The Australian Constitution indeed has no provision like article 19(1) (g) of the Indian Constitution and it is certainly an arguable point as to whether the rights of individuals alone are dealt with in article 19(1) (g) of the Constitution leaving the freedom of trade and commerce, meaning by that expression 'only the free passage of persons and goods' within or without a State to be dealt with under article 301 and the following articles.

We have thus indicated only the points that could be raised and the possible views that could be taken but as we have said already, we do not desire to express any final opinion on these points as it is unnecessary for purposes of the present case. The result is that in our opinion the appeals should be allowed and the judgment of the High Court set aside. A writ in the nature of *mandamus* shall issue against the respondents in these appeals restraining them from enforcing the provisions of the U. P. State Road Transport Act, 1951, against the appellants or the men working under them. There will be no order as to costs.

Appeals allowed.

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v.

THE STATE OF AJMER AND ANOTHER.

[MEHR CHAND MAHAJAN C.J., MUKHERJEA, VIVIAN BOSE, JAGANNADHADAS and VENKATARAMA AYYAR JJ.]

Constitution of India, Art. 372—Words "law in force"—Meaning of—Whether include regulation or order having the force of law —An order made under s. 94(3) of the Government of India Act, 1935 —Whether "law in force" and capable of adaptation—Minimum Wages Act, 1948 (Act XI of 1948), s. 27—"Appropriate Government" —Given power to add to either part of schedule—Any employment in respect of which minimum rates of wages should be fixed—Whether such power warranted and not unconstitutional and within the limits of permissible delegation—Advisory committee—Appointment of— Under s. 5 of the Act—Extension of its term beyond the period already expired—Validity—Procedural irregularities—Whether vitiate the final report.

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The words 'law in force' as used in Art. 372 of the Constitution are wide enough to include not merely a legislative enactment but also any regulation or order which has the force of law.

An order made by the Governor-General under s. 94(3) of the Government of India Act, 1935, investing the Chief Commissioner with the authority to administer a province is really in the nature of a legislative provision which defines the rights and powers of the Chief Commissioner in respect of that province. Such an order comes within the purview of Art. 372 of the Constitution and being a 'law in force' immediately before the commencement of the Constitution would continue to be inforce under clause (1) of the article. Such an order is capable of adaptation to bring it in accord with the constitutional provisions and this is precisely what has been done by the Adaptation of Laws Order, 1950. Therefore an order made under s. 94(3) of the Government of India Act, 1935, should be reckoned now as an order made under Art. 239 of the Constitution and it was within the competence of the President under clause (2) of Art. 372 to make the adaptation order.

Under s. 27 of the Minimum Wages Act, 1948, power has been given to the "appropriate Government" to add to either part of the schedule any employment in respect of which it is of opinion that minimum wages shall be fixed by giving notification in a particular manner, and thereupon the scheme shall, in its application to the State, be deemed to be amended accordingly. There is an element of delegation implied in the provisions of s. 27 of the Act, for the Legislature, in a sense, authorises another body specified by it, to do something which it might do itself. But such delegation, if it can be so called at all, is not unwarranted and unconstitutional and it does not exceed the limits of permissible delegation.

The legislative policy is apparent on the face of the present enactment. What it aims at is the statutory fixation of minimum wages with a view to obviate the chances of exploitation of labour. It is to carry out effectively the purposes of the enactment that power has been given to the appropriate Government to decide with reference to local conditions whether it is desirable that minimum wages should be fixed in regard to a particular trade or industry which is not already included in the list.

Therefore in enacting s. 27 the legislature has not stripped itself of its essential powers or assigned to the administrative authority anything but an accessory or subordinate power which was deemed necessary to carry out the purpose and the policy of the Act.

Rule 3 of the rules framed under s. 30 of the Act empowers the State Government to fix the term of the committee appointed under s. 5 of the Act and to extend it from time to time as circumstances require.

The period originally fixed had expired and its term was extended subsequently. It did not function and submitted no

report during the period. Assuming that the subsequent order could not revive a committee which was already dead, a new committee could be held to have been constituted and the report submitted by it would be a perfectly good report. Apart from this, a committee is only an advisory body and procedural irregularities of this character could not vitiate the final report which fixed the minimum wages.

