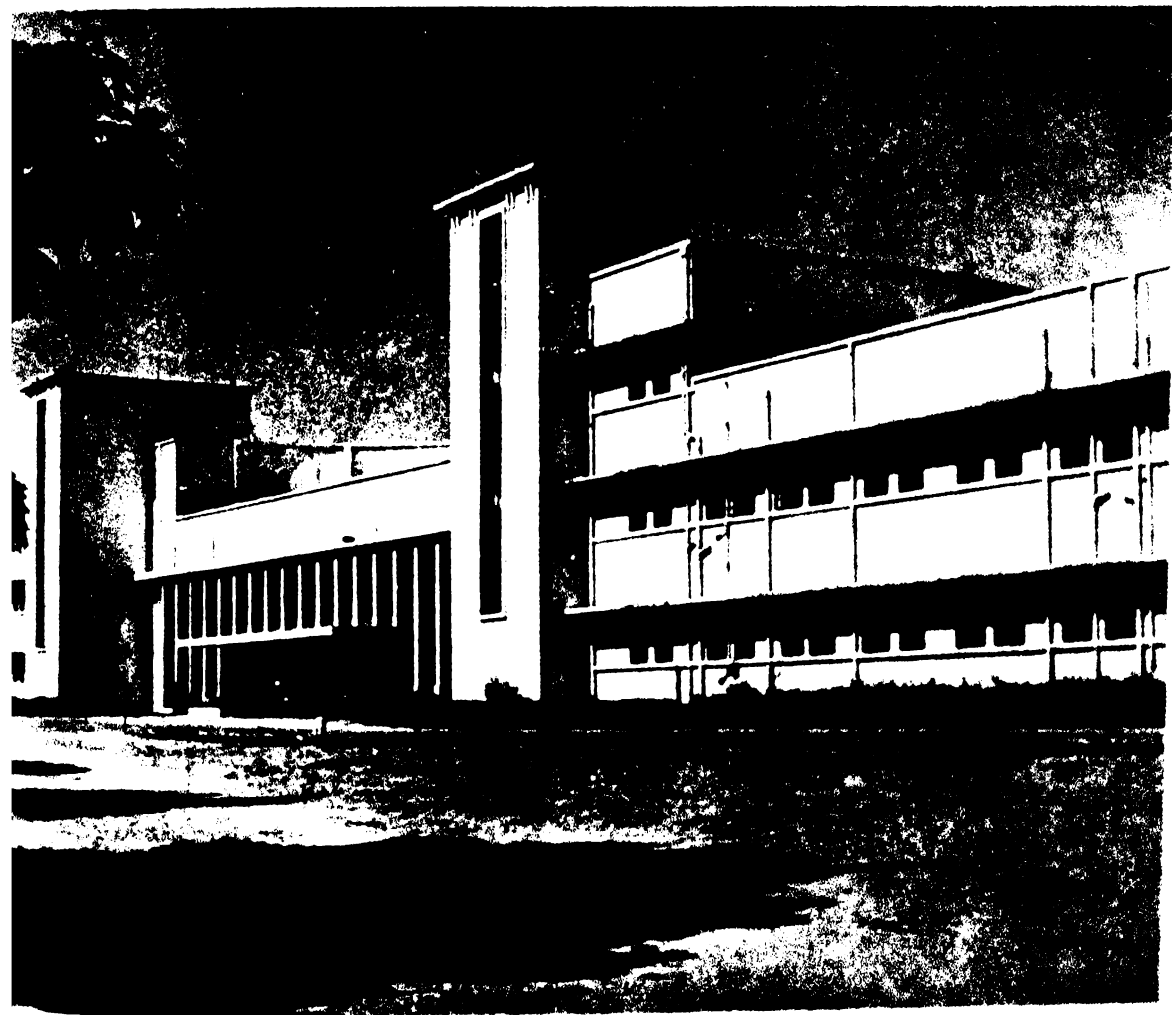


The
Journal of Parliamentary
Information



A VIEW OF THE GUJARAT LEGISLATURE BUILDING AT AHMEDABAD

Vol. VIII

October, 1962
Asvina, 1884 S. E.

No. 2

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CONTENTS

	PAGE
ADDRESSES AND SPEECHES	
COMMITTEE ON SUBORDINATE LEGISLATION (THIRD LOK SABHA)—INAUGURAL ADDRESS BY SPEAKER	111
ROLE OF THE PUBLIC ACCOUNTS COMMITTEE—SPEECH BY SHRI MAHAVIR TYAGI, CHAIRMAN, PUBLIC ACCOUNTS COMMITTEE OF LOK SABHA	116
SHORT NOTES	119
ARTICLES	
PREAMBLE TO THE CONSTITUTION OF INDIA <i>by</i> SARDAR HUKAM SINGH	121
THE CANADIAN BILL OF RIGHTS — A STUDY IN COMPARISON WITH THE FUNDAMENTAL RIGHTS IN THE INDIAN CONSTITUTION	125
NO CONFIDENCE MOTION IN UPPER HOUSE <i>by</i> S.R. KHAN/BE	134
OFFICES OF PROFIT IN INDIA	137
COMMITTEE ON GOVERNMENT ASSURANCES	147
ESTIMATES COMMITTEE OF LOK SABHA— A REVIEW OF REPORTS PRESENTED BY THE COMMITTEE DURING THE PERIOD 1956-57—(4)	151
PROCEDURAL MATTERS	188
DECISIONS FROM THE CHAIR	196
RECENT LITERATURE ON PARLIAMENTARY AFFAIRS.	197
APPENDICES	199
INDEX	(i—xxiii)

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Committee on Subordinate Legislation (Third Lok Sabha)

SPEAKER'S INAUGURAL ADDRESS

[*The Committee on Subordinate Legislation of the Third Lok Sabha was inaugurated by the Speaker, Sardar Hukam Singh, on August 31, 1962. We reproduce below the Speaker's address on the occasion.—Editor.*]

The Chairman has asked me that as he is new to the Committee and most of the members are also new to the Committee, I should give some words of advice. In such Committees, only the advice given is not enough. It is during the course of the working, when you come to grips with actual problems, that you can learn the works.

Need for Delegation

(2) As has just been said by the Chairman, the work of framing all the legislation has become so complex that it is not possible for the Parliament—in fact, for any Parliament—to go into the details of the policies that are to be worked. Of course, Parliament has to legislate and the Executive has to govern. Parliament can only lay down the broad policies. Particularly in a welfare State, the legislation that has to be

undertaken is so vast, is so varied, that it must touch every aspect of the individual's life, if really a welfare State is to be run. Even the other day, one of the prominent lawyers of the Bar was telling me that it was not possible for those expert lawyers—whose business is to study the laws—just to keep abreast of the legislation that was being passed. Though it is a necessity that certain powers must be given to the Executive so that it might frame rules to work those laws, it involves a great risk as well. The necessity, as I have said, arises on account of the vast number of laws that we have to pass. Parliament has got limited time. We are meeting for about six or seven months during the year. But we always find that legislation remains in arrears and complaints are always made that Members do not get sufficient time inside the House to have their say. Last time, when the figures were collected and some facts given, it was found that more than a hundred Members had not the occasion to speak during the whole period of five years. With the limited time that Parliament has and even with

the adjustments and limitations that are placed, it is not possible to go into the details of the legislation. Therefore, it becomes a necessity that some powers should be given to the Executive to frame rules under those laws, so that the details might be worked out.

But the necessity is not confined to that aspect only. There ought to be some flexibility also. There are certain circumstances which we cannot foresee at the time of passing an Act. Then, certain circumstances also keep on changing. Therefore, if everything was to be framed and all legislation to be undertaken by Parliament, then for every little thing Government might have to come to Parliament.

Importance of Scrutiny

Therefore, some latitude is to be given to the Executive. But Parliament has to keep an overall control over the Executive, be it financial, be it legislative or in other respects. In order to keep that control there ought to be a Committee of Parliament that might look into the rules made by the Executive in exercise of the legislative powers delegated to it. Of course, the financial supervision is done by the two Financial Committees—the Estimates Committee and the Public Accounts Committee. But so far as legislative aspect is concerned, there are dangers that the Executive might assume powers and exercise jurisdiction which might not have even been conferred on it. So, every law has to be studied and closely scrutinised.

There are instances, within my own experience, of cases where the laws leave vast powers in the hands of the Executive. Until those powers are defined by rules there is no security for the citizens. So, it becomes incumbent that

the rules are framed first. Many instances have come to my notice—when I was the Chairman of this Committee—of cases when the Executive did not care to frame rules for a very long time. We had instances where rules in respect of certain matters had not been framed at all even for two years and the Executive went on doing what they liked according to its whims and fancies.

We have a maxim that ignorance of law is no excuse. But what about ignorance of rules? They have also the effect of law. The people cannot plead that they have no knowledge of the rules. If the rules are not framed, the public are ignorant of what to do and of the intentions of the Government. Even when the rules are framed, they do not get as wide a publicity as the Bills get. Bills are published in papers and criticised. Members discuss every aspect of a Bill. Thus the Bills gain sufficient publicity and most of the citizens, at least those who read papers, become aware of what is happening inside the Legislature and what the Bill is about. But so far as rules are concerned, they do not get such publicity. They are, of course, published in the Gazettes, when they are framed. But it is very few people who have recourse to these Gazettes. They are not available to most of the people. It is very seldom that rules are printed in papers. Therefore, an average citizen remains ignorant of the rules. Then, the rules are also changed from time to time. If lawyers find it difficult to have up-to-date knowledge of the laws, it is much more difficult for ordinary citizens to know about the rules that are being framed and that are being modified from time to time. Therefore, an average citizen cannot just have that opportunity to know them or to challenge them. There are, of course, judicial courts to test the validity and

constitutionality of the rules as well. But there are very few people who take the rules to the courts even when they affect them adversely.

Parliament being the custodian of the interests of the people and the State being a Welfare State, it is really incumbent upon Parliament to exercise strict control over such powers that are left with the Executive. I have told you that sometimes rules are not framed at all. There is another aspect also. Sometimes even when rules are framed, the Executive exceed their powers. They sometimes raise money by levying duties, fines, cesses and other things. According to the Constitution money can be raised by way of a tax only under the authority of Parliament. Without parliamentary sanction the executive has no power to do that. Sometimes it is left to the Executive to vary the railway fares, the postal rates and other rates to a certain extent but in such cases also Parliament is apprised of the entire position. It is only under an Act of Parliament that the Executive can tax a citizen.

Nature and Scope of Delegation to be looked into

Sometimes Bill seek to delegate legislative powers to the Executive. Your Committee shall have to look into these powers and see what these powers are, the extent to which they are being delegated and the manner in which they are to be exercised. After the introduction of Bill you will have to take note of these things and to see whether sufficient provision regarding laying of the rules before Parliament, has been made therein and also whether members have been enlightened regarding legislative powers sought to be delegated. Of course, hon'ble Members inside Parliament take note of all these matters. Even so, you

can scrutinise that aspect and bring to the notice of Parliament as to what kind of legislative powers—normal or exceptional—are sought to be delegated under the Bill. After that has been done, when you deal with particular rules you have to scrutinise the authority given to the Executive, the extent to which they could exercise it and the manner in which that could be done and whether all the conditions have been fulfilled or the Executive has exceeded its powers. The Executive can only exercise those legislative powers which are given to it by Parliament. It cannot go beyond those powers. Certainly, the cases where the Executive has exceeded its powers will come to your notice and so also cases where it has not conformed to the intentions of Parliament.

Sometimes under certain laws the Executive is given vast rule-making powers. Sometimes the Executive puts in a Bill to do "all other things that might be considered necessary for the implementation of the Act". That is too wide a power and the executive takes refuge under that clause to do anything it likes. That is not right. The Executive must be given definite and positive authority to legislate on specified matters. This Committee can see whether that is really adhered to and whether the Executive has kept itself within these bounds.

We have, I remember, laid down certain propositions and given certain directions to the Executive to the effect that when rules are framed there ought to be a proper heading or title given to them and that every rule must say under which section of a particular Act it is being framed.

When this Committee was first constituted in December, 1953, it was found that even rules were not numbered pro-

perly. It was very difficult to trace them. You can very well imagine what difficulty the ordinary citizen had to face in those circumstances.

Important Committee

Two Committees have functioned in earlier years, one for the duration of the First Lok Sabha and the other during the Second Lok Sabha. I presided over the Committee on Subordinate Legislation of the Second Lok Sabha. We have seen the contribution which this new Committee has been making in regard to the powers of Parliament over the Executive. Slowly and gradually, as we worked on, the Executive felt the impact of the deliberations and the decisions of this Committee.

The work of the Estimates Committee and the Public Accounts Committee and their decisions get wide publicity and they are known to everybody because they relate primarily to financial matters, but this Committee is no less important. It has a very vital role to play. It has been recognised by all authorities and by people who have seen its work. I remember, Sir Cecil Carr, formerly Counsel to the Speaker of the House of Commons, spoke about the usefulness and effectiveness of this Committee. The Indian Law Institute some time back called a conference and one of the subjects discussed there was Subordinate Legislation. Shri Ayyangar went there and he took me also. There we told them what we had been doing. They had words of appreciation for exercising real check on the executive by this Committee. The Law Commission has also recognised the efficacy and effectiveness of the work that this Committee has done.

So, you have got supreme responsibilities to undertake. It does not mat-

ter if most of the members are new. Rather, it is a good thing because they would bring in a fresh approach to all the problems that present themselves to them. I find young and enthusiastic Members of Parliament labour hard and make their contributions inside the House. Here also, they are bound to devote as much labour and industry as they do inside the House. I am convinced that those Hon'ble Members' labours will bring about very useful results.

Recommendations to be pursued

There is another thing that I wish to point out, and that is, your decisions have to be pursued consistently. It is a process that is always going on. It is not only the suggestions that you make which are important. It is not as if you take a decision and leave it there. Unless you pursue it, your work will not be complete. It would not have its effect. You take a decision and write to the Executive. They may have some excuses, that it was not possible to do this or this was the reason why this was exceeded. But, by this time at least, they have come to realise that they cannot escape by offering excuses.

Here I must pay a tribute to our office. The decisions of the Committee had been diligently pursued in the past and ultimately there was no such thing where the executive had its way. But we are not antagonistic to the Executive. We are Members of Parliament. The Executive also is responsible to the Parliament. But as custodians of the rights of the citizens, we have to look to the interests of the citizens. We always watch whether that interest is being safeguarded and whether the rules made are really for the attainment of the objective for which that law was made.

Attitude towards Executive

It is, therefore, not in a spirit of any antagonism or hostility to the Executive but in a spirit of friendliness of co-operation, of making improvements, of discharging our obligations that we have undertaken this task. In that spirit, of course, we give them useful suggestions. When they have excuses to offer, we consider them. It may be possible that this Committee makes a recommendation but in the meantime certain things have changed. They have a plausible explanation for that. They send us their explanation. If really it has some substance in it, there is no harm in accepting it. There are occasions when we could not accept that explanation and we could not reconcile ourselves. If we don't agree with them, we should refer the matter to them. We should say why we do not agree. We should be in a position to tell them that they have exceeded in something, they have not complied with some other things, etc. Now, the rules are not made by the Ministers themselves though the Ministers are as good representatives as the members of this Committee. They are made by those officers who sit in their rooms, who have no contacts with the public outside. They cannot realise the feelings that an ordinary citizen has. The officers do not know how it affects the citizens. They do not know what reaction the citizen has to the rules that are made and how harshly they have affected the citizens. But the Members of Parliament and the members of this Committee have that opportunity and that facility, to meet those citizens, find out their reactions and bring their dispassionate view about the rules. They know what the objective of Parliament was when the law was passed, what the

spirit and what the intention was behind such legislation. Members have the opportunity to know what the effect has been, how the citizen has been influenced, and whether the rules have been working harshly against him or not.

The officers who are responsible for making the rules cannot be expected to know all those things. They have a certain rigid attitude inside their offices. They cannot have first hand information about the sentiments and the feelings of the public. Therefore, you shall have to take into account all those things when you deliberate and take your decisions.

Miniature Parliament

Then, there is one more aspect which I wish to mention. So far as the past work of the Committee is concerned we are really proud of that. Members are put in this Committee who are representatives of the various sections and different parties inside the House. I do not remember of even one single occasion when the deliberations of the Committee were on party lines because members come here with a single purpose, namely, the supervision of the exercise of rule making powers by the Executive to the larger interest of the public. The Committee is a miniature Parliament. Whenever a decision is taken inside Parliament, that becomes a decision of Parliament as a whole and not of the party in power. When you keep that spirit before you and go on with your work in that spirit, certainly there will be no difficulty. All of you would be united in your effort to achieve that mission that is before you, and that always should be the welfare of the citizens. You will attain greater and greater success.

Role of the Public Accounts Committee

SPEECH

by

SHRI MAHAVIR TYAGI, *Chairman, Public Accounts Committee*

[An informal meeting of the members of the Public Accounts Committee of Lok Sabha and of the Punjab Public Accounts Committee was held in New Delhi on July 24, 1962. Shri Mahavir Tyagi, Chairman of the Public Accounts Committee, who addressed the gathering on this occasion, spoke at some length on the role of the Public Accounts Committee in the control over public finance, the nature and scope of the Committee's functions and powers, and the part played by the Comptroller and Auditor-General. The Chairman's speech is reproduced below.—Editor.]

While it is the privilege of the Executive to propose demands for money and augment the sources of revenue, the supreme control over revenues and public expenditure and appropriations from the public exchequer vests in Parliament. It is for Parliament to see that all moneys granted by it are spent by the Executive for the purposes for which they are granted. It is obviously impossible for Parliament to scrutinise the expenditure in detail—there being so much pull and push of various political parties on the floor of Parliament where all decisions depend on majority votes. Our Constitution has, therefore, created the post of the Comptroller and Auditor-General and made him an officer independent of the Executive. He has been

statutorily assigned the duties and powers to audit and examine the accounts from year to year and to report thereon.

This experiment was tried for the first time in the Parliament of the United Kingdom and they found that even after the report of the Auditor-General it was difficult for Parliament to have a full grip over the complexities of accounting. They, therefore, appointed a Select Committee to act on their behalf. Our Parliament and Legislative Assemblies have followed a similar course. The functions assigned to our Public Accounts Committees are now exactly the same and we are guided mostly by the conventions and procedure followed by the Public Accounts Committee of the United Kingdom.

Committee in U.K.

According to the traditions in U.K., the Public Accounts Committee is elected by Parliament but there is hardly an occasion when there is a contest. It is for the Government Whip to see that a fair selection is made and that the members of the Committee have some practical experience of its working. This Committee is essentially a semi-judicial body. It proceeds on evidence, on facts and on law and gives its report in judicial tones, which are always precise,

Role of the Public Accounts Committee

firm and measured; and its recommendations have almost the force of law for Departments. It is a non-party control and the Committee has rightly been described as a "Watch Dog" for the Departments, which by its incessant barks calls public attention to any irregularity or extravagance in expenditure. Mr. Chamberlain once described it as "a Committee of Judges putting aside for a time all party considerations".

Functions of P.A.C.

One of the main functions of the Committee is to "ascertain that the money granted by the Parliament has been spent by the Government within the scope of the demand", which means that the moneys recorded as spent against the grant must not be larger than the amount granted, that the expenditure brought to account against a particular grant must be of such a character as to warrant its record against that grant alone, and that the grant should be spent only on purposes which are set out in the detailed demand and not on any new service which was not contemplated in that demand.

The Committee also considers the form in which the estimates should be submitted. Its general tendency has been not to allow any diminution in the number of votes of which the estimates are composed, as this would diminish effective control of Parliament over those estimates. Instead of large votes of lump sums, the Committee favours estimates being broken up and shown by sub-divisions.

The Committee also pays special attention to the technical accounting procedure employed by the Government.

The Committee is not limited to the investigation of points raised by the Appropriation Accounts as reported by the Comptroller and Auditor-General. On the contrary, it has the power to scrutinise and report upon almost any matter having to do with the management of public finance. Its functions extend to an examination of the Executive action of the Treasury as regards its compliance with law.

A very important function of the Committee is the discussion of points of financial order and principle. The detailed examination of questions involving principle and system is a leading recognised function of the Committee.

Powers

The Committee has powers to send for persons, papers and records, to record evidence, and to report its opinions and observations on matters brought under its consideration. The members of the Committee may ask any question having a financial bearing in connection with the expenditure recorded in the accounts under consideration, whether or not these matters have been mentioned in his report by the Comptroller and Auditor-General. It has, however, no power—even after the most minute examination and on the clearest evidence—to disallow any items of expenditure; it can only "call attention" to that item.

The Public Accounts Committee is not concerned with questions of policy in the broader sense. It can, however, discuss the propriety of any expenditure or the propriety of the compromise effected by a Department. In matters of settled policy the Committee does not attempt any enquiry, but in carry-

ing out that policy whether or not there is extravagance or waste is within its field.

Where considerations of secrecy and detriment to the public service by disclosure and publication are involved, the Committee accepts this as closing the door to any discussion. But, in cases where the secrecy is only of a temporary nature, it allows the suspension of information only temporarily.

The Committee does not interfere in the internal administration of a Department. It, however, considers itself justified in calling attention to weak points in the administration itself, leaving it to the Department to remedy them.

The Committee concerns itself with all important changes which may directly or indirectly affect the accounts or the system of control.

Recommendations of Committee

According to an old established convention no specific approval of Parliament is sought to the recommendations of the Committee, as the extent of control of the House may suffer a set-back if they became matters of debate. Deputing its functions to the Committee the House trusts it and allows it to order remedial action of its own accord. It

is only when the reports mention a subject of particular current interest, of a scandalous nature, or with political repercussions, that the House finds them interesting enough to give time for discussion and special debates. Any imputation made against the Committee is regarded as a breach of privilege.

Role of C. & A. G.

The representatives of the Comptroller and Auditor-General furnish the Public Accounts Committee with most of the material on which the latter functions. By his personal attendance at its meetings to assist its labours, he has been described as the "acting hand of the Committee", "its guide, philosopher and friend". The Auditor-General briefs the Chairman to whom much of the interrogation of the witnesses falls and suggests lines of inquiry.

A close relationship between the Comptroller and Auditor-General and the Public Accounts Committee is, therefore, essential. According to Mr. Hilton Young, "the Committee takes the Treasury in one hand and the Auditor-General in the other, and goes ahunting in the expenditure for the year under review as certified in the Appropriation Accounts. The Auditor-General beats the bush and starts the hare; the Committee runs it down; and the Treasury breaks it up".

Short Notes

Earthquake in Iran: Lok Sabha Expresses Sympathy

On September 4 the Prime Minister and Leader of the House (Shri Jawaharlal Nehru) interrupted the debate in Lok Sabha on the Sugarcane Control (Additional Powers) Bill to observe:

I am sorry to intervene in the middle of this consideration. I wish to draw your attention and the attention of the House to a terrible calamity that has occurred in Iran, the great earthquake. I thought it would be fitting if you, Sir, on behalf of this House could convey our deep sympathy to the people of Iran.

The Speaker said that he was sure that the whole House agreed that "our deep sympathies must be conveyed", and that this would be done.

Position of the Comptroller & Auditor-General vis-a-vis Parliament in India

The Minister of Defence made certain remarks on the floor of the Lok Sabha on the 31st May, 1962, touching upon the scope of powers and functions of the Comptroller and Auditor-General with regard to his Audit Reports. A Question was asked in the Lok Sabha on the 18th June, 1962 requesting the Minister of Finance to obtain a statement from the Auditor-General on the remarks made by the Defence Minister and lay it on the Table of the House. Dealing with certain points of order raised in that regard the Speaker made

the following observations on the position of the Comptroller and Auditor-General vis-a-vis the Parliament in India:

What I can say now is that the Auditor-General is an independent constitutional authority. He is not answerable directly to Parliament...

Regarding the information that is sought to be obtained from the Comptroller and Auditor-General, we cannot get it directly from him as he is not an officer of Parliament as his counterpart is so far as UK is concerned; there, he is an officer of the Parliament, and he is responsible to the Parliament and he has to lay a return before the House, if he is asked to do so, and the House can always call upon him to lay that return and can ask him anything. But, here, if we have to get any information from him, we can only do so through a Minister and the Finance Minister is the only Minister who can give that information. The position here is that he is not directly responsible to the Parliament to do anything. He gives his report to the President and the President causes it to be laid on the Table of the House.

State cannot plead unconstitutionality of its own Statutes before Courts Calcutta High Court's Observations

In *State v. Kribhab Chandra* (AIR 1962 Calcutta 338), where *inter alia* the validity of Section 29 of the Indian Arms Act, 1878 came up for consideration, it was pleaded on behalf of the Government of West Bengal that the

said section was violative of Article 14 of the Constitution. With reference to this, the Calcutta High Court *inter alia* observed:

It will be a very dangerous course to allow States in India the right to urge in Courts, that their own laws and Acts are unconstitutional and invalid. To do so will be to permit the State by the back-door to debunk the primary authority of Parliament and State Legislature to make, repeal and amend Acts and statutes.

... Part III of the Indian Constitution of fundamental rights is primarily a bill of rights for the aggrieved persons and subjects, and should not be used as a convenient platform from which the State can be allowed to fire its own statutes and Acts.

It is, however, quite conceivable, legal and constitutionally permissible in the Indian (Supreme) Court for a State's in an appropriate case to contest that an Indian (Central) Act invades the State's legislative powers and therefore, the State can contend that the Indian Act is violative of the Constitution.

Rajya Sabha Committee to recommend draft Rules of Procedure

On September 7, 1962 the Rajya Sabha adopted the following resolution, moved by the Deputy Chairman (Shrimati Violet Alva), for the appointment of a Committee to recommend for the consideration of the House draft rules for regulating the procedure and conduct of business in that House:

Whereas the rules at present regulating the procedure and conduct of business in the Rajya Sabha are the Constituent Assembly (Legislative) Rules of Procedure and Conduct of Business, in force immediately before the commencement of the Constitution, as modified and adapted by the Chairman of the

Council of States in exercise of the powers conferred by clause (2) of article 118 of the Constitution;

And Whereas it is necessary for the Rajya Sabha to make rules under clause (1) of the said article for regulating its procedure and the conduct of its business;

Now, therefore this House do resolve that a Committee consisting of the following members, namely:—

1. Shrimati Violet Alva
2. Hafiz Mohammad Ibrahim
3. Shrimati Ammanna Raja
4. Shri M. P. Bhargava
5. Shri Vimalkumar M. Chordia
6. Shri R. S. Doogar
7. Shri Bhupesh Gupta
8. Shri B. D. Khobaragade
9. Shri Niranian Singh
10. Shri Dahavabhai V. Patel
11. Shri S. D. Patil
12. Shri J. Sivashanmugam Pillai
13. Shri M. Govinda Reddy
14. Shri P. N. Sapru
15. Shri B. K. P. Sinha

be appointed to recommend for the consideration of the House draft rules for regulating subject to the provisions of the Constitution the procedure and the conduct of business in the Rajya Sabha;

the quorum to constitute a meeting of the Committee shall be one-third of the total number of members of the Committee;

the Committee shall submit its recommendation to this House by the 28th February, 1963;

the Chairman shall have power to add such other members to the Committee as he may consider necessary*;

in all other respects the rules of procedure of this House for Select Committees shall apply with such variations and modifications as the Chairman may make.

*This clause, which was not in the original resolution as moved, was added by the Chairman at the time of placing the resolution before the House

Preamble to the Constitution of India

by

SARDAR HUKAM SINGH,

Speaker of Lok Sabha

The preamble in the Constitution of India is its most important and vital part; for, it is in the words of the Preamble that the noble spirit, the powerful inspiration, the sublime motivating forces and high ideals, on which the Constitution was founded and framed, are enshrined. The Preamble speaks of:

WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a **SOVEREIGN DEMOCRATIC REPUBLIC** and to secure to all its citizens;

JUSTICE, social, economic and political;

LIBERTY of thought, expression, belief, faith and worship;

EQUALITY of status and of opportunity;

and to promote among them all

FRATERNITY assuring the dignity of the individual and the unity of the Nation.

What soul-stirring words! It is truly an inspired Preamble—a structure of adamant luster and strength, erected by architects of consummate skill and fidelity, by their toils, sufferings and

blood, on solid foundations—with arrangements of words full of wisdom and based on concepts reared for immortality. Words spoken by certain people in connection with certain revolutionary phases have a certain power which is never lost. It was important and necessary for the leaders of the Indian Revolution to tell the people what they stood for and what they wanted the nation to be. For this purpose they had to devise a word-picture which could serve as an inspiration for future generations just as the famous words of the American Constitution have done. This was achieved by the historic Objectives Resolution moved in the Constituent Assembly by Shri Nehru, on December 13, 1946. In this beautifully worded draft of the Objectives Resolution Shri Nehru cast the horoscope, so to say, of the Sovereign Democratic Republic that India was to be. The Preamble reproduced the spirit and very largely the words of this Resolution. It may be remembered that the Preamble is one of the few parts of the Constitution, which, once drafted, remained in tact through all the stages of Constitution-making. Not a word of it has been changed since and, it is to be hoped, its words, as they have stood heretofore, will ever in future also continue to be the ruling and guiding watchwords of Indian polity. They

*Talk broadcast from Delhi in the External Services programme of the All India Radio, reproduced here with the kind permission of the AIR.

represent a fundamental faith and a vision, which is essential; for, verily, as the Bible says:

“where there is no vision the people perish”.

Significant Arrangement

Every word of the Preamble is important and meaningful. Even the juxtaposition of words is of vital significance. The very opening words—“WE, THE PEOPLE OF INDIA”—seek to make it clear that the Constitution emanates from the people and only from them derives all its sovereignty, power and authority. The people are supreme. Thus, in a simple, but effective, way any doubts about the residence of sovereignty are set at rest for all time to come. Again, India according to the Preamble, is to be a ‘SOVEREIGN DEMOCRATIC REPUBLIC’. The word ‘SOVEREIGN’ implies that India is not constitutionally subordinate to any other authority and that there lies within the State a supreme and absolute power, acknowledging no superior. The Constitution, in fact, makes absolutely no reference to the Crown, or, for that matter, to India’s association with the Commonwealth of Nations. India’s being a ‘Republic’ implies that the State derives its powers from the body of the people. In a Republic, however, though there is no King, power can still be wielded by a small clique as happened in Nazi Germany and has happened in many other countries recently. Hence the word ‘DEMOCRATIC’ was inserted to ensure that the Government of the sovereign republic of India would not be of the totalitarian or authoritarian kind but a representative democracy—a government of the people and by the people through, of course, their elected representatives chosen in accordance with the

provisions of the Constitution or laws made thereunder.

Impact of two Revolutions

Many of the ideas and words of the Preamble may be said to have been largely derived from the West. Particularly, that part of the Preamble, which epitomises, as it were, the social and political philosophy of the Constitution, represents the impact of two revolutions in the West—the French Revolution in the nineteenth century and the Russian Revolution in the twentieth century. It was only in the fitness of things that the ideals which had swayed the entire world also found a place in our Constitution. The concepts of ‘EQUALITY’, ‘LIBERTY’ and ‘FRATERNITY’ embodied in our Preamble echo the famous words of the French Revolution which swayed Europe in the nineteenth century and influenced the thought of the pioneers of modern India.

