipping and Transport have perhaps not consulted the Ministry of Law, Justice and Company Affairs in the matter. Had they done so, there was no need for making a reference to the Committee in this regard.
3 (ix)	330	The fact of the matter is that the Ministry of Law, Justice and Company Affairs have already included amendment of Section 6 of the Indian Ports Act, 1908 in the Delegated Legislation (Amendcent) Bill, 1982, introduced in Rajya Sabha on 5-11-1982 and the Committee's recommendation will stand implemented when that Bill becomes an Act. The Ministry should have kept themselves informed about the latest developments. They should have also informed the Committee about the latest position in the matter in continuation of their earlier note of 15 April, 1980 so that the Committee could have treeted this case as a satisfactory implementation of their recommendation.
3(x) Industry	237	The Committee note from the reply of the Ministry of Industry (Department of Industry) that the disciplinary authorities make use of the said bye-law and dealing with an extra-ordinary situation and usual dispense with the procedure of inquiry only when they are satisfied that the adherence to the normal procedure is not reasonably practicable. In the light of the above views, the Committee do not press for the amendment. In this connection, the Committee, however, find that the Ministry of Railways (Railway Board) have issued certain guidelines (Appendix III) in regard to application of rule 14(ii) of the Railway Servants Discipline and Appeal) Rules, 1968 in similar situation. The Committee desire the Ministry of Committee desire the Ministry of Industry to lay down similar guidelines for dealing

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		with matters under bye-law 16(ii) of the Coir Board Services (Classification, Control and Appeal) Bye-laws, 1969.
4(i) Defence	245	The Committee observe that the manner in which the implementation of their recommendation contained in paragraph 85 of Eighth Report (Fifth Lok Sabha) has been handed is far from satisfactory. More than ten years have elapsed since the Committee had made recommendation in this regard in August, 1973 but the bye-laws of two cantonments out of ten cantonments are still to be amended. The most depressing part of it is that the Ministry of Defence has failed to intimate on their own, the progress of action taken on the Committee's recommendation. The Ministry has to be reminded as many as six times in order to ascertain the fate of the recommendation. The Committee desire the Ministry of Defence to fix responsibility for the casual way the Committee's recommendation was treated by the persons concerned and inform the Committee about the action taken in the matter.
4(ii) Defence	255	The Committee deplore the lackadaisical manner in which the Ministry of Defence have dealt with the whole case. The Ministry first stated that they had no objection to consolidating the two sets of recruitment rules for Class III on the basis of which the Committee made their above recommendation in paragraph 70 of Sixth Report (Fifth Lok Sabha). After the Committee's Report was presented to Lok Sabha, the Ministry changed their stand and decided to issue two separate sets of Rules—one for Para-Medical Posts and the other for Non-Para-Medical Posts—instead of issuing a consolidated set of Rules for all Group C Posts. Obviously, the Ministry had not sent their considered opinion to the Committee in the first instance. The Committee further notice that so far only one set of Rules have actually been issued even though the Ministry had taken the decision in the

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		matter as far back as on 16 August, 1977. The Committee exhort the Ministry to process the left-over work without further delay.
4(iii) Industry	262	The Committee observe that the implementation of their recommendation has been pending for the last over 22 years. In spite of the fact that the Committee, after hearing the representatives of the Ministry of Industry (Department of Industrial Development), have reiterated their recommendation in 1974, the progress made regarding action taken by the Ministry is not satisfactory at all. Considering the time that is usually taken in putting a Bill on the Statute Book, after its introduction in Parliament, there does not seem to be any hope of implementing the recommendation in the foreseeable future. The Committee do not consider the reply of the Ministry as satisfactory and strongly deplore the indefferent manner in which the Government have dealt with their recommendation. They recommend that a provision for appointment of assessors and payment of fees and travelling expenses to them ought to have been made in the Indian Boilers Act, 1923, and not in the rules as has been done under rules 32 and 33 of the Andaman and Nicobar Islands Economiser Rules, 1959.
4(iv) Industry	267	The Committee observe that their recommendation on the Cement Control (Second Amendment) Order, 1973 for making provision in the relevant Act empowering Government to give retrospective effect was first made in paragraph 65-66 of their Twentieth Report (Fifth Lok Sabha) presented to the House on 3-11-1976. The Committee reiterated the recommendation in paragraph 118 of their Eleventh Report (Sixth Lok Sabha) presented to the House on 24-8-1978.

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4(v)	268	This is a well considered recommendation of the Committee based on its earlier recommendation contained in paragraph 49 of the Seventh Report (Fourth Lok Sabha) in which the Attorney General had also been consulted. There is, thus, no scope for deviation in implementing the recommendation. The Ministry have, however, regularised the illegality by issuing a Presidential sanction on 14-12-1982.
4(vi)	269	In the opinion of the Committee, the better course would have been if the Ministry had taken recourse to amend the Industries (Development and Regulations) Act, 1951 instead of issuing an executive sanction for validating the retrospective effect given to the Orders. Even the Law Ministry had suggested the former course of action to them.
4(vii)	270	The Committee feel that the presidential sanction cannot be a substitute for law. However, it will be too late now for the Ministry of Industry to introduce a validating Bill in this regard.
4(viii) Finance	275	The Committee feel that the possibility of arbitrary use of the discretionary powers conferred on the Collector under the Central Excise Rules cannot be ruled out fully even if the Ministry are not aware of any case of such abuse of the discretionary powers during the last two decades. The Committee have recommended provision of adequate safeguards in the rules so as to minimise the possibility of misuse of the discretionary powers wherever such provision exists in the rules.
4(ix)	276	The Committee reiterate their recommendations that the Central Excise Rules should be amended to the desired effect. The Committee desire the Ministry

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		to effect the requisite amendment to the rules without further loss of time.
5.	278	The Committee note with satisfaction the action taken by Government on their earlier recommendations as indicated in Appendix V.

APPENDIX II

(*Vide* paragraph 206, page 71 of the Report)

GUIDELINES/INSTRUCTIONS ISSUED TO THE FOOD CORPORATION OF INDIA BY THE MINISTRY OF AGRICULTURE AND IRRIGATION (DEPARTMENT OF AGRICULTURE) ON 18 MAY, 1976.

*** *** ***

It has been decided that the following procedure may be adopted by the F.C.I. (Food Corporation of India) for disposal of sub-standard fertilizers:—

(a) **Ownership of Sub-standard fertilizers:**

After introduction of handling of fertilizer by F.C.I. on ownership basis, basis the ownership of the existing stocks of sub-standard fertilizer as on the date of change over (*i.e.* 1-3-1976) will not be transferred to F.C.I., but will continue to vest in the Department of Agriculture. Whatever sale proceeds are realised by F.C.I. when these sub-standard fertilizers have been disposed of by them in accordance with the procedure prescribed *vide* (b) below will be credited by the FCI to the Department of Agriculture. Ownership of whatever sub-standard fertilizers that accrue from the time of changeover will vest in the F.C.I. and these will be disposed of by F.C.I. in the best possible manner keeping in view the provision of the Fertilizer Control Order and any directives on the subject from the Ministry from time to time.

(b) **Disposal of sub-standard fertilizer:**

(i) Request would first be made to the granulation and mixing units in Government, Co-operative or public institutionalised sectors to lift the stocks after the necessary analysis regarding chemical contents is made.

(ii) If the above parties do not lift the stocks within a month or so, general sealed tenders offering to lift the stocks would be invited.

(iii) If this procedure does not evoke any response or does not evoke adequate response, the stocks, or the remaining stocks, as the case may be, will be sold in open auction. In the auction

also, Government, Co-operative and public sector institution engaged in granulation and mixing will be allowed to participate.

(iv) In order to avoid undue loss to Government, minimum price to be charged in open auction or in tenders to be invited will not be allowed to go below 50 per cent of the value proportionate to the nutrient content in sound fertilizers.

The above procedure for disposal of sub-standard fertilizer has been approved by Ministry of Finance and Minister(s) of this Ministry.

4. I might mention here that analysis of the sub-standard fertilizer from the point of nutrient content is a pre-condition to the disposal of the stocks of sub-standard fertilizers. Such analysis may be done in the State Government Laboratories. I will, however, suggest that you may also utilise the Central Fertilizer Control Laboratory, Faridabad (Haryana), NH-4. It may also be made clear to these laboratories that the reports of the analysis must be submitted to FCI within one month from the date of receipt of these samples. If there is any delay, please let us know, so that we can take it up with the authorities concerned.