Baxter v. *Ah Way* (8 C.L.R. 626) and *Reg.* v. *Burah* (3 App. Cas. 889) referred to.

CIVIL APPELLATE JURISDICTION: Civil Appeals Nos. 138 and 139 of 1954.

Appeals under articles 132 and 133 of the Constitution of India from the Judgment and Order, dated the 16th February, 1953, of the Court of Judicial Commissioner, Ajmer, in Civil Miscellaneous Petitions Nos. 260 and 263 of 1952.

N. C. Chatterjee (*B. D. Sharma* and *Naunit Lal,* with him) for appellants Nos. 1 and 2 in C. A. No. 138 of 1954 (Edward Mills and Krishna Mills).

Achhru Ram (*B. D. Sharma* and *Naunit Lal,* with him) for appellant No. 3 in C. A. No. 138 of 1954 (Mahalaxmi Mills).

H. N. Seervai, J. B. Dadachanji and *Rajinder Narain* for the appellant in C. A. No. 139 of 1954.

C. K. Daphtary, Solicitor-General of India (*M. M. Kaul* and *P. G. Gokhale,* with him) for respondent No. 2 (Union of India).

1954. October 14. The Judgment of the Court was delivered by

MUKHERJEA J.—These two appeals are directed against a common judgment, dated the 16th of February, 1953, passed by the Judicial Commissioner of Ajmer, on two analogous petitions under article 226 of the Constitution, in one of which the appellants in Appeal No. 138 of 1954 were the petitioners, while the other was filed by the appellant in Appeal No. 139 of 1954.

The petitioners in both the cases prayed for a declaration that the notification, dated the 7th of October, 1952, issued by the State Government of

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Ajmer, fixing the minimum rates of wages in respect of employment in the textile industry within that State, under the provisions of the Minimum Wages Act (Act XI of 1948), was illegal and *ultra vires* and for issue of writs in the nature of *mandamus* directing the respondents not to enforce the same against the petitioners.

To appreciate the points that have been canvassed before us, it will be convenient to narrate briefly the material facts in chronological order. On the 15th of March, 1948, the Central Legislature of India passed an Act called The Minimum Wages Act, 1948, the object of which, as stated in the preamble, is to provide for fixing minimum rates of wages in certain employments. The schedule attached to the Act specifies, under two parts, the employments in respect of which the minimum wages of the employees can be fixed; and section 27 authorises the "appropriate Government", after giving three months' notice of its intention to do so, to add to either part of the schedule, any other employment, in respect of which it is of the opinion that minimum rates of wages should be fixed under the Act. The expression "appropriate Government" as defined in section 2(b) means, in relation to a scheduled employment, other than one carried by or under the authority of the Central Government, the State Government. Under section 3 the "appropriate Government" is to fix minimum wages payable to employees employed in any employment specified in the schedule at the commencement of the Act or added to it subsequently in accordance with the provisions of section 27. Sub-section (1) (a) of this section provides *inter alia* that the "appropriate Government" may refrain from fixing the minimum rates of wages in respect of any scheduled employment in which there are in the whole State less than 1,000 employees engaged in such employment. Section 5 lays down the procedure for fixing minimum wages. The appropriate Government can appoint a committee to hold enquiries to advise it in the matter of fixing minimum wages; in the alternative it can, by notification in the official public gazette, publish its proposals for the information of persons likely to be affected thereby. After

considering the advice of the committee or the representations on the proposals as the case may be, the 'appropriate Government' shall fix the minimum rates of wages in respect to any scheduled employment, by notification in the official gazette, and such rates would come into force on the expiry of three months from the date of issue unless the notification directs otherwise. Section 9 provides *inter alia* that an advisory committee constituted under section 5 shall consist of persons nominated by the appropriate Government. There shall be in the committee an equal number of representatives of the employers and the employed in any scheduled employment and there shall be independent persons as well, not exceeding one-third of the total number, one of whom shall be appointed Chairman.

Section 30 confers on the appropriate Government the power to make rules for carrying out the purposes of the Act.