Justice—the Foundation Norm

But what are all these ideals without JUSTICE to crown them all? The founding fathers of the United States Constitution, therefore, appropriately gave the first place to JUSTICE. Justice or *nyaya* in the dealings of men has always dominated the social thought of India and it is only proper that the Constitution of free India should also aim at securing to its citizens JUSTICE, first and foremost. The concept of JUSTICE or *nyaya* can, in fact, be described as the foundational norm of the Constitution of India. The Preamble gives the pride of place not to the concepts of Liberty, Equality and Fraternity but to the concept of ‘JUSTICE’, which in the widest sense also embraces in its broad sweep the essential content of the socialist or communist thought, as

released by the Russian Revolution; for, the basic attraction of Marxism for millions of people, as Shri Nehru once said, is not its attempt at scientific theory but its passion for social justice.

To keep justice above liberty, equality etc. is also in keeping with the new political temper of the world which is so much reflected in the Constitution of India. Merely democracy, that is, the right to cast vote, did not prove enough to ameliorate the condition of the poverty-stricken masses anywhere. Hence the question of economic justice arose and the concept of property came into prominence and formed the basis of the later socialist thought and finally of the Russian Revolution. The whole emphasis of the Communist thought is that there should not be an overweightage in favour of the income from property. Not much of the income should go into the hands of the people who get the income not because they are concurrently contributing to the national dividend but because they own certain titles to property which they have inherited.

Means and Ends

When we consider the basic concepts, which we have adopted from the West, we must clearly remember one vital factor—that India borrowed from the West only the principles and not the modes of application of these concepts. Abolition of private property, for example, fitted with Gandhiji's concept of trusteeship; but, his vital difference with communism was on the question of means and ends. Thus, the reality, the spirit and the strength behind them actually came from India's own struggle for independence and the method and form in which that struggle was conducted under the leadership of Mahatma

Gandhi and others. In Communism, violence is no bar to achieve the ends but Gandhiji was an uncompromising opponent of violent methods even to serve the noblest of causes. Prime Minister Nehru has also stressed that wrong means employed must necessarily produce wrong results, and deliberately discarding means for ends can neither be right nor ultimately good for the individual or the group. So when we refer to the ideal of JUSTICE—SOCIAL, ECONOMIC and POLITICAL, we are resolved to implement and put into effect those ideas by adopting normal and non-violent means to bring about a new order of society. While in communist societies individual freedom may not exist to the extent it should, our Preamble envisages a society in which not only will the fullest 'LIBERTY OF THOUGHT' EXPRESSION, BELIEF, FAITH AND WORSHIP' prevail but the 'DIGNITY OF THE INDIVIDUAL' will also be recognised by society.

Individual Rights and Community Interest

Reflecting the modern trend—the unmistakable shift from the individual to the community—the Indian Constitution, in conformity with the catholic spirit of the Preamble, does not ignore the individual, but endeavours through its distinctive scheme of fundamental rights to harmonise the individual interest with the interest of the community. The Chapter on Fundamental Rights contains elaborate provisions to make the ideals of liberty, equality and fraternity, proclaimed in the Preamble, a living reality.

The intrinsic worth of the Preamble lies in that it will serve as a beacon light

to generations to come and provide an inexhaustible store of political wisdom upon which the future legislators and historians and the people of India will draw and draw their own inspiration.

Spiritual Bedrock

Future legislators and Parliaments will change the contents of Fundamental Rights and Directive Principles as the social order develops and new concepts of economic and political thought emerge. But, if the concept of fundamental rights is changing, whole society is, so to say, constantly evolving, what is the bedrock to which we have to hold fast? A nation must declare its faith and must hold fast to some fundamental principles. Preamble to the Constitution of India declares her perennial faith; and the concepts of justice, liberty, equality and fraternity embodied therein constitute the basic principles which form the immutable bedrock of that faith. In an ever-changing world they

constitute a symbol of stability and continuity, a philosophy or a sort of spiritual background to thinking.

We may not yet feel fully convinced about it because the Preamble is still so new for us and is still not well integrated in the minds and thoughts of the people of India. Unless there dawns such an actual integration of the vision of the Preamble, these words and thoughts may fail to enthuse the millions of India and the intended real and vital force may not emerge in full form. It is, therefore, of prime importance that conscious efforts are made to so popularize the noble words of the Preamble that they echo and re-echo throughout the length and breadth of India and give to the nation and to the individuals—irrespective of the region they inhabit, of the language they speak and of the religious tenets they follow and the Gods they worship—a common faith, a sense of purpose, of something to live and, if necessary, to die for.

Power resides in the people and it is entrusted for the time being to those whom they choose as their representatives. Parliaments have no power or even existence independently of the people.

—MAHATMA GANDHI

The Canadian Bill of Rights

—A STUDY IN COMPARISON WITH THE FUNDAMENTAL RIGHTS IN THE INDIAN CONSTITUTION

Unlike the Constitution of the United States of America¹ or, for that matter, most other modern Constitutions, the Constitution of Canada (comprised principally in the British North America Act, 1867 and the amendments thereto) does not contain within itself clauses guaranteeing the basic human rights, such as freedom of speech, of association, of the Press or of religion². A reason for this may be found in the fact that at the time of its enactment the British North America Act was essentially concerned with the union of the three British North American colonies and it attempted to do no more than set forth the terms and conditions of that union. The British constitutional principles were intended to be read into the Act as required³. Further, the rights of equality, liberty and justice were regarded as self-evident and inalienable rights arising out of the natural laws inherent in the structure of every civilized society. The fundamental freedoms of the Magna Carta

and the (British) Bill of Rights were accepted as so well understood and so firmly embedded in the country's constitutional development that it was considered hardly necessary to write these freedoms into the fundamental law.⁴

In practice, these rights were protected in Canada, as in Britain, by the common law rules, and their chief safeguard lay in the instinct of the people, public opinion and tradition, and legal precedent. In the nature of things, these protections could evidently be bypassed or even annulled by Parliament. This came to be recognised and in consequence there grew a body of opinion in Canada which held that the fundamental freedoms of the subjects should not be left at the mercy of any intolerant group in the Legislature or Cabinet which might for a time happen to command a majority and that the best way of safeguarding them was by a formal constitutional provision placing such

¹Cf. Amendments I—X & XIV to the Constitution of the United States of America.

²It should not be understood from this that the B.N.A. Act contains no guarantees of freedom at all. It does, and in important ones. For example, it guarantees the use of the French and English languages, the right to separate French and English language schools in provinces where they existed at the time of union, the right to an annual session of parliament, the right to representation by population, the right to an independent judiciary etc.—*Teaching Human Rights: A Handbook for Teachers*, United Nations (1959), p. 65.

³Cf. Brigadier W. J. Lawson, *The Canadian Constitution*, Ottawa 1960, pp. 10-11.

⁴Cf. statement by Mr. John Diefenbaker in Winnipeg on February 8, 1947, quoted in *Teaching Human Rights*, p. 66.

basic rights as freedom of worship, of speech, of the Press, and the right of the accused to a fair trial, beyond interference or abridgment by the government of the day.³

The movement in Canada for the inclusion of a bill of rights in the British North America Act, actively led by the present Prime Minister, Mr. John Diefenbaker himself, drew considerable strength from the world-wide interest in recent years in the subject of Human Rights and Fundamental Freedoms. In its Charter the United Nations affirmed its "faith in fundamental human rights, in the dignity and worth of the human person, the equal rights of men and women and of nations large and small". One of the avowed purposes of the U.N. was to achieve international co-operation "in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion". Canada, as a member of the United Nations, subscribed to these principles of the world body and pledged itself to achieve its purposes.

The popular demand received further strength when the U.N. General Assembly adopted in December 1948 the Universal Declaration of Human Rights. **In the meanwhile**, the Canadian Parliament had in the previous year appointed a joint parliamentary committee to consider human rights and fundamental freedoms in so far as Canada's obligations to the United Nations were concerned and also the position in Canada of such rights and freedoms. Since this Committee could not hear all the representations before the expiry of its term,

the matter was pursued by another similar committee appointed in 1948 which, however, recommended against a bill of rights at that time. In 1950 the Senate established a special committee⁴ which, after taking considerable evidence, reported great public interest in a bill of rights and expressed the view that, were it not for certain constitutional difficulties, the most desirable step would be to write the basic rights into the Constitution so that they might become binding and obligatory alike on individuals and upon the Government.⁵ The Committee explained these difficulties in the following language:

In Canada because of her history and the harmonious association of peoples of different races, languages and religions, respect for provincial rights as they have been defined in past is essential. No informed person with any sense of responsibility would suggest that the dominion parliament forcibly invade the provincial jurisdiction. Concurrence, therefore, is an essential requisite to constitutional progress.

This difficulty may not be insuperable but there is also another presently existing but, it is hoped, passing obstacle. The British North America Act is a statute of the Imperial parliament at Westminster, and objection is now taken by Canadians to legislative intervention by an authority beyond our shores and not of our own election, even though such action is taken at our own instance. Such a request by Canada to United Kingdom parliament would have the appearance at least of a surrender of sovereignty⁶.

As an interim measure, the Committee recommended the adoption by the Canadian Parliament of a declaration of human rights whose scope and purpose was explained in the following terms:

... Such a declaration would not invade the provincial legislative authority,

³*Teaching Human Rights*, pp. 65-66.

⁴On a resolution by Senator Roebuck who also became the Chairman of the Committee.

⁵See Lawki : *Canadian Constitutional Law*, 1951, p. 665.

⁶Senate Hansard 1950, p. 589.

The Canadian Bill of Rights

but it would nevertheless cover a very wide field. While such a declaration would not bind the Canadian parliament or future Canadian parliaments, it would serve to guide the Canadian parliament and the federal civil service . . .

Such a declaration of human rights would solemnly affirm the faith of all Canadians in the basic principles of freedom, and it would evidence a national concern for human rights and security. Judges would recognize the principles of such a declaration as part of Canada's public policy, and subsequent parliaments would hesitate to enact legislation violating its revered principles . . .

The next step in regard to a bill of rights for Canada was taken when Prime Minister Mr. John Diefenbaker introduced in 1952 in the House of Commons a resolution urging that consideration be given to the advisability of introduction of a bill or declaration of rights. The resolution was then not approved. On September 5, 1958, during the last days of the session, the Prime Minister Mr. Diefenbaker introduced a Bill (Bill C-60) in the House of Commons which, after the leaders of the Opposition Groups had had an opportunity to express their views, was allowed to stand over to another session to allow for further thought and representations from interested persons for the improvement of the Bill. A similar but not identical bill was introduced in the Commons in the session of 1960 which at last came to be enacted¹⁰ as the Canadian Bill of Rights (Statutes of Canada, 8-9 Elizabeth II, Vol. I, Chap. 44)—an "Act for the Recognition and Protection of Human Rights and Fundamental Freedoms"¹¹.

In India the basic human rights and freedoms of the individual have been

enshrined in the Constitution itself, so much so that the *vires* of all legislative enactments and executive orders has to be determined with reference to them. Art. 13(2) of the Constitution explicitly declares that the State shall not make any law which takes away or abridges these rights and that any law made in contravention thereof shall, to the extent of the contravention, be void. On the other hand, not only is the Canadian Bill of Rights an ordinary piece of legislation, under Section 2 thereof the Canadian Parliament has been given power to declare by an Act that any particular law shall operate notwithstanding the Bill of Rights. Further, while the Canadian Bill of Rights can be amended like any other ordinary piece of legislation, the Indian provisions cannot be altered except by an amendment of the Constitution following the special procedure prescribed in Art. 368 of the Constitution.

The Canadian Bill of Rights covers a somewhat more restricted field than the provisions in the Indian Constitution which are elaborate and refer to such matters as prohibition of traffic in human beings and forced labour, employment of children in factories, freedom in the management of religious affairs, abolition of titles, equality in public employment, etc.

Finally, Article 32 of the Indian Constitution guarantees the right to move the highest tribunal of the land for enforcement of these rights. A similar provision does not find a place in the Canadian Bill of Rights. Section 3 of the Canadian law only provides that the Minister of Justice shall examine every

¹⁰Senate Hansard 1950, p. 589.

¹¹Assented to on August 10, 1960.

¹²For the text of the relevant portions of the enactment, see Appendix. Its history narrated in this article is largely based on the speech by Mr. Gunnar S. Thorvaldson in the Senate on August 4, 1960 while moving the second reading of the Bill—see Senate Hansard (1960), pp. 1203-4.

Journal of Parliamentary Information

proposed regulation submitted in draft and every Bill introduced in or presented to the House of Commons, to ascertain whether any of the provisions thereof are inconsistent with the purposes and provisions of the Bill of Rights, and shall report any inconsistency to the

House of Commons at the first convenient opportunity.

The statement that follows presents a comparative analysis of the provisions relating to fundamental rights and freedoms in the two countries:

FUNDAMENTAL RIGHTS IN CANADA AND INDIA

—A Comparative Statement

Canadian Bill of Rights	Constitution of India	Remarks
1. <i>Sec. 1</i> : Guarantees non-discrimination by reason of race, national origin, colour, religion or sex in application of fundamental rights.	Art. 15 provides that the State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.	In the Canadian Bill there is no mention of place of birth or caste—the latter conception being peculiar to Indian society. In Indian Constitution, there is no reference to colour or national origin as these problems do not exist in India and are also covered by race or caste. The Indian article is wider as it prohibits discrimination in general while the Canadian Bill prohibits it only in respect of the rights mentioned in the section.
2. <i>Sec. 1(a)</i> : Recognises the right to life, liberty, security of the person and right not to be deprived thereof except by due process of law.	Art. 21 provides that no person shall be deprived of his life or personal liberty except according to procedure established by law.	The Canadian Bill includes an additional expression 'security of the person'. The term 'due process of law' of the Bill of Rights vests the final power of deciding the procedure in the judiciary, while the term 'process established by law' vests the final power in the legislature and it is not for the Court to question the procedure enacted by the legislature in this respect.
3. ———: Recognises the right to enjoyment of property and the right not to be deprived thereof except by due process of law.	Art. 31(1) says that no person shall be deprived of his property save by authority of law. Other clauses of the Article and the subsequent Articles 31A and 31B authorise acquisition and requisition of property for public purpose. Art. 19(1) (g) also gives to all citizens the right to acquire, hold, and dispose of property subject to reasonable restrictions under Art. 19(5) in the interests of the general public or for the protection of the Scheduled Tribes.	The right to property has not been made absolute in India because India has adopted the socialistic pattern and the State strives to establish a social order where social, economic and political justice prevails, where the material resources of the community are so owned and controlled as to subserve the common good and where there is no concentration of wealth or means of production to the common detriment (Arts. 38, 39 and Preamble).

The Canadian Bill of Rights

Canadian Bill of Rights	Constitution of India	Remarks
4. Sec. 1(b): Recognises the right of the individual to equality before the law and equal protection of the law.	Art. 14 says that the State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.	Both are substantially similar and embody the continental as well as American concepts of legal equality.
5. Sec. 1(e): Recognises freedom of religion.	Arts. 25 to 28 of the Indian Constitution give detailed rights in this respect, the main provision being Art. 25(1) which says: Subject to public order, morality and health and to the other provisions of this Part, all persons are entitled to freedom of conscience and the right freely to profess, practise and propagate religion.	Indian provisions are detailed and comprehensive, while the Canadian provision leaves more to be interpreted by the Courts.
6. Sec. 1(d): Recognises freedom of speech.	Art. 19(1)(a) says that all citizens shall have the right to freedom of speech and expression.	Indian provision is subject to Art. 19(2) which permits reasonable restrictions being placed on this right in the interests of the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence.
7. Sec. 1(e): Recognises freedom of assembly and association.	Art. 19(1) provides that all citizens shall have the right— (b) to assemble peaceably and without arms (c) to form associations or unions.	The right of assembly in India is subject to its being peaceable and without arms. Reasonable restrictions can also be imposed on these rights under Art. 19(3) and 19(4) in the interests of public order and morality.
8. Sec. 1(f): Recognises freedom of the Press.		There is no separate mention of the freedom of the press in the Indian Constitution apart from the right of all the citizens to freedom of expression mentioned in Art. 19(1)(a).
9. Sec. 2: Provides that no law shall, unless expressly declared by an Act of the Canadian Parliament that it shall operate notwithstanding the Canadian Bill of Rights, be so construed or applied as to abrogate, abridge or infringe any of the rights and freedoms specified in the section.	Art. 13(2) declares that the State shall not make any law which takes away or abridges the fundamental rights and that any law made in contravention thereof shall, to the extent of the contravention, be void.	
10. ——— Provides that no law shall be construed or applied so as to— (a) authorise or effect the	Arts. 22(4), 20 22 (7) prescribe the procedure for detention of a person as a preventive measure	

Journal of Parliamentary Information

Canadian Bill of Rights	Constitution of India	Remarks
<p>arbitrary detention, imprisonment or exile of any person;</p>	<p>beyond three months. They contain provisions for review of the cases of preventive detention by an advisory board.</p>	
<p>11. (b) impose or authorise the imposition of cruel and unusual treatment or punishment.</p>		<p>There is no such provision in the Indian Constitution but the types of punishment that can be awarded are mentioned in the various criminal laws.</p>
<p>12. (c) (f) deprive an arrested person of the right to be informed promptly of the reason for his arrest or detention.</p>	<p>Art. 22(1) <i>inter alia</i> provides that no person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest. Art. 22(5) further says that when any person is detained in pursuance of an order made under any law providing for preventive detention, the authority making the order shall, as soon as may be, communicate to such person the grounds on which the order has been made.</p>	<p>Both the laws are substantially similar.</p>
<p>13. (c) (ii) deprive an arrested or detained person of the right to retain and instruct counsel without delay.</p>	<p>Art. 22(1) <i>inter alia</i> provides that no person who is arrested shall be denied the right to consult, and to be defended by, a legal practitioner of his choice.</p> <p>Art. 22(5) provides that a person detained under a law for preventive detention shall be afforded the earliest opportunity of making representation against the order of his detention.</p>	<p style="text-align: center;">—do—</p>
<p>14. (c) (iii) deprive an arrested person of the remedy by way of <i>habeas corpus</i> for the determination of the validity of his detention and for his release if the detention is not lawful.</p>	<p>Arts. 32 and 226 empower the Supreme Court and the High Courts respectively to issue various types of writs including that of <i>habeas corpus</i>.</p>	<p>The Indian provisions are obviously more comprehensive than those of the Canadian law. Sec. 491 of Cr. P.C. also empowers High Courts to issue directions of the nature of <i>habeas corpus</i>.</p>
<p>15. (d) authorise a court, tribunal, commission, board or other authority to compel a person to give evidence if he is denied counsel, protection</p>	<p>Art. 20(3) lays down that no person accused of any offence shall be compelled to be a witness against himself.</p>	<p>The Indian provision is identical to the provision in the fifth amendment to the U.S. Constitution, and has been interpreted by the Supreme Court in India to be a guarantee against testimonial compulsion.</p>

The Canadian Bill of Rights

Canadian Bill of Rights	Constitution of India	Remarks
against self crimination or other constitutional safeguards.		The provisions in Canada and India have the same object, namely, to avoid self-incrimination by the accused even though the language is different in the two provisions.
16. (e) deprive a person of the right to a fair hearing in accordance with the principles of fundamental justice for the determination of his rights and obligations.	..	This provision simply enunciates a legal maxim which is generally acceptable in jurisprudence almost everywhere and is naturally followed in India as laid down in the ordinary law of the land.
17. (f) deprive a person charged with a criminal offence of the right to be presumed innocent until proved guilty according to law in a fair and public hearing by an independent tribunal, or of the right to reasonable bail without just cause.		—do—
18. (g) deprive a person of the right to the assistance of an interpreter in any proceedings in which he is involved or in which he is a party or a witness, before a court, commission, board or other tribunal, if he does not understand or speak the language in which such proceedings are conducted.	...	There is no such provision in the Constitution of India.
19. Sec. 3: Provides for the examination of draft Regulations by the Minister of Justice to ascertain whether they are inconsistent with the Bill of Rights.		In India the validity of any Statute can be questioned in a Court of Law and it is for the Courts to declare void a law which is inconsistent with the Fundamental Rights [vide Art. 13(2)]. The Official Draftsmen and the Legislature have to bear in mind that all legislation should be consistent with the Constitution.

[For Answers see next page.]

ANNEXURE
CANADIAN BILL OF RIGHTS

An Act for the Recognition and Protection of Human Rights and Fundamental Freedoms*.

[Assented to 10th August, 1960.]

Preamble.—The Parliament of Canada, affirming that the Canadian Nation is founded upon principles that acknowledge the supremacy of God, the dignity and worth of the human person and the position of the family in a society of free men and free institutions;

Affirming also that men and institutions remain free only when freedom is founded upon respect for moral and spiritual values and the rule of law;

And being desirous of enshrining these principles and the human rights and fundamental freedoms derived from them, in a Bill of Rights which shall reflect the respect of Parliament for its constitutional authority and which shall ensure the protection of these rights and freedoms in Canada:

THEREFORE Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

PART I

BILL OF RIGHTS

1. *Recognition and declaration of rights and freedoms.*—It is hereby recognized and declared that in Canada there have existed and shall continue to exist without discrimination by reason of race, national origin, colour, religion or sex, the following human rights and fundamental freedoms, namely,

- (a) the right of the individual to life, liberty, security of the person and

enjoyment of property, and the right not to be deprived thereof except by due process of law;

- (b) the right of the individual to equality before the law and the protection of the law;
- (c) freedom of religion;
- (d) freedom of speech;
- (e) freedom of assembly and association; and
- (f) freedom of the press.

2. *Construction of Law.*—Every law of Canada shall, unless it is expressly declared by an Act of the Parliament of Canada that it shall operate notwithstanding the Canadian Bill of Rights, be so construed and applied as not to abrogate, abridge or in fringe or to authorize the abrogation, abridgment or infringement of any of the rights of freedoms herein recognized and declared, and in particular, no law of Canada shall be construed or applied so as to

- (a) authorize or effect the arbitrary detention, imprisonment or exile of any person;
- (b) impose or authorize the imposition of cruel and unusual treatment or punishment;
- (c) deprive a person who has been arrested or detained
- (i) of the right to be informed promptly of the reason for his arrest or detention,
- (ii) of the right to retain and instruct counsel without delay, or

*Statutes of Canada 1960, 8-9 Elizabeth II, Chapter 44.

The Canadian Bill of Rights

- (iii) of the remedy by way of *habeas corpus* for the determination of the validity of his detention and for his release if the detention is not lawful;
- (d) authorize a court, tribunal, commission, board or other authority to compel a person to give evidence if he is denied counsel, protection against self incrimination or other constitutional safeguards;
- (e) deprive a person of the right to a fair hearing in accordance with the principles of fundamental justice for the determination of his rights and obligations;
- (f) deprive a person charged with a criminal offence of the right to be presumed innocent until proved guilty according to law in a fair and public hearing by an independent and impartial tribunal, or of the right to reasonable bail without just cause; or
- (g) deprive a person of the right to the assistance of an interpreter in any proceedings in which he is involved or in which he is a party or a witness, before a court, commission, board or other tribunal, if he does not understand or speak the language in which such proceedings are conducted.

3. *Duties of Minister of Justice*—The Minister of Justice shall, in accordance with such regulations as may be prescribed by

the Governor in Council, examine every proposed regulation submitted in draft form to the Clerk of the Privy Council pursuant to the *Regulations Act* and every Bill introduced in or presented to the House of Commons, in order to ascertain whether any of the provisions thereof are inconsistent with the purposes and provisions of this Part and he shall report any such inconsistency to the House of Commons at the first convenient opportunity.

4. *Short title*.—The provisions of this Part shall be known as the *Canadian Bill of Rights*.

PART II

5. (1) *Savings*.—Nothing in Part I shall be construed to abrogate or abridge any human right or fundamental freedom not enumerated therein that may have existed in Canada at the commencement of this Act

(2) "*Law of Canada*" defined.—The expression "law of Canada" in Part I means an Act of the Parliament of Canada enacted before or after the coming into force of this Act, any order, rule or regulation thereunder, and any law in force^a in Canada or in any part of Canada at the commencement of this Act that is subject to be repealed, abolished or altered by the Parliament of Canada

(3) *Jurisdiction of Parliament*.—The provisions of Part I shall be construed as extending only to matters coming within the legislative authority of the Parliament of Canada

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No Confidence Motion in the Upper House

by

S. R. KHARABE,

Deputy Secretary, Maharashtra Legislature

3P

ABBE SIEYES, the French revolutionary thinker observed in the 18th Century:

"If a Second Chamber dissents from the First, it is mischievous; if it agrees with the First, it is superfluous."

Notwithstanding this two-century old dictum, 59 leading nations in the world, including France—constituting approximately 63 per cent. of the total number of nations, and representing about 61 per cent. of the world population—possess a second Legislative Chamber, thus recognizing the importance and utility of the Upper House. However, New Zealand, which had the Second Chamber for a long time, abolished it in 1951.

The membership of the Upper House is usually smaller than the membership of the Lower House. The method of composition of the two Houses varies

from country to country. The Lower House is composed mostly of directly elected members, whereas the Upper House is composed of partly directly or indirectly elected, and partly nominated, members. In a few countries like the U.S.A., U.S.S.R., Venezuela, Uruguay, Chile and Japan, both the Houses consist of directly elected members.

In India, apart from the Union Legislature which consists of two houses, bicameral legislatures function in eight States *viz.*, (1) Andhra Pradesh, (2) Bihar, (3) Madras, (4) Maharashtra, (5) Mysore, (6) Punjab, (7) Uttar Pradesh and (8) West Bengal.* Although the Constitution provides for an upper house in Madhya Pradesh also, so far it has only one House.**

The Upper Houses in India are composed partly of (directly or indirectly) elected, and partly nominated, members† and the Lower Houses of directly elected members‡.

*The State of Jammu & Kashmir also has an Upper House—*Editor*

**Sec. 8(2) of the Constitution (Seventh Amendment) Act, 1956, which seeks to insert the necessary provision in this behalf in Art. 168, provides that it shall stand inserted as from such date as the President may, by public notification, appoint.—*Editor*.

†See Art. 171(1) of the Constitution.

‡ See Art. 170 of the Constitution. In the House of the People, however, besides the representation for the Anglo-Indian community by nomination under Art. 331, members to represent Jammu & Kashmir, the Union territories of Andaman and Nicobar Islands, the Laccadive, Minicoy and Amindiv Islands, Dadra and Nagar Haveli, and Goa, Daman and Diu, and the Part B tribal areas, are at present nominated—See Art. 81(1)(B) of the Constitution and Representation of the People Act, 1950 & 4

No Confidence Motion in the Upper House

India has adopted the parliamentary form of government on the British model under which the Executive is responsible to the House of Commons. The Standing Orders of the House of Commons do not prescribe any procedure for moving a censure motion. But by established convention, Government is bound to provide time, out of its own time, for the purpose of discussing such a motion in the House of Commons. In the U.K., a censure motion may also be moved in the House of Lords but if it is passed, the Ministry is not bound to resign—a principle formulated in 1850 by Lord John Russell, the then Prime Minister of England, when he declined to resign on a vote of censure being passed by the House of Lords. In spite of that, the House of Lords again passed in 1911 a censure motion moved by Lord Curzon against the government of the day.

Article 164(2) of the Constitution of India runs as follows:

“(2) the Council of Ministers shall be collectively responsible to the Legislative Assembly of the State.”

There is a similar provision in respect of the Centre [vide Article 75(3)]. Thus in India also the Constitution makes Ministers collectively responsible only to the Legislative Assembly of the State or the House of the People in the Centre, that is the Lower House—the House where the will of the common man is represented by means of direct election.

The direct corollary of this constitutional provision is that the Ministry is bound to resign if a motion of no-confidence is carried in the Lower House.

Rules of Procedure of the House of the People and every Lower House in the States provide for the moving of a motion of No-Confidence in the Ministry and it is for the Government to find time for discussing such a motion. The expression “collectively responsible” occurring in Articles 164(2) and 75(3) goes to prove that a No-Confidence Motion against individual Ministers is not contemplated,* although a motion disapproving the policy of Government in any particular respect is permissible. As for Upper House, Rules of Procedure of Madras, West Bengal, Uttar Pradesh and Punjab Legislative Councils contain provision for moving a Motion of No-Confidence in the Ministry.** However, Rules of Procedure of Maharashtra, Bihar, Andhra Pradesh and Mysore Legislative Councils do not contain any provision for moving a Motion of No-Confidence in the Ministry.† Even so, neither Article 164 nor Article 75 of the Constitution prohibits a Motion of Non-Confidence being moved in the Upper House.

A point whether no-confidence motion could be moved in the Upper House arose in the West Bengal Legislative Council in 1958. Dr. Chatterjee, Chairman of the Legislative Council, gave a ruling that Article 164 of the Constitution did not debar the Council from

*Rule 198 of the Rules of Procedure of Lok Sabha also provides for ‘a motion expressing want of confidence in the Council of Ministers’. As such a motion against an individual Minister will not be permissible in Lok Sabha—*Editor*

**Recent editions of the Madras and West Bengal Rules do not contain this provision; the UP rule (r. 142 by 1960 Ed.) speaks of ‘Resolution disapproving the policy of the Council of Ministers’, and sets the Punjab Rules (1957 Ed.) contain a provision (r. 50) which speaks of ‘a motion expressing want of confidence in, or disapproving the policy in a particular respect of a Minister or the Ministry as a whole’—*Editor*.

† Nor do the Rules of Procedure of Rajya Sabha make any provision for such a motion—*Editor*

considering the motion of no-confidence even though the Ministry might disregard the adverse verdict. He pointed out the constitutional position to the House and asked the Members whether, having regard to this fact, the Members would still press for their motion. The Members did move the motion then. In Maharashtra, attempt was made in 1956 by the Members of the Upper House to move a Motion of No-Confidence in the Ministry but the Chairman disallowed such a motion on the ground that although there might be no technical objection to the moving of such a motion, it did not seem proper and desirable to allow it to be moved, since it would not be effective, if carried. The answer to what happens when the no-confidence motion is passed in the Upper House would be that it would merely amount to an expression of opinion by the

Upper House without any necessary adverse effect on the Ministry.

The conclusion that can be drawn is that although the Upper House is not debarred from passing a Motion of No-Confidence in the Ministry, the Executive being responsible to the Lower House, that House alone is the proper forum for moving such a motion.

The question that now remains is what should be the form of such motion in the absence of a provision for moving such a motion in the Rules of Procedure of the Upper House. Apparently, the motion should appear as a resolution in the form of opinion of the House and may have to be taken up as an item of Private Members' Business on a Non-Official Day. It is needless to mention that a resolution is never mandatory* on Government.

Democracy does not mean that all men are equal in ability. It provides that all men should have equal opportunities for the development of their unequal talents. It is not in any way inconsistent with the leadership of the wise, the intelligent and talented spirits.

—DR. S. RADHAKRISHNAN

*Excepting, however, when it is adopted in pursuance of certain provisions of the Constitution (for example) under Arts. [61(4) 249, 312], Rules of Procedure or conventions of the House. —*Editor*.

Offices of Profit in India*

I

CONCEPT OF 'OFFICE OF PROFIT'

The compatibility of office-holding under the Government with membership of a Legislature is a subject not only of great importance from the point of view of the working of parliamentary democracy, but also of personal concern to members of Legislatures and persons standing for election thereto.