5. While inviting tenders and|or putting the lots of fertilizers whose analysis reports are available to auction, it my be made clear that in case these fertilizers are resold in nest and straight form. the purchaser will have to comply with the requirements of clause 13B of the Fertilizer (Control) Order, 1957 (copy enclosed) and any non-compliance thereof will be liable to such legal action by the State Government concerned against the purchaser, as may be warranted. This condition may also be included in the 'delivery order' to be handed over to the purchaser in duplicate—one copy meant for being handed over to the godown keeper and the other for retention by the purchaser (against proper acknowledgement). The State Government concerned may also be informed simultaneously of the release or the material, for information and necessary action. It may be added that the fertilisers released under paragraph 2(b)(i) are to be used only for preparation of mixtures of fertilizers of granulated mixed fertilizers and this ought to be mentioned in the release orders. Alternatively these fertilizers can be resold in accordance with the provisions of the Fertilizer Control Order quoted above.

6. As regards the floor price, we have already agreed to a reduction of 50 per cent of the proportionate price on the basis of nutrient contents. But this floor price is applicable only when the sub-standard fertilizer is sold by auction.

7. As regards the disposal of sub-standard fertilizers that accrue on after 1-3-1976, the procedure for disposal will be governed by para 2.9 of the terms and conditions, on which food Corporation are handling non-potassic fertilisers with effect from 1-3-1976.

8. I shall be grateful if you kindly issue immediate instructions to your Zonal/Regional Managers and also to the Managing Directors of S.W.Cs. and C.W.C. A copy of your instructions may be endorsed to me.

Sd./- Anna R. Malhotra,

Shri A. K. Dutt,
Managing Director,
Food Corporation of India,
16-20, Barakhamba Lane,
New Delhi—110001.

APPENDIX III

(*Vide* paragraph 257 of the Report)

GUIDELINES TO THE APPLICABILITY OF RULE 14(ii)

1. Rules 9 to 13 of the Railway Servants (Discipline and Appeal) Rules, 1968 prescribe the procedure of the imposition of penalties (major as well as minor). Rule 14 lays down the conditions whereby the normal procedure of holding an elaborate inquiry can be dispensed with under special circumstances, and the disciplinary authority can pass suitable orders. Rule 14 has been framed on the basis of the proviso to Article 311(2) of the Constitution of India.

2. Rule 14(ii), corresponding to proviso (b) of Article 311(2) specially empowers the disciplinary authority to dispense with the elaborate procedure. This is a very wide power given to the disciplinary authority. As some cases resulted in court proceedings, there has been hesitation on the part of disciplinary authority for invoking these provisions even in deserving cases. Broad guidelines for application of Rule 14(ii) based on the judgement of various High Courts and Supreme Court are given below.

3. Rule 14(ii) can be invoked "where the disciplinary authority is satisfied for reasons to be recorded by it in writing that it is not reasonably practicable to hold an enquiry in the manner provided for in this rule". The first requisite, as such, is that the disciplinary authority should be satisfied regarding the reasonable practicability. Some of the cases which can easily come in this category are:

(i) Delinquent's whereabouts are not known.

(ii) Delinquent is consistently avoiding service of notice.

(iii) Delinquent is behaving in a non-cooperative manner so as to paralyse the proceedings.

(iv) There is no likelihood of independent witnesses turning up.

(v) The charges being on the basis of secret watch etc., the normal procedure of enquiry would entail revealing of the identity of the officer doing the secret enquiry and thus adversely affect the administration.

This is not an exhaustive list of the cases which can fall under this category. The only yardstick is that the disciplinary authority should be satis-

fied on objective consideration of all facts and circumstances that it is not practicable to hold an enquiry.

4. Steps will have to be taken to ensure that enough evidence is collected by the investigating agency to enable disciplinary authority to decide whether Rule 14(ii) could be applied to the case. For instance, in cases under category 1(iv) above in which a passenger is benefited by the misconduct of the employee and as such may not depose against the deliniquent officer, efforts should be made to get the statement from person (s) along with their addresses, present at the time of the incident. If the persons hesitate to give a positive statement then a statement to this effect that they are not interested to pursue the matter or be available for evidence should be obtained. Even if this is not forthcoming the names and addresses of the persons who were requested to give statements but who refused to do so should be recorded then and there by the Investgating Officer concerned with an independent witness of these facts, if practicable. It would be advisable to have at least two officers in the Investigating team so that the statement of these officers taken cumulatively will facilitate the disciplinary authority in coming to the judgement on the course of the action to be taken on the investigation report.

5. The second requisite of this rule is that the disciplinary authority has to record in writing the reasons. This order will have to be carefully recorded because this could be subjected to the review of Appellate authority as well as judicial review. This order should give the reasons which made the disciplinary authorty to come to the conclusion that it will not be reasonably practicable to follow the procedure prescribed in the rules. It should be self-evident from the order (a) that the disciplinary authority considered the entire circumstances of the case; (b) that the delinquent officer was given an opportunity to state his case; after informing him of the charge(s) against him; and (c) his statements, if any, made verbally or in writing.

APPENDIX IV

(*Vide* paragraph 266 of the Report)

8-278/78-CEMENT

GOVERNMENT OF INDIA

MINISTRY OF INDUSTRY

(DEPTT. OF INDUSTRIAL DEVELOPMENT)

New Delhi, the 14th October, 1982.

The Cement Controller,
New Delhi.

Sir,

I am directed to state that the Cement Control Order, 1967, was amended *vide* Cement Control (2nd Amendment) Order, 1973, dated 24-4-1973 wherein it was *inter-alia* indicated that the order would be deemed to have come into effect from 15-12-1972, the date prior to issue of Amendment Order. By this amendment of 24-4-1973, the ex-works price of cement produced by Sewree Works of Messrs Shree Digvijaya Cement Company Limited was raised from 56.60 per tonne to Rs. 62.60 per tonne. Since this Order gives retrospective effect to its operation it has been held that it is not legally valid since the parent Act does not provide for giving retrospective effect to orders issued thereunder. The Committee on Subordinate Legislation has observed that retrospective effect already given was without any legal authority in the absence of specific provisions under the Act empowering the Government to give such retrospective effect. The Committee, had, therefore, desired the Department of Industrial Development to bring out necessary amendment to the Industries (Development and Regulation) Act, 1951 for the purpose of validating retrospective effect already given.

2. The matter has been considered in this Ministry in consultation with the Ministry of Law, who have advised that the Cement Control (2nd Amendment) Order, 1973 issued on 24-4-1973 was operative only for a specified period and payment involved for the relevant period, will need to be regularised by according *ex-post-facto* sanction of the President or by enacting a validation act for the purpose. It has accordingly been considered that a Presidential sanction converting the payment involved be

issued. The Cement Control (2nd Amendment) Order, dated 24-4-1973 was operative till the Cement Control (4th Amendment) Order of 1973 dated 15-9-1973 was issued.

3. I am, therefore, to convey the *ex-post-facto* sanction of the President to the payment of the dues payable to Messrs. Shree Digvijaya Cement Co. in respect of their Sewree Unit arising out of the Cement Control (2nd Amendment) Order, 1973 dated 24-4-1973 for the period 15-12-1972 to 14-9-1973. The payments against the sanction to the company would be payable only if the payments to the company have not already been effected in accordance with the Cement Control (2nd Amendment) Order, 1973.

4. This issue with the concurrence of Integrated Finance.

Yours faithfully,

Sd/-

(P. K. S. Iyer)

Dy. Secretary to the Govt. of India.