It may be mentioned at the outset that Part I of the schedule to the Act mentioned only 12 items of employment at the time when the Act was passed and employment in the textile industry was not included in them. On the 16th of March, 1949, the Central Government issued a notification, in exercise of its powers under section 94(3) of the Government of India Act, 1935, directing that the functions of the "appropriate Government" under the Minimum Wages Act, would, in respect of every Chief Commissioner's Province, be exercised by the Chief Commissioner. On the 17th March, 1950, the Chief Commissioner of Ajmer, purporting to act as the "appropriate Government" of the State, published a notification in terms of section 27 of the Act giving three month's notice of his intention to include employment in the textile mills as an additional item in Part I of the schedule. On the 10th of October, 1950, the final notification was issued stating that the Chief Commissioner had directed "that the employment in textile industry" should be added in Part I of the schedule.

On the 23rd November, 1950, another notification was published under the signature of the Secretary to

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the Chief Commissioner containing the rules purporting to have been framed by the Chief Commissioner in exercise of his powers under section 30 of the Act. Out of these, only rules 3, 8 and 9 are material for our present purpose. Rule 3 provides that the term of office of the members of an advisory committee shall be such, as in the opinion of the State Government, is necessary for completing the enquiry into the scheduled employment concerned and the State Government may, at the time of the constitution of the committees, fix a term and may, from time to time, extend it as circumstances may require. Rule 8 provides for filling up the vacancies occurring or likely to occur in the membership of the committee by resignation of any of its members. Rule 9 lays down that if a member of the committee fails to attend three consecutive meetings he would cease to be a member thereof. The rule further states that such member could, if he so desires, apply, within a certain time for restoration of his membership and restoration could be made if the majority of the members are satisfied that there were adequate reasons for his failure to attend the meetings.

On the 17th January, 1952, a committee was appointed to hold enquiries and advise the Chief Commissioner in regard to the fixation of minimum wages relating to the textile industry within the State. Ten members were nominated consisting of four representatives of the employers, four of the employees and two independent members, one of whom Shri Annigeri was to act as an expert member of the committee and the other, Dr. Bagchi, as its Chairman. The term of office of the members was fixed at six months from the date of the notification ending on the 16th of July, 1952. The first meeting of the committee was held on the 29th February, 1952. The expert member was present at that meeting and it was resolved that the minimum wages must not merely provide for the bare subsistence of life but should be adequate for the maintenance of the efficiency of the worker. The second meeting was held on the 29th March, 1952, and the third on the 14th of June, 1952. The expert member was not present at any other meeting except the first and on the 27th of

May, 1952, he wrote a letter to the Chief Commissioner stating that he was proceeding to Europe on the 3rd June, 1952, for a period of three months. He expressed his willingness to assist the Chairman in the preparation of the report after he came back from Europe by the first week of September, next provided the term of the committee was extended. If however that was not possible, he requested that his letter might be treated as a letter of resignation from the membership of the Committee. No action appears to have been taken on receipt of the letter. The fourth and the fifth meetings of the committee were held respectively on the 8th and the 15th of July, 1952. On the 20th August, 1952, the Chairman of the Committee informed the Chief Commissioner that Shri Annigeri had ceased to be a member of the committee by reason of his failing to attend three consecutive meetings. He had also desired that his letter to the Chief Commissioner dated the 27th May, 1952, should be treated as a letter of resignation. In the circumstances the Chief Commissioner was requested to fill up this vacancy in the membership. On the very next day, that is to say, on the 21st August, 1952, a notification was issued by which the Chief Commissioner ordered the extension of the term of the committee up to the 20th of September, 1952, and on the 28th of August, following, another notification was made appointing Shri Annigeri as a member of the committee. The term of the committee was extended by a further notification till the 5th of October, 1952. In the meantime a meeting of the committee. was held on the 10th September, 1952, in which Shri Annigeri was not present. The only resolution passed was, that all relevant papers might be sent to Shri Annigeri as desired by him. It appears that some time after the 14th of September, 1952, the Chairman himself took the papers to Nagpur where Shri Annigeri was staying and a draft final report was prepared by the Chairman in consultation with the expert member and both of them signed the report at Nagpur. The report was placed before the other members on the 4th October, 1952, and on the 7th of October, following, a notification was issued fixing

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minimum rates of wages for the employees in the textile industry in the State of Ajmer, under the signature of the Secretary to the Chief Commissioner and stating that these rates should be deemed to be in force from the 1st of September, 1952.