The concept of disqualifying a holder of office of profit under the Government for being chosen as, and for being, a member of Legislature originated from the need in democratic Governments to limit the control or influence of the Executive over the Legislature by means of an undue proportion of office holders being members of the Legislature.¹ Further, holding of certain offices was considered incompatible with membership of Legislatures due to physical impossibility of a person attending in

two places, or heavy duties being attached to those offices.² Exception was however made in the case of Ministers and other members of Government with a view to having effective coordination between the Executive and the Legislature.³

In all democracies, including the United Kingdom and U.S.A.,⁴ office holders under the Government, as a rule, are disqualified for being members of Legislatures. In India,⁵ this principle is embodied in Art. 102(1)(a) of the Constitution which reads as follows:

"102(1) A person shall be disqualified for being chosen as, and for being, a member of either House of Parliament—

(a) if he holds any office of profit under the Government of India or the Government of any State, other than an office declared by Parliament by law not to disqualify its holder;"

*Prepared by Committee Branch of the Lok Sabha Secretariat.

¹Report from the Select Committee on Offices or Places of Profit under the Crown, House of Commons, U.K., 1947.

²Third Report of the Joint Committee on Offices of Profit (Second Lok Sabha). [L.S. 272]

³Report from the Select Committee on Offices or Places of Profit under the Crown, House of Commons U.K., 1947.

⁴House of Commons Disqualification Act, 1957 (U.K.); Constitution of United States of America, Art. 1 S. 6, Clause 2.

⁵In this country the concept has been developing as a necessary and inseparable part of the evolution of the democratic system of Government. Provisions disqualifying office holders occur in (i) the Indian Councils Act, 1861 s. 10; (ii) the Indian Councils Act, 1909, s. 1(2) read with Regulation IV of the Regulations for the constitution and functions of the Legislative Council of the Governor General issued on 15-11-1909; (iii) the Government of India Act, 1915, s. 61(2); (iv) the Government of India Act, 1919 s. 14 and 22(1); (v) the Government of India Act, 1935 ss. 26(1)(a) and 69(1)(a). The provision in the 1935 Act, with necessary changes have been incorporated in the Constitution of India as arts. 102, (1)(a) and 191(1)(a), respectively.

The above article has further provided that a person shall not be deemed to hold an office of profit under the Government of India or the Government of any State by reason only that he is a Minister either for the Union or for such State. Art. 191 makes analagous provision in respect of membership of State Legislatures.

WHAT CONSTITUTES 'HOLDING AN OFFICE OF PROFIT UNDER GOVERNMENT'?

The expression "holds any office of profit under the Government" occurring in the above Article of the Constitution has nowhere been defined precisely. Its scope has to be gathered from the pronouncements, from time to time, of the courts, election tribunals and other competent authorities on what constitutes "office", "profit", "office under the Government" and so on.

Office

In the usual sense of the word an 'office' means "a right to exercise a public or private employment and to take the fees and emoluments thereunto belonging".⁶ "In its fullest sense an office embraces the elements of tenure, duration, duties and emoluments, but the element of emoluments is not essential to office".⁷ It has also been held that an office is an employment on behalf of Government in any state or public trust and one not merely transient, occasional or incidental.⁸ In *Gulam Chand Chordia v. Thakur Narain Singh and*

Others, the Election Tribunal, Ajmer, defined⁹ 'office of profit' as follows:

The essential characteristics of an 'office of profit' are (1) it involves an appointment by the state in one form or the other; (2) it carries emoluments payable mostly periodically; (3) it is for a limited period; (4) it is terminable; (5) it is not assignable; (6) it is not heritable; (7) the holders of the office must be *sui juris*.

The word 'office' does not necessarily imply that it must have an existence apart from the person who may hold it. The mere fact that the post which a person holds will cease to exist as soon as he gives it up or that another person cannot be appointed to that post, is not a ground for holding that that person does not hold 'office'.¹⁰

Profit

To define 'profit' is more difficult. It normally connotes any advantage, benefit or useful consequences. Generally, it is interpreted to mean monetary gain but in some cases benefits other than monetary gain may also come within the meaning of the word 'profit'. Office to which some power of patronage is attached or the holder of which is entitled to exercise the executive functions, an office conferring dignity and honour to the incumbent, might also be regarded as an 'office of profit'. The idea is that Government must not be in a position to seduce a member of Legislature by taking him in a position where he can exercise authority, where he thinks he is 'somebody' and either he has got some money or he is otherwise made

Stroud's Judicial Dictionary (1953) Ed.

⁶ Webster's New International Dictionary of the English Language (1953), Vol. 2.

⁷ 20 John Rep. 492, 7th Ohio State 536.

⁸ 6 E.L.R. 397.

¹⁰ Bombay High Court in *Dr. Dwaras Lalabhai Anand v. Keshav Lalabhai Borher*, 13 E.L.R. 134.

Offices of Profit in India

very important.¹¹ In *Chander Nath v. Kunwar Jaswant Singh and Others*, the Election Tribunal, Bikaner, defined¹² the word 'profit' thus:

The word 'profit' in Article 191 of the Constitution of India does not necessarily mean any remuneration in cash but it certainly means some kind of advantage or gain which is tangible or which can be perceived; the mere influence which one gains by virtue of his position as a member of a committee which has no remuneration attached to it is not profit within the meaning of Article 191 of the Constitution.

If any emoluments are attached to an office, the question arises whether they constitute 'profit'. The emoluments may be in the nature of pay, salary, honorarium, fees, daily allowance, travelling allowance, reimbursement of expenses, or compensatory allowance.

Salary.—Where pay or salary is attached to an office, it immediately and indisputably makes the office an "office of profit".¹³

Fees.—If consideration is paid in the shape of 'sitting fee' or 'attendance fee', not being daily allowance, it becomes profit inasmuch as it does not purport to cover any actual expenses. Such consideration or remuneration is deemed to constitute 'profit' even though on detailed accounting it may be found that no financial advantage has in fact been gained by the member concerned.¹⁴

Travelling Allowance.—So far as travelling allowances are concerned, they will not act as a disqualification if one draws not more than what is required to cover the actual out-of-pocket expenses. In the case of house rent and

conveyance allowances, the question of profit does not arise; as the allowances are utilised for the purposes of paying the house rent and meeting conveyance charges, they do not give a pecuniary benefit to the person to whom they are paid. If the quantum of daily allowances is such as not to be a source of income, no disqualification shall be incurred.¹⁵ The Election Tribunal, Mangalore, in this connection, held:¹⁶

Travelling and halting allowances received by a member of an Area Committee constituted under the Madras Hindu Religious and Charitable Endowments Act, 1904, are not remunerations but represent reimbursement of out-of-pocket expenses and a member of an Area Committee constituted under the Act does not, therefore, hold an office of profit within the meaning of Article 191 of the Constitution and is not disqualified for membership.

Compensatory Allowances.—The position with regard to the disqualification attracted for receiving the different kinds of allowances has been clarified by the Parliament (Prevention of Disqualification) Act, 1959. According to its provisions, if the holder of an office is not entitled to any remuneration other than compensatory allowance he would not incur disqualification for receiving those allowances. Section 2(a) defines 'compensatory allowance' as follows:

'Compensatory allowance' means any sum of money payable to the holder of an office by way of daily allowance (such allowance not exceeding the amount of daily allowance to which a member of Parliament is entitled under the Salaries and Allowances of Members of Parliament Act, 1954), any conveyance allowance, house-rent allowance, or travelling allowance for the purpose of enabling

¹¹Shri C. C. Biswas, Law Minister in the House of the People—H. P. Deb., 24-12-1953.

¹²3ELR 147.

¹³Report of the Committee on Offices of Profit (Bhargava Committee), 1955, Pt. 1, p. 11.

¹⁴Chief Election Commissioner (Shri S. K. Sen), on the matter of *Vandana Pradash Legislative Assembly Members*, 4 E.L.R. 422.

¹⁵Bhargava Committee Report, Pt. I, pp. 11-12.

¹⁶*Shivram Karnath v. Venkataramanna Gowda*, 3 E.L.R. 187.

him to recoup any expenditure incurred by him in performing the functions of that office.

Non-drawal of remuneration

It is a common plea that a person holding an office who does not draw the remuneration attached to the office should escape disqualification. But decisions of the House of Commons, U.K.,¹⁷ and the decisions of our own Election Tribunals have now left no doubt that a person appointed to an office of profit, to which some remuneration is attached, incurs disqualification whether he accepts payment or not.¹⁸ The Chief Election Commissioner, Shri S. K. Sen, has held that for the purpose of deciding the question of disqualification, so long as any profit is attached to any office, it is immaterial whether the profit has in fact been appropriated or not. Some offices may be considered offices of profit even though the actual payment of emoluments attached thereto might have fallen into disuse.¹⁹

In order that an office may be an office of profit it is not necessary that there should be some sort of regularity of income; neither is it necessary that there should be actual making of profit by the incumbent; it is enough if the holder of the office may reasonably be expected to make a profit out of it.²⁰

The Rajasthan High Court in *Hotilal v. Raj Bahadur* held:²¹

In order that an office may be an office of profit it is not necessary that there must be a fixed pay attached to the office. If the holder of the office can charge any

fee or remuneration for exercising the functions of his office, he holds an office of profit.

Holding Office under Government

In India an office of profit disqualifies a person only when the office is held under the Government of India or a State Government. It is necessary to clarify in this context the terms 'holds an office' and 'under the Government'.

"Under the Government".—A person comes under the mischief of Art. 102 (1) (a) only if he holds any office of profit under the Government of India or the Government of any State. In other words, no such disqualification is incurred if the office is held under any local or other authority subject to the control of the said Governments. The Constitution itself draws a distinction between holding of an office under "the Government of India or the Government of any State" and one under "any local or other authority subject to the control of either of the said Governments". The latter type of employment constitutes a disqualification for election to the offices of President and Vice-President under Articles 58(2) and 66(4) of the Constitution, where office 'under any local or other authority subject to the control of any of the said Governments' is mentioned. These words are not found in Art. 102; consequently, it has been held, office under 'any local or other authority' does not act as a disqualification so far as membership of Parliament is concerned.²²

¹⁷*Arthur Jenkins case (1941)* Journal of the Society of Clerks at the Table in Empire Parliaments—Vol. XI-XII, pp. 26-28, *Case of Mrs. Jean Mann and Mr. John C. Forman (1945)*, *ibid.*, Vol. XVI, p. 95.

¹⁸Bhargava Committee Report, Pt. I, p. 13.

¹⁹*In the matter of Vindhya Pradesh Legislative Assembly Members*, 4 E.L.R. 422.

²⁰Election Tribunal Rajnadgaon in *Thakur Daosingh v. Ram Krishna Rathor and Others*, 4 E.L.R. 34.

²¹15 E.L.R. 55.

²²Supreme Court in *Musilama Abdul Shukur v. Rikhab Chand* 13 E.L.R. 149, and Madras High Court in *Narayanaswamy Naidu v. Krishna murthi and Another* 14 E.L.R. 21.

Holding office under statutory corporations need not necessarily mean holding office under Government even though the initial capital of the corporations is contributed by Government, the members of the corporation are appointed by Government and the Government have very large powers of control and supervision over the activities of the corporation. The Madras High Court, in *G. Narayanaswamy Naidu v. C. Krishnamurthi and Another*²³ has laid down the following tests for determining whether a public corporation is a department of Government or servant of the State, or a distinct entity:

First the incorporation of the corporation though not determinative is of some significance as an indication by Parliament of its intention to create a legal entity with a personality of its own distinct from the State; secondly, the degree of control exercised by the Minister over the functioning of the corporation is a very relevant factor, a complete dependence on him making it as really a governmental body, while comparative freedom to pursue its administration being treated as an element negating an intention to constitute it as a Government agent,....; Third is the degree of dependence of the corporation on the Government for its financial needs. Lastly, whether the functions discharged by the corporation would really be treated historically as a pure governmental function i.e. one which pertained to sovereignty or whether it was the administration of a matter merely of local or regional concern.

For the purpose of determining whether an office of profit is under the Government, primarily it has to be seen whether Government have the power to appoint a person to that office and remove him from that office. In *Hansa Jivaraja Mehta v. Indubhai B. Amin and*

Others, the Election Tribunal, Baroda, observed:²⁴

The source from which a person received profit is not the sole test as to whether he holds an office of profit under the Government within the meaning of article 102(1) (a) of the Constitution. The power to appoint and remove is also one of the tests and if a person is appointed by the Government to an office of profit and is removable by the Government from the office he would be a person holding an office of profit under the Government even though he is not paid out of Government funds.

A similar view was expressed by the Election Tribunal, Nagpur, who held:²⁵

A person serving as a teacher in a grant-in-aid school does not hold an office of profit under the Government merely because the school receives grants from the Government for payment of a portion of the dearness allowances and the pay of the teacher. The most important test for determining whether an office is under the Government is whether the power of appointment and dismissal rests in the Government.

The Supreme Court has supported the above view. In the case of *Maulana Abdul Shakoob v. Rikhab Chand and Another*, the Supreme Court observed:²⁶

The power of the Government to appoint a person to an office of profit or to continue him in that office or revoke his appointment at their discretion, and payment from out of Government revenues, are important factors in determining whether that person is holding an office of profit under the Government, though payment from a source other than Government revenue is not always a decisive factor.

The power of Government to appoint a person to a particular office should be interpreted to mean the power of

²³ 14 E.L.R. 21.

²⁴ 1 E.L.R. 171.

²⁵ In *Krishnappe v. Narayan Singh and Others*. 7 E.L.R. 294.

²⁶ 13 E.L.R. 149.

appointment of a competent authority in exercise of the executive power of the State. The appointment made by an authority, other than in his capacity in which he exercises the executive power of the State, cannot be deemed to be an appointment made by Government. In the case of *Joti Prasad Upadhyaya v. Kalka Prasad Bhatnagar and Others*, while ruling that the office of the Vice-Chancellor of the Agra University was not an office of profit under the State Government, or under the Government of India, the Allahabad High Court observed²⁷ as follows:—

When the Governor, as Chancellor of the University, appoints a Vice-Chancellor, he does not exercise the executive power of the State and the appointment made by him cannot be deemed to have been made by the State Government. The office of the Vice-Chancellor may be said to be under the Chancellor, but not under the Governor or the State Government.

To determine whether an office is under the Government it is not necessary to see whether the Government have some disciplinary or supervisory powers over the incumbent of the office²⁸

The office of a member of Parliament or of a Legislative Assembly²⁹ of a State is not an office under the Government. Similarly, it has been held that an ex-ruler³⁰ of an Indian State,

who receives a sum of money annually as a privy purse from the Central Government under an agreement of merger in consideration of his having given up his rights as a ruler, does not hold office under the Government. The same view has been taken in respect of junior members of royal families³¹ of the former princely States.

Holding an office.—A person is disqualified for being chosen as a member of Legislature if he holds an office of profit under the Government at the time of filing his nomination paper³². The disqualification is not removed on his submitting an unqualified resignation of his office or by ceasing to work but only when the resignation has been accepted by the proper authority prior to the filing of the nomination paper.³³ The disqualification is not removed if the resignation has been accepted by an authority not competent to accept it. In such a case the acceptance of the resignation is invalid and the person submitting his resignation will be disqualified since he must be considered to have continued to hold office.³⁴

Various election tribunals have held that the offices of Chairman of a Municipality³⁵ not receiving allowances, Chairman of a District Board,³⁶

²⁷ A.I.R. 1962 All. 128.

²⁸ Chief Election Commissioner (Shri S. K. Sen), *In the matter of Vindhya Pradesh Legislative Assembly Members*, 4 E.L.R. 422.

²⁹ Election Tribunal, Faizaba, in *Bholanath v. Krishna Chandra Gupta and Others*, 6 E.L.R. 105.

³⁰ Election Tribunal, Baroda in *Daulatram v. Maharaja Ananda Chandra and Others*, 6 E.L.R. 87.

³¹ Election Tribunal, Jaipur in *Pt. Harish Chandra v. Raja Mansingh*, 5 E.L.R. 87.

³² Election Tribunal, Behrampur in *Ram Murty v. Samba Sadar*, 2 E.L.R. 330.

³³ *Ibid.*

³⁴ Election Tribunal, Rainadgaon, in *Thakur Dado Singh v. Ram Krishna Rathor*, 4 E.L.R. 34.

³⁵ Election Tribunal Ajmer, in *Harnam Singh v. Jwala Prasad*, 8 E.L.R. 332.

³⁶ Election Tribunal, Gorakhpur, in *Shubhantil Sakseena v. Hari Shankar Prasad and Others*, 9. E. L. R.

Assessor on Railway Rates Tribunal³⁷, Assessor in a sessions trial³⁸, Honorary Magistrate³⁹ are not offices of profit under the Government.

PART TIME OFFICES

As opposed to offices to which certain duties are attached more or less of a permanent character, there are offices which are of a transient, occasional or contractual nature, e.g., lawyers engaged by Government, technical advisers to Government for specific projects; authors commissioned by Government to write articles, guide books etc.; persons engaged in giving broadcasts from All India Radio and the like. In such cases persons are appointed on certain terms which form part of an agreement or contract entered into by those persons with the Government or any other agency acting under the Government or on behalf of the Government. Such persons incur disqualification if they come under the mischief of section 7(d) of the Representation of the People Act, 1951. Section 7(d) reads as follows:

7. Disqualification for membership of Parliament or of a State Legislature—A person shall be disqualified for being chosen as and for being a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State—

(d) if there subsists a contract entered into in the course of his trade or business by him with the appropriate

Government for the supply of goods or for the execution of any works undertaken by that Government;

Under the above provision, disqualification is attached to contracts for supply of goods to Government and to contracts for the execution of any works undertaken by Government. No disqualification will however be incurred for contracts for performance of any service e.g., contracts for occasional broadcast of any talk over the All India Radio for fee, or contracts for occasional contribution of articles to any Government publication for fee.⁴⁰

The Election Tribunal, Allahabad, in *Govind Malviya v. Murl Manohar* held that a lawyer who is an approved Railway pleader, that is, a pleader who is engaged by the Government for conducting Railway cases, who does not receive any retaining fee but only a fee for the cases conducted, does not hold an office of profit under the Government.⁴¹

II

PARLIAMENTARY LEGISLATION ON OFFICES OF PROFIT

In a socialistic welfare State like India on the threshold of economic regeneration, the range of governmental responsibilities is so wide that autonomous corporations, public undertakings and governmental companies on the one hand, and boards, commissions and advisory committees on the

³⁷ In *Krishanlal Lawver v. Madan Singh*, 10 E.L.R. 49.

³⁸ In *Isher Singh v. Manjit Inder Singh*, 5 E.L.R. 90.

³⁹ In *Bani Madho Rai v. Bhola*, 6 E.L.R. 308.

⁴⁰ Government of India, Ministry of Information and Broadcasting, Memo No. 18(83)/55-1317, dated May 1, 1959.

⁴¹ 8 E.L.R. 89.

other, are coming into existence in increasing numbers. On these committees and other bodies Members of Legislatures are invariably appointed⁴³ with a view to associate the popular element in the management of their affairs. While in a democratic rule, the people's representatives had an important duty to perform on such bodies, they were frequently beset with doubts as to which of these offices would be deemed 'offices of profit' and would disqualify them from membership of the Legislature and which would not.

To set such doubts at rest, and to indemnify such office holders, Parliament passed the following laws keeping in view the provisions of Art. 102 (1)(a):

(i) The Parliament (Prevention of Disqualification) Act, 1950.

(ii) The Parliament (Prevention of Disqualification) Act, 1951.

(iii) The Prevention of Disqualification (Parliament and Part C States Legislatures) Act, 1953 (1 of 1954).

The Act of 1950 exempted from disqualification the following offices: Minister of State; Deputy Minister; and Parliamentary Secretary or Parliamentary Under Secretary. The office of a Minister already stood exempted by clause (2) of Article 102 of the Constitution. The 1951 Act indemnified certain specified offices like those of the Chairman and Members of the Fiscal Commission, of the Film Enquiry Committee etc., on which Members of Parliament had been appointed. The Act of 1953 exempted from disqualification the offices of Vice-Chancellors

of Universities; Deputy Chief Whips of Parliament; offices held by officers in the National Cadet Corps and in the Territorial Army; and the offices of Chairman and members of advisory Committees which did not carry any fee or remuneration other than 'compensatory allowance'. The Act also removed for a temporary period disqualification in certain other cases.

JOINT COMMITTEE ON OFFICES OF PROFIT (BHARGAVA COMMITTEE)

Although the above enactments went some way, it was widely felt that none of them comprehensively met the needs of the situation. Upon representation from Members of Parliament, Mr. Speaker Mavalankar, in consultation with the Chairman of Rajya Sabha, appointed on August 24, 1954, a Committee on Offices of Profit under the Chairmanship of Pandit Thakurdas Bhargava, M.P., to—

(i) study various matters connected with disqualification of Members and to make recommendations in order to enable the Government to consider the lines along which a comprehensive legislation should be brought before the House, and

(ii) collect facts, data and to make suggestions as to how the matter should be dealt with.⁴⁴

The Bhargava Committee, in their report, recommended *inter alia* the introduction of a comprehensive Bill having schedules enumerating the different offices which should not incur disqualification, offices to which exemption was to be granted, and offices which would disqualify.⁴⁵ The Com-

⁴³ Such appointments are made by the Government in pursuance of provision in this behalf in the relevant statutes or by executive order in the form of governmental resolution.

⁴⁴ Bhargava Committee Report, Pt. I, p. 2.

⁴⁵ *Ibid.*, p. 39.

Offices of Profit in India

mittee felt that since a schedule of that nature could never be exhaustive or complete and frequent scrutiny would have to be made in cases of new bodies as well as existing ones, a standing committee should be appointed to undertake the work of such continuous scrutiny."

THE PARLIAMENT (PREVENTION OF DISQUALIFICATION) ACT, 1959

In pursuance of the above recommendations of the Bhargava Committee, the Government introduced in Lok Sabha on December 5, 1957, the Parliament (Prevention of Disqualification) Bill. It was referred to a Joint Committee of Parliament whose report was presented to the House on September 10, 1958.

The Bill as introduced did not contain any Schedules as recommended by the Bhargava Committee. The Joint Committee on the Bill felt that on the model of the House of Commons Disqualification Act, 1957, (U.K.), the Bill should contain a Schedule enumerating the Committees whose membership would disqualify. The Committee, accordingly, proposed a Schedule to the Bill, Part I of which enumerated the Committees membership of which would entail disqualification and Part II, the Committees in which the office of chairman, secretary, or member of the standing or executive committees, would entail disqualification." The Joint Committee reiterated the recommendation of the Bhargava Committee

for the appointment of a Standing Parliamentary Committee to undertake the work of continuous scrutiny of the Schedule and of examining new committees."

The Bill as further amended and passed by Parliament received the assent of the President on April 4, 1959.

JOINT COMMITTEE ON OFFICES OF PROFIT

As recommended by the Joint Committee on the Parliament (Prevention of Disqualification) Bill, 1957, a parliamentary Joint Committee on Offices of Profit for the duration of Second Lok Sabha was constituted" in August 1959, with a membership of fifteen, 10 from Lok Sabha and 5 from Rajya Sabha. Its terms of reference were:

(i) to examine the composition and character of all existing 'committees' [other than those examined by the Joint Committee to which the Parliament (Prevention of Disqualification) Bill, 1957 was referred] and all 'committees' that may thereafter be constituted, membership of which may disqualify a person for being chosen as and for being a member of either House of Parliament under Article 102 of the Constitution;

(ii) to recommend in relation to the 'committees' examined by it what offices should disqualify and what offices should not disqualify;

(iii) to scrutinise from time to time the Schedule to the Parliament (Prevention of Disqualification) Act, 1959, and to recommend any amendments in the said Schedule, whether by way of addition, omission or otherwise.

* Bhargava Committee Report Pt. I, p. 38.

* Report of the Joint Committee on the Parliament (Prevention of Disqualification) Bill, 1957, p. vii.

* *Ibid.*

* Motion adopted in Lok Sabha on August 3, 1959 and concurred in by Rajya Sabha on August 31, 1959.

The Joint Committee on Offices of Profit (Second Lok Sabha) held 25 sittings, examined 583 bodies and presented five Reports. To give effect to the recommendations of the Committee, Government have yet to bring forward a Bill amending the Parliament (Prevention of Disqualification) Act, 1959.

A similar Committee for the Third Lok Sabha was constituted" in June, 1962.

The Parliament (Prevention of Disqualification) Act, 1959, replaces all the earlier enactments on the subject. It enumerates offices that have been exempted from disqualification. It has a Schedule, Part I of which enumerates bodies whose Chairmen have not been exempted from disqualification and Part II enumerates bodies whose Chairmen and Secretaries have not been exempted. However, the offices that have not been exempted are not necessarily disqualifying offices. The Allahabad High Court, in *Joti Prasad Upadhyaya v. Kalka Prasad Bhatnagar and Others*, observed:"

The Central Act was... for the removal of the disqualification, and not for disqualifying persons, not already covered by the other clauses of Article 102 of the Constitution... The non-removal of the

disqualification by not including the office of a Vice-Chancellor of a University in the Central Act will also merely show that a Vice-Chancellor shall stand disqualified only if he holds an office of profit under the Government of India or the Government of any State and not otherwise.

A holder of an office of profit under Government not exempted from disqualification by law made by Parliament, is disqualified both for being chosen as and for being a member of Parliament. The word chosen makes it clear that the disqualification attaches both to 'election' as well as to 'nomination'. If a person attracts the disqualification at the time of election the matter may be raised by an election petition under the Representation of the People Act, 1951." if any question arises as to whether a member of either House of Parliament has become subject to any of the disqualifications mentioned in clause (1) of Article 102 of the Constitution, the question under Article 103 is referred for the decision of President whose decision is final in the matter. However before giving his decision on such a question the President is required to obtain the opinion of the Election Commission and act according to that opinion.

That government is the strongest of which every man feels himself a part.

—THOMAS JEFFERSON

¹¹ Motion adopted in Lok Sabha on June 8, 1962 and concurred in by Rajya Sabha on June 16, 1962.

¹² A. I. R. 1962 Allahabad 128.

¹³ Sec. 80 read with Sec. 100.

Committee on Government Assurances*

The Committee on Government Assurances, described by some as an innovation of Lok Sabha, was for the first time constituted by the Speaker under the Rules of Procedure of the House¹ on the 1st December 1953. The idea in constituting the new Committee was that 'there might be a parliamentary body to watch on behalf of, and to report to, Parliament whether promises, assurances, undertakings etc. given by Ministers from time to time were being duly implemented and within reasonable time.'

Membership

The membership of the Committee at the time of its initial constitution was six, to which nine more were added in May 1954, following an amendment of the rules early that year.² The strength of the Committee under the rules is now 'not more than fifteen members' which includes the Chairman who is appointed

by the Speaker from amongst the members of the Committee.³ But the Committee may, at the discretion of the Chairman, associate with its deliberations any Member of the House who because of his special knowledge of the matter under consideration is likely to be of assistance to the Committee. Members so associated participate in the proceedings without the right to vote.⁴

In the nomination of members to the Committee regard is had to the claims, interests and strength of the various parties and groups in the House,⁵ and invariably some unattached members are also nominated. Ministers are debarred from membership of the Committee and, if a member after his nomination to the Committee is appointed a Minister, he ceases to be a member of the Committee from the date of such appointment.⁶

The term of office of the members 'does not exceed one year.'⁷

* Prepared by the Question Branch of Lok Sabha Secretariat.

¹ Rule 323 of the Rules of Procedure of Lok Sabha (5th Edn.)

² See Minutes of Rules Committee dated 17-4-1953; and also 2R (CGA-1LS) Appendix III.

³ See H. P. Notification No. 404-0/54 dated 9-1-54, published in Gazette of India, Extraordinary Part Section 1, dated 13-1-1954; and also 2R (CGA-1LS) para 2.

⁴ Rules 258 (1) & 324 (1).

⁵ Cf. Internal Rules, r. 7.

⁶ This principle is uniformly observed whenever nominations to parliamentary committees are made by the Speaker.

⁷ Preamble to Rules 324 (1). This ban on ministerial membership operates also in the Committees on Petitions and Subordinate Legislation, and the financial committees, i.e., the Estimates and Public Accounts Committees. The *raison d'être* is the evident anxiety to ensure that at least such Committees as were charged with the responsibility of investigating the acts of the Executive or supervising their activities, discharged these duties independently, unfettered by any direct or indirect influence.—Cf. Minutes of Rules Committee, dated 28-11-1953.

⁸ Rule 324 (2).

Functions

The function of the Committee in the main is to scrutinize the assurances, promises or undertakings given by Ministers from day to day on the floor of the House in answer to questions or otherwise and to report to the House the extent to which they have been implemented; and, where implemented, whether the implementation has taken place within the minimum time necessary for the purpose.* In fact, in its very first report the Committee referred to the delay in the implementation of assurances and pointed out how the value of an assurance was lost if it was not speedily implemented and the House informed of the action. The Committee prescribed in this connection a maximum period of two months for implementation and laid down that where it was not possible for the Government to comply with this requirement, a report giving the reasons therefor should be made, for the Committee to judge how far it was beyond the power of the Ministry concerned to implement the assurance within the stipulated period and what were the reasons responsible for the delay or inadequate implementation of the assurance."

Rules of Business

The Committee on Government Assurances, being a parliamentary committee of the House, is governed by the

special rules" relating to the Committee as well as the general rules" applicable to all parliamentary committees to be found in the Rules of Procedure of the House and the general directions" issued by the Speaker under the Rules in respect of all parliamentary committees.

Working of the Committee

One of the first tasks attended to by the Committee when it commenced functioning was to approve a list of certain standard expressions, the use of which, by Ministers on the floor of the House, was to be treated as constituting promises, assurances or undertakings by the Government. The list was subsequently revised by the Committee in April 1954 and included in the First Report" of the Committee presented to the House on the 23rd April, 1954. The expressions in this list, though not exhaustive, are meant for the general guidance of the Government as well as the Committee. Any additions or deletions in the list are permissible only with approval of the Committee.

The extraction of the assurances and undertakings from the proceedings of the House is the responsibility of the Department of Parliamentary Affairs. A check on behalf of the Committee is,

* Cf. Rule 323.

¹⁰ IR (CGA-1LS) paras 13-15.

¹¹ Rules 323 & 324.

¹² Rules 253 to 286.

¹³ Directions 48 to 73 in the Directions by the Speaker under the Rules of Procedure of Lok Sabha (and Ebn.), 1957.

¹⁴ See IR (CGA-1LS) Appendix 'C'.

Committee on Government Assurances

however, maintained by the Lok Sabha Secretariat. In case the Department of Parliamentary Affairs omits to extract an assurance on the ground that it does not constitute an undertaking to be implemented by Government and the Lok Sabha Secretariat is unable to agree, the matter is placed before the Chairman, who may decide the matter himself or, if necessary, place it before the Committee for decision.

Where the Committee feels that a particular assurance has not been satisfactorily implemented, the Committee may itself examine the matter or in the alternative appoint a sub-committee to go into it thoroughly. The Committee or the sub-committee may direct that a representative of the Ministry/Department concerned be asked to appear before the Committee to explain the intention of the Minister underlying the assurance or any other relevant matter. After the actual position is known the Committee decides whether or not to pursue the assurance. Where felt necessary, the Chairman or the Committee may refer the matter to the Speaker for guidance.