APPENDIX V

(*Vide* Paragraph 278 of the Report)

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

Sl. No.	Reference to paragraph Nos. of Report	Summary of Recommendations/Assurances	Gist of Government's reply
(1)	(2)	(3)	(4)
1	Eighteenth Report (Fifth Lok Sabha) 97	The Committee note that the rules to carry out the purposes of the Dowry Prohibition Act, which was brought into force on 1.7.1961, have not yet been framed. The explanation of the Ministry of Law, Justice and Company Affairs (Legislative Department) was that it was not considered necessary to frame rules for the effective and successful implementation and operation of the Act. According to them, no need for framing the rules had arisen even after enforcement of the Act. The Committee are unable to accept the above explanation. In their opinion, the Ministry of Law had taken only a technical view of the matter. The Committee note that, according to the Ministry of Law's own admission, the general feeling was that the Dowry Prohibition Act had failed to achieve the purpose of eradicating the dowry system. The Committee	The Ministry of Law, Justice and Company Affairs (Legislative Department) have accepted the recommendation of the Committee and accordingly have taken up examination of provisions contained in the Dowry Prohibition Act, 1961 afresh *vide* their Office Memorandum No. 25 (6)/75-Leg. II dated the 15th March, 1976.

		grant that a mass social consciousness rather than a piece of legislation can eradicate the evil of dowry. But all the same, a commonly known comprehensive law can play its own part. Here comes in the role of rules, which are said to provide , as it were, blood and flesh of statutes. In the opinion of the Committee, it could have certainly facilitated matters if a detailed procedure could have been laid down through rules, indicating how a person from whom dowry had been demanded was to proceed in the matter. This was particularly necessary, as the Act was skeletal and the offence non-cognisable. Such rules could, *inter alia* have laid down simple forms for lodging complaints which could meet the requirements of law. The Committee desire the Ministry to examine the matter afresh.	
2	Fourth Report (Sixth Lok Sabha) 30	The Committee note from the reply of the Ministry of Labour that according to the procedure introduced by the Coal Mines provident Fund Organisation, a notice is required to be given in Form Adv. 30 to an employee to make a declaration regarding utilisation of the advance within three weeks from the date of issue of the notice. The Committee desire that the provision of notice should be put on a statutory footing by including it in the Schemes so as to ensure that in each case of default, an opportunity of being heard is statutorily afforded to the employee before action is taken to recover the advance from him. The Committee also desire the Ministry to amend Form Adv. 30 so that three weeks' time is made available to the employee from the date of receipt of the notice by him, instead of the date of its issue.	(i) All the four Schemes in question have since been amended to the necessary effect *vide* G.S.R. 1352 to 1355 of 1978. (ii) Form Adv. 30 has also been amended suitably *vide* Procedure Office Order No. 25 issued by the Office of the Coal Mines Provident Fund Commissioner.

(1)	(2)	(3)	(4)
3	Fourth Report (Sixth Lok Sabha) 31	The Committee observe that the original clause (c) of sub-rule (3) of Rule 16 of the General Provident Fund (Central Services) Rules, 1960 relating to conditions of withdrawal, to which a reference has been made by the Ministry in their reply, stands amended *vide* S.O. 1728 of 1974 so as to provide for giving a reasonable opportunity of representation to a subscriber before action is taken to recover the amount from his emoluments. In the opinion of the Committee, the fact that the Ministry have cited reference to an unamended rule in their reply, indicates that there is no satisfactory arrangement in the Ministry of Labour for keeping the rules upto-date. In order that the employees in the Ministry of Labour and offices subordinate thereto are not deprived of the benefits accruing from the latest amendments to rules issued by other Ministries, the Committee will like to impress upon the Ministry of Labour the need to keep their sets of relevant rules and instructions upto-date.	Government have noted the observations of the Committee for compliance *vide* Ministry of Labour O.M. No. R 11011/4/78-PF-I dated the 5th March, 1979.
4	Ninth Report • (Sixth Lok Sabha) 62	As regards paragraph 14 of the Scheme, the Committee note the Ministry's reply that the said paragraph does not oust the jurisdiction of courts while the Committee agree that the legal position stated by the Ministry is correct they cannot help observing that the said paragraph by saying that the decision of the Central Government on questions of interpretation shall be binding on the persons concerned	Paragraph 14 of the General Insurance (Rationalisation of Pay Scales and other Conditions of Service of Officers) Scheme, 1975 has since been amended *vide* GSR 2445 published in the Gazette dated 6.8.1977.

	does give an impression that there is no further remedy available to the persons concerned. Time and again the Committee have urged that rules should not be worded in a manner as to give an impression to the layman that they seek to oust the jurisdiction of courts or that no further legal remedy is available. As early as May, 1963, commenting upon a similar provision in the Service Rules for the Flying Crew, for Employees in Aircraft Engineering Department, the Committee on Subordinate Legislation in para 29 of their Second Report (Third Lok Sabha), had observed that such provisions 'were misleading'. The Committee, however, regret to observe that even 15 years after they had first made above observation such provisions continue to be made in rules. The Committee will like the Ministry of Finance (Department of Economic Affairs—Insurance Wing) to take early action to amend the paragraph in question so as to give an impression that no further legal remedy is available to the persons concerned.	[Ministry of Finance—Department of Economic Affairs (Insurance Division) D.O. 65(5)/Ins. 111/1/76, dated 7.9.1982]
5. Ninth Report (Seventh Lok Sabha) 15-16	There has been inordinate delay of more than 8 years on the part of Ministry of Communications (Posts and Telegraphs Department) in implementing the recommendations of the Committee contained in paragraphs 13—15 of their Sixth Report (Fifth Lok Sabha). The Report was presented to the House on 7th May, 1973 and a copy of the same was forwarded to the Posts and Telegraphs Department on 8th May, 1973 for necessary action. The Committee regret to note that no communication was received from the Minis-	The Director General of Posts and Telegraphs have amended Notes 2 and 3 of the schedule to the Indian Posts and Telegraphs (Class IV Posts) Recruitment Rules, 1970 as under *vide* their Notification No. 45-22/71-SPB. I dated 16-11-1982.

(1)	(2)	(3)	(4)
		try except an interim reply dated 18 May, 1977 although, the Ministry was expected to implement the recommendation of the committee within a period of six months from the date of the presentation of the Report. So much so that the Ministry seems to have slept over the matter till the Committee called the representatives of the Ministry, to appear before them for oral evidence. As would be seen from the oral evidence of the representatives of the Ministry, the P&T Department had decided several years back to frame statutory rules for recruitment of Class IV employees from extra departmental staff and casual labourers but the matter remained pending with the Department of Personnel and Administrative Reforms and Ministry of Labour.	"(2) (a) Extra Departmental Agents who have been recruited earlier to the date of this notification would be eligible for recruitment to Group 'D' posts in the Subordinate Offices if they are within 42(47 for SC/ST) years of age and have put in at least 3 years of continuous service as ED Agents. (b) Extra Departmental Agents who are appointed after date of issue of this notification will be eligible for recruitment to Group 'D' posts in Subordinate Offices if they are within 35 years (40 years for SC/ST) of age and have put in at least 3 years continuous service as ED Agents, provided they have been recruited as ED Agents through Employment Exchanges.
		The Committee are constrained to observe that the Ministry/Department had treated the recommendations of the Committee in a most casual manner and	The condition of recruitment of Extra Departmental Agents through Employment may be

did not pay due attention to the implementation aspect of it which it deserved. The Committee would like to observe that wherever there are inordinate delays in finalising matters in consultation with various departments, the matter should be sorted out at the highest level in the Ministries.

waived in cases where no candidates were sponsored by Employment Exchanges within the time as stipulated by the P&T Department or the candidates sponsored by Employment Exchanges within the stipulated time did not fulfil the conditions as prescribed by the P&T Department for appointment as Extra Departmental Agents of the specified categories. Extra Departmental Agents so recruited will also be eligible for recruitment to Group 'D' posts subject to the Condition of restriction of age 35 years (40 years for SC/ST) and minimum length of continuous service of 3 years as ED Agents.

3. Casual labourers/part-time casual labourers engaged through Employment Exchanges will be eligible to be recruited to Group 'D' posts provided they have put in 240 days service in each of the preceding two/four years. Broken periods of service shall also be taken into account for this purpose, provided that each such

(1)	(2)	(3)	(4)
			period of service is six months or more. Casual labourers/part-time casual labourers shall get the benefit of the period spent by them as casual/part-time labourers for reckoning their eligibility in respect of the prescribed maximum age limit."
6.	Eleventh Report (Seventh Lok Sabha) 37-38	The Committee are constrained to observe that the Ministry of Labour have taken more than a year in publishing the final Employee's State Insurance Corporation (Family Welfare Project) Accounts Rules, 1978 although no objections/suggestions had been received from the public on the draft Rules. The Committee are not convinced by the reasons advanced by the Ministry for such delay, e.g. delay in getting the Hindi translation of the Rules and vetting of Rules by the Ministry of Law. According to their own admission during evidence, the Ministry should not have taken a period of more than two months in finalisation of these Rules. The Committee feel that had the Ministry been vigilant such delays would have been avoided or at least cut short. The Committee note that the Ministry of Labour have issued necessary instructions to all officers in the Ministry to avoid delay in the finalisation of draft Rules and	The Ministry of Labour and Rehabilitation (Department of Labour) have noted the observations of the Committee to ensure that delays are avoided in future. They have also brought the recommendations of the Committee to the notice of all concerned in the Ministry for strict compliance. The progress of framing of Rules is proposed to be watched by the Ministry through a monthly return and the position to be reviewed at the monthly O&M meeting of senior Officers. [*vide* O.M. No. H-11021/2/79-HI dated 22-12-82]