Feeling aggrieved by this notification the three appellants in Appeal No. 138 of 1954 presented an application under article 226 of the Constitution before the Judicial Commissioner of Ajmer on the 31st October, 1952, praying for a writ in the nature of *mandamus* ordering the State of Ajmer not to enforce the same. A similar application was filed by the Bijay Cotton Mills, the appellant in the other appeal, on the 6th of November, 1952. Both the petitions were heard together and a common judgment was passed by the Judicial Commissioner on the 16th of February, 1953. The applications were dismissed except that the Chief Commissioner was held to have exceeded his legal authority in giving retrospective effect to the notification of the 7th of October, 1952, and the State of Ajmer, was restrained from enforcing the notification from any date earlier than the 8th of January, 1953. It is against this judgment that these two appeals have come up to this Court on the strength of certificates granted by the Judicial Commissioner, Ajmer.

Mr. Chatterjee, appearing for the appellants in Appeal No. 138, has put forward a three-fold argument on behalf of his clients. He has contended in the first place that without a delegation of authority by the President under article 239 of the Constitution, the Chief Commissioner of Ajmer was not competent to function as the "appropriate Government" for purposes of the Minimum Wages Act. All the steps therefore that were taken by the Chief Commissioner under the provisions of the Act including the issuing of the final notification on the 7th of October, 1952, were illegal and *ultra vires*.

The second contention raised is that the provision of section 27 of the Act is illegal and *ultra vires* inasmuch as it amounts to an illegal and unconstitutional delegation of legislative powers by the Legislature in favour of the "appropriate Government" as defined in the

Act. The third and the last contention is, that the Chief Commissioner had no authority to extend retrospectively the term of the Advisory Committee after it expired on the 16th of July, 1952.

Mr. Seervai, who appeared in support of the other appeal, adopted all these arguments on behalf of his client. He however raised some additional points impeaching the constitutional validity of the Minimum Wages Act itself on the ground that its provisions conflicted with the fundamental rights of the appellants and its employees guaranteed under article 19(1) (g) of the Constitution. These points were argued elaborately by the learned counsel in connection with the two petitions filed on behalf of the Bijay Cotton Mills Ltd., and a number of employees under them under article 32 of the Constitution and we will take them up for consideration when dealing with these petitions. We will now proceed to consider the three points mentioned above which have been raised in support of the appeals.

So far as the first ground is concerned the argument of Mr. Chatterjee in substance is that the expression "appropriate Government" has been defined in section 2(b) (ii) of the Minimum Wages Act to mean, in relation to any scheduled employment, not carried on by or under the authority of the Central Government, the State Government. "State Government" has been defined in section 3(60) of the General Clauses Act as meaning, in regard to anything done or to be done after the commencement of the Constitution in a Part C State, the Central Government. Prior to the commencement of the Constitution, under section 94(3) of the Government of India Act, 1935, a Chief Commissioner's Province could be administered by the Governor-General acting to such extent, as he thought fit, through a Chief Commissioner to be appointed by him in his discretion; and under section 3(8) of the General Clauses Act, as it stood before the 26th of January, 1950, the expression "Central Government" included, in the case of a Chief Commissioner's Province, the Chief Commissioner acting within the scope of authority given to him under section 94(3) of the Government of