Occasions for calling in representatives of the Government to tender evidence are however rare. The only instance so far arose in connection with certain assurances given during the consideration of the Delhi Premises (Requisition and Eviction) Amendment Bill, 1950. In this case the Minister of Works, Production and Supply gave certain assurances in the House on the 29th September, 1951 in the matter of eviction of displaced persons from the premises built by them in Delhi prior to 15th August, 1950, which assurances—according to a representation from the Self-Rehabilitated Displaced Persons

Association of Delhi—had not been satisfactorily implemented. In order to have a correct appraisal of the problem, the Committee appointed a sub-committee which reported that there was *prima facie* some justification for the allegation. In this context the Committee had to send for the representatives of the Ministries of Works, Housing and Supply, of Health, and of Rehabilitation as also of the Delhi Improvement Trust to tender evidence. The Committee thereafter made certain recommendations with regard to the implementation of these assurances in their Second Report and the Government also later laid on the Table of Lok Sabha on 3rd April, 1956 a statement giving the details of the action taken by them in the matter.

Statements of Action Taken

When the Lok Sabha is in session, the Minister of Parliamentary Affairs lays on the Table, from time to time, statements showing action taken by Government in implementation of assurances, undertakings etc. given by Ministers in the House. On behalf of the Committee, these statements are scrutinised by the Lok Sabha Secretariat and cases where assurances do not appear to have been fully or satisfactorily implemented, or where inordinate delay is noticed in implementation, are placed before the Chairman or the Committee for their consideration.

Dropping of Assurance in Public Interest

It is within the right of Government to say that it is not in the public interest to disclose the information promised in answer to a question. In such cases when the Government refuses to implement an assurance on the grounds of secrecy, the Committee either drops the

assurance or in case of doubt, refers the matter to the Speaker for guidance.

Minutes

The Committee sits generally when Lok Sabha is in session and the minutes of sittings are laid on the Table before the session terminates. After the minutes have been so laid, the directions of the Committee in regard to the implementation of the various assurances are conveyed to the Department of Parliamentary Affairs for necessary action.

Report

The reports of the Committee are presented to the House from time to time by the Chairman or in his absence by one of the members of the Committee. After presentation of the report, copies thereof are distributed to all the members of Lok Sabha, the Ministries and Departments of the Government of India and other persons or authorities concerned.

Work Done by Committee

In the life of the First Lok Sabha, the Committee altogether held 24 sittings, considered 76 memoranda and presented 4 reports to the House; and during the term of the Second Lok Sabha the Committee sat for 23 days, considered 86 memoranda and presented two reports to the House. In terms of number of assurances, the Committee handled in all 4931 of them during the tenure

of the First Lok Sabha and 4378 during the life of the succeeding House.

Pending Assurances

Towards the close of the First Lok Sabha the Committee was faced with the question as to what was to happen to the large number of assurances which remained unimplemented by the Government at the dissolution of the House.¹⁵ Under rule 285¹⁶, the Committee noticed, a parliamentary committee which was unable to complete its work before the dissolution of the House might report to the House accordingly, when its report and recommendations would be made available to the successor committee in the new House for further action. In the light of this rule the Committee decided that they might select from among the pending assurances those which were of a substantial character or of public importance and report them to the House for the successor committee to pursue them. The Chairman was authorised to make the selection and the selected assurances were incorporated in a Report which, after approval by the Committee, was presented to the House on the 28th March 1957. In the Report the Committee recommended implementation by Government of these assurances and further observed that the assurances given during the closing session of the House might be treated as pending implementation by the Government¹⁷. A similar procedure was adopted by the Committee on the eve of the dissolution of the Second Lok Sabha¹⁸.

¹⁵ See Minutes dated 22-3-1957.

¹⁶ (then) Rules 382 (by the 4th Edn. of the Rules).

¹⁷ See 4R (CGA-1LS) paras 3 to 6 & 8.

¹⁸ See Minutes, dated 6-12-1961 and 2R (CGA-2LS).

Estimates Committee of Lok Sabha

A REVIEW OF REPORTS PRESENTED BY THE COMMITTEE DURING THE PERIOD 1950-57—(4)*

[This is the fourth instalment of the Review of the Reports of the Estimates Committee during the period 1950-57 which, it may be recalled, is in six parts: (i) Economy and Efficiency; (ii) Financial Matters; (iii) Staff; (iv) Stores; (v) Certain Important Matters including Policy; and (vi) Miscellaneous. The current instalment, covering the second chapter in the Review, deals with "Financial Matters".—Editor.]

II. Financial Matters

A. BUDGET ESTIMATES

One of the functions of the Estimates Committee is to suggest the form in which estimates shall be presented to Parliament. The Committee dealt with this matter in several of their reports and made suggestions for modification and improvement of the existing form of preparation and presentation of Budget estimates.

Budgetary Reforms

In their First Report while examining the estimates of the Ministry of Industry and Supply the Committee observed¹ that the whole budget for which the Ministry was responsible was spread over a number of grants and it was difficult to get a complete picture of the

total budget of the Ministry at a glance. The Committee felt that such a system of accounting and budgeting might have had its advantages in the past, but it appeared so involved and cumbersome that a revision of the existing system was urgently called for. The Committee wrote as follows regarding this matter:—

We feel that all the services and supplies for which a Ministry requires money should be accounted for under two or three demands for grants at the most and should not be spread over so large a number of them. We consider that for proper appreciation of the financial situation of a Ministry, the Grants should not only indicate the estimated expenditure but also show the estimated revenues that are expected to be earned by or on behalf of that Ministry during the year. They should also indicate the amounts spent over services and supplies rendered by a particular Ministry to other Ministries and departments of the Government. If all these various aspects are included, it will readily be possible for any one to know at a glance how a Ministry stands in regard to its entire revenue and expenditure. It is not possible for the Committee to lay down rough and ready methods for achieving this object. We, therefore, recommend that a Committee consisting of the Budget Officer of the Government of India, a representative of the Comptroller and Auditor General of India and a member of the Estimates Committee may be constituted to examine the whole matter thoroughly and to report to the Estimates Committee on the improvements that can be made in the existing system.

*Prepared by the Estimates Committee Branch of the Lok Sabha Secretariat

¹ LR (EC-ILS) para 3-4 pp 1-2.

The Committee also recommended² that the reasons for variations between the revised estimates and the budget estimates as also information in regard to new items of expenditure should be consolidated in a separate self contained book form for circulation to Members of Parliament to help them in understanding the budget proposals in their various aspects. The Committee also recommended that the budget papers should also include a detailed review of all the State projects, autonomous bodies and limited companies in which Government had some interest or to which loans had been granted.

Acting³ on this recommendation Government set up a Sub-Committee under the Chairmanship of Shri Mahavir Tyagi, M.P., to consider certain changes in the form of the budget estimates in accordance with the suggestions made by the Estimates Committee. The recommendations made by this Sub-Committee were considered by Government and many of them were accepted and implemented.

Revised estimates of Hirakud Dam Project

In their⁴ Fifth Report while dealing with the Hirakud Dam Project the Committee recommended that the revised estimates in respect of the Project should be prepared in detail in the light of current information and that the programme of expenditure to be incurred each year should be recast so that there was an even flow of funds and both the

Central and Orissa Governments were in the know of the current position.

Government in their reply⁵ stated as follows:—

Revised estimates have been prepared and budget provision has been made in consultation with Finance. The programme of expenditure to be incurred hereafter will be determined by the provision made in the Five Year Plan.

Dealing⁶ with Multipurpose River Valley Schemes in the same Report, the Committee wrote as follows regarding drawing up of plans and estimates relating to various schemes:—

When any scheme is initiated by the Central Water and Power Commission and plans and estimates therefor are prepared, care should be taken that all technical details in connection with the scheme as well as estimates for each detailed item are worked out simultaneously. At present the tendency is to draw up schemes in barest outlines and to give very general estimate of cost under certain major heads. This is not satisfactory. The scheme must be completely thought out in all its major and minor details and estimates for all items of work prepared. These detailed plans and estimates would help the Government and the Planning and Executive authorities to ensure proper check over the execution of works and the costs.

In reply⁷, Government stated that necessary instructions had been issued to all project authorities. Government also stated—

It is not always practicable to have detailed estimates for every component work of a large project in the investigation stage. But no work should ordinarily be started without a detailed sanctioned estimate unless it is certified by competent authority to be of emergent nature.

² *Ibid* para 5-7 pp. 2-3.

³ SR (EC—1LS) pp. 1, 40-42 and 77-81.

⁴ SR (EC—4LS) para 75, p. 42.

⁵ OR (EC—1LS) p. 9

⁶ SR (EC—1LS) para 119, p. 62

⁷ OR (EC-1 LS) p. 20.

In their Ninth Report also the Committee suggested⁹ the procedure that should be followed in regard to the estimates relating to various schemes undertaken by the Government. They wrote as follows:—

(i) Before a scheme is embarked upon, it should be properly planned and it should also be ascertained whether the money required for it is available or can be made available at the proper time. Detailed plans and estimates should be worked out fully so as to enable the Ministry of Finance to approve the scheme and accord financial concurrence.

(ii) After the scheme is concurred in from the financial point of view by the Ministry of Finance, the detailed execution of the scheme and spending of money thereon should be the responsibility of the administrative Ministry concerned which should also be given power to vary or alter the amounts under the sub-heads of the scheme so long as the total outlay is not affected.

After the administrative Ministry and the Ministry of Finance have approved the scheme, it should be included in the Budget Estimates of the Ministry concerned; and thereafter there should be no further expenditure sanction or embargo on reappropriations within the various sub-heads of the scheme so long as the total amount of the scheme is not exceeded. In case the plan has to be revised and further money is required, the concurrence of the Ministry of Finance should be obtained before the additional money needed for the scheme is included in the Budget or Supplementary Estimates.

Government⁹ in their reply stated that the principle underlying the first part of the recommendation was accepted and was being observed. Plans and estimates were worked out in advance in as much detail as possible save in exceptional cases. As regards the

second part¹⁰ of the recommendation, Government stated as follows:—

These recommendations presuppose the existence of internal financial advice within each Ministry and a change in the existing system of budgetary and financial control. The whole matter is now under consideration of the Cabinet.

Figures relating to Foreign aid

In the same Report the Committee while¹¹ dealing with the estimates relating to and expenditure incurred on the first Five Year Plan wrote as follows regarding the furnishing of figures relating to foreign aid in the budget documents:—

In financing the Plan, foreign aid has been assigned a place. The country has been receiving such aid from various sources, such as the T.C.A., World Bank, Commonwealth countries and other foreign countries like Norway in the past and will continue to receive such aid in future also. At present, information about this aid is dispersed in the Budget under various demands and it is not easily possible to see at a glance the quantum of foreign aid received. The Committee suggest that the foreign aid in a year as also the progressive total thereof should be exhibited at one place in the Budget documents.

This recommendation¹² was accepted by Government.

Interval between presentation and consideration of Railway Budget

In their Twenty-Third Report the Committee made a general survey of the Railway Budget for 1956-57. They observed¹³ that the interval between the presentation of the Railway Budget and the commencement of the discussion or

⁹R (EC—1LS) para 5, pp. 4-5.

¹⁰57R (EC—1LS) p. 4.

¹¹Ibid pp. 48-51.

¹²9 R (EC—1LS) para 20, p. 14.

¹³2. 57 R (EC—1LS) p. 5.

¹⁴23 R (EC—1LS) para 4, p. 2.

even the voting thereon, was far too short for the Committee to make a more detailed examination of the budget than was found possible. The Committee considered that their task would be very much facilitated if a longer interval could be allowed between the presentation of the Railway Budget and the commencement of the discussion and the voting thereon, either by a suitable modification of the parliamentary programme or by granting the Railways a 'Vote on Account' until the budget was voted.

Government in their reply¹⁴ stated that the recommendation had been noted by the Department of Parliamentary Affairs and that in future attempts would be made to provide a still longer interval than 10 days, without resort, if possible, to a 'Vote on Account'.

Indication of shift in expenditure from one demand to another

In the same Report the Committee recommended¹⁵ that whenever there was a shift of expenditure from one demand to another, the extent to which such a shift had taken place should be indicated in the budget demand showing the increase under one demand against the corresponding reduction in the other. They also recommended that the increase in expenditure should also be more fully explained than was being done at present.

Government accepted¹⁶ this recommendation.

Indication of Strength of Staff in Budget

The committee also observed¹⁷ that the number of posts sanctioned for the various departments of the Railways were not shown in the detailed budget of the Railways, except in the case of the Railway Board's Office and a few other minor offices. The Committee suggested that, as in the case of the General Budget, in which the number of posts in each of the Civil Departments was shown, the number of posts in the various departments of the Railways should be shown in the Railway Budget to facilitate a better study of the Budget.

Government in their reply¹⁸ stated that the recommendation had been accepted in principle and details were being worked out.

Variations in estimates of big projects

In the same Report the Committee observed¹⁹ that in the Budget of 1952-53, the anticipated cost of the Integral Coach Factory, Perambur was shown as Rs. 3,79,24,000. This was raised to Rs. 4,35,15,000 in the 1954-55, Budget and to Rs. 7,35,15,000 in the Budget of 1956-57. They commented as follows on this matter:—

The Committee would like to observe that the anticipated cost has nearly doubled during these years but neither the Explanatory Memoranda nor any of the other budget papers placed before the House every year, either specifically drew attention to or explained this increase. The Committee feel that large variations in the anticipated cost of such big projects should be suitably explained to Parliament, when demanding extra funds.

¹⁴ 28 R(FC—2 L.S) p. 3.

¹⁵ 23 R(FC—1 L.S) para 13, p. 7.

¹⁶ 28 R/FC—2 L.S) p. 5.

¹⁷ 23 R(FC—1 L.S) para 20, p. 20.

¹⁸ 28 R(FC—2 L.S) p. 13.

¹⁹ 23 R(FC—1 L.S) para 31, p. 21.

Estimates Committee of Lok Sabha

Government in their²⁰ reply stated that in February, 1951, it was decided to establish a Coach Building Factory with an installed capacity of 350 coaches per year. The cost was estimated at Rs. 3.8 crores, if set up in conjunction with the Hindustan Aircraft Ltd., at Bangalore. Later it was decided to locate the factory at Madras. Cost of residential accommodation and other amenities to staff had to be added to these estimates. In February 1952 an estimate amounting to Rs. 4.68 crores was sanctioned. Later Government decided to proceed with the manufacture of the Schlieren type of coaches and this necessitated an increase in the costs. Therefore in November 1954 a revised estimate of Rs. 7.35 crores was sanctioned including provision of Rs. 3.22 crores on account of Workshop Machinery, Plant and Equipment. Government wrote further—

The estimated cost has accordingly been shown as of this order from the budget for 1955-56 onwards. A firm and comprehensive estimate of the actual number and type of machinery and plant required could not be made, until the site of the Factory, the floor space available and other factors were settled, taking into consideration also the final decision in regard to the type, which naturally has an effect on other factors also. The variation in cost has also been indicated in the budget documents for 1957-58.

Losses on Departmental Catering

In the same Report the Committee observed²¹ that the losses on departmental catering were as follows in the Southern and Eastern Railways:—

Year	Southern Rly. (lakhs Rs.)	Eastern Rly. (lakhs Rs.)
1951-52	4.27	2.89
1952-53	6.57	1.90
1953-54	4.25	2.93
1954-55	3.17	not furnished.

The Committee observed as follows regarding this matter:—

The Committee feel that in order to keep the Parliament informed of the losses incurred on departmental catering, there should be a device in the budget by which the profit or loss on departmental catering is shown in the budget. For this purpose the feasibility of introducing a detailed head similar to item No. 8 under Demand No. 7 "Loss or Gain on working of State Collieries" may be examined by the Railway Board.

Government accepted²² this recommendation and stated that the profit or loss on departmental catering would in future be shown in the Explanatory Memorandum on the Railway Budget.

Estimates under the head "Passenger Amenities of the Railways"

In their Twenty-fifth Report on Passenger amenities on the Railways, the Committee observed²³ as follows regarding the utilisation of the amount under the head "Passenger Amenities" in the Railway Budget estimates:—

The lion's share of the expenditure incurred under the head "Passenger Amenities" is taken up by big stations with the result that the provision of even the minimum basic amenities at smaller stations is neglected. The Committee therefore recommend that such remodelling schemes of big stations should not be charged under the head "Passenger Amenities", but under the 'works' head.

Government in their reply²⁴ stated as follows:—

It has been accepted by the Board that in the remodelling schemes of big stations there should be a proper splitting of the expenditure between "Railway Users' Amenities" and other works, to ensure that only such items of expenditure in the remodelling as are specifically railway users' amenities are charged to railway users' amenities. This point will be clarified to Railways.

²⁰ 28 R (EC—2 LS), pp. 16-17.

²¹ 23 R (EC—1 LS) para 30, pp. 20-21.

²² 28 R (EC—2 LS) p. 14.

²³ 25 R (EC—1 LS) para 11, pp. 4-5.

²⁴ 30 R (EC—2 LS) p. 7.

In the same Report the Committee observed²⁵ further as follows regarding the estimates under the head "Passenger Amenities":—

A perusal of the break-up of expenditure proposed under this head during the year 1956-57 shows that the following items of expenditure are also included under this head:

- (i) Opening of new flag stations or conversion of halts into flag stations;
- (ii) Provision of fire fighting arrangements or equipment at stations, parcel offices, goods sheds, etc.
- (iii) Provision of coal dumps without paved floor at transshipment points;
- (iv) Works provided in connection with melas; and
- (v) Conversion of Narrow Gauge lines into Metre or Broad Gauge ones.

The Committee are of the opinion that these items of expenditure do not legitimately belong to the head "Passenger Amenities" and recommend that they should be transferred elsewhere, and charged to other more appropriate heads of Account.

Government accepted²⁶ the recommendations of the Committee in regard to the expenditure for provision of fire fighting arrangements, provision of coal dumps, and conversion of N.G. lines into M.G. or B.G. As regards opening of new flag stations or conversion of halts into flag stations and works provided in connection with melas, Government felt that these could be legitimately regarded as passenger amenities.

Railway Budget

Commenting on the Railway Budget the Committee observed²⁷ in their

Thirty-First Report:

Considered as the budget of a commercial organisation, the main defect in the Railway Budget is that the funds provided in the Budget are not correlated to performance. The result is that when Parliament sanctions the Budget it is not aware of the quantum of service that will be rendered in the various aspects of Railway activity covered by the Demands, and there is no assurance that if the performance falls short of the anticipations at the time of the Budget, the excess funds will be surrendered and will not be wasted by inefficient working. A budget for a commercial organisation like the Railways should be a flexible one, with the estimates of expenditure closely linked with estimates of performance. Such a budget would be more useful for managerial control than the present form. The Committee appreciate that a number of accounting changes are necessary before the form of the Railway Budget could be changed from a financial to a managerial one. Nevertheless they desire that the Ministry should undertake without delay an examination of the matter and take suitable preliminary steps to that end.

Government in their reply²⁸ stated that while it was agreed in principle that it would be desirable to link estimates of expenditure with estimates of performance, the evolution of a suitable technique for such linking required considerable study since there were many important items of expenditure which tended to vary in the same direction as performance but not proportionately to the variation in the performance. Government stated that these studies had been initiated but were likely to take considerable time to complete.

Variations in estimates

In their Forty-eighth Report on Major Ports the Committee while commenting²⁹ on the variation of estimates relating to

²⁵ 25 R (EC—1 LS) para 13, p. 5.

²⁶ 30 R (EC—2 LS) pp. 39-41.

²⁷ 31 R (EC—1 LS) paras 87-90, p. 27.

²⁸ 51 R (EC—2 LS) pp. 17-18.

²⁹ 48 R (EC—1 LS) para 128, p. 43.

the construction of berths as part of the Marine Oil Terminal in Bombay observed as follows:—

Out of the three berths which were to be constructed as part of the Marine Oil Terminal, two have been completed and are partially in operation. The third berth is also ready but for the laying of pipelines and work on shore facilities such as electric power supply, flushing installations, telephone service, water supply, office and residential accommodation. The other noticeable feature of this scheme has been the substantial increase in the cost of the work from 4.3 to 9.82 crores, the former being the estimate when the detailed plans were not available. Such a wide variation in the original and the revised estimates indicates that the system of preparing the preliminary estimates is defective and needs to be improved.

Government in their reply²⁰ stated as follows:—

The observations made by the Estimates Committee have been brought to the notice of the Bombay Port Trust, so that they may take note of them and prepare preliminary estimates in future on as complete data available as possible. The Bombay Port Trust have stated that the variation in the case of the Marine Oil Terminal Project between the original estimate and the revised estimate is due to exceptional circumstances. The Project was a scheme of unusual complexity and magnitude. It had to be completed in time for the new Oil Refineries set up at Trombay to function.

The Consulting Engineers of the Bombay Port Trust were unable to prepare detailed estimates within the time available. The Bombay Port Trust therefore prepared a skeleton estimate in 1952 for Rs. 4.49 crores, which was later revised to Rs. 9.82 crores in November, 1954 by the Consulting Engineers when they had the full and detailed picture of all the component parts of the Project.

Commenting on this reply the Committee wrote²¹ further as follows:—

The Committee are not, however, satisfied with the reply of the Government. In

this connection they refer to para 132 of their original report where it was pointed out that the estimated cost of the development of Princess and Victoria Docks had gone up from Rs. 4.8 crores in the First Plan to Rs. 14 crores. They feel that the very purpose of preparing the estimates and obtaining sanction for the expenditure on the basis thereof would be largely defeated if the estimates were to be later revised to such an extent. They, therefore, urge that greater care should be taken in preparing the estimates before undertaking such development schemes.

Form of Budget estimates relating to Ordnance Factories

In their Fifty-Fourth Report the Committee recommended²² a revision in the form of Budget estimates relating to Ordnance Factories. They recommended as follows:—

The present form of budget estimates does not also show at one place the anticipated total capital and revenue expenditure on all Ordnance Factories on the one hand and the estimated receipts, including the value of issues to the various parties, e.g., Army, Navy, Air Force etc., on the other. The Committee consider such a presentation of all budget figures relating to the organisation of the Ordnance Factories, as very desirable so as to facilitate proper appreciation of the financial working of the organisation which apart from the Railways, is, perhaps, the largest monopolistic production unit in the public sector in India. The Committee recommend that the estimates on account of expenditure on the Ordnance Factories in India be also asked for as a separate Demand and that a statement similar to that prepared in U.K. may also be submitted to the House along with the Budget Estimates.

Government in their reply²³ stated as follows:—

"The presentation of the factory expenditure under a separate demand will involve the pricing of individual issues from the factories to the Army, necessitating the employment of additional staff.

²⁰ 67 R (EC—2 LS) pp. 58-59.

²¹ *Ibid* para 2, p. 2.

²² 54 R (EC—1 LS) para 64, p. 32.

²³ 117 R (EC—2 LS) pp. 42-43.

This would also have the effect of increasing the size of the total Defence demands as the issues to the Army would also have to be provided for in the Army Demand. Further, there have been considerable variations between the estimates of issues from Ordnance Factories to the Navy and Air Force provided in the Budget and the actual issues resulting in surrenders of sanctioned amounts from the Navy and Air Force grants. The separation of the factory demands will create the same situation in the case of army estimates also and on a much bigger scale. There are also other inherent difficulties in framing the estimates of the issues from the factory to the Army. The object of the recommendations of the Estimates Committee seems to be to obtain a clear and complete picture regarding the expenditure in the Ordnance Factories at one place which is given in the Annual Accounts of the factories.

The Committee did not however agree with this view and stated³⁴—

"... the difficulties pointed out are not insuperable. In fact, the complete separation of the Ordnance Factories' Budget would facilitate a proper appraisal of the financial results of their working. Hence the reply is not acceptable and the Committee would like to reiterate the recommendation."

Defective preparation of Budget estimates of Ordnance Factories

The Committee also observed³⁵ that in respect of the Ordnance Factories there had been a shortfall of actual expenditure below the original appropriation under all heads and that in some cases it was abnormally high. They felt that the preparation of Budget estimates was very defective and wrote as follows:—

The Committee regret to observe that although this aspect of defective preparation of Budget Estimates and over-estimation of the spending capacity had been the subject of adverse comments in successive Audit Reports on the Defence Services and the Reports of the Public Ac-

counts Committee on the Appropriation Accounts of the Defence Services, there has not been any marked improvement in the position.... The Committee would like to endorse the remarks of the Public Accounts Committee contained in paragraphs 9 and 10 of their 19th Report that effective action should be taken by the Ministry of Defence in consultation with the Ministry of Finance (Defence) to evolve a better mechanism of budgetary control and at the same time they would like to recommend that positive steps in the matter of taking timely action in regard to placing of orders for plant and machinery and for surrender of funds not required should be taken.

Government in their reply stated³⁶ as follows:—

It is pointed out that every care is taken to ensure that the variation between the original appropriation and the actual expenditure is as small as possible. In spite of best efforts, it has not been possible to anticipate with more accuracy the budget estimates. The recommendations of the Committee are, however noted.

B. AUDIT AND ACCOUNTS

AUDIT

Audit of River Valley Projects

In their Fifth Report while dealing with multipurpose River Valley Schemes the Committee dealt³⁷ with the audit of such projects and wrote as follows:—

There should be a provision in the statute itself, creating the authority for the execution of river valley projects, for the audit of expenditure of the projects. The audit should be conducted by a representative of the Comptroller and Auditor General or a commercial auditor appointed by h.m. The audit staff should be located near the headquarters of the organisation and should do concurrent audit. The report of the auditors should be made to the Auditor-General who will cause it to be laid before Parliament. The

³⁴ *Ibid* pp. 41-43.

³⁵ 54 R (EC—1 LS) para 72, p. 36.

³⁶ 117 R (EC—2 LS) p. 8 attention is also invited to the 20th Report (EC—2 LS) in which the Estimates Committee dealt exclusively with the subject of "Budgetary Reforms."

³⁷ 5 R (EC—1 LS) para 124, pp. 64-65.

audit staff should not only see that expenditure has been incurred according to the sanction issued by the competent authority but also make sure that the sanctions themselves were necessary, i.e., the full value of money has been realised. The audit report should be prepared every six months showing the results of audit during the preceding period. The Comptroller and Auditor General should also arrange to submit to Parliament a report on any serious cases of irregularities, fraud, bad management, etc., which may have come to his notice.

Government agreed³⁸ that provision of the kind proposed by the Committee should be incorporated in the statute itself if a statute was enacted and stated that action would be taken wherever necessary.

Separation of accounts from audit

In their Ninth Report the Committee recommended³⁹ that in order to enable Government schemes to proceed with rapidity and according to programme it was necessary that accounting functions should be separated from audit functions. They wrote that the Comptroller and Auditor General should give his undivided attention to the audit of Public Funds and he should not be burdened with the task of looking after the accounts and treasury functions, which are the responsibility of the administration. The Committee wrote further:—

The Committee suggest that urgent steps should be taken to see that:

(i) the Comptroller and Auditor-General concerns himself with audit functions only;

(ii) the accounting and payment functions devolve on the Ministry concerned;

(iii) the administrative machinery should keep close watch over the pro-

gress of expenditure in relation to the budget grants and one of the duties of the Financial Adviser to be attached to each Ministry should be to control accounting and payment functions of the Ministry concerned;

(iv) if there is likely to be a delay in the transferring of accounting functions to the respective Ministries, then until this is done, the present Audit and Accounts Organisation should be bifurcated and the Accounts side placed under an Accountant General or Director of Accounts under the Ministry of Finance for the time being.

Government in their reply⁴⁰ stated that the whole question of separation of accounts from audit and allied matters were under discussion with the C.&A.G. An officer had been appointed in his organisation on special duty to draw up in consultation with a nominated senior officer in the Ministry of Finance, proposals for the implementation and phasing of the separation.

Efficiency of Audit

In the Ninth Report the Committee also dealt⁴¹ with the efficiency of Audit and remarked that in order to be efficient and prompt, audit should adopt methods to bring to light concurrently cases of irregularities, fraud or infructuous expenditure. For this purpose the Committee recommended that audit might be conducted on a percentage basis, a lesser percentage applied to standing charges and a higher percentage in relation to schemes which were in progress. The Committee wrote further as follows:—

At present, there is also an impression that Audit mostly concerns itself with technical objections and that consequently

³⁸ 49 R (BC—1 LS) pp. 20-21.

³⁹ 9 R (BC—1 LS) para. 35-36, pp. 26-27.

⁴⁰ 57 R (BC—1 LS) pp. 24-25.

⁴¹ 9 R (BC—1 LS) para. 33-40, pp. 27-28.

wastes a good deal of time of the administrative Ministry in replying to them.... The Committee would suggest that in regard to technical objections, the Comptroller and Auditor General might do well to eliminate them, as far as possible, and to bring them to notice only if there are repeated failures on the part of the administrative Ministry to comply with instructions. As regards cases of irregularities, frauds etc., a Report should be submitted to Parliament every three months and such Reports should be made available to the Minister of Finance so that he may examine the financial working of the Ministry concerned and prescribe such action as may be necessary for the efficient functioning of the Ministry. The Cabinet should also in such cases, and in cases of grave irregularities and misappropriation, take serious notice of the persons concerned and award, as quickly as possible, such punishment as may be necessary commensurate with the nature and extent of the guilt.

Where it comes to the notice of the audit authorities that there is *prima facie* evidence that in important cases of fraud or irregularities, the Secretary of the Ministry or the Head of the Department is not aware of the position, a report should be made to the latter promptly so that he applies himself to the matter and takes such action as may be necessary to put it right.

Government in their reply⁶² stated that the C.&A.G. who was consulted had observed as follows regarding the recommendations:—

Responsibility for securing efficiency of audit vests in the Comptroller and Auditor-General. This is naturally kept under review continuously and steps are initiated from time to time for securing greater efficiency and control. It has also been decided that the preparation of Appropriation Accounts should not necessarily hold up the submission of an Audit Report on important financial irregularities noticed in Audit in a particular financial year, within the first six to eight months of the following financial year. It is not practicable to prepare reports every three months as suggested by the Estimates Committee.

It is unfortunate that the Committee got the impression that 'Audit mostly

concerns itself with technical objections'. There are standing instructions on this subject and the very purpose of audit would be defeated if it were to concern itself 'mostly' with technical objections to the detriment of more serious irregularities. Such a position needs neither emphasis nor reiteration.

ACCOUNTS

Commercial accounting in the Films Division

While dealing with the Films Division in their Eleventh Report, the Committee observed⁶³ that though over Rs. 40 lakhs were handled by the Division each year its accounts were not maintained on commercial lines. No figures were available with regard to the capital at charge and the depreciation year by year and no balance sheets were prepared showing profit and loss account. The Committee wrote as follows regarding this matter:—

In the course of the examination of the estimates of the Films Division the Committee were informed by the representative of the Ministry of Information and Broadcasting that an oral suggestion was made to the Ministry of Finance that the Films Division should be organised as a commercial division but the Ministry of Finance was not agreeable to it. The Committee regret to note that the question of commercial accounting in the Films Division has been dealt with perfunctorily by the Ministry of Information and Broadcasting and that in such an important matter negotiations with the Ministry of Finance were carried on merely by verbal discussions. The Committee disapprove of the manner in which the accounts of the Division are maintained and the sanctioned posts of Accountants are kept unfilled, and recommend that commercial accounting should be introduced in the Films Division without any further delay.