		their final publication in the Gazette. They hope that these instructions would be followed scrupulously in the Ministry. The Committee recommend that in cases where no objections/suggestions are received on the draft Rules, efforts should be made to finalise and publish the final Rules well before the stipulated period of one year.	
7.	Eleventh Report (Seventh Lok Sabha) 48, 57-58	The Committee are unhappy to note that the Ministry of Health and Family Welfare could not bring forward the necessary legislative proposal for seven years to amend the Homoeopathy Central Council Act, 1973, so as to provide for publication of the Regulations framed under Section 33 of that Act in the Official Gazette and for their 'laying' before Parliament in-spite of categorical assuarnces given to this effect by the Ministry from time to time. The Committee hope that this amendment would now be introduced during the current Budget session of Parliament (1982), as assured by the representative of the Ministry during their evidence.	(i) The Ministry of Law, Justice and Company Affairs have introduced a Bill namely the Delegated Legislation Provisions (Amendment) Bill, 1982 in Rajya Sabha on 5 November, 1982 which provides *inter-alia* for incorporating the provisions for publication of Rules and Regulations framed under the Indian Medicine Central Council Act, 1970 and Homoeopathy Central Council Act, 1973, in the Gazette of India and their being laid before the Parliament.
		The Committee note that the Ministry of Health and Family Welfare who had themselves fixed December, 1975 as the deadline for framing Regulations under the Indian Medicine Central Council Act, 1970, in respect of all the remaining 14 matters, could frame Regulations in respect of 12 matters only till June, 1980. The Committee cannot but deprecate this inordinate delay of more than 4 years on the part of the Ministry	(ii) The Central Council of Indian Medicine have framed and notified the Practitioners of Indian Medicine (Standards of Professional Conduct, Etiquette

(1)	(2)	(3)	(4)
		and for not adhering to the target date fixed therefor, by them. The Committee hope that the Regulations on the remaining matters would now be framed the Ministry by June 1982, as assured by them during their evidence before the Committee. The Committee also recommend that the Indian Medicine Central Council Act, 1970 should be suitably amended to provide for notification of all the Regulations framed thereunder in the Gazette of India and also for their 'laying' before Parliament.	and Code of Ethics) Regulations, 1982, in the Gazette of India, Part III, Section 4 dated 16 October, 1982.
8.	Thirteenth Report (7th Lok Sabha) 47	The Committee note with satisfaction that, on being pointed out by the them, Ministry of Home Affairs have agreed to mention the crucial date for determining the age limit in the requisition to be sent to Employment Exchange for calling candidates for the recruitment of Peons. The Committee concur in the following note proposed by the Ministry for insertion in Column 6 of the Schedule appended to the Bureau of Police Research and Development (Peons) Recruitment Rules, 1981 in this regard:— "*Note*: The crucial date for determining the age limit will be the last date upto which the Employment Exchange is asked to submit the names. The	The Ministry of Home Affairs have since notified the provision regarding crucial date for determining the age limit for direct recruits in col. 6 of the Schedule appended to the Bureau of Police Research and Development (Peons) Recruitment Rules, 1981 *vide* G.S.R. 43 published in the Gazette of India dated 8-1-1983.

		crucial date will be indicated in the requisition to be sent to the Employment Exchange." The Committee desire the Ministry to notify the amendment expeditiously.	
9.	**Fifteenth Report (Seventh Lok Sabha) 10 & 37**	In order to ensure that such lacuna does not occur in other Rules to be framed in futute the Committee emphasise that the Department of Personnel and Administrative Reforms should impress upon all the Ministries/Departments that whenever any Recruitment Rule involving direct recruitment is notified in the Gazette of India, they should ensure that the column regarding determining the age limit should invariably contain the note regarding cruciail date on the pattern as contained in the case of the Central Board of Film Censors, Bombay (Junior Stenographer and Mazdoor) Recruitment Rules, 1980. The Committee desire that in order to have uniformity in the Recruitment Rules, the Department of Personnel and Administrative Reforms should impress upon all the Ministries/Departments that in future whenever they notify the Recruitment Rules where one of the methods of recruitment is 'deputation', the exact period of such deputation should invariably be indicated in the Rules.	The Department of Personne and Administrative Reforms have brought the recommendations of the Committee to the notice of all the Ministries/Departments for compliance while framing the recruitment Rules for posts under them. (*Vide* O. M. Nos. (i) P-14017/3/83-Estt. (RR) dated 15 April, 1983 and (ii) P. 14017/3/83-Estt. (RR) dated 13 April, 1983).
10.	**Fifteenth Report (Seventh Lok Sabha) 31**	The Committee note with satisfaction that on being pointed out by them, the Ministry of Finance (Department of Economic Affairs) have amended rule 4 of the Ministry of Finance (Department of Economic	The Ministry of Finance (Department of Economic Affairs) have noted the observations of the Committee for guidance.

(1)	(2)	(3)	(4)
		Affairs) (Bank Note Press, Dewas, Unclassified Industrial Cadre Posts) Recruitment Rules, 1975 by omitting therefrom the provision regarding relaxation of essential qualifications at the discretion of the appointing authority in the case of candidates otherwise well qualified. The Committee desire the Ministry of Finance (Department of Economic Affairs) to desist from providing such discretionary powers in the Recruitment Rules which may lead to favouritism.	(*Vide* O. M. No. F.4(7)83-BNP dated 19 March, 1983).
11.	Fifteenth Report (Seventh Lok Sabha) 55-56	The Committee have repeatedly emphasised that the ime cag between the publication of the draft Rules and thir final notification in the Gazette should not exceed one year rather effort should be made to further reduce this period. The Committee note that in the case of th Aircraft (Amendment) Rules, 1980, this period hs slightly exceeded the limit as laid down by the Committee for the purpose. The Committee further note that in the present case the Ministry of Tourism and Civil Aviation have expressed their regret over the delay in finalising and publication of the final Rules and assured the Committee that such a position would not be allowed to recur in future. The Committee cannot but urge the Ministry to adhere to their assurance in future in the matter of Rules to be framed by them in respect of various Acts administered by them.	The Ministry of Tourism and Civi[l] Aviation have noted the observations of the Committee for compliance. (*Vide* O. M. No. AV. 11012/21/78-A dated 6 April, 1983).

12.	Fifteenth Report (Seventh Lok Sabha) 70 (Item No. 10 of Appendix V)	The Committee note with satisfaction the action taken by Government on their earlier recommendations as indicated in Appendix IV. They are, however, constrained to observe that in the cases mentioned at S. Nos. 1, 2 and 10 there has been a delay of about 1 to 3 years on the part of the Ministries/Departments concerned in implementing the recommendations made by the Committee. The Committee can not but deplore such undue delay and want that the concerned Ministries/Departments should be careful in future and should try to adhere to the stipulated time-limit of six months in implementing the recommendations made by the Committee.	The Director General Posts and Telegraphs, New Delhi have brought the recommendations to the notice of all Deputy Directors General for strict compliance. (*Vide* O. M. No. 40-10/83-GA dated 19 April, 1983).

APPENDIX VI

(*Vide* paragraph 9 of the Report)

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

The Committee met on Thursday, 3 March, 1983 from 15.30 to 16.00 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 C. D. Patel
7. Shri Chandrabhan Athare Patil
8. Shri M. Ramanna Rai
9. Shri Satish Prasad Singh
10. Shri R. S. Sparrow

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 took up for consideration the following two Memoranda:

(1) Memorandum No. 161 regarding recommendations of the Committee on Subordinate Legislation awaiting implementation as the Government could not introduce Comprehensive Bills in Parliament for the amendment of the relevant Acts.

(2) Memorandum No. 162 regarding unsatisfactory replies received from the Ministries in the matter of implementation of certain recommendations of the Committee on Subordinate Legislation.

I. Recommendations of the Committee on Subordinate Legislation awaiting implementation as the Government could not introduce Comprehensive Bills in Parliament for the amendment of the relevant Acts—(Memorandum No. 161)

3. The Committee considered Memorandum No. 161 containing eight instances in regard to which Government had been contemplating introduction of comprehensive legislation in Parliament but had miserably failed to do so. The observations made by the Committee in each case were as follows:—

(i) *Amendment in the Delhi Sikh Gurdwara Act,* 1971.

4. The Committee observed that the Ministry of Home Affairs had taken about three years to complete various formalities connected with the amendment of the Delhi Sikh Gurdwara Act, 1971 so as to implement the recommendations made by the Committee in paragraphs 9-10 of their Second Report (Sixth Lok Sabha), presented to the House on 18 November, 1977, but had held over the introduction of the Amendment Bill in the Parliament as some more suggestions for the amendment of the Act had been received by the Ministry. Thereafter, two more year had passed but there did not seem to be any definite hope that Government would either effect a specific amendment to the Delhi Sikh Gurdwara Act, 1971 so as to include therein the definition of the 'corrupt practices' or bring before Parliament a comprehensive Amendment Bill to cover all intended amendments in the Act in the near future.