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India Act, 1935. Article 239 of the Constitution which corresponds to section 94(3) of the Government of India Act, though it is much wider in scope, provides that a State specified in Part C of the First Schedule shall be administered by the President acting, to such extent as he thinks fit, through a Chief Commissioner or a Lieutenant Governor to be appointed by him or through the Government of a neighbouring State. Agreeably to this constitutional provision, section 3(8) (b) (ii) of the General Clauses Act, as amended by the Adaptation Laws Order, 1950, lays down that the expression "Central Government" shall include *inter alia* the Chief Commissioner of a Part C State acting within the scope of the authority given to him under article 239 of the Constitution. Ajmer was admittedly a Chief Commissioner's Province under section 94(1) of the Government of India Act, 1935. It has become a Part C State after the coming into force of the Constitution. As has been stated already, the Central Government issued a notification on the 16th of March, 1949, under section 94(3) of the Government of India Act, directing that the function of the "appropriate Government" under the Minimum Wages Act would, in respect of any Chief Commissioner's Province, be exercised by the Chief Commissioner. There was no such delegation of authority however under article 239 of the Constitution after the Constitution came into force. Mr. Chatterjee contends that in the absence of such delegation under article 239 the Chief Commissioner of Ajmer cannot be regarded as "Central Government" as defined in section 3(8) (b) (ii) of the General Clauses Act as it stands at present and consequently he could not be held to be the "appropriate Government" within the meaning of section 2(b) (ii) of the Minimum Wages Act. The Government of India Act, it is said, stands repealed by article 395 of the Constitution. An order issued under section 94(3) of the Government of India Act cannot possibly be operative after the inauguration of the Constitution, nor could it be regarded as an order made under article 239 of the Constitution.

The contention does not appear to us to be sound. A complete reply to this argument is furnished, in our-

opinion, by the provisions of clauses (1) and (2) of article 372 of the Constitution. Article 372 runs as follows :

"372. (1) Notwithstanding the repeal by this Constitution of the enactments referred to in article 395 but subject to the other provisions of this Constitution, all the law in force in the territory of India immediately before the commencement of this Constitution shall continue in force therein until altered or repealed or amended by a competent Legislature or other competent authority.

(2) For the purpose of bringing the provisions of any law in force in the territory of India into accord with the provisions of this Constitution, the President may by order make such adaptations and modifications of such law, whether by way of repeal or amendment, as may be necessary or expedient, and provide that the law shall, as from such date as may be specified in the order, have effect subject to the adaptations and modifications so made, and any such adaptation or modification shall not be questioned in any court of law."

Thus clause (1) of the article provides for continuance, in force, of the existing laws notwithstanding the repeal by the Constitution of the enactments mentioned in article 395 and clause (2) provides for their adaptation with a view to bring them into accord with the provisions of the Constitution. The Government of India Act, 1935, undoubtedly stands repealed by article 395 of the Constitution, but laws made thereunder which were in existence immediately before the commencement of the Constitution would continue under article 372(1) and could be adapted under the second clause of that article. Mr. Chatterjee argues that article 372 has no application to the present case inasmuch as the order made by the Central Government under section 94(3) of the Government of India Act could not be regarded as "a law in force" within the meaning of article 372. A distinction is sought to be made by the learned counsel between an "existing law" as defined in article 366(10) and a "law in force" and it is argued that though an "order" can come within the definition

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of "existing law", it cannot be included within the expression "law in force" as used in article 372. It is argued next that even if the word "law" is wide enough to include an order, that order must be a legislative and not a mere executive order promulgated by an administrative authority, and in support of this contention the learned counsel has relied on a number of cases decided by the Privy Council and the different High Courts in India.

The first point does not impress us much and we do not think that there is any material difference between "an existing law" and "a law in force". Quite apart from article 366(10) of the Constitution, the expression "Indian law" has itself been defined in section 3(29) of the General Clauses Act as meaning any Act, ordinance, regulation, rule, order, or bye-law which before the commencement of the Constitution had the force of law in any province of India or part thereof. In our opinion, the words "law in force" as used in article 372 are wide enough to include not merely a legislative enactment but also any regulation or order which has the force of law. We agree with Mr. Chatterjee that an order must be a legislative and not an executive order before it can come within the definition of law. We do not agree with him however that the order made by the Governor-General in the present case under section 94(3) of the Government of India Act is a mere executive order. Part IV of the Government of India Act, 1935, which begins with section 94, deals with Chief Commissioner's Provinces and sub-section (3) lays down how a Chief Commissioner's Province shall be administered. It provides that it shall be administered by the Governor-General acting through a Chief Commissioner to such extent as he thinks fit. An order made by the Governor-General under section 94(3) investing the Chief Commissioner with the authority to administer a province is really in the nature of a legislative provision which defines the rights and powers of the Chief Commissioner in respect to that province. In our opinion such order comes within the purview of article 372 of the Constitution and being "a law in force" immediately before the commencement of the