⁶² 57 R (RC—1 LS) p. 27.

⁶³ 11 R (RC—1 LS) para 31 pp. 10-11.

Estimates Committee of Lok Sabha

Government in their reply⁴⁴ stated as follows:—

There is no possibility of declaring the Films Division as a commercial department in the near future and consequently the question of maintaining accounts on commercial lines with balance sheet showing profit and loss would not be feasible. A Cost Accounting System, is however, being introduced shortly and the registers etc., maintained under that system may be utilised for obtaining data when necessary regarding cost of production etc. A system will also be worked out for placing a notional value on non-commercial exhibitions so as to have a comprehensive idea of the total value of services rendered by the Films Division.

Commercial Accounting in the Publications Division

In the same Report while dealing with the Publications Division the Committee observed⁴⁵ that the accounting methods adopted by the Publications Division did not help to arrive at the actual receipts from the sale of each issue of a journal. The accounts of the Division were maintained agent-wise and not publication-wise. Commercial accounting principles were not observed by the Publications Division.

Government stated in their reply⁴⁶ to these observations that a preliminary survey of commercial accounting had been made by the Chief Cost Accounts Officer of the Ministry of Finance. The results of that survey would be examined and proposals finalised.

Accounting procedure in A.I.R. Stations

In their Twelfth Report on All India Radio the Committee observed⁴⁷ that

during the past two or three years instances had come to light of certain irregularities in accounting, in some stations of A.I.R. They wrote as follows regarding this matter:—

A uniform accounting procedure should be laid down and the head of each Station should be made responsible for the strict compliance of financial rules and regulations. The Station and Assistant Station Directors should also conduct periodical verification of stock and also ensure that no misuse is made of Government property.

Government in their reply stated⁴⁸ that a regular AIR Manual had been prepared and published which laid down uniform procedure not only for accounts but also for finance and administration of A.I.R. stations.

System of accounting on Railways

While dealing with commercial matters on the Railways in their twenty Sixth Report the Committee recommended⁴⁹ that the system of accounting on the Railways should be such as would enable the Railways to ascertain the costs of the various services. The Committee referred to the cost of haulage of the Air-conditioned and first class carriages and wrote as follows:—

The Committee feel that there is a case for investigation as to what extent, if any, the air-conditioned class or the first class was being subsidised by other classes. The Committee, therefore, recommend that the capital cost of various classes of rolling stock should be worked out and then the earnings compared with the capital cost of stock, interest, maintenance and depreciation charges thereon and the cost of haulage per vehicle.

⁴⁴ 66 R (EC-1 L.S) p. 14.

⁴⁵ 11 R (EC-1 L.S) para 102, p. 33.

⁴⁶ 66 R (EC-1 L.S) p. 67.

⁴⁷ 12 R (EC-1 L.S) para 181, p. 59.

⁴⁸ 31 R (EC-2 L.S) p. 45.

⁴⁹ 15 R (EC-1 L.S) para 46-47, p. 15.

As pointed out in the Committee's Report on Finance and Accounts, the Indian Railways should develop a system of accounting and analysis which would enable them to ascertain with a fair measure of accuracy, the costs of various services, and the average and dependant cost of haulage of different commodities. This knowledge will be of considerable use in working out goods tariffs from time to time.

Government had not taken a decision on this matter till December, 1958. Commenting on this delay the Committee wrote⁵⁰ as follows:—

The Committee regret to note that the Ministry have not been able to take decision on this recommendation even after two and a half years (since presentation of this Report) and hope that their decision will be communicated to them without any further delay.

Classification of expenditure in Railway Accounts

In their Thirty-first Report on Finance and Accounts of the Railways the Committee wrote⁵¹ that they had examined the system of classification of expenditure in Railway Accounts and found that in many respects the analysis was not sufficient and required improvement.

Government in their reply⁵² stated that improvements in classification were continuously under review.

Modifications in Accounting to change the Railway Budget from a financial to a managerial one

In the same Report the Committee recommended that a change in the form

of the Railway Budget from a financial into a managerial one was necessary. They observed⁵³ that a number of accounting changes would be necessary before this could be brought about and they desired that the Ministry should undertake without delay an examination of the matter and take suitable preliminary steps to that end.

Government in their reply⁵⁴ stated that the problem of accounting changes necessary for managerial control was being examined.

Modern accounting techniques in the Railways

In the Thirty-first Report of the Committee also recommended⁵⁵ that the Accounts Department of the Railways should adopt modern techniques of accounting. They wrote as follows:—

The Committee would state that the present procedure for financial scrutiny and expenditure control requires vast changes with a view to improving the efficiency of working, reducing the incidence of expenditure and increasing the earnings of the Railways. They consider that the Account Department on whom this responsibility devolves should adopt modern techniques for this purpose, which are being constantly evolved elsewhere, with the necessary modifications to suit conditions on the Indian Railways. They realise that the changes cannot be introduced all at once but nevertheless a beginning should be made without delay.

Government in their reply⁵⁶ stated as follows:—

The procedure relating to financial scrutiny and expenditure control is under constant and continuous review by the

⁵⁰ 32 R (EC—2 LS) p. 52.

⁵¹ 31 R (EC—1 LS) para 78, p. 23.

⁵² 51 R (EC—2 LS) p. 14.

⁵³ 31 R (EC—1 LS) para 89, p. 27.

⁵⁴ 51 R (EC—2 LS) p. 18.

⁵⁵ 31 R (EC—1 LS) para 92, p. 29.

⁵⁶ 51 R (EC—2 LS) p. 31.

Railway Board and improvements in the technique of accounting and control are frequently being made and will continue to be made as and when found necessary. The present procedures have been evolved as a result of experience over a long period now. While these procedures may be improved further as a result of future requirements, the present system cannot perhaps be categorised as one requiring either any drastic changes or vast improvements.

Accounts organisation in Ordnance Factories

In their Fifty-fourth Report on Ordnance Factories the Committee wrote⁵⁷ as follows regarding their accounts organisation:—

"One of the essential principles of the theory of separation of audit from accounts is that the accounts organisations should be placed under the administrative authorities, who would thereby be made to realise their responsibilities in budgetary and financial matters. However, in the matter of defence expenditure while the accounts were separated from audit about 30 years back, they were placed under the Ministry of Finance (Defence) and not under the administrative authorities, with the result that the lack of co-operation and co-ordination between the administrative authorities and those in charge of budgetary, financial and accounts matters continues as before. The Committee hope that it would be possible to rectify this state of affairs at an early date."

Government did not however agree with this recommendation and stated⁵⁸ as follows:—

The Factory Accounts Organisation provides a specialised and effective agency for looking after the work connected with the maintenance of accounts etc. of the factories and for exercising an independent check on defence expenditure. This organisation is also responsible for carry-

ing internal audit and the Comptroller and Auditor General only exercises a test check which in relation to the activities on the Defence side would be inadequate unless it is coupled with a continuous internal audit as carried out by the Defence Accounts Department. Moreover, in addition to the maintenance of cost accounts, the Factory Accounts Organisation is also responsible for maintaining financial accounts rendering financial advice to the factory management and carrying internal audit. Separation of Cost Accounting staff from the rest of the existing responsibilities of the Factory Accounts Organisation and the transfer of the Cost Accounts Staff to the management might not by itself result in any advantage but on the other hand might necessitate extra accounting staff.

The general scheme for separation of audit from accounts and bringing the accounts organisation under the control of the Administrative Ministry is at present being tried out as an experimental measure in some individual Ministries.

Association of Accounts Officers with management in Ordnance Factories

The Committee also wrote⁵⁹ that the association of Accounts Officers with the management of Ordnance Factories through membership of Factory/Executive Board at the factory and the D.G.O.F.'s level respectively, would go a long way in inducing among them a feeling that they are equally responsible for management and execution of important defence work and also in bringing about harmonious relations between the executive and the accounts officers.

Government replied⁶⁰ that the DGOF's Board of Management as envisaged by the Estimates Committee had been constituted and that the CDA (Fys) was a member of the Board.

⁵⁷ 54 R (BC-1 LS) para 59, p. 30.

⁵⁸ 117 R (BC-2 LS) pp. 31-32.

⁵⁹ 54 R (BC-1 LS) para 60, p. 30.

⁶⁰ 117 R (BC-2 LS) p. 5.

Army Stores Accounts

While dealing with Army Stores in their Fifty-sixth Report the Committee wrote⁶¹ as follows regarding the necessity to improve the position regarding stores accounts:—

The Committee observe that the Public Accounts Committee (1953-54) in their Ninth Report pointed out that it was imperative that the stores accounts should be improved and brought on an entirely correct basis and that satisfactory arrangements should be made to maintain correct stock accounts and to conduct necessary stock verification. It was considered essential by that Committee that adequate and sufficient man power should be employed for the administration of stores and the maintenance of satisfactory accounts. In their reply, the Ministry remarked that necessary instructions had been issued to the Branches of the Defence Services and with the increase of about 4,000 personnel sanctioned for the reorganisation scheme, it was expected that stores accounts would be satisfactorily maintained. However, as pointed out earlier, the position is still far from satisfactory.

Government in their reply stated⁶² as follows:—

In view of the enormous quantity of stores held, the total elimination of discrepancies is very difficult, due to various factors such as, discrepancies found in factory, packed packages which are subjected only to a percentage check at the time of receipt, incorrect identification of stores at the time of receipt which is detected at the time of annual stock verification, and also due to an element of human error. The Government are, however, aware of the importance of proper store-keeping and store-accounting, and instructions have been issued to various Defence Services from time to time to ensure that the prescribed procedure is strictly observed. As a result of these instructions, the position in regard to stock-taking and store-accounting has

considerably improved and it is expected that this improvement will be maintained.

Stores accounting in Ordnance factories

In their Sixty-eighth Report on Ordnance Factories the Committee stressed⁶³ the need for improving the stores accounting in Ordnance Factories including receipt, issue and storage. The position regarding stock verification had been the subject of adverse comments in successive audit reports of the Defence Services and this revealed that sufficient attention was not being paid to stores accounting.

Government in their reply⁶⁴ stated that the Ordnance Factories were constantly being enjoined to improve the position regarding store accounting and store keeping.

COSTING

Costing in printing presses

In their Fourth Report while dealing with the Stationery and Printing Department the Committee recommended⁶⁵ the adoption of a proper system of cost accounting in the Government Printing presses. They wrote as follows:—

It is essential that in all the industrial undertakings an up-to-date costing method should be in existence. There is a great danger that the various printing presses under the Government of India may run at a loss if the various jobs are not properly costed and a true and more modern costing method is not adopted. It was stated by the Controller of Printing and Stationery before the Committee that a costing system was in vogue for all printing works done. But on closer examination it was found that the present system is archaic and misleading. It should be revised to bring it in line with

⁶¹ 56R (EC—1 LS) para 120, p. 43.

⁶² 40R (EC—2 LS) pp. 65—68.

⁶³ 64R (EC—1 LS) para 25, pp. 6-7.

⁶⁴ 56R (EC—2 LS) pp. 21-23.

⁶⁵ 4R (EC—1 LS) para 52, p. 26.

Estimates Committee of Lok Sabha

more modern methods adopted in the U.K. and U.S.A. The Committee suggest that a committee consisting of an expert Cost Accountant and a Master Printer should be formed to evolve a uniform and modern costing system for Government Presses.

Government in their reply⁶⁶ that the advice of the Comptroller and Auditor General had been sought in regard to the revision of the present costing system in Government presses.

Setting up of an Institute of Costs and Works Accountants

In their Ninth Report on Administrative, Financial and other Reforms the Committee recommended⁶⁷ that Government should take early steps to set up an Institute of Costs and Works Accountants and to train sufficient number of men in this line on modern and upto date methods of costs accounting.

Government in their reply⁶⁸ stated that there was already an Institute of Cost and Works Accountants in Calcutta which was a company registered under the Companies Act. This Institute had distinguished members on its Council. Government felt therefore that it was unnecessary to set up another such institution.

Necessity of proper costing system on the Railways

In their Thirty-first Report on Finance and Accounts of the Railways the Committee observed⁶⁹ that in any competitive industry or commercial organisation it was necessary to know, as fairly accurately as possible, the cost incurred on

each separate activity of the organisation and the returns accruing from it. This was required not merely for the purpose of price-fixing but also for assessing the comparative efficiency of operations. Costing as an instrument of managerial control had therefore become a permanent feature of efficient commercial working. The Committee recommended that the Railways should adopt modern techniques in cost accounting. They wrote further:—

The Committee feel that the changes necessitated by application of modern Cost Accounting ideas can well be undertaken along with the present forms of accounting, until such time as it may be found to be possible to modify the latter also.

There are, however, many services for which costs could, and should be worked out even within the framework of the present structure of accounts. The Committee have already referred to the costs of statistical compilation as one example. There are other instances such as catering services, local delivery and collection services, publicity and publications etc. In all such cases it cannot be too difficult to work out the total costs including the indirect charges, and after deducting them to ascertain the net loss or profit. Even if this could not be worked out as separate accounts within the main accounts, proforma accounts could be maintained. But whatever method is adopted, the results of working should be shown in the Administration Reports of the Zonal Railways as well as of the Railway Board.

Government stated in their reply⁷⁰ that an officer of the Railways had been entrusted with the task of examining what refinements should be carried out in the accounting techniques.

As regards calculating costs of various other services pointed out by the Com-

⁶⁶ 44 R (EC—1 LS) p. 77.

⁶⁷ 9 R (EC—1 LS) para 28, p. 19.

⁶⁸ 57 R (EC—1 LS) p. 18.

⁶⁹ 31 R (EC—1 LS) paras 58—64, pp. 16-17.

⁷⁰ 51 R (EC—2 LS) p. 12.

mittee, Government stated⁷¹ that while in certain cases the cost of such services could be worked out even within the frame work of the present structure of accounts, in others, the magnitude of the return from such services would not ordinarily justify the maintenance of elaborate machinery for ascertaining the cost of such incidental services.

Costing in Railway Workshops

In the same Report the Committee observed⁷² that the need for applying costing principles to Railway workshop accounting was stressed as long ago as 1924 by Sir Arthur Dickinson and successive Committees of Inquiry such as the Raven Committee in 1929 and the Wedgwood Committee in 1937. The Kunzru Committee in 1947 had repeated these recommendations, yet not much progress had been made in this regard so far. The Committee wrote as follows regarding this matter:—

Railway workshops constitute a service department where rolling stock are repaired and maintained. Considerable amounts of spare parts valued at approximately over Rs. 5 crores are also manufactured in these workshops..... The advantages that would accrue from the adoption of costing in the Railway workshops are many. Railways maintain varied types of rolling stock and due to the severe use to which they are put during the course of operation they require periodical overhauls and frequently special repairs. The lives of the stock are also limited being e.g. about 40 years in the case of B.G. locomotives and wagons. It is a constantly recurring problem therefore, whether a locomotive or wagon etc., should be replaced, or re-conditioned etc. For all these purposes, fairly reliable estimates of costs are necessary. Moreover, it is very essential to know the costs of manufacture of spare parts in the various workshops so that rationalisation

of methods could be adopted. Besides all this there is the additional advantage that through costing, inefficiency and waste could be traced and eliminated.

Government in their reply⁷³ stated that the desirability of introducing a satisfactory system of costing in Railway workshops had been accepted in principle. Government wrote further as follows:—

The recommendations made by the Officer on Special Duty (Workshops) in his report are under examination in the Board's Office and a tentative decision has already been taken in regard to the introduction of an improved system of costing of locomotive repairs undertaken in Railway Workshops; and the Railways have been addressed for its implementation. The extension of costing principles to other activities of railway workshops will be considered in the light of experience gained during the implementation of the decision referred to above.

Costing system at the Chittaranjan Locomotive Works

In their Thirty Second Report the Committee observed⁷⁴ as follows regarding the system of costing in the Chittaranjan Locomotive Works:—

The Committee are glad to note that a scientific system of costing has been introduced at Chittaranjan Locomotive Works.... In this connection, the Committee reiterate their recommendation made in para 131 of their Twenty-first Report that the Officers from the Indian Railways should be sent to Chittaranjan Locomotive Works for a short period to take intensive training in this subject and that a cost accounting unit should be set up in each major workshop of the Indian Railways. The system should be copied by other State enterprises also, with such modifications as are absolutely necessary.

⁷¹ *Ibid* pp. 29-30.

⁷² 31 R (EC—1 LS) paras 65—67, p. 19.

⁷³ 51 R (EC—2 LS) p. 13.

⁷⁴ 32 R (EC—1 LS) para 44, p. 11.

In their reply⁷⁵ Government stated that training facilities in cost accounting were being afforded to officers of the Railways at Chittaranjan. As regards the recommendation to have a scientific system of cost accounting as at Chittaranjan Locomotive Works in other State enterprises, adopting the system with suitable modifications, the appropriate coordinating organisation of the Ministry of Finance had been advised of this recommendation for necessary action.

Cost accounting in Ordnance Factories

In their Fifty-fourth Report the Committee stressed⁷⁶ the need for introduction of a modern cost accounting system in Ordnance Factories. They wrote as follows:—

The existing form of Budget and the system of accounting of expenditure of the Ordnance Factories (in common with the system obtaining in the Defence Service as a whole) are primarily designed to ensure that the expenditure does not exceed the corresponding budget allotment. Even the control over expenditure is generally confined to watching the progress of expenditure against allotments, the existence of appropriate sanctions for expenditure and the observance of canons of financial propriety. In short, the whole system aims at meeting requirements of Appropriation Audit only, and very little attempt is made to correlate expenditure to performance and outturn. The system of managerial control which is meant to reveal wastages and inefficiency and to help in a flexible adjustment of expenditure, almost concurrently with changes in performance, is also almost non-existent. Since the Ordnance Factories are industrial undertakings, producing defence stores the Committee consider that there should be a system by which actual expenditure could be readily compared and correlated to out-turn, and that the form of the Budget should also exhibit this correla-

tion to the extent possible. They would, therefore, recommend that, in the interest of efficiency and economic functioning of not only the Ordnance Factories but all other undertakings in the public sector, the system of correlating actual expenditure with performance and of managerial control, be introduced therein. They feel that with an improved and modern cost accounts system it should be possible to enforce such a control.

Government in their reply⁷⁷ gave a detailed account of the cost accounting system in vogue and claimed that under this well defined system a continuous and concurrent check was exercised on the utilisation of labour and consumption of materials to see that the estimates for various jobs are not exceeded.

The committee felt that Government had not given any reply regarding the exhibition of the correlation of actual expenditure to the output in the Budget and that to this extent they would, therefore, reiterate the recommendation.

In their Fifty-fourth Report the Committee dealt⁷⁸ at length with the cost accounting system in Ordnance Factories. The staff for cost accounting in the factories were under the control of the Controller of Defence Accounts (Factories) and not under the Director General of Ordnance Factories and the Superintendents of the Ordnance Factories. The result was bad coordination between the cost accounts staff and the factory staff. Commenting on this the Committee wrote:—

It has to be realised that cost accounting is a subject of great importance in manufacturing industries and its sphere of activity stands midway between the general accountant and the engineer. Its

⁷⁵ 74 R (EC—2 LS), p. 20 and 27 R (EC—2 LS) pp. 49-52.

⁷⁶ 54 R (EC, 1LS) para 66, p. 33.

⁷⁷ 117 R (EC—2 LS), pp. 44-48.

Ibid p. 44.

⁷⁸ 54 R (EC—1 LS), para 81, pp. 39-40.

usefulness extends to others than the cost accountant and includes the engineer, the general accountant and the manager, each of whom has to be brought into contact with the cost data for the efficient and economic working of the industry. It is, therefore, very necessary that there should be perfect co-ordination in regard to the various types of data required by them within reasonable time, after the process to which it relates.

The Committee therefore recommended that the organisation of the Controller of Defence Accounts (Factories) should work under the administrative control of the D.G.O.F. subject to certain reserve powers. They wrote—

At the same time, they consider that the Director General, Ordnance Factories and the Superintendents of Factories should each have a cell working under him to interpret to him the various statistics furnished by the cost accounts branch, so as to enable him to initiate necessary action for the purpose of controlling costs and of improving the efficiency.

Government stated⁷⁹ in their reply that an Accounts Officer was attached to each Ordnance Factory and that he worked in close liaison with the factory management. With the introduction of the Budget Committee, such liaison would be closer and the needs of the management and the requirements of accounts were expected to be treated with better understanding and sympathy.

The Committee also recommended⁸⁰ that the feasibility of entrusting the functions of the cell to interpret statistics to the Statistical Quality Control Branch

at the headquarters of the D.G.O.F. might be examined.

The Committee were critical⁸¹ of the present system of cost accounting in the Ordnance Factories and remarked that for a monopolistic industrial concern the economy and efficiency of which were of vital concern to the country, the system was hardly satisfactory. They observed as follows:—

The modern conception of cost accounting is more than that of just recording the expenditure on labour, overheads and materials used in manufacturing products. To justify its existence, a cost accounting department must record and analyse all costs of production and report these data to the responsible persons in charge of manufacturing industries in such form that they are aided in directing and controlling the operations of the industry towards its efficient and economic working. In fact, it has been said that the best obtainable picture of the working practice and accomplishment of a manufacturing concern is given in well-designed cost and operating reports, the major objectives of which are:

(i) to furnish the maximum amount of information from both operating and cost angles;

(ii) to present in the most practical way, the facts that reveal actual working conditions and situations; to facilitate effective supervision of plant operation and to aid in attainment of high standards of efficiency and therefore of economy; and

(iii) to aid in determining policies.

Intelligent use of cost and operating reports in an industry is known to make it possible to—

(i) Plan operation systematically in advance.

(ii) Obtain efficient operation.

(iii) Reduce to a minimum spoilage, waste and loss.

(iv) Improve processes, methods, and procedure.

(v) Conserve resources.

⁷⁹ 117 R (EC—2 LS), pp. 33-34.

⁸⁰ 54 R (EC—1 LS), para 37, pp. 17-18.

⁸¹ *Ibid* paras 82-86, pp. 40-42.

Estimates Committee of Lok Sabha

(vi) Secure low costs.

(vii) Secure rapid turnover of working capital.

Even if cost reports are accurate and of useful types, they lose value to the operating executives unless they are prepared and distributed promptly, in time for inefficiency to be controlled. The emphasis in modern management's philosophy is upon planning for the prevention of inefficiency as far as possible. The accounts department's responsibilities for the translation of managements' plans into budgets and for the preparation of cost and other reports comparing the actual results with the budgeted or standard expectations are two of the steps in preventing and controlling inefficiency. However, its responsibility goes further; the work must be completed quickly, so that the reports are timely, which means that they must be received by each operating executive while the activity is still in process or vivid in his memory, or in time to prevent a continuing action that would be less than satisfactory.

The Committee recommended⁸³ that immediate steps should be taken to reform the system of cost accounting so that cost data and reports were made available to executive authorities within a reasonable interval after a particular process of manufacture. They also recommended the introduction of the system of standard costing under which standard costs or predetermined costs are prepared in advance of operations according to a carefully planned method of making a product or rendering a service and serve the purpose of cost analysis and cost control.

The Committee recommended that the entire cost accounting system should be modernised on the lines obtaining in advanced foreign countries.

Cost accounting in Military Dairy Farms

In their Sixty-fourth Report the Committee while dealing with Military Dairy

Farms observed⁸⁴ that costing was done merely for the purpose of the proforma Profit and Loss Account. They remarked as follows regarding this matter:—

The Committee do not consider that this method would serve the purpose of bringing to light inefficiency and wastage in production. They would, therefore, recommend that a study of costs should be undertaken in respect of representative farms in different zones and that they should be compared both *inter se* and with those of private, Co-operative or Government dairy farms. They also recommend that the rate should be fixed mainly on the basis of market rates, after making necessary allowance for the quality of the product, since only then can efficiency be improved.

Government in their reply⁸⁵ stated as under:

A comparative study of the financial results of the working of the various Military Farms within each command (Zone) is already being made annually.

A formula has been evolved tentatively for working out the actual cost of production of milk, and the Military Farms have been instructed to intimate the cost of production of milk on this basis. The formula will, if necessary, be modified in the light of experience gained.

C. TAXES

Mining Cess

While dealing with the Geological Survey of India in their Fourth Report the Committee suggested⁸⁶ the levy of a mining cess on the lines imposed on sugar, tea etc. They wrote as follows:

The finances derived from the levy of such a cess can be used profitably for establishing a special branch in the Geological Survey for rendering the necessary technical advice to private concerns. In the case of those who are given mining licenses it should also be made a condition that they should help in the training

⁸³ *Ibid* para 87-88, p. 42.

⁸⁴ 64 R (BC—1 LS) para 16, pp. 6-7.

⁸⁵ 35 R (BC—2 LS) pp. 16-18.

⁸⁶ 4R (BC—1 LS) para 96, p. 45.

of students in practical Geology, which will not only be helpful to Government but can also cater to the growing needs of the industry.

Government felt⁶⁶ that it would hardly be worth while levying a special cess on minerals at present. Government stated that advice was given on the results of researches carried out in the Geological Survey Department. The expenditure on research was relatively small and could be financed from General Revenues.

Betterment levies

In their Fifth Report the Committee suggested⁶⁷ that there should be uniformity in the betterment levies in respect of River Valley Schemes. They wrote as follows regarding this matter:—

The Committee understand that there is a proposal to impose a betterment levy on lands which shall be benefited by the Bhakra-Nangal Project. There is also a proposal to impose agricultural income-tax. The idea behind these measures is that the State which has contributed towards the development of land must also get a proportionate share of the additional yield that it will give after the development schemes have all come into operation. The Committee agree that these proposals after they have been carefully considered should be brought before the various legislatures for their approval. There should also be uniformity in this respect in so far as other River Valley Schemes are concerned. The money thus collected and also the funds that Government would make available in respect of financing the various River Valley Schemes should be pooled in a Central fund called "The River Valley Development Schemes Fund" and the various river valley projects should be financed out of this fund. This should be a running fund and the unspent balances in any year should not lapse to Government. The Committee feel that if the fund is

constituted and properly regulated according to prescribed rules the difficulties of finding finances for the schemes would diminish to a considerable extent. The Committee would urge that Government should give careful consideration to this aspect of the matter and bring necessary legislation before Parliament for their approval in due course.

Government in their reply⁶⁸ stated as follows regarding this recommendation:

The proceeds of a betterment levy in areas benefited by a project serve as a partial set off against the capital cost of that project. The recommendation that the proceeds of such a levy should go into a common pool cannot be accepted. Uniformity cannot be insisted on in the levy of betterment fees. The rate regarded as reasonable in an area of low rainfall may be regarded as excessive in an area of heavy rainfall. Each case should be decided on its merits.

Cess on sale of timber

While dealing with the Forest Research Institute in their Sixth Report the Committee supported⁶⁹ the recommendation made by the Reorganisation Committee of the Ministry of Finance that a levy of a cess @ 1 per cent on all sales of timber and other forest produce be made to form a Forest Research Fund to finance schemes of research in the Centre as well as in the States. The Committee also felt that this would help in providing funds for running the Forest Research Institute.

Government did⁷⁰ not accept this recommendation as they felt that the timber industry would be adversely affected

⁶⁶ 44 R (BC—1 LS), p. 12.

⁶⁷ 5 R (BC—1 LS), para 121, pp. 63-64.

⁶⁸ 49 R (BC—1 LS), p. 31.

⁶⁹ 6 R (BC—1 LS), para 25, p. 16.

⁷⁰ 52 R (BC—1 LS), pp. 40-42.

stated as follows:—

Timber trade is in the hands of the State Governments and they have not been in favour of levying cess of 1 per cent on the sale of timber since they feel that this cess would adversely affect their revenues in that they fear that lower prices for their trees and timber would be realised. The State Governments feel that part of the revenue would thus be diverted towards the Centre which should normally come to the State exchequer. The industry on the other hand also objected strongly to the levy of the cess on the ground that these industries were already paying sales tax and a cess on finished products such as plywood and paper. Another cess on raw material would be a heavy burden resulting in a high cost of manufacture to the great detriment of the interests of industry. This matter was discussed at a meeting of the Central Advisory Board on Forest Utilization held in January 1954, and the representatives of the Associated Chamber of Commerce and Industry and of the plywood industry strongly objected to the levy of the cess.

As regards the gross revenue that is likely to be collected it is difficult to give a correct estimate but it is likely to be in the region of 20 to 30 lakhs per annum.

Cess on Commodities

In their Seventh Report the Committee recommended⁶¹ that as in the case of a cess on timber, the possibility of levying cess on commodities should be explored in order to provide funds for agricultural research work.

Government in their reply⁶² stated that the funds of the I.C.A.R. for agricultural research consisted mainly of the proceeds of the cess levied under the Agricultural Produce Cess Act, 1940. The inclusion of a few items in the schedule to the Act had been considered but as the additional income was not

likely to be considerable it was not considered necessary to pursue the question. As regards Commodity Committees, three of such Committees (Tobacco, Arecanut and Jute) were financed by grants from Government. There was already a cess on tobacco which went into the revenues of the I.C.A.R. The possibility of levying a cess on Arecanut was examined and it was found that there was no scope for levying such a cess. Government also stated that Commodity Committees would reopen the case for levying the cess for financing the Jute Committee.

Collection of taxes in cantonments

In their Forty-sixth Report on Lands and Cantonments the Committee observed⁶³ that in a number of Cantonments unrecovered dues formed a considerable proportion of their annual income. The Committee considered this position regarding large arrears of collection of taxes as very unsatisfactory. They felt that Government should prescribe a standard of collection and see that it was adhered to. For this purpose the machinery of collections needed to be vitalised. The Committee wrote further as follows:—

Since the system provides for sufficient effective powers to realise the taxes, the fact of large uncollected arrears may merely indicate slackness in collection.

The Committee, therefore, recommend that in respect of every one of such cantonments, the special reasons for the arrears should be found out and suitable remedial action taken by improving the financial administration and the efficiency of the personnel.

⁶¹. 7 R (EC—1 LS) para 14, p. 38.

⁶². 53R (EC—1 LS) pp. 47-48.

⁶³. 46 R (EC—1 LS) para 48-50, pp. 24-25.

Government in their reply⁹⁴ stated that as a result of the efforts made by the Directorate of Military Lands and Cantonments, the percentage of collection of taxes had risen from 82.40 on 1-5-57 to 88.85 on 31-3-60. The target had been fixed at 95 per cent.

Assignment of proceeds of taxes to Cantonments

The Committee also recommended⁹⁵ that wherever proceeds of taxes levied and collected by States have been assigned to Municipalities, the question of extending the same benefit to the Cantonments situated in the State should be taken up, since in the matter of payment of State taxes, the civil areas in the Cantonments were in the same position as areas in the municipalities.

Government in their reply⁹⁶ stated that the question of securing a share for the Cantonment funds out of the proceeds of certain taxes levied and collected by State Governments in Cantonment limits had already been taken up with the State Governments. As a result of this during 1959-60, twenty-four Cantonment Boards obtained as their share an aggregate of Rs. 3,12,765 from the State Governments. This amount would be a recurring income for the Cantonment Boards. In addition, fresh proposals were under consideration for being taken up with the State Governments which, if accepted by them, were expected to fetch an additional income of about 4 to 5 lakhs rupees per year for the Cantonment Boards within the next two or three years.