(ii) *Amendments in the State Bank of India Act,* 1955; *The State Bank of India (Subsidiary Banks) Act,* 1959; *and other Acts administered by the Ministry of Finance (Department of Banking)*

5. The Committee noted from the reply of the Ministry of Finance that they had introduced the Banking Laws (Amendment) Bill in the Lok Sabha on 21 December, 1978 to give effect to the recommendations of the Committee made in paragraphs 46-47 of their Ninth Report (Fifth Lok Sabha), presented to the House on 19 November, 1973 and also reiterated in paragraphs 85—87 of their Second Report (Sixth Lok Sabha) presented on 18 November, 1977, but the said Amendment Bill had lapsed on dissolution of the Lok Sabha in 1979. The Committee further noted from the reply of the Government that they intended to introduce a fresh Bill in the Parliament and had been seeking extension of time on one pretext or the other. The Committee observed in that connection that the General Elections were held in 1980 and the First Session of the Seventh Lok Sabha was held on 25 January, 1980. Thereafter, a period of more than

three years was available with the Government to re-introduce the Bill. Further, the Bill as originally introduced hardly needed any drafting changes as at the time of its first introduction in 1978, the various formalities of consultation with the Reserve Bank and the Ministry of Law, etc. had already been completed. Finally, the reasons advanced by the Ministry for extension of time for the introduction of a fresh Bill, had nowhere indicated that the old Bill needed extensive drafting changes or required incorporation of fresh amendments which had been received by the Ministry in the meantime. The Committee, therefore, failed to understand as to why the re-introduction of the same Bill had taken such a long time.

(iii) *Amendment in the Air Force Act,* 1950

6. The Committee observed that the implementation of their recommendations reiterated in paragraph 98 of their Second Report (Sixth Lok Sabha), presented to the House on 18 November, 1977, had actually been pending ever since they had first made the recommendations in paragraphs 19—22 of their Eleventh Report (Fifth Lok Sabha), presented to the House on 9 May, 1974. As early as 21 June, 1976, the Ministry of Defence had agreed to amend the Air Force Act, 1950 but preferred to incorporate the proposed amendment in the Unified Code which was being drafted then and would be applicable to the three Services. In his letter dated 18 September, 1982 the Defence Secretary while narrating the difficulties had admitted that there was no possibility of the revised Unified Code being brought before the House in the near future. The Committee opined that, in the given circumstances, the Ministry of Defence should have brought before the House an Amendment Bill exclusively to implement the recommendations of the Committee. The argument that Parliament should not be troubled for a single amendment was not tenable. The Committee observed in that connection that they being a microcosm of the House, functioned on behalf of Parliament. Hence, it should have been easy for Government to implement the recommndation of the Committee by introducing the amendments to the Act instead of delaying the matter till the finalisation of the Unified Code.

(iv) *Framing of Statutory Regulations for the Army and the Air Force*

7. The Committee observed that the work with regard to bringing out the Unfied Code for all the three Services was initiated by the Ministry of Defence as early as in 1969. It had, however, taken fourteen years for the Ministry to realise that that was a stupendous task and without appreciable progress. The work involved updating of the existing Acts to include all amendments as had been made or suggested from time to time and thereafter amalgamation of the three Acts into a Unified Code. The Committee, therefore, felt that putting a Unified Code on the Statue Book was a distant reality. With a view to expedite the finalisation of

the work, the Ministry of Defence could have at least chalked out a time-schedule for completing the various stages involved in the work and set up a machinery to watch its progress from time to time. Secondly, if it was really going to take so long a time, the Ministry could still issue the Regulations for the Army and the Air Force as had been done for the Navy in 1964-65. Later on, the Unified Code could have followed.

(v) *Amendment in the Representation of the People Act,* 1951

8. The Committee observed that in giving effect to the recommendation of the Committee made in paragraph 8 of their Twentieth Report (Fifth Lok Sabha), presented to the House on 3 November, 1976, the Government had already promulgated an Ordinance on 2 February, 1977 inserting a new Section 132-A in the Representation of the People Act, 1951. The Committee felt that their recommendation having been once implemented by promulgation an Ordinance, there should not have been any difficulty in bringing forward a Bill to amend the Representation of the People Act exclusively for the purpose. The linking up of the amendment with the other amendments contemplated in the Act had resulted in a delay of five years and there were still no prospects of a comprehensive Bill being brought before the Parliament in the foreseeable future. In the circumstances, the Committee desired that the Government should bring forward immediately an amendment Bill exclusively for the purpose of implementing the Committee's recommendations.

(vi) *Amendment to the Central Excises and Salt Act,* 1944

9. The Committee observed that the Action Taken Note intimating that a new comprehensive Bill for Central Excise would be introduced in Parliament had been sent by the Ministry on 15 March, 1980, *i.e.* after 28 months of the presentation of their Second Report (Sixth Lok Sabha) on 18 November, 1977. Therefore, nearly three years had passed but the said Bill still remained to be introduced. Even if the Bill was introduced in the near future, there was very little scope of its coming on the Statute Book during the remaining term of the present Lok Sabha as the Ministry themselves had expressed the doubt that its actual enactmen was likely to take an appreciable amount of time in case the Bill was referred to a Select Committee. In the circumstances, the Committee felt that the Ministry should have brought forward an amendment Bill exclusively for the purpose of implementing the Committee's recommendation in that regard.

(vii) *Amendment to the Employee's Provident Funds and Miscellaneous Provisions Act,* 1952

10. The Committee observed that as early as 19 November, 1976, *i.e.* two years before the Committee made their recommendation in paragraph

13 of their Thirteenth Report (Sixth Lok Sabha), presented to the House on 29 November, 1978, the Ministry of Labour whose comments were invited had agreed on the proposed amendments. Unfortunately, the Ministry had linked the proposed amendment of the Act with other proposals in order to introduce a comprehensive amendment Bill in the House. Neither the comprehensive amendment Bill had been introduced nor a specific Bill for the purpose brought up as yet. More than four years had since been allowed to pass in bringing forward a simple amendment to the Act to provide for laying of the schemes framed under the Act beofre Parliament. The Committee decided to deplore the delay and to recommend introduction of a specific Bill for the purpose.

(viii) *Amedment to the Companies Act*, 1956

11. The Committee noted that the Ministry of Law, Justice and Company Affairs conveyed their acceptance of the Committees recommendations made in paragraph 40 of their Thirteenth Report (Sixth Lok Sabha), presented to the House on 29 November, 1978, and had started taking steps to bring a suitable legislation for amending the provisions of Section 396 of the Companies Act, 1956. Thereafter, the Ministry changed their course of action and linked the issue with the comprehensive amendment Bill to be brought in the near future *vide* their note dated 27 May, 1980. Had the Ministry stuck to their original decision to bring legislation for the specific purpose of implementing the Committee's recommendation, the amending Bill must have been brought on the Statute book long back. More than 4 years had since elapsed but there did not seem to be much hope of a comprehensive Bill being brought before Parliament, much less of its enactment in the near future. The Committee felt that even at such a late stage, a Bill exclusively for the purpose of amendment of Section 396 of the Companies Act, on the lines suggested by the Committee, should be brought before the House at an early date.

GENERAL RECOMMENDATION

12. In all the above-mentioned cases, the Committee noted that Government had time and again assured the Committee to bring forth the necessary specific amending legislation before Parliament to implement the various recommendations of the Committee contained in their different Reports. However, one disquietening feature of all these proposals had been that the specific amendments suggested by the Committee were invariably linked up by the Government with the other amendments contemplated in the relevant Acts, and comprehensive legislation was stated to be under preparation. Had the comprehensive Bills proposed by the Government been introduced without much delay, the Committee would have had no objection in the matter. But for the unending and inordinate delay in finalisation of such comprehensive legislation as would be noticed from the instances referred to above, the infirmities had been allowed to prolong for years. The Committee, therefore, decided

to recommend that, unless the comprehensive legislation could be grought forward within three months of the presentation of their Report, Government should not hesitate in oringing forward separate Bills containing the specific amendments before Parliament in implementation of the Committee's recommendations. This was essential especially when the Government had themselves agreed to amend the relevant Acts.

II. *Unsatisfactory replies received from the Ministry in the matter of implementation of certain recommendations of the Committee on Subordinate Legislation—(Memorandum No.* 162).