Constitution would continue to be in force under clause (1) of the article. Agreeably to this view it must also be held that such order is capable of adaptation to bring it in accord with the Constitutional provisions under clause (2) of article 372 and this is precisely what has been done by the Adaptation of Laws Order, 1950. Paragraph 26 of the Order runs as follows :

"Where any rule, order or other instrument was in force under any provision of the Government of India Act, 1935, or under any Act amending or supplementing that Act, immediately before the appointed day, and such provision is re-enacted with or without modifications in the Constitution, the said rule, order or instrument shall, so far as applicable, remain in force with the necessary modifications as from the appointed day as if it were a rule, order or instrument of the appropriate kind duly made by the appropriate authority under the said provision of the Constitution, and may be varied or revoked accordingly."

Thus the order made under section 94(3) of the Government of India Act should be reckoned now as an order made under article 239 of the Constitution and we are unable to agree with Mr. Chatterjee that it was beyond the competence of the President under clause (2) of article 372 to make the adaptation order mentioned above. The first contention of Mr. Chatterjee therefore fails.

Coming now to the second point Mr. Chatterjee points out that the preamble to the Minimum Wages Act as well as its title indicate clearly that the intention of the Legislature was to provide for fixing minimum wages in certain employments only and that the Legislature did not intend that all employments should be brought within the purview of the Act. The schedule attached to the Act gives a list of the employments and it is in respect to the scheduled employments that the minimum wages are to be fixed. Under section 27 of the Act however, power has been given to the "appropriate Government" to add to either part of the schedule any employment in respect to which it is of opinion that minimum wages shall be fixed by giving notification in a particular manner, and

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thereupon the schedule shall, in its application to the State, be deemed to be amended accordingly. It is argued that the Act nowhere formulates a legislative policy according to which an employment shall be chosen for being included in the schedule. There are no principles prescribed and no standard laid down which could furnish an intelligent guidance to the administrative authority in making the selection. The matter is left entirely to the discretion of the "appropriate Government" which can amend the schedule in any way it likes and such delegation of power virtually amounts to a surrender by the Legislature of its essential legislative function and cannot be held valid.

There is undoubtedly an element of delegation implied in the provision of section 27 of the Act, for the Legislature, in a sense, authorises another body, specified by it, to do something which it might do itself. But such delegation, if it can be so called at all, does not in the circumstances of the present case appear to us to be unwarranted and unconstitutional. It was said by O'Connor J. of the High Court of Australia in the case of *Baxter* v. *Ah Way*(1):

"The aim of all legislatures is to project their minds as far as possible into the future, and to provide in terms as general as possible for all contingencies likely to arise in the application of the law. But it is not possible to provide specifically for all cases and therefore, legislation from the very earliest times, and particularly in modern times, has taken the form of conditional legislation, leaving it to some specified authority to determine the circumstances in which the law shall be applied, or to what its operation shall be extended, or the particular class of persons or goods to which it shall be applied."

The facts of this *Australian* case, in material features, bear a striking resemblance to those of the present one. The question raised in that case related to the validity of certain provisions of the Customs Act of 1901. The Act prohibited the importation of certain goods which were specifically mentioned and then gave power to the Governor-General in Council to include, by

(1) 8 C. L. R. 626 at 637.