Disparities in Incidence of Taxation

The Committee also observed⁹⁷ that in the matter of incidence of taxation, there were wide variations between some of the Cantonments and the adjoining municipalities. They made the following recommendations in regard to this matter:—

The Committee recommend that taking into consideration the services performed in both the Cantonments and the adjoining municipalities, the tax structure in Cantonments should be suitably revised so as to remove wide disparities in the incidence of taxation. The grants-in-aid should also be so regulated that there is no encouragement to such Boards as do not fully meet their responsibility for imposing taxation measures.

Government informed⁹⁸ the Committee in their reply that Government had invariably taken into account the existing level of taxation and the position regarding arrears in the collection of taxes while considering the question of sanctioning ordinary grants-in-aid to Cantonments for balancing their budgets. While sanctioning taxation proposals the Cantonment Boards and the Government took into account the existing level of taxation in the neighbouring municipalities as well as the capacity of the people to bear the burden of taxation.

Levy of charges by Ports

In the Forty eighth Report on Major Ports the Committee while dealing with their five year plans observed⁹⁹ that although the Major Ports were self financing undertakings with funds of their

⁹⁴. 141 R (HC—2 LS) pp. 12-13.

⁹⁵. 40 R (HC—1 SL) para 54, p. 26.

⁹⁶. 141 R (HC—2 LS) p. 14.

⁹⁷. 46 R (HC—1 LS) para 55, p. 27.

⁹⁸. 141 R (HC—2 LS) pp. 13-15.

⁹⁹. 48 R (HC—2 LS) pp. 30-32

own, they had not been able to build up large reserves in the past as they were expected to levy only such charges and dues as were necessary for maintaining the port facilities in an efficient condition. As Major-Ports required large amounts for development purposes, the Committee suggested that the Ministry of Transport should examine whether it would be practicable for Port authorities to levy charges in such a manner as to enable them to build up sufficient reserves.

Government in their reply¹⁰⁰ stated as follows:

The Port charges have to be fixed at such a level that shipping and trade are attracted to a port. Whereas in times of trade booms, it may be possible to push up rates without adverse effect on traffic, the considerations will be different in times of trade recession and import restrictions. The Port charges have to be such that trade is not diverted. However, in considering the extent of Government loan assistance to Port authorities for financing development schemes under the Five Year Plan, Government have been ensuring that the port authorities contribute a share of the capital cost from their own resources. This share varies from port to port according to the capacity of each port to produce a surplus for financing development schemes. It may be mentioned that the major port authorities will be contributing as much as Rs. 21.21 crores during the Second Five Year Plan period for meeting the cost of their development schemes. Of this amount, Rs. 5 crores will be contributed by Calcutta Port, Rs. 10 crores by the Bombay Port Trust, Rs. 3.8 crores by Madras, Rs. 1.5 crores by Vizag and Rs. 0.9 crores by Cochin.

Taxation of motor vehicles

In their Sixtieth Report the Committee recommended¹⁰¹ that efforts should be

made to have uniformity in taxes levied by States on motor vehicles and to bring down the incidence of such taxation. They wrote as follows regarding this matter:—

The Committee understand that there are, broadly speaking, three types of taxes levied on motor vehicles (i) Central tax—which consists of customs and excise duties on motor vehicles, tyres, tubes and accessories and on motor spirit, (ii) State taxes which consist of a large variety of taxes such as the vehicles tax, tax on passengers and goods, the permit fees, cesses on routes, sales tax on motor spirit, motor vehicles, their parts and accessories, and (iii) local taxes which consist of wheel tax, tolls and terminal taxes etc. The general level of all the taxes is said to amount to about 20 per cent of the cost of operation and rises upto 35 per cent in one or two States. The Committee recommend that efforts should be made to import uniformity in taxes levied by the States and to bring down the incidence of taxation on motor vehicles. Now that the States have been reorganised into bigger units there are more chances of their agreeing to a uniform rate of motor taxation and its realisation by the Centre through a single levy and its distribution to the States in agreed ratio as in the case of inter-State sales tax. This proposal should be pursued with vigour by the Ministry with the different State Governments.

Government in their reply¹⁰² stated that the question of having uniformity in the level of motor vehicles taxation and reduction in the incidence of such taxation had been discussed with the State Governments several times. The State Governments had also been requested to implement various recommendations made in this regard by the Conference of State Transport Commissioners/Controllers held in Mussoorie in October, 1957.

¹⁰⁰. 67 R (EC—2 LS) pp. 20-22.

¹⁰¹. 65 R (EC—1 LS) para 29, p. 10.

¹⁰². 106 R (EC—2 LS) pp. 30-32.

As regards the recommendation in regard to centralisation of taxation on motor vehicles, Government stated that this raised a major issue of policy and even involved amendment of the Constitution. This matter was under examination by Government.

The "Commerce"¹⁰⁸ commencing on this recommendation of the Committee wrote as follows:—

Notable among the various suggestions and recommendations made by the Committee, all of which are designed to expand and improve the motor transport service and also to place it on a firm footing, is the one relating to the need for reducing the heavy incidence of taxation on motor vehicles. There is no doubt that taxation of motor vehicles is an important aspect of the problem of the motor industry and motor transport service. And, unless the incidence of the present unconsonably heavy burden of tax on motor vehicles and motor transport is brought down there can be no real or permanent improvement in motor transport in this country. Or, to put it in another way, the reduction in taxes on motor transport and the adoption of a realistic policy towards it by the Government will pave the way for the expansion of the automobile industry and motor transport service, lead to wider employment and also bring in in the long run, a large revenue to Government.

Tolls and imposts on National and State Highways

In this Sixtieth Report the Committee also recommended¹⁰⁹ that a study should be made in consultation with State Governments of the conditions as existing in different States in India as well as in other foreign countries in regard to tolls and imposts on National

Highways and State Roads and that, as far as possible, a uniform policy should be followed both in regard to National Highways and State Highways. The Committee also recommended that the incidence of tolls should be kept to the barest minimum and only for certain specific purposes, care being taken to see that it did not in any way impede the smooth flow of traffic.

Government in their reply¹⁰⁸ stated that this question of the levy of tolls on roads and road bridges had been examined by several Committees in the past and more recently by the Taxation Enquiry Commission. The Commission had recommended the abolition of tolls wherever that had not been effected, with the exception of new bridges costing over, say, Rs. 5 lakhs. In respect of these bridges, the Commission had recommended that tolls might be permitted for a certain period, but in no case after the cost of construction has been recouped. So far as National Highways were concerned, the policy of the Government of India was that they would be generally free from all tolls and other imposts except these levied for services or benefits rendered in relation to the use of ferries, temporary bridges, tunnels etc. As regards State roads, the views of the State Governments were being ascertained by the Government of India. This matter is primarily the concern of the State Governments as "tolls" is a State subject. Government however hoped that the States would fall in line with the views of the Government of India in course of time as their financial position improved.

¹⁰⁸. The "Commerce" dated the 29th June, 1957.

¹⁰⁹. 60 R (BC—1 LS) para 143, page 40.

¹⁰⁰. 106 R (BC—3 LS) pp. 7-9.

Estimates Committee of Lok Sabha

D. GENERAL

Procedure for collection of rent of Government accommodation

In their Fourth Report the Committee while¹⁰⁶ dealing with the Estate Office recommended that the procedure for collecting rent in respect of Government accommodation allotted to staff, should be simplified. They suggested that this responsibility should be cast on the Ministries and the Accounts Officers concerned. Soon after a house was allotted to an officer, the first rent bill might be prepared by the Estate Officer and sent to the Ministry and the Accounts Officer concerned. The Ministry and the Accounts Officer should thereafter be responsible for the collection of rent at the specified rate until further advice from the Estate Office. The Committee wrote further:—

If this simple procedure is followed the Estate Officer will not be required to prepare and send thousands of rent bills every month. In cases of non-recovery of rent strict rules should be laid down that the officers paying the salary bills of the allottees shall be responsible for any loss to Government on this account. Considerable reduction of manpower in the Estate Office and saving of stationery forms, etc. will accrue if this procedure is followed. In case of changes in the emoluments of officers or if the rent liability of an officer varies from the one intimated by the Estate Officer previously the Ministry and the Accounts Officer concerned should be authorised to collect the rent at the revised rates provisionally until confirmed by the Estate Officer. This will prevent loss of rent to Government in case there is delay on the part of the Estate Office in notifying the revised rate.

Government in their reply¹⁰⁷ stated that this recommendation was examined and it was found difficult to implement it be-

cause it would have resulted in corresponding increase of staff in the various Ministries. The system of rent procedure in the Estate Office had been revised. Rent accounts were now maintained building-wise and not officer-wise and this enabled correlation and comparison of accounts and avoided omissions which were likely if separate registers for allotment and assessment of rent were maintained. The revised procedure also enabled constant checking of accounts by appointment of internal checkers, and also enabled detection of unrecovered rents.

Speedy recoveries of Bills by the Central Electricity Commission

In the same Report while dealing with the Central Electricity Commission, the Committee recommended¹⁰⁸ that recoveries of amounts for erection work etc. undertaken by the Commission in Government projects should be recovered immediately without waiting for the completion of the project. They wrote further—

In order to enforce speedy clearance of bills the accounts of a work should not be kept open beyond three months of the date of its completion. Efforts should be made to bring into account all liabilities and credits pertaining to the work by liquidating the former and realising the latter within that period.

Government accepted¹⁰⁹ this recommendation.

Powers of Financial Adviser in Government projects

In their Fifth Report while dealing with the Hirakud Dam Project the Committee

¹⁰⁶. 4 R (EC—1 LS), paras 4-5, pp. 3-4.

¹⁰⁷. 544 R (EC—1 LS), pp. 15-17.

¹⁰⁸. 4 R (EC—1 LS), para 106, p. 51.

¹⁰⁹. 44 R (EC—1 LS), p. 14.

observed that a Financial Adviser had been posted to the organisation to accord financial sanctions. He worked within the powers delegated to him and on all other matters he had to refer to the Government of India for their approval. The Committee felt that this was an unsatisfactory arrangement which inevitably led to great delay and waste of time and expenditure. They recommended that in such organisations the Financial Adviser should be a person of sufficient seniority and should be vested with sufficient authority and a large measure of discretion to give decisions on the spot.

Government in their reply stated¹¹¹ as follows:

A Joint Secretary of the Finance Ministry of the Government of India and the Finance Secretary, Orissa, are both members of the Hirakud Control Board which now meets frequently at Hirakud to take on-the-spot decisions, thus minimising the necessity of the Financial Adviser having to make reference to New Delhi.

Finances for Government Schemes

In their Ninth Report the Committee dealt¹¹² with the finances relating to Government schemes. The Committee observed that most of the schemes were not conceived in all their aspects in advance and the administrative Ministries developed, changed and recast their ideas after the schemes were initiated. This was a factor which led to delay and wasteful expenditure and made the scrutiny of the Ministry of Finance essential from time to time. The Committee felt that if the administrative Ministry prepared all the schemes in a

complete a manner as possible, there was little doubt that it would give a tremendous fillip to the activity of the country and to the work being done efficiently and economically. The Committee wrote further as follows:

In order to avoid congestion of work in the Ministry of Finance and also to enable them to exercise an effective check over the proposals, it is necessary that the administrative Ministry concerned should prepare the schemes at least a year in advance save in exceptional circumstances when the situation justifies the immediate initiation of a scheme which could not be conceived or worked upon earlier.

Government in their reply stated that the recommendations had been accepted and were being observed.

Record of schemes which were planned improperly

The Committee also write¹¹⁴ that there was a tendency to sanction and start works without preparing technical blueprints and detailed estimates of costs. This had led to grievous losses in some cases. In some cases, projects had been abandoned on account of technical defects which were found later after the work had been started and had made considerable progress. The Committee felt that such cases, though few, depicted a tendency which might ultimately prove dangerous if not checked soon. They write further—

The Ministry of Finance should maintain a complete record of schemes in which the detailed estimates or blueprints are not prepared in advance or which are subjected to frequent changes in the course of execution when actual expenditure exceeds the original or revised estimates.

¹¹⁰. 5 R (EC—1 LS), para 71, p. 41.

¹¹¹. 49 R (EC—1 LS), p. 8.

¹¹². 9 R (EC—1 LS), paras 7-8 pp. 5-6.

¹¹³. 57 R (EC—1 LS), p. 4.

¹¹⁴. 9 R (EC—1 LS) para 11, p. 8.

Government accepted¹¹⁵ this recommendation and stated that it would be implemented in respect of major works costing Rs. 10 lakhs and above. Government felt that it would not be practicable to maintain a record for the numerous smaller schemes.

Abolition of treasuries

In their Ninth Report the Committee also recommended¹¹⁶ that the system of treasuries should be abolished. They wrote as follows:—

The present system of Treasuries should be abolished.

The payment functions should be taken over by the Branches of the Imperial Bank of India or, where a Branch of the Imperial Bank of India does not function, by a Branch of some other Scheduled Bank in consultation with the Reserve Bank. Where there is no Branch of the Imperial Bank of India or any Scheduled Bank in existence, the Treasury Office itself should be converted into a Pay Office of the Imperial Bank.

The Committee emphasise the fact that Banking organisation which is quick, efficient and reliable should be made more use of than the old outmoded system of Treasuries.

Government in their reply¹¹⁷ stated the whole question of separation of audit from accounts was under discussion with the C. & A. G. The question of abolition of treasuries was linked up with the procedure which might be laid down for receiving money and making payments on behalf of Government in future.

Payment for beaming facilities afforded by AIR

In their Twelfth Report while dealing

with the All India Radio the Committee observed¹¹⁸ that beaming facilities were given to the B.B.C. by the A.I.R. on fixed days in the week as and when required and that no financial benefit had been derived from the B.B.C. for such facilities. The Committee wrote as follows regarding this matter:—

They feel that where a broadcasting organisation uses the facilities of A.I.R. for beaming broadcasts frequently, it should in fairness pay A.I.R. for such services. When beaming facilities are made available only once in a way for some particular occasion, then it was justifiable to extend these services free as a matter of courtesy.

Government in their reply¹¹⁹ stated that regular beaming of broadcasts was being allowed by A.I.R. transmitters only to B.B.C. who were now giving similar reciprocal facilities for broadcasts arranged by A.I.R. from London. Payment was also being made by B.B.C. to the Overseas Communications Service for such broadcasts.

Lapse of funds

Dealing with passenger amenities on the Railways in their Twenty-fifth Report, the Committee observed¹²⁰ that funds to the extent of Rs. 1.71 crores under the head "passenger amenities" had lapsed during the First Five Year Plan period. In view of the fact that the requirements of passenger amenities were so pressing, the Committee considered this rather unfortunate and hoped that this would not be repeated during the Second Five Year Plan.

¹¹⁵. 57 R (EC—1 LS), p. 13-14.

¹¹⁶. 9 R (EC—1 LS), para 36-37, p. 26.

¹¹⁷. 57 R (EC—1 LS), p. 24.

¹¹⁸. 13 R (EC—1 LS), para 107, p. 34.

¹¹⁹. 31 R (EC—2 LS), p. 29.

¹²⁰. 20 R (EC—1 LS), para 9-10, pp. 3-4.

The Committee wrote further as follows:—

The Committee suggest that the Deputy General Manager (Amenities) should keep close co-ordination with the Divisional/District authorities and watch the physical progress of the works under this head with a view to ensure that the amenities planned under this head are completed in time. He should also see whether the purposes for which the Railway spends on amenities are duly fulfilled. In case due to unforeseen reasons a Division or District is not in a position to incur usefully the expenditure allotted under this head, he should arrange to transfer the amount to another Division or District, which is in a position to incur additional useful expenditure. Similarly, there should be a periodical review of the progress of works under this head at the level of the Railway Board, so that, if any particular Railway is unable, due to unforeseen reasons, to make full utilisation of the amount allotted to it under this head, the same may be reallocated to another Railway which is in need of additional funds under this head. If, however, after taking this additional precaution, it is found that the full expenditure of Rs. 3 crores is not incurred during any one year of the Plan period, the amount thus saved may be carried over to the next year, so that the total expenditure earmarked under this head during the Second Five Year Plan period is fully utilised for providing additional passenger amenities on Indian Railways. While making such reallocations from one Division/District to another, from one Zone to another, care should be exercised to ensure that the amounts thus reallocated are reimbursed later, so that the progress of the provision of Passenger Amenities on any Division/District or Railway is not lopsided in comparison to others.

Government in their reply¹²¹ stated that instructions had been issued to the Railway Administrations that funds allotted for passenger amenities should be fully utilised and lapses of funds avoided. Government stated further:—

The Railways have been asked that officers dealing with this subject should

watch the physical progress of such works and ensure that the programme of amenities is completed in time, and, if at any stage it is visualised that the allotment made to a Railway is not likely to be utilised in full, the surplus funds should be surrendered to the Ministry of Railways early enough for its allotment by reappropriation to some other Railway which is in need of additional funds.

Railway freight

Referring to the freight structure on the Railways the Committee wrote¹²² as follows in their Twenty-sixth Report:

As the work of revising the existing freight structure of Indian Railways has been assigned to the Railway Freight Structure Enquiry Committee, the Committee do not propose to offer any detailed recommendations on the subject. The Committee would like to make the following broad suggestions:

(i) The freight structure should be such as to ensure the financial stability of the Railways;

(ii) With the above proviso, it should be such as to give some consideration to the cottage and the newly developing small scale industries;

(iii) It should also give some consideration to the export and import traffic. This consideration should be given to the traffic to and from the major as well as the intermediate ports so as to rationalise the movement of traffic with a view to avoiding undue congestions at the major ports.

Government in their reply¹²³ stated that the recommendations had been referred to the Freight Structure Enquiry Committee and based on that Committee's findings the action taken was as follows:—

(i) above: Accepted. The new scales had been evolved as a result of thorough examination and a re-assessment of the financial needs of railways in the light of information available up to date. The new scales of rates were expected to yield

¹²¹ 30 R (EC—2 LS), p. 5.

¹²² 26 R (EC—1 LS), para 31, p. 11.

¹²³ 32 R (EC—2 LS), pp. 6—9.

at the present level of goods traffic an additional revenue of Rs. 9.6 crores per year. On parcels traffic an additional revenue of Rs. 2 crores was expected.

(ii) above: Accepted. All handloom products including khaddar were charged at concessional rates. It had been decided to provide a lower classification for a number of products of cottage industries than the "corresponding classes", for those products in the new rate structure. The recommendation to grant 25 per cent. concession in freight for the products of cottage industries had also been accepted in principle.

(iii) above: Accepted. The actual concessional rates to be given is under consideration.

Rate Registers in the Railways

In the same Report the Committee also observed¹²⁴ that in the absence of rate registers in the Railways there were a number of cases, where the rates were either undercharged or overcharged, which resulted in loss of revenue to the Railways in one case and a lot of unnecessary harassment to the public in the other. They recommended as follows:—

The Committee recommend that Railways should be ready to introduce the rate registers on all Railways soon after the date the Government take final decision on the recommendations of the Railway Freight Structure Enquiry Committee. This will also enable the public to obtain an authorised rate from a station for the traffic they intend to book from there instead of approaching the Railway Headquarters or the Rate Quotation Bureaus.

Government accepted¹²⁵ this recommendation and stated that action would be taken to introduce Rate Registers at the appropriate time as had been suggested by the Committee.

Control of expenditure in the Railways

In their Thirty-first Report the Committee, while dealing with finance and accounts of the Railways, observed¹²⁶ that they were of the view that the procedure in regard to control of expenditure on the Railways was unsatisfactory and required improvement. They wrote as follows:

In respect of revenue expenditure scrutiny of the money spent and the control are at present limited to seeing that the budget allotments are not exceeded that the expenditure has been properly sanctioned and that the canons of financial propriety are observed. Control is, therefore, exercised largely with a view to fulfilling the requirements of Appropriation Audit. Even though the Budget estimates are framed and works sanctioned after the proposals for staff and works are scrutinised with reference to the anticipated requirements, the expenditure actually incurred is not at present correlated to performance and scrutiny and control are not exercised so as to see whether an increase or decrease in performance is reflected in the related items of expenditure. The services rendered by the Railways, namely transport, have a commercial value, and are measurable in quantitative terms. They earn a revenue directly related to the quantum of the services. Managerial control would reveal wastage and inefficiency and would also help in a flexible adjustment of expenditure almost simultaneously with changes in performance. The nature of the Railway expenditure is therefore, such that it should be possible to control it with reference to the performance also, and not as in the case of other Government Departments, merely against Budget allotments. This is referred to as managerial control, as opposed to the Budgetary control at present being exercised.

Government in their reply¹²⁷ stated that the recommendation had been accepted.

¹²⁴ 26 R (EC—1 LS), para 38, pp. 13-14.

¹²⁵ 32 R (EC—2 LS), p. 9.

¹²⁶ 31 R (EC—1 LS), paras 19-20, pp. 5-6.

¹²⁷ 51 R (EC—2 LS), p. 2.

In the same Report the Committee recommended¹²⁸ that it was necessary to exercise proper managerial control on expenditure under "Ordinary Working Expenses" in the Railways. They wrote that a number of steps would have to be taken before it was possible to institute such a control. Giving details of this procedure the Committee wrote as follows:—

First of all, the items of expenditure will have to be separately analysed as "controllable" and "non-controllable" that is, those which have a more or less direct relationship with performance statistics and those which have not. The second step would be to ascertain which statistics of performance should be correlated to the various items of expenditure. The next step would be to make an exhaustive study of the various causes affecting each of these correlated performance units and to work out a procedure for making a quantitative assessment of their effect as far as possible. Moreover, at present the District is taken as the smallest unit for purposes of expenditure control. While this may be good enough for many items of expenditure, for many others, the major sheds, marshalling yards, stations etc., should be separately considered and individual attention paid to them.

Government in their reply¹²⁹ stated that the recommendation had been accepted and that a detailed study of the various causes affecting the expenditure relating to each unit of performance would have to be carried out. A beginning was being made in this direction.

*Fluctuation of costs under various heads
in locomotive production*

In their Thirty-second Report while dealing with the cost of production of locomotives at Chittaranjan, the Com-

mittee observed¹³⁰ that the cost of production per locomotive under various heads had fluctuated widely and the same under the heads "Direct Stores" and "Stores overheads—Labour" had increased in 1954-55 when compared to 1952-53. The Committee recommended that the reasons for this fluctuation and particularly the increase under the two heads should be analysed and remedial action taken as necessary.

Government in their reply stated¹³¹ that the reasons for fluctuations under various heads in the cost of production per locomotive at C.L.W. were analysed. During the period of expansion it was difficult to develop each of the shops to a uniform level. In order to keep locomotive production at the maximum the over-all production was related to the performance of the best shop. To achieve this, the output of other shops was balanced by procuring from indigenous sources as well as from abroad, the components in short production. As more and more shops reached the best performance level, there was gradual reduction of the items procured from outside. This caused fluctuations under various heads. Changes of far-reaching nature were also made in the accounting methods which contributed to the variations in cost under various heads. Government stated that the cost of production per locomotive had shown a consistent downward trend over all these years.

Loans to hotel industry

In their Thirty-fourth Report on Tourism, while dealing with the

¹²⁸ 31 R (EC—1 LS), para 31, p. 8.

¹²⁹ 51 R (BC—1 LS), pp. 6-7.

¹³⁰ 32 R (BC—1 LS), para 33, pp. 7-8.

¹³¹ 74 R (BC—2 LS), pp. 9-13.

promotion of the Hotel Industry, the Committee observed¹⁵³ that the Hotel Federation had submitted a memorandum to Government in which they had made a request for grant of loans and grants-in-aid to develop the hotel industry. Commenting on this the Committee wrote as follows:—

The Committee are also not in favour of giving any grants-in-aid for this purpose. They are, however, of the opinion that Government should use its good offices to see that the hotel industry gets the loans to a reasonable extent from the Banks, the State Insurance Corporation and/or the Industrial Finance Corporation.

In their reply, Government stated¹⁵⁴ that the recommendation was acceptable. As far as loans from the Life Insurance Corporation was concerned, the most that the Corporation could do in assisting the Hotel Industry was in suitable cases to evaluate the hotel property and advance a certain percentage of its value as mortgage loan. Government stated further as follows:—

The question of bringing the hotel industry within the definition of 'INDUSTRIES' is at present under consideration of the Government of India. If and when the Industrial Finance Act is suitably amended, it will be possible for the hotel industry to get loans from the Industrial Finance Corporation.

The general question of granting loan to the hotel industry by the Government on easy terms of repayment is under the active consideration of the Government of India.

Loans to tourist agents for purchase of tourist coaches

In the same report the Committee suggested¹⁵⁵ that the question of granting loans to recognised travel agents repayable in easy instalments for the purchase of tourist coaches might be considered with advantage by the Ministry of Transport.

Government in their reply¹⁵⁶ stated as follows:—

It is not considered desirable to encourage travel agents to purchase tourist coaches because it is a well accepted principle of the travel trade that a Travel Agent should not become a carrier or vice versa. A travel agent is expected to have equal consideration for all modes of transportation whether railways, airways or roadways. If he himself becomes a road transport operator, he would tend to interfere with other modes of transportation. However, it has been decided to persuade the State Transport Corporations in big cities like Delhi, Bombay, Calcutta and Madras to run tourist coaches.

Financial propriety in Community Development work

While dealing with the Ministry of Community Development in their Thirty-eighth Report the Committee urged¹⁵⁷ the need for inculcating the spirit of strictest financial propriety among officials as well as the public workers in charge of Community Projects, and to lay down minimum accounting standards and to insist on their maintenance. It

¹⁵³ 34 R (EC-1 LS), para 108, p. 32.

¹⁵⁴ 52 R (EC-2 LS), pp. 55-56.

¹⁵⁵ 34 R (EC-1 LS), para 155, p. 43.

¹⁵⁶ 52 R (EC-2 LS), pp. 57-58.

¹⁵⁷ 38 R (EC-1 LS), para 146, p. 56.

was also necessary to create a machinery or agency responsible for and capable of keeping a vigilant eye in respect of any lapses. The Committee wrote further as follows:—

The fact can never be overemphasised that the funds earmarked for rural welfare should not only be regarded as a sacred trust; but also that it is up to the Government to see that the most stringent precautions and checks are provided to ensure against any possible misuse or dissipation of such funds.

Government in their reply¹⁰⁷ stated that the C.&A.G. had already laid down the accounting procedure and rules to be adopted in respect of the transactions connected with the CD/NES programme. These were being followed.

Allocation of finances for development of ports

In their Fifty-first Report the Committee commented¹⁰⁸ as follows on the allocation of finances in the First Plan on schemes for development of major and minor ports:—

It is significant to note that the schemes included in the First Plan of rehabilitation, modernisation and expansion of facilities at the major ports were estimated to cost about Rs. 61 crores; whereas the development schemes planned for execution at the minor ports were estimated to cost only Rs. 2.4 crores. When it is remembered that the minor ports handle about 1/8 of the traffic handled by all major ports taken together, it would be apparent that the development of minor ports which are the sentinels of the country, has not received adequate attention during the First Plan.....

In the Second Five Year Plan, the funds earmarked for the development of minor ports (which include intermediate and sub-ports also) are only Rs. 5 crores, against Rs. 81 crores for the major ports i.e. the former are only 1/16th of the latter despite the fact that amount of traffic handled by the minor ports is about 1/8th of that by the major ports. This disproportionate allocation of funds, in the opinion of the Committee, is partly due to a general unhealthy tendency towards over-centralisation. It is significant to note that the schemes for development of minor ports, as formulated by the maritime State Governments were curtailed on the basis of the recommendations of the Officer on Special Duty.

This Officer has, however, been able to visit only about 70 minor ports against a total of 226 ports. Besides, in a number of cases, he has curtailed the schemes on the ground that no work should be taken up till the increase in trade is well established.

Government in their reply¹⁰⁹ stated that that it was not appropriate to compare the proportion of funds allocated for development of minor ports to those allocated for the development on major ports with the corresponding proportion of trade handled. A minor port provided facilities mainly for sailing vessels, lighters and other small craft for which depths of say 10 feet were adequate. On the other hand, major ports had to be all-weather ports capable of sheltering ocean-going liners with draft of the order of 30 feet. The relative costs of say a wharf would be about Rs. 500/- per foot for lighter and perhaps Rs. 5,000/- per foot for steamers. Further, the facilities to be provided at major ports like heavy machinery and equipment like cranes etc., were not the same as for minor ports.

¹⁰⁷ 63R (EC—2LS), p. 13.

¹⁰⁸ 51R (EC—1LS), paras 48 and 55-56, pp. 18-20.

¹⁰⁹ 82R (EC—2LS), pp. 44-45.

Estimates Committee of Lok Sabha

The Committee commenting on this reply wrote as follows:—

It is not the intention of the Committee that the same amount should be spent on the minor ports as is done on major ports.

They, however, feel that the present allocation of funds suggests a tendency towards over centralisation of port facilities at the major ports. The object of the recommendation was, therefore, to suggest the need for developing a larger number of minor ports so that larger volume of traffic might be directed to them and that the concentration of traffic at the major ports might be reduced. . . . They, therefore, reiterate that funds should be allocated for the development of minor and intermediate ports commensurate with the need for fulfilling this purpose.

One officer for finance and accounts functions of Ordnance Factories

In their Fifty-fourth¹⁴⁰ Report on Ordnance Factories the Committee recommended that the financial and accounting duties should be performed by one officer. They wrote as follows:—

The Committee feel that Finance and Accounts are complementary to each other especially in a manufacturing concern and it would, perhaps, be an advantage if they are performed by one Officer as was the position prior to 4/52 and is still the position in each of the Ordnance Factories. In this connection, the Committee would like to refer again to the practice obtaining on the Railways where the financial and accounting duties are performed by the Financial Adviser and Chief Accounts Officer who functions under the General Manager of the Railway Administration but has the right of

approach to the Financial Commissioner, Railways, if necessary.

Government in their reply¹⁴¹ stated that prior to April, 1952 both the work was being looked after by one officer. However, as the volume and complexity of the work increased both on the accounts side and the finance side, it was found that the work load was too heavy for one officer and a separate whole-time post of DFA(Fys) for financial matters was created. Government stated that both these officers were available all the time to the DGOF for advice and the setting up of the Board of Management in which both these officers were members, further facilitated in bringing about the necessary coordination and close consultation which the Estimates Committee had in view.

Resuscitation of Renewal and Reserve Fund for Ordnance Factories

In the same Report the Committee recommended¹⁴² that the Renewal and Reserve Fund for Ordnance Factories should be resuscitated so as to enable the factories to replace and modernise plant and machinery. They observed further that if, however, Government still considered that there was no need for an R. & R. Fund, the question of placing more funds at the disposal of the Director General of Ordnance Factories for replacement of plant and machinery should be considered.

Government in their reply¹⁴³ stated that this matter was considered on

¹⁴⁰ 54R (EC—1LS), para 58, p. 29.

¹⁴¹ 117R (EC—2LS), pp. 30-31.

¹⁴² 54R (EC—1LS) para 101, pp. 46-47 and 68R. (EC—1LS), para 53, p. 15.

¹⁴³ 56R (EC—2LS), pp. 30-32.

several occasions and it had been decided not to resuscitate the R/R Fund. Government had, however, taken several measures for replacing the worn out plant and machinery of Ordnance Factories.