13. The Committee then considered Memorandum No. 162 containing five instances relating to unsatisfactory replies of the Ministries/Departments in regard to the implementation of recommendations of the Committee made in their various Reports. The observations made by the Committee in each case were as follows:—

(i) *Bye-laws for regulating the collection and recovery of tax on Cycles and Tricycles in the Jullunder Cantonments* (*S.R.O.* 319 *of* 1969)

14. The Committee observed that the manner in which the implementation of the Committee's recommendation made in paragraph 85 of their Eighth Report (Fifth Lok Sabha), presented to the House on 30 August, 1973, had been dealt with, was far from satisfactory. More than ten years had elapsed, but the bye-laws of two cantonments out of ten cantonments were still to be amended. The most depressing part of it was that the Ministry had failed to intimate, on their own, the progress of action taken on the Committee's recommendation in that regard. After the Report was forwarded to them, the Ministry were reminded as many as six times in order to ascertain the fate of the recommendation.

(xii) *The Institutes of Technology Act,* 1961

15. The Committee observed that it had taken the Ministry of Industry four years to take a decision for regularising the illegality by issuing a Presidential Sanction on 14 October, 1982. In the opinion of the Committee, the better course would have been if the Ministry had taken recourse to amending the Industries (Development and Regulation) Act, 1951, as recommended by the Committee in paragraph 118 of their Eleventh Report (Sixth Lok Sabha), presented to the House on 24 August, 1978 instead of issuing an executive sanction for validating the retrospective effect given to the Order. The Committee felt that the Presidential sanction could not be a substitute for law.

(iii) *The Andaman and Nicobar Islands Economiser Rules,* 1959

16. The Committee did not consider the reply of the Ministry as satisfactory. The Committee observed that the implementation of their

recommendation made in paragraph 7 of their Ninth Report (Second Lok Sabha), presented to the House on 9 September, 1960, had been pending for the last over 22 years. In spite of the fact that the Committee had reiterated their recommendation in 1974 after hearing the representatives of the Ministry, the progress of action taken was not satisfactory. Considering the time that was usually taken in putting a Bill on the Statute Book after its introduction in Parliament, there did not seem to be any hope of implementing the recommendation in the foreseeable future. The Committee strongly deplored the indifferent manner in which the Government had dealt with their recommendation.

(iv) *The Army Medical Corps (Civilian) Class III Posts Recruitment Rules,* 1968

17. The Committee deplore the lackadaisical manner in which the Ministry of Defence had dealt with the whole case. The Ministry first stated that they had no objection to consolidating the two sets of recruitment rules for Class III on the basis of which the Committee made their recommendation paragraph 70 of their Sixth Report (Fifth Lok Sabha), represented to the House on 7 May, 1973. After the Committee's Report was presented to Lok Sabha, the Ministry changed their stand and decided to issue two separate sets of Rules—one for Para-Medical Posts and the other for Non-Para-Medical Posts— instead of issuing a consolidated set of Rules for all Group C Posts. Obviously, the Ministry had not sent their considered opinion to the Committee in the first instance. The Committee further noticed that so far only one set of Rules had actually been issued even though the Ministry had taken the decision in the matter as far back as on 16 August, 1977. The Committee exhorted the Ministry to process the left-over work without further delay.

(v) *The Central Excise (Fifteenth Amendment) Rules,* 1977

18. The Committee felt that the possibility of arbitrary use of the discretionary powers conferred on the Collector under the Central Excise Rules could not be ruled out fully even if the Ministry were not aware of any case of such abuse of the discretionary powers during the last two decades. The Committee had recommended provision of adequate safeguards in the rules so as to minimise the possibility of misuse of the discretionary powers wherever such provision existed in the rules.

19. The Commitee, therefore decided to reiterate their recommendations made in paragraph 18-19 of their Twelfth Report (Sixth Lok Sabha), presented to the House on 22 November, 1978, that the Central Excise Rules should be amended to the desired effect. The Committee desired the Ministry to effect the requisite amendment to the rules without further loss of time.

The Committee then adjourned.

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

The Committee met on Wednesday, 30 March, 1983 from 1530 to 1615 hours.

PRESENT

Shri Mool Chand Daga—*Chairman*

MEMBERS

2. Shri Mohammad Asrar Ahmad
3. Shri N. E. Horo
4. Shri Ashfaq Hussain
5. Shri B. Devarajan
6. Shri C. D. Patel
7. Shri R. S. Sparrow

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 took up for consideration Memorandum No. 165 containing eight cases in regard to which Government had expressed their inability to implement their recommendations made in their various Reports presented to the House during the Fifth, Sixth and Seventh Lok Sabha.

3. At the outset, the Chairman observed that it would have been advisable to examine the Secretaries of the concerned Ministries in respect of the cases mentioned in the Memorandum, before the Committee Reported them to the House, but since the recommendations were in respect of Reports presented to the House two to eight years earlier, it might not be feasible to examine them in all the cases.

4. The Committee then considered each case mentioned in the Memorandum. The observations made by the Committee were as follows:—

(i) *The Indian Naval Amendment Service (Group 'A') Recruitment Rules,* 1977 (*S.R.O.* 71 *of* 1977)

5. The Committee observed that the Ministry first agreed to amend sub-rule (3) of Rule 8 of the Indian Naval Armament Service (Group

'A') Recruitment Rules, 1977 on the lines recommended by the Committee. The amendment was also concurred in by the Department of Personnel and Administrative Reforms and it was only awaiting clearance from U.P.S.C. Instead of making amendments on the lines desired by the Committee, the Ministry had omitted the words which were subject of comments by them without offering any reasons for the consideration of the Committee.

6. The Committee felt that whenever the Ministry changed their stand in regard to a recommendation of the Committee already accpted by them, they should take the Committee into confidence instead of keeping them in the dark.

(ii) *The Sugarcane (Control) Amendment Order,* 1978 (*G.S.R.* 62-*E of* 1978)

7. After considering the matter in all its aspect, the Committee decided not to press their recommendation in view of the reasons advanced by the Minister of Agriculture.

8. The Committee appreciated that as desired by them in paragraph 64 of their Seventh Report (Sixth Lok Sabha), presented to the House on 4-4-1978, in the case of the above recommendation which was not acceptable to the Ministry, a reply had come from the Minister himself.

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(v) *The Port of New Mangalore (Regulation of the use of Landing Places) Rules,* 1977 (*G.S.R.* 467 *of* 1977)

11. The Committee noted that the Ministry of Shipping and Transport had pointed out some problems if the Indian Ports Act 1908 was amended because apart from being applicable to all the Major Ports which were under the control of the Ministry of Shipping and Transport, the Act also governed all the intermediate and minor ports which were approximately 250 in number and were administered by the respective maritime State Governments. The Ministry had, therefore, sought advice of the Committee in the matter. The Committee expressed their surpirse over the ignorance of the Ministry about the procedure for dealing with such metters.

The Committee, in their Twentieth Report (Sixth Lok Sabha), presented to the House on 27 April, 1979, had already laid down the detailed procedure in that connection, According to the recommendation made by the Committee in that behalf, a provision could be made in the Central Acts on concurrent subjects requiring the State Governments to lay the rules framed thereunder by them before the State Legislatures.

12. It seemed that the Ministry of Shipping and Transport had perhaps not consulted the Ministry of Law, Justice and Company Affairs in the matter. Had they done so, there was no need for making a reference to the Committee in that regard.

13. The fact of the matter was that the Ministry of Law, Justice and Company Affairs had already included amendment of Section 6 of the Indian Ports Act, 1908 in the Delegated Legislation (Amendment) Bill, 1982, introduced in Rajya Sabha on 5-11-1982 and the Committee's recommendation would stand implemented when that Bill would become an Act. The Ministry should have kept themselves informed about the latest developments. They should have also informed the Committee about the latest position in the matter in continuation of their earlier note of 15 April, 1980 so that the Committee could have treated the case as a satisfactory implementation of their recommendation.

(vi) *The Indian Post Office (Third Amendment) Rules* 1974 (*G.S.R.* 281-*E of* 1974)

14. The Committee decided to hear the oral evidence of the Ministry of Communication in the matter.

(vii) *The Fertilizer (Control) Third Amendment Order,* 1972 (*G.S.R.* 417-*E of* 1972)

15. The Committee had recommended that second proviso to Clause 13 B of the Fertilizer Control Order should provide for allotment of non-standard Pool Fertilizer to farmers Co-operative/Government Granul lation and mixing units with end-products conforming to the prescribed

standards. The Committee noted the detailed procedure had been evolved by the Ministry of Agriculture for disposal of sub-standard fertilizers as also the guidelines/instructions issued to the Food Corporation of India in May, 1976 for observing that procedure. Only in cases of reselling in neat and straight form, the seller would be contravening the provisions of the order and legal action might be instituted by the State Government.