proclamation, other goods also within the prohibited list. The validity of the provision was challenged on the ground of its being an improper delegation of legislative powers. This contention was repelled and it was held that this was not a case of delegation of legislative power but of conditional legislation of the type which was held valid by the Privy Council in the case of *Reg* v. *Burah* (1). It can indeed be pointed out that in *Burah's* case what was left to the Lieutenant Governor was the power to apply the provisions of an Act to certain territories at his option and these territories to which the Act could be extended were also specified in the Act. The Legislature could be said therefore to have applied its mind to the question of the application of the law to particular places and it was left to the executive only to determine when the laws would be made operative in those places. According to the High Court of Australia the same principle would apply even when the executive is given power to determine to what other persons or goods the law shall be extended besides those specifically mentioned therein. Whether a provision like this strictly comes within the description of what is called "conditional legislation" is not very material. The question is, whether it exceeds the limits of permissible delegation. As was said by O'Connor J. himself in the above case, when a Legislature is given plenary power to legislate on a particular subject there must also be an implied power to make laws incidental to the exercise of such power. It is a fundamental principle of constitutional law that everything necessary to the exercise of a power is included in the grant of the power. A Legislature cannot certainly strip itself of its essential functions and vest the same on an extraneous authority. The primary duty of law making has to be discharged by the Legislature itself but delegation may be resorted to as a subsidiary or an ancillary measure. Mr. Chatterjee contends that the essential legislative function is to lay down a policy and to make it a binding rule of conduct. This legislative policy, he says, is not discernible anywhere in the

(1) 3 App. Cas. 889.

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provisions of this Act and consequently there is no standard or criterion to guide the administrative authority in the exercise of the subsidiary legislative powers. We do not think that this is the correct view to take. The legislative policy is apparent on the face of the present enactment. What it aims at is the statutory fixation of minimum wages with a view to obviate the chance of exploitation of labour. The Legislature undoubtedly intended to apply this Act not to all industries but to those industries only where by reason of unorganized labour or want of proper arrangements for effective regulation of wages or for other causes the wages of labourers in a particular industry were very low. It is with an eye to these facts that the list of trades has been drawn up in the schedule attached to the Act but the list is not an exhaustive one and it is the policy of the Legislature not to lay down at once and for all time to which industries the Act should be applied. Conditions of labour vary under different circumstances and from State to State and the expediency of including a particular trade or industry within the schedule depends upon a variety of facts which are by no means uniform and which can best be ascertained by the person who is placed in charge of the administration of a particular State. It is to carry out effectively the purpose of this enactment that power has been given to the "appropriate Government" to decide, with reference to local conditions, whether it is desirable that minimum wages should be fixed in regard to a particular trade or industry which is not already included in the list. We do not think that in enacting section 27 the Legislature has in any way stripped itself of its essential powers or assigned to the administrative authority anything but an accessory or subordinate power which was deemed necessary to carry out the purpose and the policy of the Act. The second contention of Mr. Chatterjee cannot therefore succeed.

The third and the last point raised by Mr. Chatterjee is directed against the notification of the Chief Commissioner by which he extended the term of the Advisory Committee till the 20th of September, 1952. It is argued that the term of the committee, as originally

fixed, expired on the 16th of July, 1952, and on and from the 17th of July all the members of the committee became *functus officio*. The Commissioner therefore was not competent to give a fresh lease of life to the committee which was already dead. We do not think that there is much substance in this contention. Rule 3 of the rules framed under section 30 of the Act expressly lays down that the State Government may fix the term of the committee when it is constituted and may from time to time extend it as circumstances require. The State Government had therefore a right to extend the term of the committee in such way as it liked. The only question is whether it could do so after the period originally fixed had come to an end. Mr. Chatterjee relied, in this connection, upon certain cases which held that the Court could not grant extension of time in an arbitration proceeding after the award was filed and an award made after the prescribed period is a nullity. In our opinion this analogy is not at all helpful to the appellants in the present case. It is not disputed that the committee did not function at all and did no work after the 16th of July, 1952, and before the 21st of August next when its term was extended. No report was submitted during this period and there was no extension of time granted after the submission of the report. Assuming that the order of the 21st August, 1952, could not revive a committee which was already dead, it could certainly be held that a new committee was constituted on that date and even then the report submitted by it would be a perfectly good report. Quite apart from this, it is to be noted that a committee appointed under section 5 of the Act is only an advisory body and that the Government is not bound to accept any of its recommendations. Consequently, procedural irregularities of this character could not vitiate the final report which fixed the minimum wages. In our opinion, neither of the contentions raised in support of these appeals can succeed and both the appeals therefore should fail and stand dismissed with costs.

Appeals dismissed.