Funds for construction of village roads

In their Fifty-ninth Report on National Highways and Roads the Committee urged¹⁴⁴ for greater allocation of funds to the village road cooperative fund for construction of village roads. They wrote as follows:—

The Committee also feel that the allocation of Rs. 60 lakhs for the village road co-operative fund is too small and recommend that the allocation should be suitably increased and that the panchayats of the villages should be encouraged and brought fully into the picture to take full advantage of the scheme. The feasibility of entrusting the construction of village roads under this scheme to the Gram Panchayats, suitable technical supervision being provided by the State P.W.D. might be examined.

Government in their reply¹⁴⁵ stated as follows:—

The sum of Rs. 60 lakhs earmarked from the Central Road Fund (Ordinary) Reserve in 1953-54 for grants to States has now been used up. A further sum of Rs. 60 lakhs has been set apart for utilisation during 1958-59 and the next two years of the current plan at the rate of Rs. 20 lakhs per year. This sum is available for allotment to all States/Administrations as hitherto. The terms of the scheme have also been liberalised as indicated below:—

(1) The amount of grant from the Central Road Fund (Ordinary) Reserve has been raised from one-third to one-half of the cost of each work. The remaining half is to be shared equally by the State Government/Administration and by local contribution.

(2) Grants will be made on merits for suitable works and separate lump amounts have not been earmarked for any State/Administration.

The State Governments/Administrations were invited to submit proposals for financial assistance in June 1958. Proposals have been received from Andhra Pradesh, Assam, and West Bengal.

Loans for mechanisation of sailing vessels

In their Sixty-second Report on Shipping the Committee dealt¹⁴⁶ with the question of mechanisation of sailing vessels and observed that it had been accepted in principle that once the sailing vessels were brought under the control by legislation, financial assistance should be given to owners to mechanise their crafts. The Committee recommended that the feasibility of giving the financial assistance for mechanising the sailing vessels, without waiting for the enactment of the proposed legislation should be examined. The Committee felt that it should be possible to do so by departmental action.

Government accepted¹⁴⁷ this recommendation and stated that all applicants furnished adequate financial security would be considered for giving financial assistance.

Shipping freights

In the same Report while dealing with Shipping freights the Committee recommended¹⁴⁸ the setting up of a standing

¹⁴⁴ 59R (EC—1LS), para 94, p. 27.

¹⁴⁵ 66R (EC—2LS), pp. 58—63.

¹⁴⁶ 62R (EC—1LS), paras 150—153, pp. 39—40.

¹⁴⁷ 53R (EC—2LS), p. 7.

¹⁴⁸ 62R (EC—1LS) para 167, p. 44.

machinery for the review of freights and for disposing of disputes. They wrote as follows:—

The fixation of freight rates is one of the statutory duties of the Directorate General of Shipping. At present there is no expert machinery for the purpose. Conclusions are arrived at after a general examination of the operational costs and other factors. Rates are settled by mutual discussion and in some cases, formal advisory boards are appointed to go into *ad hoc* questions of freight. The Committee suggest that the feasibility of creating a standing machinery for the review of freights and for disposing of disputes regarding freights on the same lines as the Railway Rates Tribunal should be examined. Feasibility of entrusting this work to the Railway Rates Tribunal should also be examined.

Government in their reply¹⁰⁰ stated that the Rail-Sea Coordination Committee examined this question and came to the conclusion that it was not necessary at this stage to set up any standing machinery for freight fixation. Government stated further as follows:—

Whenever any special circumstances, justify a detailed enquiry, Government could exercise their powers under the Control of Shipping Act, 1947 to set up an *ad hoc* Board for holding such an enquiry. Moreover it may be stated that the Central Government have powers to fix rates even without any formal reference to a Shipping Rates Advisory Board when considered necessary. It is, therefore, felt that it is not necessary to create a standing machinery for freight fixation as suggested by the Estimates Committee.

It is also considered that no standing machinery is necessary for disposal of disputes regarding shipping freight and that it will not also be feasible or practicable to refer all such disputes relating to shipping freight rates to the Railway Rates Tribunal in view of the specific statutory duties laid down for the Tribunal in the Indian Railways Act, 1890.

Price of Milk of Military Dairy Farms

In their Sixty fourth Report, on Military Dairy Farms the Committee¹⁰⁰ dealt with the price of milk supplied by these farms. They wrote as follows:

There is at present a number of milk supply schemes in various towns working under conditions more or less similar to those in the Military Dairy Farms. They are also engaged in Dairy maintenance, milk production pasteurisation and distribution. The Committee feel that it should be possible to compare the rates fixed for Military Dairy Farms with those charged by such organisations. It appeared to them that even after making due allowance for the quality of the products, the rates of Military Farms were much higher than the selling rates of Government or private farms in the adjoining areas.

Government in their reply¹⁰¹ stated as follows:—

The rates of Military Farms are relatively high, because the milk is produced there from their own herds maintained in ideal conditions under expert veterinary care in sanitary accommodation conforming to all the requirements of the Medical authorities; also, the milk is pasteurized, cooled and delivered twice a day at customers' doors in sterilized containers. The accounting system of the Military Farms, in most cases, differs from those of other Government Farms; in the case of the Military Farms, the minutest details of the expenditure incurred (direct or indirect, cash and cost including the cost of supplies made and services rendered by other departments, administrative charges at all levels including portions of those at Army Headquarters and the cost of assessed element of leave, superannuation allowances, etc.) are debited to the farms accounts. (No other Government Farm is known to be maintaining its accounts in such an elaborate form). The cumulative charges under the different categories, it is felt, might be the reason for the difference in sale rates. Private farms purchase large quantities of milk. The standards of hygiene and processing adopted by them are also not the same as those of the Military Farms.

¹⁰⁰ 33 R (BC—2LS) p. 21.

¹⁰¹ 64 R (BC—1LS) para 15, p. 6.

— 35R (BC—2LS) pp. 27-28.

Government also stated that the sale rates had been brought down considerably at all the farms.

Commenting on this reply the Committee wrote as follows:—

Notwithstanding the variations that may exist in the conditions in which the Military Dairy Farms function as compared to the Private Dairy Farms, there is a case for making a comparative study of the selling costs of the two categories of farms and keeping down the costs in the Military Dairy Farms to the minimum.

Funds for increasing shipping tonnage

In their Sixty-fifth Report on Shipping the Committee dealt¹⁵² with the acquisition of shipping tonnage during the Second Five Year Plan and wrote as follows regarding the finances required for this:—

Looking to the upward trend in the present market, and the uncertainty of securing fixed time schedules of delivery, the Committee recommend that the Ministry should continue to take effective steps to secure the requisite funds from the Planning Commission without which it would not be possible to procure any tonnage even in the third plan and the industry will have to face the same situation which it is facing now.

Government in their reply¹⁵³ stated as follows:—

An approach was made to the Planning Commission for additional funds to the extent of Rs. 45 crores in order to attain the Second Plan target of 9 lakhs GRT. The matter was discussed subsequently with the representatives of the Planning Commission and the Ministry of Finance and ultimately at a meeting held in December, 1956 the Finance Ministry's representative indicated that "in view of the fact that the expenditure involved

was mainly in foreign exchange, the Finance Minister had suggested that the consideration of the proposal of the Ministry of Transport should be postponed for the present" and that "the proposal could be considered afresh after about a year depending upon the financial position then obtaining in the country.

Since the beginning of 1957, however, both the foreign exchange position and the internal financial position of the country have become more acute with the result that the hope of getting any additional provision for shipping for the Second Plan are virtually remote now.

Indian Shipping Development Fund

In the same Report the Committee recommended¹⁵⁴ that the feasibility of creating an Indian Shipping Development Fund with sufficient capital reserve should be carefully examined.

Government in their reply stated¹⁵⁵ that the fund had since been established.

Rates of Commission for selling Instruments produced by Ordnance Factories

In their Sixty eighth Report on Ordnance Factories the Committee wrote¹⁵⁶ as follows regarding commission agents appointed for selling mathematical instruments produced by Ordnance Factories:—

The Committee learn that four Commission Agents have so far been appointed for the sale of mathematical instruments produced in the Ordnance Factories and that it is proposed to increase this number further. They further understand that rates of commission allowed by the Ordnance Factories are not

¹⁵² 65R (EC-1LS) para 52, p. 19.

¹⁵³ 61R (EC-2LS) pp. 27-30.

¹⁵⁴ 65R (EC-1LS) para 95, p. 29.

¹⁵⁵ 61R (EC-2LS) p. 2.

¹⁵⁶ 68R (EC-1LS) para 113, p. 33.

Estimates Committee of Lok Sabha

attractive and do not compare well with those offered by other manufacturers. The Committee suggest that the question regarding the rates of commission as well as the number of commission agents may be examined afresh to see whether any improvements could be made so as to increase the production and sales to the extent possible.

Government in their reply stated¹⁰⁷ that the matter had been carefully examined and it was considered that the rates of commission were quite reasonable and in line with commercial practice.

(To be continued)

Instead of the function of governing, for which it is radically unfit, the proper office of a representative assembly is to watch and control the government: to throw the light of publicity on its acts: to compel a full exposition and justification of all of them which any one considers questionable; to censure them if found condemnable, and, if the men who compose the government abuse their trust, or fulfil it in a manner which conflicts with the deliberate sense of the nation, to expel them from office and either expressly or virtually appoint their successors. This is surely ample power and security enough for the liberty of the nation.

JOHN STUART MILL,
in *Representative Government*.

Procedural Matters

Lok Sabha: Convention re: tabling of adjournment motions

The first session of Third Lok Sabha commenced on April 16 and sittings held on April 16 and April 17 were devoted to oath-taking by Members and choosing the Speaker. A number of adjournment motions had been received for the opening day of the session but according to the practice started in 1957,* they were to be taken up at the sitting of Lok Sabha to be held immediately after the President had addressed both the Houses of Parliament assembled together. Accordingly when the Lok Sabha met on April 18 half an hour after the President's Address, the Speaker referring to the notices of adjournment motions received till then observed:

... I desire that a convention might be established henceforward that no adjournment motion might be moved on the day we hear the Address of the President... Ordinarily, we only transact formal business on this day... and do not enter into controversial matters. We attach importance to the Address by the President.**

The House agreed and the notices of adjournment motions were postponed to the next sitting.

Adjournment Motion Not Same as Censure Motion

On August 6 notices of a number of adjournment motions had been given

by Members with reference to the Chinese aggression in Ladakh and the Speaker informed the House that he would decide the admissibility of these motions after hearing the statement on the subject which the Prime Minister was to make on that day. A member, who had given one of these notices of adjournment motions, submitted that in that case his motion would lose all its implications of censuring the government. In reply to this the Speaker observed:

If the hon. Member was so particular, he ought to have given a direct notice of censure motion. We have been rather confusing the two... Adjournment motion does involve a certain amount of censure but really it is not the same as a censure motion. If it (adjournment motion) is carried then it is very strong disapproval of policy. There is a separate provision for censure motion.†

Madras Legislative Council: Admissibility of Certain Questions

In the Madras Legislative Council a Member had given notice of three questions asking for information as to the number of cases admitted during a particular period in the Government Hospital, Kancheepuram for (a) transverse presentation, (b) Fother Gill's Operation, and (c) forceps delivery and the number that proved fatal. These questions had been admitted by the Chairman.

*L.S. Deb. (II) 10-5-1957 c. 25.

**L.S. Deb. 18-4-1962 cc. 43-44.

†L.S. Deb., 6-8-1962 cc. 111-112.

Procedural Matters

On July 3, 1962 the Leader of the Opposition raised a point of order in the Council in regard to the admissibility of these questions, his objections being (i) that it was not parliamentary practice to ask questions in regard to particular persons in their professional capacity; (ii) that the questions were of such a nature that they were likely to produce in the public mind a state of alarm; and (iii) that these questions were an abuse of the right of asking questions and hence liable to be disallowed under rule 34* of the Council Rules.

In a ruling given on July 7, the Chairman over-ruled the objection, observing:

Reference to Individuals

There is no reference whatsoever to any individual person in any of these questions. Rule 32(2) of the Council Rules provides that the question must not publish any name not strictly necessary to make the question intelligible. If any of the questions had published any name, I would have disallowed the question myself.

It is not also correct to say that questions cannot be asked with regard to particular persons in their professional capacity. Clause (7) of Rule 32 says that the question must not refer to the character or conduct of any person except in his official or public capacity. Therefore, what is prohibited is only a reference to the character and conduct of any person in his private or personal capacity. Under the rule, as it stands it is permissible to ask questions in regard to the conduct of any person in his official or public capacity. In parliamentary practice, the only accepted condition is that no names shall be mentioned.

Criteria for Admission & Chairman's Duty

The objection that the nature of the question is such that it is likely to produce in the mind of the public a state of alarm cannot be accepted. It cannot be presumed that the answer to the questions will disclose a large number of

fatal cases and that they might produce a state of alarm in the public minds. Even if that be so, it will not be a ground to justify the question being disallowed because under the rules that is not a ground on which questions can be disallowed.

The admissibility or otherwise of a question is judged by the Chairman with regard to their compliance with the conditions laid down in the relevant rules and he is not and cannot be influenced by any consideration as to whether they will cause any embarrassment to the government or whether they may create an awkward situation or that it is not in the public interest. The Government alone are the best judges to decide as to whether an answer to a question would or would not be in the public interest and it is open to them to answer or refuse to answer a question in the public interest. The Chair cannot compel them to give answer, or to furnish answer in a particular manner. The Chair has no doubt a duty to ensure that baseless questions are not admitted lest unfounded allegations or insinuations are given undue publicity.

Whether abuse of right?

The next question is whether these questions are an abuse of the right of asking questions. On the face of these questions, there is nothing to show that they constitute an abuse of the right of asking questions. As members are aware, the right of is a very valuable right enjoyed and exercised by a private member. Questions are intended mainly to elicit facts on matters of public importance within the cognizance of the Minister to whom they are addressed. The responsibility of the Chairman in regard to questions is limited to their compliance with the Rules of the House. The questions under reference only seek to elicit information in regard to a Government Hospital. It cannot be denied that this is of public importance. They relate to public affairs and matters of administration for which the Minister is responsible. It is well to mention here that the Hon. Minister is ready to furnish answer to these questions.

For these reasons I over-rule the objection raised.

*Rule 34 reads as follows :

34(1) The Chairman shall decide on the admissibility of a question and shall disallow any question when, in his opinion it is an abuse of the right of questioning or is in contravention of the rules.

No Point of Order on Admissibility

The Chairman then proceeded further to deal with the fundamental issue whether the admissibility of a question could be made the subject-matter of a point of order or debate in the House. On this he observed:

Rule 34 of the Council Rules provides that the Chairman shall decide on the admissibility of a question. The Chairman is empowered to disallow any question which, in his opinion, is an abuse of the right of interpellation. . . . It follows that the Chairman is the one and only authority empowered to admit or disallow any question and once he decides on the admissibility of a question, his decision is final. It cannot be questioned in any manner.

Sir Erskine May says that the Speaker's responsibility in regard to questions is limited to their compliance with the Rules of the House. He further says that the refusal of a question cannot be made the subject of debate. It is also stated that a Member cannot raise a point of order and read out a question disallowed at the Table. It follows from the above that likewise a point of order cannot be raised on the admissibility of a question already admitted by the Chairman in accordance with the rules. . . .

Punjab Council: House Adjourned owing to absence of Senior Minister to pilot Bill

On May 18 when further consideration of the Punjab Security of Land Tenures (Amendment and Validation) Bill was to be resumed in the Punjab Legislative Council it was noticed that there was no *senior* Minister present in the House to pilot the Bill. The Chair, taking the sense of the House, adjourned the House for about half an hour.

At the resumed sitting of the House the Minister of State for Technical Education expressed regrets for his absence and explained briefly the reasons therefor. The House then resumed consideration of the Bill.

Maharashtra Assembly: Presentation of Additional Budget

On March 27 the Finance Minister presented in the Maharashtra Legislative Assembly the main Budget for the year 1962-63 providing for standing charges and for continuing schemes already in progress. A motion for vote on account for four months was moved on March 29 and was agreed to by the House. On June 7 the Finance Minister presented an additional budget incorporating therein provision for new items and for additional expenditure to be incurred on items already included in the main Budget presented on March 27. A point of order was raised in the House as to whether an additional budget could be presented during the same financial year.

Ruling in the affirmative, the Speaker observed:

This article [Art. 202(1)] does not prohibit the presentation of the Budget in parts. In other words, a budget can be presented for the purpose of taking a vote on account,—an interim budget so to say—and the final budget can be presented later on. Rule 213 of the Lok Sabha Rules specifically provides for presentation of the budget to the House in two or more parts.

How the need for Additional Budget arises.

Ordinarily, there is no occasion for presentation of the budget in parts, but this becomes necessary when the old House is dissolved and a new House is formed after the Elections. It is not advisable to present a complete budget before the old House for taking a vote on account, because that involves policy decisions on vital matters which only a new Government and new House can take. At the same time it is necessary to provide Government with the necessary funds for running expenditure, to keep Government machinery moving. It is, therefore, customary to present a sort of standing-charges budget for the purpose of taking a vote on account and subsequently augment those provisions either by presenting an additional budget containing new schemes and services or again presenting a modified budget, that is to say, the old budget including necessary modifications.

Procedural Matters

Precedents

This position in law seems to accord with the practice followed in Lok Sabha in 1952, in 1957, as also in 1962. In all these years, interim budgets were presented in the Lok Sabha for obtaining a vote on account and a fuller modified budget was presented before the new House after the General Elections. There is nothing in the Constitution or in the Rules of procedure which prevents a similar course being taken here although our rules do not provide specifically, as in Lok Sabha, for presentation of the Budget in parts.

Maharashtra Rule 217

In 1952, a point was raised whether the Finance Minister was competent to present a second annual financial statement or budget for the same financial year under Art. 202 of the Constitution. This point, however did not survive for the simple reason that there was no second presentation of the budget, according to the facts disclosed in that case. Besides, the relevant rule, viz. Rule 122(A) of the (Bombay) Legislative Assembly Rules was slightly differently worded. Rule 122(A) required presentation of the budget to the Assembly on such day in the preceding financial year as the Governor may appoint. The words 'in the preceding financial year' seem to have been deleted from the existing corresponding Rule No. 217. This seems to have been done deliberately with a view to facilitating presentation of the budget even after the financial year has begun. In any event, it does not seem necessary that the whole of the financial statement, that is to say, the entire budget should be presented before the commencement of the financial year.

Why not Supplementary Demands?

No doubt, this marks a deviation from the existing procedure, the existing procedure being to present the budget to the old or new House—and this budget would naturally be a standing-charges budget—and augment the provision of the budget subsequently by means of a supplementary statement of expenditure. It was not considered proper and desirable that such supplementary demands, which in substance really formed part of the budget, should be presented to the House and considered by it, even while the budget was being discussed. No doubt,

an improvement was made in this position on the last occasion by insisting that the supplementary demands should come only after the budget was passed and Appropriation Act enacted. Even so, the position was not quite satisfactory. Hence the change in procedure well accords with the law and practice on the subject as explained above.

Position clarified by Finance Minister's Speech

This position also seems to follow from the speech made by the Finance Minister on the last occasion. He said in so many words that the budget he was presenting was only a standing-charges-budget and that the budget speech that he was making, did not contain many of the normal features which were usually found in a normal budget speech. He, therefore, said that Government would come forward with substantive financial proposals in the next session and he would also give a detailed financial review on that occasion.

Practical Aspects

Moreover, considering the matter from a practical point of view also, this course is more appropriate. If additional demands are moved not as the additional budget but as supplementary demands the members would be deprived of the opportunity to discuss the substantive proposals at the time of the general discussion on the budget and the general discussion would be a tame affair as the original budget is only for the standing-charges. By the presentation of the additional or the modified budget the members will have full scope to discuss the entire budget.

That is what is being done now, and not only I do not see any objection to it but also welcome the change in procedure which is in tune with parliamentary and constitutional principles.

Assam Assembly: Opprobrious Remarks as well as Tributes in respect of Officials to be avoided in Debate: Speaker's Ruling

In the course of his Budget speech in the Assam Legislative Assembly on June 11, 1962 a Member had made certain remarks against the Director of Health Services Assam. These remarks were

objected to through representations made outside the House to the Speaker by the Assam Medical Services Association as well as the Minister-in-charge of the Medical Department.

Referring to these remarks, the Speaker (Shri M. M. Choudhury) observed in the House on June 29 *inter alia* as follows:

...I find that some of the remarks are unhappy and verge on reflections on the personal conduct of the officer...I hope hon. Members refrain from making such remarks against high officials of the State....

I have also observed that during the course of debates some hon. Members, including the members of the Treasury Bench, on occasions have been giving high tributes to some Government officers... Sometimes such approbatory remarks create bickerings in the minds of other Government officers who are equally or more loyal and devoted in serving the Government. By such remarks also no good purpose is served to the country if a co-operative climate in the administration is not geared up. I, therefore, request that in future the members of this august House may please refrain from such approbatory remarks as well with regard to the Government officers unless it becomes very imperative in a debate.

Lok Sabha: Contradictory statements by Ministers: Not a subject for Point of Order

On June 11, in answer to a question* in Lok Sabha, the Minister of International Trade in the Ministry of Commerce and Industry laid a statement on the Table of the House. A Member thereupon rose a point of order to refer to certain discrepancy between the position as given in the statement and as stated sometime in the past by another Minister.

The Speaker observed:

There is no point of order. I have stressed it so many times that if the interpretation of any law, statute, provision of Constitution, regulation or enforcement of rules is involved, then only a point of order arises.

When the Member enquired as to what was to be said about misleading the House, the Speaker observed that the procedure to point out inaccuracy in the statement of a Minister was different and there was no point of order in that.

Lok Sabha: Modification of a Motion adopted by the House by Subsequent Motion

On September 5, 1962, the Deputy Minister of Law, while moving a motion in Lok Sabha for concurrence in the recommendation of Rajya Sabha, for reference of the Limitation Bill to a Joint Committee of the Houses, inadvertently gave the names of 30 Members of Lok Sabha, instead of 20 Members, proposed to be nominated to serve on the Joint Committee. The motion was adopted, and a message sent to Rajya Sabha accordingly.

Subsequently, on September 7, 1962, the Minister of Law, moved another motion omitting 10 names from the earlier motion and ordering necessary correction to be made in the earlier message to Rajya Sabha.

In this connection, a point of order was raised by a Member to the effect that the latter motion could not be moved in view of the provisions of rule 338 of the Rules of Procedure of Lok Sabha. The Speaker referring to *May's Parliamentary Practice* (16th Ed., page 416) ruled that a motion modifying another motion of

*S.Q. No. 1386

†L.S. Deb., 11-6-1962, cc. 9308-99.

Procedural Matters

the same session by omitting or altering subsidiary portions of it was in order so long as it was not sought to reverse it in substance. He added that patent errors in a motion could also be corrected by a subsequent motion.*

* * *

Lok Sabha: Amendment to Motion for Suspension of Member Not Permissible

On August 31, 1962, after the Minister of Parliamentary Affairs moved a motion for suspending Shri Ram Sewak Yadav from the service of the House for a week, a member sought to move an amendment to reduce the period of suspension to one day only. The Speaker ruled that the question on a motion for suspension of a member from the service of the House (under rule 374) has to be put by the Speaker forthwith, and no amendment to the motion could be moved. He further moved that if the House so desired, the suspension could be terminated on a separate motion adopted by the House.†

* * *

Resolution for removal of Chairman: Validity of Rule 143 of U.P. Council Rules

On July 11, 1962, the Lucknow Bench of the Allahabad High Court, dismissed a writ petition filed under Article 226 of the Constitution by Dr. A. J. Faridi, a member of the U.P. Vidhan Parishad, praying for a writ, direction or order in the nature of *mandamus*, against Shri R. V. Dhulekar,

Chairman of the U.P. Vidhan Parishad, the Secretary of the Vidhan Parishad and the Vidhan Parishad itself, to the effect:

(i) that the proceedings of the U.P. Vidhan Parishad held on March 2, 1960, relating to a notice of a Resolution for the removal of the Chairman be treated as *ultra vires* the Constitution and not effective as they contravened the provisions of Articles 183 and 185 of the Constitution, and

(ii) that the Chairman of the U.P. Vidhan Parishad be ordered to proceed according to the provisions of Articles 183 and 185 of the Constitution without applying Rule 143 of the U.P. Vidhan Parishad Rules, on the ground that the said Rule was *ultra vires* the Constitution and illegal.

The facts of the case were, briefly, that on the February 11, 1960, Dr. A. J. Faridi and eight other members of the U.P. Vidhan Parishad gave notice of a Resolution for the removal of the Chairman of the U.P. Vidhan Parishad from his office, under Rule 143 of the Rules of Procedure of U.P. Vidhan Parishad. This Rule provided that a Resolution for the removal of the Chairman could be moved only if the leave of the House was given for the purpose by 20 members of the House rising in support of the same when so required by the Chairman to do. On March 2, 1960, Shri R. V. Dhulekar, the Chairman of the U.P. Vidhan Parishad, put the question to the House regarding granting of the leave for moving the aforesaid Resolution. As only 18 members rose in their seats in support of leave being granted, the Chairman announced that the House had not granted leave for moving the aforesaid Resolution.

*L.S. Deb. 5-9-1962, cc 6227-33 & 7-9-1962, cc 6787-95

†L.S. Deb., 31-8-1962

Decisions from the Chair

Questions

Once a question has been admitted it is for the Minister to decide whether he wishes to answer it and in what terms. The Speaker cannot compel him or extract forcibly any answer out of him. If he gives an incomplete answer, the Speaker only makes a suggestion for a proper answer, but the remedy lies with the House.

[LS. Deb. 18-6-1962, cc. 11271; 11274-75]

* * *

Budget

The discussion on the General Budget should normally be arranged in such a way that the Finance Minister replies to the debate first in the Lok Sabha although no impropriety is involved if the reply is made first in the other House. If the Finance Minister has to announce any change in the taxation or financial proposals in the course of his reply, the debate must first be replied to in the Lok Sabha.

[LS. Deb. 10-5-1962, cc. 3755-56]

* * *

Debate

While speaking in the House Members should avoid raising their hands and

pointing their fingers as such gestures detract from the decorum of the House.

[LS. Deb., 17-5-1962, cc. 4887—99].

* * *

It is not proper for one House to anticipate the decisions of the other House in any matter and to raise objections on that basis.

[LS. Deb. 29.8.1962].

* * *

Motion

A motion, notice of which had been given and which lapsed due to the absence of the mover, can be taken up for the second time in the same session.

[Mys. Ass. Deb. 31-3-1962].

* * *

Election of Speaker

Even if there is one motion for choosing the Speaker, it has to be put to the vote of the House.

[LS. Deb. 17.4.1962. c. 23].

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Appendices

APPENDIX I

Statements showing the activities of the Houses of Parliament/State Legislatures in India during the period 1st January to 30th June, 1962

Name of the House/ Legislature	Session during the Period	Legislation		Questions					Committees													
		No. of bills passed	Starred	Unstarred	Short Notice	Names	No. of sittings held	No. of Reports presented														
		Government Members received	Private Members received	Ad-mitted	Ad-mitted	Ad-mitted	Ad-mitted															
1	2	3	4	5	6	7	8	9	10	11	12	13										
Lok Sabha	Two Sessions— (i) From 12th March to 30th March, 1962 (14 sittings). (ii) From 16th April to 22nd June, 1962 (51 sittings)	26	9679	1848*	961	4281**	459	30	Business Advisory Committee.	Committee on Absence of Members from the Sittings of the House	Committee on Estimates	Committee on Government Assurances	Committee on Petitions									
											1	5	2	1	4	4	1	24	2	1	3	1

* Includes 109 Short Notice Questions admitted as Starred Questions.

** Includes 3632 Starred Questions and 13 Short Notice Questions admitted as Unstarred Questions.

Journal of Parliamentary Information

1 2 3 4 5 6 7 8 9 10 11 12 13

Committee on Private Members' Bills and Resolutions	4	4	4	4	4	4	4	4	4	4	4	4	4
Committee on Public Accounts	10	10	10	10	10	10	10	10	10	10	10	10	10
House Committee	1	1	1	1	1	1	1	1	1	1	1	1	1
Joint Committee on Offices of Profit	2	2	2	2	2	2	2	2	2	2	2	2	2
Select Committee on the Customs Bill, 1962	1	1	1	1	1	1	1	1	1	1	1	1	1
Business Advisory Committee.	7	7	7	7	7	7	7	7	7	7	7	7	7
House Committee	6	6	6	6	6	6	6	6	6	6	6	6	6

8 Rajya Sabha . Three Sessions 26

(i) 37th Session.
From 12th March to 30th March, 1962 (13 sittings).

(ii) 38th Session.
From 17th April to 11th May, 1962 (18 sittings)

(iii) 39th Session.
From 14th June to 26th June, 1962 (11 sittings)

Andhra Pradesh Legislative Assembly. One Session. From 19th March to 1st April; and 18th June to 30th June, 1962 (23 sittings)

26	2558	1042	853	971†	55†	7	187†	85	23	12	2,023	1,006	187†	85	23
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Appendices

<p>Andhra Pradesh Legislative Council.</p> <p>One Session. Sixth Session : Commenced on 22nd March and had not concluded by 30th June, 1962 (11 sittings during the period under review)</p>	<p>11</p>	<p>203</p>	<p>197</p>	<p>36</p>	<p>9</p>	<p>..</p>			
<p>Assam Legislative Assembly.</p> <p>Two Sessions— (i) From 23rd March to 31st March, 1962 (8 sittings) (ii) Commenced on 30th June and had not concluded by 30th June, 1962 (23 sittings during the period under review)</p>	<p>15</p>	<p>415</p>	<p>393</p>	<p>1,175</p>	<p>1,121</p>	<p>7</p>	<p>4</p> <p>Committee on Government Assurances</p> <p>Committee on Estimates.</p> <p>Committee on Subordinate Legislation.</p> <p>Public Accounts Committee.</p>	<p>2</p> <p>3</p> <p>8</p> <p>8</p>	<p>1</p> <p>3</p> <p>1</p> <p>1</p>
<p>Bihar Vidhan Sabha.</p> <p>One Session. From 14th March to 31st May, 1962 (39 sittings)</p>	<p>4</p>	<p>3,231</p>	<p>2,012</p>	<p>373</p>	<p>357</p>	<p>338</p>	<p>258</p> <p>Committee on Estimates</p> <p>Committee on Government Assurances</p> <p>Committee of Privileges</p> <p>Committee on Subordinate Legislation</p> <p>House Committee</p> <p>Library Committee</p>	<p>3</p> <p>1</p> <p>1</p> <p>1</p> <p>1</p> <p>6</p>	<p>..</p> <p>..</p> <p>..</p> <p>..</p> <p>..</p> <p>..</p>

Journal of Parliamentary Information

	1	2	3	4	5	6	7	8	9	10	11	12	13
Bihar Legislative Council.		One Session, From 16th March to 31st May, 1962 (24 sittings)			496	437	2	2	5	5	Committee on Government Assurances	8	
											Committee on Private Member's Bills and Resolutions	2	1
											Committee of Privileges	1	..
											Committee on Subordinate Legislation	8	
											Housing Committee	5	..
											Library Committee	3	1
Gujarat Legislative Assembly.		One Session, From 17th March 1962 to 4th April, 1962 (14 sittings)	5		1310	847	29	29	67	18	Business Advisory Committee	2	2
											Committee on leave of Absence of Members from the sittings of the House	1	1
											Estimates Committee	6	1
											Committee on Private Member's and Resolutions	1	1
											Privileges Committee	3	1
Jammu & Kashmir Legislative Assembly.		Three Sessions : (i) From 26th February to 28th February, 1962 (1 sitting)	27		1,125	1,022	306	275	1		Committee of Privileges	2	
											House & Library Committee	1	..
											Rules Committee		1

Appendices

(a) From 4th April to 7th April, 1962 (3 sittings)

(aa) From 4th June to 9th July, 1962 (26 sittings)

Kerala Legislative Assembly :
One Session : from 26th February to 12th April, 1962 (31 sittings)

13	1495* 1495* (See footnote)	35	16	9	2
				Committee on Estimates	2
				Committee on Government Assurances	1
				Committee on Petitions	1
				Committee on Private Member's Bills and Resolutions	5
				Committee on Subordinate Legislation	4
				Public Accounts Committee	8
				Business Advisory Committee	2
				Committee on Delegated Legislation	100
				Committee on Private Member's Bills and Resolutions	1
				Estimates Committees	6
				House Committee	1
				Public Accounts Committee	3

Madhya Pradesh Vidhan Sabha :
Two Sessions :

(i) From 6th March to 5th April, 1962 (9 sittings)

(ii) From 25th June to 30th June, 1962 (5 sittings)

* Includes Starred and Unstarred Questions.