16. The Committee observed that sufficient safeguards had already been provided and guidelines laid down in that regard. In view of that, the Committee did not press for the amendment of the Order.

17. In regard to the second amendment proposed by them, the Committee were satisfied with the position explained by the Ministry that it would entail additional expenditure resulting in pushing up the prices of non-standard fartilizer making its sale difficult in the sellers market. In the circumstances, the Committee did not like to press the amendment proposed by them in that regard.

(viii) *The Coir Board Services (Classification, Control and Appeal) Bye-laws*, 1969 (*S.O.* 200 *of* 1969)

18. The Committee noted from the reply of the Ministry of Industry (Department of Industry) that the disciplinary authorities made use of the bye-law 16 (ii) in dealing with an extraordinary situation and dispensed with the usual procedure of inquiry only when they were satisfied that the adherence to the normal procedure was not reasonably practicable. In the light of the above position, the Committee did not press for the amendment. In that connection, the Committee, however, found that the Ministry of Railways (Railways Board) had issued certain guidelines *vide* their O.M. dated 30-4-1981 in regard to application of rule 14(ii) of the Railway Sarvants (Discipline and Appeal) Rules, 1968 in similar situation. The Committee desired the Ministry of Industry to lay down similar guidelines for dealing with matters under bye-law 16(ii) of the Coir Board Services (Classification, Control and Appeal) Bye-laws, 1969.

The Committee then adjourned.

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

The Committee met on Thursday, 31 March, 1983 from 15.30 to 16.15 hours.

PRESENT

Shri Mool Chand Daga—*Chairman*

MEMBERS

2. Shri Mohammad Asrar Ahmad
3. Shri N. E. Horo
4. Shri Ashfaq Husain
5. Shri C. D. Patel
6. Shri R. S. Sparrow

SECRETARIAT

1. Shri H. G. Paranjpe—*Joint Secretary*
2. Shri S. D. Kaura—*Chief Legislative Committee Officer*

2. The Committee took up for consideration the following two Memoranda:

(1) Memorandum No. 166 regarding interim replies received from Ministries|Departments in the matter of implementation of recommendations of the Committee on Subordinate Legislation which are more than two years old.

I. *Interim replies received from Ministries/Departments in the matter of implementation of recommendations of the Committee on Subordinate Legislation which are more than two years old*—(*Memorandum No.* 166).

3. The Committee considered Memorandum No. 166 containing 15 cases in respect of which Government had furnished their interim replies in the matter of implementation of various recommendations of the Committee. The observations made by the Committee in each case were as follows:

(i) *The Monopolies and Restrictive Trade practices (Classification of Goods) Rules*, 1977 (*G.S.R.* 1033 *of* 1971

4. The Committee observed that the draft amendment Rules which were published in the Gazette of India dated 15-7-1978 were made available to them on 23.7.1980 after the Ministry was reminded in that regard. The Committee could not help but to express their unhappiness the way their communications were being ignored.

5. The Committee further observed that a period of sixty days given for sending objections/suggestions from the date of publication of the draft rules expired on 14.9.1978. Since then nearly four and a half years had passed but final rules had not yet been published. The Ministry owed an explanation to the Committee for not publishing the final Amendment Rules so far. Now that the Monopolies and Restrictive Trade practices Act had been amended, the Committee stressed early implementation of their recommendation.

(ii) *The Cinematograph* (*Second Amendment*) *Bill*, 1973

6. The Committee noted with concern that even after a period of seven years the Ministry of Information and Broadcasting had partly implemented their recommendations. The exhibition of the cinematographs in the Union Territory of Arunachal Pradesh was still being regulated unauthorisedly through executive instructions.

7. The Committee desired that pending framing of uniform set of rules under Section 16(1), the rules for regulation of exhibitions by means of cinematographs for the Union Territory of Arunachal Pradesh be published at an early date.

(iii) *The Delhi Municipal Corporation* (*Preparation of Electoral Rolls*) *Rules*, 1975 *Notification No. F2* (30|73-*LSG dated* 19-3-1975)

8. The Committee observed that after conveying the acceptance of their recommendations on 30.1.1979, the Ministry of Home Affairs had failed to take necessary steps for their implementation. The Ministry should have realised that they owed a responsibility to the Committee for actual implementation of the recommendations. They woke up when they were reminded in the matter on 3.4.1982 and again on 24.8.1982 by a D.C. letter to the Secretary of the Ministry. The Committee regretted that infirmities in the rules had been allowed to remain for more than four years despite acceptance of their recommendations. No sense of urgency had been shown even in view of elections to the Corporation held in 1983.

9. The Committee deprecated carelessness and utter disregard shown by the Ministry in implementing their recommendations and desired the Ministry to fix responsibility for such default. The Committee also desired that the recommendations made by them in this regard should be implemented without any further delay.

(iv) (a) *The Paper (Control of Production) Order,* 1974 (*S.O.* 465-*E of* 1974); *and*

(b) *The Paper (Control of Production) Amendment Order.* 1974 (*S.O.* 172 *of* 1975)

10. The Committee were not convinced by the reasons advanced by the Ministry of Industry (Department of Industrial Development) for not implementing the recommendation. The Committee felt that it was not material whether the Order became ineffective due to stay order having been granted by the courts. As long as the Order remained on the statute book, any infirmity therein had to be rectified. In fact, when the Ministry had issued the Paper (Regulation of Production) Order, 1978, the amendment suggested by the Committee in that regard should have been incorporated in Clause 9. The Ministry had failed to do that. The Ministry had again failed to implement the recommendation of the Committee when they substituted Clause 9 by a new clause in 1979.

11. The Committee could not help but deplore the sheer negligence on the part of the Ministry to implement the Committee's recommendation which was accepted by them as far back as 6-4-1978 and desired them to implement it now without any further delay.

(v) *The Central Industrial Security Force (First Amendment) Rules,* 1976 (*G.S.R.* 262 *of* 1976)

12. The Committee noted with concern the utter disregard shown by the Ministry of Home Affairs to the communications received from a Parliamentary Committee. The Ministry, on its own, was required to keep the Committee informed about the progress being made by them in the matter of implementation of their recommendations. They, however, chose to remain silent and did not respond even to the reminders.

13. The Committee desired the Ministry of Home Affairs to fix responsibility for failure to communicate further progress. The Committee also urged that a finel reply be submitted within one month of the presentation of the Report to enable them to take a review in the matter.

(iv) *The Commissions of Inquiry (Central) (Amendment) Rules,* 1974 (*G.S.R.* 987 *of* 1974)

14. The Committee noted with concern that even after four years, their recommendation remained to be implemented. The Committee failed to understand as to how the payments of TA/DA to the witnesses|assessors had been made since 11.5.1978 wtihout the authority of law.

15. The Committee, therefore, desired the Ministry to expedite the amendment of the Commissions of Inquiry Act, 1952 at an early date so that the payments being made by them in that regard should have the sanction of law.

(vii) *The Coal Mines (Conservation and Development) Rules,* 1975 (*G.S.R.* 184-*E of* 1975).

16. The Committee noted from the correspondence with the Ministry that the Committee's Report was forwarded to them on 25.7.1978. When implementation of Committee's recommendation was pursued, the Ministry in their communication dated 3-4-1980 stated that they had not received the Lok Sabha Secretariat O.M. dated 25-7-1978, forwarding the Report of the Committee to them. Another copy of the Committee's Report was sent to the Ministry on 7.8.1980. On getting no reply, the matter was again pursued with the Ministry and two D.O. letters dated 20.8.1982 and 8-11-1982 were issued to the Secretary of the Ministry. The Ministry had ignored the first D.O. reminder. They had replied only to the second D.O. reminder in which the Secretary of the Ministry was informed that he might have to explain personally the reasons for delay to the Chairman, if reply was not received by 30-11-1982.

17. The Committee observed that the Ministry had not shown any enthusiasm to implement their recommendations. A copy of Report which they had obtained on receipt of second D.O. reminder, could have been obtained by them as well when it was stated not to have been received by them along with the O.M. dated 7-8-1980 or when the first D.O. reminder dated 20-8-1982 was received by them. In short, the action appeared to have been initiated by the Ministry after four years of the presentation of the Report by the Committee to the House which was very unfortunate. The Committee urged the Ministry to initiate steps to implement their recommendation expeditiously.