† No time was fixed for questions during March-April Session.

** Reports of the Committee of Second Vidhan Sabha were laid on the Table of the House.

Journal of Parliamentary Information

	1	2	3	4	5	6	7	8	9	10	11	12	13
Madras Legislative Assembly		2	2	4	5	6	7	8	9	10	11	12	13
One session : commenced on 29th March, 1962 and had not concluded by 30th June, 1962 (12 sittings during the period under review)					1,404	1,251	12	12			Business Advisory Committee	3	..
											Committee on Estimates	3	..
											Committee on Government Assurances	2	..
											Committee on Subordinate Legislation	6	..
											Joint Committee on the Madras Irayanam Inam Estates (Abolition and Conversion into Ryotwari) Bill, 1962	1	..
											Business Advisory Committee	1	..
Madras Legislative Council			2		355	316	1	1	8	7			
One Session : on 21st April and had not concluded by 30th June, 1962 (9 sittings during the period under review)													
											Assembly Rules Committee	2	
											Business Advisory Committee	7	7
											Committee on Absence of Members from the sittings of the House	1	1
											Committee on Private Members' Bills and Resolutions	3	3
											Estimates Committee	8	2
Maharashtra Legislative Assembly			33		1,054	753	274	186	175	68			
Two Sessions : (i) From 15th March to 30th March, 1962 (12 sittings)													
(ii) Commenced on 7th June and had not concluded by 30th June, 1962 (16 sittings during the period under review)													

Appendices

Library Committee	1	..	1	
Subordinate Legislation Committee	4	1		
Joint Committee on the Shivaji University Bill, 1962	6	1		
Joint Committee for framing rules and orders under the Bombay Legislature Members' Salaries and Allowances Act, 1956	2			
Joint Committee for allotment of accommodation to the Members for the Session Period	1			
Joint Ad-Hoc Committee on Additional and Alterations to the Council Hall Building	1	..		
Business Advisory Committee	4	4		
Committee on Private Members' bills and Resolutions	2	2		

	1	207	139	78	63	38	27
Maharashtra Legislative Council Two Sessions : (i) From 17th March to 30th March, 1962 (7 sittings) (ii) Commenced on 7th June and had not concluded by 30th June, 1962 One Session : From 15th March to 11th May, 1962 (15 sittings)	1	207	139	78	63	38	27
Mysore Legislative Assembly	6	477	410	101	76	20	1

Journal of Parliamentary Information

	1	2	3	4	5	6	7	8	9	10	11	12	13
Mysore Legislative Council			5		32	32	8	8	2				
One Session : From 15th March to 3rd April, 1963 (11 sittings)													
Orissa Legislative Assembly			14		1,560	917	140	117	38	9		2	
One Session : from 26th February to the 12th April, 1963 (30 sittings)													
Punjab Vidhan Sabha			19	..	1,207	881	215	160	30	18		3	1
One Session : from 13th March to 18th May, 1963 (39 sittings)													
Select Committee on the Mysore Agricultural Income Tax (Amendment) Bill, 1963													1
Committee on Assurance													2
Committee on Estimates													18
Committee on Public Accounts													5
House Committee													1
Select Committee on the Orissa Cess Bill, 1961													3
Business Committee													1
Committee on Estimates													2
Committee on Government Assurances													4
Committee on Subordinate Legislation													2
Committee of Privileges													1
Library Committee													5
Hindi Regional Committee													4

Journal of Parliamentary Information

	1	2	3	4	5	6	7	8	9	10	11	12	13
Uttar Pradesh Legislative Assembly.			6	4265	†5015	15	12	2477	294	Accommodation Advisory Committee		1	1
										Assurances Committee		3	1
										Business Advisory Committee		1	..
										Delegated Legislation Committee		1	..
										Public Accounts Committee		3	1
										Business Advisory Committee		3	..
										Committee on Assurances		15	:
										Privilege Committee		2	
Uttar Pradesh Legislative Council.			6	1	1109	807	58	53	38	25	38	53	

Uttar Pradesh Legislative Assembly.

* Two Sessions—
 ** (1) Session which ended on 6th March, 1962 (4 sittings).

(ii) Commenced on 26th March and had not concluded by 30th June, 1962 (40 sittings during the period under review).

Uttar Pradesh Legislative Council.
 One Session from 27th March to 5th June, 1962 (36 sittings).

Rules Revision Committee 1

Joint Select Committee on U.P. Milk
lin Basti Kabetra
(Sudhar Our Nipatan) Bill, 1960 1

*Includes 47 Starred and 1 Short Notice Questions admitted as Unstarred Questions.

**32 Short Notice Questions were admitted as Starred Questions.

***The last Session of the previous Assembly which had commenced on the 31st July, 1961 ended on the 6th March, 1962.

†Includes Short Notice Questions admitted as Starred Questions.

APPENDIX II

List of Bills Passed by the Houses of Parliament and assented to by the President during the period 1st January to 30th June, 1962

Serial No.	Title of Bill	Date of Assent by the President
1	The Constitution (Twelfth Amendment) Bill, 1962	27-3-1962
2	The Goa, Daman and Diu (Administration) Bill, 1962	27-3-1962
3	The Appropriation Bill, 1962	29-3-1962
4	The Union Duties of Excise (Distribution) Bill, 1962	30-3-1962
5	The Appropriation (Railways) Bill, 1962	30-3-1962
6	The Appropriation (Vote on Account) Bill, 1962	30-3-1962
7	The State Financial Corporations (Amendment) Bill, 1962	30-3-1962
8	The Indian Railways (Amendment) Bill, 1962	30-3-1962
9	The Dock Workers (Regulation of Employment) Amendment Bill, 1962	30-3-1962
10	The Estate Duty (Distribution) Bill, 1962	30-3-1962
11	The Additional Duties of Excise (Goods of Special Importance) Amendment Bill, 1962	30-3-1962
12	The Finance Bill, 1962	30-3-1962
13	The Appropriation (Railways) Vote on Account Bill, 1962	30-3-1962
14	The Hindi Sahitya Sammelan Bill, 1962	30-3-1962
15	The Advocates (Amendment) Bill, 1962	30-3-1962
16	The Telegraph Wires (Unlawful Possession) Amendment Bill, 1962	30-3-1962
17	The Indian Succession (Amendment) Bill, 1962	30-3-1962
18	The Air Corporations (Amendment) Bill, 1962	30-3-1962
19	The Appropriation (Railways) No. 2 Bill, 1962	15-5-1962
20	The Appropriation (No. 2) Bill, 1962	20-6-1962
21	The Finance (No. 2) Bill, 1962	22-6-1962
22	The Drugs (Amendment) Bill, 1962	27-6-1962
23	The Appropriation (No. 3) Bill, 1962	28-6-1962
24	The Appropriation (Railways) No. 3 Bill, 1962	28-6-1962
25	The President's Pension (Amendment) Bill, 1962	28-6-1962
26	The Advocates (Second Amendment) Bill, 1962	4-7-1962

APPENDIX III

List of Bills passed by the State Legislatures during the Period 1st January to 30th June, 1962

Administration

Andhra Pradesh

1. The Andhra Pradesh (Andhra Area) District Municipalities (Amendment) Bill, 1962.
2. The Andhra Pradesh (Andhra Area Village) Panchayats (Amendment) Bill, 1962.
3. The Andhra Pradesh (Andhra Area) Estates Abolition and Conversion into Ryotwari (Amendment) Bill, 1962.
4. The Andhra Pradesh (Telengana Area) Gram Panchayats (Amendment) Bill, 1962.
5. The Andhra Pradesh (Andhra Area) District Municipalities (Second Amendment) Bill, 1962.

Assam

1. The Assam Municipal (Amendment) Bill, 1962.
2. The Assam Municipal (Second Amendment) Bill, 1962.

Gujarat

1. The Gujarat Local Authorities Laws (Amendment) Bill, 1962.

Jammu and Kashmir

1. A Bill further to amend the Jammu and Kashmir State Evacuees (Administration of Property) Act, Samvat 2006.
2. A Bill to provide for the Registration of persons dealing with tourists and for matters connected therewith.
3. A Bill further to amend the Jammu and Kashmir Municipal Act, Samvat 2008.
4. A Bill to make effective provision for the prevention of corruption among Government Servants.
5. A Bill further to amend the Prevention of Corruption Act, Samvat 2006.

Kerala

1. The Kerala Fire Force Bill, 1961.
2. The Kerala Panchayats (Amendment) Bill, 1962.

Madhya Pradesh

1. The Madhya Pradesh Panchayats Bill, 1960.

Maharashtra

1. The Bombay State Guarantees (Amendment) Bill, 1962.
2. The Hyderabad District Municipalities (Amendment) Bill, 1962.
3. The Bombay Public Trusts (Amendment) Bill, 1962.
4. The Maharashtra Zilla Parishads and Panchayats Samitis (Amendment) Bill, 1962.
5. The Bombay Police (Amendment) Bill, 1962.
6. The Bombay Municipal Corporation (Amendment) Bill, 1962.
7. The Maharashtra Revenue Patels (Abolition of Office) Bill, 1962.

Mysore

1. The Mysore Additional Deputy Commissioners (Appointment and Powers) Bill, 1962.

Journal of Parliamentary Information

Orissa

1. The Orissa Hereditary Village Officers (Abolition) Bill, 1962.
2. The Orissa Estates Abolition (Amendment) Bill, 1962.

Rajasthan

1. The Rajasthan Arain Tehsils (Continued Existence) Validating Bill, 1962.
2. The Rajasthan Divisional Commissioner (Office Abolition) Bill, 1962.
3. The Rajasthan Urban Improvement (Amendment) Bill, 1962.
4. The Rajasthan Municipalities (Amendment) Bill, 1962.
5. The Rajasthan Panchayat Samitis and Zila Parishads (Amendment) Bill, 1962.

Uttar Pradesh

1. The Uttar Pradesh Town Improvement (Adaptation) (Amendment) Bill, 1962.

Commerce and Industry

Gujarat

1. The Gujarat Industrial Development Bill, 1962.

Jammu and Kashmir

1. A Bill to amend the Jammu and Kashmir State Aid to Industries Act, 1961.

Madras

1. The Madras Sugar Factories Control (Amendment) Bill, 1962.

Maharashtra

1. The Bombay Khadi and Village Industries (Amendment) Bill, 1962.

Punjab

1. The East Punjab Cement Control (Repealing) Bill, 1962.

Uttar Pradesh

1. The Uttar Pradesh Ganna (Poorti Tatha Kharid Viniyaman) (Sanahodhan) Bill, 1962
2. The Uttar Pradesh Ganna (Krayakar) (Sanahodhan) Bill, 1962.

Education

Bihar

1. The Bihar State Universities (University of Bihar, Bhagalpur and Ranchi) Amendment Bill, 1962.

Maharashtra

1. The Prince of Wales Museum (Amendment) Bill, 1962.
2. The Maharashtra Education (Cess) Bill, 1962.
3. The Shivaji University Bill, 1962.

Mysore

1. The Mysore University (Amendment) Bill, 1962.

Punjab

1. The Punjab Agricultural University (Amendment) Bill, 1962.
2. The Punjab University (Amendment) Bill, 1962.

Rajasthan

1. The Rajasthan Agricultural University Bill, 1962.
2. The Rajasthan Secondary Education (Amendment) Bill, 1962.
3. The Jodhpur University Bill, 1962.

Appendices

Finance

Andhra Pradesh

1. The Andhra Pradesh Appropriation (Vote on Account) Bill, 1962.
2. The Andhra Pradesh Appropriation Bill, 1962.
3. The Andhra Pradesh Appropriation (No. 2) Bill, 1962.
4. The Andhra Pradesh Appropriation (No. 3) Bill, 1962.

Assam

1. The Assam Appropriation (Vote on Account) Bill, 1962.
2. The Assam Appropriation (No. I) Bill, 1962.
3. The Assam Appropriation (No. II) Bill, 1962.
4. The Assam Appropriation (No. III) Bill, 1962.
5. The Assam Finance Bill, 1962.
6. The Assam Finance (Amendment) Bill, 1962.
7. The Assam Sales Tax (Amendment) Bill, 1962.
8. The Assam Passengers and Goods Taxation Bill, 1962.
9. The Assam Agricultural Income-Tax (Amendment) Bill, 1962.

Bihar

1. The Bihar Appropriation (Vote on Account) Bill, 1962.
2. The Bihar Appropriation Bill, 1962.
3. The Bihar Appropriation (No. 2) Bill, 1962.

Gujarat

1. The Gujarat Appropriation (Vote on Account) Bill, 1962.
2. The Gujarat (Supplementary) Appropriation Bill, 1962.

Jammu and Kashmir

1. A Bill to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the Jammu and Kashmir State for the services of the financial year 1961-62.
2. A Bill to provide for the withdrawal of certain sums from and out of the Consolidated Fund of the Jammu and Kashmir State for the services of a part of the financial year 1962-63.
3. A Bill to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of the Jammu and Kashmir State for the services of the financial year 1962-63.
4. A Bill to provide for the imposition of a tax on agricultural income.
5. A Bill to provide for the levy of a general tax on the sale of goods in the State and for other matters connected therewith.
6. A Bill to provide for the levy of a tax on Urban Immovable property.
7. A Bill to amend the Jammu and Kashmir Motor Vehicles Taxation Act, 1957.
8. A Bill to provide for levying entertainment tax on cinematograph shows exhibited in public in the State.
9. A Bill further to amend the Jammu & Kashmir Motor Spirit (Taxation of Sales) Act, Samvat 2005.

Kerala

1. The General Sales Tax (Amendment & Validation) Bill, 1961.
2. The Kerala Appropriation (Vote on Account) Bill, 1962.
3. The Kerala Appropriation (No. 1) Bill, 1962.
4. The General Sales Tax (Second Amendment & Validation) Bill, 1962.
5. The General Sales Tax (Amendment) Bill, 1962.
6. The Kerala Appropriation (No. 2) Bill, 1962.

Journal of Parliamentary Information

Madhya Pradesh

1. The Madhya Pradesh Appropriation (Vote on Account) Bill, 1962.
2. The Madhya Pradesh Appropriation Bill, 1962.
3. The Madhya Pradesh Motor Vehicles Taxation (Amendment) Bill, 1962.

Maharashtra

1. The Maharashtra (Supplementary) Appropriation Bill, 1962.
2. The Maharashtra Appropriation (Vote on Account) Bill, 1962.
3. The Bombay Sales Tax (Amendment) Bill, 1962.
4. The Bombay Motor Vehicles (Taxation of Passengers) (Amendment) Bill, 1962.
5. The Bombay Entertainments Duty (Amendment) Bill, 1962.
6. The Maharashtra Tax on Goods (Carried by Road) Bill, 1962.
7. The Bombay Electricity Duty (Amendment) Bill, 1962.
8. The Bombay Stamp (Increase of Duties and Amendment) Bill, 1962.
9. The Urban Immovable Property Tax (Abolition) and General Tax (Increase of Maximum Rate) Bill, 1962.
10. The Maharashtra Appropriation Bill, 1962.
11. The Maharashtra Provisional Collection of Taxes Bill, 1962.
12. The Maharashtra (Second Supplementary) Appropriation Bill, 1962.
13. The Maharashtra Purchase Tax on Sugarcane Bill, 1962.

Mysore

1. The Mysore Appropriation Bill, 1962.
2. The Mysore Appropriation (Vote on Account) Bill, 1962.

Orissa

1. The Orissa Cess Bill, 1962.
2. The Orissa Appropriation Bill, 1962.
3. The Orissa Appropriation (No. 2) Bill, 1962.
4. The Orissa Appropriation (No. 3) Bill, 1962.
5. The Orissa Appropriation (No. 4) Bill, 1962.

Punjab

1. The Punjab Professions, Trades, Callings and Employments Taxation (Amendment) Bill, 1962.
2. The Punjab Appropriation Bill, 1962.
3. The Punjab Appropriation (Vote on Account) Bill, 1962.
4. The Punjab Appropriation (No. 2) Bill, 1962.
5. The Punjab General Sales Tax (Amendment) Bill, 1962.
- *6. The Punjab Temporary Taxation Bill, 1962.

Rajasthan

1. The Rajasthan Appropriation (No. 1) Bill, 1962.
2. The Rajasthan Finance Bill, 1962.
3. The Rajasthan Electricity (Duty) Bill, 1962.
4. The Rajasthan Appropriation (Vote on Account) Bill, 1962.
5. The Rajasthan Appropriation (No. 2) Bill, 1962.
6. The Rajasthan Sales of Motor Spirit Taxation (Amendment) Bill, 1962.

Uttar Pradesh

1. The Uttar Pradesh Appropriation (Third Supplementary, 1961-62) Bill, 1962.
2. The Uttar Pradesh Appropriation (Vote on Account) Bill, 1962.

*Not yet assented to.

Appendices

Health and Housing

Kerala

1. The Kerala Buildings (Lease and Rent Control) Amendment Bill, 1962.

Madhya Pradesh

1. The Madhya Pradesh Indian Medicines (Amendment) Bill, 1962.

Madras

1. The Madras Buildings (Lease and Rent Control) Amendment Bill, 1962.

Maharashtra

1. The Maharashtra Medical Practitioners (Amendment) Bill, 1962.
2. The Bombay Homoeopathic and Biochemic Practitioners (Amendment) Bill, 1962.

Uttar Pradesh

1. The Epidemic Diseases (U.P. Amendment) Bill, 1962.

Labour and Employment

Assam

1. The Industrial Disputes (Assam Amendment) Bill, 1962.

Punjab

1. The Payment of Wages (Punjab Amendment) Bill, 1962.

Land and Agriculture

Andhra Pradesh

1. The Andhra Pradesh (Andhra Area) Tenancy (Amendment) Bill, 1962.

Gujarat

1. The Bombay Taluqdari Tenure Abolition (Gujarat Amendment) Bill, 1962.

Jammu and Kashmir

1. A Bill to provide for the consolidation of Agricultural Holdings in the Jammu and Kashmir State for the development of agriculture.
2. A Bill further to amend the Jammu and Kashmir Land Grants Act, 1960.
3. A Bill to provide for the validation of certain alienations of land.
4. A Bill further to amend the Jammu and Kashmir Tenancy Act, Samvat 1982.
5. A Bill further to amend the State Land Acquisition Act, Samvat 1990.

Kerala

1. The Kerala Agrarian Relations (Amendment) Bill, 1962.
2. The Kerala Ryotwari Tenants Protection Bill, 1962.

Madhya Pradesh

1. The Madhya Pradesh Agricultural Cattle Preservation (Second Amendment) Bill, 1962.
2. The Madhya Pradesh Prevention of Cruelty to Animals Laws Repealing Bill, 1962.

Maharashtra

1. The Madhya Pradesh Land Revenue Code (Amendment) Bill, 1962.
2. The Maharashtra Agricultural Land (Ceiling on Holdings) (Amendment) Bill, 1962.
3. The Bombay Agricultural Produce Markets (Validating Provisions) Bill, 1962.
4. The Bombay Tenancy and Agricultural Lands (Amendment) Bill, 1962.

Journal of Parliamentary Information

Mysore

1. The Mysore Preservation of Private Forests Bill, 1962.

Orissa

1. The Orissa Prevention of Private Forests (Amendment) Bill, 1962.
2. The Orissa Survey and Settlement (Amendment) Bill, 1962.
3. The Orissa Hydro-Electric Projects and Flood Control Works (Survey) (Amendment) Bill, 1962.
4. The Orissa Requisitioning and Acquisition of Immovable Property (Amendment) Bill, 1962.

Punjab

1. The Punjab Agricultural Produce Markets (Amendment) Bill, 1962.
2. The East Punjab Holdings (Consolidation and Prevention of Fragmentation) Amendment Bill, 1962.
3. The Pepsu Tenancy and Agricultural Lands (Amendment and Validation) Bill, 1962.
4. The Punjab Security of Land Tenures (Amendment and Validation) Bill, 1962.
5. The Punjab Land Revenue Special Assessment (Exemption) Bill, 1962.
6. The Land Acquisition (Punjab Amendment) Bill, 1962.
7. The Indian Forests (Punjab Amendment) Bill, 1962.

Rajasthan

1. The Rajasthan Relief of Agricultural Indebtedness (Amendment) Bill, 1962.
2. The Rajasthan Tenancy (Amendment) Bill, 1962.

Legal

Andhra Pradesh

1. The Andhra Pradesh Transferred Territories (Repeal and Extension of Laws) Bill, 1962.

Jammu and Kashmir

1. A Bill further to amend the Registration Act, Samvat 1977.
2. A Bill further to amend the Stamp Act, Samvat 1977.
3. A Bill further to amend the Legal Practitioners Act, Samvat 1977.
4. A Bill further to amend the Stamp Act, Samvat 1977.

Kerala

1. The Kerala Local Authorities Laws (Amendment) Bill, 1962.
2. The Kerala Enquiries and Summonses (Amendment) Bill, 1962.

Maharashtra

1. The Madhya Pradesh Temporary Postponement of Execution of Decrees (Extension of Duration) Bill, 1962.

Orissa

1. The Orissa Re-enacting Bill, 1962.
2. The Indian Penal Code and the Code of Criminal Procedure (Orissa Amendment) Bill, 1962.

Punjab

1. The Punjab Laws (Extension No. II) Bill, 1962.

Rajasthan

1. The Rajasthan Court Fees and Suits Valuation (Amendment) Bill, 1962.
2. The Rajasthan Superimposed Stamps Validating Bill, 1962.

Parliamentary Affairs

Assam

1. The Assam Ministers' and Deputy Ministers' Salaries and Allowances (Amendment) Bill, 1962.

Appendices

Jammu and Kashmir

1. A Bill further to amend the Jammu and Kashmir Representation of the People Act, 1957.
2. A Bill to declare that certain offices of profit under the Government shall not disqualify the holders thereof for being chosen as or for being members of the Jammu and Kashmir State Legislature.

Maharashtra

1. The Bombay Legislature Members' Salaries and Allowances (Amendment) Bill, 1962.
2. The Bombay Ministers' Salaries and Allowances (Amendment) Bill, 1962.
3. The Bombay Legislature Members' (Removal of Disqualifications) (Amendment) Bill, 1962.

Social

Assam

1. The Assam Amusements and Betting Tax (Amendment) Bill, 1962.
2. The Public Gambling (Extension to Mizo District) Bill, 1962.

Madhya Pradesh

1. The Madhya Pradesh Gangajali Fund Trust (Amendment) Bill, 1962.

Maharashtra

1. The Bombay Rents, Hotel and Lodging House Rates Control (Amendment) Bill, 1962.

Orissa

1. The Orissa Dramatic Performances Bill, 1962.

Transport and Communications

Jammu and Kashmir

1. A Bill further to amend the Jammu and Kashmir Motor Vehicles Act, Samvat 1998.

APPENDIX IV

Statistical Analysis of Bills passed by State Legislatures in India during the period 1st January to 30th June, 1962

Name of State	Admini- stration	Commer- ce and Industry	Educa- tion	Finance	Health and Housing	Labour & Emp- loyment	Land & Agri- culture	Legal	Parlia- mentary	Social	Trans- port & Communi- cations	Total	
	1	2	3	4	5	6	7	8	9	10	11	12	13
Andhra Pradesh	.	5	.	.	4	.	1	1	..	..	..	12
Assam	.	2	.	.	9	.	1	.	1	2	.	14	
Bihar	1	3	.	..	..	..	..	..	4	
Gujarat	.	1	1	..	2	..	1	..	..	..	..	5
Jammu & Kashmir	.	5	1	..	9	..	5	4	2	..	1	27	
Kerala	.	3	..	..	6	1	2	2	..	..	..	13
Madras	.	..	1	..	..	1	..	..	..	..	..	2
Madhya Pradesh	.	1	..	..	3	1	2	..	..	1	..	8
Maharashtra	.	7	1	3	13	2	4	1	3	1	..	35	
Myore	.	1	..	1	2	..	1	..	..	..	..	5
Orissa	.	2	..	..	5	..	4	2	..	1	..	14
Punjab	.	..	1	2	6	..	1	1	..	..	..	18
Rajasthan	.	5	..	3	6	..	2	2	..	..	..	18
Uttar Pradesh	.	1	2	..	2	1	..	..	..	..	..	6
All States	.	32	7	10	70	6	2	29	13	6	5	1	181

APPENDIX V

Ordinances issued during the period 1st January to 30th June by the Central/State Governments

Sl. No.	Subject	Date of Promulgation which laid before the House	Date on which laid before the House	Date of cessation	Remarks	
1	2	3	4	5	6	7
The Union	1 The Advocates (Amendment) Ordinance, 1962.	24-1-1962	12-3-1962			
	2 The Goa, Daman & Diu (Administration) Ordinance, 1962.	5-3-1962	12-3-1962			
Andhra Pradesh	1 The Andhra Pradesh (Andhra Area) District Municipalities (Amendment) Ordinance, 1962.	2-3-1962	24-3-1962	20-4-1962	Replaced by legislation.	
	2 The Andhra Pradesh Motor Vehicles (Taxation of Passengers & Goods) Amendment Ordinance, 1962.	17-3-1962	24-3-1962	28-4-1962	Do.	
Assam	1 The Industrial Disputes (Assam Amendment) Ordinance, 1962.	20-1-1962	24-3-1962	25-4-1962	Do.	
	2 The Assam Municipal (Amendment) Ordinance, 1962.	25-1-1962	24-3-1962	10-4-1962	Do.	
	3 The Assam Contingency Fund (Augmentation of Corpus) Ordinance, 1962.	6-2-1962	24-3-1962	31-3-1962	—	
	4 The Assam Appropriation Ordinance, 1962.	6-2-1962	24-3-1962	31-3-1962	—	
Bihar	1 The Bihar State Universities (University of Bihar, Bhagalpur and Ranchi) (Amendment) Ordinance, 1962.	1-3-1962	16-3-1962	25-4-1962	Replaced by legislation.	
Orizent	1 The Bombay Taluqdari Tenure Abolition (Gujarat Amendment) Ordinance, 1962.	20-2-1962	27-3-1962		Do.	
	2 The Bombay Primary Education (Gujarat Amendment) Ordinance, 1962.	30-4-1962	29-6-1962		Do.	

Journal of Parliamentary Information

1	2	3	4	5	6	7
	3	The Gujarat Local Authorities Law (Amendment) Ordinance, 1962.	8-5-1962	29-6-1962		Replaced by legislation.
	4	The Gujarat Industrial Development Ordinance, 1962.	10-5-1962	29-6-1962		Do.
	5	The Industrial Disputes (Gujarat Amendment) Ordinance, 1962	16-6-1962	29-6-1962		Do.
	6	The Gujarat Municipalities (Extension of Term) Ordinance, 1962.	18-6-1962	29-6-1962	..	Do.
	7	The Bombay Merged Territories and Areas (Jagirs Abolition) (Gujarat Amendment) Ordinance, 1962.	21-6-1962	29-6-1962	..	Do.
Jammu and Kashmir	1	The Registration (Amendment) Ordinance, 1962.	14-2-1962	26-2-1962		Do.
Kerala	1	The Kerala Ryotwari Tenants Protection Ordinance, 1962.	11-1-1962	28-2-1962		Do.
	2	The Kerala Agrarian Relations (Amendment) Ordinance, 1962.	6-2-1962	28-2-1962		Do.
	3	The Kerala Local Authorities Laws (Amendment) Ordinance, 1962.	6-2-1962	28-2-1962		Do.
	4	The Kerala Enquiries and Summonses (Amendment) Ordinance, 1962.	9-2-1962	28-2-1962	..	Do.
	5	The Kerala Municipalities (Amendment) Ordinance, 1962.	25-5-1962	(To be laid during the next session)		..
Madhya Pradesh	1	The Madhya Pradesh Gangesjali Fund Trust (Amendment) Ordinance, 1962.	23-2-1962	28-3-1962	..	Replaced by legislation.
	2	The Madhya Pradesh Agricultural Produce Markets (Validation) Ordinance, 1962.	27-4-1962	25-6-1962	..	Do.
	3	The Madhya Pradesh Motor Vehicles (Taxation of Passengers) Amendment and Validation Ordinance, 1962.	7-5-1962	25-6-1962	..	Do.
	4	Madhya Pradesh Minimum Wages Fixation Ordinance, 1962.	21-6-1962	25-6-1962	..	Do.

Appendices

Madras	1	The Madras Sugar Factories Control (Amendment) Ordinance, 1962.	28-2-1962	24-4-1962	1-3-1962	Do.
Maharashtra	1	The Madhya Pradesh Temporary Postponement of Decrees (Extension of Duration) Ordinance, 1962.	2-3-1962	17-3-1962	18-4-1962	Do.
	2	The Bombay Legislature Members (Removal of Disqualifications) (Amendment) Ordinance, 1962.	28-4-1962	7-6-1962	28-6-1962	Do.
	3	The Maharashtra Zilla Parishads and Panchayat Samitis (Amendment) Ordinance, 1962.	30-4-1962	7-6-1962	14-7-1962	Do.
	4	The Bombay Sales Tax (Amendment and Validating Provisions) Ordinance, 1962.	8-5-1962	7-6-1962	15-7-1962	Do.
Mysore	1	The Mysore Additional Deputy Commissioners (Appointment and Powers) Ordinance, 1962.	18-1-1962	22-3-1962	21-4-1962	Do.
	2	The Mysore Preservation of Private Forests Ordinance, 1962.	18-1-1962	22-3-1962	21-4-1962	Do.
Orissa	1	The Orissa Requisitioning and Acquisition of Immovable Property (Amendment) Ordinance, 1962.	11-1-1962	2-3-1962		Do.
Punjab	1	The Punjab University (Amendment) Ordinance, 1962.	19-6-1962			Not laid before the Houses of Legislature during the period under review.
Rajasthan	1	The Rajasthan Secondary Education (Amendment) Ordinance, 1962.	11-1-1962	18-3-1962		Replaced by legislation.