(viii) (a) *The Central Engineering Service (Roads) Group 'A' of the Ministry of Shipping and Transport (Roads Wing) Rules,* 1976 (*G.S.R.* 310 *of* 1976); and

(b) *The Central Engineering Pool Group 'A' of the Ministry of Shipping and Transport (Roads Wing) Rules,* 1976 (*G.S.R.* 309 *of* 1976).

18. The Committee noted with concern the casual manner in which the Ministry of Shipping and Transport (Roads Wing) had treated the communications sent to them by a Parliamentary Committee. The Report of the Committee was sent to the Ministry on 3-3-1978. After sending an interim reply on 4-8-1980, they remained silent for another two years. The reply of the Ministry came only when the matter was taken up with the Secretary on 6.9.1982 and that too was an interim one. The matter was still at interim reply stage. The Committee, therefore, desired the Ministry to finalise the matter and amend the Central Engineering Service (Roads) Group 'A' of the Ministry of Shipping and Transport (Roads Wing) Rules, 1976 and the Central Engineering Pool Group 'A' of the Ministry of Shipping and Transport (Roads Wing) Rules, 1976 suitably without any further delay, as already recommended by them and publish the same in the Gazette of India at an early date.

(ix) *The General Insurance (Rationalisation of Pay Scales and other Conditions of Service of Officers) Scheme*, 1975

19. On perusal of the note from the Ministry in regard to the Supreme Court case, the Committee found that the employees had challenged the amendment to the scheme on 24-10-1980, i.e. 2/1-2 years and 2 years after the Committee made the recommendations in their Ninth Report and Twelfth Report (Sixth Lok Sabha) respectively.

20. The Committee observed that their Ninth Report and Twelfth Report were presented to the House on 11-5-1978 and 22-11-1978, respectively. The petition in the Supreme Court was filed on 24.10.1980. A period of 2/1-2 years and 2 years was available to the Ministry to implement their recommendations in that regard. That period could not be said to be inadequate had the Ministry taken prompt action on the recommendations.

21. The Committee desired that the Ministry of Finance pending final decision of the Supreme Court, should keep in view the spirit of the recommendations of the Committee whenever action was taken under Clause (b) of paragraph 10(6) of the General Insurance (Rationalisation of pay Scales and Other Conditions of Service of Officers) Scheme, 1975 or subpare (5) of paragraph 17 of the General Insurance (Rationalisation of pay Scales and Other conditions of Service of Development Staff) Scheme, 1976 or under paragraph 4 of the General Insurance (Termination, Superannuation and Retirement of Officers and Development Staff) Scheme, 1976.

(x) *The Shipping and Development Fund Committee (Employees Contributory Provident Fund) Rules*, 1976.

22. The Committee observed that their recommendation had been dealt with by the Ministry of Shipping and Transport in a most casual way. The Committee were of the view that after the amendment made by the

Ministry of Home Affairs in the Contributory Provident Fund Rules (India) 1962 had been brought to the notice of the Ministry of Shipping and Transport, there was no justification what soever for taking such a long time to implement their recommendation.

23. The Committee deplored the delay and desired the Ministry to amend the Shipping Development Fund Committee (Employees Contributory Provident Fund) Rules, 1976 as recommended by them without further loss of time.

(xi) *The General Provident Fund (Central Services) Fourth Amendment Rules*, 1976 (*S.O.* 1026 *of* 1976)

24. The Committee noted that the Ministry of Home Affairs had re- in paragraphs 46 to 52 of their Seventh Report (Second Lok Sabha), pre- upto 30-11-1978 and Hindi version thereof as amended upto 31-3-1980. The Committee further noted that the Ministry proposed to bring out a diglot edition of the Rules. The Committee desired that the proposed ediion should be brought out without any further delay.

25. The Committee regretted to note that the Ministry of Home Affairs had failed to bring the recommendations of the Committee, contained in paragraphs 59 and 60 of their Report, to the notice of all Ministries/Departments for compliance. The Committee desired that those recommendations should immediately be circulated to all Ministries/Departments for their information and necessary action.

(xii) *The Institudes of Telechnology Act*, 1961.

26. The Committee noted that in pursuance to their insistence for implementation of their recommendation contained in paragraph 11 of their Fourteenth Report (Fifth Lok Sabha), the Ministry of Law Justice and Company Affairs had introduced the Delegated Legislation (Amendment) Bill, 1982 in the Rajya Sabha on 25-10-1982 which provided for laying provision in respect of fifty Acts. The amendment to the Institutes of Technology Act, 1961 had, however, not been included in the said Bill.

27. The Committee recommended that a Bill to amend the Institutes of Technology Act, 1961, should be introduced specifically for the purpose of implementing their recommendation or the amendment of the Act be included in the second Delegated Legislation Provisions (Amendment) Bill proposed to be brought forward by the Ministry of Law for making laying provision in the remaining Acts.

28. The Committee also noted that the Department of Parliamentary Affairs had not circulated their recommendations to all Ministries/Departments that the provision for laying of rules on the Table when incorpora-

ted in the relevant Act, should have perspective effect and not retrospective effect, so that any rules whether original or amending, framed thereafter be laid before Parliament. The Committee desired the Department of Parlaimentary Affairs that their recommendation in this regard should be circulated to all Ministries/Departments.

(xiii) *The Indian Foreign Service Branch 'B' (Recruitment, Cadre, Seniority and promotion) (Second Amendment) Rules*, 1974 (*G.S.R.* 1083 *of* 1974).

29. The Committee observed that for four years and 3 months after the presentation of their Report on 21.12.1978, the Ministry of External Affairs had virtually not initiated any action on their recommendation. The Committee's recommendation was based on their earlier recommendation in respect of the Indian Foreign Service Branch 'B' (Recruitment, Cadre, Seniority and Promotion) Rules, 1974 which had been implemented by the Ministry of External Affairs *vide* their O.M. No. QGP|792|I|80-CAD dated 6-10-1982. With this precedent before them the Committee hardly found any reasons for the Ministry for taking such a long time to implement their recommendation. The Committee found the Ministry's reply sent on 4.4.1983 was hasty and superficial.

30. The Committee desired the Ministry of External affairs to fix responsibility on the persons concerned for their failure to take timely action on their recommendation.

(xiv) *Rules for a limited departmental competitive examination for inclusion in the select list for the integrated grades II and III of the General Cadres of the Indian Foreign Service, Branch 'B' to be held by the Union Public Service Commission in* 1975 (*G.S.R.* 672 *of* 1974).

31. The Committee felt distressed at the inordinate delay of four years by the Ministry of External Affairs in conveying their acceptance of the recommendation of the Committee to amend the Rules for limited Departmental Competitive Examination for inclusion in the Select List for the integrated Grades II and III of the General Cadre of the Indian Foreign Service Branch 'B' Rules, 1974. The delay could have been avoided if the Ministry had initiated action to procure a copy of the Central Engineering Service Rules soon after receiving the Committee's Report which was presented to the House on 21.12.1978. The Committee desired the Ministry of External Affairs to issue the amending notification without any further delay.

(xv) *Laying Rules framed by State Governments under Central Act before State Legislatures' Parliament*

32. The Committee noted that that matter was first considered by them in paragraphs 46 to 52 of their Seventh Report (Second Lok Sabha), pre-

sented to the House on 22.12.1959. It again came up before the Committee in 1979 when the Committee presented their Report exclusively on this subject (*i.e.* Twentieth Report Sixth Lok Sabha). Thus, the Ministry had been aware of the Committee's thinking in regard to that matter since 1959. Four years had elapsed since the presentation of their Twentieth Report but final replies from the thirteen State Governments and five Union Territory Administrations were yet to be received. The Committee also noted that the Ministry of Law had not intimated further progress in the matter. The Committee desired the Ministry to pursue this case vigorously with the State/Union Territory Governments concerned and report the progress made in this regard to the Committee within a period of three months.

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The Committee then adjourned.

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

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

The Committee met on Thursday, 5 May, 1983 from 15.30 to 16.15 hours.

PRESENT

Shri Mool Chand Daga—*Chairman*

MEMBERS

2. Shri Mohammad Asrar Ahmad
3. Shri Dalbir Singh (Madhya Pradesh)
4. Shri Satish Prasad Singh
5. Shri R.S. Sparrow.

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*

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3. The Committee considered their draft Nineteenth Report and adopted it without any amendment.

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5. The Committee authorised the Chairman and, in his absence, Shri Mohammad Asrar Ahmad, to present this Nineteenth Report to the House on their behalf on 10 May, 1983.

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The Committee then adjourned.